



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Andrew McKee, Coroner, having investigated the death of Alessandro Borchi,

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

- a) The identity of the deceased is Alessandro Borchi;
- b) Mr Borchi died as a result of a traumatic closed head injury sustained in a motor vehicle crash;
- c) Mr Borchi's cause of death was a traumatic closed head injury; and
- d) Mr Borchi died on 16 January 2018 at Hobart, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Alessandro Borchi's death. That evidence includes:

- a) An opinion of the forensic pathologist who conducted the post-mortem examination;
- b) The Police Report of Death;
- c) Toxicology reports prepared by Forensic Science Services Tasmania;
- d) A crash investigation report prepared by Sgt R Carrick;
- e) Documentation relating to the criminal proceedings taken against Mr Luca Papotto;
- f) Relevant police, family and witness affidavits;
- g) An affidavit of Mr J Hardy, a Transport Inspector employed by the Department of State Growth;
- h) Medical records and reports; and
- i) Forensic evidence.

Mr Borchi was born in Rome, Italy on 13 May 1996 and was 21 years of age at the date of his death. He was the only child of Mr Paolo Borchi and Ms Concetta Dileo. He completed his education in Italy and became a self-employed graphic designer. In June 2017, Mr Borchi travelled to Australia on a working holiday. His visa was due to expire in June 2018.

Mr Borchi planned to travel throughout Australia obtaining casual work. Since his arrival in Australia, Mr Borchi had visited Queensland. He arrived in Tasmania on 28 October 2017.

In December 2017, he obtained casual employment as a fruit picker on a farm at Huonville. He resided at the fruit pickers huts situated in Lucaston.

Circumstances Surrounding Mr Borchi's Death

A consideration of the sworn affidavits of the various witnesses obtained during the coronial investigation enables me to make the following findings of fact regarding Mr Borchi, Mr Wells and Mr Papotto's movements in the hours preceding Mr Borchi's death and the manner of Mr Papotto's driving leading up to the crash.

As noted above, at the time of his death, Mr Borchi was working as a seasonal fruit picker. As a result of his employment Mr Borchi met Mr Papotto and Mr Todd Wells.

Mr Wells was employed as a seasonal fruit picker. He resided with a friend, Mr Russell Hawkins at his residence at Franklins Road, Crabtree. Mr Hawkins was the owner of a Subaru Outback station wagon registration number C25XM. Mr Hawkins had allowed Mr Wells' use of the Subaru whilst he was staying with him. Mr Hawkins had advised Mr Wells that a rear tyre of the Subaru needed replacing.

Mr Wells swore an affidavit as part of the coronial investigation. He has no recollection of the crash that resulted in the loss of Mr Borchi's life. Mr Papotto was interviewed by officers of Tasmania Police after the crash and he exercised his right not to participate in a formal record of interview.

Mr Wells' recollection as to his, Mr Borchi's and Mr Papotto's movements on 16 January 2018 was that he attended the accommodation of Mr Borchi and Mr Papotto at "lunchtime" to collect a pair of boots that he had left there.

Mr Wells drove a number of the seasonal fruit pickers (including Mr Borchi and Mr Papotto) into Huonville to a local supermarket. They then visited a friend of Mr Papotto's in Franklin.

During the afternoon, Mr Wells recalls consuming two stubbies of beer. He has no recollection of Mr Borchi or Mr Papotto consuming alcohol or illicit substances.

His last recollection is driving back to Lucaston around 2.00pm but he cannot be accurate about the time.

I am unable to make any findings regarding Mr Borchis, Mr Papotto's and Mr Wells' movements from approximately 2.00pm. The next time Mr Borchis was sighted by anyone was at his accommodation.

Mr Borchis, Mr Papotto and Mr Wells were observed by Ms Rothmand and Mr Brearley, fellow seasonal fruit pickers, at Mr Borchis's accommodation. They both observed the three of them leave the accommodation in a maroon coloured Subaru. Mr Papotto was driving the vehicle, Mr Wells was the front seat passenger and Mr Borchis was seated in the rear of the vehicle.

Mr Brearley estimates they left the accommodation at approximately 7.30pm.

The Subaru was next sighted by Mr A Enriquez at approximately 7.40pm as it drove past his pizza shop. Mr Enriquez estimated the Subaru was travelling at a speed of between 90 to 100 km/h.

The Subaru was next sighted by Mr R Cannings who was sitting in his vehicle outside of "Roberts" situated at 193-195 Main Street, Huonville.

The Crash

Mr Cannings observed the Subaru lose control and begin to slide. He observed the Subaru slide for approximately 100 metres before it collided with a telegraph pole before coming to rest in a carpark.

A number of persons in a nearby residence heard the crash. They contacted emergency services and attended the crash scene. They, along with Mr Cannings, provided assistance to the occupants of the Subaru until emergency services arrived.

When spoken to at the scene, Mr Papotto confirmed he was the driver of the Subaru. It was obvious to attending police officers that Mr Papotto was intoxicated.

Mr Borchis and Mr Wells were transported to the Royal Hobart Hospital. Mr Borchis died from the injuries he sustained in the crash on 16 January 2018.

Condition of the Subaru Prior to the Crash

The Subaru was inspected after the collision by Mr J Hardy, a Transport Inspector employed by the Department of State Growth. I am satisfied he is qualified to express the opinions contained in the affidavit he swore in the coronial investigation. He expressed the opinion that both rear tyres were found to be void of tread at their inner edges and as such were defective and that the left rear wheel nut was missing from the left rear wheel assembly and as such was non-compliant.

The remainder of the vehicle was defect free.

Crash Investigation

A thorough investigation of the crash was conducted by Sgt R Carrick, an experienced crash investigator. I am satisfied that Sgt Carrick is qualified to express the opinions contained in the crash investigation report and the affidavit he swore in the coronial investigation. Sgt Carrick's crash investigation report discloses that the Subaru had been travelling southbound on Main Road, Huonville. It has negotiated a closed (downhill) right-hand curve south of Orchard Avenue. In the area of the southern tangent of the curve or south of the tangent, the driver has lost steering control. The rear of the vehicle has commenced to rotate (fishtail) clockwise.

The vehicle has slid laterally southbound along the road. In doing so it has crossed over the double continuous white lines separating the north and southbound lanes. The front wheels have impacted and mounted the gravel verge (footpath) on the western side followed shortly after by the rear wheels.

The vehicle has continued sliding laterally across a compacted gravel area. The rear passenger side of the vehicle area of the C pillar has impacted a utility pole which was situated on the gravel well off the road surface.

Impact has resulted in significant cylindrical intrusion damage to the passenger side of the Subaru. The vehicle subsequent to impact rotated anticlockwise coming to rest approximately 5.4 metres south of the location of the utility pole.

When the Subaru began to slide it was travelling at a minimum speed of 72km/h in a 60km/h speed zone. Clearly visible speed restriction signs were situated on the roadway. At the date of the crash, Mr Papotto was unlicensed.

Toxicology Report

Mr Papotto was directed to provide a sample of his blood for analysis after the crash. That sample was analysed and returned a blood alcohol level of 0.169.

THC at 6 up/L and LSD at 0.001mg/L were detected in Mr Papotto's blood.

The author of the report noted:

“A blood alcohol concentration of 0.169 g /100 mL alone has the potential to significantly impair driving performance and increase relative crash risk. It has been estimated that the relative risk of the driver with a blood alcohol concentration between 0.14 g per 100 mL and 0.18 g per 100 mL being involved in a crash is approximately 20 to 50 times that of a driver with no blood alcohol. A highly elevated blood alcohol concentration was identified in addition to THC. Studies have demonstrated that the combination of alcohol and THC may severely impede driving performance.”

In a separate report the following comments were made under the heading **“Use of LSD, Alcohol and Cannabis in Driving:”**

“There is no literature or research into what occurs if LSD, alcohol and cannabis are used prior to driving. Suffice to say, individually each of these agents definitely has an impairment effect on driving, the overall net effect would be significant impairment on driving ability and performance.”

Criminal Prosecution

Mr Papotto was charged with Causing Death by Dangerous Driving and a number of summary offences.

On 16 October 2018, Acting Justice Martin convicted Mr Papotto of that crime and the summary offences. Acting Justice Martin sentenced Mr Papotto to a term of imprisonment of 2 years and 9 months. It was ordered that he be eligible to be considered for parole after serving one half of that sentence. Mr Papotto was disqualified from holding or obtaining a driver's licence for a period of four years from his release from prison.

Post-Mortem Examination

A post-mortem examination was undertaken by forensic pathologist, Dr Donald Ritchey. Dr Ritchey opined that the cause of Mr Borchi's death was a traumatic closed head injury sustained in a motor vehicle crash. I accept Dr Ritchey's opinion as to Mr Borchi's cause of death.

Comments and Recommendations

I extend my appreciation to investigating officer, Sergeant Carrick, for his investigation and report.

The circumstances of Mr Borchi's death are not such as to require me to make any recommendations pursuant to Section 28 of the *Coroners Act 1995*.

I wish to **comment** that this crash would not have occurred had Mr Papotto not driven the Subaru in the manner that he did on the evening of 16 January 2018. This case is an example of the tragic consequences that flow from those who engage in acts of dangerous driving after consuming alcohol and illicit substances.

Mr Borchi lost his life, a loss that has been keenly felt by his family.

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

Dated: 20 July 2020 at Hobart Coroners Court in the State of Tasmania.

Andrew McKee
Coroner