

SOUTH AFRICA / JUDGMENT

Harding's Inquest (162/2011), In Re [2011] ZAGPJHC 97 (26 August 2011)

[2011] ZAGPJHC 97**COURT**

South Gauteng High Court, Johannesburg

BEFORE

N.P. Willis, F.H.D. Van Oosten

CASE / FILE NUMBER

162/2011

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IN THE SOUTH GAUTENG HIGH COURT

JOHANNESBURG

REPORTABLE

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DATE:26/08/2011

REVIEW CASE: HIGH COURT REF NO: 162/2011

MAGISTRATE'S SERIAL NO. 15/2011

ROODEPOORT INQUEST NO. 231/2009

HONEYDEW CAS 8/11/2007

In the matter of the Inquest of VINITA GAIL HARDING

JUDGMENT: REVIEW

WILLIS J:

- [1] On 16 September, 2010, the learned magistrate at the Roodepoort Magistrate's Court, Mr M.J. Thobela, held an inquest in terms of the Inquests Act, No. 58 of 1959 ("the Act") into the death of Vinita Gail Harding ("the deceased").
- [2] The deceased did not die of natural causes. She had died of aldicab poisoning. Aldicab is a form of pesticide. It is acutely toxic. It is colloquially known "Chinese two step". One of the issues which the learned magistrate had to consider was whether the deceased had committed suicide or whether she had been poisoned by someone else.

- [3] At the end of the inquest the magistrate held that he was unable to make a finding as to who may have been responsible for the death of the deceased.
- [4] In recording his finding the magistrate said that the death occurred on 31 October 2007. He was immediately corrected on this point by counsel for the State. The post mortem examination had been performed on 30 October 2007. The learned magistrate, after having some debate with counsel, then recorded that he was unable to say when the deceased died. On the official J56 form in which he recorded his finding he wrote next to paragraph (b) which provides for the date of death to be recorded, “Unable to state date”.
- [5] The magistrate has now referred the matter to this Court for review in terms of section 18 of the Act. He has referred to section 16 (2)
- (c) of the Act which provides that the judicial officer conducting the inquest shall record a finding as to the date of death. The magistrate now considers that he should have recorded the date of death as having been 26 October 2011 and has asked that this Court correct his finding in this regard by making such substitution as this Court may deem fit.
- [6] It is clear from the evidence led at the inquest that the deceased must have died either on 25 or 26 October 2007.
- [7] Although section 16 (2) (c) of the Act refers to “the date of death” this does not require a finding as to the exact day upon which the deceased person died. There will be situations where this will be impossible. It seems clear that judicial officers holding inquests are to do the best they can, on the evidence available to them, in making such findings. If the evidence justifies recording merely an approximate date, it is not only quite in order to record as much but, in my opinion, proper to do so. Likewise, where it is clear that a death could not have occurred before or after certain dates, this should be recorded accordingly. In the present case, the magistrate should have recorded that the deceased died either on 25 or 26 October 2007. These are the dates which should have been recorded in the inquest finding.
- [8] I am fortified in this view by reference to the case of *Claassens v Landdros, Bloemfontein* 1964 (4) SA 4 (O), in which De Villiers J and Smuts AJ (as they both then were) emphasised the public interest in there being pertinent findings recorded by the magistrate conducting an inquest in terms of the Act.
- [9] The following is the order of this Court:

The finding by the magistrate as to the date of death of the deceased, as recorded in paragraph (b) of Form J56, is amended to read “On either 25 or 26 October 2007.”

DATED AT JOHANNESBURG THIS 26th DAY OF AUGUST, 2011.

N.P.WILLIS

JUDGE OF THE HIGH COURT

I agree.

F.H. D. VAN OOSTEN

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