



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Simon Cooper, Coroner, having investigated the death of Brendan Craig Burns.

Find, pursuant to Section 28(1) of the Coroners Act 1995, that:

- a) The identity of the deceased is Brendan Craig Burns;
- b) Mr Burns died as a result of smoke inhalation in a caravan fire;
- c) The cause of Mr Burns' death was asphyxia; and
- d) Mr Burns died on 5 November 2016 at 2248 Tunnack Road, Tunnack, Tasmania.

Introduction

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Burns' death. The evidence comprises the police report of death; an opinion of the forensic pathologist who conducted the autopsy; relevant police and witness affidavits; a detailed report by a fire investigation officer; medical and prison records and reports; and forensic and photographic evidence.

Background

Mr Burns was born in Hobart on 3 December 1963. His parents, Molly Dawn and Jack Ernest Burns are both deceased. Mr Burns was one of five children, having three brothers and one sister. Mr Burns' older brother, Stephen Burns, is also deceased. Mr Burns grew up in Lenah Valley, residing in Pottery Road. He attended Lenah Valley Primary and New Town High School.

Principally employed as a truck driver after completing his education, Mr Burns married in his early twenties and had five sons: Justin, Andrew, Christopher, Jim and Sean.

After the breakdown of his marriage in about 2000, Mr Burns had infrequent contact with his sons. In addition, in the years following he suffered both physical and mental health issues

and began using illicit drugs. He was diagnosed as suffering from schizophrenia in 2000, and later, bipolar disorder. Mr Burns had an extensive medical history, particularly in relation to his mental health. He had a number of admissions to the psychiatric medicine unit at the Royal Hobart Hospital, was engaged with Mental Health Services at the time of his death, and had regular assistance from Alcohol and Drug Services.

Mr Burns was prescribed the drug Clozapine as part of his treatment regime and regularly attended the clinic associated with that drug.

Family members report that he was a heavy user of cannabis and later, methamphetamine. In addition he was a heavy smoker of tobacco and had been so since aged about 14.

In addition to extensive and ongoing physical and mental health problems, Mr Burns had an extensive offending history dating back to 1980. Between 1980 and 2000 most offences were of a minor nature and predominantly related to traffic matters. Coinciding with the breakdown of his marriage and his formal diagnosis of schizophrenia in 2000, Mr Burns' offending escalated. He was eventually sentenced to a lengthy term of imprisonment in 2010.

While he was in custody in January 2011, Mr Burns' dwelling at 2248 Tunnack Road, Tunnack was destroyed by fire in suspicious circumstances. No offender was ever identified in relation to that matter. The home and contents were not insured and the home was not rebuilt.

Following his release from prison in April 2011, Mr Burns moved in with his son Christopher and appeared to have his mental health issues under control, seemingly because he was compliant with his medication regime. He was able to regain employment, driving a garbage truck, and family and friends described him as appearing to get his life "on track".

Unfortunately Mr Burns' behaviour began to decline again. He crashed his work vehicle, lost his job and resumed using illicit drugs.

Mr Burns continued to seek medical assistance in the days immediately preceding his death. Records indicate he attended the Royal Hobart Hospital seeking assistance for symptoms related to his schizophrenia. Mr Burns was not admitted.

While it is clear that Mr Burns had an extensive history of poor mental health and drug abuse, for the reasons that follow I do not consider either or both factors caused, or in any way contributed, to his death.

Circumstances of Death

In the six months prior to his death Mr Burns was living with his brother Alan at Alan's home in Bridgewater. Reportedly, Mr Burns' sleep patterns became more disturbed and he was noted to behave oddly – secreting items in his bedroom and locking the door to it so no one could enter.

In the weeks leading to his death Mr Burns became more erratic. He divided his time between living with his brother in Bridgewater and a shed on the Tunnack property. Mr Burns also came under increasing police attention in the weeks prior to his death, in relation to a number of dishonesty and traffic related offences.

Statements of witnesses obtained as part of the investigation into Mr Burns' death suggest his behaviour was particularly erratic on the day before his death.

At around lunchtime on Friday 4 November 2016, Alan saw his brother in Green Point Road, Bridgewater, not far from the Woolworths Supermarket. Mr Burns threw a shopping trolley at a traffic island, and then threw clothing and bottles into the trolley. He was not wearing any shoes. Alan stopped and spoke to Mr Burns, telling him to go to his house and have a sleep. Mr Burns appeared happy and walked back towards Alan's home.

Shortly afterwards Mr Burns took a rubbish wheelie bin from the house next door to Alan's and threw all of his personal belongings, along with rubbish, out of the window of his bedroom, into the bin.

Alan unsuccessfully attempted to calm Mr Burns down but he continued throwing things about. Mr Burns then went next door into the neighbour's yard and threw items over the fence at Alan.

As the afternoon wore on Mr Burns' behaviour became worse. He threatened Alan with a knife and the pair had several physical altercations throughout the afternoon and early evening. At one stage uniform police attended Alan's residence to attempt to deal with Mr Burns. Police who dealt with him that day reported Mr Burns to be "rambling", a description echoed by his son, Jim.

Eventually Mr Burns' sons Jim and Sean assisted their father to take his old caravan to the property at Tunnack Road. On the trip Mr Burns dozed off to sleep on a few occasions.

Upon arrival at the Tunnack property around 11.00pm, Jim and Sean set up the caravan. It was backed into an old shed on the property.

Although in relatively poor condition the caravan was described as “liveable”, being at least waterproof and good enough to sleep in. It did not have a stove, refrigerator or gas bottle. No electricity was connected to the block or the shed on it and Mr Burns did not have a generator.

Jim gave his father cigarettes and a lighter. Both Mr Burns’ sons then left the property, leaving Mr Burns lying on an old couch in the shed, covered in blankets with the cigarettes and lighter on the ground next to him. Both later told investigators that no one else was present when they left.

What occurred after his sons left is unclear, although it is apparent that at some point during the night Mr Burns relocated from the couch inside the shed to the interior of the caravan.

The next afternoon at about 2.55pm Jim picked his brother Justin up and headed to Tunnack to check on their father, deliver supplies, and help build a more substantial shelter for him to live in. They arrived at Tunnack at about 4.00pm. As they approached the block smoke was seen to be coming from the property.

Upon arrival both Mr Burns’ sons saw that the caravan had been totally destroyed by a fire which was still smouldering.

Jim and Justin checked the shed to see where their father was but were unable to locate him. They then saw what were later identified as being his charred skeletal remains amongst the burnt frame of the caravan near its rear right corner.

Naturally extremely distressed by what they had found Jim and Justin, unable to use mobile phones because of a lack of coverage, left the block and headed across the road to a neighbouring property where they called for assistance. They remained at the neighbouring property until the arrival of Police Officers and Tasmania Fire Service personnel.

Investigation

After the fire was extinguished, and the scene made safe, an investigation in relation to the circumstances of Mr Burns’ death was commenced.

His remains were carefully examined and photographed at the scene and then removed and transported by mortuary ambulance to the mortuary at the Royal Hobart Hospital. There an autopsy was carried out by experienced forensic pathologist, Dr Donald Ritchey. Dr Ritchey expressed the opinion, which I accept, that Mr Burns died as a result of asphyxia due to smoke inhalation. Dr Ritchey noted probable significant contributing factors to be tobacco

smoking and methylamphetamine use (both methylamphetamine and cannabis were found in samples taken at autopsy).

Mr Burns' charred remains were identified positively by DNA comparison made between samples obtained at autopsy with specimens collected by police. The analysis that enabled positive DNA identification was carried out at the New Town laboratory of Forensic Science Service Tasmania.

An experienced fire investigation officer, Senior Station Officer (SSO) Matthew Lowe, was on the scene just before 6.00pm on 5 November 2016 in the company of Leading Fire Fighter (LFF), Adrian Petrie. SSO Lowe, assisted by LFF Petrie, carried out an investigation at the scene. As a result of the investigation SSO Lowe expressed the opinion that the fire originated in the rear right corner of the caravan where Mr Burns' remains had been located. I note the evidence was that the caravan had a bed in that area.

Having regard to weather records and considering various physical indicators present at the scene, SSO Lowe expressed the opinion that it was reasonable to suggest that the fire had taken hold sometime after 4.00am when the wind had turned to the west and begun to strengthen.

SSO Lowe found no evidence of either a natural or chemical ignition source. Although vegetation in the general area of the shed and caravan was found to be burnt, SSO Lowe expressed the opinion that the vegetation fire would not have generated sufficient heat to have been the cause of the caravan fire, but rather the vegetation fire was caused by the caravan fire. He expressed the opinion that the most likely cause of the fire which caused Mr Burns' death was as a result of him smoking.

In all of the circumstances I am satisfied that the most likely cause of the fatal fire was Mr Burns smoking in bed in his caravan. I am also satisfied that it is more likely than not that Mr Burns died sometime after 4.00am on Saturday 5 November 2016. Finally, I am satisfied on the evidence that no other person played a role in Mr Burns' death and that there are no suspicious circumstances associated with it.

Comments and Recommendations

I extend my appreciation to investigating officer Sergeant Robert Cooke for his investigation and report.

I also extend my appreciation to Senior Station Officer Matthew Lowe for his very comprehensive investigation and report.

The circumstances of Mr Burns' death are not such as to require me to make any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Mr Burns on their loss.

Dated: 26 March 2019 at Hobart in the State of Tasmania.

Simon Cooper
Coroner