



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 3rd day of September and the 18th day of December 2020, by the Coroner's Court of the said State, constituted of Ian Lansell White, Deputy State Coroner, into the death of Brenton Leslie Dutschke.

The said Court finds that Brenton Leslie Dutschke aged 72 years, late of Oakden Makk House, 200 Fosters Road, Oakden, South Australia died at Oakden, South Australia on the 4th day of April 2015 as a result of ischaemic heart disease on a background of end-stage renal failure and fronto-temporal dementia. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

1.1. Brenton Leslie Dutschke was born on 18 March 1943 and died on 4 April 2015 at the age of 72. A pathology review based upon Mr Dutschke's clinical history was undertaken by Dr Iain McIntyre¹ from Forensic Science South Australia. In his report he provided the cause of death as ischaemic heart disease in a man with end stage renal failure and frontotemporal dementia. I accept this and find that Mr Dutschke died as a result of ischaemic heart disease on a background of end-stage renal failure and fronto-temporal dementia.

2. Reason for inquest

2.1. At the time of his death Mr Dutschke was on a Level 3 Inpatient Treatment Order,² as such this is a mandatory inquest pursuant to Section 21(1)(a) of the Coroners Act 2003.

¹ Exhibit C2

² ITO

- 2.2. Mr Dutschke had an extensive history of treatment interventions leading up to the Level 3 ITO. Deputy Registrar at the South Australian Civil and Administrative Tribunal,³ Ms Melano Virgo, described the full history of the orders made for him by SACAT.⁴
- 2.3. On 20 March 2012 an interim guardianship order was made appointing the Public Advocate as guardian. At that time Mr Dutschke was admitted to the Royal Adelaide Hospital⁵ and there were concerns regarding his capacity to make decisions. On 2 April 2012 a guardianship order was granted. That order was subsequently extended to 2 July 2014. In September 2014 the Public Advocate lodged an application for special powers due to Mr Dutschke's aggressive behaviour whilst in hospital. On 10 September 2014 special powers were granted to the Public Advocate in relation to his residence and treatment. The special powers were to be reviewed on or before 9 March 2015. Also in September 2014, an application was made to appoint the Public Trustee as the administrator. On 14 January 2015 an application was made by Dr Theilhaber for a Level 3 ITO for Mr Dutschke due to him not complying with his medication. This order was granted and was due to expire on 26 January 2016.

3. **Background**

- 3.1. Mr Dutschke was married three times. He had two children, an adult son and a daughter from his last wife. Mr Dutschke's ex-wife, Gemma Dutschke, provided a statement.⁶ She outlined Mr Dutschke had resided in the Philippines for about 20 years teaching at a university and running an import dairy business in Australia. Mr Dutschke met Ms Dutschke in 1997 when she was a student at the university and he was a teacher. He stopped working as a teacher when they started a relationship. In May 2000 they married whilst in the Philippines and not long after moved to South Australia. Their daughter, Natasha, was born on 19 March 2007. She is now 13 years old. Ms Dutschke said their relationship deteriorated during her pregnancy. He was under financial pressure from his business not doing well and she moved out of the home and into a shelter. Although there were attempts to reconcile, the relationship broke down and they divorced in 2008.

³ SACAT

⁴ Exhibit C6

⁵ RAH

⁶ Exhibit C1

4. **Medical history and treatment**

- 4.1. Ms Dutschke witnessed Mr Dutschke's health decline in 2010. In 2013 she was informed that Mr Dutschke had to stay in hospital for dialysis otherwise he would not live long. At that time he had no family to help him and his behaviour was becoming increasingly aggressive. Ms Dutschke stated that she was aware of the SACAT orders and was even present at some of the meetings.
- 4.2. She also visited Mr Dutschke twice a month following his admission at Oakden Nursing Home. It was clear to her that he was not happy at Oakden as he would complain that he wanted to get out of hospital. Ms Dutschke stated Mr Dutschke complained about his medication, lack of sleep and breathing difficulties. Ms Dutschke believed the staff were not listening to him. She saw Mr Dutschke for the last time about a week before his death. On that occasion she witnessed human faeces on the floor and in his bed. She did not know how long the faeces had been there but told staff and it was later cleaned.
- 4.3. Mr Dutschke had a complex medical history including Type 2 diabetes, hypertension, hypocholesterolemia, arterial fibrillation and end stage renal failure for which he had been on haemodialysis at his home. In 2012 Mr Dutschke was residing alone at an address in Davoren Park, South Australia. On 18 February 2012 he was admitted to the Lyell McEwin Hospital⁷ with pneumonia and acute chronic renal impairment. On 20 February 2012 he was transferred from the LMH to the RAH due to reduced level of insight. Whilst at the RAH Mr Dutschke was diagnosed with frontal temporal dementia.
- 4.4. On 4 April 2015, the day of his death, Ms Dutschke received a call from Mr Dutschke who sounded happy and raised no complaints. She planned to visit him later that day. Unfortunately he passed away before the visit. She suspects there may have been an overdose of his medication. She believes he was medicated to calm him down as the staff were lazy and did not want him to complain.
- 4.5. Ms Bethany Jordan, an assistant Public Advocate at the Office of the Public Advocate,⁸ stated whilst Mr Dutschke was at the RAH, social workers requested an urgent hearing to appoint a guardian as Mr Dutschke was not able to commit to being compliant with

⁷ LMH

⁸ Exhibit C5

his dialysis. As already stated, on 20 March 2012 an interim guardianship order was made appointing the Public Advocate as his guardian.

- 4.6. The Public Advocate negotiated with the RAH for Mr Dutschke to return home as this was his wish. Mr Dutschke was to be assisted by the Royal District Nursing Services who were to manage his daily medication and transport services to attend for dialysis. The home visits lasted for about four weeks until the Royal District Nursing Services contacted the Public Advocate to advise that they were considering withdrawing services due to Mr Dutschke's aggressive and threatening behaviour which was placing their staff at risk. Ms Jordan stated every attempt was made to keep Mr Dutschke at home but there were ongoing challenges with his support due to his aggression towards people. On 27 August 2014 he was admitted to the RAH with a non-ST segment elevation myocardial infarct. Mr Dutschke continued to behave aggressively and intended to discharge from hospital. It became apparent to the Public Advocate that Mr Dutschke could no longer be cared for at home. Specialists were of the opinion Mr Dutschke's worsening dementia, health complications and behavioural issues during dialysis, meant that an end of life program was to be discussed. In September 2014 a meeting at the Public Advocate's office decided with his renal specialist that a 'do not resuscitate' plan would fit Mr Dutschke's wishes. He was aged care assessed and it was found he could not go into a mainstream nursing home due to his behaviour. On 16 October 2014 Mr Dutschke was transferred to Makk House at Oakden. On 16 November 2014 a Good Palliative Care order was signed by Ms Jordan and Dr Frawley from the RAH.
- 4.7. In charge at Oakden Mental Health was psychiatrist Dr Patrick Flynn⁹ who stated Makk House was one of three long-stay wards catering for psychogeriatric patients. Three quarters of the patients have dementia and the remainder have a mix of schizophrenia, bipolar and personality problems.
- 4.8. Dr Flynn stated the diagnosis of the frontotemporal dementia was thoroughly investigated. The illness leads to executive function problems. Often some memory is preserved but other behaviours like impulsivity, poor judgment and inappropriate behaviours can be evident. Dr Flynn found Mr Dutschke was not fit enough to return home following his admission at the RAH in 2014. When Mr Dutschke was transferred

⁹ Exhibit C4

to Makk House, Oakden, Dr Stephen McDonald was his renal care specialist. There were considerable issues with his continued dialysis at the RAH as Mr Dutschke would become aggressive and walk away. Dr Flynn confirmed Mr Dutschke did not want to voluntarily stay at Makk House. Mr Dutschke was paranoid, grandiose and unrealistically believed he could go home and take care of himself. This behaviour was the basis for the ITO to be imposed.

5. Events just prior to Mr Dutschke's death on 4 April 2015

- 5.1. Mr Dutschke was commenced on intramuscular long acting antipsychotic medication due to his non-compliance. He became more compliant with his medication and became less aggressive, although still voicing delusional beliefs and lacking insight. The medications prescribed are itemised in Dr Flynn's statement.¹⁰ On 1 April 2015 and 3 April 2015 Mr Dutschke was taken to the RAH and a review of his notes reveals his treatment was unremarkable. His fluid balance chart and medication was also reviewed on 3 April 2015 by Dr McDonald. Dr Flynn stated that on 4 April 2015 Mr Dutschke was settled and calm on the ward. He had a nap at 10:45am and was found deceased at midday.
- 5.2. Mathew Balaza was a Care Assistant at Makk House Oakden Nursing Home.¹¹ He had been employed since 2014. He stated at about 11:30am he saw Mr Dutschke in the TV room and they had a brief conversation. Mr Balaza later noticed Mr Dutschke had left the TV room. At about midday Mr Balaza went to Mr Dutschke's room to call him out for lunch. Mr Dutschke was lying on his bed and failed to respond to the calls. The alarm was raised and other staff attended. Mr Dutschke had passed away. South Australian Ambulance Service¹² was called and pronounced life extinct at 12:20pm.

6. Coronial investigation and conclusion

- 6.1. As this was a matter of death in custody a police investigation commenced. Officers Luke Townsend,¹³ Nicholas Woodbridge,¹⁴ and Stephen Hunt, crime scene examiner,¹⁵ all attended and provided statements as to their observations at the nursing home. Detective Brevet Sergeant Trina Bentley the investigating officer into Mr Dutschke's

¹⁰ Exhibit C4

¹¹ Exhibit C3

¹² SAAS

¹³ Exhibit C7

¹⁴ Exhibit C8

¹⁵ Exhibit C9

death has provided a final report.¹⁶ Her thorough investigation found no suspicious circumstances surrounding the death. The ITO was valid and appropriate and no deficiencies were identified in the care. I agree with the police officer's findings.

7. **Recommendations**

7.1. In light of the above I make no recommendations.

Key Words: Death in Custody; Natural Causes; Inpatient Treatment Order

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

Seal the 18th day of December, 2020.

Deputy State Coroner

Inquest Number 10/2017 (0560/2015)

¹⁶ Exhibit C10A