

**FORM 37**

Rule 60(1)

**FINDING INTO DEATH WITH INQUEST**

*Section 67 of the Coroners Act 2008*

**Inquest into the Death of Rohan Morris**

Delivered On:	29/11/2010
Delivered At:	Warrnambool
Hearing Dates:	18/11/2010 & 19/11/2010
Findings of:	Jonathan Klestadt
Representation:	Mr Thyssen
Place of death/Suspected death:	Portland
*SCAU	Leading Senior Constable Kevin Mullins

FORM 37

Rule 60(1)

FINDING INTO DEATH WITH INQUEST

*Section 67 of the Coroners Act 2008*

In the Coroners Court of Victoria at Warrnambool

I, Jonathan Klestadt, Coroner having investigated the death of:

**Details of deceased:**

Surname: Morris  
First name: Rohan  
\*Address: 166 Fawthrop St, Portland VIC

AND having held an inquest in relation to this death on 18/11/2010

at Warrnambool

find that the identity of the deceased was Rohan Daikin Morris

and the death occurred on or about 4/12/2006

at 79 Hurd St, Portland

from Stab injury to chest in the following circumstances:

Late on the evening of Monday the 4<sup>th</sup> of December 2006 Rohan Morris died outside the address of 79 Hurd Street in Portland as a result of injuries received when he was stabbed in the chest by ANDREW JAMES SAUNDERS.

The death of the deceased was investigated by officers from the Homicide Squad of the Victoria Police, and a brief of evidence was submitted to me containing 37 statements, recordings and transcripts of 4 formal records of interview, together with a list setting out 34 exhibits.

An inquest was held at the Warrnambool Court on the 18<sup>th</sup> and 19<sup>th</sup> of November 2010 at which I heard evidence from 7 witnesses, however only two of those witnesses deposed to matters directly relevant to the infliction of Mr. Morris's injuries. Four witnesses who were under subpoena and who would have been able to give evidence relating to the incident failed to appear, and I was not urged by either counsel for the family of the deceased, or by Leading Senior Constable Mullins, who appeared to assist me, to postpone the inquest or issue warrants to seek to compel their attendance. The one final witness who might have been able to give relevant evidence has not been able to be located.

The remaining evidence before me was from police and medical witnesses whose evidence gave little assistance in discovering the exact sequence of events leading up to the fatal blows.

The injuries to which Mr. Morris succumbed occurred in the course of a fight between two groups of men. The first group comprised the deceased, his brother SHANE DOUGLAS MORRIS, WESLEY WAYNE HARALD, and DAVID JOHN LOVETT. The other parties involved were ANDREW JAMES SAUNDERS and ROBERT JAMES NEWCOMBE [aka LOOKER] who were the residents of a small bungalow at the rear of 79 Hurd Street.

Each of the surviving members of the first group were interviewed by police and HARALD and LOVETT made statements. SAUNDERS was interviewed and both he and NEWCOMBE made statements. Only HARALD gave evidence before me.

At a later date SHANE MORRIS, HARALD and LOVETT pleaded guilty to the aggravated burglary of the bungalow occupied by SAUNDERS and NEWCOMBE.

Not surprisingly, there are areas of significant conflict between the versions of events given by the above persons. This might reasonably be explained by a number of factors. These include the fact that each was, to a greater or lesser extent, effected by the consumption of alcohol and cannabis on the night, and thus their ability to recall events might be compromised. Further there would likely have been a desire to portray their part in the events in the most favourable light possible.

Within the above constraints I am satisfied that the following facts can be determined with a relatively high degree of confidence.

SAUNDERS had been selling cannabis from his residence at the rear of 79 Hurd Street for some time, and HARALD and the deceased were amongst his customers. On the night of the 4<sup>th</sup> of December 2006 the deceased and HARALD attended at the address at about 10.00pm to purchase a small amount of cannabis. It remains unclear how much was purchased and by whom, but in the course of the transaction SAUNDERS spoke to the deceased about an amount of between \$10 and \$15 that was allegedly owed to him for drugs supplied previously.

This query angered the deceased and when he and HARALD attended at the home of SHANE MORRIS at 11 Rundell Avenue, Portland, he became increasingly enraged about SAUNDERS' accusation. Also present at the Rundell Avenue address was LOVETT, and shortly before 11.00pm, it was decided to re-attend at the bungalow behind 79 Hurd Street to deal with SAUNDERS for this imagined slur.

One matter of conflicting evidence should be mentioned at this stage. The evidence of Senior Constable Aitken, who attended the scene of the incident in Hurd Street later in the evening, is that at approximately 11.00pm on the night he saw a group of five men including the deceased walking south along Blair Street. This would have been a likely route taken between SHANE MORRIS's home and the Hurd Street address. Another witness, Keith McKinnon who heard the altercation at

Hurd Street gives clear and cogent evidence of seeing five people, other than the deceased and LOVETT leaving the address after the incident.

This raises the real likelihood that persons other than those identified in the brief were present at either the Rundell Avenue address before the incident, or participated in some way at the incident, but I am unable to determine the identity of any such person or what, if any, role they may have played in the nights' events.

Before leaving his address, SHANE MORRIS armed himself with "bundi", an aboriginal word for a club, which was apparently the cut down handle from a sledgehammer, about 1 metre long and partially wrapped in silver tape. The group of men, including the deceased, then walked the short distance to Hurd Street.

When the group from Rundell Avenue arrived at the bungalow in Hurd Street SHANE MORRIS initially struck a number of blows to the door with his bundi, damaging the outer surface, before forcing the door open. He then entered the bungalow, which is a small single room approximately 3 metres square, and began assaulting SAUNDERS with substantial force, knocking him backwards onto a mattress on the floor.

Immediately behind SHANE MORRIS, the deceased entered and turned to his left and began assaulting NEWCOMBE. HARALD also entered and assisted the deceased by initially kicking NEWCOMBE to the head. Perhaps fearing that NEWCOMBE was getting the better of the deceased, HARALD left the bungalow and armed himself with a short handled shovel, returning inside to use it to strike NEWCOMBE.

During the struggle with SHANE MORRIS, SAUNDERS armed himself with a boning knife that was present in the bungalow. In the course of this struggle, he struck a number of blows to the head and upper body of SHANE MORRIS, causing injuries to the left side of his face, the left side of the neck and a number of stab wounds to the back. In the absence of any medical evidence other than that contained in the exhibit 24 to the brief it seems probable that all these wounds occurred in quick succession during the struggle between SAUNDERS and SHANE MORRIS.

Realising that he had been injured SHANE MORRIS disengaged from SAUNDERS and, apparently with the help of HARALD left the bungalow. HARALD then continued to assist SHANE MORRIS to walk to the Portland hospital where he was initially treated for his injuries before being transferred to the Alfred hospital for emergency surgery.

What happens next is unclear. SAUNDERS says in his statement that after SHANE MORRIS and HARALD had gone he yelled at the deceased to get out, whereupon the deceased disengaged himself from NEWCOMBE and rushed at SAUNDERS who was still holding the knife. SAUNDERS says:

“Rohan rushed at me and my natural instinct was to stab him with the knife. The knife was the only thing I could use to defend myself at the time. I stabbed him twice. The first time, it was high in the body, maybe the chest but I don't know. The first time I stabbed him did nothing to him and his attack on me so I stabbed him again, this time lower, I think in the chest and then he backed off straight away. After I stabbed him the second time Rohan staggered out the door of the bungalow.”

In his statement, NEWCOMBE gives no account of ROHAN MORRIS becoming involved with Saunders or receiving any injuries.

After being stabbed, the deceased left the bungalow and was assisted by LOVETT, who it appears had not entered the bungalow but had remained at the scene. The deceased was clearly severely injured and he and LOVETT went down the driveway to the footpath of Hurd Street where the deceased collapsed on the nature strip and died within a very short time.

At some stage a visitor to the occupants of the main house at 79 Hurd Street, Mr. LINDSAY SAUNDERS, may have become involved in the incident. In his statement, NEWCOMBE says that LINDSAY SAUNDERS had entered the bungalow between the stabbing of SHANE MORRIS and the stabbing of ROHAN MORRIS. This is not corroborated by any other witness. LINDSAY SAUNDERS has made a statement but asserts that he was so badly effected by the consumption of alcohol and cannabis that he is unable to recollect much of the night.

The first police who attended the scene did so at 11.11pm that night, when they found the deceased already dead and being attended by LOVETT and LINDSAY SAUNDERS. Between the infliction of the fatal blows and the attendance of the police it seems that the crime scene inside the bungalow may have been interfered with, but it is impossible to tell if any forensically relevant material may have been contaminated.

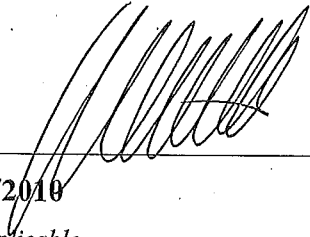
At autopsy, it was confirmed that Mr Rohan Morris had received two significant knife wounds. The first was an incised stab wound to the left side of the neck which was serious but would not have been life threatening. I am satisfied that this was the first wound inflicted by SAUNDERS. The second wound was to the left side of the chest and penetrated both the deceased's pleural cavity and pericardium causing death.

Toxicological analysis of samples taken from the body of the deceased at autopsy demonstrated that at the time of death the deceased had a blood alcohol concentration of approximately 0.22%, further and that there was evidence of recent cannabis use.

Following the completion of the investigation by the homicide squad a brief was submitted to the Office of Public Prosecution. After consideration was given to the contents of the brief, it was determined that ANDREW SAUNDERS should not be charged with any offence arising from the death of Rohan Morris. On the available evidence, I accept that this is a valid conclusion as the defence of Self Defence is clearly raised and it seems extremely unlikely that a prosecution would be able to negative that defence.

I find that Rohan Morris died as a result of a single stab wound to the chest inflicted by ANDREW SAUNDERS at the rear of 79 Hurd Street, Portland in the course of an aggravated burglary being committed by the deceased and others on premises where SAUNDERS lived.

Signature:



Date: 29/11/2010

*\*Delete if inapplicable*

