

CITATION: *Inquest into the death of Billy John Martin* [2008]
NTMC 008

TITLE OF COURT: Coroner's Court

JURISDICTION: Katherine

FILE NO(s): D0028/2007

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FINDING OF: Greg Cavanagh SM

CATCHWORDS: Residential swimming pool
party, alcohol ingestion,
accidental death by drowning

REPRESENTATION:

Counsel:

Assisting: Dr Celia Kemp

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

No. D0028/2007

In the matter of an Inquest into the death
of

**BILLY JOHN MARTIN
ON 18 FEBRUARY 2007
AT 5 DAKOTA ST, KATHERINE**

FINDINGS

(13 February 2008)

Mr Greg Cavanagh SM:

INTRODUCTION

1. Billy Martin drowned in the swimming pool at 5 Dakota St, Katherine on 18 February 2007. His death was unexpected, and thus reportable pursuant to s 12 of the *Coroners Act*. I held a public inquest at my discretion pursuant to s 15 of the *Coroners Act*.
2. Pursuant to section 34 of the *Coroners Act*, I am required to find:
 - (i) the identity of the deceased person;
 - (ii) the time and place of death;
 - (iii) the cause of death;
 - (iv) the particulars needed to register the death under the *Births, Deaths and Marriages Registration Act*; and
 - (v) any relevant circumstances concerning the death;
3. Dr Celia Kemp appeared as counsel assisting me in this inquest. Billy Martin's de facto wife, Dianne Horrell, and their daughter, Sanurah Laila Martin, attended court, as well as members of Dianne's extended family. Billy Martin's siblings and mother, and in particular his older brother Larry Martin, are in Queensland and would like to have been at the inquest. Larry provided Dr Kemp with substantial background information about his brother. I thank all these people for their assistance,

and for the great respect they have shown to the Coronial process.

4. Billy Martin's birth certificate was tendered (Exhibit 1). An investigation was undertaken into the circumstances of the death by Detective Senior Constable Karl Day (now Detective Sergeant) and the brief containing statements from relevant witnesses, it was tendered (Exhibit 2). I thank him for his investigation, and his assistance in relation to the public inquest. Billy Martin's medical records from Wurli Wurlinjang Health Clinic and Katherine Hospital were seized and tendered (Exhibit 3). I heard oral evidence from Detective Sergeant Day, David Peter Williams, Dr Terrence Sinton (by video link) and Scott Joseph Walters (by video link).

FORMAL FINDINGS

5. Pursuant to section 34(1) of the *Coroners Act*, I find:
 - (a) the identity of the deceased person is Billy John Martin born on 16 September 1973 in Charleville, Queensland;
 - (b) the time and place of death was on 18 February 2007 between 2:30 pm and 3 pm at 5 Dakota St, Katherine;
 - (c) the cause of death was accidental drowning;
 - (d) the additional particulars needed to register the death under the *Births, Deaths and Marriages Registration Act* are:
 - (i) the deceased was a male person of aboriginal origin;
 - (ii) the death was reported to a coroner on 18 February 2007;
 - (iii) the cause of death was as stated above;
 - (iv) an autopsy was carried out by Dr Terrence Sinton on 20 February 2007;
 - (v) the deceased's usual residence was 9 Mott Court,

Katherine;

- (vi) the deceased's mother's name was Lorraine Anne Martin and his father's name was Garry John Martin;
- (vii) the deceased was married to Dianne Patricia Horrell in February 2003 and had one daughter, Sanurah Laila Martin, born on 24 January 2005.
- (viii) the deceased worked as a removalist for Allied Pickford.

BILLY MARTIN'S BACKGROUND

6. Dianne Horrell told me, through Dr Kemp, that Billy Martin was a good bloke, and a hard worker. She has been saddened greatly by his death. She says he was particularly proud of their daughter and it was him that gave her the name Sanurah, an African name. She also says, by way of what happened in relation to his death, that he drank a lot of alcohol and that he was a good swimmer. She says she can't remember him blacking out, but that he did fall asleep when he was drunk.
7. Larry Martin told me, through Dr Kemp, that his youngest brother was one of 9 children; 8 boys and 1 girl. The family was extremely close, their father worked on remote stations and the family often saw only each other. Their grandmother was a particular inspiring woman; she managed to buy a house in the early 60s before she had the right to vote. Billy's siblings pride themselves on their employment and it is a subject that they are all very competitive about. The family believe very strongly in leaving more for their children. Billy was a very happy person, he was always happiest when he was socialising with friends. Larry says that the way he died, with his friends around him, is typical Billy. Billy was very active, and loved sport. He always drank quite a bit. Larry says that it didn't get to a stage where it interfered with work but Larry was worried about it. His family is still grieving over the loss of Billy.

ISSUES AT THE INQUEST

8. On Sunday 18 February 2007 David Williams, Billy Martin and Scott Walters gathered at Scott's house at about 11:30 am to finish packing. At 3:09 pm an ambulance arrived to find Billy Martin dead, next the swimming pool. He had numerous recent minor injuries on him, and there were some spots of blood found at the house. An autopsy found that the cause of death was drowning. The subsequent police investigation, and then the public inquest examined what happened in the lead up to Billy Martin's death, and particularly between these two times, to find why and how Billy Martin drowned.
9. The deceased had visited Dr Bruce Hocking at the Wurli Wurlinjang Health Clinic in Katherine on February 13 2007. He told Dr Hocking that he was hit to the back of the left side of his head with a full bottle one week prior. It knocked him to the ground but he didn't lose consciousness. Since then he had had faint feelings with blurred vision about twice a day, and headaches behind his eyes. Dr Hocking examined him and found no clinical evidence of a fracture or intracranial pathology and advised rest. His working diagnosis was post concussion symptoms following blunt head trauma.
10. Billy Martin worked as a removalist for Allied Pickford. Scott Walters was a manager there, and David Williams (known as Dave) also worked there. The three were good friends. Scott had lived at 5 Dakota St, Katherine for two and a half years, and was moving out. Billy and Dave agreed to help him move out.
11. On the afternoon of Saturday 17 February 2008 Billy came round and he and Scott spent about 6 hours packing. The two then drank some beers. They sparred in a friendly fashion and Scott hit Billy in the jaw. They went to Crossways Hotel and continued drinking beers. Scott was told by someone else that Billy had passed out and found him lying on the floor

half way along the bar. He woke him up and Billy seemed a bit groggy. Scott put him in a taxi and sent him home. Scott says in the five years he had known Billy that was the first time he had known him to pass out. He was reasonably drunk that night, but he had seen him drink much more alcohol without passing out. Scott says he asked Billy what had happened, he said *fucked if I know*.

12. On Sunday 18 February 2007 Billy came round to Scott's house at about 11:30 am. Dave also came round to help pack. The bulk of the oral evidence at inquest was about the events of this day. Scott Walters had drunk some alcohol but less than the other two and has a good memory of the events of the day. Dave became extremely intoxicated as the day progressed and consequently remembers less and less as things progressed. Both men made every effort to assist me and gave frank answers to the questions asked them. Their evidence receives some corroboration from what others heard and saw. I accept both of their evidence as truthful and rely on it to determine what happened that day.
13. The three were drinking while they packed. Dave and Billy moved a fridge downstairs. Billy was carrying it from below. It slipped from Dave's hands and forced Billy to run backwards very fast down the stairs. Dave says Billy cut a finger on his right hand, but it was only a small cut. After that a freezer was moved downstairs. Dave says they realised they were tipsy at about that point and stopped packing. It was about midday.
14. Scott gave Dave and Billy a bottle of Glenfiddich single malt scotch whisky and they started drinking it immediately, straight from the bottle.
15. The three of them got into Scott's pool. Dave and Billy were still drinking the whisky. Dave said the three of them were making crappy jokes and throwing each other around the pool. Scott says they were wrestling and mucking around.

16. It seems likely that at one point Dave had Billy in a headlock, and Billy got a bit cranky and said something along the lines of 'don't try to drown me you cunt'. Scott says at that point he said it was time to get out. Scott remembers Billy standing at the shallow end of the pool after that headlock, talking to them both. He seemed fine. Dave's last clear memory of Billy is the two of them leaning against the end of the pool having just finished the bottle of scotch. This occurred after the playfighting.
17. Scott says he then got out of the pool and Dave got out behind him. He saw Billy walking towards the steps like he was going to get out. He says when he was walking up the stairs of the house he looked over his left shoulder and saw Billy about 1 m away from the pool steps, walking towards them. He says Dave was sitting on a chair downstairs, that is outside the pool gate.
18. Scott says he went upstairs and about 2- 5 minutes later he saw Dave walk upstairs and go to the toilet. He then saw him go back down stairs. During this time Scott was watching the cricket on the TV and says it was on pretty loud, but that he didn't hear any noise from downstairs. 10-15 minutes later Scott went downstairs and found Dave asleep on the steps. He woke Dave up. He then saw Billy floating face down in the pool.
19. Dave has given two statements, and oral evidence, about what happened during this time. His memory is very hazy and he really only remembers going to sleep somewhere underneath the house, either on a chair or on the steps. He doesn't remember going to the toilet. In his second statement, and at the inquest, he remembers saying 'get out of the pool man' to Billy after he got out of the pool, but he said maybe that is what he wishes he said. The next thing he remembers is police being around. He doesn't remember seeing Billy floating in the pool.
20. Scott says that Dave was more intoxicated than Billy, who was very

intoxicated with a blood alcohol of 0.370%. It is clear from neighbours, police and the ambulance that Dave was extremely drunk. I find that Dave was extremely intoxicated at this point and does not have a clear memory of what occurred.

21. Scott says Billy was *floating with his face down, his arms were sort of out and bent and his legs down*. He first thought was that Billy was holding his breath but he didn't respond to yelling, and then to a twenty cent piece thrown at his head. Scott then jumped in the pool and pulled Billy's head up, and saw that his lips were blue. He called for Dave to help and tried to get the deceased out of the deep end but couldn't. Dave was so drunk he was unable to open the pool gate to come in and help. Scott then dragged the deceased to the shallow end. Jason Bird, a next door neighbour, heard the noise and jumped the fence and assisted Scott to drag Billy mostly out of the pool.

EVENTS AFTER DEATH

22. Jason Bird, who lived next door, said that over the last few days there had been a bit of noise coming from the place. It sounded like people having a bit of a social gathering, but nothing that suggested any trouble. In the afternoon of Sunday 18 February he heard Scott saying 'help me I need help', and then 'get in the fucking gate, he's drowning'. He sounded very distressed. Jason went out and looked over the fence and saw Scott trying to pull Billy Martin out of the pool, and Dave trying to get into a gate near the pool entrance. Jason called the police; his mobile phone records this as having occurred at 3:03 pm. He then jumped over fence to assist. By that stage Scott had pulled Billy up onto the steps of the pool. Jason and Scott pulled Billy out of the pool. Elizabeth McLellan who was watching says *I saw Jason at the end of the pool pulling Billy out by his arms. When they pulled him out I heard Billy's head smack on the concrete right next to the pool gate*. They managed to get him so that most of his body was

out of the pool and his feet were dangling in the water. This was the position he was in when the ambulance arrived. Jason and Scott then started two person cardio pulmonary resuscitation. When the police arrived, they assisted, until the ambulance arrived at 3:09 pm and took over. Jason says that when they started the resuscitation Dave was still trying to get into the pool area, he was clearly intoxicated. Jason cut his left elbow on the pool fence, and noticed that it bled, during this process.

23. Elizabeth McLellan heard *a lot of swearing and carrying on* from the house at about 2:15 or 2:30 pm. She said *it sounded like they were swearing at each other. They may have been having an argument. They were saying 'fucking cunt' to each other and it sounded like Scott was doing most of the swearing. I tried to ignore what they were saying and then it stopped for about ten minutes. When it started again I heard Scott yell out 'Billy you fucken cunt get out of the pool'.*
24. Christopher Hand, another neighbour and an off duty police officer, went outside at about 2:57 pm and heard *swearing and shouting. The swearing consisted of the words, 'fuck', 'shit' and 'cunt'. I then heard someone shout 'fuck off, get the fuck out of here'...I then heard some more shouting. I heard 'call an ambulance, call an ambulance'.* He went round to assist. In my view the swearing and buffoonery occurring between the three men was affectionate and not indicative of anything nasty.
25. Rebecca McLellan came round to help with the resuscitation efforts. Scott told her he had been upstairs for 15 minutes then came back downstairs and saw Billy's face in the water. She could smell alcohol on Scott's breath and the other bloke, who must have been Dave, was staggering around and slurring his words and yelling at Billy 'wake up'.
26. Constable Matthew Unwin, a police officer, was tasked to attend at about 3 pm. He was one of multiple police to attend. He says David Williams

was heavily intoxicated and unsteady on his feet. He seemed very upset. David Williams told Constable Unwin that he and Billy were mucking around in the pool throwing each other around. He said he then got out of the pool and went to sleep on a chair. He said he did not know how Billy was when he got out of the pool because he was too drunk.

27. Sergeant Jamie Cairncross also attended shortly after 3 pm. He describes Scott and Dave as *highly intoxicated and very agitated*. He says that Dave Williams was *screaming and highly agitated and was distracting the emergency services crews*. He says Scott was the *less intoxicated of the pair*. Sergeant Cairncross says he observed a *large quantity of empty bottles and cans of alcohol strewn around the general area under the house, on the staircase and around the pool. The bottles included beer bottles, as well as UDL cans and empty spirit bottles*. He also observed that there was a cut *above the deceased's right eye just above the eyebrow. The cut appeared to be fresh and there was a small amount of blood around it*.
28. Ambulance officer arrived at Billy Martin's side at 3:09 pm and took over resuscitation. This was continued until the deceased was transported to the Katherine Hospital and he was declared dead at 4:08 pm. However it is clear from the ambulance officer's reports that Billy Martin had died by the time the ambulance had arrived.

FORENSIC INVESTIGATION

29. An autopsy was performed by Dr Sinton on Billy Martin's body. He found some signs of recent injury; a 2 cm shallow incision, a 5mm stellate laceration, a 1 cm shallow incision and a 5 mm shallow laceration on the upper face. There were some ragged superficial lacerations near the lip and an area of faint bruising about 4 cm diameter on the right side of the forehead. On the right knee were four small superficial linear and punctate abrasions, the largest was 5 mm. On the left knee was a faint

bruise about 5 cm in diameter, and two faint smaller bruises below the knee about 2 cm in diameter. There was a 2 cm superficial abrasion on the knuckles of the right hand and a 2 cm bruise on the outer surface of the elbow joint. There was a 2.5 cm area of superficial abrasion and bruising on the back of the upper arm and on the forearm there was an irregular abrasion measuring 10 x 5 mm. On the right scapula was a 2cm spot of superficial abrasion. There was no bony injury. Finally there were two 2 cm diameter areas of deep haemorrhage, one on the right parietal scalp and one over the left temporalis muscle and some haemorrhage (bruising) through the soft tissue and salivary glands at the right and left angles of the lower jaw.

30. Most of the injuries were subtle as the various bystanders do not recall seeing them. The cut on the forehead was the only injury noticed by attending police and ambulance officers.
31. Dr Sinton was asked about the injuries and possible causes of them. He said the injuries could have been caused at any time in the 24 hours before death. He said that the cut on the forehead is consistent with Billy Martin's head striking against the pool when he was being pulled out. He said some of the abrasions could have been caused by being dragged out of the pool. The bruising at the angles of the jaw could have been caused by the deceased being in a headlock. He says the abrasion on the right knuckles could have bled. The injuries could have been sustained during the roughhousing in the pool. Some of them could have been sustained if the deceased had tripped and hit his head.
32. Billy Martin had a blood alcohol concentration of 0.370%. Dr Sinton says this is a very high level, and very dangerous, as alcohol is toxic to the brain. He says the cannabis would have added to the effects of the alcohol. He said that the situation of being this intoxicated is, in itself, life threatening.

33. Dr Sinton says that one possible scenario is that the deceased fell, striking his head and sustained a concussion, losing consciousness and drowning. Another possible scenario is that the deceased became hypoglycaemic (that is had a low blood sugar) due to drinking so much alcohol and he blacked out. A third is that the deceased simply blacked out. Finally it is also possible that the deceased was drowned by another.
34. Dr Sinton was asked about the black out the night before and the history as presented to Dr Hocking, and whether there was any possible connection to the drowning death. He said that they indicated that there was some underlying brain damage. Dr Sinton said a headlock can cause death, but that death would occur instantaneously.
35. Dr Sinton says that he considers the most likely explanation for the cause of death to be that the deceased became incapacitated through alcohol, which caused him to become unconscious while in the pool, which caused drowning.
36. Numerous spots and smears of blood were found at the scene. There was one spot of blood on a refrigerator and smears on the freezer. There was a blood spot on a white plastic table containing large numbers of empty beer bottles, and a blood spot on the floor near the table. The refrigerator, freezer and plastic table were all under the house. There was what looked like a blood spot on the ground just inside the pool gate. Denis Clevel, a Forensic Scientist, analysed samples taken from the spots and found that the spot inside the pool gate was likely not to be blood. The blood on the freezer, on the table and on the ground was identified as belonging to Billy Martin. The blood on the fridge belonged to a man who was not Billy Martin. Neither Dave nor Scott remember sustaining any injuries or bleeding on the day.
37. I find that it is likely that the blood spots from Billy Martin came from a bleeding finger which he cut when he was moving the fridge. The

remaining spot could have come unnoticed from Dave or Scott, or from Jason Bird who cut his elbow and bled at the scene.

38. I find that the superficial injuries to Billy Martin were a combination of injuries sustained during the sparring with Scott the day before, and during the skylarking in the pool, as well as injuries sustained during the attempts to get his body out of the pool.
39. I consider that the swearing that Elizabeth McLellan overheard was likely the three men shouting at each other while they were sparring, including Billy Martin being cranky when he was in a headlock.
40. I find that there were no suspicious circumstances in relation to this death. There is nothing implicating any other person in this death. I find that the deceased became incapacitated through alcohol which caused him to be unconscious and, as a consequence, he drowned.

Dated this 13 February 2008

Greg Cavanagh
TERRITORY CORONER