

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 3rd and 7th days of March, 2003, before Wayne Cromwell Chivell, a Coroner for the said State, concerning the death of Francis Seery.

I, the said Coroner, find that, Francis Seery, aged 63 years, late of Yatala Labour Prison, Northfield died at Mary Potter Hospice, Calvary Hospital, North Adelaide, South Australia on the 22nd day of October 2002 as a result of raised intracranial pressure due to cerebellar metastasis arising from a primary bronchogenic large cell carcinoma.

1. Reason for Inquest

- 1.1. On 23 June 2000, Francis Seery appeared before His Honour Judge Muecke in the District Court of South Australia, having pleaded guilty to two counts of gross indecency, one count of indecent assault and two counts of unlawful sexual intercourse. He was sentenced to seven and a half years imprisonment with a non-parole period of five and a half years, commencing on 1 June 2000.
- 1.2. In May 2001, it was diagnosed that Mr Seery was suffering from lung cancer which had metastasised to his brain. Mr Seery received intensive treatment for that illness, which culminated in him being transferred to the Mary Potter Hospice on 26 September 2002.
- 1.3. Ms Maria Bordoni, the Manager of Yatala Labour Prison, made an order authorising unaccompanied leave at the Mary Potter Hospice pursuant to Section 27(1)(f) of the Correctional Services Act 1982 ('the Act'), in order to facilitate Mr Seery's palliative care.

- 1.4. The authorisation (Exhibit C6b) imposes a number of ‘special conditions’, which are authorised by Section 27(2) of the Act, including:

‘The prisoner is not to leave the grounds of the hospital.’ (Exhibit C6b)

- 1.5. Section 24(1) of the Act states:

‘The Chief Executive Officer has the custody of a prisoner, whether the prisoner is within, or outside, the precincts of the place in which he or she is being detained, or is to be detained.’

- 1.6. It would therefore seem that Mr Seery was still in the ‘custody’ of the Chief Executive Officer of the Department of Correctional Services at the time he was an inpatient at the Mary Potter Hospice. There remains a question as to whether he was ‘detained’ at the Hospice for the purpose of the Coroners Act. The language of Section 24(1) of the Correctional Services Act, when it refers to a prisoner being ‘outside the precincts of the place in which he or she is being detained’, contemplates that when the prisoner is outside the prison, he or she is no longer detained.

- 1.7. Section 14(1)(a) of the Coroners Act 1975 requires me to conduct an Inquest into the cause and circumstances of a death referred to in Section 12(1)(da) of that Act. That section refers to:

‘The death of any person where there is reason to believe that the death occurred, or the cause of death, or a possible cause of death, arose, or may have arisen, while the person was detained in custody within the State pursuant to an Act or law of the State;’

- 1.8. It seems to me that Mr Seery was no longer ‘detained in custody’ during the time that he was an inpatient at the Mary Potter Hospice. However, there are substantial grounds to believe that the cause of his death ‘arose or may have arisen’ while he had been a prisoner following his sentence in June 2000.

- 1.9. Accordingly, I find that I am required by Section 14(1)(a) of the Coroners Act to conduct an Inquest into the cause and circumstances of Mr Seery’s death.

2. Cause and circumstances of death

- 2.1. As I have already stated, in May 2001, Mr Seery was diagnosed with lung cancer. He had suffered some non-specific cerebellar symptoms (including collapsing on several occasions) while detained at Port Lincoln Prison. He was transferred to Yatala Labour Prison and underwent a cerebral CT scan at the Royal Adelaide Hospital when the tumour in his brain was discovered. A further x-ray disclosed that the primary cancer was in his lungs.

- 2.2. Mr Seery was treated with radiotherapy at the Royal Adelaide Hospital to which he responded well.
- 2.3. In early March 2002, however, his symptoms returned and he underwent further radiotherapy in April 2002 but this time the results were disappointing.
- 2.4. On 26 September 2002, Mr Seery was transferred to the Mary Potter Hospice pursuant to the leave of absence which I have already mentioned.
- 2.5. His condition continued to deteriorate until, at about 6:15am on 22 October 2002, Registered Nurse Jennifer Jeffrey noticed that his respirations had ceased. There was no pulse. RN Jeffrey reported these events in the appropriate way.
- 2.6. At 9:10am on 22 October 2002, Dr Michael Briffa, Palliative Care Consultant, certified life extinct at that time. He certified the cause of death as metastatic lung cancer (see Exhibit C2b).
- 2.7. I accept Dr Briffa's diagnosis, supported as it is by the opinion of Dr Christopher Holmwood, who treated Mr Seery while he was at Yatala Labour Prison.
- 2.8. Mr Seery knew that he was suffering from a terminal illness for some time prior to his death. I find that Mr Seery received appropriate and sensitive treatment for his illness at all times, and that the standard of the care he received was at least the equivalent of that to which the rest of the community are entitled. I see no grounds for concern in relation to any aspect of the treatment.

3. Recommendations

- 3.1. There are no recommendations pursuant to Section 25(2) of the Coroner's Act 1975.

Key Words: Death in Custody

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

Seal the 7th day of March, 2003.

Coroner