



CORONERS COURT

NEW SOUTH WALES

Inquest:	Inquest into the deaths of Robert Pashkuss and Stacey McMaugh
Hearing dates:	17 March; 20 - 22 July; 1 December 2016
Date of findings:	1 December 2016
Place of findings:	Newcastle Courthouse
Findings of:	Deputy State Coroner HCB Dillon
Catchwords:	CORONERS – Cause and manner of death – Homicide – Drug-related deaths – Person or persons responsible for deaths not identified
File numbers:	2008/ 459858 (Pashkuss); 2008/459921 (McMaugh)
Representation:	Dr Peggy Dwyer (Counsel Assisting) instructed by Mr Stephen Hogan (Crown Solicitor's Office)

<p>Findings:</p>	<p>I find that Robert Pashkuss died on 5 or 6 January 2008 at 35 Macquarie Grove, Caves Beach, New South Wales due to head injuries inflicted upon him with a blunt instrument by a person or persons whom the evidence is insufficient for me to identify.</p> <p>I find that Stacey McMaugh died on 5 or 6 January 2008 at 35 Macquarie Grove, Caves Beach, New South Wales due to head injuries inflicted upon him with a blunt instrument by a person or persons whom the evidence is insufficient for me to identify.</p>
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REASONS FOR DECISION

Introduction

1. This is an inquest into the deaths of Robert Pashkuss and Stacey McMaugh. They died as a result of terrible head injuries that a person or persons so far unidentified inflicted on them during the night of 5 and 6 January 2008 at their home at Caves Beach in the Newcastle area. The circumstances of their deaths are truly shocking. The deaths have left a terrible hole in the lives of their families and particularly, of course, in the lives of their children. Their grief has been compounded by the fact that the killer or killers have not yet been brought to justice.

The coroner's functions and the nature of the inquest

2. An inquest is not a trial but a judicial inquiry into the cause and circumstances of a sudden, unexpected or violent death. A coroner is obliged to make findings, if possible, as to the identity of the person who has died, the date and place of death, the cause of death and how that death came about. In this case, it is the manner and circumstances of these very sad deaths that raise the difficult questions.
3. As I have stated, a coroner does not conduct a trial. No findings of guilt or innocence are made. The Coroners Act even prohibits a coroner from suggesting that a named person is guilty of any criminal offence. If the evidence is available and strong enough, a coroner may refer a case to the Director of Public Prosecutions to consider a prosecution.
4. Before a case can be referred to the DPP, however, a coroner must be satisfied that there is sufficient evidence to raise reasonable prospects of a conviction by a jury: s 78 Coroners Act 2009. In this case, I am sorry to say, I have reluctantly concluded that there is insufficient evidence to meet that test.
5. There is certainly evidence raising a strong suspicion that a known person was responsible for the deaths of Robert Pashkuss and Stacey McMaugh but, at this stage, more evidence is needed before a successful prosecution could be conducted.
6. For this reason, I am pleased to learn that the reward being offered for information leading to the prosecution of the killer or killers of Robert and Stacey has been substantially increased to \$250,000.

Stacey McMaugh and Robert Pashkuss

7. Stacey was 41 at the time of her death. She and Robert were long-term partners. They had been together nine years when they died. She was one of four children of her parents, Doris and Brian McMaugh. Doris attended hearings earlier in the year but sadly has now passed away. Stacey had three children, Joshua, Katie and Ethan. When she was killed, she was working for a call centre for a wine company and had been doing volunteer work for the National Maritime Festival in Newcastle. She had no known enemies but many close friendships. It seems likely, therefore, that Stacey was killed because she was in the house at the time that someone decided to attack Robert. It might well be the case that she was able to identify the killer or killers and so she was also attacked.
8. Robert was about 10 years older than Stacey. Their relationship was, by all accounts, a happy one. Robert was survived by his mother, Lillian, one of his two brothers and his son James. Lillian has also now passed away unfortunately. At the time of his death, he had been out of paid work for some time. A clothing business, called Kikass, had failed and been wound up about 10 years before his death. It appears, therefore, that his primary source of income was from selling drugs.

What happened?

9. The events of 5 or 6 January 2008 are not entirely clear but some aspects of the case are obvious. Someone entered the house at Caves Beach and attacked both Robert and Stacey with a heavy, blunt instrument. There was no sign of a break-in or fighting. This suggests that the person or persons who killed Robert and Stacey was known to Robert.
10. According to a number of witnesses, Robert was a cautious person who did not allow anyone to enter the house after 8 or 9pm. Yet, somehow, this appears to have happened. There is some evidence that the fatal events occurred after about 10pm because a computer was in use until then.
11. Robert appears to have been attacked from behind in the kitchen. We can infer from this that he was not expecting to be assaulted, much less killed. It appears that the killer or killers then searched the house and found Stacey in the bedroom where she was also attacked.
12. Except by Stacey and the killer or killers, the last known sighting of Robert alive was between 4 or 5pm when he was seen by a neighbour in an agitated conversation with the men. Those people have not been identified. Whether this argument is relevant to Robert's death is not known.
13. Stacey was out during the afternoon. Call charge records show that she contacted Robert on their home landline at about 8pm. She got home at about 9pm. The home computer was turned off at 10.10pm.

14. The bodies were found next morning at 11.30am by Stacey's son Ethan. He raised the alarm with police after calling his grandmother Doris.
15. Despite what television forensics programs suggest, post mortem investigations by forensic pathologists are unable to pinpoint the exact time of death. In this case, the forensic pathologists who examined the two bodies concluded that the deaths had taken place late in the evening of 5 January or in the early hours of 6 January but could not be more specific.
16. Robert was hit on the head at least eight times with a long, heavy blunt instrument. Stacey was hit on the head twice or possibly three times.

The police investigation

17. The case was immediately investigated by a police task force. Unfortunately, despite the best efforts of the Homicide Squad and other investigators, so far a suspect has not been arrested for the killings.
18. The homicides were very violent and possibly even frenzied. This raises the possibility that the person who hit Robert may have been under the influence of a drug such as "ice" or may have been desperate to get his hands on such a drug from Robert. If that is correct, it is surprising, and extremely unfortunate, that DNA or other forensic evidence such as fingerprints and blood stains, and the murder weapon, that could identify the killer or killers, were not found at the crime scene or as a result of other searches.
19. A very large number of witnesses were interviewed and a number of "persons of interest" identified during the course of the police investigation. Once the initial investigation went cold, however, for a period the case remained in a relatively dormant state. But in the last two years the investigators have renewed their efforts and conducted further investigations, including retesting exhibits in the hope that advances in DNA science might identify the suspected killer. Sadly, this has not produced the hoped-for results but DNA science continues to advance. That avenue is not yet closed off.
20. I make no criticisms of the police investigators. On the contrary, I have been highly impressed by their diligence and intelligence and desire to bring the killer or killers to justice. I strongly commend Detectives Agnew and Newham for their efforts and share their disappointment that, so far, they have not led to the prosecution of the killer or killers.
21. In my view, however, their efforts have been thwarted not only by the absence of physical evidence, such as DNA, but also by the attitude of crucial witnesses to the investigation.
22. It appears to me that there are strong grounds for believing that there are witnesses who could identify the killer or killers. Why those persons have not

done so is a matter of speculation. One obvious reason is that they may have been intimidated. Another is that they fear that what happened to Robert and Stacey will happen to them. That, of course, is a reasonable and understandable fear. Yet another possible reason is that they wish to protect the guilty person or persons.

23. It would be inappropriate, for reasons of security, to name any person that I or the police investigators believe may be such witnesses, but they know who they are.
24. I hope that the reward now being offered for vital information identifying the killer or killers will encourage a witness or witnesses to come forward.
25. I also hope that sheer humanity may prompt a witness to come forward. It is a grave and onerous thing for a person with this sort of knowledge to sit on it silently, knowing that two families are grieving while a killer walks around free in the community. I appeal to any person in that situation to come forward and, if necessary, to seek the protection of the police.
26. The killer and the witnesses should also be aware that after this inquest concludes today the investigation will continue, regardless of their attitudes.

Motive

27. The police investigation points towards these killings being drug-related. Robert had been dealing drugs for a number of years in the Caves Beach area. As I have stated on a previous occasion, no one least, least of all Robert's and Stacey's families, approves of drug dealing. But no one deserves to die because they have dealt drugs.
28. Moreover, there is a considerable amount of evidence to suggest that, shortly before his death, Robert Pashkuss had decided to stop dealing drugs, certainly drugs like "ice". He had apparently become concerned about the effect of such drugs on people's behaviour and did not like them. Indeed, one of the reasons that he may have been killed was that he had refused to sell "ice" to a person addicted to that drug.
29. It may be a tragic irony, therefore, that a decision to stop dealing drugs was the trigger for the homicidal attack.
30. Although presumably she knew of Robert's illegal activities, there is no evidence that Stacey was personally any part of that business. In fact, the evidence available to police investigators suggests that she was not.
31. Although Robert was engaged in drug-dealing, and without expressing any approval of that activity, those who knew Robert Pashkuss universally praised him as a generous, kind and decent human being. Stacey was also very highly regarded by her friends and family. Except in relation to Robert's drug business, no one who knew them had a bad word to say about them. They were not involved in, for

example, outlaw motorcycle culture. If anything, they appear to have been more like old-fashioned hippies of the 1970s and '80s with a relaxed and benevolent outlook on drug culture and life generally.

32. There is certainly no evidence that they had become involved in some sort of turf war with outlaw gangs.

Evidence at the inquest

33. A number of witnesses gave evidence at this inquest. I do not propose here to summarise that evidence because, ultimately, it has not been sufficient for me to identify the person or persons who are responsible for the deaths of Stacey and Robert.
34. Further, I formed the strong impression that one of the witnesses who gave evidence relating to one of the persons of interest was very scared and had possibly been intimidated by that "person of interest". It may be counter-productive to further publicise evidence that was given by that witness or other such witnesses.
35. Demeanour evidence, of itself, is hardly sufficient to prove a person's guilt. There can be various reasons why people do not perform well as witnesses. Guilt may be one reason but there can be many others. Even lies under oath do not prove that a person has committed the crime they are suspected of having committed. Again, apart from guilt, there may be a number of reasons why a witness tells lies. It is important not to jump to conclusions from the fact that a witness appears to be uncomfortable or even to be telling lies when giving evidence.
36. Nevertheless, it was my impression that the combination of a very poor demeanour as a witness, inconsistencies in his evidence, and an inability to provide satisfactory answers concerning an alibi suggested that one of the 'persons of interest', Mr Owen Keeley, knew much more about the killings than he was willing to say in evidence. But beyond that observation I cannot say more. I do not here suggest that he is responsible for the deaths for Stacey McMaugh and Robert Pashkuss.
37. I also note that another "person of interest", who had been nominated by at least one witness as a "person the police should look closely at", Mark Armstrong, died recently. It is unfortunate that he is no longer available to give evidence as it seems likely that he would have useful information.

Conclusion

38. It is always disappointing when an inquest does not answer the burning questions that grieving families want resolved. Unfortunately, this is an inquest that has not resulted in the identification of the person or persons responsible for these shocking deaths.

39. Although the police investigators, the coronial team, members of Stacey's and Robert's families, and I may have a strong suspicion that a certain person killed Robert and Stacey, for the legal reasons I have already explained I am unable to identify him. In my opinion, however, there is a considerable quantity of evidence against that person. I believe that the case could be closed successfully with only a little more evidence.
40. I very much hope that, for the sakes of the families and the community, that the evidence emerges and that justice is finally done in this case.

Findings s 81 Coroners Act 2009

41. I find that Robert Pashkuss died on 5 or 6 January 2008 at 35 Macquarie Grove, Caves Beach, New South Wales due to head injuries inflicted upon him with a blunt instrument by a person or persons whom the evidence is insufficient for me to identify.
42. I find that Stacey McMaugh died on 5 or 6 January 2008 at 35 Macquarie Grove, Caves Beach, New South Wales due to head injuries inflicted upon him with a blunt instrument by a person or persons whom the evidence is insufficient for me to identify.

Magistrate Hugh Dillon
Deputy State Coroner