



# CORONERS COURT OF QUEENSLAND

## FINDINGS OF INQUEST

CITATION: **Inquest into the death of Phillip John Wust**

TITLE OF COURT: Coroners Court

JURISDICTION: Rockhampton

FILE NO(s): 2020/103

DELIVERED ON: 11 June 2021

DELIVERED AT: Brisbane

HEARING DATE(s): 11 June 2021

FINDINGS OF: Terry Ryan, State Coroner

CATCHWORDS: Coroners: inquest, death in custody, natural causes.

### REPRESENTATION:

Counsel Assisting: Ms Rene Jurkov

Queensland Corrective Services: Ms Megan Lincez

CQHHS: Ms Kristy Richardson

## Contents

Introduction .....	3
Personal and medical history .....	3
Events leading up to the death.....	5
The investigation.....	6
The inquest .....	8
Findings required by s. 45.....	8
Identity of the deceased.....	8
How he died.....	8
Place of death.....	9
Date of death .....	9
Cause of death .....	9
Comments and recommendations .....	9

## Introduction

1. Phillip John Wust was aged 56 years when he died from liver cancer at the Rockhampton Hospital on 8 January 2020. He had been convicted of murder on 31 October 1990 and was serving a life sentence at the Capricornia Correctional Centre (CCC).
2. Mr Wust had been diagnosed with chronic liver disease in 2018, and had well identified risk factors for liver cancer.<sup>1</sup> He had been on screening regimes that included CT and MRI scans every few months at the Rockhampton Hospital.
3. These findings confirm the identity of the deceased person, how he died, and the time, place and medical cause of his death and:
  - consider whether any third party contributed to his death;
  - determine whether the authorities charged with providing for the prisoner's health care adequately discharged those responsibilities; and
  - consider whether any changes to procedures or policies could reduce the likelihood of deaths occurring in similar circumstances or otherwise contribute to public health and safety or the administration of justice.

## Personal and medical history

4. Mr Wust was born on 20 January 1963. He had three siblings. Mr Wust was a member of the Australian Army in his twenties, and was said to have “gotten into trouble” on his exit.<sup>2</sup> Mr Wust had a limited criminal history that began at 18 years for property offences. His next conviction was eight years later for supplying a dangerous drug.
5. Mr Wust had a medical history including chronic hepatitis C (2015), hepatitis A (2017) and osteopenia (2019). He had been smoking one pack of cigarettes per day prior to his imprisonment. He had also been drinking approximately two cartons of beer per week since age 17.
6. On 31 October 1990, at age 27, Mr Wust was convicted of murder and received a life sentence in the Rockhampton Supreme Court.
7. On 3 November 2004, after 14 years in custody, Mr Wust was granted a release to work order which allowed for leave of absences for the purpose of employment. This continued with success until 7 April 2005, when Mr Wust was granted parole.
8. Mr Wust lived in South Brisbane with another paroled inmate he had met whilst in custody. In 2006, he met Julie Trewartha and the pair later moved in together in March 2007. Mr Wust and Ms Trewartha later married on 24 July 2013.
9. On 21 August 2013, Mr Wust provided a positive urine sample and was returned to custody before his parole was reinstated on 7 January 2014.
10. In June 2014, Mr Wust's mother died and tragically, five months later in late November, his wife, Ms Trewartha died suddenly.

---

<sup>1</sup> Ex C2.

<sup>2</sup> Ex B2.

11. On 29 October 2014, Mr Wust tested positive again to a urine sample and was returned to custody, however further testing confirmed a negative result and Mr Wust had his parole reinstated on 3 November 2014.
12. On 27 February 2016, Mr Wust was charged with common assault and his parole was suspended indefinitely, returning Mr Wust to custody on 8 March 2016. He was found guilty on 30 March 2016 and his parole was cancelled on 18 April 2016. He was moved to Capricornia Correctional Centre the next year, on 12 July 2017.
13. Mr Wust was diagnosed with chronic liver disease, and had well identified risk factors for liver cancer. During his time in custody, he was placed on appropriate screening regimes that included CT and MRI scans every few months at the Rockhampton Hospital.
14. On 6 June 2018, while in custody, an abdominal ultrasound was undertaken that confirmed chronic liver disease, as had a previous ultrasound undertaken on 15 November 2017.<sup>3</sup>
15. On 11 September 2018, an abdominal and pelvis CT scan was performed on Mr Wust, finding diffusely irregular contours of the liver in keeping with cirrhosis. A CT scan was performed on 11 July 2019. This was compared with the CT scan of 11 September 2018 and the ultrasounds undertaken earlier in 2019. There was no significant change found since the previous study. However, the liver demonstrated mild surface nodularity and recanalization of the umbilical vein. The CT scan found no ascites.<sup>4</sup>
16. On 30 July 2019, an abdominal ultrasound was undertaken and found the liver was normal in size, shape and echogenicity.
17. At the time of his death, Mr Wust was prescribed the following medications:
  - Rivaroxaban (20mg/day)
  - Spironolacton (100mg/day)
  - Frusemide (2 x 40mg/day)
  - Ceftriaxone (2g/day)
  - Enoxaparine 2 x 90mg/day)
  - Morphine (5mg/day)
  - Midazalam (5mg/day)
  - Haloperidol (1mg/day)
18. Mr Wust had told his sister, Margaret, that he was a 'lifer', and would die in prison. She believed that being in prison was the best place for him, as he was used to the regimental lifestyle consistent with his service in the army. She stated that Mr Wust would do things to stay in prison, like have arguments with the guards.
19. Mr Wust's sister did not identify any issues with the care provided at CCC and expressed approval of the conduct of correctional staff both on the night of his death and throughout his time at that centre.

---

<sup>3</sup> Ex C1.2.

<sup>4</sup> Ex C1.2 - Ascites is excess abdominal fluid that causes abdominal swelling.

## Events leading up to the death

20. On 21 December 2019, Mr Wust was transported from CCC to the Rockhampton Hospital with dark coloured diarrhoea, shortness of breath and light-headedness.<sup>5</sup> His ECG and chest X-Ray results were unremarkable. An abdominal ultrasound identified that he had a cirrhotic appearing liver with moderate ascites.
21. Mr Wust's pathology showed hyperbilirubinemia (build-up of bilirubin in the blood) on a background of cirrhosis from his previously diagnosed Hepatitis C. He was diagnosed with subsegmental pulmonary embolism and portal vein thrombosis with deranged liver enzymes.<sup>6</sup> No obstructive cause for his raised bilirubin level was identified.
22. Blood tests and imaging were completed to evaluate his current liver status and determine whether there was evidence of malignancy. Treatment was commenced for his decompensated liver cirrhosis.<sup>7</sup>
23. On 21 December 2019, a CT scan was conducted on his abdomen and pelvis with comparisons made with his previous CT scan from July 2019. The findings included extensive thrombosis throughout the portal vein which had developed since the previous CT scan in July 2019, and evidence of early secondary cavernous transformation. Moderate to marked ascites were also noted to have developed, and focal subsegmental pulmonary embolus was seen in the right lower lobe.
24. While results were pending and an upper endoscopy was being followed up, Mr Wust was discharged. A letter was sent to the RMO at CCC requesting a doctor see Mr Wust within one week to monitor his liver function and response to treatment.<sup>8</sup>
25. Mr Wust was also given a discharge letter asking him to stop his voltaren use, repeat blood examinations with his GP, and make lifestyle changes to improve outcomes of chronic liver disease. He was booked for chart review in the outpatient clinic after three weeks to follow up blood test results and images to the liver (triphase CT scan for the liver to rule out hepatocellular cancer).
26. On 30 December 2019, Mr Wust presented to the Rockhampton Hospital with back pain and shortness of breath. He reported worsening abdominal ascites over the last month and four to five loose watery bowel motions daily. His treating doctor, Dr Al-Saffi, was of the impression that his symptoms were caused by "worsening ascites and liver enzymes".<sup>9</sup>
27. An ultrasound guided drainage was arranged, cultures were sent, and antibiotics were given to cover the possibility of bacterial peritonitis. His cultures returned negative however blood tests showed significantly high levels of alpha fetoprotein (125000 ug/L) and an oncology consult was organised. Oncology made a preliminary diagnosis of hepatocellular cancer involving the whole liver, and no treatment was suggested.<sup>10</sup>

---

<sup>5</sup> Ibid, page 50.

<sup>6</sup> Ex B1.

<sup>7</sup> Ex B1.

<sup>8</sup> Ex C1.1, page 208.

<sup>9</sup> Ex C1.1, page 69.

<sup>10</sup> Ex C1.1, page 96.

28. A second CT scan of his abdomen and pelvis was undertaken and found a mild increased volume of his ascites and a similar appearance of a heterogeneous liver in keeping with cirrhosis. A small right lower lobe pulmonary nodule was found, which raised concern for a metastatic deposit.<sup>11</sup>
29. Dr Al-Saffi informed correctional officers of Mr Wust's prognosis and the need to communicate with his family to advise them of his very short life expectancy.
30. On 2 January 2020, an ultrasound guided drainage of Mr Wust's abdominal fluid was undertaken without issue. An MRI was also undertaken of his liver which was compared with previous CT scans from 21 and 31 December 2019, and no new interval findings were identified. He complained of discomfort after eating and a poor appetite and nurses administered endone and paracetamol later that day following more complaints of pain.
31. From 3 to 6 January 2020, Mr Wust was seen by his treating doctors, a dietitian, numerous nurses and a visiting RMO. His pain medication was assessed and adjusted upon his complaints. On 6 January 2020, a progress note confirmed that Mr Wust had hepatocellular carcinoma involving the whole liver, and his life expectancy was ascertained to be "a couple of weeks".
32. On 7 January 2020, a CT scan of Mr Wust's brain was undertaken that found right front temporoparietal subdural hygroma (collection of cerebrospinal fluid) with a maximum thickness of 8mm. Dr Al-Saffi noted that Mr Wust's liver function continued to deteriorate and Mr Wust became encephalopathic and agitated due to liver failure. An oncology assessment found further clinical deterioration and that Mr Wust was not fit for oncology treatment, suggesting instead palliative/end of life care.
33. Mr Wust's family were advised of his prognosis on 7 January 2020, and told to visit him as "he may not last the night". His sister, Margaret, and brother, Alan, attended the hospital that night and spoke with Mr Wust's treating doctors, who explained the diagnosis of hepatocellular carcinoma with no treatment available, and his decompensated liver cirrhosis and intracranial bleed.
34. After seeing Mr Wust in hospital, Margaret and Alan agreed to palliative care. After consultation with Mr Wust's father and Enduring Power of Attorney, Donald Wust, palliative care was commenced, and Mr Wust was administered pain relief via a syringe driver at 5:00pm. An Acute Resuscitation Plan was signed by Donald Wust, indicating only supportive courses and comfort cares be undertaken on acute deterioration or critical events, with CPR not to be provided.
35. In the early morning of 8 January 2020, Mr Wust's sister notified staff and correctional officers that Mr Wust had died, and Dr Whittaker attended his room and issued a life extinct certificate at 1:45am. The syringe driver was turned off and QPS were notified.

## **The investigation**

36. Police officers from the Rockhampton Police Station attended the Rockhampton Hospital after being notified of Mr Wust's death. A scenes of crime officer also attended the hospital and took photographs of Mr Wust and his medical charts.

---

<sup>11</sup> Ex C1.1, page 107

37. A targeted coronial investigation was directed on 8 January 2020, requesting the following information:

- Statements from primary treating doctors at Rockhampton Hospital and CCC.
- Statement from attending doctor at the time of death.
- Statement from CSO in attendance at the time of death.
- Statement from family member in relation to social history and any concerns about care received in prison.
- QCS records and Rockhampton Hospital Records.

38. A coronial report dated 28 June 2020 was prepared by Senior Constable Jason O'Halloran and provided to the Coroners Court. This report briefly outlined Mr Wust's medical history and circumstances of his time in hospital. The report concluded that it appeared that adequate medical care had been provided and there appeared to be no suspicious circumstances surrounding the death.

## **Autopsy report**

39. An external examination and review of Mr Wust's medical records was directed, and an autopsy was performed on 9 January 2020 at the Rockhampton Hospital by forensic pathologist, Professor David Williams.

40. Professor Williams found bilateral basal creases in the ears (often associated with heart disease). Minor injuries were found including an abrasion on the right hip and an old bruise on the right thigh. Frequent haemorrhage spots were seen on the limbs and were noted to be probably related to liver disease. The cause of death was confirmed to be liver cancer.

## **HEAPS Review**

41. On 11 March 2020, a Human Error and Patient Safety (HEAPS) review was completed by the Central Queensland Hospital and Health Service.<sup>12</sup> It was concluded that all guidelines and processes were followed and there was "no obvious failure in the correctional or health service resulting in his outcome".

42. The review noted that, while uncommon, infiltrative tumours such as Mr Wust's are aggressive in nature, and are seen in outpatient and inpatient specialist practice (i.e. non-correctional) with a similar poor outcome in those settings.

43. It was noted that the detection of liver cancer through imaging is not 100%, and the treating specialist's opinion that Mr Wust had an atypical infiltrative hepatocellular carcinoma relied on a radiological diagnosis that had not been confirmed.

44. It concluded that a post-mortem review of radiology may be useful to see if an earlier diagnosis could have been achieved, however even with an earlier diagnosis, the outcome was likely to be palliative.

---

<sup>12</sup> Ex C2.

## The inquest

45. As he was in custody when he died, an inquest into Mr Wust's death was required by the *Coroners Act 2003*. The inquest was held on 11 February 2021. All of the statements, medical records and material gathered during the investigation was tendered. Counsel Assisting, Ms Jurkov, proceeded immediately to submissions in lieu of oral testimony being heard.

## Conclusions

46. I am satisfied that Mr Wust's death was the result of natural causes. He had consistent CT scans and ultrasounds for his chronic liver disease in the last two years of his life, none of which indicated any carcinoma. I find that none of the correctional officers or inmates at the CCC caused or contributed to his death.

47. Following his diagnosis of hepatocellular cancer involving the whole liver on 30 December 2019, Mr Wust deteriorated rapidly. His condition was not amenable to treatment. His medical records and the statements of treating doctors indicate that the investigation of his carcinoma was timely and thorough. The period between diagnosis and death was very short. His pain relief was regularly checked, and the comfort-based care provided was appropriate having regard to his diagnosis and limited life expectancy. There were no missed opportunities for intervention.

48. With respect to whether the care provided to Mr Wust in the CCC was adequate, the evidence shows that he was transferred to the Rockhampton Hospital as soon as his symptoms progressed. The CCC had facilitated Mr Wust's medical appointments following his diagnosis of chronic liver disease in 2018. I consider that the CCC's treatment and care of Mr Wust was adequate.

49. It is a well-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 at the inquest established the adequacy of the medical care provided to Mr Wust when measured against this benchmark.

## Findings required by s. 45

50. I am required to find, as far as is possible, the medical cause of death, who the deceased person was and when, where and how he came by his death. After considering all the evidence, including the material contained in the exhibits, I make the following findings:

**Identity of the deceased –** Phillip John Wust

**How he died –** Mr Wust was serving a sentence of life imprisonment. He developed hepatocellular carcinoma on a background of hepatitis C associated cirrhosis. After his final admission to hospital on 30 December 2019, he declined very rapidly after a relatively short illness. He was assessed as having an atypical infiltrative cancer, which are typically aggressive in nature. While it is possible that earlier diagnosis could have been achieved radiologically, even with an



earlier diagnosis the outcome was likely to be palliative.

**Place of death –** Rockhampton Base Hospital, ROCKHAMPTON  
QLD 4700 AUSTRALIA

**Date of death–** 8 January 2020

**Cause of death –** Liver cancer

## **Comments and recommendations**

51. 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.
52. In the circumstances of Mr Wust's death, I accept that there are no comments or recommendations I can make that would assist in preventing similar deaths in future, or that otherwise relate to public health or safety or the administration of justice.
53. I close the inquest. I extend my condolences to Mr Wust's family and friends.

Terry Ryan  
State Coroner  
BRISBANE  
11 June 2021