



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

Inquest:	Inquest into the death of Thomas Millar
Hearing dates:	4 September 2019
Date of findings:	4 September 2019
Place of findings:	NSW State Coroner's Court - Lidcombe
Findings of:	Magistrate Carmel Forbes, Deputy State Coroner
Catchwords:	CORONIAL LAW – natural causes death in custody
File number:	2018/00150088
Representation:	Sergeant A Chytra, Coronial Advocate Assisting the Coroner Mr M Sterry, Justice Health and Forensic Mental Health Network Ms K Lee, Commissioner of Corrective Services
Findings:	<p>Identity of deceased: The deceased person was Thomas Millar</p> <p>Date of death: He died on 13 May 2018</p> <p>Place of death: He died at Prince of Wales Hospital, Randwick, New South Wales</p> <p>Cause of death: Complications of metastatic rectal cancer</p> <p>Manner of death: natural causes</p>

INQUEST INTO THE DEATH OF THOMAS MILLAR

This is an inquest into the death of Thomas Millar, who was 53 years old when he died on the 13th of May 2018 at Prince of Wales Hospital in Randwick.

At the time of his death he was serving a custodial sentence at Long Bay Hospital before being transferred to Prince of Wales Hospital due to deteriorating health.

Section 23 of the *Coroners Act 2009* 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 to ensure that the care of that person was appropriate and adequate.

Thomas Millar

Mr Millar was separated, and he had no contact with his wife or children prior to his death. At the time of his arrest Mr Millar was residing with his mother.

Prior to entering custody, in 2015, Mr Millar was diagnosed with metastatic adenocarcinoma of the lung, with pulmonary nodes and large hepatic metastases in both lobes. Mr Millar was given less than 12 months life expectancy and about 20% chance of living beyond two years. Whilst in custody, Mr Millar's cancer continued to progress and ceased responding to treatment. Mr Millar was in palliative care at the time of his death with no systematic treatment options available.

On the 15th December 2016, he was sentenced to a minimum of six years imprisonment and a maximum of nine years. His earliest release date would have been 9 December 2022 with a latest release date of the 9th of December 2025. Mr Millar was lawfully in custody and was detained by virtue of sentence warrant 2013/00379765 issued on 15 December 2016 by the District Court of NSW at Sydney Downing Centre.

Mr Millar had launched appeal proceedings that were pending at the time of his death.

Medical Treatment whilst in Custody

Findings into the Inquest into the death of Thomas MILLAR

Mr Millar continued his chemotherapy treatment whilst in custody. On the 23rd of August 2017 Mr Millar completed Cycle 14 of chemotherapy treatment. Despite ongoing treatment, there was progression of the disease with increasing liver and lung metastases. On the 24th of October 2017, Mr Millar commenced phase 1 of a clinical trial for patients with advanced solid tumours, but he was removed from the trial due to his disease progression.

Mr Millar was transferred to Metropolitan Special Programs (Area1) on the 23rd of December 2016 to facilitate his ongoing medical treatment for cancer at Prince of Wales Hospital.

During his treatment, Mr Millar was admitted to hospital numerous times for management of his symptoms. He developed liver failure caused by worsening liver metastasis and due to his liver failure, he was no longer considered for further chemotherapy.

In April 2018, Mr Millar was referred from Long Bay Correctional Centre to the Prince of Wales Hospital for ongoing treatment of his condition.

On the 18th of April 2018, Mr Millar completed documentation for Resuscitation Plans to be put into place while an inpatient at Prince of Wales Hospital. He was not for resuscitation (NFR) meaning that in the event of cardiac arrest, Mr Millar did not wish for CPR to be administered.

A letter from Professor David Goldstein dated 18 April 2018 outlined that Mr Millar had developed malignant ascites, which are cancer cells within the ascities fluid requiring percutaneous drainage. This was identified as being due to cancer progression of his liver failure caused by worsening metastasis. Mr Millar's life expectancy was expected to be in the region of two to four weeks from 18 April 2018.¹ The management of his care was changed to palliative care. Mr Millar was discharged from Prince of Wales Hospital on 24 April 2018, back into the care of Long Bay Hospital with a management plan of pathology and analgesia in place.

On the 7th of May 2018, Mr Millar again completed documentation for resuscitation plans in consultation with the admitting medical officer at Long Bay Hospital confirming that he was not for CPR. Mr Millar was reviewed on an ongoing basis by the Prince of Wales Hospital Palliative Care Team at Long Bay Hospital, in conjunction with the Network multidisciplinary care team under a palliative care pathway.

¹ Letter from Gary Forrest, Chief Executive Justice Health & Forensic Mental Health Network

On 9th of May 2018, Mr Millar was transferred to Prince of Wales Hospital for an iron infusion and ascitic tap (fluid draining). This transfer was managed under escort by ambulance. Whilst at the hospital, Mr Millar was in the custody of Correctional Officers under escort.

Whilst at Prince of Wales Hospital, as part of Mr Millar's "End of Life Management" Professor David Goldstein, Medical Oncologist, Prince of Wales Hospital requested Mr Millar's family have extra visitor rights. In response to this request Senior Assistant Superintendent Ford authorised Mr Millar to have longer and more frequent visits in light of his declining health.

On the 13th of May 2018, at about 7pm Mr Millar was seen to stop moving and breathing.² Medical staff attended promptly. In accordance with Mr Millar's wishes, no attempt was made to resuscitate him. Mr Millar's mother was present.

Mr Millar passed away at 7.40pm on 13 May 2018.

Investigation following Mr Millar's death

About 8pm on the 13th of May 2018 police attended Prince of Wales Hospital. A Crime Scene was established and maintained. Photographs were taken, and Mr Millar's body was transferred to the Department of Forensic Medicine, Glebe Morgue.³

A limited autopsy was conducted by pathologist Dr Alan Woo on 16 May 2018. Dr Woo concluded that the direct cause of death was complications of metastatic rectal cancer. A post-mortem CT detected multiple lesions in both lungs and the liver, in keeping with the history of metastatic colorectal cancer. Ascites (fluid in the abdomen) was also detected in keeping with the documented history of liver failure. Pericardial and pleural effusions were also noted. No significant acute injury was detected.⁴

The gaol and health records reveal Mr Millar's care and treatment were appropriate. No family member or associate of Mr Millar's have raised any care and treatment issues.

² P79A page 3

³ Statement of Leading Senior Constable Joanne Cleland

⁴ Post Mortem Report of Thomas William Millar by Dr Alan Woo.

Given Mr Millar's health issues and his deterioration whilst in gaol, it does not appear that anything could have been reasonably done to prevent his death.

Findings required by s 81 (1)

The identity of the deceased

The deceased person was Thomas Millar

Date of death

Died on 13 May 2018

Place of death

Died at Prince of Wales Hospital, Randwick

Cause of death

The death was caused by complications of metastatic rectal cancer

Manner of death

Natural causes

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Deputy State Coroner Carmel Forbes
Lidcombe Coroner's Court

Date 4 September 2019