



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Rod Chandler, Coroner, having investigated the death of Nicky Glenn Smith

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

- a) The identity of the deceased is Nicky Glenn Smith;
- b) Mr Smith was born in Hobart on 8 September 1957 and was aged 59 years;
- c) Mr Smith died on 14 July 2017 at Lake Leake; and
- d) The cause of Mr Smith's death was head and chest injuries sustained in a single motor vehicle crash.

Background

Mr Smith resided at 3 Kalangadoo Road at Lake Leake and was in a de facto relationship with Ms Sue Hovington. He had three adult sons from a previous relationship. Mr Smith had been a skidder driver but was an invalid pensioner due to chronic pain from a degenerative lumbar spine. He also suffered from panic attacks and insomnia with associated depression.

Circumstances Surrounding the Death

At about 6.00pm on Friday 14 July 2017 Mr Smith had driven a Holden Rodeo utility to and attended the Lake Leake Hotel where he often socialised on Friday evenings.

He left the hotel at about 10.30pm and travelled west in the Holden Rodeo towards Campbell Town before turning around and travelling east on the Lake Leake Highway. At a point approximately five kilometres west of the Lake Leake township Mr Smith lost control of his vehicle, travelled off the sealed highway and collided with three small trees before colliding with a large gum tree. At around 11.30pm Mr Jason Hales was driving on the Lake Leake Highway when he observed motor vehicle headlights shining from a vehicle which appeared to have crashed. He investigated and found the Holden Rodeo along with Mr Smith who had suffered fatal injuries.

Post-Mortem Examination

This was carried out by State Forensic Pathologist, Dr Christopher Lawrence. He reports: *"Autopsy reveals massive traumatic injuries to the head and chest which were massive and unsurvivable. There is no evidence to suggest a cardiac problem."*

Toxicology tests revealed a high level of alcohol (0.202g/100mL) along with sub-therapeutic levels of oxazepam (0.063mg/L). In Dr Lawrence's opinion this level of oxazepam would have compounded the effects of the alcohol.

Dr Lawrence has opined that the cause of Mr Smith's death was head and chest injuries sustained in a single motor vehicle crash. I accept this opinion.

Investigation

The crash and its surrounding circumstances were comprehensively investigated by Tasmania Police. The investigation established the following matters:

- That at the Lake Leake Hotel Mr Smith consumed alcohol. Mr Roger Stanley, who had known Mr Smith for 20 about years, was celebrating his 70th birthday at the Hotel and he advises having provided Mr Smith with three or four whiskeys mixed with cola. Ms Cheryal Pearce, a bar attendant at the Hotel advised that she served him about four Cascade Premium Light beers.
- At about 9.30pm Ms Pearce reports that she made a decision to stop serving Mr Smith because he was too intoxicated.
- At about 10.30pm, Mr Smith left the Hotel and travelled west towards Campbell Town before turning around and travelling east on the Lake Leake Highway.
- Sometime before 11.30pm Mr Smith lost control of the Holden Rodeo while negotiating a sweeping left hand bend. First Class Constable Purcell of Tasmania Police's Crash Investigations considered that:
 - The vehicle appeared to have crossed to the incorrect side of the roadway, out of control, and slid sideways onto the gravel verge.
 - The vehicle then appeared to have briefly returned to the sealed section of the highway before sliding off the road on the incorrect side of the highway and colliding with three small trees before finally colliding with a larger gum tree and coming to rest.
- Mr Smith was thrown towards the front passenger window and his upper body left the vehicle. The driver's seatbelt was in the retractable position indicating it was not worn at the time of the crash.
- There was no evidence of any other vehicle being in the area at the time of the crash.
- The road surface in the area of the crash was wet and in good condition, although well worn.
- The Holden Rodeo was owned by Logan Kele Smith, a son of Mr Smith. Its registration had expired. A post-crash examination had shown it to be in an unroadworthy condition because:
 - The vehicle did not have a non-slip surface on the brake pedal;
 - The tyres on the rear axle were not the same size; and
 - The driver's side rear brake drum was worn beyond the manufacturer's maximum diameter wear limit.
- A report upon the toxicology results provided by forensic scientist, Ms Miriam Connor includes this comment: *"A blood alcohol concentration of 0.202 g/100mL would significantly impair driving performance to the point of being unable to properly control a motor vehicle. It has been estimated that the relative risk of a driver with a blood*

alcohol concentration of 0.18 g/100mL being involved in a crash is approximately 50 times that of a driver with nil blood alcohol. It is therefore expected that a blood alcohol concentration higher than this would be associated with an even greater relative risk of crash involvement.”

Comments and Recommendations

The most concerning aspect related to this crash was Mr Smith's grossly excessive alcohol reading. It made the likelihood of him being involved in a crash almost inevitable. That likelihood was increased by the wet road surface and the unroadworthiness of the Holden Rodeo. It is also concerning that Mr Smith was not wearing a seat belt at the time of the crash. That failure on his part exposed him to a greater risk of fatal injury. In the result Mr Smith's regrettable death serves to again demonstrate the consequences of driving while intoxicated particularly when not wearing a seat belt.

I have decided not to hold a public inquest into the death of Mr Smith because my investigation has sufficiently disclosed the identity of the deceased, the date, place, causes of death, relevant circumstances concerning how his death occurred and the particulars needed to register his death under the *Births, Deaths and Marriages Registration Act 1999*. I do not consider that the holding of a public inquest would elicit any significant information further to that disclosed by the investigation conducted by me. The circumstances of the death do not require me to make any further comments or recommendations.

I convey my sincere condolences to Mr Smith's family and loved ones.

Dated: 20 September 2018 at Hobart in the State of Tasmania.

Rod Chandler
Coroner