

DETECTIVE SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Michael Dolphin at the Melbourne Water Police in St Kilda on Sunday, the 18th of April, 1999. Also present and seated directly opposite me is Senior Constable David Upston from the New South Wales Water Police. The time on my watch is now 1.12pm. For the purpose of the interview, Mr Dolphin, could you please state your full name?

A Michael James Dolphin.

Q2 Your date of birth?

A 11th of September, 1964.

Q3 And your current address?

A Apartment 8, number 1 Cowderoy Street, West St Kilda.

Q4 And your occupation?

A Publisher.

Q5 O.K. As I've already explained to you, Senior Constable Upston and myself are making inquiries in relation to the 1998 Sydney to Hobart. One of our tasks in, taskings is to speak to boats that retired, boats that got through the race and various other aspects of the race. And that's why we have you here today, to discuss your involvement in the race on the boat called Not Negotiable. So do you understand that?

A I understand.

Q6 O.K. Firstly, could you give me some information, background, sailing experience?

A We've owned the present yacht for 5 years, raced it in terms of ocean racing, extensively. I've competed in virtually every event organised by the Ocean Racing Club of Victoria on that yacht. Prior to that yacht, we had another ocean going boat which we cruised extensively around Bass Strait for some years. Prior to that, we had several other keel boats which we sailed around the bay extensively. In effect, my sailing career started when I was six, I think, six or seven, racing off the beach, dinghies. So it's been an evolved process - - -

Q7 Yeah.

A - - - through the last 20, 25 years on a continuous basis.

Q8 How many Sydney to Hobarts have you previously sailed in?

A None.

Q9 That was your first one last year?

A That's correct.

Q10 O.K. Now can you give me some, some details in relation to the boat, Not Negotiable?

A It's, it's a solid fibreglass vessel launched in 1990. It was built in Brisbane. It's, the style of the boat is a three-quarter tonner, mast head, cruiser racer. Yeah, it's, it's a moderate fin displacement cruiser racer. It's certainly not at the leading edge - - -

Q11 Mmm.

A - - - of I.M.S. racing. It wasn't designed with I.M.S.

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racing ..... rule. It was built towards the latter stage of, of what's called the I.I. rule and is an exceptionally good sea boat.

Q12 O.K. Now in last year's race, was it entered, entered in an I.M.S. category?

A Yes, it was.

Q13 O.K. Now, so far as the crew are concerned, if I just show you a crew list for Not Negotiable, the names that appear on that list, your crew, which were nominated obviously. Is that, in fact, the crew that sailed in the vessel last year?

A Yes, it is.

Q14 O.K. Are you aware of the, the stability requirements for a category 1 ocean race?

A Yes I am.

Q15 And, what's that, do you know, in degrees?

A In degrees, I don't.

Q16 Right.

A However, the boat meets its, its obligatory requirements.

Q17 O.K.

A So on that basis, it qualifies.

Q18 If I informed you that the minimum stability index for I.M.S. category would be 115, would that ring a bell with you, 115 degrees?

A It's, it's a figure that I'm familiar with, it's the implications - - -

Q19 Mmm. That's fine.

-

A - - - the, it's how best to interpret that figure I don't know.

Q20 O.K. Now I have the I.M.S. certificate here for the Not Negotiable and you'll see that the stability index is 122.4 and the calculated limit of positive stability is 119.1. So when we talk about 115 degrees, it's certainly falls above the 115 degrees?

A That's my understanding, yes.

Q21 O.K. Now if I could take you to, I'd like to take you to, when did you arrive in Sydney prior to the race?

A We delivered the boat in late November, arrived at the Cruising Yacht Club early December - - -

Q22 Right.

A - - - left the boat there, returned to Melbourne and returned to Sydney approximately 3 days prior to the race.

Q23 O.K. Did you or your navigator attend a weather briefing prior to the race?

A Oh, yeah, we attended the weather briefing at the yacht club. We had our own resources in Melbourne - - -

Q24 Right.

A - - - a club mate is a weather forecaster at the Bureau of Meteorology in Melbourne.

Q25 Right.

A Mark, who you'll be speaking to shortly, I assume. He was, if you like, allocated the role of weather forecasting. He has quite extensive experience in recognising patterns.

Q26 Mmm.

A And is, if you like, educated in that arena, so I felt that, given his accumulated experience, he should, you know, assume the role of weather forecasting on that basis.

Q27 Right.

A We had this person from the Bureau of Meteorology prepare a package for us, in terms of all the relevant weather forecasting models. I think there were two European and one local model, which we consequently were given access to. So on that level we felt adequately, we were comfortable with the amount of effort we'd invested - - -

Q28 Mmm.

A - - - in researching what were the likely scenarios that, that could eventuate.

Q29 And what were the likely scenarios that could have eventuated from your .....

A Well, on the morning of the race, we, we had, prior to exiting the pen, we had our own on board discussions in relation to what was likely to happen. At that stage the weather forecasting models were, from our, my interpretation of it, there was some conflicting information. The, I think the Australian model was forecasting a high moving in this direction, whereas the, one of the European systems was suggesting a developing low front. However, the meteorologist in Melbourne suggested that the European model was the

-  
more appropriate one to, to, to follow so from, in that sense, the balance of, how do you say, the balance of the weight of accumulated experience was in favour of the European model. So we were looking in terms of a developing low front - - -

Q30 Mmm.

A - - - which, which proved to be correct. So we were, if you like, cognisant - - -

Q31 Mmm.

A - - - of the fact that a low front was developing.

Q32 O.K. Also, did you or your crew attend a, or know about a life raft and flare demonstration prior to the race, some days prior to?

A No, I wasn't aware of that.

Q33 You weren't aware of that? O.K. So far as your crew is concerned, how many previous Hobarts - - -

A What, Sydney to Hobarts?

Q34 Sydney to Hobarts.

A None.

Q35 None? O.K. So your crew's based on a lot of other ocean racing, other than Sydney to Hobarts?

A Yeah, we've all done, you know, sailed Melbourne to Hobarts, across Bass Strait numerous times - - -

Q36 Mmm.

A - - - you know, it was an accumulated weight of experience basically quarantined off at Bass Strait.

Q37 Were you ever contacted by the Racing Committee and questioned in relation to lack of Sydney to Hobarts, so

to speak, on, on board your vessel?

A No.

Q38 If I could take you to now the 27th of December, '98, you might like to take us through the events surrounding your final decision to retire that evening?

A Fine.

Q39 On the 27th, Sunday.

A Sunday the 27th, I suppose a convenient starting point would be probably the 2.00pm schedule ..... the, the weather, sorry. Let's start saying ... prior to the 2.00pm schedule, because it was then apparent from my perspective that, in fact, this low front had arrived. The pressure was building, the barometer was dropping quite dramatically, so having assessed that, knew that it was a, a front of some genuine substance. So I then made the decision to reef down in expectation of that front. Reefing down to basically the storm jib and the trisail, and the 2.00pm, if you like, reconfirmed my original thoughts in terms of the fact that this, this front had some, yeah, it was a particularly intense, yeah, localised front, the duration of which I, I anticipated at that stage would probably be .. 4 to 5 hours in the general course of things, in my, if you like, Bass Strait experience, yeah, 4 to 5 hours of fairly consistent heavy breeze and then it moderates down to say 40 to 50, which is not, which is quite manageable for us. So on that basis, we reefed down. We then proceeded. The boat was in a, a comfortable,

manageable state and the crew were motivated and positive. There was some sea sickness but not, if you like, debilitating sea sickness. The conditions were manageable. The breeze then started to escalate to mid 50s, 60s with occasionally 70 plus where we were. The seas were probably, you know, 8 to 10 metres with the occasional breaking waves. We were knocked down once to about 80 degrees. The mast never actually touched, touched the water on that basis. During this process, it's probably 3 to 4 hours, 3 to 4 hours after the 2.00pm sched, I spent a lot of my time below just basically listening to the radio to see and hear, well, sorry, hearing the scenario unfold in terms of what was happening to the various boats around us. I then made the decision that it'd be, if you like, imprudent, to continue, given the fact that it would be dark in possibly, you know, 3 to 4 hours and we were still in the, the influence of, this wind against tide situation was quite, quite intense at that stage. So being .. approaching darkness, perhaps not being able to fully see the breaking, breaking wave, it placed us in a position that I had no interest in being a part of.

Q40 Mmm.

A So at that stage, I made the decision to, to turn the boat around and head for Eden. It was an easy decision, it's one that I don't regret - - -

Q41 Mmm.

A - - - and I believe we did the right thing.



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Q42           What time would that have been on the 27th?

A             Oh, it was about 6.30, 7.00pm.

Q43           Right. O.K. O.K. So far as safety equipment on board  
your, your vessel, could you take us through the  
harnesses and lanyards that you've got available or - -  
-

A             Mmm.

Q43           - - - what you provide to your crew?

A             The crew own their own harnesses, however, there are  
spare harnesses for those individuals.

Q44           Right.

A             Harnesses meet the relative Category 1 stipulation - -  
-

Q45           Mmm.

A             - - - and that they're both, the lanyards are  
detachable from either end - - -

Q46           Mmm.

A             - - - so on that basis, it conformed to the rule.

Q47           Right. So far as sea sickness, how many of the crew  
suffered from sea sickness?

A             Two.

Q48           O.K. Now was it mild?

A             One was mild, one was slightly more dramatic.

Q49           Yeah.

A             And that was probably another factor in my decision to  
retire.

Q50           Right. Did that cause any, any problems with routine  
on the boat?

A The routine was disrupted.

Q51 Right, it was, was it?

A It, it was disrupted, not dramatically, but it, it did, we'd operate 3 hours on, 3 hours off - - -

Q52 Yeah.

A - - - and occasionally that could be interfered with.

Q53 Now so far as, so far as retiring, is that a decision you made on your own or was it made in, in, in consultation with the rest of the crew?

A In consultation with some of the deck crew - - -

Q54 Right.

A - - - in relation to what, What experience, what conditions you're experiencing, how do you feel the boat's handling it?

Q55 Mmm.

A Basically I wanted to include them in the decision making process - - -

Q56 Right.

A - - - to feel, if you like, there's an element of shared responsibility.

Q57 Yeah, that right.

A I think it's important.

Q58 Had you have known at the start of the race that there going to be wind speeds of up 70, 80 knots, would you have left Sydney?

A It really depends where that system was, was due to hit.

Q59 Yes.

A If I knew it was, you know, several hundred miles away, yes, I would.

Q60 Yeah.

A But, no, there's, I wouldn't knowingly sail into those conditions.

Q61 Mmm. O.K. Go?

SENIOR CONSTABLE UPSTON

Q62 With, you mentioned wind speeds reaching up to 70 knots. Obviously though, have you got, you've got instruments to record those - - -

A That's correct.

Q62 - - - type of readings. Are they analog or they digital readings?

A It's a, they're analog.

Q63 O.K. And, can you recall, were you on deck at the time those conditions were reached?

A I was on deck when it was blowing consistently 55 to 60. I later asked Mark, who you'll speak to shortly - - -

Q64 Mmm.

A - - - In your estimation, what was the, you know, the maximum wind, wind speed you experienced on the indicator? Well, the ..... meter reads 68 and the needle peaked at 68.

Q65 All right. And that was constant, as far as you're aware, or were they gusts?

A Well, I, I assumed they were gusts - - -

Q66 Right.

A - - - because when I was on deck, I wasn't experiencing 70 plus - - -

Q67 No.

A - - - no, I experienced 55 to 60s.

Q68 And they were constant?

A Pretty much.

Q69 Yeah. For a long period of time?

A Oh yeah, for quite some hours.

Q70 Right. Now when you mentioned your safety harnesses and all that, a safety check had been conducted of your boat?

A Yes, yes, it had a Category 1.

Q71 Where was that done?

A At Royal Melbourne.

Q72 And there's a safety officer which has been selected by the C.Y.C.A. to go and do that, or is that just a Royal Melbourne person, yacht club - - -

A No, the certificate was issued through the Ocean Racing Club of Victoria - - -

Q73 Right.

A - - - in that there are only, I think, three or four individuals who the O.R.C.V. find acceptable - - -

Q74 Yeah.

A - - - to issue a certificate on that basis and that certificate is, from my understanding, accepted nationally.

Q75 Right. And when they, when they did the safety checks on board, you said earlier that all your crew owned

-

their own harnesses.

A That's correct.

Q76 And were they all on board at the time the safety check was - - -

A No, they weren't.

Q77 They weren't?

A No.

Q78 So how many safety harnesses do you have on board the boat - - -

A I carry four.

Q78 - - - at any one time?

A I carry four.

Q79 You carry four. So four were checked?

A No, they weren't - - -

Q80 No?

A No, they weren't checked.

Q81 Why weren't they checked?

A There's, if you like, an assumption of responsibility, if you, if you like, this is my understanding of it - - -

Q82 Mmm.

A - - - a perception that basically crew, it's their responsibility to ensure that they supply their own. Clearly it's, from my perspective as skipper, it's, it's mandatory that they meet the relative requirements in terms of, you know, having approvals and the relevant stamp of, safety stamp attached to that, with lanyard with fittings that you can remove from either

end. So on that basis, I'm not aware of any, any boats that do provide harnesses for all the crew.

Q83 O.K. What brand is your harness?

A It's a Muster.

Q84 Muster? And has that got approval, the Australian Standard approval?

A Yes it has, it, it's around the waist and over the shoulder - - -

Q85 Right.

A - - - internally fitted ..... jacket.

Q86 O.K. but is there any, and, and I know that we don't have the harness here with us now, but is there any stamping or any marking on the harness to say that it complies with a particular Australian standard, or is it just a straight webbing?

A I'd have to look at it.

Q87 O.K.

A I can't recall.

Q88 Yeah, O.K. With life, let me rephrase that, personal flotation devices, you have one for everybody on board, obviously?

A Yes, we do.

Q89 O.K. Now are they, they're, are they yours, they belong to the boat?

A They belong to the boat.

Q90 O.K.

DETECTIVE SENIOR CONSTABLE GRAY

Q91 Now has anybody on your boat ever fired a flare?

A Well, I'd expect all of us have.

Q92 Right. Has anybody ever deployed a life raft before?

A No.

Q93 O.K. Does anybody on board your boat have any sea survival training or, or completed a course?

A I've completed a course, well, briefing nights, discussions, discussion groups and so on, with the Ocean Racing Club - - -

Q94 Right.

A - - - in terms of life raft deployment.

Q95 O.K.

A We've been through discussions on the boat in terms of, you know, what to do in various situations. So from my perspective there was a, a level of awareness that, had the situation arose - - -

Q96 Mmm.

A - - - you can't rule out all possibilities, but I felt comfortable - - -

Q97 Yeah.

A - - - with the level of, of accumulated knowledge and experience that would have at least maximised our, our opportunities to emerge from any potential disaster.

Q98 Mmm. Did you have a man overboard routine worked out?

A We have a ladder at the side which, which is part of the requirements in terms of if someone is over the side, that ladder would enable that individual to clamber up.

Q99 Right.

A In terms of deployment of relevant safety rings and drogues, we discussed that.

Q100 Mmm.

A In terms of retrieving that individual, I've, if you like, read extensively on how to retrieve such an individual.

Q101 Mmm.

A But as, if you're speaking in terms of having a set and a clear plan, in terms of the person allocated to what job and what duty at what time - - -

Q102 Yeah.

A - - - no, there wasn't.

Q103 Right. Now communications on board your vessel. What sort of radios did you have?

A There's a high frequency Wagner, there's a V.H.F. - - -

Q104 Right.

A - - - 27 megahertz.

Q105 Did you have a hand held radio at all?

A Yes.

SENIOR CONSTABLE UPSTON

Q106 What frequency was that?

A The hand held?

Q107 Yes.

A V.H.F.

Q108 V.H.F. Do you have an E.P.I.R.B. in your, in your lift raft?

A No.



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DETECTIVE SENIOR CONSTABLE GRAY

Q109 Did you, at any stage whilst you were in the race, race, hear any maydays being called over the radio, any sort of .....

A Yeah, I heard a mayday from Kingura - - -

Q110 Right.

A - - - in terms of the man overboard. I heard that. I heard their position.

Q111 Mmm.

A They were approximately 20 to 25 miles, I think, ahead of us. It was, it was, you know, an uncomfortable thing to hear.

Q112 Mmm.

A Quite correctly.

SENIOR CONSTABLE UPSTON

Q113 Did you plot the, or did anyone plot the Kingura's position at the time that you heard the mayday of the, of the man overboard situation?

A Yeah, I made a note of their position.

Q114 Mmm.

DETECTIVE SENIOR CONSTABLE GRAY

Q115 Now from, from your point of view, do you have any, any views or any recommendations or suggestions for future races, taking into account what happened last year?

A I would probably look at improving personal safety.

Q116 Right.

A I'd probably look at ensuring that everyone wears at least a positive flotation device - - -

Q117 Mmm.

A - - - not necessarily a life jacket, but at, at least a positive flotation device of some description.

Q118 Mmm.

A You may look at a personal E.P.I.R.B. That's another scenario. Perhaps a, an attached strobe as well. It's, in terms of the integrity of the boats, the boats are designed to rules. Boats are designed for, you know, performance and pushing the envelope on that basis - - -

Q119 Mmm.

A - - - and they're, they're built to structural requirements. I don't think you could ever build a boat that would ultimately withstand, withstand those conditions for any period or any extended period of time. I think it's, it's unreality to try and, to generate that sort of boat.

SENIOR CONSTABLE UPSTON

Q120 You've sailed Bass Strait fairly extensively?

A Yes.

Q121 What, and the west coast of Tasmania?

A Yes.

Q122 From our conversation I, and I learned that from our conversation earlier.

A That's correct.

Q123 How would, how would you rate the Bass Strait, as far as, you know, sailing conditions generally?

A Every time I go out into Bass Strait, every time

basically you expect 50, possibly 60 knots, every occasion.

Q124 And you take precautions for that?

A Oh, well, the crew are completely aware of that - - -

Q125 Mmm.

A - - - and the boat's geared accordingly - - -

Q126 Mmm.

A - - - in that, when a front passes through Bass Strait, you know they're the winds you're going to get.

Q127 Mmm. And how often have you experienced those conditions, if not as severe as what were experienced on the 27th, 28th?

A Probably the most direct extended comparison was returning from Burnie, there was a race to Burnie some years ago, I think it was in '95 and I had my boat in that, and the returning conditions were probably more atrocious than what they were.

Q128 What sort of winds were experienced then, and wave conditions? When you say, when you say that they were, they were worse than those experienced in 1998 - - -

A Yeah, I'd rate, I would rate the return experience from Burnie - - -

Q129 Yeah.

A - - - as a more dramatic extended journey from Hell - - -

Q130 Right.

A - - - than what that was.

Q131 Yeah.

A Yeah, not a pleasant trip.

Q132 Yeah.

A The reason for that is that you had a lot of completing wave systems, and totally confused, totally disorientated seas, with winds of, you know, 50 to 60 knots plus. Yeah, and it was just difficult to steer through the night, the - - -

Q133 Mmm.

A - - - next day - - -

Q134 Mmm.

A - - - with a protracted, extended, yeah, just chaos.

Q135 What is the length of your vessel?

A 34 feet.

Q136 O.K. And were those, those seas, when you say, confused, were they similarly confused as the, and when I say, confused, you've got the wind and the waves and the swell and the current, all heading from different directions?

A Well, Bass Strait, it's a, it's a unique environment. It's, it's like a large pool.

Q137 Mmm.

A It sort of empties, you know, in and out and you've got three or four different tidal systems operating from different aspects of the Strait - - -

Q138 Mmm.

A - - - and on that particular trip there was the residue of a, quite a strong easterly, southerly change or south westerly change came through. Combined with the

-  
influence of tide, it just tended to generate, yeah,  
totally competing, competing systems.

Q139 Mmm.

DETECTIVE SENIOR CONSTABLE GRAY

Q140 Were you, Michael, were you aware of a storm warning  
that was issued by the Meteorology, Meteorology Bureau  
at 14.00 on the 26th?

A Yeah, I was aware that they were forecasting winds of  
45 to 55 knots.

Q141 Now when they forecast winds of 45, 55 knots, how do  
you interpret that?

A I'd expect winds in excess of that.

Q142 To what, do you think?

A You know, 60 knots - - -

Q143 Right.

A - - - 65 knots.

Q144 O.K.

A However, yeah, in my experience and the crew's  
experience, it's generally felt that winds like that  
only last through a brief period - - -

Q145 Mmm.

A - - - not, not extended periods.

SENIOR CONSTABLE UPSTON

Q146 What are your views on, as a skipper of a vessel, what  
are your views on organisations stopping races, knowing  
of weather of that sort of magnitude is going to be  
experienced?

A It's a responsible thing to do.

Q147 A responsible thing to do. Are you aware of, you know, the little blue book?

A Oh, yes.

Q148 Are you aware of Rule 32 in that little book, in relation to shortening or abandoning after the start of a race?

A Well, read it to me.

Q149 O.K. Well, I'll tell you, just so you know, I mean - - -

A Right.

Q149 - - - I don't know whether you knew this or not. But in fact it says in here that the race can be shortened or abandoned after the start. One of the things is because of foul weather, how that's interpreted, I don't know, or what it means. And another clause here is, For any other reason directly affecting the safety or fairness of the, of competition. I was just wondering if you were aware of that, that's all.

A I'm aware of the fact that it's firstly, it's, yeah, in the first instance ... it's clear that it's the organising body's prerogative whether or not to start a race - - -

Q150 Mmm.

A - - - within the guidelines and the terms and conditions that we agree to compete under - - -

Q151 Mmm.

A - - - and, with the Ocean Racing Club of Victoria, it's the skipper's responsibility basically whether or not

they choose to, to continue or withdraw. I think there has to be an element of responsibility in terms of the, the skipper and, and crew in terms of - - -

Q152 Mmm.

A - - - assuming responsibility for their own welfare.

DETECTIVE SENIOR CONSTABLE GRAY

Q153 Certainly that, would you agree that, that certainly a skipper on a vessel would be somewhat more influenced in making a decision to retire if the actual organising authority issued that warning, as part of the rule?

A Oh, well if, if they enacted that rule, clearly there would be no point in continuing.

Q154 Exactly right. Regardless of what the skipper thought, really.

A Well - - -

Q155 It may, it may sway his decision or her decision in the final wash up, because it's come from the authority.

A Well, it's, it's purely an, it's an academic - - -

Q156 Yeah.

A - - - scenario. I mean you just don't know, in that - - -

Q157 Mmm.

A - - - to continue on in those conditions may, in fact, be safer than turning about.

Q158 Mmm.

A So on that basis, there could be more resulting carnage - - -

Q159 Mmm.

A - - - as a consequence of actually calling the race off

- - -

Q160 Mmm.

A - - - given they're out there in those conditions.

Q161 Mmm.

A Yeah, it wasn't an issue of racing, it was an issue of just ensuring you got through it.

Q162 Mmm. O.K. Anything else you'd like to say?

A No.

SENIOR CONSTABLE UPSTON

(NO AUDIBLE REPLY)

DETECTIVE SENIOR CONSTABLE GRAY

Q163 ..... you can think of? The time's now 1.40, this interview is concluded.

INTERVIEW CONCLUDED