
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON, DEPUTY STATE CORONER
HEARD : 21 AUGUST 2024
DELIVERED : 3 SEPTEMBER 2024
FILE NO/S : CORC 1709 of 2022
DECEASED : EXELL, ROBERT ALLAN

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Senior Constable C Robertson assisted the Coroner.
Ms G Beck (SSO) appeared on behalf of the Department of Corrective Services.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Deputy State Coroner, having investigated the death of **Robert Allan EXELL** with an inquest held at the **Perth Coroner’s Court, Court 85, Central Law Courts, 501 Hay Street, Perth** on 21 August 2024, find that the identity of the deceased person was **Robert Allan EXELL** and that death occurred on 30 June 2022 at Bethesda Hospital, Claremont, from complications of liver cirrhosis and hepatocellular carcinoma in a man with multiple comorbidities with terminal palliative care in the following circumstances:*

TABLE OF CONTENTS

INTRODUCTION..... 3
BRIEF BACKGROUND 3
LAST ADMISSION TO PRISON 4
GASTROINTESTINAL BLEEDING & LIVER CANCER DAGONOSIS 6
CAUSE AND MANNER OF DEATH 8
TREATMENT, SUPERVISION AND CARE 8
CONCLUSION 11

INTRODUCTION

1. Robert Exell was an Aboriginal man who was born and raised in Western Australia. He was the father of fourteen children and grandfather to many grandchildren at the time of his death in June 2022, at the relatively young age of 55 years.
2. Mr Exell had a known history of chronic hepatitis C infection and associated liver decompensation, which appears in the end to have greatly reduced his life expectancy. When he was sentenced to serve a long term of imprisonment in 2019, Mr Exell's medical history was reviewed and notes were made that indicated Mr Exell was susceptible to liver cirrhosis, oesophageal varices and liver cancer due to his pre-existing health conditions. Sadly, Mr Exell was eventually diagnosed with all three of them while still in custody, which led to his death.
3. The liver cancer diagnosis was communicated to Mr Exell on 11 May 2002. He was told by doctors that palliative care was the only appropriate treatment option, given his other health conditions precluded him from more aggressive treatment. In June 2022, Mr Exell suffered complications from his oesophageal varices and was told that further treatment for these was also futile, which meant that he was at risk of catastrophic bleeding resulting in death at any time.
4. On 27 June 2022, Mr Exell suffered further oesophageal bleeding while in prison but indicated he did not want to transfer to hospital. The next day, he became difficult to rouse. He was transferred on 28 June 2022 to Bethesda Hospital for end of life care and kept comfortable until he passed away in the early hours of 30 June 2022.
5. As Mr Exell was a serving prisoner at the time of his death, he came within the definition of a 'person held in care' under the *Coroners Act 1996* (WA) and a coronial inquest into his death was, therefore, mandatory. I held an inquest on 21 August 2024. Following this inquest, I am required to comment on the quality of Mr Exell's treatment, supervision and care while in custody prior to his death, as well as finding the cause and manner his death.¹

BRIEF BACKGROUND

6. As noted above, Mr Exell was born and raised in Western Australia. Records indicate Mr Exell had been removed from his parents' care at a young age and placed into State care. He described this period as traumatic and told others that he had suffered physical and emotional abuse in care and had little contact with his parents and siblings during his formative years.²
7. Mr Exell had attended Clontarf Aboriginal Community College, completing Year 8 in 1981. He then worked in the demolition industry removing asbestos from buildings and also as a factory hand.³

¹ Sections 22(1)(a) and 25(3) *Coroners Act 1996* (WA).

² Exhibit 2, DIC Review Report.

³ Exhibit 2, DIC Review Report.

8. Mr Exell had been in a number of relationships over the years and had 14 children with his different partners and 30 grandchildren. Mr Exell had eight of his children with one of his partners and he had apparently rekindled his relationship with her prior to his death.⁴
9. Mr Exell had developed a number of chronic health conditions as he aged. He was known to be a long-time abuser of alcohol and cannabis, and he had many criminal convictions that appeared to be associated with his alcohol use, as he would offend when intoxicated. He had spent time in custody for various offences, many of them traffic-related to driving. While in custody, he had received treatment for alcohol and drug related health issues.⁵
10. While Mr Exell was in prison in April 2013, Mr Exell had been seen by a gastroenterologist at Fremantle Hospital. It was noted Mr Exell had chronic hepatitis C infection and the only treatment available at the time was interferon therapy. His blood tests also showed early liver decompensation, so it was felt it would be too risky to initiate therapy. In 2014, he was seen in the viral hepatitis outpatient clinic and had some investigations for possible liver cancer, but no liver lesions were found. The plan at that time was to consider treating Mr Exell's hepatitis C in 2015 when newer treatment agents became available. He was eventually started on a 24-week treatment course in May 2016 through the viral hepatitis clinic, but he missed follow up appointments and was eventually discharged from the clinic without completing the treatment.
11. It appears that Mr Exell was living in the community for the next few years and he did not seek treatment for his liver disease during that time. He also continued to drink alcohol and use drugs.⁶
12. Mr Exell had suffered periods of homelessness during his life, but in 2019 he had secured an apartment and was living in Carlisle. On 21 June 2019 Mr Exell had been drinking with one of his sons and a friend in the apartment when they all began arguing. The arguing eventually led Mr Exell and his son to violently assault the friend with weapons. Both Mr Exell and his son were arrested and charged. Mr Exell was remanded in custody on 23 June 2019. He was eventually convicted after trial of wounding with intent and deprivation of liberty and sentenced on 8 June 2021 to a total term of seven and a half years' imprisonment, backdated to commence on 23 June 2019. He was made eligible for parole, despite indicating to the learned sentencing Judge that he did not want parole. His earliest eligibility date for release was 22 December 2024, but he died before that date.⁷

LAST ADMISSION TO PRISON

13. On his admission to Hakea Prison on remand on 24 June 2019, Mr Exell had been identified as a returning prisoner and his prison health records were reviewed and

⁴ Exhibit 2, Tab 1.1.

⁵ Exhibit 2, Tab 1.1.

⁶ Exhibit 2, DIC Review Report.

⁷ Exhibit 2, Tab 1.1 and 1.4.

revealed that he was a long-term smoker and chronic alcoholic with a large number of serious health diagnoses, including a heart condition and cirrhosis of the liver.⁸ It was noted that he had finished his hepatitis C treatment in the community and reported that he had been cleared.⁹ The only regular medication he was taking at that time was a GTN spray for angina, as he had chosen to stop taking the rest of his medications. A nurse offered Mr Exell blood-borne virus screening, which would have identified if he had been reinfected with hepatitis C, but he declined the offer (possibly due to a misunderstanding as to whether he could catch it again and a lack of symptoms). He also declined a referral to the Prison Addiction Service Team, saying he had recently completed a rehabilitation programme.¹⁰

14. A prison medical officer who reviewed Mr Exell on 1 July 2019 noted that he required cirrhosis surveillance with an abdominal ultrasound scan and blood tests.¹¹
15. On 7 August 2019, Mr Exell's blood tests showed possible diabetes and abnormal liver function but it doesn't appear he had a liver ultrasound. Nothing was done in relation to Mr Exell's possible diabetes or his liver disease for the next year. On 8 June 2020, nearly 12 months later, a prison medical officer reviewed Mr Exell's file and noted that a comprehensive review of his cirrhosis had not occurred and his blood tests had not been repeated since August 2019. He was transferred to Casuarina Prison shortly after.¹²
16. Soon after his transfer to Casuarina, Mr Exell underwent blood tests on 5 July 2020, which showed results consistent with diabetes and cirrhosis. He was commenced on a number of medications to treat his previously undiagnosed diabetes and his known ischaemic heart disease and a review of his cirrhosis was planned for one to two weeks. However, it appears this review again did not take place. Mr Exell was eventually seen by a doctor again on 26 November 2020 and at that time a referral to the liver clinic was discussed and arrangements were made for a liver ultrasound.¹³
17. On 21 December 2020, the liver ultrasound confirmed cirrhosis. Blood tests from 16 January 2021 showed his diabetes was well controlled but there were other results that suggested liver derangement. The results were discussed with a liver specialist at Fiona Stanley Hospital (FSH) who advised that an urgent outpatient appointment should be made. Further blood tests confirmed Mr Exell was once again hepatitis C positive, so he began treatment for the same.¹⁴
18. Mr Exell was reviewed by the liver specialist at FSH on 21 April 2021 and an urgent MRI of the liver was requested. Mr Exell's response to his new course of treatment for hepatitis C was monitored with regular blood tests. He appeared to tolerate the treatment well and successfully completed the new course of treatment in mid-September 2021.¹⁵

⁸ Exhibit 2, DIC Review Report.

⁹ T 9.

¹⁰ T 9; Exhibit 2, DIC Review Report.

¹¹ Exhibit 3.

¹² Exhibit 3.

¹³ Exhibit 3.

¹⁴ Exhibit 3.

¹⁵ Exhibit 3.

19. On 3 June 2021, Mr Exell had an MRI on his liver, which showed two lesions but was not definitive for liver cancer. It was recommended he have another MRI in two months to reassess the lesions.
20. In August Mr Exell had a routine gastroscopy at FSH to screen for oesophageal varices – a common complication of liver cirrhosis. Moderate oesophageal varices were identified and he was commenced on medication. Prison doctors had previously advised Mr Exell he should cease smoking and offered him the use of Champix, which he had declined. A prison doctor explained to him that his smoking was contributing to his oesophageal varices and counselled him again to stop smoking and commence Champix, but it does not appear to have had a significant impact.¹⁶
21. On 12 October 2021, Mr Exell had another liver ultrasound, which showed two lesions that required further monitoring.

GASTROINTESTINAL BLEEDING & LIVER CANCER DIAGNOSIS

22. Mr Exell's security rating was reduced in August 2021, which enabled him to move to a lower security prison. On 2 December 2021, Mr Exell was transferred to Greenough Regional Prison to be closer to his family. Tests in January 2022 showed he was no longer positive to hepatitis C, so the treatment had worked. However, the tests raised concerns about his liver function. Mr Exell's blood sugar levels were also concerning, and the prison nurse discussed a diabetic diet with him several times, but it does not appear to have had the desired effect.¹⁷
23. On 2 February 2022, Mr Exell had a telehealth appointment with the liver specialist at FSH. The doctor informed him that he had cleared his hepatitis C but needed more testing as his test results were highly suspicious for liver cancer. On 7 April 2022, a liver MRI was performed in Geraldton. The scan showed established cirrhosis but the radiologist reported they found no convincing evidence of liver cancer.
24. On 15 April 2022, Mr Exell's health deteriorated and he complained of generalised abdominal pain and shortness of breath. On examination, both his feet were swollen and his abdomen was grossly distended so he was transferred to Geraldton Hospital ED. He was diagnosed with decompensated liver failure, ascites and gastrointestinal bleeding and transferred by RFDS to FSH.
25. At FSH, Mr Exell was found to have large oesophageal varices that were banded before he was transferred to Casuarina Prison infirmary on 26 April 2022.
26. Mr Exell remained housed in the infirmary and was monitored by nursing staff. On 27 April 2022, a prison medical officer discussed with Mr Exell his diagnoses and the possible complications, including further gastrointestinal bleeding and confusion. On 29 April 2022, the FSH treating team reviewed his liver scan performed a few weeks earlier in Geraldton and they concluded it showed multifocal liver cancer. Due to his

¹⁶ Exhibit 2, DIC Review Report.

¹⁷ Exhibit 2, DIC Review Report.

recent gastrointestinal bleeding and his overall liver status, it was felt the only treatment option was a medication called Lenvatinib; however, this treatment carried a risk of further liver decompensation. The only other option was palliative care.

27. On 11 May 2022, Mr Exell had a telehealth appointment with FSH. A FSH doctor informed him that his recent MRI scan had shown liver cancer and that he was unsuitable for active treatment. Soon after, a prison doctor also discussed the cancer diagnosis with Mr Exell and that management options were limited due to his liver decompensation. Palliative care was discussed and counselling provided.
28. On 13 May 2022, Mr Exell was discharged from the infirmary to a self-care unit, but he continued to have regular contact with prison medical staff.¹⁸
29. Mr Exell underwent more banding of oesophageal varices at FSH on 1 June 2022 but on 11 June 2022 a Code Red emergency call was made after Mr Exell started vomiting blood and passed melena stool in his cell, indicating gastrointestinal bleeding. He was transferred to FSH by Priority 1 ambulance. An urgent gastroscopy showed large varices with post banding ulceration. The oesophageal varices were considered high risk and given they had failed to decompress despite two rounds of banding, it was determined that further treatment was futile. Mr Exell was given antibiotics after he developed an infection, before being transferred back to Casuarina Prison on 17 June 2022 with advice that he should be managed palliatively if further bleeding occurred.
30. On his return to prison, a referral was made to Bethesda Hospital for Mr Exell's palliative care and he was placed in the crisis care unit. Mr Exell was monitored daily and transferred back to FSH on 21 June 2022 due to abdominal pain and distension. He returned to Casuarina Prison the following day.¹⁹
31. On 23 June 2022, the diuretic frusemide was added to Mr Exell's treatment regime to manage the distension. Mr Exell was informed by a doctor that day that he was at risk of sudden death at any time from catastrophic bleeding. Mr Exell requested to be transferred back from the infirmary to a mainstream unit in the prison, in order to be closer to his son, but it was felt that the infirmary was a safer environment given his risk of bleeding. Mr Exell also informed the prison doctor that his preference was for CPR not to be performed on him, so a 'Not for Resuscitation' order was put in place. Mr Exell's son was kept informed of these events.²⁰
32. On 27 June 2022, Mr Exell experienced further oesophageal bleeding. He indicated he did not wish to be transferred to hospital as he wanted to remain in prison where he was closer to his son. He was given morphine and midazolam for comfort, consistent with his palliative care treatment plan. The following day Mr Exell passed a large melena stool and was difficult to rouse. The Bethesda Hospital Palliative Care Team were consulted and they deemed it necessary for Mr Exell to be brought to hospital for ongoing care. He was transferred to Bethesda Hospital for end of life care that same day and his family were informed. Mr Exell was supervised by security staff who completed a risk assessment and determined Mr Exell was not required to wear

¹⁸ Exhibit 2, DIC Review Report.

¹⁹ Exhibit 2, DIC Review Report.

²⁰ Exhibit 2, DIC Review Report.

restraints due to his limited movement. He remained under security watch and was kept comfortable by hospital staff until he passed away in the early hours of 30 June 2022.²¹

CAUSE AND MANNER OF DEATH

33. On the recommendation of two forensic pathologists, Dr Downs and Dr Ong, a full internal post mortem examination was not performed. Dr Downs and Dr Ong performed an external post mortem examination and CT scan of Mr Exell's body, which showed signs of liver failure, including ascites, coronary artery calcification, patchy opacification of the lungs, pleural effusions and gallstones. They also reviewed the medical records. It was noted that toxicology analysis showed medications in keeping with the known terminal medical care.
34. At the conclusion of the limited investigations, the forensic pathologist formed the opinion the cause of death was complications of liver cirrhosis and hepatocellular carcinoma in a man with multiple comorbidities with terminal palliative care.²²
35. I accept and adopt the opinion of Dr Downs and Dr Ong as to the cause of death and find death was due to natural causes.

TREATMENT, SUPERVISION AND CARE

36. An internal review of Mr Exell's custodial management, supervision and care by the Department of Justice concluded that all relevant policies and procedures were complied with in this case and no business improvement recommendations were made.²³
37. The Department's internal medical review was more significant in this case as it is apparent there was a gap in medical care between Mr Exell's return to prison in June 2019 and a medical review in mid-2020, and a further delay in follow up testing for his liver disease until late 2020. From the initial materials on the brief it was unclear why these delays occurred.
38. In a Health Services Summary provided by the Department on 20 August 2024, it was noted that Mr Exell had served multiple periods of time in custody, including three lengthy sentences between 2012 to 2016. Therefore, when he was received into custody again on 24 June 2019, his history was well known to the prison medical services but there was a three year gap in his known care while he had been in the community.²⁴
39. On reception to Hakea Prison, his history of hepatic cirrhosis secondary to alcohol misuse in combination with chronic hepatitis, ischaemic heart disease with angina and

²¹ Exhibit 2, DIC Review Report and Tabs 2.20 – 2.22.

²² Exhibit 1, Tabs 6 and 7

²³ Exhibit 2, DIC Review Report.

²⁴ T 7; Exhibit 3.

multiple other health issues were all documented. Mr Exell reported that he had only been taking his glyceryl trinitrate (GTN) spray regularly, which he used as a symptomatic treatment for his angina. It seems he had not been taking his other medications while in the community. Mr Exell still smoked cigarettes but apparently was drinking less alcohol, although his previous alcohol use had taken its toll. He also used illicit drugs. The only immediate medical treatment Mr Exell received on admission to prison was treatment for an infected wound on his hand.²⁵

40. As noted above, it was planned that he would have a full health review shortly after his admission in June 2019, but that did not occur until June 2020, when a medical officer audited Mr Exell's file and realised his medical review was overdue. Mr Exell was seen within weeks of the omission being identified. At that time, the diagnosis of diabetes was made but his liver problems were not addressed or discussed. It was suggested in the review that the significance of his diabetes became the focus of that review as his blood sugar levels at the time were extremely high, almost at a level requiring hospitalisation, but he didn't seem convinced that he had diabetes.²⁶
41. Nonetheless, it was acknowledged that the liver issues should also have been addressed at that time or another medical review appointment should have been placed to ensure there was follow-up. Instead, nothing more was done about his liver disease until November 2020. At that time, he was referred to the Hepatology Clinic, which led to tests that confirmed Mr Exell's worsening liver function and also that he was positive for hepatitis C.²⁷
42. Mr Exell had declined updated testing for active hepatitis C in 2019, informing admissions staff he had previously successfully eliminated the disease. Unfortunately, it appears he had either been reinfected prior to his last admission to prison, which would have been detected if he had agreed to the screening, or he was infected after his admission while in prison, noting he was found with a drug not prescribed to him that is often injected on 13 November 2019, so he was likely sharing needles. Mr Exell did not report any symptoms of the illness that might have prompted more testing, so it remained undetected again until his liver disease was being explored in early 2021. It was noted that Mr Exell's enforced abstinence from alcohol while in custody over that time would have slowed the progression of his liver disease, but the ongoing hepatitis C infection would have had the opposite effect. However, it was suggested in the internal medical review that due to the fact that cirrhosis was evident from around 2012, earlier treatment may at best have delayed Mr Exell's death, rather than prevented it.²⁸
43. The Acting Deputy Director of Medical Services, Dr Catherine Gunson, explained further at the inquest that the liver can recover a little when you remove the things that are damaging it, like alcohol use and hepatitis C, but the level of recovery would depend on how advanced the cirrhosis was, and Mr Exell would have remained at

²⁵ Exhibit 3.

²⁶ T 12 - 13; Exhibit 3.

²⁷ Exhibit 3.

²⁸ T 11 - 12; Exhibit 3.

higher risk of developing hepatocellular carcinoma even when those elements were removed.²⁹

44. In the end, there was no clear explanation provided for why Mr Exell's first medical review was delayed by a year, and then the liver disease investigations were delayed by a further few months. His liver disease had been progressing since 2012 and he had declined routine testing for hepatitis C on re-admission to prison in June 2019 (as was his right), which would likely have led to earlier treatment. It is unfortunate his medical review was delayed after that admission date, as it is possible Mr Exell could have been encouraged to have the testing. However, even if that had occurred, I am satisfied that it is unlikely earlier investigations would have altered the outcome in Mr Exell's case significantly.
45. There was also a delay in Mr Exell being seen at Greenough Prison after he vomited blood (haematemesis) in April 2022. He sought a medical appointment several times over the next few days but this did not occur due to restrictions and staff shortages related to a COVID-19 outbreak in the prison at the time.³⁰ When he was eventually seen, Mr Exell was said to be stable and the incident was felt to be isolated, although there were some signs of abdominal distension and pain, shortness of breath and limb swelling that potentially suggested something was amiss and could have prompted a gastrointestinal referral, although it did not occur at that time. Mr Exell then declined rapidly in the days after and was urgently transferred to hospital, where he reported he had been experiencing ongoing episodes of melaena (black tarry poo indicating gastrointestinal bleeding). If health staff had been informed of this other sign of internal bleeding, it is likely that Mr Exell might have been sent to hospital for review earlier. This might have led to his oesophageal varices being banded earlier, but it would not have altered the outcome, as Mr Exell by that stage had already developed liver cancer.³¹
46. I was advised that in April 2022, on his return to Casuarina Prison from FSH and as the diagnosis of liver cancer became clear, a Briefing Note was prepared for the Minister for Corrective Services under the Royal Prerogative of Mercy (RPOM). A recommendation was made that Mr Exell not be released under those provisions as he had not met his treatment needs, lacked appropriate community support, remained mobile and could pose a potential risk to the community. He had been assessed to be at very high risk of further general offending based on the risk assessment tool and had not completed a recommended intensive violence-offending treatment programme.³²
47. The matter was revisited on 15 June 2022, when Mr Exell was escalated to Stage Four terminally ill due to his risk of acute oesophageal haemorrhage. Once again, a recommendation was made to the Minister that Mr Exell should not be released under the RPOM as he had unmet treatment needs, community support had not been explored and there was a lack of information available regarding victim issues.³³

²⁹ T 10.

³⁰ T 34.

³¹ T 17 – 18; Exhibit 3.

³² Exhibit 2, DIC Review Report.

³³ Exhibit 2, DIC Review Report.

48. Overall, there were some notable omissions in the continuity of Mr Exell's medical care during his last period of incarceration, particularly during his first year back in custody. It doesn't appear that he was actively showing any signs of his increasing ill health and was not seeking out medical help, but given his known chronic health conditions, particularly his liver disease, much earlier medical review should have occurred after he was admitted to custody in June 2019. Nevertheless, I accept it would, at best, have delayed his death and would not have prevented it.
49. Once it became apparent his liver disease progression had reached the stage that he was terminal, Mr Exell received prompt and compassionate medical care, including the ability to have regular contact with family members and to choose his own path with regard to treatment. In his final days, he was able to say farewell to his sons who were also at the prison and were allowed to visit him in the infirmary.³⁴ He was then transferred to a community palliative care facility, where he was able to be visited by other family members. All of this was timely and appropriate.
50. I was informed by Dr Gunson that some improvements have been made in educating administrative staff to ensure follow-ups for interventions occur and medical officers have also been taught to include information in appointment requests that will provide clarity about what problems are being investigated. Additionally, since October 2023, a dedicated Nurse Education Coordinator has been appointed, whose role is to organise training and upskilling for prison nursing staff. In particular, the Nurse Triage process has been reviewed and improvements are being made to ensure that evolving serious health conditions, like Mr Exell's, are more easily recognised and acted upon.³⁵ I am satisfied the Department's Medical Services staff have recognised the need to improve continuity of medical treatment for men such as Mr Exell, so I do not make any recommendations.

CONCLUSION

51. Mr Exell was a 55 year old man with a long history of alcohol abuse and chronic hepatitis C infection. Although he received treatment for the hepatitis C infection in 2016 while in prison, he did not complete the course of treatment upon release. He initially declined further testing for re-infection in mid-2019, but he eventually was tested and then received a further course of treatment for hepatitis C in 2021. However, by then he had developed complications of liver cirrhosis and oesophageal varices. In April 2022, he was diagnosed with liver cancer and due to his poor general health status, no treatment was possible. In June 2022, his oesophageal varices were also no longer considered treatable, which left him at risk of sudden death at any time. After being given counselling, Mr Exell determined he no longer wanted any active treatment and he was commenced on a palliative care pathway. He was kept comfortable until his death on 30 June 2022. He died as a result of natural causes.

³⁴ T 13.

³⁵ Exhibit 3.



S H Linton
Deputy State Coroner
3 September 2024