

CITATION: *Inquest into the death of Shechem Wesan-Garlingarr* [2011]
NTMC 038

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

FILE NO(s): D0008/2010

DELIVERED ON: 23 September 2011

DELIVERED AT: Darwin

HEARING DATE(s): 12 and 13 July 2011

FINDING OF: Mr Greg Cavanagh SM

CATCHWORDS: Single vehicle roll-over, intoxicated driver, failure to wear seat belt, police pursuit

REPRESENTATION:

Counsel Assisting: Ms Elisabeth Armitage
Police: Kelvin Currie

Judgment category classification: B
Judgement ID number: [2011] NTMC 038
Number of paragraphs: 98
Number of pages: 20

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

No. D0008/2010

In the matter of an Inquest into the death of
Shechem Wesan-Garlngarr

**ON 7 JANUARY 2010
AT ACACIA**

FINDINGS

23 September 2011

Mr Greg Cavanagh SM:

Introduction

1. The Deceased, Mr Shechem Wesan-Garlngarr, was 23 years old when he died on 7 January 2010. He died in a single vehicle roll over collision approximately two kilometres north of the Acacia store on the Stuart Highway.
2. Tragically, the Deceased was responsible for his own death. He was an unlicensed, inexperienced, and heavily intoxicated driver. He was driving a stolen vehicle containing stolen alcohol. He failed to stop when directed to do so by police and accelerated away from a pursuing police vehicle. Although the police terminated their pursuit, the Deceased continued to drive at an excessive speed for the conditions. He lost control of the vehicle and it rolled and crashed. The Deceased was thrown from the vehicle because he was not wearing a seat belt. The vehicle came to rest upside down and on top of the Deceased. The Deceased died from traumatic asphyxiation while trapped under the vehicle.
3. This is yet another example of a young life being needlessly lost because a seat belt was not worn. A passenger in the vehicle, who was wearing a seat

belt, walked away with minimal injuries. Had the Deceased been wearing a seat belt he might well have survived the crash.

4. Shortly before his death, the car driven by the Deceased was pursued by police. The pursuit was conducted in accordance with the Northern Territory Urgent Duty Driving and Pursuit Policy.
5. I have considered the extended definition of custody in the *Coroners Act*, which includes a person fleeing or attempting to flee from police. I find that the Deceased was not in custody at the time of his death. The pursuit was terminated some 41 kilometres before the crash site. The Deceased continued to drive at an excessive speed well after the pursuit was terminated. I find that the police pursuit did not contribute to the crash or this death. To the contrary, had the Deceased obeyed the directions of the police, the circumstances in which the crash occurred would have been avoided.
6. Ms Elisabeth Armitage appeared as Counsel Assisting. The death was investigated by Detective Senior Constable Robert Kent. I received into evidence his detailed investigation brief. I also heard evidence from Mr Daniel Harrison, Ms Josephine Almankinni, Ms Leanne Fejo, Constable Alphonsus Shields, Constable Francis Craig, Constable Andrew Duggan, Mr Philip Blythe, Mr Warren Purse, Dr Terence Sinton, Senior Constable Criag Gillis, Senior Constable Robert Kent and Mr Clifford Joe.
7. Pursuant to section 34 of the *Coroners Act*, I am required to make the following findings:

“(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;

8. Section 34(2) of the Act operates to extend my function as follows:

“A coroner may comment on a matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated.”

9. Additionally, I may make recommendations pursuant to section 35(1), (2) & (3):

“(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 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.”

Relevant circumstances surrounding the death

Background

10. The Deceased was born on 19 October 1987 at Royal Darwin Hospital. He was the youngest son of Ms Maureen Wesan and Mr Gersham Garlngarr. The Deceased’s mother passed away in Katherine in 2002. His father lives at Gunbalanya Community, and his brother and sister, Mr Ezariah Wesan and Ms Durscilla Brown, both reside at Beswick Community.

11. For much of his life the Deceased lived at Beswick Community with his aunt, Ms Audrey Wesan. He went to Beswick Primary School and then attended Batchelor School until year 10. The Deceased returned to Beswick Community after leaving school. He was unemployed when he died.

12. As a youth and into his adulthood the Deceased struggled with substance abuse. His life was marred by the abuse of alcohol and by petrol sniffing. The Deceased's addictions are likely to have contributed to his coming into conflict with the law. He was arrested on a number of occasions during his youth and early adult life, primarily for property offences.
13. In late 2008 the Deceased was arrested for committing property offences in Beswick Community. He pleaded guilty to the offending and on 23 December 2008 he was sentenced to fourteen months imprisonment with a non-parole period of 8 months. To his credit, whilst serving his custodial sentence the Deceased studied and obtained a Certificate 1 in Access to Employment and a learner driver's licence.
14. On 23 November 2009 the Deceased was released from Berrimah Gaol under the supervision of Correctional Services and immediately entered residential rehabilitation provided by the Council for Aboriginal and Alcohol Program Services (CAAPS). The Deceased received treatment for his substance abuse addictions until 2 January 2010.
15. Most unfortunately, and ultimately tragically, on 2 January 2010 the Deceased ran away from CAAPS. He went to number 48 Bagot Community and stayed with his cousin, Ms Leanne Fejo and his grandmother, Ms Lara Ru-unga.

The evening of 6 January 2010

5/3 Shier Street, The Narrows

16. On 6 January 2010 the Deceased walked with his grandmother to the residence of Mr Ken Ru-unga and Ms Rita Alimankinni at 5/3 Shier Street, The Narrows. They were visiting family members.
17. The Deceased remained at the flat during the day and consumed alcohol. During the day and evening a number of people joined the drinking group

including, Mr Clifford Joe, Mr Daniel Harrison, Ms Josephine Alimankinni and Mr Johnson Duncan.

18. By late evening the Deceased was heavily intoxicated. Ms Josephine Alimankinni accused him of looking at her and another family member while they were sleeping. The Deceased denied the allegations and there was a brief verbal exchange. The Deceased blamed Mr Johnson Duncan for watching Ms Alimankinni. The argument escalated and the Deceased, Ms Alimankinni and Mr Duncan all became involved in a verbal and physical dispute.
19. There is no evidence that the Deceased suffered any injuries from the altercation and no unexplained injuries were identified in the autopsy. Whilst I am satisfied by the evidence that the altercation occurred, I make no further findings of fact about it, and simply note that witness accounts of it differ.
20. After this altercation, the Deceased left the flat in an angry and agitated state. He said he was going to Bagot Community to see Ms Leanne Fejo.
21. During the night, the Deceased met Mr Clifford Joe. The evidence indicates that they were not previously known to each other.

Darwin City Council Maintenance Depot Social Club

22. The Darwin City Council (“DCC”) Maintenance Depot Social Club is located at 65 Bishop Street, Woolner, approximately 200 meters from 5/3 Shier Street, The Narrows.
23. Some days before 6 January 2010, the DCC Social Club was broken into and a large amount of alcohol was stolen. A green plastic bin was also stolen. I assume the bin was used to carry away the alcohol.
24. At about 1.00 am on 7 January 2010 the Deceased and Mr Joe approached the DCC Social Club and found the front door locked. Using a wheelie bin

for support, Mr Joe climbed up and into the ceiling eave, and gained access to the roof cavity. He then kicked a hole through the ceiling to gain access to the social club. The Deceased managed to gain access through the door.

25. Once inside the Deceased and Mr Joe smashed open the glass fridges and loaded stolen alcohol into a plastic bin. I note that after the collision, a green plastic garbage bin was recovered from the back of the vehicle driven by the Deceased. It seems likely that the Deceased and possibly Mr Joe had some knowledge of the previous alcohol theft from DCC, and might have taken the bin back to the DCC with the intention of stealing more alcohol.
26. Mr Andrew Glenn was the DCC care taker and lived on-site in a caravan. Mr Glenn owned a maroon Holden Rodeo utility, Northern Territory registered, 718-121 (the 'Rodeo').
27. The Deceased found the keys to the Rodeo on the top of a refrigerator outside Mr Glenn's caravan. Mr Joe gave evidence that the Deceased stole the Rodeo and chose to drive because he said he was 'older and licenced'. In fact the Deceased was not licenced but, as noted above, did hold a learners permit.
28. The Deceased drove the vehicle down to the Social Club where Mr Joe was waiting. They put the bin containing the stolen alcohol into the back seat. Indistinct CCTV footage of this was played at the inquest which supports Mr Joe's evidence. I saw shadowy figures on the CCTV but the image was too poor to specifically identify the persons as either the Deceased or Mr Joe.
29. The Deceased continued to drive with Mr Joe as front passenger. The Deceased drove the car through the closed main gates of the DCC. This caused only minor panel damage and loss of the snorkel to the vehicle and did not affect the control or handling of the vehicle. I saw CCTV footage of this. The CCTV showed the vehicle driving through the gates but the occupants of the vehicle could not be seen.

30. The Deceased drove to Bagot Community. He told Ms Leanne Fejo that he was going back to the flat in The Narrows and then to Beswick Community. He collected a bag of clothes. Ms Fejo gave evidence that the Deceased was with another male but she did not know him and was unable to describe him. Ms Fejo told me that the two men were in a car, but again was unable to describe it because it was parked behind her own car and she did not get a good look at it. Ms Fejo did not see the Deceased leave Bagot Community and was unable to give any evidence as to whether he was driving the Rodeo.
31. Mr Joe said that he recalled going to Bagot Community because the Deceased wanted to collect clothes. Mr Joe said he remained in the car and was very drunk. Mr Joe said, and I accept his account on this point, that the Deceased drove the Rodeo from Bagot Community.

A police pursuit

32. At 2.41 am police communications received an anonymous report that two aboriginal youths, approximately 20 years of age, were breaking into a white station wagon Hilux on Tsolos Street, The Narrows. I note that Tsolos Street is a service road that runs between the Stuart Highway and Shier Street.
33. Constable Alphonsus Shields was driving police vehicle 418, a marked Toyota Hilux, caged, paddy wagon. Constable Shield's partner, Constable Francis Craig, was manning the car radio. They were driving outbound on the Stuart Highway and passing the intersection with Shier Street, when they heard the police communications report.
34. The Constables saw Mr Glenn's stolen maroon Rodeo stopped at the Shier Street and Stuart Highway intersection, apparently preparing to pull out onto the Stuart Highway. Constable Shields noticed that there were two aboriginal youths in the Rodeo. He saw the passenger look at the marked police car in a way that he considered to be 'very suspicious'. In his evidence he described what I would call furtive glances. The Constables

continued past the intersection but then pulled into a bus stop and waited to see if the maroon Rodeo would drive past.

35. The Rodeo did drive past. Constable Shields saw the passenger looking out the window and back towards the marked paddy wagon. He described seeing hair out the side of the passenger's face and a white cap. (I note that Mr Joe gave evidence that he was wearing a cap that night.) Taking into account the radio report of two Aboriginal youths interfering with cars, and their own observations of suspicious behaviour, both Constables agreed to stop the Rodeo and started following it outbound along the Stuart Highway.
36. As the vehicles passed through the intersection of Amaroo Road and the Stuart Highway, Winnellie, both vehicles were travelling in the left hand lane at approximately 40 – 50 kph. The police activated their emergency lights and attempted to stop the vehicle. When the Rodeo did not pull over, Constable Craig activated the police emergency sirens for a short time. Constable Craig reasoned that the driver might not have seen the emergency lights. The Rodeo continued to fail to stop, it then accelerated sharply, and continued outbound.
37. At 2.48.32 am near the intersection of Hook Road Constable Craig turned off the siren and radioed police communications to report the:
 - a) attempted apprehension,
 - b) failure to stop, and
 - c) decision to pursue.
38. Further, and in accordance with the requirements of the Police Urgent Duty Driving and Pursuit Policy, Constable Craig reported that the Rodeo had increased speed to 140 kph. I note that the sign posted speed limit at this point of the Stuart Highway was 80 kph but the vehicles were heading into a 90 kph zone. The Constables re- activated their emergency siren.

39. The Constables both gave evidence at the inquest and provided statements. I am satisfied that they discussed the matter and believed that the risk involved in conducting a pursuit was relatively low. In my view they appropriately considered matters relevant to an assessment of risk, namely:
- a) the time of night,
 - b) that traffic was light,
 - c) that the highway was a dual carriage way separated by a vegetated medium strip,
 - d) that the area was zoned for industrial use,
 - e) that the highway was bounded by large spaces of cleared land,
 - f) the road was dry, and
 - g) the Rodeo was not being driven erratically.
40. At 2.48.42 am the Rodeo continued travelling outbound and Constable Craig radioed communications to advise that they were passing Amy Johnson Avenue. Police vehicle 404, (a marked police 4x4 caged vehicle) had commenced following the pursuit along the Stuart Highway but was a considerable distance behind in Stuart Park.
41. At 2.49.14 am Constable Craig radioed communications to advise that they were passing the Berrimah Road intersection. Constable Craig informed police communications that there was no traffic on the road, the road was dry and they were travelling at 150 kph. The Berrimah Road intersection traffic camera recorded the approaching vehicles and I saw the footage during the inquest. That recording confirms the Constables accounts of the relative positions and speeds of the vehicles (recorded by the traffic camera at 146 kph). The footage confirms that traffic was light and conditions were dry. I note that the sign posted speed limit at the Berrimah Road intersection was 90 kph but soon after it changed into a 100 kph zone. The area was

zoned for industrial and commercial use and there were large spaces of cleared land running on the left hand side of the road. There were no merging lanes or cross streets with the Stuart Highway until Lagoon Road.

42. Constables Shields and Craig gave evidence that the Rodeo maintained a speed of approximately 150 kph. They told me that the Rodeo was not driven erratically and, other than straying over the white centre line on one occasion, it proceeded in the left hand lane. There was nothing in the way the vehicle was being driven that indicated to them that the driver was either inexperienced or intoxicated. Constable Shields gave evidence that he was travelling about 50 metres behind the Rodeo during the pursuit. It remained the Constables' opinion throughout that the risk involved in the pursuit was relatively low.
43. At 2.49.49 am and at 2.50.38 radio updates were provided to communications.
44. At 2.51.18 am Constable Craig radioed communications and advised that the road surface was now wet. The sign posted speed on this section of the Stuart Highway was 100 kph reducing to an 80 kph zone. Constables Craig and Shields discussed the changed conditions. They told me that although the road was wet they considered the risk factors in continuing the pursuit remained low because:
 - a) there was minimal traffic,
 - b) it was not raining, and
 - c) the vehicle was not being driven erratically.
45. At 2.51.27 am Constable Craig radioed communications to advise that they were passing the BP Palms intersection. As the vehicles passed through this intersection police vehicle 241 (a marked police traffic sedan) conducted a u-turn at the McKinnon Road intersection and started to follow the pursuit.

46. The BP Palms intersection traffic red light and speed camera can record approaching vehicles. However, in this instance neither accurate speeds nor photos of the vehicles were captured. It was explained in the brief of evidence that either a sharp reduction of speed or sideways movement can upset the camera sensors and cause them to automatically reset. It is believed this is what occurred and as a result no photos were taken. Speeds were recorded but in the circumstances can only be considered approximate. The Rodeo was recorded as travelling at approximately 141 kph, police vehicle 418 at 140 kph, and police vehicle 241 at 106 kph. The sign posted speed limit at the BP Palms intersection is 80 kph.
47. At about 2.52 am Constable Craig was directed by the police communications supervisor to reduce vehicle speed due to the wet road conditions. Constable Craig acknowledged the direction and reported that they had slowed to 130 kph. He further advised that the vehicles had turned left on the Stuart Highway and were travelling outbound past Yarrawonga. The sign posted speed limit on this section of the Stuart Hwy was 80 kph moving into a 100 kph zone.
48. Constable Craig advised communications that the Rodeo was maintaining a speed of approximately 150 kph and the distance between the police car and the Rodeo was increasing. He advised that the road surface was still wet and there was no traffic. Police sedan 241 was following the first police vehicle 418 at a distance of approximately 500 metres.
49. At 2.53.07 am police communications directed that the pursuit be terminated. Constable Craig acknowledged the direction and deactivated the lights and sirens. He advised communications that the Rodeo was continuing outbound on the Stuart Highway towards Humpty Doo. The Constables continued driving along the Stuart Highway but reduced their speed to 100 kph which was the sign posted speed. I note that the Constables were unable to turn off the Stuart Highway until the next intersection at Gunn Point Road

and were not continuing with the pursuit. The Rodeo continued travelling outbound on the Stuart Highway.

50. All up, the pursuit was conducted over 17 kilometres.

Further observations of the Rodeo

51. As the Rodeo approached 15 Mile Camp the traffic conditions changed slightly. Ahead of the Rodeo there was a white Hi-Ace van in the left hand lane and further ahead again, in the right hand lane, a green Suzuki Vitara (the 'Vitara'). Mr Andrew Duggan, an off-duty Constable, was driving the Vitara, accompanied by his wife and passenger, off-duty Constable Ms Natalie Watt.
52. Mr Duggan gave evidence that as the Rodeo approached from behind, it crossed into the right hand lane to pass the white Hi-Ace van, and then swerved violently back into the left hand lane, narrowly missing the Vitara. Mr Duggan thought the driver of the Rodeo had lost control but noticed that the driver managed to 'straighten up'. He thought the driver had probably been drinking. Mr Duggan and Ms Watt were travelling at approximately 100 kph and estimated the speed of the Rodeo to be 130 kph or more.
53. As they approached the intersection of Gunn Point Road and the Stuart Highway, Mr Duggan and Ms Watt saw the Rodeo travel through an orange light and continue outbound. As they slowed to stop at the intersection they saw police vehicles 418 and 241 turning left onto Gunn Point Road.
54. Police vehicles 418 and 241 continued driving along Gunn Point Road for approximately 200 metres until they reached the entrance to 15 Mile camp where they stopped. The officers discussed the pursuit and further possible searches for the vehicle. After a brief conversation, police vehicle 418 drove to Coolalinga Shopping centre to see if the Rodeo had been abandoned there and Police vehicle 241 drove to Palmerston to continue with other duties.

55. Police vehicle 404 which was some distance behind the other police cars continued driving south along the Stuart Highway. Police vehicle 404 passed Mr Duggan and Ms Watt just prior to the Arnhem Highway intersection. Police vehicle 404 conducted a u-turn and returned to Palmerston. Mr Duggan said that police vehicle 404 was not travelling at excessive speed and did not have emergency lights or sirens activated.
56. The Deceased and Mr Joe continued travelling outbound on the Stuart Highway. Mr Joe said that the Deceased was driving to Beswick Community but that he (Mr Joe) intended to get out in Katherine. Mr Joe said that during the pursuit he was scared by the speed and that he kept his head down.

The collision

57. At about 3.20 am the Rodeo was about two kilometres north of the Acacia store and approximately 41 kilometres from the point where the police pursuit was terminated. The Rodeo approached a long, sweeping, right hand bend. A culvert allowed a wet season watercourse to run underneath the road. The culvert contained flowing water from the recent rain and runoff.
58. Bureau of Meteorology records do not confirm whether it was raining at the time, but Mr Joe thought that it was raining lightly. In any event, the road surface was wet as it had recently rained.
59. Site examinations reveal that the Rodeo entered the right hand bend at a speed which caused the vehicle to lose traction with the road surface. The rear of the Rodeo began to yaw and tracked outside of the front of the vehicle. The Deceased applied steering input to the right which caused the vehicle to skid across both the outbound and inbound lanes.
60. The Rodeo skidded sideways with the passenger's side facing east. It slid off the right hand side of the road and continuing sliding for about 30 metres. The vehicle crossed through the culvert and continued up the bank colliding

with a small tree and mound of dirt. It rolled and came to rest against a steep embankment.

61. As the Rodeo rolled the Deceased was thrown from the vehicle because he was not wearing a seat belt. Mr Joe told police he saw the Deceased being thrown through the windscreen, however, the windscreen was discovered intact so it is likely that the Deceased was ejected through the driver's side window. The windscreen and bonnet of the vehicle came to rest on the Deceased's upper body. The Deceased died from asphyxiation whilst trapped under the weight of the vehicle.
62. A short time later Mr Duggan and Ms Watt passed the collision site. Mr Duggan noticed the lights from the Rodeo on the side of the road and thought that there might have been an accident. Mr Duggan conducted a u-turn.
63. Mr Joe was on the side of the Stuart Highway and waved the Vitara down. Mr Joe said that his 'brother' was trapped in the Rodeo. Ms Watt stayed with the Vitara, as her two year old son was inside, while Mr Duggan went to assist.
64. Mr Duggan approached the Rodeo and used his mobile phone as a light. He located the Deceased trapped under the front of the vehicle. The Deceased's body was under the bonnet and roof and only his legs were showing. Mr Duggan was unable to find a pulse on the Deceased's leg and he could not detect any signs of life.
65. Ms Watt attempted to call emergency services but was unable to get reception on her mobile phone. She flagged down a passing road train which carried a satellite phone, and the accident was reported.
66. While they waited for emergency services, Mr Joe spoke to Mr Duggan and Ms Watts. Mr Duggan and Ms Watts thought Mr Joe was highly intoxicated and suffering from the emotional effects of the accident. Mr Joe said that he

was the passenger in the Rodeo and that he had been wearing his seat belt. Mr Joe also said 'I'm in big trouble when the police take my fingerprints, I'm going to jail for life'. However, Mr Joe told ambulance officers a different story. Mr Joe told them that he was not wearing a seat belt and that he was thrown from the vehicle and landed in the creek (culvert). The ambulance officers noticed that Mr Joe was cold and wet and the ambulance officers thought that was consistent with his story. However, it is equally possible that Mr Joe became wet when the car rolled through the flowing culvert, or by crawling into the culvert in shock.

67. At about 3.51 am an Intensive Care Paramedic, Mr Warren Purse assessed the Deceased. Mr Purse was unable to locate any pulse (femoral, radial or carotid) and declared death. Mr Purse stayed at the scene for about half an hour and had a good look around. In evidence he agreed that his observations of the Deceased and the scene were consistent with a finding of death by asphyxiation.
68. Mr Joe was taken by ambulance to Royal Darwin Hospital. Apart from some bruising and pain to his right shoulder he suffered no other injuries. At the hospital, Mr Joe continued to give conflicting accounts as to whether he was wearing a seat belt or not and as to whether he was thrown from the vehicle or climbed from it. Mr Joe was intoxicated which might account for the variations in his story. He might also have been suffering from shock having just been involved in the crash.
69. Constables Shields and Craig saw Mr Joe in hospital. They were unable to identify him as either the driver or passenger of the Rodeo. I note that when they saw him his head was cushioned between two pillows and his hair was obscured to some extent.
70. Mr Joe was considered too intoxicated to interview. Subsequently, Mr Joe spoke to police informally and told them about the break-in at DCC and the

collision, but he declined to be formally interviewed. Mr Joe later pleaded guilty to offences associated with the break-in.

71. Although Mr Joe's accounts have varied over time, he has consistently maintained that he was the passenger in the Rodeo.
72. I received into evidence some photos of Mr Joe and the Deceased. Mr Joe had longer styled curly hair. The Deceased had shortly cropped hair. Constable's Shields description of the passenger's hair was consistent with Mr Joe's hair and inconsistent with the Deceased's hair style. Furthermore, Constable Shields said the passenger was wearing a white cap. Mr Joe gave evidence that he was wearing a cap. This evidence supports my finding that Mr Joe was the passenger and not the driver of the Rodeo.

The collision scene

73. The collision was described as a 'rollover' in the crash analysis report. There was only one vehicle involved in the collision.
74. The section of Stuart Highway where the collision occurred was sealed bitumen road in good condition, with one northbound lane and one southbound lane separated by a painted solid double white line. Each lane was 3.5 metres wide. The road was sign posted with a speed limit of 130 kph. There was no street lighting.
75. The crash occurred at night. There had been recent rainfall and the road surface was wet. There was heavy cloud and localised storms, and driver visibility was restricted by the weather conditions.
76. Due to the weather conditions there was no visible road evidence on which to perform speed calculations.
77. Taking into account the witnesses evidence as to the speed of the Rodeo shortly before the collision, I find that a combination of wet road conditions and excessive speed contributed to the collision.

The vehicle examination

78. The vehicle was a maroon Holden Rodeo twin cab utility, NT registered 718-121.
79. No pre-crash faults were identified that might have contributed to the collision.
80. The vehicle was severely damaged during the crash consistent with it having rolled several times before coming to rest on its roof.
81. The front passenger's seat belt was not retracted and remained in working order. I heard evidence from the crash investigator, Senior Constable Gillis, that no conclusions could be drawn as to whether the passenger seat belt was worn at the time of the crash.
82. The driver's seat belt was locked in the retracted position. Senior Constable Gillis said that this only occurred when a seat belt is not being worn. Accordingly, I must conclude that the driver's seat belt was not worn at the time of the crash. This evidence in combination with the evidence that the Deceased was thrown from the vehicle, supports my finding that the Deceased was the driver of the Rodeo at the time of the collision.
83. Samples of fabric were seized from the passenger's and driver's seat and sent for forensic analysis. It was hoped that DNA might be detected, which might have assisted in answering the question as to who was driving. However, no DNA was extracted.

The autopsy

84. The Deceased was identified through an examination of finger prints.
85. Dr Terence Sinton completed an autopsy on 8 January 2010. The only significant findings were lacerations and abrasions on the Deceased's face, neck, front trunk, right arm, left shoulder and right leg. He had no injuries consistent with wearing a seat belt. There was no evidence of any significant

internal injury. There was no evidence of any clinically significant, naturally occurring organic disease which might have contributed to his death. The skull and skeleton were intact with no evidence of recent bony trauma.

86. A sample of the deceased's blood was analysed and found to have an alcohol content of 0.238%. A sample of the deceased's urine was analysed and found to have an alcohol content of 0.302%.
87. Dr Sinton was of the opinion, taking into account the findings at autopsy and the history of the crash, that it was likely the Deceased died because he could not breathe while trapped under the weight of the upturned vehicle.
88. I agree with Dr Sinton's opinion and find that the Deceased died from traumatic asphyxia arising from the motor vehicle rollover.

Findings

89. The Deceased died in a single vehicle rollover collision which occurred on the Stuart Highway approximately two kilometres north of the Acacia store.
90. On the evidence before me, I am satisfied that the Deceased was the driver of the Rodeo and Mr Joe was the passenger. In coming to that finding I rely on the following evidence:
 - a) Mr Joe has consistently stated he was the passenger,
 - b) Mr Joe's injuries were minor, consistent with him having worn a seat belt,
 - c) Constable Shield's described the passenger as having longer hair and wearing a white cap. That description is consistent with Mr Joe's appearance and clothing, and inconsistent with the Deceased's style of hair,
 - d) The driver's seat belt was not worn at the time of the crash, and

- e) The deceased was thrown from the vehicle consistent with him not wearing a seat belt.
91. At the time of his death, the Deceased was in breach of his parole, he was drunk, he was unlicensed, and he was driving a stolen car which contained stolen alcohol. I have no doubt that the Deceased deliberately chose not to stop when directed to do so by police. He accelerated away from the police to avoid apprehension.
92. The distance travelled from the commencement of the police pursuit to its termination was 17 kilometres. The distance travelled by the Rodeo from the termination of the pursuit to the collision site was 41 kilometres. Approximately 27 minutes passed between the termination of pursuit and the collision. Accordingly, I find that the police pursuit was terminated before the collision and that the pursuit did not contribute to this death.
93. I find that at the time of his death the Deceased was not fleeing from police and he was not in custody. He was simply drink driving at an excessive speed.
94. The Deceased lost control of the vehicle in the wet conditions. The vehicle skidded and rolled. The Deceased was ejected from the vehicle because he had chosen not to use a working seatbelt. The interior of the vehicle was in relatively good condition after the collision. I can only conclude that a significant contribution to the Deceased's death was his failure to wear a seatbelt.
95. The vehicle came to rest on the Deceased. The Deceased died as a direct result of the crash from traumatic asphyxiation at about 3.26 am on 7 January 2010.
96. Tragically, the Deceased was responsible for his own death.
97. There are no recommendations arising from this inquest.

Formal Findings

98. Pursuant to section 34 of the *Coroner's Act* ("the Act"), I find, as a result of evidence adduced at the public inquest, as follows:

- (i) The identity of the Deceased person was Shechem Wesan-Garlngarr born 19 October 1987. The Deceased resided at Beswick Community, in the Northern Territory of Australia.
- (ii) The time and place of death was 3.26 am on 7 January 2010 two kilometres north of the Acacia Store on the Stuart Highway (GPS S12deg 47.091 / E131deg 07.281).
- (iii) The cause of death was single motor vehicle roll-over collision.
- (iv) Particulars required to register the death:
 1. The Deceased was Shechem Wesan-Garlngarr.
 2. The Deceased was of Aboriginal descent.
 3. The Deceased was unemployed.
 4. The cause of death was reported to the coroner.
 5. The cause of death was confirmed by post mortem examination carried out by Dr Sinton.
 6. The Deceased's parents are Maureen Wesan and Gersham Garlngarr.

Dated this 23rd day of September 2011.

GREG CAVANAGH
TERRITORY CORONER