

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2014 003854

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, ROSEMARY CARLIN, Coroner having investigated the death of NEIL ALFRED MIDDLEING without holding an inquest:

find that the identity of the deceased was NEIL ALFRED MIDDLEING

born on 10 December 1943

and that the death occurred on 29 July 2014

at St John's inpatient unit, Port Phillip Prison, Victoria

from:

1(a) METASTATIC OESOPHAGOGASTRIC ADENOCARCINOMA

Pursuant to section 67(1) of the *Coroners Act 2008* there is a public interest to be served in making findings with respect to the following circumstances:

1. Mr Middleing was born on 10 December 1943 and he was 70 years old at the time of his death. Mr Middleing was receiving treatment at the St John's inpatient unit at Port Phillip Prison at the time of his death. He is survived by his family.
2. On 25 February 2011, Mr Middleing was received into custody to serve a sentence of imprisonment of 9 years for sexual offences against children. On 16 October 2013, his sentence was reduced on appeal to the Supreme Court to 6 years. Mr Middleing served his sentence at the Melbourne Assessment Prison, Metropolitan Remand Centre, Barwon Prison and Port Phillip Prison (PPP). His last placement was at PPP on 1 November 2012, where he remained until his death.

3. Mr Middling had a medical history that included prostate cancer, radical prostatectomy, supra-ventricular tachycardia, deep vein thrombosis, cataracts, back pain and osteoarthritis. He had been diagnosed with adenocarcinoma of the stomach and lower oesophagus in April 2010 and was treated with surgery and chemotherapy prior to his imprisonment. This had been initially successful in controlling the disease.
4. Following his imprisonment, Mr Middling attended regular oncology and other medical appointments. He was also treated for other ailments and was regularly reviewed for his mental health and medical conditions. Mr Middling was engaged by staff in case management on a monthly basis. During his case management sessions topics such as health and family were discussed. Towards the end of his life, his case management sessions included discussions about his palliative care.
5. Mr Middling remained stable until February 2014, when a CT scan revealed that the cancer had spread. He elected not to have further chemotherapy due to the significant side effects and his poor prognosis. He was subsequently treated for symptom management.
6. On 12 May 2014, Mr Middling attended a palliative care review at St Vincent's Hospital. The palliative care doctor discussed the status of Mr Middling's cancer with him and prescribed medication to settle his gastrointestinal symptoms. It was noted that Mr Middling was speaking to his son, who was aware of the seriousness of his father's illness, on a weekly basis.
7. On 3 July 2014, Mr Middling was admitted to the St John's inpatient unit as he was suffering from ongoing constipation, a painful abdomen and swollen legs. He discharged himself a few hours later against medical advice because he was more comfortable in his usual accommodation unit. That same day, a Not For Resuscitation (NFR) order was signed by a Medical Officer and acknowledged by the Nurse Unit Manager of St John's following consultation with Mr Middling's son.
8. On 18 July 2014, Mr Middling was admitted to the St John's inpatient unit as he was struggling to maintain his independence and was suffering from lethargy and nausea. He was seen by nursing staff frequently and the medical officer reviewed him on 22 July 2014.

He was also seen by other treating clinicians. On 28 July 2014, nursing staff documented that Mr Middling was stable.

9. On 29 July 2014, the night nurse noted that Mr Middling had been resting in his bed during checks overnight but was awake in his bed at 5 a.m. At 7.50 a.m., during the morning count, correctional staff located Mr Middling unresponsive in his cell. Nursing and medical staff attended and the medical officer declared him deceased at 9.21 a.m.
10. An inspection of Mr Middling's body was undertaken by Dr Matthew Lynch, Senior Forensic Pathologist with the Victorian Institute of Forensic Medicine. The examination revealed evidence of cachexia, calcific coronary artery disease and ascites. Dr Lynch reported the cause of death as 1(a) Metastatic Oesophagogastric Adenocarcinoma.
11. The Office of Correctional Services Review (OCSR) produced a report of their investigation into Mr Middling's death and made suggestions in respect of PPP's management of prisoner's next of kin details.
12. The correctional officer who located Mr Middling unresponsive in his cell refrained from rendering first aid because she knew of the NFR order. The OCSR found that the correctional officer had not complied with the Commissioner's Requirement that staff perform first aid in all cases, even if a prisoner has indicated a wish not to be resuscitated or to receive medical treatment. The rationale for that requirement is the fact that prisoner medical information, including the existence of NFR orders, is not shared with correctional staff. Although non-compliant with policy, the OCSR found the actions of the correctional officer did not adversely affect Mr Middling's outcome as medical staff attended to him immediately. They were aware of the NFR order and accordingly did not render first aid.
13. I am satisfied that no further investigation is necessary. I find that the medical care and management of Mr Middling by staff Port Phillip Prison was satisfactory.
14. I find that Neil Middling died on 29 July 2014 and that he died of natural causes, being metastatic oesophagogastric adenocarcinoma.

15. As Mr Middling was in custody within the meaning of the Coroners Act 2008, this Finding will be published on the Internet in accordance with section 73(1B) of the Act.

16. I also direct that a copy of this Finding be provided to the family of Mr Neil Middling, the Interested Parties and to the Investigating Member, Victoria Police.

Signature:



ROSEMARY CARLIN
CORONER
4 June 2015

