

FORM 38

Rule 60(2)

FINDING INTO DEATH WITHOUT INQUEST

Section 67 of the Coroners Act 2008

Court reference: 2700/09

In the Coroners Court of Victoria at Melbourne

I, KIM PARKINSON, Coroner

having investigated the death of:

Details of deceased:

Surname: WILSON
First name: MICHAEL
Address: 6 Priestley Crescent, Mount Evelyn, Victoria 3796

without holding an inquest:

find that the identity of the deceased was MICHAEL ROWAN WILSON
and death occurred on 30th May, 2009

at 6 Priestley Crescent, Mount Evelyn, Victoria 3796

from

1a. INHALATION OF SMOKE AND FIRE GASES

Pursuant to Section 67(2) of the **Coroners Act 2008**, an inquest into the death was not held and the deceased was not immediately before the person died, a person placed in custody or care; but there is a public interest to be served in making findings regarding the following circumstances:

1. Mr Michael Wilson was 23 years old, born on 29 May 1986. He resided at 6 Priestley Crescent, Mount Evelyn with his longstanding friends, Mr Simon Leone who owned the premises and Mr Jacob Powell. He was employed as a plumber. Michael is survived by his mother and his sister and brother.

2. The circumstances of Michael's death have been the subject of investigation by Victoria Police Fire and Arson investigators and the Country Fire Authority fire investigators. Detective Leading Senior Constable Phelan of Lilydale Crime Investigation Unit provided a brief to the Coroner dated 25 January 2010, setting out the investigations undertaken. The brief also included a comprehensive Fire Investigation Report prepared by Police Forensic Scientists and the scene analysis undertaken by Country Fire Authority Investigators. I have drawn from these investigations in my factual findings.

3. The property located at 6 Priestley Crescent, Mount Evelyn, was a two bedroom timber house with a detached timber bungalow. Mr Leone had purchased the property two years previously. The house was located on the north-eastern side of Priestley Crescent, below the level of the road at the end of a steep driveway. It comprised verandah, open plan lounge and kitchen area, hallway, a central bathroom, laundry and two bedrooms. The property was accessed by a front door reached via stairs from the driveway to the front verandah and the back door, which led directly to the laundry and was accessed by a ramp. It was heated by ducted gas heating, which had been recently serviced and by a wood stove, which had not been used in the previous week. There were no smoke detectors or alarms fitted to the premises.

4. Mr Leone occupied the main bedroom at the front of the property, Michael occupied the back bedroom, which was located on the southwest corner of the house and Mr Powell occupied the bungalow at the rear of the property.

5. Mr Leone and Mr Powell report that on the evening of 29 May 2009, the three shared a pizza and Mr Leone left at approximately 7.30pm to stay at a friends for the evening. Mr Powell went to bed at approximately 9.30pm and Michael remained on the couch watching television.

6. Mr Leone and Mr Wilson both smoked cigarettes and whilst they generally went outside to the front veranda of the premises, on occasions particularly when it was cold, they would smoke in the lounge room, extinguishing the cigarette in any empty stubby bottle.

7. Mr Powell awoke at midnight and went into his kitchenette. He did not notice anything unusual at that time. Sometime later, in the early hours of 30 May, he was awakened by the sound of smashing glass. He went to the door of the bungalow and observed flames coming from the kitchen window of the house. The window was partially broken. He immediately ran to the house in an attempt to awaken and rescue Mr Wilson. He attempted to access the premises via the ramp at the rear of the property, however was driven back by heat and flames. He describes a fire which by that time was generating intense heat and flame. Mr Powell reports that the flames were like a 'fireball'. Mr Powell continued his efforts to raise Michael by banging on his bedroom window and ultimately taking a brick to the window to attempt to reach him. Shortly after he broke the bedroom window, the fire brigade arrived.

8. Emergency services received the call to the fire at 2.53am and the first fire trucks arrived at the scene at 3.00am. They report that when they arrived the house was 75% involved in the fire. Fire fighters using breathing apparatus entered the premises. They were advised by Mr Powell that Michael was believed to be still in the building. Michael was located deceased on the floor beside the bed in his bedroom. It appears that he became unconscious as a result of the noxious gases and smoke and was unable to escape the fire. His dog was located deceased on the bed. There was some direct fire impact to the bedroom, however the damage to the room was largely as a result of smoke and heat.

9. Victoria Police Arson and Explosive Squad members attended the scene. Their investigations did not reveal any suspicious circumstances.

10. Forensic scientist of the Victoria Police Forensic Science Laboratory, Ms Rachel Noble, examined and reported upon the scene. Ms Noble reported extensive damage to the lounge room and kitchen, with moderate to heavy charring to the contents, especially the furnishings in the south western side of the lounge room section. She concluded the pattern of burning to the verandah was consistent with the fire spreading from inside the house to the outside. There was no direct burning to the cladding beside the window on the verandah. She stated:

"I concluded that the fire started in the lounge room, near the south western end of the central couch, possibly between the couch and the window, by the ignition of available materials, such as the couch, clothes on the clothes airer (if present) or furnishings in this area. There was no evidence to suggest flammable liquid had been used to initiate or spread the fire and no containers of a type commonly used to store or transport flammable liquid was identified among the debris. There was a ducted heating duct in the vicinity of the probable area of fire origin, however the fire damage to the ducted heating and the heating unit were not consistent with the fire starting as a result of the ducted heating. There were no power points of obvious accidental ignition sources identified in the probable area of fire origin. Smoking related materials, including filters, a partial cigarette and a cigarette lighter were located on the box/chest in the centre of the lounge room. A carelessly discarded cigarette, is perhaps the most likely source of ignition. Although there was no evidence to suggest it, deliberate ignition with a match or cigarette lighter cannot be excluded."

11. I have considered the reports as to circumstance of the fire and note that neither police nor fire investigators report any evidence of suspicious circumstances. Whilst a neighbour had reported observing a person at approximately 2.00am at the premises, and that he heard the gate latch close, I am satisfied that it is likely that person was Mr Powell when he was checking the gate was secured before he retired for the night, and that it was some time earlier than the time identified by the neighbour. There is no evidence of any interference with the property by any person or of deliberate ignition of the fire by any person.

12. Dr Noel Woodford, Senior Forensic Pathologist with the Victorian Institute of Forensic Medicine undertook an examination and reported that the cause of death as due to effects of smoke and fire. Dr Woodford commented:

"The cause of death in this 23 year old male most probably relates to the effects of fire. At autopsy there was evidence of inhalation of smoke with soot being identified within the upper and lower respiratory tract. Toxicologic analysis showed the presence of

carboxyhaemoglobin at a concentrate of 28% a potentially toxic level. No cyanide was detected. The mechanism of death most probably relates to the toxic effects of carbon monoxide and other constituents of fire gases. The presence of soot in the airway and a significant level of carboxyhaemoglobin indicates that the deceased was alive at the time the fire started. Other effects of fire which may also be relevant in the ultimate mechanism of death include pronounced heat effect and the consumption of oxygen within a relatively confined space contributing to the development of asphyxia. Toxicological analysis did not reveal the presence of alcohol or other commonly encountered drugs."

13. Having considered all of the available evidence, I am satisfied that no further investigation is required. I am satisfied that there were no suspicious circumstances and that death was accidental. I am satisfied that it is likely that the fire was started as a result of a discarded and not fully extinguished cigarette igniting furniture or clothing items in the lounge room of the premises and that the Michael was overcome by the effects of smoke and noxious gases.

14. I find that Mr Michael Wilson died on 30 May 2009 and that the cause of his death was inhalation of smoke and fire gases. I find that death was accidental.

COMMENTS:

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

1. I note that from the reports of police and fire-fighters, that there were no smoke detectors fitted to the home. There have been extensive campaigns conducted by authorities to encourage and educate all residents and householders of the need to fit these devices. They provide early warning to occupants of fire. The existence of what may appear to be an easily accessible exit, such as a large window in a bedroom, is not sufficient to negate the need for detection devices. Often, as in this case, it is not burns, but the effect of smoke inhalation and noxious gases which causes death and the disabling effects of such gases can be almost instantaneous. It is possible that a working smoke detector may have prevented the death.

Signature:



Kim M W Parkinson
Coroner

27th May, 2011

