

2017 CarswellOnt 10003
Ontario Coroner

Loku, Re

2017 CarswellOnt 10003

IN THE MATTER OF the Coroners Act, RSO, 1990 c.37

IN THE MATTER OF the Inquest Touching the Death of ANDREW LOKU

John Carlisle Presiding Coroner

Judgment: June 19, 2017
Docket: None given.

Counsel: Michael Blain, for Coroner
Jonathan Shime, Bhavan Sodhi, for Loku Family
Gail Glickman, Marianne Wright, for Toronto Chief of Police
Fred Fischer, Diane Dimmer, for Toronto Police Services Board
Anita Szigeti, Joseph Berger, for Empowerment Council
Jimmy Lee, for Insp. Moreira, Const. Queroub, Const. Louis
Gary Clewley, for Const. Doyle
Howard F. Morton, Shane Martinez, for Across Boundaries
Selwyn Pieters, Rick Frank, for Black Action Defence Committee
Peter Brauti, Michael Lacy, for Toronto Police Association
Breese Davies, Owen Goddard, for Canadian Mental Health Association

Subject: Civil Practice and Procedure

John Carlisle Presiding Coroner:

1 MR. LAMBERT: You may be seated.

2 THE CORONER: Thank you for your indulgence, ladies and gentlemen.

3 In preparing for the inquest, we consulted widely with the parties and with other community groups. We looked very carefully at the circumstances of the death. An inquest can deal only with the circumstances of the death in question. That limitation is statutory under the Coroners Act. **I have found no evidence suggestive of any element of racial bias or explicit or overt racism in the facts as I knew them.**

4 **During the consultation, I was urged by many of the parties to include consideration of implicit bias and how it might have played a role in the death. Implicit bias is of course implicit and there might be some role in the death with no immediate evidence of it. For that reason, I included implicit bias even though I could find no evidence of it.**

5 **I did not include racism based on my careful review of the facts as I knew them.** The proposed scope was circulated to all prospective parties and I reviewed carefully all the submissions that were made. The final version then became the scope and has been known to all parties for some time.

6 It was submitted that Professor Rule, in answer to questions from Mr. Morton, gave an opinion about racism. The questioning ended there and thus, as Mr. Blain said, the matter was incidentally brushed against. Mr. Morton, however, has provided a will-say which goes directly and purposefully into that issue by name. The former is incidental, the latter is not.

7 The proposed witness appears to have expertise about institutional change in respect of matters within the scope of the inquest and that indeed may be valuable for the jury. Nothing has been submitted persuading me that characterization of anything as racist or racism is necessary to that evidence being of assistance to the jury, or as to any proposed recommendation. The title of the article may be mentioned in passing, but questions of the witness will not explore the topic of racism.

8 Now, having said that, I expect and anticipate that Mr. Morton, as a very experienced counsel, will be effectively able to discuss this ruling with his client and prepare for the examination in an effective way.