

# Jaidyn leskie essay



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## Contents

- RECOMMENDATIONS AND COMMENTS

**Inquest into the death of Jaidyn Raymond Leskie****JAIDYN RAYMOND LESKIE**

Coroners Case Number: 007/98

**ABOUT THE REPORT**

The Report is divided into a number of sections. There is a general Introduction followed by a discussion section dealing with evidence and submissions. After the “*Discussion on the Evidence*” section are the “*Findings*” and “*Conclusion to the Findings*”. Then follows the “*Recommendations and Comments*” section of the report in which the writer makes some observations about issues to do with public health and safety or the administration of justice. Acknowledgements will be found at the end of the document.

**INTRODUCTION: THE CORONER’S JURISDICTION AND INVESTIGATION**

## Background and summary

Jaidyn Raymond Leskie was born on 30<sup>th</sup> April 1996 to Ms. Bilynda Williams (nee Murphy) and Mr. Brett Leskie. Mr. Leskie was previously married to Katie, Ms. Williams’s sister.

On 15<sup>th</sup> June 1997 the disappearance of Jaidyn Leskie was reported by police to the State Coroner as a suspected death.

At the time of his disappearance, Jaidyn lived at 27 Lincoln Street, Moe with his mother Ms. Bilynda Williams and his sister Breehanna Leskie (who was born on 17<sup>th</sup> January 1995). Following Jaidyn's disappearance an extensive search was conducted and his body was recovered from the Blue Rock Dam in the Moe district on 1<sup>st</sup> January 1998 when it was discovered floating on the surface.

On 14<sup>th</sup> and 15<sup>th</sup> June 1997, shortly before his disappearance, Jaidyn was being looked after by Mr. Greg Domaszewicz who was a friend of Ms. Williams. At this time Ms. Williams had permitted Mr. Domaszewicz to care for Jaidyn at his house at 150 Narracan Drive, Newborough. Mr. Domaszewicz lived alone at this address.

Subsequently, in July 1997, Mr. Domaszewicz was charged with Jaidyn's murder and remanded in custody. On 1<sup>st</sup> January 1998 the death was reported to the Coroner when the body was discovered at the Blue Rock Dam, near Moe.

In March 1998, committal proceedings were conducted at the Moe Magistrates' Court and Mr. Domaszewicz was committed for trial.

Subsequently, on 4<sup>th</sup> December 1998 he was found not guilty by a Supreme Court jury of Jaidyn's murder or manslaughter.

#### *Summary history of coronial involvement in the investigation*

In December 1998 Mr. Brett Leskie's solicitors sought a coronial investigation into the death and to hold an inquest. Subsequently Deputy State Coroner Iain West commenced an investigation into Jaidyn's death. In January 2002  
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the Deputy State Coroner advised interested parties he had decided to exercise his discretionary power under s. 17(3) of the *Coroners Act* 1985 (Vic) and not to hold an inquest into the death.

In May 2002, Deputy State Coroner West completed a record of investigation into the death. The following findings were made; the identity of the deceased was Jaidyn Leskie and that death occurred on or about 14<sup>th</sup> June 1997 at an unknown place and was from head injuries. The Deputy State Coroner also made summary findings in relation to the “*circumstances*” of the death which included demographics residential and a description of various events of the evening of 14<sup>th</sup> June 1997 that had emerged during the trial, the discovery of Jaidyn’s body along with the results of the post-mortem examination and the verdict from the criminal trial.

Following completion of Deputy Coroner West’s finding on the papers (sometimes called “*a finding in chambers*” or “*a chamber finding*”) remained as the record of investigation into the death until it was set aside by the State Coroner on 26<sup>th</sup> September 2003.

Prior to setting aside the Deputy Coroner’s findings, in June 2002, the State Coroner received letters from Jaidyn’s family seeking a review of these earlier findings and requesting that an inquest be held into the death. There were also requests from members of the public. The family also sent requests to the Attorney-General, who forwarded them to the State Coroner.

An investigation review was ordered by the State Coroner and, on 21<sup>st</sup> July 2003, the Principal Registrar of the State Coroner’s Office advised Ms.

Williams and other family members that the State Coroner had reviewed additional material supplied by the police, had granted the application of Ms. Williams and ordered an inquest into the death. On 26<sup>th</sup> September 2003, a “mention hearing” was held and orders were made under s. 59A of the *Coroners Act* declaring the findings made by the Deputy State Coroner void.

An inquest was commenced by the State Coroner on 17<sup>th</sup> November 2003. This inquest is referred to as the “*First Inquest*” and it ran for 22 hearing days with 48 witnesses being called. On 16<sup>th</sup> April 2004, before completion of this inquest Counsel for Mr. Domaszewicz applied to the State Coroner for orders setting aside the following:

- the orders made by the State Coroner at the mention on 26<sup>th</sup> September 2003;
- the order made by the State Coroner that the First Inquest be held; and
- three summonses that had been issued by the State Coroner to Mr. Domaszewicz requiring him to attend and give evidence at the First Inquest.

On 7<sup>th</sup> May 2004, the State Coroner refused Mr. Domaszewicz’s application and provided written reasons. Counsel Assisting effectively summarised the balance of the processes thus:

*“ On 3 June 2004, Mr. Domaszewicz filed an originating motion in the Supreme Court of Victoria seeking declaratory relief and a permanent stay of the investigation and inquest into the death of the deceased.*

*On 17 December 2004, the Supreme Court made certain declaratory orders, the effect of which was to terminate the First Inquest for lack of jurisdiction. However, the Supreme Court held that the State Coroner had jurisdiction to hold an inquest into the death of the deceased under s. 17(1) of the Coroners Act, as long as he had considered, pursuant to s. 17(3) of the Coroners Act, whether to exercise his discretion not to hold an inquest. Mr. Domaszewicz's application for a permanent stay was refused.*

*On 19 April 2005, after hearing submissions from the parties to the First Inquest, the State Coroner announced that he had considered whether to exercise his discretion under s. 17(3) of the Coroners Act not to hold an inquest, and had decided that an inquest should be held (the Second Inquest).”[1]*

The Second Inquest commenced on 11<sup>th</sup> July 2005 with all of the evidence given and tendered at the First Inquest being adopted as evidence in the Second Inquest.[2] The remainder of the evidence took four days and the Committal and Trial transcripts were tendered in evidence.

It is noted that, on the order of the State Coroner, Mr. Domaszewicz was not required to give evidence at the Inquest on health grounds.

#### *Coroner's findings*

Section 19 (1) of the Coroners Act 1985 provides that a coroner investigating a death, the coroner must find, if possible:

(a) the identity of the deceased;

(b) how death occurred;

(c) the cause of death;

(d) the particulars needed to register the death under the *Births, Deaths and Marriages Registration Act 1996* (Vic); and

(e) the identity of any person who contributed to the cause of death.

Under Section 19 (2) and 19 (3) of the Act the coroner may also comment on any matter connected with the death, including public health or safety or the administration of justice, but must not include any statement that a person is or may be guilty of an offence.

Section 19 (e) of the Act was amended in 1999 and the requirement under this sub-paragraph to find the identity of any person who contributed to the death was deleted. However, for investigations that commence prior to the amendment (July 1999) the requirement for the coroner to find *contribution* still applies.

### DISCUSSION ON THE EVIDENCE

In this section of the report a range of issues and evidence will be examined. There are a range of submissions by the various parties on how issues and evidence should be viewed by the Coroner and relevant parts of these submissions can be found referenced in this section of the report.

The relationships of the parties involved

Ms. Williams and Mr. Domaszewicz first met in September 1996. Mr. Domaszewicz had been involved in running a motor vehicle repair business with Ms. Williams' husband, Mr. Leskie. Apparently Ms. Williams developed “*a relationship*” with Mr. Domaszewicz who had no children.

The history of previous baby-sitting by Mr. Domaszewicz

Ms. Williams stated that Mr. Domaszewicz had looked after Jaidyn about eight to ten times before the day he disappeared. Evidently, he first commenced looking after Jaidyn two or three months earlier.

Apparently, Jaidyn and Mr. Domaszewicz seemed to get along well and he did not often stay at Mr. Domaszewicz's house. During this time, Ms. Williams had observed one occasion where Mr. Domaszewicz played Nintendo with Jaidyn.

Some of Mr. Domaszewicz's friends gave evidence about his relationship with Jaidyn. Mr. Glenn Walker said<sup>[3]</sup> that he observed him at Mr. Domaszewicz's house on about six occasions before the disappearance. According to Mr. Walker, Mr. Domaszewicz generally took good care of Jaidyn. However, Mr. Walker also stated that sometimes Mr. Domaszewicz would get annoyed with Jaidyn and smack him but this was not hard. Mr. Matthew Walsh also said that he had observed Jaidyn at Mr. Domaszewicz's house and that Jaidyn got on well with Mr. Domaszewicz's dogs. However, he also noted that on one occasion Mr. Domaszewicz put Jaidyn in the backyard with the dogs and he was crying for about five to ten minutes. Apparently Mr. Domaszewicz would push Jaidyn over on to his bottom to try and make him laugh. Mr. Walsh had not seen Mr. Domaszewicz being cruel



to Jaidyn. On one occasion both Walsh and Domaszewicz sought assistance with changing a nappy.[4]

Mr. Walsh noted that “*Jaidyn liked to sook a bit...cry flat out non stop...*”. He said that “*sometimes it would go on for an hour...sometimes he would do it like for like 20 minutes...*”. Evidently, Mr. Domaszewicz would react by “*turning the stereo up louder so he couldn’t hear him*”. The effect that would have on Jaidyn was “*not much, cry a lot...*”. He continued to “*sook*”. Mr. Walsh also said when Jaidyn continued to sook Mr. Domaszewicz would take him out the back with the dogs.[5]

Another friend, Mr. Darren Farr observed Jaidyn at Mr. Domaszewicz’s house and that he was coping satisfactorily with the child. [6] On two occasions Mr. Ramen Le Mercier saw Mr. Domaszewicz caring for Jaidyn at the Narracan Drive house. Once Mr. Le Mercier nursed Jaidyn when he was crying having been handed the child by Mr. Domaszewicz. Mr. Le Mercier also said that Jaidyn, who liked the dogs, was put out in the backyard with them by Mr. Domaszewicz.[7]

Ms. Julie Clarke, Department of Human Services Case Officer, who was appointed to Breehanna Leskie after Jaidyn’s disappearance said Ms. Williams told her about an occasion when Mr. Domaszewicz aroused his dogs in the backyard and then locked the deceased outside.[8] However, Ms. Williams said that she did not tell this to Ms. Clarke.[9] Ms. Clarke considered she had recorded details of the conversation in a case note, but was unable to find such a case note when she examined the case file.

Jaidyn’s medical and injury history in the lead up to the disappearance

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- *Medical Reviews*

On 21<sup>st</sup> April, about seven weeks before the disappearance, Jaidyn was seen by Dr. Lampel, a general practitioner from the Moe Medical Centre. Ms. Williams took him to the doctor because he was constantly crying and this upset her. She told Dr. Lampel she was having difficulty in coping at times. Dr. Lampel referred her to a paediatrician and noted there was nothing wrong with Jaidyn.[10] Twice, on 2<sup>nd</sup> and 28<sup>th</sup> April, Ms. Williams also saw Dr. Lesney-Noakes who considered that her son appeared to be in good health.

- *Injuries – the Blue Rock Dam fishing trip*

Mr. Walker said that both he and Mr. Domaszewicz took Jaidyn on a fishing trip to Blue Rock Dam.[11] Apparently Jaidyn was dropped by Mr. Domaszewicz as he was lifting him over a fence. There was some blood under his eye and Mr. Domaszewicz comforted him following this incident. Ms. Williams said that when Mr. Domaszewicz brought Jaidyn back after this trip, she observed scratches and bruises on his face. Mr. Domaszewicz told her it must have happened when Jaidyn was playing with the dogs and sticks.[12]

Jaidyn's paternal aunt, Mrs. Lori Leskie said that when she went on a trip with her nephew and other family members to pick up Brett Leskie's car at Lake's Entrance, she had noticed a deep graze on Jaidyn's cheek. [13] She asked Brett about the graze, and he told her that Ms. Williams had told him (Brett) that when Mr. Domaszewicz took Jaidyn fishing he had fallen down stairs. Mr. Glenn Leskie also observed a deep healing graze on Jaidyn's left cheek

when they drove to Lakes Entrance.[14] Brett Leskie had confirmed the falling down the stairs explanation to his wife by Ms. Williams. However, Ms. Williams stated that on the day Lori and Glenn Leskie had driven to Lakes Entrance, Jaidyn was not with them, but was with her.[15]

- *Injuries – Bruising on Jaidyn’s face*

Ms. Williams said that about a month before the disappearance, Jaidyn stayed overnight with Mr. Domaszewicz and the child returned home with a bruise mark on his face which looked like an adult’s hand. This mark appears in a photograph that was possibly taken on 20<sup>th</sup> May 1997 at Mr. Domaszewicz’s.[16] Ms. Williams said that Mr. Domaszewicz told her he had hit Jaidyn’s head on the car door and after that he would not stop crying. He also told her that he had taken Jaidyn inside and tried to stop him crying but then he “*lost it*”. Then Mr. Domaszewicz offered to go to the police or ‘*welfare*’ and tell them what had happened as he was afraid they might take Jaidyn away from his mother. Neither the police nor ‘*welfare*’ was informed. However, after this occurrence it appears that Ms. Williams was nervous about leaving her son with Mr. Domaszewicz.

- *Injuries – Incidents involving Ms. Williams*

Mr. Brett Leskie said Ms Williams told him that that on one occasion she had kicked Jaidyn fairly hard, and on another occasion she had shaken him fairly hard. [17] According to Mr. Leskie the “*kicking*” incident occurred some weeks before he went to Western Australia for work on 6<sup>th</sup> May 1997. He said that Ms. Williams told him that she had “*lost the plot*” and kicked her son. After this incident Mr. Leskie took Breehanna and Jaidyn to stay at his

parents' home, because he was concerned about their safety, although he did not observe any physical injuries to Jaidyn and did not advise either the Department of Human Services or the police.

Mrs. Elizabeth Leskie, Jaidyn's paternal grandmother said that Breehanna and Jaidyn were brought to her house by Brett in February 1997. <sup>[18]</sup> Brett had advised that Ms. Williams had kicked Jaidyn and needed a break from the children. Mrs. Leskie believed the children went back to Ms. Williams about 15<sup>th</sup> March 1997. She also said that she only saw Jaidyn a couple of times after that and, at no time, did she observe any injuries or bruising on him.

On the '*kicking*' incident Ms. Williams stated that she had lost her temper one day and shoved Jaidyn with her foot. She said that Mr. Brett Leskie was there when this occurred. She had not shaken Jaidyn as alleged by his father. Ms. Williams noted that, about a month after she had shoved Jaidyn with her foot, Mr. Leskie had taken the children to his parents for a maximum of a week and a half and that the children went there because he was going to Western Australia and wanted to spend time with them before he left. She denied there was any incident that prompted Mr. Leskie taking Breehanna and Jaidyn to stay with their grandparents.

- *Other possible injuries*

In January 1997 Mrs. Lori Leskie said she had seen large bruises on both of Jaidyn's thighs.[19]

- *Conclusion*

In both Mr. Domaszewicz's and his mother's care Jaidyn sustained injuries.

These incidents included one occasion in May 1997 when Mr. Domaszewicz had lost his temper and struck him. Counsel Assisting points out that “ *the evidence suggests that, otherwise, Mr. Domaszewicz had a reasonable relationship*” with Jaidyn.[20] However, this “ *reasonable*” relationship also includes Mr. Domaszewicz getting annoyed and smacking the infant child, allowing him to continue to cry and turning the stereo volume up, and also leaving the infant in the backyard with his three dogs.

Yet, it also appears that Ms. Williams may have been wary after the incident that apparently occurred in May 1997, in that she was nervous about leaving her son with Mr. Domaszewicz. But this nervousness did not translate to preventing her leaving Jaidyn in his care. It did not trigger any real action by way of protective behaviour towards her son. It should have. The most she did was try to look for her son in the evening of 14<sup>th</sup> June whilst he was in the care of Mr. Domaszewicz. Apart from a number of attempted telephone calls she appears to have put little by way of effort into this action. On receiving no answer to the telephone calls, she went to a party and then proceeded to the local hotel where she drank alcohol into the early hours of the next morning.

But, there is also other evidence of injury following autopsy examination and subsequent additional expert opinion. In this regard Counsel Assisting also observed:

*“ If the deceased suffered an injury to his ribs or his arm prior to this date (as some of the medical evidence...suggests), there is no evidence as to how*

*this occurred. There is no evidence of the deceased being in any severe discomfort in the days immediately prior to the day of disappearance, or on the morning of his disappearance.”[21]*

The lead up and disappearance: events of 14<sup>th</sup> and 15<sup>th</sup> June 1997

- *14<sup>th</sup> June 1997: Morning*

Ms. Williams said that Mr. Domaszewicz came to her house late in the morning and requested to have Jaidyn for the day, to which she agreed. He was to pick up Jaidyn after “*putting Tattslotto on or something*”. Ms. Williams then dressed Jaidyn in warm clothes, as Mr. Domaszewicz had said he was going to work on his car and it may rain. Jaidyn was dressed in grey tracksuit pants with a green trim on the bottom and the words “*Baby Games*” on them, a green long sleeved shirt, a blue grey windcheater and a red jacket. She also pinned a new white dummy to Jaidyn’s clothes and put four nappies in a blue plastic shopping bag along with some more clothes, a bottle, an apple, a muesli bar and a lollipop. Ms. Williams stated that she had given Jaidyn toast for breakfast but he did not have anything else to eat before leaving with Mr. Domaszewicz. She noted that it would be unusual for her son to go right through the day without eating more than his breakfast as he had a large appetite and would cry when he was hungry.

Mr. Domaszewicz returned to the house in about half an hour and they both put Ms. Williams’ car baby seat into Domaszewicz’s car. Evidently the baby seat was wet, as it had been on the verandah. Mr. Domaszewicz then drove the four of them to Ms. Katie Leskie’s home (Ms. Williams’ sister). Mr.

Domaszewicz dropped Ms. Williams and Breehanna off there at about 1. 30-2. 00pm.

Ms. Williams stated that she had not asked Mr. Domaszewicz to keep Jaidyn overnight. She was under the expectation that he would drop Jaidyn back in the afternoon. Evidently, it was planned that a baby-sitter was going to look after the children at Ms. Katie Leskie's house that evening.

- *14<sup>th</sup> June 1997: Afternoon*

Apparently, Mr. Domaszewicz and Jaidyn arrived at the 150 Narracan Drive address at about 2. 00 in the afternoon. [22] After this, apart from Mr. Domaszewicz, there is no evidence that anyone else saw Jaidyn alive. No one else observed Jaidyn at Mr. Domaszewicz's house that day or in the evening. There is some evidence that Jaidyn's voice was heard during evening telephone calls between Ms. Williams and Mr. Domaszewicz.

According to Mr. Domaszewicz, he was working on his car. He explained that he opened the gates and drove his car into the backyard.[23] There were three dogs in the backyard.[24] On arrival at his house Mr. Domaszewicz got Jaidyn out of the car and reversed the car up the ramps and jacked up the front of the vehicle. The jack was a trolley jack[25] that Messrs. Glenn Walker and Brett Edwards had dropped off at his place earlier in the day.[26] He then closed the side gates and the backyard was enclosed.[27] Mr. Domaszewicz stated that he worked on the car during the afternoon. Apparently, he was welding the exhaust to stop the tail pipe hitting against the bumper bar. He was also fixing the heater cable and spraying some of the front of the car.[28] In the record of interview he said that the car had

fallen on him once.[29] Evidently, he had no visitors that afternoon[30] and did not leave the house until he later went to pick up Ms. Williams.[31]

According to Mr. Domaszewicz, Jaidyn spent most of his time with the dogs, [32] and was able to go in and out of the house as the back door was partly held open by an extension lead.[33] It rained during the afternoon,[34] but Jaidyn was not in the rain much, as he stood in the garage door. Apparently he got wet, but not that wet.[35]

Mr. Domaszewicz stated that it was dark when he finished working on the car.[36] The light to the porch was on at the back and there were no lights in the garage.[37] He positioned his car in front of the gates when he had finished working on it[38] and then went inside. This was approximately 6.00pm.[39] Apart from some chips Mr. Domaszewicz also said that Jaidyn had not eaten during the afternoon.[40] Evidently he had his bottle which had cordial or coke in it.[41]

Mr. Domaszewicz had spoken to his neighbour Mr. Alan Sparks as he was going in and out.[42] Apparently, early in the afternoon, Jaidyn was bleeding from the lip. Mr. Domaszewicz did not know what had caused the bleeding. [43] He also stated that he did not do anything to Jaidyn and did not lose his temper with him.[44]

- *Telephone conversations: Afternoon?*

Mr. Domaszewicz had two telephone conversations during the afternoon that are relevant.

Mr. Darren Farr stated that he telephoned Mr. Domaszewicz at about 2.00pm, and talked to him for approximately an hour. [45] During this

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conversation Mr. Domaszewicz did not mention Jaidyn nor did he mention that he was working on his car. Evidently the telephone conversation finished when Mr. Domaszewicz said he had to go because someone had just pulled up.

Later in the afternoon, Mr. Domaszewicz telephoned Ms. Williams at her sister's home. Ms. Williams said that Mr. Domaszewicz was angry because of the conversation with Mr. Farr. Apparently, the Farr telephone conversation had involved an allegation that Mr. Domaszewicz had told someone in Morwell that he was going to kill Mr. Farr by Christmas. However, Ms. Williams also suggested that the allegation may have been the other way around. Evidently, Ms. Williams had previously considered that Messrs. Domaszewicz and Farr had been on friendly terms. During this conversation Mr. Domaszewicz said he was working on his car and advised Jaidyn had fallen over and he (Domaszewicz) had cleaned him up. He also did not say anything about the fact that Jaidyn had been bleeding. As it was raining Ms. Williams inquired of Mr. Domaszewicz as to whether he needed more clothes for Jaidyn. His response was to the effect that it did not matter because he was going to have a shower (or give Jaidyn a shower) and then bring him back to Katie Leskie's. During this conversation Ms. Williams said she heard her son's voice on the phone. Evidently he said the word "*dog*" (at this time Jaidyn was able to say the words "*Mum*", "*Dad*" and "*dog*").

Following the telephone conversation with Mr. Domaszewicz, Ms. Williams had an argument with her sister and walked home in the rain with Breehanna. She got home just before dark.

- *Attempted telephone calls: Early evening*

After arriving home, Ms. Williams rang Mr. Domaszewicz to advise him to bring Jaidyn to her house rather than to her sister's place. She stated that she tried to ring Mr. Domaszewicz about 15-20 times with no answer. The calls were spread out and she used the redial button. Ms. Williams stated that she was sure that she was dialling the correct number and she was concerned to find out where Jaidyn was.

Conversely, Mr. Domaszewicz stated that there was no reason why he would not have answered the telephone. [46]

- *Telephone call with a neighbour: Evening*

Ms. Mariann McKinnon was one of Mr. Domaszewicz's neighbours (their houses were separated by a vacant block). She stated she had previously seen Mr. Domaszewicz looking after Jaidyn and that he had brought the child to her house on one occasion. [47] On the day of the disappearance she arrived home at about 8.00pm. During the night she rang Mr. Domaszewicz on a couple of occasions to see if he had money for her from one of his friends who owed her money. He did not answer the telephone but, apparently, this was not unusual. She said that Mr. Domaszewicz telephoned her at about 10.00pm and he told her he had phoned a couple of times earlier. They talked on the telephone for about half an hour. He enquired as to whether she had any nappies as he had run out of nappies. She advised him to use a towel instead of a nappy (and her husband, from the background, said he could come and demonstrate to Mr. Domaszewicz). Mr. Domaszewicz told her that he knew how and she also informed him that he

could get nappies across the road at the service station. Mr Domaszewicz also asked her what size Jaidyn would be and enquired as to whether all service stations sold nappies. During this conversation Ms. McKinnon offered to lend Mr. Domaszewicz some clothes, however, he said he had plenty of clothes. Also she heard a small child and a dog in the background and the child was laughing. Mr. Domaszewicz also told Ms. McKinnon that if Ms. Williams got back early he would come over to her place.

As to Mr. Domaszewicz, he said he rang Ms. McKinnon to get another nappy. [48]. Evidently he had changed Jaidyn's nappies approximately four times and had run out.[49]

- *Telephone calls with Ms. Williams: Evening*

There were a number of telephone conversations between Ms. Williams and Mr. Domaszewicz. These occurred after she went to Ryan's Hotel with her sister and her sister's boyfriend. Ms. Williams said that after she first went with the group to a party in Traralgon (at about 8pm), they stayed there until about 11.00pm, when they went to Ryan's Hotel.

After arriving at Ryan's Hotel Ms. Williams telephoned Mr. Domaszewicz from a pay phone. She stated that she was trying to find out where Jaidyn was and that during this call she could hear Nintendo in the background. It was during this call that Mr. Domaszewicz told her "*shit's happened*", Jaidyn had burnt himself on his bottom, and he had taken him to Moe Casualty where they had put cream on him. Evidently, Mr. Domaszewicz also said that they did not do it well enough so he took Jaidyn somewhere else. After this

conversation Ms. Williams' sister Katie told her not to worry as Mr. Domaszewicz was joking.

Ms. Williams said that whilst she was at Ryan's Hotel, she drank " *sub zeros* ", two glasses of bourbon and a can of Zambucca and coke. Apparently at some point in the evening she was refused any further drinks at the hotel. Ms. Williams did not consider that she was that drunk.

Ms. Williams telephoned Mr. Domaszewicz again. During this conversation he told her that her son was not burnt, but had a red mark that you get if you stood too close to the heater. Ms. Williams recalled that she might have heard Jaidyn in the background in this conversation or an earlier conversation, but she could not be sure whether that was in a telephone conversation this night or the night before.

As to these conversations Mr. Domaszewicz stated Jaidyn was a bit red on the right cheek of his backside, near the kidneys but he was not burnt.[50] He stated that the first call from Ms. Williams was at approximately 10. 00pm and that she called again closer to 3. 00am.[51] He said that Jaidyn was awake when Ms. Williams rang at 10. 00pm.[52]

- *Other evidence of movements of the various players during 14<sup>th</sup> /15<sup>th</sup> June 1997*

There are a number of witnesses who gave evidence and made statements about the movements of the principal parties during the day, evening and early morning of the next day.

Mr. McCarthy said he had gone to Mr. Domaszewicz's place at about 12. 00 noon that day to drop some Nintendo controllers back. At this time he arranged with Mr. Domaszewicz to collect him at around 7. 30pm to go to a friend's house. <sup>[53]</sup> Evidently he attempted to telephone Mr. Domaszewicz during the afternoon on three or four occasions with no answer. Mr. McCarthy stated that he finished work at 7. 30pm and drove past Mr. Domaszewicz's house about five minutes later but that he did not stop because Mr. Domaszewicz's car was not in the driveway. Mr. McCarthy considered it was not unusual to receive no answer on the telephone from Mr Domaszewicz or for him not keep meeting arrangements.

Ms. Williams said she resolved the quarrel with her sister Katie on the telephone and decided to go with her and Mr. Neville Hibbins (who was Katie's boyfriend) to a party in Traralgon. Evidently, the three of them left Moe for Traralgon at approximately 8. 00pm. Ms. Katie Leskie said that she, Neville and her sister drove around looking for Jaidyn and Mr. Domaszewicz before they went to Traralgon.<sup>[54]</sup> She said they drove past Mr.

Domaszewicz's Narracan Drive house. <sup>[55]</sup> However, Ms. Williams placed a different emphasis on this aspect of events in that she said she had been concerned to find out where Mr. Domaszewicz and Jaidyn were and she wanted to stop at his house because she was worried. Evidently, her sister would not let them drive that way because they were driving in her boyfriend Neville's car, which was unregistered (as Katie's car had broken down).

Mr. Domaszewicz noted he had not made any arrangements to go out<sup>[56]</sup> and that when he went inside after working on his car he gave Jaidyn a

wash[57] and a shower.[58] Apparently the child was standing near the heater and getting red.[59] He said that he put fresh clothes on Jaidyn.[60] He did not seem hungry nor did he seem to want chips or lollies.[61] According to Mr. Domaszewicz they both watched television, including “*Hey Hey [it’s Saturday]*” [62] and then “*The Great Escape*” and “*Batman*”. [63] Mr. Domaszewicz said that Jaidyn was asleep on the couch by the time “*Batman*” came on.[64]

Ms. Kim Wilson lived at 26 Lincoln Street. She said that at around 12. 30am (on 15<sup>th</sup> June) she heard a car revving. She looked out and saw a green car that may have been Mr. Domaszewicz’s car parked across the road out the front of Ms. Williams’ house. [65] It is noted that Mr. Domaszewicz denied being at Ms. Williams’ house around midnight. [66]

Ms. McKinnon stated that at about 1. 00am, she heard a car start up. Apparently she thought the car was a Ford with a 250 cross-flow engine and she considered this might have been Mr. Domaszewicz’s car. Although she acknowledged that Ms. Yvonne Penfold had a similar car. She noted that Mr. Domaszewicz sometimes parked his car behind the gates in the backyard, but that he mostly parked it in front of his house.

Mr. Seamus Hasson, first came forward to give evidence in the First Inquest, stated that in the early hours of either a Saturday or a Sunday morning (of the weekend that he believed to be the weekend the deceased went missing) he observed a green Ford sedan in the vicinity of the Blue Rock Dam.[67] Mr. Hasson said that he had been away on a deer hunting trip for a couple of days, and was driving back home in the direction of Moe. He

knew it was a Friday night or Saturday night because he remembered being worried about how busy Moe would be when he drove through and that at about 12. 30am (30 minutes before he arrived home), he was driving on a road he identified on a map as being Walhalla Road.[68]

Mr. Hasson stated he saw vehicle headlights on Willow Grove Road, a road that was on a ridge parallel to Walhalla Road and ultimately met in a ‘ Y’ intersection with Walhalla Road. He noted that Blue Rock Dam is on the east side of Willow Grove Road. Mr. Hasson said that, in order to amuse himself, he sped up to try and meet the other vehicle at the intersection of the two roads. Evidently as he approached the intersection, Mr. Hasson said that he observed a green Ford sedan, which was an XA or XB Falcon, stationary in the middle of the intersection. He did not see who was driving the car or the number of people in it. When Mr. Hasson’s headlights hit the vehicle, the driver accelerated quickly and took off towards Moe. He then followed the vehicle to Moe and at one time was close enough to see the registration number. He said he observed the vehicle for a total of 12 to 14 minutes and then he turned off towards his home, where he arrived at about 1. 00 or 1. 10am (he saw the time on the clock in his kitchen).

Mr. Hasson said that he had not been drinking that night and that, after arriving home he later informed his wife as to what he had seen (and possibly on the same night) which included his observation of all of the numbers and letters of the vehicle’s registration. Mr. Hasson did not write the registration down, but Mrs. Hasson made an acronym out of the letters in the numberplate – IRS (Internal Revenue Service).

Mr. Hasson said that later that week he saw a news report about the disappearance of Jaidyn that showed a car that looked like the car he had seen that night. Mr. Hasson said that he saw the numberplate, he recognised the vehicle. However, he did not report what he had seen to the police, as he thought the information would be useless. Later in 2003 having seen Ms. Williams on television he decided to contact the coroner. Mr. Hasson told his brother and a friend what he had seen. However by the time he made his statement, he could remember the letters but not the numbers on the numberplate. And, since making his statement, Mr. Hasson had researched the case on the internet and knew that Jaidyn disappeared on a Saturday night. Also, since making his statement for the Coroner he had checked his bank records to see if there were any transactions that demonstrated which weekend he had been on the deer hunting trip and observed the car. This was the weekend of 14<sup>th</sup> and 15<sup>th</sup> June 1997, but Mr. Hasson could find no banking transactions to assist his recollection.

Mrs. Gwenda Hasson [69] remembered her husband coming home from a hunting trip on a Friday or Saturday night. She noted that he always sat up for a while drinking coffee and watching television after getting back from such a trip and before going to bed. She said that her husband came to bed at about 2.00am (as she looked at the clock). She recalled it was the next morning he had told her that he had seen a car coming down out of the mountains that he had followed. He told her the registration number (numbers and letters) of the car. She gave evidence that as she heard the registration number, she formed the words “*Internal Revenue Service/System*” in her head. She also said she thought there may have



been a “ 6” and an “ 8” in the registration number, but she had not put this in her statement “ *in case she was wrong*”. She observed that her husband may have told her that the car was a Ford and that neither of them had written down the registration number.

Mrs. Hasson also gave evidence that they both subsequently saw a news story about a baby who had gone missing on the same weekend and that this made her feel a bit eerie because her husband had seen the car on the same night that the baby went missing. She noted that later they saw a second news story and a car was in the background. It was while this news story was on the television that her husband saw the numberplate of the car and said “ That’s the car, that’s the car”. She said that they both discussed going to the police, but did not do so. She obtained a statement from their bank account to see if her husband had made a transaction at a BP Service Station on the hunting trip. The statement did not show any such transaction, but did show a purchase of hiking boots in Melbourne on 6 June 1997. Mrs. Hasson also confirmed that both she and her husband had done some research on the internet about the case. Evidently, this research was done after her husband made his statement but she could not say whether it was before or after she made her statement.

Following this evidence Senior Constable Gibson (investigator for the Coroner) was directed to perform tests and seek witnesses. He gave evidence at the inquest [70] that on 5<sup>th</sup> December 2003, he undertook tests to assess the visibility of headlights on Willow Grove Road from the road on which Mr. Hasson had been driving. The Senior Constable noted that at that time, the majority of the land at the roadside was fairly heavily wooded and

<https://assignbuster.com/jaidyn-leskie-essay/>

he was unable to comment on the state of the vegetation in 1997. Also he was unable to replicate the sightings of car headlights as described by Mr. Hasson in his evidence at the inquest. Senior Constable Gibson conducted additional inquiries in relation to all Ford motor vehicles registered in Victoria in 1997 with a numberplate commencing with the letters " IRS". There were 23 such vehicles (including the vehicle owned by Mr. Domaszewicz). The Senior Constable located the owners of 20 of those vehicles. Sixteen (16) of the owners told the investigator that they owned the vehicle at the relevant time and that it was not in the Moe area at that time.[71] Four of the recorded " owners" said they did not own the vehicle at the relevant time and the previous owner was either deceased or unable to be located.[72]

Mr. Domaszewicz said that, following the second telephone call from Ms. Williams, he left his house to go and pick her up from the hotel. When he left Jaidyn was asleep on the couch[73], the heater and television were still on[74] and there was no one else in the house. He stated that the dogs were outside[75] and the house was secure.[76]

Counsel for Mr. Domaszewicz commented on Mr. Hasson's evidence thus:

*" Mr Hasson's allegations of sighting a vehicle which was supposedly Domaszewicz's, on the morning of the day Jaidyn disappeared. I do not propose to examine this evidence. It was discredited at the First Inquest. Mr Gibson could not recreate the sighting; there were many difficulties with the evidence, some of which are referred to in Mr Kennan's submissions, and Mr Gibson himself conceded at the First Inquest:*

*" ...you talked about concentrating on new evidence, leaving aside any expert material the new evidence seemed to come from three sources I suggest, one was Mr Hasan (sic), Seamus Hasan, know who I mean?—I certainly do.*

*That's the gentleman who was driving down, because it was cold his shooting trip and he was driving down, whatever the name of the road was, but it was on the outskirts of Moe in the hills?—That's correct Yes sir.*

*His claim effectively was that he saw a vehicle that he believed was Mr Domaszewicz's vehicle right?—He described a vehicle but the obvious inference was that it was Mr Domaszewicz's correct.*

*So it's the fact of it being his vehicle plus the movements of the vehicle and the way it was driven and so on that were as it were the new material right, the vehicle was there, assuming it was all true, Domaszewicz's vehicle was there, and the way it was driven, which direction it was heading and so forth right? — Yes the new information was that Mr Hasan had made a statement and yes there were those details contained in the statement yes.*

*Were you present when he gave evidence in court?—Not for the whole lot but I did see some of it yes.*

*Have you read it?—I have read the transcript of his evidence yes.*

*You conducted your tests after he gave evidence because we couldn't cross examine him at the time?—Yes.*

*About the tests, conducted afterwards, and the tests showed that it was impossible to reconstruct a situation where he could see what he claimed to see?—That's correct. That's correct.*

*You'd have to say as a policeman that makes his evidence, leaving aside any criticism about his evidence, and there were plenty of them, but that makes his evidence inherently unreliable doesn't it?—Ultimately that's a matter for His Worship, I was asked at the time by I believe it was counsel assisting whether I could say it was impossible for Mr Hasan to have seen what he saw, at the time I said I couldn't say it was impossible because I wasn't aware of the vegetation et cetera.*

*I've since made further enquiries I can now say that in my opinion it's impossible for Mr Hasan to have seen a car on the Willow Grove Road in the positions he said he did Have not made a subsequent statement about that? —No that is contained - in the further enquiries and the statements that I've taken are contained in —*

*You've just added something over and above what was in your statement and what you gave evidence of, of the simulation tests you conducted you've just added something over and above that haven't you? — Yes. We wouldn't have heard of that, didn't give it in your evidence-in-chief - - ? —I am not trying to hide anything, quite prepared to say that.*

*No, I'm not suggesting you are. I mean, if you were trying to hide it, you wouldn't have said it to - - ?—I was intending, had I read the entire statement out, that I would have said it as I was prompted by reading it as I*

*was led through it. No, I didn't mention it at the time. That's why I thought it was important to mention it now.*

*That's a fairly important rider to add to your evidence concerning that issue, isn't it?—Yes.”[77]*

And noted that Counsel Assisting conceded that Mr. Hasson:

*“ only came forward some seven years after the events he was describing, despite the enormous publicity surrounding the child's disappearance, the committal, the trial, and subsequently. It is clear Mr Kennan places little weight on Hasson's evidence. I propose to say nothing further about it, other than to point out that he did not make a statement to police until August 20, 2003, some weeks after the decision to conduct an Inquest had been made public by the Coroner's office.”[78]*

- *Domaszewicz collected Ms. Williams and returned to Narracan Drive*

Mr. Domaszewicz said that, having arrived at Ryan's Hotel, he found Ms. Williams to be drunk.[79] He was sober. He advised Ms. Williams that her son was in the hospital.[80] Ms. Williams said she asked Mr. Domaszewicz where Jaidyn was and he told her he was at the Maryvale Hospital. She then asked him to take her to the hospital. However he refused, saying she was too drunk. She said that he had an open stubby of Jack Daniel's in the car and she drank it.

Ms. Williams said that on arrival at Narracan Drive she observed the front windows of Mr. Domaszewicz's house were smashed with glass in the living room. Apparently Mr. Domaszewicz then looked in the cupboards but he did

not say anything about Jaidyn. Ms. Williams told Mr. Domaszewicz to ring the police and he responded by saying that he did not “*dob people in to the cops*”. She said that they both did not remain long at Narracan Drive and that she noticed it was 3. 04am on the video when they left. Ms. Williams noticed the pig’s head as they were leaving. On the way to her house Mr. Domaszewicz drove slowly past Ms. Penfold’s where the lights were on.

Mr Domaszewicz stated when they went inside his house, he saw that Jaidyn was missing.[81] However, everything else was there.[82] Mr. Domaszewicz did not tell Ms. Williams that Jaidyn was missing because he did not want to alarm her. He thought that Ms. Penfold might be involved.[83] He noted that the lights he had left on were still on[84] and both the front and back doors were still locked.[85] He noticed rocks in the front room[86] and the pig’s head on the ground outside the lounge room.[87] He stated that it was not possible for Jaidyn to have injured himself while he was away collecting Ms. Williams.[88]

Mr. Domaszewicz then drove Ms. Williams to her house. He also stated that Ms. Williams asked him to stay and gave him a key to her house.[89])

On arrival at her home Ms. Williams gave evidence that she went to sleep on the floor in the lounge room in front of the heater. However, before falling asleep, she telephoned Mr. Brett McGrath (whom she had seen in Traralgon that night), and Ms. Julie Brassington (who was baby-sitting Breehanna at Katie’s house). Finally, she telephoned Mr. Domaszewicz and asked him to return to her place. He said he would.[90]

- *Domaszewicz’s movements after leaving Ms. Williams’ house*

After leaving Ms. Williams, Mr. Domaszewicz was intercepted by Senior Constable Farnham Molesworth. The police officer gave evidence<sup>[91]</sup> that at about 3. 30am on 15<sup>th</sup> June he saw Mr. Domaszewicz driving in Lloyd Street and he was travelling away from Moe. He stopped Mr. Domaszewicz in Bennett Street and spent about four minutes with talking to him. He asked Mr. Domaszewicz where he had been and the reply was “ *nowhere* ”. The Senior Constable noted that Mr. Domaszewicz did not get out of the car and that his demeanour was “ *cautious* ”. He said that Mr. Domaszewicz did not appear wet and that he did not mention a missing child. Mr. Domaszewicz then drove off south along Bennett Street and into Narracan Drive.

Mr. Domaszewicz stated there was a two hour period between the time he left Ms. Williams’ house and the time when he returned at about 5. 00am. <sup>[92]</sup> He stated that over the two hour period he went home for about 10-20 minutes and then went to Ms. Penfold’s house, where he did not observe anything.<sup>[93]</sup> During questioning by police Mr. Domaszewicz gave no further explanation for how he spent this time except to explain that he was looking for Jaidyn.<sup>[94]</sup>

- *The return to Ms. Williams’ house*

Mr. Domaszewicz stated that when he returned to Ms. Williams’ house he woke her up and told her that someone had taken Jaidyn.<sup>[95]</sup> Ms. Williams stated that Mr. Domaszewicz advised he had lied about her son being in hospital and he asked her to go with him to the police.

The ‘ Pig’s Head’ Incident

In the early hours of the morning of 15<sup>th</sup> June 1997 a pig's head was thrown at the lounge room window of Mr. Domaszewicz's Narracan Drive house. There were a number of individuals involved in varying degrees in this incident including Messrs. Kenneth Penfold, Dean Ross, Darrin Wilson and Raymond Hopkinson (deceased) and Mr. Penfold's sister Ms. Yvonne Penfold.

;

At the Magistrates' Court committal hearing and the trial, evidence was given by Messrs. Penfold[96], Ross[97] and Wilson[98] along with Ms. Penfold[99] on the 2. 10 am visit they all made to Mr. Domaszewicz's house. Mr. Penfold shared a house with Mr. Ross and Mr. Raymond Hopkinson at 10 Gladstone Street, Moe. Ms. Penfold lived at 44 Austin Avenue, Moe. Mr. Wilson resided in San Remo.

As Counsel Assisting submitted:

*“ although there are some differences in their accounts, their evidence points towards the following sequence of events:*

- 1. Ms Penfold, Mr. Penfold and Mr. Wilson had been at a party in Haigh Street, Moe;*
- 2. after the party, Ms. Penfold drove Mr. Penfold and Mr. Wilson to Narracan Drive;*
- 3. Ms Penfold was driving a brown Commodore belonging to Mr. Wilson;*
- 4. on the way to Narracan Drive, there was discussion about Mr. Domaszewicz's harassment of Ms. Penfold, whom Mr. Domaszewicz*



- had been in a relationship with, and Mr. Penfold said that they were going to give Mr. Domaszewicz “ a scare”;*
5. *on the way there, they picked up Mr. Ross from 10 Gladstone Street;*
  6. *whilst at 10 Gladstone Street, Mr. Penfold also picked up a pig’s head;*
  7. *the pig had belonged to Mr. Hopkinson, who did not go to Narracan Drive that night, staying instead at Gladstone Street;*
  8. *they drove to the service station near Mr. Domaszewicz’s house on the other side of Narracan Drive, where they stopped briefly;*
  9. *they then drove up a dirt road running parallel to the railway line opposite Mr. Domaszewicz’s house;*
  10. *Mr Penfold and Mr. Wilson got out of the car, taking the pig’s head with them;*
  11. *Mr Penfold also had an axe handle that he got from the boot of the car and Mr. Wilson had a stick of some kind;*
  12. *Mr Penfold and Mr. Wilson waited at the railway line, where they watched Mr. Domaszewicz’s house;*
  13. *they saw a car reversed into Mr. Domaszewicz’s driveway and that the lights were on in the house; they saw Mr. Domaszewicz come out of the house and put something in the wheelie bin, go back inside, come out again, get into the car and drive off;*
  14. *Mr Penfold and Mr. Wilson then walked across the road to Mr. Domaszewicz’s house;*
  15. *they threw the pig’s head at the window of the house twice, threw rocks at the windows and threw the axe handle into the bushes across the road;*
  16. *dogs at the house were barking;*

17. *they did not hear a baby;*
18. *they did not enter the house;*
19. *they did not take the deceased;*
20. *they left the house and walked up Narracan Drive in the direction of the Narracan Creek Bridge;*
21. *as they were walking, they saw two young boys, to whom Mr. Penfold said “ boo”;*
22. *they were picked up by Yvonne in the car at the Narracan Creek Bridge.”[100]*

On 9<sup>th</sup> August 2005, during the Second Inquest, Mr. Penfold made a statement in which he said that when Mr. Domaszewicz got into his car, he was carrying a bag that he had brought with him from the house. He put the bag in the boot of the car. It is noted that Mr. Penfold had made no reference to seeing Mr. Domaszewicz with a bag that night during the evidence he gave at Mr. Domaszewicz’s committal, Mr. Domaszewicz’s trial, or in any of the statements he made to the Police. In addition, Mr. Wilson made a statement on 23<sup>rd</sup> August 2005 (Exhibit 122) stating that he had no recollection of seeing Mr. Domaszewicz put anything in his car.[101]

There is evidence by a number of other witnesses who also observed various aspects of these events and tend to confirm some of the basic story.

Mr. Christopher Alford and his wife Elspeth stated they were driving along Narracan Drive that morning and observed two men running across the road towards the railway line, just down from the BP Service Station and near Mr.

Domaszewicz's house. Mrs. Alford noted that it was 2. 14am on their car's clock. [102]

Mr. Paul Reid had been at a party in Haigh Street in Moe and on leaving the party, he walked along Narracan Drive towards the BP Service Station with Mr. John Sellens. [103] They were about 200 metres from the service station when he thought that rocks were being thrown at them from the railway side of Narracan Drive. They both continued walking and bought some items at the service station (the service station receipt showed the time of purchase as 2. 20am).

Mr. John Sellens agreed that he left the party with Reid and said that at the same time they left the party two other men also left. He lost sight of the two other men. Both he and Reid walked along Narracan Drive to the BP Service Station in order to get something to eat. During the walk someone started throwing rocks from the railway line. Mr. Sellens could hear dogs barking but did not hear either any loud music or a baby screaming. At the service station, he observed the two men who had left the party and they both got into a red car and drove towards Moe.[104] Mr. Sellens said that he walked home from the service station arriving there at about 2. 45am. During the time Messrs. Sellens and Reid were at the BP Service Station, Messrs. Daniel Halstead and Ben Stubbs were also present.

Mr. Stubbs agreed that he was at a party in Haigh Street, Moe and he left at about 1. 30am. He was walking down Narracan Drive towards the service station with Mr. Halstead when he saw two men coming towards them on the same side of the street. One of the men said " Boo " and rocks were then

thrown at them. They both continued on past Mr. Domaszewicz's house (he knew Mr. Domaszewicz and his house) and observed that the front porch lights were on at the house. He heard music but did not know where it was coming from and also heard dogs barking.

Mr. Stubbs said that on arrival at the service station he saw the same two men in a red Commodore with a woman and another man. [105]

Mr. Halstead gave evidence at the trial that he left the Haigh Street party with Stubbs and others at about 1. 30 or 2. 00am and as they walked along Narracan Drive towards the BP in order to buy food they noticed two individuals coming in the opposite direction. When they passed one of the people yelled " boo" at his companion, Mr. Stubbs. He did not notice whether these individuals were carrying anything. As they both continued on they felt rocks being thrown at them. As they walked past Mr. Domaszewicz's house Stubbs pointed it out to Halstead. [106]

Mr. Spark, a neighbour of Mr. Domaszewicz's lived at 148 Narracan Drive. He gave evidence that he was woken at about 2. 00am by voices, banging, rustling and glass breaking that lasted for about 30 seconds. He then heard a car speed off. He did not hear a baby crying.[107]

Ms. McKinnon gave evidence that sometime between 2. 30 and 3. 30am, she heard music from the general direction of Mr. Domaszewicz's house. It was very loud, the song was " *Slice of Heaven*" and the music lasted for between two and five minutes.

*Comment by Counsel for Mr. Domaszewicz on Mr. Penfold's evidence*

Counsel for Mr. Domaszewicz made the following observations on Mr. Penfold's fresh evidence:

*“ Mr Ken Penfold alleged that he now remembered that Domaszewicz was holding a parcel when he went out to the car on the relevant night. This was a startling change from his testimony at the trial, and, was, quite clearly, an invention. His reconstruction continued at the end of my cross-examination. Asked about his evidence at the trial:-*

*“ At no stage did you mention anything remotely along the lines – - -?—I've seen him put something in that car boot, and to my knowledge it was a sleeping bag. It's obvious it was a sleeping bag, because that's what he was found in. Now it's obvious, Mr Lovitt, it was a sleeping bag. It doesn't take Einstein to work that out now, does it. “*

*So the object in his hand that he had, late in 2005, just recently remembered was not just a parcel, it was now a sleeping bag! A better example of conscious or sub-conscious reconstruction would be difficult to imagine, especially in a witness like Mr Penfold. And Mr Penfold's new statement was made on August 9, 2005, well after the decision to conduct the Second Inquest.”[108]*

Police involvement and forensic investigation following initial missing person's notification

- *Initial police involvement*

Ms. Williams and Mr. Domaszewicz both went to the Moe Police Station at about 5. 00am on 15<sup>th</sup> June.[109] Sergeant Maxwell Hill (Officer in Charge of the Moe Police Station) stated that Mr. Domaszewicz said:

*“ Her baby’s been kidnapped. My windows have been smashed and they’ve left a pig’s head there.”* [110]

The Sergeant said that Ms. Williams was crying and she told him that Mr. Domaszewicz had told her that Jaidyn was in hospital. Apparently Mr. Domaszewicz said “ *they* ” had taken Jaidyn from his house in Narracan Drive between 2. 30 and 3. 20 that morning; and that Jaidyn was not in hospital. He said he went to “ *Yvonne’s, looking*” for Jaidyn. Sergeant Hill then had a conversation with Mr. Domaszewicz in another interview room. This discussion was recorded. The Sergeant then talked to Ms. Williams alone for about 35 minutes.

At 10. 00am Sergeant Hill and Senior Detective Shelley Rees commenced a formal interview of Mr. Domaszewicz (the ‘ First Record of Interview’)[111]. The First Record of Interview concluded at 4. 09pm. The Homicide Squad arrived at the Moe Police Station from 1. 00pm onwards. That day, Ms. Williams made two statements to police.[112]

- *Police forensic examination of the Narracan Drive and Lincoln Street houses*

Mr. Trevor Evans, a crime scene examiner, Victorian Institute of Forensic Science, gave evidence[113] that at 3. 40pm on 15<sup>th</sup> June 1997, he commenced a forensic examination of Mr. Domaszewicz’s house in Narracan

Drive and that all the front windows were smashed. He noted that there was a pig's head in the garden bed at the front of the house. It appeared that the 'pig's head' had been thrown at the house twice before striking a window on a third occasion. He also noted that every window had a piece of wood to prevent it being opened and there was no sign of forced entry. Mr. Evans also stated that there was no damage to the fallen glass inside the house to show an individual had stood on it and there was no physical evidence to suggest that anyone had entered the house via the windows. He also noted there were rocks in the lounge room of a similar size, shape and colour to rocks along the nearby railway line.

Mr. Evans said there was a small particle of what appeared to be skin tissue on the centre of the upright grill and a number of hair fibres on the grill of the gas space heater. Also there were blood spots on the bathroom wall that were established to be Ms. Penfold's blood and a number of bloodstained tissues were located in a plastic bag at the base of a wheelie bin at the front of the house.

Mr. Evans also discovered \$600 in cash (consisting of one \$100 note and the balance in \$50 notes) under a mattress in a bedroom. The notes were crunched up and were wet and when unbundled they appeared to have been wet prior to being placed under the mattress. Mr. Evans considered that the level of wetness was consistent with being in a person's pocket while that person was immersed in water, but not while they were merely out in the rain.

Mr. Evans said that at about 3. 25pm on 15<sup>th</sup> June he went to Ms. Williams' house in Lincoln Street. He saw a wheelie bin on its side on the front nature strip and some tyre marks on the nature strip and in the front yard.

Following a brief walk through the house, he left the premises. Mr. Evans returned to Lincoln Street at 10. 05pm. In one bedroom he found a cot and bedding on the floor beside the cot. There was a baby's bottle just inside the doorway of the room.

Ms. Williams stated that, in the evening of 15<sup>th</sup> June, when she returned to Lincoln Street from being with the police she saw that the mattress from Jaidyn's cot was on the floor and the bedding was thrown over the edge. She noted the cot had been made when she had gone out the night before.

- *Police forensic examination of Mr. Domaszewicz's Falcon sedan*

On 16<sup>th</sup> June Mr. Evans examined Mr. Domaszewicz's vehicle which was a green Falcon XC sedan with Registration Number IRS 680. He discovered a wet jacket on the floor of the rear of the vehicle and a very wet wallet on the floor underneath the acceleration pedal. He noted that the carpet on the floor of the vehicle was wet. He considered that this level of wetness was not consistent with the level of wetness of the wallet, which he thought looked as if it had been immersed in water.

Ms. Williams noted that when it rained, water got in on the front passenger side of Mr. Domaszewicz's car.

Events between t