



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

**Inquest:** Inquest into the suspected death of missing person Patrick Kear

**Hearing dates:** 3 August 2020

**Date of findings:** 6 August 2020

**Place of findings:** Coroner's Court of New South Wales at Lidcombe

**Findings of:** Magistrate Derek Lee, Deputy State Coroner

**Catchwords:** CORONIAL LAW – whether missing person now deceased, date and place of death, cause and manner of death

**File number:** 2019/13106

**Representation:** Mr T O'Donnell, Coronial Advocate Assisting the Coroner

**Findings:** On the available evidence I find that Patrick Kear, who was reported as a missing person on 27 May 2016, is now deceased. Patrick died on a date unknown sometime on or after 11 January 2016. The available evidence does not allow for any finding to be made as to the place of Patrick's death. Patrick died as a result of homicide, although the available evidence does not allow for any further finding to be made as to the precise manner of his death. The available evidence and the absence of any postmortem examination also does not allow for any finding to be made as to the cause of Patrick's death.

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## 1. Introduction

- 1.1 On 27 May 2016 Patrick Kear was reported as a missing person to police in Grafton. At the time of the report Patrick was living on a rural property at Wells Crossing, about 42 kilometres from Grafton, and had reportedly not been seen alive since January 2016. During the initial stages of the police investigation it became evident that a friend that Patrick had previously lived with had accessed Patrick's bank account, after Patrick had been reported missing and without Patrick's authority.
- 1.2 Despite numerous enquiries made by police over the subsequent years as part of the missing person investigation to locate Patrick, no reliable evidence has been uncovered as to Patrick's whereabouts or as to precisely what happened to him after January 2016.

## 2. Why was an inquest held?

- 2.1 In November 2018, after all existing lines of enquiry to locate Patrick had been exhausted, the NSW Police Force (**NSWPF**) notified the Coroner's Court that Patrick was suspected of being deceased. When the case of a missing person, who is suspected to have died, is reported to a coroner, the coroner must determine from the available evidence whether that person has in fact died. In such cases there will often be very little information, despite extensive enquiries, about what happened to the person after they were last seen alive.
- 2.2 If a coroner forms the view that a missing person has died then the coroner has an obligation to make findings in order 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 in which that person died. If the coroner is unable to answer these questions then an inquest must be held.<sup>1</sup>
- 2.3 In Patrick's case, extensive investigation was conducted by the police concerning the circumstances surrounding the period both before and after when he was last seen alive. However, this investigation was unable to reveal exactly what happened to Patrick after January 2016. As it has not been possible to answer the questions that a coroner is required to answer, it became mandatory for an inquest to be held.
- 2.4 In this context it should be recognised at the outset that the operation of the *Coroners Act 2009* (**the Act**), and the coronial process in general, represents an intrusion by the State into what is usually one of the most traumatic events in the lives of family members who have reported a loved one as missing. At such times, it is reasonably expected that families will wish to attempt to cope with the consequences of such a traumatic event in private. The sense of loss experienced by family members does not diminish significantly over time. Therefore, it should be acknowledged that both the coronial process and an inquest by their very nature unfortunately compel a family to re-live distressing memories and to do so in a public forum.

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<sup>1</sup> *Coroners Act 2009*, section 27.

### **3. Patrick's life**

- 3.1 As will be discussed later in these findings, all of the evidence gathered to date suggests, tragically, that Patrick is now deceased. Inquests into the deaths of persons, even those persons who are missing and suspected of being deceased, by their very nature only tend to focus on the last moments of a person's life, or the last moments when they were seen alive. These moments are sometimes measured in weeks or months, but more often they are measured in hours and days. As a consequence, often there is very little known about the (usually) years of life that preceded these final moments. Therefore, it is appropriate at this stage to recognise Patrick's life in a brief, but hopefully meaningful, way.
- 3.2 Patrick was born in December 1964 to his parents, Catherine and Donald. Patrick had six siblings and the family initially lived in the suburb of Punchbowl in Sydney, before later moving to Urunga near Coffs Harbour following the death of Patrick's father.
- 3.3 In 1972, when Patrick was eight years old, his mother also passed away. Patrick and his older sister, Jeanette, went to live with their uncle in Denistone East, whilst Patrick's other siblings lived with different relatives. Patrick and Jeanette later went to live with their older sister, Janiece, in Greenacre before later moving to Sadlier.
- 3.4 When Patrick was about 18 years old he moved in with his sister, Catherine, who at the time was living in the Macquarie Fields area. Catherine and her family later moved to Guyra, and Patrick went to live with another relative in the same area. When Catherine and her family subsequently moved to Armidale, Patrick went to live with them intermittently. In 1994 Catherine moved to Tweed Heads, and Patrick again went with her, where they lived for about three years before returning to Armidale.
- 3.5 Whilst living in Guyra, Patrick found work at the local abattoir. However, during this time Patrick contracted a bacterial infection, became quite unwell and was unable to continue working. As a result, Patrick received a workers compensation payment.
- 3.6 According to family members, Patrick was a shy and soft-spoken person. Although it appears that Patrick had little contact with most of his siblings following the death of his parents, it is evident that he was particularly close to his sister, Catherine. There is no doubt that he is greatly missed by her and that the grief associated with his loss has been compounded by the uncertainty surrounding the circumstances in which he was last known to be alive.

### **4. Background to the report of Patrick being missing**

- 4.1 In around 1997, whilst living with Catherine in Armidale, Patrick befriended a man named Terry Thompson. Patrick and Mr Thompson later moved into an isolated property in Torrington (near Glen Innes). During this time Patrick, accompanied by Mr Thompson, would periodically visit Catherine and stay with her for a few nights each month.
- 4.2 In around 2002, Patrick and Mr Thompson moved into a property at 462 Parker Road, Wells Crossing near Grafton (**the Parker Road property**) which Patrick bought using his workers compensation payment. According to Catherine, Patrick had plans to build a large house on the property for himself and Catherine to live on.

- 4.3 The Parker Road property is a split block consisting of 10 hectares, which is mostly cleared but overgrown. Like other properties in the area, the property is semirural and backs onto dense bushland. At various times, Patrick and Mr Thompson bred pigs and grew garlic on the property.
- 4.4 Located on the property is a small hand-built dwelling where Patrick and Mr Thompson resided. However, between 2002 and 2016, both Patrick and Mr Thompson were known to spend periods of time living away from the Parker Road property. For example, Patrick went to live with a friend (Mark Williams) for approximately two years between 2012 and 2014.
- 4.5 When Patrick returned to live at the property in 2014, it appears that his deteriorating mental health resulted in some disharmony between himself and Mr Thompson. As a result Mr Thompson left the property to live with a friend, Carmen Briffa-Ramadge, and her husband, Ronald Ramadge.

## 5. Patrick's medical history

- 5.1 Patrick had a history of hypomania, for which he received medication. Medical records reveal that Patrick was admitted as an involuntary patient to a mental facility in Coffs Harbour on two occasions: the first being between 3 and 5 May 2015; and the second being between 10 and 26 May 2015. It appears that the first admission was related to an episode where Patrick was displaying manic behaviour and shouting verbal abuse at a neighbour. The second admission appears to have been a result of a similar episode involving Mr Thompson.
- 5.2 Apart from these admissions, there also appears to have been other occasions where Patrick was displaying manic behaviour which resulted in police being notified and subsequently attending on Patrick to intervene. The first episode occurred on 5 June 2015 involving an allegation by Mr Thompson that Patrick had assaulted him. The second episode occurred four days later, on 9 June 2015, when police were again called following allegations that Patrick was being verbally abusive towards a neighbour.

## 6. The missing person report

- 6.1 Mr Williams had been a friend of both Patrick and Mr Thompson for more than 20 years and had met them when he lived in Guyra. In the three months leading up to January 2016 Mr Williams regularly picked up Patrick from the Parker Road property every fortnight and took him into Grafton so that Patrick could withdraw his social security payment from an automatic teller machine (**ATM**) in Prince Street, Grafton (**the Prince Street ATM**).
- 6.2 The last occasion when this occurred was on 11 January 2016. The following fortnight Mr Williams was unable to contact Patrick to see if he wanted a lift to Grafton. As a result, Mr Williams drove out to the Parker Road property to look for Patrick but found no one there. Mr Williams subsequently went to see Ms Briffa-Ramadge, who told him that Patrick had gone to see his sister. At this time, Mr Williams noticed that Patrick's dog, "Lily" was at Ms Briffa-Ramadge's property. Mr Williams considered this to be unusual as Patrick was known to take Lily with him everywhere.
- 6.3 On 27 May 2016 Mr Williams attended Grafton police station and reported Patrick as missing. Mr Williams also told police that before making the missing person report he had spoken to Mr

Thompson, who reported that he last saw Patrick hitch hiking away from the Parker Road property, having left Lily behind.

- 6.4 Local police in Grafton subsequently made arrangements to speak to Mr Thompson over the phone on 28 May 2016. Mr Thompson informed police that he had not seen Patrick for a number of weeks, but said that Patrick had last told him that he was going to visit one of his two sisters. When asked for the name of either sister Mr Thompson said that he was unsure of their names.
- 6.5 Police subsequently attended the Parker Road property and spoke to Mr Thompson, who again repeated that he had not seen Patrick since February 2016. Mr Thompson also informed police that on one occasion Patrick had told Mr Thompson that he had dreamt of killing him, which had caused an argument and Patrick eventually leaving the property, carrying a bag. When police asked if Mr Thompson was aware of any family or friends that Patrick might stay with, Mr Thompson again referred to Patrick having a sister who lived in Queensland, but that he did not know her name.

## **7. Results of the missing person investigation**

- 7.1 As part of the investigation to locate Patrick investigating police made a number of enquiries in an attempt to gather further evidence of Patrick's whereabouts and the circumstances in which he went missing. The relevant features of the investigation are set out below:

- (a) Police obtained information in relation to a St George bank account in Patrick's name which revealed that by 1 June 2016, Patrick's account was still active, with Patrick's social security payments continuing to be deposited fortnightly. More importantly, the bank records revealed that there had been 13 withdrawals from the account between 3 February 2016 and 19 May 2016, all from the Prince Street ATM. In addition, there were two other withdrawals from a different ATM on 7 and 21 March 2016.

Police subsequently made further enquiries and obtained (on 28 June 2016) CCTV footage from the Prince Street ATM, with no CCTV footage being available, due to the passage of time, in relation to the transactions on 7 and 21 March 2016. The CCTV footage from the Prince Street ATM only contained footage from 6 April 2016 onwards as earlier footage could not be retrieved. When the footage was reviewed, it showed that Mr Thompson had attended the Prince Street ATM and withdrawn funds from Patrick's account during six transactions between 6 April 2016 and 19 May 2016. There is no evidence that Patrick had ever given authority to Mr Thompson to access his account.

No further information regarding these transactions was able to be obtained from Mr Thompson because on 8 June 2016 (three weeks before the CCTV footage from the Prince Street ATM was obtained and reviewed by police) he was involved in a fatal motor vehicle impact. At around 3:00pm that day Mr Thompson was driving his vehicle along Parker Road, Wells Crossing when he experienced a medical episode of some kind, causing his vehicle to leave the road and collide with a power pole. As a result of the impact Mr Thompson sustained severe injuries and was conveyed to hospital, where he later died. The incident was subsequently investigated by police and no suspicious circumstances were identified.

- (b) Police obtained mobile phone records for both Patrick and Mr Thompson for the period between January and June 2016. The records did not identify any activity between the phone accounts belonging to Patrick and Mr Thompson, nor any other record that was relevant to the missing person investigation.
- (c) On 10 June 2016 police searched the Parker Road property and located a vehicle registered in Patrick's name, with the registration having expired in February 2016. Police also located some items of clothing in the dwelling on the property, but nothing else that was relevant to the investigation.

Later on 10 June 2016 police also spoke to Ms Briffa-Ramadge and Mr Ramadge, who lived a short distance from the Parker Road property. During these discussions Mr Ramadge made reference to hearing that Patrick's bank account had been accessed. Ms Briffa-Ramadge told her husband to be quiet, and informed police that Mr Ramadge had dementia and did not know what he was talking about. The comment by Mr Ramadge was considered by police to be unusual as information regarding the transactions on Patrick's bank account was not publicly available.

- (d) On 13 June 2016 police took a statement from Joshua Duck, who had known Patrick and Mr Thompson for around six years and had previously visited them at the Parker Road property at least once a week. Mr Duck informed police that during a conversation with Patrick in early 2016, Patrick told him of his intention to sell the Parker Road property to Ms Briffa-Ramadge. Mr Duck also told police that he spoke to Mr Thompson later that same day, who said to him, *"I will sign my half of the property to [Ms Briffa-Ramadge and another friend, Alan Elmy] and Pat will be dead before the property will ever sell. We have plenty of pigs he will never be found"*.<sup>2</sup>

Mr Duck went on to inform police that he had a conversation with Patrick in early February 2016 during which Patrick told him, *"I spoke to [Mr Thompson] and he isn't going to sell the farm. I am worried that something was [sic] going to happen to me. [Mr Elmy] is constantly in [Mr Thompson's] ear 24/7. I reckon that [Mr Thompson] and [Mr Elmy] are going to knock me"*.<sup>3</sup>

- (e) On 13 July 2016 police executed a search warrant at the property of Ms Briffa-Ramadge and Mr Ramadge. Nothing of investigative value was noted other than a bank statement in Patrick's name which was dated from 2012. When later asked about the bank statement Ms Briffa-Ramadge asserted that she had collected Patrick's mail and opened a letter containing the statement to see whether Patrick had performed any transactions, in an attempt to locate him. It was noted by police that the date of the bank statement was inconsistent with the account provided by Ms Briffa-Ramadge. However, as investigating police considered that Ms Briffa-Ramadge's account was unreliable, and because the date of the bank statement could not be directly connected to the circumstances in which Patrick went missing some four years later, the discovery of the bank statement was not considered to have any further evidentiary value.
- (f) On 14 July 2016 police spoke to Sarah Wright, who was friends with both Patrick and Mr Thompson. Ms Wright told police that sometime in January 2016 she was at Ms Briffa-Ramadge's house with Mr Thompson. According to Ms Wright, Mr Thompson informed her that Patrick had

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<sup>2</sup> Exhibit 1, Tab 3 at [10].

<sup>3</sup> Exhibit 1, Tab 3 at [13].

threatened him with a knife, leading Mr Thompson to be worried that Patrick was going to harm him in some way. Peter Henderson, another friend of Mr Thompson, told police that Mr Thompson said that Patrick was going to harm him whilst he was asleep, and had reported a physical altercation between Mr Thompson and Patrick on an unspecified date.

- (g) Police spoke to a number of other persons who were friends with both Patrick and Mr Thompson who similarly reported a history of previous disagreements between the two men which appears to have been related to two factors: a deterioration in Patrick's mental health in the second half of 2015, and Mr Thompson returning to reside at the Parker Road property around this time, before later going to live with Ms Briffa-Ramadge and Mr Ramadge.
- (h) Police also used a number of overt and covert investigative strategies to identify any person that may have had knowledge of, or may have been directly or indirectly involved in, Patrick's death. These investigations did not produce any further evidence which advance the missing person investigation.

7.2 Apart from the enquiry set out above, since May 2016 the police officer-in-charge of the investigation, Detective Senior Constable Alistair McLeod has made a number of enquiries which, in the context of a missing person investigation, are referred to as "signs of life checks". These checks involve enquiries being made with financial institutions, government organisations (such as Centrelink, Medicare, the Pharmaceutical Benefits Scheme and Births, Deaths and Marriages registries) and interstate law enforcement and missing persons agencies to identify whether there are any records indicating that a missing person has had some interaction with these organisations and institutions. These checks have been repeated three times, most recently in July 2020. In addition, information has been sought from the public via a number of media releases and media campaigns. None of these enquiries or appeals for information has elicited any further reliable evidence as to Patrick's whereabouts.

## **8. Is Patrick now deceased?**

- 8.1 A finding that a person is deceased is a finding of great significance and gravity, not only for the family members of that person and the emotional toll that such a finding will invariably bring, but also because such a finding carries with it important legal and administrative consequences. Such a finding is made on the balance of probabilities, but there must be clear, cogent and exact evidence that a person has died before it can be made.<sup>4</sup>
- 8.2 A consideration of the available evidence gathered during the course of the investigation into Patrick being reported missing reveals the following significant matters:
  - (a) Despite extensive and comprehensive physical, documentary and electronic searches no evidence has been uncovered as to either Patrick's whereabouts or him being alive after January 2016.
  - (b) In the period leading up to January 2016, it appears that Patrick had been experiencing a deterioration in his mental health which, in part, appears to have contributed to some disharmony and disagreements involving Mr Thompson. This in turn appears to have resulted in

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<sup>4</sup> *Briginshaw v Briginshaw* (1938) 60 CLR 336.



both Patrick and Mr Thompson believing that they were at risk of harm from each other, and reported incidents of unspecified physical altercations.

- (c) In the months leading up to 11 January 2016, Patrick had a regular arrangement to accompany Mr Williams to Grafton each fortnight. No evidence has been identified to explain why this arrangement suddenly ceased after 11 January 2016.
- (d) By all accounts Patrick was very fond of his dog, Lily, and was known to be out without her. It is therefore considered to be highly unusual that Patrick would leave home for such an extended period of time without taking his dog with him.
- (e) There is no evidence that since January 2016 Patrick has obtained any financial means to support himself, found any accommodation or managed to provide for his basic living needs.
- (f) Despite suggestions by Mr Thompson and others that Patrick left the Parker Road property to travel to Queensland to see Catherine, the evidence establishes that at the relevant time Patrick did not know where Catherine lived.
- (g) Since January 2016 Patrick has not made contact with his sister Catherine, in circumstances where they had a close relationship. Although they lived in different states they were known to remain in contact with each other. Again, there is no plausible explanation as to why Patrick has not contacted Catherine for over four and a half years.

8.3 Most significantly, the evidence establishes that there were 15 ATM withdrawals from Patrick's bank account between February and May 2016. CCTV footage positively establishes that six of these transactions were made by Mr Thompson. Given that the withdrawals ceased shortly before Mr Thompson's fatal motor vehicle incident, it is most likely that Mr Thompson was also responsible for the remaining nine withdrawals from Patrick's account.

8.4 Having regard to the matters set out above, the conclusion that must, sadly, be reached is that, on the balance of probabilities, Patrick is now deceased. It is a significant part of this conclusion that in almost five years since Patrick was last known to be alive, despite repeated checks, no evidence has been found of any signs of life.

## **9. When and where did Patrick die, and what was the cause and manner of his death?**

9.1 Having concluded that Patrick is now deceased, the questions that now arise, as part of the function of the coronial jurisdiction, is whether the available evidence allows for any finding to be made as to where and when Patrick died, and the cause and manner of his death.

9.2 The last confirmed sighting of Patrick was made by Mr Williams on 11 January 2016. Although other persons made reports to police of having seen Patrick in either late January 2016 or early February 2016, these reports have been unable to be confirmed. As no sign of Patrick has been found after January 2016, the only conclusion that can be reached is that he died sometime after 11 January 2016. As Patrick has not been found, and because there is obviously limited evidence as to what occurred after 11 January 2016 the available evidence does not allow for any conclusion to be reached as to where Patrick died.

- 9.3 As to the manner of Patrick's death, it is commonly the case in coronial matters that the manner of a person's death is determined to be due to either natural causes or misadventure. More uncommonly, the manner of a person's death is determined to be as a result of homicide. In Patrick's case there is no evidence which establishes that prior to January 2016 Patrick was suffering from a health condition which could have accounted for his sudden and expected death. Similarly, there is no evidence which establishes that Patrick died as a result of accident or misadventure sometime after January 2016. In either case, it could reasonably be expected that if Patrick had died from natural causes or due to misadventure that he would have been found, or at least some evidence uncovered as to his whereabouts.
- 9.4 Neither of the above scenarios can be entirely excluded on the limited evidence available. However, there is in Patrick's case some probative evidence that allows for a conclusion to be reached that it is more probable than not that Patrick died as a result of homicide. Certainly, this is the opinion held by Detective McLeod, who gave evidence during the inquest. There are three matters relevant to this conclusion: firstly, Mr Thompson's unauthorised withdrawals from Patrick's account in the period between February and May 2016 are strongly suggestive of a connection between these actions and Patrick's death; secondly, there is evidence of a deterioration in the relationship between Patrick and Mr Thompson in the months leading up to January 2016; and thirdly, when police spoke to Mr Thompson shortly after Patrick was reported missing he claimed to not know Catherine's name in circumstances where he had previously met her on many occasions. It is evident that Mr Thompson's own death in June 2016 precluded any further investigation by police in relation to the manner and cause of Patrick's death.
- 9.5 In reaching a conclusion that Patrick died as a result of homicide, it should be borne in mind that, in accordance with section 81(3) of the Act, this in no way suggests that an offence has been committed by any person. Rather, the finding as to homicide is a conclusion that one person's death was a result of the direct actions of another person, most likely in an episode of interpersonal violence. In Patrick's case, because he has not been found and no post-mortem examination has been conducted, the available evidence does not allow for any further conclusion to be made as to the cause of his death. It should also be noted that, having regard to the limited evidence already described above, there is insufficient evidence to enliven the application of section 78(1)(b) of the Act.
- 9.6 Therefore, the available evidence only allows for open findings to be made in answer to each of the questions as to the place of Patrick's death, and the cause of his death. In making these findings it is acknowledged that the unavailability of sufficient evidence to allow for more precise conclusions will only add to the uncertainty that those closest to Patrick have experienced over a number of years.

## **10. Findings**

- 10.1 Before turning to the findings that I am required to make, I would like to acknowledge and express my thanks to Mr Tim O'Donnell, Coronial Advocate, for his assistance both before, and during, the inquest. I also thank Detective Senior Constable McLeod for his role in leading the missing person investigation and for compiling the brief of evidence.
- 10.2 The findings that I make under section 81(1) of the Act are:

***Identity***

The person who died was Patrick Kear.

***Date of death***

Patrick died on a date unknown sometime on or after 11 January 2016.

***Place of death***

The available evidence does not allow for any finding to be made as to the place of Patrick's death.

***Cause of death***

The available evidence and the absence of any postmortem examination does not allow for any finding to be made as to the cause of Patrick's death.

***Manner of death***

Patrick died as a result of homicide, although the available evidence does not allow for any more precise finding to be made as to the manner of his death.

13.1 On behalf of the Coroner's Court of New South Wales I extend my sincere and respectful condolences to Patrick's family and in particular to his sister, Catherine. The conclusion of an inquest is the end of only one part of an overall experience which family members of a missing person will continue to endure until further information about the missing person is, hopefully, found. However, it is hoped that the inquest and coronial process has been of assistance in some small way to those closest to Patrick.

13.2 I close this inquest.

Magistrate Derek Lee  
Deputy State Coroner  
6 August 2020  
Coroner's Court of NSW