

Owner denies bashing man

By NICOLE LEEDHAM
The former owner of Tropics Nightclub denied bashing a Tongan man against the wall after he had fallen down the club's stairs last year.

The ACT Coroners Court was hearing an inquest into the death of Semisi (James) Unga, 37, who was found unconscious at the bottom of the stairs outside Tropics on November 29.

In earlier proceedings, Hemioni Fusitua, told the court that he had been at the club on the night of the incident.

He had not seen Mr Unga fall but had heard a girl saying, "Jimmy's fallen down the stairs".

When Mr Fusitua had arrived at the top of the stairs, he had seen the nightclub owner, Tim Harrington, standing at the bottom of the stairs.

As Mr Unga had stood up, Mr Harrington had allegedly punched

him against the wall and called him "an idiot".

During cross-examination yesterday by counsel representing the family, Bernard Colleary, Mr Harrington denied this allegation.

Mr Harrington told the court he had arrived at Tropics about midnight on the night in question.

He said he had noticed Mr Unga later in the evening when his attention was drawn as Mr Unga kicked a coffee table.

Mr Harrington had headed towards Mr Unga because "he looked like he was in a bad mood".

He had later seen Mr Unga hit a man he only knew as "Wayne".

Mr Harrington had stepped in between Mr Unga and "Wayne" to try to defuse any fight.

"I grabbed hold of him [Unga] and asked him to stop it," he said. "He grabbed hold of me... He lifted me up... I haven't got any footing and he's just throwing me around."

Mr Unga and Mr Harrington had lost their balance and fallen. Mr Harrington's feet and back had hit the stairs first.

Mr Unga had gone over the top of Mr Harrington and they had tumbled down the stairs.

Mr Harrington had got up and gone back up the stairs. He had seen Mr Unga's watch lying on the top of the stairs and had turned to return it.

He noticed a crowd had gathered around Mr Unga and realised that Mr Unga had not stood up.

In other evidence yesterday, Dr Raymond Newcombe, the neurosurgeon who had operated on Unga at Woden Valley Hospital, told the court the injuries could have been caused by either a fall or a push against a wall.

Coroner Kevin Dobson adjourned the inquest in order that another witness be summoned.

The hearing will continue on Thursday, April 15.

Jewish child 'buried alive'

ADELAIDE: A shot Jewish child could be heard calling for its mother as it was being covered with earth in a mass grave, a witness told Australia's first war crimes trial yesterday.

Fyodor Grigoryevich Polyukhovich, 67, told the Adelaide Supreme Court he had seen three armed policemen escort a Jewish woman and her two children to a mass grave site on the outskirts of the Ukrainian village of Serniki during World War II.

He said he was one of around 200 Ukrainians who had been forced to fill in the pit which had been used earlier that day to hold the bodies of a "large number" of Jews who had been executed after being marched out of Serniki by German soldiers and local police.

Mr Polyukhovich told the court the three policemen had followed the woman and the two young boys into the pit - which was half full - but he did not see what happened next because he hid behind a pile of earth at the grave's edge.

He began to weep as he told the court he had heard up to 10 shots fired.

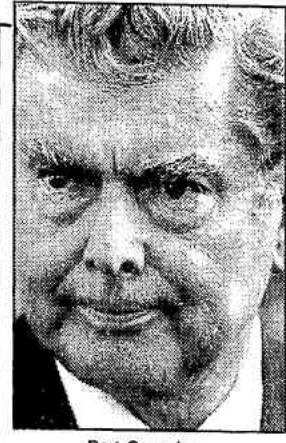
He said the police, who had begun piling earth on top of the three bodies, told the Ukrainian workers to finish filling in the pit.

"When we continued working there burying them, all of a sudden I saw the earth moving and a child's voice could be heard from underneath [calling] something like "mama," Mr Polyukhovich said.

Mr Polyukhovich told the court he knew all three of the policemen who had escorted the woman and her two children as Polivnik, Martochin and Ivanekcho.

Crown prosecutor Greg James, QC, told the court in his opening address that the Crown would prove that the man accused of war crimes, 77-year-old Adelaide pensioner Ivan Timofeyevich Polyukhovich (no relation to the witness), was also known by the street name or nickname of Ivanekcho.

The trial is continuing.



Cummings loses appeal for damages

SYDNEY: Leading racehorse trainer Bart Cummings has lost an appeal over his failed attempt to win more than \$10 million damages from two accountancy firms.

The Full Bench of the Federal Court upheld yesterday a decision of Justice Wilcox of the Federal Court, who ruled against Cummings in August, 1991.

The trainer had sued Coopers & Lybrand and KPMG Peat Marwick in an effort to recoup losses he incurred through the enforced sale of more than 60 horses he had bought for three proposed Cups King syndicates in 1989.

Coopers & Lybrand and KPMG Peat Marwick rejected Mr Cummings' claim that they had made a binding contract with him concerning the syndicates, which struggled to attract investors as the long-delayed effects of the 1987 share market crash filtered through to the racing world.

The failure left the trainer in debt to three firms of bloodstock auctioneers.

Justice Wilcox found that the relationship between the trainer and the firms did not amount in law to a partnership.

"Although it is true that, if the syndicates had succeeded, all parties would have profited by that fact [in the sense that the revenues of their own separate businesses would have been augmented] this is not enough," the judge said.

The Federal Court said the relationship was a loose one under which each would make a contribution of a different kind to the enterprise. Each was bringing a different expertise and skill.

"On no basis does such an arrangement impose obligations on one party to contribute to the losses of the other," the judges said.

Trio 'threatened' at knifepoint

A 25-year-old man has been committed for trial charged with trying to rob three people at knifepoint at Mount Ainslie lookout in February.

Phillip John Keen, 25, was committed to the Supreme Court by Magistrate John Dainer on 22 charges relating to the attempted robbery, burglaries at two shops, assault, and car theft.

Three witnesses told the court yesterday how they had been at the lookout in the early hours of February 27. They had been walking around the area and had gone back to sit in their car, and had fallen asleep.

They had woken to the sound of the front passenger door opening, and had seen a man holding a knife.

He had threatened them, saying he wanted money because he was a junkie and he needed a hit.

The male passenger had tried to wrestle the knife away and had been cut on the hand. The female driver had backed the car out of the parking area, and had driven about 10m with the attacker clinging to the car. He had eventually let go.

A witness told the court that Keen had threatened him with a knife outside a Downer house about 11.30pm on February 26.

Police gave evidence that a bag had been found in the back of a stolen car which Keen identified as his.

Keen reserved his defence for his Supreme Court trial.

Man claims he was dragged beside car

By NICOLE LEEDHAM
A man was dragged alongside a car for several metres after a fight in Phillip in March last year, the ACT Magistrates Court was told on Monday.

The man, John Bonasera, suffered abrasions to about 15 per cent of his body, cuts to his face and a fractured wrist.

He described the incident in evidence at the criminal hearing of Michael Leslie Roberts.

Roberts was committed for trial in the Supreme Court on counts of intentionally inflicting grievous bodily harm, of recklessly inflicting grievous bodily harm and of assault occasioning grievous bodily harm.

The court heard that Bonasera and others in his rugby team had been celebrating a grand final win at the Henry Grattan Tavern, Phillip.

After they had left the tavern and walked along Botany Street, a car had driven up and verbal abuse had been exchanged with the occupants of the car.

A couple of Bonasera's friends and some of the occupants of the car began fighting, while Bonasera and another man had gone over to a hot food van to get something to eat. They had not been watching the fight.

They soon noticed the car had gone and a couple of their team mates were missing.

He and the other man had gone to the corner of Botany Street and Melrose Drive and had noticed the fight had begun again.

As they approached the fight, the occupants of the car had gone back to their vehicle.

Bonasera had felt the fight "was not fair... just not on" and had chased after the car.

He had put his right arm into the rear left passenger window "possibly to grab hold of the person" sitting there.

He felt his wrist being grabbed and noticed he was also being held by his jersey.

Bonasera said he had heard someone in the car yelling "drive, drive".

"The car took off... I ran next to it for a short period... then I lost my footing and the car continued to drive up the road," he said.

Bonasera had freed himself by pulling his head and arms out of the jersey.

He then fell on the road, bare chested, and had "bounced, I guess, or slid".

He was admitted to Woden Valley Hospital and had stayed there more than a week.

Magistrate Peter Dingwall ruled that Roberts, who had allegedly been the rear-seat passenger, had a case to answer.

Burglary move 'regrettable'

MELBOURNE: A Supreme Court judge attacked a Victorian Government decision to downgrade the seriousness of burglaries as he sentenced a man for a murder yesterday.

Justice Norman O'Bryan sentenced Darren William Walsh, 29, of North Fitzroy, to 20 years' jail for murdering a man with a wooden didgeridoo during a house break-in.

Walsh was found guilty by a jury of murdering William Porter, 27, at Mr Porter's home in Fitzroy, on April 16, 1991. He had pleaded not guilty.

Justice O'Bryan said Walsh was a "drug-addicted desperado" who bludgeoned Mr Porter around the head with the didgeridoo during the burglary that went horribly wrong.

The attack had occurred when Mr Porter returned home from work and interrupted Walsh.

Walsh had grabbed a didgeridoo and smashed the back of Mr Porter's head. Mr Porter had died two days later in hospital.

"It is regrettable that the Government downgraded the seriousness of burglary so that offenders rarely receive their just desserts in the Magistrates Court for a crime that has potential to become a serious assault or a case of homicide when the householder returns and confronts the offender," Justice O'Bryan said.

A high proportion of burglaries committed today were by drug addicts wanting to finance their drug habit.

Walsh's criminal record showed he was a professional burglar who had a drug problem since he was a teenager.

The judge said he agreed with Walsh's barrister, Brent Young, that the murder was not pre-meditated.

Walsh was sentenced to a non-parole period of 15 years.

Ex-Compass deputy to face probe

BRISBANE: A courtroom examination will be held into the business dealings of the former deputy chairman of Southern Cross Airlines Holdings Ltd, Doug Reid.

Queensland Supreme Court Justice Kenneth Mackenzie granted an application yesterday from Southern Cross's provisional liquidator, Richard Barber, for the examination.

Reid, 55, of Toorak in Melbourne, will be called to testify on oath about his dealings involving Southern Cross, which operated Compass Airlines Mark II.

The airline collapsed last month and the court appointed Mr Barber as provisional liquidator to Southern Cross at the company's request.

The examination is expected to be held in Brisbane's Magistrates Court over five days, possibly from June 7, but it could be earlier.

Reid is expected to be questioned by a lawyer appearing for Mr Barber during proceedings held before a magistrate.

Yesterday's application was granted in the absence of Reid and his legal representatives.

In a separate action taken by the provisional liquidator, the court placed a receiver, Brisbane accountant Ross Duus, in charge of Reid's assets, effectively freezing them.

In legal submissions made last week during those proceedings, it was claimed Reid misappropriated about \$5 million of Southern Cross funds last year and was involved in forging documents shown to fellow directors.

His legal counsel, Russell Hanson, QC, told the court the claims were based on hearsay and, in an affidavit, Reid's Melbourne lawyer, Edmond Coady, said Reid had denied any impropriety.

TODAY'S LAW LIST

- HIGH COURT**
Before His Honour, Chief Justice Mason, in Court 19A, Level 19, Law Courts Building, Queen's Square, Sydney, at 10.15am: Re: Director of Public Prosecutions. Ex parte: Lawler and another.
- FEDERAL COURT**
Before a Full Court (Chief Justice Black and Justices Galloway and Gummow) in Court 5 at 10.15am: Hearing: the ACT Chief Minister v Malcolm McRae.
Before Justices Burchett, Miles and Foster, in Court 2 at 10.15am: Hearing: Australian and Overseas Telecommunications Corporation Ltd v Margaret Galloway Alison McAuslan.
- FAMILY COURT**
Before Justice Finn in Court 1 at 10am: Lecmhuis.
Before Registrar Davis in Court 3 at 9.45am: Hardley/Lakey.
At 10am: The dissolution list as follows: Hewitt, Pypic, Smith, Kern, Geysen, Colbert/Hardin, McGuinness, Mason, Liccardello, Van Der Kleij, Arnaz, Canavan, Jarrett, Ashby, Byrne, Parish, Briggs, Josselyn, Dyer, Demarco, Brunoro/Hickson, Willmott, Lynch.
Before Deputy Registrar O'Rourke in Court 2, the pre-hearing conference list as follows: At 9.30am: Tarzia. At 11.30am: Barrell. At 2.15pm: for a conciliation conference: Morphett.
- Deputy Registrar Morrissey in Court 4, the pre-hearing conference list as follows:** At 9.30am: Grantham. At 10.30am: Crispino. At 11.30am: Bryson/Melides. At 2.15pm: for a conciliation conference: Frisch.
- A.C.T. SUPREME COURT**
Before Justice Higgins in Court 1, ACT Law Courts, starting at 10am: Judgement: Raymond Johnston v Australian Broadcasting Commission. Steven John Winbank v R. A. Baker.
Appeal: In the matter of a criminal injuries compensation application, Jonathan Graeme Boxall v Rudi William Lammer.
Before the Master in Court 6, ACT Law Courts, starting at 10am: Hearing: Farouk Nchouk v Frank Josef Van Der Korput; Richard William Ruhfus; Katherine Nonas v Timnor Pty Ltd.
Before the Registrar in Hearing Room 3, third floor, AMP Building, Hobart Place, at 10am and 11am: Application: In the matter of criminal injuries compensation applications (CIC45/92), (CIC27/88).
- ADMINISTRATIVE APPEALS TRIBUNAL**
Before Ms G. Eitinger, Senior Member, Dr Travers, Member, H. G. Julian DSC, Member, in Hearing Room 1, fourth floor, Canberra House, 40 Marcus Clarke Street, Canberra: Hearing: 10.15am, McLean and Commissioner for Superannuation.

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You can see "Surrealism Revolution by Night" at the National Gallery until Sunday, May 2 and on Mondays and Tuesdays if you buy one adult ticket you'll receive another one free. On those days you'll also receive 20% off merchandise in the gallery shop (offers exclude public holidays).

For a chance to win the Optus Audiovox PR-250 which features one touch dialling, 99 alpha memory, electronic menu and includes two batteries - just phone one of The Canberra Times Competition Lines by 4pm, Tuesday April 27, Register your name and address and answer this simple question about "Surrealism Revolution by Night": What date does "Surrealism Revolution by Night" finish at the National Gallery of Australia?

Times Competition Lines:
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Winners will be notified by mail and published in The Canberra Times Public Notices on Wednesday, April 14, Wednesday, April 21 and Wednesday, April 28.

The Canberra Times National Gallery of Australia

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