

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: 101-2017

DATE: 2017-08-04

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 SINGH

ON BEHALF OF THE FAMILY:

ADV VARNEY

ADV MUSANDIWE

ADV FAKIR

ON BEHALF OF THE SAPS:

ADV LETHOLE

VOLUME 12

PAGES 937 - 961



**DIGITAL AUDIO
RECORDING TRANSCRIPTIONS**

Glen Manor Office Park
138 Frikkie de Beer Str
Block 5, Suite 1/G
Menlyn

Tel.: (012) 326 1881
Fax: (012) 348 3542
www.digitalaudio.co.za

PROCEEDINGS ON 2017-08-04

COURT: Yes Mr Varney?

MR VARNEY: As the court pleases M'Lord. M'Lord before we commence with the day's proceedings, with your leave we would like to hand up certain exhibits. M'Lord the first exhibit is an unsigned affidavit of one Pierce Ashley Pegu. M'Lord Mr Pegu is a former investigator of the Truth & Reconciliation Commission. His affidavit discloses that he approached Mr Rodriguez to provide an affidavit and or testify in relation to the Timol matter, and according to Mr Pegu, Mr Rodriguez declined to
10 do so.

We understand to get you the signed version of that affidavit during the course of next week. Mr Pegu is currently working in the United Kingdom but has undertaken to sign today and courier. We have marked that affidavit M'Lord H11.

COURT: It concerns Mr Rodriguez?

MR VARNEY: That is so M'Lord.

COURT: His communication with him?

MR VARNEY: Correct M'Lord.

COURT: Well it may well be that we will have to hear him, and he will
20 have to come through some time next week. Will you be able to arrange that?

MR VARNEY: M'Lord if you so direct, we will arrange for Mr Pegu to return to South Africa.

COURT: Yes. In any event as I indicated to counsel in chambers, I intend to recall Dr Holland and Dr Naidoo. Specifically in regard to the

evidence that came to light yesterday about the possible timing of the death of Mr Timol. As pathologists to come and assist us here. So we will at the end of the proceedings today stand down until 10th August, which is Thursday next week. We need to hear that evidence. It is very critical. If need be we may have to recall Mr Rodriguez, the following day on Friday 11th.

So I would like you to keep your diaries open for that purpose. I will keep this, and then you will through my clerk inform me as to what the position is. But we will definitely sit on 10th August.

10 MR VARNEY: As the court pleases M'Lord.

COURT: Yes.

MR VARNEY: We will approach both pathologists and arrange for them to be present on that day.

COURT: Yes.

MR VARNEY: M'Lord the next document we wish to hand up is a photocopy of a finding by the Truth & Reconciliation Commission in respect of the security branch officer Roy Roos Swanepoel.

COURT: Yes?

20 MR VARNEY: In this particular finding Mr Swanepoel was held responsible or contributing to the cause of death of one Babalo Salojee who fell to his death from the old security branch headquarters, Grace Building in downtown Johannesburg. M'Lord why we are putting up this document is that Mr Rodriguez testified that he knew Mr Swanepoel very well and we intend to refer to this document in argument. M'Lord it is a one pager. We have marked it H12.

COURT: Yes.

MR VARNEY: M'Lord the next exhibit is an affidavit from one Geraldine Fressler. She is the co director of the South African History Archives, the organisation responsible for producing the DVD and booklet Between Life and Death. M'Lord that was the booklet and DVD we handed up as an exhibit, that dealt with the history of John Vorster Square. Ms Fressler confirms that her organisation made and produced that particular DVD and booklet.

We have marked that affidavit H13. And the final exhibit we
10 intend to hand up is a document that M'Lord had requested which is essentially a summary of the relevant extracts from the police file of Captain J Z Van Niekerk. M'Lord will recall that EXHIBIT J2 Van Niekerk's police file is a very large document, probably comprising around 300 pages. Our investigator Mr Dutton has gone through that document and has summarised the most relevant aspects.

We obviously delivered these to our colleagues, but it does disclose a conviction of two counts of assault and numerous allegations made and complaints of torture including forced standing, forced placing in the imaginary chair position and several assaults involving sticks, iron
20 presumably iron rods, shambok, punching and kicking as well as electric shock treatment.

COURT: He is implicated in all those allegations?

MR VARNEY: He is implication in all those allegations.

COURT: And you started off by saying that he has a conviction in respect of which ones now?

MR VARNEY: He has a conviction of two counts of assault involving an assault on an individual who was being held in custody at the Brooklyn Police station. And indeed that individual died Your Lordship.

COURT: That is Captain Van Niekerk.

MR VARNEY: Another policeman was convicted of culpable homicide in that incident.

COURT: When did this happen?

MR VARNEY: That was in Van Niekerk was convicted in May 1960.

10 COURT: May 1960?

MR VARNEY: Yes M'Lord.

COURT: That was before he was allowed to interrogate Mr Timol?

MR VARNEY: That was some 11 years before.

COURT: And yes, I will have that. As well as that of Captain Tlou?

MR VARNEY: Yes. So the allegations made against Captain Tlou are also reflected in the summary that we are going to present to you.

COURT: Yes?

20 MR VARNEY: I can tell you M'Lord that a large number of the allegations made and complaints, some of them were made in 1970 and several made in 1971. Not long before October 1971.

COURT: The early part of 1971? I know in respect of I think Tlou. He was involved somewhere in February 1971.

MR VARNEY: Yes. With Captain Van Niekerk.

COURT: In regard to assault of a detainee?

MR VARNEY: Indeed.

COURT: Yes. Let me have that document.

MR VARNEY: That summary is marked J4.

COURT: J4.

MR VARNEY: M'Lord that wraps up the exhibits for the moment. We are expecting one further affidavit, but hopefully later in the morning. Then we will give you the updated exhibit list as it stands.

COURT: Yes?

MR PRETORIUS: M'Lord while we are busy with exhibits. While cross-examining Mr Rodriguez you wanted to see the full context of the
10 quote I made to him out of the big book of inside boss.

COURT: Yes.

MR PRETORIUS: That has been done now. It is L1 M'Lord.

COURT: L1?

MR PRETORIUS: So the relevant chapter 43. You will see it is relevant to this matter talking about the 10th floor, that boss officials also based there refers to Mr Mabelani and the other people that fell out of the building M'Lord. So we have completed it and put it in context. L1 M'Lord.

COURT: Yes. And you got a statement? Did you receive a statement
20 from Mr Mabelani's relatives?

MR PRETORIUS: Yes we are working on that M'Lord.

COURT: You are working on that statement?

MR VARNEY: We are working.

COURT: But is it possible to get the details of what happened to him, even though they might not relate directly to this? But then if he died in

detention at John Vorster Square, I will want to know about that. Not much the details but as to when did this happen and which police were involved?

MR PRETORIUS: M'Lord if you look at L1, the bottom of that page, it refers to Matthew Mabelani in February 1977 and another person Mr Z J Mazeka who also died in April 1974. There on page 581 M'Lord. So but yes I will talk to Captain Ben Nel and I will try to get you as much information that I can M'Lord.

COURT: Yes. No thank you very much. It is L1 right?

10 MR PRETORIUS: L1 M'Lord.

COURT: Thank you very Mr Pretorius. Yes Mr Varney?

MR VARNEY: M'Lord with your leave we would like to do the photograph I don't want to call it an id parade, but for want of a better word, the photograph parade at this stage.

COURT: Just photograph identification.

MR VARNEY: Photograph identification.

COURT: It is. Yes.

MR VARNEY: So M'Lord yesterday we handed up three documents, EXHIBITS N1, N2 and N3. I believe your clerk should have those with
20 him. Perhaps let us just wait for him to hand them to you.

COURT: Is it the same documents as yesterday?

MR VARNEY: Same documents as yesterday.

COURT: Have you attended to the photographs that we said must be ...[intervene]

MR VARNEY: We have attended to the removal of the photographs of

Warrant Officer Els and Sergeant Rodriguez.

COURT: Yes. It is N1, N2 and N3?

MR VARNEY: That is right. So N1 is an uncaptioned photograph album.

COURT: Yes?

MR VARNEY: And that is the one that we will hand to witnesses. N2 is the index, and that one has names. The final one as I mentioned yesterday, N3, are the photos that the witness Dr Essop compiled. The names are on the index. But the witnesses will not be given that index.

10 So M'Lord with your leave perhaps we can call Dr Essop to the stand?

COURT: Yes, please. Your full names and surname?

MR ESSOP: Mohammed Salim Essop.

COURT: Have you got any objection taking the prescribed oath?

MR ESSOP: No I don't.

COURT: Do you swear that the evidence you are about to give is the truth, nothing else but the truth? If so raise your right hand and say so help me God.

MR ESSOP: So help me God.

MOHAMMED SALIM ESSOP (d.s.s.)

20 COURT: Dr Essop you may be seated. --- I would prefer to stand.

You prefer to stand? --- Thank you M'Lord.

Yes.

EXAMINATION BY MR VARNEY: Dr Essop good morning and welcome back to the inquest. --- Good morning.

Dr Essop you have heard the court on this matter of photograph

identification. We simply wish to engage in a simple exercise of asking you to look at the uncaptioned photocopied photographs. The majority of the photographs retrieved come from police files provided by the South African Police Service and we simply want to ask you if you recognise any of the individuals depicted in these photographs. And if so how you recognise them. Do you have the documented title Uncaptioned SB Officer Identity Photograph Album? --- Yes I do.

If you could please open it to the first photograph and advise the court whether you recognise the person depicted there? --- Yes I
10 recognise the man.

How do you recognise him? --- He was one of my interrogators and torturers.

Okay. Do you happen to know his name? --- Yes.

Please tell us? --- Du Plooy.

Thank you. Can we turn to the next page? Do you recognise the individual in that photograph? --- Yes.

How do you recognise him? --- He was one of my interrogators and torturers.

Do you know his name? --- Van Niekerk.

20 Can I ask you Dr Essop do you know his name because of these proceedings, or did you come across his name subsequently? Or did you know his name at the time? --- I knew very few of the names at the time. I certainly knew Colonel Piet Greyling's name, Sergeant Klein.

Yes, no. Sorry Dr Essop. Please don't mention other names.
--- Okay.

Other than the ones we are talking about at the moment. ---

Okay.

So let us Perhaps we need to do that exercise for Captain Tlou. When did you get to learn his actual name? --- During After my release from detention, while I was an awaiting trial prisoner. I did look at all the newspaper articles that my parents that my father and my sisters had collected. And subsequently too after that, after I was imprisoned obviously and after my release from prison I went back tot he articles, and I sort of compiled a list of names.

10 All right. But at the time of your interrogation you didn't know Captain Tlou's name? --- No. No names revealed to me.

Right. And the same applies in relation to Captain Van Niekerk?
--- Yes.

Thank you. All right let us now turn to the third page. Do you recognise the individual depicted? It is a smaller photograph. Unfortunately we didn't have a better copy? --- I cannot say I recognise. Sorry I don't think I can recognise this person.

Okay and that is fine. If you can't recognise, just simply say so.
--- Yes.

20 All right then let us turn to the next page. Do you recognise the man depicted in that photograph? --- Face looks familiar. I tried to put an identification.

If you are struggling, then simply say you are ...[intervene]. ---
No I am not struggling. I am just trying to put the name.

Yes.

COURT: Well even if you don't know the name, but do you recognise him as one of the people who interrogated you? --- Yes I think so.

You are certain? --- Yes.

MR VARNEY: Sorry Dr Essop I don't want to knit pick. But are you saying yes I think so? --- Yes. I appreciate that I need to be absolutely certain or not.

Dr Essop I think we have to leave it at that, yes I think so. ---
Okay.

Because if you were certain, then you would. --- Yes, I would
10 leave it like that. I think so.

Okay. If we can move to the next photograph, which is a much larger ...[indistinct]. --- M'Lord can I just say a little on this, when I am doing this investigation with photographs. I wouldn't like to identify somebody I am not actually sure about.

COURT: Yes, but that is what is expected of you. --- It is 46 years on.

Yes. --- I need to be absolutely certain. The face is familiar, right?

Yes. --- But it is hard for me to put or say more.

20 Yes you have to be candid with the court. We expect you, where you are not certain, just say so. There is no harm in doing that. ---
Yes M'Lord. I would like to do that.

Thank you.

MR VARNEY: Dr Essop we should have made a certain admission that no all these photographs depict these individuals as they were in 1971.

Indeed some of them have been taken years later, and in some cases years before. So some of these individuals may have changed since October 1971, is what I am trying to say. Can we then move to the next photograph? --- Yes. A definite yes.

Please explain why you say yes? --- I think he is Fourie.

COURT: One of the interrogators? --- One of the interrogators and torturers.

MR VARNEY: Okay let us proceed. We have the next photograph?
--- Page 8, is it?

10 COURT: 7.

MR VARNEY: The next photograph. --- Oh sorry.

It has the SAP emblem next to the picture. --- All right. No.

You don't recognise this one? --- No.

COURT: Page 8? --- No.

Page 9? --- I would say it is hard for me to recognise this face.

Move on, page 10? --- Yes. A definite yes.

Who is he? --- I would say Van Niekerk. I would say he was one of my interrogators, and a real nasty torturer.

Page 11? --- Yes.

20 Who is he? --- Fourie.

Page 12? --- I would say yes, Dirker.

Dirker? --- Yes.

Page 14?

MR VARNEY: Sorry Your Lordship. In relation to Dirker, can you explain how it is that you know Dirker? --- He must have come in. I

can't recollect exactly.

Okay. --- Which event of the interrogation or torture.

All right. Thank you.

COURT: 14? --- I would say it is Fourie again.

Yes next page? --- M'Lord I am assuming that some of these photos are repeated, and they may be the same person at different ages of his life. I would say it is Fourie again.

Page 16? --- I think it is the same man. Younger.

Who is that? --- Fourie.

10 Fourie. Then 17? --- Sorry this photograph is very indistinct.

Yes it is not good. --- The facial features are missing.

MR VARNEY: M'Lord I think we should skip that one.

COURT: Yes? Proceed to 18. --- This is a uniform policeman. I cannot comment on this photograph.

The following one, 19? --- Fourie.

Mine doesn't have 20.

MR VARNEY: Yes. That is because I think that was ...[intervene]

COURT: Oh that other one. Okay. 21? --- I would say Van Wyk. Page 20 is missing here M'Lord.

20 Yes.

MR VARNEY: Yes. We had to remove two of the pages. So that explains that.

COURT: Page 20 and page 22. You will see they are not there. --- I presume those are photographs to do with Mr Rodriguez and Mr Els?

MR VARNEY: Precisely. --- I would have M'Lord I want to say I

would have liked to see the photograph of Mr Els.

COURT: No.

MR VARNEY: For the reasons that the court has explained we are not doing an id of those two individuals. --- I understand the reason. But I am just expressing a preference.

COURT: Yes. Perhaps let me explain to you Mr Essop. You have heard me, you have been in court. You heard me explain to Mr Els and Mr Rodriguez that it is possible that they may be at risk of prosecution, depending the outcome of this particular inquest. For that reason it will
10 prejudice them if we were to do the identification in this court from the photographs. You may perhaps be called in as a witness against them. I don't know. Should they be charged I don't know. So I would rather we not take that risk ourselves. We should exclude, just proceed on the side of caution, we must exclude those photos just in case it happens that they may have to be prosecuted. Then if there is a question about their identity, it will be sorted out by the court hearing the case. Do you understand that? --- I understand perfect.

Yes. That is why they are not included here. --- Yes and I fully accept your explanation M'Lord.

20 Yes. Now we are on 23. --- All I can say the face is familiar, but I can't say more.

MR VARNEY: M'Lord there is the secondary album. But my suggestion is that we don't ask Dr Essop to go through that particular album because he actually prepared that particular album at the request of the court.

COURT: Yes. Which one is that now?

MR VARNEY: So that would be N3. It is titled secondary ...[intervene]

COURT: It was prepared by him?

MR VARNEY: It was prepared by him.

COURT: From the newspaper cuttings?

MR VARNEY: Precisely.

COURT: Yes that is what he testified in Johannesburg.

MR VARNEY: Yes.

COURT: Okay then let us proceed with it.

10 MR VARNEY: Okay. Dr Essop do you have the second set of photographs titled Reopened Timol Inquest, Uniform and Security Branches, 71 – 72. --- Yes.

Then let us start with page 1.

COURT: Which one are you dealing with now? N3 or N2?

MR VARNEY: N3.

COURT: No N3, yes. Okay? --- Yes I definitely identify the man. It is Grooi.

MR VARNEY: Okay photograph 2? --- Yes another definite. Van Wyk.

20 Photograph 3? --- Again another definite, Fourie.

4? --- Definite. Coetzee.

Can you just give more detail besides a surname? --- Johan Coetzee. He was eventually promoted to Commissioner of Police.

COURT: Was he one of your interrogators? Or what role did he play?

--- I have in my notes which were not submitted to court yesterday.

When I was in Pretoria Central Prison as a detainee after I was taken away from the hospital, H F Verwoerd hospital, and sometime late I can't remember exactly which month, a security officer came. He told me his name was Coetzee, and he said he needed another statement from me. I had made a statement while I was detained at John Vorster Square. So this was another statement I made, and I had recorded it as diary notes which I gave to my lawyers. He may have appeared at John Vorster Square, but I cannot at this stage identify his role.

MR VARNEY: Perhaps we can move to photograph 5. --- That is
10 certainly Sergeant Leonard Klein. He was a uniform policeman. He and another policeman arrested Ahmed Timol and myself at the road block, near Coronationville hospital. He took me to He took Ahmed Timol and I to the nearest police station. He was the ...[intervene]

Doctor Essop you have testified extensively on what Klein and Finnies did in relation to your arrest as well as what occurred at Newlands and then John Vorster Square. --- Yes I have done that.

Yes. --- Yes.

M'Lord that then concludes the photograph identification.

COURT: Of this witness, Dr Essop?

20 MR VARNEY: Yes.

COURT: Yes okay.

UNKNOWN: No questions. Thank you M'Lord.

MR PRETORIUS: M'Lord I have got no questions for the witness.

COURT: Okay. --- M'Lord can I just add one or two words to what I have said already?

Yes? --- I understand that when you get arrested for whatever reason, even in the Apartheid era, the policeman would read out the person who is arrested his rights or her rights. This wasn't done. No-one ever showed me an id card, no one ever gave me his or her name.

Yes that is Currently that is in the Constitution. It has to be enforced in the Constitution. You will recall that at that time the Constitution did not provide for that, even though the Criminal Procedure Act expected the police to behave in that manner. But it wasn't done. --- It wasn't done. One further point. One would have
10 thought, even then, that they would have taken photographs of anyone detained, that they would have made an audio recording which is possible, maybe even some kind of video recording. But nothing of that sort was ever done.

Yes. No those are the issues that we will canvass with your legal representatives on the 17th and 18th of this month, which is week after next. --- Okay. Thank you M'Lord.

Thank you Dr Essop. You may step down.

NO FURTHER QUESTIONS

MR VARNEY: M'Lord the only other potential witness we have for the
20 photograph identification is Dr Delshal Jetham. Now M'Lord we note that in her testimony she disclosed that she does have a disability when it comes to facial recognition. We were wondering whether it is worth proceeding with her in those circumstances.

COURT: Yes. Have you consulted with her? What is her view? Does she want to ...[intervene]

MR VARNEY: She is happy to do so, if the court so directs.

COURT: No look I merely extended that courtesy to them, that in completion of their evidence which they gave in Johannesburg, if they are in a position to identify any of the people here, they may do so. It is not really critically important for them to do so. So it is really up to her to decide whether she wants You have shown her the pictures, have you?

MR VARNEY: We haven't shown them as yet.

COURT: You haven't?

10 MR VARNEY: No.

COURT: And I don't know. Dr Jetham can you just come nearer please?

MS JETHAM: Yes M'Lord.

COURT: Yes. Before we swear you up I just want to clear this up. I know in Johannesburg you made it clear that you wouldn't be in a position to identify some of the people necessarily from the photos. That is still the position?

MS JETHAM: That is so M'Lord.

20 COURT: Yes. Would you like to be shown the photos to identify? It is not critical for you to do that.

MS JETHAM: No. The way I see it is, if it is an exercise that is going to help the court in some way I will do it.

COURT: Yes?

MS JETHAM: But other than that, I do not wish to waste the court's time, knowing what my problem is, which I have explained to M'Lord

and to this court.

COURT: Yes you did.

MS JETHAM: And it would really be an exercise in futility to go through that exercise.

COURT: Yes. Okay then you are excused. Thank you very much.

MS JETHAM: Thank you M'Lord.

COURT: Yes. I don't think we need to go into that.

MR VARNEY: As the court pleases M'Lord. M'Lord then the only other business for today is to hear the evidence of Ahmed Timol's nephew

10 Imtiaz Cajee.

COURT: Yes.

MR VARNEY: With the leave of the court I would like to call him to the stand?

COURT: Yes.

MR VARNEY: My learned junior has just pointed out the time to me.

COURT: Yes?

MR VARNEY: Which is 11:10. M'Lord can I actually suggest that we delay the hearing of Mr Cajee's evidence until after tea?

20 COURT: Yes we can do that. Mr Cajee? I thought I would give you the honour to be the last witness here, but it looks like we will be sitting again on 10th August in light of the new evidence that has come through. So you could decide. Either you still want to hold onto that honour and be the last to testify, which will probably be Friday the 11th. Or you could do it just after tea.

But we will adjourn now and you can discuss with your legal

representative and then you tell me when we come back. We can hear you after tea, but as I said I wanted to give you that honour. You have been pursuing this case over the years to bring us here to this point. We will adjourn until 11:30.

COURT ADJOURNS [10:43] ~ ~ ~ [11:11] COURT RESUMES

COURT: Yes Mr Varney?

MR VARNEY: As the court pleases M'Lord. M'Lord I have consulted with Mr Imtiaz Cajee and he has accepted the honour that you have bestowed upon him in being the last witness. He asked me to indicate
10 to the court that he is humbled by this honour. With the court's leave we will lead his evidence next week.

COURT: Next week. Yes thank you.

MR VARNEY: M'Lord in that case there is just a little bit of house keeping. We have two further affidavits and an updated exhibit list that we would like to hand up. The two affidavits are really small thin affidavits. M'Lord the first affidavit is of Mtondi Malatsi. She is a candidate attorney at the Legal Resources Centre. She was tasked with the job of tracking down the medical records of Dr Essop and Dr Jethan at various hospitals.

20 In her affidavit she sets out her endeavours in trying to retrieve old historical records at those hospitals, sadly without success. She also sets out her endeavours to track down the personal records of the late Izzy Maisels. Izzy Maisels was the senior counsel who represented the family at the first inquest. M'Lord unfortunately there were no records on Timol to be found amongst the family records.

M'Lord we have marked that particular affidavit H14.

COURT: Yes?

MR VARNEY: M'Lord the final affidavit is that of Eleanor Groenewald. M'Lord Eleanor Groenewald is the head of litigation and administration, legal and policy services with the South African Police Service. General Groenewald confirms that the police files that we have submitted to this court were provided to us by police headquarters. M'Lord we have marked that affidavit H16.

COURT: Thank you.

10 MR VARNEY: Finally M'Lord we have the updated list of exhibits. I believe that those are with you.

COURT: Yes.

MR VARNEY: M'Lord that is all we have for you this morning.

COURT: Okay thank you very much.

MR PRETORIUS: M'Lord thank you. This subpoena and the criminal proceedings for Mr Adam Hamid, previously with affidavit was handed up to you. I just wanted to ensure that if we go and look for this witness that the subpoena in the time frame So I would like this court to issue the instruction that he appear next Thursday and Friday M'Lord,
20 because the present date is from 24th July to 4th August. That is today.

COURT: Yes?

MR PRETORIUS: So I just want to ensure that the subpoena is valid. I have asked my assistant here Captain Ben Nel and General Eleanor Groenewald to assist me that it is served properly.

COURT: Yes.

MR PRETORIUS: So I would like the court to order that he appear next Thursday and Friday, 10th and 11th August M'Lord.

MR VARNEY: M'Lord there is one further matter.

COURT: Let me conclude with this one.

MR VARNEY: Yes.

COURT: It has come to my attention that the evidence of this person here has become critical in light of the question of the timing of the death of Mr Timol, that he is one of the eye witnesses who was working at the filling station nearby and who can assist us in terms of the time of
10 death. So the subpoena that was authorised is now extended. The date is extended that he should come and testify on 10th or 11th?

MR PRETORIUS: 10th or 11th M'Lord.

COURT: Yes. 10th or 11th.

MR PRETORIUS: 10th or 11th yes.

COURT: Because my intention is to close all oral evidence on the 11th. Because beyond that we much reach a point where we have to work with what we have here.

MR PRETORIUS: As the court pleases M'Lord.

COURT: We cannot keep it open ended. So on the 10th he must be
20 brought here.

MR PRETORIUS: As the court pleases M'Lord.

COURT: We note that previous attempts to subpoena him resulted in him not cooperating. I think it should be made clear to me that should he persist in that conduct we won't hesitate to apply the law to lock him up.

MR PRETORIUS: As the court pleases M'Lord.

COURT: We need his evidence here, because it needs to help us in terms of determining in particular the time of death.

MR PRETORIUS: As the court pleases M'Lord.

COURT: So it is extended. The subpoena is extended. It must be served on him. If need be you can have another or a new subpoena issued and I will authorise it. Every attempt must be made to secure his presence here on 10th August.

MR PRETORIUS: As the court pleases M'Lord. Thank you M'Lord.

10 COURT: Yes. Yes Mr Varney?

MR VARNEY: M'Lord the one outstanding matter. I don't know whether you have had a chance to consider the statement of the former Truth & Commission Investigator.

COURT: Yes I looked at here as soon as you submitted it. We will need to hear it. You want a subpoena issued?

MR VARNEY: M'Lord I don't think a subpoena is necessary. As soon as we adjourn I will call him in London and ask him whether he could make arrangements. I will also speak to my colleagues from the NPA to ensure that his costs are subsidized to come back and then return to
20 London.

COURT: He is a critical witness. I have just looked at this. If he is in London I will appreciate that he comes through on the 10th. But then that will mean That will mean Mr Coetzee that Mr Rodriguez must be here on the 11th.

MR COETZEE: Yes M'Lord. I have already raised it with the state

attorney that we will arrange for a consultation with him and to ensure that he is available on Friday.

COURT: Because this evidence we are going to hear relates to him.

MR COETZEE: Yes.

COURT: So he needs to come in. In all fairness to him he must have an opportunity to react to that. You have a copy of the draft affidavit?

MR COETZEE: I have.

COURT: Yes. You will in the meantime consult with him?

MR COETZEE: I will consult with him on those issues M'Lord and I will
10 see if we can assist in anyway in this regard.

COURT: Yes. Get instructions. Get instructions from him and then see what happens.

MR COETZEE: Thank you M'Lord.

COURT: So we will then stand down until 10th August. Let me say this. I made a call in Johannesburg when we started with these proceedings, that any witness or any person who may have witnessed the incident relating to the death of Mr Timol needs to come forward and assist this commission, I mean this inquest.

We are now having a response from various witnesses as a
20 result of the media coverage, and I must extend my appreciation to that. We need I am certain that there might be some people out there who are alive around that area of John Vorster Square who might have just seen what transpired on that day. It may be uniform policemen, it need not necessarily be members of the security branch.

It may be private civilians. I am making a call that any such

person must get in touch with the family of Mr Timol through their attorneys Webber Wentzel or through the office of National Prosecuting Authority and come forward. 11th August is the last day on which we will hear oral evidence. Other evidence that will come thereafter can only be by affidavit. And that will be up to 18th August.

From 18th August I will have to decide this matter on the evidence that is before me. I won't be able to accommodate any other thing beyond that. So the oral evidence we are saying, let us have it all in by 11th August. And any other evidence thereafter by affidavit before
10 18th August. Unless there is something very exceptional, I might have to reopen the reopened inquest to hear that. But it will have to be relevant evidence that might just resolve this issue.

Other than that we will follow those days that I have just announced now. Once again I am making a call to all the people out there who may be of assistance to this inquest. Please come forward and do so, and it will be greatly appreciated. On that note we will stand down until 10:00 on Thursday, Thursday next week, 10th August. We will take it from there. But in the meantime let me be kept informed of all other witnesses that may come forward, so that then if it is possible
20 to obtain their affidavits, let us have them prepared before then. Anything else you want to raise Mr Varney before we adjourn?

MR VARNEY: Nothing further Your Lordship.

COURT: Thank you. Mr Pretorius?

MR PRETORIUS: Nothing M'Lord, thank you.

COURT: Yes. On that note then we will adjourn until 10:00, 10th

August.

MATTER POSTPONED TO 2017-08-10

COURT ADJOURNS

10

20