



# MAGISTRATES COURT *of* TASMANIA

## CORONIAL DIVISION

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### **Record of Investigation into Death (Without Inquest)**

*Coroners Act 1995  
Coroners Rules 2006  
Rule 11*

I, Andrew McKee, Coroner, having investigated the death of Samuel John Whitney

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

- a) The identity of the deceased is Samuel John Whitney;
- b) Mr Whitney died as a result of traumatic closed head injuries sustained when a motor vehicle he was a passenger in collided with a power pole;
- c) The cause of death was traumatic closed head injuries; and
- d) Mr Whitney died on 19 April 2019 at Glengarry, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into the death of Mr Whitney. The evidence comprises:

- An opinion of the forensic pathologist who conducted the autopsy;
- The results of toxicological analysis of samples taken at autopsy;
- A toxicology report prepared by Forensic Science Services Tasmania relating to Mr T Blackberry;
- Tasmania Police Report of Death for the Coroner;
- An affidavit of Mr P Maclaine, a transport inspector employed by the Department of State growth;
- A crash investigation report prepared by and an affidavit of Senior Constable Rybka;
- Record of interview between officers of Tasmania Police and Mr T Blackberry – (the driver of the vehicle involved in the collision);
- An affidavit of Ms C Lindsay, Mr Whitney's girlfriend;
- Relevant police and witness affidavits;
- Medical records and reports; and
- Forensic and photographic evidence.

## **Background**

Samuel John Whitney was born in Launceston on 27 November 2000. He was aged 18 years at the date of his death. He was in a relatively new relationship with Ms Cody Lindsay. The couple did not have any children. Mr Whitney was employed by ETCS Electrical and Fire as an apprentice fire technician.

## **Circumstances Surrounding Mr Whitney's Death**

A consideration of the sworn affidavits of the various witnesses obtained during the coronial investigation enables me to make the following findings of fact regarding Mr Whitney's movements in the hours preceding the collision and the manner of Mr Blackberry's driving shortly prior to the collision.

On 19 April 2019, Mr Whitney spent the morning with his girlfriend, Ms Lindsay, at a football game at Windsor Park, Launceston. After the game they drove to a farm owned by the Blackberry family at Glengarry, where family and friends had gathered to go trail bike riding and to have dinner. Mr Todd Blackberry who was the grandson of the farm's owner, had invited Mr Whitney and Ms Lindsay to attend. Ms Lindsay and Mr Blackberry had been friends since childhood. Ms Lindsay has previously introduced Mr Whitney to Mr Blackberry and they had become friends.

Social activities were occurring and Mr Whitney and Ms Lindsay decided they would stay the night at the farm. Mr Whitney and Ms Lindsay drove back to Ms Lindsay's house to get some overnight clothes before returning. Whilst others had been drinking, Mr Whitney had not as he was on his provisional licence. On their return journey to the farm, they stopped at a bottle shop and purchased some alcohol, arriving back at the farm sometime between 7-8.00pm.

Upon their return to the farm a bonfire had been lit in the paddock. Those present were consuming alcohol and listening to country music. Mr Whitney commenced consuming alcohol. Just after 11.30pm, two male friends of Mr Blackberry's left the farm to take their children home and return with trail bikes. Not long after they left one of these males rang Mr Blackberry and asked him to go and pick them up. Mr Whitney decided to accompany Mr Blackberry. Mr Blackberry and Mr Whitney then left the property in Mr Blackberry's Mitsubishi ute. Witnesses at the property who observed Mr Blackberry and Mr Whitney shortly prior to them leaving in the ute noted that neither appeared affected by alcohol.

## **The Collision**

Mr Blackberry was driving the ute and Mr Whitney was the front seat passenger. On leaving the property, Mr Blackberry travelled north towards Exeter on Frankford Road. The vehicle's headlights were on. On entering a sweeping right hand bend, adjacent to RSD 1135, the vehicle tracked straight. Its left-hand side wheels entered the western gravel verge and tracked for 18.6 m to a reflective yellow "Warning Log Trucks Entering" sign erected on a guidepost, narrowly missing it. The vehicle's left side wheels continued to track in the gravel for a further 27.4 m before Mr Blackberry applied harsh right-hand steering. As a consequence, the vehicle entered an out-of-control clockwise side slip rotation, continuing to travel in a north / east direction on the roadway, crossed double continuous centre lines separating the north and south bound lanes and then travelled across the oncoming south bound lane. The ute continued rotating and crossed onto the eastern grass verge, travelled down a steep bank and heavily impacted with a TasNetworks power pole with its passenger side door area, causing the death of Mr Whitney.

Shortly after the collision a Volvo milk tanker being driven by Ms S Brosnan passed the scene of the collision. She was in the process of turning her truck around to enable her to safely park and to render assistance when another milk tanker driven by Mr L Butler drove past her. She contacted Mr L Butler by UHF radio and advised him of the collision. As Mr Butler came upon the scene of the collision he braked causing his trailer wheels to lock up.

Both drivers along with other members of the public rendered what assistance they could to Mr Whitney and Mr Blackberry until emergency services arrived.

I am satisfied based on the affidavit and crash report prepared by Senior Constable Rybka that neither truck was involved in or causative of the collision.

## **Condition of the Utility Prior to the Collision**

The utility was inspected after the collision by Mr P Maclaine, a transport inspector. The utility was found to be in an unroadworthy condition. However, it was the opinion of Senior Constable Rybka that the defects noted by Mr Maclaine did not cause or contribute to the collision.

## **Crash Investigation**

A thorough investigation of the collision was conducted by Senior Constable Rybka, an experienced crash scene investigator. Senior Constable Rybka has completed a comprehensive report and has sworn an affidavit dated 12 July 2019.

Senior Constable Rybka's investigations of the collision discloses the following facts:

- a) The trucks being driven by Ms Bronson and Mr Butler were not involved in or causative of the collision;
- b) At the time of the collision Mr Whitney was not wearing a seatbelt, most likely because the passenger seat belt was inoperative. Senior Constable Rybka formed the opinion that due to the collision speed and side-impact angle, a functioning seatbelt and vehicle SRS airbags would not have been effective in preventing Mr Whitney's fatal injuries;
- c) Mr Blackberry (post collision) had a blood alcohol reading of 0.059 g of alcohol per 100 mL of blood. No illicit drugs were detected in his system;
- d) The post-mortem analysis of the blood sample taken from Mr Whitney showed that he had a blood alcohol reading of 0.097 g of alcohol per 100 mL of blood. No illicit drugs were detected in his system;
- e) The speed of the utility was 92 km/h and the speed limit for the road at the crash site was 100 km/h. Excessive speed did not cause the collision;
- f) Prevailing weather conditions and the condition of the roadway did not cause or contribute to the collision;
- g) The utility did not strike any animal prior to the collision;
- h) Mr Blackberry was not utilising a mobile phone at the time of the collision;
- i) Mr Blackberry was formally interviewed by Senior Constable Rybka and Constable Housego. Mr Blackberry had no recollection of the collision or how the collision occurred;
- j) The utility's headlights were functioning and Mr Blackberry had a clear view of the roadway;
- k) There were no obstructions on the roadway; and
- l) Mr Blackberry claimed that he did not feel affected by the alcohol he had consumed and this was corroborated by witnesses at the farm who observed him shortly prior to him driving.

Senior Constable Rybka formed the following opinion as to the cause of the collision:

*“It is my opinion that a brief lapse in concentration, cabin distraction or fatigue may have caused Mr Blackberry to allow his Mitsubishi ute to track into the gravel verge. It is possible that he may have been distracted talking to Mr Whitney. He has applied harsh steering input to the right in order to steer the vehicle back to the roadway. This shows that he was conscious at the time and not asleep. He had only been driving for approximately five to 10 minutes on a reasonably complicated section of roadway (several sweeping curves on Frankford Road), which causes me to form the opinion that fatigue is the least likely of these occurrences.”*

I accept Senior Constable Rybka’s opinion as to the cause of the collision.

### **Review by the Department of State Growth**

Representatives of the Department of State Growth (Road Division) conducted a review of and attended the site of the collision on 14 January 2020. The conclusion reached by the Department’s representatives was that no changes or alterations to the road way or signage was deemed necessary as a result of the collision.

### **Post-Mortem**

A post-mortem examination was undertaken by forensic pathologist Dr Donald Ritchey. Dr Ritchey opined that the cause of Mr Whitney’s death was traumatic closed head injuries sustained in a motor vehicle crash. I accept the opinion of Dr Ritchey.

### **Summary Offences**

As a result of his driving on the evening of Friday, 19 April 2019, Mr Blackberry was charged with a number of summary offences. He appeared in the Devonport Magistrates Court on 4 February 2020 and pleaded guilty to those offences.

### **Comments and Recommendations**

I have decided not to hold a public inquest into this death because my investigation has been sufficient to disclose the identity of the deceased, the date, place, and cause of death, relevant circumstances concerning how death occurred and the particulars needed to register Mr Whitney’s death under the *Births, Deaths and Marriages Registration Act 1999*. I do not consider that the holding of a public inquest would elicit any significant information further to that disclosed by the investigation conducted by me.

The circumstances of Mr Whitney's death do not require me to make any further comment or to make any recommendations.

I convey my sincere condolences to Mr Whitney's family and loved ones.

**Dated:** 4 May 2020 at Hobart in the State of Tasmania.

**Andrew McKee**  
**Coroner**