



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2020 000090
Related Matter: COR 2017 5810

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner Audrey Jamieson
Deceased:	Gerald Van Der Werf
Date of birth:	28 April 1960
Date of death:	On or about 23 September 2016
Cause of death:	1(a) CONSISTENT WITH HANGING
Place of death:	Borough Huts Camp Grounds, (Mt Rosea Walking Trail), Bellfield, Victoria, 3381
Keywords:	Missing person, suspected death, finding set aside, re-open investigation.

INTRODUCTION

1. On 23 September 2016, Gerald Van Der Werf was 56 years old when he disappeared in the Grampians Ranges, Victoria. After an extensive investigation into Mr Van Der Werf's disappearance, Victoria Police formed the belief that Mr Van Der Werf had died.
2. On 16 November 2017, Detective Senior Constable (DSC) Radoievici of the St Kilda Police Station requested me to investigate the matter as a 'suspected death' and submitted a Coronial Brief of Evidence for my consideration. Having perused the coronial brief, I was satisfied that the available evidence would enable me to make pertinent findings in relation to Mr Van Der Werf's suspected death.
3. On 18 September 2018, I held an Inquest into the suspected death of Gerald Van Der Werf and made the following Finding:¹

Gerald Vanderwerf's prolonged absence of contact with any persons, together with the totality of the evidence of the circumstances surrounding his disappearance, supports a Finding on the balance of probabilities that he is deceased.

The evidence before me is demonstrative of Gerald Vanderwerf's mental ill health, previous suicidality, and his methodical actions between 13 September 2016 and 23 September 2016. The available evidence is sufficient to make a Finding on the balance of probabilities that Gerald Vanderwerf entered the bush in the Grampian Ranges with the intention to end his own life.

On the balance of probabilities, I find that Gerald Vanderwerf is deceased, in the circumstances where I find that he has intentionally ended his own life at an unknown location in the Grampian Ranges.

I find that he died on or about 23 September 2016.

I am unable to make a finding as to the cause of death.

4. I concluded my Finding by making a conditional order that my investigation into the disappearance and suspected death of Gerald Vanderwerf may be reopened, pursuant to section 77(3) of the *Coroner's Act 2008 (Vic)*, if any new facts and circumstances come to light.²

¹ COR 2017.5810, Finding into death with Inquest, page 12.

² Ibid.

New facts and circumstances

5. On 3 March 2021, Leading Senior Constable (LSC) Kellie Harris of the Hall's Gap Police Station brought further evidence to my attention. LSC Harris submitted a statement for my perusal which summarised the 'new facts and circumstances' (supplementary evidence).
6. According to LSC Harris, on 6 January 2020, two people went hiking in the woodland in the Grampians Ranges, setting out from the Borough Huts Campground. At approximately midday, while walking through dense undergrowth in a secluded area, the hikers discovered an aluminium ladder against a large gum tree. Upon closer scrutiny, they saw a backpack, partly concealed in the leaf litter near the ladder and, when they ventured closer, the hikers noticed what appeared to be human remains on the ground, above which they noticed the remnants of rope in the shape of a noose, suspended from a branch of the tree.
7. The hikers then opened the backpack and rummaged through the contents in an attempt to find something that may indicate the identity of the owner of the backpack or identity of the human remains. In the backpack the hikers found weathered paperwork and when they looked at the paperwork more closely, they found what appeared to be a rental receipt in the name of 'Gerald Van DERWERF of 7/22/Inkerman St, St Kilda'. (sic) The hikers then reported their discovery to the Halls Gap Police later that day.

Review of the new facts and circumstances

8. Cognisant of the conditional order made at the conclusion of my Finding into Death with Inquest, *Form 37*, I reviewed the statement of LSC Harris in conjunction with the sources of evidence referred to in her statement. Having considered the import of the new facts and circumstances, I determined that this supplementary evidence was relevant to my investigation into Gerald Van Der Werf's suspected death and that, properly considered, it would advance my investigation into the death.
9. In observing the statutory formalities which prescribe the process, at my Direction, my Coroner's Solicitor filed a *Form 43* Application to Set Aside my Finding into the Death with Inquest, *Form 37*, to enable me to consider the 'new facts and circumstances', as envisaged by section 77 (3) of the *Coroners Act 2008 (Vic)*. In summary, the *Form 43* Application articulated that the evidence which was now before me enabled me to make definitive Findings into the death.
10. On 21 November 2022, by *Form 44*, in granting the application to set aside my Finding into Death with Inquest, *Form 37*, I determined that it was appropriate to re-open my investigation

into Gerald Van Der Werf's death, as I now had new evidence before me which would advance my investigation and enable me to make definitive Findings.³

THE CORONIAL INVESTIGATION

11. Mr Van Der Werf's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
12. 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.
13. 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.
14. Victoria Police assigned an LSC Harris to be the new Coroner's Investigator for the investigation of Mr Van Der Werf's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – at this stage of my investigation, the new evidence included statements from LSC Harris herself, the forensic pathologist, the forensic anthropologist, the forensic scientist, and the hikers who discovered the skeletal remains. – and submitted a supplementary coronial brief of evidence.
15. This finding draws on the totality of the coronial investigation into the death of Gerald Van Der Werf including evidence contained in the original coronial brief and the supplementary coronial brief. 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. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁴

³ COR 2017. 5810, *Form 44*, Order following Application to Set Aside Finding.

⁴ 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.

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

Circumstances in which the death occurred

16. On 7 January 2020, at approximately 7.30 am, in investigating the report made by the hikers on the previous day, local police officers, accompanied by members of the Victoria State Emergency Service (SES), were deployed to the area to search for the human remains.
17. At approximately midday, officers of the SES and Victoria Police found the human remains, pointed out by the hikers. A coronial investigation was initiated, and the skeletal remains were conveyed to Victorian Institute of Forensic Medicine (VIFM) for examination.

FORENSIC INVESTIGATIONS

Medical cause of death

18. On 15 January 2020, Forensic Pathologist, Dr Victoria Francis of the VIFM, conducted a post-mortem examination upon the human remains found near the Borough Huts Campground in the Grampians Ranges.
19. In the execution of her duties, Dr Francis reviewed the Police Report of Death, Form 83, a post-mortem computed tomography (CT) scan, the scene photographs and further information from the Coronial Admissions and Enquiries (CAE), VIFM contact log.
20. The post-mortem examination revealed perimortem trauma to the ‘second cervical vertebra’ and ‘bilateral fractures of the neural arch of the axis (. . .)’. According to Dr Francis this ‘type of fracture was commonly seen in (. . .) hangings’.
21. Dr Francis provided a written report of her findings on 8 May 2020 and opined that the medical cause of death was 1(a) Consistent with hanging.

Forensic Anthropology Investigation

22. At the request of the Forensic Pathologist, on 15 January 2020, Forensic Anthropologist, Dr Samantha Rowbotham of the VIFM conducted an examination of the human remains. In the execution of her duties, when Dr Rowbotham examined the second cervical vertebra, she found evidence of ‘peri-mortem traumatic spondylosisthesis’ and ‘bilateral fractures of

the neural arch' which, according to Dr Rowbotham, is commonly referred to as a "Hangman's fracture".

23. This evidence corroborates the autopsy findings of Dr Francis, the Forensic Pathologist.

Identity

24. At autopsy, on 15 January 2020, a sample of biological material from the skeletal remains was retained for purposes of a possible extraction of deoxyribonucleic acid (DNA) to verify the identity of the human remains.

25. On 16 January 2020, a buccal swab was obtained from Mark Van Der Werf, known to be Gerald Van Der Werf's natural brother.

26. On 20 January 2020, Senior Scientist, Ms April Stock of the VIFM conducted nuclear DNA profiling, a procedure used to investigate whether a biological relationship exists between samples of biological material. In this matter, the DNA testing involved a comparison of the profile of the deceased's biological sample with the buccal swab obtained from Mark Van Der Werf to determine whether they were siblings. Ms Stock opined that the probability of a sibling relationship between the DNA from the sample retained at autopsy and the DNA from the buccal swab obtained from Mark Van Der Werf 'is greater than 99.99%'.

COMMENTS

Pursuant to section 67(3) of the Act, I make the following comments connected with the death.

1. I have considered the new facts and circumstances (supplementary evidence) in this matter including the discovery of the skeletal remains by the hikers at the Borough Huts Campground in the Grampians Ranges. In my view the supplementary evidence has advanced my investigation into the death and has enabled me to make definitive findings into the death of Gerald Van Der Werf.
2. In this regard, in addition to providing evidence of the discovery of the skeletal remains, its exact location in the Grampians Ranges, the noose suspended from the branch of the tree and the aluminium ladder, the forensic evidence on the medical cause of death and the identity of the skeletal remains has been particularly helpful and assisted me to discharge my statutory obligations with a greater degree of certainty.

3. The supplementary evidence now supports definitive findings in relation to the circumstances in which the death occurred, the identity of the deceased and the cause of death.
4. I commend the initiative taken by Victoria Police in bringing these new facts to my attention and further, I commend the investigation undertaken by the VIFM which has now enabled me to make definitive Findings into the identity of the deceased and the cause of death.
5. Although the evidence available at the time I held the Inquest was compelling and the weight of that evidence supported a finding that Mr Van Der Werf was deceased and that he ended his own life at an unknown location in the Grampians Ranges, I now have the benefit of corroborating scientific evidence to support definitive findings.
6. I acknowledge that the nature of supplementary evidence in this matter remains entirely circumstantial. However, I am satisfied that the forensic evidence which, by its very nature, is empirical evidence and is therefore sufficiently cogent to enable me to make definitive findings with regard to identity, the medical cause of death and the circumstances in which the death occurred.
7. On the weight of the available evidence, I am satisfied, on the balance of probabilities, that the totality of the evidence now before me enables me to discharge my statutory obligations under The Act. I now make pertinent Findings in this matter.

FINDINGS AND CONCLUSION

1. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a. the identity of the deceased is Gerald Van Der Werf, born 28 April 1960;
 - b. the death occurred on or about 23 September 2016 at or near the Borough Huts Campground, (Mt Rosea Walking Trail), Bellfield, Victoria, 3381.
 - c. I accept and adopt the medical cause of death as ascribed by Dr Francis and I find that Gerald Van Der Werf's death occurred in circumstances consistent with hanging and I find further that his death was caused by hanging.
2. The weight of available evidence supports a finding that Gerald Van Der Werf's declining mental health together with his history of suicidal ideation over an extended period contributed to his decision to venture into the woodland near the Borough Huts Campground in the Grampians Ranges, equipped with apparatus to enable him to cause harm to himself

and I find that Gerald Van der Werf's mental ill health contributed to or was connected to his death.

3. AND, having considered all the evidence, although the exact precipitating factor(s) that led him to follow this course of action will never be known, I find that Gerald Van Werf intentionally ended his own life.

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 together with my Finding into death with Inquest, *Form 37*, of 18 September 2018 and my *Form 44* Order following the Application to Set Aside Finding of 21 November 2022.

Pursuant to section 49(2) of the Act, I direct the Registrar of Births, Deaths and Marriages to amend the cause of death to the following "1(a) CONSISTENT WITH HANGING".

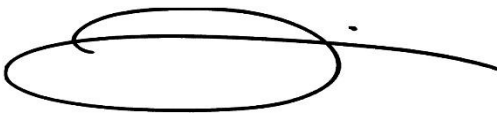
I direct that a copy of this finding be provided to the following:

Mark Van Der Werf,

Leading Senior Constable Kelly Harris

Detective Senior Constable Slagian Rodoievici, Coroner's Investigator

Signature:



AUDREY JAMIESON

CORONER

Date: 23 November 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 inquest. 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.
