

**IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATION
REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION
OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION
CASES (TRC CASES)**

HELD AT:

Sci-Bono Discovery Centre, Corner Mirriam Makeba & Helen Joseph Street,
Newtown, Johannesburg

BEFORE:

The Honourable Retired Madam Justice Sisi Khampepe – Chairperson
Retired Judge Diale Kgomo - Commissioner
Advocate Andrea Gabriel SC - Commissioner

SWORN STATEMENT

I, the undersigned,

NKOSINATHI PHIWAYINKOSI THAMSANQA NHLEKO

do hereby state under oath as follows:

- 1 I am an adult male and a retired former Minister of Police. I served as a Minister of Police from 26 May 2014 to 31 March 2017.
- 2 The facts contained in this affidavit are within my personal knowledge, unless the context indicates otherwise, and are true and correct.
- 3 I depose to this affidavit to assist the Khampepe Commission of Inquiry into Allegation of Attempts Having Been Made to Stop the Investigation and Prosecution of Truth and Reconciliation Cases. On 15 October 2025,



I was approached by the Evidence Leaders of the TRC Cases Commission with a request for information relating to my previous role as the former Minister of Police; and, in particular, the role I played in the refusal to authorise funding for the litigation costs for the prosecution of members of the South African Police Services as well as former members of the security branch services.

4 I have structured my statement as follows:

4.1 firstly, I respond to the Request for Information from the Commission;

4.2 secondly, I deal with my role as the Minister of Police in the period between 26 May 2014 and 31 March 2017, with a specific focus on the role I played and could have played in the investigation of TRC Cases; and

4.3 finally, I address the question of the funding of litigation costs of former members of the security branch facing prosecutions for allegations relating to gross violations of human rights.

MY RESPONSE TO THE COMMISSION'S REQUEST FOR INFORMATION

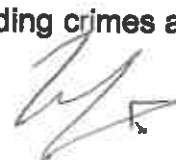
5 On 15 October 2025, I received a letter from the Commission requesting information from me in my capacity as the former Minister of Police on issues relating to the mandate of the Commission. This Commission's request for information letter is attached here as "NN1".



- 6 My response to the Commission's information request is that I have no material in my possession which I acquired during my tenure as the Minister of Police that may be relevant to the issues raised by the Commission's terms of reference. Nor do I have any documents relating to the TRC Cases referred by the Amnesty Committee for investigation and prosecution.

MY ROLE AS THE MINISTER OF POLICE IN THE INVESTIGATION OF TRC CASES

- 7 My role as a Minister of Police was governed by Chapter 11 of the Constitution of the Republic of South Africa, 1996 (the Constitution), specifically sections 205 to 208 of the Constitution.
- 8 The object of the police is to investigate crime, and in my view, TRC Cases are crimes to be investigated by the police in accordance with section 205(3) of the Constitution.
- 9 My responsibility as the Minister of Police included determining national policing policy after consultation with the provincial governments. My role was thus strategic rather than operational.
- 10 There is therefore distinction between the role of a Minister of Police and a National Police Commissioner. As a Minister, I was not responsible for, nor did I take a lead in the investigation of TRC Cases. The National Commissioner is the person operating at that level. For instance, I have no control over the investigation of crimes and dockets, including crimes and



dockets relating to TRC Cases. Such control or attempts of control over the TRC Cases from me would have rendered me overreaching and interfering with operations.

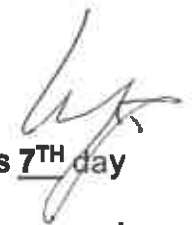
- 11 As a Minister of Police, I therefore never had any dealings with the TRC Cases.

FUNDING THE LEGAL COSTS OF THE PROSECUTION OF FORMER SECURITY BRANCH MEMBERS

- 12 Regarding the payment of legal costs for the prosecution of former crime intelligence police, I, as the then Minister of Police did not make any decisions relating to these matters. This is evident from the papers filed by the retired members of the crime intelligence application to the High Court in 2016, praying for an order compelling the police to pay their attorneys for the legal costs of representing them in their criminal trial. I have attached this application here as "NN2". The persons responsible for that decision are named at paginated page 10ff of NN2. This makes it clear who, within the SAPS made such a decision.

- 13 I agree that this decision had an impact in delaying and in effect stopping the prosecution of the perpetrators in the Nokuthula Simelane matter. I emphasise, however that these were operational matters, in which I could not have had any hand.

THUS SIGNED AND SWORN before me at JOHANNESBURG on this 7TH day of **JULY 2026**, the deponent having acknowledged that he knows and



Nkosinathi Phiwanyinkosi Nhlleko

understands the contents of this affidavit, he has no objection to take the prescribed oath and considers it to be binding on his conscience.

I certify that before administering the oath/affirmation I Asked The Deponent the following questions

1. Do you know and understand the contents of this declaration?

2. Do you have any objection to taking the prescribed oath? Answer

3. Do you consider the contents of this declaration to be true?

COMMISSIONER OF OATHS

The DEPONENT uttered the following words "I swear that the contents of this declaration are true, so help me god" / "I truly affirm that the contents of this declaration are true." The DEPONENTS name/surname was stated therein in my presence.

09 JUL 2020

Name: Rialine Steyn

Address: Shop 20, 5 Ways Mall, EMPANGENI

Designation: Postnet owner EMPANGENI

COMMISSIONER OF OATHS (KZN)
 RIALINE STEYN
 POSTNET
 SHOP 20, 5 WAYS MALL
 C/O REX HENDERSON AND PAUL AVENUE
 EMPANGENI 3880
 TEL: 035 772 3393 FAX: 035 682 8208
 CELL: 083 724 1098
 EMAIL: r.steyn@postnet.co.za



Mr Nathi Nhleko

15 October 2025

Papillon.stiba@gmail.com

Dear Mr N Nhleko,

REQUEST FOR ASSISTANCE WITH INFORMATION IN AID OF THE JUDICIAL COMMISSION OF INQUIRY TO INQUIRE INTO ALLEGATIONS REGARDING EFFORTS OR ATTEMPTS HAVING BEEN MADE TO STOP THE INVESTIGATION OR PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES.

- 1 On 29 May 2025, the President of the Republic of South Africa, Mr Cyril Matamela Ramaphosa, issued Proclamation Notice 264 of 2025 establishing a Commission of Inquiry to Inquire into Allegations Regarding Efforts or Attempts Having been Made to Stop the Investigation or Prosecution of Truth and Reconciliation Commission ('TRC') Cases ('**the Commission**').
- 2 The Terms of Reference of the Commission require that, among other things, the Commission must inquire, make findings, report and make recommendations concerning:

"...whether, why and to what extent and by whom, efforts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases."

- 3 At the relevant time specified in the Commission's Terms of Reference – that is, from 2008 to 2014 – you served as the Minister of Police. In that capacity, you may have had access to information concerning decisions, discussions, or policies affecting the investigation and prosecution of TRC-related cases.



- 4 The Commission therefore respectfully requests your assistance with furnishing any material in your possession, or to which you had access to during your tenure, that may be relevant to its inquiry. This includes memoranda, correspondence, minutes of meetings, or other documentary records relating to the TRC cases referred by the Amnesty Committee for investigation or prosecution.
- 5 In addition to providing any relevant material, the Commission would also appreciate receiving, in the form of an affidavit, your own account of any discussions, decisions or considerations during your tenure as President that may bear on the matters set out in paragraph 1.1 of the Terms of Reference. Such a statement will greatly assist the Commission in understanding the context within which decisions relating to TRC cases were taken.
- 6 Should you require any assistance in preparing your affidavit or in furnishing the requested material, you are entitled to liaise with your legal representatives. Alternatively, you may contact the Commission's Secretariat directly, and we will gladly provide the necessary support.
- 7 We would be grateful if you could provide your response no later than the 24th of October 2025, to allow the Commission sufficient time to consider the information and complete its work timeously.

Yours faithfully

Advocate I Semanya SC

CHIEF EVIDENCE LEADER

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO 72747/2016

In the matter between

WILLEM HELM JOHANNES COETZEE

1st Applicant

ANTON PRETORIUS

2nd Applicant

FREDERICK BARNARD MONG

3rd Applicant

THEMBISILE PHUMELELE NKADIMENG

4th Applicant

and

THE MINISTER OF POLICE

1st Respondent

THE PROVINCIAL COMMISSIONER FOR GAUTENG,

SA POLICE SERVICE

2nd Respondent

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STEYN WILSON INC.

Applicants' Attorneys
 Unit 2, Hemel en Aarde Craft Village
 Cnr R43 and Main Road
 Sandbaai, HERMANUS
 Tel: (028) 316 3707
 Fax: (028) 316 3720
 E-mail: legal@steynlaw.co.za
 (Ref: JW/ml/JL0031)

C/O WA DU PLESSIS ATTORNEYS

Unit 402, Block 4
 379 Queens Crescent
 Lynnwood
PRETORIA
 P.O. BOX 36647
 Menlo Park
 0102
 Tel: (012) 348 3733 Fax: 086 542 0980
 E-mail: werner@wadp.co.za &
lieb@wadp.co.za
 Ref: WA DU PLESSIS/LIEB/WW3008

TO: THE REGISTRAR
 Gauteng Division of the High Court
 PRETORIA

AND TO: THE STATE ATTORNEY

1
COPY

W A DU PLESSIS ATTORNEYS
183
012 342 3525

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)

2016 -09- 16

CASE NO: 72747/2016

In the matter between

WILLEM HELM JOHANNES COETZEE

ANTON PRETORIUS

FREDERIK BARNARD MONG

and

THE MINISTER OF POLICE

THE PROVINCIAL COMMISSIONER FOR GAUTENG,

SA POLICE SERVICE

1st Applicant2nd Applicant3rd Applicant1st Respondent2nd Respondent

NOTICE OF MOTION

Kindly take notice that the Applicants intend to apply to this Honourable Court for an order in the following terms:

1. Reviewing and setting aside the decision by the Second Respondent as communicated to the Applicants on 4 May 2016, to refuse their applications for assistance with the payment of legal costs in a criminal matter, namely The State v MT Radebe and 3 others (case no CC19/16);

REGISTRAR OF THE HIGH COURT
GRIFTER VAN DIE HOOGGERECHTSHOF

2. Declaring that the Applicants are legally entitled to assistance by the SA Police Service with the payment of legal costs in the criminal matter of The State v MT Radebe and 3 others (case no CC19/16);
3. That the Second Respondent, and the First Respondent in the event of him opposing this application, be ordered to pay the costs thereof.

Take further notice that the Applicants have appointed Steyn Wilson Inc, Hermanus (ref J Wagener) as their attorney of record in this matter and appoint the address set out below as the address at which they will accept notice and service of all documents in these proceedings.

Take further notice that:

1. The Second Respondent is called upon to show why the relief sought by the Applicants, should not be granted;
2. The Second Respondent is required to dispatch a copy of the full record of the decision referred to above, together with any reasons for the decision that she may wish to file, to the Registrar of this court within 15 days of the service of this application and to notify the Applicants that she has done so;
3. The Applicants may, within 10 days after the Registrar has made the record of the proceedings available to them, by way of a notice and accompanying affidavits, add to or vary the terms of the notice of motion and affidavits attached thereto.

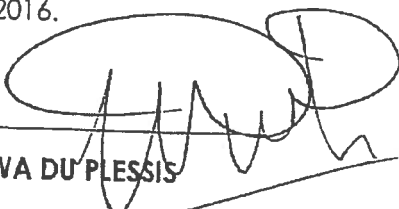
Take further notice that if any Respondent intends to oppose this application, he or she is required:

- (a) To notify the Applicants' attorneys within 15 days of receiving this application of such intention to oppose and in that notice appoint an address as referred to in Rule 6(5)(b) at which notice and service of all documents in these proceedings will be accepted; and
- (b) Within 30 days after expiry of the time referred to in Rule 53(4), file their answering affidavits, if any.

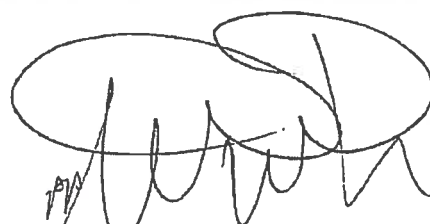
If no notice of opposition is given, the application will be made on 22 November 2016 at 10:00 or as soon as counsel on behalf of the Applicants may be heard.

Take further notice that the Applicants will rely on the attached affidavit of **Willem Helm Johannes Coetzee**, with annexures attached thereto, in support of this application.

Signed at Pretoria on this the 16th day of September 2016.


WA DU PLESSIS

Attorney with right of appearance in terms
of Section 4(2) of Act 62 of 1995


STEYN WILSON INC.

Applicants' Attorneys
Unit 2, Hemel en Aarde Craft Village
Cnr R43 and Main Road
Sandbaai, HERMANUS
Tel: (028) 316 3707
Fax: (028) 316 3720
E-mail: legal@steynlaw.co.za

(Ref: JW/ml/JL0031)
C/O WA DU PLESSIS ATTORNEYS
C/O WAGENER MULLER VERMAAK
ATTORNEYS
833 Stanzà Bopape Street
Arcadia
PRETORIA
P.O. BOX 36647
Menlo Park
0102
Tel: (012) 342 3525 **Fax:** 086 542 0980
E-mail: werner@wadp.co.za &
lieb@wadp.co.za
Ref: WA DU PLESSIS/LIEB/WW3008

TO: **THE REGISTRAR**
Gauteng Division of the High Court
PRETORIA

BY HAND

AND TO: **THE FIRST RESPONDENT**
The Minister of Police
7th Floor
Wachthuis
231 Pretorius Street
PRETORIA

BY SHERIFF

AND TO: **THE SECOND RESPONDENT**
The Provincial Commissioner for Gauteng
South African Police Service
16 Empire Road
Parktown
JOHANNESBURG

BY SHERIFF

**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NO 72747/2016

In the matter between

WILLEM HELM JOHANNES COETZEE

1st Applicant

ANTON PRETORIUS

2nd Applicant

FREDERIK BARNARD MONG

3rd Applicant

and

THE MINISTER OF POLICE

1st Respondent

THE PROVINCIAL COMMISSIONER FOR GAUTENG,

SA POLICE SERVICE

2nd Respondent

FOUNDING AFFIDAVIT: W H J COETZEE

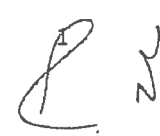
I, the undersigned,

WILLEM HELM JOHANNES COETZEE

do hereby make oath and state that:

THE PARTIES

1. I am a major male, residing at 15 Rooitou Street, Weltevredenpark, Roodepoort. I am the First Applicant in this matter.
2. The Second Applicant is Anton Pretorius, a major male residing at 20 Dunedin, 152 Malcolm Road, President Ridge, Randburg.
3. The Third Applicant is Frederik Barnard Mong, a major male residing at 5 Amm Street, Sonlandpark, Vereeniging.



4. The First Respondent is the Minister of Police, with office situated at 7th Floor, Wachthuis, 231 Pretorius Street, Pretoria.
5. The Second Respondent is the Provincial Commissioner for Gauteng, South African Police Service (SAPS), with office situated at 16 Empire Road, Parktown, Johannesburg.

THE RELIEF SOUGHT

6. No relief is sought against the First Respondent and he is merely cited herein insofar as he may have an interest in the matter as will be evident from the contents of this affidavit. Only in the event of him electing to oppose this application, will an order be sought for him to pay the costs thereof.
7. In this application, the Applicants seek an order in the following terms:
 - (a) Reviewing and setting aside the decision by the Second Respondent as communicated to the Applicants on 4 May 2016, to refuse their applications for assistance with the payment of legal costs in a criminal matter, namely The State v MT Radebe and 3 others (Case no CC19/16);
 - (b) Declaring that the Applicants are legally entitled to assistance by the South African Police Service with the payment of legal costs in respect of the criminal matter The State v MT Radebe and 3 others;
 - (c) That the Second Respondent, and the First Respondent in the event of him opposing this application, be ordered to pay the costs thereof.



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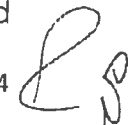
THE HISTORICAL BACKGROUND TO THIS APPLICATION

8. For the period 8 December 1969 to 30 April 1997 I was a member of the then South African Police (SAP), attached to the Security Branch. From April 1982 to December 1988 I served as the operational commander of the Intelligence Unit in Soweto. During 1983 the Second Applicant ("Pretorius") and the Third Applicant ("Mong") served in the same unit, and under my command. At the time, the unit was managed and supervised by the then Divisional Commander of the Security Branch, Soweto, Brig H Muller.
9. For purposes of intelligence gathering my unit was at the time instructed to focus on cross border insurgents and their infiltration from neighbouring countries.
10. During August / September 1983 we received intelligence information regarding an ANC operative infiltrating from Swaziland. Later her identity became known, namely Nokothula Simelane ("Simelane"). Our instructions from Brig. Muller were to apprehend Simelane and, if possible, to recruit her as an informer of the SAP, in particular the Intelligence Unit.
11. As a result, Simelane was abducted at the Carlton Centre in Johannesburg during September 1983, and detained at a safe premises for a few weeks, to allow for the lengthy process of interrogation and recruitment. Eventually that was successful, and Simelane was taken to the Swaziland border where she was released in order to go home.
12. However, Simelane failed to make any follow-up contact with us or our agents designated as her handlers. It can therefore only be assumed that she must have passed away under unknown circumstances.

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13. During 1996 the Truth and Reconciliation Commission was established to constructively deal with the political conflict of the past, which included an amnesty process. Members of the police involved in the abduction, interrogation and recruitment of Simelane, including the Second and Third Applicants and myself, duly filed amnesty applications in that regard. Eventually all those applicants were granted amnesty in respect of their involvement in the abduction and detention of Simelane. However, based upon different versions regarding her physical treatment, amnesty in respect of assault was refused to the Second and Third Applicants and myself.
14. It should be noted that nobody applied for amnesty regarding the death or murder of Simelane, as no policeman was involved in such actions and that the factual circumstances regarding her assumed death (as opposed to mere speculation) still remains a mystery to this day.
15. Since 2000 numerous allegations have been made, by the family of Simelane and others, that we (the Applicants herein) had killed her and should be prosecuted for her murder. That is despite our consistent denials and willingness to come forward and put the facts before the Amnesty Committee. In fact, we have throughout maintained that, had we killed Simelane, we would have included that in our amnesty applications in order to also receive amnesty for the alleged killing by us.
16. During 2015 the sister of Simelane, Thembisile Phumelele Nkadameng, launched an application in this Honourable Court for an order, inter alia, compelling the SAPS and the National Director of Public Prosecutions, to forthwith finalize the investigation into the assumed death of Simelane and to refer the matter to a formal judicial inquest. We, the Applicants herein, were also cited as Respondents in that application, but elected

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not to oppose the relief sought. To my knowledge, that application has not yet been finalised.

THE STATE V M T RADEBE AND 3 OTHERS

17. On 4 February 2016 we (the Applicants herein) were informed by Capt. TP Masegela of the SAPS that

- (a) He is the investigating officer in the matter of the death of Simelane;
- (b) The National Director of Public Prosecutions had decided that the three of us, together with MT Radebe, should be charged and prosecuted for the murder of Simelane;
- (c) Warrants for our arrest had been issued and were in his possession;
- (d) We were to appear in the Pretoria Regional Court on 26 February 2016 and should report at 08h00 on that day at the Pretoria Central police station to have the warrants executed and be taken to court.

18. We immediately instructed our longstanding attorney, Mr J Wagener of Steyn Wilson Incorporated, Hermanus ("Wagener") to represent us in the criminal matter and to apply on our behalf for assistance by the SAPS with the payment of legal costs in respect of that matter. That application will be dealt with hereunder. In a letter to Capt. Masegela, dated 5 February 2016, Wagener confirmed the position as set out in paragraph 17 above. A copy thereof is annexed hereto, marked "C1". I confirm that this letter and the other letters written by Wagner to which I refer later herein, were written in accordance with our instructions.

19. On 26 February 2016 we reported at Pretoria Central police station as mentioned above, where we were arrested and taken to the Pretoria Regional Court. The matter was postponed to 29 March 2016 and we, the accused, were released on bail of R5 000.00 each. We were duly represented by Wagener and counsel briefed by him.
20. On 29 March 2016 we again appeared in the Pretoria Regional Court, when the matter was postponed for trial in this Honourable Court for the period 25 July 2016 to 29 September 2016. We were again represented by counsel.
21. For reasons that will be set out hereunder, it became clear that the matter would not be ready for trial as stated above. We did, however, appear in this Honourable Court on 25 July 2016, duly represented by counsel. On that day Accused no 1, MT Radebe, gave notice of an, interlocutory application and the matter was postponed to 20 September 2016 for such application to be argued. At present that is the position regarding the criminal matter.
22. In the criminal matter, I am Accused no 2, with Pretorius as Accused no 3 and Mong as Accused no 4. Radebe is Accused no. 1

APPLICATIONS FOR ASSISTANCE WITH PAYMENT OF LEGAL COSTS

23. In a letter to the Divisional Commissioner: Legal Services, SAPS, dated 10 February 2016, Wagener applied for assistance with the payment of legal costs in the said criminal matter to myself and the Second and Third Applicants herein. A copy thereof is annexed hereto, marked "C2". Therein Wagener set out the extraordinary history and nature of the matter, pertaining to an incident that occurred 33 years ago and why we are legally entitled to the assistance as applied for.

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24. Due to the urgent nature of the matter, on 19 February 2016 Wagener sent a further letter to the Divisional Commissioner, Legal Services, requesting a response to the applications in question. A copy thereof is annexed hereto, marked "C3".
25. In response, in a letter dated 24 February 2016 and addressed to Wagener, the Divisional Commissioner: Legal Services indicated that all applications for legal representation at State cost must now be made in terms of Police Standing Order 109, in the prescribed format and an application form was attached. A copy of this letter is annexed hereto, marked "C4".
26. These applications were duly completed by myself, Pretorius and Mong and attached to a letter by Wagener to the Divisional Commissioner: Legal Services, dated 14 March 2016. A copy of the letter is annexed hereto, marked "C5".
27. On 15 April 2016 the full case docket in the criminal matter, running into hundreds of pages, was handed to me, Pretorius and Mong. Despite the fact that, at that stage, the criminal matter was set down for trial on 25 July 2016 to 29 September 2016, and as a result of our applications for assistance with legal costs not yet finalized, we were unable to brief our legal team for the trial as such and all consultations and preparation incidental thereto.
28. Therefore, on 20 April 2016, Wagener addressed a letter to the Divisional Commissioner: Legal Services, requesting an urgent response to the applications in question. A copy of that letter is annexed hereto, marked "C6".
29. On 4 May 2016, the Second Respondent herein addressed a letter to Wagener, stating that the applications for assistance with payment of

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legal costs by myself, Pretorius and Mong had been refused by her. Attached to that letter were the said three applications, reflecting the recommendations by certain functionaries within the SAPS, and the ultimate decision by the Second Respondent. I annex hereto copies of that letter, my own application for assistance, and the corresponding applications by Pretorius and Mong, marked "C7", "C8", "C9" and "C10" respectively.

Police Standing Order 109, regulating applications for assistance with payment of legal costs, was also annexed and a copy thereof is annexed hereto, marked "C11".

30. On 15 June 2016 Wagener addressed a letter to the Second Respondent, dealing with the unlawful nature of her decision to refuse the applications for assistance. He requested her to urgently reconsider the applications and grant the assistance as applied for, failing which a review application may be the only option left. This letter met with no response whatsoever and a copy thereof is annexed hereto, marked "C12".
31. In a last effort to avoid lengthy and expensive litigation, Wagener on 7 July 2016, addressed a further letter to the Second Respondent, stating that should a positive response not be received by 28 July 2016, a review application will be brought, including an appropriate order for costs. A copy of this letter is annexed hereto, marked "C13". A formal acknowledgment of receipt thereto was received, but no further response.
32. Therefore, it is clear that the Second Respondent has no intention of reconsidering her decision to refuse the applications for assistance as referred to, and leaving the Applicants with no alternative than bringing this application.

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APPLICATION FOR ASSISTANCE: WHJ COETZEE

33. This is my own application and, as stated, a copy thereof is annexed hereto, marked "C8".
34. Regarding Annexure "C8", the following should be noted:
- (a) Parts A to F thereof were duly completed by me and signed on 7 March 2016.
 - (b) As stated above, I left the SAPS on 30 April 1997. Furthermore, my commander during 1983, Brig. Muller, passed away during 1992. As a result, Part G of my application could not constructively and responsibly be completed by anyone.
 - (c) From the contents of Part H, it appears as if certain officials of the SAPS first considered my application and made recommendations to the Second Respondent and based upon that, she refused my application. Despite the clear wording of the prescribed form, namely "If the application is refused, the reasons for the refusal must be recorded in full", the Second Respondent elected not to give any reasons for her decision, leading to the only logical conclusion that she did not consider my application properly and merely endorsed the reasons advanced by the said officials, as reflected in Part H, paragraph (1) and (2) of Annexure "C8".
- 35 (a) From Part H, paragraph 1, it appears that an unknown Legal Administration Official received my application on 8 April 2016, with the statements of myself, Pretorius, Mong, ME Seputhi, ML Selamolela and MN Veyi as annexures. Pretorius, Mong and myself only annexed our own statements to our applications. The other three statements were not shown or made available to me, nor was



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I afforded an opportunity to deal therewith. Furthermore, it seems as if this official initially recommended my application, and only afterwards changed his/her opinion by stating that, on 11 April 2016, my application was not recommended.

- (a) The first reason advanced by this official is that I exceeded my powers when executing my duties, without stating which powers and which duties. No evidence exists or was put to me to respond to or challenge this bald allegation. It should be remembered that I, and also Pretorius and Mong, are charged with the alleged murder of Simelane in respect of which no direct evidence exists as to where, when and how it happened. As stated above, regarding her abduction and detention, we received amnesty and regarding the assault, Section 18 of the Criminal Procedure Act 51 of 1997 provides that no charges can presently be instituted against us anymore.
- (b) To refer to and rely on this first reason to deny my application, is clearly unlawful, as
- (i) It shows that the official in question and the Second Respondent relied on "evidence" unknown to me, without affording me an opportunity to react thereto, thereby rendering the action procedurally unfair;
 - (ii) It clearly demonstrates that the official and the Second Respondent were biased against me, or should reasonably be suspected of such bias;
 - (iii) That action was taken because irrelevant considerations were taken into account and relevant considerations were not considered, being, *inter alia* the issue of amnesty



previously granted to me and inat at present I am charged with murder and nothing else.

- (iv) The only reasonable deduction to be drawn, is that the action in question was taken in bad faith, arbitrarily or capriciously and for an ulterior purpose or motive and should be regarded as unconstitutional and unlawful.
- (c) The second reason advanced by this official to not recommend my application, is a "conflict of interest existing" due to different versions of facts offered by employees involved in the same incident. This is also clearly unlawful, as
- (i) The opposing versions seem to originate from the said statements of Seputhi, Selemolela and Veyi or other documents, which were not provided to me and with which I was not granted an opportunity to deal with;
 - (ii) In most criminal matters different versions of facts exist, often involving police officials and it is for the criminal court to eventually rule thereupon;
 - (iii) The only reasonable conclusion that I can draw is that the official in question and the Second Respondent took it upon themselves to prematurely decide on the correctness of the versions, and decided against my version;
 - (iv) To do so, was not authorised by the empowering provision and shows clear bias or a reasonable suspicion of bias on their part;

- (v) This also amounts to an action that was procedurally unfair and materially influenced by an error of law;
 - (vi) In this regard irrelevant considerations were taken into account, demonstrating bad faith and an ulterior motive or purpose on the part of the official and the Second Respondent acting arbitrarily or capriciously, thus rendering this action unconstitutional and unlawful.
- (d) The third reason advanced not to recommend my application, is that "it will be against the State or public interest to offer assistance". Once again, this is unlawful, as
- (i) The State, and specifically the SAPS, has a direct financial interest in the outcome of the criminal matter, as the eventual institution of a claim for damages against the Minister of Police (the First Respondent) is still a reality and dependant thereupon;
 - (ii) Accused receiving financial assistance from the State, is a daily occurrence in the courts of this country. Their legal rights in that respect, are firmly entrenched in the Constitution of South Africa. In fact, the opposite is true, namely that it will be directly in the public interest that accused in general, and myself specifically, be granted financial assistance as requested;
 - (iii) To rely on this reason, amounts to clear bias or a reasonable suspicion of bias on the part of the official and the Second Respondent and clearly such decision was taken for an ulterior

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purpose or motive, arbitrarily or capriciously and in bad faith, while not considering relevant considerations;

(iv) Such action by the official and the Second Respondent should therefore be declared as unconstitutional and unlawful.

(e) The fourth and last reason advanced in this paragraph is that "the State is a complainant". To rely thereon, is unlawful, as

(i) The State is definitely not a complainant in the criminal matter. On the case docket, as presented to me by the prosecutor, the mother and the sister of Simelane should be regarded as the complainants;

(ii) The reliance on this reason is totally irrational and an error in law, and can reasonably only be ascribed to bias, bad faith, an ulterior purpose or motive, taken arbitrarily and capriciously and rendering it irrational regarding the available information and the purpose for which it was done, and of the empowering provision;

(iii) Equally, this amounts to an unlawful and unconstitutional action.

36 From Part H, paragraph (2) of Annexure "C8", it appears that the Gauteng Head: Legal Services (Genl. Hendricks) then received and considered my application for assistance and on 25 April 2016 his decision was that it should not be recommended. In the process he added certain reasons for doing so.

(a) In this respect the following should be noted:

- (i) We are charged with a murder allegedly committed during 1983 at a time, place and in a matter unknown to the State. See in this regard a copy of the charge sheet annexed hereto, marked "C14". I, together with Pretorius and Mong, have throughout denied any involvement in and knowledge of the alleged murder and that is clear from my statement attached to Annexure "C8". My inability to complete paragraph 2 of Part D, is therefore understandable and should be regarded in that light and not as an irregularity of any nature or rendering my application defective.
- (ii) The fact that I omitted to enter my address, once again, in paragraph 1(b) of Part F, seems to be a mere oversight and of no consequence. Over the years I have given my full cooperation to the investigation team and was always available when called upon. Had I been alerted to this aspect, I would immediately have complied as requested;
- (iii) Part G of Annexure "C8" was also not completed. As previously stated, the alleged incident took place 33 years ago, I left SAPS 19 years ago and my commander of 1983, Brig Muller, passed away 24 years ago. Therefore, I was unable to have this part of the application properly completed. Under normal circumstances, where a policeman is criminally charged, everything will be contemporary, with his commander available to complete this part. In view of the well known unique nature of this matter, that was simply not possible. It can therefore not render my application as incomplete or defective;

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- (iv) For Genl. Hendricks and the Second Respondent to rely on this reason in order to have my application for assistance refused, clearly amounts to bias or at least a reasonable suspicion of bias on their part, and so reaching an irrational decision based upon an ulterior purpose or motive and taken in bad faith, arbitrarily and capriciously;
 - (v) Genl. Hendricks and the Second Respondent could easily have approached me in this regard, in order to set the record straight and I would immediately have complied. Their refusal to do so, renders this action procedurally unfair;
 - (vi) On this basis the action of the said functionaries is unconstitutional and unlawful.
- (b) The second reason advanced by Genl. Hendricks and relied upon by the Second Respondent, is that I do not work for SAPS anymore. Such reliance is unlawful, as
- (i) The fact that I left the services of SAPS during 1997, is legally irrelevant. What is relevant, is that I (and Pretorius and Mong) are charged with a criminal offence committed while being policemen and at the time, acting within the course and scope of our official duties as such. That gave us well established rights in terms of the predecessor of the present Standing Order 109, granting me the right to legal representation in matters of this nature;
 - (ii) It is common cause that an ex-policeman criminally charged for an offence committed while on duty and acting within the execution of this official mandate as such, will today be

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afforded financial assistance in terms of Standing Order 109, even where he has since then retired on pension or resigned; on condition that he complies with the other criteria as prescribed in the Order;

- (iii) Therefore, to refuse my application on this basis amounts to bias or a reasonable suspicion of bias, and action taken in bad faith, arbitrarily and capriciously, and for an ulterior purpose or motive. In that process, relevant considerations were clearly not considered, rendering the result unconstitutional and unlawful.
- (c) The last reason advanced by Genl. Hendricks and relied upon by the Second Respondent, is that "the recovery of any debt due to SAPS will be problematic". This is also unlawful as
 - (i) For serving members of SAPS, the Service has a form of surety in a specific member's accrued interest in the Government Employees Pension Fund or due by the Service. Should such member be criminally charged in the first few months of his service and this result in him having to pay back a substantial amount, it may be equally problematic for SAPS to recover such amount. Yet, that member is legally entitled to assistance (provided the other criteria are complied with). The same will apply to the ex-policemen referred to in the previous paragraph;
 - (ii) Furthermore, as mentioned in Annexure "C12", it was open to the Second Respondent to approach me for purposes of a possible alternative form of surety, which she decided not to do;

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(iii) This amounts to an action materially influenced by an error of law and taking irrelevant considerations into account and taken in bad faith, arbitrarily and capriciously, for an ulterior purpose and motive, based upon bias or a reasonable suspicion of bias. It led to an action not rationally connected to the purpose of the empowering provisions;

(iv) The result thereof, is an action that is unconstitutional and unlawful.

37 Lastly, on Annexure "C8" and on an unspecified date, the Second Respondent indicated that my application was not approved. As stated above, she advanced no specific reasons for her decision and it can only be assumed that she based her decision solely on the reasons advanced by the said Legal Administration Officer and Genl. Hendricks.

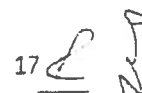
38 In the preceding paragraphs I have dealt with each of such reasons, the unlawful nature thereof and why the decision based thereupon, should be set aside. At the hearing of this matter, counsel will fully address the Honourable Court in this regard.

APPLICATION FOR ASSISTANCE: A PRETORIUS

39 This is the application by the Second Applicant and as stated above, a copy thereof is Annexed hereto, marked "C9".

40. Regarding Annexure "C9", the following should be noted:

(a) Apart from an extra note in paragraph (2) of Part D, the Second Applicant completed his application along the same lines that I did with mine (Annexure "C8").

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- (b) From the statement attached to his application, it is evident that the Second Applicant also left the SAPS on 30 April 1997 and finds himself in that respect in exactly the same position that I do.
41. Annexure "C9" seems to have gone through exactly the same procedure as my own application, Annexure "C8". It was also in the first instance dealt with by an unknown Legal Administration Official who initially recommended the application and then changed his/her mind to not recommend it. The four reasons advanced as basis of such recommendation are, although not in the same sequence, the same four reasons advanced in my own application (Annexure "C8") with which I have comprehensively dealt with above. All of that will equally apply to the Second Applicant's application.
42. Thereafter Annexure "C9" was considered by the Gauteng Provincial Head: Legal Services (Genl. Hendricks), who decided not to recommend same and in the process, once again, advanced the three reasons as he did in the case of my application (Annexure "C8"). I have comprehensively dealt with these reasons and that will equally apply to the Second Applicant's application (Annexure "C9").
43. As is evident from Annexure "C9", the Second Applicant's application was also eventually, on an unspecified date, refused by the Second Respondent. That she did, again, without advancing any reasons of her own and can it reasonably be assumed that she based her decision on the said reasons advanced by the Legal Administration Officer and Genl. Hendricks.
44. In view of the similar nature, content and history of these two applications (Annexure "C8" and "C9"), the same factual and legal principles apply. As stated, these were fully dealt with above and will

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therefore not be repeated here. However, the Honourable Court is requested to also apply that to the Second Applicant's application (Annexure "C9").

APPLICATION FOR ASSISTANCE: F B MONG

- 45 This is the application by the Third Applicant and as stated above, a copy thereof is annexed hereto, marked "C10".
- 46 Annexure "C10" differs in certain respects from Annexure "C8" and "C9", the main reason being that the Third Applicant is still a serving member of the SAPS. Therefore, I will deal therewith in more detail.
47. The Third Applicant duly completed Part A to F of the application form and signed it on 1 March 2016. To that he attached his own affidavit, dated the same day. His present commander, Col. Nomdoe, duly completed and signed Part G of the application where he concluded that the Third Applicant did indeed perform official duties at the time, date and place that the alleged criminal offence had been committed, that the Third Applicant obeyed his own commander's instructions at the time and that he qualifies for legal assistance as applied for. In that format, the application was attached to the letter of Wagener, dated 14 March 2016 (Annexure "C5") and forwarded to the SAPS.
48. From paragraph 3 of Part C of the application, it now appears that someone unlawfully "amended" the application by adding certain statements thereto as annexures without the consent or the knowledge of Mong. From the handwriting it appears as if this was done by the unknown Legal Administration Official that completed Part H, paragraph 1.

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49. As was the case with Annexures "C8" and "C9", this application was also received and considered by the unknown Legal Administration Official who, based upon reasons stated, decided not to recommend the granting thereof.
50. The four reasons in question are exactly the same as the four reasons advanced by this official when not recommending the applications of Pretorius and myself. With these reasons, and the unlawful nature thereof, I have fully dealt with in paragraph 35 above and to avoid unnecessary repetition, the Honourable Court is requested to apply that reasoning to Annexure "C10". To that can be added the unlawful "amendment" referred to in paragraph 48 above (the adding of further statements without the consent of or knowledge of Mong).
51. (a) As appears from Part H, paragraph 2 thereof, the application was then considered by the Provincial Head: Legal Services (Genl Hendricks). He decided not to recommend the application, stating his reasons for doing so.
- (b) In the first place he endorsed the four reasons advanced by the Legal Administration Official as referred to in the previous paragraph and my earlier response thereto, is therefore repeated.
- (c) Secondly, Genl Hendricks stated that: "The member was obeying an illegal instruction". It is not clarified what instruction is referred to, or in what respect Mong was obeying such "illegal instruction". However, it is important to remember that
- (i) Mong received amnesty for his part in the abduction and detention of Simelane;

- (ii) With reference to Section 18 of the Criminal Procedure Act, it is legally impossible to charge Mong for assault;
 - (iii) In any event, Mong is presently charged with murder and his application for legal assistance relates only to that charge. There is no evidence that Mong murdered Simelane, and even less evidence that in doing so, he was obeying any instructions; legal or illegal;
 - (iv) Mong was never granted any opportunity to respond to and deal with this aspect.
- (d) For Genl. Hendricks to rely on this reason, resulted in an action that was procedurally unfair and clearly influenced by bias, or at least what amounts to a reasonable suspicion of bias. Furthermore, it was materially influenced by an error of law, taken for an ulterior purpose or motive, in bad faith and arbitrarily or capriciously. That resulted in an action not rationally connected to the purpose of the empowering provision or the information available to him, leading to an unconstitutional and unlawful result.
- (e) Thirdly, Genl. Hendricks mentioned that Mong should apply for legal aid. Clearly that is not a reason at all for not recommending the application and need not to be dealt with herein.
52. Eventually, it appears that on 26 April 2016 the Second Respondent decided not to approve this application (annexure "C10"). As was the case with Annexures "C8" and "C9", she advanced no reasons as she was compelled to do in terms of the clear wording of the prescribed form and therefore it can be assumed that she only relied on the reasons advanced by the Legal Administration Official and Genl. Hendricks as dealt with above. Based upon that, I reiterate that the decision by the

Second Respondent, to refuse, the application of Mong, is unlawful and should be reviewed and set aside.

53. Furthermore, from the mere reading of the decision by the Second Respondent, a further alarming aspect becomes evident. Clearly her initial decision was "The application is approved", with comments: "The member must receive legal assistance". At a later stage, with a different pen and handwriting, it was changed to "The application is not approved" and "The member must not receive legal assistance, he can apply for legal aid". It is unclear what precisely occurred in this regard, but nevertheless, the end result demonstrates bias, or a reasonable suspicion of bias, a decision that was procedurally unfair and actuated by bad faith for an ulterior purpose or motive. Clearly relevant considerations were not considered, resulting in a decision taken arbitrarily or capriciously and not rationally connected to the information available. Such conduct is unlawful and should be reviewed and set aside.
54. At the hearing of this matter, counsel for the Applicants will address full legal argument to the Honourable Court as to why the decision by the Second Respondent not to approve the applications for legal assistance by the applicants as referred to, should be reviewed and set aside in accordance with the provisions of the Promotion of Administrative Justice Act (Act 3 of 2000).

REFERRAL BACK TO THE SECOND RESPONDENT OR NOT

55. I have been advised that, should the said decision be reviewed and set aside, the Honourable Court has a discretion either to refer the matter back to the Second Respondent to consider the applications for assistance afresh, or to decide the matter itself and, if so persuaded, to

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declare that the Applicants have made out a proper case and are legally entitled to assistance by the SAPS with the payment of legal costs in the criminal matter of The State v MT Radebe and 3 others (Case no CC19/16).

56. From the contents of this affidavit and the annexures thereto, I contend that it is abundantly clear that the Second Respondent and other senior members of SAPS were acting in bad faith, capriciously and arbitrarily, for an ulterior purpose or motive when dealing with the three applications for assistance and will probably do so once again should the matter be referred back.
57. All the relevant evidence is now before this Honourable Court, putting it in the best position to take the decision itself.
58. For obvious reasons the Applicants herein are keen that the criminal matter commence and be disposed of as soon as possible, without any further and expensive delays that will probably result should the matter be referred back.
59. Also in this regard, and at the hearing of this matter, will counsel for the Applicants address full legal argument to the Honourable Court.
60. Insofar as I have dealt herein with the individual positions of the Second and Third Applicants, and as required by law, the confirmatory affidavits of Anton Pretorius and Frederick Barnard Mong are annexed hereto, marked "C15" and "C16" respectively.
61. For all the reasons set out herein, I state that a proper case is made out for the relief as requested in the notice of motion, including an appropriate award of costs.

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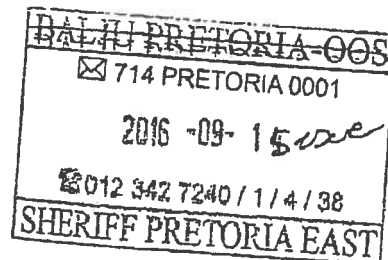
W H J COETZEE

The deponent has acknowledged that he knows and understands the contents of this affidavit which was signed and sworn to before me at Pretoria on this the 15 day of September.

2016. In administering this oath, the requirements of Regulation R1258 dated 21 July 1972, as amended, have been fulfilled.

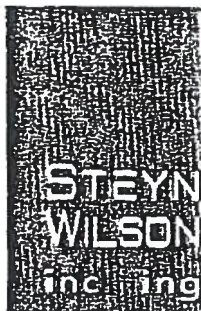


COMMISSIONER OF OATHS



MAGDALENA HENDRINA MAGRIETHA SCHEUER
Kommissaris van Ede/ Commissioner of Oaths
Ex Officio Adjunk Balju / Deputy Sheriff
Pretoria OOS / EAST
813 Stanza Bopape (Previously Church)
Arcadia, PRETORIA





+27 12 312 1111 1111
+27 12 312 1111
Legal Secretary: 2013/142144/21

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference: JW/ml/JL0030

Date: 05 February 2016

CAPT. A MASEGELA
SA POLICE SERVICE
PRETORIA

BY E-MAIL: masegelat@saps.gov.za

Dear Capt.

RE: THE STATE V W H J COETZEE AND 3 OTHERS

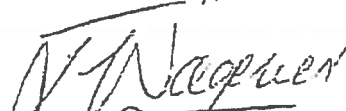
1. I refer to our telephonic conversation of 04 February 2016 and wish to confirm the following:
 - 1.1 I represent the following accused in this matter:
 - (a) W H J Coetzee;
 - (b) A Pretorius;
 - (c) F B Mong;
 - 1.2 Warrants for the arrest of my clients have been issued and are in your possession, being the Investigating Officer herein;
 - 1.3 The accused must appear in the Pretoria Magistrates Court (Court 16) at 09h00 on 26 February 2016;
 - 1.4 It will not be necessary for you to execute the warrants before 26 February 2016, as I have undertaken to arrange for my clients to report to you at Pretoria Central police station at 08h00 on that day for



purposes of administrative formalities. This has already been discussed with and agreed to by my clients;

- 1.5 You have requested that my clients meet with you on an earlier date for purposes of finger prints. This will be finalized within the next few days and I will keep you updated;
- 1.6 You have undertaken to forward to me the 3 warrants in question and in that regard I look forward to your urgent response.
2. Regarding the issue of bail, the following is put on record:
 - 2.1 My clients have fixed jobs and residential addresses and definitely pose no flight risk at all. (Mong is still a member of SAPS);
 - 2.2 Furthermore, no risk exists that my clients may interfere with State witnesses or fail to appear in court on duly scheduled dates;
 - 2.3 In view of the aforesaid, you are kindly requested to indicate your attitude regarding bail to my clients;
 - 2.4 Kindly also forward to me the name and contact detail of the prosecutor in question. I wish to contact him/her in order to negotiate the issue of bail.
3. With reference to paragraph 1.6 and 2.4 above, I look forward to your urgent response.

Yours faithfully,

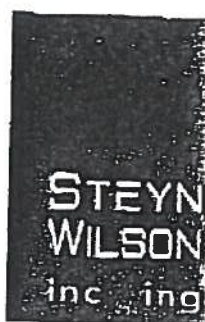

STEYN WILSON ING/INC

Per: J Wagener



31

"C2" 31



+27 (28) 316 3707 / 2384

+27 (28) 316 3720

legal@steynlaw.co.za

Unit 2 | Hemel-en-Aarde Craft Village
 cnr R43 and Main Road | Sandbaai
 PO Box 1005
 Hermanus
 7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference:

LW/ml/JL0030

Date:

10 February 2016

THE DIVISIONAL COMMISSIONER
 LEGAL SERVICES
 SA POLICE SERVICE
 PRETORIA

URGENT

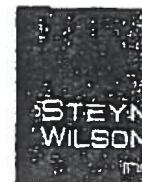
BY E-MAIL: molefe@saps.gov.za

Dear Genl. Molefe

RE: THE STATE / W H J COETZEE AND 3 OTHERS

1. In this matter I represent the following individuals:
 - (a) Willem Helm Johannes Coetzee ("Coetzee");
 - (b) Anton Pretorius ("Pretorius");
 - (c) Frederick Barnard Mong ("Mong").
2. The National Prosecuting Authority has now decided to prosecute my clients on a charge of murder resulting from the well known Nokothula Simelane ("Simelane") matter that took place during September 1983. Warrants for their arrest have been issued and copies thereof are attached hereto marked "JW1", "JW2" and "JW3" respectively.
3. Presently the case is scheduled for the Pretoria Magistrate Court on 26 February 2016, but I expect it to be transferred to the High Court for hearing and finalization.

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4. The purpose of this letter is to apply for legal representation to be afforded to my clients at the cost of SAPS and the motivation thereof will be set out hereunder.
5. At the time of the incident in question, Coetzee, Pretorius and Mong were members of the Security Police in Soweto. Coetzee and Pretorius left the department about 20 years ago, but Mong is still a member serving in the Vereeniging crime intelligence unit.
6. Briefly, the incident can be summarized as follows:
 - 6.1 The Soweto Security Police received information that a specific MK operative, Simelane, would infiltrate the Republic via Swaziland and travel to Johannesburg to link up with other operatives;
 - 6.2 The police decided to ambush and kidnap Simelane before she could do any harm, and then to detain and question her with the ultimate purpose of recruiting her as an informer. At the time, this proved to be normal and often successful strategy in matters of this nature;
 - 6.3 Duly authorized by their commander, a team led by Coetzee embarked on the operation as set out. The team included Pretorius, Mong and other members;
 - 6.4 As planned, Simelane was confronted and abducted in the parking garage of the Carlton Centre and taken to the Norwood Police quarters where she was detained and questioned for a short period;
 - 6.5 Thereafter she was taken to a farm in the Northam district where she was further detained and questioned. Eventually this lasted for about 3 weeks and during this period Simelane was subjected to assaults and maltreatment;
 - 6.6 Eventually the members were successful in recruiting Simelane, whereafter she was duly briefed and taken by Coetzee and Pretorius to the present Mpumalanga where she was dropped near the Swaziland border to enable her to reach that country on her own;

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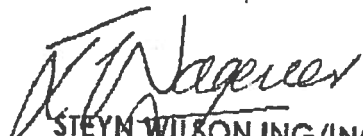
- 6.7 During 1995 the Truth and Reconciliation Commission was established, and that included a process where perpetrators of the political conflict of the past, could come forward and apply for amnesty in that regard;
- 6.8 As part of that, Coetzee, Pretorius and Mong filed amnesty applications in respect of various unlawful acts committed during the said conflict, as members of the police and acting in the course and scope of their duties and within the scope of their authority, against a publicly known political organisation engaged in a political struggle against the State. This included the Simelane incident where amnesty was applied for in respect of kidnapping, unlawful detention and assault;
- 6.9 Eventually amnesty was granted for the kidnapping and detention, but denied in respect of the assault, the reason being that the Amnesty Committee found that my clients had failed to make a full disclosure regarding the severity of the assaults;
- 6.10 It should be noted that the operation in question was not a "frolic of their own", but duly authorized and for that reason full legal representation was granted by SAPS in respect of the TRC proses;
- 6.11 It is common cause that Simelane was never seen again, but where and how she died (if at all), remains a mystery. My clients did not seek amnesty for her death, as they have throughout denied killing her. Speculation is rife, even that MK may have killed her themselves;
- 6.12 Although privileged in a later court of law, the full record of the amnesty proceedings is available on the internet, included the ruling by the Amnesty Committee.
7. In terms of their conditions of employment as policemen, and with reference to the aforesaid, it is submitted that my clients are legally entitled to be afforded legal presentation herein.
8. Due to the fact that a relationship of trust has been established with me over a period of some decades, it is requested that Steyn Wilson Inc be appointed to represent the clients (obviously excluding costs occasioned by the fact that they practise from Hermanus).

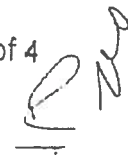
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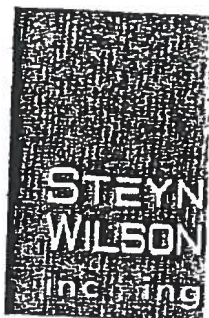


9. Clearly this will be a high profile and difficult matter to conduct through a full hearing. Therefore, it is also requested that at least appropriate Junior Counsel be briefed on behalf of the clients.
10. Due to the time constraints herein, I look forward to your urgent response. Should you require further particulars, you are kindly requested to contact me immediately (082 416 6041)

Yours faithfully,


STEYN WILSON INC/INC
Per: J Wagener





+27 (28) 316 3707 / 2384
+27 (26) 316 3720
legal@steynlaw.co.za

Unit 2 | Hemelen-Aarde Craft Village
cnr R43 and Main Road | Sandbaai
PO Box 1005
Hermanus
7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference: LW/ml/JL0030

Date: 19 February 2016

THE DIVISIONAL COMMISSIONER
LEGAL SERVICES
SA POLICE SERVICE
PRETORIA

URGENT

BY E-MAIL: molefej@saps.gov.za

Dear Genl. Molefe

RE: THE STATE / W H J COETZEE AND 3 OTHERS

- I refer to my letter dated 10 February 2016 and now look forward to your kind response.

Yours faithfully,

p.p. 
STEYN WILSON ING/INC
Per: J Wagener

South African Police Service Suid-



Afrikaanse Polisie diens

Private Bag Privaatsak	X 94	Fax No: 012 - 393 7097 Faks No:
Your reference/U verwysing:	LW/ml/JL0030	THE DIVISIONAL COMMISSIONER
My reference/My verwysing:	14/18/2/1	LEGAL AND POLICY SERVICES
Enquiries/Navrae:	Brig ED Groenewald	PRETORIA
Tel: 012 - 393 7068		0001
		2016-02-24

STEYN WILSON Inc.
PO Box 1005
Hermanus
7200

Dear Mr J Wagener

THE STATE / WHJ COETZEE AND 3 OTHERS

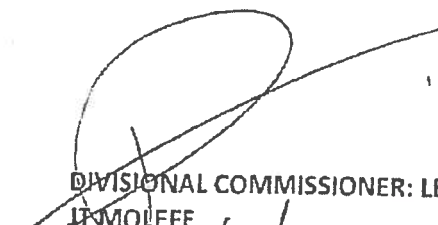
Your letter dated 10 February 2016 refers.

Kindly note that in terms of prescribed policies all applications for legal representation at State cost must be made in the prescribed format.

Attached, please find the application form. Furthermore your attention is drawn to paragraphs 4 and 5 of Standing Order 109, a copy of which is attached.

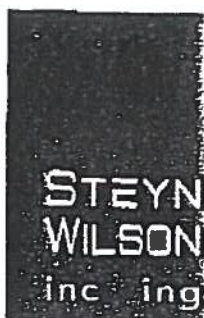
Once the prescribed applications are received same will be considered and the decision conveyed to yourself.

Yours sincerely,


DIVISIONAL COMMISSIONER: LEGAL AND POLICY SERVICES
J. MOLEFE
Date: 24/2/2016

LIEUTENANT GENERAL
DIVISIONAL COMMISSIONER: LEGAL AND POLICY SERVICES





+27 (28) 316 3707 / 2384

+27 (28) 316 3720

legal@steynlaw.co.za

Unit 2 | Hemel-en-Aarde Craft Village
cnr R43 and Main Road | Sandbaai
PO Box 1005
Hermanus
7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference: _____

Our Reference: LW/ml/JL0030

Date: 14 March 2016

THE DIVISIONAL COMMISSIONER
LEGAL AND POLICY SERVICES
SA POLICE SERVICE
PRETORIABY E-MAIL: molefe@saps.gov.za

Dear Genl. Molefe

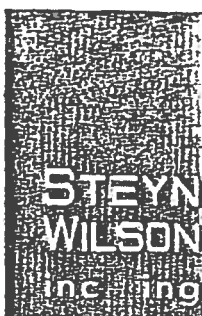
RE: THE STATE / W H J COETZEE AND 3 OTHERS

1. Your letter dated 24 February 2016 refers.
2. Attached hereto are the applications of my clients.
3. You will note that Coetzee and Pretorius were unable to complete Part G of the application. They are simply unable to do so. Their commander during 1983, Brig Muller, passed away about 20 years ago. Kindly indicate whether this will suffice, alternatively, I look forward to your advice in this regard.
4. On 26 February 2016 my clients were arrested and brought before the Pretoria Magistrates Court. The matter was postponed to 29 March 2016, when a trial date in the Pretoria High Court will be established. A bail application was brought successfully and my clients were released on bail of R5 000.00 each.
5. I look forward to your urgent response in this regard.

Yours faithfully,

P.P.
STEYN WILSON INC/INC

Per: J Wagerer

41
A1 C6

+27 (28) 316 3707 / 2384 Unit 2, Hemelen-Aarde Craft Village
 +27 (28) 316 3720 on R48 and Main Road | Sandbaai
 legal@steynlaw.co.za PO Box 1005
 Hermanus 7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference: LW/ml/JL0030

Date: 20 April 2016

THE DIVISIONAL COMMISSIONER
 LEGAL AND POLICY SERVICES
 SA POLICE SERVICE
 PRETORIA

BY E-MAIL: molefej@saps.gov.za

Dear Genl. Molefe

RE: THE STATE / W H J COETZEE AND 3 OTHERS

1. My letter dated 14 March 2016 refers.
2. On 29 March 2016 the matter came before the Pretoria Regional Court.
3. On the date, the matter was postponed to the Pretoria High Court for trial from 25 July 2016 to 29 September 2016.
4. In view of the aforesaid, my clients must now retain the services of counsel for the trial and commence with the necessary consultation and preparation. The case docket (running with hundreds of pages) has already been handed to us.
5. Therefore, I look forward to your urgent response regarding the applications for assistance with the payment of legal costs herein.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'J. Wagener', is written over a horizontal line.

STEYN WILSON ING/INC

Per: J Wagener

Handwritten initials, possibly 'JW' or 'JC', written in dark ink.

42

"C7"

42

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Private Bag /Privaatsak X 57 Braamfontein 2017

Verwysing
 Reference LW/MLJL0030
 Navrae
 Enquiries Brig Rambachan-Naidoo
 Telefoon
 Telephone (011) 274 -7895
 Fakshommer
 Fax number (011) 274 -7577

OFFICE OF THE
 PROVINCIAL COMMISSIONER
 SOUTH AFRICAN POLICE SERVICE
 GAUTENG

2016-05-04

Attorneys Steyn Wilson Inc
 PO Box 1005
 HERMANUS
 7200

Att: Mr Wagener

Per Fax: 028 316 3720

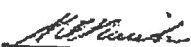
RE: THE STATE/ WHJ COETZEE AND 3 OTHERS: APPLICATION FOR STATE DEFENCE

The above matter has reference.

Kindly find attached, decisions taken on the following applications:

- a. Lieutenant F.B. Mong – not approved;
- b. Lt Colonel W.H.J. Coetzee – not approved; and
- c. Lt Colonel A. Pretorius – not approved.

As discussed, the three applications and Standing order (General) 109 have been e-mailed to janwagener1@gmail.com.

 BRIGADIER
 SECTION HEAD: LEGAL SERVICES: GAUTENG
 N RAMBACHAN-NAIDOO

2016-03-14 12:49:12 REVMS127151-1 R283152026 SS

11/23/11

43



APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS OR INQUIRIES

COMPLETION INSTRUCTIONS

1. An applicant must take cognisance of the contents of Standing Order (General) 109 before completing the Application.
2. The application must be completed in full.
3. The commander of the applicant must provide reasonable support to the applicant.
4. All information contained in the Application is treated as confidential.
5. Information contained in the Application may only be disclosed as determined by paragraph 3(2) of Standing Order (General) 109.
6. The applicant and the witnesses must initial every page of the application and Annexure at the bottom of every page.

PART A: PARTICULARS OF APPLICANT

I, Person no 553984 rank 1st Lt full names and surname Willen H.J. Coetzee
 stationed at Security Branch Soweto 1983
 (name and postal address of place of employment) with office phone number
 cell no: 082-8641664 fax number
 residing at 15 Montane Complex Rooftop St. Veleurekpark, Roodepoort
 and postal address as above
 hereby, subject to the terms and conditions set out in the Application and Standing Order (G) 109, apply for legal representation paid for by the Service (hereinafter referred to as "assistance") for my defence against the charge(s) set out in Part B of the Application.

PART B: PARTICULARS OF CHARGES

I hereby apply for assistance in my defence against the charge(s) of having committed the following offence(s):
Murder 1983. Allegedly committed during Sept 1983
 (state the alleged crime(s) and the date(s), time and place(s) when and where they were allegedly committed)
 registered at Johannesburg Central
 (state name and address of police station where alleged offence was registered) CAS no 1469/00/1986
 that is being investigated by rank Captain initials and surname of
 Investigating officer A. Masegele
 with office phone number () and cell no. 0821198543
 Court where the case is to be heard: Prothon. Magistrate
 Date of first appearance: _____

[Handwritten signatures and initials]

2017-12-10 12:51 019344 00283132026 >>

44

2017/12/23

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS
PART C: INFORMATION AND DOCUMENTATION TO BE SUPPLIED IN SUPPORT OF THE APPLICATION

Completion instructions:

- (a) *Delete, whichever is not applicable.
- (b) If a warning statement has been obtained, a copy thereof must be attached to the application and clearly marked as such.
- (c) If the applicant did not make a warning statement concerning the allegations, the commander of the applicant must personally take a statement from the applicant. This statement is not a warning statement and must contain the complete response of the applicant to the alleged offence(s) and must be attached to the application and clearly marked as such.
- (d) Copies of all documents that may be relevant to the case (eg the charge sheet, summons, etc.) and all documents to which the applicant may have access to in accordance with his or her rights in terms of section 35(3)(a) of the Constitution, must be obtained and attached as Annexures to the application. If the offence(s) relate(s) to the use of a motor vehicle, copies of the driving licence and state authorisation of the applicant must also be attached.
- (e) A factual report summarizing the facts of the matter and submitted together with the application form.

- (1) ~~I have not made a warning statement in the case.~~
- (2) My statement of what had transpired on the date, time and place that I have allegedly committed the offence(s) in PART B above, is attached as Annexure _____.
- (3) The following documents relevant to the case / no documents are attached to the application:

PART D: GROUNDS FOR APPLICATION

Completion instructions:

- (a) Complete only subparagraph (1) OR (2) and (3).
- (b) *Delete, whichever is not applicable.
- (c) If the applicant wishes to elaborate on the grounds for or further motivate his or her application, he or she may attach such motivation to the application.

- (1) I certify that I was not present at the date, time and place where the alleged offence had taken place, nor did I in any way participate in the commission of the alleged offence. At the time and date that the alleged offence was committed, I _____
 (state details of your alibi)

The following persons can corroborate my alibi:

 (state name and contact details of person(s), if any, that can corroborate your alibi)

OR

- (2) I acknowledge that I was present at the date, time and place where the offence had allegedly been committed. I certify that on _____
 (time) I was on _____ 20_____, at _____
 duty at _____
 (place)
 performing _____
 (state nature of the duty performed)

- (3) I certify that I am not disqualified for assistance in terms of paragraph 4 of Standing Order (G)109.
 Consolidation Notice 9 of 2015

1076-03-14 12:53 STEYN

0283132025

P 13/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

PART E: PARTICULARS OF LEGAL REPRESENTATION REQUESTED

Completion Instructions:

- (a) Delete, whichever is not applicable
 (b) Complete only subparagraph (1) OR (2)
 (c) If subparagraph (2) is completed

(1) I apply to be presented by the state attorney

OR

(2) I apply to be presented by Mr J Wagoner

(Initials and surname of attorney) of the firm Steyn Wilson Inc., Hermanus

(name, street and postal address, telephone number and fax number of attorneys firm)

(Please note: Should the applicant elect to nominate an attorney, the State Attorney will negotiate the fees or a tariff with the attorney. Any additional fees (exceeding the negotiated fees or tariff) charged by the attorney will be claimed by the attorney from the above-mentioned applicant.)

PART F: UNDERTAKING AND AGREEMENT BY APPLICANT

(1) I undertake to, should assistance be granted to me, —

- (a) collect any document, notice or certificate to be delivered to, or served on me or to provide any document, notice or certificate required from me, in terms of the Application, the rules of any court of law or Standing Order (General) 109, at the place, time and on the date that I am notified to do so by my commander, or a person acting on his or her behalf;
- (b) accept service or delivery of any document or notice in terms of the Application, the rules of any court of law or Standing Order (G) 109, at the understated address, which address I hereby chose as my domicilium citandi et executandi: (state full particulars: town or city, suburb and street address)

- (c) immediately notify my commander in writing if any of my contact particulars as stated in PART A change; and
- (d) repay all expenses incurred by the State in providing assistance to me, upon notification by the Service that the Application for assistance would not have been approved, if the finding of the presiding officer was known at the time when the application was considered, after the presiding officer at a trial made a finding that contradicts any fact stated by me in the Application or in any document that I provided in support of the Application.

(2) I agree that any assistance granted to me, will be subject to —

- (a) a certificate issued by the Service, stating that an amount as specified in the certificate, is due by me to the Service in accordance with Part F (1)(d), serving as proof that such an amount is the expenditure incurred by the Service in respect of assistance or legal representation in accordance with the Application;
- (b) the condition that an amount as specified in a notice in accordance with Part F (1)(d), may be deducted from my salary, or should I for any reason cease to be employed by the Service, subject to the provisions of section 21 (3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996) may be deducted from any amount due to me by the Government Employee Pension Fund or the Service;
- (c) the amount, determined by the Service in accordance with paragraph 9(2)(a) of Standing Order (General) 109, being retained from any money due to me by the Government Employee Pension Fund or the Service, if the case is not concluded upon the termination of my employment in the Service (the amount retained will not bear any interest); and
- (d) the assistance being cancelled by the Service (after consultation with the State Attorney) during any phase of the criminal proceedings, if any fact comes to light that, would it have been known at the time when the application was considered, the assistance would not have been approved.

(3) I declare that I am aware of the provisions of section 21(3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996), regarding deductions in terms of and according to that section from any annuity or

Consolidation Notice 9 of 2015

Page 3 of 7

[Handwritten signatures and initials]

2016-03-14 12:55 STEVA

p 14/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

benefit payable to me upon my retirement or discharge in respect of an amount due by me to the State owing to a decision contemplated in this agreement and Standing Order (General) 189.

- (4) I understand that, should I elect not to use the State Attorney, I will personally be liable to pay fees charged by the attorney in excess of the applicable tariff determined by the State Attorney.

I, Sillem Helm Johannes Coetzee

(initials and surname) hereby acknowledge that I understand and agree to the conditions set out above.

Signed at Randepool on 17th March 2016 in
the presence of the undersigned witnesses.

Coetzee
SIGNATURE OF APPLICANT

[Signature]
SIGNATURE OF WITNESS

[Signature]
SIGNATURE OF WITNESS

[Signature]

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS
PART G: RECOMMENDATION BY COMMANDER

Completion instruction:
"Delete, whichever is not applicable."

- (1) I, Person no _____ rank _____
(full names and surname) _____
certify that I am the commander of (initials and surname of applicant) _____
- (2) I have perused the Application and have made such further inquiries into the matter as I deem necessary, in order to satisfy myself as to the correctness of the reasons provided in subparagraph (3) and (4) hereunder.
- (3) I am/am not of the opinion that the applicant was performing official duties at the time, date and place that the alleged criminal offence(s) referred to in PART B was committed. The reasons for my opinion are —

- (4) I am/am not of the opinion that the applicant qualifies for assistance in accordance with the criteria as set out in PART D (3). The reasons for my opinion are —

- (5) I recommend that —

- Signed at _____ on _____ 20 _____

SIGNATURE OF COMMANDER _____

(If the space provided is insufficient, please attach additional pages)

2025

P. 16.252

Notes for the completion:
-Delete, whichever is not applicable.
If the application is refused, the reasons for the refusal must be recorded in full.

~~Sikander Singh Bicol W-413 Cozzer, ME Supt., ML Sakamach, MN Vij:~~

Comments / reasons:

SIGNATURE OF LEGAL ADMINISTRATION OFFICIAL

DATE _____

Address:

Office phone no. () cell no. Fax no. ()

(2) THE APPLICATION IS ~~RECOMMENDED~~ NOT RECOMMENDED.

Comments / reasons:

SIGNATURE OF PROVINCIAL HEAD: LEGAL SERVICES
EXECUTIVE LEGAL OFFICER

DATE _____



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2013-03-24 17:35 5.1.13

1253-32025 >>

F 4/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

PART C: INFORMATION AND DOCUMENTATION TO BE SUPPLIED IN SUPPORT OF THE APPLICATION

Completion instructions

- (a) Delete whichever is not applicable.
- (b) If a warning statement has been obtained, a copy thereof must be attached to the application and clearly marked as such.
- (c) If the applicant did not make a warning statement concerning the allegations, the commander of the applicant must personally take a statement from the applicant. This statement is not a warning statement and must contain the complete response of the applicant to the alleged offence(s) and must be attached to the application and clearly marked as such.
- (d) Copies of all documents that may be relevant to the case (eg the charge sheet, summons, etc.) and all documents to which the applicant may have access to in accordance with his or her rights in terms of section 35(2)(a) of the Constitution, must be obtained and attached as Annexures to the application. If the offence(s) relate(s) to the use of a motor vehicle, copies of the driving licence and state authorisation of the applicant must also be attached.
- (e) A factual report summarizing the facts of the matter and submitted together with the application form.

(1) I have/have not made a warning statement in the case.

(2) My statement of what had transpired on the date, time and place that I have allegedly committed the offence(s) in PART B above, is attached as Annexure "A"

(3) The following documents relevant to the case / no documents are attached to the application:

1. F.B. Ntong Statement, Commissioner's Statement, Affidavit by Mr. Septh
Mr. Setafoela and Mr. Veyi, Lt Col Potlako, Lt Col W.H. Coetzee

PART D: GROUNDS FOR APPLICATION

Completion instructions

- (a) Complete only subparagraph (1) OR (2) and (3).
- (b) Delete whichever is not applicable.
- (c) If the applicant wishes to elaborate on the grounds for or further motivate his or her application, he or she may attach such motivation to the application.

(1) I certify that I was not present at the date, time and place where the alleged offence had taken place, nor did I in any way participate in the commission of the alleged offence. At the time and date that the alleged offence was committed, I _____
(state details of your alibi)

The following persons can corroborate my alibi _____

(state name and contact details of person(s), if any, that can corroborate your alibi)

OR

(2) I acknowledge that I was present at the date, time and place where the offence had allegedly been committed

I certify that during September 1993 I was on duty and stationed at the Intelligence Unit of the Former Security Branch in Soweto, performing normal intelligence work

(3) I certify that I am not disqualified for assistance in terms of paragraph 4 of Standing Order (G)109

F.B. Ntong

2016-03-14-12:56 STEPHEN 0283132025 >>

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17/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

THE APPLICATION IS APPROVED / NOT APPROVED

Comments / reasons:

NOT approved member to apply for assistance
for legal aid

NATIONAL COMMISSIONER / PROVINCIAL COMMISSIONER

DATE

(If the space provided is insufficient, please attach additional pages)

Lp

20.6.05-14 12:58 STEYN

0283132026 > >

P 18/28

Willems Helm Johannes Coetzee, Id No 520409 50 90083
States in English under oath:

I'm an adult male resident at 15 Montana, Rooitou Street, Watterbeddenspark Roodespoort;
Contact No 0828641664:

I was for the period 8th December 1969 to 30th April 1997 a member of the South African Police Services, I was for the duration of my services / career in the South African Police Services attached to the Security Branch. I was since April 1982 to December 1988 attached to the Security Branch Soweto. I was the Operational Unit Commander of the Intelligence Unit. The Unit operated from the Soweto Security Branch Offices:

The unit was managed and supervised by the then Divisional Commanders of Soweto. The unit was task by the above-mentioned to focus / concentrate on Intelligence gathering. Priority crimes / threats were therefore identified and subject to the unit for attention. Reports were in this regard on an ongoing basis forward to the Divisional Commanders (Head of the Security Branch Soweto) for attention:

Brig Muller was for the period January 1983 our Divisional Commander / Head of the Security Branch Soweto. The unit was at the time instructed to focus on cross border insurgents and their infiltration from neighbouring countries into South Africa. This was necessary due to the escalation of cross border trafficking of arms and explosives to South Africa for terror attacks / destabilisation of the country etc:

For the purpose of these investigations we made use of agents (agents consist of ad hoc informers / Seps members). We focus at the time on various neighbouring countries to address the threat effectively and to obtain the required intelligence. During the period 1983 the unit increased in infiltrating some of these networks which included a network operating from Swaziland. The agents soon obtained access to some of the contact structures which enable the unit to monitor pre planned operations in South Africa. Agents were constantly instructed to assist this military network in Swaziland with military tasks. They were in this regard crash course (trained) in Swaziland and armed for terror attacks inside South Africa:

The existence of these groups in Swaziland included the identity of some of them were coordinated with Head Office. At some stage cross border terror acts against members of the SADF at Johannesburg could have been diverted by the unit to prevent the possible death / injuries of SADF members on parade. Instructions to monitor the movements of this group / cross border trafficking of explosives and arms soon became a key priority of the unit. Intelligence was daily forward to Head Office for attention / tasks to the Eastern Transvaal Region:

Agents involved were based on the seriousness of the insurgents pre planned terror attacks also debriefed by a senior officer attached to Head Office. At some stage the agents were instructed to meet a person from Swaziland at the Carlton Centre. It was communicated as an important person who would forward instructions to the agent's cell group. It was at this stage known that these instructions are directly link to Inter alia: -

- The agents support services to cross border insurgents;
- Arrangements for safe house / accommodation of insurgents send to South Africa (Witwatersrand Area);
- Recruitment / training of cell members at the Johannesburg / Soweto areas;
- Cross border trafficking of arms / explosives etc (At this stage the agents constantly transported explosives on instructions of the Swazi based group to South Africa for terror attacks):

Intelligence above was coordinated with Head Office. With the arrival of the contact person in South Africa / Johannesburg area, the unit were instructed by Brig Muller to monitor the person movements with his / her contact with one of the agents and to arrest the person for his / her detention. As a possible alternative to the arrest / detention authorization was obtained from Brig Muller to recruit the person if possible as an in place agent hence the person cooperate with the unit / reveal her / his own and the Swazi group cross border activities:

The person identity only became known to the unit on the date (possibly September 1983) she made contact with one of the agents at the Carlton Centre. We then realize that the contact person happens to be a woman. As pre-arranged with members of the unit including the agent the person was arrested at a basement parking area. The contact person was thereafter taken to the SAPS Nomad Married Quarters for interrogation and clarify Re her visit and contact with the agent. It was evident that the contact person could be recruited as an in place agent at the pre start-up phase of her arrest and interrogation. Important intelligence and a confession

Coetzee

EP

2016-03-14 13:01 STEYN

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P 19/28

Re her contact with the agent / purpose of her cross border visit to Johannesburg was revealed by the above mentioned.

After a short period of time I reported the arrest / contents of her ad hoc confession to Brig Muller. On instructions of Brig Muller, I visit him at his residence thus to brief him in detail about the identity of the contact person / purpose of her visit to Johannesburg and contact with the agent. Her recruitment was in, briefed discussed at the time hence Brig Muller had to discuss the matter with Head Office for authorization. Brig Muller contact Brig Schoon at head office Re the matter. On request of Brig Muller, I accompanied him shortly thereafter to Head Office for a meeting with Brig Schoon. With our arrival the particular Saturday evening at Head Office we met Brig Schoon at his office. Brig Schoon was briefed in detail Re the abovementioned case scenario with emphasises on planned acts of terror by a cross border group of military trained insurgents. Brig Schoon was at the time assured by Brig Muller that we could gain the total cooperation of the contact person and her future cooperation with investigation of this nature:

To protect the identity of the person / her future cross border involvement as an in place agent she was taken to a farm for interrogation and clarity on aspects she has that far revealed to the unit. Once again this aspect was authorized by Brig Schoon and Muller. As agreed upon at Head Office the contact person was taken to a farm for the said objectives thus prior to her return to Swaziland.

The contact person was thereafter accommodated for some time at the farm situated at the Northern Area. After her interrogation and constant debriefings on written reports she compiled on key subjects / her recruitment and then willingness to cooperate with the unit she was transported back to Swaziland where she crosses the border fence back to Swaziland. This phase of her newly status as a in place agent was supervised and coordinated by me in person.

I applied for amnesty and was granted amnesty for the abduction of Nokuthula Simelele by the TRC.

Randburg
2016-03-10

W.H.J. LOETZEE

CS

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52

16-03-14 13:02 S.F. 7283132026 06-03-14

P 20/28



APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS OR INQUIRIES

COMPLETION INSTRUCTIONS

1. An applicant must take cognisance of the contents of Standing Order (General) 109 before completing the Application.
2. The application must be completed in full.
3. The commander of the applicant must provide reasonable support to the applicant.
4. All information contained in the Application is treated as confidential.
5. Information contained in the Application may only be disclosed as determined by paragraph 3(2) of Standing Order (General) 109.
6. The applicant and the witnesses must initial every page of the application and Annexure at the bottom of every page.

PART A: PARTICULARS OF APPLICANT

1. Personal no. 0070445-9 rank LIEUTENANT COLONEL and surname ANTON PRETORIUS
 stationed at SECURITY BRANCH, SOMERSET IN 1983
 (name and postal address of place of employment) with office phone number ()
 cell no. 083 271 3849 fax number ()
 residing at 20 DUNDEEN, 152 MALCOLM ROAD, PRESIDENT RIDGE, RAMPOL 2194
 and postal address 20 DUNDEEN, 152 MALCOLM ROAD, PRESIDENT RIDGE, RAMPOL 2194
 hereby, subject to the terms and conditions set out in the Application and Standing Order (G) 109, apply for legal representation paid for by the Service (hereinafter referred to as "assistance") for my defence against the charge(s) set out in Part B of the Application.

PART B: PARTICULARS OF CHARGES

I hereby apply for assistance in my defence against the charge(s) of having committed the following offence(s):

MURDER 1983 ALLEGEDLY COMMITTED DURING SEPTEMBER
 (state the alleged crime(s) and the date(s), time and place(s) when and where they were allegedly committed)

registered at JOHANNESBURG CENTRAL RAPD
 (state name and address of police station where alleged offence was registered) CAS no. 1469/02/1996
 that is being investigated by rank CAPTAIN initials and surname of

investigating officer A. MASEGELA
 with office phone number () and cell no. 082 7798543

Court where the case is to be heard: PRETORIA MAGISTRATE COURT

Date of first appearance: 2016-02-26

10263132026 >>

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS
PART C: INFORMATION AND DOCUMENTATION TO BE SUPPLIED IN SUPPORT OF THE APPLICATION

Completion instructions:

- (a) *Delete, whichever is not applicable
- (b) If a warning statement has been obtained, a copy thereof must be attached to the application and clearly marked as such.
- (c) If the applicant did not make a warning statement concerning the allegations, the commander of the applicant must personally take a statement from the applicant. This statement is not a warning statement and must contain the complete response of the applicant to the alleged offence(s) and must be attached to the application and clearly marked as such.
- (d) Copies of all documents that may be relevant to the case (eg the charge sheet, summons, etc.) and all documents to which the applicant may have access to in accordance with his or her rights in terms of section 35(3)(a) of the Constitution, must be obtained and attached as Annexures to the application. If the offence(s) relate(s) to the use of a motor vehicle, copies of the driving licence and state authorisation of the applicant must also be attached.
- (e) A factual report summarizing the facts of the matter and submitted together with the application form.

- ~~(1) I have not made a warning statement in this case.~~
- (2) My statement of what had transpired on the date, time and place that I have allegedly committed the offence(s) in PART B above, is attached as Annexure 1.
- (3) The following documents relevant to the case / no documents* are attached to the application.

PART D: GROUNDS FOR APPLICATION

Completion instructions:

- (a) Complete only subparagraph (1) OR (2) and (3).
- (b) *Delete, whichever is not applicable.
- (c) If the applicant wishes to elaborate on the grounds for or further motivate his or her application, he or she may attach such motivation to the application.

- ~~(1) I certify that I was not present at the date, time and place where the alleged offence had taken place, nor did I in any way participate in the commission of the alleged offence. At the time and date that the alleged offence was committed, I~~
~~(state details of your alibi)~~

The following persons can corroborate my alibi:

~~(state name and contact details of person(s), if any, that can corroborate your alibi)~~

OR

- (2) I acknowledge that I was present at the date, time and place where the offence had allegedly been committed.

I certify that on _____ 20____, at _____

(time) I was on _____

duty at I certify that during Sep 1983 I was on duty and

(place) performing normal intelligence work. See statement A.

performing performing normal intelligence work. See statement A.

(state nature of the duty performed)

- (3) I certify that I am "not disqualified for assistance in terms of paragraph 4 of Standing Order (G)109.
 Consolidation Notice B of 2015

[Handwritten signatures and initials]

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

PART E: PARTICULARS OF LEGAL REPRESENTATION REQUESTED

Completion instructions:

- (a) Delete, whichever is not applicable
 (b) Complete only subparagraph (1) OR (2)
 (c) If subparagraph (2) is completed

(1) I apply to be presented by the state attorney.

OR

(2) I apply to be presented by Mr J Wegener

(initials and surname of attorney) of the firm Steyn Wilson Inc, Hermanus

(name, street and postal address, telephone number and fax number of attorneys firm)
 (Please note: Should the applicant elect to nominate an attorney, the State Attorney will negotiate the fees or a tariff with the attorney. Any additional fees (exceeding the negotiated fees or tariff) charged by the attorney will be claimed by the attorney from the above-mentioned applicant.)

PART F: UNDERTAKING AND AGREEMENT BY APPLICANT

- (1) I undertake to, should assistance be granted to me, --
 (a) collect any document, notice or certificate to be delivered to, or served on me or to provide any document, notice or certificate required from me, in terms of the Application, the rules of any court of law or Standing Order (General) 109, at the place, time and on the date that I am notified to do so by my commander, or a person acting on his or her behalf;
 (b) accept service or delivery of any document or notice in terms of the Application, the rules of any court of law or Standing Order (G) 109, at the understated address, which address I hereby chose as my *domicilium citandi et executandi*: (state full particulars: town or city, suburb and street address)

- (c) immediately notify my commander in writing if any of my contact particulars as stated in PART A change; and
 (d) repay all expenses incurred by the State in providing assistance to me, upon notification by the Service that the Application for assistance would not have been approved, if the finding of the presiding officer was known at the time when the application was considered, after the presiding officer at a trial made a finding that contradicts any fact stated by me in the Application or in any document that I provided in support of the Application.

- (2) I agree that any assistance granted to me, will be subject to --
 (a) a certificate issued by the Service, stating that an amount as specified in the certificate, is due by me to the Service in accordance with Part F (1)(d), serving as proof that such an amount is the expenditure incurred by the Service in respect of assistance or legal representation in accordance with the Application;
 (b) the condition that an amount as specified in a notice in accordance with Part F (1)(d), may be deducted from my salary, or should I for any reason cease to be employed by the Service, subject to the provisions of section 21(3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996) may be deducted from any amount due to me by the Government Employee Pension Fund or the Service;
 (c) the amount, determined by the Service in accordance with paragraph B(2)(a) of Standing Order (General) 109, being retained from any money due to me by the Government Employee Pension Fund or the Service, if the case is not concluded upon the termination of my employment in the Service (the amount retained will not bear any interest); and
 (d) the assistance being cancelled by the Service (after consultation with the State Attorney) during any phase of the criminal proceedings, if any fact comes to light that, would it have been known at the time when the application was considered, the assistance would not have been approved.

- (3) I declare that I am aware of the provisions of section 21(3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996), regarding deductions in terms of and according to that section from any annuity or Consolidation Notice B of 2015

[Handwritten signatures and initials]

016-03-14 13:09 STEYN

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P 23/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

benefit payable to me upon my retirement or dismissal in respect of an amount due by me to the State owing to a decision contemplated in this agreement and Standing Order (General) 109.

- (4) I understand that, should I elect not to use the State Attorney, I will personally be liable to pay fees charged by the attorney in excess of the applicable tariff determined by the State Attorney.

I, A. PRETORIUS

(initials and surname) hereby acknowledge that I understand and agree to the conditions set out above.

Signed at RANDBURG on 7 MARCH 2016 in
the presence of the undersigned witnesses.

SIGNATURE OF APPLICANT

SIGNATURE OF WITNESS

SIGNATURE OF WITNESS

2016-03-14 13:09 STEIN

56
P 24/28APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS
PART G: RECOMMENDATION BY COMMANDERCompletion instruction:
*Delete, whichever is not applicable.

- (1) I, Person no _____ rank _____
(full names and surname) _____
certify that I am the commander of (initials and surname of applicant) _____
- (2) I have perused the Application and have made such further inquiries into the matter as I deem necessary, in order to satisfy myself as to the correctness of the reasons provided in subparagraph (3) and (4) hereunder.
- (3) I am/am not* of the opinion that the applicant was performing official duties at the time, date and place that the alleged criminal offence(s) referred to in PART B was committed. The reasons for my opinion are —

- (4) I am/am not* of the opinion that the applicant qualifies for assistance in accordance with the criteria as set out in PART D (3). The reasons for my opinion are —

- (5) I recommend that —

- Signed at _____ on _____ 20____

SIGNATURE OF COMMANDER _____

(If the space provided is insufficient, please attach additional pages)

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P 25/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS
PART H: DECISION

Notes for the completion:

*Delete, whichever is not applicable.

If the application is refused, the reasons for the refusal must be recorded in full.

(1) I certify that I received the Application on the 03 April 2016 with the following Annexures / no Annexures:Statement of Hester Pistorius, Mr. Kuysh, Mr. Brimble, Mr. Vey.

I have considered the application and the Annexures, and have made the following further inquiries, with the stated results --

not
THE APPLICATION IS not RECOMMENDED / NOT RECOMMENDED

Comments / reasons:

- (1) The mortgage loan was executed the previous when executing his debtors
 (2) It will be against the State or public interest to do so (off assistance)
 (3) There is a conflict of interest due to different versions of facts offered by employees involved in the matter / incident
 (4) The debt is complicated.

SIGNATURE OF LEGAL ADMINISTRATION OFFICIAL

2016/04/11
DATE

Address: _____

Office phone no. (_____) cell no. _____ Fax no. (_____) _____

(2) THE APPLICATION IS RECOMMENDED / NOT RECOMMENDED

Comments / reasons:

THE APPLICATION IS INCOMPLETE AND THE APPLICANT DOES NOT WORK FOR SARS ANYMORE. RECOVERY OF MY DEBT WOULD BE PROBLEMATIC

SIGNATURE OF PROVINCIAL HEAD: LEGAL SERVICES
EXECUTIVE LEGAL OFFICER2016/04/25
DATEC
no

2016-03-14 13:11:17

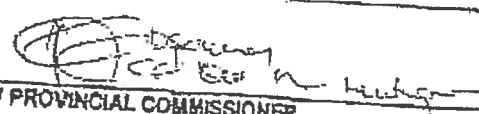
0253132025 >>

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

THE APPLICATION IS APPROVED / NOT APPROVED

Comments / reasons:

Not approved - unable to apply for assistance
from legal aid
NATIONAL COMMISSIONER / PROVINCIAL COMMISSIONER

DATE

(If the space provided is insufficient, please attach additional pages)

J/12

12-03-14 13: 2 STEVA

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P 27/28

Anton PRETORIUS, Identity number 580407 5046 08 6, residing at 20 Duneden, 152 Malcolm Road, president Ridge, Randburg, with contact cellular phone number 083 271 3849.

States in English: -

I have joined the South African Police Service (SAPS) on the 2nd of December 1976 and retired as medical unit, as a Lieutenant-Colonel, on the 30th of April 1997. My force number during my career as a police officer was 0070985-9. From September 1981 up to May 1991 I was stationed at the Security Branch in Soweto. In 1983 my immediate commanding officer of the Soweto Intelligence unit was Lieutenant-Colonel W.H.J. COETZEE (A Warrant Officer at that stage). The Intelligence unit was under direct command of Brigadier H. MULLER (deceased) the Divisional Commander Soweto. I was the second in command of the said Intelligence unit, and had the rank of Warrant Officer in 1983.

Some of my duties as a member of the Intelligence unit in 1983 was to recruit in place informers in the then banned revolutionary organisations like the ANC, MK (military wing of the ANC), SACP, PAC, etc. that operated in Soweto and neighbouring states like Swaziland, Mozambique, Botswana and Lesotho. I was also tasked to recruit, train and deploy (infiltrate) deep cover agents (RS - police officers) in these banned revolutionary organisations in Soweto and in the said neighbouring states. I was also responsible to debrief and to task the in place informers and agents, and the drafting of intelligence reports. I also assisted as co-handler of several in place informers and agents that the intelligence unit controlled and managed during this period.

Lieutenant-Colonel W.H.J. COETZEE reported to Brigadier MULLER around November 1983 that the in place informers and deep cover agents in Swaziland that successfully infiltrated a MK-unit, is starting to smuggle explosive devices, hand grenades, and AK-47 assault rifles to Soweto to commit acts of terrorism, and that a MK-communication courier has to make contact with one of the intelligence operatives at a pre-arranged spot in Johannesburg. Brigadier H. MULLER instructed that the MK-communication courier should be secretly grabbed in order to do an in place recruitment that could assist the Intelligence unit with information on MK activities and members in Swaziland and any planned terrorist activities in Soweto or South Africa. Lieutenant-Colonel W.H.J. COETZEE briefed myself, Sergeant Frik MONG and several other intelligence unit members on how the operation should be conducted. The unknown MK-communication courier was lured to the parking area at the Carlton Centre by RS 243 where she was grabbed by members of the unit, placed in the boot of one of our vehicles with a member of the unit, and transported to a store room next to the living quarters of staff at the Norwood SAPS living quarters which is situated on the top floor. The MK-communication courier was identified as Nokuthula SIMELANE, also known as MK- Sibongile. MK- Sibongile immediately indicated that she would co-operate and was prepared to reveal her involvement with MK.

I accompanied Lieutenant-Colonel W.H.J. COETZEE late that same afternoon to the house of Brigadier H. MULLER in Roodepoort where Lieutenant-Colonel W.H.J. COETZEE reported that we managed to grab the MK-communication courier, and that she is already co-operating with us. I then received an instruction from Lieutenant-Colonel W.H.J. COETZEE to return to Norwood and to continue with the interrogation of MK- Sibongile.

Lieutenant-Colonel W.H.J. COETZEE joined me later that same evening to continue the interrogation of MK- Sibongile and to start the in place recruitment. MK- Sibongile indicated that she was prepared to work with us, but we could not yet fully trust her at that stage. We continued the interrogation of MK- Sibongile for about another two days before Lieutenant-Colonel W.H.J. COETZEE informed me and

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P 28/28

some other unit members that we will move MK- Sibongile to a secluded family farm in Northam in North West Province to complete the in place recruitment and interrogation.

Lieutenant-Colonel W.H.J COETZEE at same stage directed myself and other members of the unit to this farm where we detained MK- Sibongile in an old outside building for a period of time. Myself and some other unit members were instructed to guard, interview / debrief and assist with the in place recruitment of MK- Sibongile. The unit members and I were rotated for a day or two to do the said duties at this facility. Lieutenant-Colonel W.H.J COETZEE and myself had to return to Soweto on a daily basis and even made trips to the border region of Swaziland to continue the handling of the in place informers and agents that kept contact with the said MK unit in Swaziland.

When MK- Sibongile was fully co-operating with us and indicated that she would provide us with intelligence on Mk when she returns to Swaziland, Lieutenant-Colonel W.H.J COETZEE decided to limit the use of intelligence members that would work with MK- Sibongile. Several members were task to return to the offices in Soweto and to continue with their other duties.

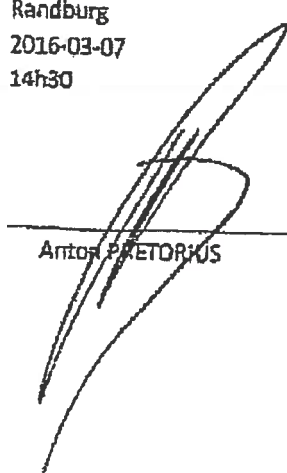
Lieutenant-Colonel W.H.J COETZEE has decided that Sergeant J. MOTHIBA (deceased) and RS 269 (deceased) would be the immediate co-handlers of MK- Sibongile and worked out that communications for meetings in Swaziland with MK- Sibongile.

Sergeant J. MOTHIBA (deceased) and RS 269 (deceased) was responsible to drive MK- Sibongile to the Swaziland border and to make sure that she enters Swaziland.

MK- Sibongile never showed up at the pre-arranged meeting points in Swaziland with her co-handlers and was never seen again. Due to the sensitivity of this in place recruitment, and the continuation of our agents and Informer's infiltration of the MK-unit in Swaziland, no overt enquiries could be made to the whereabouts of MK- Sibongile at that stage.

I applied for amnesty at the TRC, and received amnesty for the abduction of Nokuthula SIMELANE.

Randburg
2016-03-07
14h30



Anton PRETORIUS



2015-05-14 10:37 51218

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS OR INQUIRIES

COMPLETION INSTRUCTIONS

1. An applicant must take cognisance of the contents of Standing Order (General) 109 before completing the Application.
2. The application must be completed in full.
3. The commander of the applicant must provide reasonable support to the applicant.
4. All information contained in the Application is treated as confidential.
5. Information contained in the Application may only be disclosed as determined by paragraph 3(2) of Standing Order (General) 109.
6. The applicant and the witnesses must initial every page of the application and Annexure at the bottom of every page.

PART A: PARTICULARS OF APPLICANT

I, Person no 00708321; Rank Lieutenant; Full names and surname Fredrick Barnard Mong
Stationed at SAPS; Crime Intelligence Station; Vereeniging Cluster, 28 Merimian Avenue, Vereeniging, Gauteng with office
phone number (015) 450 2029; Cell no: 082 822 7084 fax number (015) 421-2423 residing at 5 Armin Street; Sonlandpark;
Vereeniging, and Postal address 5 Armin Street; Sonlandpark; Vereeniging
hereby, subject to the terms and conditions set out in the Application and Standing Order (G) 109, apply for legal representation
paid for by the Service (hereinafter referred to as "assistance") for my defence against the charge(s) set out in Part B of the
Application.

PART B: PARTICULARS OF CHARGES

I hereby apply for assistance in my defence against the charge(s) of having committed the following offence(s)*:

Murder. Allegedly committed during September 1993

registered at Johannesburg Central SAPS CAS no 1489/2/1996 that is being investigated by Captain T.C. Masegola
with Cell no. 082 779 8543

Court where the case is to be heard: Pretoria Magistrates Court

Date of first appearance: 2016/02/26

L.A.M. H. / [Signature]

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2013-02-24 12:35 51213

1253-32024 >>

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

PART C: INFORMATION AND DOCUMENTATION TO BE SUPPLIED IN SUPPORT OF THE APPLICATION

Completion instructions:

- (a) *Delete whichever is not applicable.
- (b) If a warning statement has been obtained, a copy thereof must be attached to the application and clearly marked as such.
- (c) If the applicant did not make a warning statement concerning the allegations, the commander of the applicant must personally take a statement from the applicant. This statement is not a warning statement and must contain the complete response of the applicant to the alleged offence(s) and must be attached to the application and clearly marked as such.
- (d) Copies of all documents that may be relevant to the case (eg the charge sheet, summons, etc.) and all documents to which the applicant may have access to in accordance with his or her rights in terms of section 35(3)(a) of the Constitution, must be obtained and attached as Annexures to the application. If the offence(s) relate(s) to the use of a motor vehicle, copies of the driving licence and state authorisation of the applicant must also be attached.
- (e) A factual report summarizing the facts of the matter and submitted together with the application form.

(1) I have not made a warning statement in the case.

(2) My statement of what had transpired on the date, time and place that I have allegedly committed the offence(s) in PART B above, is attached as Annexure "A".

(3) The following documents relevant to the case / no documents are attached to the application:

U.F. & Nlong Statement, Commander's Statement, Affidavits by Mr. Septh
ML Sekatolela and Mr. Vem, U of Pretoria, U of Witwatersrand, U of Cape Town

PART D: GROUNDS FOR APPLICATION

Completion instructions:

- (a) Complete only subparagraph (1) OR (2) and (3).
- (b) *Delete whichever is not applicable.
- (c) If the applicant wishes to elaborate on the grounds for or further motivate his or her application, he or she may attach such motivation to the application.

(1) I certify that I was not present at the date, time and place where the alleged offence had taken place, nor did I in any way participate in the commission of the alleged offence. At the time and date that the alleged offence was committed, I _____
 (state details of your alibi)

The following persons can corroborate my alibi:

(state name and contact details of person(s), if any, that can corroborate your alibi)

OR

(2) I acknowledge that I was present at the date, time and place where the offence had allegedly been committed.

I certify that during September 1993 I was on duty and stationed at the Intelligence Unit of the Former Security Branch in Soweto, performing normal intelligence work.

(3) I certify that I am "not disqualified for assistance in terms of paragraph 4 of Standing Order (G)109".

Handwritten signatures and initials.

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P 4/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL

PART E: PARTICULARS OF LEGAL REPRESENTATION REQUESTED

Completion instructions:

- (a) *Delete whichever is not applicable
- (b) Complete only subparagraph (1) OR (2)
- (c) If subparagraph (2) is completed

(1) I apply to be presented by the state attorney.

OR

(2) I apply to be presented by Mr. Jan Wagener of the firm Steyn Wilson Inc; Physical Address: Unit 2, Hemel-en-aarde Village, Cnr. R43 and Main Road; Sandbaai; Hermanus. Postal Address: P.O.Box 1005 Hermanus; 7200; Tel Nr.: [028] 316-3707; Fax [028] 316-3720. E-mail legal@steynlaw.co.za

(Please note: Should the applicant elect to nominate an attorney, the State Attorney will negotiate the fees or a tariff with the attorney. Any additional fees (exceeding the negotiated fees or tariff) charged by the attorney will be claimed by the attorney from the above-mentioned applicant.)

PART F: UNDERTAKING AND AGREEMENT BY APPLICANT

- (1) I undertake to, should assistance be granted to me, -
- (a) collect any document, notice or certificate to be delivered to, or served on me or to provide any document, notice or certificate required from me, in terms of the Application, the rules of any court of law or Standing Order (General) 109, at the place, time and on the date that I am notified to do so by my commander or a person acting on his or her behalf.
 - (b) accept service or delivery of any document or notice in terms of the Application, the rules of any court of law or Standing Order (G) 109, at the understated address, which address I hereby chose as my *domicilium citandi* or executand: 5 Amm Street, Sonlandpark, Vereeniging
 - (c) immediately notify my commander in writing if any of my contact particulars as stated in PART A change; and
 - (d) repay all expenses incurred by the State in providing assistance to me, upon notification by the Service that the Application for assistance would not have been approved, if the finding of the presiding officer was known at the time when the application was considered, after the presiding officer at a trial made a finding that contradicts any fact stated by me in the Application or in any document that I provided in support of the Application.
- (2) I agree that any assistance granted to me, will be subject to -
- (a) a certificate issued by the Service, stating that an amount as specified in the certificate, is due by me to the Service in accordance with Part F (1)(d), serving as proof that such an amount is the expenditure incurred by the Service in respect of assistance or legal representation in accordance with the Application;
 - (b) the condition that an amount as specified in a notice in accordance with Part F (1)(d), may be deducted from my salary, or should I for any reason cease to be employed by the Service, subject to the provisions of section 21 (3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996) may be deducted from any amount due to me by the Government Employee Pension Fund or the Service;
 - (c) the amount, determined by the Service in accordance with paragraph 9(2)(a) of Standing Order (General) 109, being retained from any money due to me by the Government Employee Pension Fund or the Service, if the case is not concluded upon the termination of my employment in the Service (the amount retained will not bear any interest); and
 - (d) the assistance being cancelled by the Service (after consultation with the State Attorney) during any phase of the criminal proceedings, if any fact comes to light that, would it have been known at the time when the application was considered, the assistance would not have been approved.
- (3) I declare that I am aware of the provisions of section 21(3) of the Government Employees Pension Law 1996 (Proclamation No. 21 of 1996), regarding deductions in terms of and according to that section from any annuity or

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2016-03-14 12:43 STEIN

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64 P 5/28

APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL MATTERS

benefit payable to me upon my retirement or dismissal in respect of an amount due by me to the State owing to a decision contemplated in this agreement and Standing Order (General) 109

- (4) I understand that, should I elect not to use the State Attorney, I will personally be liable to pay fees charged by the attorney in excess of the applicable tariff determined by the State Attorney

I, T. D. Mong hereby acknowledge that I understand and agree to the conditions set out above.

Signed at Vereeniging on 1 MARCH 2016
in the presence of the undersigned witnesses.

SIGNATURE OF APPLICANT

SIGNATURE OF WITNESS

SIGNATURE OF WITNESS

2016-03-14 12:43 STEWART 0283172026.00

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL

PART G: RECOMMENDATION BY COMMANDER

Completion instruction
Delete whichever is not applicable.

- (1) I, Person no. 0606975-4 Rank COLONEL
(full names and surname) JOSEPH NOMDUE
certify that I am the Commander of (initials and surname of applicant) Lt FB. MONG
- (2) I have perused the Application and have made such further inquiries into the matter as I deem necessary in order to satisfy myself as to the correctness of the reasons provided in subparagraph (3) and (4) hereunder.
- (3) I am/am not of the opinion that the applicant was performing official duties at the time, date and place that the alleged criminal offence(s) referred to in PART B was committed. The reasons for my opinion are -
MEMBER WAS ON DUTY AND OBEYING HIS COMMANDERS ORDER
- (4) I am/am not of the opinion that the applicant qualifies for assistance in accordance with the criteria set out in PART D(3). The reasons for my opinion are -
THE EMPLOYEE DENIES THE ALLEGATIONS AND SUBMITTED HIS STATEMENT

(5) I recommend that -

LEGAL ASSISTANCE IS PROVIDED TO THE OFFICER
HE HAD RECEIVED AMNESTY AT THE TR.C FOR
THE OFFENCES AS MENTIONED IN HIS
STATEMENT

Signed at VERBEMING on 1 MARCH 2016

[Signature]
SIGNATURE OF COMMANDER

(If the space provided is insufficient, please attach additional pages)

[Signature]

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PART H: DECISION

If the application is refused, the reasons for the refusal must be recorded in full

Statements of Lt. Fitzmaury, Mr. Sepurina and Mr. L. Schmalzer, M.W. Vay. Co.
I have considered the application and the Annexures, and have made the following further inquiries, with the stated results -

The member exceeded his powers in executing his duties in terms of SC (General) 109 (4) ~~and~~ (5) (a). It is against the State or public interest to do so and there is a conflict of interests due to different versions of facts appeared by employees involved in this incident; the State is not a complainant.

DATE _____

Address :

Office phone no () cell no. () Fax no ()

~~I AGREE WITH THE ABOVE REASONS. THE MEMBER WAS OBEYING AN ILLEGAL INSTRUCTION MEMBER MUST APPLY TO LEAVE AS~~

~~SIGNATURE OF PROVINCIAL HEAD:
LEGAL SERVICES
EXECUTIVE LEGAL OFFICER~~

DATE _____

2016-05-14 11:45 STEYN

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APPLICATION FOR ASSISTANCE WITH THE PAYMENT OF LEGAL COSTS IN CRIMINAL
THE APPLICATION IS ^{NOT} APPROVED / NOT APPROVED

Comments / reasons.

The member must not receive legal assistance, he can
afford for legal aid

  PS G*LOG Luth-Gro
NATIONAL COMMISSIONER / PROVINCIAL COMMISSIONER

26 APR 2016
DATE

(If the space provided is insufficient, please attach additional pages)



2016-03-14 12:46 STEYN

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p. 9/28

FREDERIK BARNARD MONG

"Annexure A"

States under oath:

1.

I am an adult male with Identity number 580524 5117 087, residing at 5 Amm Street, Sonlandpark; Vereeniging and employed at SAPS; Crime Intelligence Station; Vereeniging Cluster; 28 Merriman Avenue; Vereeniging. Office number . [016] 450-2629 Cell phone number 082 822 7084

2.

I was transferred to the Intelligence Unit of the former Soweto Security Branch in March 1983. In September 1983 I was informed by my Immediate Commander, Lieutenant Coetzee that:

- information was received that a MK operative would infiltrate the Republic via Swaziland and travel to Johannesburg to link up with Norman Mkhonza (@ "Scotch" who was an underground operative [RS] of the Intelligence Unit of Soweto Security Branch
- the information was discussed with the Branch Commander, [Brig. Muller] at the time and it was decided to ambush and kidnap Simelane before she could do any harm, and then to detain and question her with the ultimate purpose of recruiting her as an informer. [At the time, this proved to be normal and a successful strategy in matters of this nature]

3.

Duly authorized and instructed by our commander, we embarked on the operation as set out. The team included Mr. Coetzee, Mr. Pretorius [a Warrant Officer at that stage] myself and other members attached to the Intelligence Unit of Soweto Security Branch.

4.

On the day in question my specific order or instruction from my direct Commander, Mr. Coetzee, was to:

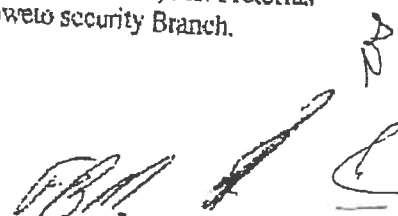
- observe the restaurant where the meeting between the Mk operative and @ Scotch had to take place.
- the pursuance of the Mk operative and @ Scotch from the restaurant to the parking garage
- support with the physical arrest of the Mk operative and
- the transport of the Mk operative to the Norwood SAP quarters

5.

As planned, the Mk operative was confronted and abducted in the parking garage of the Carlton Centre and taken to the Norwood Police quarters where she was detained and questioned for a short period and identified as Nokuthula Simelane.

6.

Shortly after she was abducted, I think it was the Monday after the Saturday that she was abducted, me and the late Sergeant Mothiba were instructed by Mr. Coetzee to transport Simelane to a farm in the Northam district in the Northwest Province. Here she was periodically questioned by me, Mr. Coetzee, Mr. Pretorius and some of the black members also attached to the Intelligence unit of the Soweto security Branch.



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7.

My further involvement in the matter was as follows :

- periodical input during the questioning of Simelane at Northam, although my primary task was to show the photo album to Simelane and to put together profiles with regard to the persons which she identified,
- the periodical transport of rations from Johannesburg to Northam for Simelane and the black members who guarded her there.

8.

Eventually, Mr. Coetzee and Mr. Pretorius were satisfied that Simelane has been successfully recruited, and I was instructed by Mr. Coetzee to fetch Simelane and the late Sergeant Mothiba, who was guarding her at the time, from Northam and transport her to Potchefstroom where she was handed over to Mr. Coetzee and Mr. Pretorius.

9.

To my knowledge, Simelane was briefed by Mr. Coetzee and Mr. Pretorius, and taken to the present Mpumalanga where she was dropped near the Swaziland border to enable her to return to Swaziland.

10.

It is well known that Simelane, was never seen again after being dropped near the Swaziland border. Where, how and at the hands of who she died, if at all, remains unknown to me.

11.

I know and understand the contents of this declaration.
I have no objection to taking the prescribed oath
I consider the oath to be binding on my conscience

I certify that the deponent has acknowledged that he knows and understands the contents of this declaration. This declaration was sworn to before me and the deponent's signature place thereon, on this 1st day of March 2016

(SIGNATURE)

COMMISSIONER OF OATHS

(FULL NAMES IN PRINT)

SAPS Crime Intelligence; Quinlin Building; 28 Meriman Avenue; Vereeniging
(BUSINESS ADDRESS)

Rank.

South African Police

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STANDING ORDER (GENERAL) 109

PAYMENT BY THE SERVICE FOR LEGAL REPRESENTATION OF EMPLOYEES IN CRIMINAL MATTERS AND INQUIRIES

1. Background

- (1) The purpose of this Order is to regulate the payment by the Service for legal representation of employees in criminal matters or at inquiries (referred to in paragraph 12 of this instruction).
- (2) Every employee accused of or being charged for having committed an offence may, if he or she, in terms of this Order, —
 - (a) qualifies for legal representation paid for by the Service, but prefers not to make use of such legal representation, or
 - (b) does not qualify for legal representation paid for by the Service; appoint a legal representative of his or her own choice and at his or her own cost to represent him or her, or apply to Legal Aid South Africa to have a legal practitioner assigned to him or her by the State and at State expense, if substantial injustice would otherwise result.

2. Definitions

In this Order, unless the context indicates otherwise, —

- (a) "*assistance*" means legal representation of an *employee* in a criminal matter (or a matter referred to in paragraph 12 of this Order) arranged through the relevant State Attorney, and paid for by the Service;
- (b) "*employee*" means any person in the employment of the Service (including a reservist while on duty);
- (c) "*official directive*" means an official directive as defined in SO(G) 224;
- (d) "*professional driver*" means a professional driver as defined in section 32 of the National Road Traffic Act, 1996 (Act No. 93 of 1996); and
- (e) "*relevant legal services*" means the legal services that normally provides a legal service to the office concerned.

3. Information provided by employee to be treated as confidential

- (1) Information provided by an *employee* for the purpose of determining whether he or she will qualify for *assistance* in accordance with this Order, must be treated as confidential.
- (2) A commander or member of Legal Services to whom such information has been provided, may only disclose the information —
 - (a) as provided for in this Order;

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- (b) during disciplinary proceedings taken against the *employee* for providing false information in an application for *assistance*;
- (c) if the *employee* consents to the disclosure in writing; or
- (d) for the purpose of litigation between the Service and the *employee* in connection with *assistance* provided or not provided to such *employee*.

4. Requirements for assistance

- (1) An *employee* may, subject to subparagraphs (2) and (3), only be provided with *assistance* in accordance with this Order if, at the time of the alleged commission of the offence, such an *employee* acted or omitted to act when he or she should have acted in the execution of his or her duties.
- (2) An *employee* does not qualify for *assistance* paid for by the Service, if he or she, at the time of the alleged commission of the offence, —
 - (a) intentionally exceeded his or her powers;
 - (b) acted recklessly or intentionally;
 - (c) was under the influence of intoxicating liquor or a drug having a narcotic effect;
 - (d) without prior consultation with a legal official attached to Legal Services, or a legal representative, made a confession, admission or a pointing-out with regard to the commission of the alleged offence, that is detrimental to the defence of his or her case;
 - (e) failed to comply with any *official directive* of the Service of which he or she knew, or could reasonably have been expected to have known: Provided that this requirement does not apply in respect of a charge arising from the handling or the use of a motor vehicle; or
 - (f) was off duty.
- (3) An *employee*, who is charged with an offence that relates to the use of a State or privately owned motor vehicle (vehicles forming part of the SMS or MMS vehicle scheme of the Service), and whose conduct meets with the requirements of subparagraphs (1)(a) and (b) above, does not qualify for *assistance* paid for by the Service, if he or she had —
 - (a) driven the motor vehicle without an appropriate valid driving licence;
 - (b) driven a state vehicle without an appropriate valid authorization issued by the Service;
 - (c) allowed another person to drive or handle a state vehicle without such other person being the holder of an appropriate valid authorization, issued by the Service;
 - (d) used a state vehicle for any purposes which is not in the interest of the State;

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- (e) driven or occupied the driver seat of the motor vehicle with the engine running, while —
 - (i) the concentration of alcohol in any specimen of his or her blood taken from any part of his or her body, within two hours of the alleged contravention, was not less than 0,05 gram per 100 millimetres, or in the case of a *professional driver*, 0,02 gram per 100 millimetres; or
 - (ii) the concentration of alcohol in any specimen of breath exhaled by such person is not less than 0,24 milligram per 1000 millimetres, or in the case of a *professional driver*, not less than 0,10 milligram per 1 000 millimetres; or
 - (f) deviated materially, without prior authorization, from the route of the official journey undertaken with the state vehicle.
- (4) An application for *assistance* may be refused in the event of information showing that —
- (a) the state is the complainant in the case; or
 - (b) it will be against state or public interest to do so; or
 - (c) a conflict of interest exist due to different versions of facts offered by *employees* involved in the same incident.

5. Application for assistance

- (1) An *employee* who applies for *assistance* must properly complete an "Application for *assistance* with the payment of legal costs in criminal matters or inquiries".
- (2) The commander of an *employee* must support the employee, as may in the circumstances be reasonably necessary, to enable the employee to apply for *assistance*.
- (3) The commander must obtain a statement from the applicant (if the applicant did not make a warning statement concerning the allegations). This statement is **not** a warning statement and must contain the complete response of the applicant to the alleged offence(s) and must be attached to the application and be clearly marked as such. Copies of all documents that may be relevant to the case (eg the summons) and all documents to which the applicant may have access to in accordance with his or her rights in terms of section 35(3)(a) of the Constitution, must be obtained and attached as Annexures to the application. If the offence(s) relates to the use of a motor vehicle, copies of the driving licence, state authorisation, vehicle register (SAPS132(b)) and on duty statement of immediate commander must also be attached.
- (4) The commander of an *employee* must ensure that a report, summarizing

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the facts of the matter, is compiled and submitted together with the application form. The commander must ensure that the following information is contained in the report:

- (a) Persal number, rank, full names and surname, contact number, fax number, e-mail address and station of the employee and commander;
- (b) the description of the alledged offence, CAS number and station where the case is registered.

- (5) After receipt of a completed application form from an *employee*, the commander of the *employee* must, as soon as reasonably possible, complete part G of the application form (comments by the commander) and depending on the urgency of the matter, fax or deliver by hand or send the application form to the *relevant legal services*.

6. Consideration of an application for assistance

- (1) A legal official attached to the *relevant legal service* (in the case of a province, the *relevant legal administration official at station, cluster or provincial level*), must make a recommendation to the Provincial Head: Legal Services. In the case of an employee attached to a Head Office division or component, the Head: Legal Support: Litigation and Administration at *Legal Services: Head Office* must make a recommendation to the Executive Legal Officer.
- (2) The Provincial Head: Legal Services or Executive Legal Officer must make a recommendation regarding the application and forward it to the Provincial Commissioner (in the case of an application by an employee resorting under the provincial commissioner) or National Commissioner (in the case of an application by an employee attached to a Head Office division or component). The Provincial Commissioner or National Commissioner (as the case may be) must approve or disapprove an application received in terms of paragraph 5. The relevant functionary must decide, as soon as practically possible, but in any event not later than 5 working days after the receipt of the application.
- (3) If the application for assistance is approved, the legal official (*the relevant Provincial Head: Legal Services* or the Head: Legal Support: Litigation and Administration at *Legal Services: Head Office*) must ensure that the —
 - (a) state attorney is, in writing, instructed to arrange for or conduct the defence of the employee in the criminal case. (A copy of the application form must be annexed to the letter of instruction to the attorney. The appointment of correspondents or counsel by the State Attorney will be done in consultation with the relevant Provincial Head: Legal Services or the Head: Legal Support:

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- (b) Litigation and Administration at Legal Service); and
commander of the *employee* is informed that the state attorney has been instructed. A copy of the letter of instruction to the state attorney, together with a copy of the approved application form, must be sent to such commander.
- (4) If the application for *assistance* is not approved, the relevant Provincial Head: Legal Services or the Head: Legal Support: Litigation and Administration at Legal Services must ensure that the commander of the *employee* is informed that the application was not approved. The original application form must be sent to such commander.
- (5) If the relevant Provincial Head: Legal Services **is in doubt, on a question of law**, whether an application meets the requirements as set out in paragraph 4 above, the following process must be followed:

Phase	Description
1	The relevant Provincial Head: Legal Services must — — send a fax or e-mail a letter to the Head: Legal Support: Litigation and Administration at Head Office setting out the question of law and the reasons why the relevant Provincial Head: Legal Services is in doubt as to whether the application meets the requirements set out in paragraph 4; and — notify the commander of the fact that the matter has been referred to Head Office for further consideration.
2	The Head: Legal Support: Litigation and Administration must — — consider the question of law, and, if also in doubt as to the legal position, consult with the State Attorney; and — make a recommendation to the Executive Legal Officer.
3	The Executive Legal Officer must — — consider the question of law, the opinion of the Head: Legal Support: Litigation and Administration, and of the State Attorney, if applicable, and make a recommendation on the matter; and — inform the Head: Legal Support: Litigation and Administration of the recommendation.
4	The Head: Legal Support: Litigation and Administration must — — advise the relevant Provincial Head: Legal Services of the recommendation of the Executive Legal Officer; and

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	– notify all Heads: Legal Services of the recommendation of the Executive Legal Officer.
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(6) In the event that a functionary holding the rank of Lieutenant General applies for *assistance*, the application –

(a) must be submitted, in the format set out in Annexure A (Part A to F of Annexure A must be completed by the applicant), –

- in the case of a Divisional Commissioner to the relevant Deputy National Commissioner under whom he or she resorts,
- in the case of a Provincial Commissioner or Deputy National Commissioner to the National Commissioner,

(after receipt of a completed application form from an *employee*, the said functionary under whom the *employee* resorts must within a reasonable time, complete part G of the application form (comments by the commander), if applicable, and depending on the urgency of the matter, fax or deliver by hand or send the application form to the Office of the National Commissioner);

(b) may only be approved by the National Commissioner (after consultation with the Executive Legal Officer); and

(c) the Executive Legal Officer may consult the State Attorney before consulting with the National Commissioner.

7. Notification to the employee of the decision

The commander, of an *employee* who applied for *assistance* in terms of this Order, must, as soon as such commander is notified in accordance with paragraph 6 of the decision, inform the *employee* of such decision.

8. Determination of whether the expenses incurred by the State must be recovered from an employee or not

(1) The commander of an *employee*, or a person designated by him or her, must –

- (a) attend the trial of an *employee* to whom *assistance* is provided in terms of this Order;
- (b) note any finding by the presiding officer at the trial that is contrary to anything stated by the *employee* in the application, or any document produced in support of the application;
- (c) obtain a report from the legal representative of the employee after finalisation of the case (as well as the judgment and reasons for the judgement and where applicable the transcribed record of the proceedings); and
- (c) if any contradiction is noted in terms of subparagraph (b), write a report, setting out the details of the contradiction, and send it to the *relevant legal service* (in the case of a province, the Provincial Head: Legal Services and in the case of an employee attached to a Head

Office division or component, the Head: Litigation and Administration at Legal Services) for consideration and decision.

- (2) A report received by the *relevant legal service* in accordance with subparagraph (1)(c), must be considered by a legal official to whom the power has been delegated to determine whether the expenses paid by the State in terms of this Order, must be recovered from an *employee*. If the legal official is satisfied that the facts, as found by the presiding officer, are such that the application for *assistance* would not have been approved, had those facts been known when the application had been considered, he or she —
- (a) must refer the matter to the Head of the relevant Loss Management office for recovery of the costs incurred by the State in connection with the defence of the *employee*. A copy of the letter to the Head of the relevant Loss Management must be sent to the commander of the *employee*; and
 - (b) may, after consultation with the State attorney, reconsider the decision to render assistance to the *employee* during any phase of the criminal proceedings (including proceedings referred to in paragraph 12).
- (3) If the legal official is satisfied that the facts, as found by the presiding officer, are such that the application of the *employee* would still have been approved, had those facts been known when the application had been considered, he or she must inform the commander of the *employee* accordingly.
- (4) If the relevant legal official is in doubt, on a question of law, as to whether expenses paid by the State in terms of this Order, must be recovered from an *employee*, the matter must, with the necessary changes, be dealt with in accordance with the provisions of paragraph 6(5) above.

9. Retention of the amount of money due to employee to whom assistance is provided

- (1) Where an *employee*, to whom *assistance* in terms of this Order had been provided, terminates his or her employment with the Service, his or her commander must —
- (a) report to the relevant financial services the fact that such *assistance* had been provided to the *employee*, together with the report of the termination of the employment of the *employee*;
 - (b) forward a copy of the report in terms of subparagraph (a), to the head of the *relevant legal service*; and
 - (c) inform the *employee* that the estimated amount of the costs of assistance provided to him or her in terms of this Order, will be

retained from any money due to him or her by the State, until finalization of the criminal case against him or her.

- (2) If the head of the *relevant legal service* (in the case of a province, the *Provincial Head: Legal Services* and in the case of an employee attached to a *Head Office division or component*, the *Head: Litigation and Administration at Legal Services*) receives a report in terms of subparagraph (1)(b), he or she must —
 - (a) obtain an estimate from the State Attorney of the total amount of the costs for the State for the *assistance* provided and still to be provided to the *employee* in the criminal case or inquiry;
 - (b) indicate when it is expected that the matter will be finalized;
 - (c) report the information in subparagraphs (a) and (b) to the relevant financial service and the commander of the *employee*;
 - (d) after the finalization of the criminal case, determine in accordance with paragraph 6 above, whether or not the expenses incurred by the State must be recovered from the *employee*, and either —
 - (i) follow the procedure in paragraph 8 above in order to recover the expenses incurred by the State, if it is determined that such expenses must be recovered from the *employee*; or
 - (ii) inform the head of the relevant financial services that the amount of money retained in terms of this paragraph may be released, if it is determined that such expenses may not be recovered from the *employee*.
- (3) The head of the relevant financial service must —
 - (a) ensure that the amount, determined by the head of the *relevant legal service* in accordance with subparagraph (2)(a), is retained from any money due to the *employee* by the State and the Service; and
 - (b) deal with the monies referred to in subparagraph (a), in accordance with either subparagraph (2)(d)(ii) above, or in accordance with the advice of the Head of the relevant Loss Management office.

10. Appeal and review

- (1) An *employee* who has received *assistance* in terms of this Order (and against whom a determination in terms of paragraph 6 was not made) may request further *assistance* in appealing against, or bringing an application

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for review with regard to, the finding of a court by following the procedure as set out below:

STEP	ACTION
1	Obtain a written opinion from the legal representative, who represented the <i>employee</i> at the trial, setting out the possible grounds for appeal or review.
2	Complete a new application for <i>assistance</i> with the payment of legal costs in criminal matters or inquiries and mark the application clearly at the top of the first page as "Appeal / Review".
3	Deliver by hand the completed application form, together with the opinion obtained in step 1, to the <i>relevant legal services</i> .

- (2) An application received in terms of subparagraph (1), must be submitted to the Provincial Head: Legal Services (at provincial level) or the Head: Litigation and Administration at Legal Services (in the case of an employee attached to a Head Office division or component). The application must be dealt with in terms of paragraph 6(2) to (6).
- (3) If the Head of the *relevant legal official* is in doubt, on a question of law, whether an application meets the requirements set out in paragraph 4, he or she must follow the procedure, with the necessary changes, set out in paragraph 6(5) above.
- (4) If an application for further *assistance*, brought in accordance with this paragraph, is approved, the *employee* must be reimbursed for the costs of the legal opinion in subparagraph (1) above; Provided that the detailed account of the legal representative is submitted to the relevant State Attorney to determine whether the fees contained therein are fair and reasonable. The State Attorney will determine a fair and reasonable fee to be reimbursed to the employee.

11. Application for the reimbursement of legal expenses

- (1) An *employee* whose application for *assistance* was refused, who is found not guilty of having committed an offence by a court of law (or if the case is withdrawn against the employee or finalised through mediation) and in the

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Legal representation of employees in criminal matters and inquiries

opinion of such *employee* the circumstances meet the requirements set out in paragraph 4, may apply to be reimbursed for his or her expenses in defending the criminal case against him or her.

- (2) An application to be reimbursed for the expenses in subparagraph (1) must be made by the *employee* by following the following procedure:

STEP	ACTION
1	Obtain a legal opinion from the legal representative who represented the <i>employee</i> at the trial that sets out the finding of the court, as well as the reasons provided by the court for its finding and a detailed account.
2	Complete an application for <i>assistance</i> with the payment of legal costs in criminal matters.
3	Deliver the completed application form together with the documents referred to in step 1, to the <i>relevant legal service</i> by hand.

- (3) An application received in terms of subparagraph (1), must be dealt with in the following manner by the Head of the *relevant legal service*:

STEP	ACTION
1	Consider the information provided in the application and the opinion of the legal representative.
2	Write a report that sets out the reasons why the application, in his or her opinion, meets with, or does not meet with the requirements of paragraph 4.
3	If the application meets with the requirements set out in paragraph 4, refer the detailed account of the legal representative to the <i>relevant State Attorney</i> to determine whether the fees contained therein are fair and reasonable. The <i>State Attorney</i> will determine a fair and reasonable fee to be reimbursed to the employee.
4	After having received the determination by the <i>State Attorney</i> , issue a certificate that states the amount that is, in the opinion of the said Head, the amount that the <i>employee</i> should be reimbursed with, if the application for reimbursement is

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STEP	ACTION
	approved.
5	Send the report in step 2, together with all documents pertaining to the application, to the Head: Legal Support: Litigation and Administration, for his or her decision.

- (4) The Head: Legal Support: Litigation and Administration, must consider the report and documentation provided to him or her in accordance with subparagraph (2) and either approve or disapprove the application. If such Head —
- approves the application, he or she must authorize the expenditure in accordance with the determination made by the State Attorney; or
 - disapproves the application, he or she must provide reasons for the disapproval.
- (5) The Head: Legal Support: Litigation and Administration must inform the Head of the *relevant legal service* and Financial Services in writing of his or her decision provided for in subparagraph (4). The Head of the *relevant legal service* must inform the employee of the result of his or her application. If the application was approved, the Head of Financial Services must effect the payment of the relevant amount.

12. Commissions of Inquiry, Independent Police Investigative Directorate or Public Protector

- (1) In the event that an employee is called to appear before a commission of inquiry (excluding an administrative inquiry to be held in terms of section 34 of the South African Police Service Act, 1995), an inquiry or investigation conducted by the Independent Police Investigative Directorate, the Public Protector or a similar body or at a formal inquest, such employee may qualify for legal assistance, in order to protect the interests of the Service.
- (2) An employee that receives notice that he or she must appear at a commission of inquiry, an inquiry or investigation conducted by the Independent Police Investigative Directorate, the Public Protector or a similar body or at a formal inquest, must inform his or her commander of this fact and provide the relevant documentation (such as the notice to appear at the inquiry) to his or her commander.
- (3) The commander must in the case of a province inform the Provincial Head: Legal Services or, in the case of an employee attached to a Head Office component or division, inform the Executive Legal Officer that the employee must appear at a commission of inquiry, an inquiry or investigation conducted by the Independent Police Investigative Directorate, the Public

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Protector or a similar body or at a formal inquest and forward the relevant documentation to such functionary.

- (4) The application must, with the necessary amendments, be dealt with in terms of paragraph 6(1) to (6). Paragraph 9 to 11 of this Order is with the necessary amendments applicable to an application of this nature.
- (5) The relevant Provincial Commissioner must forthwith inform the National Commissioner if such legal representation was arranged.
- (6) If the Provincial Commissioner is in doubt whether to approve such application, he or she may refer the matter to the National Commissioner for decision.

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+27 (28) 316 3707 / 2384
+27 (28) 316 3720
legal@steynlaw.co.za

Unit 2 | Hemel-en-Aarde Craft Village
cnr R43 and Main Road | Sandbaai
PO Box 1005
Hermanus
7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference: JW/ml/JL0030

Date: 15 June 2016

THE PROVINCIAL COMMISSIONER
SA POLICE SERVICE
GAUTENG
JOHANNESBURG

BY E-MAIL: Rambachan-NaidooN@saps.gov.za
AND BY FAX: 011 274 7577

Dear General De Lange

RE: APPLICATION FOR STATE DEFENCE: WHJ COETZEE AND OTHERS

1. Your letter dated 04 May 2016 refers.
2. For obvious reasons my clients are extremely disappointed with the outcome of their applications for assistance with the payment of legal costs. They are facing a charge of murder, scheduled to go on trial in the High Court for a period of at least 2 months. The substantial implications attached to that, financial and otherwise, should be common cause.
3. The extraordinary nature of this matter was dealt with in my letter to the Divisional Commissioner Legal Services, dated 10 February 2016. (See copy thereof attached hereto). It takes us back 33 years, to 1983 and to the specific circumstances that the Security Branch had to deal with at the time. In evidence tendered to the Truth and Reconciliation Commission by parties from all sides of the erstwhile political conflict in our country, that could only be described as a de facto war. In the process, extensive evidence was presented regarding the sensitive issue of informers and

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how it was dealt with by the parties involved. This matter fits exactly into that scenario.

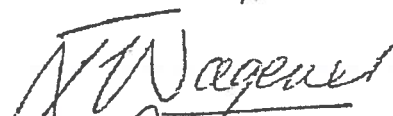
4. With the aforesaid in mind, and also as stated in earlier correspondence, my clients were unable to complete the application forms in full. Firstly their commander at the time, Brig Muller, passed away some 25 years ago and could therefore not complete Part G of the applications. Secondly, Coetzee and Pretorius left the police some 20 years ago and cannot complete Part F of the applications as presently formulated. Surely an alternative arrangement can still be negotiated if required.
5. To my clients it is not clear exactly what was considered by you in order to reach the decisions in question. For example, Mong's application was refused in that he exceeded his powers when executing his duties. It is not clear to which duties and which powers are referred to, keeping in mind the charge of murder only. His application was also refused on the basis that, at the time, he was obeying an illegal instruction. Again, and keeping in mind the charge of murder only, it is unknown as to which instruction is referred.
6. In their applications for amnesty to the TRC, my clients admitted that Me Simelane had been abducted, detained, questioned and assaulted. Except in respect of assault, those applications were successful. However, they are now charged for murder only, in respect of which no direct evidence exists.
7. To refuse the applications on the basis that the State is here the complainant, is factually and legally incorrect. The same applies to the reasoning that it is not in the interest of the State to grant assistance to my clients. The possibility of future civil claims against the State, is still a reality.
8. It is correct that employees of the State have tendered different versions regarding aspects of the incident, specifically relating the issue of assault, but not as to the alleged murder itself. On no rational approach can that form any basis to refuse the applications of my clients. Furthermore, in terms of section 18 of the Criminal Procedure Act, a charge of assault can not be brought against my clients. At the criminal trial, the court will eventually adjudicate on the merit of the said versions and make findings in respect of the credibility and reliability of the witnesses.

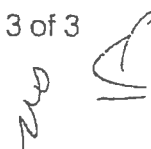
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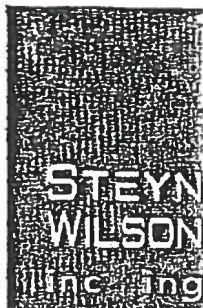


9. To refuse the applications of Coetzee and Pretorius on the basis that they exceeded their powers when executing their duties, with no reference to which powers and which duties, also seem to be irrational and in breach of the established rule of audi alteram partem.
10. Lastly, to refuse the applications of Coetzee and Pretorius on the basis that they are no longer employed by SAPS, is without doubt an error of law. The date when the alleged offence was committed, is the relevant and correct date regarding the status of their employment.
11. As prescribed by the Constitution, my clients are legally entitled to fair administrative action, and have now obtained the opinion of Senior Counsel as to whether that has been the case in this instance. Such advice is now available, stating clearly that your refusal to grant assistance to my clients as applied for, is unlawful and should be set aside on review in terms of section 6 of the Promotion of Administrative Justice Act (Act 3 of 2000).
12. Presently my instructions are to proceed with a review application as stated. However, in an attempt to save time and unnecessary costs, you are kindly requested to reconsider your earlier decision herein and to grant my clients the assistance that they are legally entitled to. Should you require any further information in reconsidering the applications, you are welcome to contact me immediately.
13. I look forward to your urgent response.

Yours faithfully,


STEYN WILSON ING/INC
Per J Wagener





+27 (28) 316 3707 / 2384

+27 (28) 316 3720

legal@steynlaw.co.za

Unit 2 | Hame-en-Aarde Craft Village
cnr R43 and Main Road | Sandbaai
PO Box 1005
Hermanus
7200

ATTORNEYS | NOTARIES | CONVEYANCERS

In Pursuit of Justice

Your Reference:

Our Reference: JW/ml/JL0030

Date: 07 July 2016

THE PROVINCIAL COMMISSIONER
SA POLICE SERVICE
GAUTENG
JOHANNESBURG

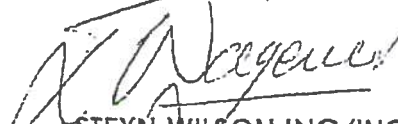
BY E-MAIL: Rambachan-NaidooN@saps.gov.za
AND BY E-MAIL: dudum@saps.gov.za

Dear General De Lange

RE: APPLICATION FOR STATE DEFENCE: WHJ COETZEE AND OTHERS

1. I have received no response from you regarding my letter dated 15 June 2016.
2. Therefore, should your positive response not be received by 28 July 2016, my clients will have no alternative than to proceed with the review application referred to in paragraph 11 and 12 of my said letter. For obvious reasons, that will include an order for costs against you.
3. I trust, however, that lengthy and expensive litigation will be avoided and look forward to your urgent response.

Yours faithfully,


STEYN WILSON INC/INC
Per: J Wagener

Raymond Matherwa npa.gov.za 92 2294 92

National Prosecutions Service

Director of Public Prosecutions
Gauteng Division, Pretoria



A. J.
Adv. Adele Barnard
(25-29/9/2016)

REF./VERW. NO. 10/2/1/1-P8/2016

PRETORIA

Tel: +27 12 351 6700
Fax +27 12 843 1728
dpppta@npa.gov.za

Prudential Building
28 Church Square
PRETORIA
0002

P/Bag X300
PRETORIA
0001
South Africa

www.npa.gov.za

The Magistrate
Pretoria

14 March 2016

THE STATE versus MSEBENZI TIMONTHY RADEBE and 3 OTHERS
JHB CENTRAL CAS 1469/02/1996
CASE NUMBER: CC19/2016

The Director of Public Prosecution remarks as follows:

"1. In terms of section 75 of Act 51 of 1977 I have decided to arraign the accused:

- 1 MSEBENZI TIMONTHY RADEBE
- 2 WILLEM HELM JOHANNES COETZEE
- 3 ANTON PRETORIUS
- 4 FREDERICK BARNARD MONG

in the High Court on the following charges:

COUNT 1: KIDNAPPING; (ACCUSED NO 1 ONLY)

COUNT 2: MURDER READ WITH THE PROVISIONS OF
SECTION 18 (a), 92(2), 94, 256, 257 AND 258 OF
THE CRIMINAL PROCEDURE ACT 51 OF 1977;
(ACCUSED 1- 4)

2. You are requested to refer the accused for trial in the High Court on the said charges.

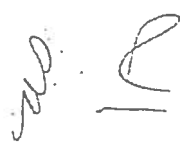
Justice in our society, so that people can live in freedom and security

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3. The magistrate is requested to obtain the following information from the accused and to record it:
 - 3.1 whether they will arrange for their defence or whether they want legal aid defence;
 - 3.2 whether they want the State to subpoena any witnesses on his behalf. If so the names and addresses of such witnesses must be furnished.
4. If the accused are to be released on bail or has been released, the magistrate are requested to include the conditions referred to in section 62(d) of Act 51 of 1977, and to endorse the record accordingly.
5. The following documents, as prescribed by section 144(3) of Act 51 of 1977, are attached for service on the accused in terms of section 144(4) (a) (ii) of Act 51 of 1977 :
 - 5.1 Notice of trial; (DATE TO FOLLOW)
 - 5.2 Indictment of accused;
 - 5.3 Summary of substantial facts;
 - 5.4 List of witnesses.
6. The magistrate is requested to endorse the service of the abovementioned papers on the record of the proceedings - see section 144(b) of Act 51 of 1977.


D.H. PIETERS

for. CHIEF CLERK TO THE DIRECTOR OF PUBLIC PROSECUTIONS
GAUTENG DIVISION, PRETORIA



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The Court Manager
Pretoria

1. A copy for your information.
2. The original record of the record including the abovementioned proceedings, together with a CERTIFIED copy thereof, must be forwarded to me – see paragraph 149(c) of the code "Clerks of the Court".
4. The exhibits, if any, must be available at the trial.
5. The witnesses as per the list of witnesses must be subpoenaed for 08:00. The subpoenas must be handed over to the investigating officer for purposes of serving in accordance with section 329 of Act 51 of 1977. Enclosed are documents to be attached to each subpoena prior to the handing over thereof to the investigating officer.
6. A copy of the indictment is attached.


D. M. PETERS

for CHIEF CLERK TO THE DIRECTOR OF PUBLIC PROSECUTIONS
GAUTENG DIVISION, PRETORIA



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The Investigating Officer

SAPS :

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1. A copy for your information together with a copy of the indictment.
2. Typed and certified copies of the following documents must be made :
 - 2.1 Nine (9) copies of the photograph albums and the key to the photo albums must be prepared.
 - 2.2 The subpoenas must be obtained from the Court Manager. The returns of service must be available at court on the date of trial.
 4. The case dockets, are attached hereto, but must be returned to reach me with the required information/copies on or before
5. I must immediately be notified, should the accused/witnesses not be traced or any other problem be experienced in this regard.


D.H. PIETERS

for CHIEF CLERK TO THE DIRECTOR OF PUBLIC PROSECUTIONS
GAUTENG DIVISION, PRETORIA

no 

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IN THE HIGH COURT OF SOUTH AFRICA
(Gauteng Division, Pretoria)

The Director of Public Prosecutions : Gauteng, Pretoria, who as such prosecutes for and on behalf of the State, presents and informs the Court that :

MSEBENZI TIMONTHY RADEBE

A 65 year old male, residing at 36 Stumke Street, Witpoortjie Extension 11 Roodepoort.
(Hereinafter referred to as **ACCUSED 1**)

WILLEM HELM JOHANNES COETZEE

A 63 year old male, residing at 4 Acapulco Sonderend Street, Helderkruijn, Roodepoort
(Hereinafter referred to as **ACCUSED 2**)

ANTON PRETORIUS

A 57 year old male, residing at 20 Dundsdon, Malcolm Road, President Rhodes.
(Hereinafter referred to as **ACCUSED 3**)

FREDERICK BARNARD MONG

A 57 year old male, residing at 5 Anne Street, Solandpark, Vereeniging.
(Hereinafter referred to as **ACCUSED 4**)

no R

Are guilty of the crimes of:

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1. KIDNAPPING; (ACCUSED NO 1 ONLY)
2. MURDER READ WITH THE PROVISIONS OF SECTION 18 (a) ,92(2) ,
94 ,256 , 257 AND 258 OF THE CRIMINAL PROCEDURE ACT 51 OF
1977;(ACCUSED 1-4)

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COUNT 1 - KIDNAPPING (ONLY ACCUSED 1)

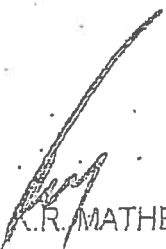
IN THAT on or about 11 September 1983 and at or near the Carlton Centre Mall, in the district of Johannesburg the Accused, did unlawfully and intentionally deprive **Nokuthula Aurelia Simelane** of her liberty and freedom of movement by removing her against her will from the Carlton Centre Mall where after they took her to the Custodum flats in Norwood and to Northam in Thabazimbi against her will.

COUNT 2 - MURDER (ACCUSED 1-4)

IN THAT on or about between September to November 1983 and at or near Uitsig Oos Farm, Northam, in the district of Thabazimbi, the Accused did unlawfully and intentionally kill **Nokuthula Aurelia Simelane**, a 27 year old female person.

WHEREFORE upon due proof and conviction, the said Director of Public Prosecutions prays for sentence against the Accused according to law.

In terms of Section 144(3) (a) of the Criminal Procedure Act 51 of 1977, lists of witnesses as well as a summary of substantial facts are attached hereto.



K.R. MATHENJWA

DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS



PRIORITY CRIMES LITIGATION UNIT

SUMMARY OF SUBSTANTIAL FACTS

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1.

Accused 1 - 4 were all attached to the Soweto Intelligence Unit at the South African Police Security Branch and they were specifically concerned with intelligence gathering.

Accused 1 - 4 controlled various classes of informants and agents.

2.

The Soweto Intelligence Unit of the Security Police, including Norman Lungile Mkhonza infiltrated the ranks of the African National Congress ("ANC") and its military wing Umkhonto weSizwe ("MK") in Swaziland.

3.

The Soweto Intelligence Unit under the command of Accused 2 was alerted that a meeting would take place between a Mkhonza who was an RS member (policemen who operated under deep cover) and an MK member at the Carlton Centre in Johannesburg during September 1983.

4.

Accused 2 informed the late Brigadier H Muller, who was the overall commander of the Soweto Security Police at that stage, about the meeting. Muller and Accused 2 were in agreement that the MK member should be abducted in order to turn the member into an agent for the Security Police. It was unknown at that stage that the MK member was a female person.

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5.

Accused 2 gathered a team of the Soweto Intelligence Unit Police officers, which included inter alia, Accused 1, 3 and 4. Accused 2 proceeded to prepare the team for the operation.

6.

On the day of the operation, the MK member turned out to be **Nokuthula Aurelia Simelane**, a 27 year old female person (herein after referred to as the deceased). Mkhonza lured Simelane to the basement of the Carlton Centre mall, where she was apprehended and kidnapped by inter alia **Accused 1 - 4**.

7.

The deceased was manhandled and bungled into the boot of a police vehicle together with **Accused 1**, who assisted to subdue inside her the boot, where after the deceased was taken to the Custodum Flats in Norwood. At the Custodum Flats in Norwood the Soweto Intelligence Unit had an operational office in the servant's quarters on the top floor, in the roof of the building.

8.

The deceased was kept at the Custodum flats for a few days where she was interrogated and continuously assaulted and tortured by **Accused 1- 4**.

9.

Shortly thereafter the deceased was taken to secluded premises on a farm in Northam that belonged to the family of **Accused 2**. The deceased was detained at the farm for a period of approximately 4 to 5 weeks.