



**CORONERS COURT OF  
NEW SOUTH WALES WAUCHOPE**

**Jurisdiction:** Coronial

**Name of Deceased:** Harmony BRYANT

**File number:** 757/06 Glebe formerly 49/2003 Port Macquarie

**Hearing dates:** 15/2/2010 to 19/2/2010 and 21/3/2011 to 1/4/2011

**Date of decision:** 1 April 2011

**Coroner:** M.MacPherson Deputy State Coroner

**Representation:** Paul Rowe Counsel Assisting instructed by Lisa Molloy of Crown Solicitor's Office; Phillip Biggins for Commissioner of Police and Police; Hannaway for Jason Lomonaco; Chris Hoy SC instructed by his Junior Graham Grant of Counsel for the family of Harmony Bryant particularly her mother Karen Bryant

## **Introduction**

- 1 On the 16 August 2003 Rural Fire Service personnel attended a call out for what was thought to be a fire caused by a light plane crash on the southern side of Bonny Hills, just off Ocean Drive. What they found shocked them. The fire came from a Hyundai Excel motor vehicle and a young lady was discovered badly burnt at the rear of that vehicle.
- 2 The young lady turned out to be Harmony Bryant and in addition to her horrific burns she also had severe fractures to her left arm and a possible fractured pubic ramus.
- 3 Harmony was airlifted to John Hunter Hospital and then taken to Royal North Shore Hospital Sydney the following day where she eventually succumbed to her burns and died at the Hospital on 19 September 2003.

## **Role of Coroner**

- 4 My role as Coroner is to establish, if possible, the identity, the date of death, the place of death and the manner and cause of death. The formal finding will be recorded at the Registry of Births, Deaths and Marriages
- 5 A Coronial Inquest is essentially an Inquiry. It is not a criminal or civil trial in which two opposing parties engage in legal combat. It is not the role of the Coroner to attribute fault or make findings in relation to negligence or breach of duty of care
- 6 Another important function of an Inquest is the making of recommendations, which are necessary or desirable in relation to any matter connected with a death. In this way the Coronial proceedings can be forward looking, aiming to prevent future deaths, rather than allocating blame.
- 7 I say this not so much for the benefit of learned counsel, but more for the benefit of the family and friends of Harmony Bryant who may not always appreciate and understand the role of a Coroner or the Coronial Inquest.

## **Section 81 Considerations**

8 The Identify of Harmony Bryant is not in issue, nor is the date, place and cause of Harmony's death. The issue in this Inquest has been the manner of Harmony Bryant's death. A further issue that arises from the manner of Harmony Bryant's death is the Police investigation or lack thereof, of the circumstances leading up to her being found at the rear of her burnt out motor vehicle.

## **The Manner of Harmony Bryant's death**

9 The Police investigation into the death of Harmony has gone on for eight years and is continuing, and as the Inquest proceeded, some of the witnesses that were called had not earlier provided a statement, but had attended the Court to give evidence as a result of Police enquiries that occurred while the Inquest progressed.

10 As Counsel Assisting has said, not a stone has been left unturned in looking for answers from the available evidence, to ascertain how Harmony and her car came to be where it was found in dense scrub, seemingly driven off the road and under some control, even managing to avoid a tree in its journey into the scrub.

11 Harmony would not have been able to get from the area of rocks where her handbag and blood were found to her car in the dark and with injuries to her arm, without assistance.

12 There is no doubt that progress has been made during this Inquest, however much still remains unclear.

13 It is indisputable that the area where the vehicle came to rest was difficult, if not impossible to penetrate, unless you followed the path the vehicle made. Even Mark Frost on a motorcycle tried to get to the site of the smoke in several places along Ocean drive and failed.

14 There is little doubt that the orthopaedic injuries to Harmony's left arm occurred in the area of rocks where her handbag and blood was found and happened before the vehicle caught fire.

15 The expert medical evidence is that she could not have made it back to the vehicle without the assistance of another person or persons. She could not have driven the motor vehicle with the injuries she sustained.

16 There can be little doubt Harmony Bryant met with foul play on the morning of the 16 August 2003 at the hand or hands of a person or persons unknown

### **The Investigation**

17 I have deliberately dealt with the manner of Harmony Bryant's death before dealing with the issue of the Police investigation, because there is no doubt that if Karen Bryant had not complained to the State Coroner's Office by letter dated 22 December 2003, enclosing the fruits of their own investigation, Harmony Bryant's death would have been treated as a single motor vehicle accident with no suspicious circumstances.

18 That was the assessment made by Senior Constable Andrew Nelson on the Police COPS system and in a Situation Report which did not change, even after he received information from Melissa Collins that Harmony's handbag was found on rocks and that information was enhanced by Scene of Crime Officer Russell Eichmann, who told Nelson how difficult it was to get to the rocks where the bag and blood was found and back to the vehicle from there.

19 I have been urged by Mr. Biggins of Counsel for the Commissioner and Police that I would fall into error if I focused on Senior Constable Nelson, because there were other more Senior Police who were aware of the discovery of the handbag and human blood. However, whilst that is true to a point, Senior Constable Nelson was the Officer in Charge of the investigation into this single vehicle accident, that much is clear. You only have to look at the P79A Report of Death to Coroner, which indicates that the Investigating Officer is Andrew Nelson, Senior Constable, Port Macquarie.

20 He was the senior officer at the scene and calling the shots. He was the one who completed the COPS entry and Situation Report. Until such time as someone else was tasked to take it over, he had carriage of the investigation.

- 21 Senior Constable Nelson, as the officer in charge, had a number of opportunities to advise other Police that there was something unusual about this accident he attended. The first was when he contacted Detective Durbridge after he had attended the scene.
- 22 He had discussions with Senior Constables Ellem and Prott at the scene about the accident and I have no doubt that they included a discussion about the unusual features that must have been obvious to him. I have no doubt that is why he rang Detective Durbridge. However, at no stage did he suggest to Detective Durbridge that there was anything unusual about the accident.
- 23 He admitted to me that if Harmony Bryant had not said anything to the Ambulance Officers, then the circumstances would have been suspicious.
- 24 Unlike everyone else, he said that he did not consider the scrub as dense. He did not find that it was unusual that the vehicle had penetrated so far into the scrub. He apparently missed the fact that it looked like the vehicle deliberately diverted around a tree in its path.
- 25 The second opportunity he had to elevate the investigation was when he became aware of the handbag and the fact that it belonged to Harmony Bryant. The reason I say that, is that Detective Durbridge said to him “Well it appears to be a straight forward matter and not one that the Detective’s would investigate. Keep me informed if anything changes.” Well something did change and if not then well certainly when Eichmann spoke to him and told him where the handbag and blood were found and how difficult it was to get there.
- 26 It is of concern, even if he was treating it as a single vehicle accident, that Senior Constable Nelson did make further enquiries about the extent of Harmony Bryant’s injuries. That detail was relevant as part of his investigation into the accident, surely.
- 27 It follows on from that fact that blood was found down on the rocks and even at that early stage, there was a strong inference to be drawn that it came from Harmony, because her bag was found nearby. Notwithstanding the find, he did not contact either Ambulance Officers or Hospital to find out if Harmony had any other injuries apart from her burns.

- 28 In his second statement he says in one paragraph that he was not aware of the nature or seriousness of Harmony's injuries and in a following paragraph says that for the next few weeks he was kept informed of Harmony's progress through hospital staff and other Police officers. He said that he was made fully aware that Harmony had actually sustained very serious and life threatening burns. He makes no mention about being told about the serious fractures that Harmony had sustained to her left arm.
- 29 Had he made himself aware of the full extent of Harmony's injuries, then his theory would have evaporated.
- 30 Instead, all we have is a COPS entry and Situation Report, with little detail but a few words that keep re-appearing, namely a single motor vehicle accident with no suspicious circumstances.
- 31 It is clear to me that Senior Constable Nelson took what was essentially unverified hearsay from a severely injured young lady as the truth and as a result became blinkered, so that as further information was received, he kept trying to make it fit his initial theory, which perhaps explains the lack of any update to either the Event entry on the COPS system or Situation Report and the fact that he didn't advise Detective Durbrudge that things had in fact changed.
- 32 I am told that the Police case management system at Port Macquarie has changed but it still requires officers to enter accurate information onto the system and unless it is full and frank it seems to me that the same sorry state of affairs could occur again in that Command.
- 33 Karen Bryant's view that her daughter met with foul play at the hand or hands of a person or persons unknown was vindicated. Unhappily, the system has failed Harmony Bryant and her family and opportunities that may have been available in those first vital 48 hours were missed.
- 34 After the death of Harmony was notified to the Coroner's Court Glebe and a decision was made by State Coroner John Abernethy not to conduct a post mortem, the file sat in the Office at Glebe until the end of November 2003 before it was transferred to the Registrar/Coroner at Port Macquarie. That is unacceptable.

35 The file was returned to the State Coroner's Office in 2006 but not given a hearing date until it was taken over by Deputy State Coroner Carl Milovanovich in 2008. There were a number of unavoidable delays, but what is apparent is that for the two years that the file was at the State Coroner's Office, Karen Bryant was not kept up to date officially with developments and it was only when speaking with Jessica Cave, the Coronial Information Support Officer, that she knew what was going on and that also was unacceptable.

### **Finding**

**I FIND THAT HARMONY BRYANT DIED ON THE 19 SEPTEMBER 2003 AT ROYAL NORTH SHORE HOSPITAL OF COMPLICATIONS ASSOCIATED WITH BURNS RECEIVED AT BONNY HILLS ON THE 16 AUGUST 2003 AT THE HANDS OF A PERSON OR PERSONS UNKNOWN.**

### **Recommendations**

36 I note that a reward of \$100,000 has been offered, but this has not as yet progressed the Police investigation. Clearly there is a person or persons in the community who have knowledge about the circumstances surrounding Harmony Bryant's death. Therefore, I recommend that consideration be given to seeking approval from the Government of NSW to post a reward of \$250,000 to be paid to any person or persons who provide evidence that may lead to the arrest and conviction of any person or persons responsible for the death of Harmony Bryant.

37 I direct that the death of Harmony Bryant be referred to Cold Cases at the State Crime Command, Homicide Squad.

38 I acknowledge the work done by Detective Senior Constable Vanessa Partridge who has remained in the matter since she was appointed the Officer in Charge in January 2004, and Detective Senior Constable Jarrod Noble from the Homicide Squad who assisted. I will convey my views about their professionalism to their superiors.

39 I thank my Counsel Assisting Paul Rowe and his instructing Solicitor Lisa Molloy for their assistance.

40 Finally to the family of Harmony, I offer my sincere sympathy. What an impressive family, particularly Harmony's mother Karen who has endured all these years not knowing who was involved in the death of her daughter. She has sat through the many days of this Inquest stoically and with a quiet dignity. I hope my recommendation in relation to the reward is taken up and that it leads to finding the person or persons responsible for Harmony's death.

M.MacPherson

Deputy State Coroner

1 April 2011