



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

Inquest: Inquest into the death of Bradley James Miller

Hearing dates: 3 and 4 November 2015 and 21 and 22 March 2016

Date of findings: 19 April 2016

Place of findings: State Coroners Court, Glebe

Findings of: Magistrate H Barry, Deputy State Coroner

Catchwords Coronial Law – adequacy of Autopsy – Coronial Medical Officer - adequacy of Police response

File number: 2013/00169969

Representation: Mr P. Bush Advocate assisting the Coroner

Mr J Brock, Legal Aid Commission - Representing Ms Andrea Daley

Findings:

The *Coroners Act* in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death. These are the findings of an inquest into the death of Bradley James Miller

I find that Bradley James Miller died between 12 May 2013 and 31 May 2013 on the banks of the Murray River in the Koondrook State Forest NSW. I find that the cause and manner of death to be undetermined

Recommendations:

I recommend that consideration be given to Dr Peter Robinson not being accredited as a Coronial Medical Officer to undertake any Post Mortem Examinations of any kind.

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Introduction

This inquest concerns the death of Bradley James Miller who died at the age of 49 years. His body was located on 31 May 2013, on the banks of the Murray River.

On 12 May 2013 Bradley was in the company of Rebecca Heap, the niece of his former wife. This is the last time Bradley was seen alive.

About 3.59pm on that day, CCTV footage from the township of Barham records footage of Bradley in the Foodworks store. He is seen to purchase a packet of Ratsak and a packet of disposable razors. A bottle of Bundaberg Rum was purchased from the Barham Hotel, using his credit card.

On 14 May 2013, Bradley failed to report to work at a Tin Mine operated by MMG. This mine was located on the west coast of Tasmania.

His sister, Andrea Daley, was contacted and she in turn contacted Werribee Police Station in Victoria where a missing person report was filed.

On 24 May 2013, investigators from the Victorian Police Homicide squad, commenced investigation into the disappearance of Bradley. Homicide investigators initially treated the disappearance as suspicious and public appeals for help were initiated.

Bradley's family were advised by Victorian Police that it was their belief that Bradley had been murdered or had committed suicide.

On 27 May 2013, at 5pm, Bradley's utility was located near the banks of the Murray River, within the Koondrook State Forest, about 16 kilometres southwest of Barham.

A pump water bottle with the bottom quarter cut off and a broken disposable razor was located west of the vehicle.

An empty 250g double strength pack of Ratsak was located at the base of a tree and about 191 metres west of the vehicle a navy and white Billabong jumper, a 700ml Bundaberg Rum bottle and the lower quarter of the pump bottle containing a green residue liquid inside were also located.

This green residue was later tested to contain Warfarin, an active ingredient of Ratsak.

Two open packets of Panadol boxes were located near the driver's door of the utility.

About 50 metres away there were visible shoe impressions in the mud adjacent to the river.

Following the finding of these items, Detective Senior Constable Croker from NSW Police assumed control of the investigation.

A coordinated search was undertaken but it was not until 31 May 2013, that Bradley's body was located.

Role of the Coroner

Pursuant to S81 of the *Coroners Act 2009*, the task of the Coroner in holding an inquest is to make findings in relation to the deceased's identity, date and place of death and the manner and cause of death.

The issues in this inquest include a determination of the course of events following the last known sighting of Bradley, the adequacy of the police response from both Victoria and NSW Police and the adequacy of the autopsy conducted by Dr Peter Robinson.

Background

Bradley Miller worked for the mining Industry in Tasmania. He worked a seven day roster with a seven day period of rest. He had been working in Tasmania for a few months before his death, having previously worked in mines in the Northern Territory, Western Australia and Queensland.

He had two adult children, Cassandra and Jacob.

He was known amongst family and friends to be a long time user of drugs including Methamphetamine "ICE".

He was not known to be in a relationship but had a friendship with Rebecca Heap who was his niece by marriage. It is uncertain what was the nature of this relationship, but Bradley assisted Rebecca emotionally and financially.

Rebecca was the last person to see Bradley alive.

When he was on his rest period, Bradley stayed with a friend Heath Keely.

Bradley's family reported that Bradley was an easy - going and generous person. He loved to go fishing and he loved the bush.

His family describe him as a hard working man who was open with his friends and was non- judgemental.

He loved his children and was very proud of them. His daughter, Cassandra, gave evidence at this inquest and presented as a quietly dignified young woman who clearly misses her father. From the statements read on behalf of other family members, it is clear that Bradley is greatly missed by all his family.

The Autopsy

An Autopsy was conducted by Dr Peter Robinson, a medical Officer from Deniliquin.

Dr Robinson is not a Coronial Medical Officer. The NSW Health Policy Guidelines – *Forensic Pathology and Performance Standards NSW* required that he consult with a specialist forensic officer.

Dr Robinson failed to do this and it is not clear from his oral evidence that he was aware of these guidelines.

Dr Robinson produced two Reports. The first, dated 7 June 2013 and the second, an “amended” report dated 18 June 2013.

In his first short report, Dr Robinson described the body of the deceased to be partly decomposed “with large portions of the head, neck upper trunk and both arms suffering heavy maggot infestation and necrotic.”

Because of the state of the body, Dr Robinson found it extremely difficult to obtain bodily fluids. Due to decomposition, he did not take any Forensic samples, except for a small amount of blood.

X-Rays of the face and skull only were taken.

Dr Robinson concluded “no skeletal injury” was found and determined that no cause of death could be advanced.

The second Report, the Amended Report, was recorded in the same terms other than a line stating that “both feet showed moderate discolouration due to dirt being ingrained”.

These two reports are seriously inadequate. Not only do they fail to contain the level of detail to be expected from a professional, it is clear that Dr Robinson was simply filling in a template and recorded his ‘finding’ in cut and paste form.

In the first report, the date listed for the Autopsy is 3 January 2013, more than four months prior to Bradley’s death.

In his second Report, Dr Robinson described conducting an internal examination of the dead body of a *female*. Further, he stated that “In my opinion death had taken place within minutes”

This is clearly an invalid statement, there being no evidence to support that assertion.

In essence, these two reports are manifestly inadequate and deserving of criticism.

Not only does the lack of care in conducting the autopsy and recording the findings add to the distress of the family, but it severely limits the use of these documents for the purposes of this inquest.

Professor Tim Lyons, Clinical Director Forensic and Analytical Science Service with NSW Health Pathology reviewed Dr Robinson's Reports.

He described them as "extremely brief and providing only limited information on which to provide an opinion".

In his oral evidence, Professor Lyons stated that all decomposed bodies should be referred to a Forensic Unit. He stated that is now the case in NSW.

His concern was that in this case Dr Robinson's reporting was inadequate. There was no comment on fingernails and hair.

There was no specific comment about the presence of organs and no commentary.

There were no histology results.

He also expressed some concern about the delay in conducting the Autopsy, the body having been found on 31 May and the autopsy conducted on 6 June. He stated that this is longer than would be expected, but if the body had been appropriately refrigerated it should not have been a disadvantage.

Of significance is the lack of histology. Prof Lyons stated that when a body is decomposed, the significance of histology is heightened because it may lead to forensic findings, although he added that in cases of severe decomposition sometimes there will be limited findings.

In addition a full CT scan could be used to exclude missile fragments or fragments or a knife. It can also be used to exclude evidence of trauma such as strangulation.

Professor Lyons stated that the condition of the body is consistent with death occurring many days before the body was found, but as to the cause of death he stated that it is undetermined.

Last known actions of Bradley Miller

Heath Keely

Heath Keely was Bradley's flat mate during the time that Bradley was on leave from his employment.

On 11 May 2013, Bradley came home in the evening and spoke with Heath. Bradley appeared healthy and they had a conversation for about twenty minutes before Heath went to bed.

Bradley was concerned about returning to work, but Heath believed he only had a few months left before retiring.

Bradley also mentioned some 'dodgy people' at Cobram and in his first statement to police, Heath thought Bradley might have been a "little concerned about it".

In his oral evidence, this "concern" had escalated to Bradley being "fearful of his life". However, he also maintained in his evidence that Bradley was in "high spirits" on the night of 11 May 2013.

Heath did not see Bradley again after that night. Initially, he believed Bradley may have gone wandering or gone back to Western Australia. Bradley's disappearance did not "phase" him at that time.

At one stage he told Police that he believed Bradley may have had a heart attack.

Heath is an admitted alcoholic and drug user. He acknowledged that his memory of these events is "hazy".

I found Heath Keely to be an unreliable witness. His evidence was suggestible and self-serving and of very little assistance.

Rebecca Heap

Rebecca Heap was the last person to see Bradley alive.

She described Bradley as a friend who offered emotional support and at times financial support.

On a regular basis she and Bradley would use Methamphetamine "ICE". In her oral evidence she stated that on occasion Bradley would give drugs to her.

On 11 May 2013 she was with Bradley at Echuca when he purchased some cans and groceries for her.

During their time together he discussed his children, Cass and Jacob, and how proud he was of them.

On 12 May 2013, Bradley again met with Rebecca. He came to pick her up from the Palace Hotel where she had been staying.

After they left the Hotel, they collected some drugs.

On the way to Echuca, she and Bradley had an argument. She states that Bradley tried to give her a hug but she was yelling at him.

At times she believed Bradley wanted more from the relationship and had said to her "I am going to have you one day".

In relation to the question of Bradley's state of mind, Rebecca stated that on at least one occasion Bradley had discussed committing suicide, although she did not believe he would carry it out because of his feelings for his children.

Considerable caution must be attached to Rebecca Heaps's evidence. She is an admitted drug user and had been using drugs on 12 May 2013.

Numerous times throughout her oral evidence she acknowledged her memory was poor and she was confused.

I found her evidence also to be largely self-serving and unreliable.

The Police Response

Bradley was reported missing in Victoria.

On 24 May 2013 Detective Senior Constable Cashman from Victorian Police Homicide Squad Missing Persons Unit, travelled to Echuca to commence an investigation into Bradley's disappearance.

It is well established that the period immediately following a disappearance is significant and provides the best opportunity to gather crucial evidence.

Initially, there was a concern that Bradley had met with foul play, given that he had never been reported missing before and the fact that he was involved with drugs.

On 26 May 2013, Victorian Police caused a media statement to be released to the effect that Police were treating Bradley's disappearance as homicide or suicide.

The Victorian Police adopted a cautious approach and by categorising Bradley's disappearance as a possible homicide, the resulting investigation conducted by the Homicide Squad was more extensive than that following a routine Missing Persons report.

When Bradley's vehicle was located on 27 May 2013, Victorian Police handed over the investigation to NSW Police.

After interviewing and assessing the evidence of numerous persons and following the finding of Bradley's vehicle, Detective Cashman told the inquest that, on the basis of all the information gathered he formed the view that Bradley's disappearance was not as a result of homicide and that it was likely that Bradley had brought about his own demise.

Bradley's mobile phones had not been activated since 4 -4.30pm on the afternoon of 12 May 2013 nor was there any evidence of banking activity after 12 May 2013.

There was nothing about the vehicle nor the items found nearby suggestive of suspicious circumstances.

The location and placement of the vehicle and the other evidence obtained combined to lead Detective Cashman to the conclusion that Bradley had taken his own life.

NSW Police Response

Detective Cashman handed over the investigation to NSW Police.

Detective Senior Constable Croker from Deniliquin Local Area Command became the Officer in Charge of the investigation.

He was told by Victorian Police that any line of inquiry concerning suspicious circumstances surrounding Bradley's disappearance had been investigated and discounted.

Detective Croker attended the scene where Bradley's vehicle had been located. He instigated a number of searches for Bradley.

These searches included members of the NSW Police and trail bike riders and Police divers. State Emergency Members were also included in the search.

Unfortunately, because of the location of some shoe prints in the banks of the river, it was presumed that Bradley had entered the water at that point and the searches were directed to that area and downstream.

Bradley's body was not located until 31 May 2013, by Mervyn Colville, an old friend who had known Bradley for over thirty years.

Following the location of Bradley's body, Crime Scene Investigators were called in to examine the body and the surrounding area.

Mr Brock appearing for Andrea Daley, raised concerns about the information sharing between Victorian Police and NSW Police.

On 28 May 2013, Detective Croker attended a briefing with members of the Victorian homicide Squad. He was provided with numerous statements taken from witnesses by the Victorian Police and had discussions with his Victorian colleagues.

Detective Croker re interviewed a number of those witnesses.

By the time Bradley's vehicle was located on 27 May 2013 together with the items found nearby, an extensive investigation had already been conducted. Matters of concern raised by some witnesses had been investigated and discounted by Victorian Police.

It must be remembered, that some of these concerns were raised by persons who were involved in drugs and whose credibility is questionable.

In addition, there had been a significant amount of speculation in the community about Bradley's disappearance, largely caused by Victorian Police's announcement that homicide may have been involved.

It is clear from the media releases however, that Victorian Police also included the possibility of suicide, but this seems to have been ignored by persons at the time, probably because the spectre of homicide had been raised.

In any event, it is most likely that Bradley's vehicle was in fact located as a result of those press releases.

Detective Croker re-interviewed a number of witnesses and maintained that he kept an open mind about Bradley's disappearance, despite evidence suggesting that Bradley may have intentionally or accidentally been responsible for his own death.

He was unable to identify anyone, either from his own investigation or that conducted by Victorian Police that would have benefitted from Bradley's death.

I am not satisfied that there was an insufficient sharing of information from Victorian Police to NSW Police nor I am satisfied that any criticism should be levelled at either Victorian Police or NSW Police for changing their opinion that homicide may have been the reason for Bradley's disappearance.

Suspicious Circumstances

It was submitted by Mr Brock that there is sufficient circumstantial evidence to justify a conclusion that there are suspicious circumstances surrounding Bradley's death.

Certainly a considerable amount of speculation and hypothetical scenarios have been suggested.

I do not intend to refer to those scenarios. I rely on the judgement of Young JA in *Conway v Jerram* (2011) NSWCA 319:

"The Coroner is not to conduct a wide ranging inquiry akin to that of a Royal Commission, with a view to exploring any suggestion of a causal link, however tenuous, between some act, omission or circumstance of the case"

I must confine myself to the evidence presented and exercise common sense.

That evidence can be found in the conclusions drawn by Senior Police both in NSW and Victoria, as well as highly experienced Forensic Officers.

Detective Hilton, Forensic Services Group Albury Crime Scene Section, gave evidence that when he examined Bradley's vehicle he was doing so with a view to a possible homicide.

No suitable prints were able to be obtained from the vehicle or items found nearby.

The footprints leading into the water did not, in his experience, lend themselves to further assessment, given that they were mostly filled with water.

Detective Hilton concluded that there were no suspicious circumstances evident at the scene.

He arrived at this conclusion based on his many years experience and by observing the vehicle and the absence of damage to it and the lack of any traces of blood.

There was no disturbance nearby such as snapped twigs or branches that suggested violent activity other than the damage to the scrub caused by Bradley's vehicle coming to rest.

He was looking for "something out of the ordinary"; or "something that could not be explained" and there was nothing at the scene to give rise to a conclusion that there was suspicious or violent activity inside or around the vehicle.

He stated that he always approaches a case as a "whole case scenario". In other words he does not make an assessment as to the cause of death and treats each case from the "widest possible angle"

Detective Walker, Forensic Services Group, Albury Crime Scene Section , examined Bradley's body at the scene.

He concluded that the deceased had been dead for an extended period of time before he was located.

There was no evidence that the body had been dragged or moved. He would have expected drag marks if that was the case.

The feet were blackened, partly due to decomposition and partly, in Detective Walker's view, because it would appear the Bradley had been walking in bare feet.

He agreed that key areas that might have revealed violence against Bradley's body were obscured by the state of decomposition.

There was fluid around the deceased's neck area, but he believed this to be consistent with decomposition and did not appear to be blood. The fluid on the front of the shirt was consistent with decomposition.

Based on the physical evidence available, Detective Walker concluded that Bradley had been dead for an extended period of time. Further, he opined that Bradley had been lying down in the position in which he was found, when he passed away.

He did not detect any evidence of a struggle nor evidence of blood around the vicinity of the body.

In addition, the deceased had on his person his wallet with his licenses, a cigarette packet, car keys and two blister packs of Panadol tablets.

A lighter was located near the body and the front pocket of Bradley's jeans contained numerous cigarette butts.

On the basis of all the evidence from the scene, Detective Walker concluded that there were no apparent suspicious circumstances.

Did Bradley Commit Suicide?

On one view, the circumstantial evidence strongly leads to a suggestion that Bradley's death was at his own hand. A number of factors lead to this:

- The purchase of Ratsak , razor blades and a bottle of rum
- The finding of the empty box of Ratsak, broken razor blades, pump bottle and the almost empty bottle of Rum
- The location of his vehicle in a remote area
- He was away from phone reception
- He was a drug user and had reportedly consumed drugs on the day he disappeared
- He had just had an argument with Rebecca Heap
- There was evidence that he had previously discussed suicide with Rebecca Heap.

The argument with Rebecca Heap should not be underestimated. Rebecca claimed that the argument was about her relationship with her children and not about her relationship with Bradley. In her oral evidence she stated that she had "over reacted" to Bradley's attempts to give her a hug. She was yelling at him because he had been hugging her for "too long".

Heath Keely gave evidence that, in the past, after seeing Rebecca, Bradley would be depressed and down and had expressed to Heath that "she (Rebecca) is just using me"

Even though the evidence of both Heath and Rebecca was found to be self- serving and unsatisfactory, given that Rebecca was the last person to see Bradley alive, any interaction between her and Bradley cannot lightly be dismissed.

However, contrary to this view is the fact that there is no evidence that Bradley ingested the Ratsak and Rum, either intentionally to cause himself harm, or in an attempt to increase the feeling of intoxication.

Toxicology analysis detected small quantities of alcohol and Ibuprofen in his blood as well as small quantities of amphetamine and methylamphetamine. Because of the

level of decomposition, these results must be interpreted cautiously and no assistance can be gained from these results which would shine light onto Bradley's state of mind at the time of ingestion.

Apart from Rebecca Heap's suggestion that Bradley had previously discussed suicide, there is no evidence from any other family or friends that supports that suggestion.

There was no evidence of his planning to take his life and there was no such communication to any family member.

Undoubtedly, one of the major arguments unsupportive of a conclusion of suicide is Bradley's love and devotion to his children.

In fact, according to Bradley's family, he was looking forward to retiring from the mines and purchasing a small farm.

Suicide cannot be presumed. Before making a finding of suicide I must apply the law as stated in *Briginshaw* (*Briginshaw v Briginshaw* (1938) 60 CLR 336).

A finding of suicide is a serious finding and there must be "clear cogent proof" on which to base a finding.

I am not satisfied to the *Briginshaw* standard that Bradley Miller intentionally took his own life.

Conclusion

Regrettably, the quality of the autopsy conducted by Dr Robinson was so poor that it resulted in a loss of physical evidence that may have delivered some certainty to the cause and manner of Bradley Miller's death, and consequently some much desired answers for family members.

It is disturbing that Dr Robinson, in his oral evidence, advised that he was still conducting some autopsies.

This is clearly unacceptable and inappropriate and it is for this reason that I have determined to make the following recommendation.

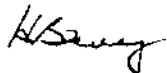
Recommendation

To Minister For Health NSW and Mr Kevin Forward, Director NSW Forensic Analytical Science Service:

That consideration be given to Dr Peter Robinson not being accredited as a Coronial Medical Officer to undertake Post Mortem Examinations of any kind.

Findings s. 81 Coroners Act 2009

I find that Bradley James Miller died between 12 May 2013 and 31 May 2013 on the banks of the Murray River, Koondrook State Forest NSW. I find the cause of death and manner of death is undetermined.



Magistrate H Barry
Deputy State Coroner NSW