



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 deaths of Alexander Alfred Peart and Ruby Rose Peart

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

- a) The identity of the deceased is Alexander Alfred Peart;
- b) Mr Peart died as a result of injuries sustained in a single vehicle crash;
- c) The cause of death was chest and abdominal injuries; and
- d) Mr Peart died on 15 September 2016 at Sorell, in Tasmania.

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

- a) The identity of the deceased is Ruby Rose Peart;
- b) Ruby died as a result of head and chest injuries sustained in a single motor vehicle crash;
- c) The cause of death was head and chest injuries; and
- d) Ruby died on 15 September 2016 at Sorell, in Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Alexander Alfred Peart and Ruby Rose Peart. The evidence comprises a police report of death; an opinion of the forensic pathologist who conducted the autopsy; opinions of the crash investigators, fire investigators and transport investigators; police and witness affidavits; medical records and reports; and forensic evidence.

Alexander Alfred Peart ("Mr Peart") was born on 30 September 1997 and was aged 18 years at his death. He was the eldest of six children. He was educated to grade 10 level and worked as a removalist. He was physically healthy with no recorded mental health issues. Mr Peart was in a de facto relationship with Xanna Rose Weavell ("Mrs Weavell"), aged 18.

Ruby Rose Peart ("Ruby") was the only child of Mr Peart and Ms Weavell. She was born on 16 November 2013 and was two years old at her death. She was a healthy and happy child. The family lived at 3 Suva Street, Midway Point in Tasmania. Ms Weavell was not employed and cared for Ruby on a full-time basis.

Mr Peart held a current L1 Novice driver's licence permitting him to drive only under the instruction of a fully licensed driver. He was the registered owner of a silver Holden Vectra sedan registration FC5269 ("the Vectra"). Mr Peart had no history of criminal or traffic offending.

On Thursday 15 September 2016 Mr Peart attended work in the morning. He arrived home later that day. Ms Weavell and Ruby were at home at that time.

The evidence of the the family's movements from that time onwards comes mainly from Ms Weavell's video-recorded interview on 11 October 2016 with Senior Constable Kelly Cordwell, qualified crash investigator and officer in charge of the investigation. However, Ms Weavell told Senior Constable Cordwell in the interview that she had no memory of the family's movements after they commenced the journey from their house in Midway Point.

In her interview, Ms Weavell vaguely recollected that the family had dinner together when Mr Peart arrived home and that they then made a decision to go somewhere in the car. She believed that they went to Woolworths in Sorell to buy milk and bread, though indicated that they had no reason to leave home that evening as the cupboards were fully stocked and they had just eaten dinner. She commented that it was unusual that they would all go out in the car at that time of night, particularly as it was after Ruby's usual 7.30pm bed time.

On 22 August 2018 Ms Weavell provided further evidence for the investigation in the form of an affidavit. In that affidavit Ms Weavell was able to provide some additional recollections of the family's movements. She recalls that, after Mr Peart returned home from work, he invited some friends over for drinks. Ms Weavell believed that Mr Peart consumed alcoholic drinks with the other members of the group at this time. After dinner the family decided to go to Woolworths at Sorell. She recalls Ruby being placed in her car seat and that Mr Peart was driving the Vectra.

Mr Peart was not permitted to drive as he was unsupervised by a licensed driver. Ms Weavell did not hold a driver's license of any type and did not drive motor vehicles.

Ms Weavell recalls that they purchased some grocery items from Woolworths in Sorell and commenced to return home along the Sorell causeway to Midway Point. She stated that it was dark when they left the supermarket, leading her to believe that the time was around 8.00-9.00pm. Her recollection of the time accords with the other evidence in the investigation. I accept that the family did purchase items at Woolworths. I cannot rule out that they may also have driven to another venue, although I do not need to decide that matter.

That evening at about 8.40pm, officers from the Southern Road and Public Order Squad were conducting random breath tests ("RBT") at a site set up at the roundabout

at the intersection of Penna Road and the Tasman Highway.

At approximately 9.00pm the Vectra was observed by another driver, Mr Nicholas Tinning, to be travelling west bound towards Midway Point and the RBT site. Mr Tinning observed the vehicle's head lights to go off. It then performed a U-turn at Garden Lane, prior to the roundabout, and commenced travelling east-bound towards Sorell. Mr Tinning stated in his affidavit for the investigation that the vehicle performed the U-turn directly in front of his vehicle and almost caused a crash. Mr Tinning sounded his horn and alerted police conducting random breath testing at the roundabout. Mr Tinning was not able to describe the driver of the vehicle.

Senior Constable Matthew Risby and First Class Constable Timothy Donovan were present at the RBT site in a marked Subaru sedan. They also witnessed the Vectra conduct the U-turn and travel back towards Sorell. At this point the vehicle was approximately 100 metres from their location. They then prepared to commence driving and fastened their seatbelts with the intention of intercepting the vehicle. They activated their vehicle's emergency lights. Once they set off, they observed a vehicle on the last third of the causeway overtaking other vehicles as it drove towards Sorell.

The speed limit for vehicles travelling on the Sorell causeway is, and was at the time, 80 km/h. For vehicles travelling towards Sorell, the speed limit reduces to 60 km/h at the beginning of Main Road. The causeway and adjoining Main Road are roads with a single lane in either direction.

Senior Constable Risby and First Class Constable Donovan became unsure whether the vehicle performing the overtaking manoeuvres was the same vehicle that they had seen evading the RBT site. They were in the process of slowing to reassess the situation and deactivating the emergency lighting when they observed a flash of white light and orange flames at the end of the causeway. At this point, the evidence indicates that the police vehicle was situated about one third of the way over the causeway, being about 1.2 kilometres from the flames. The officers immediately activated their lights and sirens and drove to the scene of what they presumed to be a motor vehicle crash.

The two officers arrived at the crash site within one minute of observing the flames. The site was located on a straight section of road approximately 15 metres west of the junction of Nash Street on Main Road, Sorell. On arrival, they saw a vehicle fully engulfed in flames. It was apparent that the vehicle had impacted with an Aurora pole and the force of the impact had torn the vehicle in half. The rear of the vehicle remained wrapped around the pole and the front of the vehicle had come to rest in the west bound lane about 40 metres east of the Aurora pole. The rear portion of the vehicle was gutted by fire.

There is ample evidence from eyewitness and motorists' affidavits in this investigation that the vehicle conducting dangerous, high-speed overtaking manoeuvres on the

causeway was the same vehicle that lost control, crashing into the pole and igniting. Although eye witnesses could not identify the type of car due to its high speed and the darkness, the type of vehicle and its registration number were identified immediately at the scene.

Mr Peart, who was identified subsequently, was located lying on the southern verge of the road, 26 metres from the front of the car. Further police officers, fire fighters, paramedics and witnesses arrived at the scene almost immediately.

Paramedics attempted CPR on Mr Peart but this was unsuccessful. He was declared deceased at the scene. Once the fire had been extinguished by fire fighters, Ruby was located restrained in her child seat in the rear passenger side of the vehicle. She was severely burnt and deceased.

Ms Weavell, who had been in the front passenger's seat, was also thrown out of the vehicle and came to rest between the two vehicle sections. In both her interview and affidavit she was unable to recall the crash itself, however, did remember seeing flashing lights behind them as they drove. She next remembers being attended to whilst laying on the ground after the crash. She was conveyed to the Royal Hobart Hospital by ambulance and was admitted with internal (non-life-threatening) injuries.

At about 11.00pm the same evening Sergeant Rod Carrick and Senior Constable Kelly Cordwell, experienced crash investigators, attended to examine the scene to determine how the crash occurred.

The evidence, including marks and debris at the scene, allowed the crash investigators to conclude that, upon navigating the right hand corner entering Sorell, the Vectra took the corner wide due to excessive speed. It then struck the concrete edging surrounding an Aurora power pole on the northern side of the roadway. The vehicle then travelled sideways before striking the northern curb, mounting the footpath and striking another Aurora pole driver's side first.

Senior Constable Cordwell, being the primary investigating officer, observed that the first of the tyre marks located were on a raised concrete island surrounding the first Aurora power pole about 30 metres prior to the impact point. The continuing marks indicated that the vehicle travelled side-ways for a distance of 27 metres and then a further 3 metres before colliding with another Aurora power pole.

Senior Constable Cordwell made calculations of the speed of the Vectra at the commencement of the slide and at impact respectively. For these calculations she used the tyre scuff marks and debris thrown from the point of impact. She calculated that the minimum speed of the Vectra at the commencement of the skid was 116 km/h and the minimum speed at impact was 95 km/h.

The rear of the vehicle was located against the Aurora power pole, the right hand side had impacted heavily with the pole and had sustained substantial fire damage. All four doors remained with the rear section.

The front of the vehicle was torn away on impact. It was located approximately 28 metres east from the rear of the vehicle. The engine, front seats, dashboard and windscreen had remained with the front section. Debris from the vehicle was located at a distance of 36 metres north east from the point of impact, and 4.8 metres east from the point of impact.

I accept the evidence of Senior Constable Cordwell as to the movements of, and speed of, the vehicle prior to the crash. Her opinions accord with the eyewitness evidence which indicates that the vehicle was likely to have been travelling at speeds in excess of 120 km/h.

Tasmania Fire Service investigators conducted an investigation into the origins of the fire. They were assisted by mobile phone video footage of the vehicle on fire, taken by witnesses at the scene. The fire investigators concluded that the impact of the vehicle on the curb ruptured either the fuel tank or fuel line, as evidenced by fuel to leak along the road prior to the impact with the power pole. On impact with the pole the fuel became ignited either by a spark or by the heat from the exhaust, causing a sudden ignition of the fuel vapours.

As part of the investigation, the Vectra was inspected by a transport inspector with the Department of State Growth. The inspection revealed that the vehicle was in a roadworthy condition prior to the crash.

Although Mr Peart was not witnessed driving, I accept Ms Weavell's evidence that he was the driver. His injuries were the result of massive primary forces, particularly to the right of his body, consistent with the drivers side impacting the pole.

On 16 September 2016 Dr Christopher Lawrence, State Forensic Pathologist, conducted autopsies upon Mr Peart and Ruby.

Dr Lawrence concluded that Ruby died as a result of the cause head and chest injuries sustained in the crash. There was no evidence of smoke inhalation or carbon monoxide, indicating that she died from these injuries and not from the fire.

The autopsy of Mr Peart revealed massive traumatic injury to the right hand side of the torso with multiple rib fractures, laceration of the lungs, heart, liver and spleen. These injuries are described by Dr Lawrence as being unsurvivable. In Dr Lawrence's opinion the cause of death was chest and abdominal injuries following ejection from the vehicle upon collision.

Toxicological analysis of blood samples taken from Mr Peart at autopsy detected the presence of THC (cannabis), indicating likely recent use of the drug. Alcohol was not detected.

Mr Peart held only a learner's licence at the time of the crash and could be best described as an inexperienced driver. Ms Weavell indicates that Mr Peart was due to attend the test for his L2 licence in the days following the crash.

In her affidavit Ms Weavell stated that she cannot remember having a conversation with Mr Peart in the vehicle prior to the crash. The only reason she could discern for Mr Peart having driven away from the RBT was that he was of the belief that he would be caught driving without a licence.

I find, upon all of the evidence, that Mr Peart, as driver of the vehicle, made a deliberate decision to avoid testing or police contact at the RBT site. He therefore turned off the headlights on the vehicle, performed a U-turn and drove away at high speed and making dangerous overtaking manoeuvres. Although it is speculation as to the reason for his evasion of the RBT site it may have been due to his unaccompanied learner's licence status or because he had recently smoked cannabis.

Comments and Recommendations

As part of the coronial investigation Tasmania Police conducted an internal review in regards to the incident. At the conclusion of the review it was determined that Senior Constable Risby and First Class Constable Donovan, in the course of following Mr Peart's vehicle, were engaging in "urgent duty" driving and not "pursuit driving". The review concluded that the officers were acting in response to a possible intoxicated driver and were justified in attempting to catch up to, and intercept, Mr Peart. The review concluded that they did not travel immediately behind Mr Peart's vehicle and there is no evidence to indicate that they influenced his manner of driving. I accept the conclusions of the review, which are consistent with the eye witness and objective evidence in the investigation.

It appears that Mr Peart's decision was impulsive and a result of panic and immaturity. In making the decision, he gave little thought to the safety of his family, other road users and members of the public. The effects of his recent use of cannabis are likely to have contributed to his actions. The ingestion of THC causes cognitive, perceptual and behavioural changes, including reduced inhibitions and diminished performance skills.

If Mr Peart had stopped at the site, as was his legal duty, he may have faced charges of a relatively minor nature. His decision to drive away from the site in the manner in which he did resulted in the needless loss of his own life and that of his small daughter. For Ms Weavell, the loss of her daughter and partner in such circumstances is a tragic outcome and I extend my sympathy to her.

I acknowledge the assistance provided by all of those who attended and assisted at what can only be described as a devastating scene. Many of those people have, understandably, been significantly affected.

I extend my appreciation to investigating officer Senior Constable Kelly Cordwell for her investigation and comprehensive report.

The circumstances of the deaths of Mr Peart and Ruby 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 Alexander Alfred Peart and Ruby Rose Peart.

Dated: 19 September 2018 at Hobart Coroners Court in the State of Tasmania.

Olivia McTaggart
Coroner