

CITATION: *Inquest into the death of David Kevin Loader* [2020] NTLC 010

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

FILE NO(s): D0006/2020

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FINDING OF: Judge Greg Cavanagh

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REPRESENTATION:

Counsel Assisting: Kelvin Currie

Counsel for Top End
Health Service Tom Hutton

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

No. D006/2020

In the matter of an Inquest into the death of

DAVID KEVIN LOADER

ON: 11 January 2020

AT: Hospice, Royal Darwin Hospital

FINDINGS

Judge Greg Cavanagh

Introduction

1. David Kevin Loader (the deceased) was born 5 April 1961, in Parramatta, New South Wales to Gloria and Kevin Loader. They had four sons together: Kevin, Robert, Lesley and David.
2. In his younger years he had cerebral palsy and from the age of 18 years, seizures. He also seems to have had a difficult childhood having frequent interactions with the law. He became an illicit intravenous drug user and contracted Hepatitis C. His first interactions with the law in the Northern Territory were in Alice Springs on 1 December 1992 for unlawful entry and stealing. He was in custody on a number of occasions. The longest time in prison in the Northern Territory commenced in 1995 when he was imprisoned for 18 months for the unlawful use of a motor vehicle. His medical record indicated that he had been diagnosed with depression.
3. In 2001, Mr Loader was living in a bush camp in the Wagait area, just across the harbour from Darwin. He was 40 years of age at the time. One of his acquaintances in the area was a 64 year old man by the name of George Martin. On 5 July 2001 Mr Loader and George had a few beers before going to Mr Loader's bush camp where they sat around a camp fire and continued

to drink. They went to a supermarket part way through the evening to buy more alcohol.

4. The next morning, Mr Loader said he awoke to find George in the fire, burning. Mr Loader was arrested on 10 July 2001 and charged with murder. He was found guilty by a jury on 22 October 2002 and sentenced to life imprisonment with a non-parole period of 20 years.
5. On 29 November 2019 the doctor at the prison sent him for a CT scan. He was diagnosed with metastatic cancer. It was a very aggressive cancer and he died on 11 January 2020 in the Hospice at the Royal Darwin Hospital.
6. Forensic Pathologist, Dr John Rutherford was of the opinion that he died from carcinomatosis from unknown primary.
7. Pursuant to section 34 of the *Coroners Act*, I find as follows:
 - i. The identity of the deceased is David Kevin Loader, born on 5 April 1961 at Parramatta, New South Wales.
 - ii. The time of death was 8.15am on 11 January 2020. The place of death was Room 11, Palliative Care Hospice Tiwi NT.
 - iii. The cause of death was carcinomatosis from unknown primary.
 - iv. The particulars required to register the death:
 1. The deceased was David Kevin Loader
 2. The deceased was of Caucasian descent
 3. The deceased was a prisoner
 4. The death was reported to the Coroner by Dr Selva Selvaraj at the Royal Darwin Hospital.
 5. The cause of death was confirmed by Forensic Pathologist Doctor John Rutherford.

6. The deceased's mother was Gloria Loader and his father, Kevin Loader.

8. Pursuant to section 26 (1) *Coroners Act* I must investigate and report on the care, supervision and treatment of a person that is held in custody immediately before his or her death.

Care, Supervision and Treatment

9. One of the issues that arose was that for some months before diagnosis of the cancer Mr Loader had been experiencing significant pain in various parts of his body. There was therefore a need to investigate when it was likely he first developed cancer and whether there were any earlier opportunities when the diagnosis could or should have been made.
10. That aspect was investigated by my Office by obtaining expert review. The Top End Health Service also undertook an extensive review.

Health while in prison

11. On 28 June 2003 the prison medical service sent him to the hospital for investigation of right upper quadrant abdominal pain. He said he had it for the last four months. He thought his older brother had died of bowel cancer and his younger brother had some lumps removed from his bowel. He was booked for a gastroscopy and colonoscopy. He had three polyps removed. He continued to have regular colonoscopies while in prison. The last such time was on 7 February 2019 when he had another three polyps resected.
12. He also had ongoing left shoulder pain after a fracture of his distal clavicle in the mid-nineteen nineties. The fracture did not unite well and left him with pain particularly when lying on his left side. There followed degenerative changes that required treatment from time to time.

13. He was having seizures four or five times a year. He was sent to the hospital for investigation. The consultant physician, in writing to the prison medical service, stated:

“David tells me that he was a blue baby. He suffered from bilateral tremor most of his life. He had episodes of collapse since the age of 18”.

14. He was diagnosed with epilepsy and commenced on Sodium Valporate. He was also sent for a CT scan on 17 January 2007. The report in part read:

“Although quite subtle there appear to be some subtle changes at the grey-white matter junction of both cerebral hemispheres. Appearances are non-specific and this could be ischemic in origin.”

The last year

Skin cancer

15. On 12 February 2019 Mr Loader was taken to hospital due to a pigmented lesion on his right ankle. It was confirmed to be intraepidermal carcinoma and features of dermal melanocytosis. He was prescribed effudex, a topical cream, to be used for three weeks. As the source of the metastases was unknown one of the issues was whether it could have spread from the skin cancer on his ankle.
16. According to the Top End Health review, the consultant oncologist provided advice that on 18 December 2019 the lymph nodes were biopsied and the immunohistochemistry stains of the node were negative for markers of squamous differentiation. It was thought unlikely that the cause of the metastatic cancer was the skin cancer.

Bacterial infection

17. On 30 June 2019 he said he thought he had the flu. He said he had a productive cough for the last two weeks, a painful throat and fevers. His lymph nodes were mildly swollen. Tests isolated scotochromic mycobacterium. He was given penicillin and procaine. The next day he said

he had woken at 2.00am coughing. He had a headache and body aches. He was thought to have mild pneumonia. He was given the Fluarix vaccine. Three days later he had a coughing fit while at the clinic and was given a salbutamol puffer.

18. On 19 July 2019 a Code blue was called when he was found on the ground with laceration and swelling to left forehead and sore right knee. He said he hadn't had an epileptic seizure for a long time and he had been compliant with the Valporate medication. He said he had an Aura and woke up on the ground. He was referred to a neurologist.

Back pain (27 July 2019 – 22 August 2019)

19. On 27 July 2019, during the afternoon medication round, Mr Loader was in obvious discomfort and his hands were shaking more than usual. He said he had back pain. He said another prisoner had provided to him "chiropractic services" and afterward he was in considerably more pain.
20. The following afternoon (28 July 2019) Officers took Mr Loader to the Clinic due to his severe back pain. His pain had increased considerably. He thought that he had initially hurt his back during the seizure nine days before. He said he had central back pain between the shoulder blades after the seizure and fall and was expecting the pain to slowly go away. On Friday another prisoner said he would be able to do some chiropractic work. Mr Loader lay on his stomach and the other prisoner asked him to take a deep breath and let it out and then jumped on his back. Since then the pain had increased significantly. The pain was still in the central middle back but now also around the right side of his chest. He had been unable to sleep for two nights because of the pain. He put his mattress on the floor so he could rest, sitting with his back against the wall. He had pins and needles in his right arm and severe pain came in waves. The District Medical Officer was phoned. He was given Panadeine Forte and Brufen with a plan to see the

doctor in the morning. He was moved to the Medical Housing Room overnight.

21. The next morning (29 July 2019) he saw the doctor. He was prescribed more analgesia, X-rays were ordered and he was referred to a physiotherapist. The X-ray results were essentially normal. Those X-rays did not show cancer in his spine at that time. It was also noted by the Top End Health reviewers that Mr Loader had gained two and a half kilograms in weight during the first half of the year.
22. On 31 July 2019 he said the pain had been really bad overnight and worst at the right lateral ribs. He spoke about his epilepsy and said that in prison it took a long time to sort it out. He said he had no seizures on the outside when using Cannabis. He said there was a lot of stress in prison although he was not treated badly and knew “loads of people”. He said he supported the new inmates and only had 2.5 more years to go. On release he planned to relax and fish. He was prescribed analgesia for three more nights with a review in a month. On 22 August 2019 when he saw the doctor he said the pain had resolved.

Drowsy, dizzy, GCS 14

23. On 13 September 2019 at 6.00pm when taking his medication the Nurse noticed that the shake in his hands was worse. He dropped medication and then struggled to pick it up. He was noted to look drowsy and pale. His speech became slurred and he said he felt a bit dizzy. The nurse asked him to go to the health clinic but he refused and said he was fine. The Nurse organised for the officers to take him to the clinic.
24. At the clinic his Glasgow Coma Score (GCS) was 14 on the basis of his slurred speech and he was not always making sense. It was thought he might have a CVA (cerebrovascular accident). He was kept under observation. During that time he slept. He was reviewed again at 7.48pm. He had been

sleeping the whole time. His GCS was 15. His speech was no longer slurred and he looked more alert. He said he had just needed sleep.

Back pain (6 October 2019 - 8 October 2019)

25. On 6 October 2019 he said he had been in pain for the last three days and was having problems sleeping. He said his back pain had been ongoing for a long time. He saw the doctor the following day after a Code Blue was called due to his back pain. He said he had a sudden onset of the pain when lifting a garbage bag on Friday 4 October 2019. The pain had persisted over the weekend and he had spent it in bed most of the time. On assessment he had lower back pain, right lateral rib pain and right medial to upper scapula pain. It was observed that his hand tremor was worse. He appeared upset. He was given analgesia and an ice pack. His back was stretched and gently rotated by the doctor. He said he felt an instant release and decreased pain.
26. He was seen again that day on the evening medication round. He was distressed and in pain. He was told to attend the clinic in a wheel chair. At the clinic he said he had slept at 2.30pm but had been awoken at 4.30pm by the pain. It was the same pain experienced that morning. He hadn't eaten, had only small sips of water. He said the analgesia from the morning had a moderately good effect but it had worn off. He said he had been told previously that it was chronic arthritis. He was given analgesia with a plan to return in the morning for review.
27. On 8 October 2019 he attended the Clinic from work with a raised and very painful rash on his left thigh near his groin. He said he noticed it around midnight. He said his rib pain and lower back pain was much better. But he had abdominal pain since Friday that was worse after eating. He was given gastrogel for the abdominal pain and Hydrocortisone for the rash.

Back, abdominal and shoulder pain (from 17 October 2019)

28. On 17 October 2019 a code blue was called at 7.50am due to his lower back pain. He said it started when he pulled a mop from a bucket. He immediately

felt sharp lumbar pain. It was thought to be a further exacerbation. He was given analgesia. With stretching he was much improved. The plan was for him to see a physiotherapist and be reviewed by a doctor.

29. On 18 October 2019 he asked to see the doctor. He said he had a lump on his back that shouldn't be there that was hard and sore to touch. The nurse saw him on the rounds and said that it was on his right shoulder blade.
30. On 4 November 2019 he was seen on the morning rounds. He said he got up to the toilet at midnight and had sudden pain in his left lower back. He was seen at the clinic at 9.30am. He said he had twisted it on Saturday and had immediate pain. It was thought that there were no red flags for cauda equine or malignancy as it was said he had no loss of weight, night sweats, incontinence or changes in sensation/neurology. He was injected with 10ml of Lignocaine into the painful area. The plan was for more analgesia and stretching. It was said that Mr Loader walked from the clinic without difficulty.
31. On 11 November 2019 he requested to see the doctor. He said the pain in his back and legs was bad at 8/10. He saw the doctor two days later on 13 November 2019. He said he had generalised body aches particularly to both knees, his abdomen and the right side of his chest. He said his back was okay because he was doing exercises. He said because of the pain he was finding it difficult to sleep. He was prescribed Phenergan for 4 nights. At that consultation he was weighed. He had lost 9.4 kilograms since 15 July 2019.
32. On the medication round on 17 November 2019 he was noted to be shaking and said he had significant abdominal pain over the last week that was getting worse. He said he hadn't eaten for the past week because it was difficult to keep food down and he had cramping and burning on both sides of his abdomen. He said any movement caused significant pain and his abdominal pain was coming in frequent waves. He was taken to the Clinic in

a wheelchair. At the Clinic he was having difficulty sitting but when he stood he became dizzy. He was given 500ml of fluid, analgesia and lactulose. He left the clinic about four hours later.

33. On 25 November 2019 Mr Loader attended Clinic with severe left sided pain. He said it started over the weekend. He was provided analgesics and placed under observation for an hour. He said the analgesics did not seem to be working.
34. On 26 November 2019 Mr Loader was in severe pain in the right shoulder, back and rib area. He had attempted to pick up his tablets by reaching out and heard a pop in his right shoulder. He was unable to lift his right arm. The staff's impression was that he had sprained his shoulder. Analgesics were given and the DMO called who recommended an X-ray.
35. On 27 November 2019 at 9.03am concern was raised by the Corrections Officers that Mr Loader was in considerable pain. They said they had to assist him in and out of bed. He said he had excruciating pain when mobilising his lower back or right shoulder. He was given a wheelie walker to help him mobilise and encouraged to move. The next day he saw the physiotherapist. He said he thought he had a torn rotor cuff. He was provided with exercises.

Diagnosed with metastatic cancer

36. On 29 November 2019 the doctor sent him for a CT scan. It identified multiple metastatic deposits throughout his vertebral column. It was noted that he had lower back pain over the last 7 months and had been losing weight.
37. The Top End Health reviewers noted:

“The locations of [Mr Loader’s] various pains and symptoms over the October and November 2019 time period correlate with areas in which metastatic cancer was subsequently detected. This review reached the conclusion that [Mr Loader’s] widespread metastatic

cancer likely developed during the October and November 2019 time period”.

38. The review concluded that there was no presentation that should have led to an earlier diagnosis.

Hospitalised

39. He was transferred to the Royal Darwin Hospital (RDH) and remained there until discharged on 2 January 2020. Further scans showed multiple metastases in his liver, glands and bones. In addition he had a right lung pulmonary embolus, hypercalcaemia, constipation and peripheral adenoma. While in hospital he was provided methadone in addition to Targin and received two sessions of radiotherapy. It helped his pain levels. On 30 December 2019 the medical team wrote in the notes:

“David does not want to go to hospice or stay in hospital he wants to go back to prison as he has things to do. He believes his pain is under control.”

40. He was discharged at 2.00pm on 2 January 2020. He returned to Room 6 in Medical Housing at the prison. It was a single air conditioned room in the health centre.
41. At 4.04pm on that day the doctor took him through an Advanced Care Plan. Mr Loader wrote that when nearing death he would like his family and friends around him. He mentioned that his wife was in Cooktown. He said that after death he would prefer a cremation and no service and his ashes were to be sent to his brother in Newcastle.
42. On 3 January 2020 at 10.03am he was experiencing pain that was unable to be controlled. Mr Loader was asked if he wanted to go back to hospital for treatment. It is said that he was “very clear” that he wanted to be treated at the prison. He was given morphine.

43. At 4.30pm he made a phone call to his brother and seemed to be in good spirits afterward. He was eager to visit the place of prison employment and Sector 7 to see his friends.
44. On 4 January 2020 (Saturday) he slept well overnight and said his pain was well managed without additional analgesia. He said that the light in the room at sunrise was bright and arrangements were made for something to be put across the window.
45. He spoke to his lawyer about getting either early parole or leave. His wish was to go fishing at Mandorah. At 3.30pm he was sitting in a chair when he had a seizure that lasted about a minute. He was assessed and it was noted that he had a similar episode in hospital and at that time it was suggested that if it occurred again consideration should be given to increasing his Sodium Valporate. He recovered quickly.
46. On 5 January 2020 (Sunday) he said that overnight the pain was the worst it had been since returning from hospital. He showered himself but mainly sat in the chair most of the day. At 7.00pm he was in significant pain. He said the pain was in his back and around to his right flank. He was given 5mls of morphine. It didn't seem to have much effect. He was noted to be shaking and crying. At 7.30pm he was given another 5mls. He appeared better but still uncomfortable. He was given nightly analgesics at 8.00pm and offered more morphine but he refused it.
47. On 6 January 2020 (Monday) he was in a lot of pain when he woke. At about 10.20am he went to sector 8 to visit his friends. He said he would prefer to walk, he would just walk slowly. He returned at 11.30am in the wheelchair. He said it had been a bit much for him and he was having some pain. He thought going to sector 7 that same day would be too much but hoped it could happen the next day.

48. On 7 January 2020 (Tuesday) he was in a lot of pain overnight. At 4.23am he was sitting on the edge of the bed and looked uncomfortable. He was given morphine. When the nurses arrived at 7.00am he appeared disoriented. He asked several times if it was morning. He was reviewed by the doctor and an appointment previously made with the Alan Walker Care Centre was cancelled.
49. Throughout the morning he continued to be in considerable pain. At 10.05 he asked to see the Chaplin. However by the time the Chaplin arrived at 10.55am the morphine had taken effect and he was asleep and difficult to rouse. He spoke for a short time before falling back to sleep.
50. By 3.00pm he seemed much improved and was mobilising. He said the pain was reduced although he still had significant abdominal pain. He said he did not want to go to hospital to die as that would mean dying surrounded by strangers. He said he would rather die in prison as he felt the people there were his friends. He was eager to get to sector 7 or Education to say goodbye to the people there.
51. On 8 January 2020 (Wednesday) he was not disoriented as he had been the previous morning and his pain seemed better controlled. He was visited by the Palliative Care team from RDH. They increased the dosage of morphine and other analgesia. They noted that Mr Loader had deteriorated significantly since leaving the hospital. It was thought that he had only 2 – 3 weeks left and given his complex pain management it was suggested he should be transferred to the Hospice. Mr Loader was agreeable to that course, however wanted to catch up with friends and gift his leather work and tools before the transfer. A morning tea was arranged for him in the Education area for the following day.
52. On 9 January 2020 (Thursday) the Nurse visited overnight (1.45am) to ensure his pain was managed. He was found sitting on the edge of the bed shaking. He was given analgesia and 30 minutes later he was in bed and

asleep. At 6.00am he appeared to be asleep but by 6.15am he was in severe pain and was given 15mls of morphine and 30mg oxynorm. He visited his friends in the Education sector that morning.

53. At 3.00pm he was taken from the prison to the Royal Darwin Hospital Hospice. He arrived at 3.30pm and went to sit in the outside garden area. He said he was very happy with his environment. He was assessed by the doctor while in the garden.
54. On 10 January 2020 (Friday) he slept most of the night and most of the day. He was unable to stand when needing to go to the toilet. It was thought that Mr Loader was in the last days or hours of his life. His brother was spoken to at 4.30pm and advised of his condition. From 10.30pm he became confused and agitated with fluctuating GCS.
55. On 11 January 2020 (Saturday) he was unable to follow direction or communicate his needs. He passed away at 8.15am.

Comment

56. Given the period over which Mr Loader had significant pain until he was diagnosed with metastatic cancer a review was obtained from Dr James Lynch, a teacher and examiner for the Royal Australian College of General Practitioners. He concluded that Mr Loader was provided with “an excellent standard of care and treated with dignity and consideration”. He said the medical examinations were “comprehensively recorded and comprehensively performed”. His opinion was:

“There was nothing in his medical history, his symptom history or his examinations which would have alerted any reasonable and prudent medical practitioner to such a diagnosis”.

57. As indicated the Top End Health Service review concluded similarly. The reviewers stated:

“This review concluded that there was no presentation by [Mr Loader] which warranted further investigation and that should have led to a diagnosis of a primary cancer ... [or] should have led to an earlier diagnosis of [Mr Loader’s] cancer, after it had metastasised.”

58. In my view, on all of the evidence, the care, treatment and supervision of the deceased was appropriate and of a high standard.
59. I also thank the Top End Health Service for their thorough and helpful assistance. It was evident that a great deal of effort was put into their review. Although it concluded that the care and treatment was appropriate, the reviewers nevertheless found a number of areas for improvement. I commend the Top End Health Service on their efforts and demonstrated willingness to reflect and improve.
60. I make no recommendations.

Dated this 18 day of August 2020.

GREG CAVANAGH
TERRITORY CORONER