

SAAKNOMMER: CC 482/85

DELMAS

1986-01-21

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST EN

ASSESSORE: MNR. W.F. KRÜGEL

MNR. W.A. JOUBERT

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. C. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

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VERHOOR-BINNE-'N-VERHOOR.

GETUENIS VIR DIE STAAT :

IC L v.o.e. (Deur tolk)

MR CHASKALSON : As the witness's evidence is going to be translated presumably into Sotho ... (Court intervenes)

COURT : From Sotho into Afrikaans and then from Sotho into English.

MR CHASKALSON : I just wonder if the witness could speak up loud if he is going - it will presumably be translated (10) from Sotho into Afrikaans, which means that if that is to happen, unless the witness speaks loudly, the accused would not know what is happening.

COURT : What language does the witness speak?

INTERPRETER : The witness prefers to speak English.

COURT : You would prefer to speak English? -- Yes, I would prefer to speak English.

EXAMINATION BY MR JACOBS : Eric, in 1976 did you join the ANC? -- Yes, I did.

Did you leave the country? -- Yes, I did. (20)

Where did you go? -- I went to Botswana where I was recruited by the ANC.

You went to Botswana and what happened there after you had been recruited? -- After I had been recruited by the ANC I was taken to Angola, where I underwent basic military training. That involves guerrilla warfare, basically fire-arms, tactics, politics, ANC politics and communist politics, typography, artillery and explosives, including mine warfare.

After your training and during your training, can you tell us whether you were informed about the ANC's policy on (30) people that are usually called "sell-outs"? -- Yes. On our

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arrival in the camps, generally we were told about the people who desert the ANC, who do not want any longer to become members of the ANC or Umkhonto we Sizwe. We were also told that such people are enemies of the ANC, because they are people who can put the ANC in disadvantage against this government. Such people strong measures were taken against. Basically we were taught that when we go to the country, if a person deserts, his only punishment is the death. His life must be taken, irrespective of how he is going to be killed, but he must be eliminated. We were told about the name of Mr Nkosi, who (10) was a member of MK who participated in the war of Zimbabwe during the 70's - during the 60's, the late 60's. He deserted his comrades there and he came back to South Africa. Later on, if I am not mistaken, it was around 1979, 1977, that Mr Nkosi was executed by the ANC and then there was also another incident which took place in Soweto where another old man who also was regarded as a traitor was executed. I have forgotten his name. Then, of course, there are many people who got disillusioned when they were within the ranks of the ANC and they decided to come back to South Africa. We were given (20) instructions and then we were shown their photo's, that whenever you come across such a person, it is better to kill him.

Is there anything about people giving evidence, being witnesses in court cases? -- Yes. People who are giving evidence in especially these political cases, they are, of course, targets of the ANC. The ANC is mobilising against these people. They mobilise people who are not even aware what the ANC stands for, to eliminate those people who come and give evidence here in court.

Do you know, are there any instructions from the ANC (30) to attend court meetings and when they are issued with

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photographs and what to do about that? -- Yes. Some people are being sent for special operations like these, so that they must come and observe the type of person giving evidence in court and then try to trace him and eliminate him. They can use these couriers for reconnaissance. They are ordinary civilians that are not trained to perform such operations in court, because they are legal people and they are known as not trained members of the ANC. So, those people, when they come here in court, they can come with the intention of conducting this type of reconnaissance under the disguise that he is (10) coming to listen at the court, of which he knows is in the mission to come and identify a person who is giving evidence here in court, so that he must report to his comrades, so that that person can be killed.

You yourself, you will be a witness in this case. Is it correct? -- Yes, I will.

Are you afraid? -- If the case is going to be held and I come here and I give my evidence in camera, I am willing to do so, to give evidence.

In open court? -- In open court I would not do it, I (20) would not give evidence, because I do not want my life as it is already in danger, I do not want to be get exposed to people who might be coming with the intention of identifying me or making it possible for me to be killed by the ANC.

You mentioned to me about soft targets in connection with witnesses. What do you mean by that? -- Soft targets as far as the ANC is concerned they regard it to be people who are generally helping the State and people like counsellors, policemen, people who are witnesses in political cases and people who are - like White farmers. Generally, those are (30) soft targets. Then, of course, the court itself is a soft

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IC |

target of the ANC, because they can come and plant a bomb here in the court with the intention of killing the judge himself and those who are may be on the side of the State. Of course, even though you are not on this side, if they are here in court, if the ANC does so, they are going to die.

CROSS-EXAMINATION BY MR BIZOS : Mr IC | when were you arrested or detained in South Africa after your return from your travels? -- After my return I was detained in Mafikeng.

How long ago was that? -- It was around 1984.

The beginning of 1984? -- It was in the middle of 1984.(10)

Have you been in South Africa for approximately eighteen months now? -- Yes, I am.

Have you been living in custody or have you been free to move about? -- I was free to move around.

You were free to move around? -- Yes.

I am not going to ask you for your address lest it be misinterpreted, but I would like to know the nature of the general area in which you are living? Is it an area in which, which is called a township, a Black area? -- Yes, I live in a Black township. (20)

With or away from your family? -- I live with my family.

Was it known by your family, immediate family, by your extended family and by your friends that you had left the country? -- Yes, it was known.

And is it known by your immediate and extended family and your friends that you underwent military training under the auspices of the African National Congress? -- After I told them, they knew.

And you returned to the community that you were living in before your trip to Botswana in a similar way that you (30) were living before. Correct? -- Yes.

And I dare say that you had many schoolfriends with whom you were associated during the 1976 troubles? -- Yes, that is so.

Would you have any objection telling His Lordship whether it is in Johannesburg or in Pretoria or some other large centre in which you are living at the moment? -- Outside Johannesburg.

Is it Soweto? -- No, it is not Soweto.

Outside Johannesburg. Very well. Do your schoolfriends know that you have been out of the country for military training? -- Yes, they know. (10)

And among your schoolfriends are there for the lack of a better word radicals, people who in 1976 were disaffected by the policies of the government and took part in demonstrations? -- Yes, there were.

And these are the friends who are generally speaking disaffected with the policies of the government, all know that you have been out of the country for military training? -- Yes, they know.

Do they not when they see you ask you "Friend, you have been out of the country for military training and you are now moving about freely, how come?" -- First I told them about my going out to exile. I told them of my experiences within the ranks of the ANC and then I told them that myself, as you see me now moving around, I know that some of you are feeling bad and some of you would go to the extent of calling me a traitor or a deserter or whatever you can call me, but I have got reasons why I have come back." I know it very well that with the aims of the ANC, it is said by the ANC that they are a people's organisation, they are saying that they represent the interest of the suffering Black people of this country, of (20) (30)

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which, according to my experience, I have seen it is a question of who receives power and when he is in power, he is going to forget about the interest of the people. So, I saw that, for the past years I stayed in the ANC. I was just wasting my time. I know it very well that one day I will die. I must not be afraid of that, but I have to die, if necessary. Not to die because - or whether I want to be called a hero or what. No, I do not want that. Of course, people who are talking about the course, they are not dedicated. They are not people who are - may be can see the revolutionary and these (10) political terms. They are just people who are trying to get life for themselves soft and better, not to the rest of the people. No, that is not the thing. So many people who have died before getting this type of experience that I have got, they are called hero's, but if ever they were leaving, they could have seen those things I have seen. Some of them at present in Angola are just as disillusioned as any one who might be disillusioned about the ANC. They do not want any more to be within the ranks of the ANC, but because they are afraid that tomorrow they will be called traitors or tomorrow (20) they will be killed, their families will be burnt and so on, they will have to follow that.

I do not want to interrupt you. Please carry on if you think you have to, but have you finished in answer to my question? -- Yes, well, I can say in short ... (Court intervenes)

COURT : Just a minute. Let us just stick to the question.

I did not understand Mr Bizos to ask you exactly what you had told your friends why you had become disillusioned with the ANC. If that is what you want, you can have the witness continued. (30)

MR BIZOS : No, I did not want that, but I did not want to

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interrupt the witness.

COURT : Very well. Put your next question.

MR BIZOS : If I understood your long answer, not only have you told your friends, but you took the trouble to justify your actions amongst your friends openly? -- Well, they were interested to know about me and why I took such an action. So, I put them in the picture.

Is the answer to the question yes? -- Yes.

Please try and confine yourself with short answers. If you want to explain something, I am sure that His Lordship (10) will give you every opportunity to do so. Did you in fact or have you in fact become in the community in which you are living a sort of missionary about the ills of the African National Congress in order to justify your actions? -- No.

To harm many of your friends, have you made the statement or speech that you made a moment ago to His Lordship and the learned assessors? -- The number I do not know how many, but there were many.

Many. Did you lose no opportunity to try and justify yourself that you were justified in deserting the African (20) National Congress. Correct? -- No.

I beg your pardon? -- No.

COURT : It cannot be no, because you have taken it one step further. You put to him he loses no opportunity in justifying himself.

MR BIZOS : That is right. When you are out with your friends, do you openly speak about what you have told us about this morning? -- I do not speak openly, because I know it very well that I have got enemies that are hunting me, that is the ANC. So, it would be difficult for me to speak openly. (30)

Have you just realised that the purpose for which you

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were called, was to say that you were so afraid that you had to keep it a secret, but you have now realised that and you are changing the tenor of your evidence? -- No, I can say - according to discussions I had with my friends here in die locations, they were not such discussions that were may be in the fashion of politically in the sense that we were discussing in a hall or in a house. May be there are more than fifty or twenty people. Sometimes I am discussing with two or three people. Those are my friends. Sometimes one.

However many you may be discussed it with or however (10) many you may have found yourself necessary to justify yourself, how can you be sure that they are not committed to the ANC or the unwitting agents of the ANC that you have spoken about? -- Though I cannot be 100% sure, I trust them.

You trust them? -- I trust them.

The people who were radicals together with you in the mid 70's? -- Well, yes, some of them were radicals, some of them were not.

Some of them were radicals? -- Yes.

How can you be sure that they are not going to continue (20) to be radicals? -- Well, some of them I have seen that they have changed their lives. Most of them in fact, they did not get involved in these radical actions.

Tell me this. When you joined the ANC, did they find out the identity of your family, where you live and personal circumstances? -- Yes, the ANC recorded my personal circumstances.

Are you living at the same place that you lived at before you went out? -- Yes, I am living there.

You have had no contact with the ANC for the last eighteen months? -- No, I had no contact. (30)

If the ANC wanted to eliminate you, would you agree that

an obvious place for them to look at is at the address which they have from you which you gave them when you joined them? -- They can do so, but it would not be easy for them, because I would not allow them to do so.

I do not understand that. Do you mean that you would put up resistance? -- Yes, if I see them I will put up resistance, but I do not want to be hit when I am looking that side. They must confront me.

So, you are not sufficiently afraid of any retribution(10) from the African National Congress to have taken any steps to change your address? -- I am afraid. You see, the ANC has various tactics of eliminating a person. So, I mean I am here in South Africa. So, I mean, I cannot run away from my parents, because I know that the ANC will be around to look after me.

The question is, just listen carefully, please. the ANC must know that you have deserted. Do you agree with that? -- Yes.

So, and if anybody deserts and anybody wants to find him, would you agree from your ANC training that the first place (20) to look at is his permanent home. So, that if the ANC wanted to eliminate you, knowing that you deserted eighteen months ago, they would know your name and your address and where you sleep every night? -- Yes, they will know that, but also I am trying to make it a point that they do not get me, even if I am home.

So, you have made your own arrangements for your security by living at home? -- Not security, it is not that much, but it is of course a question of being vigilant on my side. Being vigilant, it means that we have to take precautions for (30) instance in places like here in court, in a public place. I

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have to take precautions because I do not know who the people are who in fact are serving the ANC here in court. Some of them are great couriers of the ANC and they are here in court.

You gave His Lordship an example of a person who was eliminated, that was Mr Nkosi. Correct? -- Yes.

What rank did you achieve in the African National Congress?

-- There are no ranks in the ANC.

Are there not? -- There are no ranks. May be if you are talking about military ranks?

You did not have any sort of rank? -- No. (10)

You had military training. Are you saying that you did not have any rank or do you say generally there are no ranks?

-- Generally, as soldiers in the ANC we have almost got the qualities of a commander. That is the only rank that you get there. So, the type of training that you are given, are those of a commander and they are those which will enable you to act in any given situation.

What I want to ask you is this, are you working? -- Myself? I am not working.

You are not working? -- No. (20)

You have not joined the police force? -- No.

You have not become a police informer? -- No.

And you told us that you held no rank. I want to take you back to the time that you were spoken to about Mr Nkosi, the person who was eliminated in Natal. Did they not tell you that there was a senior commander in the ANC?

COURT : That there was or that he was?

MR BIZOS : That he was, he, Nkosi, a senior commander in the ANC? -- Yes, Nkosi was a commander.

He was a commander? -- Yes. (30)

And that he was no ordinary deserter. He deserted and

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joined the security police. Correct? -- Correct, but I would like to ... (Mr Bizos intervenes)

Just listen to my questions and you will be given an opportunity, were you told that he joined the security police?

COURT : He has answered you that it is correct. Now he wants to qualify the answer. Now you must give him an opportunity to do so.

MR BIZOS : As Your Lordship pleases.

COURT : Yes, continue? -- In the ANC when you become a member of the ANC, you are to stay within the ranks of the ANC, (10) for the rest of your life. You are not allowed to disassociate yourself from the ANC. You cannot resign and you cannot of course desert. So, if you do those things, the ANC regards you as their enemy. Then they are going to take actions in order to make it a point that you do owe them with your life. Irrespective of being may be going to join the police or not joining the police, it is still one and the same thing. You can run away from the ANC and live just an ordinary life just like myself.

MR BIZOS : Cast your mind back to what you were told about (20) Mr Nkosi. Were you not told that he joined the security police in Durban and that he actually became an interrogator of his erstwhile comrades? Were you told that? -- No, I was not told.

You were not told? -- No.

Were you not told that Mr Nkosi not only had become an interrogator, but to use the language of the ANC, he tortured his erstwhile comrades. I am not saying that it is true or false. I am asking you whether that is what the ANC said about Mr Nkosi? -- I am not aware of that.

Think about it? -- No, I do not remember it. (30)

And that the reason why he was eliminated was because of

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the high profile that he had in the African National Congress and the complete switch over that he had made from being a senior commander of the ANC to an officer in the security police and the South African forces? Were you told that? -- No, I was not told that. I can also put some other examples which are related to what I am saying. You see, during 1981 - in 1981 I was operating around the western Transvaal, northern Transvaal. I did have some photo's. Those photo's were of some people, comrades, who ran away, who deserted from the ANC. Those people, some of them were not commanders, were (10) just ordinary cadres. Those people, eventually they are being hunted by the ANC. The ANC is looking for them, with the purpose of killing them and of course there are incidents whereby you find that the families of these people did just meet strangers some times who come and threaten them, looking for this particular person, but only to find out that by time may be he was not around. You see? But, all the same, the situation of Nkosi is one and the same with that one of mine, because though may be I cannot see they are exactly the same, but I mean, he was a member of the ANC and he deserted in (20) the ANC. So, he was killed for that and there are still some people who are being looked for by the ANC.

How many people, would you say, have deserted from the ANC? -- There are a lot of them. Some of them I do not know their names.

There are lots of them? -- Yes.

Could you give us some idea once - now the ANC has become such an unpopular organisation how many people deserted from the ANC? -- A lot of them.

A lot of them? -- Yes. Some of-them even did not (30) reach South Africa, because some of them just got killed

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on the way. I mean, it is lucky for you when you reach - may be they would find that you are deserting and then you reach South Africa. Just imagine from Angola to South Africa, how many kilometres, how many obstacles you are going to meet on the way. You would not have money. You are going to meet criminals on the way. You are going to meet all these difficulties. It is lucky for you to arrive safely in South Africa. But even when you are in South Africa, that does not mean that you are safe.

The other example that you gave, the name you have for-(10) gotten, you say that it was an elderly gentleman in Soweto. Is that right? -- Yes.

If I mention a name, might it refresh your memory? -- I do not know. May be. It might.

Mr Hlapane. Was that the name? -- Yes.

He too - let us give His Lordship whether you were told, were you told that he was on the national executive of the African National Congress? -- Yes.

Were you told that he gave evidence against the leading people in the African National Congress and the Communist (20) Party from 1964 onwards? -- Yes, I was told.

And that despite that from 1964 to about 1981 or 1982 he was living at home with his family and nothing had happened to him? -- I do not know about that.

But in 1982 he became a high profile political opponent of the ANC. Were you told that that he went to America and gave evidence before a senator's committee, the Denton Committee in the US Senate and that his evidence was televised widely throughout the world including South Africa? -- I was not told.

Were you told that he had become a political opponent (30) of the ANC according to the ANC making propaganda against the

African National Congress? -- I am not aware of that.

You are not aware of that? -- No.

Were you charged with any offence when you came back? --  
No, I was not charged.

May I ask you this. Are you sure that you have given His Lordship and learned assessors a correct interpretation of what the ANC and others call soft targets? -- Yes, I am sure. I did not mention other soft targets, but what I said is true.

Is it what the ANC and generally with the use of the word soft target, means that there are attacks on innocent (10) civilians in supermarkets and roads and other areas where they have no connection with the machinery of the State. Is that not what soft target means? -- No. That is not what the ANC interprets as soft targets. Things like a policeman. He is a policeman may be alone in the family and he is staying with his family. So, when I come, having a hand grenade to hit him as a soft target, that grenade is not going to injure him or kill him alone. It is going to kill even the innocent. So, that is how the civilians come into the whole picture.

That is your understanding? -- Yes, that is my under- (20) standing.

I am going to put to you that you yourself on your own evidence identified yourself in the community in which you are living as an erstwhile member and deserter of the ANC? -- Yes.

And that whatever reasons you may have for not wanting to testify in public, it is not for your personal safety, because you yourself blew your own cover, so to speak? -- What I can say is that my being here in court or my being in the location, the people I am talking about in the location (30) the people I am associated with, somehow I know them, they

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know me and then I talk to them as people who I am related to, most of them and my friends, but here in court, most of the people who are coming here in court to find that there are people who may be supporters of the UDF and other political organisations here in South Africa, so myself I do not want to get in fact identified by those people, because I know that some of them are couriers of the ANC, some of them are being given crash courses here in South Africa by the ANC. So, may be they are in the mission to come and deal with me (10) according to the aims of the ANC to eliminate those who will be giving evidence in court, those who have deserted ... (Mr Bizos intervenes)

Do you know how many hundreds of ANC people have given evidence in the witness-box say since 1964? -- No, I do not know.

And if I were to suggest to you that there are at least hundreds and not thousands, without any harming having come to them, what would you suggest? -- I cannot deny that.

RE-EXAMINATION BY MR JACOBS : Can you tell the Court on (20) the last question of My Learned Friend of the hundreds of people who gave evidence in courts, how many of them were protected by the court of them giving their evidence in camera? -- There are people who are giving evidence, but those people, in most cases you will find that they give their evidence in camera and then as a result to find that those people have not been harmed by the ANC even today. They are still living.

Then another fact, why were you given - you mentioned something here, in 1981 you were given photographs of people. Why were you given photographs and by whom were you given (30) photographs? -- I was given those photographs by a comrade

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by the name of Chisas and he was a member of the national executive of the ANC. He was visiting our operational area with the aim of giving us these photo's and giving us certain instructions. So, those photo's were issued to us and we were told that these people who were appearing on those photo's are traitors. Some of them are giving evidence against the ex-comrades and then some of them they are just people who are associated with the police. So, these people, according to the instructions by comrade Chisas were to kill him, kill them and at any time we meet them, we have to kill them. We (10) are to make sure that we shoot them to kill. You must not leave them, because they are a threat to the ANC and then they are putting the ANC on a disadvantage relatively to actions which are being organised by the ANC here in South Africa.

You mentioned on a question of My Learned Friend that you told your family and your friends. Did you make it generally known that you were a member of the ANC or what is the position? -- No, I did not publish it as such to address so many people, but I just told those who are close friends of mine, those who were missing me for the past years. I mean, they(20) were sympathising with me. They went to the extent of giving me some money, because I did not have money. They started giving me some clothing to wear, because I did not have them. They helped me a lot and they are still helping me.

They are still helping you? -- Yes. Those are the people I am talking about and I related my story to them.

Are they still your friends? -- Yes, they are still my friends.

Is it possible to give an indication of how many people it is? -- They are not that much. I cannot say they are (30) may be more than hundred, but they are less. I met them at

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different times and in different areas.

NO FURTHER QUESTIONS.

MNR. JACOBS : Kan die getuie maar verskoon word?

HCF : Ja, waar neem u hom uit? Wat is die voordeel van die in camera verhoor as u hom deur die publiek neem?

MNR. JACOBS : Nee, ek dink die mense is nie meer hier buite-kant nie. Ek neem aan hier is nie. Ek sal net seker maak.

HOF : Ek laat dit aan u oor, mnr. Jacobs. Dit is nie my saak nie.

MNR. JACOBS : Ons het gereël dat die gang moet skoon wees, (10) maar 'n mens kan net seker maak.

MR BIZOS : May I just indicate that I did have a note, I did not want to put it to the witness, perhaps I should put it on record that he was in the company of a police officer Erasmus outside the court. I am instructed that he came through the public corridors, apparently without anyone being too worried about it and came into court.

COURT : In any way, that is not my concern at present.

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v.o.e.

ONDERVRAGING DEUR MNR. JACOBS : Mnr. IC 2, u is 'n (20) kaptein in die Suid-Afrikaanse Polisie gestasioneer te Vereeniging waar u verbonde is aan die veiligheidstak? -- Dit is korrek.

'n Sekere polisiebeampte, Velapi Philemon Letsela, was verbonde aan u eenheid? -- Dit is korrek.

Weet u wat het van hom geword? Was hy 'n veiligheidspolisie-beampte? -- Dit is korrek. Hy het nog nie sy opleiding in die polisiekollege deurloop nie.

In daardie tyd, was hy toe 'n ondergrondse werker van die polisie? -- Dit is korrek, as lid van 'n organisasie wat (30) bestaan het in die Vaal Driehoek.

... / Watter

Watter organisasie was dit? -- Congress of South African Students.

Gewoonlik bekend as COSAS? -- As COSAS, ja.

Het hy dan in daardie verband vir u inligting gegee? --  
Dit is korrek.

Na die onluste in die Vaal Driehoek, weet u of hy 'n getuie sou wees in hierdie saak? -- Ja, hy sou getuienis gee oor sekere aspekte in hierdie saak.

Veral rakende COSAS? -- Dit is korrek en ook Vaal Civic Association. (10)

Kan u onthou, het hy toe na u toe gekom en 'n klagte gelê by u? -- Ja, hy het verskeie kere gekom en gesê dat daar gerugte is dat hy gedreig word dat hy aangerand sal word, vermoor sal word en dat sy huis aan die brand gesteeek sal word.

Laat ons net die rekord regkry. Leef hy nog? -- Nee, hy is op 1 September 1985 vermoor en sy huis was ook aan die brand gesteeek op 30 Junie 1985.

Toe hy by u kom kla het omtrent hierdie dreigemente wat teen hom geuiter word, het u 'n verklaring van hom geneem? -- Dit is korrek. Ek kan miskien net byvoeg, die verklaring (20) is geneem nadat sy huis aan die brand gesteeek was.

Met u verlof, U Edele, sal ek die verklaring inhandig.  
Ek wil dit net aan die getuie stel om dit te identifiseer.

HOF : Wat is die aard van die verklaring? Onder watter artikel val dit?

MNR. JACOBS : Dit is 'n verklaring wat hy gemaak het toe hy die klagte gemaak het en dat dit geopen was omtrent die dreigemente en dan die huis wat gebrand was.

HOF : Is die verklaring onderteken onder artikel 213?

MNR. JACOBS : Hy is onderteken en beëdig toe hy destyds (30) geneem was.

... / HOF

HOF : Vertel my net, mnr. Jacobs, onder watter artikel handig u die verklaring in?

MNR. JACOBS : Ek wil die verklaring inhandig onder die basis op die gesag van die sake in so 'n aansoek soos hierdie dat daar so 'n - dit is op twee basisse, die een is dat daar so 'n klag gelê is, dat dit 'n bewering is wat gemaak is, nie die waarheid van die inhoud daarvan in die eerste instansie nie, as dit op dié basis kan ingaan, maar meer sterk op die basis van die gesag van al hierdie sake van waar 'n mens nie net gaan op die viva voce getuienis nie, maar 'n mens ook kan buite (10) gaan by so 'n aansoek soos hierdie om die jurisdiksionele feite te bepaal voordat die Hof 'n beslissing neem. Die feit dat so iets gesê was.

HOF : U sê dat die verklaring ingaan nie as getuienis nie, maar dat dit 'n feit is buite die verhoor om, waarvan ek moet kennis neem?

MNR. JACOBS : Moet kennis neem. Dit is reg.

HOF : Hoe toets 'n mens daardie feit?

MNR. JACOBS : Ons het die getuienis van die getuie wat dan aangevul word, dat hier was so iets gesê. (20)

HOF : Die feit dat hy kom kla het, as dit aangeval word, dan kan hy seker die verklaring inhandig om dit te bewys. Ek is seker dit sal nie aangeval word dat die man kom kla het nie. Die ander aspek waarvoor u die verklaring wil inhandig is om die inhoud daarvan voor my te bewys as 'n buite-geregtelike bewysmiddel.

MNR. JACOBS : Dit is reg.

HOF : Ek wil net daarvoor toegespreek word, as u wil voortgaan om die verklaring in te handig.

MNR. JACOBS : Kan ek net presies kyk of hy aan artikel 213 (30) voldoen?

... / HOF

HOF : U het 'n probleem met artikel 213. Onder daardie artikel moes u kennis gegee het van die verklaring.

MNR. JACOBS : Ja. Ek sal dit daar laat.

KRUISONDERVRAGING DEUR MNR. BIZOS : Kaptein is u besig met 'n aantal sake in die Vaal Driehoek gedurende die tydperk September 1984 tot nou? -- Ek was behulpsaam by sake wat ek ondersoek het, ja.

Ons weet dat daar onluste was gedurende September/Oktober 1984 en daarna in die Vaal Driehoek en ook in Sebokeng en Boipoteng, Sharpeville en die ander gebiede daar rondom. (10)  
Is dit so? -- Ja, dit is so.

HOF : Mnr. Bizos, as u praat van die Vaal Driehoek, sluit dit nie Sharpeville, Evaton ensovoorts in nie?

MNR. BIZOS : Ja, ons sal die uitdrukking Vaal Driehoek gebruik vir al daardie.

HOF : Dit gebruik ons vir watter area as geheel?

MNR. BIZOS : Dit is al die plekke wat in die laaste gedeelte van die klagstaat na verwys word. As gevolg van daardie onluste in die Driehoek, is daar 'n aantal sake wat voor die howe gekom het? -- Ja, ek is nie seker hoeveel nie, maar (20) daar is een spesifieke een waarvan ek weet.

Ons is gesê dat die Streekhof in Vanderbijlpark, Vereeniging, Leandra en ook in hierdie hofsaal te Delmas 'n aantal sake verhoor het wat oor daardie onluste gegaan het? -- Ja, dit is korrek. Ek kan nie die aantal sake noem nie. Ek weet ook nie waar almal verhoor is nie, maar ek moet net daar by noem dat van die sake wat in die Streekhof voorgekom het en die Landdroshof was gewone openbare geweldpleging waar die man gearresteer is en dadelik voorgekom het. Dit was nie 'n saak van groot omvang nie. (30)

Ons weet nie of sake waarin openbare geweld beweerd word,

... / dat

dat daar skuldigbevindings en tronkstraf van vier tot ses jaar opgelê is, of dit sake van belang is of nie, maar wat ek in belangstel is dit. Dat daar is ten minste veertig tot vyftig sake waarin die klaers in die saak inwoners van die Vaal Driehoekgebied is? -- Ek kan nie die getal bevestig nie.

Daar is sake waarin inwoners in die getuiebanc gekom het en hulle getuig het in die teenwoordigheid van die publiek hoe hulle aangeval was, hoe hulle huise of besittings aan die brand gestee is, hoe hulle gedreig is ensovoorts. Is u in staat as 'n senior polisiebeampte wat in daardie gebied (10) werk om daardie stelling te ontken? -- Nee, ek kan nie.

As ek 'n lys van die sake - van party van die sake vir u uitlees, sal u in staat wees om te erken of te ontken of dit wel waar is of nie? -- Dit is vir my baie moeilik, want ek kan nie al hierdie name onthou nie. Ons het nie hierdie sake self ondersoek nie. Dit is sake wat deur ander afdelings ook ondersoek is. Ek kan nie die name erken nie.

Laat ons na die voorval van wyle mnr. Letsele gaan. Weet u waar hy aangeval is toe hy vermoor is? -- Dit was in Sebokeng gewees. (20)

Waar in Sebokeng? -- Ek kan nie die adres nou vir u gee nie.

Wat was die aard van die plek? -- Sover ek weet was hy by 'n huis en hy was op pad na sy huis toe.

Wat was die aard van die huis waar hy uitgekom het? -- Ek weet nie.

Is u in staat om te erken of te ontken dat dit 'n sjebeen was? -- Dit kan 'n sjebeen wees, maar ek dra nie kennis wat se huis dit was nie.

Kan ons sy werk vir die polisie, as die werk van 'n (30) beriggewer noem voor hy in die openbaar 'n polisieman geword

... / het

het? -- U kan dit so noem.

Hy het sy vriende bedrieg, nie waar nie? Hy het sy vriende en COSAS bedrieg? -- Ek weet nie of die woord bedrieg die regte woord is nie.

HOF : Kom ons gebruik die woord om die bos lei. Wat sê u van daardie terme? -- Dit is moontlik dat 'n mens dit so kon noem.

MNR. BIZOS : Ek sal Sy Edele se suggestie aanvaar. Hy het sy vriende om die bos gelei? -- Dit is korrek.

En sy vriende was jong radikale mense van COSAS? -- (10)  
Dit is korrek.

Die jong mense en partykeer ouer mense hou nie baie daarvan om om die bos gelei te word nie? -- Dit is seker so.

As hy wel deur een of ander van sy vorige kollegas vermoor was, kan u nie sê of hulle wraak geneem het omdat hulle om die bos gelei was deur mnr. Letsele nie? -- Ek verstaan nie die vraag baie mooi nie. Ek volg nie die vraag nie.

HOF : Die vraag is, kan u ontken dat hy vermoor is, indien hy vermoor is deur 'n lid van COSAS, dat hy vermoor is omdat hy COSAS om die bos gelei het? -- Dit is nou moeilik. Ek (20) kan so sê dat die persoon wie hom vermoor het, sover my kennis strek, nie 'n lid van COSAS was op daardie stadium nie, maar die dreigemente wat voorheen geuiter was, het nie gegaan oor om die bos lei nie, maar wel om die getuienis wat moontlik gegee kan word.

MNR. BIZOS : Is mense gearresteer wat nou aangekla is vir sy beweerde onwettige - vir sy beweerde moord? Is daar persone aangekla vir daardie moord? -- Ja, daar is.

Wie is hulle? -- Ek ken net die een se naam. Die ander se naam ken ek nie. (30)

Wat is die naam van die persoon? -- Die van is Maleka.

... / Spencer

Spencer Maleka? -- Dit kan die naam wees.

Het u na daardie dossier gekyk voor u hiernatoe gekom het om getuienis te gee in verband met die voorval? -- Nee, ek het nie. Die dossier is by die prokureur-generaal soos ek verstaan het.

Het u geweet voor u na die hof gekom het dat u sou getuig in verband met die omstandighede van die dood van Letsele? -- Ek het geweet dat ek sal kom getuig in verband met die dreigemente wat hy ontvang het, dat sy huis afgebrand was of aan die brand gestee is en dat hy vermoor is. (10)

Het u geweet dat u getuienis van belang sou wees in verband met die omstandighede of die rede waarom Letsele doodgemaak is? -- Ja, dit sou van belang wees dit wat hy aan my gesê het, die dreigemente, die rapport wat hy aan my gemaak het.

Het u dit nie as belangrik beskou om in die dossier te kyk om te sien of daar nou enige verklaring van die beskuldigdes was en of daar enige direkte getuienis van ooggetuies is in verband met die omstandighede van die dood van die ongelukkige persoon wat lig sal gooi op die omstandighede waaronder hy dood is? Het u dit nie as belangrik beskou nie? -- Ek het. Ek het (20) met die ondersoekbeampte gepraat.

Wie is die ondersoekbeampte? -- Dit is 'n konstabel, sy naam is Moses. Ek weet nie wat sy van is nie.

Sy naam is Moses en wat is sy rang? -- Hy moet 'n konstabel wees, dink ek.

Wat sou die beste manier gewees het om vas te stel wat die waarheid was in verband met die omstandighede? Om Moses te vra of om na die dossier te gaan voor u na die hof gekom het? -- Dit sou wees om na die dossier te gaan, maar ek is gistermiddag in kennis gestel dat ek moet getuienis gee (30) en die dossier is by die prokureur-generaal op die oomblik

... / vir



vir sy beslissing.

Volgens ons inligting is die bewering dat daar 'n bakleiery was in 'n sjebeen oor 'n bottel bier. Is u in staat om dit te ontken of te erken? -- Ek kan dit nie ontken of erken nie.

As dit wel waar is en ons het nie daarvan geweet nie, sou dit miskien die Hof en ons onder die verkeerde indruk geplaas het? -- Wat ek weet oor die omstandighede daar is dat Maleka aan die oorledene sou gesê het "Jy is die oorsaak dat my broer in die gevangenis is."

Is dit wat Moses aan u gesê het? -- Dit is korrek. (10)

Maar weet u of daar enige ander inligting in die dossier is of nie? -- Nee.

Die beskuldigdes in daardie saak, daar is drie - weet u dat daar drie beskuldigdes is? -- Nee, ek het gedog daar is net twee. Ek het nie geweet van drie nie.

Kan u vir die Hof sê of hulle nog in hegtenis is en of hulle op borgtog uitgelaat is? -- Nee, ek het geen idee nie.

As ek dit aan u stel dat hierdie drie persone op borg uitgelaat is, is u in staat om dit te erken of te ontken? -- Ek kan dit nie ontken of erken nie. Ek is nie in staat (20) nie.

U sê u is net gevra in verband met die omstandighede gister, nie waar nie? -- Dit is korrek.

Is dit die rede wat u aan die Hof wil gee waarom u nie 'n kans gehad het om die dossier deur te gaan nie? -- Ek kon die dossier miskien deurgegaan het, maar daardie dossier word deur heeltemal 'n ander afdeling ondersoek as dié waar ek werk. Met die gevolg is daardie dossier word nagesien deur die offisiere in daardie afdeling.

Het u ooit na daardie dossier gegaan om die bewerings (30) daarin te lees? -- Nee, ek het nie.

Wel, ek wil dit aan u stel dat dit nie die eerste keer was nie, was dit, vandag dat u getuienis gee of u betrokke was in verband met die omstandighede van Letsele se dood? Is dit nie? -- Ek verstaan nie die vraag nie. Bedoel u is dit die eerste keer wat ek getuienis gee daarvoor?

Het u ooit 'n eedsverklaring gemaak in verband met die omstandighede van die dood van Letsele? -- Ja, ek het.

Waar was dit? -- Op Vereeniging.

In verband met watter saak? -- Ek is nie presies seker nie. Ek was gevra deur die ondersoekbeampte om vir hom so (10) 'n verklaring te gee.

En voor u daardie beëdigde verklaring gemaak het, het u na die dossier gegaan? -- Nee, miskien moet ek net daar verduidelik. Ek ondersoek die saak waar Letsele se huis aangeval was en as gevolg daarvan het ek hierdie verklaring geneem en ook as gevolg daarvan het ek daardie beëdigde verklaring gemaak. So, ek het nooit met die dossier van die moord enigiets te doen gehad nie.

Het u geweet vir watter doel u die beëdigde verklaring gemaak het op versoek van die ondersoekbeampte in die (20) saak? -- Ja, ek het aanvaar dit is vir die hou van die verhoor in camera.

Wanneer was die verklaring gemaak vir daardie doeleindes? -- Die oorspronklike verklaring?

Ja? Wat u gemaak het? -- Daarso kan ek nie onthou of dit die teenstaan van borg was of die verhoor in camera nie. Ek is nie seker nie.

Het u geweet dat u verklaring gebruik sou word om die aansoek van die beskuldigdes vir borg teen te staan en een van die redes wat voor die Hof gelê is was u verklaring dat (30) Letsele vermoor was omdat hy 'n getuie sou gewees het in die

... / saak

maak. Het u dit geweet? -- Dit is korrek.

Het u daardie verklaring gemaak sonder om na die dossier te gaan en te probeer uitvind hoe die saak teen die drie persone wat gearresteer is vir die moord op Letsele gemaak is? -- Dit is korrek, maar ek het die verklaring gemaak op grond van wat hy aan my gesê het.

MNR. BIZOS VRA VIR 'N KORT VERDAGING.

GETUIE STAAN AF.

HOF VERDAAG.

HOF HERVAT.

K15

1C2, nog onder eed (10)

KRUISONDERVRAGING DEUR MNR. BIZOS (vervolg) : Kaptein, is u in staat om te erken of te ontken dat twee van daardie beskuldigdes is weer in hegtenis in verband met 'n aanklag van roof? -- Nee, ek kan dit nie erken of ontken nie.

Ons is nie heeltemal seker nie, want ons kon dit nie vasstel nie, maar u dra geen kennis daarvan nie? -- Ek dra geen kennis daarvan nie.

En ook dat hy die plek waar hy vermoor was - dat dit die agterplaas van 'n sjebeen was. Is u in staat om dit te erken of te ontken? -- Ek kan dit nie erken of ontken nie. Ek (20) het gehoor dit was in 'n straat.

In die saak is daar 'n lang lys van getuies wat waarskynlik deur die Staat geroep sal word en ek wil aan u die versekering gee dat konstabel Letsele se naam kom nie voor op daardie lys nie.

HOF : Dit is seker vanselfsprekend. 'n Mens kan nie 'n seance hou nie.

MR BIZOS : I am sorry. I did not think of it.

Weet u wanneer Letsele vermoor was? -- As ek korrek onthou was dit 1 September. (30)

Van watter jaar? -- 1985 en sy huis was aangeval op 30

... / Junie

Junie 1985.

Die lys was voorheen opgestel? -- Ek dra geen kennis van die opstel van die lys nie. Ek was nie betrokke by die ondersoek van hierdie saak nie.

Was dit welbekend in die gemeente waar Letsele gewoon het dat hy 'n lid van die polisie was gedurende die onluste daar? Hy het rondgery saam met lede van die polisie? -- Korrek.

Ons weet dat polisiemanne gedurende die onluste teikens was vir die geweld van die mense wat daar woon? -- Daar was polisiemanne se huise afgebrand. (10)

Veral Swartpolisiemanne? -- Dit is korrek.

Is daar 'n aantal polisiemanne wie se huise beskadig is? Niemand was van plan om hulle as getuies te roep in enige saak nie? -- Die polisiemanne wie se huise beskadig was, sou wel getuienis gee in die hof.

Ja, maar in verband met die klagte van brandstigting? -- Dit is korrek. Ek weet nie of van hulle in hierdie sake sou getuienis gee nie.

Miskien is dit my swak Afrikaans wat verantwoordelik is vir 'n misverstand tussen ons, maar wat ek aan u wil stel (20) is, daar is polisiemanne se huise afgebrand wat nie as getuies sou opgetree het in enige saak voor hulle huise beskadig was nie? -- Dit kan ek nie sê nie.

Kan u vir ons sê asseblief toe u van die dreigemente gehoor het, wat se stappe u geneem het om mnr. Letsele te beskerm? -- Ons het probeer bepaal wie die persone is.

Enige ander stappe wat u gedoen het? -- Nee.

Dit is om te probeer vasstel wie die dreigemente gemaak het seker nie 'n spesiale stap nie. Dit was net die deel van die ondersoek van onwettige dreigemente? -- Hoe bedoel u (30) stappe.

... / Wel

Wel, dit is nie 'n spesiale stap om mnr. Letsele te beskerm om te probeer vasstel wie dit was nie. Dit is 'n stap, maar nie 'n spesiale stap nie. Is daar enige spesiale stappe geneem om mnr. Letsele te beskerm? -- Ons het hom aangeraai om by ander plekke te gaan slaap snags en altyd saam met ander lede te beweeg waar dit moontlik is.

Daar was geen ander stappe geneem nie? -- Geen ander stappe nie, behalwe nadat sy ouerhuis aan die brand gesteeek is, het ons gereël dat hy in die enkelkwartiere gaan woon.

I have no further questions, My Lord, but I would wish(10) to place on record that I have put a number of matters to the witness, believing them to be correct on instructions from my instructing attorneys. We have not been able to verify every one of the matters which I have put to the witness in respect of which he himself did not have any knowledge.

HERONDERVRAGING DEUR MNR. JACOBS : Kaptein, u het vir die Hof gesê dat Letsele was 'n agent wat geïnfiltreer het by COSAS en dan teruggerapporteer het. Is dit reg? -- Dit is korrek.

Kan u vir ons sê tot wanneer toe was hy so 'n ondergrondse agent gewees? -- Dit is nou vir my moeilik, maar ek dink dit(20) was aan die begin van 1984 rond gewees het dat hy openlik begin werk het. Ek is nie presies seker nie.

HOF : Ek wil net duidelikheid kry. Het hy toe opgehou om 'n agent te wees of het hy toe by hulle aangesluit? -- Nee, toe het hy openlik saam met ons begin werk. Voorheen was hy nooit saam met die polisie gesien nie. Hy het ook nie na die kantoor toe gekom nie.

Tot begin 1984 was hy 'n geïnfiltreerde in COSAS. Daarna was hy openlik by die polisie? -- Dit is korrek. Ek is nie presies seker van die tydstip nie. Mag ek dalk iets sê? (30)

Op enige vraag? -- Dit is korrek. Die vrae het vir my

... / hier

hier gegaan net om die moord, maar die huis se aan die brand steek, was soort van agterweë gelaat, in die sin dat hy die dreigemente ontvang het en sy huis toe wel aan die brand gestee is. Dit is eintlik waaroor ek voel my getuienis werklik gaan. Dat die persone wat sy huis aan die brand gestee het is almal - nie almal nie, maar die meeste is gearresteer deur myself, ek ondersoek die saak, die saak is by die prokureur-generaal. Hulle is of was almal lede van COSAS gewees, maar nie lede wat saam met hom in COSAS was op daardie stadium nie. Daar was weinig van hulle wat ou COSAS lede was. (10) Hulle was almal nuwe COSAS lede gewees. Dit is ook van hierdie mense waar die dreigemente vandaan gekom het. Dit was ook mense wat gereeld kos gebring het en pakkies gebring het vir van die beskuldigdes of daarby betrokke was. Met ander woorde, dit was mense wat met hulle gesimpatiseer het.

Hulle het gereeld pakkies kos gebring, vir wie? Vir die beskuldigdes in watter saak? -- In die saak. Hulle was betrokke by die organisering van die kos bring, van pakkies. So, ek voel in hierdie geval was dit nie mense wat werklik, sal ek maar sê die mense vir wie hy werklik verrai het nie. (20) Hy was nie werklik saam met daardie klompie in die organisasie gewees nie. Hy was toe reeds uit die organisasie uit.

MNR. BIZOS VRA VERLOF OM VERDERE KRUISONDERVRAGING AAN DIE GETUIE TE STEL.

HER-KRUISONDERVRAGING DEUR MNR. BIZOS : Wie is die persone wat aangekla is en ook pakkies gebring het? Wat is die name van daardie persone?-- Daar is agtien beskuldigdes.

Ekskuus? -- Ek dink daar is agtien verdagtes of sewentien verdagtes in die saak.

Wat is die name van die persone wat in albei klasse (30) is? Wat beskuldigdes is en wat ook pakkies gebring het? --

... / Dit

Dit is moeilik om te sê wie almal pakkies gebring het na die kantoor toe, maar daar is mense wat betrokke was by die bymeekaarmaak van die pakkies en dan word dit kantoor toe gebring en van hulle het vir my gesê dat hy het gehelp met die ... (Mnr. Bizos kom tussenbei)

Gee vir my een naam wat 'n beskuldigde is in daardie saak wat pakkies gebring het? -- 'n Persoon wat 'n beskuldigde is en wat vir my gesê het hy het gehelp by die NG Kerk in Gebied 13 waar hulle die pakkies bymekaar gemaak het, was Dottie Baba. (10)

Dat hy nie pakkies gebring het nie, maar hy was ... -- Behulpzaam met die organisasie van hierdie pakkies.

Waar is daardie persoon? -- Hy word aangehou in Groenpunt Gevangenis.

En hy is verhoorafwagend? -- Nee, hy is nog nie. Hy word aangehou ingevolge artikel 29(1) van die Veiligheidswetgewing.

Die basis van u getuienis hierop is 'n verklaring wat u van hom gekry het gedurende die tydperk wat hy 'n aangehoudene is ingevolge die bepalings van artikel 29(1). Is dit reg? (20) -- Dit is reg.

Hoe lank was hy aangehou voordat hy hierdie erkenning aan u gemaak het? -- Dit is baie moeilik om te sê op hierdie stadium. Ek kan nie presies dit nou sê nie.

Wat presies was die erkenning wat hy aan u gemaak het? -- Dit was nie 'n erkenning nie, dit was 'n mededeling ... (Mnr. Bizos kom tussenbei)

Of 'n verklaring? -- Ja, dat hy was betrokke by die organisering daarso ... (Mnr. Bizos kom tussenbei)

By die NG Kerk? -- Waar hulle die pakkies bymekaar maak.(30)

By die NG Kerk?-- By die NG Kerk, ja, of waardeur dit

... / gaan

gaan. Ek weet nie of alles daar bymekaar gemaak word spesifiek nie.

Ons sal dit daar laat. Wie nog van daardie beskuldigdes? -- Dit is moeilik om vir u te sê wie nog van die beskuldigdes, maar ek kan vir u die beskuldigdes se name noem.

HOF : Mnr. Bizos, u moet tog net die getuie kans gee om klaar te praat en wat meer is, dit moet ook nog getolk word.

MNR. BIZOS : Daar is geen ander persoon wat enige erkenning of verklaring aan u gemaak het in daardie verband nie, van daardie beskuldigdes? -- Dit is moontlik dat die ander dit (10) ook kon genoem het, maar dit was nie vir my op daardie tydstip so belangrik gewees nie.

Het hy vir u gesê wie was in beheer by die NG Kerk vir die insameling van die pakkies vir beskuldigdes? Wie was in beheer van daardie aktiwiteit? -- Ek is nie nou seker nie. Daar is verskeie mense wat daar bymekaar kom.

Weet u of hy homself daar bevind het as 'n lid van die kerk wat deur die dominee of iemand anders gevra is om hulp te verleen? -- Nee, dit word nie deur die kerk gereël, sover ek kennis dra nie. (20)

HOF : Watter NG Kerk is dit? Vereeniging? -- Dit is die NG Kerk in Gebied 13, Sebokeng.

HERONDERVRAGING DEUR MNR. JACOBS : Geen vrae.

GEEN VERDERE VRAE.

... / MOSES