



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

(These findings have been de-identified in relation to the name of the deceased, family, friends, and others by direction of the Coroner pursuant to s57(1)(c) of the Coroners Act 1995)

I, Robert Webster, Coroner, having investigated the death of EJ

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

- a) The identity of the deceased is EJ;
- b) EJ died from injuries sustained as a rider involved in a single motorcycle crash;
- c) EJs' cause of death was multiple blunt traumatic injuries; and
- d) EJ died on 17 November 2021 on the Midland Highway between Devon Hills and Breadalbane in Tasmania.

In making the above findings, I have had regard to the evidence gained in the comprehensive investigation into EJs' death. The evidence includes:

- Tasmania Police Report of Death for the Coroner;
- Affidavits as to identity and life extinct;
- Affidavit of the forensic pathologist Dr Donald Ritchey;
- Affidavit of the forensic scientist Mr Neil McLachlan-Troup of Forensic Science Service Tasmania;
- Records obtained from Ambulance Tasmania (AT);
- Affidavit of Mr Christopher Gebka;
- Affidavit of Mr Cardi Barker;
- Affidavit of Mr Anthony Peters;
- Affidavit of Mr Paul Burr;
- Affidavit of Mr Brent Wright;
- Affidavit of Ms Melissa Gardner;

- Affidavit of Mr Gregory Davis;
- Affidavit of Mr Trent Smith;
- Affidavit of Ms Sonia Dornauf;
- Affidavit of PT;
- Affidavit of Ms Vicki Maloney together with camera footage;
- Affidavit of Mr Stuart Spencer;
- Affidavit of Mr Daniel Willcox;
- Affidavit of Mr James Ross;
- Affidavit of Senior Constable Caroline McGregor;
- Affidavit of Senior Constable Maree Fish;
- Affidavit of Constable Naomi Davey;
- Affidavit of Senior Sergeant Mark Forteach;
- Affidavit of First-Class Constable Nigel Housego; and
- Photographs, scene diagram, body worn camera footage, CCTV footage and forensic evidence.

Introduction

This investigation concerns a single motorcycle crash which occurred near the conclusion of the 3.6 km straight section of the Midland Highway, in the northbound lanes, 46 metres (m) northeast of the Haggerston Road overpass. The northbound dual lanes then continue slightly right, into a long sweeping bend. This section of the highway lies between Devon Hills to the south and Breadlabane to the north. The speed limit at the crash site is clearly signposted at 110 km per hour and there are dual lanes for both north and southbound traffic. The dual lanes are separated by brifen wire barriers and a 3 m sealed median strip.

At the crash site all edge and centrelines are clearly marked with white paint and the edge lines are audible. The left lane of the northbound dual lanes is 3.7 m wide and a single broken white line divides both lanes. The right lane is 3.4 m wide. An examination of the roadway by police found no evidence of any defect in, or obstruction on, the roadway which could have caused or contributed to the crash. The bitumen surface was found to be in good condition with no surface defects. There was nothing at the scene that would cause a motorcycle to deviate from its direction of travel. The weather at the time of inspection, which was approximately 45 minutes after the crash, was fine and the road surface was dry. There was no wind and the temperature was approximately 12°C.

Armco railing has been erected parallel to the left northbound lane and a 2 m wide sealed verge separates the left road edge from the Armco railing. To the left of the northbound lanes is a 10-14 m wide, steep grass verge that separates the dual lane highway from the

lower roadway which is Haggerston Road. That road is primarily used for access to and from a number of businesses namely Digga Excavations and Island Block and Paving and it runs parallel with the highway near the crash scene.

At approximately 9:29 pm on 17 November 2021 EJ was riding a red 2004 Honda CBR1000 RR motorcycle, registration number A576F (the red motorcycle) north on the Midland Highway. The red motorcycle came into contact with the Armco railing on the left side of the northbound lanes which resulted in EJ becoming separated from the motorcycle. EJ was killed instantly when he collided with a wooden power pole which was to the left of the Armco railing.

Background

EJ was 38 years of age (date of birth 6 May 1983), married and he was the father of 2 young children at the date of his death. EJ met his future wife when he was 19 years of age after which they commenced a relationship. They married in January 2009.

EJ was born at Beaconsfield Hospital to parents QV and WX. He had an older half-sister and a younger brother. EJ attended Beaconsfield Primary School and then he went on to attend Exeter High School. After completing high school EJ went to TAFE and studied mechanics although he did not complete that course. He then worked in a number of jobs including working at a cheese factory and performing diesel mechanic work prior to commencing a sharpening business which was located at Kings Meadows.

EJ had ridden motocross motorcycles as a child on his parents' property before riding motorcycles when he obtained his driver licence. Prior to the birth of his children EJ would ride a motorcycle to and from work, go on long distance rides with friends and ride in the annual "Toy Run". PT says her husband stopped riding motorcycles for a while, which he had ridden before his children were born, because she says he did not trust himself as he liked to ride fast. He owned safety gear including boots, pants, a dry rider jacket and gloves and he had a multi-coloured Valentino Rossi¹ motorcycle helmet which he had owned for over 10 years.

At the time of the crash the red motorcycle was registered and was owned by Mr Spencer who purchased it on 11 December 2020. Mr Spencer says EJ borrowed the red motorcycle from him with the intention of buying it. He had been using it since about February 2021. EJ had taken out insurance over the motorcycle and paid the registration.

¹ Former professional motorcycle road racer and nine-time Grand Prix motorcycle racing World Champion; seven of which were in the premier 500cc/MotoGP class. .

Circumstances Leading to Death

On 17 November 2021 EJ took his son to school and drove his car to work. At 11:30 am PT phoned EJ to see if he could meet her for lunch however, he was unable to do so because he was having issues with a machine at his work. She then texted him at 12:34 pm and asked him what he wanted for dinner and there was a text exchange in relation to that. At some stage in the afternoon EJ went home and swapped his car for the red motorcycle which he rode back to his business in Kings Meadows.

Mr Gebka, a friend of EJ, attended EJ's business at approximately 4:30 pm and he assisted EJ to take photographs for a children's bike charity EJ was involved in. They each then consumed 2 Boags Draught cans of beer. Mr Gebka then suggested they ride to the Queens Arms Hotel (the Hotel) in Longford given EJ had his motorcycle at work and it was a nice day. After a discussion between the 2 EJ rode Mr Gebka's blue motorcycle and Mr Gebka rode the red motorcycle from Kingsmeadows which they left between 6:30 pm and 6:45 pm. They headed south along Hobart Road towards Youngtown. They were observed by Mr Barker passing a car on the overtaking lanes between Youngtown and Breadlabane at very high speed. The rider on the blue motorcycle was estimated to be travelling in excess of 200 km/h whereas the rider on the red motorcycle, who was described as not looking as confident as the other rider, was travelling at a speed just under 200 km/h.

They turned left at the roundabout and continued travelling south along Evandale Road, past Launceston airport, before turning right onto Perth Mill Road. The pair then pulled into a gravel area on the left-hand side of the road, not far from the turnoff and spoke for a minute about the brakes on the red motorcycle. Mr Gebka advised EJ the rear brake was "crap". They then continued in a westerly direction along Perth Mill Road at speeds of around 200 km/h. EJ then overtook Mr Gebka on the last crest before the railway line on Perth Mill Road.

Mr Peters who resides on Perth Mill Road observed the blue motorcycle travelling at a speed of over 200 km/h with the red motorcycle travelling about 200 m behind. EJ and Mr Gebka continued into Perth and they drove south on Clarence Street, towards Main Street from where they travelled to the southern roundabout at Perth, turned right onto the Midland Highway and headed west towards Longford at speeds of approximately 200 km/h. EJ overtook Mr Gebka as the pair approached the slip lane that leads to Illawarra Road. They turned onto Illawarra Road then left onto Wellington Street arriving at the Queens Arms Hotel. EJ parked Mr Gebka's blue motorcycle on the footpath area at the front of the Hotel and Mr Gebka parked the red motorcycle on the roadway, next to the driveway that leads

to the rear car park of the Hotel. Both motorcycles are depicted on footage outside the Hotel at 6:58 pm.

EJ and Mr Gebka watched an 8-ball competition, shouted each other pints of beer and socialised for over 2 hours. EJ is said to have consumed at least 5 pints of beer, but he was not seen by Mr Gebka to eat any food while at the Hotel. Mr Davis, who knew Mr Gebka, overheard a male matching the description of EJ telling patrons in the bar that he “was doing 250 km/h on his way over”. Mr Davis assumed that meant that person was travelling at 250 km/h on his motorcycle on his way to the Hotel. He said that person was loud, appeared drunk and was slurring his words while at the Hotel.

At 9:00 pm PT texted her husband warning him not to drive or ride home if he had too much to drink. She offered to come and pick him up if required. EJ replied “I’m sorted see you shortly..”.

Mr Gebka indicated to EJ it was time for Mr Gebka to go home. CCTV footage shows him leaving the Hotel at 9:13 pm, grabbing EJ’s helmet which was sitting on his blue motorcycle and placing it next to the red motorcycle. He then got on his own blue motorcycle as EJ exited the Hotel at 9:15 pm. EJ walked over to Mr Gebka and stumbled as he bent to pick up some gloves from the ground near Mr Gebka. The pair spoke for a few minutes before EJ gave Mr Gebka a hug and patted him on the back. At 9:17 pm a Coles delivery truck can be seen in the footage as it drives in a northerly direction past the Hotel. Mr Gebka then did a small burnout against the concrete gutter and EJ held his phone up as if he was recording or taking a photograph. Mr Gebka then left on his motorcycle at 9:18 pm travelling north along Wellington Street, towards Illawarra Road.

EJ then got on the red motorcycle, put his helmet on and performed a large burnout on the roadway outside the Hotel which continued for approximately 45 seconds. His actions produced a large amount of smoke, left a divot in the bitumen and a substantial amount of rubber on the roadway. He then rode off at 9:20 pm travelling north towards Illawarra Road. Mr Davis watched EJ perform the burnout and then heard the motorcycle hitting the rev limiter² as it was leaving the roundabout near Illawarra Road.

CCTV footage taken from Perth depicts 2 vehicles speeding excessively along the northbound lanes on the Midland Highway just prior to the crash site. It is likely this footage depicts Mr Gebka with EJ travelling behind him about 6 seconds later. As they travelled further along the highway EJ overtook Mr Gebka on the left side of the highway, while Mr

² This is a device intended to protect an engine by restricting its maximum rotational speed, measured in revolutions per minute, and to prevent damage from over speeding. The rev limiter is usually noticeable once it passes the "red line" on a rev counter.

Gebka was also in the left of the 2 northbound lanes. EJ has then overtaken the Coles truck and a red utility at a speed estimated at over 200 km/h while both vehicles were travelling in the left dual lane along the Midland Highway near Devon Hills. Mr Gebka then overtook the same 2 vehicles before he observed EJ motorcycle travelling on the left side of the highway although EJ was absent from the motorcycle.

Mr Gebka watched the upright red motorcycle continue rolling along the edge of the highway and then fall onto the roadway before he stopped. He ran up the highway and with the assistance of another driver moved the motorcycle off the dual lane highway. He went back down the roadway where he found EJ who was laying face down on Haggerston Road near Digga Excavations. Mr Gebka ran down the grass verge in order to assist EJ and he phoned 000 at 9:32 pm.

Investigation

AT received the call to attend at approximately 9:32 pm and ambulance personnel were at the scene 8 minutes later. EJ was observed to be wearing his motorcycle helmet. He was described as “*obviously deceased*” and accordingly no resuscitation efforts were commenced.

Constable Davey attended the scene of this crash with First-Class Constable Housego arriving at 10:17 pm. Prior to their arrival other police had closed the road in order to protect the scene. The scene was inspected and marks and scrapes on the roadway and Armco railing were marked with yellow paint and First-Class Constable Housego completed a sketch plan of the scene which included relevant measurements. First-Class Constable McGregor attended and took photographs at First-Class Constable Housego’s direction. The red motorcycle was seized and transported to the Launceston police compound. EJ was conveyed from the scene to the mortuary by the mortuary ambulance. Further measurements were taken on 18 November 2021, CCTV footage was obtained 2 days later and on 23 November 2021 a 3D map of the scene was produced using drone technology.

First Class Constable Housego conducted a speed analysis and collision reconstruction using his sketch plan, the measurements which had been taken at the scene and the 3D scene plan prepared by Sergeant Forteach using drone technology. First-Class Constable Housego says EJ has travelled along the top of the Armco railing on the left-hand side of the highway and fallen from the motorcycle becoming airborne and colliding with a wooden power pole 1.2 m above the level of the ground where the pole was erected. This pole was positioned on a steep verge between the left lane of the northbound lanes of the highway and Haggerston Road. Using the 3D plan First-Class Constable Housego was able to project the path of travel from the railing to the power pole. To determine the minimum speed EJ has left the railing at, a mathematical formula and some known components to that formula were used

to calculate a minimum speed of 164 km/h. It was noted the motorcycle collided with the railing and travelled along the railing for a distance of approximately 95 m prior to EJ becoming airborne. Observations revealed EJ had impacted with the railing on a number of occasions before becoming airborne which resulted in a significant loss of speed. The motorcycle, after first contacting with the railing, has travelled a total distance of just over 700 m before coming to rest. I accept the opinions of First-Class Constable Housego which he is well qualified to give.

On the date of the crash EJ held a driver licence which was valid for both a motorcycle and car. He had 29 prior traffic infringements comprising 19 speeding infringements with the most recent being issued on 23 October 2020. He had been disqualified from driving due to the accumulation of demerit points on 3 occasions and he had also been disqualified for driving while disqualified on one occasion.

Mr Ross is a qualified automotive technician and employed as a transport safety and investigation officer with the Department of State Growth. He inspected the red motorcycle on 22 November 2021. A number of defects were found which in his opinion would not have contributed to the crash and some may have been caused by it. They included an unsecured seat and damage to the clutch fluid reservoir. He also noted the red motorcycle had tinted indicator lenses, no number plate light and the exhaust lacked an Australian Design Rule compliance plate, manufacturer's plate and decibel rating. He also found the motorcycle to have tinted headlight covers which reduced the light thrown from the headlight on both low and high beam significantly. In addition, the right rear tyre was non-compliant and unroadworthy with a large band around the circumference of the tyre having no tread at all which is below the legal minimum of 1.5 mm tread depth. He opined that the reduction in light being produced by the headlight, given the use of tinted headlight covers, and the non-compliant rear tyre may have contributed to the accident. I accept his opinion.

Dr Ritchey conducted a post-mortem examination on 19 November 2021. His examination revealed blunt trauma of the head which included abrasions, contusions, skull fractures and an atlanto-occipital joint³ subluxation⁴. There was also blunt trauma to the thorax, abdomen and pelvis which again included abrasions, contusions and multiple bilateral rib fractures. Finally, there was blunt trauma to the arms and legs which included an avulsive laceration of the left upper arm and lateral left thigh and a traumatic above knee amputation of the right leg with bilateral fractures of the upper arms together with abrasions and contusions. He

³ The atlanto-occipital joint (also known as the C0-C1 joint) is a paired symmetrical articulation between the cervical spine and the base of the skull. The principal movement at the atlanto-occipital joint is flexion-extension which permits nodding of the head.

⁴ Subluxation occurs when a bone is partially pulled or pushed out of place.

therefore concluded the cause of death was multiple blunt traumatic injuries sustained in this crash. I accept his opinion.

Mr McLachlan-Troup found, after testing a blood sample which was taken at the autopsy, a highly elevated blood alcohol concentration. The reading was 0.209 g of alcohol in 100 mL of blood. He says it has been estimated the relative risk of a driver with a blood alcohol concentration of 0.180 g of alcohol in 100 mL of blood being involved in a crash is approximately 50 times that of a driver with no alcohol in his or her blood. As EJ reading was higher than this Mr McLachlan-Troup says in this case there was an even greater relative risk of crashing i.e. it was more than 50 times that of a driver with no alcohol in his or her blood. He says the effects of alcohol on the central nervous system are proportional to its concentration in the blood and cognitive, sensory and motor disturbances increase at higher blood alcohol concentrations. The effects *“of alcohol include loss of critical judgement, incoordination, reduced perception and awareness, impaired balance, sedation, nausea and vomiting, reduced responsiveness and decreased intellectual performance. The depression of psycho motor and cognitive functions causes impairment of critical functions required for driving including reaction time, coordination, information processing and reflexes. There is also an associated increase in risk-taking and speed variation. The risk of being involved in a crash increases exponentially as the blood alcohol concentration rises”*. I accept his opinion.

Comments and Recommendations

Having considered all of the evidence in this matter I am satisfied EJs' death occurred because he rode his motorcycle and lost control of it with a blood alcohol reading in excess of 4 times the legal limit and at a speed which was significantly in excess of the speed limit. Had he been riding at or about the speed limit and with no alcohol in his blood then the defects identified by Mr Ross would not have resulted in EJ crashing his motorcycle. The design and/or condition of the highway did not cause or contribute to this crash in any way.

This case serves as yet another reminder that driving with an excessive blood alcohol concentration and/or at excessive speed can have very tragic consequences.

The circumstances of EJ'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 extend my appreciation to Constable Davey for her very thorough investigation and report.

I convey my sincere condolences to the family and loved ones of EJ.

Dated: 15 August 2023 at Hobart in the State of Tasmania.

Robert Webster
Coroner