



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2019 006597

FINDING INTO DEATH WITHOUT INQUEST

Form 37 Rule 63(1)

Section 67 of the Coroners Act 2008

Inquest into the death of Ahmet Gezer

Delivered on: Judge John Cain, State Coroner

Delivered at: Coroners Court of Victoria
65 Kavanagh Street Southbank

Hearing Dates: 7 December 2022

Findings of: Judge John Cain, State Coroner

Counsel Assisting: Ms Abigail Smith, Acting Senior Solicitor to the
State Coroner

Keywords: Homicide; uncharged homicide; choke hold;
prone restraint; sleeper hold

INTRODUCTION

1. Ahmet Gezer was born on 14 August 1982 to parents Suzan and Osman Gezer. At the time of his death on 2 December 2019, he was 37 years old.
2. Mr Gezer is survived by his parents and his sister, Canan Farah.
3. In the weeks preceding his death, Mr Gezer had no fixed place of abode and had been living with his parents at their residential address in Narre Warren. He was unemployed and a known user of cannabis and methylamphetamine.
4. Mr Gezer died on 2 December 2019 at Dandenong Hospital, following an altercation with Mr Kristen Gascoyne on Carlton Road in Dandenong North.

THE PURPOSE OF A CORONIAL INVESTIGATION

5. Mr Gezer's death constitutes a '*reportable death*' under the *Coroners Act 2008 (Vic)* (**the Act**), as Mr Gezer ordinarily resided in Victoria¹ and the death appears to have been unexpected and violent.²
6. Pursuant to section 52(2) of the Act, it is mandatory for a coroner to hold an inquest if the death occurred in Victoria and the coroner suspects the death was as a result of a homicide and no person or persons have been charged and convicted with an indictable offence in respect of the death.
7. The jurisdiction of the Coroners Court of Victoria is inquisitorial.³ 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 the death occurred.⁴
8. It is not the role of the coroner to lay or apportion blame, but to establish the facts.⁵ It is not the coroner's role to determine criminal or civil liability arising from the death under investigation,⁶ or to determine disciplinary matters.

¹ *Coroners Act 2008 (Vic)* s 4.

² *Coroners Act 2008 (Vic)* s 4(2)(a).

³ *Coroners Act 2008 (Vic)* s 89(4).

⁴ *Coroners Act 2008 (Vic)* preamble and s 67.

⁵ *Keown v Khan (1999)* 1 VR 69.

⁶ *Coroners Act 2008 (Vic)* s 89(4).

9. The expression '*cause of death*' refers to the medical cause of death, incorporating where possible, the mode or mechanism of death.
10. For coronial purposes, the phrase '*circumstances in which death occurred*',⁷ refers to the context or background and surrounding circumstances of the death. The circumstances are confined to those which are sufficiently proximate and causally relevant to the death, rather than being a consideration of all circumstances which might form part of a narrative culminating in the death.
11. 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.
12. Coroners are empowered:
 - a) to report to the Attorney-General on the death;⁸
 - 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;⁹ and
 - c) to make recommendations to any Minister or public statutory authority on any matter connected with the death, including public health or safety of the administration of justice.¹⁰
13. These powers are the vehicles by which the prevention role may be advanced.
14. This finding draws on the totality of the material obtained in the coronial investigation of Mr Gezer's death. That is, the court file, the coronial brief of evidence prepared by Detective Leading Senior Constable Luke Collyer and further material obtained by the Court.
15. In writing this finding, I do not purport to summarise all the material evidence but refer to it only in such detail as appears warranted by its forensic significance and the interests of narrative clarity. It should not be inferred from the absence of reference to any aspect of the evidence that it has not been considered.

⁷ *Coroners Act 2008* (Vic) s 89(4).

⁸ *Coroners Act 2008* (Vic) s 72(1).

⁹ *Coroners Act 2008* (Vic) s 67(3).

¹⁰ *Coroners Act 2008* (Vic) s 72(2).

16. All coronial findings must be based on proof of relevant facts on the balance of probabilities.¹¹ In determining these matters, I am guided by the principles enunciated in *Briginshaw v Briginshaw*.¹² 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

17. On 2 December 2019, Ahmet Gezer, born 14 August 1982, was visually identified by his brother-in-law, Rodney Farah.¹³
18. Identity is not in dispute and requires no further investigation.

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

19. On 2 December 2019, Specialist Forensic Pathologist Dr Linda Elizabeth Iles from the Victorian Institute of Forensic Medicine (VIFM), conducted an autopsy and provided a written report of her findings dated 29 April 2020.
20. The post mortem examination showed areas of bruising and abrasion on the arms and the legs, face and head, along with facial petechiae, deep bruising to the right side of the neck and a fracture to the superior horn of the thyroid cartilage.
21. Dr Iles stated that there was evidence of blunt trauma to the neck in the form of deep neck bruising and a fracture to the superior horn of the thyroid cartilage. Dr Iles opined this would be in keeping with a period of neck compression.
22. In addition, petechial haemorrhages were noted in the eyes and mouth. Dr Iles stated that this indicated raised venous pressure which, in this instance, may be from neck compression or, alternatively, from prone restraint.
23. Dr Iles did not identify any significant underlying cardiac disease.

¹¹ *Re State Coroner; ex parte Minister for Health* (2009) 261 ALR 152.

¹² 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 the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

¹³ Statement of Identification at CB, p 45.

24. Toxicological analysis of post and ante-mortem samples identified the presence of methylamphetamine, amphetamine, cannabis and lignocaine.¹⁴
25. Dr Iles provided an opinion that the medical cause of death was:
- (1)(a) Neck compression in the setting of prone restraint in a man using methylamphetamine.**
26. Dr Iles stated that:
- 'neck compression can cause death via obstruction of large airways, obstruction of large arteries and veins supplying and draining the head and neck and the carotid sinuses precipitating a cardiac arrhythmia. It may cause death via a combination of these mechanisms. Of note, the presence of a stimulant in the blood...may render the heart muscle more sensitive to the effects of neck compression. Neck compression is capable of causing death but is not inevitably fatal'.*
27. Whilst there was post mortem evidence of neck compression, it could not be determined with certainty when this occurred in relation to Mr Gezer's ultimate collapse and cardiorespiratory arrest.
28. I accept Dr Iles' opinion as to the cause of death.

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

29. At around 12:00pm on 1 December 2019, Mr Gezer attended a residential address in Oakwood Avenue in Dandenong North to visit his friend, Mr Colin Beveridge. Mr Gezer stayed with Mr Beveridge for the remainder of the day and night. Mr Beveridge recalled that Mr Gezer consumed a quantity of cannabis and that he was carrying an *'ice pipe'* in his pocket.¹⁵
30. Between 3:00am and 4:00am on 2 December 2019, Mr Kristen Gascoyne was with his wife, Ashley Gascoyne and their two children at their residential address on Gladstone Road in Dandenong North. Mr Gascoyne left the premises on foot and went for a jog around the surrounding streets. He returned to the premises approximately 20 minutes later.
31. At around 4:30am, Mr Gezer left Mr Beveridge's home in a stolen and unregistered vehicle. He was alone at the time. The evidence suggests that Mr Gezer drove the vehicle to the

¹⁴ A local anaesthetic often administered to patients prior to surgery or during resuscitation attempts.

¹⁵ Statement of Colin Beveridge dated 10 December 2019 at CB, pgs 74 – 79.

Dandenong North Uniting Church on Birch Avenue in Dandenong North, where he parked the vehicle and left the area on foot.

32. At around 5:10am, Mrs Gascoyne left home in her vehicle to attend the gym. At this time, Mr Gascoyne was in the rear yard and their children were sleeping.¹⁶
33. Mrs Gascoyne turned south on Gladstone Road and approached a bus stop located on the corner of Gladstone Road and Carlton Road and noticed Mr Gezer standing at the bus stop alone. As she approached the intersection, Mr Gezer stepped out onto Gladstone Road and made a 'hitch hiking' gesture. Mrs Gascoyne stated that she found Mr Gezer to be suspicious and drove past him without stopping.
34. Mrs Gascoyne subsequently performed a U-turn and drove north on Gladstone Road. Mr Gezer then stepped out into road in front of Mrs Gascoyne's vehicle and made the same 'hitch-hiking' gesture.
35. Mrs Gascoyne continued down Gladstone Road to the intersection of Halton Road, where she performed another U-turn and began driving south on Gladstone Road towards her family home. In her statement to police, Mrs Gascoyne stated that she '*was convinced the man was up to no good and that he may try and break into my home*'.¹⁷
36. Mrs Gascoyne slowed her vehicle outside the family home and observed Mr Gezer to be in the front yard of her property. Mrs Gascoyne continued down Gladstone Road and pulled her vehicle over to the side of the road and telephoned Mr Gascoyne. She told Mr Gascoyne, '*there's a man outside the front of our house. I think he was trying to get in. I knew he was suspect when I saw him*'.¹⁸
37. Shortly after, Mr Gascoyne moved from the backyard to the front of the property and observed Mr Gezer exit the driveway and turn south onto the eastern side of Gladstone Road. Mr Gascoyne pursued Mr Gezer on foot.
38. Mr Gezer was confronted by Mr Gascoyne at the intersection of Gladstone Road and Carlton Road. The evidence suggests that Mr Gascoyne told Mr Gezer to '*stop*' and he responded by striking Mr Gascoyne to the face on more than one occasion. Mr Gascoyne responded by striking Mr Gezer.

¹⁶ Statement of Ashley Gascoyne dated 2 December 2019 at CB, p 87.

¹⁷ As above at CB, p 88 – 89.

¹⁸ Ibid.

39. Mr Gezer and Mr Gascoyne continued to strike each other as they walked in an easterly direction down the northern-side of Carlton Road. The pair stopped as they reached 5 Carlton Road, Dandenong North.
40. At around that time, Mrs Gascoyne arrived outside the Carlton Road address and the fighting continued in her presence.
41. Mrs Gascoyne stated that Mr Gezer extended both of his arms towards Mr Gascoyne's neck and '*was trying to grab at [his] throat*'. Mrs Gascoyne recalled that Mr Gezer was kicking his right leg towards Mr Gascoyne who was trying to fend him off.
42. Mrs Gascoyne then called triple zero and requested police assistance.¹⁹
43. Mr Gascoyne placed his arms around Mr Gezer's torso and forced him to fall to the ground, where the struggle continued. According to Mr Gascoyne, Mr Gezer then stated, '*I know where you live, I know where you live*'.
44. Mr Gezer and Mr Gascoyne continued to wrestle. Mr Gascoyne positioned himself behind Mr Gezer, placing his right arm over Mr Gezer's right shoulder, wrapping his right arm around Mr Gezer's neck. He grabbed hold of Mr Gezer's right forearm with his left hand to create and 'choke hold' or 'sleeper hold'. Mr Gascoyne stated that he used this hold to apply pressure to Mr Gezer's neck.
45. Mr Gezer scratched at Mr Gascoyne's arm and grabbed at his wrists in an attempt to free himself of the hold. Mr Gascoyne called out for help as he maintained the choke hold on Mr Gezer. This hold forced Mr Gezer to be positioned face down on the ground. Mr Gascoyne straddled Mr Gezer's back and continued to apply pressure to his neck.
46. The evidence suggests that at this point in time, Mr Gezer lost consciousness. Although Mr Gezer was in an unconscious state, Mr Gascoyne continued to straddle him in this position for a further 14 minutes. Mr Gezer ceased breathing during that time.
47. At 5:37am, Acting Sergeant Sam Dunstall arrived on scene and found Mr Gascoyne straddling Mr Gezer who was described as '*lying face down across the foot path with his arms by his side, he was not moving and did not appear as though he was making any attempts to stand*'.

¹⁹ Statement of Ashley Gascoyne dated 2 December 2019 at CB, p 90.

up or throw the other male off. At the direction of police, Mr Gascoyne was asked to move away from Mr Gezer, and he was placed under arrest.²⁰

48. Acting Sergeant Dunstall stated that he approached Mr Gezer and as he *'tried to roll [him] over I realised that he was not conscious and not breathing'*. Police commenced cardiopulmonary resuscitation (CPR) and requested urgent assistance from paramedics.²¹
49. Ambulance Victoria arrived on scene a short time later and attended to Mr Gezer. CPR was continued and a number of abrasions were observed on Mr Gezer's head and around the temporal region, as well as his lower limbs. There was no obvious traumatic injuries or external blood loss.²²
50. While police were providing first aid to Mr Gezer, Mr Gascoyne provided a version of events to police which was recorded on body worn camera footage. He stated that:²³

'I heard some scuffling in front of my driveway...then when I ran out the front I've met the gentleman on that coroner there, we've engaged in a fight and we fought for – kicking and punching...next thing you know, when we got to the corner...he's still kinda kicking and punching at my face, I managed to grab a hold of him and get him from behind and choke him, got him on the ground....I kept wrestling him on the ground, and then finally I've screamed "help, help". He'd stopped wrestling and I just stayed on top of him until the police arrived...'

51. Ambulance Victoria subsequently transported Mr Gezer to Dandenong Hospital where he sadly passed away.
52. Mr Gascoyne was also transported to Dandenong Hospital where he underwent observation before being transported to Dandenong Police Station, where he participated in a Recorded Interview with police.

HOMICIDE INVESTIGATION BY VICTORIA POLICE

53. Following Mr Gezer's death, police commenced an investigation into the circumstances which led to the altercation and subsequently, Mr Gezer's death.

²⁰ Statement of Acting Sergeant Sam Dunstall dated 9 December 2019 at CB, pgs 131 – 133.

²¹ Ibid.

²² Statement of Mr Travis Quirk dated 14 March 2020 at CB, p 122.

²³ Transcript from Body Worn Camera of Acting Sergeant Sam Dunstall at CB, p 213.

54. Police obtained CCTV footage from various locations within the Dandenong North area. The footage depicted:
- Mr Gezer attending Mr Gascoyne's home at 5:11am on 2 December 2019, where he remained for approximately 40 seconds; and
 - Mr Gascoyne pursuing Mr Gezer south on Gladstone Road, and east on Carlton Road.
55. Police were unable to locate CCTV footage depicting the final moments of the altercation outside of 5 Carlton Road, Dandenong North.

Crime scene examination

56. The crime scene outside of 5 Carlton Road, as well as the Gascoyne family home on Gladstone Road were subject to forensic examination by the Victoria Police Major Crime Scene Unit.²⁴
57. An area of exposed soil containing scuff marks and shoe impressions was found on the nature strip outside of the Carlton Road address. A laced up right shoe, a mobile phone, a glass smoking pipe, cigarette lighters and a small torch were also found on the nature strip within a short distance of the disturbed soil.
58. In addition, police located a matching laced-up left shoe and an empty Quicksilver bag on the footpath next to the nature strip. A set of keys which were attached to a lanyard were also found on an area of grass located between the footpath and a metal fence bordering the front yard of 5 Carlton Road, Dandenong North.
59. The police did not identify evidence of any kind at the Gascoyne family home on Gladstone Road.

Interview with Kristen Gascoyne

60. On 2 December 2019, Mr Gascoyne took part in a recorded interview with police. During the interview, Mr Gascoyne provided varying accounts of the effectiveness of and the reasons why he used the choke hold on Mr Gezer. Mr Gascoyne stated that:
- the choke hold had rendered Mr Gezer unconscious and he had '*managed to choke the gentleman out on the ground*'.²⁵ Mr Gascoyne claimed that he moved away from Mr

²⁴ Statement of Sergeant Wayne Kohlman dated 18 December 2019 at CB, pgs 129 – 130.

²⁵ Transcript of Kristen Gascoyne recorded interview with police on 2 December 2019 at CB, p 335.

Gezer after he rendered Mr Gezer unconscious, at which time he removed Mr Gezer's shoes '*so that he couldn't run*²⁶, and searched his bag for identification.

- when he placed Mr Gezer in the choke hold, he was thinking '*if I can hold him there in some sort of hold or put him to sleep until the police arrive, that stops the treat until the police get here*';²⁷
- he applied the choke hold for '*about a minute or so*' and Mr Gezer '*kept fighting and I was trying to tackle him all the time*'.²⁸ Mr Gascoyne further claimed that he had remained on top of Mr Gezer and used his feet to kick Mr Gezer's shoes off. He further stated that he conducted the search of Mr Gezer's shoulder bag whilst struggling with Mr Gezer on the ground; and
- he applied the choke hold for '*maybe a minute*' and the purpose was to '*subdue him until the police arrived*'. Mr Gascoyne claimed that he thought the hold would put Mr Gezer to sleep, that he did not know how to do the hold and that '*he would just go to sleep and then it would stop*'.²⁹

61. Mr Gascoyne informed police that he did not have any training in self-defence or martial arts. However, he stated that he was very interested in self-defence.³⁰
62. At the time of the recorded interview, Mr Gascoyne was subject to a physical examination by Dr Angela Williams from VIFM. Various superficial injuries were identified, including scratches and abrasions on his left thumb and both of his wrists, an abrasion on his left shoulder and red marks to the lower right side of his neck.³¹
63. At the conclusion of the recorded interview, Mr Gascoyne was released without charge.

Supplementary Medical Examiners Report

64. Following the recorded interview with Mr Gascoyne, Detective Senior Constable Collyer, asked Dr Elizabeth Iles to provide an opinion as to whether the accounts provided by Mr

²⁶ Transcript of Kristen Gascoyne recorded interview with police on 2 December 2019 at CB, p 335.

²⁷ Transcript of Kristen Gascoyne recorded interview with police at CB, p 348.

²⁸ Transcript of Kristen Gascoyne recorded interview with police at CB, p 353.

²⁹ Transcript of Kristen Gascoyne recorded interview with police at CB, p 423.

³⁰ Transcript of Kristen Gascoyne recorded interview with police at CB, pgs 354 and 423.

³¹ Report of Dr Angela Williams dated 3 December 2019 at CB, pgs 71 – 73.

Gascoyne were consistent or inconsistent with the injuries identified in the post mortem examination. A further written report was provided by Dr Iles on 26 June 2020.

65. Dr Iles was provided with the following material:

- a field recorded interview with Mr Gascoyne which took place very shortly after the initial police attendance at the scene;
- a typed transcript of the above interview;
- a formal recorded interview with Mr Gascoyne; and
- a typed transcript of the above interview.

66. Dr Iles concluded:

- there were blunt force injuries to the deceased's head and face in the form of bruises and abrasions. These are non-specific in nature but could be sustained in a scenario involving punching and wrestling, both upright and whilst Mr Gascoyne and Mr Gezer were on the ground;
- the injuries around Mr Gezer's laryngeal skeleton could have been sustained consequent to a choke/sleeper hold applied in the manner described by Mr Gascoyne in the interviews; and
- areas of bruising and abrasions were identified to Mr Gezer's legs and arms, in particular over the knuckles of the left hand. Again, Dr Iles stated that these were identified as non-specific, but in keeping with a scenario of Mr Gascoyne and the deceased fighting and wrestling whilst they were upright and subsequently whilst on the ground.

67. Victoria Police have conducted a comprehensive investigation into the circumstances of Mr Gezer's death to ascertain whether any criminal charges were warranted. They have also consulted with the Office of Public Prosecution and have concluded that based on the available evidence there is no reasonable prospect of conviction in relation to any criminal charges that may be brought against Mr Gascoyne. I accept their opinion in relation to criminal charges mindful that in the event that if new facts or circumstances were to emerge in the future the investigation can be reopened.

68. Being mindful of section 7 of the Act which makes clear that a coroner should ‘*avoid unnecessary duplication of inquiries and investigations*’ and having reviewed the available evidence in depth, I am satisfied that no further investigation of the circumstances surrounding the death of Mr Gezer is required.
69. I have been careful not to compromise any potential future prosecution in the course of my investigation. It is not the purpose of a coronial investigation to investigate possible criminal conduct to compile a brief of evidence in preparation for future criminal trial. Section 69 of the Act prohibits a coroner from including in a finding or a comment, any statement that a person is or may be guilty of an offence.
70. I note that if new facts or 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 the findings be set aside. Any such application would be assessed on its merits at the time.

FINDINGS AND CONCLUSION

71. Having investigated the death of Ahmet Gezer and having held an inquest in relation to his death on 7 December 2022 at Melbourne, I make the following findings, pursuant to section 67(1) of the Act, I make the following findings:
- a) the identity of the deceased was Ahmet Gezer, born 14 August 1982;
 - b) the death occurred on 2 December 2019 at Monash Health, Dandenong Hospital, 135 David Street, Dandenong, Victoria, 3175, *from neck compression in the setting of prone restraint in a man using methylamphetamine*; and
 - c) the death occurred in the circumstances described above.

I convey my sincere condolences to Mr Gezer’s family for their loss.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

Suzan & Osman Gezer, Senior Next of Kin

Detective Senior Constable Luke Collyer, Coroner's Investigator

Signature:



A handwritten signature in black ink, appearing to read 'John Cain', written over a horizontal line.

**JUDGE JOHN CAIN
STATE CORONER**



Date: 7 December 2022

NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
