QUEENSLAND COURTS

# CORONERS COURT OF QUEENSLAND

# FINDINGS OF INQUEST

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| CITATION: | **Inquest into the death of Robert Martin Fullerton** |
| TITLE OF COURT: | Coroners Court |
| JURISDICTION: | BRISBANE |
| FILE NO(s): | 2019/304 |
| DELIVERED ON: | 24 February 2021 |
| DELIVERED AT: | BRISBANE |
| HEARING DATE(s): | 24 February 2021 |
| FINDINGS OF: | Terry Ryan, State Coroner |
| CATCHWORDS: | Coroners: inquest, death in custody, natural causes. |

REPRESENTATION:

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| Counsel Assisting: | Rene Jurkov |
| Queensland Corrective Service: | Vanessa Price |

# Contents

## Introduction

1. Robert Fullerton was an Aboriginal man from Palm Island. At the time of his death, he was remanded in custody at the Townsville Correctional Centre (TCC) for multiple offences.

2. On 2 December 2018, Mr Fullerton was charged with six offences including breach of bail while living on Palm Island. On 3 December 2018, he was remanded in custody by the Townsville Magistrates Court. On 5 December 2018, he was transported from the Townsville Watchhouse to the TCC. On the same day, he was admitted to the Townsville Hospital and diagnosed with a large heterogeneous and lobulated cystic-like mass centred within the lower pelvis. He was subsequently diagnosed with terminal cancer on 13 December 2018.

3. On 13 January 2019, Mr Fullerton was transported from TCC to the Townsville Hospital for ongoing pain management. He died there on 19 January 2019 while in palliative care with his family present. He was aged 59 years.

## The investigation

4. Detective Senior Sergeant Bates from the Queensland Police Service (QPS) Corrective Services Investigation Unit (CSIU) investigated Mr Fullerton's death.

5. Police from the Stuart Station went to the Townsville Hospital after being notified of the death. A targeted direction for investigation was issued by the State Coroner and the CSIU continued the investigation. Mr Fullerton's correctional records and his medical files from TCC and the Townsville Hospital were obtained.

6. The investigation was informed by statements from the relevant medical staff at TCC and medical staff at the Townsville Hospital.

7. The CSIU investigation concluded that Mr Fullerton died from natural causes, and that his management and medical treatment were unremarkable. It also found that there were no suspicious circumstances associated with the death and that it could not have been prevented. I am satisfied that the CSIU investigation was professionally conducted and that all relevant material was accessed.

## The inquest

8. As Mr Fullerton died in custody an inquest was mandatory under s 27 of the *Coroners Act 2003*. All statements, records of interview, medical records, photographs and materials gathered during the investigations were tendered at the inquest. No oral evidence was heard at the inquest. I acknowledge the assistance provided by Ms Jurkov in the preparation of a summary of the evidence that informed my findings.

## The evidence

### *Personal history*

9. Mr Fullerton was born on 30 November 1960 on Palm Island to Robert Fullerton and Isabel Murphy.[1] He was the third child in a family comprising four brothers and six sisters.[2] He had lived on Palm Island all his life[3] and enjoyed hunting, fishing and living in the bush.[4]

10. Mr Fullerton began drinking alcohol at the age of 17. He reported that he started smoking cannabis at the age of 45, and smoked on a weekly basis with friends or family. Mr Fullerton and Oriel Johnson began a relationship in 1975[5] and lived together out bush[6] in Long Beach, Palm Island. By late 2011, Mr Fullerton had five children: two sons and three daughters, and six grandchildren.[7]

11. In 2009, Mr Fullerton was working three days a week as a yardman.[8] However, at the time of his death he was unemployed.

12. Mr Fullerton's identified next of kin, Barbara Baira, provided a statement to police after Mr Fullerton's death. Ms Baira's statement outlined that she had no concerns about the care he received from the hospital and treating doctors.[9] I extend my condolences to Ms Johnson and Ms Baira.

### *Custodial history*

13. Mr Fullerton had a five page criminal history that began in 1982 and consisted mainly of motor vehicle offences, assaults and contravention of domestic violence orders.[10] His last period of imprisonment was a term of eight months from November 2014 to July 2015 for offences of assaults occasioning bodily harm while armed/in company.

14. On 17 July 2018, Mr Fullerton was charged with contravening a domestic violence order (aggravated offence) and assaults occasioning bodily harm while armed in company (domestic violence offence).[11] He was released on bail with a no-contact condition in relation to his partner.

15. On 2 December 2018, Mr Fullerton was charged with the six offences that led to the period of remand during which he died. All six offences involved breaches of a no-contact condition of his bail or breaches of a domestic violence order.

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[1] C3 – Birth Certificate.
[2] F8, page 27.
[3] B2 – Statement of BAIRA, Barbara Anne.
[4] Ibid, page 4.
[5] F9, page 3.
[6] F3 – ieMR, page 309.
[7] F8, page 30.
[8] F8, page 6.
[9] B2 – Statement of BAIRA, Barbara Anne, page 4.
[10] C4 – Qld Criminal History.
[11] C6 – Verdict and Judgement Record – 04.12.2018.

He was remanded in custody at the Townsville watchhouse on before appearing in the Townsville Magistrates Court on 3 December 2018 for an ex parte mention with two prior charges. His bail was revoked, and he was remanded in custody until 18 December 2018.[12]

16. On 18 December 2018, Mr Fullerton's matters were adjourned to 22 January 2019 with his appearance required via Video link.

***Medical history***

17. Mr Fullerton's previous medical history included:

- Hypertension
- Dyslipidaemia
- Ischemic Heart Disease (2018)
- Hyperlipidaemia (2018)
- Myocardial Infarction (2006)

18. Mr Fullerton had an extensive smoking history that included up to 40 cigarettes and 20 marijuana rollups a day.[13] He had a history of engaging in alcohol binges, and as well as noncompliance with medication due to his location on Palm Island and lack of access to pharmacies. Joyce Palmer Health Service records show Mr Fullerton attending the clinic from as early as 1995 with various medical issues including wound care, treatment for assaults and general health issues.[14]

19. Records indicate Mr Fullerton, then 35 years old, presented to the Townsville Hospital in June 2006 with chest pains, found to be an anterior ST-segment elevation myocardial infarction (STEMI).[15]

20. In March 2013, Mr Fullerton presented to the Joyce Palmer Health Service on Palm Island after experiencing chest pain. It was determined that Mr Fullerton had suffered from a possible cardiac event, but he discharged himself against medical advice later that day.[16]

21. In May 2017, Mr Fullerton experienced chest pains twice during the day before being involved in an altercation that resulted in him being punched in the left side of the chest. He developed a constant, aching pain in his chest and subsequently presented to the Joyce Palmer Health Service.[17] He had not taken his medications for a few months and had been smoking tobacco and cannabis heavily. He was flown to the Townsville Hospital Cardiology Department via the Royal Flying Doctors Service (RFDS)[18] for further cardiac treatment. An

[12] C6 – Verdict and Judgement Record – 04.12.2018, page 2.
[13] Ibid, page 513.
[14] F4 – Medical Records, page 81 – 110.
[15] E8 – Log of Chart Audits, page 63.
[16] F4 – Medical Records, page 64.
[17] Ibid, page 28.
[18] F3 – Medical Records, page 471.

inpatient angiogram at the Townsville Hospital found 70% stenosis in the left anterior descending artery, a progression from the 40-50% stenosis on a prior angiogram.[19] After stabilising and agreeing to take his medication, Mr Fullerton was discharged two days later.

22. In early September 2018, Mr Fullerton saw Dr Annalise Felkel at the Children and Family Centre on Palm Island where he complained of difficulty emptying his bladder and bowels. On 6 September 2018, Mr Fullerton underwent an abdominal X-Ray and renal tract ultrasound, which revealed severe prostatomegaly (enlargement of the prostate gland).[20]

23. On 11 September 2018, Dr Felkel referred Mr Fullerton to the Gastroenterology and Endoscopy Unit of the Townsville Hospital for a colonoscopy and to the Urology – Surgical Clinic for further advice on the results of the ultrasound.[21] The ultrasound found an enlarged prostate and the impression was that he had prostatic hypertrophy (prostate gland enlargement) and did not require further intervention.[22]

24. By late 2018, Mr Fullerton's daily medication included:

- Prazosin for high blood pressure (2mg),
- Outasteride/Tamsulosin Hydrochloride for an enlarged prostate (500mcg),
- Ramipril for high blood pressure (5mg),
- Metoprolol tartrate as a beta blocker for chest pain (75mg),
- Thiamine for vitamin B1 (100mg),
- Pantoprazole for stomach acid (40mg),
- Aspirin (100mg)
- Clopidogrel for reducing the risk of heart attacks (75mg),
- Atorvastatin for prevention of cardiovascular disease (80mg) and
- Ramipril for hypertension (5mg).[23]

25. On 3 December 2018, at 8:51am, Mr Fullerton was transported to the Joyce Palmer Health Service by QAS with an onset of intermittent back pain.[24] His history was noted to include prostate issues.[25]

[19] F6 – ED Medical Records, page 8.
[20] F3 – Medical Records, page 30.
[21] Ibid, 28.
[22] Ibid, page 40.
[23] Ibid, page 507.
[24] F4 – Medical Records, page 77.
[25] Ibid, page 76.

### *Diagnosis with cancer*

26. On arrival at the TCC on 5 December 2018, Mr Fullerton was seen by registered nurse Annette Davis. She referred him to the Townsville Hospital after he told her that he was not able to void faeces without urinating, his bowel movements were not frequent, he had lower abdominal pains and had lost significant amounts of weight due to his pain.[26]

27. At the Townsville Hospital a CT scan of his abdomen and pelvis found a large heterogeneous and lobulated cystic-like mass centred within the lower pelvis, with mass effect on the bladder and displacement of the bowel.[27] At this stage, the favoured differential diagnosis was a primary seminal vesicle tumour, or an infective aetiology such as Melioidosis.[28]

28. On 6 December 2018, a CT scan was conducted on his chest which found the heart within normal limits, the lungs clear and no thoracic abnormalities.[29] Mr Fullerton was taken back to TCC at approximately 7:15pm. However, soon after his return, the Townsville Hospital contacted the night nurse at TCC and asked for Mr Fullerton to be returned to the hospital. He was then taken back to the Townsville Hospital at 8:00pm.[30]

29. On 7 December 2018, a liver biopsy was undertaken without complication. An endoscopy was also undertaken, which found that the rectal lumen was extrinsically compressed from 9 to 15cm from the anal verge without mucosal lesions.[31] No further investigation was recommended.

30. On 8 December 2018, Mr Fullerton was discharged from the Townsville Hospital while the results from the biopsies and endoscopy were being investigated.[32] He returned to the TCC with a prescription for prazosin.[33]

31. On 10 December 2018, Mr Fullerton was transported back to the Townsville Hospital Emergency Department with abdominal pain, decreased appetite, constipation and difficulty voiding. His bloods were taken and showed stable findings with no change to renal function. A bladder scan confirmed difficulty voiding all urine. His urinary symptoms were discussed with the urology team who advised that the difficulty voiding urine was not secondary to the pelvic mass, but rather likely due to his diagnosis of BPH (benign prostatic hyperplasia, or prostate gland enlargement).

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[26] F4 – Medical Records, page 506.
[27] F3 – Medical Records, page 296.
[28] Ibid, page 297.
[29] F7 – Pathology and Medical Imaging Reports, page 35.
[30] D14 – QCS Offender Profile, page 5.
[31] F3, page 482.
[32] Ibid, page 494.
[33] E2 – Progress Notes, page 2. Prazosin is used to treat symptoms of an enlarged prostate.

32. During his stay in the Emergency Department, Mr Fullerton was hypertensive and was subsequently given an additional 5mg of APO-Amlodipine, to be reviewed by his GP after seven days with titration of the dose as needed.[34] He was discharged and returned to TCC later that day.

33. On 13 December 2018, Mr Fullerton's histopathology report indicated poorly differentiated carcinoma with primary sites including gastric, renal and hepatocellular carcinoma.[35]

34. On 18 December 2018, Mr Fullerton's criminal matters were further adjourned until 22 January 2019. Nurses were called to assess increasing pain in his pelvic region, and he was given Ibuprofen.[36]

35. On 20 December 2018 at 5:00am, a Code Blue was called after Mr Fullerton complained of abdominal and back pain.[37] An urgent Visiting Medical Officer (VMO) review was requested by the attending nurse and Dr Glenda McDonald attended later that day. Dr McDonald noted Mr Fullerton's ongoing loss of appetite and moderately severe lower abdominal and pelvic pains that disturbed his sleep.[38] Dr McDonald prescribed tramal SR (moderate to severe pain relief) for regular use and panadeine forte for pain as required. He was also prescribed to have resource high calorie drinks added to his diet.

36. On 27 December 2018, Dr Csongor Oltvolgyi saw Mr Fullerton for symptom management while they awaited advice from the treating oncologist about what further treatment was available.[39] Mr Fullerton's Tramal SR was increased to 150mg with ongoing Panadeine Forte as required and an inmate carer was supplied to help Mr Fullerton with his daily activities.

37. On 2 January 2019, Mr Fullerton was again reviewed by Dr Oltvolgyi after complaining of ongoing pain. After discussion with the Palliative Care Registrar, Mr Fullerton was prescribed morphine sulphate (30mg) and morphine (10mg) as necessary up to six doses per day. On 7 January 2019, Mr Fullerton complained to his treating nurse of frequent liquid and blood-stained faeces during the night and was later seen by Dr Oltvolgyi. His morphine sulphate was changed to oxycontin (30mg) and endone (5mg) as required for extra analgesia.[40] The next day, his treating nurse felt the pain was under better control.

[34] E2 – Progress Notes, page 533.
[35] F7 – Pathology and Medical Imaging Reports, page 1.
[36] E2 – Progress notes, page 4.
[37] Ibid, page 4.
[38] B1 – Statement of Dr Glenda MCDONALD, page 2, para 6.
[39] Ibid, page 4; E2 – Progress Notes, page 6.
[40] Ibid, page 5.

38. On 13 January 2019, Mr Fullerton was transported via QAS to the Townsville Hospital Emergency Department after experiencing extreme lower abdominal pain, lower chest pain, difficulty passing urine and blood in his stool. A CT scan was conducted on his abdomen and pelvis, and a comparison was made from the previous CT results from 5 December 2018. The results found worsening primary and metastatic disease with gross enlargement of the pelvic mass, with a now complete effacing of the presacral space (space between rectum and the lowest part of the spine).

39. There was a significant increase in the size of previous deposits and multiple new hepatic metastatic deposits, the largest measuring up to 11.7cm in diameter.[41] New lung metastatic deposits were found and Mr Fullerton's right lung consolidation was treated as hospital-acquired pneumonia, which was treated with antibiotics.[42] It was decided soon after admission not to provide radiation oncology treatment given the final stages of the illness.[43]

40. On 16 January 2019, the Cultural Liaison Officer contacted the Aboriginal and Torres Strait Islander Legal Service to initiate an urgent bail application on behalf of Mr Fullerton. His sister, Barbara Baira, her partner and three children attended the hospital for an emergency family meeting where doctors explained Mr Fullerton had only two days to one week to live. Ms Baira stated that Mr Fullerton declined chemotherapy because "he knew it was his time".[44]

41. On 17 January 2019, a chest X-Ray was undertaken and found some peri-bronchial thickening and patchy consolidation at the lung bases, as well as some small nodular densities in the right lower lobe in keeping with the history of metastatic disease.[45] An ultrasound was also undertaken on Mr Fullerton's left leg after he developed leg swelling, calf tenderness and a concern for deep vein thrombosis. The ultrasound found no thrombosis with normal Doppler flow and compressibility.[46] An Acute Resuscitation Plan ('ARP') was signed indicating medical staff should only provide analgesia and IV antibiotics, and not CPR.[47]

42. On 19 January 2019, at approximately 1:59pm, Correctional Officer, Victor Strowger, informed the Acting Centre Services Supervisor, David Tutt, that Mr Fullerton had reported breathing difficulties at 1:50pm.[48] Mr Strowger immediately pressed the emergency button to alert medical staff. Ward staff immediately attended and upon reviewing the ARP, did not call a MET or commence CPR.[49] Ms Baira and other family members were called to attend Mr Fullerton in his room before he was declared life extinct at 2:11pm.[50]

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[41] F7 – Pathology and Medical Imaging Reports, page 33.
[42] B1 – Statement of MCDONALD, Glenda, page 6.
[43] Ibid, para 33.
[44] B2 – Statement of BAIRA, Barbara Anne, page 3.
[45] F7 – Pathology and Medical Imaging Reports, page 37.
[46] Ibid, page 29.
[47] F3 – Medical Records, page 2.
[48] D14 – QCS Offender Profile, page 4.
[49] F3 – Medical Records, page 82.
[50] A1 – Form 1.

## Autopsy results

43. On 23 January 2019, Professor David Williams conducted an autopsy consisting of an external examination of the body, toxicology and a review of the medical records.[51] Mr Fullerton's next of kin had understandably objected to an internal autopsy examination.

44. The external examination showed no external injuries with no recent incised wounds, abrasions, lacerations or bruises to the body in general. Toxicology revealed therapeutic levels of the medication used, including amlodipine, metoclopramide, metoprolol, oxycodone and paracetamol, with no alcohol or illicit drugs detected. These results are consistent with the medications used to treat Mr Fullerton.

45. Medical records confirmed a diagnosis of poorly differentiated carcinoma, which was noted to have a high possibility of originating in the lung.

46. The cause of death was determined as disseminated carcinoma on a background of emphysema.

## Conclusions

47. Mr Fullerton had been remanded in custody for three days before being transferred to the Townsville Hospital. The TCC ensured Mr Fullerton's pain was managed through continuous reviews by nurses and medical officers. The medical records indicate that he was diagnosed with a tumour on 5 December 2018 and widespread carcinoma on 13 December 2018.

48. His diagnosis included carcinoma and primary and metastatic disease. There were no missed opportunities for intervention. The care he received at the Townsville Hospital and TCC was appropriate in the circumstances.

49. I am satisfied that Mr Fullerton's death was from natural causes and that there were no suspicious circumstances associated with the death. It could not have been prevented. He entered custody with an extensive medical history and a medical impression of tumours in his abdomen. He was taken to the Townsville Hospital within three days of being remanded in custody and further investigations were commenced immediately.

[51] A4 – Autopsy Report.

## Findings required by s. 45

50. I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. As a result of considering all the evidence I can make the following findings:

**Identity of the deceased** – Robert Martin Fullerton

**How he died** – Mr Fullerton had a range of comorbidities when he was remanded in custody on 3 December 2018. On 5 December 2018, he was transferred from the watchhouse to the Townsville Correctional Centre. On the same day he was referred to the Townsville Hospital for the investigation of complaints of severe pain. A large cystic like mass was found. On 13 December 2018, Mr Fullerton was diagnosed with poorly differentiated carcinoma which could not be treated.

**Place of death** – Townsville Hospital, Townsville, Queensland 4810

**Date of death**– 19 January 2019

**Cause of death** – 1. Disseminated Carcinoma
2. Emphysema.

51. I close the inquest.

Terry Ryan
State Coroner
BRISBANE
24 February 2021