



**CORONERS COURT
NEW SOUTH WALES**

Inquest:	Inquest into the death of Mr Aron Myers
Hearing dates:	16 October 2019
Date of findings:	18 October 2019
Place of findings:	NSW State Coroner's Court, Lidcombe
Findings of:	Magistrate C Forbes, Deputy State Coroner
Catchwords:	CORONIAL LAW – death during an altercation – cause of death – manner of death – whether act or omission of any known person contributed to the death
File number:	2016/10150
Representation:	Mr C Gardiner, Counsel Assisting, instructed by Mr A Bell, Crown Solicitor's Office
Findings:	I find that Aaron Myers died on 11 January 2016 at 5 Wuruma Place, Warriewood, New South Wales, as a result of cardiac arrhythmia, whilst resisting being restrained, in the context of methamphetamine associated pre-existing cardiomyopathy. The manner of his death was natural causes/misadventure.

REASONS FOR DECISION

Introduction

1. This is an inquest into the death of Mr Aaron Myers, who died on 11 January 2016, in the course of an altercation. That altercation was initially with his brother Christopher Myers and within a short space of time his father Peter Myers and brother Warren Myers. Police were called to the scene by Warren's son. The two initial responding officers arrived shortly thereafter to find Warren, Peter and Christopher holding Aaron, who was unresponsive. Attempts at resuscitation by police, and subsequently by attending paramedics, were unsuccessful.
2. The role of a Coroner as set out in s.81 of the *Coroner's Act 2009* ("the Act") is to make findings as to:
 - (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.
3. Section 27(1)(a) of the Act requires an inquest to be held when it appears to the coroner concerned that the person might have died as a result of homicide. This inquest has been a close examination of the manner and cause of Aaron's death.

Mr Aaron Myers

4. Aaron was 45 years old at the time of his death and resided at the family home in Wuruma Place Warriewood NSW along with his father Peter, his younger brothers Christopher and Warren, as well as Warren's wife Trudy and their son Adam.
5. When Aaron was about eight years old, his mother passed away.

6. In early 1986, Aaron was involved in a motor vehicle accident where he suffered a severe head injury which affected his brain. He was hospitalised for nearly a fortnight.
7. In late 1995, Aaron was diagnosed by Dr Dennis Ladd, psychiatrist, with significant brain damage, together with underlying sociopathic personality disorder, complicated by drug abuse. Hostility, verbal aggression and threatening manner were symptoms observed by Dr Ladd.
8. In 1996, Aaron obtained a compensation payment in relation to the accident and his injury. Aaron was made subject of a Financial Management Order by the Guardianship Tribunal in August 1999.
9. Aaron was diagnosed with schizophrenia and had been an involuntary inpatient on at least three occasions - in 1996, 1998 and 1999.
10. Under the management of a Community Treatment Order Aaron made an impressive recovery including completion of a TAFE course and maintaining full time work as a screen printer. However by the mid-2000's Aaron's compliance with treatment had regressed, exacerbated by drug use. By January 2015 Aaron was heavily using methylamphetamine.
11. On Wednesday 6 January 2016 police were called to the family home following a complaint from Warren Myers about Aaron's "aggressive outbreaks" which he attributed to Aaron's schizophrenia and heavy drug use. The following day staff from Queenscliff Community Health Centre spoke by phone with Warren who reported concerns about Aaron's use of the drug "ice" and aggressive behaviour, including threats and intimidation. Warren believed Aaron had not slept on four of the previous seven nights. Warren's son, in his statement, recorded several instances of aggressive and violent conduct by Aaron in the days prior to 11 January 2016, principally directed to Christopher and Peter Myers.

Events of 11 January 2016

12. The primary evidence of the altercation on 11 January 2016 consists of:
 - A written statement provided by Peter Myers to police, dated 11 January 2016;
 - A statement of Adam Myers-Mann (Aaron's nephew and Warren's son) dated 11 January 2016;
 - Two ERISP transcripts of an interview conducted with Warren Myers dated 12 January 2016 and 3 February 2016;

- A recording of Warren Myers' conversation with police at the scene on 11 January 2016;
- Statements of the first two attending police officers, Constables Daniel Allman and Quoc Nguyen, each dated 11 January 2016.

13. At the hearing of the inquest, Warren and Peter Myers objected to giving oral evidence relating to the events of 11 January 2016 by reference to s. 61 of the Act. Each had received legal advice regarding the operation of that section. Warren and Peter were excused from giving oral evidence.
14. Aaron's other brother Christopher has not given an account of what occurred. On the day of the altercation, he was incoherent and taken to hospital by police. His medical records from a recent admission to the Northern Beaches Hospital (from 15 – 16 July 2019 in the Emergency Department, and from 16 July – 8 August 2019) confirmed a diagnosis of paranoid schizophrenia and substance abuse disorder. He presented to that hospital as psychotic and "voiced persecutory delusion and referential delusion". Importantly, it is recorded that Christopher "has baseline some paranoid ideation even when he is well". His discharge plan included 200mg of Clopixol fortnightly by intramuscular injection. I did not require his attendance at the inquest on the basis that the available documentary evidence indicates an apparent incapacity to provide coherent and reliable evidence.
15. The available evidence is that during the late afternoon of 11 January 2016 an altercation broke out between Aaron and his brother Christopher in the rear yard of the family home. It is not clear what the precise catalyst for the fight was although it appears Aaron may have been the aggressor. Prior conflict in the preceding week may have been relevant.
16. Peter Myers heard the fight and called for assistance from Warren. Both intervened in the ruckus in attempt to separate the pair although the level of aggression on both sides made this difficult.
17. Warren asked his son Adam to call police, which he did. Neighbours hearing the altercation had also alerted police who arrived on the scene in a matter of minutes.

Evidence of Constables Nguyen and Allman

18. Constables Nguyen and Allman were the first to arrive at the scene, at approximately 5:09pm. Their evidence was consistent as to what they observed. Constable Nguyen said in his statement:

“As I was walking up the first set of stairs I saw [a] male who I now know to be [Aaron Myers] slump[ed] over, motionless and he was in a kneeling position. His left arm was dangling by his side and he was pinned against the fence that leads to the backyard. Aaron was being held up by another male who I now know to be [Warren Myers] ... There was another male who I now know to be [Christopher Myers] standing directly behind Aaron with his forearm across Aaron’s throat. It looked like [Christopher] was performing a rear naked choke on him.”

19. Constable Allman stated similarly:

“I have seen three males about 10 metres directly in front of me, who I now know as Chris, Peter and Warren holding a male who I now know as Aaron, face first against the fence.

I observed Chris to be holding Aaron in a headlock from the rear with his forearm completely under the chin of Aaron. Aaron appeared unconscious and was white in colour and was not moving or alert and was on his knees with his head being pushed into the fence with some force.”

20. Police noticed Aaron looked pale, limp and was barely breathing. They directed Aaron be released from the hold. Aaron wasn’t breathing. Police commenced CPR and after a minute were able to detect a faint pulse. CPR continued until the arrival of paramedics but resuscitation was unsuccessful.

Post Mortem and Investigation

21. An autopsy was performed by Professor Tim Lyons on 13 January 2016. At the time Professor Lyons gave the opinion that the cause of death was unascertained, noting that “it was apparent multiple pathological processes were acting in concert at the time of death”¹ and that “Although he was documented to be restrained, there are insufficient findings to suggest this was any form of restraint asphyxia”. Pertinent observations of Professor Lyons included the following:

- None of the minor injuries to the torso and head either individually or together caused the death;
- Toxicology showed low levels of cannabinoids and alcohol;
- There was evidence of hypertensive heart disease, but nothing to indicate a cardiac event;
- There was evidence of well-established chronic lung disease, although nothing to suggest respiratory arrest. Aaron’s lungs were “extensively emphysematous”.

¹ Exhibit 1 Tab 3

22. Professor Lyons concluded that the findings did not suggest a traumatic asphyxia death and toxicology excluded a drug related death. There were a number of natural disease processes present which were associated with sudden death, but there was no way to confirm whether death was attributable to any of them.
23. Professor Lyons posited a possible scenario whereby the physiological exertion of the fracas increased heart rate and blood pressure which in combination with the pre-existing lung and cardiac morbidities could have triggered a cardiorespiratory event.
24. On 6 October 2017, Professor Lyons clarified his opinion that neither restraint asphyxia nor excited delirium constituted causes of Aaron's death; that the death was "clearly not drug related". He remained of the opinion that the cause of death is "unascertained", but that he was "of the opinion that it is probable that this is a natural death that has occurred secondary to pre-existent lung and cardiac co-morbidities that has triggered a cardiorespiratory arrest on the background of physical exertion".
25. Professor Lyons was then provided with a partial coronial brief of evidence. This enabled him to develop and further clarify his opinion as to the cause of Aaron's death. In particular with reference to the statements of the two first attending officers, Constables Quoc Nguyen and Daniel Allman, he opined:

"It appears the deceased was being restrained as he was argumentative and as a consequence his physiological exertion would have led to increased heart rate and blood pressure. The deceased was described as a chronic user of amphetamines and these drugs in particular cause a hyperadrenergic state causing hypertension and tachycardia and can lead in the long term to a drug related cardiomyopathy ... With the cardiac pathology and the physiological exertion of restraint leading to increased heart rate and blood pressure, a fatal cardiac arrhythmia could have been triggered leading to a cardiorespiratory arrest".

26. He was then able to expressed his opinion as to cause of death to be: *"Fatal cardiac arrhythmia whilst being restrained on a background of hypertensive like heart disease (methamphetamine associated cardiomyopathy)."*
27. It was Professor Lyons' opinion that, "it is not clear on the material available ... how much of a restraint was or, how long it persisted, such to prefer a diagnosis of asphyxia over cardiac arrhythmia"; and that the cause of the cardiac arrhythmia was the exertion of the "fracas" which

“would have included resistance to the restraint used against the background of the pre-existing cardiomyopathy”.

Conclusion

28. I accept on the balance of probabilities, Professor Lyons’ opinion that Aaron’s exertion would have triggered the cardiac event
29. Whilst I am able to find on the evidence available that Aaron was subject to restraint in varying degrees from Christopher, Warren and Peter Myers, I am not able to make any finding as to what contribution, if any, this restraint made toward the cardiac arrhythmia suffered by Aaron causing his death.
30. In those circumstances, I am not of the opinion that the evidence is capable of satisfying a jury beyond reasonable doubt that any known person has committed an indictable offence and that there is a reasonable prospect a jury would convict the person of that offence.
31. Further, I am not required to, and do not, make any assessment of whether any of those involved in the fracas with Aaron Myers were, or may have been, acting in self-defence. However, where self-defence is at least open on the evidence, this further reduces the prospect of a jury convicting a known person of an indictable offence.
32. I offer my sincere condolences to the family of Aaron Myers who miss him dearly.

Findings: s. 81 Coroners Act 2009 (NSW)

I find that Aaron Myers died on 11 January 2016 at 5 Wuruma Place, Warriewood, New South Wales, as a result of cardiac arrhythmia, whilst being restrained, in the context of methamphetamine associated cardiomyopathy. His manner of death was natural causes/misadventure.

Magistrate C Forbes
Deputy State Coroner
18 October 2019