

Decisions

PCAC 17(3)

TYPE AMNESTY DECISIONS

STARTING DATE 19 January 2001

LOCATION CAPE TOWN

NAMES ERIC GOOSEN, PAUL FRANCIS ERASMUS, GARY LEON POLLOCK

MATTER AM 4158/96; AM 3690/96; AM 2538/96

DECISION GRANTED

: DECISION

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Eric Goosen (the 1st applicant) was, during 1983, a policeman attached to the Northern Transvaal Security Branch at Pretoria. During or about March or April 1983 he was sent to undergo training in surveillance for approximately two months at the Intelligence, Johannesburg branch, known as "I and J".

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dr neil aggett

I and J was a police unit which operated covertly. It involved itself in monitoring, intimidating and harassing political activists who were opposed to the government. During the period of his secondment to I and J the 1st applicant resided with approximately twenty-five other members of the unit in a safe house in the Eastgate area of Johannesburg. Save for Major Heyman and Botha, two officers in the unit, he knew the other members only by their code names.

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The 1st applicant assisted in the monitoring of various persons, including Carl Niehaus, his fiancée, Ms Lourens, and Rev Beyers Naude. All such monitoring was done in public places, mainly from motor vehicles, and did not involve the commission of any crimes or delicts.

One evening the 1st applicant was instructed by an I and J member, whose code name was Harvey, to accompany him on a mission to intimidate Rev Mason and his wife Penelope Mason who were believed to be political activists opposed to the government. The two of them proceeded to the Mason residence where the 1st applicant threw a brick through a closed window of Mrs Mason's vehicle, which was parked in the driveway, and Harvey threw a brick through the closed window of a caravan which was in the yard. They fled the scene undetected.

The 1st applicant's application is not opposed. We are, after considering the evidence and documentation before us and having heard submissions from legal representatives, satisfied that the 1st applicant has made a full disclosure of his activities with I and J and that he, in regard to the events described by himself, at all times acted under orders and with a political objective as envisaged by the provision of Section 20 of the Promotion of National Unit and Reconciliation Act, No. 34 of 1995 (the Act).

Paul Francis Erasmus (the 2nd applicant) was during the period when the crimes and delicts which are the subject of this decision were committed by him, a member of the South African Police. he was attached to the Witwatersrand Security Branch and was stationed at John Vorster Square. he was a field operative attached to the White Desk. His functions included the monitoring, harassment and intimidation of persons believed to be actively opposed to the government.

Evidence was led at the hearing of this matter in relation to the 2nd applicant's harassment and intimidation of Beyers Naude, Gavin Anderson, Shanty Naidoo and Liz Floyd and also in respect of the 2nd applicant's unlawful entry into the premises of Mr and Mrs Aggett at Somerset West.

The harassment and intimidation of Dr Beyers Naude by members of the Security Branch persisted over many years. The 2nd applicant was personally involved in such action from April 1977 through to the late 80's. During this period the 2nd applicant, on a number of occasions, threw bricks through the closed windows of Dr Naude's residence and motor vehicle, attempted to fire bomb his motor vehicle and burnt flower beds in his garden. Other forms of harassment by the 2nd applicant against Dr Naude included the making of threats over the telephone and the ordering of unwanted goods to be delivered to Dr Naude's home.

The 2nd applicant also, during or about March 1977, harassed Gavin Anderson who, at the time, was under a banning order. Mr Anderson was harassed on various occasions by being awakened late at night on the pretence that they were checking whether he was complying with the conditions of the banning order. Threatening telephone calls were also made to him.

The 2nd applicant, during the late 1970's and early 1980's, regularly damaged Shanty Naidoo's motor vehicle at her premises in Doornfontein. The 2nd applicant also on numerous occasions made threatening and insulting telephone calls to her.

Dr Liz Floyd was harassed and intimidated by the 2nd applicant and other members of the Security Branch over a number of years, commencing from or about June 1982. Threatening and insulting telephone calls were regularly made to her and on one occasion her residence was raided by a heavily armed group of Security Branch policemen, including the 2nd applicant. Various items were stolen and the 2nd applicant stated that he personally stole a pot plant and a tent.

Some time after the death of Dr Neil Aggett in his cell in John Vorster Square the 2nd applicant, together with one Lieutenant S.P. Whitehead, was ordered by Brigadier Muller, his Commanding Officer, to gather evidence relating to the psychological make-up of Dr Aggett with the aim of proving that Dr Aggett had suicidal tendencies. It was explained to the 2nd applicant that such evidence was required for the inquest hearing into the death of Dr Aggett. Brig Muller stressed that it was important that the State not lose the inquest and that it be shown that Dr Aggett committed suicide.

The 2nd applicant and the said Lt Whitehead, both of whom were using false identifications and were pretending to be private investigators, proceeded to Somerset West. When there, the 2nd applicant, on his own, went to the residence of Mr and Mrs Aggett, the parents of the late Dr Neil Aggett. Mr and Mrs Aggett were not present and he spoke to a lady who worked there. he told her a false story and she allowed him to search the house. In the process of searching he stole some letters.

As he was leaving the house, a neighbour, Mr Anderson, arrived and questioned him about being inside the Aggett residence. Mr Anderson was not satisfied with the explanation provided by the 2nd applicant and a charge was laid against the 2nd applicant. He was later convicted of contravening Section 28(1)(6) of Act 51 of 1977 and was sentenced to pay a fine of R200 or to undergo three months imprisonment. The 2nd applicant had pleaded guilty to the charge after having made a false statement to the investigating officer. He did not testify at his trial. The 2nd applicant stated at the hearing of this matter that his trial was a sham and that it was known before the trial commenced that he would be sentenced to pay a fine of R200. The R200 was drawn from police funds and given to the 2nd applicant before he proceeded from Johannesburg to Cape Town to attend the trial.

The application for amnesty of the 2nd applicant, in so far as it relates to the incidents which were dealt with at the hearing of this matter, is not opposed.

We are satisfied that the 2nd applicant has, to the best of his ability, made a full disclosure in regard to the incidents which are the subject of this matter. He was, besides such incidents, involved in several dozen other incidents and operations over a long period of time and it is understandable that he cannot recall the fine detail of each and every incident.

We are also satisfied that his monitoring, harassment and intimidation of Beyers Naude, Gavin Anderson, Shanty Naidoo and Liz Floyd as well as his illegal searching of the premises of Mr and Mrs Aggett were acts committed with a political objective as envisaged by the provisions of Section 20 of the Act. He was, in respect of his actions against each victim, acting in his capacity as a policeman under either the specific or general orders given by his superior officers. He, at the time, believed that he was tormenting enemies of the State and that in so doing was promoting the interests of the State.

We are accordingly of the view that the 2nd applicant's application for amnesty in respect of the incidents dealt with in this matter, succeeds. We are, however, of the opinion that the amnesty granted to the 2nd applicant does not extend to or cover the theft of the pot plant and tent from the premises of Liz Floyd as such theft was for personal gain.

Gary Leon Pollock (the 3rd applicant) was a member of the South African Police (the SAP) and was, during the period 1988 to 1992, attached to the Security Branch at Alexandra. Sometime during 1990 three SAP Generals, namely, General le Roux, General Engelbrecht and Gen Smit, visited the Security Branch offices at Alexandra and spoke to the members there. They informed them, inter alia, that their duties remained unchanged, despite the unbanning of the liberation movements, as leverage was needed for the Codesa talks. The impression given to the 3rd applicant and his colleagues by the briefing from the Generals was that they should continue in activities which discredited and hindered liberation movements and their members.

One night during 1992 the 3rd applicant's Commanding Officer, Col van Huysteen, instructed him to accompany him on a mission targeting Barbara Hogan, a well known activist opposed to the Government. The 3rd applicant, Colonel van Huysteen and two other persons drove to the home of Barbara Hogan in Yeoville, Johannesburg. There they set alight and burnt a motor vehicle which was parked in the driveway. The 3rd applicant has applied for amnesty in respect of other incidents, but such other incidents were not included in the roll of the hearing of this matter. These other incidents will therefore be the subject of another decision.

His application in respect of the incident considered at the hearing is not opposed. We were satisfied that he has made a full disclosure of all relevant facts pertaining to the incident. We are also satisfied that his participation in the offence was an act associated with a political objective committed in the cause of the conflicts of the past as contemplated by the provisions of Section 20 of the Act.

In the result,

~~(1) Eric Goosen is GRANTED amnesty in respect of the malicious damage of a motor vehicle and a caravan which were the property of or in the possession of Rev. and Mrs Mason at Johannesburg during March or April 1983;~~

(2) Paul Francis Erasmus is GRANTED amnesty in respect of:

(i) the harassment and intimidation of Dr Beyers Naude and the malicious damaging of property either owned or in the possession of Dr Naude at Johannesburg during the period April 1977 to December 1989;

(ii) The harassment and intimidation of Mr Gavin Anderson at Johannesburg during or about March 1977;

(iii) the harassment and intimidation of Ms Shanty Naidoo and the malicious damaging of property, including motor vehicles either belonging to or being in the possession of Ms Naidoo at Johannesburg during the period of the late 1970's to the early 1980's;

the unlawful entry and search of the premises of Mr and Mrs Aggett at Somerset West during April 1982 and defeating the ends of justice by submitting a false statement to the authorities in regard to such unlawful entry and search,

(3) Gary Leon Pollock is GRANTED amnesty in respect of the malicious damage of a motor vehicle which was the property of or in the possession of Ms Barbara Hogan at Johannesburg during 1992.

We are of the opinion that Rev and Mrs Mason, Dr Beyers Naude, Mr Gavin Anderson, Ms Shanty Naidoo, Dr Liz Floyd, Mr and Mrs Aggett and Ms Barbara Hogan are victims and this matter is referred to the Committee on Reparation and Rehabilitation for its consideration in terms of the provisions of the Act.

SIGNED AT CAPE TOWN ON THIS THE 19TH DAY OF JANUARY 2001.

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