

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2011 4154

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of: ANTHONY CHRISTOPHER ZAIA

Delivered On: 23 August 2013

Delivered At: Coroners Court of Victoria
Level 11, 222 Exhibition Street, Melbourne 3000

Hearing Dates: 4 October 2012

Findings of: JOHN OLLE, CORONER

Police Coronial Support Unit Sergeant David Dimsey

I, JOHN OLLE, Coroner having investigated the death of ANTHONY ZAIA

AND having held an inquest in relation to this death on 4 October 2012
at MELBOURNE

find that the identity of the deceased was ANTHONY CHRISTOPHER ZAIA
born on 5 December 1987

and the death occurred 1 November 2011

at Kangaroo Ground 3097

from:

1 (a) MULTIPLE INJURIES – MOTOR VEHICLE INCIDENT

in the following circumstances:

1. Anthony Zaia was aged 23 years at the time of his death. He lived at 9 Bronte Rise, Templestowe.
2. The coronial brief and subsequent inquest has fully addressed the tragic circumstances of Anthony's death.¹

Background

3. Anthony was employed as a fourth year apprentice spray painter. He lived at home with his parents. A car enthusiast, Anthony spent many hours working on his vehicle, a 1987 model Nissan Skyline R31 sedan. Driving was his passion.
4. At Inquest, I heard from Anthony's friend, Ross Dawe, who regularly accompanied Anthony on drives:

“He used to drive fast or drive spiritedly a lot, but like sometimes he'd be driving around and not driving fast at all, just driving. I suppose he drove fast, but just not all the time. He just liked cars too much; it's just what you do”.²

The circumstances

5. On 1 November 2011 Anthony drove his Nissan Skyline to collect Ross to go for a drive.

¹ Copy of the brief will remain on the court file.

² Page 15, Coronial Inquest Brief

6. At about 8.30pm Anthony collected Ross from his home address and drove towards Kangaroo Ground. About the same time, Karen Harvey was leaving an address at the Bend of Islands, which adjoins Kangaroo Ground, having celebrated the birthday of her father-in-law. Karen was driving the family four wheel drive along Eltham-Yarra Glen Road. Passengers in Karen's vehicle were her husband, Eamon Harvey, their three children Luke, Matthew, Keira, and David Hynes and Charmaine Samuel.
7. The coronial investigator explained:

“After leaving Research, the Eltham Yarra Glen road runs east west for approximately 1365 metres, it is an undulating road until it reaches a sharp left bend outside Wellers Restaurant in Kangaroo Ground. The road then begins to ascend, and after 310 metres, there is another left bend in the road before it continues north still ascending. Approximately 130 metres further north from this last bend the road crests before it begins to descend”.³
8. Karen's vehicle was travelling south, ascending the hill travelling within the 80kph speed limit. As her vehicle approached the crest of the hill:

“Anthony's vehicle travelled over the crest and braked heavily causing his vehicle to skid for 32.2 metres in a straight line to the incorrect side of the road before colliding head on with the Toyota Kluger driven by Ms Karen Harvey. Anthony's vehicle when it first started to skid was travelling at about 116km/h.

Anthony was deceased prior to police arrival and was trapped in his vehicle. Ross Dawe was treated by an ambulance crew and conveyed to hospital”.⁴
9. At Inquest I heard compelling evidence from Karen's husband, Eamon. He spoke of the serious injuries sustained by Karen, and the general distress suffered by his family, in particular his children.
10. Karen was driving within the speed limit on the correct side of the road. She had no opportunity to avoid impact and bears no responsibility whatever for the collision.
11. After the collision, Senior Constable Stuart Jones⁵ inspected Anthony's vehicle. He found no faults which may have caused or contributed to the collision. He described the vehicle as mechanically safe, in excellent condition and apparently well maintained.⁶ However:

³ Paragraph 4 Summary, Coronial Inquest Brief.

⁴ Summary police evidence.

“Though being in a safe mechanical condition, this vehicle would have been classed as being unroadworthy due to the vehicle’s engine performance enhancing modifications. These modifications were by way of an extra large after market intercooler, an after market pod type air filter and an after market sports exhaust system. These non approved engine modifications affect the emission signature output of the engine and therefore do not comply with the Australian Design Rules. These modifications were carried out to increase the engine kilowatt output of the vehicle to beyond the manufacturer’s specifications. These modifications would not have caused or contributed to the collision”.⁷

Major focus at Inquest

12. The major focus at inquest was the consequence of Anthony’s history of driving offences, upon his licence status. Leading Senior Constable David Bieser⁸ outlined Anthony’s driving history, which Sergeant Dimsey⁹ set out as follows:

“Anthony took Option 1 on 8/03/11 and he was able to retain his licence. At this time, he had 13 demerit points. His 12 month good behaviour bond commenced on 12/04/11. On 19 March 2011, he received an infringement notice for exceeding the speed limit by 25 kilometres per hour but less than 30 kilometres per hour. His licence was suspended for one month from 17 April 2011. He received four demerit points”.

“Because this infringement was received prior to his bond period commencing he did not breach it”.¹⁰

13. To recap:

- Anthony had accumulated 13 demerit points;
- he was given an option of what is termed the double jeopardy¹¹ – Anthony chose Option 1 on 7 March 2011 and his bond commenced on 12 April 2011;

⁵ Mechanical Investigation Unit.

⁶ Page 19 of Coronial Inquest Brief.

⁷ Page 20 of Coronial Inquest Brief.

⁸ Coronial Investigator.

⁹ Coroner’s Assistant.

¹⁰ Transcript p.23.

- he was subsequently intercepted driving at 25 to 30 kph over the speed limit, a four point infringement;
- because he hadn't commenced the double jeopardy period, he kept his licence; and
- although Anthony had accumulated 17 points, he was able to retain his licence on the basis of double jeopardy for the next 12 months commencing 17 April.¹²

14. Sergeant Dimsey further explained:

"On 30 July 2011 Anthony was intercepted by Senior Constable Williams for exceeding the speed limit by more than 45 kilometres per hour.... rather than issue an infringement notice the offender is summonsed".

15. Following interception by police on 30 July 2011 ("the interception"), Anthony's vehicle was impounded for 30 days under Victoria's hoon driving legislation. Queried why the interception did not breach Anthony's 12 month good behaviour bond, Sergeant Dimsey replied:

"Because he wasn't issued a traffic infringement notice, the matter was going to court".¹³

16. In respect to the interception, a brief of evidence was prepared and authorised, with a court date set for 3 February 2012.

The dilemma

17. Sergeant Dimsey further explained:

"At the moment, there's no way for police to immediately suspend a licence for excessive speed as we can do in relation to drink driving offences. The only way at the moment to suspend a person's licence is to issue an infringement notice. Suspension does not come into play for another 28 days however and the infringement notice could still be objected to so we go back into the court system again".

¹¹ Refer to the VicRoads web page, *If you get to many points*, available from:
<http://www.vicroads.vic.gov.au/Home/Licences/DemeritsAndOffences/DemeritPointsAndFines/Ifyougettoomanypoints.htm>.

¹² Transcript p. 23, 24.

¹³ Transcript p.24.

COMMENTS

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comments connected with the death:

Anomaly in the system

18. Currently, a driver placed on a 12 month good behaviour bond, subsequently intercepted exceeding the speed limit by allegedly more than 45 kilometres per hour, does not incur immediate licence suspension.
19. I will provide VicRoads and Victoria Police with a copy of this finding, which highlights an apparent licensing anomaly.
20. I urge a reconsideration of the demerit point system to ensure a driver on a good behaviour bonds, intercepted for offences involving excessive speed and/or comparable offences, similar to the drink driving provisions, incur immediate suspension of licence.

The risks of speed

21. Anthony was a loved son and good friend. He was a respected worker, undertaking a fourth year apprenticeship. However, he had accumulated a shameful driving history. Despite a good behaviour bond pursuant to the double jeopardy provisions, a pending prosecution for driving at a speed more than 45 kph above the speed limit, on the night of his death, Anthony lost control of his vehicle whilst driving at 36 kph above the speed limit.
22. Anthony's family have suffered a devastating loss. Further, the lives of every person involved in the collision will never be the same.
23. The circumstances of this tragic event highlight the significant and on-going challenge to educate, primarily, young men on the dangers of speed. Ross Dawe explained his school did not offer a dedicated program highlighting to students the risks of driving at speed. I make no criticism of the school, however am aware of various educational programs that our road safety agencies offer, including the Fit2Drive program. I strongly support the greater uptake of these programs across our secondary schools to help get the message across.
24. In response to whether there was anything he would like to say to the community of young people if he were in my position, Ross replied:

“No, just – just got to tell them more and more - it’s like more people telling you how dangerous it is or from experience just to really drive home that it is dangerous, it is – it makes no sense. You’ve just got to tell them a million times”,¹⁴

Post Mortem Medical Examination

25. On the 4th November 2011, Dr Paul Bedford, Forensic Pathologist at the Victorian Institute of Forensic Medicine, performed an examination on the body of Anthony Christopher Zaia. Dr Bedford found the cause of death to be multiple injuries – motor vehicle incident.

Finding

I find the cause of death of Anthony Christopher Zaia to be multiple injuries – motor vehicle incident.

I direct that a copy of this finding be provided to the following:

Mr Angelo Zaia, next of kin

Leading Senior Constable David Bieser, Diamond Creek Highway Patrol

Eamon and Karen Harvey

Chief Executive Officer, VicRoads

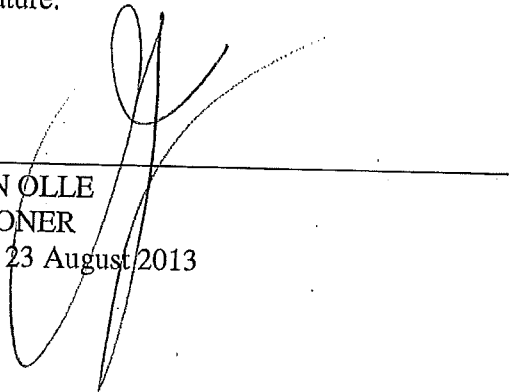
Chief Commissioner, Victoria Police

Department of Education and Early Childhood Development

Fit2Drive Program

¹⁴ Transcript p.17.

Signature:



A handwritten signature in black ink, consisting of several loops and a long horizontal stroke, is written over a solid horizontal line.

JOHN OLLE
CORONER
Date: 23 August 2013

