



## **FINDING OF INQUEST**

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 13<sup>th</sup> day of March, the 6<sup>th</sup> day of June 2013 and the 19<sup>th</sup> day of August 2013, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of John William Moxon.*

*The said Court finds that John William Moxon aged 69 years, late of Yatala Labour Prison, 1 Peter Brown Drive, Northfield, South Australia died at Royal Adelaide Hospital, South Australia on the 5<sup>th</sup> day of March 2011 as a result of advanced motor neurone disease leading to terminal respiratory failure. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction, cause of death and reason for Inquest**

1.1. Mr John William Moxon was 64 years of age when on 17 May 2006 at the Adelaide Remand Centre he was incarcerated for the first time in his life. Mr Moxon would remain in the custody of the South Australian Department for Correctional Services until his death on 5 March 2011 at the Royal Adelaide Hospital. The cause of death was advanced motor neurone disease leading to terminal respiratory failure and I so find.

### **2. Background**

2.1. Following Mr Moxon's arrest and remand in custody, he was in due course sentenced in the District Court of South Australia for his crimes. His offending consisted of a number of counts of unlawful sexual intercourse, producing child pornography and gross indecency all committed in 2005. His sentencing took place on 12 April 2007. The sentence imposed was a sentence of 7 years imprisonment with a non-parole

period of 4 years and 6 months. The sentence was regarded as having commenced on 7 June 2006. On 22 June 2010 Mr Moxon was further dealt with in the District Court in respect of an offence of indecent assault that had occurred in 1999. For this offence Mr Moxon was sentenced to a period of imprisonment of 9 months to be served cumulatively upon his existing sentence. His existing non-parole period was extended by a period of 6 months. Accordingly, Mr Moxon's total sentence was a period of imprisonment of 7 years and 9 months with a non-parole period of 5 years taken as having commenced on 7 June 2006.

- 2.2. I am not certain of the precise date on which Mr Moxon would have been released on parole, but his non-parole period was due to expire on or about 6 June 2011. However, he died on 5 March 2011 whilst still in custody. Due to the fact that Mr Moxon's death was a death in custody, an Inquest into the cause and circumstances of his death was mandatory pursuant to the provisions of the Coroners Act 2003.
- 2.3. I find that at all material times Mr Moxon's custody was lawful.
- 2.4. For the most part Mr Moxon was accommodated within the correctional system at the Port Lincoln Prison. During the early period of his incarceration, Mr Moxon experienced symptoms of angina and ischaemic heart disease. The first indication of what in retrospect may have been motor neurone disease occurred in March 2009 when Mr Moxon complained of dizziness and of being tired and weak in the arm. During August and September of that year he reported left arm pain and had frequent medical consultations. It appears that at the time Mr Moxon's symptomatology was attributed to angina as a possible source.
- 2.5. An entry in Mr Moxon's South Australian Prison Health Service notes dated 16 October 2009 reported right arm weakness and left sided face numbness for some months. A CT scan of Mr Moxon's head that took place on 27 October 2009 revealed no acute intracranial abnormality.
- 2.6. In March 2010 it was noted that Mr Moxon's arm weakness was an ongoing feature of Mr Moxon's presentation. On 28 May 2010 he was transferred to the Port Lincoln Hospital and was reviewed for cardiac symptoms but was found to be non-symptomatic at that time. Through June 2010 Mr Moxon had numerous consultations with South Australian Prison Health Service but there is no mention of further weakness until 28 June 2010 when he reported that his leg collapsed under

him. On 29 June 2010 weakness was noted to be worsening. Administration of Lipitor was initially suspected as a contributor to his muscle weakness, but upon cessation of that drug Mr Moxon's condition did not improve. Mr Moxon declined a walking frame.

**3. Mr Moxon is diagnosed with motor neurone disease**

- 3.1. An array of CT scans were performed as part of investigations in July 2010. Although the CT investigations yielded no results, neurological investigations were recommended and so for this purpose on 2 August 2010 Mr Moxon was transferred by air to the Royal Adelaide Hospital. Later that month he was noted as being frail with difficulty walking.
- 3.2. In August 2010, Mr Moxon was for the first time suspected of suffering from motor neurone disease and a provisional diagnosis to that effect was made on 11 August 2010. Mr Moxon was managed on the basis of that provisional diagnosis.
- 3.3. Mr Moxon's diagnosis is explained in the statement of Dr Janakan Ravindran<sup>1</sup>. Dr Ravindran is a consultant neurologist at the Royal Adelaide Hospital (RAH). He was involved in Mr Moxon's management at the RAH in 2010. Dr Ravindran explains that in his experience a diagnosis of motor neurone disease is made once the disease is well progressed. He observes that sometimes people not come under medical attention notwithstanding that they have been symptomatic for a period of time. In Mr Moxon's case, there were a number of circumstances that were slightly atypical of the disease and so a formal diagnosis was not made until the diagnosis became a matter of certainty. The diagnosis of motor neurone disease in Mr Moxon's case was confirmed in December 2010. In a letter addressed to the Yatala Labour Prison infirmary dated 8 September 2010, Dr Ravindran confirmed the diagnosis, stated that the disease was progressing rapidly and indicated that Mr Moxon had been informed.
- 3.4. The deceased was ultimately prescribed the medication Rilutek, but this was not prescribed until 5 days prior to his death.

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<sup>1</sup> Exhibit C13a

#### **4. Issues considered at Inquest**

- 4.1. In the course of this investigation and Inquest I examined a number of matters including whether Mr Moxon's diagnosis was unduly delayed, whether any such delay had any effect on the eventual outcome and whether Mr Moxon may have benefited from the administration of Rilutek at an earlier point in time. The question which was exercising my mind was whether Mr Moxon's life expectancy may have been increased beyond any expected date of release so that he did not die in prison.
- 4.2. In assessing that issue it is necessary to say something about the disease known as motor neurone disease. The diagnosis of this disease is a clinical one as there is no specific test available to diagnose the condition. It is usually characterised by progressive muscle weakness which may affect either the upper motor neurone, the lower motor neurone or both. It will present with progressive muscle weakness and wasting. It is inevitably progressive with an average life expectancy of around 3 to 5 years. The sole treatment available is that provided by the oral medication Rilutek which is a disease modifying therapy for patients that has been shown, in some controlled trials, to extend survival by a few months over the entirety of the disease. It has been debated whether this extension in survival provides any additional quality of life to patients. Otherwise, treatments are purely symptomatic, that is treating particular symptoms or complications expectedly but without necessarily improving survival. There is no cure of motor neurone disease and so symptomatic treatments remain the cornerstone of management. Such treatments are not likely to make a major difference to overall survival.
- 4.3. The matter of Mr Moxon's management in respect of his motor neurone disease was examined by an independent neurologist, Dr Martin Robinson. Dr Robinson provided a report to the Inquest that explains the progression of motor neurone disease. He also examined the question of the progression of the disease in Mr Moxon's case and whether Mr Moxon's period of survival could have been altered by different management<sup>2</sup>. In Dr Robinson's opinion it is possible that if Mr Moxon had been referred to a neurologist earlier throughout 2010, the diagnosis of motor neurone disease may have been made earlier. He notes that the diagnosis of motor neurone disease particularly in its early stages can be difficult to make and is often delayed until around 14 months after the first symptoms are experienced by the patient. This

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<sup>2</sup> Exhibit C14a

corresponds with Dr Ravindran's view. In any event, Dr Robinson expresses the opinion that in Mr Moxon's case earlier diagnosis would not have signified any slowing of the progression of his disease or have prolonged his life. Rilutek, which in two large randomised control trials had extended survival of patients for 3 to 6 months, delays the progression of rather than cures motor neurone disease. However, Dr Robinson expresses the view that the effect of Rilutek is modest and any improvement in the period of survival can be outweighed by a prolongation of the suffering of the patient. In short, Dr Robinson did not feel that any treatment offered to Mr Moxon for his motor neurone disease would have significantly influenced his chances of survival. As to whether or not Mr Moxon's custodial circumstances acted to his disadvantage when compared to a patient with his condition and being treated in the community, Dr Robinson says as follows:

'No, I do not feel him being in custody made any difference at all. The treatment of the patient with motor neurone disease is symptomatic and largely palliative. Death is expected and generally the aim of treatment is to make the patient as comfortable and as free of suffering as possible. Life expectancy is of little importance to patients who generally do not wish to be short of breath, paralysed with an active mind and incapable of attending to their needs. Indeed, suicide is very common as a cause of death in patients with motor neurone disease. As long as he was being cared for adequately, motor neurone disease is a condition that even if it is diagnosed early, ultimately does not have any effective treatments, in particular nothing that can significantly delay the progression of the disease.

Although Mr Moxon's death is considered a death in custody, his incarceration did not contribute to the onset of his condition, nor did it reduce his life expectancy.'<sup>3</sup>

## **5. Conclusion**

- 5.1. The Court finds that Mr Moxon's diagnosis and treatment for motor neurone disease within the custodial system was appropriate and adequate. It is impossible to say that Mr Moxon's life expectancy could have been extended beyond his release from prison by earlier or different clinical management.
- 5.2. As in the matter of the death of Mr Ronald Geoffrey Weeks<sup>4</sup>, the Findings in which I have delivered this day, this Inquest raised issues in respect of the appropriate management of elderly and terminally ill patients within the prison system who for whatever reason cannot be released into the community prior to their expected death.

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<sup>3</sup> Exhibit C14a

<sup>4</sup> Inquest 20/2011

As in Weeks, in Mr Moxon's case I received in evidence the letter of Dr Peter Frost, who is the Clinical Director of the South Australian Prison Health Service, in which he has expressed certain views in relation to the difficulties occasioned in the management of elderly and dying prisoners. As well, Dr Ravindran to whom I have already referred expresses the view that the ability of the prison service to handle a prisoner who is dying is a clear area of difficulty. He points out that in the general community Mr Moxon would have been transferred to a nursing home rather than remaining in a hospital to die.

- 5.3. Accordingly, I make the same observations that I have made in the matter of the death of Ronald Geoffrey Weeks regarding the promulgation of policies that promote appropriate care for an ageing prison population and regarding the construction of a South Australian Prison Health Service health centre and high dependency unit.

*Key Words: Death in Custody, Natural Causes*

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

*Seal the 19<sup>th</sup> day of August, 2013.*

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*Deputy State Coroner*