



# MAGISTRATES COURT of TASMANIA

## CORONIAL DIVISION



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## Record of Investigation into Death (Without Inquest)

*Coroners Act 1995  
Coroners Rules 2006  
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Terence Bernard McCauley

### **Find That:**

- (a) The identity of the deceased is Terence Bernard McCauley;
- (b) Mr McCauley died in the circumstances described in this finding;
- (c) Mr McCauley died on 5 May 2013 at Arthur Highway, Copping;
- (d) Mr McCauley died as a result of multiple injuries suffered in a motorcycle crash with a motor vehicle;
- (e) Mr McCauley was born in Mudgee, New South Wales on 30 July 1958 and was aged 54 years at the time of his death; he was a married man and father of two children whose occupation at the date of death was computer programmer; and
- (f) Christopher Ronald Eugene Leach contributed to the cause of Mr McCauley's death.

### **Background:**

Terence Bernard McCauley resided with his wife, Suzette Patricia Kozulic, and their children at 146 Summerleas Road, Fern Tree. He was born on 30 July 1958 and was aged 54 years at the time of his death. Mr McCauley was a computer programmer and had retired approximately four years prior to his death.

Mr McCauley was the owner of a 2008 Suzuki 650DL motorcycle. He was an experienced motorcycle rider who was a member of the "Ulysses Motorcycle Club". The club held weekly motorcycle rides for the members. These rides took place at weekends and he would regularly participate in the rides.

### **Circumstances Surrounding Death:**

On the morning of Sunday 5 May 2013, Mr McCauley left his home address at 146 Summerleas Road, Fern Tree. He intended to ride his motorcycle to Port Arthur.

On this day the Ulysses Motorcycle Club was holding a club ride from Hobart to Port Arthur and Mr McCauley was hopeful of meeting up with the group whilst they were still on the Tasman Peninsula.

A witness, Darren James Bird, observed Mr McCauley riding his motorcycle in a southerly direction on the Tasman Highway approximately four kilometres south of the Primrose Sands turnoff. At this time Mr McCauley was observed to be riding in a proper and appropriate manner. His speed was estimated by the witness to be approximately 80kmh. The speed limit was 100kmh at this point.

Approximately 11.20am, shortly before Mr McCauley's crash, an off duty police officer, Senior Constable Robert Jones, was travelling along the Arthur Highway from Dunalley towards the direction of Sorell. At a location known as Gunns Hill (approximately four to five kilometres the Sorell side of Copping) he observed a motorcycle with a single rider travelling towards Copping. He is unable to further identify the rider or motorcycle. However he is able to say that the motorcycle was travelling in a normal fashion and was not travelling at an excessive speed.

Having regard to the time and the evidence in the investigation I find that the motorcycle observed by Senior Constable Jones was that ridden by Mr McCauley.

There is no evidence to suggest that the manner of riding by Mr McCauley was anything other than appropriate and proper in the circumstances.

At approximately 11.30am Mr McCauley was riding his motorcycle along the Arthur Highway from Sorell towards Copping. He was wearing an approved motorcycle helmet and appropriate motorcycle clothing. The evidence is sufficient for me to conclude the headlight on Mr McCauley's motorcycle was illuminated. Mr McCauley was travelling on a straight section of road approaching a closed right hand curve which is situated in the vicinity of the gateway entrance to number 2057 Arthur Highway. I conclude, based upon the crash investigator's detailed analysis, that Mr McCauley was travelling at a speed that was under the maximum permissible limit of 100km/h.

At this time, Christopher Ronald Eugene Leach was driving a grey coloured Holden Cruze sedan, registered number C27BT, along the Arthur Highway in the opposite direction to Mr McCauley. Mr Leach was 24 years of age, holds a full driver's licence, and lives at Copping.

Mr Leach was negotiating the closed curve that Mr McCauley was approaching. The curve for him was to the left. He was following a blue Magna sedan which was being driven by Faye Louise Franklin.

Ms Franklin as well as two occupants of a vehicle following Mr Leach observed Mr McCauley approaching from the opposite direction. He was approaching on a straight section of road and was clearly visible to them.

Mr Leach was following a Magna at a distance of approximately one car length. Both vehicles were travelling at a speed of between 70kmh and 80kmh. He had been following the Magna for a distance of approximately five to six kilometres.

Mr Leach was aware that there was a straight section of road on exiting the left hand curve. In anticipation of overtaking the Magna he changed down gear from fifth gear to fourth. The road markings for Mr Leach were double continuous white lines (prohibiting overtaking) until entry onto the straight where they changed to an intermittent white line (permitting overtaking).

On reaching the western tangent of the curve, Mr Leach has operated his right hand indicator and steered his vehicle onto the incorrect side of the road crossing the intermittent white line with the intention of overtaking the Magna.

The evidence indicates that Mr Leach increased his speed to between 80 and 90km/h. At this time the motorcycle ridden by Mr McCauley was in the vicinity of the front of the Magna which was about to be overtaken by Mr Leach. Mr Leach's vehicle collided head on with the motorcycle ridden by Mr McCauley.

Both Mr McCauley and Mr Leach had insufficient time and distance to take any form of evasive action in order to avoid a collision. The approximate point of impact was in the east bound lane. Impact resulted in Mr McCauley being thrown from his motorcycle and coming to rest on a grassed section on the northern side of the road approximately 10.5 metres west of the point of impact.

Mr McCauley's motorcycle was forced towards the west and came to rest on the grassed area on the northern side of the road approximately 39 metres west of the point of impact. The Holden Cruze rotated clockwise coming to rest against a wire fence on the northern side of the road approximately 42 metres west of the point of impact. Substantial damage was caused to the front of the motor vehicle. Mr McCauley was declared deceased at the scene by ambulance paramedics.

The Holden and the motorcycle were both found by a transport inspector to have been in a roadworthy condition prior to the crash. I conclude that vehicle defect was not a contributing factor. At the time of the crash the weather was fine, the roadway was dry, and the sun was shining. I am satisfied that the position of the sun was not a contributing factor in the crash. There was no vegetation obscuring the view of drivers. Alcohol or drugs were not present in the blood of either driver.

On the evidence in the investigation I have concluded that Mr Leach was following the Magna too closely. The distance at which he was following that vehicle obstructed his view of approaching traffic. I find that immediately prior to crossing to the incorrect side of the road, Mr Leach placed himself in a position on the road that prevented him having adequate vision of oncoming vehicles. I cannot rule out that he checked through the left side of his windscreen through the curve for the presence of vehicles. However this lookout would not reveal the presence of vehicles travelling close to the Magna and obscured by it. In this situation, he should not have overtaken the Magna. Alternatively, he should have taken the time to move back from the Magna and wait until his view of oncoming vehicles was completely unobstructed.

A post mortem examination was conducted by State Forensic Pathologist, Dr Christopher Lawrence. Dr Lawrence noted that "autopsy revealed massive injuries of the base of the brain with ponto-medullary laceration that would cause rapid death; and that there was also an aortic laceration and injuries to a number of other organs. The injuries were massive and unsurvivable". I accept the conclusion of Dr Lawrence that the injuries sustained to Mr McCauley in the crash caused his death.

As a result of the crash Mr Leach was charged with negligent driving causing death. On 24 September 2014 Mr Leach pleaded guilty to the charge of negligent driving causing death. He expressed remorse through his counsel and submitted that he had taken steps to become a more cautious driver.

On 26 September 2014, Magistrate Simon Cooper sentenced Mr Leach to a three month sentence of imprisonment, wholly suspended on the condition that he commit no offences punishable by imprisonment for a period of 12 months. He was also disqualified from driving

for a period of 15 months. Magistrate Cooper, in his sentencing comments, stated that Mr Leach's action of driving onto the incorrect side of the road to overtake was a mistake with catastrophic consequences, and showed poor judgment on his part. I agree with His Honour's categorisation of Mr Leach's act of driving resulting in Mr McCauley's death. The facts upon which he was sentenced are in accordance with the facts I have found on the evidence.

I am satisfied that Mr Leach contributed to the cause of Mr McCauley's death by travelling too closely behind the Magna, entering the incorrect lane in which Mr McCauley was travelling on his motorcycle at a time when he had no clear view ahead, and failing to keep a proper lookout for oncoming vehicles.

I extend my appreciation to Sergeant Rod Carrick, crash investigator, for a high quality investigation into this tragic event.

### **Comments and Recommendations:**

The circumstances of the tragic and unnecessary death of Mr McCauley are yet another example of the dangers of overtaking by entering into the oncoming lane without extreme caution. Such manoeuvres are rarely necessary and are usually borne of impatience. Unfortunately the victims are often motorists driving safely in their own lane with no opportunity to avoid the overtaking vehicle.

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

I convey my sincere condolences to Mr McCauley's family.

**Dated:** 3 April 2015 at Hobart in the State of Tasmania.

**Olivia McTaggart**  
**CORONER**