



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION



Record of Investigation into Death (Without Inquest)

*Coroners Act 1995
Coroners Rules 2006
Rule 11*

I, Duncan Fairley, Coroner, having investigated the death of John Joseph Harrison and Danny Leonard Viney

Find that:

- 1. John Joseph Harrison died between 27 and 28 December 2015 in the waters off Waterhouse Point in Tasmania.**

At the time of his death Mr Harrison was unemployed and in a de facto relationship. He was born at Launceston, Tasmania on 20 February 1974 and was aged 41 years.

I find that Mr Harrison died as a result of drowning – the circumstances of which are described in this finding. No other person contributed to the cause of death.

- 2. Danny Leonard Viney died between 27 and 28 December 2015 in the waters off Waterhouse Point in Tasmania.**

At the time of his death Mr Viney was unemployed and in a de facto relationship. He was born at Launceston, Tasmania on 4 June 1980 and was aged 35 years.

I find that Mr Viney died as a result of drowning – the circumstances of which are described in this finding. No other person contributed to the cause of death.

Circumstances Surrounding the Deaths:

On Christmas Day 2015 John Joseph Harrison and his partner Tanya Jean McCallum made arrangements to spend a few days camping at Waterhouse Conservation Area with Wayne Harrison, Pamela Mace-Harrison and Danny Leonard Viney, amongst others. On Saturday 26 December 2015 Wayne Harrison travelled to Mr Harrison's residence and loaded a 3 metre Manta Craft boat, together with a 2.3 horse power motor, onto Wayne Harrison's utility. The boat was the property of Mr Viney but was stored at Mr Harrison's residence. The party left Launceston for Waterhouse Point in separate vehicles. All members of the group, apart from Mr Viney, arrived at Waterhouse Conservation Area at approximately 5.00pm and set up camp at Mathers Beach.

Mr Viney drove his vehicle from Launceston to Waterhouse Point separately. He spent several hours attempting to locate the Mathers Beach camp site but was unsuccessful. He eventually returned to Launceston. On Sunday 27 December 2015, at about 8.30am, Mr Harrison spoke to Mr Viney via telephone. Arrangements were made for Mr Viney to re-attend the Waterhouse Point camp site that day. Mr Viney arrived at the Waterhouse Conservation Area shortly after 11.00am.

According to those present, both Mr Viney and Mr Harrison consumed a moderate amount of alcohol during the early afternoon before deciding to take Mr Viney's Manta Craft boat out fishing. At about 3.00pm Wayne Harrison, Mr Harrison and Mr Viney drove to a nearby boat ramp in Wayne Harrison's utility. The men loaded a small UHF radio, an oar, a shovel, a red lifejacket, a yellow lifejacket, fishing rods and a tackle box into the boat. In addition, a metal wheel rim attached to a length of rope, to be used as a makeshift anchor, was taken on board.

According to Wayne Harrison, Mr Viney was observed putting on a red lifejacket as the pair motored out to sea. Mr Harrison was not seen wearing a PFD. At approximately 5.00pm Mr Harrison called Wayne Harrison on the UHF radio and advised that the pair were enjoying themselves and were in no difficulty. No further communication was received.

As darkness fell Wayne Harrison attempted to contact Mr Harrison and Mr Viney multiple times via UHF radio, without success. A search was conducted along the beach and around the area of the boat ramp. No signs of the men or the Manta Craft boat were found. At 12.42am on 28 December 2015 Pamela Mace-Harrison climbed to the top of a nearby sand dune and used Ms McCallum's mobile phone to alert police.

The Search for Mr Harrison and Mr Viney:

A review of Tasmania Police file documentation, including various witness statements, reveals the following chronology of events from 28 December 2015:

- At 1.35am the police radio room broadcast an open request to all boats in the area of Waterhouse Point to assist with the search for Mr Harrison and Mr Viney;
- Shortly prior to 2.00am Wayne Harrison located the body of a male person lying face down in the sand at the water line. Pamela Mace-Harrison identified the body as Danny Leonard Viney. It was apparent that Mr Viney had been deceased for some time and for that reason no formal attempt at resuscitation was made. The witnesses on scene confirmed that Mr Viney was wearing a red lifejacket at the time he was found;
- At approximately 4.00am both the Westpac Police Rescue Helicopter and the police vessel Van Dieman arrived on scene to assist with the search;

- At 4.42am the Police Helicopter located the Manta Craft boat capsized at GPS coordinates 40deg 49.852'S 147deg 41.129'E. The boat was recovered by the Van Dieman and transported to the beach;
- At 5.30am a yellow lifejacket was located by the Van Dieman at 40deg 48.632'S 147deg 40.697'E. At 6.40am volunteer searchers located a red plastic fuel container 200m North East of Waterhouse Point. At 6.50am an oar was located 500m East of Waterhouse Point;
- At approximately 8.15am the Police Helicopter located a body under its position at GPS coordinates 40deg 49.617'S 147deg 41.130'E, floating face down in the water. The body of the obviously deceased male was transported to the beach by the Van Dieman. On arrival at the beach the body was identified by Pamela Mace-Harrison as John Joseph Harrison. Mr Harrison was not wearing a life jacket. At the time he was found Mr Harrison was wearing his sunglasses; and
- Throughout the period of the search weather conditions were described as calm and clear.

Further Investigations:

On 21 January 2016 an inspection of the Manta Craft boat was undertaken by Gwyn Alway of Marine and Safety Tasmania (MAST) at Launceston. Mr Alway found that the boat was in reasonable condition but suitable only for vigilant use in protected water. Maximum load capacity of the boat in protected water was prescribed as 190kg. He confirmed that it was necessary to evenly distribute the weight of persons and equipment throughout the boat at all times in order to maintain even trim. Further, that the combined weights of Mr Viney and Mr Harrison, when added to the motor, additional fuel containers, oar, shovel, fishing gear and wheel rim would have neared the maximum weight capacity of the vessel. The MAST inspector found sufficient internal buoyancy fitted to keep the boat on the surface of the water when swamped, however once swamped the boat would have provided an inadequate support platform for persons to hold onto in the water.

MAST recommendations indicate that the required minimum safety equipment for a boat under 6 metres is - an anchor, chain and rope, bailer or bilge pump, fire extinguisher, oars or auxiliary propulsion, two red flares and two orange smoke signals. According to a review of the evidence, Mr Harrison and Mr Viney did not have a functional anchor or chain, nor were they equipped with a bailer, fire extinguisher or flares and smoke signals. The oar stored in the boat did not have a metal collar attached and as such could only be used as a poor quality paddle. The shovel in the boat was intended to be used as a makeshift paddle. No other alternative propulsion was available.

During the investigation Mr Alway inspected the red Alston PFD jacket that Mr Viney was wearing when located. While the PFD was found to be faded with stitching fraying in some areas it was generally considered to be serviceable and of an appropriate size for use by an adult male.

On 26 January 2016 an inspection of the outboard motor attached to the Manta Craft boat was conducted by Kenneth John Turner, a Tasmania Police mechanic at the Launceston Police Garage. Mr Turner concluded that the outboard motor was in operational condition prior to being submerged.

Dr Terry Brain (Pathologist) conducted a full autopsy on both Mr Harrison and Mr Viney on 30 December 2015. Analysis of samples taken during the post mortem examination revealed a blood alcohol concentration of 0.05 g/100mL in Mr Harrison's body together with indications of recent cannabis use. Samples taken during Mr Viney's autopsy revealed only the inactive metabolite of cannabis and thus no conclusion could be drawn concerning the recency of the cannabis consumption. Both cannabis and alcohol are known to affect the central nervous system and may cause impaired co-ordination, reaction times and judgment. Dr Brain was unable to find any evidence of foul play and determined that both men's death was consistent with drowning. I accept Dr Brain's opinion.

Conclusion:

It is impossible to say with any degree of certainty how Mr Harrison and Mr Viney came to be immersed in the waters off Waterhouse Point. In light of the opinions expressed by Mr Alway it is most likely that the Manta Craft boat became swamped and thereafter was unable to provide an adequate support platform for Mr Harrison and Mr Viney. The boat was loaded at or near its maximum capacity and there was no anchor, chain and rope to deploy to ensure the craft faced into the wind and waves. Once submerged the boat was not equipped with a bailer or bilge pump nor flares and smoke signals.

It is apparent that Mr Viney determined to swim for shore while Mr Harrison remained at or near the submerged boat. It is likely that Mr Harrison was not wearing a PFD when he was immersed in the water. As Mr Harrison was still wearing his sunglasses when found by police I consider it probable that the Manta Craft boat became submerged sometime prior to sunset on 27 December 2015.

In summary I find that both Mr Harrison and Mr Viney most likely died as a result of becoming so incapacitated by fatigue and cold that they drowned, subsequent to being immersed in the waters off Waterhouse Point in North Eastern Tasmania.

Comments and Recommendations:

The Manta Craft's dimensions and propulsion unit were such that it was exempt from registration under the *Marine and Safety (Motor Boats and Licences) By-Laws 2013*. Neither Mr Viney nor Mr Harrison held a current boat licence at the time of their deaths. In the circumstances there is no need for me to make any further comment or recommendations other than to urge all recreational boat users to adequately educate themselves in matters of boating safety and ensure that their craft is equipped in accordance with MAST recommendations.

In concluding, I convey my sincere condolences to the family and friends of both Mr Harrison and Mr Viney.

Dated: 27 May 2017 at Launceston Coroners Court in the State of Tasmania.

Duncan Robert Fairley
CORONER