



**STATE CORONER'S COURT
OF NEW SOUTH WALES**

Inquest: Inquest into the disappearance and suspected death of Keith Jones

Hearing dates: 10-11 October 2019

Date of findings: 11 October 2019

Place of findings: Byron Bay Local Court, NSW

Findings of: Magistrate Harriet Grahame, Deputy State Coroner

Catchwords: CORONIAL LAW – missing person, manner and cause of death, search at sea

File numbers: 2018/60371

Representation: Ms B Notley (Sergeant) Advocate assisting the Coroner

Findings:

The findings I make under section 81(1) of the *Coroners Act 2009 (NSW)* are:

Identity

The person who died was Keith Jones.

Date of death

He died between 15 and 20 February 2018.

Place of death

He died in the Pacific Ocean, at some point between Hervey Bay, Queensland and Iluka, NSW.

Cause of death

The exact cause of his death remains undetermined. However there are no suspicious circumstances, nor is there evidence establishing an intentionally self-inflicted death.

Manner of death

His death occurred while sailing solo off the coast of Australia.

Table of Contents

Introduction	1
The role of the coroner.....	1
The evidence	2
Background.....	2
Keith's family background	2
Keith's sailing history.....	2
Keith's medical history.....	3
The events leading up to Keith's disappearance	3
The initial investigation.....	4
Weather conditions	4
The discovery of <i>the Wayfarer</i>	5
Search for a missing person	5
Is Keith Jones dead?	6
Did Keith cause his own death intentionally?	6
Findings	7
Identity.....	7
Date of death.....	7
Place of death	7
Cause of death	7
Manner of death	7
Conclusion	7

Introduction

1. On 15 February 2018, Keith Jones set sail from Hervey Bay Boat Club Marina on his yacht, *the Wayfarer*. He had not informed anyone of his exact sailing plans. On 20 February 2018, *the Wayfarer* washed into Iluka Bay, on the north coast of New South Wales. Keith was not on board. A subsequent ocean and air search found no trace of him.
2. Keith was described as an experienced sailor who had undertaken many solo voyages. Keith loved fishing, sailing and being alone with the sea.
3. Keith was well loved by his family. He had a few close friends and a wider circle of acquaintances. He was described as being easy to talk to and someone who could get along with everyone.¹ Keith was an independent person who was sometimes headstrong. He was also described as loving and generous. He liked to joke and was well known to help others whenever he could.
4. His disappearance in these tragic circumstances has caused distress and grief. I had the opportunity to hear from his close friends, the Coys and from his daughter and brother. Their sense of grief was palpable and I offer them my sincere and personal condolences for their loss. It is clear to me that Keith is greatly missed. He was a unique and strong minded character who enriched the lives of those close to him.

The role of the coroner

5. The role of the coroner in a case such as this is to make findings firstly as to whether the nominated person is actually dead and only if that can be established, is the coroner to make further findings as to the date and place of death. The coroner is also to address issues concerning the manner and cause of death.²
6. The decision about whether a person is dead is considered a “threshold question” in a missing person case.³ Given the seriousness of the finding, it is well established that the court should apply the *Briginshaw* standard.⁴ The proof of death must be clear, cogent and exact. At common law, there is a presumption in favour of the continuance of life,⁵ however it is not a rigid presumption and the circumstances of any given case must be carefully examined before a finding of death can be made.
7. In the circumstances of this case, there has also been a need to consider whether Keith’s disappearance was the result of a tragic accident or whether it may have been intentionally self-inflicted. It is important to note that suicide can never be presumed in this jurisdiction.⁶ It is generally accepted that the finding will not be made without cogent evidence, however, the coroner must turn his or her mind to all possibilities. Ultimately, the coroner must be satisfied to the *Briginshaw* standard, on the basis of clear evidence.

¹ Statement of Barry Chevalley, Exhibit 1, Tab 9

² Section 81 *Coroners Act 2009* (NSW).

³ Dillon H and Hadley M “The Australasian Coroners’ Manual” Federation Press, 2015 page 11

⁴ *Briginshaw v Briginshaw* (1938) 60 CLR 336

⁵ *Axon v Axon* (1937) CLR 395

⁶ See Sellers J in *Re Davis (deceased)*[1967] 1 All ER 688

The evidence

8. The court took oral evidence on the first day. The court also received extensive documentary material. This included witness statements, medical records, maps and photographs. The officer in charge, Sergeant Donald Stewart, an extremely experienced Water Police officer, greatly assisted the court with a summary of the search and an account of the discovery of Keith's boat.

Background

Keith's family background

9. Keith was born on 4 November 1952. At the time of his disappearance he had been living alone at Urangan, Queensland. He had been living in the Hervey Bay area for around twenty years.
10. Keith was the youngest of three siblings and remained close to his brother Ray throughout his life. He had one daughter, Kristyn Chambers, who was 30 years of age at the time of his disappearance. She and her husband have two children. At the time of his disappearance Keith had yet to meet the youngest. Keith had been single since 2014. His family described him as loving and generous.
11. In 1971, Keith had been involved in a serious motor vehicle accident. As a result he received significant injuries including multiple fractures. He spent many months recovering from his injuries and lived with constant pain from that time.
12. Keith had worked for Telstra as a technician and in the paint industry. He was also a qualified boilermaker and electrician. More recently he had worked in the marine industry, as a crewman, in maintenance and delivering yachts along the coast.

Keith's sailing history

13. Keith had a long standing passion for sailing and a true love of the sea.
14. Keith had owned *the Wayfarer* for over 25 years. The yacht was a 9.75 metre sailing vessel. It had a fibreglass hull with two aluminium masts. There was a 28 horsepower diesel engine.
15. Keith was an able yachtsman and had set up *the Wayfarer* for solo voyages. He had extensive experience and had undertaken several long solo voyages along the east coast. He had sailed to Thursday Island and to various other locations. He was described as "a jack of all trades" and was competent in all aspects of yacht maintenance. He often did work for others at the Marina and people sought his expert advice and help.
16. Keith was never known to wear a life jacket or attach himself with a safety lanyard. He is reported to have found that it restricted his movements. Even with his pain and lung difficulties, Keith was considered strong and capable on the yacht. He tended to downplay his physical restrictions and the effects of his significant ongoing discomfort.

Keith's medical history

17. Keith saw a general practitioner in the Hervey Bay area, where he received medications and treatment for reflux, chronic lung disease, hypertension, gastrointestinal issues and depression.
18. Keith lived with pain, for which he took medication.

The events leading up to Keith's disappearance

19. Keith interacted with a small group of friends with whom he kept in close contact and visited often. He spoke regularly to his daughter, Kristyn and took an interest in her family.
20. From time to time he enjoyed taking his yacht on an extended solo trip. On 14 February 2018 he apparently told someone at the Marina that he was planning to sail to Tin Can Bay for a couple of weeks and then head down the coast⁷. Nobody else seems to have been aware of this plan. Members of Keith's family and his close friends had recently heard Keith talk about sailing *the Wayfarer* to Newcastle to sell, but they were not aware of a specific timeframe for the journey. More recently it is reported that Keith had been having difficulties negotiating a suitable payment plan at the Marina. It is possible that he made a hasty decision to leave his berth.
21. Keith had a close friendship with Penelope and Anthony Coy, who he treated him like family. He often ate with them and sometimes visited on a daily basis. Anthony Coy told the court that he treated Keith like a brother. Keith had keys to their home and they shared many happy times.
22. In the months leading up to his disappearance, Penelope and Anthony Coy had noticed that Keith appeared somewhat negative and unhappy. He appeared to be in increasing discomfort and reported trouble sleeping. The Coys last saw Keith on 8 February 2018 when he had a regular dinner at their home. When they did not hear from him for several days, they became concerned. It was especially surprising that he did not contact them or come for breakfast on Sunday, as it was a regular fixture. They left messages and Mr Coy visited Keith's home and the Marina, hoping to get in touch with his friend. Mr Coy even checked the local hospital. Mrs Coy left text messages for Keith and it was uncharacteristic for him to ignore them.
23. Mr Coy expressed concern about the amount of painkiller medication Keith was taking. He also recalled Keith talking about his pain and saying words to the effect of "if it ever gets that bad I will go to sea and no one will ever find me." Mr Coy had heard him say things like this from time to time, over the years.
24. On 19 February 2018, Penelope Coy spoke to Keith's acquaintance, "Jimmy" Taylor, who worked at the Hervey Bay Marina. Jimmy told her that he had seen *the Wayfarer* turn out of the Marina on 15 February 2018.⁸ At first Mrs Coy thought Keith may have been fishing nearby and requested that an alert issue. However, she was informed that the Police should

⁷ Statement of Barry Chevalley, Exhibit 1, Tab 9

⁸ Statement of Ronald James Taylor, Exhibit 1, Tab 8

be notified. As a result, Mrs Coy reported Keith missing with NSW Police on 19 February 2018.

The initial investigation

25. Police confirmed reports that the yacht had been seen leaving Urangan Harbour at Hervey Bay on the morning of 15 February 2018 and had not been seen or heard of since. Police triangulated Keith's mobile telephone and it revealed a signal was last detected at 5.57pm on 14 February 2018 from the Urangan tower. Police received information from Keith's family that he had earlier expressed an intention to sail to Newcastle, NSW to sell *the Wayfarer*, but nobody was aware of any plan to sail at that time, especially given the difficult weather conditions that existed.
26. Queensland Water Police commenced searching local waterways to no avail. The Joint Rescue Coordination Centre (Australian Maritime Safety Authority) was also informed and conveyed an alert to all shipping along the east coast to keep a look out for the vessel.
27. On 20 February 2018 Queensland Water Police coordinated further air and water searches. There were two rescue helicopters, Queensland Water police vessels, volunteer Marine Rescue, Coast Guard and Fraser Island Police. New South Wales Water Police were also informed. On 20 February 2018, police were informed that a cruise ship had seen a vessel similar *the Wayfarer*, the day before, off Evans Head, NSW. The Cruise ship had not been aware of the alert at the time and no further information was available.
28. Surf Lifesaving was contacted and a conference was held with representatives from the local media. Border Force was advised and flew between Cairns and Coffs Harbour.

Weather conditions

29. There is little doubt that the weather conditions were a significant factor affecting *the Wayfarer's* passage south. It is likely that Keith left on the morning of 15 February 2018. At that time the length of the Queensland coast was affected by tropical cyclone Gita. Gita had moved west in the Coral Sea as a category 5 system after causing significant damage to Tonga and other Pacific Islands.
30. Weather forecasts at the time predicted severe weather on the Queensland Coast including high winds and large seas.⁹ It is impossible to know the precise passage taken by *the Wayfarer* but it is most likely that at some point the vessel would have experienced gale force winds and seas exceeding four metres. These conditions would have been extremely hazardous for any crew, but especially dangerous for a solo sailor hampered by physical disability and pain.
31. While it is impossible to know, it may be that Keith's decision to sail had been made impulsively. The waters adjacent to Hervey Bay are somewhat sheltered and Keith may not have truly understood the conditions he would soon face. He has been described as headstrong and even stubborn. He tended to discount his physical limitations and had great confidence in his ability to guide his yacht in all kinds of weather.

⁹ See reports at Exhibit 1, Tab , 28, 29

The discovery of *the Wayfarer*

32. Around 3 pm on 20 February 2018 police received information from the public that there was a yacht close to the beach at Iluka, NSW. The yacht was described as being almost in the surf zone. The Marine Rescue Launch from Yamba had been activated but the crew reported heavy and dangerous sea conditions at the river entrance. Subsequently the NSW Maritime Authority made arrangements to cross the river bar and attempt to go to the location.
33. Around 3.30 pm, NSW Maritime Authority Senior Boating Service Officer Wayne Langshore boarded the yacht and found there was nobody on board. It was also confirmed that the yacht was indeed the missing yacht, *the Wayfarer*. Despite very difficult conditions, a tow line was secured and the yacht was returned to the Yamba Marina.
34. A further search of the yacht took place and it was secured. A coordinated search at sea commenced utilizing air assets only. At that stage the local ocean conditions remained too dangerous due to the continuing effects of tropical cyclone Gita.
35. An inspection of the yacht revealed that the mainsail appeared to be in poor condition and was torn. A fiberglass dinghy was on board. There was an Emergency Position Indicating Radio Beacon (EPIRB) on the bulkhead. It appeared to be in good condition with an operating battery. Other safety equipment including life jackets, flares and a distress sheet were identified. There was no evidence that any safety equipment had been used or activated. There was no damage to the hull, keel or rudder.
36. The battery was flat and as a result the GPS system on board could not be accessed to indicate where the yacht had been over the last few days. However, the condition of the yacht indicated that it had recently experienced harsh weather.
37. The yacht appeared to be structurally sound, however it is reported that the sails and rigging were in poor condition and may have been difficult to control in bad weather.
38. The main cabin had numerous items strewn around, including personal belongings, food and sailing equipment. There was also unused pain medication. Police found a wallet which contained personal papers and identification for Keith Jones.

Search for a missing person

39. Upon confirmation of the discovery of *the Wayfarer*, Sergeant Trussell of the Sydney Water Police commenced a coordinated search for Keith Jones in NSW waters. Due to the ongoing dangerous sea conditions on 20 February 2018, an immediate sea search was deemed unsuitable and the Australian Maritime Safety Authority was requested to coordinate an air search of the area. I have had the opportunity to review the maps of the wide area searched.¹⁰ I am satisfied that the search was appropriate in the circumstances.
40. On the evening of 20 February, 2018 contact was made with Dr Paul Luckin, a specialist in survival time often consulted by Police in these circumstances. Dr Luckin was fully briefed on local weather and sea conditions and on Keith's age and known medical conditions. Dr Luckin advised that from the point of entry into the water, it is likely that Keith could have survived no more than 40 hours.

¹⁰ Exhibit 1, Tab 18 and 19

41. The coordinated search continued throughout the day of 21 February 2018, but after consultation with family, searching was suspended that evening.

Is Keith Jones dead?

42. While his body has never been recovered there is no real doubt that Keith is dead. It is unclear if his death was caused by injury, a medical emergency, drowning or a combination of these factors.
43. During the investigation a number of mandatory “missing person checks” were carried out. There are no known movements recorded for his passport since his disappearance. Checks also revealed that there have been no transactions on his bank account or with other authorities since 14 February 2018.¹¹ There has been no contact with family or friends. Keith had no enemies and no reason to disappear.
44. On the evidence before me, I am satisfied to the requisite standard, that Keith Jones is dead. His death occurred between 15 February 2018 and 20 February 2018. Given the prevailing weather conditions, Keith may have simply been swept off board and drowned at sea. However, he may have suffered some kind of medical emergency, prior to falling into the sea. Without a witness, it is impossible to know.

Did Keith cause his own death intentionally?

45. While it has been established that Keith is dead, for completeness, the court also needed to consider the possibility that Keith had caused his own death intentionally. Mr Coy reported having previously heard Keith ruminate about his pain and state that if the pain got too bad, he could just “sail off and nobody would find him.”¹² Keith’s brother, Ray had also heard Keith say if his emphysema got too bad, he would just sail east “and that would be it”. However, the men saw this as a kind of black humour. It was a way of describing his pain, rather than a genuine expression of an intention to end his life. Keith also spoke of “having too much to live for” with a new grandchild on the way.¹³
46. His daughter has indicated that her father had expressed excitement about meeting his new grandchild. His diary indicated various future plans. The Coys were also aware of future plans Keith had made, including to help their daughter with her new home.
47. I have had the opportunity to hear from those closest to Keith. No person has urged the court to make a finding of suicide.
48. Having considered all the evidence, I am satisfied that Keith’s death was the result of natural causes or misadventure. The available evidence does not establish a premeditated death to the requisite standard. I am able to rule out foul play and suicide.

¹¹ A full list of these inquiries and other inquiries is set out in the statement of Sergeant Donald Stewart, Exhibit 1, Tab 4

¹² Statement of Anthony Coy, Exhibit 1, Tab 7

¹³ Statement of Ray Keast-Jones, Exhibit 1, Tab 10 [13]

Findings

49. The findings I make under section 81(1) of the *Coroners Act 2009* (NSW) are:

Identity

The person who died was Keith Jones

Date of death

He died between 15 and 20 February 2018

Place of death

He died in the Pacific Ocean, at some point between Hervey Bay Queensland and Iluka NSW.

Cause of death

His exact cause of death remains undetermined. However there are no suspicious circumstances, nor is there evidence establishing an intentionally self-inflicted death.

Manner of death

His death occurred while sailing solo off the coast of Australia.

Conclusion

50. Finally, I once again express my sincere condolences to Keith's family, both biological and the one he chose to create with the Coys.
51. I thank Keith's family and friends for their attendance at this court and for their participation in this inquest. Once again I offer them my sincere condolences for their profound and ongoing loss.
52. I thank Sergeant Donald Stewart for his comprehensive and compassionate investigation and Ms Notley for the preparation of this inquest.
53. I close this inquest.

Magistrate Harriet Grahame
Deputy State Coroner,
NSW State Coroner's Court
11 October 2019