

**FORM 37**

Rule 60(1)

**FINDING INTO DEATH WITH INQUEST**

*Section 67 of the Coroners Act 2008*

**Court reference:** 1377/05

**Inquest into the Death of MARK BAILEY**

Delivered On:	9 June 2010
Delivered At:	Melbourne
Hearing Dates:	28 May 2010
Findings of:	Coroner K.M.W. Parkinson
Place of death:	Sepik Vale, Mount Evelyn, Victoria 3796
Counsel Assisting the Coroner:	Mr Stephen Milessi



FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

*Section 67 of the Coroners Act 2008*

Court reference: 1377/05

In the Coroners Court of Victoria at Melbourne

I, KIM PARKINSON, Coroner

having investigated the death of:

**Details of deceased:**

Surname: BAILEY  
First name: MARK

AND having held an inquest in relation to this death on 28 May 2010  
at Melbourne  
find that the identity of the deceased was MARK BAILEY  
and death occurred on 24th April, 2005

at Sepik Vale, Mount Evelyn, Victoria 3796

from

1a. GUNSHOT INJURY TO HEAD

in the following circumstances:

1. A summary inquest was conducted into the death of Mr Bailey. An extensive brief of evidence had been prepared for this case by the Victoria Police Homicide Squad. That brief is exhibited in this proceeding. Evidence was also taken from Detective Senior Sergeant Geoffrey Maher as to the circumstances of Mr Bailey's death.
2. Mr Mark Bailey was born on 21 July 1978 and he was 26 years of age at the time of his death. Mr Bailey suffered from anxiety and had been diagnosed with Obsessive Compulsive disorder. He had a difficulty with substance abuse, most recently alcohol. He was receiving treatment for alcohol abuse and counselling for his psychological disorder by a psychiatrist Dr Scott Blair-West and a psychologist Mr Tom McCrimmon. He had a history of violence, associated with alcohol usage and had spent some time in prison in New South Wales as a result of a violent domestic incident. Mr Bailey was strongly supported by his parents and they attempted to assist him with his difficulties over a very long period of time, to the extent they were able.

## Evidence of Psychiatric and Psychological status of Mark Bailey

3. Mr Bailey had an extensive history of drug and alcohol dependence. His psychiatric history was described by his treating psychiatrist, Dr Blair-West and by his psychologist, Mr McCrimmon.<sup>1</sup> Dr Blair-West diagnosed obsessive compulsive disorder attenuated by drug and alcohol dependency issues and depression. It is apparent from the evidence of Dr Blair-West that he was not fully informed as to the nature of Mr Bailey's propensity for and history of violence. He stated that the psychiatric conditions from which he suffered are not usually associated with violent conduct and to my knowledge he had no past history of violence towards others or previous suicide attempts. It is apparent that Dr Blair-West did not have an accurate or complete understanding of Mr Bailey's history. Mr Bailey did report some past episodes of conflict with family but appears to have deliberately downplayed the violence involved. Mr Bailey was being treated with Paroxetine (Aropax) in increasing doses up to 40mg in combination with cognitive behavioural therapy. He had taken his medication on 23 April, 2005. He was also prescribed Valium as required. He saw Mr McCrimmon for ongoing treatment and counselling.
4. The forensic history provided by Dr Maurice O'Dell<sup>2</sup> and the statements of family and friends establish that Mr Bailey had a propensity for violent rage, including physical attacks on family and friends. Mr McCrimmon became aware of this propensity during the course of his consultations, which included family members. These rages were largely attributable to occasions when Mr Bailey was consuming alcohol. The treatment regime adopted by both clinicians was directed towards this issue of substance abuse. Mr McCrimmon observed that there had been an escalation in his behaviour in March 2005 including violence directed at family members and that on 4 April 2005 he spoke to Mr and Mrs Bailey:<sup>3</sup>

"I explained that in my opinion Mark still required residential rehabilitation and that it was only a matter of time before his alcohol abuse and aggression would escalate. I reminded them of their own needs and urged them to insist that he either enter residential care or leave their home, even if they have to call the police to remove him. This was extremely difficult for Judith to accept but she reluctantly agreed and I asked them to keep me informed. ....In hindsight I wish that I'd had the authority to legally commit Mark to a drug and alcohol rehabilitation program, even if it were against his will - perhaps this tragedy may have been prevented."

<sup>1</sup> Exhibits 13 and 15 IB page 144-145.

<sup>2</sup> Dr Odell Statement IB 373

<sup>3</sup> Exhibit 15 - IB page 144 -145.

5. It appears from Mr Bailey's history that the use of alcohol was a precursor to his becoming irrational and violent in his response to situations. Whilst s12 of the Alcohol and Drug Dependents Act 1965 enables referral, Dr O'Dell stated that in his view there are no assessment or treatment centres with the facilities to treat patients in a secure environment and that even were such facilities available, the capacity to determine the risk of relapse upon discharge was problematic.<sup>4</sup> Whilst it is possible that more extensive exchange of information between the clinicians may have highlighted the deterioration in his condition, it is not immediately apparent that any other authoritative intervention was available which would have prevented or assisted in preventing Mr Bailey's death.
6. An extensive description of the events of 23 and 24 April 2005 are contained in the Inquest finding into the death of Senior Constable Anthony Hogarth Clarke. The facts outlined therein are adopted and incorporated for the purpose of this finding and I describe in summary the events as they attach to Mr Bailey's death.
7. Mr Bailey had been to a 21st birthday party which was a dry event. At 10.45pm he drove his motor vehicle RIA 668 a red Nissan Skyline to the Wesburn Hotel where he was to join friends. He was intercepted by Senior Constable Clarke and issued with a penalty notice for exceeding the speed limit. It does not appear that he was particularly perturbed by this event. He arrived at the hotel and joined his friends where he remained until approximately 1.15am. He consumed at least five pots of full strength beer during that time. He left the hotel in his motor vehicle, travelling from the hotel along the Warburton Highway in a Northerly direction towards Launching Place and Yarra Junction.
8. He was again intercepted by Senior Constable Clarke. At 1.21.47 he was subject to a preliminary breath test, the result for which was positive. The breath analysis device reading recorded a blood alcohol reading of 1.07g/100mL. Post mortem toxicological analysis revealed Mark Bailey had a blood alcohol reading of 0.12g/100ml.
9. During the course of the intercept, Mr Bailey obtained Senior Constable Clarke's police issue revolver and shot and killed Senior Constable Clarke. The circumstances as to the obtaining of the weapon are described in the inquest finding as to the death of Senior Constable Hogarth Clarke.
10. In a conversation with his mother at 2:01.00, and with a friend Mr Daniel Leitch at 1:31:45 he advised that he had killed a policeman, taken his gun and that he was going to kill himself, Mr Bailey expressed the view that the police were after him and that he would not survive going to prison.

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<sup>4</sup> Dr Odell Statement IB page 373

11. The police radio was on open channel as he was driving from the scene and Mr Bailey may have heard some of the communications which were occurring in relation to the death of Senior Constable Clarke. Attempts were made to communicate with the open radio on Senior Constable Clarke's vehicle and it is likely that the distress of the police officers would have been apparent to Mr Bailey. He was aware that the police were pursuing him. He was clearly conscious of the significance of his act and the horrific nature of what he had done and he described this to his mother in their telephone conversation. Mrs Bailey attempted to convince her son to hand himself in to police, as did Mr Leitch.
12. Mr Bailey left the Launching Place scene in the police vehicle and drove to Sepik Vale, Mt Evelyn. He exited the vehicle and climbed a 2 metre embankment roadside where there was some tree cover, yet a view of the roadway from his position 4-5 metres from the road. At approximately 1.58am a taxi driver arriving at Sepik Vale to collect passengers from Number 1 Sepik Vale, noticed that a parked vehicle had a bullet hole in the rear passenger window on the driver's side. He contacted police. Police had already located Senior Constable Clarke's body. At about that time the police air-wing had also located the stolen police vehicle and patrol cars were directed to the location. Police arrived and spoke with the taxi driver, the passengers and local residents directing them inside the premises. Mr Bailey reported observing the taxi and the police call arrive, during the course of the telephone conversation with his mother. It is fortunate for the officer's first attending and for those at the scene that Mr Bailey was not motivated to cause them any harm. At approximately 2.14am, they heard a single shot fired in close proximity. The evidence suggests that Mr Bailey shot himself with the police service revolver he had taken from Senior Constable Clarke. Police located Mr Bailey's body on the embankment. The stolen police revolver, together with a six shot speed loader and ammunition was located with Mr Bailey. This was the firearm used to shoot Senior Constable Clarke. Senior Constable Glaser examined the scene and reported:

"On the north side of Sepik Vale was a grassed area above a short cutting from the roadway. About twenty metres distant from the roadway, lying on the ground near the edge of this grassed area to a line of trees, shrubs and undergrowth was the body of the deceased whose name I learned to be Mark Bailey. I observed that the deceased who was lying on his back had a gunshot wound to the mouth and a subsequent wound to the top of the head. An area of foliage near the deceased, in the general vicinity of about 1.5 to 2 metres up from the ground was blood spattered. On the ground beside the deceased's left leg was a mobile phone which I collected. Lying on the ground beneath the deceased's upper thighs was a revolver. I noted the serial number of this revolver was 8D30534. I opened the cylinder and observed that the chambers contained three cartridges and three fired cartridge cases which had been fired in the normal consecutive order from the chambers they were contained within. I removed these cartridges and fired cartridge cases from the weapon. Also lying on the ground between the deceased's lower legs was a speed loader fully charged with six cartridges. On the other side of Sepik Vale, that is the

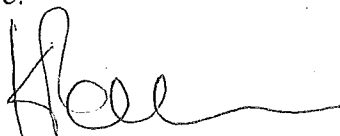
southern side and somewhat opposite this grassed area where the deceased lay, was an unmarked Police vehicle, a blue ford sedan registered number RZU 153. This vehicle was parked parallel off the roadway facing west, therefore the drivers side of the vehicle was towards the grassed area where the deceased lay. The drivers side window was completely wound down and the driver's side rear window was partly wound down. The police two way radio in this vehicle was turned up to a very high volume. There was a hole through the rear driver's side window which had been caused by the passage of a bullet having been fired into the vehicle. It measured by the position of the partly wound down window, 1044 millimetres up from the ground with a trajectory slightly down from horizontal and slightly rearward striking the window sill of the rear passenger side door. I observed amongst other objects on the front passenger seat, four loose cartridges."

13. Mr Bailey was deceased at the scene.

14. An autopsy conducted by Dr Matthew Lynch, a Senior Forensic Pathologist of the Victorian Institute of Forensic Medicine. He reported that the cause of death was Gunshot injury to the head. He reported that there was a contact/near contact range gunshot entrance injury to the hard palate.

15. Having considered all of the available evidence I am satisfied that Mr Mark Bailey died on 24 April 2005 at Sepik Vale, Mt. Evelyn from a self inflicted gunshot wound to the head and I find that no other person contributed to the death.

Signature:



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K.M.W. Parkinson  
Coroner  
Date: 9th June 2010



