



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Simon Cooper, Coroner, having investigated the death of Valentine Eric Neal Bester

Find, pursuant to Section 28(1) of the Coroners Act 1995, that

- a) The identity of the deceased is Valentine Eric Neal Bester;
- b) Mr Bester died in the circumstances set out further in this finding;
- c) The cause of Mr Bester's death was drowning; and
- d) Mr Bester died on 1 October 2020 at Frederick Henry Bay, Tasmania.

In making the above findings I have had regard to the evidence gained in the comprehensive investigation into Mr Bester's death. The evidence includes:

- Police Report of Death for the Coroner;
- Affidavits establishing identity and life extinct;
- Opinion – Dr Donald Ritchey, Forensic Pathologist;
- Report – Forensic Science Service Tasmania – results of toxicological analysis of samples taken at autopsy;
- Affidavit - Mr William Bester, sworn 24 March 2021 (Mr Bester's father);
- Affidavit – Mr Samuel Bester, sworn 27 May 2021 (Mr Bester's uncle);
- Affidavit – Mr Daniel Davies, witness who found Mr Bester's body, sworn 3 October 2020;
- Affidavit – Ms Melanie Simmonds, sworn 8 April 2021 (who saw Mr Bester with his kayak near the Lauderdale Yacht Club, Roches Beach);
- Affidavit – Ms Penny Gaunson, sworn 3 October 2020 (who saw Mr Bester with his kayak at Roches Beach);
- Affidavit - Ms Georgina Barwick, sworn 3 October 2020 (who saw Mr Bester pulling his kayak along Roches Beach Road in the direction of the beach);
- Affidavit – Mr Michael Price, sworn 4 October 2020 (who saw Mr Bester pulling his kayak along Roches Beach Road);

- Affidavit – Mr Adrian Petrie, a member of the Surf Life Saving Tasmania, sworn 23 July 2021 who participated in the search for Mr Bester;
- Affidavit – Ms Joanna Gallagher, sworn 5 March 2021 friend of Mr Bester;
- Affidavit – Mr Tobias Hallam, sworn 15 March 2021 friend of Mr Bester;
- Affidavits from attending and investigating police officers;
- Bureau of Meteorology records;
- Affidavit – Mr Adam Branch, sworn 21 June 2021;
- Report – Mr Peter Hopkins dated 21 July 2021;
- Police Body worn camera footage; and
- Photographic, physical and forensic evidence.

Background

1. Valentine Eric Neal Bester was born in Hobart on 14 February 2001, to William Bester and Elizabeth Neal. He was aged just 19 at the time of his death.
2. Mr Bester was in good health with his last recorded visit to the doctor being almost 10 years ago to receive immunisation shots for meningococcal. His father did not recall him having any medical records. The evidence is that Mr Bester was an average swimmer and did not have any real experience in kayaking and that he had little or no experience with navigation and understanding of wind and sea conditions, especially further out from shore
3. For his 18th birthday, Mr Bester received a Seak Rapid 3.9 metre green camouflage sit on type kayak as a present. The kayak came with a 1.55m paddle. The kayak did not have a leash (or tether) to secure either the user or the paddle to the craft.
4. His father was aware that the kayak was not suitable for open water and had discussed this with Mr Bester on several occasions. His father also advised him that the kayak should only be used close to shore for exercise and fishing.
5. Mr Bester only used the kayak about 6 times in the 18 months he owned it. The last time he used the kayak was at least 6 months before his death.

Circumstances Surrounding the Death

6. On 1 October 2020, Mr Bester set out, alone, to paddle from Roches Beach to Lime Bay to join some friends who were camping there. The distance he intended to cover, as the crow flies, is approximately 15.5 km across the exposed waters of Frederick Henry Bay. He discussed his plans with both his uncle and father in the lead up to the

proposed journey. They both told him to remain close to the shore. This was good advice. Remaining close to the shore would have been the safest option, albeit leading to a longer journey. In the event, Mr Bester appears to have ignored this advice.

7. At approximately between 10.30 am and 11.00 am on 1 October 2020, several members of the public, later interviewed as part of this investigation, saw Mr Bester walking his kayak on its trolley towards, and at, Roches Beach. Although no witness actually saw him enter the water on the kayak, it is reasonable to conclude that he did so at about 11.00 am that day. He had with him a mobile phone and a backpack containing food.
8. Initially, in the area of Roches Beach, the weather was relatively speaking calm. Within a short time, Bureau of Meteorology records indicate that the wind freshened with gusts recorded at over 50 km an hour. The direction of the wind was north/northwest. Such a wind direction would have blown Mr Bester away from shore. The evidence is the weather did not improve at all during the rest of the day.
9. One of the friends he was intending to join at Lime Bay called Mr Bester on his phone at about 11.15am. They spoke briefly. Mr Bester said that he was on the water and that he expected to reach Lime Bay at approximately 5.00 pm that evening.
10. At around 11.40am, Mr Bester's uncle spoke with him on the phone. Mr Bester told him that he was near the "yellow" cliffs, which his uncle believed was towards Mays Point. This direction is opposite to the one his uncle had advised him to take. Mr Bester then told his uncle that the waves were getting choppy and that he had to go. This is believed to be Mr Bester's final conversation.
11. At some point after this time, Mr Bester lost control of his kayak and entered the water.
12. When Mr Bester failed to arrive at Lime Bay by around 5.30 pm and had not contacted his friend Ms Gallagher became concerned and contacted police.

Rescue efforts and body recovery

13. At 5.36 pm on 1 October 2020, Radio Dispatch Services (RDS) created a concern for welfare incident after receiving a call from Ms Gallagher.
14. The closest police – at Dunalley - were notified of the incident and a phone triangulation was requested of Mr Bester's last known mobile phone location. This confirmed his last location as being in the Lime Bay area. Once police confirmed Mr Bester's intentions, the search area was able to be identified and concentrated upon. Officers from Marine and Rescue Services commenced a systematic search of the area.

An updated phone triangulation from Mr Bester's phone showed that its last point was in the Lime Bay/ Frederick Henry Bay area at approximately 12.30 pm.

15. After 6.00 pm, several vessels were deployed to search the area from Cremorne/Roches Beach to Lime Bay. Two search and rescue helicopters were requested at around 6.23 pm to assist with the search but were unavailable until around 8.30 pm. Marine vessels and helicopters continued their search for Ms Bester until 4.00 am on 2 October 2020. After just an hour break, the search recommenced, again using vessels and helicopters at 5.00 am.
16. At approximately 9.20 am, two members of the public walking towards Sloping Main Beach noticed what proved to be Mr Bester's body in a yellow life jacket about 40 metres offshore. They retrieved the body from the water and contacted the police after moving the body onto the beach.
17. Tasmania Police Search and Rescue offices and a paramedic arrived shortly by helicopter. It was immediately apparent that Mr Bester was dead, something confirmed by the paramedic, and no attempts were made at resuscitation. This was I consider a reasonable decision in the circumstances.
18. Attending officers observed that the body was naked from the waist down and flesh was missing from the lower half of the body. After being photographed, Mr Bester's body was taken to the Royal Hobart Hospital.
19. The kayak and paddle were recovered at around 11.00 am on Lobster Point Beach and Sloping Main by Surf Life Saving Tasmanian volunteers. The kayak was upside down in the water but still afloat. There was damage along the length of the vessel, particularly on the sides and where the hull joins the deck.

Investigation

20. Mr Bester's body was formally identified at the Royal Hobart Hospital mortuary. Following identification, the State Forensic Pathologist Forensic, Dr Donald Ritchey, performed an autopsy. Dr Ritchey found a significant amount of white foamy oedema fluid emanating from the mouth and also present in the upper and lower airways. Mr Bester's lungs were markedly hyperexpanded. All of these findings strongly support a conclusion Mr Bester drowned.
21. Evidence of extensive scavenging of the remains, primarily involving the anterior and posterior thighs and buttocks, posterior left lower legs, and calf were noted at autopsy. Dr Ritchey thought the edges of those wounds were strongly suggestive of shark

scavenging but that that scavenging had occurred *post mortem* rather than as a mauling attack.

22. I accept Dr Ritchey's opinion. I am satisfied that the cause of Mr Bester's death was drowning. The evidence supports a conclusion that death was not due to a shark attack, but rather as Dr Ritchey said the injuries to his body almost certainly caused by sharks occurred after his death.
23. Toxicological analysis of samples taken at autopsy identified a small amount of Melatonin (a hormone naturally produced by the body which helps control the sleep-wake cycle) in Mr Bester's system. This is probably consistent with the use of sleeping medication. However, I am satisfied given the low level of the drug detected its presence neither caused nor contributed to Mr Bester's death. No alcohol or any illicit drugs were identified as having been present in his body at the time of his death.
24. Even the most cursory inspection Mr Bester's kayak shows it was suited only to use close to shore. It was not suited to the journey Mr Bester attempted to undertake. I note that when recovered, the kayak did not have a bung in the stern bung. This may have contributed to the kayak becoming unstable. It also possible that the additional weight from Mr Bester's backpack in the stern may have allowed water to enter the kayak without him realising it.
25. In addition, on the subject of equipment, I note the paddle Mr Bester was using was one for use by a child in calm seas. It was only 1.55 metres in length, with only the length of the blade able to protrude beyond the edges of the kayak. This meant that anyone using the paddle with the kayak could not reach out to extend the blade further so as to achieve additional thrust through the water. In short, the paddle was wholly inadequate for the journey Mr Bester attempted.
26. I have already mentioned the absence of a leash (or tether). A leash, had it been present, would have meant Mr Bester would not have become separated from either his kayak or his paddle (or both).
27. The PFD Mr Bester was wearing was examined by Mr Peter Hopkins, General Manager Recreational Boating Safety, Marine and Safety Tasmania (MAST). Mr Hopkins provided a report in which he expressed the opinion that the PFD was in good condition but was not fitted with a crotch strap. The importance of a crotch strap is, if it is worn and correctly fitted, a PFD will not ride up when the wearer is in the water. This enhances the performance of a PFD considerably. The absence of a crotch strap may have contributed to Mr Bester's death by drowning but I do not think the it caused to Mr Bester's death – a number of factors in combination caused this tragic outcome.

28. I note that Mr Bester was also not wearing a wetsuit or any thermal clothing at the time of the incident and his only protective clothing was his life jacket. Investigation indicated that the temperature of the water in the relevant area was in the order of around 11.7 degree Celsius. It is very likely that Mr Bester would have succumbed to the effects of hypothermia or drowning associated with this condition within a short period of time after entering the water. The outcome may well have been different had he been wearing a wetsuit or some other form of thermal clothing.
29. Finally, I have already mentioned the Bureau of Meteorology records about wind speed and direction. To my mind, it is extremely doubtful that Mr Bester averted to the weather and sea forecast before he set out on his final journey. If he had then it is unlikely he would have left the beach.

Conclusion

30. There is no evidence to suggest any suspicious circumstances surrounding the death of Mr Bester. There is nothing to suggest that anyone else was involved. It is impossible to say with any degree of certainty how or why Mr Bester entered the water. However, I consider it likely that he likely fell into the water after he was dislodged from his kayak by a wave.
31. The evidence satisfies me that the search and rescue operation conducted by Tasmania Police Marine and Rescue Services was appropriate. I am satisfied that their response to Ms Gallagher's call for assistance was timely. While there was some delay in securing the helicopters to assist in the search upon request, I am satisfied that such a delay was understandable in the circumstances given that the helicopters were otherwise involved in a medi vac. Once available, they were immediately utilised for the search. The search was also conducted under the supervision and advice of experienced officers and experts with the assistance of appropriate technology.

Comments and Recommendations

32. Mr Bester's death is yet another example of a tragedy that was completely avoidable. He undertook a journey well beyond his capability and experience on a kayak that was wholly unsuited to the trip. The kayak did not have a leash to ensure it stayed in contact with Mr Bester nor that he could retain control of his paddle. The paddle was inadequate. He was inadequately clad, not wearing a wetsuit. There is no evidence that he had regard to a weather forecast, or that if he did he understood it. Had Mr Bester had regard to even basic safety precautions then it is highly likely he would not have died. I therefore **recommend** all recreational paddlers have regard to the Paddle Safe

guidelines published on the Marine and Safety Tasmania website by MAST and Surf Life Saving Tasmania <https://mast.tas.gov.au/wp-content/uploads/2020/06/MAST-Safepaddle.pdf>

- *Prepare your craft*
- *Ability – don't push your capabilities*
- *Don't paddle alone;*
- *Don't cross paths and be aware of other vessels;*
- *Lifejackets – wear the right type;*
- *Experience – consider this when purchasing a craft;*
- *Stick close to the shore;*
- *At night, paddle with a light;*
- *Forecast and environment;*
- *Enter water safely;*
- *Tides and times – know the tide times and in tell others when you will be back;*
- *Yourself! Now are YOU ready?*

33. Similar advice is available on the website of Paddle Australia

<http://paddle.org.au/paddle.safety>. Several of these guidelines are directly applicable to the circumstances of Mr Bester's death.

34. I also **comment** that it is essential that all paddlers should always ensure that they have the proper equipment. That equipment can and will vary depending on the objectives of the trip and the environmental, weather and sea conditions.

35. I express my thanks to Ms Viviana Hoo, legal graduate, for her assistance in relation to this finding.

36. I convey my sincere condolences to the family and loved ones of Mr Bester.

Dated 1 November 2021 at Hobart in the State of Tasmania.

Simon Cooper

Coroner