

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2012 000741

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, ROSEMARY CARLIN, Coroner having investigated the death of OSCAR NICHOLAS MCINTYRE

without holding an inquest:

find that the identity of the deceased was OSCAR NICHOLAS MCINTYRE

born on 22 December 1994

and the death occurred on 25 February 2012

at Phillip Island Race Circuit, Cowes, Victoria

from:

1(a) INJURIES SUSTAINED IN A MOTORCYCLE INCIDENT (DRIVER)

Pursuant to section 67(1) of the *Coroners Act 2008* there is a public interest to be served in making findings with respect to the following circumstances:

1. Oscar McIntyre was born on 22 December 1994. He was 17 years old when he died in a motorcycle race. Oscar is survived by his parents.
2. Victoria Police provided a brief to the Coroner that included statements from Oscar's mother, race manager, witnesses and investigating officers. I also received Oscar's medical records and expert opinions. I have drawn on all this material as to the factual matters in this finding.

Background

3. Oscar had a history of mental health issues and had been involved with Headspace, a youth mental health service. According to Headspace records, Oscar had a history of self-harm, low mood and aggression. He received counselling, consulted with a psychiatrist and engaged with his general practitioners (GPs). In 2011 his GP prescribed an antidepressant, Lexapro

(escitalopram) for a brief period and Xanax (alprazolam) on an 'as required' basis to manage his anxiety. The last prescription for Xanax was on 7 February 2012.

4. During 2011 Oscar discussed with his GPs on several occasions the use of steroids for body building. His GPs advised against this.
5. Oscar had considerable experience riding motorcycles, including competitively. He had engaged a professional race manager, Michael Gross. He held a Senior National Licence issued by Motorcycling Queensland which entitled him to participate in senior (16 years and over) events.
6. Oscar entered the 2012 Australian Superbike Championship, which was part of the World Superbike Championship, to be held at Phillip Island Race Circuit. He entered the 600cc Superstock event for riders at entry level (C and D grade). The event was open to all ages, however as he was under 18, his parents provided written consent for his competition licence and entry into the race.
7. In January 2012, Oscar went to the Phillip Island track with Mr Gross for two days of testing. It was his first time riding a Yamaha R6, a 600cc motorcycle. Oscar also went to the Queensland Raceway for one day of testing in February 2012. Mr Gross stated 'the main problem with Oscar's riding, as I saw it, was that he was trying too hard'.

Events proximate to death

8. Oscar travelled to Phillip Island prior to his Superbike Championship race on 25 February 2012. He participated in the practice session on 24 February 2012 and fell off his motorcycle twice. Mr Gross coached him against trying too hard.
9. Qualifying sessions were held on 25 February 2012. Mr Gross instructed Oscar to stay close to riders with a similar qualifying time to his own so as to learn from them.
10. On 25 February 2012 at approximately 1.58 p.m., Oscar's race commenced. At the start of the second lap Oscar was in 38th position out of 40 competitors. As he approached the first corner, instead of rounding the bend he sat upright and rode in a straight line across the infield towards the other side of the circuit. Another rider, Richard Ellis was close behind Oscar's motorcycle when it left the track.

11. Oscar rode over grass, a gravel trap, a bitumen braking area and back onto grass. His motorcycle did not appear to lose speed even as it passed through the gravel trap. Oscar eventually fell from his motorcycle in the area of a drainage ditch. He and his motorcycle slid back onto the track where he was struck by another rider who was coming out of Turn 2 at a high speed. Oscar sustained fatal injuries and died at the scene.

Post mortem examination

12. Dr Yeliena Baber, Forensic Pathologist at the Victorian Institute of Forensic Medicine (VIFM), inspected Oscar's body. The examination revealed multiple injuries including avulsion of the right leg. Toxicological analysis of post mortem blood samples detected methylamphetamine (0.02mg/L), amphetamine (0.01mg/L) and desmethylvenlafaxine in Oscar's system.¹ Dr Baber reported the cause of death as 1(a) injuries sustained in a motorcycle incident (driver).
13. Dimitri Gerastamoulos, Senior Toxicologist at VIFM opined that the levels of drugs in Oscar's blood were not high and not indicative of long term use.²
14. Associate Professor Morris O'Dell, Senior Forensic Physician at VIFM provided an opinion as to the effects of drugs detected in Oscar's blood. A/Professor O'Dell noted that drivers and riders of motor vehicles under the influence of amphetamines are more likely to engage in dangerous and risky behaviour, including speeding.³ He also stated that a user of a stimulant drug will feel its effects shortly after use, but this would be followed by a rebound phase in which the user feels very tired and may even fall asleep.⁴
15. A/Professor O'Dell concluded that it was not possible to determine the times of use, dose, effects or extent of use of the drugs present in Oscar's system. He concluded that because of the uncertainties it was not possible to give a definitive opinion regarding the effects of the drugs on Oscar's riding. However, he noted that methylamphetamine with or without venlafaxine or desmethylvenlafaxine, is capable of adversely affecting driving and riding ability, even at a low blood level such as existed in this case.

¹Amphetamines are central nervous system stimulants. Venlafaxine is indicated for the treatment of depression. Amphetamine and desmethylvenlafaxine are metabolites of methylamphetamine and venlafaxine respectively, as well as drugs in their own right.

² Memorandum from LSC King Taylor to Coroner Kim Parkinson dated 6 August 2013.

³ Report of A/Professor Morris O'Dell dated 27 June 2014, page 4.

⁴ Report of A/Professor Morris O'Dell dated 27 June 2014, page 6.

Analysis of Oscar's collision

16. The distance between Oscar's exit and re-entry points on the track was approximately 210m and the evidence indicates that rather than braking Oscar appeared to travel at full throttle until he fell.⁵ According to Track/Flag Marshall Gerard Keogh, in other instances 'riders would try to regain themselves by moving arms and legs' however Oscar's body seemed 'quite rigid' as he rode through the infield.
17. Oscar's motorcycle was scrutineered before the race and afterwards it was examined by Sergeant Leigh Booth of the Mechanical Investigation Unit. Sergeant Booth did not find any mechanical fault that could have caused or contributed to the collision. In particular, the motorcycle had a functional steering damper, its brakes were operational and there was no indication that the accelerator had jammed open.
18. I obtained a report from Professor Rod Troutbeck, a highly qualified civil engineer with expertise in motor racing safety, circuit design and safety barriers, as to the track set up and any possible contributing factors. Professor Troutbeck indicated that if Oscar had attempted to brake, the gravel trap would have been effective to stop him. He concluded that the track set up and protection was adequate.
19. No amount of further investigation will be able to determine why Oscar rode at full speed across the infield between the two sections of the track. There was no interference by other riders, nor any other obvious circumstance causing him to ride in this way. It appears to have been a decision made by him for unknown and unascertainable reasons. It is possible he realised he was travelling too fast to take the approaching corner and decided to re-enter the race on the other side of the circuit. However, the angle of his approach to the other side tends against this. It is also possible that the amphetamine in his system affected his decision making and/or his riding ability, but again this will never be known.

Prevention opportunities

20. For national racing events, it was normal for a large barrier to be placed between the corner where Oscar left the track and the point that he re-entered it. However, this barrier was

⁵ This evidence comprises witness observations, video footage and the fact that Oscar's motorcycle was in 5th gear after the incident.

removed prior to world championship events, as this was. The evidence indicates that Oscar would have missed this barrier even if it had been in place.

21. The day after Oscar's death the barrier was replaced and thereafter a decision was made to install an extended barrier in the vicinity to prevent a similar incident. In addition to this barrier, Professor Troutbeck recommended the installation of a conspicuous visual (non-retarding) barrier to dissuade riders from attempting to cross the infield.

Finding

22. I am satisfied on the evidence that further investigation is not required. I am satisfied that Oscar's death was accidental and that his death was caused by his manner of riding.
23. I find Oscar McIntyre died on 25 February 2012 as a result of injuries sustained in a motorcycle incident (rider) whilst competing in a race.

RECOMMENDATIONS

Pursuant to section 72(2) of the *Coroners Act 2008*, I make the following recommendation(s) connected with the death:

24. As recommended by Professor Troutbeck, I recommend that Motorcycling Australia Limited, Philip Island Operations Pty Ltd and the Federation Internationale de Motorcyclisme ensure that a conspicuous visual (non-retarding) barrier is installed at the Phillip Island Race Circuit in a position to dissuade riders who have left the track from attempting to cross the infield to re-join the track.

I direct a copy of this Finding be provided to the following:

The family of Oscar McIntyre;
The Interested Parties;
Motorcycling Australia Limited;
Philip Island Operations Pty Ltd;
Federation Internationale de Motorcyclisme; and
Investigating Member, Victoria Police.

Signature:



ROSEMARY CARLIN
CORONER
14 April 2016

