IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(TRANSVAALSE PROVINSIALE AFDELING)

A

SAAKNOMMER: CC 482/85 PRETORIA

1988-03/24 en 25

DIE STAAT teen: PATRICK MABUYA BALEKA EN 21 ANDER

VOOR: SY EDELE REGTER VAN DIJKHORST EN ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT: ADV. P.B. JACOBS
ADV. P. FICK

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)

PLEIT: AL DIE BESKULDIGDES: ONSKULDIG

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COURT RESUMES AT 14h00 ON 24 MARCH 1988.

MOHAMMED DANGOR, d.s.s.

MR TIP : My lord, I have no further questions to the witness. Before my learned friend continues. There is an application in respect of accused no. 6 for an amendment to bail conditions. Written consent from the investigating officer has been obtained. May I hand that up and seek your lordship's consent. It concerns the funeral of accused no. 6's brother.

COURT : Yes, I think it will be better to read it into the record. It reads as follows :

"In accordance with paragraph 2 of the conditions of bail accused no. 6, Morake Petrus Mokoena, is granted permission to visit the Vaal for the period 25, 26 and 27 March 1988, subject to the following conditions :

1. He departs to the Vaal on 25 March 1988 after the court sitting and reports at Sebokeng police station on his arrival at the Vaal on the same day and thereafter between 06h00 and 09h00 on 26 March 1988; between 18h00 and 21h00 on the same day and between 06h00 and 09h00 on 27 March 1988.
2. He reports at Hillbrow police station as usual between 18h00 and 21h00 on 27 March 1988.
3. During his visit to the Vaal he limits his movements to stand 262/1 Heath Road, Evaton, the Evaton cemetery and his reports to the Sebokeng police station.
4. He does not enter the residential areas of Boipatong, Bophelong or Sharpeville during the abovementioned period.
5. All other conditions of bail stand and are

strictly/...

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strictly to be adhered to."

Mr Tip, we express our condolences to the accused on the death of his brother.

MR TIP : I am indebted to your lordship.

CROSS-EXAMINATION BY MR JACOBS : Mr Dangor, I just want to get the record clear. Are you giving evidence as an expert on the labour party? -- From my experience within the labour party, yes.

As an expert? -- From my own experience within the labour party.

Yes, but are you here as an expert witness on the labour party? -- I do not know how you term an expert witness. I say from my experience within the labour party, yes.

Are you an expert on the words and phrases used about which you gave evidence here? -- No, I am not an expert.

Except for the organisation mentioned by you at the start of your evidence, did you belong to any other organisations like UDF or any of the affiliates of the UDF? -- No, I did not.

COURT : Did you find no political party after you abandoned the labour party? -- At that particular point in time there was a problem with Operation Hunger of which I was a trustee and I went to work for them fulltime and as such I could not take part in any political organisation.

UMR JACOBS : Is it also correct then that you do not know anything about the policies and aims and objects of the UDF? -- Except from what I read in the press and the three resolutions that have been showed to me.

Can you tell the court when the labour party was formed? -- In 1967.

And/...

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And was it formed as a new party or formed out of another party ... -- It was formed as a new party.

And were you a member of that party from 1967? -- No, I joined in 1969.

MNR. JACOBS : U edele, ek sit met 'n probleem. Al waaroor ek geweet het waaroor hierdie getuie gaan getuig was soos mnr. Bizos gister in die hof gesê het. Daar is dinge wat ek moet navors. Ek het nog nie kans gehad om deur al hierdie goed te lees nie. Ek het probeer. Ek sal nie behoorlike kruisondervraging vandag kan doen nie. Daar is stukke waar ek navorsing wil gaan doen wat by die ander kantore beskikbaar is wat ek nie kan doen behalwe as die hof verdaag het nie en ek vra verlof dat ek hierdie getuie op Maandag kan kruisvra.

COURT : What is your attitude, Mr Tip?

MR TIP : I appreciate that a number of documents have been handed in as exhibits which my learned friend would doubtless not have seen before and that the cross-examination might be expedited if he has a chance to go through it. As to the period, if your lordship does consent to an adjournment, I leave that in the court's hands.

COURT : Have you got other witnesses available?

MR TIP : I believe that there is another witness. It is unfortunately someone whom I would not be in a position to lead, but I am told that Mr Yacoob is on his way here as a contingency measure.

COURT : He has just arrived. How long do you think, Mr Tip, will this next witness be if he is cross-examined and led?

MR TIP : May I have a word with my learned friend, Mr Yacoob?

COURT : Yes.

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MR TIP : Perhaps my learned friend, Mr Yacoob, can inform you directly?

COURT : Yes.

MR YACOOB : My lord, his evidence-in-chief will probably last about 45 minutes. I anticipate that the cross-examination could last as long as three, three and a half hours.

COURT : Could you just tell me what the nature of his evidence is going to be?

MR YACOOB : His evidence concerns Thabong. This is a student at the Lebohang High School in Thabong. He will talk about the events of 11 August 1984 and then talk - of 1 August and of 23 July and then talk about the meeting of 5 September.

COURT : Yes, it may take some while then.

MR YACOOB : That is so.

COURT : What do you think, Mr Tip. I was thinking of asking this witness to stand down until tomorrow morning, but it may well be that he sits here for the whole day and we do not get to his evidence.

MR TIP : Yes.

COURT : What is your attitude to an adjournment as far as this witness is concerned if he stands down till Monday morning?

MR TIP : Well, in the cirumstances that may be appropriate.

COURT : Would that suit you, Monday morning? -- Yes.

Will you come back on Monday morning at 10h00? -- Thank you.

WITNESS STANDS DOWN.

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TIMOTHY PULE MOCOANCOENG, d.s.s. (Through interpreter) (SOTHO)

EXAMINATION BY MR YACOOB : Mr Mocoancoeng, where were you in 1984, during 1984? -- I was attending a school at Lebohang,

which/...

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which is the name of the school in Thabong.

Did you also live at Thabong? -- Yes, that is where I live.

COURT : Is it Lebohang High School? -- Yes, it is a high school.

MR YACOOB : What standard were you in? -- St. 10.

Were there problems at your school during August 1984? -- Yes, there were.

About when did this trouble start? Can you remember? -- Yes, on 1 August.

Before 1 August 1984, did you expect any trouble on that day? -- No, I was not expecting it.

And had you heard about any trouble at any other place before 1 August 1984 at Thabong? -- Yes.

Where had you heard that trouble had taken place? -- At Theto High School.in Thabong.

Let us return to 1 August 1984. What happened? Did you go to the classroom as usual that morning? -- Yes, we went to classes.

And did you stay at classes all day or not? -- We did not stay for the whole day.

How long did things go on normally for? -- About two periods.

What happened after that? -- After these two periods, that is after the last one of the two, the teacher who was supposed to come and take over for the third period, that one did not turn up.

Yes? -- Which resulted in us getting involved in discussions amongst ourselves as students. So, there was some noise in the classroom.

What/...

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What happened then? -- After some time I heard that there was some noise outside.

What sort of noise was it? -- As if children were screaming or shouting outside.

Did you do anything at all when hearing this noise? -- Because of the fact that the teacher who was supposed to have taken the third period failed to turn up in the class, we then went out to investigate as to what was happening, the teacher is not coming and there is some noise outside.

What did you find? -- I went to the junior block, that is from where this noise I heard was coming from. On investigating that, I found that the children of the junior block were not in the classes.

Were you in the senior block? -- Yes.

Which block is nearer to the main entrance of the school? The junior block or the senior block? -- The junior block.

So, you saw these junior scholars in the schoolyard. Is that right? -- Yes.

How were they dressed? -- They were all clad in a school uniform.

What else did you notice? -- When I went nearer them I became aware of other children who were clad in different uniforms from other schools.

COURT : Where were they? -- They were amongst the junior students of our school in the vicinity of the junior block.

MR YACOOB : How many of these schclars from the other school were there? Can you estimate? -- About fifty.

What were they wearing? I take it they were wearing school uniforms? -- Yes, they were wearing school uniforms as well, which I identified as uniforms which are not uniforms

for/...

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for our school.

COURT : Could you see from the uniforms which schools were involved or could you not? -- I could identify them to which school they belong by their uniform.

Which school were they from? -- Theto and Thota-Gauta Schools.

MR YACOOB : What were they doing? -- They were shouting there, saying they want SRC in support of Tito.

Did you go up to the crowd? -- I did not go up to them.

Did you reach a position at all where you could see outside the school gate? -- Yes.

What did you see there? -- There I saw a lot of school children from the different schools, Theto and Thota-Gauta who were just standing outside the gate.

What else did you notice while you were standing there outside? -- I noticed that there were police vehicles coming in the direction of the school. When they were quite near the school, then they started shooting teargas.

Where? -- Shooting at the groups, those inside the schoolyard and those outside.

What did you do once this happened? -- I ran away going home.

Did you see anything unusual on your way home? -- Except the teargas smoke, no.

At what time did you get home? -- It was after 10h00. What exactly the time was, I do not remember.

Did you notice anything unusual during the course of that day while you were at home? -- Yes, there is something.

Could you give the court some idea of what you saw? What was the first thing that you saw? -- While sitting in

the/...

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the house at home, I heard some noise outside which resulted in me looking through the window, through which I could see that at the third house from where I was, there was a group of people standing there. I noticed that there was a vehicle coming in the direction of the group. These people, the group, stopped the vehicle. The driver of that vehicle got off from the vehicle and started running. I notice them opening the petrol from this vehicle and drawing some petrol using a pipe. This was sprinkled inside the vehicle and this vehicle was set alight and then they left.

What was the size of this group of people? About how many people were there do you think? -- Between twenty and twenty-five.

COURT : What was the type of vehicle involved? -- It was a private car.

MR YACOOB : What was the age group of the people involved? Could you form any impression? -- Between eighteen and twenty-five were their ages.

Can you recall anything at all about how they were dressed? -- The majority of the people were dressed in private clothes. There were some few amongst them who were clad in a school uniform.

COURT : What time was it? -- At about 12h00.

MR YACOOB : That was the first unusual thing. Did you see anything else unusual on that day? -- At about 14h00 I saw people putting up obstructions on the road.

What were they actually putting up to make the obstructions? -- Motor vehicle tyres, the dustbins and dirt itself.

Were there any school uniforms in this group? -- No, not from this group. I did not see anybody who was

wearing/...

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wearing a uniform.

Do you know whether the obstructions remained there all the time or not? -- I would say about an hour later I saw the police removing those obstructions.

COURT : This you also saw from your house? -- Yes.

Where do you live? What is your address? -- 992 is the house number, Thabong.

The street's name? -- Mokgomo.

MR YACOOB : Did you hear about anything unusual during the rest of that day or not? -- I did not hear anything from then.

Did you go to school on the next day or not? -- Yes, I did go to school.

What happened when you got there? -- On arrival at school I heard about some other children whom are, my school-mates who were arrested.

Where did you hear about that? -- A certain schoolboy at our school told us.

And then what happened? -- We then understood that well. We cannot go on with schooling because the others are not there. We therefore did not go into the classrooms and just remained on the school premises.

Doing what? -- We just remained there doing nothing. We were just there.

Yes and then? -- We continued doing that for a period of four days. It was after the fourth day when the principal told us that the schools were closed.

Did you after that attend any meeting at the Phillip Smith centre? -- Yes, I did.

When was this meeting? -- That was on 5 September 1984.

Who/...

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Who had called it? -- From what I heard it was called by the department of education and training.

Did you go alone? -- For this meeting only the parents were invited to attend, but at the request of my father who felt he cannot go by himself at night there, I better come along with him and I attended that meeting with him.

Where did you sit at the meeting? -- I took a seat towards the back.

In the gallery of the hall or whereabout? -- No, not on the gallery, in the ordinary hall on the floor.

Did the meeting start? -- Yes, it started.

Can you recall who spoke? -- I remember an inspector speaking there, namely Mr Msibi.

What did he say? -- His address was to the parents that they must encourage the children to go back to school.

Did anyone speak after him? -- Yes, there were other people who spoke.

Can you remember what any of them said or not? -- Without remembering exactly their words in what they were saying, I remember them, the gist of what they were saying, being that they agree with the suggestion that the children must go back to school.

Did Mr Msibi speak again? -- Yes, he did speak again.

What did he say? -- He said to the parents that if a child refuses going back to school and then that child must be chased out of the house.

Was there any reaction? -- Yes, there was some noise as a result of that statement by him in the hall, which was an indication of a disapproval of what he was saying. The people who were on the gallery in this hall then left the

hall/...

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hall, which people were children. The lights went off. During that I heard some glass breaking as if some window-panes were being broken. I am not aware how many of the windows were broken. We remained in the hall with my father when that was happening, until the lights were on again and we then thereafter decided to leave. Therefore left the meeting without having heard what was said after the lights went on.

ASSESSOR (MR KRUGEL) : When you say you sat at the back, did you sit with your father at the back? -- Yes, next to him.

MR YACOOB : You said earlier in your evidence that the children said "We want SRC's". Do you recall that? -- Yes, I do recall that.

Did you at your school also have the prefect system at that stage? -- Yes, we had prefects.

Were you happy about that? -- No, we were not.

What was the problem?

COURT : Were you a prefect? -- No, I was not.

MR YACOOB : What problems did you have with the prefects? -- The way in which they were doing things was the cause of the dissatisfaction of the prefect system namely that they would just submit your name to the principal for punishment on whatever they have written your name without having given details of what wrong you have done which justifies that punishment.

Did you have any other - were there any other things at this school which caused you unhappiness before 1 August? -

COURT : Apart from your own results in the tests? -- Yes, there were.

MR YACOOB : Can you briefly give an account of these? --

Number/...

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Number one, the prefect system was not accepted by us and the manner in which the teachers were exercising their punishment. If my memory serves me well, those are the only two I can remember now.

COURT : Are you saying now they punished excessively or they gave the wrong type of punishment or they punished when it was not due? What do you say about their punishment? -- At times they would just punish a person without a reason, a good cause for that and secondly the other reason for punishment complaint was that they were punishing us excessively.

KRUISONDERVRAGING DEUR MNR. FICK : Ek het die probleem, u edele, ek is ook onvoorbereid, maar ek sal kruisverhoor. As die hof net geduld sal hê as ek begin rondblaai.

COSAS, ken u vir COSAS in Thabong, die organisasie? -- Ja.

Was daar ŉ COSAS organisasie by julle skool? -- Nee, daar was nie.

By watter skole was die COSAS organisasie? -- Ek weet nie.

Weet u of COSAS vergaderings gehou het in Thabong? -- Ek weet nie.

Ken jy die Thabong Youth Congress? -- Ja, ek weet daarvan.

Is jy ŉ lid van Thabong Youth Congress of was jy ŉ lid? -- Ek was nie ŉ lid nie. Ek is nog nie ŉ lid nie.

Het jy enige vergaderings van Thabong Youth Congress bygewoon? -- Ek het nog nie vergaderings bygewoon nie.

Is dit korrek so dat op 1 Augustus 1984 was die posisie eintlik dat die skole was voor die tyd toe en net op

1 Augustus/...

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1 Augustus 1984 kon matrikulante terugkom skool toe? -- Nie by hierdie skool waar ek was as ŉ skolier nie.

Was julle skool voor 1 Augustus 1984 op enige stadium gedurende 1984 toe behalwe vakansietye nou? -- Ja.

Wanneer was julle skool gesluit gewees in 1984? -- Dit was in Augustusmaand.

Nee, ek het vir u gevra voor Augustus 1984? -- Nee, toe was ons s'n nog nie gesluit nie.

Die skoliere wat daar by u skool aangekom het op die oggend van 1 Augustus 1984 het hulle net geskreeu hulle wil SRC's hê of het hulle ander goed ook geskreeu? -- Soos ek alreeds gesê het, hulle het geskreeu dat hulle SRC wil hê en ook gesê dat hulle Theto skool daar bystaan.

HOF : Dat hulle Theto Skool bystaan of ondersteun? -- Ja, dat hulle dit ondersteun.

MNR. FICK : En die kinders wat dit geskreeu het, was kinders van Theto Skool en van Thota-Gauta Skool? -- Nee, soos ek alreeds hier gesê het, met my uitkom daar om ondersoek in te stel vind ek dat die junior studente van ons skool by die junior blok ook al daar buite was en hulle was saam met daardie kinders gewees. So, hulle was ook betrokke daar.

HOF : Dit is nou die kinders van die drie skole skreeu dit? -- Ja.

MNR. FICK : Was daar onder hulle ŉ voorbok wat die ding nou daar gereël het wat gesê het wat hulle moet skreeu en wat hulle moet maak? -- Ek het dit nie opgelet nie.

Was die drie skole se kinders deurmekaar toe u daar gekom het, het almal deurmekaar gestaan of het hulle apart gestaan van mekaar af? -- Dit was net deurmekaar gewees hier op die skoolperseel.

En/...

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En u sê buite die skoolperseel het u ook nog 'n klomp mense, skoliere gesien staan? -- Ja.

Hoeveel kinders was daar nou altesaam van ander skole daar by julle skool? -- Omtrent sewehonderd.

Hier voor die hof is daar getuienis dat hierdie kinders van die Theto Skool die oggend nie net geskreeu het hulle soek SRC's nie, maar hulle het ook vryheidsliedere gesing. Het hulle by julle skool ook nog gestaan en vryheidsliedere sing? -- By ons skool het ek nie gehoor dat hulle sing nie.

Het hulle met die gebalde vuis in die lug gestaan as hulle geskreeu het hulle wil SRC's hê? -- Van hulle, ja, het die vuiste opgesteek soos u demonstreer.

Weet jy of daar voor die kinders by julle skool uitgekom het op enige ander plekke voertuie voorgekeer het of plekke - enigiets aan die brand gesteek het of met klippe gegooi het? -- Nee, dit weet ek nie van nie.

Die klomp skoliere wat daar voor die skool gestaan het en dié op die skoolterrein was kwaad, hulle was moeilik? -- Ja, hulle het so voorgekom.

Hulle het aggressief voorgekom? -- Nee, nie aggressief nie. Hulle het vir my kwaad voorgekom soos mense wat nie tevrede is oor iets nie.

Weet u of die polisie ontbied is na die skool toe? -- Nee, dit weet ek nie.

U sê u het op 'n stadium na u huis toe gehardloop? -- Ja, ek het huis toe gehardloop.

Hoe ver is u huis van die skool af? -- Omtrent vyf kilometers.

Toe die polisie daar opgetree het soos u nou sê hulle opgetree het, wat het van hierdie sewehonderd of meer kinders

geword/...

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geword wat voor die skool gestaan het? Het hulle saam met u gehardloop in 'n sekere rigting, het hulle uit mekaar gehardloop of in die skool in of waar is hulle heen? -- Ek sal sê hulle het uiteen gegaan.

Het u gesien hulle hardloop uiteen of maak u nou net 'n afleiding? -- Ek het gesien toe hulle uiteen gaan.

Was u van die laastes wat daar weg is by die skoolterrein of was u van die eerstes? -- Ons is omtrent gelyktydig daar weg.

U is toe nou by die huis - laat ek net duidelikheid kry. U is die betrokke dag nooit uit die huis uit nie. Is dit reg? -- Ja, ek was nooit uit die huis nie.

En u sê daar staan nou - u sien drie huise van u huis af is daar 'n groep van twintig, vyf-en-twintig. Het hulle in die pad gestaan? -- Ja, hulle het in die middel van die pad gestaan.

Het dit vir u gelyk hulle staan daar om voertuie voor te keer? -- Nee, dit weet ek nie so goed nie.

Was hulle op pad? -- Hulle was te ver van my af om dit te kan bepaal.

Het u gesien of hulle enige wapens by hulle het? -- Nee, ek het geen wapens gesien nie.

Kon u sien hoekom die bestuurder weghardloop? Wou hulle hom aanrand of hoekom het die bestuurder van die voertuig weggehardloop? -- Ek weet nie of hulle hom wou aangerand het nie. Miskien het hy weggehardloop as gevolg van die feit dat hy geskrik het. Ek kan nie sê nie.

Die bestuurder van die voertuig, was hy in privaat klere geklee of het hy enige uniform aangehad? Het u hom geken? -- Dit was 'n onbekende persoon aan my. Hy het ook

nie/...

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nie ŉ uniform aangehad nie.

U sê tussen hierdie persone wat nou die voertuig aan die brand gesteek het het ŉ paar skooluniforms aangehad. Watter skool se kinders was dit? -- Dit was sommer daar gemeng gewees. Van die drie skole se uniforms was daar teenwoordig gewees.

U sê vir die hof dan u het ŉ bietjie later gesien die mense sit daar obstruksies op die pad op. Het hulle dit net op een plek gesit of het hulle so ver u die pad kon sien die hele pad toegepak? -- Net by die punt wat ek kon gesien het, het ek gesien.

Die mense het geskreeu en geraas en met die gebalde vuis in die lug gestaan terwyl hulle besig was met die padversperrings? -- Hulle het net ŉ geraas gemaak.

Gesing? -- Nee, ek het nie die lied gehoor nie. Daar was nie ŉ gesingery nie.

Kon u hoor wat se geraas maak hulle, wat skreeu hulle? -- Nee, al wat ek kon hoor was dat dit ŉ geraas was wat gemaak was deur die mense. Wat hulle eintlik gesê het in daardie geraas kon ek nie uitmaak nie.

Hierdie straat Mokgomo waar die padversperrings geplaas was, ry die busse daar? -- Ja.

Is dit een van die hoofstrate van Thabong? -- Ja.

Is dit ŉ teerpad of ŉ grondpad? -- Dit is ŉ teerstraat.

Behalwe die huise wat daar in die strate was, is daar ook enige ander geboue, soos administrasieraadskantore of polisiestasie in daardie straat? -- Nee, daar is nie.

Is dit al wat u gesien het wat buitengewoon was die betrokke dag? -- Ja, dit is al.

Hoe ver is u straat van Mothusistraat af, die hoofstraat? -- Dit is heelwat ver. Dit is moeilik vir my om ŉ

skatting/...

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skatting te gee, maar dit is redelik ver.

Dan wil ek met u gaan - laat ek so vir u vra. U het nooit gesien rookkolomme opstyg die dag van 1 Augustus later die dag van plekke en voertuie wat aan die brand gesteek was nie? -- Die enigste rook wat ek gesien het was van daardie voertuig wat ek gesien het toe dit aan die brand gesteek word.

U het vir die hof dan getuig oor wat die volgende dag gebeur het, 2 Augustus 1984 by die skool? -- Ja.

Is dit reg, daar was op 2 Augustus geen skool by u skool nie? -- Ek was skool toe. Die skool was daar gewees.

Maar ek bedoel daar was nie klas gegee nie? -- Nee, ons is nie in die klaskamers in nie.

Hoe lank was u by die skool voordat u huis toe gegaan het? -- Ek was daar gewees tot met die skool se uitgangstyd.

Wanneer was dit? -- 14h00.

Hoeveel van julle wa by daardie skool gewees 2 Augustus? -- Ons was baie op die perseel, alhoewel daar nog van die kinders was wat nie opgedaag het nie.

HOF : Dit is darem 'n bietjie lank om stil te sit van die oggend 08h00 af tot die middag 14h00. Het julle nie maar bietjie geskreeu of sokker gespeel of kennetjie of iets van die aard nie? -- Ons het niks gedoen nie, ook nie gespeel nie. Ons het net daar stilgesit.

MNR. FICK : Was daar onderwysers? -- Ja, daar was.

Het hulle julle ingeroep in die klas en gesê julle moet klas toe kom nie? -- Hulle het ons geroep om in die klaskamers in te gaan, maar ons het toe aan hulle verduidelik kyk, onder hierdie omstandighede, as gevolg van hierdie redes, gaan ons nie in die klaskamers in nie.

Julle het geweier, man, gewone Afrikaans? -- Ja, ons

het/...

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het geweier.

HOF : Hoeveel was daar gearresteer by julle? -- Ek weet nie in getal hoeveel hulle was nie.

Hoeveel van u maats was gearresteer? -- Nee, geen van my maats was gearresteer nie.

Van u klasmaats? -- Net een.

MNR. FICK : Was julle net een matriekklas of was daar 'n paar matriekklasse in die skool? -- Daar was drie.

Daar is net een matrikulant gearresteer? -- Ek weet net wat my klaskamer betref. Wat die ander betref, nee.

Maar julle het daar gesit van 08h00 die môre tot 14h00 die middag. Het u nie uitgevind hoeveel ander mense is gearresteer nie? -- Ek het nie eers probeer om dit vas te stel nie.

Maar hoekom nie? Julle sê julle weier om klas toe te gaan as gevolg van mense wat gearresteer is. Nou sê u vir die hof u sit daar tot 14h00 en u wil nie uitvind hoeveel nie? -- Hier kom 'n persoon vir ons sê daar is mense wat gearresteer is en ek word gesê een van die mense is een wat saam met my in die klas was. Nou ja, ek was oortuig dat daar wel mense was wat gearresteer was.

Het die skoolhoof nie op 'n stadium vir julle gesê as julle nie klas toe wil kom nie, moet julle julle goed vat en loop nie? -- Nee, hy het nie vir ons gesê nie.

Jy sien, hoekom ek al hierdie vrae vir u vra, die getuienis is hier van die polisie wat patrollie gery het by die skole die betrokke dag, toe sê hulle daar was nie een skool aan die gang nie. Dit was stil en normaal? -- Ek verstaan nie. Wat sê die polisie? Sê hulle die kinders was in die klaskamers gewees en alles was normaal of wat sê u? --

Daar was geen skool nie? -- As hulle van die drie skole

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praat weet ek nie van die ander twee nie, maar ons skool, ons was op die perseel van die skool gewees.

Terwyl julle daar gesit het tot 14h00 die middag daar het nie weer skoliere van ander skole aangekom nie? -- Nee, hulle het nie daar gekom nie.

Jy sien, hoekom ek vir jou vra is. Die verdediging het gestel, volume 118 bladsy 5 930 dat op 2 Augustus sou die polisie gekom het en skoliere by Theto Skool uit die skool gejaag het en toe het die skoliere daar na na julle hoërskool Lebohang en Thota-Gauta skole toe gehardloop, hulle het daar gaan kla en toe het daar weer onrus versprei? -- Die vraag is nie vir my duidelik nie. Wat is die vraag?

Jou advokaat het gesê hier gaan iemand kom getuig dat op 2 Augustus het die skoliere van Theto skool na die Lebohang en Thota-Gauta skole toe gegaan die oggend omdat die polisie hulle weggejaag het by hulle skool en toe het die onrustigheid, soos hy dit uitgedruk het, weer versprei in die woonbuurt? -- Nee, op die 2de was daar geen onluste gewees nie.

En 2 Augustus 1984 het jy enige probleme opgemerk in die woongebied? -- Ek het niks gesien nie.

Was dit doodstil, rustig, geen klipgooiery nie, geen rondmarsjeerdery in die dorp nie, niks nie? -- Daar was geen klipgooiery gewees nie. Dit was net normaal gewees, want die busse het ook gery.

Die advokaat het weer op dieselfde bladsy gestel dat die betrokke dag na die rapport gemaak is daar by die Thota-Gauta en Lebohang skole het vierduisend leerlinge op en af in die gemarsjeer uit protes? -- Geen kinders van Theto of Thota-Gauta het by ons skool gekom nie en daar is niks wat ek gesien het dat daar iets gebeur het nie.

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Daar is verder gestel dat die polisie het toe traangas gegooi na hierdie klomp, vierduisend studente wat daar op en af gemasjeer het in die dorp? -- Nee, ek het hulle nie gesien nie.

Jy sien, die getuienis van die polisie is dit was normaal gewees in hierdie woongebied op 2 Augustus 1984 tot hier by 12h00 die middag, toe het daar geweld op groot skaal losgebars in die woongebied? -- As daar sulke groot onluste was soos beskryf word deur u, sou ek daarvan geweet het.

Het u vir Ephraim Papiki Loape geken? -- Van sien, ja.

Die getuienis is hy is op dié dag gedurende die onluste geskiet. Hy is dood? -- Nee, wat my betref is my kennis dat hy op die 1ste geskiet was.

HOF : 1 Augustus? -- Ja.

MNR. FICK : As u nou sê u kennis dat hy op die 1ste doodgeskiet is, was dit tydens die voorval daar by julle skool of waar was dit wat jy gehoor het hy is dood? -- Volgens inligting was hy in die lokasie iewers geskiet.

Hy was ook 'n skolier in 1984. Is dit reg? -- Dit is wat ek nie weet nie.

Ek wil dit aan u stel dat u getuienis oor wat sou gebeur het op 2 Augustus en 1 Augustus is vals. Ek stel aan u op 1 Augustus het die geweld uitgebreek nadat daar klippe gegooi is na die polisie? -- Daar was onluste gewees op 1 Augustus.

En ek stel dit aan u op 2 Augustus het die onluste ook uitgebreek wat u nou vir die hof verswyg nadat daar weer klippe gegooi is na polisiepatrollies en die polisie? -- Ek weet nie daarvan nie.

Ek wil nou met u gaan na die vergadering van 5 September 1984. Op die gallery, toe u daar kom, was die skoliere

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reeds op die gallery of het hulle na u daar opgedaag? -- Ja, die saal self was nog nie vol gewees nie, maar daar was al van hulle daar op die gallery gewees.

Toe die saal uiteindelik vol was, soos u sê, was die gallery vol skoliere? -- Hulle was daar gewees, maar die gallery was nie vol gewees nie.

Baie van die skoliere wat daar op die gallery was het COSAS T-hempies aangehad. Is dit reg? -- Nie een van daardie mense daar het ek gesien wat 'n COSAS T-hemp aangehad het nie. As daar een was, kon die persoon miskien 'n baadjie bo-oor dit aangehad het, maar ek het dit nie gesien nie.

HOF : Maar u het onder agter gesit. Is die gallery dan nie bo-oor u nie? -- Ja, die gallery is agter my soos ek daar gesit het.

Maar steek die gallery dan nie bo-oor die onderste gedeelte van die saal waar u gesit het nie? -- Nee.

Is die gallery 'n ding wat in die lug is of noem u die gallery 'n deel van die onderste gedeelte wat net skuins loop? -- Dit is iets wat van bo af hang.

Soos ons daar het? -- Ja, dit is soos daardie een.

As u agter sit daar, sê nou maar in die hof, kan u dan sien wat bo-op die gallery is? -- Nee, miskien het ek nie myself duidelik gemaak nie. Ek het nie heel agter gesit nie. Wat ek sê is, is dat ek na agtertoe gesit het, maar nie heel agter nie.

Ja, maar al het u na agtertoe gesit, sou u bo-op die gallery kon sien? Ek dink nou maar net, as daar waar die beskuldigdes is en hulle is in die helfte van die hof, as hulle boontoe kyk, sal hulle moeilik iemand wat sit agter op daardie gallery kan sien. Ek dink hulle kan glad nie

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iemand sien nie. -- Ja, maar daardie saal is ver groter as hierdie hofsaal.

MNR. FICK : Is daar enige spesifieke rede waarom u na die gallery gekyk het? -- Ja, ek het omgekyk om te sien wie die persone is wat daar bo sit.

Hoekom? -- Omdat ek bewus geword het van mense wat daar bo was en ek het toe omgekyk om te sien wie hulle was.

Ken u vir Billy Mokhobo? -- Ek ken hom nie.

Wie was die voorsitter van hierdie vergadering sê u? -- Mnr. Dikoko.

U sien, hier het 'n ander getuie getuig, mnr. Leeba, oor die vergadering en hy ontken dat mnr. Dikoko die voorsitter was soos wat u sê? -- Wat my betref weet ek dit was Dikoko gewees. Die persoon Dikoko ken ek goed, want ek is 'n skolier en hy is aan my bekend as 'n inspekteur van skole. Ek weet nie, die getuie wat u van praat, is hy ook 'n skolier? Waarvandaan ken hy die man?

Hy is op die ouerkomitee en hy ken ook die inspekteur Dikoko en hy sê dit was nie hy wat die voorsitter was nie? -- Wat my betref is Dikoko die persoon wat as 'n voorsitter daar opgetree het.

Wanneer het u u verklaring gemaak in die saak? -- Dit was verlede week.

Die eerste keer? -- Ja, dit is die eerste keer.

Wanneer verlede week? -- Ek dink amper dit was Woensdag gewees.

Hoe is dit dat u net kan onthou wat Msibi gesê het op die vergadering en niks van die ander mense wat hulle gesê het nie? -- Die rede hoekom ek dit kan onthou is omdat dit eintlik veroorsaak het dat dit deurmekaar geword het in

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hierdie saal. Om daardie rede onthou ek dit as die oorsaak daarvan.

Maar die eerste deel van Msibi se toespraak het nie moeilikheid gemaak nie? -- Ja-nee, glad nie. Eintlik was ekself baie bly gewees as gevolg daarvan, want ek was bly omdat ek teruggaan skool toe.

Kan u net vir die hof die name gee van ander sprekers wat u ken? Die name van ander sprekers op die vergadering wat u ken? -- Die ander mense het ek vir die eerste keer daar gesien, hulle was vreemdelinge vir my. Die ander mense het ek vergeet wie hulle was.

Maar dit is net Msibi wat u kan onthou? -- Ja, dit is net hy.

Ek stel dit aan u, u is besig om leuens te vertel? -- Ek vertel nie leuens nie.

Ander mense kom vertel hierdie man wat u sê u so goed ken Dikoko het ook daar gepraat op die vergadering? -- Ja, in die begin van die vergadering het hy gepraat.

Dit het u nie geweet nie, nè? -- Maar ons praat nou van die voorsitter. Ek weet daarvan dat die voorsitter die eerste persoon is om te praat by die opening van 'n vergadering. U het nie gepraat van die voorsitter wat gepraat het nie. Ons het gepraat van die sprekers.

Maar die getuienis was behalwe dat hy die voorsitter was het hy ook gedurende die vergadering gepraat? -- Nee, as hy gepraat het beteken dit dat ek van sy toespraak vergeet het, want daar was baie mense wat gepraat het daar.

Maar is u nou seker, dit is al wat u kan onthou, die mense wat u kan onthou wat u geken het was mnr. Msibi en mnr. Dikoko? -- Ek sê daar was wel ander mense gewees

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wat gepraat het, maar die enigste mense wat ek nog kan onthou op name is Msibi en Dikoko.

U sê vir die hof op 'n stadium was daar 'n lawaai gewees nadat mnr. Msibi nou gesê het van die ouers wat die kinders moet wegjaag as hulle nie wil luister nie? -- Ja, dit is wat ek gesê het.

En u sê van die kinders op die gallery het toe uitgeloop? -- Ja, dit is wat ek gesê het.

HOF : Van die kinders of al die kinders? -- Van die kinders het uitgeloop.

Hoeveel? -- Ek het nie opgelet hoeveel van hulle weg was daar nie.

Persentasie gewys? -- Min van daardie mense wat daar was is weg.

MNR. FICK : Is dit die enigstes wat weg is van die vergadering to Msibi daardie ongelukkige opmerking gemaak het wat u sê? -- Soos ek alreeds gesê het, daardie kinders is uit, die ligte het toe afgeskakel en toe die ligte weer aangekom het, het ons toe die saal verlaat.

Op die stadium toe die kinders uitgegaan het voordat die ligte af is, is dit die enigstes, daardie klompie kinders? -- Wat ek gesien het was dat net daardie kinders uit is.

As iemand anders kom getuig het dat meer as die helfte van die saal het op daardie stadium geloop, dan is dit leuens? -- Ja, dit is leuens.

U sê vir die hof terwyl die ligte af is toe breek daar ruite? -- Ja.

Toe die ligte aankom, het u gesien hoeveel ruite is stukkend? -- Nee, ek het nie gesien nie, want daar is gordyne by daardie saal.

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Maar u is seker dit is die vensters wat gebreek het? -- Ja, ek is seker.

Weet u waar in die saal het dit gebreek? Was dit die vensters agter, op die gallery, aan die sykante of waar? -- Aan die sykante.

Altwee kante? -- Ek het net van my linkerkant gehoor.

Wat se deure het die saal as 'n mens ingaan? Houtdeure of glasdeure of wat? -- Dit is van hout.

Is daar enige glasdeure? --Ja, daar is glasdeure.

Waar is die glasdeure in die saal? -- Aan die agter-kant.

Het dit ook gebruik? -- Nee, dit was nie gebreek gewees nie.

Toe julle geloop het, jy en jou vader, toe is julle agter uit. Is dit reg? -- Ja, ons het by daardie deur uitgegaan.

Is dit die enigste glasdeure wat daar is? -- Ja, die uitgangsdeur is die enigste een.

Hier het 'n ander getuie getuig, mnr. Phate wat beweer hy was ook op hierdie vergadering en hy beweer dat die glas-deur is stukkend gegooi met die klip? -- Ek weet nie op watter stadium praat hy van nie. Op watter stadium sê hy?

Hy sê die stadium toe dit donker geword het? -- Ek het dit nie gesien nie.

Ek stel dit aan u dat u met hierdie klomp teenstrydighede kom omdat julle, u inkluis, leuens kom vertel oor wat op dié dag sou gebeur het by die saal? -- Wat die saal betref praat ek van 'n ding wat ek gesien het.

Ek wil dit net kortliks aan u stel dat die vergadering het nooit plaasgevind nie. Die skoliere het die ding

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ontwrig voordat hy kon begin? -- Die vergadering het ŉ aanvang geneem.

En van die skoliere het met stoele die vensters en deure stukkend geslaan, toe uitgestorm en daar is klippe gegooi dieselfde tyd van buite af en die vensters is buite stukkend gegooi? -- Nee, maar daar bo op die gallery waar die skoolkinders gesit het, daardie stoele is vas daar aan daardie vloer. ŉ Mens kan dit nie optel nie.

Ken u vir adjudant-offisier Johnny Morolong? -- Ja, ek ken hom.

Ek stel aan u die studente, die skoliere het vryheidsliedere gesing daar voor die vergadering moes begin en toe hy inkom toe skreeu van die mense daar van die gallery af "Daar is Johnny Morolong, sy huis moet gebrand word, hy hoort nie hier nie"? -- Dit het ek nie gehoor nie.

Hierdie, in die algemeen nog net een aspek, klagtes wat julle van praat wat julle by die skool het, wil ek aan u stel is nie klagtes of griewe wat uit julle self uit kom nie. Dit is klagtes wat van COSAS af kom en daar is gesê dit is waaroor julle moet kla by die skole en daaroor beswaar maak? -- Ek het eers begin weet van die bestaan van COSAS na die moeilikhede by die skole begin het.

Hoe het jy van COSAS se bestaan begin weet? -- Wat ek geweet het is dat dit ŉ organisasie is wat teen apartheid was.

ŉ Organisasie van skoliere? -- Dit weet ek nie. Al wat ek van weet is dat COSAS is teen apartheid.

Waar hoor u dit? -- Daar in die woonbuurt.

Is daar enige pamflette of goed van COSAS wat u gesien het daaroor? -- Ek het pamflette van COSAS gesien.

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By wie het jy dit gesien? -- Iewers daar in die woonbuurt het ek dit gesien.

Iewers gaan nou nie help nie. Het iemand dit vir u gebring en vir u kom gee om te lees? -- Nee, maar die pamflette in daardie woonbuurt word opgeplak. Dit is wat ek sien.

Waar word die pamflette altyd opgeplak? Is dit by bushuisies, huise mure, omheinings of wat is die posisie? -- By die substasies van die elektrisiteit se mure.

Is dit net COSAS wat hulle pamflette daar opplak of is daar ander organisasies wat ook hulle pamflette daar opplak? -- Nog ander organisasies.

Watter? -- UDF, AZAPO. Dit is wat ek gewoonlik daar gesien het.

Het u enige vergaderings van UDF bygewoon in Thabong? -- Ek het geen van die vergaderings bygewoon van daardie goed wat daar opgeplak was wat ek al gelees het nie.

HOF : Is daardie pamflette wat u opgeplak gesien het almal kennisgewings van vergaderings wat gehou sal word of is dit ŉ ander soort? -- Dit was kennisgewings gewees van vergaderings wat gehou gaan word.

Wanneer het u dit gesien? -- Soos ek alreeds gesê het ek het eers daarvan bewus geword na die begin van die onluste.

K1268 So, voor die onluste was daar nie pamflette en kennisgewings opgeplak op die substasies nie? -- Nee, al wat daar opgeplak was voor daardie tyd was die Festival Musics en die ouers se vergadering, iets van daardie aard.

MNR. FICK : As u sê dit was na die onluste wat u die kennisgewings die eerste keer gesien het, was dit nog in Augustus 1984 of later? -- Dit was al ŉ tyd na Augustusmaand.

Nog in 1984? -- Ja, dit was nog in 1984 gewees.

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Ek wil aan u stel u maak ŉ fout. Gedurende die hele 1984 is daar kennisgewings opgeplak op die hele substasie van vergaderings wat gehou gaan word van COSAS onder andere? -- Nee, ek het dit nie gesien nie.

RE-EXAMINATION BY MR YACOOB : No questions.

ASSESSOR (MNR. KRUGEL) : Toe u nou op 1 Augustus by die huis kom en u kyk na die venster en u sien hier staan ŉ groep mense hulle maak lawaai in die straat en hulle keer ŉ voertuig voor, het u toe gekyk wat gebeur? -- Ja.

Hoe ver was die mense van u af? -- Soos ek alreeds gesê het, drie huise van my huis af is waar die voorval plaasgevind het.

Was daar enigiets wat jou uitsig belemmer het? --Nee, daar is niks wat my uitsig belemmer het nie.

Hoe ver is die huise uitmekaar? -- Ek weet nie hoeveel meters dit sal wees nie.

Is dit groot erwe? Groot huise of kleinerige huise? -- Dit is klein huisie.

Kan u vir die hof sê hoe ver die mense van u af was? Soos miskien tot daar agter teen die muur of miskien ŉ bietjie verder? -- ŉ Bietjie verder as die agterste muur van die hofsaal.

HOF: Twintig meter.

ASSESSOR (MNR. KRUGEL) : Miskien een en ŉ half keer so ver? -- Ja, sê maar een en ŉ half maal die lengte.

En party van die kinders het Theto, Lebohang en Thuto-Gauta skooluniforms aangehad? -- Ja.

Wie was hulle? -- Ek weet nie wat die name is van daardie mense nie.

Ken jy hulle? -- Van my skool is wat ek net daar gesien

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en raakgeloop het.

Is die mense wat gevang is deur die polisie deel van die groepe wat ôf daar by jou ôf op ander plekke dié soort handelinge gepleeg het, motorvoertuie gebrand het en ander dinge gedoen het? -- Dit kan so wees, ja.

Nou maar waarom het julle dan besluit om nie skool toe te gaan nie? -- Die beslissing is dat ons kan nie in die klaskamers ingaan en voortgaan met onderwys en klasse in die afwesigheid van die ander nie.

Al het hulle voertuie aan die brand gesteek, mense verjaag? -- Ek sal nie sê dit maak nie saak as dit so is nie, maar ek sal u sê, die hele ding het begin, gelo ek, na die mense met die hoofde gepraat het, byvoorbeeld die prinsipale van die skole.

Wie het met die prinsipale van die skole gepraat? -- Soos ek alreeds gesê het, daar was 'n bietjie probleme gewees by die skole. Daarmee bedoel ek dat hulle met die prinsipaal moes gepraat het en dit onder die prinsipaal se aandag gebring het dat hulle nie met sekere dinge tevrede was nie.

Dit is nou voor 1 Augustus? -- Ja.

En op 1 Augustus het julle toe blykbaar op aandrang van die probleme - op aandrang van die Theto leerlinge skool opgeskop en julle is weg? -- Ons het geweet dat Theto sekere probleme ondervind en dus was ons betrokkenheid daar om hulle hulp te verleen.

Dit was op 1 Augustus. Nou praat ons van 2 Augustus? -- Wat van die 2de? Ek het nie gehoor nie.

Op 2 Augustus het julle glad nie in die skool ingegaan nie? -- Ja.

Julle het net daar gesit? -- Ja.

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En dit sê jy omdat julle gehoor het daar is van die kinders gearresteer? -- Ja.

Maak nie saak of hulle misdade gepleeg het of nie. Hulle moes by die skool gewees? -- Wat ek sê is dat hule het dit miskien so goed gesien dat as hulle die griewe van hulle op hierdie manier bekend gaan maak, sal dit dalk aanvaar word , want die vorige manier wat hulle gebruik het was nie aanvaar nie.

So, as ꞌn mens griewe bekend maak deur geweld te pleeg, dan is dit aanvaarbaar? -- Eers moet daar in vrede mooi gepraat word met daardie persoon. Niks word gedoen nie en nou besluit die persoon om dit op hierdie manier op te neem.

Op die manier beteken nou die brand van die voertuie en wat ook al gebeur het daar in Thabong? En later op die 5de van die maand adjudant Morolong se huis? -- Ja, eers na die vergadering op die volgende dag het ek daarvan gehoor.

Is dit vir jou aanvaarbaar? -- Nee, dit is nie vir my aanvaarbaar nie. Dit is ꞌn slegte ding om te doen.

Maar hoekom is dit dan gedoen? Ek sê nie jy was daar by nie, maar jy sê op 2 Augustus die manne wat gearresteer is moet op die skool wees, hulle moet nie gearresteer wees nie? -- Ja, ek sê so.

Sal dit billik wees om te sê dat dit was ꞌn demonstrasie van ontevredenheid en dit maak nie saak op watter manier dit gedemonstreer word nie, dit is as 't ware ꞌn opstand waarmee jy besig is. Jy kom in opstand teen die gesag wat daar is?

<u>HOF</u> : Hierdie vraag is nie op u persoonlik gemik nie.

<u>ASSESSOR (MNR. KRUGEL)</u> : Dit is nie teen u persoonlik gemik nie. Ek praat van die toestand wat daar was onder die kinders as ꞌn groep? -- Nee, dit sal ek nie weet nie.

Maar/...

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Maar die volgende dag as daar stappe geneem word om die - ek aanvaar, heel moontlik dié wat betrokke was by die voorvalle te arresteer, dan vererger dit net die opstand? -- Ja, dit het dit vererger.

Want ek kan u verseker dat dit staan wel in die rekord dat van 12h00 af daardie dag was daar onluste, ernstige onluste in Thabong? -- Nee, dit het ek nie gesien nie.

GEEN VERDERE VRAE.

HOF VERDAAG TOT 25 MAART 1988.

HOF HERVAT OP 25 MAART 1988.

JUDGMENT/...

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Lubbe/Recordings/MCL

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

PRETORIA

1988-03-25

THE STATE

versus

PATRICK MABUYA BALEKA AND 21 OTHERS

JUDGMENT ON BAIL APPLICATION

VAN DIJKHORST, J.: Accused numbers 19, 20 and 21 applied for bail. On 7 November 1984 the full bench dealt with the application of all the accused for bail on the merits and refused the application in respect of all of them. On 21 March 1986 application was again brought for bail, after the lifting of the state of emergency. I quoted in my judgment extensively from the full bench judgment and it is not necessary to repeat those passages. I found that the situation was unchanged and bail was refused . In November 1986 some accused were released on bail by agreement between the state and the defence. On 30 June 1987 a further application for bail was dealt with. The state of emergency had been reimposed on 12 June 1986. I stated then that the accused have to show a material change of circumstances since the previous refusal of bail. Two factors are relevant here. The overall security situation and whether the individual

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may have an adverse effect on it should he be released on stringent bail conditions keeping him outside his area of operation. I found that certain accused had not convinced me that their release would not endanger the security of the state and/or that I had not been convinced that they would stand trial till the conclusion of the case. Bail was thereupon refused in respect of accused nos. 19, 20 and 21. It was granted in respect of the other accused who had not yet been released on bail. On 27 November 1987 a further application for bail was dealt with on behalf of these three accused and I refused bail.

The applicants in the present application rely on two changed circumstances to justify their release on bail. Firstly they rely on the proclamation of proclamation R23 of 24 February 1988 in terms of which the UDF and sixteen other organisations have been prohibited from performing "any acts or activities whatsoever". Secondly they submit that the sheer duration of the applicants' incarceration is in itself a changed circumstance.

Short swift can be made of the second alleged change in circumstances. The sheer duration of this case has led to excessive exasperation on the part of the bench and, I am sure, untold hardship on the part of the accused. I will have something to say about it when and if this case comes to a conclusion, but the fact that the case lasts longer than anticipated, has to my knowledge never yet been held to have been a changed circumstance to entitle an accused to repeated applications for bail. This cannot be read into the judgment of the full court.

I revert to the first alleged change of circumstances.

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An unpleasant note crept into the debate with allegations of a lack of candour on the part of the applicants centring around the non-disclosure of the fact of an application in the Cape Provincial Division to set aside the proclamation and regulations and the involvement of Mrs Priscilla Jana, attorney for the applicants, therein. I will disregard this issue for the purposes of this application for bail. As far as counsel's conduct is concerned I will decide if there is cause for complaint after perusal of the record in due course.

The applicants have to convince me that the circumstances have materially changed since the last application for bail. Had one of the last two applications been granted, it would have been under strict bail conditions, precluding all political activity, as is evidenced by the conditions laid down in respect of the successful applicants. While this possibility was then considered in respect of accused nos. 19, 20 and 21 it was rejected as such conditions would in their case have been ineffective. If one bears this fact in mind it should be evident that the proclamation and government notice do not bring about a situation which materially alters that which was previously adjudicated upon. They have no greater effect than the previously considered bail conditions would have had. Applied to our case, they merely add an additional penalty to the already heavy penalty of loss of liberty upon estreatment of bail.

Insofar as it is argued that there can no longer be overt UDF political activity, the answer is that I am not convinced that there will be no covert activity by some of those who belong to the UDF. In fact, the state has in

papers/...

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papers which run to some two hundred and thirty pages made out a strong case in this respect. The state has also shown that there has been no change in the security situation in South Africa. Particulars of stone throwing, arson, attacks on vehicles, on the police and on civilians are given. Acts of terrorism are referred to. There is no answer by the accused to this.

It follows that the three applicants have not shown materially changed circumstances since the previous application and their application for bail is dismissed

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MR BIZOS : Could we ask your lordship for an indulgence of a short adjournment. We would like to have a discussion with the three accused concerned. It will be a very brief adjournment.

COURT : Yes, certainly.

COURT ADJOURNS. COURT RESUMES.

MR BIZOS : We are indebted to your lordship for the indulgence. Our learned friend, Mr Yacoob, will lead the next witness.

JACOB MOSUOWA PULE, d.s.s. (Through interpreter)(SOTHO)

EXAMINATION BY MR YACOOB : Mr Pule, how old are you now? -- 19 Years.

What were you doing in 1984? -- I was attending school at Ntha Higher Primary School.

COURT : And where is it? -- Constantia.

Is that in Welkom? -- Maokeng, Kroonstad.

MR YACOOB : I wanted to mention that the witness was from Kroonstad. In 1985 what school were you in? -- Kananelo Senior Secondary School is where I was attending school.

What standard were you in at the Kananelo Senior Secondary School? -- St. 7.

Do you remember the day when there was trouble at your school during 1985? -- Yes, I still remember.

What was the date? -- 11 February.

Did you expect before 11 February 1985 that there would be trouble on that date? -- No.

Did 11 February 1985 begin quite normally at school? -- Yes, it did.

For how many periods of the day did things remain normal? -- Two.

What/...

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What happened during the third period? -- During the third period I heard some noise from the direction of the main gate into the school premises. Those people who were causing the noise was as if it was a group of people singing or causing some noise.

Could you recognise the song that was being sung at all? -- No, I could not recognise it.

What happened immediately after you heard this noise? -- When I heard this noise the teacher who was busy in the class during the third period went out of the classroom to investigate as to what was happening.

Please carry on? -- When he went out we also followed him curious to know and see what was happening.

Did you see anything when you got outside? -- When we came outside there, I noticed that the other children from other classes were also at that time coming out of the classes due to a curiosity to see what was happening.

Yes? -- When we came out there in the vicinity of the main gate on the premises we noticed that the children from Bodibeng High School were coming in the direction of this main gate of our school premises.

How did you know that they were children from the Bodibeng High School? -- Due to their height in the first place. I knew that these must be the children from the high school and I identified the uniform they had on as that one of Bodibeng. Therefore that is why I say they were from Bodibeng.

You saw them coming towards the entrance of your school, you say? -- Yes.

And then? -- When they came to the gate, outside the

gate/...

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gate they stopped. Three or four of them, that is from the group that stopped outside the gate, got into the premises of our school to speak to us who were in the schoolyard.

And did someone speak to you? -- Yes.

Can you recall what this person said? -- This person in his address to us said that we are supposed to be against the prefect system and introduce the SRC's. After making that address to us, it to us occurred that not long, some few days ago, we experienced some problems about the prefects at our school. We therefore felt that as requested by him that we join forces with them, we better join them.

We will come back to the problems that you experienced a little later on. Did you begin to join them? -- Yes.

What happened? Did you manage to continue with the march much further from Kananelo ... (Court intervenes)

COURT : Did you go outside your premises and mingle with them? -- Yes.

MR YACOOB : Did you succeed in joining the march yourself? -- Yes.

Can you tell the court what happened immediately after you had joined the march? -- What happened is, immediately after I had joined the march myself, those who were leading the march in front started moving forward which enabled the others to join the march as well. When we were about hundred metres from the gate of the school, then the police emerged or appeared there.

Were they in motor vehicles or what? -- They were in motor vehicles.

How many motor vehicles were there that you noticed? Can you remember? -- It could have been three of the

vehicles/...

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vehicles that I saw.

Where these vehicles coming from in front of you? -- Yes.

What happened? Did anything happen as soon as you saw these motor vehicles to your crowd of scholars? -- We immediately when we saw these approaching police vehicles, some of the children from the march started running into the nearby houses.

Yes? -- When I experienced that, that some children were running away into the nearby houses, I decided to stop. When I stopped I noticed that the police also stopped.

You say you stopped. Did the rest of the scholars continue to move or what? -- I stopped because those who were marching ahead of me had stopped.

You said that the police vehicles also stopped? -- Yes.

What happened next? -- After that I heard a sound of something which sounded like a gun and the next thing is I felt there is something which is affecting me on my eyes, as a result of which the people present there started dispersing by running into nearby yards. I also did the same.

Which part of Maokeng is Kananelo Secondary School situated in? -- Phomolong.

You have already said that you live at Constantiapark? -- Yes.

COURT : Could I just pause there for a moment. Is Constantiapark not the coloured township? -- No.

MR YACOOB : Do you know what the coloured township is called? -- Yes.

What is it called? -- Brentpark.

You said that you ran into a nearby yard. Is that

correct/...

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correct? -- That is so.

What happened from there? -- I ran into a nearby yard to avoid the police, but I continued running away. I went past the shopping centre in Phomolong and the other children were also running in different directions. I proceeded straight home.

And is it correct that to get from Phomolong to Constantiapark, your home at Constantiapark, you have to pass by the Phomolong shopping centre, get into Constantiapark, go past the Constantiapark shopping centre and then get to your house? -- Yes, that is so.

You said that when you passed by the Phomolong shopping centre, you saw children running in different directions. -- Yes.

Can you recall in what directions they were running? -- Some were running in the same direction with me towards Constantiapark and some in the direction of Seeisoville and some I would say were children from local. That is from Phomolong itself.

At what time did you arrive home? -- It could have been about past 10h00.

COURT : How far do you live from Kananelo School? -- About a kilometre is the distance between Kananelo and my home.

And when you say past 10h00, you mean shortly after 10h00? -- It was not long after 10h00.

MR YACOOB : Did you see anything unusual at the Phomolong shopping centre when you passed it by? -- When I passed there everything was normal.

Did you notice anything unusual at the Constantiapark shopping centre when you passed that shopping centre by?

No/...

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-- No.

Did you notice or see anything unusual while you were at your house on that day? -- When I came home in that vicinity there I noticed that children were running into different yards. There was some shooting going on and therefore children looking for shelter.

COURT : Could you tell me how late was this? -- It was still after 10h00.

It was when you had just arrived home? -- Yes.

MR YACOOB : What else did you notice on that day? -- While being in the house at home I realised that it has become quiet now but one could still hear from a far distance that there was still some shooting going on there, which resulted in my going out of the house to see what was happening.

Yes and what did you see was happening? -- What happened is when I came out of the house at the back of our house there is tarred road which is the next street running parallel with ours. I noticed some smoke as if something was burning along that road there, which resulted in my going through into the backyard, our backyard now, the house back opposite to us to go and see what was happening there, what was it that was burning.

COURT : Did you go into the back neighbour's yard? -- Yes.

MR YACOOB : Did you see what was happening? -- That thing which was on fire there appeared to me as if it was something big which one could describe as a lorry.

Could you make out at that stage what sort of lorry it was? -- No.

Did you at any later stage find out what sort of lorry it was? -- Yes, in the early evening after it had stopped

the/...

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the burning - after the burning of the truck had stopped, I was able to see what kind of a lorry this was.

Was there anything written on this lorry? -- Yes, on the one side of this lorry there was something like a name of the firm to which this lorry belonged.

COURT : When you went into the neighbour's yard for the first time to look at the smoke, what was the time then? -- It was about 11h00.

MR YACOOB : Did you see anything else unusual on that day? -- Yes, after having seen that I went back home in the house, the reason being that there was still some teargas in the atmosphere there which affected me. While being in the house I looked through and became aware of some smoke coming from different directions.

COURT : It is not smoke of teargas, it is other smoke you are talking about? -- It was smoke similar to the smoke of something which is on fire.

MR YACOOB : Was there anything else unusual that you noticed on that day?

COURT : Just before you answer that one. What time was this then that you saw the smoke? -- When I returned home investigating what was burning in the other street, that is form my neighbour's house, it was something to 11h00 and at this time again when I saw the smoke I have just described, it was still something to 11h00.

You saw it in different directions. Was that smoke on the tarmac road which was behind your house or was it somewhere else? -- At this time I noticed this smoke while I was looking in the direction of the front of our house.

So, it was in your street? -- No, not in my street.

Were/...

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Were the houses on fire? -- A house and a vehicle was on fire.

MR YACOOB : Apart from smoke from different directions, did you notice anything else which was unusual on that day? -- Later in the day at about 14h00 I noticed people passing along our street. These were carrying different types of groceries, mealiemeal, bread, et cetera.

COURT : Is that unusual? -- The manner in which they were passing is what is unusual.

MR YACOOB : How were they passing? -- They were passing as if they were chased.

COURT : What did you think had happened? -- From where I was standing at home, I had a view of Constantia shopping centre. Therefore I could see the confusion of movement of people from the shopping centre and those that came from that shopping centre running I could as well see.

ASSESSOR (MR KRUGEL) : Could you please be more specific about the people that you saw there? What sort of people? -- Those I would describe as elderly people who were just properly dressed, people from the community.

What do you mean by eldery people? -- Those - by that I mean people above the schoolgoing age.

MR YACOOB : Did you go to the Constantiapark shopping centre thereafter, either on that day or on the day after? -- No.

Did you see at any stage what damage had been done at the shopping centre at Constantiapark? -- Yes.

When was that? -- That was the following day.

Were there any shops burnt? -- At this particular shopping centre that I am talking about, there was no shop

that/...

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that was burnt.

Were there shops damaged? -- Yes.

Which shops were damaged? -- Three shops which were owned by Mr Maseko, Mr Plank and Mr Taje.

Do you know whether any of these people are councillors? -- Yes, there was a councillor amongst them.

Which one? -- Mr Plank.

And the other two, were they ordinary citizens or what? -- They were ordinary citizens.

COURT : Were they adjoining shops? -- Yes.

MR YACOOB : Did you go back to school the next day, that is 12 February? -- Yes.

Please tell the court what happened? -- What happened the next day is that on my way to school I met a friend of mine who reported to me that there were no people at school, I better go back home which I did. I therefore went home.

When did you finally return to school? -- After a period which I estimate to be about three weeks.

You said earlier that when you were asked by someone from Bodibeng School to join them on the march, you at least thought about some problem that you had had at your school a few days earlier. Do you remember that? -- Yes.

What was this problem about? -- The problem we had was that we were experiencing difficulties with the prefect system in the sense that this was being elected by the staff of the school and now what they did was the following. The prefect will write your name and submit your name to the principal for punishment and when you are called there for punishment you are not given the opportunity of explaining what was happening. Yours is just to be punished

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without having explained whatever you wanted to tell the principal.

Was your name ever written down by a prefect? -- Yes.

What for? Can you remember? -- One morning at the assembling parade the principal was busy addressing the students as a whole and one student laughed while the principal was addressing, which resulted in the principal instructing the prefects to get that person to his office after the assembly so that this person can be punished. The prefects just came for me and said that I was the person that was laughing.

Were you taken to the principal? -- Yes.

And were you allowed to answer the allegation against you or not? -- I was not.

What did you want in place of the prefect system? -- We wanted the prefect system to be replaced by the SRC's.

Where had you heard about SRC's? -- From the newspaper reports in which it was said that the SRC system is being used at universities.

Before 11 February 1985, had you had any scholar meetings at your school about these problems or what? -- I had not seen any meeting which was held at our school which meeting was for scholars.

Apart from the fact that you disliked the prefect system, did you have any other problem that you wanted solved or not? -- Yes, there was some dissatisfaction about some teachers in the way they taught. Some students were not happen about the teachers after a lesson by that teacher in the class.

Anything else that you think you should draw the court's attention to? -- Another thing was that that there were

certain/...

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certain teachers who had love affairs with school children who were young.

One more question about 11 February 1985. Did any of the scholars that you saw on that day at your school have any T-shirts on? -- No.

My lord, that is the evidence-in-chief of this witness, but before I sit down, may I have your lordship's permission to raise a difficulty I have, a little difficulty in connection with the future conduct of this case relating particularly to Monday?

COURT : Yes, certainly.

MR YACOOB : Your lordship will recall that yesterday it was decided that the witness Mr Dangor would stand down until Monday morning. The difficulty actually arises because of that, Mr Dangor himself is available on Monday and on days thereafter. It was not present to my mind yesterday that a witness from Daveyton who has important job and who needs to go to Cape Town on Tuesday. We were trying to organise an appropriate time for him to give evidence ... (Court intervenes)

COURT : Do you want to interpose him on Monday morning?

MR YACOOB : I want him interposed on Monday morning and after he is over then the other witness can give evidence. It could be Tuesday. This witness could last more than a day.

COURT : Any objection, Mr Jacobs?

MNR. JACOBS : Nee, u edele, dit sal my eintlik pas. Ek het geen beswaar nie.

COURT : Yes, we will leave that in your hands, Mr Yacoob.

MR YACOOB : Thank you very much.

COURT/...

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COURT : Provided that we do not inconvene Mr Dangor too much.

MR YACOOB : No, we sorted that out quite carefully.

COURT : Certainly, yes.

MR YACOOB : Thank you very much.

KRUISONDERVRAGING DEUR MNR. JACOBS : Mnr. Pule, u het nou gepraat van - die laaste aspek wat u van gepraat het was dat daar was geen T-hemde nie. Kan u vir ons sê toe hierdie opmars aangekom het na julle skool toe en daar tot stilstand gekom het, het u ander mense in die opmars opgemerk behalwe skoliere? -- Nee, ek het nie opgelet dat daar nog ander mense was behalwe skoliere nie.

Jy sien, ons het getuienis hier gehad dat op pad na Kananelo Skool toe het ŉ getuie wat vir die verdediging getuig het hier vir die hof vertel dat daar het baie mense aangesluit by hierdie optog? -- Ek weet nie van daardie mense wat so beskryf word nie. Wat ek wel daar gesien het was skoolkinders gewees.

Met uniforms? -- Ja.

Terwyl u nou praat van die uniforms, is die uniforms van Bodipeng skool heeltemal verskillend van die uniforms van Kananelo skool? -- Ja, hulle is heeltemal verskillend.

Kan u vir ons sê hoe verskil hulle? -- Die verskil is as die meisiekinders in bruinerige "tunics" gekleed is, het die seuns se dasse die volgende kleure, swart met ŉ rooi streep en ŉ witterige een.

HOF : Dié twee hoort bymekaar? -- Ja.

En dit is van watter skool? -- Bodibeng.

MNR. JACOBS : Net voordat cns afgaan van Bodibeng af. Is die kleur van die seuns se hemde of broeke - is daar enige

verskil/...

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verskil tussen dié van hulle en julle skool?-- Nee, dit was dieselfde gewees.

En dan julle skool s'n, ons het nou die meisies se jurke, dit is bruin en die dasse, wat is julle s'n? Dit is Bodibeng se kleure. Wat is die kleure wat julle dra? Watter kleur is die meisies se jurke? --Dit is ŉ blou "tunic" met ŉ geel kraag en die moue, aan die einde van die mou kry jy weer ŉ geel streep.

En die seuns se das? -- Dit was ŉ blou das met geel strepe.

En as enigiemand vir hierdie hof in vorige getuienis hier vertel het dat hierdie twee - Ja, ek sal dit daar los. Dan ŉ ander aspek wat ek eerste wil kry, toe die - u het dit nou ŉ paar keer toe mnr. Yacoob, die advokaat, vir u gelei het gesê daardie mense in die optog wat aangekom het. Was hulle in ŉ optog, lang optog opgestel soos wat hulle aangemarsjeer het? -- Nee, dit was nie mense wat opgestel was in ŉ optog nie, maar dit was mense wat sommer so deurmekaar daar geloop het, maar wat ŉ lang proses gevorm het.

Hoekom het u dan gesê dit was ŉ optog wat aangekom het? -- Dit was as gevolg van die manier wat hulle geloop het wat in ŉ lang tou was, dat ek sê dit is ŉ optog.

Die pad waarin hulle aangekom het, was dit ŉ teerpad? -- Nee.

Soos hulle aangekom het, het hulle in ŉ rye so regoor mekaar geloop wat die hele pad gevul het en dat hulle so opmekaar gevolg het? -- Nee, hulle was net in die pad gewees, nie in rye nie, nie opgestel nie, hulle het net mekaar gevolg.

En u sê daar was leiers gewees van hierdie groep soos hulle aangekom het ook of prosessie?

MR YACOOB/...

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MR YACOOB : I did not understand his evidence to be that there were leaders of this group which came along.

HOF : Dit is so, mnr. Jacobs, dat die drie of hoeveel mense dit ook al was het te voorskyn gekom daar by die skool. Hy het nie gesê hy het hulle gesien aankom met leiers vooraan nie.

MNR. JACOBS : Ek sal hom dit dan vra.

HOF : Nee, maar u sê vir hom hy sê so. Dit is nie so nie.

MNR. JACOBS : Ek het miskien dan verkeerd verstaan daar. Ek sal net by hom seker maak. Hierdie drie persone wat daar by die skool die prosessie verlaat het en julle in die perseel van die skool gekom het, was hulle van die voorpunt, van die leiers, was hulle die leiers van hierdie prosessie soos hy aangekom het of hoe? -- Hulle het heel voor geloop by hierdie optog.

Was daar plakkate gewees by hierdie optog? -- Nee.

Toe u uit die klaskamer uitgekom het, u getuienis is 'n bietjie vir my onduidelik, u het gesê in u getuienis-in-hoof die eerste keer toe u dit gehoor het, het u gehoor en u het dit vir my eienaardig gestel daar was 'n geraas voor by die hek en in by die skool - ek weet nie of ek verkeerd verstaan het nie, maar dit is wat ek verstaan het - van julle hek het jy die geraas gehoor? -- Nee, ek het nie so gesê nie. Ek het gesê in die rigting wat 'n mens kon kyk na die hek toe, dit is waarvandaan ek die geraas gehoor het.

HOF VERDAAG VIR TEE.

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