



## MAGISTRATES COURT of TASMANIA



### CORONIAL DIVISION

## Record of Investigation into Death (Without Inquest)

*Coroners Act 1995  
Coroners Rules 2006  
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Heike Marianne Nowitzki-Eisenburg

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

- a) The identity of the deceased is Heike Marianne Nowitzki-Eisenburg;
- b) Ms Nowitzki-Eisenburg died as a result of injuries sustained in a motor vehicle crash;
- c) The cause of death was multiple injuries of the brain, chest and abdomen; and
- d) Ms Nowitzki-Eisenburg died on 20 May 2017 at Underwood in Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Ms Nowitzki-Eisenburg's death. The evidence comprises the police report of death; an opinion of the pathologist who conducted the autopsy; the crash investigator's report; relevant police and witness affidavits; medical records and reports; and forensic evidence.

Heike Marianne Nowitzki-Eisenburg was born in Berlin, Germany on 29 July 1967 and was aged 49 years when she died. She was a German national, not having obtained Australian citizenship, but had lived in Tasmania for 13 years. She lived at 124 Black Ball Line, Lilydale, in Tasmania. She was single and employed as a disability support worker at Oak Possibility Group Home.

At the time of her death Ms Nowitzki-Eisenburg held a current Tasmanian drivers licence. She had been licenced to drive for a period of four years. During her life in Germany she did not learn to drive as she relied upon the public transport system. She had not been convicted of traffic offences since obtaining her licence. However, her former partner, John Pedley, provided an affidavit for the coronial investigation in which he stated that, in his view, she was not a good driver and lacked spatial awareness.

Ms Nowitzki-Eisenburg owned and drove a registered red 1993 Mazda 121 manual sedan, registration number DF 2842 ("the Mazda").

At 9.00am on 20 May 2017, Ms Nowitzki-Eisenburg started her shift at the Oak Possibility Group Home at 5 Archer Street in Rocherlea. She ended her shift at 2.00pm, with a work colleague describing her as in a jovial mood and not tired. On her way home, Ms Nowitzki-Eisenburg briefly stopped to obtain takeaway sushi, probably

by driving along George Town Road into Mowbray where there are several food outlets. She then travelled back along George Town Road to Rocherlea where she turned onto Lilydale Road in order to return home. The distance to her home from that point is approximately 20 kilometres. From that junction at George Town Road, she drove approximately 7.6 kilometres in an easterly direction before the crash at Underwood that resulted in her death.

On the same day at around 8.00am, Mr Daniel Reardon, aged 28 years, left his home in Claremont, Hobart, driving his white Kia Sorrento wagon ("the Kia"). He was with his wife and two children. Mr Reardon drove to St Leonards and then to the residence of his wife's parents at Scottsdale where he had lunch with his family.

At approximately 1.45pm, Mr Reardon left Scottsdale by himself to meet one of his friends at a venue in central Launceston. He was driving on Lilydale Road and was heading west towards Launceston. In his affidavit for the investigation, Mr Reardon stated that it was raining, that the road was wet and that he had his windscreen wipers on the intermediate setting. He stated that he had been driving for approximately 45 minutes when he was involved in a crash with a Mazda. This was the vehicle being driven by Mrs Nowitzki-Eisenburg. The evidence from ambulance records indicates that the crash occurred at about 2.40pm.

Mr Reardon stated that, before the crash, he was travelling on what he recalled to be a fairly flat, straight section of road with two slight corners. As he approached the left hand corner in the road, he saw a Mazda vehicle coming around the corner sideways, which he realised was out of control and coming towards his vehicle. He applied his brakes and moved as far left in his lane as he could. There was an Armco railing on the left hand side of the road as there was a steep drop off to the left. He therefore moved the Kia as close to the railing as he could without hitting it.

Describing the crash that followed, Mr Reardon stated in his affidavit:

*"I believe the Mazda almost rotated 360 degrees and as it moved into my lane the front driver's side of my vehicle collided with the engine bay, wheel arch and driver's door of the Mazda. My vehicle had slowed significantly from when I first noticed the Mazda being out of control. I initially would have been travelling in the vicinity of 80 kmh and I estimate at the time of colliding with the Mazda that I was travelling at around 20 kmh."*

After the crash Mr Reardon was able to exit his vehicle. Ms Nowitzki-Eisenburg was trapped within her vehicle which was located on the incorrect side of the road next to the Kia. Several civilians who drove upon the scene assisted with traffic control and called emergency services. Fire personnel arrived at the scene and commenced performing first aid on Ms Nowitzki-Eisenburg whilst attempting to free her by using hydraulic equipment to cut away pieces of the vehicle. She remained unresponsive. Police officers arrived shortly afterwards. At 3.05pm ambulance personnel attended the scene and attempted resuscitation but determined that she was deceased.

At the scene, police officers recorded their observations and forensics officers examined and photographed the scene.

Ms Nowitzki-Eisenburg was transported by mortuary ambulance to the Launceston General Hospital and subsequently to Hobart for autopsy. Dr Donald Ritchey, forensic pathologist, conducted the autopsy. He noted that although only minor injuries were observed externally, she had suffered severe internal injuries of the brain, chest and abdomen that would have resulted in near instantaneous death. I accept Dr Ritchey's opinion as to cause of death.

Toxicological testing of Ms Nowitzki-Eisenburg's blood revealed the presence of THC, indicating that she had used cannabis at an unspecified time before the crash.

On 22 May 2017 crash investigator, Senior Constable Michal Rybka, attended the scene and conducted a survey of the scene, viewed the two vehicles, and commenced an investigation into the crash.

In his report for this investigation, Senior Constable Rybka noted that Lilydale Road at the point of the crash, being a curved section of roadway about 600m west of Prosser's Road, is a two lane road. The lanes are separated by highly visible double continuous white painted lines with reflective markers positioned at regular intervals along these centrelines. The speed limit designated for the road is 100 km/h. He noted that the Mazda travelled past a 'slippery when wet' advisory sign and then a 65 km/h advisory sign situated on the crest of a hill 225 metres before the impact point. From the crest, it had travelled east on a straight section of roadway with a downhill gradient of approximately 2.8%. On entry to the curve, the Mazda had been exceeding the 'critical curve speed' of 98 km/h, being the speed at which a vehicle will slide off the roadway whilst travelling around a curve. It had lost traction on the wet road surface. Senior Constable Rybka was not able to determine precisely the speed of the Mazda due to lack of markings left on the roadway.

Senior Constable Rybka stated in his analysis that it is likely that Ms Nowitzki-Eisenburg had applied harsh steering input in an effort to correct the vehicle. This had resulted in the Mazda entering an anti-clockwise rotation, slipping out to its right side while still travelling east towards Lilydale. It had progressed onto the incorrect side of the roadway crossing the double continuous centre lines into the west bound (Launceston bound) traffic lane.

The Kia had been travelling at a very slow speed at impact, confirmed by the fact that it had only travelled 2.65 metres post-impact to finally rest. The crash investigator's analysis of the speed is consistent with Mr Reardon's own account of his speed at impact. His low speed allowed him to perceive the Mazda at an early time. He then applied emergency braking and moved the Kia to the extreme left of the roadway and in close proximity to the southern side Armco rail barrier. The Mazda collided with the front left head light area of the Kia with its driver's side rear wheel area at an angle.

The angular collision caused the Mazda to rotate clockwise and make full contact against the front of the Kia. Ms Nowitzki-Eisenburg's head was whipped through the driver's door window of the Mazda as her vehicle made full contact. It is likely that she was killed instantly as a result.

At the time of the crash it was raining and the road surface was wet. Senior Sergeant Jones, the first police officer in attendance at the scene, observed that there was no water running across the road and there was no oil or mud which may have caused vehicles to become unstable or lose control. Constable Purcell, the second officer on the scene, observed water flowing in the left wheel rut on the initial descent to the crash site in the east bound (Lilydale bound) traffic lane. The surface on the curve of the road where the Mazda lost control was in generally poor condition. The Lilydale bound traffic lane showed extensive visible cracking in the bitumen surface in the centre of the lane. The travelled section of that lane, where a vehicle's wheels normally sit, was extensively worn.

As part of Senior Constable Rybka's investigation, both vehicles were inspected by a transport inspector, Mr Wayne Rice. Mr Rice observed that the Mazda had reduced friction on one brake pad on the front brake circuit. However, he was of the view that the existing friction material on the front brake circuit would have been sufficient for an emergency braking situation. In respect of the Kia, Mr Rice found no defects that would have caused or contributed to the crash.

Senior Constable Rybka's conclusion, after investigation, was that the crash was caused by Ms Nowitzki-Eisenburg driving at an excessive speed for the wet conditions, thus resulting in her loss of control of the vehicle. Mr Reardon had been alert and was driving appropriately and to the road conditions.

I find that the fatal crash would have been avoided if Ms Nowitzki-Eisenburg had obeyed the 65 km/h speed advisory sign.

The exact details of Ms Nowitzki-Eisenburg's use of cannabis are unknown but it cannot be ruled out that she did not use cannabis on the night or morning before the crash. There is a strong possibility that the cannabis was detected as a result of earlier personal use on a regular basis. Research suggests that the drug will be present in excess of 30 days in some persons that use the drug regularly or are heavy users. Generally, cannabis use impairs driving performance. However, I am not able to determine whether Ms Nowitzki-Eisenburg was affected by her use to any significant degree.

### **Comments**

In his report to me, Senior Constable Rybka provided statistical data from police reports indicating that the section of road upon which this crash occurred has been the scene of numerous crashes over recent years. Excessive speed and wet conditions have been common factors in many of these crashes. He indicated that the advisory speed signs in

place at the time of this crash are adequate, although he is of the opinion that the placement of chevrons on the northern side of the curve would be an additional benefit to further alert motorists of the curve. He is also of the view that the road could be made safer by resealing the road surface at the crash site and correcting the negative camber for east bound vehicles. He particularly noted the benefits of "high resistant resin", a road product which offers a superior level of grip and a higher coefficient of friction compared to a standard bitumen aggregate surface. He observed that if the high resistant resin surface had been installed on the curve where the crash occurred, Ms Nowitzki-Eisenburg would have needed to travel at 117 km/h in wet conditions in order to lose control of her vehicle, this being a substantial increase when compared to the critical curve speed of 98 km/h with the standard bitumen surface.

In November 2018, as a result of Senior Constable Rybka's recommendations, chevron markers were installed at the crash site. The yellow advisory signs on approach to the crash site (for Lilydale bound vehicles) have also been replaced with higher quality reflective signage. Additionally, sealing works have been recently completed as preparation for a resealing of the entire section of road. A full resealing of the site with high skid resistance aggregate is to occur early in 2019.

The Department of State Growth, in upgrading this section of road, has taken responsible safety measures, given the frequency of crashes over a number of years.

The fact remains, however, that often the conditions of a particular roadway combined with adverse weather conditions, are less than ideal. In such circumstances, drivers must take all reasonable precautions for their own safety and the safety of other motorists. These precautions include obeying speed advisory signs and decreasing speed appropriately on wet roads. Unfortunately, Ms Nowitzki-Eisenburg's failure to take these measures resulted in her untimely death.

## **Conclusion**

I extend my appreciation to investigating officer Senior Constable Rybka of Northern Crash Investigation Service for his investigation and report.

The circumstances of Ms Heike Nowitzki-Eisenburg's death are not such as to require me to make any recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I convey my sincere condolences to the family and loved ones of Ms Nowitzki-Eisenburg.

**Dated:** 25 February 2019 at Hobart Coroners Court in the State of Tasmania.

**Olivia McTaggart**  
**Coroner**