

IN THE CORONERS COURT  
OF VICTORIA  
AT MELBOURNE

Court Reference: COR 2011 2218

**FINDING INTO DEATH WITH INQUEST**

*Form 37 Rule 60(1)*

*Section 67 of the Coroners Act 2008 (Vic)*

**Inquest into the Death of: BRITNEY JADE GUERRA**

Delivered On: 6 October 2014

Delivered At: Coroners Court of Victoria  
65 Kavanagh Street  
Southbank, VIC 3006

Hearing Dates: 6 October 2014

Findings of: JOHN OLLE, CORONER

Police Coronial Support Unit Leading Senior Constable Tracey Ramsey

I, JOHN OLLE, Coroner,  
having investigated the death of BRITNEY JADE GUERRA  
AND having held an inquest in relation to this death on 6 October 2014  
at Melbourne  
find that the identity of the deceased was BRITNEY JADE GUERRA  
born on 19 February 2001  
and the death occurred on 19 June 2011  
at 581 Melbourne Rd, Blairgowrie VIC 3942  
from:

1 (a) SMOKE INHALATION

in the following circumstances:

1. Britney Guerra was born on 19 February 2001 and was 10 years old at the time of her death. She was a school student and resided with her family at Blairgowrie. Britney was born with Cerebral Palsy and was categorised as 'high care needs' from birth. Due to her disability, her fine and gross motor skills were limited. She was restricted to fast walking, could not climb objects or carry things independently, and needed handrails and personal assistance for stability. She is survived by her mother Kylie and sister Marlie, with whom she maintained close and loving relationships.
2. A coronial brief was provided by Victoria Police to this Court, comprising statements obtained from family, witnesses, treating clinicians and investigating officers. It has wholly addressed the circumstances surrounding Britney's death. I have drawn on all of this material as to the factual matters in this finding.
3. Pursuant to section 54(c) of the *Coroners Act 2008* (Vic) a coroner may hold an inquest that investigates two or more deaths and a fire.

#### **SUMMARY INQUEST**

4. At inquest, a summary was read into evidence by Leading Senior Constable Tracey Ramsey. I am satisfied that the summary accurately reflects the evidence.
5. In the early morning on Sunday 19 July 2011 Anthony Guerra, his wife Kylie and their daughter Britney were asleep at 581 Melbourne Rd, Blairgowrie. The residence was owned by Mrs Guerra's mother Janet Patten and the Guerra's were in the process of renovating the property on Ms Patten's behalf. Mr and Mrs Guerra's youngest daughter Marlie usually

resided at the same address, however spent the previous night with her grandmother in Essendon.

6. At approximately 6.45am a fire occurred at the residence. The smell awoke Mrs Guerra, who ran into the lounge room and observed Britney standing in front of the television laughing at the fire that had spread to the Roman blinds behind the television. Mrs Guerra picked up her daughter and ran up the lounge room steps, away from the fire. She approached the hallway and alerted her husband to the fire and continued to run to the back dining room doors, which were deadlocked<sup>1</sup> due to Britney absconding.<sup>2</sup> Mrs Guerra stated that she could not use the door at the driveway end of the house to escape, as it had been blocked off by a temporary stud frame due to renovations underway at the time.
7. Mr Guerra immediately got out of bed and told his family to 'get down' and 'get out'. At this stage the dining room was full of smoke. When Mrs Guerra reached the back dining room doors she placed Britney down but continued to hold her left hand. At this stage Mr Guerra attempted to unlock the doors without the keys, which were believed to be located in the kitchen drawer. He tried to un-snib the door and open them by rattling them. After numerous unsuccessful attempts to open the doors Mr Guerra ran to the fixed dining room window, closest to the door. They were all struggling to breathe and Mrs Guerra let go of Britney's hand to attempt to open or break the doors. At this stage the air in the room was thick with black smoke and Mrs Guerra could not see Britney. That was the last time that Britney was seen alive.<sup>3</sup>
8. Overcome by weakness, due to smoke inhalation and the heat, Mrs Guerra crouched down with her hands on the floor and her head leaning against the wall underneath the window. After approximately 30 seconds Mr Guerra said 'Kylie, give me your hand.' Mrs Guerra extended her hand to which Mr Guerra took it and pulled her out of the window, which he had manage to break. He then pulled her away from danger.<sup>4</sup> Mrs Guerra observed her husband walk towards the perimeter fence along the Hughes Road side, stop and face the kitchen window. She then heard Britney call out. Mrs Guerra turned towards the house to where she thought Britney was situated and then looked to her husband, who was still in front of the kitchen window, when she observed him collapse. Mr Guerra got up from the

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<sup>1</sup> Statement of Kylie Guerra, dated 9 March 2012, Coronial brief 45, 72-4.

<sup>2</sup> Ibid 70.

<sup>3</sup> Statement of Kylie Guerra, above n 1, 74-5.

<sup>4</sup> Ibid 74-7.

ground and staggered around the outside of the house towards the dining room doors and out of sight of Mrs Guerra. Mrs Guerra did not observe any blood to indicate that her husband was injured, however her sight was impaired due to her not wearing her glasses.<sup>5</sup>

9. Two witnesses attempted to assist in locating Britney by breaking and feeling inside the windows, but due to the smoke they could not see inside the house, and the smoke and intense heat forced them to retreat. Witness Mark South stated that he comforted Mrs Guerra and walked her to Hughes Road before returning to the house and locating Mr Guerra semi-conscious and bleeding from one of his arms. He was continually falling over and passing out, and Mr South and his co-worker Adam Westwood moved him away from the window and carried him away from the fire. Soon afterwards Mr Guerra became motionless and had no pulse. Mr South administered CPR until emergency services took over.<sup>6</sup> From 7.16am paramedics arrived and administered CPR, however all attempts to resuscitate Mr Guerra proved unsuccessful.
10. At approximately 7.09am Country Fire Authority units arrived at the scene.<sup>7</sup> Mrs Guerra informed them that Britney was still in the house and that she last saw her between the refrigerator and back dining room doors.<sup>8</sup> Firefighters entered the residence and observed the lounge room well alight with flames, mainly at ceiling height, and the smoke intense and very thick.<sup>9</sup> While extinguishing flames in the kitchen and lounge room they located Britney deceased lying in the front corner of the north/west side of the house in the lounge room, approximately half a metre from the west side window, closest to Melbourne Rd in the lounge room area.<sup>10</sup>

## **FIRE INVESTIGATION**

### Police Investigation

11. Police attended the scene and observed that the whole north side of the house was extensively damaged. During examination of the external area, around the lounge room and kitchen area, police observed what appeared to be an extensive amount of blood on the

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<sup>5</sup> Statement of Kylie Guerra, above n 1, 77-8.

<sup>6</sup> Statement of Mark South, dated 19 June 2011, Coronial brief 182, 182-3; Statement of Mark South dated 19 July 2011, Coronial brief 184, 186-7.

<sup>7</sup> CFA IPS Event Detail (Unit Id: SNTOp1), Coronial brief 265, 266.

<sup>8</sup> Statement of Kylie Guerra, above n 1, 85.

<sup>9</sup> Statement of Cameron Barker, dated 21 June 2011, Coronial brief 3, 5-7.

<sup>10</sup> Ibid 7-8.

double doors, walls of the house and in several areas on the ground around the north west corner of the house.<sup>11</sup> Investigators believe that the blood spatters are consistent with accounts given by Mrs Guerra, Mr South and Mr Westwood in relation to Mr Guerra's actions when escaping from the residence and his attempts to rescue Mrs Guerra and Britney.<sup>12</sup>

12. On 19 June 2011 the scene was extensively examined by Rachel Noble, Forensic Officer and Scientist at the Victoria Police Forensic Services Centre. Ms Noble reported that there was no evidence of forced entry to the house prior to the fire and that all windows were broken and appeared to have been sooted and heat affected, which indicated that they were broken during or after the fire. There was what appeared to be blood on the two window sills, and running down the external walls underneath the window at the north-eastern end of the kitchen. A pile of pavers and bench seat underneath the north-eastern window both had what appeared to be blood on them, as did a hand trolley and the inside of the gate.<sup>13</sup>
13. The north-eastern end of the house and south-eastern bedroom sustained the most fire damage with moderate to heavy charring to the structure and contents. The ceiling had collapsed over the lounge room and there was extensive fire damage in the roof space. The damage observed in the living room was consistent with the fire spreading to that area and not originating there. The pattern of damage was consistent with the fire burning in the roof space and spreading to the lounge room by burning objects falling from the ceiling.<sup>14</sup>
14. The kitchen sustained moderate to heavy heat and fire damage throughout the entire room, particularly to the furnishings. Britney's body was located on the floor, beside the refrigerator next to the north-western wall. There were the remains of a smoke detector on the floor at the south-western end of the hallway, which appeared to have fallen from the room during the fire, and in the western corner of the hallway was an alarm sensor or similar. There was no evidence of smoke detectors located in the rest of the house but it is possible there were more present but not found among the debris.<sup>15</sup>
15. Ms Noble concluded that the pattern and extent of fire damage were consistent with the fire starting in the roof space above the south-eastern bedroom and spreading throughout the

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<sup>11</sup> Statement of Detective Senior Constable Peter Butland, dated 7 March 2012, Coronial brief 29.

<sup>12</sup> Victoria Police summary of evidence, 45.

<sup>13</sup> Statement of Rachel Noble, dated 21 December 2011, Coronial brief 138, 139-40.

<sup>14</sup> Ibid 140.

<sup>15</sup> Statement of Rachel Noble, above n 13, 141.

house. There was a down light and transformer in the centre of the room and insulation throughout the roof space. Due to the extent of damage a source of ignition was not determined, however Ms Noble reported that the following possibilities could not be excluded: an electrical fault occurring in the wiring in roof space above the south-eastern bedroom; a fault occurring in the downlight; or insulation material being in close proximity to the down light and overheating.<sup>16</sup>

16. At the time of his death Mr Guerra was the holder of a current 'ES License', an Electricians (Supervised) Workers Licence, which enabled him to work under the supervision of an 'A' Class Electrician. The licence was valid until 7 March 2015.<sup>17</sup> Mrs Guerra stated that in early 2004 her husband replaced six down lights in the lounge room with newer style down lights, each of which had a transformer attached.<sup>18</sup>
17. Mrs Guerra did not hear the smoke detector alarm go off at any stage.<sup>19</sup> Fire-fighters also did not recall any smoke detectors or alarms sounding when they were extinguishing the residence.<sup>20</sup> No other person spoken to by investigators recalled hearing a smoke detector alarm sounding.<sup>21</sup> Investigators were not able to determine if the smoke detector was working at the time of the fire and consequently the effectiveness of the smoke alarm was not applicable.<sup>22</sup>

#### Energy Safe Victoria Investigation

18. At 10.15am on 21 June 2011 Energy Safe Victoria ('ESV') compliance officers attended the scene, undertook a comprehensive examination and subsequently provided an incident report. ESV reported that electrical wiring has not been identified as contributing to the incident. It was not determined if any electrical installation work contributed to the incident. Recessed down lights installed within the ceiling area in the lounge rooms and bedrooms did appear to be in the vicinity of ceiling insulating material. Where recessed down lights are installed in close proximity to combustible material there is a likelihood of heat generated

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<sup>16</sup> Ibid 142.

<sup>17</sup> Statement of Kelly Stalker, Manager of Licensing at Energy Safe Victoria, dated 14 September 2011, Coronial brief 190.

<sup>18</sup> Statement of Kylie Guerra, above n 1, 54.

<sup>19</sup> Ibid 77.

<sup>20</sup> Statement of Cameron Barker, above n 9, 6.

<sup>21</sup> Victoria Police summary of evidence, 20.

<sup>22</sup> Country Fire Authority: Fire Investigation Management System – Structural Report Fire & Incident Reporting System Number: 384784, Coronial brief 329.

from those light fittings causing fire. ESV reported that it is likely that installation of the recessed down light fittings occurred at some time after original wiring was performed. As there was no easy bodily access to the area above the down light fittings it would have been difficult to ensure that insulating material be removed from the area near the down lights, or that maintenance of the area could occur to ensure combustible material was kept away from the area.<sup>23</sup>

19. ESV further reported that Mr Guerra was a licensed electrical worker and that his licence class allowed him to work as a supervised worker and did not allow him to perform electrical installation work unless supervised by an appropriately licensed person.<sup>24</sup>

#### **POST-MORTEM EXAMINATION**

20. A post-mortem examination was undertaken by Dr Michael Burke, Senior Forensic Pathologist at the Victorian Institute of Forensic Medicine. Dr Burke reported that the post-mortem examination showed the presence of soot within the airway and a carbon monoxide saturation of ~56%, indicating that Britney was alive at the time of the fire. The level of carbon monoxide poisoning is consistent with causing death.
21. Dr Burke reported that the cause of death is smoke inhalation.

#### **FINDING**

22. I am satisfied, having considered all of the evidence before me, that no further investigation is required.
23. I am satisfied that due to the extent of damage caused by the fire, a source of ignition was not determined.
24. I acknowledge Mrs Guerra, Britney's mother and Anthony's wife, for her admirable strength in providing a detailed account of this very tragic event. I appreciate that this would have been a very difficult process for her to undertake, and I sympathise with what I could only imagine would be an unmeasurable loss of her beloved daughter and husband.
25. I find that Britney Jade Guerra died on 19 June 2011 and that the cause of her death is smoke inhalation.

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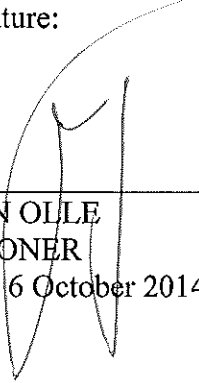
<sup>23</sup> Statement of Michael Bull, dated 18 October 2011, Coronial brief 21, 24.

<sup>24</sup> Ibid.

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

The family of Britney Jade Guerra;  
Investigating Member, Victoria Police; and  
Interested parties

Signature:



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JOHN OLLE  
CORONER  
Date: 6 October 2014

