

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1487/07

Inquest into the Death of DAVID IAN WAGHORN

Delivered On:	10 June 2010
Delivered At:	Lonsdale Street, Melbourne 3000
Hearing Dates:	13 May 2010
Findings of:	JOHN OLLE
Representation:	N/A
Place of death:	1/28 Wellington Street, St Kilda, Victoria 3182
SCAU:	Leading Senior Constable Remo Antolini

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1487/07

In the Coroners Court of Victoria at Melbourne

I, JOHN OLLE, Coroner

having investigated the death of:

Details of deceased:

Surname: WAGHORN
First name: DAVID
Address: 1/28 Wellington Street, St Kilda, Victoria 3182

AND having held an inquest in relation to this death on 13 May 2010
at Melbourne Magistrates Court

find that the identity of the deceased was DAVID IAN WAGHORN
and death occurred on or about 17th April, 2007

at 1/28 Wellington Street, St Kilda, Victoria 3182

from

1a. ACUTE SUBDURAL HAEMORRHAGE.

in the following circumstances:

1. David Waghorn (aka Kym Griffin) was aged 53 years at the time of his death. He lived at 1/28 Wellington Street, St Kilda.
2. Mr Waghorn was a private, hard working man. His few friends held him in high regard. He was respected by his employer. He is survived by a loving sister and daughter, both of whom live interstate.
3. Mr Rosser was a friend of Mr Waghorn. I have derived great assistance from his insight into Mr Waghorn's character and lifestyle.

Health Issues

4. Mr Waghorn had an opiate dependence. His general practitioner detailed Mr Waghorn's struggle with opiate dependence, combined with a range of health issues.

The Investigation

5. Mr Waghorn's daughter and sister wrote letters to the Coroners Court. They detailed concerns in respect to the circumstances of Mr Waghorn's death and the nature of the investigation.

6. At the conclusion of evidence, I am heartened to note that both women expressed satisfaction with the investigation undertaken by Constable Harms, the coronial investigator. In particular, they acknowledged his genuine endeavour to address their concerns.

7. There will however, remain unanswered questions.

8. When Mr Waghorn was found by Mr Rosser, deceased in his room, his door was unlocked. There were no keys present. He was lying on his back. His socks were neatly folded and placed inside his shoes, under his bed.

9. I am satisfied that Mr Waghorn would not have voluntarily:

- 1) Left his door unlocked;
- 2) Handed his house keys to any other person.

10. On the 16 April, 2007, Mr Waghorn drove to the home of Brian Stewart ('the premises'). He spoke privately with Zelmir Markovic in a bedroom ('the meeting'). The discussion related to money owed Mr Waghorn by Mr Markovic.

11. In evidence, both men considered Mr Waghorn under the influence.

What happened to Mr Waghorn after the meeting?

According to Mr Stewart:

12. Mr Waghorn and Mr Markovic left the apartment in the vehicle. He remained with others at his home.¹

According to Mr Markovic:

¹ August 2008 Record of Interview and evidence B Stewart

13. Mr Waghorn loaned him the vehicle and he provided him a single car key². Mr Markovic drove the vehicle from the apartment in company with others. Mr Waghorn remained at the premises.

14. Ms Dagmil recalled being at the premises, and thereafter, being a passenger in "*a small white vehicle*" subsequently intercepted by police.³

17. She explained:

*"I don't remember where the car came from and because of the drugs I can't remember what we did after that. It was all a bit of a blur."*⁴

Police contact with Mr Markovic

April 17, 2007

In the early hours of the following morning, a routine police check intercepted Mr Markovic driving the vehicle in company of other persons.

20th April, 2007

Constable Harms contacted Mr Markovic and advised him that Mr Waghorn was found deceased. Mr Markovic then loaned Mr Stewart the vehicle.

9th May, 2007

Mr Stewart was intercepted driving the vehicle.

21st May, 2007

Mr Stewart was intercepted in Lennox Street, Richmond, driving the vehicle. The vehicle was impounded.

21st May, 2007

A representative of the towing firm informed Constable Harms, the car key was in a bundle of keys, impounded with the vehicle.

18. The investigation was unable to clarify whether the bundle of keys, held by the towing company, included Mr Waghorn's room key.

² Statement and evidence Z. Markovic

³ Statement J. Dagmil IB

⁴ Statement J. Dagmil IB

I am satisfied Mr Waghorn:

- 1) always locked his door.⁵
- 2) would never provide his accommodation keys to another person.⁶
- 3) was not alone in his room when he suffered an acute subdural haemorrhage.
- 4) had injuries to the face "*consistent with being sustained in a fall*".⁷
- 5) had minor injuries to the feet. A potential cause the result of being dragged only one of a number of possible causes.⁸
- 6) if assaulted, was not assaulted in a sustained or severe manner.⁹
- 7) had injuries consistent with being sustained in a fall or stumble.¹⁰
- 8) was assisted and/or placed on his bed by a person or persons unknown.

19. The investigation has not identified the person or persons who accompanied Mr Waghorn to his room and removed his room keys. His cigarettes and mobile phone were also missing however, they may have been stolen or misplaced earlier in the evening.

20. Of note, Mr Waghorn's socks were located, neatly placed in his shoes. It was his habit to do so.

In Summation

21. On the evening of 16 April, 2007, Mr Waghorn attended the premises. Following the meeting, he left the premises and returned to his room.

22. His socks were removed and neatly placed in his shoes. He likely fell or stumbled, striking his head, suffering an acute subdural haemorrhage.

23. There was a person or persons present. Assistance may have been offered Mr Waghorn to lie on his bed.

24. It cannot be ascertained why Mr Waghorn's accommodation keys were taken.¹¹

⁵ Evidence M Rosser/Adrienne Reid

⁶ Evidence M Rosser/Adrienne Reid

⁷ Supplementary Statement Dr Woodford

⁸ Supplementary Statement Dr Woodford

⁹ Supplementary Statement Dr Woodford

¹⁰ Supplementary Statement Dr Woodford

¹¹ If the accommodation keys were in the bundle of keys which accompanied the vehicle on 21 May, 2007 the likelihood is Mr Markovic was present in Mr Waghorn's room.

Mr Markovic was found driving the vehicle in the early hours of 17 April, 2007. Upon learning of the death of Mr Waghorn on 20 April, 2007, he offered Mr Stewart the vehicle.

25. Mr Waghorn would not provide his accommodation keys to another person. It is conceivable, having fallen and bumped his head, the person or persons present may have initially intended to seek pharmaceutical and/or medical help. The question remains unanswered.

26. Whilst Mr Markovic and Mr Stewart, remain persons of interest, there is no evidence to find that either was present at the time Mr Waghorn suffered his acute subdural haemorrhage.

27. There is no evidence to find Mr Waghorn was assaulted.

28. Although a person or persons were present at the relevant time, there is no evidence to find Mr Waghorn died as a result of foul play.

Post Mortem Medical Examination

29. On the 30th April, 2007 Dr Noel Woodford, Forensic Pathologist at the Victorian Institute of Forensic Medicine, performed an autopsy. Dr Woodford found that the cause of death to be acute subdural haemorrhage.

30. Dr Woodford commented:

"In this case, although there was no significant deep scalp bruising identified, injuries on the face (to the nose and right forehead) would be consistent with being sustained in a fall. In vulnerable individuals (for instance those with coagulopathies or a history of chronic alcohol abuse), relatively minor trauma can result in the development of an acute subdural haemorrhage."

31. Dr Woodford noted the toxicological analysis showed a presence of buprenorphine and more remote use of amphetamine. Amitriptyline (an anti-depressant drug) was also detected. Dr Woodford noted:

"Whilst there were a number of relatively minor injuries (of varying age) identified on external examination, taken overall the findings do not suggest that the deceased has been assaulted by another party."

32. At my request, letters of concern raised by the family were provided to Dr Woodford and a supplementary report was requested.

Thereafter, Mr Stewart drove the vehicle until it was impounded on 21 May, 2007. Mr Stewart could not recall how many keys Mr Markovic gave him on 20 April, 2007.

33. Dr Woodford noted:

"Concerns raised by the family appear to relate to the significance of injuries on the deceased's body, the position of the body when found, and the "suspicious" circumstances surrounding the death. With respect to these concerns, I make the following comments:

The injuries to the face were described by me as being "consistent with being sustained in a fall". No other deep scalp bruising was identified. There were areas of recent and healing (more remote) abrasion on the top of both feet. There was a fresh bruise involving the right side of the mouth (lower lip) but no other deep facial bruising, and an area of bruising to the right elbow which showed evidence of healing changes. Taken overall, the features did not suggest to me that the deceased had been assaulted in a sustained and severe way by another party, and the nature and distribution of the injuries to the face in particular (but possibly also the feet) appeared consistent with being sustained as the result of a fall or stumble. The above comments notwithstanding, some form of assault comprising relatively minor trauma (e.g. a push or even a single blow) resulting in a fall or stumble with resultant head trauma cannot be excluded.

The injuries to the feet were minor, of varying age and some appeared recent. Whilst it is possible that they could have been sustained if the deceased was dragged, with bare feet, while alive and obtunded or even shortly after death, other explanations (including injuries arising inadvertently in the setting of diabetic neuropathy) are possible. Diabetic neuropathy may cause a degree of anaesthesia of the peripheries, particularly the feet.

Some sort of interference with the body in the form of repositioning after death cannot be excluded, but from a pathological viewpoint it is also possible that this just happened to be the position of the deceased's body at the time of his death."

Overview of Victoria Police of the coronial investigation

34. The overview of Senior Sergeant Dean McGowan was referred to in evidence. I adopt the following passage:

"I personally note the scrap marks on the top of the deceased's toes which were depicted in Exhibit 1 (crime scene photos). In my opinion these injuries were consistent with being dragged (while unconscious) without any shoes on. It strikes me as strange that his shoes and socks had been neatly placed under the bed, given his probable state of delirium, as he had either fallen and struck his head or drug affected after intravenously injecting drugs earlier at the party. Although speculative, this scenario may be consistent with the deceased falling over and being carried to his room by a friend. Given the value of

property in the deceased's room that had not been stolen or touched, this may well be the case."

Finding

I find that David Waghorn died of acute subdural haemorrhage.

There is no evidence of foul play.

Signature:

John Olle
Coroner
Date: 10th June 2010

