

IN THE CORONERS COURT OF VICTORIA
AT SOUTHBANK

IN THE MATTER OF David Lawrence

DETERMINATION AS TO SENIOR NEXT OF KIN

Section 3 of the Coroners Act 2008

This is an application brought under Section 48 of the Coroners Act 2008, for release of the body of David Lawrence, who died on the 22 of March 2013 as a result of head injuries sustained in a single vehicle motor vehicle collision, with a stationary object. David Lawrence was the driver of the vehicle in question.

Applications for release of his body have been made by Megan Jones who describes herself as his girlfriend, together with Marilena Mead, his biological mother and Stephen Lawrence, his biological father.

Relevant Legislation

Under Section 48 of the Act, where there are competing claims for release, the release is mandated to a person named in a will as an executor. If there is no will (and no executor), release must be made to the 'senior next of kin', as defined in Section 3 of the Act¹

Section 3 of the Act defines 'senior next of kin' by creating an order of preference concerning competing claimants, for the role. Under this ordering priority is given to a) a spouse or domestic partner; then to b) a son or daughter over the age of 18 years and then (in the absence of spouse, partner and son or daughter over 18 years), to a parent.

Section 3(2) of the Act is also relevant. That section requires me to have regard to Section 35(2) of the Relationships Act 2008 in determining whether Megan Jones, was a 'domestic partner' within the meaning of Section 3.

Section 35(2) of the Relationships Act refers.

(2) In determining whether a domestic relationship (other than a registered domestic relationship) exists or has existed, all the circumstances of the relationship are to be taken into account, including any one or more of the following matters as may be relevant in a particular case-

- (a) the degree of mutual commitment to a shared life;
- (b) the duration of the relationship;
- (c) the nature and extent of common residence;
- (d) whether or not a sexual relationship exists;
- (e) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;
- (f) the ownership, use and acquisition of property;
- (g) the care and support of children;

¹ The statements made by all three applicants lead me to the conclusion that David Lawrence died intestate, having never made a will.

(h) the reputation and public aspects of the relationship.

Issues

It follows from the above framework that my first task is to determine whether at the time of his death Megan Jones was a domestic partner within the meaning of Section 3 having regard to the definition of a domestic relationship, which I have set out above.

Should that application fail it follows that I must then determine, which of the competing parents as the preferred SNOK (both are entitled to SNOK status), is entitled to be preferred for the purpose of taking possession of the body of David Lawrence and arranging for his internment.²

Under Section 48(2) of the Coroners Act where there are two applicants who are both senior next of kin, (as in the case of two parents), the body should be released to the claimant with the better claim, having regard to common law principles.

Megan Jones application

Megan Jones application under Section 48, was made in two parts.

1) Section 48 application accompanied by letter dated 28th of March

Megan Jones details that she has known David since 2007, and had been in a relationship with him since September 2008. She states that during that time they had continual involvement in each other's lives and that they would turn to each other for support and advice in good times and during difficult times. She further details that during this period they spent all holidays together along with other special occasions with almost never a day without talking.

Megan Jones further describes how in early 2012 David Lawrence moved to Geelong to live with her and begin a career in real estate, while she continued her studies at Deakin University. Later in October 2012 they decided to move back to Bendigo while she finished her degree and, 'David wanting to pursue a different job opportunity.' From October until January 2013 they lived together, with her parents.

Megan Jones states that in January 2013 David Lawrence moved to an address in Redwood Drive, Strathfieldsaye, with her option to move there discussed at length. She however decided to stay on at her parents home although, 'Despite living apart I saw David almost every single day and spent most nights with him either at his place or at his parents place.' During this time she states that she had been involved in his personal life, his business life and also in his relationships with his estranged parents. She further states that during this time David Lawrence was extremely busy but they continued to see each other regularly and that two weeks before his death they travelled together to Geelong to see his extended family and attend his cousins 30th birthday, and spent the night there.

² The appointment to this role does not confer any rights in regard to ownership of, or disposal of the property or estate of the deceased person.

The applicable standard of proof in any application under sect 48 of the Coroners Act is on the balance of probabilities'.

She further states that on the 13th of March some 9 days before his death they went on what she describes as a break. She states this was difficult to explain, that there was no single event or negative feelings towards each other, but a way 'for us to have some time apart to focus on other aspects of our lives, with intentions of a future together.'

She further states that they remained in contact up until his death and that she saw him on the Friday, the day of his passing, when they discussed his Nonna having a stroke and made plans to travel together to see her, a matter also referred (and supported) by his mother.

2) Response to questions from Court concerning the application of Section 35(2), of the Relationships Act.

In a supporting letter dated April 3, Megan Jones gave further details of their lives together, which included discussions in front of family members and friends about their plans for the future together.

The conversations included where they would live, marriage and children and children's names. She was studying architecture and he had a passion for property and investing and they spoke of how they would collaborate. ³ She also detailed plans to take trips together which had been put in place before 'the break' and of their plan to visit his Nonna which was made after that time.

She further states that he was planning to renovate 'his two properties' and that she had a number of plans and documents in relation to these designs, that he was going to renovate later this year, with relevant emails attached. She also spoke of the intimate relationship which existed between them, and their ongoing mutual financial involvement, which included his continuing to pay her phone bill on his credit card, an arrangement which continued until his death.

In further support of her application, she provided copy photographs, emails and cards, which display evidence of (an earlier) deep and mutual affection, together with an involvement in each other's lives, all of which was recognized by their friends and her family, on his passing.

Additionally she described that the decision to live apart was 'difficult' and made for practical reasons concerned with different working hours and the cost to her as a student of living away from her parents home. She further detailed how they were in fact living only 5 minutes apart 'and would see each other all the time and we did.' She further described how he kept (stored) a large number of shared items TV, vacuum etc as well as personal items including her clothing.

Additionally belongings of David Lawrence remain stored at her grand-mothers home in Bendigo, including furniture and boxed items.

Ms Jones applications and accompanying materials together with the applications of both parents were circulated to each of the (three) interested parties for comment and response.

³ David Lawrence owned or partly owned two properties at the time of his passing and planned to renovate them during 2013.

Response of Marilena Mead undated, but received at the Initial Investigations Office on the 4/3.⁴

Ms Mead states that she is supportive of the application made by Ms Jones and refers to occasions when her son stated that 'she was the one' and that he wanted to earn enough to stay at home to look after their children, while she pursued a career in architecture. He also spoke of her Ms Meads future role as a grandmother or 'Nonna.' She also states that her family believed in their commitment to each other and that they attended family functions together.

She also states that on the 12th of March she had a lengthy conversation with her son in which he sought guidance concerning his relationship with Megan Jones.⁵

She further states that she was aware they were on a break but, 'David did not discount a future for them' and that they were never out of contact.⁶

Response of Stephen Lawrence dated 4/3.

In response to the application of Ms Jones, Mr Lawrence states that the relationship between the couple was on again off again and that David had relationships with other women both after meeting Megan and after they had 'broken up.'⁷

He also submits that he is perplexed by why her face book is currently single 'before David is laid to rest', and why she changed it to single in the past during their alleged break ups. He states that Megan had admitted in 'our driveway that David and her sic, had broken up,' and names witnesses to that conversation. He further refers to a current girlfriend Kate and a note left by her and questions the motives behind Megan Jones bringing her application.⁸

Ruling on Megan Jones application

I note that there is a strong level of antipathy between the parents of David Lawrence. I also note that Megan Jones previously supported the application of Marilena Mead, and that Marilena Mead has now offered support to the later application made by Megan Jones, although at the same time maintaining her own application. I direct my self to treat that support with caution having regard to the relationship, which exists between the parents of David Lawrence.

I have considered the evidence of the break, so called. I note that Ms Mead spoke with her son on the 12th of March, the day before the break arrangement was discussed by Megan Jones and David Lawrence.

⁴ I have also reviewed the information set out in the original application for body release made by Ms Mead together with the response made to the application presented by Stephen Lawrence, - to the extent that this earlier material is relevant to Ms Jones application .

⁵ Response by Ms Mead dated 30th of March.

⁶ See undated response to other applicants submitted by Ms Mead.

⁷ The suggestion of his sons involvement with other women is supported by a statement of former school mate Mathew Angove, and by reference to a recent facebook page in which Megan Jones describes her status as single.

⁸ In addition to this response, I have also reviewed the information set out in Mr Lawrence's own original application and his response to the application made by Marilena Mead. To the extent that the included information is relevant to the application made by Ms Jones, it has been considered.

I further note the evidence from a school friend suggesting that David Lawrence had engaged in relationships with other women, during the period of his relationship with Ms Jones.

I direct myself in accord with the Coroners Act and Section 35(2) of the Relationships Act. I have also considered the discussion set out in the unreported Supreme Court decision of *Estrella v McDonald*.⁹

In addition I have reviewed and considered the submissions made by all interested parties.

As a result I find that David Lawrence and Megan Jones had participated in a domestic relationship and were domestic partners within the meaning of Section 3 of the Coroners Act 2008, from the time they commenced living together in Geelong in early 2012, and that this continued up until and while the couple lived with her parents at their home at Flora Hill, Bendigo. I am further satisfied that during the period they lived apart after David Lawrence took up residence nearby, that this domestic relationship continued, although I do not discount the possibility that he saw other people during this time.

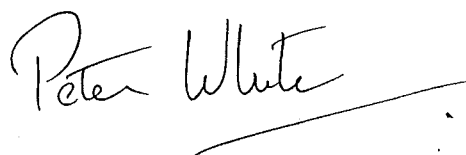
In regard to the break from the 13th of March, on all of the evidence I am also satisfied that this was intended by both parties, at the time reached and until David Lawrence's passing, as a temporary arrangement only and one to be revisited in due course. I am further satisfied that it was a change permitted by two young persons who felt rightly or wrongly, that it could occur between them without endangering the underlying commitment (which remained in place), and that at all relevant times they continued as domestic partners.

Accordingly I am satisfied that Ms Megan Jones was a domestic partner to David Lawrence at the time of his death and I appoint her as Senior Next of Kin.

Order

I direct Megan Jones to acknowledge her willingness to take responsibility for the remains of David Lawrence in writing, no later than Monday 8th of April 2013 at 4 pm. I further direct Megan Jones to notify Marilena Mead and Stephen Lawrence of her plans in respect of the internment of David Lawrence at least 48 hours before that ceremony, and in any event no later than 7 days after her acknowledgement of her willingness to accept this responsibility.

Dated this 5th day of April 2013



Peter White
Coroner



⁹ 2012 VSC 62. This case reviews the Relationships Act and gives a broad analysis of the meaning of the term domestic partnership.