

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

***INQUIRY HELD UNDER
FATAL ACCIDENTS AND
SUDDEN DEATHS
INQUIRY (SCOTLAND)
ACT 1976
SECTION 1(1)(a)
SECTION 1(1)(b)***

DETERMINATION by

JAMES KENNETH MITCHELL, Esquire,
Advocate, Sheriff of the Sheriffdom of
Glasgow and Strathkelvin following an
Inquiry held at Glasgow on the Twenty
Second and Twenty Third days of January
Two Thousand and Seven into the death of
WILLIAM RONALD O'NEILL, aged 41
years, who resided at 50 Young Terrace,
Glasgow

GLASGOW, 30 January 2007.

The Sheriff, having considered all the evidence adduced, DETERMINES:

(1) In terms of section 6(1)(a) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 that WILLIAM RONALD O'NEILL, born 19 February 1965, who resided at 50 Young Terrace, Glasgow died at a time not precisely established between 2200 hours on Sunday, 4 June and 0545 hours on Monday 5 June, both 2006, whilst alone in Cell 3/16, C Hall, HM Prison Barlinnie, Glasgow where he was detained in legal custody on remand awaiting trial. He was formally pronounced dead at 0650 hours on Monday, 5 June 2006.

(2) In terms of section 6(1)(b) of the Act that the cause of death was compression of the neck sustained as a result of Mr O'Neill having hanged himself by means of a ligature, namely, a torn bed sheet (to the other end of which he had tied a kettle,) suspended over the top of the toilet door within that cell whilst he was alone there.

Sheriff

NOTE:

[1] This Fatal Accident Inquiry was held in terms of section 1(1)(a)(ii) of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 into the circumstances of the death of William Ronald O'Neill, who was pronounced dead on Monday, 5 June 2006 in Cell 3/16, C Hall HM Prison Barlinnie, Glasgow where he was detained in legal custody.

[2] The procurator fiscal was represented by Mr O'Mahony, procurator fiscal depute. Miss Raeburn, solicitor, Edinburgh appeared for Scottish Ministers for and on behalf of the Scottish Prison Service. There was no other representation at this Inquiry. I was informed at the bar of the court by the procurator fiscal that Mrs Edna O'Neill, the deceased's mother, had decided not to be present or represented at this Inquiry. She felt that she would be too upset to attend. No one else was present during the course of this Inquiry.

[3] The procurator fiscal led evidence from 7 witnesses. No other evidence was led.

[4] In his closing submission, the procurator fiscal sought only formal findings in terms of sections 6(1)(a) and (b) of the 1976 Act. He presented a written submission and sought no other findings in terms of paragraphs (c) or (d) or (e). The position of the procurator fiscal was that there were no reasonable precautions whereby this death might have been avoided. There was no defect in any system of work and there were no other factors which were relevant to the death of the deceased.

[5] Miss Raeburn was content to adopt the submissions of the procurator fiscal. She went on to submit that Mr O'Neill's death was wholly unexpected and could not have been reasonably foreseen by any member of the Scottish Prison Service. Mr O'Neill had been formally assessed when he had been admitted to prison and on each occasion he returned to prison from court. All procedures had been properly carried out and he had been assessed as being at no risk of self-harm. Miss Raeburn submitted that the evidence disclosed that the deceased had given no indication or sign of what he was about to do; that there were no defects in the system operating within the prison; and that there were no reasonable precautions which could have been taken and which might have avoided the death. Nothing could have been done to avoid Mr O'Neill's death and there was no basis for any finding in terms of paragraphs (c), (d) or (e).

[6] Mr O'Mahony and Miss Raeburn entered into a Joint Minute of Agreement as regards certain matters. This avoided the necessity of calling Dr Kai Jural to speak to matters about which there was no dispute.

[7] It was also agreed in the Joint Minute that on 25 January 2006 Mr O'Neill was remanded in custody to Barlinnie Prison in connection with an allegation of having committed an assault and robbery. He remained in custody from 25 January 2006 until his death. He was indicted to appear at the High Court of Justiciary in connection with this allegation of assault and robbery.

[8] Mr O'Neill was indicted along with two female co-accused. The charge against them was that on 21 January 2006 at the One-o-One, Off Sales, 8 Broomknowes Road, Glasgow they did assault two female employees, repeatedly brandish a knife at them, repeatedly demand money from them, repeatedly aim blows at one of them with the knife and struggle with her, seize hold of the other female and present a knife at her body whereby the first female employee was in such a state of fear and apprehension for their safety that she handed money from the till from said premises and they did thus rob these employees of about £250. There was a second charge of contravening section 41(1)(a) of the Police (Scotland) Act 1967 against Mr O'Neill.

[9] It was admitted that Mr O'Neill had made frequent appearances at court in connection with these charges, and also other matters. It was also admitted that Mr O'Neill was due to appear again at the High Court of Justiciary, Glasgow on 29 June 2006 for a continued Preliminary hearing and again for trial on 24 July 2006.

[10] At the bar the procurator fiscal tendered a notice of previous convictions relating to Mr O'Neill. The terms of this document were admitted by Miss Raeburn. Unfortunately, Mr O'Neill had a long record of previous convictions. On 25 February 1985 he was sentenced to 5 years' detention in a young offenders' institution at the High Court of Justiciary in Glasgow on a charge of conspiracy to rob. On 20 January 1992 he was sentenced to a period of 4 years' imprisonment on charges of assault and robbery, assault and an attempted perversion of the course of justice. On 19 October 1994 at the High Court of Justiciary in Edinburgh Mr O'Neill was sentenced to 8 years' imprisonment on charges including conspiracy to assault and rob. He had other convictions including a further conviction on indictment at Glasgow Sheriff Court on 11 May 2004 for a contravention of section 5(2) of the Misuse of Drugs Act 1971.

[11] It was not in dispute that Mr O'Neill had a previous history of drug abuse, including cocaine.

[12] Mrs Carol Allan, a senior charge nurse, who had formerly been employed as the co-ordinator of a Mental Health Team within Barlinnie Prison gave evidence and spoke to the Scottish Prison Service healthcare records comprised in Crown Production No. 4. These records related to Mr O'Neill. Mrs Allan's undisputed evidence was that in August 2006 when she reviewed these records at the request of the procurator fiscal, she found no indication of Mr O'Neill having any psychiatric problem. When he was first admitted to the prison in connection with these charges on 25 January 2006 the Act 2 Care Procedure was fully carried out. Mr O'Neill was assessed as being "no apparent risk". On that occasion he declined continuation of methadone. He also denied thoughts of suicide/self harm. He admitted to having recently taken heroin, cocaine and valium. Mrs Allan also confirmed that prison staff would refer anyone at risk to the nursing staff for assessment.

[13] Mrs Allan's evidence was not challenged. It was given in an open and straightforward way. Mrs Allan was an experienced senior charge nurse who was a registered mental nurse. I had no hesitation in accepting her evidence as being credible and reliable.

[14] I heard unchallenged evidence from Allan Pike, prison officer who was on duty on Sunday 4 June 2006 on the third flat of C Hall, where the cell in which Mr O'Neill was placed was situated. Mr Pike stated that Mr O'Neill had had another prisoner in the cell within him until Friday, 2 June 2006 when his cell mate went to court and did not return. Mr O'Neill was thereafter alone in cell 3/16. Mr Pike stated that Mr O'Neill seemed a quiet person who gave the prison staff no cause for concern. He confirmed that had there been any concern about him he would have been referred under the Act 2 Care Procedures. I had no hesitation in accepting Mr Pike's evidence as being credible and reliable. His evidence was given at all times clearly, moderately and without elaboration.

[15] The procurator fiscal led evidence from prison officer John Stokes. He was also on duty during the day on Sunday, 4 June 2006. He carried out a numbers check of the prisoners at 5.00 pm. Mr Stokes, gave evidence in an open and straightforward way. He explained that it was his practice when carrying out his numbers check to open the door of each cell. Whilst he could not recall any particular contact or conversation with Mr O'Neill, Mr Stokes was quite clear that he would have spoken to him during the course of the weekend. He was clear that he would have seen Mr O'Neill at the time he did this

numbers' check at about 5.00 pm on Sunday, 4 June 2006. He confirmed that Mr O'Neill gave no cause for concern at any time during the course of his shift.

[16] Mr Stokes explained that when he returned to duty the next day he entered cell No. 16 at about 7.00 am with the security manager, prison doctor and nurse. The door was locked by dead bolt. When he opened the door he saw Mr O'Neill. At this time he had been told that there had been a hanging. Mr Stokes spoke to two envelopes being found lying on the worktop within the cell.

[17] Mr Stokes also confirmed that had he had any concerns about Mr O'Neill he would have raised a form under the appropriate Act 2 Care Procedure. He was able to confirm that there was nothing of significance in the fact that at the time of his death Mr O'Neill was wearing an A Hall shirt. I accepted the unchallenged evidence of Mr Stokes as being credible and reliable.

[18] Miss Mandy Raymond, a prison officer, gave evidence that she was on duty on 4 June 2006 from 2130 hours overnight. She explained that she carried out a numbers' check at 10.00 pm on Sunday, 4 June 2006. She checked all cells and ensured that she got a response from the prisoners in each of the cells. She was quite certain that she had checked cell No. 3/16 and had received a response although she could not remember doing any particular cell. She explained that if she had been unable to get a response she would have radioed her control. She was satisfied that she got a response from every prisoner when she did the numbers check at about 2200 hours on 4 June 2006.

[19] Miss Raymond was an impressive witness who gave evidence clearly. She listened carefully to each of the questions she was asked and answered each fully and spontaneously. Her evidence was unchallenged. I had no hesitation in regarding her as a credible and reliable witness.

[20] Miss Raymond explained that at about 0545 hours on Monday, 5 June 2006 she was in the course of carrying out the morning numbers check of the prisoners. When she checked cell No. 3/16 she opened the observation hatch, which is depicted in Crown Production No. 1B. She was unable to see in and there appeared to have been a white tissue placed on the inside of the cell. Miss Raymond explained that she banged the door and shouted phrases to the effect "Wake up". "Can you hear me?" She got no response and she asked her colleague to ascertain which prisoner was in this cell. The name was shouted to her and she shouted "Mr O'Neill". When she received no response she initiated procedures and used her radio to contact the outside patrol and the manager Alex Kerr. In

terms of the prison procedure, it was necessary for there to be a minimum of three officers present when there was one prisoner in a cell from whom there was no response. Assistance came quickly and when instructed to by her senior officer, Miss Raymond broke the sealed pack containing the cell key and opened the door of the cell. She entered the cell after Mr Currie and found Mr O'Neill hanging from the toilet door by his neck. Mr O'Neill was facing into the cell with his back to the toilet door. When she saw him he had no signs of life. She was then directed to complete her numbers' check. Before she left the cell she saw two sealed envelopes on the worktop.

[21] Mr Donald Currie was a prison officer on duty on the nightshift on outside patrol. When summoned he responded to the call initially put out by Miss Raymond. When he arrived at cell No. 3/16 he found the prison cell door closed. He could not see through the spy hole. When the door was opened by Miss Raymond he entered the cell first. He saw Mr O'Neill hanging from the toilet door. He explained that the toilet door was closed and that Mr O'Neill was facing outwards towards the cell. Mr Currie explained that Mr O'Neill was suspended by a ligature, a noose tied to the kettle. The kettle had been lodged behind the toilet door. He stated that the noose had been made from torn strips of bed sheet. He explained that Mr O'Neill was showing no signs of life. Mr O'Neill's body was taken down and placed on the ground. The nurse arrived and subsequently the doctor.

[22] Mr Currie's evidence was not challenged. Mr Currie gave evidence clearly, with moderation and I was impressed by his demeanour. I have no hesitation in accepting his evidence as being credible and reliable.

[23] It was admitted that Dr Kai Jural attended cell No. 3/16 and pronounced Mr O'Neill's life extinct at 0650 hours on 5 June 2006. It was admitted that he considered that death had occurred between 2200 hours on 4 June 2006 and 0600 hours on 5 June 2006.

[24] Dr Marjorie Black, consultant forensic pathologist, spoke to Crown Production No. 5. She confirmed that, at post mortem examination of Mr O'Neill's body, no evidence of natural disease had been found and that there was no evidence of any third party intervention. Dr Black confirmed that the cause of death was compression of the neck as a result of hanging. She explained that it was likely that Mr O'Neill would have become unconscious within 30 to 40 seconds, perhaps less, and that thereafter he would have remained unconscious. I had no hesitation in accepting Dr Black's evidence.

[25] The final witness was Police Sergeant Anne Hughes. Sergeant Hughes explained that she had attended at cell No. 3/16 and spoke to carrying out a search of that cell. Nothing of significance was found apart from two envelopes containing letters. The emergency buzzer in the cell was tested and found to be operational. I accepted the evidence of Sergeant Hughes as being credible and reliable. She was an impressive officer who had clearly taken her duties seriously and had carried them out fully. She confirmed that she had ascertained that Mr O'Neill was alone in his cell overnight. No evidence of third party involvement was found.

[26] It was admitted that cell No. 3/16 within C Hall was fitted with an emergency buzzer to allow any occupant of the cell to make staff aware of an emergency situation. It was also admitted that the buzzer was in full working order and that it was not activated between 10.00 pm on 4 June 2006 and 0650 hours on 5 June 2006.

[27] Crown Production No. 3 comprises a letter found in a stamped envelope addressed to: "Procurator Fiscal, the Sheriff Court, Calton Way, Glasgow." The letter which Sergeant Hughes found within the envelope and which she had opened contained a confession. It states that: "I William O'Neill make this confession in my prison cell and of my own free will." The letter goes on, in Mr O'Neill's handwriting, to state that he and two other females all robbed the premises mentioned in the charge of assault and robbery contained in the High Court indictment. He stated that he and the two females each got an equal share of the money, which was split up in his flat. He stated that one of the females had made an incrimination against himself suggesting that he was the person who orchestrated the whole thing but that was a total fabrication. He continued "We all hatched a plan to do a robbery together to keep out crack cocaine habits funded. Each of us was as much to blame as the next." He signed the letter with his name. He also deals with an allegation made by one of the female co-accused to the police that it had been somebody else and refutes that allegation.

[28] I have chosen not to name either of the female co-accused. They were mother and daughter. I was informed by the procurator fiscal that the elder of the two females had been in a relationship with Mr O'Neill. I was informed that this female co-accused died in December 2006 of natural causes.

[29] Sergeant Hughes also found another letter which comprised Crown Production No. 2. This was in Mr O'Neill's handwriting and was addressed to "The Governor". It stated: "Dear Governor – can you make sure the brown envelope gets too the procurator

fiscal. It's a confession of my crime. One of my co-accused is trying to implicate an innocent person and I don't want anybody else getting done with these charges." This was signed by the deceased.

[30] In my judgment, both Mr O'Mahony and Miss Raeburn were quite correct to seek only formal findings. I accept their respective submissions as being correct for the reasons they advanced. I entirely agree that the evidence discloses no precaution which ought to have been taken or any defect in the system operated within the prison. I agree that nothing could have been done to avoid Mr O'Neill's death.

[31] In my judgment, it is legitimate to infer that Mr O'Neill knew that he was facing another lengthy prison sentence. He had a number of convictions for crimes involving robbery and had received three previous sentences in the High Court of Justiciary, the last of which had been for eight years. He was facing another indictment in respect of a very serious charge of assault and robbery committed on employees in an off-licence. As can be seen from Crown Production No. 1 (the book of photographs) at photograph K, Mr O'Neill placed his copy of the indictment with his confession letter to the procurator fiscal. The terms of the charge were such that it is legitimate to infer that with his previous criminal record he would have received a very substantial sentence for this crime.

[32] I am satisfied that Mr O'Neill decided to hang himself. When his cell mate did not return from court on the Friday preceding Mr O'Neill's death, he was thereafter alone in the cell. Mr O'Neill set about putting his affairs in order and made a full confession of his crime. He was anxious that the letter got to the Procurator Fiscal and wrote another letter to the Governor to that effect. He waited until Miss Raymond had conducted the evening numbers check on the Sunday night and thereafter placed something over the inside of the spy hole so that a prison officer could not see into his cell. Mr O'Neill was well aware of prison procedures. In the way described by Mr Currie, using the kettle and the torn bed sheet, Mr O'Neill set about engaging in a deliberate act of hanging himself during a period when he knew he would not be disturbed. There was an emergency buzzer available to him but he did not wish to use it. Instead, for reasons which I think are self-evident, he took the action which he did.

[33] Mr O'Neill's death was sudden and unexpected. He gave the experienced prison officers with whom he had the most recent contact no reason to suspect that he was at risk. Indeed, it appears to me that he went to some lengths to ensure that he would not be disturbed either, before or during the act of hanging himself.

[34] I extend my sympathy and condolences to Mr O'Neill's mother, Mrs Edna O'Neill. I entirely understand why she felt that her appearance at this Inquiry would be upsetting. I do hope that it is of some comfort for her to know that after suspending himself her son would very quickly have become unconscious within a matter of seconds and that he would not have regained consciousness before he died.

[35] There are no other facts which are relevant to the circumstances of Mr O'Neill's death.