



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 ZM

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

- a) The identity of the deceased is ZM;
- b) ZM died as a result of injuries sustained following a single motorcycle collision;
- c) ZM's cause of death was chest and abdominal injuries following a single motorcycle collision; and
- d) ZM died on 25 December 2020 at Claremont, Tasmania.

Introduction

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

- Police Report of Death for the Coroner;
- Affidavits establishing identity and life extinct;
- Affidavit and report of Dr Christopher Lawrence, Forensic Pathologist;
- Toxicological and analytical report of Mr Neil McLachlan-Troup, Forensic Scientist, Forensic Science Service Tasmania;
- Electronic patient care record and Retrieval record with respect to ZM obtained from Ambulance Tasmania (AT);

- Affidavit of Ms AR
- Affidavit of Miss UV;
- Affidavit of Miss WN;
- Affidavit of Miss EI
- Affidavit of Miss BD;
- Affidavit of Mr XT;
- Affidavit of Mr OR;
- Affidavit of Mr Jacob Beard;
- Affidavit of Mr Adam McCarthy;
- Affidavit of Mr Ethan Cooper;
- Affidavit of Joshua Newman;
- Affidavit of Glenn Seabourne;
- Affidavit of Ms Elizabeth Westbrook;
- Affidavit of Constable Emma Wiggins;
- Affidavit of Constable Monique Featherstone;
- Affidavit of Mr Mark Kramer, Transport Safety and Investigation officer;
- Report of Senior Constable Kelly Cordwell, Southern District Crash Investigation Services;
- Affidavit of Sergeant Terrence McCulloch;
- Affidavit of Constable Scott Hartill;
- Affidavit of Ben Farquett (rank not stated), Tasmania police; and
- Photographs and forensic evidence.

Background

ZM was born on 15 March 2006. His parents were CR and YN. At the date of his death he was estranged from his father and his mother and did not reside in Tasmania. ZM lived with his mother's sister, Ms AR, who primarily cared for him for the last 6 years of his life.

ZM attended Glenorchy Primary School and had completed grade 8 at Newtown High School. Because of difficulties with concentration, ZM was misbehaving in class and would go wandering during school time. Accordingly, Ms AR began meeting with the grade 8 coordinator, the vice principal and the school psychologist. Contact was daily and eventually a decision was made to permit him to attend school each Monday, Wednesday and Friday. This arrangement commenced in or about the middle of 2020. Ms AR says ZM was never diagnosed with anything like ADHD but he did have difficulties with concentration and he was restless.

Ms AR says he was always respectful towards her and her property and he abided by her rules. Even when she grounded him due to misbehaviour he would accept the punishment and perform chores around the home.

Ms AR says ZM had no health difficulties. He was an experienced trail bike rider having ridden regularly since he was about 5 years of age. He initially had a Suzuki JR 80 which was replaced with a KTM 200 because he had outgrown the Suzuki motorcycle. He usually rode in the bush in Chigwell and towards Collinsvale. Ms AR was insistent that he wore a helmet when he rode and she says he always did so.

Ms AR grounded ZM for 6 months for smoking cannabis in grade 7 but she is aware that he smoked it on and off the following year. She did not encourage him to drink alcohol but she is aware he did so.

The circumstances leading to ZM's death

At about 06:00 am on 25 December 2020, ZM got up to open Christmas presents with other family members. He then returned to bed. At 10:00 am Ms AR gave him more Christmas presents in his bedroom. Other family members attended the home and they had lunch at about 2:00 pm. And about 3:30 pm ZM left home and visited his grandparents nearby. He was away for about 30 minutes.

At about 6.00 pm, he was in his room with his cousin and his cousin's girlfriend and they appeared to be having fun. Not long after Ms AR left the residence to visit friends. She subsequently became aware that ZM left home at approximately 7:30 pm.

Miss BD, who resides in Claremont, says ZM arrived at her address between 7:30 pm and 8:00 pm. He arrived with his cousin (Mr EF), GH, XT, OR, QS, IK, and JL. Miss BD says most of those people had been drinking alcohol except for JL as she was driving. One of the group had ridden a blue motorcycle to the address but it is not known by who. Miss BD says the group “were just hanging out, listening to music and enjoying being together on Christmas Day.” At one point ZM fell from a trailer and cut his hand on some glass. This was captured by Miss BD on her mobile telephone and she posted the short video clip to Snapchat.

ZM indicated to others in the group that he wanted to go for a motorcycle ride. He left Miss BD’s address approximately 2 to 2 ½ hours after arriving. Ms BD told him not to go because he had been drinking. She says she grabbed his top at one point to stop him riding while he was sitting on the motorcycle. ZM indicated he would be fine and would be back soon and there was nothing to worry about. At about 9:00 pm he rode away towards Abbottsfield Road. He was wearing his helmet. The motorcycle he was riding was a Yamaha WR 450 F Road Trail bike which was owned by Mr XT. It was unregistered.

ZM rode the motorcycle to the address of his ex-girlfriend Miss UV which is situated in Boyd Court, Claremont. He knocked on the door and was observed by Miss UV wearing his helmet. She thought he had been drinking alcohol. He was happy and spoke to Miss UV’s mother. Miss UV’s friend, Miss WN was also present. He took off his helmet and then after about 2 minutes went back out to the motorcycle. Miss UV told him not to ride it because he was intoxicated. ZM got on the motorcycle and began riding up and down Boyd Court at speed and then he rode down Harbord Road. Miss UV and Miss WN ran after ZM to try and stop him.

Several witnesses and CCTV footage indicate ZM rode up and down Harbord Road at speed on the motorcycle. He travelled up towards Abbottsfield Road at speed, turned around and travelled back down Harbord Road. He performed a wheel stand just prior to the accident scene outside 7 and 9 Harbord Road. He then lost control of the motorcycle and it moved to the left and struck the gutter. The motorcycle then collided with a steel bus stop pole and both the motorcycle and ZM have struck a wooden paling fence between number 7 and number 9 Harbord Road. He was not wearing a helmet at the time.

Miss UV and Miss WN ran to ZM’s aid. Mr McCarthy, Mr Cooper, Mr Seabourne and Mr Newman heard the crash and also went to ZM’s assistance. CPR was administered with instructions being provided to him over the phone by AT personnel.

Shortly after the crash, those friends of ZM's who had been at Miss BDs home attended the scene in a silver Suzuki hatch. One of the passengers, Mr OR picked up the motorcycle, started it and rode it away from the scene.

The crash scene became chaotic when AT staff were treating ZM. His cousin, Mr EF, was intoxicated and became violent and disruptive. Police who had been assisting AT personnel with treatment then had to form a barrier between the ambulance officers and Mr EF and his friends in order to ensure the safety of ambulance staff while they performed their work.

Investigation

(i) AT records

These records reveal the call to AT was received on 9:23 pm. Ambulance personnel were with ZM by 9:30 pm. On arrival, CPR was being administered. The history provided to the paramedics was that the estimated speed when ZM collided with the metal pole was 50 km/h. In addition, the notes indicate ZM was not wearing a helmet or protective motorcycle clothing. On examination his Glasgow coma score was 3. That score did not improve over the next 45 minutes. ZM was treated at the scene arriving at the Royal Hobart Hospital at approximately 10:29 pm.

(ii) Post mortem examination

Dr Lawrence conducted an autopsy on 29 December 2020. That procedure consisted of both an external and internal examination. In addition Dr Lawrence reviewed the results of the histological examination and toxicological examination. He says in his affidavit that the autopsy revealed significant traumatic injuries to the chest and abdomen which are probably consistent with a primary impact on the left-hand side of the back. Those injuries, he says, were substantial and would be difficult to survive. I accept Dr Lawrence's opinion.

(iii) Toxicology

Mr Neil McLachlan-Troup is a forensic scientist. He analysed a blood sample which was taken by Dr Lawrence at the autopsy. The analysis returned a reading of .124 g of alcohol in 100 mL of blood. He says a blood alcohol concentration at that level has the potential to significantly impair driving performance and increase relative crash risk. It has been estimated that the relative risk of a driver with a blood alcohol concentration of between .120 g/100

mL and .180 g/100 mL being involved in a crash is approximately 12 to 50 times that of a driver with no alcohol in his or her blood. I accept the opinion of Mr McLachlan – Troup

(iv) Motorcycle Inspection and Examination

The motorcycle involved in this crash was inspected by Mark Kramer on 4 January 2021. Mr Kramer is a qualified automotive mechanic with in excess of 40 years' experience in the automotive industry. He is a transport safety and investigation officer with the Department of State Growth and has held that position for 32 years during which time he has inspected numerous vehicles and provided opinions as to their roadworthiness. A check of motor registry records indicated the motorcycle was registered to a previous owner and the registration expired in May 2019. Therefore the motorcycle would have potentially been used on a public street at about that time. In summary it was Mr Kramer's opinion the motorcycle was in a well-maintained and serviceable condition. The only defect, for street use had the motorcycle been registered, is that it had no rear view mirrors fitted. I accept Mr Kramer's opinion which he is well qualified to give.

(v) Crash Investigation

Senior Constable Cordwell, who is attached to Crash Investigation Services in the southern police district, has 23 years of police experience during which she has attended and investigated over 300 vehicle crashes. She has been attached to the crash investigation services division of Tasmania police for the last 13 years during which time she has attended and investigated over 250 serious and 100 fatal crashes. I accept Senior Constable Cordwell's opinions which follow.

Senior Constable Cordwell attended the scene of this crash at 10:29 pm on 25 December 2020. She and Constable Hartill, from forensics services, walked through the scene and marked relevant evidence. The motorcycle and rider had been removed from the scene prior to her arrival.

She notes Harbord Road has a general north south orientation and is 11.4 m in width. The footpath on the western side of the roadway is 2.3 m wide. At the southern end of Harbord road is Abbotsfield Road and Hanlon Street is at the northern end. Boyd Court is located approximately halfway between Abbotsfield Road and Hanlon Street. Senior Constable Cordwell's report sets out the marks and debris she found at the scene and where that evidence was located. On 28 December 2020 she inspected the motorcycle which had been

recovered by police after it had been removed from the scene. Senior Constable Cordwell noted the damage to the motorcycle and she has also taken into account Mr Kramer's opinion as to its roadworthiness.

Tasmania Police recovered security footage from a nearby residence. From that footage Senior Constable Cordwell was able to identify 2 points on the road which were then used to calculate the speed of the motorcycle over a known distance and time. From this information Senior Constable Cordwell was able to calculate the motorcycle was travelling at 96 km/h prior to the crash.

Senior Constable Cordwell notes the motorcycle was travelling in the area in the minutes leading up to the collision and it is captured on CCTV riding up and down Harbord road several times. On the final drive north analysis of the available footage indicates the motorcycle was travelling at 96 km/h prior to impact and ZM was performing a wheel stand at the time he lost control. Evidence at the scene indicates the motorcycle has struck the western curb near 7 Harbord Road, it has then travelled over the footpath and struck a bus stop pole. The motorcycle has then slid along the footpath and grass verge before coming to rest. Damage was observed to the timber fence dividing 7 and 9 Harbord Road and she says this damage was more likely than not caused by the rider impacting the fence.

There is no evidence indicating mechanical failure contributed to this collision. The speed analysis suggests ZM was travelling above the permissible speed limit of 50 km/h. He lost control of the motorcycle and crashed which resulted in his fatal injuries. The roadway, environment and weather conditions did not contribute to this crash.

Conclusion, comments and recommendations

Once again a Coroner in this State has been required to investigate a fatal motor vehicle crash where the cause has been excessive speed and alcohol consumption. Excessive speed on its own or in combination with excessive alcohol consumption or the consumption of drugs, as the community knows all too well, can and did in this case have tragic consequences. Although not causative of the accident I note in this case ZM was unlicensed and the motorcycle he was riding was unregistered.

A couple of further comments need to be made. Friends of ZM removed the motorcycle from the scene and when paramedics and police attended some of them became disruptive and

abusive. It is important to remind the public that interfering with serious crash scenes can result in difficulties with the investigation. Fortunately, in this case, the motorcycle was recovered soon after and the poor behaviour of ZM's friends did not affect the treatment which ZM received from the paramedics. One person in particular had to be spoken to by police and removed from the immediate scene because his behaviour was distracting the paramedics in performing their very important work. It is an offence to assault, resist, wilfully obstruct, threaten, intimidate or use abusive language to a police officer or an emergency service worker, which includes ambulance officers, in the performance of their lawful duties¹. The penalties, if found guilty of such an offence, include significant fines and/or periods of imprisonment.² In my view Tasmania police ought not hesitate to prosecute bystanders who behave in this manner particularly when the crash scene is the workplace of a police officer or an emergency service worker, they are carrying out their lawful duties and more often than not they are attempting to render lifesaving treatment and/or assistance to very seriously injured people.

I extend my appreciation to investigating officer Sergeant Terrence McCulloch for his investigation and report.

The circumstances of ZM'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 ZM.

Dated: 24 August 2022 at Hobart in the State of Tasmania.

Robert Webster
Coroner

¹ See s34B of the Police Offences Act 1935.

² Up to \$18 100 or 3 years imprisonment in respect of a police officer and \$9050 or 2 years imprisonment in respect of an emergency service worker.