MAGISTRATES COURT TASMANIA

MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (With Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Olivia McTaggart, Coroner, having investigated the death of Petr Mikl with an inquest held in Hobart on 29 September 2020

Find pursuant to Section 28(1) of the *Coroners Act 1995* that:

a) The identity of the deceased is Petr Mikl (also previously known as Peter Horacek);
b) Mr Mikl died of natural causes in the circumstances set out below;
c) Mr Mikl died of natural causes, being haemoperitoneum complicating spontaneous perforation of peritoneal varix in the setting of portal hypertension (caused by portal vein thrombosis and hepatocellular carcinoma); and
d) Mr Mikl died on 30 December 2019 at the Wilfred Lopes Centre, Risdon Vale in Tasmania.

In this finding I have had regard to the exhibits tendered at inquest being:

- Police Report of Death;
- Affidavits of identification and life extinct;
- Opinion of the Forensic Pathologist who conducted the post-mortem examination;
- Wilfred Lopes Centre records;
- Opinion of the Coronial Medical Consultant, Dr A J Bell, regarding the care and treatment of Mr Mikl;
- Mr Mikl's prison records;
- Correspondence from the Public Guardian;
- Comments on passing sentence; and
- Court documentation and correspondence.

Introduction

At the time of his death, Mr Petr Mikl was a *"person held in custody in a secure mental health unit"*. I was therefore required by section 24(1)(b) of the *Coroners Act 1995* (the Act) to hold a public inquest into Mr Mikl's death. I am also required, by section 28(5) of the Act to comment upon his care, supervision and treatment whilst he was held in custody.

On 21 March 2003, Mr Mikl was convicted in the Supreme Court of attempted wounding, an act intended to cause grievous bodily harm and assault. Justice Slicer, in his comments on passing sentence, set out the facts of the crimes committed by Mr Mikl as follows;

> *"On 30 July 2002, police went to a church premises which included a small shed occupied by Mr Horacek, intending to execute a warrant for his arrest issued following his refusal to attend a resumed court hearing.*
>
> *Mr Horacek had a history of breach of restraint orders and on one occasion had been subjected to the use of mace spray by police officers attempting to subdue him. Presumably with knowledge of that history, four officers attended in order to execute the warrant.*
>
> *Mr Horacek refused to leave the shed and the police were unable to unlock the door. After a short period, a mace spray was activated into the building. This caused Mr Horacek to rush from the shed armed with a home-made, but deadly, spear. He struck at the nearest officer who managed to avoid a potentially lethal blow to the throat. The finding of the jury of attempted wounding is not a reflection that the offender attempted harm but, on my finding consistent with the verdict, that they were not satisfied to the requisite degree that he intended to bring about the death of the officer. In the ensuing struggle, the officer was wounded in the leg by the blade of the spear. My finding, consistent with the jury verdict, is that the act of causing grievous bodily harm was committed in order to both disable the officer and resist a lawful arrest.*
>
> *Following the jury verdict, by agreement, a second indictment was put to Mr Horacek to which he entered pleas of guilty. On 19 October 2001, police attended residential premises called Flint House, following a request by management which concerned the conduct and condition of Mr Horacek. The offender became abusive and assaulted one of the attending officers. Another officer used capsicum spray to subdue Mr Horacek who retreated into his room. He reappeared carrying a metal pole to which was affixed a knife. The weapon resembled that used by the offender on 30 July 2002. He attacked a different officer and again use was made of capsicum spray apparently to little effect. Mr Horacek evaded police and left the premises. Approximately 20 minutes later he was reported to be in the city mall and then at Centrepoint. When police located him at the latter place, he was still armed with the 'spear', and pointed it at one of the officers while making threatening statements. After a struggle he was subdued and found to also possess a large kitchen knife. Because of his state he was detained under the provisions of the Mental Health Act."*

The sentence imposed by Justice Slicer included a restriction order under section 77 of the *Sentencing Act 1997*. This order required Mr Mikl to be committed to a secure mental health facility until being discharged on the order. Justice Slicer, in imposing the order, commented that Mr Mikl suffered paranoid schizophrenia and had an extensive history of hospitalisation for that condition. He further commented that, due to his serious mental health condition, Mr Mikl presented a risk of harm to others.

The restriction order was not discharged and Mr Mikl remained in custody in the Wilfred Lopes secure mental health facility until his death.

Background

The following background information is extracted from the Wilfred Lopes Centre records tendered at inquest and I have no reason to doubt its accuracy.

Mr Mikl was born on 27 July 1947 in Sudoměřice, Czechoslovakia, to parents Frantisek and Terezie Mikl. He was raised in Moravia, Czechoslovakia, with his younger brother, Frank. Mr Mikl's father died aged 44 years when Mr Mikl was only 10 years of age, having suffered multiple sclerosis.

Mr Mikl was trained as a draftsman in the field of agricultural and industrial engineering between 1963 and 1965. He was drafted for national service between 1966 and 1968, whilst still residing in Czechoslovakia.

He met and married Hanka Miklova when she was 18 years of age in about 1969. The marriage produced two children – Petr (born 1974), and Inge (born 1975).

By the mid-1970s, Mr Mikl was experiencing double vision (diplopia) and applied for a visa to Austria to have surgery, but instead took the opportunity to make money to support his family. With his wife's permission, he left the family home in Czechoslovakia in 1977 and spent three years in a refugee camp in Austria. Whilst there, he began stealing from casino gambling tables and sending money back home to his family. He attempted to gain citizenship by using the need to have eye surgery as a ploy to stay in Austria. However, he was caught stealing in Germany and was reportedly banned from all casinos in Germany and Austria.

Mr Mikl then spent a year in a refugee camp in Italy where he changed his surname to 'Horacek', a common Czech name, with the intention of returning to Austria. However, Mr Mikl was afforded the opportunity of an assisted passage to Australia where he planned to live for a year. Mr Mikl immigrated to Australia in 1981 with the intention of having his family follow him at a later time. This did not eventuate.

Mr Mikl settled in Sydney and found employment in a factory, Marrickville Ford Company, operating a milling machine. However, Mr Mikl was retrenched from his job when a Czech colleague who supported him left the company. The climate in Sydney was too hot for Mr Mikl and he decided to move to Hobart for a cooler climate with the added benefit of a casino. Mr Mikl planned to make money at the casino, however, he was unable to win and was unable to find employment. During this time, Mr Mikl attended a gastroenterologist for ongoing bowel trouble. He was also referred to a psychiatrist as it was apparent that he suffered a mental illness.

On 29 December 1995, Mr Mikl formally changed his name from Peter Horacek back to his former name, Petr Mikl, and gained Australian citizenship on 30 April 1996.

After almost 19 years, Mr Mikl returned to Czechoslovakia for six months, having only brief contact with his wife and family.

Mr Mikl was described as living an isolated life in Tasmania with no close friends. However, he had strong religious beliefs and attended church regularly.

Mr Mikl had a long history of schizophrenia, including paranoid psychosis, which continued until his death. He had spent significant time as a patient in mental health institutions since 1982. As part of his condition, he suffered a complex delusional system. He would refer to himself as the King or Jesus, or part of the royal family, lacking insight and judgement. Until his death, he was consumed by plans to invent and build a 'perpetual motion machine'. Mr Mikl blamed doctors and psychiatrists for not letting him carry out his plans and he did not believe he had a mental illness.

As discussed above, on 21 March 2003, Mr Mikl was committed to a secure mental health facility, the Wilfred Lopes Centre, by virtue of the restriction order.

On 24 July 2007, Mr Mikl applied for discharge from the restriction order to the Supreme Court, where a judge discharged the order. However, the Secretary of the Department of Health and Human Services appealed the decision to the Court of Criminal Appeal. On 14 August 2009 the Court of Criminal Appeal determined that Mr Mikl should not be discharged on the restriction order as the alternative continuing care order would not have addressed Mr Mikl's level of need nor the safety of the community.[1]

[1] *Secretary of the Department of Health and Human Services v Horacek* [2009] TASSC 65.

The evidence from the Wilfred Lopes Centre reveals that, unfortunately, Mr Mikl's mental health did not improve in the following years. He was continuously resistant to treatment and denied that he was mentally ill. He threatened hunger strikes if he was forced to be medicated. He wrote letters to community members and organisations, often threatening harm. He threatened to harm staff members and hid objects in his room that could be used as weapons. He remained fixated upon the perpetual motion machine and religious figures.

In 2017, Mr Mikl was diagnosed by a gastroenterologist with non-alcoholic steatohepatitis (fatty liver). Scans at that time revealed no evidence of cirrhosis. Monitoring of his condition occurred regularly and a medical management plan was implemented by his treating doctors. Liver function tests showed improvement and his pre-existing diabetes and blood lipids were well-controlled. He remained profoundly mentally ill, with evidence of a dementing process occurring. An assessment by the Wilfred Lopes Centre two months before his death indicated that he had become somewhat easier to direct and treat, and was warm and engaging with staff much of the time.

Mr Mikl developed hepatocellular carcinoma (HCC), being a primary tumour of the liver, in the five months leading up to his death. Due to the tumour extent he was ineligible for surgery to have it removed.

On 27 September 2019 Mr Mikl became subject to a Guardianship and Administration Board order allowing the Public Guardian full powers over his medical care and enabling forced treatment. The order was to remain in force until 26 September 2022.

In late 2019, Mr Mikl's liver condition subsequently progressed to cirrhosis and, before his death, portal vein thrombosis.

In the week leading up to his death, Mr Mikl was diagnosed with acute liver failure and, on 25 December 2019, Mr Mikl's goals of care were changed to palliation due to his poor prognosis. Mr Mikl then deteriorated rapidly and, on 29 December, was transferred to the medical unit at the Wilfred Lopes Centre. He was visited by a priest in this period and wrote by hand a document entitled *'My Last Will'* in which he purported to bequeath sums of money upon his family members.

Shortly after midnight the following morning, being 30 December 2019, Mr Mikl passed away. His death was reported to the coroner.

Investigation

On 7 January 2020 Dr Donald Ritchey, State Forensic Pathologist, conducted a post-mortem examination upon Mr Mikl. He found the cause of death of to be haemoperitoneum (blood filling the peritoneal cavity) due to a spontaneous perforation of the peritoneal varix in the setting of portal hypertension caused by vein thrombosis and hepatocellular carcinoma. He cited significant contributing factors as being cirrhosis of the liver, obesity (body mass index of 40kg/m^2), type 2 diabetes and schizophrenia.

Coronial Medical Consultant, Dr A J Bell, reviewed Mr Mikl's medical and treatment records for the two years before his death at my request. Dr Bell reported that the management plan for Mr Mikl's treatment and care following his diagnosis of non-alcoholic steatohepatitis followed general practice guidelines and included exercise, diet changes, weight loss, blood pressure monitoring, dental, podiatry, electrocardiograms and blood tests. It also included specific instructions for review of liver function tests. Dr Bell also reported that the treatment and monitoring of Mr Mikl's medical condition over the next 20 months was performed to a high level.

Dr Bell noted in his report that HCC can be difficult to diagnose and is typically diagnosed late in its course with the majority of patients not able to have surgery due to tumour extent or underlying liver dysfunction.

Comment upon Care, Supervision and Treatment Pursuant to s 28(5) of the Act

Upon the evidence in the investigation, I am satisfied that Mr Mikl was provided with a high standard of treatment and care for his liver disease and tumour which ultimately caused his death. The Public Guardian commented that she was impressed with the level of care he received as well as the compassion and understanding demonstrated by staff members of the Wilfred Lopes Centre towards Mr Mikl.

I am also satisfied that there are no issues raised by the investigation regarding Mr Mikl's treatment and care for his mental illness at the Wilfred Lopes Centre.

Acknowledgment

I commend Constable Alisha Barnes, Coroner's Associate, for her considerable assistance in preparing and appearing at this inquest.

Dated 2 November 2020 at Hobart Coroners Court in the State of Tasmania.

Olivia McTaggart
Coroner