



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2019 0284

FINDING INTO DEATH FOLLOWING INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of Ali El Sayed

Delivered on: 12 December 2023

Delivered at: Coroners Court of Victoria
65 Kavanagh Street
Southbank
Victoria 3006

Hearing Dates: 13, 15, 16 February 2023

Findings of: Coroner John Olle

Representation: Mr Lachlan Allan of Counsel on behalf of Ms Salwa Saad,
instructed by Alisha Muscara of Slater and Gordon
Mr Andrew Ingram KC of Counsel on behalf of Rouba
Ayoubi, instructed by Samantha Mercuri of Carbone
Lawyers

Mr Lachlan Carter of Counsel on behalf of Abraham Saad,
instructed by Matthew Elvin of Elvin Lawyers

Mr Shane Dawson of Counsel on behalf of Walid Saad
and WZ Electrics

Mr Steven Brnovic of Counsel on behalf of WorkSafe
Victoria, instructed by Alex Hillgrove of WorkSafe
Victoria

Counsel Assisting the Coroner: Ms Katherine Farrell of Counsel, instructed by Ms P Davie
of the Coroners Court of Victoria

Keywords Electrocutation, death on a job site, whether deceased was
instructed to perform duties without supervision

HIS HONOUR:

I, JOHN OLLE, Coroner, having investigated the death of ALI EL-SAYED
AND having held an inquest in relation to this death on 13, 15 AND 16 FEBRUARY 2023
at the Coroners Court of Victoria at Melbourne
find that the identity of the deceased was ALI EL-SAYED
born on 21 JANUARY 1999
and the death occurred on 15 JANUARY 2019
at Fraser Rise, VIC 3336

from:

1(a) ELECTROCUTION

I find, under section 67 (1)(c) of the *Coroners Act 2008* ('the Act') that the death occurred in the following circumstances:

BACKGROUND

1. Ali El-Sayed ('Ali')¹ died on 15 January 2019 while fitting an air conditioning unit. The cause of his death was electrocution. He was nineteen years old, an apprentice electrician, and engaged to be married. He was dearly loved by his family and fiancée.
2. There is no issue as to Ali's identity² or cause of death,³ but there is an evidentiary dispute as to the circumstances of his death,⁴ namely how and why he came to be fitting an air conditioning unit without supervision.
3. An inquest into his death was held on 13, 15 and 16 February 2023.

PURPOSES OF A CORONIAL INVESTIGATION

1. Reportable death⁵ requires certain deaths to be reported to the coroner for investigation. Apart from a jurisdiction nexus with the state of Victoria, the definition of a reportable death includes all deaths that appear "to have been unexpected, unnatural or violent or to have resulted, directly or indirectly, from accident or injury." The purpose of a coronial investigation is to independently investigate a reportable death to ascertain, if possible, the identity of the deceased person, the cause of death and the circumstances in which the death

¹ First names, rather than surnames, are used throughout this finding because a number of the witnesses are family members who share the same surname.

² Section 67(1)(a) Coroners Act 2008, see Statement of Waleed El-Sayeed, Coronial Brief p30.

³ Section 67(1)(b) Coroners Act 2008, see Report of Dr Michael Burke dated 24 January 2019, Coronial Brief p60.

⁴ Section 67(1)(c) Coroners Act 2008.

⁵ Section 4 of the Act

occurred.⁶ The practice is to refer to the medical cause of death incorporating, where appropriate, the mode or mechanism of death, and to limit the investigation to circumstances sufficiently proximate and causally relevant to the death.

2. Coroners are also empowered to report to the Attorney-General on a death they have investigated; the power to comment on any matter connected with the death, including matters relating to public health and safety or the administration of justice; and a power to make recommendations to any Minister, public statutory or entity on any matter connected with the death, including recommendations relating to public health and safety or the administration of justice⁷ regarding reports, recommendations and comments respectively.
3. The focus of a coronial investigation is to determine what happened, not to ascribe guilt, attribute blame or apportion liability and, by ascertaining the circumstances of a death, a coroner can identify opportunities to help reduce the likelihood of similar occurrences in future.

EVIDENCE AND STANDARD OF PROOF

4. This finding is based on the entirety of the investigation material comprising of the coronial brief of evidence compiled by Sergeant Jacinta Elliot, as well as material obtained directly by the Court after the provision of the brief. I further base the finding on the statements and testimony of those witnesses who gave evidence at the inquest and any documents tendered through them, together with other documents tendered at inquest. All the material, together with the inquest transcript, will remain on the coronial file and comprise my investigation into Ali's death.
5. I have thoroughly and carefully considered all of the material, however I will only refer to that which is directly relevant to my findings or necessary for narrative clarity.
6. Furthermore, I gratefully acknowledge the submissions of interested parties, which have also provided me assistance in writing this finding.
7. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁸

⁶ Section 67 of the Act.

⁷ Section 72(1), 72(2) & 67(3) of the Act.

⁸ 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.

SECTION 67 FINDINGS

8. Prior to the commencement of the inquest, it was apparent that Ali's identity and cause of death were not in dispute and required no further investigation.
9. Accordingly, the scope of inquest was confined to the circumstances surrounding Ali's death, with specific key issues detailed below.

Scope of Inquest

10. My scope of inquest was as follows:
 - (a) How is it that Ali was fitting an air conditioning unit that led to his death – was it of his own accord or was he directed to do so?
 - (b) Was he sufficiently trained to do so?
 - (c) If he was directed, why was he not supervised?
 - (d) Did his lack of training cause his death?
 - (e) What opportunities exist to prevent a future similar event? Are the training regulations and oversight sufficient?⁹

Witnesses

11. The following witnesses gave evidence at the inquest:
 - (a) Charlie Portelli
 - (b) Walid Saad¹⁰
 - (c) Abraham Saad¹¹
 - (d) Waleed el-Sayed
 - (e) Moustafa Lebdeh¹²
 - (f) Senior Constable Stephanie Cassar

⁹ Section 67(3) Coroners Act 2008.

¹⁰ S. 57 Certificate

¹¹ S. 57 Certificate

¹² S. 57 Certificate

Ali's background

12. Ali was born on 21 January 1999 to parents Michael and Salwa, the third eldest in a family consisting of ten children. He grew up in the family home located in Hadfield.
13. In 2009, Michael and Salwa separated, and Ali moved to a home in Greenvale with his mother and siblings.
14. Ali attended Bellevue Park Primary School before commencing at Glenroy College for high school. Ali was described as a good student who never caused any trouble.
15. After leaving high school, Ali commenced an electrical apprenticeship with his uncle at Victorian Electrical Specialists (VES). Ali left VES halfway through his apprenticeship, though it is unclear why.
16. Once Ali left VES, he commenced working for his cousin, Walid Saad ("Walid"), at WZ Electrics. He was an apprentice electrician.
17. In late 2017, Ali met Rouba Ayoubi ("Rouba"), who would later become his fiancée. Rouba described Ali as being a good person, nurturing, funny and easy to get along with. Rouba noted that Ali was very hardworking and very family oriented.
18. Ali was passionate about his work and enjoyed his job and working with his cousins at WZ Electrics, commenting that he felt safe and comfortable with them.
19. At the time of his death, Ali was a 3rd year apprentice, in which capacity he was not permitted to undertake electrical works, including wiring connection, unless supervised by an A grade electrician.

The site of the incident

20. 19 Lockwood Court is a secondary storey building whose roof is difficult to access without adequate equipment. On the night of the incident, firefighters, paramedics and WorkSafe investigators all accessed the roof via a large ladder from one of the fire appliances. Owing to the heights and difficulty accessing the roof, no Victoria Police members accessed the site.
21. The area of the roof where Ali was working was flat. At the edge of the roof, wiring was located.
22. Ali had been working without his shirt on and was located lying flat on his stomach. The condenser unit was near his left shoulder and the power junction box was directly in front of him.

His phone was located on the adjoining valley of the roof, out of reach of his right-hand side. A single red wire was observed hanging down from the junction box. The end of this wire was stripped, and the stripped portion of the wire was dark brown.

23. Ali's glasses were laying on the roof to the right of the junction box. There were also wireless earbuds laying on a patch of what appeared to be dried blood and sweat.
24. Located slightly to the right of where Ali was found, there was an assortment of various lengths of electrical wire, a pair of blue-handled pliers, and a red and yellow flat-head screwdriver. The insulating covers on the pliers and screwdrivers were intact.
25. Ali was not wearing gloves when he was found, and no gloves were seen near the location.
26. There was no multimeter located on the section of the roof where Ali had been working, or downstairs in the Portellis' home. A multimeter was found in Ali's vehicle.
27. Upon attendance at the scene, fire crews determined that the power supply to the air-conditioning unit power junction was still on. The power supply was isolated when the fire crews arrived, prior to any investigation recovery being undertaken.
28. The switch board was inspected inside the garage of 19 Lockwood Court, and photographs were taken at the time. The photographs depict that power to the switchboard had not been isolated. The air conditioning unit was not fitted with a safety switch, as at the time it was not a requirement that they be fitted with one. It was apparent that neither of the circuits had been isolated and that Ali had been unable to access the switchboard prior to commencing work on the roof of 19 Lockwood Court.

CIRCUMSTANCES OF DEATH

SCOPE ISSUES

How was it that Ali was fitting an air conditioning unit that led to his death – whether or not it was of his own accord

29. As previously noted, at the time of his death Ali was an apprentice electrician. He was employed by WZ Electrics, a company owned and run by his cousin Walid Saad. Walid was the director of the company and a qualified A Grade Electrician.¹³
30. WZ Electrics were the electrical contractors for a building project in Lockwood Court, Fraser Rise. They were contracted to complete the work by the builders, Campana Developments. The supervisor for the project was Abraham Saad (“Abraham”), who was Ali’s first cousin, once removed.¹⁴
31. On 15 January 2019, Ali had been working at a site in Watsonia. When he finished working there, he went to Walid’s house in Broadmeadows.¹⁵
32. Abraham had called Walid earlier that day and told him that the owner of 17 Lockwood Court had moved in and was putting a bit of pressure on him to install the rangehood and oven.¹⁶
33. Walid subsequently directed Ali to attend 17 Lockwood Court in Fraser Rise and install a rangehood and oven.¹⁷ This required ‘four screws and a plug-in’.¹⁸
34. When Ali arrived at 17 Lockwood Court he spoke to the property’s owner, Mr Charlie Portelli (“Mr Portelli”), advising he was there to fit the stove and the rangehood.¹⁹ Having completed these tasks, which did not require electrical wiring connection, Ali received a phone call from Abraham. After the phone call, Ali told Mr Portelli he would now connect the air conditioning. Ali accessed the roof of Unit 17 and connected the air conditioning.²⁰ This involved connecting the wires from the condenser to the isolator which had already been wired in.²¹

¹³ Statement of Walid Saad dated 23 January 2019, Coronial Brief p176.

¹⁴ Abraham Saad and Ali’s mother, Salwa Saad were first cousins. Statement of Abraham Saad, 30 July 2019, Coronial Brief p32; Statement of Abraham Saad dated 9 August 2019, Coronial Brief p181.

¹⁵ Transcript of Inquest, p63.

¹⁶ Transcript of Inquest, p66, 127-128.

¹⁷ Transcript of Inquest, p58.

¹⁸ Transcript of Inquest p58-59.

¹⁹ Transcript of Inquest p58-59.

²⁰ Transcript of Inquest p33-34, 47.

²¹ Statement of Abraham Saad dated 9 August 2019, Coronial Brief p182.

35. Mr Portelli confirmed to Ali that his air-conditioning was working. Ali then borrowed a ladder from Mr Portelli to access the roof of Unit 19, the neighbouring unit 19. As the occupants were not at home, Ali was required to access the roof externally. Ali was electrocuted in the process of connecting the unit.
36. Ali's phone records show that he received the call from Abraham at 3.26pm.²² Abraham deposed he called Ali to tell him to connect the oven and rangehood, which Ali no doubt explained he had already done. Abraham stated he then told Ali that the condensers [for the air conditioners] hadn't been connected and needed to be connected.²³
37. When asked about the phone call with Ali, Abraham denied telling Ali to connect the condensers. In his view, he said no more than he wanted it to be done. He didn't tell him to go do it.²⁴
38. Mr Portelli maintains that when Ali arrived at the premises, Ali told him that he was there to install the oven and rangehood.²⁵ According to Mr Portelli, the first time Ali mentioned connecting the air-conditioning, was after Abraham had called Ali.
39. As time passed, Mr Portelli became concerned Ali had not returned from the roof or Unit 19. Around this time, Abraham called him explaining the family had not heard from Ali.
40. Crucially, Abraham asked Mr Portelli whether the air conditioner had been connected and if it was working.²⁶ In my view, it follows, that unless Abraham understood following the 3.26pm phone call that Ali would proceed to connect the condensers, he would not have any reason to have assumed that the air conditioner would have been connected when he later called Mr Portelli.
41. There is convincing evidence that depicts a timeline whereby Ali arrived at the Lockwood Court property, connected the rangehood and oven, took a phone call from Abraham, and then got onto the roof to connect the air conditioning units. There is, in my view, an inescapable inference that, at the conclusion of his phone call with Abraham, Ali had formed the view that he should connect the air conditioning units. I accept that Abraham maintains that he did not explicitly direct Ali to install the air conditioning units, however it is apparent that Ali only

²² Phone records, Coronial Brief p220.

²³ Statement of Abraham Saad dated 23 January 2019, Coronial Brief p30; Statement of Abraham Saad dated 9 August 2019, Coronial Brief p182; Transcript of Inquest, p128.

²⁴ Transcript of Inquest, p131-132.

²⁵ T26:11-13 (C Portelli); Coronial Brief, 178-79 (Statement of Mr C Portelli, dated 5 February 2019).

²⁶ T28 L11, see also C Portelli statement 16 January 2019.

formed the view that he should install the air conditioning units once he had spoken to Abraham, even if Abraham 'didn't tell him to go do it'.²⁷

42. It is essential to grasp the context in which the 3.26pm phone call occurred. A site manager was telling an apprentice that the condensers needed to be connected. The site manager wanted the condensers connected. Which is precisely what Ali set about to achieve.
43. Finally, there is no evidence Walid told Abraham that Ali was at Mr Portelli's unit that afternoon. Indeed, Abraham deposed when he called Ali to tell him to connect the oven and rangehood, he didn't know Ali was going to Mr Portelli's that afternoon. It was essentially a co-incidence. However, from Ali's perspective, he would have likely assumed Walid had told Abraham he was at Unit 17. If Ali made that reasonable, albeit incorrect, assumption, Ali would naturally assume Walid knew Abraham would tell him to connect the condensers. I stress, there is no evidence Walid was so aware, but from Ali's perspective, it may well have appeared so.
44. On the evidence before me, my significant Finding is that Ali did not take it upon himself, to connect the condensers. Namely, he did not undertake a frolic of his own. He did so having formed the view that Abraham wanted him to connect the condensers. And that is what he endeavoured to do.

Was Ali sufficiently trained to fit an air conditioning unit? Did his lack of training cause his death?

45. Ali was not sufficiently trained to fit an air conditioning unit. He was an apprentice electrician and was not qualified to work unsupervised, as he had not completed his training.²⁸
46. By all accounts, Ali was considered to be a good apprentice who followed the guidance and direction of his supervisors.²⁹ Had Ali been adequately trained, the basic safety principles set out in the 2019 statement of Keith Atkins, authorized officer of the Director of Energy Safety, - Never Work Live, Test before you Touch, Lock out tag out (LOTO), would have been enshrined in Ali's work practice. The mantra of Never work live on switchboards or any electrical installation. And always disconnect the electricity supply before starting work and isolate the test before you start would never be overlooked.

²⁷ T131-132.

²⁸ Statement of Keith Atkins dated 24 July 2019, Attachment C, Coronial Brief p49-56; Energy Safe Victoria, *Electricity Safety Act* (Vic) 1998: Legislative History regarding Apprentice Supervision Requirements, [6]-[7].

²⁹ Transcript of Inquest, p61.

47. Ali had not isolated power from the mains boxes to the premises.³⁰ His failure to take a standard precautionary measure indicates a lack of training.³¹
48. Had Ali been under supervision, the A Grade electrician would have ensured no electrical works would be undertaken until the power supply had been disconnected.³²

If Ali was directed, why was he not supervised?

49. I accept, having heard evidence from those directly involved, that a practice had developed whereby Abraham would direct employees of WZ Electrics to perform tasks.
50. In addition to the matters outlined at [51] – [58] above, Abraham gave evidence that he had – on occasion – told employees of WZ Electrics, including Ali, what electrical work to do.³³ This practice may have arisen because of the pre-existing familial relationships (and friendships) between the employees of WZ Electrics and Abraham.³⁴
51. In answer to a WorkSafe question, after this tragic event, Walid stated ‘sometimes the representatives of YYUZ Property could delegate tasks to my employees’ Abraham was a site manager of YYUZ. His answer did not exclude any employee, including apprentices. In evidence, Walid explained that Abraham was not merely a site manager but a family member of himself and Ali – namely, family members help each other out. Before me, Walid limited the delegation authority, to exclude apprentices.³⁵
52. In my view, if apprentices were in fact excluded, in a context of being questioned by WorkSafe after the death of his apprentice, it is inconceivable he would have omitted such a significant exemption.
53. The clearest example of Abraham directing Ali in respect to electrical works, is the 3.26pm phone call. Abraham asserts he called Ali to tell him to connect the oven and rangehood at Lockwood Court. That only during the course of that conversation, he learnt Ali was in fact at the premises. That he then told Ali that the condensers needed to be connected.
54. Abraham knew apprentice electricians required supervision of an A Grade electrician. Because he was unaware Ali was at unit 17 before he made the 3.26pm call, the issue of

³⁰ Statement of Mr Walid Saad dated 23 January 2019, Coronial Brief p176; Statement of Inspector Cheryl Carrick dated 18 March 2019, Coronial Brief p191.

³¹ Statement of Keith Atkins dated 24 July 2019, Attachment B, Coronial Brief p46-48.

³² Statement of Keith Atkins dated 24 July 2019, Attachment C, Coronial Brief p49-56.

³³ Transcript of Inquest, 148-150.

³⁴ Transcript of Inquest, 132,149.

³⁵ Transcript of Inquest, p69, 73-77, 83-85.

supervision was not raised. In fairness to Abraham, when he told Ali that the condensers needed to be connected, he did not know Ali was unsupervised. He didn't ask.³⁶

55. However, the fact that a practice had developed whereby Abraham – who was not an electrician – could direct Ali, an apprentice electrician, to do electrical work meant that there was a real risk that Ali would do that work without supervision.
56. This tragedy graphically illustrates the inviolable imperative that apprentices must always be supervised by an A Grade electrician when undertaking electrical works.

What opportunities exist to prevent a future similar event? Are the training regulations and oversight sufficient?

57. At the time of Ali's death, the legislative regime placed the onus on the apprentice carrying out the electrical work to ensure that they were effectively supervised. This was intended to discourage them from performing unlicensed work, such as side jobs for cash. The regime did not address the risk of employers or supervisors tasking apprentices with electrical work that they were insufficiently trained or experienced to do without proper supervision.³⁷
58. On 8 December 2019 the legislation was amended to make clear that the employer (and any supervisor) of an apprentice has statutory obligations to ensure that they are being effectively supervised when carrying out electrical work. This places the onus on the employer (and/or supervisor) rather than the employee.³⁸
59. Energy Safe Victoria is currently participating in a joint project with the Behavioural Insight Unit at the Department of Premier & Cabinet, called 'Improving apprentice outcomes for licensing and supervision via behavioural insight'. The first stage of the project is considering the current process of completing an apprenticeship and becoming a licensed electrician. The second stage of the project (not yet commenced) is to determine why apprentices are not being supervised on the job and consider and trial solutions.³⁹

CONCLUSION

60. Ali was a compliant apprentice who followed instructions. He had no history of willful disobedience. At the time of his death, Ali had been an apprentice electrician for several

³⁶ Transcript of Inquest, p130, 156.

³⁷ Energy Safe Victoria, *Electricity Safety Act* (Vic) 1998: Legislative History regarding Apprentice Supervision Requirements, [15]-[16].

³⁸ Ibid, [18]-[21].

³⁹ Ibid, [27]-[29].

years. Therefore, I cannot accept that he would have undertaken the task of connecting the condensers unless he understood he was required to do so, was directed to do so or had formed the view that he was directed to do so.

61. Abraham steadfastly maintained when he told Ali the condensers needed to be connected, he acknowledged that was what he wanted done, but did not accept he wanted Ali to do so. When family members were becoming increasingly concerned for Ali's whereabouts, Abraham called Mr Portelli. He asked Mr Portelli if the air conditioning was working. Though Abraham may not have considered the thrust of his 3.26pm call to a direction to Ali, he clearly expected the air conditioning to be connected.
62. For the reasons set out above, I am unable to find to the requisite standard that Abraham directed Ali to connect the condensers. And certainly, I do not find that Abraham wanted Ali to connect the condensers, unsupervised. There is no suggestion, nor do I find, that Abraham would under any circumstances, have encouraged Ali to connect the condensers, had he known Ali was not under the supervision of an A Grade electrician.
63. I am not satisfied to the Briginshaw standard that Abraham considered his conversation with Ali was a direction.
64. His frank concession that he wanted the condensers connected leaves me comfortably satisfied that irrespective of Abraham's intention, following the 3.26pm call, Ali set about a course of action to connect the condensers in compliance with Abraham's wishes.

COMMENTS

I make the following comments connected with the death pursuant to section 67(3) of the Act:

65. I endorse Energy Safe Victoria's commitment to ensuring that apprentices are safe on site. I further express my support for an increase to the penalty of Regulation 507 of the Energy Safe Regulations 2019.
66. I take this opportunity to reiterate the motivation of ESV through Mr Atkins in respect to the 2019 electrical apprentice safety campaign, which he explained was launched in response to a frightening rise in incidents and fatalities of young electrical workers. Essentially always provide effective supervision to apprentices and electrical workers and Never Work Live.

I express my sincere condolences to Ali's family, to whom he was devoted, and his friends.

Especially Salwa and Rouba whose grief and dignity was so evident throughout the coronial process.

Pursuant to section 73(1) of the *Coroners Act 2008*, I order this finding be published on the internet.

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

Salwa Saad, Senior Next of Kin, c/o Slater and Gordon

El-Sayed Madian, Senior Next of Kin

Rouba Ayoubi, c/o Carbone Lawyers

Abraham Saad, c/o Matthew Elvin Lawyers

Walid Saad, c/o Mr Shane Dawson

Moutstafa Lebdeh

WorkSafe Victoria

Energy Safe Victoria

Signature:



MR JOHN OLLE
CORONER

Dated :

12/12/2023

