QUEENSLAND COURTS

CORONERS COURT OF QUEENSLAND

FINDINGS OF INQUEST

CITATION:	**Inquest into the death of Lawrence Sylvester Smith**
TITLE OF COURT:	Coroners Court
JURISDICTION:	BRISBANE
FILE NO(s):	2017/5633
DELIVERED ON:	25 May 2020
DELIVERED AT:	Brisbane
HEARING DATE(s):	25 May 2020
FINDINGS OF:	Terry Ryan, State Coroner
CATCHWORDS:	Coroners: inquest, death in custody, natural causes.

REPRESENTATION:

Counsel Assisting:	Ms Rhiannon Helsen
Queensland Corrective Services:	Ms Megan Lincez
CQHHS:	Ms Kristy Richardson

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Introduction

1. Lawrence Sylvester Smith was 81 years of age at the time of his death. He was a remand prisoner at the Capricornia Correctional Centre (CCC) and detained under the *Dangerous Prisoners (Sexual Offenders) Act* 2003. Mr Smith suffered from multiple co-morbidities at the time of his reception at the CCC in late 2015. On 7 December 2017 he was admitted to the Rockhampton Hospital following a stroke and he subsequently died on 19 December 2017.

The investigation

2. A targeted investigation into the circumstances surrounding Mr Smith's death was conducted by Detective Sergeant Stephen Carr of the Corrective Services Investigation Unit. A Coronial Report was subsequently provided with various annexures, including witness statements and medical records.

3. After being notified of Mr Smith's death, officers from the Rockhampton CIB attended the Rockhampton Hospital with a scenes of crime officer and an investigation ensued. Mr Smith's medical files from CCC and the Rockhampton Hospital were obtained. The investigation was informed by statements from relevant custodial officers and medical staff.

4. Mr Smith was identified by fingerprint examination at the Rockhampton Base Hospital Mortuary, as the next of kin and other family members were unable to formally identify the body.

5. A cause of death certificate had been issued for Mr Smith at the Rockhampton Hospital on 19 December 2017 noting that aspiration pneumonia, intracranial haemorrhage and hypertension were the disease or conditions causing the death. The death certificate also cited other significant conditions as being Type 2 diabetes and ischaemic heart disease. However, as Mr Smith had died in custody an autopsy mortem examination was required to establish his cause of death.[1]

The inquest

6. At the time of his death, Mr Smith was a prisoner in custody, as defined in Schedule 4 of the *Corrective Services Act 2003.* Pursuant to s 8(3)(g) of the *Coroners Act 2003* Mr Smith's death was a 'death in custody' and an inquest was required by s 27 of the Act.

7. The inquest was held on 25 May 2020. All of the statements, medical records and material gathered during the investigation was tendered in lieu of oral testimony and submissions were heard from Counsel Assisting.

[1] *Coroners Act 2003*, s 19(2)

The evidence

8. Mr Smith's death was investigated by the Queensland Police Service Corrective Services Investigation Unit (CSIU). A Coronial Report was prepared by Detective Sgt Stephen Carr.[2]

9. Mr Smith was survived by his adult daughter. She had sporadic phone contact with Mr Smith when he was first remanded in custody but had no contact with him for about two years prior to his death. She provided a statement which indicated that she believed her father was well cared for in custody. Due the nature of his offending Mr Smith was largely estranged from his family.

Custodial history

10. Mr Smith had a brief criminal history consisting of five entries, commencing in 1987. On 13 February 1996 he was convicted of five counts of incest and sentenced to 2 years imprisonment.

11. On 25 February 2003, Mr Smith was convicted of indecent treatment of a child under 16 years and three counts of attempted indecent treatment of a child under 12 years. He was sentenced to a head sentence of 4 years and 6 months imprisonment.

12. In August 2007, prior to his release from custody, Mr Smith was placed under a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act* 2003 until 23 August 2017.

13. On 19 June 2009 Mr Smith was fined for failing to comply with his reporting obligations under the *Child Protection (Offender Reporting) Act 2004*.

14. On 28 August 2013 he was convicted of contravening an order under the *Dangerous Prisoners (Sexual Offenders) Act 2003.* He was sentenced to 3 months imprisonment, wholly suspended for an operational period of 12 months.

15. On 23 December 2015 he was charged and remanded in custody for 10 charges of contravening a relevant order pursuant to the *Dangerous Prisoners (Sexual Offenders) Act 2003*. Those charges were referred to the Mental Health Court and an application for bail was not made. As a consequence, Mr Smith was held in custody on remand for almost two years.

16. On 2 November 2017, in the absence of suitable community based nursing accommodation, the Supreme Court of Queensland rescinded the supervision order made on 6 August 2007. Mr Smith was ordered to be detained in custody for an indefinite term for control, care and treatment under the *Dangerous Prisoners (Sexual Offenders) Act 2003.* It was noted at that time that the expert evidence before the court was that Mr Smith was an elderly man suffering advancing dementia and various cognitive impairments, and his overall condition was expected to deteriorate over time.

[2] Ex A1; A6; A7

Medical history

17. Mr Smith was aged 79 years when he was remanded in custody in 2015. He suffered from multiple co-morbidities including Type 2 Diabetes, eye disease, cardiovascular disease, hypercholesterolemia, angina, chronic kidney disease and congestive heart failure.

18. He was prescribed 16 different medications including insulin.[3] During his time in custody Mr Smith was seen twice daily at the prison health centre to monitor and self-administer his prescribed insulin. In 2016, due to his ailing health, he started using a wheelchair for mobilising longer distances to the health centre.

19. Mr Smith was also diagnosed with skin cancer, and had multiple lesions surgically excised from his face at the Rockhampton Hospital in 2017.

20. In 2017, it was identified that Mr Smith had a poor memory and he was experiencing faecal and urinary incontinence. As a result he was provided with incontinence aids and was also provided with a carer by Queensland Corrective Services to assist him with activities of daily living.[4]

21. On 14 November 2017, he sustained a severe crush injury to the third and fourth finger tips on his left hand after a cell door closed on his fingers. Mr Smith was in his cell with his hand in the doorway when an unknown prisoner kicked the cell door closed behind him. It was alleged that the prisoner did not know that Mr Smith's hand was in the door. Mr Smith self-reported the injury and he was immediately taken to the medical unit within the CCC. Staff ordered his transport to the Rockhampton Hospital for further treatment. He returned to the CCC medical unit overnight.

22. On 15 November 2017, he returned to the Rockhampton Hospital to have surgery in an attempt to reattach his fingers. At the completion of surgery he returned to the CCC. Mr Smith attended the Rockhampton Hospital another two times for post-surgery follow ups.

23. On 30 November 2017, he was again taken to the Rockhampton Hospital because his fingers were black and he underwent surgery to amputate the fingers. He was returned to the CCC medical unit that day.[5]

Events leading up to the death

24. After returning from his final appointment at the Rockhampton Hospital, Mr Smith remained housed in the CCC medical unit. He was on a daily patient care plan to monitor his care requirements.[6]

[3] Ex B4
[4] Ex B4
[5] Ex A7
[6] Ex B4

25. On 7 December 2017 at 7:40am during routine observations, Mr Smith was found with acute onset of left side paralysis and dysphonia, having suffered a stroke. He was then admitted to the Rockhampton Hospital at 8:30am.

26. Mr Smith was admitted with haematosis within the basal ganglia showing direct extension into the right lateral ventricle and third ventricle. The neurosurgical team was consulted and considered that no intervention was required at the time. It was discussed that if he developed hydrocephalus (water on the brain) a shunt may be required. However, given the likelihood of very high dependency the neurosurgical team would be reluctant to consider that option.[7]

27. Mr Smith required nasogastric (NG) feeds due to a severe swallowing impairment. He developed aspiration pneumonia which was thought to be in part due to him pulling out the NG tube which led to the feed going directly into his lung. His NG tube had to be replaced on multiple occasions and mittens were placed on his hands to prevent him pulling out the tube.[8] Insulin infusion also had to be started on Mr Smith. Despite the infusion he became increasingly hypernatremic and dehydrated. He had no improvement in his weakness, speech or swallowing during his admission.

28. On 8 December 2017, Mr Smith's daughter was advised that his condition was unlikely to improve and she indicated a preference for a more palliative approach to his management. Mr Smith had an Enduring Power of Attorney and his daughter confirmed his previous acute resuscitation plan from 12 May 2015 and wishes to not be resuscitated.[9] Mr Smith was subsequently put on a Terminal Medical Plan, to provide him comfort cares.[10]

29. Mr Smith's condition rapidly declined after 14 December 2017, when he was still able to respond to doctors by squeezing their hand or giving the "thumbs up" in answer to *"are you okay?"* By 18 December 2017, Mr Smith was no longer able to respond to questions, or squeeze the doctors' hand, but could still open his eyes.[11] The doctor's notes reveal that Mr Smith may have had some level of dementia but this was unable to be accurately assessed given his condition.[12]

30. On 19 December 2017 at approximately 4:40am the correctional officer stationed in Mr Smith's room notified nurses that there did not appear to be any movement from him. Nurses entered the room and observed that Mr Smith appeared to be deceased. A doctor was called to attend.[13] Mr Smith was declared life extinct at 4.47am.

[7] Ex B1
[8] Ex B1
[9] Ex B1; Ex D3, pg.32
[10] Ex A7; Ex B1
[11] Ex A6
[12] Ex A6
[13] Ex B2

Investigation findings

31. Given Mr Smith's extensive medical history and his death from apparent natural causes, an independent medical review was not requested in relation to his care at the CCC or the Rockhampton Hospital.

32. Investigators were satisfied that adequate care was provided to Mr Smith and that there appeared to be no suspicious circumstances in relation to his death.

Autopsy results

33. An external and full internal post-mortem examination was performed by Dr Nigel Buxton on 20 December 2017 at the Rockhampton Mortuary. The internal examination revealed an early uncal herniation of the brain, more prominent on the right side, together with early tonsillar herniation. A large fresh cerebral haemorrhage obliterated the right basal ganglia and extended out into the right parietal lobe. The surrounding brain showed focal necrosis.

34. There was a right lower lobe bronchopneumonia in the lung. The heart was enlarged weighing 440 grams, the increase in weight being due to concentric left ventricular hypertrophy. There was a mild degree of calcific aortic valve sclerosis but the valve cusps moved freely.

35. The coronary arteries were all grossly atherosclerotic with extensive calcification of all three major vessels. The carotid arteries showed mild to moderate atherosclerosis.

36. Toxicology testing detected therapeutic levels of morphine, amlodipine, and paracetamol.

37. Dr Buxton found the cause of death to be due to a massive right cerebral haemorrhage as a result of hypertensive heart disease. Contributing to death was severe calcific coronary artery atherosclerosis, a terminal right lower lobe bronchopneumonia and type 2 Diabetes Mellitus.[14] Dr Buxton found no evidence that any other person played a role in Mr Smith's death.

Conclusions

38. I conclude that Mr Smith died from natural causes. I find that none of the correctional officers or inmates at CCC or Rockhampton Hospital caused or contributed to his death. I am satisfied that Mr Smith was given appropriate medical care by staff at the PAH and WCC while he was in custody. His death could not have reasonably been prevented.

39. It is a recognised principle that the health care provided to prisoners should not be of a lesser standard than that provided to other members of the community. The evidence tendered at the inquest established the adequacy of the medical care provided to Mr Smith when measured against this benchmark.

[14] Ex A5

Findings required by s. 45

Identity of the deceased – Lawrence Sylvester Smith

How he died – Mr Smith had been remanded in custody for almost two years for breaches of a supervision order under the *Dangerous Prisoners (Sexual Offenders) Act 2003.* He suffered from multiple co-morbidities including Type 2 Diabetes, eye disease, cardiovascular disease, hypercholesterolemia, angina, chronic kidney disease and congestive heart failure. In November 2017, he was ordered to be detained for an indefinite period under that Act as suitable nursing accommodation was not available in the community. He died from natural causes at the Rockhampton Hospital.

Place of death – Rockhampton Base Hospital, Rockhampton in the State of Queensland

Date of death– 19 December 2017

Cause of death- The medical cause of death was cerebral haemorrhage due to or as a consequence of hypertensive heart disease. Other significant conditions were bronchopneumonia, coronary artery atheroma (severe) and diabetes mellitus (Type 2).

Comments and recommendations

40. The *Coroners Act 2003* enables a coroner to 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. In the circumstances of Mr Smith's death, I accept that there are no comments or recommendations to be made that would assist in preventing similar deaths in future.

41. I close the inquest.

Terry Ryan
State Coroner
BRISBANE
25 May 2020