

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: 3816/10

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, K. M. W. PARKINSON, Coroner having investigated the death of ARTHUR GAVARDINAS without holding an inquest:

find that the identity of the deceased was ARTHUR GAVARDINAS

born on 10 September 1964

and the death occurred on 3 October 2010

at Boneo Road, Flinders, Victoria 3929

from:

1a. CHEST INJURIES – MOTORBIKE INCIDENT

Pursuant to Section 67(2) of the Coroners Act 2008, I make these findings with respect to the following circumstances:

1. Mr Arthur Gavardinas was 46 years old at the time of his death. He was born on 10 September 1964. He is survived by his wife and son.
2. Leading Senior Constable Malm of Victoria Police Rosebud Highway Patrol Division provided a brief of evidence to the Coroner. I have relied upon that material in my investigations and finding in this matter.
3. Mr Gavardinas was a motorcycle rider who held a full Victorian drivers license entitling him to drive both motor vehicle and motorcycle. He had held a motor cycle license since 2006 and had approximately 5 years of motor cycle riding experience, however he generally rode his motorcycle on weekends. Mr Gavardinis bike was a Harley Davidson 1500cc bike which he is reported to have owned from new. The bike was reportedly well maintained and kept in excellent condition.

4. On Sunday 3 October, he was participating in a ride with a group of friends from Dandenong to Somers. At approximately 12.15pm he was travelling on the Boneo Road Flinders, near the intersection with Keys Road. Boneo Road is a paved carriage way 'S' bend with provision for two lanes of traffic travelling east and west respectively. The road is divided by a double continuous white line. The speed limit for the location is 100kph.
5. Another rider, Mr Lazarus Regos reports that they had left Somers to travel home via Boneo Road. Mr Regos reports that he was travelling in a Westerly direction along Boneo Road, and that Mr Gavardinas was approximately 50 metres ahead of him. He reports that Mr Gavardinas went over a crest and that he lost sight of him. When Mr Regos crested the hill he still could not see him. He reports slowing down as the road went around a sweeping left bend. As he came out of the bend, he reports seeing Mr Gavardinas bike lying on the opposite side of the road. Mr Gavardinas was located approximately 15 metres east of the motor bike, off the side of the road. He was unresponsive. Ambulance attended, however Mr Gavardinas was deceased.
6. Police report that they attended and located the red Harley Davidson motor bike laying in a south westerly direction on its left side in the east bound lane of the middle straight section of the 's' bend. Police investigator reports that Gavardinas was riding in a north westerly direction on Boneo road and that it appeared he had approached the bend he has been unable to negotiate the bend possibly due to excessive speed.
7. The investigator notes that whilst the speed limit is 100kph, there is an advisory sign 165 metres east of the bend indicating an 'S' bend and an advisory speed of 65 kph for vehicles travelling north west, the direction being travelled by Mr Gavardinas.
8. Police conclude that being unable to negotiate the bend, Mr Gavardinas appeared to have crossed the double lines to the northern side of the road, with his bike leaving the road onto the grassy verge on the northern side of the road, approximately 26 metres prior to the impact point. Police noted two tyre tracks along the grass verge which suggested the bike was travelling sideways for a short time. They also noted gouging in the soil which suggested that the bike was bouncing and out of control. The tyre tracks led to a tree, where bark had been displaced when the bike clipped the tree. The bike then continued on landing approximately 15 metres from the impact point. The right side of the front tyre and rim of the motor cycle had marks from the tree. Police report that it appeared Mr Gavardinas had

impacted with the tree and been thrown back from the tree approximately 2 metres towards the road. His face helmet had sustained damage over the right eye area of the helmet and the presence of tree bark was noted. There were no skid marks identified prior to where it was believed Mr Gavardinas left the roadway. The weather was fine, the roadway was dry and visibility was good.

9. Police received a report of a bee swarm earlier down the road, from other motorists, however this did not appear to have been in any way associated with the collision. The collision investigator believes that the cause of the collision was lack of familiarity of the rider with the area and a misjudging by the rider of the grade of the 'S' bend.
10. An examination and report was undertaken by Dr Paul Bedford, Forensic Pathologist with the Victorian Institute of Forensic Medicine. Dr Bedford reported that the post mortem CT scan identified multiple rib fractures with pneumothoraces and haemeothoraces and a moderate subarachnoid haemorrhage. He commented that a reasonable medical cause of death was chest injuries - motor bike incident.
11. Toxicological analysis of post-mortem samples identified cannabis at a concentration of 70 ng/ml of delta-9-tetrahydrocannabinol (Cannabis). Forensic Physician Dr Morris Odell reported that this level suggests the use of cannabis within the preceding two or three hours. He stated that it was likely a person with a high level of THC (70ng/ml) would have been affected by the consumption of the drug. He stated that as a central nervous system depressant and hallucinogen, cannabis exerts as generally negative effect upon psychomotor skills such as those required for driving or riding. Effects include reduction in perceptive skills, a slowing in reaction time, dulling of reflexes, a dilation of time perception and an overall reduction in the capacity to react quickly to a stressful situation. Dr Odell concluded that his driving skills were likely to have been affected by the use of cannabis..
12. I am satisfied having considered all of the evidence before me that no further investigation is required.
13. I find that Mr Gavardinas' capacity to respond to the road circumstances and to adequately control the motor bike he was riding was constrained by the consumption of cannabis. It is likely that the speed at which he approached the nominated bend was excessive having regard to the limitations in his capacity to react and to perceive risk arising from the intoxication. It is likely that his lack of familiarity with the road and his limited riding experience, largely

weekends, also contributed to the collision. I find that these matters were factors which contributed to the death.

14. I find that Mr Arthur Gavardinas died on 3 October 2010 as a result of chest injuries sustained in a motor bike collision in which he was the rider.

Comments:

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

1. The police investigator suggests that an automated flashing warning sign would be appropriate for the location in order to warn riders travelling in excess of the recommended speed of the danger of the bend ahead. Whilst there were a number of factors contributing to this collision including the consumption of cannabis, it may be appropriate for VicRoads to review the location, particularly as the peninsula is a popular location for weekend riders, many of whom may be unfamiliar with the roads.

Recommendations:

Pursuant to section 72(2) of the Coroners Act 2008, I make the following recommendations connected with the death:

1. That VicRoad give consideration to the placement of an automated speed activated warning sign at the location of the speed advisory warnings.

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

The family of Mr Arthur Gavardinas
Investigating Member, Victoria Police
Interested parties.
The Proper Officer – VicRoads.

Signature:



K. M. W. PARKINSON
CORONER
7 May 2012

