



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Kevin Smith
Hearing dates:	15 July 2016
Date of findings:	15 July 2016
Place of findings:	State Coroner's Court, Glebe
Findings of:	Deputy State Coroner Teresa O'Sullivan
Catchwords:	CORONIAL LAW – Cause and manner of death Death in custody Natural Causes
Non-publication order:	
File number:	2015/269065
Representation:	Sgt Samantha Ferguson, Coronial Advocate Steven Griffiths, Department of Corrective Services Michael Sterry, Justice Health and Forensic Mental Health Network

Findings:	<p>Identity of deceased: The deceased person was Kevin Smith.</p> <p>Date of death: He died on 11 September 2015.</p> <p>Place of death: He died at Long Bay Hospital, Long Bay Gaol, Malabar, NSW.</p> <p>Manner of death: He died of natural causes while he was serving a prison sentence in Long Bay Gaol.</p> <p>Cause of death: The medical cause of the death was Myelofibrosis with Leukaemic transformation.</p>
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Contents

Introduction:	1
The Inquest:	1
The Evidence:	1
Background:	1
Custodial History:.....	2

Medical history:.....	3
The Fatal Incident:	3
Care and Treatment:.....	4
Medical Record Review	4
Findings required by s81 (1).....	4
The identity of the deceased.....	4
Date of death	4
Place of death.....	4
Cause of death	4
Manner of death.....	4

The Coroners Act 2009 (NSW) 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 Kevin Smith.

Introduction:

Kevin John SMITH was born on 6 November 1948. At the time of his death he was in the custody of the Department of Corrective Services at Long Bay Gaol.

As Mr SMITH was in lawful custody at the time of his death, an inquest is required to be held pursuant to sections 23 and 27 of the Coroners Act 2009.

The Inquest:

The role of a Coroner, as set out in s 81 of the Coroners Act, is to make findings as to:

- (a) the identity of the deceased;
- (b) the date and place of the person's death;
- (c) the physical or medical cause of death; and
- (d) the manner of death, in other words, the circumstances surrounding the death.

Pursuant to s 82 of the Act a Coroner also has the power to make recommendations concerning any public health or safety issues arising out of the death in question.

The Evidence:

Background:

The deceased, Kevin John SMITH was aged 66 (DOB 6/11/1948) at the time of his death. Very little is known of his personal history apart from his criminal background. Not long before his death he requested that his brother, Noel, be notified of his illness and be listed as his next of kin.

Mr SMITH had been known to the criminal justice system since 1962, when he was fifteen years old. He held a lengthy criminal record, consisting of property offences, traffic offences and offences involving significant violence against his family and wife, Catherine SMITH.

In 1997 his relationship with Catherine ended. The marriage had been marred by significant domestic violence. In January 2000 Mr SMITH took his son Duncan and his son's girlfriend hostage at gun point in an attempt to force them reveal the location of his wife Catherine. After holding both for two days Mr SMITH was able to make contact with Catherine and they were released.

A meeting was arranged by Mr SMITH with Catherine under the pretext of conducting a property settlement. Prior to the meeting taking place Mr SMITH was located by police and arrested in possession of various weapons and restraint equipment.

He was subsequently charged and convicted of detaining for advantage and other related offences. He served a six year term of imprisonment for those offences. During this sentence he escaped from gaol. He was recaptured four days after he escaped and served the full sentence until he was released in May, 2006.

In June, 2006 Kevin SMITH was residing at a hostel at the Fairlight Centre, Sydney. His wife, Catherine SMITH, attended the residence and attempted to shoot Mr SMITH. She was unsuccessful and was disarmed by bystanders in the process. She was charged with shoot with intent to murder. At her trial in May 2008, Ms SMITH gave evidence about her history violence at the hands of Kevin, thereby raising self-defence; she was acquitted.

Custodial History:

As a result of the evidence given by Catherine SMITH at her criminal trial, Kevin SMITH was arrested and charged. In February 2010 he was charged with historic domestic violence offences, sexual assault and the attempted murder of Catherine.

The complainant for each of the 25 counts was his wife, Catherine. The offences spanned a period of nearly 20 years. On 14 July, 2011 he was convicted of these offences and was sentenced to an aggregate sentence of 17 years imprisonment commencing on the 4 February 2010.

His sentence would have been expired on 3 February 2027. The earliest date he could have been released on parole was 3 February 2020. Mr Smith lodged an all grounds appeal that he later abandoned.

From the time of his arrest on the 4 February 2010 aged 62, to his death on the 11 September 2015, Kevin SMITH remained in the custody of the Department of Corrective Services.

Medical history:

Kevin SMITH was to be housed at the South Coast Correctional Centre however, due to his poor health he was never transferred there. His condition was monitored from within the Long Bay Correctional Centre through the Special Programs Centre or alternatively Long Bay Hospital.

The reception screening that was conducted when Mr SMITH first came into custody identified that he suffered from depression, was at risk of self-harm and suffered from post-traumatic stress syndrome.

During his time in custody he was diagnosed with myelofibrosis with leukaemic transformation, emphysema, anaemia and was known to have a congenital absent left kidney, and other ailments. He was described as being in poor health and was known to be a smoker. During his incarceration he was treated by medical staff for these conditions.

On 15 August 2015 Kevin SMITH was admitted to Prince of Wales Hospital with chest pains associated with a diagnosis of myelofibrosis. At this time he was advised by medical staff he only had a matter of weeks or months left to live. He was released from hospital on 25 August and returned to Long Bay Gaol. On the 9 September he was transferred to palliative care within the Long Bay Hospital.

The Fatal Incident:

On 9 September 2015, Mr SMITH was transferred from the Metropolitan Special Programs Centre to Long Bay Hospital. In the two days leading up to his death his condition was observed to deteriorate rapidly. On 10 September 2015 an authorisation was made to keep his cell door open due to his condition. As he did not have any contact with his children, or with Catherine SMITH, he was given permission to speak to his brother, Noel SMITH, via telephone.

At about 6am on the morning of 11 September 2015, Mr SMITH was observed to be confused when awake and appeared jaundice with increased pallor. He was monitored at hourly intervals. He was given morphine and a no resuscitation order was completed and agreed to by Noel SMITH.

At 12:50pm on 11 September 2015, Correctional Services staff walked past Mr SMITH'S open door and observed that he was not breathing. Nursing staff attended and he was pronounced life extinct. A time log was commenced and the room was secured. Due to Kevin SMITH'S death occurring while he was in custody, police attended and an investigation was conducted. No suspicious circumstances were detected.

Care and Treatment:

When a person is detained in custody, the responsibility for ensuring that person receives adequate care and treatment rests with the State. Even when a person in custody dies of apparent natural causes, an inquest is required to independently assess whether the State has discharged its responsibility.

A thorough investigation was conducted into the death and all relevant medical and custodial records were obtained and form part of the coronial brief. These records indicate that Mr SMITH'S care and treatment was appropriate. Mr SMITH'S death is not suspicious and he died of natural causes.

Medical Record Review

A medical record review was conducted by Istvan Szentmariay, Staff Specialist Forensic Pathologist, Department of Forensic Medicine. He was of the view that the cause of death was myelofibrosis with leukaemic transformation.

Findings required by s81 (1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it:

The identity of the deceased

The deceased person was Kevin Smith.

Date of death

He died on 11 September 2015.

Place of death

He died at Long Bay Hospital, Long Bay Gaol, Malabar, NSW.

Cause of death

The medical cause of the death was myelofibrosis with leukaemic transformation.

Manner of death

Kevin Smith died of natural causes whilst he was in serving a prison sentence at Long Bay Gaol.

I close this inquest.

Magistrate Teresa O'Sullivan
Deputy State Coroner

Date 15 July 2016