



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

Inquest:	Inquest into the death of Richard Thorn
Hearing dates:	30 September, 1 and 29 October 2014.
Date of findings:	11 November 2014
Place of findings:	State Coroner's Court, Glebe
Findings of:	Deputy State Coroner C. Forbes
Catchwords:	Coronial Law-manner of death-decomposed-hypothermia
File number:	2012/177209
Representation:	Ms E Sullivan, Counsel Assisting instructed by Ms M Bateman, Crown Solicitor's Office
Findings:	I find that Richard Thorn died sometime shortly before 31 May 2012 at 3 Donald Street, Old Guildford, NSW. He died as a result of hypothermia that he suffered while he was lying on the floor in his bedroom. The evidence does not allow me to make a finding as to why he was lying on his bedroom floor.
Recommendations:	

REASONS FOR DECISION

INTRODUCTION

1. On the evening of 4 June 2012, Richard Thorn was found deceased on his bedroom floor at 3 Donald Street, Old Guildford. He had a lengthy history of alcoholism and had difficulties walking due to a back condition. He lived at that address with his half-brother, Todd Thorn. It was their family home and they had continued to reside there after their mother passed away in September 2007.
2. Mr Thorn was 67 years of age at the time of his death. He was a single man who was separated. His two children, Rachel and Bernard, and his sister, Anne and brother in law, David attended this Inquest each day and were concerned to find out how and why Mr Thorn died in this manner.
3. To assist the Court gain an understanding of who Richard Thorn was, at the Inquest Rachel read a family statement on behalf of her and Bernard. Rachel's evidence was that notwithstanding her father's alcoholism, "that was not all that he was". She recalled:

"... My brother and I have fond childhood memories of attending football games with our father to watch his beloved Eels and of staying up late listening to Elvis records and playing Monopoly. He had a love of fishing, rain or shine and we'd spend many weekends picnicking at the beach. He was a hard worker, until his health prevented him from working, and he was caring and supportive to his parents."
4. Although Richard Thorn had become estranged from his children, both were devastated at his passing, as the opportunity to re-establish contact with him was forever lost.

ISSUES

5. The purpose of an inquest, as set out in s.81 of the *Coroner's Act 2009* 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.

Mr Thorn's identity and the place of his death are uncontroversial.

6. The forensic pathologist who conducted a post mortem, Professor Duflou, opined in his autopsy report that the deceased died sometime "close to" 31 May 2012. In oral evidence, Professor Duflou gave a range of 4 to 7 days that Mr Thorn had been deceased, based on the level of decompositional change in his body. Professor Duflou thought it unlikely that the death had occurred any time after 31 May 2012. I accept his expert opinion to these matters.
7. Professor Duflou also gave evidence regarding the cause of Mr Thorn's death. He concluded that the cause was hypothermia, which occurs when the body's core temperature drops below that required for normal metabolism and bodily function (generally considered to be less than 35 degrees Celsius). His conclusion was based on particular features of hypothermia that were found at autopsy in particular, the presence of Wischnewski's ulcers (classic indicia of hypothermia). I also accept his expert opinion in that regard.
8. The main issue for this Inquest has accordingly been the circumstances in which Mr Thorn died.

INVESTIGATION

9. At 5:41pm on Monday, 4 June 2012, Todd Thorn rang Fairfield Police Station and reported that he had just arrived home and found his brother dead in his bedroom. The police attended the house at 6:45pm.
10. Police observed Mr Thorn lying on his left side in a foetal position on the floor. He was covered up to the face with a blanket. There were several empty beer bottles on the floor near him. In his right hand, he clenched an empty beer bottle upside down. His shorts and underpants were pulled down around his knees. Blood was pooled on the floor around his lower leg region. Police noted discoloration on his upper right thigh. There were obvious signs of decomposition.
11. Some police noted observations of a possible footprint or shoe impressions in the blood surrounding the deceased and what at least one officer thought were "symbols or letters" written in blood on the deceased's buttocks. Crime scene officers were called to investigate.
12. Crime scene Officer Jones spent some 6 hours analysing the scene. He gave oral evidence that he observed no footprints or markings in blood on the deceased's buttocks. He also said that he found nothing of a suspicious nature in the entire house.
13. At autopsy, Professor Duflou found no evidence of injuries, whether old or new. On being shown a picture of the discolouration on the right thigh, Professor Duflou thought it was likely to be due to decomposition and stated that if it had been bruising he would have, in all likelihood, noted it at autopsy.
14. The blood pooling around the deceased's legs, was explained by both Professor Duflou and crime scene Officer Jones as purge or decomposition fluid and that its presence is a natural part of the decomposition process.

15. Professor Duflou also explained that Mr Thorn's state of undress was consistent with him displaying paradoxical undressing, a known attribute of hypothermia. Similarly, his clenching of an empty upside down beer bottle was consistent with the confused and disoriented behaviour that often accompanies hypothermia.
16. In relation to Mr Thorn being found lying on the floor, Todd Thorn told police that it was not uncommon for his brother to sleep on the floor and that he had picked Mr Thorn up from the floor a "couple of times". David Gallagher, Mr Thorn's neighbour also gave evidence that he had walked into Mr Thorn's room some two weeks prior to his death, and found him on the floor, with a blanket over him. Notably, that is the same position in which Mr Thorn was ultimately found on 4 June 2012.

TODD THORN

17. Todd Thorn has given different versions of his knowledge of the circumstances surrounding Mr Thorn's death. Specifically, he gave varying accounts to the ambulance officers and police who attended the home on the evening of 4 June 2012, and also in his two interviews with police on 5 June 2012, and 20 August 2014.
18. The key inconsistencies are as to the following matters:
 - a) Todd Thorn's movements before finding his brother on the evening of Monday 4 June 2012, including:
 - i. the account he gave as to the last time he saw his brother sitting up in bed watching TV on either the Thursday (31 May) or Friday (1 June);
 - ii. Todd Thorn's statement to police that the last time he was in the house (before finding his brother deceased) was the night before on Sunday 3 June, when he sold a car to a Mr Gatt. However, land line phone records indicate that Todd was likely to have been present at various times on Monday, 4 June 2012, the day Mr Thorn's body was found, including 7.19am, 8.58am and 2.32pm);

- b) Todd Thorn's contrary accounts of the circumstances of finding his brother, including the presence of a foul odour in the driveway and whether he entered the house and had a shower, and also his movements after finding his brother deceased (including whether he entered the bedroom to check on him).
19. Todd Thorn was subpoenaed to give evidence at this Inquest. He failed to attend on the first date and the matter was adjourned for his attendance. He was subpoenaed again and attended Court at around midday on 29 October 2014. He objected to giving evidence pursuant to s.61 of the *Coroners Act 2009* and I accepted that there were reasonable grounds for his objection and did not require him to give evidence as I was satisfied that it was not in the interests of justice to offer him the protection of a Certificate pursuant to s. 61 *Coroners Act 2009*.
20. In his police interviews Todd Thorn openly admitted to being a long term amphetamine user who relied on drugs to deal with difficulties that have arisen in his life. He also said he has memory problems and that days run into each other. Todd's brother in law, David Bonnitcha, gave oral evidence confirming Todd's poor memory and said that Todd has difficulty conveying information in a way that is not confused. Senior Constable Irving also gave evidence that he formed the view that Todd Thorn had recall difficulties that seemed to be from drug use or mental health issues.
21. I am not in a position to make any finding about the details of Todd Thorn's movements before he found Mr Thorn's body or his knowledge of Mr Thorn's plight before he died. Todd Thorn's evidence does not assist in providing details as to how long and why Mr Thorn was lying on his bedroom floor.

MANNER OF DEATH

22. There is evidence that in the months prior to his death, Mr Thorn was becoming increasingly frail:
- a. Todd Thorn's statement to police that Mr Thorn spent a lot of time in his bedroom in the weeks before his death;
 - b. David Gallagher's (the neighbour) evidence that he had seen Mr Thorn some two weeks prior to his death on the floor of his room under a blanket and that he looked unwell;
 - c. Nicole Hancock's evidence of seeing Mr Thorn three weeks before his death - she was shocked at his appearance and how much he had aged; and
 - d. Evidence of two episodes of alcohol intoxication in October 2011 and January 2012, when police became involved because Richard was unable to mobilise himself in the street.

23. Professor Duflou gave evidence that the profile for hypothermic deaths in Sydney is:

- a) The elderly,
- b) Inside homes,
- c) Who are living alone, and
- d) Have pre-existing diseases.

Mr Thorn meets a number of those criteria. Professor Duflou also explained that a risk factor for hypothermia is alcoholism.

24. I also note that the Bureau of Meteorology Report for May/June 2012, shows that the minimum temperature for May 28 to 31 2012 was between 6.8 to 9.8 degrees.
25. There are a number of reasons why Mr Thorn may have been lying on the floor in his room. Some of the reasons include that, he became incapacitated by the severe heart disease that was found at autopsy, he may have fallen to the floor intoxicated; or may have been sleeping on the floor because of his back problem. The evidence does not allow me to make a finding as to why he was

lying on the floor. I do note however, there is an absence of any evidence of foul play.

26. The evidence does permit me to make a finding that he suffered hypothermia while he was lying on the floor in his bedroom and that caused his death.

FINDINGS:

Pursuant to s.81 *Coroners Act 2009*

I find that Richard Thorn died sometime shortly before 31 May 2012 at 3 Donald Street, Old Guildford, NSW. He died as a result of hypothermia that he suffered while he was lying on the floor in his bedroom. The evidence does not allow me to make a finding as to why he was lying on his bedroom floor.

C. Forbes

DEPUTY STATE CORONER

11 NOVEMBER 2014