CITATION: *Inquest into the death of Eric Lewis Wobona* [2014] NTMC 08

TITLE OF COURT:	Coroners Court
JURISDICTION:	Katherine
FILE NO(s):	D0168/2012
DELIVERED ON:	15 May 2014
DELIVERED AT:	Katherine
HEARING DATE(s):	18 and 19 February 2014
FINDING OF:	Mr Greg Cavanagh SM
CATCHWORDS:	**Death due to Coronary Artery and Heart Disease**

REPRESENTATION:

Counsel Assisting:	Mr Mark Thomas
Northern Territory Police:	Dr Ian Freckelton QC
Department of Health:	Mr Mark Johnson
Family of the Deceased:	Mr Matt Fawkner

Judgment category classification:	B
Judgement ID number:	[2014] NTMC 08
Number of paragraphs:	73
Number of pages:	21

IN THE CORONER'S COURT
AT KATHERINE IN THE
NORTHERN TERRITORY OF
AUSTRALIA
No. D0168/2012

In the matter of an Inquest into the death of Mr Eric Lewis aka Wobona (hereafter Kwementyaye)

ON 23 SEPTEMBER, 2012
AT KATHERINE DISTRICT HOSPITAL
FINDINGS

Mr Greg Cavanagh SM:

INTRODUCTION

1. At about 2.25am on Sunday, 23 September, 2012 St Johns Ambulance Service was notified of a person (Kwementyaye) who had collapsed at House 4, Warlpiri Camp, Katherine. They immediately attended that location and together with some police officers who also arrived at about the same time made considerable efforts to revive Kwementyaye, without success. He was then transported by ambulance to Katherine Hospital, where he was pronounced dead at 3.31am on 23 September, 2012.

2. Kwementyaye was the subject of an autopsy, which revealed that he had died as a consequence of acute heart failure as a result of longstanding coronary artery and heart disease. He was 55 years old.

3. At 4.55pm on Friday 21 September, 2012 Kwementyaye was arrested by the police in Katherine and transported to Katherine Police station. He remained there overnight and was charged with various offences the following day that arose out of an incident earlier the previous day at the Katherine Hotel as well as another incident later that afternoon when police arrested him for the earlier matter.

4. Kwementyaye was seen by a nurse on the Friday evening in the police station cells. He was subsequently released by the police at 2.29pm on Saturday, 22 September and then driven by police back to his home at House 4, Warlpiri Camp in Katherine. He remained at his home with relatives until the following morning when his wife noticed that he had collapsed, she asked their son to telephone the St Johns Ambulance Service, and they arrived and assisted him as described above.

5. Mr Mark Thomas appeared at the Inquest as Counsel Assisting. Dr Ian Freckelton SC appeared as counsel for the NT Police Commissioner and the NT Police Force officers who gave evidence at the Inquest. Mr Mark Johnson appeared for the Department of Health. Mr Matt Fawkner appeared for the family of the deceased.

6. I received into evidence the investigation brief prepared by Detective Senior Sergeant Clint Sims, which comprised in essence of the materials tendered in this matter. In addition, statements of Constable Chisholm, Snr Constable Steve Bott, Constable Morrison and Dr Hugh Heggie were tendered as well as the transcript of a record of interview that police conducted with the deceased on the morning of 22 September, 2012. In addition to that three packets of prescribed medication (with the deceased's name of the packets), which were found by police in the premises at House 4 Warlpiri camp on 23 September 2012 were tendered at the Inquest. The Hospital records of the deceased were also tendered as well as a print out from computerised records referred to by Nurse Morrison. Finally the deceased's birth certificate was tendered.

7. Detective Senior Sgt Sims gave evidence at the Inquest as did Dr Terrence Sinton, Vernon Lewis, Lisa Morrison, Constable Elisha Kennon, Dr Hugh Heggie, Constable David Risdale, Constable Nicholas Byrne, Constable Carlie Beams, Sgt Garrin Metcalfe and Senior Constable Stephen Bott. It should be noted that due to technical difficulties with the audio visual link

to the court, former Constable Lisa Elliott could not give evidence- however her statement was dealt with in extensive detail by Counsel Assisting during the Inquest.

8. Pursuant to section 34 of the Coroner's Act (hereafter "the Act"), I am required to make the following findings:

(1) A Coroner investigating-

(a) A death shall, if possible, find-
(i) The identity of the deceased person;
(ii) The time and place of death;
(iii) The cause of death;
(iv) The particulars needed to register the death under the Births, Deaths and Marriages Registration Act.

9. Section 34 (2) of the Act operates to extend my function as follows:

> "A Coroner may comment on any matter, including public health or safety or the administration of justice, connected with the death or disaster being investigated."

10. Furthermore, I may make recommendations pursuant to section 35 (1), (2) and (3):

> "(1) A Coroner may report to the Attorney-General on a death or disaster investigated by the Coroner.
>
> (2) A Coroner may make recommendations to the Attorney-General on a matter, including public health or safety or the administration of justice connected with a death or disaster investigated by the Coroner.
>
> (3) A Coroner shall report to the Commissioner of Police and Director of Public Prosecutions appointed under the Director of Public Prosecutions Act if the Coroner believes that a crime may

have been committed in connection with a death or disaster investigated by the Coroner."

11. Additionally, where there has been a death in custody, section 26 of the Act provides as follows:

> "(1) Where a Coroner holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody, the Coroner-
>
> a. Must investigate and report on the care, supervision and treatment of the person while being held in custody or caused or contributed to by injuries sustained while being held in custody:
>
> and
>
> b. May investigate and report on the matter connected with public health or safety or the administration of justice that is relevant to the death.
>
> (2) A Coroner who holds an inquest into the death of a person held in custody or caused or contributed to by injuries sustained while being held in custody must make such recommendations with respect to the prevention of future deaths in similar circumstances as the Coroner considers to be relevant".

Reported When and by Whom

12. Dr Chendume declared Kwementyaye deceased at 3.31am on 23 September, 2012 at Katherine District Hospital.

RELEVANT CIRCUMSTANCES SURROUNDING THE DEATH

Background of Kwementyaye

13. Kwementyaye was born at Lajamanu (Wave Hill) on or about 1 November 1956. He commenced school in Lajamanu and later gained employment as a stockman at about 16 years of age on cattle stations in the Alice Springs region. He also worked for a short period of time as a carpenter in Lajamanu. He spent the majority of his adult life living in the Alice Springs,

Yuendumu and Ti Tree areas before settling down in Lajamanu in the mid-1990s. In 1996 he met his second wife Ester Jones and the two married in Aboriginal traditional fashion; they remained married until his death in 2012. Ms Jones and the deceased raised five children together- at Lajamanu initially and then later at Balgo and Fitzroy Crossing in Western Australia. The deceased had four children from a previous marriage and one child from another relationship. These children grew up in Lajamanu living with the deceased and Ms Jones.

14. After living in Western Australia the family moved back to Lajamanu briefly before settling in Katherine. The move to Katherine coincided with the deceased suffering deteriorating health. He and his wife obtained a house at House 4, Warlpiri camp and they lived there for a number of years prior to his death.

15. The deceased also assisted with looking after his two granddaughters who were born to his son Vernon Lewis. The extended family of the deceased had a close relationship with him and his wife.

16. Kwementyaye's health suffered a number of reversals that were associated at least in part to the onset of diabetes. He was diagnosed with diabetes on March 2009.In June of 2009 his lower left leg was amputated due to diabetes. In November of that year one of his toes was amputated again due to diabetes. After his leg was amputated he used a wheelchair to get around Katherine. He did explore the possibility of using a prosthetic leg however this never eventuated.

17. In addition to diabetes Kwementyaye had ongoing cardiac issues at least since 2005, which persisted until his death.

The incident at the Katherine Hotel

18. At about 2pm on Friday 21 September, 2012 the deceased was involved in an incident at the Katherine Hotel. He was in his wheelchair at the time. In short, he was alleged to have assaulted a member of staff (Jacob Leger) of that hotel by punching him in the head. Police attended and the deceased was ejected from the Hotel. The person that was alleged assaulted by Kwementyaye wanted the police to take action against him. Furthermore, representatives of the Hotel wanted police to issue and serve a trespass notice upon the deceased. It is not necessary to go into the detail of the incident at the Hotel save to observe that the deceased appeared to be well affected by alcohol and was engaging in, inter alia, abusive conduct with persons in the hotel. It is important to note that there is no evidence to suggest that he suffered any injuries as a consequence of his engagement in the allegation of assault that was levelled against him by members of staff of the Hotel.

The arrest of the Kwementyaye on the afternoon of Friday 21 September 2012

19. At about 4.55pm on 21 September police located the deceased sitting on the ground in company with a number of other people. He was out of his wheelchair. Police noted that another person was utilising what they understood to be his wheelchair. Police then served the Trespass Notice upon the deceased. He swore at the police and pulled his pants down and wiped his bottom with the Trespass Notice. Police then proceeded to arrest him for this conduct. When Police officer Kennon reached for his arm with a view to effect the arrest he allegedly struck her in her stomach with his fist. Other police then took hold of him and placed him in the rear of a police vehicle. Police alleged that he kicked out at police in the process of placing him in the vehicle and that he narrowly missed connecting with Constable Hansen. He was then taken to the police station at Katherine and lodged under s 137 of the Police Administration Act due to his level of intoxication.

Police made a decision at the time that it was prudent not to take the wheelchair away from the person utilising it at the arrest scene.

The detention on Friday evening (21 September)

20. Kwementyaye arrived at the Katherine police station at shortly before 5.07 pm.. At 6.37pm police gave him his dinner. He was checked regularly by police throughout the night.

21. A Custody health assessment form was filled in by police at the commencement of the deceased's arrival at the police station. The officer who dealt with this document specified, inter alia, that the deceased did have diabetes. Further, next to a question which read "Do you have your tablets or insulin with you?" the "yes" box next to this was ticked by the police officer (an Aboriginal police liaison officer) who filled in the form. In fact, the deceased did not have his diabetes medication with him at the time. Another question in this form read "Do you take any tablets or medication?" The "yes" box next to this was ticked. The form stated that "if Yes, see chart on reverse". The page on the back of the form was filled out, under the heading of "Medication requirements", with the words "heart tablets" entered as the medication (used by the deceased). Under the heading "details of Injuries or other health information" the ACPO officer entered "Amputated right leg". In fact the deceased's left leg had been amputated.

22. Registered Nurse Lisa Morrison started her shift on this evening at 7pm. At the beginning of the shift police notified her that Kwementyaye was in custody, had one leg and was "on" heart medication. Nurse Morrison looked up his health history by utilising a computer that had access to the Department of Health primary health care information system. She added that she could utilise this system to access his notes from Wurli-Wurlinjag, his discharge summaries from Emergency Departments as well as some Corrections notes. She then familiarised herself with his medical history.

She then approached the police to ask if she could see Kwementyaye. She did so, initially in the processing area near the cells. At this point she observed that the deceased was getting around on the floor at the time with the aid of his hands. She asked the police to assist her in getting him to the clinic. This occurred. In fact the deceased hopped to the clinic with the aid of police. She then saw him in the clinic commencing at 8.36pm. She said that there was no particular reason to see him other than to check that he was ok and to assist with what medications he was on. She typed in details of his health status into the computer system she was utilising: her notes in this regard have later been reproduced in a print out document that was not a form as such, which contains, inter alia, her clinical observations of the deceased, as well as her progress notes. The progress notes, she said, were entered at about 8.57pm on 21 September. She said in the progress notes that he was "Currently intoxicated and is without his wheelchair so pulling himself along the ground." She added that "Police assisted him to stand and hop to the clinic." Moreover, she said in the same notes that:

> " states his wheelchair and medications are back home. States he has had his medication today but his observations show him to be hyperglycaemic and hyper intensive currently so ? compliance. Does not appear symptomatic currently. Denies any injuries or pain currently. Advised that if he was remaining in custody after tonight, police would acquire medications from ED. Given glasses of water before returning to sleep in the cell."

23. In the form that Nurse Morrison filled in, that is the Department of Health form that she later gave to police at the end of her shift, she specified the medication that Kwementyaye was prescribed and the dosage, which was:

Aspirin 100 mg

Atorvastatin 20mg

Gliclazide 90mg

Metformin 2g

Ramipril 10mg

24. In the same form, Nurse Morrison stated that Kwementyaye did not have any fracture or other injury.

25. In the same form, Nurse Morrison stated at the end of it under the heading "Other Advice", "if remaining in custody after the morning, will require meds" This form was signed by Nurse Morrison and dated 22 September 2012. She said that she always leaves the form open until the end of the shift and signed it at the end of her shift. The list of prescribed medication she said she obtained from the computerised records system. She made an entry in in the form under the heading "Essential Medications" and the subheading "OR obtain medications if person is to remain in custody and does not have them". Under this entry she typed in the words "Either from prisoner's home base or get prescribed by a medical officer and dispensed by a pharmacist today". In the same form, Nurse Morrison wrote in her handwriting that the medication was due in the "morning". However, in evidence she agreed the proposition that the main thing was Kwementyaye got his medications some time the next day and if he got it in the afternoon that would be alright. She checked and determined if there was any medication that needed to be administered to the deceased urgently. There was not.

26. After Nurse Morrison saw the deceased she got police to assist him to hop back to the cells. She did not subsequently see him. She said that she said to Kwementyaye that if he felt that he had issues during the night that he should request to see her. This did not happen.

27. There was a reference in the pro form to a subheading marked "pain relief" with the word "paracetamol" specified in the box under this heading. Nurse Morrison could not remember if she had administered this drug to the deceased.

28. Nurse Morrison's shift finished at 3am the following morning. She said that she always speaks to the police before handing a person that she had seen over at the end of her shift. She added that she explained the medications to the police.

29. When she arrived at work the next night, that is Saturday 22 September at 7.00pm, she checked and determined that he was no longer in custody. She said that at the start of the shift she always checks if she had given specific orders to police that they had been followed up.

30. In terms of the clinical observations that she made of the deceased on the Friday evening, she said that he was hypertensive, meaning that his blood pressure was slightly elevated. Specifically it was 166 (systolic) and 82 (diastolic). She said that this meant his blood pressure was not an extreme level. His pulse rate was recorded as 98 beats per minute. His temperature was 36.1 degrees Celsius and his respiration was 17 breaths per minute. His blood glucose level was 18.3mmol/L. She said that this was elevated but not at an extreme level. Nurse Morrison spent about 15 minutes with the deceased in her consultation with him. She said that he denied any pain or injury. She said that Kwementyaye said that he had already taken his medication that day although she accepted in evidence that she didn't actually know that he had done so. She said that she could not say if he was regularly not taking his medication.

31. Nurse Morrison stated that she understood that the deceased was supposed to be taking daily medication and that it would be usually preferable that it be taken in the morning- although the main thing was that it be taken at some point during the day. She added that the main thing was that the medication be taken regularly and if that was so it made little difference if it was taken in the morning or afternoon. She also stated that after seeing Kwementyaye she was not particularly concerned about his current

condition. She said that if she had concerns that Kwementyaye was acutely ill that she would have got him out of the cells and into the hospital.

The events in Katherine police station on Saturday 22 September from 3am to Kwementyaye's departure from the police station at 2.30pm

32. During the night Kwementyaye did not make any complaints. He did not for example use a buzzer device in the cells to say that he was feeling unwell. He was not alone. There were other indigenous persons in the cells with him.

33. When the deceased awoke in the morning he was given breakfast at 8.53am

34. At 10.36am police interviewed Kwementyaye. They utilised a chair with castor wheels to place him on it and transfer him to the interview room. The interview concluded at 11.24am.

35. At 1.18pm the charge Sergeant formally charged Kwementyaye with several offences arising from the Katherine hotel assault incident and the subsequent arrest from the day before. At 1.20pm police photographed the deceased. Police obtained his fingerprints at 1.24pm. Bail was refused by the police (Senior Constable Bott) at about 1.20pm. At 1.53pm a telephone bail application was made by the deceased to Magistrate Smith SM. Police did not oppose bail at this point. Magistrate Smith granted the deceased bail and at 2.22pm the deceased signed his bail papers. At 2.29pm the deceased's property was returned to him by police. At 2.30pm he was then taken from the police station by the police and taken back to his home.

The events at Kwementyaye's home from Saturday afternoon at shortly after 2.30pm to his departure by ambulance on Sunday morning.

36. When Kwementyaye arrived home he apologised to police officer Kennon regarding his conduct of the day before. He appeared to her to be fine and in good spirits. He was assisted into his wheelchair by one of his sons. The events of the afternoon and evening at his home were uneventful. Kwementyaye spent time with his wife and family watching television amongst other things.

37. At about 1.35am on Sunday 23 September police officer Senior Constable Byrnes shot and killed a dog in the area that had bitten him. Police said that a man did call out at the time but it cannot be determined if this was Kwementyaye. In any event this incident had no connection to the deceased's fate.

38. At some point late in the night Kwementyaye called out for assistance from his wife who said that he was clutching his chest.St Johns Ambulance officers responded quickly to the call made by the deceased's son for their assistance at 2.25am. An ambulance crew was dispatched at 2.26am and arrived at 2.34am. Police attended as well and despite the best efforts of all emergency personnel they were unable to revive the deceased. At 3.06 am the deceased was taken by ambulance from his home and arrived at Katherine Hospital at 3.12am where despite the efforts of the medical staff there, he was pronounced dead at 3.31am.

The prescribed medication

39. Police found the prescribed medication referred to by Nurse Morrison above in a locked room of House 4, Warlpiri Camp at approximately 6am on Sunday 23 September. The medication was unopened and appeared not to have been used. It was found under a table under some rubbish in the room and near to a cockroach infestation. Police photographed it in situ. It was prescribed to Kwementyaye on 7 August, 2012.

The Autopsy

40. Dr Terrence Sinton conducted the autopsy in this case. Dr Sinton was of the opinion that the cause of death was cardiac hypertrophy. Cardiac hypertrophy is a thickening of the heart muscle which results in a decrease in the size of the chambers of the heart. The heart is thus damaged. The significant conditions contributing to his death were coronary artery atherosclerosis and coronary artery ectasia. Dr Sinton said that what this meant was that the deceased had two opposing forms of problems with his arteries: one problem increased the size and diameter of the vessels. This would lead to a turbulent flow of blood through the arteries. Secondly, areas of atheroma would commence to block the vessels, which would decrease the blood flow to the tissues. In addition to that the deceased's health was complicated by diabetes, which would have contributed (in a deleterious sense) to his coronary artery disease. Dr Sinton determined that there was no sign of any injury to the deceased other than fractures of the ribs that were consistent with the application of CPR (cardio pulmonary resuscitation) that was employed by emergency personnel just prior to the deceased's death.

41. Dr Sinton was asked if it is usual for there to be no physical evidence of the trigger that ultimately causes death for a person in the deceased's physical condition. He agreed that this was a reasonable proposition. He added that for some unspecified reason the electrical conductivity of the heart can suddenly fail that leads very quickly to acute heart failure. Where there is a damaged heart (as there was in this case) there is a reasonable chance of death resulting.

Dr Heggie's evidence

42. Dr Heggie is the acting Chief Rural Medical Practitioner for the Northern Territory. He has, inter alia, a background in pharmacology and rural

medical health. He examined all relevant medical records of the deceased which emanated from a variety of sources. He noted that the deceased suffered from the following conditions/risk factors:

- Hypertension
- Congestive cardiomyopathy
- Type 2 diabetes
- Chronic kidney disease
- Atrial flutter
- Smoking
- Excessive alcohol consumption
- Poor medical adherence
- Below knee amputation
- Secondary osteomyelitis
- Aboriginality
- Age 55
- Male

43. Dr Heggie was of the opinion that as a consequence of the matters referred to above Kwementyaye was of very high cardiovascular risk. He was assessed to be in the highest category of risk. Each of the factors referred to above contributed to the elevation of risk of death. In combination the factors were, in effect, of great concern.

44. Dr Heggie stated that Aspirin is a medication prescribed to reduce the risk of death from coronary artery disease in a patient with high cardiovascular risk. Dr Heggie said that Artorvastatin was prescribed for high cholesterol and to lower the risk of stroke and coronary artery disease including myocardial infarction. Gliclazide was prescribed for diabetes as was Metformin. Ramipril was prescribed to treat hypertension and cardiac failure and to reduce the risk of deteriorating renal function and eye disease in cardiac patients.

45. Dr Heggie said that the administration of Aspirin would not provide some sort of stopper of heart disease. He said that whilst it might have a positive effect that could “kick in” in the space of 20 minutes it would certainly not prevent a lethal cardiac event occurring. Dr Heggie was asked questions in detail by Counsel Assisting in respect to each of the prescribed medications that were found by the police.

46. In the case of Atorvastatin, Dr Heggie said that it would take perhaps several weeks for its positive effect upon reducing cholesterol levels (particularly low density lipids) to be effected.

47. In relation to Gliclazide, Dr Heggie said that the it produces the effect of causing the release of insulin from the pancreas and that it starts working within an hour of ingestion irrespective of whether the patient is taking it or not.

48. Regarding Metformin, Dr Heggie said that it works by stopping or reducing the absorption of glucose from the gut and the intestine and that it also increases the uptake of glucose from the blood into the muscles. He said that it works within hours of starting the dose but the effect increases over a number of weeks. A secondary effect of Metformin, Dr Heggie said, was that it probably lessens heart disease because of its anti-inflammatory effect.

49. Regarding Ramipril, Dr Heggie said that it was a slow onset drug that might take several days to bring blood pressure down. He said that it could assist additionally in treating those at risk of cardiac failure and deteriorating renal function.

50. Dr Heggie said that aspirin would be the best drug to employ if a person has had a heart attack. Ramipril would be the second best drug to employ in this regard because of its importance in reducing blood pressure.

51. The net effect of his evidence was as follows: firstly, if the medication was being regularly taken by the deceased prior to his detention in the police

station, the positive effect gained by this medication would continue at least three to five days after cessation.

52. Secondly, Dr Heggie said that if the medication was not being taken on a regular basis, (as I find), it would not make any it any worse for him if Kwementyaye commenced to take his prescribed medication once he arrived home as opposed to taking his medication on the Saturday morning.

53. Regarding Aspirin, Dr Heggie said that if it was taken by the deceased later on the Saturday that would reduce the risk of the cardiac event being fatal. It would take 10 to 20 minutes for its positive effect to occur and would last for up to ten days with a single dose.

54. Regarding the other four prescribed drugs, Dr Heggie said that it would not make any difference if those drugs were taken in the afternoon as opposed to the Saturday morning- in terms of dealing with preventing the death that occurred. High blood pressure was the main risk. Reducing blood sugar levels in the short term would not reduce cardiac risk.

FINDINGS

55. I find that this was not a death in custody. The death occurred in Katherine Hospital some 13 hours after release from police custody. There is no causative link between Kwementyaye's time in custody and his subsequent death. In my view, in order for a death to be considered a death in custody, if the death is not in a police cell or prison or in the hands of police more generally the death must occur after the person has been in police/prison custody and the death has been caused by or contributed to by what has taken place during the deceased's time in police/prison custody. This was not the case in this matter.

56. I find that Kwementyaye was at great risk of dying suddenly as a result of the combination of the high risk factors that he suffered from, that have

been referred to above in relation to the evidence of Dr Heggie. He was a very sick man and the risk of him dying suddenly was great.

57. I accept the evidence of Dr Heggie and Dr Sinton that the physical and emotional stress that was occasioned by being detained in Katherine Police station, either singularly or in combination, did not cause Kwementyaye's death.

58. I find that NT Police engaged appropriately with him at the arrest scene in Katherine. It was wise not to escalate matters by not taking Kwementyaye's wheelchair from another person who was using it at the time.

59. At Katherine Police station on the night of Friday 21 September and Saturday 22 September, police treated the deceased with respect. Numerous photographs were taken by police from the cameras installed at the police station. None show police engaging in behaviour that can be criticised. I note that immediately after the inquest hearing the police made available for public viewing the entire video footage of Kwementyaye's time in detention. Family were able to view this and no negative comments of this have been drawn to my attention in this regard.

60. It is regrettable that there was no wheelchair present at the time. That situation has since been remedied through the provision of a spare wheelchair at each police station in the Northern Territory. Nevertheless, despite the absence of a wheelchair police did what they could to assist the deceased when he was moved throughout the police station. He was fed appropriately, clothed and monitored by them. The mistakes by the ACPO officer in filling out the initial form were minor. I see no need to change the form's format. It is straightforward. It is otiose to observe that care must be taken in filling it in. The critical matter is that Kwementyaye was seen soon after his arrival at the police station by Nurse Morrison.

61. I found Nurse Lisa Morrison to be an impressive witness. She was competent, diligent and thorough. Importantly, after examining the deceased on the Friday evening she did not find that he was in a state of distress. She stated further that if, when she returned on shift on the Saturday evening at 7pm, the deceased had still been in detention and he had not been issued his prescribed mediation, she would have ensured that he was given his medication. Nurse Morrison's progress notes and observations that are specified in the print out from the computerised records indicate that she was attending thoroughly to the matter. She checked blood pressure, respiration rate, blood glucose level, his temperature, and pulse rate and oxygen saturation. All the results indicated that there was no cause to be concerned. She wrote "if remaining in custody after the morning will require meds". After she wrote this the watch house staff were then on notice that they must deal with this. Senior Constable Bott, who was in charge of the police cells at this time, said that the plan was to take him home to where his medication was. I accept that this was a reasonable and sensible plan in the circumstances.

62. I find that the deceased did not have any tablets or medication with him at the time that he was in the police station. In any event he had an unremarkable night in the police station. His time on the Saturday morning was also, I find, unremarkable. He was fed, interviewed, photographed and fingerprinted. Police acted appropriately in taking him home and checking that his wheelchair was there. It is commendable that the very officer who was allegedly struck by the deceased the previous day (Constable Kennon) was one of the officers who took him home and ensured that he was placed back in his wheelchair.

63. I find that St John's Ambulance service and the police responded very quickly to the call for assistance that was made for them in the middle of the night on Sunday 23 September. They did everything that they could to assist the deceased at that time as did the police officers who attended.

64. I find that the deceased died as a consequence of acute heart failure as a consequence of the longstanding coronary artery and heart disease.

65. I find that the deceased was not taking and had not taken any of his prescribed medications from the date that he was prescribed the medication (on 7 August 2012) until his death. The circumstances in which the police found the prescribed medication, unopened, under a pile of rubbish and in a locked room is clear evidence that the medication had not been opened.

66. The medical evidence would suggest that Kwementyaye did not adhere to a prescription regime.

67. I find that the fact that Kwementyaye didn't have access to his prescribed medication whilst in police custody was not causatively related to his death. If he had have been taking his medication prior to his detention, I accept Dr Heggie's evidence that the effect of taking the medication would continue for as long as three to five days. Therefore, the gap in not taking his medication whilst at the police station would not have made any difference if he had have been taking his medication up until his detention.

68. However, I have found that Kwementyaye had not been taking his medication prior to his detention. The question arises as to whether his failure to take his prescribed medication on the Saturday morning had a causative effect upon his death. Put another way, did this matter given that he had the opportunity given to him to take his prescribed medication on the Saturday afternoon after arriving home at shortly after 2.30pm?. I find that it did not matter. I accept Dr Heggie's evidence that this small delay in taking this medication where it had not been taken before, would have made no difference to the prevention of the death of the deceased.

69. I find that there is nothing that police or anybody else could have done to prevent Kwementyaye's death. He was, regrettably at grave risk of dying suddenly at any point.

FORMAL FINDINGS

70. Pursuant to section 34 of the Act, I find, as a result of evidence adduced at the public inquest, as follows:

(i) The identity of the deceased in this case was Eric Lewis aka Eric Wobona, born on or about 1 January, 1956 in Lajamanu, Northern Territory. Mr Lewis last resided at House 4, Warlpiri Camp, Katherine. NT.

(ii) The time and place of death was 3.31am on 23 September 2012 in the Emergency Department of Katherine Hospital.

(iii) The cause of death was cardiac hypertrophy with significant conditions contributing to his death being coronary artery atherosclerosis, coronary artery ectasia and type two diabetes.

(iv) Particulars required to register the death:
(1) The deceased adult was Eric Lewis
(2) Eric Lewis was a retired carpenter
(3) The cause of death was reported to the Coroner
(4) The cause of death was confirmed by post mortem examination carried out by Dr Terrence Sinton on 26 September, 2012.
(5) Mr Lewis's parents were Lewy Lewis (deceased) and Emma Morrison (deceased).

71. I offer my condolences to the family of the deceased, many of whom attended the inquest. It is clear that he was held in very high regard by many members of the community in the Northern Territory and beyond.

RECOMMENDATIONS

72. It is important to observe that since the death of Kwementyaye the following reforms have occurred:

- Installation of spare wheelchairs at NT police stations.
- The location of Nurses in watch houses on a 24 hour basis on Thursday, Friday and Saturday night in Darwin and Alice Springs. Outside of those days, nurses are present at these two locations on 12 hour shifts between 3pm and 3am.
- In Katherine police station, nurses present 12 hours a day Monday to Saturday. They are otherwise on call.

- The appointment of a custody sergeant at each of the major police stations in the Northern Territory to look after the wellbeing of persons in custody.
- The installation of a WEBEOC system, which is a computer system installed in watch houses, which permits police to monitor what is going on in the cells, and which uses flashing lights and other devices to illuminate to police stationed in the cells when the needs of prisoners are to be attended to and what action is required. If they are late, flashing lights are utilised. The system in say, Katherine cells, can be checked and monitored by a custody sergeant or even a senior officer located in Darwin.
- The nurse now has access to the District Medical officer if necessary.

73. It is important to note that none of the reforms specified above, which have been put in place since the death of Kwementyaye, would have prevented his death. Nevertheless, they are singularly and in combination helpful in preventing the deaths of others. I commend these initiatives. In the light of these reforms there is no need for any recommendations in this case.

Dated the 15th day of May, 2014

GREG CAVANAGH
TERRITORY CORONER