



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 000236

FINDING INTO DEATH WITHOUT INQUEST

Form 38 Rule 63(2)

*Section 67 of the **Coroners Act 2008***

Findings of:	Coroner Paul Lawrie
Deceased:	Gensheng Zhao
Date of birth:	23 September 1967
Date of death:	12 January 2024
Cause of death:	DROWNING
Place of death:	Waters near Seal Island, Bass Strait, Victoria
Keywords:	Snorkelling, free diving, weight belt design and use, snorkelling equipment

INTRODUCTION

1. On 12 January 2024, Gensheng Zhao was 56 years old when he drowned off Seal Island in Bass Strait.¹ At the time of his death, Mr Zhao lived with his family at 37 Chartwell Drive, Wantirna Victoria.
2. Mr Zhao held an Open Water Diving (Level 2 Scuba Diving) qualification but was not qualified for freediving. He had not gone diving for approximately 18 months prior to his death. According to his son and his wife, he had no significant health problems.

THE CORONIAL INVESTIGATION

3. Mr Zhao's death was reported to the coroner as it fell within the definition of a reportable death in the *Coroners Act 2008* (**the Act**). Reportable deaths include deaths that are unexpected, unnatural or violent or result from accident or injury.
4. The role of a coroner is to independently investigate reportable deaths to establish, if possible, identity, medical cause of death, and surrounding circumstances. Surrounding circumstances are limited to events which are sufficiently proximate and causally related to the death. The purpose of a coronial investigation is to establish the facts, not to cast blame or determine criminal or civil liability.
5. Coroner Fitzgerald had the initial conduct of this investigation. I assumed carriage of the investigation for the purposes of finalisation and handing down these findings. Leading Senior Constable Sean Maxwell was assigned as the Coronial Investigator for the investigation of Mr Zhao's death. The Coronial Investigator conducted inquiries on the Court's behalf and compiled a coronial brief of evidence.
6. This finding draws on the totality of the coronial investigation into the death of Mr Zhao including evidence contained in the coronial brief. Whilst I have reviewed all the material, I will only refer to that which is directly relevant to my findings or necessary for narrative clarity. In the coronial jurisdiction, facts must be established on the balance of probabilities.²

¹ At 38°55.283'S 146°39.604'E.

² Subject to the principles enunciated in *Briginshaw v Briginshaw* (1938) 60 CLR 336. The effect of this and similar authorities is that coroners should not make adverse findings against, or comments about, individuals unless the evidence provides a comfortable level of satisfaction as to those matters taking into account the consequences of such findings or comments.

MATTERS IN RELATION TO WHICH A FINDING MUST, IF POSSIBLE, BE MADE

Circumstances in which the death occurred

7. On 12 January 2023, Mr Zhao, and his friends, Khanh Trieu and Yong Qin, spent the day on Mr Qin's boat.³ They arrived with the boat on a trailer at Port Welshpool at approximately 11.00am. It is not known when they launched the boat, but I note the route from Port Welshpool to Seal Island is approximately 19 nautical miles (35km). Seal Island is located 16 nautical miles (37 km) south-east from Port Welshpool, and approximately 8 nautical miles (15 km) east of the east coast of Wilsons Promontory in Bass Strait. They anchored about 50 metres off the north-east point of Seal Island.
8. On this day, the weather conditions were good. It was bright and sunny, with good visibility in and above the water. There was minimal current and the water temperature for Bass Strait was recorded as 18.6 degrees.
9. Mr Trieu entered the water and began spearfishing. Mr Zhao also entered the water and began catching abalone at approximately 15 to 20 metres from the shore of Seal Island. He was wearing a "shorty" wetsuit,⁴ wetsuit booties and gloves, goggles with snorkel, weighted belt and fins. He was not using a buoyancy compensation device or other buoyancy aid. Mr Qin remained aboard the anchored boat.
10. After some time, Mr Trieu looked for Mr Zhao and saw him standing on the rocky shore of the island. Approximately 15 minutes later, Mr Qin saw Mr Zhao 8 to 10 metres from the boat, struggling to stay afloat. Mr Zhao then sank below the surface. Moments later his fins emerged at the surface after having apparently becoming dislodged.
11. Mr Trieu was in the water and spearfishing some distance away at this time. He recalled the beginning of the critical events as follows:

As I couldn't understand what [Mr Qin] was saying, I motioned with my hand for him to come to me which he did by driving the boat to me. When he arrived he said in Mandarin (Chinese), "Mr ZHAO has run out of energy". I asked him where, and he replied "where my boat was" at the same time pointing in the direction of where his boat had previously been.

³ A Whitley 1600 CW cuddy cabin fibreglass runabout – length 4.88 metres

⁴ A wetsuit with short sleeves and short legs. These wetsuits are thinner than full-length types and provide less buoyancy.

12. Mr Qin and Mr Trieu began searching the area where Mr Zhao was last seen, but without success. Shortly before 3.38pm, Mr Qin called 000 Emergency and a Water Police unit responded from Corner Inlet (near Port Welshpool), arriving at the scene at 3:57pm.
13. The two members of the Water Police unit, together with Mr Trieu and Mr Qin, searched the area for Mr Zhao. At approximately 4:45 pm, Mr Trieu located Mr Zhao on the sea floor, at a depth of approximately 7 metres. A short time later Mr Zhao's body was recovered to the surface and brought aboard the police vessel. He was obviously deceased.
14. When found, Mr Zhao was wearing his goggles, and weighted belt. His snorkel was dislodged from his mouth, and his fins were missing.

Identity of the deceased

15. On 16 January 2024, Gensheng Zhao, born 23 September 1967, was visually identified by his son, Wenxiang Zhao, who completed a formal Statement of Identification.
16. Identity is not in dispute and requires no further investigation.

Medical cause of death

17. Forensic Pathologist, Dr Hans de Boer, of the Victorian Institute of Forensic Medicine conducted an examination on 16 January 2024 and provided a written report of his findings dated 22 January 2024.
18. There are no post-mortem indicators specific to drowning. It is a conclusion based on the known circumstances surrounding the death, and by the exclusion of other possible contributing factors.
19. The post-mortem examination revealed pruning to the hands and feet.
20. Toxicological analysis of post-mortem samples did not identify the presence of any alcohol or other common drugs or poisons.
21. Dr de Boer provided an opinion that the medical cause of death was 1(a) DROWNING.
22. I accept Dr de Boer's opinion.

FINDINGS AND CONCLUSION

23. Pursuant to section 67(1) of the *Coroners Act 2008* I make the following findings:
- a) the identity of the deceased was Gensheng Zhao, born 23 September 1967;
 - b) the death occurred on 12 January 2024 in waters near Seal Island, Bass Strait, Victoria, from DROWNING; and
 - c) the death occurred in the circumstances described above.
24. The possibility that Mr Zhao's drowning was precipitated by a sudden acute medical event (which remains undetectable despite an autopsy and ancillary forensic investigations) cannot be excluded entirely. Nonetheless, I am satisfied that fatigue remains the most likely cause.
25. I note that Mr Zhao was wearing a weighted belt and that he was not using a buoyancy compensation device (or other buoyancy aid). I find that this combination likely made it difficult for him to remain on the surface without effort. This combination of equipment would also make it difficult for him to return to the surface, and the loss of the fins would also add substantially to this difficulty.

COMMENTS

Pursuant to section 67(3) of the Act I make the following comments –

26. The circumstances of Mr Zhao's death include critical features which were present in the death of Viet Quy Dinh⁵ who drowned in Port Phillip Bay on 9 January 2024. These features are the use of a weight belt with no buoyancy compensation device or emergency floatation device and the comments I made in Mr Dinh's case are restated.
27. Mr Zhao was freediving and snorkelling with a substantially laden weight belt, and he did not have the benefit of a buoyancy compensation device as he would if properly equipped for scuba diving. If wearing a wetsuit, as Mr Zhao was, a weight belt is necessary to offset the buoyancy of the wetsuit in order to dive effectively beneath the surface. There is however an inherent risk with this combination of equipment.

⁵ COR 2024 0175

28. It is imperative that weight belts used in this manner must be designed with ease of dumping as the first priority. The construction, material, and placement of weights should be aimed at reducing the likelihood that the belt may slip around the body and move the buckle away from its intended position. The design of the buckle must be such that, when released, the entire belt is released without catching. The profile of the buckle must be such that it is easy to manipulate, even with heavily gloved fingers.
29. There are many products on the market that appear to meet these requirements, and others that are far more basic. Swimmers snorkelling or freediving with a weight belt should select a high quality belt that they know they can dump quickly and easily, every time. Safety messages should also emphasise that the weight belt should be dumped without hesitation if the swimmer is in any difficulty.
30. Swimmers snorkelling or freediving should also consider wearing an emergency floatation device. Affordable products are available which are designed for this purpose. They are very compact, inflated by a small CO₂ cylinder, and reusable.
31. The Victorian Fisheries Authority – ‘Be Smart When Snorkelling’ information includes the following advice:

Use a dive float or flag

A dive float tells other water users where you are.

Use a wetsuit, mask and snorkel, gloves, and flippers

Having well fitted equipment will make your snorkel comfortable and help you collect fish safely.

Get a weight belt with a quick release buckle

If you are finding it difficult to keep your head above water, undo and drop your weight belt. Without a weight belt, your wetsuit will help you float and you can signal for help.

32. Life Saving Victoria has reported that in 2024 there were 54 fatal drownings in Victoria, compared to the 10 year-mean of 47. Of the total of 54 drownings, 46 (85%) were males.
33. Moreover, 2024 saw the highest number of drownings among multi-cultural populations in Victoria on record, with 21 drownings recorded among people from culturally and linguistically diverse backgrounds. This represents 39% of all fatalities for the year.⁶ In the

⁶ Life Saving Victoria Drowning Report – 2024 at pages 6, 7 and 20

last decade, 156 people known to have been born overseas have drowned in Victoria, representing 32% of all drowning deaths.⁷

34. These data reveals a disturbing trend and are a reminder of the need for all organisations and government agencies having a role or interest in water safety to regularly review the effectiveness of their safety messaging and programs. Campaigns must remain up to date and seek the most effective means to reach the public. Persons from culturally and linguistically diverse backgrounds are tragically overrepresented in these statistics, and special efforts must continue to be made to reach this cohort.

ACKNOWLEDGEMENTS

I convey my sincere condolences to Mr Zhao's family for their loss.

I thank the Coronial Investigator and those assisting for their work in this investigation.

DIRECTIONS

Pursuant to section 73(1A) of the Act, I order that this finding be published on the Coroners Court of Victoria website in accordance with the rules.

I direct that a copy of this finding be provided to the following:

Ms Hongmei Liu, Senior Next of Kin

Life Saving Victoria

Royal Life Saving Australia

Victorian Fisheries Authority

Leading Senior Constable Maxwell, Coronial Investigator

⁷ *Life Saving Victoria Drowning Report – 2024* at page 20

Signature:



Coroner Paul Lawrie

Date: 06 November 2025

NOTE: Under section 83 of the ***Coroners Act 2008*** ('the Act'), a person with sufficient interest in an investigation may appeal to the Trial Division of the Supreme Court against the findings of a coroner in respect of a death after an investigation. An appeal must be made within 6 months after the day on which the determination is made, unless the Supreme Court grants leave to appeal out of time under section 86 of the Act.
