



MAGISTRATES COURT of TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (With Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Olivia McTaggart, Coroner, having investigated the death of Natalia Dawn Pearn with an inquest held at Hobart Coroners Court in Tasmania on 28 July 2015

Find, pursuant to section 28 of the *Coroners Act 1995*, as follows:

- a) The identity of the deceased is Natalia Dawn Pearn;
- b) Ms Pearn died in a motor vehicle crash in the circumstances set out further in this finding;
- c) Ms Pearn's cause of death was multiple blunt traumatic injuries;
- d) Ms Pearn died on 24 March 2013 on the Midland Highway at Lovely Banks in Tasmania; and
- e) Ms Pearn was born in Launceston, Tasmania on 30 October 1985 and was aged 27 years at the time of her death; Ms Pearn was a single woman whose occupation was credit card specialist in the banking industry.

Background:

Ms Pearn was born in Launceston on 30 October 1985, the youngest daughter of Alan and Kristine Pearn.

Ms Pearn attended Hagley Farm School up until Grade 6 and then Prospect High School until Year 10. After completing school Ms Pearn obtained a hairdressing apprenticeship at "KC's" in Mowbray. She obtained employment at Joe's Place for Hair, staying there for nearly three years before moving to Queensland. She had planned to move to Queensland before she turned 25 years of age. She moved to the Gold Coast and stayed for four months before becoming homesick and returning home.

Upon her return, Ms Pearn was employed as a credit card specialist at the Commonwealth Bank call centre in St John Street, Launceston and remained employed there until the date of her death. Her employer described her as a proficient employee with a strong work ethic who performed the duties of her role to a very high standard.

Ms Pearn moved out of the family home at 21 years of age and purchased a house in Campbell Street, Newstead. After her return from Queensland she sold this house and purchased a flat at Duke Street, West Launceston. She was not in a relationship but had an active social life with many friends. She regularly attended the gym and enjoyed walking to work. She had planned a trip to Fiji in early May 2013 for a friend's wedding and an extended holiday in America.

Circumstances Surrounding Death:

On Saturday 23 March 2013 Ms Pearn travelled to Hobart in her white Toyota Corolla sedan, registration number DU274, to spend the weekend with friends.

Between 4.00pm and 5.00pm on Sunday 24 March 2013 Ms Pearn left Hobart to return home to Launceston. On the return journey Ms Pearn suffered fatal injuries in a motor vehicle crash causing her death. I make the following findings based upon the evidence in the comprehensive investigation that followed, which evidence was formally tendered at the inquest.

At approximately 6.15pm on 24 March 2013, Ms Pearn was driving her Toyota Corolla in a northerly direction on the Midland Highway in an area known as Lovely Banks. Ms Pearn was alone in her vehicle. On this stretch of road the north and south bound lanes are separated by double continuous white lines. The double continuous white lines and the road edge line on either side of the road are raised and known as "audible lines".

The north bound lanes are separated by an intermittent white line. Ms Pearn was travelling in the right-hand (eastern most) north bound lane. I will refer to this lane as "the overtaking lane". There is evidence to indicate that she was overtaking another north bound vehicle at the time and this is why she was in the overtaking lane.

At this time a blue Mercedes Benz sedan was being driven by Mr Timothy Ellis in a southerly direction on the Midland Highway. His partner, Ms Anita Smith, was the front seat passenger. At some point prior to the crash Mr Ellis moved from the south bound lane into the overtaking lane – and then continued to travel south in this lane. Mr Ellis was therefore travelling on the incorrect side of the road. He was travelling in the overtaking lane for a period of time.

I find on the evidence that both Ms Pearn and Mr Ellis were travelling at a speed less than the highway speed limit. Impact between the two vehicles occurred in the overtaking lane on the tangent (exit) of a sweeping right hand curve for the south bound traffic. I make this finding based upon the evidence of scene examination and conclusions of the crash investigators.

Whilst Mr Ellis's vehicle had been wholly in the overtaking lane for a period of time before the crash, I find, accepting the crash investigators' evidence, that at the point of impact at least part of his vehicle was in the overtaking lane. The evidence shows that Ms Pearn's vehicle was within the overtaking lane at the point of impact, possibly with the right hand wheels of her vehicle touching the western most centre line of the overtaking lane.

After impact, Ms Pearn's vehicle came to rest on the grass verge on the western side of the road approximately 14 metres north-west of the point of impact. Mr Ellis's vehicle continued south bound, rotating into the south bound lane and then across both north bound lanes. A secondary impact then occurred between Mr Ellis's vehicle and a black Holden Commodore, which was travelling north bound in the left hand (western most) lane a distance behind Ms Pearn's vehicle.

At 6.20pm ambulance and police were called. At 6.40pm Sergeant Robert King of Oatlands arrived at the scene, followed by other police officers, including forensics and crash investigation officers. Attending police officers observed Ms Pearn's vehicle to have sustained severe cabin intrusion; the driver's seat back had broken and was resting on the rear seat. Ms Pearn was found with her torso bent over behind the front passenger seat. Her legs were trapped in the foot well. Ms Pearn was wearing her seat belt at the time of the crash.

At 6.42pm Dr Michael Lees and a volunteer ambulance team from Oatlands arrived to provide medical assistance at the scene. Upon examination, Dr Lees determined Ms Pearn to be deceased. She was conveyed to the Royal Hobart Hospital.

Mr Ellis and Ms Smith were conveyed to the Royal Hobart Hospital for treatment for their injuries. The occupants of the Commodore were not injured.

Ms Pearn was formally identified by her sister, Ms Keli Ann Pearn, at the Royal Hobart Hospital.

On 25 March 2013 a post-mortem examination of Ms Pearn was conducted at the Royal Hobart Hospital by forensic pathologist, Dr Donald Ritchey. He concluded that the cause of Ms Pearn's death was multiple blunt traumatic injuries sustained in a motor vehicle accident. I accept his opinion as to cause of death.

Mr Ellis was charged with causing the death of another person by negligent driving. He pleaded not guilty and a hearing took place before Magistrate Webster on 24 – 28 March 2014. On 24 June 2015, in the Hobart Magistrates Court, Magistrate Webster found Mr Ellis guilty on the complaint; *Cordwell v Ellis* [2014] TASMC 6.

The finding of guilt was the subject of an appeal by Mr Ellis to the Supreme Court of Tasmania; on that basis the sentencing proceedings were stayed. On 3 December 2014 the appeal was dismissed by Acting Justice Harper; *Ellis V Cordwell* [2014] TASSC 62.

On 24 December 2014 Mr Ellis appeared in the Magistrates Court before Magistrate Webster for sentence. His Honour recorded a conviction on the complaint and sentenced Mr Ellis to four months imprisonment which was wholly suspended for a period of two years on condition that he be of good behaviour and commit no imprisonable offence. He was also disqualified from driving for a period of two years and ordered to pay court costs and levies.

Subsequent to the proceedings referred to above, the evidence from the investigation and the transcript of the Magistrates Court proceedings were provided

to the Coronial Division to assist in the consideration of the requisite findings under section 28 of the *Coroners Act* 1995.

For this finding I have considered all of the evidence tendered to the court in the inquest comprising, significantly, evidence from the investigation and the hearing transcripts.

In making my findings I am not required to determine the reason that Mr Ellis's vehicle crossed into the overtaking lane in which Ms Pearn was travelling and remained at least partly in that lane at impact. The finding as to *how death occurred* under section 28(1)(b) of the Act requires, in this matter, findings only as to the position of the vehicles at the crash and their movements immediately prior to the crash.

I have received evidence from Mr Andrew Fowler, the senior project manager for the Department of State Growth. He stated that there were identified safety benefits in dividing the north and south bound lanes in the area of the crash. He stated that a flexible safety barrier has recently been installed at the crash location. The safety barrier fencing runs for approximately 2.8 kilometres. The barrier starts to the north, near Bisdee Tier Road, and concludes south of the crash site, just north of Lovely Banks Road. Mr Fowler stated that there is currently a small gap in the barrier near the property called 'Redside'. This gap will be closed once convenient turning facilities to the north and south have been constructed.

Mr Fowler also stated that this location had a "random element" with respect to the state's crash statistics as opposed to being a location with an identified cluster of crashes.

Comments and Recommendations:

The circumstances of Ms Pearn's death are not such as to require me to make any recommendations or comments pursuant to section 28 of the *Coroners Act* 1995.

I acknowledge the thorough investigation conducted by Constable Kelly Cordwell and Sergeant Rodney Carrick into the death of Ms Pearn.

I particularly acknowledge the grief suffered by Mr Alan Pearn and Mrs Kristine Pearn in respect of the tragic and unexpected loss of their loved daughter, Natalia Dawn Pearn.

I convey my sincere condolences to the family and all of Ms Pearn's loved ones.

Dated: 11 September 2015 at Hobart in the state of Tasmania.

Olivia McTaggart
Coroner