

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

CASE NUMBER: CC.431/77.

PRETORIA,

13th FEBRUARY, 1978.

THE STATE VERSUS:

MOSIMA GABRIEL SEXWALE AND  
ELEVEN OTHERS.

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VOLUME 28

(Pages 1261 - 1310).  
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COURT RESUMES ON THE 13th FEBRUARY, 1978.

IAN DEWAY RWAXA (Still under oath)

BY THE COURT: Mr. Chaskalson, we were at the stage where he told us that he had been taken to see the baby.

MR. CHASKALSON: Yes, My Lord.

CROSS-EXAMINATION BY MR. CHASKALSON (Continued): Now when you gave your evidence-in-chief on Thursday you described your first meeting with accused no.12 at Maponya's shop? --- Yes.

And you said that on that occasion accused no.12 asked you to take her to Swaziland to obtain military training? --- (1) Yes, Lord.

When you gave evidence last time you said that accused no.12 wanted you to go to Swaziland, but that she did not tell you the purpose for which she wanted to go. Do you remember saying that? --- I can't remember very well, but accused no.12 did say that she wanted to go to Swaziland for military training.

You see, you had told the judge that accused no.12 had told you that she wanted to go to Swaziland, and the next question to you was : "Did she say for what purpose she wanted to go", and your answer was : "She did not tell me the reason". (2) --- Accused no.12 did say that she wanted to go to Swaziland for military training, that is why I didn't want to talk much with her.

I am putting it to you that last time you gave evidence you were asked : "Did she say for what purpose did she want to go", and your answer was : "She did not tell me the reason"? --- I don't remember saying that.

Can you give any explanation for having said that? --- I say I don't remember saying that.

But I am reading from the record at page 50, lines 3 to 4. (3) After having told the judge about your meeting at Maponya's shop, /...



shop, and the fact that she had asked you to go to Swaziland, the question was : "Did she say for what purpose did she want to go", and your answer was : "She did not tell me the reason".  
--- There was a certain stage when I had changed my evidence which was true, and telling the court a lie.

BY THE COURT: Yes, but did you also tell the court a lie about the merits of the case or did you just tell the court a lie about the police? --- I did tell a lie about the merits of the case.

Well, what must I then believe what you tell me? How must I know that you are telling me the truth now? --- (Pause).

Does he understand what I mean about the merits of the case? The ..(Court and interpreter speak simultaneously).. gone through, as distinct from what happened to him after he had been arrested? --- The first evidence I gave the court, my evidence-in-chief, I was telling the court the truth then. After now I was overcome by fear ... (intervention).

Mr. Chaskalson, that I take it you said was page 50?

MR. CHASKALSON: That was from his evidence-in-chief My Lord.

BY THE COURT: I just want to be sure about it. But now you are still not telling me the truth. What Counsel has read to you did not come out of the cross-examination, it came out of the evidence-in-chief when the Prosecutor was leading your evidence, you said she did not give a reason, and now you say she said she wanted to go for military training. So it did not come out of cross-examination. It was before the stage according to your evidence when you were overcome by fear? --- (Pause).

Now tell me, why did you then tell a lie, that is what I want to find out, about the accused no.12 saying she did not give you a reason for why she wanted to go to Swaziland? ---

I don't /...



your evidence, that you would be asked about the evidence which you gave on that last occasion? --- Yes, I knew about that.

And that you would have to explain to the court why you gave evidence which you now say is untrue? --- Yes, I knew about that.

And you were ready with your explanation when you came to court? --- Yes.

And you in fact volunteered to give the explanation? --- Yes, Lord.

It was something that you had thought about carefully in (10 your own mind before you came to court? --- Yes, I was thinking of it before I came to court, that is what happened.

And you knew exactly what you were going to say? --- I know very well what had happened, that is just what I am telling the court.

And the explanation you gave us on Friday was that you changed your evidence out of fear? --- Yes.

And it is correct, is it not, that you admitted at the time whilst you were under cross-examination in June of 1977, that you had given untruthful evidence when you had given (20 evidence-in-chief? --- Yes, I did.

And I want to suggest to you that you made that admission because you were ashamed of the fact that you had told lies against certain of the accused? --- No, that is not so.

Well, <sup>I</sup> want to suggest to you that the reason why you admitted that you had given untruthful evidence in your evidence-in-chief was because you were ashamed of what you had said in your evidence-in-chief? --- That is not so.

That what drove you to make that admission was shame and not fear? --- That is not so. (30

Now when you told us on Thursday that inside of court in



June of 1977, people were hissing at you? — Yes, Lord.

BY THE COURT: Mr. Chaskalson, would you just mind repeating that question?

MR. CHASKALSON: He said that inside court in June of 1977 the people were hissing at him, Your Lordship.

BY THE COURT: I don't know exactly what he means by that.

MR. CHASKALSON: And you said that they were making signs at you? — Yes.

And you said that even outside court you heard someone saying "this man is going to shit"? — He said "This boy (10 who is here will shit". At that moment I was in a room. I could not see the person, I only heard the voice "This boy who is here will shit".

And you say that you were as a result of that overcome by fear and told lies? — Yes, through that as well as through the noise that was going on in court.

Now when you gave evidence in June of 1977 the court was sitting in the old synagogue? — Yes.

And the judge sat high up in front of the court? — Yes.

And are you suggesting that the judge permitted people to (20 hiss at you and make signs at you? — When they were hissing the judge had not yet come into court. They were making signs meanwhile the judge was present.

You say they were hissing before the judge came into court? — Yes, and the moment the judge entered the court all was quiet.

You know of course you are telling a lie again? — No, what I am saying is what happened in court, what I saw.

You were brought into court after the judge had come into court, as you are brought into court here after the judge comes ( into court? — At other times I was brought into court before the judge/...



the judge entered the court.

Well, let's get a picture of that court, where you say that hissing was going on and the signs were being made. First of all you say that people were making signs at you at court while the judge was in court and he did not object to it? --- I don't know whether the judge saw those people.

The judge was sitting high up in front of the court? --- Was the judge all the time looking at the public?

And you were giving evidence in the witness box which was in front of him and to his left? --- Yes. (10

And were you looking at the judge when you were giving evidence? --- I was looking at the judge and at people, I was looking everywhere.

You know, you have been giving evidence for two days now, and I can't remember you having looked back at the court except when you have been asked to identify people? --- That is true.

Now I want to suggest the same thing happened to you last time, You stand still when you are in the witness box and look at the judge? --- Last year I was not looking at the judge all the time. (20

I want to put it to you that you were brought into court after the judge had come into court? --- Sometimes yes, at other times I used to be brought inside before the judge came.

I want to suggest to you that there were many uniformed policemen in court with sten guns? --- Yes.

And there were Black and White police from the Security Branch in court ..(inaudible).. --- Yes.

And immediately opposite you while you were giving evidence was your interrogator, Lieutenant Coetzee? --- That is true.

In fact he is sitting at that table just behind you now, (30 isn't he? --- Yes, it is so.

And /...



And immediately behind him were security policemen in plain clothes? --- Yes, that is true.

And you would be taken out of court as soon as the court adjourned? --- Yes, I used to leave the court.

And you would be taken to a room to which witnesses were taken during adjournments at that trial? --- That is true.

And during the adjournments were you guarded in that room by security policemen? --- Yes, that is true.

You were surrounded at all times while the court was not in session by security police? --- Yes. (10

Did you ever complain to the judge about the hissing and the signs? --- I did not complain.

Why did you not complain before you were overwhelmed by fear? --- I feared that the moment I am released those people would do whatever they would like to do to me. ) 15

BY THE COURT: And tell me, when this hearing took place in the Old Synagogue, was the courtroom filled with the public, or was it empty like it is now? --- It was filled with people, and at other times people would sing outside court the ANC songs.

Could you hear them sing outside? --- Yes, I used to hear (20 them singing.

And do you know in the Synagogue there is also the up-stairs part of the court, do you know about that? --- Yes, I do.

Were there people upstairs as well, or not? --- Only the police were upstairs, Lord.

And when you went out of the witness box to this room where you were being guarded by the security police, were the people outside the Synagogue in the grounds of the court, or was that vacant, free of people? --- Yes, meanwhile I was taken out, outside the courtroom there would be these people singing (30 the ANC songs, meanwhile I am taken to that room.



MR. CHASKALSON: Now when you gave evidence in cross-examination last time, you said that you had been forced by the police to make a statement? --- Yes, I said it.

And I read to you your evidence at page 208 of the record, volume 7. You were being cross-examined .... (Court intervenes).

BY THE COURT: Mr. Chaskalson, would you be so kind, just tell me on what page does the cross-examination start? Because when I read through this then I know as soon as it is beyond that page then it is cross-examination, and if it is something before that page then I know it is evidence-in-chief. One of the juniors can look it up, in due course. (10)

MR. CHASKALSON: I just want to read to you from the record, volume 7 at page 208, line 19: It was put to you "When you gave your answers, did you realise they were wrong", and your answer was : "Yes, I realised they were wrong." The next question : "So you knew you were giving incorrect evidence", and the next question : "And you did that deliberately", and your answer : "Yes, I did it deliberately, My Lord". The next question : "Why did you do it deliberately", and your answer : "My Lord, we as detainees when we are detained..", and the judge said "Yes?", and your answer was : "We are forced to make statements". So you said last time that the police forced you to make a statement? --- Yes, I told the court that lie. (20)

You say that was a lie? --- Yes.

Did you not tell us on Thursday, or on Friday rather, that you had been very badly assaulted by the police? --- I did.

Was that not done in order to force you to make a statement? --- I had already given my statement. (30)

But why were you assaulted then? --- The police were alleging that /...



that I am hiding certain facts.

(2) Well, were you hiding certain facts? — We had done so much, Lord, I could not remember all that we had been doing.

But then wasn't the purpose of the assault to force you to say something which you had not yet said to the police? — What I am saying is that the police alleged that I am hiding certain facts.

And you say that allegation was incorrect? — What I wrote in my statement is things that I could remember of. When they said that I am hiding certain facts, it may be that (1) there were certain facts which I had not written which I had known of.

And as a result of that assault did you add to your statement? — I did not add because I was assaulted.

Did you add after you had been assaulted? — Yes, I did add after I had been assaulted. (17)

(18) Now in June, 1977, you told the judge that you had given untruthful evidence against the accused because you were afraid of the police? — Yes, I told the court that lie. (2)

I will read you your evidence at page 232 of the record. "How do you relate all this, the description of what happened to you, to the evidence you gave? Was the evidence truthful evidence you gave", your answer : "It was not truthful evidence." The next question : "Why did you give it then", and your answer : "I was afraid that the policemen would kill me as they had told me before, and as a result of the strangling and the assaults that occurred in John Vorster I still feel pains in my neck." - (19) Now let's examine that, did you still pains in your neck? — No, Lord, I was not feeling the pain (3) then.

So you lied to the judge, did you? — Yes, I lied to the judge.



Have you felt pains in your neck before? — Yes, I did feel pains on my neck before.

When did you feel pains on your neck? — The moment I was assaulted and thereafter.

And when you were about to be taken from the court after giving evidence, you asked the judge for protection? — The question again Lord? (Interpreter).

When you were taken from the court, after giving evidence, you asked the judge for protection? — Yes, I did.

Let me read to you page 234 of the record. The court had (10 indicated that it was about to adjourn, and you then addressed the court: "My Lord, I would like to ask if I could get any form of protection from the police". - Do you remember saying that? — I do remember.

And the judge said: "You mean while you are in police custody"? - And you answered: "Yes, My Lord". — What I remember the judge said, is it not that you are under the police protection, police custody. I said yes.

Well, let me tell you what the judge went on to say to you. He said: "Well, I am afraid I think that the position is that (20 there is nothing that I can do but to allow you to be taken back to custody. You are detained, you are a detained person, I think that is the position, there is no power I have at all to affect that." - Do you remember the judge saying that? — What I remember is after I had told the judge that I am in the custody of the police the judge said there is nothing that he could do. I don't remember the rest of what has now been read. }

Were you in fact afraid of the police at that time? — I was afraid, because I had told a lie about them. (30

So your request for protection against the police was a genuine /...



genuine request? — I made that request because seeing that I had told a lie about the police, that the police would not come and assault me as they had done before, at John Vorster.

And the judge said he could do nothing to help you because you were a detainee? — He said he could do nothing about that.

And you were then taken back into police custody? — I was.

You came back the next day? — I did.

You stuck by your story that your evidence had been untruthful, your evidence against the accused had been untruthful? — Yes, I did.

You even tried to protect yourself by suggesting that you yourself had not been involved in ANC affairs? — Yes, I did, Lord.

That of course had nothing to do with fear other than fear of your own position? — My being in the ANC meant that the evidence that I gave about these people was true, which means to say that I was working with them.

20 And then you were taken back into detention? — Yes. (2)

And for the last seven months you have again been in solitary confinement in police detention? — Yes, I think this is the eighth month now. 24

Do you hope to secure any advantage for yourself by giving evidence in this case? — Lord, the court will decide.

I am asking you whether you hope to secure any advantage for yourself as a result of giving evidence in this case? — I have that hope.

You are hoping to be released from detention as a result of having given evidence against the accused? — Yes, I have that hope. (3)

And you /...



And you are hoping for an indemnity against being prosecuted yourself as a result of giving this evidence? — The question again?

And you are also hoping for an indemnity against being prosecuted yourself? — Can the word "indemnity" be explained to me please, Lord? (Interpreter).

BY THE COURT: Free from prosecution? — I have that hope because most of those that have given evidence after the decision of the court, they have been freed from further prosecution. (10

MR. CHASKALSON: That is something you know very well? — I know that very well.

And you knew that of course in June of 1977 when you gave evidence? — Yes, I knew of it.

× Now is it correct that in April 1977 you were taken by the police to Compol Building where you met senior counsel for the State? — Yes.

And you went over your statement with senior counsel for the State in the presence of the police? — Yes.

And senior counsel for the State explained to you that if (20 you gave evidence to the satisfaction of the court, you would be granted in indemnity? — Yes.

Let me read to you your account of your discussion with senior counsel for the State when you were giving evidence, when the judge was asking you questions in June of 1977. It is page 227, My Lord. You said: "Later on Lieutenant Coetsee came and called me". And the judge said "Yes?", and you said "It was some time in April I think". And the judge said "Yes?". "He took me to Compol Building. Then the judge said "Yes?", and you said: "Where I met State Counsel. Then we went over (30 the statement I had made." The judge said "Yes?". "After that



State Counsel told me that if I gave evidence to the satisfaction of the court I would be granted an indemnity." - Now all that is true, is it not? --- That is right, meanwhile I was - before that, what happened Lord, before I gave my verbal statement, that was said before I gave my verbal statement.

Yes, that was when you had your consultation with senior counsel for the State? --- Yes.

Now I want to read what you went on to say. Because so far you have been truthful, but you went on to say something else and I want to read to you what you said, referring to senior counsel for the State, you said: "And he said that I should not say in court that I was beaten up", and the judge said "Yes", and you said: "He said the judge will say I am lying." And the judge said "Yes?", and you said "He said he would later introduce me to his junior". - Now that was untruthful, was it not? --- What is not true is only this that the State Counsel had said I must not say that I was beaten up.

That is what I am putting to you, that that was untruthful? --- That was untruthful.

It is a very serious allegation to make against Counsel? You appreciate that, don't you? --- I don't know how serious that can be.

You say of Counsel that he instructed you to conceal facts from the court and to lie to the court. Do you not regard that as a serious thing? --- It is serious, but I don't know how much serious that is.

You appreciated the seriousness of it when you made that allegation? --- Yes, all I know is that we ANC members we speak badly of the Government, which we are fighting against.

You are prepared to fabricate an allegation against an innocent /...



innocent man?— Yes, I did it in order that the court must not believe my evidence.

You fabricated the allegation against Mr. Van Pittius so that the court would not believe your evidence? — Yes.

What evidence? — The evidence - my evidence-in-chief. My evidence-in-chief and under cross-examination until such time that I changed.

You had no complaint at all against Mr. Van Pittius as a person? — I had no complaint.

He was for practical purposes a stranger to you? — I (10 know him by seeing him at the Compol Building.

How could fabricating that allegation against him, how could fear have induced you to fabricate that allegation against him? — Lord, I was being scolded in court, meanwhile I was giving evidence, by the Defence against giving evidence against the accused.

No, no, no, that is just no answer. — What is the question again, Lord?

How can fear have induced you to make that false allegation against Mr. Van Pittius? — We ANC members - we don't want to (20 give evidence against our comrades, it is not our practice to give evidence against our comrades. When I made that allegation now against the State Counsel I was saying bad things about him because I wanted to split away the evidence I had made against my comrades.

How was that going to help you split away the evidence you had given against your comrades? — It is well-known that we ANC members when we give evidence, when we deny the truth, we include the police, we make use of them, in order to split the evidence and to change the true evidence to the untrue. (30

Well, you know, at the very beginning of your evidence in cross-/. . .



cross-examination in June of 1977 you had been shown a newspaper cutting about the visit made by you to your house, with the bloodstained clothing? — Yes, you gave it to me.

And you have admitted - you have explained that by saying that you had in fact been very badly assaulted by the police? — I explained that I was assaulted by the police.

Well, why did you then have to say that Mr. Van Pittius told you not to say that you had been assaulted? — I was merely adding that fact. .

Quite fortuitously? — Can you explain the meaning of (10) that word?

Without any reason for doing so? — What reason?

BY THE COURT: No, the question is for what reason did you try and implicate Mr. Gey Van Pittius in the case, to try to throw the light on him that he was dishonest? — That is our practice, we ANC members. We implicate these people like the police, the State Counsel, etc.

MR. CHASKALSON: So what you actually did was you took a conversation which had taken place between you and Mr. Van Pittius, you have recounted that conversation quite accurately, ... — (20) Yes, we were conversing.

And then you added a little twist at the end? — Yes, I did add.

And that little twist you added at the end was a totally untrue allegation against an innocent man? — Yes, that is true.

Did you in fact ever tell Mr. Van Pittius that you had been assaulted by the police? — He never asked me that.

But did you not tell him that you had been assaulted when you had your consultation with him? — No, I did not tell (30) him that.

Why didn't you tell him that? — He did not ask him and I



never thought of telling him.

Why didn't you? Here was a State official who you could make a complaint to about the fact that you were assaulted? — I never thought of telling him that.

That answer also is untrue. — I say I did not think of that.

I am telling you that is an untruthful answer? — As far as I know that is true.

A deliberately untruthful answer for whatever reason you may have at the moment, I don't know? Perhaps you think it (10) will help you in some way to make it? I will tell you why it is untruthful, because after you had given evidence Mr. Van Pittius made a statement to court and he told the court that you had told him that you had once been assaulted as he told the court by the police, but he denied that he ever told you that you should lie about that assault. — I don't remember telling him that I was assaulted.

You are lying again, aren't you? — I never thought of telling him, I don't remember it.

The reason is you think it will help you now to say that (20) you did not tell Mr. Van Pittius, you think there might be something wrong in acknowledging that you told Mr. Van Pittius about the assault? — I know nothing about that now.

You see, you lie so easily? Whenever you think it helps you to lie, you lie? — I am not lying. (25)

Let me show you another lie last time you gave evidence. I want to read to you from the evidence at page 139 of the record. — (Court intervenes).

BY THE COURT: That is evidence-in-chief?

MR. CHASKALSON: That is the beginning of cross-examination. (30) My Lord, I am informed that the cross-examination starts at



page 124. You were being asked by me at the very beginning of your cross-examination, and this was before you had acknowledged that you had been untruthful, and this is how the cross-examination goes : "The police came and asked you whether you wanted to be a witness", - "That is correct." "Would that mean that you wouldn't be an accused" - "I don't know." "You don't know. Had you not read about other trials in the newspaper"? - "I did read about them." "And read about cases under the Terrorist Act and other security legislation" - "Yes". "And did you know that at those cases (10 there are people who are witnesses and people who are accused", - "Yes". "If you agree to be a witness then you are not charged" - "I did not know that." "Did they not talk about it in the townships" - "No, My Lord." "Had you not read in the newspaper that the people who come to be a witness are given an indemnity from prosecution" - "I heard in this court when I was told by the Presiding Officer." "Did you not know it before the Presiding Officer told you that" - "I did not." "Did it come as a surprise to you" - "That is correct." "And what did you think was going to happen to you after you (20 had given evidence" - And then the judge intervened and said that we should not call him the presiding officer, "you mean when I told you", and you said "Yes, My Lord." And then the question was : "What did you think was going to happen to you when you agreed to give evidence", and you said : "I thought I would be charged with the others". - Now that was all untrue, wasn't it? — I am now in a difficulty. What has been read is too long, too many sentences, Lord.

WR 1956 S

Look, you are not having difficulty. You can remember colours of cars, food you ate, minute details of your story. (30 You understand English well, and the only difficulty you are having /...



having is that you can't think of an answer. --- The sentences that you have read are too long, they are too long, unlike the cars that I have been driving myself.

The effect of what you were saying was that you thought by agreeing to be a witness you would still become an accused, and that you did not know that you could get released from prosecution, until the judge told you when you entered the court, and you were asked to be sworn in as a witness? --- Because I had read from the papers I had known that the witnesses after they had given their evidence are being released. (10

That's exactly so, but when you gave your evidence to the judge, you said that you didn't know about it? --- Yes, Lord.

You said it was only when the judge told you that you would get an indemnity from prosecution that you realised that that might happen? --- Yes, I said it.

And that was a lie? --- Yes, that was a lie.

That was long before you said that you had changed your evidence? --- Yes, that is so.

And you knew it was a lie when you said so? --- Yes. (2

And the reason you lied was that you were trying to bring the judge under the impression that you thought that you had nothing to gain from giving evidence? --- Yes.

And that your motive for lying was to try to persuade the judge to accept your evidence and thereby to get an indemnity for yourself? --- Yes, that is so. )

But you even took it further at page 141 of the record. At page 141, line 16, you were being cross-examined about this. "Was it going to help you to be a witness", - "I did not know then, My Lord." "Did you think it might help you to be a witness" - "I did not think that". "Did you not even have a vague hope that it might help you if you were a witness" -

"I did /...



"I did not think". "Not at all" - "Yes, I did not think of it at all." "In all those months that you were sitting there, it did not cross your mind that if you could be a witness you might get out of the trouble you were in" - "No, it did not enter my mind." - All that was untruthful again? — Yes, Lord.

For the same reason that you have just given us about denying that you knew about an indemnity? — Yes, Lord.

Well, on Friday you told us how you saw Nomaroma and the baby? — Yes. (1)

Do you remember that? — I do remember that.

Is it correct that you saw Nomaroma and the baby twice? — Yes, that is correct.

And did you ever take money to Nomaroma? — Yes, Lord, that is so.

Did you get that money from Lieutenant Coetzee?— That is the money which was given to me in Swaziland. Lieutenant Coetzee gave it to me. The day I was going for the second time to Nomaroma. I did not give her all that money.

Yes, you gave her part of it? — Yes. (2)

Lieutenant Coetzee gave it to you so that you could give it to Nomaroma? — Yes.

He advised you not to give it all but only part of it to her? — Yes.

Let me read to you what you said when you gave evidence last time. Page 226, line 26. "Later on Lieutenant Coetzee fetched me again, and we went to Soweto there with his colleague and a Black policeman." The judge said "Yes?", and you said: "That is Radebe". The judge said "Radebe", and you said "Yes". The judge said "Is he here", and you said: "Yes, he is here." (3) The judge said "Yes?", - "On the way Lieutenant Coetzee gave me some/...



me some money. And he said I could give it to my girlfriend." The judge said "Nomaroma", and you said "Yes". The judge said "Yes?" - "We went to my girlfriend's place in Meadowlands". The judge said "Yes?" and you said : "Where we found her and some other three women." The judge said : "How much money was it", and you said : "It was about R200." The judge said "200?", you said : "Just about that, I am not sure". "Was it a substantial amount of money, a big amount of money", and you said "Yes". Then the judge said "Yes?", and you said "From there when we reached the place we found the two women (1) and I gave Nomaroma R100, and Lieutenant Coetzee and the policeman Radebe told Nomaroma and the three women that I was no longer detained and that I was working for the Department of Prisons." "Yes", said the judge. "We then left and I came back to Pretoria prison." "What did you do with the rest of the money", and your answer was "I gave it back to Lieutenant Coetzee." The judge said "Why?", and you said "I said he could keep it." And the judge said "Nearly R100, is that right", and you said "About R114". The judge said : "Why didn't you give it to Nomaroma", and your answer ultimately (2) was : "Lieutenant Coetzee said I would rather not give her all the money." - Now was that truthful? --- Yes, that was truthful, but there is a portion I have added. That I am no longer detained. They did say that I am working in the prison.

So you added - you just put in that little section to say that you were no longer detained? --- Yes, I added that portion.

What was your reason for adding that portion? --- I was talking bad about the police.

BY THE COURT: Now tell me, when you said that this money (3) given to you by Lieutenant Coetzee or whatever his name is, is money /...



is money that you had received in Swaziland? --- Yes, Lord, the last occasion when I was from Swaziland until arrested.

Now when you were arrested how much money did you have on you? --- Approximately R250.

MR. CHASKALSON: Now are you saying that money you got from the ANC? --- Yes, Lord.

And Lieutenant Coetzee knew this? --- He knew that.

And you are saying that Lieutenant Coetzee said that you should take some of the ANC money and give it to Nomaroma? --- He gave the money to me and said "here is the ANC money." He (10 said then that I will decide whether to give Nomaroma money.

I received the money. I then gave Nomaroma part of that money.

BY THE COURT: Tell me, this R250 that you say that you received from the ANC, was that money you had according to your evidence, is that money you had to take somewhere, or was it your pay as it were? Your personal benefit? --- This is the amount which I had to use in search of hide-outs. And use it for travelling as well to Alexandra Township. I used to take some of the ANC money and buy myself whatever I wanted to buy, for instance a jacket, because I was not working and I was not getting any loan. (20

You were not getting any what? --- Any pay.

Oh yes, no pay. --- My permanent work was the ANC work, no other work.

MR. CHASKALSON: Did you then buy yourself a jacket? --- (Court intervenes).

BY THE COURT: No, I don't think he suggested that he bought it out of this money. Did you on a previous occasion buy yourself a jacket out of the ANC money? --- Yes, Lord, like the one I have now on. (30

MR. CHASKALSON: So you are now saying that the money that you



had was given to you by the ANC to be used for ANC purposes?

— Yes, Lord.

You are saying that Lieutenant Coetzee suggested you should steal that money and give it to Nomaroma? — He did not say I must steal the money. He knew that on previous occasions I used to make use of the ANC money and buy whatever I would like to buy for myself. I used it for my personal help.

So ... (Court intervenes).

BY THE COURT: Tell me, did you give this girl Nomaroma money which originated from the ANC on previous occasions? — Yes, (10) I had to give her money for instance to go to the hospital and so forth.

MR. CHASKALSON: Now this time when you were taken to Nomaroma and you were given money to give to her, was that the time when you were got ready to become a witness? — I had already agreed to be a witness.

So after agreeing to be a witness you were given money to take to your - to Nomaroma? — Yes, that is true.

It must have pleased you quite a lot? — Yes, it pleased me a lot. (20)

Did you think there were advantages to being a witness, other than getting a mere indemnity from the State? — I realised that there and then.

Yes, and then your treatment got better, you started to get cigarettes? — Yes, I was getting cigarettes.

In the beginning you could not get cigarettes? — I can only say it was only that one policeman who took my cigarettes.

And you were given a good cell and better food? — That is so, Lord.

Incidentally, yesterday when it was put to you you denied (30) it, you said that that had been a lie the first time? —

Yesterday?/...



Yesterday?

Not yesterday, Friday? --- What did I deny?

That you had been given a second cell and better food as a result of agreeing - I can't remember the exact context, but you denied the passage in your evidence where you said you got better food? --- I was never asked about better food on Friday.

Perhaps I am wrong. But you say you were in fact given better food and better conditions? --- Yes, that is true.

And you were told you need not worry, you would be a witness, and you would soon be out? --- Well, I had already known that if I give the court satisfactory evidence I would be released.

Yes, but the police were saying to you, don't worry, you will give your evidence and you will soon be out? --- Yes, they said it.

And you were looking forward to the day when you could give your evidence and get out? --- Yes. (b)

(a) And before you gave evidence in June, 1977, you went over your statement on various occasions with the police and Counsel? --- There were times when I had to see the Counsel and tell the Counsel about what we had been doing.

You went over it on more than one occasion? --- More than one occasion.

Are you agreeing with me? --- I do agree with you.

And then there was a time when you were given typed notes of your statement which you kept in your cell with you? --- No, I was never given the typed ones.

Were you given the written notes that you kept in your cell? --- Yes, Lord, that is so. (30)

And you kept those in your cell and you read those notes very /...



very carefully? --- I did read those notes.

And you studied them right up to the time you got into court? --- I used to read in order to refresh myself here and there.

But you had them with you right up until the Monday that you got into court? --- These were with me, for instance from the Friday if I was supposed to give evidence on the Monday.

Yes you had them with you then that weekend before you gave evidence? --- Yes, that is what I said. 9

And you had them with you again this time before you gave (1) evidence? ---No, this time they were not with me.

Have you been through your statement this time before you gave evidence? --- No, I did not read over my statement.

Are you suggesting that since you gave evidence last time you have not been through your statement at all? --- (Court intervenes).

BY THE COURT: I wonder whether "been through" is not perhaps confusing. Did you read your statement, or did somebody read the statement to you, or did you go through the statement with somebody in your presence going through the statement? --- It (2) was never read over to me. I did not even read it myself.

MR. CHASKALSON: What about the evidence you gave in court last time? Has that been read to you? In June, 1977, you gave evidence, has that been read to you? --- No, it was never read over to me.

Have you ever read it yourself? --- No, I did not read it myself either.

Are you suggesting that since you gave evidence in June, 1977, you have had no consultations with anybody at all in (3) regard to the evidence you were going to give in court now? --- It was never read over to me, and I did not even read it over.



What happened is I met the State Counsel at the Compol Building. It was then that we discussed about the admissible and the inadmissible evidence.

Alright. Now I want to tell you what you told the court the last time you gave evidence, early on in your cross-examination. You were asked : "How many times have you been over your statement since the end of April" ... (Court intervenes).

BY THE COURT: What page, Mr. Chaskalson?

MR. CHASKALSON: Page 142, My Lord. And your answer was (10  
"Once". And then you were asked : "Did they not go over your statement with you", and your answer was : "Lieutenant Coetzee was present when the Prosecutor went over my statement and not the police. That was the only time." The next question: "The only time. So you have only been taken through your statement once before you gave evidence", and your answer was: "That is so". - Now that was not truthful, was it? --- Yes, that was not true.

And again you lied deliberately when you said that last time? --- (Court intervenes). (20

BY THE COURT: Now how many times have you been taken through the statement by either the Prosecutor or the police, according to your evidence? --- I personally did not read it. Lieutenant Coetzee and the Prosecutor, they had my statement. And then we would discuss about certain facts which had been left out in that evidence.

Yes well, you said they took you through the statement, but in addition to that process, when Lieutenant Coetzee and the Prosecutor went with you through the statement .... (Mr. Chaskalson intervenes). (30

MR. CHASKALSON: My Lord, there could be some confusion about



the occasion that you are .... (pause).

BY THE COURT: Well, that is what I am trying to find out.

MR. CHASKALSON: Because there was the June, 1977, and there is the second occasion.

BY THE COURT: We are talking about just before you gave evidence in June, 1977, do you understand that is the occasion I am talking about? --- I do, My Lord.

What you said not is that Lieutenant Coetzee and the Prosecutor went through the statement with you. Does that relate to the occasion before June, 1977? --- Yes, Lord, it relates (10 to that occasion.

Now apart from this process at that stage of going through the statement with you, did you go through the statement with anybody else at another point of time, prior to giving your evidence at the first hearing? --- I went through my statement with Lieutenant Coetzee, on another occasion with Lieutenant Coetzee and the Prosecutor, the Senior State Counsel, and then I ran over it again with the Junior State Counsel.

MR. CHASKALSON: So in fact you had been over it three times, and you had been given notes to keep in your cell? --- Yes, (20 that is true.

And you agreed that when you gave evidence first in cross-examination about how often you had been through your statement, that your evidence was untruthful? --- When?

Well, I will read it to you again, because you agreed just now that it was untruthful. The question was : "You have been only taken through your statement once before you gave evidence", and your answer was "That is so". - That was untruthful? --- On what occasion is that now?

Before June, 1977? --- After I had changed my statement (30 or before?

No, no. /...



No, no, no, just tell me, whether that is truthful or untruthful? — I can't remember well Lord, there is so much that has been said.

I want to suggest to you that you had a reason for that untruthful answer. It was because you wanted to avoid any suggestion that you had rehearsed your evidence? — Yes, that is true.

So in fact you had rehearsed it very well? — Yes, I had.

And you knew it almost off by heart when you came into court? — I knew that even before because those are things that I had been doing myself.

COURT ADJOURNS.

COURT RESUMES AFTER TEA-BREAK.

IAN DEWAY RWAXA (Still under oath)

BY THE COURT: Mr. Gey Van Pittius, before the cross-examination continues, let me just again look at that passport of this witness. Is this the travel document you used? — Yes, Lord.

And this is the passport you used? It all comes out of Exhibit 23. — Yes, Lord, this which I got at Lesotho.

Now every time you crossed the border, did the officials stamp this document? — (Intervention).

I am now not talking about the occasions when you went "over the fence" as you told us? — At other times there would be a policeman, either Nkuna or Richard. We came to an agreement that there should not be too many stamps on my passport. Because that would mean that when they check over my passport they would like to know why do I now and then go to Swaziland. Nkuna or Richard then through that then never had to stamp it now and again.

By just looking at this and if my counting is correct, there are forty-six stamps of some sort, Passport Control

Office, /...



Office, in this book. Is that correct? — My Lord, there may be forty-six, I never had to count them.

Yes, now let me just have a look at the dates. They seem to run from — the 1st date at the top of page 6, the 11th of June, 1976. There are about forty-six or forty-five or forty-seven stamps, and the last one apparently being the 14th of December, 1976? I don't know whether there are some that are out of order, I see there is one also the 28th of April, 1976. Apparently the first one was somewhere in April, 1976, and the last one during December, the middle of December, 1976. (10) Now do these stamps in this book, do they refer to the occasions that you crossed the border that you told me about, when you did not go over the fence? — Yes, Lord, these are the stamps which have been placed there by the officials at the border gate.

And you say on some occasions you went through the border gate and in terms of your arrangement with these people, they did not stamp your book in order to ensure that there are not too many stamps in the book, otherwise it would be queried. Is that what you say? — Yes, Lord, that is so. (20)

Yes, alright, you can put them away again.

CROSS-EXAMINATION BY MR. CHASKALSON (Continued): Now you met accused no.12 you say at Maponya's shop in Soweto? — Yes.

And I think you told us on Thursday, you said that you did not know who she was? — Yes, that is so.

You had never met her before? — That was the first time for me to see her.

You had never seen her before, and you did not know her name? — I had never seen her before and I did not know her name.

And then she came up to you you say, and she asked you (30) where Wellington Phetla and Johnny Sexwale were? — Yes, that



is so, My Lord.

And what did you say? — At first I answered and said I don't know where they had gone to.

Did you know where they were? — I knew.

Why would you not tell accused no.12? — Those people were people I was working with in the ANC organisation which is dangerous. I wanted first to know why she asked me about them, and what did she want to do about them. I could not just tell her that my comrades are at such and such a place. Maybe she was sent by the police to find out where my comrades are. I (10) could not tell her then where they were.

You were suspicious of her? — Yes, I was.

You were not prepared to speak to her? — I was prepared to talk to her but not of these dangerous things.

You wanted to get rid of her as soon as possible? — I did not want to show her that I want to get rid of her as soon as possible.

But that was your feeling? — I did discuss with her.

But your feeling was that - to try and get rid of her as soon as possible? — I wanted to know why she asked me about (20) Phetla and the other man.

As I understand your evidence you were suspicious of her and you thought that you would lead her along to see why she was making these enquiries? — Yes, that is true.

When you gave evidence last time, at the very first hearing in your evidence-in-chief, at page 49 of the record, your evidence reads as follows. You had told the court that you had met accused no.12 and that you did not know who she was and that you were meeting her for the first time. This is how your evidence reads after that: "What happened when you met", (30) your answer: "She asked me where Wellington Phetla was. I



told her, accused no.12, that he was in Swaziland." — Yes, at last I did tell her.

At last you did tell her? Why at last did you tell her? — Eventually.

Eventually? Why did you tell her, you suspected her of being a spy? — I did not really suspect her only to be a spy.

But you just heard, she was there speaking to you, why did you tell her where Wellington was? — It was after she had told me that she would like to go for military training with recruits. (10

That she wanted to go for military training with recruits, or what are you saying? — She wanted to go for military training and she told me that there are also recruits which have to be conveyed.

Did that make you trust her? — No, that did not make me to trust her fully.

Wouldn't that be exactly what a police spy would say to you? — Yes. She would say that, a police spy.

Wouldn't that make you even more suspicious, because here was a total stranger coming up to you and talking to you about(20 military training? — Yes, that made me more suspicious.

More suspicious. So you started off suspicious and you became more suspicious as she spoke to you? — Yes, suspicion grew more, because she mentioned about the recruits and Phetla.

At that time did you really just want to get right away from her and have nothing to do with her? — I wanted to know exactly about her.

So what did you ask her? — I can't remember well what I asked her.

You say that you first of all said to her that you did not(30 know where these people were? — Yes, I said so.

And you /...



And you said ultimately you told her that they were in Swaziland? --- Yes, I did.

If she was becoming more suspicious why did you suddenly change your story and tell her that they were in Swaziland? --- I am asking you a question now. Where was now my suspicion? Do you want to tell me that I was suspecting her as one working with the police, or with Phetla?

What do you say? --- After I had discussions with her, I suspected her as one working with Phetla.

BY THE COURT: Now exactly who is Phetla? --- Phetla is one of (10 my comrades working with me.

Yes, and if you thought she was working with Phetla, well, then she would be wanting to work with you? --- She asked me about Phetla. After I had told her that Phetla was in Swaziland, she wanted me to help her through her difficulties.

MR. CHASKALSON: What made you tell her that Phetla was in Swaziland? --- I was starting to know why she wanted Phetla for. Even if I told her that Phetla is in Swaziland, she would not have Phetla arrested. I would cause his arrest. She would cause me to be arrested, not Phetla. (20

But you said originally when she asked you you denied all knowledge of where Phetla was? --- Yes, I did deny about Phetla.

It would have been very simple then if you wanted to find out, and say look, I just don't know where he is, and then started questioning her? --- That is how I thought of it, and that is how you think of it.

Now you see, last time when you gave evidence you did say that accused no.12, a total stranger, came to you and spoke to you about recruits, and you said that she had - that she said that she had recruits which she wanted to hand over to Phetla (30 and that she also wanted to go to Swaziland? And it was then that/...



that you were asked "Did she say for what purpose did she want to go", this was at page 50, lines 3 to 4, and your answer was : "She did not tell me the reason". — She did eventually say so.

But you didn't say that when you last gave evidence, did you? — I can't - we did ever so many things, I can't remember this and that and that, and that we did this and the other.

I want to put it to you when you last gave evidence you never suggested that at Maponya's shop, on that day when you met accused no.12 at Maponya's shop, she told you she wanted (10 to go to Swaziland for military training? — (Court intervenes).

BY THE COURT: But he said she ultimately, now I don't know whether that was still at the shop. What do you say in your evidence now, when did she say she wanted to go to Swaziland for military training? Was that at the shop or was that at the stage after you had gone to her house that she said she wanted to go to Swaziland? — We were at her home.

MR. CHASKALSON: Are you saying that you went to her home from the shop? — We left together and went to her home together.

Are you saying that you went - and that a discussion then (20 took place in her home? — We were discussing all along the way until we arrived at her home.

✓ You see, let me read you your evidence last time. You said you met accused no.12 at Maponya's shop, and you said you did not know her, it was the first time you had met her. And then at page 49 I will read onwards, from line 29. "What happened when you met" - "She asked me where Wellington Phetla was. I told her, accused no.12, that he was in Swaziland. She said that she had recruits which she wanted to hand over to him and she also wanted to go to Swaziland." Question: (30 "Did she say for what purpose did she want to go", - "She did not tell /...



not tell me the reason." "Did she tell you what recruits these were that she had?" - She told me that it was recruits going for military training". "Yes, and then" - "She asked me to assist her, that is accused no.12, to take her together with the recruits to Swaziland." "What was your attitude" - "I refused to take her and the recruits to Swaziland". "Why" - "I did not know her, nor did I know she was working with Phetla, Wellington Phetla." "What happened then further on after that" - "I left her there and went to a nearby shop." - You see, you said you left her at Maponya's shop? --- I did (10) not leave her at Maponya's shop.

You said nothing about going to her home with her and having a discussion with her at her home about her wanting to go for military training? --- Yes, I don't remember mentioning that I went to her home. What does Paulina say?

Now you went on to say .... (Court intervenes).

BY THE COURT: But did you go to her home? --- Yes, Lord, I and her, we went to her home.

That same day? --- Yes, it was the first time for me to see that that is her home. (20)

MR. CHASKALSON: And was it wrong then when you said that you left her and went to a shop? --- I left her at her home and went to Khehla's shop.

[ Now did you say when you gave your evidence-in-chief on Thursday that you left for Swaziland because you did not like what accused no.12 had asked you to do? --- I went to Swaziland because I was conveying recruits. And even that which accused no.12 mentioned, I had not liked. I had then gone to get confirmation from Phetla and Johnny regarding the discussion between me and accused no.12. (30)

Yes, but the point is you would have gone to Swaziland whether /...



whether you had met accused no.12 or not? --- Yes, I would, because I was conveying recruits.

So your discussion with accused no.12 had nothing to do with your going to Swaziland? --- Even if I had not met no.12 I would go to Swaziland, but that discussion added to the trip to Swaziland, for the purpose of getting a confirmation from Phetla.

And when you gave your evidence on Thursday and Friday, you seemed to suggest that you found accused no.12 to be a nuisance? --- Yes, Lord, she was a nuisance and she made me restless. (10

She pushed herself onto you ... (Court intervenes).

BY THE COURT: He wiggles around with his body to indicate restlessness I suppose.

MR. CHASKALSON: She pushed herself onto you at Maponya's shop? She sought you out at Maponya's shop? --- She came to me meanwhile I was at Maponya's shop.

She nagged you to take her to Swaziland when you did not really want to? --- Did I not want to take her to Swaziland?

I thought you said you didn't want to take her to Swazi- (20 land? --- I said I couldn't take her to Swaziland, not knowing about her.

Are you saying after you had been to Swaziland and came back again, you were quite happy to take her to Swaziland? --- Yes, I was now happy to take her to Swaziland.

Is not accused no.12 an attractive young woman? --- She is lovable.

BY THE COURT: He says it with a big smile on his face.

(25) [ MR. CHASKALSON: Did you not want to have her with you in Swazi- land? --- In what way? (30

Is it not correct that at a time you and accused no.12



were lovers? --- No, Lord, I and her were not lovers.

And when you went to Swaziland was it not because you wanted to make love to her and have her with you in Swaziland?

--- No.

Wasn't it you who suggested to accused no.12 that she should come with you to Swaziland, and that she didn't nag you to take her along? --- No, not me. <sup>(7)</sup>

And isn't it true that when you got to Swaziland you did not take her to the female recruits at Fairview but you took her to the Highway Hotel in Manzini where you shared a room? (10)

--- I took her to Fairview where female recruits were accommodated. There was a time when we went to fetch her, herself, no.12, and other female recruits for a nice time.

Did you not ... (Court intervenes).

BY THE COURT: Where did you have the nice time? Was it at the Highway Hotel at Manzini? --- We went to Mbabane. From Mbabane Club 7, nightclub, we went to the Swazi Spa. From there we went .... (intervention).

Did you take her to the Highway Hotel in Manzini? --- That night that was where we ended, at that hotel. (20)

MR. CHASKALSON: Did you not share a room with her at the Highway Hotel for about a week? --- We stayed in a room in that hotel, myself, no.12, Phetla, Johnny, Joe Nxumalo, and other female recruits and other male recruits as well, we were there.

BY THE COURT: Did you all sleep in one room? --- There were many recruits which had come there, there were only two rooms hired in that hotel. These rooms were being hired by us for the recruits to sleep there. Myself, accused no.12 and Joe, Phetla and other females, we all slept in one room together. But we did not stay for a week long. (30)

MR. CHASKALSON: How long do you say you stayed? --- We only slept /...



slept one night and the following morning we took them to Fairview.

When you gave evidence last time it was put to you that you had been at the Highway Hotel at Manzini, that you had slept in the same room, you agreed that you had slept in the same room, and then the next question was : "Did you not spend a lot of time together, over a week together on that first occasion", and you said : "That is correct, I did stay with her for about one week". — (Mr. Van Pittius intervenes).

MR. VAN PITTIUS: My Lord, I understand the page is 127. (10

MR. CHASKALSON: I am sorry, My Lord.

BY THE COURT: Alright, now you say you stayed with her, according to that evidence, for one week. What do you say about that? Did you stay with her at the hotel one week, or where did you stay the one week, if you stayed one week with her? — As I said My Lord, we left the hotel taking them to Fairview.

Meanwhile I was still in Swaziland I used to go to Fairview and we used to fetch them even late in the afternoon and go to different night places and bring them back again. I stayed for some days, thereafter I left. (20

MR. CHASKALSON: I want to suggest that you made love to her during that period? — I never had intercourse with her.

And that that was the reason why you actually took accused no.12 to Swaziland? — What?

BY THE COURT: It is suggested that you took her to Swaziland not because of any recruits, but you took her along to make love to her, to have her with you? — No, Lord, that was not the reason for getting to Swaziland. )<sup>29</sup>

MR. CHASKALSON: Now you said that you had met accused no.12 at (30  
Maponya's shop and that you yourself left and took recruits to Swaziland, and then returned? — Yes, I did return.

And after you /...



And after you returned you say that accused no.12 persuaded you to take recruits to Swaziland for her? — Yes.

When you came back you had no intention of taking the recruits, it was only because she persuaded you to do so that you went back again? — Because I had already received the confirmation from Phetla I had intended taking the recruits to Swaziland.

Did she have to persuade you to take the recruits? — Yes, Lord, she said to me these people must actually go and stressed a point of Paul Masebe who was to escape. (10

You met her quite by chance in the street? — I was from Khehla to hire a Combi.

You met her by chance, did you? — I just met her there, there were no arrangements that we would meet again.

Did you meet her by chance then? — Khehla's shop is near accused no.12's home. I was travelling up by Combi vehicle when I met her.

And then you met her by chance? — Yes.

And you had already hired that Combi from Khehla? — Yes. (20

And you had hired it because you had recruits and you wanted to take them to Swaziland? — Yes.

But you say you did not take your recruits, but she persuaded you to take her recruits? — Yes, she persuaded me to take her recruits.

So you abandoned your recruits? — Yes, I abandoned them.

And then you went off and you took her recruits? — Yes, I took her recruits. |

Look, I must put it to you that accused no.12 denies that she ever asked you to take her to Swaziland for military training? — Let her come and say it here, I want to hear it.

She also denies that she asked you to take recruits to



Swaziland for military training? --- She must come and tell the court that.

She says she did have a meeting with you at Maponya's shop? --- Yes.

But she says she knew you before that meeting? --- It is possible.

She had been introduced to you before that meeting? --- No, she was never.

She says that you invited her to come with you to Swaziland? --- I invited her? (10)

Yes? --- That is not true.

And that she agreed? That you told her that you were taking young people to Swaziland? --- I never said that to her.

It was the time when the schools in Soweto were closed, was it not? --- Yes, due to riots the schools were closed.

It would have been about October of 1976? --- Yes, it may be October.

And she says that in fact you told her that you had these people you were going to take to Swaziland, the school children? --- That is not true. (20)

And that she went with you and the school children to Swaziland? --- She did eventually go along with me and school children to Swaziland. ]

And that you shared a room at the Highway Hotel? --- We did go and stay in one room at the Highway Hotel.

And that you were lovers? --- That is not true.

You spent about a week together and then returned to South Africa? --- We stayed a few days in Swaziland.

I don't know whether there is any difference between a few days and about a week. --- I don't remember well, that is (30) why I say days.



Now she says there was a second occasion after you had returned to Soweto, when you were going back to Swaziland and you asked her to come with you again? --- Myself?

Yes, and that she came with again? --- I deny that, I never asked her.

And that you again stayed at the Highway Hotel? --- I don't remember well going to the Highway Hotel, but we did go to Swaziland. X

And she says that when she was due to come back to South Africa, it was discovered that she had lost her passport? --- (10) Yes, her passport was lost.

And that you and she were going to travel alone back to South Africa? --- That is true.

But because of the lost passport you went alone and she had to stay behind? --- She did not remain behind because of the lost passport. We went together, I talked to Phetla, and Phetla arranged with the policeman, we went through the border gate. Accused no.12 did not use her passport then.

She says that her passport was subsequently found in Khehla's Combi? --- That is true. (20)

While you were in South Africa and she was in Swaziland? --- Yes, I was in South Africa and she in Swaziland.

And you brought that passport back to Swaziland? --- Yes, I brought it back.

Now in your evidence-in-chief you said that you made three trips to Swaziland with accused no.12? --- Yes, if I remember well, we went thrice.

She says in fact you went two times only? --- No, the trips which I remember, three of them.

I must put it to you when you gave evidence on the last occasion you mentioned only two trips which you said you and accused /... (30)



accused no.12 made to Swaziland together? --- It is possible that I made mention of two trips, because there were ever so many trips which I had to take to Swaziland.

Now you say that when you went with accused no.12 you say you actually took her through the border post without a passport on one occasion? --- Yes, that is true.

And how did you get her through the border post? --- It was during the time when Vusi Mbele was present who had arranged with the policeman at the border gate, and this policeman gave Vusi Mbele the small ticket which are used when one (10) goes through the barrier. Vusi Mbele then brought these tickets along and we handed this to Paulina and the other recruits. They then went through using those small tickets.

Was that from Swaziland to South Africa, or from South Africa to Swaziland? --- From the Republic to Swaziland.

So you got her through the border post from Swaziland to the Republic without a passport? --- Yes, Lord, from the Republic to Swaziland, from Swaziland to the Republic without using a passport.

She always went through the border post you say but once (20) you got her in and out without her having to use her passport? --- There were times when she used a passport, and there is an occasion when her passport was lost when she had not used it.

Now when you returned, you say you came back the second time without having to use the passport and you got to Swaziland, you had accused no.12 with you and you got her through the border post in the manner you have described without using a passport? --- On which trip now?

This is the trip I think which you said that you came back with Vusi Mbele and that you got through the border post with- (30) out having to use a passport? --- There is a trip during which



time I had come to the Republic with accused no.12, on that occasion she had not used her passport. On my way back I was with Vusi Mbele - from the Republic back to Swaziland, accused no.12 was present. It was then that Vusi Mbele and the constable helped us there.

Now all I am saying is that you say - would that have been the third trip that you had taken with accused no.12? --- As far as I can remember it was the last trip.

That you took her with you? --- When she was with me.

The last time you brought her back from South Africa to Swaziland? --- Yes, from the Republic to Swaziland, the last trip. (10

And was it then that Mabhida told you to stop recruiting? --- He had told me that from before if I remember well, before that trip he had told me that if I remember well.

Did he tell you - I understood your evidence, I may be wrong, but I understood you to tell us what you gave evidence-in-chief that when you came back from Swaziland on what you say was the third trip with accused no.12, that Mabhida told you to stop recruiting? --- Mabhida told me before the last trip. (20

You see, when you gave your evidence-in-chief you described the trip back with Vusi Mbele, and that you said that you went after - on that occasion with Paulina and Duma to Fairview and that Mabhida made a report to you that you must stop? --- Yes, there is a trip where Mabhida told me to stop recruiting.

And was that the trip where you brought Vusi Mbele and accused no.12 back to the Republic? --- I don't remember well but within the trips I had been engaged with accused no.12.

Because you see, you seemed, when you gave your evidence-in-chief, to be quite clear of what happened? --- I have no

tape /...



tape recorder, these things were happening but I cannot just mention them in the way they happened, one after each other.

BY THE COURT: You mean in their proper sequence? --- That is correct, Lord.

MR. CHASKALSON:<sup>3</sup> Because you see, I must put it to you as I said that on the last occasion you mentioned only two trips with Paulina, and not three trips. --- I have already described why.

And that you said that it was after the second trip that Mabhida and Chiliza told you to stop recruiting because there (10) was other work they wanted you to do? --- Lord, we have done so many things, I can't remember them all. I cannot tell the court how many trips I had taken, there were many.

Could it then be that you just went twice with Paulina? --- I think more than two.

Are you now saying you are not sure? --- I don't remember well. ]

Now then, I want to put it to you that after you came back having found Paulina's passport, she wanted to come back to South Africa because she had been away for longer than she in- (20) tended to be away? --- I deny that, it is not true if she says so.

And would it be correct to say that round about October or November of 1977 you were becoming concerned about your own position? 1976, I am sorry? --- 1976?

Let me repeat the question. Would it be correct to say that in about October or November of 1976 you were becoming concerned with your own position? --- Yes, it is correct.

You were beginning to think that the Republic was a dangerous place for you to be in? --- Yes, that is true. (30)

And you were contemplating living in Swaziland? --- Yes, that /...



that is true.

And you were also trying to persuade accused no.12 to stay with you in Swaziland? --- No, I never persuaded her to go and stay with me in Swaziland.

Do you remember that accused no.12 was concerned about a younger brother called David? --- Yes, I know about that.

Yes, David had actually been injured in an accident? --- Yes, I know about that.

BY THE COURT: Was that now injured in Swaziland or ..?

MR. CHASKALSON: No, not in Swaziland, before all this, My Lord. (1) And David was a person who was quite dependent upon accused no.12? --- That I don't know.

But in any event, she would not be prepared to leave David behind in South Africa in the Republic? --- Accused no.12 did not want that David should go for military training, but David was always after me.

David was after you, was he? --- Yes, he wanted me that I should convey him.

Wasn't it you who were trying to - either you or one of your friends, who was trying to persuade David to go to school (20) in Swaziland? --- No, there is no such a thing. David and his friend were after me telling me that I should convey them, saying that the same boys of their age in that area have gone already. And the rest of the people want to know from them why is it that they don't go.

Now as I understand your evidence, you say that on the last occasion accused no.12 came back from Swaziland without you? --- Yes, she came back from Swaziland without me.

In fact you did not want her to come back? --- Yes, I did (30) not want her to come back.

And when you found that she had come back without you, you



say that you made arrangements to get her back to Swaziland?

— Yes, Lord, I made arrangements.

And you in fact arranged transport with Khehla? — Yes, I did make transport with Khehla.

[And on that occasion it was arranged that David go to school in Swaziland? — Lord, David's affair was never discussed in my presence.

Accused no.12 was going to go back with David to accompany him to the school in Swaziland? — I don't know anything about that. All I know is that David wanted to go to Swaziland to (10 go for military training as the rest of the boys in that area did.

(12) Now if accused no.12 wanted to go to Swaziland for military training as you say, can you explain why she kept on coming backwards and forwards to Swaziland, and from Swaziland after you had taken her there? — As she said, it was the recruits, she had to take the recruits over to Swaziland.

But I mean she would have known all that before she went the first time, according to you? — Yes, Lord, I was also surprised that she came back again and to Swaziland again and back to the Republic. (20

In fact there was actually no purpose in her going with on that first trip at all, other than to be with you? — Going with whom?

With you? — She told me that she wants to have her recruits to Swaziland, and she also wants to go for military training.

And you got quite surprised when she kept on coming back again? — Yes, that surprised me. }

Now is it correct that you met accused no.6 on one occasion only? — Yes, that is correct. (30

That was when you got a Combi from the house opposite his house?/...



house? --- Yes, the house diagonally opposite his house.

And you arrived at his house at night, did you? --- Yes.

And you say he took you across the road and got the Combi for you? --- Yes.

And you said that Mr. Ramokgadi's name and address had been given to you by Mr. Nkadimeng? --- That is true.

① And you identified Exhibit O as a photograph of Mr. Nkadimeng? Just have a look at it? --- Yes, that is true.

You know, when you were shown exactly the same photograph when you gave evidence in June, 1977, you were unable to (10) identify the person on the photograph? --- That time Nkadimeng was still young, I could - on the photo he was still young, appeared young. I could - I know him already as a grown-up person.

Yes, but when that very same photograph was put to you, you were asked whether you could identify it, and your answer was at page 124 of the record: "I do not know this person on this photo". --- That is true, I said it.

And then you were cross-examined on that and it was ... (Court intervenes). (20)

BY THE COURT: If you were unable to identify him on that occasion, that is the last hearing, how are you then now able to identify him? --- I looked closely at the photo and saw the eyes which were the eyes of Nkadimeng. One can see that this is Nkadimeng, and when this photo was taken he was still young.

Yes, but the same would have applied last time? --- I know Nkadimeng as a hairy man on the face. He has got beard. On the photograph he is very young and he is a man who puts on spectacles. He had no spectacles on.

MR. CHASKALSON: But that makes it even worse. --- I looked at (30) it closely, I saw the eyes. These are the eyes of Nkadimeng.

Let me/...



Let me read to you your evidence which you gave last time when you were cross-examined on this. Page 172, you were asked : "Do you know the photograph of the man whom you said you couldn't point out this morning as a photograph of Nkadimeng, the photograph was put in front of you and you said I did not recognise him on this photo"? And then the judge said : "Would you say the photograph is not Nkadimeng", and your answer was : "That is not Nkadimeng". --- Yes, I said it last year.

Now when that photograph was handed to you when you gave your evidence-in-chief on this occasion, you didn't have any difficulties or reservations about identifying it as Nkadimeng? --- I looked carefully at the photograph, because I did not want to make a mistake as before. (1)

Did you know the photograph was going to be shown to you? --- I did not know.

The last time when you saw the photograph was when you had seen it in court at the Old Synagogue? --- Question again?

The last time you saw that photograph was when you had seen it in the court when you were giving evidence at the Old Synagogue? --- Yes, Lord, that was the last time. (2)

You have not seen it between that time and this time? --- No, I have never seen it, I saw it when I was in the witness box.

And you say you did not know it was going to be produced to you? --- I did not know.

Then why were you worried about making a mistake like you made last time? --- Because previously I was questioned about this photograph, therefore I was careful not to make a mistake as before. (3)

You mean you realised you had made a mistake last time?

--- I realised/..



--- I realised that when I was cross-examined about this photograph.

And when you were shown the photograph you recognised that it was the photograph of the man who on the last occasion you said was not Nkadimeng? --- Yes, I saw it.

But you recognised it as a photograph which had been put in front of you last time and which you had said was not Nkadimeng? --- No, I did not realise it.

Then why did you say you did not want to make a mistake?

--- During the previous hearing when I was asked questions, I then realised that I had made a mistake. Then I made it a point that this mistake need not occur again. I made up my mind that I must look at the photograph carefully. If the court remembers well, during the last hearing I just gazed at the photo and I said I do not know.

BY THE COURT: Well, I was not at the last hearing so I don't know what happened then.

MR. CHASKALSON: But then you were asked to look at it by the judge and the judge asked you a question and he said: "Is this not Nkadimeng"? --- I don't remember exactly. (20)

Did you actually say - I have a note, do you understand English, don't you? --- Yes, I understand English.

Would you just listen to my question in English and perhaps answer me in English, just this one. --- If I do follow the question.

Did you actually say that on the previous occasion it was established that this photograph was Nkadimeng? --- (Through interpreter:) I don't understand the question, repeat it, please.

Did you in fact say that on the previous occasion it had been established that that photograph was Nkadimeng, in his

own /...

MR

How can he give that answer?



own language? --- (Court intervenes).

BY THE COURT: Yes, but when was he supposed to have said that, at the previous hearing?

MR. CHASKALSON: During the course of his giving evidence here now? --- (Intervention).

BY THE COURT: Did you say that when you were giving evidence now? Repeat the question again, Mr. Interpreter.

MR. CHASKALSON: It is a question really of interpretation. I just want to put to you something in English, would you listen to it. I want to suggest to you that you had said that (10 on the previous occasion it was in fact established that that photo was in fact Nkadimeng. Did you say that? --- Not really established, but I realised from the cross-examination that it is Nkadimeng's photograph.

I see, so what you mean, it was put to you last time that that was Nkadimeng's photograph? --- It was not said that way. I realised from the question, the cross-examination, that now it could be John Nkadimeng.

Even though it was - well, it was actually quite clear, it was put to you that the photograph which you had been unable to (20 identify was in fact the photograph of Nkadimeng, it was put to you firmly? --- (Court intervenes).

BY THE COURT: Well, we started off with whether he had said that actually here ..(indistinct).. so I understand he says no, he gave a different interpretation.

MR. CHASKALSON: Well, let's do it again, you can have the services of the interpreter again. Is the correct position that that photograph which you have now identified as a photograph of Nkadimeng was shown to you on the previous occasion? --- It is similar to the one that was shown to me. (30

When it was shown to you on the previous occasion, it was put to /...



put to you that that was Nkadimeng? — No, Lord, it was not put like that to me.

I am afraid it was put in that way to you? — (Court intervenes).

BY THE COURT: Who put it to him?

MR. CHASKALSON: I did, My Lord. It was put to you very firmly at page 172 : "Do you know the photograph of the man that you said you couldn't point out this morning is a photograph of Nkadimeng"? And your answer was : "I did not recognise him on this photo." - Is that correct? — That is correct, My Lord. (10)

And then the judge went further and he said to you : "Would you say the photograph is not Nkadimeng", and your answer was: "That is not Nkadimeng"? — That is true.

Now then you say that when you came to give evidence this time, you did not want to make the same mistake? — Yes.

So when the photograph was put in front of you you said that is Nkadimeng? — I looked at the photograph closely, and I saw the person appearing and I said it is Nkadimeng. (20)

BY THE COURT: Now when did you for the first time realise as you now say that you had made a mistake on the previous occasion?

NB | — It was during the previous hearing when I was cross-questioned.

NB | But you did not correct that mistake you had made at the previous hearing? — Yes, Lord, I did not correct it.

MR. CHASKALSON: When the judge asked you the question : "Would you say that that is not Nkadimeng", why then didn't you take that opportunity of saying "Well, I may be mistaken, but may be wrong". Why did you answer : "That is not Nkadimeng"? (30) — Lord, I just gazed at the photograph and I said this is not Nkadimeng. I know Nkadimeng as a person who wears spectacles on, and /...



on, and a beard. ||

My Lord, I don't know whether this will be a convenient time for Your Lordship?

COURT ADJOURNS.

COURT ADJOURNS UNTIL 2 P.M.

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