

FINDING

COURT DETAILS

Court	State Coroner's Court of NSW
Case number	1995/09

PROCEEDINGS

Inquest into the death of	Asaad Jassem Al MAYAHI
Hearing dates	13 December 2010 to 15 December 2010
Date of findings	15 December 2010
Place of findings	Glebe
Findings of	Her Honour Magistrate Mary Jerram, State Coroner

FINDINGS

I find that Asaad Jassem Al Mayahi, born 6/01/1967 died between 11 & 13 July, 2009 at 7/92-96 Percival Road, Stanmore, his cause of death being accidental carbon monoxide poisoning after exposure to fumes from barbeque briquettes indoors.

RECOMMENDATIONS

To The Departemnt of Services, Technology and Administrators

that: (through it's Fair Trading Division) it ensure that all barbecue charcoal briquettes whether imported, manufactured or sold in Australia, carry the following:

Warning

"The burning of BBQ Charcoal can give off Carbon Monoxide, which has no odour, and can be Lethal. NEVER BURN CHARCOAL INDOORS OR IN VEHICLES OR TENTS. When burning BBQ Charcoal, ensure BBQ Area is well VENTILATED. Keep out of reach of Children. Please take Care when burning"

and further consider the utility of extending this Warning requirement to portable barbecues.

REPRESENTATION

Assisting the coroner	Mr Warrick Hunt of Counsel, instructed by Ms Alana McCarthy (Solicitor) Crown Solicitor's Office
Representing the family	Mrs Qefmah Shafi (wife of the deceased) in attendance unrepresented.
Other parties	Mr Milanovic (Solicitor) for Mr Devdimbas and TSM Pacific International Pty Ltd.

REASONS FOR FINDINGS

Over the last two days the Court has heard evidence from 13 witnesses, plus a statement from Hesna Shaffi, the widow of Asaad Al Mayahi regarding his death. Asaad was a forty-two year old man, obviously much loved by his wife, Hesna and his four children, and by many good friends.

First of all I heard from Detective Sergeant, and officer in charge, Beaumont who gave us the overall picture of what led to the death of Asaad. Later from three other police officers who were the first police at the scene of Asaad's death I heard from Lara Couch, who herself suffered injury and near death at the scene of Asaad's death.

Further, I heard from Mr Sevdimbias, an importer of barbecue briquettes about whom I shall say more in a moment, and two experts, Professor Winder, a toxicologist, and Professor Maitz, a medical burns specialist. I also heard evidence from Ms Melissa Anderson, who was the real estate agent in charge of the unit in which Asaad died but which was leased by Lara Couch.

Asaad and Lara Couch had been friends for many years and maintained a relationship about which Asaad's wife knew nothing. Asaad apparently had recently given Lara a small four legged tin barbecue which is exhibit 4 in these proceedings.

On 11 July 2009 Asaad, having told his wife that he was going to work, instead went to Lara Couch's flat in Stanmore by prior arrangement, to inaugurate the new barbecue. Briquettes, which are exhibit 5 before me, were also I think purchased by Asaad for Lara to use. The barbecue was lit and according to Lara food was cooked outside on the balcony that day and consumed by the two of them. After it was eaten Lara's evidence is that the barbecue was brought inside because it was still warm and glowing, and it was placed on the floor of the living room of her small unit.

Lara is sure that it was her idea to do so, but I have to say I remain puzzled as to why when there was an electric heater in the living room and one would imagine any intelligent person would sense danger in placing a tin holder with tin legs holding hot coals onto a carpeted floor quite apart from any other danger. The unit was particularly well sealed, not least because it was under the flight path.

It contained, according to the evidence, two small vents but they were high up on the walls near the ceiling, and evidence has also made it clear that the gas emitted, the carbon gas monoxide, emitted by these barbecue briquettes is dense and hence falls to the lowest possible point.

When Asaad did not return home early in the evening of 11 July Hesna, his wife, became worried and began trying to phone Asaad without response. Asaad's boss told her that he had not been to work at all. By 11pm that evening friends of Hesna and Asaad's went to the police station on her behalf. Police and friends searched throughout the following day and Monday for Asaad. Unfortunately they were not able to triangulate his location because

technology for mobile phones is not good enough and even had they been able to have the appropriate or proper registration number, they did not and in any case nothing was found until by Monday Lara's mother, not receiving a phone response, became alarmed quite independently and phoned Ms Anderson, the real estate agent, who went to the unit, used her key to enter after buzzing and knocking, had raised no response, and to her horror immediately saw what appeared at first glance to be two dead people in the living room.

I should say at this point that I have heard from Mr Khalid Fadel and Mr Monower Fadil, brothers, who were friends of Asaad's, of their efforts to find Asaad and of their compassion and assistance to Hesna. I was extremely impressed by the friendship which was exhibited by them and by how lucky, at least Hesna, is to retain such friends. So on behalf of everybody, we thank you for what you tried to do.

So following Ms Anderson's discovery she called police and ambulance and Lara's other friend, Michael Anis Brown arrived and the police realised that while Asaad indeed was dead, Lara was still breathing. She was oxygenated by the ambulance - I think it may have been by the police originally - then by the medics and was taken immediately to hospital and fortunately has survived, albeit tragically having lost part of an arm, apparently due to ischemia caused by the position in which she was lying for a long period of unconsciousness.

My counsel assisting, Mr Hunt, points out to me that there were different views from the two experts as to the injuries suffered by Lara and that I should, and I certainly do, prefer the evidence of the medical specialist Professor Maitz, that in fact what Lara suffered were not contact burns but ischemia due to the lack of circulation for a long period. He was very erudite, he is very experienced, and he is the medical specialist, whereas I am grateful to Professor Winder for his toxicological expertise but he himself, I am sure, would not pretend to be a medical expert.

At post-mortem Professor Joe Duflou, the chief pathologist here at Glebe, was able to confirm or to give his very clear opinion that Asaad died of carbon monoxide poisoning. Toxicology showed that he had sixty-one per cent saturation of carbon monoxide. It also showed that presumably unknown to Asaad and certainly unknown to his family, he had - Asaad that is - significant coronary artery disease but with no obvious acute cardiac event.

We also learned from the expert evidence that a person with significant coronary artery disease is likely to be far more susceptible to the toxicity of carbon monoxide fumes than somebody without. There are a number of factors which make a person more or less vulnerable. They have been set out in the statement by Professor Winder, which is in exhibit 2 of the brief, and certainly that is a major factor and one which it appears Asaad suffered from.

As far as we know, Lara did not, as I have said, it is fortunate that she survived but tragic that she suffered the injury that she did. I have already said that it

worries me greatly what in fact could possibly have led to two adults thinking that it was safe to have brought a small barbecue of that type indoors. Probably partly due to some loss of memory. Lara has not been able to tell this Court very much at all and so I am left wondering about certain aspects of what happened on that day.

However, my primary duty, as Mr Hunt has pointed out, is clearly to find under s 81 of the Coroner's Act the five areas which I am required to find as to Asaad.

I MAKE THIS FORMAL FINDING, THAT ASAAD JASSEM AL MAYAHI BORN ON 6 JANUARY 1967 DIED AT 7 92/96 PERCIVAL ROAD, STANMORE BETWEEN 11 AND 13 JULY 2009. THE CAUSE OF DEATH BEING ACCIDENTAL CARBON MONOXIDE POISONING AFTER HIS EXPOSURE TO FUMES FROM BARBECUE BRIQUETTES BURNED INDOORS.

I intend to make the recommendation, which we have already discussed, and under my powers from s 82 of the Coroner's Act. Before I do so, I have already made it clear that I am grateful to Mr Sevdimbias, who just in a sense coincidentally happens to be the importer of the particular brand of briquettes which were used and caused the problem here, but which I understand and accept from him applies to any form of charcoal briquettes whether carbonised or uncarbonised.

He has shown his extreme willingness to do what he can with his own imported products and suggests that I should try to make a recommendation that is more universal than that, which I certainly intend to do, and I also make it clear that I hope that any feelings he had have been cleared by this inquest because utterly no blame lies at all on the importer of this product. They are very, very widely used, all barbecue briquettes.

This is a society in which people enjoy barbecues and where we have luckily multicultural interests in food and where many people live in apartments where small barbecues are necessary because there is not room for larger or for wood burning ones. What is clear, and I hope it is clear to everybody who has heard this evidence, is that the small ones burning charcoal briquettes simply must not be used in any enclosed space whatsoever.

So the s 82 recommendation, which I intend to make, will be to the New South Wales Department of Services Technology and Administration, because unfortunately I do not have powers to make federal recommendations. However, making it to the New South Wales Department, one would hope, would be picked up by other states and their Consumer Affairs Departments.

SIGNATURE

Signature

Name

Magistrate Mary Jerram

Capacity

State Coroner

Date

15 December 2010