



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2023 003276

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

Section 67 of the Coroners Act 2008

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| Findings of: | Coroner Simon McGregor |
| Deceased: | Gerhard Peter Fischer |
| Date of birth: | 27 May 1959 |
| Date of death: | 18 June 2023 |
| Cause of death: | 1(a) Traumatic asphyxia by hay bale |
| Place of death: | 90 Long Gully Road, Greendale, Victoria, 3341 |
| Key words: | Farming accident, misadventure |

INTRODUCTION

1. On 18 June 2023, Gerhard Peter Fischer ('Garry') was 64 years old when he died in a farming accident. At the time of his death, Garry lived at 90 Long Gully Road, Greendale, Victoria, a hobby farm he shared with his partner of 15 years, Debra Shaddock ('Deb').
2. Garry was a machine operator by trade. He had no known medical conditions except high blood pressure and a previous bullet wound.

THE CORONIAL INVESTIGATION

3. Garry'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.
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 Garry'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 Gerhard Peter Fischer 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.¹

8. In considering the issues associated with this finding, I have been mindful of Garry's human rights to dignity and wellbeing, as espoused in the *Charter of Human Rights and Responsibilities Act 2006*, in particular sections 8, 9 and 10.

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

Circumstances in which the death occurred

9. On the morning of Sunday 18 June 2023, Garry drove his Nissan utility vehicle ('ute'), towing a tandem trailer, to Crossroads Trading in Ballan to purchase a large round hay bale. The hay bale, which weighed approximately 1 tonne, was loaded on its flat face into the trailer and tied down by a single rope.
10. At approximately 11:30am, Garry returned home and waved to his partner Deb as he drove down the driveway past the house. Garry proceeded to the horse paddock, which was boggy due to recent rain and slippery underfoot. The horse paddock also had a slight incline, which Garry had routinely used to assist him in sliding hay bales off the trailer. Garry parked the ute facing in a westerly direction with the trailer positioned on a downward slope.
11. The scene evidence suggested that on this occasion, Garry successfully untied the fastening rope and slid the bale off the trailer onto the ground. Deb stated that she had seen Garry unload and reposition bales many times, and that his practice was to stand with his back against the round side of the bale, brace his weight and push off with his legs to tilt the bale into a suitable position.
12. On this occasion, the final position of the hay bale and slip marks in the mud suggested that Garry's feet slipped out from underneath him during the repositioning process, and that the tilting of the hay bale created enough momentum to cause it to counter-balance and, due to the incline, tip back onto him on the ground, covering the top half of his body.
13. At approximately 3:50pm, Deb became concerned that she had not seen Garry's ute for some time and went looking for him. As she approached the horse paddock, she noticed the hay

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

bale was off the trailer and on its side and that Garry's horse Beau was standing nearby. Deb approached and found Garry trapped under the bale. She attempted to move the bale but was unable to. She checked Garry's wrist for a pulse but found none, and rang 000.

14. Ambulance Victoria paramedics attended but Garry was unable to be resuscitated and was formally declared deceased.
15. Police attended a short time later and found no suspicious circumstances.

Identity of the deceased

16. On 18 June 2023, Gerhard Peter Fischer, born 27 May 1959, was visually identified by his partner, Debra Shaddock.
17. Identity is not in dispute and requires no further investigation.

Medical cause of death

18. Specialist Forensic Pathologist Dr Matthew Lynch from the Victorian Institute of Forensic Medicine conducted an external examination on 20 June 2023 and provided a written report of his findings dated 21 June 2023.
19. On post-mortem examination, Dr Lynch found conspicuous petechiae² on the conjunctivae and periorbital skin.³
20. A post-mortem computed tomography (CT) scan showed no intracranial haemorrhage or skull fracture, an intact cervical spine, no pneumothorax or rib fractures, and a metallic foreign body within the soft tissue of the neck, consistent with the history of previous gunshot injury.
21. Toxicological analysis of post-mortem blood samples showed the presence of paracetamol in trace amounts (less than 5.0 mg/L) and did not identify the presence of alcohol or any other common drugs or poisons.
22. Having regard to his findings, Dr Lynch provided an opinion that the medical cause of death was 1(a) traumatic asphyxia by hay bale.
23. I accept Dr Lynch's opinion.

² Tiny spots of bleeding that occur when there is damage to the vessel walls.

³ Conjunctival and periorbital petechiae are clinical signs of elevated intravascular pressure and may be caused by events such as head trauma, severe vomiting, coughing, seizures or strangulation.

FINDINGS AND CONCLUSION

24. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
- a) the identity of the deceased was Gerhard Peter Fischer, born 27 May 1959;
 - b) the death occurred on 18 June 2023 at 90 Long Gully Road, Greendale, Victoria, 3341, from traumatic asphyxia by hay bale; and
 - c) the death occurred in the circumstances described above.
25. Having considered all of the circumstances, I am satisfied that Garry's death was the result of misadventure in the course of his farming activities.

I convey my sincere condolences to Garry'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.

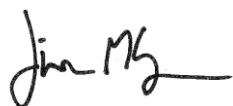
I direct that a copy of this finding be provided to the following:

Debra Shaddock, Senior Next of Kin

Kimberley Fischer, Daughter

Leading Senior Constable Bernice Canty, Coroner's Investigator

Signature:



Coroner Simon McGregor

Date : 05 August 2024

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.
