



**STATE CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the death of Colin Hay

Hearing dates: 8 June 2017

Date of findings: 9 June 2017

Place of findings: NSW State Coroner's Court, Glebe

Findings of: Magistrate Derek Lee, Deputy State Coroner

Catchwords: CORONIAL LAW – death in custody, natural cause, terminal illness

File number: 2016/314488

Representation: Ms L Green, Coronial Advocate Assisting the Coroner
Mr R Donnelly (Justice Health & Forensic Mental Health Network)
Ms M Katawazi (Corrective Services NSW)

Non-publication order: I direct that, pursuant to section 74(1)(b) of the *Coroners Act 2009*, the following material is not to be published:

1. The names, addresses, phone numbers and other personal information that might identify:
 - (a) any member of Mr Hay's family;
 - (b) any person who visited Mr Hay whilst he was in custody (other than legal representatives or visitors acting in a professional capacity);
 - (c) any Corrective Services NSW employee; and
 - (d) any victim of the offences for which Mr Hay was serving a custodial sentence.
2. The names and Master Index Numbers of any persons in Corrective Services custody, other than Mr Hay, that are contained in the brief of evidence (Exhibit 1).

Findings:

I find that Colin Hay died on 21 October 2016 whilst he was a patient in the Secure Unit Annex of the Prince of Wales Hospital, Randwick NSW. At the time of his death Mr Hay was serving a custodial sentence. Mr Hay died of natural causes. The cause of his death was Waldenstrom's Macroglobulinemia, a type of non-Hodgkin lymphoma.

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Introduction

1. Colin Hay died on 21 October 2016. At the time of his death Mr Hay was serving custodial sentences for a number of offences and had been incarcerated most recently at Long Bay Correctional Centre. Only 2 months after Mr Hay was sentenced in November 2013 medical tests revealed that Mr Hay was suffering from a type of non-Hodgkin lymphoma. Initial treatment was successful and resulted in a remission but Mr Hay suffered a relapse in September 2015. Despite further treatment Mr Hay eventually succumbed to this devastating disease.

Why was an inquest held?

2. When a person's death is reported to a Coroner, there is an obligation on the Coroner to investigate matters surrounding the death. This is done so that evidence may be gathered to allow a Coroner to answer questions about the identity of the person who died, when and where they died, and what the cause and the manner of their death was. The manner of a person's death means the circumstances surrounding their death and the events leading up to it. If any of these questions cannot be answered then a Coroner must hold an inquest.
3. Section 23 of the *Coroners Act 2009* (the Act) makes an inquest mandatory in cases where a person dies whilst in lawful custody. In such cases the community has an expectation that the death will be properly and independently investigated. This is because when a person is imprisoned or held in lawful custody as a result of breaching a law, the State, by depriving that person of their liberty, assumes responsibility for the care of that person. It is necessary to ensure that the State discharges its responsibility appropriately by examining the circumstances surrounding that person's death.

What is known about Mr Hay's personal and custodial history?

4. Mr Hay was born in Stockton NSW on 2 December 1946 and was therefore 69 years old at the time of his death. Unfortunately very little is known about Mr Hay's personal history other than that he is survived by his 3 brothers and sister.
5. On 29 November 2012 Mr Hay was charged with a number of a number of sexual assault and indecent assault offences. He was later convicted of these offences and on 13 November 2013 Mr Hay was sentenced to a number of terms of imprisonment. The overall effective sentence that Mr Hay received was a term of imprisonment of 10 years dating from 29 November 2012 with a non-parole period of 6 years and 6 months from the same date. This meant that Mr Hay was eligible for release from custody on 28 May 2019.
6. After the sentences were imposed Mr Hay was initially kept at Cessnock Correctional Centre. He was later transferred to Parklea Correctional Centre and, ultimately, Long Bay Correctional Centre so that he could more readily access health care services that were required at the time.
7. In January 2013 some routine blood tests taken from Mr Hay suggested that he had a type of non-Hodgkin lymphoma. This diagnosis was later confirmed and it was discovered that Mr Hay was suffering from Waldenstrom's Macroglobulinemia (WM). This is a type of cancer where WM cells make large amounts of an antibody known as a macroglobulin. The build-up of these antibodies can lead to the symptoms of WM which include excess bleeding and nervous system

impairment. WE cells grow mainly in the bone marrow where they can crowd out normal cells which can lead to low levels of red blood cells (anaemia). It can also cause low levels of white blood cells making it harder for the body to fight infection, and cause a reduction in platelets leading to increased bruising.

8. On 18 February 2013 Mr Hay commenced chemotherapy treatment at Westmead Hospital which was completed on 14 June 2013. Subsequent examination indicated that the treatment had been successful.
9. However in October 2015 Mr Hay began experiencing shortness of breath and chest pain. On 28 October 2015 he was admitted to the Prince of Wales Hospital where a subsequent bone marrow biopsy confirmed that Mr Hay had suffered a relapse of his earlier WM. Chemotherapy treatment was again commenced on 14 October 2015.
10. On 10 February 2016 Mr Hay was reviewed by a consultant haematologist who reported that Mr Hay's bone marrow had almost been completely replaced by the lymphoma (group of blood cell tumours) and that he had progressive reduction in the number of red and white blood cells, as well as platelets (pancytopenia). A Justice Health GP explained the available treatment options to Mr Hay, advising that further chemotherapy treatment might provide him with short term remission. Mr Hay decided not to undergo further chemotherapy but instead agreed to blood transfusions to relieve his symptoms.
11. However on 15 February 2016 Mr Hay decided to recommence chemotherapy which began on 26 February 2016. Upon review on 11 March 2016 a bone marrow biopsy revealed that Mr Hay showed some signs of improvement. However, further review on 29 June 2016 revealed that Mr Hay had only minimal response to the treatment. Mr Hay was reviewed again by a consultant haematologist on 12 July 2016 and, with Mr Hay's agreement, further cycles of more aggressive chemotherapy treatment were commenced 4 days later.
12. On 10 August 2016 Mr Hay was admitted to the Prince of Wales Hospital with severe anaemia and consequent cardiac ischemia. After receiving blood transfusions and having changes made to his regular cardiac medication Mr Hay was discharged on 19 August 2016. On 12 September 2016 Mr Hay was again admitted to the Prince of Wales Hospital complaining of chest pain secondary to myocardial ischemia. He received a transfusion of platelets and was discharged 2 days later. Mr Hay was reviewed on 15 September 2016 and, in light of his poor prognosis, an end-of-life care plan was implemented which included a not-for-resuscitation order.
13. On 20 September 2016 Mr Hay was admitted to the Secure Unit Annex of the Prince of Wales Hospital suffering from symptomatic anaemia secondary to WM. Mr Hay received a number of blood transfusions and was discharged 3 days later, only to be readmitted on 30 September 2016 when his condition failed to improve and further blood transfusions were required.
14. Mr Hay's condition continued to deteriorate from 30 September 2016 and on 14 October 2016 a decision was made that only palliative care would be provided.
15. At about 2:15am on 21 October 2016 Mr Hay complained of chest pains and a nurse noted that he had a high temperature. When the nurse returned to check on Mr Hay at 2:30am he was found to be unresponsive, and was later declared life extinct.

What was the cause of Mr Hay's death?

16. Mr Hay was later taken to the Department of Forensic Medicine at Glebe. On 25 October 2016 Dr Elsie Burger, forensic pathologist, conducted a postmortem examination and subsequently reviewed Mr Hay's medical history. In her autopsy report dated 30 November 2016 Dr Burger concluded that the cause of Mr Hay's death was Waldenstrom's Macroglobulinemia.

What conclusions can be reached?

17. Having considered the available records held by both Corrective Services NSW and Justice Health in relation to Mr Hay, I cannot identify any matter associated with his care and treatment whilst in custody that contributed to his death. It is clear that once the WM was discovered rapid action was taken to commence chemotherapy treatment through a number of different cycles. Although Mr Hay initially showed a positive response to the treatment, further treatment to treat a relapse of the disease was unsuccessful. The opinion of the haematologist who treated Mr Hay is that his death was not preventable.
18. In summary, the available evidence establishes that Mr Hay received health care that was within an expected standard of care whilst in custody. There is no evidence to suggest that any action or inaction by either Corrective Services NSW or Justice Health contributed to Mr Hay's death in any way. Appropriate treatment was provided to Mr Hay in an attempt to combat the serious disease that Mr Hay had been diagnosed with but this treatment was, ultimately, unsuccessful. There is no evidence to suggest that any other treatment or care afforded to Mr Hay could have prevented his death.

Findings

19. The findings I make under section 81(1) of the Act are:

Identity

The person who died was Colin Hay.

Date of death

Mr Hay died on 21 October 2016.

Place of death

Mr Hay died whilst he was a patient in the Secure Unit Annex of Prince of Wales Hospital, Randwick NSW. At the time Mr Hay was serving a custodial sentence.

Cause of death

The cause of Mr Hay's death was Waldenstrom's Macroglobulinemia, a type of non-Hodgkin lymphoma.

Manner of death

Mr Hay died of natural causes.

20. I close this inquest.

Magistrate Derek Lee
Deputy State Coroner
9 June 2017
NSW State Coroner's Court, Glebe