



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of Leanne Margaret Sleba**

TITLE OF COURT: Coroner's Court

JURISDICTION: Toowoomba

DELIVERED ON: Friday 24th June 2011

DELIVERED AT: Brisbane

HEARING DATES: 23, 24, 25 May 2011

PLACE OF HEARING: Toowoomba

FINDINGS OF: Coroner Tina Previtera

CATCHWORDS: Gunshot/Accidental/Criminal Negligence
Intentional/Open Finding

REPRESENTATION:

Counsel Assisting the Coroner: Mr Justin Harper, Barrister at Law

Counsel Representing
Geoffrey Sleba: Mr. Peter Davis, Senior Counsel
Mr. Tony Entriken, Junior Counsel, Instructed By
Deacon and Milani, Solicitors of Brisbane

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Introduction

- [1] These findings arise out of an inquest into the cause and circumstances of the death of Leanne Margaret Sleba who was born on 30th April 1974 and died on 24th April 2008, at “Dunton West”, 129 Kingsthorpe Haden Road, Kingsthorpe. Leanne lived there with her husband Geoffrey Sleba and their four children, Rodney, Gerard, Natalie, and Andrew. Leanne Sleba was a dedicated, hardworking and much loved woman who cared full-time for the four children of the marriage.
- [2] There is no dispute that Leanne died as a result of a gunshot wound to the back of her chest; the shot having discharged from a Boito shotgun held by her husband Geoffrey who was standing behind her at the time. The ultimate issue for determination is whether the shooting was accidental, intentional, criminally negligent or unable to be determined.
- [3] The *Coroners Act 2003* (“the Act”) provides in S.45 that a Coroner’s written inquest findings must be given to the family of the person who died, each of those persons or organizations granted leave to appear at the inquest and to various officials with responsibility for the subject matter of any recommendations. Accordingly, Leanne’s family and Geoffrey Sleba’s legal representatives will be provided with copies. The findings will also be posted on the website of the Office of the State Coroner. There are no other persons or organisations involved in the inquest.

The scope of the Coroner’s inquiry and findings

- [4] In relation to any reportable death, a Coroner has jurisdiction to inquire into the cause and the circumstances of it, and in investigating any such death, must find, if possible:-
- (a) who the deceased person is; and
 - (b) how the person died; and
 - (c) when the person died; and
 - (d) where the person died, and in particular whether the person died in Queensland; and
 - (e) what caused the person to die.¹
- [5] There has been considerable litigation concerning the extent of a coroner’s jurisdiction to inquire into the circumstances of a death. The authorities clearly establish that the scope of an inquest goes beyond merely establishing the medical cause of death.
- [6] Despite that, an inquest is not a trial between opposing parties but an inquiry into the death. In a leading English case it was described in this way: “It is an inquisitorial process, a process of investigation quite unlike a criminal trial where the prosecutor accuses and the accused defends... The function of an inquest is to

¹ Section 45(2) of the Act.

seek out and record as many of the facts concerning the death as the public interest requires.”²

- [7] The focus is on discovering what happened; not on ascribing guilt, attributing blame or apportioning liability. The purpose is to inform the family and the public of how the death occurred, with a view to reducing the likelihood of similar deaths. As a result, the Act authorises a coroner to make preventive recommendations concerning public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in future.³ In making findings or recommendations, however, a coroner must not include statements that a person is or may be guilty of an offence or is or maybe civilly liable for something.⁴

The decision to hold an inquest

- [8] It has been submitted by Geoffrey Sleba’s legal representatives⁵ that, by reason of correspondence from the Office of the State Coroner to Geoffrey Sleba, dated 21 July 2010⁶; and comments made by me at the pre-inquest conference on 20th January 2011⁷; that the inquest has been improperly embarked upon.
- [9] Whilst the Office of the State Coroner wrote to Geoffrey Sleba in July 2010 advising that no inquest would be held, the investigation was not finalised by the publication of findings and a subsequent decision was made that, given the circumstances of Leanne’s death, an inquest would be held. As advised to the legal representatives for Geoffrey Sleba,⁸ at the time of deciding to hold an inquest, I considered that it was in the public interest to hold an inquest. I have remained at all times since then, of that view.

The admissibility of evidence and the standard of proof

- [10] A coroner’s court is not bound by the rules of evidence. The Act provides that the court “may inform itself in any way it considers appropriate.”⁹ 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.

² *R v South London Coroner*; ex parte Thompson (1982) 126 S.J. 625

³ Section 46 of the Act

⁴ Sections 45(5) and 46(3) of the Act

⁵ Exhibit E5.

⁶ Exhibit E1.

⁷ Exhibit A4.

⁸ Exhibit E8.

⁹ Section 37 of the Act

- [11] This flexibility has been explained as a consequence of an inquest being a fact-finding exercise rather than a means of apportioning guilt; an inquiry rather than a trial.¹⁰
- [12] 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.¹¹ This means that the more significant the issue to be determined or the more serious an allegation, as in this case; or the more inherently unlikely an occurrence; then the clearer and more persuasive the evidence should be in order for the trier of fact to be sufficiently satisfied that it has been proven to the civil standard.¹²
- [13] It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially.¹³ This means that no findings 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*¹⁴ 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.
- [14] If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed an offence, or reasonably believes that the information may cause a disciplinary body for a person's profession or trade to inquire into, or take steps in relation to, the person's conduct, then the coroner may, in relation to the former, give the information to the director of public prosecutions (or the chief executive of the relevant department which created the offence)¹⁵ or in the latter circumstance, give that information to the relevant disciplinary body.¹⁶

Background

- [15] Leanne Sleba was 33 years of age, and had been married to Geoffrey Sleba for approximately 13 years, at the time of her death on the 24th April 2008.
- [16] On the day of her death, Leanne returned home with the children at approximately 8.00pm and parked the car in the four-bay shed adjoining the family home. According to Geoffrey Sleba, he arrived home between 8.45 and 9.15pm and told Leanne he had seen a snake going into the shed. They both searched for the snake but could not find it and so they went inside and had their dinner. At about 10 p.m. they both went out to the shed again to look for the snake. Geoffrey Sleba was carrying a Boito12 gauge shotgun which he had taken from a cupboard in the laundry of the house and which he loaded on the way to the shed, taking an extra

¹⁰ R v South London Coroner; ex parte Thompson per Lord Lane CJ, (1982) 126 S.J. 625

¹¹ Anderson v Blashki [1993] 2 VR 89 at 96 per Gobbo J

¹² Briginshaw v Briginshaw (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

¹³ 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 (1990) 65 ALJR 167 at 168

¹⁴ S.48(2) of the Act.

¹⁵ S.48(2) of the Act.

¹⁶ Section 48(4) of the Act

shot in the pocket of his shirt. Leanne and Geoffrey searched the shed, moving items within the shed, but failed to find the snake.

- [17] Leanne, having, before the earlier search, reversed her car out of the shed in order to search for the snake, drove the car back into the shed. Leanne then got out of the driver's door where Geoffrey was standing. She walked in front of Geoffrey out of the shed. Geoffrey Sleba states that as Leanne was walking out of the shed away from him, an eastern brown snake crossed his feet, causing him to jump and resulting in the discharge of the shotgun. Geoffrey was holding the shotgun in his right hand, with the safety switch in the "off" position, the hammer cocked, the barrel pointing to the floor and his finger on the trigger. The firearm discharged into the left back of Leanne's chest, knocking her to the ground.
- [18] Geoffrey Sleba called 000 and his father Rodney Sleba, who in turn phoned other relatives who lived nearby. Geoffrey's cousins, Geraldine and Madonna Sleba were the first to arrive. They both saw Geoffrey on his mobile phone, holding Leanne, crying¹⁷ and distraught.¹⁸ Geoffrey, Geraldine and Madonna attempted CPR under the direction of a 000 operator while they waited for QAS to arrive. When QAS arrived, Leanne was located lying deceased beside one of the roller doors in front of the shed. QAS transported her to the Toowoomba Base Hospital where a life extinct certificate was issued at 5.30 a.m. on the 25th of April 2009.

The investigation

- [19] At 10.20pm on 24th April 2008, Detective Sergeant David Briese, travelled to the scene with Senior Constables Mark Penberthy and David Hall. Constable Troy Cameron and Senior Constable Scott Bronkhurst were already there with ambulance vehicles and other police officers. Geoffrey Sleba was observed by police, lying on top of Leanne Sleba in front of the four-bay shed, crying. Geoffrey's father Rodney Sleba was present, as were other family members of Geoffrey and Leanne Sleba.
- [20] A crime scene was established by Sergeant David Briese and examined by Toowoomba Scenes of Crime Officers. A crime scene log of events was commenced. A crime scene warrant was obtained. A scientific officer and the Toowoomba Accident Investigation Unit were organised to attend. Numerous photographs were taken. An interactive disk and scale diagram showing the incident scene were completed. Swabs of Geoffrey Sleba's hands were obtained. A fingerprint examination of the shotgun was conducted. (It found no latent fingerprints).
- [21] A field tape interview with Geoffrey Sleba was conducted by Police officers Briese, Hall, Penberthy, Lowe, and Ford at the scene.¹⁹ In it, Geoffrey Sleba said that he saw a snake going into the shed but a search could not locate it; he told Leanne and

¹⁷ Statement of Geraldine Sleba – Exhibit B2.27

¹⁸ Statement of Madonna Sleba – Exhibit B2.29

¹⁹ Exhibit C9.

they both went to the shed to search for it; Leanne saw the snake at the back of the shed and so they went to that corner and searched but couldn't find the snake; Leanne then reversed the car out of the shed and during a second search they still could not find it. Leanne drove the car back in and alighted from the driver's seat walking in front of Geoffrey who was "pretty close" behind her. A snake then crossed Geoffrey's feet, he jumped and as he did so, the shotgun accidentally discharged into Leanne's back.

- [22] From the scene, Geoffrey Sleba telephoned his solicitor Tom Sullivan and told him that he and Leanne were in the garage looking for a snake and he was coming out, having decided that they were not going to find it, when a snake came across his foot. He "sort of jumped, touched it, the gun went off" shooting Leanne in the back.
- [23] A search was conducted of the family dwelling during which two computer hard drives were seized, as well as two other firearms and ammunition found in an unlocked laundry cupboard. Names, contact details and versions from other persons already on the property, were taken. Geoffrey Sleba's clothing was seized as were two mobile phones belonging to him. The 12 gauge shotgun, the spent cartridge and the spare shell were also seized for examination. The police also seized from the family home, a DVD of an episode of the Channel 9 'Underbelly' series, being the reenactment of the shooting of Benji Veniamin by Mick Gatto.
- [24] Geoffrey Sleba then voluntarily accompanied Senior Constable David Briese and Plain Clothes Senior Constable Mark Penberthy to the Toowoomba police station with his father Rodney Sleba where he participated in an electronic record of interview commencing at 1.53 a.m. on the 25th of April 2009.²⁰ Geoffrey's solicitor Tom Sullivan was present during the interview, in which Geoffrey Sleba provided a handwritten statement, a handwritten diagram of the shed on the property,²¹ and an oral version of events.
- [25] In his oral version of events Geoffrey Sleba stated that he arrived home between 8.45 and 9.45; saw a snake "just casually going into the garage" door second from the left which was open about 10-12 inches; he thought it was a brown snake and he shut the door. Geoffrey then told Leanne and they went together to the garage, taking a shovel from a ute on the way. Leanne reversed the Landcruiser out of the garage and they searched for the snake but could not find it. They then shut the garage and went into the house and had their dinner. After Leanne expressed concern to Geoffrey that the children might be in danger from the snake if it was still around when the children went out to get extra milk from the fridge, as they regularly did, Leanne and Geoffrey returned to the garage. Geoffrey took a Boito 12 gauge shotgun (from an unlocked laundry cupboard also containing a .410 shotgun, a 30.06 single shot rifle and ammunition).
- [26] Geoffrey Sleba stated to police that he took the Boito because the Boito "gives a wider angle of shot", "has a lot more power" and "you can be further away and still kill the snake". With the No. 6, "the shot doesn't spread as wide" and "you have to

²⁰ Exhibit C13.

²¹ Exhibit C3.

be on top of the snake to have a good shot at it". As Geoffrey walked to the garage, he loaded 1 shot shell into the Boito and turned the cross bolt safety device to the "off" position, ready to shoot the snake. Leanne followed Geoffrey and they entered the garage and commenced searching inside the garage.

- [27] Leanne was standing behind Geoffrey as he searched items and passed items back to her. They could not find the snake and so Leanne walked out to the Landcruiser and drove it back into the garage. Geoffrey stood to the right of the driver's door with the shotgun. Leanne got out of the driver's door and walked in front of Geoffrey to go out of the garage. Geoffrey followed Leanne and was about 3-4 metres behind her, with the Boito held down beside his right leg, his right finger on the trigger, the safety "off", the hammer cocked, in case he saw the snake while he was walking out. As he walked out, when the distance between him and Leanne would have been between four (4) and five (5) metres, the snake came from the north-eastern direction of the garage, crossed his foot and continued out into the night. Geoffrey jumped and the gun came up and went off, discharging into Leanne's back. Geoffrey then "cracked" the firearm open, dropped it and went to Leanne.
- [28] On 26th April 2008, an autopsy of Leanne Sleba took place in the presence of Detective Sergeant Briese, Ballistics Expert Officer Sergeant Ian Bruce, Photographic Expert Sergeant Clinton Hanson and Acting Sergeant Anne-Marie Mason. Sergeant Ian Bruce took clothing, wadding and pellets for ballistic testing²². The autopsy report confirmed a shotgun wound to the back, which was "directed forward, with little deviation to the left or right".²³
- [29] Patient records of Geoffrey and Leanne Sleba were obtained by search warrants executed upon Toowoomba Base and St.Vincent's Hospitals and St Vincent's Medical Centre. Bank and other financial and tax records of Geoffrey Sleba, Leanne Sleba and the Sleba family business were obtained to be analysed by a police forensic accountant.
- [30] A recording of the 000 call made by Geoffrey Sleba was seized.
- [31] Brad Murphy, meteorologist provided information²⁴ that the air temperatures (degrees Celsius) at the Oakey aerodrome on the 24th April 2008 were 19.9 at 3.00pm, 11.2 at 9.00pm and 11.6 at 10.00pm whilst at the Toowoomba Airport the air temperatures at the same times were 18.7, 12.2 and 12.4.
- [32] A précis²⁵ of the circumstances of Leanne Sleba's death (including Geoffrey Sleba's description of the snake and its behaviour, a description of the shed and contents, and advices as to the temperature) was then provided to four "snake experts," Professor Jeannette Covacevich²⁶, Rodney Hobson²⁷, Richard Jackson²⁸

²² Exhibit B1.4.

²³ Exhibit A2.

²⁴ Exhibit B2.17

²⁵ Exhibit C21.

²⁶ B.Arts (Zoology and Geography); Master of Environmental Science; - expert in the eastern brown (aka common brown snake); Retired Senior Curator of reptile collections at Qld Museum.

and Professor Richard Shine.²⁹ They were each asked to consider whether it was likely/unlikely/impossible that an eastern brown snake would act in the way described, given the time of year, time of day/night, temperature, and the behaviour of Leanne and Geoffrey Sleba. They were also asked to consider whether it was likely/unlikely/impossible that any snake that may be located in the area would act in the way described by Geoffrey Sleba under the same circumstances. Each of the “experts” provided statements in response.³⁰ Unfortunately, the précis incorrectly stated that the recorded air temperatures were between 7 and 10 degrees Celsius between 9.00pm and 10.30pm.

- [33] In Professor Jeannette Covacevich’s statement, she opined that while grain in the shed would attract mice and therefore snakes, it would be extremely unlikely, but not impossible, for any snake to be active or to leave a wood pile in those temperatures unless specifically disturbed (and even then, it would be unable to move quickly).
- [34] Mr. Rodney Hobson opined that while the grain and house mice would provide an attractive environment for a foraging snake, there would be no snake that would have been voluntarily active within a temperature range of 10-12 degrees Celsius unless it had been disturbed by Leanne and Geoffrey without their knowledge and retreated to another location (but even then its reactions would have been very sluggish).
- [35] Mr. Richard Jackson opined that; snakes are only active at night at temperatures over 20 degrees Celsius and it would be unlikely that a snake would be entering the shed. Even if one did, the probability is low that it would crawl across someone’s foot; and would only do so if the person was so still that the snake was unaware of their presence; but even then, a snake would only act in that way if it was already active. Such activity would not be likely, he said, but he could not rule it out.
- [36] Professor Richard Shine’s opinion was that it was unlikely, but not impossible, that a snake would act in the way suggested by Geoffrey Sleba given the conditions.
- [37] After receipt of the snake experts’ statements, Geoffrey Sleba was again interviewed on 6 November 2008 by Detective Sergeant David Briese and Detective Sergeant Mark Andrews in the presence of Tom Sullivan. In answer to questions about the snake, Geoffrey Sleba said that on the first sighting he didn’t see its head, only the middle of its body and only for a few seconds. On the second sighting, from the direction of the wood pile (although he didn’t see it actually come out of the woodpile) he saw the front part of its body rather than its entire length and he estimated its size between 5 and 6 feet. Geoffrey said that its head went over his boot and he then only saw the middle part of it as he was startled at that stage. Whilst he said that snakes are quite common on the Sleba farm and there had been a

²⁷ Associate Diploma (Wilderness Reserves and Wildlife); Ranger, Qld Parks & Wildlife.
²⁸ Assistant Curator at Australia Zoo.
²⁹ Scientist.
³⁰ Exhibits B2.2;2.13;2.14;2.24.

lot of snakes around that year (2008), Geoffrey couldn't say whether it was a King Brown or an Eastern Brown snake.

- [38] In relation to his choice of the Boito gun, Geoffrey Sleba said he took it because he thought it would give him a greater chance of hitting the snake, if it was either moving fast or he couldn't get close enough to it. In relation to safety issues, Geoffrey said that he had previously used the .410 to shoot a snake on concrete and on the ramp outside the house and was aware that shot can ricochet back upwards if shot into concrete, but his reasoning was that he didn't expect to find himself standing on top of the snake if he came to fire.
- [39] In relation to financial arrangements, Geoffrey Sleba said that he knew Leanne had a Westpac account in her own name, in which was deposited \$20000.00 because he had told her to deposit it there. He told police that he was also aware that Leanne was looking for work.
- [40] In relation to his involvement with Maryanne Eecen, Geoffrey Sleba told police that he rang her once or twice about a couple of things and he was on the committee doing things for Cystic Fibrosis and St. Vincent's hospital.
- [41] Geoffrey Sleba was also asked whether he and Leanne had been watching any TV series on a weekly basis. Geoffrey offered that they had been watching "Underbelly" but couldn't remember the particular episode at the time of Leanne's death and hadn't purchased the DVD himself.
- [42] Further testing of the Boito shotgun by Sergeant Ian Bruce³¹ confirmed that it did not display any tendency to discharge without operation of the trigger at a pressure of 2.6 kilograms. (The minimum trigger pressure considered to be acceptable for general usage firearms is 1.1 kilograms). He confirmed that both safety mechanisms were operational and functioned correctly. Following examination of the exhibit wads taken at the autopsy, the wad removed from the shotgun shot shell, physical and chemical examination of Leanne's jumper, infrared photography (which did not reveal any visible firearm discharge residue patterns on the exhibit purple jumper) and test firing of the shotgun, Sergeant Bruce formed the opinion that the distance between the shotgun and Leanne when the shotgun discharged was between one and 100 centimetres.
- [43] Mr. Graham Lippert, a registered accredited firearms safety instructor, and firearms security officer was engaged to comment on the use of a Boito shotgun under the circumstances. He questioned its use on concrete, given the chance of ricochet and would warn against it, given that from close range the effect of a shotgun projectile would be dangerous to anyone in the near vicinity, including the shooter, depending on the angle from which the shot was fired. Mr. Lippert's opinion was that the .410 shotgun which Geoffrey also owned and kept in the same laundry cupboard would have been less dangerous (due to the smaller charge and the smaller amount of shot being fired onto concrete) but would still be capable of killing a snake. His opinions

³¹ Exhibits B1.4 and B1.5

he said, were dependent on the situation, including Geoffrey's thinking at the time, his experience with firearms and his experience shooting snakes. (Geoffrey indicated to police in his record of interview on 6/11/08 that he had no firearm training and used a gun 12-20 times a year, mainly for snakes).

- [44] An examination of telephone records for, and the actual phone of, Geoffrey Sleba, and phone numbers called from his phone and the home phone revealed no inconsistencies in Geoffrey's versions or any other suspicious phone calls made or received by Geoffrey or Leanne Sleba, either leading up to the incident or after the incident.
- [45] The police report indicated that despite Leanne moving out of the family home for one week approximately one year prior to her death, and disagreeing with Geoffrey over his long working hours and his health issues, there was no indication from any family members or others of any other or significant difficulties in their relationship. Mervyn Sleba, Geoffrey's uncle, described Geoffrey and Leanne's relationship as 'a happily married couple.'³² Kevina Sleba described the marriage of Geoffrey and Leanne as "being very normal...they support each other really well."³³ Geoffrey's mother Maria described the relationship as "good" although they had the odd argument about Geoffrey working long hours (but she "was not aware of any concerns they had with each other..... they were a happy and united young family").³⁴ Geoffrey's brother Mark described Geoffrey's relationship as "healthy".³⁵ Mark's partner, Alexandra White, described the relationship as "a great team".³⁶ Geoffrey's cousin Geraldine described Geoffrey and Leanne as a loving couple, devoted to their children³⁷. Geoffrey's father described Geoffrey and Leanne as a "happy couple".³⁸
- [46] Enquiries of all hospitals within the area and the QPS computer system indicated no past violence or presentation of either Leanne or Geoffrey for any reason that would suggest any history of domestic violence.
- [47] The examination of the computer hard-drives seized by police showed no evidence to prove or disprove Geoffrey Sleba's version of events the night Leanne died.

The inquest

- [48] The inquest was informed by the police investigation, which has been variously described throughout the inquest as "thorough" and "leaving no stone unturned". I agree with those assessments.

³² Exhibit B2.23

³³ Exhibit B2.28

³⁴ Exhibit B2.30

³⁵ Exhibit B2.31

³⁶ Exhibit B2.34

³⁷ Paragraph 6.

³⁸ Exhibit B2.33.

Excusal of Geoffrey Sleba from giving evidence

- [49] Before the commencement of the inquest, I received a report from Geoffrey Sleba's psychiatrist Dr. Andrea Boris-Lavack dated 26th April 2011.³⁹ It stated that Geoffrey Sleba was referred to Dr Boris-Lavack prior to 5 March 2010 and initially diagnosed with a brief psychotic disorder, with a differential diagnosis of delusional disorder and/or psychotic depression. This worsened, requiring a hospital admission between 13th and 23rd April 2011 and an increase in his medication from 100mg to 200mg Seroquel XR at night. He also developed an episode of chest pain with acute ECG changes, without evidence of heart attack.
- [50] Dr Boris-Lavack's strongly stated opinion was that Geoffrey Sleba was unlikely to withstand the stress of attending court, recall the event of his wife's death, think and act rationally, follow arguments or court proceedings, give coherent testimony or instruct counsel effectively.
- [51] Additionally, in Dr. Boris-Lavack's view, Geoffrey Sleba's acute psychotic disorder could lead to a worsening of his systematised paranoid delusions, with marked agitation, hostility and possibly aggression. In Dr. Boris-Lavack's view, none of those outcomes could be reduced by making provision for special witness facilities, closing the court or allowing Geoffrey Sleba to have a support person present.
- [52] As a result, despite having decided to hold an inquest in order, amongst other things, to hear directly from Geoffrey Sleba, the only witness to Leanne's death, a decision was reluctantly made that, because of his psychiatric conditions, he be excused from giving evidence at the inquest.
- [53] The following witnesses were examined at the inquest:-
- (a) Sergeant David Barry Briese;
 - (b) Sergeant Ian Stewart Bruce;
 - (c) Judith Eagle;
 - (d) Jeanette Covacevich (by telephone);
 - (e) Rodney Hobson;
 - (f) Richard Jackson; and
 - (g) Graeme Arthur Lippert.

The evidence

- [54] I have already set out some of the evidence contained in witness statements and exhibits. I do not consider it necessary to repeat that or refer to all of the remaining

³⁹ Exhibit C20.

evidence, including oral evidence taken at the inquest. I will, however, comment on what I consider to be the more important parts of the evidence.

The 000 call

- [55] It is not disputed that in the 000 call made by Geoffrey Sleba immediately after the shooting, he reported for the first time that Leanne was shot while chasing a snake. He sounded distressed, desperate and hysterical as he was when 000 called him back.

Photographs

- [56] They show, amongst other things, obvious evidence of a search having been conducted in the inside of the shed.

Geoffrey Sleba's demeanour

- [57] Statements of Geraldine, Madonna and Rodney Sleba all confirm that Geoffrey Sleba was crying and distraught when he was either speaking on the phone to 000 or to his father and when they arrived at the scene. Police officers who attended also observed him to be crying when holding/lying/kneeling over Leanne⁴⁰.

Geoffrey Sleba's versions of events

- [58] The version of events Geoffrey Sleba gave to 000 was substantially the same version he gave to witnesses at the scene (including his father, Leanne's mother, the ambulance officer Andrew Simmons,⁴¹ and the intensive care paramedic Kirsi Andersen⁴²), to police in the field tape interview at the scene at 10.20 pm on 24th April 2008 and in further interviews with police on 25th April 2008 at 1.53am and 6th November 2008 at 9.48am.

"The distance" from which Leanne was shot

- [59] Geoffrey Sleba told Andrew Simmon, one of the ambulance officers at the scene, that Leanne was "right there next to me.." when she was shot.⁴³ In the field tape interview at the scene he told Briese that he followed Leanne "pretty close" when she walked out of the garage. In the interview on 25th April 2008, however, he said he was approximately 4-5 metres behind Leanne when the gun discharged.
- [60] Sergeant Ian Bruce's evidence is that the testing to determine "the distance" was undertaken at the Belmont rifle range using a recognised method which involved testing for 'petal slap' at contact, 50cm, 100 cm and up to 3 metres with each distance being tested 3 times to ensure accuracy. Despite rigorous cross-examination suggesting that because this method does not include mathematical calculations it was possible that the distance was as much as 4-5 metres, Sergeant Bruce responded by not only steadfastly maintaining that the distance range was

⁴⁰ Statements of Mark Sleba, Rodney Sleba, Geraldine Sleba, Madonna Sleba, Sergeant Briese, Senior Constable Scott Bronkhurst, Constable David Alexander Hall, Plain clothes Senior Constable Andrew Lowe, Senior Constable Mark Penberthy, Senior Constable Shane Reid.

⁴¹ Exhibit B2.25 paragraphs 10 -15.

⁴² Exhibit B2.1 paragraph 4.

⁴³ Paragraphs 10-15 of Statement of Andrew Simmons.

between 1 and 100 centimetres but by specifically indicating a distance of 45-50 centimetres.

Snake activity

- [61] Whilst Rodney Sleba said that snakes are common, regularly seen and active in March/April; and Mark Sleba stated that snakes are common around the houses and shed in April, before wintertime, the experts, disagreed about such snake activity under the circumstances which existed at the time of Leanne's death.

"Snake Experts"

- [62] In her oral evidence, Professor Covacevich stated that whether or not it was a common/eastern brown, or a brown tree snake, no snake would be active at that time and at 7-10 degrees Celsius. Even at 12 degrees Celsius, such activity was "extremely unlikely" but possible, if the snake was an eastern brown, and less unlikely if the snake was a brown tree snake. Even though snakes regulate their body temperature by moving from cooler to warmer, and Professor Covacevich considered it reasonable to suggest that a concrete shed floor would be a warmer place than somewhere outside, she still considered it unlikely movement for an eastern brown snake and only more likely for a brown tree snake if the latter was disturbed in some way. Noise of its own, she said would not have much impact, and whilst she conceded that the vibrations of a car might make a snake react, it would depend, in her view, on the distance between the snake and the car.
- [63] Under cross-examination, Professor Covacevich said that no expert would have ever seen an eastern brown snake active at that time of night. It was possible, however that a brown tree snake, acting differently from the rest of the species would come out at night but only if there was an extreme disturbance. At the suggestion, under cross-examination that the snake might have been disturbed by a dog before it went into the shed (in relation to which there is no such evidence) Professor Covacevich replied "that dog would be a dead dog" and reiterated, in relation to suggestions of eastern brown snake activity at 12-13 degrees, "It is possible, but very very unlikely" – "extremely, extremely, extremely unlikely". When two possible scenarios were put to Professor Covacevich (that the snake may have been under one of the fridges or in the chassis of the car) she agreed that snake activity was possible under those scenarios if the shed was significantly warmer and; in the case of the fridge scenario, the snake had been under the fridge for some time ("45 minutes would help"); and in the case of the chassis scenario, the engine of the car had retained some warmth. There is no evidence, however, of temperatures within the shed at any time or temperatures of the car engine.
- [64] In his oral evidence, Rodney Hobson agreed that, to have been active, the snake would have to have been disturbed, particularly in moving from outside (where it would have been sheltering) to inside. Even then, an eastern brown would be very sluggish. Even if it was a spotted black snake or a brown tree snake, which come out a lot more at night, they would be moving from one place to another only if threatened and the noise of a motor vehicle is unlikely to cause the active disturbance required.
- [65] Mr. Hobson agreed with a scenario that if the snake had sought shelter under a fridge, it would have warmed up quite a bit and been quite active such that

searching, by moving things about, in its general vicinity would have disturbed it. He disagreed that the activity of the car would have disturbed the snake, but he said it might have gone up into the car and curled up to get warm; and once there, it is highly likely that it could have been disturbed when the car was driven out. He also agreed that, if within the hour between the first search and the second, the snake had been in a fairly warm place (e.g. under a fridge) it would move quite quickly and over people's feet but he qualified that response by saying that it would only do so if it felt threatened.

[66] In relation to the fridge/freezer scenario Mr. Hobson said that in order for the snake to flee from under it, the freezer would have to have been moved (and there is no evidence of that) and of the two scenarios, the most likely scenario is that of the snake going up into the chassis of the car.

[67] In his oral evidence, Richard Jackson stated that you wouldn't expect any snake to be active at below 20 degrees and more unlikely to see an eastern brown active at that temperature unless it was disturbed close to a heat source. (The wood pile, from the direction of which Geoffrey Sleba said the snake came to crawl over his boot is not near the freezer or fridges or any heat source). In his view, however, if a snake had found a heat source, such as the fridge or freezer, it would have curled up and even if you disturbed it somewhere warm like that, it would have been likely to go up into the fridge or freezer rather than out from there. In his opinion, a snake would only come out from under the fridge if the fridge itself had been moved. If the snake was in the south-east corner where Geoffrey said he and Leanne were moving stuff around, it would have been losing temperature there and would have been very sluggish, if it was moving at all. Mr. Jackson said that the banging of stuff when moving stuff around would not, on its own, disturb a snake and if it had found a warm spot, and warmed up very quickly, whilst less sluggish if it did move, would be reluctant to move from such a spot. Mr. Jackson couldn't rule out that the snake was sitting up in the car engine and was disturbed when the car was moved out.

[68] Mr. Jackson opined, however, that brown snakes would steer away from something big and moving e.g. Geoffrey Sleba. Usually they would go around things and Mr. Jackson considered it unlikely (although he could not rule it out) that a snake would come out and over someone's foot but it is possible if the person was standing still. (The evidence is that Geoffrey Sleba was not only moving at the time, but jumped when he saw the snake). In relation to its movements thereafter, Mr. Jackson's opinion was that you would expect it to be sluggish.

Sergeant David Briese

[69] Sergeant Briese confirmed that no requests were made of Geoffrey Sleba by any police officer to produce the shovel that Geoffrey said he had taken from the ute the first time he went to look for the snake. No photos were taken of the shovel, no one looked for the shovel and no questions were asked of Geoffrey as to why he abandoned the shovel in favour of the firearm. Sergeant Briese also confirmed that no-one looked or was directed to look, for the snake. Whilst Sergeant Briese considered it significant that the boito shotgun was "cracked" when police arrived at the scene, he conceded that in normal circumstances, "cracking" the gun is a safety mechanism.

- [70] Sgt Briese confirmed that the police investigation revealed no suspicious telephone calls detected from a search of the telephone records; no financial benefit to Geoffrey Sleba by Leanne's death; no history of domestic violence and no history of significant relationship issues between Geoffrey and Leanne.
- [71] He did, however, consider that the "Underbelly" episode was relevant because it involved only two persons in a situation where one killed the other who was no longer alive to say what had really happened. When cross-examined about this evidence he said "I am seriously saying that the Underbelly episode was the seed for the murder" (that is, the shooting of Leanne Sleba by Geoffrey Sleba). Sergeant Briese maintained this view under cross-examination despite his evidence, in response to questioning, that the analysis of the computers, medical records and financial records revealed no evidence of motive for the "murder" and there was no evidence of any history of DV or substantial difficulties in the relationship between Geoffrey and Leanne, and no other evidence of any motive for the shooting.

Safety issues surrounding use of the Boito shotgun

Sergeant Ian Bruce

- [72] Sergeant Bruce's evidence was that handling any firearm that is loaded and cocked can be an unsafe practice especially if people are moving forward of the firearm. In his experience, no one at training is allowed to go forward of any firearm. In relation to Geoffrey Sleba's act in cracking the gun open, Sergeant Bruce said this was safe practice, almost instinctive and a habit which someone who regularly shoots would form.
- [73] Under cross-examination, he stated that the Boito shotgun had no tendency to accidental discharge, but he was aware that the phenomenon of unintentional discharge has been recorded in the literature. In the case of the Boito shotgun, his testing of it indicated that the trigger would have to be pulled.

Graham Lippert

- [74] Mr. Lippert remained of the view under examination that because the Boito can produce 3 times more shot and is a heavier and more powerful gun than the .410, the .410 (known as a 'lady's gun' and a gun for farmers) would have been a better choice for Geoffrey Sleba than the Boito, and would have still been capable of killing a snake. Mr. Lippert stated that the way in which Geoffrey Sleba was carrying the gun "was a recipe for disaster" and you would only carry a firearm like that if you were ready to fire. When shown the photos of the garage,⁴⁴ Sergeant Bruce stated you definitely wouldn't use a 12 gauge shotgun or any shotgun in that area. If you were not ready to fire, the gun should be broken so that the round can be removed and this is a safety practice that gun owners would adopt as a habit.
- [75] Mr Lippert was firm that at a distance of one metre, there is no difference between the two firearms because there would be no chance for any spread of ammunition. Under cross-examination, he was not successfully challenged about his evidence that whether or not either of the two possible weapons was choked or unchoked, the consequences of firing either would not be much different if you were close to the

⁴⁴ Photo No. 92.

target. Despite a concession that if the shotgun was unchoked it may spread wider than a fully choked .410 over a distance, he said that both weapons were dangerous weapons. He would not concede that, as stated by Geoffrey Sleba to police, the third firearm in Geoffrey's possession, a No.6 doesn't spread as wide as the .410 ammunition. His evidence was that if they both had a full choke, they would have the same spread. He conceded that there is a possibility that Geoffrey was thinking otherwise, but that it was wrong to think that the spread of the shot of the Boito was wider than that of the other two guns in his possession. He said that if Geoffrey had used both the Boito and .410 over a period of time, he should have known that they had the same spread over shorter distances.

Conclusions

- [76] In light of the exhaustive police investigation, confirmed by the examination of Sergeant David Briese, in which information gathered in connection with the personal and financial relationships between Geoff and Leanne showed no evidence as to a motive for murder, and Geoff Sleba provided substantially consistent versions of events (corroborated to some small extent by his son Rodney) I make no referral to the Director of Public Prosecutions in relation to such a charge.
- [77] There is evidence, however, critical of Geoffrey's Sleba's choice and handling of the Boito firearm in the circumstances existing at the time,⁴⁵ such as to give rise to a consideration of S.289 of the Criminal Code Act 1899 (QLD) which provides:

“Duty of persons in charge of dangerous things

It is the duty of every person who has in the person's charge or under the person's control anything, whether living or inanimate, and whether moving or stationary, of such a nature that, in the absence of care or precaution in its use or management, the life, safety, or health, of any person may be endangered, to use reasonable care and take reasonable precautions to avoid such danger, and the person is held to have caused any consequences which result to the life or health of any person by reason of any omission to perform that duty.”

- [78] In R v. BBD⁴⁶ Jerrard J referred to the high standard of negligence necessary to constitute criminal negligence and considered that it would have been appropriate to repeat to the jury the description of criminal negligence in R. v. Bateman⁴⁷ as negligence showing “such disregard for the life and safety of others as to amount to a crime against the State and conduct deserving punishment”. In his view, that accorded with the judgement of Thomas J. in R. v. Hodgetts & Jackson⁴⁸ where the latter wrote that a defendant could not be found criminally negligent unless at least some serious harm was reasonably foreseeable by the defendant. In the case of R v. BBD, Jerrard J said that to prove criminal negligence the prosecution had to show that the defendant disregarded such an obvious risk of injury to the victims that, beyond reasonable doubt, she breached a duty of care to a degree amounting to a crime and deserving punishment.

⁴⁵ Exhibit B1.4 Statement of Sergeant Ian Bruce; and Exhibit B2.16 Statement of Graham Lippert.

⁴⁶ (2007) 1 Qd R 478

⁴⁷ (1925) 19 Cr. App. R. 8

⁴⁸ (1990) 1 Qd.R 456 at 463

[79] The evidence, in my view, falls short of establishing such a breach of a duty of care, if I can be satisfied that events occurred as suggested by Geoffrey Sleba. There is no evidence critical of the use of a firearm to kill a snake. Mr. Lippert's criticisms of Geoffrey Sleba having the safety off, the hammer cocked and his finger on the trigger in such a confined space with Leanne walking in front of him, was subject to what Geoffrey Sleba was thinking at the time and any training and experience he had with firearms. (Geoffrey Sleba's statement to police was that he used a firearm 12-20 times a year, mostly for snakes; and that he had no firearms training. It is not known what firearm he did use on the 12-20 occasions stated). Whilst Mr. Lippert's evidence was that if Geoff Sleba had used both the .410 and the Boito over a period of time, he should have known that he would have the same chance of killing the snake with either gun, Geoffrey's Sleba's statement to police that he was firmly of the view that the Boito had a greater spread than either the .410 or the No.6 was unable to be tested. In relation to Sergeant Bruce's evidence that you would only hold a firearm in the way Geoffrey Sleba did if you were ready to fire, Geoffrey's statement to police that he held the firearm as he did because of his fear that the snake might still be around, was also unable to be tested.

[80] Although "accident" has been raised: given:

- (a) the evidence of the snake experts of the unlikelihood or a low probability that a snake would act in the way suggested by Geoffrey Sleba;
- (b) the lack of an opportunity to forensically examine Geoffrey Sleba in relation to a number of issues, including the discrepancies between;
 - (i) his statement to police and the statements of Kylee Hampshire and Trina Hayes in relation to his knowledge of the \$20000.00 in Leanne's bank account;
 - (ii) his statement to police and the statement of Leanne's mother about Leanne's report to her of Geoffrey Sleba's explanation of his relationship with Maryann Eecen;
 - (iii) his statements to the ambulance officers of Leanne's close proximity when the firearm discharged and the suggestion to police in the interview on 6/11/08 that she was 4-5 metres away;
 - (iv) the evidence of Sergeant Ian Bruce that supports a distance between Leanne and the firearm of about 50 centimetres; and
 - (v) the lack of an opportunity to question Geoffrey Sleba about his firearm training, experience with the firearms in his possession and the number of times he had used each firearm, whether to kill snakes or otherwise,

I am unable to determine the cause of the sequence of events by which the firearm held by Geoffrey Sleba was discharged into Leanne Sleba's back and whether or not the events occurred by accident.

Findings required by s45

[81] As a result of considering all of the material contained in the exhibits, I am able to make the following findings:

Identity of the deceased –

[82] Leanne Margaret Sleba born 30th April 1974.

How the person died -

- [83] Leanne Sleba died when the firearm held by her husband Geoffrey Sleba discharged as she was walking in front of him out of the shed adjoining their property. As a result, Leanne was shot in the back of her chest at a distance of 50 centimetres from the firearm. Leanne fell to the ground and died at the scene. I am unable to determine the cause of the sequence of events by which the firearm came to be discharged and whether or not the events occurred by accident.

Place of death –

- [84] “Dunclon West,” 129 Kingsthorpe Haden Road, Kingsthorpe, Queensland.

Date of death –

- [85] 24th April 2008 at approximately 10.07pm.

Cause of death –

- [86] Gunshot wound to the back of the chest.

Concerns, comments and recommendations

- [87] This is not a death in relation to which Section 46 has been raised or needs to be considered. Consequently, no recommendations or comments will be made that relate to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future.
- [88] I close the Inquest.

Tina Previtiera
Coroner
24th June 2011.