
JURISDICTION : CORONER'S COURT OF WESTERN AUSTRALIA
ACT : CORONERS ACT 1996
CORONER : Philip John Urquhart
HEARD : 5 FEBRUARY 2021
DELIVERED : 15 FEBRUARY 2021
FILE NO/S : CORC 1793 of 2019
DECEASED : MPANZA, CONRAD THON

Catchwords:

Nil

Legislation:

Births, Deaths and Marriages Registration Act 1998 (WA)

Constitutional Powers (Coastal Waters) Act 1979 (WA)

Coroner's Act 1996 (WA)

Seas and Submerged Lands Act 1973 (Cth)

Counsel Appearing:

Senior Constable Craig Robertson assisted the Coroner

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

Inquest into the death of Qianfang Zhang, [2020] WACOR 3

Coroners Act 1996
(Section 26(1))

RECORD OF INVESTIGATION INTO DEATH

*I, Philip John Urquhart, Coroner, having investigated the disappearance of **Conrad Thon MPANZA** with an inquest held at the Coroners Court, Central Law Courts, Court 85, 501 Hay Street, Perth, on 5 February 2021, find that the death of **Conrad Thon MPANZA** has been established beyond all reasonable doubt, and the identity of the deceased person was **Conrad Thon MPANZA** and that death occurred on 7 January 1978 in the waters of the Indian Ocean North West Cape, Western Australia, in the following circumstances:*

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INTRODUCTION

1. At about 6.00 pm on 7 January 1978, the Captain of the South African registered vessel, *S.A. Skukuza*, received a report that a crew member, Conrad Thon Mpanza (Mr Mpanza), was missing from the vessel. The vessel was south of the North West Cape of Western Australia and about 16 kilometres off the coast when Mr Mpanza was reported missing. A subsequent search of the sea by the vessel failed to locate Mr Mpanza.
2. The inquest into the disappearance of Mr Mpanza was held on 5 February 2021. The documentary evidence at the inquest comprised of one file that was tendered as exhibit 1. Senior Constable John Turner, a police officer with the Coronial Investigation Squad, gave oral evidence.

Long term missing persons project (LTMP)

3. In 2017 it was confirmed there was a number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of the disappearances occurred at the time when there was no or limited jurisdiction for a Coroner to examine the circumstances of a suspected death.
4. Section 23(1) of the *Coroner's Act 1996* (WA) (the Act) allows the State Coroner to direct an investigation to a suspected death in certain circumstances without a body, for the purposes of allowing a Coroner, under section 23(2) of the Act, to establish beyond all reasonable doubt that the death has occurred. The investigation must be done by way of an inquest in an attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of section 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998* (WA).
5. The reported number of long term missing persons made it unrealistic for the Coroner's Court to absorb these matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of these files once it had been determined the matters fitted the circumstances set out in section 23(1) of the Act. That is, the State Coroner had reasonable cause to suspect the person had died and that death was a reportable death: section 3 of the Act.

6. Some missing person files related to foreign nationals with no connection to Australia other than they had disappeared in Australian waters, or a West Australian port was the first port of call for a foreign ship following a disappearance of that person. Inquiries were made with those foreign nationals' consulates and where the person's death had been dealt with in their country of origin or their family were fully accepting of the death, and all legal requirements were dealt with overseas, it was decided it was not in the public interest to take those matters any further by way of an inquest and those files were closed.
7. In the case of Mr Mpanza, recent inquiries by counsel assisting with the South African High Commission (SAHC) in Canberra were unable to provide further information to establish whether the matter had been finalised in South Africa. Although the SAHC was provided with Mr Mpanza's full name, date of birth, last recorded address in South Africa and details regarding his disappearance, the response was as follows:¹

South Africa has an identity number system, South African citizens by birth or naturalization are allocated an identity number, verification of particulars of a person can only be done with the identity number. It will not be possible to ascertain whether Mr Mpanza's death was registered in South Africa since the department that deals with death/issuance of death certificates will not be able to trace records based on the name of the person in the absence of an identity number. Also a death may be registered by next of kin who would also apply for a death certificate.
8. The Coroner's Court had no information regarding Mr Mpanza's next of kin.
9. In order to finalise the matter from the Western Australian perspective the State Coroner directed that the inquest would be held so the death of Mr Mpanza could be registered in Western Australia.
10. The outcome of the LTMP was that by June 2020 the majority of outstanding LTMP matters were resolved. The remaining matters were to be dealt with in the course of the Coroner's Court usual business. Mr Mpanza's matter is one of these.

¹ Exhibit 1, Tab 24, Email from South African High Commission to counsel assisting dated 28 October 2020

BACKGROUND

Mr Mpanza's personal details

11. There is very little information available regarding the personal details of Mr Mpanza. He was born in South Africa on 22 February 1953. He was single and his last known address was 1154 Road, 25 Chesterville, Durban Natal, South Africa. He was described as 175 centimetres tall with brown hair and medium build. He was of Zulu descent.²
12. At the time of his disappearance, Mr Mpanza was 24 years old and employed as a crewman with his class noted as “*General Purposes Rating*” on-board the bulk carrier, *S. A. Skukuza*. This vessel was operated by the South African Marine Corporation which was based in Cape Town, South Africa.³
13. Attempts by Counsel Assisting to locate the employee records for Mr Mpanza were unsuccessful, partly due to the South African Marine Corporation becoming part of the global Maersk shipping line.

The S. A. Skukuza

14. The *S. A. Skukuza* was built in 1974 and had a gross tonnage (the volume of space available for cargo) of 16,024 tons and a deadweight tonnage (the number of tons of cargo it can transport) of 26,784 tons.⁴ It was 178 metres in length.⁵ It had a crew of approximately 30 persons.⁶ The *S. A. Skukuza* was enroute from Hososhima, Japan to Esperance when Mr Mpanza disappeared.⁷ It was due berth in Esperance on 10 January 1978.⁸

² Exhibit 1, Tab 18, Western Australian Police missing person report dated 19 January 1977 [sic-1978]; Exhibit 1, Tab 2, Report of Western Australian Police Missing Persons Team dated 28 August 2019

³ Exhibit 1, Tab 18, Western Australian Police missing person report dated 19 January 1977 [sic-1978]

⁴ Exhibit 1, Tab 21, Ship information by AirNav ShipTrax and GrossTonnage.com

⁵ Exhibit 1, Tab 23, Original pilotage movement hard copy book for *S. A. Skukuza*

⁶ Exhibit 1, Tab 20, Statement – Ronald Ralph dated 11 January 1978

⁷ Exhibit 1, Tab 17, Logbook Extract of *S.A. Skukuza* for 7 January 1978

⁸ Exhibit 1, Tab 2, Report of Western Australian Police Missing Persons Team dated 28 August 2019

Photograph of the *S. A. Skukuza*: Exhibit 1, Tab 21



MR MPANZA'S DISAPPEARANCE

15. Mr Mpanza was last known to have been alive at about lunchtime on 7 January 1978. He was reported missing by the vessel's second engineer to the captain, Ronald Ralph (Captain Ralph), just after 6.00 pm when Mr Mpanza did not turn up for the evening meal.⁹ At this time, the *S. A. Skukuza* was reported to be about 40 miles (65 kilometres) south of North West Cape and about 10 miles (16 kilometres) off the coast of Western Australia.¹⁰
16. A complete search of the vessel failed to locate Mr Mpanza.¹¹
17. At 6.17 pm, the *S. A. Skukuza* begin turning around to carry out a search of the waters that had been covered. All available crew were posted as lookouts at the deck's railings and the search continued until about 7.50 pm when it was abandoned due to darkness. There were no sightings of Mr Mpanza.¹²

⁹ Exhibit 1, Tab 2, Report of Western Australian Police Missing Persons Team dated 28 August 2019; Exhibit 1, Tab 20, Statement – Ronald Ralph dated 11 January 1978

¹⁰ Exhibit 1, Tab 15, Report of First Class Constable S. Ashman to Sergeant H. Wilson dated 19 January 1978

¹¹ Exhibit 1, Tab 20, Statement – Ronald Ralph dated 11 January 1978

¹² Exhibit 1, Tab 20, Statement – Ronald Ralph dated 11 January 1978; Exhibit 1, Tab 17, Logbook Extract of *S. A. Skukuza* for 7 January 1978

18. During the search, radio messages were sent out of a man overboard between Latitude 22° 32 mins South, Longitude 113° 30 mins East and Latitude 22° 28 mins South, Longitude 113° 32 mins East. There were no replies from other shipping.¹³ The weather was described as being a south-westerly wind, force 5 with moderate to rough seas and swirls.¹⁴
19. Australian Marine Operations based in Canberra confirmed that the *S. A. Skukuza* had reported a man overboard at 6.50 pm, 7 January 1978.¹⁵
20. After unsuccessfully searching for Mr Mpanza, the *S. A. Skukuza* turned back around and continued its course to Esperance, arriving in the early hours of 11 January 1978.¹⁶
21. Mr Mpanza's relatives were notified of his disappearance by South African Marine Corporation.¹⁷ It is not clear when that took place.

POLICE INVESTIGATIONS

22. Captain Ralph reported the disappearance of Mr Mpanza to the Esperance Police Station on 11 January 1978. First Class Constable S. Ashman (Constable Ashman) was allocated the file. Captain Ralph provided a short signed statement. He also advised Constable Ashman that no one saw Mr Mpanza fall overboard and that, as crew members were off duty, it was not noticed Mr Mpanza was missing until dinner time.¹⁸
23. As to why he did not request an air search, Captain Ralph explained that he did not consider it would be feasible as he did not know how long Mr Mpanza had been missing when the report was made. Captain Ralph could only ascertain that Mr Mpanza was last seen at approximately midday on 7 January 1978. It was also thought he was a non-swimmer.¹⁹

¹³ Exhibit 1, Tab 20, Statement – Ronald Ralph dated 11 January 1978; Exhibit 1, Tab 17, Logbook Extract of *S. A. Skukuza* for 7 January 1978

¹⁴ Exhibit 1, Tab 17, Logbook Extract of *S. A. Skukuza* for 7 January 1978

¹⁵ Exhibit 1, Tab 19, Telex dated 1.24 am, 8 January 1978

¹⁶ Exhibit 1, Tab 23, Original pilotage movement hard copy book for *S. A. Skukuza*

¹⁷ Exhibit 1, Tab 18, Western Australian Police missing person report dated 19 January 1977 [sic-1978]

¹⁸ Exhibit 1, Tab 15, Report of First Class Constable S. Ashman to Sergeant H Wilson dated 19 January 1978

¹⁹ Exhibit 1, Tab 12, Report of Sergeant H Wilson to Superintendent McGrath dated 15 February 1978

24. Constable Ashman's inquiries were hampered when he questioned the crew of the *S. A. Skukuza* as most of them were Zulu and could not speak or understand English. He inspected Mr Mpanza's sleeping quarters and personal effects. There was only clothing and a few sundry papers, none of which gave any indications of why he disappeared.²⁰ Constable Ashman did not take or record any details of Mr Mpanza such as his passport or South African identity number.
25. The *S. A. Skukuza* did not remain at Esperance for very long. It was clear of the port by 6.50 am, 12 January 1978.²¹
26. There was no evidence as to Mr Mpanza's state of mind, his relationship with the rest of the crew, or any indication that what had happened was anything other than an accident. Western Australian police concluded there was no evidence to indicate any criminality in the disappearance of Mr Mpanza and he was recorded as a missing person.

HAS DEATH BEEN ESTABLISHED?

27. There is simply no evidence that Mr Mpanza survived his disappearance at sea some considerable distance from the Western Australian coastline on 7 January 1978.
28. At a recent inquest, Dr Paul Luckin, a consultant anaesthetist based in Queensland and an expert in search and rescue operations, advised that the likelihood of a person surviving a fall from the deck of a bulk carrier into the ocean was about 20-30%, assuming the ship was travelling at a slow speed. Dr Luckin also said that a person's "*time frame for survival*", assuming immersion in the ocean, was no more than 24 hours.²²
29. It is accepted that once a person has died at sea the body becomes waterlogged and sinks towards the sea bottom. It is moved by the currents until it either disintegrates or surfaces.

²⁰ Exhibit 1, Tab 12, Report of Sergeant H Wilson to Superintendent McGrath dated 15 February 1978

²¹ Exhibit 1, Tab 23, Original pilotage movement hard copy book for *S. A. Skukuza*

²² Inquest into the death of Qianfang Zhang, [2020] WACOR 3 at [21]

30. There is no evidence any other vessel located and rescued Mr Mpanza. Given the sea conditions at the time, the fact he was apparently unable to swim and it would not be expected he was wearing a life jacket, I am satisfied beyond all reasonable doubt Mr Mpanza died somewhere along the navigated course of the *S. A. Skukuza* between 12.00 pm and 6.00 pm on 7 January 1978.

CAUSE AND MANNER OF DEATH

31. In circumstances where Mr Mpanza's body has not been located, I am obliged to find that the cause of his death is unascertained; although the available evidence strongly suggests that the most likely explanation for Mr Mpanza's death is that he died from immersion after entering into the sea from the deck of the *S. A. Skukuza*. However, I have no evidence upon which to determine whether that was preceded by a naturally occurring medical emergency, an injury by way of accident on deck resulting in a fall overboard, an accidental fall overboard or a deliberate act of self-harm.
32. In this case, there are a range of possibilities with respect to Mr Mpanza's death, but on the basis of the available evidence, I have been unable to arrive at any conclusion as to how he died. Accordingly, I make an open finding as to the manner of Mr Mpanza's death.

WAS MR MPANZA'S DEATH A WESTERN AUSTRALIAN DEATH?

33. As already noted, my investigation into Mr Mpanza's suspected death was conducted under the authority of section 23 of the Act. Occasionally, when a person is suspected of dying at sea, an issue arises as to whether a Coroner has jurisdiction. For the reasons I have set out below I am satisfied I have jurisdiction to investigate Mr Mpanza's death.
34. Outside of section 23 of the Act, a Coroner has jurisdiction to investigate a death if it appears to the Coroner that the death is or may be a "reportable death".²³ A reportable death is a "Western Australian death" that occurs in one of the circumstances set out in section 3 of the Act.

²³ Section 19(1), *Coroners Act 1996* (WA)

35. A “*Western Australian death*” is defined in section 3 of the Act to mean a death:
- (a) that occurred in Western Australia; or
 - (b) where the body is in Western Australia; or
 - (c) the cause of which occurred in Western Australia; or
 - (d) of a person who was ordinarily residing in Western Australia at the time of death; or
 - (e) of a person who, at the time of death, was in an industry to and in relation to which the *Industrial Relations Act 1979* applies due to the operation of section 3 of the Act.
36. Both sub-paragraphs (a) and (c) apply to Mr Mpanza’s death as Australia’s territorial waters include a belt of water not exceeding 12 nautical miles from the territorial sea baseline.²⁴ As one nautical mile equals 1.852 km, 12 nautical miles is just over 22 km.
37. The co-ordinates as to where it was calculated that Mr Mpanza fell overboard were given as between Latitude 22° 32 mins South, Longitude 113° 30 mins East and Latitude 22° 28 mins South, Longitude 113° 32 mins East. By using the services of Nearmap Limited, an Australian location data company, the distance from the Western Australian shoreline for the first co-ordinate is approximately 16 km (8.64 nautical miles) and for the second, it is about 17 km (9.18 nautical miles). I am therefore satisfied Mr Mpanza’s fall from the *S. A. Skukuza* was within Australia’s territorial waters (sub-paragraph (c) of section 3 of the Act) and that his subsequent death was also within Australia’s territorial waters (sub-paragraph (a) of section 3 of the Act).
38. It follows that I have jurisdiction to make findings about the cause and manner of Mr Mpanza’s death.

²⁴ Section 6, *Seas and Submerged Lands Act 1973* (Cth); Section 3, *Constitutional Powers (Coastal Waters) Act 1979* (WA)

CONCLUSION

39. There were no eye witnesses to Mr Mpanza's final moments. However, it is my view that, when considered as a whole, the evidence leads to the inescapable conclusion Mr Mpanza died on 7 January 1978 in the waters of the Indian Ocean off the coast of Western Australia somewhere in the region south of the North West Cape.
40. The most likely explanation for Mr Mpanza's death is that he died from immersion after he fell into the sea from the deck of the *S. A. Skukuza*. For the reasons I have set out above, the cause of his death is unascertained and I make an open finding as to the manner of his death.
41. I feel significant sympathy for Mr Mpanza's family as they lost a young man far from home without any understanding of the circumstances surrounding his death. The information about his death with so little further explanation must have been extremely unsettling for his family.
42. The known particulars of Mr Mpanza will be forwarded to the Western Australian Births, Deaths and Marriages for the formal closure of this matter and registration of his death.



P J Urquhart

Coroner

15 February 2021

