



**CORONERS COURT  
NEW SOUTH WALES**

<b>Inquest:</b>	Inquest into the death of Kelvin Gardoll
<b>Hearing dates:</b>	19 October 2015
<b>Date of findings:</b>	19 October 2015
<b>Place of findings:</b>	Coroners Court, Glebe
<b>Findings of:</b>	Magistrate C. Forbes, Deputy State Coroner
<b>Catchwords:</b>	CORONIAL LAW-Death in custody-Cause and manner of death
<b>File number:</b>	2014/229687
<b>Representation:</b>	<p>Mr S Kelly, Advocate Assisting</p> <p>Ms J De Castro Lopo representing Commissioner of New South Wales Corrective Services</p> <p>Mr G Singh representing Justice Health and Forensic Mental Health Network.</p>
<b>Findings:</b>	<p>I find that Kelvin George Gardoll died on 4 August 2014 at the Medical Sub Acute Unit for Palliative Care at Long Bay Correctional Complex Hospital, Malabar, NSW. I am satisfied the cause of his death was lung carcinoma and the manner of his death was natural causes.</p>

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IN THE STATE CORONER'S COURT  
GLEBE  
SECTION 81 CORONERS ACT 2009

**REASONS FOR DECISION**

**Introduction**

1. This inquest concerns the death of Kelvin George Gardoll who died on 4 August 2014. He was a 61 year old man who was in custody.
2. His death was reported because it occurred whilst he was in custody. An inquest is mandatory pursuant to the combined operation of ss. 27 and 23 of the *Coroners Act 2009*.

*“The purposes of a s.23 Inquest are to fully examine the circumstances of any death in custody ..... in order that the public, the relatives and the relevant agency can become aware of the circumstances. In the majority of cases there will be no grounds for criticism, but in all cases the conduct of involved officers and/or the relevant department will be thoroughly reviewed, including the quality of the post-death investigation. If appropriate and warranted in a particular case, the State or Deputy State Coroner will make recommendations pursuant to s.82.”<sup>1</sup>*

3. The role of a Coroner as set out in s.81 of the *Coroner's Act 2009* is to make findings as to:

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<sup>1</sup> Waller's Coronial Law & Practice in New South Wales 4<sup>th</sup> Edition, page 106

- (a) the identity of the deceased;
- (b) the date and place of the person's death;
- (c) the physical or medical cause of death; and
- (d) the manner of death, in other words, the circumstances surrounding the death.

4. This Inquest has been a close examination of the circumstances surrounding Mr Gardoll's death and pursuant to s.37 of the *Coroner's Act 2009* a summary of the details of this case will be reported to Parliament.

### **Mr Gardoll**

5. Mr Gardoll was from Wellington, NSW. He had 8 children and 5 siblings. He primarily worked as a labourer and he also worked at a mine in Newcastle.
6. At the time he entered custody in September 2011 he had a number of chronic health issues including diabetes mellitus, moderate chronic kidney disease, chronic obstructive pulmonary disease, ischaemic heart disease and chronic emphysema. He also suffered from painful diabetic peripheral neuropathy which was controlled with Gabapentin.
7. His earliest release date was 2 September 2015.
8. In 2011 whilst he was in custody he had a mole removed from his back.
9. In June 2013 a CT scan was performed of his chest and imaging results indicated that he had multiple lesions in his lung.

10. On 15 June 2013, he was transported to Long Bay Gaol. He was admitted to Prince of Wales Hospital, Randwick on several occasions to receive chemotherapy and radiotherapy in an attempt to reduce the size of the tumours.
11. On 17 July 2013 Dr Christopher Pene, Prince of Wales Hospital, reported to the gaol that Mr Gardoll had received his first cycle of palliative chemotherapy. He noted that Mr Gardoll had bilateral lung lesions in the right lower and left upper lobes and left hilum and a chronic left interlobar arterial occlusion.
12. According to Detective Brad Young, Mr Gardoll was aware that his condition was terminal and an Advanced Care Directive was signed by Mr Gardoll that he was not for resuscitation. This directive was reviewed 3 monthly and continued until his death.
13. Mr Gardoll remained under the joint care of Long Bay Hospital and the Prince of Wales Hospital Palliative Care Team providing regular review. He was located at the Medical Sub Acute Unit for Palliative Care at the Long Bay Hospital.
14. In June 2014 his disease progression caused increased shortness of breath and pain requiring intermittent oxygen therapy. On the 15<sup>th</sup> July he experienced a fall and his health continued to deteriorate due to increased pain, nausea, vomiting and shortness of breath. At this point, palliative chemotherapy treatment had ceased.
15. On the 3<sup>rd</sup> August 2014 it is recorded in the medical notes that he had poor oxygen saturation and required assistance with his daily care.
16. On the morning of 4 August 2014 his family visited him for the last time.

17. At about 12.15pm on 4<sup>th</sup> August 2014 he passed away in the Long Bay Hospital.
18. His room was secured by Corrective Services New South Wales (CSNSW) in accordance with Policy and Procedures, who awaited the arrival of Police and CSNSW Investigators.
19. At 2.10pm, Detective Brad Young from the Corrective Services Investigations Unit attended the gaol and commenced the investigation. Detective Young did not find any indication of anything suspicious or untoward surrounding his death
20. Detective Young spoke to Mr Gardoll's sister, Ms Debbie Jones who had no issues or concerns regarding the management and care of Mr Gardoll whilst in prison. She indicated that he had made no complaints about the medical treatment that had been provided to him. Ms Jones described how she and members of the family had visited him on the morning of his death and his sister recalled how happy he was to have seen his family that morning.
21. A Post Mortem was conducted by Dr Brouwer on Tuesday 5<sup>th</sup> August 2014 who determined that the cause of death was lung carcinoma.
22. Mr Gardoll's medical history consisted of 7 volumes of material with detailed progress notes recorded of his treatment whilst in custody. The medical notes also record the various medications he was administered during his custody for his cancer treatment and pain relief.

## Medical Review of Care and Treatment

23. A review of his medical treatment was undertaken by Dr Katerina Lagios, New South Wales Justice Health & Forensic Mental Health Network<sup>2</sup>. This review was initiated as a result of a comment that had been made by Ms Debbie Jones to Detective Young as to whether the removal of the mole on his back may have been connected to his subsequent development of lung cancer.

24. Dr Lagios provided a chronology of his treatment whilst in custody surrounding the removal of his mole. She stated

*On 22 June 2010 it was recorded he had a 'scaly patch between scapulae' which was recorded by the GP.*

*On the 6<sup>th</sup> August 2010- there was a review of the lesion and it recorded that George preferred to wait till after court in October before the lesion was excised*

*On the 23<sup>rd</sup> November 2010 the lesion on his back was excised with 4 x sutures placed by the GP*

*On the 9<sup>th</sup> December 2010, the Histopathology of the excised Lesion recorded:*

*-specimen 15mm x 7mm and 6mm thickness, bearing on it's outer surface a keratotic lesion measuring 4mm,*

*-Histopathological diagnosis: central intraepithelial squamous cell carcinoma*

*- basement membrane intact*

*- no evidence of invasive lesion in the dermis which shows lymphocytic infiltration*

*-Excision line is clear of the lesion.*

25. According to Dr Lagios, the skin lesion was removed in accordance with the Australian Guidelines and the removal of the lesion was localised. She reported that his

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<sup>2</sup> Dr Lagios report – Ex 1, Vol 1, Tab 17

histopathology was reviewed by the GP and it was an *'unremarkable clinical examination for axilla and neck lymphadenopathy'*.

26. Dr Lagios review went on to note that in August 2011 Mr Gardoll had a chest X-ray and cardiac review at Bathurst Hospital as a result of recurrent dyspnoea and chest pain and that nil abnormalities were found.
27. She noted that Mr Gardoll continued to develop chest symptoms and on 3<sup>rd</sup> June 2013 he had a chest X-ray at Bathurst Hospital which indicated that he had a 38mm diameter rounded lesion in the right lower lobe of his lung.
28. On 12 June 2013 a further CT was performed on his chest at Bathurst Hospital which highlighted that there had been considerable change since the previous examination in May 2012 . It recorded that *'a mass of 30mm in diameter has developed in the right lower lobe in the area of the previous consolidation that was eventually diagnosed to be a lung squamous cell carcinoma'*.
29. According to Dr Lagios, he had many lung lesions but nil lesions were identified in the brain, abdomen, pelvis or bony areas. Dr Lagios noted that Mr Gardoll did have the risk factors for developing this disease because of his lengthy history of smoking. She was of the opinion that his care and treatment whilst he was in custody was appropriate.

## **Conclusion**

30. NSWCS immediately adopted the critical incident guidelines when Mr Gardoll was found deceased in his room at Long Bay Correctional Complex Hospital.

31. I am satisfied that the Corrective Services or Justice Health actions did not contribute to Mr Gardoll's death.

32. I am satisfied that Mr Gardoll died of natural causes and that his medical care and treatment in custody was appropriate.

## **FINDINGS**

I find that Kelvin George Gardoll died on 4 August 2014 at the Medical Sub Acute Unit for Palliative Care at Long Bay Correctional Complex Hospital, Malabar, NSW. I am satisfied the cause of his death was lung carcinoma and the manner of his death was natural causes.

Magistrate C. Forbes  
Deputy State Coroner  
19 October 2015