

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1272/06

Inquest into the Death of EARL NEIL MOORING

Delivered On:	27th April, 2011
Delivered At:	Coroners Court of Victoria Level 11, 222 Exhibition Street, Melbourne 3000
Hearing Dates:	27th April, 2011
Findings of:	JUDGE JENNIFER COATE
Place of death:	Unknown
PCSU:	Sergeant David Dimsey

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

Section 67 of the Coroners Act 2008

Court reference: 1272/06

In the Coroners Court of Victoria at Melbourne

I, JUDGE JENNIFER COATE, State Coroner

having investigated the death of:

Details of deceased:

Surname: MOORING
First name: EARL

AND having held an inquest in relation to this death on 27th April, 2011
at Melbourne

find that the identity of the deceased is EARL NEIL MOORING (previously known as EARL
NEIL BLACKNEY)¹ and death occurred sometime after 10th October, 2000 at an unknown
time and location

from
1a. MULTIPLE INJURIES²

in the following circumstances:

1. The death of Mr Mooring has been the subject of a very long running criminal investigation by Detective Sergeant Thatcher, which initially commenced when D/S Thatcher was with the Homicide Squad.
2. Mr Mooring disappeared in suspicious circumstances in October 2000. He was last seen in his red Nissan Micra Coupe travelling to the home of his ex-girlfriend Ms Cheryle Lane in Solar Drive Whittington. He did not report for work on October 11, 2000 and was subsequently reported as a missing person by his employer.

¹ According to the evidence of S/D Thatcher Mr Mooring changed his name by Deed Poll after marrying Kathleen Mooring in 1964.

² Report of Dr J. Duflou March 28, 2006

3. He was living in Corio at the time of his disappearance. A search of his home revealed nothing suspicious and no clues to his fate. On October 16, 2000 the Victoria Police Homicide Missing Persons Unit commenced an investigation into his disappearance codenamed operation "Quicksands".
4. As a result of the criminal investigations to date , it was revealed that Mr Mooring may have indicated to his then ex-girlfriend Ms Cheryle Lane and others that he had a substantial amount of money in cash savings (between \$100,00 and \$120,000) around his house. It is alleged by police that this caused the son of Ms Lane, Mr Stevan Utah to take a "keen interest" in Mr Mooring and his money. Some members of Victoria police suspect that Mr Mooring may have been lured to the Whittington address by his ex-girlfriend, Ms Cheryle Lane.³
5. Investigating police also suspect that people were laying in wait for Mr Mooring to arrive at Ms Lane's home so that they could pressure Mr Mooring into revealing the location of his alleged cash savings believed to be hidden in his premises.
6. The police investigators believe that Mr Mooring was assaulted at Ms Lane's house in Whittington and then conveyed to a second location where he was tortured, to reveal the location of his alleged savings, and subsequently killed.
7. The police allege that Mr Mooring's body was then conveyed to New South Wales where he was dumped in a bush location.
8. Mr Mooring's vehicle was reportedly driven to Sydney where it was burnt and destroyed. That vehicle has not been located to date.
9. Mr Utah has claimed to police that he was present when Mr Mooring was shot and killed. Mr Utah has also claimed to police that he was present when Mr Mooring's body was dumped in Towrang.
10. Subsequent police enquiries were made. Stevan Utah was charged with Mr Mooring's murder on November 1, 2004. Mr Utah chose not to participate in a formal interview.
11. On December 7, 2004 the murder charge against Mr Utah was withdrawn by police.

³ Ms Lane was subsequently charged in 2001 with being an accessory to murder. She later entered the Witness Protection scheme. She applied for an indemnity from prosecution which was refused by the OPP. On October 15, 2001 this charge was withdrawn and she was charged with attempting to pervert the course of justice in relation to this investigation. She admitted that she disposed of bloodstained carpet from her premises to avoid prosecution. She also admitted that she misled police by supplying a false statement in this investigation. She was convicted and sentenced to 3 years in prison which was wholly suspended sentence for 3 years.

12. On December 20, 2004 investigators were led to Towrang Road Towrang where human remains were located near Goulburn in New South Wales (NSW).

Identification

13. The remains located in Towrang NSW were conveyed to Glebe Coroner's Court Sydney where the remains were subject to a post mortem examination by a range of forensic scientists.

14. Forensic examination of those human remains produced reports from a forensic odontologist, a forensic anthropologist, a forensic pathologist and a molecular biologist in NSW and further examinations were conducted in Victoria upon the repatriation of the remains to Victoria.

15. The forensic pathologists that examined the remains located in Towrang found, on post mortem examination that there were extensive injuries to the skull and chest wall consistent with having been struck a number of times with one or more blunt objects. There was no evidence found of any gunshot injuries.⁴

16. The NSW forensic anthropologist Dr Denise Donlon provided a report that found that the remains were those of a Caucasoid male of between 40 and 66 years of age and of a height between 161 and 174 cm.

17. The forensic odontologist gave an opinion that the examination of the post mortem dental radiographs when related to the anti-mortem dental records provided in the name of Earl Mooring were consistent.

18. In 2002 the Mooring family handed a human tooth to Detective Sergeant Thatcher which they advised was a tooth belonging to Mr Mooring which he had kept in an envelope in his drawer as a keepsake.

19. A DNA examination was performed by Forensic scientist Rebecca Heyes⁵ comparing DNA extracted from this tooth with DNA extracted from the femur bone from the located remains. In the opinion of the forensic scientist Ms R.Heyes, this comparison provided extremely strong support for the conclusion that the biological material from the bone originated from the donor of the biological material from the tooth.

20. The material contained in the brief confirms that the clothing on the remains found in Towrang match the colour and size and description of the clothing Mr Mooring was last seen wearing.

⁴ Reports of Dr J. Duflou (NSW) and Dr M. Burke (Forensic Pathologist, Victoria) and Dr Soren Blau (Forensic Anthropologist, Victoria)

⁵ Report of R. Heyes: Inquest Brief P460

Identification:

21. Given all of the above evidence, I am satisfied that the human remains found on the 20th of December 2004 in Towrang in NSW are those of Earl Neil Mooring. In making this finding, I note that on the 5th of July 2006 Deputy State Coroner Iain West, based on all of the above evidence, but in particular the report of Dr Michael Burke, the dental records and the DNA profiling made a finding as to the identity of the deceased as Earl Neil Mooring late of 17 Browning Drive Corio in Victoria.

The criminal investigation

22. As stated above, the circumstances of the death of Mr Mooring have been the subject of considerable criminal investigation. As stated above, both Mr Stevan Utah and Ms Lane were charged with offences arising out of his death.

23. Two further persons were identified as possibly associated to the death of Mr Mooring. The Office of Public Prosecutions has been provided with the complete brief of evidence compiled to date. Detective Sergeant Thatcher gave evidence that the Office of Public Prosecutions has assessed the evidence with respect to these persons and has decided not to proceed further with criminal charges at this stage.

24. Mr Utah is currently at an unknown location. He was contacted in a circuitous way to ascertain his willingness to give evidence at this inquest. When contacted for that purpose, he proposed a series of conditions upon giving any evidence to the inquest which apparently included requests such as the granting of a pardon or the withdrawal of charges in Queensland, an indemnity in NSW and Victoria and that his testimony not be made public and that he be provided with a lawyer. These are issues beyond the jurisdiction and powers of an investigating coroner. Further, as indicated at the commencement of the inquest, this coronial process is not a substitute for the proper procedures and processes of the criminal justice system in the state of Victoria. In cases such as this, the coroner is required, as best as is possible, to confirm the identity of the deceased, the cause of the death of the deceased and the circumstances surrounding the death, whilst being careful not to interfere with or contaminate any future possible criminal prosecution.

Conclusion

25. I find that a shipping company employed Mr Mooring full time at the time of his death. He had no criminal history.

26. Based on all of the material contained in the Inquest Brief, I am satisfied that Mr Mooring died of multiple injuries apparently inflicted upon him in the above circumstances. No person has been found responsible for his killing despite the diligent efforts of the investigating police. The police have been presented with a huge range of conflicting evidence and versions of events. This situation has been complicated by the apparent considerable fear of reprisals being expressed by some persons if they were to "co-operate " with police enquiries and requests for statements.

COMMENTS:

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the death (including any notification to the Director of Public Prosecutions under Section 69(2) of that Act):

1. The family of Mr Mooring have not only suffered his loss in awful circumstances, but have endured almost 11 years of a criminal investigation being undertaken which has not resulted in any person being convicted of the killing of Mr Mooring. These proceedings must feel like an inadequate response to the years of waiting for answers.
2. Unfortunately, the work of Detective Sergeant Thatcher in endeavouring to obtain answers for the Mooring family, producing a considerable amount of material contained in the brief for this investigation, has not been able to produce a completed result in the criminal sphere.
3. The coroner's jurisdiction is not one setup to investigate criminal behaviour. The coroner's jurisdiction cannot be used as a substitute for a criminal investigation or prosecution of a person or persons. Indeed, S.69 of the Coroners Act 2008 prohibits a coroner, including in a finding or a comment any statement that a person is or may be guilty of a criminal offence.
4. I extend my deepest sympathy to the family of Mr Mooring for their loss in such awful circumstances.

Signature:



Judge Jennifer Coate
State Coroner

Date: 27th April, 2011

