



**CORONERS COURT
OF NEW SOUTH WALES**

Inquest:	Inquest into the death of Kenneth JOHNSTONE
Hearing dates:	15 November 2018
Date of findings:	15 November 2018
Place of findings:	NSW State Coroners Court - Glebe
Findings of:	Magistrate Paula Russell Deputy State Coroner
Catchwords:	CORONIAL LAW – Death in Custody. Cause and manner of death
File number:	2017/00327738
Representation:	Assisting the Coroner: Sgt Timothy O'Donnell, Coronial Advocate Corrective Services New South Wales: Mr Robert Tumeth Office of General Counsel Justice Health Ms Sophie Li

Findings:	<p>Kenneth Johnstone died on 29 October 2017 at Long Bay Hospital, Malabar, New South Wales, as a result of complications associated with metastatic colorectal carcinoma and diabetes mellitus with osteomyelitis. Other significant conditions contributing to his death were peripheral vascular disease, ischaemic cardiovascular disease and hypertension.</p> <p>He died of natural causes.</p>
Non –Publication Order	S74 (1)(b)non publication order on attached document

Contents

Background..... 1

Functions of the Coroner 1

Classification in custody 1

Medical history..... 1

Cause of death 2

Period leading up to Mr Johnstone’s death..... 2

Findings 2

Background

Kenneth Johnstone died at the Long Bay Correctional Complex at Malabar on 29 October 2017. He was 79 years old, having been born on 20 May 1938.

On 2 June 1975 Mr Johnstone was sentenced by the Supreme Court of New South Wales to life imprisonment for the offence of murder. That sentence dated from 6 November 1974. Mr Johnstone had sexually assaulted and murdered a 13-year-old victim, whose body he burnt and dumped in a shallow grave.

On 20 December 1991, it was determined that a term during which Mr Johnstone may be released on parole was to commence on 5 November 1993 and to continue for the term of Mr Johnstone's natural life. The State Parole Authority declined, on a number of occasions in subsequent years, to release Mr Johnstone to parole.

He was, then, at the time of his death, within the meaning of section 23 of the *Coroners Act 2009*, in lawful custody. An inquest in such circumstances is mandatory, pursuant to section 27(1) of that Act.

Functions of the Coroner

Section 81 of the *Coroners Act 2009* sets out the principal functions of a coroner conducting an inquest. Those are to record the identity of the person who has died, the date and place of his death and the manner and cause of his death.

Classification in custody

Mr Johnstone was classified as a Special Management and Placement inmate. That classification reflected the protection concerns associated with Mr Johnstone's status as a child sex offender.

Medical history

Mr Johnstone had been incarcerated for more than 40 years and, during that time, had been diagnosed with, and treated for, a wide range of medical conditions. That extensive medical history included metastatic colorectal carcinoma (adenocarcinoma), diabetes mellitus type II (insulin dependent), stage 4 chronic kidney disease (diabetic nephropathy), glaucoma, peripheral vascular disease with sepsis amputation and osteomyelitis of the right foot, transient ischaemic attacks, cerebrovascular disease, osteoarthritis, hypertension, coronary ischaemic syndrome (coronary stents), gastro oesophageal reflux disease and sleep apnoea.

In early 2017, Mr Johnstone underwent colorectal surgery following the diagnosis of metastatic colorectal carcinoma. He was an unsuitable candidate for chemotherapy. His cancer recurred in July 2017 and he received ongoing palliative care involving both the Prince of Wales Hospital and the Long Bay Hospital.

Cause of death

A post-mortem investigation was undertaken by Dr Sairita Maistry, forensic pathologist. Dr Maistry found that Mr Johnstone died as a result of the complications associated with metastatic colorectal carcinoma and diabetes mellitus with osteomyelitis. She found that other significant conditions contributing to his death but not relating to the disease or condition which caused it were peripheral vascular disease, ischaemic cardiovascular disease and hypertension.

Period leading up to Mr Johnstone's death

Some weeks before his death, Mr Johnstone was admitted to Long Bay Hospital for the treatment for his osteomyelitis. The underlying colorectal cancer meant that his health deteriorated and he agreed to be placed in palliative care and that he should not be resuscitated in the event that his heart stopped or that he stopped breathing. He was moved to Palliative Care Cell 32 within the Long Bay Hospital complex.

On 28 and 29 October 2017 Mr Johnstone's health declined rapidly. He was administered morphine for pain management and observed on 15 to 30 minute observations. He was bedridden and unconscious. He was nursed and cleaned by staff. He died late in the morning of 29 October 2017.

The evidence establishes that Mr Johnstone received appropriate attention for his medical conditions and that his final illness was managed with proper care.

Findings

Kenneth Johnstone died on 29 October 2017 at Long Bay Hospital, Malabar, New South Wales, as a result of complications associated with metastatic colorectal carcinoma and diabetes mellitus with osteomyelitis. Other significant conditions contributing to his death were peripheral vascular disease, ischaemic cardiovascular disease and hypertension.

He died of natural causes.

I close this inquest.



Magistrate P Russell
Deputy State Coroner
Glebe

Date: 15 November 2018