



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 Benjamin Murray Maxwell,

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

- a) The identity of the deceased is Benjamin Murray Maxwell;
- b) Mr Maxwell died as a result of being stabbed, an act of homicide on the part of Adrian Wayne Smillie;
- c) The cause of Mr Maxwell's death was stab wounds to the chest; and
- d) Mr Maxwell died on 25 December 2012 at Croft Avenue, Devonport, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Maxwell's death. The evidence comprises an opinion of the forensic pathologist who conducted the autopsy; relevant police and witness affidavits; medical records and reports; forensic and photographic evidence; and the prosecution brief in relation to the trial of Adrian Wayne Smillie.

I make the following further findings.

Benjamin Murray Maxwell was born in Devonport, Tasmania on 10 November 1982 and was aged 30 years at his death. He lived in Devonport, was unemployed, single and had no children.

Mr Maxwell died because of being stabbed by Adrian Wayne Smillie. Mr Maxwell knew Smillie and there was some history of animosity between them.

In the lead up to his death, Mr Maxwell had been living with Ashley Richard Stott at a unit complex in Croft Avenue, Devonport. Smillie also occupied a unit in the same complex. There was evidence of previous altercations and what might be described as "issues" between Smillie and Mr Maxwell and Mr Stott, extending back some time.

On Christmas Day 2012, all three became involved in an altercation in the common forecourt of the Croft Avenue unit complex where Mr Smillie had parked his 4WD vehicle.

The reason for the fight and how it started were not clear on the evidence presented at the trial of Smillie; however it resulted in Smillie stabbing Mr Maxwell with a knife numerous times to the chest and arms. In addition, Smillie stabbed Mr Stott four times to the rear chest, and in the left arm.

After stabbing both men, Smillie left the area. Tasmania Police attended in response to two (2) 000 calls. The first officers to arrive found Mr Maxwell lying in a pool of blood on the driveway outside the Croft Avenue unit complex. Not far away, police found Mr Stott lying in the doorway of his unit. Both men were unconscious.

Ambulance paramedics were quickly on the scene. Mr Maxwell was unable to be revived and he died at the scene.

The area was secured and carefully forensically examined and photographed. Witnesses were identified and interviewed.

Smillie was quickly identified as the offender. Although he fled the scene and concealed the murder weapon, a silver handled folding knife, he was located fairly quickly not far away and arrested.

Arresting police saw he had a clearly visible cut to his right hand along the webbing between the thumb and index finger.

After Mr Maxwell's death, his body was photographed at the scene, formally identified and then transported to the Royal Hobart Hospital. The State Forensic Pathologist, Dr Christopher Hamilton Lawrence, carried out an autopsy upon his body. Dr Lawrence found that the cause of Mr Maxwell's death was stab wounds of the chest. I accept his opinion. Dr Lawrence noted that Mr Maxwell had suffered in the order of 18 stab wounds, 13 of which were in the back and 2 of which wounds penetrated his right and left lungs.

Samples taken at autopsy were subsequently analysed at the laboratory of Forensic Science Service Tasmania. That analysis indicated that at the time of his death, Mr Maxwell had a high blood alcohol reading and had consumed cannabis. I am, however, satisfied that neither alcohol nor drugs caused or contributed in any meaningful way to Mr Maxwell's death.

Smillie was charged with, and convicted of, Mr Maxwell's murder. He was also convicted of wounding Mr Stott.

Subsequent to his conviction, Smillie was sentenced to 21 years' imprisonment, with a non-parole period of 12 years. Both his conviction and sentence were the subject of an appeal to the Court of Criminal Appeal. By judgment delivered on 24 November 2017, Smillie's appeal was dismissed.

Comments and Recommendations

The circumstances of Mr Maxwell'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 Mr Maxwell.

Dated 11 November 2019 at Hobart in the State of Tasmania.

Simon Cooper
Coroner