



February 21, 2017

Michael McIntosh, Adams County Sheriff
Adams County Sheriff's Office
332 N. 19th Avenue
Brighton, CO 80601

Re: The investigation of the death of Mr. Scott Simon at the Adams County Detention Facility at 150 N. 19th Avenue, Brighton, Colorado on September 28, 2016.

Dear Sheriff McIntosh:

The investigation and legal analysis of the death of Mr. Scott Simon, while in-custody at the Adams County Detention Facility (ACDF) on September 28, 2016, is complete. Detective Matthew Marquez of the Adams County Sheriff's Office led the investigation and presented his reports, photos, videos, documents, and materials to the office of the Seventeenth Judicial District Attorney for our review. Based on the evidence presented, Mr. Scott Simon died as a result of hanging. Your investigation and the evidence demonstrate that the manner of death was suicide. Therefore, no criminal charges will be filed against anyone in this matter.

STATEMENT OF INVESTIGATION

Events Prior to Scott Simon's Death:

Scott Edward Simon (AKA Scott Simone) (DOB 04/25/1963) was booked into the Adams County Detention Facility on September 6, 2016 on a parole violation in which the original charge was motor vehicle theft. Upon arriving at the facility, Scott Simon was given a routine intake evaluation by facility nurse staff. During the screening, Scott Simon reported he had no thoughts about killing himself. Scott Simon reported he had not attempted suicide in the past and did not express feelings of hopelessness. Scott Simon reported he had a two cm tumor on his liver and also reported he was taking Ribavirin to treat hepatitis C. Scott Simon was cleared for general population and was housed in B-Module, cell 568. The screening nurse did note that Scott Simon seemed depressed and made a mental health referral.

On September 9, 2016, Scott Simon was seen by Mental Health Counselor Nicole Paavola in one of the mental health exam rooms at the facility. During the visit, Scott Simon was asked about current suicidal/self-injury ideation and reported he would jump off the tier in the pod. Scott Simon was housed on suicide observation protocol based on his statement of occasional thoughts of hurting himself and has dreams of jumping off the tier. However, Scott Simon reported he currently had no plan to kill or hurt himself.

On September 10, Scott Simon met with Mental Health Counselor Andrea Brandt. During the visit, Scott Simon reported he was feeling better and expressed interest in moving back to general population. Scott Simon reported he was missing his family and that was the main reason he was feeling upset. Scott Simon also reported he was coming off drugs and that was causing some of his symptoms. Scott Simon was moved from suicide observation to mental health observation due to his denial of any suicidal ideation and continued plan for behavioral health treatment.

On September 11, Scott Simon met with Mental Health Counselor Adam Westendorf. During the visit, Scott Simon stated, "I'm trying to save my life. Why would I kill myself?" Scott Simon reported he is trying to take medications to help with a medical disease and has mood swings because of the medications. Scott Simon was moved from mental health observation back to general population due to his lack of suicidal ideation. Scott Simon reported confidence he could go back to general population and manage his mood swings. Scott Simon was moved to E-Module, pod 6.

On September 12, Scott Simon was moved from E-Module pod 6 to E-Module Pod 4, cell 60. That move was completed so that Scott Simon would have a cellmate. Per Adams County Detention Facilities Suicide Prevention Protocols, efforts were made to ensure that each inmate has a cellmate for safety of the inmates.

On September 23, Scott Simon attended a Mental Health Coping Skills class that was taught by Mental Health Counselor Andrea Brandt. During the class, Scott Simon participated in group discussions and activities and did not present any indication for further follow-up from mental health. It was determined Scott Simon was to remain in general population and to return to the coping skills group.

On September 27, Scott Simon went to the Law Library because of an inmate request form (kite) he had turned in requesting a power of attorney. Library Assistant Lynne Sparks met with Scott Simon and explained to him how to complete the power of attorney. When they reached the section where Scott Simon would initial what he wanted to give power of attorney over, he paused and stated, "I know this is risky but I am going to do everything. I have stage 3 liver cancer and I'm going to prison." Lynne Sparks told him she was sorry to hear that and he responded, "Oh its ok. I am going to be alright. I'm going to fight it."

On September 28 at 12:35 pm, Scott Simon had a visit from Parole Officer Jean Carpenter. During the visit, Scott Simon was served with his parole violation paperwork. Scott Simon had recently told his parole officer that he had terminal liver cancer. After meeting with his Parole Officer, Scott Simon met with Deputy Aaron Derycke in the E-Module Office. Scott Simon asked Deputy Derycke to look up his file and see what his charges were and Deputy Derycke advised him of the current charges. Scott Simon then told Deputy Derycke that his Parole Officer was filing escape charges on him. Scott Simon thanked Deputy Derycke for helping him and returned to his pod. Deputy Derycke reported that Scott Simon's behavior seemed normal based on previous interactions with him while working E-Module. Scott Simon returned to his cell (E460) at 1:32 pm. Scott Simon had a cellmate who was assigned to the top bunk in the cell. His cellmate was Brian Harris (DOB 03/09/1972.) Scott Simon remained in his

cell until observed by Deputy Lord.

Scott Simon's Death on September 28, 2016:

After Scott Simon returned to his cell, row checks were completed by the E-Module Deputies at 1:39 pm, 2:18 pm, and 2:51 pm. At 2:06 pm, Deputy Lord conducted a row check in the E-module beginning with pod 6 and did not observe anything unusual during the row checks in any cells. At 2:36 pm, Deputy Lord began another row check. When Deputy Lord looked inside cell E460, he observed Scott Simon in a seated position near the ladder on the right side of the bunk bed. Deputy Lord moved to E461 and then returned back to E460 to look inside the cell again. Deputy Lord saw what appeared to be an inmate issued sheet around Scott Simon's neck. The sheet was also tied to the second rung of the ladder.

Deputy Lord asked the tower to open the cell door and aired a code 100 (medical emergency) over the radio. Deputy Lord attempted to cut the sheet using his safety knife but was unsuccessful, so he lifted Scott Simon off the floor while waiting for assistance. Deputy Brandon Trumbo arrived on scene with several facility nurses and Nurse Chantel Trevizo used bandage scissors to cut the sheet so Scott Simon could be removed from the cell.

Once removed from the cell, Deputy Antonio Carvalho began chest compressions. Deputy Carvalho continued chest compressions until he was relieved by nursing staff. Several nurses took turns performing CPR until EMS arrived on scene. The AED machine was also utilized by facility medical staff during the life-saving efforts and advised for no shock. EMS arrived in the pod at 3:04 pm and took over care of Scott Simon in attempt to revive him.

At 3:20 pm, Scott Simon was pronounced deceased by Doctor Carey Cuprisin with Platte Valley Medical Center. Adams County Coroner's Office Investigator Brooke Steven arrived at 4:10 pm to begin her investigation.

Investigation After Scott Simon's Death:

Detective Marquez conducted interviews with other inmates, staff and Deputies at the Adams County Detention Facility. Inmate interviews revealed that Scott Simon did not discuss suicide with other inmates. Scott Simon discussed with his cellmate being frustrated about getting new escape charges but advised he would fight them.

Two inmates, Johnny Prince and Jesus Martinez, provided information about their observations of Scott Simon on his medication. Johnny Prince stated a few days before his death, about fifteen minutes after medication pass; Scott Simon was sick and dizzy and believed the nurse gave him the wrong medication. Johnny Prince stated Scott Simon pressed the button in the pod and asked to go to medical. Johnny Prince stated Scott Simon went to the Medical Unit and was there about an hour before returning. Johnny Prince stated Scott Simon felt better when he returned from medical that day. Johnny Prince stated he only believed Scott had been given the wrong medication because that is what Scott had told him. Johnny Prince stated two days ago, Scott Simon had told him he was afraid that he "might die in here." Johnny Prince stated Scott Simon had not put the statement in context and he was not sure why he said that.

Jesus Martinez stated that two days before the incident after the morning medication pass, Scott Simon told him, "I'm not feeling right." Scott Simon was sent to the medical unit and returned shortly after and told Jesus Martinez he had been given the wrong medication. Jesus Martinez stated Scott Simon told him he felt better when he returned from the medical unit.

Scott Simon completed a telephone call on September 26 at 9:18 am, which was after the morning medication pass. During the fifteen minute conversation, Scott Simon talked about how one of the nurses at the jail was very helpful in making sure he got all his medication and did not miss a dose. Scott Simon did not say anything about having received the wrong medication or that he was feeling physically ill.

Scott Simon's Medical Administration Record showed no medications were missed and no wrong medications were given to Scott Simon. Four days prior to Scott Simon's death, he had been given a single dose of gabapentin, a pain medication used for neurological pain. Scott Simon became dizzy and went to the medical unit where his vitals were stable and he drank a pitcher of Gatorade before reporting he felt fine and returned to E Module.

Parole Officer Jean Carpenter met with Scott Simon on September 28. Jean Carpenter stated she met with Scott Simon on September 28 and served him with his parole paperwork, however, did not inform him he would be receiving an escape charge. Jean Carpenter stated Scott Simon seemed fine during her interaction with him and gave no indication he intended to harm himself.

Scott Simon completed twenty six telephone calls from his inmate account while he was incarcerated in the facility. A review of his completed calls did not disclose any suicidal statements. Scott Simon had two video visits from his fiancé, Ausha Simone (Ausha Holliday.) The video visit on September 21, Scott Simon did talk about how thoughts go through his head over and over again that "torture" him. A note was found on the bottom bunk in Scott Simon's cell stating, "Please tell my wife that I love her, and I'm sorry but I can't fight any more." The letter included several names and phone numbers and ended with "forever love, Scotty."

On September 30, 2016 an autopsy was conducted on Scott Simon at the Adams County Coroner's Office by Doctor Meredith Frank. Dr. Frank completed an autopsy report, and listed the cause of death as hanging and the manner as suicide.

Legal Analysis

Criminal liability is established in Colorado when it is proven beyond a reasonable doubt that someone has committed all of the elements of an offense defined by Colorado statutes, and it is proven beyond a reasonable doubt that the offense was committed without any statutorily recognized justification or excuse.

The lowest level of criminal culpability for causing the death of an individual is criminally negligent homicide. "Any person who causes the death of another person by conduct amounting to criminal negligence commits criminally negligent homicide," C.R.S. §18-3-106. The other crimes for

causing the death of a person—reckless manslaughter, second degree murder, and first degree murder — require a higher culpable mental state. To commit them, a person must act recklessly, knowingly, or intentionally. In analyzing the case, we must first determine whether any one acted with criminal negligence and caused Scott Simon’s death.

Pursuant to C.R.S. §18-1-501 (3), “A person acts with criminal negligence when, through a gross deviation from the standard of care that a reasonable person would exercise, he fails to perceive a substantial or unjustifiable risk that a result will occur or that a circumstance exists.”


Scott Simon was appropriately screened for physical and mental health issues when he entered the Adams County Detention Facility. He indicated that he had not attempted suicide before, but did express feelings of hopelessness. The screening nurse noted that Scott Simon seemed depressed and made a mental health referral. On September 9, 2016, Scott Simon met with a mental health counselor and reported thoughts of jumping off the tier into the pod. Scott Simon was housed on suicide observation protocol. On September 10, 2016, Scott Simon expressed interest in being returned to general population and denied any suicidal ideations. At that time, Scott Simon was moved from suicide observation to mental health observation. On September 11, 2016, Scott Simon continued to deny suicidal thoughts and was moved into general population and the next day moved into a pod with a cellmate as part of the suicide prevention protocols. On September 28, 2016, Scott Simon was found hanging from the ladder by the use of a sheet, the jail staff and EMS administered appropriate medical treatment to Scott Simon.

In summary, a review of the materials presented does not disclose any abuse, mistreatment, or maltreatment that rises to a level of criminal culpability. There is not sufficient evidence to prove that anyone caused the death of Scott Simon by conduct amounting to criminal negligence. The video and physical evidence obtained indicate that Scott Simon’s death was caused by hanging, and that it was self-inflicted. There is no evidence to support the filing of criminal charges for the death of Scott Simon. The evidence demonstrates that on September 28, 2016, Scott Simon took a jail issued sheet and hung himself from the ladder in his cell while his cellmate was sleeping.

Conclusion

On September 28, 2016 Mr. Scott Simon was in the Adams County Detention Facility for a parole violation. All of the evidence indicates that Scott Simon died as a result of suicide and there is no indication that the detention personnel contributed to his death.

If you have any questions pertaining to this report or findings and conclusions, please contact me.

Sincerely,


Rhoda Pilmer
Chief Trial District Attorney
17th Judicial District Attorney’s Office