

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2021 003607

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	AUDREY JAMIESON, Coroner
Deceased:	Vili Kovac
Date of birth:	22 September 1932
Date of death:	09 July 2021
Cause of death:	1(a) Sepsis of unknown aetiology in a man with ischaemic cardiomyopathy and other medical comorbidities
Place of death:	St. Vincent's Hospital Melbourne, 41 Victoria Parade, Fitzroy, Victoria, 3065
Keywords:	Death in custody; natural causes

INTRODUCTION

1. On 09 July 2021, Vili Kovac was 88 years old when he died of natural causes at the St Augustine's Secure Ward at St Vincent's Hospital. At the time of his death, Mr Kovac was incarcerated at the Hopkins Correctional Centre in Ararat.
2. Mr Kovac was born in the former Yugoslavia and moved to Australia prior to 1965. He worked in the snow fields at Mount Buller and Hotham and later taught sport at Xavier College.¹
3. In December 2005, Mr Kovac was sentenced to nine years and six months imprisonment for the indecent assault of a male under the age of 16. The offence occurred prior to 1981. Whilst incarcerated, Mr Kovac was again convicted of indecent assault of a male under the age of 16.
4. On 7 December 2017, Mr Kovac was sentenced to three years and ten months imprisonment for one count of buggery with a person under the age of 16 and one count of indecent assault of a male under the age of 16, with both offences occurring prior to 1981. He was also sentenced to eight months imprisonment, six of which were to be served concurrently, for two counts of indecent assault. Mr Kovac was incarcerated at the Hopkins Correctional Centre.
5. In the years prior to his death, Mr Kovac was estranged from his family and former partner.
6. Mr Kovac's medical history included delayed non-ST elevation myocardial infarction, hypertensive heart disease, diffuse hepatic steatosis, dyslipidaemia, cataracts, osteoarthritis, hearing impairment and benign prostatic hypertrophy. He mobilised with a four-wheel frame walker.²

THE CORONIAL INVESTIGATION

7. Mr Kovac's death was reported to the Coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (the Act). The death of a person in care or custody is a mandatory report to the Coroner, even if the death appears to have been from natural causes.

¹ Coronial Brief (CB), Statement of IK, dated 28 December 2021.

² CB, Statement of Dr Yee Choe, dated 24 November 2021.

As Mr Kovac's cause of death was ascribed as natural causes, I was not required to hold an Inquest into his death.³

8. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
9. Under the Act, coroners also have the important functions of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
10. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Mr Kovac's death. The Coroner's Investigator conducted inquiries on my behalf, including taking statements from witnesses – such as family, the forensic pathologist, treating clinicians and investigating officers – and submitted a coronial brief of evidence.
11. This finding draws on the totality of the coronial investigation into the death of Vili Kovac including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.⁴

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

12. Mr Kovac developed pneumonia whilst incarcerated at Hopkins Correctional Centre and his health deteriorated over a period of four weeks, with symptoms including delirium, confusion and resistive and combative behaviour.
13. On 27 June 2021, Mr Kovac was admitted to Ararat Hospital with an exacerbation of congestive cardiac failure.

³ Section 52(3A) of the *Coroners Act 2008* (Vic).

⁴ Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

14. Between 3 and 6 July 2021 he was again admitted to Ararat Hospital with abdominal pain and c-reactive protein rise with unclear aetiology. He was found to have enlarged hilar lymph nodes and presumed *staphylococcal bacteraemia* with delirium.
15. On 7 July 2021, Mr Kovac was transported to St Vincent's Hospital. An acute resuscitation plan was completed, with Mr Kovac considered not appropriate for cardiopulmonary resuscitation (CPR) or intubation. The following medical issues were identified:⁵
 - a) Suspected community acquired pneumonia
 - b) Suspected methicillin susceptible staphylococcus aureus bacteraemia
 - c) Acute on chronic liver test derangement likely in the setting of Flucloxacillin use
 - d) Acute on chronic kidney disease likely in the setting of decreased oral intake
16. Mr Kovac was treated with antibiotics at a renally-adjusted dose. His troponin was noted to be 450, though the impression following review by the cardiology registrar was that Mr Kovac would not be a surgical candidate should he be diagnosed with infective endocarditis given his age, frailty and comorbidities.⁶
17. On 8 July 2021, Mr Kovac remained delirious and required assistance with feeding. He was tachycardic and appeared dehydrated, so slow intravenous fluids were continued. An MRI and thoracic lumbar spine were requested to rule out occult sources of sepsis.⁷
18. At around 8:15am on 9 July 2021, Mr Kovac was observed by nursing staff to be delirious with no signs of agitation or distress. He was haemodynamically stable and was vocal and mumbling words. Mr Kovac consumed yoghurt and half a portion of milk for breakfast.⁸
19. Nursing staff returned to his room at 8:30am and noted that he did not appear to be breathing. A MET call was initiated and attended by a Physician Trainee and two general medicine Interns. Mr Kovac was declared deceased at 8:45am.⁹

⁵ CB, Statement of Dr Yee Choe, dated 24 November 2021.

⁶ Ibid.

⁷ Ibid.

⁸ CB, Statement of James Duncan, dated 24 November 2021.

⁹ CB, Statement of Dr Yee Choe, dated 24 November 2021.

Identity of the deceased

20. On 15 July 2021, the left thumb print of the deceased was compared with the left thumb print held on record for Vili Kovac and was found to be a match.
21. On the same date, my colleague Coroner Simon McGregor determined that the cogency and consistency of all evidence relevant to identification supported a finding that the deceased was Vili Kovac, born 22 September 1932. Accordingly, he signed a Determination by Coroner of Identity of Deceased (Form 8).
22. Identity is not in dispute and requires no further investigation.

Medical cause of death

23. Forensic Pathologist Dr Victoria Christabel Mary Francis from the Victorian Institute of Forensic Medicine (VIFM) conducted an external examination on the body of Vili Kovac on 12 July 2021. Dr Francis reviewed the Victoria Police Report of Death (Form 83) post mortem computed tomography (CT) scan and E-Medical Deposition Form of St Vincent's Hospital and provided a written report of her findings dated 4 August 2021.
24. The external examination showed no significant external evidence of injury. The post mortem CT scan showed cardiomegaly with prostatomegaly, calcified coronary arteries and bilateral pleural effusions.
25. Toxicological analysis of ante mortem samples identified the presence of acetone (~ 140mg/L), citalopram (~ 0.05 mg/L), bisoprolol (~ 0.06mg/L) and paracetamol.
26. Dr Francis provided an opinion that the medical cause of death was 1 (a) SEPSIS OF UNKNOWN AETIOLOGY IN A MAN WITH ISCHAEMIC CARDIOMYOPATHY AND OTHER MEDICAL COMORBIDITIES.

FINDINGS AND CONCLUSION

1. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Vili Kovac, born 22 September 1932;
 - b) the death occurred on 09 July 2021 at St. Vincent's Hospital Melbourne, 41 Victoria Parade, Fitzroy, Victoria, 3065;

c) I accept and adopt the medical cause of death as ascribed by Dr Victoria Christabel Mary Francis and I find that Vili Kovac died from sepsis on a background of ischaemic cardiomyopathy and other medical comorbidities;

2. AND, having reviewed the evidence before me, I find that Vili Kovac's death was due to natural causes and there is no evidence of a causal connection between his death and his place of incarceration.

Pursuant to section 73(1B) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

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

State Trustees

St Vincent's Hospital Melbourne


Correct Care Australasia Pty Ltd

Justice Assurance and Review Office

Justice Health

First Constable Gabrielle Biltris, Coroner's Investigator

Signature:



AUDREY JAMIESON

CORONER

Date: 11 December 2023



NOTE: Under section 83 of the *Coroners Act 2008* ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after

the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
