



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Jason Scott Picken

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

- a) The identity of the deceased is Jason Scott Picken;
- b) Mr Picken died of head injuries in the circumstances described in this finding;
- c) The cause of death was traumatic subarachnoid haemorrhage; and
- d) Mr Picken died on 24 January 2015 at Hobart, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Jason Scott Picken's death. The evidence comprises the police report of death; an opinion of the forensic pathologist who conducted the autopsy; police and witness statements and affidavits; medical records and reports; forensic evidence; and Supreme Court documentation and Comments on Passing Sentence.

Jason Scott Picken was born on 2 November 1976 and was aged 38 years at the date of his death. He is the eldest of three children born to Leonie and Leslie Hack. He was not married but was in a long-term de facto relationship with Glennis Chapman at the time of his death. Mr Picken and Ms Chapman have three children – Jacob, born in 1998, Gregory, born in 2004, and Kyle, born in 2006. At the time of his death, Mr Picken was unemployed and in receipt of a disability pension as a result of suffering depression and chronic pain. When Mr Picken was about 24 years of age, he jumped from an overpass and broke his heel, causing ongoing pain. About six years before his death, he was involved in two motorcycle accidents which apparently resulted in broken collar bones on each occasion. These injuries contributed to his pain.

Mr Picken was well known to Tasmania Police. His record of prior convictions indicates that he has spent time in custody for offences involving traffic, violence and dishonesty. His last period of incarceration was in July 2014 for driving whilst exceeding the prescribed alcohol limit. At the time of his death, he had a number of other charges pending resolution that may have resulted in a further period of incarceration if he was

convicted. In particular, Mr Picken had been charged with wounding Ms Chapman by stabbing her to the leg on 23 January 2014, which injury required hospitalisation. Ms Chapman was uncooperative with police in relation to proposed family violence orders that sought to prevent her from having contact with Mr Picken. The relationship was resumed, apparently without incident, after this event. Mr Picken was charged with wounding, a charge that was proceeding at the time of his death.

On 23 January 2015, a gathering was held at 13 Bray Court, Rokeby, by the occupiers of that residence, Melissa Dillon and David Luke Pearson. Ms Dillon and Mr Pearson lived there with their five children. Mr Pearson was 30 years of age on this date.

The gathering was held as a “wake” for a friend who had just died as a result of suicide. Mr Picken, Ms Chapman and two of their children attended. Other adults, teenagers and younger children were also in attendance. Mr Picken arrived in the afternoon and remained into the night. He was consuming alcohol throughout this period. As it became dark, a fire pit was started in the backyard and a number of people came and went throughout the evening.

At about 11.00pm Mr Picken was at the front of the residence and was involved in an argument with a young person. The argument occurred because Mr Picken attempted to have a dog owned by Mr Pearson involved in a fight with another dog from a neighbouring property. The youth was present during the attempt to get the dogs to fight and became enraged about the proposal; he picked up a steel pole from the yard and confronted Mr Picken. He struck Mr Picken once to the face with his fist and further attempted to strike him with the pole. There is no medical or forensic evidence to suggest that Mr Picken was struck with the pole and he had no injuries consistent with being struck by such a large and heavy object.

Upon becoming aware of the altercation, Mr Pearson became involved and subsequently punched Mr Picken. A bottle was in Mr Pearson’s hands at the time of the punch but there was no indication that the glass broke. As a result of the punch, Mr Picken then fell into the gutter and Mr Pearson applied force to his throat with his hands in a choking type manner such as to break the hyoid cartilage. Mr Picken had lost consciousness. An ambulance was called at 11.24pm.

Ambulance paramedics arrived at 11.32pm and noted that Mr Picken was unconscious and in cardiac arrest. He was placed in the back of the ambulance due to the aggressive nature of the scene and provided with full attempts at resuscitation. He was then transported to the Royal Hobart Hospital where resuscitation continued. Mr Picken was unable to be revived and was determined to be deceased shortly after arriving at the Royal Hobart Hospital.

On 26 January 2015 the State Forensic Pathologist, Dr Christopher Lawrence, performed an autopsy upon Mr Picken. Dr Lawrence observed that Mr Picken sustained a traumatic subarachnoid haemorrhage as a result of a complete tear of the vertebral artery at the base of the brain. Dr Lawrence concluded that this injury typically occurs when there is force applied to the head or neck and where there is rapid rotation of the head. Dr Lawrence was of the opinion that the injury could have been caused by Mr Pearson's punch, the force of Mr Picken hitting the concrete or possibly the act of applying pressure to Mr Picken's neck (if rotation was involved).

Police were advised of Mr Picken's death some hours after he had been transported to hospital. Investigating and forensic officers attended the scene. An investigation into his death was then commenced, including obtaining an account from Mr Pearson and others to the effect that Mr Picken had fallen and must have hit his head. As the investigation progressed, other witnesses at the scene provided different accounts to police that Mr Picken had been struck by the youth and then Mr Pearson had punched him and choked him whilst he was on the ground. In the days following the death, a number of investigative tools were utilised by police, including search warrants, completion of statutory declarations, witness interviews, forensic examinations and surveillance device warrants for the recording of conversations. The evidence obtained in the investigation led police to formally arresting and charging Mr Pearson with manslaughter. The youth was also charged with assault.

At autopsy, Dr Lawrence took samples of Mr Picken's blood for analysis by Forensic Science Service Tasmania. The results revealed that Mr Picken had a very high blood alcohol concentration of 0.216 g/100 ml. The presence of THC (cannabis) was also detected. His depression medications, citalopram and diazepam, were also present.

Following a trial, Mr Pearson was found guilty of manslaughter and sentenced on 15 June 2016. In her comments on passing sentence, Justice Tennent stated that the jury was satisfied that an act or acts done by Mr Pearson caused Mr Picken's death. Justice Tennent found that the cause of the injury that led to Mr Picken's death was either Mr Pearson's punch with the bottle or the resultant head strike upon the fall. In her comments Justice Tennent stated:

"I accept that you (Mr Pearson) did not intend to cause Mr Picken's death and that your violence towards him was unplanned and impetuous, probably fuelled by alcohol. You clearly however intended to cause him harm of some description. I also accept you are remorseful. Your behaviour towards the end of your interview demonstrated resignation and blaming yourself for what had happened to a degree."

Justice Tennent ordered that Mr Pearson serve 7 years imprisonment commencing on 6 July 2015 with eligibility for parole after having served 4 ½ years of that sentence.

On 27 October 2015, the youth pleaded guilty in the Magistrates Court (Youth Justice Division) to one count of assault contrary to the Criminal Code. He was ordered to undertake probation for a period of nine months and required to perform 60 hours of community service. His assault upon Mr Picken did not contribute to Mr Picken's death.

In summary, I find that Mr Picken died as a result of an act of violence by David Luke Pearson that was inflicted with the intention of harming Mr Picken but not with the intention of causing his death. This act of violence involved punching him to the head with a bottle in his hand, causing him to fall and strike his head on the concrete curb. The evidence gathered in the investigation supports this finding. Further, this finding is not inconsistent with the determination of the matter by the criminal proceedings, as required by section 25 (4) of the *Coroners Act 1995*.

Comments and Recommendations

I extend my appreciation to investigating officer Constable Michael Harley and also to Sergeant Jennifer Wood for her very helpful report.

The circumstances of Mr Jason Picken's death are not such as to require me to make any comments or recommendations pursuant to Section 28 of the *Coroners Act 1995*, nor is it necessary or desirable to hold a public inquest into his death.

I convey my sincere condolences to the family and loved ones of Mr Picken.

Dated: 10 September 2019 at Hobart Coroners Court in the State of Tasmania.

Olivia McTaggart
Coroner