

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 3397/04

**REDACTED FINDING INTO DEATH
WITH INQUEST**

*Form 37 Rule 60(1)
Section 67 of the Coroners Act 2008*

Inquest into the Death of BENITA JUDD

Delivered On: 16 December, 2011

Delivered At: Coroners Court of Victoria
Level 11, 222 Exhibition Street
Melbourne 3000

Hearing Dates: 2, 3 February 2011
1 September 2011

Findings of: JOHN OLLE

Representation: Mr R. Harper for Dr Christopher Walsh
Mr P. Halley for Austin Health

Police Coronial Support
Unit (PCSU): Sergeant David Dimsey

I, JOHN OLLE, Coroner having investigated the death of BENITA JUDD

AND having held an inquest in relation to this death on 2, 3 February 2011 and 1 September 2011
at Coroners Court of Victoria, Melbourne

find that the identity of the deceased was BENITA JUDD

born on 21 March 1947

and the death occurred on 24 September 2004

at Austin Hospital, 145 Studley Road, Heidelberg Victoria 3084

from:

1a. MULTIPLE INJURIES

in the following circumstances:

1. Benita Judd was aged 57-years at the time of her death. She lived at 18 Summerhill Rise, Bundoora.

Introduction

2. On 24 September 2004, Benita was involved in motor vehicle collision ('the collision'). She subsequently died from injuries sustained. AP was the driver of the vehicle which caused the collision.¹ For the purposes of this Finding, it is not necessary to detail the circumstances of the collision.²

The focus of my investigation

3. On 24 September 2004, shortly prior to the collision, AP attended his treating consultant psychiatrist, Dr Christopher Walsh. At inquest, my focus was the assessment of Dr Walsh in respect to AP's fitness to drive.

4. I heard evidence from several witnesses, including Dr Walsh. Further, I received the benefit of detailed submissions.

Background

5. AP had a long-standing diagnosis relating to mental illness. He had consulted Dr Walsh on a regular basis since 2001.

6. Prior to 24 September 2004, AP experienced stability in his mental health. Periods of mental illness were mild and well managed by medication, prescribed by Dr Walsh.

1. AP was subsequently charged with Culpable Driving. At trial he was found unfit to plead by reason of mental impairment.

2. The circumstances are set out in the Brief.

24th September, 2004

7. AP's wife became concerned about his mental state. AP had driven erratically on the preceding evening. Following several phone calls to AP's workplace and the CAT team, a consultation was arranged with Dr Walsh.

The issues at Inquest

- i) The nature and extent of Dr Walsh's consultation on the 24th September 2004
- ii) Was the assessment of Dr Walsh that AP was fit to drive reasonable in all circumstances.

8. I find the following sequence of events:

- 1) AP's wife telephoned her case worker Claude expressing concerns for AP's mental state.
- 2) Claude telephoned Carmen Darmanin, social worker triage worker at Northern CAT team³
- 3) Carmen took notes of her conversation with Claude.
- 4) At 11am Carmen telephoned Dr Walsh's rooms and left a message.
- 5) Dr Walsh returned Carmen's telephone calls⁴
- 6) Dr Walsh telephoned AP between 11am and 12.30pm.⁵
- 7) Dr Walsh spoke to AP's wife who felt that having rested AP was now OK to drive
- 8) AP drove from Ivanhoe to Dr Walsh's rooms in Carlton. AP's wife accompanied him. They arrived at 12.30pm. AP's wife reported nothing untoward about his driving
- 9) At about 1pm, a 45 minute consultation with Dr Walsh occurred. AP's wife was present.⁶

3. Carmen was not involved in the treatment of AP but was a work colleague.

4. The content of this telephone call was the vexed issue at Inquest. In particular, with the history of reckless driving by AP was conveyed.

5. Dr Walsh notes that AP is clearly elevated, coherent and an appointment arranged for 1pm. AP explained to Dr Walsh that he was "OK to drive". A taxi option was offered but declined.

6. AP's wife believed that AP was dressed in a bizarre manner which did not accord with the recollection of Dr Walsh. Of note, upon the fatal collision, some short time after the consultation, there was no evidence of bizarre clothing worn by AP according to witnesses at the accident scene.

10) During the consultation, Dr Walsh telephoned Carmen Darmanin to detail the treatment plan. Carmen noted the conversation.

Telepathic link

9. Carmen understood Dr Walsh to say that AP believed he had a telepathic link with Dr Walsh and that Bin Laden was communicating with him. Dr Walsh explained that AP believed he had an empathic link with Dr Walsh. He acknowledged they regularly discussed Bin Laden and shared similar views.

10. According to Dr Walsh, the clinical significance of a belief of a telepathic link would lead to major change in the treatment plan. In particular, immediate CAT team involvement and importantly, AP would have not been permitted to drive from the consulting rooms.

11. AP's mood was more elevated than previously witnessed. However, AP's mood settled during the course of the consultation. Throughout AP was coherent and logical. He was not psychotic.

Following the consultation, AP agreed with the treatment plan. Specifically, he agreed to return home, having dropped his wife at the Austin. He would await the arrival of the CAT team and not drive his vehicle until CAT team assessment.

12. He drove appropriately from Carlton to the Austin Hospital. Shortly after dropping his wife at the Austin, he apparently suffered a psychotic episode and commenced driving in a dangerous and erratic manner. The collision occurred shortly thereafter.

Report of Dr Greenberg

13. Dr Greenberg⁸ provided an expert opinion. She carefully reviewed the treatment of Dr Walsh, in particular his consultation and treatment plan of the 24th September 2004.

13. Dr Greenberg noted that Dr Walsh observed no evidence of hallucinations, bizarre behaviour or agitation. AP's mood was elevated. There were no observed signs of psychosis.

15. Dr Greenberg considered the treatment plan appropriate. She commented if AP was considered a danger to himself or others the appropriate course would be to persuade AP to accept voluntary admission or organise involuntary admission in accordance with *Mental Health Act*. Dr Walsh did not consider AP a danger to himself or others.

16. Dr Greenberg considered Dr Walsh's medical management was appropriate. In circumstances in which Dr Walsh did not consider AP psychotic, or a danger to himself or others, there was no reasonable basis to consider him unfit to drive.

8. Consultant Psychiatrist

17. Dr Greenberg noted clearly, in retrospect, everyone's regret that AP was entitled to drive immediately preceding the collision:

*"There is no indication, however, that Dr Walsh's judgment or management plan could prospectively have been seen as incompetent or inappropriate."*⁹

Summation of contentious issues

18. I do not consider AP was dressed in a bizarre manner at his consultation on 24th September 2004. AP was well-known to Dr Walsh and consulted him every fortnight for years. If AP had been dressed in a bizarre manner Dr Walsh would have noted and discussed his attire with him. Of note, there was no evidence of bizarre clothing at the scene.

19. There is an innocent explanation for the disparity between the notes taken by Carmen Darmanin and the notes of Dr Walsh and his recollection. I accept Dr Walsh referred to AP's belief of an empathic link with him in respect to their conversations regarding Bin Laden.

20. This finding is not a criticism of Carmen Darmanin, who clearly endeavoured to accurately and fully note her conversation with Dr Walsh.

21. I do not accept Dr Walsh would have failed to record and or act upon a patient's belief of a telepathic link with him and/or record or act upon a patient's belief he is communicating with Bin Laden.

22. Dr Walsh was an impressive witness. His evidence was compelling. His prompt response to his patient on 24 September 2004 and the nature and extent of his consultation reflected diligent and professional care.

23. Was AP suffering a psychotic episode, the mood would not have settled as it did. AP, at all times, spoke coherently and logically.

24. The issue of driving was discussed with AP. An offer of a taxi was declined¹⁰. AP agreed to comply with the treatment plan. In particular, he would drive his wife to her appointment at the Austin Hospital, drive home and await the arrival of the CAT team. There was no reasonable basis to conclude that AP was suffering a psychotic episode in all circumstances and/or that AP was unfit to drive.

*"I thought that he was ... gee this is hard. I wrongly felt that he was safe..... I wrongly felt that he was safe to drive and I regret that."*¹¹

⁹ Report Dr Greenberg

¹⁰ Dr Walsh had previously arranged taxis for patients whom he considered there were questions about their ability to drive.

¹¹ Transcript, page 14

25. I offer Benita's family my sincere condolences. However, I do not consider the clinical judgement of Dr Walsh was unreasonable.

Post Mortem Medical Examination

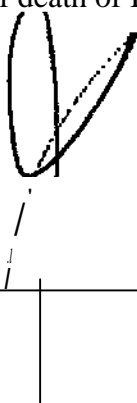
26. On the 28 September 2004, Dr David Ranson, Forensic Pathologist at the Victorian Institute of Forensic Medicine performed an autopsy on the body of Benita Judd.

Dr Ranson found the cause of death to be multiple injuries.

Finding

I find the cause of death of Benita Judd to be multiple injuries.

Signature:



JOHN OLLE
CORONER

16 December, 201

I direct that a copy of this finding be provided to the following:

Ms Maria Slattery, Senior Next of Kin
Mr R. Harper Mr P.
Halley Investigating
Member