



Coroners Court of Queensland

FINDINGS OF INVESTIGATION

CITATION: **Non-inquest findings into the death of Robert Charles Royston**

TITLE OF COURT: Coroner's Court

JURISDICTION: Brisbane

DATE: 24 April 2018

FILE NO(s): 2015/3051

FINDINGS OF: Christine Clements, Brisbane Coroner

CATCHWORDS: CORONERS: Drowning , 57 year old male, overnight fishing trip Cape Moreton, conditions changed, boat anchored from stern, swamped from waves breaking into stern whilst pulling anchor, stalled, capsized, life jackets not worn, first trip in boat, unfamiliar with water pump switch

1. Robert Charles Royston lived at Timothy Street Beachmere in Queensland. He died on 9 August 2015 in the Coral Sea off the Coast of Bribie Island in Queensland. He died due to drowning. Mr Royston was 57 years of age at the time of his death.

SUMMARY OF EVENTS

2. At about 3.45PM on the afternoon of Saturday, 8 August 2015 Robert Royston, his son Leevi Royston and Ronald Fankhauser set off from the Banksia Beach boat ramp near Bribie Island for an overnight fishing trip. They were aboard a 5.6 metre aluminium centre console vessel. Mr Fankhauser had purchased the boat on the previous day, paying \$5,500.
3. The men fished during the afternoon before anchoring about seven nautical miles North Northeast of Cape Moreton. Seas were estimated at between 1 and 1.5 metres.
4. At about 7.00AM on Sunday 9 August the vessel was hit by a large swell causing the boat to become unbalanced. A second swell hit and the boat rolled over and all on board were thrown into the sea.
5. Ronald Fankhauser was able to swim back to the upturned boat. He retrieved the EPIRB emergency alert and activated it. He attempted to retrieve life jackets but was unable to do so. A large eski had moved blocking access to the life jackets.
6. The three men held onto eskies to assist them to keep afloat.
7. As time passed Robert Royston became tired and weak. Ronald Fankhauser then decided to swim an estimated distance of one kilometre to where a trawler could be seen. Before he reached the trawler he observed a helicopter approaching so he turned around to swim back to the other men.
8. The vessel had sunk prior to the arrival of the helicopter.
9. The Rescue 500 helicopter arrived at the scene at about 8:30 that morning. A winch was operated to retrieve the men. It was observed that Robert Royston was deceased. The men were winched up to the helicopter with assistance of the paramedic Simon Bennett.
10. The three men were airlifted to the Princess Alexandra Hospital. It was confirmed that Robert Charles Royston was deceased.

AUTOPSY

11. On 11 August 2015 an autopsy examination was conducted by the forensic pathologist Dr Williams.
12. Some injuries were apparent on external examination. However these were minor including bruises and small abrasions to the top of the head, chest, abdomen and arms.
13. CT imaging showed hyperinflation of the lungs and the presence of fluid within the chest cavity. There was a small amount of fluid within the sinuses of the deceased person. All of these features are consistent with drowning.
14. Internal examination confirmed hyperinflation of the lungs which were heavy and contained a large amount of fluid. There was frothy fluid within the airways and

moderate amount of fluid within the chest cavity and stomach.

15. Additionally, there was moderate to severe degenerative narrowing of the coronary arteries (atherosclerosis).
16. Toxicology testing did not reveal the presence of alcohol or drugs.
17. The pathologist remarked there was significant natural disease in the form of coronary atherosclerosis. This was a contributing factor to death as it would have made him more vulnerable to drowning. There is no specific test for drowning; however the circumstances outlined together with the findings at autopsy are consistent with death being caused by drowning.
18. The pathologist concluded Robert Charles Royston died due to drowning. Other significant conditions contributing to his death included coronary atherosclerosis.

INVESTIGATION BY QUEENSLAND WATER POLICE

19. At about 7.30AM on 9 August 2015 Queensland Water Police confirmed the Australian Search and Rescue (Aus SAR), based in Canberra telephoned the water police informing them of an unregistered Emergency Position Indication Radio Beacon (EPIRB) signal at 36° 54.36 South and 153° 35.94 East. The position was approximately 11 nautical miles Northeast of Cape Moreton. The Australian Search and Rescue advised they were tasking a helicopter to the area. The water police initiated a search and rescue operation upon receiving this advice.
20. At 8:30 that morning advice was received from Rescue 500 Queensland emergency services helicopter confirming they had winched three persons from the water in a position approximately nine nautical miles Northeast of Cape Moreton. One person was deceased and they were proceeding to the Princess Alexandra hospital.
21. They confirmed the 5.6 metre centre console vessel had sunk due to what was described as a rogue wave.

THE VESSEL

22. The boat was a De Havilland centre console aluminium constructed vessel. It was 5.6 metres long and powered by a 115HP Johnson outboard motor. The registration number was WZ866Q. The owner/master of the vessel was Ronald Peter Fankhauser who was aboard the vessel at the time.
23. Mr Fankhauser was interviewed by police on 19 June 2015. He said he had purchased the vessel second hand on the day prior, namely 8 August 2015. He bought the boat from Anthony Elliott-Leaves after a period of negotiation. He picked up the boat that morning and met Robert Royston. Together they transferred safety equipment into the vessel and proceeded to the boat ramp with Robert's son Leevi. The fishing trip was planned in an area described as about 15 miles Northeast of Cape Moreton.
24. They proceeded out in the boat and stayed close to the shore for a few hours to ensure the vessel was running well and suitable to the conditions. They then headed further out to sea around midnight where they anchored. Conditions were satisfactory and they decided to sleep as they were not catching fish.
25. Mr Fankhauser woke up just prior to sunrise on the morning of 9 August. He began packing up items on the boat and noticed they had dropped anchor. The stern of the

vessel was holding into the wind and waves. When Robert and Leevi woke up they decided to retrieve the anchor and moved back onto their fishing mark. Mr Fankhauser started the motor and let it warm up as Leevi started pulling the anchor up. The motor was then put into gear but the engine stalled. He restarted the motor and idled the motor to warm the engine. It was then that a wave came into the back of the boat and stalled out the motor again.

26. There was excess water in the back of the boat and he activated the bilge pump. He attempted to start the motor again but without success. Another wave entered the back of the vessel causing him concern. He attempted to reach for the radio to place a mayday call when a further wave hit the boat causing the water to shift and the vessel rolled over. Leevi Royston and Ronald Fankhauser helped Robert Royston remove heavy clothing. Ronald retrieved the EPIRB from the vessel and they used items from the boat to help stay afloat. They could see that the boat looked like it would sink and they needed to move away from the anchor line in case they became caught up in it. Mr Fankhauser decided he needed to try to swim towards a trawler that they could see in the distance. He was concerned about Robert Royston who was becoming tired with shallow breathing. Subsequently he was retrieved by the rescue helicopter.

WEATHER CONDITIONS

27. Police noted Saturday, 8 August 2015 at 3.00PM the winds were Southeast at 19 kilometres per hour with a maximum wind gust recorded at 35 kilometres per hour from the East South East. This occurred at 8:21PM.
28. Observations for Sunday 9 August at 9.00AM recorded winds at 22 kilometres per hour from the South. A maximum wind gust of 35 kilometres per hour was recorded from the South South West at 2:50AM.
29. Wave monitoring heights were recorded at Mooloolaba. At around 6.00AM on 9 August there was a significant wave height of 1 - 1.2 metres.
30. At Brisbane a significant wave was recorded at around 6.00AM on 9 August of 2.5 – 2.7 metres.
31. At Tweed heads, a significant wave was recorded at 6.00AM on 9 August of 1.3 metres.

INFORMATION FROM ROBERT ROYSTON'S SON

32. Leevi Royston told police conditions had been not too bad the day they set out. The next morning he woke up around 6.00AM and noticed that the direction of the wind had changed and they were facing North West towards Mooloolaba. The sea had become rougher. He estimated the swell at two metres or more, coming towards the back of the boat. He confirmed Ronald told them they needed to move and they began to reel in the six fishing lines. Leevi confirmed he was attempting to retrieve the anchor which had about 300-400 metres of line out. Ronald started the engine and it ran for a short time before stopping. He restarted it after a couple of minutes. The motor stopped again at which time there were waves coming in over the back of the boat breaking around the motor. Another wave came over the back left corner of the boat, filling the back of the boat. Within seconds the water shifted to one side and they all jumped out of the boat. Very quickly the boat rolled upside down.
33. They helped his father to get his clothes off. Ronald then dived under the upturned boat and retrieved the EPIRB and Leevi activated this. It was a short time later that the

boat sank. Ronald had decided to try to swim towards a trawler. Leevi tried to keep his father afloat. He told his father the rescue chopper was coming but his father was becoming unresponsive. He grabbed him and shook him but his father did not respond.

INFORMATION FROM PREVIOUS OWNER

34. Police spoke with Anthony Elliott-Leaves and obtained a statement. He stated the vessel had previously been set up with a self-draining deck. The port side aluminium flap had been sealed up prior to his ownership of the vessel and it remained in that configuration. The vessel was also equipped with two under floor live bait tanks. These tanks were filled by water pump located inside the transom under the gunwale on the port side of the vessel. There was a toggle switch fitted to operate the same pump.
35. Previously he had not been able to get the pump to work as intended. The only way he could activate the pump was by utilising a garden hose to prime the pump whilst the vessel was on its trailer at home.
36. He fitted a bilge pump to the vessel in the bottom of the hull. The bilge pump did not have an automatic float switch and could only be operated manually via the circuit breaker switch.

WATER POLICE OPINION

37. Sergeant KC Bates, the officer in charge of the water police Sunshine Coast concluded the De Havilland centre console vessel capsized as a result of excessive water ingress. This occurred at around 6:30 AM on the morning of 9 August 2015. The boat was positioned approximately nine nautical miles Northeast of Cape Moreton at the time.
38. It was possible the port side flap, which had been sealed, may have contributed to the incident occurring. The toggle switch to release the water pump could possibly unknowingly have been accidentally switched on. However, the previous owner reported the pump did not work unless primed in a particular manner.

TECHNICAL INSPECTION OF THE VESSEL

39. On 17 March 2017 the Skipper of a trawler, "Heaven" fortuitously discovered the whereabouts of the De Havilland vessel which had sunk on 9 August 2015. The trawler Skipper, Christopher O'Neill was travelling at a position of 26° 55.4312 S. and 153° 35.0176. They were pulled off course to starboard and his speed changed indicating something had been caught in the trawler nets. He discovered he had snared the sunken vessel WZ8866Q. The vessel was retrieved and transported to the water police station holding bay.
40. Marine officer John Kercher of Maritime Safety Queensland inspected the vessel on 28 March 2017. He expressed the professional opinion as follows:
 - (1) The vessel had been modified from the original design. These modifications included:
 - (a) Designed sheer line. The top sides have been raised.
 - (b) Rectangular aluminium extrusion fitted at the top of the additional topside plating.
 - (c) C-section aluminium extrusion used to form the stem, fitted from the chine to the underside of the bow roller, presumably to assist in boarding from the bow due to the raised top sides
 - (d) Installation of forward step below the bow roller to assist in boarding

- (e) A top hat extruded section has been fitted to support the raised top sides
- (f) Fabricated bow roller
- (g) Tubular aluminium bow rails
- (h) Installation of 2 x 50 litre under floor fuel tanks and 2 x live bait/kill tanks
- (i) Tubular aluminium canopy with accessories
- (j) Centre console and pedestal helm seat fitted
- (k) Centre console engine controls
- (l) Port and starboard side pockets
- (m) Bilge pump
- (n) Deck hatches
- (o) Aft boarding step
- (p) Transducer and speed log
- (q) Port and starboard side decks
- (r) Additional timber and aluminium packers fitted as transom to accommodate the raising of the outboard engine.

(2) The inspecting officer considered the modifications would not have affected the performance or function-ability of the ship.

(3) It was difficult to assess whether the ship was seaworthy. No significant structural failure leading to the loss of the vessel could be identified. However, it was concerning why somebody had surface sealant (sikaflex) all around the running strakes (formed part/ extrusion on a ship that provides structural stiffness), and chine (the angle of intersection between the topsides and the bottom sections of a ship.) The inspector considered the only likely explanation was to stop an unfound leak.

(4) The fitment of the out board engine was not considered "good marine practice" as only two of the Ford designed mounting bolts were effective.

41. The inspection confirmed that after recovery the vehicle was a wreck.

CONCLUSION

42. Robert Royston tragically drowned on the first voyage undertaken by the vessel's new owner, Ronald Fankhauser. Conditions were reasonable when the three men set off for an overnight fishing trip. However, when they awoke on the morning of 9 August 2015, conditions had deteriorated. The sea was described as choppy with waves around two metres as estimated by Leevi Royston. Ronald Fankhauser told the other two men to bring in the fishing lines as they needed to move the vessel. The swell was coming at the back of the boat. The anchor line was from the rear of the vessel.

43. None of the three men were wearing life jackets which were aboard the vessel. No one accessed the life jackets or apparently considered the advisability of accessing the jackets and putting them on.

44. They retrieved the fishing lines and then the youngest man, Leevi Royston commenced raising the anchor whilst Ronald Fankhauser started and restarted the engine which initially stalled. It stalled again when a wave dumped over the back of the boat. Another wave hit the boat and a large amount of water remained in the rear of the vessel. The vessel became unstable and tilted with all three men ending up in the sea without life jackets.

45. A successful retrieval of the EPIRB from the upturned vessel enabled an emergency distress message to be activated. The Australian search and rescue response was swift and effective. All three men were retrieved by helicopter from the sea. Tragically,

Robert Royston had already drowned.

46. The pathologist noted vascular disease (coronary atherosclerosis) contributed to his drowning.
47. The absence of flotation provided by a life jacket was likely critical in all the circumstances.

Chris Clements

Coroner