

Amnesty Hearings

TYPE AMNESTY HEARINGS

STARTING DATE 10 October 2000

LOCATION NELSPRUIT

DAY 2

NAMES EUGENE FOURIE, BURNING OF A SAFEHOUSE NEAR OSHOEK BORDER POST

CASE NUMBER AM3767/96

MATTER THAMI ZULU

CHAIRPERSON: We'll then proceed to hear the matter of Eugene Fourie, AM3767/96. Just for the record, the Panel is constituted as is apparent already from the record. Ms Coleridge is the Leader of Evidence, Mr Rossouw again appears for the applicant and Mr Ngobe is back on behalf of the victims.

EUGENE FOURIE: (sworn states)

CHAIRPERSON: Thank you, please be seated.

MR ROSSOUW: Thank you, Mr Chairman. Mr Chairman, for the purpose of the record may I just enquire from my learned colleague whether this application is opposed or not.

CHAIRPERSON: I don't know whether you're in a position to state at this stage, Mr Ngobe.

MR NGOBE: Thank you, Mr Chairman. My instructions is not to oppose the application per se, or my instructions to listen attentively to the submissions and establish that the whole truth has been revealed, it's only then that the victim can exercise her right to oppose. Thank you, Chairman.

CHAIRPERSON: Very well.

MS COLERIDGE: Chairperson, just before we proceed I'd just like to place on record that the implicated persons that have been notified in this incident are Mr de Kock, Solomon Nicholson Ryan Verster Attorneys, and Mr Martin Naude who is with Wagener Muller Attorneys. Thank you, Chairperson.

CHAIRPERSON: Very well.

EXAMINATION BY MR ROSSOUW: Thank you, Mr Chairman.

Mr Fourie, you submitted an amnesty application and we will first deal with the Thami Zulu incident. The formal section appears on page 1 and later in the bundle as well. Can you just tell the Committee if this is your own handwriting, did you compile it yourself?

MR FOURIE: Yes, that's correct.

MR ROSSOUW: Do you confirm the contents thereof, this is from page 1 up until page 3?

MR FOURIE: That is correct, Mr Chairperson.

MR ROSSOUW: Then there's an Annexure A on page on page 4 which is hand-written, is that also your handwriting?

MR FOURIE: Yes.

MR ROSSOUW: And this gives the background and motivation for your involvement. Do you confirm the contents thereof and do you also request that it must be read into your evidence and your testimony as a whole?

MR FOURIE: That is correct, yes.

MR ROSSOUW: And on page 9 and 10 there is a typed version of it.

MR FOURIE: That is correct.

MR ROSSOUW: The specific incidents for which you are applying for now are mentioned on page 10, paragraph 4 and 5, and is it correct that from page 11 there is also a supplementary application that was made on your behalf, as well as an annexure from page 16 onwards? Do you confirm the contents of page 11 to page 15?

MR FOURIE: That's correct, Chairperson.

MR ROSSOUW: If we can then go to page 16, the general background, up until page 22, at the top of the page - sorry, page 21 at the bottom of the page, is this just a repetition of what you already attached to your application?

MR FOURIE: That is correct.

MR ROSSOUW: Then Mr Fourie, this specific incident from page 22 onwards, can you just tell the Committee, during the operation where were you working and what was your rank?

MR FOURIE: Mr Chairperson, I was working at Unit C2, which is basically a subdivision of C1. Our overhead Commander was Brigadier Schoon, he was the group head of Group C and Eugene de Kock was the Commander of C1, and Col Martin Naude was the Commander of C2. Our work at C2 was the identification of terrorists as well as research on MK and APLA members.

At that stage, I cannot specifically recall this, but I assume that I was working at Piet Retief during an interrogation of arrested terrorists when I was approached by Col de Kock to accompany them to Swaziland ...(intervention)

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MR ROSSOUW: Just before we continue, the co-operation between yourself, a member of C2 to then join the operational team, C1, did this happen before at other opportunities? Have you worked with them before?

MR FOURIE: Yes, Mr Chairperson, I was also a member of C1 before.

MR ROSSOUW: And the command structure, how would this work when you join C1 while you are a member of C2?

MR FOURIE: I would fall under the command of Eugene de Kock.

MR ROSSOUW: Did you discuss this with your Commander, Naude?

MR FOURIE: Sometimes I would - Col de Kock on short notice would approach me to accompany them and if I could not get hold of Naude, I would at a later stage inform him about it.

MR ROSSOUW: And was there ever an indication from his side that you were not allowed to act in that way?

MR FOURIE: No, Mr Chairperson.

MR ROSSOUW: So in all the cases where you could not get hold of him he confirmed it afterwards?

MR FOURIE: That is correct.

MR ROSSOUW: Now in this specific incident when you were working in the Eastern Transvaal, you said you could not recall if it was in Ermelo or in Piet Retief, you were approached by Eugene de Kock to accompany them, did you in this case contact Naude and clear this up with him first?

MR FOURIE: I cannot recall if I notified him before, but I know that afterwards I told him what happened at the house of Thami Zulu.

MR ROSSOUW: Do you know if there were any standing orders concerning co-operation between different units within the Security Branch?

MR FOURIE: Within the Security Branch everybody assisted each other, for example, C1 and C2 who operated for a long time, would work with different sections like the Eastern Transvaal or the branches in Piet Retief.

MR ROSSOUW: I would like to continue with this aspect and I'd like you to show the Committee to what extent, let us say the pure function of C2's terrorist identification function, overlapped with C1, which was the operational unit.

MR FOURIE: Well basically both units dealt with the terrorists.

MR ROSSOUW: And for this specific operation if you now - when you went to Swaziland, let us look at it from the viewpoint of C2, what direct advantage would you then gain as a member of C2?

MR FOURIE: For me as a member it was important to visit Thami Zulu's house because we as a unit had a photograph system of exiles of approximately 7 000 people, in which identified exiles, where they received training and what their movements were abroad. So it was also important to get photographs of the Transvaal Machinery and maybe find these photographs in Thami Zulu's house in Swaziland. I see I forgot to write in my application that we also knew who Thami Zulu was. We had a file on Thami Zulu, we had a photograph of Thami Zulu, but we never knew what his true identity was. At that stage we did not know that his real name was Ngwenya from Soweto, and I tried to get hold of the true details of him in his house.

MR ROSSOUW: We'll get to the later objective, but if you'll on page 23, paragraph 3, you will notice that he was a Commander of the Natal Machinery. Can you just in short tell the Committee what this structure was.

MR FOURIE: The Natal Machinery was a section of MK, the military wing of the ANC in Swaziland and they were divided up in Special Operations, Natal Machinery, Transvaal Machinery and they also had - the Natal Machinery was subdivided under Natal Rural Machinery and then Natal Urban Machinery and Thami Zulu was the Commander of the Natal Machinery, as a whole.

MR ROSSOUW: Was this the operational description of the structure through which MK members infiltrated the different areas in South Africa?

MR FOURIE: That is correct.

MR ROSSOUW: Also pertaining to acts of terror?

MR FOURIE: That is correct.

MR ROSSOUW: You also say in paragraph 4 on page 23, that the Security Police knew about his house in Mbabane.

MR FOURIE: That is correct.

MR ROSSOUW: Was this information that you received or collected from C2, in the files which you referred to?

MR FOURIE: This was information from C2 that we got from arrested terrorists as well as informers who were handled by the Eastern Transvaal branch.

MR ROSSOUW: You then also say on page 23, because of the security risk and because of his role as leader, you attempted to kill him at his house. Now I would like you to tell the Committee what the orders were that Mr de Kock conveyed to you, what was the purpose of going to his house.

MR FOURIE: The action would be that first of all, that we get hold of Thami Zulu personally and then to kill him in Swaziland, because he was a prominent MK figure and he followed Chris Hani in that regard. The

plans were to succeed Chris Hani as the next person. He was also very well known and popular under the MK members. The first thing we would do is to kill him when we entered the house and we would then search the house for weapons and other documentation.

MR ROSSOUW: Those instructions from Mr de Kock, was this done within the South African borders?

MR FOURIE: I assume it was done at Piet Retief.

MR ROSSOUW: Very well. Then on page 24, paragraph 7 you now started describing the operation, can you in your own words tell the Committee what the execution of the operation entailed and who accompanied you, which members.

MR FOURIE: Well early the morning we entered Swaziland legally through the Oshoek border post and that morning we went to his house and did some reconnaissance to establish if he was still living there and to see what movements there were.

We returned for the second time because it was very quiet the first time. It was still in the day. I think it would be around lunch time. We returned to the house and we saw that there were no other vehicles, there was not a lot of movement, it looked safe to penetrate the house. We stopped with two vehicles.

I knew Col de Kock was there and I think Lappies Labuschagne was there as well. The other members of C1, I cannot recall them by name, because we entered Swaziland at so many opportunities doing reconnaissance that I cannot really exactly recall who was involved in which incident.

We then entered the house through the back door, through the kitchen. We then found two young children and an aged lady ... (intervention)

MR ROSSOUW: Mr Fourie, you yourself entered the house?

MR FOURIE: Yes, that is correct.

MR ROSSOUW: Were you armed?

MR FOURIE: I had a 9mm pistol with a silencer.

MR ROSSOUW: And the other persons you mentioned, were they also armed?

MR FOURIE: Not all of them but most of them were armed with various weapons, Uzzi's. I think Col de Kock had an Uzzi, but we all had weapons with silencers on.

MR ROSSOUW: You now entered the house, you now found two children and the elderly lady.

MR FOURIE: I later heard that she was the caretaker or the nanny. I think we were approximately six people because we came in two vehicles. Then one or two of the policemen remained behind in the house and Eugene told us to go through the house to see if we could find Thami in the house.

We then went to different rooms in the house. I accompanied Eugene de Kock and another member where we went to the bedroom of Thami Zulu, where we found his wife. Eugene and I think it was Lappies Labuschagne, I'm not quite sure, took her. Eugene said that she must be locked up in the bathroom so she cannot yell and see what we are doing. We then tied her feet and arms. We then covered her mouth. I do not know if we took a pillowslip to put it in her, stuffed it in her mouth so that she cannot shout. Eugene then told us to search the whole house to find what we can.

I know that the elderly lady and the two children were placed in a bedroom and the door was closed. Because in the kitchen on the floor I think there was a, on the one side of the room there was a section where there were a lot of photo albums and documents in the kitchen. We were very interested in that, but we also searched all the cupboards, under the beds, under the mattresses to also look for weapons, limpet mines or any documents that we could find, possibly DLB sketches. We just searched through the whole house to see what we can find.

MR ROSSOUW: You now mentioned that Thami Zulu was not in the house. The people who you found in the house, were they assaulted?

MR FOURIE: No, they were not assaulted. Thami Zulu's wife could have been injured when she was placed in the bath, but nobody was assaulted or killed or injured.

MR ROSSOUW: Did you personally tie the lady?

MR FOURIE: No, it was Col de Kock and I think it was Lappies. Eugene then, while we were in the bedroom of Thami Zulu, he then asked me to start searching the cupboards to see what I can find there.

MR ROSSOUW: After you found the photo albums and documentation, where did you go?

MR FOURIE: We loaded everything in the boot of the cars and we returned to the Piet Retief Security Branch in South Africa.

MR ROSSOUW: In your statement on page 25, paragraph 13 onwards you stated that it came to your attention at a later stage what happened to Thami Zulu, can you just tell the Committee what you heard and how you heard about it.

MR FOURIE: Thami Zulu, after we searched his house he moved to another house in Mbabane and through informers we found out that he went back to Lusaka, because he disappeared from Swaziland, we could not find him again. And after other terrorists were arrested in South Africa, they told us and also informers revealed the information that Thami Zulu, because they said he was searched so often in Swaziland and where people were killed and he got away, they then thought that he was a South African spy. They then took him to Lusaka where he was interrogated by the Security department and then poisoned. In the same way in which the previous Transvaal Machinery Commander Ralph Petersen was poisoned. He was also suspected of being an RSA agent, he was also taken to Lusaka where he was interrogated by the Security department and then poisoned. Those who saw him being arrested and who

worked at the department, their skin became green, I do not know what poison they used, but somebody said that they were green because of the poison. I do not know how they were killed.

MR MALAN: Do you know if he provided you or any other section of the Security Police with information?

MR FOURIE: No, Mr Chairperson, he was one of our biggest enemies. He was very popular amongst the footsoldiers, the rank and file of MK, and because he was not a Xhosa, he was seen as a threat by the hierarchy and he could have gone further if it wasn't for that.

MR MALAN: Thank you.

MR ROSSOUW: Mr Fourie, I maybe did not put the second part of my question clearly, but this disclosure of what happened to him, who told you this?

MR FOURIE: This came from arrested terrorists in South Africa, it was also reported by informers from the various sections of the Security Police.

MR ROSSOUW: And this documentation that you found at his house and took, could you do anything with it at C2?

MR FOURIE: Yes, we did make use of it and we found a lot of photographs of people who we did not have photographs of, exiles and trained people, and we also got information on names, notes on people who infiltrated South Africa, who were not sure about, but we did receive a lot of information from his documentation and his photographs did assist us a lot.

ADV SANDI: Sorry Mr Rossouw, can I just ask Mr Fourie, this information which you obtained in the form of documents and things like that, were you able to arrest people inside the country as a result of the information obtained?

MR FOURIE: Not directly on that specific day or in that specific week, but at a later stage we could identify exiles and trained members in the country because of the photographs that we got on that day, and at a later stage we could make use of it.

ADV SANDI: Thank you.

MR ROSSOUW: Very well. Mr Fourie, during this operation you were with Mr de Kock and he was in command of the group.

MR FOURIE: That is correct.

MR ROSSOUW: Did you receive any remuneration apart from your normal salary, for your participation in this operation?

MR FOURIE: No, Mr Chairperson.

MR ROSSOUW: Did you take part in this because of a feeling of personal malice or vengeance against Thami Zulu or any of the members of his family?

MR FOURIE: No, Mr Chairperson.

MR ROSSOUW: Then on page 27 in the bundle, under the political objective that you describe there, do you confirm the contents thereof on page 27, 28, at the top of page 29?

MR FOURIE: That is correct, Mr Chairperson.

MR ROSSOUW: You have already testified concerning the command structure and your Commander, do you also confirm the paragraph 11(b) on page 29?

MR FOURIE: Yes.

MR MALAN: Can you just tell us before you conclude your evidence, when you took the documentation and photographs, what did you do with the lady and the children who were locked up? What did you do with Thami Zulu's wife who was left in the bathroom?

MR FOURIE: Mr Chairperson, we left her in the bathroom with the door closed and we also left the elderly lady and the two children in the bedroom with the closed door. We did not want them to leave before we left, because we were scared that they make alarm and we could then be followed by the Swaziland Police or other MK members who lived close-by.

MR MALAN: If you say you closed the door, did you lock the door?

MR FOURIE: Mr Chairperson, I cannot recall if we locked the door with a key but we did close the door, or pulled it closed.

MR MALAN: Thank you.

MR ROSSOUW: Mr Fourie, on that aspect you have said now that you took the documentation and returned to Piet Retief, did you cross the border legally or illegally on your return?

MR FOURIE: I cannot recall if we went through the border post legally. I think we did cross legally, but I'm not quite sure.

MR ROSSOUW: Mr Chairman, I don't know if this would be more convenient if we proceed with this application, cross-examination by Mr Ngobe before we go onto the other incident for which the applicant is also applying.

CHAIRPERSON: I think why don't you just proceed and lead your client on that and we'll deal with cross-examination in one sitting.

MR ROSSOUW: Thank you, Mr Chairman, I'll do that.

Mr Fourie, then the second incident for which you apply is the arson at the house approximately seven kilometres from the Oshoek border post, and you can find that on page 30 and further on in the bundle.

Mr Fourie can you just once again tell the Committee, at that stage where were you working?

MR FOURIE: I was once again working at C2 and I was stationed at Piet Retief and I was approached by Eugene de Kock to accompany them to Swaziland, first of all to Manzini, where we broke into the Effesis House and that same evening we also searched this house and this house was also burnt down.

MR ROSSOUW: This will then be a case where the function of C2 overlapped with that of C1, because you would be interested in the documentation that was found at Effesis House.

MR FOURIE: That's correct. I have already testified about Effesis House incident.

MR ROSSOUW: And the application showed there computer disks were stolen by the members who searched or entered that house.

MR FOURIE: That's correct.

MR ROSSOUW: Mr Fourie, after the Effesis House break-in, on the way back to the South African border, in which vehicle were you driving and what happened there?

MR FOURIE: I think I was with Col de Kock and Lappies in one vehicle ...(intervention)

MR ROSSOUW: Is this now Mr Labuschagne of the Eastern Transvaal Security Branch?

MR FOURIE: That is correct. ... and he told us just, before we broke into the Effesis House, he mentioned to Col de Kock that while we are in Swaziland and we are not going to return back through the border post and we are going to cut the border fence, he knows about a person who assisted the ANC, who is on the route, on the way back to South Africa and if there was time and we finished the Effesis House, we must go and search that house as well and possibly we will find weapons or MK members, because this was used as a safehouse of the ANC.

MR MALAN: Where were you when this discussion took place?

MR FOURIE: We were in Swaziland, in Manzini.

MR MALAN: This was before you searched the Effesis House?

MR FOURIE: That is correct.

MR MALAN: How you know you were not between Piet Retief and the border post?

MR FOURIE: No, I know specifically it was in Manzini. We were in a restaurant, in a Portuguese restaurant in Manzini, where we discussed the Effesis House incident and where Lappies told De Kock about the possibility to go and search that house as well.

MR MALAN: Can you recall who ate there?

MR FOURIE: No, we did not eat, we only drank.

MR MALAN: I'm asking this question because these things you do recall very well and the other things you do not recall. Anyway, you can continue Mr Rossouw.

MR ROSSOUW: Thank you, Chairperson. Mr Fourie, on your way to the border, back, after you had broken into Effesis House, you said that you were in the vehicle with Mr Labuschagne and Mr de Kock, a further discussion took place, or the road was indicated, who indicated the road? Did you know where the house was?

MR FOURIE: Mr Labuschagne identified the house to us. He handled informers in Swaziland and his area of work was also Swaziland, he knew Swaziland tremendously well. He also suggested that he wanted to visit the house while we were on our way out, and that there was still time to do so and that we should go and see what was happening there and that we might possibly find something. Lappies showed us the road and we went to the house upon his instructions.

MR ROSSOUW: And once you arrived at the house, what happened?

MR FOURIE: When we arrived at the house, I think we were in three vehicles, we arrived there and Lappies told us to park our vehicles in such a format that the lights would shine onto the house, because there wasn't any electricity there. Mr de Kock told me to guard the vehicle because we didn't know who was there or how many people were inside or what it looked like inside. We were not aware of the circumstances there at all. We had not reconnoitred the house previously, so to us it was a strange place and I didn't know how well Lappies knew the house.

The other members ran toward the house. We didn't stop very far away from the house, and then Mr de Kock said that he had an AK, someone shouted: "He's got an AK" and I think it was Mr de Kock who shouted that, and then Col de Kock jumped in through the window of the house, but it was dark and I heard shots being fired inside the house.

The reason why I also say that shots were fired inside the house is because Mr de Kock sent one of the members to me. I cannot recall who it was, but he was sent to me to fetch my spare magazine for my pistol, because he needed extra bullets. He said that his bullets were all fired up and then he required extra bullets and he sent someone to fetch my spare magazine, because I was guarding the cars and they took the spare magazine to him. But I definitely heard shots being fired inside the house, because at one point I walked in the direction of the house and back, to see whether they were being overwhelmed or to see if there was any problem.

MR MALAN: Didn't you testify regarding the other case, that you had a 9mm and that Mr de Kock had an Uzzi? Did you have the same weapons?

MR FOURIE: Chairperson, is this regarding Thami Zulu's house?

MR MALAN: Yes. Which weapons did you use in this case?

MR FOURIE: There were pistols and Uzzis as well. It wasn't on the same night.

MR MALAN: Yes, I know. You said that De Kock sent the person to you to fetch your magazine because his ammunition was finished.

MR FOURIE: Yes.

MR MALAN: But did you have the same type of weapon?

MR FOURIE: 9mm.

MR MALAN: Both of you? Did he have his Uzzi?

MR FOURIE: He may have had his Uzzi, but the bullets fit on both weapons because both are 9mm Parabellums.

MR MALAN: And did both have silencers?

MR FOURIE: That is correct.

MR MALAN: Thank you.

CHAIRPERSON: Who did De Kock shoot?

MR FOURIE: He fired into the house. He was inside the house, I couldn't see what was going on inside the house because it was too dark, but I know that he fired shots, because otherwise he wouldn't have requested more bullets. And I heard shots being fired in the house and he was the only one who I saw running into the house, the other members ran around outside the house and someone shouted: "There they go, there they go", and it was in the opposite direction to the place where the noise were coming from. But shots were fired in the house.

CHAIRPERSON: Bosch says that no-one was inside the house.

MR FOURIE: Chairperson, I just heard them shouting: "He's got an AK" and that's when Col de Kock jumped in through the window of the room and then someone else shouted: "There they go", towards the other side of the house. In the opposite direction someone shouted: "There they go, there they go" and Mr de Kock shouted that there was someone in the room and that we had to be careful.

CHAIRPERSON: So your impression is that there were people who were armed inside the house and that a shooting ensued?

MR FOURIE: I suspect that Gene fired at him or that he fired at Gene, that is why we weren't certain of how many people there were. He simply shouted: "He's got an AK".

CHAIRPERSON: Was this before De Kock jumped through the window?

MR FOURIE: As he jumped through the window, he shouted: "Be careful, he has an AK".

CHAIRPERSON: Was it De Kock who shouted that?

MR FOURIE: Yes, it was De Kock.

CHAIRPERSON: Very well, proceed.

MR ROSSOUW: Thank you, Mr Chairman.

MR MALAN: I beg your pardon, before you continue.

The shots that you heard, did they come from one firearm or more than one firearm?

MR FOURIE: It sounded like the same calibre to me, it sounded like our weapons, it didn't sound like an AK.

MR MALAN: And were the weapons fitted with silencers?

MR FOURIE: Yes.

MR MALAN: So these were shots which were fired with a silencer, that you heard?

MR FOURIE: Yes.

MR MALAN: Did you ever hear a full-blown shot without a silencer?

MR FOURIE: No.

MR MALAN: So you only heard the shots fired by your own people?

MR FOURIE: Yes.

MR MALAN: And if the others were firing, then they must have also had silencers.

MR MALAN: Yes, but I didn't hear any loud shots.

MR MALAN: Thank you.

MR ROSSOUW: Very well. Mr Fourie, we know that the house was then set alight, can you tell the Committee how this was done, do you know?

MR FOURIE: Chairperson, I don't know at all, my only suspicion is that - I didn't hear someone say expressly that the house had to be set alight, or that they were going to set the house alight. I suspect that they tried to achieve some kind of light inside the house by means of a candle or matches and that as a result of this, the house may have burst into flames. But this purely speculation.

MR MALAN: But then why wouldn't they have burnt the house intentionally?

MR FOURIE: It wasn't discussed before me, I don't know.

MR MALAN: But isn't it more probable to burn the house intentionally than to burn it due to an accident with matches and a candle?

MR FOURIE: It may have been done intentionally, but I'd be speculating if I were to give a reason why the house was burnt down and who burnt it down and the way it was burnt down. It was never discussed prior to the incident.

MR ROSSOUW: Thank you, Mr Chairman, maybe I can just clear this up.

Mr Fourie, was it your impression that the house was set alight, or that it caught fire by accident?

MR FOURIE: My impression is that the house was set alight.

MR ROSSOUW: I just asked you about the manner in which it was done, whether or not you could shed any light on this. Was any petrol taken with, with the intention of setting the house on fire?

MR FOURIE: No.

MR ROSSOUW: Therefore you are simply speculating regarding the method by which was set alight?

MR FOURIE: That is correct.

MR ROSSOUW: Then Mr Fourie, do you know whether any persons were killed or injured?

MR FOURIE: No, I don't know. At no later point did I receive any report of any person who was killed or injured during the incident.

MR ROSSOUW: And did you draw any financial or other benefit from your involvement in this case or arson?

MR FOURIE: No, Chairperson.

MR ROSSOUW: And on page 33 and furthermore in the bundle, you summarise your political objective, do you confirm this?

MR FOURIE: That is correct.

MR ROSSOUW: Also on page 34?

MR FOURIE: That is correct.

MR ROSSOUW: Mr Chairman, that's the evidence-in-chief.

NO FURTHER QUESTIONS BY MR ROSSOUW

CHAIRPERSON: Thank you, Mr Rossouw. Mr Ngobe, questions?

CROSS-EXAMINATION BY MR NGOBE: Thank you, Chairman.

Mr Fourie, can you just tell the Commission how did you get to Swaziland.

MR FOURIE: We travelled by means of vehicles.

MR NGOBE: Did you have a passport to get in?

MR FOURIE: An illegal or false passport. We went through the Oshoek border post.

MR NGOBE: The place where the first incident took place, where you said there was an old woman and two children, were you alone when those people who were there were tied up?

MR FOURIE: The elderly lady and the children were not tied up, they were put in a room and the door was closed, but they weren't tied up. Only the woman who was Thami Zulu's wife, as I later heard, was tied up.

MR NGOBE: Do you remember the other members who were with you in that house?

MR FOURIE: I know that Col Eugene de Kock was there and I would have to speculate regarding the other members, because I cannot say with certainty.

MR NGOBE: Can you remember the specific incidents which, or what they did specifically, separately from you?

MR FOURIE: The two members bound the wife of Thami Zulu and put her in the bath and then pulled the door of the bathroom closed and then other members also searched the house. Other members also helped me to search through the built-in cupboard in the bedroom. We felt through his jacket pockets for notes and we also checked to see whether or not there were any firearms or ammunition in the house.

MR NGOBE: You testified that you had a photo album of all the people that you were looking for, were those people that you found there one of the people in your photo album?

MR FOURIE: We found a photo album of him and his wife and children and his family and other adult men. There were also some loose photos of scenes at parties with adult persons. We took everything with, back to South Africa.

MR NGOBE: Could you regard an old woman and two children as a political threat in your view by that time?

MR FOURIE: An elderly lady and two children?

MR NGOBE: Yes.

MR FOURIE: No, I did not regard them as a threat and that is also why we didn't do anything to them, we simply tried to put them in a safe place.

MR NGOBE: How many houses did you visit on that particular day?

MR FOURIE: On that specific day?

MR NGOBE: Yes.

MR FOURIE: As far as I can recall, on that day it was only that house.

MR NGOBE: Will you prefer to extend a hand of gesture to say I'm sorry to the people that you attacked on that day?

MR FOURIE: Yes.

MR NGOBE: Will you be prepared to do it soon after this hearing?

MR FOURIE: Now, here?

MR NGOBE: Yes.

MR FOURIE: Yes, certainly.

MR NGOBE: Thank you, I have no further questions, Chairman.

NO FURTHER QUESTIONS BY MR NGOBE

CHAIRPERSON: Thank you, Mr Ngobe. Ms Coleridge.

MACHINE SWITCHED OFF

ON RESUMPTION

CHAIRPERSON: Are you able to resolve the query of your client?

MR NGOBE: Chairman, I think the Evidence Leader will take over from here.

CHAIRPERSON: Will she take - okay, very well, thank you. Ms Coleridge, would you do your best to cover whatever else?

CROSS-EXAMINATION BY MS COLERIDGE: Yes, thank you, Chairperson.

Mr Fourie, let me just get this straight now, Ms Mgade's saying that there was only the daughter and the older woman in the house and there was not two children in the house as you testified, can you comment about that?

MR FOURIE: She may be correct, Chairperson, but according to my recollection there were two small children and an elderly woman. That is my recollection.

MS COLERIDGE: And that her daughter was also tied up and put into the bathroom, what is your comment about that?

MR FOURIE: In as far as I know, only Thami's wife was put in the bathroom and the elderly lady with the two children were put into the bedroom and the door was shut.

MS COLERIDGE: Because Ms Mgade's saying that the child was placed into the bathroom.

MR FOURIE: I don't know about that, unless it took place later on after I'd left the bedroom, but while I was there, the elderly lady said she was looking after the children and we put her with the two children in the bedroom and we only put Thami Zulu's wife in the bathroom. Unless something else took place later on behind my back, after I left the room, but I don't know about it.

CHAIRPERSON: But is it possible that the child was also bound and put in the bathroom and that you may not be aware of it?

MR FOURIE: It is possible that it could have taken place after I left the room.

CHAIRPERSON: Very well, continue.

MS COLERIDGE: Chairperson, just for the record, just to get the names of the persons that were in the house. It was Ms Eunice Themba, she was the older woman, she was the housekeeper at the time, Chairperson. And Lindiwe Ngwenya.

Thank you, Chairperson, I have no further questions.

CHAIRPERSON: Are those the only people that were in the house?

MS COLERIDGE: And then Ms Mgade.

CHAIRPERSON: So there were three people?

MS COLERIDGE: Correct, Chairperson.

CHAIRPERSON: The child, or the daughter, is the daughter Lindiwe?

MS COLERIDGE: That's correct, Chairperson.

CHAIRPERSON: Sorry, what was her age at that time?

MS COLERIDGE: 10 months, Chairperson.

CHAIRPERSON: Yes.

MR MALAN: I think it was put to the applicant that her daughter was also bound and put into the bathroom, is this the 10 month old child?

MS COLERIDGE: That's correct, Chairperson.

CHAIRPERSON: Ms Coleridge, is there anything else?

MS COLERIDGE: No, Chairperson, I've no further questions.

NO FURTHER QUESTIONS BY MS COLERIDGE

CHAIRPERSON: Thank you. Panel, any questions.

ADV SANDI: No questions, thank you.

CHAIRPERSON: Any re-examination Mr Rossouw?

RE-EXAMINATION BY MR ROSSOUW: Thank you. Mr Chairman, just to clear up one aspect with regard to the passport.

Mr Fourie, you testified that you crossed the border legally and during cross-examination you stated that you used a false passport, could you just clarify that for the Committee.

MR FOURIE: By that I mean that we drove legally through a border post, but we also made use of false passports with false names. But we did cross the border by means of a border post and border control, we did not go over the fence, as such. That is what I would like to clarify.

MR MALAN: But clearly, you did not cross the border legally, at the border post.

MR FOURIE: That is correct, I meant that we went through a border post.

CHAIRPERSON: So you crossed illegally at a legal point?

MR FOURIE: That is correct.

MR ROSSOUW: Thank you, Mr Chairman, I have nothing further.

CHAIRPERSON: Yes. Thank you Mr Fourie, you are excused. ...(intervention)

MS COLERIDGE: Chairperson, I'm sorry to do this but just to get the facts straight of what happened in the house, Chairperson. Ms Mgade's stating that she was never locked up in the bathroom, she actually ran out of the house and the child and the older woman was locked up in the bathroom. So it seems that Mr Fourie is getting the incident a bit confused with probably another incident, or just memory.

CHAIRPERSON: Yes, I'm just reminded - Mr Ngobe, are you going to lead any evidence, do you want to present all of this in the form of testimony or?

MR NGOBE: No, that's our case, Mr Chairman.

CHAIRPERSON: You're not going to present Ms Mgade's evidence about it?

MR NGOBE: That's correct.

CHAIRPERSON: Well just give me that information again, I'm going to put it to the applicant. It's that Mrs Mgade ran out of the house.

MS COLERIDGE: That is correct, Chairperson, the back of the house. And her housekeeper and the child was locked up in the bathroom and tied.

CHAIRPERSON: ...(inaudible)

MS COLERIDGE: Yes Chairperson, and the daughter.

CHAIRPERSON: Mr Fourie, just for the sake of thoroughness, I would like to put to you what the allegation is, the recollection of the occupants of the house. It is that Mr Mgade, and I accept that this is the spouse, in this incident, ran away from the house and that the housekeeper, Mrs Themba, and the daughter, Lindiwe, were bound and locked in the bathroom. What is your commentary regarding that?

MR FOURIE: Chairperson, I don't know about that. As I have said, it could have occurred after I left the room and went to search for documentation, but my evidence is my recollection.

CHAIRPERSON: You said that De Kock bound those who were bound.

MR FOURIE: That is correct.

CHAIRPERSON: And you yourself were not involved with that?

MR FOURIE: No, he told me to search the cupboards in the meantime to see what I could find there.

CHAIRPERSON: That is my recollection of what you said. Basically you were more involved in searching the house?

MR FOURIE: Yes, that is correct, I was searching for documentation and photographs, which was my primary function ultimately.

CHAIRPERSON: Well that was your focus area as a member of C2?

MR FOURIE: That is correct.

CHAIRPERSON: And De Kock and the others were the operatives who did more physical work?

MR FOURIE: Yes, they were operational, that is correct.

CHAIRPERSON: So it is possible that it may have happened at some or other point, that the spouse ran away and that the others were locked in the bathroom?

MR FOURIE: That is correct.

CHAIRPERSON: Not that it makes much difference to you what happened, but we must try to get as thorough a picture as possible.

MR FOURIE: That is correct, I was focusing more on the documentation and the photographs, but it is possible.

CHAIRPERSON: Thank you. Then you are excused.

MR FOURIE: Thank you, Chairperson.

WITNESS EXCUSED

CHAIRPERSON: Yes Mr Rossouw.

MR ROSSOUW ADDRESSES: Thank you, Mr Chairman, I promise I'll be brief.

As far as this incident is concerned, let me first of all say that I'm not going to deal with the formal requirements of the Act, I submit that it is common cause - or rather, that you can accept that there has been compliance and as well as the qualification under Section 22(b) or (f).

Mr Chairman, the one aspect that I would like to address you on is the aspect of the chain of command, should you have a problem with that.

CHAIRPERSON: I just wanted to give you an indication, you don't need to address us on the chain of command.

MR ROSSOUW: Alright. Thank you, Mr Chairman.

Before I proceed, the applicant has requested if he can have an indication before he leaves to go back to the audit in Johannesburg, if he can meet, or where Mrs Mgade would like to meet him.

CHAIRPERSON: I'm going to ask Ms Coleridge to facilitate that. You have indicated to us that you won't be extensive in your address, and if you really want to be, I'm going to ask you to do written Heads of Argument, but if you're going to stick to what you've said, then I'll allow you to proceed.

MR ROSSOUW: Thank you. Then I won't be longer than five minutes, Mr Chairman.

Mr Chairman, if I need not address you on the chain of command, for which I thank you, then I submit that there's been a full disclosure. There is no contradictory evidence before you as far as the operation is concerned, Mr Chairman, and I think, rightly, the applicant has conceded the possibilities of something which could have happened, done by other operatives where he would not necessarily have been involved. That's always a possibility. I'm not going to even deal with the probabilities of Mr de Kock allowing anything like that, I think that would be purely speculative.

Mr Chairman, then as far as the offences for which the applicant can apply in this instance, I submit that there's clearly a conspiracy to commit murder. You've heard that the decision was taken at Piet Retief. Also the conspiracy, I would submit, to commit theft of the documents. And then lastly, Mr Chairman, I would submit the illegal, or rather the use of a false passport to cross a border.

CHAIRPERSON: I don't know what that all entails, but we have the drift of what happened, they forged some documents and presented them as if they were genuine passports. It might be fraud and forgery and all sorts of things.

MR ROSSOUW: That's correct, Mr Chairman.

CHAIRPERSON: But we've got the drift of your submission.

MR ROSSOUW: Yes, Mr Chairman, the use of a false passport might be forgery, yes. Although, Mr Chairman, I don't think it will be forgery, it might be fraud, but not forgery. It was a genuine passport that these people produced at Vlakplaas. At other hearings that evidence was placed before the Amnesty Committee. They actually built up a history for the person with his photograph, but a different name.

CHAIRPERSON: I thought that they produced it themselves, not the Department of the Interior.

MR ROSSOUW: Yes, they created it, but it wasn't a forged document which was an existing document which was altered.

CHAIRPERSON: No, I'm under the impression this is entirely a false thing, this thing was produced.

MR ROSSOUW: Yes, that's why it's fraud, Mr Chairman, it represents something which is different from the truth, but it was forged in the sense that it was a stolen passport or so, which they then inserted a different name or a different photograph.

CHAIRPERSON: Yes. Well I'm not going to debate that, I think I understand what the facts were. It might very well be forgery, it might very well be fraud when they presented it to the control authorities as if it was a genuine passport, etcetera, etcetera, etcetera. But it doesn't seem to be the thrust of this case at all, so.

MR MALAN: I don't think that's the issue, the issue is the illegal crossing.

MR ROSSOUW: That's correct, Mr Chairman, illegal crossing at a legal point at the border.

Mr Chairman, once again I don't think theft can be applied for, or attempted murder. There was in fact - you know Mr Chairman, this was outside the borders of South Africa, so I don't think he will qualify for that. Then, Mr Chairman, turning to the other incident, I find myself in the same position as with Mr Bosch, now you've got more information, you know that the decision was taken in Manzini, so there can be no conspiracy offence committed inside the borders of South Africa. And for the same reason, Mr Chairman, as what I've submitted in Mr Bosch's application, I stand by that. If you feel that the only thing which you can grant amnesty for here, should you so consider it, would be for the illegal crossing of a border, because they did not use the border post, they just went through the fence here, coming back, Mr Chairman, then I will abide by that.

Those are my submissions, Mr Chairman.

CHAIRPERSON: Thank you, Mr Rossouw. Mr Ngobe, have you got anything?

MR NGOBE IN ADDRESSES: Thank you, Mr Chairman, it is not much.

I'd like to request the Commission to exercise its powers vested in it in terms of the Promotion of National Unity and Reconciliation Act, Section 20, to grant or deny an application, whether it's based on the fact that he has fully disclosed or not. So I'll request the Commission to exercise its powers in terms of this Act. Thank you, Chairman.

CHAIRPERSON: Ms Coleridge.

MS COLERIDGE: Thank you, Chairperson, I have no submissions to add.

NO SUBMISSIONS BY MS COLERIDGE

CHAIRPERSON: Thank you, Ms Coleridge. Have you got anything else you wanted to add, Mr Rossouw?

MR ROSSOUW: Maybe I can just express thanks on behalf of the last applicant for the Committee's willingness to accommodate him, him not being here yesterday. Thank you, Mr Chairman.

CHAIRPERSON: Thank you very much. That concludes the public formalities in regard to this application. The Panel will now have to retire and consider the matter, and to prepare a decision in the matter we would need some time to do that. We will endeavour to produce a decision as soon as we can, given the rest of the demands that are placed upon the Committee, but even so, we always endeavour to do this as soon as circumstances permit us to, and this will be no exception. Once the decision is available, we will notify all of those parties with an interest in the matter, as to the decision to which the Panel has come on this application.

We take the opportunity to thank the legal representatives for their assistance, Mr Rossouw, Mr Ngobe and in anticipation, Ms Coleridge. We've still got some work to do here. We have noted the possibility of a face to face discussion between your client, Mr Rossouw, and your client, Mr Ngobe, and we wish that to come to a positive conclusion.

But thank you very much and you can be excused if you so wish, and Mr Ngobe as well.

MR ROSSOUW: Thank you, Mr Chairman.

MR NGOBE: Thank you, Mr Chairman.

MS COLERIDGE: Chairperson, that concludes the matters set down for today. We'll adjourn until tomorrow morning and we'll do the application of Mr J E Moerdyk, and that's the abduction of MK members in kwaNdebele. He'll be represented by Mr Jan Frederich.

CHAIRPERSON: Thank you, Ms Coleridge. Hopefully everything would be lined up for 9 o'clock tomorrow morning?

MS COLERIDGE: That is correct, Chairperson, I've informed the applicant as well as the legal representative that we're commencing at 9 o'clock tomorrow.

CHAIRPERSON: Very well. Well that concludes the roll for today, we will then adjourn the proceedings and we'll reconvene here tomorrow morning at 9 o'clock.

MS COLERIDGE: Thank you, Chairperson. All rise.

COMMITTEE ADJOURNS