



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 46 /19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Joseph Wellard HIGGS** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 5 September 2019**, find the death of **Joseph Wellard HIGGS** has been established beyond all reasonable doubt and the identity of the deceased person was **Joseph Wellard HIGGS** and that death occurred on a date **unknown between 20 and 28 May 1986**, likely somewhere in an area around **Davyhurst, West of Goongarrie Townsite**, in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

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INTRODUCTION

On 25 May 1986 Lennard Johnson (Junior) of Goongarrie Homestead, south of Menzies, located a white 1974 Mazda Utility Motor Vehicle he knew to belong to Joseph Wellard Higgs (Mr Higgs) on an unsealed road running through the Goongarrie Station towards the abandoned town of Davyhurst. Mr Higgs was not with his motor vehicle. Mr Johnson (Senior) of Goongarrie Station advised the Menzies Police of the location of the utility through the Golden Fleece Roadhouse. Police commenced a search for Mr Higgs, but he was never seen again.

The inquest into the disappearance of Mr Higgs was held in Perth. The documentary evidence comprised the brief of evidence, Exhibit 1(1-19) and the Public Notice of inquest dated 16 August 2019. Oral evidence was heard from the now retired Sergeant Foley (Mr Foley) and the current Missing Person (MP) report writer, Senior Constable Deider Mayo.

Long Term Missing Person's Project (LTMP)

In 2017 it was confirmed there were a considerable number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of these had occurred at a time when there was limited or no jurisdiction for a coroner to investigate a suspected death.

Section 23(1) of the Coroners Act 1996 WA (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the Births, Deaths and Marriages Registration Act 1998.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was purposed for a project to clear the backlog of LTMP

files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas for Western Australia such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate, especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred in places out of the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be heard in Perth for the purposes of hearing any relevant evidence.

In the case of Mr Higgs the only relevant witnesses were best placed to give their evidence in Perth.

It was unclear from the papers whether Mr Higgs' property had been subject to a grant of probate, although notice of claims against the estate were advertised in the Government Gazette Notices of 21 August 1987.¹ He had a will dated in March 1981.² However, enquiries with the Registrar of Births Deaths and Marriages revealed the Registrar General had no record of the death of Mr Higgs and no death certificate had been issued. It was decided in these cases, the matter would be dealt with by way of a brief hearing to allow the coroner to provide the Registrar

¹ Exhibit 1 Tab 16

² Exhibit 1 Tab 9

General with the particulars needed to register the death as a matter of public interest (s 25(1)(d)).

The anticipated outcome was that by June 2020 the majority of reported LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSC usual business.

THE DECEASED

Mr Higgs is recorded as being born on 30 July 1904. There is no information about Mr Higgs early life, however, he was known to live alone in a cottage at Goongarrie following the death of his wife in 1980 when he was 76 years of age. He had five children all of whom were recorded as residing in the eastern states of Australia,³ and his next of kin for the purposes of his disappearance were his daughter, Lola Leibech, and a family friend, Pastor Noel Blyth of Boulder.⁴

The papers at inquest revealed a letter dated 21 June 1993 from a Mr Ron Sterland, Oxford Street, Woollahra, New South Wales, to the attention of the OIC of the Menzies Police. In the letter Mr Sterland stated “*a section of the family lack any details*” of the disappearance, but failed to outline his relationship to the family of Mr Higgs. It was suggested he contact Ms Leibech for information.⁵

Mr Higgs was a retired prospector with a gold mining lease on 70 acres of land very close to his cottage. His nearest neighbour was Frank Capelli (Mr Capelli) in another cottage about 300 metres south of Mr Higgs, with both cottages being on the main sealed Kalgoorlie Menzies Highway, south of Menzies. Mr Higgs’ mining lease was on the opposite side of the highway.

The missing person report (MPR)⁶ compiled by Sergeant Foley, then of Menzies Police Station, in August 1986 indicated Mr Higgs had been approached unsuccessfully by mining companies for access to his lease. However, in late March 1986 Julia Mines had obtained drilling rights under a contract to buy arrangement for two years. Enquiries with Julia Mines did not reveal any further

³ Exhibit 1, tab 9

⁴ Exhibit 1, tab 4

⁵ Exhibit 1, tab 16

⁶ Exhibit 1, tab 15

information as to his possible whereabouts, or reason for being in the Davyhurst area.⁷

Mr Higgs was known to have a hearing defect, he had difficulty walking due to past surgery on his right hip and a heart condition assisted by a pace maker. In addition there were concerns in the months leading up to his disappearance that his mind was beginning to wander and that he was no longer as oriented in time as he had been previously.

Mr Higgs had at one point gone into Menzies and asked Mr Foley where were the dentist and the mining registrar. He had to be informed neither were now in Menzies and his response was “they used to be”. In addition, in November 1985 Mr Higgs had driven 42 kilometres north of Menzies and informed the wife of the station owner of Jeedamya Station that he was on his way to Sydney. Due to this obviously being a wrong direction he was taken into Kalgoorlie Regional Hospital and the police impounded his vehicle until he was again well.⁸

Mr Higgs was described as being approximately 5 ft 4 inches tall, with thin grey hair, blue eyes, a thin build with a pronounced bend on his nose. He had last been seen in Menzies wearing a light colour short sleeved shirt, grey woollen cardigan, denim jeans and a dark grey hat fitted with a cream band.⁹

Mr Higgs received a pension and usually carried cash, however, towards the time of his disappearance he appeared to have stopped carrying cash and started to use his cheque book. His pension was paid directly into his bank account and a check of those transactions indicated Mr Higgs had last used his cheque book on 17 May 1986 at the Menzies Roadhouse when he purchased petrol, presumably for his Mazda Utility. That was the last transaction drawing money from Mr Higgs’ account before his disappearance.

As well as purchasing petrol at the Menzies Roadhouse on 17 May 1986, bread had been delivered to his cottage on that date and left on the front verandah.

⁷ Exhibit 1, tab 15

⁸ Exhibit 1, tab 15

⁹ Exhibit 1, tab 15

On Monday 19 May 1986 Mr Higgs had been seen by Sister Finlayson at approximately 5.50 pm driving towards Kalgoorlie; and on 20 May 1986 Mr Higgs had been into the Mines Department in Kalgoorlie where he spoke to Mr Ross Collins at approximately 3.20 pm. This was the last confirmed sighting of Mr Higgs.

DISAPPEARANCE

On Wednesday 21st May 1986 Mr Robinson left mail at Mr Higgs' cottage at 7.00 am and observed Mr Higgs' Mazda utility at the cottage. A newspaper was also delivered on that date. Following that Wednesday the Mazda utility was noted not to be at the cottage, and it was not reported as being seen again until discovered by Mr Johnson Junior on the unsealed road east of Davyhurst on 25 May 1986. The location of the Mazda utility was advised to police at 7.40 pm and an investigation commenced into the disappearance of Mr Higgs because he was not with his Mazda utility, although there were a number of footprints in the vicinity of the utility.

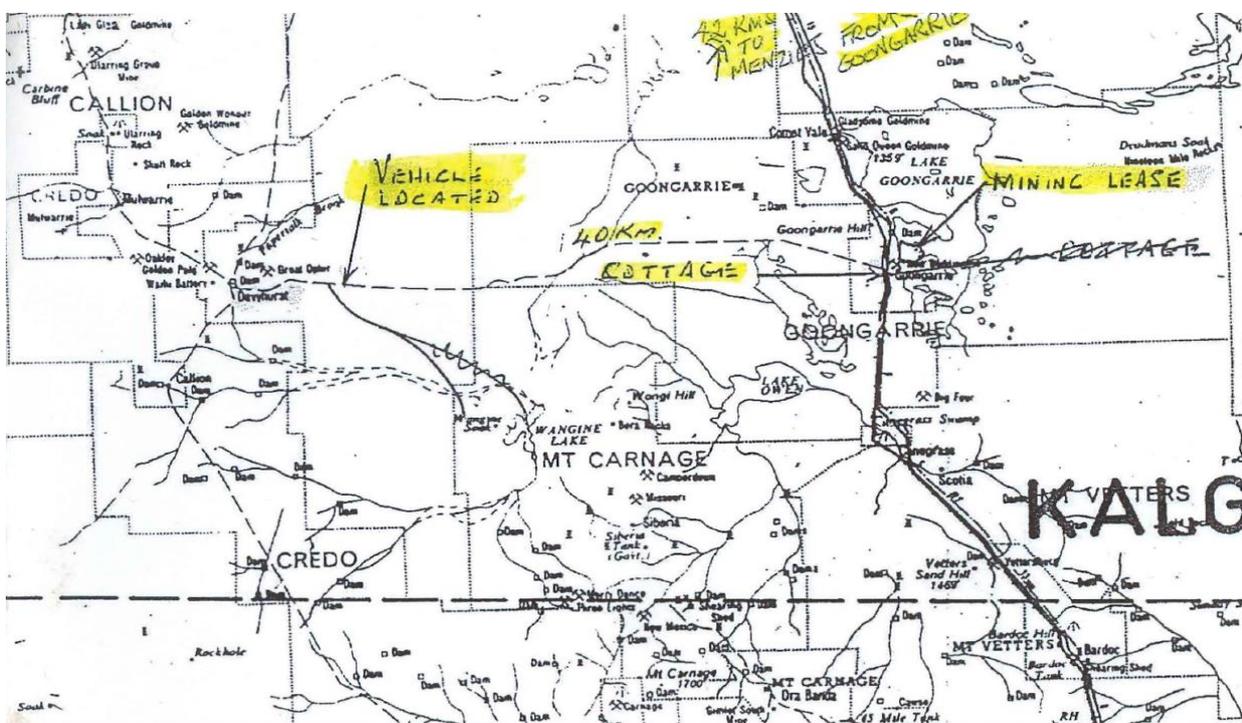
As a result of the notification from Mr Johnson Senior, Sergeant Foley sought the assistance of an Aboriginal assistant, Wally Ellis, and left Menzies for Goongarrie. They arrived at Mr Higgs' cottage at 9.40 am, but were unable to locate Mr Higgs. Mr Foley advised that the two newspapers, the Kalgoorlie Miner and the West Australian, both dated 21 May 1986, were found at the front door still rolled as they usually were at delivery. In addition, two loaves of cut wholemeal bread dated 17 May 1986 were on the front door step and enquiries revealed the bread had been delivered on the morning of the 17 May 1986. Mr Higgs' mail bag was untouched on the peg at the front door. This was despite Mr Higgs having been seen on both the 19 and 20 May 1986 and his vehicle noted to be at the cottage at the time of delivery of the newspapers in the early morning of 21 May 1986.¹⁰

It would appear that Mr Higgs had not registered or dealt with the delivered items assuming he had been home following the delivery of bread on the 17 and newspapers on the 21. This could be an indication his mind was in a different timeframe.

¹⁰ Exhibit 1 Tab 15 and t. 5.9.19, pgs 5-6, 16-19

After confirming there was no trace of Mr Higgs at his home address Sergeant Foley and Mr Ellis travelled to the Goongarrie homestead, 50 kilometres from the cottage in a westerly direction, where they were briefed by Mr Johnson Senior as to the information they had and then taken by Mr Johnson Junior another 25 kilometres west to the apparently abandoned Mazda utility. They arrived at the scene of the abandoned utility at approximately 11.00 am on Monday 26 May 1986 and noted the utility was facing east towards Goongarrie on the main vehicle track. The vehicle was locked and the keys removed from the ignition. The water tank carried in the vehicle was empty and there was nothing to indicate where Mr Higgs may be.

The area in which the utility was located was thick vegetation of tall Mulga and Tea Trees with smaller spinifex bushes. The dry undergrowth made movement difficult unless remaining on the track and it was noted that although the weather at the time was temperate the nights were very cold. There had been a recent shower of rain, however, the ground was generally very dry and there were no known water points within 10 kilometres of the abandoned vehicle. The main Davyhurst water supply dam was dry and there was no other water known in the area.



Map depicting where vehicle located and other key locations¹¹

¹¹ Exhibit 1 Tab 8

INVESTIGATION

While vegetation made searching the area difficult it did appear to have restricted movement, as revealed by footprints, to the track. Footprints were located moving both away from, and back towards, the utility and Mr Foley stated in court that it was his belief Mr Higgs, if those were his footprints, had moved away from the vehicle then back towards the vehicle and then again away from the vehicle.¹² The intermittent footprints were traced until a point approximately 2 kilometres east of the vehicle where the tracks stopped. Although the bush areas on both sides of the track were searched extensively nothing was located to indicate what had happened and no tracks were found in the bush areas.

Examination of the motor vehicle indicated it had a flat battery and an electrical fault in the porcelain connector. A temporary repair was effected and a spare key used to start the car which over a 5 kilometre distance constantly stalled until all efforts to drive it were abandoned and the vehicle towed back to Goongarrie. Police spoke to Mr Higgs' neighbour, Mr Copelli, who advised that he had not seen Mr Higgs for approximately a week. The police at that point returned to Menzies without having located any indication of what may have happened to Mr Higgs.

Police in Kalgoorlie were contacted and a request made for police communications to issue a general broadcast while Sergeant Foley contacted Mr Higgs' daughter in New South Wales. Local businesses and mining activities were contacted and provided information with respect to Mr Higgs' disappearance, with a request they keep a look-out for him, and Kalgoorlie Regional Hospital indicated no unknown person had been treated at the hospital in the previous week.

On Tuesday 27 May 1986 Sergeant Foley organised a search group including local Aboriginal trackers to form a search party. They left Menzies and travelled to Goongarrie to again search the cottage and the vicinity without success.

The group then travelled to the abandoned utility and divided into teams to follow the tracks and search the area. The search was unsuccessful in locating any trace of Mr Higgs or movement in the area. Similarly the Davyhurst area was searched

¹² t. 5.9.19 p. 14, 18

without Mr Higgs being located or water found. Persons living in those areas or travelling through the area were asked whether they had seen Mr Higgs, all without result. A helicopter search was organised on the afternoon of 27 May 1986 and searched an area with a radius of 2 kilometres from the Mazda utility in a zig-zag formation without Mr Higgs or any other person being sighted. A full State Emergency Services search was then organised for the 28 May 1986.

One of the search teams located an additional set of footprints 3 kilometres west of the Mazda utility at the Ora Banda turn-off. The search base camp was moved to that area and a new search pattern effected. The Aboriginal tracker who checked the search markers discounted any connection of the new findings to Mr Higgs. No footprints were found in areas described as generally good for footprints and by the late afternoon it was agreed that all possible areas which could be searched had been covered. The search teams were debriefed and returned to their home sites. In the evening of 28 May 1986 Mr Higgs' daughter was telephoned and advised that her father could not be located.

Enquiries over the next few days failed to find any further information relating to Mr Higgs' movements other than those reported for the period up to the 21 May 1986. Enquiries were made via travel agents as to possible bookings out of the area, but none were found and no transactions removing money from any of his bank accounts were located.¹³

Sergeant Foley submitted a missing person report to Superintendent Coyle at the Kalgoorlie Police District Office dated 7 August 1986 outlining the steps taken with regard to the disappearance of Mr Higgs and the conclusions he had reached.

Sergeant Foley referred to the lack of footprints discovered by trackers leading off the track where the abandoned Mazda utility was located and stated that could probably be attributed to Mr Higgs having left the track at a point where footprints would not be left in the environment, or his having been driven from the scene in another vehicle. This was a fairly isolated area and it is likely that had Mr Higgs

¹³ Exhibit 1 Tab 15

been located on that road whoever found him would have been a local, or certainly the fact of his discovery would have been known to locals.¹⁴

Sergeant Foley thought it more likely that Mr Higgs had left the track in an area which did not leave footprints in the firm ground. Although Mr Higgs was frail with limited mobility Sergeant Foley estimated he could cover a considerable distance in four to five days, although walking slowly. The difficulty would be the lack of water. The water tank on the back of the Mazda utility was empty and the searchers had found no accessible water within ten kilometres.

Menzies police continued to return to the area looking for any signs of Mr Higgs however none were ever located or reported and Mr Higgs' family assumed he was no longer alive and arrangements were made to dispose of his property. The fact of Mr Higgs disappearance was widely known in the area, both to locals who had been involved in the search and the media outlets. Despite his failing memory it is likely that had he been moving about in the area for any period of time he would have left some trace.

Sergeant Foley concluded that the nature of the environment in the vicinity of Goongarrie was such that the *"thick undergrowth could easily hide a body from the view of searches"*.¹⁵

Later enquiries conducted by the Missing Person Bureau through June 1993 did not disclose any information with respect to the whereabouts of Mr Higgs and those family who were known to the police have not reported any contact. Indeed queries from family members who felt they had not been keep informed of the events wrote to police asking for further information about his disappearance. It would seem there are no further investigations that can be conducted and enquiries with Births, Deaths and Marriages indicate his death has never been registered.

¹⁴ Exhibit 1, Tab 12

¹⁵ Exhibit 1 Tab 15

HAS DEATH BEEN ESTABLISHED?

Mr Higgs disappeared in 1986 aged 81 years. He was noted to have difficulty with his mobility and certainly had memory lapses which caused him to believe he was living in an earlier time. While familiar with his local environs he seems to have suffered lapses of orientation to time and place.

Had Mr Higgs still been alive today he would have 115. I am satisfied beyond a reasonable doubt he is not still alive and that he did not reach 115 years of age. His lack of physical ability at the time he disappeared would almost certainly ensure he came to grief when he wandered too far from his vehicle without food or water.

Further, I am satisfied that Mr Higgs died within the timeframe surrounding his noted disappearance. I am satisfied that for whatever reason Mr Higgs had undertaken a trip to the area of Davyhurst and was involved in negotiations involving his mining lease, although no information about that has been disclosed to the police or this office. I note Mr Higgs' immediate family who were kept notified of events at the time do not appear to have recorded any concerns with the police over Mr Higgs' mining lease.¹⁶

Consequently, I am not of the view that Mr Higgs was the subject of foul play with respect to his mining lease. I suspect it is far more likely Mr Higgs undertook some endeavour, whether in the correct orientation for time and place or not, and his vehicle suffered a mechanical fault which caused it to stall. Mr Foley indicated in court there was some evidence around the vehicle which indicated Mr Higgs had attempted to restart the vehicle however it had become bogged.¹⁷

There was also some speculation that while Mr Higgs' short-term memory appears to have affected his behaviour around the time of his disappearance, the indications are his long-term memory was still effective. He had been a prospector in the area for many years and the possibility he decided that, in preference to

¹⁶ Exhibit 1 Tabs 9, 19

¹⁷ Transcript 5 September 2019 page 18

staying with his motor vehicle, he would be better served by cutting across country to his cottage cannot be discounted.¹⁸

The most likely explanation for Mr Higgs' demise is that he was not orientated to time, although he was orientated to place, it being an area with which he was familiar. On finding himself with an unusable car he decided to set off back to his home or some other location in the most direct route forgetting his lack of mobility, frailty and general ill health. He became dehydrated, disorientated to time and place and wandered aimlessly before eventually succumbing to the environment. The fact he would by now have been either wandering aimlessly or delusional would make it extremely unlikely his remains would be located. Mr Foley indicated the area was not one used greatly by prospectors.¹⁹

The fact of Mr Higgs' age and physical frailty at the time of his disappearance in such inhospitable country, without water and sustenance, satisfy me beyond a reasonable doubt Mr Higgs is deceased.

On the prior occasion he had been found wandering and returned to his community he had been attempting to get to Sydney where it is known he had family. His state of mind was probably such that had he been alive, he would have attempted to recontact his family, and would have come to the attention of the authorities due to his short-term memory loss and behaviour.

In all the circumstances I am satisfied beyond a reasonable doubt Mr Higgs is deceased and died in the timeframe around his disappearance.

MANNER AND CAUSE OF DEATH

I am unable to determine the manner of Mr Higgs' death or the cause of his death. It is perfectly feasible that, in the circumstances in which he found himself, he had a medical emergency other than dehydration and collapsed, which caused his demise. Consequently I am unable to determine whether he died of natural causes or an accident.

¹⁸ Transcript 5 September 2019 page 14

¹⁹ Transcript 5 September 2019 page 21

However I am satisfied he was deceased somewhere in the vicinity of Davyhurst or between Davyhurst and Goongarrie in a timeframe between the 20 and 28 May 1986.

I make an Open Finding as to the death of Mr Higgs.

CONCLUSION

I am satisfied Mr Higgs was able to survive living on his own for as long as he had with a failing short-term memory due to the fact he had lived in the area for a long time and was familiar with his surroundings. People in the community were aware of his difficulties and on the occasions he was located, obviously erroneously orientated, he was assisted by the local community. On this occasion unfortunately no-one found him.

It would seem he had transactions relating to his mining lease in the previous months and consequently may well have believed he was back in a more active time of his life with respect to his prospecting occupation.

I am satisfied that due to his failing health Mr Higgs would not have survived for very long once he was no longer able to appropriately look after himself whilst traversing the terrain between his vehicle and his home.

Mr Higgs appears to have had a full life and certainly was resistant to any attempts to move him from his comfort-zone despite his failing memory. It would appear he died conducting activities he had always successfully achieved in his young years.

Coroner

November 2019