



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 004646

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Findings of:	Coroner David Ryan
Deceased:	Dale John Toy
Date of birth:	29 August 1968
Date of death:	10 August 2024
Cause of death:	1a: Complications of perineal squamous cell carcinoma
Place of death:	Austin Hospital 145 Studley Road Heidelberg Victoria
Keywords:	In care – Natural causes

INTRODUCTION

1. On 10 August 2024, Dale John Toy was 55 years old when he passed away at the Austin Hospital in Heidelberg. At the time of his death, Mr Toy lived in a residential care facility in Bundoora. His medical history included epilepsy, urinary tract infections, gastro-oesophageal reflux disease, hyponatremia and penoscrotal abscess. He also had an intellectual disability.

THE CORONIAL INVESTIGATION

2. Mr Toy's death was reported to the coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury. 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. Mr Toy was a person in care at the time of his death and he was a Specialist Disability Accommodation (**SDA**) resident living in an SDA dwelling pursuant to Regulation 7 of the *Coroners Regulations 2019*. However, an inquest was not required to be held pursuant to section 52(3A) of the Act given that Mr Toy's death was from natural causes.
3. 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.
4. 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.
5. This finding draws on the totality of the coronial investigation into Mr Toy's death, including information obtained from his health records and the National Disability Insurance Agency. While 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.¹

¹ 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

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

Circumstances in which the death occurred

6. On 20 May 2024, Mr Toy was admitted to the Austin Hospital with general functional decline and worsening of scrotal abscess and hypercalcemia. A urethrectomy was performed on 3 June 2024 which revealed a new diagnosis of perineal squamous cell carcinoma which was locally advanced and metastatic. The disease was assessed to be incurable and in consultation with his family, Mr Toy was transitioned to comfort care. He passed away on 10 August 2024.

Identity of the deceased

7. On 10 August 2024, Dale John Toy, born 29 August 1968, was visually identified by his mother, Elsbeth Toy.
8. Identity is not in dispute and requires no further investigation.

Medical cause of death

9. Forensic Pathologist Dr Vianney Rajakarunanaïke from the Victorian Institute of Forensic Medicine conducted an examination on 14 August 2024 and provided a written report of her findings dated 7 November 2024.
10. Dr Rajakarunanaïke provided an opinion that the medical cause of death was *1(a) Complications of perineal squamous cell carcinoma*. She also stated that the death was due to natural causes.
11. I accept Dr Rajakarunanaïke's opinion.

FINDINGS AND CONCLUSION

12. Pursuant to section 67(1) of the Act, I make the following findings:
 - a) the identity of the deceased was Dale John Toy, born 29 August 1968;
 - b) the death occurred on 10 August 2024 at Austin Hospital, 145 Studley Road Heidelberg Victoria, from complications of perineal squamous cell carcinoma.

evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

c) the death occurred in the circumstances described above.

13. As noted above, Mr Toy's death was reportable by virtue of section 4(2)(c) of the Act because, immediately before his death, he was a person placed in care as defined in section 3 of the Act. Section 52 of the Act requires an inquest to be held, except in circumstances where someone is deemed to have died from natural causes. In the circumstances, I am satisfied that Mr Toy died from natural causes and that no further investigation is required. Accordingly, I exercise my discretion under section 52(3A) of the Act not to hold an inquest into his death.

I convey my sincere condolences to Mr Toy's family for their loss.

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:

Elsbeth Toy, Senior Next of Kin

Austin Health

Constable Vijendra Appadoo, Coronial Investigator

Signature:



Coroner David Ryan

Date: 23 January 2025

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.
