



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2021 003127

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner Simon McGregor
Deceased:	BJF ¹
Date of birth:	September 1997
Date of death:	16 June 2021
Cause of death:	1(a) Undetermined
Place of death:	Springvale, Victoria, 3171
Keywords:	Nitrous oxide, cocaine, drowning, undetermined cause

¹ This Finding has been de-identified by order of Coroner Simon McGregor to replace the names of the deceased and their family members with pseudonyms of randomly generated three letter sequences to protect their identity and to redact identifying information.

INTRODUCTION

1. On 16 June 2021, BJF was 23 years old when he died at home. At the time of his death, BJF lived in Springvale, where he lived with his father, HBP, mother, ZCW, and grandmother, DQV.
2. BJF had formed a close friendship group with QCL, WDT, and MQY.² WDT stated that she had observed BJF and QCL use cocaine and nitrous oxide.^{3 4}

THE CORONIAL INVESTIGATION

3. BJF'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 an officer to be the Coroner's Investigator for the investigation of BJF's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.

² Coronial brief, statement of WDT dated 16 June 2021, pages 47-48

³ Coronial brief, statement of WDT dated 16 June 2021, page 48.

⁴ Nitrous oxide is often referred to as "nangs".

7. This finding draws on the totality of the coronial investigation into the death of BJJ 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.⁵
8. In considering the issues associated with this finding, I have been mindful of BJJ's basic human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

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

Circumstances in which the death occurred

9. On 12 June 2021, BJJ went out to celebrate MQY's birthday at a restaurant in Glen Waverley. During the night, MQY noticed that BJJ and QCL appeared paranoid and spent the evening whispering to each other.⁶ WDT stated that BJJ and QCL used nitrous and cocaine during the night and later expressed delusional thoughts.⁷
10. On 15 June 2021, QCL attended BJJ's residence during the afternoon. The pair left the house but later returned with food and beer.⁸ At approximately 8.00pm, MQY and WDT arrived and the four shared the food and drinks. Throughout the night, QCL and BJJ became fixated on hand sanitiser and appeared paranoid and delusional, drinking alcohol in large amounts to "keep 'it' away".⁹
11. QCL later told Victoria Police members that he and BJJ had used cocaine and "nangs" that night, and that BJJ had been hallucinating about being possessed by a demon.¹⁰ BJJ told QCL that he was experiencing chest pain and that he was feeling short of breath.¹¹ QCL then took BJJ into the bathroom whilst the two girls remained in the bedroom.¹²

⁵ 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.

⁶ Coronial brief, statement of MQY dated 16 June 2021, page 43.

⁷ Coronial brief, statement of WDT dated 16 June 2021, page 48.

⁸ Coronial brief, statement of DQV dated 16 June 2021, pages 27-28.

⁹ Coronial brief, statement of MQY dated 16 June 2021, page 44.

¹⁰ Coronial brief, statement of Senior Constable Andrew Vallas dated 21 June 2021, page 111; BWC clip three, pages 241-243; record of interview dated 28 June 2021, pages 359-360.

¹¹ Coronial brief, record of interview dated 28 June 2021, pages 407-408.

¹² Coronial brief, statement of MQY dated 16 June 2021, page 45; statement of WDT dated 16 June 2021, page 50.

12. QCL told Victoria Police members that BJF became frantic after entering the bathroom and asked QCL to retrieve some spices from the kitchen and dunk him in the bath in attempt to remove the demonic possession. QCL then submerged BJF three times in the bathtub.¹³ QCL told investigators that BJF struck him several times in a panicked state and that he held BJF in a “cuddle” position to calm him.¹⁴ ¹⁵ I note that QCL provided several conflicting statements to investigators regarding whether he struck BJF at this time, and whether BJF had become unconscious at this point.
13. When he eventually left the bathroom, QCL stated that BJF had calmed down and was speaking.¹⁶ MQY stated that QCL then began talking to her in a delusional state, telling her that she was “evil” and that she needed to be “cleansed” by putting hand sanitiser in her eyes. WDT and MQY left BJF’s residence at approximately 9.30pm.¹⁷ At approximately 3.00am, QCL asked HBP if he could stay over to which he agreed.¹⁸
14. At approximately 7.00am the following morning, ZCW got ready for work. She stated that she observed BJF and QCL sitting on the side of the bathtub talking, and that they were wearing the same clothes from the night before. ZCW asked the boys what they were doing, to which QCL replied that he was “looking after BJF”. She then left for work.¹⁹
15. At approximately 10.15am, HBP walked to the bathroom and knocked on the door which was now closed. He stated that he could hear QCL speaking but was unsure whether it was to BJF. HBP then left the residence at approximately 10.40am to meet his friend for lunch.²⁰
16. QCL later left the bathroom, smoked a cigarette, and ate food prepared by DQV who asked him where her grandson was. He replied that BJF was sleeping, however DQV entered the bathroom and found BJF lying in the bathtub in an unresponsive state.²¹ ²²

¹³ Coronial brief, BWC clip three, pages 241-243; record of interview dated 28 June 2021, pages 407-408.

¹⁴ Coronial brief, record of interview dated 28 June 2021, pages 415-416.

¹⁵ It is unclear on the evidence whether BJF was submerged during this time.

¹⁶ Coronial brief, record of interview dated 28 June 2021, pages 417.

¹⁷ Coronial brief, statement of MQY dated 16 June 2021, page 45; statement of WDT dated 16 June 2021, page 50.

¹⁸ Coronial brief, statement of HBP dated 16 June 2021, page 36.

¹⁹ Coronial brief, statement of ZCW dated 11 July 2021, page 34.

²⁰ Coronial brief, statement of HBP dated 16 June 2021, page 37.

²¹ Coronial brief, statement of DQV dated 16 June 2021, pages 28-29.

²² It is unclear as to the exact sequence of events that that took place throughout the night; there are conflicting statements from QCL, MQY, and ZCW as to whether the dunking episode took place during the night or the following morning after ZCW left for work. Due to QCL’s intoxicated state, it is likely that he was unable to precisely recall the proper sequence of events during the subsequent police interviews. Given the nature of my findings regarding the cause of BJF’s death, it is not necessary to resolve this issue.

17. QCL stated that BJJ was face down in the bathtub at this point.²³ DQV stated that BJJ was naked, and that his clothes were on the floor next to him. DQV also noted that there was no water in the bathtub however the floor appeared to be very wet.²⁴
18. Thinking BJJ was intoxicated, DQV asked QCL to move him to his bedroom, however QCL refused, telling her that he was too heavy.²⁵ At approximately 1.00pm, DQV called ZCW who then spoke to QCL; QCL told her that BJJ was “asleep already” however she instructed him to call an ambulance. She then called HBP and asked him to go to the house.²⁶
19. At approximately 1.30pm, HBP arrived home with his friend and found BJJ still in the bathtub. He then assisted QCL to move BJJ from the bathtub into the hallway and began cardiorespiratory resuscitation attempts.²⁷ Ambulance Victoria paramedics attended the address at 1.05pm and continued resuscitation attempts however BJJ was unable to be revived and was verified as deceased.²⁸

Identity of the deceased

20. On 21 June 2021, BJJ, born in September 1997, was visually identified by his stepfather.
21. Identity is not in dispute and requires no further investigation.

Medical cause of death

22. Senior Forensic Pathologist Dr Matthew Lynch from the Victorian Institute of Forensic Medicine (**VIFM**) conducted an autopsy on 17 June 2021 and provided a written report of his findings dated 28 September 2021.
23. The post-mortem examination revealed multiple bruises on the neck, torso, limbs, and back, subcutaneous haemorrhages about the neck, torso, and limbs, as well as petechiae on the epiglottis and right lower eyelid. There was no natural disease noted.
24. A neurological examination was undertaken by Dr Linda Iles on 22 June 2021. This did not reveal any significant neurological abnormalities.

²³ Coronial brief, record of interview dated 28 June 2021, page 392.

²⁴ Coronial brief, statement of DQV dated 16 June 2021, pages 28-29.

²⁵ Coronial brief, statement of DQV dated 16 June 2021, page 30.

²⁶ Coronial brief, statement of ZCW dated 11 July 2021, page 34-35.

²⁷ Coronial brief, statement of HBP dated 16 June 2021, page 39.

²⁸ Coronial brief, statement of Lisa Dinh dated 26 September 2021, page 54.

25. Toxicological analysis of post-mortem samples identified the presence of cocaine and its metabolites, benzoylecgonine, ecgonine methyl ester, and coca ethylene.
26. Dr Lynch noted that, whilst ethanol (alcohol) was not detected, coca ethylene only forms in the presence of co-ingested ethanol. Dr Lynch also noted that cocaine has the capacity to induce cardiac arrhythmias.
27. Dr Lynch noted that, in matters where there is a suspicion of drowning, considerable weight must be given to the circumstances surrounding the death. Non-specific findings may include hyper expansion of the lungs (which was noted during BJF's examination).
28. Several areas of bruising on BJF's back were consistent with him lying in a supine position in the bathtub with pressure being applied to the bony prominences (such as the scapular or shoulder blade regions).
29. Dr Lynch noted that findings observed during BJF's autopsy may be considered as consistent with, but certainly not specific for, or diagnostic of, death due to drowning. Bruising noted on the neck raised the possibility that a degree of neck compression may have contributed to the death.
30. Dr Lynch provided an opinion that the medical cause of death is 1 (a) undetermined.
31. I accept Dr Lynch's opinion.

FINDINGS AND CONCLUSION

32. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was BJF, born in September 1997;
 - b) the death occurred on 16 June 2021 in Springvale, Victoria, 3171, from an *undetermined* cause; and
 - c) the death occurred in the circumstances described above.
33. Whilst it remains uncertain as to the precise cause of BJF's death, it is reasonable to conclude that his use of cocaine and nitrous oxide prior to, and on the night of, his death was a significant contributing factor.

34. With regards to QCL's involvement in BJF's passing, there is insufficient evidence to conclude on the balance of probabilities as to his intentions that night. I note that the matter was referred to the Office of Public Prosecutions following the Victoria Police investigation however it was determined that there were insufficient grounds to prosecute QCL for his role in BJF's death due to insufficient evidence.

I convey my sincere condolences to BJF's family for their loss.

Pursuant to section 73(1A) 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:

DJF, Senior Next of Kin

ZCW, Senior Next of Kin

Detective Senior Constable Thomas McGowan, Victoria Police, Coroner's Investigator

Signature:



CORONER SIMON McGREGOR

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 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.
