



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 11<sup>th</sup> day of March 2016 and the 1<sup>st</sup> day of August 2016, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Hock An Ong.*

*The said Court finds that Hock An Ong aged 58 years, late of Paringa Hotel Motel, 8 Sturt Highway, Paringa, South Australia died at Amaroo Orchards, Murtho Road, Paringa, South Australia on the 22<sup>nd</sup> day of July 2013 as a result of ischaemic heart disease. The said Court finds that the circumstances of his death were as follows:*

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

1.1. Hock An Ong, aged 58 years, died on 22 July 2013 at Paringa in the Riverland. Mr Ong was a Malaysian national who had overstayed his visa in Australia and was therefore an unlawful non-citizen under the Migration Act 1958 (Commonwealth) (the Act). He was working on a fruit block in the Riverland together with a number of other suspected unlawful non-citizens. He and the other workers were in the process of being challenged by SAPOL and immigration authorities when Mr Ong fled and suddenly collapsed. Initially he was still breathing with a weak pulse, but he subsequently stopped breathing and his pulse became absent. Resuscitation was performed but was unsuccessful. Mr Ong died at the scene. To the extent that Mr Ong was in the process of being apprehended in this State by a person who by law was authorised to do so, or was evading such apprehension, Mr Ong's death was a death in custody. This meant that an Inquest into the cause and circumstances of his death was mandatory by virtue of the provisions of the Coroners Act 2003 (SA). These are the findings of that Inquest.

## **2. Cause of death**

- 2.1. A post-mortem examination of Mr Ong's remains revealed that the cause of his death was ischaemic heart disease. Mr Ong reportedly had a previous medical history of hypertension and diabetes. Medication for angina was found in the Paringa motel room in which he resided. At autopsy the relevant findings were that Mr Ong had cardiomegaly, myocardial fibrosis and significant atherosclerotic narrowing of the left coronary artery. As far as is known, Mr Ong's underlying heart disease was never the subject of formal diagnosis. The suddenness of Mr Ong's death and its cause are in keeping with Mr Ong's previous medical history and with the autopsy findings. I find that the cause of Mr Ong's death was ischaemic heart disease.
- 2.2. I say at the outset that Mr Ong's death, essentially from a heart attack, was not and could not have been foreseen by those endeavouring to lawfully apprehend him. Mr Ong's identity was not specifically known to officers in advance of their attendance at the property. He was not a specific target of the operation. No fault attaches to any individual or organisation in respect of Mr Ong's death.

## **3. Attempted apprehension - Joint operation between SAPOL and DIAC**

- 3.1. Mr Ong had entered Australia lawfully on 5 March 2008 and was the subject of a visitor visa which expired three months later on 5 June 2008. As of 6 June 2008 he became an unlawful non-citizen by virtue of overstaying his visa. Due to Mr Ong's status, little was known about him in Australia and information had to be obtained in this investigation from his son Mr Ngee Kiet Ong who is a Malaysian national and who still resides in Malaysia. It is believed that Mr Ong never returned to Malaysia at any time before his death. His Malaysian passport expired in June 2012.
- 3.2. On 22 July 2013 a joint operation between South Australia Police and the Department of Immigration and Citizenship (the Department), as it was then known, was conducted on a fruit growing property known as Amaroo Orchards at Paringa in the Riverland of South Australia. The planned operation was led by the Department and was named Operation Oorama.
- 3.3. The primary objective of the mission was to execute safely and lawfully a search warrant issued pursuant to section 251 of the Act in respect of the property in question. The property was owned by Amaroo Orchards Pty Ltd. Any persons identified during the

visit as unlawful non-citizens by virtue of overstaying their visas, or as persons otherwise in breach of their visa conditions, stood to be apprehended and detained pursuant to section 189 of the Act.

- 3.4. At about 10:15am on the day in question SAPOL and Department officers executed the search warrants at Amaroo Orchards where a large number of fruit pickers and other workers were observed to be present at various locations on the property. Mr Ong's death occurred while he was in the process of evading what would have been a lawful apprehension. Immediately prior to events on this particular day Mr Ong had been talking to a fellow worker in the orchard. The fellow worker had seen authorities arrive and had told Mr Ong to run. Mr Ong did run and he was last seen running away from where the authorities were entering the orchard. A number of other workers believed to be unlawful non-citizens were seen running quickly between rows of orchard trees in an apparent attempt to evade the authorities.
- 3.5. At one point several people who had been running stopped and surrendered themselves to searching members. Many of the people were confirmed as unlawful non-citizens and were processed in accordance with the operation order directives. An unknown number of people who had fled across the orchard and into adjoining paddocks were not located.
- 3.6. In the course of pursuing some of these people a SAPOL officer, Sergeant Patrick Mensforth, directed SAPOL member Constable Sharon Logan to undertake a foot pursuit of a person he could see some distance ahead of both of them. That person was running in a south-westerly direction across a paddock immediately adjoining Amaroo Orchards.
- 3.7. Whilst pursuing that person, and purely by chance, Constable Logan saw another male person lying face down on the ground in the paddock. He was not the person who had been the subject of her pursuit and she had not sighted him prior to this. She observed that this male was having difficulty breathing and was not responding to her verbal commands. This person was Mr Ong. Constable Logan immediately sought assistance from Sergeant Mensforth and upon attending at her location and observing the condition of the man, Sergeant Mensforth immediately called an ambulance. He and Constable Logan maintained observations on the male.
- 3.8. While awaiting the arrival of the ambulance Mr Ong was seen to stop breathing. Constable Logan and Sergeant Mensforth immediately commenced CPR with the assistance of other SAPOL members who also attended the scene. CPR was continued

until the South Australia Ambulance Service (SAAS) arrived. Upon SAAS' arrival and assessment they deemed that Mr Ong unfortunately was deceased. Constable Logan was recommended for a commendation for the manner in which she rapidly assisted Mr Ong when she located him in the paddock. I agree with that recommendation.

- 3.9. Investigations into the deceased male person's identity were then undertaken and it was established that he was Hock An Ong who was born on 1 January 1955 and was of Malaysian nationality. He was revealed to be an unlawful non-citizen in Australia by virtue of having overstayed his visa. He had been working as an itinerant fruit picker at the time of his death. Needless to say, his employment was not lawful.

#### **4. Mr Ong's background**

- 4.1. By way of background Mr Ong was married and was the father of three adult sons. All of these family members reside in Malaysia. Ngee Ong advised that in 2008 he was a student in Melbourne and his father came to Australia to visit him for three months until he graduated.
- 4.2. Around 24 to 26 July 2008 Ngee Ong drove his father to the Melbourne airport as he was due to fly home to Malaysia. That was the last time that he saw his father alive and he believed that his father had returned to Malaysia.
- 4.3. In March 2009 Ngee Ong returned to Malaysia and discovered that his father had never returned. He was contacted by his father in late 2009 and his father explained that he was now living in Australia and working in a restaurant in Swan Hill in Victoria. The father and son had regular telephone contact thereafter.
- 4.4. Two containers of the medication Coversyl 5mg were located amongst Mr Ong's personal possessions after his death in the room he shared with others at the Paringa Hotel Motel. Each container had been seemingly issued with 30 tablets, one still had 11 tablets remaining, the other only a small fragment of a tablet. Ngee Ong explained that since 2010 he had been sending to his father through a post office box address medication that he obtained in Malaysia. He understood the medication to be for his father's blood pressure.
- 4.5. Although not recorded on the PBS or Medicare system in Australia, Mr Ong did pay two visits to hospitals. On 10 August 2009 he attended Swan Hill District Hospital

Emergency Department regarding high blood pressure and on 14 September 2012 he attended Mildura Base Hospital Emergency Department where he was diagnosed with a 20mm+ kidney stone. He was referred to a specialist, however he never followed up on the referral. A large kidney stone was found at autopsy. Mr Ong also had a set of upper dentures made in Swan Hill for which he paid cash.

- 4.6. Mr Ong's Malaysian passport bore an expiry date of 26 June 2012, over a year before his discovery by authorities and his death. The Australian immigration stamp in his passport dated 5 March 2008 does not specify the three month permitted duration of stay. It is difficult to see why the permitted duration of stay should not be specified on an entry visa. It happens in other countries.
- 4.7. Documents belonging to Mr Ong that were discovered after his death revealed that as an undetected unlawful non-citizen he was able to register a vehicle, open bank accounts, effect overseas money transfers, secure paid employment and obtain some medical services, all using his own name. In order to obtain his fruit picking job Mr Ong obtained a forged identity card in his name bearing his photograph. On the face of it the card was apparently issued by a non-government entity that assists in securing seasonal workers for fruit blocks. As I understand the evidence, the card was meant to provide to prospective employers assurance that the prospective employee was a lawful resident who could lawfully be employed. The genuineness of Mr Ong's card could easily have been checked with the issuing entity, but this does not appear to have been routinely undertaken if a worker's card was apparently genuine. Mr Ong avoided detection in 2013 even when the Victorian Sherriff's Office issued an Infringement Warrant in respect of unpaid speeding fines and also when the original Infringement Notice was issued by the Victorian Magistrates Court in relation to the same. Mr Ong's written application to pay these fines and costs by instalments revealed that his occupation was as a fruit picker. In Mr Ong's wallet was an apparently genuine Victorian Proof of Age Card. This was purportedly issued in Victoria to Mr Ong on 16 March 2010 pursuant to the Liquor Control Reform Act 1998 (Vic). The card was obtained by Mr Ong, then aged 55, for reasons that are unclear other than that it may have been part of an attempt to create an air of legitimacy in respect of his status if ever challenged. Whatever the reason, Mr Ong plainly thought that the benefit of having the card outweighed the risks involved in obtaining it. The card bore his photograph, his correct name and a date of birth that corresponded with that on his then still current Malaysian passport. The authenticity or

otherwise of this card has not been established, and whether Mr Ong produced his original passport as proof of his age for the purposes of obtaining this card is now unknown. If he did, the fact that it showed that he had entered Australia on a visa in March 2008 ought, in March 2010, to have created at least a lingering doubt as to his legitimacy in the mind of anybody who had a role in issuing the card and who had applied their mind to the question as to whether the card could be properly issued. That would be all the more so if a visa stamp within the passport had specified the original permitted duration of stay. That Mr Ong was able to go about all of this with no expectation of detection says much about the quality of blind-eye bureaucratic processes in this country and the level of resolve to detect unlawful immigration and employment.

- 4.8. Notwithstanding that from 6 June 2008 Mr Ong was an unlawful non-citizen, in the five years that followed he was able, without detection, to engage various agencies in interactions which many people might think ought to require insistence on documentary proof of legitimacy that a secure Australian identity card issued exclusively to all demonstrably lawful Australian residents would provide.
- 4.9. For many years Mr Ong effectively went about his life in Australia as if he were a lawful resident. For all we know he may well have made an excellent and productive citizen had he applied in the usual way. But it would be naïve to think that Mr Ong's ability to remain for so long as an undetected unlawful non-citizen is not replicated elsewhere, and it would be equally as naïve to think that others in Mr Ong's situation all have intentions as benign as Mr Ong's. I draw these matters to the attention of the South Australian, Victorian and Commonwealth Attorneys General and to the Commonwealth Minister for Immigration and Border Protection

## **5. Conclusions**

- 5.1. Mr Ong's apprehension and detention as an unlawful non-citizen would have been lawful. Nobody is to blame for his death.
- 5.2. Mr Ong's death was from natural causes that have a clear pathological origin. The cold reality is that if Mr Ong neglected his health because he believed that this was the one issue that might trigger his detection as an overstayer, the situation was of his own making. As well, if the stress and exertion associated with his attempt to avoid lawful detention precipitated or contributed to his heart attack, Mr Ong's own voluntary actions could said to be a substantial causative factor in his death.

**6. Recommendations**

6.1. I do not see the need to make any recommendations in relation to this matter.

*Key Words: Death in Custody; Natural Causes*

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

*Seal the 1<sup>st</sup> day of August, 2016.*

---

*Deputy State Coroner*

Inquest Number 1/2016 (1214/2013)