



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: **Inquest into the death of
Amanda Renee Bertram**

TITLE OF COURT: Coroners Court

JURISDICTION: Brisbane

FILE NO: COR00003794/07 (5)

DELIVERED ON: 12 September 2008

DELIVERED AT: Brisbane

HEARING DATE(s): 10 & 11 September 2008

FINDINGS OF: Coroner Lock

CATCHWORDS: CORONERS: Inquest – Mixed Drug
Toxicity

REPRESENTATION:

Ms Julie Sharp, counsel assisting the enquiry

CORONER'S FINDINGS AND DECISION

1. These are my findings in relation to the death of Amanda Renee Bertram who died at her home sometime between 17 and 19 August 2007 from a mixed drug toxicity. These findings seek to explain how the death occurred and consider whether any changes to policies or practices could reduce the likelihood of deaths occurring in similar circumstances in the future. The *Coroners Act 2003*¹ provides that when an inquest is held into a death, the coroner's written findings must be given to the family of the person who died and to each of the persons or organisations granted leave to appear at the inquest. These findings will be distributed in accordance with the requirements of the Act and also placed on the website of the Office of the State Coroner.

The scope of the Coroner's inquiry and findings

2. A coroner has jurisdiction to inquire into the cause and the circumstances of a reportable death. If possible he/she is required to find:-
 - a) whether a death in fact happened;
 - b) the identity of the deceased;
 - c) when, where and how the death occurred; and
 - d) what caused the person to die.
3. 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.
4. 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."*²
5. 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

¹ *Coroners Act 2003*, s45

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

happening in similar circumstances in future.³ 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.⁴

The Admissibility of Evidence and the Standard of Proof

6. 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.*"⁵ 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.
7. 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.⁶ 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.⁷
8. 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.⁸ 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.⁹
9. It is also clear that a coroner is obliged to comply with the rules of natural justice and to act judicially.¹⁰ 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*¹¹ makes clear that includes being given an opportunity to

³ s46

⁴ s45(5) and 46(3)

⁵ s37(1)

⁶ *R v South London Coroner; ex parte Thompson* per Lord Lane CJ, (1982) 126 S.J. 625

⁷ s39

⁸ *Anderson v Blashki* [1993] 2 VR 89 at 96 per Gobbo J

⁹ *Briginshaw v Briginshaw* (1938) 60 CLR 336 at 361 per Sir Owen Dixon J

¹⁰ *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

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¹¹ (1990) 65 ALJR 167 at 168

make submissions against findings that might be damaging to the reputation of any individual or organisation.

10. 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, and to the chief executive of the department which administers legislation creating an offence which is not indictable.¹²

The Evidence

11. It is not necessary to repeat or summarise all of the information contained in the exhibits and from the oral evidence given, but I will refer to what I consider to be the more important parts of the evidence.
12. Amanda Bertram was 28 years old. Her mother, Glenys Mary Bertram told the court that she was a nice child. She had been school captain at primary school and the drama captain in grade 12 at Clayfield College. This is another of those sad cases where drugs has wasted a promising life. Her mother said that she had struggled with drug addiction for 8 years. She had periods when she went into rehabilitation when she would be clean for months. Earlier in 2007 she had attended HAFDS and then a halfway house and was clean. She had a bad car crash which seems to have shaken her up even though she did not receive any serious physical injuries. She had got a new job the week prior to her death. Her mother was ringing her each morning to make sure she was awake and up. She was known to sleep for 36 hours when she was on the drugs. Her mother knew she was back in trouble with drugs by the end of the week and told her she had to sort it out for herself. She said that she gave no indications of suicide. She was seeing a counsellor at BIALA. She had never mentioned that she had a relationship with Kelvin Amaya.
13. Amanda resided with friends at 15/28 Coora Street, Wishart. Her friend Marisa Greenham describes her as having a long standing history of amphetamine and prescription drug abuse. She was aware that in early 2007 she started using heroin on pretty much a daily basis. She was depressed over relationship troubles with a male person called Kelvin.
14. Marisa had her own drug habits and had used heroin herself on a couple of occasions with Amanda. She gave evidence that Kelvin was supplying her with heroin. He sometimes was accompanied by an Asian looking man. Kelvin did not supply her with amphetamine. She had a big talk to Amanda the day before her death when she told her the extent of her current heroin habit. She said her friend had been to rehab and went well at times. There is evidence of Ms Bertram making telephone calls and active attempts to once again try and kick the addiction.

¹² S 48(2)

15. At 1am on 18 August 2007 Amanda arrived at her house indicating she was going to buy some ICE. Her pupils were dilated and she was speaking quickly and this behaviour was consistent with her experience of Amanda after she had taken some drugs. They all consumed some ICE splitting one gram in 3 ways. Amanda then left saying she was going to purchase some ICE and she believed she was picking up a friend to take him home. An ATM receipt shows she tried to withdraw \$300 at about 1.49 am but there were insufficient funds. She came back at 2.30 am and she said she had a friend Punkie in the car. They left sometime later but Punkie stayed in the car. She came back at 4am. She mentioned that she wanted to buy some heroin. Later that morning they went shopping and she withdrew some money at a ATM. There is evidence from receipts from an ATM at about 10.07 am which supports this version.
16. Marisa last saw her at 11 am. She says that Kelvin supplied her and her boyfriend Justin with heroin that day. She tried to contact her on her mobile that evening several times but was unable to reach her. She later was told that Amanda had passed away.
17. Another friend was Isobel Joslyn King. She provided a statement and gave evidence by telephone from New Zealand. She shared her residence with Amanda and Barry Snook. She had only known her for 3 months. She knew she had a history of amphetamine and heroin use. She had some problems with depression and was on medication for anxiety and depression particularly after the motor vehicle crash. She was however excited about her new job and she did not consider she was suicidal. She had lost a lot of weight and she had been speaking about her problems with drugs. She also knew a person by the name of Kelvin also known as Dylan who was a regular visitor, up to a couple of times a week. Amanda had told her she was in love with him but that he was married. Kelvin would often visit with an Asian but he never came on his own. She suspected Kelvin was supplying drugs to Amanda and she had told her he was a heroin dealer.
18. On 17 August 2007 she had a short conversation with Amanda briefly at 8pm. Amanda was at that time well and in good spirits. The next day she saw that her bedroom door was closed and took no notice as Amanda slept in often. She thought her car was parked in the garage but she could be mistaken about that. She returned home later that afternoon and could hear what may have been an alarm going off (it was probably a mobile telephone). At 11pm, and it could have been later, she went in to turn it off as it had become annoying. She saw Amanda lying on her bed. A syringe with a spoon and filter was on her bedside table. She saw her mobile phone had about 10 missed messages. She thought nothing more about it and left the room. She did not check if Amanda was breathing.
19. The next day after midday she went back into the room to use her phone and saw she had not shifted from when she saw her last. She saw

something written on a piece of paper propped up facing her on the bed. That was the first time she had seen it but it was possible it was there the night before. She then touched Amanda and found she was cold. Police and Ambulance were called Isobel. The note is written in a notebook and was from Dylan saying he had been there for ages and that as she would not wake he was going. A text message sent by Dylan to Amanda's telephone at 2.31 pm says that he had been waiting for over an hour and she would not wake. The note book had many pages of day to day issues such as shopping lists but also included references to her struggle with drugs. There are references to known drug rehabilitation centres and drug counselling and she clearly was in the previous few days making arrangements to have another attempt at rehabilitation.

20. Barry Snook knew Amanda for some 4 years and that she was also using speed as a drug. He also used it but not as much as she did. He cleaned himself off drugs a few years ago. He met up with Amanda and thought she was looking healthier than when he first knew her. He thought she was not using. He needed a place to live and he moved in at the end of July. He saw she had lost a lot of weight again. He had met her boyfriend who drove a black Honda. From the talk with his housemates including Amanda he was aware he was involved in drugs and had been in prison. He thought that Amanda was back using drugs again.
21. Barry had met her boyfriend. He was known to him as Dylan. Amanda had told him he drove a white Nissan skyline.
22. On 18 August 2007 around 1.20pm he had a brief conversation with Amanda. He says she looked like she was on drugs and had wide eyes, was sweating, panicky and was half yelling. She told him that she was expecting someone and to leave the front door open. He fell asleep but opened the door to let Dylan in. He had not previously told police about this evidence.
23. He came home after work around midnight and spoke to Isobel who went to switch of Amanda's phone as it was ringing. Isobel told him Amanda was asleep and she had passed out with a needle nearby. It was not unusual for Amanda to sleep for more than a day so they were not concerned about her passing out. They had decided to have a talk to her about her drug use later. He found out the next day she had passed away.
24. He was questioned about the times and it would seem the best he can say that he saw Dylan and let him in that afternoon.
25. Brent Hiley is a neighbour and helps his wife in the manager duties for the unit complex at 28 Coora Street, Wishart. He had met some male persons at Amanda's unit one of whom was half Asian/half Australian and one Indian looking. They would visit often and drove a grey Honda

registration TRY 20. On 18 August 2007 he was mowing the lawns saw a white Nissan 21SKY parked across the driveway for unit 15. It had a black bonnet.

26. Vernon Pragasan Martin lived at unit 40 which is directly opposite from unit 15. He recalls a black hatch back often parking across the driveway of unit 15. It was driven by a male person he thought was a boyfriend for one of the girls at unit 15. He was described as 180cm tall, slim build, short dark to reddish hair, tanned complexion, clean shaven with spectacles. At about 10.30 am on Saturday 18 August 2007 he saw a yellow car park in the garage at unit 15. Ten minutes later the male person he describes arrived in a white Nissan which was still there when he left later in the afternoon.
27. I did not require the hearing of oral evidence from Mr Hiley or Mr Martin. Their statements were sought in support of a circumstantial case linking Amaya to being at the unit on the Saturday 18 August. With the evidence of Mr Snook that was no longer necessary.
28. The investigating officer Detective Sergeant McDonald provided a statement and gave evidence. Relevantly he located the names of contacts in Ms Bertram's mobile telephone. Dylan's name is mentioned and there were a number of text messages sent on 18 August. It came to his knowledge that the name of Dylan was an alias for a Kelvin Amaya, who was well known to Mt Gravatt police for his drug dealings. The mobile phone was registered in the name of a Brett Jones which was a fictitious name. The phone was found in the possession of Kelvin Amaya on 17 February 2008 and was the number which was attributed to the alias Dylan. Amaya had a white Nissan Skyline registration number 21UKY. Detective Sergeant McDonald completed further investigations and produced a helpful timeline in the matter. I thank him for his investigation.
29. Timothy Kelly was a person in custody. He was not happy being in court. He was given a direction to give evidence and advised of the protection provided by s39 of the Act. He agreed he knew Amanda and had been with her in the early hours of 18 August. He repeatedly denied he had a nickname Punkie and denied any text messages sent to Ms Bertram's phone as coming from him. This was despite the fact that when the number under Punkie was called by police he answered it. Police intelligence profile information also has him listed with a nickname of Punkie. He said he had been stealing computers that night and had met her at the Southbank Parklands. He denies he was using drugs with Amanda. He said he just wanted a lift. He said Amanda had not looked the best and he had concerns about her. He denied he was taking drugs with Amanda in days leading up to her death.
30. Although I doubt Mr Kelly was being totally open I do not think the evidence leads to him being directly connected to her death. He was obviously part of the drug taking crowd Ms Bertram was mixed up in and

was with her earlier that morning but he was not with her later when she got some money out which was obviously used for the drugs.

31. Kelvin Amaya was also called. He also is serving some sort of prison sentence. It was known that he may have been one of the last persons to see her. He had been at her bedside earlier that day and left a note for her. He had refused to give a statement to police about what he knew. He was also warned that he would be required to give evidence but the protections provided by s39 were also explained. He conceded he knew Ms Bertram for some 3 months and was romantically attached with her. It would seem he had a somewhat complicated personal life as apart from a wife and child he was also in a relationship with Steff Huezo. This person knew Ms Bertram and there a two text messages sent around 4.30 pm on 18 August from Ms Huezo. He drove a white Nissan and also a black Honda. He was using the name Dylan and agreed he was the person listed in her mobile phone as Dylan.
32. I do not intend to repeat his evidence. He denied that he had been with Ms Bertram for around an hour in the afternoon of 18 August when she would not wake up. This is despite the note that he wrote and the text message he sent to her at 2.30 pm that day indicating as such. His evidence is unreliable on some issues. He agreed that he supplied her with heroin on 2 or 3 times when they consumed together. He was not her main supplier. The other person was an associate named Brian. He was Asian.
33. He denied at first that he was supplying heroin to her but later agreed that he did. He has supplied heroin to Marisa Greenham. He then agreed he supplied Amanda with heroin once or twice but not ICE.
34. He says he saw her for an hour in the morning when she got cranky at him for waking her. He says that he left the note then. When he went back in the afternoon he only stayed 5 or 10 minutes. I do not accept that is the case and it was in the afternoon that he left the note for her.
35. I also find that he was her regular heroin supplier although the Asian person may also have been involved. I find she is likely to have withdrawn some money to pay for drugs including the heroin and that money was given to her by him that morning and he supplied her with the heroin which she later injected. By the time he came back in the afternoon Ms Bertram was well and truly under the affects of a number of drugs. There is no evidence that he injected her himself nor is there any indication he knew how serious her condition was. He was not expecting her death as one would not think he would leave a paper trail in the form of the note and the text message.
36. There is no evidence that he or any of the other occupants of the house callously left Amanda to die. Ms Bertram could sleep for very long periods when taking drugs. Her position on her bed and in not being able to wake her could reasonably be thought by him and the others as due

to her taking drugs and sleeping it off as had happened in the past. They could not reasonably have foreseen that she was going to die.

The Autopsy

37. Dr Rebecca Williams performed an external and full internal autopsy examination, and took toxicology samples. The internal examination found no evidence of natural disease. She found a number of needle marks on her left wrist and back of her left hand. There was some congestion of the brain and lungs, being a common finding in drug-related deaths.

Toxicology tests on post-mortem blood and urine identified:

- Amphetamine in a therapeutic range
- Methylamphetamine in a potentially fatal range
- Morphine in a potentially fatal range
- Total morphine plus morphine glucuronides in a potentially fatal range
- Codeine above therapeutic but below potentially fatal range
- Diazepam, and paracetamol in therapeutic ranges
- Oxazepam and Temazepam at low levels.

38. Tests of the urine revealed 6-Monoacetylmorphine which is indicative of heroin use as distinct from another form of morphine. Urine tests also found the presence of the drugs found in her blood in similar ranges. Dr Williams opined that the combination of drugs was considered to have been fatal to Ms Bertram.

Findings required by s45

39. I am required to find, as far as is possible, who the deceased was, when and where he died, what caused the death and how he came by his death. I have already dealt with the last of these issues, being the circumstances of Amanda Renee Bertram's death. As a result of considering all of the material contained in the exhibits and the evidence given by the witnesses I am able to make the following findings in relation to the other aspects of the death.

- a) The identity of the deceased was Amanda Renee Bertram
- b) The place of death was 15/28 Coora Street, Wishart, Brisbane Hospital, Brisbane, Queensland.
- c) The date of death was between 18 & 19 August 2007.
- d) The formal cause of death was:
 - 1(a) Mixed Drug toxicity

40. There is nothing contained in the evidence which suggests that when she took this level of drugs that there was any intention to bring about her own death. She was a regular abuser of illicit and prescription drugs. She gave no indications of particular risks of suicide other than that she may have been stressed with difficulties in her relationship.

There is a range of evidence which suggests she was making contact with drug counselling and rehabilitation centres. Although the level of morphine/heroin taken was high it was not in the range where it would have been inevitably fatal. Rather it is the mix of drugs, including injecting herself with heroin and taking speed, which has brought about her death. I find that this was most likely by misadventure as distinct from an attempt to take her own life.

41. This is another sad case of a young person's long term addiction to multiple illicit and prescription drugs wasting her life. Mr Amaya supplied heroin to her without a doubt on 18 August. She had a number of other drugs found within her system also. There is nothing to suggest he injected her with the heroin or supplied the other drugs found. It may be of some comfort for the family to know that my subsequent enquiry leads me to believe that Amaya is serving a 3 year suspended sentence given by the Supreme Court for serious drug offences. He committed further offences and he is now serving that 3 year sentence.

Concerns, Comments and Recommendations

42. Section 46 of the Act provides that a coroner may comment on anything connected with a death that relates to public health or safety, the administration of justice or ways to prevent deaths from happening in similar circumstances in the future. The state of the evidence is such that no such comments or recommendations can be made

My condolences to her mother and her family and friends.

I close this inquest.

John Lock
Brisbane Coroner
12 September 2008