

CITATION: *Inquest into the death of Ryan Leslie William Ashton*  
[2015] NTMC 006

TITLE OF COURT: Coroner's Court

JURISDICTION: Darwin

FILE NO(s): D0208/2013

DELIVERED ON: 27 March 2015

DELIVERED AT: Darwin

HEARING DATE(s): 12 and 13 March 2015

FINDING OF: Mr Greg Cavanagh SM

**CATCHWORDS:** **Death by drowning, dangers of alcohol associated with swimming**

**REPRESENTATION:**

*Counsel:*

Assisting: Jodi Truman

Judgment category classification: B

Judgement ID number: [2015] NTMC 006

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

No. D0208/2014

In the matter of an Inquest into the death of  
**RYAN LESLIE WILLIAM ASHTON**  
**ON 28 NOVEMBER 2013 AT**  
**SEVEN SPIRIT BAY WILDERNESS**  
**RESORT, COBURG PENINSULA**  
**IN THE NORTHERN TERRITORY**

**FINDINGS**

Mr Greg Cavanagh SM

**Introduction**

1. Ryan Leslie William Ashton was born on 12 July 1977 in Paddington, New South Wales (“NSW”). On 28 November 2013 at approximately 8.30am his body was found floating face down in the swimming pool of the Seven Spirit Bay Wilderness Resort located on the Coburg Peninsula in the Garig Gunak Barlu National Park in the Northern Territory of Australia. He was 36 years of age at the time of his death.
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 exercised my discretion in favour of an inquest due, inter alia, to concerns raised by the mother of the deceased, namely Ruth Ashton, in relation to the circumstances leading up to the death.
3. This inquest had been scheduled to occur in December 2014. I adjourned the inquest on that occasion as Ms Ashton stated she was unwell and wished to be able to attend the inquest in person. Despite adjourning the matter, Ms Ashton did not attend the re-scheduled inquest making contact the afternoon

prior to its commencement advising that she had an illness which prevented her from attending. The inquest therefore occurred in her absence.

4. Counsel Assisting me at this inquest was Ms Jodi Truman. There were no other appearances. A total of seven (7) witnesses gave evidence before me, namely Senior Constable (“Snr Const”) Toby Wilson, Victoria Squires, Peter Harding, Meaghan Quinley, Wayne Wrigley, Dr Terence Sinton and Wayne Van Den Broek.
5. A brief of evidence containing various statements, together with numerous other reports, police documentation, and records were tendered into evidence (“exhibit 2”). The death was investigated by Snr Const Toby Wilson and I thank him for his assistance.
6. Pursuant to s.34 of the *Act*, I am required to make the following findings if possible:
  - (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*”
  - (v) Any relevant circumstances concerning the death.
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. Mr Ashton was the eldest of two sons to Ruth and Leslie James Ashton. His father passed away when he was approximately 4 years of age and shortly thereafter the family moved to Casino, NSW. His mother re-partnered in Casino and had another son. When Mr Ashton was about 14 years of age his mother moved all three boys to Walgett.
9. The three boys and their mother lived in Walgett for a short period of time and then moved to Coonamble, which is a small town, located on the central-western plains of NSW. Mr Ashton completed his schooling there and then commenced working as a labourer doing concreting jobs around Coonamble. He commenced a relationship with Rhianna Powell, then known as Wood, in 1998. They commenced living together shortly thereafter and although the couple never married they had two daughters who are now aged 12 and 10 years of age.
10. The couple moved to Pottsville in the early 2000’s but separated from one another in about 2005. Thereafter Mr Ashton moved around living and working in various locations. In about 2010 he moved to Darwin for employment and regularly travelled between Darwin and Western Australia (“WA”) working in the mines as a concreter or labourer. Although

separated from his partner, he spent regular time with his daughters and spoke with them frequently. I received into evidence a statutory declaration from Mr Ashton's former partner, who stated that despite their separation she described Mr Ashton as a "great father".

11. A number of the statutory declarations tendered before me from persons who had known the deceased for a long period of time described him as an active, hard working person who loved to fish and hunt. It is clear however, and without being critical, that like many men he liked to have a drink. He is described variously in the evidence as a "binge drinker", but he was also capable of going long periods without a drink, particularly when he was working in the mines. I also had tendered into evidence his most recent pre-employment assessment where it raised no issues other than the recommendation to quit smoking and that his blood pressure was high, namely 160/90 with a recommendation that he discuss this with his general practitioner ("GP").
12. It was the deceased's love of fishing and hunting that led him to organise a trip to Seven Spirit Bay Wilderness Resort ("the resort") in November 2013. I received evidence that he had undertaken a similar trip previously and that one of his friends who he had known for approximately 15 years, namely Mr Wayne Van Den Broek, was a fishing guide at the resort. The trip was also undertaken with a man that he had been friends with since they were teenagers, namely Mr Wayne Wrigley. All three (3) men knew one another through their connection to the deceased and it appears (on all of the evidence) that they got along well together.

### **Events at Seven Sprit Bay Wilderness Resort**

13. In the early hours of the morning of Tuesday 26 November 2013, Mr Wrigley travelled up from NSW and met Mr Ashton in Darwin. Both men then travelled by small plane to the resort that same morning. The plans were to stay until Friday 29 November 2013 and then return to Darwin

where Mr Ashton and Mr Wrigley were going to travel to Jabiru and see some more friends before Mr Wrigley returned to NSW.

14. I received evidence from Ms Victoria Squires who was involved in the management of the resort at that time, that in the days leading up to the trip, Mr Ashton had come to see her to collect some supplies to take out to the staff at the resort. She stated that she was aware that the men were also likely to be taking alcohol out to the resort and that it was a practice to allow staff to take their own alcohol out to the resort for their own private consumption. They were not however permitted to provide such alcohol to guests but were permitted to drink it amongst themselves.
15. Ms Squires gave evidence that at the time of this trip the resort was basically on “down time” due to the wet season but staff still lived at the resort and were able to accommodate yachtsman that may come past and seek to utilise the resort. As a result, the only two paying guests at that time were Mr Ashton and Mr Wrigley. There were also the three members of staff at the resort, namely Mr Van Den Broek, Ms Meaghan Quinley and Mr Peter Harding.
16. When Mr Ashton and Mr Wrigley arrived at the resort on the morning of Tuesday 26 November 2013, Mr Van Den Broek collected them from the plane and they went fishing almost immediately. I heard evidence that they had a great day together and located a number of spots that they intended to return to fish the next day. On Wednesday 27 November 2013 the three men again fished for much of the day. At the end of their fishing, Mr Van Den Broek left Mr Ashton in the scrub to look for locations to go hunting for wild boar and banteng. It was Mr Ashton’s plan to go hunting the next day whilst Mr Wrigley and Mr Van Den Broek continued to fish. Mr Van Den Broek returned to pick Mr Ashton up just on dark and they returned to the resort together.

17. Each of the men had their own separate accommodation at the resort. Mr Ashton was occupying villa 9. Mr Wrigley was in another villa and Mr Van Den Broek was in staff accommodation. Sometime after returning to the resort, the three men met for dinner at the outdoor dining area which adjoins the large pool located at the resort. The pool is not fenced but meets the non-standard safety provision exemptions under the *Swimming Pool Safety Act* as it is on a property of 1.8 hectares or more. The lease area for the lodge is 2200 acres or 890.3 hectares. The pool is 15.1m in length; it has its deepest point at approximately 1.8 metres with numerous shallow areas, steps and seating areas throughout.
18. The meal that night was cooked by Ms Quinley who was assisted by her partner, Mr Harding. Both Ms Quinley and Mr Harding gave evidence before me. It appears from their evidence that Ms Quinley cooked whilst Mr Harding provided assistance. During that time, Mr Ashton, Mr Wrigley and Mr Van Den Broek sat outside together looking at photographs and video. Both Ms Quinley and Mr Harding were clear in their evidence that all three men appeared in good spirits, not intoxicated and generally having a “great” time in each other’s company. They were seen to be drinking alcohol at that time, but not excessively.
19. Ms Quinley and Mr Harding ate their meal and spent approximately an hour with the three men until they went to bed at about 9.30pm. Both stated that there did not appear to be any issues between the three men whatsoever. When asked if he had seen anything that gave him cause for concern about the relationship or behaviour of the three men, Mr Harding in fact stated:

“No, not at all. They acted just like best friends”.
20. Mr Wrigley gave evidence before me that during their fishing that day they had all had a “few beers”, but it was over the course of the day and they were not intoxicated. At dinner he recalled having a “couple” of beers, but not many as he was tired and he was eating. He stated he usually got sleepy

when he ate and drank alcohol at the same time. He recalled seeing Mr Ashton drinking “Wild Turkey” with “Coke Zero” at one stage, but was not noticing how much he drank. He could not recall seeing Mr Ashton eat dinner. He too stated that all three of them were having a good time; laughing, telling jokes and stories.

21. Mr Wrigley thought that he may have gone to bed at about 11.30-11.45pm as he knew the next day was going to be busy with fishing. He too, when asked if he had seen anything that gave him cause for concern about the relationship between Mr Ashton and Mr Van Den Broek, stated:

“Oh, no. They were good mates.”

22. Mr Van Den Broek stayed with Mr Ashton for a further period. He thought that he had gone to bed at about 1.30am. He gave evidence that when he went to bed Mr Ashton was fine and he had no cause for concern for him.

### **Wednesday 28 November 2013**

23. Mr Van Den Broek gave evidence that he woke at about 6.00am and left his accommodation and headed to the main area of the resort to start to get ready for the day’s fishing. I note that Mr Harding stated in his evidence that he recalled hearing Mr Van Den Broek leaving at about 6.00am. As Mr Van Den Broek walked towards the main building of the resort he saw Mr Ashton standing in the pool up to about chest height with his arm leaning on the side of the pool. He saw a drink nearby but did not see Mr Ashton drinking from it.
24. He stated he was surprised to see Mr Ashton still there and thought he looked “a bit tired”. The two men spoke briefly and Mr Ashton confirmed he had not been to bed. He asked Mr Van Den Broek to put some music on and Mr Van Den Broek went inside and grabbed a Bose stereo and put some music on for Mr Ashton. Mr Van Den Broek asked the deceased if he was happy with the music and he said words to the effect of “yes, mate”. Mr



Van Den Broek then went back inside to continue to prepare for the day. That was the last time he spoke to Mr Ashton and it was shortly after 6.00am.

25. Sometime later Mr Van Den Broek went out to speak to Mr Ashton but did not see him in the pool where he had previously been and assumed that he “must have gone to bed”. He continued with his work. At various stages later that morning it appears that Mr Van Den Broek, Mr Harding, Ms Quinley and Mr Wrigley were all out on the decked veranda area closest to the office chatting. No one saw Mr Ashton in the pool at any of those times.
26. Both Mr Van Den Broek and Mr Wrigley gave evidence that later that morning they discussed the fact that Mr Van Den Broek had seen Mr Ashton in the pool and that he thought he must have “gone to bed” and would not be surprised if he didn’t come fishing. Mr Van Den Broek then went to get fuel for the boat and Mr Wrigley went to get his hat to go fishing. Mr Wrigley stated that he went past Mr Ashton’s villa and noticed that he was not in his room and did not appear to have slept in the bed.
27. Mr Wrigley then met Mr Van Den Broek and told him about Mr Ashton not being in his room. At this time the men were heading back to the main building of the resort to get their final items and Mr Van Den Broek decided to check where he had last seen Mr Ashton. Mr Wrigley waited at the vehicle. He then heard what he thought was Mr Van Den Broek saying his name and then screaming. Mr Wrigley then ran into the building and towards the pool. At the same time Ms Quinley was still seated on the veranda area near the office. She too saw Mr Van Den Broek come out and then start screaming and run to the pool. Neither Ms Quinley nor Mr Wrigley knew what Mr Van Den Broek was screaming about at this time.
28. It was the evidence of Mr Van Den Broek that when he went outside he saw Mr Ashton floating face down in the pool. He ran out and dived in to the pool and dragged Mr Ashton to the side and pulled him out. He was

screaming to Mr Wrigley. It is clear from the evidence, and particularly the photographs taken of the deceased as part of the coronial brief, that Mr Ashton had been in the pool for some time. As a result, no CPR was attempted to be performed by anyone when he was found. It was patently obvious that he was deceased and had been for some time.

29. Mr Harding gave evidence that he heard the shouting and returned to the main building of the resort and discovered what had happened. As a result he called the police who attended at the resort a number of hours later after flying in from Darwin.

### **Cause of Death**

30. An autopsy was conducted by Dr Terence Sinton the following day being 29 November 2013 at 9.00am. Dr Sinton's report was part of exhibit 2 and he gave evidence before me. Dr Sinton stated there were no signs of any injury either internally or externally on the body of the deceased. There was also no evidence of any recent "bony trauma".
31. Dr Sinton gave evidence that his significant findings were that Mr Ashton had "some evidence of heart disease". This was noted in his report to be a "mildly but abnormally enlarged heart (cardiac hypertrophy) of uncertain origin". He stated that there was "physical evidence of drowning".
32. During the course of his autopsy Dr Sinton took samples of body cavity blood and urine for toxicological analysis. The result of that analysis was a concentration of alcohol in the blood of 0.239% and a concentration of alcohol in the urine of 0.37%. There were no other drugs detected. Dr Sinton agreed with me during the course of the inquest that even allowing for variations, such levels of concentration were consistent with the deceased having been "extremely drunk" at the time of his death.
33. Dr Sinton gave evidence that the impact of such a high level of concentration of alcohol in the body is that it "removes a person's mental

and physical restraints of self-defence. They are less conscious of danger”. Dr Sinton agreed that such high concentrations impacted upon a person’s “gag response significantly” and they were therefore unable to gag or cough out the water if it was inhaled.

34. Dr Sinton stated that it was his opinion that the cause of death was drowning and that this had been contributed to by his “acute alcohol toxicity”. I agree with and accept Dr Sinton’s opinion. I find that the cause of death was drowning as a result of being extremely intoxicated in the pool.

### **Further matters considered**

35. As previously noted, this public inquest occurred as a result of a request by the deceased's mother, namely Ms Ruth Ashton, for a public inquest and the raising of a number of allegations. In order to ensure that all the evidence was made available and tested, I determined that a public inquest should occur. Ms Ashton did not attend the inquest.
36. At the time of requesting that an inquest occur, a number of allegations were made by Ms Ashton concerning safety issues which had no relationship to the circumstances of this death. These allegations were repeated in an email directed to my Office on Sunday 15 March 2015 i.e. and therefore sent after all the evidence had been heard, witnesses cross examined, and the inquest had been completed. I note that there was no evidence to support a number of her allegations.
37. One of the allegations raised however concerned the provision of alcohol at the resort. In this regard I note the evidence presented before me revealed that staff were permitted to bring alcohol for their own consumption to the resort. Such alcohol was not however to be provided to guests. Whilst Mr Wrigley and Mr Ashton were paying guests at the resort and therefore should have been purchasing alcohol from the resort, I am not surprised that whilst having a break with their friend, Mr Van Den Broek, that he shared

his alcohol with them. This is what mates do and I do not consider there anything “untoward” about such behaviour.

38. I note that it was also alleged that no members of staff had “Responsible Service of Alcohol (“RSA”) certification and therefore should not have been providing alcohol to guests at the resort. I had tendered into evidence before me the RSA certificates for both Mr Harding and Ms Quinley. I also note that there was no evidence to suggest that at any time was alcohol “served” to either Mr Wrigley or Mr Ashton and it does not appear on any of the evidence that alcohol was ever purchased by either man from the resort. The bar was not “left open” and there was no evidence to suggest Mr Ashton accessed it at any time. Indeed, the evidence establishes that the resort bar was never opened on the night before the deceased died.
39. There was also concern raised as to Mr Van Den Broek leaving Mr Ashton in the pool at a time when he was intoxicated. On this issue I do not criticise Mr Van Den Broek at all. The deceased was an adult. Whilst the toxicology results show he was extremely intoxicated at the time of his death, Mr Van Den Broek only spoke with him briefly that morning and although he appeared tired, he did not recall any other obvious signs of intoxication about him.
40. I also note that there was no cause for Mr Van Den Broek to be particularly concerned about the fact that Mr Ashton was still awake and had continued to consume alcohol during the night. Both Mr Wrigley and Mr Van Den Broek gave evidence that this was something they had seen Mr Ashton do before. When Mr Wrigley was advised as to the findings of the concentration of alcohol at autopsy he gave evidence as follows:

“He was always like that. We went on a fishing trip 12 months prior and it was a 5 day trip and cost us \$3,500 each and two of the nights he didn’t even go to sleep. He was still drinking the next day. That’s just sorta who he was and it just caught up with him”.

41. I am also satisfied on the evidence that if Mr Van Den Broek had any concerns about Mr Ashton or believed he was in any danger he would have done something about it. During his evidence Mr Van Den Broek appeared still clearly distressed at the loss of his mate. When asked to describe the deceased he stated simply:

“He was a great bloke. Everyone loved Ryan. He was a great dad”.

42. I also note that both Mr Harding and Mr Wrigley recalled the distress that Mr Van Den Broek was in after locating the deceased. Mr Harding stated that he was:

“... incredibly shaken. He was just absolutely devastated. I’ve never seen a guy, sort of a look like that on somebody’s face. Yeah, he was absolutely speechless. He was trying to communicate with me but he just couldn’t even think of the words to say. He was taking it very hard. He just, he just didn’t know what to do with himself to be honest. Visibly very shaken”.

43. Likewise Mr Wrigley gave evidence that Mr Van Den Broek was:

“Very, very emotional. Distressed you know, like he was totally shocked. Yeah, yeah, very sad. He didn’t know what to do and sorta started shaking, crying and yeah...”.

44. I also do not accept any allegation that there was any “condoning of guests drinking alcohol in the pool”. I note that all of the evidence presented before me related to the consumption of alcohol by the group as they sat, ate a meal and went through photographs and video together. The only reference to anyone seeing Mr Ashton in the pool with alcohol at any time was when Mr Van Den Broek saw him in the morning and Mr Van Den Broek was clear in his evidence that he did not see Mr Ashton drink from that glass and he was not sure that the glass in fact contained alcohol.
45. There was no evidence put before me that Mr Ashton “slipped and hit his head before falling into the water” as referred to by Ms Ashton and I note there was no evidence to support any injury either externally or internally to

Mr Ashton's head. I find that there were no suspicious circumstances surrounding this death and it was a death by misadventure. Unfortunately it is yet again another example of a person drowning after getting inebriated and being unable to rescue themselves from what, under normal circumstances, would simply be a matter of gag reflex.

## **Decision**

46. 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 Ryan Leslie William Ashton who was born on 12 July 1977 in Paddington in the State of New South Wales, Australia.
  - ii. The time and place of death was sometime between 6.00am and 8.30am on 28 November 2013 at Seven Spirit Bay Wilderness Resort located on the Coburg Peninsula in the Garig Gunak Barlu National Park in the Northern Territory.
  - iii. The cause of death was drowning.
  - iv. Particulars required to register the death:
    - a. The deceased was a male.
    - b. The deceased's name was Ryan Leslie William Ashton.
    - c. The deceased was of Caucasian descent.
    - d. The death was reported to the Coroner.
    - e. A post mortem examination was carried out by Dr Terence Sinton who investigated and considered the possible causes of death on 29 November 2013.

- f. The deceased's mother is Ruth Ashton nee Ashton and his father was Leslie James Ashton (deceased).
- g. At the time of his death, the deceased resided at 306/26 Knuckey Street, Darwin in the Northern Territory of Australia.

47. I have no recommendations to make in relation to this death.

Dated this 27 day of March 2015.

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GREG CAVANAGH  
TERRITORY CORONER