



MAGISTRATES COURT *of* TASMANIA

CORONIAL DIVISION

Record of Investigation into Death (Without Inquest)

Coroners Act 1995
Coroners Rules 2006
Rule 11

I, Olivia McTaggart, Coroner, having investigated the death of Michael James Beames,

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

- a) The identity of the deceased is Michael James Beames;
- b) Mr Beames died accidentally as a result of falling from a Jet Ski in the circumstances set out in this finding;
- c) The cause of death was drowning; and
- d) Mr Beames died on 29 December 2019 at Tomahawk in Tasmania.

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

- The Police Report of Death;
- Life extinct and identification affidavits;
- An opinion of the Forensic Pathologist who conducted the autopsy;
- Toxicology report containing analysis of Mr Beames' post-mortem blood samples;
- Affidavit of Chloe Houston, Mr Beames' partner;
- Affidavit of Neisha Beames, Mr Beames' daughter;
- Affidavit of Billy Arnol, Mr Beames' friend;
- Affidavits of Mitchell Hill, Corey Bourke, and Toby Felmingham, witnesses to the circumstances of death;
- Affidavit of Matt West, owner of the Jet Ski;
- Affidavit of Mark Beames, Mr Beames' brother;
- Affidavit of Melissa Gardiner, Mr Beames' ex-wife;
- Affidavits of police officers attending the scene and investigating Mr Beames' death;
- Operator's manual for the Jet Ski;
- Forensic evidence and photographs; and
- Information from Marine and Safety Tasmania.

Michael James Beames was born on 21 February 1984 and was aged 35 years at his death. His parents are Peter and Pauline Beames and he has four brothers. When Mr Beames was 11 years of age his family relocated from South Australia to Tasmania. He attended primary and high school in Launceston. He worked as a factory hand before becoming a tyre fitter. At the time of his death Mr Beames was in a relationship with Chloe Houston, with whom he resided.

Mr Beames has a son, Seth (born 2001), from a previous relationship and a daughter, Neisha (born 2004), from his previous marriage to Melissa Gardiner. Mr Beames also had a close step-father relationship with Ms Gardiner's son, Nash (born 2002).

On Sunday, 29 December 2019, Mr Beames, Ms Houston, Neisha and Nash travelled from Launceston to Tomahawk on the northeast coast of Tasmania to spend the day at the shack of Billy Arnol, a friend of Mr Beames and Ms Houston. The trip had been planned for about one month.

In her affidavit, Neisha stated that prior to the trip, her father asked if she was excited to swim in the ocean. She replied that she was not as she was "not the biggest fan of water". Mr Beames replied that he was not either and that swimming was not "his thing". Mr Beames' brother, Mark, stated in his affidavit that he himself cannot swim and that he and his brothers did not have swimming lessons as children. The evidence in its totality indicates that Mr Beames, like his brother, was unable to swim.

The family arrived at Mr Arnol's shack at 11.30am. They had lunch and Mr Beames consumed one alcoholic drink. After lunch, the four of them drove to the beach. They were accompanied by Mr Arnol who took with him a 2017 Yamaha WaveRunner 1800cc Jet Ski (registration number 54066). The Jet Ski was owned by Matthew West, Mr Arnol's brother-in-law.

The only way to lawfully operate the Jet Ski, being a Personal Water Craft ("PWC") is to hold a current motor boat licence and a PWC endorsement. The licence and endorsement may only be obtained by successfully completing a theory and practical course. The assessment involves a written multiple-choice examination and assessment of competence being made through the observation of a number of manoeuvres performed on the PWC. As observed by Coroner Cooper in two previous findings, motor boat and PWC licences serve a very serious safety purpose as they ensure that a basic level of competency is reached before persons may operate a watercraft. He commented that, apart from the requirement to comply with the law, training gained in the licensing process may be the difference between life and death.¹

¹ Davies, Drobnjak, Ritter and Roche [2019]TASCD 348; Timothy Michael Lawrence [2020] TASCD 92.

In this case, Mr West did not have a licence authorising him to operate a PWC. Mr Arnol did not hold a licence authorising him to operate a PWC. Mr Beames did not hold a licence authorising him to operate a PWC and, before the day of his death, had not ever ridden a PWC.

The owner/operator manual for this model of Jet Ski contains a range of warnings relating to its operation and use. A warning label is situated directly in the line of vision of the operator, at the front of the craft. The warnings indicate that an authority-approved PFD and protective clothing should always be worn to avoid water injuries from being thrust into the water. Further, it states that the operator must have an authority-approved licence to operate the craft; to ride within the limits of the operator; to never ride after consuming alcohol; and to avoid aggressive manoeuvres and sharp turns.

Continuing on with the circumstances on the day of Mr Beames' death, Mr Arnol took Mr Beames out as a passenger on the Jet Ski and demonstrated to him how to use it. Mr Beames and Mr Arnol were both wearing personal floatation devices ('PFDs'). At several points during the ride Mr Beames was thrown off the Jet Ski but managed to 'doggy paddle' back to it. Mr Arnol asked Mr Beames if he could swim, to which he replied "*enough to save himself*". This statement was untrue and likely represented bravado on the part of Mr Beames not wishing to say that he could not swim.

After the "lesson" with Mr Arnol, Mr Beames continued to use the Jet Ski on his own before taking Nash, Neisha and Ms Houston for separate rides. On these occasions, all riders were wearing PFDs.

After about an hour, Mr Beames retired to the beach for a break. Ms Houston observed him remove his PFD during this time and place it either on the Jet Ski trailer or on the tray of the utility. After a break of about one hour, Mr Beames again headed back to continue riding on the Jet Ski, on this occasion taking Neisha with him as a passenger. Neisha observed that her father was not wearing a PFD and advised him to do so. He replied that it was fine and not to worry.

During their ride, Mr Beames and Neisha encountered a large wave and were both thrown from the Jet Ski, landing several metres away from it. Mr Beames struggled to 'doggy paddle' in the water, commenting to Neisha that it was deep and that he was unable to touch the bottom. Neisha told her father to hold onto her PFD while she swam him back to the Jet Ski. Neisha described her father as being in a panicked state, and becoming out of breath. Neisha helped her father, who was still panicking, to reach and remount the Jet Ski. Mr Beames then returned Neisha to waist-deep water closer to the shore as she was distressed by the event. After

dropping her off, Mr Beames indicated that he intended to continue riding, despite Neisha telling him that he should stop.

Neisha returned to the group on the beach, as Mr Beames continued to ride, and advised Ms Houston and Mr Arnol of what had occurred. She indicated to them that Mr Beames was not wearing a PFD and was unable to swim. Mr Arnol indicated that they should call Mr Beames back to shore.

However, almost immediately after returning to riding on the Jet Ski by himself, Mr Beames attempted to perform a manoeuvre known as a 'fishtail'. Neisha, Ms Houston and Mr Arnol, all standing on the shore, then saw him falling from the Jet Ski.

A witness, Mitchell Hill, was driving his four-wheel-drive vehicle along the beach. He encountered Mr Arnol, with whom he was acquainted, and stopped his vehicle to speak with him. Mr Arnol was looking out to the water at the Jet Ski. Mr Hill did not see Mr Beames fall in but saw him in the water and saw that no one was on the Jet Ski. Mr Arnol advised Mr Hill that Mr Beames had fallen off the Jet Ski and was not wearing a PFD. Mr Hill asked if he could swim and Mr Arnol replied that he could not. They witnessed Mr Beames "bobbing up and down" but not waving his hands. They saw that the Jet Ski had drifted away from him and not towards him. Mr Hill immediately used a kayak that was on the beach and began paddling out to Mr Beames. In his affidavit, Mr Hill estimated that Mr Beames was approximately 150 metres from the shore.

As Mr Hill came closer, Mr Beames began to call out for help. He started to sink under the surface. Mr Hill attempted to reach down to grab him but the kayak flipped over and he himself entered the water. Mr Hill was not wearing a PFD, but was a competent swimmer. He swam to Mr Beames, who was by this time under the water's surface. He was able to dive down and grab hold of Mr Beames and pull him to the surface. The Jet Ski and kayak had both floated away due to the direction of the wind. Mr Hill stated in his affidavit that he struggled to keep Mr Beames afloat on his own and that Mr Beames' weight was pulling him under. He therefore had to let go of Mr Beames momentarily, before bringing him to the surface a second time. However, Mr Beames' weight pulled Mr Hill underwater and Mr Hill was forced to let go of him again.

In the time Mr Hill was performing his rescue of Mr Beames, Mr Arnol ran to the nearby caravan park and yelled for assistance. A patron of the caravan park allowed Mr Arnol, together with a Mr Corey Bourke (a witness nearby at the time), to use his dinghy to reach Mr Beames.

Mr Bourke, Mr Arnol and the owner of the dinghy entered the water via the boat ramp and made their way to Mr Beames. Upon reaching him, Mr Bourke dived to the bottom of the seabed and brought Mr Beames to the surface. He was lifted into the dinghy and CPR was commenced by Mr Hill whilst they returned to shore. He was unresponsive.

On shore, Mr Beames was lifted onto the beach, an ambulance was called and CPR was continued by the men for an hour whilst they waited for paramedics to attend. Attempts were made to defibrillate Mr Beames, however, these were unsuccessful. Ambulance officers arrived at the scene and took over resuscitation efforts, but Mr Beames was determined to be deceased.

His body was transported by mortuary ambulance to the Launceston General Hospital where an autopsy was conducted by Forensic Pathologist, Dr Terry Brain. Dr Brain opined that the cause of death was drowning. No external injuries were found. Toxicological testing found Mr Beames had a low blood alcohol level of 0.016 g/100mL. I accept Dr Brain's opinion as to cause of death.

A full coronial investigation followed, undertaken by officers of Tasmania Police. I am satisfied that the Jet Ski was mechanically sound and there were no issues in its operation that contributed to Mr Beames' death. There is no evidence that the Jet Ski collided with any object. I am satisfied that Mr Beames was thrown from the Jet Ski solely as a result of his inexperience and undertaking of a fool-hardy manoeuvre.

Comments

The death of Mr Beames is yet another completely avoidable death of a person operating a PWC. In this case, it is difficult to comprehend the degree to which Mr Beames placed his own safety and that of his family at risk. Once he returned to the water on the Jet Ski by himself and without a PFD, his death appeared inevitable. The risks taken by him can be summarised as follows:

- He did not wear a PFD and was unable to swim. In this regard, he was aware from the previous rides on that day that it was quite likely that he would be thrown from the Jet Ski and would not be able to swim to save himself.
- He consumed alcohol before riding the Jet Ski, contrary to proper safety practice.
- He did not apparently heed the safety warnings affixed to the Jet Ski.

- He did not have a licence to operate a PWC and had never previously operated a Jet Ski.
- He accepted instruction from a person who was not licenced to operate a PWC.
- He attempted an unsafe manoeuvre contrary to proper safety practice, and which he was ill-equipped to perform.

Persons intending to operate PWCs should follow the advice available from Marine and Safety Tasmania (MAST), <https://mast.tas.gov.au/>, in relation to safe operation and licencing requirements in respect of PWCs.

I commend the actions of Mitchell Hill and Corey Bourke for their efforts in recovering Mr Beames from the water.

I extend my appreciation to investigating officer, Senior Constable Catherine White, for her investigation.

The circumstances of Mr Beames' death are not such as to require me to make any recommendations pursuant to Section 28 of the *Coroners Act 1995*.

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

Dated: 15 June 2021 at Hobart Coroners Court in the State of Tasmania.

Olivia McTaggart
Coroner