



CORONERS COURT OF NEW SOUTH WALES

Inquest:	Inquest into the death of Subash Subedi
Hearing date:	30 January 2024
Date of findings:	30 January 2024
Place of findings:	NSW Coroners Court - Lidcombe
Findings of:	Magistrate Elizabeth Ryan, Deputy State Coroner
Catchwords:	CORONIAL LAW – disappearance and death - can manner and cause of death be ascertained.
File number:	2019/136823
Representation:	Coronial Advocate assisting the inquest: Sergeant Amanda Chytra
Findings:	<p>Identity The person who died is Subash Subedi</p> <p>Date of death: Subash Subedi died between 14 February 2018 and 30 April 2019.</p> <p>Place of death: Subash Subedi died in the area beneath the M2 Motorway near Beecroft, Sydney.</p> <p>Cause of death: The evidence does not enable a finding to be made as to the cause of Subash Subedi's death.</p> <p>Manner of death: The evidence does not enable a finding to be made as to the manner of Subash Subedi's death.</p>

Section 81(1) of the Act requires that when an inquest is held, the Coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the death of Subash Subedi.

1. Introduction

1.1. On 23 February 2018 Subash Subedi aged 26 years was reported missing. A comprehensive police search was unable to locate him. Then, fourteen months later, human remains were found which were identified as those of Subash Subedi.

1.2. A post mortem examination was unable to establish how Mr Subedi had died. Nor could the police investigation establish this. Therefore, an inquest into the circumstances of Mr Subedi's death is required, pursuant to section 27(1) (c) of the Coroners Act 2009.

2. The role of the Coroner

2.1. A Coroner holding an inquest must record in writing their findings as to the date and place of the person's death, and the cause and manner of death.

2.2. In addition, pursuant to section 82 of the Act the Coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.

2.3. Mr Subedi has no known relatives living in Australia. However, at this inquest his sister Ms Sapna Ranabhat and her husband Pradeep who live in Nepal attended by way of AVL link.

3. Background

3.1. Subash Subedi was born in Nepal on 19 June 1991. His parents died when he was young, and he was cared for by his uncle until he too passed away in 2012. Subash Subedi was then cared for by his cousin, Pradeep CK.

3.2. Mr Subedi was studying for a Bachelor of Information Technology when he met his wife, Saraswati Upadhayay. The couple married in 2015 in Nepal and two years later they moved to Australia when Mr Subedi was granted a student visa to study Information Technology at Charles Sturt University. When they

arrived in Australia, Mr Subedi and Ms Upadhyay did not reside together. Ms Upadhyay explained that the short notice of the visa grant did not leave enough time to organise living arrangements in Australia.

3.3. When Mr Subedi arrived in Australia in November 2017, his friend Shiva Poudel met him at the airport and he moved into an apartment on Beresford Street, Strathfield which Mr Poudel was renting. Mr Poudel and Mr Subedi continued to rent together at different addresses until they moved into an apartment at Albert Street, Strathfield. Mr Poudel told police investigators that about a week after they moved into the Albert Street apartment, Mr Subedi began to behave strangely.

4. Mr Subedi's mental health

4.1. On 21 January 2018, Mr Poudel found Mr Subedi sitting in the middle of the road near their apartment in Strathfield. Mr Subedi was shirtless and was holding a large knife. Mr Poudel was deeply worried and he called police, who eventually located Mr Subedi in a nearby suburb. Mr Subedi approached police whilst armed with the knife. He held the knife to his chest, saying the words *'Kill me or I'm going kill myself'*. Police were able to disarm him with the use of a Taser. They took him to Concord Repatriation General Hospital where he was scheduled into its mental health unit. He was admitted there as an involuntary patient. Mr Subedi told paramedics that he would rather kill himself than be killed by *'Asian assassins'*.

4.2. Mr Subedi was assessed as having the elements of a brief reactive psychosis. He told clinicians that his issues had started the previous week after he had smoked cannabis. He became suspicious that *'an Asian'* was following him. He was unable to explain his increasing distress but said every time he saw an Asian person, he would get more scared. Mr Subedi explained that he was under a lot of stress financially and worried about being deported because of not being able to contact his wife who was sponsoring him. He was commenced on the antipsychotic medication olanzapine. In his mental health assessment, Mr Subedi told the doctor that he had lost his phone. Police confirmed that he had not had a phone in his property when he was brought into hospital.

4.3. Nursing notes reflect that Mr Subedi was pleasant, polite and engaging with fellow patients and staff. During his admission he did not express any further

psychotic ideas and showed no signs of irritability or agitation. Mr Subedi was granted escorted and later unescorted leave. On 23 January 2018, he went on day leave to attend university and returned at 8.30pm with his wife and friends. He told nursing staff that he no longer felt suspicious about Asian people when he was out, and did not have any delusional thoughts.]

4.4. On 24 January 2018, Mr Subedi went on leave and was discharged from Concord Hospital whilst he was out. Mr Subedi returned to the hospital with his wife to collect his discharge medication and property including his passport and foreign money. He was settled and pleasant, thanking staff for their support. He said that he would return the following day to pick up his medical certificate and another letter for university. A referral was made to the Croydon Community Mental Health Team for his follow up care, with a follow up phone call or home visit to Mr Subedi requested within 24 hours. Dr Sana Pathan the Psychiatry Registrar wrote a letter on Mr Subedi's behalf to Charles Sturt University, supporting his application to defer his studies for the semester without incurring financial costs.

4.5. On Mr Subedi's discharge however, members of Croydon Community Mental Health Service were unable to contact him. Mr Subedi had no phone, and he had not provided next of kin details or GP details. Members of Croydon Community Mental Health Service attended his home on 26 January 2018 but no one was there. They left a card in an envelope under the door requesting that he contact the service. By 29 January 2018, Mr Subedi had not contacted the service and with no other way to follow up, Croydon Community Mental Health Service discharged him.

4.6. Mr Subedi's friends and wife told police that after his discharge from hospital, his behaviour returned to normal for a time. Mr Subedi went back to live at the Strathfield address and talked about returning to studies and finding an apartment to move in with his wife. But after this initial period, his behaviour once again became erratic.

4.7. On 13 February 2018, Shiva Poudel and another friend Amrit Thapa met Mr Subedi in Strathfield Square. During this meeting they called his family member Pradeep KC in Nepal and they had a group conversation about his mental health. Mr Subedi agreed to return to Nepal, but he appeared sad about the prospect and Shiva Poudel told police he did not think he wanted to return.

5. Westmead Hospital attendance, 14 February 2018

- 5.1. Between 6.15am and 10am on 14 February 2018, police received three calls from the public in relation to a male acting strangely, walking in the breakdown lane of the M4 motorway and then around Lidcombe. Police located Mr Subedi near the Coles Express Service Station on Bachell Avenue, Lidcombe. He appeared dehydrated and disoriented, telling police that he had left home at 6am, that he had headed for Rhodes Park near Concord Hospital but that he had taken a wrong turn somewhere. Mr Subedi didn't know what day it was or the time, or his location.
- 5.2. Police called for an ambulance to conduct a mental health assessment. Paramedics from the Mental Health Acute Assessment Team (MHAAT) arrived and saw that Mr Subedi was dressed inappropriately for the 30-degree weather in a heavy black jacket. He told them he had smoked marijuana three days prior but denied taking any other drugs or drinking alcohol. He said he had last spoken to his wife a month ago and that this had made him sad. Mr Subedi agreed to go with the ambulance officers voluntarily to the hospital for a mental health assessment. He became agitated on the trip to the hospital, but the paramedics were able to quickly calm him down.
- 5.3. The medical records from Westmead Hospital show that Mr Subedi was triaged in the Emergency Department at 12.44pm. He was then assessed by Registered Nurse Miranda Junn around 1.11pm. Mr Subedi denied he had any intention or plan to take his own life. The hospital notes record: *'nil homicidal ideation, feels safe, denies perceptual disturbances, plan to go home.'* This was the last record of Mr Subedi being seen alive, and it is believed that he left the hospital shortly after without being further assessed or admitted.

6. Missing Person report

- 6.1. On 23 February 2018, Shiva Poudel attended Burwood Police Station to report Mr Subedi missing as he had not seen him since the morning of 14 February 2018. On that date Mr Poudel had gone to Mr Subedi's apartment in Strathfield. Mr Subedi was not there and Mr Poudel talked to the apartment owner, who said Mr Subedi had made a mess in the bathroom when he shaved his head. He had also left all his property in the apartment including his phone, laptop, passport, clothes and personal documents. Mr Poudel told police he had concerns for Mr Subedi because of his mental health.

6.2. Police then carried out checks of all hospitals in Greater Sydney, which confirmed that Mr Subedi had not been admitted. As Mr Subedi had no phone and had not been seen for nine days, there was very little information to guide police in their investigation. The missing person investigation was transferred to Detective Senior Constable Vartan Tokatlian on 13 March 2018.

6.3. During the course of the police investigation numerous inquiries were made with civilian and government organisations, including Roads and Maritime Services, the Australian Border Force, airports, banks, rental agencies, and phone companies. Statements were obtained from Mr Subedi's family and friends. His clothing and personal effects were examined and samples of his DNA were extracted from them.

7. Located skeletal remains

7.1. On 30 April 2019, employees of Solid Ground, a tree and landscaping company which contracts for the M2 Transurban Motorways, were performing gardening work at the basins behind the sound wall of the motorway. There are approximately 40 such basins, which form the drainage system for the M2 Motorway. At about 11.30am, the team commenced work around basin 28B located off Murray Farm Road in Beecroft. As they were completing maintenance work, employee Amy Sewell noticed what appeared to be bones at the drainage point junction, just outside the gate of basin 28B. Police were notified and a crime scene was established.

7.2. Detective Senior Constable Stephen Ireland and Senior Constable Kyle Christian attended the drain basins in response. Detective Ireland described the approach to basin 28B as difficult, but not impossible for an able-bodied adult. It required climbing down a stone retaining wall on the eastern bank and then up the wall on the western bank. Detective Ireland entered a drainage junction box which was directly beside and below the M2 Motorway on the eastbound lanes. There he located several large bones which were consistent with the appearance of human rib, leg and arm bones.

7.3. The following day Detective Ireland and other assisting police reattended the location with Crime Scene Officers who commenced the excavation of the junction box. Also in attendance was Mr Asher Sutton, the Transurban Maintenance Lead for the M2 Motorway and Lane Cove Tunnel. Mr Sutton explained to police that basin 23B services a stormwater drainage system

along a 400 metre section of the M2. It is not connected to the drainage system of any other section of the motorway. Stormwater runoff and debris from the road surface flows down the pipes to the junction box. It then flows out of the pipe in the north-western wall of the junction box adjacent to the dam.

7.4. The Crime Scene officers located a number of bones buried at various levels within the soil of the junction box. One of the officers crawled into the pipe on the southwestern wall and located more bones. Police Rescue were called to assist due to the confined space that needed to be searched. Police Rescue officers entered the pipe and located more small bones approximately 4 meters inside it. All the bones were transported to the Department of Forensic Medicine at Lidcombe.

7.5. Detective Ireland remained in contact with Transurban in the days following the discovery of the bones, to try to trace where they may have come from. It was explained that there are stormwater drains along that section of the M2 which are designed to remove water and debris. Water flows into the stormwater drain and through pipes into basin 23B. The stormwater drains were designed to be inspection pits, large enough for Transurban staff to climb into and inspect in the event of a blockage. Each pit is covered by a metal grate which allows the water to wash off the roadway, down the inspection pit and along the pipes to basin 23B. The pits are not subject to routine inspection or maintenance, and to Mr Sutton's knowledge, no one had been into the pits for some years.

7.6. On the morning of 9 May 2019, Detective Ireland and Police Rescue officers commenced physically inspecting all twenty-two inspection pits. The metal grate was removed from pit Z2/B3/02. They found a dark coloured shoelace tied through the grate, with a large knot tying the ends together. Tangled into the knot was what appeared to be dried brown organic matter and hair with a bone stuck to it. The shoelace was positioned to enable it to hang down into the pit.

7.7. This inspection pit did not have any pipes flowing into it, and only one pipe for water to flow out. Thus the only way that anyone could enter the pit was via the opening at the top, covered by the grate. Inspection pit Z2/B3/02 is connected to pit Z2/B2/01 by a 30-meter pipe. In the pipe connecting the two inspection pits, two further small bones were located. The flow of water travels

along pipes and further inspection pits until ultimately arriving at the concrete junction box in basin 23B, where the majority of the bones were located.

8. The post-mortem examination

8.1. Forensic Pathologist Dr Sairita Maistry and anthropologist Dr Denise Donlon examined the bones on 1, 3, 8 and 9 May 2019. The bones consisted of the following:

- a cranium (or skull) and mandible
- various cervical and thoracic vertebra
- a right collar bone
- numerous rib bones
- various bones of the legs and feet
- various bones of the hand.

8.2. Dr Maistry found no traumatic injuries to the bones. She and Dr Donlon concluded that the bones all belonged to the same individual. However, Dr Maistry was unable to determine the cause of death, due to the remains all being skeletonised. Nor could any blood samples be extracted, due to the skeletonised condition of the remains.

8.3. In November 2019, DNA samples extracted from the located remains were matched to the DNA which had been extracted from clothing which belonged to Mr Subedi. This evidence establishes to the necessary standard, that the human remains found on 30 April 2019 and the days following are those of Subash Subedi.

8.4. There is thus no question that the remains are those of Mr Subedi.

9. Can the time, date, manner and cause of Mr Subedi's death be established?

9.1. It can be accepted on the balance of probabilities that Mr Subedi died within the storm water drainage system of the M2 Motorway, in the area of Beecroft, where his remains were found. There is no evidence to suggest that he died at a different location and had then been moved to the location where his remains were found.

9.2. As regards the date of Mr Subedi's death, the evidence does not enable me to find when this occurred, other than between 14 February 2018 when he was last seen at Westmead Hospital, and 30 April 2019 when his remains were

found. Although it may be inferred that Mr Subedi's death occurred sometime prior to 30 April 2019, based on the degree of deterioration of the remains, it is not possible to state when this may have been.

9.3. As for the manner and cause of Mr Subedi's death, unfortunately the evidence does not enable any findings to be made. As I have noted, the post mortem examination could not establish a cause of death due to the deteriorated condition of the remains. There exists some evidence that Mr Subedi may have died as a result of being suspended from the shoelaces which were found tied to the grate at the site. As noted, these were found to contain fragments of human tissue and hair, whose DNA matches that of Mr Subedi. But this evidence is not sufficient, in my opinion, to reach the conclusion that this was the cause of his death.

9.4. It will be a source of sadness for Mr Subedi's family that it has not been possible to establish the cause and manner of his death. I know that this must add to their distress at his loss.

9.5. It may be of some comfort to Mr Subedi's family to be aware that police found no evidence that anyone caused his death, or wished him harm. I note also the evidence of pathologist Dr Maistry that his remains did not show any evidence of traumatic injury.

9.6. I hope it is also of comfort to Mr Subedi's family to know that his friends in Sydney cared about him, and tried to help him when they realised that he was mentally suffering. Others who tried to help him at that time were police officers and hospital staff.

9.7. It is also the case that after he was reported missing on 23 February 2019, the police investigation into his whereabouts was conducted in a professional and comprehensive manner. This is evidenced by the extensive brief of evidence which was tendered to the court.

10. Conclusion

10.1. I express to Mr Subedi's family my sincere sympathy for his loss.

10.2. I thank Coronial Advocate Sergeant Amanda Chytra for her work in the preparation and conduct of this inquest. I thank also the Officer in Charge, Detective Senior Constable Vartan Tokatlian.

11. Findings required by s81(1) of the Act

As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

Identity

The person who died is Subash Subedi

Date of death:

Subash Subedi died between 14 February 2018 and 30 April 2019.

Place of death:

Subash Subedi died in the area beneath the M2 Motorway near Beecroft, Sydney.

Cause of death:

The evidence does not enable a finding to be made as to the cause of Subash Subedi's death.

Manner of death:

The evidence does not enable a finding to be made as to the manner of Subash Subedi's death.

I close this inquest.



Magistrate E Ryan

Deputy State Coroner, Lidcombe

Date

30 January 2024