



CORONERS COURT OF NEW SOUTH WALES

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| Inquest: | Inquest into the death of Cecilia Faith Miska Devine |
| Hearing dates: | 15 March 2024 and 5 July 2024 |
| Date of findings: | 22 October 2024 |
| Place of findings: | NSW Coroners Court - Lidcombe |
| Findings of: | Magistrate Elizabeth Ryan, Deputy State Coroner |
| Catchwords: | CORONIAL LAW – death of a person reported missing in Katoomba area – can cause of death be established? Can manner of death be established? |
| File number: | 2019/86481 |
| Representation: | Advocate Assisting: T O'Donnell, Coronial Advocate The family of Cecilia Devine: Mr B Lloyd of Counsel. |

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| <p>Findings:</p> | <p>Identity The person who died is Cecilia Devine</p> <p>Date of death: Cecilia Devine died on or about 6 September 2018.</p> <p>Place of death Cecilia Devine died in the area of the Upper Cascade Dam, Katoomba NSW</p> <p>Cause of death The evidence does not enable a finding to be made as to the cause of Cecilia Devine’s death.</p> <p>Manner of death The evidence does not enable a finding to be made as to whether the manner of Cecilia Devine’s death was misadventure, or homicide by a person or persons unknown.</p> |
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Section 81(1) of the Act requires that when an inquest is held, the Coroner must record in writing his or her findings as to various aspects of the death.

These are the findings of an inquest into the death of Cecilia Devine. Ms Devine’s family has asked that in this inquest and findings she be referred to as ‘Cecilia’.

Introduction

1. Cecilia was last seen alive on the afternoon of 6 September 2018, in the Blue Mountains town of Katoomba. Her family reported her missing, but an extensive police search did not find any trace of her.
2. Six months later Cecilia’s body was found in the waters of the Upper Cascade Dam, an area of bushland approximately three kilometres from Katoomba.
3. An inquest into the circumstances of Cecilia’s death is mandatory, because the cause and manner of her tragic death remain unknown.

The role of the Coroner

4. The Coroner must make findings as to the date and place of a person’s death, and the cause and manner of their death.

5. In addition, pursuant to section 82 of the Act the Coroner may make recommendations in relation to matters which have the capacity to improve public health and safety in the future, arising out of the death in question.

Cecilia's life

6. Cecilia was born Kristen Pearson on 21 December 1976, to her parents Kathleen and Murray Pearson. She has two brothers Nathan and Troy. Kristen officially changed her name to Cecilia Devine in 2016.
7. When Cecilia was a young child the family moved to Toronto, in NSW's Newcastle region. Cecilia completed her secondary education at Broadmeadow Performing Arts School. She was a very talented singer, dancer and musician. In her adult years she performed both solo and with other artists in Australia and overseas, and she released her own album in 2017.
8. As an adult Cecilia mainly lived in Sydney, but in 2011 she moved back to Newcastle to assist in caring for her father who had become very unwell. Cecilia was deeply affected by her father's passing the following year.
9. It became apparent in 2013 that Cecilia was developing a mental illness. She had travelled to Miami USA to perform there. During a trip to New York she suffered an acute mental health episode, and was admitted to hospital. Her brother Troy travelled to New York to bring her back to Newcastle, where she was admitted to the Mater Hospital.
10. It was there that Cecilia was diagnosed with bipolar disorder. She was prescribed medication, and on her discharge from hospital she began attending a psychologist.
11. In the following years Cecilia used cannabis regularly, and she did not always comply with her medication. She suffered further acute mental health episodes, some of which resulted in hospital admissions. According to Cecilia's mother Kathy Pearson, when Cecilia was suffering a mental health episode she would sometimes discard her mobile phone and other personal property, believing that she was being followed. Kathy Pearson told police that during such episodes, Cecilia would voluntarily seek help at a hospital.
12. Further information about Cecilia was provided by her close friend Ms Rosemarie Olk. In Ms Olk's statement she said that when Cecilia suffered a mental health episode she would often leave her home and walk long distances, without telling anyone where she was. Ms Olk confirmed that at such times Cecilia would throw away her mobile phone, and that she would eventually seek out help at a safe place like a hospital.
13. Ms Olk added that she could not imagine why Cecilia would have voluntarily gone to an isolated place like Katoomba's Upper Cascade Dam, as she would not have felt safe there. This deep concern was shared by Cecilia's family members and her other friends.

14. Many people attended Cecilia's inquest, a testament to the love and affection she inspired. Cecilia's family and friends cared deeply for her, and are distressed to know that she died in such an isolated place. They are most anxious to discover what brought about her tragic death.

The post mortem examination

15. When Cecilia's body was found, a postmortem examination was performed by forensic pathologist Dr Sairita Maistry.
16. Despite a thorough examination, Dr Maistry was unable to establish the cause of Cecilia's death. This was due to the advanced decomposition which Cecilia's body had undergone.
17. Cecilia's neck structures were carefully examined, both physically by a forensic anthropologist, and via X-ray and CT scan by a specialist radiologist. These examinations did not detect any evidence of acute traumatic fractures. Nor was there evidence of acute fractures to any other part of Cecilia's body.
18. Due to the degree of decomposition, there was no possibility of extracting blood samples for toxicological testing. Instead, attempts were made to test fragments of liver and muscle. Unfortunately these too proved to be unsuitable to be tested for the presence of alcohol, or other drugs and medications.
19. In short, due to the degree of decomposition, the post mortem examination did not yield enough information to establish the cause and manner of Cecilia's tragic death. Dr Maistry concluded that the cause of Cecilia's death could not be ascertained.

The issues at the inquest

20. The central issue examined at the inquest was whether the cause and manner, time and place of Cecilia's death could be established, having regard to all the evidence including the evidence gathered by NSW Police.
21. At the inquest on 15 March 2024, the inquest heard evidence from the Officer in Charge of the investigation, Detective Sergeant James Allan. After Cecilia's body was found on 18 March 2019, Detective Allan conducted a coronial investigation. His investigation built upon the police search which had commenced six months earlier, when Cecilia was reported missing. Detective Allan was not the Officer in Charge of that original investigation.
22. At the inquest Detective Allan outlined the theories held by police as to the manner of Cecilia's death, and in particular how her body came to be in the Upper Cascade Dam. The police hypotheses were broad-ranging. They canvassed whether Cecilia had taken her own life, had died as a result of natural causes, had met with a fatal accident, or had been killed by another person.

23. Detective Allan told the court that in his opinion none of these hypotheses could be excluded. However he considered it less likely that Cecilia had taken her own life, or had died as a result of natural causes. There was no evidence that Cecilia had attempted suicide in the past; and she was relatively young and without any known primary health conditions. He acknowledged that police had not uncovered any evidence that anyone wanted to harm Cecilia or had any motive to kill her. Nevertheless in Detective Allan's opinion, homicide or fatal misadventure remained the more likely reasons for her death.
24. Counsel for Cecilia's family, Mr Lloyd, told the court that her family remained deeply concerned about the possibility that Cecilia had been harmed by some person. On the family's behalf Mr Lloyd raised queries regarding aspects of the original police investigation into Cecilia's disappearance. The family's strong wish was that further investigations be undertaken.
25. I therefore adjourned the inquest for a period of four months, to enable these investigations to be carried out. The nature of these investigations is set out in paragraph 78 and following, as is their outcome. The inquest then resumed on 5 July 2024 and concluded on that day.
26. I will now describe the original police search for Cecilia, and what it uncovered about her last known movements in September 2018.

The initial police search for Cecilia

27. At the time of her disappearance in September 2018, Cecilia was living and working in Newcastle.
28. Police were first contacted about Cecilia's disappearance late on the night of 5 September 2018. A neighbour rang, expressing concern that Cecilia was not answering her door. The neighbour had also noticed that the rear screen door of Cecilia's apartment appeared to be damaged.
29. Police attended Cecilia's apartment and found that the screen door was locked. They gained entry, to find that Cecilia was not there. Her cats were inside, and her car was in the car port. There were no signs of damage or disturbance.
30. At about 1.00am that night police contacted Cecilia's mother, Kathy Pearson. Ms Pearson told them that she had not heard from Cecilia for a couple of days, but that this was not unusual. She also told them of Cecilia's mental health issues and that she would sometimes leave her home when suffering an episode. Ms Pearson said she expected that in accordance with her usual behaviour, Cecilia would shortly seek help at a hospital.
31. On 6 September 2018 at 6.40pm police made a follow up call with Kathy Pearson. Kathy had still not heard from her daughter, and she was by now quite concerned for her welfare.

32. Police returned to Cecilia's apartment to make a search. Inside the apartment they found a friend of Cecilia's, Ms Jodi Dumbleton. Ms Dumbleton had a key to the apartment, and she had called in to check up on Cecilia. She told police that in the days leading up to 5 September 2018, Cecilia had not been well and she herself had stayed some nights with her. She added that Cecilia had not been using her medication, and that she regularly smoked cannabis.
33. Cecilia's mobile phone was not inside her apartment, and it has never been found. Police obtained call charge records, which established that her phone had been taken to an area of Newcastle, with its last location in the suburb of Maryland. There was no activity on it on 5 September 2017 or thereafter. Nor were there any records of Cecilia after 5 September 2017 at Centrelink or Medicare.
34. Records relating to Cecilia's Opal card were examined, but these showed her last travel on it to have been on 24 January 2018 in Newcastle.
35. On 12 September 2018 police obtained bank records for Cecilia's two bank accounts. Although one account showed nothing of interest, the other showed transactions occurring in Katoomba on 6 September 2018. The transactions were at an ATM, at Katoomba Coles Supermarket, and at Katoomba's Rivers Clothing store.
36. On 24 September 2018, the then Officer in Charge reviewed CCTV footage which had been obtained from Katoomba's Carrington Hotel. This showed a woman who matched Cecilia's description attending the reception area of the hotel at 3.27pm on 6 September 2018, where she appeared to have a brief conversation and then left. She can then be seen having a further brief conversation with a man in Katoomba Street, then walking alone down the street. This is the last known sighting of Cecilia.
37. On 29 October 2018, the then Officer in Charge contacted Sergeant Dallas Atkinson, who is and was the Supervising Sergeant of the Blue Mountains Police Rescue Squad. Sergeant Atkinson is a qualified Land Search and Rescue Coordinator.
38. After discussing the matter, Sergeant Atkinson advised that as yet there was insufficient information to direct a land search for Cecilia. Sergeant Atkinson did however recommend that the investigation team seek any available footage from Chamber of Commerce CCTV cameras positioned in Katoomba's central retail area. According to Sergeant Atkinson, police enquiries with the Chamber of Commerce were made, but they did not receive any response.
39. Over the following weeks, the then Officer in Charge carried out enquiries with Medicare and Centrelink, and followed up on reported public sightings of Cecilia. None of these yielded a positive result. On 17 November 2018 the Officer in Charge commenced family leave, returning on 25 February 2019. In his absence, colleagues were tasked with following up on any reports of sightings, and maintaining contact with Cecilia's mother.

40. It was not until 5 March 2019 that further enquiries were made with Coles Katoomba and the Katoomba Rivers Clothing store, where transactions had been made using Cecilia's bank account. The then Officer in Charge travelled to Katoomba and interviewed staff at both places. I describe the outcome of his enquiries in paragraphs 46 and following.
41. Detective Sergeant James Allan assumed conduct of the investigation in late March 2019, after Cecilia's body was found. In his statement dated 2 September 2020, he commented that:

' ... there is limited CCTV footage available for this investigation and this is attributed to the length of time between 5 September 2018 and 18 March 2019, with most CCTV systems not retaining footage for this length of time including City Rail. Some CCTV opportunities were not taken during the initial investigation'.
42. Detective Allan said that he did not know why there had not been a search for CCTV footage from the central Katoomba area until March 2019, by which time some footage had been over-recorded. I will return to this issue later in these findings.

The police enquiries in Katoomba

43. In Katoomba, a staff member of the Carrington Hotel recalled having seen Cecilia in September 2018.
44. The staff member's recollection was confirmed by the CCTV footage referred to in paragraph 36 above. This showed Cecilia entering the hotel on the afternoon of 6 September 2018. She had no shoes on, and the staff member recalled telling her that she would need to get some shoes in order to stay there.
45. The footage shows Cecilia walking out of the hotel and towards Katoomba Street, where she had a brief conversation with a man. He appeared to be giving her directions, after which Cecilia continued down the street. The man then got into his vehicle and drove away. He was identified as Mr Geoff Hilder.
46. On 5 March 2019, having returned from family leave, the then Officer in Charge went to Katoomba to speak with a number of people, including Mr Hilder. Mr Hilder did not have any independent recollection of Cecilia. He looked at the CCTV footage and thought that it was likely from the way he was pointing, that he was showing Cecilia the direction of Echo Point. I emphasise that no suspicions attach to Mr Hilder in relation to Cecilia's death.
47. At the nearby Rivers Clothing store, the then Officer in Charge was able to obtain its CCTV footage relating to 6 September 2018, as it had not been recorded over. This showed that a female matching Cecilia's appearance had attended the store at about 3.30pm that day.

48. Sales assistant Ms Lilian Boersma recalled that she had assisted Cecilia. Cecilia had told her she had walked a long way, had nowhere to stay that night, and that others had been rude to her. She had then purchased:
 - a pair of leather slip on shoes
 - a men's cardigan with a full front zipper
 - a pair of grey gloves
 - a scarf.
49. Ms Boersma recalled telling Cecilia that she might be able to find accommodation at the Salvation Army in Katoomba, and gave her the address. However no one at the Katoomba Salvation Army recalled having seen Cecilia.
50. After speaking with Ms Boersma, police attended the nearby Coles Katoomba. Coles Katoomba is situated in an area known as Katoomba Village. The Coles supermarket fronts onto this area, which has a number of small shops and also has exits onto adjacent streets. According to Detective Allan, both the Coles supermarket and the Katoomba Village area had CCTV systems in place at the time of Cecilia's disappearance.
51. Unfortunately however, by 5 March 2019 neither the Coles cameras nor the Katoomba Village cameras had retained their footage for 6 September 2018.
52. Police were however able to obtain Coles' sales records for that date. These showed that purchases had been made on Cecilia's card at 3.53pm on 6 September 2018. They were for a bottle of water, broccoli, tomatoes, bananas and an avocado. Bank records showed that just prior to this, at 3.44pm Cecilia had withdrawn the sum of \$700 from an ATM in town.
53. Therefore the last known sighting of Cecilia was as described above, when she was captured on CCTV camera apparently taking directions from Mr Hilder. It is evident that she then attended the Rivers Clothing store followed by Coles Katoomba. But her movements after she left Coles (presumably shortly after the purchases she made at 3.53pm) are completely unknown.
54. On 18 March 2019 Cecilia's body was found. Her case was transferred to the Blue Mountains Police Area Command, and Detective James Allan assumed conduct of the investigation.

The discovery on 18 March 2019

55. On 18 March 2019, a Water NSW scientist Mr Wayne Byrnes was carrying out work at the Upper Cascade Dam. At about midday he observed a decomposed body, lying face up in shallow water on the eastern side of the dam. Grasses and reeds were growing thickly in this area, which appeared to have prevented the body from drifting away. The body was unclothed, and Mr Burns did not observe any property nearby.
56. Police Rescue officers recovered the body. When a DNA sample was extracted, it matched DNA which had been recovered from Cecilia's

toothbrush the previous year. This confirmed that the person found in the dam was Cecilia.

The Cascade Dams

57. The Upper Cascade Dam is one of three dams managed by Water NSW, for the purpose of supplying water for the Upper and Middle Blue Mountains. The Cascade Dams are located approximately three kilometres outside Katoomba. Generally only employees of Water NSW and Sydney Water attend the site.
58. The dam area is not for public access – vehicle access to the catchment area outside day time is prevented by locked gates. Moreover, apart from management fire trails there are no walking tracks within the area. The fire trails do not go directly to the dams, although the area of the dam where Cecilia’s body was found is approximately 50 metres from the nearest fire trail. The areas surrounding each side of this fire trail are very densely vegetated.
59. At the inquest, the Officer in Charge Detective Allan explained that if a person were to walk to the Upper Cascade Dam from Katoomba taking the most direct route, the distance would be approximately three kilometres. The route would take the walker along streets at the edge of the town which were winding and hilly, and poorly lit after sunset. From there the walker could use a steep but walkable fire trail, leading into the dense bushland which surrounds Cascade Creek. This creek feeds into Upper Cascade Dam.

The police search of the Cascade Dams area

60. Following the discovery of Cecilia’s body, Sergeant Dallas Atkinson coordinated a land search of the Cascade Dams catchment area. This took place on 27 and 28 April 2019, and involved 65 volunteers from Rural Fire Service and the State Emergency Service. There was also a ‘wade’ search of the surrounding dam waters. Although various random items were found in the land search, only two items had a potential link with Cecilia. These were a shoe, and an orange towel.
61. On 27 April 2019 the searchers located a single shoe which matched the pair of shoes Cecilia had purchased on 6 September 2018. The shoe was found in dense vegetation, approximately 5 metres from the water of Cascade Creek. As noted, Cascade Creek feeds into the Upper Cascade Dam. The location of the shoe was about 300-500 metres from the part of the dam where Cecilia’s body had been found.
62. Sergeant Atkinson described the area where Cecilia’s shoe was found as heavily vegetated with ferns and other ground covering plants. The vegetation ‘... *provides virtually total ground cover and was generally ‘knee-deep’.*’ The area has no discernible pathway, with the side of the creek itself offering the most likely way of passage for a walker.

63. The other item was an orange towel which was located within bushland bordering the east side of the dam. A DNA sample was obtained from the towel, which proved to be that of an unknown male, whose DNA is referred to in the evidence as 'profile B'. This DNA was linked to a DNA sample which had been lifted some years earlier from a motorcycle which had been stolen from its owner, Mr Cameron Spriggs.
64. On 14 May 2020, Mr Spriggs provided a voluntary sample of his DNA to assist the investigation into Cecilia's death. However his DNA did not match that of profile B, obtained from the orange towel. To date, profile B has not matched with any stored DNA samples.
65. There is thus no evidence to link the towel, or Mr Spriggs, with Cecilia's case.
66. Further land and water searches of the area were conducted on 10 May, 21 May, 24 May, 30 July, and 5-8 August 2018.
67. Regarding these searches, in his statement Sergeant Atkinson acknowledged that '*... despite the best efforts of search teams, it is possible that other items of property ... have been missed due to the prevailing terrain and vegetation*'.
68. Sergeant Atkinson clarified this comment. He stated that once a person leaves the fire trail at a point nearest to where Cecilia's shoe was found, the vegetation downhill to the creek and the dam is extremely dense and marshy, which can cause objects to become submerged. Also for this reason, Sergeant Atkinson considered it was unlikely that anyone would have been able to carry or drag a body from the nearest road access to this point, and then on to the dam's edge.
69. The police investigation also involved further canvassing of Katoomba's central business district and other local streets. In addition, police coordinated two media appeals for information, the second of which involved the use of a mannequin dressed similarly to Cecilia, which was placed in a prominent position in Katoomba Street. Unfortunately no significant information was received.
70. However the investigation was soon provided with very significant evidence, in the form of an aerial image of the Upper Cascades Dam.

The Nearmap image

71. After the discovery of Cecilia's body, police investigators made enquiries with businesses which provide mapping services. One of these, Nearmap, uses aircraft to capture images over areas which include Katoomba. Nearmap's planes carry out such fly-overs on a six monthly basis.
72. With the assistance of Nearmap's service, police investigators were able to obtain aerial images of the Upper Cascade Dam which had been taken on 13 September 2018, just seven days after Cecilia was last seen alive. The

images revealed an object in the shape of a body, lying on the surface of shallow waters. The location was about 65 metres from the place where Cecilia's body was found, six months later.

73. The height at which the images were taken makes it impossible to discern any distinguishing features on the body.
74. The discovery of these images raised important questions. If it can be accepted that the object is a human body, and that it is the body of Cecilia, this would significantly narrow the date range of her death to between the dates 6 and 13 September 2018.
75. The Nearnap images were received into evidence at the inquest. Having examined them carefully I have concluded that on the balance of probabilities, it can be accepted that they depict the deceased body of Cecilia. I base this conclusion on:
 - the proximity of time between the date of the images (13 September 2018) and the last known sighting of Cecilia alive on 6 September 2018
 - the geographical proximity of the body in the images, to Cecilia's last known location being the town of Katoomba
 - the geographical proximity of the body in the images, to the locations where Cecilia's body and her shoe were later found.
76. As I have noted, it is not possible to make out any distinguishing features on the body shown in the images. However it does appear that the body is not clothed.
77. I note further that the police investigation excluded the possibility that the body shown in the Nearnap images belonged to another woman, Ms Elizabeth O'Pray. Ms O'Pray has been missing in the upper Blue Mountains area since March 2016. Although her body has never been found, a 2019 coronial inquest into her disappearance concluded on the balance of probabilities that she had died between the dates 8 and 10 March 2016 (refer *Inquest into the suspected death of missing person Elizabeth O'Pray*). It is highly unlikely that eighteen months after her death, her remains would have the appearance of those in the Nearnap images.

The request for further investigations

78. At the close of evidence on 15 March 2024, the inquest was adjourned to enable further investigations to be carried out. These were requested by Cecilia's family, who sought the following:
 - That records be obtained of all persons who had been working on 6 September 2018 at businesses operating in and around Katoomba Village; and that these persons be asked (with the aid of photographs

of Cecilia) if they had any recollection of seeing her on or after 6 September 2018.

- That similar enquiries be conducted with accommodation providers in and around Katoomba Village.
- That shoppers outside Coles Katoomba be canvassed on weekday afternoons to see if anyone recalled seeing Cecilia there on the afternoon of 6 September 2018.
- In light of Sergeant Atkinson's comments (refer paragraph 67 above), that there be a further physical search of bushland within a 20 metre radius of where Cecilia's shoe was found, to determine if any more of her possessions might remain there.
- That expert evidence be sought regarding the time frame within which the body of a person who had been immersed in dam water would rise to the surface of the water.

The further physical search

79. During the adjournment period, most of the above investigations were able to be carried out. Some had in fact been carried out when Cecilia's body was discovered in March 2019. At that time, the police team canvassed many businesses and accommodation providers, as well as shoppers in the area fronting Katoomba Coles.
80. On 5 July 2024 when the inquest resumed, the court heard that on 18 June 2024, Detective Senior Constable Michael Gale had led a team of 14 police officers in a foot search of the bushland area surrounding the place where Cecilia's shoe was found. Detective Gale provided a statement about this and he gave oral evidence at the inquest.
81. The team conducted line searches radiating out from this area, but did not locate anything of relevance. Notably, Detective Gale described the bushland in this area as *'dangerous and at times you would lose sight of searchers due to the density of the bush'*. Elsewhere he described the bushland as having *'overhead and underfoot obstacles'*, with thick ground cover which *'caused you to sink whilst trying to walk'*. He concluded that it was *'highly unlikely'* that a person could proceed through this area *'in bare feet or inappropriate clothing'*.
82. Detective Gale was asked how long it would take for a person to travel on foot from Katoomba to the place where Cecilia's shoe was found. He estimated that it would take a fit person at least an hour. He considered it would take a good deal longer if it was dusk or later, and the person was not fit and was not dressed in sturdy clothing and footwear.
83. Notably, the evidence at inquest was that sunset on 6 September 2018 was at 5.43pm. If, shortly after being in the Katoomba town area, Cecilia had set out

on foot for the Cascade Dams, it can be accepted that it would have been dark or very close to it by the time she arrived in the area.

Further enquiries of employees

84. Detective Allan provided the inquest with a supplementary statement outlining the results of his enquiries related to points 1 and 2 in paragraph 78 above.
85. Detective Allan was able to identify 100 staff members who had been working at Coles Katoomba on 6 September 2018. The police team emailed each of these persons, asking if they recognised attached photographs of Cecilia and if so, the circumstances. A large number of people responded, replying that they did not recognise or recall the woman shown in the photographs. Police made similar enquires with staff of other Katoomba businesses, with the same lack of positive result.
86. In addition almost 60 accommodation providers in the Katoomba area were contacted, but none had any records of a person with the name Cecilia Devine or Kristen Pearson staying with them on or around 6 September 2018.

The evidence of Associate Professor Stuart

87. The fact that Cecilia's body was discovered in an unclothed state, and that the aerial images of her body taken on 13 September 2018 also appear to show her in an unclothed state, raises the question of how her clothes came to be removed. Cecilia's friends attested that she was generally modest in such matters, and was most unlikely to have shed her clothing in the bushland environment of the Upper Cascade Dam.
88. If this information is accepted (and I have no reason not to do so), it may be hypothesised that Cecilia's clothing was removed by natural means such as the movement of water, or by the act of another person.
89. During the adjournment period an expert report was sought from Barbara Stuart, who is an Adjunct Associate Professor in the School of Mathematics and Physical Sciences at Sydney's University of Technology. Associate Professor Stuart conducts research in forensic decomposition chemistry.
90. Associate Professor Stuart was provided with brief material, and was asked to comment on the following matters:
 - noting that Cecilia's body was discovered in water and in an unclothed state, what may have been the cause of this? Was it feasible that her clothes had been separated from her body as a result of natural causes?
 - if in Associate Professor Stuart's opinion the removal of Cecilia's clothing was due to natural causes, was it possible for this to have occurred within one week of a person's entry into the water (noting the period of seven days between Cecilia's last known sighting, and the date of the Nearmap images)?

91. Associate Professor Stuart provided an expert report, and gave oral evidence when the inquest resumed on 5 July 2024. She cautioned that statistical information about the processes of decomposition in water is limited, making it impossible to be definitive.
92. She did however identify the factors which may cause clothing to be removed from the body of a person who has been immersed in water. In her report she stated:

'It is recognised that bodies recovered from water environments may have clothing partially or completely removed following entry into water ... Certain factors are identified as contributing to this phenomenon, including the type of clothing, water temperature, current or tidal action, body composition and the manner in which the body came to be located in the water.'
93. In her report and oral evidence Associate Professor Stuart addressed each of these factors in turn, as follows.

The type of clothing

94. Associate Professor Stuart was aware that when Cecilia was last seen on the afternoon of 6 September 2018, she was wearing a relatively loose-fitting long sleeved yellow top, grey shirt and black pants. She commented that loose fitting clothes are more easily removed from a body in water.
95. At the inquest Associate Professor Stuart was informed that on the afternoon of 6 September 2018 Cecilia had purchased a zip-fronted jumper. It is not known whether, and if so when, Cecilia put on this jumper.
96. Assuming that Cecilia had done so, Associate Professor Stuart commented that it was not possible to say whether this garment would have been a tight or a loose fit on Cecilia. If it was loose in fit, it was *'feasible'* that within the space of a week it could become separated from her body by natural means. If zipped up, Associate Professor Stuart surmised that it would have been a tighter fit than otherwise, and hence more difficult to be separated from her body.
97. Overall Associate Professor Stuart considered that if Cecilia had entered the water wearing the jumper, and had worn it zipped up, it was less likely that within the space of seven days it had become separated from her body by natural means. In either state however, the jumper was most unlikely to have remained on Cecilia's body over the longer period (that is, in the period ending with the discovery of her body on 18 March 2019).

Water temperature

98. Detective Atkinson's evidence was that in September the water temperature within the Upper Cascade Dam is *'notably cold'*. He added that the air temperature on 6 September 2018 ranged from 3.6 to 14.7 degrees Celsius, with light rainfall.

99. Associate Professor Stuart noted that the Upper Cascade Dam was described as a '*cool water environment*'. She explained that when a body is immersed, the onset of decomposition and bloating causes the body to swell, making its clothing fit more tightly. However, cooler water has the effect of delaying the onset of decomposition and bloating. This in turn would allow clothing to fit to the body more loosely during the initial immersion period, enabling it to be more easily separated.

Current or tidal action

100. Associate Professor Stuart noted that the Upper Cascade Dam was reported to be a stable environment without currents or tides, and was protected from winds. This might be expected to reduce the potential for clothes to be forced from a body.
101. She commented however, that submerged debris increased the water pressure on a body and could attach to clothing, causing it to become snagged and to be pulled off. The photographs of the area where Cecilia's body was found showed plant growth and debris, which increased the potential for her clothing to become separated.

Body composition

102. Although details of Cecilia's body mass index were not available, Associate Professor Stuart noted that the Katoomba CCTV images showed her to have a larger physical build. This, she said, would contribute to a faster rate of decomposition and an earlier bloating of her body, reducing the opportunity for her clothing to separate in the early post mortem period.

Associate Professor Stuart's conclusion

103. Taking all the above factors into account, in Associate Professor Stuart's opinion it was feasible (by which she said she meant '*possible*') that Cecilia's clothing could have become separated from her body by natural means, within the space of a week of her entering the water. Factors which made this outcome more likely included the cooler water temperature, the presence of plant debris, and the possibility that Cecilia's clothing was of a looser fit. However her body composition and the less active water environment of the dam reduced the opportunities for her clothing to have been easily removed.
104. A further matter on which Associate Professor Stuart's opinion was sought was whether it was feasible for Cecilia's body, within the space of a week, to have entered the water, sunk below the surface, and then have floated to the surface again so as to be visible via aerial photography.
105. Associate Professor Stuart responded that in freshwater, it was generally the case that an adult body had an initial period of floating on the surface. The body would then sink as buoyancy decreased. But with the onset of decomposition, gas produced within the body generally caused it to refloat to

the surface. The speed of this process would generally be increased by a higher body fat content. In her oral report Associate Professor Stuart concluded as follows:

'An exact timeframe for the process cannot be provided given the variables that contribute to the time taken for these processes to occur. However it is feasible for the process to have occurred within one week post mortem'.

Conclusion

106. I accept Associate Professor Stuart's opinion that it is possible that Cecilia's body became unclothed due to natural causes, and that this process could have occurred within the space of seven days.
107. However Associate Professor Stuart made clear in her evidence the factors which would need to be present for this result to be achieved. She was careful to explain that it was not possible to determine the extent to which these factors were indeed present around the time when Cecilia's body entered the water.
108. For this reason, I conclude that while it is possible that Cecilia's body became unclothed by natural means, it cannot be positively determined that this was the case.

Can the time and place of Cecilia's death be established?

109. In my view, the evidence is able to establish that Cecilia's tragic death took place on or after 6 September 2018, but no later than 13 September 2018. This date range is enabled by the finding I have made, that aerial imaging captured on 13 September 2018 depicts Cecilia's body.
110. The evidence also enables the conclusion that Cecilia's death took place in the area of the Upper Cascade Dam, Katoomba.

Can the cause and manner of Cecilia's death be established?

111. Unfortunately there is insufficient evidence to establish, even on the balance of probabilities, the cause and manner of Cecilia's death.
112. The post mortem examination was unable to assist with a cause of death, due to the degree of decomposition which Cecilia's body had undergone.
113. Dr Maistry did not find any evidence of bone or skull fractures. But the absence of body tissue and organs for examination, and the non availability of toxicological evidence, meant that Dr Maistry could not rule out a death by unnatural means, whether by suicide, misadventure, or foul play.

114. In Detective Allan's opinion, there was insufficient evidence to establish that Cecilia's death was the result of actions which she herself took with the intention of ending her life. She did not have any history of suicide attempts, and she had not expressed any such intention to her friends in the days leading up to 6 September 2018.
115. Nor did a death by natural causes seem likely. Cecilia had no known primary health issues, and she was relatively young.
116. For these reasons, in Detective Allan's opinion it was more plausible that Cecilia died as a result of misadventure at the site of the dam, or of foul play.
117. As to the possibility of misadventure, a significant mystery remains. How was it that Cecilia came to be in the area of the Upper Cascade Dam at that time, assuming that she had gone there voluntarily? There is no evidence that she was familiar with this place, or that it had any particular significance for her.
118. It may be that after making her purchases at Coles Katoomba at 3.53pm, Cecilia decided to take a walk from Katoomba Village and then lost her way in the surrounding bushland. That she could have become lost is not at all unfeasible, taking into account the density of the bushland, the failing light, and that she had no phone with which to navigate. This hypothesis receives some support from the evidence of Cecilia's mother and friends, that when Cecilia was mentally unwell she was inclined to leave her home and to walk long distances.
119. But these witnesses were also insistent that at such times Cecilia generally sought a safe place, including a hospital. At the time of day and the season in which Cecilia disappeared, it is difficult to see how this isolated location could have presented itself to her as an appealing or safe place to be.
120. Furthermore the route to the dam would have posed very significant challenges for her, involving unlit and hilly residential streets, followed by very dense bushland with no signage and no discernible walking track. Had she commenced her walk at or soon after her last known sighting, it can be concluded that by the time she arrived in the bushland area it would have been dark or almost dark.
121. In addition there remain unanswered questions about what happened to Cecilia's clothing and property, noting that with the exception of a single shoe, nothing has been found either in the vicinity of her body or anywhere else.
122. It is for these reasons that Cecilia's family and friends hold strong concerns that her presence in the Cascade Dams area was not voluntary, and that she may have been the victim of foul play by another person.
123. I note that in the opinion of Detective Allan, the hypothesis that Cecilia was murdered has merit and cannot be excluded. This also was the closing submission of Advocate Tim O'Donnell, and of Counsel on behalf of Cecilia's family.

124. I accept these submissions. I find there is insufficient evidence to establish what the cause or manner of Cecilia's death was, or to exclude the possibility that she died as a result of misadventure or of homicide.

The question of recommendations

125. As noted, at the inquest Counsel for Cecilia's family raised questions about the adequacy of the initial police search for Cecilia. Cecilia's family were specifically concerned that CCTV footage which might have assisted the search had been lost, due to the length of time which elapsed before police requested it. Detective Allan was unable to assist with these questions, as he had not been involved in the initial police search.
126. It was not until March 2019 that a police request was made for any footage captured by CCTV cameras located in Katoomba's mall, near the Coles supermarket. Unfortunately by this time, footage from 6 September 2018 had been recorded over. This is regrettable, as it may have provided information about where Cecilia went after making her purchases at Coles. As the matter stands, there is no evidence as to her movements after this point.
127. In closing submissions, Mr Lloyd proposed a recommendation that the NSW Police Force's Missing Persons protocols mandate that available CCTV footage be sought as soon as possible after the report that a person is missing.
128. Mr Lloyd proposed further that when an Officer in Charge is off duty or goes on leave in the course of a missing person investigation, NSW Police Force procedures ensure that the investigation tasks are able to continue in the officer's absence.
129. In response to these submissions, enquiries were made with NSW Police Force. Further documents were obtained, which were served upon the interested parties and added to the coronial brief.
130. This further material established that the current *Standard Operating Procedures for Missing Persons* require the following:
- the appointment of trained Missing Persons Coordinators within each Police Area Command to provide early intervention and guidance to local officers
 - that within seven days of the last known sighting, searching police have conducted a thorough canvass and have collected CCTV footage of the surrounding areas
 - that within 72 hours of a missing person report, all requests for mobile internet records are completed
 - that within two weeks, all bank and iAsk record requests have been submitted

- that within three months there is a formal case review
- that there are safeguards and supervision arrangements in place to ensure that missing person investigations continue to progress when an officer is off duty.

131. The new material was served upon representatives for the interested parties. They were invited to notify the Advocate Assisting if they had any objections to the proposed tender of the material, and if they sought to put on further evidence or make further submissions in response to it. No such objections or requests were made.

132. It is regrettable that in Cecilia's case, work was not done at an earlier stage to seek CCTV footage of the Katoomba Village retail area. Of course it cannot be known that if this been done, it would have changed the tragic outcome. But it may have provided some answers to the many questions which remain about Cecilia's movements that afternoon.

133. I am satisfied that since Cecilia's tragic death, significant improvements have been made to NSW Police Force procedures in missing persons investigations, and the oversight of them. In particular the current protocols set clear and appropriate timeframes for the collection of CCTV footage and other evidence.

134. For these reasons I have concluded that the evidence does not provide any basis for recommendations. In my view the relevant content of the current Missing Persons Standard Operating Procedures is both appropriate and adequate.

Conclusion

135. To Cecilia's family and her many friends, I offer my sincere sympathy for her loss. They have lost a person whom they loved very much, and to their deep sadness is the added distress of not knowing what happened to her.

136. I thank Coronial Advocate Timothy O'Donnell for the high level of his assistance in the conduct of Cecilia's inquest, and Mr Lloyd also. I convey my appreciation to Detective Sergeant James Allan for his investigation and preparation of the coronial brief of evidence.

Findings required by s81(1)

137. As a result of considering all of the documentary evidence and the oral evidence heard at the inquest, I am able to confirm that the death occurred and make the following findings in relation to it.

Identity

The person who died is Cecilia Devine

Date of death:

Cecilia Devine died on or about 6 September 2018.

Place of death

Cecilia Devine died in the area of the Upper Cascade Dam, Katoomba NSW

Cause of death

The evidence does not enable a finding to be made as to the cause of Cecilia Devine's death.

Manner of death

The evidence does not enable a finding to be made as to whether the manner of Cecilia Devine's death was misadventure, or homicide by a person or persons unknown.

138. I close this inquest.

A handwritten signature in black ink, appearing to read 'E Ryan', with a long horizontal flourish extending to the right.

Magistrate E Ryan

Deputy State Coroner, Lidcombe

22 October 2024