IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

Ass. 2

SAAKNOMMER: CC 482/85

DELMAS

1986-08-01

DIE STAAT teen: PATRICK MABUYA BALEKA EN 21 ANDER

VOOR: SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

PROF. W.A. JOUBERT

NAMENS DIE STAAT: ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING: ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK: MNR. B.S.N. SKOSANA

KLAGTE: (SIEN AKTE VAN BESKULDIGING)

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K367 HOF HERVAT OP 1 AUGUSTUS 1986

MR BIZOS : My Lord, all the accused are here, but Your Lordship's leave is sought in relation to Mr Lazarus More, accused no. 4. The opinion of the doctors who examined him yesterday is that he has to undergo an operation and it has been arranged that he should be hospitalised on 11 August.

COURT : How long will he be in hospital?

MR BIZOS : It does not indicate.

COURT : Will you be able to continue in his absence?

MR BIZOS : As presently advised it is so.

COURT : Very well.

MR BIZOS : Then on a minor basis, an appointment has been made as a result of X-rays taken of accused no. 3 for a further examination by a specialist on 5 August.

LESEGE JOHN MOROLONG, still under oath (Through interpreter)

CROSS-EXAMINATION BY MR BIZOS (continued) : Mr Morolong, could you please tell us at what time you left the hall on the evening on which your house and car were damaged? -- I estimate it at about 19h00.

So, whatever it was that happened at the hall took about an hour? -- Yes.

Before you left? -- Yes.

From the hall you went to the police station? -- Yes.

Per car or on foot? -- By car. I got a lift from somebody.

Could you give us the approximate distance between the hall and the police station? -- About 2 kilometres.

And for how long did you stay at the police station before you went back towards your home? -- When I left the police station I did not go direct home.

Where did you go to? -- I took the car which I used for my working purposes and carried on with my duties.

... / For

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For how long did you carry on with your duties before you went to the vicinity of your home? -- About 15 minutes.

For how long did you stay at the police station itself? -- 10 to 15 minutes.

And when you came to the immediate vicinity of your home, if I understood your evidence correctly the police were already there? -- Yes, the police were there.

And they were trying to put the flames out that were consuming your house? -- That is correct.

Did you drive up to the immediate vicinity of your house or did you walk there? -- Yes, I did.

Did you drive there? -- Yes, I drove there.

Do you remember how many policemen there were? -- No, there was quite a big number. I cannot remember.

Did they arrive there in a number of vehicles? -- There was quite a number of vehicles there. I cannot remember how many police vehicles were, even private people were there in their cars.

Whose attention had been attracted by the unfortunate event of the burning of your house? -- I believe so, yes.

And by the time you arrived there, had the flames so consumed the house itself and the contents that the police, despite all their efforts, were unable to put it out? -- That is true. The flames were powerful in such a way that we could not put out the fire.

Have you any information or were you able to deduce how lonw before your arrival there your house had actually been put on fire? -- On making enquiries there it started at past 19h00.

Would you say some half an hour before you arrived there? -- Yes.

... / Do

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Do I remember your evidence correctly that you actually got information at the police station that your house was on fire? -- No, that is not my evidence.

How many people were there around your house whilst it was burning when you arrived? -- I was so confused that I am not in a position to give an estimation as to how many people were there, but there was quite a good number of people.

Save that the police were unable to put out the fire, did they appear otherwise to be in control of the situation when you arrived there? -- I do not know what you mean by controlling the situation.

There was no apparent wrongdoing in the presence of a large number of the police officers near your house? -- No.

What I want to suggest to you is this, that insofar as you may have suggested in your evidence-in-chief that the people in certain colour of T-shirts may or may not have been responsible for starting the fire at your house, is pure conjecture on your part in view of your present evidence? -- I was not at all present when the fire started.

And you do not know who was responsible for it? -- I do not know who started the fire, except to say that COSAS members were convicted on the setting alight of my house.

<u>COURT</u> : How many? -- More than twenty.

<u>MR BIZOS</u> : Are you sure about that? -- Yes, I know that they were convicted.

You yourself did not give evidence? -- I did give evidence pertaining to the damage caused there.

<u>COURT</u> : This leader of the COSAS, what was his name? Billy? Was he also convicted? -- No, he was not there, he since disappeared.

<u>MR BIZOS</u> : Because I am going to put to you that a number of

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young people were in fact convicted of nothing more than malicious injury to property in relation to various events in the township? -- I agree with you on that.

Do you know how many people ... (Court intervenes)

COURT : Let us just get clarity now. Was a charge brought in connection of the arsen of your property? -- The case which was opened there was public violence.

Public violence in connection with your property alone or in connection with other incidents as well? -- It involved quite a number of incidents.

Including yours or not including yours? -- Including mine.

MR BIZOS : Do you know if any or if so, how many of the young people charged in relation to the damage to your property, were actually convicted? -- I have already said they were about twenty.

What I am going to put to you is that you are again making a mistake, that there was a charge of public violence but that individual people were convicted on individual acts? -- All I know is that they were convicted on the acts which included my house.

What I am suggesting to you or what I am putting to you in fact is this, that although a charge of public violence was brought against all the people before the court, they were convicted on individual acts, that some were convicted of throwing chairs at windows ... (Court intervenes)

COURT : Mr Bizos, why do you not put to the witness that there was one or there was nobody that was convicted in connection with the arsen of your house? Then we will know where we are.

MR BIZOS : I am going to put to you that a small number of people who were convicted of causing malicious injury to property in relation to your house and not the whole group ...

... / (Court

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(Court intervenes)

COURT : But now how big is a small number?

MR BIZOS : I have not got the precise number. It is on hearsay from the attorney that actually acted for this group and we tried our best, this is what I wanted to get specifically overnight, which unfortunately we did not get or could not get a copy of the record.

COURT : It does not matter so much.

MR BIZOS : What I am going to put to you is that not all the people that appeared before the Court were convicted in relation to your house, but do you know who was in fact convicted in relation to any act in relation to your house? Do you know? -- What I know is, the accused who appeared on this charge of public violence which included the act on my property pleaded guilty and therefore convicted - they were convicted on their plea which included my house.

What I am going to put to you is that it was not all the accused, but a small number of the accused who admitted to causing malicious damage to your property and not all of them. Are you able to admit or deny it? -- I do not agree on that.

And if that be the case, you would not know which of this large number were so convicted? -- That I do not know.

And you would not know whether or not those particular persons that pleaded guilty to malicious injury to your property were members of COSAS or not? -- I do know. Definitely I know that they were people from COSAS.

COURT : All the twenty? -- Yes.

MR BIZOS : How do you know that? How do you know that they were members of COSAS all the twenty? -- From my duties where I am employed I came to know that they are members of COSAS.

This is from information that you received from informers?

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-- Not only that. I used to see them as well clad in COSAS T-shirts.

Every one of them? -- Even when they were attending Court they were clad in those.

Every one of them? -- Well, every one of them in the sense that for instance if one has a T-shirt on today and then tomorrow you are clad in a different shirt and then somebody else will be clad in a different T-shirt. Therefore every one of them.

Could you tell us the age group of these young people? -- Between 16 and 20.

HERONDERVRAGING DEUR MNR. HANEKOM : Op watter stadium het Billy Mokaba weggeraak? -- After they were released on bail he disappeared. Nadat hy vrygelaat was, het hy verdwyn.

HOF : Was hy ook gevang en op borg vrygelaat? -- Ja.

MNR. HANEKOM : Is hy ooit weer opgespoor of is hy op die oomblik nog steeds weg? -- Hy is nou nog weg.

HOF : Wat is die afstand tussen die saal en die huis? -- Omtrent 2 kilometers.

GEEN VERDERE VRAE.

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MNR. HANEKOM : U Edele, die volgende getuie is sersant Labuschagne. Hy het reeds getuig in verband met Cradock. Ek doen aansoek om hom terug te roep om getuienis te gee oor Somerset-Oos. Die getuienis wat hy gaan lewer is in verband met die afvaardiging van dertien mense wat die stasiebevelvoerder op Somerset-Oos gaan spreek het. Op daardie stadium het die getuie reeds getuig oor Somerset-Oos en ek het nie geweet dat hy ook hierdie getuienis kan gee nie. Dit het agterna aan die lig gekom.

HOF : Enige beswaar teen die herroeping, mnr. Bizos?

... / MR BIZOS

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MR BIZOS : No, I do not think we will have any objection. I may require a little time. I thought he is a fresh witness.

CHRISTOPHER JOHN PETER LABUSCHAGNE, v.o.e.

ONDERVRAGING DEUR MNR. HANEKOM : U is 'n sersant in die Suid-Afrikaanse Polisie verbonde aan die veiligheidstak Cradock? -- Dit is reg,

Gedurende die tydperk 1984 tot tans was u ook bemoeid met ondersoekwerk in Somerset-Oos? -- Dit is korrek.

Was u bewus dat daar 'n COSAS tak bestaan het in Somerset-Oos? -- Dit is korrek, van September 1984 af.

Op 8 Oktober 1984 het u en ander lede van die mag 'n sekere woning in Somerset-Oos deursoek? -- Dit is korrek.

Wie se woning was dit? -- Die een was Ndomiso Matsimbi.

Het u op enige dokumente beslag gelê in die huis? -- Dit is korrek.

Ek toon aan u 'n dokument wat uit 'n paar bladsye bestaan met lyste name op.

HOF : Dit sal wees BEWYSSTUK ABA(54). Herken u die dokument? -- Dit is korrek.

MNR. HANEKOM : Is dit waarop u beslag gelê het by die woning? -- Dit is korrek.

Het u die oorspronklike nou voor u? -- Dit is die oorspronklike.

Het u op dieselfde dag ook by ander wonings deursoekings gedoen? -- Dit is korrek.

Waar was dit? -- Dit was die woning van Jeffrey Sambokwe.

HOF : Dit is ook in Somerset-Oos? -- Dit is ook in Somerset-Oos.

MNR. HANEKOM : Het u daar enige beslagleggings gedoen? -- Dit is korrek.

Waarop het u beslag gelê? -- Dit was 'n lidmaatskapkaart

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van die persoon.

Ek toon aan u 'n lidmaatskap van COSAS.

HOF : ABA(55).

MNR. HANEKOM : Dit is 'n lidmaatskapkaart van Jeffrey Sambokwe? -- Dit is korrek. Hy staan ook bekend as Alex. Sy alias is Alex.

HOF : Hy staan bekend as Alex? -- Sy noemnaam in die woonbuurt is Alex.

MNR. HANEKOM : Op 10 Februarie 1985 het u die kantoor van die stasiebevelvoerder, luitenant Labuschagne, besoek op Somerset-Oos? -- Dit is korrek.

Het u daar enige mense gesien? -- Ja. Toe ek daar arriveer het daar dertien persone uit die kantoor uit gestap gekom.

Het u enige van die groep van dertien geken? -- Dit is korrek.

Wie was dit? -- Die eerste een was Andile Ntshutu, Quintin August, None Ngamba, Panama Njenje en Jeffrey Sambokwe.

Het u op daardie stadium persoonlike kennis gedra of enige van die persone aan enige organisasie verbonde was? -- Dit is korrek.

Aan watter organisasie? -- Almal het aan COSAS behoort behalwe Panama Njenje.

ASSESSOR (MNR. KRÜGEL) : As u nou sê almal, bedoel u al dertien? -- Nee, al die wat ek genoem het.

MNR. HANEKOM : As u nou weer kyk na die lys ABA(54) kom enige van die persone in die groep van dertien wat u daar gesien het se name op die lys voor? -- Dit is korrek. Op die tweede bladsy aan die agterkant waar hy van 1 genommer is, nr. 1 is None Ngamba. Nr. 4 is Ndomiso Matsimbi. Nr. 52 op hierdie lang bladsy met die opskrif "Members of COSAS", dit is Quintin August. U sal sien die van is eerste geskryf en dan die naam.

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Dan nr. 183, Andile Ntshutu. Dan kan ek net sê, Jeffrey Sambokwe verskyn nie op die lys nie, maar hy het 'n lidmaatskapkaart.

Dit is ABA(55)? -- Dit is korrek.

By die huis van Ndomiso Matsimbi waar u beslag gelê het op ABA(54), het u enige ander publikasies ook op beslag gelê? -- Dit is korrek.

Wat se publikasies was dit? -- Daar was COSAS pamflette gewees en UDF News.

In Maart 1985 het u sekere dokumente van luitenant Labuschagne af ontvang? -- Dit is korrek.

Wat was dit? -- Dit was 'n dagboek wat hulle by Banzana gekry het, Swartman Banzana, Mzukisi Banzana.

Ek toon aan u afdrukke van 'n dagboek. Dit sal wees ABA(56). Het u die oorspronklike dagboek gekry of hierdie fotostatiese afdruk? -- Ek het 'n fotostatiese afdruk gekry,

Afgesien van Samuel Mzukisi Banzana wat op die voorblad of die buiteblad voorkom, kom die naam op ander plekke in die boek voor? -- Dit is korrek. Op bladsy 3, aan die linkerkant. U sal sien onder die organisasie AZASO is 'n nr. 1 "chair person"(?). Dit is dieselfde persoon. Dit is ook S.M. Banzana.

Dit is onder die opskrif "Elected on a AGM held at 5H4 at 12.20 p.m. on Thursday, 13 September 1984 AZASO executive." -- Dit is korrek.

U Edele, net vir u gerief, die getuienis van luitenant Labuschagne oor hierdie aspek was op bladsy 5 425, dit is in volume 109.

MNR BIZOS VRA VIR 'N KORT VERDAGING.

MR BIZOS : May I also indicate that we do not concede the admissibility of these documents on the indictment as it is, but that is something that we can deal with later.

GETUIE STAAN AF.

... / HOF

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HOF VERDAAG. HOF HERVAT.

CHRISTOPER JOHN PETER LABUSCHAGNE, nog onder eed

MNR. HANEKOM : U Edele, daar is een aspek wat ek nagelaat het. Mag ek dit met u verlof opklaar?

HOF : U moet nou alles vra aan hierdie getuie want ons sal hom nie weer 'n keer terugroep nie.

ONDERVRAGING DEUR MNR. HANEKOM (Vervolg) : U het gesê almal wat u genoem het is COSAS lede behalwe Panama Njenje? -- Dit is korrek.

Het u Panama Njenje geken? -- Dit is korrek.

Weet u of hy aan enige organisasie verbonde was? -- Dit is korrek. Hy is alombekend as die hulp-organiseerder van al die organisasies te Somerset-Oos.

HOF : Wat beteken dit nou? -- Dat hy help die COSAS lede met organisering, SEYCO lede, dit is hulle jeugorganisasie en dan ook SERA.

In wie se diens is hy dan? -- Hy is werkloos. Hy help net almal. Hy help met die organisering van al die organisasies.

Is dit een van sy filantropiese kenmerke? -- Dit is reg.

KRUISONDERVRAGING DEUR MNR. BIZOS : My Lord, I am going to ask one or two questions. I want to make it clear that we have no - we are not prepared for these or have any information about them from the accused. If anything does arise at the time when we have had an opportunity of going into it, we may have - I hope it will not become necessary to ask Your Lordship to bring the witness back because we did not know anything about these documents.

Die dokumente wat aan u oorhandig is, wanneer was dit? -- Dit was in Maartmaand gewees 1985.

HOF : Dit is ABA(56). Wanneer is dit aan u oorhandig? --

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In Maartmaand 1985.

MNR. BIZOS : Ek sien dat die dagboek 'n 1983 dagboek is. -- Ek sien dit ook 1982.

HOF : Hy begin in Desember 1982, maar daar staan die datum 1984 bo Januarie 1983. -- Ja.

MNR. BIZOS : Daar is baie name op die dokument wat seer sekerlik aan u bekend is, wat sekerlik nie lede van COSAS kon gewees het nie? Dr. Boesak, Blackburn en Coleman. Ek verwys na die vierde bladsy.

HOF : Maandag, 3 Januarie. Aan die regterkant staan daar UDF Headquarters?-- Dit is korrek.

MNR. BIZOS : Ek sien ook My Geleerde Vriend, mnr. Yacoob se naam en telefoonnommer daarin. -- Maar as u verder gaan, op die 6de, dit is net twee bladsye aan, verskyn die naam van Andile Ntshutu weer 'n keer, wat wel aan COSAS behoort.

Dokument ABA(54), u weet nie wie die dokument opgestel het nie of weet u? -- Nee, ek weet nie.

U weet ook nie vir watter periode dit geld nie? -- Nee, ek weet nie.

Dit kom uit die dokument voor dat die grootste meerderheid nie betaal het nie? -- Ja, ek weet nie hoekom het die ander nie betaal nie.

Ons kan aanvaar dat die letter pd die afkorting is van "paid"?

HOF : Ek dink nie dit bring ons baie verder nie. Miskien is die ander erelede wat nie hoef te betaal nie.

MNR. BIZOS : U weet nie of die lidmaatskap van 'n COSAS lid beëindig as hy nie betaal nie? -- Nee, ek weet nie daarvan nie.

En die heel eerste naam mnr. Pillay, Ronny Hare is 'n lid van die balie in die Oos-Kaap. Hy was van tyd tot tyd my junior. Ken u mnr. Pillay? -- Nee.

... / HERONDERVRAGING

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HERONDERVRAGING DEUR MNR. HANEKOM : Geen vrae.

ASSESSOR (MNR. KRÜGEL) : Die regmerkies wat aangebring is agter sekere name, as 'n mens kyk na die dokument ABA(54), die eerste bladsy het almal blykbaar betaal, daar is "pd" ingeskryf. Dan is daar vanaf nr. 1 op bladsy 3 dwarsdeur regmerkies gemaak agter sekere name en dan op bladsy 4 wat die opskrif "Members of COSAS" het, is daar weer agter 'n klompie name "pd" met 'n regmerkie geskryf. Het u enige gedagte waarvoor die regmerkies en die "pd" staan? -- Nee.

Dan is daar natuurlik baie agter wie se naam geen "pd" of regmerkie geskryf is nie. -- Dit is korrek.

GEEN VERDERE VRAE.

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MNR. FICK : U Edele, die volgende getuie se naam is Johannes van der Berg. Hy getuig oor Grahamstad. Dit is paragraaf 19 van die besonderhede.

JOHANNES VAN DER BERG, v.o.e.

ONDERVRAGING DEUR MNR. FICK : Mnr. Van der Berg, u is 'n adjudant-offisier in die Suid-Afrikaanse Polisie en u is gestasioneer te Grahamstad? -- Dit is korrek.

U is nie in die veiligheidspolisie nie, maar in die veiligheidstak? -- Dit is korrek.

Op 30 September 1984 om ongeveer 17h30 was u uitgeroep na 'n of om 'n motorongeluk by te woon waar 'n motorongeluk plaasgevind het en die besonderhede daar te neem te M Straat in die Swartwoongebied Tandje? -- Dit is korrek.

U was toe op die ongelukstoneel en u was daar besig om die besonderhede te neem? -- Dit is korrek.

Was u in uniform gewees? -- Dit is korrek.

Wat het toe gebeur? -- Daar het 'n groep Swartjeugdiges ongeveer 150 in M Straat afgehardloop gekom. Hulle het

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gesing, hulle vuiste in die lug gesteek. Voor in die groep was daar drie Swartmanspersone gewees. Hulle was gekleed in 'n swart langbroek en wit T-hemde. Voor op die borste staan COSAS in swart. Toe die groep ongeveer 50 meter van my af was, het van die jeugdiges klippe na my gegooi, ek het begin vrees vir my lewe en beskadiging van die voertuig. Ek het in die voertuig gespring en uit die lokasie uit beweeg. Om ongeveer 18h15 op dieselfde dag het ek opdragte ontvang om Raglan Road te blokkeer aangesien die voertuie wat daardeur beweeg met klippe bestook word.

Raglanweg gaan deur die Swartwoongebied en dit is die hoofpad tussen Grahamstad en Oos-Londen? -- Dit is korrek. Ek het toe die pad geblokkeer en die motoriste versoek om 'n alternatiewe roete te gebruik. Terwyl ek daar diens gedoen het, het daar veertien motors by my gestop wat erg beskadig was deur die klippe. Onder andere was daar 'n babatjie asook 'n Witdamesstudent beseer met die klippe. Hulle moes toe hospitaalbehandeling ontvang.

Die persone wat by u gestop het met die beskadigde voertuie en die beseerdes, was dit persone wat van voor af gekom het wat reeds deur die Swartwoongebied gery het of was dit mense wat van agter af op pad deur die Swartwoongebied was? -- Dit was persone wat vanaf die rigting van Oos-Londen deur die Swartwoongebied ingekom het. Ek het die onderkant vanaf Port Elizabeth blokkeer.

Dan wil ek met u teruggaan na die voorval by die ongeluks-toneel. U sê van die persone het met klippe gegooi. Was dit 'n klein deel van hierdie groep van ongeveer 150 of was dit 'n groot deel? -- Dit was 'n groot deel. Daar het heelwat klippe geval.

Kan u vir die Hof aandui of het u gesien wat was die

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gedrag van hierdie persone wat u sê COSAS T-hempies aangehad het? Het hulle saam klippe gegooi, het hulle eenkant gestaan, het hulle die mense gekeer? Wat het hulle gemaak? -- Nee, hulle het heel voor gehardloop. Partykeer omgedraai met hulle rug na die skare toe en so ook die persone wat langs die kant van die paaie - van die pad gestaan het ingekeer in die groep in.

Dit wat u nou beskryf het, is dit na die klipgooiery begin het of was dit voor die klipgooiery? -- Dit was terwyl die groep afgekom het.

Met die klipgooiery self, het u gesien wat hierdie persone met die COSAS T-hempies gedoen het? Het hulle deelgeneem daaraan, het hulle eenkant gestaan? Het hulle die mense gekeer of weet u nie? -- Nee, die drie persone, die COSAS lede, het nie deelgeneem, ek het nie een van hulle sien deelneem aan die klipgooiery nie. Dit was uit die skare uit wat hulle gegooi het.

KRUISONDERVRAGING DEUR MNR. BIZOS : Die drie mense met die COSAS T-hemde, is hulle ooit opgespoor? -- Nie waarvan ek kennis dra nie.

U het hulle in hoofgetuienis as drie manspersone beskryf. Kan u asseblief vir ons 'n idee gee van hulle ouderdom? -- Die ouderdom volgens my waarneming was tussen 18 na sê 24. Dit was jong persone gewees.

Is dit die drie of die groep in die algemeen? -- Dit is die drie wat voor gehardloop het.

Jammer, ek het u nie goed gehoor nie, wat is u getuienis, het hulle deelgeneem aan die klipgooiery of nie? -- Nee, hulle het nie deelgeneem aan die klipgooiery nie.

Sal u weer skat, asseblief, hoeveel was daar in die groep toe u besluit het om weg te ry? -- Volgens my skatting ongeveer 150.

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Het dit vir u gelyk voor 'n deel van daardie groep klippe begin gooi het of hulle besig was om enige optog te hou of op pad na enige plek was en dat hulle toevallig u teëgekom het? -- Ja, ek sal sê hulle het toevallig op my afgekom. M Straat is 'n redelike lang straat. Ek het hulle van 'n redelike afstand af dopgehou.

HERONDERVRAGING DEUR MNR. FICK : Geen vrae.

ASSESSOR (MNR. JOUBERT) : Het u vasgestel wat die motorongeluk was wat u gaan ondersoek het en wie daarby betrokke was? -- Ja, dit was 'n Swartmanspersoon wat 'n voetganger omgery het wat ernstig beseer was.

Het u enige verband vasgestel tussen die beseerde voetganger en die optog wat plaasgevind het? -- Nee, daar was geen verband nie. Ek was reeds besig op die toneel toe die skare aangekom het.

ASSESSOR (MNR. KRÜGEL) : Die drie wat voor die skare was met die COSAS T-hemde, u sê hulle het van tyd tot tyd omgedraai en met hulle rûe na u toe gewys, terwyl hulle dan na die skare kyk of na die groep kyk? -- Dit is korrek.

Wat het hulle dan gedoen? -- Dit het vir my voorgekom of hulle - hulle het gesing en die mense aangespoor. Hulle het soos dirigente voor gedirigeer met hulle hande.

En terwyl die skare of die groep klippe gegooi het na uself, wat het die ander drie gedoen? -- Hulle het voor hulle gestaan soos hulle teruggehardloop het. Ek weet nie of hulle met hulle gepraat het nie. Op daardie stadium was hulle ongeveer 50 meter van my af. Ek kon nie - daar was 'n oorverdowende geraas soos die mense gestamp het met hulle voete en gesing het.

GEEN VERDERE VRAE.

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... / MNR. FICK

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MNR. FICK : U Edele, die volgende getuie wat die Staat aanbied gaan getuienis lewer met betrekking tot die sameswering tussen - soos in die akte van beskuldiging beweer word - die ANC en die organisasies, maar dit val ook in met die Alexandra woongebied se getuienis wat later aangebied sal word. Die getuie wat die Staat roep is Robert Whitecross.

ROBERT WHITECROSS, d.s.s.

EXAMINATION BY MR FICK : You are a warrant officer in the South African Police stationed at John Vorster Square and you are a member of the security police? -- That is correct.

During 1983 you were a member of the police? -- That is correct. I was a full time member of the South African police force. I was working in an under cover capacity at the University of the Witwatersrand.

Were you a student at the University? -- I was a registered full time student at the University.

You lived in a house in Berea Johannesburg? -- That is correct.

During that period? -- That is correct. I stayed in a, what is known as a commune in student terms. There were five people who lived in that commune. Myself and Mr Karl Niehaus, his fiance, girlfriend Miss Johanna Lourens, Karin du Plooy ... (Court intervenes)

COURT : You are going a bit fast for me. You were there, Mr Karl Niehaus, his fiance or girlfriend? -- She was his girlfriend at that stage. She later became his fiance and subsequently his wife.

What is her name? -- Miss Johanna Lourens.

Yes? -- Miss Karin du Plooy and a Mr Darryl Glaser.

MR FICK : Were you a member at that stage of any organisation? -- As a full time student of Wits University I was member

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of USAS as are all members of affiliated campus.

Were you an ordinary member of USAS? -- No, I was a member of the student committee called projects committee and the projects committee is an SRC which is a Student Representative Council sub-committee. Their general aims are to politicise and make students on campus aware of issues in South Africa.

And the people who lived with you in the house, were they members of any organisation? -- Correct. As I said, the full time students at Wits were all members of USAS. That will be Mr Glaser, Miss Du Plooy and Mr Niehaus.

Approximately in May 1983 people were entertained in your house. Is that correct? -- That is correct. We had established our house in approximately 1983 and we thought it in order to throw an informal type of housewarming party to which we invited people generally sympathetic with progressive political ideals.

COURT : What do you understand under the words "progressive political ideals?"-- I would say these tend to the left of centre spectrum of politics which would delph into a socialistic type of economical system and in South Africa we shall say supporters or striving for a one man one vote democratic type of system.

Is that how the term was generally used in your circles? -- That is correct.

That is one man one vote socialistic? -- No, not specifically. I am not an expert on the definition, but it is generally anti-government.

MR FICK : Who were invited to this party? -- We invited various people to this party. We invited COSAS members from Alexandra, one of them being a certain Mr Vincent Shabalala, another being Mr Obed Bapela and Dr Beyers Naude was also invited to

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this party and he did attend.

Not as a COSAS member? -- No, as a guest.

MR FICK : What happened at the party? -- This party took place, it was an informal gathering. What was noticeable was that people such as Mr Paul Mashitile from Alexandra ... (Court intervenes)

COURT : Were the COSAS members COSAS members of Alexandra? -- Correct.

What was noticeable? -- We invited Vincent and Obed, but Mr Mashitile accompanied them and a certain Mr Nico Motsai accompanied them, a certain Mr Tekere Make was amongst them, but all in all the group was large, eight to ten people, I do not remember exactly. I did not identify the entire group, but the names I have given you, I did know these people personally.

Were these also from Alexandra? -- Correct.

MR FICK : Did you take a photo at the party? -- As I was a keen photographer, it is one of my hobbies, Mr Niehaus asked me to take photographs as a type of memoria of the party, which I duly did and when these photographs had been taken I had a set developed and I handed the negatives to Mr Niehaus afterwards on his request. One particular photograph I took at this party was the group of the people I mentioned standing together arm in arm enjoying themselves

I would like to show you a photo. This is not an original photo. Could you explain this photo, please?

COURT : AAY(59). -- This particular picture is a copy of the original photograph which I personally took and the original was handed in as an exhibit in the Karl Niehaus treason trial and on Monday, 28 July 1986 I went personally to the Supreme Court in Witwatersrand where I spoke to a Mr Van Rensburg of

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the records department and we drew the entire case as such and this exhibit has gone missing from the records. So, I am not able to hand in the actual original which we handed in at that day and the handwriting one sees on this photograph was put there by Mr Jan Swanepoel, who was the State prosecutor in that Court case.

Will you please identify the people on this photo? -- I cannot identify all of them, but if we start from the left, the first person from the left I do not know. Second from the left was Mr Tekere Make. The third person I also do not know. The fourth person is indicated as Vincent Shabalala. The fifth person is Mr Obed Bapela whom I knew and still do. The sixth from the left with his head raised looking over Mr Obed Bapela's head, I do not know either. Then Mr Nico Motsai is now seventh from left.

COURT : That is the front one? There is one behind him as well? -- That is correct. I do not know the person behind. The person on the far right is Mr Paul Mashitile.

MR FICK : During 1983 you met Vincent Shabalala again. Is that correct? -- That is correct. I do not remember the exact date, but it was early June. It was a Saturday afternoon. Vincent Shabalala and Nico Motsai and one other Black male whom I never identified had come to our house in order to collect a packet of pamphlets Mr Niehaus had printed for them. The packet was approximately 8 inches in height in a yellow Checkers bag.

COURT : What type of pamphlets were they? -- I never got to see the nature of this pamphlet, but Mr Niehaus instructed me to take his car, which was a Datsun 1200 and give the three people I have mentioned a lift back to Alexandra, which I duly did and his instruction to them was to distribute these

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pamphlets in Alexandra.

MR FICK : What happened along the road? -- On our way back to Alexandra the three passengers with me were talking in their Native language which I did not understand and at one stage they broke out into a chant, something in the order of ANC and they clapped, ANC and they clapped. They did this for approximately a kilometre and I actually joked with them and said you are not scared, you will get into trouble doing something like that and they thought this was quite amusing. They did not give me an answer, one way or the other.

During July 1983 you met Shabalala again? -- This is correct. I recall it was mid July approximately and it was a Monday when Vincent Shabalala, Nico Motsai and two Black females who I also never established their identities arrived at our house and they seemed fearful almost. They asked if we could provide refuge for them, they said the security police were looking for them. We said to them it was not safe to spend a long period of time at our house and what happened was, we had to find them what is known as a safe address, one obviously wants the police to not know the identity of them and we could not do that in the immediate short term, so they spent a number of hours, I do not remember exactly how many it was, but it was a night and a day in my bedroom. We kept the door locked all the time. The arrangement was to be, if anybody knocks at the door, we would have lost the key and could not open it. Eventually Mr Niehaus found an address away from our house, it must have been a day or so later and he took the four of them from our house to the safe address. He then asked me could I assist in arranging transport for these people to leave the country and I said yes, I could. We then had to find transport for these people to the Botswana

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border and we decided that it will be best to use Mr Glaser's car as he would lend it to us and it would not be too suspicious or check his mileage or anything else. We never actually informed Mr Glaser that his car would be used for a trip to the Botswana border. It was then the Friday evening when I discussed with Mr Niehaus the future of these people and he said they will be leaving to join the ANC and as far as this was concerned I was quite confident this was the fact, because this was the general discussion while they were stillin my room. Mr Niehaus took them on a Saturday in this car and I had never seen the four of them again until Mr Shabalala returned in 1985 I think.

MR BIZOS : We had no notice of this any where, but I ask the witness to stand down. I understand on his own evidence he has given evidence in other proceedings which we want to check and want to take instructions.

COURT : How long do you want this witness to stand down?

MR BIZOS : I would suggest until Monday morning.

HOF : Enige beswaar, mnr. Fick?

MR BIZOS : If Your Lordship bears with me. The attorney who is in charge of this part of the case, wants to have a word with me. I do not know whether it is going to change the application that I have made. (Mr Bizos speaks to attorney) Instead of Your Lordship taking an adjournment, the State was good enough to inform our instructing attorney in relation to the evidence by another witness who is going to implicate someone whois in detention under the emergency regulations and a considerable amount of trouble was gone to in co-operation by various authorities to arrange a consultation for this afternoon by the witness detainee that will be able to give us instructions. So, what I am appealing to Your Lordship

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and My Learned Friend is to lead the evidence of this other witness as well, the witness who will talk about the detainee so that we can take instructions and proceed with the matter on Monday.

COURT : But Mr Bizos, I am very, very disagreeable of leading witnesses out of turn. I would be prepared to let this witness stand down and then we will adjourn and then you can have your instructions on this witness's evidence, but I would not like to get the whole thing mixed up.

MR BIZOS : There is another way of dealing with it. We will request our Learned Friend and we are sure that he will co-operate and that he will give us an outline of what the evidence is going to be about, so that we can have the consultation.

HOF : Wat is die Staat se houding?

MNR. FICK : Die Staat se houding is dat die getuie afstaan en dat die Hof verdaag en dat ek nie die volgende getuie insit nie, want die volgende getuie getuig oor dieselfde mense.

GETUIE STAAN AF.

HOF VERDAAG TOT 4 AUGUSTUS 1986.

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K377 HOF HERVAT OP 4 AUGUSTUS 1986.

ROBERT WHITECROSS, d.s.s.

CROSS-EXAMINATION BY MR BIZOS : Mr Whitecross, are you aware that there is a non-racial congregation of the Dutch Reform Church in Alexander? -- I am.

Did your friend with whom you were staying, Mr Niehaus, attend church services there? -- He did.

Did Dr Beyers Naude attend church services there? -- I am not aware of that. I do not know.

Did you yourself attend any services there? -- No. (10)

Do you know whether any of the persons whom you have identified on the photograph or any of the persons that you mentioned attended any church service there? -- That I do not know.

My Lord, those are the only questions we want to ask of this witness, but I want to make it clear that we are not aware at this stage whether this is background evidence or whether any attempt is being made to hold the accused liable for anything that may have transpired at a party or at the travels to the Botswana border and we are unable to assess it at (20) this stage or to cross-examine on it in the absence of any further indication, but at this stage I have no further questions, subject to saying that.

RE-EXAMINATION BY MR FICK : No questions.

NO FURTHER QUESTIONS.

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