



## FINDING OF INQUEST

*An Inquest taken on behalf of our Sovereign Lady the Queen at Adelaide in the State of South Australia, on the 22<sup>nd</sup> day of July 2008 and the 11<sup>th</sup> day of September 2009, by the Coroner's Court of the said State, constituted of Anthony Ernest Schapel, Deputy State Coroner, into the death of Hans Heinrich von Spreckelsen.*

*The said Court finds that Hans Heinrich von Spreckelsen aged 41 years, late of 79 Ayres Road, Daw Park, South Australia died at Flinders Medical Centre, Flinders Drive, Bedford Park, South Australia on the 17<sup>th</sup> day of December 2006 as a result of end-stage liver disease and pneumonia. The said Court finds that the circumstances of his death were as follows:*

### **1. Introduction and reason for Inquest**

- 1.1. Mr Hans von Spreckelsen, who was 41 years of age, died at the Flinders Medical Centre (FMC) on Sunday 17 December 2006. I am satisfied that Mr von Spreckelsen died of end-stage liver disease and pneumonia and I so find. These conditions were the subject of clear clinical diagnosis made at a time before his death.
- 1.2. At the time of his death, Mr von Spreckelsen was detained pursuant to the provisions of the Mental Health Act 1993 (MHA). I deal with the detail later, but I indicate at this point that the purpose of the detention was related to Mr von Spreckelsen's episodes of encephalopathy which is a common complication of liver disease. Encephalopathy is a defect in brain function that in Mr von Spreckelsen's case manifested itself in inappropriate judgment and behaviour.
- 1.3. The fact that Mr von Spreckelsen was subject to detention under the MHA at the time of his death meant that his death was a death in custody as defined in the Coroners

Act 2003. As such, it was a death that required notification to the State Coroner as a matter of law. This is another instance where a death that has taken place in custody at the FMC was not at first reported to the State Coroner as required by the provisions of the Coroners Act 2003. In the current instance the death was not reported as and when the law required because it is said that clinical staff were under the erroneous impression that Mr von Spreckelsen's detention had been revoked prior to death. Even if that had been the case, the fact that Mr von Spreckelsen had at some point in time been a detained patient under the MHA within the FMC meant that active consideration still needed to be given to whether or not his cause of death had arisen or may have arisen during his period of detention. The fact that detention has expired or has been revoked does not in itself mean that the death was not a death in custody as defined by the Coroners Act 2003. In this regard, I refer to my findings in relation to the death of Peter Langford<sup>1</sup> delivered on the same day as these in which a failure on the part of FMC staff to appreciate that a death in custody also occurs when the cause of death arose or may have arisen during a period of detention is exemplified. In the current case, the detention order was still extant at the time of Mr von Spreckelsen's death and so his death was reportable as a death in custody in any event.

- 1.4. Not only was Mr von Spreckelsen's death reportable by virtue of his state of detention, it is mandatory for an Inquest to be held into such a death, hence this Inquest.

## **2. Background**

- 2.1. At some point in his life Mr von Spreckelsen contracted Hepatitis C which is a serious disease of the liver. He also had a history of alcohol abuse. In 2006 Mr von Spreckelsen underwent a number of admissions to Austin Repatriation Medical Centre in Victoria. It was noted there that Mr von Spreckelsen suffered from end-stage liver related cirrhosis with major complications of recurrent encephalopathy and ascites which is fluid in the abdomen. During the course of these admissions Mr von Spreckelsen became aggressive when experiencing encephalopathic episodes. Mr von Spreckelsen's candidacy for a liver transplant was considered but the consensus of the relevant transplant authorities in Victoria was that he was untransplantable due to a combination of poor social supports and the severity of his illness. It was noted that he had family members in South Australia and that Mr von Spreckelsen felt that he

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<sup>1</sup> Inquest 7/2009

might have had a better chance of being considered as a viable transplant candidate in this State. He came to this State in September 2006.

- 2.2. In Adelaide Mr von Spreckelsen was admitted to the FMC on a number of occasions in connection with his liver disease.
- 2.3. The statement of Dr Elizabeth Chow, who is a gastroenterologist at the FMC, reveals that in South Australia Mr von Spreckelsen was also declined a liver transplant assessment because of his non-compliance with alcohol abstinence and also drug abuse issues<sup>2</sup>. He had frequent admissions at FMC arising from his liver cirrhosis and associated complications. He had one prolonged stay where they had to find suitable accommodation for him. He was known to cause damage to the places to which he had been assigned and also to drink alcohol and eat fatty foods which complicated his disease.
- 2.4. Mr von Spreckelsen's last presentation to the FMC occurred on Monday 4 December 2006. He was to remain within the FMC until the day of his death which was Sunday 17 December 2006.
- 2.5. Mr von Spreckelsen's partner was Sally-Maree Griffith who provided a statement to the Inquest<sup>3</sup>. Ms Griffith recites her association with Mr von Spreckelsen. They had a 10-year-old son. Mr von Spreckelsen left Victoria and moved to Adelaide as I say in September 2006. He and Ms Griffith remained in contact. Ms Griffith planned to travel to Adelaide at about Christmas time 2006, but brought that forward owing to Mr von Spreckelsen's deterioration at the beginning of December 2006. She and their son flew to Adelaide on 7 December 2006. They had returned to Victoria by the time of Mr von Spreckelsen's death. However, prior to their leaving Adelaide, Ms Griffith had an important discussion with Mr von Spreckelsen's medical practitioners at the FMC. I discuss this presently.

### **3. Mr von Spreckelsen's admission and subsequent detention**

- 3.1. Before discussing the circumstances of Mr von Spreckelsen's admission, detention and ultimate death, I should briefly explain the regime of detention that the MHA provides for. Section 12(1) of the MHA enables a medical practitioner to make an order for the immediate admission and detention of a person in an approved treatment

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<sup>2</sup> Exhibit C4a

<sup>3</sup> Exhibit C3

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 activated by the original detention order. Before the expiry of that 3-day period, a further order for detention for a period up to 21 days may be imposed. A second 21-day order may be imposed upon the expiry of the first such order. Mr von Spreckelsen died during the currency of a first period of detention of 21 days.

- 3.2. When Mr von Spreckelsen was admitted to the FMC on Monday 4 December 2006 he was transferred to Ward 5E where treatment commenced. He was eventually to be detained on 9 December 2006.
- 3.3. Dr Elizabeth Chow describes Mr von Spreckelsen's condition at FMC during the course of his last admission. According to Dr Chow's statement<sup>4</sup>, Mr von Spreckelsen was admitted for management of his ascites, the administration of ascitic taps and for management of associated encephalopathy. Encephalopathy is caused when the liver does not break down toxins. Encephalopathy is an expression that refers to the degeneration of brain function that can be caused by a number of different disorders. Encephalopathy, in this case caused by build up of toxins resulting from liver degeneration and malfunction, can manifest itself in delirious and confused behaviour as well as in aggression. As with many sufferers in the same circumstances as Mr von Spreckelsen, the manifestations of encephalopathy can

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<sup>4</sup> Exhibit C4a

fluctuate from day to day. Medication such as lactulose is regularly given in these instances as it encourages regular bowel action which can reduce the deleterious effects of the toxins. This medication was initiated at the start of Mr von Spreckelsen's admission. Ascitic taps for the draining of his ascites were also administered as were antibiotics for fevers. The treatment is unpleasant and in Mr von Spreckelsen's case the resulting diahorrea was particularly uncomfortable. The other aspect of Mr von Spreckelsen's treatment was that in reality there was very little likelihood of his liver disease in any sense improving or resolving.

- 3.4. The question of transplantation, as I understand it, had been resolved not in Mr von Spreckelsen's favour prior to this final admission to FMC.
- 3.5. According to Dr Alison Goodfellow, who was a registrar at FMC within Ward 5E<sup>5</sup>, Mr von Spreckelsen was aware that he had end-stage liver disease and knew that he was dying. Dr Goodfellow states that by the time Mr von Spreckelsen's partner and son came to Adelaide in early December 2006, Mr von Spreckelsen had resolved that he could not go on and said that he did not want any more medication. It appears from Ms Griffith's statement that Mr von Spreckelsen was quite unresponsive to any attempted interaction from her or their son at that time. On the morning of 8 December 2006 Mr von Spreckelsen told Dr Goodfellow that he did not want any further antibiotic treatment or ascitic taps. During the course of that morning Dr Chow, Dr Goodfellow and a social worker by the name of Elizabeth Wilson met Mr von Spreckelsen's sister, Beverley, and Ms Griffiths at a palliative care meeting. The purpose of this meeting was to discuss Mr von Spreckelsen's medical needs. According to the statement of Ms Wilson<sup>6</sup> the doctors spoke to Mr von Spreckelsen's sister and partner about the fact that Mr von Spreckelsen had indicated that he did not want any further active treatment. The family was somewhat surprised by this revelation but appeared to accept it. Ms Wilson was also aware of the fact that Mr von Spreckelsen had reached the point where he felt that enough was enough and that he had been refusing medication designed to relieve his symptoms.
- 3.6. It seems that at some point following this meeting Mr von Spreckelsen changed his mind about treatment and started to participate in active treatment again. Dr Chow

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<sup>5</sup> Exhibits C5a and C5b

<sup>6</sup> Exhibit C6a

explains, notwithstanding the recommencement of some of Mr von Spreckelsen's medications, that the view still was that he should be palliated and that full active resuscitation in the event of a cardio respiratory arrest would not be considered appropriate.

- 3.7. Notwithstanding Mr von Spreckelsen's serious illness, it appears that he was nevertheless able to mobilise. On the morning of Saturday 9 December 2006 Mr von Spreckelsen attended at a café known as Theo's that is within the hospital precinct. According to the proprietor of the café, Mr George Theodorakakas<sup>7</sup>, Mr von Spreckelsen had a history of being aggressive to female staff in the café and had handed over money with blood on it to them in the past. It appears that staff there had, up until this day, been reasonably tolerant of Mr von Spreckelsen's behaviour. However, on this particular occasion Mr von Spreckelsen was bleeding from the nose, wiped his nose with his hands and then attempted to wipe the blood off his hands onto the glass of a servery cabinet. Mr von Spreckelsen also failed to pay for his food. A security guard and a nurse approached Mr von Spreckelsen and he was taken back to Ward 5E. It is also understood that during the course of that morning Mr von Spreckelsen had been particularly aggressive with staff on the ward. Nursing staff advised a Dr Stirling Raymond Carlsen, who provided a statement to the Inquest<sup>8</sup>. Dr Carlsen understood that Mr von Spreckelsen had shown aggression throughout the morning and was advised of the Theo's Café incident. In the context of what had transpired at the café, Dr Carlsen was naturally concerned about Mr von Spreckelsen's Hepatitis C status. That, combined with his behaviour, led Dr Carlsen to consider that Mr von Spreckelsen was at risk to his own safety and to other persons. Dr Carlsen reveals that he discussed the matter with a consultant in charge of the case, Dr Edwards. Dr Carlsen examined Mr von Spreckelsen and concluded that his end-stage liver disease, associated with his encephalopathy, was a responsible cause for his actions. As a result, Dr Carlsen made an order for Mr von Spreckelsen's detention and completed a Form 1 under the relevant regulations. Dr Carlsen's Form 1 records his satisfaction that Mr von Spreckelsen had a mental illness that required immediate treatment, that treatment was available within the FMC, an approved treatment centre, and that Mr von Spreckelsen should be admitted and detained in

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<sup>7</sup> Exhibit C13a

<sup>8</sup> Exhibit C7a

FMC in the interests of his health and safety and/or for the protection of other persons. The grounds on which he formed his opinion are recorded as:

'hepatic encephalopathy ê episodic aggression + agitation'

- 3.8. Dr Carlsen's order came to be reviewed within 24 hours as is required under the legislation. That review was conducted on 10 December 2006 by Dr Shanthi Saha, the on-call psychiatrist for the FMC. Dr Saha received information that Mr von Spreckelsen had been detained on a Form 1. She reviewed his medical notes and the Form 1 detention document compiled by Dr Carlsen. Dr Saha noted that Mr von Spreckelsen had been admitted for medical management for hepatic encephalopathy and secondary Hepatitis C due to his end-stage liver disease. She noted that he had a history of alcohol abuse, anaemia and hypokalaemia. She noted that there was a history of wandering and aggressive and threatening behaviour. Upon examination, Dr Saha noted that Mr von Spreckelsen was confused and irritable. He was not orientated and appeared to be aggressive with himself. His mental state was impaired as he was confused as to where he was and he had a tendency to wander out which required staff to call him back. There was a concern that if he wandered off, his treatment would not be given. Dr Saha noted that there was a recent history of abusive and aggressive behaviour which arose when his needs were not met. Dr Saha confirmed the detention and completed a Form 2 to that effect. Within the Form 2 Dr Saha has recorded:

'h/o (history of) end stage hepatic disease with history & behaviour consistent ê hepatic encephalopathy, at risk behaviour to self & others & is disoriented.'

- 3.9. Dr Saha's confirmation of the detention meant that Mr von Spreckelsen's 3-day order would expire on 12 December 2006.
- 3.10. A further 21-day detention order was imposed upon Mr von Spreckelsen. Dr Randall Andrew Long, who is a fulltime staff specialist at FMC, made this order. Dr Long was employed in the Department of Psychiatry and was the Director of Consultation Liaison Psychiatry. Dr Long furnished a statement to the Inquest<sup>9</sup>. Dr Long explains that Mr von Spreckelsen's detention under the MHA on 9 December 2006 meant that a process whereby the Department of Psychiatry was asked to care for him and to provide mental health care while he was receiving care for his liver disease on the

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<sup>9</sup> Exhibit C8a

ward was set in place. Also, it meant that Mr von Spreckelsen would be subject to ongoing review. Dr Long reviewed Mr von Spreckelsen on 12 December 2006. This review was part of Mr von Spreckelsen's ongoing mental health management in the context of his management for severe liver disease, but the review was also undertaken with the specific task in mind as to whether a 21-day order ought to be imposed.

- 3.11. When Dr Long examined Mr von Spreckelsen on that day he confirmed Dr Saha's diagnosis of acute delirium due specifically to liver disease. Dr Long noted confusion that was still evident. Dr Long also formed the view that Mr von Spreckelsen was at risk of absconding from the FMC and that a possible consequence of that would be his failure to receive medical treatment which would be a life-threatening situation for him. Dr Long also noted that Mr von Spreckelsen had been non-compliant with treatment on multiple occasions. He also noted periods of aggression. Dr Long sums up his view thus:

'I noted that his medical and his mental status varied as is the diagnostic criteria for delirium and I felt that he required the benefit of ongoing detention in order to ensure he received the best quality of medical and mental health care in his very serious condition.'<sup>10</sup>

Dr Long was satisfied that Mr von Spreckelsen had a mental illness as defined in the MHA, most specifically delirium. He opined that he needed further treatment in FMC and required detention in both the interests of his health and safety and for the protection of others due to the fact that recently he had been aggressive.

- 3.12. Dr Long made an order for the maximum allowable period of detention of 21 days. Dr Long believed that Mr von Spreckelsen had end-stage liver failure and anticipated that it was unlikely that his liver was going to improve in the proceeding 21 days. Accordingly, it was also unlikely that Mr von Spreckelsen's brain function would improve in that period. Therefore it was highly likely that he would require the full benefit of a MHA detention order in order to give Mr von Spreckelsen the best management possible.
- 3.13. Dr Long completed a Form 3 under the relevant regulations.

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<sup>10</sup> Exhibit C8a, page 4

- 3.14. Having read the statements of the doctors who were responsible for Mr von Spreckelsen's detention, I am satisfied that all of the orders that I have referred to were lawfully made and made for the reasons stated by those practitioners. I am also of the view that Mr von Spreckelsen's detention was appropriate for the reasons that have been identified herein.
- 3.15. Dr Goodfellow explains in her statement that she continued to treat Mr von Spreckelsen but that his treatment became more complicated. He reached a point where it was hard for him to swallow and difficult for him to keep his bowels open. His mental state declined rapidly. Dr Goodfellow believed that Mr von Spreckelsen was a 'day to day proposition'<sup>11</sup> and felt that he could have passed away at any moment, as when the liver fails there is little in reserve. On the day before Mr von Spreckelsen's death, Dr Goodfellow saw him sitting next to his bed. He was completely cold and shutdown and she did not think he would survive much longer. To all intents and purposes, Mr von Spreckelsen had drifted into a coma.
- 3.16. Mr von Spreckelsen died on 17 December 2006. The detention order was still in place at that time. Dr Long explains in his statement that as Mr von Spreckelsen had slipped into a coma he obviously did not require any further detention. However, he believes that due to Mr von Spreckelsen's rapid decline, there may not have been sufficient time for adequate consideration to be given to the question of revocation. I would only add that the revocation of the detention would no doubt have been appropriate, but from a practical viewpoint if the revocation had taken place in the very end stages of his illness it would hardly have made any difference to Mr von Spreckelsen's treatment and management. The fact that revocation would have been considered highly appropriate may go some way to account for the fact that an assumption was made that revocation had indeed taken place. It may well be that Mr von Spreckelsen's death was not viewed as a death in custody for that reason. Dr Chow explains in her statement that towards the end of Mr von Spreckelsen's life, the responsible medical practitioners were basically performing acute medical duties as to palliation management of his pain. If they had appreciated that the 21-day detention order was in place, they would have lifted it near the end of Mr von Spreckelsen's life having regard to the fact that in the last couple of days of his life he was more or less comatose.

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<sup>11</sup> Exhibit C5a, page 5

- 3.17. There is no suggestion that Mr von Spreckelsen's medical treatment was in any way excessive, inappropriate or incompetent. The detention orders were put in place for his own benefit and for the protection of others. There is no suggestion that his medical treatment was in any way compromised or diminished by virtue of the detention orders.
- 3.18. The only other comment I would make is that if the FMC has not revised its procedures with a view to ensuring that deaths in custody are immediately identified as such, and reported accordingly, then they should do so as a matter of priority.

*Key Words: Death in Custody; Natural Causes*

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

*Seal the 11<sup>th</sup> day of September, 2009.*

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*Deputy State Coroner*