

IN THE CORONER'S COURT)
AT CANBERRA IN THE)
AUSTRALIAN CAPITAL TERRITORY)

CD 125 OF 2007

**INQUEST INTO THE DEATH OF
YVETTE ALLISON HAVET**

REPORT OF FINDINGS

Coram: Chief Coroner J D Burns

Date: 29 April 2011

FINDINGS: That the deceased was Yvette Allison Havet and that she died at [redacted],
Turner on the morning of 19 May 2007. The cause of death was heroin
toxicity.

1. The obligations of a coroner holding an inquest into a death are set out in section 52 of the *Coroners Act 1997* (ACT). Relevantly for present purposes I am to determine the identity of the deceased, when and where the death occurred and the manner and cause of death. The evidence before me establishes beyond any doubt that the identity of the deceased was Yvette Allison Havet, born 4 April 1974.
2. At approximately 8:20am on 19 May 2007 police attended Unit 1/54 Moore Street, Turner in response to a report of a drug overdose. When police arrived there were four ACT Ambulance officers attending a deceased female, being Yvette Allison Havet. When police arrived ambulance officers were packing their equipment as they considered the deceased unable to be resuscitated. Two of the ambulance officers stated that the fiancé of the deceased, Luke Mr Dickens, told them that the deceased had “*a shot of heroin*” prior to her death, and that he had removed the deceased from the bedroom where found her before calling an ambulance. There were puncture wounds found on the inside of the right forearm of the deceased which had been caused by ambulance officers attempting to find a vein as part of the resuscitation process. There was also evidence of puncture marks on her left inside forearm as well.
3. Mr Dickens spoke to police and advised them that he and the deceased had known each other for three years and that he was her fiancé and that she was a recovering alcoholic. They had moved from Sydney to Canberra approximately two years previously to get away from the drug scene in Sydney. Mr Dickens told police that he shared a quarter ounce of heroin with the deceased at approximately 6:00am that day. He explained that he had injected himself with the heroin and then “*assisted*” the deceased by helping to inject her with the heroin. Mr Dickens advised police that he had shared the heroin from the same packet. He told police that he assisted the deceased to inject the heroin into her left arm but that when this did not work, because he had missed the vein, he then assisted her to inject the heroin into a vein in her right arm. Mr Dickens told the police that sometimes the deceased would inject herself and at other times he would help her to inject heroin.
4. Mr Dickens also told police that he and the deceased had attended Karralika Drug Rehabilitation Program and had both been discharged from that program clean from using alcohol and illicit drugs. It had only been recently that he and the deceased

returned to using heroin. He estimated that it was approximately three months prior to her death. Mr Dickens told police that prior to he and the deceased using heroin on 19 May 2007 he inquired of the deceased how much alcohol she had drunk. He informed police that the deceased told him that she had consumed about a bottle, when in fact he later found four empty bottles in the unit.

5. One of the investigating police officers, Constable Mark Rowswell, conducted a recorded conversation with Mr Dickens. Mr Dickens was given no appropriate warning prior to this record of conversation. In the course of the recorded conversation Mr Dickens told police that he had met the deceased approximately three years prior to her death when she was in a rehabilitation facility to address her alcohol abuse. Mr Dickens indicated he subsequently introduced the deceased to heroin use. Later, he and the deceased came to Karralika in Canberra to try to stop drug use. They had both remained abstinent from heroin until Christmas 2006 when the deceased relapsed and began using heroin and alcohol. Mr Dickens told police that he was attempting to reduce the deceased's heroin use over the past few weeks in an attempt to get her off the drug. He also indicated that about one week prior to her death, the deceased commenced drinking alcohol again. It appears that the deceased may have been consuming more alcohol than she made Mr Dickens aware of.
6. Mr Dickens told police that he assisted the deceased in administering heroin via a needle at approximately 6:00am on 19 May. They had then gone back to sleep and he awoke some time later to find her not breathing. He began cardio pulmonary resuscitation and called an ambulance. He continued cardio pulmonary resuscitation until the ambulance arrived. Mr Dickens told police that his purpose in preparing the heroin and helping the deceased inject the heroin was that of helping the deceased reduce her heroin addiction by controlling the level of heroin she consumed. Mr Dickens told police that he had been trying to slowly reduce the level of heroin consumed by the deceased.
7. It is apparent that Constable Rowswell and other attending police took the view that there were no suspicious circumstances in relation to the death of the deceased and that Mr Dickens had not been involved in any criminal offence. On this basis they failed to administer Mr Dickens a criminal caution before they interviewed him. Subsequently, at my direction, Mr Dickens was requested to participate in another

recorded interview where he could be afforded a caution. He declined the invitation. In the course of declining a further recorded interview Mr Dickens told police :

“Well I have already told you everything, I will explain it all again, I am not going to change anything. I helped her find a vein then she injected the heroin. We have done this many times before, I know it is wrong and I thought you might come back and talk to me. This whole thing is fucked; I would rather be where she was.”

8. When police asked him whether he had helped the deceased inject the heroin, and specifically whether he actually pushed the plunger, Mr Dickens indicated that he helped her find a vein but that the deceased pushed the plunger. I have some difficulty in accepting Mr Dickens’ assertion that the deceased injected herself with the heroin, and that he played no part in injecting the deceased. In his conversation with police at question and answer 32 Mr Dickens describes how the process of injecting took place. He told police that the deceased held the tool she used as a tourniquet with one hand whilst Mr Dickens placed the needle. On that version of events the deceased would not have been able to push the plunger as neither hand would have been available for that purpose. In addition, Michael Havet, the father of the deceased, gave evidence in the course of the hearing. He testified that when he was informed of the death of his daughter he spoke to Mr Dickens and asked him: *“Well, who gave her the shot?”* He testified that Mr Dickens replied: *“I did I suppose”*. Constable Rowswell also testified that Mr Dickens told him that he had prepared the shot of heroin for himself and the deceased at 6am on the morning of the death of the deceased. He told Constable Rowswell that he had missed the vein in the deceased’s arm and had to take the syringe out and help her to find a vein in her other arm. He also told police that he had tried to inject the heroin into her arm but missed the vein. Mr Dickens also gave evidence that he had previously regularly injected the deceased with heroin.
9. In submissions received on behalf of Mr Dickens in response to the provision of a draft of these findings, it was suggested that the tourniquet may have been released by the deceased after the needle was inserted, allowing the deceased to inject herself by pushing the plunger. There are two responses to this submission. First, Mr Dickens, despite being represented by a lawyer at the hearing into the death of the deceased,

made no such suggestion. Secondly, it would seem inherently unlikely that the parties would have adopted such a cumbersome procedure, particularly when Mr Dickens had previously regularly injected the deceased with heroin.

10. In his evidence at the hearing Mr Dickens testified that the deceased asked him for a shot of heroin when he woke on the morning of 19 May 2007. He prepared the heroin and they both used it. When it was suggested to him by counsel assisting that he had administered the drug to the deceased he said: *“I helped her have a shot, yes”*. He subsequently went on to explain what he meant by saying that he had attempted to find a vein in the arm of the deceased using the cord from her dressing gown as a tourniquet. He missed the vein and so he then assisted her to find a vein and he then said that she placed the needle in the vein on the second occasion. I note that this appears to be inconsistent with what he told the police when they first spoke to him at the scene. It is also inconsistent with the statement that he made to Mr Michael Havet. When pressed in cross-examination Mr Dickens said that he attempted to inject the deceased with heroin and placed the needle in her arm and started to inject the heroin which had hurt the deceased. It was at that point that he then assisted her to find a vein in her other arm. He admitted that on previous occasions he may have injected the deceased.
11. In his evidence Mr Dickens also said that he was aware that methadone, alcohol and other drugs taken with heroin may enhance the effect of the heroin. He was also aware that using a combination of drugs could be fatal. As at 19 May 2007 Mr Dickens was on the methadone program, but the deceased was not. He agreed that he had previously given methadone to the deceased, although he could not recall how long before her death that had occurred. He was also aware that the deceased had been using alcohol prior to his assisting her to use the heroin on 19 May 2007.
12. An autopsy was performed by Associate Professor Sanjiv Jain. Professor Jain found needle puncture wounds at the left elbow, right forearm and right elbow. Professor Jain reported that upon toxicology 0.23 milligrams per litre of morphine was found in the deceased’s blood, 0.50 milligrams per litre of total morphine in blood and 0.129 grams per 100 millilitres of ethyl alcohol in blood were located at post mortem examination. Also found in urine obtained from the deceased post mortem was morphine, monoacetylmorphine, codeine, methadone, propoxephine and possible

canabinoids. Professor Jain also found bilateral pulmonary congestion and mild chronic hepatitis. Professor Jain concluded that the deceased's death was caused by heroin toxicity.

13. On 6 March 2009 I adjourned the further hearing of the inquest and, by written notice, informed the Director of Public Prosecutions pursuant to section 58 of the *Coroners Act 1997* that I had reasonable grounds for believing, having regard to the evidence given at the inquest, that Mr Dickens had committed an indictable offence. I took that course because there were reasonable grounds for believing that Mr Dickens had been the person who injected the deceased with the heroin that caused her death. I understand that further investigations were undertaken by the Australian Federal Police, and the Office of the Director of Public Prosecutions sought an expert's report in an effort to verify or discount Mr Dickens's testimony in regard to the amount of heroin injected into the deceased prior to her death. Unfortunately that report was inconclusive.
14. In his final submissions to me Mr Boettcher, who appeared on behalf of the family at the hearing, urged that I make a finding, despite the Director of Public Prosecutions' decision not to charge Mr Dickens, that he had in fact committed an indictable offence. Mr Boettcher submitted that the offences that Mr Dickens may have committed included breaches of section 27 of the *Crimes Act 1900*, which deals with acts endangering life, and section 15 of the *Crimes Act 1900*, which deals with manslaughter. With all due respect to Mr Boettcher I cannot go so far. The purpose of coronial proceedings is not to lay blame with respect to a death. It is to determine what happened. Others may, if appropriate, deal with issues of fault.
15. The factual question of substance which I must determine is whether Mr Dickens injected the deceased with the heroin which caused her death, or whether he merely assisted her in some lesser way. In determining this issue I am bound by the principles enunciated by the High Court in *Briginshaw v Briginshaw* (1938) 60 CLR 336. In a much quoted passage from that decision Dixon J stated :

“The seriousness of an allegation made, the inherent likelihood of an occurrence of a given description and the gravity of the consequences flowing from a particular finding are considerations that must affect the answer to the question whether the issue has been proved to the reasonable satisfaction of the tribunal. In such matters “reasonable

satisfaction” should not be produced by inexact proofs, indefinite testimony, or indirect inferences”.

16. I formed the opinion that Mr Dickens was evasive in his answers regarding precisely what he had done to assist the deceased inject the heroin on the morning of her death, despite his professed willingness to assist the court. That, of course, affects the credibility of Mr Dickens but does not constitute evidence that he injected the deceased with the heroin that caused her death. However, there is other evidence that supports the proposition that Mr Dickens injected the deceased with the heroin. The evidence establishes that Mr Dickens had previously regularly injected the deceased with heroin. In cross examination he admitted that he attempted to inject her with the heroin that caused her death only moments before the deceased received the lethal injection. The evidence would also suggest that the deceased had consumed an unknown quantity of alcohol in the 24 hours leading up to her death. On Mr Dickens’ own admission, the deceased had told him that she consumed a bottle of wine prior to the heroin injection that led to her death. Other evidence, in particular the number of empty wine bottles found in the premises, suggests that this may have been an underestimation. Blood taken from the deceased post mortem revealed a blood alcohol concentration of 0.129 grams per 100 millilitres of blood of ethyl alcohol. It is quite possible that the deceased was affected by the alcohol she had consumed, although there is no evidence of the degree to which she was affected. There is also the evidence of the father of the deceased that Mr Dickens told him that he had given the deceased the shot that killed her. Additionally, there is the evidence of Mr Dickens’ description of the process of the injection, as set out in paragraph 8 above, which, if correct, would make it unlikely that the deceased injected the heroin herself. Bearing in mind the principles in *Briginshaw*, referred to above, I am comfortably satisfied that Mr Dickens injected the deceased with the heroin that caused her death. I note that there is no evidence to suggest that he did so with any intention or desire to harm the deceased.

17. Before concluding, I should record my concern about the initial police investigation of this death. The initial view apparently taken by police that Mr Dickens appeared to be acting in the deceased’s “best interests” in assisting her to use heroin is, at best, bizarre.

18. The formal findings that I make are that the deceased was Yvette Allison Havet, and that she died at [redacted], Turner on the morning of 19 May 2007. The cause of death was heroin toxicity.

John D. Burns

Chief Coroner