



STATE CORONER'S COURT
OF NEW SOUTH WALES

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| Inquest: | Inquest into the death of Mikael FELSCH |
| Hearing dates: | 27 October 2020 |
| Date of findings: | 27 October 2020 |
| Place of findings: | NSW State Coroner's Court, Lidcombe |
| Findings of: | Deputy State Coroner Carmel Forbes |
| File number: | 2016/9226 |
| Catchwords | CORONIAL – unascertained cause of death in National Park-manner of death- misadventure |
| Representation: | <p>Ms M Fernando, Counsel Assisting, instructed by Mr P Armstrong, NSW Crown Solicitor's Office</p> <p>Ms R Regener, Makinson d'Apice Lawyers, representing the Commissioner of Police</p> |

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| Findings: | <p>Mikael Steven Felsch died on or around 16 December 2015. The place of his death was Gees Arm Creek, Upper Colo, in the Wollemi National Park in the State of NSW. The manner of his death was misadventure. The available evidence does not enable me to make a finding as to the cause of his death</p> |
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INTRODUCTION

1. This is an inquest into the death of Mikael Felsch.
2. Mikael Felsch went missing on 16 December 2015. His body was found 23 days later on 8 January 2016 in Gees Arm Creek in the Wollemi National Park, near Upper Colo, NSW.
3. The last person known to have seen Mr Felsch was his partner, Ms Kym Lincoln, on 16 December 2015. He was last seen via CCTV footage at 11.53am the same day at a Star Mart Caltex Service Station in Richmond, where a receipt shows he purchased aluminium foil, a lighter and a packet of Tally Ho rolling papers.
4. Mr Felsch used two mobile phones at the time. Investigations of those phones show usage throughout the rest of 16 December up until about 9.30pm that night.
5. Ms Lincoln made three 000 calls to police on the afternoon of 16 December. Initially she reported that Mr Felsch had stolen her car and then she raised concern about Mr Felsch's welfare after a series of text messages and short phone calls that she'd had with him.
6. Police attempted to locate Mr Felsch and managed to make telephone contact with him. However, when he was asked for his location, he appears to have been untruthful about where he was. Police were unable to make contact again.
7. Police conducted triangulation on Mr Felsch's mobile phone. At 3.05pm Mr Felsch's mobile phone was in use through the Kurrajong Heights cell tower. The last activity on the mobile phone was at 9.33pm on 16 December 2015 with triangulation identifying a cell tower in Annangrove.
8. The 9.33pm mobile activity is consistent with Mr Felsch's last reported contact. This was with his sister, Candace Felsch, who received text messages from him during the evening of 16 December 2015.
9. The car that Mr Felsch had last been seen in was eventually found by 4WD enthusiasts at 5pm on 3 January 2016 in the Wollemi National Park. The car was found backed up very close to a tree, there were drugs on the front passenger street, along with beer bottles, a mobile phone and a driver's licence.

10. A land search was commenced the following day in the vicinity of the car. A pair of thongs was found 100m north east of the car. Also found was a rope tied to a tree branch, about 100m from the car. Police, along with volunteers from the State Emergency Service and the Rural Fire Service, searched throughout 4 January 2016, suspending the search before 5pm due to heavy rain. Weather conditions worsened over the following days.
11. The land search was resumed on 8 January 2016 when weather conditions had improved. More than 35 people searched the area. Mr Felsch's body was found at about 11.40am, submerged in a creek and wrapped around a tree. The creek was at the bottom of steep terrain about 1km east of where the vehicle had been found 4.5 days earlier.

Inquest

12. Section 81 of the *Coroners Act 2009 NSW* requires a Coroner to make findings as to:
 - a. The identity of the deceased person;
 - b. The date and place of the person's death; and
 - c. The manner and cause of the person's death.
13. The identity of Mr Felsch is not in issue.
14. This matter was previously listed for hearing in August 2018. The hearing did not proceed because some evidence was sent to the Coroner's Court which has since been investigated by police. The evidence was an email containing a video and a screen shot from a Facebook Messenger conversation. Both of these suggest Ms Lincoln was responsible for Mr Felsch's death. Information had been received on 29 September 2016 and on 8 January 2017 also suggesting that Ms Lincoln had been responsible for Mr Felsch's death.
15. On 30 October 2018, Ms Lincoln was interviewed by police about these matters. Ms Lincoln said she has spoken with people in detail about Mr Felsch's death and how he was found but denied any involvement in his death.

16. In relation to the Facebook Messenger message and video, Ms Lincoln agreed that she had sent the message and recorded herself making the comments in the video. However, she said she was not being truthful when suggesting she had been involved in Mr Felsch's death.
17. In relation to the Facebook message, Ms Lincoln said she knew who she had sent that message to and that she and this person had some hostilities over a relationship with a third person. Ms Lincoln said she had been angry and trying to be tough with a view to scaring this person.
18. In relation to the video, she explained that it was from a live stream she had made while intoxicated. She said the comment "snitches get stitches, look what happened to Mikael" was made because that is something said in "our world" not because she had any belief that Mr Felsch was in fact a police informer or "snitch" of any kind. She said in her state of mind at the time she was trying to justify what it was that she was asserting – that being that she was tough. She also explained that she frequently says things she doesn't mean while intoxicated.
19. She insisted that she was upset about Mr Felsch's death and continues to regret that he's no longer alive.
20. When the original officer in charge, Detective Senior Constable O'Brien, had searched Mr Felsch's mobile phones. She had found a text message stuck in the outbox of one of the phones, it was addressed to Ms Lincoln's number and said "I'm sorry fatty". Ms Lincoln has confirmed that this was a nickname Mr Felsch had used with her.
21. The evidence suggests Ms Lincoln had no opportunity to have played a role in Mr Felsch's death. Ms Lincoln's car had been taken by Mr Felsch. Ms Lincoln was the parent to three small children at the time. While the eldest child was reported to have been with her grandmother the day Mr Felsch went missing, Ms Lincoln had the sole care of her two youngest children on that day. Further, Ms Lincoln was in contact with police throughout the afternoon of 16 December 2015. She made three calls to 000, and in the third call she had heard a noise that had made her worried that Mr Felsch had returned and that she might need some police assistance. Ms Lincoln co-operated with police throughout the investigation, including showing her text messages to police and later handing over her phone so that it could be downloaded for investigation.

22. The concerns that Ms Lincoln was involved in Mr Felsch's death have not been substantiated by further investigation and are not an issue in this inquest.
23. There were some short comings in the initial police investigation and they have been addressed. (see Exhibit 2) I accept the evidence of Sergeant Pfister, the new Officer in Charge of the investigation, that taking into account the remote location where Mr Felsch's body was found, nothing further could have been done by police at the time, to change the unfortunate outcome for Mr Felsch.
24. The real issues in this inquest are the manner and cause of Mr Felsch's death – in particular:
- a. The circumstances that led to Mr Felsch being in the Wollemi National Park, Upper Colo.
 - b. What was established through investigations by police following the expression of concern for Mr Felsch's welfare on 16 December 2015?

Mikael Felsch

25. Mikael Felsch was born on 28 February 1986. He was the third of five children born to Robyn and Bill Felsch. He grew up in Doonside with his two older brothers, John and Cheyne, and two younger sisters, Kasey and Candace. Later the family moved to Blacktown where Mr Felsch's father, Bill, died when Mr Felsch was about 20 years old.
26. A couple of years later, in about 2008, Mr Felsch began a relationship with Ms Lincoln which lasted until Mr Felsch's death. Over those years the pair had three children— Payton, who was born in late 2009; Makaylah, born in 2011; and Maddison, born in 2013. The family lived together in various suburbs in Western Sydney.
27. Mr Felsch and Ms Lincoln loved each other but they also had difficult times. Mr Felsch sometimes used methylamphetamine and sometimes that use was significant. He also suffered with mental health problems and these appeared to worsen with drug use. There were reports made to police of domestic violence against Ms Lincoln. There were also instances when Mr

Felsch was arrested, charged and spent time in gaol. There were also short periods of separation where Mr Felsch would usually stay with his sister, Candace.

28. The 14 months leading up to Mr Felsch's disappearance were particularly volatile for Mr Felsch's mental health. In August 2014, Mr Felsch was admitted to Nepean Hospital after an overdose of oxycontin. In September 2014, Mr Felsch attempted suicide by injecting himself with various cleaning products and taking Valium. In October 2014, Mr Felsch was admitted to Blacktown hospital after an oxycontin overdose and attempted hanging. Later that month, Mr Felsch was taken into custody for a number of offences including offences committed against Ms Lincoln. Mr Felsch spent 7 months in custody and was released to parole on 1 May 2015.
29. Soon after his release, Mr Felsch was admitted to Blacktown Hospital having ingested insecticides. Later that same month, Mr Felsch was admitted to Nepean Hospital after an overdose of antipsychotic medication. Mr Felsch reportedly denied this as a suicide attempt and told medics it was accidental as he had been trying to address insomnia. A few weeks later, in June 2015, Mr Felsch was again admitted to Nepean Hospital for another overdose of antipsychotic medication.
30. On 3 September 2015, about 3 months before he went missing, Mr Felsch was again admitted to Nepean Hospital after an overdose of antipsychotic medication. He was discharged on 10 September 2015 and was prescribed intramuscular antipsychotics to reduce the risk of self-harm through overdose on oral antipsychotics.
31. About a week after this discharge, Ms Lincoln and Mr Felsch bumped into a friend of theirs, who had a conversation with Mr Felsch about his suicide attempts. Ms Lincoln heard Mr Felsch say "Aw don't worry next time I'll go out bush."¹ Mr Felsch giggled while saying this and Ms Lincoln took the comment to be a joke.
32. At the end of October 2015, there was another matter of domestic violence reported to police and Mr Felsch was listed as "wanted" on the NSW police system. After this Mr Felsch spent some time staying at his sister Candace's house. At some point in November 2015 Mr Felsch and Ms Lincoln reconciled and he returned to live with Ms Lincoln and his children.

¹ Exhibit 1 Volume 1 Tab 15 paragraph 8.

33. At this time, Mr Felsch was still on parole from his last prison sentences. On 10 December 2015, Mr Felsch's parole was revoked and a warrant was issued for Mr Felsch's arrest.

16 December 2015

34. On 16 December 2015, Mr Felsch was at 18 Bernice Street, Seven Hills, with Ms Lincoln and their two younger children. The eldest child was visiting her grandmother. Mr Felsch was up at about 9.30am that morning. Ms Lincoln says that Mr Felsch told her he needed to go out to "do a drop". She understood this to mean he was going to deliver some drugs to someone. She said he asked if she needed anything and she asked for some cigarettes. She said he left the house and was gone for a very short time and returned with the cigarettes. She said he took some bags of old clothes of the children's which were to be delivered to charity. She said he told her he would be back in half an hour. He drove away in Ms Lincoln's 1994 white Toyota Corolla.
35. About two hours later, Ms Lincoln phoned Mr Felsch's mobile phone. Mr Felsch had two mobile phones and Ms Lincoln is uncertain which of the two phones she called. Ms Lincoln asked where Mr Felsch was and reminded him that they had planned to pick up some lounges. She said he told her he was in Annandale and that he would be home in about half an hour. After hanging up the phone, Ms Lincoln checked where Annandale was. On realising how far away Annandale was, she thought that he must have meant Annangrove.
36. About one hour later, Ms Lincoln again phoned Mr Felsch. She said that by this time she was angry about the lounges and had an angry tone. She again asked about his whereabouts and he replied, also angrily, "I'll be home soon, alright" and hung up.
37. Police records show that Ms Lincoln made a call to 000 at 2.52pm in which she reported that Mikael Felsch had stolen her car. Ms Lincoln has since explained that the car was not truly stolen but that she'd said this because of disapproval by others of her continued relationship with Mr Felsch.
38. Sometime after, Ms Lincoln received a text message from Mr Felsch that said

I'm in the bush and I am about to do something stupid.

39. About five minutes later, Ms Lincoln received a phone call from Mr Felsch. She said they spoke briefly, she asked about the meaning of the text message and where he was. She said he said, "If I tell you, you will tell the police". Ms Lincoln replied, "I won't tell the police. I just want my car." He replied, "You'll find the car when you find me" then terminated the call. Phone records show that Mr Felsch phoned Ms Lincoln at 3.04pm.
40. Ms Lincoln was worried for Mr Felsch's safety and phoned 000 emergency services. Police records show that Ms Lincoln told a 000 operator about Mr Felsch's threats in a call at 3.35pm. These further details suggestive of self-harm were added to original police report about the stolen car.
41. Police telephoned Mr Felsch and spoke with him. He told police that he was at the Blacktown Leisure Centre. Police asked to meet with him there and he agreed. However, when police arrived at Blacktown Leisure Centre they were unable to find either Mr Felsch or the Corolla. Police attempted telephone contact with Mr Felsch again but were unable to get through.
42. At 4.13pm, police attended Ms Lincoln's home. Ms Lincoln informed police of the phone calls and showed them the text message. Ms Lincoln also said that during the phone call Mr Felsch said, "I've backed the car up to a tree and I'm going to pull the rope out of the boot and finish myself off". Ms Lincoln also told police about Mr Felsch's previous attempts of suicide. Police again attempted contact with Mr Felsch's mobile phones but both appeared to be switched off.
43. Police made contact with a supervising Sergeant who arranged for a triangulation on Mr Felsch's mobile phones in an attempt to identify his location. A further broadcast was also made to all police with a description of Mr Felsch and the reasons why police were seeking to find him, including concern for his welfare. Police also attended Ms Candace Felsch's residence in Blacktown but the vehicle was not seen at that residence. At about the same time the results from the mobile phone triangulation were received that suggested Mr Felsch was in the vicinity of Kurrajong Heights so police did not speak with any occupant at Candace Felsch's home. At this stage police did not register Mr Felsch as a missing person and conduct of the investigation remained with the local police.

44. Police put out an alert both as to Mr Felsch's welfare and Ms Lincoln's stolen car.
45. On the evening of 16 December 2015, Ms Candace Felsch exchanged some text messages with Mr Felsch. Candace does not remember all the details of each of the messages but remembers that in one message he said, "I'm in da bush with my rope I'm kicking back". She also remembers that in the last message he said that he was "stuck where Reggie comes". Candace phoned Mr Felsch but was unable to get through. Ms Lincoln recalls having a conversation with Candace the following morning in which Candace spoke to her about these text messages. Ms Lincoln recalled that Candace also told her of a message that said she (Candace) could have all his stuff.²
46. In the following days and weeks friends and family attempted to search for Mr Felsch, making missing person posters and searching around Wheeny Creek, which is where Mr Felsch had previously gone four-wheel driving with a friend called Reggie. Ms Lincoln reports that after police told her that the phone triangulation had placed Mr Felsch in the Kurrajong Heights area she, along with other friends of Mr Felsch's, went to the area and searched for Mr Felsch.
47. On 20 December 2015, Ms Candace Felsch reported Mr Felsch as missing. The missing person matter was reviewed and listed as a "high risk missing person". Numerous police investigations were made including making contact with Mr Felsch's family and friends. Police identified "Reggie" as an old friend of Mr Felsch's, Reg Leroy. He was spoken to and confirmed that he and Mr Felsch had been four-wheel driving in the Wheeny Creek and Colo area. Mr Leroy went to the area and searched but was unable to find either Mr Felsch or the Corolla.
48. On 21 December 2015 the investigation was handed over the Missing Persons Unit. A request was made that PolAir conduct a flyover of the Colo River area. However, due to poor weather at the time no flyover was done. Investigations were also made into Mr Felsch's last mobile phone activity, bank usage and E-tolls. The last mobile phone activity was at 9.31pm on 16 December. The last bank account use was on 15 December and the car had not been driven on any toll roads.

² Exhibit 1 Volume 1 Tab 15 paragraph 18

49. Police also followed up any leads reported by family or friends and monitored social media commentary.
50. Polair conducted a flyover between Lower Portland and the Colo River between 9.15am and 10.30am on 24 December. The flyover did not locate either Mr Felsch or the Corolla.
51. Police continued to make inquiries with family and friends. On 28 December 2015, police spoke with Candace Felsch who told police that she recalled a conversation a couple of weeks before he went missing saying that he did not want to go back to prison but believed he would because Ms Lincoln had reported an incident to police.
52. On 30 December 2015, police spoke with Mr Felsch's brother Cheyne, who told them that he recalled a conversation a couple of weeks before in which Mr Felsch had been speaking with another man about a property where Mr Felsch could have hidden to get away from police and Ms Lincoln. Cheyne Felsch attempted to locate the person with whom this conversation was had but was unable to find out who he was.
53. Police were contacted by Ms Lincoln who asked if a missing person appeal could be televised. This request was conveyed to the police media unit, however none of the networks showed interest in running the story.

Finding the Toyota Corolla

54. At 5pm on 3 January 2016, a person who had been four-wheel driving in the area, contacted police to advise she had come across a car in bushland near Comleroy Road, Wheeny Creek. Police were unable to find the car. That evening she led police to the location. The car was in dense bushland about a 20 minute drive from the sealed section of Comleroy Rd. The keys were still in the ignition. A search of the car found a small resealable bag containing ice, two mobile phones, a length of rope and bottles of alcohol. Also found were both Mr Felsch's and Ms Lincoln's wallets. There were a number of receipts, none of which was dated after 16 December 2015.

55. The car was cluttered with belongings. It did not appear that anyone had made space within the car to sleep. Both front windows were down so water had gotten inside the car. There were also items within the car that could have been used to keep warm.
56. It was night-time by the time police reached the car and a land search could not be conducted at that time.
57. The following day, Land Search Co-ordinator Sgt Dallas Atkinson led police from the Hawkesbury Local Area, the Dog unit and Blue Mountains police rescue in a search for Mr Felsch. Police located a pair of blue thongs about 30-40m from the car and a white rope tied to a tree about 100m from the car.
58. Police sought assistance from the Rural Fire Service and State Emergency Service. From 11am, 17 volunteers assisted in the search. The search was suspended before 5pm due to heavy rain. Rain worsened over the following days causing flooding in the area. The search was suspended until weather conditions improved.
59. The search was resumed on 8 January 2016. When it recommenced, there were more police along with about 35 volunteers. Mr Felsch's body was discovered that morning about 1km from the car in a shallow creek, wrapped around a small tree. Decomposition was well-established and the body appeared to have been submerged for some time.
60. Land search coordinator, Sgt Atkinson made the following observations:
- a. The easiest route from the car to the location was along a ridge that took 20-30 minutes to walk.
 - b. The terrain around the creek where the body was found was steep slopes where the higher ground on the surrounding ridges drops away to the creek. The creek was 1-2 metres wide and less than half a metre deep and likely to have been more than a metre deep during the heavy rains;
 - c. The body appeared to have been washed into the position in which it was found but is unlikely to have travelled more than 100m. This is because of the amount of vegetation on which it could have become snagged and because the creek was not

particularly deep, even during heavy rain, which means the flow of the creek did not have significant force;

- d. There were no observable significant external injuries or paraphernalia indicative of a specific manner of death;
- e. Although not unheard of, it is very uncommon for someone who intends to self-harm to travel a distance such as 1km on foot in difficult terrain to reach a point of little significance;
- f. Given that terrain, it is most likely that Mr Felsch came to be in the area where his body was found under his own steam either because of becoming lost or just moving through the bush.

Post Mortem

61. The pathologist who conducted an autopsy of Mr Felsch's body made the following observations:

- a. No physical injuries were observed at autopsy. This included consideration of a CT scan that showed no bone injury such as a fracture or any foreign objects in the body (such as a bullet or knife). The degree of decomposition meant that subtle injuries, such as bruising, were no longer observable but this level of injury would not have caused death. Overall, there was nothing to suggest injuries attributable to violence, including self-inflicted such as injuries to the neck as the soft tissues of the neck including muscles, nerves, bone and cartilages were normal with no injuries.
- b. The pathologist also considered drowning. However, the clinical signs of drowning are very few and when the body is decomposed none of the indicators for drowning are assessable.
- c. For these reasons, the pathologist found that the cause of death is unascertainable.

62. Providing an accurate estimate of the time of death is extremely difficult. The pathologist concluded that at the very latest, death occurred days before Mr Felsch's body was found on 8 January. However, the pathologist suggested that death was most likely to have occurred weeks earlier and nearer to the time that Mr Felsch was last known to be alive.

Manner and cause of death

63. Mr Felsch was 29 years of age. He did not suffer from any kind of physical ill-health likely to have caused a natural causes death.
64. The possibility that Mr Felsch was killed by a third party was investigated.
65. The CCTV footage of Mr Felsch at the Richmond Service Station appeared to show him to be alone.
66. All of the communications made by Mr Felsch on the afternoon and evening of 16 December suggest he was alone. The text messages that Mr Felsch sent his sister spoke of being stuck in the bush – this implied he was alone because there was no reference to anyone else. The brief phone call Mr Felsch had with Corey Williams referred only to himself needing a tow, again implying he was alone. The text messages and phone calls with Ms Lincoln and the references to self-harm are also consistent with being alone.
67. The last use of his mobile phone was 9:33pm through a cell tower in Annangrove. The Annangrove tower has a maximum coverage range of 29.5km. The Gees Arm trail is within that range. Further, Vodafone has marginal coverage along the Gees Arm trail. This means there are multiple Vodafone towers that can provide weak, non-dominant coverage to the area. In other words, the Annangrove tower may provide intermittent or unreliable coverage to parts of the Gees Arm Creek area.
68. Cell-tower mobile connection is imprecise. Mobile phone coverage from different towers is affected by localised terrain, topography and building clutter. It is likely that Mr Felsch was using his mobile phone where the phone was ultimately found, in the national park, with coverage from the Annangrove tower.
69. Overall, the objective evidence is that it was most likely Mr Felsch remained in the national park and was alone. There were no discernible injuries at autopsy consistent with homicide.
70. The available evidence is not consistent with a conclusion that any person has committed an offence that caused Mr Felsch's death.

71. Mr Felsch had a history of serious suicide attempts. After several of those attempts he changed his mind and sought help, leading to hospitalisation. The last of those attempts was about three months before Mr Felsch's disappearance. After that attempt, he was heard to say, "next time I'll go out bush".
72. The place where he was eventually found was near Wheeny Creek, where he had in the past been four-wheel driving with an old friend called Reg Leroy. The car was in dense bushland, with the headlights in the on position, backed up very close to a tree.
73. In *R v Cardiff City Coroner; Ex parte Thomas* [1970] 1 WLR 1475, suicide was defined as '*voluntarily doing an act for the purpose of destroying one's own life, while one is conscious of what one is doing.*' This definition is often cited and can be dissected into three parts:
- a. A voluntary act;
 - b. With an intention to ending one's life;
 - c. While consciously aware that death is likely.
74. Drugs and alcohol were found in Mr Felsch's car. A receipt from the Richmond service station shows that Mr Felsch bought foil and a lighter. These are implements that can be used for administration of drugs.
75. There was no alcohol or methylamphetamine in Mr Felsch's system at the time of autopsy. However, these results are inconclusive because drugs could have leached from his body after his death. Even if he had been affected by drugs, the text messages Mr Felsch made in the evening of 16 December are not suggestive of intoxication to such a level that would result in an involuntary act. There is no evidence to suggest any kind of involuntariness.
76. Intention can be inferred from direct evidence of what a person says they are going to do and intention can be inferred from what a person appears to have done in the light of other evidence. In this case, there is both direct evidence and evidence from which intention can be inferred.

77. Mr Felsch was in contact with a number of people throughout 16 December. Early mobile contact with Ms Lincoln and his sister Candace, referred to self-harm. Both recall messages that referred to him having his rope, Ms Lincoln says one message said he was thinking of “finishing himself off”. The messages are consistent with an intention to self-harm.
78. However, the rope found hanging from high in a tree was 100m away from the car. It may have had no connection with Mr Felsch at all. There was also a rope found still in Mr Felsch’s car. Mr Felsch’s body did not have any injuries consistent with self-harm and there were no ligature marks around his neck.
79. In addition, the later text messages about Mr Felsch being stuck in the bush and attempting to give a location to his sister are not suggestive of an intention to end his life. Similarly, the phone call with Mr Williams, at about 4pm saying that he needed a tow is consistent with him being stuck and wanting help.
80. Further, as observed by Detective Sergeant Atkinson, Mr Felsch’s body being found about 1km from the car, is not consistent with suicide. In Detective Sergeant Atkinson’s experience, travelling such a distance through difficult terrain is unusual for a person who intends to commit self-harm.
81. In this case there is direct evidence that Mr Felsch expressed an inclination towards suicide earlier on 16 December. However, it can be inferred from the rest of the evidence that those suicidal thoughts had passed. This pattern is consistent with Mr Felsch’s previous suicide attempts where he changed his mind.
82. In *R v London Coroner; Ex parte Barber* [1975] 1 WLR 1310 at 1313, Lord Widgery CJ stated:
- [P]erhaps one of the most important rules that coroners should bear in mind ... [is] that suicide must never be presumed. If a person dies a violent death, the possibility of suicide may be there for all to see, but it must not be presumed merely because it seems on the face of it to be a likely explanation. Suicide must be proved by evidence, and if it is not proved by evidence it is the duty of the coroner not to find suicide, but to find an open verdict ...’*

83. Here, the evidence, at its highest, is that Mr Felsch had some suicidal thoughts on 16 December 2015 and may have initially gone to the national park with the intention of ending his life. However, there is no clear and cogent evidence that Mr Felsch caused his own death by a deliberate and intentional act.
84. The phone call to Mr Williams seeking a tow; the later messages in the evening of 16 December, referring to being “stuck” in the bush; and attempting to identify his location as “where Reggie used to take me” are consistent with the theory that Mr Felsch’s car had become undrivable and he was stranded.
85. The fact his body was found about 1km away from the car in difficult terrain is consistent with Mr Felsch having set off on foot. He was barefoot when he was found and his thongs were found about 30-40 m from the car. The state of the Toyota Corolla suggests that Mr Felsch abandoned the car on the night of 16 December – the car did not appear to have been slept in; it did not appear he had used any of the items in the car for warmth or tried to protect the car from the rain. It is likely Mr Felsch set off in the dark, sometime after his last mobile phone use at 9.33pm. He may have been unable to find his thongs in the dark and so set off barefoot.
86. The high ridge between where the car was found and where Mr Felsch’s body was found is the most likely route he took. It is likely that Mr Felsch suffered some misadventure while walking along that ridge, fell and ended up in the creek at the bottom of that steep terrain. There is a possibility of drowning as drowning leaves little mark on the body, and his body was found partially submerged in a creek.
87. Taking into account all of the available evidence I am unable to make a finding as to Mr Felsch’s cause of death. On the balance of probabilities that the manner of his death was as a result of misadventure.

Conclusion

88. Mr Felsch’s death is a tragedy and his partner is bereft. They were childhood sweethearts and she refers to him as a good man who was the love of her life. She has clearly been deeply

affected by his death and the unanswered questions surrounding the cause of his death. I extend my sincere condolences to her and all his family.

Findings pursuant to s 81 (1) *Coroners Act 2009*

Identity

The person who died was Mikael Steven Felsch

Date of death

Mr Felsch died on or around 16 December 2015

Place of death

Mr Felsch died at Gees Arm Creek, Upper Colo, in the Wollemi National Park in the State of New South Wales

Cause of death

The available evidence does not allow for any finding to be made as to the cause of Mr Felsch's death

Manner of Death

The manner of Mr Felsch's death was misadventure

I close this inquest.

Magistrate Carmel Forbes

Deputy State Coroner

27 October 2020

NSW State Coroner's Court Lidcombe