



# **CORONERS COURT OF QUEENSLAND**

## **FINDINGS OF INVESTIGATION**

**CITATION:** **Non-inquest findings into the death of Tyrell Cobb**

**TITLE OF COURT:** Coroners Court

**JURISDICTION:** SOUTHPORT

**DATE:** 22/01/2021

**FILE NO(s):** 2009/1094

**FINDINGS OF:** Jane Bentley, Deputy State Coroner

**CATCHWORDS:** Coroners; failure to obtain medical attention; failure to provide necessities of life; murder; unlawful killing; manslaughter; child abuse.

## Contents

Circumstances Surrounding Tyrell's Death .....	1
Autopsy .....	2
Criminal Proceedings .....	5
Conclusion .....	7
Findings required by s.45 .....	8

## **Circumstances Surrounding Tyrell's Death**

Tyrell Cobb was four years old when he died on 24 May 2009. He was born a full-term healthy baby to Heidi Strbak and Jason Cobb. At the time of his death Tyrell was living with Ms Strbak and her boyfriend, Matthew Scown.

In December 2008 Ms Strbak moved from New South Wales to the Gold Coast and commenced a relationship with Mr Scown. She took Tyrell with her. Tyrell continued to have regular telephone contact with his father, Mr Cobb, who lived in New South Wales.

Mr Scown and Ms Strbak commenced living together about a week before Tyrell's death.

In the weeks before his death, Tyrell suffered a number of injuries.

On 11 May 2009, Tyrell fell from a one metre slide at the kindergarten and his arm was placed in plaster as a precaution.

On 14 May 2009, Tyrell had his finger crushed in a toy box. Only Mr Scown was with him when it occurred. On 15 May he was admitted to hospital and treated with antibiotics for an infection and fracture which resulted from the injury. He was discharged from hospital on 20 May 2019.

Ms Strbak did not take Tyrell to follow up appointments at the hospital on 18 and 22 May 2009.

Tyrell attended kindergarten on 22 May 2009.

On the morning of 23 May 2009, Tyrell allegedly fell on the stairs of his residence when he was with Mr Scown and later that afternoon allegedly fell in the shower whilst he was in the care of Mr Scown.

Ms Strbak told police that Tyrell was, "a little bit sick in the stomach," that evening and vomited a couple of times during the night.

Ms Strbak told police that Tyrell woke up on the morning of 24 May 2009 and ate Vita-Weets and some bread for breakfast. She said he vomited up some fluid and he complained that his stomach was sore and it was tender to touch.

She showered Tyrell that morning and noticed the bruise above his groin. She said that Tyrell first said he received the bruise as a result of being kicked at school and then later said that he received the injury when he ran at a coffee table in the lounge room.

Tyrell was ill and vomiting for the rest of the day.

Mr Scown told police that he was feeling Tyrell's stomach during the day due to the fall he'd had the previous day.

Ms Strbak told police that Mr Scown told her that Tyrell was only pretending to be sick as he wanted attention. This was despite the fact that he was vomiting into a bucket and had vomited in his bed that day. Tyrell's maternal grandmother phoned to check on him and heard Mr Scown say that Tyrell was only pretending to be sick and he was, "a pig."

Tyrell spoke to Mr Cobb at 8:00pm. Mr Cobb told police that Tyrell did not sound ill at that time.

Tyrell's maternal uncle, Daniel Allen, attended the unit between 8 and 8.30pm. He saw Tyrell vomit "ninja turtle green" vomit into a bucket three or four times in the space of an hour. He put Tyrell to bed at about 9pm and he said Tyrell was quiet and did not seem to be in pain at that time.

At about 9.10pm Ms Strbak and Mr Allen left the unit to purchase cannabis. They were gone for approximately 24 minutes and left Tyrell in the care of Mr Scown.

Mr Scown said that during this time he was watching television and checked on Tyrell during an ad break and noticed Tyrell was asleep and breathing. He said that later on he heard a gargling noise coming from Tyrell in his bedroom and checked on him and noticed that he was foaming at the mouth. Mr Scown said he put his fingers down Tyrell's throat to clear the airways and then took him to the shower and ran water over him for less than a minute. At 9.34pm Mr Scown attempted to call Ms Strbak on her mobile phone. He then phoned 000. Mr Scown stated he commenced CPR.

Ms Strbak and Mr Allen arrived home. Ms Strbak told police that Mr Scown was not performing CPR and Tyrell seemed to be choking on his own vomit. Ms Strbak was heard on the 000 call to ask Mr Scown what he had done to Tyrell and he replied that he hadn't done anything to him.

A neighbour attended and attempted CPR and saw that Tyrell had a lot of vomit on his body and around his mouth.

Queensland Ambulance Service paramedics were dispatched at 9.40pm and arrived at the residence at 9.45pm. They found Tyrell unresponsive. He was not breathing and had no pulse. He was taken to the Gold Coast University Hospital. He arrived there at 10.05pm. He had no signs of life and no pulse or other neurological response.

Tyrell was pronounced deceased at 10.30pm.

## **Autopsy**

A postmortem was conducted and revealed that Tyrell died from loss of blood and peritonitis due to a rupture of the intestine and laceration of the mesentery (membranous attachment of the intestines) from blunt force trauma. Severe force was necessary to cause these injuries.

Tyrell's duodenum (proximal small intestine) had been ruptured and was nearly

transected. The mesentery was also lacerated although not in the same place as the intestinal rupture. The ruptured intestines had caused leakage of contents into the surrounding area resulting in peritonitis. The rupture in addition to the lacerated mesentery had caused extensive bleeding in the abdominal cavity (250ml or approximately 20% of Tyrell's total blood). The combination of both haemorrhage and peritonitis had resulted in shock and eventual death.

The forensic pathologists found that the fatal injury had been inflicted at least two days prior to death. Tyrell had been discharged from hospital four days prior to his death and therefore, the fatal injury was inflicted on him between four and two days prior to his death.

The injuries were not resulting from his fall at kindergarten or the alleged fall on the stairs or in the shower.

Tyrell had numerous injuries at the time of his death. Most were bruises. There were a few abrasions. The bruises were consistent with having been sustained over a few days prior to his death.

Tyrell had seventy bruises/lesions -

- Head and neck:
  - 2 punctuate lesions on the top of his head;
  - Subcutaneous bruise on his right temple;
  - An abrasion on his forehead;
  - Four bruises on the left side of his forehead;
  - Two bruises on his left cheek;
  - A scratch on his left upper cheek;
  - A healed wound at the back of his left ear;
  - A bruise on his left chin;
  - A bruise on his right ear;
  - An abrasion on his outer right cheek;
  - Small abrasions around his nostrils;
  - Small abrasion on his upper and lower lips and a laceration of his frenulum;
  - A subcutaneous bruise on the back of his head;
  - A bruise under his jaw on the right side.
- Front chest:
  - Six bruises on the upper outer left side of the chest;
  - Three bruises in the midline of the chest;
  - Two bruises on the right lower chest;
  - Four bruises on the left mid to lower chest.
- Front abdomen:
  - Two bruises on the right upper abdomen;
  - Three bruises on the left lower abdomen;
  - Bruise in suprapubic region;
  - Abrasion in right lower abdomen/groin.
- Upper back:

- Abrasion to left upper back;
- Two bruises mid-upper back;
- Bruise right upper back over shoulder blade;
- Bruise outer right chest.
- Lower back:
  - Bruise left loin region;
  - Bruise upper left buttock;
  - Three bruises on left buttock.
- Perineum
  - Two abrasions at the eleven o'clock position on the rectum
- Right arm
  - Bruise back of right elbow;
  - Subcutaneous bruise on the back of the right forearm;
  - Bruise front of right forearm;
  - Two bruises back of forearm;
  - Bruise to front of right wrist;
  - Bruise to the right palm;
  - Bruise on back of right hand and wrist;
  - Bruise and abrasion on back of right hand;
  - Bruise on back of right hand near the base of the little finger;
- Left arm
  - Two bruises mid front left upper arm;
  - Bruise mid back left forearm;
  - Bruise back left hand distal to the wrist;
  - Bruise back left hand proximal to the ring finger;
- Right leg
  - Two abrasions on right upper thigh;
  - Bruise on inner back of right upper thigh;
  - Bruise on right front knee
  - Bruise inner side right leg
  - Bruise back of right calf
  - Bruise with associated abrasion on front of right leg
  - Bruise on front of right leg
- Left leg
  - Bruise left upper thigh;
  - Bruise outer left thigh;
  - Bruise outer front of left thigh just above the knee;
  - Bruise outer upper front of left knee;
  - Bruise front left knee;
  - Bruise outer left knee
  - Bruise inner left knee;
  - Bruise back of left calf;
  - Bruise inner left leg.

Most of the bruises were small and oval in shape and distributed over all of Tyrell's body. Some were consistent with being caused by fingertip pressure or pinching.

One bruise was near the belly button directly in front of the ruptured duodenum and lacerated mesentery. There was bleeding within the intervertebral joints which was consistent with a blunt impact or impacts against the abdominal wall impinging abdominal structures against the spine. It was caused by blunt impact such as punches or impact with blunt objects. Tyrell would have experienced extreme pain locally and the symptoms would have appeared almost immediately after the injury. There was evidence of a further acute trauma to the same site which occurred previously.

The medical evidence leads to the conclusion that there was more than one infliction of force to Tyrell's abdomen and the second blow was probably delivered within a couple of hours before his death.

Tyrell also had a scar on his left ankle which appeared to be caused by a burn from the end of a heated BIC cigarette lighter. It was at least several days old, probably older and potentially up to a year or two old.

A consultant paediatrician who specialized in child protection examined the bruises found on Tyrell and concluded that they were highly likely to have been inflicted by non-accidental means. They were not all caused at the same time. They were caused by impacts from multiple directions on different occasions.

Considering all of the circumstances, I find that Tyrell had numerous bruises which were inflicted on him intentionally on numerous occasions by Mr Scown or Ms Strbak or both of them.

I find that the fatal injuries to Tyrell's abdomen were caused when either Mr Scown or Ms Strbak struck Tyrell forcefully in the abdomen. I find that the majority of the bruises found at the post mortem and the fatal injuries were inflicted on Tyrell after his discharge from hospital on 20 May 2009.

It is likely that the fatal injury was inflicted on 23 May 2009 when Tyrell was said to have fallen on the stairs and in the shower. Tyrell was well enough to attend kindergarten on 22 May 2009 so it is unlikely that he was suffering from a severe abdominal injury at that time. Ms Strbak told police that he was a bit ill on the evening of 23 May 2009 and started vomiting on the morning of 24 May 2009 which would be consistent with the injury being inflicted on 23 May 2009.

## **Criminal Proceedings**

On 25 May 2009 Mr Scown was charged with murdering Tyrell. The matter proceeded to committal hearing in 2010 where the charge was dismissed on the basis that the evidence did not amount to a prima facie case that Mr Scown was the only person who could have delivered the fatal blows.

In 2015 following coercive hearings conducted by the Crime and Corruption

Commission, both Mr Scown and Mr Strbak were charged with Tyrell's murder and torture. The Crown discontinued those charges and in 2016 presented indictments in the Supreme Court charging both Mr Scown and Ms Strbak with Tyrell's manslaughter.

The Crown alleged that Tyrell had been killed by Mr Scown or Ms Strbak inflicting blunt trauma resulting in his fatal injuries or alternatively, they had killed him by failing to obtain medical treatment for him when he was suffering from the fatal injury.

On 11 October 2017 the Crown accepted a plea of guilty from Mr Scown on the basis that he failed to provide the necessities of life to Tyrell. He undertook to give evidence in accordance with a signed statement that he provided.

Mr Scown was convicted and sentenced to four years' imprisonment, suspended after 987 days (which he had served as presentence custody) for an operational period of four years. The sentencing judge noted that, but for his undertaking to give evidence, Mr Scown would have been sentenced to five and a half years' imprisonment with a parole eligibility date of 11 October 2017.

Ms Strbak maintained that she had not inflicted the fatal blow but would plead guilty to failing to provide necessities of life to Tyrell. Her sentence proceeded as a contested sentence as the Crown did not accept that factual basis.

On 18 December 2017, after a contested hearing, it was found that Ms Strbak inflicted the fatal blow to Tyrell. She appealed that decision to the High Court which allowed the appeal, quashed the sentence and remitted the matter back to the Supreme Court of Queensland.

The matter came before His Honour Justice Boddice who considered all of the evidence and in a decision delivered on 4 December 2020 found:

- The majority of Tyrell's bruises were inflicted after his discharge from hospital on 20 May 2009;
- The majority, if not all, of the occasions of deliberate application of force to Tyrell occurred after he left kindy on the afternoon of 22 May 2009 as he was not observed to have any injuries whilst he was there;
- The traumatic injuries resulting in his death were as a consequence of the deliberate infliction of violence to his abdominal region, with the initial blow being delivered after he came home from kindy on 22 May 2009;
- Tyrell's traumatic injuries were occasioned by the infliction of two separate episodes of force to his abdominal region with the second application being no later than 24 hours before his death and as recently as within 30 minutes of his death;
- Both applications of force were delivered by the same person;
- The tear to Tyrell's duodenum was caused by the deliberate application of a substantial degree of force to Tyrell's abdominal area, with the mesentery tear occurring at a later time when there was a second strike to his abdomen;
- Tyrell's history at kindy and his medical history suggests that he was well cared for by Ms Strbak up until she moved in with Mr Scown;
- Mr Scown was an unimpressive unreliable witness who had provided



conflicting versions of the events which occurred in the days before Tyrell's death;

- The presence of the lighter scar was insufficient to support a finding that Ms Strbak inflicted the fatal injuries to Tyrell;
- There is reliable and credible evidence that Mr Scown had been physically violent to Tyrell;
  - Mr Scown had kicked Tyrell in the bottom hard enough to leave a visible bruise;
  - Tyrell told Mr Cobb that Mr Scown had hit him on the head.
- Tyrell was very ill by the time Mr Allan arrived at the unit on the evening of 24 May 2009 which is consistent with the second blow being delivered on the afternoon of 24 May;
- It is possible that Ms Strbak did not appreciate the seriousness of Tyrell's condition on the evening of 24 May 2009 as she was unaware of the injuries which had been inflicted upon him;
- The evidence does not provide an opportunity for Ms Strbak to deliver the blows on two separate occasions at the times they must have been inflicted;
- On both occasions that Mr Scown was alone with Tyrell he sustained injuries and on both occasions Mr Scown told Ms Strbak that Tyrell had fallen;
  - The first occasion when he was downstairs alone with Tyrell on the morning of 23 May 2009 and said Tyrell had fallen on the stairs;
  - The second was when Ms Strbak left the unit with Mr Allan on the evening of 24 May 2009.

His Honour concluded that there was no proper basis to exclude Mr Scown as the person who inflicted the fatal injuries on Tyrell and there is a real and reasonable likelihood that Tyrell's traumatic injuries were occasioned by the deliberate infliction of violence on him by Mr Scown.

His Honour made the following findings:

1. Tyrell's death was caused by the deliberate infliction of blunt trauma to Tyrell's abdominal region, delivered with force, on two separate occasions.
2. The first occasion of force occurred after the afternoon of 22 May 2009 and, more probably than not, was delivered during the morning of 23 May 2009.
3. The second occasion of force occurred on 24 May 2009 and, more probably than not, was delivered on the afternoon or early evening of 24 May 2009.
4. The two occasions of deliberate force to Tyrell's abdominal region were inflicted by either Ms Strbak or Mr Scown.
5. The Crown has not established, to the requisite high standard, that the two applications of force to Tyrell's abdominal region were delivered by Ms Strbak.

On 8 December 2020 Ms Strbak was sentenced to five years' imprisonment suspended after 1148 days with an operational period of five years. At the time of sentence Ms Strbak had served 1148 days in custody.

## **Conclusion**

I find that Tyrell died from intra-abdominal injuries he sustained from blunt force trauma inflicted on him on two separate occasions between the afternoon of 22 May

2009 and 10.30pm on 24 May 2009. At the time he sustained the injuries Tyrell lived with Matthew Scown and Heidi Strbak who were his primary carers and the only persons who had the opportunity to deliver the fatal blows. The Supreme Court determined that there was a real and reasonable likelihood that Mr Scown inflicted those injuries and it could not be established beyond reasonable doubt that Ms Strbak was the person who inflicted them. Both Mr Scown and Ms Strbak failed to obtain medical treatment for Tyrell after he became ill on the morning of 23 May 2009.

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

**Identity of the deceased –** Tyrell Cobb

**How he died –** Tyrell died from intra-abdominal injuries he sustained from blunt force trauma inflicted on him on two separate occasions between the afternoon of 22 May 2009 and 10.30pm on 24 May 2009. Those blows were inflicted on him by either Matthew Scown or Heidi Strbak. His death was contributed to by the failure of both of those persons to obtain medical treatment for Tyrell.

**Place of death –** 5/76 BRIGHTON STREET BIGGERA WATERS QLD  
4216 AUSTRALIA

**Date of death–** 24 May 2009

**Cause of death –** Intra-abdominal injuries

I close the investigation.

Jane Bentley  
Deputy State Coroner  
CORONERS COURT OF QUEENSLAND - SOUTHERN REGION