



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, youths 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 RA

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

- a) The identity of the deceased is RA;
- b) RA died as a result of an altercation with BT and KL which occurred at the Shell Coles Express Service Station, 176 Roslyn Avenue, Blackmans Bay;
- c) RA's cause of death was a stab wound to the abdomen; and
- d) RA died on 24 November 2019 at Hobart, Tasmania.

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

- The 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);
- Medical records of RA obtained from the Royal Hobart Hospital (RHH);
- Affidavit of SE;
- Statutory declaration of Mr Vincenzo Sorrentino;
- Statutory declaration of Mrs Jennifer Sorrentino;
- Statutory declaration of Mr Adrian Amicosante;
- Statutory declaration of Ms Jessica Ayres;
- Statutory declaration of Mr Harold McNeale;

- Statutory declaration of PQ;
- Statutory declaration of UX;
- Statutory declaration of Ms Amieka Edwards;
- Statutory declaration of Mr Hari Sankuri;
- Video records of interview and transcripts of those interviews with BT;
- Statutory declaration of Ms Leanne Cameron, Tasmania Police (rank not stated);
- Statutory declaration of Mr Christopher Cheeseman, Tasmania Police (rank not stated);
- Statutory declaration of Mr Christopher Buick, Tasmania Police (rank not stated);
- Statutory declaration of Sergeant Iain Shepherd;
- Statutory declaration of Senior Constable Bernadette Heyward;
- Statutory declaration of Detective Senior Constable Michael Manning;
- Statutory declaration of Detective Senior Constable Glenn Stewart;
- Statutory declaration of Mr James Craig, Tasmania police (rank not stated);
- Statutory declaration of Detective Sergeant Michael Callinan;
- Statutory declaration of Detective Sergeant Gregory Lowe;
- Statutory declaration of Detective Senior Constable Cameron Brown;
- Statutory declaration of Detective Senior Constable Melanie Owens;
- Statutory declaration of Detective Senior Constable Martin White;
- Statutory declaration of Mr Jeremy Newell;
- Statutory declaration of Senior Constable Rance Swinton;
- Statutory declaration of Sergeant Scott Kregor;
- Statutory declaration of Detective Senior Constable Nicolette Munro;
- Statutory declaration of Constable Scott Hartill;
- Report of the forensic scientist Mr Neil McLachlan-Troup of Forensic Science Service Tasmania;
- Statutory declaration of IJ;
- Statement of NR;
- Statutory declaration of FW;
- Medical records of KL obtained from the RHH;
- Medical reports obtained with respect to KL;
- Justice Wood's reasons for an order with respect to KL under the *Criminal Justice (Mental Impairment) Act 1999* and memorandum orders; and
- Forensic evidence, photographs and CCTV footage.

Background

RA was 41 years of age (date of birth 26 October 1978), and he had been in a relationship with SE for eighteen months at the date of his death. He had two children; a daughter and a son to two previous relationships. About 6 months prior to his death RA had moved into his mother's home at Taroona.

RA had worked for a labour hire company and he had recently commenced work in a factory processing role. He was fit and well and enjoyed surfing, skateboarding, Pilates and his family. He owned a property in Rosetta which he had recently sold. He had belongings in that home which needed to be moved prior to settlement which was scheduled to take place on the Wednesday after his death.

Circumstances Leading to Death

On Sunday, 24 November 2019 RA, SE and one of RA's two children went to the Shell Service Station on Roslyn Avenue and hired a trailer for the day. They then travelled to Rosetta and loaded the trailer with the assistance of RA's brother; TO. Some of the property was dropped off at SE's place, some at RA's father's home, some at his mother's home and then some of the property was unloaded at his brother's home. They then returned to the Rosetta property and collected the remainder of RA's belongings.

SE and RA then picked up RA's son who they had left in Rosetta to play with a friend. The three of them then travelled to Hungry Jacks in Kingston where they purchased some lunch. They ate lunch at SE's home and then dropped some more of RA's property off at his father's home. SE's daughter had been dropped off at her home hence the decision was made to return to her home to eat their lunch. There was therefore four occupants in RA's vehicle when they drove to his father's home. When they arrived RA's father helped them unpack the trailer and they left at around 2:45 pm.

They then returned the trailer to the Shell service station. The compound for the trailers is at the rear of the service station off Pearsall Avenue. RA had difficulties reversing the trailer so he ended up disconnecting it from the car and pushing it back into place against a fence. SE remained in the car, which was parked facing the back wall of the service station, with the two children while RA went to finalise the trailer hire transaction in the service station. Once that job was completed RA walked from the service station through the forecourt towards Pearsall Avenue and towards his vehicle.

KL and BT were standing in the service station forecourt near the intersection of Roslyn Avenue and Pearsall Avenue. BT was the boyfriend of KL's sister, PQ, and had known KL for about eight months. KL's sister and his uncle, UX, were in the service station buying a drink.

RA had to walk past KL and BT in order to return to his vehicle. BT was in possession of a scooter. BT says he did not like the way RA was looking at him as he walked past him and he confronted RA verbally. RA responded and moved towards BT. At this stage KL was standing behind RA with his backpack on. RA then turned to walk away and took one step when it appears something else was said because RA then turned to confront BT. By this time KL had taken his backpack off and was holding it in his left hand. He was still standing in the same position. RA then turned to leave again and took a few steps before turning around to face BT at which time RA forcefully pushed BT over. By that stage KL was holding his backpack in front of him. RA was facing BT who was on the ground, as was his scooter. As BT got to his feet RA turned and observed KL holding a large knife which he had drawn from his backpack. There was some discussion between them and RA moved towards KL at which time KL was holding the knife at waist height in his right hand. BT is observed in the background picking up his scooter. KL then struck RA to the abdomen with the knife. RA appeared to move off towards his vehicle but then turned around and walked past KL towards the forecourt of the service station while KL put the knife back in his backpack and then he put the backpack on. KL is then observed walking out of shot down Pearsall Avenue.

Mr McNeale then approached KL who he found sitting against the wall of the service station in Pearsall Avenue. There was a discussion between them after which KL removed the knife from his backpack and threw it on the ground. Mr McNeale placed himself between KL and the knife and waited with KL until police arrived.

RA collapsed in the forecourt of the service station. Emergency services were contacted immediately.

Investigation

Senior Constable Cheeseman arrived at the service station and spoke to KL who was then arrested and conveyed to the Hobart Police Station. RA received first-aid from a number of people at the scene until an ambulance arrived. Those officers then took over RA's treatment and transferred him to the RHH however RA passed away during surgery which was undertaken in order to repair his wounds.

AT received the call to attend this incident at 2:48 pm. Officers were at the scene by 3:06 pm. After providing RA with treatment he was loaded into the ambulance at 3:16 pm and he arrived

at the RHH at 3:31 pm. There he underwent an emergency laparotomy¹ and he was found to have haemoperitoneum², incised injuries of the small and large bowel and adjacent mesentery and incised injuries of the inferior vena cava and common iliac artery all of which were repaired surgically. Despite these efforts RA suffered a cardiac arrest from which he could not be resuscitated.

Dr Donald Ritchey conducted a post-mortem examination on 25 November 2019. After considering the results of that examination and the results of histology and toxicology Dr Ritchey concluded the cause of RA's death was a stab wound to the abdomen. The stab wound was on the left side of the abdomen adjacent to the umbilicus. The mechanism of death was hypovolemic shock.³ I accept Dr Ritchey's opinion.

KL, as is his right, refused to participate in a video recorded interview with police but he was subsequently charged with murder. He was denied bail and remained in custody until the matter was finalised in the Supreme Court. In February 2021 the Director of Public Prosecutions downgraded the charge from murder to manslaughter. While remanded in custody at the Ashley Youth Detention Centre KL was medically assessed and opinions were provided as to whether or not he was fit to stand trial.

On 4 April 2022 a jury found KL unfit to stand trial and that he was unlikely to become fit to stand trial during the next twelve months. As a consequence of that finding a special hearing was conducted under the *Criminal Justice (Mental Impairment) Act 1999* to determine whether or not KL could be found not guilty of manslaughter if the jury were not satisfied of his guilt beyond reasonable doubt. After the conclusion of that special hearing the jury found, on 30 May 2022, that a finding could not be made that he was not guilty. On 10 January 2023 her Honour Justice Wood published her reasons for the order which she then made pursuant to s18(2)(e) of the *Criminal Justice (Mental Impairment) Act 1999*. In those reasons her Honour considers the circumstances of the offence, his detention since his arrest, opinions of the chief forensic psychiatrist, or his delegate, KL's treating psychiatrist, Dr Flower, the views of KL's next of kin and the views of RA's immediate family. Her Honour also sets out relevant material she received from Community Corrections and the submissions made by Crown counsel, Ms Wilson SC, and the submissions made on behalf of KL by Ms Mainwaring. Finally Her Honour

¹ A laparotomy is a surgical incision into the abdominal cavity. It is performed to examine the abdominal organs and aid diagnosis of any problems.

² Haemoperitoneum, sometimes also called intra-abdominal haemorrhage or intraperitoneal haemorrhage, is a type of internal bleeding in which blood gathers in the peritoneal cavity. The peritoneum is a membrane that lines the inside of the abdomen and pelvis (parietal layer). It also covers many of the body's organs inside (visceral layer). The space in between these layers is called the peritoneal cavity.

³ Hypovolemic shock is a condition in which severe blood or other fluid loss makes the heart unable to pump enough blood to the body. This type of shock can cause many organs to cease working.

also sets out the provisions in the *Criminal Justice (Mental Impairment) Act 1999* which she was required to take into account. It was noted KL's mental impairment was that he had Autism Spectrum Disorder which is "generally considered to be broadly a type of neurodevelopmental disorder and is not a treatable mental illness in the psychiatric sense. Intervention is thus mostly of a supportive and capacity building nature and focusses on helping the person manage in the world with the difficulties that their Autism Spectrum Disorder might cause them, rather than treating the underlying condition per se."

While there were differing views between the psychiatrists as to the severity of the disorder they were in agreement that regardless of its severity, a restriction order, supervision order or treatment order under the *Criminal Justice (Mental Impairment) Act 1999* would not be appropriate. The psychiatrists agreed that a release order with conditions under s18(2)(e) was appropriate and the conditions thought by the Court to be appropriate could respond to KL's needs and provide ongoing assessment of those needs. Accordingly her Honour made an order under that section releasing KL from custody on eighteen conditions which were imposed for a period of three years from 10 January 2023.

Comments and Recommendations

I extend my appreciation to investigating officer Detective Senior Constable Munro for her investigation and report.

The circumstances of RA'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 RA.

Dated: 18 September 2023 at Hobart in the State of Tasmania.

Robert Webster
Coroner