

IN THE CORONERS COURT
OF VICTORIA
AT GEELONG

Court Reference: COR 2013 001030

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of Nathan James McRorie

Delivered On:	18 December 2014
Delivered At:	Geelong
Hearing Dates:	13 October 2014
Findings of:	Ronald Saines, Coroner

I, Ronald Saines, Coroner, having investigated the death of Nathan J McRorie

AND having held an inquest in relation to this death on 13 October 2014

at Coroners Court

find that the identity of the deceased was Nathan James McRorie

born on 14 May 1992

and the death occurred on 10 March 2013

at 156A Boundary Road Whittington 3219 VIC

from:

1a Gunshot wound to the head

in the following circumstances:

Nathan McRorie was born 14/5/1992. He was at the time of his death, 20 years of age. He had a girlfriend, Hannah Vaughan and they both lived together with Nathan's parents at the family home at Teesdale, outside of Geelong. He had commenced an apprenticeship as a plumber after he left school but had not completed it. He had subsequently undertaken work on a casual basis, both plumbing and plant operation work.

In or about early 2013, it appears Nathan became friendly with a number of new male friends. This appears to have involved drug use, criminal activity and possession of firearms. His conduct and demeanour became of increasing concern to his parents.

On Saturday, 9/3/2013, Hannah Vaughan flew to Queensland during the afternoon., Nathan spent time after that at a boxing match at Melton before driving back to Geelong. He arrived late at a 3 bedroom residence in Boundary Road, East Geelong owned by Reece Boyd. He arrived at night but the exact time of his arrival is not known.

There were a number of people at the house, both in the lounge room area and in a bedroom. Nathan appears, from about 1.00am, to have been in the lounge room area in company with a male, Aaron Burnie, his girlfriend Bree Graham and her friend Maggie Cecic. Boyd was in his bedroom with two or three other friends.

These four, in the lounge room were passing time engaged in drinking alcohol, listening to music and likely, though not certainly, using drugs, cannabis and/or methamphetamine (ICE). There was at least one firearm in the room. At about 2.40am a single bullet, .22 calibre, was discharged from a firearm. It entered Nathan's head, causing him to fall to the floor.

Almost immediately after the shot was fired, Reece Boyd came out of his bedroom to see what had occurred. He was told by Aaron Burnie that McRorie had just shot himself in the head.

Other witnesses, Toby McKay and Clare Ingles, friends of Boyd's who were also in Boyd's bedroom at the time, also heard Burnie call out "Why the fuck did you do that Nathan" and also say that Nathan "had just shot himself in the head".

Bree Graham called an ambulance, although it appears that by reason of her distress, and/or being affected by drugs and alcohol, that she was unable to assist emergency services over several minutes

of her call. Reece Boyd subsequently spoke with emergency staff by her telephone while attempting to administer first aid. By the time police arrived, Aaron Burnie and Maggie Cecic had left, and by the time ambulance arrived some minutes later, it was clear that Nathan McRorie had died as a result of the single gunshot to his head.

Witnesses Cecic, Graham and Burnie, in later statements provided to police, described that Nathan McRorie had made reference to playing "Russian Roulette" before he held a firearm to his head and pulled the trigger.

When police arrived at the residence at 2.50am, Nathan was found lying across a sawn off .22 single shot rifle, with the firearm beneath his body and the floor. The firearm was a single shot .22 bolt action rifle. The bolt was uncocked and the chamber was empty. A search of the area failed to locate a spent cartridge.

On a coffee table adjacent to the deceased, which table was located in the middle of the lounge area, were a number of assorted items. There were five .22 bullets and assorted drug paraphernalia, including an ICE pipe and smoking and injecting equipment.. A number of other .22 bullets and ammunition were also located in the vicinity.

Post mortem examination of the deceased revealed a single bullet entry point in the left temporal region, forward of and above the left ear. The bullet partly disintegrated, entered the brain and produced scattered small haemorrhages with skull fracture. The bullet was sufficiently deformed as to be difficult to recognize, although it did appear, on expert examination, to be a .22 calibre round. Toxicological examination revealed methamphetamine in the blood, consistent with recent use (within 6 hours of death).

Examination of the .22 sawn off rifle showed strong evidence of McRorie's DNA on several parts of it and no conclusive evidence of DNA of others.

Gunshot residue was found on both hands of the deceased but not on the hands of witnesses Bree Graham or Reece Boyd. No examination of the hands of Cecic or Burnie was possible that morning because of them having left the scene.

Consideration of all the evidence leads to a clear conclusion that the firearm found at the scene of the death was not the firearm which had been used to cause it. Reasons for this include:

1. The bolt on the .22 sawn off was in an open position, not consistent with having been recently discharged.
2. There was no spent .22 cartridge in the chamber and no mechanism to eject it other than manual operation of the bolt after firing.
3. No spent cartridge was found.
4. Evidence from ballistic expert, Leading Senior Constable Darren Watson, establishes:
 - a) The sawn off rifle was clean and the absence of propellant grains or residue in the bore, establishes it had been cleaned since last used.
 - b) The sawn off .22 was itself 46 cm in length. Reconstruction procedures established the probable distance between a muzzle and the deceased was 150-200mm. The distance between the muzzle and the trigger of this sawn-off .22 is 35.5cm, such that the likelihood of McRorie holding, manoeuvring and firing the sawn off .22 rifle to discharge on his left side is very low.
 - c) The firearm was single shot, without opportunity for any "Russian Roulette" concept being either apparent or adopted.

5. The firearm found was underneath the deceased when the circumstances would suggest it would more likely have been on top of, or near to him.
6. The evidence is that the deceased did have a history and familiarity with handling firearms beforehand. He is unlikely to have used a single shot bolt action rifle to undertake a "roulette" procedure, it being 100% likely to cause death or major injury. He was affected by, and most likely had used methamphetamine shortly before his death, but nevertheless his judgement is unlikely to have been so fundamentally impaired so as to make such a simple error.

Although it is established that the firearm which was found beneath the deceased was not the one which caused his death, the ability of this Court to identify what occurred, either in the discharge or in the disposal or removal of the firearm which was used, is compromised. No other firearm was located by investigating Police.

The Court heard evidence from each of the four witnesses who were present at the time of or immediately after the single shot was fired. That being Maggie Cecic, Bree Graham, Aaron Burnie and Reece Boyd. The Court can have no confidence that any of them were witnesses of truth or reliability. Although the testimony of Reece Boyd was at least plausible and more convincing than the other three.

Boyd's account was that his family owned the residence. He conceded that by that time he was a chronic user of crystal methamphetamine and he testified that his residence was used as a drop in place for drug transactions and use. He described it as "drug central", a place he had no control over. His evidence that he'd not know people who would arrive there late at night and that if a person was there it would be to purchase or use drugs, was plausible and consistent with other evidence of drug use and consistent with the criminal records of most of the males who were present. Boyd did not witness the discharge of a firearm, was not present when it occurred. His statement to police, made that same morning, omitted any reference to Aaron Burnie as a means of protecting him from police investigation of Burnie's involvement. He encouraged Burnie to leave the scene before police arrived, while he, Boyd, attended to the dying McRorie.

Nathan McRorie was in the presence of Cecic, Graham and Burnie at the time the firearm was discharged. For different reasons, I am unable to accept the testimony of any of these three persons as reliable or truthful. Maggie Cecic conceded her statement to police made that same day, omitted any reference to Aaron Burnie being present and omitted that she drove him away from the residence. Additionally she agreed she had been in the room with the other three for more than an hour and yet asserted she did not at any time, (either before or after the firearm being discharged) notice or see any firearm, any drugs, ice pipe, knife, syringe, bong or bullets on the table in front of her. She also denied having observed any change or substitution of any firearm immediately after the shooting, and denied making any observation of Burnie or any other person engaging in suspicious conduct. She denied having any conversation with Burnie as they drove away from the scene of a death about the circumstances of the death, or the conduct of any person present at the time. I am satisfied she actively frustrated attempts by police and this court to find the truth of what occurred at relevant times and was motivated by self protection or protection of others, or both. The Court can have no confidence that anything she said was truthful or reliable.

Bree Graham also conceded that her statement to police made that same morning, omitted any reference to Aaron Burnie, to his presence at the time of the shot, or to them being in a relationship. Although the thrust or general direction of her testimony was to the effect that the sawn off .22 rifle found with the deceased as he was dying, was most likely not the firearm he had been handling immediately beforehand, her testimony was otherwise unhelpful. To the extent she testified she saw no other firearm and asserted she saw no evidence of any substitution or removal of it, she was

particularly unconvincing. Although she did move in and out of the residence after the shot, she was most likely to have been aware of some other conduct pertaining to the firearm which was used. It appears her statement and her testimony was intended to protect herself or others or both, rather than to assist in revealing the truth of matters.

The testimony of Aaron Burnie was even less impressive than of these two females. He was a person who had been previously released from a prison sentence, on parole, who has been interviewed by police in relation to his possible involvement in other offending which involved use of firearms, the previous morning, and which possibly involved Nathan McRorie as well. He had every reason to be evasive and to hide any conduct of his own that may tend to incriminate him in relation to drug use, firearms possession or other criminality. To the extent there was CCTV footage from the front of the residence which showed:

- a) Him exiting the residence, apparently holding an object approximately 3 minutes after the shot was fired and going over to squat in the garden area for about 40 seconds before returning to the residence empty handed, and
- b) Him returning to enter the residence again several minutes later, without any vision of him having left via the front door between then and his re-entry after being in the garden.

His account was to have been unable to recall these events. He was evasive or at least unable to explain what he was doing, and how he came to get from the residence out to the front, for the purpose of re-entry, and why it was necessary to do what he did.

It remains more probable that Burnie was the person responsible for a different firearm being removed from the residence and responsible for the substitution which took place. Despite his denials, memory lapses and protestations that he acted innocently and mainly to help a dying friend. It appears he left the scene before police and ambulance arrived, to avoid scrutiny and investigation for his involvement in various illegal acts.

Family of the deceased submitted that this Court should find that Burnie discharged his own firearm to cause the death here. Also that a murder, or at least a homicide, was hidden or falsely denied by witnesses, Graham and Cecic, who concocted implausible accounts of their involvement to protect themselves or others. I am satisfied that each of the witnesses Graham, Cecic and Burnie, were evasive and unreliable in their testimony before the court. Such that these submissions remain possible.

However, there is presently insufficient evidence to support these submissions. There can be a variety of adverse inferences drawn from false, misleading and unreliable accounts given by the witnesses. But inference of murder or homicide emerges as a less likely inference, such that these remain as unproven possibilities, rather than as probable.

Having regard to the standard of proof required in proceedings under Coroner's Act 2008, being proof on the balance of probabilities, I find it more probable than not that Nathan McRorie discharged the firearm which caused the death of himself. This finding is supported by inferences which arise in a number of ways.

1. Despite the significant possibility that the whole of the evidence of Graham, Cecic and Burnie is false, and concocted to avoid their incrimination in respect of murder or homicide, nevertheless Burnie's statements about McRorie having shot himself in the head made contemporaneously with or in the seconds after the shot, were spontaneous. They were made without opportunity to spend any significant period of time with Cecic and Graham to concoct a false story and thus support an inference of that being the truth.
2. Statements made by Cecic and Graham were made after some opportunity to reflect and to consider departure from the truth. But the more likely intention of both of them was to

omit any mention of Burnie, to omit any reference to drug use by themselves and others, and to evade scrutiny in respect of firearms and their observations of firearms. It is somewhat different to attribute their conduct, particularly their omissions, to the extended purpose of intentional deception over a murder or homicide. Even though it remains possible, it is a significant extension of their evasive conduct to infer the moral and criminal evil of the deliberate falsification of this central part of the death.

3. I have already found that a different firearm was used to cause the death here, than the .22 sawn off rifle found with the deceased: The location of 5 .22 bullets on the table in the close vicinity of the deceased is consistent with a 6 cartridge revolver having been emptied of all but one, in a manner consistent with the "Russian roulette" concept. The majority of revolver handguns contain 6 cartridges. To the extent there is evidence of McRorie referring to Russian roulette, the presence of 5 bullets is entirely consistent with that.
4. The CCTV footage of Burnie removing an object and placing it in the garden is suggestive of an object more like the size of a handgun or revolver, than a larger firearm. If that was Burnie's handgun, with his fingerprints and/or DNA on it, that alone would be sufficient explanation for him seeking to remove it before police arrived. The consequences in respect of Parole breach and his possible involvement in other criminal offending the previous morning, involving use of a firearm, are obvious. An inference of him having such a motive to substitute the firearm exists but an inference of a more sinister motive is not a necessary one.

I conclude that Nathan McRorie most probably discharged the firearm which caused the death himself.

Signature:



Ronald Saines

Date: 18 December 2014

