



CORONERS COURT OF NEW SOUTH WALES

Inquest: Inquest into the death of Colin James WHALEY

Hearing dates: 21 July 2025, NSW Coroners Court Lidcombe

Date of findings: 21 July 2025

Place of findings: NSW Coroners Court - Lidcombe

Findings of: Magistrate Stuart Devine, Deputy State Coroner

Catchwords: CORONIAL LAW – Mandatory inquest pursuant to s 23 (1)(d)(ii) of the *Coroners Act 2009* (NSW) – natural causes – no care or treatment concerns.

File number: 2024/00394631

Representation: Advocate Assisting the Inquest: Sgt Durand Welsh
Commissioner of Corrective Services NSW (**CSNSW**): Ms K Wiltshire
Justice Health and Forensic Mental Health Network (**JHNSW**): Ms G Amal

Findings: **Identity**
The person who has died is Colin James Whaley
Place of death
Wagga Wagga Base Hospital,
Wagga Wagga NSW 2650
Date of death

23 October 2024

Cause of death

Complications of metastatic malignancy (likely lung primary).

Manner of death

Natural causes while in the custody of Corrective Services New South Wales (CSNSW).

Recommendations: Nil

Non-publication Orders: Protected Information Orders apply to the evidence in this inquest. A copy of the orders made by Deputy State Coroner Devine can be obtained from the Court Registry.

FINDINGS

Introduction

- 1 These are the findings of an inquest into the circumstances of the death of Colin James Whaley on 23 October 2024, then aged 62.
- 2 This inquest is held pursuant to the jurisdiction conveyed by ss 23 (1)(d)(ii) and 27 of the Act in circumstances where at the time of his death, Mr Whaley was an inmate in a correctional centre within the meaning of the *Crimes (Administration of Sentences) Act 1999* (NSW).
- 3 Section 81(1) of the *Coroners Act 2009* (NSW) (**the Act**) requires that when an inquest is held, the coroner must record in writing their findings as to whether the person has died and if so, the date and place of the person's death, and the cause and manner of their death.
- 4 In addition, 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, pursuant to s82 of the Act.

The issues examined at the inquest

- 5 An inquest into the circumstances of Mr Whaley's death was held on 21 July 2025 in Lidcombe, NSW.
- 6 The issues identified in the coronial investigation to be explored in the inquest were limited to:
 - (1) Findings as required by s 81(1) of the Act.
 - (2) Whether any recommendations are considered necessary or desirable in relation to any matter connected with Mr Whaley's death.

The evidence

- 7 Tendered to the court was a 1 volume brief of evidence compiled by the Officer in Charge of the coronial investigation, Detective Senior Constable (**DSC**) Jacqueline Powell.
- 8 Evidence in the form of witness statements, business records, government policies, photographic evidence and a post-mortem report is contained in the brief.
- 9 At the inquest, the court received oral evidence from Detective Senior Constable Powell to the following effect:
 - (1) No suspicious circumstances were identified in the course of her investigation; and
 - (2) No care or treatment issues were identified in the course of her investigation.
- 10 Although I will touch on aspects of this evidence that I consider important, and not make mention of other aspects, I have had the opportunity to consider the entirety of this material during the coronial process.

- 11 It is important to stress at the outset that the length of this inquest and the number of witnesses being called, is in no way a reflection of the importance this court places on Mr. Whaley's life. That is more accurately reflected in the preparation and investigations undertaken by police and other responsible parties.
- 12 Additionally, when a person is detained in custody the State is responsible for his or her safety and medical treatment. Given that inmates are not free to seek out and obtain the medical treatment of their choice or have their families directly assist them in this task, it is especially important that the care they are offered is of an appropriate standard and is culturally appropriate.

Findings

- 13 The facts of this matter not being in dispute, I am grateful for the observations and submissions made by the NSW Police Force Advocate assisting me. I have drawn extensively (and directly) from his assistance in relation to non-contentious issues.
- 14 As will be seen, I have concluded that:
- (1) Mr Whaley died on 23 October 2024 at Wagga Base Hospital from complications of metastatic malignancy, likely lung primary, being a natural cause.
 - (2) In the absence of criticism of Corrective Services NSW or Justice Health no recommendations are required.

Background

- 15 Mr Whaley was born on 14 May 1962 in Coonamble, New South Wales to Cecile Ruby Whaley and Thomas William Henry Whaley (both deceased). He had six older siblings and one younger sibling.
- 16 Mr Whaley spent the majority of his life residing in Orange. He attended High School until Year 10 following which he started an apprenticeship before

starting work as a garbage truck driver. He held a variety of other blue-collar jobs. In later years, Mr Whaley lived in the Leeton area.

- 17 Mr Whaley was previously married for approximately ten years to Ms Narelle Skaines, with whom he shared two adult children, Andrew and Pamela Whaley. Thereafter he had relationships with other women but no other children.

Mr Whaley's Custodial History

- 18 Mr Whaley had a limited criminal history.
- 19 In 2001 he was sentenced to sixteen months imprisonment with a non-parole period of four months.
- 20 On 20 June 2023, Mr Whaley was charged with further criminal offences and was remanded in custody at Junee Correctional Centre. He remained in custody until his death.
- 21 On 6 December 2023 Mr Whaley was convicted at Orange Local Court and sentenced to two years and six months imprisonment, with a non-parole period of twenty-two months on charges of intentionally sexually touching a child under 10 years of age. His earliest date of release was 18 April 2025.
- 22 Mr Whaley was classified as a C2 minimum security inmate and was housed as a Special Management Area Placement inmate at his own request due to the nature of his convictions.
- 23 Throughout his incarceration, Mr Whaley's behaviour was of a high standard and his demeanour towards staff was polite and respectful. There were no adverse incidents at Junee Correctional Centre that involved Mr Whaley during his period of incarceration.

Mr Whaley's Medical History

- 24 Mr Whaley was reportedly a heavy smoker for much of his life, having started smoking at the age of 13. He also consumed three to four beers each night but

did not use recreational drugs. He remained active and reasonably fit, playing golf regularly and being conscious of eating well whilst in the community.

- 25 Prior to his terminal illness, Mr Whaley had limited health concerns and was not diagnosed with any serious medical conditions.
- 26 When Mr Whaley was received into custody on 20 June 2023 a Reception Screening Assessment was conducted. Mr Whaley denied any health conditions; all vital signs were stable and “between the flags” and he had a BMI of 23. On 23 June 2023 Mr Whaley was reviewed by a doctor who noted his heavy smoking and use of alcohol and that physical assessment showed no abnormalities were present.
- 27 Mr Whaley’s involvement with health care services in custody thereafter was limited.
- 28 On 13 August 2023 he presented complaining of painful teeth. He was assessed, given pain relief, and added to the dental waitlist.
- 29 He next presented on 25 May 2024 for a medial meniscal tear to his right knee where he was examined by a doctor.
- 30 On 12 August 2024 he was examined by a doctor following a chest infection where he complained of pain between the shoulder blades. He was provided with physio exercises and analgesia.
- 31 During his incarceration at Junee Correctional Centre, it was noticed that Mr Whaley had been losing weight significantly. He lost at least 40 kilograms during his period of incarceration, and staff encouraged him to attend medical appointments. However, there are no notes indicating concerns about weight loss or symptoms in his Justice Health records prior to October 2024.
- 32 Two weeks prior to his death, Mr Whaley contacted his daughter Pamela and informed her that he had been diagnosed with lung cancer.

Circumstances of Mr Whaley's Death

- 33 On 24 September 2024, Mr Whaley approached correctional staff concerned about the amount of weight he was losing.
- 34 On 2 October 2024, a computed tomography scan was completed. It showed features consistent with lung malignancy and bone, adrenal and peritoneal metastases.
- 35 On 11 October 2024, Mr Whaley was found by correctional officers at June Correctional Centre seated on the floor of his cell, unable to recount how he got there. Although showing no signs of physical assault, he complained of soreness in his shoulder, possibly from falling, and there were concerns about his general confusion. Mr Whaley was assessed by GEO Medical Services staff at the Centre and permitted to return to his cell.
- 36 On 13 October 2024, Mr Whaley was escorted to Wagga Wagga Base Hospital by correctional officers for a medical assessment because he was experiencing long periods of confusion and headaches, along with dizzy spells and acute confusion that had been ongoing for approximately one week. Upon arrival and assessment at Wagga Wagga Base Hospital, Mr Whaley was admitted for further medical investigation.
- 37 Mr Whaley's Glasgow Coma Score was 14 out of 15 upon admission. He was unable to tell doctors where he was or what day it was. He informed medical staff that he had lung cancer. Mr Whaley said he had lost 12 kilograms in the previous four months and 30 kilograms over the last couple of years, which was unintentional weight loss.
- 38 Mr Whaley was seen by the medical oncology team who suspected he had stage 4 disease (metastatic cancer). The cause of Mr Whaley's confusion and delirium was thought to be due to either possible spread of the malignancy to the meninges (coverings of the brain) and/or possible paraneoplastic syndrome (hormone or antibody effects due to malignancy).

- 39 Mr Whaley was not well enough for systemic therapy, chemotherapy, or invasive investigations. Due to the severity of his illness, it was determined that he should receive palliative care and supportive treatment.
- 40 On 21 October 2024, Mr Whaley's health declined further, and he was given approximately three days to live. In the early morning hours of 21 October 2024, there was a medical review for drowsiness and Mr Whaley experienced oxygen desaturation to 88% on room air (normal levels being greater than 95%). His inflammatory markers were raised and there was a newly developed area of consolidation on chest X-ray. Initially, antibiotics were commenced but these were subsequently ceased as Mr Whaley was palliated. His Glasgow Coma Score had dropped to 6-7 out of a possible 15.
- 41 Mr Whaley's adult children, Andrew, and Pamela had been contacted by June Correctional Centre and attended Wagga Wagga Base Hospital to be by his side. Over the course of the next three days (21 October to 23 October 2024), Mr Whaley refused all food and was incoherent.
- 42 On 23 October 2024, at approximately 1:32pm, a nurse conducted checks on Mr Whaley and his children were advised that he would shortly pass away. Mr Whaley's children observed him take his last breath shortly before 2pm. Dr Simon Whelan attended his room and pronounced Mr Whaley deceased at 2:27pm. Ms Narelle Skaines, the former wife of Mr Whaley, was also in attendance at the hospital prior to his death.

Post-Mortem

- 43 Dr Lena Rachel Caroline Quinto, Forensic Pathology Trainee, performed an external post-mortem examination on Mr Whaley on 29 October 2024 under the supervision of Dr Benjamin Harding, Pathologist.
- 44 A post-mortem computed tomography (CT) scan reported by specialist radiologist Dr James Raleigh showed that the right lung was consolidated consistent with pneumonia and there were features of malignancy including multiple lung nodules, mixed lytic and sclerotic bony lesions in the sternum, vertebral bodies, pelvis and femur, and a mass in the adrenal gland.

- 45 The post-mortem examination also showed Mr Whaley was a cachectic (severely underweight) adult male with a body mass index of 16.54 kg/m². There were features suggestive of medical intervention consistent with his hospitalisation.
- 46 Post-mortem toxicological testing was considered to be of limited utility given that Mr Whaley was hospitalised for a period of 10 days prior to his death.
- 47 The conclusion stated by Dr Quinto as to Mr Whaley's cause of death, based on the reported circumstances and the findings at autopsy, was that he died from complications of metastatic malignancy (likely lung primary).

Correctional Services NSW Response

- 48 Throughout Mr Whaley's admission to Wagga Wagga Base Hospital, correctional officers from Junee Correctional Centre maintained continuous escort duties as required. Incident reports were prepared by the escorting officers documenting the events leading up to and following Mr Whaley's death.
- 49 Wagga Wagga police were notified immediately after Mr Whaley's death, and Criminal Investigation and Crime Scene police officers attended the hospital and conducted their investigation. NSW Police contacted the coroner to inform them of the death in custody.
- 50 The police investigation concluded that there were no suspicious circumstances surrounding Mr Whaley's death and that the cause of death was identified as complications of metastatic malignancy, likely lung primary. This was the natural progression of advanced cancer that had not been diagnosed until shortly before his death.
- 51 No criticism has been made of Corrective Services NSW. Similarly, no criticism has been made of the care and treatment Mr Whaley received whilst in custody at Junee Correctional Centre or Wagga Wagga Base Hospital. I note in this regard Mr Whaley's daughter's evidence that:

"I wish dad had have received medical treatment earlier, but I think that he didn't because he was stubborn and wouldn't admit how much pain he was in or ask for help rather than it being the fault of correctional centre of hospital staff."

Findings as required by s 81(1) of the Coroners Act 2009.

52 I am satisfied on the balance of probabilities that Mr Whaley died from complications of metastatic malignancy (likely lung primary) at Wagga Wagga Base Hospital on 23 October 2024.

Are recommendations required?

53 There being no evidence of care and treatment concerns arising from Mr Whaley's time in custody there are no issues or recommendations that arise for consideration.

Concluding remarks

54 I will close by conveying to Mr Whaley's family my sympathy for the loss of their father.

55 I thank Sgt Welsh for his support in the conduct of this inquest and the Officer in Charge, DSC Powell, for her work in conducting the investigation and compiling the brief of evidence.

Statutory findings required by s 81(1)

56 As a result of considering all the documentary and the oral evidence heard at the inquest, I make the following findings:

Identity

The person who has died is Colin James Whaley

Place of death

Wagga Wagga Base Hospital,
Wagga Wagga NSW 2650

Date of death

23 October 2024

Cause of death

Complications of metastatic malignancy (likely lung primary).

Manner of death

Natural causes while in the custody of Corrective Services New South Wales (CSNSW).

I close this inquest.

A handwritten signature in black ink, appearing to read 'S. Devine'.

Magistrate S Devine
Deputy State Coroner
Lidcombe
