



**STATE CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Bruce Burrell

Hearing dates: 9 May 2017

Date of findings: 9 May 2017

Place of findings: NSW State Coroner's Court, Glebe

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – death in custody, natural cause, terminal illness

File number: 2016/00234818

Representation: Mr A Creagh, Coronial Advocate Assisting the Coroner
Mr R Donnelly (Justice Health & Forensic Mental Health Network)
Mr A Jobe (Corrective Services NSW)

Non-publication order: I direct that, pursuant to section 74(1)(b) of the Coroners Act 2009, the following material is not to be published:

1. The names, addresses and phone numbers of any of Mr Burrell's family members or visitors (other than legal representatives or visitors acting in a professional capacity) found within the documents at Tab 10 of the brief of evidence (Exhibit 1).
2. The Employee Daily Schedule dated 4 August 2016.
3. The names and Master Index Numbers (MIN) of any inmates other than Mr Burrell contained in any of the following documents:
 - (a) Long Bay Hospital Daily State;
 - (b) A Watch Inmate Accommodation Journal; and
 - (c) C Watch Inmate Accommodation Journal.

Findings:

I find that Bruce Burrell died on 4 August 2016 whilst a patient in the Secure Unit Annex of Prince of Wales Hospital, Randwick NSW. At the time of his death Mr Burrell was serving a custodial sentence. Mr Burrell died of natural causes. The cause of death was metastatic small cell carcinoma, with ischaemic heart disease being a significant condition that contributed to the death.

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Introduction

1. Bruce Allen Burrell died on 4 August 2016. At the time of his death Mr Burrell was serving custodial sentences for a number of offences and had been incarcerated most recently at Lithgow Correctional Centre. Only about a month before his death Mr Burrell had been diagnosed with an end stage terminal illness.

Why was an inquest held?

2. When a person's death is reported to a Coroner, there is an obligation on the Coroner to investigate matters surrounding the death. This is done so that evidence may be gathered to allow a Coroner to answer questions about the identity of the person who died, when and where they died, and what the cause and the manner of their death was. The manner of a person's death means the circumstances surrounding their death and the events leading up to it. If any of these questions cannot be answered then a Coroner must hold an inquest.
3. Section 23 of the *Coroners Act 2009* (the Act) makes an inquest mandatory in cases where a person dies whilst in lawful custody. In such cases the community has an expectation that the death will be properly and independently investigated. This is because when a person is imprisoned or held in lawful custody as a result of breaching a law, the State, by depriving that person of their liberty, assumes responsibility for the care of that person. It is necessary to ensure that the State discharges its responsibility appropriately by examining the circumstances surrounding that person's death.

What is known about Mr Burrell's personal and custodial history?

4. Mr Burrell was born in Goulburn on 25 January 1953, making him 63 years old at the time of his death. Unfortunately, very little is known about his personal life other than he previously worked as an advertising executive and that he is survived by his sister, Deborah Esposito.
5. On 6 June 2006 a jury found Mr Burrell guilty of murder and kidnapping. On 9 August 2006 Mr Burrell was sentenced to life imprisonment in relation to the murder charge, and 16 years imprisonment, with a non-parole period of 12 years, in relation to the kidnapping charge. Following a number of appeals between 2006 and 2009 the convictions and sentences were later confirmed by the NSW Court of Criminal Appeal on 17 June 2009.
6. On 17 September 2007 a jury found Mr Burrell guilty of a separate offence of murder. On 8 February 2008 Mr Burrell was sentenced to 28 years imprisonment with a non-parole period of 21 years. An appeal against this conviction was later dismissed by the Court of Criminal Appeal on 31 July 2009.
7. Mr Burrell was received into custody at the Metropolitan Remand and Reception Centre (MRRC) on 6 June 2006. Mr Burrell was initially transferred between a number of correctional centres but eventually placed permanently at Lithgow Correctional Centre on 28 May 2009, where he remained until July 2016.

What is known about Mr Burrell's medical history?

8. Upon entering custody, Mr Burrell had a history of a number of various medical conditions including hypertension, asthma, rheumatoid arthritis, ulcers and dermatitis. Following cardiac bypass surgery in 2003 Mr Burrell had experienced ongoing chest pain and shortness of breath.
9. Whilst in custody between 2007 and 2015 Mr Burrell presented to the health centres at the correctional centres where he was housed with a number of different conditions. Mr Burrell was treated for dermatitis and pain in his legs and lower back, lower back pain, flu-like symptoms and respiratory difficulties, and reflux. A review of the medical records kept by Justice Health indicates that these conditions were managed with appropriate examination, investigation and treatment, usually by way of prescription of medication.

What happened in July and August 2016?

10. On 11 July 2016 Mr Burrell presented to the health centre at Lithgow Correction Centre and reported that he was experiencing nausea, diarrhoea, lethargy, abdominal cramping, shortness of breath and swelling to his lower extremities. As a result, Mr Burrell was subsequently transferred by ambulance to Lithgow District Hospital. Subsequent abdomen and pelvis CT scans revealed numerous lesions in Mr Burrell's left lung and liver.
11. On 15 July 2016 a biopsy of one of the liver lesions showed that Mr Burrell had Stage IV metastatic small cell carcinoma of pulmonary origin. On 18 July 2016 Mr Burrell was transferred to the Secure Unit Annex of Prince of Wales Hospital. Upon admission the oncology team discussed with Mr Burrell the use of palliative chemotherapy to prolong life. Mr Burrell was informed of the risks and benefits of such treatment: namely, that if he did not have treatment his condition would rapidly worsen, but whilst the treatment might improve his symptoms, it might also result in life-threatening side effects such as bone marrow suppression.
12. With the assistance of a palliative care consult, a decision was made to commence chemotherapy treatment and three doses were delivered to Mr Burrell on 19, 20, and 21 July 2016. On 23 July 2016 Mr Burrell became neutropaenic (a common side effect of chemotherapy where there are low levels of a type of white blood cells) and required intravenous antibiotics. Mr Burrell's clinical situation continued to worsen with ongoing deterioration of liver function and blood counts. This resulted in a decision being made on 29 July 2016 for a not for resuscitation order, with treatment only in the form of supplemental oxygen, and clinical and rapid response calls to be provided. As Mr Burrell's condition continued to deteriorate further, a second not for resuscitation order was made on 2 August 2016, further limiting the scope of any treatment.
13. On 3 August 2016 Mr Burrell's condition deteriorated significantly and he developed acute respiratory distress. Although that symptom improved briefly, Mr Burrell subsequently went into acute renal failure and both he and his sister, Deborah, were informed of the poor prognosis. Further chemotherapy treatment was ceased. After being reviewed by the oncology and palliative care teams, and following discussion with Mr Burrell's family, a decision was made to provide end-of-life comfort care and pain relief only.
14. Throughout the course of 3 August 2016, Mr Burrell's breathing became increasingly laboured and he became increasingly drowsy and refused to drink fluids. Mr Burrell was last seen alive during a routine check at 10:30pm. At 12:05am on 4 August 2016 Mr Burrell was found to be

unresponsive and not breathing. No resuscitation was attempted due to the standing not for resuscitation order, and Mr Burrell was later pronounced life extinct.

What was the cause of Mr Burrell's death?

15. Mr Burrell was later taken to the Department of Forensic Medicine at Glebe. On 5 August 2016 Dr Jessica Reagh, pathology registrar, conducted a postmortem examination and subsequently reviewed Mr Burrell's medical history. Dr Reagh noted that Mr Burrell's sclerae (eyes) and skin were markedly yellow, and that there were numerous faint bruises and contusions on Mr Burrell's skin; all of these features are indicative of abnormal liver function.
16. In her autopsy report dated 20 October 2016 Dr Reagh concluded that the cause of Mr Burrell's death was metastatic small cell lung carcinoma, and noted that Mr Burrell also had ischaemic heart disease, which was a significant condition that contributed to his death.

What conclusions can be reached?

17. Having considered the available records held by both Corrective Services NSW and Justice Health in relation to Mr Burrell, I cannot identify any matter associated with his care and treatment whilst in custody that contributed to his death. It is clear that the onset of the disease which caused Mr Burrell's death was rapid and at the time that it was diagnosed it was already in an advanced stage with no possibility of life-saving treatment. As such, only palliative care could be provided to Mr Burrell following diagnosis of his terminal disease.
18. In summary, the available evidence establishes that Mr Burrell received health care that was within an expected standard of care whilst in custody. There is no evidence to suggest that any action or inaction by either Corrective Services NSW or Justice Health contributed to Mr Burrell's death in any way. Given the nature of the terminal disease that Mr Burrell was suffering from, there was nothing that could have reasonably been done to prevent Mr Burrell's death.

Findings

19. The findings I make under section 81(1) of the Act are:

Identity

The person who died was Bruce Burrell.

Date of death

Mr Burrell died on 4 August 2016.

Place of death

Mr Burrell died whilst he was a patient in the Secure Unit Annex of Prince of Wales Hospital, Randwick NSW. At the time Mr Burrell was serving a custodial sentence.

Cause of death

The cause of Mr Burrell's death was metastatic small cell lung carcinoma with ischaemic heart disease a significant condition that contributed to death.

Manner of death

Mr Burrell died of natural causes.

20. I close this inquest.

Magistrate Derek Lee

Deputy State Coroner

9 May 2017

NSW State Coroner's Court, Glebe