



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2021 003685

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

Amended on 28 July 2022 pursuant to section 76 of the Coroners Act 2008¹

Findings of:	Coroner Simon McGregor
Deceased:	Michael John Sim
Date of birth:	9 December 1966
Date of death:	On or about 25 October 2020
Cause of death:	1(a) unascertained
Place of death:	Norman Wade Scenic Drive, Portland, Victoria, 3305
Key words:	Missing person, Portland, Cape Nelson, drowning

¹ References to the date of Michael's death were amended from 27 October 2020 to "On or about 25 October 2020"

INTRODUCTION

1. On 25 October 2020, Michael John Sim was 53 years old when he failed to return from a coastal walk. At the time of his death, Michael lived alone at 50 Peter Street, Portland, Victoria.

THE CORONIAL INVESTIGATION

2. For the reasons set out below, Sergeant Victoria Hudson of the Portland Criminal Investigation Unit made application to the court on 12 July 2021 to investigate whether Michael, still classified as a missing person, ought to be declared deceased.
3. Michael's death was then 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.
4. 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.
5. 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.
6. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Michael'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.

7. This finding draws on the totality of the coronial investigation into the death of Michael John Sim 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.²

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

Circumstances in which the death occurred

Background

8. Michael was born in Geelong and was the youngest of three brothers. He began primary school in Euroa, Victoria, but finished it in Mount Tom Price, Western Australia (WA), after the family relocated. He completed secondary schooling in Geraldton, WA, and then at Saint Laurence's College in Brisbane.
9. In 1988, Michael relocated to Portland, Vic, to work as a smelter and purchased a house on Peter Street where he lived for the rest of his life. Michael established long term friendships in the community and enjoyed the many outdoor activities that the region offered, including keen interests in photography, rock climbing, and scuba diving.
10. Michael worked in Queensland and then Geelong and travelled internationally before he resumed living in Peter Street, Portland, in about 2005. At this time, Michael began working as a 'fly in fly out' chef and camp manager in the oil industry.³
11. In 2020, Michael was unable to work due to COVID-related border closures however he continued to receive JobKeeper payments from his employer for income support.⁴ He kept himself healthy and happy by walking long distances most days, sometimes with friends, sometime by himself, and taking many photographs of the rugged local coastline.⁵ He further developed earlier interest in videography by utilising drones to capture footage showcasing the spectacular Portland coastline.⁶

² 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.

³ Statement of Daniel Sim, Coronial Brief.

⁴ Statement of Daniel Sim, Coronial Brief.

⁵ Statement of John Reisin, Coronial Brief.

⁶ Statement of Esma Sim, Coronial Brief.

Michael's disappearance

12. On 24 October 2020 at 8.26pm, Michael had a brief conversation with his mother on Facebook Messenger. This was the last time she spoke to her son.⁷
13. On 25 October 2020, Michael spoke to his friend Boyd Dohnt in the morning using an internet-based phone application called Line. Michael said that he planned on going out and taking some photos but would be leaving his drones behind because of the weather conditions. Michael did not specify where he was going.⁸
14. At 11.44am, Michael sent a text message to his friend John Reisin to tell him that he had just returned from a walk and that the strength of the wind felt like a wind turbine. He later sent a further message at 12.27pm saying “Haha, dogs blown off leads. I had 10am swim... bit of wind resistance about”. This was the last known contact with Michael.⁹
15. At 1.10pm, Dohnt sent Michael a Facebook Messenger message. It was marked as delivered to Michael, but not read. No reply from Michael was ever received.¹⁰
16. At 4.17pm, Dohnt sent Michael another Facebook Messenger message, but this one was not marked on his device as delivered to Michael's phone.
17. On 26 October 2020, Portland residents Heather Dunn and Danny Roberts drove around Norman Wade Scenic Drive, observing local wildlife and taking in the view of the Cape Nelson lighthouse. This was a regular trip for them, something they sometimes did up to three times per day. On this occasion, they both noticed a silver sedan parked at the area known locally as “Flat Rock”. In the afternoon, when they repeated the drive, the vehicle was still in the same spot, which was unusual.¹¹
18. On 27 October 2020, Dunn and Roberts repeated their drive and noticed that the silver sedan was parked in the same location as the day before. Upon investigating, they found the vehicle to be empty and notified Victoria Police.¹²

⁷ Statement of Esma Sim, Coronial Brief.

⁸ Statement of Boyd Dohnt, Coronial Brief.

⁹ Statement of John Reisin, Coronial Brief.

¹⁰ Statement of Boyd Dohnt, Coronial Brief.

¹¹ Statement of Daniel Roberts, Coronial Brief.

¹² Statement of Daniel Roberts, Coronial Brief.

The Search

19. Victoria Police Senior Constables Holman and McKenzie attended the car park and documented a silver Holden sedan with Victorian registration 1OM6SK, owned by Michael Sim of 50 Peter St in Portland. Michael's vehicle was locked, and nothing appeared to be out of place. A foot patrol of the local area was conducted however nothing of interest was found. The constables then proceeded to Michael's residence on Peter Street and found that the rear door of the property was unlocked. Michael was not home however, and so a calling card was left.¹³
20. The police search was expanded with unsuccessful attempts made to call Michael's phone. A doorknock of neighbouring properties was also unsuccessful. At 4.44pm, police members re-attended the Flat Rock car park and searched the intersecting Great South West Walk for approximately one kilometre north and south of the car park. Nothing of interest was located, and police air and water searches were arranged.¹⁴
21. The Victoria Police air search commenced at approximately 8.35pm using searchlights and infrared radar on the coastal area and water near the car however nothing of interest was located. The search resumed at first light the next morning, with police divers and Coast Guard resources also assisting.
22. A thorough search of Michael's residence was conducted. The house appeared to be in a tidy but lived-in condition with some clothes on the floor and dirty dishes in the sink. The property had the appearance as though Michael intended to return to the address. Michael's car was also searched, with his wallet being located but no other items of interest.¹⁵
23. The search continued for two more days without result, and the file was then provided to Portland Victoria Police Crime Investigation Unit to complete.¹⁶
24. As part of the ongoing investigation, the weather data was obtained from the Bureau of Meteorology for the closest weather station, being the Cape Nelson lighthouse site number 90184, between 12.00am on 25 October 2020 and 11.30pm on 27 October 2020.

¹³ Statement of DSC Jason Von Tunk, Coronial Brief.

¹⁴ Statement of DSC Jason Von Tunk, Coronial Brief.

¹⁵ Statement of DSC Jason Von Tunk, Coronial Brief.

¹⁶ Statement of SC Victoria Hudson, Coronial Brief.

25. The data showed that the temperature was between 9 and 12 degrees Celsius and that there was a south-easterly wind gusting up to 60 kilometres per hour. The closest available wave height data indicated the surf was about 1.5 to 2 metres in height at the relevant time.¹⁷
26. Michael's parents attended his address and confirmed to my investigators that all of the drones he owned were still at the house, and that only one camera was missing. This is consistent with Michael's conversation with Dohnt on 25 October 2020. His parents were able to access his iPad, where his Google Maps history showed a last known location on the Great South West Walk, approximately 3.8 km from the Flat Rock car park where his vehicle was located.¹⁸
27. Exclusionary DNA samples were provided by Michael's parents to the Victorian Institute of Forensic Medicine for comparison against the Victoria missing persons DNA database however no matches were found.¹⁹
28. Searches conducted of telecommunications databases produced results consistent with the history given above and provided no further leads. Banking and Centrelink records confirm a last known withdrawal of \$100 cash from Portland on 24 October 2020. After that date, the only activity on Michael's accounts was consistent with JobKeeper payments being deposited by his employer.²⁰ When a person is listed as missing rather than deceased, the payments would be expected to continue.
29. In due course, Michael's mother obtained permission from the Victoria Civil and Administrative Tribunal to withdraw the funds from his bank, settle his debts, and close the accounts. No suspicious further transactions were recorded.²¹
30. To this day, there has still been no further contact from Michael, nor has there been any new records generated applicable to him, since his disappearance on 25 October 2020.²²

¹⁷ Statement of SC Victoria Hudson, Coronial Brief.

¹⁸ Statement of SC Victoria Hudson, Coronial Brief.

¹⁹ Statement of DSC Jason Von Tunk, Coronial Brief.

²⁰ Statement of SC Victoria Hudson, Coronial Brief.

²¹ Statement of Esma Sim, Coronial Brief.

²² Statement of Esma Sim, Coronial Brief.

FINDINGS AND CONCLUSIONS

31. On the balance of probabilities, I find that Michael Sim died on or about Sunday 25 October 2020 after he attended the section of Victorian coastline adjacent to the Flat Rock car park on Norman Wade Scenic Drive, Portland. It is likely that he died by misadventure during inclement weather having attempted to take the wilderness photographs that he had discussed with his friend that morning.
32. This conclusion is corroborated by Michael's own Google timeline history, the missing camera from his house, and the consistent financial transactions recorded in his bank accounts.
33. The absence of Michael's body is consistent with the hypothesis that he fell or was swept into the ocean where the large waves and strong currents and tides likely carried away his body, all of which was assisted by the significant delay in noticing his absence.
34. There are no suspicious circumstances.

FINDINGS AND CONCLUSION

35. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
 - a) the identity of the deceased was Michael John Sim, born 9 December 1966;
 - b) the death by misadventure occurred on or about 25 October 2020 at Norman Wade Scenic Drive, Portland, Victoria, 3305; and
 - c) the death occurred in the circumstances described above.
36. Having considered all of the circumstances, I am satisfied that his death was the unintended consequence of his stated plan to take photographs in the wilderness.

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

Pursuant to section 73(1A) 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:

Esma Sim, Senior Next of Kin

Sergeant Victoria Hudson, Coroner's Investigator

Signature:



CORONER SIMON McGREGOR

CORONER

Date: 11 July 2022

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.
