



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Inquest into the disappearance and suspected death of Mervyn Rushton
Hearing dates:	13 February 2019
Date of findings:	13 February 2019
Place of findings:	NSW Coroners Court - Lidcombe
Findings of:	Magistrate Elizabeth Ryan, Deputy State Coroner
Catchwords:	CORONIAL LAW – disappearance on 17 April 1991 – police investigation – can death be established – can date, place, cause and manner of death be established.
File number:	2013/105870
Representation:	Advocate Assisting the Coroner: Sergeant Durand Welsh.
Findings:	<p>Identity of deceased: The deceased person is Mervyn Rushton.</p> <p>Date of death: Mervyn Rushton died soon after 17 April 1991.</p> <p>Place of death: The place at which Mervyn Rushton died is unknown.</p> <p>Manner of death: The manner of Mervyn Rushton's death is unknown.</p> <p>Cause of death: The cause of Mervyn Rushton's death is unknown.</p>

Section 81(1) of the *Coroners Act 2009 (NSW)* 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 suspected death of Mervyn Rushton.

Introduction

1. Mervyn Rushton aged 19 years disappeared on 17 April 1991 and has not been seen since then. He has made no contact with his family and despite extensive police investigations his location has never been found.

The role of the Coroner

2. An inquest is different to other types of court hearings. It is neither criminal nor civil in nature. It does not determine whether a person is guilty of an offence, and it does not make findings and orders that are binding on parties.
3. A Coroner presiding over an inquest is required to confirm that a particular death occurred and make findings as to:
 - the identity of the person who died
 - the date and place of the death
 - the cause and manner of the death.
4. It is not always possible to definitively answer these questions.
5. The primary purpose of this inquest is to determine if Mervyn Rushton is dead. If there is clear, cogent and compelling evidence that he is no longer alive, the court will attempt to determine the circumstances of his death including its time, place, manner and cause.

Mervyn Rushton's life

6. Mervyn Rushton was born in Lithgow NSW on 24 August 1971 to parents Mervyn Rushton senior and Coral Campbell. He had younger sisters Sharon and Tara. In 1975 his parents separated and Coral repartnered with Kevin Large. They had two children Sonnya and Natasha. Nine years later this relationship came to an end and Coral took all the children to Lithgow to live with herself and Mervyn Rushton senior.
7. Mervyn's teenage years were disrupted with use of alcohol and cannabis. He missed a lot of school and stopped attending during Year 10. He became involved in street level crime.
8. On 17 April 1991 Mervyn and his sister Tara travelled to the Central Coast to stay with their sister Sharon who was living in an apartment there. On arrival they met up with Sharon and her friends. They spent the day drinking alcohol, smoking cannabis and swimming at the nearby North Entrance Beach.
9. Sharon recalls that the group was intoxicated that day and she is unable to remember if Mervyn came home from the beach with them. When she got up the

next morning Mervyn wasn't at her apartment. His wallet and clothes were still where he had left them there.

10. Sharon went to The Entrance Police Station to report Mervyn missing, but was told to come back in a few days if he still hadn't been located. This she did.
11. Sharon told police she was worried about Mervyn's disappearance. She said she had told him of an illegal cannabis crop that she had heard was being cultivated in bush land between The Entrance and Toukley. Sharon thought Mervyn may have decided to steal the plants and had met with foul play from the owners of the crop.

The police investigation

12. Investigations were initially led by Senior Constable Cook and the Missing Persons Unit. Officers made enquiries of Mervyn's family members, friends and known associates. None of these people have seen or heard from Mervyn since 17 April 1991. The last transaction taking place on Mervyn's bank account was on 16 April 1991. Police enquiries regarding the alleged cannabis crop did not lead to any reliable information.
13. Since 1991 the Missing Persons Unit has conducted regular reviews of Mervyn's case. These involve repeat checks of the records of electoral rolls, Department of Immigration, Centrelink, Medicare, Births Deaths and Marriages, Roads and Maritime Service, banks and the police services of all Australian States and Territories. The most recent of these checks was performed in 2017, with no trace of Mervyn found.
14. There no longer exist any medical or hospital records relating to Mervyn; nor are there any dental records available. In 2013 a DNA buccal swab was obtained from Mervyn's sister Sharon. It has been analysed and profiled, and is being held for future comparison against any unidentified remains. No matches have been made to date.

Has Mervyn Rushton died?

15. It is the opinion of the Officer in Charge of the coronial investigation, Senior Constable Paul Reynolds, that Mervyn Rushton is no longer alive. In the 28 years since his disappearance there has never been a verified sighting of him. Australia-wide proof of life checks have failed to locate any trace of him. Mervyn was known to have been close to his sisters Sharon and Tara, and they have never received any contact from him. They strongly believe he would have done so had he been alive.
16. In my view there is cogent and compelling evidence that Mervyn Rushton has died. I make this finding.

When and where did Mervyn Rushton die?

17. Since Mervyn Rushton's body has never been found it is difficult to answer this question. Given the evidence that he was close to his sisters and has not contacted them since his disappearance, together with the absence of any trace of him in public records since then, it is more likely than not that he died soon after 17 April 1991. Unfortunately it is not possible to be any more specific than that.
18. The evidence does not enable a finding as to where Mervyn died.

What was the cause and manner of Mervyn Rushton's death?

19. The failure to locate Mervyn Rushton's body and the absence of reliable information about what happened to him makes these questions impossible to answer. Over the years of the investigation theories have been advanced that he met with foul play from criminals, or that he drowned in the surf on 17 April 1991 while incapacitated by alcohol and drugs. These theories cannot be discounted, but there is simply insufficient evidence to ground a finding on either of them. Thus the cause and manner of Mervyn Rushton's death remains unknown.

Conclusion

20. It must be very painful for Mervyn Rushton's family members to have been left with no answers to his disappearance for all these years. This is despite the police investigations which, I am satisfied, have been thorough and comprehensive. Unfortunately however the state of the evidence is such that I am unable to make any definitive finding other than that Mervyn Rushton is no longer alive.

21. I thank the Officer in Charge for his assistance with this inquest. I hope that Mervyn's family will accept the sincere sympathy of all of us at the Coroners Court for his loss.

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 is Mervyn Rushton.

Date of death

Mervyn Rushton died shortly after 17 April 1991.

Place of death

The place at which Mervyn Rushton died is unknown.

Cause of death

The cause of Mervyn Rushton's death is unknown.

Manner of death

The manner of Mervyn Rushton's death is unknown.
I close this inquest.

E Ryan

Deputy State Coroner
Glebe

Date 13 February 2019