



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2013 5308

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

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| Findings of: | JUDGE SARA HINCHEY, STATE CORONER |
| Deceased: | WILHELM PAUL KOEPPEN , born 22 June 1929 |
| Delivered on: | 11 July 2018 |
| Delivered at: | Coroners Court of Victoria, 65 Kavanagh Street, Southbank |
| Hearing date: | 10 July 2018 |
| Counsel assisting the Coroner: | Rebecca Johnston-Ryan, State Coroner's Legal Officer |
| Catchwords: | Suspected homicide, no person charged with an indictable offence in respect of a reportable death, mandatory inquest |

TABLE OF CONTENTS

| | |
|---|----------|
| Background | 1 |
| The purpose of a coronial investigation | 2 |
| Matters in relation to which a finding must, if possible, be made | |
| Identity of the deceased pursuant to section 67(1)(a) of the Act | 3 |
| Medical cause of death pursuant to section 67(1)(b) of the Act | 3 |
| Circumstances in which the death occurred pursuant to section 67(1)(c) of the Act | 3 |
| Comments pursuant to Section 67(3) of the Act | 4 |
| Findings and conclusion | 5 |

HER HONOUR:

BACKGROUND

1. Wilhelm 'Willi' Paul Koeppen (**Mr Koeppen**) was born in Berlin, Germany, on 22 June 1929. He was 46 years old at the time of his disappearance.
2. After training as a chef, Mr Koeppen immigrated to Australia during the 1950's. On 30 April 1957, he married Karin Lantzsch. The following year, they purchased a café on the Mt Dandenong Tourist Road, Olinda and converted it to the Cuckoo Restaurant.
3. Mr and Mrs Koeppen ran the Cuckoo Restaurant and it became a highly successful business. Through this business and by virtue of his personality, Mr Koeppen became one of the first 'Celebrity Chefs', making regular television appearances. This further enhanced the popularity of the Cuckoo Restaurant and the revenue from the business provided a very comfortable lifestyle for Mr and Mrs Koeppen.
4. During the course of their marriage, Mr and Mrs Koeppen had three children, Andrei, Sabine and Daniela. At the time of his disappearance, both Andrei and Sabine were attending boarding school in Adelaide.
5. At the time of his disappearance, Mr Koeppen was a man of substantial means. He had a booming business and several properties, including the family home on One Tree Hill Road, Olinda, and holiday homes in Sorrento and Poole Island (off the coast of Queensland). He was also rumoured to have purchased a property in Mount Dandenong, for a woman he was seeing.
6. Mr Koeppen suffered from alcoholism and appeared to suffer from some form of depressive illness. He was described as being prone to mood swings and erratic behaviour. At the time of his disappearance, his marriage to Mrs Koeppen had deteriorated and he was living in a cottage at the rear the family home. Both Mr and Mrs Koeppen knew that the other was having extra marital affairs.
7. In the days leading up to his disappearance, Mr Koeppen was said to have been in a depressed state and made several references to heading to Poole Island, Queensland, with two unknown women.

THE PURPOSE OF A CORONIAL INVESTIGATION

8. Mr Koeppen's death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) (**the Act**), as Mr Koeppen ordinarily resided in Victoria¹ and the death appears to have been unnatural² and a notice under section 37(1) of the *Births, Deaths and Marriages Act 1996* has not been signed and is not likely to be signed.³
9. The jurisdiction of the Coroners Court of Victoria is inquisitorial.⁴ The Act provides for a system whereby reportable deaths are independently investigated to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which death occurred.⁵
10. It is not the role of the coroner to lay or apportion blame, but to establish the facts.⁶ It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,⁷ or to determine disciplinary matters.
11. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
12. For coronial purposes, the phrase "*circumstances in which death occurred*,"⁸ refers to the context or background and surrounding circumstances of the death. Rather than being a consideration of all circumstances which might form part of a narrative culminating in the death, it is confined to those circumstances which are sufficiently proximate and causally relevant to the death.
13. The broader purpose of coronial investigations is to contribute to a reduction in the number of preventable deaths, both through the observations made in the investigation findings and by the making of recommendations by coroners. This is generally referred to as the Court's "*prevention*" role.

¹ Section 4 *Coroners Act 2008*

² Section 4(2)(a) *Coroners Act 2008*

³ Section 4(2)(h) *Coroners Act 2008*

⁴ Section 89(4) *Coroners Act 2008*

⁵ See Preamble and s 67, *Coroners Act 2008*

⁶ *Keown v Khan* (1999) 1 VR 69

⁷ Section 69 (1)

⁸ Section 67(1)(c)

14. Coroners are also empowered:

- (a) to report to the Attorney-General on a death;⁹
- (b) to comment on any matter connected with the death they have investigated, including matters of public health or safety and the administration of justice;¹⁰ and
- (c) to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety or the administration of justice.¹¹ These powers are the vehicles by which the prevention role may be advanced.

15. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.¹² In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.¹³ The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about individuals, unless the evidence provides a comfortable level of satisfaction that they caused or contributed to the death.

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Identity of the Deceased pursuant to section 67(1)(a) of the Act

16. Mr Koeppen's body has never been located and the identity has not been formally determined. However, I am satisfied that the identity of the person who is missing and who I have found to be deceased in this case, is that of Wilhelm Paul Koeppen, born 22 June 1929.

Medical cause of death pursuant to section 67(1)(b) of the Act

17. As Mr Koeppen's body has never been located, the medical cause of death cannot be determined.

18. The medical cause of death is unknown.

Circumstances in which the death occurred pursuant to section 67(1)(c) of the Act

19. On Saturday, 28 February 1976, Mr Koeppen was at the Cuckoo restaurant. He was inebriated and was verbally abusing staff, including his wife who was working at the restaurant at the time.

⁹ Section 72(1)

¹⁰ Section 67(3)

¹¹ Section 72(2)

¹² *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152

¹³ (1938) 60 CLR 336

20. At midnight, Mr Koeppen's family friend and local General Practitioner, Dr Bernard Butler telephoned Mrs Koeppen and said that he was going over to the Cuckoo Restaurant to see Mr Koeppen. On arrival, Dr Butler and Mr Koeppen went into the Cuckoo Restaurant, where they talked and drank alcohol. Dr Butler then suggested that they go to his residence in Olinda.
21. Sometime between 2.00am and 3.00am on Sunday, 29 February 1976, Mr Koeppen and Dr Butler got into their respective cars and drove to Dr Butler's residence, a distance of approximately 750 metres. Dr Butler stated that Mr Koeppen had brought alcohol with him and they went inside his home, where they talked and consumed more alcohol for approximately an hour. Between 3.00am and 4.00am, Dr Butler observed Mr Koeppen drive his Volkswagen Kombi Van away from his residence, toward Mr Koeppen's home at Ferny Creek. This was the last known sighting of Mr Koeppen, alive.
22. At approximately 4.30am on Sunday, 29 February 1976, Nivelles Love, a cleaner at the Cuckoo Restaurant arrived at the Cuckoo Restaurant and found Mr Koeppen's vehicle parked in the lower car park of the property. The side door of the Volkswagen Kombi Van was open and there was nobody inside or in the vicinity of the vehicle.
23. Mr Koeppen was initially thought to have travelled to Poole Island, Queensland. However, as time went on and he did not access his bank accounts or contact family or friends, suspicions surrounding his disappearance began to surface.
24. On 2 March 1976, Mrs Koeppen reported Mr Koeppen's disappearance to the Victoria Police.
25. Extensive enquiries over four decades have failed to establish his whereabouts or the reason for his disappearance.
26. Mr Koeppen is believed to have died on or about 29 February 1976 and his death is suspected to be the result of homicide.

COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

27. On 19 November 2013, then Detective Senior Sergeant Ron Iddles reported Mr Koeppen's death to the Coroners Court.
28. Victoria Police conducted a thorough investigation into Mr Koeppen's disappearance over the past 42 years and investigators established that there has been no trace of, or contact with,

Mr Koeppen since he disappeared on 29 February 1976. Victoria Police continue to investigate leads as they arise.

29. In making this Finding, I have been careful not to compromise any potential criminal prosecution in the course of my investigation, mindful that Mr Koeppen's death is an unsolved and open homicide case.
30. The Coroner's Investigator, Detective Senior Constable Bree Blair, has provided a statement to the Court in relation to this matter.
31. The confidential nature of the Victoria Police's ongoing investigation prevents me from reciting each and every matter which has been established by the Homicide Squad's Missing Persons Unit. However, Detective Senior Constable Blair's statement indicates that the following important matters have been established and are able to be disclosed:
 - (a) proof of life checks were undertaken, which showed that Mr Koeppen has not accessed his bank accounts and there has been no Medicare activity relating to Mr Koeppen since his disappearance, nor has he contacted family or friends. On that basis, I am satisfied to the Coronial standard of proof that Mr Koeppen is deceased;
 - (b) Mr Koeppen was suspected of having connections with a person who died in prison in 1988; and
 - (c) a person of interest was interviewed in 2014, however no charges have ever been laid in relation to the death.

FINDINGS AND CONCLUSION

32. Having investigated Mr Koeppen's death and having held an inquest in relation to his death on 10 July 2018, at Melbourne, I make the following findings, pursuant to section 67(1) of the Act:
 - (a) that the identity of the deceased was Wilhelm Paul Koeppen, born 22 June 1929;
 - (b) that Mr Koeppen died on or about 29 February 1976, at an unknown location, from unknown causes; and
 - (c) that the death occurred in the circumstances set out above.

33. Despite an extensive criminal investigation conducted by Victoria Police, no person or persons have been identified, to date, as being responsible for causing Mr Koeppen's death. On that basis, I am satisfied that no investigation which I am empowered to undertake would be likely to result in the identification of the person or persons who caused Mr Koeppen's death.
34. I note that if new facts and circumstances become available in the future, section 77 of the Act allows any person to apply to the Court for an order that some or all of these findings be set aside. Any such application would be assessed on its merits at that time.
35. I convey my sincerest sympathy to Mr Koeppen's family and friends.
36. Pursuant to section 73(1) of the Act, I order that this Finding be published on the internet.
37. I direct that a copy of this finding be provided to the following:
- (a) Karin Koeppen, Senior Next of Kin;
 - (b) Detective Senior Constable Bree Blair, Coroner's Investigator, Victoria Police; and
 - (c) Detective Inspector Tim Day, Homicide Squad, Victoria Police.

Signature:



JUDGE SARA HINCHEY
STATE CORONER

Date: 11 July 2018