

COPYRIGHT RESERVED

NOTE: Copyright in this transcript is reserved to the Crown. The reproduction, except under authority from the Crown, of the contents of this transcript for any purpose other than the conduct of these proceedings is prohibited.

W1479 303/97 ajh-L1

NEW SOUTH WALES STATE CORONER'S COURT

DEPUTY STATE CORONER: J ABERNETHY

TUESDAY 7 OCTOBER 1997

409/97

5

INQUEST INTO THE DEATH OF SCOTT STUART MILLER

Sergeant J Prothero assisting the Coroner
Mr Stuart Miller, father of the Deceased

10

CORONER: Inquest into the death of Scott Stuart Miller,
409/97, Mr Miller is here, the father of the deceased.

15

<MICHAEL ANTHONY LANE(10.27AM)
SWORN AND EXAMINED

20

PROTHERO: Q. Constable can you please tell the Court your
full name, spelling your surname?

A. Michael Anthony Lane, Lane is spelt Lane.

Q. And your rank?

25

A. Senior Constable.

Q. And your station?

A. The Rocks police station.

30

Q. Constable you are the investigating officer into the
death of Scott Stuart Miller, is that correct?

A. That is correct.

Q. And you have prepared a brief of evidence for the
Coroner?

35

A. That is correct, yes.

Q. And that brief of evidence consists of a Life Pronounced
Extinct Certificate?

40

A. That is correct.

Q. An identification certificate?

A. Yes.

45

Q. A post-mortem under the hand of Doctor Johan Duflou?

A. Yes.

Q. An analytical certificate from the Department of
Analytical Laboratories?

50

A. Yes.

Q. A statement from yourself?

A. Yes.

55

Q. A statement from Senior Constable Crow(?),
Constable Coates, Shawn Kelly, Jason Elby(?), Nathan White,
Chloe Green, Stuart Stephen Swatt(?), Mania Solomanar(?),
Peter Cowan, Jim Gould, Vincent Nicolette(?), Paul Reilly,

W1479 303/97 ajh-L1

- Colin Plant, Archibald Price, John Strachan, Jade Carter, Senior Constable Van Leeuwen, Detective Senior Sergeant Cameron and accompanying photographs to Senior Constable Van Leeuwen's statement, and a certificate from Virginia Friedman and a number of running sheets - is that correct? 5
- A. Yes that is correct.
- EXHIBIT #1 ABOVE LISTED DOCUMENTS TENDERED, ADMITTED WITHOUT OBJECTION 10
- Q. Constable your statement is true and correct?
- A. Yes.
- Q. And your signature appears at the bottom of each page? 15
- A. Yes.
- Q. And in your statement you express an opinion as to how the deceased died, is that correct? 20
- A. Yes.
- Q. And in that opinion have you ever attended a homicide scene?
- A. No. 25
- Q. And have you ever attended the scene of a death due to a fall?
- A. I can't recall, not specifically as the main investigator, no. 30
- Q. Pardon?
- A. Not specifically as the main investigator, no.
- Q. And you certainly have never examined the scene of a fall or a homicide? 35
- A. No.
- Q. And at this stage is there any further investigations that you are to undertake?
- A. Yes as we've just discussed there was certain security people, watchmen that need to be spoken to by police. 40
- Q. And those persons are a Lance Nielson(?), a Stephen Williams and a Warren White(??)?
- A. That is correct, yes. 45
- Q. And you undertake to speak with those persons personally?
- A. Yes I will. 50
- Q. And if there's anything further of evidence that will assist the Coroner you will contact him and you will contact him with the result of your conversations with those persons?
- A. Yes, yes. 55
- Q. Now at this stage are there any other further investigations that you're aware of that you could undertake?

W1479 303/97 ajh-L1

A. None that I'm aware of, no.

Q. Did you speak with persons that work at the Orient Hotel?

A. Yes I did. 5

Q. And when you spoke with those persons were they able to assist you as to seeing Scott Miller?

A. Yes certain ones were. 10

Q. Were any of the staff able to assist you?

A. Yes.

Q. And do you have reports there to say--

A. Statements from them. 15

Q. From the Orient Hotel?

A. The Orient you say?

Q. Yes, rather than the observer(?)? 20

A. No not statements, no.

Q. Did you speak with the staff of the Orient Hotel?

A. We spoke to certain, we spoke to the licensee and some of the staff members there, yes, canvassed(?)-- 25

Q. And those were staff members that were working that night?

A. Yes. 30

Q. And were they able to assist as to whether they saw Scott Miller?

A. No.

Q. At the time that evening were there a number of persons at the Orient Hotel? 35

A. Yes.

Q. And would you be able to say whether it was a busy night or a-- 40

A. I can't say for certain, I wasn't working, but I believe most Saturdays nights, to me(?) every Saturday night is busy, yeah at the Orient.

Q. And on this occasion there were a number of extra people in the city due to the Gay Mardi Gras? 45

A. I believe so, yes.

Q. Now so as far as you're aware there's no other persons at the Orient Hotel who could assist you as to seeing Scott Miller? 50

A. No.

Q. Are you aware as to whether there were any calls by security staff at the Orient Hotel that night for police assistance? 55

A. I'm not aware, no.

Q. Would it, if there were, they'd come to The Rocks police

W1479 303/97 ajh-L1

station?

A. Usually they do, yes.

Q. And it would be likely that you'd be made aware of those? 5

A. Yeah, I suppose.

Q. Is there anything further that you can think of that could assist the Coroner in his finding today? 10

A. Not that I haven't put in my statement, no.

CORONER: Any other questions Mr Miller?

Q. Now you will question any remaining people from Patrick's? 15

A. Yes.

Q. Who were on duty that night? 20

A. Yes sir.

Q. I don't expect it to turn anything up but I think in view of the finding I'm likely to bring in, it's now imperative that that be done.

A. Yes. 25

Q. And that any report, negative or otherwise, come back to me.

A. Yes.

Q. I can bring in a finding today but if the matter goes on as an unsolved homicide it becomes imperative that everything be looked at because this is a case where there is just very, there are no real leads at this stage. 30

A. Yes. 35

<WITNESS RETIRED

SHORT ADJOURNMENT

<JOHAN DUFLOU(10.35AM)
SWORN AND EXAMINED 40

PROTHERO: Q. Doctor could you please tell the Court your full name, spelling your surname? 45

A. Johan Duflou, Duflou.

Q. And you're a forensic pathologist with the New South Wales Institute of Forensic Medicine here at Glebe?

A. Yes. 50

Q. And sir for how long have you been a pathologist?

A. I commenced practice as a pathologist in 1983, so about 13, 14 years.

Q. And how long have you been working as a forensic pathologist? 55

A. Since that time.

Q. And sir you prepared a report on the final autopsy, is

W1479 303/97 ajh-L1

that correct?

A. Yes.

Q. That report is true and correct?

A. Yes.

5

Q. And sir in your experience how many, approximately how many homicide or death scenes would you have attended?

A. Hundreds.

10

Q. And you would have also examined the bodies of those persons?

A. Yes.

Q. Now you have expressed three manners in which you believe that the Deceased may have died?

15

A. Correct.

Q. And that's based on your examination of the Deceased at the scene?

20

A. Yes.

Q. Is that correct. And also of your examination and other examinations that were undertaken as a result of your autopsy?

25

A. Yes.

Q. And is there any, the manner in which the person died, is there one manner more likely that is consistent with the injuries?

30

A. My understanding is that there is no evidence at all of the Deceased having been on top of the cliff face.

CORONER: That is correct.

35

WITNESS: If that's the case the Deceased could not have fallen from the cliff face or from the top of the cliff face and it sounds unlikely to me that he in fact started climbing the cliff face as an alternative. In that case the Deceased would more likely than not have been killed in a homicidal fashion. The, I suppose the only major reason why a fall from the cliff face was a possibility was the fact that he was found at the bottom of a cliff face. If he had been found anywhere else I would have been prepared to say that homicide was by far the most likely manner of death.

40

45

CORONER: Have you got the photos there?

PROTHERO: Yes sir.

50

CORONER: Q. Have a look at the photo of Scott in situ and particularly the way the body is lying. Is that a common, is that the way you'd expect to see him stretched out neatly like that after a fall from that height? Or would it be more likely to be more crumpled in the rag-doll fashion?

55

A. I have to admit that I haven't been to that many scenes of--

W1479 303/97 ajh-L1

Q. Falls?

A. --accident or suicide or other falls. I've been to a number of them. And they haven't appeared like this. But the number that I've been to have not been enough unfortunately--

5

PROTHERO: Q. The injuries, just looking at the placement of the body, are the injuries consistent with the placement of the body?

(No verbal reply).

10

CORONER: With a placement of the body?

PROTHERO: Q. Or that being the final resting place or the scene of the fall, if it was a fall?

15

A. The Deceased may have moved even a small amount following the fall in which case the position that he was in could be feasible. If he had not moved at all, no I don't think so. There were injuries to the neck for instance, to the front of the neck which would not be expected in a fall with him lying in this position. The wrist injuries as well I don't think would be entirely consistent with him being in that position.

20

CORONER: Q. You say in your report too that the head and abdominal injuries are somewhat atypical of a fall from a height?

25

A. Yes they are. The head injury itself was more consistent with a blow more in the midline, a transverse blow as well as more a vertical blow to the neck itself. The abdominal injuries are unusual in that there were no associated rib fractures or pelvic fractures, yet there were quite significant abdominal injuries. You'd expect if he fell onto a flat surface in any case that to have abdominal injuries you'd have to have injuries on either side and there were none.

30

35

Q. Once again lending support to the, to some sort of homicidal attack?

A. Yes.

40

Q. Either there or the body being placed there afterwards?

A. Yes.

CORONER: Have you any questions you want to ask Dr Duflou?

45

Q. Of course the blood alcohol level was very high?

A. Yes it was 0.220.

Q. And that alone mitigates against him somehow climbing over that fence you saw and falling doesn't it?

50

A. Well in terms of requiring the motor skills to climb that fence, yes. On the other hand, falling, if he had been able to get over the fence with a blood alcohol like that it would have been very easy.

55

<WITNESS RETIRED AND EXCUSED

W1479 303/97 ajh-L1

<LYLE WILLIAM VAN LEEUWEN(10.40AM)
SWORN AND EXAMINED

PROTHERO: Q. Constable can you please tell the Court your full name, spelling your surname, your rank and your station? 5

A. My full name is Lyle William Van Leeuwen, Van Leeuwen is spelt Van Leeuwen, I'm a Detective Senior Constable of Police attached to the East Sydney Crime Scene Section, working from the Sydney Police Centre in Surry Hills. 10

Q. Constable you have prepared a statement in relation to the death of Scott Miller?

A. Yes ma'am I have. 15

Q. That is your statement?

A. Yes ma'am that's my statement.

Q. Does your signature appear at the bottom of each page?

A. Yes it does. 20

Q. And that's true and correct?

A. To the best of my knowledge it is, yes.

Q. And you also prepared a number of photographs, is that correct? 25

A. Yes I have.

Q. And those photographs are also contained in the brief?

A. Yes. 30

Q. And Constable you actually made a examination of the scene?

A. I did, yes. 35

Q. And how long have you been a crime scene officer?

A. I've been a crime scene examiner for the last ten years working in both city and country crime scene sections throughout New South Wales. 40

Q. And as part of your duties you examine scenes of both homicides and falls, is that correct?

A. Yes I do, yes.

Q. And can you give an approximate number of scenes that you would have examined-- 45

A. Yes.

Q. --involving falls and homicides?

A. I've examined over thirty homicide scenes in my ten years as a crime scene examiner and I have examined close to fifty scenes of suspicious deaths, either involving falls or where a fall has formed part of the death - for arguments' sake people, you know, who have stumbled and fallen over a fence and then over a cliff which was a possibility in this case; but where people have also fallen from buildings, fallen from scaffoldings and the like so I've got a fair bit of experience in relation to examining falls. 55

W1479 303/97 ajh-L1

Q. And you've also undertaken a number of courses with your duties?

A. Yes ma'am.

Q. And that day you examined the scene and surrounds, is that correct? 5

A. Yes we did.

Q. And you actually made a particularly thorough examination of the vegetation above where the Deceased was found? 10

A. Yes I did.

Q. And as a result of your examination of the vegetation were you able to say whether a person had been through that vegetation recently? 15

A. The vegetation at the top of the cliff being on the Munns(?) Reserve side of the fence which was the public area of the fence was a lot of dead leaf matter and decaying leaf and timber matter and it actually doesn't tend to yield any evidence whether there has been people through there. But the vegetation on the outside of the fence which was the Darling Harbour side of the fence was green ivy and green ivy tends to break fairly easy and tends to leave definite imprint marks, not detailed marks but definite imprint marks in the vegetation and we cut a hole in the fence in an area where there was no ivy and slowly progressed our way along the side of the cliff face and we didn't find any indentation marks there that would suggest that somebody had either walked, stumbled, fallen or rolled through that ivy. 20 25 30

CORONER: Q. You were also actually looking for broken stalks too weren't you?

A. Yes your Worship I went through actually looking for broken stems of the ivy-- 35

Q. And found nothing?

A. And just didn't find anything.

Q. And did you form the opinion as to whether a person could have gone from the top of the fence and over the cliff face without touching the ivy? 40

A. It is possible to do that. The cliff face from the top of the fence extends out a distance of no more than 1.8 metres at any given point along that cliff area and it would be quite easy to fall and not hit or touch the ivy or the rocks on the way down, especially if you were in an intoxicated state. But for that to happen you would have ended up a lot further away from the cliff face than the 1.1 metres where Scott was lying. 45 50

Q. And that's based on your expertise?

A. That's based on the expertise and little bit of physics calculations. 55

Q. And with the ivy, when you examined the scene as in one of the photographs two leaves of ivy near the feet of the deceased, and can you explain that?

A. I didn't place any weight on that ivy in the fact that

W1479 303/97 ajh-L1

it had been raining, it had been very windy and you will get naturally ivy just you know leaves and that moving around the area and there was only two leaves. If Scott had gone over and gone through that ivy I would have expected there to be a significantly large number of leaves down the bottom. Even not just close to him, in the area of that machinery yard and there wasn't. 5

Q. And wasn't(?) inconsistent with the rest of the area in the, that he was found? 10

A. Well in, that would be right, yes.

Q. Is there anything further - I withdraw that. The blood on the back of the T-shirt, has that been retained? 15

A. The T-shirt has been retained for grouping purposes when and if we can get a cross-comparison sample.

Q. And that would be a cross-comparison with some other person other than Scott? 20

A. That's usually the case, yes.

Q. And that would normally be what would be referred to as the suspect? 25

A. Yes.

Q. And is there anything further that you believe that could be done to assist the Coroner in his inquiry today? 30

A. I think we've definitely really exhausted our means of inquiry in relation to the forensic side of this brief Sergeant, we've really put some effort into this one.

CORONER: Q. But your bottom line is you have little doubt this is a homicide?

A. From the moment I saw the position Scott was in your Worship it just didn't sit right with me. In a lot of cases we go to these scenes and the police give us information and we can immediately piece together, in this one it wasn't the case. The police didn't have the information to give us. But the position he was located, and the position which he could have come from just didn't gel and as such I got other forensic experts out to that scene which - I treated the scene as a homicide. 40

Q. And one of the factors which go towards a homicide of course are the, as you mention in your statement, the presence of blood stains at the back of his T-shirt? 45

A. Yes your Worship I can't explain how those blood stains would have got there based on the position that Scott was lying in. There's many suppositions of why they could have been there, one of those being that he'd been assaulted in another place, laid down in the back of a vehicle or in the back of a station wagon or something and been bleeding onto his back. But in the position he was laid down in and even given Doctor Dufrou's evidence that may well have moved I don't believe that he would have rolled onto his back. It's, the blood staining on the back of the T-shirt would have been the most crucial piece of forensic evidence that got me to treat this as a homicide, not a fall. 55

W1479 303/97 ajh-L1

<WITNESS RETIRED AND EXCUSED

<CARLTON GRAHAM CAMERON(10.40AM)
SWORN AND EXAMINED

PROTHERO: Q. Sergeant can you please give the Court your full name, spelling your surname, your rank and your station?

A. My full name is Carlton Graham Cameron - Cameron - Detective Senior Sergeant attached to the East Sydney Crime Scene Section.

Q. Sir you have prepared a three-page statement, is that correct?

A. Yes.

Q. That statement is true and correct?

A. Yes.

Q. And your signature appears at the bottom of each page?

A. Yes.

Q. And how long have you been performing crime scene duties?

A. Thirty years.

Q. And as part of those crime scene duties you've examined both suspicious deaths, homicides and deaths due to falls, is that correct?

A. Yes.

Q. And can you give an estimation as to how many scenes you would have examined?

A. No - hundreds.

Q. And you in fact examined the scene that day, is that correct?

A. Yes.

Q. And you examined the area above where the Deceased was positioned?

A. Yes.

Q. And as a result of your search were you able to determine whether you believed the Deceased had come from the area above where he was found?

A. I don't believe he came through or over the fence.

Q. And that's based on your experience and your examination of the fence?

A. Yes.

Q. And at the time that you examined the fence it had been tampered with by crime scene so that was the only damage to the fence?

A. That is correct.

CORONER: Q. To put the matter into perspective, you had a look at the scene on the day with Detective Senior Constable

W1479 303/97 ajh-L1

Van Leeuwen, is that correct?

A. No I went later in the day.

Q. Later in the day?

A. Yes.

5

Q. You also reviewed Detective Van Leeuwen's work at my request because of the lack of any other evidence didn't you?

A. Yes.

10

Q. And you have generated a statement because of that review?

A. Yes.

15

Q. And did you form an opinion as to how the Deceased sustained the injuries?

A. Not by a fall.

CORONER: Thanks Sergeant, thanks for doing that review for me.

20

<WITNESS RETIRED AND EXCUSED

<SHAWN WILLIAM KELLY(10.42AM)
SWORN AND EXAMINED

25

PROTHERO: Q. Sir is your full name Shawn William Kelly?

A. Yeap.

30

Q. Your first name is spelt Shawn?

A. That is correct.

Q. And your surname is spelt Kelly?

A. Yes.

35

Q. Do you reside at [REDACTED] Maroubra?

A. That is correct.

Q. And you're a registered nurse by occupation?

A. Yes.

40

Q. Sir did you make a six-page statement in relation to the death of Scott?

A. Yes.

45

Q. Is that a copy of your statement?

A. Yeap that's right.

Q. And that statement is true and correct?

A. Yeap.

50

Q. Sir when was the last time that you last saw Scott?

A. Out the front of the Orient Hotel, I think it was quarter to two.

55

Q. And at the time you saw him he was heavily affected by alcohol?

A. Yes he appeared that way.

~07/10/97

11 CAMERON
X (PROTHERO)RTD KELLY X (PROTHERO)

W1479 303/97 ajh-L1

Q. And you've been out with Scott numerous times before?
A. Yes.

Q. And you didn't think it was unusual for Scott not to go into the Orient Hotel? 5

A. Yeah I thought it was unusual. I, on that last meeting I told him to go in there, I told him that all the guys were in there and I would have expected him to go in there.

Q. At the time that you saw him was he with anybody else? 10
A. No.

Q. During the evening that you'd spent with him was, did he speak with anybody or make any arrangements with anybody that you know of? 15

A. Not other than the guys he initially went out with.

Q. And that's somebody--
A. That's a group of four of us. 20

Q. It was the circle of your friends?
A. Yes.

Q. And they're the people that were at the Orient Hotel?
A. That's, yeah that's right. 25

Q. And previous when you had been out with him, had he gone off with other persons that weren't friends of yours'?

A. In Sydney or? 30

CORONER: Q. Yes?

A. In Sydney? Not that I didn't know, I knew of them.

PROTHERO: Q. And normally it would be a prior arrangement or if you ran into them, would that be the case, that he might go with them? 35

A. It could be both. He may have made a prior arrangement in the past.

CORONER: Q. But you'd have been surprised, even if he was affected by alcohol, to see him go off with strangers? 40

A. Yeah, yeah, definitely.

PROTHERO: Q. And I take it on the evening he certainly wasn't looking at females or chatting up a female or anything like that? 45

A. Not, well not at the time, not when I saw him.

CORONER: Q. You were going to meet others when you last saw him? 50

A. Yeah I was, I left the Orient to meet my brother at two o'clock at the ANA(?) Hotel where he works.

Q. And you saw him walking across Argyle Street from the area of the police station towards the hotel, is that right? 55

A. Yes, yes that is correct.

Q. You spoke to him briefly and said, "Go inside."?

A. Mm.

W1479 303/97 ajh-L1

Q. And he said, "Righto."?

A. Yeap.

Q. He seemed, apart from being drunk, he seemed happy enough?

5

A. Yeap he seemed himself(?).

Q. And that's, your mind was on other things, and you left him at that point?

A. Yeap I continued down the street.

10

Q. Which way did you go?

A. I walked towards Circular Quay, straight down the street.

15

Q. And you didn't look back?

A. No.

PROTHERO: Q. And to your knowledge he'd never been exploring the Rocks, apart from going to the hotels in George Street?

20

A. No.

Q. And he would always catch a cab?

A. Yeah, yeah, if it was outside of walking distance yeah.

25

Q. And you would consider that going to the casino from the Rocks he would have caught a cab?

A. Yeah for sure.

30

Q. And he's unlikely to have just met somebody and said, have gone to the casino?

A. Mm, well not being from Sydney we didn't really know many people in Sydney and that would be--

35

CORONER: Q. Were there any firm plans about what you might be doing later on in the night or in the morning? Or was the usual thing--

A. No, well we, yeah, if we were in the Rocks we'd just keep going. It wouldn't be unusual for Scott to end up at the casino.

40

Q. And would he have ended up at the casino if there was nobody else going?

A. Maybe.

45

Q. So he would go to the casino by himself?

A. Well he might, yeah, I can't say for him but I know he'd been there by himself before.

50

Q. Now whilst he's under the influence of alcohol he wasn't the type of person to go and do some larrikin or prankster type of thing?

A. No, not when he's--

55

CORONER: Q. Or look for a fight?

A. Definitely not when he was by himself, he was not the sort of guy who would look for fights.

W1479 303/97 ajh-L1

Q. Anyway?
A. Yeah.

PROTHERO: Q. And at the time that you saw him he had no injuries to him? 5
A. No not that I saw.

Q. And at any times previous has he come back with injuries when he's been out? 10
A. Not that I have directly seen.

CORONER: Q. He's a fairly docile drunk?
A. A docile drunk? I don't know. I don't know what you mean by docile, does he-- 15

Q. Quiet?
A. I suppose so, I suppose so.

Q. But certainly he doesn't, he doesn't become-- 20
A. No.

Q. --aggravated?
A. No definitely not.

Q. Get aggravated? 25
A. No.

Q. Is there anything further you can suggest to help us with this matter? 30
A. No not really.

Q. Anything he said during the night to indicate what he was thinking of doing when he was mor sober? 35
A. No.

Q. Just a vague--
A. As far as I know, he was, yeah--

Q. --plan to go - the casino?
A. --just going out with us and where we ended up, we ended up. 40

CORONER: Mr Miller any questions?

<WITNESS RETIRED AND EXCUSED 45

<NATHAN TODD WHITE(11.02AM)
SWORN AND EXAMINED 50

PROTHERO: Q. Is your full name Nathan Todd White?
A. Yes it is.

Q. Is your surname spelt White?
A. Mm. 55

Q. And do you reside at [REDACTED] Willoughby?
A. No I've since moved in the last two months.

~07/10/97

14 KELLY X
(PROTHERO) RTD WHITE X (PROTHERO)

W1479 303/97 ajh-L1

Q. What's your new address?

A. [REDACTED].

Q. And what's your occupation?

A. I'm the licensee of a Liquorland store in..(not transcribable).. 5

Q. And you've made a six page statement in relation to the death of Scott Miller?

A. Yeap. 10

Q. That statement is true and correct?

A. Yeap.

Q. And your signature appears at the bottom of each page? 15

A. Mm.

Q. Nathan the last time you saw Scott was just prior to going to the, or going to the Orient Hotel, is that correct?

A. Yeah that's right. 20

Q. And as far as you're aware he made no other arrangements?

A. No, none at all. 25

Q. And when you saw him he exhibited no injuries?

A. No.

Q. And as far as you're aware he wasn't make arrangements to go and see anybody? 30

A. No.

Q. And you've been out with him when he's ended up at the casino, is that correct?

A. Yeap. 35

Q. And has he generally been with people?

A. Yeah, when I've been with Scott he has been--

Q. Has he gone from the Rocks to the casino that you know of? 40

A. Not that I'm sure of, I don't think so.

Q. But as far as you're aware he would always catch a taxi cab? 45

A. Yeah, yeah.

Q. And when he's been under the influence of alcohol to the extent that he was that night does he get aggressive at all?

A. No not unless provoked. 50

Q. And what would provoke him?

A. If we were out in a group or something you know and a guy was trying to pick him for a fight. Scott not one to sort of step down but he knows not, not in cities he knows not to just pick any old guy, you know how dangerous it can be. 55

W1479 303/97 ajh-L1

Q. And when he's by himself has he ever come back with injuries?

A. Not that I'm aware of, no.

Q. And was he the type of person that would have gone and climbed a fence and fallen down?

5

A. No not at all I don't think.

Q. As far as you're aware has he ever gone walking through the back of the Rocks previously?

10

A. No.

CORONER: Q. Now you were both refused alcohol at the Observer?

A. Yes.

15

Q. Can you give me an idea of what time that was?

A. I'm not positive but from what Shawn says and he had to meet his friend at quarter to, it would have been about, between probably about quarter past one, one thirty.

20

Q. So then you went down to the Orient?

A. Yes.

Q. Did you see Shawn?

25

A. Yeap.

Q. But you didn't see Scott at that stage - again?

A. No.

30

Q. These girls you didn't, they were strangers?

A. Yeah strangers, yeah--

Q. And to you they looked like ordinary girls just--

A. Yeah just waiting to get at--

35

Q. --on a night out?

A. Yeah to the pub.

Q. And he was chatting them up, trying to?

40

A. Just, yeah, talking, he wasn't, I wouldn't, I actually wasn't with him at the time, I was a couple of metres ahead of him. I don't think there was too much to that situation.

45

Q. No, I'm not suggesting there was.

PROTHERO: Q. Was he likely to have gone off with a stranger, whether it be male or female?

A. No.

50

CORONER: Q. But he was pretty well alive when you last saw him?

A. Yeah, yeah, we were having a pretty good time, yeah.

55

Q. But he could talk and make conversation in some sort of a way?

A. Yeah like we were both pretty, pretty drunk but we were having a good time.

W1479 303/97 ajh-L1

CORONER: Mr Miller?

<WITNESS RETIRED AND EXCUSED

<JADE LYNETTE CARTER(11.04AM)
SWORN AND EXAMINED

5

PROTHERO: Q. Your evidence is pretty important because you're the last one to see him. And I can say at the outset that I am satisfied that you did see him, your description was perfect and you had a good look at him, didn't you, because you were a little bit apprehensive--

10

A. I was--

Q. --at that hour of the night.

15

A. --walking home by myself so it was really--

Q. Yes. And you come from Millers Point - lived there most of your life?

20

A. My whole life, yeah.

Q. In fact where he was found is at the end of your street?

A. Yes.

Q. And there's a fence and a reserve and--

25

A. And the bridge.

PROTHERO: Q. Ma'am is your full name Jade Lynette Carter?

A. Yes.

30

Q. And do you still reside at ■ Merriman Street, Millers Point?

A. Yes.

Q. And your occupation?

35

A. Unemployed as of last night so I don't have an occupation at the moment.

Q. And you made a three page statement in relation to the death of Scott Miller?

40

A. Yes.

Q. That statement is true and correct?

A. Yeah to the best of my knowledge, yeah.

45

Q. And your signature appears at the bottom of each page?

A. Yes.

Q. And to your knowledge you were shown a picture of Scott Miller?

50

A. Yes I was.

Q. And on the evening that you saw him, did you see anybody else near him?

55

A. No I, there's nothing up there, there's no reason for people to go up there unless you've parked a car from a night out, it's a barren area and you know everything stops at George Street, there's nothing beyond that except houses, there's no pubs open at that time, I mean, nine o'clock, ten

W1479 303/97 ajh-L1

o'clock and no-one's there so I didn't see anyone else go into cars or anything. If that were him that was the only person I saw up on Observatory Hill.

CORONER: Q. So you were walking down Watson Road-- 5

A. From Observatory Hill, I'd been up there with a friend.

Q. Right and you'd been, you'd come around that bend half way down?

A. Coming down Watson, yeah down the road. 10

Q. Then to your left?

A. Yeah.

Q. Where, and there are, and then there are a bit further down towards Argyle Street-- 15

A. Yeah.

Q. --there are some stairs off to your right?

A. There's two sets of stairs, there's one that come from under the Harbour Bridge and then there's the ones that go down to-- 20

Q. Argyle Street.

A. Argyle Cove(?). 25

Q. So when you last, where were you when you noticed Scott behind you?

A. I was, I think I was just past the stairs and I'd heard someone and you know, walking home at two o'clock in the morning I'd turned around and I'd taken a good look at the person. 30

Q. Which stairs, the second set?

A. The, yeah. 35

Q. Descend into Argyle Street?

A. The one that go down to Argyle, yeah.

Q. So the person behind you was himself past the stairs that go under the Harbour Bridge? 40

A. Yeah. We were well and truly both travelling down that hill.

Q. And then you eventually looked back again? 45

A. Yeah.

Q. And you couldn't see him?

A. I hadn't seen him then. 50

Q. And you assumed, reasonably, that he'd gone down those, that second set of stairs into Argyle Street?

A. Quite possibly, there's a lot of leaves there, it's not tended to very often, I mean I thought maybe someone was going, maybe going to the bathroom or something, it's not uncommon, there's no facilities around there so, but he may have well gone down those stairs and I didn't see anyone else or him travelling down towards my street and I always have a good look at the Palisade and have a look around 55

W1479 303/97 ajh-K2

because it's.

Q. Was the Palisade closed at that time of night?

A. Yes.

5

PROTHERO: Q. And when you saw him did he appear to be affected by alcohol?

A. Quite possibly, it was just, he was in no rush to go anywhere so I mean, I mean if you're walking along and you're cruising along there in no particular case, in a rush then, I mean you could be taken as being sober or being drunk really I mean he wasn't staggering, he wasn't abusive and he wasn't offensive or intimidating so he didn't, I didn't think you know that he was drunk but I couldn't say either way.

10

15

Q. And he had no injuries whatsoever?

A. No that I could see.

Q. And you were in a position to be able to see, is it well lit?

20

A. Well yeah and it's, the person I saw was wearing white and I think if someone was injured enough I would have gone up and said, 'Look are you all right?' but there was no cause for alarm.

25

CORONER: Q. Tell me about that area, that reserve, that small reserve at the end of your street. There's houses on one side, a row of houses and a factory on the other or an old warehouse on--

30

A. Basically these are the houses here, you've got a little drop and the reserve and then another drop to the wharf, you've also got to go across a bridge to get there which is quite visible, you know you're going across a bridge.

35

Q. Is there ever much trouble in that reserve at night?

A. No.

Q. It's pretty quiet?

A. No - on a weekend(?)--

40

Q. It's really out of the way isn't it?

A. It's, you've got to know it's there and I, in my personal opinion which may not tend any weight at all but I have lived there for a long time and I think if someone were going to jump they'd go off the bridge, I mean there's like a thirty feet drop under that bridge and you would think, 'Hey look, well look I'll jump here' and why you'd go to a reserve where there's a fence, there's barbed wire there you know.

45

50

Q. Yes that's reasonable.

A. It seemed fairly remote. And you know we have a lot of big drinking sessions in the Rocks where out-of-towners are there--

55

Q. Did you go home to bed that night?

A. Yeah.

W1479 303/97 ajh-K2

Q. And you didn't hear anything at all?

A. No, nothing--

Q. Within the next half hour?

A. No cars, no, nothing. 5

Q. Can you hear noises from the reserve area from your place?

A. There's no noise to come from there, the, I don't know whether the wharves were going at night because quite loud noises come from the wharves. We're immune to it because we've-- 10

Q. But if you hear people making a noise in the reserve--

A. Yeah. 15

Q. --would you hear it from your place?

A. Yeah--

Q. It's really quite close isn't it? 20

A. It's quiet and you, it echoes a lot off the wharf too.

PROTHERO: Q. Do you find people going to the wharf who work there or on ships going along that area?

A. Of what, the park or my street? 25

Q. More, not going to the park--

A. My street's a dead-end so no-one--

Q. But would they normally cross that bridge and go down to-- 30

A. No there's no, there's no access from there.

Q. So you don't have any traffic from people going to the wharf? 35

A. No.

Q. Would you be used to hearing people at the Palisade Hotel and fights et cetera or--

A. No it's a local, there's you know the same seven or eight people every day and maybe some people from the record company which is the converted building which is right next to where this cliff is. 40

CORONER: Q. Yes on the left-- 45

A. On the left-hand side yeah.

Q. --as you walk into the Reserve?

A. Yeah maybe have them go for a drink afterwards but I mean you've got to know the pubs there to go there. 50

Q. Did you see anyone else at all after you last saw Scott?

A. No, no-one.

Q. You didn't hear anyone else either? 55

A. Didn't hear anyone, didn't see any cars, nothing that stood out.

CORONER: Have you any questions Mr Miller?

W1479 303/97 ajh-K2

<WITNESS RETIRED AND EXCUSED

<JAMES GOULD(11.10AM)
SWORN AND EXAMINED

PROTHERO: Q. Sir can you please tell the Court your full name?

A. Sorry?

Q. Can you tell the Court your full name?

A. James Gould.

Q. And your surname is spelt Gould?

A. Yes.

Q. Do you reside at [REDACTED]?

A. Yes.

Q. And what's your occupation?

A. Plant mechanic.

Q. And you have prepared a three-page statement in relation to the death of Scott Miller?

A. Yes.

Q. That statement is true and correct?

A. Yes.

Q. And your signature appears at the bottom of each page?

A. Yes.

Q. And sir at the time that you saw the body of Scott Miller was that yard area locked or not?

A. It's never locked it's hasn't, it's inside the actual wharf but it can't be locked from the wharf, from the road it's locked but from the wharf, no.

Q. And from the wharf area you have to go in past open gates?

A. Yes you have to go through the check-points and then you can go in there.

Q. And from your experience when you go past these check-points are you stopped?

A. Sometimes yes but sometimes no but you're always looked at or if they don't know you're usually questioned.

CORONER: Q. Do you work night-shift?

A. Sometimes. We've worked shift-work so.

Q. Is it not quite as strict in the early hours of the morning the check-point?

A. That's hard to say, I would say it's pretty much the same all the time. If they know you they wave you through.

Q. What if you're off a ship and going back to a ship, that sort of thing?

A. I couldn't really say.

W1479 303/97 ajh-K2

Q. You don't know what their procedure is with--
A. No I--

Q. --people like crew of ships and so forth?
A. No I don't know. 5

Q. But I imagine if you really wanted to get in there you could probably manage it or wanted to get someone in there you could probably manage it?
A. Maybe, yeah maybe, it's possible. 10

PROTHERO: Q. Would a vehicle be able to travel in there without being checked?
A. Possible, I couldn't say yes or not but possibly. 15

Q. Perhaps two perhaps would be able to go in unchecked in the evening?
A. Through the actual gate at the wharf is what you're saying? 20

Q. Well through one of the openings at the wharf anyway?
A. Well there's a watchman on the opening. I don't know if they stop everyone or not. I know they don't stop me because they-- 25

CORONER: Q. They know you?
A. That's right.

Q. And is it your understanding there's a watchman on 24 hours a day?
A. Yes. 30

CORONER: Mr Miller?

Q. How many people roughly would be working that graveyard shift from midnight, when's the night shift? What time? What time of the--
A. Ten o'clock to five thirty. And depending on ships that are in at the time it's hard to say. 40

Q. So it could be a lot of people, it could be a few?
A. That's right it would be you know up to thirty upwards, it could only be ten you know--

Q. Yes and it not only depends on the number of ships that are in but it depends at what stage if they are loading or unloading those ships.
A. That's right and what sort of ships and. 45

Q. And what size ships. So it's a range from something like thirty to ten if there's a ship in or. 50

<WITNESS RETIRED AND EXCUSED

PROTHERO: Sir I note that Paul Reilly the ambulance officer was to be called as a witness. I have called his name in court and I've just had the detective go outside and call his name-- 55

W1479 303/97 ajh-K2

CORONER: I don't think it takes it any further.

PROTHERO: No neither do I sir. No, Mr Miller agrees.
That's the evidence sir.

5

CORONER: I think there are some matters now that the police are looking at further. I don't expect any magic in that but it's, in view of the finding I am going to bring in I think it's important that they do go as far as they can with the employees of Patrick Stevedore. But I have sufficient evidence before me to bring in a finding as to how he died but not as to the precise manner of his death or who was involved in his death, it's what we call an "open finding". It's unfortunate. This whole case is unfortunate because the only evidence I really have is the forensic evidence which is in two parts, the evidence of Doctor Duflou which really does tie in with the crime scene evidence of Detective Constable Van Leeuwen and Detective Senior Sergeant Cameron.

10

15

20

But very briefly - Scott resided at Orange prior to his death and he moved to Sydney, as I understand it, to commence university. The issues in this case for me are twofold - first of all whether, I have got to be satisfied as to whether or not this death was a homicide and if so who might have committed it. I have looked carefully at the brief, I can answer the first question but not the second. The case officer, Sergeant Del Vecchio, is not here today and I have had quite regular contact with Scott's father. We have also been in close contact with Detective Senior Constable Van Leeuwen and the officer-in-charge of the case Detective Senior Constable Lane. We have visited the location where Scott's body was found. As I say because of the lack of other evidence it has been most important to get to first base, that is to determine from this forensic evidence I have whether Scott's death was a homicide or an accident or indeed a suicide. To this end I, as I say, I arranged for a review of Detective Senior Constable Van Leeuwen's evidence and that was done by Detective Senior Sergeant Cameron who has had enormous experience in matters relating to physical evidence or crime scene as we call it.

25

30

35

40

I also arranged for a review of Doctor Duflou's work to be done by Professor Hilton. He is out of the country at the moment but he has had a look at it and he can take Doctor Duflou's work no further.

45

Very briefly, Scott had a night out with his friends on the night of the Gay Mardi Gras, 1 March. He was last seen by his friend, Shawn Kelly, near the Orient Hotel at about half past one or quarter to two, he was pretty drunk. He was later seen by Jade Carter who is a local and knows the area very well, as she was walking home from the area of Sydney Observatory. She gave an excellent description of Scott and the clothes he was wearing. Mr Kelly estimates as I say that he saw Scott at about 1.30 to quarter to two on 2 March and Jade believed she saw him at about quarter past two or ten past two.

50

55

W1479 303/97 ajh-K2

He was found at the base of a cliff in the compound of Patrick Stevedore, gate five, wharf four, Darling Harbour, and he was found on the 3 March, the Monday. He was found on asphalt at the base of that cliff.

5

Detective Lane the investigator first felt that he'd fallen from the cliff. I think he concedes, he certainly conceded to me when I spoke to him that there are a number of factors that mitigate against that. Firstly at the top of the cliff is a hire wire fence. Secondly Scott was very drunk with a blood alcohol level of 0.22. Thirdly, crime scene officers very, very carefully examined the ledge above the cliff which was covered in an ivy type of plant. They found absolutely no signs of footprint disturbance in that ivy. They also found no broken stalks or anything whilst that. Whilst Detective Van Leeuwen says that he may have jumped in effect from the fence straight over he would have expected him to have been a further distance out from the base of the cliff than he was. Fourthly Scott's body was in effect laid out straight which was somewhat unusual in a fall situation. Normally bodies are more cramped up, contorted. Fifthly, his injuries I feel and I think Constable Van Leeuwen and Doctor Duflou feel are in the main far more consistent with an assault than injuries sustained in a fall. You will recall Doctor Duflou's evidence for example relating to the abdominal injuries and facial injuries.

10

15

20

25

Now Doctor Duflou of course still believes could possibly have caused the death or a push. He feels, quite clearly, that that is less likely than an assault, either there or an assault elsewhere and he has been placed there either dead or alive. It is unfortunate there is no further evidence. A canvass has been most of most of the staff of Patricks and the investigators will concede after my finding that they really have to go through everyone who was there that night simply to make sure that no-one saw him. Because the mystery in this case is how did he get into the compound if there is a night watchman on duty? Maybe the night watchman was off duty or had gone away for minutes, who knows? But that's not clear. The whole purpose of the night watchman or gatekeeper is to stop unauthorised people going into that area. But that evidence or those inquiries will not barr me bringing in a finding today and as my finding will be that of a homicide the matter will remain open for all time. It is imperative that the staff on duty be interviewed carefully even, as I say, to negate the possibility that someone saw him.

30

35

40

45

50

This is the type of matter where investigators may again be helped by a programme like, "Australia's Most Wanted" or a press article - as usual in these matters the press are not here, they turn up for sensational matters but they do not bother with common garden-variety murders but to the family of Scott Miller this is an horrific event. It may be that the press or the electronic media may be able to assist further if we can get them interested.

55

W1479 303/97 ajh-K2

I HAVE NO EVIDENCE AS JUST HOW SCOTT CAME TO BE AT THE PLACE HE WAS FOUND. I ACCORDINGLY FIND THAT SCOTT STUART MILLER DIED ON 2 MARCH 1997 AT, AND I MUST SAY AT SYDNEY, I CANNOT PUT IT ANY HIGHER THAN THAT, OF MULTIPLE INJURIES INFLICTED BY A PERSON OR PERSONS UNKNOWN. AS TO THE PERSON OR PERSON WHO INFLICTED THE INJURIES AND THE MANNER IN WHICH SUCH INJURIES WERE INFLICTED THE EVIDENCE EDUCED DOES NOT ENABLE ME TO - OR THE PRECISE MANNER IN WHICH SUCH INJURIES WERE INFLICTED, THE EVIDENCE EDUCED DOES NOT ENABLE ME TO SAY.

5

10

I thank everyone for their attendance today. To Mr and Mrs Miller and Scott's family I, you have my sympathies. I hope the day I become inured to homicide I will have the presence of mind to give the game away.

15

20

oOo