



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 9th day of April 2010 and the 12th day of May 2011, by the Coroner's Court of the said State, constituted of Mark Frederick Johns, State Coroner, into the deaths of Cris Lupingay Bay-An and Andrew Peter Petersons.

The said Court finds that Cris Lupingay Bay-An aged 22 years, late of 72 Arlington Terrace, Welland, South Australia died at Bridge Road, Pooraka, South Australia on the 30th day of August 2008 as a result of multiple injuries.

The said Court finds that Andrew Peter Petersons aged 30 years, late of 9 Steen Court, Pooraka, South Australia died at Bridge Road, Pooraka, South Australia on the 30th day of August 2008 as a result of a head injury.

The said Court finds that the circumstances of their deaths were as follows:

1. Introduction and cause of death

- 1.1. Andrew Peter Petersons was 30 years old when he died on 30 August 2008 after sustaining fatal injuries in a motor vehicle collision at approximately 0145 hours. A post-mortem examination was conducted by Dr Neil Langlois who gave the cause of death as multiple injuries¹ and I so find.
- 1.2. Cris Lupingay Bay-An was 22 years old when he died on 30 August 2008 after the vehicle being driven by Mr Petersons collided with Mr Bay-An's vehicle. A post-

mortem examination was conducted by Dr Langlois who gave the cause of death as multiple injuries² and I so find.

2. Background

- 2.1. On the evening of Friday 29 August 2008, Andrew Peter Petersons left his home with the intention of attending a party in Salisbury Downs. He was travelling in his 2006 Black Holden SS Utility.
- 2.2. At some point in the evening he met up with Jacob Shammall (the brother of his fiancé) who went with him to the party. Mr Petersons and Mr Shammall left the party in the early hours of 30 August 2008. A vehicle similar to that of Mr Petersons' was seen by two witness, Mr Childs³ and Mr Duance⁴, at approximately 0135 hours driving in an intimidating and dangerous manner at excessive speeds along Main North Road, Pooraka. Mr Childs stated that the manner in which the Utility was being driven caused it to spin 360 degrees on the road surface in front of his car. It also appeared to lose control causing it to leave the road and travel onto the plantation dividing strip separating the two carriageways of Main North Road.
- 2.3. Shortly after this, the black Utility was seen by two police officers to leave the plantation strip on Main North Road, Pooraka. The police officers, Constables Clarke and Castle, had come from Salisbury Police Station and followed the black Utility south along Main North Road and then onto Research Road. They activated their emergency lights and sirens for the driver to pull over. According to their records of interview⁵, the Utility appeared to making attempts to pull over and then sped off east along Research Road. It was at this time that those police officers commenced their pursuit of the Utility.
- 2.4. The pursuit continued along Research Road until the black Utility made a right-hand turn at the junction of Research and Bridge Roads, disobeying a red traffic light applicable to traffic travelling along Research Road. On entering Bridge Road the black Utility travelled south towards the Montague Road intersection, with police still in pursuit. The Utility travelled through this intersection against a red traffic signal applicable to traffic travelling along Bridge Road.

² Exhibit C4a

³ Exhibit C26a

⁴ Exhibit C37a

⁵ Exhibits C33a and C33b

- 2.5. This was a camera controlled intersection and on passing through the red light the camera recorded the black Utility travelling at 189.5 kilometres per hour. The police who were in pursuit of the vehicle passed through this intersection 8 seconds later, also against the red traffic light, with a recorded speed of 74.3 kilometres per hour. A calculation was done in relation to the speed of the Utility and the police vehicle and the distance between them at the lights where their speeds were recorded. This calculation put the Utility between 358 and 378 metres in front of the police vehicle at the intersection.
- 2.6. According to Police Communications transcripts, Constable Castle reported at 0144 hours that the black Utility had caused the speed camera to flash at the Bridge Road and Montague Roads intersection. At 0145 hours Constable Castle advised Communications that he had lost sight of the vehicle and had turned into Lana Street⁶ to search the local area. Both police officers explain that this section of Bridge Road undulates and they did not have a clear line of sight in front of them because of this. The black Utility continued for a short distance along Bridge Road before spinning out of control and onto the wrong side of the road, where it collided with an oncoming vehicle.

3. The collision

- 3.1. Mr Cris Lupingay Bay-An had been enjoying a night out with his friends Jan and Richard Abella in Adelaide. In the early hours of 30 August 2008 they made the journey to Mr Jan Abella's home in Mr Richard Abella's Daihatsu Charade sedan. They were travelling in a northerly direction along Bridge Road in the left-hand lane. Richard Abella, the front seat passenger of the Daihatsu, stated⁷ that before the collision he saw what he thought was either a Ford or Holden Utility. He then saw a flash of lights and thought the Utility was doing a burn out, causing its lights to flash past them. Then the Utility collided with their vehicle and he heard a loud pop, followed by what sounded like squealing tyres. His next memory was waking up in hospital having sustained serious injuries including a dislocated hip, numerous broken bones and lacerations to his face and body.
- 3.2. Mr Jan Abella, a rear seat passenger, sitting behind Mr Richard Abella, was sending a text message on his phone when the collision occurred. He recalled seeing a flash of

⁶ Runs off Bridge Road

light and hearing a loud bang. He sustained soft tissue injuries to his right arm and leg as well as internal bruising to his chest and abdomen.

- 3.3. Mr Bay-An was not so fortunate. He sustained injuries that were described in the post-mortem report as necessarily and extremely rapidly fatal.
- 3.4. It seems that after the Utility drove through the intersection it travelled only a short distance before spinning out of control. A major crash investigation was undertaken⁸. According to Acting Sergeant Spence, the black Utility was approximately 358 to 378 metres past the intersection travelling south when it travelled over an uneven dip on the road which was completely filled with water. He was of the opinion that crossing this area at high speed was likely to have caused instability with the result that the Utility aquaplaned. An inspection of the vehicle revealed that the rear tyres had poor tread. This evidence supports the theory of aquaplaning.
- 3.5. It is likely that the aquaplaning caused Mr Petersons to brake excessively, thus causing his vehicle to rotate clockwise through approximately 160 degrees on the wet road surface while travelling over to the wrong side of the road. That is when the black Utility collided with the Daihatsu in which Mr Bay-An was travelling. Major Crash Investigators calculated that the Utility's speed at impact was between 110 and 126 kilometres per hour. The photographs of the vehicles, particularly the Daihatsu, reveal how catastrophic the impact was. Mr Bay-An took the full force of the collision. From an inspection of the photographs I am surprised that the two passengers were not killed also⁹.
- 3.6. Mr Bay-An died at the scene as did Mr Petersons. Mr Petersons' passenger sustained serious injuries including a brain injury.
- 3.7. Constables Clarke and Castle, having turned off Bridge Road onto a side street when they lost sight of the Utility, re-entered Bridge Road to discover the collision scene shortly after it occurred. The length of time between the commencement of the pursuit to finding the crashed vehicles was one minute, 43 seconds¹⁰. Police Communications were notified of the crash site at 0145 hours.

⁷ Exhibit C11a

⁸ Exhibits C53a to C53c

⁹ Exhibit C45a

¹⁰

- 3.8. Toxicological analysis of samples obtained at the time of post-mortem examination on Mr Bay-An did not detect any alcohol or drugs. Toxicological analysis of samples obtained at the time of post-mortem examination on Mr Petersons however revealed a blood alcohol level of 0.171% and 0.04mg/L of Diazepam. Professor Jason White has provided a report on how this level of alcohol and this substance would have impacted on Mr Petersons' driving behaviour and ability to control his vehicle¹¹.
- 3.9. In my opinion Mr Petersons was wholly responsible for the collision and subsequent deaths of himself and Mr Bay-An and the serious injuries to Shammall, Richard and Jan Abella.
- 3.10. A Commissioner's Inquiry was also conducted into the police pursuit by Chief Superintendant Paul Dickson¹². The Inquiry found that the General Orders were properly applied by police in this matter.

4. Recommendations

- 4.1. I have no recommendations in this matter.

Key Words: Motor Vehicle Accident; High Speed Pursuit; Death in Custody

In witness whereof the said Coroner has hereunto set and subscribed his hand and Seal the 12th day of May, 2011.

State Coroner