

SENIOR CONSTABLE GRAY

Q1 This is an electronically recorded interview between Detective Senior Constable Stuart Gray and Mr Anthony Kirby on Thursday, the 3rd of June, 1999, at the Sydney Water Police Station in Piermont, Sydney. Time by my watch now is 2.27pm. Just for the record, Tony, would you please state your full name?

A Anthony Kirby.

Q2 Your date of birth?

A 22nd of the 4th, '62.

Q3 Your current address?

A 807-2 Berkeley Place, Elizabeth Bay.

Q4 And your occupation?

A Sail master.

Q5 O.K. Now, as I've already explained to you, I am making inquiries in relation to the 1998 Sydney to Hobart Yacht Race and I've been tasked by the Coroner to speak to a number of people who were involved in the race and I'm basically speaking today in relation to your involvement on the boat, Loki, O.K.

A Yep.

Q6 Now, if I could just start, if you could give me some sailing experience of yourself, background experience?

A I've been sailing all my life, for the last 15 years I've worked professionally as a sailing instructor as well as being a very keen ocean racer. I've competed in, this was my 15th Sydney to Hobart race, done many, many numerous, in 20 years I've done nearly every ocean

race on the Australian coastline and numerous trips across the ocean to New Zealand and America, and you know, and Narooma as well.

Q7 And how, sorry?

A I also had my Yacht Masters and Coxswains tickets.

Q8 Right, and of all the racing that you've done, how do you rate the Sydney to Hobart, as a great ocean race?

A It's my favourite race of the whole - - -

Q9 The whole?

A Yes, it's the biggest challenge.

Q10 Is it the hardest one do you think, one of?

A Hard as, a Saturday race offshore in a bad day can be hard, but it is a race not for the faint-hearted, it is a gruelling, it is a real ocean race.

Q11 Right.

A And it shouldn't be looked at in any other regard in my mind.

Q12 Right.

A Yeah.

Q13 O.K. Now, how was it that you became a member of Loki's crew?

A Loki is Stephen Ainsworth's boat. It's been his new sailor to ocean racing, when he first got the boat I was introduced to him and since then Loki is a year old and I've basically been the sailing master come manager of the whole boat in it's programme.

Q14 All right, O.K, is that the first time you've sailed with Stephen?

A Yes.

Q15 O.K. Now, what was your role on the boat for last year's Sydney to Hobart?

A Well, I classify myself as the sailing master.

Q16 Right.

A And navigator.

Q17 O.K. Now, sorry?

A And to be in charge of everybody and everything.

Q18 Right, now prior to the race commencing last year, did you attend a weather briefing at the CYCA.

A Yes.

Q19 And do you recall what the weather, what weather was given to you in relation to the race?

A It was a normal Hobart weather report.

Q20 Right, which is what?

A You always get a southerly somewhere.

Q21 Yeah?

A You have to to it.

Q22 Yeah?

A But it was, I think, about five days before Hobart, because of Christmas and the time you have to get it worked out.

Q23 Yes.

A And I actually, I looked at it with not a grain of salt but to me, if you get a weather briefing five days before an event, it's going to dramatically change.

Q24 All right.

A But I'm a very adamant weather watcher myself, I am

always doing my own weather situations and following it myself, so over the next five days I still continued, you know, downloading things off the internet and receiving new reports and getting my idea of the picture.

Q25 O.K, so what was your interpretation of the weather the day you left?

A Well, it was totally, the whole briefing weather was totally revised the morning of the race.

Q26 Right.

A And to which I agreed with, I knew there was a storm, it was a possible storm. The duration and the length had to be sort of, like, what's the best way to explain it? The sort of, the sort of thing you had to monitor as you were going into the race.

Q27 Yes.

A Just see how it was shaping up, yeah.

Q28 Did you have any concerns about it?

A No.

Q29 No?

A No, I've been in storms before.

Q30 Right.

A We're a very strong boat, so, very strong crew that have been together for, well, we'd made sure of that fact, we'd been together for a lot of ocean racing, apart from Stephen, but the crew I took with me were quite a lot of people I've sailed with before, so no, I wasn't concerned, in fact, I thought it would be, if

I was told there was a hurricane I might be more concerned, but I wasn't concerned.

Q31 If you knew that there were winds going to be in excess of 70 knots prior to the race, would you have reviewed your situation so far as that start's concerned, as a crew?

A Yes, yeah.

Q32 Do you consider that that - - -

A I would have - - -

Q32 - - - winds of 70 knots are, are a hurricane type winds?

A Yeah.

Q33 Right.

A I also would have probably chosen a different course too.

Q34 Right.

A I would have kept a lot more options open, I wouldn't have, I would have, you know, stuck closer to the shore so if you did have to bail out you'd, yeah.

Q35 So what was your original course, the run-line or -?

A Yeah. No, I don't mind being, off Gabo Island this is my sort of, anywhere between 15 and 25 miles to me, is an acceptable distance to be off Gabo Island. We were unfortunately 35 miles off Gabo Island due to the fact we'd lost our main sail in the night so we had fallen, lost height sideways but it, to me being 35 miles off Gabo Island's still no great concern.

Q36 Right.

A But then if I was told there might be a cyclone coming I'd be right on the shore at Gabo Island to make a prudent decision.

Q37 Yes, now your role as a navigator, what's that, what do you actually do during the race as a navigator?

A Apart from monitoring the boat's position and all the other boats, I receive all the weather reports, Steve and I both shared the responsibility of doing the radio relay or radio reports, it's for that situation it's silly myself waking up to do it if he's awake and so we do dual roles there.

Q38 Right.

A Stephen's very proficient on the radio and it's just a matter of just listening and reporting your position right.

Q39 Right.

A The weather reports, I have a weather fax on board but it's a, not an independent stand-alone weather fax so sometimes I miss, I couldn't physically get the weather fax that would have told me the worst situation.

Q40 Yes.

A Because I was on the radio at the time so you can only use the radio for one or the other.

Q41 Right, O.K. Now, at your time when you were on the radio, did you at any time hear any distress calls from any boats, any Maydays?

A Not while I was working on the radio.

Q42 Right.

A I did hear a lot of distress, I did hear while I was lying down in the cabin I did hear one Mayday.

Q43 Do you know who that was from?

A It was really short but I'm quite sure it was Winston Churchill.

Q44 Right.

A But it was just, "Mayday, Mayday", and then I heard nothing and, but apparently they kept on talking, maybe it was my location but I didn't hear a real

Q45 Did you hear any talk between Team Jag and the Young Endeavour?

A Yes.

Q46 A fair bit of talk?

A Yes.

Q47 Did you consider or you as a professional, did you consider that some of that talk was unnecessary?

A Not with the Young Endeavour but the, the boat, the trawler or the boat that was coming to assist them.

Q48 Right.

A Yeah.

Q49 O.K.

A It was fine talking to the relay boat 'cause, you know, they're your base. But then yes, it was a problem when they were going over the top of just general talk, just with their, what I call petty things, yeah, things that aren't -

Q50 Did that occupy some time, do you recall?

A Well, yes, yeah.

Q51 To annoyance?

A My personal annoyance.

Q52 You personally, that's what I'm saying.

A Yeah, yeah, I know them on the boat very well and yeah, I was annoyed with them, I thought they should have, I would have changed, personally, if that was me, I would have made sure I'd been using a separate frequency.

Q53 Yes, now what type of radios do you have on board?

A We have a codem HF radio and a GME 27, sorry, VHF radio and we also have a GME built portable.

Q54 Right, you've got a portable, O.K. And that's to the portable's to talk to air as well? Can you use it to talk to rescue services from here?

A You could.

Q55 Right.

A It's just a normal VHF, yeah.

Q56 Right, O.K. Now, if I could take you to a point during the race when Loki actually rolled to some unknown degree, do you want to take me through that?

A Yep, I was actually below at the time.

Q57 Right.

A So it's very hard, I can, I can give you what I feel. O.K. I purposefully had three, only three on deck, we'd gone down into a not a survival, well, what I call a survival mode, where it's dangerous to have too many people on board, you have to look after the strength of the crew and what I call tough it

out, so I had gone to it, changed all our watch, standard watch plan to a three, two helmsman and one crew on deck with the helmsman changing every, steering for an hour then changing and then another hour and the next one's got to come up and then the crew would stay for two hours each, you know, tag, what you call tag, one up, one down, who's the next fittest and strongest and the crew are good, they know if someone's a little bit weak, again, our crew wasn't, but they'll do a bit longer or whatever. It was about, well the wind had kicked in, I was on deck from mid-morning till about 3.00 in the afternoon, about 1 o'clock the wind really got to extreme states and therefore, that's why about 3.00 or 4 o'clock, I really don't know the times.

Q58 Yes.

A You know, I was down below preparing to get, making sure I got some rest so, 'cause there was going to be a big night ahead of us. So while I was in that, you don't sleep, obviously, that's a mistake, it's strange, when you're down below in a yacht, you can sense the helmsman, you can tell a good helmsman on the helm, you can tell a bad helmsman and you can also, is where I'm getting at, you can tell when the helmsman's getting tired. You're always going to crash through waves but when you start having three or four crashes coming, you know, too often, then maybe it's time for the helmsman to change. So I had just told the next helmsman to,

who's down at to go up on deck, he'd been there for about 15 minutes before he was going to take over on the helm, you know, just getting and waking up and settling in. So I, one thing I do think, our helmsman had, was at the end of his hour's steering. I wasn't on deck so I can't say did he negotiate the wave properly or was it a wave that he couldn't negotiate? From what they told me, it was a wave they couldn't negotiate. There was, we were, we could sail basically any course we wanted to choose, to windward, we could sail way above the run-line course, which quite often we were, you know, to, to sail the best route through the waves.

Q59 Yes.

A This particular one, let's say we, on average you go up on a wave at about 30 degrees, at an angle at 30 degrees to the wave and try to negotiate, sometimes, you don't want to go dead square at the wave, but I assume they were going up like that and the top, they said the top 20 feet was just a wall, stand-up wall and it broke. They way I feel it would've, it broke hitting the bow, slamming, also possibly totally hitting the, the storm jib which was the sail up. Then spinning the boat sideways and then onto the wave and then we came tumbling down. The reason I feel that is because there were two huge bangs, the first bang was when I think the wave slammed us.

Q60 Yes.

A And the second bang was when we hit bottom. It was definitely two huge bangs.

Q61 Right, now once you've rolled over, by what degree did you go to, do you think, 180?

A I, I'd say about between 120 and 140 degrees, just guessing, it's hard to tell.

Q62 Yes.

A I'm using the, the scratch marks on the roof and things, there was some scratches, you know, flying debris hitting centre line of the cabin roof.

Q63 Right.

A But that doesn't mean you're upside down.

Q64 No.

A 'Cause the sea's coming off an angle.

Q65 Yes.

A I don't think we were at 180 but we were definitely, well, somewhere between, like, halfway between 90 and 180.

Q66 Yes, O.K. Now, did she right herself fairly quickly?

A Time? Yes, I think she did.

Q67 It wasn't a matter of minutes?

A No, no.

Q68 Seconds?

A I was in the leeward bunk, I got totally drowned and thing, by the time my natural instinct was just to tear to the deck, I don't know how long that took me, by the time I got to the deck, the boat was upright, totally laying in the water, not, no boat speed at all, the

crew were just sitting there waiting for the next wave to come, trying to get the tack of the boat which wasn't happening because the boat was stopped. And I actually just ran back to the helm and threw the helm hard around and we've, we, instantly dropped the head sail and beared away and just assessed the situation.

Q69 So you were on bare poles?

A Yeah.

Q70 Right, and how long were you bare poles for?

A For a good hour while we assessed the situation.

Q71 Right.

A Then we tried to sail again.

Q72 Yes.

A We put up the trysail, not the storm jib, for the fact that it was, we had a permanently rigged trysail, on the mast so it was lowered and we didn't have to, you know, the mast is a much safer area to go to than the foredeck and it was all clipped on we just had to pull the rope and set it, but that didn't work at all. It just, the boat was out of balance, and then we were going so fast anyway we re-assessed the whole situation and then stayed bare poled and put out our, trailed our sea anchor.

Q73 So you were still getting some significant boat speed bare poles?

A Yes, yeah. For the whole night towing our sea anchor we averaged 7.3 knots.

Q74 Right. So you deployed the sea anchor?

A Yes.

Q75 When was that deployed?

A It would've been within, about an hour.

Q76 Right.

A About a half an hour of just assessing, not doing, you know, just what are we going to do, and then half an hour of getting things sorted out, tidied up on deck and getting moving again. About an hour, yeah.

Q77 But the sea anchor slowed you significantly?

A Yes, it was much safer.

Q78 O.K.

A Our first thought was to start the motor.

Q79 Yes.

A And I was thinking aim at Eden and but then I realised without the motor we couldn't, you'd have to motor sail to have any - - -

Q80 Yes.

A - - - way of getting on that course, but then in, from what I've learnt now and apparently, when a motor does go upside down it won't start for quite a long period, I've found out, this is all the sump oil's gone through it and it's just got to sit there and wait till it settles again, so that was a thing, one thing I've learnt from - - -

Q81 Did anybody try the motor in fact?

A Yes, we, first thing. Start the motor.

Q82 And it fired?

A No, just turned, a bit like, you know, you've got the

decompression lever on?

Q83 Yes, would it start?

A Well, it just never fired.

Q84 Yes, O.K.

A Just -

Q85 Now, what sort of batteries have you got on board the boat?

A We have a starter, I think it's about 120 amp starter, battery for the motor.

Q86 Is that a cell battery or a -?

A No, a standard.

Q87 Standard battery?

A Yeah.

Q88 battery, sort of,

A And then the ship's battery is a massive, I think it's 480 amps.

Q89 Right.

A in the series 6 of 6 volt batteries.

Q90 Normal batteries, open batteries?

A Yeah.

Q91 Were there any, any fumes as a result of those batteries being wet. Did they get wet, in fact?

A The starter motor battery went under water, no, we didn't smell any smells.

Q92 How much water was in the vessel?

A A lot.

Q93 Knee-high or -?

A We didn't have any floorboards left on the floor.

Q94 Right.

A But I'd say when the boat popped up, you could say it was pretty close to the floor boards.

Q95 Right, O.K.

A It was a good, I think the crew took, between the crew on the deck and down below, there was a good hour of pumping, just, not a rush or anything, but just general, you know, I'll have a pump for a while, another crew member would have a pump, a good hour of pumping.

Q96 And that significantly, reduced just the amount of water in the boat, the pumping?

A Yes.

Q97 So, so they didn't fail, they worked well?

A Yeah.

Q98 O.K. Now, what was the highest wave that you would estimate? From your experience?

A I don't know, about 40 or 50 feet.

Q99 All right, what about wind speeds?

A The top I saw was 76.

Q100 Was that sustained?

A There was a couple of them.

Q101 Right.

A And a few of the other crew saw 78.

Q102 Right.

A That was in the night-time when we were running home.

Q103 Right, now where did you actually retire at?

A Which port?

Q104 Yes.

A We ended up in, sorry, Narooma.

Q105 Right, O.K. Now, did any of you guys inform the Young Endeavour that you'd retired?

A The following morning - - -

Q106 Right.

A - - - we officially retired.

Q107 And they acknowledged that message?

A Yes. We had, we didn't before 'cause we always thought, you know, things might change and assess the situation the whole thing, might have stopped, might fix things up and go on again.

Q108 So was it the case in racing rules if you retire you can't really - - -

A Yes.

Q108 - - - can't re-start?

A Or to my knowledge.

Q109 Yes, O.K. Now, was there any damage to the vessel apart from the water and so on?

A The broken window.

Q110 Right, was that caused by the force of the water, the roll-over?

A I, I - - -

Q111 You think?

A I think so, it's very hard to, there was no gear on deck that could have broken it from deck, there was that many things, flying debris down below, it could

have been flying debris.

Q112 Right.

A But I believe it's more like the whole boat just got compressed. Because the leeward window right next to the chain plates, right on, you know, the, it all just seems to me that the whole boat got squeezed so much it

-

Q113 Yes.

A Yeah, but then when it's like that, maybe one little thing like that just -

Q114 Yes.

A Yeah.

Q115 Now, have you ever deployed a life raft in a real situation or -?

A Not in a real situation.

Q116 Controlled situation?

A Very long time ago, when I was very young, I was in a life raft survey of the CYCA.

Q117 Right. What about discharging flares, firing flares?

A Yes, I've done that.

Q118 Have you ever, O.K. Would you have been able to deploy the life raft that was on board Loki, would you know how to do it?

A Yes, I think so, just roll it over and pull it, make sure it's tied on but, yeah.

Q119 Were you aware of the life raft and flare demonstration at the CYCA prior to the race?

A I know most of the clubs have, on like, the opening day

of the season they always have a safety day as well.

Q120 O.K. Now, is there anything that you'd like to tell me about that, any views or suggestions that you have about the future of Sydney to Hobarts and anything you feel strongly about?

A There's a few little things.

Q121 Yes, by all means.

A Safety harnesses.

Q122 Yes?

A I've got a few, few little gripes about those.

Q123 What about?

A One particular one is I've talked to a few of my friends and I agree that I'm going to go back to the old-fashioned technique three strand nylon tether, which the manufacturers just can't have quality control to get through the standards, but it, but to me those one inch webbing.

Q124 Yes.

A You know, they're bullet proof and they're shock proof, they're everything, they just haven't got any give.

Q125 Yes, are you aware of the safety standard of 2227, so far as harnesses and lifelines are concerned?

A The actual standard rule?

Q126 Yes. The Australian Safety Standard?

A As in - - -

Q127 There's an Australian Safety Standard

A Yeah.

Q128 For tethers?

A Yeah, that's why all the manufacturers have gone away from the hand spliced one because they can't just suddenly get their approval through easily.

Q129 The ones on board Loki, are they all, all the harnesses and tethers, are they Australian Safety Standard?

A Yes.

Q130 Five ticks?

A Yeah. I don't know, but they have a clip, can I draw it for you?

Q131 Yes, certainly.

A The clips, they, there are these particular ones are a flat plate. But in here they have like a, they always have a little patch that this bit locks into to make but that catch, and this is on all harness clips have that catch.

Q132 grab a copy of one, I've actually got one so if you just want to stand-by for a second.

A Yeah. Yep, they're the ones. Even, some of them also are flat plate ones.

Q133 Yes.

A These clips in, you know, always they're really in - - -

Q134 Catch?

A - - - catch. You know, the things you're clipping onto aren't always

Q135 Yeah, O.K, well, if I show you this too.

A Yeah.

Q136 What do you think about this set up here? I'm showing

you a line 7?

A Yeah.

Q137 And you'll see that there's a, it's basically a
of some description, and there's a little - - -

A Yep.

Q137 - - - arm which stops it, two little nipples as you can
see on the - - -

A Yep.

Q137 - - - on there, O.K. Now, they're designed, obviously
to allow, you clip-on, and it closes and obviously
those little nipples prevent that thing going
backwards.

A Yeah.

Q138 Now we have one which is actually where this has gone
over.

A Down there?

Q139 See, from your experience, I mean, you
can understand that and see that that's a problem?

A Yeah, I don't particularly - - -

Q140 Is that why, is that one of the reasons why?

A Yeah, IE, just like the old, you know, even though you
have to have a compulsory - - -

Q141 Yes.

A - - - harness for every person and so forth, that's
what I'm saying, I'll have an old, normal old three
strand nylon thing that's, we used nylon for our
mooring ropes, you'd never tie up a boat up with,
really.

Q142 No.

A Well, why, you know. And I think, you know, in those situations, you just, it would be damaging, you're just breaking your body if you -

Q143 Yes. O.K. Is there anything else that you'd -?

A John buoys?

Q144 Yes.

A I've used them ever since they've been - - -

Q145 Can you just for the record explain what a John buoy is?

A The inflatable dam buoy.

Q146 Right, O.K.

A Since the day they've been on the market in Australia, I've used them which I think's about five or six years they've been on the market and in my racing record now, my number six I've lost.

Q147 Just fallen off the boat?

A Yep.

Q148 Yes,

A So I'm not going to use them.

Q149 Right, is that because of the way it's secured or -?

A It's mostly been in or knock-downs where they've just got washed off, yeah.

Q150 O.K. Yes.

A They have one design fault, well, you can open them up easily, and when you get them they always have the gas canister right at the top so the whole thing's sitting in its unit, top heavy.

Q151 Yes.

A So it's always going to

Q152 Yes.

A I actually have turned the whole thing around inside my compartment, but -

Q153 O.K. Anything else? Do you think there was a, do you think it would be a positive move to have a secondary radio station, channel available?

A I always assumed we did, yeah.

Q154 'Cause that, as you can appreciate, Lou Carter would have got fairly busy.

A Yes.

Q155 It would have been ideal to have, on the same radio vessel, to have another couple perhaps working on a separate channel?

A 2524 or, yes. I've always been, until recently, we've always deployed 2524 for night-time too and I don't know why that's changed. But it has changed recently.

Q156 O.K. O.K. Anything else?

A No, I can't think of anything.

Q157 O.K. Time by my watch now is 2.56pm, that's the end?

A Yeah, that's fine.

Q158 O.K. This interview is now concluded.

INTERVIEW CONCLUDED