



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Inquest into the death of four Police Officers Ruling on Application by Ms Fiona Smith

Introduction

1. On 8 July 2016 Mr Paul Hunt, then a serving member of Tasmania police died as a result of an apparently self-inflicted gunshot wound at his family's property in northern Tasmania.
2. Earlier that day at Bellerive Police Station, Mr Hunt had been served with a notice accusing him of serious misconduct and standing him down as a Police Officer. He had for some time been the subject of an internal investigation conducted by Tasmania Police Professional Standards Command. The investigation was concerned with the alleged misuse by Mr Hunt of pseudoephedrine-based medication.
3. In the lead up to his suspension, Mr Hunt was provided with what was described as "welfare support" by Ms Fiona Smith, also at the time a serving officer in Tasmania Police.
4. Ms Smith made application on 27 May 2022, at a Case Management Conference held pursuant to rule 22 of the Coroners Rules 2006 to be represented by an Australian legal practitioner at the inquests into the deaths of Mr Hunt, Paul Reynolds, Simon Darke and Robert Cooke. The deaths are being investigated together pursuant to a direction issued by the Chief Magistrate's delegate under section 50 of the Coroners Act 1995.
5. At that Case Management Conference, I indicated that on my understanding of the evidence I do not consider there is any possibility I will make an adverse finding in relation to Ms Smith nor one that would or could be reasonably viewed as damaging in any way to her reputation - professionally and personally. I have no reason to resile from that indication. Nonetheless, I sought written submissions from Ms Smith's counsel.
6. The application was subsequently refined by her counsel, Mr J Zeeman, for leave to be represented solely in respect of the inquest in relation to Mr Hunt.

Guiding principles

7. Section 52 (4) of the Coroners Act 1995 provides:

"a person who the coroner considers has a sufficient interest may appear or be represented by an Australian legal practitioner or, with permission of the coroner, by any other person at an inquest, call and examine or cross-examine witnesses, and make submissions at an inquest".

8. The phrase "sufficient interest" is not defined in the Act. The section itself has not been the subject of curial scrutiny in this jurisdiction. It is evident that the question of leave is highly discretionary and relatively speaking incapable of a prescriptive formulation as to categories or classes of persons who have a "sufficient interest".

9. For example, it is well recognised that family membership and the potential for an adverse finding will generally speaking amount to sufficient interest to justify representation at an inquest.¹ Conversely, the fact that a person is called as a witness is rarely, if ever, enough to give rise to a sufficiency of interest to warrant the granting of leave to appear and/or be represented at an inquest.²

Ms Smith's submissions

10. Ms Smith has made an affidavit that will be tendered at the inquest. Her affidavit deals, inter alia, with events that she says occurred in the lead up to Mr Hunt's death on 8 July 2016. Part of that account deals with interactions she may have had with another police officer, Inspector Stolp. Ms Smith points to the fact that Inspector Stolp's affidavit does not refer to that interaction. I will return to that issue shortly.

11. In addition, Ms Smith says that she has made a claim, which has been accepted (and therefore presumably not in dispute any longer - if it ever was) pursuant to the Workers Rehabilitation and Compensation Act 1988. That claim seems to involve Ms Smith developing a disorder as a result of her having performed the well-being role within police and particularly in respect of Mr Hunt (and his death). On her behalf Mr J Zeeman submits that if Ms Smith is "entitled to commence proceedings for an award of damages in respect of her injury ... Her evidence in respect of her discussion with Inspector Stolp is likely to form part of the evidence" in relation to any such claim.

¹ See for example *Annetts v McCann* (1990) 170 CLR 596 amongst other cases.

² *R v Coroner for Southern District of Greater London; ex parte Driscoll*, (1995) 159 JP 45 at page 56.

12. Noting immediately the contingent nature of the submission, I should say now that I cannot see how a claim under the Workers Rehabilitation and Compensation Act 1988, and/or the possibility of an action at some stage in the future for damages has any relevance, at all, to the question of whether Ms Smith has a sufficient interest in terms of the Coroners Act 1995 in relation to the inquest into Mr Hunt's death. I do not consider it is a matter which has any bearing on the exercise of my discretion under section 52 (4). Even if I am wrong as to that, it seems to me the suggestion that some type of finding adverse to her interests might be made which would impact upon her potential damages claim finds its answer, in my view, in section 54 of the Coroners Act 1995.
13. Mr J Zeeman submits next that there is a likelihood of conflicting evidence as between Ms Smith and Inspector Stolp about who said what to whom in the lead up to Mr Hunt's death on 8 July 2016. It is certainly possible that Counsel Assisting may have questions for her about the issue. So may counsel for other parties. It is I suppose possible that, if I need to decide the matter, and assuming Inspector Stolp's evidence is different to Ms Smith's, I may prefer one version of events over the other. However, I do not think the point can be put any higher.
14. Finally, Mr J Zeeman point to issues associated with a direction that Ms Smith received in May 2019, three or so years after Mr Hunt's death, from Inspector Morrisby. As I understand, Ms Smith says she considers that in receiving that direction she was being targeted in some way by Tasmania Police. As with the workers compensation issue, I do not see how this could possibly be relevant to the grant of leave pursuant to section 54 (2) of the Coroners Act 1995. It certainly can have no bearing logically upon the inquest in relation to Mr Hunt's death.

Discussion

15. Ms Smith is to my mind but one of a number of former and serving officers whose evidence will be of assistance in determining how Mr Hunt died. It is possible that some officers will give evidence that conflicts with the evidence of other officers. If the evidence that is given is relevant, and there is a dispute about it and I need to determine that dispute, it follows that I may prefer the evidence of one witness over another. That is something that happens all the time in legal proceedings, inquisitorial or adversarial, in our legal system. It is not something, to my mind, which in and of itself could ever provide sufficient basis for the grant of leave. If it did, it would mean that every witness in every inquest would be entitled to representation.
16. I repeat that I see no prospect, whatsoever, that I will make a finding adverse to Ms Smith's reputation.

17. I have had specific regard to what I consider to be all relevant matters including the need to avoid repetition and the risk of unduly and unnecessarily prolonging processes, and the submissions made on behalf of Ms Smith, and the issues to be canvassed at the inquest as a whole. I am not persuaded that she has an interest sufficient to entitle her to be represented by an Australian Legal Practitioner at the inquest. As I have said, she is simply one of a number of witnesses whose evidence may help me answer some of the questions I am required to consider by section 28 (1) of the Coroners Act 1995. Accordingly, her application is refused.

Dated: 17 August 2022 at Hobart in the State of Tasmania

Simon Cooper
Coroner