

CITATION: Inquest into the death of Ronald Alexander Donaldson [2016]
NTMC 001

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): D0212/2013

DELIVERED ON: 9 March 2016

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FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS: **Violent death, mentally ill offender, indicators of threat, institutional response.**

REPRESENTATION:

Counsel:

Assisting: Jodi Truman

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

No. D0212/2013

In the matter of an Inquest into the death of
ROBERT ALEXANDER DONALDSON
AT RYAN PARK, KATHERINE
ON 3 DECEMBER 2013

FINDINGS

Mr Greg Cavanagh SM

Introduction

1. Ronald Alexander Donaldson (“Mr Donaldson”) was born in South Palmerston on New Zealand’s South Island on 23 November 1944. His parents were William (Bill) Alexander Donaldson and Caroline Donaldson who have both since passed away. Mr Donaldson moved to Australia in 1962. He had an older brother, John, who followed a couple of years later and the two brothers worked together initially as fencing contractors.
2. Mr Donaldson also did some sapphire mining work for a short period, but returned to fencing work which saw him move to the northern parts of Australia, including the Northern Territory (“NT”) and Queensland (“Qld”) in the 1970’s. During his lifetime, Mr Donaldson married twice. He and his first wife were together for approximately 20 years and had a daughter, namely Elizabeth. He married for the second time in about 2010 to Naomi Donaldson and he and Naomi and a young daughter together, namely Nathalie.
3. Mr Donaldson continued fencing work right up until his death. He was in fact working in Ryan Park on the boundary fence of a neighbouring school at the time of his death. He was well known in the Katherine area and was a popular and much loved man, known to most by his nickname “Speedy”. It

is clear that to this day he is missed, not just by his family and friends, but by many in the local Katherine community.

4. On 3 December 2013 at about 11.15am Mr Donaldson died as a result of fatal head injuries after being struck to the head 6 or 7 times with a metal sledge hammer. Mr Donaldson was 69 years of age at the time of his death. The horrific circumstances of his death have shocked and devastated his family and friends as well as the close knit community of Katherine.
5. Those blows were inflicted on Mr Donaldson by Mr Justin Osborne, a man not previously known to Mr Donaldson in any way and who had only arrived in Katherine a day prior. It was subsequently determined that Mr Osborne was suffering from Schizophrenia and at the time of the offence was experiencing acute psychotic symptoms; such as auditory hallucinations, persecutory delusions and bizarre beliefs which materially contributed to his actions.
6. Mr Osborne had not been previously diagnosed or treated for schizophrenia prior to him striking Mr Donaldson. On the very same day that Mr Donaldson was killed, and only hours afterwards, Mr Osborne stated that he believed that the man he had struck with the sledge hammer was another man, namely Mr Les Pearce, and that he had in fact intended to kill Mr Pearce as he believed Mr Pearce intended to kill him first.
7. On 14 October 2014, pursuant to s.43H of the *Criminal Code*, Mr Osborne was found not guilty of the murder of Mr Donaldson by reason of mental impairment. As a result of that finding, Mr Osborne was detained pursuant to a custodial supervision order to the Darwin Correctional Centre, where he remains as at this date. Since being detained, Mr Osborne now understands that he did not kill Mr Pearce and he has been reported as stating that Mr Donaldson did not deserve to be killed and it was “bad luck for him”. In more recent times he has expressed remorse for killing “the wrong person” and has stated “I made a big mistake”.

8. Pursuant to s34 of the Act, I am required to make the following findings if possible:

“(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) Particulars required to register the death under the *Births Deaths and Marriages Registration Act*.

(v) Any relevant circumstances concerning the death”

9. Section 34(2) of the *Act* operates to extend my function such that I may comment on a matter including public health or safety connected with the death being investigated. Additionally, I may make recommendations pursuant to section 35 as follows:

“(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)

10. This inquest was held on 27 and 28 January 2016. A total of eight (8) witnesses were called to give evidence at this inquest, namely; Detective Senior Sergeant Lee Morgan, Leo Gregor, Leslie Pearce, Nathan Hall,

Frances Wilson, Christophe Nyipi, Dr Ranjit Kini and Associate Professor Robert Parker. A brief of evidence containing various statements, together with numerous other reports and police documentation was tendered at the inquest. Public confidence in Coronial investigations demands that when police (who act on behalf of the Coroner) investigate deaths that they do so to the highest standard. I thank Detective Senior Sergeant Morgan for his diligent investigation.

11. As previously noted, it was determined that at the time of striking Mr Donaldson resulting in his death, Mr Osborne was suffering from undiagnosed and untreated schizophrenia. This was therefore not a case where there had been any prior involvement of any mental health services (and/or any failings in the provision of such services) as has been the case in other inquests. The focus of this inquest was therefore upon the question of public safety and whether the reality and significance of Mr Osborne's mental illness should have been realised sooner and attended to earlier, thus potentially avoiding such a terrible and tragic death from occurring again in the future.

Background of Ronald Donaldson

12. As noted earlier, Mr Donaldson was born in South Palmerston on New Zealand's South Island on 23 November 1944. He was the second son to his parents William (Bill) Alexander Donaldson and Caroline Donaldson who are both deceased. Mr Donaldson's eldest brother, John, provided important information and background as to his brother's life including Mr Donaldson's move to Australia in 1962, and their work history together for a number of years as fencing contractors.
13. Mr Donaldson eventually moved to Katherine and it was there that he remained for many decades. He was a popular member of that small community and it is clear that the loss caused by his death has been widely felt. Mr Donaldson had two children; his daughter Elizabeth, from his first

marriage, and his daughter Nathalie, from his second marriage to Naomi with whom he was still married at the time of his death. Although his family were not able to travel to Darwin for this inquest, it is clear that they remain devastated by his passing.

Background of Justin Osborne

14. Mr Osborne was born on 27 January 1976 and was 37 years of age at the time of Mr Donaldson's death. I received into evidence a copy of the entire criminal file held by the Supreme Court in relation to Mr Osborne. It included Mr Osborne's prior criminal history as recorded in Qld, the Australian Capital Territory ("ACT") and New South Wales ("NSW") including offences of violence.
15. Also included were a number of psychiatric and psychological reports prepared for the purposes of the criminal proceedings which included details of Mr Osborne's personal history. He was born in Narrandera, NSW, and was the eldest of two boys. His parents separated when he was 10 years of age and initially he lived with his mother, and then alternated between his parents, before eventually living with his father. He has a number of step-siblings from each of his parent's new relationships and he maintains contact with various members of his family.
16. Mr Osborne attended a primary school that catered for children with special educational needs. He was seen by a psychologist at the age of eleven (11) years who identified "anger problems" and he was eventually expelled from secondary school because of recurrent involvement in fights. His work history commenced at the age of fourteen (14) years and he had various employment for various periods interspersed with periods of unemployment. In 2002 he suffered a work place accident and sustained a head injury. In 2008 he suffered another work place accident and sustained injuries to his knees. It appears that he did not undertake any meaningful employment after that time.

17. Mr Osborne appears to have had three (3) significant relationships with the last ending in 2008, after four (4) years and coincidentally around the same time as he ceased significant employment. There appears to have been domestic violence in that relationship although Mr Osborne has denied being physically violent to his ex-partner.
18. One thing that features heavily in the material is Mr Osborne's alcohol and substance abuse. Although noted to be an inconsistent historian at times, Mr Osborne self-reported that he started sniffing petrol at 11 years of age. He also sniffed paint thinners for two (2) months but got scared and stopped when he started hearing "buzzing" noises. Shortly thereafter he began smoking marijuana when he had it and by the age of 16 years he was smoking marijuana every two or three days, using up to ten cones on each of those occasions. At times he would lock himself in the house and lose track of the quantity that he was smoking.
19. He began drinking alcohol at the age of 16; initially only "a few beers" which he quantified as seven cans of beer on most days. He reported that the first time he "saw the Devil" was when he was 16 years of age and at a time when he was sniffing petrol and drinking alcohol. He also reported seeing ghosts and "dark angels". By the age of 17 he was spending most of his income on alcohol and marijuana. Mr Osborne claimed that marijuana alleviated psychotic symptoms that he was experiencing at the time, such as hearing voices.
20. At approximately 25 years of age he started injecting amphetamines whilst working on a fishing boat and described experiencing vivid visual hallucinations, including seeing sea monsters in trees. His abuse of amphetamines continued for a number of years, although Mr Osborne maintains he was abstinent for the period of his last long term relationship. He reverted to using drugs and alcohol when that relationship ended, including marijuana, amphetamines and ecstasy.

21. Mr Osborne reported hearing voices on and off since approximately 2011 and associated this as occurring mainly at times when he was attempting to “come off” drugs. The voices apparently became more consistent and interfering in the six months prior to the killing of Mr Donaldson and Mr Osborne’s subsequent incarceration in 2013.
22. In October 2013 Mr Osborne moved in with his youngest brother apparently in an attempt to give up drugs and find a job. After being sober for two weeks he reported hearing voices again coming from the roof. It is clear these became very real to Mr Osborne as he spread flour on the floor to be able to see any tracks that people from the roof would leave on the floor. He also believed that there was a camera in the television monitoring him and that perhaps it was his brother who was in the roof. He covered all the windows so nobody could see him and would go outside and scream “I AM NOT THE WOLF”.
23. His brother asked him to leave and Mr Osborne moved out with a friend and reported starting to use marijuana and speed heavily until “the voices went away”. His mother reported calling the Crisis Assessment Team at that time seeking help and was advised about a residential rehabilitation service in Brisbane. Mr Osborne apparently applied to enter that residential service and whilst waiting for admission he stayed at the Salvation Army Hostel in Brisbane. However, within two days he received his unemployment benefits and used those benefits to purchase marijuana.

Justin Osborne’s travel to Katherine

24. It was whilst Mr Osborne was at the Salvation Army that he met Mr Les Pearce. Mr Pearce was travelling to Western Australia (“WA”) to commence employment and Mr Osborne approached him about travelling together. Mr Osborne reported that he hoped to find employment in Darwin via a family friend and his aim was to get as far as Katherine with Mr Pearce.

25. It appears that initially the men got along well. Agreement was reached that they would share expenses on the trip. Mr Osborne stated this included petrol, food, cigarettes and marijuana. However it appears on Mr Osborne's version of events that even before they left Brisbane he began having strange beliefs concerning Mr Pearce. He reported a belief that Mr Pearce was a reincarnation of his grandfather and he believed that he heard Mr Pearce say things that only his grandfather would know.
26. It is apparent that during the drive from Brisbane, Mr Osborne smoked marijuana along the way. He reported that whilst travelling from Mt Isa to Tennant Creek he heard voices saying to him "if you do not lie down I will cut your head off". In Tennant Creek Mr Osborne reported that Mr Pearce's attitude had changed becoming "arrogant and aggressive". He started to hear more voices and believed that Mr Pearce's dog had "specific powers" after he received "an electric shock" from the dog and heard the dog talking to him. He stated that he realised "something was wrong" but "pretended all was OK". Mr Osborne stated that the dog liked him and was trying to make him aware that "Les" was planning to kill him.
27. By way of contrast, Mr Pearce reported that during the drive it was when stopping at Mt Isa for the night that Mr Osborne just "disappeared" and he did not see him again until the following morning. Nothing was said as to where he had been and Mr Pearce did not ask. The next day when they stopped at a parking bay "somewhere on the highway" Mr Pearce recalled that Mr Osborne challenged a couple of campers to a fight. The next morning Mr Osborne apologised to the couple, who drove off with nothing more being said.
28. Mr Pearce also recalled that on the way to Tennant Creek he noticed Mr Osborne "had his left fist cocked like he was going to punch me". He described to police that Mr Osborne's face as "just looked vacant, like the lights were on and nobody was home, then he just looked away and lowered

his fist”. Mr Pearce noted that he had no idea why Mr Osborne had done this as “we hadn’t been talking or arguing or anything”.

29. The men then arrived in Katherine on Monday 2 December 2013 at around 3.00pm. Mr Pearce recalled that they parked in a car park in the service station and went for a walk. Later he saw Mr Osborne and said “Come on, let’s get in the car”. He recalled that as he put his seatbelt on he felt a punch land on his right ear. He stated to the police:

“I didn’t even see it coming and Justin didn’t say anything to me. Straight away I felt something gripping onto my throat. Justin had both his hands on my throat and he was squeezing hard and cutting off my breath.

Justin didn’t say a word, he just kept squeezing and I couldn’t get his hands off me.

I managed to get my seatbelt undone and tried pushing him away out of the open driver side door. I pushed him hard enough to make him fall out the door but he had hold of my throat and pulled me out with him.

We both fell onto the ground and he got on top of me. I managed to get him off me and get his hands off my throat. We both jumped up at the same time and that is when Police arrived.”

30. During his evidence before me, Mr Pearce stated that he in fact held the opinion that Mr Osborne had tried to kill him at that time. He gave evidence that he did not know why the incident had occurred and that there had been no issues between them during the drive. He denied that they had argued at any time and he denied that he ever threatened or abused Mr Osborne in any way. Mr Pearce also stated that prior to the incident at the service station he had no concerns or fears in relation to Mr Osborne. He stated that if he had, he “would have kicked (Mr Osborne) out of my car”.

31. Mr Osborne’s version of events was that shortly after they arrived in Katherine he realised he had no money in his account and panicked. He stated that Mr Pearce started a fight with him and told him that he was going to “cut him in half and cut his balls off”. At this stage Mr Osborne stated that he grabbed Mr Pearce by the throat and punched him in the face after

Mr Pearce attempted to attack him with a pair of scissors. In the process he was punched in the chest.

Events in Katherine

32. Police arrived at the service station just as the altercation between Mr Osborne and Mr Pearce was coming to an end. Mr Osborne complained that he was suffering chest pain and as a result police took him to the Emergency Department (“ED”) at the Katherine Hospital (“KH”). According to his statement to police, Mr Pearce did not want to lay any charges against Mr Osborne and he left Katherine later that day.
33. Whilst at the hospital Mr Osborne was investigated for chest pain. Injuries that he had received during the physical altercation with Mr Pearce were also attended to. I received evidence from nurses and doctors who saw Mr Osborne in the ED. According to the records he was brought in at about 3.45pm and various tests and observations were undertaken for his chest complaint. It was quickly determined that he was stable from a cardiac perspective but was kept for observations.
34. I received evidence from Registered Nurse (“RN”) Leo Gregor who was the first health care practitioner to deal with Mr Osborne. He noted that Mr Osborne had a “dishevelled appearance”, “monotone voice” and was “flat in effect”. RN Gregor also recorded that Mr Osborne told him that he “had drug induced psychosis by injecting speed and other amphetamines in the past”. He asked Mr Osborne when the last time was that he had used drugs and he stated it was “two weeks ago” and that he did not think it was agreeing with him. RN Gregor also noted that when the “quite significant” grazes to Mr Osborne’s knees were cleaned he “barely reacted and only to the left knee”. He noted that Mr Osborne was “quite detached and only spoke when spoken to” and “did not engage in any conversation with me or anyone else” remaining “in the same position on the bed for the entire time he was there which was just over three hours”.

35. RN Gregor stated in evidence that although he made these observations he did not consider that Mr Osborne fitted the definition of mental illness under the *Mental Health and Related Services Act* (“MHRSA”). He stated that whilst Mr Osborne’s behaviour was at times “odd”, he did not appear to be suffering any delusions or hallucinations and engaged appropriately with him during their interactions. RN Gregor stated that he had regular dealings with persons who suffered from mental illness and there was nothing in the presentation of Mr Osborne that made him concerned that he may have been suffering a mental illness. He stated that there were “no delusions or hallucinations, (Mr Osborne) gave an accurate report as to his trip, he was oriented to time and date and provided a health history which was confirmed” with the hospital that he had previously attended. RN Gregor stated that “although he was odd, there was nothing in terms of the definition of mental illness that I considered had arisen”.
36. After being kept under observations, a decision was made by the treating doctor, Dr Maida Akhtar, at 6.30pm that Mr Osborne was “fit for discharge”. Dr Akhtar also provided a short report which indicated she did not have any concerns as to Mr Osborne’s mental health and did not consider he met any of the criteria under the MHRSA. Despite being discharged, Mr Osborne remained at the hospital in the waiting room. I received evidence from RN Frances Wilson that she spoke to Mr Osborne at about 7.30pm about leaving, but he stated that he had no money. She raised with him the possibility of contacting Mr Pearce and it was at this point that there “was the first sign of anger”, but that he did not become physically aggressive and she did not consider herself, or anyone else, to be in danger or at risk of Mr Osborne at that time. The only other change in mood noticed by RN Wilson was when Mr Pearce was advised that his father had been contacted and did not wish to provide any assistance. She stated that at that point in time Mr Osborne simply put his head down.

37. Attempts were made by RN Wilson to have Mr Osborne attend at the local homeless shelter but there was no answer. She also spoke to some police officers that arrived but they stated they were not permitted to assist with transport. RN Wilson noted that when Mr Osborne was in the waiting room he was “just staring” and although she had a “gut feeling” about him, she did not consider that he met the definition of suffering a mental illness.
38. Contact was eventually made by RN Wilson with Kalano Patrol who agreed to transport Mr Osborne to the BP Service Station and he left the hospital with them at about 10.30pm. As to events at the service station, I received evidence from Mr Nathan Hall and Mr Christophe Nyipi who were on duty that night.
39. Mr Hall gave evidence that he spoke to Mr Osborne and they “had a few conversations” during the night. He stated that Mr Osborne “didn’t seem aggressive or anything” and “caused no trouble”. Mr Hall recalled that a window broke that night and Mr Osborne in fact approached him to see if he needed any help. He did not consider it “unusual” to see someone stay at the service station during the night and never considered himself or anyone else to be at risk of Mr Osborne. He stated that he had experienced persons who he considered a danger before whilst working at the service station and he would simply call the police and try and escort them from the premises. Mr Hall stated he never considered that necessary in relation to Mr Osborne and was “stunned” when he heard about what had happened to Mr Donaldson.
40. Mr Nyipi recalled speaking with Mr Osborne briefly that evening and noted that he was “quiet”, but there was nothing that made him “worried” about the man. In his statement to police Mr Nyipi stated that although he could not “put my finger on it”, he recalled saying to Mr Hall “this guy’s a bit strange”. He did not however notice anything more than that and was “very surprised” when he heard what had happened to Mr Donaldson the next day.

41. In terms of events at the service station, Mr Osborne's report to psychiatrists was that he had been "dropped at a diner in town by some Aboriginal people and spent the night there". During the night he heard some window glass smash and heard a voice saying; "I am going to cut you in half", but he could not see anybody. He stated that he managed to sleep a little and the next morning went to Centrelink to ask for money. He reported being advised to go to the Council Chambers on the other side of the bridge to request assistance. It was on his way back from the Council Chambers that Mr Osborne came into contact with Mr Donaldson.

The attack upon Mr Donaldson

42. On the morning of Tuesday 3 December 2013 Mr Donaldson was in Ryan Park carrying out work on the boundary fence of the neighbouring Kintore Street School. I received evidence via a statement to police from Mr Michael Athanasiou that he had been working with Mr Donaldson who had been "doing all the fencing work for the school" for approximately three (3) weeks. Mr Athanasiou recalled that on this day "Speedy" was carrying out work on the gate which was "the last job he had to do" on that site.
43. Mr Athanasiou left for a short period and returned to the Kintore site at about 11.15am. When he pulled up he heard a male voice say "help". He unlocked the double gate and heard the voice say "help" again. He walked towards the back fence and there he saw "Speedy". By this stage Mr Donaldson was lying on his back on the ground. He had already been placed into a headlock and wrestled to the ground by Mr Osborne. Once on the ground Mr Osborne had kicked Mr Donaldson a number of times about the body causing him to wince in pain as Mr Donaldson attempted to cover his body with his arms. Mr Athanasiou recalled "Speedy" looked at him and said "Michael, help me". It was then that Mr Athanasiou noticed "a guy", later identified as Mr Osborne, standing over "Speedy".

44. Unfortunately, there was a locked gate between Mr Athanasiou and where Mr Donaldson was located. Mr Athanasiou was not able to open the gate and was unable to climb over as it was an 8 foot high cyclone mesh fence topped with barbed wire. He could only watch the horrific events that unfolded and was yelling “stop, what are you doing”, as Mr Osborne continued.
45. The events that occurred thereafter were horrific. Mr Athanasiou described seeing Mr Osborne raise a sledgehammer over his head, bend down slightly and then strike Mr Donaldson “directly in the head with the metal end of the hammer”. He described the blow as “direct and forceful”. Mr Athanasiou did not hear Mr Donaldson say anything again after that and he did not see him move at all after the first blow. He then saw Mr Osborne hit Mr Donaldson “another 6 or 7 times in the head with the hammer”. He stated that “the blows were forceful and one after the other”.
46. Mr Athanasiou then described seeing Mr Osborne stand up, raise his hands above his head and:
- “...sort of waved them side to side and yelled like a ‘yeeha’ kind of noise. It was like he was celebrating or something, or waving to someone!”
47. Mr Athanasiou had earlier seen police in the area and he ran back in that direction as he was calling 000. His mobile phone recorded the call being made at 11.16am. Police were very close in the area and arrived quickly. In fact, the officers that attended had already had their attention drawn to the location by other members of the public who had waved them down and had also witnessed the attack upon Mr Donaldson.
48. Police located Mr Osborne a mere 30 metres from where Mr Donaldson’s body lay. He was still holding the sledgehammer in his hand and also had Mr Donaldson’s glasses that he had taken from the scene. The sledgehammer was one of the tools that had been in Mr Donaldson’s truck.

It was 40 centimetres in length and weighed 2.2 kilograms. Both the sledgehammer and Mr Osborne were covered in blood and brain matter.

49. Police drew their Tasers and directed Mr Osborne to “drop the hammer, get down on the ground”. Mr Osborne immediately complied and when approached by police he immediately and spontaneously stated:

“I fucken killed the cunt. I smashed his head in, the paedophile cunt”.

It is important to make clear at this time that there is *no* evidence whatsoever that Mr Osborne knew or had any prior dealings with Mr Donaldson before his death. In addition, his responses during his electronic record of interview (“EROI”) with police make it clear that Mr Osborne was not referring to Mr Donaldson when he made that statement to police at the scene.

50. Detective Senior Sergeant Morgan was one of the officers to conduct that EROI. Detective Senior Sergeant Morgan is a police officer of 17 years’ experience and gave evidence that the interview with Mr Osborne was “one of the most bizarre” he had ever been involved in. He stated that after police had conducted various forensic procedures he and his partner “encouraged” Mr Osborne to take a shower before the EROI as he was still covered in blood. Detective Senior Sergeant Morgan stated that Mr Osborne was “adamant that he did not want to wash himself”. During the EROI, Mr Osborne made admissions to the attack and made it very clear that he had intended to kill his victim but was adamant that it was Mr Les Pearce that he had killed. He stated that he had struck the victim a second time “to kill him” and a third time “to make sure he was dead”. He told police that he had taken the glasses from the scene so that he “had a souvenir” from the killing.

Mr Osborne's version(s) of events

51. Following that EROI, Police requested a psychiatric assessment of Mr Osborne. That was conducted on 4 December 2013 by psychiatrist, Jill Pettigrew. I received a copy of her written assessment into evidence. Within that report Dr Pettigrew noted of Mr Osborne as follows:

“He re-iterated that he had killed Les, his travelling companion not the man police claimed he had murdered. He knows that because he heard Les’ voice calling him ‘a piece of useless shit’. Hearing that made him feel murderous, he had never felt like that before. He feels great now knowing that Les is dead. He can no longer hear Les’ voice, nor any other.”

52. Dr Pettigrew went on:

“My conclusion is Mr Osborne is delusional and was so at the time of the murder. There is no regret or remorse and no concept of the seriousness of his actions. He appears to be very dangerous and unpredictable. He is physically strong and could not be easily constrained physically. He denies any previous mental health treatment and obviously requires a comprehensive assessment and diagnosis”.

53. Mr Osborne was again psychiatrically assessed following an order by Justice Southwood. That assessment was undertaken by Dr Anca Corbu a Consultant Psychiatrist at the time with Top End Mental Health Service (“TEMHS”). Dr Corbu interviewed Mr Osborne at the prison on 31 July 2014 and provided a report dated 19 August 2014. That report was also tendered into evidence before me.
54. Dr Corbu noted that during Mr Osborne’s hospital admission at the Joan Ridley Unit (“JRU”) from 5 to 9 December 2013 he was adamant that he killed “the right Les” and was convinced that “his face did not look the same because he was a ‘shape shifter’”. She noted that he also had stated that

“Another fact to support that he killed the right person was that he stopped experiencing any further voices from the moment he killed Les and the fact that Les has not contacted him since. He stated he

had to kill Les otherwise he would have become his victim. He believed Les was an aggressive person and even his dog informed him of his planned crime”.

55. Dr Corbu noted that during her interview of Mr Osborne on 31 July 2014 he gave her the following version of events:

“... on his way back from the Council Chambers ... he thought he saw Les on the other side of the road by a brown car. He described self as feeling very hot and started to believe that people were after him. He remembered asking the man he saw by the road if his name was Les but he did not answer. He then saw an Aboriginal lady standing in the window of one of the neighbouring houses making signs towards that man. He returned to that man and asked him again if he was Les. He then saw Les’ face and heard Les swearing and making threats which he perceived as coming from the man, which he was convinced was Les. He then pursued to hit “Les” with the metal sledge hammer which he found in the truck next to the house, very quickly, “not thinking at the time” and admitted he was very angry with Les. He was convinced he killed Les. He realised what had happened only when he was in prison. He believed that Les was a ‘shape shifter’”.

56. Dr Corbu noted that it was only months later whilst in prison and being on medication that Mr Osborne “started to understand and accept that he killed a person that he believed it was Les”. Although this was the case, Dr Corbu also stated that Mr Osborne “lacked the emotional insight and was unable to process emotionally the impact the events had on his life and the victim’s family. He did lack the remorse, despite admitting his crime and he did not show any empathy”.

57. Dr Corbu ultimately diagnosed Mr Osborne with Schizophrenia and relevantly stated:

“At the time of the offence ... Mr Osborne was experiencing acute psychotic symptoms such as: auditory hallucinations – hearing voices, persecutory delusions – beliefs that Les was going to kill him and bizarre beliefs – people changing shapes, car changing colours, dog talking to him, which have clouded his judgement and materially contributed to his actions”.

And further:

“... There is no doubt that Mr Osborne had consumed drugs prior to his offence based on his positive urine drug screen done in hospital and his disclosure of his use. The drug might have contributed to the worsening of his mental state but I do believe that Mr Osborne had an underlying mental illness as documented previously.

“My impression is that Mr Osborne was mentally unwell, namely suffering from undiagnosed and untreated schizophrenia at the time of the offence, and it is clear to me that this had a major contribution to him committing the offence”.

58. Ultimately, Dr Corbu opined:

“... at the time of the offence Mr Osborne:

- a) was aware of the nature and quality of the offending behaviour
- b) was not able to reason with a moderate degree of sense and composure about whether the conduct, as perceived by reasonable people was wrong
- c) was not able to control his actions”.

59. Legal counsel for Mr Osborne in the criminal proceedings also arranged an assessment by their own psychiatrist, Dr Lester Walton. A copy of his report dated 1 September 2014 was also tendered in evidence before me. Dr Walton agreed with Dr Corbu and stated:

“Thus it is my formal opinion that Mr Osborne was afflicted by schizophrenia aggravated by drug abuse at the time of his offending rather than drug-induced psychosis simpliciter”.

And further:

“In my opinion, unequivocally, he was deprived of the capacity to meaningfully distinguish right from wrong. I would see his ability to control himself as also compromised but I doubt that he was entirely deprived of that capacity.

Thus it is certainly my view this man does have a viable defence of mental impairment”.

60. It was based on these opinions that the Office of the Director Public Prosecutions determined to accept a plea of not guilty by reason of mental impairment to the offence of murder. Ultimately Justice Southwood accepted such a plea based on the agreement of both the Crown and defence pursuant to s.43H of the *Criminal Code*.

Criminal Proceedings in the Supreme Court

61. As noted at the commencement of these findings, on 14 October 2014 (and pursuant to s.43H of the *Criminal Code*) Mr Osborne was found not guilty of the murder of Mr Donaldson by reason of mental impairment. Following that finding, Justice Southwood ordered a further psychiatric assessment of Mr Osborne pursuant to s.43ZJ of the *Criminal Code*. That assessment was undertaken by Consultant Forensic Psychiatrist Dr Ranjit Kini of the TEMHS, Forensic Team. Dr Kini prepared a report dated 11 December 2014 which was tendered into evidence and Dr Kini also gave oral evidence before me.
62. Dr Kini is the Senior Staff Specialist (Consultant Forensic Psychiatrist) and Clinical Director of the Forensic Psychiatric Service and has been so since 19 August 2014. He is also Mr Osborne's treating psychiatrist. Dr Kini has examined Mr Osborne many times and now produced two (2) reports to the Supreme Court in relation to Mr Osborne, both of which were tendered in evidence before me.
63. It was based significantly on the opinions expressed by Dr Kini in his first report that on 22 December 2014 Justice Southwood made orders that Mr Osborne be subject to a custodial supervision order at the Berrimah Correctional Precinct, where he remains as at this date. Justice Southwood also made orders for Mr Osborne to receive treatment from TEMHS as per the treatment plan suggested by Dr Kini with periodic reviews also ordered.

64. The first periodic review took place on 27 January 2016 and in advance of that review Dr Kini noted that Mr Osborne had been under the care of TEMHS Forensic Team since his admission to the JRU on 5 December 2013 and since that time he had been treated with anti-psychotic medication which had resulted in a “marked reduction” in his “positive symptoms of Schizophrenia”. Dr Kini further noted that Mr Osborne’s presentation is “characterised mainly by negative symptoms such as avolition, blunted affect, partial insight, ambivalence and difficulties in inter-personal relationships”. It was ultimately Dr Kini’s opinion that “Mr Osborne’s primary diagnosis is that of Schizophrenia, currently in partial remission”. I will return to the evidence of Dr Kini later in these findings.

Cause of death

65. There was never any doubt as to cause of death in this matter. An autopsy was carried out by Dr Terence Sinton on 6 December 2013. Dr Sinton’s report was tendered into evidence before me where he noted the significant findings at autopsy to include the following:

- i. “Extensive and severe lacerations to the scalp.
- ii. Extensive and severe fractures to the skull.
- iii. Extensive and severe damage to the brain, with apparent extrusion of some of the brain tissue.
- iv. Extensive and severe fractures of the facial skeleton”.

66. Dr Sinton expressed his opinion within his autopsy report that the cause of death was Blunt Head Trauma. I note that I received into evidence the statements of the St Johns Ambulance officers who attended the scene. They note that upon arrival they could find no signs of life and in fact the extent of the injuries they saw to Mr Donaldson’s head was deemed by them to be “incompatible” with the existence of life. One of those experienced St

Johns Ambulance officers described the scene as “horrific”. I have seen the crime scene photographs and that is an apt although, at the same time, somewhat insufficient description given the injuries sustained. The cause of death is absolutely not in doubt. It was blunt head trauma caused by the blows that were rained down upon Mr Donaldson by Justin Osborne.

Issues for consideration

67. It has already been determined by the Supreme Court of the Northern Territory that at the time of striking Mr Donaldson, Mr Osborne was suffering from undiagnosed and untreated schizophrenia. There had been no prior formal involvement of any mental health services and therefore this is not a case where there had been any failings or inadequacies in the provision of such services as has been the case in other inquests. The focus of this inquest was therefore upon the question of public safety and whether the reality and significance of Mr Osborne’s mental illness should have been realised sooner and attended to earlier, thus potentially avoiding such a terrible and tragic death from occurring again in the future.
68. Whilst I note that Mr Pearce gave evidence of some behaviour by Mr Osborne that was unusual during their drive from Qld to Katherine, it was clearly not so unusual as to cause Mr Pearce to report Mr Osborne’s behaviour to any one in any way, or to even refuse to allow Mr Osborne to remain in his car prior to them reaching Katherine. Although Mr Pearce gave evidence before me that he now believes Mr Osborne was trying to kill him at the service station, he signed a statutory declaration with police at the time indicating that although he was attacked by Mr Osborne at the service station, he did not want to press any charges against Mr Osborne. It is apparent that Mr Pearce did not consider himself, back in 2013, to have been in any life threatening danger from Mr Osborne.
69. In addition, whilst I note the evidence of the nurses and doctors at the Katherine Hospital who noted “unusual” behaviour by Mr Osborne, it is

equally clear that these experienced health care practitioners were well aware of the definition of “mental illness” and did not at any time consider that Mr Osborne met the criteria. Whilst he was “odd” or they had a “gut feeling” about him, they did not consider, in the almost 7 hours that he was at the hospital, that he was suffering from a mental illness and they did not believe that he was a risk to himself or to others. I accept their evidence.

70. I also note that after leaving the hospital Mr Osborne then spent in excess of 10 hours at the BP service station. I note that whilst both of the attendants who spent time with Mr Osborne on that evening of 2 December 2013 and into the early morning of 3 December 2013 (the very same day of Mr Donaldson’s death) did say that Mr Osborne was “quiet” or perhaps even “unusual”, his behaviour was not so unusual that they felt any particular concern or considered themselves to be in any danger. They too felt no need to make any report relating to the behaviour of Mr Osborne or to call for assistance. I note that both men were also “shocked” when they heard from police what Mr Osborne had done only a few short hours after leaving the service station.
71. Dr Kini gave evidence before me and was an impressive and helpful witness. He gave evidence addressing how it was possible that someone could present no “significant” signs of mental illness for a period of time and then become “floridly psychotic”. Dr Kini was careful to point out that “the presentation of a person suffering from schizophrenia can vary from day to day, week to week or even month to month”. He stated that the “positive symptoms of schizophrenia” such as “delusions and hallucination” may also not be present all the time.
72. The important thrust of Dr Kini’s evidence however is that at the time of perpetrating the attack upon Mr Donaldson, Mr Osborne was “floridly psychotic”. That is to say that at that relevant time Mr Osborne was actually and actively psychotic. Dr Kini stated in evidence; Mr Osborne was found

not guilty by reason of mental impairment because at the time of killing Mr Donaldson he was not able to control his actions and he was not able to have a sense of reasoning and composure that would be expected of a reasonable person that what he was doing was wrong.

73. As to his current circumstances, Dr Kini was also careful to point out that he considered Mr Osborne was subject to “very rigorous and robust supervision” under the supervision of the forensic team whilst at the Darwin Correctional Centre and was required to continue to engage in anti-psychotic medication and treatment. It was there that Mr Osborne was likely to remain for the foreseeable future. Dr Kini stated that his team would continue to do all they could to treat Mr Osborne and to ensure to the best of their abilities that he did not represent a danger to himself or to the community. I was impressed by his evidence.

74. Associate Professor Robert Parker, Consultant Psychiatrist, Director of Psychiatry of Top End Mental Health Services gave evidence before me. I also had tendered into evidence an affidavit from him that comprehensively detailed the following matters:

74.1 A general account of the assessment of a person for mental illness undertaken in emergency departments in hospitals in the Northern Territory;

74.2 A review of the specific medical assessment of Mr Osborne undertaken by the health care practitioners at the Katherine Hospital on 2 December 2013;

74.3 A summary of the legal framework and threshold requirements for health care practitioners to detain a person for further assessment, care or treatment;

- 74.4 His opinion on the likely mental state of Mr Osborne at the time he was assessed by the medical team in the Emergency Department at the Katherine Hospital on 2 December 2013
- 74.5 His opinion on the likely mental state of Mr Osborne at the time he encountered Mr Ronald Donaldson and carried out the violent act that resulted in Mr Donaldson's death on 3 December 2013;
- 74.6 Further comments and conclusions.
75. Associate Professor Parker is a very experienced psychiatrist of longstanding and his evidence provided me with a great deal of assistance. Associate Professor Parker also sought the opinion of Associate Professor Didier Palmer, Consultant Physician, and Director of Emergency Medicine at Royal Darwin Hospital to review the assessment, treatment and subsequent discharge of Mr Osborne at the Katherine Hospital. Associate Professor Palmer also provided a short form report which was attached to the affidavit of Associate Professor Parker and tendered into evidence. Again, Associate Professor Palmer is a very experienced medical practitioner who has provided assistance to this court on a number of occasions over the years.
76. It is the thrust of the evidence provided by both Associate Professor Parker and Associate Professor Palmer that the assessment, treatment and discharge of Mr Osborne was appropriate in all of the circumstances. In their opinions, there were no obvious or reasonably detectable "red flags" that would have indicated Mr Osborne had a mental illness.
77. Associate Professor Parker conducted a detailed review of the treatment provided to Mr Osborne on 2 December 2013 and was of the opinion that Mr Osborne "did not exhibit any serious symptoms of mental illness at any time while he was at the Katherine Hospital Emergency Department or immediately following his discharge". He did not consider any matter had

been overlooked by the health care practitioners and noted they had “sought to engage (Mr Osborne) in appropriate ways” so as “to gauge whether he was experiencing any delusions or hallucinations or other serious impairments”.

78. Associate Professor Parker stated that it was his opinion that it was “not possible for the health care practitioners to predict or even anticipate” what subsequently occurred in relation to Mr Osborne’s attack upon Mr Donaldson. Ultimately Associate Professor Parker stated that:

“Despite the tragic outcome of this case, based on the information the clinical staff collated of Mr Osborne and the observations of his presentation at the hospital on 2 December 2013, I believe that the clinical staff performed their roles to the best of their ability in assessing Mr Osborne on 2 December 2013”.

79. I have considered the opinion expressed by both Associate Professor Parker and Associate Professor Palmer and I agree. Based on the evidence before me, I do not consider there was anything in Mr Osborne’s presentation to health care practitioners at the hospital on 2 December 2013 that would have identified any significant risk factors that should have been addressed before he was discharged. I make no criticism whatsoever of the care provided and in fact consider the health care practitioners did all that was required of them in all the circumstances as they were presented to them at the time.

Conclusion

80. It is a tragic circumstance indeed that the extent of Mr Osborne’s mental illness was not noticed earlier. It is impossible to say with any level of certainty that had Mr Osborne been diagnosed earlier, Mr Donaldson’s death may not have occurred. However I am of the opinion that it can be said that the likelihood of Mr Donaldson’s death in such circumstances may have been considerably lessened, particularly if Mr Osborne was undergoing appropriate and necessary treatment. It is equally clear however that there was nothing significant in Mr Osborne’s presentation that would have given

any indication of the florid state of psychosis that was to follow and the heinous act that he was to perpetrate upon Mr Donaldson.

81. It is important that the general public understand that Mr Osborne was not excused from criminal responsibility for this terrible killing because he was on drugs or had a mental illness. He was excused from criminal responsibility because at the time he killed Mr Donaldson he was actively psychotic such that he was unable to control his actions and he was unable to reason with the same degree that a reasonable person would that what he was doing was wrong.
82. It is also clear that Mr Osborne did not intend to kill Mr Donaldson. He intended to kill the person that he attacked, but he believed that person was Mr Pearce. Mr Osborne did not know Mr Donaldson. Mr Donaldson was not his intended victim. The men had no prior dealings with one another. As a result, Mr Donaldson was the most tragic of innocent bystanders and had done *nothing* to cause the attack that was perpetrated upon him and resulted in his untimely and brutal death. His death has clearly affected the lives of all that knew him, being his family, friends and colleagues. I express my deepest sympathies to them all. I do not however consider there are any matters arising from the circumstances of this death that require any recommendations to be made.

Formal Findings

83. On the basis of the tendered material and oral evidence given at this inquest, I am able to make the following formal findings:
 - i. The identity of the deceased person was Ronald Alexander Donaldson who was born on 23 November 1944 in South Palmerston, on the South Island of New Zealand.

- ii. The time and place of his death was approximately 11.15am on 3 December 2013 at Ryan Park, Katherine in the Northern Territory of Australia.
- iii. The cause of death was blunt head trauma.
- iv. Particulars required to register the death:
 - a. The deceased's name was Ronald Alexander Donaldson.
 - b. The deceased was of Caucasian descent.
 - c. The death was reported to the Coroner.
 - d. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton on 6 December 2013.
 - e. The deceased's mother was Caroline Donaldson (deceased) and his father was William (Bill) Alexander Donaldson (deceased).
 - f. The deceased was employed as a fencing contractor at the time of his death.

Dated this 9th day of March 2016

GREG CAVANAGH
TERRITORY CORONER