

CITATION: *Inquest into the death of John David Morish*[2005] NTMC 043.

TITLE OF COURT: Coroner's Court

JURISDICTION: Coronial

FILE NO(s): D0156/2004

DELIVERED ON: 19 July 2005

DELIVERED AT: Darwin

HEARING DATE(s): 18 July 2005

FINDING OF: Mr G Cavanagh SM

CATCHWORDS:

Accidental death, gunshot wound,
firearms use

REPRESENTATION:

Counsel:

Assisting: Ms Lyn McDade

Family: Mr Peter Maley

Judgment category classification: B

Judgement ID number: [2005] NTMC 043

Number of paragraphs: 14

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0156/2004

In the matter of an Inquest into the death of

JOHN DAVID MORISH
on 4 September 2004 at Jackaman Paddock
Wombungi Station Northern Territory

FINDINGS

(Delivered 19 July 2005)

Mr G Cavaanagh

1. John David MORISH (hereinafter called the deceased) died at about 11.30 am on 4 September 2004 at Jackaman Paddock, Wombungi Station in the Northern Territory of Australia.
2. His death was unexpected and therefore a reportable death pursuant to Section 12 (1) of the *Coroners Act* (“the Act”).
3. The inquest into his death was held at my discretion pursuant to Section 15 (2) of the Act. I directed that a public inquest be held in addition to a coronial investigation conducted on my behalf by police. This was because the coronial investigation brief did not contain statutory declarations by the two people who were with the deceased when he died. Robert Tritten and his son Christopher Tritten provided a statement taken from them by their solicitor to my Office; these statements were not the subject of independent interrogation. The Tritten’s declined to provide a statement directly to the police who were investigating the death on my behalf. It therefore became necessary for me to summons Robert Tritten and his son to give evidence on oath before me as to what they knew about the death of the deceased. Having heard the evidence of Robert Tritten I accept that he was acting in accordance with legal advice when he declined to make a statement to

coronial investigators. As I commented at the hearing there are a number of legal practitioners who are unfamiliar with the Coronial Jurisdiction, and fail to understand that a Coroner investigating a death has wide ranging statutory powers, and that any person who reports a death to the coroner is obliged to give any information that may help an investigation to the Coroner. In fact it is a criminal offence not to do so. That is usually done by way of making a statutory declaration to police who investigate the death on my behalf. There is no right to silence for any witness who has information relating to a reportable death.

4. The Inquest took place in Darwin on the 18th of July. Ms McDade appeared as my Counsel Assisting. I granted leave to appear to Mr Peter Maley who appeared on instructions from Mr Robert Tritten and his son Christopher.
5. A number of witnesses were to called to give evidence, however , having heard the evidence of Mr Tritten, and his son, (who affirmed that his statement about what he knew of the circumstances of the deceased's death was true and correct), I determined that no further witnesses were required to give evidence on oath. I found Robert Tritten to be an impressive and credible witness and I accept all of what he had to say to me. The full Coronial investigation file (including photographs) was tendered to me together with the post mortem report, an affidavit of identification, and extract of the deceased's birth certificate. The brief contained opinion evidence from a firearms expert that the firearm carried by the deceased at the time of his death was not defective in any way.

CORONERS FORMAL FINDINGS

6. Pursuant to Section 34 of the Act, I find, as a result of the evidence contained in the coronial brief and of the evidence given at the public Inquest the following;

- (a) The identity of the deceased was John David Morish a Caucasian male born at North Adelaide South Australia on 29 August 1951.
- (b) The time and place of death was about 11.30 am at Jackaman Paddock Wombungi Station on 4 September 2004.
- (c) The cause of death was a gunshot wound to the chest.
- (d) Particulars required to register the death are:
 - (i) The deceased was male
 - (ii) The deceased was John David Morish
 - (iii) The deceased was Caucasian and an Australian resident
 - (iv) The death was reported to the Coroner
 - (v) The cause of death was a gunshot wound to the chest
 - (vi) The Forensic pathologist who conducted the autopsy was Dr Terry Sinton and he viewed the body after death.
 - (vii) The deceased's mother was Barbara Duncan Morish (nee Jones)
 - (viii) The deceased father was John Carr Morish.
 - (ix) The deceased resided in New South Wales
 - (x) The deceased was a retired horse trainer
 - (xi) The deceased was aged 53 years

RELEVANT CIRCUMSTANCES CONCERNING THE DEATH

7. The deceased had travelled to the Territory primarily to engage in recreational hunting. He met Robert Tritten about 6 weeks before his death in Arnhemland. Robert Tritten, amongst other activities, operated a hunting safari business. It is apparent that the deceased and Tritten quickly became friends and spent a considerable amount of time together in the weeks before the deceased's death. Robert Tritten and the deceased travelled to Curtain Springs to shoot camels. They returned to Darwin before travelling to

Wombungi station to shoot donkeys and pigs. The deceased with Robert Tritten and Christopher Tritten (Robert's 13 year old son) left Darwin on 2 September and drove to Wombungi station, which is about 200kms south west of Pine Creek. At the station the deceased was introduced to the station owner and they were given permission to shoot on the station.

8. The deceased had two firearms with him, a Ruger model 77/358 Winchester and a Mauzer model 98/375. The deceased was an experienced shooter and capable with firearms. Robert and Christopher Tritten did not have any firearms with them and they did not shoot. Robert Tritten was on his evidence not being paid to accompany the deceased, he was doing it because he liked him and because he knew where to hunt and had access to hunting areas. Robert Tritten described the deceased as being a "great bloke" who was fun to be with.

9. On 3 September the deceased shot about 40 donkeys from the passenger seat of Robert Tritten's vehicle. The group set up camp and retired to bed at about 9.30 pm. They awoke at about 4 am, had breakfast, broke camp and continued hunting. During the early morning the deceased shot about 12 donkeys. At about 11 am the group travelled to Jackaman paddock an area well known to Tritten. Shortly after arriving Robert Tritten observed pigs in the vicinity. They left the vehicle and walked in the direction of the pigs. The deceased was using his Ruger 77/358. The deceased was directed by Tritten to walk up a small escarpment so that he could get a better view of the pigs. Robert Tritten and his son waited behind the deceased. The deceased then commenced to shoot discharging about 4-6 rounds and hitting a number of pigs. The deceased then moved down the escarpment towards the shot pigs discharging a further 2 rounds. It was decided to follow up the wounded and dead pigs. They walked together initially until the deceased decided to check a large pig that he had shot and veered to his right. Robert Tritten continued to walk forward to inspect another pig and his son Christopher commenced to follow a pig that had been wounded. Robert

Tritten was keeping an eye on his son as there were still pigs in the vicinity. When Robert Tritten was about 100 yards from the pig the deceased had gone to inspect he heard a single shot.

10. He did not think anything of it at the time thinking that the deceased was dispatching the pig or shooting at another. Tritten began to walk towards his son thinking that the deceased would follow him. After a little time Tritten looked to see if the deceased was following and couldn't see him. He started to walk back to where he believed the pig the deceased had gone to inspect was and called out to him but received no response. As he approached the pig Tritten could see the deceased laying on his back with legs spread. He approached the deceased and saw a large entry wound on the left side of the deceased. He felt for a pulse, but found none and realising he was dead closed his eyes.
11. Tritten then located his son and told him what had happened. He did not allow his son to see the deceased. He returned to the deceased and placed his and his son's shirts over him before returning to the vehicle where he obtained an oilskin coat which he then took back to the deceased and placed it over him. Tritten then returned to the homestead and after making arrangements for his son to return to Darwin, contacted police at Pine Creek and informed them of what had happened.
12. The police attended the scene and spoke with Robert Tritten, took photographs and seized the deceased's weapons. Police then conducted an investigation into the circumstances of the death.
13. It is clear that Robert Tritten did not see how the deceased's firearm discharged, however he suggested when asked that he was of the opinion that the deceased may have rested his rifle butt first on the pig and that it moved and caused the rifle to discharge, or that the deceased slipped as he approached the pig and used his rifle to steady himself causing it to

discharge. He pointed out a pandanus log (photo 22) near the deceased's body and suggested that he may have slipped on it. The log was laying in grass and difficult to see. Tritten thought the second scenario was more likely given the deceased's knowledge and experience with weapons he thought it unlikely that he would use the weapon butt first. The deceased had no right foot and wore a prosthesis, it may be that it contributed to his losing his balance.

CONCLUSION

14. I am not able to say on the available evidence how or why the weapon discharged. I am satisfied that it did and that the discharge was accidental. I am also satisfied that there are no suspicious circumstances concerning this death nor is there any evidence to suggest the involvement of another. The deceased died from injuries sustained when his rifle accidentally discharged causing a round to enter his chest. The injuries sustained were non survivable and given the extent of the injuries the deceased died immediately.

Dated this 19th day of July 2005

GREG CAVANAGH
TERRITORY CORONER