IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2020 000671

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Coroner Sarah Gebert
Deceased:	Mark Marian MILEWSKI
Date of birth:	19 October 1948
Date of death:	4 February 2020
Cause of death:	*Mixed drug toxicity*
Place of death:	1 Mark Court, Chadstone, Victoria

INTRODUCTION

1. Mark Marian Milewski, born on 19 October 1948, was 71 years of age at the time of his death. He lived with his ex-wife, Svetlana Milewski, and his two adult children, Mark Alexander and Bianca.

2. On 4 February 2020, Mr Milewski was found deceased on his bed by Svetlana.

THE CORONIAL INVESTIGATION

3. Mr Milewski'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.

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. Victoria Police assigned Senior Constable Emily Clarke (**SC Clarke**) to be the Coroner's Investigator for the investigation of Mr Milewski's death. SC Clarke conducted inquiries on my behalf, including taking statements from witnesses and compiling a coronial brief of evidence. The brief comprised statements from Mr Milewski's family, his treating general practitioner (**GP**), an ambulance paramedic, the forensic pathologist who examined him, investigating police, as well as other relevant materials.

7. This finding draws on the totality of the coronial investigation into Mr Milewski's death including evidence contained in the 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.[1]

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[1] 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

Background

8. Mr Milewski was born in Poland and relocated to Australia with his family when he was approximately 10 years old.

9. For more than 30 years, Mr Milewski ran a successful furrier and, subsequently, a leather business. He and his ex-wife Svetlana had two children, Mark Junior and Bianca. In 1995, Mr Milewski and Svetlana divorced and the couple's relationship improved thereafter.

10. In 2001, Mr Milewski and his son purchased the residential property at 1 Mark Court, Chadstone. Mr Milewski lived there alone until approximately 2005 when Svetlana and their children moved in with him. Svetlana lived in a separate flat at the rear of the property, while Mr Milewski and the children lived in the main house.

11. Mr Milewski had a history of obesity and weighed approximately 120kg for most of his life.

12. In 2006, due to competition with overseas manufacturing businesses, Mr Milewski's business closed down and he stopped working. For the next two years, his family observed that he stopped socialising and spent most of his time sitting on the couch watching television, eating and drinking alcohol. During this time, Mr Milewski's weight increased to approximately 194kg.

13. In 2010, Mr Milewski was admitted to the Intensive Care Unit (**ICU**) at Monash Medical Centre with breathing difficulties. After approximately three weeks, he was discharged to the general ward for several months. During this period of hospitalisation, Mr Milewski lost approximately 40kg. However, he also lost muscle tone in his legs due to being in a hospital bed for a protracted period of time. Additionally, he had nerve damage in his legs and lower back, and was only able to walk approximately 10 metres, with the aid of a walker.

14. Mr Milewski was discharged to Kingston Centre, a residential health and aged care service. However after a month, his family were concerned that he wasn't being properly cared for and decided to care for him at home. Svetlana, Mark Junior and Bianca *all took in turns caring for him*, taking him to doctor's appointments and assisting with all of his daily needs.[2] They purchased a hospital bed, walker and wheelchair for Mr Milewski, and also had an oxygen

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

[2] CB, Statement of Mark Alexander Milewski, [13].

machine and a Continuous Positive Air Pressure (**CPAP**) machine installed for his obstructive sleep apnoea.

15. Mr Milewski had a number of complex health issues including but not limited to, obesity, diabetes, hypertension, gall stones, issues with his gastrointestinal tract, heart arrhythmia (chronic atrial fibrillation) and chronic congestive heart failure, diminished vision due to a stroke in his eye (non-arteritis ischemic optic neuropathy), severe scoliosis and chronic renal failure.[3] Over the years, he became bed-bound.[4]

16. Mr Milewski was prescribed a range of medications, including Endone (oxycodone) and Valium (diazepam), to be taken as needed.[5] He attended on his treating general practitioner (**GP**) monthly, for a general check-up of his chronic conditions and renewal of his prescriptions. He last saw his GP on 15 January 2020 when it was noted that *his blood sugar level was well controlled, his blood pressure was normal* and that *he looked well* despite a complaint of back pain.[6]

Mental state in the years prior to death

17. Mr Milewski's family recalled that he was *very appreciative of* [them] *taking care of him*.[7] He exhibited mood swings from time to time, and *would say how thankful he* [was] *to have* [his family] *looking after him one moment, but then be angry about being in his condition the next*.[8] However, Bianca was clear that her father *didn't blame anyone but himself* and would say, "*I'm the one that did it so Ill (sic) fix it. I'll unburden you all*."[9]

18. In the years prior to his death, Mr Milewski often telephoned his family to tell them that he loved them. These calls increased in frequency in the year, and again in the month, prior to his death.

19. In the several weeks prior to his death, Svetlana recalled that her ex-husband made a number of comments that he was "*sick of* [his] *life*" and that he "[didn't] *want to live like this anymore*." These comments also increased in frequency in the two weeks prior to Mr Milewski's death.

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[3] CB, Statement of Dr Grace Diao, [9]; CB, Statement of Bianca Milewski, [15].
[4] CB, Statement of Dr Grace Diao, [9]; CB, Statement of Mark Alexander Milewski, [16]-[18].
[5] CB, Statement of Bianca Milewski, [16].
[6] CB, Statement of Dr Grace Diao, [14].
[7] CB, Statement of Bianca Milewski, [17].
[8] CB, Statement of Mark Alexander Milewski, [20].
[9] CB, Statement of Bianca Milewski, [17]; see also CB, Statement of Svetlana Milewski, [5].

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

Circumstances in which the death occurred

20. On the morning of 4 February 2020, Mr Milewski woke up between 6.00am and 7.00am as he normally did, and he was assisted by Mark Junior until after lunch.

21. Bianca returned home from work at 12.00pm and recalled seeing her father *having a drink and eating while watching a movie on his tablet*; he was also drinking a bottle of Vodka.

22. Shortly after, Mr Milewski telephoned Bianca and told her, "*I just want to let you know that I love you*". Bianca *didn't think anything of it because he made those calls and said that kind of thing to* [the family] *heaps and it was normal.*

23. Bianca then heard her father call out to Mark Junior asking for his lunch to be re-heated. As Mark Junior had fallen asleep on the couch, Bianca attended to her father and gave him an ice-cream as he requested.

24. At approximately 1.29pm, Mr Milewski telephoned Svetlana and told her, "*I'm ringing you up to thank you for everything you have done for me over the years. Goodbye*."

25. At approximately 3.45pm, Bianca walked past her father's room and observed him asleep on his bed. *He looked normal and didn't look to be in pain*.

26. At approximately 5.00pm, Svetlana returned home and went to Mr Milewski's room to check on him. She saw him lying on his bed, looking *a little pale* but assumed that he was asleep and did not want to wake him.

27. At approximately 6.20pm, she again went to Mr Milewski's room to see if he wanted a coffee. She found him still lying on his bed, but he was unresponsive and not breathing.

28. Emergency services were called and the Melbourne Fire Brigade (**MFB**), followed by Ambulance Victoria, attended the scene.

29. The MFB commenced cardiopulmonary resuscitation (**CPR**), and ambulance paramedics took over on arrival approximately two minutes later. Sadly, Mr Milewski was unable to be assisted and was pronounced deceased a short time later.

30. Police attended the premises and commenced an investigation. Photographic evidence was collected and formed part of the coronial brief.

31. Police located several empty boxes and empty blister packs of Endone and Comfarol Forte (paracetamol and codeine) in Mr Milewski's bedroom and bathroom.[10] No suspicious circumstances were found.

Identity of the deceased

32. On 4 February 2020, Mark Marian Milewski, born 19 October 1948, was visually identified by his ex-wife, Svetlana Milewski.

33. Identity is not in dispute and requires no further investigation.

Medical cause of death

34. Senior Forensic Pathologist Dr Matthew Lynch from the Victorian Institute of Forensic Medicine (**VIFM**), conducted an examination on 6 February 2020 and provided a written report of his findings dated 7 February 2020.

35. Toxicological analysis identified a blood alcohol concentration (**BAC**) of 0.04g/100mL, as well as the presence of the following drugs in the following concentrations:

    i. Oxycodone (~0.4mg/L);[11]

    ii. Codeine (~0.6mg/L);[12]

    iii. Diazepam (~0.07mg/L)[13] and its metabolite;

    iv. Metoprolol (~0.05 mg/L);[14] and

    v. Paracetamol (~19mg/L).[15]

36. Dr Lynch commented that *the drugs detected are consistent with excessive and potentially fatal use. The combination of central nervous system depressant drugs (oxycodone, codeine, diazepam) and alcohol may cause death in the absence of other contributing factors*.

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[10] CB, Statement of Detective Senior Constable Jordan Relf, [10]-[12].
[11] Oxycodone is a semi-synthetic opiate narcotic analgesic related to morphine used clinically to treat moderate to severe pain.
[12] Codeine is an opiate that binds to opioid receptors located throughout the body; however, it only possesses 10-17% of the analgesic activity of morphine.
[13] Diazepam is a benzodiazepine derivative indicated for anxiety, muscle relaxation and seizures. Nordiazepam is a metabolite of diazepam.
[14] Metoprolol tartrate is an anti-hypertensive drug.
[15] Paracetamol is an analgesic drug available either by itself or in combination with other drugs such as codeine and propoxyphene.

37. Dr Lynch provided an opinion that the medical cause of death was *Mixed drug toxicity*.

38. I accept Dr Lynch's opinion.

Prescription Medication

39. The Medicare and Pharmaceutical Benefits Scheme (**PBS**) claims history indicate that Mr Milewski was supplied oxycodone, diazepam, paracetamol and codeine, as well as other drugs, in various quantities but there is no evidence to suggest that he was overprescribed.

Intent

40. Having considered the available evidence, I am satisfied that by his actions, Mr Milewski intended to end his own life.

41. The evidence suggests that for a number of years prior to his death, Mr Milewski was unhappy with the state of his health and quality of life. He had made comments such as "*I'm not living, I'm just existing*", and lamented that he would *never be able to get out of bed or drive a car*.[16]

42. The evidence also suggests that Mr Milewski was affected by the impact his ill health had on his family, and he expressed his desire to "unburden" them. In the months prior to his death, he also gave vague hints of his intentions, saying that he was *not going to be here much longer*, and that he "[didn't] *want to live like this anymore*." He was very appreciative of his family's support and in the hours prior to his death, contacted family members to thank them and tell them that he loved them.

FINDINGS AND CONCLUSION

43. Pursuant to section 67(1) of the *Coroners Act 2008*, I make the following findings:

    a) the identity of the Deceased was Mark Marian MILEWSKI, born 19 October 1948;

    b) the death occurred on 4 February 2020 at 1 Mark Court, Chadstone, Victoria, from *Mixed drug toxicity*; and

    c) the death occurred in the circumstances described above.

44. I convey my sincere condolences to Mr Milewski's family for their loss.

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[16] CB, Statement of Bianca Milewski, [17]; CB, Statement of Svetlana Milewski; CB, Statement of Mark Alexander Milewski.

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

Bianca Milewski, Senior Next of Kin

Senior Constable Emily Clarke, Victoria Police, Coroner's Investigator

Signature:

Coroner Sarah Gebert

Date : 02 August 2021

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.