

SOUTH



AUSTRALIA

FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 28th and 29th days of February, and 8th day of March, 2000, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Michael Vasilious Kapsis.

I, the said Coroner, do find that Michael Vasilious Kapsis, aged three years, late of 18 Deieso Court, Newton, died at 18 Deieso Court, Newton on the 30th day of January, 1998 as a result of smothering. I find that the circumstances were as follows:-

1. **Events of 30 January 1998**

- 1.1 At about 10.30a.m. on Friday 30 January 1998, Mr. Vasilios (Bill) Kapsis received a telephone call from his wife Anastasia (Anna), saying “I’ve done something bad”. She added that he’d better come home (Exhibit C.5a, p4).
- 1.2 Mr Kapsis returned home immediately, to find his wife sitting in a chair in the lounge room. In the master bedroom, he found their son Michael in the bed with two pillows covering his face. He touched Michael’s face and realised that something was wrong.
- 1.3 Mr. Kapsis commenced cardio-pulmonary resuscitation (“CPR”) but was unable to restore breathing. He telephoned “000” and called for an ambulance. He received instructions on the telephone as to how to continue CPR.
- 1.4 At 10.52a.m. Constables Sant and Puccetti attended the house and were met by Mrs. Kapsis. They were struck by her calmness and apparent lack of distress. When asked by Puccetti what had happened, she said “I’ve killed my son” (Exhibit C.11a, p2).
- 1.5 The police officers entered the bedroom and found Mr. Kapsis performing CPR on the child and still talking on the telephone.

- 1.6 At 10.55a.m., the first ambulance arrived at the house, followed by a second at 10.56a.m. The ambulance carrying Michael departed the house at 11.10a.m., but despite continuing efforts at resuscitation, including intubation and intravenous adrenalin, he remained in “asystole” (no heart activity) throughout the journey.
- 1.7 The ambulance arrived at the Womens and Childrens Hospital at 11.21a.m., where Doctors Raftos and Keeley made further extensive attempts to resuscitate Michael without success. Death was pronounced at 11.33a.m. (Exhibit C.2a, p2).

2. **Cause of death**

- 2.1 A post mortem examination was carried out on the body of the deceased by Doctors Bourne and Gilbert, pathologists, commencing at 3.10p.m. that day. The cause of death was given as “consistent with smothering” (Exhibit C.3a, p1).

2.2 The pathologists commented:-

- “1. Abnormalities identified at autopsy included minor scalp bruises, pulmonary oedema with patchy intra-alveolar haemorrhage, scanty petechial haemorrhages in the eyelids and petechiae over the lungs, in the thymus gland and, to a lesser extent, over the heart. No natural disease capable of explaining the death was identified. Toxicological examination was non-contributory as analysis for alcohol and common drugs was negative.
2. Information available at the time of the autopsy indicated that the deceased had apparently been smothered with a pillow. Deaths of this type are difficult to prove as there may be a few or no objective confirmatory signs. Such signs might include pallor of the skin about the nose and mouth and bruises or abrasions over the cheeks, around the mouth or within the lips and mouth. Asphyxial signs such as cyanosis, congestion and petechiae of the face are rarely present.
3. In the present case, there were non-specific signs consistent with, but not diagnostic of an asphyxial mode of death. These included petechial haemorrhages in the thymus gland, the pleural surfaces of the lungs and the surface of the heart. A few petechiae were noted in the eyelids. There were no facial or mouth injuries of the type noted above. There was no circumoral or circumnasal pallor. There was no evidence of neck compression.
4. The deceased received cardiorespiratory resuscitation. This could easily result in loss of any circumoral and circumnasal pallor due to temporary restoration of the circulation. Resuscitation may also occasionally result in the production of petechiae in the eyelids.
5. In the absence of any other apparent cause, and given the circumstances, the cause of death in this case has been given as ‘Consistent with smothering’ subject to the limitations noted above.
6. Four minor scalp bruises were noted at autopsy. One of them, injury number 4, was sampled for histological examination. Its microscopic appearances indicated an age of at least several hours but less than about 48 hours. There was therefore no evidence that this bruise was temporally associated with the death. Minor scalp bruises are not unusual in an active child of this age. (Exhibit C.3a, p5-6)

3. **The Criminal Proceedings**

3.1 Mrs. Kaptsis was arrested and taken to Holden Hill Police Station, where she gave a lengthy interview to Detective Seja (the transcript is Exhibit C.8b). Following the interview, she was arrested, and charged with murder at 12.28p.m. (Exhibit C.8a, p2).

3.2 In the interview, Mrs. Kaptsis told the police about her past psychiatric problems. When asked about her youngest child she said, with apparently disarming frankness:-

“I killed him” (Exhibit C.8b, p11).

Later, she said:-

“And I thought, if I kill Michael I’ll go to gaol for the rest of my life and pay for my crime, and he’ll be looked after properly by God. So, I got him in my room and I suffocated him”. (Exhibit C.8b, p16)

3.3 Mrs. Kaptsis then proceeded to explain to the police, in an emotionless way, how she suffocated her son.

3.4 After she was arrested, Mrs. Kaptsis was transferred to James Nash House, a secure psychiatric facility. She was assessed by Dr. Craig Raeside and Dr. Ken O’Brien, forensic psychiatrists, as having been suffering from a major depressive illness with psychotic features at the time of Michael’s death, and both psychiatrists were of the opinion that she had a defence under the Criminal Law Consolidation (Mental Impairment) Amendment Act, 1995.

3.5 The charges came before the Honourable Justice Debelle in the Supreme Court on 26 August 1998. Her counsel formally admitted that Mrs. Kaptsis “held pillows over the face of her son, thereby causing his death”. It was agreed between the prosecution and defence that Mrs. Kaptsis had a defence of mental impairment under the legislation I have already mentioned.

3.6 His Honour found on the basis of Dr. Raeside’s and Dr. O’Brien’s reports, that Mrs. Kaptsis “did not know that her conduct was wrong”, and, having found that the objective elements of the crime of murder were present, upheld the defence of mental incompetence.

3.7 On 20 October 1998, His Honour ordered that Mrs. Kaptsis be supervised, pursuant to part 8 of the Criminal Law Consolidation Act, for life.

4. **The issue at the inquest**

- 4.1 The purpose of the inquest was not, of course, to revisit the issues at the criminal hearing in any way. Mr. Vasilios Kaptsis has made a number of allegations about the quality of psychiatric care received by his wife during the period before the death of his son which require examination, since it is his contention that if his wife had received better care, the death of his son would not have occurred.

5. **Background**

- 5.1 Mrs. Kaptsis first exhibited signs of psychiatric illness in 1992 following the birth of their first son. She was hospitalised in February 1993, and her condition gradually improved.
- 5.2 In July 1993 Mrs. Kaptsis had become pregnant again, and stopped taking Lithium Carbonate, which Dr. Raeside described as a “mood stabilising drug which potentiates the effects of anti-depressant medication” (Exhibit C.22, p2). She was concerned about the effect of the drug on the foetus.
- 5.3 Mrs. Kaptsis told Dr. Raeside in 1998 that she did not become unwell again until July 1997. Everything had been “going smoothly” and she had been coping well until she resigned from her employment due to being “over-worked” (Exhibit C.22, p2).
- 5.4 This does not correspond with the statement of Dr. Martha Kent, Mrs. Kaptsis’ treating psychiatrist at Modbury Hospital, who said in her statement:-

“Anna Kaptsis was diagnosed with Bipolar Affective Disorder. There was a six year history of this illness which was severe. Her first episode of depression occurred after the birth of her first child. Subsequently she experienced both manic and depressive episodes with psychotic features. Her illness was severe but she also had periods when she functioned well and was able to work. The depressions were more severe and prolonged than the manic episodes and were complicated by recurrent suicide attempts which were high in lethality intent. Anna stated she had little memory of her suicide attempts when she was well. Anna required a number of admissions to Glenside Hospital prior to 1995 and at times, these admissions were lengthy”. (Exhibit C21, p3)

- 5.5 Mrs. Kaptsis tended to minimise the seriousness of her condition, and to unilaterally decrease her dose of Lithium without telling Dr. Kent. She halved her dose in early 1996, and did not tell Dr. Kent about that until October that year, and in February 1997 she stopped taking the drug altogether, against Dr. Kent’s advice. Dr. Kent said that, although her affect was often intense, and there were low-grade fluctuations in

her mood, she did not manifest clinical signs of her illness until June 1997 (T.26). At that stage, Dr. Kent thought that the lives of both Mrs. Kaptsis and her younger son (Michael) were in danger. She explained that Mrs. Kaptsis had said that Michael would die, as he had the same symptoms as she did (T.34).

- 5.6 In June 1997 Mrs. Kaptsis' illness became worse: she developed, in Dr. Kent's words, a "florid manic illness with psychotic features" (Exhibit C.21, p5). She was detained pursuant to the Mental Health Act to the Adelaide Clinic on 3 July 1997, as there were no public beds available (T.33).
- 5.7 Mrs Kaptsis took a major overdose of her medication, and was detained to Modbury Hospital on 1 September 1997, where she was treated with Electro-Convulsive Therapy ('ECT') and anti-depressant, anti-psychotic and Lithium medications. She took another overdose while in hospital. The ECT temporarily lifted her mood, but she was unable to sustain it, and lapsed back into depression when she returned home.
- 5.8 Mrs. Kaptsis was admitted to Modbury Hospital again on 20 November 1997, and received further ECT and drug therapy. Dr. Kent thought that she had continued to decline into severe depression (T.42). She was discharged on 5 December 1997, although she received her final ECT treatment as an outpatient on 12 December 1997.
- 5.9 Dr. Kent reviewed Mrs. Kaptsis in Outpatients on two further occasions, on 17 and 30 December 1997. She said that Mrs. Kaptsis remained "somewhat depressed", with mood fluctuations although this was "improving", and expressed "anger and frustration that she had not yet recovered" (Exhibit C.21, p6-7). Dr. Kent described the "mixed messages" Mrs. Kaptsis was giving - she often gave positive signs, such as a reactive affect, and spontaneously smiling, or she would talk of having improved, but she would then discuss depressive symptoms. Dr. Kent described her condition as a "moveable feast" (T.45).

6. **Dr. Kent's last consultation with Mrs. Kaptsis**

- 6.1 Dr. Kent saw Mrs. Kaptsis on 28 January 1998, only two days before Michael's death. Dr. Kent described the consultation as follows:-

“My last appointment with Anna occurred on the 25th of January 1998. There was little change in her demeanour and presentation. She stated she felt lazy, bored, amotivated, silent and socially withdrawn. She was angry, discontented and miserable and said she was not enjoying life. She said her husband was also not happy. The children were misbehaving and she was irritable with them. She said she smacked them sometimes. At no stage did she describe suicidal intent or homicidal thoughts or impulses towards her children. She described herself as ‘evil’ which was a term she used when she was angry at someone. She also said she behaved ‘nastily’ to members of her family including her children and her mother. There was no convincing psychosis evident. She presented as a coherent, rational and articulate historian, though significantly frustrated with her life situation.

I considered that she was still depressed and struggling to come to terms with her illness, its longevity and severity and its effect on her and the family. She wanted quick and concrete solutions to a complex set of problems and was understandably frustrated and miserable at not being well. Yet she was apparently coping with daily tasks of living in the home, despite lingering symptoms of depression.

We discussed minor modification of her antidepressant medication to improve sleep and the prospect of returning to work part-time if possible. I suggested imminent review to her together with her husband to obtain his viewpoint regarding her state of health and possible strategies to assist recovery.

We talked of changing her medication and what this would entail, of assistance in considering return to work and we discussed Anna's request to see a hypnotherapist (to improve her motivation). We also talked of her continuing to take responsibility for her situation, including the possibility of her mother assisting her once more in the house or the children attending childcare.

At no time did Anna indicate or hint at suicidal or homicidal thoughts, impulses or plans during this last interview, nor did she appear to be suffering from a psychotic illness at that time”. (Exhibit C.21, p7-8)

Dr. Kent said that, in retrospect, the only piece of evidence suggesting that Mrs. Kaptsis was psychotic on that day was the talk of “evil” which could suggest psychosis, but does not compel that conclusion - many non-psychotic patients use that expression as well, and it depends on the context (T.48).

- 6.2 In particular, Dr. Kent denied that Mrs. Kaptsis told her that she was contemplating suicide. Mrs. Kaptsis said this to Dr. Raeside after Michael's death.
- 6.3 Dr. Kent said that on 30 January 1998, after she had been told what had happened and she had driven to the Kaptsis' house to see Mr. Kaptsis, he confirmed that his wife

had behaved appropriately in the past few days, and had given no reason to think that she was contemplating harm to Michael (T.52).

7. **Nature of Mrs. Kaptsis' illness**

- 7.1 Dr Kent described in evidence what she considered were the symptoms of Mrs Kaptsis' bipolar disorder. In particular, she described 'subjective and objective fluctuations in mood', she saw her during a floridly manic episode with psychotic features in June 1997, which she described as 'unquestionable, indisputable', she said that Mrs Kaptsis' account of her mood changes were consistent with that diagnosis, and she also regarded it as significant that Mrs Kaptsis' moods improved with lithium carbonate, a mood stabiliser, and deteriorated when she discontinued it (T22).
- 7.2 Dr. Kent said that she was in no doubt whatsoever that she had reached the correct diagnosis, and saw nothing in later events to give her cause to doubt it (T.23).
- 7.3 As I have already mentioned, Dr. Raeside saw Mrs. Kaptsis on 30 January 1998 at James Nash House. Once again, she told him about feeling "numb" and "emotionally detached" and "not a good mother" (Exhibit C.22, p6). When explaining feeling "evil", she described having "the devil inside of me", whereas Dr. Kent had interpreted her use of "evil" as merely an expression of anger (T.48).
- 7.4 Dr. Raeside said that Mrs. Kaptsis' non-reactive mood, her flat and expressionless demeanour were so marked that they were of "delusional intensity", and not merely a response to the offence (Exhibit C.22, p7). He formed the view, on that day, that Mrs. Kaptsis was suffering from a "severe, probably psychotic, depression" (Exhibit C.22, p7). It is important to note that even after her awful crime, he was not convinced that Mrs. Kaptsis was psychotic.
- 7.5 It was not until after a few days had passed that Mrs. Kaptsis' condition became apparent. Dr. Raeside said:-
- "Following admission it became apparent that your client was indeed suffering from a Major Depressive Disorder with psychotic features. She became intensely suicidal, wanting staff to kill her, and even running headlong into walls, requiring seclusion in a secure room for her own safety". (Exhibit C.22, p7)
- 7.6 Dr. Raeside pointed to Mrs. Kaptsis' flat and expressionless demeanour to Dr. Adams in the afternoon of 30 January 1998 (see Dr. Adams' statement, Exhibit C.7a), and her

demeanour to her husband and to the police after the death was discovered, in particular her apparent lack of distress at the house, and during the interview.

7.7 Dr. Raeside also pointed to the fact that Mrs. Kaptsis' condition improved on anti-depressant and anti-psychotic medication at James Nash House (Exhibit C.22, p8). However, Mrs. Kaptsis has apparently suffered a relapse since then (see the report of Dr. Maria Tomasic to the Supreme Court dated 24 September, 1998, when she refers to a "rapid and marked exacerbation of her condition ... precipitated by mail and phone contact made by her husband").

7.8 Dr. Raeside said:-

"I do not believe that she has actually had a Bipolar Affective Disorder, and that this has been confused with her agitated psychotic depression". (Exhibit C.22, p8)

Concluding that she was psychotic at the time of the killing, he said:-

"Whilst it is apparent that Ms Kaptsis knew the nature of her actions in that she was killing her son and that he would die as a result of her actions, I believe that, as a result of her mental illness, she was unable to reason with a moderate degree of sense and composure about her actions.

Additionally I believe that her psychotic condition impaired her ability to know the wrongfulness of her actions. Her delusions of self-reproach and badness caused her to believe that she was doing the 'right' thing for her son as she was unable to love him. Although she knew she would be imprisoned for her behaviour, thus indicating a knowledge that it would be seen to be illegal, it is apparent that she both felt it was the right thing to do and, additionally, that she deserved to be punished anyway for who she was, not simply for her action in killing her son". (Exhibit C.22, p8)

7.9 Dr. K.P. O'Brien, the Director of Forensic Psychiatry at James Nash House, also assessed Mrs. Kaptsis for the purpose of the criminal proceedings, and he concluded:-

"I am satisfied that Mrs. Kaptsis has suffered a chronic, relapsing and severe depressive illness with psychotic features which was first diagnosed some weeks after the birth of her first son".

(Exhibit C.20a, p2).

He agreed with Dr. Raeside that Mrs. Kaptsis was "mentally impaired", in that she:-

"did not know that her conduct was wrong in the sense that she could not argue about the wrongfulness of it with a moderate degree of sense and composure" (Exhibit C20a, p3).

7.10 When he gave oral evidence, Dr. Raeside was not so confident about the diagnosis. He acknowledged that Dr. Kent had been in a better position to observe the fluctuations in Mrs. Kaptsis' illness (T.97), and merely offered the depressive illness

as an alternative diagnosis. He described the illness as “recurrent depression with episodes of agitation with some manic features” (T.85).

7.11 Dr. Raeside also acknowledged that the distinction between Dr. Kent’s diagnosis and his own “in practical terms made little difference” (T.97).

8. **Should Dr. Kent have detained Mrs. Kaptsis on 28 January?**

8.1 Mr. Kaptsis, when questioning Professor R.G. Goldney who provided a psychiatric overview of the case at my request, suggested that, on his wife’s presentation to Dr. Kent on 28 January 1998, Dr. Kent should have explored her feelings in relation to the children more thoroughly. The evidence was as follows:-

“Q. I’ve got her statement here and I think the statement says what happened on the day. I think you have a copy of that, and she discussed minor modifications to antidepressant medication to improve her sleep, and the prospect of returning to work part time if possible and suggested imminent review to her, together with her husband to obtain a viewpoint regarding her state of health and possible strategies to assist recovery.

A. Right.

Q. That is what was said, but what I am saying is, when you consider these points, this is an ill person, someone who is not well, mentally distressed, whatever it is called in the profession. I would have thought that you would need to explore - these are some pretty major statements that Anna is making on the day. I would have thought - forget about Anna’s case, take anybody who comes into a psychiatrist’s office and says ‘Angry, discontent, not enjoying life, miserable, evil, nasty’ and having a history of attempted suicide that I think you would - wouldn’t you look at exploring that a little bit further.

A. You’re absolutely right and I have confidence that those issues were addressed and that the extra bits that you read out would have occurred. It sounds as if there was planning to do that and again I’m afraid that we just don’t have the ability to pick an individual person who is going to do what your wife did. There is just no way in the world I’m afraid that anyone has ever been able to say ‘There are these four or five pointers, therefore it’s definitely going to happen’. As I said, the dilemma is that we would have several times a week, people who present similar sort of histories to us and we have to make a judgment as to what’s the best thing to do. We don’t always get it right”. (T.125-6).

8.2 Dr. Goldney said that since Dr. Kent did not consider that Mrs. Kaptsis was psychotic, there were no grounds to detain her pursuant to the Mental Health Act. Indeed, even if she had detained her, he suspected strongly that Mrs. Kaptsis would have been out in twenty-four hours (T.126).

8.3 Dr. Raeside did express concern that Dr. Kent did not explore the issue of Mrs. Kaptsis’ attitude to her children further. He said that, in the context of a severe depressive illness, comments such as that “I’m not a good mother” and use of words like “evil” were cause for concern, and should have been explored further. He said:-

“The only concern I have about that is whether that should have been explored about her thoughts towards the children, because she certainly was presenting with some degree of depression, she was reporting some features of feeling that she was a bad mother, and this may be in retrospect but I think that that should have been sufficient things to explore a bit further about what her feelings were with her children. If she had denied them and said - whatever - then that probably may have been sufficient, I don't think that would have warranted detaining her against her will without any other evidence. But she may well have said ‘Look, I've been really struggling with some thoughts and I don't know that I can control myself’ etc, in which case then admission might have been appropriate, but based on what was documented there, the outcome appears to be reasonable, the outcome of the interview, because Dr. Kent from what I could gather in the notes was sufficiently concerned that she was seeing her reasonably often, every two weeks is a reasonably frequent occurrence for an outpatient, so she was keeping close monitor on her condition, and I gather from reading the notes that she was satisfied that there was some improvement but she was still concerned about her, she wasn't out of the woods yet let's put it that way”. (T.105-106)

- 8.4 Professor Goldney defended Dr. Kent's handling of the matter, however, saying that although Mrs. Kaptsis' words have sinister overtones in retrospect, Dr. Kent had been dealing with her for a long time, and was entitled to bring her experience and knowledge of the patient to bear. He said:-

“very often patients say much more hair raising and threatening and worrying things that are recorded here. Viewed in retrospect after what happened, it's so easy to interpret some of these points in a way that they are definitely pointers to what was going to happen, but really, in the whole scheme of a psychiatrist's notes, what is recorded here is really towards the mundane end of the scale actually. It's bread and butter, outpatient depression psychiatry”. (T.131)

- 8.5 Dr. Raeside conceded that Dr. Kent's conclusion on 28 January that there was “no convincing evidence of psychosis” was reasonable (T.84). Indeed, psychosis is not evident even during the video-taped record of interview (Exhibit C.22b), and it is only Mrs. Kaptsis' twisted logic, that is so disordered in its thinking, that suggests psychosis. She said:-

“I wake up every morning like this. So that every morning my husband says to me, how do you feel today, I'm, I feel the same, and it's become a very hum drum life. So, I just decided that I'll show everyone that I really can't cope with children. I'm not a good mum. And little Michael will be better off with God. And if that means I have to spend the rest of my life in gaol, then so be it”. (Exhibit C.8b, p17)

She added later:-

“And because I have no feelings for my kids or husband or am a good house cleaner or whatever, I believe I'm a bad person. That I don't deserve to be around, as in eating at their house, and because I couldn't kill myself, I'm going for gaol”. (Exhibit C8b, p26)

8.6 There is nothing to suggest that Mrs. Kaptsis had given any indication of this line of thinking before. Clearly, she had thought that her children would be better off without her before, but had never thought of killing them. She said that she had not thought about such things previously (Exhibit C.8b, p25). She also described such thoughts as “new” to Dr. Raeside (T.101). He described this as an unusual case. It is “fairly rare” for a mother to kill her child without committing or at least attempting or intending to commit suicide as well (T.103). He said that to reach such a conclusion as a solution to her dilemma was a measure of the depth of her psychosis (T.104).

8.7 In all the circumstances, I can see no grounds for criticising Dr. Kent’s handling of Mrs. Kaptsis as a patient. I do not consider, on the evidence, that she was psychotic on 28 January 1998. In my view, it was only in retrospect, when Mrs. Kaptsis was explaining her actions in killing her son, that the extent to which her mind had become disordered became apparent.

9. **Finding**

I find that Michael Vasilious Kaptsis, aged three years, late of 18 Deieso Court, Newton, died at 18 Deieso Court, Newton on 30 January 1998 as a result of smothering.

10. **Recommendations**

I make no recommendations pursuant to Section 25(2) of the Coroners Act.

Key Words: homicide; psychiatric illness.

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 8th day of March, 2000.