

IN THE CORONERS COURT
OF VICTORIA
AT MORWELL

Court Reference: 3798/2010

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 60(2)

Section 67 of the Coroners Act 2008

I, F A Hayes, Coroner having investigated the death of Reginald Mashado without holding an inquest:

find that the identity of the deceased was Reginald Mashado

born on 25/10/1935

and the death occurred on 2 October 2010

at Coronet Bay

from

1a) Drowning

Pursuant to Section 67(2) of the Coroners Act 2008, an inquest into the death was not held and the deceased was not immediately before the person died, a person placed in custody or care; but there is a public interest to be served in making findings regarding the following circumstances:

Mr Reginald Mashado was aged 74 years when on 1 October 2010 he went fishing alone. After he failed to return home, police were notified. A police search located Mr Mashado, deceased, in waters near Reef Island in Westernport Bay on 2 October 2010.

An autopsy was conducted by Doctor Shelley Robertson, Senior Pathologist at the Victorian Institute of Forensic Medicine, (VIFM) who formulated the cause of Mr Mashado's death as "drowning". Doctor Robertson found no other significant natural disease and noted that his heart "appeared essentially normal with no significant coronary atherosclerosis".

A police investigation of Mr Mashado's boat established that it was a home-made style catamaran paddle boat. Sergeant Brad Gardiner, of the Water Police Squad, conducted a stability assessment on the boat. The boat is described as follows:-

"The boat itself had green coloured hulls, white coloured top decks and a plastic office chair bolted athwartships on two planks. There was a small pull-out drawer located beneath the seat that swivelled through 360 degrees and a green coloured fish catch bag tied beneath the drawer. There are no markings to indicate it was made by a company or to a known design standard and there were no identification numbers on the boat.

The boat measures 2.0 metres in length, 1.06 metres at its widest possible beam and displays 0.045 (45 centimetres) of freeboard. The hulls are fully enclosed with no bung plugs and the construction appears to be wood".



The stability assessment was conducted in calm conditions. Sergeant Gardiner concluded that the vessel was "very unstable" and not at all suitable for use in open water. He stated "the narrow beam, short overall length and high seat height gave this vessel a very high centre of gravity making it susceptible to capsizing," this vessel can easily capsize from passenger movement or external forces such as wave action. There are no externally mounted grab handles or rope securing points which would assist in righting this vessel following a capsize".

Sergeant Gardiner concluded that whilst fishing alone, Mr Mashado for reasons unknown, fell from his boat, causing his vessel to capsize. It is likely that, due to the design and construction of the boat, Mr Mashado was unable to right it or get back into it. Mr Mashado was wearing a Personal Flotation Device (PFD) Type 2, which provides no collar to support the wearer's head above the water. Mr Mashado, who was said not to be a strong swimmer, may well have become fatigued, unable to hold his head above water and drowned as a result.

Sergeant Gardiner identified three factors which may have prevented this fatality:-

- 1) A vessel of better stability;
- 2) A Personal Flotation Device, (PFD) Type 1;
- 3) A Personal Emergency Position Indicating Radio Beacon (EPIRB) or Personal Locating Beacon (PLB):

The Coroners Prevention Unit (CPU) was asked to research the regulation and use of Emergency Position Indicating Radio Beacons (EPIRBs) and Personal Locating Beacons (PLBs) or any other safety equipment which could have facilitated rescue.

The CPU report states that human powered vessels (HPVs) such as Mr Mashado's are not required to be registered and the operators are not required to be licensed (except when motorised). Mr Mashado was required, however, to wear a PFD, which he did do. Mr Mashado was not required to carry any other safety equipment, unless he attended to travel into coastal waters more than two nautical miles from shore.

The report outlines the increase in use of HPVs, such as kayaks, canoes, row boats, surf skis and stand up paddle boards. Mr Mashado's craft falls into the category of "personal pontoon craft" which are said to have evolved from inner tube craft used by fly-fishermen in the United States of America (USA).

The CPU report states that Mr Mashado had constructed the pontoon boat himself, on the basis of plans obtained from an unknown publication. As previously stated, the pontoon boat was highly unstable, had a very high centre of gravity, had no rowlocks to lock the oars onto the vessel. There was nowhere to stand on the boat, except to straddle the pontoons.

An EPIRB is a small electronic distress beacon that, when activated in a life-threatening situation, assists rescue authorities in their search and rescue of those in distress. They can be GPS (Global Positioning System) enabled or not. The benefit of a GPS is that a person or vessel can be located to within 120 metres, while those without GPS have an accuracy locator of 5 kilometres per hour (kph). EPIRBs come in three classes, operate on the 406 megahertz (MHz) frequency and must be designed to link to the international search and rescue system. They also need to be registered with the Australian Maritime Safety Authority (AMSA). EPIRBs are designed to be water proof and float on water to optimise signal strength. They are held in brackets on a vessel and can be manually operated or fitted with a hydrostatic release that is water activated.

PLBs are similar to EPIRBs, operating on the same frequency, can be GPS or non-GPS enabled and can be registered with ASMA. Although they do not meet the offshore regulatory requirement to carry an EPIRB, they are cheaper than EPIRBs and are suitable for personal use by bushwalkers, four-wheel drivers, people working in remote areas, boat and aircrew.



The CPU report indicates that Transport Safety Victoria (TSV) has recommended that boaters on all craft, carry either an EPIRB or PLB. On activation, a signal is usually received by the satellite within minutes, the rescue Co ordination Centre is notified (part of the Australian Maritime Safety Authority) and rescue services are mobilized. The report advises that "while Mr Mashado possessed neither there was a probability of a timely rescue had he carried and activated a PLB or EPIRB at the time of his incident".

The police investigation into Mr Mashado's vessel reveals that it was un-seaworthy. It was easy to tip over and impossible to reboard. Mr Mashado wore a Personal Flotation Device, but one that was not suited to long term head support while awaiting rescue. In addition, Mr Mashado did not carry an EPIRB or PLB. Tragically the combination of these factors led to his drowning death.

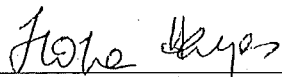
On the basis of the CPU report provided to me, I make the following recommendations:-

1. That Transport Safety Victoria (TSV) continue to advise operators of human powered craft, to go beyond their regulatory safety requirements by carrying extra safety equipment such as Type 1 PFD, which has more buoyant properties than Type 2 or 3 PFDs, and an Emergency Position Indicating Radio Beacon (EPIRB) or a Personnel Locating Beacon (PLB).
2. That Transport Safety Victoria consider notification and advice to boating enthusiasts who construct their own vessels of the regulatory requirements for seaworthiness and safety equipment.

I direct that a copy of this finding be provided to the following:

Transport Safety Victoria.

Signature:



F A Hayes

Date: 21/4/12

