

CITATION: *Inquest into the death of William Mason* [2001] NTMC 32

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): 9809127
59/98

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FINDING OF: Mr G Cavanagh SM

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REPRESENTATION:

Counsel:

Assisting: Ms Elizabeth Morris

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. 9809127
59/98

In the matter of an Inquest into the death of

WILLIAM MASON

**ON OR ABOUT 19 MARCH 1998
AT HUMPTY DOO**

FINDINGS

(Delivered 4 May 2001)

Mr G CAVANAGH SM:

THE NATURE AND SCOPE OF THE INQUEST:

1. William Mason (“the deceased”) was last seen alive on 19 March 1998 at the Palmerston Bus Depot, Palmerston. Concerns for his welfare were first reported to Police on 25 March 1998, and he was actually reported missing on 30 March 1998. On 29 April 1998, the body of the deceased was found in a shallow grave in an area close to the Arnhem Highway near “the Bush Shop” at Humpty Doo in the Northern Territory. The death is a “reportable death” within the definition of that term in Section 12 of the *Coroner’s Act* (“the Act”) in that it appeared or may have been.

“unexpected, unnatural or violent or to have resulted, directly or indirectly, from an accident or injury.”

2. The Inquest is held as a matter of discretion pursuant to the provisions of Section 15(2) of the Act. Section 34 of the Act set out the limits of the jurisdiction of the Coroner as follows:

“34. Coroners’ Findings and Comments

- (1) A coroner investigating

- (a) a death shall, if possible, find
 - i) the identity of the deceased person;
 - ii) the time and place of death;
 - iii) the cause of death;
 - iv) the particulars needed to register the death under the Births, Deaths and Marriages Registration Act;
 - v) any relevant circumstances concerning the death.
- (2) A coroner may comment on a matter, including public health or safety of the administration of justice, connected with the death being investigated.
- (3) A coroner shall not, in an investigation, include a finding or comment, a statement that a person is or may be guilty of an offence.
- (4) A coroner shall ensure that the particulars referred to in subsection (1)(a)(iv) are provided to the Registrar, within the meaning of the Births, Deaths and Marriages Registration Act.”

3. Section 35 of the Act states:

35. Coroners’ Reports

- (1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.
- (2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.
- (3) A coroner shall report to the Commissioner of Police and the Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

FORMAL FINDINGS

4. The identity of the deceased was William Mason, a male Caucasian Australian born (according to himself but without independent corroboration) on 9 July 1929 in Sydney, NSW.
5. The time of death is unknown. The date of death was on or about 19 March 1998. The place of death was in the vicinity of “The Bush Shop” Arnhem Highway, in the Northern Territory of Australia.
6. The cause of death is unknown.
7. The particulars required to register death are:
 - i. The deceased was a male.
 - ii. The deceased was of Caucasian Australian origin.
 - iii. The death was reported to the Coroner.
 - iv. The cause of death was confirmed by post-mortem examination.
 - v. The pathologist viewed the body after death.
 - vi. The pathologist was Dr Kevin Lee of Royal Darwin Hospital.
 - vii. The father and mother of the deceased are unknown.
 - viii. The usual address of the deceased was at the rear of the “The Bush Shop”, Arnhem Highway, Humpty Doo.
 - ix. The deceased was a pensioner.

RELEVANT CIRCUMSTANCES

8. At the public Inquest the evidence in my view established on the balance of probabilities that the deceased was a well liked elderly man of frail disposition. He possessed some eccentric habits, viz. he was not given to bathing himself and, therefore, despite presenting as a fairly well dressed individual, he was grubby

and his body odour was very noticeable. He liked cats and kept many of them with him in the caravan in which he lived. This caravan was situated behind “The Bush Shop”, Arnhem Highway, Humpty Doo. The caravan was in an old and poor state of repair and was in an extremely dirty condition.

9. The deceased had lived in the Northern Territory for many years and enjoyed the respect of the community. However, his personal habits unfortunately resulted in some young men treating him with derision and abuse. It is apparent on the evidence that in the last few weeks of his life he was teased, abused and treated in a miserable and cruel fashion by these young men. As to whether this treatment had any connection with his death is unknown.
10. I heard evidence from a friend of the deceased, a M/s Perri Ann Kirby, who told me that she had known the deceased for many years. She told me that she had given the deceased a lift (as well as a loan of some money) in the week or so prior to the death. She told me of the very great love the deceased had for the many cats that lived with him. She told me of his concerns (as expressed to her) with some of the people living close to his caravan. One of these people was a young man who deliberately allowed his dog to harass and kill cats from the caravan. She told me that the deceased told her of an argument between him and those living near his caravan about his cats.
11. I heard evidence from another friend, M/s Dixie Ann Ricardo, who had known the deceased for over thirty years. She told me that the deceased had once worked for the solicitors Tiger Lyons and Dick Ward. She told me that the deceased had also been at one time the projectionist at the Star Picture Theatre in Darwin. Apparently the deceased had been a familiar figure around town in the 1950's and he was known also to be a part time musician. Apparently he would be seen quite often with a pair of drum sticks tucked inside his long socks. This lady told me that she saw and talked to the deceased early in March 1998 shortly before his death. She told me that the deceased was upset and sad because of a confrontation with young men at his caravan who were torturing and killing his cats. He described these young men as “nasty boys”. Apparently they were catching and feeding kittens to their dog. She told me that the deceased expressed to her his fear of these young men who would taunt him by asking for more cats.

Apparently he also expressed his concern to her about these young men harassing him at night time. There was evidence from other witnesses called during the Inquest which confirmed, in my view, this night time harassment.

12. He was a man of very regular habits and it was those habits, and people noticing that he was not doing what he usually did, that led to his being reported as a missing person. The first person to do so was a Jenny Pickering and she reported on 25 March 1998 to police and expressed concern for his welfare as she had not seen him since 18 March. Police commenced a missing person inquiry and also attended at the caravan of the deceased. On 30 March 1998 the Reverend Mervyn Anderson from Humpty Doo church also reported Mr Mason as a missing person, stating he had not seen him for 12 days which he also stated was very unusual.
13. As from the time of the first report of 25 March, police commenced to make inquiries in the Humpty Doo, Palmerston and Darwin areas. From persons spoken to it appeared that the 18 March 1998 was the last time that the deceased was sighted in the Humpty Doo area. Palmerston police officers and the Territory Response Group police officers carried out searches of the surrounding bush area but were unable to find any trace of Mr Mason.
14. However, approximately a month or so later, on the morning of 29 April 1998, the Territory Response Group was again in the area of the Bush Shop, completing line searches in an adjacent area, when one member detected an unpleasant odour. The first source of the odour was some offal, not human offal but from an animal, found on a dirt road which runs beside the Bush Shop. Members then followed a track into the bush area where they came upon an area of earth which appeared to have been disturbed. An unpleasant odour seemed to be sourced to that area. The Police Forensic team were called as was the forensic pathologist at the time, Doctor Kevin Lee, and they commenced to exhume skeletal remains which were later identified as being those of Mr William Mason.
15. Forensic members spent several hours exhuming the skeletal remains and other items from within the grave. The body appeared to be lying on its back in a foetal position with the knees being closest to the surface and only some 10 centimetres from ground level; he was not buried very deep at all. The deceased's wallet was

located within the gravesite and showed signs of having been burnt. Within the wallet were found 8 \$5 notes, 1 \$10 note and plastic cards in the name of the deceased.

16. A small amount of other matter was also found in the grave. It included a plastic bag of rotting chillies and a foam meat tray labelled from the Humpty Doo supermarket and packed on 19 March 1998. Also exhumed were 3 VB stubbies, empty and the pocket from a shirt that had the word, 'studio' embroidered on it. This pocket also showed signs of having been in contact with fire and was considered foreign to the gravesite. The discovery of burnt material from within the gravesite was suggestive that some fire and burning had taken place and more than likely had taken place in the grave prior to dirt being shovelled back into the grave.
17. Doctor Kevin Lee performed an autopsy and his report was tendered at the Inquest. Due to the advanced state of bodily decomposition, he was not able to give an opinion as to the cause of death. Based on medical records the bodily remains were confirmed to be those of the deceased. Doctor Lee was of the opinion that the time of death would have been in the vicinity of the last sighting, which was on or about 18th/19th March 1998. He also formed the opinion that the body had been in the grave for approximately 2 weeks and that prior to that, had been in some other location. Evidence was produced at the Inquest which revealed that a wheelie bin and shovel went missing from the back of the “Bush Shop” at around the time of the disappearance of the deceased. It is possible that these items were used to transport the body of the deceased from one place to another.
18. A M/s Amanda Kaissis gave evidence at the Inquest. Apparently she had contacted police quite some time after the death, and after the offering of a reward, and indicated that she had information of relevance. M/s Kaissis told me on oath that she saw the owner of the “Bush Shop” (Mr Peter Puljic), another man who worked at the shop and a lady acting suspiciously. She described seeing these people with a wheelie bin and shovel on a track near the “Bush Shop”. The place that she described as being where she saw this happening was not near where the deceased’s body was found. After questioning at the Inquest, it became

apparent that the event she described occurred well after the discovery of the body of the deceased and I discount this evidence as having relevance to this Inquest.

19. There was some hearsay evidence produced during the Inquest to the effect that the deceased may have had a heart attack as a result of, and during, the harassment by the young men in around his caravan. This was not able to be corroborated or confirmed by any other evidence. The three young men who apparently had some contact with the deceased in the weeks prior to his disappearance and who I have mentioned as acting in an unkindly fashion towards the deceased are Simon Button, Peter Gwynne and Daniel Opitz. Simon Button gave evidence that he lived in a granny flat behind the “Bush Shop” and about 50 metres from the caravan occupied by the deceased at around the time of the disappearance. He lived with Daniel Opitz. Mr Button owned a pit bull terrier which he told me was trained to kill cats and which he frankly conceded used to go over to the caravan of the deceased and catch and kill cats that were found there. Apparently the RSPCA had delivered some cat traps to the “Bush Shop” so that cats were not killed or destroyed in any cruel fashion. Mr Button told me that he would take any captured cats out of such traps and release them into a closed shed and let his dog attack and kill the cats. He conceded that the deceased argued with him about the matter and complained. Indeed he conceded that the deceased obtained a trespass order against him and Peter Gwynne to keep them away from his caravan. He denied having anything to do with the death or burial of the deceased.
20. A M/s Hannah Reynolds gave evidence and I must say that I found her to be a credible and reliable witness. She used to live next to the “Bush Shop” at the relevant time in March 1998. She knew the deceased. She told me that on the evening of the 19 March 1998 she heard a loud bang coming from the direction of the caravan occupied by the deceased. I got the impression that the “bang” was caused from something being thrown on top of the caravan. It was a dark night and she turned on her floodlight and turned it towards the caravan. She told me that she saw Daniel Opitz and others running away from the caravan. Mr Opitz denied on oath at the Inquest any such event occurring. I am of the view that it

did occur. M/s Reynolds also quoted a conversation that she had had with Simon Button as follows (transcript p.59):

“Can you remember what he said about that?—He-he just basically was saying that he approached Bill about wanting to (inaudible) a couple of his cats for some fun – mauling or whatever, shooting or hurting the cats, to rip them apart and Bill just got very frightened of him and said, ‘you stay away’ and, ‘I’m going to get a restraining order’ and that was it. He didn’t elaborate any further in what else that he talked about.”

and

“Did Simon tell you that Bill got quite distressed when Simon spoke to him about the cats?---Yes, he did. Yes. Yeah, he-when he said to me this day – this day, ‘oh my heart’ and saying – heavy breathing, making out that he was going to have an attack.”

21. Mr Peter Gwynne gave evidence before me and he told me on oath of his interaction with the deceased. He stated, inter alia as follows (page 102, T):

“Okay. That’s one confrontation. What about any others you had?--- Well, that’s about it, you know. A few times he used to come up to the communal shower area and everything, but that’d been going on for ages. Apparently he used to get abused and everything and start fighting, you know, ‘cause no-one else wanted him using them shower area **‘cause he was such a filthy, stinking bloke**, and that’s about it. He never went near us after that. Never came near us. He used to walk all the way round the long way from the shop back to his caravan.”

The attitude of Mr Gwynne towards the deceased as found in the highlighted words is obvious, and is an attitude that I found reflected in the evidence of all of the three young men viz. Gwynne, Button and Opitz.

22. After the finding of the body, a full Police investigation team commenced an investigation into the death. The investigation team focussed much of their inquiry on the residents in the immediate area of the Bush Shop. However, despite the extensive taking of statements involving some 49 witnesses, no clear picture was obtained as to what had occurred in relation to the death of the deceased.

23. In order to try and get some further evidence from members of the public, an extensive media campaign was conducted. To that end, a reward was posted on 13 October 1998, offering \$50,000 to any person who could provide information which would lead to the arrest and conviction of persons responsible for Mr Mason's death.
24. In the final analysis, I am compelled to agree with the submission of Ms Morris, counselling assisting at the Inquest that, due to the lack of real evidence as to the actual cause of death and the fact that (p.105, Transcript)

“A lot of the evidence was hearsay, innuendo, supposition. A lot of it could well be found to be unreliable for various reasons, and some of it was even hearsay on hearsay. ‘She said, she told so and so who told so and so who told so and so, who told me’.

As a consequence of that and despite the very thorough investigation that’s been completed by the Northern Territory Police on behalf of the Coroner’s Office, it’s my submission that the evidence is insufficient for you to make a finding, as you’re obliged to do if you’re able, as to the actual cause of death in relation to the death of William Mason.”

25. Accordingly, I am unable to make a finding as to the cause of death and I leave the matter open. In doing so I am of the opinion, unfortunately, that at the very least a person or persons unknown interfered with the body of the deceased prior to its discovery on the 29 April 1998. As to whether or not it was the three young men (or any one of them) who appear to have acted badly towards the deceased in the weeks prior to his death I do not know, just as I do not know if they had anything to do with the cause of death. Unfortunately for them, suspicions remain about them in relation to the death because of their unacceptable and cruel behaviour towards the deceased prior to his death. These suspicions may be groundless, however, in my view, they were not allayed by the manner in which the young men gave evidence at the Inquest.
26. In view of my open finding, I have no reports, recommendations or other comments to make.

Dated this 4th day of May 2001.

GREG CAVANAGH
TERRITORY CORONER