



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 7th and 21st days of May and the 3rd day of November 2020, by the Coroner's Court of the said State, constituted of Ian Lansell White, Deputy State Coroner, into the death of Daryl Grant Marshall.

The said Court finds that Daryl Grant Marshall aged 61 years, late of 65 Henry Street, West Croydon, South Australia died at the Royal Adelaide Hospital, North Terrace, Adelaide, South Australia on the 23rd day of August 2017 as a result of hospital acquired pneumonia complicating aorto-femoral bypass surgery for peripheral vascular disease. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

- 1.1. Daryl Grant Marshall was born on 20 September 1955 and died at the Royal Adelaide Hospital on 23 August 2017, aged 61 years. Mr Marshall was formally identified by his brother, Mr Gary Marshall, at the Royal Adelaide Hospital.
- 1.2. A pathology review of Mr Marshall's clinical history was undertaken by Dr Jane Alderman from Forensic Science South Australia. In her report of that review Dr Alderman has provided a cause of death for Mr Marshall as hospital acquired pneumonia complicating aorto-femoral bypass surgery for peripheral vascular disease¹, and I so find. The pathology review noted that Mr Marshall had a history of alcohol misuse, back pain, gastroesophageal reflux, and discoid lupus erythematosus.

¹ Exhibit C2a

1.3. Reason for inquest

- 1.4. At the time of his death Mr Marshall had been placed on a Level 1 Inpatient Treatment Order (ITO) pursuant to section 21 of the Mental Health Act 2009. As a result, Mr Marshall's death was subject to a mandatory inquest pursuant to section 21(1)(a) of the Coroners Act 2003. These are the findings of that inquest.

2. Background

- 2.1. Mr Marshall was a butcher by trade, having completed an apprenticeship upon leaving school. He continued applying his trade through his working life. Unfortunately, Mr Marshall contracted lupus through his work. He also suffered strains to his back and wrists due to the physicality of his trade, causing him to eventually live on a disability pension².
- 2.2. As a young man Mr Marshall married and had two children. Mr Marshall later married again. At the time of his death he was living with a couple of friends of similar age. Mr Marshall was a keen contributor to the management of his household, particularly enjoying cooking. Mr Marshall was an active participant in his community. He was a member of the social club of his local bar and played bowls and darts locally. In March 2017 Mr Marshall looked after his mother until she passed away from chronic airways disease. On the night before Mr Marshall entered hospital for the last time, he prepared meals for his housemates for the coming days. Despite offers of assistance, Mr Marshall found his own way to hospital.

3. Medical history and treatment

- 3.1. Dr Peter Donohoe was Mr Marshall's general practitioner from April 2016 until he last saw Mr Marshall on 4 August 2017. Dr Donohoe made diagnoses of chronic back pain, discoid lupus erythematosus, familial polyposis syndrome, hypocholesterolaemia, bilateral occluded femoral arteries, alcohol dependence, a heavy smoking habit and a previous history of depression.
- 3.2. On 17 May 2016 Dr Donohoe first referred Mr Marshall for vascular surgery for his bilateral occluded arteries. It was identified that Mr Marshall required surgery to his legs. He was told to cease smoking prior to surgery. Since his teen years Mr Marshall

² Exhibit C1b

had smoked between 20 to 25 cigarettes per day but he stopped smoking as requested. Mr Marshall was having difficulty walking and struggled with the associated pain. The pain inhibited his ability to engage in activities such as gardening.

- 3.3. Dr Peter Subramaniam was Mr Marshall's vascular surgeon and first treated him in 2016. In his statement³ he confirmed that Mr Marshall suffered from peripheral vascular disease impacting upon his ability to walk. Dr Subramaniam gave Mr Marshall six months to give up his smoking habit before further considering his treatment. Mr Marshall gave up smoking and returned to Dr Subramaniam in 2017. A high-risk clinic assessment determined Mr Marshall was considered fit enough to undergo vascular surgery. There were however concerns about alcohol withdrawal issues, including the potential for delirium.
- 3.4. Despite that assessment there were also concerns that Mr Marshall could lose his legs without surgical intervention, so in consultation with Mr Marshall a decision was made to proceed to surgery. Mr Marshall was admitted to the Royal Adelaide Hospital on 8 August 2017 for pre-operative routines prior to aorto-femoral bypass surgery. He was given a general anaesthetic with an epidural for the provision of post-operative pain relief.
- 3.5. During surgery it was found that Mr Marshall had a blockage in the aorta leading to his abdomen, and blocked arteries in his legs. An endarterectomy was undertaken to clear the blocked arteries in his legs. A bypass of the aorta to his legs was undertaken. These procedures took four to five hours. Dr Subramaniam considered the surgery a success. He noted some post-operative concerns with Mr Marshall's blood pressure, but considered it was a common occurrence when an epidural is in place.
- 3.6. Following surgery Mr Marshall was transferred to the Intensive Care Unit⁴ at the Royal Adelaide Hospital. In ICU Mr Marshall's hypotension, hospital acquired pneumonia, anaemia, and delirium was managed. His hospital acquired pneumonia was diagnosed on 19 August 2017. Mr Marshall was transferred from ICU to Ward S6, a vascular surgery ward, on 21 August 2017. A review of the hospital notes suggest that whilst in

³ Exhibit C4

⁴ ICU

ICU Mr Marshall was diagnosed with hepatic alcoholic psychopathy⁵. As a result of his alcohol withdrawal Mr Marshall displayed altered states of conscious aggression.

4. Mr Marshall's detention and decline

- 4.1. Dr Subramaniam noted Mr Marshall's psychopathy rendered him more prone to developing pneumonia with an inability to follow commands. Dr Jessica Pollard examined Mr Marshall at 7pm on 21 August 2017 in the vascular surgery ward⁶. Dr Pollard was aware that Mr Marshall required hand restraints to protect himself from self-harm due to delirium. Mr Marshall was unable to communicate with Dr Pollard. Dr Pollard reviewed the hospital notes for Mr Marshall. She considered, if unrestrained, he was a danger to staff and a danger to himself by removal of intravenous and urinary catheters. Dr Pollard placed Mr Marshall under a Level 1 ITO. At 10:30am on 22 August 2017 Dr Mardod Eftica, a psychiatrist, assessed Mr Marshall. Dr Eftica described Mr Marshall as agitated and unable to provide coherent answers to questions. Dr Eftica confirmed the Level 1 ITO.
- 4.2. At 3:20am on 23 August 2017 nursing staff noted Mr Marshall's respiration rate had declined and a resuscitation team was alerted. Mr Marshall's breathing stopped, and he became unresponsive. CPR was attempted for approximately 30 minutes to no avail. Mr Marshall was confirmed deceased at 4:10am.

5. Coronial investigation

- 5.1. Mr Marshall's death in custody was thoroughly investigated by Detective Brevet Sergeant Gavin Baldan of the Western Adelaide Criminal Investigation Branch of SAPOL. Detective Baldan provided a report to the Court⁷. No issues of concern were uncovered during Detective Baldan's investigation.
- 5.2. Mr Marshall's brother, Gary Marshall, expressed concerns in the statement he provided to police about the time delay in accessing surgery⁸. He was of the view that, had it been done earlier, Mr Marshall might still be alive. Those concerns must be considered against the concerns of the medical practitioners, particularly concerns raised regarding cessation of smoking prior to surgery. Dr Subramaniam considered that in 2016, due

⁵ Exhibit C8

⁶ Exhibit C3

⁷ Exhibit C7a

⁸ Exhibit C1b

to Mr Marshall continuing to smoke, the risk/benefit analysis was not in favour of Mr Marshall having the operation⁹. It was considered appropriate to delay the surgery to reduce the risk. At the time of surgery risks still remained associated with alcohol withdrawal, as was identified by the high-risk assessment that was undertaken prior to surgery in 2017.

6. **Conclusion**

- 6.1. Mr Gary Marshall and Ms Sharon Marshall, siblings of the late Daryl Marshall attended at the inquest. I adjourned the hearing to 13 July 2020 on the recommendation of counsel assisting Mr Phillips. The siblings expressed, through Mr Phillips, their joint concern about the decline of their brother postsurgery and the decision to move him from ICU to the vascular ward and a belief that oxygen assistance ceased at that time.
- 6.2. On 9 July 2020 Mr Phillips met with Dr Karen Heath, Forensic Pathologist from Forensic Science SA. He made a detailed note of the meeting¹⁰ where the issues raised by the late Mr Marshall's family were examined. Dr Heath, in reviewing the matter for a second time¹¹, concluded that the decline of health of Mr Marshall was within the range of outcomes possible following surgery and an initially good recovery.
- 6.3. Based on this review with Dr Heath, Mr Phillips submitted on resumption of the inquest that there were no systemic problems that contributed to Mr Marshall's death.
- 6.4. Mr Phillips submitted that he had no recommendation to make as to Mr Marshall's death.
- 6.5. Ms Sharon Marshall presented briefly to the Court on behalf of her and Mr Gary Marshall. They are still clearly affected by their brother's death. She told the inquest that '*in my heart know that something, something was missed*'. As always throughout this inquest, she was respectful and dignified. I make the same comment about Mr Gary Marshall.
- 6.6. I realise as they candidly revealed, that they do not accept the finding I made based on the medical evidence and submission of Mr Phillips that the cause of death for their brother is hospital acquired pneumonia complicating aortofemoral bypass surgery for

⁹ Exhibit C4

¹⁰ Exhibit C11

¹¹ She peer reviewed Dr Alderman's Pathology Review mentioned in paragraph 1.2 of this finding

peripheral vascular disease. I do note Dr Heath said the late Mr Marshall was a 'very ill man'¹² when he underwent the surgery.

6.7. I find that Mr Marshall's care and treatment at the Royal Adelaide Hospital was appropriate. In addition, I find that the imposition of the Inpatient Treatment Order was lawful and appropriate and had no bearing on Mr Marshall's death.

7. **Recommendations**

7.1. I have no recommendations to make in this matter.

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 3rd day of November, 2020.

Deputy State Coroner

Inquest Number 21/2020 (1677/2017)

¹² Exhibit C11