



FINDING OF INQUEST

An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 26th day of November 2008 and the 7th day of August 2009, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Peter David Lawrence.

The said Court finds that Peter David Lawrence aged 47 years, late of 75/515 Main North Road, Elizabeth, South Australia died at Lyell McEwin Hospital, Haydown Road, Elizabeth Vale, South Australia on the 5th day of June 2007 as a result of glioblastoma of the brain. The said Court finds that the circumstances of his death were as follows:

1. Introduction and cause of death

- 1.1. Mr Peter David Lawrence, who was aged 47 years, died at the Lyell McEwin Hospital shortly after 3am on Tuesday 5 June 2007. Mr Lawrence died from a glioblastoma of the brain. A glioblastoma is a malignant tumour. I find that to have been the cause of Mr Lawrence's death. In Mr Lawrence's case this cause had been substantiated clinically. As well, Mr Lawrence's clinical casenotes from the Lyell McEwin Hospital were examined at Forensic Science South Australia and the cause of death was there confirmed in the opinion of two medical practitioners¹.
- 1.2. At the time of Mr Lawrence's death he was detained pursuant to the provisions of the Mental Health Act 1993 (the Act). The detention was imposed as a result of the effects that Mr Lawrence's brain tumour had on his behaviour, behaviour that would otherwise have put his own health and safety at risk. The fact that Mr Lawrence was

detained pursuant to the Act at the time of his death means that his death was a death in custody as defined in the Coroners Act 2003. Accordingly, it was mandatory for an Inquest to be held in respect of the cause and circumstances of his death.

- 1.3. Before discussing the circumstances of Mr Lawrence's detention and death, I should briefly explain the regime of detention that the Act provides for. Section 12(1) of the Act enables a medical practitioner to make an order for the immediate admission and detention of a person in an approved treatment centre where the medical practitioner is satisfied of a number of matters; firstly that a person has a mental illness that requires immediate treatment, secondly that such treatment is available in an approved treatment centre and thirdly that the person should be admitted as a patient and detained in an approved treatment centre in the interests of his or her own health and safety or for the protection of other persons. Section 12(2) of the Act provides that such a detention order expires 3 days after the day it is made unless earlier revoked. A person so detained must be examined by a psychiatrist within 24 hours of the patient's admission to the approved treatment centre or, where that is not practicable, as soon as is practicable after that admission. The examining psychiatrist must consider whether the continued detention of the patient is justified or not. If a psychiatrist is not satisfied that the continued detention of the patient is justified, the psychiatrist must revoke the order. Otherwise, the psychiatrist will confirm the order. If the psychiatrist confirms the order, this has the effect of continuing the 3-day period that had been enlivened by the original detention order. At the end of that 3-day period, further orders for detention for periods up to 21 days, but not exceeding two such periods, may be imposed. Further detention beyond the 3-day period of Mr Lawrence's original detention did not require consideration owing to the fact that Mr Lawrence died during the course of the 3-day period.
- 1.4. Mr Lawrence had already been admitted as a patient to the Lyell McEwin Hospital as at the time of his detention. The Lyell McEwin Hospital was an approved treatment centre under the Act. The order was made at 3:50pm on Saturday 2 June 2007. A psychiatrist confirmed the order on Sunday 3 June 2007. The detention order would have expired at 3:50pm on Tuesday 5 June 2007. It will be observed, however, that

¹ Exhibit C3a

Mr Lawrence died in the early hours of the morning of that Tuesday. Accordingly, the detention was still in force at the time of his death.

- 1.5. In the event, the final hours of Mr Lawrence's life involved a period of deep unresponsiveness that rendered his detention futile and unnecessary. I observe that at that stage consideration was given to the lifting of the detention order, given that in those circumstances Mr Lawrence was no longer at risk to himself. In addition, it was considered that the perception of stigma attaching to a death in custody was a matter to be avoided. However, the view that prevailed at the time was that Mr Lawrence's detention order was irrevocable.
- 1.6. During the course of the Inquest, counsel assisting me, Dr Gray, drew the Court's attention to the fact that although there is specific provision to enable the revocation of 21-day orders made pursuant to Section 12(5) and 12(6) of the Act, there is no equivalent provision in relation to the revocation of a 3-day order made pursuant to Section 12(1) of the Act. I was thus invited to conclude that there was no power to revoke a 3-day order made pursuant to Section 12(1) of the Act and that the only means by which such an order could be lifted was by way of the psychiatrist's revocation within the 24-hour period following the imposition of the order. In Mr Lawrence's case the 3-day order was confirmed by the psychiatrist. As I understood the submission, once a 3-day order has been confirmed there is no further power to revoke, the opportunity to revoke the order having passed with its confirmation.
- 1.7. An associated question was whether if a 3-day order could not be revoked once confirmed, leave of absence could have been granted to Mr Lawrence pursuant to Section 17 of the Act. Such leave of absence, according to the terms of the provision, seems to assume that the patient would leave the approved treatment centre in the course of leave. All I need say about that is that I was not convinced that leave would necessarily involve the patient having to physically leave the centre if the circumstances were such that it was appropriate for the patient to remain in the centre in any case.
- 1.8. For the entire duration of his period of detention Mr Lawrence was effectively moribund and it was inevitable that he would remain at all material times precisely where he was for palliative purposes, detained or not. In the event, he died in the

Lyell McEwin Hospital palliative care clinic and was not shackled or subjected to any other physical restraint at the time of his death. Therefore, in most senses Mr Lawrence was not subject to detention even though in strict terms the order was still in place.

- 1.9. It is also worthwhile observing that the new Mental Health Act 2009 which received the assent of the Governor in Executive Council on 11 June 2009, but which has yet to come into operation, makes provision for the possible revocation of detention orders at all levels.
- 1.10. At all events, I do not need to decide whether as a matter of law Mr Lawrence's detention order could have been revoked. Nor do I need to decide whether he could have been granted leave. As will be seen, any restraint on Mr Lawrence's liberty was imposed in his own interests. In my opinion no stigma attaches in any way, shape or form to the circumstances in which Mr Lawrence came to spend the last remaining days of his life and that, in any event, he was accorded the full measure of dignity that someone in his circumstances ought to be accorded. Hospital staff treated him humanely from beginning to end. Members of Mr Lawrence's family have passed favourable comment upon Mr Lawrence's treatment at the hospital.

2. The reasons for Mr Lawrence's detention in the first instance

- 2.1. It is necessary to say something briefly about Mr Lawrence's illness. In September 2006 he was diagnosed with a brain tumour. The specific type of brain tumour was a particularly aggressive one. The tumour was in the left frontal lobe of Mr Lawrence's brain. The frontal lobe of the brain is involved with higher functions of personality. This terrible and fatal affliction can manifest itself, as it did in Mr Lawrence's case, in behaviour that is quite out of character.
- 2.2. Mr Lawrence was admitted to the Lyell McEwin Hospital on 4 May 2007 under the care of the palliative care service that the hospital provides. Mr Lawrence had been experiencing increasing seizures and a recent CT scan of his head showed signs of increasing malignant disease in his brain. He remained at the hospital until his death.
- 2.3. By Saturday 2 June 2007 Mr Lawrence had been in the Lyell McEwin Hospital for just under a month. It was on this day that the behavioural difficulties occasioned by

his malignancy became profoundly unmanageable. I do not need to recite Mr Lawrence's treatment prior to this day except to say that it is quite apparent that the care that Mr Lawrence was receiving was palliative given the fact that his condition was terminal.

- 2.4. Mr Lawrence's decline from the time of his diagnosis is described in some detail in the statement of his sister, Keryn Hemmings². She describes Mr Lawrence as having experienced some bad falls during the night when he was wandering around the streets. She also states that his memory had deteriorated to the point where he was not able to remember things that happened from one day to the next. He progressively became unsettled and somewhat more aggressive. These facets of Mr Lawrence's behaviour were no doubt manifestations of his illness and not a reflection of his true personality. Although for the majority of Mr Lawrence's admission to the Lyell McEwin Hospital his medical condition was quite stable, it was felt by those concerned with his welfare, including Mr Lawrence himself, that in light of some of the symptoms that he was experiencing and because of the ongoing risk of recurrent seizures, he needed to be in an environment where he could receive appropriate supportive care and adequate supervision for his own safety³. Clinical staff noted that they became aware through members of Mr Lawrence's family that he was having difficulty with impulse control and was experiencing agitation. In the event, he was placed on very low doses of an antipsychotic which he apparently found quite helpful.
- 2.5. On Friday 1 June 2006 Mr Lawrence was noted to be reasonably stable. However, on the following day, 2 June 2006, he experienced an acute exacerbation of his condition with escalation of symptoms consistent with decreased impulse control and increased agitation, all of which surfaced that morning⁴.
- 2.6. Mr Lawrence had a number of visits by members of his family that day. His behaviour is described in the statements of some of those family members. Mr Anthony Lawrence⁵, who is Mr Lawrence's brother, speaks in his statement of claims that this brother was making to the effect that his family was ripping him off. It was

² Exhibits C5 and C5a

³ Statement of Dr Simon Marshman, Exhibit C7 and C7a, page 3

⁴ Exhibit C7a, page 4

⁵ Exhibits C4 and C4a

obvious that Mr Lawrence was becoming irrational. He raised his voice and yelled at his family members which was quite out of character for him. He appeared confused.

2.7. At one point during the course of that afternoon, after Mr Anthony Lawrence had left the hospital, the deceased Mr Lawrence, left the hospital. He had indicated that he did not want to stay at the hospital anymore and wanted to go home and to this end dressed and collected his belongings. At one point Mr Lawrence's actual whereabouts became unclear and nursing staff were so concerned about him that they rang the police⁶. Mr Anthony Lawrence returned to the environs of the hospital as a result of learning from his sister that the deceased had left the hospital. He drove around the area and found his brother walking along the road near the hospital. When he and his wife returned Mr Lawrence to the hospital, he was agitated and continued to assert that his family was ripping him off. He became very angry and told his family that he was leaving the hospital and that they should not try to stop him. Notwithstanding this, Mr Anthony Lawrence followed his brother and they walked around the streets surrounding the hospital for about an hour and a half. During this period of time Mr Lawrence was behaving irrationally and did such things as destroying his mobile phone and throwing away some of his property including a ring, his wallet and his shoes. Mr Anthony Lawrence would retrieve these items as they were discarded. Mr Anthony Lawrence describes his brother as sweating profusely and obviously in a distressed state. Mr Lawrence evidently collapsed onto the ground more than once while he was out of the hospital. Notwithstanding Mr Lawrence's agitation, Mr Anthony Lawrence managed to get him back to the hospital. Despite sedation, Mr Lawrence remained agitated.

2.8. Nursing staff asked the medical staff to review Mr Lawrence. The statement of registered nurse, Patricia Houthuysen, describes the dilemma:

'Peter had said earlier that, he said that his family had taken his money, I don't know I really didn't get into that, and I don't want to even speculate, that wasn't my place. Then he tried to leave the ward again, I'm thinking that he actually left the ward three times, because the first time we brought him back, or his family brought him back and he was safe, then he went to go again and at that point we called the Doctor to review him. The Doctor on call to review him because we had asked for him to be detained, because we at that point legally we couldn't stop him. If Peter wanted to go he could go, but he was unsafe, he was angry, he had no insight, we couldn't calm him down and even when his

⁶ Statement of Patricia Houthuysen, Exhibit C1a

family had left and sometimes in the past, you know we've been able to calm him down.⁷

It seems that at one point while the matter was being considered, Mr Lawrence apparently left the hospital again. On his return he was noted by nursing staff still to be very angry and a code black was called that involves the presence and action of security staff. Unfortunately Mr Lawrence had to be restrained and shackled to the bed. An attempt to administer sedative medication was physically resisted and Mr Lawrence continued to remain upset and struggle, even though restrained.

- 2.9. As I have already indicated, the detention order under Section 12(1) of the Act was imposed by way of a Form 1 at 3:50pm that afternoon. The order was imposed by a Dr Boyagoda of the Lyell McEwin Hospital. The doctor's order refers to the fact that he was satisfied that Mr Lawrence had a mental illness that required immediate medical treatment, that the treatment was available in the Lyell McEwin Hospital and that Mr Lawrence should be detained in the hospital in the interests of his health and safety and/or for the protection of other persons. The specific grounds forming the basis of Dr Boyagoda's order are recorded as follows:

'He has got glioblastoma multiforme and has no insight into his illness and is a danger to himself and others.'

To my mind the making of this order was appropriate in all of the circumstances. Although the focus of Mr Lawrence's treatment was his physical illness, in my view his detention was authorised under Section 12(1) of the Act. His aggression, confusion, agitation, his irrational behaviour and his propensity to leave the hospital and wander through its environs with no apparent purpose, in my view, could be characterised as 'an illness or disorder of the mind' in accordance with the definition of mental illness in Section 3 of the Act. It is also apparent that for those same reasons, Mr Lawrence presented as a danger at least to himself. His detention was therefore necessary in the interests of Mr Lawrence's health and safety.

- 2.10. Later that same day, Mr Lawrence appeared to respond to sedative medication and his shackles were released without incident.

⁷ Exhibit C1a, page 5

- 2.11. There is no suggestion other than that on Saturday 2 June 2007 hospital staff treated Mr Lawrence humanely, notwithstanding the need to detain him and subject him to physical restraint.

3. The events of Sunday 3 June 2007 – the detention order is confirmed

- 3.1. Unfortunately, on the following day, Sunday 3 June 2007, Mr Lawrence experienced further periods of severe anger and agitation in respect of which he again had to be physically restrained by way of shackles to the bed. The nursing staff expressed some concern to a Dr Marshman that Mr Lawrence was becoming increasingly agitated over the course of the morning. Dr Marshman saw Mr Lawrence and noted that he had become very agitated, verbally aggressive and had attempted to leave the ward. It appeared that he had very little insight at that point and did not appear to recognise Dr Marshman notwithstanding the doctor's established association with him. There was also some physical aggression and further security measures had to be adopted. Dr Marshman formed the view, which he shared with security staff, that he felt that Mr Lawrence was at 'significant risk of harm to himself'⁸.
- 3.2. Dr Dennis Liu, who is a consultant psychiatrist, reviewed Mr Lawrence's detention order during the morning of Sunday 3 June 2007. This review was undertaken in accordance with the legal requirement that I have described, namely that Mr Lawrence's original detention order should be reviewed within 24 hours. Dr Liu noted Mr Lawrence at that time to be 'very uncooperative, very angry and he showed no insight to his problem and did not think that he should have to stay in the hospital'. Dr Liu describes Mr Lawrence as having attempted to leave the hospital and to force his way out of the ward. He was very loud and angry and security guards and nursing staff had to restrain him and take him back to his room. Dr Liu attempted to make conversation with Mr Lawrence but was unsuccessful. Dr Liu noted Mr Lawrence's propensity to suffer seizures and falls. He noted also an occasional refusal to take medication and treatment. Dr Liu thought that Mr Lawrence's situation was quite unsafe and that he was not able to manage safely at home. Dr Liu formed the view that from Mr Lawrence's lack of past history of psychiatric illness his symptoms were most likely secondary to the brain tumour. It is not uncommon for a patient suffering from such a tumour to develop various psychiatric symptoms. Dr Liu thought that Mr

Lawrence exhibited symptoms of paranoid delusion. Dr Liu also spoke to Dr Marshman who had agreed that Mr Lawrence was unmanageable without detention and that it was in interests of Mr Lawrence's safety for him to be detained further. Dr Liu accordingly confirmed Mr Lawrence's detention and compiled the necessary Form 2 for that purpose. Dr Liu also recommended some changes to Mr Lawrence's medication, including Haloperidol, which is a tranquilliser and antipsychotic. Dr Liu signed the Form 2 at 11:30am on Sunday 3 June 2007. The grounds for the confirmation of the detention are recorded as:

'Psychiatric symptoms and frequent falls secondary to brain tumour. Unsafe to be managed in the community. Peter refused treatment and became aggressive on the ward.'

The form also describes Mr Lawrence's demeanour as being angry with no insight and that he had refused treatment and failed to stay within the confines of the hospital.

- 3.3. To my mind, the confirmation of Mr Lawrence's detention was justified in all of the circumstances.
- 3.4. Dr Marshman states that Mr Lawrence had settled considerably by the Sunday afternoon. Again, there is no suggestion other than that Mr Lawrence was treated humanely on that day.

4. The events of Monday 4 June 2007

- 4.1. By Monday 4 June 2007 Mr Lawrence had become quite unresponsive. The shackles were removed that morning and it was then that consideration was given to the lifting of the detention order. In any event, whether the detention order was lifted or not, the course of Mr Lawrence's hospitalisation, treatment and presence within the Lyell McEwin Hospital would have remained the same.
- 4.2. Mr Lawrence passed away and he was declared life extinct and 3:50am on Tuesday morning, 5 June 2007.

5. Conclusions and recommendations

5.1. I reached the following conclusions:

- a) At all material times Mr Lawrence was lawfully and appropriately detained pursuant to the Mental Health Act 1993;
- b) The cause of Mr Lawrence's death was a glioblastoma of the brain;
- c) At all material times during Mr Lawrence's period of detention under the Mental Health Act 1993 he was treated humanely, notwithstanding that from time to time he had to be physically restrained. The detention was imposed and maintained at all times in the interests of Mr Lawrence's health and safety and the physical restraint that was occasionally imposed was done so for the same reasons.

5.2. In the circumstances I do not propose to make any recommendations in this matter.

Key Words: Death in Custody; Natural Causes

In witness whereof the said Coroner has hereunto set and subscribed his hand and

Seal the 7th day of August, 2009.

Deputy State Coroner