



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

**Inquest:** Inquest into the death of Philip NGUYEN

**Hearing Dates:** 7 December 2023

**Date of Findings:** 15 December 2023

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

**Findings of:** Magistrate Joan Baptie, Deputy State Coroner

**Catchwords:** CORONIAL LAW – death in custody, cause and manner of death

**File Number:** 2020/00139754

**Representation:** Mr D Welsh, Coronial Advocate Assisting the Coroner  
Ms McShane for the Commissioner of Corrective Services, New South Wales  
Ms N Szulgit for Justice Health and Forensic Mental Health Network

**Findings** Philip Nguyen died on 10 May 2020 at Long Bay Hospital, Prince of Wales Annex, Parkes 4 East Building, Randwick, New South Wales. The cause of Mr Nguyen's death was metastatic non-small cell lung cancer. Mr Nguyen died from natural causes, whilst in lawful custody serving a sentence of imprisonment.

**Non-publication order** See Annexure A

## **1. Introduction**

- 1.1 At the time of his death, Mr Philip Nguyen was 64 years of age and was in lawful custody, serving a sentence of imprisonment.
- 1.2 Mr Nguyen had a medical history which was significant for asthma, hypertension and epilepsy. Mr Nguyen was known to smoke heroin and methyamphetamine twice weekly during the mid 2000s.
- 1.3 Mr Nguyen commenced serving his prison sentence on 8 September 2010.
- 1.4 On 20 February 2019, he was diagnosed with Non-Small Cell Carcinoma of the lung and metastatic carcinoma following an admission to Dubbo Base Hospital.
- 1.5 On 10 May 2020, Mr Nguyen was housed in the Parkes 4 East building, Prince of Wales Hospital, Randwick in bed 20. He was under the constant guard of two First Class Correctional Officers. At 9.55pm, one of the Correctional Officers noted that Mr Nguyen did not appear to be breathing and the nursing staff were called to assess him. Mr Nguyen was declared deceased.

## **2. The legislative requirement for an Inquest**

- 2.1 Pursuant to the Coroner's Act 2009 ("the Act"), a Coroner is required to investigate all reportable deaths to determine the identity of the person that has died, when and where they died, and the cause and manner of their death.
- 2.2 A person can be detained in lawful custody either as a result of the refusal of bail pending the determination of alleged criminal charges, or as a sentenced prisoner after conviction. Section 23 of "the Act" requires the Court undertake a mandatory inquest when a person dies within a custodial setting, to ensure that a person deprived of their liberty, is adequately cared for within that custodial setting, by the State.
- 2.3 The coronial investigation and inquest provides an independent inquiry into the circumstances surrounding a person's death in custody to assess issues of accountability, transparency and to ensure that the State has discharged its duty of care to an individual.

## **3. Mr Nguyen's life**

- 3.1 Mr Nguyen was born on 30 May 1955 in Vietnam. He completed the educational equivalent of the Higher School Certificate in Vietnam and

then served in the military in Vietnam from 1972 until 1975. He left Vietnam in 1977 and arrived in Australia in 1978 and resided in Victoria.

- 3.2 Mr Nguyen married his first wife in 1984 and they have three children from that relationship. The couple divorced in 2000, and his wife and children moved to NSW, leaving Mr Nguyen in Victoria. In 2001, his estranged wife was murdered and Mr Nguyen moved to NSW shortly afterwards.
- 3.3 Mr Nguyen remarried, although that relationship also ended in divorce in 2011.
- 3.4 Mr Nguyen had a number of entries on his criminal antecedents both in NSW and in Victoria and had served a period of imprisonment in NSW in 2006 for drug supply.
- 3.5 On 15 March 2013, Mr Nguyen entered pleas of guilty to charges of manslaughter and wounding with intent to cause grievous bodily harm arising from the same set of circumstances. He was initially sentenced to a period of imprisonment of 9 years commencing on 8 September 2010 and expiring on 7 March 2020, with a non-parole period of 7 years, commencing on 8 September 2010 and expiring on 7 September 2017. The Crown appealed this sentence, and the Court of Criminal Appeal increased his sentence to a maximum sentence of 16 year and a non-parole period of 12 years, dating from 8 September 2010. He would have been eligible for parole on 7 September 2023.

#### **4. Medical Interventions whilst in custody**

- 4.1 Justice Health medical records disclose that Mr Nguyen suffered a cerebral vascular accident (CVA), commonly referred to as a stroke on 16 November 2012. He was admitted to Westmead hospital for six days where he was diagnosed with having suffered a middle artery cerebral (MCA) stroke. He was placed on anti-hypertensive medication.
- 4.2 In February 2019, the General Practitioner at the Macquarie Correctional Centre order a CT scan of Mr Nguyen's pelvis. The scan revealed a pathological fracture with underlying extensive destructive lesion in the left iliac wing with no displacement or angulation.
- 4.3 On 20 February 2019, Mr Nguyen was admitted to Dubbo Base Hospital from the Macquarie Correctional Centre following a seven-month history of left hip pain and numbness. He had also experienced significant weight loss over the preceding six months.
- 4.4 An abdominal/pelvic CT and chest CT were performed along with lung biopsies at the Dubbo Base Hospital. He was diagnosed with non-small cell carcinoma of the lung and metastatic carcinoma.

- 4.5 On 11 March 2019, Mr Nguyen underwent an assessment conducted by the Palliative Care Specialist Medical Oncology Team at the Long Bay Hospital Sub Acute Unit. He was complaining of pelvic pain and was prescribed Endone and Targin.
- 4.6 On 26 February 2020, Mr Nguyen was admitted to the Prince of Wales Hospital Emergency Department, for a review. A CT scan showed a progression of the carcinoma. On 1 March 2020, a left femoral nail insertion was undertaken.
- 4.7 On 9 March 2020, Mr Nguyen was discharged to the Long Bay Hospital (MSU) for "end of life" care. His file was marked, "not for HDU/intubation/CPR".
- 4.8 On 11 April 2020, his condition deteriorated and he was transferred and admitted to the Prince of Wales Hospital. It was noted by his oncologist that "If this is, however, rapid progression of metastatic lung cancer then he has a poor prognosis of less than two months. He is currently not fit for any alternative anti-cancer treatment is chemotherapy."
- 4.9 On 24 April 2020, he was readmitted to the Long Bay Hospital (MSU) under a palliative care pathway.
- 4.10 On 6 May 2020, he was transferred to the Prince of Wales Hospital for end of life management.

## **5. Events on 10 May 2020**

- 5.1 On 10 May 2020, Mr Nguyen was housed in the Parkes 4 East building, Prince of Wales Hospital, Randwick in bed 20. He was under the constant guard of two First Class Correctional Officers. At 9.55pm, one of the Correctional Officers noted that Mr Nguyen did not appear to be breathing and the nursing staff were called to assess him. Mr Nguyen was declared deceased.

## **6. Cause of Death**

- 6.1 Mr Nguyen was later transported to the Department of Forensic Medicine where a postmortem examination was performed by Dr Jennifer Pokorny, forensic pathologist on 13 May 2020.
- 6.2 Dr Pokorny noted that a "post mortem CT scan was performed which showed multiple mass lesions within the lungs, including a large mass in the right lower lobe in keeping with the history of metastatic non-small cell lung cancer. The brain showed atrophic change as well as a left-sided parietal infarct."

- 6.3 Dr Pokorny concluded that “Based on the history and post mortem findings, in my opinion the cause of death is metastatic non-small cell lung cancer.”

## 7. Conclusions

- 7.1 Considering the relevant records from CSNSW and Justice Health documenting Mr Nguyen’s time in custody, together with the post mortem examination, it is clear that Mr Nguyen died from a natural disease process, which had been anticipated since at least February 2019.
- 7.2 Overall, it would appear that Mr Nguyen was provided with appropriate medical care to deal with a number of significant medical conditions while he was in custody. It is clear that no medical intervention would have changed the outcome experienced by Mr Nguyen on 10 May 2020, nor did any staff employed by CSNSW of Justice Health, contribute to his death.
- 7.3 I would like to acknowledge and thank Mr Durand Welsh, Coronial Advocate for his assistance in the preparation and presentation of the evidence in this case. I would also like to acknowledge and thank the Officer in Charge of this case, Detective Senior Constable Elizabeth Rainin for her investigation and collation of the brief of evidence.

## 8. Findings

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

### **Identity**

The person who died was Philip Nguyen

### **Date of Death**

Mr Nguyen died on 10 May 2020

### **Place of Death**

Mr Nguyen died at the Prince of Wales Hospital, Randwick

### **Cause of Death**

The cause of Mr Nguyen’s death was Metastatic Non-Small Cell Lung Cancer

### **Manner of Death**

Mr Nguyen died from natural causes whilst in lawful custody, serving a sentence of imprisonment.

8.2 I now close this inquest

Magistrate Joan Baptie  
Deputy State Coroner  
15 December 2023  
Coroners Court of New South Wales

## Inquest into the Death of Philip Nguyen

File Number 2020/00139754

### Annexure "A"

1. Pursuant to s 74(1)(b) of the *Coroners Act 2009* (NSW) (**the Act**), the following material contained within the brief of evidence tendered in the proceedings is not to be published:
  - a. The names, Visitor. Index Numbers, telephone numbers and residential addresses and any other information that identifies or might identify any of Mr Nguyen's family, friends and/or visitors, other than the details of legal representatives or visitors acting in a professional capacity which appear in the documents produced by Corrective Services NSW (**CSNSW**).
  - b. The following information relating to CSNSW Officers:
    - i. direct contact details of CSNSW staff not publicly available; and
    - ii. employee serial numbers and Offender Integrated Management System (**OIMS**) usernames of CSNSW staff.
  - c. Names, personal information and Master Index Numbers of any persons in the custody of CSNSW other than Philip Nguyen.
  - d. The following information relating to CSNSW security:
    - i. specifications and details of security equipment, such as the calibre, capacity, model and make of firearms;
    - ii. serial numbers assigned to security equipment;
    - iii. escort assessment, procedures and security considerations; and
    - iv. officer routines and security procedures.
2. Pursuant to s 65(4) of the Act, a notation be placed on the Court file that if an application is made under s 65(2) of that Act for access to CSNSW documents on the Court file, that material shall not be provided until CSNSW has had an opportunity to make submissions in respect of that application.

Magistrate Joan Baptie  
Deputy State Coroner  
15 December 2023  
Coroner's Court of New South Wales