



Coroner's Court of Western Australia

RECORD OF INVESTIGATION INTO DEATH

Ref: 69/19

*I, Evelyn Felicia VICKER, Coroner, having investigated the disappearance of **Tojo WANDARAGAH (also known as Tojo WANDEJAR, Ralph NAGOMARA)** with an inquest held at the **Coroner's Court, Court 83, Central Law Courts, 501 Hay Street, Perth, on 19 November 2019** find the death of **Tojo WANDARAGAH (also known as Tojo WANDEJAR, Ralph NAGOMARA)** has been established beyond all reasonable doubt, and the identity of the deceased person was **Tojo WANDARAGAH (also known as Tojo WANDEJAR, Ralph NAGOMARA)** and that death occurred between **27 March and 30 April 1991** somewhere between Pandanus Park Community and Derby in the following circumstances:*

Counsel Appearing:

Senior Constable Craig Robertson assisting the Coroner.

TABLE OF CONTENTS

INTRODUCTION	2
Long Term Missing Persons Project (LTMP)	2
THE DECEASED	4
DISAPPEARANCE	5
INVESTIGATION	6
HAS DEATH BEEN ESTABLISHED?	8
MANNER AND CAUSE	9
CONCLUSION	9

INTRODUCTION

Tojo WANDARAGAH (also known as Tojo WANDEJAR, Ralph NAGOMARA) (Mr Wandaragah) was first reported missing on 27 March 1991 by the residents of Pandanus Park Community. There was an alleged sighting of him on 28 March 1991 in Derby. This caused the police to cease making enquiries until, on 2 April 1991, Mr Wandaragah was again reported missing by his brother, Jerry Toby (Mr Toby). Extensive land searches by the police and State Emergency Services (SES) failed to confirm any sighting or find any trace of Mr Wandaragah.

The inquest into the disappearance of Mr Wandaragah was held in Perth. The documentary evidence comprised the brief of evidence Exhibit 1, Tabs 1-12 and the Public Notice of Inquest dated 11 October 2019 as Exhibit 2. Oral evidence was heard from Senior Constable Peter Smith who compiled a report from the available evidence through Missing Persons Unit (MPU).

Long Term Missing Persons Project (LTMP)

In 2017 it was confirmed there were a considerable number of files relating to the long term disappearance of people who had been in Western Australia at the time of their reported disappearance. Some of the disappearances occurred at a time when there was limited or no jurisdiction for a coroner to examine the circumstances of a suspected death.

Section 23(1) of the *Coroners Act 1996 WA* (the Act) allows the State Coroner to direct an investigation into a suspected death in certain circumstances without a body, for the purposes of allowing a coroner, under s 23(2), to establish beyond all reasonable doubt that death has occurred. The investigation must be done by way of inquest and will attempt to clarify how the death occurred and the cause of the death. This effectively brings the suspected death into the ambit of s 25 of the Act and allows registration of the death under the *Births, Deaths and Marriages Registration Act 1998*.

The reported number of LTMP made it unrealistic for the Office of the State Coroner (OSC) to absorb those matters into the already long outstanding inquest list in a timely manner. A plan was proposed for a project to clear the backlog of LTMP files once it had been determined the matters fitted the circumstances set out in s 23(1) of the Act. That is, the State Coroner or delegate had reasonable cause to suspect the person had died and the death was a reportable death (s 3 of the Act).

In 2018 approval was given for a coroner to work exclusively on the LTMP cases, on a part-time basis for twelve months, as a separate listing from the OSC general inquest list. This followed a pilot project of four inquests conducted in 2018.

In 2019 a coroner was appointed for that project with the support of an in-house Coronial Investigation Squad (CIS) police officer as Counsel Assisting (CA).

Work on the files indicated a number of disappearances related to specific areas for Western Australia, such as the Kimberley around Kununurra or Broome, and Albany. For these matters it was decided that, while there is always a preference for inquests to be held in the communities to which they relate, especially for indigenous communities where there is an emphasis on oral history, resources would not be effectively utilised for all matters to be heard in the place of disappearance. Instead matters where the disappearance occurred outside the Perth metropolitan area were considered from the perspective of the best availability for relevant witnesses. Where there were no witnesses available in the relevant area of disappearance the matter would be heard in Perth for the purposes of hearing the relevant evidence and then finalised once any additional investigations deemed appropriate had occurred.

In the case of Mr Wandaragah there was an absence of any available information or witnesses still alive who could assist with further investigation, although finalisation was delayed pending enquiries concerning unidentified skeletal remains in the Derby region. Unfortunately there was no further information forthcoming with respect to Mr Wandaragah during the term of LTMP project.

The anticipated outcome of the LTMP project was that by June 2020 the majority of LTMP matters would be resolved and that future missing persons files would be dealt with in the normal course of the OSC usual business.

THE DECEASED

There are a number of recorded dates of birth attached to the various known names for Mr Wandaragah. The most likely and reliable information comes from Mr Wandaragah's 'brother', Mr Toby, who is now unfortunately deceased. In the Missing Person Report (MPR) he gave his brother's name as Tojo Wandaragah, born on 1 January 1938.¹

There is no date of birth recorded for Tojo Wandija. Both 1 January 1924 and 1 July 1935 appear for Tojo Wanderja, while for Tojo Wandaragah there is no other recorded date of birth. Accepting his date of birth as 1 January 1938 Mr Wandaragah would have been 53 years of age at the time of his disappearance. His next of kin is listed as Jerry Toby, either his brother or brother-in-law, resident in Broome, and whilst he had a reported nephew, Matthew Charles (Mr Charles), who would appear to be still alive, OSC has been unable to trace Mr Charles through extended family.

It appears Mr Wandaragah did not have a wife or any known children, and was described at the time of his disappearance as being a full blood aboriginal male of a large build, approximately 167cm tall with brown eyes, grey hair and a grey beard with a protruding bottom lip.

Interrogation of the available medical files indicated Mr Wandaragah had a screw across the acromio – clavicular joint of his left shoulder in 1974 and there was evidence of that screw still in place after an X-Ray taken in 1976. He was treated in 1977 at Derby Regional Hospital for spondylosis of the cervical and lumbar spine, and in 1981 he was reported to have the upper part of his right ear bitten off by a dog while intoxicated. In 1989 his left index finger was amputated.²

¹ Exhibit 1, tab 3

² Exhibit 1, tab 8

There is almost no further information about Mr Wandaragah other than the fact he had been staying in bushland at Pandanus Park Community, an aboriginal community approximately 56 kms south of Derby.

DISAPPEARANCE

Mr Wandaragah's disappearance on 27 March 1991 was reported by Lucy Marshall, (Ms Marshall) Clarendon Street, Derby. Ms Marshall is now deceased. She advised police she had received a telephone call from Pandanus Park stating that Mr Wandaragah was missing. He was described on 27 March 1991 as "*one of the old people from Pandanus Park*" who had wandered away from the camp early in the morning and not returned. He was reported to have been intoxicated and while people had tried to track him they had been unsuccessful. Enquiries with William Taylor (Mr Taylor), now deceased, indicated no-one had seen Mr Wandaragah leave the camp, it was just that he was missing and no-one could find him.³

Following police enquiries with Mr Taylor it was decided to leave reporting the matter until 28 March 1991. Mr Taylor was contacted by police on the morning of 28 March 1991 and stated that Mr Wandaragah was still missing, but the tracks they had attempted to follow indicated he had wandered off into the bush. Mr Taylor, a councillor at Panandus Park, had contacted Looma and other surrounding communities in an attempt to find Mr Wandaragah.⁴

Local police officers patrolled Derby and questioned local residents as to whether Mr Wandaragah had come into town. The SES coordinator, Cecillie Jarvis (Ms Jarvis) was contacted and advised to be on standby as it may be necessary to implement a land search.

Enquiries were conducted at Wunjum Community, Fitzroy Crossing, Broome, Derby and Panandus Park. Mr Taylor advised that Mr Wandaragah's tracks were located leading away from Panandus Park and indicated he walked towards the highway, but had not conclusively reached the highway. There was confused

³ Exhibit 1, tab 4

⁴ Exhibit 1, tab 4

information he may have been picked up by a white Toyota. Later enquiries indicated this was probably when Mr Wandaragah was dropped back at Panandus Park Community after being into town at an earlier time.

Further enquiries with the family of Mr Wandaragah located Mr Charles in Derby who stated he had seen Mr Wandaragah early on the morning of 28 March 1991 when Mr Charles was released from the Derby lock-up. Mr Charles stated he was sober at the time and was sure he had seen his uncle, Mr Wandaragah, near Pantum Street near the Pensioners Quarters in Derby. This was supported by another unknown person.

CA obtained the Occurrence Books for Derby Police Station in that time and could locate no record of Mr Charles or Mr Wandaragah having been released from the lock-up on the morning of 28 March 1991 or any of the preceeding days.⁵ This raised the prospect that Mr Charles, although a credible witness, was not reliable as to time and place. However, as a result of his information the SES did not commit itself to a search on 28 March 1991.

INVESTIGATION

Police attempted to contact Pandanus Park Community on 29 March 1991 to discover whether there was any more information about Mr Wandaragah because their enquiries with local family members and communities had not located him. They re-activated a search due to continued concern by elders at Pandanus Park for Mr Wandaragah's safety. They believed Mr Wandaragah had wandered into the bush and died.

Ms Jarvis was contacted and a search commenced from the point where Mr Wandaragah's tracks had last been seen. Police were deployed to assist with the search. The search was discontinued following reports of Mr Wandaragah being collected by a vehicle on the highway.

⁵ t. 19.11.19, p10

On 2 April 1991 Mr Wandaragah was officially reported missing to police by Mr Toby who was concerned Mr Wandaragah was still missing. He would have expected Mr Wandaragah to have been located or other information received.

The SES was re-activated with the police and aboriginal trackers leaving Derby for Pandanus Park Community. The trackers determined the “fresh tracks” were actually 7 days old, but the search was intensified in the area on either side of Willare Bridge.

Police attended One Mile Community where Mr Wandaragah had been reported, but was not present. The land search continued and enquiries were made, but no trace of Mr Wandaragah was found nor was any further information provided.

There was still confusion as to whether Mr Wandaragah had been taken away from the area by vehicle.⁶ No statements or contemporaneous notes were taken from any of the persons spoken to with respect to Mr Wandaragah’s whereabouts but no record of him ever being located or seen again was made.

Enquiries of Centrelink in July 1999 reported that Mr Wandaragah was still receiving social security payments up until 1995 at an address in Broome. Enquiries made of that address and of the Broome Hospital are just reported as, “proved negative”.⁷ The implication being that some other person was receiving payments in that name although it was not specified.

More recent enquiries with Centrelink by CA referring to the discrepancy in 1991 to 1995 were unsuccessful in that Centrelink advised there were no records at all for anyone of Mr Wandaragah’s name, or any of his other known names.⁸

No further information has been forthcoming from any family who know anything about the disappearance of Mr Wandaragah and Mr Toby is now deceased. He had not provided any information indicating his brother had been located before his own death.

⁶ Exhibit 1, tab 2

⁷ Exhibit 1, tab 2

⁸ t. 19.11.19, p12

HAS DEATH BEEN ESTABLISHED?

While the available evidence indicated Mr Wandaragah went missing from Pandanus Park in an intoxicated state by wandering into the bush and had never been seen again, despite a reported sighting in Derby the following day, there is a lack of any information about him as a person. This makes trying to determine what happened to him very difficult.

I am satisfied, however, that those at Panadanus Park Community were concerned enough to ask Ms Marshall to contact the police for assistance with his disappearance. This would indicate those who knew him best had a real concern as to his whereabouts and some reason for that concern. The fact that, despite searches and enquiries in the local community, he was not located, and his disappearance was again reported to the police on 2 April 1991 by a close family member persuade me Mr Wandaragah is indeed deceased and probably deceased sometime between the end of March and beginning of April 1991.

The information about Mr Wandaragah being picked up, or dropped off, by a white ute in the timeframe around the 27 to 29 March 1991 is quite confused. I believe it to be unreliable. It was probably how Mr Wandaragah returned to Panandanus Park Community prior to his disappeaance on or about 27 March 1991 as reported by other people at the camp. Local knowledge would have confirmed his whereabouts had he travelled to another location.

Mr Wandaragah had extended family and it would be extremely unusual for there to be no knowledge of him being located, if he had been found. Mr Wandaragah would be 81 years of age were he still alive in 2019, and there would be information available if he had survived for any period following his disappearance. The fact his Centrelink payments were still being collected into 1995, although not now confirmed by Centrelink, do not cause me to believe Mr Wandaragah was still alive at that point.

I am satisfied beyond all reasonable doubt as to the death of Mr Wandaragah.

MANNER AND CAUSE

I am unable to determine either a manner or cause of death for Mr Wandaragah. The most likely explanation for his disappearance is that he wandered into the bush around Panadanus Park Community in an intoxicated state, became disorientated, unwell, collapsed and died.

It is impossible to determine whether it was an accidental death as a result of some misadventure or it was a naturally occurring event.

An enquiry has been made with respect to some of the unidentified skeletal remains from that area which so far remain unidentified.

Further than being satisfied that Mr Wandaragah is now deceased and was deceased in the time from around 27 March 1981, I am unable to determine a manner or cause of death.

I make an Open Finding into the death of Mr Wandaragah.

CONCLUSION

I am satisfied Mr Wandaragah was mainly resident at the Panadanus Park Community where he was known, however, he seems to have been fairly mobile, visiting neighbouring communities and Derby from time to time. This made following his exact movements difficult, but noteworthy in that there were reports of him moving around when he was present. The fact there is no record of his location post his disappearance supports his demise.

The fact there are no reports at all following 1 April 1991 satisfy me beyond all reasonable doubt he was deceased in that timeframe, despite there being no other information. None of the people concerned with him being missing at that time later reported they had heard anything about his whereabouts and nothing further was reported before their deaths. This indicated he was fairly active prior to about 1 April 1991 and thereafter was not. This was out of character. Mr Toby was

obviously concerned as to his welfare and it is a shame his family were left without explanation as to his whereabouts.

E F Vicker

Coroner

April 2020