

DEFENCE SUBMISSION ON CREDIBILITY OF
WITNESS NO. IC6

1 It is submitted that the evidence of this witness is contradictory and improbable in relation to a number of issues. Moreover, the evidence of his recruitment, travels, training and the work that he did originally for the PAC and thereafter for the ANC have no particular bearing upon the liability or otherwise of the accused in this trial. There are two issues in respect of which the evidence may have some bearing. These relate to -

- 1.1 His trips to and from Lesotho and his relationship with one STOMPIE, and/or one WILBERFORCE ("Old Man");
- 1.2 His alleged visit to DR NAUDE and his receipt of money from him.

It is submitted that there are good reasons why his evidence should be rejected in both respects. His evidence in relation to STOMPIE given in chief and partly struck out is to be found in -

Vol. 5, p. 243, line 22 to
 p. 244, line 24

He reverts to it while giving the purpose of
the visits, in relation also to "VICKS"

Vol. 5, p. 278, line 29 to
 p. 279, line 12
 p. 281, line 13 - 26 and
Vol. 6, p. 307, line 3 - 10

He says that in May 1985 he came to the Vaal
with STOMPIE

Vol 9, p. 428, line 13 to
 p. 429, line 5

He also says that STOMPIE told him that he
was from the VCA. (This is of course
hearsay).

Vol. 9, p. 433, line 1 - 14

2 He was recalled to be cross-examined on the
evidence that he had given in the case
against STOMPIE MOKHELE. The questions by
the Court and brief cross-examination are to
be found in Volume 154, p. 7594 to 7599. The

contradictions are of a serious nature and the explanations offered by him are clearly inventive.

- 3 In relation to the second matter on which his evidence, it is submitted, cannot be believed i.e. the visit to Khotso House the following evidence is relevant. In chief he says that he went to Khotso House as a result of what he had been told about certain organisations including the UDF.

Vol. 5, p. 247, line 13 to
p. 248, line 5

He says that he was specifically told that if he required financial assistance he should go to among others the UDF.

Vol. 5, p. 250, line 20-29

He then sets out in detail how he came to Khotso House, how he asked for the UDF, how he was referred to SAMSON NDOU who referred him to DR BEYERS NAUDE and that he was given money by DR NAUDE well knowing that he was an

ANC cadre and he was going to use the money for ANC work.

Vol. 5, p. 251, line 12 to
p. 253, line 26

Objection was taken to the evidence as falling outside the period of the indictment as it then stood.

Vol. 5, p. 258, line 29 to
p. 262, line 17 and again at
p. 263, line 31 to
p. 265, line 19

The State attempted to justify the indictment on a strained interpretation.

p. 263, line 2-20

but asked for an amendment at p. 266, line 14 to line 24, and was advised to go and formulate it properly.

The amendment was eventually moved.

Vol. 6, p. 291, line 21 to
p. 292, line 17

4 It is quite clear on a proper reading of the evidence of IC6 that he went to Khotso House on the 13th May 1985 at the earliest and not before that date. The reasons for this are the following: He says that he was arrested on the 7th June 1985. He says that he visit was approximately 2½ weeks before his arrest on the 7th June 1985 and that the visit was "in mid-May".

Vol. 7, p. 343, line 1-20

He says that he was in Lesotho on the 1st May, came in for a day about a week after that, but thereafter came again into South Africa after another day had passed.

Vol. 7, p. 343, line 22 to
p. 344, line 12 and
p. 344, line 28 to
p. 345, line

He repeats that he went to NDOU 2½ weeks before the 7th June 1985.

Vol. 7, p. 345, line 18 - 20

He mentions the 11th of May 1985 although only as "an estimation according to time".

Vol. 7, p. 345, line 23 - 30

He repeats the 11th as the approximate date on which he arrived in South Africa and says he spent a day and a night in Germiston before moving on to Johannesburg.

Vol. 7, p. 366, line 16 to
p. 367, line 1

He testifies that he remembers the day of the week when he went to Khotso House and that it was a Monday.

Vol. 7, p. 368, line 21 - 23
p. 369, line 14 - 19
p. 370, line 17 - 20

He insists that his trip to Johannesburg took place after a week after the 1st May.

Vol. 7, p. 370, line 13 - 16

The trip from Lesotho took two days.

Vol. 7, p. 370, line 21-23

It was common cause the Monday after the first week in May must have been the 13th May 1985.

5 Once this is established the admission in Exhibit "AAS15" that DR NAUDE went out of the country on Friday the 10th May 1985 makes nonsense of his evidence.

6 There are, however, numerous other reasons why this witness ought not to be believed:

6.1 The witness considered himself a member of the police force to whom an indemnity had already been given by other persons whom he was not prepared to name and was on probation whilst he was giving evidence, which he obviously considered of great efficacy even before he was warned in terms of the provisions of Section 204 of the Act.

Vol. 7, p. 322, line 21 to
p. 335, line 23

6.2 He felt that his trustworthiness will be doubted if he departed from his statement and that the prospects of becoming a South African policeman could be substantially reduced.

Vol. 7, p. 335, line 24 to
p. 336, line 1

6.3 He had entered into an agreement with his captors which he considered necessary in order to secure his future as a policeman and he believed that there was no other way in which he could protect himself from the people of the ANC who would come and look for him, other than to join the police or army.

Vol. 7, p. 336, line 2 to
p. 338, line 20

6.4 He was unable to explain the improbability as to why he should endanger himself by disclosing his identity to NDOU and to DR NAUDE when he had specifically been warned not to so much as go anywhere near Khotso House.

Vol. 7, p. 354, line 13 to
 p. 355, line 16

6.5 He had learnt many dirty tricks and was arrogant enough to declare that the SAP could teach him nothing about security.

Vol. 7, p. 356, line 6 - 17

6.6 Although he had been evidently quite happy to go to Khotso House and to disclose to NDOU that he was from the ANC on a mission, he had made no attempt to get any assistance from the Council of Churches, although he knew that people get help from it. As is often the case in his evidence, he showed himself to be argumentative and arrogant, testifying inter alia that he did not know that he could go to the Council of Churches and tell them that he was an ANC terrorist and that they would help him as well. The improbability of this is stark; the picture of this highly trained, security conscious operative not even attempting a simple and neutral appeal to the Council of Churches but opting directly for a

complete disclosure in the risky environment of Khotso House is clearly improbable.

Vol. 7, p. 357, line 17 to
p. 359, line 31

6.7 It is similarly improbable that he would, without any questions being asked by NDOU, have simply announced to this stranger that he was from the ANC and he evidently left NDOU in no doubt that the money was required for the work of the ANC.

Vol. 7, p. 360, line 1 to
p. 363, line 28

6.8 It is submitted to be an inherent improbability that a person who discloses neither his name nor the purpose of his visit, would be shown directly in to the office of the Secretary General, DR NAUDE, and furthermore that this unannounced, unidentified stranger should be given such priority that an existent engagement should be interrupted and the

person with whom DR NAUDE was busy should have to leave.

Vol. 7, p. 374, line 30 to
p. 377, line 11

6.9 After first denying that he had read reports and newspapers in the camps that UDF had denied that it was connected with the ANC (Vol. 9, p. 441, lines 17-20), he thereafter agrees that he saw such statements both in the camps and in Lesotho and that others in the camps also saw these statements.

Vol. 9, p. 443, line 5 to
p. 444, line 19

Asked about the apparent conflict with what the ANC itself was saying, the witness showed himself again to be argumentative and arrogant.

Vol. 9, p. 444, line 20 to
p. 445, line 13

6.10 Asked why he went to the offices of the UDF to get money, knowing that they had

said that they did not support the ANC's policy of violence, the witness went out of his way to attempt to couple the UDF with township violence and went on to state that people come into the country to work clandestinely with the UDF. The witness was later compelled to agree that he had no personal knowledge of any of this. The State, in turn, eventually stated that it would not rely on that portion of the evidence, its significance is that it indicates the degree of hostility and arrogance displayed regularly by this witness - an approach which, it is submitted, is consonant with that of a person doing his best to please his captors.

Vol. 9, p. 446, line 31 to
p. 452, line 19

6.11 It is submitted that there are numerous further contradictions and improbabilities in his evidence relating to other matters, but that these are so remote to the issues in the present case that they do not warrant lengthy

exposition here. It is submitted that in certain key aspects, his evidence is proved to be fatally unreliable and that further cataloguing of unsatisfactory aspects would be to no further advantage.