

2024 CarswellOnt 7509

Ontario Coroner

Thomson, Re

2024 CarswellOnt 7509

Inquest into the Death of David Bartholomew Thomson

Selwyn A. Pieters Presiding Officer

Judgment: January 15, 2024

Docket: None given.

Counsel: Maria Stevens — Inquest Counsel

Corbin Cawkell, for Lee Doolittle, Family of Mr. Thomson

Gary Clewley, for Insp. Mark Stiller, Sgt. David Spencer, Det. Andrew Coughlan, Cst. Alan Ing

Marco Visentini, for Hamilton Police Service Chief and Board

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

Cases considered by *Selwyn A. Pieters Presiding Officer*:

Booth v. Ontario (Coroner) (1994), 16 O.R. (3d) 528, (sub nom. *Donaldson Inquest, Re*) 111 D.L.R. (4th) 111, (sub nom.

Booth v. Huxter) 69 O.A.C. 1, 1994 CarswellOnt 825 (Ont. Div. Ct.)

Statutes considered:

Coroners Act, R.S.O. 1980, c. 93

s. 10

s. 31(1)

Police Services Act, R.S.O. 1990, c. P.15

s. 31

s. 41

s. 42

***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 David Bartholomew Thomson who died in Brantford, Ontario on November 3, 2019, aged 33 years.

2 On November 3, 2019, Hamilton Police Service attended at a hotel in Brantford, Ontario to apprehend Mr. Thomson, who was a suspect in the homicide of two Hamilton residents. A stand-off ensued at the hotel with Mr. Thomson allegedly being armed and barricaded. During the stand-off, Mr. Thompson died as a result of a gunshot wound to the head. He was pronounced dead at the scene.

3 This inquest is mandatory under [Section 10 of the Coroners Act](#) because Mr. Thompson died while he was being detained by police. 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.

4 A pre-Inquest meeting took place on December 18, 2023, by videoconference where several parties identified as potentially having an interest in the inquest attended. All were invited to apply for standing at the inquest, however only the following opted to apply at this time:

- a. Lee Doolittle, Family of the late Mr. Thomson;
- b. Inspector Mark Stiller, Sergeant David Spencer, Detective Andrew Coughlan and Constable Alan Ing ("Involved Officers"); and,
- c. Hamilton Police Service Chief and Board jointly ("Hamilton Police Service")

5 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, and consulted with inquest counsel and the interested parties who attended the pre-inquest meeting to develop a scope for this inquest. The scope helps to ensure that we identify and maintain focus on important and relevant issues surrounding Mr. Thomson's death and helps parties to properly prepare for the inquest. The interested parties were invited to provide input regarding the scope at and following the pre-inquest meeting. Input was received from the interested parties and was used to refine the draft. The updated and final scope of this inquest is attached to this decision as an Appendix.

6 For the reasons given below, and subject to the qualifications and restrictions in this ruling, all of the applicants listed above are designated as parties to the inquest.

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

7 A person is designated as a party to an inquest under the *Chief Coroner's Rules of Procedure* ("CCRoP") either as a Person with Standing or as a Person Permitted to Make Submissions:

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") if 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.

i. Private Law Test - The Private Law test is met when the applicant satisfies one or more of the following components:

1. Personal - Close personal connection to the deceased,
2. Reputational - Exposure to implicit criticism through the inquest process; or,
3. Implementational - Responsibility for implementation of jury recommendations.

ii. Public Interest Test - The Public Interest test is met when the applicant demonstrates that it satisfies all of the following components:

1. The applicant legitimately represents a group of persons,
2. The group of persons share a commonality of identity with the deceased,
3. The group of persons will be acutely affected by the recommendations; and,
4. The applicant brings unique expertise and perspective to the inquest.

In order to be granted standing, the 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.

The participatory rights of a PWS are specified in [Section 41](#) and are limited to the areas in which the PWS is substantially and directly interested.

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.

III ANALYSIS AND RULING

Lee Doolittle, Family of Mr. Thomson

8 Lee Doolittle, on behalf of the family of Mr. Thomson, applied to be designated as a person with standing. Mr. Doolittle is Mr. Thomson's father and had a close personal connection to Mr. Thomson. He meets the personal component of the private law test. Standing is granted to Lee Doolittle in the following area of interest: **"the personal circumstances of David Thomson and who he was, and identifying areas for possible recommendations to prevent similar deaths in the future."**

Involved Hamilton Police Service Officers, Hamilton Police Service Chief & Board

9 The involved officers have a direct and substantial interest in the inquest given their specific involvement.

10 On November 3, 2019, Hamilton Police Services officers attended a Brantford motel to arrest Mr. Thomson. Hamilton Police Services officers attended based on information received that Mr. Thomson was at that location. He was located inside a motel room. Late into the evening police attempted to contact Mr. Thomson by "loud hailing", directing him to surrender himself. Within a minute, police heard a gunshot from inside the room. When the police gained access to the room in which Mr. Thomson was staying, he was found deceased with an apparently self-inflicted gunshot wound to the head.

11 The Involved Officers, the Chief of Police and the Board all have different responsibilities which may affect their interests in this inquest. A police officer's duties, as enumerated in [s. 42 of the Police Services Act \(PSA\)](#), include but are not limited to preserving the peace, preventing crimes, assisting victims, apprehending criminals and others who may lawfully be taken into

custody, and executing warrants. The *PSA* provides, in [section 41](#), that a chief of police's duties include ensuring that members of the police force carry out their duties in accordance with the *PSA* and its regulations and in a manner that reflects the needs of the community, and that discipline is maintained in the police force. A chief of police has an operational role, reporting to and following a board's lawful directions. [Section 31](#) provides that a board is responsible, among other duties, for the provision of adequate and effective police services in the municipality. Included in a board's additional statutory responsibilities is the establishment of policies for effective management of the force and the recruitment, direction and performance management of the chief of police.¹

12 Hamilton Police Service was the investigating police service whose members were present and actively engaging with Mr. Thomson at the time of his death, attempting to lawfully apprehend him. The inquest will examine the actions of the officers as well as the policies, training and other supports provided to the officers to address the situation that unfolded on November 3, 2019. The Hamilton Police Services Board and Chief, given their statutory responsibilities, may both be subject to implicit criticism through the evidence before the jury, and therefore meet the reputational component of the private law test. In addition, Hamilton Police Services Board and the Chief may each bear direct responsibility for implementing jury recommendations, and therefore meet the implementational test. At this stage, their interests appear to overlap. Standing is granted to the Hamilton Police Services Board and Chief in the following area of interest: **"The reputational and implementational interest of Hamilton Police Service in the circumstances of the death of Mr. Thomson, police training, police operations and use of force."**

13 The involved police officers who attended the scene, and who are anticipated to be witnesses during the inquest, have retained counsel to represent their interest at the inquest as their interest may diverge from that of the Hamilton Police Service.² Further, they submit that "the Inquest may raise issues and concerns that may affect their reputation and professional standing." They also posited that their area of interest goes to "training of police officers and the policies and procedures relating to the apprehension of armed suspects." Standing is granted to the Involved Officers in the following area of interest: **"The reputational and implementational interest of the officers in their involvement in the circumstances of the death of Mr. Thomson, police training, police operations and use of force."**

Participatory rights & overlapping interests

14 I remind all 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.

15 I thank all parties and counsel for their applications.

Footnotes

1 [Police Services Act, R.S.O. 1990, c. P.15](#)

2 [Booth v. Huxter, 1994 CanLII 10535 \(Ont. Div. Ct.\)](#)