



CORONERS COURT OF NEW SOUTH WALES

Inquest: Inquest into the disappearance and suspected death
of **Cheryl Ardler**

Hearing dates: 14 -18 March 2016, 26,27 July 2016

Date of findings: 19 August 2016

Place of findings: State Coroners Court, Glebe

Findings of: **Deputy State Coroner, Magistrate Teresa
O'Sullivan**

Catchwords: CORONIAL LAW –
Missing person
Domestic violence
Section 61 Coroners Act NSW

File number: 2013/388096

Representation: **Mr Durand Welsh, Sergeant, Coronial Advocate
Assisting**

Ms Curtin, Dennis French

Findings:**Identity of deceased:**

The deceased person was Cheryl Ardler.

Date of death:

Cheryl Ardler died between 5 December and 25 December 2012.

Place of death:

Her place of death cannot be determined.

Manner of death:

On the balance of probabilities, Cheryl Ardler was killed by a person or persons unknown.

Cause of death:

The medical cause of Cheryl Ardler's death cannot be determined.

Recommendations:

I recommend that this case be referred to the Unsolved Homicide Squad.

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Reasons for Decision

The Coroners Act 2009 (NSW) in s81 (1) requires that when an inquest is held, the coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the disappearance and suspected death of Cheryl Ardler.

Introduction

Cheryl Ardler was born on 5 December 1971 into a proud and close Aboriginal family. She is the daughter of Stanley George Ardler, now deceased, and Irene Ardler. She has four living siblings, Stanley Ronald Ardler, Josephine Ardler, Tracey Ardler, and Margaret Ardler, and one deceased sibling, William Ardler. Cheryl lived for many years in Brewarrina with her then partner, Elwood Clarke. After Elwood died, Cheryl moved in with her sister, Tracey, in South Penrith. In April 2012 she commenced a relationship with Dennis French and moved in with him at 18 Greenhaig Rd, Cranebrook. By many accounts, the relationship was an extremely violent one.

Cheryl's sister, Tracey Ardler, gave evidence that she reported Cheryl missing because she received a phone call from Kellie Knight, Cheryl's stepdaughter, mentioning that she hadn't heard from Cheryl for a while. Tracey responded to Kellie, "It's strange, I haven't heard anything either."¹

The grandchildren had not heard from her, and in Tracey's opinion it wasn't like Cheryl not to call the grandkids. Cheryl would call them nearly every day.

It was due to this unusual absence of contact that Tracey Ardler went to Penrith Police Station on the 26 June 2013 and reported Cheryl missing.

The Inquest

The role of the Coroner in a case such as this is to make a number of findings. The first finding is whether Cheryl is actually deceased. If that can be established, the Coroner must try to make further findings as to the date and place of her death and the manner and cause of her death.

The Evidence:

Background

Cheryl's mother, Irene Ardler, spoke of having a good relationship with her daughter. She said that "*Cheryl was the type of girl that just wandered all the time and we never got to see that often*". She went on to say "*But when we saw her we were all close together with her, the family*".²

¹ Evidence of Tracey Ardler given at Inquest 16/3/16

² Transcript of police interview with Irene Ardler. Ex 2, Vol 1, p.293

Cheryl's sister, Margaret said that as a child Cheryl was very happy and very outgoing. Cheryl was in a stable relationship with Elwood Clarke for about 18 years up until his death from a terminal illness in 2010. Although Cheryl had no biological children, she was someone who had very close relationships with many children in her extended family including her step son, Daniel. She came from a close and loving family and her family cared for her deeply.

In 2012, following Elwood Clarke's death, Cheryl moved from Brewarrina to South Penrith to live with her sister Tracey Ardler. Although Cheryl frequently moved between locations, up until her disappearance, she always kept in contact with her step grandchildren, her step son Daniel Boney and immediate family members. As her sister Margaret Ardler said, *"We always knew where she was. She always let somebody in the family know where she was."*³

Cheryl's other sister, Josephine Ardler, spoke of how close she and Cheryl were when she said *"of the six of us, Cheryl always wanted to follow me around. She was a very happy child. She liked to dance – a lot. She loved netball and team stuff. She loved people. She didn't like to be alone. She continued to be a social person"*.⁴

Josephine was of the view that if Cheryl was alive she would have contacted her stepson, Daniel, whose birthday she never missed.⁵

Dennis French

Cheryl commenced a relationship with Dennis French in April 2012 and resided with him at 18 Greenhaig Rd, Cranebrook. Several witnesses stated to police that the relationship had been volatile and violent and disclosed instances of physical abuse they had witnessed Dennis French committing upon Cheryl. These include witness Kelly Nixon stating that she saw Dennis French punching Cheryl in the face on 22 November 2012 and hitting her with a stick, as well as stabbing her in the mouth with a fork in December 2012. Helen Wickings also saw Cheryl bleeding from the mouth after she told her that Dennis French had stabbed her in the mouth with a fork.⁶ Approximately three days later, Kelly Nixon saw Dennis and Cheryl waiting at a bus stop on McHenry Road. She said that she was one hundred percent sure that it was Cheryl. Cheryl had a black eye and a *"busted lip"*. She said that they both were wearing backpacks. This would appear to be of the last sighting of Cheryl Ardler.⁷

Dennis French's niece, Letisha Wright, and her partner, Sean Carpenter, moved in with Cheryl and Dennis at 18 Greenhaig Rd, Cranebrook, in July 2012. Both Letisha and Sean gave evidence about the violence they witnessed Dennis perpetrate upon

³ Evidence of Margaret Ardler at Inquest, 15/3/16

⁴ Evidence of Josephine Ardler at Inquest, 15/3/16

⁵ Evidence of Josephine Ardler at Inquest, 15/3/16

⁶ Exhibit 2, Vol 2, p.626

⁷ Evidence given by Kelly Nixon at Inquest on 17/3/16

Cheryl. They appeared to still be very affected when giving their evidence about the extent of the violence they witnessed. Their accounts were detailed, credible and chilling. Their descriptions of the violent incidents they witnessed painted a picture of Dennis French as an extremely violent and dangerous man.⁸

Dennis French voluntarily spoke to police on two separate occasions. His first interview was on 1 July 2013 and the second on 28 May 2014. On the second occasion it was made clear to Mr French that he was a suspect. In his Electronic Record of Interview (ERISP) with police, Dennis French denied ever assaulting Cheryl.⁹

Objection under section 61 Coroners Act

Dennis French is the only identified person of interest in this inquest into the disappearance and suspected death of Cheryl Ardler. He was called to give evidence at this inquest on 26 July 2016. Mr French made a global objection to giving any evidence on the basis that to answer any questions likely to be asked of him would have the tendency to incriminate him for an offence against or arising under an Australian law.¹⁰ I upheld the objection. Given the likelihood that the evidence would be unreliable, the serious nature and subject matter of the inquest and the potential liability for criminal charges, I did not find that the interests of justice required that Mr French give evidence over his objection.¹¹

The investigation

A silver Holden Commodore Sedan NSW registration VUK249 was registered to Dennis French from the 16 July 2012 to the 18 July 2013. On 21 November 2014 a luminol examination was conducted inside the vehicle with negative results. On the 16th of May 2014 a crime scene warrant was executed at 18 Greenhaig Rd, Cranebrook. A luminol examination was conducted inside the premises with a negative result. A cadaver dog was used and investigators were advised that the dog was excited, but nothing conclusive could be determined.

The various checks investigators undertook on Centrelink and other institutions showed no activity after the 29 November 2012.

Investigators organised numerous media releases and followed up any information that came through as a result. All leads were subsequently investigated with nil result.

⁸ Evidence of Letisha Wright and Shawn Carpenter at Inquest, 16/3/16

⁹ Exhibit 2, p61

¹⁰ Sections 58 and 61 *Coroners Act* 2009 (NSW)

¹¹ Section 61(4) *Coroners Act* 2009 (NSW)

Last sightings of Cheryl

The evidenced given by Helen Wickings and Kelly Nixon, both neighbours of Cheryl, was that they last saw Cheryl in December 2012. Neither witness was able to be precise about the date they had last seen Cheryl. Helen Wickings gave credible evidence that she saw Cheryl Ardler in early December, on Cheryl's birthday, which is 5 December. This meeting occurred at Helen's house and Helen distinctly recalls that the conversation mostly concerned Cheryl waiting for her pay from Centrelink. Because of the occasion, Cheryl's birthday, Helen was sure about the date.¹²

Helen Wickings saw Cheryl again about a week after seeing her on 5 December 2012. Cheryl attended her residence after a violent altercation with Dennis French. Cheryl was bleeding and told Helen that Dennis had stabbed her in the mouth with a fork. Helen did not have a precise recollection of the date but was certain that it was between 5 December and 25 December 2012. The fact that Cheryl Ardler's Centrelink deposit never went through for the fortnight following the 29 November 2012 tends to indicate that this meeting occurred in the first half of December rather than at a time nearer to Christmas. This would also accord with Helen's recollection of it being "*directly in the middle of December*"¹³. Ms Wickings had some recollection that her children were already on school holidays. School holidays commenced 21 December in 2012.

Kelly Nixon also recalls the incident where Cheryl was stabbed with an instrument, believed to be a fork, by Dennis French. She knows that this was before Christmas because she travels during the Christmas period. Kelly recalls that 2 to 3 days later she saw Cheryl again. She was, in Kelly's words, very "*bruised up*". "*She had a black eye and a busted lip*".¹⁴ Cheryl was standing with Dennis French by the side of the road waiting for a bus. Kelly drove past them. She said the street is only a 50 km/h street and she had only just come out from turning so she wasn't going fast. In evidence she stated: "*I know it was them both standing there. I'm a hundred percent sure it was them two standing there.*"¹⁵ She remembers them both having backpacks on. She never saw Cheryl again.

The reliability of Kelly's identification at the bus stop is bolstered by two factors. One is that she had previous knowledge of both Cheryl and Dennis. In an earlier incident viewed at night from her back window she was able to identify both Cheryl and Dennis. In the incident that occurred in approximately mid-December, where she witnessed Cheryl being stabbed in the mouth with a fork, her identification of Cheryl was corroborated by Helen Wickings.

Secondly, her description of the injuries is consistent with Helen Wickings' recollection of Cheryl bleeding from the face following the fork stabbing. It is also worth mentioning that from her residence, Kelly had been able to hear on previous occasions several altercations at 18 Greenhalg Rd where Cheryl and Dennis resided. Several times previously had heard Cheryl calling out for help or for someone to call the police.

¹² Evidence given at Inquest, 17/3/16

¹³ Evidence given at Inquest, 17/3/16

¹⁴ Evidence given at Inquest, 17/3/16

¹⁵ Evidence given at Inquest, 17/3/16

After seeing Cheryl at the bus stop, Kelly Nixon has not heard from or seen Cheryl Ardler again.

The ERISP interviews with Dennis French do not materially assist with the date of death. In his ERISP, French recalls that it was likely another woman, Louise Cochrane, who was with him at the bus stop. She was called to give evidence and her version contradicted Dennis French's ERISP with respect to Dennis suggesting Louise had a black eye due to playing netball. Dennis also offered November and October respectively in successive ERISP interviews when questioned about when he had last seen Cheryl. In neither interview does he place himself in her company in December, either at the bus stop or during the altercation witnessed by Kelly Nixon.¹⁶

Facebook account

While no sightings of Cheryl occur after December 2012 and no checks completed by police show signs of life, Cheryl Ardler's Facebook account was active in 2013.

Detective Crimston confirmed that over 100 activations occurred post December 2012. He gave evidence that the police went through each and every IP address and none were able to be linked to an individual device, only to the Optus or Telstra network. These activations had taken place through a mobile account.

Police inquired about the IP addresses used to log onto the Facebook profile of Cheryl Ardler but were unable to narrow down specific addresses due to the way the telecommunications network assigned the relevant IP addresses.

A request was made to the Attorney General's Department for the Facebook records and this was submitted to the FBI to access Facebook records from Facebook in the United States. This request was declined. When questioned about this Detective Senior Constable Crimston gave evidence that it was his understanding that the FBI standard of "probable cause" had not yet been met.¹⁷

There was evidence provided to the inquest to suggest that other persons, in particular Cheryl's de-facto partner Dennis French, had full access to her Facebook account.

Sean Carpenter, who resided for a time with Dennis French and Cheryl Ardler between May and October 2012, stated that Cheryl accessed Facebook through Dennis's phone. He specifically said that Dennis had access to Cheryl's Facebook. Carpenter said this about Dennis French's access to her Facebook: *"He wanted to know any messages or posts that came through, and if it was from a male, that didn't go down very well."* Carpenter had heard them arguing once or twice about him going on her Facebook and Sean said that she, Cheryl, wasn't really allowed on Facebook.

¹⁶ Brief of Evidence, Vol 1, 1.2

¹⁷ Evidence given at Inquest on 14/3/16

Sean said that Cheryl and Dennis argued about Cheryl not being allowed to speak to people or add certain people she'd gone to school with. Sean didn't remember seeing a second phone in the time that he resided at the premises. He only recalls one phone at the premises. He believes it was Dennis's because Dennis would receive phone calls from his brothers and sisters on that mobile. Sean never saw Cheryl use any other mobile phone. He saw Cheryl regularly accessing Facebook through that phone.¹⁸

Helen Wickings was an acquaintance of Cheryl Ardler throughout 2012; she was a person Cheryl would go to for counsel, for friendship, and for shelter. She gave evidence that Cheryl had told her Dennis had been into her Facebook. Cheryl told Helen that Dennis had removed photos and would proposition men from her account to see if they would take the bait. Helen said that after Cheryl went missing she received a friend request and a message from Cheryl Ardler's account. She had never communicated with Cheryl via Facebook before this. These messages were received in January and February of 2013. Ms Wickings thought the messages were from Cheryl. The use of the expression "I'll be black, lol" used in one of the messages was considered by Ms Wickings and Cheryl's nieces, Kayla Shaw and Latoya Ardler, to be language commonly used by Cheryl. It is, however, likely that there would be many people, including Dennis French, who knew that this was a common expression used by Cheryl.

Kayla Shaw cast some doubt over the authorship of these messages. When shown the messages she immediately stated that they were not from her aunty Cheryl. Kayla said *"That's not how she writes because she always writes in capital letters."* Further to that, Kayla stated, *"She does the abbreviations. She doesn't use the full word."* She gave an example involving the line: *"Did you see Dennis around."* Kayla said Cheryl wouldn't use the word "around", but rather an abbreviation.¹⁹

I do accept that Kayla would have some appreciation of whether the messages were characteristic of her Aunty Cheryl's writings. I do note, however, that Cheryl's Facebook page, which was included in the brief of evidence, shows some posts from 2011 variously in capital and in lower case letters.

Tracey Ardler gave evidence that Cheryl's Facebook account photos were deleted following her disappearance.

Taking into account all of the evidence before this inquest, it appears that Cheryl Ardler's Facebook account was not being used in keeping with her previous practice. This inconsistent use of her Facebook account lends considerable weight to the proposition that she was not the person accessing the account.

Neil Mumbler

Of particular interest was evidence given by Cheryl's niece, Kayla Shaw. Kayla gave evidence that Neil Mumbler spoke to her at Central Railway Station after Cheryl Ardler's disappearance. Kayla stated that Neil said to her that his cousin had killed

¹⁸ Evidence given at Inquest on 16/3/16

¹⁹ Evidence given at Inquest on 16/3/16

her Aunt Cheryl. Neil Mumbler was called to give evidence at this inquest and claimed to have no recollection of the statement and claimed he might have been intoxicated at the time the words were spoken.

Kayla Shaw, however, said in her evidence that he wasn't drunk, he was "*just normal*".²⁰ Neil did not identify the cousin, nor did he reveal any specifics of the murder. Kayla's evidence came across as truthful. It was not embellished with details, nor were any claims made that Neil had identified anyone in particular as being responsible for Cheryl's death.

Neil Mumbler certainly did have a good knowledge of the Ardler family. He also had previously been an acquaintance of Dennis French. Neil had visited Dennis while the two of them resided close to each other in Marayong. He recalled the last time he saw Dennis at this location would have been about 2007 or 2008. Later in time, Neil had occasionally run into Dennis while Neil was working in Mt Druitt. He thought this would have been in 2011 or 2012. Neil gave evidence that his ex-wife, Lucy Murphy and Dennis French are cousins.²¹

Neil denied any further knowledge of Cheryl Ardler's death. It is worth noting that his evidence at the inquest was inconsistent with his electronically recorded interview with police, particularly regarding his knowledge of Dennis French. In his record of interview he denied knowing Dennis French at all.²²

Neil Mumbler was being untruthful when he denied knowing Dennis French during the police record of interview.

I accept the evidence of Kayla Shaw and I am satisfied that Neil Mumbler did say to Kayla that his cousin had killed her Aunt Cheryl. While his comments certainly raise some suspicion that he knows more than he has admitted, I do not think it is possible to attach any great weight to them. Nor is it necessarily the case that his untruthfulness during his police interview makes it any more likely that he is privy to information about Cheryl's disappearance. It is likely that the comments Neil made at Central Railway Station were based on a foundation of speculation and gossip rather than intimate knowledge of facts.

Is Cheryl Ardler deceased?

The last known financial activity of Cheryl Ardler was a withdrawal of \$380 on 29 November 2012. Her last collected Centrelink payment was deposited into her account on this date. Her Centrelink deposits appear fortnightly on her account, and the one for the fortnight following the 29 November was not deposited. Centrelink require lodging of forms either in person, by mail, online, or over the telephone.

²⁰ Evidence given at inquest, 16/3/16

²¹ Evidence given at Inquest on 18/3/16

²² Exhibit 2, Vol 1, p.391

Cheryl Ardler had consistently collected her payments from 2011 up until 29 November 2012 and there had not been any protracted breaks in her collecting payments since 1990.

According to the many members of her family who gave evidence, Cheryl had no other forms of income or means to support herself. Helen Wickings gave evidence that she recalled meeting with Cheryl in early December 2012 and Cheryl had been preoccupied with the imminent receipt of her next Centrelink payment, a payment that she never collected.²³

Detective Crimston gave evidence about the failure of the standard police “signs of life checks” to reveal any activity or information that would suggest Cheryl Ardler is still alive. These checks included checks with the Department of Immigration, NSW Registry of Births Deaths and Marriages, AUSGRID, Country Energy, Family and Community Services, Origin Energy and the NSW Electoral Commission. These inquiries reveal no activity after November 2012.

Detective Senior Constable Falcke provided a further statement listing a number of inquiries carried out in February 2016. These inquiries included checks with the following agencies: Interstate Police Services, Centrelink, Department of Immigration and Border protection, Financial Institutions, NSW electoral Role, Health Insurance Commission (Medicare), NSW Registry of Birth, Deaths and Marriages, Unidentified Persons/Remains stored in the Missing Persons Unit, NSW Police and RMS, NSW Police systems including COPS, RMS, and the Integrated Licensing System. No activity or new information has come to light since Cheryl's disappearance.²⁴

The lack of the police signs of life checks to reveal any activity on relevant accounts or services, the cessation of her Centrelink benefits, the failure of Cheryl to contact any members of her family and the suspicious activity on her Facebook account would all point decisively to Cheryl being deceased.

The evidence points to the fact that Cheryl died between the 5 December and 25 December 2012.

Without access to any physical remains, the medical cause of Cheryl's death is unable to be ascertained. The place of Cheryl's death is not able to be ascertained either.

Homicide or suicide

Cheryl Ardler did have a history of self-harm attempts. Specifically, these were an attempt to take her own life by hanging in 2001, while she was a resident at a Mental Health facility; an attempted hanging in 2003, and a self-inflicted stabbing in 2004 resulting in superficial wounds. Nepean Hospital notes obtained by Detective Crimston and explored in cross-examination by Ms Curtin, show that Cheryl had previously voiced thoughts of self-harm, was feeling depressed, and had suicidal ideation but no plan.

²³ Evidence of Helen Wickings given at Inquest, 17/3/16

²⁴ Exhibit 7, Statement of Detective SC Falcke, 11/3/16

Tracey Ardler recounted one suicide attempt made by Cheryl. She recalled that it occurred in the backyard in Brewarrina and was an attempt by hanging. Tracey believes the attempt was spontaneous, not planned, and was preceded by an argument with her then partner Elwood.

These attempts at self-harm took place relatively spontaneously and Cheryl did not remove herself to a remote location before any attempt. The attempts also occurred almost a decade previously.

On the evidence before me I find that it is unlikely that Cheryl committed suicide in such a manner that neither her remains have been discovered nor any witnesses have come forward. Given the totality of the evidence before me, I am of the view that the likely manner of Cheryl's death was homicide.

Cheryl's family

I would like to thank the members of Cheryl Ardler's family who have been here every day to hear some very upsetting evidence. I want to thank them for the patience and the restraint they have shown during what has been for them an extremely difficult inquest. They have heard harrowing accounts of incidents in Cheryl's life shortly prior to her disappearance and they have not gained all the answers they had hoped for. Their love and affection for Cheryl was obvious in the way each and every one of them spoke about her when they gave their evidence. I would like to express my sincere condolences to them. I don't expect that this inquest or anything will ever bring closure but I do hope that this investigation and the exploration of the evidence has helped in some small way.

Findings required by s81 (1)

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

The identity of the deceased

The deceased person was Cheryl Ardler.

Date of death

Cheryl Ardler died between 5 December and 25 December 2012.

Place of death

Her place of death cannot be determined.

Cause of death

The medical cause of Cheryl Ardler's death cannot be determined.

Manner of death

On the balance of probabilities, Cheryl Ardler was killed by a person or persons unknown.

Recommendations

I recommend that this case be referred to the Unsolved Homicide Squad.

I close this inquest.

Magistrate Teresa O'Sullivan
Deputy State Coroner

Date: 19 August 2016