

CITATION: *Inquest into the death of Robert Curtis* [2021] NTLC 001

TITLE OF COURT: Coroners Court

JURISDICTION: Alice Springs

FILE NO(s): A0014/2019

DELIVERED ON: 7 January 2021

DELIVERED AT: Alice Springs

HEARING DATE(s): 8 December 2020

FINDING OF: Judge Greg Cavanagh

CATCHWORDS: **Death in custody, natural cause death, prisoner given leave to die in his community**

REPRESENTATION:

Counsel Assisting: Kelvin Currie

Counsel for Wayne Curtis: Lucy Armstrong

Judgment category classification: A

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IN THE CORONERS COURT
AT ALICE SPRINGS IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. A0014/2019

In the matter of an Inquest into the death of

ROBERT CURTIS
ON: 26 March 2019
AT: Mutitjulu Aged Care Facility

FINDINGS

Judge Greg Cavanagh

Introduction

1. Robert Curtis (the deceased) was born at De-Rose Hill Station, South Australia to Rose Witjiwara Curtis and Wally Curtis. His South Australian Birth Certificate records his birthdate as 1 January 1958. Early police records note his birthdate as 1 January 1957. His health records use the date, 1 September 1959. Other records use the birthdate of 1 September 1958.
2. He went to school in the community of Ernabella and worked as a stockman at Mt Cavanagh Station, in the Northern Territory. He had four children; Dion, Darren, Sharon (deceased) and Cheryl.

Driving while Disqualified

3. Relevant to the circumstances of his imprisonment was a history of driving while disqualified. He was first convicted of driving while disqualified on 20 October 1986. Thereafter he was convicted a further twenty times for that offence on: 22 May 2003, 30 June 2004, 2 August 2004, 7 July 2004, 2 February 2006, 24 October 2007, 22 February 2008, 6 January 2009, 26 August 2009, 3 February 2010, 30 April 2010, 14 December 2010,

4 January 2012, 12 December 2012, 20 February 2013, 1 August 2013, 7 December 2013, 23 December 2014, 11 May 2018 and 4 February 2019.

4. On 7 August 2013 Mr Curtis was convicted for offences related to his driving (including driving while disqualified). He was disqualified from driving for a period of five years. The following year on 12 March 2014 he was again disqualified for a further period of five years after conviction for similar offences. The following year he was imprisoned for three months for driving while disqualified. On 11 May 2018 he was detected driving while disqualified once more. He was convicted on 27 June 2018 and at that time a sentence of imprisonment of three months was imposed. It was suspended should he not further offend for a period of 12 months.

Health

5. In October 2009 Mr Curtis was diagnosed with end stage renal disease that required ongoing dialysis. By 2018 his health had significantly declined. The Renal Consultant wrote to the General Practitioner of Mr Curtis on 21 May 2018:

“Bob has multiple complex medical issues which have significantly worsened over the last year. These issues include ... chronic kidney disease stage 5D for which he has been on maintenance haemodialysis. The aetiology of his kidney disease is uncertain ... however it is very likely it is diabetes associated given that he has a longstanding history of poorly controlled diabetes mellitus, hypertension and associated microvascular complications including diabetic retinopathy. He has complications of chronic kidney disease including anaemia as well as bone metabolism disorder of chronic kidney disease. His dialysis sessions have been complicated by low blood pressures and difficulty in fluid removal and predominantly fluid overload in the form of significant ascites ... his other significant history includes well-established chronic liver disease ... there have been extensive discussions with Bob and the ICU team as well as the renal team and it was decided that given the poor outcome of both his end-stage liver disease as well as end-stage renal disease and his overall poor general condition, Bob is not for any ICU or HDU care ... at present Bob seems to be tolerating dialysis well despite his low blood pressures. He seems to be mobile.

In summary, Bob is a gentleman with end-stage renal disease as well as end-stage liver disease. He has not been doing well over the past 6-8 months with repeated admissions to hospital with hypotension, significant ascites requiring therapeutic paracentesis as well as spontaneous bacterial peritonitis ... we will support him as long as possible on dialysis.”

6. On 19 January 2019 at 1.31pm he was seen in the Emergency Department of Alice Springs Hospital for generalised body weakness, unsteadiness when walking, diarrhoea for the last 24 hours, dizziness, headache, neck pain and abdominal pain. His blood pressure was 64/44 and he was cool to the touch. He had haemodialysis on the 8, 12, 15, 17 January and that morning.
7. He was put on an intravenous antibiotic and cultures were taken. He was admitted to the ward under the Renal Team at 8.55pm. He was noted to be vomiting on arrival. The following day he complained of increasing pain. On 22 January 2019 he had dialysis and it was planned that the following day he would have an ascetic tap (drain fluid). He had not had the fluid in his abdomen drained for a month at that stage. He had haemodialysis on 24 January 2019 and was discharged in the afternoon of 25 January 2019.

The Offence

8. He was once more detected on 4 February 2019 driving an unregistered Holden Captiva north on the Stuart Highway in Alice Springs. The Police Automatic Number Plate Recognition system identified the vehicle as being unregistered and he was stopped at 9.22am. He was arrested and taken to the Police Station where he was asked why he was driving. He said “This mob told me to drive”, referring to family members. He was not intoxicated.
9. He was refused Police bail and taken before the court at 2.00pm. At his appearance before the Court he was represented by a lawyer from the North Australian Aboriginal Justice Agency (NAAJA). The court was told that he was not a well man and was just wanting to live out his life at a local hostel

accommodation for renal patients. He was said to be concerned about where he would pass away.

10. Mr Curtis was convicted. His suspended sentence was found to have been breached and he was sentenced to 3 months imprisonment for his driving while disqualified that morning. The two sentences were to be served concurrently. His date of release was 3 May 2019.

Reception at Alice Springs Correctional Facility

11. It was not Mr Curtis's first time in custody. He had been in the prison system on 15 prior occasions since 1994. His longest time in prison commenced on 22 March 1995 after being convicted of manslaughter. He served 18 months of a four year and six months sentence. Mr Curtis was always courteous and compliant and had a record of good behaviour in the prison.
12. He was received into the prison in the late afternoon of 4 February 2019. He was noted to be frail. The reception procedures required that he have a shower. The showers are three sided cubicles with a painted concrete floor and block walls. Under the shower head there is a square white ceramic base with raised bumps, to assist with slip resistance.
13. During showering at 6.35pm, he likely suffered a dizzy spell and fell or slipped hitting his head on the concrete. The incident report states: "Prisoner unsteady on his feet while showering. Prisoner hit his head on shower floor causing bleeding to his head."
14. An ambulance was called to transport him to Hospital. It arrived at 7.06pm. When the paramedics arrived Mr Curtis was on a stretcher in the medical unit of the prison. He was not in distress but indicated his arm was very painful. It was noted that his head and left arm were injured and he was given 250mcg of fentanyl for the pain. It was also noted that he hadn't had

haemodialysis since Thursday, 31 January 2019, that is, he had missed having haemodialysis on two occasions.

Alice Springs Hospital

15. The ambulance delivered him to the Emergency Department at Alice Springs Hospital at 7.53pm. When he was assessed at 8.04pm, he was conscious and said that he had fallen, landing on the back of his head and was knocked unconscious. He said his left upper arm from elbow to shoulder hurt. Scans indicated that the fall had not broken any bones. The laceration on the back of his head was closed and he was given pain relief. However, it was noted that his abdomen was very distended due to ascites (fluid in the abdomen caused by failing liver function). He was admitted under the renal team. The plan was for dialysis in the morning.
16. The next day he was taken off haemodialysis after three hours due to his falling blood pressure. He was given lunch and just after starting to eat, vomited. He said he had not been feeling well.
17. On 6 February 2019 he had an ascitic tap put in place to drain the fluid. By 8.20pm 14.25 litres had been drained. He was discharged at 5.00pm the following day, 7 February 2019. Back at the prison he became increasingly dizzy and vomited on three occasions. His blood pressure was found to be 60/30mmHg. The ambulance was called at 7.24pm. On the way to the hospital his blood pressure fell to 55/26mmHg and he was given 550mls of normal saline. He arrived at the hospital at 9.07pm. At that stage his blood pressure was 80/56 mmHg and he was given more fluid, 400mls of albumin.
18. He was again admitted under the Renal Team. It was thought that his ongoing hypotension was secondary to dialysis and the removal of the large volume of ascites. The next morning (8 February 2019) it was noted, "In near future, will need to have discussion regarding Bob's ceiling of care -> Palliative?"

19. The plan was to keep his systolic blood pressure (SBP) above 80. On 10 February 2019 his blood pressure was 70/40mmHg. There was a discussion to the effect that if his SBP dropped below 60 they would have to cease haemodialysis treatment.
20. Throughout his stay in hospital he continued to have shoulder pain from his fall at the prison and was given analgesics on a regular basis. He remained alert and oriented but was dizzy if he sat up or moved his head. He could mobilise with the aid of a four wheeled walker and an assistant. He received dialysis and on 16 February 2019 had a further 6 litres of ascites drained.
21. On the morning of 18 February 2019 it was noted that his blood pressure had been 65/35mmHg overnight and the plan included making a referral to Palliative Care. Mr Curtis expressed his view that all this had started when he fell and hit his head and that he is now a “sick man” and this was the “end” of him.
22. On 20 February his blood pressure was 68/43mmHg. The doctors discussed with Mr Curtis his condition and that dialysis may not be able to be continued. They discussed having a family meeting and that he may be able to get a compassionate early release from prison. A family meeting was arranged for Monday, 25 February 2019. On 22 February 2019 Mr Curtis told the palliative care team that he wished to pass away in his homeland at Mutitjulu.
23. At 10.10am on 25 February 2019 the family meeting was held. The medical notes record the names of thirteen family members being present. Doctor Fernandez explained that dialysis was increasingly difficult due to liver disease and hypotension. He said Mr Curtis’ low blood pressure made dialysis difficult and dangerous. He told them that Mr Curtis was not responding to treatment and his liver could not be fixed. He said it was time to stop the dialysis and let Mr Curtis spend time with family. He said it was Mr Curtis’ wish to return to Mutitjulu to “finish-up” and that Mutitjulu

Aged Care were happy to accept him. He said that they were waiting on an application for compassionate release to allow that to happen.

24. On 26 February 2019 the Commissioner for Correctional Services provided a General Leave Permit pursuant to section 118 *Correctional Services Act*, to Mr Curtis so that he could go to Mutitjulu Aged Care Facility without guards to spend his last days.
25. On 27 February 2019 the Hospital was informed that a transfer of care would be permitted by the Commissioner of Corrections to Mutitjulu Aged Care. At 2.56pm that day Mr Curtis said he was “happy to go out and sit there”.
26. On the morning of 28 February 2019 Mr Curtis had dialysis for four hours. It was to be the last time. He was asked if he had any worries. He said he was “palya” (good). He said he wanted to see Toby Farmer from the Renal Unit in Gap Road. Toby wasn’t able to get there for another two hours and so another nurse from Gap Road Renal Unit visited so he could use FaceTime to say farewell to Toby and other members of the Unit. His medications were prepared and packed and at 1.00pm the Royal Doctor Service flew him to Mutitjulu.

Mutitjulu Aged Care Facility

27. It was at that point thought that he would survive for another seven to ten days. However he was able to mobilise around the facility using his walker and ate and drank normally. The ascites built up in his abdomen and legs but it was not until 24 March 2019 that he started to become confused and that night slept on the floor. He was given Midazolam and a sedative to relieve his anxiety. There was a build-up of fluid in his lungs that caused him to struggle for breath. At 3.00am on 26 March 2019 he was given Fentanyl. He fell asleep at approximately 4.30am and remained asleep until his death at 10.00am.

28. The Forensic Pathologist, Dr Marianne Tiemensma confirmed that he died from end stage renal failure, in the context of type 2 diabetes mellitus and chronic liver disease.
29. Pursuant to section 34 of the Coroners Act, I find as follows:
- (1) The identity of the deceased is Robert Curtis, born on 1 January 1958 at De-Rose Hill Station, South Australia.
 - (2) The time of death was 10.06am on 26 February 2019. The place of death was Mutitjulu Aged Care Facility.
 - (3) The cause of death was end stage renal failure, in the context of type 2 diabetes mellitus and chronic liver disease.
 - (4) The particulars required to register the death:
 1. The deceased was Robert Curtis
 2. The deceased was of Aboriginal descent
 3. The deceased was a prisoner
 4. The death was reported to the Coroner by Police.
 5. The cause of death was confirmed by Forensic Pathologist, Doctor Marianne Tiemensma.
 6. The deceased's mother was Rose Witjiwara Curtis and his father, Wally Curtis.
30. Pursuant to section 26 (1) *Coroners Act* I must investigate and report on the care, supervision and treatment of a person held in custody immediately before his or her death.

Care, Supervision and Treatment

31. The deceased was in custody by the order of the Alice Springs Local Court on 4 February 2019. From previous periods in custody he was known to be a good inmate and had achieved an open security rating.

32. However due to ill-health he was only at the prison for short periods. It was so short that on each of the two occasions he was unable to complete the reception process. For the balance of the time he was at either the Alice Springs Hospital or Mutitjulu Aged Care Facility where he was palliated so that he could be on his own lands with his family.
33. In my view, on all of the evidence, the care, treatment and supervision of the deceased was appropriate.

Comment

34. An issue was raised by the brother of Mr Curtis, Mr Wayne Curtis. He was represented by NAAJA. He said that he was not notified by either Corrections or Health as to what was happening with Mr Curtis. He said that as a Pitjantjara man he should have been contacted and advised.
35. The Alice Springs Correctional Facility pointed out that Mr Curtis was not within their reception area long enough to obtain emergency contact details and had used information obtained from previous custodial episodes. However noting the concern from his brother Corrections has put in place a procedure that requires staff to utilise their best endeavours to obtain emergency contacts within 24 hours.
36. The Hospital had a number of next of kin and emergency contacts named in their records. But none of those named the brother. As the hospital pointed out, Mr Curtis was of sound mind for the whole time of his admission and it was not appropriate for the Hospital to advise persons that were not nominated by their patient. There were 13 family members of the family at the meeting organised by the hospital. I said during the inquest:

“But the evidence was that the family were talked to. He just wasn’t part of that. I mean there were 13 people there. Is that right, 13 people there, including his sister and other relatives? I take it they didn’t pass onto your client the news. He says he didn’t know and I

accept that. But that must mean that a whole lot of family who did know, didn't tell him."

37. In my view there is no blame that can be attributed to Corrections or the Department of Health. I commend both agencies for their compassion, understanding and efforts to return Mr Curtis to Mutitjulu so that he could die on his country surrounded by family and friends.

Dated this 7th day of January 2021.

GREG CAVANAGH
TERRITORY CORONER