

CORONER'S COURT OF THE AUSTRALIAN CAPITAL TERRITORY

Case Title: Inquest into the deaths of
Anne Wachera Muhoro
Ezvin Munene Mugera
Furaha Murathime Muhoro; and
Inquiry into a fire at 6 Peter Coppin Street, Bonner

Citation: [2021] ACTCD 5

Decision Date: 25 August 2021

Before: **Coroner Morrison**

Decision: See [4], [51], [54]

Catchwords: **CORONIAL LAW** – cause and manner of death – cause and origin of fire – mother caused death of children before her suicide by lighting fire

Legislation Cited: *Coroners Act 1997* (ACT)

File Number: CD 43, 44, 45 of 2018 & CF 1 of 2018

CORONER MORRISON:

1. On 25 September 2018, I made interim findings in relation to these matters, reported as [2018] ACTCD 14, as follows:
 1. A fire in a residential house located at 6 PETER COPPIN STREET, BONNER in the Australian Capital Territory was notified to ACT Fire and Rescue at about 8:45am on 19 February 2018. There were multiple seats of fire in the premises. The fire was not the result of an accident.
 2. ANNE WACHERA MUHORO (born 4 June 1973) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. The cause of Ms Muhoro's death identified at post-mortem examination was the effects of fire (inhalation of products of combustion and burns).
 3. EZVIN MUNENE MUGERA (born 27 July 2009) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. A post-mortem examination undertaken of Master Mugera was unable to ascertain the cause of his death.
 4. FURAHA MURATHIME MUHORO (born 9 May 2012) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. A post-mortem examination undertaken of Miss Muhoro was unable to ascertain the cause of her death.
2. I also made some additional comments about what the evidence available at that time suggested, and noted that I had ordered an inquest brief of evidence be prepared.

Dispensing with hearing

3. I now have the benefit of a comprehensive brief of evidence prepared after an extensive investigation by Detective Senior Constable Emma-Lea Beere. The holding of a public hearing presents the opportunity for witnesses to be cross examined and for additional witnesses to come forward. In my opinion however:
 - (a) I have received all the evidence which exists, or is likely to exist, and which could possibly bear on the decisions I am required to make; and
 - (b) there is no basis for concluding that holding a public hearing would result in any relevant different evidence or relevant additional evidence.
4. In the circumstances a hearing is unnecessary in relation to both the inquest and the fire inquiry. Pursuant to section 34A of the *Coroners Act 1997* I formally dispense with a hearing for the inquest. Pursuant to section 34 I have determined not to conduct a hearing for the fire inquiry.

Reasons

5. For ease of reading and without intending any disrespect I refer in these reasons to Anne Wachera Muhoro as 'Ms Muhoro'; to Ezvin Munene Mugeru as 'Ezvin' and to Furaha Murathime Muhoro as 'Furaha'.
6. Unless otherwise indicated I am satisfied that the matters of fact referred to in these reasons are established on the balance of probabilities by the statements and other evidence contained in the brief of evidence.

Preliminary facts

7. At about 8:30am on 19 February 2018, reports were received of smoke emanating from a residential house located at 6 Peter Coppin Street, Bonner. ACT Fire and Rescue attended the house, which was well alight, and contained the blaze at about 8:57am. A search of the premises at about 9:26am located three bodies in the ruins of the premises, as follows:
 - (a) An adult person was located in the rear main bedroom of the house, which had been extensively damaged by fire. The human remains were extensively burned and were located on the floor of the room in a recumbent position.
 - (b) A male child was located in a separate bedroom. He was laying on his back in bed holding a stuffed toy in his hands, and a bed sheet was over his legs. The fire damage was limited to the area of the single bed and within the built-in wardrobe.
 - (c) A female child was located in a separate bedroom. She was laying on her back in bed holding a stuffed toy in her hands, and bed linen was pulled up to over her waist. The bedroom was not fully engulfed by fire, and it appeared there was a separate site of fire in the vicinity of the bedhead and the child's head, as her legs and feet were largely unburned.

8. The deaths of these three people were properly reported to me under section 13(1)(a) of the *Coroners Act 1997* as having died violently, or unnaturally, in unknown circumstances. I also decided on my own initiative to commence a fire inquiry into the circumstances of the fire under section 18(2). Members of ACT Policing's Criminal Investigations team acted as coronial investigators under my direction, and assistance was also provided by specialist forensic officers.
9. Initially the police investigation was focussed on whether the fire and deaths were intentionally caused by some unknown party. After a comprehensive and thorough investigation Police have found no evidence of the involvement of any unknown party.

Evidence from the site of the fire

10. A detailed examination of the fire scene was undertaken by specialist forensic officers. Their conclusions were as follows:
 - (a) There were no signs of forced entry to the premises, other than by emergency services. The premises appeared to have been locked and secured from the inside.
 - (b) No DNA profiles or latent fingerprints were able to be obtained from the interior and exterior door handles.
 - (c) There were at least four separate areas of fire origin, namely bedroom 1 (the room in which Ms Muhoro was discovered), the bed in bedroom 2 (the room in which Ezvin was located), the bed in bedroom 3 (the room in which Furaha was located) and the couch on the southern wall of the lounge room. The point of origin in bedroom 1 was not able to be specified further due to the extent of fire damage.
 - (d) Each of the children were located in bed as if asleep. The evidence suggested that Ezvin may have had a pillow or something similar over his face at the time of the fire, and that a separate fire was lit in the vicinity of Furaha's head.
 - (e) Examination of the scene by specialist gas and electrical engineers determined that neither the gas nor electrical systems contributed to the fire causation.
 - (f) No ignitable liquids or ignition sources were identified at the scene.
 - (g) A hardwired smoke detector was installed at the premises. The electricity supply to the house had been turned off and the detector's backup battery had been removed. The detector worked as intended when power was connected.
11. The front of Ms Muhoro's residence was covered by a neighbour's CCTV cameras. Examination of that footage by Police identified the following:
 - (a) At about 1:28am on 19 February 2018, light appears along the western side of the premises. That light is no longer visible at 1:29am.

- (b) At about 3:22am, a neighbour and friends walk past the front of the premises. When spoken to later by Police, they say that they did not see or hear anything unusual, or see any other vehicles or persons in the area.
 - (c) At about 3:23am, Ms Muhoro opened the garage of the premises, and was visible from the light which illuminated the space. She dragged a black or dark coloured garbage bag down the driveway to the vicinity of her garbage bins. She was out of view for approximately 45 seconds before returning back up the driveway. (Bags similar in appearance were located subsequently by Police in the garbage bins and contained general household rubbish.)
 - (d) At about 3:37am, a light is visible in the front room of the premises. That light is no longer visible at 3:54am. This time corresponds with certain actions taken on Ms Muhoro's laptop computer as referred to later in these reasons.
 - (e) At about 4:32am, Ms Muhoro exited the garage, which was illuminated by light. She turned on a torch and walked in the direction of the fuse box, where she did something. She then returned to the premises, closing the garage door behind her.
 - (f) At about 4:39am, there is a flickering glow in the front left-hand window of the premises, likely indicating the commencement of a fire in that room. Within a minute the lounge room is well alight with what appears to be smoke coming out of the left-hand side of the premises. At about 4:44am the smoke consumes the room and the glow can no longer be seen.
12. Police later discovered when examining the fuse box that the power to the premises had been turned off. No entire DNA profiles that were suitable for identification could be taken from the fuse box. A partial profile was obtained. I refer to it later at paragraph 45. Latent fingerprints were obtained but did not identify any person. It appears likely that when Ms Muhoro went to the fuse box shortly before the fire can be seen on the CCTV she turned off the electricity supply. Doing so had the effect of disabling the hardwired smoke alarm in the premises.
13. Post fire evidence identified by the investigation included a number of what appeared to be torn up family photos of the children discovered in garbage bags in the garbage bins at the residence.

Autopsy evidence

14. Due to the condition of the bodies, identification occurred by way of DNA testing and comparison to the results of the *Guthrie* tests taken shortly after the births of Ezvin and Furaha. The children were positively identified. Ms Muhoro was identified by way of maternal comparison to the positive matches to Ezvin and Furaha.
15. I directed that Professor Johan Dufflou undertake post-mortem examinations of the bodies located in the premises. The results of those examinations were as follows:
- (a) Ms Muhoro died from the effects of fire, namely the inhalation of products of combustion and burns. There were no natural disease processes

identified which were capable of causing death. There was no definitive evidence of injuries caused by blunt force, sharp force or projectiles. There was extensive inhalation and swallowing of sooty material, and the level of carbon monoxide in a post-mortem blood sample indicated that Ms Muhoro was alive when the fire took hold and for a period of time thereafter. Toxicological testing identified only a therapeutic level of the pain reliever Ibuprofen.

- (b) A medical cause of Ezvin's death was unable to be ascertained. There were no natural disease processes identified which were capable of causing death. There was no definitive evidence of injuries caused by blunt force, sharp force or projectiles. The lack of carbon monoxide and cyanide (both typical combustion products) in a post-mortem blood sample strongly suggested that Ezvin was already deceased by the time the fire took hold. This was confirmed by a lack of soot in Ezvin's airway or gastrointestinal tract. Toxicological testing identified only a therapeutic level of Ibuprofen.
- (c) A medical cause of Furaha's death was unable to be ascertained. There were no natural disease processes identified which were capable of causing death. There was no definitive evidence of injuries caused by blunt force, sharp force or projectiles. The lack of carbon monoxide and cyanide in a post-mortem blood sample strongly suggested that Furaha was already deceased by the time the fire took hold. This was confirmed by a lack of soot in Furaha's airway or gastrointestinal tract. Toxicological testing identified only a therapeutic level of Ibuprofen.

16. Professor Duflou went on to make the following observations in relation to the post mortem examination of both Ezvin and Furaha:

I am unable to exclude possibilities such as more subtle forms of neck compression and blockage of the oral and nasal orifices as a result of suffocation or smothering... I emphasise that there is no specific evidence for such mechanisms in [these cases], [although] no specific pathological features need be seen [in such cases]. This would especially be the case in the setting of a fire with burns to the body which could mask injuries ... in association with upper air passage blockage.

Ms Muhoro's activities in the lead up to the fire

- 17. In January 2018, Ms Muhoro spent the majority of her time working from home or on annual leave. She and the children took a number of trips during the school holidays. Friends describe Ms Muhoro in this period as appearing thin, aloof, and depressed.
- 18. Friends did however notice a marked change in Ms Muhoro from about from 11 February 2018. They describe her as having become happy, joking, more relaxed, and at peace. Some remarked that her behaviour was 'out of character' and 'unusually happy'. They said that she did not display any of her usual anxiety about the upcoming court proceedings.
- 19. Ms Muhoro prepared and signed a will on 16 February 2018. A copy of it was obtained as part of the coronial investigation. The will comprises a standard printed proforma document which she has completed by hand. There is no evidence suggesting a legal practitioner was involved in its preparation. Relevantly for present purposes:

- (a) the will appoints executors and trustees;
 - (b) those executors and trustees are also appointed 'to be guardian(s) of any child of mine who is a minor at my death'; and
 - (c) the will gifts the sum of \$5,000.00 to each of Ezvin and Furaha 'if he [she] survives me'.
20. I refer to the will again later in these reasons.
21. On 17 February 2018, Ms Muhoro took Ezvin and Furaha to Kmart Gungahlin and purchased a number of toys. Friends and family suggest that Ms Muhoro would usually only buy educational presents for the children and this purchase was out of character for her.
22. The same day, Ms Muhoro dropped a bag of documents off to her friend and Pastor. The Pastor was unaware of the contents of the bag but believed it was important documents which needed to be kept safe.
23. Later that day, after returning home, Ms Muhoro called her mother in Kenya. The time of the call was not convenient to her mother, but Ms Muhoro insisted that the call take place and the children speak to their grandmother. Ms Muhoro's insistence was considered out of character, but there was nothing unusual about the call itself. This was the last time the children were heard or seen prior to being located deceased.
24. A Samsung tablet device was located in the premises. The last activity on it was recorded as occurring at 8:56am on 18 February 2018, indicating its likely last time of use. The device was restricted to 'child mode' and contained applications for children's games and education.
25. Computer records show that at about 3:37am on 19 February 2018, Ms Muhoro powered up and entered the password on her laptop. From then until 3:53am, she used her laptop to remotely access her work computer and securely erased all her workplace computer files. Police were not able to subsequently recover the deleted files. She then logged into her bank account and paid a number of bills by internet transfer, before logging off and powering down the laptop at 3:53am.

Relationship background

26. The fire resulting in the deaths of Ms Muhoro, Ezvin and Furaha occurred in the early hours of the morning of the day upon which Ms Muhoro was first due to appear in the Family Court on an application made by Mr Munene who is the father of Ezvin and Furaha.
27. In determining the cause and manner of the deaths, I have found it relevant to consider aspects of the life of Ms Muhoro and her relationship with Mr Munene.
28. On the evidence before me there is no basis for any suspicion that Mr Munene was involved in any way in lighting the fire or otherwise in the unlawful killing of Ezvin and Furaha.
29. Accordingly, it is sufficient for present purposes to deal only briefly with the relationship evidence.

30. Much of what is set out in these reasons about the relationship has been gleaned from interviews with family and friends and I regard it as uncontroversial. Where the background includes allegations which are likely to be controversial I have noted them as allegations only.
31. Ms Muhoro was described by family and friends as having a strong Christian faith, with traditional and conservative beliefs. She was said to be intelligent, resolute and very determined. She was described by her co-workers to be competent, a diligent worker and very quiet. Suicide was against Ms Muhoro's faith and she was unlikely to have sought professional help outside of the Church for any mental health concerns. She believed in praying to resolve her problems or concerns.
32. After meeting Mr Munene on a return trip by Ms Muhoro to Kenya in 2005, Ms Muhoro sponsored Mr Munene's visa application for travel to Australia. They were married in Canberra on 10 February 2007.
33. Mr Munene and Ms Muhoro separated on a number of occasions but subsequently got back together. Ms Muhoro was strongly opposed to divorce due to her strong Christian beliefs.
34. There is evidence of a number of allegations of family violence between Mr Munene and Ms Muhoro. An interim domestic violence order was applied for and obtained. Certain allegations were made in the application for that order and various other allegations were made by both Ms Muhoro and Mr Munene in the course of their matrimonial disputes. I make no findings in relation to the allegations but record that they include:
 - (a) allegations by Ms Muhoro that Mr Munene threatened to commit suicide if the interim domestic violence order was not withdrawn – leading to Ms Muhoro withdrawing the order;
 - (b) allegations by Ms Muhoro that Mr Munene was violent during the course of their relationship;
 - (c) allegations by Ms Muhoro that Mr Munene had threatened to take and kill Ezvin and to burn down the house; and
 - (d) allegations by Mr Munene that he had been the victim of family violence by Ms Muhoro, that she had threatened to burn the house down and that her allegations against him were made to aid her in custody and property settlement determinations in the Family Court.
35. In January 2012, Mr Munene filed an initiating application at the Family Court seeking equally shared parental responsibility for, and daytime supervised contact with, Ezvin. Ms Muhoro filed a response in which she sought sole parental responsibility for Ezvin and that Mr Munene be required to undergo psychiatric assessment before being allowed fortnightly supervised contact with Ezvin. Ms Muhoro also lodged a Notice of (alleged) Child Abuse or Violence with the Court.
36. In October 2012, Ms Muhoro and Mr Munene finalised their property settlement. Furaha had been born by this time, and the Family Court orders allowed Mr Munene supervised contact with both children.
37. In May 2013, the Family Court made an order by consent between Ms Muhoro and Mr Munene giving Ms Muhoro sole parental responsibility for the children. Mr Munene was

permitted to communicate with his children on specific days and times and was granted supervised and unsupervised visits. This order was apparently intended to be reviewed in January 2015, but for unknown reasons no review took place.

38. People who knew Ms Muhoro reported that she withdrew from the Kenyan community in Canberra due to her fear of Mr Munene. It was said that she actively avoided activities due to her fear that Mr Munene would be present and that she grew distrustful of other Kenyans in Canberra as she was unsure who might be a friend or associate of Mr Munene.
39. In August 2015, during an unsupervised visit with Mr Munene, Furaha fell awkwardly and broke her arm. Mr Munene took Furaha to hospital and notified Ms Muhoro. Ms Muhoro contacted ACT Policing and alleged that Mr Munene had intentionally assaulted Furaha and accused Mr Munene of 'trying to burn the house down and steal the children'. The subsequent police investigation cleared Mr Munene and determined the injury was as the result of an accident.
40. In August 2017, Mr Munene spoke to Ms Muhoro about altering the arrangements in respect of the children, specifically to allow the children to stay overnight with him and to change the location for the exchange of the children. Ms Muhoro refused and stated that she wished that the arrangements in the existing Family Court order remain. Mr Munene advised Ms Muhoro that he intended to seek amendments to the order to allow him greater access to the children.
41. In September 2017, Ms Muhoro reported to ACT Policing that Mr Munene had breached the court order with respect to the children's handover. It is understood that Mr Munene had offered to bring the children to Ms Muhoro's home, but Ms Muhoro denied his request and said that she wished to meet in a public place. Mr Munene said that the children were tired and that he would return them the following day. Police contacted Mr Munene who advised that he had contacted Ms Muhoro about the change to the arrangements. As there was no immediate concern for the children, Police took no further action.
42. Friends of Ms Muhoro say she found the incident distressing.
43. In November 2017, Ms Muhoro denied Mr Munene access to the children. The last time Mr Munene saw his children prior to their deaths was on 21 October 2017.
44. In December 2017, Mr Munene filed a Notice of Risk in the Family Court, and applied to have the 2013 parenting orders changed to grant him shared parental responsibility and different arrangements for contact and communication with the children. The matter was set down before the Federal Circuit Court of Australia sitting in Canberra on 19 February 2018. (That is the day on which the fire occurred).
45. Understandably in the circumstances of a family law dispute some suspicion initially attached to Mr Munene. When first told of the fire however he exhibited genuine distress and the investigation subsequently revealed that:
 - (a) There is no evidence that Mr Munene was in the vicinity of the house at the time of the fire. He cannot be seen in any of the CCTV footage, which shows the presence of Ms Muhoro only.
 - (b) Ms Muhoro's laptop used to undertake the transactions in the early hours of the morning of 19 February 2019 was located in the premises. It was

forensically tested and found only to have the DNA of Ms Muhoro present. In particular Mr Munene's DNA was not present.

- (c) Keys found in Mr Munene's possession were tested to see if they opened any door locking mechanisms on the premises – they did not.
- (d) Mr Munene was able to be excluded as a contributor to the partial DNA profile that was lifted from the fuse box.

46. In the circumstances there is no basis for any suspicion that Mr Munene was involved in any way in lighting the fire or otherwise in the unlawful killing of Ezvin or Furaha.

Formal findings

47. The evidence points overwhelmingly to a conclusion that Ms Muhoro deliberately lit the fire with the intention of taking her own life and I find that to be the case.

48. Insofar as the deaths of the children are concerned, I have taken into account that the causes of their deaths were not ascertainable at autopsy. I have also taken into account the contents of the will made by Ms Muhoro only days before she lit the fire. The appointment of guardians for the children in that will and the making of cash gifts to them on her death gives rise to a possible inference that, had Ms Muhoro at the time of making the will already formed the intention to kill herself, she had not then planned to also kill the children.

49. That is not however the only available inference from her conduct. Witnesses to wills are not required to read the contents of the will but it is not uncommon for lay people to think that there is such a requirement. Ms Muhoro may have believed that the witnesses would read the will and that the absence of provision for the children would be a cause for concern and suspicion by the witnesses and they might interfere with her plans. The provisions made for the children did not have the effect of invalidating the will if the children died at the same time as or before Ms Muhoro so that including them in the will did not detract from the other provisions she made in the will. It is also possible that Ms Muhoro had not at the time of making the will formed the intention to kill the children but that she formed that intention sometime between then and 19 February 2018.

50. There is on the other hand much circumstantial evidence pointing persuasively to a conclusion that the children were killed by Ms Muhoro before the fire was lit. That includes the evidence that both children died at more or less the same time, the evidence of the location and positions of the children's bodies, the absence of evidence of any cause of death attributable to other persons or circumstances, the absence of evidence of the involvement of any other person or the presence of any other person at the premises at the relevant time, and my conclusion that Ms Muhoro lit the fire at the house with the intention of killing herself. Having regard to all of the evidence, and despite the possible inference which might be drawn from the contents of the will I am satisfied that both Ezvin and Furaha were killed by their mother in an unknown manner some short time before she lit the fire.

51. My formal findings are as follows:

- (a) A fire in a residential house located at 6 Peter Coppin Street, Bonner in the Australian Capital Territory was notified to ACT Fire and Rescue at about

8:45am on 19 February 2018. The fire was deliberately lit by Anne Wachera Muhoro with the intention of taking her own life, having already taken the lives of her children Ezvin and Furaha.

- (b) Anne Wachera Muhoro (born 4 June 1973) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. The cause of Ms Muhoro's death was the inhalation of products of combustion and burns. The manner of her death was suicide.
- (c) Ezvin Munene Mugerera (born 27 July 2009) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. The precise cause of Master Mugerera's death is unascertained. He died as a result of some unknown actions of his mother and not as a result of the fire. The manner of his death was homicide.
- (d) Furaha Murathime Muhoro (born 9 May 2012) died on 19 February 2018 at 6 Peter Coppin Street, Bonner in the Australian Capital Territory. The precise cause of Miss Muhoro's death is unascertained. She died as a result of some unknown actions of her mother and not as a result of the fire. The manner of her death was homicide.

Matters of public safety

- 52. I am required by section 52(4)(a) of the *Coroners Act 1997* to state whether a matter of public safety is found to arise in connection with the inquest or inquiry, and if I find such a matter, to comment upon it.
- 53. Ms Muhoro had significant contact with the Courts, the Australian Federal Police and the Domestic Violence Crisis Service. Those interactions appear to have been appropriately handled in each case.
- 54. The circumstances surrounding the deaths of Ezvin and Furaha at the hands of their mother are tragic but do not give rise to a matter of public safety as that term is used in section 52(4)(a) of the Act. I find that no matter of public safety arises in connection with this inquest or inquiry.
- 55. Ezvin and Furaha's deaths are a tragedy. It seems trite in circumstances such as these to offer my condolences, but I acknowledge the ongoing impact of their deaths on their father George Munene, their relatives, and all in the community who knew the family.
- 56. I acknowledge also the impact this case has and will continue to have on the firefighters who attended the fire and the police officers who investigated this matter on my behalf. I thank D/S/C Beere for her comprehensive and well-crafted brief of evidence. I thank also the coronial staff at the Court for their assistance in this matter.
- 57. I direct that these findings be published in due course on the Coroner's Court website.

CORONER MORRISON