

2024 CarswellOnt 7506

Ontario Coroner

Elliot, Re

2024 CarswellOnt 7506

Inquest into the Death of Jayson Elliot

Selwyn A. Pieters Presiding Officer

Judgment: January 25, 2024

Docket: None given.

Counsel: Peter Napier — Inquest Counsel
Tiffany Elliot, for herself
Cathy McKnight, for herself
Larissa Easson, for Ministry of the Solicitor General

Subject: Civil Practice and Procedure

Related Abridgment Classifications

Judges and courts

VII Coroners

VII.2 Coroner's inquest

VII.2.b Practice and procedure

VII.2.b.i Standing

Headnote

Judges and courts --- Coroners — Coroner's inquest — Practice and procedure — Standing

Table of Authorities

Statutes considered:

Coroners Act, R.S.O. 1990, c. C.37

s. 10

s. 31(1)

Correctional Services Transformation Act, 2018, S.O. 2018, c. 6

Generally

Ministry of Correctional Services Act, R.S.O. 1990, c. M.22

Generally

s. 5

s. 12

s. 22

Regulations considered:

Ministry of Correctional Services Act, R.S.O. 1990, c. M.22

General, R.R.O. 1990, Reg. 778

Generally

Selwyn A. Pieters Presiding Officer:

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Applications to be designated as a Person With Standing or Person Permitted to Make Submissions

I OVERVIEW

1 This inquest concerns the death of Mr. Jayson Elliot, 50, who died on May 11, 2021, while in custody at the Ottawa-Carleton Detention Centre (OCDC), located at 2244 Innes Road, Ottawa.

2 This inquest is mandatory under [Section 10 of the Coroners Act](#) because Mr. Elliot died while he was being detained in a provincial correctional facility. The purpose of an inquest is to answer the five mandatory questions set out in [s. 31\(1\) of the Coroners Act](#):

- a. who the deceased was;
- b. how the deceased came to his death;
- c. when the deceased came to his death;
- d. where the deceased came to his death; and
- e. by what means the deceased came to his death.

3 A pre-Inquest meeting took place on August 18, 2023, by videoconference where parties identified as potentially having an interest in the inquest attended. Applications for standing have been received from:

- a. Tiffany Elliot, Sister of Mr. Jayson Elliot
- b. Cathy McKnight, Cousin of Mr. Jayson Elliot
- c. Larissa Easson, Counsel on behalf of the Ministry of the Solicitor General

4 The issues to be explored at this inquest are contained in the scope of the inquest. As presiding officer, I have carefully reviewed the results of the coroner's investigation. The scope of this inquest is attached to this decision as an Appendix.

5 The inquest will begin at 9:30 a.m. on Monday, February 26, 2024, and is estimated it will last approximately 10 days and hear from approximately 12 witnesses.

6 For the reasons given below, all the applicants listed above are designated as parties to the inquest.

II THE TEST TO BE DESIGNATED AS A PARTY TO AN INQUEST

7 I have applied the following framework in my analysis of the applications to be a party at this inquest. A Presiding Officer may designate a person as a party to an inquest under the *Chief Coroner's Rules of Procedure* ("CCRoP") in one of two ways:

A. Person with Standing

Under CCRoP Rule 2.1(ii), pursuant to [s. 41 of the Coroners Act](#), the Presiding Officer shall designate a person as a person with standing ("PWS") he finds that the person is substantially and directly interested in the inquest. In order to be designated as a PWS, the applicant must satisfy at least one of two tests, the Private Law test or the Public Interest test.

B. Person Permitted to Make Submissions

Under CCRoP Rule 2.1(iii), pursuant to [s. 50.1 of the Coroners Act](#), the coroner may designate a person as a person permitted to make submissions ("PPS") where the coroner finds that the designation is in the interests of the inquest. The

basis for the person's participation, and the degree and manner to which the person may participate in the inquest, arise from and are limited to the Presiding Officer's order.

Private Law Test

8 The private law test is met when the applicant satisfies one or more of the following components:

- a. Personal - Close personal connection to the deceased,
- b. Reputational — Potential exposure to implicit criticism through the inquest process; or,
- c. Implementational — Potential responsibility for implementation of jury recommendations.

Public Interest Test

9 The public interest test is met when the applicant demonstrates that it satisfies all of the following components:

- a. The applicant legitimately represents a group of persons, who share a unique identity of legal interest with the deceased;
- b. This group of persons represented by the applicant will be acutely affected by the recommendations; and,
- c. The applicant brings unique expertise and perspective to the inquest.

10 In order to be granted standing, an applicant must fully meet criteria for either the private law or public interest test. An applicant will not be granted standing where it only partially satisfies each of the private law and public interest tests.

11 The participatory rights of a person with standing (PWS) are limited to the areas in which the PWS is substantially and directly interested.

III ANALYSIS AND RULING

Tiffany Elliot and Cathy McKnight

12 Tiffany Elliot is Mr. Elliot's sister and had a close personal connection to Mr. Elliot. In her application she stated, "I have a direct and substantial interest in this inquest and wish to be granted standing so that I can participate in the inquest into the death of my brother personally and on behalf of the family including Cathy Elliot, Jayson's Cousin and Andrew Elliot, Jayson's uncle."

13 Cathy McKnight, a cousin of Jayson Elliot has also applied for standing. Ms. McKnight wrote "I have direct and substantial interest in this inquest and wish to be granted standing so that I can participate in the inquest into the death of my cousin."

14 Standing is granted to the family of Jayson Elliot in the following area of interest: "the personal interest of the family of Jayson Elliot at the inquest into his death." Either Tiffany Elliot or Cathy McKnight can represent the interests of the family at this inquest.

Ministry of the Solicitor General

15 The Ministry of the Solicitor General and its officers and medical staff have a direct and substantial interest in the inquest given their specific involvement.

16 On May 11, 2022, Mr. Elliot was housed in his cell with one other cellmate. Ottawa-Carleton Detention Centre (OCDC) nursing staff had last checked in with him around 7:00 p.m. According to his cellmate, around 8:30 p.m., Mr. Elliot was lying on a mattress on the floor watching television and eating a muffin.

17 Mr. Elliot began choking and gasping for breath. His cellmate immediately notified OCDC staff who initiated an emergency response. Correctional officers and registered nurses attended the cell and found Mr. Elliot unresponsive.

18 OCDC medical staff and correctional officers attempted to resuscitate Mr. Elliot. Mr. Elliot had no vital signs. Emergency medical services were requested via 911. Rescue actions included attempts to clear his airway, cardiopulmonary resuscitation, placement of an oropharyngeal airway and bag-mask ventilation.

19 Emergency services, including paramedics and firefighters arrived and took over efforts to resuscitate Mr. Elliot. There were additional efforts including fluid resuscitation and the administration of epinephrine. There was no return of spontaneous circulation and Mr. Elliot was declared dead at 8:56 p.m.

20 Under the *Ministry of Correctional Services Act, RSO 1990, c M.22*, Ministry of the Solicitor General operates and regulates the governance of provincial correctional facilities in Ontario inclusive of Correctional Centres, Detention Centres and Jails. See also, *Correctional Services Transformation Act, 2018, S.O. 2018, c. 6 - Bill 6*.

21 Correctional Officers, Nurses, Doctors and Administrators are responsible for the care, custody and control of persons who are detained in custody on remand, or an immigration hold and/or serving a sentencing of less than two years. The relevant sections of the *Act* briefly are section 5 which outlines the "Functions of Ministry", section 12, which refers to "Protection from personal liability", and section 22, which refers to "Inspections, Investigations." Regulation 778 under the *Ministry of Correctional Services Act*, generally operationalizes the *Act* in so far as the specific responsibilities of various officials in the correctional system are concerned.

22 In addition to the legislation, the Statement of Ethical Principles, the Ottawa-Carleton Detention Centre Standing Orders and the Ontario Correctional Services Code of Conduct and Professionalism (COCAP) are part of the Ministry policies and procedures governing the management and supervision of its Detention Centre.

23 The Correctional Services Code of Conduct and Professionalism Policy for employees working in correctional services provides, in part, that employees have a professional responsibility to:

- ensure the well-being of people in custody
- maintain a respectful, safe and healthy environment¹

24 The Ministry of the Solicitor General, given its statutory responsibilities, may be subject to implicit criticism through the evidence before the jury, and therefore meets the reputational component of the private law test. In addition, it bears direct responsibility for implementing jury recommendations, and therefore meets the implementational test. Standing is granted to the Ministry of the Solicitor General in the following area of interest: "The reputational and implementational interest of Ministry of the Solicitor General in the circumstances of the death of Mr. Elliot."

Participatory rights & overlapping interests

25 I remind all Persons with Standing, ("PWS") that their participatory rights arise from and are limited to the areas of interest in which, standing was granted. There is a potential for overlap among the interests of some of the PWS at this inquest. Except with my prior permission, those with overlapping interests may not duplicate each other's areas of questioning of a given witness. This may be achieved by working together to avoid duplication. If a PWS is of the view that duplication is required, they must seek my leave in advance of the witness testifying.

26 I thank all parties and counsel for their applications.

Appendix

STATEMENT OF SCOPE

Inquest into the death of Jayson Elliot

This inquest will look into the circumstances of the death of Jayson Elliot and examine the events of his death on or about May 11, 2021, to assist the jury in answering the five mandatory questions set out in *s. 31(1) of the Coroners Act* and to help the jury make recommendations to prevent further deaths, should the jury decide to make recommendations. The following are the five mandatory questions for the jury:

- a. who the deceased was;
- b. how the deceased came to his or her death;
- c. when the deceased came to his or her death;
- d. where the deceased came to his or her death; and
- e. by what means the deceased came to his or her death

Specifically, beyond the facts required to accurately answer the five questions and understand the circumstances of the death, we will be addressing the following issues to the extent that these issues may have relevance to potential recommendations:

1. The circumstances surrounding the death of Mr. Jayson Elliot.

Excluded from the scope will be any in-depth exploration of the following:

1. Medical care provided by paramedics.

Footnotes

- 1 Ontario, Ministry of the Solicitor General, Code of Conduct and professionalism (Toronto: Ministry of the Solicitor General, 2021), online: <https://www.ontario.ca/page/code-conduct-and-professionalism#:~:text=The%20Code%20of%20Conduct%20and,safe%20and%20healthy%20work%20environment> accessed 17 January 2024