

IN THE SUPREME COURT OF SOUTH AFRICA
(TRANSCAAL PROVINCIAL DIVISION)

Case No. 112787/98

In the review Application of:

J J WALUS

First Applicant

C DERBY-LEWIS

Second Applicant

And

AMNESTY COMMITTEE

Respondent

REVIEW

**AGAINST THE DECISION BY: JUDGE. H MALL, JUDGE. A WILSON,
JUDGE PRESIDENT, B. NGOEPE, ACTING
JUDGE, DENZIL POTGIETER & ACTING
JUDGE, S. KAMPEPE**

**OF THE AMNESTY COMMITTEE IN THE APPLICATIONS OF J J WALUS
(AM270/96) AND C DERBY-LEWIS (AM271/96) DELIVERED BY THE AMNESTY
COMMITTEE AT CAPE TOWN ON 7 APRIL 1999**

ON BEHALF OF APPLICANTS

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MR DERBY-LEWIS: My wife was present in the room. She came to greet me, Mr Chairman, because she did not have time before the commencement of the session.

MR BIZOS: Who drew up your application for amnesty, your attorneys or your wife?

MR DERBY-LEWIS: Mr Chairman, the document which is under question was the document which I sent in as part of my application before I had access to legal advice. So, ...

MR BIZOS: Who drew the application?

MR DERBY-LEWIS: I did, Mr Chairman.

MR BIZOS: Not your wife?

MR DERBY-LEWIS: Well, my wife filled in some of the questions as far as the attachment was concerned, but I drew the information up and provided it. I had no access to the facilities, Mr Chairman.

MR BIZOS: You did not have an access to **The Patriot** and the other documents that quoted there? Is that correct?

MR DERBY-LEWIS: Mr Chairman, I am not aware of quotations out of **The Patriot** in my application.

MR BIZOS: The annexure to your application is full of quotations from **The Patriot**.

MR DERBY-LEWIS: Those were drawn up at my request, Mr Chairman.

MR BIZOS: At your request by?

MR DERBY-LEWIS: I beg your pardon?

MR BIZOS: Who drew them up?

MR DERBY-LEWIS: By my wife.

MR BIZOS: By your wife?

MR DERBY-LEWIS: Yes, at my request. Who else would do it for me?

MR BIZOS: Was it your wife here before the original commencement of the proceedings?

MR DERBY-LEWIS: Before the commencement of these proceedings?

MR BIZOS: This morning, yes, was it your wife up on the stage in order to see you before the proceedings commenced this morning?

MR DERBY-LEWIS: Very briefly, Mr Chairman.

MR BIZOS: Yes.

MR DERBY-LEWIS: But very briefly.

MR BIZOS: No, but what you said that she came up, because she did not have time to see you in the morning, that was not quite correct?

MR DERBY-LEWIS: No, but I qualified my statement by saying that it was, she only was able to see me very briefly before the

MR BIZOS: You qualified that when I put it to you that your wife did, in fact, see you this morning.

MR DERBY-LEWIS: I did not, Mr Chairman, I qualified it when I spoke to the Committee.

CHAIRPERSON: I think, Mr Bizos, let us get down to the real.

MR BIZOS: To the substance.

CHAIRPERSON: ... issues.

MR BIZOS: Thank you Mr Chairman. Now, I am going to put to you that the amendments to the application were made in order to bring them, to bring your application into line, possibly some of the decisions given by the Committee, that you became aware of after you filed your original application. What do you say to that?

MR DERBY-LEWIS: Mr Chairman, I say that that amendment was submitted on the advice of my attorneys who were responsible for the submissions from page 17 onwards on my behalf.

MR BIZOS: Yes. Now, let us just go through some of them, the more important ones. I will refer to the summary, Mr Chairman, for the sake of...

CHAIRPERSON: Yes.

MR BIZOS: ... R8.

CHAIRPERSON: Yes.

MR BIZOS: Will you please look at the third last one from the bottom

MR DERBY-LEWIS: What page? Sorry, Mr Chairman, what page is that?

MR BIZOS: R8, page two.

MR DERBY-LEWIS: Page two. Yes, Mr Chairman.

MR BIZOS: "We were now at the stage where other methods would have to be used to ensure our freedom from a communist dominated regime."

Now that was in the old application and it does not appear in the amended application. Do you agree?

MR DERBY-LEWIS: What was in the amended application was, "... simply to ensure the freedom of our people."

MR BIZOS: Do you agree that what I read out on the left-hand column does not appear ...

MR DERBY-LEWIS: That ...

MR BIZOS: ... in the amended application?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Now, when you wrote in the original application, "We were now at the stage ...", who is the "we" that you were referring to.

MR DERBY-LEWIS: We on the right, Mr Chairman.

MR BIZOS: We of the right, not any particular individuals?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Well, name one or two individuals of "we" on the right. Name one or two of the "we" on the right when you wrote the word "we" there. 10

MR DERBY-LEWIS: Mr Robert van Tonder of the Boerestaat Party, Mr Eugene Terreblanche of the Afrikaner Weerstand Beweging. It was general consensus in the Conservative Party as well, Mr Chairman, that attitude.

MR BIZOS: No, no, you mentioned two individuals outside the Conservative Party. Would you please favour us with a couple names from the Conservative Party that you referred to as "we"?

MR DERBY-LEWIS: Mr Chairman, it will be clear from the congress records which I submitted in terms of the mobilisation application, that it was patently obvious that there were three options open to us. The one was elections, which had already been stopped, the other was negotiations and that was the time of CODESA, which we refused to participate in and the third one was passive or active resistance. So, that ... 20

MR MPSHE: Mr Derby-Lewis, they are asking you for the names of people from the right, from the Conservative Party, just the names of individuals. 30

MR DERBY-LEWIS: My colleagues in the caucus, Mr Chairman,

MR MPSHE: They have got names, do they not?

MR DERBY-LEWIS: Mr Schaik Pienaar, the former MP for Potgietersrus, Mr Heug Prinsloo, the former MP for Roodepoort, my colleagues on the caucus, Mr Chairman.

MR MPSHE: Yes.

MR BIZOS: Why did the AWB and Mr van Tonder come in, come to your mind and why did we have difficulty and to have to have judicial intervention before you could mention any name of a person in the Conservative Party?

MR DERBY-LEWIS: Mr Chairman, I thought that by broadly referring to the Conservative Party it was clear who it was and as far as van Tonder and Terreblanche are concerned, I have attended meetings of theirs where these sentiments had been expressed.

MR BIZOS: Yes. Let us, I think we have made that point. Thank you Mr Derby-Lewis. Let us turn to the next one. The final paragraph on the right-hand column,

"The reason for the silencer was allowed me to practice with it at home without disturbing the neighbours."

There is no similar paragraph in the old. Do you agree with that?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Now, is this true, Mr Derby-Lewis, in your second application, is it true?

MR DERBY-LEWIS: That is true, Mr Chairman, and it came out...

MR BIZOS: Now, ...

MR DERBY-LEWIS: ... during consultations with my legal representatives and they advised me to include it.

MR BIZOS: I see, but now, is it true, as a matter of fact, that you, a person with military training, licensed firearm holder for many years, needed training with the stolen gun that you had obtained?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Now, the silencer is a special bit of equipment to be used particularly by assassins.

MR DERBY-LEWIS: It has been used by assassins, yes, Mr Chairman.

MR BIZOS: Particularly by assassins

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: For anyone to pertain that a silencer was obtained for the purposes of taking your, protecting yourself from any attackers is hardly believable, is it?

MR DERBY-LEWIS: Mr Chairman, it is quite clear that in the event of a night time attack, for example, the presence of a

silencer at the end of the barrel would conceal the flashes and would then make it very difficult for anyone attacking to identify where I was returning fire from

MR BIZOS: Oh I see.

MR DERBY-LEWIS: Very clear

MR BIZOS: But I thought that you were concerned about the neighbours. You did not want any noise to be made for the benefit of the neighbours?

MR DERBY-LEWIS: Mr Chairman, I ...

JUDGE WILSON: Is that fair, Mr Bizos, on what is written there? Are there not two reasons given?

MR BIZOS: Allow him to practise with it ...

JUDGE WILSON: Allow him to practise without disturbing the neighbours and also to supply me with some element of surprise in the event of an attack from ...

MR BIZOS: Yes, I am sorry, I only read the précis on the, yes

CHAIRPERSON: Yes.

MR BIZOS: Some element of surprise. Now, surely, attackers do not, well let me put it this way. Have you or have you ever heard anybody having a silencer for the purposes of using it for better self-defence?

MR DERBY-LEWIS: Mr Chairman, I was not interested in anybody, I was interested in my own circumstances and in view of

the fact that there had been attempts on my life in the past and that I had been officially notified by both the ANC and APLA that I was on their death list, I think it would be reasonable to expect something like that and to take the necessary precautions to protect my family and myself.

MR BIZOS: Let us go on to page three. You describe Mr Hani in the first application, the first version of the application as a,

"... former MK commander

MR DERBY-LEWIS: That is correct, Mr Chairman

MR BIZOS: And that is amended to,

"... was a senior commander of MK."

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Why did you decide to change that?

MR DERBY-LEWIS: Because, once again, during consultation, Mr Chairman, my legal advisers believed that it was not correct to say that and they advised me to amend it.

MR BIZOS: But surely your legal advisers were there not, were not there to advise you to "change former MK commander" to "the senior commander of MK" if those were not the facts as you knew them when you first made, you made the first application?

MR DERBY-LEWIS: Mr Chairman, when we consulted it actually came out that I was not referring to the late Chris Hani as a

former commander, I was referring to him as the commander of MK and my legal team then advised me to change it.

MR BIZOS: But you described him as the "former commander". What information did your legal representatives give you that made you change the allegation of fact, from a "former commander" as the, "was the senior commander of MK", why was that change made? 10

MR DERBY-LEWIS: I have explained that, Mr Chairman.

MR BIZOS: You have, you think you have. Very well. Now, there was no allegation in the original application,

"... a prime military target."

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Now, by the time this change was made did you know that in numerous applications for amnesty before the Committee, members of the security forces identified the people that they killed as military targets? 20

MR DERBY-LEWIS: I did not know that, Mr Chairman. As far as my memory serves me, there was no mention of that in any of the communications or the publications to which I had access in prison and I was not present at the hearings of the Committee.

MR BIZOS: I see. Were not the decisions of the Committee in the possession of your attorneys or your wife or your both? 30

MR DERBY-LEWIS: Certainly not, Mr Chairman, in the possession of my wife and, to the best of my knowledge, not in the possession of my attorneys, because this was only requested very recently.

MR BIZOS: On the bottom of page three,

"Mr Hani said that he would regard White MP's of the ruling National Party and the far right Conservative Party as legitimate targets for attack".

That is not repeated in the application

MR DERBY-LEWIS: That was, once again, on the advice of my legal representatives, Mr Chairman, and I think that I clarified that during evidence to the Committee last week.

MR BIZOS: Why was that allegation left out of the application in its final form?

MR DERBY-LEWIS: It was left out on the advice of my legal people, Mr Chairman. You must ask them that question.

MR BIZOS: I see. Well, did you not ask them whether they considered it irrelevant or is it, perhaps, because you had no evidence of Mr Hani saying that?

MR DERBY-LEWIS: Mr Chairman, I may be a strange person, but I take the advice of my legal representatives without querying. I place ... (intervention)

MR BIZOS: What ...

MR DERBY-LEWIS: ... absolute confidence in them.

MR BIZOS: What evidence did you have that Mr Hanu said this when you made your original application?

MR DERBY-LEWIS: I knew about it, Mr Chairman.

MR BIZOS: How did you know about it? 10

MR DERBY-LEWIS: Because I was affected by it.

MR BIZOS: I beg your pardon.

MR DERBY-LEWIS: I was affected by it.

MR BIZOS: How did you know that Mr Hanu had said that,

"... far right Conservative Party as legitimate targets ...",

where did you see that?

MR DERBY-LEWIS: Well, I could not remember, Mr Chairman, ... 20

MR BIZOS: You could not remember.

MR DERBY-LEWIS: ... and that could be why my legal team advised me to take it out, but I subsequently became aware of a report in the **London Times** in 1988 in the United Kingdom which actually was, broadly, the same statement

JUDGE WILSON: But in your, as I understand it, what was your original application, you gave all this information, did you not? Page eight was your original application, was it not? 30

MR DERBY-LEWIS: Page eight.

MR BIZOS: 15 To 21. Although they are not marked, it will give you some idea where on the page, Mr.

JUDGE WILSON: Page 19 says,

"According to the **London Times**,
08/06/88."

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MR BIZOS: Would you like to think of another explanation in view of Judge Wilson's ...

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: ... bringing to our attention that what you have said immediately before was not correct.

MR DERBY-LEWIS: Page 18, page 187

JUDGE WILSON: Page eight, paragraph 18.

MR PRINSLOO: Page eight, paragraph 19.

MR BIZOS: 19, Mr Chairman.

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JUDGE WILSON: Is it 19, sorry.

MR DERBY-LEWIS: Then it could have been because I did not have access to the documentation at the time, Mr Chairman, but I cannot remember everything what I, what, but I want to stipulate that everything that I submitted was on the advice of my legal team. That is why we submitted that application.

MR PRINSLOO: Just show me the full text of this.

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MR BIZOS: Page eight, paragraph 22, yes. Please look at the bottom of page eight of R7.

MR DERBY-LEWIS: Page eight.

MR BIZOS: "We decided that we would try to prevent this take-over and we set about planning how to do this."

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Who is the "we" that you are referring to there?

MR DERBY-LEWIS: Is it this page?

MR PRINSLOO: I do not know.

MR DERBY-LEWIS: Mr Chairman, I am not clear which page eight Mr Bizos is referring to. Page eight ...

MR BIZOS: Of ...

MR DERBY-LEWIS: ... of ...

MR BIZOS: ... of R7.

MR DERBY-LEWIS: ... R7. The last sentence, right.

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"We decided we would try to prevent this take-over and we set about planning to do this."

Yes.

MR BIZOS: Who is the "we"?

MR DERBY-LEWIS: Mr Walus and I.

MR BIZOS: Just the two of you?

MR DERBY-LEWIS: Yes, Mr Chairman.

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MR BIZOS: If you have a look at bundle A, page 21, paragraph eight —

JUDGE WILSON: Where is paragraph eight? My page 21 has got three paragraphs on it.

MR BIZOS: Could I refer to the middle paragraph.

JUDGE WILSON: Where is that? 10

MR MPSHE: It is page 21.

MR BIZOS: You see the middle of the paragraph, of the middle paragraph of page 21, you actually place, you only mention that Mr,

"He decided that he would deal with
Chris Hani and set about planning his
campaign".

MR DERBY-LEWIS: That was after I identified Mr Hani as the target, Mr Chairman. 20

MR BIZOS: Now, but why ...

MR DERBY-LEWIS: He still had to make the decision to
(intervention)

MR BIZOS: Why did the "we" become "he" in the second application?

MR DERBY-LEWIS: Once again, on the advice of my legal team, Mr Chairman.

MR BIZOS: And again, in the old application you say, 30

"We decided that Mr Walus would reconnoitre Mr Hani's place of residence."

Do you see that?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: But that changes in,

"He set out reconnoitring Hani's address."

Why did the "we" become "he"?

MR DERBY-LEWIS: Because during our discussions it was clear to my legal representative that, in fact, Walus had said he would carry the recces, I did not decide that with him and that is why they advised me to change it.

MR BIZOS: And then you say in the old,

"I handed the firearm to Mr Walus on the sixth April in order to execute the plan,"

but in the new application you say,

"Although I handed Mr Walus the firearm on 6 April ... as I was determined to give as a matter that was as important and as significant as this one further thought."

Why was it decided to change that aspect of the application?

MR DERBY-LEWIS: That was, once again, the advice of my legal representative, Mr Chairman, after consultation.

MR BIZOS: But, do you take advice from your legal advisers as to what the facts were or do you take advice as to what the Law or practice is?

MR DERBY-LEWIS: Mr Chairman, I take advice from my legal advisers who advise me once they have heard what the facts were.

MR BIZOS: And then you see the other two inconsistencies which are, I do not want to read out, but what I want to put to you is that there were material changes of fact between the two applications, both under oath, in order to assist yourself in the success of the application without any regard to the truth, particularly in relation to the matters to which I have drawn your attention.

MR DERBY-LEWIS: That is not correct, Mr Chairman.

MR BIZOS: That is not correct. Now, I want to turn to your application. The list, the list of facts. In bundle A, I beg your pardon, the list is actually in bundle B, Mr Chairman. Will you please have a look at bundle B, page two. Okay. Have you got it on page two of bundle B or one and two ...

MR DERBY-LEWIS: Again ...

MR BIZOS: ... in which annexure A is contained with a list of acts of violence committed.

MR DERBY-LEWIS: I have it, Mr Chairman.

MR BIZOS: Yes.

MR DERBY-LEWIS: Yes.

MR BIZOS: I want to confine myself from page one right up to the 10th of April 1993 in which your murder of Chris Han̄ is recorded and I want to ask you some questions of a general nature in relation to any one, to all of these acts. Do you say that any of the acts listed in annexure A was done for or on behalf of the Conservative Party? 10

MR DERBY-LEWIS: I testified, Mr Chairman, that this list was drawn up by the Afrikaner Weerstand Beweeging and it was, according to them, an accurate record of all acts of violence or attack which had been carried out by people on the right.

MR BIZOS: Please answer my question.

MR DERBY-LEWIS: I did not say anything about the CP, Mr Chairman. 20

MR BIZOS: I asked you whether you pertain that anyone of these acts was committed for and on behalf of the Conservative Party, yes or no?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: No. Right. We can proceed from there. Would you agree that, except for your act on the 10th of April 1993, with one exception which I will draw your, possible exception that I 30

will draw your attention to, that these acts of violence were directed at property rather than individuals?

MR DERBY-LEWIS: Mr Chairman, I am not aware of when these acts were perpetrated, but I look at one on the 21st of December 1991 which says a bomb explodes at a beer-hall in Costa, I am not aware of the time that that was carried out. It could have been full of people. There is no further details on that.

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MR BIZOS: Well, let us leave that with a question mark. Have a look at the others and tell us that before your assassination of Mr Hani, whether or not there was any violence against human life?

MR DERBY-LEWIS: It is quite possible that there were acts of violence here against human rights which are not given in the detail, Mr Chairman. I, without going through each one and without knowing the full details, I am not qualified to comment on that.

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MR BIZOS: No, well, you see, if I were to suggest to you that in the main, these acts were symbolic acts of opposition to the, primarily to the National Party in which we do not know, except in one or two instances, whether they were intended that there should be loss of human life, but even in cases where there was human life lost, it appeared to be of an unfortunate result of the main act of actually attacking the property. With one or two exceptions, would you agree with that?

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MR DERBY-LEWIS: No, I do not agree with that, Mr Chairman. In fact, it is not true to state that. I am of, just while you are talking I have been going through this thing quickly and I pick up immediately on the 6th of July 1990, a bomb explodes at a taxi rank in Central Johannesburg. I am sure that the Committee will agree with me that that has nothing to do with the National Party, number one.

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MR BIZOS: Yes. I said ...

MR DERBY-LEWIS: It says further 27 people injured, Mr Chairman

MR BIZOS: Yes, I, remember my words, in the main. I will draw attention to the exceptions. In the main ...

MR DERBY-LEWIS: Mr Chairman,

MR BIZOS: ... do you agree?

MR DERBY-LEWIS: ... without going through each of these individual cases ...

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MR BIZOS: Yes.

MR DERBY-LEWIS: ... and getting, having the full details, I am not qualified to reply to that question.

MR BIZOS: This was an annexure to your own application. Did you not apply your mind when you annexed it in support of your application, what its meaning and effect was?

MR DERBY-LEWIS: Mr Chairman, I look it at face value.

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MR BIZOS: And what is its face value that you took it at?

MR DERBY-LEWIS: Well, its face value is, Mr Chairman, that the right perpetrated many deeds of violence in which people were killed. Deed number, 14th of July 1990, a hand grenade attack on a hotel in Roodepoort kills two men and injures 21. There are many of those and it could be that those details are not included in the other reports as well.

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MR BIZOS: I see. Now, do you know, once it was not the Conservative Party, do you know of any known political organisation that was responsible for any of these acts?

MR DERBY-LEWIS: Mr Chairman, I was assured that the AWB had done research on this and they had found that these acts had been perpetrated by the right.

MR BIZOS: The question was, did anybody from the AWB tell you that these were acts committed with the authority of the Afrikaner Weerstand Beweeging?

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MR DERBY-LEWIS: No.

MR BIZOS: They did not tell you?

MR DERBY-LEWIS: No, they did not tell me.

MR BIZOS: Very well. Now, you annexed this and you are relying on it and you talk about the right, the right-wingers or whatever. The question is that you are unable to tell the Committee whether any known political organisation or liberal,

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liberation movement or people in the employ of the security services were responsible for any of these acts.

MR DERBY-LEWIS: That is correct, Mr Chairman, I took it at face value.

MR BIZOS: Did you know when you did this application that there were people moving around in the 90's who were referred to as the "Brandy and Coke Brigades", people who sat around bars and got drunk and then went out and committed some act of violence or other supposedly in furtherance of some object or other. Had you ever heard of those people?

MR DERBY-LEWIS: No, I have not, Mr Chairman.

MR BIZOS: Well, the Committee will hear about them in due course. You, did you enquire as to whether the act where people were actually killed on the 9th of October, that a bus full of commuters is attacked outside Durban, six people are killed in the attack, which is in relation for an attack on White pedestrians in Durban the day before.

MR DERBY-LEWIS: A retaliation.

MR BIZOS: Retaliation by a group of, well let us first of all. Wanton acts of violence committed against White people on the one day and wanton acts of violence committed against Black people the next day on a bus. That can hardly be on behalf of a political organisation.

MR DERBY-LEWIS: Mr Chairman, I was personally aware of the circumstances regarding this specific case, because...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... I was detained at maximum prison together with the three men who were sentenced to death for their part in this ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... attack and they assured me they were AWB and they were acting on behalf of the AWB.

MR BIZOS: Is that what they told you?

MR DERBY-LEWIS: That is what they told me, yes.

MR BIZOS: I see and you cannot tell us whether they were telling you the truth or not, of course?

MR DERBY-LEWIS: I have no idea, ...

MR BIZOS: Yes.

MR DERBY-LEWIS: .. Mr Chairman.

MR BIZOS: And I am going to put to you that when you, Walus and we will submit together with others committed this there was no precedent of assassination of a top political leader in the country.

MR DERBY-LEWIS: Mr Chairman, that is not correct. I am aware of an assassination carried out by the ANC on a member of the KwaNdebele, sorry the Kangwane Government.

MR BIZOS: Well, you may have regarded him a high profile leader, but, well, let us, is that the example you followed?

MR DERBY-LEWIS: That is the example that I ...

MR BIZOS: Or was it an attack of revenge?

MR DERBY-LEWIS: That is the example I followed, I am aware of, Mr Chairman.

MR BIZOS: When was he killed?

MR DERBY-LEWIS: I do not have the details, but I can provide them, because I have information regarding that.

MR BIZOS: Well, did you follow that example?

MR DERBY-LEWIS: I beg your pardon.

MR BIZOS: Did you follow that example, is that it? Is that a new reason why you tell us you killed Chris Hani, because ...

MR DERBY-LEWIS: No, no that is ...

MR BIZOS: ... someone was killed in KwaNdebele?

MR DERBY-LEWIS: That is not correct, Mr Chairman, I am just contradicting what Mr Bizos has said about no other...

MR BIZOS: I see.

MR DERBY-LEWIS: ... leading people being assassinated and, also, Mr Chairman, I have testified in my testimony last week, that the ANC, themselves, were even planning to assassinate the whole National Party cabinet.

JUDGE NGOEPE: Mr Derby-Lewis, I think this should be mentioned to you that if you are referring to the assassination of a former Cabinet Minister of KwaNdebele, Mr

MR DERBY-LEWIS: Kangwane.

CHAIRPERSON: Kangwane.

JUDGE NGOEPE: - Kangwane.

MR DERBY-LEWIS: I think it was Kangwane, but I know there was a Cabinet Minister of one of the self-governing territories.

JUDGE NGOEPE: Maybe we should leave it there, because you are not sure which one. I was going to, I thought you were possibly referring to KwaNdebele, but if you are not very sure then we should leave it there.

MR DERBY-LEWIS: It could be that I am confused between the names of the two ...

JUDGE NGOEPE: Yes.

MR DERBY-LEWIS: ... territories, but I know that a Cabinet Minister was attacked and assassinated.

MR BIZOS: In relation to any ANC decision, was it not scotched by the leadership of the ANC?

MR DERBY-LEWIS: The plan itself?

MR BIZOS: The proposal, if there was one, was it not scotched by the leadership of the ANC?

MR DERBY-LEWIS: It was, Mr Chairman, but not on moral grounds.

MR BIZOS: Well, this was during the 80's, was it not?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: But you knew that they did not, well, that they scotched that particular plan. Let us just leave it at that.

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MR DERBY-LEWIS: On, but not on moral grounds.

MR BIZOS: Oh, I see, yes. You say that they had other grounds? Very well.

MR DERBY-LEWIS: They say so themselves, Mr Chairman.

MR BIZOS: Yes.

MR DERBY-LEWIS: And I think I testified to that.

MR BIZOS: Yes.

MR DERBY-LEWIS: ... effect. They say themselves that they were afraid that the struggle would then be taken in another direction.

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MR BIZOS: Yes.

MR DERBY-LEWIS: Nothing to do ...

MR BIZOS: Because ...

MR DERBY-LEWIS: ... with moral grounds.

MR BIZOS: Because, presumably, they were concerned that chaos and a race war should not come about as you intended.

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MR DERBY-LEWIS: I am not able to presume that on their behalf, Mr Chairman.

MR BIZOS: Yes. Did you anticipate that there would be a race war in the vacuum that was created with Mr Derby-Lewis', Mr. I beg your pardon, Mr Hani's assassination?

MR DERBY-LEWIS: No, I did not, Mr Chairman, particularly, when one recalls that when one of our former Prime Ministers, Dr Hendrik Verwoerd, was assassinated, every Greek in the country did not pick up arms and start shooting Afrikaners or every Afrikaner did not pick up arms and start shooting every Greek in the country.

MR BIZOS: To the credit of the Afrikaner people.

MR DERBY-LEWIS: But the fact remains that there was no idea of a potential race war, Mr Chairman.

MR BIZOS: Yes. What did you mean by chaos?

MR DERBY-LEWIS: General mayhem, Mr Chairman, and, obviously, ...

MR BIZOS: What is general mayhem?

MR DERBY-LEWIS: People killing one another, but Mr Chairman ...

MR BIZOS: I beg your pardon?

MR DERBY-LEWIS: People killing one another, but ...

MR BIZOS: How many people did you expect to be killed for the purposes of the success of your objective?

MR DERBY-LEWIS: I was hoping that it would be kept to a minimum. I think, Mr Chairman, it has been clear in our planning, that we wanted to avoid harming as many innocent people as possible and our hope was that it would happen quickly, there would be a minimum of casualties, but it would be obvious that there is total lack of control, because de Klerk would not act anyway and that the people would be, could then be motivated into filling the gap.

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MR BIZOS: Mr Derby-Lewis, are chaos, mayhem and minimum synonyms?

MR DERBY-LEWIS: Mr Chairman, I am not here on a language discussion.

MR BIZOS: I beg your pardon?

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MR DERBY-LEWIS: I am not here on a language discussion, I am . . .

MR BIZOS: I am sorry, I am not hearing, what sort of discussion?

MR DERBY-LEWIS: I am not here with, busy with a language discussion.

MR BIZOS: Language is very important in communicating your thoughts and you used those three words in relation to your

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objective. How could there be chaos and mayhem as your stated objectives in one hand and minimum number of people being killed on the other?

MR DERBY-LEWIS: Mr Chairman, the fact that we only targeted one person shows that our intention was to keep it down to a minimum. We could have gone out and targeted a whole lot of people if we wanted to do what you are insinuating.

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MR BIZOS: Well, if that answer is correct, either you have not disclosed the real objective of creating chaos and mayhem or your objective failed. Which of the two do you say was the case?

MR DERBY-LEWIS: Mr Chairman, our objective was reached up until the time of the problems experienced at Bophuthatswana. In fact, Mr Chairman, to my knowledge as well, there was not that much, in terms of deaths, during the aftermath of the late Chris Hani's assassination. In fact, I have figures which I can provide for the Committee which are produced by the Human Rights Monitor which indicate, in fact, that there were more people killed the week before Mr Hani's assassination than during the week of his assassination.

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MR BIZOS: Do you agree that the country was thrown into a crisis as a result of the assassination?

MR DERBY-LEWIS: I agree it was, Mr Chairman.

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MR BIZOS: Did you agree or do you agree that not only did people die, but that the confidence in the future of the country was severely effected?

MR DERBY-LEWIS: Mr Chairman, may I ask Mr Bizos from what document on record he is quoting so that ...

MR BIZOS: Well ...

MR DERBY-LEWIS: ... I can see the context in which statement was made

MR BIZOS: I am asking you whether, what your state of mind was and your information. Do not worry about the documents I am looking at.

MR DERBY-LEWIS: Mr Chairman, I am aware of press reports, but I am also aware that certain people published these alarmist opinions when, in fact, there are other reasons which are causing certain lacks of confidence and so on.

MR BIZOS: You see, let me just read to you, as an example, once, you will not admit something unless I refer you to a document. **Business Day**, Friday, April the 16th 1993 in R3, Section D, page 24.

MR DERBY-LEWIS: Section D. It is not in my bundle.

MR BIZOS: You got it?

MR DERBY-LEWIS: It is not in my bundle.

JUDGE WILSON: R3, Section B?

MR BIZOS: Yes.

MR DERBY-LEWIS: Oh, yes.

MR BIZOS: at "... consumer confidence had taken a near mortal blow since the assassination last Saturday

...".

CHAIRPERSON: Mr Bizos.

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MR BIZOS: Yes.

CHAIRPERSON: R3, Section B.

MR BIZOS: D, D for Danny.

CHAIRPERSON: Oh, D.

MR BIZOS: D.

CHAIRPERSON: I am so sorry.

MR BIZOS: Page 34, Mr Chairman.

CHAIRPERSON: Yes, thank you.

MR BIZOS: "Business and consumer confidence had taken a near mortal blow since the assassination last Saturday of ACP leader, Chris Haní, economists said yesterday. Econometrics economist, Tony Twine, said confidence had been edging up since the beginning of the year. However, it had taken a dive since last weekend and it would plunge further if any of this weeks activities got out of hand. We are only halfway through the minefield. We need a clear

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demonstration that the authorities are in control and that rage and anger have cooled Twine said."

and then statements from Stellenbosch University, Mr de Klerk and everyone else and there are, there is a whole section, the whole of section D deals with the chaos that was caused and the attempts made by the Government and, particularly, the leadership of the ANC and the South African Communist Party to quieten people down, that you wanted to cause chaos and mayhem.

MR DERBY-LEWIS: Mr Chairman, as I have stated, and Mr Bizos has referred to this press report, it was one economist who made that statement. His statement was semi-supported by somebody from the University of Stellenbosch, but then that same person made a strange statement, Mr Chairman. He said further,

"Until a new Government was in place and South Africans had a clear picture of the future, confidence would remain low"

That confirms the point I was making, Mr Chairman, that it is not these incidents that caused a big hiccup, it is a general situation and here, according to him, the situation was that people would not settle down until there was a new Government and it was not so much the Hani assassination. Then the further statement here,

the Durban Regional Chamber of Business, Mr Chairman, said nothing about business confidence, it said that,

"Rampages in Durban on Wednesday by ANC supporters were inexcusable."

Then, Mr Chairman, the Southern Natal ANC Alliance said,

"Disciplinary steps would be taken against the unruly elements once they had been identified."

Nothing to do with business confidence and I am submitting, Mr Chairman, that always under situations like this journalists use people to exaggerate the situation and if you look at these other statements that Mr Bizos is referring to, Mr Chairman, there are a number of repeats. I did a quick spot check to see whether information connected in one clipping was, perhaps, also repeated in another clipping and that is so, Mr Chairman, and this is not the only section that this has been done. There are other sections where they have used up to six statements regarding the same incident to prove their point or to try to prove their point.

MR BIZOS: Mr Derby-Lewis, you say that your act was a successful act until the setback at Bophuthatswana.

MR DERBY-LEWIS: What I said, Mr Chairman, was what happened after confirmed that we were right in our assessment and that it would mobilise the Afrikaner leaders to act and to

come together and to forget their differences and to try and stop the rot.

MR BIZOS: And the intention was to create chaos and mayhem?

MR DERBY-LEWIS: Which would result, which would cause that effect, yes.

MR BIZOS: Therefore, it is not the journalists that are misinterpreting the situation, you yourself say you succeeded, you created chaos and mayhem?

MR DERBY-LEWIS: Mr Chairman, but I said the extent of the chaos, because we wanted the minimum of problems to take place, the extent of the chaos has been exaggerated by journalists.

MR BIZOS: But you yourself say that it was a success and if the final success had come about at Bophuthatswana, then it would have been a 100% success.

MR DERBY-LEWIS: I was referring to the reaction amongst right wing leaders, Mr Chairman.

MR BIZOS: Yes.

MR DERBY-LEWIS: Because it was, in that respect, a success.

MR BIZOS: Was the CP ...

CHAIRPERSON: How, sorry.

MR BIZOS: Was the CP involved in Bophuthatswana?

MR DERBY-LEWIS: Yes, they were, Mr Chairman.

MR BIZOS: Who, by who?

MR DERBY-LEWIS: To the best of my knowledge, Dr Hartzenberg, himself was present.

MR BIZOS: Oh, let us hear about that. What role did Mr Hartzenberg play in the attempt to ...

MR DERBY-LEWIS: Prevent ...

MR BIZOS: ... use violence ...

MR DERBY-LEWIS: To ...

MR BIZOS: ... against Bophuthatswana.

MR DERBY-LEWIS: No, Mr Chairman, I did not say he was there to use violence against Bophuthatswana, I said he was there to prevent violence being perpetrated against Bophuthatswana.

MR BIZOS: The Government of the day was the National Party.

MR DERBY-LEWIS: The Government of Bophuthatswana, Mr Chairman, was the Government under President Mangope.

MR BIZOS: The Government of South Africa was under the control of the National Party?

MR DERBY-LEWIS: That is correct, Mr Chairman, but Bophuthatswana was an independent ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... state

MR BIZOS: Yes. Let us work on the premise that you are working on, that it was, indeed, an independent state.

MR DERBY-LEWIS: It is a constitutional fact, Mr Chairman.

MR BIZOS: Yes, let us even work on that premise. I do not want to argue the situation on a political basis as to whether it was a legitimate state or not. Let us work on your premise. The South African Government and Mr Derby-Lewis is a South African, of course, I beg your pardon, Mr Hartzenberg, is a South African citizen and a political leader in South Africa not in Bophuthatswana?

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MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Was an attempt made by certain sections of the community to buttress up Mr Mangope's regime and to take over in order to avoid the process that had started for a united South Africa?

MR DERBY-LEWIS: That is correct, Mr Chairman, in Mr Bizos'

MR BIZOS: Did Mr Hartzenberg take part in the events and was he in any way responsible for the shooting that there was done in Bophuthatswana during that attempt?

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MR DERBY-LEWIS: Mr Chairman, as I was not present on the ground, I am not qualified to comment on that.

MR BIZOS: Was it policy of the Conservative Party to have heavily armed people in bakkies, on bakkies, on their motor cars to go in with arms and kill innocent people in Mmabatha and in Mafikeng? Did he make himself party to this?

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MR DERBY-LEWIS: I testified earlier, Mr Chairman, that there was no written policy ever, from the CP's part, regarding violence, but that the status quo, the facts of the situation was different.

MR BIZOS: Was he party to any act which the Bophuthatswana army had to repel? 10

MR DERBY-LEWIS: I said, Mr Chairman, I am not aware of what happened on the ground ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... and I am not qualified to comment on that.

MR BIZOS: You see, have you been called a racist, Mr Derby-Lewis?

MR DERBY-LEWIS: Many times, Mr Chairman, I have discovered that when liberals have no other criticism, they resort to this hoary old chestnut, because it is very difficult to dispute something like that, Mr Chairman. 20

MR BIZOS: Yes. Did you regret that an Air Zimbabwe pilot put his brakes on so hard as to brake, as to have a tyre burst in order to avoid a Black person on the runway at Jan Smuts Airport?

MR DERBY-LEWIS: I did not express regret over that, Mr Chairman.

MR BIZOS: Well, we will prove what your statement was. 30

MR DERBY-LEWIS: You think so, Mr Chairman.

MR BIZOS: Yes. Did you ever say that the solution to South Africa's problems was compulsory sterilisation of Black people?

MR DERBY-LEWIS: Mr Chairman, it is interesting that Mr Bizos raises that point, because that whole issue was the subject of a court case where I sued the then member of Parliament for Krugersdorp for lying in a propaganda piece of his and the lie was contained in that very statement which I took, it was an allegation by a journalist, that I had made that statement and I took the matter, Mr Chairman, to the Media Council, because I could not, at that stage, afford legal representative otherwise I would have really taken more serious action. I took the matter to the Media Council and at the Media Council, ruled in my favour that, in fact, I had not made that statement and when the journalist concerned was asked to produce the tape, because I insisted with journalists, because by that stage I had learnt what devious means these liberal journalists used to mislead the public, Mr Chairman, I insisted on the journalist concerned sitting there with a tape recorder to record every word we said. Mr Chairman, when the Media Council called for the production of that tape, as is now the case, apparently, with these tapes here, they were untraceable and then the story came back from the Editor that it had been taped over. Very conveniently taped over so that they could not

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produce the tape which would support what I had said, because I took that precaution. So, what Mr Bizos is now propagating there, Mr Chairman, is a blatant lie.

MR BIZOS: Well, let us see, I do not want to give you too, to take up too much time on this. You actually sued Mr Wessels and the Nationalist Party for calling you a racist?

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MR DERBY-LEWIS: I sued Mr ...

MR BIZOS: Just answer the question.

MR DERBY-LEWIS: No, not for calling me a racist. I sued him for lying about me in a propaganda document.

MR BIZOS: Yes, which said that you were a racist?

MR DERBY-LEWIS: Which said that I said that statement that you ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... produced.

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MR BIZOS: I know about that case and I am going to put it to you and I will put it briefly and, I believe, accurately and just give me an opportunity so that we can get on with it. You sued and they asked for absolution and absolution was granted. Is that correct?

MR DERBY-LEWIS: That is correct, Mr Chairman.

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MR BIZOS: And they appealed and the court in the Transvaal said that absolution should not be granted, should not have been granted?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Which gave you an opportunity to set the matter down in plain damages against Mr Wessels and the National Party? 10

MR DERBY-LEWIS: What Mr Bizos omits to mention, Mr Chairman, was that in the judgement by Judges Kriegler and Joffe, I think it was, they actually took an unprecedented step and they awarded interim costs in my favour because of the circumstances surrounding the case.

MR BIZOS: Yes.

MR DERBY-LEWIS: And it cost the National Party, in my estimation, something like R45 000,00 in those interim costs. I had no costs, I had no money available, Mr Chairman, to once again go back to the process and to find myself in front of the same magistrate who had perpetrated that dastardly deed and I had no reason to expect, Mr Chairman, that I was going to receive justice from him again, because he had already perpetrated an open injustice. 20

MR BIZOS: Yes. What you say about the costs may be correct, but what you omit to say is that the magistrate recused himself 30

and that the case had to start over again, but you forgot about it and you gave up your action.

MR DERBY-LEWIS: What I also omitted to say, Mr Chairman, was that the magistrate concerned was very shortly after that promoted to Regional Magistrate and he was a known member of the Broederbond operating in Krugersdorp and I believe it was due to his Broederbond connections that I was subjected to these disgraceful tactics.

MR BIZOS: Yes. Mr Derby-Lewis, do you still believe in separate development?

MR DERBY-LEWIS: I do, Mr Chairman, yes.

MR BIZOS: Does it follow that you do not accept a united South Africa with a common citizenship if you are a believer in separate development?

MR DERBY-LEWIS: Mr Chairman, I do not believe that a united South Africa is the solution for what is a problem which was resolved elsewhere in the world through separate development.

MR BIZOS: Do you not believe that the problems of the country can be solved with, in a united South Africa with a common citizenship?

MR DERBY-LEWIS: Mr Chairman, it is not only that I do not believe it, but it is quite obvious to me, if one looks at what is

happening in KwaZulu Natal, that it is a problem, it, and I do not think it will be resolved. It is ...

MR BIZOS: So that as you are sitting there now you think that the war is still going on. Is that correct?

MR DERBY-LEWIS: Mr Chairman, I believe it is still going on and is there, in KwaZulu Natal certainly, and is there anything to prove me wrong.

MR BIZOS: And that the attempts to have a united South Africa with a common citizenship, certainly, are not consistent with separate development that you believe in?

MR DERBY-LEWIS: That is correct, Mr Chairman

MR BIZOS: And if you have an opportunity, presumably, you will feel obliged, will you not, to try and change the preamble of the countries Constitution?

MR DERBY-LEWIS: Mr Chairman, I believe that I have done my bit as far as the freedom struggle of my people is concerned. I have been detained in prison for almost four and a half years, I have been able to see my grandchildren once in that time, because I did not want to subject them to the, sorry, Mr Chairman, there is somebody else talking on the line here, I cannot.

CHAIRPERSON: I appeal again, please, do not make your comments whilst the witness is giving evidence. We cannot hear properly what he is saying.

MR DERBY-LEWIS: Mr Chairman, as I was explaining, that in the four and a half years, approximately, that I have been detained I have had access to my grandchildren once, because I do not believe that the prison environment is a suitable environment for them to be exposed to. I have been isolated from my friends and family. I explained the problem with the visits which has only recently been remedied, Mr Chairman, and I, quite honestly, must say, in addition, that I really do not know what the peoples' reaction will be to what I have done. I do not know, because I have not discussed it with them, because I think that it would be presumptuous of me in the first instance.

Mr Chairman, I have already, should my application be successful, I have already decided that I am going to confine myself to my family and my friends who have stood by me so loyally during this period and I think I owe them something. Besides that, I owe it to myself. I love my children, I love my grandchildren and that is one of the things that I regret about this whole situation and that is that I have not been able to effect this love. I have even compensated with, sorry Mr Chairman, did you want to say something.

CHAIRPERSON: I do not know whether this answer you are giving is an answer to the question, as to whether, as far as you

are concerned, the war in which you considered yourself engaged, whether in your mind, that war is still carrying on, ...

MR DERBY-LEWIS: But

CHAIRPERSON: ... as far as you are concerned.

MR DERBY-LEWIS: I am trying to explain this, Mr Chairman, and ...

CHAIRPERSON: No, you have told us that you have been in prison ...

MR DERBY-LEWIS: Yes.

CHAIRPERSON: ... and your personal difficulties while you were in prison.

MR DERBY-LEWIS: Right and ...

CHAIRPERSON: Now, that does not answer, pointedly, the question. In your mind, are you committed to the ongoing war in which you were involved?

MR DERBY-LEWIS: Mr Chairman, I am no longer committed to any arms struggle.

CHAIRPERSON: That is all.

MR DERBY-LEWIS: In fact, I must qualify that and say also, Mr Chairman, that I see a ray of sunshine in the present Constitution of this country which purports to uphold the self-determined, self-determination rights of peoples and I believe that that could be peacefully resolved and I am sure that my party is already

discussing along those lines, but as far as I am concerned, the arms struggle is over and, as far as I am concerned, it would appear even that my political career is over, that I have no further purpose as far as my people are concerned.

MR BIZOS: Mr Derby- ...

CHAIRPERSON: Mr Bizos, might this be a convenient stage to take the adjournment? 10

MR BIZOS: Chair, if I may finish just

CHAIRPERSON: Please do.

MR BIZOS: ... the point ...

CHAIRPERSON: Please do.

MR BIZOS: ... Mr Chairman. Listen, Mr Derby-

Lewis, please.

"We, the people of South Africa, believe that South Africa belongs to all who live in it, united in our diversity."

Do you accept that or not? 20

MR DERBY-LEWIS: Mr Chairman, I believe that my people are entitled to a territory where they are able to exercise their right of self-determination.

MR BIZOS: You, therefore, disagree with the first, one of the first principles of the Constitution, 30

"that South Africa belongs to all who live
in it, united in our ...".

you do not believe in that?

MR DERBY-LEWIS: Mr Chairman, I am not totally familiar with the new Constitution, but I would interpret the clause relating to the self-determination right of peoples as in conflict with that.

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MR BIZOS: And also that there must be a common citizenship? Do you believe in that?

MR DERBY-LEWIS: Mr Chairman, as far as my people are concerned, as far as I am concerned, I acknowledge what appears, I take note of what appears in the preamble, but I also say that I have finished with a political role ...

MR BIZOS: The question ...

MR DERBY-LEWIS: ... and I am sure that my people, the leaders of my people will not leave it at that.

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MR BIZOS: The question was do you believe in a common citizenship which is inconsistent with your policy of separate development?

MR DERBY-LEWIS: I do not believe in that, Mr Chairman, no.

MR BIZOS: I did not hear the answer, Mr Derby-Lewis.

MR DERBY-LEWIS: No, I said I do not believe in that, but I ...

MR BIZOS: You do not believe in that?

MR DERBY-LEWIS: Yes.

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MR BIZOS: It may be a convenient stage, Mr Chairman.

CHAIRPERSON: Thank you. We will take a short adjournment.

COMMITTEE ADJOURNS

ON RESUMPTION

CLIVE DERBY-LEWIS: (Still under oath).

MR BIZOS: Thank you Mr Chairman. Mr Derby-Lewis, I want to turn to your acquisition of the gun which you handed over to Mr Walus in order that he may kill Chris Hani. Firstly, let us start with your reason for acquiring this gun. In your statements you have said that you acquired this gun primarily for self protection. Is that correct?

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MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Yes. You also told us that you understood the Kimberley resolution as a call to collect arms so that if the de Klerk Government or any other Government prohibited people from acquiring firearms, there would be a stockpile available to the right for self-protection?

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MR DERBY-LEWIS: I cannot recall that I said that that was decided at the actual congress, but this was common cause and there were already stories floating around that weapons

MR BIZOS: I see.

MR DERBY-LEWIS: — were going to be confiscated.

MR BIZOS: Even before the August 1992 Kimberley Conference?

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MR DERBY-LEWIS: I know that people have been talking about this for quite a while, Mr Chairman.

MR BIZOS: Before August 1992?

MR DERBY-LEWIS: As far as I know as well, yes.

MR BIZOS: You set yourself up as one of the Voorbokke, so to speak, of doing something about the cause of the right? 10

MR DERBY-LEWIS: Mr Chairman, nothing that I did was in terms of setting myself up as one of the Voorbokke. I did it because I believed it to be necessary and part of, in terms of the climate which existed.

MR BIZOS: Well, I called you a Voorbok, because you were ahead even of Dr Ferdi Hartzenberg and other Conservative Party leaders. You were, apparently, a person who just did not talk, but you made, took practical steps in order to further the cause? 20

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Right, now, how serious is, are you in giving evidence that this gun was acquired for that purpose and not for the purposes of assassination. If it is the only gun that you obtained for this purpose of a period of at least nine months, from the time of the conference at Kimberley, and on your present evidence even longer, because you told us that they were stored even before. One gun with a silencer for the purposes of arming the Volk. 30

MR DERBY-LEWIS: Mr Chairman, if everyone participated, all I needed was one weapon.

MR BIZOS: But you already had two, Mr Derby-Lewis?

MR DERBY-LEWIS: No, that is not correct, Mr Chairman, I only had one pistol.

MR BIZOS: Only one pistol?

MR DERBY-LEWIS: That is correct.

MR BIZOS: Oh, and was this ...

MR DERBY-LEWIS: And that was ...

MR BIZOS: ... acquired so that you could shoot with both hands?

MR DERBY-LEWIS: That was a 38 revolver, Mr Chairman, and I, while I can appreciate something like that appealing to Mr Bizos, that was not anything to do with the intentions behind the acquiring of the weapon.

MR BIZOS: Yes. Now, if you were serious about this mobilisation, surely you would have tried to do an arms stockpile for the benefit of the rights of the Volk?

MR DERBY-LEWIS: Mr Chairman, my perception was that that was not necessary, that the Volk would do that side of it themselves and that my responsibility was to prepare them for that.

MR BIZOS: And you were rather fortunate and in a better position in order to stockpile these arms, if your evidence is true,...

MR DERBY-LEWIS: That is not ...

MR BIZOS: ... because you have, you had ...

MR DERBY-LEWIS: Excuse me.

MR BIZOS: ... come across a person that had, apparently, a stockpile of arms which were stolen from the army, according to the evidence?

MR DERBY-LEWIS: I did not know that, Mr Chairman. I did not know where he was going to get the weapons from and I did not ask him either.

MR BIZOS: Yes. In relation to the reason and manner in which you acquired this gun, when was it agreed that you would get the gun for Mr Walus to do the shooting?

MR DERBY-LEWIS: He asked me for the gun in the latter part of March, Mr Chairman. Up to that stage I had thought he was going to use his own weapon, because I knew he had a weapon.

MR BIZOS: And if anyone said that there was agreement between you about securing a gun at the end of 1992, would that be false?

MR DERBY-LEWIS: That would be false, Mr Chairman, yes.

MR BIZOS: Will you please turn to R4, page 51, paragraph 21

MR PRINSLOO: What page number, Mr Bizos?

MR DERBY-LEWIS: Page 21, not 51, 21.

MR PRINSLOO: 21

MR BIZOS: According to the notes made at the time, it would appear that, - I just want to get the correct - of your interrogation on the 20th of April, which appears on page 19, 93, it is noted that you said,

"During the end of 1992, a decision was taken that Cuba would do the shooting and would be responsible for obtaining the firearm."

Were you correctly recorded there or not?

MR DERBY-LEWIS: Mr Chairman, this statement is totally devoid of any factual basis and, in fact, this statement to which Mr Bizos is referring is not in my words and I have called for the tape to try and compare this with what is on the tape and I have been told that the tape is not available, but, Mr Chairman, it must be clear and we, I am sure Mr Bizos will ask me out about certain other details here, that this could not have been correct.

MR BIZOS: You say that you never said anything of the sort?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: You are not saying that you were in any way compelled to say something like this?

MR DERBY-LEWIS: Mr Chairman, I am saying that I was under a general air of compulsion throughout my Section 29 interrogation, under a general air of compulsion.

MR BIZOS: Please make up your mind, if you can, whether if you said this, you said it, because you were compelled to say something which was not true? 10

MR DERBY-LEWIS: Mr Chairman, I said that I did not say that, I could not remember saying that and I wanted to check what had been on the tape in order to refresh my memory as this interrogation was taken under extremely adverse conditions, as it will be apparent from here, it was on the 20th at 04H45 after I had been in detention since the 17th of April with very little sleep and with a lot of discomfort and pressure and harassment, Mr Chairman.

MR BIZOS: No, please try and answer the question directly. Are you saying that you did not say it or that if you did say it, it was some form of compulsion that led you to say it? 20

MR DERBY-LEWIS: I am saying that I did not say it.

MR BIZOS: You did not say it?

MR DERBY-LEWIS: And if I was and there was a possibility that I was compelled to say this, but I would not have made this statement in my right mind, because I knew that that statement was incorrect. 30

CHAIRPERSON: I think that, you know, you are a sufficiently experienced man to know the difference between making a statement under compulsion and not making a statement at all. Now, either you made this statement or you did not make it. There may be some statements which you may have made under compulsion with which you do not agree now. Is this one of those, that you made a statement, but you disagree with it now or did you not make that statement at all?

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MR DERBY-LEWIS: Mr Chairman, I could not have made this statement in my right mind, because it was not factual.

MR BIZOS: The section at the, Section 20 before, did you make that statement?

MR DERBY-LEWIS: Mr Chairman, this whole document is not in my words.

MR BIZOS: Please ...

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MR DERBY-LEWIS: I would not have made statements which appear here.

MR BIZOS: Please tell us whether you said what is contained in the short paragraph 20, whether you said that or not?

MR DERBY-LEWIS: I could have said that in, but not in this context, Mr Chairman.

MR BIZOS: You could have said it, but?

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MR DERBY-LEWIS: In another context, at another, discussing something else.

CHAIRPERSON: Is this paragraph 22, Mr Bizos?

MR BIZOS: 20, We will come to 22, Mr Chairman. What is the problem? In what context other than that within the paragraph itself was it being said?

MR PRINSLOO OBJECTS:

MR PRINSLOO: Mr Chairman, with respect, in as far as this statement is concerned, we have asked on numerous occasions for the tapes to be made available. As is clearly, from reading this document, not in the words of the first person making a statement and up till now nobody produced those tapes, nobody has come forward to explain where they are and, secondly, Mr Chairman, this is not the original document. We asked for the original document and so far it has not been produced.

CHAIRPERSON: The Committee will bear that in mind when it decides on what value to give to all this evidence.

MR PRINSLOO: Right. With respect, Mr Chairman, the difficulty is how can the applicant refresh his memory from a document which is not in his words whereas there is a document, a tape available, which will reveal his precise words. That is the objection we made from the instance of this particular enquiry, Mr Chairman.

CHAIRPERSON: For once and for all, Mr Bizos, can we put to rest this whole question of what has happened to these tapes and why they are not made available.

MR BIZOS: We have not given answer to that, we did not have them, Mr Chairman. The Commission had them, the police officers had them, the Commission had it. They say they handed everything over. We did not have the tape. I am entitled, with respect, in the absence of the tape, to lead the person who transcribed those tapes, that person may or may not be believed or the person that actually put this document together, whether this is what is said or not. I am entitled to use the document at this stage and, as you indicated, Mr Chairman, the weight to be placed upon the document will depend up on what evidence follows.

JUDGE WILSON: Who took

CHAIRPERSON: Mr Mpshe, ...

JUDGE WILSON: Who took this statement. Is this Captain Deetlief's one?

MR PRINSLOO: That is correct, Mr Chairman.

JUDGE WILSON: But I understood, Mr Bizos, that you said at the beginning of proceedings today that Captain Holmes was on the way here and he would be able to say what happened to the tape and could it stand over till then.

MR BIZOS: Yes.

JUDGE WILSON: Well, where is he?

MR BIZOS: Mr Chairman, according to my, he is in the vicinity, Mr Chairman. He says that everything that he had, he handed over, Mr Chairman.

CHAIRPERSON: Well, Mr Mpshe, can you tell us what has happened to these tapes. 10

MR MPSHE: Mr Chairman, the tapes referred to are tapes number three and four and Captain Holmes indicated to me last week Thursday, that he was going to look for them and when he came back to me today he indicated that these tapes were used by a Mr Deetliefs and he is going to look for Mr Deetliefs to come and explain as to what happened to the tapes, as well as to explain the statement and he has not come back to me.

CHAIRPERSON: So, it is not correct that they are in the possession of the Commission? 20

MR MPSHE: It is not correct. I have got a note which...

CHAIRPERSON: Yes, I understand.

MR MPSHE: Sergeant Holmes wrote to me that he is going to look for them.

CHAIRPERSON: Mr Bizos, you are entitled to put your questions and you heard that these tapes are not being held back from you for some other purpose. So, you either agree to the 30

questions that are put to you or reserve your right to answer questions if you have some doubt about them. Let us proceed.

MR DERBY-LEWIS: Mr Chairman, I wish to reserve my right to answer any questions in connection with this.

CHAIRPERSON: Well, maybe there are questions in certain paragraphs which might correctly reflect the position. 10

MR DERBY-LEWIS: Mr Chairman, that will then be used to give credibility, possibly, to this document and I cannot, under those circumstances, answer. I wish to reserve my right regarding answering any of these questions at this stage.

CHAIRPERSON: It is not a question of giving credibility to this document. We are not concerned about this document, we are concerned about the evidence you are going to give as what you think is the right answer to the questions that are put. That is all. This document and its validity will depend upon how it was transcribed by whom and from what source, but until then questions are put fairly to you. You can answer those questions or if you have no recollection of the details then you may so, but to say that I am not going to answer any questions arising from this document, that is not permissible. 20

JUDGE WILSON: One of the problems, as I see it, Mr Chairman, is that Mr Bizos has been putting these questions as does this correctly record what you say, but the point the witness has made 30

is, it does not purport to record what he says. This is a summary of what was said and I think, in fairness to the witness, it should be made clear he is not been asked to confirm the wording, but whether the context reflects what he said, not that it is something that he himself said.

MR BIZOS: Very well. Did you say to Captain Deetliefs that it was decided at the end of 1992 that Cuba would do the shooting?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Right. Did you say to the, to Captain Deetliefs that that was only decided at the end of March?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Can you suggest any possible reason that Mr, Captain Deetliefs would have written "at the end of 1992" if you had told him that it was in March?

MR DERBY-LEWIS: I am not prepared to suggest anything in this ...

MR BIZOS: No comments.

MR DERBY-LEWIS: ... connection, Mr Chairman.

MR BIZOS: Right. Then can we go to paragraph 22,

"A person, Faan Venter, as far as my knowledge goes, moved to Krugersdorp."

Is that right? Did you say that or words to that effect?

MR DERBY-LEWIS: Mr Chairman, I have already testified that it was a fact that Mr Venter moved to ...

MR BIZOS: Is the answer yes,

MR DERBY-LEWIS: Krugersdorp on ...

MR BIZOS: You said words to that effect?

MR DERBY-LEWIS: ... on other occasions. I have said that,

MR BIZOS: Yes, let us try and make progress by answering the questions directly, please. "During 1992 or early January 1993 he, Faan Venter, contacted Lewis and went to see him at home. He informed Lewis that he had moved to Krugersdorp and wished to become involved with the CP."

Did you say words to that effect?

MR DERBY-LEWIS: No, Mr Chairman, this information in this paragraph is totally incorrect. Mr Venter only moved to Krugersdorp sometime in February and contacted my wife late in February to tell him that he was in Krugersdorp.

MR BIZOS: So, you say that the time is wrong?

MR DERBY-LEWIS: I am saying this statement is not correct, Mr Chairman.

MR BIZOS: The whole of it or is just the January 1993 that is incorrect?

MR DERBY-LEWIS: I am saying I do not know where Captain Deetliefs got this information from, Mr Chairman.

MR BIZOS: You did not know that he came from Maritzburg?

MR DERBY-LEWIS: I did not know until he informed me in March when he came to see me.

MR BIZOS: And is it correct that he came to you and told you that he wanted to be involved in the Conservative Party affairs?

MR DERBY-LEWIS: That is not in this paragraph.

MR BIZOS: In paragraph 22.

JUDGE WILSON: The last sentence.

MR DERBY-LEWIS: Oh, "by die KP betrokke was". When he saw me in March he did indicate that.

MR BIZOS: I see. So, again, it is just the time that is wrong.

MR DERBY-LEWIS: Mr Chairman, I think I have replied to the question...

MR BIZOS: Yes.

MR DERBY-LEWIS: sufficiently well.

MR BIZOS: "During February 1993, Lewis contacted Faan Venter telephonically and requested him to come and visit him at home."

Did you say that or words to that effect?

MR DERBY-LEWIS: That is not correct, Mr Chairman.

MR BIZOS: "Later in the day if, Lewis' memory does not fail him, Venter visited Lewis at home."

Did you say words to that effect or not?

MR DERBY-LEWIS: That is not correct, Mr Chairman.

MR BIZOS: Did Mr Venter not visit you at home?

MR DERBY-LEWIS: Mr Chairman, that statement is not correct.

MR BIZOS: I am asking you, as a matter of fact, did Mr Venter not visit you at home?

MR DERBY-LEWIS: Mr Chairman, the details, in terms of this, are incorrect. Mr Chairman, ...

MR BIZOS: Please answer the question.

MR DERBY-LEWIS: ... I have already testified that Mr Venter visited me at home ...

MR BIZOS: Thank you.

MR DERBY-LEWIS: ... during March.

MR BIZOS: Thank you. You say that he did visit you, but it was not in February, but you say that it was in March?

MR DERBY-LEWIS: Nor did I ...

JUDGE WILSON: He also says it was not as a result of a telephone call.

MR DERBY-LEWIS: That is correct.

JUDGE WILSON: ... asking him to come and visit, Mr Bizos. It is a big difference.

MR DERBY-LEWIS: That is correct.

MR BIZOS: Not as a result of a telephone call?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: So, did he, when he did come and visit you, did he not first telephone you . . .

MR DERBY-LEWIS: Mr Chairman,

MR BIZOS: — telephone him? You did not telephone him and you did not, he did not telephone you?

MR DERBY-LEWIS: Mr Chairman, I have already indicated that when he contacted my residence, he got hold of my wife. My wife invited him over. He came in March.

MR BIZOS: Right. Let us carry on. Did you say words to the effect that,

"Lewis had discussed with Venter where
he, Lewis, could obtain a pistol"?

MR DERBY-LEWIS: Mr Chairman, I have already testified that when he visited I jokingly requested, because I was not sure of him, I jokingly requested of him as to whether he knew where I could get a weapon and he indicated that he did.

MR BIZOS: "And the reason why Venter was specifically approached was because he was the most recent person who launched political activities in the area."

MR DERBY-LEWIS: That is rubbish, Mr Chairman.

MR BIZOS: Well, could you please help me, because I have some difficulty in understanding precisely what it means. What does it mean to you?

MR DERBY-LEWIS: This statement says clearly, Mr Chairman,

"The reason why Venter specifically was approached was because he was the most recent person who launched political activities in the area."

This means nothing to me, Mr Chairman, and it is a lot of rubbish.

MR BIZOS: Do you not understand it, like me?

MR DERBY-LEWIS: Mr Chairman, this is rubbish. I have said,...

MR BIZOS: So, ...

MR DERBY-LEWIS: — how many times do I have to say that?

CHAIRPERSON: Let us get on, Mr Bizos.

MR BIZOS: Yes.

"Lewis was specifically asked for an unlicensed firearm."

When he came to me in March, I testified already, that is so, Mr Chairman.

MR BIZOS: What reason did you have to believe that he was a person who was capable of supplying you with arms?

MR DERBY-LEWIS: I did not believe it, Mr Chairman. As I said, I...

CHAIRPERSON: He said he cracked a joke.

MR DERBY-LEWIS: ... I, out of the blue, I asked him that.

MR BIZOS: Out of?

MR DERBY-LEWIS: Out of the blue, I jokingly asked him to see whether he perhaps was such a person.

MR BIZOS: For how long had you known him?

MR DERBY-LEWIS: Mr Chairman, I had not seen him prior to this for some years. I think something like four years.

MR BIZOS: Despite that, you could trust him fully?

MR DERBY-LEWIS: Mr Chairman, I have already stated that I was very cautious and that is why I put it like that, so that if he started getting serious I could say it was only a joke I made.

MR BIZOS: I am going to put to you that as in connection with the list, both you and your wife, are not telling the truth in relation to the circumstances of the purpose for which this gun was obtained.

MR DERBY-LEWIS: That, Mr Chairman, is an untruth.

MR BIZOS: It is an untruth. Let us just test that. On page R, in pile R4, page 334.

MR DERBY-LEWIS: First or second portion of R4, Mr Chairman?

MR BIZOS: R4, page 334. It is the second.

MR DERBY-LEWIS: Thank you, Mr Chairman. You are there recorded as saying,

"I took the firearm for the first time out after arriving from the Cape. I think it was the Saturday, the 3rd of April, the Saturday before the 10th of April. Let me just be sure. I showed it to my wife. She knew I was looking for weapons in case the Government should withdraw the licensed weapons. She just looked and said that it was interesting. I said to my wife that it was an unlicensed firearm. Yes, I said here is an unlicensed firearm. Here I have now made a start."

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Did you say that to your wife?

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MR DERBY-LEWIS: No, Mr Chairman, I did not. That is not correct.

MR BIZOS: That is not correct. You also give, gave evidence and you say how this gun was delivered to you on the, by innocent people on the pretence that it was a jersey or pullover.

MR DERBY-LEWIS: That information was included in my application, Mr Chairman.

MR BIZOS: Yes. What does this gun weigh?

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MR DERBY-LEWIS: I am not sure, Mr Chairman.

MR BIZOS: More or less. It is a fairly heavy firearm, is it not?

MR DERBY-LEWIS: No, it is not, Mr Chairman, it was a pistol. Something which one can carry in the hand.

MR BIZOS: Yes, but there are light ones and there are heavy ones. Which category did this one fall into? 10

MR DERBY-LEWIS: Mr Chairman, as far as pistols are concerned, this was a 9mm pistol and did not weigh any more than other 9mm pistols that I know of, except, perhaps, for the pistol I have read about, and that is the Glock one which is constructed out of some composite material.

MR BIZOS: By all accounts, it could hardly be compared to the weight of a jersey?

MR DERBY-LEWIS: It was nothing to do with the weight of a jersey, Mr Chairman. The idea was that it had to be wrapped in a jersey. 20

MR BIZOS: Yes. You see, I am going to suggest to you, for a number of reasons which may emerge in the evidence more fully later, that you and your wife did not implicate Mr Venter and you tell a highly improbable story of how he came to give you this gun without knowing for what purpose it was going to be used.

MR DERBY-LEWIS: Mr Chairman, that testimony was delivered by Mr Venter when he was called as a witness to our trial and, in 30

fact, it was on the basis of his testimony that the Judge President of the Witwatersrand decided to indemnify him from any prosecution. So, I assume, he must have believed him.

MR BIZOS: If we may turn to the application of Mr Walus. He says —

MR DERBY-LEWIS: Sorry, what bundle, Mr Chairman? 10

MR BIZOS: It is at bundle A.

MR DERBY-LEWIS: Bundle A.

MR BIZOS: His application, paragraph, page seven, paragraph eight.

Yes, Chair, not number, it is the third last from the bottom, Mr Chairman. We numbered ours for my easy identification, Mr Chairman. You take the one line as a paragraph at the bottom of page seven and go back.

"Like many others ...", 20

on the right.

MR DERBY-LEWIS: Yes, Mr Chairman, I have it. Excuse me.

MR BIZOS: "Like many others on the right, he discussed what would be done to stop the de Klerk handover and like many others he laboured, harboured at the time vague plans to halt the de Klerk handover. Some of these discussions occurred with Mr Derby-Lewis and with others in the Conservative Party." 30

Now, were you aware of any discussions between Mr Derby-Lewis, between yourself - I beg your pardon - between Mr Walus and others in the Conservative Party? I will repeat it for the sake of clarity. Were you aware of any discussions between Mr Walus and with others in the Conservative Party?

MR DERBY-LEWIS: No, I was not, Mr Chairman.

MR BIZOS: Did, do you remember saying that when you heard of the murder you thought that he may have been set up?

MR DERBY-LEWIS: Yes, I did say that, Mr Chairman.

MR BIZOS: Who did you think might have set him up?

MR DERBY-LEWIS: That was a knee-jerk reaction, because I could not.

MR BIZOS: I beg your pardon?

MR DERBY-LEWIS: It was a knee-jerk reaction on my behalf, Mr Chairman, because I could not believe what I was reading in the media.

MR BIZOS: But what went through your mind? Who could possibly have set him up if your case is that he and you jointly decided to have Mr Hani killed? Who could have set him up?

MR DERBY-LEWIS: I had no idea, Mr Chairman. I only expressed that sentiment, because the circumstances surrounding his actions were very strange to me.

MR BIZOS: But what was so strange when you and he had agreed that you, Hani should be killed? What was strange and what was it that you gave an idea that he was set up?

MR DERBY-LEWIS: Mr Chairman, when we were planning and discussing the whole matter, during the discussions certain security precautions were discussed. I mean, Walus said he was going to recon Mr Hani's house and he was going to make sure that his car was not seen there too often with false number plates.

He was also considering whether he would camouflage himself, because he has a very prominently coloured hair and that would have made him very easily identifiable. So, these were part of the details which he was mentioning to me as part of his planning and that is why, when I saw what happened, that he had not camouflaged his car and that he had not disguised himself and he went in in broad daylight, it was really strange to me.

MR BIZOS: The circumstances that you mentioned would indicate to you that he did it not in accordance with a plan?

MR DERBY-LEWIS: Not in accordance with the indications that I had of the way ...

MR BIZOS: That you had in mind?

MR DERBY-LEWIS: ... he was going to operate. No, no, that he was going to operate. He had

MR BIZOS: He was going to ...

MR DERBY-LEWIS: ... **carte blanche** on the arrangements, yes.

MR BIZOS: But now, he may have been negligent in his conduct, but why should that have given you the idea that he was set up by anybody.

MR DERBY-LEWIS: Mr Chairman, I could never believe that, with my knowledge of Mr Walus, that he would be negligent in his conduct, ...

MR BIZOS: Because he is a ...

MR DERBY-LEWIS: ... because ...

MR BIZOS: Because he is a professional killer or because he had special qualities in relation to the performance of this act?

MR DERBY-LEWIS: No, Mr Chairman, because it was totally out of character.

MR BIZOS: What portion of his character was it out of?

MR DERBY-LEWIS: He was not a reckless sort of a person, Mr Chairman.

MR BIZOS: He was not?

MR DERBY-LEWIS: A reckless sort of a person and to me the whole thing ...

MR BIZOS: How did you know that he would not be reckless about an assassination?

MR DERBY-LEWIS: I did not know, Mr Chairman, but I still felt that that was strange as to what happened.

00 MR BIZOS: Did you, perhaps, ask him whether he had killed anybody before in order to satisfy yourself that he was a fit and proper person chosen to perform the act?

MR DERBY-LEWIS: On no occasion, Mr Chairman.

MR BIZOS: Did you have confidence that he would do a professional job?

MR DERBY-LEWIS: Mr Chairman, I identified him as a steady sort of a person and he was calm and he came across as being competent.

02 MR BIZOS: Did you discuss with him whether he had had any military training?

MR DERBY-LEWIS: I did not, Mr Chairman, but I knew that he was involved with weapons.

MR BIZOS: He was involved?

MR DERBY-LEWIS: With weapons. That he had his own weapon and that people use to take their weapons to him on a plot which, I believe, the family owned outside Pretoria, where they actually use to test them and

04 MR BIZOS: Which persons' weapons were tested on his brother's farm?

MR DERBY-LEWIS: I do not know, Mr Chairman, ...

MR BIZOS: Where ...

0C MR DERBY-LEWIS: — but I knew that they were tested, because ...

MR BIZOS: How ...

MR DERBY-LEWIS: ... he told me he had done these tests.

MR BIZOS: In what context did he tell you that he had tested other peoples' weapons at his brother's farm?

MR DERBY-LEWIS: Mr Chairman, to the best of my knowledge,...

MR BIZOS: I beg your pardon?

0Z MR DERBY-LEWIS: To the best of my knowledge, a very good friend of his testified to that effect in the trial.

MR BIZOS: No, I asked you what knowledge you had of his ability to carry out this important, to you, important task before he was chosen to commit the deed?

MR DERBY-LEWIS: I had no reason to doubt him, Mr Chairman.

JUDGE NGOEPE: Mr Bizos, sorry to interrupt you. Mr Derby-Lewis, the, once you use the words "set up", does that not suggest involvement of other people beyond the two of you?

0L MR DERBY-LEWIS: I agree that it suggests that, Mr Chairman, but I had no knowledge of it.

CHAIRPERSON: Well, it is an amazing term to use in the context of what has happened, is it not?

00 MR DERBY-LEWIS: Mr Chairman, it was my immediate reaction upon hearing of the circumstances.

JUDGE NGOEPE: But on what basis, I think that was the question, to which I am not sure we got an answer. It is one thing to say somebody acted negligently, but it is quite a different thing to suggest the possible involvement of other people, because inherent in the use of the words "set up", as I have already indicated to you, there is a suggestion of involvement by some other people.

02 MR DERBY-LEWIS: That is correct, Mr Chairman, and I can assure you that on the right, we were almost paranoiac, eventually, in our suspicion of people, because of the extent to which the de Klerk regime had infiltrated the various right wing organisations and perpetrated all sorts of treachery from within those organisations. So, that was, my immediate reaction was, yes, it must be a set up, he would not have done that the way he did it.

JUDGE NGOEPE: You, did you feel that somebody or some other people might have come to know about the plan or the plot?

01 MR DERBY-LEWIS: I did not know, Mr Chairman. I did not know, but I...

JUDGE NGOEPE: No, I am asking, did you think that somebody could have come to know about that plan?

05 MR DERBY-LEWIS: When I saw his

JUDGE NGOEPE: Yes.

MR DERBY-LEWIS: ... behaviour, I thought it was a possibility, but I knew it was not from my side. That is why I believed that he had been set up.

MR BIZOS: Did it occur to you that it might have been Mr Faan Venter who knew something?

MR DERBY-LEWIS: No, Mr Chairman, Mr Faan Venter knew nothing.

02 MR BIZOS: Or Mr Kemp who knew something about the list?

MR DERBY-LEWIS: Mr Kemp knew nothing about anything planned between Mr Walus and myself, Mr Chairman.

MR BIZOS: Or Mrs Durant or, possibly, her husband that delivered the gun saying that they thought it was a jersey?

MR DERBY-LEWIS: Mr Chairman, they knew nothing about that.

MR BIZOS: Or Mr Clarke?

01 MR DERBY-LEWIS: Mr Chairman, Mr Clarke was totally not involved. I have testified to the fact that Walus and I planned and did the whole thing together and nobody else knew, Mr Chairman. I specifically protected everybody that I had to approach for assistance, because of the danger of their being arrested and being involved.

00 MR BIZOS: Or ...

MR DERBY-LEWIS: I protected them from by excluding the knowledge from them.

MR BIZOS: Or a Mr Visser?

MR DERBY-LEWIS: Mr Visser?

MR BIZOS: Yes.

MR DERBY-LEWIS: Who is Mr Visser, Mr Chairman? Sorry, is this this chap who is going to testify here about some ridiculous story about a cheque for my legal costs?

02 MR BIZOS: Well, once you raise it, perhaps we should look at it. (Disruptive clapping by the audience)

MR DERBY-LEWIS: Victory, victory George.

MR BIZOS: He says ...

CHAIRPERSON: Who are we talking about?

MR BIZOS: It is a document which was handed to us by the Commission under cover of a letter of the 6th of August 1997, Mr Chairman, with an extract from an application for amnesty by one...

01 MR MPSHE: Mr Chairman, the copy of, the copy is on its way.

MR DERBY-LEWIS: Mr Chairman, we have no copy.

MR BIZOS: A copy, Mr Derby-Lewis. Apparently, Mr Visser, is applying for amnesty, among other things, the, number eight, "doelwit diefstal".

OC "JCI pension fund cheque to the value of R3 68/9 182, 65 cent. Account opened by Commandant Roodt and committed by the members."

Who is Commandant Roodt?

MR DERBY-LEWIS: I am not sure, Mr Chairman.

MR BIZOS: Do you know a Commandant Roodt?

MR DERBY-LEWIS: I am not sure. I have met many people in Krugersdorp and I cannot remember, specifically, this gentleman, but it is possible that I had met him.

OC MR BIZOS: Well, try and think how many Roodts' do you know who would have the title of Commandant?

MR DERBY-LEWIS: As I said, Mr Chairman, I cannot place the gentleman, but it is quite possible that I have met him during the course of my activities in Krugersdorp.

CHAIRPERSON: You are talking about Commandant Roodt or the man Visser?

MR DERBY-LEWIS: About Commandant Roodt, yes, Mr Chairman.

OL MR BIZOS: Well, do you know J M Visser, A J?

MR DERBY-LEWIS: I am not sure, Mr Chairman. The name does not press a face before me, ...

MR BIZOS: Well,

00
MR DERBY-LEWIS: ... but, as I say, once again, I may know him when I see him.

MR BIZOS: Well, he will apparently appear in support of this and you will see him and we can, perhaps, take it up then?

MR DERBY-LEWIS: That is fine, Mr Chairman.

MR BIZOS: But let us concentrate on Commandant Roodt. Do you know a person called Roodt or not?

MR DERBY-LEWIS: As I said, Mr Chairman, ...

CHAIRPERSON: He said he knows several people by that name.

02
MR BIZOS: Well, tell us who the Roodts are that you know?

MR DERBY-LEWIS: Fine, Mr Chairman.

MR BIZOS: How many Roodts do you know?

MR DERBY-LEWIS: Mr Chairman, I ...

MR BIZOS: Let us start with number one.

MR DERBY-LEWIS: Mr Chairman, I do not even ...

MR BIZOS: Which Roodt do you know?

MR DERBY-LEWIS: Mr Chairman, please. I have already stated that I am not even sure if I know this Commandant Roodt. I did not talk about the Roodts, I spoke about this Commandant Roodt.

01
MR BIZOS: Yes.

MR DERBY-LEWIS: I do not know whether I know him.

MR BIZOS: Do you know anybody who prides himself in the name of Roodt?

03
MR DERBY-LEWIS: I cannot remember offhand, Mr Chairman.

MR BIZOS: You cannot remember?

MR DERBY-LEWIS: No.

MR BIZOS: You cannot remember coupling the name Roodt with any person that you can think of at the moment?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: We will look into that ...

MR DERBY-LEWIS: Good.

02
MR BIZOS: ... a little further later. Edwin Clarke, who is Edwin Clarke?

MR DERBY-LEWIS: Edwin Clarke, Mr Chairman, I know from his willingness to come along to my home and to repair my computer and my wife's computer whenever it developed some sort of a bug or another.

MR BIZOS: And the person who regularly appears, whose name regularly appears in your wife's diary?

MR DERBY-LEWIS: That is right, Mr Chairman, in connection with computer matters.

01
MR BIZOS: And, at any rate, we hear that he is a bachelor and he use to come for breakfast and other little ...

MR DERBY-LEWIS: That is correct, Mr Chairman, ...

MR BIZOS: ... conveniences.

00
MR DERBY-LEWIS: ... and he was not the only bachelor who use to come for breakfast.

MR BIZOS: Yes, well, let us confine ourselves to him and we will look into the others later.

"Edwin Clarke received the cheque for the person by the name of Dilus and who worked at JCI."

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Now, you see, if this statement is correct, Clarke was not a, just an ordinary person coming for breakfast and looking after the computers, he received a stolen cheque from JCI for the sum of R369 182,56. Have you got any knowledge about that?

MR DERBY-LEWIS: No, I have not, Mr Chairman.

MR BIZOS: Did nobody ever mention this to you?

MR DERBY-LEWIS: Never, Mr Chairman.

MR BIZOS: We will deal with it later.

JUDGE WILSON: Was it a stolen cheque, Mr Bizos, or did he

MR BIZOS: I beg your pardon?

JUDGE WILSON: Was it a stolen cheque or did Mr Clarke steal it?

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MR BIZOS: No, it was a ...

JUDGE WILSON: "Mr Clarke then decided to use the funds." It appears Mr Clarke decided not to pay the money to where it should have gone, but to use it for some other purpose.

MR BIZOS: The rest of it shows that, well, I take the point, but for my purposes either interpretation is correct, but thank you Mr Chairman.

MR DERBY-LEWIS: Mr Chairman, I have no objection, whatsoever, to Mr Bizos producing this document and questioning me regarding this, what appears in this document. No objection whatsoever.

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MR BIZOS: Thank you Mr Derby-Lewis. Now, he is a person who either received a cheque or the proceeds of the cheque. You know nothing about that?

MR DERBY-LEWIS: Nothing at all, Mr Chairman.

MR BIZOS: "These funds would originally go to the Volksfront for the purchase of two-way radios."

Did you know anything about that?

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MR DERBY-LEWIS: Mr Chairman, if my memory serves me correctly, the Volksfront was formed after my arrest. So, I do not know how that could possibly be true and I certainly have no knowledge of it.

MR BIZOS: You did not know about anybody wanting to use stolen money for two-way radios?

MR DERBY-LEWIS: No, Mr Chairman.

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MR BIZOS: "Mr Clarke then decided to utilise the funds for the legal costs of Mr Clive Derby-Lewis."

You do not know anything about that?

MR DERBY-LEWIS: Nothing, Mr Chairman.

MR BIZOS: "As already known to the Committee, he applies for amnesty for the murder on Mr Chris Hani of the ANC."

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MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: Yes, that is correct

"I personally was against the murder of Mr Hani, because we had positive information that Mr Hani and Mrs Winnie Mandela wished to establish together a political party."

Now, if this is correct, it would appear that this Mr Visser knew about the talk or plans to kill Mr Hani.

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MR DERBY-LEWIS: Mr Visser knew nothing about plans to kill Mr Hani, Mr Chairman.

MR BIZOS: I see and he says that he was against it. Did anybody, did you get knowledge of anybody in the, among the rightists that they were against the murder of Hani for the reasons stated by Mr Visser?

MR DERBY-LEWIS: No, he said "ek, persoonlik", Mr Chairman. He did not say anything about the right.

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MR BIZOS: And that there were, at least, it is clear that there were discussions?

MR DERBY-LEWIS: Would he discuss this matter with himself. Is that what Mr Bizos is suggesting, Mr Chairman?

MR BIZOS: Oh, no, what I am suggesting is that the statement clearly indicates that there may have been, there must have been discussions if he expressed that he was against this for the reasons that he states.

MR DERBY-LEWIS: I cannot comment on that, Mr Chairman.

MR BIZOS: "It would have the effect that particularly the youth would vote for them. I reported to Commandant Roodt to this effect. Roodt then also, himself, took control of this operation and saw to it that the funds would not go to Mr Clive Derby-Lewis."

Do you know anything about that?

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Now, do you say that this, was it generally known that Mr Clarke was a regular visitor to your house to persons such as Mr Visser and others in right wing circles?

MR DERBY-LEWIS: I had no idea of any connection that Mr Clarke had with anybody, Mr Chairman.

MR BIZOS: "Mr Chris Hani was murdered on 10 April 1992."

MR DERBY-LEWIS: Sorry, Mr Chairman, I would like to draw the Committee's attention to the fact that Mr Bizos has conveniently missed one sentence here. After the sentence which says,

"Roodt himself took control of this operation and saw to it that the funds did not go to Mr Clive Derby-Lewis."

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and then the next sentence is,

"The cheque was originally banked on 30 March 1993."

MR BIZOS: I am sorry, please assure, let me assure you that I am going to ask you lots of questions about that and I did not leave it out deliberately. I had a mark and I thought that I had read it, but let me ...

MR DERBY-LEWIS: Thank you.

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MR BIZOS: ... let me come.

MR DERBY-LEWIS: Thank you, Mr Chairman

MR BIZOS: Yes. Clive-Derby Lewis,

"The cheque was originally banked on 30 March 1993."

You know nothing about that?

MR DERBY-LEWIS: Mr Chairman, I, my question is that if this cheque was supposed to cover my legal costs and it was banked

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on the 30th of March 1993, how would they know I was going to incur any legal costs?

MR BIZOS: Well, you may, well let me ask you this, did you not think of the possibility that Mr Walus may be arrested?

MR DERBY-LEWIS: No, Mr Chairman, because . . .

MR BIZOS: And did you not think of the possibility that you may be arrested? 10

MR DERBY-LEWIS: No, Mr Chairman, that was the reason for restricting the information to two people, Walus and myself.

MR BIZOS: Yes and what was Mr Walus' financial position at that time?

MR DERBY-LEWIS: I have no idea, Mr Chairman. I never discussed it with him.

MR BIZOS: Was he going to be compensated in any way for his successful act? 20

MR DERBY-LEWIS: By me, Mr Chairman? I had nothing to compensate him with. Everyone knows my financial position quite well.

MR BIZOS: But people who stole money for the cause might have made some available?

MR DERBY-LEWIS: But, Mr Chairman, that has not been proved and there is no connection, whatsoever, been proved between this money and myself. 30

MR BIZOS: Well, do not let us anticipate the proof at this stage.

MR DERBY-LEWIS: It is outrageous.

MR BIZOS: Was it a coincidence, was it if, in fact, Mr Clarke was in some way involved in this and he was the person who had something to do with this large sum of stolen money, is it a mere coincidence that he was a very good friend of yours and your wife's and regularly came to your house, apparently, by appointment noted in your wife's diary? 10

MR DERBY-LEWIS: Mr Chairman, Mr Clarke knew nothing about what was planned for Mr Hani.

MR BIZOS: Was he a member of the Conservative Party?

MR DERBY-LEWIS: Not as far as I know, Mr Chairman.

MR BIZOS: Was he a member of any political organisation?

MR DERBY-LEWIS: I have, I do not know, Mr Chairman.

MR BIZOS: Did he express any political views to you? 20

MR DERBY-LEWIS: Quite openly, supportive of the Conservative Party, yes, Mr Chairman

MR BIZOS: Supportive of the and one of the right wing people?

MR DERBY-LEWIS: Obviously.

MR BIZOS: Was, when you say that you and Walus discussed the gravity of the situation, was he one of the right wing people with whom you discussed the gravity of the situation?

MR DERBY-LEWIS: No, Mr Chairman, he was not. 30

MR BIZOS: Why not?

MR DERBY-LEWIS: Because, Mr Chairman, he just was not there. When Mr Walus used to come and visit me he use to specifically come and visit me to have a discussion with me, not with other people.

MR BIZOS: How did you know that, how did he exhibit his support for the Conservative Party? 10

MR DERBY-LEWIS: Who, Mr Chairman?

MR BIZOS: Mr Clarke.

MR DERBY-LEWIS: Oh, Mr Clarke expressed the same sentiments as I did when we had discussions.

MR BIZOS: Well, please tell us what he said that it was, that he said in support of the Conservative Party.

MR DERBY-LEWIS: Mr Chairman, I cannot recall specific statements. 20

CHAIRPERSON: I think that, you know, in the course of numerous conversations one gathers ...

MR BIZOS: Ones feelings.

CHAIRPERSON: ... ones sympathy for a cause. That may be so.

MR BIZOS: I will accept that.

CHAIRPERSON: I think it will be unrealistic to ask him to explain all that now, Mr Bizos.

MR BIZOS: I will accept that, Mr Chairman. 30

MR DERBY-LEWIS: Thank you, Mr Chairman.

MR BIZOS: Now, he says,

"Commandant Roodt and I, ourselves only heard of the murder on the evening of the 10th of April 1992. There was no collaboration among the AWB and/or the Volksfront to murder Mr Chris Hani. Our suspicion was that Mr Clive Derby-Lewis, himself, orchestrated the attack on Mr Hani himself."

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Now, did you orchestrate the murder of Mr Hani?

MR DERBY-LEWIS: Mr Chairman, I do not know what date Mr Visser submitted his application, but I assume it was some time after the whole episode had been very well aired in the media and it had become patently clear that I was involved with the Hani assassination —

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MR BIZOS: Yes, I am actually

MR DERBY-LEWIS: ... and, also, I, it may even be that he submitted this after I was found guilty ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... and that would be a perfectly —

MR BIZOS: Yes.

MR DERBY-LEWIS: ... reasonable state where anyone had that knowledge.

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MR BIZOS: No, I was just wondering whether you could throw any light why he uses the word "orchestrate" which, you know, in order to orchestrate something you need a few number, quite a number of people to orchestrate?

MR DERBY-LEWIS: Mr Chairman, he says here,

"Mr Clive Derby-Lewis, himself, had
orchestrated the attack on Mr Hani."

Yes, he did not talk about a number of people orchestrating.

ADV BIZOS: No.

MR DERBY-LEWIS: I think about me

MR BIZOS: Yes.

MR DERBY-LEWIS: ... or is that not your question? Am I misunderstanding ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... the question?

MR BIZOS: Yes, perhaps, I did not make it very clear.

MR DERBY-LEWIS: Please.

MR BIZOS: The person who orchestrates needs an orchestra.

MR DERBY-LEWIS: Mr Chairman, I do not know why Mr Visser made this statement, because Mr Visser had no knowledge whatsoever of anything ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... regarding me or my affairs, except maybe that I was an active representative of the Conservative Party and the right.

MR BIZOS: Now, I want to show you the original letter, "Geagte Kolonel"? Is this it?

JUDGE WILSON: Before you go on, should we call this R9? I do not think you have given it a number.

MR BIZOS: Incidentally, Mr Chairman, we have asked the Commission to make available the full application for amnesty of Mr Visser and, apparently, steps are being taken to get the permission of such persons, as may be concerned, for us to get it so that we can get the full background of this matter. Thank you Mr Chairman. I want to show you the original letter. Perhaps members of the Committee should have a look at it and also to have a look on the, at the endorsement at the back of it, Mr Chairman.

CHAIRPERSON: Yes, please.

MR BIZOS: I would like the witness to see it after the Committee members have seen it.

MR DERBY-LEWIS: Mr Chairman, I am aware of the details contained on the reverse of the letter.

MR BIZOS: Would you read out the handwriting at the back of that letter please.

MR DERBY-LEWIS: Mr Chair, it reads as follows:

"This letter was ...",

MR BIZOS: Gewone.

MR DERBY-LEWIS: Something "pos".

MR BIZOS: Ordinary post.

MR DERBY-LEWIS: Oh, normale, dankie mnr die Voorsitter, deur normale, it is very badly written, it is the normal post,

"... was received by normal post on

93/05/21".

There is a signature which confirms, which has been confirmed as the signature of a certain UW or UDC somebody.

MR BIZOS: Yes. He is a Colonel.

MR DERBY-LEWIS: He is a Colonel, Mr Chairman. A full Colonel, yes.

MR BIZOS: He is the Colonel that came and arrested you?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: He is the head of the Murder and Robbery Squad that investigated your case?

MR DERBY-LEWIS: That is correct, Mr Chairman.

MR BIZOS: And you wrote that letter and posted it to Colonel Human?

MR DERBY-LEWIS: Mr Chairman, I just want to correct one thing which may be misinterpreted here. Mr Bizos has said that

he was head of the investigation which investigated the murder case. He was in his capacity as head of the Murder and Robbery Squad, but the investigation under Section 29 was carried out totally by members of the security branch. There were never any members of the East Rand Murder and Robbery Squad involved in the investigation.

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MR BIZOS: He was the head of the Murder and Robbery Squad.

MR DERBY-LEWIS: Correct.

MR BIZOS: ... that investigated whether you and your wife and Mr Walus were guilty of murder.

MR DERBY-LEWIS: And out of whose care I was taken, Mr Chairman, when I was placed under Section 29 control.

MR BIZOS: Now, it was to him that you wrote the letter and not to the uniformed branch.

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MR DERBY-LEWIS: Mr Chairman, my knowledge of military protocol and uniform protocol indicates to me that when one writes a letter, one writes a letter to the senior officer involved at a specific station. Colonel Roos, although it is not clear from here, Colonel Roos was actually a Lieutenant-Colonel, but is entitled to be referred to as Colonel, but the senior officer at the East Rand Murder and Robbery Squad is a Colonel, a full Colonel, namely Colonel Human and that is why I wrote to him.

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but, Mr Chairman, I want to say also, that I had very little to do with Colonel Human's team on the Murder and Robbery Squad.

MR BIZOS: Let us deal with one matter at a time, Mr Derby-Lewis. You said that you wrote that letter to Colonel Roos. That evidence was incorrect.

MR PRINSLOO OBJECTS:

MR PRINSLOO: In fact, Mr Chairman, it is not correct what Mr Bizos is putting. He says he wrote to the officer in the uniform. That is how I interpret the military procedure and he said Colonel Roos, he referred to Colonel Roos. He is still saying that.

CHAIRPERSON: There should be no doubt about he intended to write to, surely.

MR DERBY-LEWIS: Mr Chairman, I was directing my remarks...

CHAIRPERSON: To Colonel Roos.

MR DERBY-LEWIS: ... to Colonel Roos, obviously.

MR BIZOS: Why did you send it to Colonel Human, who received it, and in accordance with practice, put the stamp of his office there and when it was received and how it came to be with him?

MR DERBY-LEWIS: Mr Chairman, I am not aware of the administrative arrangements, but it was addressed to him as the senior officer and it was...

MR BIZOS: Addressed to whom?

MR DERBY-LEWIS: ... and, Mr Chairman, let me state categorically, that the comments that I have here are equally applicable to Colonel Human and his team. They are equally applicable to them, but I was not under their care either when I was under Section 29. I was under the care of the security branch in a completely different situation.

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CHAIRPERSON: That is really not relevant as to where you were at the time. You were trying to express your thoughts about what had happened while you were under the control ...

MR DERBY-LEWIS: Specifically to Colonel Roos.

CHAIRPERSON: ... of Colonel Roos or Colonel Human.

MR DERBY-LEWIS: That is correct. Yes, but I could not write to Colonel Roos, because he was not the Commanding Officer of the depot, Mr Chairman. Courtesy demands ...

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JUDGE WILSON: Was he not the commanding officer of the station?

MR DERBY-LEWIS: He was the Commanding Officer of the station, yes Sir.

MR BIZOS: Just look at the stamp, where was he stationed? Look at the back.

MR DERBY-LEWIS: South African Police, Commanding Officer.

MR BIZOS: Where?

MR DERBY-LEWIS: East Rand Murder and Robbery Squad.

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MR BIZOS: Where is his office?

MR DERBY-LEWIS: It does not say here, Mr Chairman.

MR BIZOS: Was he the Station Commander in Benoni where you were held?

MR DERBY-LEWIS: He was the head of the Benoni police operation, as I saw it. 10

MR BIZOS: Was his office in Benoni where you were held?

MR DERBY-LEWIS: His office was in Benoni, yes, Mr Chairman.

MR BIZOS: Subject to correction, the headquarters of the Murder and Robbery Squad, my memory, unfortunately I cannot check it with Mr ...

MR DERBY-LEWIS: Holmes.

MR BIZOS: ... Holmes who was here and, unfortunately, had to go away on an appointment, was in Brakpan and not in Benoni at all. 20

MR DERBY-LEWIS: Well, I was not aware of that, Mr Chairman, at any time and nor was I made aware of that. I and, Mr Chairman, I was, Colonel Human has a very large office at the Benoni police structure and his office and the office of Lieutenant-Colonel Roos are in exactly the same building.

CHAIRPERSON: Mr Bizos, you can perhaps tell us, what is the significance of all this? 30

MR BIZOS: Well, in order to rebut, Mr Chairman, the suggestion that the statements were freely and voluntarily made. You were told, Mr Chairman, that a letter was, when the letter was produced that it was addressed to the uniform branch, Mr. Colonel Roos, who had nothing to do with the investigation of the case. This letter shows that it was received by Colonel Human, who was the head of the Murder and Robbery Squad and had to do much, from the time of his arrest to the time of his conviction, with the investigation of the case. That is the point, Mr Chairman.

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MR PRINSLOO OBJECTS:

MR PRINSLOO: Mr Chairman, it is also important to note that Colonel van Niekerk was in charge of the security branch and he was not attached to Benoni at all, or his team. Colonel van Niekerk was responsible for the men under his control which detained the applicant in terms of Section 29 of the Act.

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CHAIRPERSON: Well, anyway, the significance of it all is something that, yes, yes.

MR BIZOS: The only point we wanted to make was that when Colonel Roos was singled out as the person to whom it was sent, that the evidence was not correct. That is the only point that I want to make.

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CHAIRPERSON: Well, now, you know, this case has taken such a lot of time and I would urge you to deal with points that are, you know, really of some significance to ...

MR BIZOS: We will do that.

CHAIRPERSON: ... to the real issues.

MR BIZOS: We will do that and I am going on to

CHAIRPERSON: Please.

MR BIZOS: ... the next point.

CHAIRPERSON: Please.

MR DERBY-LEWIS: Does Mr Bizos require the letter back?

MR BIZOS: I would like to put it in, Mr Chairman.

CHAIRPERSON: Please, do hand it in. What would be the exhibit number, R10. Mr Bizos, this might be a convenient stage to take the adjournment.

MR BIZOS: Thank you, Mr Chairman,

CHAIRPERSON: This letter will go in as EXHIBIT R10. We will now adjourn and resume.

COMMITTEE ADJOURNS

ON RESUMPTION:

CLIVE DERBY-LEWIS: (Still under affirmation).

CROSS-EXAMINATION BY MR BIZOS: What I have to put to you in relation to your allegation that you made statements under duress and I would like to refer you to your hand written

statement, your own hand written statement, where is it, appearing in R4, I just want to get the page, yes. Yes, will you please have a look at R4, page 27 to page 53. You got that? Is that in your own handwriting?

MR DERBY-LEWIS: It is in my handwriting, Mr Chairman.

MR BIZOS: Were you given paper on the 20th of April and did you hand over the completed document in your own handwriting on the 27th? 10

MR DERBY-LEWIS: Mr Chairman, I do not recall been given paper on the 20th, but I was given paper for the purpose of writing this document.

MR BIZOS: It was not the 20th, when do you say it was?

MR DERBY-LEWIS: I am not sure, Mr Chairman.

MR BIZOS: Well, if I were to suggest to you that it was the 20th and that you handed it in on the 27th, are you in a position to deny it? 20

MR DERBY-LEWIS: Mr Chairman, I cannot see it taking me a week to write this. That is why I am in doubt as to when I commenced writing it.

MR BIZOS: Well, according to notes made by Mr Deetliefs, you were given paper at 09H35 on the 20th and you returned it or you gave it to Beeker who gave it to, you gave it to Mr Beeker at 00H20 on the 27th of the fourth 93, according to the notes made 30

at the time. In view of those notes, are you prepared to accept that that is more or less correct?

MR DERBY-LEWIS: No, Mr Chairman, because I would not give it to him at 00H20 in the morning.

MR BIZOS: Just past midnight, anyway.

MR DERBY-LEWIS: No, definitely not, Mr Chairman.

MR BIZOS: Anyway, did you have ample opportunity to write out your statement on the paper that was given to you?

MR DERBY-LEWIS: Mr Chairman, during the interrogation and the writing of the statement, was a lot of discussion and debate regarding what should be included in the statement and what should not be included. You will recall that I testified that at the beginning, Colonel van Niekerk said to me that I must write what they want me to write, because if they are not satisfied with the statement, they will not accept it.

MR BIZOS: Yes. Did you write the statement in your cell or in the presence of the police?

MR DERBY-LEWIS: As far as I remember, Mr Chairman, it was in my cell.

MR BIZOS: In your cell and is this in your usual handwriting?

MR DERBY-LEWIS: Well, it is a bit larger than my usual handwriting.

MR BIZOS: I beg your pardon?

MR DERBY-LEWIS: It is a bit larger than my usual handwriting.

MR BIZOS: A bit larger?

MR DERBY-LEWIS: Yes.

MR BIZOS: Oh, is that, you wrote it a lot more largely so that it can be more clearly read?

MR DERBY-LEWIS: I do not know, Mr Chairman, but it is larger.

MR BIZOS: I see.

MR DERBY-LEWIS: Yes.

MR BIZOS: But, would you agree, as you look at it, that it looks to be a neat and legible handwriting without any, well, certainly, it does not look as if it was written by a man who was exhausted and did not know what he was writing? Let us come directly to the point. It does not look like a statement written by a person who has been ill-treated, who has, who is exhausted and who was under pressure to write it?

MR DERBY-LEWIS: Mr Chairman, I am not qualified to ...

MR BIZOS: Oh, yes.

MR DERBY-LEWIS: ... state how a statement looks made by somebody who is under duress and who, how a statement does not look.

MR BIZOS: If we have a look at ordinary writing of yours can we expect any material differences which would indicate to the

Committee that you were under duress when you wrote this statement out?

MR DERBY-LEWIS: Well, Mr Chairman, if you look at page three, excuse me, there are at least three scratchings out.

MR BIZOS: Yes, well, that is on one —

MR DERBY-LEWIS: And ...

MR BIZOS: ... page and I —

MR DERBY-LEWIS: And ...

MR BIZOS: ... think there may be one or two other pages where there are scratching out. Is that, ...

MR DERBY-LEWIS: That is —

MR BIZOS: — you are saying that that does not happen with people who are comfortable, who have written a statement as long as this and there are a small number of alterations?

MR DERBY-LEWIS: I am, you asked me if there is anything to indicate that this was under duress. If I was taking my time I would not have made mistakes that needed to be scratched out, Mr Chairman.

MR BIZOS: Oh, I see, yes.

MR DERBY-LEWIS: And altered and some even ...

MR BIZOS: Yes.

MR DERBY-LEWIS: ... accentuated to make it clearer on page...

MR BIZOS: Well, I put ...

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