

## CORONERS COURT OF THE AUSTRALIAN CAPITAL TERRITORY

**Case Title:** Inquest into the death of DANIEL JAMES CLEMENT

**Citation:** [2020] ACTCD 11

**Hearing & Decision Date:** 14 December 2020

**Before:** Chief Coroner Walker

**Decision:** See [32]–[43]

**Catchwords:** CORONIAL LAW – Cause and manner of death – Cause of death unascertained – Psychiatric Treatment Order

**File Number:** CD 258 of 2017

### CHIEF CORONER WALKER:

#### Background

1. Daniel James Clement was born on 5 May 1987 in Shepparton, Victoria, to his mother Lee Wormald and his father David Clement. He was the youngest of four children, having two older sisters and an older brother. His mother and siblings moved to the ACT in the year 2000, when Daniel was 13.
2. In about 2004 he commenced an apprenticeship as an upholsterer. Daniel later abandoned this in favour of some work in the recycling industry, but that was not to last. No doubt as a result of his emerging mental health challenges, Daniel struggled to maintain employment and ultimately received the Disability Support Pension for a significant portion of his adult years.
3. In March 2005, Daniel suffered a significant head injury whilst riding his bicycle. He ran into a pedestrian and then hit a retaining wall. He suffered a fracture to his face which resulted in his jaw being surgically repaired.
4. In 2007, Daniel went briefly to live with his father in Victoria, but that arrangement did not last. He soon returned to live with his mother at Chapman in the ACT. His older sister Melissa, with whom Daniel seemed to get on and who was very supportive of him, lived with them there also. This home was Daniel's base.
5. Daniel's mental health was deteriorating and in 2010 he was diagnosed with schizophrenia. That awful condition plagued him for the remainder of his life. He suffered with psychotic delusions and hallucinations. Likely because of that experience, he became a user of illicit drugs including lysergic acid diethylamide (LSD), cannabis and some bushland substances with certain hallucinogenic effects. He also binge drank alcohol on occasions, and he was a heavy smoker.
6. Daniel appears to have found some relief in nature, as he frequently took off from home wandering around alone in the bush. This was a cause of some concern to his mother, although she became used to this unusual behaviour. She would arrange for clean

clothing and food to be available for him when he chose to come home. He would collect items she left out for him, without engaging with the family. Sometimes he stayed to engage with his beloved cat, Neville.

7. On more than one occasion, Ms Wormald had cause to contact the police out of concern for Daniel being missing. Each time until the last occasion, he had always returned home. He was a very resourceful young man who could get by with very little.
8. Daniel's mental health led him to interact with ACT Mental Health Services frequently. He was placed on a Psychiatric Treatment Order in February 2010 and that continued throughout his life. He was at times subject to involuntary detention in the Adult Mental Health Unit at the Canberra Hospital. He also came into contact with the criminal justice system on occasions, most frequently because of aggression directed toward his mother. He spent time in custody on remand.
9. According to Daniel's last substantive mental health case manager, Russell Robson, RN, Daniel did not accept that he was mentally unwell. Whilst he reluctantly accepted medical treatment, it made him angry that he was required to do so. He frequently made threats to those allocated to his care, although according to RN Robson those threats did not translate into action.
10. In the last years of his life, Daniel's medical treatment consisted of zuclopenthixol, also known as clopixol, administered by way of fortnightly depot injection.
11. Significantly, Daniel was on the ACT Housing priority waitlist from March 2015. RN Robson was advised that the wait, even on a priority basis, could be up to three years.
12. In April 2016, RN Robson spoke with Daniel about accessing a funding package through the National Disability Insurance Scheme. Daniel was hopeful of moving away from home, either back to Euroa in Victoria or to the Blue Mountains area of New South Wales. RN Robson was of the view that this connection to the NDIS would assist Daniel to obtain both accommodation and other support services, including mental health support. Ms Wormald was sceptical of Daniel's ability to engage with the services but was supportive of him moving to independent accommodation.
13. In late May 2016, however, Daniel indicated to RN Robson that he was not interested in pursuing the NDIS package and that he had applied for accommodation with ACT Housing.
14. That year, 2016, was very difficult year for Daniel and his family. He was frequently unwell and struggled to maintain any accommodation. He spent a period of time in the Adult Mental Health Unit. Various short-term accommodation was arranged for him whilst in the community, however these arrangements were not sustainable because of his inability to maintain premises appropriately and his difficulty engaging with other residents. Ms Wormald took Daniel home despite his extremely challenging behaviours.
15. Daniel's behaviour deteriorated and he ended up being charged with assault on his mother. He was arrested and spent some time in custody. Ms Wormald spoke with RN Hobson about the possibility of Daniel being placed in the then new Dhulwa Mental Health Facility whilst on remand, but he did not meet the criteria for this placement. That facility is intended as a treatment facility, not a long-term accommodation facility.

16. At about that time Ms Wormald was looking at relocating to Victoria and was hopeful that Daniel might join her. He indicated however that he intended to remain in the ACT.
17. Despite Daniel's challenges, he never exhibited a tendency towards self-harm nor threatened suicide. Indeed as recently as December 2016, he indicated to one of his sisters that he was hopeful of obtaining work and making plans for the future.
18. During 2016 and 2017, RN Robson was obliged to initiate action in relation to Daniel's contravention of his Psychiatric Treatment Order. Daniel was readmitted to the Adult Mental Health Unit again in March 2017 following some concerning behaviour whilst living back with his mother. In April of that year, he was sentenced for an assault on his mother by the way of time already served on remand.
19. He went back to live with his mother after that and things seem to settle for a couple of months. Daniel was accepting of treatment and seemed to have reduced his drug intake.
20. He was last seen by RN Robson on 24 May 2017 when he accepted his depot injection. He was described as appearing well and calm, and unaffected by drugs at that time. He said then that he was thinking of moving to Lithgow in the Blue Mountains area, and RN Robson indicated that he would arrange for Daniel's mental health support to be transferred should he do so.
21. One night in the last week of May 2017, Daniel was very agitated in his room in the evening. He was yelling at his sister Melissa although she was not in fact in the room, he was apparently hallucinating. The next morning Ms Wormald asked Daniel if he could remain in his room as painters were coming to the house and she did not want them to be disturbed. When she spoke to Daniel in his room, she saw a large hole in the wall which he had sought to cover with a box. She believed he had caused that hole the night before as she recalled hearing banging during the night. Daniel said that he caused it by tripping and falling. She noticed he had a black backpack in his room and recalled that he said to her "don't worry I'm leaving now anyway".
22. Daniel was last seen by his mother on 31 May 2017, wearing dark jeans and an hooded jumper. She noticed in the days that followed that Daniel's black backpack was gone.
23. RN Robson attended Ms Wormald's home a few times after last seeing Daniel to administer treatment, the last of these occasions being 14 June 2017. As Daniel was not present, RN Robson was obliged to initiate contravention action. On this date he wrote a contravention and detention order, which was signed by the Chief Psychiatrist on 18 July 2017. RN Robson was moved to a different role and Graham Twycross, a social worker, was assigned to be Daniel's mental health case manager.
24. On 21 September 2017, Daniel's Psychiatric Treatment Order was revoked by the ACT Civil and Administrative Tribunal due to Daniel being unlocatable.
25. On 26 September 2017, Ms Wormald reported Daniel missing. Police attended at her home to take a full report of the circumstances. She told them that Daniel received about \$800 a fortnight from Centrelink and that his National Australia Bank account had not been accessed for months.
26. Constable Benjamin Folkes of the Australian Federal Police assessed the level of risk to Daniel to be high. Checks were made at the Canberra Hospital, the Calvary Hospital,

the Queanbeyan Hospital, and with both New South Wales and Victoria police. A 'look out to be kept for' notice was disseminated to all ACT policing members.

27. On 7 November 2017, Constable Folkes spoke with Ms Wormald about issuing a media release with an image of Daniel. That was agreed to by Ms Wormald, however did not eventuate as notification of Daniel having been found was received shortly after.
28. On 11 November 2017, Daniel's body was discovered by four kayakers on the Murrumbidgee River in the ACT. He was found upon a large rock near the Bulgar Creek area towards the north side of the riverbed. His body was face down with his head and arms underwater, his legs partially underwater, and his torso exposed. He had clearly been there for some time as algae had grown around his body.
29. The kayakers notified the police and remained in the area for some hours in order to be able to point out Daniel's body. The Court conveys its gratitude to that group for their actions in doing so. No doubt the discovery of Daniel in those circumstances would have been most distressing, and the group were unselfish in the support they provided to the police.
30. The kayakers made the discovery at about 2:30 pm. An ACT Police team comprising Forensics, the Maritime Specialist Response Group, and Criminal Investigations, along with Sergeant Rachel Hutka of the ACT Coroner's Team, attended the location at about 7 pm on that date. Water and land searches of the area were conducted, and no personal items were located. Vegetation in that area was observed to be normal and undisturbed, and there did not appear to be any easy access points to the river. I infer that Daniel likely died upstream and that his body ultimately came to rest on the rock on which he was found.
31. At the time he was found, Daniel was wearing a leather jacket, a hooded jumper, a T-shirt, underpants, jeans with tracksuit pants over the top and hiking shoes. Having last been seen in late May 2017, the start of the Canberra winter, it is likely that his choice of clothing was a poor protector against the harshness of a Canberra winter spent outdoors.

### **Cause and Manner of Death**

32. Daniel's body was in very poor condition when he was found. Visual identification was not feasible. DNA analysis was conducted comparing samples taken at autopsy with those from a razor used by Daniel at his mother's home.
33. I am satisfied following that analysis that the remains recovered were in fact Daniel's, noting that the DNA report author concluded that there was "extremely strong support" for that hypothesis.
34. A toxicological analysis of samples taken from Daniel's remains disclosed the presence of tetrahydrocannabinol, zuclopenthixol (clopixol), and ethyl alcohol. An autopsy report prepared by Professor Johan Duflou makes the following observations in respect to the toxicological analysis: "toxicological testing revealed the presence of appropriate levels of antipsychotic medication, as well as a presence of cannabis. A small amount of alcohol was detected, likely the consequence of post-mortem production. However, it should be noted [I interpolate based on information provided by ACT Mental Health Services] that the deceased was known to consume many drugs, such as LSD and various herbal substances, most of which would not be detectable in routine

toxicological testing – this would be even more so the case given the amount of decomposition present in this case”.

35. I note that the herbal substances Daniel was known to use included datura seeds or flowers and calea zacatechichi, both of which are available in local bushland or roadside areas. These substances are known for their hallucinogenic effects and have been used in shamanistic and other rituals for centuries, if not millennia. These substances can range in toxicity and are known to have been fatal, even in small doses.
36. Following careful examination, Dr Duflou was unable to ascertain the cause of Daniel’s death. He made a medical finding of “unascertained”. The pathology summary provided noted “1. advanced decompositional change with skeletonisation and adipocere formation; 2. likely pulmonary emphysema; and 3. no evidence of peri-mortem trauma to body”.
37. Whilst the circumstances do not allow me to conclude what caused Daniel’s death, reassuringly, there is no suggestion of third-party intervention or foul play. There is also no evidence of a natural disease process having reached a stage which would have caused Daniel’s death, nor can I conclude that any substance use was responsible.
38. Sadly, the last weeks of Daniel’s life remain a mystery. The timing of Daniel’s passing also remains unknown and must be framed by the last sighting and the discovery of his remains.

### **Formal Findings**

39. The deceased is Daniel James Clement, born 5 May 1987 and deceased between 31 May 2017 and 11 November 2017.
40. He died near Bulgar Creek, on the Murrumbidgee River in the Stromlo area of the Australian Capital Territory.
41. His cause of death is unascertained. The manner of death is likely misadventure.
42. I find no issue of public safety arising.
43. I extend my deep condolences to his family.

I certify that the preceding forty-three [43] numbered paragraphs are a true copy of the findings of her Honour Chief Coroner Walker.

Associate: S Corish

Date: 14 December 2020