



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 72/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Arthur Edwin MOZES** with an inquest held at the **Coroner's Court, court 83, Central Law Courts, 501 Hay Street, Perth, on 25 November 2019**, find the death of **Arthur Edwin MOZES** has been established beyond all reasonable doubt, and the identity of the deceased person was **Arthur Edwin MOZES** and that death occurred on or about **6 October 1971** at **sea approximately 19 kilometres north of Dampier, Indian Ocean**, in the following circumstances:*

**Counsel Appearing:**

Senior Constable Craig Robertson assisting the Coroner.

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## **INTRODUCTION**

In the late evening of the 6 October 1971 Arthur Edwin MOZES (Mr Mozes) was seen aboard the MBC Lyra (Lyra) while anchored off Dampier Port in the outer harbour approximately 20 kilometres north of Dampier Port. When Mr Mozes failed to report for duty at 8 am on 7 October 1971 it was discovered he was missing and his bed did not appear to have been slept in. No report or trace of Mr Mozes has been brought to the attention of police since that time.

The inquest into the disappearance of Mr Mozes was held in Perth. Documentary evidence comprised of the brief of evidence, Exhibit 1 Tabs 1-30 and the Public Notice of Inquest dated 17 October 2019 as Exhibit 2. Oral evidence was heard from now retired police constable David John Kearsley (Mr Kearsley) and Senior Constable John Turner speaking to the report compiled from Missing Persons Unit (MPU) documentation.

### **Long Term Missing Persons Project (LTMP)**

In 2017 it was confirmed there were a considerable number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. A number of the disappearances occurred at a time when there was limited or no jurisdiction for a coroner to examine the circumstances of a suspected death.

Section 23(1) of the *Coroners Act 1996 WA* (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998*.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas of Western Australia such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquest to be held in the communities to which they relate, especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred outside the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses.

Some missing person files related to foreign nationals with no connection to Australia other than they had disappeared in Australian waters, or a Western Australian port was the first port of call for a foreign ship following the disappearance of that person and Western Australia/Australia had been involved in a marine search and rescue (MSAR). Enquiries with those foreign nationals consulates were conducted and, where that 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 dealt with overseas, it was decided it was not in the public interest to take those matters any further by way of inquest and the files were closed from the OSC perspective.

In the case of Mr Mozes enquiries from his family were handled through Interpol up until 2004, but more recent enquiries with Interpol have produced no further information from the family with respect to the whereabouts of Mr Mozes or his legal status. The fact the family were enquiring as to any progress with the matter in 2004 satisfies me that, as of 2004, Mr Mozes had not made contact with his family. The Dutch National database still records Mr Mozes as a missing person.<sup>1</sup>

Mr Mozes disappeared in the vicinity of the outer harbour of Dampier Port within Australian waters, but appeared to have no other nexus with Western Australia and no relevant witnesses could be located for the purposes of the inquest which was therefore held in Perth. There has been no further information forthcoming.

The anticipated outcome of the LTMP project was that by June 2020 the majority of reported LTMP matters would be resolved and that future missing person files would be dealt with in the normal course of the OSC usual business.

## **THE DECEASED**

There is almost no information available relevant to Mr Mozes other than that recorded in the original Missing Person Report (MPR) taken from the Master of the vessel Lyra, on which Mr Mozes was employed at the time of his disappearance.<sup>2</sup>

Mr Mozes was born on 28 June 1950 in Holland. In October 1971 he was employed as the third assistant engineer aboard the Lyra and was designated as an electrician. Information obtained after his disappearance indicated he was Jewish and reportedly wore a Star of David, although there is no mention of this in any official documentation prior to his disappearance.<sup>3</sup>

Mr Mozes was described by fellow crewmen aboard the Lyra as “*when he is sober he is a normal happy person who jokes, quite the opposite to when he has been drinking.*”<sup>4</sup> There is an implication he had visited the Dampier area before, despite his young age (21), as he informed other crew members he had swum in the waters

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<sup>1</sup> Exhibit 1 Tab 23

<sup>2</sup> Exhibit 1 Tab 3

<sup>3</sup> Exhibit 1 Tab 7

<sup>4</sup> Exhibit 1 Tab 12

around Dampier previously. He also appears to have enjoyed photography and owned camera paraphernalia. Other than this there is almost no information with respect to Mr Mozes, his childhood, family or education.

### **Vessel MBC Lyra**

There is a paucity of reliable information concerning the Lyra. The vessel is described in the Log Book as being of the Liberian Flag, registered at Monrovia. The owners are recorded as Tracofinan Company P.O.B 1723 Haifa, Israel, with a cable address of ZIMBULK HAIFA. All of the crew described themselves as being employed by Zim Israel Navigation Co Ltd of Haifa, Israel.<sup>5</sup>

The Lyra was described as a bulk carrier owned by Zim Israel Navigation Co Ltd, built in 1967 by Nazuru Ship Building and Engineering Co and bought originally under the name Besor. It was renamed Lyra and then Jade. The gross weight was 35, 121 tonnes however, there are no known photographs of the Lyra and the only record comes from a history of the Zim Israel Navigation Company Ltd written by Chaim Bar-Tikva.<sup>6</sup> That information records the Lyra as being sold to an unknown buyer in 1976 and no further records have been identified.

## **DISAPPEARANCE**

Mr Mozes completed his shift on 6 October 1971 at 5pm and at that stage the chief engineer, Cornelis Reichwein (Mr Reichwein) had not noticed anything unusual about Mr Mozes' behaviour.<sup>7</sup>

At approximately 7.15pm on 6 October 1971 Mr Mozes was speaking with the Lyra's radio officer, Prabhakar Waman Kamath (Mr Kamath) in Mr Mozes' cabin about general chit chat. Mr Kamath noted Mr Mozes' camera paraphernalia was on his bed and the two men were enjoying a drink. Mr Kamath noted Mr Mozes seemed very depressed although there was no specific reason given.<sup>8</sup>

Mr Kamath stated that at approximately 8 pm Henry Roesch (Mr Roesch) came into Mr Mozes' room and asked if they would both join him at a party in Mr Roesch's

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<sup>5</sup> Exhibit 1 Tab 11, 12, 13, 14

<sup>6</sup> Exhibit 1 Tab 2 and Tab 26

<sup>7</sup> Exhibit 1 Tab 14

<sup>8</sup> Exhibit 1 Tab 13

room. Mr Kamath stated they finished their drinks and then went to join the party. Mr Kamath did not spend further time with Mr Mozes but did note him talking with a stewardess for some of the time and that he fried some fish.

The master of the Lyra, Marinus Johannes Teunissen (Mr Teunissen) stated that on the evening of the 6 October 1971 he also attended the party in the cabin of Mr Roesch. He spoke with Mr Mozes for a while and he also gained the impression Mr Mozes was in a somewhat depressed condition although their conversation was only general. Mr Teunissen believed Mr Mozes had something on his mind. Mr Teunissen noticed Mr Mozes had been drinking a few beers, but at about 9.15 pm he believed Mr Mozes was not, in his opinion, drunk. Mr Teunissen did not notice Mr Mozes again after their conversation and at approximately 11.30 pm he noted Mr Mozes was no longer present.<sup>9</sup>

The ship's electrician, Mr Roesch, advised the police he had held a party in his cabin to celebrate his forthcoming marriage and had asked Mr Mozes to attend, which he did. Mr Roesch noted Mr Mozes leave the party at approximately 10.30 pm, or possibly later, and saw him staggering along the corridor towards his room. Mr Roesch said he called out to Mr Mozes "*Hey, Mozes you had better go to sleep*". He advised Mr Mozes looked back at him, but didn't say anything and Mr Mozes then walked into his room. Mr Roesch did not see Mr Mozes close his door, nor did he see him again.

Mr Roesch also commented that Mr Mozes appeared to be depressed while at the party, but also commented that he was usually depressed when he had been drinking. He was of the view Mr Mozes was a 'normal happy person' when he was sober and that he only became depressed when he was drinking. Mr Roesch said Mr Mozes had told him during day he had been swimming in the waters around Dampier previously.<sup>10</sup>

Mr Kamath also saw Mr Mozes leave the party and walk in the direction of his room and Mr Roesch advised Mr Kamath that Mr Mozes had gone into his room.<sup>11</sup>

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<sup>9</sup> Exhibit 1 Tab 10

<sup>10</sup> Exhibit 1 Tab 11

<sup>11</sup> Exhibit 1 Tab 13

There is no further information with respect to the remainder of the evening and the night watch did not recall or record any abnormal or unusual noises overnight and had not seen Mr Mozes on deck.<sup>12</sup>

Shortly after 8 am on 7 October 1971 Mr Reichwein, the chief engineer of the Lyra, noted Mr Mozes was not in the engine room and had not reported to work. As a consequence Mr Reichwein went to Mr Mozes' cabin and discovered he was not there, nor did it appear as if his bed had been slept in. He and other staff, including Mr Kamath, made a thorough search of the cabins, decks, engine room and other places on the ship, but were unable to locate Mr Mozes. Mr Kamath noted that at approximately 9.00 am Mr Mozes' camera gear was on his bed in the same position it had been in the previous evening. Mr Reichwein then reported to the Master of the vessel that Mr Mozes was missing and further searches were made in an attempt to locate Mr Mozes, unsuccessfully.<sup>13</sup>

## **INVESTIGATION**

Following the chief engineer's report to the master of the Lyra that Mr Mozes was missing and the subsequent searches by crew for Mr Mozes, a radio report was made by VHS to the Dampier Port Control on the morning of 7 October 1971. Dampier Port in 1971 was owned and operated by Hamersley Iron Pty Ltd (Hamersley) and an air search was immediately instigated by Hamersley.

The police recorded receiving a telephone message at 10 am on 7 October 1971 from Hamersley marine department advising that a man was missing from the Lyra which was positioned offshore, 12 miles north of Dampier.<sup>14</sup>

The two police in Dampier at that time were Constable David John Kearsley (Mr Kearsley) and Senior Constable Smith (Mr Smith). Mr Kearsley was tasked by Mr Smith to attend the Lyra to commence investigations.

Mr Kearsley reported that at 2.30 pm on 7 October 1971 he travelled by launch to the Lyra with Dr L Fenwick and Customs Officer, Paul Henry. It was necessary for

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<sup>12</sup> Exhibit 1 Tab 11

<sup>13</sup> Exhibit 1 Tab 14

<sup>14</sup> Exhibit 1, tab 2

the ship to be cleared by a medical officer prior to any exchange of personnel. Mr Henry was a customs officer in Dampier Port.<sup>15</sup>

Mr Kearsley advised he boarded the ship and interviewed the crew to obtain statements and a copy of the Ship's Log. He established Mr Mozes had disappeared from a party in the cabin of the ship's electrician, sometime after 10.30 pm on 6 October 1971. It was confirmed that Mr Mozes appeared to be in a distressed state and had spoken, when sober, about swimming in the Dampier waters previously.<sup>16</sup>

Mr Kearsley was advised that a search of the Lyra had revealed the only clothes which appeared to be missing from Mr Mozes' cabin were a pair of swimming trunks. The clothes he had worn at the party were in his room. The search found there were no life jackets or rafts missing from the Lyra, including Mr Mozes' personal life jacket which was still in his bathroom.

Prior to the police attending the Lyra, Hamersley had searched the surrounding seas by aircraft, extending to the islands and waters nearest to the ship. Nothing was sighted.

All local shipping was advised of a man overboard and Mr Kearsley noted that overnight, and at the time of his attending the Lyra, the seas were rough with a strong current flowing owing to it being the highest tide of the year with strong winds. The tides in Dampier are extreme and among the highest in Australia.<sup>17</sup>

Mr Kearsley noted the nearest land to the ship was approximately 3 miles away and was one of the islands in the Malus Island Group. It was believed by those present Mr Mozes would not have been able to swim that distance, noting he was definitely intoxicated at the time he was last seen and the seas around Dampier were infested with sharks.<sup>18</sup>

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<sup>15</sup> t. 25.11.2019, p.5

<sup>16</sup> Exhibit 1 Tab 15

<sup>17</sup> t. 25.11.19, p.9

<sup>18</sup> Exhibit 1, tab 15

It was ascertained the total number of the crew was 29, they were of mixed nationalities and prior to concerns raised by Mr Mozes' family there was no record of any dispute amongst the crew. There is no record in the Ship's Log which would indicate there was any difficulty for Mr Mozes with other crew members.

On 8 October 1971 Hamersley again instigated an air and surface search of the area and islands. No trace of Mr Mozes was ever found. Privately owned small craft in the Dampier area were advised of his disappearance and requested to maintain a lookout. The shipping lanes in that area are fairly busy, however, the likelihood of a lone person being located in the waters without wearing a life jacket were slight.

All Mr Mozes' property was still onboard the Lyra and was handled by the ship's agents and Hamersley. Mr Mozes' Seaman's Book, number 152742, was obtained by the police and later provided to the Dutch Consulate for return to his family.

There was no further information with respect to the location of Mr Mozes received by the police in Western Australia.

Following later communications via Interpol, the WA Commissioner of Police was advised that Mr Mozes' family were concerned that Mr Mozes had been "*put overboard*" due to his Jewish identity.<sup>19</sup> There is no evidence there was any difficulty for Mr Mozes with respect to being Jewish and it was the consensus that although depressed on the evening of 6 October 1971, that appeared to relate to his intoxication. He was otherwise described as a happy, jovial person with no record of any difficulty with the crew. The Lyra was owned by an Israeli company and the crew employed by the same company. It seems unlikely there would have been a difficulty for Mr Mozes due to his Jewish identity.

I note from the statements taken that not all crew of the Lyra were at the party, however, Mr Mozes had been invited and attended. The implication being he was an accepted member of the crew.

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<sup>19</sup> Exhibit 1, tab 17

There were no reports of unknown and disorientated persons appearing on any of the islands which are frequented by recreational fishermen and no indication Mr Mozes survived beyond the 7 October 1971.

Inquiries from Mr Mozes' family in 2002<sup>20</sup> and 2004<sup>21</sup> indicated he had not contacted them since his disappearance on 6 October 1971, and the fact he is still listed on the Dutch International Missing Persons Register would indicate he has not been confirmed as deceased in Holland. There is no information in the papers as to any reason for Mr Mozes to disappear voluntarily, and had he managed to survive there is no reason apparent as to why he would not contact his family. There are no records of any people appearing in the Dampier area in 1971 suffering from amnesia.

Enquiries with various Australian entities have failed to record any trace of Mr Mozes, although it is unlikely there would be any record. Further enquiries with Interpol would indicate he has not been recorded by any other police internationally. Continued enquiries more recently by this office through the Dutch Consulate have been unforthcoming of any further information. Attempts made via Rio Tinto, who purchased Hamersley's interests in Dampier, have not provided any additional information with respect to the search or events from the 7 to the 14 October 1971.<sup>22</sup>

## **HAS DEATH BEEN ESTABLISHED?**

There is no evidence Mr Mozes was anything other than fit and healthy. Although he appears to have been depressed late on the evening of 6 October 1971, there is a clear indication that by 10.30 pm at least he was intoxicated. There was no reason established for him to voluntarily disappear and, had that been his intention, I do not believe it would have been realistic for him to go overboard during the night in rough seas with a high tide in nothing but his swimming trunks.

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<sup>20</sup> Exhibit 1, tab 19

<sup>21</sup> Exhibit 1, tabs 20 and 21

<sup>22</sup> Exhibit 1 Tab 15

Mr Mozes would be 69 years of age had he survived to 2019, however, the fact his family were still making enquiries about his disappearance in 2004 satisfies me he had not contacted his family in Holland and, without a reason for him not to contact his family, I am satisfied Mr Mozes disappeared from the Lyra, after leaving the party on the evening of 6 October 1991 and prior to going to bed that night.

The evidence indicated he returned to his cabin and removed the clothes he had been wearing at the party, without disturbing the camera gear on his bed. The fact he removed his clothing and put on his swimming trunks would indicate he was not necessarily intending to end his life at that point in time, or had fallen overboard accidentally. It does indicate he was intending to go for a swim, a very unwise course of action in the middle of the night when intoxicated. The most I would suggest is that he was intoxicated enough to be reckless as to his welfare following making a decision to go for a swim.

Evidence given at the inquest indicated most of the bulk carriers had rope ladders which could be placed overboard to reach the water. There is no evidence as to whether a rope ladder was over the side, or located that way overnight.<sup>23</sup> It may have been helpful in determining whether Mr Mozes made a rash decision to dive overboard or did, at least, enter the water via means which may have enabled him to reboard had that been his intention or a possibility.

While it is perfectly possible Mr Mozes could still be alive in the normal course of events, the circumstances surrounding his disappearance so far from land in treacherous seas satisfy me Mr Mozes died when he went overboard sometime late on 6 October 1971 or early on the 7 October 1971.

I am satisfied he died in that timeframe, although it is impossible to speculate as to the medical reason for his death, other than the fact of his intoxication would make him more likely to succumb to drowning. Had there been a medical emergency of any type it is unlikely he would have survived once in the water.

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<sup>23</sup> t. 25.11.2019 p.10

The physiology of drowning and the response of a body following immersion indicate a body will sink and not surface again for some days. It will only surface if it is in a state to surface.<sup>24</sup>

I am satisfied beyond a reasonable doubt Mr Mozes died, probably drowned, once he was in the water and that is the explanation for his disappearance without trace.

### **MANNER AND CAUSE OF DEATH**

I am unable to determine whether Mr Mozes was injured in any way when he entered the water or the extent of his intoxication. However, I am satisfied that whatever the circumstances, he died once in the water. Once he died he disappeared without trace under the water and did not leave any debris to mark the incident, hardly surprising when he was not wearing a life jacket and appears to have only been wearing his swimming trunks.

To have disappeared so completely leaves the only reasonable explanation to be that he died following entering the water somewhere in the location of the Lyra overnight the 6 to the 7 October 1971 at Dampier outer harbour. By the time his disappearance was noted on his failing to report for duty at 8.00 am to the engine room, he appears to have completely disappeared.

While I am satisfied Mr Mozes died overnight between 6 and 7 October 1971, I am unable to determine exactly what occurred other than the probability he entered the water voluntarily and there is no evidence to support his parents' concern he was "*put overboard*".

I make an Open Finding into the death of Mr Mozes.

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<sup>24</sup> Inquest No. 44/17 Li and Zhang delivered 16 March 2018

## CONCLUSION

I am satisfied there is no satisfactory explanation for Mr Mozes' disappearance, other than some form of misadventure. While he appears to have been drinking which resulted in his being intoxicated, there is no information from his family as to any reason for his apparent depression, other than a concern he was bullied because he was Jewish. That is not reflected in any of the papers and would seem to be somewhat unusual when the Lyra was owned and operated by an Israeli company. His employment was also through the same Israeli company.

There is no record of him having a dispute with anyone on-board the Lyra and he seemed to discuss his swimming in the Dampier waters previously in a positive manner. There is no record of him having any dispute with his family which would support the proposition that had he survived he would have contacted them had he been able so to do.

Consequently, I have to conclude that Mr Mozes came to grief when choosing to swim from the Lyra whilst it was in the outer harbour awaiting moving to Dampier Port for loading, presumably with iron ore. A search implemented before the police were advised failed to locate Mr Mozes and a continued search throughout that day and the following day, with the assistance of local aircraft and sea fleet did not reveal him in the vicinity. There was no trace of him on any of the islands within swimming distance, and it would seem he died before he could return to the Lyra, if that was his intention.

The evidence would indicate he went overboard at a time that he was intoxicated which would have made him vulnerable to drowning once in the water.

It is a great tragedy for his family Mr Mozes disappeared in the way that he did while so far from his family. This has clearly continued to cause his family in Holland concern, although more recent attempts to contact them via the Dutch Consulate have been unsuccessful. He was very young to have died so far from home, although it seems he had been on a similar voyage previously, hence his assertions he had swum in the waters around Dampier before.

I am sure the distance involved between Mr Moses family and his disappearance in Australian waters intensified his family's feelings of helplessness and uncertainty once learning of his disappearance. They have our heartfelt sympathy for their loss of such a young life so far from home in uncertain circumstances.

E F Vicker

**Coroner**

25 February 2020