CORONER'S COURT
OF NEW SOUTH WALES

Inquest:	Inquest into the death of Cemil Guler
Hearing dates:	17 September 2020
Date of findings:	17 September 2020
Place of findings:	Coroner's Court of New South Wales, Lidcombe
Findings of:	Magistrate Derek Lee, Deputy State Coroner
Catchwords:	CORONIAL LAW – death in custody, cause and manner of death
File number:	2019/221339
Representation:	Ms A Chytra, Coronial Advocate Assisting the Coroner
Findings:	I find that Cemil Guler died from natural causes on 16 July 2019 at Braeside Hospital, Prairiewood NSW 2176. The cause of Mr Guler's death was metastatic hepatocellular carcinoma. At the time of his death Mr Guler was in lawful custody having been involuntarily detained as a forensic patient as a result of orders made pursuant to the *Mental Health (Forensic Provisions) Act 1990*.

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1. Introduction

1.1 On 16 July 2019 Mr Cemil Guler was pronounced deceased at Braeside Hospital. At the time of his death Mr Guler was in lawful custody after having been found not guilty by reason of mental illness of an offence that he had been charged with, and being subsequently involuntarily detained as a forensic patient. On 9 July 2019 Mr Guler was transferred from the mental health facility where he had been detained to hospital in order to receive palliative care, following diagnosis of a terminal condition.

2. Why was an inquest held?

2.1 Under the *Coroners Act 2009* (**the Act**) a Coroner has the responsibility to investigate all reportable deaths. This investigation is conducted primarily so that a Coroner can answer questions that they are required to answer pursuant to the Act, namely: the identity of the person who died, when and where they died, and what was the cause and the manner of that person's death.

2.2 When a person is charged with an alleged criminal offence, or sentenced after being convicted of a criminal offence, they can be detained in lawful custody. By depriving that person of their liberty, the State assumes responsibility for the care of that person. Section 23 of 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.

2.3 A coronial investigation and inquest seeks to examine the circumstances surrounding that person's death in order to ensure, via an independent and transparent inquiry, that the State discharges its responsibility appropriately and adequately.

2.4 In this particular case, it should be noted at the outset that there is no evidence to suggest that the care and treatment provided to Mr Guler during his time in custody was deficient or not appropriate in any way.

3. Mr Guler's life

3.1 Inquests and the coronial process are as much about life as they are about death. A coronial system exists because we, as a community, recognise the fragility of human life and value enormously the preciousness of it. Understanding the impact that the death of a person has had on their family only comes from knowing something of that person's life and how the loss of that life has affected those who loved that person the most. Therefore, it is extremely important to recognise and acknowledge the life of that person in a brief, but hopefully meaningful, way

3.2 Mr Guler was born in Turkey in 1939. After partially completing high school Mr Guler served two years in the army before working as a clerk in a hospital. He later moved to Australia in 1971 and became an Australian citizen in 1992. Mr Guler previously worked on the railways and with BHP in Wollongong before ceasing employment in 1983.

3.3 Mr Guler married twice. His first marriage ended in 1990 and Mr Guler later re-married following a temporary return to Turkey in 1991. In total, Cemil has seven children: four from his first marriage and three from his second marriage.

3.4 There is no doubt that the decline in Mr Guler's health in the latter stages of his life has been a distressing experience for his the members of his family, and that Mr Guler is greatly loved and missed by those closest to him.

4. Mr Guler's custodial history

4.1 On 11 April 2005 Mr Guler was charged with an offence of murder. He was subsequently remanded into custody and taken to the Metropolitan Remand and Reception Centre (**MRRC**). Criminal proceedings were subsequently commenced and on 11 August 2006 the Supreme Court found Mr Guler not guilty by reason of mental illness pursuant to section 38 of the *Mental Health (Forensic Provisions) Act 1990* (**the Mental Health Act**). Accordingly, Mr Guler was ordered to be detained pursuant to section 39 of the Mental Health Act. On 3 November 2016 Mr Guler was transferred to Long Bay Hospital before later being transferred to the Forensic Hospital on 24 March 2009.

4.2 During the period of his detainment Mr Guler was subject to periodic six monthly reviews by the Mental Health Review Tribunal (**the Tribunal**). A summary of the some of these reviews is set out below:

(a) At a review in July 2010 the Tribunal heard that following psychiatric assessment a formal process had commenced for Mr Guler to be transferred to a psychogeriatric hospital.

(b) During a review in August 2011 the Tribunal heard that Mr Guler's presentation and mental state had changed, with his treating team observing that there had been a considerable degree of deterioration in his mental function and abilities.

(c) In August 2012 the Tribunal heard that Mr Guler continued to present with delusions of persecution and had limited insight into his illness. Mr Guler was subsequently assessed as being suitable for transfer to Lavender House at Macquarie Hospital. Following an order made by the tribunal in January 2013 Mr Guler was transferred to Macquarie hospital with access to escorted day leave.

(d) During the September 2014 review the Tribunal heard that Mr Guler's mental state had deteriorated with a relapse of his paranoid psychosis. As a result of this deterioration and mood disturbance Mr Guler's leave was curtailed and it was noted that he had not had leave since July 2014.

(e) By the time of the March 2015 review the Tribunal was informed that Mr Guler's previous episode of psychosis had resolved with no further persecutory delusions reported.

(f) During the June 2017 review the Tribunal heard that Mr Guler's mental state had shown significant improvement over the previous several months, and that Mr Guler had been compliant with his medication.

(g) However by the time of a review in December 2018 the Tribunal heard that Mr Guler had been experiencing instances of paranoid thoughts, and continued to experience chronic delusions. It was also noted that there was evidence of a mild deterioration of Mr Guler's psychiatric condition over the preceding months.

5. Mr Guler's medical history

5.1 Mr Guler had previously been diagnosed with depression in 1987 and was admitted to a mental health facility in 1990. He was reportedly admitted to similar facilities on two further occasions. In March 2005 Mr Guler was admitted to hospital on a background of experiencing what had been described as hallucinations. Two days after his admission Mr Guler absconded from hospital and was later returned there by police.

5.2 Whilst in custody Mr Guler was treated for psychosis, insulin-dependent diabetes mellitus and ischaemic heart disease. In October 2006 Mr Guler underwent emergency surgery for coronary artery bypass grafts.

5.3 Following his transfer to Macquarie Hospital in 2012 Mr Guler was treated for schizophrenia. On 6 September 2018 Mr Guler was investigated at Royal North Shore Hospital (**RNSH**) for calcific pancreatitis. An abdominal CT scan on 24 September 2018 showed a lesion on the liver. A subsequent MRI in October 2018 suggested a diagnosis of hepatoma.

5.4 Mr Guler was subsequently seen by a specialist gastrointestinal surgical oncologist, Professor Thomas Hugh, on 9 November 2018 for consideration of surgical intervention. It was noted that Mr Guler's serum AFP (alpha-fetoprotein) level (a tumour marker test) was grossly elevated and that he had radiological signs of chronic liver disease consistent with his known underlying sclerosis and portal hypertension. Mr Guler's case was discussed on several occasions at multidisciplinary hepatobiliary cancer meetings. The consensus from these meetings was that Mr Guler could be offered regional therapy to his liver (trans arterial chemo embolization) but that he was not suitable for surgical intervention due to the high risk of liver dysfunction post-treatment.

5.5 Professor Hugh noted that Mr Guler's liver disease progressed relatively quickly and he later required a short admission to Ryde Hospital with gross ascites secondary to hepatic dysfunction. Following an oncology review at RNSH in April 2019 a recommendation was made to manage Mr Guler conservatively and transfer him to a palliative care pathway. By this time Mr Guler's condition had deteriorated significantly, and he required a wheelchair in order to mobilise and nursing assistance with feeding. At the time, it was considered that chemotherapy was likely to substantially reduce Mr Guler's lifespan and quality of life.

5.6 As Mr Guler's condition continued to deteriorate an end-of-life care plan was formulated on 1 May 2019, following consultation with Mr Guler's family. The plan noted that Mr Guler was not for acute medical response or interventions and that the wishes of Mr Guler's family were for a non-invasive and dignified death.

5.7 Mr Guler was later transferred to Lavender House at Macquarie Hospital on 23 May 2019 due to his continuing deteriorating condition. Following review by the Tribunal on 20 June 2019, orders were made on 28 June 2019 for Mr Guler to remain detained at Macquarie Hospital until such time as a bed became available at either Greenwich Hospital or Braeside Hospital. In the interim Mr Guler was allowed to have escorted day leave and supervised day leave with one of his daughters.

5.8 Mr Guler was subsequently transferred to the Palliative Care Unit at Braeside Hospital on 9 July 2019 with a terminal diagnosis of liver failure secondary to hepatocellular carcinoma. On transfer it was noted that Mr Guler's condition had deteriorated over the preceding three weeks, that he had limited oral intake and that he had been sleeping for extended periods of time. Blood tests revealed mild hyponatraemia, high potassium, mild renal impairment, deranged liver function tests and mild thrombocytopenia. It was also noted that Mr Guler required maximal nursing assistance with personal care, hygiene and feeding as he was too drowsy to care for himself.

5.9 Following review by a speech pathologist Mr Guler was trialled on puree and moderately thickened fluids due to his swallowing difficulties and decreased level of consciousness. As Mr Guler was unable to swallow his prescribed oral medications they were withheld for safety reasons. Over the course of his admission Mr Guler continued to deteriorate significantly and his oral medications and insulin were ceased. Upon medical review on 15 July 2019 it was noted that Mr Guler had been minimally responsive in the previous days due to progression of his underlying disease process.

6. The events of 16 July 2019

6.1 At around 11:55am on 16 July 2019 Mr Guler was noted to be resting comfortably without any need for extra medications to settle any symptoms. Mr Guler was also found to be minimally responsive to voice and to have limited mobility.

6.2 At around 3:56pm Mr Guler was found to be unresponsive with no signs of life, and was subsequently pronounced life extinct.

6.3 Mr Guler's death was subsequently reported to police and to the Coroner. Arrangements were subsequently made for Mr Guler to be transferred to the Department of Forensic Medicine.

7. What was the cause and manner of Mr Guler's death?

7.1 Given Mr Guler's well-documented medical history and the fact that his clinical course was typical of that of patients diagnosed with terminal carcinoma, no invasive postmortem examination of Mr Guler was performed. This is because the cause of Mr Guler's death had been sufficiently disclosed on the available evidence. Accordingly, on 17 July 2019 a Coronial Certificate was issued with the cause of Mr Guler's death being metastatic hepatocellular carcinoma.

7.2 Having regard to Mr Guler's medical history and the absence of any evidence of any external contributor to death, it is evident that Mr Guler died from natural causes.

8. Findings

8.1 Before turning to the findings that I am required to make, I would like to express my thanks to Ms Amanda Chytra, Coronial Advocate, for her excellent assistance both before, and during, the inquest. I also thank Constable Jaime Page for his role in conducting the police investigation and compiling the initial brief of evidence.

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

Identity
The person who died was Cemil Guler.

Date of death
Mr Guler died on 16 July 2019.

Place of death
Mr Guler died at Braeside Hospital, Prairiewood NSW 2176.

Cause of death
The cause of Mr Guler's death was metastatic hepatocellular carcinoma.

Manner of death
Mr Culer died from natural causes. At the time of his death Mr Guler was in lawful custody, having been involuntarily detained as a forensic patient as a result of orders made pursuant to the *Mental Health (Forensic Provisions) Act 1990.*

8.3 On behalf of the Coroners Court of New South Wales, I offer my deepest sympathies, and most sincere and respectful condolences, to Mr Guler's family for their most painful loss.

8.4 I close this inquest.

Magistrate Derek Lee
Deputy State Coroner
17 September 2020
Coroners Court of New South Wales