

AC/2001/094

**TRUTH AND RECONCILIATION COMMISSION**

**AMNESTY COMMITTEE**

**APPLICATION IN TERMS OF SECTION 18 OF THE PROMOTION OF NATIONAL UNITY AND RECONCILIATION ACT, NO.34 OF 1995.**

**ALMOND BUTANA NOFEMELA FIRST APPLICANT**

**(AM0064/96)**

**EUGENE ALEXANDER DE KOCK SECOND APPLICANT**

**(AM0066/96)**

**IZAK DANIEL BOSCH THIRD APPLICANT**

**(AM0765/96)**

**FREDERIK JOHANNES PIENAAR FOURTH APPLICANT**

**(AM5014/97)**

**EUGENE FOURIE FIFTH APPLICANT**

**(AM3767/96)**

**JOHANNES KOOLE SIXTH APPLICANT**

**(AM3748/96)**

**SCHALK JAN VISSER SEVENTH APPLICANT**

**(AM5000/97)**

**PAUL JACOBUS VAN DYK EIGHTH APPLICANT**

**(AM5013/97)**

**CHRISTO PETRO DEETLEFS NINTH APPLICANT**

**(AM5001/97)**

**DECISION**

The applications of the Applicants listed above flow from actions related to the abduction, by members of the Vlakplaas Unit and other members of the former South African Security Branch, of Mr Glory Sedibe *alias* MK September from Swaziland during 1986. Sedibe was a high-ranking member of the African National Congress and was abducted while in custody of the Swaziland Police at the Mankanyane Police Station. With the exception of Vermeulen who withdrew his application, the Applicants apply for amnesty in respect of their participation in the commission of various offences and delicts directly flowing from or associated with the incident.

Save for Nofemela who, prior to this hearing, already testified about the incident in another hearing, all the Applicants, who will be referred to in the order listed above, testified under oath. The transcript of Nofemela's evidence in the Dirk Coetzee hearing which was heard by another Panel, was placed before the Committee and not disputed by any of the parties. Nofemela's application will be dealt with by that Panel. The wife and relatives of Sedibe, now deceased, attended the hearing but did not testify. During argument it was, however, submitted on their behalf that the Committee, being faced with differing versions, was not in a position to grant amnesty to any of the Applicants.

It is common cause that Sedibe was a wanted man and that a prior attempt to capture him was made sometime before his abduction during the so-called Nerston attack but he managed to escape. It is further common cause that the abduction of Sedibe and the subsequent actions were carried out with a political objective as required by the Act. The Applicants all comply with the formalities of the Act and the main issue is whether they have made a full disclosure of all relevant facts.

The tenth Applicant, Deetlefs, who was the Branch Commander in the Security Branch at Ermelo, obtained information that Sedibe was being detained by the Swaziland police. He then requested permission from the eighth Applicant, Visser, to abduct Sedibe. Visser, the then Divisional Commander of the Eastern Transvaal Division approved of this and ordered Pienaar and Van Dyk to assist. De Kock was told by Pienaar that they, the Vlakplaas Unit, would be involved in the operation. He was eventually briefed by Deetlefs and possibly Visser of whom De Kock was not quite certain. He testified that his immediate superior, Schoon, was also present at the briefing. Schoon did not give evidence as an implicated party but denied De Kock's allegation in an affidavit submitted at the hearing. The fifth Applicant, Fourie, obtained his orders from his commanding officer at C-2 Section of the Security Branch in Pretoria. His instructions were merely to attend the interrogation of Sedibe in Piet Retief after the abduction. He had no prior knowledge of it. De Kock who was in command of the actual operation in Swaziland, in turn briefed the Vlakplaas operatives who all merely followed his instructions.

The Committee was faced with a number of discrepancies in the evidence given by the Applicants, some minor and others of a more material nature. Instances where the evidence of Visser deviated from that of his co-Applicants need closer scrutiny. Discrepancies in the evidence of the Applicants other than Visser can, in the opinion of the Committee, all be attributed to the fact that almost fourteen years has elapsed since the occurrence of the incident.

Insofar as the discrepancies relate to Visser, there were differing versions about the exact place where a meeting with Visser took place when the captors returned to the border with their captive. This the Committee does not regard as of particular importance. There appears to be no reason why Visser or any of the other Applicants would deliberately want to lie about this and this too is in all probability due to faulty memory. Visser testified that he had undergone surgery for a brain tumour some time in 1991. The Committee cannot ignore the probability that this had a negative effect on his memory. Medical reports relating to the medical condition of Visser drafted in 1991, indicate that the tumour had caused epileptic fits and also caused some degree of amnesia. In a report of a neurosurgeon Dr PT Slabbert dated 6 June 1991 it is stated:

"As gevolg van die feit dat hierdie pasiënt so 'n groot breintumor gehad het, sal hy waarskynlik vir die res van sy lewe epileptiese aanvalle kry ..... Geheuestoornis sal maar altyd op die voorgrond wees ...."

The issue of the injuries sustained by Sedibe is somewhat more problematic. A closer scrutiny of Visser's evidence shows that there was no outright denial that Sedibe had suffered injuries. His evidence was that his "memory did not allow him to say" that it was indeed so. What he did deny was that Sedibe was ever assaulted in his presence. This he said he could say because it was never his style to assault detainees. He did however in response to a question by a Member of the Panel concede that assaults by the police were common. Although the Committee may regard this evidence with some degree of suspicion, there is no sufficient reason to reject it in the circumstances. He can only tell the Committee what he remembers of the incident. The fact that the evidence regarding his medical condition was only introduced at a late stage does not detract from the probability of his memory being adversely affected.

Visser also testified that Sedibe was abducted with a view to converting him into an askari (converted agent) whilst Deetlef's' version was that their aim was simply to extract information from him. It was clear from the evidence that Sedibe eventually supplied information although it was in all probability under duress. Whether he was abducted with a view to turning him into an askari or simply to extract information from him is of no moment. The fact of the matter is that Sedibe was viewed as a person who could provide important information to the Security Branch and that securing this information was the main motive for his abduction.

The Committee is satisfied that all the Applicants have complied with the formal requirements, that they acted with a political objective as required by the Act and that all the Applicants have made a full disclosure of all relevant facts.

Accordingly, apart from the Applicant Nofemela whose application will be dealt with by another Panel, amnesty is **GRANTED** to all the other Applicants listed above for any offence or delict flowing from or directly associated with the abduction of Glory Sedibe and the consequent unlawful detention.

SIGNED AT CAPE TOWN THIS THE 16TH DAY OF MARCH 2001

JUDGE R PILLAY

JUDGE S KHAMPEPE

ADV F BOSMAN