

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG LOCAL DIVISION, JOHANNESBURG

CASE NO: I01-2017

DATE: 2017-08-02

INQUEST INTO THE DEATH OF:

AHMED ESSOP TIMOL

BEFORE THE HONOURABLE MR JUSTICE MOTHLE

ON BEHALF OF THE NATIONAL PROSECUTION

AUTHORITY:

ADV PRETORIUS

ADV MALOTWA

ADV SIGN

ON BEHALF OF THE FAMILY:

ADV VARNEY

ADV MUSANDIWE

ADV FAKIR

ON BEHALF OF THE SAPS:

MR LITHOLE

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COURT RESUMES ON 2 AUGUST 2017

[09:35]

COURT: Mr Varney before you proceed Mr Coetzee sir how much time are you going to need?

MR COETZEE: Sorry M'Lord?

COURT: How much time are you going to need?

MR COETZEE: In re-examination M'Lord?

COURT: Yes, it is not really re-examination it is just that I am giving you indulgence for this because these are not adversarial proceedings.

10 MR COETZEE: M'Lord I am not going to take long the matter is fully canvassed I cannot foresee that I will take longer than 15 minutes at the most.

COURT: Okay I want to manage time such that I must also have some questions to ask this witness.

MR COETZEE: Yes.

COURT: Okay can you take us until teatime Mr Varney do you think you can finish?

MR VARNEY: Your Lordship I can try and on that score Your Lordship if there is going to be translation I think that I will not be able
20 to finish by teatime and I was actually going to ask given that the witness has already responded quite perfect in English already whether he cannot be persuaded to simply speak in English.

COURT: No I cannot persuade a witness to speak a language that he is not comfortable with, but I think do the best you can within the time available, because I must also ask him questions and I am going to

need time. So if you could within the time available try and make the points you wish to make with the witness that will help.

MR VARNEY: M'Lord I will go as quickly as I can.

COURT: Yes please.

MR VARNEY: This is a crucial witness and we have quite a few question to ask him.

COURT: Yes please you may proceed.

MR VARNEY: As the court pleases.

COURT: Mr Rodriguez you are still under oath.

10 WITNESS: I am under oath sir.

JAN RODRIGUEZ: still under oath

COURT: Yes proceed.

MR VARNEY: Thank you M'Lord. M'Lord just a quick update. I have consulted with Mr George Biza and he has advised me that the points that he wishes to raise from his book we can actually pursue those in argument, and we will be consulting with him again for that purpose.

COURT: Yes okay.

FURTHER CROSS-EXAMINATION BY MR VARNEY: Thank you. Mr Rodriguez I want to return briefly to the question of the coffee that was
20 consumed in Room 1026 the coffee that you brought into the room. In your evidence before the first Inquest Court you testified that while the three Gloy, Van Niekerk and Mr Timol were enjoying their coffee, you stood close to the table that was on the left hand side of the room. I do not know whether you still have the photograph "C8"? Okay there you have it so you can see the table on the left hand side and I

assume that you were not standing where you are standing in the photograph, but a bit further back next to the table, is that correct? ---

Excuse me?

While the others were drinking coffee where were you standing?

--- I stood next to Chair B by the table.

Thank you. Indeed the finding of the Court at page 5 also has you standing in that position that is page 5 of the translated finding.

Now yesterday you said you insisted really that there was a third cup in the photograph and you said that, that third cup was behind the first
10 cup on the big table, do you recall? --- I said it looked like it I cannot say definitely but it looks like it.

Are we going to translate or not? --- It looks like what I said yesterday.

So it appears to be that you might be correct on the fact that there was a third cup in the room but wrong in respect of its location. I want to hand up a rather poor quality photograph. M'Lord it is on page 61 of Volume "B" it is Exhibit "AA2".

COURT: Yes?

MR VARNEY: Now Mr Rodriguez, this is in fact a fuller photograph it
20 appears that the other photograph that we are using Exhibit "C8" was somewhat shrunk. But if you look at the bigger photograph which is a poor copy, if you look on the left hand side on the table there appears to be a cup sitting on that table, do you see? --- No I do not see it.

Perhaps if I point to it over there. Do you see it now? --- Yes I see it.

Okay so if that photograph is to be believed there were in fact three cups in the room. But I put it to you that, that third cup on that table that did not belong to Mr Timol. I put it to you, you were drinking from that cup not Mr Timol? --- It is not true I did not drink coffee at that point in time.

You testified that while you were in Room 1026 someone came in and said that the other three people had been arrested, and you are probably aware that the Inquest Court came to refer to this mystery person as Mr X. At that time the Court said that his identity could not
10 be disclosed for security reasons, do you recall that? --- I do not know I am not aware of that.

But you do recall that some person came to the office perhaps after about 20 minutes and said that he had arrested three people? --
- He did not say that he has arrested he said that there are three people that have been arrested.

Do you know who this person is, do you know his identity? ---
No I do not know.

Did you get to know his identity afterwards subsequently? ---
No.

20 And how would you describe this person? Was he large, medium size, small? --- He was medium size.

Was he tall or of medium height, or short? --- I cannot remember.

You cannot recall whether he was tall or short? --- No it is too long ago I cannot remember.

Was he English or Afrikaans speaking? --- He was speaking in Afrikaans.

And how old would you estimate that he was at that time? --- I do not know I cannot estimate his age.

But was he a young man perhaps in his 20's or 30's, or around your age at that time, or somewhat older 40's or 50's? --- I think he was middle aged if I can estimate.

So more in his 50's perhaps? --- No.

40's? --- 40's yes.

10 Did he have hair was he bald or did he have hair? --- No I cannot remember.

Do you have any recollection of what he was wearing? --- No I do not know.

But it was plain clothes, or it was not a uniform? --- No he was clothed in civilian clothes.

20 So in your statement at paragraph 4 you say that a member of the Security Branch came and said that they had identified the Whites, and you referred to a name Quintin Jacobson. When writing your statement did you remember the name Quintin Jacobson from what had been said in the room, or were you reminded of the name when you prepared your statement? --- I was informed about this name when they took down the statement.

Although your statement suggests that you remembered the name because it had been mentioned on and around the room? ---

Not around in the room when I took down the statement I was told that this person's name is Quintin Jacobson.

Did you write your own statement or was it prepared for you? --

- No, no it was prepared for me.

And was it prepared by General Buis? --- Yes that is correct it was prepared by General Buis.

You have testified that when these names were mentioned Quintin Jacobson and his brother Henry Timol went into a state of shock? --- That is correct.

10 Now would you be surprised to hear that Quintin and Henry Jacobson were never in the underground in fact they were not even members of the SACP or any band organisation? --- I do not know that type of information.

I am not asking you whether you knew I am asking you whether you were surprised to hear that from me? --- I cannot say that I was surprised because I did not know these people.

Please remember Mr Rodriguez that the allegation is made by you is that Mr Timol went into a state of shock at this news hearing those names, and what had happened to those people. So when I say
20 to you now are you surprised to hear that in fact those individuals were not involved in the underground and were not members of any band organisation? --- I am surprised to hear that.

And are you also surprised to hear that they never worked with Mr Timol or Mr Essop they only had passing social contact with him

which was not of an illegal, or even a political nature? --- I cannot comment.

But it is surprising to hear that, is it not? --- I do not know.

COURT: Well what it means Mr Rodriguez, is that if that is true then it raises questions about your evidence that Mr Timol was surprised and he appeared shocked by the news, do you understand where it is going? --- Yes.

So it raises questions. If he did not have any relationship with those people why would he be according to your evidence be shocked
10 to hear that, that is really the question? --- I cannot say but he was shocked definitely.

MR VARNEY: I am indebted to Your Lordship.

COURT: Yes.

MR VARNEY: And furthermore what we do know is and this is from the evidence of Salem Essop was detained with Mr Timol and who in fact was working in the underground with Mr Timol. Mr Essop says that I was a photographic enthusiast, and that he knew the Jacobson brothers because they ran a photographic studio. He and Timol visited that studio in Pritchard Street just once, only once would you
20 be surprised to hear that? --- Yes I cannot say that I was surprised because I did not have that information.

Yes but you are hearing it now an in the light of your claim that Timol went into a state of shock, we are trying to establish if he was in a state of shock why was he in a state of shock? --- All what I can say is that he looked shocked.

Well certainly the evidence of the police or the suggestion was that Mr Timol was somehow in cohorts with the Jacobson and that this news meant that the game was up, and that is why he went into this state of shock. Is that not a reasonable assumption to make? --- I cannot say or I cannot concur to the Counsels submission.

You might be interested to hear how many references there were to Ahmed Timol, the name Ahmed Timol in Quintin Jacobson's detention file, and I will tell you not one, not a single reference. Now it was apparently claimed by Mr X that Quintin Jacobson had been
10 arrested. For the record he had not been arrested he was only arrested on the 2nd of November 1971. Now you might be interested to hear Mr Rodriguez, how many times Ahmed Timol's name was mentioned in the Judgment in the criminal case against Quintin Jacobson in which he was acquitted. So how many times was he mentioned in that Judgment, not once not a single reference to Ahmed Timol. You are not surprised to hear this? --- I do not know I do not have any information in that regard.

I put it to you Mr Rodriguez that there was simply no basis and no cause for Mr Timol to be in a state of shock on the basis of the
20 claim that you have alleged before the first Inquest Court, and this Inquest Court. --- I can only react on what I have seen.

And I put it to you Mr Rodriguez that this Mr X story is just that. It is a story it is a crude fabrication of the Security Branch and I put it to you and we will argue this in our submissions that you dutifully

played along with this crude fabrication. --- No M'Lord I can only react on what I have seen.

Now Mr Rodriguez Captain Gloy you claim that he asked you to guard Timol while they left the room. Were you surprised at that time to be left in charge of a security detainee? --- No I would not say that I was surprised because I was just instructed to keep guard on Ahmed Timol and you cannot ask questions as to why should I keep guard on somebody that you have been instructed to keep guard on.

Did you agree that a security detainee was not your designated
10 function, and indeed you were not legally authorised to guard a security detainee, or to hold such a detainee in your custody? --- It was an instruction that I had to do I had no any other alternative.

Was it implied by Captain Gloy that if Timol attempted to escape either implied or said, that you were expected to apply physical force to restrain him? --- No he did not tell me that.

But did you think well if this fellow tries to escape I am going to stop him whatever it takes? --- Yes I was a police officer I was not just a Security or somebody that needed to keep guard on him, because I was instructed to keep guard on him.

20 Yes indeed, and especially since you had been told that this was a prize asset a valuable detainee? --- Yes that is what he told me that he is a valuable detainee.

Now do you agree that this was hardly a situation that Captains Gloy and Van Niekerk had no choice but to use you in particular to

guard Timol? --- I would not say so I do not know who else but I was just doing what I was instructed to do.

But Mr Rodriguez with the greatest respect you were in John Vorster Square one of the largest police complexes in South Africa. It was the middle of the afternoon, are you saying that one of them could not have stepped out and asked a Colleague, or another police officer, or perhaps picked up the telephone and called in a trained police officer, not a clerical staff member from the Bay Section in Pretoria to come through and guard this highly prized Security
10 detainee? --- I cannot comment on that I just did what I was instructed to do.

If I had to estimate the number of policemen in John Vorster Square at that time there were probably more than 100, and yet they had to use you, was that not surprising? --- It was not surprising to me I was just doing what I was instructed to do by Gloy.

Yes so you are a dutiful employee of the police and you follow instructions no matter what? --- No I did not have any other alternative you do not ask questions you do what you are instructed to do.

20 Did Captain Gloy, and Van Niekerk said that they are going to be a short while, that is your evidence, did they say what they were going to outside? --- Can you just repeat your question?

Did Captains Gloy and Van Niekerk they said that they are going to be just a short while, but did they say what are they going to

do that was going to take a quick time? --- Their job was too secretive I did not know what were they going to outside.

But you expected them back quickly? --- There was no time mentioned but all what they said that they will come back as soon as possible.

So in your evidence you say once they had gone after about a minute or so Mr Timol said that he wanted to go to the toilet. In your evidence you said that is a reasonable request, and you got up immediately to concede to that request. Now I want to put it to you
10 that it may have been a reasonable request from the detainee he might have had a desperate need. I want to put it to you that it was highly unreasonable for you to accede to that request and immediately get up to go to the toilet. --- Both of us simultaneously stood up together but I cannot mentioned as to how long did it take when he asked me to go to the toilet.

In fact should you not have stayed put right where you were and told Mr Timol if he had already got up, sit down and wait for the two Captains to return especially if they are going to be a short while? --- I saw a chance to take him to the toilet.

20 Did the two Captains before they left say that if Timol required a comfort break it was okay to go take him to the toilet? --- They did not tell me that.

So in fact you had no authority to leave that room with Timol? --
- I had that authority because I was a policeman.

Yes but with respect you were employed by the police but you worked as a Clerk? --- Yes it does not matter whether I was a Clerk but I was still a police officer.

So you believe that you had authority to do something that in fact you had not been instructed to do because they had not told you, you can take him out of the room for purposes of going to the toilet. It was just something that you believed that you were entitled to do? --- Yes I was never told by Gloy or Van Niekerk but it was just a reasonable request that I thought that it would have been good for
10 him.

You testified that this was your very first time to John Vorster Square you did not know your way around the building in fact you needed an escort to get to these offices? --- No when I walked into the building I saw a board which was written toilet.

Now Mr Rodriguez how did you know that Mr Timol was allowed to use that toilet? Was any toilet just open to Security detainees to use? --- That I cannot say but I think he had a right to use the toilet.

Now what if Gloy and Van Niekerk returned to find an empty office would they not have hit the roof and being particularly angry
20 with you? --- No that is not the issue they were sympathetic.

Now there is evidence before this Court that certain detainees when moved between offices when they were in the corridors their heads had to be covered, and in some cases with a hood, and in other cases they were blindfolded. Now we understand that this was likely to be done in order to prevent them from being seen or to prevent

them from seeing others. How did you know that this was not the case in respect of Mr Timol? --- I know nothing of that sort I did not have any information in that regard.

So you were given no instructions about that particular problem? --- I was never given information in relation to what the Counsel is putting to me.

I put it to you Mr Rodriguez that again this story of Timol wanting to go to the toilet is just another story. It was made up by the police to explain how it was that he was able to storm over to the
10 window in the matter of seconds, and that you Mr Rodriguez dutifully playing along with that story. --- I deny that in the strongest term I did what I was instructed to do.

Can I ask you Mr Rodriguez, were you in any way scared or intimidated by Mr Timol his physical presence? --- No I was never intimidated by his presence.

And why not? --- He was younger than me.

Yes and for the record.

COURT: Just a minute. Not younger he was smaller than you? ---
Yes smaller.

20 MR VARNEY: As it turns out he was younger as well.

INTERPRETER: Thank you Counsel.

MR VARNEY: The post-mortem report discloses a death how much he weighed and how tall he was, and for the record M'Lord that report is at Volume "B" Exhibit "X" page 53. So he weighed 61 kilograms and he was 1.6 metres tall, and you say he was considerably smaller

and lighter than you, you accept that? --- Yes I do I accept that as it is.

So it was not his physicality that may have held you back when he apparently stormed to that window? --- Not at all it is not in that way.

Yes now you testified that in your attempt to reach Mr Timol to catch him you bumped into and again please have the photo available. You bumped into Chair A and lost balance, and I am just jumping ahead in time we can return later to what happened at Chair
10 C. But when you turned around to try and cut off Mr Timol you claim that you lost your balance and fell to the ground at which point Mr Timol was able to dive out of the window. Now the Magistrate in his Finding makes no reference to you falling to the ground. He only talks about you stumbling over the chair. So this falling to the ground version did you put that to the first Inquest? --- That I cannot remember it is about 46 years back.

And also in your testimony both before the first Inquest Court and this one you claim that Mr Timol was moving quite fast he was not limping or going slowly. Indeed according to the Magistrate at page 6
20 of the Finding he was storming towards the window. So you would agree that if that is the truth and this is not a picture of a man who is severely injured, do you agree? --- I cannot comment in relation to his injuries.

Yes but if he was severely injured if he had leg or ankle injuries he would not have been able to do what you claim he did. --- Yes I

am asked to speculate I cannot speculate all what I can say is that I can say what I saw.

Yes, but that is not the question. The question was if he was so injured he could not have got up and stormed to the window, that is the question. --- Yes to be able to respond to that question I need to know as to how serious was his injuries and I am not a Doctor.

Mr Rodriguez we are going to indulge you we are going to take you through those injuries, and in this regard I am going to refer to the two Forensic Pathologist reports. We will start at Doctor Hollard
10 M'Lord that is Exhibit "C5" page 137 as well as 138. She outlines a number of bruises on Mr Timol's legs which says were anti-mortem they occurred prior. Indeed it is the evidence of Doctor Scheepers that certain of those bruises were also anti-mortem. So she says there were two big bruises on the lateral aspect of the right thigh. There was a big bruise on the medial and posterior aspects of the right knee. A big bruise of the back of the right lower leg and the underlying muscles of the calf, which she said were contused. Then on page 138 there was a big bruise on the left lower leg and left ankle, and then bruises of the left posterior thigh. Then in Doctor Naidoo's
20 report he is at paragraph 31. He remarks on the injury in the post-mortem report and he says that this was a left ankle dislocation. He said that this had to happen before the fall because the bruising around that left ankle was far too great of vital reaction to have occurred in the period of survival after the fall. So Mr Rodriguez let me put this to you, a person with those kinds of injuries particularly the

left ankle dislocation cannot run let alone dive, or jump out of a window in the split seconds that you allege. I put it to you that in his state he could barely get up and walk let alone storm to the window and dive out. --- I cannot confirm what the Counsel is just saying now and I am not a medical doctor.

Mr Rodriguez let us forget Mr Timol for a moment. You are somebody who has played rugby, and you have done other contact sports karate, boxing amongst other things. On the rugby field if somebody dislocates one of their ankles would they be in a position to
10 spring up and make a dash? --- No it is not possible you need to be attended to medically.

Thank you Mr Rodriguez. Now there is the uncontested evidence of Salem Essop and to remind you Salem Essop was the man who was arrested with Mr Timol in that vehicle. He had worked closely with Mr Timol, but he was a youngster he was 22 years old at the time some eight years younger than Mr Timol. No respect is intended to Mr Essop but really he was Mr Timol's psychic. He was not involved in communicating with anybody, and he was not a member of any prohibited organisation he was simply assisting Mr
20 Timol to distribute those leaflets. Now Mr Essop's evidence which is uncontested is that over a period well from the Friday evening through to Tuesday morning so approximately a day shorter from Mr Timol's custody on the 10th floor he was brutalised. Brutalised to the point where on the Tuesday morning he slipped into unconsciousness he was effectively in a coma, and these words he was close to death.

Now does this not stretch your imagination to breaking point that the Security Branch if Mr Essop's evidence is to be accepted which we submit it is to be would brutalise Essop to the point where he was close to death, but leave Mr Timol untouched?

MR COETZEE: M'Lord I do not want to object M'Lord but this is argument. In the time that you have also indicated that we should use time constraints well is this really fair cross-examination of this witness in the light of his evidence that he has already given. My Learned Colleague might not like his answers, but he indicated
10 already...[intervene].

MR VARNEY: M'Lord I will move on.

COURT: What are you saying are you saying Mr Varney?

MR VARNEY: I am happy to move on and to take that note any further unless the Court wishes to do so.

COURT: Okay.

MR COETZEE: Thank you M'Lord.

MR VARNEY: Now Mr Rodriguez the Magistrate's Finding reflects a number of versions as to what happened in Room 1026, and I want to start with the Magistrate's attempted to reflect what you had said in
20 your testimony to that Court. Starting at page 6 of the Inquest Finding, and there is a copy if you want to look at it. So at page 6 of the Finding the Magistrate says that you pushed the window open, sorry Mr Timol pushed the window open and dived out. So that action is a push and a dive. Now this seems to be somewhat in conflict with your evidence that he had to open the window first and then dive out.

--- I can only comment on what I have seen I cannot comment on the Judgment of the Presiding Officer.

No that is fair enough I am not asking you to change your version. Then at page 28 of the Magistrate's Finding and that is on the middle of page 28. The Magistrate says that according to your evidence the window was already open and Timol was busy diving through the window. Are you sticking to your version? --- I can only comment on what I have seen.

10 Finally on this score when the Magistrate was dealing with certain photographs on page 29 to 30 of the Finding. The Magistrate reflects that you said when you came in with the coffee the window was closed, is that correct? --- Yes it is possible that the window might have been closed because what I was informed is that they usually keep their windows closed so that the noise should also not disturb them whilst they are inside their offices.

20 Well that is the noise from the traffic, and of course it goes without saying that if you saw him having to open the window then it was obviously closed. Now let us deal with the versions of Captain Gloy and Brigadier Patel as reflected in the Magistrate's Finding. According to Captain Gloy's statement that is on page 17. Gloy says that when you reported to him as to what happened Timol stood up from the chair and turned and moved somewhat in the direction of the door, but that does not seem to be in your evidence. --- It is not correct this is not what has happened but I can only comment on what I have seen.

And Brigadier Patel in his statement and I am going to look at the details of Brigadier Patel. At the bottom of page 33 Brigadier Patel says that you told him that you moved towards Chair C and if you can just have the photograph back again. --- Yes.

And that you did not turn around and go back towards Chair "A" in order to cut off Mr Timol. Once you had got to Chair "C" you then went around the table in other words to follow Timol in the direction that he was moving towards the window, so you came around the table according to Patel. --- I cannot comment on their statements
10 because at the time when I was questioned nobody took down the answers or wrote down whatever I had been telling them as to what transpired on that day in question.

Yes, M'Lord for the record Gloy's statement is in Volume "B" Exhibit "G", and Patel is in the same Volume Exhibit "S".

Now Mr Rodriguez we are going to argue you may respond if you wish. The differences in these versions and they are not small differences they have arisen because this entire business about the suicide is a fabrication. It is always difficult to maintain consistency in a fabrication. --- It is not correct and I do not know as to how long did
20 it take them to write down whatever that I had told them, but on that day when I was questioned there was no written statement, or they never took down all what I have told them.

Now let us turn to your evidence on how he actually exited the window. Your evidence is that he dived through the window. Mr

Rodriguez do you know the difference between diving and jumping? -
-- Yes I know the difference between diving and jumping.

So diving to be simple as possible would be a dive out hands
and head first out of the window. Whereas a jump would be get up
onto the window and then spring out and jump. --- That is correct
M'Lord I do concur with your submission.

But your evidence is that he dived he did not jump? --- That is
correct.

Now I want to put to you the evidence or the Expert evidence of
10 one of the Forensic Pathologist's Doctor Naidoo. M'Lord that is
Exhibit "C3" and we are looking at page 13 paragraph 39. Because
the question was posed to Doctor Naidoo in terms of the injuries
sustained whether that was possible whether that could have arisen
the fall injuries from a dive. I am going to read the paragraph in
question. Could he have launched himself as in dived throughout of
the window? If this had been at all possible and actually performed I
have great doubts whether the window aperture would have allowed
such without the deceased being caught or snagged by his clothing
[no clothing was described], and without his clothing being grossly
20 torn, and without significant and deep linear scratch or friction
abrasions, and or lacerations been seen upon the body [aside from
the healing abrasions and bruises that were seen]. So Mr Rodriguez
Doctor Naidoo is saying that if he had dived in all likelihood he would
have been gotten caught up on the latch and on the edges, and would
have injured himself as such, but in fact the post-mortem disclosed no

such injuries as a result of connecting with parts of the window. ---
Yes this medical practitioner that wrote down that, or who did this
post-mortem was not there at the time when this issue happened, so
he might have thought out of his own mind set that this is what could
have happened.

Now I also want to put to you the expert evidence of Mr
Moodley. He was called to give evidence on the trajectory. He was
also asked because he visited the scene he was in that room. Was
diving possible? I want to read to you paragraph, or rather at the
10 bottom of page 1 of his report. M'Lord that is Exhibit "C10". Just so
you know Mr Moodley is an Aeronautical Engineer for what it is worth.
He writes as follows: Dive option is not possible. It would not be
possible to run, open the window, and dive simultaneously would be
challenging. So he cast serious doubt over your version that it was a
dive. Do you have any response? --- It is all speculation what I am
saying this is what I have seen.

So I want to take you back to this photograph. According to
your evidence you were in Chair "A" and Mr Timol was in Chair "B", is
that right? --- That is correct.

20 So Mr Timol was able to move around avoid the chair that you
were standing next to in that photograph, open the window and then
dive out in split seconds. --- Can you please explain that to me again
please?

With pleasure. Your evidence is that Mr Timol was sitting in "B".
--- That is correct.

And just to remind you, you had testified that you managed to stumble over two chairs. I am just putting it to you that Mr Timol somehow managed to slip around that table he somehow managed to avoid stumbling over the chair that you were standing next to, which is currently pushed in but we do not know whether it was pushed in or not. He gets to the window, he opens it up and then he dives out. --- I just want to object I did not stumble over two chairs it is only one chair that I stumbled over.

All right I simply want to put it to you Mr Rodriguez that your
10 claim of this dashing to the window, opening it up, and diving out is highly improbable. In fact I want to put it to you that it was impossible in those circumstances, and it is yet another example of a transparent fabrication that you are party to. --- That is not what happened.

And to add to the improbabilities Mr Rodriguez in his evidence Mr Moodley was asked if Mr Timol had dived out head first, hands and head first where would he have landed at the bottom? Could he have landed in the position that he was found three metres away? The answer of Mr Moodley is that he would not have been found three metres away from the edge of the building he would have landed
20 much closer to the building. Moreover we know from the terrain that if had landed much closer to the building his injuries would have been considerably different. --- Again it is a lot of speculation I cannot comment on that.

Mr Rodriguez I want to put it to you that given the smallness of that room only 2.6 metres across just marginally bigger than your height. --- Much bigger sir.

Well you are close to 1.9 metres, and given your height compared to Timol, and if we look at the figures you were nearly 30 centimetres taller than him is it not most extraordinary that you could not catch him? A small room, a small person versus a tall big person is it not just extraordinary? --- Yes I have mentioned it several times that it happened in a split seconds over a period of time, and this is
10 what I have seen. I am not speculating about what my Learned Friend is now asking me but I am saying what I saw which happened on that day in question.

Let me put this to you because I must this is what we are going to put to this Honourable Court. I want to put it to you that if your story had any creditability, and if in fact there was a so called chase in that room. If that happened I put it to you that you would have caught him. --- I do not want to go back and give a description of what happened exactly, but the manner in which this incident happened it happened so fast in such a way that I could hardly catch him or to
20 stop him not from jumping, or diving through the window.

Now Mr Rodriguez you looked out the window according to your evidence and you saw the body lying at the bottom where exactly was it lying, and can you tell the Court of its orientation how far from the building, and where was the head pointing? --- It is a long time ago I

cannot just speculate as to how far was he that is all that I can say
M'Lord.

And how long did you look at the body from the window? How
long was it a matter of seconds, or minutes? --- It was a question of
seconds and we immediately went down to where Timol had fallen
M'Lord.

Did you close the window after you had looked? --- I did not
touch the window.

Did anybody else look from that window to the body? --- There
10 were people who got into the office and who peeped through the
window and I cannot say how many were they.

Now let us be clear, when you looked at the window it was
immediately after Mr Timol had gone out of it? --- That is correct.

And you are then saying that others came also to look at that
point in time out of the window? --- Yes it was after when I went out of
the office and screamed that Timol had jumped.

And did they look out the same window or were there people
looking out of other windows as well? --- They looked through that
same open window.

20 And when you later returned to Room 1026 was the window
open or closed? --- That I cannot remember.

So when you left the room and you raised the alarm, Timol has
jumped I want to know precisely from you did you turn left or did you
turn right outside of 1026? --- M'Lord I do not understand the

question must I say when I went out of the room if I turned left or right?

COURT: Yes. --- I cannot remember that.

MR VARNEY: Yes I am trying to establish the direction in which you went. Did you turn left or did you turn right as you exited the room? --
- After the incident sir?

Yes. --- I do not know I cannot remember.

And can you recall how far you rushed until you stopped to speak to various people? --- It was chaotic, or a chaotic situation I
10 screamed the people came out of their offices.

But was it a few metres or was it much further than that? --- No
I do not want to speculate I would rather not respond to Counsels
question.

And did you stay on the same floor? --- At that point in time I
was still on that same floor.

Yes and before you decided to dash down to where the body lay
did you move to a floor below to speak to anybody? --- I never went
to any other floor to go and talk to somebody else there.

And presumably you were anxious to find Captains Gloy and
20 Van Niekerk? --- Yes the people came and as to whether where Gloy
and Van Niekerk as to where they were at that point in time I would
not be able to say.

So where did you eventually find Captains Gloy and Van
Niekerk? --- I found them when we were already on the ground.

Now you testified yesterday that you and Kernel Greyling dashed to the ground floor by the staircase, did I hear you correctly by the stairs? --- We used the stairs because the lift was too slow so we wanted to be as soon as possible where Timol fell.

So you dashed down 10 stories? --- I was pumped up as if I am pumped up with adrenalin so we had to be fast as we could to be able to be as quick as possible to be there where this incident happened.

M'Lord it is approaching 13:15 I still have some more questions I do not know if we should take the tea adjournment.

10 COURT: Remember what I said earlier on Mr Varney I am going to need time with this witness.

MR VARNEY: Yes M'Lord I am doing the best I can to finish as quickly as possible.

COURT: Some of the questions may be argumentative leave them for argument. We are adjourned.

COURT ADJOURNS [10:45]

[01:32] COURT RESUMES

COURT: Mr Rodriguez you are still under oath.

JAN RODRIGUEZ: still under oath

20 QUESTIONS BY THE COURT: Now. Oh your counsel has just come in. You will recall that at the beginning of your testimony when you testified on Monday, I pointed out to you that there is a possibility or a risk, depending on your evidence as I compare it with the other evidence I have heard, there is a risk that there could be a recommendation that you be prosecuted. Do you remember that? --- Yes.

In particular I want to quote for you the provisions of Section 16 of the Inquest Act. I am putting the whole thing in context so that the questions I ask you, you must constantly bear this in mind. Section 16(2) of the Inquest Act reads as follows:

‘The judicial officer holding an inquest shall record a finding upon the inquest.....’

And I move on to, it is 2(a), (b), (c) and I move on to (d). (d) says:

‘The finding as to whether the death was brought about by any act or
10 omission *prima facie* involving or amounting to an offence on the part of
any person.’

Now that is the question I must answer. Now over the past few weeks I have heard evidence here from experts, from former detainees who presented the kind of evidence that says to me your story either is not probably or is completely false, as it appeared in the 1972 inquest records. Now you came here and basically confirmed what you said in 1972. Now I have to answer this question and in doing so, I need to be clear in my mind that certain issues which bother me have been canvassed with you. In other words I am giving you an opportunity to
20 address those things that bother me in terms of your version of events. The first one is the question of the assault. You recall on Monday you testified that when I asked you whether you know anything about the assault of detainees, do you recall what you said? --- Yes I had no knowledge sir.

Yes. And you said the only information you have is about what

you find in the media? --- That is correct.

Do you recall that? --- Yes.

Now incidentally that is what your former colleague Els said to us. Els said exactly that. --- Yes.

That he came to know about assaults on detainees through the media. But when he was pressed further, he said something else. Now before I tell you what he said, I want to hear what you have to say. Are you still saying to us that you learned about the assault of the detainees in the media? --- That is correct sir.

10 And no other source? --- No other. I have seen it on TV. I think I have seen it on TV, on the radio and in newspapers.

Yes. Let us go back to that time around 1971. --- Yes.

Did you ever had occasion to discuss with any officers about this, you know this story about detainees being assaulted? You want to tell me now that you never raised it with a single officer? --- Sir where I worked in the security police in Compel Building, the two sections that were there as I told you Onder Vragens Eenheid en Die Ondersoed Eenheid sit werksamhede and hulle doen dit later was 'n absoluut 'n geheim. So daar was nie vir my 'n meneer hoe ek kon te
20 weet ek kon wat daar binne kant aangaan nie.

No, no, no. I am not asking you whether you enquired from the security police. --- Yes.

Just your colleagues, members of the police, uniform police, detectives, whoever. You want to tell this court that you have never ever discussed this issue with any one of your former colleagues being a

police person to say you know there is this talk about detainees being assaulted. --- Yes.

You know. You have never done that? --- No I have never done that.

So in other words you heard it from the media and you want to stay with that answer? --- Yes sir.

Good. Now you We heard evidence here from Mr Frank Dutton, he is a former policeman, a decorated police official who told this court that in the normal procedure of police, once a prisoner or a
10 suspect escapes the people who were on guard of that suspect, there need to be a disciplinary code for those people. Is he correct? --- He is correct, yes.

Now if he is correct, was there a disciplinary enquiry held in your case? --- Ek is nooit verhoor nie. Ek is nooit departementeel verhoor nie. Daar was nie so iets for my nie.

There was not even a mention of it? --- No.

And did you enquire whether there will be such a thing? --- No I never enquired sir. As daar 'n verhoor was waarin ek verskyn het, en daar is 'n vonnis gevel, sal dit op my rekord gewees het. En daar is niks
20 nie. Ek was nie betrokke nie u Agbare.

No one has ever told you about it. Have you ever After you resigned from the police, ever given a thought as to why this didn't happen? Have you asked yourself by why? I let a person escape, why didn't this happen? Why didn't they hold this disciplinary proceedings?
--- It never entered my mind sir.

This is one of the questions that I have to confront. --- Yes.

I have to deal with that. I don't have an answer. --- I think
..... I think I have been lucky or something, I don't know.

Oh. --- But they never But they never tried to
...[intervene]

It could be a question of luck you say? --- Yes, I think so yes.

Okay. I want us to go to your affidavit. Do you have a copy
thereof before you? --- Yes sir.

Affidavit is on yes. Now in Your affidavit is 4 pages,
10 there is 1 page missing. --- Yes sir.

Yes there are 3. --- Yes sir.

Basically that is the page that I would take it from the judgment
of the Magsistrate, it describes the incident itself. But now on page 1 and
page 2, you basically narrate how you came to be at John Vorster
Square. What was the reason for you being there and so on. --- That
is correct.

Now on page 1 paragraph 3 of that affidavit you see the last
sentence there?

'Ek het hom nie ondervra nie.'

20 Why did you say that in your affidavit? If you went there to
deliver cheques, why was it necessary for you to say that? --- Ek wil
dit duidelik maak dat ek geen kennis gedra het van die omstandighede
van onderreg gearrestuur is nie, u Agbare. Ek wil dit baie duidelik
maak. Ek het hom nie ondervra nie, want ek het nie rede gehad om
hom te ontevra nie, want ek het nie kennis gedra van die omstadighede.

Yes but it could not have been expected of you to question him, interview him or interrogate him, because as you said to us you were a Sergeant in the administration who went there to deliver cheques. But I find it strange that you have raised this on your own accord. --- Ek het verwag dat die mense my gaan vra, het jy hom ondervra.

So you were answering the question in anticipation? --- In anticipation. So I said no beforehand.

Well then let us go to page 4 of your affidavit, paragraph 18. The last sentence there:

10 'Ek het hom nooit ondervra of aangerand nie.'

Do you see it? --- Yes.

Why was it there? --- Dit is dit instruksie wat ek van Brigadeer Buys gekry het. Kolonel Buys gekry het. Ek het gese ek moet dit noem.

Oh. --- Ek weet nie hoekom nie, maar ek mos dit noem dat ek hom nooit ondervra het of aangerand het.

So then your affidavit contains suggestions from General Buys? In other words some of the things that are being said here came from General Buys? --- No.

20 Is that what you are telling us? --- No.

Because that is what you are saying about this sentence. You are saying that it comes from Buys. --- Yes but Hy het die aanbeveel by my.

Yes I understand when you say aangeveel. It means he gave instruction to include it. --- Yes.

Yes. --- Dis die waarheid. Ek moes die waarheid praat, en dit is die waarheid u Agbare. Want ek weet hulle was besig om hom te ondervra, maar ek was nie daarby betrokke nie.

Yes. But you will agree with me that it is out of context. If you are a clerk going to deliver cheques, what have you got to do with assaulting anybody? It is just not in sync with what you are saying here.

--- Ek weet nie. Ek kannie vir u 'n antwoord gee u Agbare, maar dit is wat Buys vir my gese het, ek moet dit se, so dat daar duidelikheid is dat ek nie deel was van die ondervragings span nie.

10 You deposed to your affidavit on 11th November. --- Yes.

You see it stands down there? --- Yes.

Before General Buys. When you go to the affidavit of Captain Dloi there is also this exclusion, 'I did not assault him', or 'he was not assaulted in my presence'. In fact that clause runs through most of the affidavits that were filed and I became curious why would everyone of the people who are coming through raise this, the question of assault on their own without anybody else asking them? They just raised it. On Dlou is appears. In fact let us get to Dlou. Dlou's affidavit I don't know if you have it there? Counsel would you make one available
20 for the witness? On the last page of that affidavit, the top paragraph there, the last sentence:

'Oorledende was nooit aangerand of gedruig nie.'

And you find it all affidavits. Beans affidavit, Van Wyk's affidavit, who else? I think even Van Niekerk's affidavit. But you find it there in those affidavits where this is this sentence. People seem to be falling

over each other to say I did not assault him, I did not assault him, or he was not assaulted in my presence. That is the essence of it, and I want to know what was the significance of that? You say that it was General Buys who came with this? --- Yes.

Okay. Right. Also common in all the affidavits, I see that they were deposed to before General Buys and he was the investigating officer. --- Yes.

Was that correct in terms of procedure? --- I don't know whether it was correct in terms of procedure sir, maar ek Ek het nie
10 'n se gehad nie. Ek moes my verklaring afry voor Kolonel Buys want hy het die ding ondersoek. U verstaan u Agbare? Ek het nie 'n keuse gehad om die verklaring by enige iemand anders af te le.

You did not have a choice? --- No.

Now my concern is this person, General Buys by the way, is the General you said to us tried to tell you to write certain things that were false in your affidavit. Now what should I infer from that? That probably with other witnesses he might have had an influence in one way or the other on the content of their affidavits? Would I be wrong to do that? To draw an inference to say it looks like in the affidavits of
20 others If he was able to suggest that to you, to say something that you said didn't happen, that you were wrestling with Timol. --- Yes.

Is it possible that he said it to others as well, to change their version? --- I don't know. Ek het nie Ek het nie insaad in hulle verklarings nie. Ek weet nie. Ek weet nie u Agbare. Ek weet nie of hy het die gedoen het nie.

And the other problem I have with General Buys' role in the whole thing is that in the course of investigation, long after Mr Timol had passed on, he went to Timol's home to go and search for documents, and he doesn't explain why he did that. Long after Timol had passed on. He was appointed to investigate the death of Mr Timol. --- Yes.

But there he is going there to go and search for documents. --- I don't know.

You know don't? --- I don't know why he went there.

Now it is the same General Buys who on 31st October, 3 days
10 after Mr Timol passed on, went to the media and issued a statement that it was suicide. You were shown copies of the media reports by Advocate Pretorius. Do you remember that? --- Yes.

When he questioned you. --- Yes.

That was the 31st October. Then immediately after that on 4th November, Captain Dlou wrote his statement, his affidavit before General Buys. And yours only came on the 11th November. Now would I be correct to say that the version of suicide, which was disclosed by General Buys, even before you could write your statement, is a version that influenced all other statements that came thereafter? --- Dit
20 kannie so wees nie u Agbare, want my verklaring het ek persoonlik afgele. Ek het nie hom self geskryf nie, maar ek het persoonlik afgele en ek het hom geteken en ek het hom deurgelees, en ek het niks verkeerd daarmee gevind nie.

Yes but then we come to your statement, because it contains It does not contain certain things that you have said to us in this

court. --- Yes.

And you need to explain those, and why they are not in the statement. But then let us go back to the version of Dlou and Van Niekerk. They deposed to their affidavits before yours. In their statements they said that when you came into the room, Mr Timol was busy with some notes. Let me quote Dlou on paragraph 5. Second line to the sentence:

10 ‘Ahmed Timol het op hierdie stadium weereens gesit
aan die een kant van die tafel. Hy het nog steeds
notes gemaak oor sy verbindeness en deel name in
verband met die Kommuniste Party.’

--- Ek kan dit nie onthou nie u Agbare.

No but you testified here to say when you got in he was not doing anything. He was sitting there looking across at Dlou. You can't say you don't remember then today? The other day you said he was When you came in he had his back on you, and he was sitting on the table and he was looking across to Dlou? --- Yes.

Yes that is what you said. --- Yes.

20 So do you realise that this contradicts what you said to us? ---
Yes.

Yes. And what do you say about it? --- Ek kannie onthou dat hy besig was om te skryf u Agbare.

No it is not a question of you remembering. I mean I said to you that you told us that when you entered he was facing Dlou. --- Yes.

You didn't say you don't remember. You said he was facing

Dlou. --- Yes he was facing Dlou, that is correct u Agbare.

Yes. But you didn't tell us that he was writing? --- I didn't see him writing. I can't remember him writing.

Let us leave it at that. Now Advocate Pretorius and Advocate Varney took you through parts of the evidence that were presented here. And the evidence that was presented by other witnesses which raises serious questions about your version, you dismiss that as spiggeling? --- Yes.

That it was speculation? --- It was speculation yes.

10 Let us get to the medical report first. Now the medical doctors who testified before me, based their reports on the report of the autopsy. Now the autopsy was conducted by Dr Scheepers then in 1971, shortly after the death of Mr Timol. Dr Scheepers did the autopsy. Later he was joined by Dr Gluckman, and Dr Koch also had insight into that report, as well as the assessor who was sitting with the Magistrate who was medically qualified. They all conceded that there were injuries that were there, which are not consistent with the fall. They all conceded that. The debate was to how old are the wounds. That is where they differed. You know, two doctors agreed, the one did not agreed with
20 them, whether this wound or these injuries were sustained during the detention period of before Mr Timol was arrested. That was the debate. So what I am telling you now is fact. That there were injuries which were not consistent with the fall. I haven't heard any evidence that says otherwise. As to what extent were these injuries serious, that is a matter that falls to opinions of doctors. Now with Dr Holland who

testified here, and I want to take you to her evidence. She testified amongst others on the basis of the autopsy and with reference to the photographs of the body of Mr Timol. Right? That is not speculation. That there was an autopsy is not speculation. That there were injuries sustained before the fall is not speculation. Now some of the injuries as it was put to you, were on the face, on the eye in particular. You say that you did not see that? --- Dis korrek u Agbare, ek het dit nie gesien nie.

Now what should I do? Should I accept your version and reject
10 the report of the autopsy, that there was an injury on the eye? --- Wel
...[intervene]

Because I cannot accept both. --- U kannie, ek besef dit heeltemal.

Yes. --- Maar u moet onthou dit was 46 jaar gelede, ek mag vergeet het. Ek weet nie.

Oh no. --- Ek kon dit nie sien nie.

No. --- So ver ek kan onthou, het ek dit nie gesien nie.

No but now you see Mr Rodriguez, don't change your evidence now. --- No I don't change my evidence.

20 You said you did not see the injury? --- Yes.

Now why are you making reference to 46 years old? --- Yes.

That you may have forgotten. Either you saw or you did not see.
--- All right, I didn't see it.

Or you don't remember. It can't be both. --- Yes. Well
...[intervene]

You did not see. You stay with the story that you did not see?

--- Yes I did not see.

Yes. But now the autopsy says it was there, and now I am putting the question to you, I have to take a decision here to decide between what you are saying If I accept your version, it means I must reject that of the autopsy to say there were no such injuries. And the other way around. If I accept the autopsy, then it means your evidence is false, I must reject it. Do you realise where I stand now? ---
Yes.

10 That is why I say I want you to through your comment, to help me out. What should I do? --- I can't remember sir. I can't remember seeing any marks on his face. Let me put it that way and maybe you will understand that.

You cannot remember seeing any marks? --- No I can't remember.

So there could have been marks on his face? --- It is possible, but I didn't see it. I can't remember.

You can't remember seeing it or you can't remember? --- I can't remember. I can't remember seeing it on his face.

20 Okay. Right. There was evidence received, and I will stop on the medical. Let me get to the expert from the trajectory who pointed out, and Mr Varney put it to you early this morning that if Mr Timol had jumped, right? If he had jumped or dived as you say, he would not have landed where he landed. The spot where he landed, where he was found on the ground. He would have landed nearer the building. Do

you follow? Now that evidence is in conflict or inconsistent with your version. Now why should I say that the evidence of Mr Moodley should be rejected, and I must accept yours? --- Ek kannie onthou dat ek bespiegel het of bespreek het of u het gese het, hoe ver die liggam van die bebou af gele het nie. Ek kannie dit onthou nie.

No, no but we are telling you that it landed about Where is that report? Several metres away from the building. At least far enough to be consistent with a push and not a dive. That is how I understand her evidence. And when you were asked by Mr Varney, you dismissed
10 that as speculation. --- No wel ek het nie gemeet of geskat hoe ver die liggam van die gebou af le nie u Agbare. Ek weet nie.

Yes. No, no I am not saying you measured or you should have estimated. --- Yes.

All I am telling you is that scientifically the story from you would have caused the both of Mr Timol to land nearer the building, if it is to be believed. --- Ek kannie se nie u Agbare.

You cannot comment on that? --- No.

Right. Also on the medical I forgot, before I go to the other evidence. On the medical there was an injury on the foot, on the left
20 foot of Mr Timol. Which is again not consistent with the fall. That injury as was described by the doctors is such that he would not have moved with that speed that you have described. A matter of seconds to be out of the window. --- u Agbare ek is medies nie gekwalifiseer om enige besluite oor die mans se fiesies se toestand te neem nie, maar al wat ek vir u kan se, dit wat ek beskryf het is wat gebeur het.

You stick to your version in other words? --- Yes.

Yes. So if I have to make a choice between the medical evidence and your version, one of them has to go. You agree with me?

--- Yes.

Right. Now we get to the assault on detainees. --- Assault?

Assault. Now you are aware that Mr Timol at the time when he was arrested, he was with Mr Essop. --- I have heard that, yes.

You have heard that? --- Yes.

And that shortly after their arrest there were several other people
10 who were detained, who were according to the police linked to Mr Timol.
Have you heard that? --- Al wat ek daaroor kan se is die oomblik toe
die man ingekom het en gese het hulle het nog mense gearresteer of
identifisier wat meerlopers van Timol was. Dis al wat ek weet.

Yes. No, no even after that Mr Rodriguez. --- Yes.

After that you must have Because you say you get your
information from the media. Surely you might have learned from the
media that there were other people who were arrested with Mr Timol.
Not necessarily that you got information from John Vorster Square, but
that you must have known, because you cannot expect this court to
20 believe that since that incident until this day you don't know that there
were other people who were arrested with Mr Timol? You must have
known at some point? There is no harm in that? --- Ek moes dit
gehoor het u Agbare.

Yes. --- Maar ek kannie dit onthou nie.

Yes, but I am telling you now that there were such people

arrested. --- Yes.

And of those people, those who came to testify, all of them without exception pointed out that they were assaulted and in fact tortured during their arrest. --- I can't comment on that.

You cannot comment on that? --- No.

Right. Now in particular in regard to Mr Essop who you know about. --- Yes.

He was tortured, such that 1 day before the death of Mr Timol he had to be admitted to the hospital. Johannesburg hospital and later the
10 hospital here in Pretoria, which was then called H F Verwoerd. He was in a coma. --- Ek het geen kommentaar op dit u Agbare.

Yes. I want you to listen to me carefully because this narrative is important, that you must put the thing in context. --- Yes.

It was while he was in hospital in a coma that his father, with the assistance of lawyers approached this court. It was then called the Transvaal Provincial Division of the Supreme Court of South Africa. This court. The predecessor to the High Court. And two judges heard the case. Now Mr Essop's father wanted a restraining order that the police must not assault or torture Mr Essop. One of the people cited as
20 a Respondent in that case was Colonel Greyling. Do you remember Colonel Greyling? --- Yes.

He features. --- From the Timol story, yes.

Yes. He features in your affidavit. --- Yes.

He was cited as a Respondent. And in defence of that case he filed an affidavit stating in essence that Mr Salim Essop the detainee

was not assaulted. Now the two judges who heard the application rejected that evidence, and in fact describe Colonel Greyling as being less than honest. And they went on to hold that in fact Mr Salim Essop was assaulted. That was the finding of two judges in this court. Their judgment was delivered in February 1972 about 3 – 4 months before the inquest could start. The inquest of 72 could start. So at the time when that inquest started, it was clear that Colonel Greyling has been desecrated as a witness on the question of assault. There is no affidavit here from Colonel Greyling. Now this is where you come here. In your
10 affidavit you mention that you reported the fall of Mr Timol to Colonel Greyling. Do you remember that? --- I remember it, yes.

Yes. It is on page 4 of your affidavit, paragraph 16.

“Ek het onmiddellik uit die kantoor gehardloop en geskree dat Timol deur die venster gespring het en die aangeleentheid gerapporteer aan Luitenant Kolonel Greyling.”

--- Ja, want wat, kan ek verduidelik Edelaagbare?

No, no, there is no need to. I just want you to respond to what I am saying, to me. You have already testified about this? --- Ja, okay.

20 Now this Colonel Greyling is one of the only three people who would back up – let me say four people, one to some extent who will back up your version. Are you aware of that? --- No.

It is Colonel Greyling to whom you made the report, it is Captain Gloy, it is Captain van Niekerk. Now Brigadier Patel came up with a different story to that of yours and I would not count him in. But so far

those are the three witnesses, who filed affidavits in support of your version. Do you remember any other? --- No.

Fine. Now Colonel Greyling did not file any affidavit. He did not testify and the only two people who testified, who supported your affidavit is Captain Gloy and Captain van Niekerk. The two people who deny that they never assaulted Mr Timol. Right. Now still on that score, evidence that I have received here in terms of J2, EXHIBIT J2, I want to bring you into the picture [cell phone rings in the background] – that in terms of J2, Captain van Niekerk and Captain Gloy, had about 13 or
10 were implicating in about 13 cases of assault of detainees. Some of them going as far as February 1972. These are people who are saying they never assaulted him, they are implicated in 13 cases. --- Moet ek antwoord Edelagbare?

Yes, you can comment. --- U sien Edelagbare, ek verwys terug na die paragraaf, die laaste sien van my paragraaf, van my verklaring waar ek gesê het, ek het hom nooit ondervra of aangerand nie. U sien daar was soveel stories van aanranding en tydens ondervragings in die polisie, dat Generaal Buys gesê het, sê liewerste jy het dit nie gedoen nie, dan weet ons jy het dit nie gedoen nie.

20 Yes, that is precisely the problem. --- Ja.

Mr Rodriques, that is precisely the problem. That is precisely the problem. That if Colonel Buys wrote, or suggested certain things to you, which you put in your affidavit, then it is no longer your affidavit. --- U sien in my verklaring het ek net die waarheid gepraat Edelagbare, ek het nie my laat beïnvloed deur Kolonel Buys nie. Ek het net die

waarheid gepraat want ek het hom nie aangerand nie, en ek het hom ook nie ondervra nie. En dit is die waarheid. Ek het geen onwaarhede in my verklaring nie. U sien dit is die, dit is hoe dit staan. Ek sou nie enigiets van Buys in my verklaring gesit wat nie waar is nie.

Yes, but then you wrote what he suggested to you? --- Ja, wel dit – wat hy vir my gesê het was aanvaarbaar. Dat ek hom nie aangerand het of ondervra het nie. Dit was vir my 'n aanvaarbare waarheid wat ek in my verklaring kon sit.

The difficulty with that is that it appears in Gloy and other
10 witnesses' affidavits. That is a line that is there. Do you follow what I am saying? --- Ja, ek volg wat u ...[tussenbei]

You may say that you did not assault or interrogate Mr Timol?
--- Korrek.

Now I have to conclude that if your version is correct, then probably even the versions of all of them are correct, that you did not assault Mr Timol, I must accept those versions. That is what logic dictates, okay? --- Ja. Ja.

Right. Then the big question arises, how did the injuries get on to Mr Timol? --- Edelagbare, soos wat ek verstaan – kyk ek spekuleer
20 ook nou né. Soos wat ek verstaan is Timol oor 'n tydperk van dae ondervra deur verskillende mense. Soos ek verstaan, ek meen ek was nie by nie en in daardie tydperk kon enigiets gebeur het. So ek weet nie.

Fair enough. So you agree that during that time of detention something could have happened, that is what you are saying? --- Ja.

Yes, so I must accept that right from the evening of the 22nd, when he was arrested with Mr ...[indistinct] anything could have happened during that period which brought about those injuries. --- Ek kan nie vir u sê dit het gebeur nie. Ek kan net sê – ek kan net spekulêer en vir u sê daar is 'n tydperk waarin daar – hy beserings kon opgedoen het, maar ek kan nie vir u sê dit het gebeur nie. So dit is wat ...[tussenbei]

Yes, what you are doing is, you are opening the door for me to look at that possibility that it could have happened. And I agree with
10 you. --- Ja.

I agree with you that while you are now saying that you were not involved, you are exculpating yourself from that, others could have brought about those injuries. Do you agree? --- Dit is moontlik. Ek was nie daarby betrokke nie, Edelaagbare, so ek weet nie, maar dit kon gebeur het. Ek meen daar was vier dae, of ek weet nie hoeveel dae nie, daar was 'n paar dae wat hy ondervra was. Ek was nie by nie so ek sal nie weet nie.

Now let's come to your evidence at court during the hearing of the first inquest. You testified that after – before you could write your
20 statement, you had Gloy and Van Niekerk trying to persuade you to include other things you cannot remember, am I right? --- U is korrek.

Then subsequent thereto on the 11th when you took down the statement with General Buys, 11th of November, he suggested to you that you include this story about you wrestling with Timol? --- Dit is korrek.

I am correct so far? --- U is korrek.

Then you said when you went to court to testify, you had a number of officials present there? --- Dit is korrek.

Was Mr Buys one of them – General Buys one of them? --- Dit is korrek.

Captain Gloy? --- Gloy.

Van Niekerk? --- Van Niekerk en van die ander wat ek nie kan onthou nie.

Yes. --- Die name nie kan onthou nie.

10 They were present there? --- Ja.

After you have rejected General Buys' ...[intervenies]? --- Ja.

Suggestion. --- En ek is – hulle teenwoordigheid het my geïntimideer, want hulle kon my groot skade berokken het, as ek daardie tipe van inligting uitgelaat het.

No, that is something you are saying. Now Mr Interpreter, I want you to come in here for the benefit of everybody else. Can you repeat what you have just said now? About his presence. You said his presence did what, it intimidated you?

20 INTERPRETER: He was intimidated and something very bad could have happened about him.

Yes. What is that “something bad” that you are talking about? --- Edelagbare, dit kon fisies gewees het, dit kon sielkundig gewees het.

INTERPRETER: It could have been physical, it could have been psychological.

COURT: That is ...[intervenes] --- Want die mense was in 'n magtige posisie. Ek was 'n junior.

INTERPRETER: Because these people were in power and I was a junior.

COURT: And yet you defied them? --- I did not ...[intervenes]

You did not do what they asked you to do? --- Ja.

You defied them? --- Ja.

With all their titles and all that sitting in court, you defied them? --- Ja, dit is reg.

10 INTERPRETER: Yes, that is correct.

COURT: Then why do you say you felt intimidated? If you are brave enough to defy them and get into court and say things that they wanted you to say but you did not tell to the Magistrate, you were actually defying them? --- Hulle sou my groot skade berokken het as ek die inligting wat hulle wou gehad het ek moes publiseer, openbaar maak, sou hulle my swaar gestraf het op 'n sekere manier.

INTERPRETER: Ja. --- Hulle was in 'n posisie om my swaar te straf op verskillende maniere.

20 Ja, they would have done something very bad, I mean should I have not divulged what they wanted me to say.

COURT: Did they tell you that? --- No – maar ek kon dit uit hulle houding sien.

INTERPRETER: I could see them from their ...[intervenes] --- Attitude.

Attitude and their perception in what they have been saying. ---

I had better keep quiet.

COURT: Do you know of an instance where either of them, or police officials of that rank, had brought harm to a junior officer, for not complying with what they are saying? --- Nee, ek kan nie vir u spesifieke gevalle uitwys nie.

INTERPRETER: Ja, there are no specific incidences that I could refer to the court.

COURT: Because I just want to understand the basis of your fear ...[intervenes] --- Ja.

10 And intimidation. --- Ja.

Then you had it in your heard that harm will come to you, if you were to disclose that to the Magistrate ...[intervenes] --- Ja.

That they attempted to tell you what to write in your affidavit. --- Dit kon fisies gewees het, dit kon sielkundig gewees het. Hulle kon my geïntimideer het.

INTERPRETER: It could have been physical, psychological, they could have intimidated me. --- Daar was baie maniere waarop hulle dit kon doen.

20 There is so many ways that they could have done something against me.

COURT: And yet, nothing happened to you after you testified? --- Nothing happened, because I did not disclose this information, sir. Nothing happened, I kept quiet and nothing happened.

Now after that there was a commendation from the Commissioner of Police. You said you came to know about it shortly

before these proceedings? --- That is correct.

You never received such commendation? --- I never received anything, sir.

And the commendation states, it lauds you for exemplary conduct during the Force, it says – did they show it to you? --- No, no, they did not show it to me.

Your Advocate did not show it to you? --- No. I have not seen anything like that yet.

You have not seen it? Can we get a reference of it? It is on the
10 – I take it, it is on his file?

MR COETZEE: Your Lordship, it is page 77 of his personnel file. EXHIBIT J1. --- This was the first time I have seen it, sir.

COURT: You have never seen it, or even your attorneys did not show you that? --- No, I have not seen it yet.

Now what do you say about it, now that you have seen it? ---
Al wat ek kan sê Edelagbare, is dat wanneer – kyk ek spekuleer nou ek het nie bewyse nie, maar al wat ek vir u kan sê is, ek dink dat wanneer lede die Mag verlaat wat goeie diens gelewer het, dan kry hulle so 'n brief soos daardie een.

20 Yes. --- Dit wat ek – al wat ek kan dink.

INTERPRETER: All what I can think of is that all the officers that have just resigned from their duties, they would get that type of a letter, but that is only a speculation.

COURT: I will tell you what witness Mr Paul Erasmus said, he says that it is very rare that an official on retirement would get a letter of

commendation from the Commissioner. And you held the rank of a Sergeant doing administrative work, yet you get a commendation from the Commissioner himself and he says :

“U gedrag is as voorbeeldig bepaal.”

Your conduct. --- Correct.

Yes? --- Edelagbare, as ek net kan sien ...[tussenbei]

Ja? --- As ek net kan sien waar ek geteken het dat ek so iets ontvang het, dan sal ek dit erken. Maar ek het geen kennis van – dit is die eerste maal dat ek dit sien.

10 INTERPRETER: Ja, if I can be shown that letter of commendation, and whether I have signed for that letter of commendation, then I would be able to accept knowledge of that I have received it. But if that is not so, it means I have not received it.

COURT: Yes, we were informed that normally this commendation goes to people who have really distinguished themselves in their field as police officers. --- Ja.

INTERPRETER: Yes. --- I think – dit is wat ek – that is what I think, sir. It is a letter of commendation they give to persons who delivered good service to the police, when they leave the police.

20 COURT: Now, the General, the Commissioner now of the Police, at that time it was GJ Joubert ...[intervenes] --- Ja.

He never worked with you at any stage, did he? --- No.

You would not say that he knew anything about you, or did he? --- No, I cannot say – I did not know him personally, sir.

You have never met him personally? --- No.

Yes. Then you recall earlier today when you described the General and those officers who were sitting in court, you said they had enormous influence? --- Yes.

Could they be the people who informed the Commissioner about you, as the people in whose command you are working, to say he did a good job, could they be those people? --- Edelagbare, ek weet nie hoe hulle gewerk het nie om so iets saam te stel nie, ek het nie 'n idee nie. Ek was nie daarby betrokke nie.

INTERPRETER: I do not know how they worked. I do not have an
10 idea.

COURT: Because I am trying to find – to reason it out to think, how could it be that you received such important commendation from the Commissioner himself? Could there have been some people who went to him to say, he did a good job. --- Maybe. I think – Edelagbare ek dink iemand moes hom in kennis gestel het van my, van my gedrag en my tipe werk wat ek gelewer het.

INTERPRETER: I think somebody could have gone to him and informed him about my conduct, also the type of work that I did.

COURT: And if it is General Buys and the two other Captains we talked
20 about, do you believe that they could have gone to the Commissioner to say, give him a letter of commendation, because he did not reveal that we wanted him to change his statement? Would they have gone that far? --- Edelagbare, ek kan dit nie sê nie want ek weet nie. Ek weet nie – ek weet nie waar die Kommissaris die inligting gekry het nie en ek weet nie wat die houding van Gloy, Van Niekerk of Buys was nie, of die

ander mense wat daarvan geweet het nie. Ek weet nie wat hulle houding was nie, Edelagbare. So dit is vir my 'n hele onbekende ding hierdie, hierdie brief wat u my nou gewys het.

INTERPRETER: The letter that you have just showed me, it is a letter that I did not know about it and I do not know what was the reasons for them, if so to have gone to the Commissioner and informed the Commissioner about my conduct, and the type of work that I did, or the type of good work that I did.

COURT: What I find – are you still interpreting?

10 INTERPRETER: My apologies, My Lord.

COURT: Mr Rodrigues, what I find strange is that when Advocate Pretorius mentioned to you yesterday that there was a commendation from the Commissioner that you received, you gave exactly the same reply. You said you have not seen it, you do not know about it, do you recall that? --- Ja. Dit is korrek.

INTERPRETER: Yes, I did.

COURT: But then when you left the court here, you did not enquire from your attorney and say, what was he talking about? Why – what commendation? You just left it at that? --- Ja, ek het dit daar gelos,
20 want dit was nie vir my belangrik nie. Ek meen dit is iets wat ek nie ontvang het nie. Dit was nie vir my belangrik om na hulle toe te gaan en vir hulle te vra waar kom dit vandaan nie, hoe lyk dit. Ek het dit nie – dit was nie vir my belangrik nie.

INTERPRETER: No, I just left it as is. It was not important or imperative for me to have questioned them as to where does that letter

come from.

COURT: You see, I will tell you, that is one of the improbabilities in your evidence. If I be told that someone has written a letter of commendation about myself as high as a Commissioner, or in this case say the Chief Justice, and I would say oh well I did not get it, and I will say, is that the natural reaction that you would expect? --- Wel, vir my was dit natuurlik Edelagbare, want dit het my nie geraak nie, u verstaan? Dit het vir my niks beteken nie.

INTERPRETER: To me it was a natural reaction, because it did not
10 concern me.

COURT: I will tell you, it concerned you. A natural reaction that would not have surprised me, is ...[indistinct 02:32:49] is that a natural reaction really? --- Edelagbare, dit het 'n hele paar jaar gelede gebeur, so dit lê in my verlede, dit raak my nie. So.

All right. Now I am going to put to you – oh interpret.

INTERPRETER: But this issue of commendation happened long ago, it might have gone out of my mind. That is why I did not have any interest in finding out as to what was the commendation for, the reason for the commendation.

20 COURT: No, no, Sergeant Rodrigues, as long as you are alive, you will want to hear the good things that people have said about you. You cannot say that because it is a long time that has passed, so you do not, it does not concern you any more. --- No ...[intervenes]

What would you say to that? Is it natural for a person when you hear that someone has said something good about you and you have

not seen it, then you just oh, it is a long time ago so I – such commendation some people in effect, they put them in a frame and they put them in their houses, and you will say oh well – I am not sure whether that is a natural reaction. What is your comment? --- Edelagbare, ek was ...[tussenbei]

INTERPRETER: Sy Edele. --- Sy Edele, ek was sal ek sê fed up vir die polisie daardie tyd. So wat hulle daardie tyd gesê het van my, raak my nie nou nie. Dit iets van die verlede.

All that I will say is that I was fed up with the police. What they
10 said or spoke about me them, it never had anything to do with me now.

COURT: Now I am going to put to you what I see as one of the reasons why the police were sitting in the court when you testified in 1972. The one reason is, as you stated, to see if you would reveal what they wanted you to do. Am I correct? --- Dit is korrek.

INTERPRETER: That is correct.

COURT: The other reason would be to see if you will play along with the story they gave you, which you had to tell the Magistrate about what happened. Is that fair ...[indistinct 02:35:49 – technical problem with soundtrack] to stick to the story of suicide that was given to you? ---
20 Dit is nie korrek nie, Edelagbare . Wat korrek is, is ek het die waarheid gepraat in my verklaring. Ek het nie gesê wat hulle vir my gesê het ek moet sê nie. Ek het my eie waarhede het ek in hierdie verklaring gesê en hulle het nie – hulle het geweet wat dit is. So hulle kon nie om daardie rede, van wat hier in my verklaring staan, daar gesit het om te kyk of ek sê wat in my verklaring staan nie.

INTERPRETER: Ja, I mean I do not think the submission from the court could be the truth, because I have already made my statement, and I refused to write down what they wanted me – or the influence that they influenced me about to say what they wanted me to say. I stuck to my guts and not say what they wanted me to say. So that could not have been the reason for them to have been present during the proceedings.

COURT: I will give you the reasons why I say that is also a possibility. The reasons are that after you testified, you were given this letter of
10 commendation and you were even given protection, body guards. ---
Ja, ek vermoed hulle het my protection gegee – ek het dit nie gesien nie – I did not see it with my eyes, maar ek vermoed hulle het my protection gegee na ek die doodsdreigemente ontvang het.

INTERPRETER: Ja, I think there was protection offered, but I did not see the protection, but that could have been done because of the death threats that I received. Is dit so? --- Ja.

COURT: Well, then the possibilities, as I say are two. They could have been happy with the fact that you did not disclose what they wanted you to do, as you say, or they could have been very happy because you did
20 exactly what they wanted you to do, by telling the court a story that is consistent with what General Buys said, before you wrote your statement, namely that it was suicide. --- Ja, dit moet so wees, want ek het die waarheid in my verklaring gepraat. Ek het die ware weergawe vir u gegee.

INTERPRETER: Ja, that can be the truth, because I wrote or I gave

them the story as it has happened, as it unfolded

COURT: Yes, so I am going back to the question that I raised with you earlier, taking into account what you were asked by Advocate Pretorius and Advocate Varney then, do you realise that there is evidence before me that suggests that the story that you gave to the inquest in 1972 which you repeated here, does not accord with the other evidence that I have received, some of which the Magistrate heard, but did not deal with, the other being that it came now, recently because the Magistrate did not call any other civilians to come and testify, other than the doctors
10 and the parents of Mr Timol. What do you say about that? --- Dit is duidelik vir my dat dit een verklaring wat die waarheid is, teen al die ander getuienis wat u aangehoor het. Ek kan nie vir u sê aanvaar dit of aanvaar die mediese getuienis nie. Ek kan dit nie vir u sê nie, u moet self daaroor besluit.

COURT: Mm.

INTERPRETER: Ja, I mean the testimony that the court has listened or heard about, I cannot decide for the court to – which of the two or which evidence should be taken into consideration to arrive at a probable judgment, it is the – that is in the hands of the court.

20 COURT: Yes ...[intervenies] --- Edelagbare ...[tussenbei]

I am going to decide, I know that ...[intervenies] --- Ja.

But I wanted to put these things through to you ...[intervenies]

--- Correct.

So that I should get your reaction to them. Do you follow?

--- Edelagbare, ekskuus, ek kan u nie beter – groter waarheid gee as

wat hier staan nie. Dit is wat ek – dit is die beste wat ek vir u kan doen.

Ek kan vir u die waarheid sê, dit is die waarheid.

INTERPRETER: Wat daar – u het geskryf? --- Wat hier staan is die waarheid, dit is – ek kan dit nie vir u beter stel nie.

There is not any other way, or better way that I could tell this court the truth, but the truth is what is written in my statement.

COURT: And you stand by that? --- I stand by that. Ek – dit is die waarheid en ek kan nie die waarheid verander nie.

INTERPRETER: That is the truth and I cannot change the truth.

10 COURT: In spite of the other evidence that shows to the contrary? ---
Korrek, Edelaagbare.

INTERPRETER: That is indeed so, My Lord. --- As ek dit sou – as ek hierdie verklaring sou verander sou ek lieg.

Should I have changed my statement that would have meant that I lied to this court.

COURT: Yes, no I did not say you must change your statement ...[intervenies] --- Ja.

I want you to be clear on that. --- Ja.

20 And I called on you to tell the truth and if you say what you have
said is the truth, then I understand what you are saying. --- It is the truth, sir. It is the whole truth, the only truth.

INTERPRETER: The whole Godly truth.

COURT: Advocate Coetzee, anything in light of what I have asked?

MR COETZEE: No, My Lord, I have got no questions. Thank you.

NO QUESTIONS BY MR COETZEE ARISING OUT OF QUESTIONS

POSED BY THE COURT

COURT: Yes. Advocate Pretorius?

QUESTIONS BY MR PRETORIUS ARISING OUT OF QUESTIONS

POSED BY THE COURT: Yes, thank you My Lord. Arising from the questions of this court. I will be short as I can. You have no information about a wrestling in the office from where ...[indistinct] Timol jumped?
--- No.

COURT: No? --- Nee, Edelagbare.

MR PRETORIUS: Words are important to you, I have put to you that
10 you are ...[indistinct], words are important to you, is that correct?

INTERPRETER: Ek het nie gehoor wat sê u nie. --- Hy sê ek is wel ter tale ...[tussenbei]

Ja, maar wat is u se antwoord? --- Ek is reg. Dit is reg.

I am correct.

MR PRETORIUS: On answer to the questions put by the court, you specifically used the following phrases:

“As ek die inligting wat ek gehad het, daardie tipe inligting wat ek gehad het, openbaar gemaak het..”

Is it correct that you give evidence like that? --- Dit is korrek. That is
20 correct sir.

INTERPRETER: That is indeed so.

MR PRETORIUS: And when you were asked what happened you said:

“Nothing happened because I did not disclose this information.”

Is that correct? --- That is correct.

INTERPRETER: That is correct.

MR PRETORIUS: And it is your choice of words? --- Ja, it is my choice of words, ja, nothing happened.

The only information that you could have had is information about torture, I put it to you. --- Edelagbare, ek moet nou raai, ek moet nou spekuleer as ek dit – as ek wil sê wat hy sê. Ek kan nie spekuleer nie, dan moet ek raai en ek wil nie raai nie.

INTERPRETER: I cannot guess or speculate and I do not want to speculate.

10 MR PRETORIUS: It is your choice that you say:

“As ek die inligting wat ek gehad het openbaar gemaak het...”

And is it also you that said:

“Nothing happened because I did not disclose the information.”

I put it to you “the information” is just about torture. --- Edelagbare, ek weet nie. Dit is nie wat hulle vir my gesê het nie.

INTERPRETER: I do not know. This is not what I was told.

MR PRETORIUS: You also gave evidence this morning that after what
20 happened in that room, you wanted to resign immediately. --- Ja.

INTERPRETER: Yes.

MR PRETORIUS: And officers came to talk to you? --- Ja.

INTERPRETER: Yes. --- Ja.

MR PRETORIUS: Gloy and Van Niekerk? --- I think it was Buys.

And was that to keep you under control? --- Ja, they want to

keep me under control.

No further questions. Thank you, My Lord.

COURT: Mr Varney?

QUESTIONS BY MR VARNEY ARISING OUT OF QUESTIONS POSED

BY THE COURT: My Lord, just one question if I may? Mr Rodrigues,

you testified before this court that the one and only reason why you never came forward with the information in relation to what General Buys and Captains Gloy and Van Niekerk, their attempt to get you to fabricate evidence, is because of their intimidating presence and you

10 feared that if you disclosed that information publically, that harm could come your way. Now all three are deceased, are you aware of that?

--- Ja.

INTERPRETER: Yes, I am.

MR VARNEY: Do you know approximately when those three passed away? --- Ek het geen idee nie. Ek het net daarvan gehoor.

INTERPRETER: I do not have any idea as to when did they pass on, but I heard about it.

MR VARNEY: We will put that particular information to this court, but since you are aware that all three have passed away, how come you
20 have not come forward? Because they no longer pose a threat to you? --- Edelagbare, daar was geen saak nie. Ek meen dit is nie soos nou waar ek gedagvaar is om te kom getuig nie. Ek het nie die nodigheid daarvan gesien om nou weer alles oop te vlek nie.

INTERPRETER: Ja, there was no charges against me, or there was no case against me, so it was not important for me to have come clean and

say what they wanted me to say.

MR VARNEY: So because no finger was pointed at you, it was fine to keep that information secret? --- Ja, well, daar was vir my geen waarde in om nou hierdie inligting te openbaar nie, want daar was niks aan die gang nie. Daar was nie 'n saak aan die gang nie. Daar was niks.

INTERPRETER: Ja, I agree with Counsel's submission, because there was no need for me to disclose.

COURT: Well, there was the Truth and Reconciliation Commission that
10 invited people, especially members of the police service and some
Generals appeared there, those who were in command of the police,
they appeared there in the TRC. Why did you not find it necessary to
go there and say there was this attempt to influence my testimony and
by such a person, why did you not do that? --- Dit was te – hoe sal ek
dit stel Edelagbare, dit was te gering vir my om met so iets na die
Commission toe te gaan.

INTERPRETER: Te gering? --- Ja, it was not important.

Not important, ja, te gering. --- It is un-important.

It was not imperative for me to have gone to the police to go and
20 report this type of an influence.

COURT: But it was important for you to protect yourself from harm coming to you, by not telling the Magistrate? --- Dit is korrek, maar dit was toe ek in die polisie was.

INTERPRETER: Yes, that is correct, at the time when I was still a police officer.

COURT: Are you done, Mr Varney? I interrupted you, sorry.

MR VARNEY: Just one last matter.

COURT: Yes?

MR VARNEY: Arising from your question, My Lord.

COURT: Yes?

MR VARNEY: Did you get to hear the testimony of the late Timol's mother, Hawa [?] Timol, she testified before the Truth Commission about what happened to her son and she explained the trauma and the pain, that she and her family had to go through? --- Ek het nooit – ek
10 het dit nooit gehoor nie. Ek het nie kennis daarvan nie.

INTERPRETER: I never heard about it and I did not have any information in that regard.

MR VARNEY: No further questions, My Lord.

COURT: Thank you. Mr Rodrigues, thank you very much. --- Baie dankie, Edelagbare.

You are excused. --- Baie dankie.

NO FURTHER QUESTIONS

COURT: Tomorrow we are having witness?

MR PRETORIUS: Tomorrow My Lord, we think we are going to have a
20 short day. We have Mr Ronny Casrils. We also have a witness by the name of Mr Alley Togan [?]. Your Lordship, he was at the filling station opposite the building at that stage and we may call an architect, Your Lordship, to explain the building plans and certain technical issues arising and that is all for tomorrow, Your Lordship.

COURT: That will be all for tomorrow? What I see here, Mr Salien [?]

Essop is here, you will recall that in Johannesburg you said that he may want to come and identify witnesses and so is Dr Jetham is here. Do you not intend to call them to identify those from the newspapers as they undertook, to complete his evidence?

MR PRETORIUS: Yes, I beg your pardon Your Lordship, you are quite right. Mr Essop has returned with certain papers and I believe that those papers have been certified true copies, because he wanted to hold on to the originals.

COURT: Yes.

10 MR PRETORIUS: So yes, he is available to give evidence on those papers tomorrow. Your Lordship, can I just check whether you would want Dr Jetham and Professor Knight [?] to inspect the photos from the media articles? In chambers you mentioned that that might not be necessary.

COURT: Well, not relevant much for this case, but for their own, for their own good. One of the reasons why they came forward to testify, is that they needed closure. I think that rather if they want to, you can do that. It will not cost much. I will allow them to get into the box and identify those photos

20 MR PRETORIUS: In that case, Your Lordship, we will approach both witnesses, and see whether they wish to do that.

COURT: Yes. I do not think it will bring any harm. I take it that those officers – in fact some of them have passed on, not so?

MR PRETORIUS: Your Lordship, in relation to police officers, to the best of our knowledge and the enquiries that we have undertaken, they

are all deceased.

COURT: Yes, so Mr Coetzee, would there be any harm in that?

MR COETZEE: My Lord, it only depends on whether or not they will be trying to use that identification for example in relation to Mr Rodrigues or Mr Els, in which case ...[intervenes]

COURT: No, but they have already seen them in court so an identification on the photos will not be necessary in respect of these two?

MR COETZEE: Yes, My Lord, but is 46 years later, I do not think he
10 still ...[intervenes]

COURT: Oh, I see.

MR COETZEE: Looks like he did 46 years ago.

COURT: Okay.

MR COETZEE: But My Lord, if it is not for the purpose of trying to be a formal identification parade ...[intervenes]

COURT: No.

MR COETZEE: To generate evidence, then I can foresee no problem with that.

COURT: No, it is not an identification parade in that sense.

20 MR COETZEE: Yes.

COURT: You know the rules of an ID parade.

MR COETZEE: I do.

COURT: It will not be held in this – at the very least it will be a dock identification in court, not an ID parade.

MR COETZEE: Yes.

COURT: So what we are talking about because you were not there and I need time to explain to you ...[intervenes]

MR COETZEE: Yes.

COURT: Mention was made – it was put to Mr Essop ...[intervenes]

MR COETZEE: I have read the evidence, My Lord, yes.

COURT: Yes. Whether he would remember people who did that, he said well, some of them appeared in the newspapers ...[intervenes]

MR COETZEE: Yes.

COURT: That I had some time ago.

10 MR COETZEE: My Lord, for the purpose of closure I have absolutely no problem with that.

COURT: Yes. Okay.

MR COETZEE: And I think it is good for them to see that – but as long as it is understood that it will not be posed as if it is an identification parade in order to gain evidence against any specific person here. But it can never be – it can never be as such.

COURT: Ja, no, no, I am not aware of any proceedings that are underway.

MR COETZEE: Yes.

20 COURT: It is for purposes of closure really.

MR COETZEE: No, by all means.

COURT: And I think we owe them that much.

MR COETZEE: By all means.

COURT: For having come forward. So I will allow them to do that.

MR COETZEE: Thank you.

COURT: You will decide when you need to call them. It could be tomorrow, it could be the day after tomorrow. Are you starting with Mr Casrils in the morning, or what is the position?

MR PRETORIUS: Your Lordship, I think we want to start with Mr Ali, because he is quite a busy businessman and his evidence will not take that long.

COURT: Ja. Okay, will put the order. You will tell us in the morning how you are going to do it.

MR PRETORIUS: Yes, as the court pleases.

10 COURT: Yes. For now then we can adjourn until tomorrow.

MATTER REMANDED TO 3 AUGUST 2017

COURT ADJOURNS

[02:55]