

CITATION: *Inquest into the death of Craig Kenneth Matthews* [2004] NTMC038

TITLE OF COURT: CORONERS COURT

JURISDICTION: Coronial

FILE NO(s): D0155/2001

DELIVERED ON: 21 May 2004

DELIVERED AT: Darwin

HEARING DATE(s): 17,18,19,20,21 November, 2,3
December 2003

JUDGMENT OF: Mr Greg Cavanagh SM

CATCHWORDS:

CORONERS, Inquest, death on home detention, drug related unlawful killing

REPRESENTATION:

Counsel:

Counsel Assisting: Ms Elizabeth Morris

Judgment category classification: B
Judgment ID number: [2004] NTMC 038
Number of paragraphs: 26
Number of pages: 9

IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0155/2001

In the Matter of an Inquest into the death of

**CRAIG KENNETH MATTHEWS
AT LOT 511 BEES CREEK ROAD
BEES CREEK**

FINDINGS

MR GREG CAVANAGH SM

THE NATURE AND SCOPE OF THE INQUEST

1. The Deceased (Craig Kenneth Matthews) was found dead by a friend, Stephen Hughes, shortly after midnight on 8 October 2001. Mr Hughes found him at the deceased's residence, Lot 511 Bees Creek Road, Bees Creek. Mr Hughes thought that the deceased had "overdosed" and subsequently called 000. Police arrived at the residence, and discovered that the deceased had a single bullet wound to the head. An investigation into the death commenced.
2. The death is a "reportable death" which is required to be investigated by the Coroner pursuant to s14 (2) of the *Coroners Act* 1993 (NT) ("*the Act*"). The deceased was on a home detention order at the time of his death, but the deceased was not a "person held in custody" within the definition of s 12 of the Act. However the death has been investigated, appropriately, following "death in custody" procedures.

3. An Inquest has been held as a matter of discretion. The scope of such an inquest is governed by the provisions of sections 34 and 35 of the *Coroners Act*.

34. Coroners' Findings and Comments

- (1) A coroner investigating –
- (a) a death shall, if possible, find –
 - (i) the identity of the deceased person;
 - (ii) the time and place of death;
 - (iii) the cause of death;
 - (iv) the particulars needed to register the death under the *Births, Deaths and Marriages Registration Act*; and
 - (v) any relevant circumstances concerning the death.
- (2) A coroner may comment on a matter, including public health or safety or the administration of justice connected with the death or disaster being investigated.
- (3) A coroner shall not, in an investigation, include in a finding or comment a statement that a person is or may be guilty of an offence.
- (4) A coroner shall ensure that the particulars referred to in subs (1)(a)(iv) are provided to the Registrar, within the meaning of the *Births, Deaths and Marriages Registration Act*.

35. Coroners' Reports

- (1) A coroner may report to the Attorney-General on a death or disaster investigated by the coroner.
- (2) A coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the coroner.

(3) A coroner shall report to the Commissioner of Police and the Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the coroner believes that a crime may have been committed in connection with a death or disaster investigated by the coroner.”

4. Counsel assisting me was Deputy Coroner, Ms Elizabeth Morris. No other parties sought leave to appear or make submissions.
5. The court heard from both police and civilian witnesses who gave evidence in the inquest. In addition to this evidence, a full brief of evidence was tendered by Detective Sergeant Garry William Barnett. This evidence included five volumes of material, with statements from various witnesses as well as maps, photographs, telephone records and other documentation.
6. Many of the civilian witnesses were reluctant to give evidence. Some were afraid of the consequences should others find out they had given evidence, others were obviously troubled by their own (probably illegal, although unconnected with the death) actions which would come to light as a result of giving evidence.
7. In the interest of justice and to determine the truth of how the deceased died, I made orders suppressing the names of some of the witnesses and their evidence. This was pursuant to section 43 1 (b) of *the Act*. I found that it was in the interests of justice, to try and determine what happened to the deceased. Eventually, after considering all the evidence from the various witnesses, I made an order suppressing all of the evidence. I understand that the death of the deceased continues to be an ongoing police investigation.
8. I also heard evidence in relation to the exact circumstances of how the deceased was found. This evidence is not widely known, and was one of the indicators used by the police investigators to determine whether or not a witness had actual knowledge of the circumstances surrounding the death. Accordingly, whilst that evidence is contained in the transcript, I do not intend to summarise it in these findings.

S34 Particulars

9. To allow this death to be registered under the *Births, Deaths and Marriages Registration Act* the following particulars are provided to the Registrar:

(a) The Identity of the Deceased Person

The deceased is Craig Kenneth Matthews, a male Caucasian Australian who was born on 25 October 1965 in Perth, Western Australia.

(b) The Time and Place of Death

The deceased died some time between 23:30hrs on 7 October 2001 and 01:36hrs on 8 October 2001 at Lot 511 Bees Creek Road, Bees Creek.

(c) The Cause of Death

The cause of death was a gunshot wound to the head.

(d) The particulars required to register the death

1. The deceased was a male.
2. The deceased was of Australian Caucasian origin.
3. The cause of death was a gunshot wound to the head.
4. The cause of death was confirmed by a post-mortem examination.
5. The pathologist viewed the body after death.
6. The pathologist was Professor Anthony Joseph Ansford, Locum Forensic Pathologist of Royal Darwin Hospital.

7. The father of the deceased is Kenneth Matthews. The mother of the deceased is Delice Matthews.
8. The deceased resided at Lot 511 Bees Creek Road, Bees Creek.
9. The deceased was unemployed at the time of his death.

CIRCUMSTANCES SURROUNDING THE DEATH

10. From the evidence presented before me I am able to find the following:

The deceased's personal circumstances

11. The deceased was born in Perth, to Delice and Kenneth Matthews. He attended school in Perth, and partially completed an apprenticeship as a carpenter and joiner. He worked as a furniture removalist for three years prior to moving to Darwin. He moved around between Nhulunbuy, Perth and Darwin, and had extensive periods of unemployment. He was unemployed at the time of his death.
12. The deceased was an illicit drug user. He began using cannabis at 15 years of age. He was found to be a "drug dependent person" pursuant to the Misuse of Drugs Act (NT). He had an addiction to cannabis. This addiction caused him to have impaired memory function. He was also a user of amphetamines. His drug use brought him into contact with the criminal justice system.

Home Detention Order

13. At the time of his death Mr Matthews was on a home detention order. On the 28th of May 2001 he was sentenced in relation to manufacturing, possessing and cultivating dangerous drugs. The manufacture charge related to the production of amphetamines. The deceased was sentenced to 14 months imprisonment, but the sentence was suspended upon the condition that Mr Matthews enter into a Home Detention Order for six months.

14. In receiving his sentence, consideration was given by the Judge to assistance and information given by Mr Matthews against a co-offender, Mr Mark Dobson. Mr Dobson received an actual term of imprisonment for his involvement in the offences.
15. Surveillance officers from the Home Detention Unit checked Mr Matthews frequently on random occasions. The records of these checks were exhibited during the Inquest. He was never found to be absent from his premises without consent. He did however test positive on the two occasions that he was tested for alcohol and drugs. The first was on the 22nd of June 2001 when a breath analysis showed a positive reading for alcohol. Mr Matthews reappeared in the Supreme Court, and the breach of his order was found proved, but no penalty was imposed. On the 3rd of September 2001 a urine sample was provided by the deceased. This subsequently tested positive for methylamphetamine and cannabis. On the 5th of October Mr Matthews appeared at the Supreme Court in relation to this breach of his conditions. The matter was adjourned until Wednesday the 10th of October 2001, and Mr Matthews was bailed until that date.
16. Evidence was given that the Corrections Officers rarely got out of their car upon arrival at the deceased's premises, because of the presence of several large and aggressive dogs at the house. An arrangement was made whereby when the deceased heard the surveillance officer arrive, he would go to the car to meet them. Mr John Williams attended at the deceased's residence in this fashion some 55 times. At no time did he see evidence of drug use, although given the stated arrangement in relation to his visits, this is not surprising.
17. After the deceased's death a search of the premises found cannabis growing, plastic containers with harvested cannabis, syringes and other evidence of amphetamine use. It is clear from this evidence, and other evidence, including his positive urine analysis, that the deceased continued to carry

out illicit drug use whilst on home detention. It is also clear from the evidence that other persons attended at his premises for that purpose.

The events of 7 October 2001

18. On the 7th of October 2001 the deceased was at home. Visiting him at various times that day were his mother, and friends Mark Lyness and Stephen Hughes. Mrs Matthews cooked an evening meal for the deceased and Hughes. She left the residence not long afterwards. Stephen Hughes, who was unable to be located to give evidence at the Inquest, gave a detailed statement to police; he left the premises sometime before midnight. He left at the request of the deceased, who had received a phone call from an unknown person. Mr Hughes had assumed that the deceased had organised a drug deal. He returned to the premises some 90 minutes later, to find the deceased with no signs of life.
19. Mr Hughes then panicked, as he had earlier shared ecstasy and amphetamines with the deceased. Believing the deceased has overdosed from this, Mr Hughes left the premises with the deceased's mobile phone and black torch. He rang various people, including '000'. He later returned to his own residence, and left the deceased's phone in his car.
20. Ms Kerry-Anne Kimber, a close friend of the deceased, later removed this phone from Mr Hughes' car. Analysis of telephone records of the deceased and Ms Kimber indicate a call from the deceased's phone to Ms Kimber's phone at about 11.51pm on the 7th of October, and an SMS (Short Messaging Service) from Ms Kimber's phone to the deceased at about 12.09am on the 8th of October. Ms Kimber claimed to be asleep in Darwin at this time.
21. Police obtained a phone, believed to belong to the deceased. It was produced to them by Mr Dennis Speck, with whom Ms Kimber was living at around this time. Mr Speck found the phone under a bed he shared with Ms Kimber. However the System Identity Mobile Card (SIM card) of the phone

was missing. Mr Hughes in his statement denied removing the SIM card. Ms Kimber also denied removing the card. If the card had been found, any SMS text made or received by that phone could have been read. However to date the card has not been found nor produced to the investigation.

22. Ms Kimber gave evidence before me. I found her an evasive witness with a poor memory of events. The evidence shows that she was at the time of the death, an illicit drug user; this may account for her lack of recall as to the events of the time. However, I also formed the impression that she was deliberately unhelpful to my inquiry, and that she had information that would assist me in my findings.

Conclusion and Comments

23. I am not able to make a finding, from the evidence gathered either by Detectives, or through the process of the Inquest, as to who fired the weapon that killed the deceased, or who was involved in his death. I did form the impression that several witnesses knew more about the death than they were prepared to say in court before me.
24. I can only hope, for the benefit of his family who loved him, and for the system of justice that the community of the Northern Territory expects and relies on, that over time, further information will come to light, which will lead to the identification of that person or persons.
25. As I have already indicated, much of the evidence from various witnesses appears irrelevant. However, for myself, and based on all of the evidence as well as specific testimony, this mention of a “suspect” that heretofore had never been suggested had a “ring of truth” about it that I recommend be followed up by investigators.
26. It is clear from the evidence that a crime has been committed in connection with this death, and as I am required to do pursuant to section 35 (3) of the

Act, I refer the investigation back to the Commissioner of Police and the Director of Public Prosecutions (including a full copy of the transcript).

Dated this 21st of May 2004

GREG CAVANAGH
TERRITORY CORONER