



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 24<sup>th</sup> day of August 2005 and the 24<sup>th</sup> day of January 2006, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Gary Michael McMahon.*

*The said Court finds that Gary Michael McMahon aged 63 years, late of 17 Noble Street, Ovingham, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 5<sup>th</sup> day of January 2005 as a result of pancreatic carcinoma. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and reason for Inquest**

- 1.1. Gary Michael McMahon, aged 63 years died on 5 January 2005 at the Royal Adelaide Hospital where he was a patient.
- 1.2. At the time of his death he was detained by order of the Guardianship Board, pursuant to Section 13 of the Mental Health Act 1993, in circumstances that I will shortly describe.
- 1.3. Although this death had been notified pursuant to the provisions of the repealed Coroners Act 1975, it was in my view to be regarded as if it were a notification of a reportable death under the Coroners Act 2003 (see Section 25(3) of the Schedule to the 2003 Act). I have therefore taken the view that all of the provisions of the 2003 Act, including those which define the circumstances in which an inquest under the 2003 Act is mandatory, apply to this death. The deceased's death was a death in custody as defined in Section 3 of the 2003 Act.

- 1.4. Accordingly, an inquest to ascertain the cause or circumstances of the deceased's death was mandatory by virtue of Section 21(1) of the 2003 Act. If I am wrong about that, and the repealed Act still applies, an inquest into the deceased's death was in any event mandatory pursuant to Sections 12(1)(da) and 14(1a) of the repealed Act for the same reasons, namely because the deceased died while he was detained in custody.

**2. The course of the deceased's illness and of his detention**

- 2.1 On 10 October 2004, the deceased was conveyed by ambulance to the Royal Adelaide Hospital after he had collapsed at home. He was to remain there until his death. The deceased had a previous medical history of Type 2 Diabetes, excessive alcohol consumption and self harm. At the Emergency Department of the Royal Adelaide Hospital, he was said to have been abusive to staff and was uncooperative when asked questions and when a physical examination was sought to be performed. He wanted to leave. Information at the time suggested that he suffered from dementia. He appeared at the time to be malnourished and was observed to be very unsteady.
- 2.2 Clinical staff formed the view that the deceased should be admitted to the Royal Adelaide Hospital and in light of his then condition and his manifest inability to make decisions relating to his own welfare, a further decision was made to detain him under the Mental Health Act. The view was formed that the deceased had a mental illness that required immediate treatment. That treatment was available at the Royal Adelaide Hospital. The ground said to justify the deceased's detention were recorded on a Form 1 under the Mental Health Act.

'Pt has frontal lobe encephalopathy, Hx alcohol abuse, self neglect and abusive to staff. Pt at risk to self and requires admission.'

(Exhibit C5b)

Accordingly the deceased was detained pursuant to Section 12(1) of the Mental Health Act and was admitted to the Royal Adelaide Hospital.

- 2.3 An order under Section 12(1) of the Mental Health Act expires three days after the day on which the order is made. In addition, such an order must be followed by an examination by a psychiatrist to assess whether the continued detention of the patient is justified. On 11 October, 2004 such an examination took place and the detention order was confirmed, the stated grounds being that the deceased was disoriented and irritable.

- 2.4 On 13 October 2004, an order pursuant to Section 21(5) of the Mental Health Act for the further detention of the deceased for a period of 21 days was made on the basis of the deceased's disorientation, risk of harm to himself, poor memory and the difficulty in managing his behaviour.
- 2.5 Medical tests revealed that the deceased was suffering from a frontal meningioma that was causing pressure to the frontal lobe of his brain and in the first instance it was determined in the deceased's interests that this lesion be excised. It was believed that the permission of the Guardianship Board was required for this procedure to be carried out. After consulting the Public Advocate, it was informally determined by the Board that Guardianship Board permission was not required. I assume that this determination was made because of the currency of the 21 day detention order and by virtue of the authority that Section 18 of the Mental Health Act provides in respect of the treatment for illnesses other than mental illnesses. Alternatively, it may have been thought that the procedure was in any event to be characterised as treatment for the deceased's mental illness. It does not matter because in the event the procedure was initially deferred and then not carried out at all. The procedure had originally been scheduled for 21 October 2004 but was deferred because of detected abnormalities in the deceased's potassium and sodium levels.
- 2.6 The 21 day order of 13 October 2004 was due to expire on 3 November 2004. On that day, a further 21 day detention order was imposed under Section 12(6) of the Mental Health Act, citing, inter alia, significant cognitive impairment, an inability of the deceased to make appropriate decisions concerning his treatment and the neurosurgery that the deceased was still to undergo.
- 2.7 That further order would have expired on or about 24 November 2004. Medical practitioners concerned with the deceased's care had also made an application to the Guardianship Board for a continuing detention order pursuant to Section 13 of the Mental Health Act. That application was made on 2 November 2004 and was determined by the Guardianship Board on 18 November 2004. The intervening period of detention was covered by the second 21 day detention order made on 3 November 2004. The application for the Section 13 continuing detention order, made to the Guardianship Board, cited to following circumstances inter alia:
- 'Disoriented and irritable, presenting risk of harm to self. Poor cooperation with assessment and management. Required to remain in hospital for further treatment of a potentially reversible condition. Pt unable to give informed consent and no next of kin or POA' (Exhibit C5c)

The document also cited the deceased's 'increasing bizarre behaviour secondary to frontal lobe meningioma' and the contemplated removal of the same. The document also referred to the unlikelihood of the deceased voluntarily remaining in hospital. The application was said to have been made 'in the best interests for (the) patient'.

- 2.8 On 18 November 2004 the Guardianship Board granted the application and, pursuant to Section 13 of the Mental Health Act, ordered that the deceased be detained in the Royal Adelaide Hospital for the period up to and including 18 April 2005 for the purpose of the provision of:

'Such treatment for the Patient's mental illness (excluding prescribed Psychiatric treatment) as is authorised by the Consultant Psychiatrist for the time being having the care of the patient '

(Exhibit C5c)

In addition, the Order stipulated that the treatment for a mental illness and for any other illness could be given notwithstanding the absence or refusal of consent for the treatment (Exhibit C5g). It was this order that was extant at the time of the deceased's death.

- 2.9 The operation to remove the meningioma was scheduled for 2 December 2004. In the meantime, certain tests revealed that the deceased had developed terminal pancreatic cancer and liver metastases. In light of the deceased's poor overall prognosis and the fact that chemotherapy was considered unlikely to offer any benefit, it was decided that palliative care only should be instituted. Accordingly, the operation for the removal of the meningioma was cancelled as it was considered not to be in the deceased's interests for it to be performed. The Guardianship Board was advised accordingly (Exhibit C5h).
- 2.10 Palliative care, including pain relief management, was provided to the deceased. His health gradually declined. On 29 December 2004, the deceased was placed on a hospice waiting list and a guardian was then appointed in relation to accommodation and health care. He died before hospice care could be implemented.
- 2.11 On 5 January 2005 the deceased still remained in Ward S7 of the Royal Adelaide Hospital. The deceased died somewhere between 5:15am and 6:00am that day.

### **3. Cause of death**

- 3.1 I received in evidence the statement verified by affidavit of Dr Phan Tien Nguyen (Exhibit C4, C4a). Dr Nguyen was a Resident Medical Officer at the Royal Adelaide

Hospital. Dr Nguyen refers to the original diagnosis of meningioma and the subsequent diagnosis connected with the pancreas. CT scans revealed a necrotic mass in the pancreas and metastatic lesions in the liver, adrenals and lymph nodes.

- 3.2 Dr Nguyen offers the opinion that the deceased died as a result 'of natural decline secondary to his pancreatic cancer'. The suggested cause of death in the original report to the Coroner was 'pancreatic carcinoma'. In my view the cause of the deceased's death can be expressed as pancreatic carcinoma.

#### **4. Conclusions**

- 4.1 Gary Michael McMahon was admitted to the Royal Adelaide Hospital on 10 October 2004.
- 4.2 The deceased remained in the Royal Adelaide Hospital until the date of his death on 5 January 2005.
- 4.3 At all material times during his admission to the Royal Adelaide Hospital the deceased was a detained patient pursuant to the provisions of the Mental Health Act. I find that all times his detention was lawful.
- 4.4 The deceased was diagnosed with meningioma, pancreatic cancer and metastatic liver cancer among other illnesses. There is no suggestion that the deceased received other than the appropriate level of care during his period of detention.
- 4.5 I find that the cause of the deceased's death was pancreatic carcinoma.

#### **5. Recommendations**

- 5.1 There are no recommendations made consequent upon these findings.

*Key Words: Death In Custody; Natural Causes; Psychiatric/Mental Illness;  
Mental Health Act 1993*

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

*Seal the 24<sup>th</sup> day of January, 2006.*

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*Deputy State Coroner*