



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref 24/20

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Anthony JOHNSTONE** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 17 March 2020 and 13 May 2020, find the death of **Anthony JOHNSTONE** has been established beyond all reasonable doubt, and the identity of the deceased person was **Anthony JOHNSTONE** and that death occurred during **November/December 1996 in the vicinity of Wyndham, in the following circumstances:*****

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

TABLE OF CONTENTS

INTRODUCTION	2
Long Term Missing Persons Project (LTMP)	2
THE DECEASED	4
DISAPPEARANCE	5
INVESTIGATION	7
HAS DEATH BEEN ESTABLISHED?	9
MANNER AND CAUSE	10
CONCLUSION	10

INTRODUCTION

On 30 October 1996 Anthony Johnstone, known to his family as Tony (Mr Johnstone), was reported as missing by his family to the Wyndham police. Enquiries revealed Mr Johnstone had been seen intermittently in and around Four Mile Camp Wyndham but ran off whenever approached. His family were concerned for his welfare. Despite alleged sightings Mr Johnstone was never located and sightings diminished until he was apparently never seen again.

The inquest into the disappearance of Mr Johnstone was held in Perth. The documentary evidence comprised the brief of evidence, Exhibit 1 Tabs 1 to 22, and the Public Notice of Advertisement of Inquest dated 11 March 2020 as Exhibit 2. Oral evidence was heard from Detective Senior Constable Albert Wells who spoke to a report he had compiled from the Missing Person file. The inquest was originally listed for Kununurra as being the closest centre to the reported disappearance for Mr Johnstone, however, COVID-19 restrictions as a result of the pandemic necessitated the matter be heard in Perth. The intention was then Acting Sergeant Grant Fullerton (Mr Fullerton) would provide evidence by videolink of the investigation he conducted at the time into Mr Johnstone's disappearance. Unfortunately Mr Fullerton was unavailable on 17 March 2020 and provision was made for his evidence by telephone on 13 May 2020.

Long Term Missing Persons Project (LTMP)

In 2017 it was confirmed there were a 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 the disappearances occurred at a time when there was no or limited jurisdiction for a coroner to examine the circumstances of 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 section 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be

by way of inquest and will attempt to clarify how the death occurred and the cause of 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 proposed 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 has died and the death was a reportable death (s3 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 of 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 other than the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

In the case of Mr Johnstone it was hoped relevant witnesses may become available in Kununurra during the course of the Kununurra hearings. Unfortunately the Kununurra hearings had to be cancelled as a result of restrictions arising out of the COVID 19 pandemic which coincided with a difficulty in availability of some witnesses. As a consequence this matter was heard in Perth on the date it had

been listed for Kununurra, and provision made to hear the evidence of Mr Fullerton, now retired, at a later date.

The anticipated outcome of the Long Term Missing Person project was that by June 2020 the majority of outstanding 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 Johnstone's birth certificate reveals he was born Anthony Johnstone on 19 September 1963 at Forrest River Mission, Wyndham, Western Australia, to Elaine and Eric Johnstone. At the time of his birth he had three older sisters and an older brother.¹

There is little other information about Mr Johnstone's early life other than his residence at the time of his death was reported to be 3 Mile Camp, Wyndham, although he appears to have been at the Warrayu Reserve in Wyndham Townsite in October 1996. His mother contacted Wyndham Police Station to report him missing due to welfare concerns over his mental state.² The general difficulty appears to have been Mr Johnstone's level of alcohol consumption which made him prone to hallucinations at times of withdrawal from alcohol, either intentional or otherwise, and a lack of nutrition.

Mr Johnstone was reported to have a long history of being an alcoholic which had in more recent times caused him to suffer hallucinations.³ He had gone through a period of no drink before returning to alcohol heavily. He had not returned to his home of Oombulgurri to dry out.⁴

The main concern was, due to his unstable state of mind, Mr Johnstone appeared to be frightened of people, even those he knew, and when approached would run away from those approaching him. It appeared he had been exhibiting this

¹ Ex. 1, tab 21

² t.13.5.2020, p.5

³ Ex. 1, tab 4

⁴ T. 13.5.2020 p. 23

behaviour in the days leading up to 30 October 1996 and alleged sightings of him on 30 October 1996 and later led to the same result.

There is some indication that prior to his disappearance Mr Johnstone had been involved in a relationship with Veronica Weaver which was disapproved of by the Port Keats Aboriginal community. The supposition arose that Mr Johnstone had been sung by the Port Keats community which was felt culturally to explain his behaviour by the end of October 1996.⁵

The Missing Person Report (MPR) described Mr Johnson as *“Dark skinned male aboriginal, 183 cm tall, slim build, brown eyes, weight @ 80kg, long straight black hair, small straight nose, small ears, small mouth, big lips, nil scars or peculiarities.”*⁶

Enquiries with the Kununurra dentist, Lars Moir and the Kununurra radiologist, Anita McClean revealed there was no medical or dental information with respect to Mr Johnstone which would assist with identification of any skeletal remains.⁷

Mr Johnstone was alleged to be close to his family and when in a normal state of mind would usually respond positively to their intervention.

DISAPPEARANCE

The original MPR stated Mr Johnstone was first noted as missing on 29 October 1996 by running into the bush at Warrayu Reserve, Wyndham during the afternoon.

The Wyndham Police Station Occurrence Book recorded that on 30 October 1996 a message was received from Enid Johnstone in Oombulgurri that she was *“worried about my son, Tony Johnstone. He went bush at the Four Mile.”* The MPR described him as wearing *“blue jeans and a long sleeve dirty shirt. Barefoot. Nil jewellery.”*⁸

⁵ T. 13.5.2020 p. 7-8, p.20

⁶ Ex. 1, tab 3

⁷ Ex. 1, tab 8

⁸ Ex. 1, tab 5

Sergeant Hallett and Senior Constable Birch commenced enquiries at the Four Mile Community. In those enquiries it was revealed Margaret Maraltadj (Ms Maraltadj) stated she had seen Mr Johnstone at 5.00 pm the previous day outside Vagg's Liquor Store (Vaggs). Also Bobby Jones (Mr Jones) Mr Johnstone's grandfather⁹ reported he had seen Mr Johnstone running through the bush at the Afghan Cemetery. Enquiries were made at Vaggs, without result, and the cemetery. While the police did not sight Mr Johnstone at the cemetery they did see tracks in the area indicated by Mr Jones which disclosed which way he was running. Police also received a phone call from ALS, Frank Chulug (Mr Chulug) saying that Mr Johnstone was, "*Wandering around the Four Mile*". Police continued enquiries in line with that information, but again without success.

An entry in the Occurrence Book for later that morning by Senior Constable Birch recorded, "*Local Aboriginals declined to assist with search as they had started drinking. They claim Port Keats Aboriginals were singing Johnstone over his association with Veronica Weaver*". Senior Constable Birch then conducted further enquiries at Four Mile again with no results. He noted Mr Johnstone's relatives were drinking at Four Mile waiting for him to appear.¹⁰ Mr Fullerton explained the bottle shop was at Four Mile and they would be waiting for Mr Johnstone to come and get more alcohol.¹¹ At approximately 3.00 pm Mr Fullerton attended at Four Mile to check with Mr Johnstone's relatives but he had not been seen.

Maxine Reid (Ms Reid) advised police she would make available two planes on the morning of 31 October 1996 to conduct a fly-by in the general area in which it was reported Mr Johnstone had gone missing around the Four Mile community. Mr Fullerton explained Ms Reid provided local postal runs and would assist in looking for missing people as part of their service to local communities.¹²

Later that evening family members searched with Aboriginal Police Liaison Officer (APLO) Martin in the Four and Six Mile areas to see if they could locate Mr Johnstone, but again were unsuccessful.

⁹ T. 13.5.2020 p. 9

¹⁰ Ex. 1, tab 5

¹¹ T 13.5.2020 p. 11

¹² T 13.5.2020 p. 9

INVESTIGATION

Mr Fullerton noted that throughout the course of police enquiries on 30 and 31 October 1996 there were many sightings of Mr Johnstone by people who knew him. However, when confronted by anyone approaching him including his family, he would run away into nearby bushland. Mr Fullerton was advised from local sources that Mr Johnstone might have been suffering from alcohol withdrawal symptoms and as a result of this could be hallucinating.

All police attempts to search areas of the Wyndham Townsite and surrounding bushland were unsuccessful. The reason for the search was to locate Mr Johnstone and place him in hospital to receive medical treatment for his apparently unstable state of mind. The searches included police on foot with family and local community members and the use of 4WDs. Ultra-light planes were used on 31 October 1996 as low flying aircraft with spotters and experienced Aboriginal trackers were involved with the large group of family members.

A note in the Wyndham Police Station Occurrence Book on 31 October 1996 stated Mr Johnstone had been seen running into nearby bushland that day and appeared to still be suffering from alcohol related difficulties. The local Aboriginal community was also conducting a search for him to take him to hospital for treatment.¹³

Mr Fullerton made enquiries with other communities in the Wyndham area, general Kimberley and Northern Territory, but there was no indication Mr Johnstone had travelled to any other location. People were satisfied that had he been in his normal state of mind he would have contacted his family due to their positive relationship. The family remained concerned for his welfare and his disappearance became a major issue.¹⁴

Thereafter all alleged sightings of Mr Johnstone were investigated by local police including APLOs and locals Mr Fullerton considered to be reliable. Dudley Bamba claimed to have seen Mr Johnstone at the rear of Wyndham Hospital on 1 November 1996 and Fabian Horace said he had given Mr Johnstone cigarettes

¹³ Ex. 1 Tab 5

¹⁴ Ex. 1, tab 8

the previous day. Mr Fullerton considered that to be a reasonably likely indication Mr Johnstone was still alive.¹⁵ On 2 November 1996 Josephine Moore stated she had seen him at Warragu Reserve and Maggie Roberts, his cousin, thought she had seen him, but was not certain.¹⁶ The sightings became less reliable as more time elapsed.

On 6 November 1996 police conducted a search of caves at Moochalabra based on information Mr Johnstone was seen hiding in the caves, and later information on 19 November 1996 reported Mr Johnstone was running over the hills at Four Mile. Most of the people reporting sightings of Mr Johnstone knew him and were in a position to identify him, although Mr Fullerton was somewhat sceptical about some of the sightings because he believed those sighting him may have been overly intoxicated at the time.¹⁷ He considered some sightings to be more reliable than others.¹⁸ Mr Fullerton remained convinced Mr Johnstone was certainly suffering some sort of mental instability which probably involved hallucinating and explained his running away from any proper assistance.

Police used a number of resources over several days while searching for Mr Johnstone which included light aircraft, 4WDs and Aboriginal trackers. All the searches failed to locate Mr Johnstone in person. The Wyndham Occurrence Book indicated that reported sightings of Mr Johnstone continued through November up into early December 1996, but none could ever be verified.

Mr Fullerton stated further investigation was difficult due to the lack of evidence for a search area and eventually, despite family's continued searching, it became evident it was likely Mr Johnstone, as a result of his mental instability, had withdrawn from contact with people through fear. He had probably died from deconditioning due to a lack of nutrition, and exposure.

Both Mr Johnstone's parents are now deceased and there is no record of them ever hearing from him again. Mr Johnstone was 33 years of age at the time he ran into the bush during late October and early November 1996. By 2020 he would have

¹⁵ t. 13.5.2020, p.16-17

¹⁶ t. 13.5.2020, p.13

¹⁷ Ex. 1, tab 8

¹⁸ T 13.5.2020 p 11, 14

been 57 years of age. There is no evidence he survived without his presence being reported among the communities in the Kimberley.

The Missing Person Report (MPR) with respect to Mr Johnstone was updated onto the computer systems in 2008 with no further information available.

Enquiries with all usual facilities as to Centrelink payments, hospital records and dental records indicate there is nothing recorded for Mr Johnstone since before the time of his disappearance.

HAS DEATH BEEN ESTABLISHED?

Despite the intermittent sightings of Mr Johnstone through November and December 1996 I am satisfied beyond all reasonable doubt he was deceased by the end of 1996, probably as a result of exposure and exhaustion due to his mental state in proximity to his last reliable sightings.

While his mental instability may have started as a result of alcohol intoxication, withdrawal, and then dehydration and hallucination, I am satisfied as a combination and directly as a result of those conditions Mr Johnstone perished during his attempts to evade location. If he believed he had been sung that would also have contributed to his mental state. The areas around the Wyndham communities are quite remote with difficult terrain. He was always sighted running and there was no evidence he was carrying any food. Following early December 1996 there were no more sightings of him which would indicate he was by then deceased.

The fact Mr Johnstone would have been 57 years of age in 2020 and there has been no record of him post 1996 satisfies me beyond all reasonable doubt he is deceased and was deceased in the time frame of his apparent instability following the end of October 1996.

I am quite satisfied that if he had remained alive he would have come to the attention of the authorities, and the country in which he was roaming could well prevent his remains from having been detected, particularly if he was actively

running during the search efforts. No scavenger birds gatherings were reported to the police.¹⁹

I am satisfied beyond all reasonable doubt that Mr Johnstone is deceased and was deceased in the approximate time frame following his disappearance.

MANNER AND CAUSE

I am unable to determine the manner or cause of Mr Johnstone's death. While I suspect it was as a result of exposure to the elements whilst in a mentally unstable state of mind, it is impossible to determine whether he succumbed naturally to his environment or had an accident which directly or indirectly led to his death.

I make an Open Finding as to the manner of death.

CONCLUSION

The ongoing search by Mr Johnstone's family, despite indications he was actively evading location, reflects their concern for his welfare from the end of October until the end of 1996. It is clear they, along with the police, continued searching for him despite an apparent lack of concern amongst the unrelated Aboriginal communities as to Mr Johnstone's welfare. It maybe there had been an issue to do with his relationship with Ms Weaver, nevertheless it would seem his mental state at the time he disappeared was problematic to his successful location.

There is no doubt Mr Johnstone was well loved by his family and their continued concern for his wellbeing no matter what he may have done was evident.

It is very sad for his family nothing material was ever located which would provide them with some certainty around the details of his demise.

E F Vicker

Coroner

3 June 2020

¹⁹ T 13.5.2020 p. 16