IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2019 2262

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)
Section 67 of the Coroners Act 2008
Amended pursuant to section 76 of the Coroners Act 2008 as at 26 February 2020

Findings of:	Simon McGregor, Coroner
Deceased:	**James John Wilson**
Date of birth:	29 December 1971
Date of death:	5 May 2019
Cause of death:	Metastatic mesothelioma
Place of death:	St Vincent's Hospital, 41 Victoria Parade, Fitzroy Victoria 3065

INTRODUCTION

1. James John Wilson was a 47 year old man serving a term of imprisonment at Port Phillip Prison at the time of his death.

2. Mr Wilson was admitted to St Vincent's Hospital for end of life care in respect of his metastatic mesothelioma and subsequently died from the illness on 5 May 2019.

THE PURPOSE OF A CORONIAL INVESTIGATION

3. Mr Wilson's death was reported to the Coroner as it occurred whilst he was in custody so fell within the definition of a reportable death in the *Coroners Act 2008.*

4. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.

5. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.

6. The Department of Justice and Community Safety, Justice Assurance and Review Office (JARO) conducted a review of the custodial management and healthcare provided to Mr Wilson. I have used the material produced by JARO, as well as St Vincent's Hospital medical records to inform my findings.

7. After considering all the material obtained during the coronial investigation, I determined that I had sufficient information to complete my task as coroner and that further investigation was not required. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity.

8. I have based this finding on the evidence contained in the coronial brief. In the coronial jurisdiction facts must be established on the balance of probabilities.[1]

[1] This is subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless

9. In considering the issues associated with this finding, I have been mindful of Mr Wilson's basic human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

BACKGROUND

10. Mr Wilson entered custody for his second period of imprisonment in May 2018. During his initial medical assessments, he indicated he had been diagnosed with chronic lung disease in the past year. He also reported a history of depression, anxiety, sleeping difficulties, and ongoing pain from an ankle injury some years prior.

11. Mr Wilson underwent continued investigations to monitor his lung disease.

12. In January 2019, Mr Wilson reported increased difficulties breathing. A computed tomography (CT scan) showed the presence of a tumour as well as mesothelioma, a lung cancer related to the inhalation of asbestos. Mr Wilson was prescribed steroidal and antibiotic therapy and transferred to St Vincent's Hospital for further management. In hospital, Mr Wilson underwent surgical drainage of his lung and biopsy. The biopsy confirmed the diagnosis of epithelioid mesothelioma that could not be removed.

13. On 7 February 2019, Mr Wilson was discharged to Port Phillip Prison with plans for ongoing management at St Vincent's outpatient oncology clinic. Mr Wilson underwent palliative chemotherapy, however, his disease continued to progress. Following his diagnosis, Mr Wilson experienced intermittent anxiety and frustration with his health and ongoing legal matters, for which he was provided case management and mental health treatment. He also complained of variable breathlessness which was treated with salbutamol and oxygen therapy as needed, as well as relaxation techniques.

14. On 1 April 2019, Mr Wilson attended an appointment at St Vincent's Hospital and underwent a CT scan to monitor the progression of his disease. The CT scan revealed marked progression of pleural disease confined to the right hemithorax, with no evidence of metastatic disease elsewhere in the chest, abdomen or pelvis. Mr Wilson returned for a further outpatient appointment at St Vincent's Hospital on 3 April 2019.

15. On 5 April 2019, a Justice Health Medical Officer reviewed Mr Wilson and discussed the results of his recent outpatient appointments, confirming that his disease was progressing

---

the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

rapidly. Mr Wilson confirmed he had declined further chemotherapy. Mr Wilson was prescribed stronger pain relief and plans were made to transfer him to St Vincent's Hospital for ongoing management.

CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

16. On 8 April 2019, Mr Wilson was transferred to St Vincent's Hospital's St Augustine's ward for ongoing assessment and management.

17. On 24 April 2019, Mr Wilson was transferred to the palliative care unit for end of life care.

18. On 5 May 2019, Mr Wilson died in the company of his brother and son.

IDENTITY AND CAUSE OF DEATH

19. On 5 May 2019, Robert Wilson visually identified the body of his brother, James John Wilson, born 29 December 1971. Identity is not in dispute and requires no further investigation.

20. On 6 May 2019, Dr Matthew Lynch, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an external examination of Mr Wilson's body and reviewed a post mortem CT scan, medical records and deposition from St Vincent's Hospital, and the Police Report of Death for the Coroner. Dr Lynch provided a written report, dated 6 May 2019, in which he formulated the cause of death as *'I(a) Metastatic mesothelioma'*.

21. The post mortem CT scan revealed a right sided pleural based infiltrate, increased lung markings and pulmonary emphysema.

22. Dr Lynch commented that Mr Wilson's death appeared to be due to natural causes.

23. I accept Dr Lynch's opinion as to cause of death.

REVIEW OF CARE AND MANAGEMENT

24. In their review of Mr Wilson's custodial management, JARO identified that the regularity of Mr Wilson's case management at Port Phillip Prison was not in accordance with required standards. However, I do not consider this minor departure from the relevant operating instructions to have had any bearing on Mr Wilson's death.

25. I am satisfied that the healthcare provided to Mr Wilson was in accordance with the *Justice Health Quality Framework 2014*.

FINDINGS AND CONCLUSION

26. Pursuant to section 73(1B) of the Act, I direct that this finding be published on the Internet.

27. I express my sincere condolences to Mr Wilson's family for their loss.

28. Having investigated the death, without holding an inquest, I make the following findings pursuant to section 67(1) of the *Coroners Act 2008*:

    (a) The identity of the deceased was James John Wilson, born 29 December 1971;

    (b) The death occurred on 5 May 2019 at St Vincent's Hospital, located at 41 Victoria Parade, Fitzroy Victoria 3065, from metastatic mesothelioma; and

    (c) The death occurred in the circumstances described above.

29. I direct that a copy of this finding be provided to the following:

    (a) Ms Marcia Wilson, senior next of kin;

    (b) Mr Brian Wilson;

    (c) Department of Justice and Community Safety, Justice Assurance and Review Office;

    (d) Department of Justice and Community Safety, Justice Health;

    (e) St Vincent's Hospital; and

    (f) First Constable Ashlee Tonkin, Coroner's Investigator.

Signature:

SIMON McGREGOR
CORONER
Date: 26 February 2020

Coroners Court of Victoria