

# CORONERS COURT AT TOWNSVILLE

GLASGOW, Coroner

TOWN-COR-00000124/03

## IN THE MATTER OF AN INQUEST INTO THE CAUSE AND CIRCUMSTANCES SURROUNDING THE DEATH OF CHRISTINA MAE WATSON

### DRAFT SUBMISSIONS

#### OVERVIEW

1. Christina Mae Watson died on the 22 October 2003. For the purposes of the *Coroners Act 2003* (s100) this death is a "pre commencement" death and the *Coroners Act 1958* governs the Coronial process.
2. The scope of an Inquest under the old Act is described in s24. Relevantly:-

#### 24 Scope of inquest on death

(1) *Where an inquest into a death is held under this Act it shall be for the purpose of establishing so far as practicable -*

- (a) *the fact that a person has died;*
- (b) *the identity of the deceased person;*
- (c) *when, where, and how the death occurred;*
- (d) *the persons (if any) to be charged with murder, manslaughter, the offence of dangerous driving of a motor vehicle causing death as set forth in the Criminal Code, section 328A, or any offence set forth in the Criminal Code, section 311.*

3. The findings a coroner must make are described in s43 of the old Act. In particular:-

#### 43 Finding of coroner

- (1) *After considering all the evidence before the coroner at the inquest the coroner shall give the coroner's finding in open court.*
- (2) *Where the inquest concerns the death of any person, the finding shall set forth -*
  - (a) *so far as has been proved -*
    - (i) *who the deceased was;*
    - (ii) *when, where, and how the deceased came by his or her death; and*
  - (b) *the persons (if any) committed for trial.*

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- (3) *Where the inquest concerns a missing person the finding shall set forth –*
    - (a) *so far as has been proved the cause and origin of the fire; and*
    - (b) *the persons (if any) committed for trial.*
  - (4) *The coroner shall not express any opinion on any matter outside the scope of the inquest except in a rider which, in the opinion of the coroner, is designed to prevent the recurrence of similar occurrences.*
  - (4A) *A rider shall not be or be deemed to be part of the coroner's finding but it may be recorded if the coroner thinks fit.*
  - (5) *No finding of the coroner may be framed in such a way as to appear to determine any question of civil liability or as to suggest that any particular person is found guilty of any indictable or simple offence.*
4. The primary findings in this case are proved and not contentious.
  5. Christina May Watson died on the morning of 22 October 2003 whilst she was scuba diving with her husband, David Gabriel Watson, at the site of the shipwreck of the steam ship Yongala.
  6. The location of the Yongala shipwreck is approximately 48 nautical miles south east of Townsville and 12 nautical miles east of Cape Bowling Green, Queensland.
  7. The identity of the deceased is not an issue.
  8. The contentious issues to be determined in this case are as follows:
    - (a) cause of death.
    - (b) Whether any person should be committed for trial for an offence noted in s24 of the Act.

#### **CAUSE OF DEATH**

9. It is clear on the medical evidence that natural disease processes are excluded in attempting to understand the cause of death. Professor Williams, at post mortem examination, diagnoses drowning or the deprivation of oxygen.
10. Professor Epstein and Dr Mendelsohn exclude the possibility of cardiac problems or an arrhythmia being the cause of death.
11. Dr Griffiths, the Hyperbaric specialist, left open various environmental factors as potential causes, but subject to the factual evidence. However, he noted unconsciousness could occur with approximately 30 seconds to 2 minutes of oxygen deprivation depending on exertion.

12. The dive equipment being used by Tina was found to be in good working order and not relevant as a potential cause of death.
13. At rescue by Mr Singleton, Tina's dive equipment was in working order and performed according to specification. Her BCD (buoyancy compensator device) operated properly.
14. Dr Thomas and Dr Griffith noted Tina's air supply was appropriate and within specification.
15. The current at the time flowed from the bow to the stern of the wreck in line with the forward and stern diver access points. The direction of the current does not provide an answer to explain Tina's resting place on the sea floor where she was found by Mr Singleton some 16 metres starboard of the wreck.
16. The current strength is at large, at least on the evidence of the many divers who swam that morning. The accounts are subjective and may be understood as a result of memory or swimming ability. However, in his explanation to Police Mr Watson notes on the descent that the bubbles were rising vertically. This is consistent with a light current at the time of the dive.
17. The dive re-enactment was unable to reproduce Tina's resting position on the ocean floor. The proposition put in evidence was that Tina would have to be taken away from the wreck at a 90° angle to achieve the same resting place.
18. Mr Watson was an experienced diver with rescue certification. In his form completed at the commencement of the trip he noted he had completed 12 dives in the last 12 months.
19. Tina held basic open water diving certification and was not experienced.
20. The dive briefing conducted by Mr Singleton was sound and noted all relevant issues including water and bottom depths. It was known that the sea floor was 30 metres from the surface.

#### MR WATSON'S ACCOUNTS

21. At the relevant time Mr Watson and his wife were diving alone.
22. The account given by Mr Watson of the events underwater lack credibility and have not been confirmed by Police in subsequent inquiries.
23. At this point the evidence of the following witnesses is particularly relevant –
  - (a) Mr Wade Singleton



- (b) Ms Paula Snyder
  - (c) Mr Kenneth Snyder
  - (d) Mr Douglas Milsap
  - (e) Ms Tina Graves
  - (f) Ms Lou Johnstone nee Forster
24. The fact that the evidence of all divers swimming that day is to the effect that no diver approached them on the line or elsewhere is significant.
25. Mr Watson must be considered to have the training and experience appropriate to have rescued Tina. His decision to leave her, contrary to his obligations as her dive buddy, is not explained.
26. The dive profile envelope obtained from the dive computers is consistent with a joint dive, with both divers being together, until a point of separation. Here, Mr Watson ascended and Tina descended to the bottom.
27. A rapid ascent by Mr Watson is not confirmed.
28. The points where Mr Watson surfaced and, subsequently, Mr Singleton and Tina surfaced, is not consistent with Mr Watson ascending up the forward diver access point line to the surface.
29. The observations of a "bear hug" by Dr Stultz is striking.

## **OVERVIEW OF MR WATSON'S VERSION OF EVENTS**

### **Police Interview on return to Townsville on 22 October 2003**

30. Detective Senior Constable Kevin Gehringer obtained a typed written statement from Gabe on the day of Tina's death 22 October 2003. This process was also recorded on a C90 tape recorder.
31. Gabe stated he held a Search and Rescue Dive Certificate however he stated that he was only trained in navigation, use of lift bags and recovery of persons on the waters surface. He did not disclose any training or ability to bring a diver to the surface from below the water.
32. This version is later challenged by Dive Instructor Thomas Jackson who certified Gabe as a rescue diver. He gave evidence that Gabe was trained to bring distressed, panicked and unconscious divers to the surface and was competent in his training.
33. Gabe's abilities are corroborated by a friend of Gabe's, Michael Moore. Moore gives evidence that he obtained his rescue certification with Gabe and that the

- training covered both theory and practical training in bringing panicked and unconscious divers to the surface.
34. Evidence is also given by Moore that on a drift dive at Cozumel Mexico Gabe assisted him in a potentially dangerous situation where his weight belt was lost at depth and Gabe prevented him from ascending by holding onto him while Jackson retrieved the weight belt from ocean floor and returned it to Moore.
35. Moore further states in evidence during the Coronal Inquest that whilst doing dives at Cozumel in Mexico they completed a drift dive where the current was so strong that Gabe was unable to swim against the current to go back and take a photo. Despite this strong current Moore, Gabe and Jackson completed the dive without incident.
36. This contradicts Gabe's assertion who thorough out all his versions where he states that he had never experienced a strong current like that at the Yongala. However, in his versions he was able to swim against the current to get to the descent line.
37. Gabe states that a dive briefing delivered by Singleton takes place on rear deck along with a drawing of the wreck on the morning of the fatal dive. Currents, dive plan, entry and exit points are discussed. The content and quality of the dive briefing is later covered in evidence by Synder and Milsap who refer to it as one of the most professional and thorough they have experienced in their extensive diving history.
38. Gabe states that he initially entered the water with Tina and had only descended about 5 feet when his dive computer (worn on his wrist) sounded a warning alarm by beeping. He and Tina surfaced and returned to the Spoilsport by tender. The tender driver was Craig Haslet.
39. Gabe obtains a coin from Uzi Barnai and says the problem with his dive computer is that the battery is in back to front. Uzi Barnai corroborates this version in relation to Gabe asking for the coin, returning it and telling him that the battery was in back to front before he and Tina re-enter the water.
40. Gabe's version in relation to the battery is proved to be impossible through testing the dive computer in a hyperbaric chamber, and in the evidence given by Oceanic employee Adam White because the dive computer will not operate, nor is it able to give an audible alarm, with the battery in back to front.
41. Gabe and Tina take the next available tender along with Singleton and three other persons. Tina descends first with Gabe following. Gabe does not believe the other

divers from the same tender were close by, because they would have bumped into them.

42. Gabe states he and Tina leave the descent line at about 40 feet and headed out over the dive site. At about 30 yards (later clarified by Gabe in interview on 27<sup>th</sup> as being 30 feet) from the descent line and right over the top of the wreck, Gabe feels the current is strong and Tina indicates she wants to go back up.
43. Gabe and Tina start to swim back to the rope, side by side, when Tina starts to go down a bit. Gabe begins pulling Tina and at some stage she stops swimming and starts sinking. Gabe turns towards Tina and grabs his inflator hose motioning her to do the same. Tina grabs her inflator hose on her BC and squeezed but with no result.
44. Tina continues sinking and Gabe realises something is wrong. Gabe grabs hold of the strap on Tina's buoyancy control device and starts swimming back to the anchor line. Gabe is now towing Tina who is not assisting at all. Tina's hand then comes across his face, grabs his mask and pulls it back causing it to fill with water. The physics of this assertion is open to question.
45. Gabe states he let go of Tina to clear his mask. He then realises that his regulator is not in his mouth. He grabs his safe second and turns around and observes Tina five to ten feet below him but out of arm's reach.
46. Gabe can see Tina sinking to the bottom, could see her eyes open but Tina was not moving at all. Gabe swims down to grab her or do whatever he could, he then says he realises there is nothing he can do.
47. This version is at odds with evidence from Jackson (dive instructor who certified Gabe) who states that Gabe was more than competent as a rescue diver and had the ability to rescue a panicked, or unconscious diver, especially allowing for the fact that the diver is this assertion is also with his wife of 11 days.
48. Further, and at odds with the evidence from his friend Moore, where Moore indicates that Gabe prevented him from a potentially dangerous incident underwater (Cozumel Mexico) by his quick actions.
49. Gabe swims back over to the anchor rope and starts up. At about 20 feet he sees some people hanging onto the rope. Gabe taps them and points in the direction of Tina, however he had no way of telling them what he needed.



50. Despite Police interviewing all divers in the water at the relevant times, no diver states that any single diver approached them on the descent line, tapped them, or tried to get their attention.
51. Gabe then goes to the surface and yells for help before being picked up and taken to the "Spoilsport". Gabe recalls a crewman looking at his dive computer and the maximum depth on dive was 54 feet.

#### **Viewing Tina's Body at Morgue**

52. On Friday the 24<sup>th</sup> October 2003 Gabe and his mother attended the Townsville Morgue to view Tina's body. At the conclusion Gabe informed Gehringer and Lawrence that he wished to clear up matters in relation to the currents and an article he read in the Townsville Daily Bulletin about the incident.
53. As a result Gabe and his mother attended the Townsville Police Station on 27<sup>th</sup> October 2003.

#### **Interview Version Provided by Gabe 27<sup>th</sup> October 2003**

54. During the interview with Lawrence and Gehringer, Gabe clarified he was 25 or 30 feet away from anchor line, over the wreck, and not 30 yards as stated in his statement given on 22<sup>nd</sup> October 2003.
55. Gabe states he considered the dive not to be a drift dive, but, rather, a dive in severe current.
56. Gabe states he does not know what physical thing happened to Tina but believes a strong current was a trigger. Gabe states he did not realise the strength of the current until he left the descent line. This assertion is in stark contrast to the evidence of the other divers swimming that day.
57. Gabe refers to an article in the Townsville Bulletin that conditions were stated by Mike Ball as near perfect, an opinion not held by Gabe.
58. Gabe states it was a lengthy briefing on the diving deck by Singleton on the day of the dive.
59. Gabe states that on first dive with Tina he only descended a few feet before a 'gas alarm' beep sounded on his dive computer. He signalled to Tina and both returned to the surface. Tina waited on the surface while Gabe descended a few feet again. The problem persisted with his dive computer.

60. Gabe returned to the surface and returned to the Spoilsport with Tina. Gabe states he acquires a coin from Uzi Barnes to open the back of the dive computer. Gabe swaps the battery around and, after checking, it is operational.
61. Gabe and Tina go back to dive site a second time. They are the first out of the tender into water ahead of group. Gabe states he gets a visual of wreck at about 25 or 28 feet, then continued down to the top of the wreck at 45 feet. Gabe states that he had previous discussion with Tina and the plan was to just go over the top of the wreck. They leave the decent line and, at about twenty five feet, realised the current was strong. Gabe states that Tina motioned him to go back to decent line.
62. Both swam back to the decent line with Gabe initially using his right hand to hold Tina's left hand. Gabe states he was swimming horizontally, and Tina was dropping nearly vertical in the water. Gabe stops towing, lets go of Tina, and motions to Tina to inflate her BC. He observes Tina squeeze BC but nothing happened.
63. Gabe observes that Tina looks frightened. Gabe grabs Tina's BC and starts to swim towards the decent line. Gabe believes they cannot ascend as Tina's BC is not working.
64. Gabe starts to think of options whilst towing Tina. For example, getting to the anchor line so that Tina can pull herself up, or hold onto it while he goes to get help. Gabe also thinks of using his clamp for spear fishing to clamp Tina's BC to the anchor line while he ascends.
65. Gabe states he sees people on the decent line but before he could get there, Tina's hand knocked his mask sideways. Gabe then lets go of Tina gives few kicks to distance himself, then clears his mask and replaces his regulator. Tina is now five feet below him and he doesn't know if she is kicking or not. Tina has both arms reaching up and is looking at Gabe.
66. Gabe upends and begins a decent by kicking and reaching out, thinking to grab hold of Tina. Gabe considers further options, such as removing Tina's weights, inflating his BC and ascending. This version by Gabe, about his thoughts, corroborates the evidence by Jackson in relation to Gabe's Rescue Certification and the appropriate actions to take in such circumstances. It is also consistent with Gabe not being in a state of panic.
67. Gabe states that as fast as he could kick down Tina was sinking just as fast. This is in stark contradiction to the evidence given by expert divers, Jackson and Police Diver Netting, who wore Tina's equipment and weights for a test dive. Netting, in



evidence, noted that a conscious diver kicking with fins would catch a diver in those circumstances in a matter of a few kicks.

68. Gabe stated that he was still shocked now as to how clear his thoughts were at time of the incident and remembers thinking of just chasing Tina to the bottom, dropping her weights, taking her to the top. Again this corroborates the evidence from numerous divers throughout the inquest who stated that the course of action would have been to do just that and, again, reinforces the instruction Gabe had received in his Rescue Certification.
69. Gabe states that he was at about 50 feet and could see the hull and that he knows seafloor is at about 100 feet.
70. Gabe states that he thinks if he goes to bottom he won't be able to ascend quickly. He decided to leave Tina and go back to the anchor line where he saw people. Gabe states he swims to the descent line, approaches people, shakes one person and yells Tina Tina. This version was explicitly covered at the interview however could not be corroborated subsequently by any diver in the water at the relevant time.
71. Gabe stated that a male person turned and looked at him as he pointed to where Tina went down, however there was no response from the male person on the descent line. Gabe stated that he remembered this male as being Asian in appearance.
72. Gabe indicates that this person would have to remember the incident as he physically shook the person. This version again can not be corroborated by any diver on the day.
73. Gabe states that he then turned, and rocketed up to the surface. Gabe later reflects, and is amazed that he didn't end up with the bends. This version is at odds with Gabe's dive computer, which shows that he had what was described as a controlled ascent by expert Police divers Kinghorn, and Ricky Murdoch, from the Water Police.
74. Gabe states that as he broke the surface he started yelling out Tina's gone down.
75. He was then picked up by a tender, driven by Haslet, and returned to the Spoilsport where he gave a description of what happened to staff.
76. Gabe states that he was approached by Syner who offered assistance and he asked her for a hug.
77. Gabe sees rescue attempt being carried out on back of Jazz II and is somewhat relieved.

78. Gabe states that he had been worried that Tina would have floated away, when he left her, due to the current.
79. Gabe states he is asked about Tina's medical history and medication. He states Tina had a snotty nose and cough, the same as he had in Sydney.
80. Gabe is later informed by Dr Downie that Tina has died and was transported over to Jazz II to view the body. He states that they then returned to Townsville to provide statements.
81. Gabe states that he visited the Townsville Aquarium on 26<sup>th</sup> October 2007 and bought a book "Australia's Greatest Dive Sites" where he read about strong currents and visibility.
82. Gabe gives detail about the dive preparation and states he only hooked up Tina's BC when preparing. Gabe also indicates that he did buddy checks and goes over hand signals for 'go up' and 'ok' with Tina. Gabe states he does not know if they went over hand signal 'got problem'. Gabe states that their BC's were functional prior to the dive.
83. Gabe stated that Tina was squeezing her BC it was not inflating, nor were any bubbles seen by him.
84. Gabe states that there was no indication at any time that Tina had an air supply problem.
85. Gabe recalls he changed the dive computer battery before leaving America. This corroborates evidence from Amanda Phillips who gave evidence that she and Tina picked the dive computer up from a shop in America prior to travelling to Australia and that Tina had made a comment to Gabe that there was nothing wrong with it except that the battery had been put in back to front and it had been rectified by the shop. Alanda gave evidence that she saw it in an operating condition at the time.
86. Gabe recalls that apart from initial hand signal from Tina to go back, no other hand signals were made.
87. Gabe thinks reflex action caused Tina to knock his mask, due to whatever physical thing happened to her. There is no medical evidence to suggest Tina suffered any relevant medical condition. It is also difficult to understand how Tina could have done this on Gabe's version. She is being dragged by him and so must be behind him.
88. Gabe recalled that his training covered how to deal with panicked divers.
89. Gabe recalled that he did not think Tina was unconscious when he left her.

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90. Gabe recalled that his training was self rescue, not to rescue other person from the bottom. This version is not the evidence given by Jackson and Moore that during their rescue training they were taught to rescue divers from the bottom.

#### POLICE INVESTIGATIONS

91. Police have been unable to verify Mr Watson's version of events during the course of their investigation. For instance:-

- (a) The batteries in Gabe's dive computer being back to front;
- (b) Any problems with inflating Tina's Boyancy Control Device;
- (c) The physical location along the spine of the wreck where Gabe says he and Tina separated;
- (d) No diver who was present and in the water at the relevant time reports a diver seeking assistance. Equally, no diver reports being touched or contacted at the Diver Access Line as suggested by Mr Watson;
- (e) The point where Mr Watson surfaced is well away from the bow diver access point;
- (f) The rate of ascent indicated by Mr Watson is not supported by his dive computer nor the police re-enactment;
- (g) Tina's resting place on the ocean floor is inconsistent with Mr Watson's version;
- (h) The medical evidence does not support Mr Watson's assertion that he was suffering from ear barotrauma;
- (i) The assertion that Tina was sinking faster than Mr Watson could swim is not accepted by the expert divers who gave evidence;
- (j) The current direction at all times was along the wreck from bow to stern and not across the wreck as indicated by Mr Watson;
- (k) Mr Watson was an experienced diver who was aware of the rule not to leave your buddy in the water if difficulties arose. His rescue diving training, and his recollection of his thinking underwater, indicates he knew the necessary procedures to rescue Tina.

92. The family issues that eventuated in America are difficult to understand.

However, the relevance of the flower removal to this case relates to the denial of the act on oath in the civil depositions.



93. The evidence in relation to insurance coverage and policy change forms part of the context of this case.

#### **COMMITAL FOR TRIAL**

It is the submission of the police investigators that Mr Watson to stand trial for the murder of his wife, Tina Watson.

There is a strong case to answer. The evidence of Dr Stultz in relation to his observations is germane and falls within the domain of the evidence as a whole.

The account given by Mr Watson does not stand against the evidence nor the inquiries made subsequently by police.

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