



IN THE CORONERS COURT
OF VICTORIA
AT MELBOURNE

COR 2024 002678

FINDING INTO DEATH FOLLOWING INQUEST

Form 37 Rule 63(1)

Section 67 of the Coroners Act 2008

Inquest into the Death of Thanh An Nguyen

Delivered On: 22 October 2024

Delivered At: Melbourne

Hearing Dates: 24 October 2024

Findings of: Coroner Leveasque Peterson

Counsel Assisting the Coroner Courtney Davies, Counsel Assisting

Missing person, Gunnamatta beach, drowning

I, Coroner Leveasque Peterson, having investigated the death of Thanh Nguyen, and having held an inquest in relation to this death on 24 October 2024 at Melbourne

find that the identity of the deceased was Thanh Nguyen born on 4 December 1983

and the death occurred on 4 November 2023

at Gunnamatta Beach, Fingal, Victoria

from:

Lost at sea, presumed drowned

I find, under section 67(1) (c) of the *Coroners Act 2008* ('the Act') that the death occurred in the following circumstances:

INTRODUCTION

1. On Saturday 4 November 2023, Thanh An Nguyen (**Thanh**) was swept out to sea after being hit by a wave as he was standing on rocks on Gunnamatta Beach, Fingal. His body has never been found.
2. Thanh lived in Derrimut with his wife, Thi Kim Khanh Nguyen (**Khanh**) and he leaves behind two children.
3. Khanh remembers Thanh as a loving partner who shared a happy life with her and his family.

THE CORONIAL INVESTIGATION

4. On 14 May 2024, Thanh's suspected death was reported to the Court 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 an accident or injury.
5. 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.

6. Under the Act, coroners also have the important function of helping to prevent deaths and promoting public health and safety and the administration of justice through the making of comments or recommendations in appropriate cases about any matter connected to the death under investigation.
7. Victoria Police assigned an officer to be the Coroner's Investigator for the investigation of Thanh's suspected death. The Coroner's Investigator conducted enquiries on my behalf, including taking statements from eyewitnesses. Based on the witness accounts now before me I am comfortably satisfied I have sufficient evidence to make my findings. Of course, if further evidence is obtained, application can be made to re-open the case.
8. This finding draws on the totality of the current investigative efforts undertaken into the death of Thanh Nguyen. In the coronial jurisdiction, facts must be established on the balance of probabilities.

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

Identity of the deceased

9. The evidence supports the conclusion that Thanh An Nguyen, born 4 December 1983, was the person who entered the water at Gunnamatta beach, Fingal on 4 November 2023.
10. Identity is not in dispute and requires no further investigation.

Circumstances in which the death occurred

11. On the afternoon of 4 November 2023, Thanh left the family home and went out for dinner with his friends, Victor and Lily. After dinner Khanh called Thanh who told her he intended to head over to Gunnamatta Beach with Victor's family to do some crabbing. This was something Thanh had done several times with Victor.
12. Khanh explained that in previous outings Thanh was often not home until the early hours of the morning. He would return home and sleep, and the next day the family would have a big feast.

13. Khanh called Thanh again at 9.00pm to see how he was going, however Thanh did not answer her call. Khanh tried several more times to contact Thanh with no success. Khanh became worried about Thanh as he always took her calls.
14. Khanh heard nothing further from Thanh that evening. At approximately 1.30 am the next morning police attended at her house in Derrimut and told her that Thanh was missing.
15. Khanh told police Thanh had never learned to swim.
16. Witness Kim Huynh told police that she first met Thanh three weeks earlier through her friend Victor, and she was with Thanh and a number of other people on 4 November 2023 at Gunnamatta Beach.
17. Kim told police the group waited for last light and then set up down on the rocks, spread out down the shore.
18. After searching for crabs for approximately an hour, Kim's father ran up to her and Kim could hear others in the group yelling out.
19. Kim realised that some members of the group had seen Thanh fall into the water. Kim immediately called '000' and following police instructions she attended at the area where Thanh had fallen into the sea, however following police advice she stayed well clear of the water.
20. Witness Moi Van Nguyn was also on the beach that evening. Moi stated that he found a place on the rocks to search for crabs nearby Thanh. After nearly half an hour of crabbing Moi told police he heard Thanh yell "save me" in Vietnamese and call out Moi's name. Moi turned and saw Thanh approximately 15 metres away in the water. Moi stayed within sight of Thanh but he could not jump in to save him. Moi remained there and noticed Thanh's headlamp had come off Thanh's head and drifted away from Thanh. Moi explained that Thanh could not swim however he was floating for a short period, after which he began to drift further away from the shore and his original position. Moi then lost sight of Thanh as he sank beneath the water. One member of the group then arrived with a flotation device however Thanh could not be seen.

21. Thanh's friends continued to look for him in that water whilst awaiting the arrival of emergency services.
22. At the time of his entry into the water Thanh was wearing green fishing waders, a green jacket and an orange cross body fishing bag.
23. Police responded to the 000 call and commenced a search of the area. Victoria Police air wing and water resources together with members from the SES continued to search the area.
24. The search efforts were concentrated on the shoreline between Cape Schank North to Gunnamatta Beach, with a secondary effort conducting a search with a 4 km radius from the original entry point.
25. The search locations were established based on a consideration of the weather, wind and tidal conditions in the area.
26. Despite the diligent search for Thanh he was not located.
27. Victoria Police compiled a death report and I subsequently took carriage of the investigation.

Medical cause of death

28. Following Thanh's disappearance, his body was not recovered, and as such, a post mortem examination was not possible.
29. Notwithstanding the absence of a post mortem examination, having reviewed all of the available evidence on the court file I am satisfied that an appropriate medical cause of death is *lost at sea presumed drowned*.

COMMENTS

30. The circumstances of Thanh's death underscore the importance of water safety in and around our beaches and waterways. Although the group was clearly safety conscious and carried a flotation device, the conditions at sea, and the lack of available light meant that it could not be deployed in time to provide assistance to Thanh.

31. As we head into another Australian summer Thanh's tragic death highlights the risks to Victorians visiting our beaches and waterways, even in circumstances where swimming is not a contemplated activity.

FINDINGS AND CONCLUSIONS

32. On the balance of probabilities, I find that Thanh Nguyen died on or about 4 November 2023 after he attended at Gunnamatta Beach, with friends, and he was swept out to sea after falling from the rocks . It is likely that Thanh drowned sometime after entering the water.

33. This conclusion is corroborated by the witness accounts provided through the Coroners Investigator. It is also consistent with the lack of evidence that Thanh is alive in that there is no evidence of contact with his family, or access of any of bank accounts since the day he was swept into the sea.

34. The absence of Thanh's body is consistent with the hypothesis that he drowned after being swept out to sea.

35. I find there are no suspicious circumstances associated with this death.

36. Pursuant to section 67(1) of the Act I make the following findings;

- a. The identity of the deceased was Thanh Nguyen, born 4 December 1983;
- b. The death occurred on or about 4 November 2023 at Gunnamatta Beach, Fingal in Victoria; and
- c. The death occurred in the circumstances described above.

37. Having considered the evidence I am satisfied that his death was due to misadventure and the unintended consequence of being swept out to sea.

I order that this finding not be published on the Internet.

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

Thi Kim Khan Nguyen, Senior Next of Kin
Senior Constable Kip Mulvogue, Coroner's Investigator

Signature:



Coroner Leveasque Peterson

Date: 24 October 2024



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 inquest. 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.
