



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into disappearance and suspected death of Marian Carole Rees
Hearing dates:	5 & 6 March 2015
Date of findings:	1 April 2015
Place of findings:	NSW State Coroner's Court - Glebe
Findings of:	Magistrate Sharon Freund, Deputy State Coroner
Catchwords:	CORONIAL LAW – Missing Person,
File number:	2012/301033
Representation:	Mr M. Cahill instructed by Ms J Murty Crown Solicitor's Office as Counsel Assisting; Mr P Saidi instructed by Ms K Dobbie for the Commissioner of Police;
Findings:	No jurisdiction as I am not satisfied that Marian Carole Rees is deceased .

FINDINGS

Introduction

Marian Carole Rees was thirteen years old when she disappeared after leaving for school from her family home at flat 1, 6 James Place, Hillsdale in the municipality of Randwick in the state of New South in early April 1975. An information sworn by Edward Francis Guiry on 18 July 1975, nominates the date on which Marian left home as 5 April 1975, however, as 5 April 1975 was a Saturday and the balance of the evidence, to which I will make reference later in these reasons, supports the conclusion that Marian left home on a school day, on the available evidence, it appears likely that Marian left home and disappeared on or about Monday 7 April 1975.¹

Marian was born on 16 September, 1961 at Lambeth Hospital, Kensington in the United Kingdom. Marian's birth certificate identifies Marian's father as "Hywel John Rees" and her mother as "Ellen Rees" formerly Higgins of 44 Hogarth Road, Earls Court, Kensington.² Marian's mother was also known as "Margaret Rees"³.

Marian was the eldest of three children born to Margaret Rees. Marian's younger brother, John Rees, was born on 23 January, 1967.⁴ Marian's younger sister, Joanne Rees [who is named in Marian's passport as "Joan M. Bentley"], was born on 21 March, 1969.⁵

¹ of 155a Bunnerong Road, Kingsford – an officer of the Department of Youth and Community Services. Vol 1 Tab 23

² Certified copy of an Entry of Birth pursuant to the *Birth & Deaths Registration Act 1953* (UK), page 253, tab 16 of the Brief

³ ERISP with Margaret Rees dated 22 January, 2005 Vol 1 Tab 8- Brief pg 48

⁴ British Passport 536728A in the name of Miss Marian Carole Rees Brief pg 256

⁵ EBID

Marian's maternal grandmother, Kathleen Higgins (also known as Kathleen Linch) noted in a newspaper article published in the Sun Herald on 21 April, 1982, that Marian had lived with her for a period of about 9 years before Marian moved to Australia to live with her mother. Ms Higgins was reported in the article as stating that Marian and her mother just couldn't get along and Marian was always threatening to run away.⁶

It is apparent from Marian's British Passport that Marian, together with her brother John and her sister Joan, travelled to Canada arriving on 29 September, 1973 and then onto Sydney, Australia arriving on 3 March, 1974.⁷

After Marian, John and Joan arrived in Australia on 3 March, 1974, they moved to the Hillsdale area in South Eastern Sydney. Initially the family moved into a unit at 14 Baird Avenue, Hillsdale⁸ and then, to a unit at 6 James Place, Hillsdale,⁹ the last place Marian was known to reside.

The evidence before me indicates that on Monday, 7 April, 1975, Marian walked her younger brother and sister to a bus stop near their home at 7 James Place, Hillsdale where Marian said her "good-byes".

In a Statement taken from John Rees on 15 February, 2010, John recalled the following:

⁶ Newspaper article undated said to have been published in the Sun Herald (Sydney) on 21 April, 1982 Vol 2 Brief pg 452

⁷ Source document British Passport No. 536728A issued in the name of Marian Carole Rees DOB 19 September, 1961 (with two children – John S. Rees born 23.1.67 and Joan M. Bentley born 21.3.69) Brief pgs 254-259

⁸ See the Register of Admissions 1974 for Matraville High at Brief pg 291 and the Register of Admissions for Matraville Infants and Primary School in relation to the enrolment of Joan Rees (Brief pg 315) and John Rees (Brief pg 316)

⁹ Statement dated 3 November, 2014 of Tanya Davenport at [4] – Brief pg 248

“We walked to the end of the street to the bus stop. I don’t remember the exact words but Marian (sic) said to me “take care and look after your sister everything will be OK”.¹⁰

Although Joan was only 6 years old as at 7 April, 1975, in a statement taken on 21 November, 1996, Joan recalled that on 7 April, 1975 Marian left for school wearing her Matraville High School uniform.¹¹

It was the evidence of Ms Tanya Davenport (nee Waterson), who attended Matraville High School with Marian in 1974 and 1975,¹² that in 1974 Ms Davenport and Marian became close friends as a consequence of living in close proximity to each other in the Matraville/Hillsdale area in 1974 and early 1975 and also as a consequence of being at school together at Matraville High. I am satisfied from the evidence of Ms Davenport that when Marian and Ms Davenport were in their third year at High School they routinely caught the school bus together each morning. In her statement dated 3 November, 2014, Ms Davenport noted that:

“For the first couple of years in High School, we caught the same privately run bus from home to school. I used to get on the bus at Beauchamp Road at Hillsdale. Marian could get on the bus at two or three spots. It would depend on how late she was getting her younger siblings ready for school. If she was on time, she would get on the bus at Rhodes Street x Brittain Street (sic), but if she was late, she would get on at the other end of Brittain Crescent at Flint Street.”¹³

Ms Davenport also recalls that one morning in about her third year of high school (i.e. 1975) she was on the school bus in the morning, with another friend from school, Lesley Stephenson¹⁴, when Marian got on the bus at the top of the hill at Rhodes Street. Ms Davenport says in her statement dated 3 November, 2014 that:

¹⁰ Statement of John Stewart Rees dated 15 February, 2010. Brief pg 202

¹¹ Statement dated 21 November, 1996 of Joanne Marie Lord (nee Rees) Brief pg 40

¹² 1974 Matraville High Register of Admission – Student No. 200 Waterson, Tanya Ann – Father Waterson, Richard 5/1 Nelson Avenue, Hillsdale Brief pg 287

¹³ Statement dated 3 November, 2014 of Tanya Davenport at [9] Brief pg 249

¹⁴ Admission Register 1974 Matraville High School Brief pg 262

"[Marian] was sitting next to me and from memory she looked a bit upset. During our conversation, she was looking out the window. I don't know whether she saw something or what but she jumped out of her seat and said "I've forgotten something. I've got to go and I'll see you at school".¹⁵

Ms Davenport saw Marian walk to the front of the bus and get off the bus at the next bus stop along Flint Street in Hillsdale. Ms Davenport also recalls seeing Marian walk from the bus stop in the direction of James Place, Hillsdale.¹⁶

It seems from all the evidence gathered by police that this was probably the last occasion on which that Marian was seen alive by any known friends and family.

My jurisdiction as a Deputy State Coroner in relation to Marian's disappearance and suspected death arises as a result of section 21 of the Coroners Act 2009. A coroner's usual function is to seek to answer five questions namely, who died, when they died, where they died and the manner and cause of their death. Accordingly the primary issues for this inquest is whether or not Marian has died and if so what were the circumstances of her death.

The evidence in this inquest clearly discloses that there has been no contact between Marian and her immediate family, namely her mother, Margaret, and her siblings, John and Joan, in period since 7 April 1975.

The evidence also discloses that there was no known contact between Marian and her maternal grandmother, Kathleen Higgins, nor any known contact with known relatives living in Australia such as her maternal aunt, Teresa Whitehouse, her aunt by marriage, Joyce Irene Borich and her cousins, such as Deborah Joy Prestwidge, since 7 April 1975.

Moreover, there has been no known contact between Marian and identifiable school friends such as Tanya Davenport and Karen Miladinski, since 7 April 1975.

¹⁵ Statement dated 3 November, 2014 of Tanya Davenport at [10] Brief pg 249

¹⁶ Statement dated 3 November, 2014 [10] at Brief pg 249

I also note that searches of various government records have indicated the following:

- There are no known records indicating that Marian has sought to obtain a passport in her own name or in the name of Marian Carol Rees;¹⁷
- There are no known records that Marian has sought to change her name by deed poll – either here in the State of New South Wales or elsewhere in Australia;
- There are no known births, deaths and marriages records either in her own name or in the name Marian Carol Rees in this state or elsewhere in Australia;
- There are no known records that Marian has had any financial dealings or operated banking accounts with ANZ, Advance/St George, Westpac, Commonwealth/Colonial State in her own name or in the name Marian Carol Rees in the period since 7 April 1975;
- There are no known Electoral records either in her own name or in the name Marian Carol Rees;
- There are no known Centrelink or Health Insurance Commission records in her own name or in the name Marian Carol Rees; and
- There are no interstate police records indicating the present whereabouts of Marian – either by her own name or in the name of Marian Carol Rees.

Nonetheless, there is some evidence that Marian may have remained in or returned to the Maroubra area shortly after 7 April 1975.

When recently spoken to by police, Ms Karen Miladinski noted that Marian had borrowed some library books from her in the week leading up to her disappearance

¹⁷ I note that the certified copy of an Entry of Birth at page 253, tab 16 of the Brief and her passport at page 255, tab 17 of the Brief both identify her as Marian Carole Rees whereas other documents have incorrectly identified her as Marian Carol Rees.

on 7 April 1975 but, Ms Miladinski found those books on her doorstep when she returned home from school on that afternoon.¹⁸

Mr Donald West, who was or had been in a relationship with Marian's mother at around the time of her disappearance, reports that he believes he may have seen Marian on Bunnerong Rd, near Kingsford, within a few weeks of her initial disappearance.¹⁹ Mr West believes he may have seen Marian, who had distinctive red hair, standing at a bus stop on the opposite side of Bunnerong Road as he was driving on that street towards the roundabout at Kingsford. However, by the time, Mr West had negotiated the roundabout and driven back down Bunnerong Road to the bus stop, the person he believed may have been Marian was gone.

On all the evidence this appears to be what may be described as the last possible sighting of Marian since Marian got off the school bus in Hillsdale on or about 7 April 1975.

By 18 July 1975, Mr Edward Francis Guiry, a District Officer then in the employ of the Department of Youth and Community Services at 155a Bunnerong Road, Kingsford was satisfied that Marian had left her family home at 1/6 James Place, Hillsdale on 5 April 1975 (sic) without her mother's consent and that Marian had not returned. On that day, Mr Guiry attended at Waverley Local Court and swore on his oath that

*"having made due inquiry .. he believe[d] [that] Marian Carol (sic) Rees of 1/6 James Place, Hillsdale, a child under sixteen years of age, to wit of the age of Thirteen years ... to be a .. uncontrollable child within the meaning of the Child Welfare Act, 1939, as amended, in that on the Fifth (sic) day of April, 1975/did leave home without her mothers (sic) consent and has not returned."*²⁰

¹⁸ Supplementary Statement dated 1 September 2014 of Sgt Betts at [28] – Vol 1 tab 3- page 11 of 12

¹⁹ Statement dated 6 December 1996 of Donald Jeffrey West – Brief page 205.

²⁰ Information dated 18 July 1975 sworn before a Justice at the Local Court Waverley in the State of New South Wales by Edward Francis Guiry an officer of the Department of Youth and Community Services. Brief page 262G.

Significantly, it has been observed by a number of witnesses, including Marian's mother, Margaret, that Marian was the subject of considerable demands and responsibilities in the context of caring for her siblings and in the broader domestic context. Marian has been described as having the responsibilities of mothering John and Joan. It has also been observed that Marian's relationship with her mother was fractious; Margaret was a drinker; Margaret had a temper; and Margaret had placed considerable demands on Marian over a number of years – particularly in the period after the family migrated to Australia.

Against this background, as noted previously, Marian's grandmother – Kathleen Higgins – indicated that Marian had threatened to run away and that Ms Higgins believed Marian had done just that.²¹ Similarly:

- a) Marian's aunt, Joyce Borich, also stated that Marian had threatened to run away and that no-one would find her;²²
- b) Marian's brother, John, has observed in statement dated 23 December 1996 that he was not surprised that Marian ran away²³
- c) Donald West has expressed the view that Marian just got sick of looking after the kids.²⁴

On 18 July 1975, a first instance warrant was duly issued by the Clerk of the Waverley Local Court for Marian's apprehension and that the warrant was subsequently sent to and received by the New South Wales Police. I note that the records of the Local Court indicate that a receipt was issued to the Waverley Local Court by the police in relation to that warrant 12 August 1975. It follows that the

²¹ Newspaper Article – undated but believed to have been published in the Sun Herald

²² Statement dated 23 December 1996. Brief page 243

²³ Statement dated 15 February 2010. Brief page 202

²⁴ ERISP dated 24 August 2010 Q&A 344. Brief page 235.

NSW Police received and entered the first instance warrant issued by the Waverley Local Court into the NSW Police Central Warrant Index at some point in time between 18 July 1975 and 12 August 1975 noting the warrant number [W840486]; the identity of the uncontrollable child; the age of the uncontrollable child; a short description; the type of warrant; the date and court of issue; and a case or folio number [181/75].

It appears that the warrant was recalled on the basis that, as at 15 September 1988, Marian would have been about 26 years of age.²⁵

I note that comprehensive searches conducted by Family and Community Services (“FACS”) have revealed no records, other than a court report regarding the recall of the warrant and a copy of the recall of the warrant. Officers of FACS and the Government Records Repository suggest that because Marian and her family were not “known” to FACS, a formal departmental file would not have been created in 1975 in relation to the issue of the warrant unless and until Marian was located and came into the care of FACS²⁶.

The only other “contemporaneous” record relating to Marian’s disappearance located to date is the entry in the Matraville High School Attendance Register relating to the circumstances in which it is “noted” that Marian left Matraville High. The entry reads quite simply:

Date: 27/8/75
Grade/Form Left: 2nd
Destination (School, Occupation etc): Disappeared²⁷

I note that the warrant issued by the Waverley Court was recalled by Mr Guiry at Waverley Local Court on 15 September 1988 – apparently, according to a file note

²⁵ Ibid

²⁶ Statement of Juliet Munro dated 6 March 2015 at [13] to [15], tab 31B of Brief; Letter from Sally Irvine-Smith dated 3 March 2015, tab 31D of Brief

²⁷ Brief page 291.

dated 12 September 1988 signed by Mr Guiry, at the request of a “Constable Raeburn”.²⁸ No other details relating to the request are recorded.

Further, such records as have been produced by the Waverley Local Court indicate that, as at 26 July 1990, the New South Wales Police maintained a combination of both computerised and microfilm records relating to the warrant issued on 18 July 1975. On 26 July 1990, replying to an enquiry regarding the cancellation and return of the warrant²⁹, the (Acting) Unit leader of the Warrant Index Unit of the NSW Police Department wrote to the Clerk of the Waverley Local Court notes the following in relation to “[w]arrant in the First Instance in the name of Marian Carol (sic) Rees”:

“A check of the Warrant Computer System reveals that the warrant was returned to your Court on 19.9.88.

A computer printout has been attached for your information.”³⁰

As indicated, enclosed with the letter to the Clerk of the Waverley Local Court was a computer printout from the NSW Police computerised Historic Warrants – a culled warrant enquiry

*“FULL NAME: REES. MARIAN.CAROL
CNI NUMBER:6000206504
WARRANT NUMBER: 161197
WARRANT STATUS: RC
STATUS DATE; 19/09/88
WARRANT TYPE: F
DATE OF ISSUE: 00/00/00
COURT OF ISSUE: WAVERLEY
COURT REF NUMBER: 75/181
TOTAL COSTS: \$[BLANK]
OFFENCE TYPE: UNCONTROLLABLE CHILD
MICROFILM NUMBER; 850644513
DATE ON SYSTEM: 18/07/75
REV, SCHEDULE NO: [BLANK]*

²⁸ FACS/Youth and Community Services Report Form. Brief pge 332.

²⁹ Letter dated 12 July 1990 from the Clerk of the Waverley Local Court to the Officer in charge of the Warrant Index Unit, Brief page 262B.

³⁰ Ibid

STATION: UNKLKNOWN

WARRANT DETAILS: [BLANK]³¹

If I accept the warrant, it appears that Marian left home on or about 7 April 1975 without consent with the intention never to return and with the likely desire to have no further contact with her mother, siblings and friends. It is likely that she took steps at that time to avoid detection.

As submitted by Counsel Assisting, it is likely nothing has changed in the intervening period, she may still want to avoid detection and not wish to make contact with her family. I must balance this with the common sense proposition of a thirteen year old runaway without any means of financial support managing to disappear and remain undetected for almost forty years to this very day. However, I note the ability to assume a new identity and new life would have been a lot easier forty years ago.

Unfortunately, there are some holes in the police investigation into Marian's disappearance and in the records into such investigation. From the evidence of Margaret Rees, Donald West and Tanya Davenport, there is no doubt that there was an active activation into her disappearance in April 1975, however we do not know the extent of that investigation as those records no longer exist. Subsequently, we know that the police were in receipt of the first instance warrant by August 1975. Thereafter, there seems to be nothing that really occurred in relation to Marian's disappearance until, according to Margaret Rees, she contacted Senior Constable Daly of the Missing Person's Unit in 1986 to make enquiries regarding the progress of the investigation³². I note there was the article in the Sun Herald which was published when Ms Higgins comes out from England in 1982 and we know that the warrant was recalled on 15 September 1988. The documentary evidence however indicates there was no parallel activity from NSW Police and no records in existence

³¹ NSW Police Historic Warrants System Culled Warrant Enquiry in the name of Marian Carol (sic) Rees. Brief page 272.

³² Supplementary Statement dated 1 September 2014 of Sgt Betts at [18] – Vol 1 tab 3- page 7 of 12

in relation to any investigation from 1975 until Sergeant Allan Parry took over the investigation in 1996 after a complaint was made to the Minister of Police by Margaret and Joan Rees³³.

If an investigation had been carried out between the period of 1986 to 1996 it is likely further records may have been able to be uncovered which would have shed further light on what occurred but that opportunity has since been lost.

The ultimate question for me to answer is whether I am satisfied sufficiently on the balance of probabilities that there is cogent evidence that Marian Rees is deceased. For the reasons set out in these findings I am not. Marian was clearly an intelligent and thoughtful teenager in April 1975 when she disappeared. She did not disappear in suspicious circumstances nor is there any evidence contained within the brief that she may have done anything to take her own life. The evidence is however that she had indicated to many people and particularly to those closest to her that she intended to run away and her conduct on 7 April 1975 was consistent with that. Thereafter her non detection, despite what was then an active police investigation, was consistent with someone trying to evade detection. I accept Counsel Assisting's submission and that of her sister that is still the very real possibility today. Having cut ties with her loved ones all those years ago, she does not want to revisit those memories now all these years later.

Accordingly not being satisfied that she is deceased, I find I have no jurisdiction in the matter and refer the matter back to the Missing Person's Unit for further investigation.

³³ Letter from Margaret Rees to the Minister of Police – Vol 2 tab 74, page 456 of brief

I close this inquest.

Magistrate Sharon Freund

Deputy State Coroner
Glebe

1 April 2015