



IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2016 0721

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 63(1)*

*Section 67 of the Coroners Act 2008*

Findings of:	<b>JOHN CAIN, STATE CORONER</b>
Deceased:	<b>DAVID BARDHO</b> , born 6 July 1962
Delivered on:	28 May 2020
Delivered at:	Coroners Court of Victoria 65 Kavanagh Street, Southbank
Hearing date:	28 May 2020
Counsel assisting the Coroner:	Nicholas Ngai, Family Violence Senior Solicitor
Catchwords:	Suspected homicide, no person charged with an indictable offence in respect of a reportable death, mandatory inquest

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## HIS HONOUR:

### BACKGROUND

1. David Bardho (**Mr Bardho**) was born in Melbourne, on 6 July 1962. He was 53 years old at the time of his death. He is survived by his parents and two older siblings. At the time of his death, Mr Bardho was employed as a motor mechanic in Clunes.<sup>1</sup>
2. Mr Bardho left school during his Year 9 secondary studies and pursued a motor mechanic apprenticeship shortly after leaving school.<sup>2</sup> Mr Bardho held many different jobs including delivery driving, car detailing, fencing and running several of his own motor mechanic businesses over the years prior to the fatal incident.
3. Mr Bardho was married in 2000, however the marriage ended in 2003. During the period of his first marriage, he had purchased a block of land in Landsborough where he had planned to setup accommodation at a later date.<sup>3</sup>
4. Mr Bardho was married again for the second time in June 2004 to Leanne Lockwood (**Ms Lockwood**) who already had three children of a previous relationship including a son, Nicholas McSweeney (**Mr McSweeney**).<sup>4</sup> Mr McSweeney was nine years old when he first met Mr Bardho.
5. Mr Bardho and Ms Lockwood had a tumultuous relationship which was marred by infrequent arguments and they eventually separated in January 2011.<sup>5</sup> Mr McSweeney was 16 years-old at the time of the separation and chose to stay with Mr Bardho. Shortly after the separation, Mr McSweeney spoke with police members at the local police station in Landsborough and they applied for a Family Violence Intervention Order (**FVIO**) to protect Mr McSweeney against Ms Lockwood citing concerns of allegations of neglect, verbal abuse and controlling behaviours.<sup>6</sup>

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<sup>1</sup> *Coronial Brief*, Statement of John Leishman dated 26 May 2016, 119

<sup>2</sup> *Coronial Brief*, Statement of Margaret Belchambers dated 13 February 2017, 92

<sup>3</sup> *Coronial Brief*, Statement of Margaret Belchambers dated 13 February 2017, 94

<sup>4</sup> *Coronial Brief*, Statement of Leanne Lockwood dated 5 April 2018, 99

<sup>5</sup> *Ibid*

<sup>6</sup> Family Violence Intervention Order records provided by the Stawell Magistrates Court

6. A final FVIO was made in Stawell Magistrates Court on 8 March 2011 and prevented Ms Lockwood from having contact with McSweeney.<sup>7</sup> Mr Sweeney had limited contact with his mother and family since the FVIO was made and up until the fatal incident.
7. Mr Bardho and Mr McSweeney continued to live together in a rental unit in Barkly before moving on to Mr Bardho's property in Landsborough in mid-2015.<sup>8</sup> They both continued to reside at this property until the fatal incident. Mr Bardho and Mr McSweeney undertook steps to live sustainably, without power or running water, and began growing their own vegetables.<sup>9</sup>
8. Mr Bardho was known by his work colleagues and close friends to be a 'conspiracy theorist' and 'prepper' or 'survivalist'.<sup>10</sup> He also held very strong anti-government views and supported Islamic fanaticism in the middle east. He was also estranged from his own family and after his second marriage in June 2004, he had no contact with family.<sup>11</sup>
9. In February 2014, Mr McSweeney met Ms Chiedza Michelle Mangani (**Ms Mangani**) on an online dating site and commenced a long distance relationship shortly after.<sup>12</sup> In August 2014, Ms Mangani moved from Sydney to Melbourne to live with Mr McSweeney and Mr Bardho at their rental unit in Barkly.<sup>13</sup>
10. Shortly after Ms Mangani moved in to live with Mr McSweeney and Mr Bardho, tension arose between Ms Mangani and Mr Bardho. Mr Bardho complained to his work colleagues that he thought Mr McSweeney and Ms Mangani were getting lazy at home whilst he was commuting long distances to work during the day.<sup>14</sup> Mr Bardho also frequently commented to his work colleagues that Ms Mangani wasn't doing her chores properly and earning her keep whilst staying with him.<sup>15</sup>
11. Around August 2015, Ms Mangani moved away from the property with the intention of ending her relationship with Mr McSweeney due to the ongoing conflicts and tension with Mr

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<sup>7</sup> Ibid

<sup>8</sup> *Coronial Brief*, Statement of Michelle Leishman dated 26 May 2016, 125

<sup>9</sup> Ibid

<sup>10</sup> *Coronial Brief*, Statement of John Leishman dated 26 May 2016, 121;

<sup>11</sup> *Coronial Brief*, Statement of Margaret Belchambers dated 13 February 2017, 95

<sup>12</sup> *Coronial Brief*, Statement of Chiedza Michelle Mangani dated 18 February 2016, 106

<sup>13</sup> Ibid, 107

<sup>14</sup> *Coronial Brief*, Statement of John Leishman dated 26 May 2016, 122

<sup>15</sup> *Coronial Brief*, Statement of Paul Keay dated 26 May 2016, 135-136

Bardho.<sup>16</sup> Between August 2015 and February 2016, Ms Mangani and Mr McSweeney saw each other infrequently but continued to maintain a relationship.<sup>17</sup>

12. On 15 February 2016, whilst Mr Bardho was at work, Mr McSweeney and Ms Mangani attended Mr Bardho's residence without his knowledge at approximately 1:00pm for an hour.<sup>18</sup> Later that evening, Mr Bardho confronted Mr McSweeney who denied being there with Ms Mangani. Mr Bardho then produced footage of the two from cameras that had been set up inside the property and the two proceeded to have a verbal argument in which Mr Bardho told Mr McSweeney he had one month to move out.<sup>19</sup>

## THE PURPOSE OF A CORONIAL INVESTIGATION

13. Mr Bardho's death constituted a '*reportable death*' under the *Coroners Act 2008* (Vic) (**the Act**), as the death occurred in Victoria<sup>20</sup> and was violent, unexpected and not from natural causes<sup>21</sup>.
14. The jurisdiction of the Coroners Court of Victoria is inquisitorial.<sup>22</sup> 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.<sup>23</sup>
15. It is not the role of the coroner to lay or apportion blame, but to establish the facts.<sup>24</sup> It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,<sup>25</sup> or to determine disciplinary matters.
16. The expression "*cause of death*" refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
17. For coronial purposes, the phrase "*circumstances in which death occurred*,"<sup>26</sup> refers to the context or background and surrounding circumstances of the death. Rather than being a

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<sup>16</sup> *Coronial Brief*, Statement of Chiedza Michelle Mangani dated 18 February 2016, 114

<sup>17</sup> *Ibid*

<sup>18</sup> *Ibid*, 116

<sup>19</sup> *Coronial Brief*, Appendix N- Transcript of Record of Interview for Nicholas McSweeney dated 17 February 2016, 390

<sup>20</sup> Section 4 *Coroners Act 2008*

<sup>21</sup> Section 4(2)(a) *Coroners Act 2008*

<sup>22</sup> Section 89(4) *Coroners Act 2008*

<sup>23</sup> See Preamble and s 67, *Coroners Act 2008*

<sup>24</sup> *Keown v Khan* (1999) 1 VR 69

<sup>25</sup> Section 69 (1)

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.

18. 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.
19. Coroners are also empowered:
  - (a) to report to the Attorney-General on a death;<sup>27</sup>
  - (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;<sup>28</sup> 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.<sup>29</sup> These powers are the vehicles by which the prevention role may be advanced.
20. All coronial findings must be made based on proof of relevant facts on the balance of probabilities.<sup>30</sup> In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.<sup>31</sup> 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.
21. Section 52(2) of the Act provides that it is mandatory for a coroner to hold an Inquest into a death if the death or cause of death occurred in Victoria and a coroner suspects the death was as a result of homicide (and no person or persons have been charged with an indictable offence in respect of the death), or the deceased was immediately before the death, a person placed in custody or care, or the identity of the deceased is unknown.

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<sup>26</sup> Section 67(1)(c)

<sup>27</sup> Section 72(1)

<sup>28</sup> Section 67(3)

<sup>29</sup> Section 72(2)

<sup>30</sup> *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152

<sup>31</sup> (1938) 60 CLR 336

## **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**

22. On 20 February 2016, a member of the Forensic Services Department (Victoria Police) took fingerprint impressions from the deceased which identified him to be David Bardho, born 6 July 1962.
23. Identity is not in dispute in this matter and requires no further investigation.

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

24. On 17 February 2016, Dr Heinrich Bouwer, a Forensic Pathologist practising at the Victorian Institute of Forensic Medicine, conducted an autopsy upon the deceased's body. Dr Bouwer provided a written report, dated 18 July 2016, which concluded that Mr Bardho died from gunshot wounds to the head.
25. Dr Bouwer commented that the autopsy evidenced two gunshot wounds to the left forehead. The first entry wound was situated on the lateral aspect of the left forehead with the wound track extending downwards and inwards towards the right maxilla where a projectile was located. The pathological range of discharge for both gunshot wounds were distant. The second entry wound was situated on the medial aspect of the left forehead with wound track extending inwards and backwards in an approximately horizontal plane towards the right occipital region where a projectile was located inside the skull. The injury from the second entry wound would be considered incompatible with life.
26. Dr Bouwer also confirmed that there was no other significant injuries or natural diseases identified that could have caused or contributed to the death.
27. Toxicological analysis of postmortem specimens taken from the deceased did not identify the presence of alcohol, common drugs or poisons.
28. I accept the cause of death proposed by Dr Bouwer.

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

29. On the morning of the 16 February 2016, Mr Bardho and Mr McSweeney continued their argument from the previous night and Mr Bardho threatened that he was *'going ahead with the plans'*, adding, *'so [sic] I may as well go out in a blaze of glory'*.<sup>32</sup>
30. Mr McSweeney left the property and called Ms Mangani to confirm that he was moving out and he would come stay with her in Ballarat.<sup>33</sup>
31. At approximately 9.00am, Mr McSweeney attended the Navarre General Store and made a '000' phone call to inform to contact Police of Mr Bardho's plans. The emergency services operator referred Mr McSweeney to the Stawell Police Station and provided their contact details.
32. Mr McSweeney attended the Stawell Police Station at 9.40am and made a statement to a police member noting his concerns that Mr Bardho may be developing terrorist plots and harbouring multiple weapons.<sup>34</sup> Following this report, police obtained a statement from Mr McSweeney and noted his concerns. Police records indicate that Mr McSweeney was also provided with safety advice and was advised not to return to the property and to have no further contact with Mr Bardho. Mr McSweeney was also advised to contact police should there be any further developments.<sup>35</sup> Mr McSweeney informed the attending police member that he would be staying with Ms Mangani in Ballarat and did not intend to return to the property.<sup>36</sup>
33. Mr McSweeney returned to the residence in Landsborough shortly after 2:00pm with the intention of packing his belongings and moving out of the property prior to Mr Bardho's return.<sup>37</sup>
34. Mr Bardho arrived home shortly before 6.54pm which was earlier than his usual time of 7:30pm.<sup>38</sup> Mr Bardho confronted Mr McSweeney about where he was going and verbal altercation broke out between the two.<sup>39</sup>

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<sup>32</sup> Ibid, 390.

<sup>33</sup> *Coronial Brief*, Statement of Chiedza Michelle Mangani dated 18 February 2016, 116

<sup>34</sup> *Coronial Brief*, Statement of Nicholas McSweeney dated 16 February 2016, 296-298; Statement of First Constable Alex Delaney dated 25 March 2016, 153

<sup>35</sup> *Coronial Brief*, Statement of First Constable Alex Delaney dated 25 March 2016, 155

<sup>36</sup> Ibid

<sup>37</sup> *Coronial Brief*, Appendix N- Transcript of Record of Interview for Nicholas McSweeney dated 17 February 2016, 361-364

<sup>38</sup> *Coronial Brief*, Images of mobile phone text messages received and sent by Robyn Moore, 282



35. Mr McSweeney alleged that Mr Bardho had found a Victoria Police business card on the floor and proceeded to threaten him with a knife that he had retrieved inside his caravan. Mr Bardho started approaching Mr McSweeney towards the entrance to Mr McSweeney's caravan waving a knife at him.<sup>40</sup> Mr McSweeney retrieved a rifle inside his caravan and discharge his rifle at Mr Bardho.<sup>41</sup>
36. After shooting Mr Bardho the first time, Mr McSweeney retreated inside his caravan and heard Mr Bardho fall to the ground. Mr McSweeney sat in his caravan hearing Mr Bardho making some noises whilst he attempted to unsuccessfully call emergency services.<sup>42</sup>
37. Mr McSweeney then exited his caravan and saw Mr Bardho standing close by and Mr Bardho started approaching Mr McSweeney again yelling 'I'll get you'. Mr McSweeney then fired a second shot at Mr Bardho, who collapsed.<sup>43</sup> Mr McSweeney left the property and drove down Wattle Creek Road to call emergency services at approximately 7:29pm.
38. Mr McSweeney then returned to the property and under the instruction of the emergency services operator, he attempted cardiopulmonary resuscitation on Mr Bardho but was unable to revive him.<sup>44</sup>
39. Victoria Police arrived on scene at approximately 9:55pm and arrested Mr McSweeney.<sup>45</sup> Ambulance paramedics arrived at 10:51pm and confirmed that Mr Bardho was deceased.<sup>46</sup>

## **REQUIREMENT TO HOLD AN INQUEST**

40. Section 52(2) of the Act provides for the circumstances under which it is mandatory for a coroner to hold an inquest into a death. One of those circumstances is where a coroner suspects the death was a homicide and no person or persons have been charged with an indictable offence in respect of the death.
41. The evidence suggests that Mr McSweeney shot and killed Mr Bardho on 16 February 2016, in self-defence.<sup>47</sup> Members of the Victoria Police homicide squad conducted a thorough

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<sup>39</sup> *Coronial Brief*, Appendix N- Transcript of Record of Interview for Nicholas McSweeney dated 17 February 2016, 364

<sup>40</sup> *Ibid*, 426

<sup>41</sup> *Ibid*

<sup>42</sup> *Ibid*, 430-436

<sup>43</sup> *Ibid*, 436

<sup>44</sup> *Coronial Brief*, Appendix K – Transcript of 000 call, 311-325

<sup>45</sup> *Coronial Brief*, Statement of Sergeant Lee Kendrick dated 18 February 2016, 189

<sup>46</sup> *Coronial Brief*, Statement of Aaron James Riding dated 23 March 2016, 222

criminal investigation into the death of Mr Bardho and after receiving advice from the Office of Public Prosecutions, Mr McSweeney was not charged with an offence in relation to Mr Bardho's death. Section 52(2) of the Act mandates that I must hold an inquest into Mr Bardho's death, because I suspect that Mr Bardho's death was the result of a homicide.

42. A homicide is the killing of one person by another person. Section 69(1) of the Act prohibits me from making a finding that a person is or may be guilty of a criminal offence. In forming the suspicion that Mr Bardho's death was the result of a homicide, I make no finding as to Mr McSweeney's criminality, but I note simply that I am satisfied that Mr McSweeney's actions directly caused Mr Bardho's injuries, resulting in his death.

## COMMENTS PURSUANT TO SECTION 67(3) OF THE ACT

### *Family Violence*

43. For the purposes of the *Family Violence Protection Act 2008 (the Act)*, the relationship between Mr Bardho and Mr McSweeney clearly fell within the definition of 'family member'<sup>48</sup> under that Act. Moreover, Mr McSweeney's actions by shooting Mr Bardho and causing his death constitutes 'family violence.'<sup>49</sup>
44. Considering Mr Bardho's death occurred under circumstances of family violence, I requested that the Coroners' Prevention Unit (CPU)<sup>50</sup> examine the circumstances of Mr Bardho's death as part of the Victorian Systemic Review of Family Violence Deaths (VSRFVD).<sup>51</sup>
45. I confirm that a thorough review of all the available evidence did not reveal any missed opportunities for intervention or prevention in the circumstances of Mr Bardho's death.
46. I am satisfied, having considered all the available evidence, that no further investigation is required.

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<sup>47</sup> Section 322K(1) of the *Crimes Act 1958* states that a person is not guilty of an offence if the person carries out the conduct constituting the offence in self-defence.

<sup>48</sup> Family Violence Protection Act 2008, section 9(1)(b)

<sup>49</sup> Family Violence Protection Act 2008, section 5(1)(a)(i)

<sup>50</sup> The Coroners Prevention Unit is a specialist service for Coroners established to strengthen their prevention role and provide them with professional assistance on issues pertaining to public health and safety

<sup>51</sup> The VSRFVD provides assistance to Victorian Coroners to examine the circumstances in which family violence deaths occur. In addition the VSRFVD collects and analyses information on family violence-related deaths. Together this information assists with the identification of systemic prevention-focused recommendations aimed at reducing the incidence of family violence in the Victorian Community

47. I am satisfied, having considered all the available evidence, that no further investigation is required.

### **FINDINGS AND CONCLUSION**

48. Having investigated Mr Bardho's death and having held an inquest in relation to his death on 28 May 2020, at Melbourne, I make the following findings, pursuant to section 67(1) of the Act:

- (a) that the identity of the deceased was David Bardho, born 6 July 1962;
- (b) that Mr Bardho died on 16 February 2016, at 334 Landsborough Barkly Road, Landsborough, from multiple gunshot wounds to the head; and
- (c) that the death occurred in the circumstances set out above.

49. I convey my sincerest sympathy to Mr Bardho's family and friends.

50. Pursuant to section 73(1) of the Act, I order that this Finding be published on the internet.

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

- (a) Mr Peter Bardho, Senior Next of Kin;
- (b) Mr Nicholas McSweeney;
- (c) Detective Leading Senior Constable Rodney Andrew, Coroner's Investigator, Victoria Police;
- (d) Mr Brendan White, Victoria Police Professional Standards Command; and
- (e) Senior Sergeant Alexander Austin, Civil Litigation Unit, Victoria Police.

Signature:



**JOHN CAIN**  
**STATE CORONER**

Date: 28 May 2020

