



# OFFICE OF THE STATE CORONER

## FINDINGS OF INQUEST

CITATION: **Inquest into the death of Ralph Frederick Zessin**

TITLE OF COURT: Coroners Court

JURISDICTION: Ipswich

FILE NO(s): 2012/2760

DELIVERED ON: 2 April 2014

DELIVERED AT: Ipswich

HEARING DATE(s): 26 March 2014

FINDINGS OF: John Lock, Deputy State Coroner

CATCHWORDS: Coroners: inquest, head injuries from a fall, whether pushed or fell.

REPRESENTATION:

Counsel Assisting: Dr A Marinac, Office of the State Coroner

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## **Introduction**

Ralph Frederick Zessin was aged 67. On 24 July 2012 Ralph was consuming alcohol at the Commercial Hotel in Gatton.

At approximately 2:30pm he was at the corner entrance of the hotel with another male person, David West. It was reported there was some banter between them concerning the activities of police who were outside attending to other matters. Ralph was then seen to fall backwards out the front door of the hotel. As a result he landed flat on his back and hit the back of his head with substantial force on the concrete footpath.

Queensland Police already at the scene immediately attended to Ralph and administered first aid until the Queensland Ambulance Service (QAS) arrived.

QAS transported him to Gatton Hospital and then to Ipswich Hospital. Due to his injuries he was then transported to Princess Alexandra Hospital (PAH) where he was admitted at approximately 6:55pm that day.

On admission to PAH he was noted to have a significant brain injury. Ralph failed to improve and never regained consciousness. Following family discussions, it was agreed in consultation with the medical team to withdraw treatment on the evening of 6 August 2012. He died the next day on 7 August 2012.

Ralph's death was reported by the PAH to the coroner.

There were concerns expressed as to how Ralph came to fall to the ground and whether he was pushed. One witness had seen David West push Ralph over causing his injuries. The witness went on to say he believed the two of them were mucking around in a playful manner. David West denied he pushed Ralph.

Given there were uncertainties about this significant issue, a decision was made to hold an inquest. The issues for the inquest principally related to the circumstances of how he died, including whether he was pushed and if so if this appeared deliberate or not.

### **The scope of the Coroner's inquiry and findings**

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.

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.

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

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. However, a coroner must not include in the findings or any comments or recommendations, statements that a person is or maybe guilty of an offence or is or maybe civilly liable for something.

### **The admissibility of evidence and the standard of proof**

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*. 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.

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. If a witness refuses to give oral evidence at an inquest because the evidence would tend to incriminate the person, the coroner may require the witness to give evidence that would tend to incriminate the witness if satisfied it is in the public interest to do so. The evidence, when given, and any derivative evidence is not admissible against the witness in any other proceeding, other than a proceeding for perjury.

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. 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.

It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially. 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* 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.

If, from information obtained at an inquest or during the investigation, a coroner reasonably suspects a person has committed a criminal offence, the coroner must give the information to the Director of Public Prosecutions in the case of an indictable offence.

## **Social History**

Members of Ralph's family including his sisters, daughters and a grandson attended the inquest. It is clear he was well loved and his loss in these tragic circumstances still distresses the family. In particular, there was a 13 day period in the intensive care unit where they prayed he would recover so they could say goodbye to him but he never regained consciousness.

Ralph had lived in Gatton all his life. It is apparent he worked all his life on his farm and he was enjoying his retirement. His daughter described him as a quiet and gentle man who was sensitive in nature. He loved his family and grandchildren and his house was full of photographs of the family. He had many friends in Gatton.

He lived alone and attending the hotel was a social outlet for him.

A number of witnesses at the inquest, who also frequented the hotel, described him as a real character particularly with his often long tales. It is evident his normal practice was to have a few drinks at the top pub in Gatton before going to the Commercial Hotel around lunchtime. He was known to drive to and from the hotel and there was apparently frequent banter about the fact he had never been picked up for drink-driving. The relevance of this will become clear. At the same time witnesses, and in particular the bar manager, talked about his use of alcohol as moderate and social and there had never been an occasion when Ralph was thought to be seriously inebriated. Whatever his use or intake of alcohol was, it is apparent he was never involved in any arguments or disputes with other patrons.

## **Review by Clinical Forensic Medicine Unit**

The Clinical Forensic Medicine Unit reviewed the hospital medical files. His medical history noted depression, gastro-oesophageal reflux disease, chronic pancreatitis and alcoholism.

The review concluded that Mr Zessin suffered a traumatic head injury associated with skull fracture, intracerebral bleeding and contusion and extensive bleeding into and around the meninges (tissues surrounding the brain). He initially presented to Ipswich Hospital and was subsequently transferred to PAH. There is no mention in the records of concerns in regard to this transfer timing.

A neurosurgical consultation occurred that deemed him unsuitable for surgery although the reasoning was not explained in these notes. There is a mention of a frontal burr hole noted on one of the scans, which could reflect recent surgical intervention, or (more likely) the insertion of the intracranial pressure monitoring device.

He was reported as receiving maximal medical treatment in ICU, namely drugs to reduce intracranial pressure and airway support. These did not appear to affect the outcome as his neurological deficit did not improve. He became dramatically worse on the 5 August, and a scan revealed increased volume of bleeding and swelling. A discussion between family and treating doctors resulted in a decision to palliate due to this decline. He died shortly after supportive measures were withdrawn.

## **Autopsy Results**

An autopsy examination found skull fractures, subdural haemorrhage, subarachnoid haemorrhage, and brain swelling. The hospital notes suggested a cerebral infarct may have led to his terminal decline and neuropathology was to examine this issue. There was no significant pre-existing natural disease and the cause of death was due to severe head injuries.

The final autopsy report was not made available until 5 November 2013. Neuropathology examination of the brain confirmed significant head injuries including subdural and subarachnoid haemorrhage, and areas of bruising and tearing of the brain. There was also severe damage from secondary swelling related to raised intracranial pressure.

Toxicology testing was performed on hospital blood samples taken almost five hours after he sustained his head injury. Several medications were present at non-elevated levels. Alcohol was not detected, however alcohol could have been present in the blood at the time of the incident, as it could have been metabolised in the body prior to the blood sample being taken.

The pathologist considered the head injuries were consistent with a fall to the back left region of the head. There are injuries at the site of impact, consisting of scalp bruising, skull fracture and brain laceration. There are injuries away from the site of impact (contre-coup injuries), consisting of frontal and temporal brain contusions and laceration.

The injuries were consistent with an unprotected fall from a standing height, including a mechanical fall/trip or from being pushed.

## **Medical retrieval**

Concerns were raised regarding the multiple transfers to various hospitals.

QAS received a first call at 2:35pm to provide ambulance attendance. The call for assistance was for a male person who had possibly been assaulted. An Advanced Care Paramedic crew arrived at 2:38pm. The attending paramedics rapidly assessed him as having sustained a significant head injury. He required anaesthetic drugs to provide cerebral protection and given the geographic location, paramedics considered that he would receive this care most rapidly through transport to Gatton Hospital. He arrived at 2:52pm, 17 mins after the triple O call was received.

Gatton Hospital does not meet classification as a Regional Trauma Centre and as such, the QAS pre-hospital trauma bypass guideline stipulates a requirement that the Queensland Clinical Coordination Centre (QCCC) be notified via the regional QAS communications centre to ensure consideration for early secondary transport to a definitive care centre. It is also incumbent on the receiving doctor to rapidly recognise a critically ill patient and initiate prompt notification to the QCC.

As medical retrieval is managed via Queensland Health, QAS could not comment on the details of the retrieval process that occurred. In this instance Ralph was not retrieved directly to a major trauma centre but instead via the regional trauma centre, Ipswich Hospital. Mr Zessin departed Gatton Hospital at 3:28pm and was transported to Ipswich Hospital under Code 1 conditions arriving at 4:10pm. He was retrieved from Ipswich Hospital departing at 6:08pm and again transported under code 1 conditions arriving at PAH at 6:44pm.

The QAS Medical Director, Dr Rashford advised there is an integrated trauma system, the aim of which is for the early identification of patients suffering major trauma to be transferred to a regional trauma service. Trauma Bypass Guidelines have been developed to allow paramedics to identify those patients best served by retrieval.

The guidelines indicate that if a patient can reach a major trauma service within 45 mins drive time then direct transfer is the ideal aim. Should this not be possible and a regional trauma service can be reached within 45 mins, then this is the secondary aim of the guidelines.

If both of these criteria are not satisfied the patient is taken to the closest available hospital with early initiation of medical retrieval by Retrieval Services Queensland (RSQ). In an ideal world, Mr Zessin would have had the Regional Communications Centre (RCC) notify the QCCC, after being made aware of the extent of the injuries.

The Director noted that given the paramedics had a very high workload and the patient was already in the receiving hospital only 17 mins after the Triple O call, it was probably not practical for the paramedics to initiate this referral.

The Director said it would then have been incumbent on the receiving clinician to identify the extent of the injuries and initiate early referral to retrieval. It appears in this case the receiving clinician most likely referred the patient to Ipswich Hospital who then retrieved the patient, with a subsequent secondary referral to the PAH after assessment at Ipswich Hospital.

The Medical Director's opinion was that the initial receiving clinician at Gatton Hospital should have notified RCQ. He was not able to give an opinion as to why the clinicians at the Ipswich Hospital would have accepted the patient rather than advising the referring clinician to call the QCCC so as to initiate immediate medical retrieval.

He thought it most likely the receiving clinicians at the Ipswich Hospital saw a fellow medical practitioner in need of assistance and rendered such assistance as quickly as possible, without taking the overall disposition choice into consideration.

QAS were intending to undertake a number of initiatives to streamline and improve patient disposition and safety. It was hoped the system would be such that even if the treating clinicians fail to identify the level of injury, the QAS can contribute to a process which rapidly identifies them.

A review was conducted by RSQ. It stated that there was no recording of receiving a referral to be involved in Mr Zessin's clinical care or retrieval.

It is evident the preferred option in this case may have been for Mr Zessin to have been stabilised in Gatton and then taken directly to PAH. There was therefore a delay in having Mr Zessin treated at a Major Trauma Service but it is evident he had unsurvivable traumatic head injuries and any delay did not contribute to the ultimate adverse outcome.

QAS were taking steps to ensure their systems were as streamlined as possible.

## **The investigation**

The coroner requested Gatton Police investigate concerns raised by the family in relation to the alleged initial assault.

The death was not initially being treated as suspicious. The investigating officer reported that during conversation with family members he was advised that initial reports indicated Ralph may have been pushed in a playful manner by a David West just prior to falling. The witness gave evidence that he noted another person push Ralph with his two open hands to his upper body as Ralph tried to get past him. This apparently was in relation to persons in the hotel trying to see what police were doing outside in relation to another matter. No other witnesses had mentioned or observed a push and the witness went on to say that he believed the two of them were mucking around in a playful manner when this occurred.

As a result no persons have been charged with any offences.

A forensic examination of the scene was conducted including the taking of a number of photographs.

Ralph was aged 67, 174 cm in height and weight 72 kg. Descriptions of David West suggest he was a fairly big man with a solid build. He was 62 years of age. Mr West said in evidence he was twice Ralph's size. Accepting that is an exaggeration, it is clear Mr West was of a larger stature to Ralph.

During the course of the investigation and consistent with the evidence of all witnesses at the inquest, there was no evidence of any history of ill feeling or malice between Ralph and David West. Ralph was universally regarded by

those who attended the hotel regularly as an average nice guy, who caused no trouble, and could at times be a bit talkative. The manager of the hotel stated that the relationship between Ralph and David West was a friendly one. Although he would not have stated they were 'mates' he considered that they were friends.

It is also evident that the language used by the regulars was robust and the use of profanities was usual. Hence the use of certain descriptive words, which some might consider offensive, were not considered in that context by the regulars.

### **Senior Constable Camilla Kowaltzke**

Senior Constable Camilla Kowaltzke was the first police officer at the scene. She had been conducting patrols in a marked police vehicle looking for a male person to conduct a welfare check as a result of concerns that had been expressed. They observed this person just outside the Commercial Hotel and stopped the police vehicle. She was at that time looking directly towards the hotel doorway approximately 50m away and she had a clear and unobstructed view.

She saw a male person fall out of the doorway rather quickly and he did not put his hands down in an attempt to break his fall. She could see the male person hit the back of his head on the ground with substantial force. She had not seen any person with him prior to him falling and from her position she could not see inside the hotel.

In evidence Senior Constable Kowaltzke said that the fall backwards was with some force and was not just like a collapse to the ground.

Once the male person hit the ground he did not move and remained lying flat on his back. She immediately contacted police communications and requested urgent medical assistance from QAS. She then attended to assist with first aid but left this with the other police officer to make further investigations. QAS arrived shortly after.

She then approached David West. She recorded the conversation in her notebook. She asked him had he seen anything and he said no. She asked him 'where were you when it happened?' and he said 'sitting there' and pointed to the bar area. She asked for his name and he became agitated and walked away and said 'no, I am over this'. She described the agitation as being more as if he was angry at her for asking him questions.

She then saw him about the hotel doorway and spoke to Senior Sgt Missingham. She is aware that he later gave a record of interview to Senior Sgt Missingham.

Senior Constable Kowaltzke said that the Commercial Hotel was not a venue which had caused any particular concerns for police in the town.

## **Ronald Mark McGroder**

Ronald Mark McGroder had consumed four or five pots of mid-strength beer by the time of these events. He did not consider he was drunk and was aware of everything that was going on around him. He was a regular at the hotel.

From where he was sitting he could see Ralph and David West drinking pots of beer but he was not aware of how much they had drunk but they were not carrying on like they were drunk.

Sometime around 2pm two police cars attended in relation to other matters.

Ralph stood up and was walking towards the doorway. At this time he recalls hearing Ralph and David West mucking around. He recalls hearing David West says something like 'they're after you Ralph'. He formed the distinct impression this was said as a joke and in the context of the running joke about Ralph's drinking and driving habits. At this stage Ralph was standing 1 metre from the doorway with his back towards the doorway. He had a clear view of where Ralph and David West were standing.

He then heard Ralph and David West carrying on about the police in what appeared to be a playful type matter. They were not arguing and appeared to be having fun mucking around. He did not hear any swearing or angry words being exchanged.

He then noticed Ralph about 1 metre inside the doorway and he was trying to get past David West who was standing directly in front of him. He then saw Ralph try to get past West a number of times. West was standing in front of Ralph to prevent him getting past. He said this appeared to be in a playful type manner.

He remembers seeing David West with both his hands up around the chest area of Ralph. He cannot say whether West had a hold of Ralph or not. He knows they were both saying something to each other but again it was not in anger and it was like they were mucking around.

He then noticed David West push Ralph with his two open hands to Ralph's upper body area as Ralph tried to get past him. He is not sure exactly how much force was used but it seemed like a fairly hard push. This occurred directly in the doorway. As he was pushed Ralph went backwards and fell out of the doorway and hit his head on the concrete path outside.

He recalls West saying something like 'it's an accident, I didn't mean it'. He then went out to help Ralph and could see he was not moving and there was blood coming from his left ear and nose area.

## **Tina Louise Williams**

Tina Louise Williams had consumed only three pots of beer by the time of the incident.

She recalls Ralph coming into the hotel at about his normal time and went to the end of the bar where he usually sat. She recalls Ralph and David West talking to each other in a friendly manner. She had never seen any bad blood between the two of them. She was another person who took no particular offence at some of the robust language that was sometimes used in the hotel.

She knew Ralph regularly drove to and from the hotel but she had never seen him drunk or intoxicated and seemed to only have two or three beers. She recalls his drinking and driving habits were spoken about jokingly at the hotel from time to time. Ralph never took particular offence.

At about 2pm a police vehicle came around the roundabout very fast and she and others went outside to see what was going on. While standing outside she remembers seeing Ralph stick his head out of the door and having a look and then he went back inside. She recalls hearing David West say 'Go and have another sticky beak'. She was standing on the footpath when she observed Ralph come backwards out of the door quickly. She said his arms were down by his side and described his position as being like a javelin, as if he was more flying out the door and falling. Ralph landed on his bottom and then went further backwards and cracked the back of his head on the metal plate on the footpath. She had not seen anyone else other than West in the doorway nor did she see anyone push or punch Ralph to make him fall.

She states that on 25 July 2012 she was present when David West attended at her premises and stated 'I am worried that I am going to be charged because I pushed him. I didn't mean to do it.' He also said 'I'm sick of everybody treating me like an idiot. I didn't mean it'.

### **Christopher Peter Keene**

Christopher Keene was also at the hotel but did not see any altercation. He saw Ralph and David West walking down from the other end of the bar and standing in the doorway leading out to the pedestrian crossing. He recalls David West saying to Ralph 'they're probably looking for you too'. Ralph laughed. He then went to the toilet.

He was present when David West stated 'I just pushed him'. David West seemed to be in shock.

### **Grant Blake**

Grant Blake was a manager/bar attendant.

He stated that both David and Ralph were always friendly towards each other and he had not seen anything malicious between them.

He recalls that both Ralph and David had a few beers but appeared to be quite sober. He was aware that Ralph would drive to and from the hotel and was aware of the occasional joke about him having never been caught drink-driving. He was asked about his responsibilities for responsible service of alcohol. Ralph and West usually drank midstrength beer. He was aware

Ralph's practice was to have a few drinks at another hotel in town from 11am and then come to the Commercial. He described that Ralph never appeared to be inebriated and he did not drink heavily but chiefly came to socialise.

At one stage West made some reference to Ralph about there being police around. He had seen the police vehicles passing by a few times and it looked like they were looking for someone. He heard West say, 'look Ralph there are the cops'. It sounded to him that this was said in a joking manner and said in the context of a running joke about Ralph never having been caught by the police drink-driving.

In the corner of his eye he could see that David West had gone to Ralph. The next thing he saw was Ralph falling backwards out the door of the hotel. He was falling in such a way that his arms were outstretched to the side like a star shape. Ralph landed flat on his back and he heard a sharp cracking type of noise. He rushed out and could see that Ralph was unconscious and he dialled triple O.

In an amended statement he stated he saw Ralph come flying out the end of the door of the hotel, describing it like someone trying to dive backwards. He did not see anyone push Ralph however David West was near him at the time.

In evidence he described that West was trying to rustle Ralph out the door as a joke and said 'there are the police get outside you cunt'.

Grant Blake told Senior Constable Amber Scott that Ralph and David were mucking around in the doorway and then Ralph fell backwards onto the footpath. He said that West was pushing Ralph out of the door and he was just mucking around.

He says he had a conversation with David West a few days later when West said that 'Ralph slipped on the front doorstep and that the step was the problem and that he had tried to catch Ralph'.

This was different to the conversations he was having with David West on the day of the incident. In those conversations David West commented on what happened and kept saying how he was sorry and remorseful about what happened and it was an accident and that he didn't mean it.

An examination of the doorway itself does not indicate any appreciable trip hazard which would cause someone to fall inwards or outwards. There was an appreciable step down to the footpath area but there is no evidence that Ralph lost balance or tripped or stumbled as a result of that step. He was clearly on the ledge above the footpath and in the proximity of the doorway when he fell backwards.

## **Jessica Groarke**

Jessica Groarke was also at the hotel and arrived at 1pm to play darts. As the afternoon went on Ralph came in and was sitting at the far end of the bar

away from the door. She was out the front having a smoke when the police cars arrived.

She observed David West standing in the doorway with his palms open and arms outstretched and at the same time observed Ralph fall out of the door of the hotel and then saw Ralph landing straight on his back with his head and back hitting the ground at the same time. She heard a sickening crack as the sound of his head hit the metal grate on the ground. His hands didn't stop his fall as they were above his head. She described his hands as to his side and swinging back to his head.

### **Benjamin Leslie**

Benjamin Leslie was in the street and did not know the people involved. He saw an older gentleman fall backwards in a rigid manner out of the doorway of the hotel hitting his head on the footpath and hearing a loud cracking sound. At no time did he see how or what caused the male person to fall over and hit his head.

He saw in the doorway another male person who appeared to be agitated and aggressive and a female person who was quite upset. The male person walked off down Railway Street at one stage.

### **Versions of events by David West**

Senior Constable Kowaltzke had a brief conversation with David West at the scene. She asked him if he had seen anything but he stated he had not. She asked him where he was when it happened and he told her he was just sitting there. He began to walk away and became agitated. He eventually gave her his name.

Shortly after this conversation David West approached Senior Sgt Missingham. West asked to talk to him in private. He told Senior Sgt Missingham that he wasn't comfortable talking in front of the policewoman and he was upset about what happened. When asked what did happen he said 'well it was nothing really, we were just having a bit of fun, he was down from his end of the bar and we sort of were joking, and I'm sure I never touched him, but he just pulled back and fell out of the door'.

When asked if he had pushed Ralph, West said 'no, it wasn't even sort of banter, just mucking around and he pulled back from me and fell over'.

He was asked whether they had any argument or anything and he said no. He told the police officer he had known Ralph for 10 years. The officer had a further conversation with David West, which was recorded and West was formally cautioned and asked to explain what happened. West said that there had been some mucking about and Ralph had pulled back from him and fallen backwards out of the door.

West said that it happened that quickly and that Ralph was on the back of the step and went straight over. He denied that he said to anyone that he had

pushed him. He made reference to the fact that Ralph would have already had some drinks at the top pub before coming to the Commercial. He referred to the fact that there was a bit of friendly banter about the events happening outside with the police. He told police that he would have had six or eight mid-strength beers.

In evidence at the inquest David West said there was never any bad blood between them and he considered they had a long-term friendship over nine years. He stated that at no time did he intend to hurt or cause Ralph's death.

He spoke about Ralph's drink driving habit and that he was a legend in not having been caught.

He knew the police were out there and thought it was something like a shoplifter. He thinks they both looked out the window and then Ralph went out. He said that he hasn't a lot of recollection of what happened.

His suggested the events were that Ralph was coming back in and they were mucking around and he staggered on the step going backwards and he grabbed at him with both hands to stop him and his fingers hit him and there was a consequent push and Ralph was off balance. It all happened in a few seconds.

He stated he had no recall of the subsequent conversations with other people about him stating he had pushed Ralph and it was an accident.

It was put to him that the likely scenario was:

- the two of them were mucking around
- this was in the context of him telling Ralph that the police were after him
- Ralph started to come back inside
- you had a joke with him and told him to go back out
- you then pushed Ralph harder than you intended with no intent to hurt him and he struck his head
- but there was no malice

In response he was unable to say and said he had no memory and blamed his heavy drinking as partly responsible.

## **Conclusions**

In assessing the statements and evidence of the various witnesses it is not difficult to come to a conclusion that it is most likely and probable that Ralph fell to the footpath as a result of having been pushed by David West. This was clearly in the context of some friendly banter with David West and the events happening outside with the police. They had both been drinking but it would

appear not excessively, at least by that stage. The relative differences in their physical builds probably contributed such that the force applied was able to send Ralph quite forcefully through the doorway and onto the road. The push was intentional but it was not intended to cause Ralph any injury.

The alternative explanation by David West was that Ralph was stumbling back and he tried to stop him and inadvertently pushed him with his hands/fingers and in combination with Ralph being off-balance, Ralph came to fall backwards and hit his head. This explanation is not supported by any of the eyewitness evidence nor is it supported by the comments made by David West to a number of persons at the time or in the days after that he pushed him but it was an accident.

Mr West certainly has not helped his position by not being as frank as he could be with police and to this court. I accept that almost two years later his memory may have failed him and this may be an explanation as to his evidence in court but certainly he had a clearer recollection at the time as indicated in his conversations with some of the witnesses, which did not make its way to what he told police. No doubt he may have lied to police, although there are many explanations why people would lie, which do not necessarily equate to a consciousness of guilt.

Having found that Mr West in fact pushed Ralph I then have to consider the extent to which this was intended to cause Ralph harm. After considering all of the evidence there is really no suggestion that he intended to harm Ralph and the whole tragedy occurred in the context of some banter and play which went horribly wrong.

Ralph suffered serious head injuries as a result and despite medical treatment, he was unable to recover from those injuries, including internal bleeding to the brain and consequent raised intracranial pressure.

## **Findings required by s. 45**

**Identity of the deceased** – Ralph Frederick Zessin

**How he died** – Ralph fell to the footpath as a result of having been pushed by David West. This was clearly in the context of some friendly banter about the events happening outside with the police. They had both been drinking but it would appear not excessively. David West blocked his passage at the doorway suggesting he go and have another look and in doing so pushed him with both arms. The relative differences in their respective physical build probably contributed. In any event the push was such that the force that was applied was able to send Ralph quite forcefully through the doorway and onto the concrete footpath. It is likely Ralph's head hit the metal public utility coverings on the footpath near the entrance. The push was not intended to cause Ralph any injury.

Ralph suffered serious head injuries as a result and despite medical treatment he subsequently was unable to recover from those injuries, including internal bleeding to the brain and consequent raised intracranial pressure.

**Place of death –** Princess Alexandra Hospital Ipswich Road  
Woolloongabba

**Date of death–** 6 August 2012

**Cause of death –** 1(a) Raised intracranial pressure, due to, or  
as a consequence of;

1(b) Head injuries, due to, or as a  
consequence of;

1(c) Fall

### **Comments and recommendations**

I do not consider there is sufficient evidence to refer this case to the Director of Public Prosecutions. Without analysing in this judgement, the criminal law that might be applicable to this case, the defence of accident simply could not be excluded.

I accept this is of little comfort to the family of Ralph Zessin. They are clearly distressed about the untimely loss of their relative in what should have been quite benign circumstances, and which went horribly wrong.

I once again offer my condolences to the family.

I close the inquest.

John Lock  
Deputy State Coroner  
BRISBANE  
2 April 2014