

## **NEWS RELEASE**

**The Scottish Criminal Cases Review Commission ('the Commission') has referred the case of Dominic Ferrie to the High Court of Justiciary.**

In accordance with the Commission's statutory obligations, a statement of reasons for its decision has been sent to the High Court, Mr. Ferrie and Crown Office. The Commission has no power under its founding statute to make copies of its statements of reasons available to the public. Brief summaries of the background of the case, the evidence led at the trial, the grounds the Commission rejected and the Commission's reasons for referral are given below. These summaries are for information purposes only and the content of this news release should not be treated as forming part of the Commission's statement of reasons

### **1.0 Background**

**1.1** On 6 August 2001, at the High Court at Glasgow, Mr Ferrie appeared on an indictment which narrated that on 30 April 2001, at a flat in Wishaw, he and Stewart Lees Quinn, while acting with Stephen Michael Nisbet, assaulted David Hogg James, repeatedly punched him on the head and body, repeatedly struck him on the head and body with bottles and other blunt and sharp instruments, burnt his body with a hot iron, dragged him across the floor, forcibly ejected him from a first floor window into the rear garden of the premises, causing him to strike his head and body against the ground, repeatedly kicked and stamped on his head and body, struck him over the head and body with pieces of slabbing, and thereby murdered him. Mr Ferrie and his co-accused were also charged with attempting to defeat the ends of justice in relation to a connected matter.

**1.2** On 21 August 2001, the jury, by a majority verdict, found Mr Ferrie guilty of murder, under deletion of the reference to the alleged forcible ejection of the deceased from the window. Their verdict on the charge of attempting to defeat the ends of justice was not proven, again by a majority. Mr Ferrie's co-accused, Mr Quinn, was convicted of both charges. Mr Ferrie was sentenced to life imprisonment with a punishment part of 14 years.

**1.3** Stephen Michael Nisbet was later apprehended and convicted of the murder in separate proceedings.

**1.4** Messrs Ferrie, Quinn and Nisbet's appeals against conviction were refused by the High Court on 16 September 2005.

### **2.0 Evidence at the Trial**

**2.1** The main Crown witness said that he had seen Mr Ferrie taking part in an assault on the deceased, which took place inside the flat. He went on to say that Mr Nisbet had shouted: “Out the window with him [deceased].”

**2.2** That witness’s account was corroborated by the discovery of Mr Ferrie’s fingerprint on the outside of the bedroom window.

**2.3** The deceased was discovered in the back garden of the house, outside the bedroom window. The cause of death was established as blunt force trauma to the head. A number of bloodstained pieces of paving slab were found in the vicinity of his body.

### **3.0 Grounds that the Commission Rejected**

**3.1** The Commission considered and rejected submissions to the effect that the applicant’s representation was defective and that, contrary to section 92 of the Criminal Procedure (Scotland) Act 1995, part of his trial took place outwith his presence. A further ground challenging the reasonableness of the jury’s reliance upon the evidence of the main witness, who was seriously intoxicated, was also rejected.

### **4.0 Reasons for Referral**

**4.1** The Commission came to the conclusion that the case against Mr Ferrie was sufficient, but only if it was accepted that the deceased was forcibly ejected from the window. If this was not accepted, the Commission believes that there was no evidence capable of linking Mr Ferrie with the fatal portion of the assault. With reference to section 106(3)(b) of the Criminal Procedure (Scotland) Act 1995, the Commission takes the view that no reasonable jury, properly directed, could have returned a verdict of guilty under deletion of the reference in the indictment to forcible ejection. Accordingly, the Commission believes that a miscarriage of justice may have occurred.

### **5.0 Notes for Editors**

**5.1** The Scottish Criminal Cases Review Commission was established as an independent body on 1 April 1999 to review alleged miscarriages of justice in Scottish convictions and/or sentences. Under section 194A–L of the Criminal Procedure (Scotland) Act 1995, as inserted by section 25 of the Crime and Punishment (Scotland) Act 1997, the Commission may refer a case to the High Court if it believes that a miscarriage of justice may have occurred and that it is in the interests of justice that a reference should be made. Once the Commission refers a case to the High Court, the case will proceed as a normal appeal.

**5.2** The Commission operates with a Board of seven Members (one of whom is the Chairperson), a Chief Executive, a Director of Corporate Services, two Senior Legal Officers, six Legal Officers and administrative support staff.

**5.3** The Commission has reviewed its policy on disclosure and, from 1 April 2008, it has or will disclose the fact that a case has been referred to the High Court, and provide a short summary of the reasons for this. However, as the Commission operates under statutory non-disclosure provisions, it is not considered appropriate for the Commission to disclose any additional information about such cases. The Commission will not release any information about cases in which no referral has been made or in respect of cases under review.

**5.4** For any further general information about the Commission, please contact Mr. Chris Reddick, Director of Corporate Services, SCCRC, 5<sup>th</sup> Floor, Portland House, 17 Renfield Street, Glasgow; telephone: 0141 270 7030; e-mail: [creddick@sccrc.org.uk](mailto:creddick@sccrc.org.uk); or visit the Commission's website at [www.sccrc.org.uk](http://www.sccrc.org.uk)