
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : SARAH HELEN LINTON, DEPUTY STATE CORONER
HEARD : 25 JANUARY 2022
DELIVERED : 9 FEBRUARY 2022
FILE NO/S : CORC 1600 of 2019
DECEASED : CHAVEZ, WINSTON ABALONA

Catchwords:

Nil

Legislation:

Nil

Counsel Appearing:

Senior Constable C Robertson assisted the Coroner.

Case(s) referred to in decision(s):

Nil

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Sarah Helen Linton, Deputy State Coroner, having investigated the death of **Winston Abalona CHAVEZ** with an inquest held at Perth Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 25 January 2022, find that the identity of the deceased person was **Winston Abalona CHAVEZ** has been established beyond all reasonable doubt and that the identity of the deceased person was **Winston Abalona CHAVEZ** and that death occurred on or about **8 May 2009** in the waters of Shark Bay as a result of **an unknown cause**, in the following circumstances:*

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INTRODUCTION

1. Winston Abalona Chavez was a Filipino national who worked as an oiler on the cargo ship 'MV Baltic Frontier' (the vessel) at the time of his disappearance in May 2009. Mr Chavez was a 39 year old single man and his place of residence remained the Philippines, where his family also lived. Prior to his disappearance, Mr Chavez had told the Captain of the vessel that his mother was ill and he wished to leave the vessel in Australia and fly home to be with his mother in the Philippines. This request was denied.
2. Mr Chavez was last seen around lunchtime on 8 May 2009, while the vessel was berthed in Useless Loop, Shark Bay, Western Australia, loading salt. The vessel left Shark Bay that evening and Mr Chavez was not discovered missing until the following morning, when the vessel had reached open waters. A thorough search of the vessel found no sign of Mr Chavez, although his wallet had been found on the poop deck early that morning.
3. The Captain reported to the authorities that Mr Chavez was missing and turned the vessel around at 2.00 pm on 9 May 2009. The crew searched the waters as they returned to Useless Loop, but saw no sign of Mr Chavez in the water.
4. The WA Police were informed that Mr Chavez was missing at 2.30 pm on 9 May 2009. Based upon the information that his wallet and passport were still on board, and CCTV footage from the berthing dock at Useless Loop did not show Mr Chavez leaving the vessel, police commenced a search and rescue operation on the assumption Mr Chavez had gone overboard somewhere between Useless Loop and 200 kilometres north of that location, where the vessel had turned around. This was a vast search area, which hampered search efforts and made the probability of finding him very low. What searches could be conducted found no sign of Mr Chavez on land or in the water.
5. There has been no further reported sightings of Mr Chavez and there are no unidentified remains located in Western Australia that might be Mr Chavez.
6. On the basis of the information provided by the WA Police in relation to Mr Chavez's disappearance, I determined that pursuant to s 23 of the *Coroners Act 1996* (WA), there was reasonable cause to suspect that Mr Chavez had died and that his death was a reportable death. I therefore made a direction that a coroner hold an inquest into the circumstances of the suspected death.¹
7. I held an inquest at the Perth Coroner's Court on 25 January 2022. The inquest consisted of the tendering of documentary evidence compiled through the police investigation conducted into Mr Chavez's disappearance, as well as hearing evidence from Detective Senior Constable Julie Coldicott.

¹ Section 23 *Coroners Act* Direction of Deputy State Coroner Vicker dated 19 March 2019.

BACKGROUND

8. Mr Chavez was born on 14 January 1970 in Gargato, Negros Occidental in the Philippines. That remained his home as an adult. In 2009 he was single and worked as an oiler on ships.
9. In early 2009, the vessel sailed from Esperance to Japan with a load of canola, then sailed back from Japan to Shark Bay to collect a load of salt. Mr Chavez joined the vessel on 23 April 2009 while it was in Japan. He was hired on a 10 month contract. Mr Chavez' job involved lubricating and checking the engines of the vessel, and he worked under the Duty Engineer. Mr Chavez normally worked shifts from midday to 4.00 pm, and then again from midnight to 4.00 am.²
10. On 2 May 2009, during the journey to Shark Bay, Chief Engineer Romeo Arroyo noted that Mr Chavez was not concentrating on his routine job and the boiler cascade tank overflowed while being filled during his duty shift.³
11. On 4 May 2009, Chief Engineer Arroyo decided not to put Mr Chavez on duty as he was aware of the cascade tank overflow incident and was concerned something similar might occur. That same day, Mr Chavez approached the Captain of the vessel, Captain Zaldy Villaflor, and asked if he could be released from his contract early as his sister had informed him that his mother had been taken ill and he wished to fly home to the Philippines to be with his family. He indicated that he was willing to fly home at his own cost and that he had some family in Australia who could assist him, although he did not identify them.⁴
12. Captain Villaflor indicated that Mr Chavez appeared sad during this conversation, so he wished to help him if he could. Captain Villaflor explained to Mr Chavez that Shark Bay was very remote, but that he would try to make arrangements with the shipping company, Belships Management, to get him home. On 7 May 2009, Captain Villaflor sent an email to the company "strongly suggesting"⁵ that arrangements should be made to return Mr Chavez home. Captain Villaflor indicated in the email that Mr Chavez could no longer perform his duties due to his family situation.⁶ During the rest of the journey to Shark Bay, Captain Villaflor had several more conversations with Mr Chavez trying to re-assure him that he was trying to get him home.⁷
13. The last time that Captain Villaflor saw Mr Chavez was at 6.00 pm on 7 May 2009, after they had docked in Shark Bay. Captain Villaflor informed Mr Chavez that he had received a reply from the company and had been informed that they could not assist Mr Chavez get home from Shark Bay as the location was too remote, so he would have to wait until they got back to Japan. Captain Villaflor recalled that this news made Mr Chavez very sad. However, he acknowledged that he would have to

² Exhibit 1, Tab 7.

³ Exhibit 1, Tab 8.

⁴ Exhibit 1, Tab 7.

⁵ Exhibit 1, Tab 7 [15].

⁶ Exhibit 1, Tab 8.

⁷ Exhibit 1, Tab 7.

wait until they returned to ⁸Japan before he could go home. Although sad, Mr Chavez said he was alright and could wait until Japan.⁹

14. Mr Chavez appears to have last been seen by another crew member, Roel Gutierrez, at about lunchtime on 8 May 2009. Mr Gutierrez worked as the chief cook on board and had the cabin next door to Mr Chavez's cabin. ¹⁰Mr Gutierrez was standing in the corridor outside their cabins at the time, texting his wife because the signal was good there. Mr Gutierrez heard Mr Chavez say hello to him. Mr Gutierrez turned around and saw Mr Chavez in the corridor. He asked him what he was doing, and Mr Chavez said he was getting some fresh air. Mr Gutierrez suggested he get something to eat and also suggested he try to text his family as they had a good signal, but Mr Chavez replied that his cell phone was no good. Mr Chavez then turned around and went back into his cabin. It was about 1.00 pm at the time Mr Chavez went back into his cabin.
15. At about 7.00 pm, Mr Gutierrez knocked on the door of Mr Chavez's cabin. He had noted that he had made Mr Chavez some lunch, which had gone untouched, so he went to see Mr Chavez and check on him. The cabin door was locked and Mr Chavez did not reply to knocking. Mr Gutierrez returned to his own room. He did not hear any sounds coming from Mr Chavez's room that night, although he could hear people walking past in the corridor.¹¹
16. They had finished loading the salt by 8.20 pm on 8 May 2009 and at 8.40 pm the vessel started to move off from the loading facility at Useless Loop in order to catch the tide. By 11.00 pm that evening, they were in open water.¹²

DISCOVERY THAT MR CHAVEZ WAS MISSING

17. At 7.50 am, a crew member, Rogello Medel, found Mr Chavez' wallet on a step on the first deck. He showed the wallet to another crew member, who took it and showed it to Mr Gutierrez. Mr Gutierrez told him to hand it to the Chief Officer. The crew member then reported his find to the Chief Officer, Salvador Villafior, who took the wallet to Mr Chavez' cabin to return it to him. He found that Mr Chavez was not in his cabin, so at 8.05 am, the Chief Officer informed the Captain that Mr Chavez was possibly missing. At 8.10 am an initial enquiry was made of all crew as to the whereabouts of Mr Chavez, and at 8.25 am a search of the ship commenced.¹³
18. At 9.30 am, 10.30 am and 11.30 am, Captain Villafior broadcast an urgent call out to other vessels in the area about Mr Chavez being missing and at noon he also reported the situation to the shipping agent and asked them to advise all local authorities of the situation. A second search of the ship was conducted between 11.30 am and 1.00 pm, and the ship was then turned around to head back to Shark Bay to try to search for Mr Chavez. The Captain was informed that the WA Police had requested they return to the Shark Bay Anchorage, and the vessel eventually dropped anchor at

⁸ Exhibit 1, Tab 8.

⁹ Exhibit 1, Tab 7.

¹⁰ Exhibit 1, Tab 9.

¹¹ Exhibit 1, Tab 9.

¹² Exhibit 1, Tab 7.

¹³ Exhibit 1, Tabs 7, 9 and 10.

Useless Loop at 6.00 am on 10 May 2009. The vessel had travelled approximately 200 km back by that time.

POLICE INVESTIGATION

19. After the WA Police were notified, the local Shark Bay police were contacted and Sergeant Christ circulated a 'look out to be kept for' in the Shark Bay area in relation to Mr Chavez. Useless Loop is a closed facility that houses a small population of salt mine workers and their families. To enter the area, all visitors must report to the office. Crew are not permitted to disembark at Useless Loop. The only way off the vessel, other than by water, was by the gangway. Shark Bay Police reviewed the Australian Customs CCTV footage from the berthing dock at Useless Loop and confirmed that there was no evidence Mr Chavez disembarked from the vessel via the gangway before it departed Useless Loop. There were also no reported sightings of a person matching Mr Chavez's description in to the town site.¹⁴
20. To jump ship and swim to shore would require a 2.1 km swim in waters that are known to have a strong swell and are often frequented by sharks, hence the name Shark Bay. On shore, other than the closed town site, there is no other populated area, with the nearest main road 120 km away through rugged and remote terrain. Water Police were contacted to assist with planning a search for Mr Chavez. The Water Police on-call search and rescue coordinator, Senior Constable Allen, commenced coordinating a search of both water and land.¹⁵
21. On 10 May 2009, a police aircraft conducted a track line search from Useless Loop to 220 km north of the vessel's last location out at sea. Nothing of interest was observed or located. Police divers flew up to Shark Bay and conducted a thorough search of the ocean floor underneath the berthing location at Useless Loop and the surrounding jetty, but found no sign of Mr Chavez. Due to the unlikelihood of finding Mr Chavez in the water, given the vast search area, the marine search was suspended, although police continued to search surrounding land area in case Mr Chavez's body washed ashore.¹⁶
22. Shark Bay police officers also boarded the vessel and conducted inquiries with the Captain and crew. It was confirmed by Captain Villaflor that Mr Chavez had left his personal belongings on board, including his wallet that contained cash and a credit card, his travel documents and his mobile phone (which was damaged and had no battery). Police officers also searched Mr Chavez's cabin and found no suspicious circumstances or evidence of foul play. The personal items and relevant documentation for Mr Chavez were given to the police by the Captain. No relevant information was obtained from the phone sim card during the police investigation, with only incoming calls identified.¹⁷

¹⁴ Exhibit 1, Tab 2.

¹⁵ Exhibit 1, Tab 2.

¹⁶ Exhibit 1, Tabs 2 and 5.

¹⁷ Exhibit 1, Tabs 2, 6 and 13.

23. After the initial inquiries, it was established that there were no suspicious circumstances surrounding Mr Chavez's disappearance, and the vessel was cleared by police to resume its voyage.¹⁸
24. Contact was made with Mr Chavez's next of kin via Interpol and they were advised that he was missing. Recent enquiries with Mr Chavez's next of kin indicate that Mr Chavez's mother is still alive, and he also has siblings in the Philippines, but they confirmed none of them have had any contact with him since his disappearance off the coast of Western Australia so many years ago. They indicated to Senior Constable Robertson that they did not wish to make any submissions, or have any involvement, in these inquest proceedings. Given the lapse of time, it is understandable that they might not wish to bring back such sad memories.

CONCLUSION

25. The evidence indicates that Mr Chavez had been in a distressed and depressed mental state at the time of his disappearance as his mother was ill and he was keen to go home to be with her but his request had been denied. I am satisfied that if Mr Chavez was still alive, he would have contacted his mother and other family members, as it is clear he had close family connections and was very concerned about his mother's welfare. The fact that he has made no contact since he was last seen in May 2009 is strongly supportive of the conclusion that Mr Chavez is deceased.
26. The evidence of Mr Chavez's wallet being found on the poop deck also supports the conclusion that Mr Chavez left the vessel at that location by entering the water. Given his depressed mental state, it is possible he did so deliberately. However, the possibility that Mr Chavez fell into the water cannot be ruled out, as he did not leave any notes suggesting he had thoughts of harming himself, and there were no witnesses to the event.
27. He may have died by drowning, but I am aware from other inquests that it is possible that a person can die from injuries sustained in a fall into the water from a large vessel such as this one. In addition, there is the possibility he met his death by way of predation in the water.
28. Based upon all the evidence before me, I am satisfied beyond reasonable doubt that Mr Chavez is deceased and that he died on or about 8 May 2009, after the vessel left Useless Loop and before his wallet was found. For the reasons set out in the paragraphs above, the cause of death must remain unascertained and the manner of death is open.

S H Linton
Deputy State Coroner
9 February 2022

¹⁸ Exhibit 1, Tab 2.