

CORONERS COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title: AN INQUEST INTO THE DEATH OF
ANDREW NOLAN CHRISTIE

Citation: [2018] ACTCD 1

Date of Findings: 22 December 2017

Before: Coroner R. M. Cook

Decision:

1. Andrew Nolan Christie died on 16 August 2017 at the Tall Trees Motel, 21 Stephen Street, Ainslie, in the Australian Capital Territory;
2. The manner and cause of death of Mr Christie are sufficiently disclosed and a hearing is unnecessary;
3. The manner and cause of Mr Christie's death is asphyxia due to oxygen deprivation secondary to inhalation of helium, and I find that Mr Christie's death was due to suicide; and
4. Pursuant to s 52(4)(a)(i) of the *Coroners Act 1997*, a matter of public safety is found to arise in connection with this inquest.

File Number: CD 186 of 2017

1. Andrew Nolan Christie, a 37 year old man at the time of his death, was discovered on the afternoon of 16 August 2017 deceased lying reclined in bed in Room 119 at the Tall Trees Motel by his father John. Andrew was found with a plastic bag over his head connected to a large gas bottle of helium. An examination of Andrew's mobile phone by Police identified a "selfie" taken at 1:06am on 16 August showing the edge of the gas bottle and tubing. The post mortem examination of Andrew undertaken at my direction indicated that Andrew died from asphyxia due to oxygen deprivation. Toxicology results detected only paracetamol in Andrew's system.

Suicide

2. As part of my obligation to determine manner of death, I am required to determine whether Andrew's death was the result of suicide.

3. The facts before me evidence the following:
 - (a) Andrew had previously served in the Australian Army on both a full time basis and in the Reserve. He suffered physical injuries as a result of his service that caused him ongoing back pain. On his last deployment to the Middle East, Andrew returned with what his family believed to be undiagnosed PTSD, although Andrew denied any issues and declined assistance.
 - (b) In the period immediately prior to his death, Andrew's relationship with his wife was undergoing stress. Four days prior to Andrew's death, on 12 August 2017, he was involved in a family violence incident with his wife for which he was arrested and charged. I will explore these facts in more detail below in relation to a matter of public safety.
 - (c) On the morning of 15 August 2017, the day before he died, Andrew sourced a helium bottle, regulator, various tools, clamps and tubes in separate visits to five different shops in Fyshwick. Later that evening, Andrew took part in a Facebook chat with another person which included the comments "hence my best option is to exit" and "my whole life is fucked".
 - (d) On 14 August, Andrew's wife applied for and was granted a special interim family violence order against Andrew under the *Family Violence Act 2016*. That order was served on Andrew by Police on the afternoon of 15 August, but after he had already purchased the items described above.
 - (e) Andrew left a number of "suicide notes" which were found after his death.
 - (f) Police examination of the death scene found no sign of any involvement by a third party in Andrew's death.
4. Given all the facts as recounted above, I am satisfied that Andrew intended to take his own life.

Matter of Public Safety - Helium

5. The National Coronial Information System informs me that in the period between 1 July 2000 and 31 December 2016 there were 354 deaths reported to an Australian State or Territory Coroner where the deceased died as an act of intentional self-harm involving helium gas. Disturbingly, the number of deaths each year has increased over time.
6. The apparent easy access to helium gas has been examined by Victorian Coroner Audrey Jamieson in a series of coronial cases including the deaths of Miki Yamamoto (finding delivered 22 February 2016), Olga Jucan (unpublished finding dated 28 November 2016), and Lauren Pilkington (finding delivered 19 April 2017). In the latter case, Coroner Jamieson made a recommendation to the Australian Competition and Consumer Commission (ACCC) to consider working to restrict the ease of access to

helium gas by members of the Australian public. I understand consideration is ongoing as to whether helium gas should be included in the Poisons Standard, which controls the availability of poisonous substances.

7. I consider the ease of access to helium gas constitutes a matter of public safety. In the light of Coroner Jamieson's existing recommendation, I do not believe it is necessary to make a formal recommendation on this matter. However, I add my voice to that of Coroner Jamieson, and other Australian Coroners, about this concerning issue.
8. I will forward a copy of my findings and comments to Coroner Jamieson and the ACCC for their information. I would be grateful in due course for a written response from officers of the ACCC as to any measures they have undertaken to restrict the ease of access to helium gas by members of the Australian public.

Matter of Public Safety – Presumption against Bail

9. During my investigation I received a written submission from Andrew's parents raising concerns about the ways in which the family violence matter between Andrew and his wife was handled.
10. The facts before me evidence the following:
 - (a) Andrew was involved with an altercation with his wife at approximately 4:40pm on Saturday 12 August, during which it is alleged Andrew grabbed her shoulders, shook her, tore her jacket, and put his wife in fear. Police were called and Andrew was arrested for assault and conveyed to the ACT Watch House.
 - (b) Andrew was not granted police bail at the Watch House, despite the fact that Andrew's father John was available to attend Canberra at short notice and would have assisted Andrew to leave the marital property and reside away from Andrew's wife, and Andrew had no criminal record and no prior police history.
 - (c) Once bail had been refused, Andrew was transferred into the custody of ACT Corrections Officers and transferred to the Alexander Maconochie Centre (AMC).
 - (d) Andrew was granted bail unopposed by the ACT Magistrates Court on the morning of 14 August on conditions to reside as directed by the Director-General of Corrections, accept the supervision of the Director-General or their delegate, and not to threaten intimidate assault or harass his wife.
11. Andrew's parents queried whether it was necessary for Police to have arrested Andrew, why Andrew was not granted police bail, and why it was necessary for Andrew to have been transferred to the AMC.

12. I asked Police to comment on the issues raised by Andrew's parents. In respect of each of the matters listed in paragraph 10, I was advised that.
- (a) A review of the circumstances of Andrew's arrest had been undertaken by the specialist ACT Policing Family Violence Coordination Unit, who advised that there was sufficient evidence for attending Police to have arrested and charged Andrew, and in their opinion the matter was dealt with appropriately.
 - (b) At the Watch House, the issue of Andrew's conditional release on bail was considered by the on-duty Sergeant. Although the arresting officer did not oppose bail for Andrew, section 9F of the *Bail Act 1992* applied because Andrew had been accused of a family violence offence. This section limits the ability for police bail to be granted unless the Sergeant can be "satisfied that the person poses no danger to a protected person while released on bail". The Sergeant could not be so satisfied, and so police bail was refused. A second Sergeant on duty agreed with the assessment and decision.
 - (c) Andrew's transfer to the AMC was due to the operation of section 30(3) of the *Corrections Management Act 2007*, which provides that an adult cannot be detained in police custody in a police cell for more than 36 hours. Because Andrew had been arrested on Saturday afternoon, the next sitting of the ACT Magistrates Court before which Andrew could have been brought was at 9am on 14 August 2017.
13. I am satisfied Police acted appropriately in dealing with Andrew and his arrest for a family violence charge was appropriate. My sole concern is however the presumption that police must negative before granting bail to someone with Andrew's background and history.
14. I have no doubt that the intention of section 9F of the *Bail Act 1992* is to protect victims of family violence from possible revictimisation. And there is nothing inherently wrong or illegal with placing a higher onus to meet in respect of police bail for family violence cases. However, as it is presently reads – and how the Sergeant appears to have interpreted it in respect of Andrew – it operates as an effective presumption against bail. How might Police ever satisfy themselves that a person poses no danger whatsoever to the victim of a family violence offence? I am not sure it was the intention of the ACT Legislature that no family violence accused could ever be granted police bail. I note also that it appears that NSW has moved away from a presumption against police bail in family violence matters in its recent reforms to its Bail Act.
15. Accordingly, I make the following recommendation:
- (d) The ACT Government should review, and if necessary amend, section 9F of the *Bail Act 1992* to ensure that it does not or can not operate as an irrebuttable presumption against police bail for family violence accused.
16. I will forward a copy of my findings, recommendation and comments to the Attorney-General for his consideration.

Hearing

17. In all the circumstances as detailed above in my view there is no necessity to hold a public hearing in relation to Andrew's death. I believe I have all the evidence which exists or is likely to exist which could possibly bear on the decisions I must make. There is no issue about which I would be empowered to hold a public hearing and which in and of itself warrants that course being taken, and further my ability to make recommendations is not contingent on the holding of a hearing.
18. I will however publish my findings, recommendations and comments on the ACT Coroners Court website, together with any response I might receive from Ministers or Government.

I certify that the preceding eighteen [18] numbered paragraphs are a true copy of the Findings of Coroner R. M. Cook

Associate:

Date: 11 January 2018