



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2022 003945

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of: Jacqui Hawkins, Deputy State Coroner

Deceased: Ronald Allen Cunnington

Date of birth: 13 April 1938

Date of death: 16 July 2022

Cause of death: 1(a) Metastatic oesophageal carcinoma

Place of death: Port Phillip Prison 451 Dohertys Road,
Truganina, Victoria, 3029

Keywords: DEATH IN CUSTODY; NATURAL CAUSES;
OESOPHAGEAL CANCER; ARTRIAL
FIBRILLATION; OSTEO ARTHRITIS;
CHRONIC OBSTRUCTIVE PULMONARY
DISEASE

INTRODUCTION

1. Ronald Allen Cunnington was 84 years old when he was found deceased on 16 July 2022. At the time of his death, Mr Cunnington was serving a prison sentence at Port Phillip Prison.
2. Mr Cunnington had been receiving palliative care due to a diagnosis of oesophageal cancer, atrial fibrillation, osteo arthritis, and chronic obstructive pulmonary disease.

THE CORONIAL INVESTIGATION

3. Mr Cunnington's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). The death of a person in care or custody is a mandatory report to the Coroner, even if the death appears to have been from natural causes.
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. This finding draws on the totality of the coronial investigation into the death of Ronald Allen Cunnington 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

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

IDENTITY OF THE DECEASED

7. On 16 July 2022, Ronald Allen Cunnington, born 13 April 1938, was visually identified by his doctor, Ma Venus Kadero, who signed a formal statement of identification to this effect.
8. Identity is not in dispute and requires no further investigation.

MEDICAL CAUSE OF DEATH

9. On 18 July 2022, Dr Sarah Parsons, Forensic Pathologist from the Victorian Institute of Forensic Medicine (VIFM), conducted an examination. Dr Parsons reviewed the post-mortem computed tomography (CT) scan and Victorian Police Report of Death Form 3 and provided a written report of her findings.
10. The post-mortem CT scan showed left hip replacement with prominent callus and dislocation, bony metastasis in the spine, subpleural masses, hilar mass, and increased lung markings.
11. Dr Parsons provided an opinion that the medical cause of death was 1 (a) metastatic oesophageal carcinoma. I accept Dr Parsons's opinion.

CIRCUMSTANCES IN WHICH THE DEATH OCCURRED

12. At about 4:15pm on 16 July 2022, correctional officers located Mr Cunnington unresponsive and lying in his hospital bed. He did not appear to be breathing. A medical officer attended and was unable to detect any signs of life. Mr Cunnington was pronounced deceased at 5:02pm.
13. Mr Cunnington was not sharing the room with any other patients, and there was nothing abnormal in the room. Dr Priya Mendis stated that Mr Cunnington's death was expected.

FINDINGS AND CONCLUSION

14. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Ronald Allen Cunnington, born 13 April 1938;
 - b) the death occurred on 16 July 2022 at Port Phillip Prison 451 Dohertys Road, Truganina, Victoria, 3029, from metastatic oesophageal carcinoma; and
 - c) the death occurred in the circumstances described above.

15. Having considered all of the circumstances, I am satisfied that Mr Cunnington's death was due to natural causes.

I convey my sincere condolences to Mr Cunnington'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:

Sandra Boyle-Cunnington, Senior Next of Kin

Lisa Humphries, Senior Manager at Justice Assurance and Review Office

Signature:



Jacqui Hawkins, Deputy State Coroner

Date : 27 October 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.
