



OFFICE OF THE STATE CORONER FINDING OF INQUEST

CITATION: Inquest into the death of Daniel Scott
GRACE & Raymond John HEFFLER

TITLE OF COURT: Coroner's Court

JURISDICTION: Rockhampton

FILE NO(s): 2007/148 & 2007/149

DELIVERED ON: 14 December 2009

DELIVERED AT: Rockhampton

HEARING DATE(s): 20 & 21 July 2009

FINDINGS OF: A M Hennessy, Coroner

CATCHWORDS: Single vehicle transport truck rollover accident on sweeping bend leading onto bridge over creek, identity of driver in issue, driver use of amphetamines and going into bend too fast and lost control of truck, reconstruction of mechanism of incident by expert analysis

REPRESENTATION:

Queensland Police Service

Officer Assisting: Const D Cox, Police Prosecutor

Family: Nicole Liese (NOK Grace)
Mrs Steinhardt (NOK Heffler)

Other Appearances:

For NOK Grace: Mr K Baxter
Of Ruddy Tomlins & Baxter

For NOK Heffler: Mr D Gordon, Counsel
i/by MGM Solicitors

These findings seek to explain, as far as possible, how the motor vehicle incident of the 4th April 2007 occurred in which Mr Grace and Mr Heffler died. As a result of the evidence in this matter, recommendations may be made regarding matters connected to the deaths with a view to improving public safety and reducing the likelihood of deaths occurring in similar circumstances in the future.

I express my sincere condolences to the family and friends of each of these gentlemen.

THE CORONER'S JURISDICTION

1. The coronial jurisdiction was enlivened in this case due to the deaths of Mr Grace and Mr Heffler 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 Mr Grace and Mr Heffler 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. I have also given full consideration to the submissions of the parties represented at the Inquest.

THE EVIDENCE

7. On 4/4/07 at about 3.40am, Mr Grace and Mr Heffler were travelling in a 2005 Kenworth prime mover towing a single trailer along the Bruce Highway, Bajool, in a northerly direction. The truck failed to take a sweeping right hand bend at Eight Mile Creek and has collided with the bridge and fallen into the creek.
8. The incident was reported and Sergeant Pimm of the Gracemere Police attended the scene at about 5.10am and commenced investigations. Both Mr Grace and Mr Heffler were deceased on Police arrival. Mr Heffler was located on the roadway of the bridge, having been dragged from the prime mover during the incident. Mr Grace was found in the creek bed. Both men suffered massive injuries in the accident. Witnesses gave Mr Grace CPR until the ambulance arrived but he was unable to be saved. Substantial damage was noted to the cabin of the prime mover due to impact with the guard rail and the ground. Sgt Pimm took statements from witnesses.
9. Stephen Wrigley spoke to the Police at the scene. He told Police that he had been driving a truck on the Bruce Highway that night and was known to both men. He was told by another driver that Mr Heffler had collected Mr Grace at Apple Tree Creek as Mr Grace was on holidays and was headed north. Mr Wrigley had been speaking to Mr Heffler on the radio and assumed that he was driving as the radio is closest to the driver's seat. When they stopped at Gin Gin, he saw that Mr Grace was the passenger. They all chatted at the stop and all seemed well. He told Police that as they were about to leave, Mr Heffler went to get in the passenger side and Mr Grace told him to go to his own seat, they were mucking around with each other. He told Police that Mr Heffler had got into the drivers' seat as he was leaving Gin Gin and the truck had not stopped since then. He also gave a statement to this effect to the insurer's investigator. He later told Police that he thought that Mr Grace was driving due to the truck taking the wrong line into the bridge and his doubt that Mr Heffler would have made such a mistake due to his experience in that sort of truck. In his evidence at the Inquest, he stated that he had actually pulled away in his truck before either of the men actually got into the truck and so he did not see who the driver was. Their truck overtook Mr Wrigley's not far out of Gin Gin and he then followed them. Mr Wrigley received radio calls during the journey warning him of traffic conditions from Mr Grace, and, in his experience such calls are usually made by the driver. Both vehicles were travelling at about 100 km per hour approaching the bridge. He later clarified

that telling Police that the speed could have been up to 115 km per hour. At inquest, the estimate reverted to 100km per hour (the corner is signed at 80). He saw the tail lights of the truck in front go over the bridge and he stopped to assist. He called for help on the radio and went to the scene. He heard someone calling for help and located Mr Grace in the creek bed and administered CPR.

10. Peter Cartwright contacted Police after the incident and told them that he had been travelling from Gladstone to Rockhampton about 3am, entering the highway at Mt Larcom. He saw a truck go past and pulled out and another truck was close behind him through town. The truck in front pulled away once in the 100 speed zone and Mr Cartwright tried to keep up. He reached 135 km per hour and could not catch the truck in front. He slowed down and stopped at Marmor for coffee. After leaving the service station at Marmor, he came upon the crash. There was no direct evidence that this was the truck in question in this matter.
11. Mrs Steinhardt is Mr Heffler's mother and she owns Barellan Freighters, the company which owned the truck and employed Mr Heffler. She said that as a truck had broken down, her son went to Gin Gin to swap a load with another truck and to take the load to Townsville. Her son was a careful driver in her view and she did not know Mr Grace but had heard that he had a reputation as an aggressive driver. She stated that there was no time pressure on the driver for that trip. The truck had been fitted with a speed limiter but it had apparently been tampered with without Mrs Steinhardt's knowledge.
12. Police located a Log book at the scene belonging to Mr Heffler. It contained an entry from Gin Gin at midnight which showed Mr Heffler as driver but contained no driving details. No log book was located for Grace. No mechanical defects were found in the truck.
13. Post mortem toxicology results revealed that both men had amphetamine and methylamphetamine levels in their blood. Mr Heffler had .02 mg/kg and .99 mg/kg respectively and Mr Grace .03 mg/kg and .47 mg/kg. Cannabis was found in personal effects at the scene and Mr Heffler had detectable levels of tetrahydrocannabinol in his blood. Such levels of drugs would have been likely to impair the driving ability of either man.
14. Sgt Pimm reached the conclusion from the evidence that he had gathered, that Mr Grace was the driver. His conclusion was subject to peer review which agreed. Due to the fact that both men were ejected from the cabin during the crash and there being no definitive evidence as to the identity of the driver at the time of the incident, an expert opinion was sought from Mr John Ruller, a very experienced investigator of traffic crashes. Mr Ruller fully examined all material gathered by Police and detailed the mechanism of the crash. Mr Ruller's finding was that the driver of the truck at the time of the

incident was Mr Grace due to the following factors. Mr Heffler's injuries were consistent with him being dragged under the truck and there was evidence of glass and other debris from the truck in his body. Due to Mr Heffler's injuries and his position close to the southern end of the bridge, he would have been the passenger at the time of rollover and the truck's impact with the guard rail of the bridge and been ejected when the guard rail opened up the passenger side of the cabin. Mr Grace had no upper body injuries which would have been expected had he been the passenger at the time of the crash given the rollover onto the right side of the vehicle. Mr Grace had a sloughing injury to his lower abdomen which is indicative of steering wheel impact. Further, Mr Grace was not thrown from the vehicle until it fell into the creek bed, and taking into account how the incident occurred and his position, he was the driver of the vehicle. Mr Ruller also ruled out the possibility of Mr Grace being in the sleeper compartment at the time of the incident as highly unlikely. I accept Mr Ruller's evidence in its entirety.

Findings of Fact

15. On the balance of probabilities, which is the requisite standard of proof in coronial matters, I find that Mr Grace was the driver of the vehicle. This finding is circumstantial given the lack of direct evidence as to the identity of the driver and the expert analysis of the incident by Police and Mr Ruller conducted using the mode of the crash and the injuries to the two occupants of the truck as previously detailed. Mr Wrigley's evidence was equivocal at best regarding whether he was able to say which of the men was driving. The physical evidence is more instructive and certain than Mr Wrigley's version of events and carries more weight.
16. The exact cause of the vehicle leaving the roadway is unknown but there are a number of potentially contributing factors: the drug consumption of Mr Grace and consequent impairment of his driving ability and the speed with which the sweeping bend was taken, causing the truck to tip and come into contact with the bridge guard rail and then to leave the road and fall into the creek bed. There was no evidence of an obstacle on the road or mechanical failure of the vehicle which might have contributed to the accident.
17. Mr Ruller indicated that a significant factor in accidents of this nature is that the trailer tips beyond the point of no return before the driver is aware of the movement of the trailer. Early warning tip devices for trailers pulled by prime movers alert drivers to the movement of trailers and would be beneficial in reducing the incidents and/or severity of accidents of this nature.

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 Daniel Scott GRACE and Raymond John HEFFLER.

Place of death –Mr Grace and Mr Heffler died at the scene of the truck crash on the Bruce Highway, Bajool, south of Rockhampton.

Date of death – Mr Grace and Mr Heffler died in the early hours of the morning on 4th April 2007.

Cause of death – The men died after the truck in which they were travelling was involved in a single vehicle incident. The vehicle was driven by Mr Grace and left the roadway after he failed to safely negotiate a sweeping right hand bend. The truck tipped entering the bridge over Eight Mile Creek, coming into contact with the guard rail, slapping the road on its side and then falling into the creek bed below. Both men were ejected from the truck during the crash, Mr Heffler onto the roadway and Mr Grace into the creek bed. The incident occurred due to Mr Grace's impairment due to the taking of methylamphetamine and speed of the vehicle. Both men died from multiple injuries due to or as a consequence of the motor vehicle incident.

RECOMMENDATIONS

In an effort to avoid similar deaths occurring in the future and to improve truck driver and general public safety on the roads, I recommend:

- 1. That the Queensland Department of Transport and Road Transport industry continue to support the development of an early warning tip device for trailers being hauled by prime movers to alert drivers to potential rollover due to movement of the trailer.**

I close the Inquest.

A M Hennessy
Coroner
14 December 2009