



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the deaths of Diane Michel and John McCain
Hearing date:	17 July 2018
Date of findings:	6 August 2018
Place of findings:	NSW Coroner Court - Glebe
Findings of:	Magistrate Elizabeth Ryan, Deputy State Coroner
Catchwords:	CORONIAL LAW – Cause and manner of death - deaths of a husband and wife – both terminally ill - probable homicide with consent, followed by suicide.
File number:	2016/366690 and 2016/366678
Representation:	Coronial Advocate Assisting: Sergeant Ben Hart.

<p>Findings:</p>	<p>The identity of the deceased The person who died is Diane Michel, born on 31 May 1942.</p> <p>Date of death Diane Michel died between 5 and 6 December 2016.</p> <p>Place of death Diane Michel died at 23A Epping Road, North Ryde NSW.</p> <p>Cause of death Diane Michel died as a result of sharp force injuries to her neck and wrists.</p> <p>Manner of death Diane Michel's death was as a result of homicide carried out by John McCain, in circumstances where she was terminally ill and had consented to John McCain bringing about her death.</p> <p>The identity of the deceased The person who died is John McCain, born 23 May 1940.</p> <p>Date of death John McCain died between 5 and 6 December 2016.</p> <p>Place of death John McCain died at 23A Epping Road, North Ryde NSW.</p> <p>Cause of death John McCain died as a result of projectile injuries to his chest.</p> <p>Manner of death John McCain's death was a deliberate self-inflicted act, in circumstances where he was terminally ill.</p>
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Introduction

1. This inquest concerns the deaths of Diane Dorothy Michel and John William McCain. The couple had been married for 36 years. On 6 December 2016 they were found dead, lying together on their bed in their home at North Ryde.
2. Section 81 of the *Coroners Act 2009* requires that when an inquest is held a coroner must record his or her findings as to aspects of the death. These are the findings of an inquest into the deaths of Ms Michel and Mr McCain.

The post mortem examinations

3. Forensic pathologist Dr Kendall Bailey performed a post mortem examination of Mr McCain's body. Mr McCain had projectile injuries to his chest, lacerations on his right palm, incised wounds on his left wrist and hand, and incised wounds on his neck. Metallic pellets were found in his lower thorax and thoracic spine. Dr Kendall Bailey concluded he had died as a result of projectile injuries to his chest which were consistent with shotgun injury.
4. Dr Bailey conducted an autopsy of Ms Michel's body. She found several sharp force injuries to Ms Michel's body. There was a long wound on the left side of her neck which extended through the external jugular vein, carotid artery and oesophagus. Ms Michel also had sharp force injuries to her left and right wrists. Dr Bailey noted Ms Michel had severe chronic lung disease. Dr Bailey concluded she had died as a result of sharp force injuries to her neck and wrists.

The role of the coroner

5. The coroner must make findings as to the date and place of a person's death, and the cause and manner of death: Section 81 of the Act.
6. In addition pursuant to section 82 of the Act a coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.

Diane's and John's lives

7. Ms Michel was born in the United States of America on 31 May 1942. She moved to Sydney and married John McCain 36 years ago. Diane maintained close contact with her sister Debra who remained in the US. Diane worked with WIRES and was a committed conservationist. She and John did not have children but were devoted to their pets, including their dog Millie.
8. John McCain was born on 23 May 1940. He worked for many years as a ranger with Kuringai Council, and was a keen spear fisherman and sporting shooter. Prior to marrying Ms Michel he was in a relationship with Beverley McCain and they had children. The couple separated in 1970 and John lost contact with his children. Later in life he and his step-daughter Susan

reconnected. They spoke regularly on the phone and spent time together. John's daughter Tracey McCain also attended this inquest with her husband.

9. John and Diane were an exceptionally close couple who spent a great deal of time together and appeared to have little need for the company of others.

Their medical history and prognosis

10. At the time of their deaths John and Diane suffered serious health problems, which had worsened during 2016.
11. John had vascular disease, hypertension, hypercholesterolaemia and Chronic Obstructive Pulmonary Disease (COPD).
12. Diane also suffered COPD as a result of her severe emphysema from asthma and smoking. In addition she had heart disease, hyperthyroidism and osteoporosis. She spent much of the second half of 2016 in hospital with respiratory failure as a result of her COPD and respiratory tract infections. In November 2016 Diane's sister Debra described her as being unable to walk more than a few steps at a time.
13. In October 2016 John too was forced to spend time in hospital with acute renal failure. His condition seemed to worsen on his return home.
14. Dr Michelle Brener was the couple's GP. She attended their home several times in December 2016, and thought John was showing symptoms of septicaemia, for which he would need hospitalisation. However John refused any further treatment or investigation, declining even to accept home palliative care.
15. Dr Brener considered John and Diane were very frail. In her opinion John was severely ill and if untreated, was likely to die in a short period of time. She thought that with extensive medication and daily visits from a nurse Diane might survive a few months, but without this help she was likely to die sooner. Dr Brener believed John and Diane had each decided to give up on medical treatment.
16. This view was shared by a friend of John's, Cary Merlo. She noticed that John became depressed when Diane was in hospital, and thought they were likely to have decided to die together.
17. John's step-daughter Susan spent the weekend with them before they died. She found them to be very ill and weak and unable to keep meals down, and that John was adamant that no ambulance should be called. He also told Susan that if he was going to die it would be at home, and if one of them were to die the other wouldn't be far behind.
18. At John's request Susan agreed to take over the care of John and Diane's dog Millie. This required Millie to be transported to Susan's home on the Gold Coast, Queensland. Millie was collected at 7.30am on 5 December 2016 by

an employee of 'Jet Pets'. The employee described Diane as extremely frail and wondered '*how she was actually standing up*'.

The events of 6 December 2016

19. On the morning of 6 December 2016 the couple was to receive a home visit by a physiotherapist, but she was unable to get anyone to answer the door. An ambulance officer was called, and gained access by the unlocked rear door. She entered and found John and Diane deceased on their bed.
20. The ambulance officer observed blood on Diane's hands, and coming from her mouth and neck. John had multiple puncture wounds to his chest. On the bed were gunshot cartridges, a screw driver and a medical dictionary. When police arrived they also found two knives on the bed as well as a power head firearm. There was shotgun round damage to the bedroom's ceiling and window. There were blood spots throughout the house, and in the bathroom leading from the bedroom.
21. A power head firearm is now illegal, but was used by spear fishermen to subdue or ward off large fish. It is placed on the end of a speargun, and discharges on impact.

The manner of John's and Diane's deaths

22. In these two matters there is no doubt as to the cause of death. The issue at inquest was the manner of John's and Diane's deaths.
23. There is strong evidence that by early December 2016 John and Diane had made a mutual decision to end their lives.
24. The evidence establishes that they each faced a very limited life expectancy, and that their commitment to each other was such that each did not want to outlive the other. There is also ample evidence they no longer wished to have medical intervention for their serious illnesses, and wanted to die together in their own home rather than at hospital. They were becoming increasingly frail and unable to care for each other.
25. The proposition that they had made a mutual decision to end their lives is supported by the arrangement they made for their dog Millie to be cared for by Susan, and by the content of the conversations which John had with Susan in the weekend before his death.
26. The Coronial Advocate assisting the inquests submitted there were two possibilities as to the manner by which each met their death. The first was that, most likely with Diane's consent, John killed her then took his own life. The second is that Diane and John each took their own lives.
27. I accept the submission of the Advocate assisting that the first scenario is the more likely one on the evidence, for the following reasons.

28. Given her physical frailty, it is unlikely Diane would have had the strength to cut through her own carotid artery and jugular vein, then use her right hand to cut her left wrist and vice versa. It is more likely that John assisted her by severing her carotid artery and jugular vein.
29. The evidence indicates John then attempted to cut himself in the same area but was unable to cause sufficient vascular injury. He left the bedroom to get his power head firearm, leaving blood traces throughout the house. Back in the bedroom he tested the device by discharging a round into the bedroom ceiling. He then used a screwdriver to press the powerhead over his chest, and discharged a round which killed him. The injuries observed on his right palm were probably caused by firearm recoil.
30. There is no evidence of forced entry to the house, nor indeed any evidence that a third person was involved in the deaths of John and Diane.
31. I am able to make a finding on the balance of probabilities that the manner of Diane's death was homicide (almost certainly with her consent) carried out by her husband John. The manner of John's death was suicide.

Conclusion

32. There is no doubt that John and Diane died in a violent manner, albeit one that they had decided to bring about themselves. I am able to find that their deaths were as a result of their own decision to die in their own home and on their own terms. There is no evidence that their decision to end their lives was linked to any deficiency in their care and treatment, or to any inadequacy of home palliative care services. There is no basis for the court to make any recommendations arising out of their deaths.
33. I am sure that John's and Diane's families will have been distressed to learn about the manner in which they died. I hope they will accept the sincere sympathy of us all at the Coroner's Court for their loss.
34. I thank Sergeant Ben Hart, the Coronial Advocate assisting the inquest, and the Officer in Charge Detective Dannielle Cody, for their work in this matter.

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 make the following findings in relation to it.

The identity of the deceased

The person who died is Diane Michel, born on 31 May 1942.

Date of death

Diane Michel died between 5 and 6 December 2016.

Place of death

Diane Michel died at 23A Epping Road, North Ryde NSW.

Cause of death

Diane Michel died as a result of sharp force injuries to her neck and wrists.

Manner of death

Diane Michel's death was as a result of homicide carried out by John McCain, in circumstances where she was terminally ill and had consented to John McCain bringing about her death.

The identity of the deceased

The person who died is John McCain, born 23 May 1940.

Date of death

John McCain died between 5 and 6 December 2016.

Place of death

John McCain died at 23A Epping Road, North Ryde NSW.

Cause of death

John McCain died as a result of projectile injuries to his chest.

Manner of death

John McCain's death was a deliberate self-inflicted act, in circumstances where he was terminally ill.

I close this inquest.

E Ryan

Deputy State Coroner

Glebe

6 August 2018