

CITATION: *Inquest into the death of Jonathan William Hempel*
[2020] NTLC 002

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

FILE NO(s): D0091/2018

DELIVERED ON: 3 January 2020

DELIVERED AT: Darwin

HEARING DATE(s): 9 November 2018
10 December 2019

FINDING OF: Judge Greg Cavanagh

CATCHWORDS: **Pedestrian run over by vehicle, driver did not provide adequate account, belief that offences have been committed, referral back to Police and DPP**

REPRESENTATION:

Counsel Assisting: Kelvin Currie

Counsel for Yuk Chu Lin: Peter Bellach

Judgment category classification: B
Judgement ID number: [2020] NTLC 002
Number of paragraphs: 29
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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0091/2018

In the matter of an Inquest into the death of

JONATHAN WILLIAM HEMPEL

ON 4 JUNE 2018

AT BELYUEN COMMUNITY HEALTH CENTRE

FINDINGS

Judge Greg Cavanagh

Introduction

1. Mr Hempel was born in Racine, Wisconsin, United States of America on 6 December 1955. He met his wife, Julie in Iowa at a Halloween party. They married on 14 August 1982 and had three children. He was 62 years of age when he died.
2. Mr Hempel worked for the Department of Agriculture in the United States from 1981. In September 2016, he took a position at the Department of Land and Resource Management in Darwin. He went back to the United States for Christmas.
3. He returned in January 2017 with his wife. They both went back to the United States in April 2017. During that period he was diagnosed with prostate cancer. Mr Hempel returned to Darwin in May 2017. Sometime thereafter he commenced a relationship with Ms Yuk Chu Lin (Ms Cathy Lin).
4. The work he did for the Department involved undertaking field work and writing up the findings. The field work was generally done in the dry season (May to October) and the writing completed in the wet season. He obtained

a home-based work agreement allowing him to undertake the writing while in the United States.

5. He went back to the United States in September 2017 and began treatment for prostate cancer. While there he lived with his family. During that time he commenced WeChat messaging Ms Lin. By the time of his death on 4 June 2018 there were 42,158 messages sent between them. He returned to Darwin in November 2017.
6. There was another visit to the United States in December. He did not return to Darwin until 28 February 2018. While in the United States he messaged Ms Lin about the possibility of divorcing his wife. He sent flowers to Ms Lin for Valentine's Day. On his return to Darwin Mr Hempel and Ms Lin rented a residence at 154 Erickson Crescent, Wagait Beach. On 19 March 2018 he sent flowers to his wife for her birthday with a message saying he loved her.
7. Mr Hempel's contract with the Department was due to expire on 30 June 2018. His manager had in mind his employment would be extended for another three months until 30 September 2018. However that was still subject to approval.
8. His manager said that Mr Hempel was spoken to in May 2018 about the prospect of getting a further contract for three months. He thought they would have spoken again at the beginning of June. The delay in confirming the further period was due to approval that was needed from further up in the Department. If it was approved it was unlikely that Mr Hempel would get any further extension for work from the Department.¹
9. On 4 June 2018, Mr Hempel and Ms Lin caught the 9.00pm ferry from Cullen Bay to Mandorah. On the ferry were other residents of Wagait and arrangements were made to go to one of the other couples' residence for a

¹ Statement Jason Hill page 6

cup of tea. However, Ms Lin had received a text to say her dog was out and so they arranged to go to their friends' house after first going home to put the dog in the yard.

10. When the ferry arrived at Mandorah the deceased and Ms Lin got into Ms Lin's vehicle, a 1994 model Toyota Land Cruiser. It had an automatic transmission. Ms Lin had owned the vehicle for seven years. One of the other residents asked for a lift home.
11. After dropping the other resident, they drove to their home at 154 Erikson Crescent. As they approached their dog chased them to the property. Ms Lin pulled the Toyota Land Cruiser up to the gate. It was secured with a bike cable. It was dark and Ms Lin said she pulled up close to the gate so the deceased could get the benefit of the car lights to undo the lock.



Picture of gate with bike cable lock taken the next day (with Toyota Landcruiser in the position it was stopped after Mr Hempel was run over)

12. The deceased stood in front of the vehicle, undid the lock and let the dog in. According to Ms Lin he turned to say there was no need to go in and was in the process of relocking the gate before they went to their friends' place.
13. At that point, Ms Lin said she sought to reverse away from the gate. She said she didn't realise the vehicle was still in "drive". Ms Lin drove the vehicle forward. She said she "put the petrol on". The vehicle knocked the deceased into the gates and then to the ground as it burst through the gates. The left side wheels ran over the deceased's chest and legs. In explaining why the vehicle was driven completely over the deceased Ms Lin said:

"I hit him in the gate and then broke it, and then he lie on the floor, and then my car just roll over him because ...still going a bit ... I had to drive the car over him because I couldn't pull him out ... I had to drive over him."

14. Ms Lin called the friends whose house they had organised to visit and asked them to come. She called out to neighbours who came to assist. Mr Hempel was still conscious. He asked Ms Lin to take him to hospital.
15. The ambulance was called and he was taken by ambulance to Belyuen Health Clinic. On the way he stopped breathing. Cardiopulmonary resuscitation was commenced and continued at Belyuen Health Clinic with the assistance of a Careflight retrieval team and St John Ambulance paramedics.
16. While the retrieval team were working to revive him one of the police officers asked Ms Lin what had happened. The exchange was captured on the officer's bodycam. She said, in part:

"The lady text me she said my dog in her place. So we had to bring the dog inside ... I said okay we stop there bring the dog inside ... I let him open the gate and then after he said, "No we not open the gate. We just go ... I said okay ... closed again ... I said alright we go. So I supposed to put "R" but I didn't do it, I just put my foot to the petrol ... get the car to move, and then I said "Fuck, the car is coming" and then I try to stop but already too late. I try to stop, the

car already run over him. Only metre run over him already. Too late.
The gate is broken

Q. “So where’d he end up?”

“I had to drive the car over him because I couldn’t pull him out ... I had to drive over him and then I get out, because he under my car is no good. I was screaming and cry. Oh I hope he is okay. I want to kill myself ... It’s lucky I not just [inaudible] pull him down, but still bad. I hope he’s not die.”

17. However, he was unable to be revived. After Ms Lin was told that Mr Hempel had died she called other friends, one of them was her lawyer. He told the officer Ms Lin needed Mr Hempel’s phone because, “she needed to contact his family”. The officer indicated that was not possible. She was later observed trying to find the phone on his body.
18. Thereafter, Ms Lin refused to talk to investigating police about the circumstances of Mr Hempel’s death. This inquest was commenced on 9 November 2018 for the sole purpose of taking Ms Lin’s evidence. However, shortly into her evidence she refused to provide any further account on the basis that her evidence may incriminate her in the unlawful killing of Mr Hempel. I asked that the Police investigation continue as a homicide investigation.
19. At court on that day a request was made of Ms Lin that she provide the access code to Mr Hempel’s phone. She said she did not know the code. She did not make contact with Mr Hempel’s family at any time.
20. An examination was made of the vehicle. One of the relevant findings from that examination was that the vehicle moved at a metre a second without application of the accelerator when in gear and with the brake released.
21. After completion of the police investigation Ms Lin was charged with:
 - 1) Drive without due care (Regulation 18, *Traffic Regulations*) penalty \$150; and

- 2) Drive vehicle negligently (section 30(1) *Traffic Act*) maximum penalty 20 penalty units (\$3,140) and/or 2 years imprisonment; and
 - 3) Drive motor vehicle causing death (section 174F(1) *Criminal Code Act*) maximum penalty 10 years imprisonment. A person is guilty of the offence if the person drives a motor vehicle dangerously and a person dies as a result. The term “dangerously” is defined to include driving “in a manner that is dangerous to another person”. It is an offence of strict liability.
22. The prosecutor withdrew charges 1 and 3 and Ms Lin plead guilty to the second charge. On 4 July 2019 she was convicted of negligent driving and sentenced to two months imprisonment suspended immediately subject to her committing no further offences for a period of 12 months. Her driver’s licence was disqualified for six months.
 23. On 22 July 2019 this inquest was listed to continue on 10 December 2019. The further witnesses called were the neighbours, friends and others who attended the scene shortly after Mr Hempel was run over by Ms Lin, as well Mr Hempel’s manager. Ms Lin was again represented and indicated at the outset that she would not be providing any further evidence.
 24. The evidence of the witnesses was to the effect that Ms Lin did not provide any further explanation at the scene on the evening of 4 June 2018. Nor did Mr Hempel talk of how he was injured. A further explanation was given by Ms Lin to friends in the early hours of the following morning (5 June 2018). The account provided no further information to that provided to police prior to the cessation of efforts to revive Mr Hempel. No further explanation has been provided by Ms Lin in spite of regular and ongoing contact with at least one of the witnesses. She has not talked of the circumstances again.
 25. Pursuant to section 34 of the *Coroners Act*, I find as follows:
 - (i) The identity of the deceased is Jonathan William Hempel, born on 6 December 1955 in Racine, Wisconsin, United States of America.

- (ii) The date of death was 4 June 2018. The place of death was Belyuen Community Health Centre.
- (iii) The cause of death was blunt force chest injury (crush type).
- (iv) The particulars required to register the death:
 - 1. The deceased was Jonathan William Hempel.
 - 2. The deceased was of Caucasian descent.
 - 3. The deceased was a soil scientist employed by the Department of Land and Resource Management.
 - 4. The death was reported to the Coroner by Police.
 - 5. The cause of death was confirmed by Forensic Pathologist, Dr John Rutherford.
 - 6. The deceased's mother was Joyce Margaret Hempel and his father was William Frank Hempel.

Comment

26. There remain areas of concern and questions without clear answers. For instance:

- While Mr Hempel was closing and locking the gate why did Ms Lin wish to move the vehicle backwards?
- Assuming that Ms Lin still had in mind to take Mr Hempel to their friends' house, how far did Ms Lin propose to reverse the vehicle?
- If it was only a short distance why did she use the accelerator?
- Why was it that Ms Lin thought it better to drive over Mr Hempel with the back wheel rather than check on him, after running over him with the front wheel?

27. However, even without the answers there remains significant evidence as to the circumstances of that evening. Having owned the vehicle for seven years, Ms Lin would have known that the vehicle did not require use of the accelerator to move on level surfaces while in “drive” or “reverse”. Even if that were not the case, in my opinion, the use by Ms Lin of the accelerator when the vehicle was so close to Mr Hempel was dangerous.
28. Continuing to drive over Mr Hempel is in a wholly different category. At a minimum it was a reckless act. It was highly dangerous. The reason given, that she would not have been able to pull Mr Hempel out from under the vehicle may be an indication as to the lack of regard Ms Lin showed for the welfare of Mr Hempel during the whole incident.

Referral

29. I believe that offences may have been committed in connection with the death of Jonathan William Hempel and in accordance with section 35(3) *Coroners Act* I report my belief to the Commissioner of Police and the Director of Public Prosecutions.

Dated this 3rd day of January 2020.

GREG CAVANAGH
TERRITORY CORONER