



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 24th day of May 2018 and the 24th day of July 2019, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Juanita Lee McNamara-Cutler.

The said Court finds that Juanita Lee McNamara-Cutler aged 26 years, late of 343 Waterloo Corner Road, Salisbury North, South Australia died at Salisbury North, South Australia on the 7th day of September 2014 as a result of neck compression due to hanging. The said Court finds that the circumstances of her death were as follows:

1. Introduction and reason for Inquest

- 1.1. Juanita Lee McNamara-Cutler, known as Winnie, was a 26-year-old mother of three children. On 4 September 2014 Ms McNamara-Cutler was released from Northfield Women's Prison having been granted home detention bail in relation to a number of alleged offences that had yet to be finally dealt with by the courts. Three days later on 7 September 2014 Ms McNamara-Cutler was found by her eldest son, an eight-year-old boy, hanging by the neck from a dog leash attached to a bunk bed in her home. The hanging appeared to be self-inflicted.
- 1.2. Ms McNamara-Cutler did not leave a suicide note.
- 1.3. Due to the fact that at the time of her death Ms McNamara-Cutler was on home detention bail, and that she died in that place of detention, her death was a death in custody in respect of which an inquest was mandatory. These are the findings of that inquest.

2. Cause of death

- 2.1. A post-mortem examination of Ms McNamara-Cutler's remains was conducted by Dr John Gilbert, a forensic pathologist at Forensic Science South Australia. Dr Gilbert reports¹ that the cause of death of Ms McNamara-Cutler was neck compression due to hanging.
- 2.2. Dr Gilbert reports that complex ligature marks were present around Ms McNamara-Cutler's neck. There were three lines consistent with ligature marks. All other pathological findings were consistent with hanging being the mechanism of death.
- 2.3. Post mortem toxicology demonstrated a blood concentration of methamphetamine being approximately 0.3 micrograms per litre from which recent use can be inferred. The deceased also exhibited small facial abrasions which were attributed to scratches often seen in methamphetamine users. No amphetamine was located at the premises at which she died.
- 2.4. No evidence of recent assault was found at autopsy. Despite Ms McNamara-Cutler's assertions to a friend on the day she was released from prison that she was pregnant, there was no evidence at autopsy that she was pregnant.
- 2.5. I accept Dr Gilbert's evidence and find that the cause of Ms McNamara-Cutler's death was neck compression due to hanging. For reasons that will become apparent I was satisfied by the evidence that Ms McNamara-Cutler took her own life and did so without the involvement of any other person.

3. Background

- 3.1. Prior to her release on home detention bail, Ms McNamara-Cutler had been in custody for a number of alleged offences including three offences of aggravated serious criminal trespass and associated theft offences and six breaches of bail committed between 2 June 2014 and 6 August 2014. The breaches of bail consisted of being absent without permission from the nominated home detention residential address.
- 3.2. The most recent remand in custody within the Adelaide Women's Prison had commenced on 13 August 2014. This was in relation to the breach of bail offences.

¹ Exhibit C2a

While in custody on that occasion Ms McNamara-Cutler was assessed for the Treatment Intervention Court (TIC) program. The TIC incorporated what had been known as the Drug Court. It is one of the intervention courts of the Magistrates Court. The TIC is a specialist court that is designed to provide intensive supervision of offenders remanded on bail who have mental health and drug issues and who have been accepted for participation in the TIC program. Once accepted into the program the person is required to undergo regular mandatory urine analysis for the presence of drugs. If a person fails such an analysis he or she is returned to custody for a period of at least two weeks. This period enables detoxification. Despite the lapse, further consideration of the person's continued participation in the program may be given. In the initial stages of a person's participation in the TIC program there are weekly court appearances at which time a case manager presents a progress report. While a person undertakes the TIC program, finalisation of the matter underlying the person's prosecution is postponed.

- 3.3. Ms McNamara-Cutler had been recommended for participation in the TIC program. On 4 September 2014 she was duly released on home detention bail by the court. The place of detention was the home that she usually occupied with her husband and her three children in Salisbury North. That was also the place where she died.
- 3.4. Ms McNamara-Cutler's criminal history largely involved driving offences and minor theft and behavioural offences most of which had been dealt with in the Youth Court. Her most serious convictions had occurred in September 2010. They comprised four offences of driving whilst disqualified, driving with excess blood alcohol and multiple offences of breaching bail. Ms McNamara-Cutler had completed six months of the twelve month Drug Court program prior to sentencing for those matters. Ultimately she received a sentence of one month imprisonment, having previously served some five months in custody. The one month sentence was suspended upon Ms McNamara-Cutler entering into a twelve month bond to be of good behaviour. That bond was observed without breach.
- 3.5. The offences before the TIC at the time of Ms McNamara-Cutler's death were the most serious offences that had ever been alleged against her. She had entered pleas of guilty to the serious criminal trespass offences and she had signed a Form 9A which is a consent that she be sentenced in the Magistrates Court for a major indictable offence. These offences can carry significant terms of imprisonment upon conviction.

- 3.6. Given her previous breaches of home detention bail, Ms McNamara-Cutler's release on bail on 4 September 2014 is consistent with her agreed participation in the TIC Program.
- 3.7. Ms McNamara-Cutler's next court appearance would have occurred on Monday 8 September 2014 but for her death the day before. Her court matters were listed for review in the TIC and she would have been drug tested on that day. As seen, post mortem toxicology revealed the presence of amphetamines in her system. This naturally gives rise to the suggestion that Ms McNamara-Cutler might have tested positively at her drug test at court on the Monday and that she had an appreciation of that possibility, with the further possibility in her mind that she would be re-incarcerated as a result.
- 3.8. Since early 2005 when she was about 16 years of age, Ms McNamara-Cutler had been in a relationship with the man who would become her husband. They were married in 2010. The couple had three children together. At the time of her death the children were aged 8, 6 and 14 months.
- 3.9. According to history that Ms McNamara-Cutler herself had provided to authorities she had been in the custody of her father since she was 18 months old. She reported that she had a troubled childhood. From an early age Ms McNamara-Cutler recalled being frequently bullied at school. In Year 3 she was diagnosed with ADHD and was medicated with dexamphetamine. This particular treatment did not continue as her father was unenthusiastic about her taking this sort of medication. Ms McNamara-Cutler exhibited the indicia of early onset depression. It is said that in response to feelings of jealousy about her sister, at 9 years of age she made a suicide attempt by hanging. It is said that she was saved on that occasion by the ligature failing to hold her weight.
- 3.10. By 10 years of age Ms McNamara-Cutler was involved in psychological intervention through the Child and Adolescent Mental Health Services. She did not properly engage in the process and treatment ceased.
- 3.11. Ms McNamara-Cutler used marijuana from the age of 11. By Year 9 when she was 13 years of age, Ms McNamara-Cutler reported that her drug abuse had escalated and that she had begun experimenting in methamphetamine and hallucinogenic substances.

- 3.12. Ms McNamara-Cutler reported that she moved back with her mother who she said was more permissive but reported that the two began to clash. Ms McNamara-Cutler reported that her mother was also a drug user with mental health issues which were associated with her having been in a domestically violent relationship and also having had a partner who committed suicide. Ms McNamara-Cutler reported that she was exposed to her mother's self-harming behaviour and said that she had witnessed her mother cutting herself in front of her. Ms McNamara-Cutler said that sometimes her mother would blame her for her poor mental state. By the age of 14 Ms McNamara-Cutler reports that she too had begun self-harming by cutting herself.
- 3.13. Ms McNamara-Cutler would level a number of serious allegations against her mother over a period of time including allegations of violence. This Court passes no judgment or makes any finding in relation to any of those allegations.
- 3.14. By the age of 15 Ms McNamara-Cutler's criminal record reflects the beginning of her involvement with the criminal justice system, with a number of arrests and subsequent court appearances being recorded.
- 3.15. Ms McNamara-Cutler was expelled from school at 16 after repeated suspensions for truancy and substance abuse related behaviours.
- 3.16. In 2004 the deceased met the man who would become her husband and the two began to cohabit. They moved in together in a caravan park in the Barossa Valley. Ms McNamara-Cutler reported that the two frequently binged on methamphetamine which they would use intravenously. Ms McNamara-Cutler fell pregnant at 17 years of age with their first child.
- 3.17. Ms McNamara-Cutler's husband was imprisoned early in her pregnancy. Their son was 5 months of age when her husband was released. Her husband would return to prison about two months later. A pattern of regular imprisonment ensued over the next three years.
- 3.18. Alleged domestic violence emerged as an issue in their relationship, none of which was proven beyond the initial allegations. Ms McNamara-Cutler continued to describe to various report writers that her husband was a good father and good provider.

- 3.19. Ms McNamara-Cutler had a complex medical history including previous detention under the Mental Health Act and instances of domestic violence attributed assaults. These feature in her hospital records where both her mother and husband were cited as alleged perpetrators.
- 3.20. As with the deceased's mother, this Court passes no judgment upon or makes any finding in relation into allegations of domestic violence that the deceased made against her husband.
- 3.21. In 2005 Dr Jules Begg, forensic psychiatrist, prepared an assessment report on Ms McNamara-Cutler for the purpose of investigating a mental impairment defence in respect of her then current criminal charges². Ms McNamara-Cutler was only 17 at this time. The alleged offences related to her running out into heavy traffic on Glen Osmond Road and assaulting police when they tried to detain her. In that report Dr Begg found that Ms McNamara-Cutler did have a mental impairment defence available to her on the basis that she suffered from an alcohol induced psychotic disorder. She would experience pathological auditory hallucinations when drinking and would occasionally exhibit behaviours in response to these hallucinations.
- 3.22. Ms McNamara-Cutler was also diagnosed with post-traumatic stress disorder by Dr Begg due to maternal beatings that she alleged she had suffered during her juvenile years. Dr Begg postulated that Ms McNamara-Cutler's traumatic and severely dysfunctional childhood predisposed her to mental illness. There were no further formal psychiatric reports with regard to Ms McNamara-Cutler but there are subsequent records of medical interventions regarding her mental health.
- 3.23. On 7 August 2009 Ms McNamara-Cutler attended the Marion Domain Medical Centre where she revealed that she suffered from suicidal ideation. On that basis a mental health care plan was prepared and a referral made to psychologist, Damien Paynter. Ms McNamara-Cutler does not seem to have followed up this referral.
- 3.24. On 17 September 2009 Ms McNamara-Cutler was detained in the Flinders Medical Centre under the Mental Health Act in response to her ringing 000 and threatening to kill herself after an argument with her husband. Ms McNamara-Cutler would again be

² Exhibit C17AA

detained under the Mental Health Act on 19 January 2014 after expressing suicidal thoughts. She was found collapsed in a gutter in a highly intoxicated state.

- 3.25. There are indications of Ms McNamara-Cutler suffering from post-natal depression following the birth of her children. In the TIC court assessment report Ms McNamara-Cutler self-reported about becoming depressed regarding the death of a close friend and the premature birth of her son two days after the death of that friend. Ms McNamara-Cutler did not reveal details of incidents of previous mental health detention, suicidal ideation, or self-harming attempts on her prisoner screening forms at the Adelaide Women's Prison apart from a screening form dated 13 October 2009 in which she had disclosed the alleged suicide attempt at the age of 9.
- 3.26. There were three reports of domestic violence involving Ms McNamara-Cutler's husband. None of them resulted in findings of guilt against her husband. This was due for the most part to Ms McNamara-Cutler not proceeding with the allegations. The most recent report involved an allegation arising out of an incident on 18 April 2014, approximately five months before her death. The allegation involved alleged assault by her husband. There were no injuries nor the use of a weapon. Her husband was arrested and presumably bailed with an interim intervention order imposed as well as the usual conditions not to assault, threaten, harass or intimidate. There was also a condition that her husband should vacate the domestic premises at Salisbury North. On 23 May 2014 Ms McNamara-Cutler attended at the Elizabeth police station and told police that she wanted her husband to return home and that they would work through their difficulties without charges against him hanging over their heads. Ms McNamara-Cutler explained that they had been communicating and working towards a resolution and had identified that her husband's drinking was affecting their relationship. She expressed the belief that he was genuinely aware of the issue and was seeking help. She indicated that she wanted to drop the charges and the intervention order. A police document seeking no further police action was signed by the deceased which resulted in the charges being discontinued. Police did not agree to revoke the intervention order, but agreed to vary it to allow her husband to return to the family home. The conditions regarding assaulting, threatening, harassing or intimidating still applied. Ms McNamara-Cutler's husband duly returned to the matrimonial home. As indicated, however, Ms McNamara-Cutler was taken into custody for breaches of home detention bail in the intervening period and was ultimately released on 4 September 2014 on the

TIC program. There were no further reports of domestic violence following the alleged incident of 18 April 2014.

4. The circumstances surrounding Ms McNamara-Cutler's death

- 4.1. The evidence in relation to the circumstances of Ms McNamara-Cutler's death need to be seen in the light of a suggestion made by Ms McNamara-Cutler's mother that in her view Ms McNamara-Cutler's husband is responsible for her daughter's hanging. As articulated during the course of this inquest, Ms McNamara-Cutler's mother believes that her husband murdered her daughter because her daughter would not have perpetrated the hanging on herself. She alleged that Ms McNamara-Cutler's husband would always say to her daughter that she was nothing but a *'junkie dog'*, that she used to live like one and that she was going to die like one. According to the mother: *'and if she done that, the last thing she would have used would have been a dog lead and a collar because that would have been proving him right'*. Other arguments were offered by the mother, all of which I have had regard to.
- 4.2. This death was investigated in the usual way by SAPOL. The investigation is a particularly detailed and comprehensive one. It was overseen by Detective Senior Constable First Class James Webber, then of the Elizabeth Criminal Investigation Branch. I set out the officer's conclusion regarding this aspect of Ms McNamara-Cutler's death:

'Whether the deceased's death was suspicious

Information provided during the course of the investigation was that the deceased did not commit suicide and that her death was suspicious. This information was from the deceased's mother who believed that the deceased was killed by her husband as a result of a domestic violence incident.

There was nothing to suggest anything suspicious happened to the deceased upon the initial assessment of Police. All signs pointed to a suicide as a result of hanging.

The initial statement from the deceased's husband.....was completed as a first to find and a last to see statement. (The) sonwas the actual first to find the deceased however upon attending the address to conduct the initial investigation, (the husband) would not let Police speak to his son.

Through the course of the investigation, a statement was obtained from (the son) and his responses were genuine and corroborated the statement taken from (the husband).

Upon review of the post mortem report and discussions with the pathologist who conducted the autopsy there was nothing suspicious with their findings and state of the deceased.

There was extensive history between the deceased and her husband with regards to domestic violence. This in itself does not make the death of the deceased suspicious. The deceased's husband as mentioned would not let Police speak with his son on the initial attendance. This can be explained with the fact that his son had just located his mother dead as a result of hanging and this would be a traumatic experience for most people let alone an eight year old. I would consider this behaviour as protective and not an attempt to stop Police having contact with his son.

With these considerations at this time there is nothing that would indicate the death as suspicious and as such I would deem the death of the deceased as being a suicide. '

For further reasons that follow I see no reason to differ from that conclusion.

- 4.3. Before examining the evidence regarding the circumstances of Ms McNamara-Cutler's death it should be observed that prior to her death it appears that the deceased had been fixated on the idea that her mother and her husband had been conducting an affair during her most recent period of remand in custody. This belief was evident from statements made by the deceased to her sister and her father. The belief was ostensibly based on alleged text messages that she had located and that had involved her mother and her husband. In the deceased's mind the messages suggested a sexual relationship between them. Both the mother and the husband have denied that any such relationship ever existed. As to whether or not such a relationship had existed is not a matter for this Court, but it seems clear enough that Ms McNamara-Cutler had convinced herself that one had existed.
- 4.4. I turn now to a brief account of the circumstances surrounding Ms McNamara-Cutler's death. Ms McNamara-Cutler had last been seen alive by her eldest son at 7am on 7 September 2014, less than three hours before her death. This son was also the first to find his mother hanging from the bunkbed frame in his sister's room. His sister was not present at the time as she was having a sleepover with her grandmother and her aunt.
- 4.5. Ms McNamara-Cutler's son woke his father who cut her down from the ligature which, as indicated, was a dog leash. Ms McNamara-Cutler's husband called an ambulance. At 9:59am the ambulance crew received the message about her hanging and they arrived at about 10:01am. Resuscitation attempts were made by the ambulance officers but they were unsuccessful. Life was declared extinct at 10:28am.
- 4.6. There are a series of text messages and phone calls made by Ms McNamara-Cutler on the morning of her death which provide insight into her mental health at the time of the

incident and provide an explanation for what might have motivated Ms McNamara-Cutler to take her own life. These calls appear to be reflective of Ms McNamara-Cutler's belief that her husband and mother were conducting a sexual relationship.

- 4.7. It is necessary to briefly outline the phone calls and other communications that Ms McNamara-Cutler made on the morning of death. At 5:54am AEST she telephoned her friend and confidant Mr Andrew Charlesworth who lived in Queensland. The statement of Mr Charlesworth³ asserts that during the call Ms McNamara-Cutler was upset and angry and was crying because she had just found out that her mother had slept with her husband. He further states that this was not a surprise to him because the husband had already told him '*about him and (the mother)*'. However, Mr Charlesworth states that he had not told Ms McNamara-Cutler as he knew it would be really upsetting for her and that he was not certain whether her husband had told him the truth about the affair.
- 4.8. During the call Ms McNamara-Cutler said that she wanted '*to end it*' and that '*she was going to get some Heroin on Monday morning and end it by an overdose*'⁴. Mr Charlesworth kept telling Ms McNamara-Cutler not to do anything silly and he tried to talk her out of it. At 9am Mr Charlesworth unsuccessfully tried to call Ms McNamara-Cutler. The phone call to Mr Charlesworth lasted 15 minutes. He was ultimately informed of her death via Facebook. I have no reason to doubt Mr Charlesworth's assertions.
- 4.9. At 6am Ms McNamara-Cutler's father received a phone call from his daughter. She told him that she had found out that her husband had been '*screwing around*' with her mother when she was in gaol. Ms McNamara-Cutler's father told her not to do anything stupid until she found out the facts. At 7:56am his daughter Juanita sent her father a text message wishing him a happy Father's Day.
- 4.10. Ms McNamara-Cutler's sister noted two or three missed calls from her sister at 5:00am. She had not heard them because her phone had been on silent. When she called back at 7:20am Ms McNamara-Cutler asked for her sister to return her daughter back from the sleepover as soon as possible even though she was meant to be staying for a play date until lunchtime. The sister states that Ms McNamara-Cutler told her that her

³ Exhibit C6

⁴ Exhibit C6, page 5

mother and her husband had been ‘*fucking each other*’ while she had been in gaol. The sister says that she told her sister to make sure that she had her facts right and she ended the conversation. At 7:52am the sister received a text message from Ms McNamara-Cutler which said ‘*Tell the girls I love them heaps and give them a kiss and a cuddle from Auntie Winnie. I hope to see them soon enough. Love you too, sis*’.

- 4.11. Ms McNamara-Cutler’s husband reported that during the night his wife had sat out the front of their house in her car and he had slept in the bedroom and states that he ‘*Had not spoken to her since the night before*’. At 8am the husband received a text message from his wife’s phone. The text message received at 7:54am says ‘*I love you so much, (the husband). You are my world. I’m sorry, I’m really sorry*’. The husband states that although he had received the message, he did not get out of bed. He was woken before 10am by his son who came into his room and told him that Ms McNamara-Cutler was dead. The husband says that he then arose from bed. He cut his wife down and phoned for an ambulance.
- 4.12. Constable Andrew Plumb, one of the first officers on the scene, has expressed the opinion in his statement that the scene was consistent with Ms McNamara-Cutler having tied the dog lead around the bed frame in her child’s bedroom and then had tied it around her neck. She had then sat down on the ground so that it would strangle her and eventually stop her circulation and stop her breathing. To my mind that is a likely scenario and I find that to have been the case.

5. Conclusions

- 5.1. The Court drew the following conclusions.
- 5.2. I find that Ms McNamara-Cutler’s home detention was lawful. There is nothing to suggest that the state of home detention contributed to her death. The alternative, that is to say a possibly protracted period of custody, would obviously have been less palatable.
- 5.3. I find that Ms McNamara-Cutler was solely responsible for her own death. There is no evidence that would implicate any other person, including her husband, in her death. Everything in my view points to suicide including the statements either verbally or by way of text that she made to her friends and family members. I have accepted that evidence. The telephone conversation with Mr Charlesworth is particularly telling. It

contains reference to a desire on Ms McNamara-Cutler's part to end her own life. Ms McNamara-Cutler clearly had her mental health issues as well as her drug consumption difficulties. She was affected by methamphetamine at the time of her death. Ms McNamara-Cutler could have considered herself fortunate to have been released on the TIC program having regard to her poor track record of compliance with home detention. To my mind this could have served to have engendered in her mind the distinct possibility that if she tested positive to drug use at her court appearance on the Monday she would be taken back into custody, and probably for the duration of her outstanding court matters.

- 5.4. On the morning of her death, Ms McNamara-Cutler was clearly fixated on the thought that her mother and her husband had been conducting an affair. Indeed, she seemed obsessed with the notion. That morning, either in a phone call or in a text message, she mentioned this to no less than three persons. Some of her messages bore an air of finality. She told Mr Charlesworth in terms that she was contemplating suicide.
- 5.5. I do not believe that Ms McNamara-Cutler's death was preventable. She took her own life only three days after her release on home detention bail which would not have given the TIC program administrators any meaningful opportunity to achieve appropriate intervention.

6. Recommendations

- 6.1. There are no recommendations in this matter.

Key Words: Death in Custody; Home Detention; Suicide; Hanging; Psychiatric/Mental Illness

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

Seal the 24th day of July, 2019.

Deputy State Coroner