

CITATION: *Inquest into the Skeletal Remains found at Nourlangie Rock*
[2007] NTMC 012

TITLE OF COURT: Coroner's Court

JURISDICTION: Coronial

FILE NO(s): D0133/2005

DELIVERED ON: 26 February 2007

DELIVERED AT: Darwin

HEARING DATE(s): 23 October 2006 at Jabiru
24 October 2006 at Oenpelli
27 October 2006, 19 December 2006,
6 February 2007 at Darwin

FINDING OF: Ms Helen Roberts, Deputy Coroner

CATCHWORDS:

Skeletal Remains – traditional
Aboriginal burial – identification of
remains – open finding

REPRESENTATION:

Counsel:

Assisting: Mr Nikolai Christrup

Judgment category classification: B

Judgment ID number: [2007] NTMC 012

Number of paragraphs: 35

Number of pages: 13

IN THE CORONERS COURT
AT DARWIN IN THE NORTHERN
TERRITORY OF AUSTRALIA

No. D0133/2005

In the matter of an Inquest into the death of

**SKELETAL REMAINS AT
FOUND ON 20 JULY 2005
AT NOURLANGIE ROCK, KAKADU**

FINDINGS

26 February 2007

Ms Helen Roberts, Deputy Coroner:

Introduction

1. On 20 July 2005 some bushwalkers camping in Kakadu National Park, outside designated camping areas, located some human remains in the Nourlangie Rock area. The remains were bones from a single human, including a skull, and were found with a decomposed suitcase, an identification badge, a watch, and some other items. The bushwalkers advised rangers, who advised the police, and an investigation ensued. The identification badge bore the logo QML (Queensland Mines Limited), an issue date of 22 May 1980, and the name and photograph of Mr Georgie Gamarrawu. For reasons which will appear later in these findings, I do not believe that the remains are those of Mr Gamarrawu.

The location of the remains

2. The area of rock in which the remains were found is about 60-100 metres off the Nourlangie Rock Road approximately opposite the Little Nourlangie Rock turn-off. Exhibit 3 includes a map of the area with the location of the find marked on it. Exhibit 5 is a larger map of the Nourlangie District, which is between Jabiru and Cooida in the Kakadu National Park.

3. The rock ledge on which the suitcase and remains were located was about 3 metres above the ground, below a low rock overhang, in a crevice about 50-80cm in height. The location of the remains was definitely not visible to a casual observer. The camper who found the remains was looking for rock art. His attention was drawn to the site partly because he noticed some faded men's trousers lying on bare rock nearby. The observations of the ranger, Mr Lindner, were that 'the case appeared to be deliberately placed in the most secure part of the crevice that offered the most protection from elements'. Having visited the site, I agree with this observation.

The coronial investigation

4. Acting Senior Sergeant Sandry, crime scene examiner, attended the scene, along with forensic pathologist Dr Paull Botterill, and Mr Ian McDonald, mortuary technician. A/S/Sgt Sandry saw a skull and some bones, on top of the remains of a suitcase, underneath an overhanging ledge which formed part of a rock escarpment. At that time, it was considered possible that the remains may be those of a "traditional Aboriginal burial", however, it was clear that the remains were relatively recent, given the modern items with which they were buried, and the obvious autopsy cut on the skull. Based upon the information available at the scene at the time, A/S/Sgt Sandry decided to remove the remains for further investigation.
5. The coronial jurisdiction is enlivened by s.14 of the *Coroners Act*, which provides that a Coroner shall investigate a death, which is or may be a reportable death. A death of a person whose identity is unknown, and whose body is located in the Northern Territory, is a death reportable to the Northern Territory Coroner. Furthermore, where the identity of the deceased is unknown, an inquest is mandatory, pursuant to s.15(1)(c) of the *Coroners Act*.
6. A post-mortem examination was carried out on the remains by Dr Paull Botterill. In his report dated 22 August 2005, Dr Botterill stated:

“In plain terms, autopsy findings included bone changes suggestive of an adult male of aboriginal ancestry with evidence of absence of lower teeth, a probably past broken nose and generally slender build. No cause of death had been identified at the time of the examination although previous post-mortem had been performed.”

7. Dr Botterill was able to estimate, based upon ridge patterns on pelvic bones, that the deceased was older than 25 years when he died. Further, the absence of indications of a traditional Aboriginal diet (involving the ingestion of silica/sand particles along with food) on the surfaces of the teeth that were present, suggested that the body of the deceased was less than 100 years old. The appearance of the bones indicated that the death was at least five years before the bones were found. He also confirmed that the cut on the skull was a characteristic cut performed during an autopsy examination.

George Gamarrawu

8. Initially, and understandably, it was assumed that the most likely identity of the remains was that of George Gamarrawu, the man pictured on the identity badge found in the suitcase. An inquiry with the Registrar of Births, Deaths and Marriages ultimately led to locating a coronial file with respect to Mr Gamarrawu, whose death had been reported to the Coroner on 12 March 1986. A post-mortem examination was carried out by Dr Ralph Arthur Tozer who produced a report dated 17 March 1986. It was noted that Gamarrawu had *complained of chest pain radiating into his arms whilst walking through difficult country*. He collapsed and died shortly afterward despite attempts at resuscitation at Oenpelli. The cause of death after examination was found to be coronary occlusion.
9. Dr Botterill was shown Dr Tozer’s report, and he commented:

“The findings were compared with the post mortem report relating to the identification (George Gamarrawa) found with these bones. Dr Tozer’s report included the comment that Mr Gamarrawa’s body “had his own teeth” which suggests that the present bones are not those of Mr Gamarrawa.”

10. Dr Botterill contrasted Dr Tozer's specific comment that Mr Gamarrawu had his own teeth, with the distinct absence of teeth he observed in the mandible (jaw) of the Nourlangie Rock remains. He explained that the teeth had been missing for some time prior to the man's death.
11. George Gamarrawu's country was Gumbalunya, which is also called Oenpelli. Aboriginal Community Police Officer Andy Garnarrdji was born in that area, and is now stationed at Oenpelli, and recalls George Gamarrawu passing away when he (Garnarrdji) was about 14 years old. ACPO Garnarrdji attended Gamarrawu's funeral and burial at Oenpelli. He explained that if bones were to be relocated as might occur in a traditional ceremony, it would be done formally with the authorisation of traditional owners. He would have become aware of it, if such a ceremony was conducted with respect to Mr Gamarrawu.
12. The inquest travelled to Oenpelli where George Gamarrawu's son, Adrian Gumurdjul lives. Mr Gumurdjul gave evidence about his father. He recognised the ID badge as depicting his father and belonging to his father; He said the watch was also similar to a watch owned by his father. He knew that his father worked from time to time in the employ of QML, cleaning up around the site at Narbalek. His father also spent time on his traditional country, and spent time at the Coinda hotel, at times in the company of Nipper Kaparigi and Paul Nawaroy. Mr Gumurdjul was present when his father died; he recalled his father having chest pains when returning from hunting on his traditional country and passing away. He arranged his father's funeral. Mr Gumurdjul took me to the unmarked burial plot in the backyard of his house in Oenpelli community and told me that he buried his father there in April 1986. He confirmed that his father's body has never been moved from that site.
13. The presence of the ID badge in the suitcase with the remains is somewhat curious. However, Mr Gamarrawu spent time at a number of different places. The badge could have ended up in the suitcase for any number of

reasons and its presence is certainly not conclusive. Given the evidence of Mr Gumurdjul and the opinion of Dr Botterill, along with the fact that Oenpelli was Mr Gamarrawu's traditional country, and the appropriate place for his burial, I am satisfied that the remains found at Nourlangie Rock are not those of George Gamarrawu.

A modern traditional burial

14. Mr Ian White, an anthropologist with the Northern Land Council (located at Jabiru), attended the scene on the day that A/S/Sgt Sandry seized the remains, at the request of Mr Capper of the Aboriginal Areas Protection Authority. Mr White's speciality is as a social anthropologist and he has significant experience over a long period of time in the Western Arnhem Land region.
15. At the scene he was able to observe the skeletal remains and other objects, although only after they had been moved from the rock crevice and were being examined by the police. At the time he made the (correct) assumption that he was viewing the skeletal remains of an Aboriginal person. His opinion is that what he saw displayed was "consistent with a conclusion of intended interment within the compass of traditional modern burial practices". In oral evidence Mr White further explained that the factors he took into account in forming this conclusion were: (i) the remains were in a secluded place, well protected from the elements; (ii) the remains were contained, albeit in a suitcase rather than paperbark which would be traditionally used; (iii) the remains were accompanied by personal belongings; and (iv) the area generally was a known burial area.
16. Mr White's evidence is that the country around the Nourlangie Rock Area is associated with the Mirrar, the Murrumburrah and the Warramal clan groups. There are no Warramal people now living. Mr White explained that traditional burial practices have been impacted on by modern burial practices as well as social upheaval within groups and families. A traditional burial in the area involved the body being exposed to the elements for a

certain period of time up on a platform; then the bones would be ochred, wrapped in paper bark and put into a site of interment, often inside a cave or similar area. Generally speaking these traditional burials now take place only for senior leaders. Nipper Kaparigi was one such leader; and another well-known leader from the Kakadu, “Big Bill” Neijie, also had a fully traditional ceremony.

17. Mr Garry Lindner is a crocodile management officer employed by Parks Australia at Kakadu National Park. He was the Acting Compliance Officer at the time the remains were discovered and reported to him. Mr Lindner conducted an extensive investigation of his own into the possible history of the Nourlangie Rock burial. He gave oral evidence at the inquest; and took myself and counsel-assisting to view the scene where the remains were found. His considerable knowledge of the Park and the Aboriginal people of the area has been of great assistance. Mr Lindner has been working in the Kakadu Park area since 1986. After the discovery of the remains, he contacted many Aboriginal people from the area, as well as non-Aboriginal people who had worked in the area, in a effort to find information about the identity of the deceased. In particular, he spoke with Lindsay Barnett and Grant Watt, both of whom gave relevant evidence at the inquest.
18. Mr Lindsay Barnett was a District Supervisor in the Kakadu National Park for about 10 years prior to his retirement in 1993, and had worked in the area since 1974. Mr Barnett came across Aboriginal burial sites from time to time when trapping animals, or looking for art sites. On two occasions he was involved in moving Aboriginal burials. The first time he was asked by an anthropologist on behalf of the traditional owners to move 3 or 4 skulls from the Blue Paintings area as they were exposed to a nearby tourist track. Again, on 7 July 1993 he moved remains upon the request of a senior traditional owner (now deceased). He was asked to relocate a suitcase burial to a safer place within the same rocky outcrop. Again, the increase in tourists and facilities (particularly the construction of the main Nourlangie

Rock access road) had exposed the previously hidden burial site. Mr Barnett made notes in his diary on the day he moved the suitcase burial.

19. He found the burial site easily in the rocky outcrop about 300 metres from the turnoff to the Little Nourlangie Rock. He found a suitcase of compressed cardboard, a light brown colour with a couple of latches, in good condition. In his opinion, it looked like it had not been through a wet season. Its location was such that it was partially exposed to the elements. He opened the suitcase to look inside, just to confirm it was a burial. He remembers a skull, some clothing and some paperwork. Mr Barnett was not able to positively identify Exhibit 2 (the suitcase and other items) as the suitcase and other items he had moved, given the lapse of time, and absence of any particular distinctive markings. However, he said they certainly could have been the same. He described the location in which he had placed the suitcase and upon looking at the photographs taken at the location where the subject remains were found, was satisfied they were probably the same place. At the time, in 1993, he was not told the identity of the deceased in the suitcase, nor would he have expected to have been told. Mr Barnett was aware of one other suitcase burial, in the area of little Nourlangie Rock; in a designated burial area between the entrance gate and the Blue Paintings. That suitcase was “very similar” to the one he moved and it contained bones and a skull. He was a very precise and careful witness and his evidence was of great assistance.

Paul Nawaroy

20. The inquest also heard from Mr George Grant Watt, a retired mine manager who worked at Queensland Mines Limited as the Aboriginal liaison officer in 1979 and 1980. Mr Watt knew Nipper Kaparigi, who used to come over to the site at Narbalek to visit his brother, Paul Nawaroy. He recalled Paul as a very quiet man, dressing (as did most of the Aboriginal men working in the area) in jeans, a shirt and an old cowboy hat. Nipper Kaparigi was a Bardmardi man and his country was the Deaf Adder Gorge area (south of

Jim Jim and Twin Falls area). Mr Watt recalled Paul Nawaroy having a heart attack and being taken up to the medical centre at the Narbalek mine. This is confirmed by the coronial investigation file with respect to Paul Nawaroy/Nawarai (file 44/80). Mr Nawaroy died on 29 February 1980 at Narbalek. An autopsy was performed by Dr Tony Jones and the cause of death was pulmonary oedema due to coronary occlusion.

21. Mr Nawaroy's body was put in a coffin and taken to an area close to Star Dreaming (adjacent to the Narbalek mining lease) and placed in a small cave. About 6-12 months later Mr Watt was contacted by Nipper Kaparigi and asked to bring his brother's bones back to Nipper at Coinda. Nipper indicated that he planned to have a traditional ceremony for his brother on his own land in the Deaf Adder region. The coffin was located and the Aboriginal men cleaned the bones. That evening they gave Mr Watt a small brown compressed cardboard suitcase with a single lock and told him it contained the remains of Mr Nawaroy. Mr Watt described it as a *One of the ones the old railway guys used to carry around with them ... just a sort of mottled brown [pattern] ... you know it wasn't Gucci or anything like that.*
22. Mr Watt drove the suitcase to Coinda and handed it to Nipper at a quiet location near the Coinda hotel. He thought this was during 1981 but he was not absolutely certain about the date. Nipper said he would definitely let Grant know when the ceremony was to be held, as he wanted Grant to attend himself, as well as transport some of the Aboriginal people from other areas up to Deaf Adder for the ceremony. As far as Mr Watt knew, although some preparations were made, plans for the ceremony fell into abeyance due in part to Nipper's illness. He was not sure if any ceremony had taken place prior to Nipper's death in 1986 (although he thought it had not), but Nipper never told him what happened to the suitcase. However, it was clear that the intention was for the ceremony to take place in the Deaf Adder Valley country. Mr Watt had also heard of previous suitcase burials, although he had never seen one himself.

23. Mr Watt mentioned the close friendship between Nipper Kaparigi and Mr George Chaloupka. Mr Chaloupka is a retired curator of Aboriginal rock art, who worked in the Territory for about 48 years. He was close friends with, and employed from time to time, Nipper Kaparigi and other Aboriginal men to show him art and teach him about their country and traditions. For much of this time he lived in a demountable building owned by the Northern Territory museum in Cooida.
24. Mr Chaloupka believed that Paul Nawaroy was Nipper's cousin through their fathers who were brothers. He was aware that Paul Nawaroy had a partly Christian burial service (he grew up on a mission in Oenpelli) and then the coffin was placed in the rocks at Narbalek. About two years later, his remains were brought to Nipper at Cooida, who had asked George to help organise the secondary burial rites which were planned for the dry season of 1983. Mr Chaloupka was told that in the interim, the suitcase was placed in a caravan at an outstation called Patonga airstrip. Nipper lived there at some stage but moved around often, as was common with his countrymen. Mr Chaloupka then heard that a European visited the outstation, and bought the caravan. He said:
- “I heard that a European visited the outstation and inquired about the possibility of buying the caravan, I don't know from whom he bought it. Then I heard that the caravan was taken to Jabiru rubbish dump where the person proceeded to remove the top of the caravan and to [take] the chassis out of it. When I heard that, I presumed that Paul Nawaroy's remains were somewhere in Jabiru's rubbish dump.”
25. When Mr Chaloupka heard (in 2005) that a suitcase with remains had been found, he thought that perhaps it could be Paul Nawaroy. He theorised that *maybe the person who purchased the caravan had some decency and ...placed it somewhere or alternately the person who sold the caravan to the European may have done that.*
26. Ian White attended the inquest at Jabiru and heard the story about Nipper Kaparigi asking that his brother's remains be brought to him at Cooida; and that being done, in a suitcase. His opinion was that this story made a great

deal of sense to him. He explained that given the social turmoil of the 1980's in the Kakadu region, it was understandable that there was not sufficient thoroughness to deal with a burial in a fully blown ritualised way. He opined (prior to the inquest hearing Mr Chaloupka's evidence) that perhaps the suitcase containing Nipper's brother's remains was at Nourlangie Rock after Nipper had passed away, by someone else. This would be consistent with the fact that the Nourlangie Rock area is not Bardmardi country.

DNA Evidence

27. In an effort to identify the remains (or potentially exclude Mr Nawaroy) we sought to obtain a DNA sample through the NT Police Forensic Science Centre. On 3 August 2005, samples of bone were taken from the remains and transferred to the Forensic Science Centre (NT Police). The samples consisted of the ball joint of the right and left femur, a cross segment from the middle of the right femur and a tooth from the upper jaw. Over the following 12 months, despite attempts, no DNA could be successfully extracted from the bone samples.
28. Ms Carmen Eckhoff is a forensic biologist and team leader of the forensic biology section within Northern Territory Police. Ms Eckhoff gave evidence on 27 October 2006 as to the progress of the attempts. She advised that the biologist originally working on the case was presently ill. Further, Ms Eckhoff had looked at the file the previous day in preparation for court and had noticed no attempt had been made to extract a sample from the ball joint. She explained that because the ball joint is a larger cross section of bone, it is probably less likely to be affected by environmental conditions and is the best chance for extracting DNA. Her opinion was that it was possible that a sample could be successfully obtained. The matter was adjourned on two further occasions to allow more time for the laboratory to attempt a successful DNA extraction.

29. On 6 February 2007 Ms Eckhoff's evidence was that while a sample had been extracted from the ball joint, there were no results from the 'run' that had been put on 5 February 2007. Ms Eckhoff spoke of possible interference problems delays in materials arriving from the US. She then advised the court as follows:

“– we found a result just basically Friday and we found that there was an interference, so I asked that the mitochondrial be done first because I was unaware that there were no maternal relatives until today. So if I can go back and we'll put it on immediately and I should know within 24 hours if there's a result forthcoming from nuclear DNA. During the break I was just saying to counsel that there is another kit that is not available commercially yet, it's in the - I suppose the trial stages. We have one on order and I assume that's going to arrive about the same time as the mitochondrial DNA. It's looking at what's known as mini STR so it actually looks at smaller fragments of DNA. Some of the results that they've used to sell the product have been on old remains and it looks very promising but until we've actually had a chance to trial it I can't say whether it would work in this instance or not. The good thing about it is that we can then compare to the same DNA database that we currently have.

30. On 22 February 2007 Ms Eckhoff advised by email that mitochondrial DNA had been extracted from the remains. However, no genomic (nuclear) DNA was evident. Unfortunately, the only relatives of Mr Nawaroy that the inquest is aware of are grandchildren (who could potentially be actually grandnephews or nieces). Therefore the mitochondrial DNA cannot be used for comparison purposes as it requires maternal relatives.

Summary

31. It is more than likely that the suitcase and remains located in July 2005 was the same suitcase and remains moved by Mr Barnett in July 1993. Mr Barnett moved it at the request of some traditional owners, as the original site was exposed and at risk of being disturbed. He moved it to an appropriately sheltered position in the same rocky outcrop. When he moved the suitcase it was in such good condition that Mr Barnett did not think it had been through even one wet season.

32. Paul Nawaroy's remains, in a very similar suitcase, were last reliably seen in 1982-1983. At this time they were taken by Grant Watt to Nipper Kaparigi in Cooinda, with plans for a traditional interment in Bardmardi country, that is, Nipper's country, at Deaf Adder Valley. Mr Chaloupka, who was involved in preparations for the burial ceremony recalls that the suitcase was stored in a caravan at an outstation not far from Cooinda. He recalls hearing a story that the caravan was sold to a European. As far as Mr Chaloupka knew, Mr Nawaroy's remains were in that caravan when it was sold. He speculated that perhaps someone had decided to do the right thing, and had placed the remains in the rock crevice at Nourlangie Rock. It is apparent that, whatever the reason, Nipper Kaparigi did not carry out a formal burial ceremony for his brother prior to his own death in 1986.

33. The primary difficulty with drawing a conclusion that the suitcase moved by Mr Barnett was the suitcase delivered to Nipper Kaparigi by Mr Watt is the lapse of time between 1983 and 1993, and the lack of evidence about the suitcase during that time. It does not seem realistic that the suitcase could have remained in the rock crevice for 10 years, given the condition it was in when Mr Barnett found and moved it. It is also clear that it was always expected that Paul Nawaroy's remains would be interred at Deaf Adder Gorge. However it is possible that, because Nipper died before this could occur, the suitcase was kept in a caravan somewhere and was found some years after Nipper's death. The finder may have made an attempt to treat the remains with appropriate respect and inter them in an area which was a known burial area (although not Bardmardi country). However this is speculation. Mr Lindner has made many enquiries with Aboriginal people from the area and none have known the story about the remains in the suitcase found at Nourlangie Rock. There is also some evidence that there was at least one, if not two, other suitcase burials in the Nourlangie Rock area. There is insufficient evidence to make a finding to the required standard that the remains found at Nourlangie Rock are those of Mr Paul Nawaroy.

Findings

34. Section 34 of the *Coroners Act* sets out the matters that an investigating Coroner is required to find, if possible. Those matters are the identity of the deceased, time and place of death, cause of death, and relevant circumstances concerning the death. With respect to this deceased, I can make very limited findings on the available evidence. I find that the deceased was an Aboriginal man of at least 25 years of age. I find that he died in the Northern Territory sometime before 1993. His death was investigated, at or around the time of his death, by the carrying out of an autopsy to ascertain the cause of death. The identity of the deceased is unknown and the cause of his death is unknown.

Release and Burial of the Remains

35. Despite the open finding in this matter, it is obviously appropriate that the remains of this Aboriginal man be returned to country and laid to rest. Without knowing his identity, there is no family to whom he can be returned. However, Mr Chris Capper, Senior Policy and Planning Officer with the Aboriginal Areas Protection Authority told the inquest that the Authority has previously been involved with the repatriation of Aboriginal remains, and that the Authority could assist in this case. The Authority can play a role in consulting with traditional owners and custodians for the area in which the remains were found, and discussing with those people the repatriation of the remains. The arrangements for release of the body will be made between B/Sgt Lade, Officer in Charge of the Coronial Investigation Unit, and Mr Capper of AAPA.

Dated this 26th day of February 2007.

HELEN ROBERTS
DEPUTY CORONER