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[2020] NTLC 001

TITLE OF COURT: Coroners Court

JURISDICTION: Darwin

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REPRESENTATION:

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IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0164/2018

In the matter of an Inquest into the death of

HARRY JOSEPH EVANS
ON 4 OCTOBER 2018
AT GULF OF CARPENTARIA

FINDINGS

Judge Greg Cavanagh

Introduction

1. Harry Evans was born 10 May 1995 in Dorset, England to Sharon Evans and Timothy Camp. He had a twin brother, George. He was 23 years of age when he died working as a deckhand on a prawn trawler in the Gulf of Carpentaria.
2. Harry's mother provided a snapshot of his life:

“On leaving school Harry started work at Permateek, a local company fitting synthetic teak decking, he had a strong work ethic and was a popular member of the team. In March 2014 Harry was knocked off his motorbike on his way to work in an accident which wasn't his fault and sustained several injuries to his left leg. This meant he could no longer work for Permateek and his recovery took four years and five operations. During this time he had periods of semi-mobility and always used this time to do temporary work either through agencies or bar work. In February 2016 Harry used part of his compensation from the accident to fund a Boat Building course in Lyme Regis, Dorset as part of his rehabilitation. He spent eleven months at the Boat Building Academy and commissioned a boat which he and the team built as part of the course. A large feature of the course was Health and Safety at work and Harry had a good understanding of personal responsibilities and those of an employer. He took these very seriously and was not afraid to challenge people or organisations if he felt this was compromised in any way. This was Harry's first real opportunity at independence and he thrived on

the course, making many friends including students on the course, staff at the Academy and local residents.

Following the course, Harry returned home for two further operations on his leg. In between surgeries he worked in local bars and spent several weeks in Falmouth helping a friend build a boat. Harry intended to return to Falmouth after his travels and build boats with his friend, Adrian.

During Christmas 2016 and 2017 Harry met Nick, his Cousin Danielle's boyfriend. They live in Australia and Nick was Skipper of a fishing boat and he offered Harry the possibility of work on the boat when his leg was recovered. Harry was enthusiastic about this and it motivated him to persist with his physiotherapy.

He left the UK on 9th August 2018. He planned to work on the fishing boat, return home for a few weeks then meet a friend in New Zealand in May 2019 and travel with him.”

3. Harry arrived in Australia on 10 August 2018. Four days later he joined the crew of the prawn trawler, the *Ocean Exporter*, at Fisherman's Wharf in Darwin. Two months later the vessel was fishing in the waters north of Vanderlin Islands in the Gulf of Carpentaria. At approximately 3.00am on 4 October 2018, Harry commenced his shift. At 8.20am the fishing nets were being lowered into the tray of the vessel. The Skipper, Nick Huard was on the winch and Harry was ensuring the nets were folding correctly into the tray. At the time he was wearing sunglasses, a long sleeved shirt, board shorts and gumboots. He was not wearing gloves.
4. He was observed by the Skipper to shake his hand as if in pain. He said he had been bitten on the finger by a snake. The Skipper went to the nets and observed what he believed to be either a black banded or elegant sea snake about 50 centimetres long. The Skipper picked it up by the tail, freed it from the net and threw it over the side of the vessel.
5. The Skipper told Harry to take a shower and then go to the bridge. The Skipper made a call to another vessel and then to the Royal Flying Doctor.

That call was recorded by the Royal Flying Doctor service to have been made at 8.23am.

6. When back on the bridge, Harry's hand was soaked in a bowl of dettol, iodine and water. His arm was wrapped from the armpit to the wrist with a compression bandage.
7. Harry said he felt fine. The First Mate researched snake bites and the expected symptoms and the Skipper called Careflight at 8.43am. At that time the *Ocean Exporter* was recorded as being 57 nautical miles from South Point, Groote Eylandt at position 15.05.6140S, 136.45.3830E. A conference call was set up. The plan was that the Skipper would steam towards Alyangula a town on Groote Eylandt (a further 23 nautical miles past South Point) where there was a health clinic. It was estimated that he would be there in six to seven hours. At that point the vessel was only 38.40 nautical miles from Bing Bong, a port and loading facility for the McArthur River mine.
8. One of the symptoms of envenomation found on the internet by the First Mate was sagging of the eyelids. It was said to be one of the first areas affected by the paralysing toxins. The Skipper was of the opinion that Harry might have had drooping eyelids although at first it was thought it may have just been squinting. The Skipper made another call to Careflight to seek medical advice.
9. At about that time Harry said to the First Mate, "I can't control my eyelid. It keeps dropping down. Are my lips really fat? The First Mate said they were not and Harry said, "They just feel really numb". The First Mate asked, "Do you feel fine?" Harry said "Yeah I feel fine, no pain".¹
10. At 9.55am the Skipper told the doctors that Harry remained well, however he made mention that he was closer to Bing Bong than Alyangula. Enquiries

¹ Transcript pages 35, 36

were made about the possibility of getting medical assistance to Bing Bong (Borrooloola is the closest health clinic and some 75 kilometres by road) and at 10.10am the Skipper was directed to turn around and steam to Bing Bong. At that point the vessel was at position 14.53.3190S, 136.39.3020E. That is, 42.41 nautical miles from South Point and 48.15 nautical miles from Bing Bong. The Skipper was understandably frustrated that he lost an hour and 10 nautical miles from medical assistance.

11. By the time the Skipper turned the boat around Harry was experiencing more symptoms. His vision was becoming blurred and he said his cheeks were numb and he was dizzy. However it was still estimated that the vessel was at least four hours from land.
12. The emergency service efforts were then directed to getting assistance to the vessel. At 10.18am the Australian Maritime Safety Authority (AMSA) contacted the RAAF to determine if a helicopter could be sent. The RAAF agreed to do so, the estimated time of arrival was 3.15pm. The reason for the length of time is that the Gulf of Carpentaria and the small towns (such as Borrooloola) nearby are very remote. The distance from Tindal Airbase to Bing Bong is a minimum of 450 kilometres (the way the crow flies).
13. By 10.28am Harry was in rapid deterioration. His heart rate had dropped below 50 beats a minute. He was convulsing. A conference call between Careflight, AMSA, the RAAF, other medical providers and the Skipper was facilitated. The conference call remained in place over the next 5 hours.
14. At 10.41am Harry became unresponsive and cardiopulmonary resuscitation (CPR) was commenced. It continued for the next 4 hours. At 10.45am Alyangula Police sent a police vessel with two clinic nurses to meet the trawler. Other fishing vessels in the area responded and at 10.51am provided medical supplies including EpiPens and a defibrillator. More EpiPens were provided at 11.30am.

15. At 11.26am a jet set off from Cairns to drop medical supplies to the vessel. The flying time to the vessel was estimated to be two hours. At 12.50pm a fast catamaran set out from Bing Bong with a doctor and nurse on board and with sufficient equipment to intubate Harry. Their estimated time to Harry was about two hours. The medical supplies were dropped from the jet at 1.40pm containing more adrenaline and cortisone.
16. The medical staff from the fast catamaran boarded the vessel at 2.30pm (at position 15.28.1280S, 136.28.7130E). By that time Harry had been provided five doses of adrenalin. He was intubated and intravenous access gained. He received three more doses of adrenalin. However, Harry could not be revived and he was declared deceased at 2.48pm.
17. An autopsy was conducted. A puncture mark was found in Harry's little finger on his right hand. Serum and urine samples were sent for venom detection. To date, the results have not been provided and it seems doubtful that they will be available in the foreseeable future.
18. However, sea snakes, of any description have potent venom. The neurotoxic effects of the venom were found by Dr Marianne Tiemensma, the forensic pathologist, to have stopped Harry from breathing. She wrote:

“The timeline of developing symptoms suggests progressive neurotoxicity induced by the snake venom. The early collapse is a clinically important sign of severe envenoming, and the respiratory distress indicates the need for endotracheal intubation and mechanical ventilation.

Autopsy findings showed features of cardiorespiratory failure (pleural petechiae, very oedematous lungs, and congestion of the organs), with no other underlying natural disease processes present. No thrombi (blood clots) were present, and no other vital organs were primarily affected.”

19. Dr Tiemensma went on to provide a summary of the mechanism of death and required treatment if death was to be averted:

“The decedent presented with symptoms of systemic neurotoxic envenomation (blurred vision, vomiting, depressed level of consciousness, and respiratory muscle paralysis).

The emergency management of victims bitten by snakes with primarily neurotoxic venoms consists of monitoring, airway management (intubation and ventilation), provision of intravenous fluids, administration of antivenom (in a critical area, with staff prepared to treat anaphylaxis which may develop in reaction to the antivenom), and further supportive management and monitoring in an intensive care unit.

Due to the remote location of the incident, there was little that the fellow crewmembers could do, as they were not capable of administering antivenom, or maintaining a safe airway with continuous mechanical ventilation.

Epipen administration would not have made a difference to the outcome in this case, as this is indicated for the treatment of allergic/anaphylactic reactions, which is not what the decedent had. The provision of basic cardiopulmonary resuscitation (mouth to mouth breathing, chest compressions) would not have made a difference to the outcome in this case, as the definitive treatment needed in this case was airway management and antivenom administration.

In my opinion, the most important aspect regarding snakebites at remote locations is awareness and prevention of snakebites, as the prognosis is poor in cases of envenomation where there is a significant delay in obtaining appropriate medical treatment.”

20. In the Australian fishing industry there is no other recorded death from sea snake bite. There is no recorded case of any death from a sea snake bite in Australian waters since 1935. It is not however rare for fishermen to come into contact with sea snakes. Indeed sea snakes in the nets is common.² The sea snakes however are mostly docile, do not coil and strike, and when they do bite, do not generally envenomate the victim (“dry bites”).
21. The snakes caught in the nets are generally picked up by the tail and dropped over the side of the trawlers. There have been myths that the sea

² The Skipper said some nights he might get one and other nights 20 sea snakes. He was of the opinion they are more common when fishing near reefs.

snake's mouths are not big enough and cannot open far enough to bite. Or that the fangs point the wrong way. However the sea snakes can open their mouths to 180 degrees. As such they can and have bitten people on the thigh. When they envenomate the chances of survival are not good unless close to medical assistance.

22. The evidence was that when bitten a compression bandage should be applied immediately and the limb immobilised with a splint. The compression bandage should if possible be of a stretch type especially formulated for snake bites to get the appropriate tension. The suggestion was that venom will travel through the body without a compression bandage at eight centimetres per minute.³ Compression and immobilisation were said to delay the effects of the venom for about thirty minutes.⁴ That is often valuable time if near to medical assistance. However, when hours out to sea that was not going to be sufficient for Harry even if applied immediately and in the correct manner.

The Snake

23. Initially, the Skipper said he thought the snake that bit Harry to be an “elegant” sea snake. His First Mate thought it to be a black banded sea snake. However many sea snakes look relatively similar. The Skipper was unsure of the species at the time of inquest. He had originally thought there were two types but had more recently been informed there are 27 varieties all relatively similar. He said it was one of the common snakes seen when emptying the nets. He provided a picture he thought was similar to the snake that bit Harry shortly after his death. That was examined by experts who thought it was most likely to be *Hydrophis Elegans*. There was further thought that it might be a more aggressive species such as *Enhydrina Schistosa*.

³ Dr David Williams Head, Australian Venom Research Unit

⁴ Ms Blanche D’Anastasi transcript page 62

The Venom

24. The venom was neurotoxic. It caused neuromuscular paralysis that was evident in the first hour after the bite and had shut down Harry's breathing within two hours and twenty minutes of being bitten. Professor Bart Currie said that neuromuscular paralysis affects the muscles around the eyes first, including the muscles that provide the ability move the eyeball. It then affects swallowing and eventually the rib muscles and diaphragm.

25. Professor Currie said the speed at which the venom took effect was greater than normally anticipated from neurotoxic venom in land based snakes:

“The classic neurotoxicity that you get with a Taipan, which we all think about as the worst snake in the world ... the average time to onset with Taipan of this type of weakness and the blurring of vision and the eyes being unable to open up and then the breathing problems, is as long as four hours. With sea snakes there is a lesson here ... this is a much more rapid process ... onset of one hour ... and two hours clearly fully paralysed which is more dramatic than I am used to seeing with Taipan envenoming.”

Required Treatment

26. As was stated by Doctor Marianne Tiemensma, what was required to save Harry was airway management. That is, once the muscles required to breathe were incapacitated by the neurotoxic venom he needed artificial breathing, he needed to be ventilated. Professor Bart Currie said that where the victims of a snake bite have progressive neuromuscular paralysis they first need to have their airway protected with a breathing tube to stop them aspirating secretions and then over the next period when the rib and intercostal muscles in the diaphragm are paralysed they need to be physically ventilated with a bag or ideally a ventilator machine.⁵ He said that cardiopulmonary resuscitation using breath to breath was “only going to hold things for a very

⁵ Transcript page 54

brief period of time”. He estimated that period to be “certainly less than half an hour”.⁶

27. As to the potential benefits from the pressure immobilisation technique promoted by the Australian Resuscitation Council,⁷ Professor Currie said that the vast majority of bandages when put on, even by well trained professionals, either didn’t attain, or didn’t maintain, adequate pressure. He said that the only bandages that were firm enough were specifically made, stretch snakebite bandages and that immobilisation with a splint was crucial. However he was less certain about the sufficiency of pressure immobilisation:

“So, some people may say in theory if you have got a bandage on within a minute, a firm bandage, completely immobilise the limb with a splint, then you may buy yourself some time. It may even be a couple of hours. That’s entirely speculative and theoretical and I think, to be frank, is impractical in the reality of everyday living and people ...we rarely see people coming in with effective arm bandages to be frank, the leg ... it’s easier ...when we do see people where the bandage is potentially working, there are already other features that are envenoming. It’s just that there is more envenoming happening once the bandage comes off.”

28. He doubted that pressure even when applied in accordance with current practice was sufficient:

“We know that with brown snakes, for instance, which have been the main cause of fatalities in the Territory, that the venom doesn’t just travel up the lymphatic system, which is the traditional teaching, but also gets in through the venous system so the pressure that’s required is much more than was originally described to actually prevent absorption ... I don’t think there have been experiments that have been done on sea snake envenoming to see if first aid would work.”

29. In essence the evidence is that if there is envenomation from a sea snake in remote locations the chances of survival are poor. The answer is unlikely to

⁶ Transcript page 55

⁷ Guidelines 9.4.1 and 9.4.8

be the provision of airway intubation kits and bags on fishing vessels as their use requires a great deal more training than those on fishing trawlers are likely to have or acquire. It is unlikely to be the provision of antivenom on boats because of the sizeable percentage⁸ of victims receiving antivenom having anaphylactic reactions. As indicated by Doctor Tiemensma:

“the most important aspect regarding snakebites at remote locations is awareness and prevention of snakebites”.

The Regulator

30. A draft WorkSafe investigation report provided to my office stated:

- The snake bite occurred while the vessel was in Northern Territory waters;
- The *Ocean Exporter's* Master's log contained no information and did not meet the requirement of the Safety Management System (SMS);
- There were no induction records or records of training and drills;
- The hazard mitigations for marine animals were stated in the SMS to be PPE, on the job training and the policy on handling marine organisms. However, the PPE required was not specified and there was no policy on handling marine organisms.
- AMSA [Australian Maritime Safety Authority] had performed a desktop review and indicated they would conduct a ship visit to confirm:
 - training as to dealing with dangerous species is signed off;
 - pre-season training, on board inductions, emergency drills and task training is confirmed;
 - SMS checklist, reports, logbook and records were completed as per procedures; and
 - the annual SMS review;

31. The WorkSafe draft report concluded:

“It does not appear to be in the public interest to consider prosecution in this case. There is little evidence to indicate the outcome in this case would have been different if the SMS had been fully implemented. There is sufficient evidence tasks being

⁸ Said by Dr David Williams to be 20%

undertaken by the deceased worker is currently the industry standard.”

32. There followed a number of recommendations that it was said were approved also by the Australian Maritime Safety Authority:

- No further action be taken against the PCBUs or Master in this case and if you agree, this recommendation be subject to external legal review;
- NTWS seek legal advice in regards to the application of the Act when companies are subject to Probate for future reference; and
- NTWS and AMSA continue to work proactively with the commercial fishing industry to raise awareness of the dangers of sea snakes, and encourage the development and implementation of effective controls and an appropriate emergency response plan (including training) be put in place as outlined in the Safety Alert; and
- NTWS write to the emergency responders in this case recommending they undertake a consultative review of actions taken with a view to improving response times in remote areas; and
- NTWS contact Harry Evans’ next of kin (mother) advising the outcome of this investigation; and
- Provide a copy of this investigation report to the Coroner for his records.

33. There was no indication as to whether the employer had been asked to revise its documents and procedures. There was no indication as to whether WorkSafe intended to ensure that the documents and procedures were revised.

34. On 21 March 2019, the Director of Operations at NT WorkSafe provided advice to the Coroner’s Office. He indicated that they were seeking legal review. However, he went on to say that there was “unlikely” to be “sufficient evidence to demonstrate any breaches of Work Health Safety duties”.

35. On further inquiry by my office, the Director of Operations stated on 26 June 2019:

“Recent legal advice received is likely not to initiate any further actions by NT WorkSafe”.

36. On 12 July 2019 WorkSafe finalised their report. It was in near identical terms to the draft report. The report contained no information as to whether the deficiencies in the SMS and procedures had been revised. A week later, on 19 July 2019 I determined to hold an inquest.
37. Just prior to the inquest WorkSafe provided a statement saying that they were still investigating and that the Australian Maritime Safety Authority had taken some action including issuing an infringement notice to the Skipper and forwarding the file to the Commonwealth Director of Prosecutions. WorkSafe conceded that the provision of information to the coroner had been “neither timely nor sufficiently comprehensive”.

Issues

38. The issue is that at the time of inquest the regulatory authority had not responded to identified shortfalls in the safety systems on board the vessel. The shortfalls were well understood and summarised in the “action required” section of the safety alert produced by WorkSafe on 7 November 2018, following Harry’s death:

“Initial findings indicate a level of complacency towards the dangers of sea snakes within the fishing and aquaculture industry, with workers routinely handling sea snakes without PPE to throw the snakes back overboard. A contributing factor may be the mistaken belief that sea snake fangs are located at the back of the mouth, or down the throat resulting in only ‘dry bites’ (bites without venom).

Action required

- *Visually inspect all nets for venomous or toxic marine creatures before handling the nets.*
- *Review the use of PPE, including wear puncture resistant gloves for tasks where there is a risk of contact with marine creatures with toxic or venomous stings or bites – such as handling nets.*

- *All sea snakes are venomous and all bites should be treated as a medical emergency. If a worker is bitten, immobilise and apply a snake bandage followed by additional immobilisation of the bitten limb with a splint to slow the spread of the venom. Maintaining immobilisation is the most critical part of the first aid.*
- *Arrange for emergency medical evacuation.*
- *Review your vessels safety management systems and make sure it includes emergency procedures for sea snake bites or stings by other marine creatures.*
- *Review worker induction processes and make sure all workers are aware of dangers of sea snakes (and other marine stingers), and how to manage them.*
- *Ensure your vessel has snake hooks or grabbers for handling and removal of sea snakes. DO NOT handle sea snakes by hand.*
- *Ensure the first aid kit is stocked with specialised snake bandages.*
- *Ensure all crew members are trained in applying a snake bandage and immobilisation and practice regularly.”*

The Employer

39. Since Harry’s death WA Seafood Exporters Pty Limited appear to have been proactive in ensuring that the risk of sea snake bites is minimised. The SMS was also updated to reflect the hazards and an emergency response procedure provided. There is a section on sea snakes that now reads:

“Hazard: Sea snakes in Australian waters are very venomous. These snakes can sometimes be very aggressive after being trawled.

Handling procedure: If you do encounter a sea snake, follow the below procedure:

- Approach from the rear of the snake.
 - Always use and wear PPE, including puncture resistant gloves.
 - Always use snake hooks and grabbers for handling and removing sea snakes. DO NOT handle sea snakes by hand.”
40. Pre-departure safety awareness sessions were said to be provided through a contracted provider as part of the induction and now include training in the safety management system and specifically sections on sea snake awareness.

41. WA Seafood Exporters is trialling puncture resistant gloves, although at this stage it is more a 'work in progress'. The gloves trialled in the last season had a glossy surface that did not work well in the wet environment. The company have also provided snake hooks and grabbers on both sides of the vessels for use in handling sea snakes.
42. Their first aid kits have been upgraded to include compression bandages and EpiPens. The company said it was attempting to source specific snake compression bandages. The company is looking to introduce defibrillators on their vessels for the next season.

Comment

43. In April 2016 I investigated the death of Ryan Donoghue. He like Harry, was a young man from England. He came from a town less than 100 miles from where Harry lived. He came to Australia and worked on a prawn trawler. Like Harry, he was having the time of his life. Like Harry, he was inexperienced. Like Harry, he was not aware of the dangers involved and like Harry, he died from one of the dangers. Like Harry, he was on a vessel that had inadequate health and safety procedures.
44. In Ryan's case, apart from investigating (and putting out an alert) no regulatory authority had done anything two and a half years later, at the date of the inquest. It was said that any breaches were "administrative". Once again, the thinking appears to be similar. The lack of induction and training into the dangers to be encountered, requirements to wear identified PPE and failure to have the policies said to mitigate the risk were not thought by the regulator to be relevant to Harry being bitten.
45. Even if the breaches had not been relevant, the minimum that might be expected from a regulatory authority would be an improvement notice for identified breaches and follow up to ensure they were remedied. That was not done. However, in my opinion it is difficult to understand how the breaches were not relevant to Harry being bitten.

46. It is obvious that working on prawn trawlers is not risk free. Those risks are exacerbated when employing young people from overseas where the same hazards do not exist. It is obvious that there is a need for proper induction and training to teach new employees about the dangers and how to mitigate them. It is obvious that the induction process did not do that. The First Mate on the *Ocean Exporter* had been working on prawn trawlers for about 4 months. He was not aware that a sea snake bite might be fatal.⁹
47. After being bitten, Harry did not show the concern that one might expect if he had understood that he might die. He kept assuring the Skipper he was “fine”. It is certainly possible that if Harry had known that contact with a sea snake could be fatal he might have acted differently. He might have visually inspected the nets before handling them. He might have worn gloves.
48. The induction, training and requirements around wearing gloves seemed to be variable. The First Mate understood that they should be worn when handling the nets. The Skipper, however said it was up to personal preference.¹⁰
49. In my opinion it was not sufficient for the regulator to conclude that a safety alert was sufficient action on its part to remedy the identified issues. It was not reasonable to conclude that the identified breaches had no causal link to Harry’s death.
50. During the course of the inquest I asked whether consideration had been given to a video that demonstrated the dangers such young people will encounter during their time on a prawn trawler and ways to minimise those dangers. I was told that there is such a project in its infancy as part of the SeSAFE initiative. In my view such a video would be particularly useful.

⁹ Transcript page 32

¹⁰ Transcript page 16

Formal Findings

51. Pursuant to section 34 of the *Coroner's Act*, I find as follows:

- (i) The identity of the deceased was Harry Joseph Evans born on 10 May 1995, in Dorset, United Kingdom.
- (ii) The time of death was shortly after 10.41am on 4 October 2018. He was pronounced deceased by a medical practitioner at 2.48pm. The place of death was the bridge of the fishing vessel, *Ocean Exporter*, in the Gulf of Carpentaria.
- (iii) The cause of death was sea snake bite.
- (iv) The particulars required to register the death:
 - 1. The deceased was Harry Joseph Evans.
 - 2. The deceased was of Caucasian descent.
 - 3. The deceased was employed at the time of his death as a deck hand on the fishing vessel *Ocean Exporter*.
 - 4. The death was reported to the coroner by John Palmer of WA Seafood Exporters Pty Ltd.
 - 5. The cause of death was confirmed by Forensic Pathologist, Dr Marianne Tiemensma.
 - 6. The deceased's mother was Sharon Evans and his father was Timothy Camp.

Recommendations

52. I **recommend** that WA Seafood Exporters Pty Ltd (along with others in the industry, if able) develop an awareness and training video demonstrating the dangers workers encounter during their time on a prawn trawler and the ways to mitigate the risks.

53. I **recommend** that where WorkSafe identifies deficiencies in the work health and safety systems and practices of a PCBU that action be taken to ensure that the deficiencies are rectified.

Dated this 3 day of January 2020.

GREG CAVANAGH
TERRITORY CORONER