



CORONERS COURT OF QUEENSLAND

FINDINGS OF INVESTIGATION

CITATION: **Non-inquest findings into the death of Trevor Lewis TOMS**

TITLE OF COURT: Coroners Court

JURISDICTION: SOUTHPORT

DATE: 13/12/2016

FILE NO(s): 2013/695

FINDINGS OF: James McDougall, Coroner

CATCHWORDS: CORONERS: motor vehicle accident; management of epilepsy; alcohol involvement; medication; reporting of medical condition to Department of Transport and Main Roads

Counsel Assisting: Rhiannon Helsen

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Background

Trevor Lewis Toms was 47 years old. He lived at Unit 92/672-718 Nerang-Broadbeach Road, Carrara. He had suffered from epilepsy for about 15 years. This was managed by the prescription medication Epilim (sodium valproate).

Mr Toms had served 21 years in prison for serious sexual offences. He was released in 2006 and placed on a strict Supervision Order pursuant to the *Dangerous Prisoners (Sexual Offenders) Act (DPSOA) 2003*. He was returned to prison for a short period in 2009 before being released in December of 2009. He was being managed in the community by specialist staff from the High Risk Offender Management Unit. In November 2011 his Supervision Order under the DPSOA ceased.

At about 9:30pm on 22 February 2013, Mr Toms was involved in a two vehicle motor vehicle collision on the Mount Lindesay Highway at Beaudesert. After a meal at the Beaudesert RSL, Mr Toms left the premises at about 9:20pm in his red Toyota Camry. He was said to be in good spirits. For reasons unknown, Mr Toms drove away from Beaudesert along the Mount Lindesay Highway. The Mount Lindesay Highway is a straight, bi-directional single flow roadway separated by a marked unbroken centre line. The speed limit for the roadway is 100 kilometres per hour. There are gravel shoulders on either side of the roadway, as well as a deep drop off on the western side. Rural properties line either side of the roadway. The area is very dark and there is no street lighting.

According to witnesses, Mr Toms' vehicle was seen to drive up 'quite quickly' behind another vehicle driven by Mr NCG travelling in the same direction. After straddling the centre line for a short time, Mr Toms was seen to overtake Mr NCG's vehicle and accelerate heavily as he pulled away. Mr Toms continued to drive on the incorrect side of the road at speed, making no attempt to return to the correct lane. According to Mr NCG, Mr Toms' vehicle appeared to be well-controlled and continued driving in a straight line.

Mr DB and his wife, Mrs SB were travelling in the opposite direction along the Mount Lindesay Highway towards Beaudesert in their Nissan Patrol four-wheel drive. There were no vehicles directly in front of or behind them. Mr DB recalls seeing lights from a vehicle (Mr NCG's vehicle) approaching in the opposite direction, which appeared to be a fair distance away. He then saw another vehicle (Mr Toms' vehicle) approaching, which seemed to be travelling in his lane; that is on the incorrect side of the roadway. Mr DB assumed that the vehicle was in the process of overtaking. He thought this was dangerous and recalls saying to his wife '*What's this idiot doing?*' According to Mr DB, he does not recall seeing the headlights of Mr Toms' vehicle at any time except when he initially appeared to be overtaking Mr NCG's vehicle. A short time later, Mr Toms collided head-on with Mr DB's vehicle.

Mr DB recalls that Mr Toms' vehicle suddenly appeared in his headlights and he did not have sufficient time to brake or change his position on the roadway. Shortly prior to the collision, Mr NCG stopped his vehicle and called 000 for assistance.

Mr Toms suffered multiple injuries as a result of the collision and was pronounced deceased at the scene. Mr DB and Mrs SB also suffered extensive serious injuries and were transported to Royal Brisbane Hospital and Princess Alexandra Hospital respectively. They each underwent surgery for treatment of broken bones and serious internal injuries.

Autopsy

An external and partial internal autopsy was performed on 26 February 2013. This included a number of histology and toxicology tests.

Extensive major injuries were found at autopsy which included severe comminution of the skull with severe laceration of the brain, multiple long bone fractures of the limbs, rib fractures, spinal fractures and lacerations of the heart, aorta, liver and spleen. Toxicology tests showed a blood alcohol level of 0.29mg/100mL. Tetrahydrocannabinol (THC) and its metabolite were also detected on analysis.

The cause of Mr Toms' death was found to be multiple injuries due to or as a consequence of a motor vehicle accident.

A Forensic Medical Officer was asked to comment on Mr Toms' blood alcohol reading. The Forensic Medical Officer commented that as the blood was taken from Mr Toms' chest cavity and that he had ruptured his stomach and liver, it is likely the blood alcohol concentration had been contaminated by the content of liver and stomach. However, the Forensic Medical Officer commented that in any event, Mr Toms' alcohol level was significantly high.

Police Investigation

The accident was investigated by officers of the Logan Forensic Crash Unit. They found that there was no evidence of the involvement of any other motor vehicles apart from Mr Toms' vehicle and Mr DB's four-wheel drive. The investigation found that both vehicles were in reasonable mechanical condition and they had no features that in any way contributed to the cause of the accident.

Mr Toms' Medical History

In May 2012 Mr Toms became a patient of Dr S at Nerang. According to medical records, Mr Toms consulted Dr S on eight occasions prior to his death. During the initial consultation on 15 May 2012 Mr Toms told Dr S that he was taking Epilim and Nexium for epilepsy.

During the final consultation on 9 January 2013 Mr Toms told Dr S that he had experienced two seizures since his previous visit in December 2012. This was the first time Mr Toms had told Dr S that he had suffered from seizures. It was Dr S's understanding that Mr Toms' epilepsy was well managed with medication. Dr S subsequently advised Mr Toms not to drive until further advised by him. He requested Mr Toms return to the surgery in a week to review his condition and undertake a pathology test to measure the medication level in his blood. Despite this request, Mr Toms did not return to see Dr S prior to his death. Pathology tests revealed a low level of Epilim in Mr Toms' blood. This suggested Mr Toms may not have been taking his epilepsy medication as prescribed.

According to Mr Toms' friend, Ms ET, who provided support to him as a Chaplain when he was incarcerated, he had suffered from epilepsy for which he took medication. He told Ms ET that he had suffered seizures while in prison.

Following Mr Toms' release from prison in 2009, Ms ET remained in constant contact with him, providing support and assistance.

In November 2012, Ms ET recalls that she witnessed Mr Toms having a seizure whilst at her residence. During this seizure, which lasted for around two minutes, Mr Toms appeared dazed and was mumbling unrecognisable words. He did not respond to words and had no recollection of what had occurred afterwards.

In January 2013, Ms ET recalls that Mr Toms had another seizure while at her residence, during which his head was turning from side to side and he was staring upwards. This episode lasted for a couple of minutes.

On 24 January 2013, Mr Toms was driving Ms ET when he had another seizure. On this occasion Mr Toms appeared dazed and was looking up whilst his head was moving from side to side. Without success, Ms ET shouted and shook him in an attempt to get him to respond. During this time his hands were on the steering wheel and the vehicle accelerated as it veered to the right. Ms ET attempted to steer the vehicle, managing to correct it so that it was travelling straight. After a short time Mr Toms came to and took control of the vehicle. He had no recollection of what had occurred. Ms ET told Mr Toms he needed to see his doctor for treatment of his condition.

On 27 January 2013, Mr Toms reportedly had another seizure whilst he was a passenger in Ms ET's vehicle. On each of the occasions he had seizures while in Ms ET's company, it had been after a very busy day and Mr Toms was tired.

Medical history whilst incarcerated

Queensland Corrective Services records confirm that Mr Toms was medically assessed upon his admission to Brisbane Correctional Centre in January 2009. It was noted that he suffered a 'seizure disorder' which dated back to 1998. He reportedly suffered an episode eight weeks prior to his incarceration, before which he had not had an event for the past four and a half years. Records from the Numinbah Correctional Centre where he had served a period of imprisonment between July 2001 and March 2006 suggest that he had experienced a number of seizures which were attributed to welding flash. His episodes were said to have been predominantly at night and involved tongue and mouth biting, as well as falls out of bed.

He was prescribed Epilim 100mg nocte (sodium valproate) to manage his condition. Throughout his incarceration, records suggest that Mr Toms consistently took his epilepsy medication as prescribed. His sodium valproate levels were tested on 9 February 2009 and found to be in the therapeutic range.

Upon release from prison in 2009 Mr Toms was provided with relevant discharge information to present to his general practitioner and he was given a seven day supply of his medication.

While being managed on a DPSOA order between 2006 until 2011 there was no indication that Mr Toms was not compliant with his epilepsy medication. The only seizure he reportedly suffered during this time was on 24 May 2011 when he sought treatment from Royal Brisbane Hospital. Following this event his licence was 'suspended' by his treating medical practitioner during which he utilised public transport.

Requirement to report a medical condition to DTMR

Following the inquest into the circumstances of the death of Jet Rowland, DTMR made a number of legislative changes to the medical condition reporting requirements for Queensland drivers.

Queensland driver licence holders are now required to promptly tell DTMR of a long-term or permanent condition, such as epilepsy, which is likely to adversely affect their ability to drive safely. Drivers are required to advise DTMR as soon as a condition develops, or if there will be a long-term increase to an existing condition. Furthermore, when applying for a Queensland driver's licence, applicants are required to disclose if they suffer from a medical condition that may adversely affect their ability to drive a car safely. A medical certificate may then be required confirming a person's fitness to drive. If a person does not report an

applicable medical condition and continues to drive, various financial penalties or a possible term of imprisonment, as well as disqualification and suspension of driving can be enforced.

It does not appear that Mr Toms ever advised DTMR that he suffered from epilepsy.

Conclusion

Mr Toms was 47 years of age when he died as a result of injuries suffered in a head-on collision whilst driving along the Mount Lindesay Highway.

Mr Toms suffered from epilepsy which seemed to have been well managed for a considerable length of time. During his lengthy term of incarceration it does not appear that he suffered from regular epileptic seizures. Rather, there were many years where he did not experience any episodes. He was compliant with taking his medication during this time. While on a DPSOA Supervision Order in the community there was no evidence to suggest that he wasn't compliant with his epilepsy medication and only one seizure of note was recorded. However, according to Mr Toms' friends, he had experienced a number of seizures in the months before his death. He spoke to his treating general practitioner in January 2013 and was told not to drive until his treatment regime had been reassessed and corrected. Despite this and despite pleas by Ms ET, Mr Toms continued to drive. It is hardly surprising that he never reported his medical condition to DTMR as required.

The Forensic Crash Unit investigation conducted into Mr Toms' death was extensive and appropriate. Unfortunately, it is not clear what actually caused Mr Toms to travel at speed on the wrong side of the road resulting in a head-on collision. From the information provided by Ms ET it seems clear that Mr Toms' actions may have been as a result of an epileptic seizure. Toxicology testing, however, from post-mortem chest cavity blood samples suggests that Mr Toms was also affected to some degree by alcohol and cannabis. Although it is possible that Mr Toms suffered an epileptic seizure which caused him to accelerate and remain on the incorrect side of the road, it is also possible he may have fallen asleep as a result of being intoxicated and cannabis affected.

Given that a definitive cause of Mr Toms' fatal actions cannot be determined by way of further investigation or inquest, and there are no recommendations which could be made to prevent a similar death from occurring in the future, the public interest would not be served by the holding of an inquest. I propose to close the coronial investigation.

I close the investigations.

James McDougall
Coroner
Southeastern Region
28 November 2016