



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 David Alan Smith

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

- a) The identity of the deceased is David Alan Smith;
- b) Mr Smith died as a result of injuries sustained by him in a motor vehicle crash;
- c) The cause of Mr Smith's death was multiple injuries; and
- d) Mr Smith died on 18 December 2016 on the Midlands Highway approximately 1.19 km south of Woolmers Lane in the municipality of Northern Midlands, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Smith's death. The evidence includes an opinion of the forensic pathologist who examined Mr Smith's body at the mortuary at the Royal Hobart Hospital; relevant police and witness affidavits; medical records and reports; the results of an extremely comprehensive investigation carried out by officers of the Northern Crash Investigation Services; and forensic and photographic evidence.

Shortly after 8.00am on Sunday, 18 December 2016 Mr Smith was driving his family south on the Midlands Highway in the general vicinity of Woolmer's Lane. Mr Smith, his wife and 4 adult children were travelling to a church service in Hobart. At the time the Kia Carnival Station Wagon Mr Smith was driving was roadworthy. He was travelling in the correct lane, at less than the applicable speed limit and with no alcohol or illicit drugs in his blood. Mr Smith, and all of his passengers, were wearing seat belts. The weather conditions were fine and the road surface in good repair. Mr Smith was well rested.

At the same time Dwayne Albert Cashman was driving a gold Ford Fairmont sedan north on the Midlands Highway. He had spent the previous evening drinking with a friend in Hobart. Mr Cashman had had less than 3 hours sleep. The vehicle he was

driving drifted into the gravel on the left side, commenced to spin clockwise, crossed into the opposite lane and smashed into the vehicle Mr Smith was driving. Mr Smith suffered horrific injuries and died at the scene. His body was trapped in the vehicle and was later extracted by members of the Tasmanian Fire Service after the vehicle had been removed from the scene.

Mrs Smith was critically injured. Three of the four adult children were also badly injured. All were rushed to hospital by ambulance.

Mr Smith's body was taken to Hobart where it was examined by experienced forensic pathologist Dr Donald McGillivray Ritchey. Dr Ritchey found that the cause of Mr Smith's death was multiple injuries. He noted that Mr Smith had suffered blunt trauma to his head, neck, thorax, abdomen, pelvis, arms and legs. I accept Dr Ritchey's opinion. Samples taken from Mr Smith's body at autopsy were afterwards the subject of toxicological analysis at the laboratory of Forensic Science Service Tasmania. No alcohol or illicit drugs were found to have been present in those samples.

Mr Cashman was also injured and taken to hospital by ambulance. At the hospital a blood sample was taken from him, about 2 hours after the crash. That sample was subsequently toxicologically analysed. The sample was found to have a blood alcohol level of 0.069 grams of alcohol per 100 mL of blood. A forensic scientist calculated that at the time of the crash Mr Cashman's blood alcohol level was at least 0.086 grams of alcohol per 100 mL of blood.

Utilising data collected at the scene Police investigators calculated that at the time of collision Mr Cashman was driving at least at 140 km/h, substantially over the lawful speed limit for that area. Other evidence indicated he had been travelling for extended periods on the Midlands Highway before the crash at speeds as high as 160 km/h.

The same investigation calculated that at the moment of collision Mr Smith's vehicle was travelling at 99 km/h.

Mr Cashman told investigators that prior to the crash he was feeling sleepy. He said that the crash occurred because he lost control of his vehicle when he took his eyes from the road to change a CD.

Both vehicles involved in the crash were examined by a Transport Inspector. The inspector found, and I accept, that neither had any defects which caused or contributed to the happening of the crash.

Mr Cashman subsequently pleaded guilty to one count of causing death by dangerous driving, 4 counts of causing grievous bodily harm by dangerous driving and the offence of driving with a blood alcohol concentration in excess of the prescribed limit. He was sentenced to 3 ½ years' imprisonment and disqualified from holding or obtaining a drivers licence for a period of 4 years following his release from prison.

The evidence satisfies me that the crash occurred entirely as a result of a criminal and deadly combination of excessive speed, alcohol and inattention on the part of Mr Cashman.

Comments and Recommendations

I extend my appreciation to investigating officer Senior Constable Michal Rybka for his investigation and report.

The circumstances of Mr Smith'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 Mr Smith.

Dated 28 June 2019 at Hobart in the State of Tasmania.

Simon Cooper
Coroner