



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

Inquest: Inquest into the death of Marlon Shawn McDonald

Hearing dates: 28-30 May 2018 (Taree Local Court)
3-4 October 2018 (Toronto Local Court)

Date of findings: 2 November 2018 (Glebe Coroner's Court)

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

Findings of: Magistrate Harriet Grahame, Deputy State Coroner

Catchwords: CORONIAL LAW – missing person, suspected homicide

File numbers: 2013/296439

Representation: Mr Ben Hart (Sergeant)
Coronial Advocate Assisting

Findings:

I make the following findings pursuant to section 81(1) of the *Coroners Act 2009* (NSW),

Identity

Marlon Shawn McDonald is dead.

Date of death

He died on or shortly after 5 September 2012.

Place of death

He died in NSW.

Cause of death

His cause of death remains unknown.

Manner of death

His death is suspicious. I am unable to make further findings in relation to the manner of his death.

Non Publication orders:

Pursuant to section 74, *Coroners Act 2009* (NSW), there is to be no publication of the contents of the brief of evidence (exhibit 1), except as referred to in these findings.

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Introduction

1. Marlon McDonald has now been missing for over six years. The last confirmed sighting of Marlon McDonald occurred on 5 September 2012. There is evidence that he attended the Commonwealth Bank at Forster and lodged a dispute in relation to money that had been withdrawn from his account. Later that day he is recorded to have attended Forster Police Station and reported in compliance with a bail undertaking.
2. Certain difficulties that Marlon was experiencing at that time meant that his family did not report him missing to police immediately. Concerns escalated when he did not attend his uncle's funeral on 12 October 2012. Family members reported him missing in January 2013. On 25 February 2013 he was again reported missing to police and a comprehensive investigation was then commenced under strike force JOSQUIN.
3. On 30 September 2013 his death was reported to the Coroner.¹ Police investigations were ongoing.
4. Marlon's family, especially his mother, aunts and siblings have experienced great grief and sadness since his disappearance. They have continued to search for reliable information about what happened to Marlon. They appear to accept that given Marlon has not been seen for over six years, he is most unlikely to be alive. If this is established, they have expressed a deep need to bring his remains home and to give him a proper funeral.
5. Marlon McDonald was well loved by family members and their pain in not knowing what has happened is profound and ongoing. Marlon's mother, Loretta described him as a great footballer, who was kind to his siblings and generally happy. She stated that Marlon's difficulties started once he became involved in drugs² and escalated as he was unable to control his use.

The role of the coroner and the scope of the inquest

6. The role of the coroner in a case such as this is to make findings firstly as to whether the nominated person is actually dead and only if that can be established, is the coroner to make further findings as to the date and place of death. The coroner is also to address issues concerning the manner and cause of the person's death.³
7. The decision about whether a person is dead is considered a "threshold question" in a missing person case.⁴ Given the seriousness of the finding, it is well established

¹ P79B Form attached to Court file.

² Transcript. Loretta McDonald, 30/5/18, page 22, line 35 onwards

³ Section 81 *Coroners Act* 2009 (NSW)

⁴ Dillon H and Hadley M "The Australasian Coroners' Manual" Federation Press, 2015, page 111

that the court should apply the *Briginshaw* standard⁵. The proof of death must be clear, cogent and exact. At common law, there is a presumption in favour of the continuance of life,⁶ however it is not a rigid presumption and the circumstances of any given case must be carefully examined before a finding of death can be made.

8. In addition to deciding these questions, at the conclusion of proceedings, the coroner may make recommendations in relation to matters arising directly from the evidence.⁷

The evidence

9. The inquest proceeded over three days at Taree Local Court and then adjourned for two further days of evidence at Toronto Local Court.
10. A six volume brief was tendered, including statements, recorded interviews, police reports, photographs and maps. It contains the records of many days of investigative work, covert surveillance and forensic analysis. I will only refer to these detailed records briefly within the scope of these written reasons, however I have had the opportunity to review all the documents provided.
11. The court also heard oral evidence from people who knew Marlon well and from those who had seen him in the period leading up to his death. I have carefully considered all the material before me. Unfortunately the memories of some witnesses were affected by the passage of time. Some were also likely to have been affected by long term drug and alcohol use and by cognitive or mental health difficulties. At times certain witnesses were hostile and uncooperative. Some gave incomplete and perhaps untruthful accounts of their knowledge of events surrounding Marlon's disappearance and suspected death. For these reasons the task of fact finding has been difficult.
12. Section 81 (1) of the *Coroners Act 2009* (NSW) requires that when an inquest is held, a coroner must record in writing his or her findings in relation to various aspects of the death. These are my findings in relation to the death of Marlon McDonald.

Background

13. Marlon was born in 1970 to Loretta McDonald and Tommy Parsons, but he was raised as James McDonald's child. He had two sisters Megan and Jamie and a brother Jeffrey.
14. Marlon grew up in the Forster area. He developed a drug problem from an early age and spent time in juvenile custody.

⁵ *Briginshaw v Briginshaw* (1938) 60 CLR 336

⁶ *Axon v Axon* (1937) 59 CLR 395

⁷ Section 82 *Coroners Act 2009* (NSW)

15. Marlon formed a relationship with Sonia Grothkopp and had two children, Lara and Bianca. Marlon and Sonia split up around 1996. He then formed a relationship with Joanne Donnelly. Joanne already had a child with her former partner, William Ryan. Later Marlon and Joanne had their own son, Aaron.
16. There is evidence establishing that both Marlon's significant relationships were marred by domestic violence and significant drug use. Joanne stated that from time to time she would leave Forster and travel to the Windale area to stay with family to "get a break". Joanne's evidence disclosed ongoing and severe domestic violence. It is amply corroborated by other accounts. It became clear during the inquest that it was common knowledge among everyone that knew them that Marlon regularly assaulted Joanne. Various people gave statements to police disclosing some significant assaults that they were aware of.⁸ Others stated that they had seen her with injuries or had heard of "floggings" that had occurred. Police also confirmed that blood splatter on the roof of their home, belonged to Joanne.
17. During their relationship both Joanne and Marlon developed significant methylamphetamine (ice) addictions and used whenever they could afford it. During his last period in custody Marlon reported to authorities on admission that he had been using amphetamines, heroin and cannabis prior to his incarceration.
18. Marlon had a record for dishonesty matters, violence and driving related offences⁹. He had been involved in serious violence including an incident where he slashed Kelvin Cunningham in the head and slashed Joanne's brother, Dennis in the neck.¹⁰ He had been convicted of offences involving knives. Various witnesses described him as a "standover man" and stated that he had a reputation for violence in the prison system and among those who knew him in the Forster area. There was evidence that he had been involved in "ripping off" drug dealers or doing "run ins" where drugs or money had been stolen. There is little doubt that Marlon had enemies and had angered a variety of people.

The period leading up to the Missing Person Report

19. In June 2012, Marlon and Joanne received some money over and above their usual Centrelink payments. They decided to buy a car and travelled to Windale, staying with Marlon's uncle, Warren De Jong. Around this time they purchased a Maroon Ford Falcon, UGA-490.
20. On 28 August 2012 Joanne attended Forster Police Station to complain about Marlon's behaviour. An interim Apprehended violence Order (AVO) was made to protect Joanne and police commenced looking for Marlon to serve it on him. Around

⁸ See for example accounts of Marlon's attack on Joanne at Windale in 2012 when an ambulance was called to treat a significant cut on her head.

⁹ Exhibit 2 Marlon McDonald's Bail Report

¹⁰ Dennis Donnelly did not give evidence against Marlon and the original charges were downgraded.

this time, Joanne took the boys to Windale. Joanne gave evidence that although she had been assaulted on many occasions, this was the first time she had taken out an AVO in relation to Marlon. She said that she had just “had enough” and that she wanted him to keep away. Joanne was sick of him “bashing me, getting into me, taking it out on the boys.”¹¹

21. Later the same day Sonia Grothkopp also contacted Forster Police complaining that Marlon was near her home in breach of her existing AVO. He was arrested that evening and charged with damaging property and contravening Sonia’s AVO. Marlon was initially refused bail. He was subsequently released on conditional bail when his mother posted \$300. It is thought that he travelled directly to Windale to look for Joanne. At that time he stayed with Warren De Jong.
22. On 1 September 2012 Marlon was in Windale looking for Joanne. He waited near “Phil’s hut”, a well-known drug house, occupied by Phil Chamberlain. Joanne’s friend, Hugh Jennison lived there too. It appears that Marlon, who had previously been there with Joanne to score drugs, hoped she would turn up soon. When she eventually arrived in a friend’s car, Marlon confronted Joanne aggressively and she drove off.
23. On 2 September 2012 Marlon was taken to Newcastle train station by a friend.
24. On 3 September 2012 Marlon reported his bank card stolen at the Newcastle Branch of the Commonwealth Bank, before travelling back to Forster.
25. On 4 September 2012 Marlon withdrew the last \$28 from his account at the Commonwealth Bank at Forster.
26. On 5 September 2012 he lodged a dispute with the Commonwealth Bank over money that had been withdrawn from his account by Joanne days earlier. He then attended the Forster Police Station at 6.05 pm and reported pursuant to his bail condition. This is the last confirmed sighting of Marlon.
27. While Marlon was known to sometimes leave Forster and visit the Newcastle or Windale area with Joanne, he usually kept in touch with a member of his family wherever he was and he did not stay away from Forster for long periods of time, unless he was in custody.
28. His mother’s concerns were first raised when she received a call from her brother Warren De Jong in around August or more likely, September 2012. Warren told her that he was worried about Marlon as he had left his belongings at Warren’s house and had not returned. Warren stated that Marlon had gone to get Joanne from her brother’s house but that she had not been there. It was rumoured that Joanne had gone to Sydney and some family members thought Marlon may have followed her there.

¹¹ Transcript Joanne Donnelly 30/5/18, page 85, line 35 onwards

29. Further suspicions arose when Marlon did not attend his uncle's funeral in October 2012.

The police investigation

30. The police investigation into the disappearance of Marlon McDonald commenced on 25 January 2013 after he was formally reported missing by his daughter, Bianca Grothkopp at Forster Police Station. At that time it appears that the report was not given too much attention as it was known that Marlon had outstanding warrants and it was believed that he may be avoiding police.¹²
31. Marlon's mother and sister also attended Forster Police Station the following day. By then they had been concerned about Marlon for some time. He had not attended his uncle's funeral, in October 2012 and nobody had heard of him in a long time.¹³
32. On 25 February 2013, Detective Sergeant Hemsworth received information from a registered source concerning the disappearance of Marlon McDonald. The original missing person case was then transferred to the Lake Macquarie Local Area Command and Strike Force JOSQUIN was created. Given the information which had been received a mandatory notification was made to the State Crime Command Homicide Squad.¹⁴
33. The strike force consisted of four investigators and an intelligence analyst. Other police assisted. The investigation proceeded with taking statements, obtaining information from government and non-government agencies. Various covert strategies were also undertaken. In addition to this, pro-active attempts were made to generate new information including through the use of a media release in August 2014 and another in conjunction with Missing Persons Week in 2015.¹⁵
34. The investigation was made difficult by the somewhat transient nature of Marlon's movements in the lead up to his disappearance. A number of potential witnesses were uncooperative with the investigation. Others were hampered in their memories by the use of drugs and alcohol. The time lag between his last confirmed sighting and the commencement of the investigation also made it difficult to obtain physical evidence such as relevant CCTV.
35. Over the course of the investigation, police became aware of many unsubstantiated rumours which appeared to be circulating in relation to Marlon's disappearance. There were a number of conflicting accounts of his death, none of which could be reliably corroborated.

¹² Statement of Detective Matthew Hemsworth, paragraph 3

¹³ Statement of Detective Matthew Hemsworth, paragraph 12

¹⁴ Statement of Detective Matthew Hemsworth, paragraph 4

¹⁵ Statement of Detective Matthew Hemsworth, paragraph 6-7

The phone call to Hilton Ridgeway

36. The police first became aware that Hilton Ridgeway may have information about the disappearance of Marlon McDonald when Marlon's daughter reported him missing in January 2013. She told police that an unknown person had telephoned Hilton Ridgeway, a family friend then living in Ulladulla, and informed him that Marlon was dead. It appears that many in the family had heard about this mysterious call. Police contacted Hilton Ridgeway and he confirmed that a call had indeed been made. The call apparently referred to "Gutter" Parsons, using Marlon's nickname and the name of Marlon's biological father. This was considered odd as Marlon had not used his father's name and only close family members would even be aware of it.
37. The court heard evidence about this call from Hilton Ridgeway. He told the court that it was a short call and that he did not recognise the voice. He said the caller was definitely not William Ryan.¹⁶
38. Police investigations revealed that it is likely that this call was made by William Ryan, the father of Joanne Donnelly's first child and her former partner. Police were able to connect him to a stolen telephone which had been used to make the call in question.
39. William Ryan was not an impressive witness. After prevaricating for some time, he appeared to accept that he had called Hilton Ridgeway and told him "Marlon Parsons or Gutter is dead" or some similar words to that effect.¹⁷ Later, William Ryan told the court that he made the call because "the family deserved to know", before stating once again that he "probably didn't make the call".¹⁸ His evidence was wholly unreliable. While I have no trouble accepting that the call was made to Hilton Ridgeway, it is unclear whether William Ryan was merely repeating a rumour or whether he actually knew something more concrete about Marlon's disappearance.

Joanne's evidence and "Phil's hut"

40. Police spoke to Joanne Donnelly early in the investigation about the possible whereabouts of Marlon. On 11 February 2013 she told police that she had not seen Marlon since around September the previous year. She stated that she was avoiding him at that time because he had assaulted her and she had reported him to the police.¹⁹ She also stated that around the time she last saw him she believed that he was staying with his uncle Warren De Jong in the Windale area.

¹⁶ Transcript Hilton Ridgeway, 31/5/18, page 3, line 31 onwards

¹⁷ Transcript William Ryan, 30/5/18, page 51, line 25 onwards, see also page 54, line 5 onwards

¹⁸ Transcript William Ryan, 30/5/18, page 56, line 15 onwards

¹⁹ Statement of Detective Matthew Hemsworth, paragraph 17

41. Joanne stated that after Marlon attacked the car she was driving during the night of 1 September 2012, near Phil's hut, she became even more concerned about her own safety. She decided to take her boys to Sydney. She stayed with her old school friend, Delma Young and did not return to Windale until 7 September 2012. At that time it appears that she arranged for a relative to take the boys back to Foster and she herself returned to Sydney. She also admitted to obtaining drugs from Hugh Jennison around this time.
42. Police have been able to confirm some of these movements to and from Sydney²⁰.
43. Some members of Marlon's family had noticed that Joanne appeared to avoid them after Marlon's disappearance. While there could have been many reasons for that, the change in her behaviour aroused some concern that she may know more than she was willing to say.²¹ Various family members reported noticing this marked change in Joanne's behaviour towards them after Marlon's disappearance and it caused them to feel suspicious, given the previously close relationship.
44. On 28 January 2016, police from Strike Force JOSQUIN received a message that Joanne Donnelly had approached a prison officer at the Mid North Coast Correctional Centre where she was in custody, wanting to speak to them about Marlon McDonald.
45. She subsequently told police that she had been down in Windale a few weeks back and that she had spoken to someone who told her where Marlon's body was buried. She asked if this information would assist her in getting out of gaol.²² She later stated that Hugh Jennison had told her he knew where Marlon was buried.
46. On 18 October 2016, police questioned Hugh Jennison about Joanne's claim. He stated that he did not know where Marlon's body was but that he had some recollection of Joanne trying to get in contact with him from custody to ask him about it.
47. Both Joanne and Hugh were questioned about this issue during the inquest. Their responses were unsatisfactory. Joanne confirmed that Hugh had told her that he had heard where Marlon's body was, but that when she questioned him "he didn't want to go into it...because he was afraid that I'd do this, like, bring his name up, which he didn't want."²³ She vehemently denied that he had ever actually told her where Marlon's body was. She said "He didn't tell me where, honestly. If I've told you that much, I would've told you the rest. I'm not going to tell you half a story."²⁴

²⁰ The maroon Ford Falcon owned by Marlon and Joanne was photographed by road cameras in Sydney at the relevant time. Joanne was also apprehended with amphetamines on 18/9/2012 in Sydney and police confiscated her number plates, as the car was by then out of registration.

²¹ This view was held by many of Marlon's relatives, including Jamie McDonald who suggested that Joanne would not even look at Marlon's relatives and acted "real paranoid".

²² See investigator's note, Exhibit 1, Volume 6, page 2747,

²³ Transcript Joanne Donnelly, 31/5/18, Page 30, line 37 onwards

²⁴ Transcript Joanne Donnelly, 31/5/18, Page 30, line 50 onwards

48. Hugh Jennison stated that he had known Joanne Donnelly since they had both attended Gateshead High School. He confirmed that at the relevant time he was living with Phil Chamberlain and that their home was somewhere that people might come to if they were looking for drugs. He said that he was “just helping mates out” or acting as a middle man and that it was not a serious supply operation. He was not an impressive witness.
49. Hugh indicated that he had barely met Marlon and knew nothing about where Marlon’s remains might be or what had happened to him. He denied ever having told Joanne that he knew this information. His evidence in this regard was difficult to accept. In my view it is likely that he told Joanne he knew where Marlon’s remains were at some point. However, it is unclear whether he actually knew something or whether he was just repeating one of the many rumours circulating about Marlon’s disappearance in an attempt to make himself seem important.

Marlon’s relationship with Joanne’s brothers

50. There was significant evidence that there was bad feeling between Joanne’s brothers Warren and Dennis Donnelly and Marlon McDonald because of Marlon’s ongoing violence towards their sister. If there was antagonism, it is easy to understand given the many acts of violence which had taken place. There were rumours circulating that members of Joanne’s family may have harmed Marlon.
51. Dennis Donnelly gave evidence that many years ago he had become aware that Marlon was “belting his sister”. He took a didgeridoo and ran to where the fight was happening. Marlon McDonald stabbed Dennis Donnelly in the neck. He was hospitalised and received 13 staples to his neck. Dennis told the court that he didn’t “press charges” and that there were “no dramas” between him and Marlon after this event.
52. There was evidence that Marlon was not welcome at the Donnelly’s homes, although Dennis Donnelly denied this was the case. More recently Marlon had apparently stabbed Phillip Saunders at Warren Donnelly’s daughter, Emily’s 18th birthday party in February 2012.
53. Both Warren Donnelly and Dennis Donnelly gave evidence before me. Both downplayed any antagonism between their family and Marlon. Warren stated that although they did not like the way Marlon treated their sister, they tried “not to get involved”. Both denied causing any harm to Marlon. Despite close surveillance during the investigation period, police found no direct evidence that either of Joanne’s brothers could be linked to Marlon’s disappearance.

Robert Riley and Alyssa Buckshiram

54. Police reported that when Robert Riley was in custody at Forster Police Station on 20 April 2013, he told police that he had heard that Marlon had been “bumped” because he could not repay drug debts he owed to “Asians” in the gaol system. He stated that his girlfriend Alyssa Buckshiram told him that Marlon was murdered and that his partner Joanne was present when it occurred. This conversation was alleged to have taken place when Joanne was present and she went “berserk” and stated that she had told Alyssa that information in confidence.
55. Robert Riley was questioned about this alleged conversation in Court. He stated that he had no memory of it. He denied knowing anything about what had happened to Marlon. All he knew were the rumours around town. He became aggressive when questioned further. He was also questioned about a letter he sent Alyssa whilst he was in custody, warning her to keep away from “that Dog Jo” and to talk to nobody. This line of inquiry was also found to be fruitless. Robert Riley’s evidence was ultimately unreliable and shed no light on any of the issues before me.
56. Alyssa Buckshiram did not initially answer her subpoena and later attended court on a warrant. Her evidence was also wholly unreliable. She denied any memory of a conversation with Joanne about what had happened to Marlon. She stated that she had mental health issues and became quite distraught when questioned. Her oral evidence did not assist the court in any way.
57. Given the tangled and changing relationships and allegiances between Marlon, Robert Riley, Alyssa Buckshiram and Joanne Donnelly over the years, it is difficult to make sense of the conversations and observations they have reported.

Marlon’s relationships in gaol

58. At various times police received information that there were rumours that Marlon had been murdered because of outstanding drug debts he had after being in custody. The rumour was expressed in various ways, either he had been “chopped up by Asians”²⁵, killed by Asian gang members or murdered because of “dramas” he had with Asians in gaol.
59. Investigating officers searched for concrete evidence that might shed light on these rumours. In 2010, it was reported that Marlon got into a fight in custody with an inmate named Ngoc Pham. Knives were used and both men received injuries.

²⁵ Statement of Detective Matthew Hemsworth, paragraph 22

However there is no evidence to link this man to Marlon's disappearance and he was in custody during 2012 at the time of Marlon's disappearance.

Marlon's relationship with William Zechel

60. William Zechel was at the relevant time in a relationship with Warren De Jong's daughter. He gave evidence at the inquest and admitted to having supplied ice to Joanne and Marlon a couple of times. He agreed that he may not have received full payment for the drugs, but given the family connection and the amount involved, he said that he was "not too worried about it".
61. At one point, investigating police received information that Marlon may have been murdered or his body disposed of in the backyard of the house where William Zechel was living in Gateshead. There was a report that a fire at the location may have been lit to destroy evidence.²⁶ Other reports seem to suggest that there was a smell of burning meat and bleach. This information was also fully investigated by police.
62. William Zechel agreed that there may have been fires in a 44 gallon drum at that house. He also stated that he had, on occasions, burnt dead guinea pigs. He denied ever having been involved in violence in relation to Marlon McDonald or indeed to knowing anything about his disappearance or a fire where evidence had been destroyed.

Other leads and investigations

63. Police pursued a number of other leads in response to information received by Crime Stoppers or through local channels. Some of these leads included,
 - information that Marlon had been involved in a significant robbery at the Lakeside Tavern. It was suggested that he was then murdered when the owners of the Tavern put a \$10 000 bounty on his head. Police investigated Marlon's possible connection to this robbery and found that it was extremely unlikely. He never had a large amount of money and there was really nothing to link him to this crime.²⁷
 - information that Marlon may have been chopped up and thrown to sea²⁸
 - information that a man of Marlon's description was seen at Coles Supermarket in Morrisett on 4 August 2015²⁹, under a bridge in Waterloo, scoring drugs in 2013-4³⁰

²⁶ Statement of Detective Matthew Hemsworth, paragraph 23

²⁷ Statement of Detective Matthew Hemsworth, paragraph 26-27, 31

²⁸ Statement of Detective Matthew Hemsworth, paragraph 28

²⁹ Statement of Detective Matthew Hemsworth, paragraph 29

³⁰ Statement of Detective Matthew Hemsworth, paragraph 32

- information that a man called Johnny Wong had chopped him up and buried him on Newcastle Beach³¹
- reports that he had been killed by bikies, standover men and that he had gone to Kings Cross with Joanne³²
- reports that Marlon was in custody in Melbourne³³
- reports that Marlon had overdosed on drugs, had his hands, legs and arms cut off and a range of other unsubstantiated claims.³⁴
- There were also unsubstantiated rumours that he had been involved in home invasions and standing over people for drugs or that his death was some kind of repercussion for his violence when he was “running the pod” in custody.

64. None of these leads proved fruitful or offered any concrete explanation for Marlon’s disappearance.

Is Marlon McDonald dead?

65. Police have made all the regular inquiries into administrative records pertaining to Marlon McDonald. There have been no relevant bank or Centrelink transactions since his disappearance. Detective Inspector Hemsworth gave evidence to this court that these checks had recently been updated and that “we have no signs of life for Marlon”.³⁵ Checks included police and custody records, electoral roll records, road authority records, Births Deaths and Marriages records, housing authority records, the records of various utilities and checks of all unidentified bodies in NSW and other states. There is no evidence that Marlon had a passport or had ever travelled overseas. There is no record of any administrative activity after the date of his disappearance in September 2012.

66. Starting a new life under a false name is extremely difficult. Marlon had no money, and limited education or resources outside his small community. The possibility that he has made a voluntary disappearance and remained successfully hidden for six years is more than remote. Tragically the strongest evidence that Marlon is dead is his total lack of contact with his family to whom he was close. I am satisfied that if Marlon McDonald was alive, someone would have heard from him.

³¹ Statement of Detective Matthew Hemsworth, paragraph 30

³² Statement of Detective Matthew Hemsworth, paragraph 33

³³ Reported by various family members, this information was checked against custody records and found to be untrue.

³⁴ Statement of Detective Matthew Hemsworth, paragraph 34

³⁵ Transcript Detective Inspector Hemsworth 29/5/18 page 9 line 30 onwards

67. Having weighed up all the evidence before me, I am able to make the formal finding that Marlon McDonald is dead. I understand that for a family clinging to hope, these must sound harsh words, spoken without ever having recovered Marlon's remains. Nevertheless, my task is to make findings "on the balance of probabilities" and I am satisfied that the evidence in this case reaches the requisite standard. I make the formal finding that Marlon McDonald is dead.

Is it possible to say where, when or how Marlon died?

68. While I am able to make a finding, based on all the available evidence that Marlon is dead, other questions remain more difficult to answer.

69. There is little direct evidence of Marlon's state of mind at the time of his disappearance, except that it is likely he was angry with Joanne for having reported him to police, angry that she had taken money from his account and angry that he could not immediately locate her.

70. There is no documented history of self-harm or suicide attempts. Joanne stated that he appeared depressed around the time of his disappearance and that he had previously stated that he would only let her go if he was in gaol or committed suicide.³⁶ However, there is no reliable evidence to suggest that Marlon harmed himself intentionally. He had recently specifically denied thoughts of self-harm when he was formally assessed, on his entry into custody, on 30 August 2012. In my view, it is very unlikely that Marlon's disappearance is the result of suicide, particularly when no body has ever been found.

71. While many of the rumours circulating suggested that Marlon had been murdered, his mother and others had also heard that he had overdosed. An overdose is certainly possible, but without subsequent human intervention it is highly likely that Marlon's body would have been found by now if he had died as a result of an accidental drug overdose.

72. After examining all the available evidence, it appears most likely that Marlon has met with foul play. Had he committed suicide, accidentally overdosed or suffered a natural medical emergency, it is most likely that his body would have been found. If he had died in circumstances which were not suspicious, there is no need for someone to have concealed his body.

73. I am satisfied, to the requisite standard, given the complete lack of later contact or evidence of any administrative or financial activity, that Marlon's death occurred on or shortly after 5 September 2012.

³⁶ See Statement of Detective Matthew Hemsworth, paragraph 3159

74. I am unable to make a specific finding as to where Marlon's death occurred. However, it is likely to have occurred in NSW. Given his usual movements and habits, his lack of financial capacity or transport he is unlikely to have travelled further from Forster than Windale or Sydney.
75. While I am unable to say how Marlon died, in my view his death remains suspicious. It is most likely that he has been a victim of crime.

Findings

76. For the reasons set out above, I make the following findings pursuant to section 81(1) of the Act,

Identity

Marlon McDonald is dead.

Date of death

He died on or shortly after 5 September 2012.

Place of death

He died in NSW.

Cause of death

His cause of death remains unknown.

Manner of death

His death is suspicious. I am unable to make further findings in relation to the manner of his death.

Recommendations

77. The progress of this inquest has been extremely frustrating for Marlon's relatives in their quest to find out what happened to Marlon. I am of the firm view that he has been a victim of foul play. I am also of the view that someone in the community is likely to know what happened and may be able to assist. I urge the Commissioner of Police to support a reward in the hope that new information may assist Marlon's grieving family to know what happened or at the very least to give him a proper funeral.

I make the following recommendations to the NSW Commissioner of Police

- 1) I recommend that the death of Marlon McDonald be referred to the Unsolved Homicide Unit of the NSW Police Homicide Squad to be dealt with in

accordance with its procedures and protocols for review and potential re-investigation.

- 2) I recommend that the NSW Police Force apply for and support the provision of a reward relating to information which leads to the recovery and return of Marlon McDonald's remains to his family.

Conclusion

78. Finally, once again I offer my sincere condolences to Marlon's family. I acknowledge and respect the great concern they have shown for their troubled relative. They have shown enormous integrity and grace in the face of these often frustrating court proceedings. Their attendance at this inquest has demonstrated their ongoing commitment to finding out what has happened to Marlon. I admire their resolve and acknowledge their ongoing pain.

79. I thank the investigating officers, in particular Detective Inspector Matthew Hemsworth and Detective Senior Constable Darren Webster, for the work that has been undertaken on this investigation.

80. I close this inquest.

Magistrate Harriet Grahame
Deputy State Coroner
2 November 2018
NSW State Coroner's Court, Glebe