

(TRANSVAALSE PROVINSIALE AFDELING)

12.7 Vol 207p 10825-10894

SAAKNUMMER: CC 482/85

DELMAS

1987-04-27

DIE STAAT teen:

PATRICK MABUYA BALEKA EN 21

ANDER

VOOR:

SY EDELE REGTER VAN DIJKHORST

ASSESSOR : MNR. W.F. KRUGEL

NAMENS DIE STAAT:

ADV. P.B. JACOBS

ADV. P. FICK

ADV. W. HANEKOM

NAMENS DIE VERDEDIGING:

ADV. A. CHASKALSON

ADV. G. BIZOS

ADV. K. TIP

ADV. Z.M. YACOOB

ADV. G.J. MARCUS

TOLK:

MNR. B.S.N. SKOSANA

KLAGTE:

(SIEN AKTE VAN BESKULDIGING)

PLEIT:

AL DIE BESKULDIGDES: ONSKULDIG

KONTRAKTEURS:

LUBBE OPNAMES

VOLUME 207

(Bladsye 10 825 - 10 894)

COURT RESUMES ON 27 APRIL 1987.

GCINUMUZI PETRUS MALINDI, d.s.s (Through interpreter)

EXAMINATION BY MR BIZOS : My Lord, accused nos. 8 and 10 are not before Court this morning in terms of the leave granted by Your Lordship.

Mr Malindi, we were dealing with what was happening in and around the intersection near the house of the late Caesar Motjeane when we adjourned on Friday. -- Yes.

I want to take you back to the vicinity of what is known as BP Garage. What did you see ahead of you as you were in (10) the vicinity of the BP Garage? -- I noticed as we were walking in that direction on my left ahead of me some smoke.

Did you know the late Caesar Motjeane before 3 September 1984? -- Yes, that is so.

Did you know him as a councillor? -- Yes, that is so.

Did you know where he lived? -- No, I did not.

Did you associate the smoke that you saw in any way with the late Caesar Motjeane? -- No, that is not so.

COURT : Where did you see the smoke? -- As we were at this point referred to as an intersection, it was slightly to (20) the left while being on that intersection.

What type of smoke was it? -- I will describe it as a smoke which was not thick nor was it a dark smoke.

But could you see then that it was something else than an ordinary garden refuse fire? -- Not at that time. It never occurred to me to determine as to what kind of smoke it was, but now in view of what His Lordship had asked me, I am in a position to distinguish in thinking back that this was something bigger which was on fire.

MR BIZOS : Than an ordinary garden refuse fire? --Yes. (30)

COURT/...

COURT : And bigger than the ordinary smoke from the chimney?

-- Yes, that is so.

I have not got entire clarity on the situation there. Are some zones electrified to the extent that there is no wood or coal burning any more in those zones for stove purpose or what is the situation? -- What happens is that one does find that there is electrification of houses in the majority of the houses there and therefore meaning some of the houses are still using coal stoves and again the same people with electrified houses at times prefer to use coal stoves, (10) especially during winter. Therefore meaning that one cannot with certainty say that area is smokeless of having been electrified.

MR BIZOS : Perhaps I could ask you this in view of His Lordship's question. On a winter or early spring morning, is the atmosphere clear there in Sebokeng? -- No, it is misty.

Mist is as a result of condensation of water. Do you mean mist or something else? -- By misty I mean the majority of the people make fire on stoves, as a result of which the smoke causes the expression I gave as misty, which is the (20) view obscured.

My Lord, there will in due course be evidence in relation to the early morning state of that area, not dissimilar to a scene that may be familiar to Your Lordship of Alexandra township coming from Pretoria early in the morning.

You say you told us that there was this smoke. We have heard much evidence here of the burning of houses after 3 September. Was house burning something which was familiar to you or to the people in Sebokeng in that time? -- Not to me

When you saw the smoke on the left, where more or less (3

was/...

was the vanguard of this march? -- According to my observation the vanguard was heading for the Fowler's bus stop.

Is that bus stop near the intersection? -- Yes, that is correct.

COURT : I do not know what you mean by heading, because you can be heading for something and still 3 kilometres off. -- At this particular bus stop, that is Fowlers, there is a shelter which is being described by the witness which is the longest portion of this bus stop. So, they were just about at the beginning of that shelter described. (10)

MR EIZOS : How far is the shelter from the intersection itself? -- Between 20 and 30 metres is the distance I estimate.

Whilst we are dealing with bus shelters, did you see any kiosks or any other bus company property being destroyed on the way to the intersection by marchers or anyone else? -- No, I did not see that happening.

As you yourself approached the intersection and came into the intersection, you have already told His Lordship that you did not go up that untarred lane or that you did not go to Caesar Motjeane's house. Did you see any people in (20) that lane? -- I did notice people in the lane but I did not see anybody leaving the march for the lane.

When you reached the intersection, was the march stationary or was it moving? -- It was moving at the same pace at which it was moving prior to us reaching that intersection.

When you reached the intersection? -- Yes, that is when I reached the intersection.

And the marshalls, what were they doing as you were approaching into the intersection and past the intersection? -- They were all the time supervising the march and (30)

watching/...

watching the people who were joining the march at this curve where the road veered to see to it that we take that curve in a proper way and in an orderly manner.

Whilst in the intersection or anywhere near it, did you hear anybody shouting out "There is a dog" or words to that effect?

COURT : I thought we had this before and also the kiosks and the bus company property destroyed.

MR BIZOS : I am sorry, I will leave it at that.

COURT : Any way, the answer is no? -- No. (10)

MR BIZOS : Did the march continue up and past the post office? -- Yes, that is so.

Was there any attack on the post office that you saw?
-- No.

Did you know Mayor Mahlatsi before 3 September? -- Yes, that is so.

Did you know where he lived? -- Yes, I knew.

In order to get to where Mayor Mahlatsi lived at the time, would the march have to take a turn away from the tarred road as it was marching on if it intended to go to (20) Mayor Mahlatsi's house? -- Yes, that is so.

Did it take such a turn? -- No, it did not.

Did it continue past the intersection that it would have had to turn?

COURT : Just a moment, before you ask this question. Which intersection? Are you talking of the intersection with the lane to Motjeane and the main road on which they were walking or a different intersection?

MR BIZOS : The intersection where they would have had to turn to go to his house after the, what we have referred (30)

to/...

to as the intersection up to now.

COURT : Another intersection?

MR BIZOS : Another intersection. Had you passed the turn-off point if you intended to go to Mayor Mahlatsi's house? -- Yes, we went past that point.

ASSESSOR (MR KRUGEL) : Is it so that Mayor Mahlatsi lives near the Hunter's Garage? -- Yes, that is so.

When you say that you passed the turn-off point, would that mean that you would pass Hunter's Garage - did you pass the turn-off at Hunter's Garage? You are talking about (10) another intersection. -- What I mean is that there is a turn-off in the direction of Hunter's Garage which street passes Hunter's Garage after which then one would reach Mayor Mahlatsi's house. We had passed that turn-off.

COURT : Let us just get clarity on this. There is not a turn-off leading to Hunter's Garage. Hunter's Garage is on the corner of a road which intersects the main road on which you were walking? -- That is correct. Hunter's Garage is on the corner..

And if you turn off on that corner to your left, you (20) reach Mahlatsi's house? -- Yes, that is so.

The question directed to this issue is this, had you passed that corner? -- Yes, that is so.

And passed Hunter's Garage? -- Yes. By so saying I do not mean the whole march had passed that intersection. I mean the portion at which I was moving had passed that intersection.

And Hunter's Garage? -- Yes, that is so.

MR BIZOS : Whilst the portion of the march you were on was passing Hunter's Garage, was it a mob as alleged by the (30)

State/...

State or was it an orderly march? -- This was an orderly march, not just a mob.

Were the ranks properly formed? -- That is so.

Were you still singing? -- Yes.

What were you singing at the time? -- Siyaya e Houtkop was sung.

Was there any obstruction on the road as you were marching along towards Houtkop? -- No, there was none.

As you were marching along, did you see the police ahead? -- Yes, we saw the police. (10)

On foot or in vehicles? -- In vehicles.

Large or small? -- Both. The largest was a Casspir.

On the appearance of the police, what was the reaction of the march?

COURT : Before you ask this question. Were the police moving in or were they stationary in the road? -- I saw the police vehicles approaching in the opposite direction of the march and then before they reached the vanguard of the march, they stopped their vehicles, blocking the road by parking their vehicles across the road. (20)

Broadside? -- Yes, broadside the road.

MR BIZOS : What was the reaction of the people in the vanguard of the march when that happened? -- The pace of the march reduced. The marshalls, that is the people supervising the march, were running alongside the march saying to us we must just be calm.

Did you see anybody moving towards the front of the march? -- Yes, a few of whom accused no. 8 was one.

Anyone else that you recognised going towards the front? -- No, except that some of the people I saw there running (30)

to/...

to the vanguard, people I had seen at the meeting of the 26th. That is 26 August 1984.

When you say running, how many people did you see going towards the front of the march? -- Not more than seven. I would say about five or six people I saw running to the front of the march.

Whilst the march was slowing down? -- That is so.

Did any police officer approach anyone in front of the march or any people who were running towards the front of the march? -- No, that was not done. (11)

Was any warning over the loudhailer or other means used by any police officer to direct the march or asked any questions or asked you to disperse? -- No, none of that happened.

What did the police do? -- The police got off from their vehicles and also stood just across the road like they did in obscuring the road with their vehicles and preparing their fire-arms.

And having prepared their fire-arms? -- I then thereafter heard some shots being fired as a result of which the people in the street dispersed. Not long almost the same time (20) a helicopter emerged from behind us, that is from the direction from which we came. This also spilt some gas which caused tears, which was a teargas.

And what did the people who have been on the march do? -- The people dispersed by running into the nearby premises and I noticed that there were people running on the same road telling those who were still on the road to disperse. What followed next was that the police were running after the people who were running away in different directions following them up. (30)

How/...

How were they following them up? Were they doing anything? -- In this way, they got into their vehicles and drove into the inside streets some which were parallel with the main road which was followed by the march, chasing the people who were in the yards and in the nearby streets there, firing rubber bullets, using their sjamboks and teargas as well.

From what you saw would it have been possible for the police doing these things to distinguish between people who were on the march and people who had not been on the (10) march? -- No, that was impossible. They were just attacking whoever they came across on the road. What in fact happened is, people in the houses because of being choked by the teargas which was fired, would leave their houses for fresh air outside, instead when they come out of the houses, they would meet with the police who then would attack them.

COURT : Where were you all this time? -- At the time when we dispersed from the march, I ran into a house which was on right-hand side, that is when one was following the route of the march. So, I was in that house from where I observed (20) what was happening.

MR BIZOS : Did you stay in that house for some time or not? -- I was not long there. What happened is the following. At first we got into the house on this premises. While being inside the house, as a result of the teargas which was affecting us strongly in that house, we left the house to go and stand outside it for better conditioning of air. While we were there one of the people with whom I was outside there got injured against the neck by being shot at. As a result of which we had to give assistance to him. (30)

COURT/...

COURT : Who was he? -- I have written that person's name on a piece of paper which piece of paper I unfortunately lost. I just cannot remember now off-hand what the name of that person was, but what happened next is that after having given some assistance to this person, I went home to phone.

MR BIZOS : To phone who? -- I telephoned the ambulance department summoning them to come and pick up this injured person.

ASSESSOR (MR KRUGEL) : Where was he then? -- This person was lying outside next to the kitchen wall. (10)

In this house where you first took refuge? -- Yes, that is so.

MR BIZOS : You told us that you phoned the ambulance. Did you get any promises as to whether the ambulance would come or not? -- No, the person I spoke to there told me that their instructions are that they go as far as the hostel and not into the townships and if we need some help from the ambulance we must see to the transporting of this person up to that point, then they will take over from there.

Did you take any steps to get this person over to (20) the place that the ambulance would come to? -- Yes, I saw a person by the name of Oupa, an employee of Mashinini. He was driving in a Combi. I therefore requested him, Oupa, to transport this person to the point described to me by the ambulance man so that this person could be picked up there which Oupa did.

Is this an Oupa which has been referred to before in the evidence? -- No, it is a different person altogether.

Do you remember what sort of Combi this was that was used for this purpose? -- Toyota Super 10 blue in colour. (30)

What/...

What was the reaction of the people who were chased by the police in the neighbourhood of the dispersal of the march? -- The people there were very cross with what the police were doing because many of them got injured in jumping the wire fences, having their clothes torn and being hit by the rubber bullets. Another reason why people were cross with the police was because say for instance they were giving chase to a person who decides to run into a house where there are other people in the house, when the police come in there they would not be looking for the person they were chasing, (10) but they were going to assault everybody they find in that house.

What did you do after you had arranged the transport of the young person that was injured? -- I did not waste more time. I went home.

COURT : But you phoned from your home? -- Yes.

Then you went back? -- Yes, I went home to phone and returned to the scene where this man was injured and after he had been taken away to be transported, I returned to home.

How far was your home from the injured person? -- (20)
It is not more than twenty houses from that scene, about 50 to 60 metres from the scene.

So, you live very near Hunter's Garage? -- Yes.

MR BIZOS : Did you go anywhere near Evaton on that day of the 3rd? -- No, I was not at all in Evaton.

I want you to please give His Lordship some details about the late Joseph Sithole. Did you know him? -- Yes, I knew him.

Had you worked with him in any way? -- Yes, that is so.

In what had you worked with him? -- He was one of our (30)
group/...

DELMAS TREASON TRIAL 1985-1989

PUBLISHER:

Publisher:- Historical Papers, The University of the Witwatersrand

Location:- Johannesburg

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DOCUMENT DETAILS:

Document ID:- AK2117-I2-7-207

Document Title:- Vol 207 p 10825-10894. Witness: GP Malindi