



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Wayne Anthony Gillis**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO: COR 2004/1

DELIVERED ON: 19 April 2010

DELIVERED AT: Brisbane

HEARING DATE(s): 1 February 2010

FINDINGS OF: Brisbane Coroner Lock

CATCHWORDS: CORONERS: Inquest – Missing Person

REPRESENTATION:

Counsel Assisting Ms D Franklin, Lawyer, Office of the State Coroner

CORONER'S FINDINGS AND DECISION

1. These are my findings in relation to the suspected death of Wayne Anthony Gillis whose last confirmed sighting was on 27 July 1997. These findings seek to explain whether the death of Wayne Anthony Gillis has in fact happened. The *Coroners Act 2003*¹ provides that when an inquest is held into a death, the coroner's written findings must be given to the family of the person who died. These findings will be distributed in accordance with the requirements of the Act and also placed on the website of the Office of the State Coroner.

The scope of the Coroner's inquiry and findings

2. A coroner has jurisdiction to inquire into the cause and the circumstances of a reportable death. If possible he/she is required to find:-
 - a. whether a death in fact happened;
 - b. the identity of the deceased;
 - c. when, where and how the death occurred; and
 - d. what caused the person to die.

The Admissibility of Evidence and the Standard of Proof

3. Proceedings in a coroner's court are not bound by the rules of evidence because the Act provides that the court "*may inform itself in any way it considers appropriate.*"² That does not mean that any and every piece of information however unreliable will be admitted into evidence and acted upon. However, it does give a coroner greater scope to receive information that may not be admissible in other proceedings and to have regard to its origin or source when determining what weight should be given to the information.
4. This flexibility has been explained as a consequence of an inquest being a fact-finding exercise rather than a means of apportioning guilt. As already stated, it is an inquiry rather than a trial.³
5. A coroner should apply the civil standard of proof, namely the balance of probabilities but the approach referred to as the *Briginshaw* sliding scale is applicable.⁴ This means that the more significant the issue to be determined, the more serious an allegation or the more inherently unlikely an occurrence, the clearer and more persuasive the evidence needed for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.⁵
6. It is also clear that a Coroner is obliged to comply with the rules of natural justice and to act judicially.⁶ This means that no findings

¹ *Coroners Act 2003*, s45

² s37(1)

³ *R v South London Coroner; ex parte Thompson* per Lord Lane CJ, (1982) 126 S.J. 625

⁴ *Anderson v Blashki* [1993] 2 VR 89 at 96 per Gobbo J

⁵ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

⁶ *Harmsworth v State Coroner* [1989] VR 989 at 994 and see a useful discussion of the issue in Freckelton I., "Inquest Law" in *The inquest handbook*, Selby H., Federation Press, 1998 at 13

adverse to the interest of any party may be made without that party first being given a right to be heard in opposition to that finding. As *Annetts v McCann*⁷ makes clear that includes being given an opportunity to make submissions against findings that might be damaging to the reputation of any individual or organisation.

The Evidence

7. It is not necessary to repeat or summarise all of the information contained in the exhibits and from the oral evidence given, but I will refer to what I consider to be the more important parts of the evidence. In large part I have relied on the Exhibits and statements that were tendered at the Inquest. I heard from one witness, Mr Gillis' former partner Kathleen Presnell.

Introduction

8. Mr Gillis was reported missing to Queensland Police Service (QPS) by his sister, Marie Taylor, on 3 December 1997. His sister, Helen Pirie, reported him missing to NSW Police on 12 September 1997.
9. There have been no signs, reported sightings or communication with Mr Gillis since he was reported missing. Marie Taylor last saw him on 27 July 1997. Mr Gillis' defacto partner, Kathleen Anne Presnell, is uncertain when she last saw him but it was likely to have been no later than a couple of weeks later in early August.
10. At the time of his death Mr Gillis was in a defacto relationship with Kathleen Anne Presnell. They had a son, Jeremy Presnell, who was born in May 1988. Mr Gillis also has an older son, Shane Anthony Ford, to a previous relationship. Mr Gillis had been in the relationship with Kathleen on and off for about 12 years. While Mr Gillis was unemployed at the time of his disappearance, he was usually consistently employed in unskilled labouring positions in the automotive industry. It is likely that he was unemployed at this time because he had lost his drivers license earlier in 1997.

Reporting of the suspected death

11. The suspected death of Mr Gillis was reported to the Office of the State Coroner on 3 January 2004 as there had been no sign or evidence of Mr Gillis since he was reported missing. The investigating officer surmised that Mr Gillis had made a decision that he did not want to be found or was deceased and that either he had met with foul play or committed suicide.⁸
12. The initial QPS report was collated in October 2003. QPS have also provided additional reports to the Coroner dated 29 October 2003 and 28 October 2009. No information which would lead to a different conclusion, on Mr Gillis, was found.⁹

⁷ (1990) 65 ALJR 167 at 168

⁸ Report to Coroner, Missing Person, Snr Const A W Cole, 29 Oct 2003

⁹ Exhibits A1 to A5

13. NSW Police referred the file back to QPS for the continuing investigation and the matter was not reported to the NSW Coroner.¹⁰

Immediate circumstances

14. On the morning of 27 July 1997 Marie Taylor picked Mr Gillis up from the Sunnybank Railway Station for a prearranged visit. Mr Gillis spent most of the day with Marie and her family before Marie dropped him back at the train station to return home at about 5pm. This is the last time he was seen by a sibling.¹¹

15. On 18 October 1999 Kathleen Presnell was interviewed by NSW Police.¹² Kathleen Presnell stated in the interview that the relationship between her and Mr Gillis was good. One morning they were speaking “about two years ago” and he said to her that he was thinking about going to Nowra (Mr Gillis’ father lived there). Kathleen said that she was going to her sister’s for the day with Jeremy. Mr Gillis then left to “do a few things down the street” and Kathleen and Jeremy went to her sister’s. Kathleen said that when she got home later that day he was not there. Kathleen was only sure that it was a Sunday.¹³ Kathleen added that when she got home she checked the house for him and noticed that a few things were missing: his good clothing, a picture of his mother and a parachuting certificate. Kathleen did not hear from Mr Gillis again.¹⁴

Background

16. Mr Gillis’ family background appears to be fairly standard. He lived with both parents and three older siblings. Mr Gillis’ parents remained together until his mother died in 1987. Mr Gillis appears to have been close to his parents. Kathleen stated that he took the photo of his mother when he left the residence and Marie said that his father was anxious that he had not come to see him in October 1997. Mr Gillis also had a network of friends.

17. The defacto relationship between Gillis and Kathleen had occurred on and off over a period of about 12 years. Marie said in her statement that they “seemed to regularly separate”.¹⁵ The couple had a son Jeremy in May 1988. Kathleen also had four children from a previous relationship. During a 2 year period of separation the couple were involved in a contact dispute over their son. During the dispute Kathleen accused Mr Gillis of sexually abusing their son. This was investigated by police but no charges were laid. During the times that Kathleen and Gillis had split up Kathleen states that Mr Gillis usually did contact Jeremy “every now and then”.¹⁶ Jeremy Presnell would now be 21 years of age but NSW police attempts to contact him for a

¹⁰ Letter from the NSW Coroner’s Office dated

¹¹ Statement of Marie Taylor dated 27 August 2003

¹² Transcript (Exhibit D9). The Audio recording of the interview could not be located by NSW Police.

¹³ Transcript (Exhibit D9). p3

¹⁴ Transcript (Exhibit D9). p4

¹⁵ Statement of Marie Taylor dated 27 August 2003 p3

¹⁶ Transcript (Exhibit D9). p16

statement were unfruitful. Kathleen told the Court that he lives with her in NSW and it is apparent his father has not been in contact with him.

18. The relationship between Mr Gillis and Kathleen seemed dysfunctional. Kathleen states that Mr Gillis often talked of going to live in the bush, doing odd jobs and growing his own vegies and stuff.¹⁷ Kathleen also stated to police that Mr Gillis had disappeared before and not told anyone – “Things got too hectic” for him.¹⁸ He had disappeared for a “couple of months”.¹⁹
19. Mr Gillis had maintained contact with his family and, prior to his disappearance, visited them regularly. Mr Gillis had lost his driver’s licence in early 1997 and often had mechanical problems with his cars in any event, so when he went to visit his sister, Marie, he often took the train and Marie would pick him up and drop him back at the station.²⁰
20. Mr Gillis had an older son, Shane Anthony Ford, to a previous relationship who is now 33 years of age. At the time of Mr Gillis’ disappearance Shane was incarcerated at Borallon Correctional Centre. Mr Gillis visited Shane every three to four weeks. In his statement Shane said that “some time in August 1997, police came to talk to me about Dad. They asked when I last saw dad and how often I would see him. They told me that he had gone missing when he was travelling to New South Wales to see family.”²¹
21. Marie rang to speak to Mr Gillis, at his last place of employment, in September 1997 to tell him that their father was coming up in October for a visit. Marie was advised that Mr Gillis no longer worked there and had lost his licence in May 1997.²² Marie wrote to him in October 1997 to tell him about their father’s upcoming visit and asked him to contact her. Marie heard nothing. On 22 October his father arrived at Marie’s house and Marie sent him another letter but again there was no response. On 25 October Marie drove to Ipswich to see if she could find Mr Gillis as their father was anxious.²³ Marie stated to police that Kathleen told her that Mr Gillis had gone south to Nowra for family, work and had expected to have heard from him by that stage.²⁴
22. Marie contacted their sister Helen who lived in Nowra. Helen contacted Mr Gillis’ friends in the area to see if he had been in contact. No evidence of Mr Gillis having arrived at Nowra was found. Mr Gillis did not contact his father, Helen, his brother or friends in the area. Helen

¹⁷ Transcript (Exhibit D9). p7

¹⁸ Transcript (Exhibit D9). p14

¹⁹ Transcript (Exhibit D9). p14

²⁰ Statement of Marie Taylor dated 27 August 2003

²¹ Statement of Shane Anthony Gills (aka Ford) dated 20 July 2008.

Ford states that police came to see him in August of 1997 to ask about the disappearance of his father. Other police documentation says that the disappearance was not reported to Qld Police until 3 Dec 1997 and NSW Police on 12 Sept 1997. This discrepancy may be the result of time considering the statement was not taken from Ford until 2008.

²² Statement of Marie Taylor dated 27 August 2003 p3

²³ Statement of Marie Taylor dated 27 August 2003 p3

²⁴ Statement of Marie Taylor dated 27 August 2003 p4

sought information from the Salvation Army, Centrelink and NSW Police but no evidence of Mr Gillis having arrived was ever found.²⁵

23. In December 1997 Marie visited Mr Gillis' son Shane in Woodford Prison. Shane said he had not heard from his father. Marie visited Shane again in May of 1998 and he had still not heard from his father.²⁶
24. Marie returned to Ipswich and the residence Mr Gillis shared with Kathleen Presnell in January 1998. Marie stated that Kathleen said she had not heard from Mr Gillis or seen him leave. On this occasion Marie and Kathleen also spoke about the Australian Taxation Office (ATO) and Mr Gillis' tax return. Kathleen said that Mr Gillis had received a tax return and they had bought about \$300 worth of groceries and that she assumed that Mr Gillis had the remainder with him. When Marie went back to the residence in August 1998 to see Kathleen again new people were living at the house.²⁷
25. Mr Gillis had given no indication to Marie that he was going to commit suicide but she acknowledged that Mr Gillis was generally disappointed with aspects of his life and "that he would have changed certain things if he could have."²⁸ Kathleen was not concerned about suicide or that he may be dead. She stated to police that she assumed he was alive in 1999.²⁹
26. Mr Gillis had a close relationship with his family and was in regular contact prior to his disappearance.³⁰ Marie stated to police that "in my opinion I think that it is very much out of character for Wayne [Gillis] not to have kept in touch with his two sons especially Jeremy. I knew from personal experience that he was very fond of Jeremy and I am sure that Wayne would make every effort to keep in touch with both of them."³¹
27. Mr Gillis maintained his relationship with his eldest son, Shane, with regular visits even while Shane was incarcerated for a period of about 2 years. Shane and his aunts and uncle have maintained contact since Mr Gillis' disappearance.³²
28. However the state of Mr Gillis' relationship with Kathleen Presnell was not clear. The couple lived together but the relationship appeared dysfunctional even with Kathleen's description of it as being okay before Mr Gillis disappeared. They were "on and off" and Mr Gillis, based on what Kathleen said to police, had just disappeared previously for a couple of months when things got difficult for him. Kathleen had made allegations of sexual interference by Mr Gillis with their son

²⁵ Statement of Marie Taylor dated 27 August 2003 p4

²⁶ Statement of Marie Taylor dated 27 August 2003 p4 -5

²⁷ Statement of Marie Taylor dated 27 August 2003 p5-6

²⁸ Statement of Marie Taylor dated 27 August 2003 p6

²⁹ Transcript (Exhibit D9). p16

³⁰ Statement of Shane Anthony Gills (aka Ford) dated 20 July 2008. Statement of Marie Taylor dated 27 August 2003

³¹ Statement of Marie Taylor dated 27 August 2003 p7

³² Statement of Marie Taylor dated 27 August 2003. Statement of Shane Anthony Gills (aka Ford) dated 20 July 2008

during an off period in the relationship when Mr Gillis was actively seeking contact with Jeremy. During the interview with NSW Police based on what she recalled about the allegations, they were made on seemingly flimsy reasons. Even after this the couple got back together and spoke of marriage according to Marie.³³ Marie also noted that Mr Gillis' and Kathleen's relationship was intermittent but that her brother was "very fond" of his son. Mr Gillis also maintained contact with his son during the period that he and Kathleen separated. Kathleen stated that Mr Gillis was a generous man who could have bad days but there was no allegation of domestic violence. There is no indication that he was a violent person at all.

29. Two years before he disappeared, 1995, Mr Gillis received a relatively large inheritance of around \$50,000 but there is no indication of where this money went. It does not appear to have been recorded with any of his known banks and there does not appear to be any property or assets which may be related to the money. It is unknown whether he was with Kathleen at this time and she denies any knowledge of the inheritance at all
30. The only asset he had was a motor car which she sold but she stated she could not remember what she sold it for. She said the vehicle had been registered into her name by Mr Gillis so she could learn to drive, presumably enabling her to sell the vehicle, although there is evidence that the registration had been automatically cancelled on 25 April 1997, some months prior to his disappearance. This vehicle may have been bought from his insurance payout which it was thought he had paid \$20,000.
31. There is no evidence that Mr Gillis suffered with any mental illness. The only substantial medical issues in his past were the severe leg injuries and subsequent scarring he suffered as a result of a motor vehicle accident 11 years before his disappearance.³⁴ QPS ascertained from Medicare that Mr Gillis had not accessed any benefits since his disappearance up until Oct 2009.³⁵
32. Kathleen stated to police that Mr Gillis had a problem with alcohol at times. No one else mentioned a problem with alcohol and there is nothing on Mr Gillis' traffic or criminal history to show he had a problem with alcohol. There is no indication of other drug abuse problems.
33. The evidence of Kathleen Presnell was vague but that could well be as a result of the 11 years since the events around the time of his disappearance. I got no impression that she had been actively involved in his disappearance. She was not interviewed formally for over two years and given her somewhat dysfunctional existence this delay was not particularly helpful in ensuring what she said was to her best recollection.

³³ Statement of Marie Taylor dated 27 August 2003 p

³⁴ Report to Coroner, Missing Person, Snr Const A W Cole, 29 Oct 2003 p3

³⁵ Statement of W P McDonnell dated 1 Oct 2009

Police investigation

34. Police conducted checks with the ATO which showed that a refund cheque was sent to Mr Gillis on 6 August 1997 for \$1,115.³⁵ A cheque for \$1053.85 was deposited into Mr Gillis' bank account on 11 August 1997. The amounts vary but not a lot turns on that.
35. Police also discovered that Mr Gillis had received two large sums of money in the past. The motor vehicle accident resulted reportedly in a payout of about \$60,000.³⁶ In 1995 Mr Gillis received an inheritance in the vicinity of \$50,000 but there is no indication where or how this money was spent. The cheques for the inheritance were sent to his sister Marie's address from the solicitor and the first cheque for \$45,000 was a bank cheque.³⁷ This amount was not deposited in the NAB account held by him which police have confirmed never had any significant money deposited into it.
36. Mr Gillis' Bank of Qld account last transaction was 18 December 1997 - The last 3 withdrawals were on 18 August 1997 at an ATM in Booval and Ipswich and a Woolworths store. This account was where Mr Gillis had his Centrelink funds sent. The last deposit was from Centrelink on 18 August 1997.³⁸
37. Centrelink have not dealt with Mr Gillis personally since 12 June 1997 and his address was still Olmai Ave Eastern Heights (Ipswich).
38. Checks with Immigration showed that Mr Gillis did not leave the country under his correct name.
39. Medicare was last accessed in early August 1997
40. QPS registered Mr Gillis as missing Australia wide and the internet and media were used by family in an attempt to find Mr Gillis or someone that had seen him.³⁹
41. QPS have family DNA samples on file for comparison.

Conclusions

42. As with most missing person cases, there are missing links which are confounding. There is no evidence that Mr Gillis is dead just circumstantial evidence that he is not living. This circumstantial evidence compellingly leads one to the conclusion that on the balance of probabilities Mr Gillis is dead.
43. This is an era of increasing need to be on 'the system' somewhere to access any assistance. Even though there were aspects of his life which were difficult, some may say dysfunctional, for Mr Gillis to be alive he would have had to have severed all contact with his immediate and extended family. To remain missing this long was very unusual and out of character. Mr Gillis actively maintained contact with his family including his two sons prior to his disappearance. There has

³⁶ Statement of W P McDonnell dated 1 Oct 2009

³⁷ Exhibits E1

³⁸ Qld records (Exhibit C1)

³⁹ Report to Coroner, Missing Person, Snr Const A W Cole, 29 Oct 2003

been no ATO, Medicare or Centrelink activity for Mr Gillis. Mr Gillis has not accessed his bank account since 1997 nor opened any additional bank accounts. QPS searches of relevant government departments and interstate police services have proved negative.

44. Mr Gillis from what has been told was not involved in any activities which may have brought him into contact with persons who may want to do him harm. He had a limited traffic history only and clearly took the law seriously as it was evident that he was not driving after his licence was cancelled. There is no suggestion someone would want to do him harm.
45. There is no evidence which would suggest he was in a precarious state of mind such that he would want to do himself harm, although that possibility cannot be excluded absolutely. Many people who take their own lives hide such thoughts and feelings from family and friends.
46. If he had been involved in an accident somewhere on his journey one would have expected that to have been reported.
47. Mr Gillis has been missing for over 12 years and would now be 56 years of age.
48. The questions in relation to the money Mr Gillis had received in 1995 may hold some of the keys to the unanswered questions. It was received two years prior to his disappearance and it appears that much of it had gone or was tied up elsewhere around the time he went missing. Where that money went is just another piece of confounding evidence which makes the mystery of what happened to him difficult to comprehend.
49. Although police have concluded that Mr Gillis may have met with foul play or committed suicide, equally he could have died of natural causes or met with an accident. One of these propositions has occurred but which one is largely speculative and there is insufficient evidence to come to any sensible conclusion. It is likely that if any of these events occurred that this happened whilst he was travelling, probably to visit his father in Nowra in New South Wales after mid August 1997.

S45 findings:

- a) I find that the missing person Wayne Anthony Gillis is in fact deceased.
- b) That the deceased person is Wayne Anthony Gillis.
- c) How he died is unknown. QPS surmise that it was suicide or foul play although due to the passing of time a natural death or accident should also be considered.
- d) When he died is unknown and unlikely to be known with any certainty but is likely to have been after mid August 1997.
- e) Where he died is unknown but it is likely to be in Queensland or New South Wales.

- f) The cause of his death is unknown and unlikely to be known. In the event that further evidence or relevant material becomes available the inquest can be reopened.

S46 Recommendations

That police take formal statements from family and friends much earlier in the investigation so that the memory of the major witnesses is clearer and more assistance to the investigation.

My condolences are expressed to the family of Mr Gillis. I close this inquest.

John Lock
Brisbane Coroner
19 April 2010