

SHAN CHETTY.

THE SUPREME COURT OF SOUTH AFRICA

(NATAL PROVINCIAL DIVISION)

CASE NO. 18/75/254

6th OCTOBER 1975

The matter of:

THE STATE

vs

S. COOPER AND EIGHT OTHERS

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THE RECORDINGS (PRETORIA)

COURT RESUMES:HERMANUS DANIEL STADLER, NOG ONDER EED:

CROSS-EXAMINATION BY MR. ALLAWAY CONTINUED: Major, dealing with other evidence that might be available, I gather there are other photographs of the Frelimo Rally in Durban which have not been put in as exhibits? --- Edele, ja, ek het heelwat fotos in my besit nog wat nie ingehandig nie.

And are they all available here in Pretoria? --- Ja.

Do you have in your possession any photographs of the Turfloop Rally other than those put in as exhibits? 10

--- Edele, ek praat onder korreksie, ek is nie heeltemal seker nie, majoor Strydom het hoofsaaklik met daardie fotos gedeel, en ek is nie heeltemal seker nie, maar ek vermoed daar mag nog wees.

And as far as the Durban rally is concerned, there has been evidence that someone was using a video-tape there?

--- Ja, Edele, kaptein Erasmus van die tegniese afdeling van die radio-stasie in Durban, hy het 'n visiële-band.

Where is that video-tape today? --- Dit is in Pretoria beskikbaar. 20

And have you seen a replay of that tape? --- Ek het.

Up to what stage does it go? --- Dit gaan, ek dink, kort na - ek praat onder korreksie, dit mag wees net voor kolonel Jordaan hulle toegesprek het of miskien kort daarna. Ek mag miskien net meld dat die rede skynbaar is, ten spyte van die feit dat tydens die uiteengaan van die skare die son miskien nog 'n minuut of wat geskyn het, lê Curries Fountain agter die Berea heuwel, en skynbaar moet dit helderdag wees om daardie tipe van band te gebruik, kamera te gebruik, en skynbaar was dit 'n bietjie skemer reeds op daardie stadium 30 en hy kon dit nie gebruik nie.

When / ...

When you say subject to correction, what do you mean, in what way do you want to qualify your answer, is it an answer which might be wrong? --- Nee, dit is maar wat aan my oorgedra is deur die persoon wat die kamera gebruik het, en hy het te kenne gegee dat dit op daardie stadium te skemer was vir die kamera om te gebruik.

Can you remember whether it was overcast that day?

--- Ek verbeel my daar was wolke gewees, dit was nie reënerige weer nie, maar ek vermoed daar was wolke gewees.

So the reason why possibly the video-tape does not 10 show this movement of a section of the crowd towards gate A is because, the explanation is, given to you by the man who used it, that conditions were not favourable for that? --- Ja, dit is so aan my oorgedra.

And I understand that Warrant Officer McPherson was also there taking photographs? --- Ja, maar hy is maar 'n bietjie van 'n amateur, en dit het later aan die lig gekom dat sy film klaar geraak het, hy het skynbaar nie addisionele film saamgebring nie, en dit is die rede waarom hy nie deurgaans fotos geneem het nie, en ek mag miskien net meld 20 dat die fotos wat ek in my besit het, van 'n ander bron af kom en dit is nie polisie fotos nie.

What source was that please? --- POUSE

Was it the Press for example or what? --- Ja, dit is Pers fotos.

Did you get these photographs from any particular newspaper in Durban? --- Ja, Edele, alhoewel ek nie graag die persoon sal wil noem nie.

Do not give the name of the person, name the newspaper?

--- Dit is van Die Nataller. 30

That is the Afrikaans newspaper? --- Ja.

And / ...

And no other source? --- Nee, geen ander bron nie.

And how many photos did you get from ..(Court intervenes)

COURT: Is it really relevant that you should insist on these sources every time, I mean a photograph is either a faked photograph or it is a pukka photograph.

MR. ALLAWAY: M'lord, we are not suggesting anything is faked, there is I just want to know how it comes about that/^{there is}this mysterious coincidence, the crucial event is not photographed, and the witness has given an explanation.

COURT: But what is so mysterious about it, they used flash- 10 lights when it became dark, and if he says the lighting conditions did not allow the use of a video-tape - pause -

MR. ALLAWAY: Well, M'lord, I do not want to argue the case at the moment, but the point is this, I am trying to elicit from the Major what other sources of information he has, because it may be that there is evidence which the State has in its possession which would assist the Defence.

COURT: Well, give him an indication of what information you are after, and he may be able to assist you, why all this indirect insinuation about strange people who might have been 20 taking photographs and that you would like to know the source, because I cannot see how it is relevant.

MR. ALLAWAY: M'lord, there is no insinuation about strange people, we know the Press were there, there is no insinuation at all, I merely want to know from the Major where he got his other photographs from.

COURT: But why is it relevant?

MR. ALLAWAY: M'lord, because it has been known in cases that the State does not always put in evidence which is favourable to the Defence.

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COURT: Well, why don't you ask him, he has got the photographs
he / ...

he will probably offer them to you.

MR. ALLAWAY: Well, we shall be glad to have them.

COURT: Well, I cannot see how it is relevant where he got the photographs from.

MR. ALLAWAY: Well because we can then go to Die Nataller and say: have you got any other photographs, that is why it is relevant, M'lord, it is a source of evidence, which can be followed up, and maybe there is one photograph which is crucial to the whole thing.

COURT: What I cannot understand is why the Defence is using 10 it at such a late stage, if you were really so keen on photographs, why did you not make enquiries whether there were not Press photographers there, and surely if there were other photographers there, you would have been able to get the photographs?

MR. ALLAWAY: M'lord, with the greatest of respect that is exactly what we have done, the exhibits we have put in have come from various Press sources, the exhibits which are in, you will see on the reverse side of M'lord's photographs, they are from the Sunday Tribune, they are from the Daily News, 20 that is exactly what we have done to help the Court, because all we got put up in the State case were I think five photographs which showed precisely nothing, with respect.

--- Edele, as ek net een aangeleentheid mag regstel, daar was nie, sover dit die gewone neem van fotos aanbetref was daar nie van flitskamas gebruik gemaak nie, dit was nie so donker gewees nie, die son het nog geskyn.

HOF: Maar hierdie wat lyk na blitse, hierdie latere fotos.

MR. ALLAWAY: With respect, M'lord, according to my instructions not, I think this is what the witness is making clear? --- Ja, 30 Edele, ek het geen flitskamas gesien nie.

Hof / ...

HOF: Maar hier stap mense met blitse rond in die fotos?

--- Edele, dit mag wees, maar ek het geen flitskamas - pouse -

U het nie die blitse gesien nie? --- Ek het nie die blitse gesien nie. Dit is skynbaar net die visiële kamera wat nie in betrokke weer goed uitkom nie.

MR. ALLAWAY: Major, is this not what you are trying to say, that the photographers who went there obviously went armed with flashes in case it got dark, because they did not know how long it was going to go on for? --- Dit is korrek.

But you saw no evidence of flashlights being used 10 because the weather circumstances were such it was not necessary to use them.

HOF: Vat byvoorbeeld hierdie foto RALLY 10.24, daar staan die man met die blits in sy hand, en dit is donker op die agtergrond, pikdonker op die agtergrond, wat 'n mens sou verwag as 'n blits gebruik word? --- Ja, dit mag so wees, maar soos ek sê ek het geen flitse gesien van kamas nie, op enige stadium nie.

MR. ALLAWAY: M'lord, there will be evidence about certain of these photographs, that the photographic reproductions were 20 not perfect, M'lord, and I think if I can get it from the Major as to what the weather circumstances were like, may I proceed to do that?

COURT: Yes, certainly.

MR. ALLAWAY: As I understand it, Major, we know from meteorological evidence when the sun sets in Durban at... that? --- Ja, Edele, ek dink dit was om en by 5.56.

And I suggest to you that it was never dark at any stage before the dogs came out? --- Nee, Edele, nee, beslis nie, soos ek sê die son sak agter die Berea heuwel en hoewel 30 dit heeltemal in skaduwee gehou was en die lug ook effe betrokke

was / ...

was, as ek reg onthou, afgesien daarvan was dit nie donker gewees nie.

And the street lights weren't on? --- Ek praat onder korreksie, ek vermoed daar mag al van die straatligte - hulle werk outomaties, nè, en sodra dit 'n sekere mate van skemer bereik skakel dit skynbaar outomaties aan, en dit mag wees dat daar al van die straatligte aan was.

Now, just to turn to your plan please, EXHIBIT RALLY A.5 and if you please compare it with RALLY A.5.AA? --- Ek het dit voor my. 10

Now as far as the original plan is concerned, A.5, it is quite obvious from the photographs and your new plan that this gate A is in fact closer to the street as you indicate on the new plan? --- Ja, ek het maar net eintlik gewys hoe die hekke geleë is in A.5.A, maar op A.5.AA is dit in werklikheid hoe hy moet wees.

Major, I took the trouble to do some measurements with a tape yesterday at the Curries Fountain ground, and it is going to assist the Court to get the right perspective, would you agree with me that what you show on RALLY A.5.AA 20 as being the turnstile entrances as opposed to the ticket offices, that that building is 32 paces long? --- Ja, ek dink ek dui dit op die plan aan as omtrent 30 tree, maar dit is moontlik.

The wall that projects to the east of those turnstile entrances, projects in a southerly direction, but on the eastern side before you get to gate A, how long do you estimate that to be, I suggest that it is 7 metres? --- Ja, ek dink ek het hom afgetree omtrent 7 tree, dit mag wees dat dit 7 meters is. 30

And then I suggest that the length of the ticket office

- what / ...

- what you have shown as the ticket office to the east of gate A is 16 metres long, that building, does that accord with your recollection? --- Ja, ek stem saam.

Now in front of the ticket office you can look at any of the photographs that show the ticket offices, take for example RALLY A.10.1A or 1B for that matter, you can see that there are railings to enable people to form queues at the little apertures that form the ticket offices? --- Heeltemal korrek, voor die voetganger ingang by die muur B aangedui, asook daar by die kaartjieskantoor is daar sulke reëlings. 10

Would you agree that the railings in front of what you refer to as the ticket offices on RALLY A.5.AA, those railings are 4 metres long? --- Ja, dit is heelmoontlik.

And I suggest that a Volkswagen motor car is also 4 metres long? --- Ja, dit is moontlik.

And I suggest the space between the end of those railings in front of the ticket office, and the beginning of the tarmac is 10 metres? --- Ja, dit kan ook moontlik wees.

Major, you give the width of the tarmac as being 11 metres according to your plan? --- Edele, ek verstaan nou 20 nie heeltemal watter wydte van die - pouse ?

If you look at the key to your plan you will see the distance between H and D is given as 11 metres, that is what I understand the width of the tarmac to be - you will find the distance 11 metres, do you see it? --- Ja, Edele, die pad self, met ander woorde Winterton Walk self, dit is van H, die hoek van die teer tot by die sypaadjie ongeveer 11 tree.

Just as a point of accuracy, if I suggest it is 8 metres would you quarrel with that suggestion? --- Nee, ek dink dan was my tree die dag baie kort gewees, ek sou sê 30 moontlik nader na 10 tree as 8 tree.

But / ...

But your measurement I think is in metres is it not?

--- Nee, dit is in tree.

Now Major, where do you say lamp-post E is in relation to gate A, because these are fixed points? --- Die lamppaal, soos ek sê die plan is natuurlik nie volgens skaal nie, dit mag wees dat dit bietjie nader aan die hoek van A is regoor A.

Because I put it to you it is exactly opposite gate A? --- Dit mag so wees, Edele, maar ek dink tog dit is 'n bietjie meer in 'n suid-oostelike rigting, nie direk oorkant die hek nie. 10

And lamp-post D I suggest to you is fairly well illustrated in your plan, it is in fact just three paces to the west of entrance C, if you project a line from entrance C? --- Ja, hy is min of meer regoor die hoek.

And there are no lamp-posts inbetween? --- Nee.

Major, if you look at the photograph A.10.1.A, you can see cars starting with the Volkswagen on the left and then five motor vehicles there, you can see them more clearly on A.10.1(b)? --- Ja, soos ek sê vroeër die dag was daar heelwat karre in daardie omgewing, maar die polisie het dit later laat verwyder. Ek moes byvoorbeeld my kar ook daar verwyder. 20

You see I suggest that these photographs show that the Volkswagen is not parked in front of the entrance, these cars are parked by the railings, do you dispute that? --- Nee, dit is heeltemal moontlik, soos ek sê 'n foto is bedrieglik, dit skep partykeer 'n indruk - veral as hy van 'n horisontale vlak geneem is - dan veral is dit moeilik om te bepaal presies waar 'n ding staan. 30

Well allowing for that on photographs, I can see that
immediately / ...

immediately, but allowing for any sort of errors of that kind, I do suggest to you that the crowd that is in RALLY A.10.1.A and RALLY A.10.1.B appears to be substantially to the east of gate A? --- Nie oos nie.

Well I am using Winterton Walk as running from east to west, in other words - pause --- Nee, Edele, hy loop omtrent van noord-wes - suid-oos.

Major, we have been talking of Winterton Walk as running from east to west in this trial, and we have been talking of the entrance to Curries Fountain being on the north, and the bank to the Mansfield Road High School being on the south? --- Edele, ek sal gaan volgens die plan, want ek dink my rigtingwyser is min of meer korrek.

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Well, I do not want to confuse the record by using different compass points, but on the basis of your plan I suggest to you that this crowd that is shown on RALLY A.10.1.A and RALLY A.10.1.B appears to be from the photograph to the south-west of the gate, it is not opposite the gate.

COURT: You are suggesting to the south-east?

MR. ALLAWAY: South-east of the gate. --- Nee, Edele, dit kan nie suid-oos wees nie, kyk, hulle is heelwat meer suid-wes.

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Well Major, if you could just abandon notionally your compass point as per this exhibit, and treat Winterton Walk as running from east to west please, I think it would make things a lot simpler, could you notionally do that please? --- Ja.

In other words town would be on the east, the Berea side would be on the west, Curries Fountain entrance on the north, Mansfield Road High School on the south, I suggest on that basis the crowd shown on RALLY A.10.1.A and RALLY

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A.10.1.B / ...

A.10.1.B is to the east of gate A? --- Nee, Edele, ek stem nie saam nie, soos ek reeds gesê het die foto is baie bedrieglik, baie misleidend, en hierdie is duidelik van 'n horisontale vlak geneem, dit skep die indruk dat die mense half voor die hekke is, en hulle was op geen stadium voor die hekke nie, behalwe toe hulle nog aangekom het en die mense orals nog rondgeskuif het, en daarom sê ek glo ek hierdie foto is op 'n redelike vroeë stadium geneem, terwyl die karre nog daar gestaan het.

You are quite adamant according to your evidence, 10
that these two photographs, RALLY A.10.1.A and RALLY A.10.1.B were taken before the arrival of Accused No.2? --- Ja, nee, baie beslis.

And it would therefore follow it would be impossible for him to be in them? --- Ja, soos ek sê die foto is baie bedrieglik maar volgens my mening is hierdie foto op 'n redelike vroeë stadium geneem.

And would you express the same view about the photo RALLY A.10.1.AA? --- Daar weer eens, dit is moontlik dat dit op 'n vroeë stadium geneem is. Ek mag net meld, Edele, 20
die skare was op geen stadium tot beskuldigde No.2 daar aangekom het, voor die hek of by die hek verby nie. Daar mag los mense gestaan het, maar die skare as sulks, het 'n groep gevorm soos ek reeds te kenne gegee het op plan RALLY A.5.AA.

You see I just want to put it to you as I do, that these photographs A.10.1.A, A.10.1.AA and A.10.1.B were taken after the arrival of Accused No.2 and they were taken - well, you dispute that, correct? --- Ja.

And secondly I put it to you that they were taken at a time when the crowd on the tarmac were starting to move 30
away from Curries Fountain, I take it you dispute that too?

Soos / ...

--- Soos ek reeds gesê het fotos is geweldig bedrieglik, en my indruk van die foto is dat dit op 'n vroeë stadium geneem is, aangesien die karre nog daar staan. Die karre was later verwyder.

And I also put it to you that the photographs RALLY A.10.1,24(a) (b) and (c) - we are more specifically concerned with RALLY A.10.1,24(a) and (b), that those photographs were taken after Accused No.2 had arrived, and when the crowd was in the process of moving along Winterton Walk in the direction of town? --- Edele, A.10.24(a) - soos ek reeds 10
sic
voorheen gesê het, dit is 'n foto hierdie wat na my mening ook op 'n vroeë stadium geneem is.

I understand your evidence, Major, I just want to put to you where I am disputing your evidence, just to make it quite clear, and as far as RALLY A.10.24(b) is concerned, I suggest to you that Accused No.2 is in that photograph, I think one of the witnesses was good enough to put a mark above his head, he is to the left of the police officer who has the dog, that is the police officer who is to the left of the photograph, and if you would like me to mark the person I 20
say he is, I am happy to do so? --- Edele, omdat dit vir my onmoontlik is om te sê op watter stadium 'n foto geneem is, het ons besluit om nie veel van die fotos in te handig nie. Die persoon wat gemerk is, staan hier op die voorpunt van die skare.
HOF: Hy het sy hand in sy broeksak? --- Dit is korrek. Dit lyk of hy sy hand in die broeksak het, maar vir my is dit onmoontlik om te sê of dit beskuldigde No.2 is al dan nie.

Major, you see that this photograph has got streaks on it which seem to run diagonally across the photo, you can see that at the top section, the white blemishes on it? 30
--- Dit is korrek.

It / ...

It is an imperfection in the photograph, but what you can make out here clearly - when I say clearly, clearly if you know it - is the Berea skyline in the background?

--- Ek sal dit nie betwis nie.

Well there are blocks of flats on the Berea are there not? --- Dit is korrek.

And they do tend to stand out against the skyline you can see these - they look like rectangles standing above a dark background? --- Dit is so.

But there is also a lamp-post there? --- Ja.

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And I suggest to you that that is in fact the lamp-post which is marked on your plan as lamp-post E? --- Nee ek betwis dit, dit is in die agtergrond, en ek sou lievers sê dat dit lamppaal D is. As 'n mens na die vorige foto kyk wat ek vroeër na verwys het, ek is nie seker wat die bewysstuk-nommer is nie, dan sal daar gemerk word dat dit ook die indruk skep dat die skare verby lamppaal D staan wat in werklikheid nie die geval was nie. Hierdie lamppaal wat hier op hierdie foto verskyn, Edele, staan baie ver op die agtergrond, en ek sou lievers sê dat dit lamppaal D is.

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Well, Major, we do not want to trouble the Court with an inspection unless it is absolutely necessary, I just suggest to you that you cannot get a configuration of that skyline with that lamp-post in that way, unless you are looking at lamp-post E and not lamp-post D? --- Ek verskil daar, Edele, die foto is heel duidelik, uit die rigting sou ek sê van die hek geneem, dit is hek A, en dan sal jy natuurlik die Berea agtergrond kry.

I suggest to you that if you stand to the right or, if you like to get it compasspoint-wise to the entrance to gate A, in a position just to the east of those railings

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where / ...

where the car is parked on RALLY A.10.1.AA, that is the last car with the wrap-around bumper, have you got that photo - have you got that, there is a black car, the fifth one I think, with a wrap-around bumper? --- Ja, ek sien dit.

Do you see, it looks like a black car with a wrap-around bumper, the bumper comes right around? --- Ja.

And it has got a little insignia in that panel between the rear window and the right window? --- Ja.

If you look at RALLY A.10.24(b) and compare that with RALLY A.10.24(b)? --- Ek het dit. 10

I suggest that that is the same motor car, it has got the wrap-around bumper and the Datsun insignia? --- POUSE

It looks like a Datsun 1200? --- Ek kyk nou na die modderskerms, dit lyk nie vir my asof dit dieselfde kar is nie.

Anyway the only point I want to make with you, Major, and ask you whether you agree with it or not, I think the rest is a matter for argument, not for cross-examination with respect, do you agree that the police officer with the dog shown on RALLY A.10.1.AA - you can see him just standing in front of a black car, do you have it? --- Ja. 20

Have a look with the aid of your magnifying glass and your light, you see there is a police officer with a dog standing just to either ..(witness intervenes) --- Ja, Edele, ek sien dit.

And the dog's body is dark? --- Dit is reg.

And he has also got a chin-strap around his chin, if you look hard you can see that under your magnifying glass? --- Dit kom so voor, ja, Edele.

He is wearing short trousers? --- Ja.

Now have a look at RALLY A.10.24(b) please? --- Ja. 30

I suggest that the police officer in uniform with the dog / ...

dog, the dog-handler, you can see the man with the chin-strap?
--- Ek sien dit.

He has got a dog with the same colouring as the one on the photograph RALLY A.10.1.AA? --- Ja, Edele, maar nou op die bewysstuk RALLY A.10.24(b) is daar twee honde ..(Mr. Allaway intervenes)

I am talking about the man with the chin-strap? --- Ja, dit kom voor asof dit dieselfde persoon kan wees, Edele.

And I suggest to you that that photograph RALLY A.10.24(b) must have been taken by someone who is standing to 10 the left, that is to the east of the dog-handler with the dog on RALLY A.10.1.AA? --- Dit kan so wees.

And I suggest it shows the lamp-post, and that lamp-post which it is showing is the one which is exactly opposite gate A? --- Nee, ek stem nie saam nie. Die voertuie wat hier staan, die kar wat op RALLY A.10.1.AA voorkom, staan heeltemal regs van die hek as jy nou na Curries Fountain kyk. Dit staan feitlik aan die eind-punt van die kaartjieskantoor. Indien die foto vandaar geneem is in die rigting van Berea, sou jy onmoontlik paal E kon sien, dit sal net paal D wees wat jy 20 kan sien.

All right. --- Dit is onmoontlik om paal E daar in te kry.

Is that the one opposite the gate? --- Ja. Met ander woorde as hy daar gestaan het by daardie voertuig, en hy het die foto dan in daardie rigting geneem, ten einde paal E in te kry, sal jy nie die Berea agtergrond kry nie. Maar jy moes hom min of meer van in die rigting soos Winterton Walk in geneem het om paal E in te kry, en ook die Berea agtergrond.

Look, Major I want to make it clear to you, I am only surmising when I put this to you in cross-examination and my 30 logic might be wrong and yours might be right, but would you please / ...

please look at RALLY A.10.41, it is a photograph which was handed in today, I think, by you, showing Colonel Jordaan and Colonel Steenkamp. Do you see the Combi? --- Ja.

What lamp-post do you say that is, D or E? --- Dit is D baie beslis. Nou as h mens na hierdie foto kyk, Edele, dan sal gemerk word dat die paal word duidelik aangegee, maar tog kry jy nie die Berea agtergrond nie.

Is this RALLY A.10.41? --- Nee, - ja, A.10.41.

But you do not get that, I suggest, because of the tilt at which the camera is, nothing more than that? --- Ja, 10 maar wat ek eintlik wil uitwys is dat hierdie foto is in die rigting min of meer van die wal gewys. Met ander woorde as jy die Berea agtergrond wil kry, sal jy heeltemal na links moet oorbeweeg en min of meer in die rigting van soos Winterton Walk gaan foto neem.

Well, Major, having heard you, you may be perfectly right, I do not know, I cannot comment on that, it will be a matter that will have to be dealt with at a later stage.

COURT: Well if you are going to argue it, I think I should indicate what impression it makes on me. My impression is 20 that it is taken diagonally across the back of this parked motor car. The parked motor car is at rightangles to the ticket office. If you take EXHIBIT RALLY 5.C, the aerial photograph, I think, unless my eyes play tricks on my I see the lamp-posts.

MR. ALLAWAY: They are slightly at an angle, M'lord.

COURT: Yes. So if you have to place your camera to get the side of this parked motor car, then you take your photograph diagonally across the street, that is borne out also by the embankment at the back, well if you look at this photograph 30 then it must be pole D, if you look at the aerial photograph.

Dit / ...

--- Dit is my argument, Edele, want anders sal jy nie die agtergrond van Berea kry nie, dan sal jy dit teen die wal vasneem.

Nee, maar as ons kyk na hierdie lug foto en 'n mens sien waar die paal is in verhouding met die hek, dan moet jy - en jy neem die kiekie so dat jy 'n kar amper reghoekig agter kry, dan moet hy wys in die rigting van paal D wat voor hek C is? --- Dit is heeltemal korrek.

Have you got the aerial photographs?

MR. ALLAWAY: Yes, M'lord, we have got the aerial photographs.10
You see, Major, I suggest to you that what was happening when RALLY A.10.24(a) and (b) were taken, was that this crowd on the street, including Accused No.2, were moving away from the scene in the direction of town? --- Ek glo dit is onmoontlik vir enigiemand om te sê tensy die kameraman kan sê op watter stadium die foto geneem is. Kyk, ek is geneig om te sê dat hierdie foto geneem is op 'n vroeëre stadium.

But would you say, on your version, that this was taken before Accused No.2 arrived? --- Soos ek sê dit is moeilik om te sê, ek kry die indruk dat dit op 'n vroeër stadium 20 geneem is.

Than his arrival? --- Ja, Edele.

But the crowd seem to be, with respect, walking, that is clear is it not in these two photographs? --- Die skare was op geen stadium staties gewees nie, hulle het rondbeweeg, hulle het in die rigting van die polisie beweeg, hulle het gedans en gesing, en die foto is heeltemal bedrieglik om te sê op watter stadium dit was. Daar was 'n paar honde wat buite rond patroleer het, en die feit dat van die mense na die honde kyk is geen afleiding wat gemaak kan word nie, want 30 as 'n hond naby kom dan outomaties kyk 'n man maar.

I should think that would be a very sensible thing to do, but you can see yourself on RALLY A. 10.24(b) can't you, you are on that photograph just above the rear of this black car, to the right of the man ..(witness intervenes)
--- Dit is korrek.

And I want to suggest that the way the police are positioned, the way you are positioned, it suggests that the crowd have got their backs to gate A at this stage, no matter where they are, but they have got their backs to the entrance to Curries Fountain? --- Ja, daar was verskeie geleenthede wat hulle omgedraai het byvoorbeeld na die wal toe, 'n man skree agter iets dan draai hulle om en kyk soontoe, maar op die stadium toe beskuldigde 2 aangekom het, was kaptein du Toit byvoorbeeld nie in daardie onmiddellike omgewing nie, en ek merk hom ook op op hierdie foto.

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I just want to get clearly from you what you say in fact occurred shortly before Accused No.2 arrived. Had there been any discussion between you and Colonel Steenkamp about going over to action now before his arrival? --- Nee, hy het na my toe gekom, toe daar 'n beweging in die skare was en daar 'n hernude uitskree van slagspreke was, het hy na my toe gekom, want hy en kolonel Jordaan het meer na die voetganger hekke in daardie rigting gestaan, vanwaar kolonel Jordaan die skare toegesprek het - hy het toe vir my gevra wat gaan hier aan, toe het ek beskuldigde No.2 aan hom uitgewys. Toe was hy reeds daar.

20

Had these dogs which one sees in the two photographs, four of the photos I have shown you, that is RALLY A.10.1.A 1.AA, B. 24(a) and 24(b), were those dogs on the road before Accused No.2 arrived? --- Ja, soos ek reeds gemeld het, dit was besluit om die hooftaak mag sal ek maar sê agter die muur

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te / ...

te hou, en dat daar net 'n nominale aantal honde voor gehou sal word om patrollie te doen ingeval daar miskien iets skielik gebeur.

How long after your arrival there were those dogs as it were on patrol? --- Met my aankoms aldaar was daar al van hulle gewees, ek kan onthou dat majoor Meyer byvoorbeeld voor langs was, ek onthou ook adjudant-offisier Kuyter, hy het ook 'n hond gehad, dit is nou die mense wat ek ken, daar mag nog meer ook gewees het, maar dit is wat ek opgemerk het.

Did those dogs bark at all, those are the ones on patrol as opposed to the ones that were behind the gate? --- Daardie honde, dit is moeilik om hulle stil te hou, en kort-kort dan gee hy maar 'n blaf, as 'n ou hom skielik skeef kyk dan blaf hy. 10

Now, you heard the tape-recording which Captain Welman played back for the Court, I think you were in Court? --- Ja, ek het.

I speak subject to correction, Major, but I listened carefully, we can listen to it again, I suggest that there was no sound of dogs barking until just before Captain Welman said something about Accused No.2? --- Dit mag so wees, daar weer afhange van waar kaptein Welman met sy band-opnemer was, want dit was so 'n geweldige geraas en gedruis dat self deur middel van die megafoon kon 'n mens niks hoor nie. Op daardie stadium was die masjien naby 'n hond gewees. 20

But according to your evidence, certainly before the time that Colonel Jordaan first spoke to the crowd, these dogs, that is the few dogs that were patrolling as opposed to the bulk of them that were behind gate A, these few dogs were already out in the roadway? --- Dit is korrek, daar was van hulle, hoeveel kan ek nie sê nie, ek het van hulle gemerk. 30

And / ...

And are they visible on the video-tape that you looked at? --- Ek praat onder korreksie, dit mag wees. Ek kan nie so spesifiek onthou nie.

On any of the photographs that you have seen, except these ones that I have shown to you now, and which my learned friend Mr. Attwell showed you, that is RALLY A.10.1.A, AA and RALLY A.10.1.B and 24(a) to (b), any photographs that you have seen showing dogs patrolling, apart from those? --- Dit mag wees, ek praat weer onder korreksie, dit mag wees dat ek ook in besit is van fotos waar honde wel aangetoon word. 10

Now when you became aware of Accused No.2's presence, where precisely were you standing? --- Ek verbeel my ek het aangedui, ek sal dit aandui op BEWYSSTUK RALLY A.5.A - ek merk dit met 'n A, Edele.

I think, with the Court's permission, may we make it with an S to designate your initial please? --- Weer eens, Edele, baie by benadering, ek kan nie presies sê nie, maar min of meer daar.

Thank you. And when you say you heard him speak these words: "you can't stop us", where were you standing then, in the same sort of position? --- In dieselfde posisie, Edele, ek mag meld dat met sy aankoms het hy - ek was min of meer op daardie stadium by die voorpunt van die skare, met ander woorde, die skare wat heeltemal stad se kant was, en hy het min of meer regoor waar ek gestaan het, het hy met die mense vir die eerste keer in kontak gekom. Kaptein Welman was daar min of meer regoor die kaartjiekantoor, en ek dink daarom het hy hom eerste opgemerk. 20

Was Captein Welman in the sort of position that one can see him in, in RALLY A.10.1(b) - firstly look at the photo, have / ... 30

have you got it, it is the second photo in the clipped group, have you got that? --- Ja, ek is in besit daarvan.

You can see Captain du Toit, he is a very tall man in a safari suit? --- Ja, hy is hierso.

And just ahead of him appears to be Captain Welman with this leather band around his safari suit? --- Dit is korrek.

Now would you say that was the sort of position he was in? --- Weer eens dit is moeilik om volgens die foto te bepaal, dit mag moontlik wees dat hy op daardie punt 10 gestaan het. Maar hy het natuurlik geweldig rondbeweeg, en soos ek reeds uitgewys het dit lyk vir my of hierdie foto op 'n redelike vroeë stadium geneem is.

And is that you standing in front of one of these cars? Just to the left of Captain Welman? --- Ja, dit kan moontlik wees.

There is a tall man in a safari suit and he is wearing a cravat? --- Ja, dit lyk of dit ek kan wees. Maar weer eens hierdie foto dui ook asof die mense heeltemal verby die hek staan wat in werklikheid nie so is nie. 20

Isn't that the stage, Major, in which there was some conversation between Accused No.2 and Captain Welman? --- Nee, ek kan nie - Kaptein du Toit was nie op daardie stadium in die omgewing gewees nie. Ek het hom nie gesien nie. En natuurlik die persoon wat hier na verwys word is beslis nie beskuldigde No.2 nie.

Well you say it is not Accused No.2. --- Nee, ek sal lievers sê dit is 'n ander persoon.

I suggest to you you are wrong and you obviously stand by your evidence. Now, Major, just to get one thing clear, 30 you say Accused No.1 arrived there at 5.51? --- Dit is korrek.

We / ...

We have had it from another witness, I forget who it was, that you were keeping a note of time? --- Ek het notas geneem.

And you also said at 5.54 the order was given to do something? --- Nee, ek het gesê om 5.54 was daar besluit sover ek kan onthou dat daar toegeslaan sou word. Daar weer, Edele, my nota sê dat om 5.54 was daar besluit, of is daar tot aksie oorgegaan, maar natuurlik as daar tot aksie oorgegaan is is daar nie tyd om te skryf nie, ek het eintlik die aantekening gemaak net na kolonel Steenkamp met my gepraat 10 het.

Now what was the nature of the action that was going to be given effect to? --- Die idee was gewees om die skare te omsingel.

Whick "skare"? --- Hoofsaaklik die groep wat op die pad en natuurlik in die opening voor die hekke vergader was. En dan tot arrestasie oor te gaan.

How were they to be encircled? --- Met honde.

And the dogs would come out from behind the gate I take it, gate A? --- Nee, nie hoofsaaklik nie, die idee was 20 dat daar sou honde by hek A uitkom en dan ook die voetganger hekke. Met ander woorde dit sou 'n ineen beweging gewees het wat die honde sou uitkom. Dit was die idee, ek het natuurlik nie gesien toe hulle uitgekom het nie.

I am just interested in what the decision was, was the decision to encircle the crowd by having dogs run out and encircle them, or walk out quietly and circle round them? Because I would have thought that if the dogs ran out the crowd would scatter? --- Ja, ek praat onder korreksie daar, want ek was nie soos ek sê by gewees toe hulle uitgekom het 30 nie, ek weet net dat die reëlings was dat hulle sou omsingel,

en / ...

en dan tot arrestasie oor te gaan.

And as an experienced police officer I take it, would you agree with the suggestion that the way to encircle a crowd with dogs isn't to let the dogs run, because that would immediately make the crowd scatter, but to let the dogs walk in such a way that they would encircle a crowd? --- Dit mag miskien die aangewese ding wees, maar ek kan die Hof die versekering gee dat as daardie honde uitkom en die skare sien dan is hulle nie maklik beheerbaar nie, en ek glo nie dit was eintlik 'n stadige proses gewees nie.

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Now is it your evidence that the group of people who were in front of gate A, that those people were led by Accused No.2? --- Ja, dit is die indruk wat ek gekry het, want hy was aan die voorpunt van die massa gewees.

When you talk about a half-moon, would you please make the sort of half-moon on exhibit RALLY A.5.5. that these people formed with reference to gate A please? --- Ek het reeds op BEWYSSTUK RALLY A.5.AA het ek reeds die halfmaan aangetoon. Ek mag net meld dat die skare was natuurlik - hulle het 'n groot oppervlakte beslaan, dit was hoofsaaklik die voorste miskien 20 twintig of dertig wat nou agtermekaar in die massa formasie was, die res - ek het nou hoofsaaklik daardie voorste klompie dopgehou, wat die agterste gedoen het kan ek nie sê nie. Met ander woorde ek het die idee gekry dat hulle, daardie voorste groep, met beskuldigde 2 aan die voorpunt, het die pas aangegee en die indruk gegee het dat hulle by die hek wil ingaan.

Do you think your impression might be wrong because of the situation at the time, I mean you get an impression, do you think you could be wrong? --- Nee, Edele, beslis nie.

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Now you say you have marked this half-moon on Exhibit
Rally / ...

RALLY A.5.AA, all I have on my exhibit which I copied from the one in front of you is a series of arrows? --- As mnr. Allaway miskien na die plan kan kyk ... (Court intervenes)

COURT: I think you are at cross-purposes, he thinks that he indicated the crowd.

MR. ALLAWAY: I see, no, I am interested in the half-moon, you have marked the crowd in a circle.

COURT: Well - I don't know if it is a half-moon, but it is not a complete circle. --- Edele, as ek miskien reg kan stel, die groot sirkel wat ek getrek het en binne in geskryf het 10 "crowd", dit is min of meer die posisie wat die skare was toe No.2 aangekom het.

Is dit die halfmaan wat u van praat? --- Nee, Edele, dan het ek 'n kleiner halfmaan met 'n pyltjie gewys.

MR. ALLAWAY: Well that is what is not clear, you see, and I think His Lordship and I are having the same difficulty. What is the half-moon on your plan please? Is that the arrow which is pointing towards the gate away from the crowd? --- Ja, dit is hoe die voorste groepie met beskuldigde No.2 vooraan beweeg het, so in 'n halfmaan na die hek se kant toe. 20

HCF: Wel dan is 'n boog dan miskien beter. --- Ja, Edele, miskien 'n boog.

MR. ALLAWAY: I see, so this is where I misunderstood you, Major, you are not saying that they formed a sort of horn formation and moved in a half-moon horn formation towards the gate, you do not say that do you? --- Nee, wat gebeur het, met No.2 aan die voorpunt, het die voorste groep wat naaste aan hom was, het die boog-formasie uitgevoer, die res van die skare het in hulle rigting gekyk met ander woorde, en ek het die indruk gekry dat hierdie groepie wat nou die boog gevorm het 30 het die leiding geneem met die doel om die gronde in te gaan.

And / ...

And you said that the gates apparently, gate A was open at that stage? --- Op daardie stadium was dit oop.

And what could you see in the entrance to gate A at that stage, that is when No.2 was leading this group of people? --- Op daardie stadium was daar - kon ek niks sien nie. Soos ek reeds gesê het, ek het beskuldigde No.2 hoofsaaklik dopgehou. Toe hy en ook van die ander persone retireer, en hy hom losmaak van die skare af, het ek gemerk dat daar een of twee honde in die hek verskyn, en dit was vir my duidelik dat hy toe geskrik het vir die hond. 10

So this is your evidence, that Accused No.2 arrived there, the crowd moved eastward, that is along Winterton Walk towards him, is that correct? --- Ja, Edele, nie in die pad as sulks nie, hulle was meer in die opening voor die hekke.

And they met him did they about in front of the entrance to gat A? --- Nee.

Did they meet him to the west of the entrance to gate A? --- Wel, ja, meer aan die westekant, met ander woorde Berea se kant toe, soos ek aangedui het.

And then you have given evidence about what happened then, people put their arms around his neck and you said he made a power salute sign? --- Dit is korrek. 20

At the stage that these people met him, I suggest that they completely surrounded him? --- Ek sal nie sê die skare het hom omring nie, maar daar was wel mense wat ook aan die anderkant van hom om gegaan het. Met ander woorde op een stadium het hy mense om hom gehad.

The people I am concerned with I am suggesting were certainly people to the north of him, that is between him and the gate at one stage? --- Nee, nee, toe hy hulle ontmoet 30 het toe was hulle ver van die hek af. Wel, as ek nou sê ver,

hulle / ...

hulle het omtrent regoor waar die muur uitkom, meer in 'n westelike rigting nog van die muur gestaan, dit is waar hulle hom ontmoet het.

But I suggest he was surrounded with people, people would have been to his north and to his north-east, when he first got there? ---- Soos ek reeds gesê het, Edele, daar was nie 'n skare rondom hom nie, daar was mense rondom hom, aan weerskante.

Well, Major, I just want to foreshadow his evidence, if he has got to give evidence, he says when he got there 10 people came up to him, they were pleased to see him, and he says he was surrounded by people, he could not get through those people to get to the police for example, he would have to push his way through? ----Nee, dit is beslis nie so nie.

Well have a look at the photograph put in by the State RALLY A.10.38 and 39, and I think for that matter you could start please with RALLY A.33, 39 and go on to 40. Do you have RALLY A.10.38? ---- Ja.

Accused No. 2 has been marked with a cross on his chest in that photograph, is that him? ---- Ja, dit mag wees, 20 ek sien natuurlik nie sy gelaatstrekke hier nie, sy gesig sou ek gesê het is meer lank, ek is nie heeltemal oortuig dat dit wel hy is nie.

HOF: Ek het die indruk hy staan langs Colin Jeffreys met die pet op? ---- Soos ek sê, Edele, dit mag hy wees, dit mag heelmoontlik wees.

MR. ALLAWAY: Well that person is certainly surrounded by people, isn't he, he is boxed in? ---- Nee, ek sal nie heeltemal saamstem nie, daar is 'n paar mense, soos ek reeds gesê het daar was 'n paar mense by hom gewees wat om hom gestaan het, 30 maar wat ek bedoel hy was nie in die middel van die skare gewees / ...

gewees nie, hy kon maklik net eenvoudig deurgeloop het.

Have a look at RALLY A.10.39, do you see him there?

--- Ja.

Marked with an X, is that him again? --- Hy is min of meer weer in dieselfde posisie, maar soos gemerk kan word daar is nou wel mense om hom, maar dit is nie 'n digte skare nie, hy kon maklik deurgestap het.

In any event, do you say that after the people as it were gathered round him and exchanged greetings, to put it that way, you say that Accused No.2 led a group of people and you got the impression that they were going towards gate A? --- Dit is korrek. 10

And you were watching him carefully I suppose to see what he did? --- Ek het.

Now how many people do you think were following him at that stage? --- Soos ek reeds gesê het wat hom - ek sal maar sê die lyn gevorm het, die formasie gevorm het, was moontlik 'n stuk of twintig, maar dit moet nou in gedagte gehou word dat die hele skare op daardie stadium in sy rigting gekyk het en selfs van die agterste skare het ook daardie passies uitgevoer, laat ek dit sò stel. 20

Then you say that you saw a dog or dogs in the entrance of gate A? --- Dit is korrek.

And then you saw this group of people including Accused No.2, retreat? --- Ja, die voorstes het ek die indruk gekry het die hond gesien, en hulle het toe retireer.

You said: en hulle het stadig teruggedeins? --- Ja, retireer, ek dink ek het die woord retireer gebruik.

Nou, "gedeins" , that was your word, "stadig teruggedeins"? --- Ja, dit mag so wees. 30

Now, at that stage, were you still keeping Accused 2

under / ...

under observation? --- Ek het hom deurgaans onder waarneming gehou.

And to where did he retreat before you became aware of the mass of dogs coming out of gate A? --- Hy het in 'n reguit rigting vanaf die hek, in 'n reguit rigting, na die wal beweeg.

So he virtually turned his back on the gate? --- Dit is korrek, ek en hy het altwee ons rûe gedraai, ek het hom gevolg.

And walked, on our new compass point, south towards the bank? --- Ja, reguit na die bank toe, die wal toe. 10

Then you said you became aware of dogs, the noise of dogs and you could not get hold of Accused No.2 because there was chaos? --- Ja, die honde het my amper gevang.

Was it your intention to arrest him at that stage? --- Nee, Edele, ek wou net sien waarheen hy gaan.

So this formation of people that you call the "massa formasie wat danspassies gedoen het", you don't say that they moved in the direction of town, you say they moved in the - they gave the impression of moving in the direction of the gate? --- Nee, Edele, ek het gesê hulle het in die rigting van die stad beweeg, maar wel met 'n boog - regoor die hek het hulle met 'n boog na die hek beweeg. 20

Major, I just want to put evidence which you gave apparently in the Regional Court in the trial of The State vs O'Malley? --- Ja.

And I want to ask you whether you agree that this is the evidence that you gave, you said at page 63, line 20: "Die polisie was hoofsaaklik by punt F" - and you were talking with reference to the same plan that you are referring to here? --- Ja, Edele. 30

And / ...

And that is not the amended plan, that is the original one that you put in RALLY A.5.AA? ---- As ek reg onthou dink ek ek het by die O'Malley saak gesê dat dit was hoofsaaklik kolonel Jordaan wat by punt F was.

"... terwyl die ander polisiebeamptes hoofsaaklik agter die muur by punt A vergader het"? --- Nee, nie punt A nie, dit kon onmoontlik nie wees nie, punt B.

Well, this is what the record says, and it is a certified record: "Die polisie was hoofsaaklik by punt F vergader, ek mag miskien net meld dat by punt F was dit eintlik die offisier wat in beheer was, kolonel Jordaan"? --- Heeltemal korrek. 10

"Terwyl die ander polisiebeamptes hoofsaaklik agter die muur by punt A vergader het"? --- Nee. Edele, as u kyk na die plan en ook na die sleutel - pouse -

Was anybody behind the wall, Major? --- Punt B, ja.

At point B, so do you say that this ..(witness intervenes) --- Edele, ek mag meld dat die honde was agter die muur, presies waar hulle skuil gehou het weet ek nie, maar hulle was agter die muur buite sig in elk geval, dit was die idee. 20

Then you went on to give evidence about the announcements that were made, and I want to take you through your evidence about the time when Accused No.2 arrived there. And you said he arrived at 5.51 as you have told His Lordship, and then you said this, I am reading from page 65, at line 15: "Dit wou my voorkom asof die skare vir so 'n geleentheid gewag het", did you say that? --- Heeltemal reg, Edele.

Want 'n aantal van hulle het onmiddellik genader toe hulle hom sien"? --- Korrek. 30

So it is correct that the crowd moved to Accused No.2?

Ja / ...

--- Ja, Edele, toe die skare, kyk, toe hulle hom nou sien het sommige van hulle vorentoe beweeg en hom om die nek geval.

What you said was: "Want 'n aantal van hulle het hom onmiddellik genader toe hulle hom sien, en hom om die nek geval"? --- Korrek.

"Waar die skare tot op daardie stadium in die rigting van die polisie en Curries Fountain gekyk het, het hulle op daardie stadium, toe met sy aankoms, in sy rigting gedraai"? --- Korrek.

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"Sang en slagspreke soos "power" ensovoorts was uitgeskreeu"? --- Korrek.

"En met Myeza aan die voorpunt het hulle in 'n massa formasie tipiese Zoeloe danspassies in die rigting van die stad uitgevoer"? --- Heeltemal korrek.

Nothing about half-moon formations up to that stage? --- As mnr. Allaway aangaan dan sal hy ..(Mr. Allaway intervenes)

I am going to go on, Major: "Min of meer regoor hek A wou dit voorkom asof hulle in die rigting van hek A wou gaan"? --- Heeltemal korrek.

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"Ek mag miskien net meld dat hek A die enigste hek was wat oop was, en waardeur polisie uit en in gegaan het"? --- Korrek.

You made no reference there, Major, to a half-moon formation? --- U moet onthou dat ek dit op daardie stadium baie kortliks beskryf het wat daar gebeur het, dit was nie 'n geval gewees dat ek getuienis in detail gegee het nie. Wat ek bedoel daar by die indruk dat hulle by die hek wou ingaan is dat hulle in 'n boog na die hek beweeg het, anders kon ek nie daardie indruk gekry het nie.

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Do you not agree that your evidence suggests, maybe
because / ...

because you were keeping it short, but your evidence suggests in the Regional Court that what the crowd did was to move in the direction of town, and then suddenly move to the gate? --- Heeltemal korrek, dit is die boog waarvan ek gepraat het.

And you made no reference there to Accused No.2 being on the "voorpunt"? --- Nee, Edele, die saak het nie daar om hom gedraai nie, dit was net baie kortliks gewees.

Well you went on to describe the activities in this way: "Dan om ongeveer 5.54 was dit besluit om die skare te omsingel en tot arrestasie oor te gaan", that is correct isn't it? --- Dit is korrek. 10

Now what happened after that decision? --- Toe dit besluit is om oor te gaan na arrestasie? Kort daarna is dit toe die hond agter die muur verskyn het en beskuldigde No.2 het toe geepad.

Had Accused No.2 spoken those words before then or after that? --- Nee, dit was lank voor dit, Edele.

You went on to say: "Die polisie het van agter die muur verskyn onder hanteerders", and then you went on to say: "Die skare het toe die polisie te voorskyn kom, het hulle onmiddellik te loop geneem, hulle kon nie omsingel word nie"? --- Dit is korrek, niemand was omsingel nie. 20

"Ek mag miskien meld dat ek was agter Muntu Myeza maar hy het weggehardloop"? --- Dit is korrek.

And is your suggestion this, that - you see in what you describe in the Regional Court, you made no mention, although you talked about Accused No.2, of what he said: "you can't stop us", and I suggest that was relevant to the inquiry before the Regional Court? --- Nee, soos ek sê ek het daar baie kortliks beskryf wat gebeur het, ek het geen detail gegee nie. Ek het ook nie daar melding gemaak 30

byvoorbeeld / ...

byvoorbeeld dat die mense gesê het "ngena ngena" nie.

Are you quite adamant that people shouted "ngena ngena" and not "wena wena" or some other similar phrase?

--- Nee, Edele, ek het gehoor "ngena ngena".

Well I suggest to you, Major, that your evidence about Accused No.2's behaviour is either false or you are mistaken?

--- Nee, dit is nie so nie.

And I suggest that you permitted this rally to go on in the expectation that you would be able to arrest those of SASO and BPC who saw fit to try to hold the meeting?

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--- Nee, baie beslis nie so nie.

And I suggest that when Accused No.2 arrived there and did nothing, took no steps to try to hold a meeting, you then decided to encircle this crowd in a very quiet sort of way, so to arrest them? --- Nee, daardie stelling is heeltemal verkeerd.

And I put it to you that if any people walked in the vicinity of gate A, those were people who perforce of the numbers on the road, had to spill out in that direction, in order to get away from them? --- Nee, as daar na al die fotos 20 gekyk word dan sal dit gemerk word dat daar heelwat spasie nog was. In daardie opening kan 'n paar duisend mense ingaan.

You see, Major, if you had drawn a plan to scale with respect, you would find that if you wanted to move east along Winterton Walk, your ability to do so is restricted to the width of the road which is, upon your version, 11 paces wide, plus another four odd places between the edge of the road the northern edge, and the beginning of those railings, because the railings impede the progress? Those are the railings in front of the ticket office? --- Edele, die opening voor die hek saam met die pad tot by die sypaadjie

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is / ...

is min of meer 30 tree x 30 tree, en daar kan beslis 'n skare van 'n paar duisend geokkupeer word. Ek het baie ondervinding van stakings en vergaderings.

I have no doubt you do, but what I suggest to you is that it is a pure elementary matter of space and arithmetic, if you have a lot of people congregated in the apron, and they want to move east along Winterton Walk, they perforce have to go near that gate in order to channel themselves into the roadway? --- Daar was op daardie stadium geen sametrek van 'n skare voor die hek nie. Daar was enkeles wat rondgestaan het. 10 As hulle wou in die rigting van die stad gegaan het, met Winterton Walk af moes hulle die boog in 'n ander rigting voltooi het en dan met Winterton Walk afgegaan het.

Now dealing with these organisations which you mentioned with regard to EXHIBIT G.1, have you got that? --- Ja.

When you say that these organisations are illdisposed towards the Republic of South Africa, what do you mean by that, in what respects do they disagree with our policy? --- Byvoorbeeld die organisasie SWAPO is 'n terroriste organisasie wat mense uitstuur vir militêre opleiding, die 20 Wêreldraad ..(Mr. Allaway intervenes)

At the time that that document was prepared was SWAPO an unlawful organisation in South West Africa? --- SWAPO glo ek was nog nooit in die ban gedoen nie, maar ek is bewus daarvan dat SWAPO agter die onluste in Suidwes skuil en ook mense uitstuur vir militêre opleiding, ek dink dit is algemene kennis.

Well I don't know, you are in a better position to say, but as I understand it as a matter of fact, if a person wants to be a member of SWAPO in South West Africa, 30 particularly at the time that that document came into

existence / ...

existence, it was not illegal to be a member of SWAPO?

--- Nee. En die Wêreldraad van Kerke, Edele, dit is natuurlik 'n organisasie alom bekend wat groot bedrae geld skenk aan terroriste organisasies, die ANC byvoorbeeld.

Well, Major, I suppose we can debate this for a long time, but one reads purely hearsay statements of what they say their objectives are, I have read statements to the effect that they do not intend to give money to people who intend fighting terroristic activities, but when you say that the World Council of Churches is illdisposed to the Republic, 10 don't you mean that they don't like our policy of apartheid and nothing more? --- Edele, ja, dit sal miskien nou 'n geval wees om in politiek betrek te raak wat ek nie graag wil doen nie. Ek kry die indruk dat hulle 'n ander regering stelsel 'n ander regeeringsvorm daar wil stel.

And I take it that impression is gained from - not from personal investigations that you have made, but from information that has come to your knowledge from all kinds of sources? --- Dit, en natuurlik ons is in besit van heelwat ander inligting wat ek nie graag sal wil openbaar nie. 20

Is the World Council of Churches a banned organisation in South Africa? --- Dit is nie.

You see what I am putting to you is this, that although you have said on this list B in EXHIBIT G.1, you have referred to a number of organisations which you say - do you say that they are hostile to the Republic as a whole, or do you say they merely disagree with Government policy? --- Ek sou sê dat hulle nie saamstem met die hele opset in die Republiek nie, die hele politieke opset nie.

And obviously you are in a far better position to have 30 information that the ordinary man in the street? --- Ek glo so.

And / ...

And obviously whoever is responsible for the drafting of that document, if he tells the Court that he does not regard those organisations as being hostile to the Republic in the sense that they want to see violence in South Africa, it may very well be that he could honestly believe that, seeing they have never been banned in South Africa? ---- Edele, sover dit die Wêreldraad van Kerke en SWAPO aangaan - om maar twee te noem - 'n persoon moet baie oningelig wees, hy moet heeltemal 'n persoon wees wat geen opleiding of enigiets gehad het nie. Daardie tipe van persoon mag so glo, maar ek dink 10 'n persoon wat heelwat koerante lees en op hoogte is van wêreld sake en wêreld gebeure, glo ek hy sal weet dat hierdie organisasies vyandiggesind is.

Now, Major, I would have thought that the first step that would have been taken would be to outlaw such organisations, then members of the public would know that these are outlawed organisations? --- U bedoel dat hulle in die ban gedoen moet word?

Yes, I suggest that none of the organisations you refer to there was outlawed or is today outlawed on that list B 20 on EXHIBIT G.1? ---- Ek het die ondervinding dat dit uiters moeilik is om 'n organisasie in die ban gedoen te kry, ek dink maar aan die Apdusa beweging byvoorbeeld, waar persone die land binnegekome het om mense te werf vir militêre opleiding en wat ook nie in die ban gedoen is nie.

HOF: Wat se beweging is dit, is dit 'n plaaslike beweging of buitelandse beweging? --- Edele, dit is 'n plaaslike beweging, African People's Democratic Union of South Africa.

MR. ALLAWAY: The only point I am trying to make, Major, is this, that all the organisations mentioned on that list B I 30 suggest to you are basically opposed to apartheid, aren't they, amongst / ...

amongst their other complaints they are opposed to apartheid?

--- Edele, ja, die woord apartheid ..(Mr. Allaway intervenes)

Well, that is the situation where Black people are differentiated against and have no say in the political destiny of the country? --- My waarneming is, en my ondervinding is dat dit hoofsaaklik gebruik word as n skuifmeul eintlik, en dat dit nie soseer gaan daarom nie. Dit is my mening.

Well that may be, but what I suggest to you is this, that a student body or an organisation like BPC would be perfectly entitled, I suggest, to be in communication with 10 organisations like that on that list, without any sinister motives, as long as BPC and those organisations have the same viewpoint, namely, that Black people should have better political rights in South Africa? --- Ja, as dit hulle enigste motiewe is, dan stem ek saam, maar as daan natuurlik bymotiewe is dan is dit n ander saak.

And what I suggest to you is this, that there has never been any public declaration by any responsible person in government in the Republic saying South Africans must have nothing to do with these organisations, must not communicate 20 with them, must not have contact with them - has anybody ever said that? --- Daar is al so baie gepraat en gegis, ek kan nie onthou spesifiek dat daar soiets gesê is nie, maar daar was al geweldig baie gepraat daaroor, in verband met die geskenke aan terroriste bewegings wat op ons grense veg.

But do you know of any utterance by, say, a person, a responsible person in government, a Cabinet Minister or anybody like that to say that South Africans must have no contact with the organisations which you have referred to on the list B which you say are hostile to South Africa? --- Nee, 30 Edele, ek kan nie spesifiek soiets onthou nie, hoewel daar geweldig / ...

geweldig te velde getrek al is op Kabinetsvlak teen hierdie tipe van organisasies. Dit mag wel wees dat daar sodanige uitinge was.

M'lord, there are two further aspects I want to deal with in this witness' evidence and complete it, one concerns merely the documents he has handed in, there is another aspect, M'lord, I have a note of it, may we take the adjournment now and I can see the Accused on the documents, and apart from that I shall not be much longer with this witness.

COURT: Well perhaps Mr. Soggot has some questions. 10

MR. SOGGOT: I was going to ask some supplementary questions, M'lord, may I do so after my learned friend has completed his cross-examination?

COURT: Yes, and you Mr. Pitman?

MR. PITMAN: I have some questions, M'lord, shall I do it now?

COURT: Yes.

CROSS-EXAMINATION BY MR. PITMAN: Major, will you please look at A.10.41? --- Ek het dit.

That motor car, is that a Combi? --- Dit is korrek.

Is that Combi standing next to pole D? --- Ja, hy 20
staan - dit skep weer die indruk dat hy verby die paal staan, maar as ek reg onthou het dit in werklikheid nog meer links van die paal gestaan, min of meer by die paal.

All I want to know is, it is definitely pole D? --- Ja, baie beslis.

And, Major, what time roughly, can you say, I do not know, what time that photograph was taken? --- Op watter stadium hierdie geneem was? Dit is weer eens baie moeilik om te sê, ek sou sê dat dit miskien onmiddellik was voor kolonel Jordaan die skare toegesprek het. Dit toon natuurlik net 30
'n gedeelte van die skare, en die skare het min of meer in

hierdie / ...

hierdie posisie gestaan toe kolonel Jordaan hulle toegespreek het.

And I think you said he spoke at about 5.47? ---Ja, hy het om presies 5.47 hulle toegespreek.

Do you think it was probably around about then, maybe a minute or two earlier? --- Ja, soos ek sê dit is moeilik om te sê, maar ek kry die indruk van die foto dat dit min of meer net voor hy hulle toegespreek het.

And then the dogs came out about 5.54? --- Dit was 'n bietjie na 5.54.

10

Well, do you mean about a minute or so? --- Ja, dit mag miskien minder as 'n minuut gewees het, want toe ek die inskrywing gemaak het is kolonel Steenkamp direk na kolonel Jordaan toe, en kort daarna het hulle toegeslaan.

So about a minute or maybe two minutes? --- Ja, Edele.

Now, that Combi there ...(getuie kom tussenbei) --- Maar miskien verstaan ons mekaar nie heeltemal reg nie, dit was nie 'n minuut of twee minute na kolonel Jordaan hulle toegespreek het nie.

Nee, ek verstaan. In fact on your evidence it was something like ten minutes? --- Dit is korrek. 20

Or between seven to ten minutes? --- Dit is korrek.

Do you know if that Combi moved away at all before the dogs as it were attacked the crowd? --- Hierdie Combi het soos ek kan onthou deurgaans daar gestaan, dit mag wees dat dit op een stadium verwyder is, want sedert die aankoms van No.2, het ek hom dopgehou en nie dopgehou wat agter my aangaan nie.

Verstaan ek u reg, sê u dit mag verwyder gewees het? --- Op 'n latere stadium, ek kan nie sê dat dit deurgaans daar gestaan het nie. 30

Have you got in front of you A.10.19? --- Ek het dit.

That / ...

That shows you a lamp-post? ---- Ja.

That would appear to be round about the same time, would it not, as that photograph A.10.41, would you say that? --- Nee, Edele, ek stem nie daarmee saam nie? --- Hierdie foto A.10.19 is ooglopend later geneem, dit wil voorkom asof dit al skemerig is. En dan hierdie foto, A.10.19, is natuurlik net die teenoorgestelde kant geneem van RALLY A.10.41, dit toon - dit lyk of dit lamppaal E kan aantoon.

That is what I mean, so that is what I am suggesting to you that the lamp-post in A.19 looks like lamp-post E, and do you agree with that? --- Ja, dit wil so voorkom.

And your suggestion is that this photograph 19 was probably taken from directly over the road, did you not say, almost directly? ---- Is dit 19?

It was taken from the opposite side of the road directly over the road? --- Nee, Edele, ek sal sê dit is met 'n hoek geneem.

Right, slightly to the west then? --- Ja, Edele, as ons kyk na Rally A.10.41, dan wil dit voorkom asof Rally A.10.19 min of meer in die rigting geneem is vanwaar kolonel 20 Jordaan gestaan het, met ander woorde van agter waar kolonel Jordaan gestaan het. Met ander woorde nie regoor in die rigting van die wal nie, maar wel met 'n hoek in die stad se rigting.

So you agree with me that this A.10.19 is taken towards, the photographer was facing towards the Mansfield Road school's fields, and you say - pause --- Meer met 'n hoek.

Yes, at an angle towards the city, not towards the Berea? --- Ja, Edele, dit is die indruk wat ek kry.

What I want to point out on that photograph is, you 30 see that skyscraper if I can call it that, or that high-rise building / ...

building? --- Min of meer in die middel?

Yes? --- Ja, Edele, ek sien dit.

Now that is obviously a high-rise building not up on the Berea? --- Ja, nee, baie beslis nie, hierdie foto is beslis meer in die rigting van die stad geneem en beslis nie in die rigting van Berea nie.

Now, just one other point, Major, when you arrived at the scene were you with Captain du Toit at all? --- Nee, ek verbeel my ek en kolonel Steenkamp was in een kar gewees.

No, but at the scene were you at all with him? --- Die 10 persone het gekom en gegaan, ons het nie staties op een plek gebly nie, ons het beweeg, veral aanvanklik. Kaptein du Toit was daar, kolonel Steenkamp, Adjudant-offisier de Wet was op een stadium daar.

But you saw him there from time to time? --- Kaptein du Toit? Ja, Edele, hy is so lank n mens kan nie help om hom te sien nie.

But in fact on some of the photographs you appear with him? --- Dit is korrek.

I think, did you agree that you are in 10.1.B where 20 he is clearly visible and so is Captain Welman? --- Ja, ek het voorheen daarna verwys, dit lyk soos ek wat daar staan.

How far would you say you are from Captain du Toit? --- Weer eens dit is baie moeilik om te skat, hulle was duidelik hier min of meer regoor die - of by die beginpunt min of meer waar die hek is, en dit lyk asof ek verder aan staan, min of meer regoor oor die voetganger hekke, die punt van die voetganger hekke. Soos ek gesê het dit is moeilik om te bepaal presies uit watter hoek die foto geneem is.

Well at any rate, do you agree that Captain du Toit 30 is standing very close to a black police dog there? --- Dit is so.

And / ...

And it is quite clear that he would be able to see that dog from where he is standing, I mean nothing is obstructing his view? --- Dit hang alles af van watter rigting hy gekyk het. Kyk ons het natuurlik hoofsaaklik die skare dopgehou.

No, I accept that, I accept that it depends which way he is looking, but you accept do you not there is nothing between him and the dog that would necessarily obscure it? --- Nee, daar is niks nie behalwe die hanteerder skynbaar.

Do you also agree that Captain Welman admitted that 10 that picture contains four other dogs - if you look behind the crowd there, you might have to look at His Lordship's picture, it is a clearer one - I am not quite sure whether it was three others or four others? --- By die swarte staan natuurlik nog 'n ligter hond. Dit lyk asof hier nog een staan heeltemal links op die foto.

En anderkant die skare daar? --- Nee, ek sal nie sê daar is 'n hond aan die ander kant van die skare nie, ek sien drie in elk geval.

You see, Major, I just want to make this point, I 20 want to first of all give you a bit of information and then ask you a question. In this trial there was no mention of there ever being dogs outside Curries Fountain, outside gate A, until Captain Welman gave evidence, and he was shown these pictures, and said: look, but there are police dogs already standing there, then he said: oh no, there were police dogs before they were let out from the gate. Now that is information I want to give you, now in fact Captain du Toit, who gave evidence before Captain Welman went so far as to say this that before the police dogs were let out, there was not a dog 30 in sight, in fact he said, the question was: "Was u onbewus van / ...

van die honde self? - Ja, ek was nie bewus dat daar honde was nie" - this is at page 1739 - "Die honde het uitgekomen en onmiddellik in alle rigtings laat spat insluitende beskuldigde No.2". Now further up the page, he said: "Die polisiehonde was nie sigbaar nie" -- I am sorry, I am going to go back a bit earlier: "Dit is ook so, Edele, dat net daarna het kolonel Jordaan hierdie opdrag, miskien het hy nog nie klaar verduidelik nie, dit opdrag soos ek verstaan het, sodat die polisiehonde sal uitkom, die mense moet omsingel word, en hulle moet gearresteer word. Die polisiehonde was 10 nie sigbaar nie. Dit is op daardie stadium wat ek agtergekom het dat hulle blykbaar agter die mure en die hekke, die mure in Curries Fountain, gehou was". Now, you agree with me do you not, that it is quite clear from that evidence, that he was unaware of the fact that there were police dogs there?

--- Ja, dit wil so voorkom, maar ek mag miskien net meld dat almal se waarneming miskien nie dieselfde is nie, in die eerste plek, en in die tweede plek, wel ons het natuurlik die skare dopgehou en jy stel nie belang in die honde nie, hoekom ek geweet het daar is honde, is omdat ek teenwoordig 20 was, ek en kolonel Steenkamp, toe ons die aangeleentheid met kolonel Jordaan bespreek het, en dit was daar besluit wat ons gaan doen, waar die honde gehou sal word, en ek dink dit was op 'n voorstel van kolonel Steenkamp dat daar wel 'n paar honde dan voor die hekke sal wees ten einde daar te patrolleer. Met ander woorde ek was bewus daarvan gewees, in die tweede plek - in die derde plek, ek ken majoor Meyer persoonlik, en ek het met hom daar gepraat. Ek het hom nog gevra of daar honde voor is en toe het hy gesê ja. Daarom is ek oortuig daarvan dat daar wel honde was, en soos ek reeds gesê het 30 almal se waarneminge is miskien nie dieselfde nie. Hulle

prioriteit / ...

prioriteit was die skare en nie die honde nie.

Baie dankie, Majoor.

COURT ADJOURNS

/VMD.

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