

IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

Court Reference: COR 2009 / 0715

FINDING INTO DEATH WITH INQUEST

Form 37 Rule 60(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of: JOHN KABIRU NDIRANGU

Delivered On:	3 March 2015
Delivered At:	Coroners Court of Victoria 65 Kavanagh Street SOUTHBANK Vic 3006
Hearing Dates:	3 rd to 5 th November 2010
Findings of:	PETER WHITE, CORONER
Police Coronial Support Unit	Sergeant J Brumby

I, Peter White, Coroner having investigated the death of JOHN KABIRU NDIRANGU¹

AND having held an inquest in relation to this death between the 3rd and 5th November 2010,
at the Coroners Court MELBOURNE,

find that the identity of the deceased was JOHN KABIRU NDIRANGU

born on 16 June 1985

and the death occurred on 7 February 2009

at Frankston Beach, Frankston 3199

from:

1 (a) DROWNING.²

in the following circumstances:

Joseph Ndirangu³

1. On Saturday afternoon February 7 2009, John together with his brother Joseph Ndirangu, Joseph's wife Joyce Mutahi, and their two children visited the Frankston home of mutual friend Leonard Mburu, arriving at about 5.30 pm and this enlarged group then walked the short distance to Frankston beach, intending to enter the water and to cool down.⁴
2. On arrival, they deposited their personal belongings on the beach and entered the water with Joyce staying in the shallows with her children, while the three men waded out into deeper water. The beach was not patrolled, and did not have a flagged area by this time.⁵
3. On reaching a point where Joseph was in water that was chest deep, the group turned around and faced the beach. They stood there chatting for a while and as the waves rolled in they

¹ This inquest was conducted in tandem with my inquest into the death of BOBDEB NKONDOGORO, see Coroners Case 1019 of 2008. The comments and recommendation included below from page 5, were made in respect of both deaths.

² See exhibit 13 page 48.

³ Joseph migrated to Australia from his home in central Kenya in May 2005. His younger brother John Ndirangu, born 16 June 1985 had arrived from Central Kenya some two weeks before, travelling here on a student visa. He had earlier enrolled to undertake a course in Community Welfare, at the TAFE in Holmesglen.

Neither of the brothers had received instruction concerning how to swim in Kenya. Further, neither of brothers or their friend Leonard, were aware of beach conditions to be expected in Australia, or of the safety related concept, of requiring swimmers to swim only between the safety flags.

⁴ 5.30 pm was the time that the Ndirangu family arrived at the Mburu home, as suggested by witness Leonard Mburu. See exhibit 13 page 7.

⁵ See evidence of Craig Farmer set out below.

would jump up to keep their heads above water, falling back into the water and touching the bottom again as each wave passed.

4. The men were enjoying themselves until shortly later when a larger wave formed, and came in unexpectedly causing each to jump up as before, but then not to be able to touch the seabed, after it had passed.
5. Joseph saw John lose his footing in this way, and both men then tumbled under the water. This was the last time Joseph saw his brother. I note here that John, Joseph and Leonard Mburu could not swim and nor were they familiar with the swimming conditions at Frankston beach, which is a popular swimming destination situated within Port Phillip Bay.⁶
6. Joseph had seen people swim before and moved his arms and legs, trying to get to shore. He finally reached a point where he could stand, and at this moment, he began to shout for help.
7. In the mean time, Leonard Mburu had been dragged to the beach and was later seen receiving CPR.
8. Joseph looked around but could not see John anywhere. He shouted out that there was another male missing, but was not sure if anyone understood.
9. Soon after he told a bystander that his brother remained missing and that Leonard was not his brother, and that his brother was still, '*out there*'. He then went to his wife and children on the beach, and spoke to them about his concerns.
10. A few minutes after Leonard was brought out of the water, Joseph spoke with a second person, about John and this person ('a boy') and Joseph, swam out and tried unsuccessfully, to find him.⁷ This all occurred before the lifeguards came.⁸
11. Later Joseph saw lifesavers patrol on a jet ski, and in a motorised dinghy.

⁶ John's early life in Kenya, and his lack of a need to learn to swim, is discussed below at paragraphs 14-16.

⁷ Ambulance officers arrived and Leonard was transported to hospital. After a few days, he was released having made a full recovery.

⁸ In later testimony, Joseph stated that he had not been dealing with lifesavers, at this point in time and that the people he had spoken with, were bystanders.

This version of events was corroborated by the member then in charge at Frankston Life Saving, Craig Farmer, who later testified that he and his colleagues were not on lookout duty on the beach, after 5.30 pm and only became aware of the fact of a second missing swimmer, some time after their arrival at the creek mouth, (when Craig was informed of that matter by a bystander).

12. Some time afterwards Joseph saw police boats, an aeroplane and a helicopter, join in the search.
13. At a later point, Police officers approached Joseph and informed him that a body had been located about 600 meters away along the beach. Joseph and his family were escorted to a pier, where he and his wife identified John whose body had been placed in a blue body bag and brought to shore in a police boat.
14. Joseph further testified that he and his brother were from Githurai, which is about 350 km from Nairobi, Kenya. Joseph had lived in Australia for approximately five years while his younger brother, John aged 23 years, had only been in Australia for a period of two weeks.
15. His further evidence was that none of the group had ever learnt how to swim and that he and John were brought up in central Kenya, where there were no opportunities to learn to swim in either rivers, or in the sea.
16. In addition, none of their group had experience of Australian waters and no idea about what to expect of conditions at our beaches, or how to react to a change in those conditions.

Craig Farmer (Craig)

17. At 5.15 pm on Saturday 7 February 2009, Craig Farmer aged 17 years, was on duty at the Frankston Life Saving Club, where he had been a member since 1997. He testified that he and his colleagues were not on lookout duty on the beach, from 5.30 pm and only became aware of the fact of a second missing swimmer, some time after their arrival at the creek mouth, when he was informed of that matter by a bystander.
18. The weather conditions were hot and sunny at 33 degrees, with freshening wind from the North West, and seas to approximately 2 meters high. The wind changed from a freshening North Westerly to a strong South Westerly wind at approximately 5.15 pm. At this time, the Bureau of Meteorology measured the maximum wind strength at the time of the change as 72 km/h.
19. The water conditions were considered by Craig as being,

'very rough and the currents in the channels between the three sand bars (regularly present at Frankston beach), were quite heavy...

At approximately 5.45 pm a teenage male (Polynesian looking) ran up to a group of life savers, one of whom was me, standing in front of the club and said someone is

dying. He pointed towards the mouth of the Kananook Creek. I observed a crowd of people standing on the waters edge'.⁹

20. Craig was joined by club member Ryan Kniese, and responded by getting the clubs ATV and taking with them oxygen equipment, a rescue board and rescue tube, and a first aid kit, and driving along the beach towards the group of people at the creek's mouth, a distance of some 350 meters. The journey took approximately 90 seconds. A second lifesaver Steven Becker, also ran towards the group and another, Bernard McLean, radioed the Life Saving Victoria Communications Centre to inform them of the situation.¹⁰
21. On arrival, Craig was told by bystanders that another male (John) was also missing in the water. He then directed both of his life saving colleagues at the scene, to commence a search, for this person, which they did.
22. Craig concentrated on the condition and needs of the swimmer who had been brought to the beach, (Leonard Mburu). Later Craig and his colleagues joined the search for the still missing second swimmer, in the clubs inflatable dinghy.
23. During this period, more senior members from Life Saving Victoria, arrived to help co-ordinate the rescue.
24. The missing swimmer, John Ndirangu, was recovered by a Police vessel some 750 meters north of the Life Saving club at approximately 8.45 pm.
25. Craig further confirmed that Frankston lifesavers were not on duty from 5.30 pm. His additional testimony was that the 'no swimming' flags, had been removed and that swimmers were expected to look out for themselves and for each other, from this time. John Ndirangu is believed to have entered the water after 5.45 pm.¹¹

Comments

Pursuant to section 67(3) of the **Coroners Act 2008**, I make the following comment(s) connected with the deaths of both BODEB NKONDOGORO and. JOHN NDIRANGU

26. Both Bobdeb Nkondogoro and John Ndirangu were young African immigrants who had recently arrived in Australia, and were non-swimmers in their own countries, respectively

⁹ See exhibit 5 page 1.

¹⁰ Ibid page 2.

¹¹ See f/notes 4 and 8, above.

Tanzania and Kenya.¹² Additionally neither had learnt to swim or had any experience or knowledge of swimming conditions in this country.

27. Tragically, over the last ten years to December 2014, a total of 17 similar accidental drowning deaths have occurred in open waters in Victoria,- all in respect of recently arrived immigrants who had little or no swimming experience and no experience of our prevailing swimming conditions, and associated peril.¹³
28. I attach at attachment A, a list of these cases, which includes the two matters, which have been examined in this inquest.
29. From our consideration of all of these matters it is apparent that information about swimming, and the dangers involved for non-swimmers in swimming in open waters, is made available to persons newly arrived in this country. In this regard, I note that a booklet published on behalf of the Commonwealth Department of Immigration and Citizenship, to new immigrants called 'Beginning Life in Australia', first published in January 2009, provided basic information from that time about swimming, but that this was achieved principally by reference to the Swim Australia website.¹⁴
30. I further note that this particular publication deals extensively with a large number of issues, relevant to adjustment to life in Australia.¹⁵ Language and cultural difficulties aside, it is clear that there is an enormous amount of material for new arrivals, to take in.
31. Given the complexity of learning about such matters, I consider that the manner of the delivery of information about swimming in open water should be viewed as being at least as important as the content of the material itself.

¹² Bobdeb arrived in Australia with his family in March 2007, while John arrived only a few weeks before his death. There is no evidence to suggest that either received information concerning swimming conditions in Australia, or advice concerning learning to swim, after their arrival.

¹³ This number excludes those cases, which involved deliberate self-harm together with those matters where the deceased was over the age of 25 years. Further all of the deceased persons in question drowned in a natural water environment, with drowning arising from fishing or boating incidents, together with drowning in swimming pools and baths, all excluded. This information was provided to the Court from research undertaken at my request by the Coroners Prevention Unit.

¹⁴ See exhibit 11(d). There is no translation of the website.

¹⁵ At the time of inquest this publication was offered in a total of 38 languages. See exhibit 11(d), at page 2.

Additional assistance continues to be provided by the Federal Government Department of Immigration and Citizenship, through LSV. See paragraph 12 and also recommendation 1, below.

32. Of particular interest then in the context of helping prepare youngsters to take advantage of their new environment are those programmes, which are practically designed to offer swimming lessons to new arrivals, especially to youthful new arrivals.
33. Following on from this perspective the Court has endeavoured to examine several previously developed ideas, concerning the actual delivery of learn to swim opportunities, which approaches are currently or until recently were, in operation.
34. Lifesaving Victoria (LSV) has recognised the importance of this delivery aspect and has various projects underway, aimed at improving communication with people from Culturally and Linguistically Diverse Communities, (CALD).¹⁶
35. LSV has previously obtained funding from the Federal Government Department of Immigration and Citizenship for the 'Water Connections Project'. This project was aimed at CALD communities within the City of Hume, in the western suburbs of Melbourne, and offered important water safe information. The project enabled participants to learn about their local pools and provided them with aquatic industry training. Over 6000 CALD community members have participated in this project and LSV is hoping to receive approval to continue and extend this Federal Government supported initiative.
36. Further Vic Health funded the 'Learning for Life' project that provided some 70 children, aged 4-15 years with the opportunity to learn how to swim in Hoppers Crossing, also part of the western suburbs of Melbourne.¹⁷
37. The Department of Justice in the State of Victoria, also funded the 'On the same wave' project, which aimed to support lifesaving clubs with the resources and connections to CALD communities, to run culturally inclusive programmes. The project was adopted by Edithvale, Altona and Sandridge Life Saving Clubs and over 5000 CALD community have members participated.¹⁸
38. Learn to Swim Victoria also offers a broad based approach to learning to swim, to the community as a whole.

¹⁶ See footnote 18.

¹⁷ This project continued until 2011.

¹⁸ This project also continued until 2011.

39. Additionally Spirit West Services, the community arm of the Western Bulldogs AFL football club, until recently, provided a number of water safety programmes in the western suburbs.¹⁹ The primary aim of the project was to increase water safety and awareness amongst refugees, and immigrants. In providing this service Spirit West worked in partnership with aquatic bodies including LSV, Learn to Swim Victoria, and Aquatics and Recreation Victoria,- this to deliver its programme, which included open water learning lessons at the beach, pool based and 'dry' activity information sessions.
40. Life Saving Victoria's most recent annual report details further work undertaken in Victoria, with Melbourne's African Community over the 2013 and 2014 12-month period. This group, while not necessarily all recent arrivals to Australia, evidently benefited from the programme and its focus on the needs of adults and young adults who have arrived in this country, without having had the learn to swim opportunities of those who have been brought up here.²⁰
41. It is self-evident that learning to swim cannot be achieved over night, and that instruction requires effort by properly qualified personnel, as well as the commitment of time and energy, and usually financial contribution by participants and their families. It is also apparent from reports concerning the above programmes, that there has been difficulty in securing on

¹⁹ Spirit West Services no longer directly deliver swimming programmes, to immigrants and refugees, who have settled locally, but rather in partnership with the Hobson's Bay Council, LSV and Aquatics Victoria,- support these groups with their own previously existing programmes.

²⁰ See 2013-14 Report at page 9.

'A breakthrough community project in 2013/14 saw over 1000 members of Melbourne's African community engaged in water safety programs throughout the year. The multifaceted program, delivered across Melbourne's West, South East and Inner City, included beach activity days delivered at lifesaving clubs, training courses in pool lifeguarding, opportunities to participate in learn-to-swim lessons and the "Kingston Beach Safety Day" involving a range of local emergency services, hosted by Carrum Surf Life Saving Club.

In addition to delivering valuable lifesaving and water safety skills to this target group, the project fostered new relationships between African participants and lifesaving clubs, aquatic facilities and emergency services. It also provided foundation-swimming skills for participants to move into lifesaving activities; provided skills for participants to gain employment in the aquatic industry; and developed aquatic role models and positive community stories.

Empowering Multicultural Lifeguards

With almost half of Victoria's population comprising of people who were either born overseas themselves, or who have at least one parent who was born overseas, providing water safety for Culturally and Linguistically Diverse (CALD) communities is vital.

With numerous barriers to participation in water safety and aquatics, the information gap for these communities is large. A recent initiative between YMCA Victoria and Life Saving Victoria has opened the door for CALD graduates of LSV's training programs to work as pool lifeguards and swimming teachers at a number of YMCA's Melbourne aquatic and recreation centres. After completing their pool lifeguard training through LSV's multicultural pathways program, eight graduates from within the African, Afghan and Burmese communities have been the first to take up this employment opportunity. Enabling these young people to undertake pool lifeguard and learn-to-swim teacher training is important not only for their own employment development, but for sharing vital water safety messages with CALD communities. As role models, these latest Aquatic industry employees can inspire others in their community.'

going commitment to learning to swim programmes from individual participants as well as their families and care providers. Additionally, there are both language and cultural differences, which can emerge and in some instances attendance commitment has waned because of existing commitments to (competing) school, family, sporting and work related demands.²¹

42. Financial issues for participants have also made certain programmes difficult to sustain.
43. The most important lesson so far learnt appears to be that learn to swim programmes need to be targeted and specific to migrant / refugee communities. These communities often rely on word of mouth and direct marketing.
44. As one witness commented, you can't hope to have success with a, 'we will build it they will come approach.' Rather the building of networks and on going contact, with a community member or members, is much more likely to lead to group commitment.
45. To be specific, having liaison with various new arrivals directed through existing community based settlement agencies, appears to have resulted in the greatest success, (reference both recruitment and ongoing participant commitment). Further, such settlement agencies may also be expected to have experience in dealing with the several aquatic agencies operating in the field.²²
46. It is also the case that while newly arrived parents may see advantages for their children in learning to swim, parents themselves are much more reluctant to participate.
47. Young adults have also often shown reluctance to commit, or once involved have sometimes withdrawn, perhaps not understanding the need for self-motivation, and a commitment to the practice needed to learn to swim. This of course is frustrating for programme providers and wasteful of their always limited financial resources.
48. Finally, it is clear that Life Saving Victoria has emerged as a leader in the delivery of successful instruction in this area, through its multicultural beach programmes. These programmes directly confront the most difficult of swimming conditions while offering the additional benefit of creating a mechanism for recruitment of interested persons, into

²¹ Seemingly small issues like online registrations and paying by credit card, can create significant barriers for communities who are new to the country.

²² Support agencies are both mainstream supporting all new arrivals, or ethno specific. The involvement of these agencies who endeavour to provide support to new arrivals across all aspects of settlement in Victoria, is seen as a vital link between learning to swim and the aquatic agencies, which themselves are best placed to provide that instruction.

lifesaving clubs around the state. Beach swimming is also seen as attractive to new arrivals, and as a cheaper alternative, which is likely to create a more convivial atmosphere than the local swimming pool, for family outings and for spending time with new friends and neighbours.

49. Success has also been seen, when schooling in swimming is tied to a larger objective, such as learning English at a language school, or perhaps even as a class option for new arrivals (in place of other physical exercise options), offered at both primary and secondary school levels. The extension of these possibilities is also deserving of consideration.

Recommendation

Pursuant to section 72(2) of the **Coroners Act 2008**, I make the following recommendation(s) connected with the death:

- 1) That the Department of Sports and Recreation in the State of Victoria, in partnership with the Federal Government Department of Immigration and Citizenship, - seeks to examine how members of recently arrived immigrant communities to Victoria, might best be taught how to swim in open water, and continue to provide support for that objective.

...

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

The Family of Bobdeb Nkondogoro

The Family of John Ndirangu

The Secretary of the Department of Immigration and Citizenship, in the Commonwealth of Australia

The Secretary of the Department for Sports and Recreation, in the State of Victoria

The Secretary of the Department of Justice and Regulation, in the State of Victoria, (paragraph 37 refers)

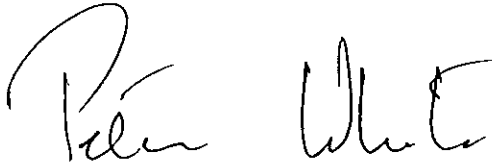
The Chief Executive of Lifesaving Victoria, Attention: Bernadette Mathews

The Chief Executive of the Western Bulldogs Football Club, Attention: Kiemi Lai, (paragraph 39 refers)

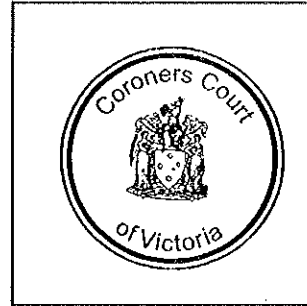
The Chief Executive of the Australian Football League, (paragraph 39 refers).

The Manager, Coroners Court Prevention Unit, Attention: Jeremy Dwyer and Joe Vitale

Signature:



PETER WHITE
CORONER
Date: 3 March 2015



Attachment A

Drowning of young people recently arrived to Australia 01/01/2000 – 31/12/2014

LCN	Country of Origin	Location of Death	Sex	Swimming/ Sightseeing*	Body of water
20044545	Pakistan	Halls Gap	F	Sightseeing	River
20050222	Ethiopia	Maribyrnong	M	Not known	River
20064059	Afghanistan / Pakistan	Wahring	M	Swimming	River
20064686	Afghanistan	Frankston	F	Swimming	Sea
20075022	India	Anglesea	M	Swimming	Surf
20075023	India	Anglesea	F	Swimming	Surf
20081019	Africa Tanzania	Dandenong	M	Swimming	Creek
20081386	Pakistan	Cape Woolamai	M	Sightseeing	Sea
20081504	Pakistan	Cowes	M	Sightseeing	Sea
20083696	India	Hawthorn	M	Sightseeing	Creek
20090224	Asia (country not known)	Edithvale	M	Swimming	Sea
20090715	Africa Kenya	Frankston	M	Swimming	Sea
20104490	Africa Sudan	Moe	M	Swimming	Lake
20104545	Not Known	Doncaster	M	Swimming	Pool
20113016	South Korea	Southbank	M	Swimming	River
20140308	South Korea	Blairgowrie	M	Swimming	Sea
20146456	China	Venus Bay	M	Swimming	Surf

* Sightseeing refers to activities being conducted adjacent to natural water environments