



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 Peter John Fitz-gerald

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

- a) The identity of the deceased is Peter John Fitz-gerald;
- b) Mr Fitz-gerald died as a result of injuries inflicted upon him by Anthony Colin Finnegan;
- c) The cause of Mr Fitz-gerald's death was the combined effects of head injuries and aspiration from head and facial injuries, with acute alcohol intoxication; and
- d) Mr Fitz-gerald died on 1 December 2016 at Summerhill, Tasmania.

Introduction

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Fitz-gerald's death. The evidence includes:

- The Police Report of Death for the Coroner;
- An opinion of the pathologist who conducted the autopsy;
- The results of toxicological analysis of samples taken at autopsy;
- Affidavits confirming identification and life extinct;
- Affidavit of Miss Ellie Fitz-gerald;
- Affidavits and interviews of various relevant witnesses;
- Affidavits and reports of attending and investigating police officers;
- Records from Ambulance Tasmania and other relevant health professionals;
- Forensic and photographic evidence; and
- Miscellaneous court documents.

Background

Peter John Fitz-gerald [sic]¹ was born in Dandenong, Victoria on 15 May 1960. At the time of his death, he was aged 56 years, single and living in the unit in which he died at Summerhill, Launceston.

Circumstances of Death

In the early hours of 1 December 2016, Mr Fitz-gerald was killed by Anthony Colin Finnegan. He, Mr Finnegan, and another friend, Mr Cameron Tattersall, had been drinking together at Mr Fitz-gerald's Summerhill unit for a number of hours in the lead up to his death. A fight broke out between Mr Finnegan and Mr Fitz-gerald. Both men were heavily intoxicated. Mr Fitz-gerald hit Mr Finnegan on the jaw. In retaliation Mr Finnegan hit Mr Fitz-gerald a number of times, causing him to fall to the floor of the unit's laundry. While he was lying on the floor, unable to defend himself, Mr Finnegan kicked and stomped on Mr Fitz-gerald's head several times.

After stealing food from Mr Fitz-gerald's refrigerator, Mr Finnegan and Mr Tattersall left Mr Fitz-gerald lying on the floor of the laundry, dying.

Mr Tattersall and another man returned to the unit shortly after Mr Finnegan's attack on Mr Fitz-gerald. By the time they returned, Mr Fitz-gerald was dead.

Police and emergency services were called. Nothing could be done by Ambulance Tasmania paramedics to save Mr Fitz-gerald. The scene and his body were forensically examined and photographed before his body was removed and transported by mortuary ambulance to the Royal Hobart Hospital.

Mr Fitz-gerald's face was so badly injured by Mr Finnegan's attack that it was necessary for him to be formally identified by fingerprint comparison.

A post-mortem was conducted by forensic pathologist, Dr Christopher Lawrence, on 2 December 2016. In his report to the Coroner, Dr Lawrence expressed the opinion that the cause of Mr Fitz-gerald's death was the combined effects of head injuries and aspiration from head and facial injuries. Dr Lawrence said in his evidence at the murder trial:

"... There are several things that have combined together to kill him. The first of them is the head injury. The second one is the facial injuries and the fact that he's unconscious and has inhaled blood.

¹ The unusual spelling is confirmed by an extract from the Register of Births, Deaths and Marriages, Melbourne dated 19 May 2009, registration number 48591/1060 C. In many documents, Mr Fitz-gerald's surname is spelt 'Fitzgerald', but I will use his birth name.

Now the alcohol, in and of itself, at .269 in an experienced drinker probably wouldn't kill him, but, if you've got a head injury and you've got a facial injury, the effects of an alcohol of that level, would probably make you more inclined to inhale the blood..."

I accept Dr Lawrence's opinion as to Mr Fitz-gerald's cause of death. He is well qualified to express that opinion and I have no doubt that he is correct.

Subsequent toxicological analysis of samples taken at autopsy showed that at the time of his death, Mr Fitz-gerald had a blood alcohol level of 0.269g per 100mL of blood.

Investigation

Mr Finnegan was quickly apprehended by police. He declined to participate in the record of interview (as was his right). He was charged with, and convicted of, murder and sentenced to 21 years imprisonment, backdated to 1 December 2016. A subsequent appeal against conviction and sentence was dismissed by the Court of Criminal Appeal on 3 March 2020.²

Comments and Recommendations

The circumstances of Mr Fitz-gerald's 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 Peter John Fitz-gerald.

Dated 30 July 2021 at Hobart in the State of Tasmania.

Simon Cooper
Coroner

² *Finnegan v State of Tasmania* [2020] TASCRA 5