



OFFICE OF THE STATE CORONER

FINDINGS OF INQUEST

CITATION: Inquest into the deaths of Sarah Christine BROWN and Darren Mark PARR

TITLE OF COURT: Coroner's Court

JURISDICTION: Rockhampton

FILE NO(s): COR 1952/07(2) & 1961/07(1)

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DELIVERED AT: Rockhampton

HEARING DATE(s): 16 & 17 September, 16 December 2008 & 1 May 2009

FINDINGS OF: Ms A Hennessy, Coroner

CATCHWORDS: CORONERS: Inquest – Motor vehicle accident, identification of driver

REPRESENTATION:

Assisting the Coroner: Sergeant D Dalton
Sergeant K Schick
Senior Constable S Janes
Police Prosecutions Branch

Justin MacFarlane Mr D Winning of Winning Lawyers

Warwick Rackemann Mr D Mills of David Mills Lawyers

These findings seek to explain, as far as possible, how the motor vehicle incident of the 8th May 2007 occurred in which Ms Brown (Sarah) and Mr Parr (Darren) died. As a result of the evidence in this matter, recommendations may be made regarding matters connected to the deaths with a view to reducing the likelihood of deaths occurring in similar circumstances in the future.

I express my sincere condolences to the family and friends of Darren and Sarah.

THE CORONER'S JURISDICTION

1. The coronial jurisdiction was enlivened in this case due to the deaths of Sarah and Darren falling within the category of "*a violent or otherwise unnatural death*" under the terms of s8(3)(b) of the Act. The matter was reported to a Coroner in Rockhampton pursuant to s7(3) of the Act. A coroner has jurisdiction to investigate the death under Section 11(2), to inquire into the cause and the circumstances of a reportable death and an inquest can be held pursuant to s28.
2. A coroner is required under s45(2) of the Act when investigating a death, to find, if possible:-
 - the identity of the deceased,
 - how, when and where the death occurred, and
 - what caused the death.
3. An Inquest is an inquiry into the death of a person and findings in relation to each of the matters referred to in section 24 are delivered by the Coroner. The focus of an Inquest is on discovering what happened, informing the family and the public as to how the death occurred, but not on attributing blame or liability to any particular person or entity.
4. The coroner also has a responsibility to examine the evidence with a view to reducing the likelihood of similar deaths. Section 46(1) of the Act, authorises a coroner to "*comment on anything connected with a death investigated at an inquest that relates to – (c) ways to prevent deaths from happening in similar circumstances in the future.*" Further, the Act prohibits findings or comments including any statement that a person is guilty of an offence or civilly liable for something.
5. Due to the proceedings in a Coroner's court being by way of inquiry rather than trial, and being focused on fact finding rather than attributing guilt, the Act provides that the Court may inform itself in any appropriate way (section 37) and is not bound by the rules of evidence. The civil standard of proof, the balance of probabilities, is applied. All interested parties can be given leave to appear, examine witnesses and be heard in relation to the issues in order to ensure compliance with the rules of natural justice. In this matter, the families of Sarah and Darren, the witnesses and potential drivers Mr MacFarlane and Mr Rackemann were represented at the Inquest.

6. I will summarise the evidence in this matter. All of the evidence presented during the course of the Inquest and the exhibits tendered have been considered even though some aspects of the evidence may not be specifically commented upon.

THE EVIDENCE

7. Sarah and Darren were the back seat passengers in a Volkswagen Golf vehicle driven by either Justin MacFarlane or Warwick Rackemann, the owner of the vehicle. All four had been at the wedding of friends at a reception centre at the Capricorn Caves, via the town of The Caves north of Rockhampton. After leaving the wedding around 1am on the 6th May 2007, the motor vehicle crashed on Barmoya Road, coming to rest off the road. The incident was reported at about 1.20am after MacFarlane and Rackemann had been located walking along Barmoya Road away from the accident site towards the township of The Caves.
8. The evidence of the investigating police officer was that he attended the scene after receiving notification of the incident at 2am. He arrived at 2.43am. He reported that Barmoya Road is an asphalt road with grass shoulders, 6 metres in width, one lane in each direction separated by double continuous white lines. The road surface was dry and in good condition. There was no item or debris on the road surface which could have contributed to the crash. The section of road involved is a tight bend from left to right in a westerly direction with limited visibility in both directions. The speed limit is 80 km per hour but there are no speed signs in the immediate area. Signs indicating 40 km per hour recommended and bendy road ahead are on the approaches to the incident.
9. The vehicle was down a steep embankment almost 15 metres from the edge of the bitumen surface. The front of the vehicle was facing the roadway and the vehicle was on its roof. Sarah had been wearing a seatbelt but the officer was unable to tell whether Darren was. Later examination revealed that the rear passenger seat belt was retracted and undamaged (if fitted it would have been cut to remove Darren from the vehicle). Examination of the vehicle lights indicated that the brakes were not applied at the time of the impact. The passenger side wheels were considerably damaged, with debris caught in the rims. The tyres all seemed to be in good condition and were inflated on the passenger side at the time of the incident due to the markings on the road. The Police Officer did not specifically note any problem with the driver's side tyres. The damage to the vehicle was consistent with it rolling numerous times before coming to rest on its roof. The gear stick was in fifth and the stereo was at an acceptable level. The vehicle was removed from the scene by tow truck. No mechanical defects were found to exist in the vehicle.
10. Further investigation established that the vehicle was approaching the bend travelling in a westerly direction and has failed to negotiate the

bend in the road. The vehicle slid for about 20 metres before the passenger wheels dug into the soft shoulder causing the vehicle to roll down the embankment. There were no signs of braking on the road surface. There were no indications that speed was a contributing factor in the incident. The Police Officer estimated speed to be about 50-60 kph when the vehicle left the road surface. The witness Weber described the section of road as dangerous.

11. Mr MacFarlane was nominated by Mr Rackemann as the driver of the vehicle. A blood sample was taken from Mr MacFarlane indicating a blood alcohol content of 0.116%. Mr MacFarlane has been charged with driving with a blood alcohol content and failing to remain at the scene of an accident with callous disregard. Those charges are still pending, awaiting the outcome of the Inquest as to the likely identity of the driver of the vehicle.
12. A number of witnesses who had attended the wedding gave evidence. None of those persons actually noted who was driving the vehicle as it left the wedding, though people were around at the time. There was evidence that after the ceremony but before the reception commenced, MacFarlane and Rackemann travelled to the Caves Hotel and purchased beer to take back to the wedding.
13. Mr Kirby and Mr Broszat gave evidence that they came across the two men walking on the road. MacFarlane told them that he could not remember what happened. Rackemann could not remember who was in the car with Darren. All men were upset about the incident.
14. Mr Spencer was the first person to the accident site. He and his companion, Mr Beck, discovered Sarah and Darren deceased in the rear of the vehicle. Mr Spencer stated that there was no mobile coverage at the crash site and he had trouble even using radio to contact emergency services. QAS informed him that an ambulance had been called for but had not been able to locate the incident site.
15. QAS officers located MacFarlane and Rackemann walking along the road about 1-2km from the crash site. They had already driven past the area but had not seen the men walking on the first pass. When they were first seen, they appeared to be injured. The officers pulled up and spoke to the men. They were asking whether they had been in an accident. QAS Officer McMahon, Student Paramedic, gave evidence about speaking to Rackemann during this time. Questions had to be asked of Rackemann 3-5 times before he would give an answer. He appeared like he did not want to answer any questions rather than being confused or disoriented.
16. Both Rackemann and MacFarlane were visibly affected by alcohol. Officer Ewings described MacFarlane as slurred in speech and unsteady on his feet and Rackemann as speaking clearly, smelling of alcohol but steady on his feet.

17. Rackemann told the ambulance officers quite adamantly that MacFarlane was the driver in the accident. MacFarlane seemed confused by this and looked agitated that he could not remember being in the car at all. He seemed genuine, appeared bewildered and was puzzled by the statement that he was the driver. He was not thought to be in shock at the time. He did not answer whether he was or was not the driver. When told of the deaths of Sarah and Darren, Rackemann was quiet and MacFarlane was visibly agitated and upset and wanting to know what was happening. Both persons had injuries to left and right of the body and the ambulance officers were unable to establish through injury patterns who was the driver.
18. Justin MacFarlane gave evidence after a direction to him under section 39 of the Coroner's Act. He stated that he left his mother's home about an hour and a half before the wedding and went to Darren Parr's house. It had been pre-arranged that he would give Darren a lift to the wedding. Rackemann was there with his Golf motor vehicle. Darren and Rackemann were drinking beer when MacFarlane arrived. MacFarlane had one can of Gold beer at his mother's house before leaving. He stated that Rackemann was happy and having a few drinks at Darren's house. The three men were at Darren's house for 30-40 minutes before leaving for the wedding at about 2.30pm. They decided to take the Golf vehicle and MacFarlane drove as he had only had one beer. Rackemann sat in the passenger seat and Darren in the rear passenger seat. Darren had put an esky into the car with the thought of buying beers later in the day.
19. They parked in the parking area near the wedding reception. After the wedding ceremony and before the reception started, they drove to the Caves Hotel and bought beer to consume. All occupied the same positions in the vehicle during that drive. They were at the hotel for 40 minutes and during that time MacFarlane had 2 pots of beer, Darren had a few stubbies and Rackemann had a few pots. After returning to the reception, MacFarlane had 9-12 drinks. During the reception, the car keys were being handed around for various people to go and get drinks from the car. MacFarlane stated that he had decided to get a cab back to his mother's house in Rockhampton after the reception.
20. MacFarlane could not remember the incident. He remembered going up the incline, walking along the road with Rackemann who looked stunned. Rackemann told him they had run off the road. MacFarlane said that he felt "not with it". He further stated that he could remember being on his back in the car but he was not sure where that was but he thought the car must be upside down for him to be on his back. He was not sure if he was wearing a seat belt. He was not sure how he got out of the car. He could not remember driving or denying afterwards that he was driving. He felt responsible for the accident as Rackemann told him that he was driving. He has been living with Rackemann since shortly after the accident.

21. Rackemann gave evidence that he had a few drinks at Darren's house before going to the wedding. He stated that when MacFarlane arrived at Darren's house, they left for the wedding with an esky and drinks in the car. Between the wedding and the reception, they passed around some drinks from the esky but went to the pub before the reception to get more drinks. MacFarlane drove and they had a few drinks there before returning to the reception. MacFarlane had the keys during the reception as he had driven to the hotel. He was not in contact with what MacFarlane was doing during the reception. After it had finished, everyone was in the car park getting ready to leave. A few people were standing around Rackemann's car talking about going back to Proposch's house for a party. Rackemann got in the front passenger seat and turned the music on in the car. He could not say who was in the car with him or indeed whether there was anyone in the back seat at all.
22. Later he knew that MacFarlane was in the car but did not know about Sarah and Darren until the next morning. He could not remember the incident itself, although the hospital notes indicate that he did have a memory of the incident. He remembered being in the car in the dark hanging upside down with the seat belt over his left shoulder. He could not move his left arm and was trying to undo the seat belt with his right hand to get out. He struggled to get out of the car which was upside down. He started banging on the car calling out to people but couldn't hear anything. He did not bend over to look into the vehicle due to his arm aching. He went to the other side of the car and saw a shadow of a hand move in the driver's side. His next recollection was being on the road with MacFarlane. They started walking to get help. He checked his phone but there was no power to it. A four wheel drive pulled up and there was a conversation but he could not remember anything of it. They drove off and later an ambulance drove past and then came back. He and MacFarlane received treatment from the ambulance officers. He remembers being asked about alcohol consumption and whether he was driving, which he denied. He had been drinking steadily since lunchtime.
23. Rackemann agreed that MacFarlane was not intending to drive at all on this day but that he was asked to drive them to the wedding as he hadn't been drinking. After the wedding he could not recall asking anyone to drive his car or in fact who did drive it from the venue. He was unable to say when or how the decision was made to drive the car home but commented that he was happy to leave the car there and collect it the following day. Mr Rackemann denied saying to the ambulance officers that he thought there might be someone else in the car and stated that the first time he was told of the fatalities was the following day at hospital.
24. When ambulance officers attended the scene, they went down to the vehicle and located Darren and Sarah in the rear seat of the vehicle. They were both deceased. Post mortem examinations were conducted

by Dr Buxton. Sarah suffered a broken neck in the incident and died instantly. Darren was a large fellow and the vehicle was small. He did not appear to be wearing a seat belt at the time of the incident. It is possible that following the incident he may have been able to be recovered from the vehicle but Dr Buxton stated that it would have taken a fast and skilful extraction following the incident to save Darren. He may have been unconscious from a hit on the head during the incident. He was quite affected by alcohol (blood alcohol reading .223%) and that added to the tight space in which he was located may have made it difficult for him to move to release himself. His position upside down in the vehicle meant that he suffocated. He would have drifted into unconsciousness quite quickly before passing.

25. Dr Buxton also examined medical information relating to MacFarlane and Rackemann with a view to determining which person was the driver of the vehicle.
26. Rackemann was affected by alcohol, reported himself as the passenger and said he was wearing a seat belt. He had injuries to his left shoulder blade and neck. The injury to his shoulder was consistent with that part of his body hitting a structure within the car. The mark documented going over his left shoulder (in the medical chart and also shown in a photograph taken 4 days after the incident) was consistent with wearing a seat belt on the passenger side. There was also a mark on the right of the midline of the neck which Dr Buxton stated was not consistent with a seat belt worn on the right (driver's) side.
27. MacFarlane did not have a seat belt mark which is not unusual. He had minor abrasions to the left side of his face and forehead (which may have been caused by coming into contact with the steering wheel, driving mirror or top edge of the windscreen during the rollover) and his right hand (which could have been caused by anything). His injuries were not indicative of his position in the vehicle.
28. There was no direct physical evidence that placed either person in the driver's seat. Mr Rackemann's injuries were consistent with being a passenger and by a process of elimination MacFarlane was likely the driver of the vehicle. There can be no suggestion that either of the rear seat passengers could have moved in the vehicle from the driver's seat during the incident.

FINDINGS OF FACT

29. On the balance of probabilities, which is the requisite standard of proof in coronial matters, I find that Mr MacFarlane was the likely driver of the vehicle. This finding is circumstantial given the lack of direct evidence as to the identity of the driver and the process of elimination conducted using the injuries to the two front seat occupants previously detailed.

30. The exact cause of the vehicle leaving the roadway is unknown but there are a number of potentially contributing factors: the alcohol consumption of Mr MacFarlane (blood alcohol reading .116%) and consequent impairment of his driving ability and the length of road where the incident occurred being in a country area, unlit, on a bend with a steep embankment bordering with no guard rails present. Driver inattention or fatigue could also have been a factor in the vehicle leaving the roadway, particularly given the lack of evidence of braking on the roadway. There was no evidence of speed, an obstacle on the road or mechanical failure of the vehicle (except for the possibility of the front passenger tyre being partially deflated).
31. Further to the cause of the incident is the issue of the lack of attention to the rear seat passengers by MacFarlane and Rackemann. It is unlikely that even if either MacFarlane or Rackemann had checked on the rear passengers and discovered Darren that they would have been able to extract him from the vehicle and saved him. It is unfortunate however, that their condition, partly as a result of their alcohol consumption and partly perhaps due to disorientation from the incident, meant they did not think to check on their passengers. They may have been able to do something to assist, if not save Darren, especially in light of the four wheel drive which came upon them shortly after the accident. The occupants of that vehicle may have been able to assist if alerted to the presence of Darren and Sarah.

FINDINGS required by s43(2)

I am required to find, so far as has been proved on the evidence, who the deceased persons were and when, where and how they came by their death. After consideration of all of the evidence and exhibited material, I make the following findings:

Identity of the deceased persons– The deceased persons were Sarah Christine BROWN and Darren Mark PARR.

Place of death – Sarah and Darren died at the scene of the motor vehicle incident on Barmoya Road, The Caves.

Date of death – Sarah and Darren died in the early hours of the morning on 6th May 2007.

Cause of death – Sarah and Darren died after the vehicle in which they were rear seat passengers was involved in a single vehicle incident. The vehicle left the roadway, possibly as a result of impairment of the driver due to alcohol and/or inattention/fatigue. When the vehicle left the road it rolled down a steep embankment before coming to rest on its roof.

Sarah died from a dislocated neck and transection of the spinal cord due to or as a consequence of motor vehicle trauma.

Darren died from postural asphyxia due to or as a consequence of motor vehicle trauma.

RECOMMENDATIONS

In an effort to avoid similar deaths occurring in the future, I recommend:

- 1. That the authority responsible for the maintenance of Barmoya Road, The Caves, give serious consideration to the construction of a guard rail or other appropriate barrier on the bend where this incident occurred to protect road users from the steep embankment adjoining the road in the event of a vehicle leaving the road.**

I close the Inquest.

A M Hennessy
Coroner
1 May 2009