



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 22 February 2018 and the 12th day of June 2019, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of An Hoang Le Nguyen.

The said Court finds that An Hoang Le Nguyen aged 4 years, late of 2/18 Rogers Street, Goodwood, South Australia died at the Women's and Children's Hospital, 72 King William Road, North Adelaide, South Australia on the 14th day of July 2015 as a result of acute lymphoblastic leukaemia. The said Court finds that the circumstances of his death were as follows:

1. Introduction, cause of death and reason for inquest

- 1.1. An Hoang Le Nguyen was born on 1 July 2011 and died on 14 July 2015 at the Women's and Children's Hospital in South Australia. He was aged 4 years.
- 1.2. A coronial medical deposition was completed by Dr Michael Philip Osborn, a consultant paediatric haematologist-oncologist at the Adelaide Women's and Children's Hospital (the WCH). An was under Dr Osborn's care. Dr Osborn's opinion is that the cause of An's death was acute lymphoblastic leukaemia¹. I accept that opinion and find accordingly.
- 1.3. An's parents, his father Mr Vu Xuan Nguyen, and his mother Mrs Dieu Thai Bich Le, travelled from Vietnam via boat arriving in Broome in Western Australia. They were described as unauthorised maritime arrivals as of 13 July 2013. They were detained

¹ Exhibit C1a

under section 189(1) of the Migration Act 1958 (Commonwealth) (the Act). A residential determination under section 197AB of the Act was made by the Minister for Immigration and Border Protection on 15 August 2014 and by the Assistant Minister for Immigration and Border Protection on 20 February 2015. A resident determination under section 197AB of the Act was granted on grounds of public interest. This enabled An's family to reside at a proposed place specified under section 197AC. The effect of the resident determination is set out in sub-section (1) which states:

'While a residence determination is in force, this Act and the regulations apply (subject to subsection (3)) to a person who is covered by the determination and who is residing at the place specified in the determination as if the person were being kept in immigration detention at that place in accordance with section 189.'

The effect of section 197AC and the immigration detention imposed pursuant to it was that An's death was a death in custody pursuant to section 3 of the Coroners Act 2003. Therefore this inquest was mandatory. These are the findings of that inquest.

2. Background

- 2.1. An was born on 1 July 2011 in Vung Tau, Vietnam. He was born as a result of a caesarean section at 40 weeks. Mr Nguyen and his wife left with the child and returned to their village.
- 2.2. On 28 June 2013 Mr Nguyen left Vietnam with his wife and a child and came by boat to Australia.
- 2.3. The family arrived in Broome, Western Australia on 13 July 2013 and, as stated, were detained under the Act. They were transferred to Curtin Immigration Centre. On 17 July 2013 they were transferred to Wickham Point Immigration Detention Centre in Darwin in the Northern Territory.
- 2.4. Department records suggest that all the family were reported to be healthy as of April 2014. The Department became aware of An's deteriorating health on 30 July 2014. Due to his condition a case manager met with staff at the Royal Darwin Hospital and with An's parents. As a result of that meeting An was transferred and admitted to the WCH in Adelaide. Department records show that on 9 September 2014 the family were transferred into community detention at Unit 2/18 Rogers Street, Goodwood. Although technically detained as described earlier, this determination allowed the family to live in the community under the Act.

2.5. Department records indicate that An was discharged from hospital on 28 September 2014 and remained in South Australia until he was transferred to New South Wales on 22 February 2015 for further medical treatment. An was admitted to the Sydney Children's Hospital while his parents stayed in the Ronald McDonald House nearby. Department records show that on 15 June 2015 the family returned to South Australia. The Department was notified on 8 July 2015 that An had been taken to hospital and that he subsequently died on 14 July 2015 at the WCH.

3. An's medical treatment

3.1. Dr Osborn sets out An's medical history in his statement². He states that An was initially diagnosed with acute lymphoblastic leukaemia at the Royal Darwin Hospital on 29 July 2014. Prior to his presentation to the Royal Darwin Hospital he had been unwell for four days with abdominal pain, lethargy, decreased food and fluid intake, coughing, vomiting, fever, and swollen face and neck.

3.2. On examination at the Royal Darwin Hospital he appeared short of breath. Blood tests revealed leukaemia. The diagnosis was made by a Dr L Woodward, consultant paediatrician, and Dr F Szabo, a haematologist who identified leukaemia cells known as blasts in An's blood sample.

3.3. On 30 July 2014 An's condition deteriorated with life threatening issues. These included breathing difficulties requiring intubation and ventilation, bleeding problems known as disseminated intravascular coagulation and marked abnormalities of the electrolytes in his blood. These complications related to the aggressive nature of the illness. An was admitted to the Royal Darwin Hospital Intensive Care Unit and was retrieved to the WCH in Adelaide on the same day.

3.4. Dr Osborn was of the opinion that he was managed appropriately by the medical team in Darwin. I accept that opinion. Dr Osborn's statement also sets out An's medical history and treatment in South Australia. He noted that the only other illness had been infrequent asthma.

3.5. In South Australia a diagnosis of the T-cell acute lymphoblastic leukaemia was conclusively confirmed. There was no uncertainty about this diagnosis. In Adelaide he was admitted to the WCH paediatric Intensive Care Unit. Imaging of his brain

² Exhibits C1 and C1a

showed that he also had leukaemia in his brain. A stroke known as cerebral ischaemia and bleeding into the brain was also diagnosed. This required insertion of a drain by a neurosurgeon. He also had leukaemia in both eyes. He had seizures requiring anticonvulsant medication.

- 3.6. An underwent a procedure known as leukapheresis to reduce his massively elevated white blood cell count. He commenced chemotherapy. His condition gradually improved. A bone marrow biopsy on 23 September 2014 showed that he had achieved remission. However, in An's case it was clear that he had an aggressive form of leukaemia which carried a high risk of relapse.
- 3.7. An was treated with chemotherapy in accordance with the protocol designed for children with high risk acute lymphoblastic leukaemia. This is standard treatment utilised for all children with this condition in Adelaide and around the world.
- 3.8. An had further complications over the next few months including a herpes infection of the mouth, septicaemia, bilateral pneumonia, inflamed intestines, high blood pressure and markedly impaired vision resulting from bleeding into the eyes.
- 3.9. Children with high risk leukaemia may also require a stem cell transplant. As this procedure was not performed in Adelaide, on 30 March 2015 An was transferred to the Sydney Children's Hospital where he received a cord blood cell transplant. He was discharged from Sydney's Children's Hospital on 28 April 2015 and was seen as an outpatient until 15 June 2015 at which time he was transferred back to Adelaide.
- 3.10. On returning to Adelaide An was reviewed regularly by a paediatric haematology-oncology clinic on several dates between 17 June 2015 and the beginning of July 2015. Clinical assessments and blood tests were conducted on those occasions.
- 3.11. On 6 July 2015 An attended the paediatric emergency department of the WCH with a two day history of headaches and of feeling unwell. Blood tests showed that he had leukaemia cells in his blood. He had relapsed acute lymphoblastic leukaemia despite having received all of the available therapies.
- 3.12. Following this diagnosis it was agreed that there was no curative treatment available for An. It was explained to his parents that there was no chance of survival.

Accordingly, the focus of his care was shifted to symptom control and palliation, the principal treatment consisting of pain relief and comfort care.

3.13. An died on 14 July 2015.

3.14. In his witness statement An's father expressed the opinion that his son had received good care for his illness³. Having reviewed his clinical record I do not doubt that this was the case. There is no doubt that An bore his illness and underwent his treatment all with considerable bravery.

4. Conclusion

4.1. An's detention was lawful. His medical treatment whilst under detention was also lawful and optimal. There were no issues connected with his custodial circumstances that contributed to his death. I make no recommendations.

Key Words: Death in Custody; Natural Causes; Dept of Immigration & Border Protection

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

Seal the 12th day of June, 2019.

Deputy State Coroner

Inquest Number 07/2018 (1228/2015)

³ Exhibit C3