

simply told accused no. 1 in effect I might be interested but I am too busy. That would not be correct, and you said that simply to get rid of accused no. 1? -- Yes, that is so.

Anyway, now just before we adjourn, I want to ask you this last question or two. On that day when you say you spoke to accused no. 1 in the township in September '77, did you ever see him again before Court? -- I did not see him again.

Are you quite sure? -- Yes.

Did you never speak to him again? -- I did not see him thereafter your Worship. (10)

Did you ever speak to him without seeing him?

COURT: Is that possible?

MR. ALEXANDER: There is a reason for the question sir. It sounds peculiar, but there is a reason which you will see in a moment. -- I merely spoke to him when we saw each other at Mzimsha's place.

That is the only time? -- Yes, and thereafter I saw him at the North End prison.

Oh, you saw him at the North End prison. In D4? -- Yes.

You did not talk to him then? Are you sure? -- I did speak to him but the Police there would not allow us to stand at the window, but talk to each other. (20)

What did you speak to him about? -- We greeted each other. He greeted me and I greeted him back.

Is that all? -- Yes, because we did not come out at the same time for exercise.

COURT: Are you going on to a new aspect?

MR. ALEXANDER: No sir, it is just one last question. Just the one aspect on this. Incidentally, when you first spoke to him at the shop as you say, did he call you by your name or did he not know your name? -- He said "listen here sonny". (30)

Do you spell son, s-o-n? -- He said sonny.

Sonny? /

Sunny? Oh, I see. Like - it is not a nickname, just a
other
young boy? -- That is a word we use when we speak to each your Worship.

Did you say to him what your real name was? -- No, I never
told him my name.

Arn't you known also as Sundown?

COURT: As?

MR. ALEXANDER: Sundown.

COURT: Sundown? Sunup to Sundown.

MR. ALEXANDER: Like the Sundown kid, that sort of ... (intervention)

COURT: The Sundance kid. (10)

MR. ALEXANDER: Sundown I think.

COURT: Sundown. -- That is the name they call me by at the
North End prison.

MR. ALEXANDER: That is exactly where we learnt your name.

COURT: Sundown.

MR. ALEXANDER: Then perhaps, I think after that stage, we should perhaps
take the adjournment.

COURT: Thank you. Mr. Prosecutor, you have heard my remarks in
regard to the witness. Can you make an arrangement that he should see the
district surgeon and I would suggest that you find out from the district (20)
surgeon what is wrong with him, if anything, discuss that with counsel,
and on that basis we can possibly go on after that without having to call
the district surgeon. I will now adjourn, and if in the meantime you wish
to continue with another witness, will you be ready to do that?

PROSECUTOR: Sir, I would rather not do that sir because as it is we
have been standing witnesses down etcetera sir, and I would rather have ...
(intervention)

COURT: Well, at the moment. He will be the only one. Is there
another?

PROSECUTOR: Sir, I would like to have this witness finished as soon as (30)
possible sir, depending on what ... (intervention)

COURT: Do you agree with me that physically I am speaking as a layman, he needs some assistance and he has also said that he needs pills which he has not got with him.

PROSECUTOR: Yes sir, but I was not aware of the medicine aspect.

COURT: Quite so, but do you agree that it is not right that he should go on at this stage? I want there to be agreement between myself, the Prosecution and the Defence and I think Mr. Alexander has already agreed that this is so, so shall I then adjourn and we will resume as soon as he is ready?

PROSECUTOR: That is correct sir.

(10)

COURT: Please call me when you are ready.

COURT ADJOURNS

---oOo---

PROSECUTOR: Sir, I just wish to place on record at this stage that the witness Tali has been deferred to the doctor sir. The doctor however, has referred him for X-rays sir, and depending on what the outcome of that is and what the findings of the doctor would be after that, that will determine whether that witness will be able to continue with the trial immediately or not sir. For that reason sir I would permission of the Court to have that witness standing down and for the State to call other witnesses(20) at this stage sir.

MR. ALEXANDER: I have no objection sir.

COURT: Yes, I agree to that and it is placed on record that we had this discussion in chambers and that this was mutually agreed upon between the Defence team, the State team and the magistrate.

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(?)

JOHN AUBREY MEISENHEIMER, v.o.e.

ONDERVRAAGING DEUR AANKLAGER

Mr. Meisenheimer, u is werksaam by die Bevolkingeregistrasiekantore te Newtonstraat, Johannesburg? -- Dit is korrek Melagbare. Ek is (30) egter intussen verpleas. Ek is nie meer daar nie.

Maar /

Haar gedurende 1977 het u daar gewerk? -- Dis reg

Edelagbare.

Word daar by die betrokke kantoor aansoek gedoen om reisdokumente na die buiteland? -- Dis korrek Edelagbare.

Wat was u besondere taak in daardie kantoor? -- Ek was die beampte in beheer van die hele afdeling, en so het al die verskillende take onder my geassorteer.

Ja? -- Onder andere het die reisdokumentafdeling pertinente opdragte gehad om alle twyfelagtige gevalle na my te verwys.

As u sê twyfelagtige gevalle, verwys dit na die inhoud van (10) die aansoekvorms? -- Dit is 'n aansoekvorm wat nou nie 100% voltooi is nie en waar daar iets nie reg is, waar hy nie aan die vereistes voldoen nie.

Op die 17de November 1977 het u 'n telefoonoproep ontvang van Sersant Hammou van die Veiligheidsⁱstak van Vorsterplein, Johannesburg? -- Dit is korrek Edelagbare. Ons het nou samewerking met hulle.

Het hy enige versoek aan u gerig? Edelagbare, die getuie sal geroep word, Sersant Hammou Edelagbare. Het hy enige versoek aan u gerig? -- Hy het my gevra om op die uitkyk te wees vir 'n klomp jonges wat van Port Elisabeth afkomstig sou wees en wat sou probeer om reisdokumente te bekoms. (20)

Daardie selfde dag, wat het toe gebeur? -- Ek het die beampte by die aansoek instruksies gegee om veral vandag op te let en enige twyfelagtige gevalle na my te verwys. Net na etenstyd die middag, dis ongeveer so 2 uur, het hy na my toe gekom met 'n klomp aansoekvorms. Die beampte het agter om die toebank gekom en voor die toebank het 'n klomp jong swartes gestaan wat nou vir die aansoek verantwoordelik was. Die beampte het die aansoekvorms aan my oorhandig en vir my gesê hy is nie tevrede met die ... (tussenbeikoms)

HOF: Nee, nee.

AANKLAGER: Ek was tog. Die aansoekvorms was toe aan u oerhandig (30) (onhoorbaar)...? -- Ja, dis soos ek sê. Hy het dit aan my gegee en gesê...

(tussenbeikoms)

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----ooOoo----

(tussenbeikoms)

HOF: Nee, jy moet net nie sê wat hy vir u gesê het nie. Sê wat u daarmee gedoen het? -- Ek het die aansoekvorms nagegaan en die fotos met elke applikant gekontroleer.

AANKLAER: Hoe het u dit gekontroleer? -- Ek het die applikant se naam uitgeroep en met hom gewels oor die aansoekvorm.

HOF: En dieselfde tyd na die foto gekyk? -- Die foto gekyk en na sy gesig.

Of die foto ooreenstem met die applikant? -- Dis reg Edelagbare. Die aansoekvorm vereis dat daar twee fotos van elke applikant (10) moet wees. Die vorms was baie slordig en onvolledig voltooi en ek het een foto van elke aansoekvorm verwyder en gehou. Ek het die aansoekvorms aan die applikante terug oorhandig en hulle opdrag gegee om dit behoorlik te voltooi en weer aan my terug te bring.

AANKLAER: Ek toon aan u Bevestigstuk L. Dit bestaan uit tien fotos.

HOF: Bevestigstuk L, L vir Liebetrau?

AANKLAER: Dis korrek Edelagbare.

HOF: Of vir liefling.

AANKLAER: Dis korrek Edelagbare. Herken u daardie fotos? -- Ja Edelagbare, dit is die fotos wat ek van die aansoekvorms verwyder het. (20)

HOF: Kan ek dit sien asseblief? Die dokument word gemerk Bevestigstuk L.

AANKLAER: Die fotos wat op Bevestigstuk L verskyn, is dit die persone wat aansoek gedoen het vir reisdokumente? -- Dit is die wat voor my was, se fotos.

Mr. Meisenheimer, kan u onthou welke rede was aangevoer op die aansoekvorms waarom die persone ... (tussenbeikoms)

HOF: Mr. die Aanklaer, Mr. Prosecutor, I must ask you though to lay a foundation for this question. You are to my mind only entitled to put that question in that manner if you have first established that that document is not available. I know the witness has said that he returned (30) the documents to the applicants to be properly completed. If those

documents /

documents were returned to him, then to my mind you are not at liberty to examine him on it. If they were not returned to him, then ofcourse I think you can proceed.

AANKLAER: Mr. Meisenheimer, het u weer daardie betrokke reisdokumente daarna gesien? -- Nee Edelagbare. Die applikante dit nooit aan my terug gebring nie.

HOF: Het u dit nooit weer gesien nie? -- Nee Edelagbare.
En Mr. die Aanklaer, is daardie dokumente nie in die besit van die Staat nie?

AANKLAER: Nee Edelagbare. (10)

HOF: Dan kan u nou voortgaan.

AANKLAER: Soos die Hof behaag. Kan u onthou Mr. Meisenheimer, welke rede was ongeveer waarom die persone reisdokumente wou bekom? -- Daar is 'n spesiale ⁿgragtaf - doel van besoek - voltooi moet word, en daar het net gestaan "visit".

HOF: Waarheen moet hierdie besoeke gaan? Waarheen wou die mense gaan? -- Edelagbare, daar was meer as een aansoek, meer as een plek gencem. Die algemeenste was Botswana, Lesotho en Swaziland.

Maar was dit vir almal vir plekke buite die Republiek van Suid-Afrika? -- Dis korrek Edelagbare. (20)

AANKLAER: Mr. Meisenheimer, het u toe later met die Polisie geskakel daardie dag? -- Ek het later die middag Sersant Hammon geskakel en hom meegedeel dat ek ... (tussenbeikoms)

HOF: Nee, toe maar, toe maar. Ek weet nie of hy die getuienis kan gee nie. Die getuie wil sê wat hy vir die Sersant gesê het.

AANKLAER: Ek dink hy is geregtig om dit te doen Edelagbare.

HOF: Is dit nie hoorsê nie?

AANKLAER: Nee, 'n ding wat hy self gedoen het Edelagbare, wat hy self gesê het. Ek dink dit is direkte getuienis Edelagbare, nie dat van veel belang is nie. (30)

HOF: Ek is nie seker dat dit is nie. Roep u daardie Sersant?

AANKLAER /

AANKLAER: Ja Edelagbare.

HOF: Roep u hom?

AANKLAER: Ja Edelagbare.

HOF: Nee, dan kan die getuie maar aangaan.

AANKLAER: Ja, u kan maar voortgaan. U het met Sersant Hamson geskakel? -- Ek het hom geskakel en hom meegedeel dat ek 'n aantal fotos van verdagte persone het, en hy het hulle later by my kom haal.

HOF: Het hy die fotos kom haal? -- Verakoon tog?

Hy het die fotos kom haal? -- Hy het die fotos kom haal.

Is dit daardie fotos ... (tussenbeikoms)...? -- Dit is (10)
dieselfde fotos Edelagbare.

Bewysstuk L. -- Dis reg.

GEEN VERDERE VRAE DEUR AANKLAER

KRUISONDERVRAGING DEUR ME. ALEKANDER

Behalwe die feit dat op hierdie betrokke vorms, hulle in 'n slordige manier voltooi was of sekere vrae nie behoorlik geantwoord was nie, was daar enigiets anders wat snaaks was of buitengewoon was in verband met daardie applikasievorms? -- Die meeste applikante het nie 'n werksadres gehad nie, en die belastingvorm wat ons ook voltooi, was nie by nie en hulle het nie ordentlike of geen bewysboekies gehad nie. (20)

Nou wat die belastingvorm betref ... (anhoorbaar, tolk ook ^{het} in mikrofoon)...? -- Edelagbare, ons twee rellings. Die een is vir applikante onder seksion wat as kinders geag word wat nie in besit van 'n bewysboek hoef te wees nie, en die ander is vir oer seksion wat in besit van 'n bewysboek moet wees.

Nou toe u by die toonbank gekom het na u die boodskap van die amptenaar ontvang het, wat daar by die toonbank was, kan u onthou hoeveel mense daar gestaan het? Was daar 'n klomp van hulle altesaam of was daar mense in die algemeen wat daar gestaan het? -- Edelagbare, daar was omtrent 200 mense voor die toonbank en om die toonbank gewees. (30)

Nou hierdie besondere tien persone wie die fotos nou -

hierdie /

hierdie fotos nou van betrekking is, was hulle in een klomp of hoe het jy hulle gekies uit al die mense wat daar by die toonbank gestaan het? -- Hulle was ongeveer tien, en daar was een perseon wat nou net die spreksman was vir hulle. Hy het 'n aansoekvorm gehad nie.

En was die algemene faktor wat hierdie mense aan gebind het, net die feit dat hulle van Port Elizabeth gekom het. Is dit so? -- Hulle het van die toonbank gestaan omtrent twintig treë van waar my navraag toonbank is, en hulle het toe van daardie plek afgestap na my toe.

Maar hoe het jy geweet van al die mense wat daar gestaan het, dat hierdie mense is die een wat van byvoorbeeld Sersant Hammon gepraat het?(10) -- Ek het die name geroep en die spreksman het elkeen soos ek my naam geroep het na my toe gebring.

Ja, maar jy was nie in besit van daardie name voordat u die name uitgeroep het? -- Dis korrek. Ek het die aansoekvorm oopgemaak en die naam gesien en die naam geroep en die applikant het na my toe gekom.

Met ander woorde, is dit nou die posisie dat Sersant Hammon u die name gegee het? -- Nee Edlagbare. Hy het geen name nie, net gesê 'n klomp mense van Port Elizabeth.

Het jy nou vasgestel dat die mense wie se name u uitgeroep het, kom van Port Elizabeth? -- Edlagbare, ek het dit nie vasgestel dat hulle van Port Elizabeth afkomstig is nie, maar die vanne was nie algemene vanne van Johannesburg nie. Dit was meer Khosa vanne. (20)

Kom dit Sothos gewees het? -- Daar kom Sothos gewees het, maar 'n paar name was uiters snaaks en ek is nie gewoond aan hulle nie.

Jy sien, wat ek nie mooi verstaan nie is hoe jy daardie tien persone gekies het van al die klomp mense wat daar gestaan het? Is dit net die rede van die buitengewone name of is dit die feit dat daar een perseon was wat hulle verteenwoordig het of wat? -- Ek het gesien dat hulle vreemd is.

Vreemd in watter manier? -- In die opsig laat hulle nie die (30) procedure geken het nie. In die opsig laat hulle nie die procedure om 'n

aansoek vir 'n reisdokument ... (tussenbeikoms)

Ja, maar is dit nie die normale geval met onwettige persone?
-- Nee Edelagbare, daar is Bantoss daar wat die mense behulpsaam is om die
vorm te voltooi as hulle daarvoor vra.

Nou is dit die posisie dat die amptenaar wie by die
toombakⁿ gestaan het, hierdie persone gekies het van die klomp wat daar gestaan
het? Was dit sy keuse of jou keuse? -- Dit was ons albei se afleiding
gewees dat iets nie pluis was nie.

Nou jy sê - so, as ek jou verstaan dat waar hulle op die
vorms nou die doel van die besoek verskaf het, het hulle die antwoord "visit"
gegees? -- Dis reg. (10)

Nou watter ander gedeelte van daardie paragraaf staan op
die vorm? Ek lees daar een wat sê besigheid, nie waar nie? Besigheid
(onduidelik)...? -- Nee. Dit is nie dieselfde as 'n paspoortaanseek vir 'n
Blanke nie.

Nou wat is die vraag wat hulle moet antwoord? -- Die vraag
is doel van besoek en die tydperk van besoek en die plek wat besoek word.

Nou kan u sê sonder enige aarseling, al die tien persone al
dieselfde rede verskaf het of is dit moontlik dat party van hulle het gesê
die doel is 'n "visit" of 'n ander rede? -- Almal was "visit". (20)

HOF: Het hulle nie dalk geskrywe studiedoeleindes? -- Nee
Edelagbare, ek het pertinent gekyk die doel van besoek en almal was "visit".
Daar was nie 'n ander rede gewees nie.

Op hierdie punt het u sekerheid. Almal was net "visit"?
-- Dis reg Edelagbare.

MR. ALEXANDER: En kan u sê met verband na die verskillende persone wie se
fotos daar staan, Bearysank L. watter een het gekies om na Botswana te reis
of Lesotho of Swaziland? -- Nee, ek kan dit nie sê nie Edelagbare.

Is dit moontlik dat daar party van daardie mense ander plekke
genoem het behalwe hierdie drie lande? -- Dit is moontlik Edelagbare. (30)

Kan u onthou watter lande hulle genoem het? -- Hulle kan

Botswana, Lesotho, Swaziland, Rhodesia, Mosambiëk.

Enige ander plekke wat u kan aan dink? — Nee, dit is al.

Is u seker of is u nie seker nie? — Nee, ek is seker. Dit is al.

Nou hoekom het jy nie melding in jou hoofgetuigenis gemaak van Rhodesia en Mosambiëk nie? Jy het net gesê dat die plek wat hulle na verwys het is net Botswana, Lesotho en Swaziland?

HOF: Was die getuie daaromtrent gevra?

MR. ALEXANDER: Nee, ek dink hy was gevra waar is die plek waarna toe hierdie (10) mense wil ry, dan het hy dié name gegee.

HOF: Maar was die vraag gestel asof dit uitsluitlik net daardie was?

MR. ALEXANDER: Ek dink dit was deur Edlagbare gevra.

HOF: Ja, maar ek wou net aandag daarop vestig dat ek dink as ek die vraag gestel het en ek aanvaar gereedelik dat dit so is, ek het nie gevra of dit uitsluitlik net daardie plekke (tussenbeikoms)

MR. ALEXANDER: Nee, ek dink die vraag Edlagbare (tussenbeikoms)

COURT: There is a distinction.

MR. ALEXANDER: Watter plekke. Ek dink in billikheid Edlagbare, die getuie (20) het gesê die meeste van die plekke was hierdie drie lande.

COURT: That is my memory too. I did not ask him to name them all and I got the impression that he named some but that there might well have been others, and then I made the point whether they were all outside the Republic of South Africa. I am saying this in fairness (interventies)

MR. ALEXANDER: No, no, I accept the point sir. Nou, die laaste vraag mnr., kan u onthou wat die lengte van die besoek was wat op (onhoorbaar, nie in mikrofoon)...? — Nee, ek kan nie meer die lengte van die besoek onthou nie.

U kan nie sê of dit een maand was of langer ... (onhoorbaar).? — Nee, ons het 'n reëling gehad dat ons hulle 'n maksimum ses maande gee (30) daardie tyd, so dit sou nie meer as ses maande gewees het nie.

Kan u sê wat hulle geskryf het? — Ek kan nie onthou nie.

HOF: Dis wat u sou gee, maar dit beteken nie hulle het nie vir langer gevra nie? — Dis nie te sê dat hulle nie vir langer gevra het nie Edelaagbare.

GENE VERDERE VRAE

GENE HERONDREVRAGING DOOR AANKLAGER

COURT ADJOURNS FOR A FEW MINUTES

—oO—

COURT RESUMES

PROSECUTOR: Your Worship, the Defence are prepared sir to make certain (10) admissions regarding the identity of the people, the photographs reflected in Exhibit L sir.

COURT: Has this been written down?

PROSECUTOR: No sir.

COURT: Would you kindly do so.

MR. ALEXANDER: Your Worship, I may mention the names in question which my learned friend refers to, all appear on the photographs.

COURT: Where is Exhibit L? The admissions are that the following numbers are the following persons?

MR. ALEXANDER: That will come in a moment sir. The first admission is (20) (inaudible, not directly in microphone) from the names on the photos.

COURT: One second please.

MR. ALEXANDER: That the names appearing against each photograph is the name of the person (inaudible)

COURT: Photograph appears below it, below or next to it. That is the first admission. The second one?

MR. ALEXANDER: The second admission sir, my learned friend will give you the details, that these persons whose names appear (inaudible)

COURT: These persons whose names appear on Exhibit L are?

MR. ALEXANDER: Persons whose names appear in the further particulars, namely (30) (inaudible)

PROSECUTOR: Just to make it easier. Above each photograph there is a number sir. The first photograph is numbered no. 33. That is the same number allocated to that person in the further particulars, and this will be found sir on ... (intervention)

COURT: No, I want now to record the admissions. I have now recorded the following two, that these persons whose names appear on Exhibit L, are persons whose names appear in the further particulars, namely: Must I now write down - must I now write ... (intervention)

MR. ALEXANDER: You can merely say sir namely whichever number appears next to the photograph. (10)

COURT: Namely whichever ... (intervention)

MR. ALEXANDER: Every number appears ... (intervention)

COURT: Number?

MR. ALEXANDER: Number, appears above the photographs ... (intervention)

COURT: Appears above ... (intervention)

MR. ALEXANDER: The photographs ... (intervention)

COURT: Or on the side, there is one on the side, of each photograph, (intervention)

MR. ALEXANDER: Is the number given to that person in the further particulars.

COURT: Does that conclude the two admissions? Right. This (20)
document will be numbered, I am going to give it an exhibit number, Exhibit M. Right, I have got that.

PROSECUTOR: Sir, for the record sir, can I give the references to the different pages where the different persons are mentioned in the further particulars?

COURT: If you want to. Are we still busy with the names appearing on the photographs?

PROSECUTOR: That is correct. I just wish to give the references sir, then it makes it easier.

COURT: Allright, references to see Exhibit M, L and M. Yes Mr. (30)
Prosecutor?

PROSECUTOR: Photograph 33 refers to Sicelo Ngeleza.

COURT: That is already evidence from the (intervention)

PROSECUTOR: That is correct sir.

COURT: From the admissions.

PROSECUTOR: And that would be found sir on page 15, 31 and 35. No. 35 sir, Nluml Numba, would be found on page 15 and 35; 47, Nkulu Lixgina found page 15 and 35; 72 sir (intervention)

COURT: Would you mind if I improved your numbering here? It is very indistinct and you know how I feel about indistinct handwriting. I know how the typists feel about my handwriting so I am very touchy on the subject. Is Milani no. seventy...? (10)

PROSECUTOR: Seventy-two sir.

COURT: And Isodwa no. 73?

PROSECUTOR: That is correct.

COURT: And is Thobeka Nonduleni no. 71?

PROSECUTOR: Yes sir.

COURT: Right, now you are referring to no. 72, Milani?

PROSECUTOR: That is correct sir, page 16 and 35; Isodwa, 73 page 16 and 35 ... (intervention)

COURT: No, give me the number first please. (20)

PROSECUTOR: 73 sir.

COURT: 73, Isodwa?

PROSECUTOR: That is correct sir.

COURT: Page?

PROSECUTOR: 16 and 35; No. 71, Thobeka Nonduleni, page 16 and 35; No. 49, Notali Fazinxgi, page 15, 31 and 35; No. 11, Themba Goins... (intervention)

COURT: Nonthemba Goins.

PROSECUTOR: That is correct sir.

COURT: Page? (30)

PROSECUTOR: 14, 29 and 34. No. 3, Duma Mkalipi, page 14, 29, 34. No. 45,

Norman Charles, page 15 and 35.

COURT: Am I correct that the numbers appear above the photographs?

PROSECUTOR: That is correct.

COURT: So I am adding little arrows to make this quite clear. This list that you have now given me Mr. Prosecutor, will be numbered Exhibit H. Have you got that?

PROSECUTOR: As the Court pleases.

---oOo---

ADRIAAN LOURENS ALBERTUS HAMMON, v.o.e.

ONDERVraging deur aanklaer

(10)

U is 'n Sersant in die Suid-Afrikaanse Polisie verbonde aan die Veiligheidstak van Vorsterplein, Johannesburg? -- Dis korrek.

Op die 17de November 1977 het u geskakel met mr. Meisenheimer, die vorige getuie? -- Dis korrek Edelagbare.

Het u enige versoek aan hom verrig? -- Ja, ek het hom versoek om persone wat van P.E. om reisdokumente sal aansoek doen...
(tussenbeikoms)

HOF: Watter plek? -- Port Elizabeth.

Wat wil maak? -- Hulle sou aansoek doen vir 'n reisdokument, om besonderhede, alle besonderhede van die dokumente te skryf, soek fotos en dan weer my terug te skakel. (20)

AANKLAER: Later daardie selfde dag het u gegaan na die kantoor van mr. Meisenheimer? -- Dis korrek Edelagbare.

Het hy enigiets aan u oorhandig? -- Ja, hy het fotos aan my oorhandig.

Is dit die fotos, Bevestigstuk 1? -- Dis korrek Edelagbare.

HOF: Het u hulle so gemaakteer of het hy dit gedoen? -- Nee, nee, ek het hulle nie gemaakteer nie Edelagbare.

Was dit los fotos? -- Hulle was los fotos gewes.

AANKLAER: Toe op 'n later datum, die 22ste November 1977, het u na 'n huis gegaan te Diepkloof, Sowetu? -- Dis korrek Edelagbare. (30)

Kan u onthou wie se huis dit was? -- Ja, dit was Eric -
die bewoner van die huis was Eric Ngeless.

HOF: Spel asseblief? -- N-g-e-l-e-s-s-e.

AANKLAER: Is hy in die Hof vandag? -- Ja. Ja Edelagbare.

HOF: (Onhoorbaar)

AANKLAER: Almal het nommers. U kan maar kyk na die beskuldiges? --
Dit is beskuldigde 5.

HOF: Was hy tuis toe u daar kom? -- Dis korrek Edelagbare.

AANKLAER: Hoe laat het u ongeveer by sy huis gewees? -- Dit was vroeg
in die oggend, plus minus 3.45, kwart voor vier. (10)

En het u enige persone daar gearresteer? -- Dis korrek
Edelagbare.

Is daar enige persone wie se fotos op Bancroft is, wat u
daar gearresteer het? -- Ja, hier is een persoon.

Daar is nommers bo-aan die fotos. Kan u net die nommer
gee? -- Nr. 3, Duma Harrison Mkalipi.

HOF: Duma? -- Harrison.

Harrison? -- Mkalipi.

AANKLAER: Wie het u nog daar gearresteer? -- Daar was nog twee persone
gewees, Lungile Ntafi. (20)

HOF: (Onhoorbaar)...? -- Lungile - Lungisile.

Spel asseblief? -- L-u-n-g-i-s-i-l-e. Hy het sy naam ook
gegee as Lungile.

Het jy nie netnou 'n van ook gesê nie? -- Ntafi, dit is sy
van Edelagbare.

Het jy net twee mense daar gearresteer? -- Nee, 'n derde
persoon was Manxina (tussenbeikoms)

Spel asseblief? -- M-a-n-x-i-n-a.

AANKLAER: Kan u sy voornaam onthou? -- Ntutuseli.

Edelagbare, die verwysing van laasgenoemde persoon is nr. 30 (30)
bladsy 15 ... (tussenbeikoms)

HOF: Nee, net eers die bladsy gee.

AANKLAER: Ekskuus Edelagbare, bladsy 15, nr. 30, en bladsy 34, nr. 30.

AANKLAER VERVOLG: Waar het u die drie persone gearresteer? -- Wel, dit was in Eric Ngeleza se slaapkamer in 'n hangkas.

HOF: In nr. 5 se slaapkamer in 'n hangkas het u gesê? -- Dis korrek Edelagbare.

In 'n hangkas? -- Dis korrek.
toe of

AANKLAER: Was die hangkas se deur oop of hoe het u gewest hulle is daarbinne? -- Ons het die hele woning visenteer, en my opdragte was om die spesifieke kamer te visenteer. Dit was Eric Ngeleza se kamer en sy vrou, (10) want sy het nog in die bed gelê, en ek het die hangkas deurgegaan. Tussen die klere wat gehang het ... (tussenbeikoms)

HOF: Maar die vraag was was die hangkas se deur oop of toe? -- Ja, die hangkas se deure was toe gewees.

Jy sê dit was nr. 5 se slaapkamer? -- Dis korrek Edelagbare.

Sy vrou was in die bed? -- Dis korrek.

AANKLAER: Wie het die hangkas se deure oopgemaak? -- Ek het hulle self oopgemaak Edelagbare.

En die drie persone, waar was hulle? -- Hulle was versteek tussen die klere wat gehang het in die hangkas. (20)

Was daar ook ander persone in die huis gearresteer? -- Daar was ander persone gearresteer.

Beskuldigde nr. 5? -- Hy was ook gearresteer Ed¹elagbare.

En was al die persone geneem na John Vorsterplein? -- Dis korrek Edelagbare.

Het u enige dokumente of papiere in die huis op beslag gelê? -- Ek het nie, maar ek dink Luitenant van Niekirk het beslag gelê op dokumente.

Was hy saam met u by die huis? -- Hy was in bevel van die onderseek. (30)

Weet u wat van die dokumente geword het? -- Nee Edelagbare,

ek weet nie waar die dokumente is nie.

HOF: Het Luitenant van Niekirk die dokumente gevat? -- Dit is korrek Edelagbare.

En u weet nie wat daarvan geword het nie? -- Nee, nee, ek weet nie Edelagbare.

AANKLAER: Het u enigiets verder te doen gehad met die ondervraging of ondersoek van die saak of die persone wat u daar gearresteer het? -- Nee Edelagbare, ek het niks met die ondersoek te doen gehad nie.

GEEN VERDERE VRAE

AANKLAER: Edelagbare, eksklus tog, ek het iets vergeet Edelagbare, net (10) voor my geleerde vriend kruisverhoor. Lungisile Ntafi Edelagbare, het ek nagelaat om te vermeld in die naders besonderhede. Ek vra dat die naam bygevoeg word ... (tussenbeikoms)

HOF: Blad^asy?

AANKLAER: Blad^asy 16 Edelagbare.

HOF: Blad^asy 16, nommer?

AANKLAER: 76.

HOF: Wat van hierse tot by nr. 74?

AANKLAER: Edelagbare, daar moes nog 'n naam ingekom het.

HOF: U praat van blad^asy 16? (20)

AANKLAER: Dis reg Edelagbare.

HOF: Die verdere besonderhede wat ek het gaan tot by nr. 74,

Portis.

AANKLAER: Dan is dit 75, eksklus Edelagbare, nr. 75.

HOF: 75. Watse naam moet ingevoeg word?

AANKLAER: Lungisile Ntafi.

COURT: Have you any objection?

MR. ALEXANDER: No, I have got no objection sir. It certainly is a measure of some surprise to learn about another person (inaudible)

AANKLAER: Edelagbare, ek vra dat die persoon se naam ook dan gevoeg (30) word op blad^asy 34 onder die naam van beskuldigde nr. 5.

HOF: Bladsy 34, waar?

AANKLAER: Edelagbare, dit is die persone wat die Staat beweer wat deur nr. 5 ... (tussenbeikoms)

HOF: Na die naam Isedwa?

AANKLAER: Dis korrek Edelagbare.

HOF: En die nommer, nr. 75 sê u?

AANKLAER: Ja, 75 Edelagbare.

HOF: En die naam moet wees?

AANKLAER: Dieselfde naam, Lungisile Ntafi Edelagbare.

HOF: Lungisile? (10)

AANKLAER: Dis reg Edelagbare.

HOF: Lungisile en sy van?

AANKLAER: Tafi.

HOF: Tafi - T-a-f-e?

AANKLAER: Ek dink dit is "i" Edelagbare.

HOF: Lungisile Tafi. Any objection Mr. Alexander?

MR. ALEXANDER: I cannot object at this stage sir.

COURT: It is your witness Mr ... (intervention)

MR. ALEXANDER: I am not quite in a position to deal with (intervention)

COURT: Oh, were you going to ask for a time to consider... (20)
(intervention)

MR. ALEXANDER: Yes sir, it is now into the lunch hour. I do not know what your Worship has in mind to do.

PROSECUTOR: Sir, I would like this witness cross-examined before I call the other one.

COURT: Mr. Prosecutor, perhaps I do not make myself clear enough. I want to try to avoid because this is a long case and I have got to try to keep my wits about me, I do not want two, three, four, five, six, seven, any number of witnesses done halfway.

PROSECUTOR: That is exactly what I do not want either sir. I want to present... (30)
(intervention)

COURT: /

COURT: Well, in that case my ruling is the following. The matter will stand down now so that counsel can consult, and then I will come back to Court and we will then go on with this witness, and then I will reconsider the position, but I want this to be done without the lunch break.

MR. ALEXANDER: We will not be very long sir to take instructions on this.

COURT: Please call me when you are ready.

---oO---

COURT: Yes sir?

MR. ALEXANDER: I wanted to say sir that there will be no prejudice to the (10)
(inaudible). Only two questions (inaudible)

COURT: Please proceed then sir?

KRUISONDREVRAGING DEUR MR. ALEXANDER

Sersant Hammon, daar is net die een punt. Is dit korrek dat dieselfde tyd as die drie persone wat u genoem het, gearresteer was, u het ook nr. 5 en sy vrou gearresteer dieselfde geleentheid? -- Dit was dieselfde dag gewes.

Ja, op die 22ste November van '77? -- 22ste November. Ons het hulle nie gearresteer nie.

Nou dra u kennis van die feit dat twee of drie dae later, (20)
dit wil sê die 24ste of die 25ste November, was nr. 5 en sy vrou vrygelaat?
-- Wel, daarvan dra ek nie kennis nie. Soos ek sê ek het nie die saak ondersoek nie.

GENE VREDERE VRAE

GENE HEBBERHOOR DEUR AANKLAGER

---oO---

JOHANNES FREDERICK MULLER, sworn states

EXAMINATION BY PROSECUTOR

You are a Sergeant in the South African Police attached to the Security Branch stationed at John Vorster Plain, Johannesburg? -- That (30)
is correct your Honour.

On the 22nd of November 1977 in the early hours of the morning you accompanied the previous witness and other Police officers to the house of accused no. 5? — That is correct your Honour.

Did you arrest anybody in the house of accused no. 5? — I did your Honour.

Is it correct that you - this is with the permission of the Defence sir - that you arrested the following people whose names I will read out to you? Wojalifi Vinqi?

COURT: Spell please?

PROSECUTOR: V-i-n-q-i sir. Sir, I would prefer to give the references (10) straight away after the names implied sir. Page 15, no. 49, page 30, no. 49 as well as page 34, no. 49. Nescmi Booi, page 14 and 33, no. 20.

COURT: Page 14?

PROSECUTOR: And 33 sir.

COURT: Page 14, no. 33?

PROSECUTOR: No sir. Sir, the number of the person always remains the same sir. It is only the ... (intervention)

COURT: And I would like the manner of recording to remain the same as well.

PROSECUTOR: As the Court pleases sir. Page 14, no. 20, 33, no. 20. (20)

COURT: The witness has not replied yet? — That is correct your Honour.

PROSECUTOR: Sicelo Lutywantsi.

COURT: Is that the third person?

PROSECUTOR: That is correct sir.

COURT: S-i-...?

PROSECUTOR: C-e-l-o Lutywantsi - L-u-t-y-w-a-n-t-s-i, page 15, no. 44, page 34, no. 44. Thamba Noina, N-o-i-n-a, page 14, no. 11, page 29, no. 11, page 33, no. 11. Thandisa ...?

COURT: Surname? (30)

PROSECUTOR: Maquingo, M-a-q-u-n-g-o, page 15, no. 37, page 34, no. 37.

PROSECUTOR CONTINUES: Sergeant, is it correct that these are the five people who were arrested by you? -- That is correct your Honour.

Will you have a look at Exhibit L. Are any of the photographs of any of these people who you arrested reflected on Exhibit L? -- Yes your Honour, no. 49 and no. 11.

Where in accused no. 5's house did you arrest these people? -- It was in the first room on the left hand side as you enter the house, that is to the - it faces the eastern side I think.

I take it you spoke to these five people who you arrested? -- Yes, I did so your Honour. (10)

When you spoke to them, did you do so in the presence of accused no. 5 or not? -- In the presence of accused no. 5?

Yes? -- Oh well, I cannot remember that.

You cannot recall that. Did you request these people to take their luggage with them or not, their luggage, their belongings, or didn't you go as far as that? -- I cannot remember whether they took their luggage with them or not.

COURT: No, the question is whether you asked them to do that? -- Whether I asked them? No, I cannot remember your Honour.

PROSECUTOR: Did you have anything to do with the further questioning or investigation, if any, of any case against these people? -- No sir. (20)

NO FURTHER QUESTIONS

CROSS-EXAMINATION BY MR. ALEXANDER

Sergeant Miller whether, of your own knowle^dge, that accused no. 5 and his wife who were arrested that night of the 22nd, they were released two or three days later? -- His wife?

No, he and his wife were released two or three days after ... (intervention)...? -- No, that is not correct your Honour.

Well when were they released? -- They were released that same day. (30)

The same day? -- That same day.

That would be presumably the 23rd ... (intervention)...? --

22nd.

When you refer to the early hours of the morning, you mean the early hours of the morning of the 22nd? -- That is correct.

NO FURTHER QUESTIONS

NO RE-EXAMINATION BY PROSECUTOR

HOF: Ja mnr. die Aanklaer?

AANKLAER: Edelagbare, ons is nou weer by die getuie wat afgestaan het, Tali.

HOF: Ja, u het vir my in my kamer kom sê dat die posisie is dat (10)
hy kan getuienis aflê en u het ook vir my die X-straal plaas gewys?

AANKLAER: Dis korrek Edelagbare.

HOF: Ek is nie in staat om dit te interpreteer nie. Voordat die getuie getuienis aflê, sal ek asseblief vra dat 'n dokter hier kom getuig dat hy wel in staat is om getuienis af te lê. Ek vrees dat die jong man mag dalk self besluit hy kan getuienis aflê en in werklikheid is hy nie in staat om dit te doen nie. Ek wil graag tevredenheid hê van 'n deskundige, met ander woorde van die dokter wat hom gespreek het en ook die dokter wat daardie X-straal plaas vir my kan interpreteer. Kan u daardie dokter nou hier kry of nie? Ek wil nie graag verdaag voor etens tyd nie. (20)

---o0o---

JAN DANIEL ROEDOLF OPPERMAN, v.o.e.

ONDERVRAGING DEUR HOF

Dokter, in hierdie Hof vanoggend het 'n jong swart man getuienis afgelê en op 'n sekere tydstip het ek opgemerk dat hy, kan ek sê bleek voorgekom het, en hy het baie begin sweet. Ek het hom gevra of hy wou sit, en hy het gesê nee, dit is nie nodig nie. Ek het hom gevra of hy sleg voel, toe sê hy ja, hy is siek, en hy het nie die pille by hom wat hy moet drink nie. Ek het toe die saak laat afstaan en gevra dat hy ondersoek word en ek het later verneem dat u hom ondersoek het en u het toe 'n verslag (30)
oor hom geskryf, so 'n kort verslaggie. Kan u asseblief - het u daardie

notas /

notas gemaak net na die ondersoek of tydens die ondersoek? -- Net na die ondersoek.

Ja, wil u dit asseblief alles volledig uitlees en die mediese terme in gewone taal uiteensit? -- Ek het hierdie verslag, het ek natuurlik op aanbeveling van die Luitenant wat by my was, hy het gedink hy sal hom Port Elizabeth toe vat en daar laat behandel en I-straal, toe het ek eintlik 'n verwysingsbrief geskryf aan die Distriksgeneesheer, Port Elizabeth, maar ek sal my bevindinge hier ... (tussenbeikoms)

Ja, maar u bevindinge is in daardie dokument bevat? -- Ja.

As u dit net wil asseblief deurgaans en enige mediese terme (10) net in leke taal uiteensit asseblief? -- Wel, ek het hom verwys vir I-strale, longe en dan verdere behandeling. Nou dan klinies met die ondersoek, het ek gevind dat hy kom maar voor, met ander woorde, dit is duidelik dat hy gewig verloor het oor 'n tydperk. Ek het hom uitgevra. Hy sê hy het pyn met asemhaling in sy linker borskas, voor en agter. Hy hoer produktief geel spoeg, maar geen bloed nie ... (tussenbeikoms)

Jammer, iets het my ontgaan. Ek is nie gewoond om mense te ondervra nie. U is 'n algemene mediese praktisyn? -- Dis korrek ja.

Met die grade MB...? -- MBCHB, dis reg.

Waar gekwalifiseer? -- Op Pretoria. (20)

Wanneer? -- 1967.

Dankie, nou kan u voortgaan verder dokter dankie? -- En hy sê hy voel moeg en kragteloos. Hy voel dat hy gedurig net wil... (onhoorbaar, tolk in mikrofoon). In elk geval, ek het hom toe ondersoek, en sy temperatuur was $38,5^{\circ}\text{C}$, normaal is 37°C .

Onder die Farenheit wat sou dit gewees het? -- Ja, ek kan nou nie presies - o, wel onder die Farenheit ongeveer 101° .

Met ander woorde dis heelwat bo-normaal? -- Ja.

Normaal sou gewees het? -- Dis 98,4.

98,4 en syne was 101? -- Ja, dis plus minus nou. (30)

Ja, en Celsius was dit 38,5, en normaal sou gewees het 37.

-- Sy puls was 100 per minuut, normaal is 72 per minuut. Met beluistering van die longe was daar duidelik 'n aangetaste linkerlong, veral oor die area waar hy van pyn gekla het. In die longbasis onder was daar ook aantasting hoorbaar. Nou op die bevindinge het ek 'n baie sterk vermoede gehad van tuberkulose, pulmonale of long tuberkulose.

Ja, nou dokter nou kan ek dit net verder neem. Hierdie inligting wat u het is onder die Hof se sandag gebring, ek dink in die teenwoordigheid van die Verdelg^ding en die Staat, en ek het toe gevra op my versoek of 'n X-straal plaat van hom genees kan word. Dit is nou genees neem ek aan, en daar het u dit by jou? -- Ja. (10)

Het u dit ondersoek? -- Ek het na die plaat gekyk.

Ek wil nou net sê dat die dokument waarvan die dokter verwys het, die papier daar is Berynsink O. Dr., nou het u die X-straal plaat daar. Dit sal wees Berynsink P. U kan nou net vertel wat u daar ... (tussenbeikoms)...? -- Wel, wat ek hier sien is dat daar is 'n kollerige aantasting van die hele linkerlong met 'n moontlike holte in die linkerlong, bo-punt van die linkerlong, en dan lyk dit ook asof daar 'n kollerige ^{is} aantasting van die regter bo-punt van die regterlong, en dit dui op - hierdie deel dui vir my op aktiewe tuberkulose ... (tussenbeikoms)

Met ander woorde, hierdie X-straal plaat bevestig u vroeëre (20) vermoede? -- Ja.

Dokter, ek is oor 'n paar aspekte bekommerd. Die een is die man se vermoë om 'n taamlike deurtastende kruisverhoor te ondergaan en tweede, die gevaar wat daar mag bestaan dat hy ander mense mag besmet. Ek weet nie (onduidelik) gebruik nie? -- Ja, dit is korrek Edelagbare.

Want u het gesê hy hoës? -- Hy sê hy hoës produktief.

Hy hoës iets uit? -- Jy kan hoor as jy luister ook met die gehoorspyl dat daar is aantasting en slym, u weet ... (tussenbeikoms)

So as hy daar staan waar u nou staan, dan kan hy infeksie veroorsaak aan enige persoon in hierdie Hof? -- Ja. (30)

Wat is u aanbeveling vir sy behandeling dokter? -- My

aanbeveling /

aanbelying is dat hy volgens sy, wat ek hom uitgevra het, het hy nog nooit X-strale van sy longe gehad nie, en hy is sedert Novembermaand al siek.

Kan u aanbeveel dat hy terugkom in die getuiebank en getuieenis gee? -- Op hierdie stadium? U weet, die probleem is, is natuurlik net hy is akkies siek op hierdie oomblik, u verstaan, en enige siekteproses het natuurlik 'n invloed op jou denke. Ek meen 'n mens kan nie daarvan verby kom nie, u weet.

Maar hy is ook 'n gevaar vir diegene wat hom ondervra en diegene wat saam met hom ... (tussenbeikoms)...? -- Ja nee, hy is infektief op die oomblik. (10)

Het u vree mnr. die Aanklaer?

ONDERVRAING DEUR AANKLAER

Ek wil net vir die dokter vra of die behandeling, indien enige, wat dan nou beoog word, hoe lank sal dit ongeveer duur tot die persoon sodanig is dat hy wel moontlik in 'n toestand kan ... (tussenbeikoms)...? -- Ja, met die nuwe behandeling ongeveer drie maande, u weet, maar die ding is dit hang af. Party van hulle met hierdie beeld as hy goed en doeltreffend behandel word, dan kan hy net die dokter wat hom op daardie stadium behandel, (onduidelik) en afhangende hoe hy reageer.

HOF: Ekskuus tog dokter, hoe moet ek hierdie hou, sê u? -- (20)
U kan kyk links na die pasiënt - laat hy na u kyk, u weet -
daar sien u (tussenbeikoms)

By 20? -- Nee, daar is 'n "L", daar waar u nou vat.

Skuins? -- Nee, hy moet soos wat hy nou hier so staan, hy moet - die "L" moet by u regter-skouer wees.

So? -- Dit is reg. Dit is nou as u direk na hom kyk, u weet.

AANKLAER VERVOLG:

Dokter, is hospitaalisasie nodig vir die behandel- (30)
ling of nie? -- Wel, met die nuwe behandeling natuurlik nou
behandel ons meeste van hulle as 'n buite-pasiënt. Ek doen

Tuberkulose / ...

Tuberkulosewerk hierso en (tussenbeikoms)

HOF : Hy is egter in hegtenis, hierdie man. -- Ja.

Hy is in hegtenis, hy is verhoor afwagtend op 'n aanklagte van moord, het u gesê.

AANKLAER :

Dit is korrek.

HOF AAN AANKLAER :

En waar word hy aangehou? -- By die Noordeinde-
Gevangenis.

Maar hy is ook 'n gevaar vir ander gevangenis? --

Dit is korrek.

(10)

Dankie, het u nog vrae vir die dokter? -- Nee.

GEEN VERDERE VRAE DEUR AANKLAER.

GEEN VRAE DEUR MNR. ALEXANDER NIE.

HOF AAN GETUIE : Dokter, som ek die posisie reg op
dat hierdie man behoort nie getuienis

Vervolg op volgende bladsy/..

(20)

getuienis te gee nie voordat hy nie gesond is nie? -- Ja, ek dink ook so.
 U weet Edlagbare, as ek my reguit en my eerlike opinie moet gee ...
 (tussenbeikoms)

Dit vra ek u graag? -- Dan voel ek, ek beskou hom - hy is
 aktief, definitief. Ek meen, al die tekens is daar. $1\frac{1}{2}$ van sy longe is
 aangetas, u weet ... (tussenbeikoms)

Dokter, ek is baie dankbaar vir u ... (tussenbeikoms)...?
 -- Hy moet dringend behandel word. Dit is my ... (tussenbeikoms)

Ja, ek is u dankbaar vir u volledige ondersoek en ook vir
 die feit dat u getuig het, eers dat u bereid was om te kom. Ek gaan die (10)
 X-straal plaat hier hou, want dit is nou 'n deel van die Saak, maar as u
 dit nodig kry sal dit tot u beskikking gestel word. 'n Mens mag hom seker
 nie vou nie nê? -- Nee. Daar is net een ding Edlagbare, wat ek net - ek
 wil net aanbeveel, en dit is dat daar moet ondersoek op die aangeklaagde
 gedoen word, u weet, om te kyk of daar Tuberkulose basille gekweek word.

U bedoel op hierdie getuie? -- Ja.

Hy is 'n getuie? -- Ja, en daar moet 'n opinie - ons stuur
 gewoonlik die X-strale weg.

Ja. Mnr. die Aanklaer, kan dit in Port Elisabeth gedoen
 word of nie? (20)

GETUIE: Daardie dinge moet gedoen word as 'n absolute bevestiging
 van die diagnose.

HOF: Kan ons hom na die Livingstone-hospitaal stuur? -- Ja, u
 sien, Tuberkulose, die beste persoon vir hom is maar die Distriksgeneesheer.
 Tuberkulose val heeltemal buitekant Livingstone. Dit is heeltemal 'n
 (tussenbeikoms)

O, so hy moet na die Distriksgeneesheer, na dr. Tucker toe
 moet hy gaan? -- Ja, ek het my brief - u kan die brief bysit, die
 verwysingsbrief ... (tussenbeikoms)

Wel, ek gaan 'n fotokopie laat maak, maar hulle kan maar (30)
 self 'n X-straal (tussenbeikoms)...? -- Ja, daar moet 'n radiologiese opinie

gekry word. Ek is nie 'n radioloog nie, u weet. Ek gee net my opinie, en
(?)
daar moet sputeum ondersoek gedoen word om dit absoluut te bevestig.

Dokter, dankie, u is verskoon van verdere bywoning en
nogmaals baie hartlike dank dat u so bereidwillig was om so gou die nodige
te doen. Ek stel dit baie hoog op prys.

GEEN VERDERE VRAE

COURT: Mr. Prosecutor, in view of this it is quite clear to me that
I will not permit this young man to proceed with his evidence and I trust
that you will have a photocopy made of Exhibit Q, so that this can
accompany the patient to wherever he is being taken. This means that we (10)
will not go on with his evidence today, not until he gets a clear - until
he gets clearance that he is safe to continue. I know that some people
have tuberculosis and they can move about because they are not in danger
of infecting others. As a matter of fact, we have all been subjected to
infection. This includes especially the interpreter and Mr. Alexander and
myself and the Court Orderly here. Speaking for myself, the rest of the
day I will not be at Court. I am going to have myself X-rayed. I want to
establish that I have not contacted Tuberculosis. Have you other witnesses
here that are going to be short?

PROSECUTOR: Sir, I have no witnesses available for Court today. (20)

COURT: None at all?

PROSECUTOR: No sir.

COURT: Can the matter therefore be postponed until tomorrow?

PROSECUTOR: Yes sir.

COURT TO INTERPRETER: Mr. Interpreter, please tell the accused the man who
gave evidence is according to the doctor who saw him, acutely ill. Not
only is he ill but he has tuberculosis of an infective nature. I shall
recommend to the investigating officer who is Lieutenant Verkuil that each
and every person over whom he has any say and who have been exposed to this
young man, be examined. Whether members of the Court feel the same or not, (30)
that I leave to them. Speaking for myself, I shall attend to myself, en

Konstabel, u het hier by kom gesit al die tyd. Ek wil by u sterk aanbeveel dat u ondersoek word. Dieselfde geld vir die mense wat met hierdie jong man kontak gehad het.

Die saak word uitgestel na more toe, more is die 9de en ons sal probeer om taamlike lang ure te sit sodat ons die verlore tyd van vandag kan inhaal. More is Vrydag, of is dit more Donderdag?

AANKLAER: Vrydag Edelagbare.

HOF: Dit is more Vrydag en ons sal probeer om verlore tyd in te haal. Dit is nou 2 uur en ons het deur die etensuur gegaan, maar ons moet more in die loop van die dag ten minste 'n uur na tweeuur inhaal om die (10) verlore tyd op te maak. Hier is die dokument waarvan 'n kopie moet gaan na dr. Tucker, ek dink 'n fotokopie en dan daardie een kom terug by my stukke. Hof verdaag.

SAAK DUS UITGESTEL TOT 9 FEBRUARIE 1979.

COURT RESUMES: 9th FEBRUARY, 1979

COURT: Mr. Prosecutor, for the record, the date is the 9th of February, the time is 10.25.

PROSECUTOR: 9.20 Sir.

COURT: 9.20. Would you kindly place on record the short discussion that you and both Counsel and I have had in regard to the witness who yesterday was sent for medical attention, and also the arrangement which is on the books for next Friday, that will be what date?

PROSECUTOR: 16th. (10)

COURT: Would you kindly do that?

PROSECUTOR: As the Court pleases. Sir, regarding the witness the position is that this witness has been referred to the Prison Hospital sir.

COURT: That is in Port Elizabeth.

PROSECUTOR: That is in Port Elizabeth. I spoke to the, one of the officials at the hospital staff yesterday and he assured me that they will attend to him immediately. Certain tests will be done by them and they will inform me at a later stage what the position is regarding this witness. (20)

COURT: Did they say whether people who were in contact with him should be screened or not, and if so, when?

PROSECUTOR: Sir, it depends on the degree of infection.

COURT: Will they let us know?

PROSECUTOR: They will let us know what the position is.

COURT: And will you please in due course advise us all on this matter?

PROSECUTOR: As the Court pleases.

COURT: Now, in regard to next Friday, the 16th?

PROSECUTOR: Sir, I have a request to put to the Court sir. (30)

By next Friday sir, I will have reached the stage in this

matter/.....

matter sir, where I need some time to consult with certain witnesses and do some preparing on this case. Therefore, sir, I think I would need at least a day and my request is to have this day next week, Friday the 16th.

COURT: Mr. Alexander, how do you feel about it?

MR. ALEXANDER: Sir, the Defence would welcome the Court not sitting next Friday. We would support the application.

COURT: That application then is granted, so we'll finish today's work as far as we can and next Friday there will be no Court. We will be sitting until, Deo volente, until (10) Thursday the 15th.

--oOo--

IDRED DIDIWE KAVE duly sworn states. (Witness No. 12)

EXAMINATION BY PROSECUTOR:

Mrs. Kave, you are the mother of Nokonono Kave?

-- Yes, your Worship.

Sir, the person's name, Nokonono Kave, appears on Page 15, No. 24, Page 28, No. 8, Page 31, No. 24. How old is Nokonono? -- She was born on the 12th of November, 1954.

COURT: Mr. Interpreter, unless the witness speaks (20) English constantly, I want you to interpret, irrespective of what language she uses. If she speaks English, then will you repeat it in the microphone. I don't want to interfere with her, if she prefers to say some things in English and some in Xhosa she is welcome to it, but you must kindly see to it that whatever she says is repeated on the microphone so that it comes through clearly.

PROSECUTOR: Is it correct that Nokonono followed the B. Proc. degree at the Fore Hare University at Alice during 1973? Or from 1973 rather. -- What is B. Proc. (30)

Did she study for a degree at this University?

-- Yes/.....

-- Yes, that is correct.

During the middle of 1976, did she come to your house in Port Elizabeth? -- Yes, she came.

Did she then stay with you? -- Yes.

And, (interruption)

COURT: Sorry, Mr. Alexander, do you want the Prosecutor to lead her on this? Will you indicate when he should stop?

MR. ALEXANDER: I can't imagine anything contentious about this sir, and I'm quite sure he can lead her, this will save a lot of time. (10)

PROSECUTOR: As the Court pleases, your Worship. And did she stay with you till the 15th of January, 1978? -- Yes.

And what happened on that date, did you see her again after that date?

COURT: Yes, lead her now if you know.

PROSECUTOR: Is it correct that Nokonono then left your house on the 15th of January, 1978? -- Yes.

Did she tell you that she was leaving? -- No, she just disappeared that day, your Worship.

And her clothes? -- Her clothes are at home. (20)

COURT: Were left at home? -- Yes.

PROSECUTOR: Have you ever seen her since that date? -- No, your Worship.

Have you ever heard anything from her since that date? -- No.

Prior to this date did she always keep in contact with you? -- When she was at school she used to 'phone me.

And when she wasn't at school or at university did she come and live with you? -- Yes.

NO FURTHER QUESTIONS. (30)

CROSS-EXAMINATION BY MR. ALEXANDER:

TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that the foregoing is a true and correct transcription of the original evidence recorded by means of a mechanical recorder in the case of:-

THE STATE VERSUS:

... KALAKO NI ANDERE

TRANSCRIBER:

J.C. MARK

LUBBE RECORDINGS (PORT ELIZABETH) (PTY) LTD.

-----00000-----

How do you fix the date, the 15th of January of this year, as the last day on which you saw your daughter, last year? -- On that day her name was called out by the police, your Worship, and since that day I've kept that date in my memory.

I don't follow that, you say her name was called out by the police? -- Yes.

What does that mean? -- The Flying Squad was calling out her name, saying, "Nokonono, wherever we see you we will kill you." (10)

Was that on a loudspeaker announcement? -- Yes it was.

Coming from a police van circulating, or travelling in the area? -- Yes.

I see. Was her name mentioned together with other names of children? -- No, only her name was mentioned.

NO FURTHER QUESTIONS.

RE-EXAMINATION BY PROSECUTOR: NO QUESTIONS.

WITNESS IS EXCUSED FROM FURTHER ATTENDANCE.

--oOo--

(20)

GRIFFITH NAMBA duly sworn states. (Witness No. 13)

EXAMINATION BY PROSECUTOR:

COURT: How old are you, Griffith? -- I am 49 years of age.

PROSECUTOR: Griffith, you are the father of Mlamli Namba? -- Yes.

The reference to this person, sir, is Page 15, No. 35, Page 35, No. 35. He was born on the 8th of June, 1959? -- Yes.

COURT: What date? -- 8th Of june, 1959, your Worship. (30)

PROSECUTOR: He passed Std. 7 at school? -- Yes.

Did/.....

Did he always live at your house with you? -- Yes.
Since February, 1978, did he disappear from your house? -- Yes.

COURT: Mr. Alexander, do the same principles apply as with the previous witness or not, as far as leading questions are concerned?

MR. ALEXANDER: Oh yes, sir. I will object. I discussed this with my learned friend sir, and (interruption)

COURT: Can he lead?

MR. ALEXANDER: Oh yes, of course sir. (10)

PROSECUTOR: And did he say anything when he disappeared? -- No.

Did he tell you that he was leaving? -- No.
And are some of his clothing and belongings still at your house? -- Yes.

Did you ever hear anything from him again? -- He did write, your Worship.

Was there any indication where the letter was from? Have you still got this letter? -- No.

Was there any indication on the letter where it(20) was from?

COURT: Just a minute, just a minute, is that admissible?

PROSECUTOR: I think so sir, I think the witness can say sir, that if there was any indication on the letter such as a stamp or something, that could possibly identify where (interruption)

COURT: Yes, but that is not what you are asking.

PROSECUTOR: As the Court pleases. Was there any stamp attached to this letter indicating possibly from where it was posted?

COURT: No-no, no-no, Mr. Prosecutor, you must confine(30) your question, to my mind, to the following, "Was there a stamp/.....

stamp on this letter; was there a date on this letter, that is on the, a date stamp on this envelope, and did the stamp itself show the name of a country?" Not where it came from, because a man can buy a stamp in Rhodesia and post the letter in England. Do you follow me?

PROSECUTOR: As the Court pleases. Was there any stamp, apart from a postal stamp, on this letter? -- No.

COURT: Was there a postal stamp on the letter, a stamp that you wet and put on a letter. -- Yes there was.

And this stamp, was it cancelled in a post office(10 with a date and lines and stuff through it? -- Yes, the stamp was franked but I did not look at the date your Worship.

That stamp, what was the motif on the stamp? Did it show a bird or an elephant or a house or a team of horses? -- Your Worship, I took no notice, I do not remember.

You took no notice of the stamp, the postage stamp? -- How it looked like, your Worship.

What did you do with the letter and this envelope? -- I threw it away as I do with other letters if there is anything I do about it. (20)

If it's what? -- If there is nothing I have to do about it, your Worship.

PROSECUTOR: Mr. Namba, did your son ever partake or act in shows at all? -- No.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY MR. ALEXANDER:

Mr. Namba, at the time that your son left the house, what was he doing?

COURT: Was he employed or was he unemployed? -- He was attending school. (30)

MR. ALEXANDER: What standard? -- Std. 8.

COURT/.....

COURT: What school? -- Masibambane. M-a-s-i-b-a-m-b-a-n-e
Where is that? -- At Kwazakele, your Worship.

MR. ALEXANDER: Did you ever go to the school to watch him taking part in sport? Did you ever go to the school to watch him, say for example, taking part in sports or things like that? -- No.

You never went to any meetings at the school, for Parents and Teachers? -- No.

So you can't really say what activities your son got up to at school? -- No. (10)

For all you know he may have been very interested in theatre and stage shows? It is possible, is it not? -- No, I don't know, I know nothing.

COURT: If your son had taken part in a play at the school, would that have been a subject which would have been discussed in your house? -- That is why I said he took no part because we never had such discussions, your Worship.

You see I have a son, and when he was young and he attended school, whenever he was selected to take part in a play he'd come home and say, "They gave me the longest lines to learn by heart", so my experience has been that children come home and they talk about these things. Did your son do anything like that? -- No, he never did. (20)

What is your occupation? -- I work for the Bay Passenger Transport, your Worship.

As? -- As an Inspector.

I see, is that men who get on and off the buses (to see if) everybody has paid? -- Yes.

What do you do with a man on a bus who has no ticket and he tells you that his ticket has been lost, he had bought one but it's lost, do you put him off the bus or do you take/..... (30)

take him where he should be? -- I take him to the conductor so that he pays, your Worship.

NO FURTHER QUESTIONS BY MR. ALEXANDER.

RE-EXAMINATION BY PROSECUTOR: NO QUESTIONS.

--oOo--

COURT: It is my unfortunate duty to again put on record that I had forgotten to switch on the machine while this witness was giving evidence and that the contents of the defence and the state, the witness' evidence will now be started at the point where he was sworn in. Mr. Prosecutor (10) this is Charlie Mjuleneni?

PROSECUTOR: That is correct, sir.

COURT: For the record further, I am on belt, or rather I'm not, but the machine is on Belt 65/38. Tell him that he is still under oath.

CHARLIE MJULENI still under oath. (Witness No. 14)

EXAMINATION BY PROSECUTOR:

You are 65 years of age and you are the father of Tobeka Mjuleneni? -- Yes your Worship.

Reference page 16, No. 71, Page 34, No. 71. (20)
Tobeka was born on the 27th of March 1961? -- Yes.

She lived with you at the house? -- Yes.

During 1977 she was attending school in Port Elizabeth? -- Yes.

She was in Std. 8? -- Yes.

During October, 1977, Tobeka left your house without telling you that she was leaving? -- That is correct yes.

Did you ever see her again after that? -- No.

Did she contact you in any way again? -- No.

Was she still going school when she left the (30) house? -- Yes.

Is/.....

Is there still some of her clothing and property at your house? -- Yes.

Do you know if your daughter took part in any shows? -- No.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY MR. ALEXANDER:

Mr. Mjuleni, do you share my experience of teenage daughters that they don't always tell you what goes on at school? -- Yes.

In fact during the adjournment, I want to ask you(10 something quite specific about theatre, I'm advised that in 1976 or 1977 your daughter actually took part in a play at the Kwazakele High School, called "A Miserable Life".

COURT: What is the name of the play?

MR. ALEXANDER: "A Miserable Life". -- Your Worship, I know nothing about this.

NO FURTHER QUESTIONS.

RE-EXAMINATION BY PROSECUTOR:

Could I just have Exhibit "L" please sir.

COURT: What is Exhibit "L"? (20)

PROSECUTOR: That's the photograph, sir. Through the Court sir, I forgot to lead this in chief. Defence has no objection, sir. I now present to you, or show you Exhibit "L", is your daughter Tobeka's photograph on that exhibit? -- Yes, there she is.

COURT: Number?

PROSECUTOR: Number 71, sir, photograph 71. -- That is exactly her, your Worship.

COURT: Is that the photograph No. 71? -- I cannot see without my glasses, your Worship. (30)

Turn it round. The witness has now pointed with his/.....

his finger at the photograph of Tobeka Mjuleni, No. 71. Is this girl with a black collar? -- Yes your Worship.

NO FURTHER QUESTIONS.

FURTHER CROSS-EXAMINATION BY MR. ALEXANDER: NO QUESTIONS.

---oOo---

NOMABANDLA NTOZINI duly sworn states. (Witness No. 15)

EXAMINATION BY PROSECUTOR:

Sir I just want to get the reference. U kan maar so 'n bietjie afsit, ek sal u herinner om aan te sit. Cynthia, you are the mother of (interruption) (10)

COURT: No, she is not Cynthia, she is Mavandla. (Belt 65/70)

PROSECUTOR: I beg your pardon sir. You are the mother of Thembise Noghayi? -- Yes your Worship.

Page 15, No. 36. Page 28, No. 5, Page 30, No. 36.

He was born on the 22nd of February, 1951? -- Yes your Worship.

COURT: 21/2? -- 1961.

PROSECUTOR: He matriculated at the Newell High School during 1976? -- Yes your Worship.

During 1977 he went to the Lovedale College? -- Yes your Worship. (20)

During that year he returned to you at your house? -- Yes.

And he lived with you.

COURT: Do you mean he left his studies?

PROSECUTOR: That is so.

COURT: He relinquished his studies. -- They were sent home by the institution, your Worship.

Were they sent home by Lovedale College? -- Yes your Worship.

PROSECUTOR: And during his scholarship at school he lived (20) with you all the time? -- Yes.

And/.....

And when he returned during 1977 he stayed with you (interruption)

COURT: One moment please. Go on, Mr. Prosecutor.

PROSECUTOR: Since 1977 when he returned to your house he stayed with you till January 1978 when he disappeared from your house? -- Yes your Worship.

Did he tell you that he was leaving your house?
-- No your Worship.

It is Lubbe Recordings sir, a telephone call.

COURT: Gentlemen, can you excuse us for a second. (10)

COURT RESUMES: Mr. Interpreter, please tell the lady that she is still under oath. How old is she? -- Sixty, your Worship.

Are you a housewife? -- Yes sir.

PROSECUTOR: Is it correct that Thembiso limped in one of his legs? -- Yes.

I now hand you a letter, EXHIBIT "Q" sir.

COURT: Exhibit "Q", let me mark it immediately. Go on.

PROSECUTOR: Now, did you see Thembiso's writing? Do you know his writing? -- Yes.

Do you know his handwriting well? -- Yes. (20)

And this letter which I have produced to you, when did you receive that? -- On the 28th of June, 1978.

Who is it addressed to? -- It is addressed to me, your Worship.

Can you say who wrote the letter? -- Yes I can.

Who wrote the letter? -- It was written by (Si-[?])

Thembiso.

COURT: Sithembiso
Which Thembiso? -- My son, your Worship.

PROSECUTOR: On the envelope (END OF BELT 65)

BELT 66 BEGINS: (30)

COURT: I'm sorry, this machine has not been on and I

don't/.....

don't know how long it's not been on. I'll have to check first.

-- It was written by Sithembiso.

COURT: Which Sithembiso? -- My son, your Worship.

PROSECUTOR: On the envelope, is it correct that the name and address of the sender is reflected as that of Sithembiso Nkuzangwe? -- The surname he has used is Nkuzangwe, your Worship.

And is that surname known to you? -- It was my maiden surname, your Worship.

And the address is given as Box 2239, Daar-Es- (10) Salaam, Tanzania? Is that correct? -- That is correct, yes.

Have you received any other letters from him apart from this one? -- Yes, apart from this one before Court I have received yet another one.

Was it from the same place? -- Yes your Worship.

Was the name and address of the sender reflected on that letter which you received? -- Yes, it was reflected.

And was the same address reflected on that letter? -- Yes.

Can I just see the exhibit sir. Is it correct (20) that the postal stamps which were used on Exhibit "Q" also reflect the name "Tanzania"? -- The stamps on this particular letter are not franked, your Worship, I do not remember as to whether the other letter I received after this one was franked.

No, but I'm talking about the postal stamps on that letter (SIMULTANEOUS TALKING) -- Yes.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY MR. ALEXANDER:

On Exhibit "Q" there are three stamps, I think (30) if you'll look at the stamps and the whole letter, you will

see/.....

see that those stamps are not cancelled, nor is there any date of posting apparent. -- They are not cancelled.

There is nothing to indicate that that letter has been through a post office?

COURT: I wonder, Mr. Alexander, whether that is not a question which can be raised in argument. It is something which speaks for itself.

MR. ALEXANDER: Very well sir, if it's apparent that there is no such franking, then of course it is self-explanatory. Now, you told us that in 1977 Lovedale was closed and your son (10) returned home. --Yes your Worship.

I get the impression from his having taken his matric and gone to university, that he was interested to carry on with his studies? -- Yes.

Did he work hard to pass his matric? -- Very hard.

Was he a scholarly sort of boy? -- Very much so.

What did he intend to do? What did he intend to be? -- He intended to be a lawyer.

And what degree was he reading for at Lovedale?

-- He did not go for a degree at Lovedale, he went for a (20) Teachers' Course, J.S.T.C.

Was it his idea that, having done that, he could earn enough money then to further his legal education? -- Your Worship, he did not want to go to Lovedale, he wanted to go to Fort Hare.

I see, so this was a temporary matter. -- It went according to my financial assets, your Worship.

I see. Now, when the Lovedale was closed, I assume that he must have been quite upset about it? -- He was very much upset. (30)

I'm sure he must have said that his education

was/.....

was being interrupted? -- He said so, yes.

And I'm sure he must have also said that the same was happening with other children? -- Yes your Worship.

Now, we've heard in evidence from one of the young girls who lived in Kwazakele, that she was told by a friend that she should leave this country to further her education. When she asked her friend who would be able to provide the money to further her education outside the country, she was told that Thembiso would help.

COURT: (FAULTY RECORDING) (10)

MR. ALEXANDER: She was told that Thembiso was the man who would help with the money. Now, do you know anything about that? -- No, your Worship.

I take it it wouldn't surprize you if Thembiso felt that people whose education had been interrupted should be assisted? To further their education.

PROSECUTOR: Sir, I don't think there is any basis therein that the witness can give an answer to that question.

MR. ALEXANDER: Your Worship, he is alleged to be a co-conspirator and therefore I'm entitled to put questions of what he may (20) have said to his mother, on the basis of any evidence of an alleged co-conspirator is admissible.

PROSECUTOR: My submission is, sir, that the defence is now soliciting an opinion only from the witness. There was no basis placed to ask that question.

COURT: Was the basis not laid in this sense that his mother has been questioned fairly fully about his movements, what he took place in and in what manner he confided in her? To my mind the objection cannot be sustained Mr. Prosecutor.

PROSECUTOR: As the Court pleases. (30)

MR. ALEXANDER: Perhaps to make it easier for you, I'll put the question/.....

question in this form: You've told us that your son was devoted to his education? -- Yes your Worship.

I'm sure as a young man he also felt distress that other people's education had been interrupted? -- That I do not know, your Worship.

Do you know whether the friends he kept when he lived at home with you in 1977 were also scholarly people?

-- Yes.

NO FURTHER QUESTIONS.

RE-EXAMINATION BY PROSECUTOR: NO QUESTIONS.

(10)

WITNESS IS EXCUSED FROM FURTHER ATTENDANCE.

--oCo--

SAMUEL CHARLES duly sworn states (Witness No. 16)

EXAMINATION BY PROSECUTOR:

You are the father of Nomama Charles? -- Yes your Worship.

Page 15, No. 45, Page 34, No. 45. Is she also known as Nomama Hashe? -- Yes.

Page 14, No. 18. There's just a duplication. Sir, for the record it's obviously a duplication then sir. (20) I was unaware of the fact that the name of the person, or the two names refer to the same person. She was born during November, 1959? -- Yes.

COURT: How old are you Mr. Charles? -- 46, your Worship.

PROSECUTOR: She attended school at the Kwazakela High School?

-- Yes.

And she was in Std. 8? -- Yes your Worship.

She didn't write the end of the year examination during 1977? -- No, she did not write the examination.

Why didn't she write that exam? -- I do not (30) know why she did not write the exam.

Can/.....

Can you recall when she disappeared from your house? -- Early in 1978, your Worship.

Can you give us a month, possibly? -- Round about March, your Worship.

Did she tell you that she was leaving? -- No.

Are there still some of her clothing and belongings at your house? -- Yes.

Did you ever hear from her again? -- No.

Mr. Charles, do you know if your daughter acted in any shows at all? -- No, I have no knowledge. (10)

If she had taken part in shows would you have known it or not? -- Perhaps yes.

I show you Exhibit "I", that is the page where the photograph's on. photographs are on. Is there a photograph of your daughter on that exhibit? -- Yes.

Is there a number next to or above the photograph? -- There is a number, yes.

Can you give it's number? -- 45, your Worship.

NO FURTHER QUESTIONS.

CROSS-EXAMINATION BY MR. ALEXANDER: (20)

Just one or two points, Mr. Charles. It is correct, isn't it, that the schools were closed in the Kwazakele area as a result of a boycott in 1977? -- Yes, they were closed.

I'm suggesting that as a reason why your daughter didn't write her end of year exam. -- That is possible.

Was she a good student?

Did she pass each year, had she wrote exams ?

--- Yes.

She seems to have done quite well because in 1977 I think she would have then been 18 years of age? ---
Yes.

And she was then in Std. 8 ? --- Yes.

My experience suggest you may agree that is quite a young age for a black child to have got to in Std.8
--- Yes.

In fact she would have been seventeen when she went into Std. 8 because her birthday is in November? ---
Yes. (10)

Now you say it is possible, I think this is the meaning of your answer, it is possible as I understand your evidence that she could have taken part in plays at school or being interested in theatre without your knowing ?
--- That is possible, Your Worship.

NO FURTHER QUESTIONS.

NO RE EXAMINATION BY THE PROSECUTOR.

--- o o o ---

(20)

DARLINGTON DUMELO VINQI, duly sworn states

EXAMINATION BY THE PROSECUTOR :

Mr. Vinqi you are the Principal Leyiso High School in New Brighton, Port Elisabeth ? --- That is so.

Would you prefer giving your evidence in English (COURT INTERVENES)

COURT : What was the name of the previous witness ?
Samuel Charles ?

PROSECUTOR : That is correct, Your Worship.

COURT : This one is Darlington Dumelo Vinqi, he is (30

witness Nr. 17. What was your last question ?

PROSECUTOR : Sir I said he was the principal of the Loyiso High School in New Brighton - "L o y i s o"

COURT : And did you say you wanted to testify in English ? --- In Xhosa. That is correct, Your Worship.

PROSECUTOR : You are the father of Mojaliza Romeo Vinqi ? ---
I am, yes.

Page 15 Number 49, page 31, number 49, page 34, number 49 and your son was born on the 6th October, 1958 ?--- Yes, Your Worship. (10

AND did he live with you ? --- Yes.

Did he attend school ? --- Yes.

Till what year ? --- Until 1977, Your Worship.

What Standard did he pass at school ? --- He was doing Std. 7 Your Worship.

Is it correct that during October, 1977, your son disappeared from your house ?--- That is so, yes, Your Worship.

COURT : Which son ? --- Mojaliza Vinqi.

PROSECUTOR : Did he tell you that he was leaving ? ---No.(20
And Mr. Vinqi did your son take all his clothes with him ? --- No.

Did he take any clothing with him? --- Yes, he did, Your Worship.

Is it correct that during December you were informed that your son had been arrested ?

COURT : What November ?

PROSECUTOR : December, 1977 ? --- Yes, that is so.

And it is correct that during May, 1978 this son of yours was charged in the Regional Court, Port (30)

Port Elizabeth ? --- That is so, yes.

I now show you EXHIBIT L. Is there a photograph of your son on that ? --- Yes, Your Worship.

COURT : Number who ? --- Number 49.

PROSECUTOR : Mr. Vinqi is it correct that your son is at present on Robbin Island (OBJECTION BY MR. ALEXANDER)

MR. ALEXANDER : Your Worship, I do not know what the relevance of that question is ? At the first blush it appears to be highly prejudicial. He had known that it appears as one of the allegations in this charge or what the (10 infringes to be drawn from that fact?

COURT : I have been wanting to put the same question which I put earlier and that is whether you were still agreeable to witnesses being lead as they have been ?

MR. ALEXANDER : Oh yes Sir but not on this aspect ?

COURT : I am coming to that now ? Which I take you objected to ?

MR. ALEXANDER : I object to it Sir because the relevance is not apparent and the Learned Friend has not at the moment shown any basis on which the fact that he is now serving (20 a term of imprisonment at Robbin Island had anything to do with this case.

COURT : It has been said that he is at Robbin Island he might also be there as a warder. But Mr. Prosecutor what is the relevance to the question ?

PROSECUTOR : Sir, I just wanted to conclude the evidence of the witness. The accused has been charged Sir that he ensighted, aided and etc., people to leave the Country to undergo military training.

COURT : The objection is sustained.

(30)

NO FURTHER QUESTIONS.CROSS EXAMINATION BY MR. ALEXANDER.

Mr. Vinqi how long have you been the principal of that school ? --- Since 1966.

I wonder if you can enlighten the Court about the feeling of the students towards the end of 1977 ?

COURT : The feeling ? At his school ?

MR. ALEXANDER : Yes ? --- In regarding to what ?

Well now we know that there was a boycott of certain schools at that time ? --- Yes that is of my (10 school, my students at my school also boycotted the school.

As one understands the reason without agreeing with it, there was suppose to have been the satisfaction with the quality of the education being provided ? --- Yes.

And this lead obviously to decisions by students that they would not go one with the strike of education and hence the boycott was called ? --- Yes, that is so.

Now as far as your son was concerned who (20 was at school, was he upset that his education was interrupted ? --- Even if he was upset he could not possible show that.

To you as a father ? --- Yes.

Did you know that he was upset ? --- I cannot say.

You mean like many young man he does not always tell his father what he is thinking? --- That is so, Your Worship.

Now I have also being told that there was (30)

certain meetings held in the Township which had been banned in terms of The Riot Assemblies Act ? --- That is what I heard, Your Worship.

I have been told that as a result of these meetings the Police came about their business to arrest those who were attending the meeting? --- That is what I heard, Your Worship.

Did you see Police vans patrolling the area at this time I am talking about ? --- Yes.

You heard loudspeakers being used by the (10 police to disperse people ? --- Yes.

You know that there were certain acts of violence committed during the time ? --- Yes.

People got hurt ? --- Yes.

Young children get hurt ? --- Yes.

Now as far as you are concerned, speaking now of your own knowledge, what ever the right or wrong which of all this may be, did you know that the children were feeling dissatisfied with the then situation ? --- The children were dissatisfied, Your Worship. (20

Do you know of your own knowledge of other children who left your school and never came back ? --- That question is not easy to reply to in the recent day The schools were closed on the 27th September, the school were opened the following year 1978. It is normal that the following year not all the students attended the school.

But now on casting the position in 1978 when the school re-opened with the corresponding position in 1977 after the 1976 year, did you find that more people had not come back to school that had been the case (30)

previously ? --- There were more students who did not return, Your Worship.

From your knowledge as a Principal was that the pattern in Kwazakele and other parts of Port Elizabeth ? --- Yes, Your Worship.

NO FURTHER QUESTIONS.

NO RE EXAMINATION BY THE PROSECUTOR.

COURT : Mr. Vinqi was your school burnt ? --- Yes.

The whole school ? --- A class room and a door to another class room, Your Worship. (10

That time, was your son still at home ? --- No, he was in jail, Your Worship.

Where was he in jail ? --- In Port Elizabeth.

Why ? Was he one of those who appeared at Alcoa Park and was then sent to prison ? --- No.

Where was he caught ? Where was he arrested ? --- He was arrested in Johannesburg, Your Worship.

Did you go up to Johannesburg for his trial ? --- No, he was brought down to Port Elizabeth, Your Worship.

Was he trialed in Port Elizabeth ? --- Yes(20

In the Regional Court ? --- Yes.

Where ? --- New Law Courts, Your Worship.

When ? --- In May.

What year ? --- May of 1978.

NO FURTHER QUESTIONS.

NO RE EXAMINATION BY THE PROSECUTOR.

COURT : Yes Mr. Prosecutor ?

PROSECUTOR : Sir, I have no other witnesses available today.

COURT : This is a great pity Mr. Prosecutor because(30

we have lots of time over, it is only twenty five minutes to twelve now and we still have an hour and a half until one and then we still have from two to four ?

PROSECUTOR : Sir, judging from my previous experience I did not think that we would go quick as we did with these witnesses.

COURT : Would there be an objection against an adjournment at this stage ?

MR. ALEXANDER : Oh no Sir, not at all.

COURT : Thank you . The cases is then remanded till Monday, what date would that be - the 12th of February, 1979 starting time 8.30. Or shall we put it erronotical terms, estimated time of starting.

MR. ALEXANDER : For it is often seen on pleading Sir or as soon thereafter as counsel may be heard.

THE CASE IS REMANDED UNTIL MONDAY 12. 2. 1979.

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CASE RESUME ON 12/2/79

PROSECUTOR CALLS:

MIRIAM NDANGENI

PROSECUTOR: The witness sir, will testify in regard to the person,
(?)
Themba Dumagoina, who is cited on page 14, no. 11, 29, no. 11, page 33, no.
11 and page 38 - his number on page 38 is also no. 11 sir.

COURT: Mr. Prosecutor, you know, I have now handed in the record
for typing. Could you tell me what the number was that we allocated to the
last witness?

PROSECUTOR: No. 17. (10)

COURT: 17?

PROSECUTOR: This one will be number 18.

COURT: So this one will be number 18?

PROSECUTOR: That is correct.

COURT: I try to keep track of them that way.

---o0o---

MIRIAM NDANGENI, sworn states (through interpreter)

EXAMINATION BY PROSECUTOR

Mrs. Ndangeni, you are the mother of Themba Dumagoina? --

Yes your Worship. (20)

He was born during 1960? -- Yes.

He went to school at the Newell High School in New
Brighton? -- Yes.

And he lived with you at your house? -- Yes.

He passed standard 8 at school? -- Yes.

During 1977 he was doing standard 9 at school? -- Yes.

And he stopped going to school during May 1977? -- Yes.

Did he leave your house during November 1977? -- Yes.

Did he tell you that he was leaving? -- No.

Do you know of any reason why he left your house? -- No, (30)

I know of no reason.

During 1978, did you see the accused again, I beg your pardon, your son Dennis? -- I saw him at Walmer in the Police cells your Worship.

Was that during May 1978? -- Yes.

COURT: Mr. Prosecutor, I do not know whether those dates are in issue or not because if they are, then you are leading the witness.

MR. ALWALMER: We have no objection sir.

COURT: Right, thank you.

PROSECUTOR GENERAL: Do you know what happened to your son after your visit during May 1978 when you saw him at the Police cells?

(10)

COURT: Would that not be hearsay?

PROSECUTOR: Or let me put it this way. Did you see him again after your visit at the Police cells? -- No, I never saw him again.

Up till today? -- Up till today.

COURT: Do you see him today?

PROSECUTOR: What you are saying, you have not seen him till today? Or since rather? -- No.

So since your visit at the Police cells, you have not seen him since? -- I visited him on a Sunday at Walmer your Worship, and on Monday the Police arrived and they told me that he had escaped.

(20)

COURT: Hearsay.

PROSECUTOR: As the Court please. Has he ever contacted you since you saw him at the Police cells? -- No.

Can I just have Exhibit L please?

COURT: What is Exhibit L?

PROSECUTOR: That is the photographs listed on Exhibit L sir.

PROSECUTOR GENERAL: I now show you Exhibit L. Is there any photograph of your son on that exhibit? -- Yes, there is.

Can you just point out the photograph? No. 11 sir.

Photograph marked no. 11.

(30)

COURT: This one? -- Yes.

The witness points out the photograph of Duma Thembageina,
no. 11.

PROSECUTOR CONTINUES: Mrs. Ndongeni, are you aware of the fact if your
son partook in any shows at all? -- No, I have no knowledge to that effect.

NO FURTHER QUESTIONS

NO CROSS-EXAMINATION BY MR. ALEXANDER

---oO---

HEIDI GOINA, sworn states (through interpreter)

EXAMINATION BY PROSECUTOR

You are the mother of Mbululi Philip Goina? -- Yes, I am. (10)

Also known as Samora? -- Yes.

He was born in 1958? -- Yes.

And he lived with you at your house? -- Yes.

Just for the record, the reference of this person is on
page 14, no. 47, page 34 no. 47, page 38 no. 47. He attended school at
Kuzakale? -- Yes.

Which standard did he pass at school? -- He was studying for
standard nine your Worship.

Did he pass standard nine? -- No.

During October 1977, is it correct that your son left your (20)
house? -- Yes, I did not see him.

Since October 1977? -- Yes.

Did he tell you that he was leaving? -- No.

Have you ever heard anything from him since October '77? --
No.

And I take it you have not seen him since that date either?

-- No.

NO FURTHER QUESTIONS

NO CROSS-EXAMINATION BY MR. ALEXANDER

---oO---

(90)

CYRIL ZINI, sworn states (through interpreter)

PROSECUTOR: Sir, the witness will testify on the person named Zedwa Zini, page 16 no. 73, page 34 no. 73.

EXAMINATION BY PROSECUTOR

Mr. Zini, you are the father of Zedwa Zini? -- Yes your Worship.

You are employed as a lorry driver by the Port Elizabeth Municipality? -- That is correct your Worship.

Zedwa was born during 1960? -- Yes.

COURT: Again I trust that these questions are being put with the concurrence of the defence? (10)

PROSECUTOR: That is correct sir. As far as the parents are concerned sir, I do not think there is much in dispute.

PROSECUTOR CONTINUES: And she lived with you at your house? -- Yes.

During 1977 she was in standard nine at school? -- Yes.

On the 17th of October 1977 your daughter left your house? -- Yes.

Did she tell you that she was leaving? -- No, she never told me.

Did you ever see your daughter since that day? -- No.

Have you heard anything from her? -- No your Worship, not a thing. (20)

I now show you Exhibit L. Is a photograph of your daughter reflected on that exhibit? -- Give me some time. I want to peruse these photographs your Worship. I do not know whether that is her the one that I am pointing.

COURT: The witness points out no. 73.

PROSECUTOR: Mr. Zini, if you say you will say that is her photograph, are you sure about that or not? -- No, I can not be sure. It is a long time that she has left your Worship and I did not - I do not want to tell lies. (30)

Did your daughter partake in any shows that you knew of?

-- No.

NO FURTHER QUESTIONS

NO CROSS-EXAMINATION BY MR. ALEXANDER

PROSECUTOR: Sir, with the permission of the Court sir, I would like an adjournment till 11 o'clock.

COURT: Granted.

COURT ADJOURNS:

---oOo---

COURT RESUME

GLEDON MATHA, sworn states (through interpreter)

(10)

EXAMINATION BY PROSECUTOR

Are you also known as Velile? -- Yes your Worship.

What standard did you pass at school? -- Form 3 your
Worship.

Is that equivalent to standard nine? -- Yes.

And you are employed as an invoice clerk? -- Yes.

By a firm in Port Elizabeth? -- Yes.

On the 11th of March last year did you attend a funeral?

-- Yes.

Whose funeral was it? -- Robert Sebukwe your Worship.

(20)

Where did you attend the funeral? -- At Graaff-Reinet.

Your Worship, just before I continue with the evidence, I might as well give the reference of the witness at this stage sir. Page 15 no. 32, page 30 no. 32, page 31 no. 32. And you returned from this funeral and you went to your house? -- Yes.

And who did you find at your house then? -- My brother and Lungile your Worship.

What is your brother's name? -- Patrick your Worship.

COURT: Patrick? -- Yes your Worship.

P-a-t-r-i-c-k? -- Yes.

(30)

And Lungile? -- Yes your Worship.

Lungile who? -- I do not know his surname your Worship.

PROSECUTOR: Sir, the reference of Patrick is page 15 no. 23 sir. Sir the witness Patrick will be called sir. Did Patrick then tell you anything at your house? -- Yes your Worship.

What did he tell you? -- He told me about what took place in a bus your Worship.

COURT: What had taken place in a bus? -- Yes sir.

PROSECUTOR: Did he tell you anything else? -- No.

COURT: Mr. Interpreter, I have noticed that the witness seems a bit shaky. Would he like to sit down? He can sit on one of those ... (10)
(inaudible, interpreter in microphone), and I also want to tell you Gideon, that there is nothing to be afraid of. Are you afraid of anything? -- No.

You are not afraid of anything? -- No.

Be at your ease and just tell the Court the full truth.

PROSECUTOR: Do you know any of the accused before Court? -- I know two of the accused your Worship.

They have numbers before them? -- 1 and 2 your Worship.

Now after this discussion you had at your house, did you contact anybody? -- Yes.

Who did you meet? -- I met accused no. 2 your Worship. (20)

COURT: No. 2? -- Yes your Worship.

PROSECUTOR: Where did you meet her? -- Near her home your Worship.

How did it come about that you met her? Was it by chance that you met her or did you ... (intervention)

COURT: Do not give him alternatives.

PROSECUTOR: As the Court pleases sir. How did it come about that you met accused no. 2? -- I went to her home your Worship.

COURT: But why? -- I was used of going to her home your Worship. I wanted to see her.

PROSECUTOR: Why did you want to see her on this occasion that you met (30)
her? -- I was going to tell her about what had happened in the bus, that

which I had heard from my brother.

COURT: So you were going to tell her what your brother had told you about what had taken place in the bus? — Yes.

That is Patrick? — Yes.

PROSECUTOR: And did you in fact speak to accused no. 2? — Yes your Worship.

COURT: In her house? — No, in the street.

PROSECUTOR: What did you speak about? — After I had told her what had happened in the bus, I told her that they must not be in Port Elizabeth (intervention) (10)

COURT: I spoke to no. 2. I told her what happened in the bus, and ...? — In the bus your Worship, and then I told her that they should absent themselves from Port Elizabeth.

You mean they should leave Port Elizabeth? — They should leave Port Elizabeth.

Who is this they? — My brother your Worship.

Patrick? — Yes.

And who else? — Patrick alone your Worship.

But you said you told her that they should leave Port Elizabeth? — No, it was a mistake. I wanted him to leave your Worship. (20)

PROSECUTOR: Did accused no. 2 say anything? — No.

What else did you discuss with no. 2? — We discussed the matter that he should leave your Worship.

COURT: That Patrick should leave? — Yes.

PROSECUTOR: Was there anything said as to where he should go to? — No.

Was there a discussion regarding how Patrick should leave? — My aim was that he should go to the homelands your Worship, leave Port Elizabeth.

Why did you want to discuss this with accused no. 2? — It (30) is because she was my friend.

The girlfriend of yours or merely a friend? -- She was friendly with my girlfriend your Worship.

Now after you made the suggestion that Patrick should leave, did accused no. 2 say anything to that? -- No. I wanted to borrow money your Worship.

From who? -- From her if she had it your Worship.

COURT: Who is this her? -- Accused no. 2.

PROSECUTOR: But did you ask her for money? -- No.

Mr. Interpreter, I do not think that question was properly put over. -- No, I never asked for money. (10)

What did you want the money for? -- I wanted the money.

I was going to borrow the money to my brother.

COURT: Lend it to your brother? -- Yes.

To your brother, Patrick? -- Yes.

I want you to use the names of the persons that you are referring to please. -- That is alright sir.

PROSECUTOR: Did you meet anybody else after you had this discussion with accused no. 2? -- Yes.

Who did you meet after her? -- I went to accused no. 1's place. (20)

Why did you go to accused no. 1's place? -- I went to see him.

Is accused no. 1 a friend of yours or not? -- He is an ordinary friend of mine your Worship.

And did you meet accused no. 1? -- I went in the morning there to his place your Worship.

And did you meet him at his house? -- Yes.

And what did you talk about? -- We talked about the issue that my brother should leave.

COURT: Which brother? -- Patrick your Worship, because there was a case pending against him there in the bus your Worship. (30)

PROSECUTOR: Now who started talking about your brother? -- I did.
What did you talk about? -- I asked accused no. 1 when last he had seen him, your Worship.

Seen whom? -- My brother, Patrick.

Yes, and what did accused no. 1 say to that? -- He said he had last seen them two days before I went to his home your Worship, I think.

COURT: How do you mean them? -- No, he had last seen him two days your Worship.

No. 1 replied that he had last seen him, that is now

Patrick? -- Yes.

(10)

Two days before you went home? -- Two days before I went to accused no. 1's home your Worship.

PROSECUTOR: Did he say where he had seen your brother? -- Yes, he told me that they were ... (intervention)

COURT: Who is this now? -- Accused no. 1.

Said what? What did he say? -- He told me that he was at Zwida your Worship.

Who was at Zwida? -- Patrick your Worship.

Use the names.

COURT TAKES A SHORT ADJOURNMENT

(20)

---oO---

COURT RESUMES

COURT: Mr. Interpreter, please tell the witness that he is still under oath. -- Yes your Worship.

PROSECUTOR CONTINUES: You told the Court that accused no. 1 told you he had seen Patrick at Zwida? -- Yes.

What happened then? -- He said he saw him at Zwida, I think.

COURT: No more has. Who said he saw who where? -- Accused no. 1 said he had seen Patrick here in Zwida your Worship.

(30)

PROSECUTOR: Did he tell you if he spoke to Patrick? -- No, I did not

ask him.

Did you have any further discussion? -- No.

Was any suggestion made to you by accused no. 1?

MR. ALEXANDER: Your Worship, I do not know whether that does not follow improperly on the previous question that there was no further discussion according to the witness. Now my learned friend is asking whether any suggestion was made by ... (inaudible, not in microphone).

PROSECUTOR: Your Worship, I was then referring to a discussion regarding accused no.1 meeting Patrick at Zwibe.

COURT: I think it comes close to a leading question, but I do not (10)
think it really is a leading question. I think the question should be allowed.

PROSECUTOR: As the Court pleases sir.

COURT: I see that there is any ... (indistinct)... if I am satisfied that harm is done, then I will stop it, but I do not think ... (indistinct) ... in that particular manner it is a leading question, because there was no further discussion. I think discussion might be distinguished from suggestions. Would you rephrase please just for the sake of the interpreter?

PROSECUTOR CONTINUES: Was any suggestion made to you by accused no. 1? (20)
-- No.

So after you saw accused no. 1, did you see anybody else the following day? -- No, we were arrested that day your Worship in the morning.

COURT: Who is this we? -- Accused no. 1 and myself.

PROSECUTOR: Where were you arrested? -- We were arrested in no. 1's house your Worship.

After you spoke to accused no. 2 near her house. did you see her again after that? Before you were arrested? -- No, I did not see her again. (30)

PROSECUTOR ASKS FOR A SHORT ADJOURNMENT AT THIS STAGE

COURT ADJOURNS

---oOo---

COURT RESUMES:WITNESS STILL UNDER OATH

PROSECUTOR CONTINUES: Mr. Matsha, did you have any discussions with anybody regarding military training at all?

COURT: I ^{can} not allow that question, can I?

PROSECUTOR: Sir, I do not think it is a leading question.

MR. ALEXANDER: I cannot imagine what is more leading in the context of this case?

(10)

COURT: Mr. Prosecutor, I must rule against you. You see, the witness - I am saying this in view of what has gone before. I think in all fairness to the State, I should put the position. You have asked the witness whether he had any further discussions with no. 1, correct?

PROSECUTOR: Yes sir.

COURT: You have asked him whether he had any - whether any suggestions were made.

PROSECUTOR: Yes sir.

COURT: And now you are going on to what seems to me to be a straightforward leading question. Remember at the time I said I would allow that question, but I would watch other questions carefully. I think that is a leading question and I must agree with counsel that in the context of the matter which I am trying, I can hardly think of anything more leading than that.

(20)

PROSECUTOR: Sir, but with all respect sir, it does not implicate anybody and it does not ... (intervention)

COURT: That might well be so, but that might also - his answer might well implicate somebody. My ruling is firm. My ruling is that it is a leading question and I cannot allow it. You can frame it in a different manner or you can lead up to it, but in a series of questions, but not like that. I myself can think of various ways in which that evidence could

(30)

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