



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 Karen Michelle Kugel

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

- a) The identity of the deceased is Karen Michelle Kugel;
- b) Ms Kugel died in the circumstances described below;
- c) The cause of death was stab wounds of the neck and chest; and
- d) Ms Kugel died on 29 November 2013 at 2/15 Harold Street, Devonport, in Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Ms Kugel's death. The evidence comprises the police report of death; an opinion of the forensic pathologist who conducted the autopsy; police and witness affidavits; information from police records; medical records and reports; forensic evidence; and sentencing comments and transcripts.

Karen Michelle Kugel was born in Devonport, Tasmania on 30 December 1959 and was aged 53 years. She was the daughter of Roy Bellchambers and Marlene Bellchambers. Ms Kugel was unemployed at the time of her death. She was divorced and had two adult children.

Ms Kugel resided at 2/15 Harold Street in Devonport. She had a close relationship with Mr Mark Anthony Mason, aged 39 years. The evidence in the coronial investigation indicates that Ms Kugel regularly drank alcohol to excess and often drank large quantities of alcohol with Mr Mason.

Ms Kugel regularly allowed persons to stay with her on a short-term basis if they were in need of accommodation. From 2007 until her death Mr Mason resided with Ms Kugel intermittently during periods of homelessness.

By November 2013 there were 21 police recorded incidences of Mr Mason having offended directly or indirectly, including assaults, against Ms Kugel. Mr Mason was convicted on numerous occasions for breaching either restraint orders or family violence orders where Ms Kugel was the protected party. He had been sentenced to numerous short terms of imprisonment for such offences with his most recent period of

incarceration commencing on 8 August 2013 for 3 months.

On 7 November 2013 Mr Mason was released from prison having completed his full sentence. After his release he was subject to a comprehensive non-contact restraint order protecting Ms Kugel for a period of five years. This order had been in effect since 5 August 2010.

On the morning of 29 November 2013, Mr Mason left his residence at 30 Hilltop Avenue, Devonport to travel to Ms Kugel's residence at 2/15 Harold Street.

Between 5.30am and 6.00am, Mr Mason arrived at Ms Kugel's residence, in breach of the terms of the restraint order. Ms Kugel allowed Mr Mason into her unit despite being aware of the existence of the order and under a legal duty not to aid or abet a breach of it. Ms Kugel and Mr Mason started to consume alcohol together.

During the morning, a friend of Ms Kugel, Ms Marlene Xeureb, who had spent the night at the residence in the only bedroom, got out of bed to find Mr Mason in the lounge room with Ms Kugel. Mr Mason was not known to Ms Xeureb. All three continued to consume alcohol together during the day.

At a time prior to 2.00pm Mr Mason became angry at Ms Kugel. Ms Xeureb provided evidence in the investigation that Ms Kugel had disclosed some sort of sexual involvement with another man and this caused Mr Mason to be angry. He went to the kitchen and started taking items out of the kitchen drawer: a spoon, a fork and eventually a large kitchen knife. He did not speak to Ms Kugel or Ms Xeureb as he did so.

Mr Mason approached Ms Kugel and stabbed her to both sides of her neck whilst she was sitting. He then approached Ms Xeureb and ripped a necklace from her before stabbing her in the hand, shoulder, stomach and chest. Ms Xeureb then fell hard onto the kitchen floor.

At 2.00pm a neighbour contacted police and reported a disturbance at 2/15 Harold Street, after having heard screaming coming from the residence and a female saying "*stop, Mark*". Police were immediately dispatched to the address. Mr Mason and Ms Kugel were known to police due to past breaches of the restraint order.

On arrival, police officers found Mr Mason in Ms Kugel's residence and arrested him immediately for breach of the restraint order. They then discovered Ms Kugel and Ms Xeureb lying on the floor of the unit. Ms Kugel was unconscious and bleeding heavily.

Police rendered first aid and CPR to Ms Kugel and Ms Xeureb until ambulance personnel arrived. Paramedics arrived and Ms Kugel was pronounced deceased at the

scene a short time later. Ms Xeureb was transported to the North West Regional Hospital in a critical state before being flown to Hobart for further treatment. Ultimately, she survived.

Police immediately conducted a search of the premises. A knife located on a coffee table was identified as the weapon used. A forensic examination of the scene was conducted. Blood and tissue from Ms Kugel and Ms Xeureb were located on the blade of the knife. Mr Mason's DNA was subsequently found on the handle of the knife. Blood from Ms Kugel and Ms Xeureb was also present on Mr Mason's clothing, hands and watch he was wearing. No other persons were identified as being in the residence at the time of the incident. Ms Xeureb identified Mr Mason as being responsible for the attack.

Mr Mason participated in a recorded interview at the Devonport Police Station where he admitted to stabbing both Ms Kugel and Ms Xeureb. The stab wound to Ms Kugel's chest was delivered after she had fallen to the floor from the initial stab wounds to the neck. Mr Mason stated in the interview "*...I didn't want her to be in any pain...well I finished her I suppose...by putting it in and twisting it I think*".

On 2 December 2013 an autopsy was conducted by forensic pathologist, Dr Donald Ritchey. Dr Ritchey observed three stab wounds to Ms Kugel's body - a stab wound of the anterior of the neck, a stab wound of the left upper chest and stab wound of the right side of neck. Dr Ritchey formed the opinion that the neck wounds caused penetrating local injuries whilst the chest wound incised the pericardial sac and aorta, producing massive internal bleeding that would have led to rapid unconsciousness followed by death due to internal bleeding. Toxicological testing of Ms Kugel's blood revealed a high level of alcohol (0.217g/100mL) along with several prescription medications. I accept Dr Ritchey's opinion that the cause of Ms Kugel's death was stab wounds of the chest and neck.

As a result of Ms Kugel's death and the injuries to Ms Xeureb, Mr Mason was charged with murder and committing of an unlawful act intended to cause bodily harm, respectively. He pleaded guilty to both charges.

On 28 May 2015 in the Supreme Court of Tasmania, His Honour Chief Justice Blow sentenced Mr Mason to life imprisonment, with an order that he not be eligible for parole until 29 May 2031.

In his comprehensive comments on passing sentence, His Honour set out in detail the factual basis of sentencing consistent with the facts I have outlined in this finding. He also noted the pain and anguish felt by Ms Kugel's family as a result of her death. His Honour also detailed the physical and psychological impact on Ms Xeureb, and stated that "*Mr Mason did not kill her, but he ruined her life*". Finally, he noted the impact of crimes such as this upon emergency workers.

An analysis of the restraint orders and family violence orders to which Mr Mason was subject was prepared by police prosecutors and formed part of the coronial investigation.

The analysis highlighted the extent to which Ms Kugel gave conflicting versions of the nature of their relationship. On occasions she would describe herself and Mr Mason as being in a significant relationship and on other occasions, described it as friendship only. Ms Kugel often asserted that she and Mr Mason were only room mates; that there was no sexual relationship between them; and that they had no joint financial matters or children. At other times she said that they were in a de facto relationship of some duration.

This issue of categorising the relationship was an important one for attending police and prosecution to resolve in respect of each report. If the relationship was “significant” as defined in the *Family Violence Act 2004*, then the offences, being “family violence”, mandated a more assertive approach by police for the protection of the victim than if the relationship was not a significant one.

Ultimately, however, attending police may have had little other available evidence concerning the relationship apart from that expressed by Ms Kugel. Whilst I am sceptical about the veracity of her statements to police, it remains open that the relationship, whilst close, was not one which could be categorised as “significant”. The evidence from witnesses in the coronial investigation certainly suggests that the issue was complicated in this regard.

Nevertheless, I am satisfied that, at the time of each report, police made conscientious efforts to seek the most appropriate order, either under the *Family Violence Act 2004* or a restraint order under the *Justices Act 1959*. Between 2007 and 2009 police were satisfied that the relationship between the two was a significant one and FVOs were in place. Ultimately, in 2009, the relationship was determined not to be “significant” and subsequently restraint orders were made to protect Ms Kugel from Mr Mason’s conduct.

The task of police in attempting to protect Ms Kugel was made difficult by her lack of co-operation in the charging process, encouraging or allowing Mr Mason to contact her in breach of orders and allowing him to stay with her.

The nature of the relationship with Mr Mason remained extremely volatile and unsafe for Ms Kugel. In affidavits sworn for the coronial investigation, friends and neighbours of Ms Kugel describe incidents of violence in which Mr Mason attempted to shave her head; attempted to slit her wrists; and cut off part of her ear with a spade. Despite Mr Mason’s violent disposition and propensity to breach court orders, Ms Kugel did not end the relationship and continued to encourage contact. It appears that one motivating factor was her desire to help him by providing accommodation during periods where he had

no other available housing.

The assertiveness and consistency of police attendance, responses and charging of Mr Mason indicates that a diligent approach to Ms Kugel's safety was adopted.

Mr Mason was a long-standing perpetrator of serious violence upon Ms Kugel. She did not, unfortunately, terminate the relationship and she was therefore at risk of the tragic outcomes which eventuated. Sadly, this case highlights the limits to which court orders can protect individuals who are persistently complicit in their breach.

Comments and Recommendations

I extend my appreciation to investigating officer Sergeant Michael Foster for his investigation and report.

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

I convey my sincere condolences to the family and loved ones of Ms Kugel.

Dated: 11 February 2019 at Hobart Coroners Court in the State of Tasmania.

Olivia McTaggart
Coroner