

FORM 2

Rule 24

**DETERMINATION BY CORONER THAT REPORTED DEATH IS NOT A
REPORTABLE DEATH**

Section 16 of the Coroners Act 2008

Court Reference: 3080 / 10

In the Coroners Court of Victoria at Melbourne

I, Judge Jennifer Coate, State Coroner having investigated the death of:

Details of deceased:

Surname: Human remains of unknown identity
First name:
Date of birth:
Gender:
Date of death/Suspected death:
Place of death/Suspected death: Old Melbourne Gaol

reported by—

Details of reporting person:

Title: Mr
Surname: Smith
First name: Jeremy
Organisation/Position held: Senior Archaeologist, Heritage Victoria
Contact address: Department of Planning and Community Development Level 4, 55 Collins Street, Melbourne
Contact number(s): 8644 8948

determine the death is not a reportable death pursuant to the *Coroners Act 2008* because:

Reason(s) for decision:

1. I have been provided with a joint statement of Mr Jeremy Smith, Senior Archaeologist from Heritage Victoria and Catherine Tucker, Senior Archaeologist with a private company known as TerraCulture, dated August 16, 2010. Both Mr Smith and Ms Tucker attest to the historical and archaeological work they have performed in furtherance of a land development on the site of the former Pentridge Prison. I have also been provided with reports from Dr Soren Blau, Forensic Anthropologist from the Victorian Institute of Forensic Medicine.
2. That development required the exhumation and subsequent proposed relocation of the human remains of a number of judicially executed prisoners whose remains were interred in prison grounds both at the old Melbourne Gaol and at Pentridge itself.
3. In their statement, Mr Smith and Ms Tucker jointly explain the detailed historical and archaeological investigations and examinations that were undertaken by them and others assisting them in the course of their duties on this site.
4. In summary, the contents of that statement satisfies me as to their expertise, experience and authority to give the opinions that they provide. In that statement at paragraph 10, both Ms Tucker and Mr Smith provide their opinion that the human remains recovered from "Pit C" are likely to have been from 111 to 129 years old at the time of being first reported to the Coroner in March 2009. The human remains in this case were recovered from "Pit C".
5. The statement further satisfies me that the human remains the subject of this case number were, more likely than not the subject of judicial execution and therefore previous autopsy and inquest and finding.
6. Having made the above findings, but in particular that the death probably occurred more than 100 years before being reported to the coroner, the operation of section 16(5) of the *Coroners Act 2008* mandates the discontinuation of this investigation.

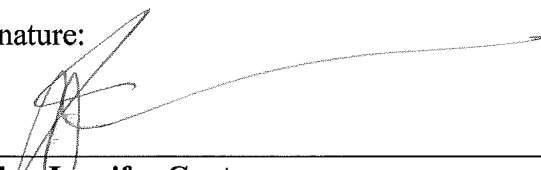
Accordingly—

I make the following orders:

Pursuant to section 16(5) of the Coroners Act 2008, I discontinue the investigation into the death as the death probably occurred more than 100 years before it was reported.

Pursuant to Section 47 of the Coroners Act 2008, I direct the remains to be released to Mr Jim Gardner, Executive Director from Heritage Victoria.

Signature:



Judge Jennifer Coate
State Coroner
Date: 2nd September, 2010



NOTE: Notice of this determination must be provided to the person who reported the death.

An appeal can be made to the Supreme Court of Victoria within 3 months after the day on which the Determination/Order has been made.
