

SHERIFFDOM OF GLASGOW AND STRATHKELVIN AT GLASGOW

B2904/12

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

DETERMINATION by Sheriff John Neil McCormick, Sheriff of the Sheriffdom of Glasgow and Strathkelvin following an Inquiry held at Glasgow on the Twenty eighth day of November Two Thousand and TWELVE into the death of ANTHONY JOHN McEWAN, (formerly Coll).

GLASGOW, 4th December 2012.

In terms of section 6 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976, the Sheriff, having considered the evidence and the submissions, FINDS AND DETERMINES:

- (1) In terms of section 6(1)(a) of the Act, that Anthony John McEwan, formerly Coll, date of birth 12 February 1965, residing latterly at 41 Neilston Avenue, Glasgow, died at 09.38 hours on 22 May 2011 within Cell 1/12, A Hall, Her Majesty's Prison, Barlinnie, Glasgow.
- (2) In terms of section 6(1)(b) of the Act, the cause of death was hanging.
- (3) In terms of section 6(1)(c) of the Act, there were no reasonable precautions whereby the death might have been avoided.

(4) In terms of section 6(1)(d) of the Act, there were no defects in any system of working which contributed to the death.

(5) In terms of section 6(1)(e) of the Act, there were no other facts relevant to the circumstances of the death in respect of which any determination falls to be made.

SHERIFF

NOTE:

[1] This Fatal Accident Inquiry called before me on 28 November 2012.

[2] The procurator fiscal depute, Miss K Potter, appeared. Mr Robb, solicitor, represented the Prison Officers' Association Scotland and Miss Murray, solicitor, represented the Scottish Prison Service.

[3] I was advised that the fiscal had been in dialogue with members of the family of the deceased. The family did not wish to be present or represented at the Inquiry.

[4] The entire facts of the Inquiry were agreed by joint minute which had been signed and was read to the court. The joint minute is in the following terms (the details of the complainer in paragraph (1) have been redacted):-

“JOINT MINUTE OF AGREEMENT

In Causa

FATAL ACCIDENT INQUIRY

into the Death of Anthony McEwan, formerly Coll, Deceased

Miss K Potter, Procurator Fiscal Depute for the Crown

Mr Robb, solicitor for the Prison Officers Association Scotland

Miss Murray, solicitor for the Scottish Prison Service

concur in stating to the Court that the following is agreed and should be admitted in evidence:

- (1) That said Anthony John McEwan, formerly Coll, date of birth 12:02:65, formerly residing at 41 Neilston Avenue, Glasgow, appeared from custody on Petition at Glasgow Sheriff Court on 9 May 2011, on a charge that he did on 6 May 2011 at (address), Glasgow, assault (named), residing there and did repeatedly stab ... on the body with a knife to ... injury, said offence having been committed whilst the deceased was on bail; He was Committed for Further Examination in custody. On 17 May 2011, he was Fully Committed until liberated in due course of law on the said Petition and remanded in custody. The deceased had 26 previous convictions for a variety of offences, including inter-alia, dishonesty, contraventions of the Misuse of Drugs Act 1971, Public Disorder, Violence, including convictions for domestic abuse. He died at 09:38 hours on 22 May 2011, within cell 1 /12, A Hall, Her Majesty's Prison, Barlinnie, Glasgow.
- (2) That a Post Mortem examination was carried out on the body of said Anthony John McEwan on 25 May 2011 at the City Mortuary, Glasgow by Kerryanne McEwan, MB ChB, FRCPath, MRCP, Dip FM, Forensic Pathologist, University of Glasgow. Post mortem examination revealed a typical ligature and ligature mark around the neck of the deceased, the latter crossing the neck in the midline and rising to a suspension point at the back of the neck. There were asphyxial signs and evidence of internal damage to throat structures. There was no evidence of significant natural disease and no other significant injury to the body. The cause of death was certified as (1a) Hanging. A report of the said Post Mortem examination is produced herewith as Crown Production number 2.
- (3) That during said Post Mortem examination, samples of blood and urine were taken from the body of said Anthony John McEwan, deceased and were subsequently analysed by Hazel Jennifer Torrance, BSc, PhD, MRSC, Forensic Toxicologist, University of Glasgow, for the presence of drugs and alcohol. Analysis for drugs was positive for a therapeutic concentration of Citalopram, an antidepressant drug. All other analyses were negative. A report of said analysis is produced herewith as Crown Production number 3.

- (4) That at 07:45 hours on 22 May 2011, Brian McKirdy, Duty Manager, Head of Offender Outcomes, HMP Barlinnie, received a call from said prison informing him that a Code Blue, Medical Emergency had been raised in relation to a death in custody. He attended at said Prison at 08:05 hours whereupon he contacted the Prison Governor Derek McGill at home and advised him of the situation. He thereafter compiled a Prison Incident Report dated 22 May 2011 relating to the death in custody of said Anthony John McEwan, deceased, prisoner number 32499. Said Incident Report is produced herewith for its terms as Crown Production number 5.
- (5) That at 09:25 hours on 22 May 2011, the body of said Anthony John McEwan, deceased, was examined by Dr Manchip, Police Casualty Surgeon, who found on examination that the body was that of an adult male, clothed, of thin build, supine on the cell floor. The body was cold and Rigor Mortis was evident. A black lace was found wound tightly around the neck with knots at the right side of the neck; there was posterior lividity with pressure area spotting. No marks of violence were found. Black shoe laces were found tied together to form a length of cord which was attached to a bed frame rail on an upper bunk bed. The cord had been cut when the body was discovered to facilitate resuscitation. No notes, letters or drug paraphernalia was found in the cell. The doctor's examination concluded that the circumstances in which the body was found indicated death by suspension by using a ligature created from laces. The findings in relation to the said examination are recorded in the Police Surgeon's Examination Form which is produced herewith as Crown Production number 7.
- (6) That at 09:00 hours on 22 May 2011, Andrew Kirkaldie, Scene Examiner, Scottish Police Services Authority, Scene Examination Unit, Strathclyde House 8, 94 Elmbank Street, Glasgow, attended at cell number 12, A Hall, HMP Barlinnie Prison, Glasgow where he took photographs as shown below:-

Photograph 1 View of cell 12 at Barlinnie Prison, Glasgow

Photograph 2 General view of the said cell

Photograph 3 View of the deceased Anthony John McEwan on the floor in the cell

Photograph 4 General view of the said cell

Photograph 5 Further views of the deceased

Photographs 6 – 7 Views of a ligature on the bed frame above the Deceased

Photograph 8 Facial view of said Anthony John McEwan

Photograph 9 View of the ligature round the deceased's neck

Photographs 10-11 Views of medication pills on a shelf to the right of the Deceased

The above photographs are now contained in a Book of Photographs which is produced herewith as Crown Production number 1.

- (7) That George Duncan, is 44 years of age and has worked as a Prison Officer for the Scottish Prison Service for 14 and a half years. At 12:30 hours on Monday 9 May 2011, he started his shift within Her Majesty's Prison, Barlinnie, in a work post that includes updating personal details of prisoners and taking photographs of all prisoners being admitted to said Prison. Said post involves speaking to prisoners directly and carrying out risk assessments. At 19:58 hours on 9 May 2011, said George Duncan interviewed said Anthony John McEwan, who advised that he had a 'drink' problem but stated that he had no thoughts of self harm or suicide. The said Risk Assessment form completed by said George Duncan relative to the interview with the deceased is produced herewith as Crown production number 6.
- (8) That Edward Deanie, Nurse, c/o the Health Centre, HMP Barlinnie, Glasgow is 57 years of age and has worked for the Scottish Prison Service for 9 years. At about 13:45 hours on Monday 9 May 2011, said Edward Deanie started his shift as a nurse at the Health Centre within HMP Barlinnie where he was carrying out health screening admission interviews. The admission interview is a medical assessment and a suicide risk assessment, the purpose of which is to obtain a medical history to be made available for the doctor seeing the prisoner the following day. Generally, prison nurses deal with administration of medication, health promotions and respond to medical emergencies. They also perform triage where prisoners submit forms in relation to health matters which the nurse reads to decide on any action required. Prison nurses also take part in suicide management programmes and attend case conferences for anyone on ACT. (The Scottish Prison Service has a strategy known as Act 2 Care (ACT) to deal with the known risk of prisoners attempting suicide. It is a detailed procedure, the purpose of which is (a) to identify persons at risk of suicide or self harm both at the time of admission into prison and thereafter and (b) to manage that risk with multi discipline involvement). Where prisoners have mental health problems they are referred to the Addiction Team or the Mental Health Team. All employees who work with prisoners have to be ACT trained. This involves spotting subtle cues regarding risk, the process of what to

do and when on ACT how to support the prisoner. For example, if a prisoner is saying he is fine but not acting accordingly, further probing would take place, ie. further questioning would take place. At about 20:10 hours on 9 May 2011, a medical assessment and suicide risk assessment was carried out in respect of said Anthony John McEwan by said Edward Deanie and Nurse Linda Bodeman. Said Anthony John McEwan advised said nurses that he used crutches as both his feet were congenitally deformed and that he suffered from Asthma and Depression for which he was prescribed medication. He also indicated that he had a problem with heartburn and was allergic to penicillin. He did not have any past history of self harm, was a heavy drinker, with a daily consumption of approximately one litre of vodka. He was prescribed his regular medications (by Dr Malik as shown below) and provided with chlordiazepoxide tablets (Librium), to assist with detoxification from alcohol. At that time, his mood was fine and there was no apparent risk of self harm. The Prison Escort Record was referred to which showed that the deceased had been placed on constant observations briefly, by the Prisoner Escort Service. The reason for this was to highlight the fact that the deceased may have been a risk to others due to issues with violence and drug and alcohol. At the time of his medical assessment at the said Prison, there was nothing which gave cause for concern to said nurses Edward Deanie and Linda Bodeman. After his medical assessment and suicide risk assessment, said Anthony John McEwan was found not to be a suicide risk. He had had several previous admissions to prison but no past history of being on suicide watch in prison and gave no concerns when asked if he was worried about anything. He had no known past history of psychiatric illnesses and denied any thoughts of suicide. Said Prison Healthcare records are produced herewith as Crown Production number 6.

- (9) That Adnan Malik is 39 years of age and has been employed by the Scottish Prison Service since April 2010 in his capacity as a General Practitioner. At 09:25 hours on 10 May 2011, said Doctor Malik saw Anthony John McEwan deceased for admission assessment. Said Anthony John McEwan informed the said doctor that he had both feet congenitally deformed and used crutches; that he suffered from Asthma and Depression for which he was on inhalers and an anti depressant; that he had a problem with heartburn and was allergic to penicillin. He did not have a past history of self harm, was a heavy drinker and was consuming about a litre of vodka daily. He was prescribed his regular medications ie. 10mg of Citalopram daily, (for Depression), 30 mg of lansoprazole daily, (to inhibit production of stomach acid), 2 puffs of Clenil Modulite (100 mg) daily, a corticosteroid drug to decrease

inflammation in the lungs, 2 puffs Salbutamol (100 mg) daily for the relief of bronchospasm in respect of asthma and 100 mg of Thiamine, Vitamin B Complex x 3 times daily. The deceased was also provided with Librium to assist with detoxification from alcohol. At the time of the assessment, said Anthony John McEwan's mood was fine and there was no apparent risk of self harm. The record of said assessment is contained in the Prison Healthcare Records which are produced herewith as Crown production number 6. At 08:50 hours said Dr Malik arrived at HMP Barlinnie and saw the body of said Anthony John McEwan in his cell. The body was lying on its back with the head propped up against the wall facing the door. Both eyes were open and open arms were slightly raised and stiff. No pulse or pupillary light reflex was present. Said Dr Malik pronounced life extinct at 08:56 hours on Sunday 22 May 2011.

- (10) That the Healthcare Records of HMP Barlinnie, Glasgow in respect of said Anthony John McEwan, prisoner number 32499, are produced herewith as Crown Production number 6. According to said Brian McKirdy, although it would be noted on medical records that the deceased was prescribed anti depressant medication, the Police and Social Workers are not made aware of prisoner's medication because of patient confidentiality. At the point of entry to Prison, medical staff review each prisoner. If there are any concerns, the procedure is to convene a case conference and if further concerns are highlighted by virtue of the case conference, a member of staff would have a chat with the patient; the patient would then be placed on supervision, either low or high supervision. Low supervision requires hourly observations. High supervision requires anti ligature clothing and bedding and a safer cell; that is used where there are real and immediate concerns. On any given day in Barlinnie Prison, there are 4 or 5 High Risk Prisoners requiring High Risk Supervision and upwards of a dozen prisoners on Low Risk Supervision.
- (11) That Colin William Baird is 42 years of age and has been employed as a Prison Officer within Barlinnie Prison for approximately 16 years. At about 21.30 hours on Saturday 21 May 2011 he checked the cell of said Anthony John McEwan when everything was in order. At about 07:25 hours on Sunday 22 May 2011, he again checked said Anthony John McEwan's cell when he found him hanging by the neck from a top bunk by means of shoe laces around his neck . Said Prison Officer radioed a Code Blue – A Hall, which indicates a Medical Emergency and on arrival of other members of staff, entered the cell where he cut said Anthony John McEwan down. He believed him to be dead at that time.

- (12) That at about 08:00 hours on Sunday 22 May 2011, Douglas Slater, Detective Constable, Strathclyde Police was made aware of an incident within HMP Barlinnie, Glasgow where a male had been found dead within his prison cell. Along with Detective Constable Craig Brogan, he attended at said prison where he was shown to 'A' Hall and thereafter taken to Cell number 1/12 on the ground floor. Said Detective Constables were informed that said Anthony John McEwan, prisoner, had hung himself from a bed frame using a shoelace. Said officers were further advised that the deceased had been cut down from the bed frame by prison staff. On entering the cell, said DC Slater observed the deceased lying on his back on the cell floor with his head furthest away from the door. He was fully clothed with a black shoelace around his neck. Along with his colleague, said DC Slater conducted a search of the cell whereupon he recovered the other part of the shoelace which was still tied round the bed frame. He also saw some medication on a shelf within said cell which had been prescribed for the deceased. Detective Constable Slater then contacted Strathclyde Police Identification Bureau and requested the attendance of the Police Casualty Surgeon. Thereafter, the officers seized the said black lace and a quantity of medication, previously prescribed to the deceased.

According to said DC Slater and DC Brogan there did not appear to be any suspicious circumstances in relation to the death.

Said Anthony John McEwan, deceased was the only person who occupied cell 1/12 on 21st and 22 May 2011."

- [5] The joint submission was to move the court to make a formal Determination in this case.

Having considered the terms of the joint minute and productions, I accede to that motion.

- [6] Before closing I wish to express my condolences to the family of Anthony John McEwan, formerly Coll.

SHERIFF