



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 1st day of November 2013 and the 30th day of January 2015, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Justin Lee Gibson.

The said Court finds that Justin Lee Gibson aged 30 years, late of 15 Fullerton Crescent, Port Augusta, South Australia died at the Port Augusta Hospital, Hospital Road, Port Augusta, South Australia on the 5th day of October 2011 as a result of mixed butane, isobutane and propane toxicity. 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 Justin Lee Gibson, an indigenous man, died on 5 October 2011. He was 30 years of age. The cause of Mr Gibson's death is described in the post-mortem report of Dr Neil Langlois, the forensic pathologist at Forensic Science South Australia who performed an autopsy in respect of Mr Gibson. Dr Langlois reports that butane, isobutane and propane were detected in samples taken from the deceased post mortem. He reports that the ingestion of volatile agents such as these can cause sudden death. The mechanism of death is attributed to cardiac arrhythmia due to the effect of these substances on the muscles of the heart. Dr Langlois' opinion, as expressed in his report¹, is that the cause of Mr Gibson's death was mixed butane, isobutane and propane toxicity. I accept that opinion and find that the cause of Mr Gibson's death was mixed butane, isobutane and propane toxicity.

¹ Exhibit C2a

- 1.2. Mr Gibson died after he had inhaled the contents of a can of butane. This had taken place at premises at 15 Fullerton Crescent, Port Augusta where Mr Gibson was residing with his partner, her father and her children. When paramedics from the South Australian Ambulance Service (SAAS) were called following Mr Gibson's collapse, they found Mr Gibson to be in cardiac arrest. On arrival Mr Gibson displayed ventricular tachycardia and ventricular fibrillation, both of which are cardiac arrhythmias that would be necessarily fatal unless corrected. However, Mr Gibson at no stage demonstrated any cardiac output throughout his treatment. He displayed no other signs of life. SAAS paramedics conveyed him to the Port Augusta Hospital where he was declared life extinct by Dr Cyril Monteiro² at 12:10am on 5 October 2011. I have taken the date of 5 October 2011 as Mr Gibson's date of death.
- 1.3. Mr Gibson had been on home detention bail pursuant to the Bail Act 1985. One of the conditions of Mr Gibson's bail agreement was that he would reside at the Fullerton Crescent, Port Augusta address and not absent himself from that address except for the purpose of remunerated employment, necessary medical or dental treatment, to minimise risk of serious injury or death to himself or to any other person, or for any other purpose approved by his Community Corrections officer. Mr Gibson's regime of home detention bail meant that in terms of Section 3 of the Coroners Act 2003, Mr Gibson was detained in a place within South Australia pursuant to an Act of Parliament providing for home detention. Although arguably Mr Gibson's death occurred at the Port Augusta Hospital where life extinct was certified, the cause of his death arose while Mr Gibson was detained at the Fullerton Crescent premises pursuant to the Bail Act 1985. Thus Mr Gibson's death was a death in custody pursuant to the Coroners Act 2003 and for that reason an Inquest into his death was mandatory. These are the findings of that Inquest.

2. **Background**

- 2.1. Mr Gibson had a criminal history. Mr Gibson's most recent arrest occurred on 25 August 2011. He was charged with a number of offences committed in the Port Augusta area including aggravated assault with a weapon, damaging property and assaulting police. Following his arrest he was remanded in custody. On 9 September 2011 Mr Gibson was granted bail by the Port Augusta Magistrates Court and was released on the home detention bail agreement that I have mentioned. Mr Gibson

² Exhibit C7a

would reside at the Fullerton Crescent premises until his death, except between 29 September 2011 and 4 October 2011 during which period he was permitted by the court to travel to Alice Springs for the purposes of attending his father's funeral.

- 2.2. Mr Gibson also had his issues with alcohol and cannabis. Some of Mr Gibson's history in this regard is described in the statements of his partner, Ms Felicity Jane Clark³. In the more recent statement given to police on 14 October 2011⁴, Ms Clark states that when she first met Mr Gibson he was '*a huge drinker, drinking every day*'. Ms Clark states that Mr Gibson's drinking sessions usually involved him consuming about 10 cans of mixed spirits. She states that he also smoked cannabis at a rate of between 8 to 10 bongos per day and that this habit continued until he was arrested in August 2011.
- 2.3. Ms Clark's statements are inconsistent in respect of Mr Gibson's butane gas abuse. In her first statement taken on 5 October 2011 she stated that Mr Gibson's habit of inhaling butane gas only arose after his most recent release from prison in September 2011. She said that she had never seen him inhale butane before this. She stated that since coming out of prison he had been inhaling lighter fluid at a rate of about two to three cans per day. She suggested that he was consuming butane as a substitute for the alcohol and marijuana that he was prohibited from using by virtue of his bail conditions. In her second statement Ms Clark states that Mr Gibson started inhaling butane in June 2011 after they had returned from Adelaide where Mr Gibson had undergone surgery on a finger. She says in that statement that his habit consisted of inhaling between five and six cans of butane a day and that this pattern of consumption continued until his arrest in August 2011. She suggested that there was a period when Mr Gibson was using alcohol, drugs and butane all at the same time. Ms Clark stated that before Mr Gibson's arrest he obtained the butane from a delicatessen in Port Augusta and that after his release from prison he obtained it from Big W in Port Augusta. She said he would obtain it in 4-packs. In my view, Ms Clark's second description of Mr Gibson's pattern of butane abuse is to be preferred. Ms Clark was not aware of any other health issues in respect of Mr Gibson. However, there is some evidence that Mr Gibson had recently been experiencing auditory hallucinations. I will return to that issue in a moment.

³ Exhibits C4, C4a and C4b

⁴ Exhibit C4b

- 2.4. There were other conditions attaching to Mr Gibson's bail following his release from custody on 9 September 2011. Those conditions included supervision of a Community Corrections officer, an obligation to comply with that officer's lawful directions and instructions whilst on home detention and to comply with all such directions including those that would require him to attend medical appointments or drug and alcohol programs. Another condition was that he would not consume alcohol or any drug which was not medically prescribed or otherwise legally available and to submit to any breath test or urine analysis as directed by the Community Corrections officer.
- 2.5. Mr Gibson's Community Corrections officer was Ms Karen Stormonth. Ms Stormonth provided a statement to police⁵. She states that in a discussion that she conducted with one of her professional colleagues, Mr Vasile Cornea, they decided that a full professional assessment to determine Mr Gibson's mental stability prior to any release on bail should be recommended within the Bail Enquiry Report that had been ordered by the Court as part of Mr Gibson's bail application. This was based on information that Mr Gibson, whilst in custody, had experienced ideation that the devil was talking to him and that he could hear voices. In the event the Bail Enquiry Report compiled by Mr Cornea contained the following suggestion for the consideration of the Port Augusta Magistrates Court:

'Having in view the Defendant's previous response to supervision it is considered he is suitable for supervision if released on bail. However, because he reported hearing voices the writer considers that a psychiatric assessment would be helpful to determine his mental stability, prior to release.'

The report went on to suggest that the assessment should be conducted to ensure Mr Gibson's own safety and also the welfare and protection of any alleged or possible victims. The report also recommended, as a condition of any bail that the court might impose, that Mr Gibson attend for psychiatric, psychological and/or medical assessment as directed by the Community Corrections officer. It will be noted that the report suggested that a professional assessment be conducted prior to Mr Gibson's release. As I understood the evidence tendered to this Court, no such assessment was made prior to his release on 9 September 2011. However, Mr Gibson was seen by medical practitioners after his release. This included an attendance with Dr Carolyn Dearlove who is a medical practitioner employed at the Pika Wiya Health Service at

⁵ Exhibit C8a

Port Augusta. Dr Dearlove provided a statement to the Inquest⁶. Dr Dearlove saw Mr Gibson on 27 September 2011. He told Dr Dearlove that he was recently out of jail and was on home detention. He stated that he was sometimes upset and felt like self-harming. He said that he wanted to stay off alcohol and smoking and that he had taken diazepam and seroquel in the past. Dr Dearlove provided Mr Gibson with 10 diazepam tablets and told him that she would see him the following day. The following day Mr Gibson advised Dr Dearlove that he felt much better but that he was still hearing voices and a sound like a woodpecker noise and that he was experiencing what Dr Dearlove describes as paranoia. On this occasion Dr Dearlove prescribed him diazepam and seroquel. Dr Dearlove held the view that he was displaying symptoms of psychosis. Dr Dearlove was aware that Mr Gibson was imminently going to Alice Springs for a funeral. Although Dr Dearlove was aware of Mr Gibson's former dependence on alcohol, she was unaware that he was addicted to any other substances and I infer from that statement that she was not aware of any abuse of butane. Dr Dearlove took the view that Mr Gibson did not require detention under the Mental Health Act as he appeared stable.

3. Mr Gibson's supervision during home detention

- 3.1. Ms Stormonth's statement⁷ does not describe anything remarkable about Mr Gibson's supervision during his home detention except that it was interrupted for a period due to his desire to attend the funeral in Alice Springs. On 27 September 2011 Ms Stormonth's office was informed of Mr Gibson's consultation with Dr Dearlove at the Pika Wiya Health Service that day and the fact that Mr Gibson had made statements in relation to self-harm. On this occasion one of Ms Stormonth's colleagues advised the doctor to keep Mr Gibson there or to hospitalise him unless the doctor was convinced that he was not going to hurt himself. I have already referred to Dr Dearlove's statement that she did not believe that Mr Gibson should be detained under the Mental Health Act, and the fact that she saw him again the following day when he appeared to have attained a level of stability. Ms Stormonth also spoke personally to Dr Dearlove and then spoke to Mr Gibson who advised her that '*he was okay*'⁸. On 28 September 2011 Ms Stormonth attended Mr Gibson's home address to

⁶ Exhibit C9a.

⁷ Exhibit C8a

⁸ Exhibit C8a, page 4

remove the electronic monitoring equipment from him. This was done with his imminent departure for Alice Springs in mind.

- 3.2. On 4 October 2011 when Mr Gibson returned from Alice Springs, he contacted Ms Stormonth's office advising of his return.
- 3.3. During Mr Gibson's period of home detention he was not subjected to any form of drug testing which could have been mandated by virtue of his bail conditions. Ms Stormonth explains in her statement that the lack of testing was due to her office workload at the time and '*inadequate gender balance*'. It is not certain what such testing would have revealed in Mr Gibson's case. The testing would have been for alcohol and illicit substances that were prohibited by virtue of his bail conditions. Alcohol, amphetamines, cannabinoids, cocaine, morphine and other common drugs were not detected in Mr Gibson's post mortem blood samples. Diazepam, which had been prescribed for Mr Gibson, was so detected⁹.
- 3.4. The statements of Ms Felicity Clark, Mr Gibson's partner, reveal that when Mr Gibson had been released from prison on bail his spirits had been high and that he was happy to be home with her and her children. The one event that disturbed this positive frame of mind was his father's death which she said Mr Gibson ultimately dealt with very well. She states that from the time Mr Gibson was released from prison until his death the only alcoholic beverage he had consumed was one beer at Alice Springs. She said that he did not take any drugs other than prescription medication given to him by the Pika Wiya Health Service. She states that Mr Gibson did not appear to display any side effects from the medication that he was taking and that his moods and emotions did not change whilst he was on bail. However, as seen, Ms Clark states that he did consume butane at the rates I have already described.
- 3.5. In her statement Ms Stormonth expressly states that at no stage in her dealings with Mr Gibson was she made aware that he was using any drugs or alcohol whilst on home detention. Further, she says that she was not advised at any stage that he had been consuming butane gas and was not aware of anything in his records that indicated that he was a solvent abuser. A perusal of Mr Gibson's Department for Correctional Services offender casenotes¹⁰ covering the period from 1999 to August

⁹ Exhibits C3 and C3a, Report of Penny Kostakis, Forensic Scientist

¹⁰ Exhibit C15k

of 2011 does not reveal any information indicating a solvent abuse history. I accept Ms Stormonth's evidence.

- 3.6. However, when Mr Gibson was taken into custody on 25 August 2011 and was seen by the South Australian Prison Health Service (PHS), he must have admitted to previous butane gas / propane consumption¹¹. This is recorded within Mr Gibson's PHS Admission Clinical Record dated 25/8/11. A further notation in Mr Gibson's PHS progress notes dated 26/8/11 at 1410 suggests that Mr Gibson's solvent sniffing behaviour may have been stated by him as having occurred '*when younger*' and that he was not describing a contemporary habit. I do note that in the PHS Admission Clinical Record that there was provision for recording the date on which a substance was last used and that this had been left blank in respect of the entry regarding butane and propane use. The fact of the matter was, however, that Mr Gibson did have an existing solvent consumption habit. In any event there is no evidence that the Department for Correctional Services community office in Port Augusta had access to this documentation at the time staff compiled the necessary reports prior to Mr Gibson's release or at any time subsequent to his release. Thus there would have been no reason for Mr Gibson's DCS supervisors to have insisted on specific testing for butane within Mr Gibson's system during the currency of his home detention.
- 3.7. The Bail Enquiry Report that was compiled by Mr Cornea prior to Mr Gibson's release on bail listed under the heading 'Significant issues affecting reliability on bail (if applicable)' the fact that Department for Correctional Services records indicated that Mr Gibson had a history of alcohol and drug related offending which included offences of a violent nature. As well, under the heading of 'Defendant's Responsivity', it was reported that the records revealed that Mr Gibson had previously shown insight into his offending patterns and the correlation between alcohol and drug consumption and its detrimental effect on his mental health. Thus Mr Gibson's perceived propensity to commit offences when affected by alcohol or drugs was understood by the Department for Correctional Services and was no doubt taken into account by the Court when he was granted bail. One can therefore readily understand the necessity for the condition that was imposed as part of Mr Gibson's bail agreement that he not consume alcohol or any drug which was not medically prescribed or otherwise legally available. However, the Bail Enquiry Report makes

¹¹ Exhibit C19

no mention of consumption of butane which had been noted in the records of the Prison Health Service. The absence of reference to this issue is consistent with DCS at Port Augusta having no knowledge of the issue.

- 3.8. Whether the bail condition that prohibited Mr Gibson from consuming alcohol or a drug that was not medically prescribed or otherwise legally available covered volatile agents such as butane is a nice question. Unlike testing for alcohol and drug consumption that was mandated by virtue of Mr Gibson's bail conditions, it is not certain whether butane consumption would have been specifically tested for unless there was particular reason to believe that butane consumption was a live issue in respect of this individual. It would have been better if Department for Correctional Services staff had had access to material such as was contained within Prison Health Service records about this issue. In future, it is hoped that when compiling Bail Enquiry Reports, DCS will seek out and have regard to relevant information that is or might be contained within the applicant's most recent PHS records compiled whilst the bail applicant has been in custody. If this requires the consent of the prisoner and consent is withheld, withholding of consent is a matter that might be taken into account by the Court when assessing the prisoner's candidacy for bail.

4. The circumstances of Mr Gibson's death

- 4.1. According to the statement of Ms Felicity Clark, she and Mr Gibson arrived back from Alice Springs in the early hours of the morning of 4 October 2011. She describes the activities during the course of that day after they had arisen. During the afternoon Mr Gibson attended at the Carlton Parade Medical Centre where he saw Ms Clark's family doctor and spoke to him about his current medication. According to Ms Clark the doctor only spoke briefly with Mr Gibson and rescheduled an appointment to see him in a few days time. Other errands were conducted during the course of that day. As explained in Ms Clark's first statement¹², throughout the day she had seen Mr Gibson inhale from a butane canister. This had occurred on about six occasions. She asserts that she would tell him to stop doing this but that he would not listen to her. The last time she saw him inhale was an hour before he collapsed.
- 4.2. Ms Clark and her father were in his bedroom setting up a sleep apnoea machine when they both heard a thud on the floorboards. Ms Clark's daughter then came running

¹² Exhibit C4a

into the bedroom to inform them of Mr Gibson's collapse. Ms Clark went into the front room where she found Mr Gibson lying on the floor with his eyes closed. He was unresponsive. An ambulance was called. The SAAS patient report form¹³ reveals that the call was received at 11:00pm and that the paramedics arrived at the scene at 11:03pm. I have already referred to Mr Gibson's condition upon the arrival of the ambulance crew. Resuscitative efforts were employed that included CPR, defibrillation and the administration of adrenalin and fluids. A report has been obtained from Professor Anne-Marie Kelly who is an independent emergency physician. This report was commissioned by the solicitors for the deceased's mother¹⁴. Professor Kelly has provided an expert overview of the appropriateness of the treatment administered by SAAS in the light of a question having been raised as to the advisability of administering adrenaline in the setting of cardiac arrest due to consumption of the substances involved here. There was another issue raised as to whether or not Mr Gibson's partner's vigorous attempts to arouse him could have had some adverse bearing on his resuscitation. In her report, Professor Kelly deals with both issues. She states that although the current understanding of volatile substance abuse toxicity related ventricular arrhythmia suggests that, where possible, adrenaline should be avoided, there are no studies demonstrating that use or non-use of adrenaline in cardiac arrest due to volatile agents has any impact on outcome. She opines that the case in question here was in any event a difficult one. Mr Gibson did not respond to the attempted defibrillation administered by SAAS. This would accord with Professor Kelly's observation that ventricular arrhythmias in people who use volatile agents are notoriously hard to treat. And so when there was no response to defibrillation Mr Gibson's chances of successful resuscitation were very low. There is no evidence that in the circumstances that then prevailed there were other modalities of treatment available to the paramedics that were more appropriate, or potentially more effective, than adrenaline administration. It is not surprising that Professor Kelly reports that the care provided by SAAS in this case was appropriate and within the relevant guidelines. I accept that evidence and so find. Similarly, Professor Kelly is of the view that the attempts to rouse an already unresponsive and moribund Mr Gibson that were undertaken by his partner, including slaps, were very

¹³ Exhibit C6b

¹⁴ Exhibit C25

unlikely to have had any negative impact on outcome and are essentially irrelevant. I agree, and so find.

- 4.3. I have already mentioned something of Mr Gibson's access to butane as described in the statements of Ms Clark. Ms Clark does not provide any explanation, consistent with full compliance with his home detention bail conditions, as to how Mr Gibson was able to attend a retail outlet that sold butane. However, as explained in the statement of Ms Stormonth, Mr Gibson regularly contacted her to seek leave passes to attend Centrelink and doctors' appointments. He was also endeavouring to locate missing property and had sought leave passes to attend the prison and the Court in order to locate that property. In addition, Ms Stormonth removed Mr Gibson's electronic monitoring equipment from him on 28 September 2011 which it is understood was the day prior to his leaving for Alice Springs. He did not have to wear the bracelet when he was in the Northern Territory. It would be naïve to think that Mr Gibson would have hesitated in using these opportunities to obtain whatever he wanted. Ms Clark states that upon Mr Gibson's collapse she discovered a butane canister in his clothing. It is unclear when he obtained this. Police attended at the scene at Fullerton Crescent. Ms Clark's father pointed out a butane can that was situated on top of the side cabinet in the lounge room. A police scene investigation also revealed cardboard packaging for 4-packs of butane canisters. There was also one full can and one empty can adjacent to that packaging. As well, in various places in the house there were a number of plastic caps which apparently had belonged to butane gas canisters.

5. Conclusions

- 5.1. Mr Gibson was in custody between 25 August 2011 and 9 September 2011 when he was released on bail. At all material times Mr Gibson was lawfully on home detention bail. As part of his bail agreement he was lawfully required to confine himself to the premises at 15 Fullerton Crescent, Port Augusta except for certain specified purposes.
- 5.2. Mr Gibson had a pre-existing entrenched difficulty with alcohol and drugs as well as a more recently formed habit of butane consumption. He consumed butane from canisters that could lawfully be purchased in Port Augusta and elsewhere. At the time

Mr Gibson was taken into custody in August 2011, prior consumption of butane was recorded by the Prison Health Service. However, his consumption of butane was not specifically known to Department for Correctional Services' staff who had responsibility for compiling the necessary reports in relation to Mr Gibson's bail application and who had responsibility for supervising Mr Gibson's home detention bail after he was released. I therefore infer that his butane consumption was also not known to the Port Augusta Court which released him on bail.

- 5.3. A condition of Mr Gibson's bail that he not consume alcohol or any drug that was not medically prescribed or otherwise legally available to Mr Gibson was imposed, although it did not specifically refer to Mr Gibson's consumption of butane. I find that there was no specific reason known to DCS staff to have required Mr Gibson to be tested for the consumption of butane.
- 5.4. Mr Gibson appears not to have had difficulty obtaining butane nor felt any compunction about consuming it. Clearly he did so of his own volition.
- 5.5. An inference is available which I draw that in the absence of an ability to consume, without risk of detection, alcohol or other drugs while on bail, Mr Gibson's continued access to and consumption of butane without fear of impunity sustained him. In the event it killed him.
- 5.6. Mr Gibson's entrenched substance abuse habits meant that his supervision while on home detention bail would be problematic for, and burdensome on, those whose responsibility it was to carry it out, especially given his latent butane abuse behaviour. Had that type of abuse been exposed prior to Mr Gibson's release, the decision to release him on bail may have been different. At the very least, his regime of testing for consumption of substances of abuse may have been tighter.
- 5.7. Personnel from SAAS promptly attended at Mr Gibson's premises following his collapse. There is nothing further that they could have done for Mr Gibson as far as resuscitative efforts are concerned. Their efforts to resuscitate Mr Gibson were appropriate.
- 5.8. This Court has had occasion in the past to comment upon the consumption of solvents such as butane by way of inhalation. I refer to the Inquests into the deaths of Corey

Shane Richardson¹⁵ and Sean Patrick Simmonette¹⁶. This case serves as a reminder that the inhalation of butane and other substances contained with aerosol cans is a very dangerous practice that, by way of differing mechanisms, can lead to death.

6. Recommendations

6.1. The Court has no recommendations to make in this matter.

Key Words: Death in Custody; Inhalation of Butane

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

Seal the 30th day of January, 2015.

Deputy State Coroner

Inquest Number 32/2013 (1596/2011)

¹⁵ Inquest 24/2002

¹⁶ Inquest 40/2000