

CITATION: *Inquest into the death of Vikki Anne Riley* [2014] NTMC 001

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

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FINDING OF: Mr Greg Cavanagh SM

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REPRESENTATION:

Counsel:

Assisting: Jodi Truman

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IN THE CORONER'S COURT
AT DARWIN IN THE
NORTHERN TERRITORY
OF AUSTRALIA

No. D0159/2012

In the matter of an Inquest into the death of
VIKKI ANNE RILEY
ON 10 SEPTEMBER 2012
AT ROYAL DARWIN HOSPITAL

FINDINGS

Mr Greg Cavanagh SM

Introduction

1. Vikki Anne Riley was born in Dandenong, Victoria on 20 April 1962. On Sunday 9 September 2012 at about 12.39pm Ms Riley was struck by a motor vehicle whilst crossing McMillans Road in Rapid Creek, Darwin on her bicycle. She was travelling from the Jingili/Milner side of McMillans Road towards the airport when the collision occurred.
2. This death was reportable to me pursuant to s.12 of the *Coroners Act* (“the Act”) because it was unexpected. The holding of an inquest is not mandatory but was conducted as a matter of my discretion pursuant to s.15 of the Act. I did this in the hope of being able to determine the circumstances surrounding the death and determining how the collision occurred. I also wished to consider whether there were any recommendations that could be made in order to avoid a death like this in future.
3. Counsel assisting me at this inquest was Ms Jodi Truman. There were no other formal appearances however I note that Ms Riley’s de facto husband, Mr Jimmy Hatton, and young son, Elijah, were in attendance on each day of

this inquest. I thank them both for the respect that they showed during the course of the evidence surrounding the death of their loved one.

The Conduct of this Inquest

4. A total of nine (9) witnesses gave evidence before me. Those persons were:

4.1 Sergeant Mark Casey.

4.2 Jimmy Hatton.

4.3 Constable Colin Masters.

4.4 Matthew James.

4.5 Brett Josling.

4.6 Damien Coombs.

4.7 Eileena Muraca.

4.8 Dr Terence Sinton, Forensic Pathologist.

4.9 Brett Harms.

5. A brief of evidence containing statutory declarations from 14 persons and numerous other reports, police documentation, and records were tendered into evidence (“exhibit 1”). I also received into evidence a copy of Ms Riley’s records held with the Royal Darwin Hospital (exhibit 2) and her birth certificate (“exhibit 3”). The death was investigated by Sergeant Casey who prepared a thorough investigation brief and I thank him for his assistance.

6. Pursuant to s.34 of the Act, I am required to make the following findings:

“(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) Particulars required to register the death under the *Births Deaths and Marriages Registration Act*”

7. I note that section 34(2) of the Act also provides that I may comment on a matter including public health or safety connected with the death being investigated. Additionally, I may make recommendations pursuant to section 35 as follows:

- “(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 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”

Background

8. At the time of her death, Ms Riley was 50 years of age. She was born in Victoria and as an infant was separated from her biological parents, namely Iris May Riley and George Cresswell Riley. Soon after, she was adopted by an Aboriginal family in Clayton, Victoria. Unfortunately both her adoptive

parents died within 6 months of each other when Ms Riley was only 12 years of age and thereafter she was placed into foster care.

9. Later Ms Riley tracked down her birth mother and discovered she had two (2) half-sisters. As an adult, she had some limited contact with her biological mother. Ms Riley worked as a journalist for the ABC in Victoria and a number of other media agencies. She worked in Australia, Papua New Guinea and Afghanistan.
10. In about 2001 Ms Riley met her de facto partner, Mr Hatton, in Melbourne. The couple moved to Darwin in about 2002 and in 2005 their son, Elijah, was born. Other than a period of approximately 9 months in 2006, both Ms Riley and Mr Hatton remained in Darwin, living in a de facto relationship. It was in Darwin that Ms Riley became well known as a very passionate and outspoken advocate for asylum seeker detainees. She worked tirelessly to assist detainees in numerous ways including advocating for them, providing education and entertainment to them and also preparing art exhibitions of works done by them.

Events of Sunday 9 September 2012

11. I received evidence that Ms Riley left home sometime between 10.30am and 11.00am on Sunday, 9 September 2012. It is not clear as to precisely where she was going at that time but it was her habit most days to either go to the detention centre, a public library or Parliament House. On weekends she was also known to regularly go to the local markets.
12. Ms Riley had an appointment scheduled to meet with detainees at the detention centre known as the Darwin Airport Lodge at 1.00pm that day. Given the time of the collision and its proximate location to the detention centre, I find that it is more likely than not that Ms Riley was heading to the detention centre in accordance with her scheduled appointment when the collision occurred.

13. Ms Riley was crossing McMillans Road from the Jingili/Millner side heading towards the airport when she was struck by a motor vehicle. McMillans Road is a multi-lane divided road with three (3) outbound (or eastbound) lanes, and two (2) inbound (or westbound) lanes. It is a wide stretch of road with the outbound section being 10.9 metres in width. Each individual lane is approximately 3.6 metres in width. The sign posted speed limit for the area of McMillans Road where the collision occurred is 80 km/hr.
14. The collision occurred near a formed foot path crossing area which had pedestrian access ramps on both edges of the road, and then the median strip. Other than these pedestrian access ramps it is an unregulated crossing, i.e. there are no associated traffic lights or signs. The collision occurred at approximately 12.39pm. It was therefore day time with the sun high in the sky. The weather was fine and clear.
15. I received evidence from a number of drivers (and their passengers) who recall seeing Ms Riley on this day. It appears from the evidence that a number of persons noticed Ms Riley due to the slow pace that she was travelling on her bike when she attempted to cross McMillans Road. A number of persons recalled that she appeared to be travelling too slowly in the circumstances and they were concerned about her behaviour.
16. Mr Matthew James was driving inbound from his home in Anula heading towards Rapid Creek when he first saw Ms Riley on her bike. He was travelling at about 80kms/hr. and stated he noticed the rider initially because he thought he saw something on her head. Mr James described this variously in his evidence as “material”, “a towel” or “a blanket”. It is clear he was not sure what it was, but he certainly recalled seeing something on the rider’s head that was unusual. Mr James also stated that the way in which that item was positioned on the rider’s head would have meant that she had no “peripheral vision”.

17. Mr James recalled that upon noticing the rider he saw that there were “cars in all three outbound lanes heading towards her”. He recalled thinking “she’d better hurry up or she was going to get cleaned up”. Mr James described the rider as “dawdling” across the road. In his statement to the police he said that this was “especially when she got to the middle of the road. It was as if her legs were just going really slow”.
18. Mr James stated that, due to there being cars in all 3 lanes and in a “staggered formation”, it was his perspective that “the driver in the lane closest to the median (strip) would have had a blind spot and would not have been able to see her (the rider) until the last minute”. Mr James noted that the car in the lane closest to the median strip was what he described to be a “little red Hyundai”. He saw that car hit Ms Riley. He recalled he was very close to the collision when it occurred and that he heard screeching and a “loud noise”. He travelled a little further and then pulled over to call an ambulance. He was told one was on its way.
19. Mr Brett Josling was driving home and heading outbound when he first noticed Ms Riley on her bike. He was in a work vehicle clearly marked with PAWA stickers. He gave evidence that he was travelling at about 80kms/hr. and was in the left hand side lane, furthest from the median strip. He recalled in his statement that the bike rider “didn’t seem to be going fast” and this struck him as “odd” because when he is riding and crossing a road he does not “ride slow” like this rider appeared to be doing.
20. Mr Josling described the traffic as medium to heavy, i.e. there were a number of cars in the area, and there were cars in all 3 lanes. He stated he thought in those circumstances “it was going to be close” and that the rider was “cutting it fine”. Mr Josling then noticed the car in the right hand lane close to the bike “braking”. He saw the brake lights illuminate and then tyre smoke. Mr Josling did not see the car strike the rider, but he did see the rider in the air. Mr Josling stopped, called 000 and gave assistance.

21. Mr Damian Coombs was a passenger in another vehicle heading outbound when he saw events unfold. The vehicle he was in was an Isuzu work truck marked with Darwin City Council stickers. Mr Coombs was seated in the front passenger seat. The vehicle was quite high from the ground and Mr Coombs described that from where he was seated in the vehicle he had “great vision” with no obstructions. He described the front window as clean and the sun overhead.
22. Mr Coombs recalled that the truck was in the centre outbound lane and that the driver of his vehicle (namely Christopher Hartstone) appeared to be going approximately 70kms/hr. Mr Coombs described the traffic as “quite busy” with a “steady flow” and that “there didn’t appear to be anyone doing anything stupid”.
23. Mr Coombs did not see the actual collision. In fact he did not even see Ms Riley on her bike at any time before the collision. However he noticed the tail lights of a vehicle approximately 50 metres ahead of him illuminate. He described that vehicle as being in the right hand lane closest to the median strip. He did not see any smoke or hear any tyres squealing, but he acknowledged the windows were up. He then noticed a vehicle with PAWA stickers pull over. When this occurred the truck that Mr Coombs was in also pulled over and Mr Coombs got out. He realised a cyclist had been struck and he got the first aid kit and provided first aid assistance to Ms Riley on the road. It is clear that Mr Coombs did all he could to help Ms Riley.
24. Ms Eileena Muraca gave evidence that she was driving a dark coloured SUV hire car heading outbound towards the airport when these events occurred. She too described the weather as good, with the sun almost directly above and no glare. Initially she was in the middle lane of the 3 outbound lanes and noticed in the right lane beside her (i.e. the lane closest to the median strip) what she described as “an orange coloured Toyota Yaris”. She recalled seeing a family inside that car.

25. Ms Muraca set out in her statement to police that her GPS indicated that she would soon need to turn right to get to the airport so she slowed a little and moved into the right lane, behind the “Yaris”. Ms Muraca considered the traffic was flowing and that “at no stage did I think the Yaris was speeding”. She was behind the “Yaris” for approximately one kilometre when “out of nowhere” she noticed a person thrown into the air directly above the Yaris. Ms Muraca described it as happening “so quickly” and did not remember seeing the brake lights of the “Yaris” come on, nor any smoke or screeching of tyres.
26. Ms Muraca pulled over and went to where Ms Riley was laying. She spoke briefly to others in the area, but then returned to her car and left for the airport to catch her flight after providing her details. In her evidence before me, Ms Muraca stated that she had not even seen the person before she saw them in the air above the vehicle in front of her and she did not even know the person was on a bicycle until after the collision.
27. Mr Brett Harms was the driver of the vehicle that struck Ms Riley. Mr Harms gave evidence that he had been on holidays in Darwin and was driving a “rusty brown Hyundai Getz” hire car. Inside that vehicle with him were his wife and infant daughter. Mr Harms gave evidence that he was driving outbound along McMillans Road towards the airport and was in the right side lane closest to the median strip. Mr Harms recalled there being a number of cars in the area near to him.
28. Mr Harms stated that he recalled approaching an intersection on the right and slowing because he was looking for a sign indicating the airport. I note that this is the turn off to Charles Eaton Drive. Mr Harms stated that he slowed by taking his foot off the accelerator, but he did not indicate to turn right. When he did not see a sign for the airport he placed his foot back on to the accelerator and began to accelerate away.

29. It was shortly after he had commenced to accelerate that he saw “a woman on a push bike”. The first time that he saw that person was when she was “immediately in front of me in my lane”. He had not seen her before that time. He stated that he knew there were cars behind him and to his left and so he was aware that he could not cross into another lane without crashing into a car next to him on his left. He therefore applied the brakes “as hard as I could”, but he was unable to stop before colliding with Ms Riley. It was whilst he was applying the brakes that he moved slightly towards his left (i.e. into the middle lane), still attempting to avoid a collision.
30. Mr Harms stopped his vehicle, got out and went to the rider. He noted she was breathing, but she was bleeding and he did not move her. Other persons then arrived and began providing first aid. At this point Mr Harms returned to his hire car and moved it off the road and on to the median strip. He stated that he did this because he “didn’t want to cause another crash”. Mr Harms waited until the police and ambulance arrived and he spoke to the police about what had occurred.
31. I received evidence from Constable Colin Masters that he was one of the first officers on scene. He recalled Mr Harms as being extremely distressed but attempting to do all he could to assist police. After Mr Harms spoke with Major Crash investigators at the scene, Constable Masters took Mr Harms to the police station. There he took a breath sample for analysis which returned a zero (0.00) reading. He also took a drug swipe which returned a negative result for any drugs.

Investigation of the collision

32. Sergeant Mark Casey was the OIC of the investigation into the collision and this coronial investigation. His partner was Senior Constable David Wrigglesworth. Sgt Casey has been a police officer since May 1997 and is attached to the Major Crash Reconstruction Unit. He holds a number of qualifications in the field of Crash Investigation and is a very experienced

officer having attended over 1,000 crashes and investigated approximately 300, together with being the “at scene” investigator for over 100 fatal crashes.

33. Sgt Casey and Snr Const Wrigglesworth attended the scene at about 2.00pm after having been called on shift following the collision. Upon arrival both officers conducted a “scene assessment” and made observations of the bike ridden by Ms Riley and the motor vehicle driven by Mr Harms. In terms of the vehicle it was noted to still be parked on the centre median strip and to have visible damage to the front right corner consistent with the collision with the bike. The bike was also inspected. It too had visible damage consistent with the collision. Although there were numerous items of debris located from the collision, there was no bike helmet found.
34. Sgt Casey observed skid marks in the area which were consistent with a 4 wheel skid as a result of Mr Harms attempting to “hard brake” in his vehicle. Sgt Casey gave evidence that he observed two (2) parallel skid marks in the right lane that commenced at the eastern end of the intersection with Charles Eaton Drive. The right skid was visibly shorter than the left. From these observations, Sgt Casey was able to determine the point of impact as being approximately 10 metres in to the skid marks. Photographs and measurements were taken and a scale plan prepared. Skid testing was also conducted upon the car driven by Mr Harms.
35. From that information, Sgt Casey completed a number of calculations to determine the speed that Mr Harms was travelling. Sgt Casey calculated that Mr Harms would have been travelling at a minimum speed of 70.978 km/hr. at the time that he started to skid, i.e. when he first hit his brakes in an attempt to avoid colliding with Ms Riley. I note that this is some 10 kms/hr. under the speed limit applicable for that area. At the time that the actual collision occurred, Sgt Casey calculated that Mr Harms would have

been travelling at a minimum of approximately 55.496 km/hr. In evidence Sgt Casey estimated the car was travelling between 55 and 58 km/hr.

36. Relevantly, the vehicle driven by Mr Harms was found to be in a roadworthy condition immediately prior to the collision. Mr Harms held a current driver's licence and as previously stated he tested negative for both drugs and alcohol in his system.

Cause of the collision

37. Sgt Casey gave evidence that as a result of his observations and calling on his experience and qualifications, it was his opinion that despite witness accounts of Ms Riley traveling at a "very slow pace", it appeared she had failed to perceive the threat posed by the oncoming traffic and had taken no action to avoid the collision. I agree with this opinion. What caused Ms Riley to behave in such a way is unable to be determined; however I note that Ms Riley's partner, namely Mr Hatton, recalled Ms Riley previously stating that it was her opinion that pedestrians should have the right of way over cars.
38. Sgt Casey noted that Mr Harms had also admitted that his attention immediately prior to the collision was divided between driving and attempting to find the airport turn off. Mr Harms also admitted this in evidence before me. Sgt Casey referred to this as "divided attention" and therefore Mr Harms attention was unlikely to have been focussed on the left hand side of the road from which Ms Riley was travelling at the time. However, Sgt Casey also noted that Mr Harms was travelling at less than the sign posted speed limit and that it was evident that he had attempted to brake and steer away from Ms Riley to avoid the collision.
39. Sgt Casey stated that in such circumstances it was his opinion that Mr Harms had acted appropriately upon noticing Ms Riley by braking as heavily as possible (resulting in brake lock) and steering to the left and that the

primary cause of the crash was Ms Riley's failure to perceive the threat posed by the oncoming traffic or to take evasive action to avoid that threat. I accept and agree with that opinion.

40. Sgt Casey stated that whilst Mr Harms did have divided attention just prior to the collision, he did not consider that the collision was the result of any "criminal" conduct by Mr Harms. I agree. I find that the collision between the vehicle driven by Mr Harms with Ms Riley on her bicycle was unintentional and was a tragic and terrible accident that has clearly left all concerned still traumatised.

Cause of Death

41. Dr Terence Sinton gave evidence before me. He conducted an autopsy upon Ms Riley on 11 September 2012. The significant findings made by Dr Sinton were abrasions and bruises to the face, trunk and legs, severe skull fractures, subdural and subarachnoid haemorrhage over the surface of the brain, extensive and severe traumatic brain damage, trauma to the abdomen and severe fractures to the right leg. Dr Sinton stated that all these injuries were consistent with a collision with a motor vehicle and were significant.
42. I again note that Ms Riley was not wearing a helmet at the time of the collision. Dr Sinton was asked whether the wearing of a helmet *may* have made a difference to the fatal outcome and he stated that it was his experience that "a helmet can made a **huge difference**" (my emphasis added). This is perhaps a timely reminder of the importance of cyclists wearing a helmet when riding a bicycle, particularly in compliance with the Australian Road Rules which require cyclists to wear a helmet.

Comments

43. Although I have no formal recommendations to make in relation to this death, before I proceed to my formal findings I wish to make comment in relation to the evidence I received concerning the location of this accident.

As previously noted, this death occurred on McMillans Road which is a multi-lane divided road with three (3) outbound lanes and two (2) inbound lanes. It is a wide stretch of road and it is a significant stretch of road used by many drivers particularly those who live or work in the northern suburbs, but also by all persons who are required to utilise the only airport in Darwin.

44. As I stated during the course of the inquest itself, this is also not the first death I have had to consider as a result of an accident between a pedestrian (or here a cyclist) and a motor vehicle on McMillans Road.

45. In order to get a true perspective of the area, at the conclusion of the evidence I travelled with counsel assisting along McMillans Road. I carefully noted not just the area where the accident occurred, but also the location of other areas for pedestrian/cyclists to cross. I note that McMillans Road commences at the intersection with Bagot Road. It then ends after intersecting with the Stuart Highway in Berrimah. For the purpose of this inquest I only considered the stretch of McMillans Road commencing from the Bagot Road intersection and concluding at the intersection with Vanderlin Drive at the roundabout.

46. Along that stretch of road, the very first area where there is a formed foot path crossing area is the area near where this accident occurred. This is despite the fact that prior to that formed foot path crossing area, there are 4 “roads” that connect with McMillans Road, namely Neale Street, Sabine Road, Rapid Creek Road and (in the immediate vicinity of this collision) Charles Eaton Drive. It is therefore a significant distance from the Bagot Road intersection before there is any area marked for crossing McMillans Road.

47. Of further significance is that whilst this area near where the accident occurred is a formed foot path crossing area, it is unregulated. By this I mean that there are no traffic lights or other noticeable indications that this is an area where pedestrians/cyclists are being invited to cross. I consider

this very unusual given that the crossing is so close Charles Eaton Drive which itself has (at its commencement) a child care centre and provides for traffic to and from the airport.

48. After that crossing area there are then the following crossing areas on McMillans Road:

48.1 A regulated crossing with traffic lights at the intersection with Rothdale Road and Henry Wrigley Drive;

48.2 A regulated crossing with traffic lights at the intersection with Lee Point Road and Marrara Drive;

48.3 An unregulated crossing shortly after Tolmer Street;

48.4 A regulated crossing with traffic lights at the intersection with Links Road;

48.5 A regulated crossing with traffic lights near the Malak Caravan Park;

48.6 A regulated crossing with traffic lights at the intersection with Amy Johnson Avenue;

48.7 An unregulated crossing shortly after Moray Street; and

48.8 An unregulated crossing just prior to the major roundabout at the intersection with Vanderlin Drive.

Therefore 6 regulated crossings (including the one at Bagot Road) and 4 unregulated crossings (including the one near where this accident occurred).

49. I accept that there is an obligation upon pedestrians and cyclists alike to take care when crossing any road. This need for care and caution is particularly so when (like here) there is an attempt to cross three (3) lanes of traffic and the vehicles may (as they were here) be staggered, thus blocking the vision of other drivers, with all drivers doing the sign posted speed of 80

km/hr., which is not insignificant. Any person attempting to cross in those circumstances, whether as a pedestrian or cyclist, needs to be *extremely* careful. It can be very difficult in those circumstances for drivers to see persons attempting to cross by virtue of having their vision limited (or blocked) by the other traffic in the area.

50. I do however consider that because the location of this accident occurred near an unregulated foot path crossing area, there should be some examination by the Northern Territory Government Department of Transport as regards the safety of such an unregulated crossing area in that location. This is a fortiori because such formed foot path crossing areas represent invitations to people to cross in that location. In considering whether such a crossing provides sufficient safety, I ask that specific regard be given to the general (and future) development in the area, particularly in relation to the airport and surrounds.

Formal Findings

51. On the basis of the tendered material and oral evidence received at this Inquest I am able to make the following formal findings:
- i. The identity of the deceased person was Vikki Anne Riley born 20 April 1962 in Dandenong in the State of Victoria, Australia.
 - ii. The time and place of death was 9.45 am on 10 September 2012 at the Royal Darwin Hospital.
 - iii. The cause of death was multiple injuries following a motor vehicle accident.
 - iv. Particulars required to register the death:
 - a. The deceased's full name was Vikki Anne Riley.

- b. The date and place of death was 10 September 2012 at the Royal Darwin Hospital
- c. The deceased was a female born on 20 April 1962 and was 50 years of age at the time of her death.
- d. The deceased was not of Australian Aboriginal or Torres Strait Islander descent.
- e. The cause of death was multiple injuries following a motor vehicle accident.
- f. The death was reported to the Coroner.
- g. The cause of death was confirmed by post mortem examination carried out by Dr Terence Sinton on 11 September 2012.
- h. The deceased's mother was Iris May Riley and her father was George Cresswell Riley.
- i. At the time of her death, the deceased resided at unit 61, 15 Litchfield Court, Nightcliff in the Northern Territory of Australia.

Dated this 23rd day of January 2014.

GREG CAVANAGH
TERRITORY CORONER