

Submission to Yoorrook Justice Commission

From: Anonymous

Dated: 2 March 2023

Submission:

This is part of the general submissions. It is my truth telling as a Warlpiri man and my experiences in Victoria. There are several areas I could focus on, however, I want to draw from several specific areas of my legal experience as a Barrister whilst at the Victorian Bar.

First, I want to say that there are many people at the Victorian Bar that I have meet and others I have not met, who are genuine people. My mentor was one such person and the floor that I did my reads course on was such a group of people.

Second, I wanted to provide my experience as a Warlpiri person who is a Barrister and signed the Victorian Bar Roll in 2007, because I think it is important that issues surrounding: (a) identity; (b) allies and (c) cultural safety.

Third, regardless of what the legal institutions say, about reconciliation, moving forward, understanding First peoples, I would guard against accepting such statements wholeheartedly, because, in my experience, people say things if they believe they can get some advantage from it. At the present time Truth Telling and Treaty are vitally important to healing and moving forward.

My experiences:

1. After practising at Aboriginal Legal Aid in the Northern Territory, I came down to do the Victorian Bar Readers Course, I met two ex-legal aid workers, and they told me I was not really "Aboriginal". This attack was used against me by Mr Bevin Mailman and his Uncle Frank Guivera who was the CEO of VALS at the time in order not to support me obtaining any briefs. It was also suggested that I was not a good lawyer. So my experience of working as a First Peoples lawyer at the Victorian Bar, is to deal with run-on effects of some legal aid lawyers attitude and approach is to vilify and subjecting me to racist comments and behaviour.
2. I joined the Victorian Bar Indigenous Peoples Rights Committee, and at the first meeting I experienced what I considered to be a combination of cultural ignorance, and lack of cultural safety practice and protocol, amounting to a fundamental abuse of my dignity as a member of First Peoples. A non-First Peoples friend of mine asked if the committee did the welcome to country. The Chair at the time, Jane Dixon QC, as she then was, and now a Supreme Court Judge of Victorian Supreme Court, then asked another First Peoples barrister, who was from Queensland if that was appropriate. This barrister I could see was flustered and I did not believe it was an appropriate question to ask him, nor did I think it was appropriate given the circumstances. Also, the Chair should have known it was not a legitimate question to ask the barrister

and, as the barrister was from Queensland, they should have understood cultural protocols.

This was very frustrating and upsetting. It exposed me to the power plays within the Victorian Bar and it also exposed how issues around cultural safety and cultural protocols were dealt with. I left the committee as a direct result of this conduct and action. I never returned to this committee. Some people may ask, why would you not say something and why would you leave and not say anything. The answer to those questions are: directly challenging the Bar is not easily or lightly undertaken. It is not a place where criticism is accepted, particularly when it is directed toward senior members of the Bar who have placed themselves in positions of authority. Also, it needs to be remembered that the way in which any accusation would be dealt with would not be in terms of cultural knowledge but rather values and opinions about what is acceptable. Later I was told by Daniel Star, for example that if I did not help the committee, they “would destroy me”. When I was at the Law Institute of Victoria attending a committee there as Chairperson, Richard Wilson of the Victorian Bar attempted to prevent me attending the LIV committee as a Barrister. He also said I was “not really Aboriginal” because I refused to attend the Victorian Bar Committee. These types of conduct is, in my considered view, pervasive throughout the legal profession. Whilst there have been attempts at developing appropriate awareness and understanding of First Peoples culture and identity issues there is always a gap in this process.

3. When I was at the Law Institute of Victoria sitting on the Indigenous Peoples Committee, Mr Richard Wilson, as a member of the Victorian Bar attempted to have me removed from the LIV committee because I was not attending the Victorian Bar committee. I found it extraordinary that a member of the Victorian Bar would go to lengths of trying to prevent me attending the LIV.
4. Recently, in 2022 - I contacted the Victorian Bar about my membership and why my profile was not listed on the Indigenous members of the Victorian Bar website. Initially, I was told to contact Daniel Star, which I refused to do. And then after some weeks, I was notified by Mr Tim Goodwin, that the Victorian Bar did not put interstate members profiles up on the website. This was highly unusual, considering there are lots of profiles up on the website from interstate members. But what is more offensive to me is the Reconciliation Action Plan that the Victorian Bar has and ratified with Reconciliation Australia talks about support for First Peoples barristers. It does not distinguish between residing interstate or living and residing in Victoria. The fact that Mr Goodwin is a First Peoples barrister only highlights to me some of the issues faced by First Peoples lawyers.
5. Looking back in hindsight, these experiences collectively may not seem much, and they may be fobbed off as just emotional observations, however, they form my experiences back in 2007 upto 2022

6. Am I bitter? At one point I was angry and upset at having to go through experiences of racism by people who say they are allies or say they know how to conduct themselves in a culturally safe manner, but over time I have come to accept this conduct and behaviour as the norm within the legal profession. Racism exists within the judicial system and is maintained by those who believe they are immune from such accusations.
7. These issues are ongoing. They still resonate today. I could have and maybe I should have made a complaint to the Victorian Bar human rights committee, but I don't trust or believe in the independence of the Victorian Bar and its members. I am a member of the Victorian Bar so that I can maintain my practice within Australian jurisdiction. Akin to working as a doctor in culturally unsafe spaces.
8. What needs to be strengthened are mechanisms for:
 - Addressing what an ally is;
 - How to provide a culturally safe environment.
9. These are my submissions as a Warlpiri man and Barrister. I constantly run into lateral violence and racism from legal practitioners, which has become part of the lived experience of being a Warlpiri man and Barrister.