

17K 208 3/100

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

Case No.:

In the review Application of:

J J WALUS

First Applicant

C DERBY-LEWIS

Second Applicant

And

AMNESTY COMMITTEE

Respondent

REVIEW

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

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

ON BEHALF OF APPLICANTS

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**VOLUME 5
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thought it opportune to make this clarification in order that the work of the Committee may proceed in a more orderly fashion.

CHAIRPERSON: I don't want to hear any further argument on this matter. I think Mr Prinsloo and Mrs Van der Walt, it is quite clear that when the representatives of the family of a deceased come here to oppose the granting of amnesty, there is no onus on them to prove or disprove anything. They are here to point out that an applicant's case does not meet the requirements of the Act, they have not made a full disclosure or they are concealing facts, arguments of that kind.

There is no onus under the Act on them to prove or disprove anything. So, I think you should bear in mind that whatever documents are going to be used, maybe used, we are concerned with how much weight we are going to attach to any evidence which has been extracted unfairly or evidence which did not correctly reflect what was said by the witness and so on, we will after hearing the evidence, decide how much weight to attach.

It does not involve the question of onus. This is not a criminal litigation or a civil litigation. I think one should bear that in mind. Very regrettably I now adjourn this hearing until tomorrow morning eleven o'clock.

COMMISSION ADJOURNS

ON RESUMPTION ON 15-08-1997 - DAY 5

CHAIRPERSON: Are we ready to begin Mr Prinsloo?

MR PRINSLOO: Mr Chairman, so far the Police or any other people have not been able to transcribe or to make available the tapes that are described to us.

ADV MPSHE: Thank you Mr Chairman. Mr Chairman, before Mr Prinsloo states what he has not received, I just want to put on record inasfar as the tapes are concerned, as to what happened yesterday.

Mr Chairman, ...

CHAIRPERSON: Why don't you let Mr Prinsloo finish what he has to say?

ADV MPSHE: I can do that.

CHAIRPERSON: He hasn't finished, have you finished?

MR PRINSLOO: (No English translation - own translation) Mr Chairman, what I would like to place on record as far as the tape recordings are concerned, that are referred to on page 19 and the following pages, have not been delivered. At this stage it cannot be made available to us. This morning during a discussion between Captain Holmes and Mr Mpshe, Captain Holmes undertook to launch a further search for these cassettes.

Further Mr Chairman, yesterday at four o'clock the cassette recordings were received from Mr Mpshe, they consisted

of a number of ten. Then further Mr Chairman, we also had the opportunity to make copies of documents in possession of the Police and we also gained possession of video recordings.

At this stage Mr Chairman, we would like to continue with our evidence with the proviso that should the tapes with regard to numbers 3 and 4 are obtained, we will refer to those. Thank you Mr Chairman

CHAIRPERSON: Thank you.

MR PRINSLOO: Those are cassette tapes numbered 3 and 4 if you look on page 19, those are the cassettes we are referring to.

CHAIRPERSON: Mr Mpshe, is there anything you wish to say?

ADV MPSHE: Mr Chairman, I have been covered by Adv Prinsloo, I have nothing to say.

CHAIRPERSON: Thank you. Yes, Mr Prinsloo.

MR BIZOS: Mr Chairman, there is something that I wish to place on record which happened outside these proceedings.

Mrs Derby-Lewis, Mr Chairman, who is a person mentioned in the evidence saw fit yesterday to hold a press conference in which she made a number of statements which affect our professional conduct and also affect the reputations of witnesses who may give evidence here.

I do not want Mr Chairman, to become involved in a war of words with Mrs Derby-Lewis, but I am going to ask you Mr

Chairman, to say to her that it is considered improper for her to comment outside this court as to the manner in which we do our work and her opinions about witnesses.

One of the most damaging things that she said was that we were going to lead evidence of known torturers which evidence we scraped from the bottom of the barrel. In defence of our professional integrity and for the credibility of the witnesses that may be called, I want to read firstly to hand in, copies of a letter on President Council letterheads, written by Mr Derby-Lewis to the Colonel in charge of the investigation on 16th of May 1993 in order to show that if we did get this from the bottom of the barrel, it was a statement which completely contradicts her statement that we are relying on evidence obtained under torture.

The letter reads

"President's Council, P.O. Box 1462, Klerksdorp,
1749.

Dear Colonel, just a brief letter to you and your staff in order to thank you for the decent way in which you had treated me during my time spent in detention in Benoni.

I also wish to congratulate you with a very good team and I would like to request you to give my good

wishes to one and all and wish them luck for the future. Once again, thank you very much.

I shall remember you all with positive thoughts.

Kind regards, Clive Derby-Lewis.

When this is all over, I shall once again one day go and visit you."

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Now Mr Chairman, when we tendered the statements made under Section 6 by the two applicants and Mrs Derby-Lewis who on the face of them, appear to be particularly relevant to these proceedings, the Committee was told that they were coerced in making those statements and that they will consider them to be inadmissible. Mrs Derby-Lewis, outside these proceedings, added colour to those statements and the widest possible publicity was given to her remarks.

I am applying Mr Chairman, that Mrs Derby-Lewis be told that purporting to be a journalist, she is of course free to say whatever she pleases, provided she does not say things which are improper in relation to those who are participating in these proceedings and in relation to witnesses who may come.

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I placed on record Mr Chairman, that we believe that the statements were freely and voluntarily made. It was not a statement which was made without proper information and the letter that I have just produced, may go to show that the claim

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that they were not freely and voluntarily made, were false and that most certainly the allegations made by Mrs Derby-Lewis outside this room, were false. Thank you Mr Chairman.

CHAIRPERSON: Mr Bizos, I do not know whether Mrs Derby-Lewis is going to be a witness in these proceedings or not at this stage. It may be that she is exercising her rights of free speech in making a political statement, but I want to assure you that whatever she has said or is reported to have said, has not affected members of this Committee and will in no way influence us.

Any extraneous matter apart from what we hear here, will not have any influence on us. Because I do not know whether she is going to give evidence in this matter at this stage, I do not think that I should call upon her, I do not think that I have authority to call upon her not to make statements.

I prefer to leave the matter as it is, but I want to give you the assurance that whatever she or anybody else says, in press interviews, will have no effect on the proceedings before us.

MR BIZOS: That will be the case, but may I ask that this letter be incorporated into her record, because we believe that it is very material evidence as to whether or not those statements were freely and voluntarily made and could it go into the "R" file as the next page please, Mr Chairman.

MR PRINSLOO: Mr Chairman, may I just assist you. There is a bundle of documents which we intend referring to in testimony this morning and the particular document which Mr Bizos has submitted to you, forms part of this bundle of documents.

I have prepared it and with your permission, if I could receive a reference number for marking this bundle, then we shall submit this to you.

CHAIRPERSON: I think your bundle of documents should be numbered differently. Your bundle of documents were A, B and C and D.

MR PRINSLOO: Bundle D?

CHAIRPERSON: Yes.

MR PRINSLOO: I am indebted to you.

CHAIRPERSON: So you will be now handing in fresh documents. We will regard these documents as forming part of bundle D?

MR PRINSLOO: That is correct Mr Chair. In this particular document, the letter which my learned friend Mr Bizos has referred to, is numbered as number 3. May I submit them to you?

CHAIRPERSON: Yes, please do.

JUDGE WILSON: Am I right in saying that bundle D is also volume 13 in the volumes of the proceedings?

MR PRINSLOO: That is correct Chair, but this is a new document. This is a document which we obtained yesterday from the files, Police files that we looked at

CHAIRPERSON: I thought that we are saying that this will form part of bundle D?

MR PRINSLOO: As you wish Mr Chairman. They are already numbered the pages now, that is from 1 through to 11.

MR MALUNDI: Mr Chairman, with respect shouldn't the bundle form a new bundle E, because D is something different from what my learned friend wants to hand over?

CHAIRPERSON: I think this will now be called bundle E. May we proceed please, thank you. So Mr Bizos, there will be no need for you to hand in this letter, we have received this.

Please do carry on.

MR PRINSLOO: May we then proceed Mr Chairman?

CHAIRPERSON: It's some time since we last sat Mr Derby-Lewis, may I remind you that you are still under oath?

CLIVE- DERBY LEWIS: (still under affirmation)

EXAMINATION BY MR PRINSLOO: (cont)

Mr Derby-Lewis, you wanted to submit something before we recommence?

MR DERBY-LEWIS: Yes, there are two matters. The first concerns my concern about that which I expressed earlier

regarding the effect that our action has had on Mrs Hani and her children and I talked about that. It was then brought to my attention that during my argument Mrs Hani was not present, had not been present.

On Monday I also requested Mr Mpshe, Adv Mpshe that I be afforded the opportunity personally to meet Mrs Hani and her children in the spirit of reconciliation, which is the real purpose of this Committee. 10

I wish to place that on record as an official request that I be given the opportunity to meet Mrs Hani where I will then personally express my sympathy to her and her children.

The second item which I wish to offer Mr Chairman, is also in a spirit of co-operation and also to confirm that we on this side have no intention of unnecessarily delaying this Committee's proceedings. I personally would like to see them finalised as quickly as is possible, and in that spirit Mr Chairman, I refer you to bundle B which contains all of the documentation after Addendum C which we have already covered and I wish to request that without my being led in evidence in regard to these documents, it is in the region of something like 200 pages, that the documents as they stand, be written into the record of the Committee so that I don't have to be led in official evidence. If that will meet with the Committee's approval. 20 30

CHAIRPERSON: I think you should refer us specifically to which documents would form part of your evidence because then they will have to be confirmed under oath, unless they are already in the form of affidavits.

MR DERBY-LEWIS: Certainly Mr Chairman, I refer here to Bundle B, the index to political background documents, from item 3 which is a history of communism in South Africa, commencing with page 57 of the bundle and continuing through to item 10 which ends with other media coverage and it ends with page 186.

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I don't know Mr Chairman, whether perhaps you can lead me or advise me whether I can take an oath regarding this documentation when I wasn't actually the writer of these various publications, I am not sure of that position.

CHAIRPERSON: Mr Prinsloo, you must decide what it is that you would like your client to talk about and if there are documents which have not been compiled by him, which are handed in in support of his application, he can refer to those documents and say I rely on those documents without having to read those documents into the record.

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But where documents are compiled by him, he must confirm the truth and correctness of those documents.

MR PRINSLOO: Honourable Chairman, I was given to be understood by my client that he wishes those documents to be

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regarded as read and not waste the Committee's time with this and that he will depend on those documents.

CHAIRPERSON: Mr Bizos, have you any objection to this procedure?

MR BIZOS: No Mr Chairman, let them present the case the way they want to. Our contention will be that these documents are to a very large extent irrelevant. 10

CHAIRPERSON: When you address us, you will deal with that?

MR BIZOS: Yes.

CHAIRPERSON: Yes, Mr Prinsloo, you may proceed with Mr Derby-Lewis.

MR PRINSLOO: Thank you Mr Chairman. Mr Derby-Lewis I just want to take you back in your evidence, when did you for the first time discuss with your co-accused, the other applicant, Mr Walus, what action to be taken with regard to what prevailed in the country at that particular time? 20

MR DERBY-LEWIS: Well, we started talking about it Mr Chairman, after the mobilisation congress had been held because I personally was convinced at that stage, that the CP and I knew it was going to be extended to the broad Right in South Africa, was really now getting down to business.

MR PRINSLOO: When was that Mr Derby-Lewis? 30

MR DERBY-LEWIS: The congress was held in August of 1992 Mr Chairman. So this would be from September onwards

MR PRINSLOO: Now, did you decide upon the nature of what action you should take?

MR DERBY-LEWIS: Mr Chairman, we discussed various options including the possibility of effecting an assassination which I believed would have been part of the *modus operandi* with which we could reach the objective. 10

MR PRINSLOO: And when did you decide for the first time to assassinate the late Mr Hanı?

MR DERBY-LEWIS: Mr Chairman, that decision I made in February after it was clear to me from the agitation that the late Mr Hanı was busy with regarding the return of weapons from Angola, it was obvious to me that he also meant business from his side, and that was when I decided to identify him as a specific target. 20

CHAIRPERSON: Would that be February 1993?

MR DERBY-LEWIS: February 1993, correct Mr Chairman

MR PRINSLOO: Mr Derby-Lewis, the document now before the Commission, bundle E, the first two pages is a list. Mr Chairman, I must apologise, this is the best copy I could obtain from the Police docket, there is a typed one in the court record, but it is 30

not a copy of the original, and in order to explain this, we made a copy Mr Chairman

There are certain evidence on this that we would like to present to the Commission. Mr Derby-Lewis, before you bundle E, pages 1 and 2, is that the list you made mention of in your evidence? 10

MR DERBY-LEWIS: Well, it didn't exactly have this appearance Mr Chairman, it was in three pages, but I think its been photostatted like this for convenience sake, but on the front page was the information regarding the residence of Mr Nelson Mandela, with a photograph of his residence.

On the second page was the description of how to find the residence of the late Mr Joe Slovo and then on the third page, was the list of 7 names.

MR PRINSLOO: So what you are saying Mr Derby-Lewis, on the front page was what appears on page 2 of this document, on the left of it, although it is not a complete photo of it, a more clear one would appear in the court record, and then the second one is the one of the late Mr Joe Slovo which is page 1 on the document and then it follows on page 2 of the present document, numbered starting at the top B and then proceeding from the number 4. 20

MR DERBY-LEWIS: Which was page 4 of the actual document, yes Mr Chairman. 30

MR PRINSLOO: Now, Mr Derby-Lewis, when did you for the first time, and where, did you see this document now referred to?

MR DERBY-LEWIS: Mr Chairman, the first time I saw this document was in Cape Town in my Parliamentary office. No, not in my Parliamentary office, in the office which the Conservative Party had made available to my wife when I collected her from the bus terminus to bring her back to Parliament as I had come down earlier and it was in Cape Town in the office at her disposal where she took this envelope out of her bag, took the document out of the envelope and showed it to me and made some remark about this is how the representatives of the oppressed lives, with reference to Mr Mandela's residence and then I saw the list.

MR PRINSLOO: Did your wife make any mention of this list at that stage?

MR DERBY-LEWIS: Yes Mr Chairman, she mentioned that she was busy with a big project on gravy train matters and that she was going to make this information available together with other information, to Dr Ferdie Hartzenberg for use in a speech which he was due to deliver in Parliament.

MR PRINSLOO: Mr Derby-Lewis, if you look at the document, if you look at the first page, there is a figure 2 appearing and then on the second page, there is a figure 1 appearing and then it is above the name of President Nelson Mandela and then there are

other numbers appearing on the same second page, starting from 4, written in ink?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR PRINSLOO: Now, by whom was it recorded and when was it recorded, those numbers?

MR DERBY-LEWIS: That was recorded by Mr Walus, it is his handwriting, it is quite clearly so and it was recorded after I went to fetch the list which was laying on a table in the study in our home, together with a lot of other documentation. After I had told Mr Walus that I had identified Mr Hani as the ideal target and that we must now go ahead with the execution of our task.

MR PRINSLOO: Mr Derby-Lewis, in your evidence the day before yesterday, when we made reference to the list which was in typed form in the court record, which does not have the same appearance as it have now before the Commission, it didn't have the hand-written part on it, is that what you explained?

What is the reason for recording the numbers alongside the names?

MR DERBY-LEWIS: The numbers were recorded Mr Chairman, because we decided to record them in priority in respect of their enmity towards the cause of the Right and particularly the Conservative Party.

MR PRINSLOO: Mr Derby-Lewis, on the list again appears on the second page which is the full script of it is not very visible due to the condition of the photostat at our disposal.

JUDGE WILSON: Could you tell me where the other list is?

MR PRINSLOO: May I just get hold of the court record Mr Chairman? I think it is in the bundle as well.

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On the second page appears Mr Derby-Lewis, the words BM and then PWY, did you record that there?

MR DERBY-LEWIS: No, I didn't Mr Chairman. It must have been recorded after I handed Mr Walus the list, Cuba.

MR PRINSLOO: Mr Derby-Lewis, is it correct that you saw the second applicant, Mr Walus, on the 6th of April?

MR DERBY-LEWIS: That is correct Mr Chairman, when I handed him the firearm.

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MR PRINSLOO: And did you see him subsequent to that?

MR DERBY-LEWIS: I did Mr Chairman, I saw him on the following day, the following evening, the 7th of February.

MR PRINSLOO: You mean April.

MR DERBY-LEWIS: Sorry, April Mr Chairman.

MR PRINSLOO: For what purpose did you see him on that date, 7th of April?

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MR DERBY-LEWIS: I saw him because I had undertaken to endeavour to obtain the subsonic ammunition necessary for use in this firearm fitted with the silencer.

MR PRINSLOO: Mr Derby-Lewis, did you give Mr Walus any instructions with regard to the assassination of Mr Hani?

MR DERBY-LEWIS: Mr Chairman, the only instruction I gave him was that he must carry out the execution. The detail of the arrangement he was to do himself.

MR PRINSLOO: Mr Derby-Lewis, on the 12th of April 1993, that was subsequent to the arrest of Mr Walus, did you have occasion to see Mr Arthur Kemp?

MR DERBY-LEWIS: I did Mr Chairman.

MR PRINSLOO: And was this at your residence?

MR DERBY-LEWIS: This was at my residence, Mr Chairman, yes.

MR PRINSLOO: Do you know why he came to your residence, at whose instance?

MR DERBY-LEWIS: Yes, he came at the invitation of my wife because she and he were busy with a specific business project and he was going to bring some information which was going to be put onto the computer with relation to that business transaction of theirs.

MR PRINSLOO: And was there any mention made by yourself or anyone with regard to the list?

MR DERBY-LEWIS: Mention was made by Mr Arthur Kemp himself Mr Chairman, who during the course of my conversation, expressed his concern that the list referred to in the Beeld of that morning, could possibly be referring to the list which he, Arthur Kemp, drew up. 10

MR PRINSLOO: Mr Derby-Lewis, you were arrested on the 17th of April and at the time of your arrest, you made a statement at the police station which is contained in bundle E, page 4, Mr Chairman, and 5.

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: And in that document and the last paragraph, it is stated "I place on record herewith that I do not wish to make any statement" and that was done in pursuance of a warning you received from Captain Deetlief's in terms of Judges' Rules, is that correct? 20

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, subsequent to making this statement, you were placed in detention in the Benoni police cells, is that correct?

MR DERBY-LEWIS: That is correct Mr Chairman. 30

MR PRINSLOO: Mr Derby-Lewis, whilst you were in detention at the Benoni police station, you were removed from the police cells for the purpose of being present when certain information was extracted from a computer which was your property?

MR DERBY-LEWIS: No, Mr Chairman, not quite correct. There were two computers involved because both my wife and I had computers and both of those computers were present and information was extracted from both of them. 10

MR PRINSLOO: When were you taken out of the cells, can you recall or can you refresh your memory from what is before the Commission, it is an extract from an occurrence book which was obtained from the records of the Police, Mr Chairman, page 6?

MR DERBY-LEWIS: Well Mr Chairman, this record indicates that I was arrested on the 17th of April by Colonel Human and another 20 odd people. It also indicates that the arrest was effected at my residence in Krugersdorp. It indicates further that at 00H35 on the 18th of April, that was 35 minutes past midnight, I was detained by Sergeant Slingerland in the cells at Benoni police station. 20

It indicates further that at 01H50 I was booked out for an investigation by one Inspector Els, whom I don't recall, but it could have been somebody who is connected with the computer function. 30

It says further that I was then at 04H45 I was brought back to the cells.

CHAIRPERSON: What date was that?

MR DERBY-LEWIS: That was on the 18th of the 4th Mr Chairman. It indicates further that on the 18th of the 4th at 08H15, I was once again booked out by Colonel Human. It indicates further on the 18th of April, at 11H50, I was placed back in the cells by a Sergeant Breedt. It indicates that on the 18th of April at 18H00 I was once again booked out for investigation by Sergeant Slingerland.

It indicates that on the 18th of April 1993, at 13H30 I was booked back into the cells by Sergeant Slingerland. It indicates that on the 18th of the 4th, at 23H26

MR PRINSLOO: Will you just pause there Mr Derby-Lewis. You were taken out of the cells, was that for the purpose to be present at the time when they extracted the information from these computers?

MR DERBY-LEWIS: That is correct Mr Chairman. The SAP people doing it, insisted that I be present at all times when they worked on the computers and I had to certify as they took information off, that the discs that they had used, were contained in a certain container and I actually had to sign that container.

MR PRINSLOO: Mr Derby-Lewis, at that stage, were you handcuffed and your legs were also (indistinct)

MR DERBY-LEWIS: Mr Chairman, I was in both handcuffs and in foot irons, leg irons.

MR PRINSLOO: And without going into detail of the time, were you present there for a considerable time? 10

MR DERBY-LEWIS: I was Mr Chairman.

MR PRINSLOO: Nearly day and night?

MR DERBY-LEWIS: I was and I can remember being very tired as a result.

JUDGE WILSON: Have you had a chance of looking at the original Mr Derby-Lewis? I ask this because I see entry number 8 says you were taken out, or you read it as if you were taken out at 18H00? 20

MR DERBY-LEWIS: Yes Mr Chairman.

JUDGE WILSON: Entry number 9 says you were brought back at 13H30? Is it?

MR DERBY-LEWIS: 13H30, that is quite right, was that 18H30 maybe? It is 13H30 Mr Chairman.

JUDGE WILSON: I wonder if it was 8, 13H00 not 18H00?

MR DERBY-LEWIS: Oh, sorry I stand corrected Mr Chairman, it is actually 13H00, I have such a bad copy here that it actually looked like 18H00. 30

JUDGE WILSON: Thank you.

MR DERBY-LEWIS: Thank you Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, the following entry it appears that - which you commenced to refer to, at 23H26 you were booked out on the 18th of April by Captain Deetliefs, is that correct?

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MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: And were you interrogated by Captain Deetliefs?

MR DERBY-LEWIS: I was interrogated by Captain Deetliefs until the time indicated on the next entry Mr Chairman, which was the 19th of the 4th at 18H54.

MR PRINSLOO: Mr Derby-Lewis, on the 19th of April 1993, did Colonel Van Niekerk speak to you? It does not appear on this document, I want to refer you to the Section 29 proceedings, I don't have a copy right now Mr Chairman, it is dated the 19th of April 1993.

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MR DERBY-LEWIS: That is correct, I was interviewed by Colonel Van Niekerk Mr Chairman, yes.

MR PRINSLOO: And what did he say to you?

MR DERBY-LEWIS: Well Mr Chairman, he indicated to me that they intended placing me under Section 29 detention and they could keep me under that Section 29 detention for as long as they

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liked with various manipulations and that unless I co-operated with them, I would be placed under Section 29 detention.

After that he indicated to me that if he placed me under Article 29 detention, he could force me to say whatever I wanted them to say and that until I had done that, I would have been detained under Article, Section 29 of the Act. 10

He also said Mr Chairman, that should I be willing to cooperate with them, they would first of all ensure, they would give me the assurance that both Mr Janusz Walus and myself would be granted, he first said indemnity and then when I corrected him because I knew there was no longer a facility for indemnity as a result of the expiry of that particular legislation, he then corrected himself and said no amnesty.

He then reassured me that the two of us would be granted amnesty. He also reassured me with the statement that he would not bother my wife in any way, but that if I decided not to cooperate I would be totally isolated, they would arrest my wife, they would prevent me from any contact with people, with radio, with television, with newspapers, until such time as I had given my co-operation which satisfied them. 20

MR PRINSLOO: Mr Derby-Lewis, were you indeed on that day, the 19th of April arrested by Colonel van Niekerk and placed in detention in terms of Section 29 of the Internal Security Act? 30

MR DERBY-LEWIS: I was Mr Chairman.

MR PRINSLOO: Now, Mr Derby-Lewis, in the cell where you were detained, were you sleeping on a bed, or how were sleeping?

MR DERBY-LEWIS: No Mr Chairman, I was detained in a cell on my own with a cement floor which had a single covering about the size of a mattress, but it was actually a covering of felt which was about that thick, sorry about 75 mm, is that three quarters of an inch.

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JUDGE WILSON: Three centimetres.

MR DERBY-LEWIS: Three centimetres Mr Chairman, about 3 cm thick, it was obvious from the appearance of the cell Mr Chairman, that there had been considerable water leakage on the floor from the toilet which had been recently repaired, there was still wet plaster on the walls when I came in and there were still pools of water on the floor.

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The only other item of furniture in the room was a brick type of table with a concrete slab and although it was at that stage April, it was already extremely cold in that cell.

The cell Mr Chairman, was located next to a cell which contained I don't know how many occupants, and I gathered subsequently that they were members of APLA and they proceeded to kick up a racket 24 hours a day, making sleep impossible.

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MR PRINSLOO: Mr Derby-Lewis, whilst you were detained in terms of Section 29, were you interrogated by Captain Deetliefs and Warrant Officer Beetge?

MR DERBY-LEWIS: I was Mr Chairman.

MR PRINSLOO: And were they including Colonel Van Niekerk members of the Security Branch? 10

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Just a moment Mr Chairman. If you look at page 7 Mr Derby-Lewis, bundle E, Mr Chairman, you were booked out is it correct, for an investigation? Have a look at it?

MR DERBY-LEWIS: Yes, Mr Chairman, on the 20th of April 1993 I was booked at 04H30 by a certain Warrant Officer Beukes whom I don't recall.

MR PRINSLOO: When were you again returned to the cells? 20

MR DERBY-LEWIS: I was returned to the cells on that same day Mr Chairman, at 09H50.

MR PRINSLOO: Is that the same day or the following day? You were booked out at 04H30, is that in the morning?

MR DERBY-LEWIS: That was 4:30 in the morning, yes Mr Chairman.

MR PRINSLOO: I beg your pardon, yes, and you returned to the cells at 09h50. -- (tape ends) -- Mr Derby-Lewis, during that interrogation of Warrant Officer Beetge and Captain Deetliefs, 30

did you make any notes, were you allowed to make any notes at that stage or what was the position?

MR DERBY-LEWIS: I made no notes Mr Chairman at that stage.

MR PRINSLOO: Mr Derby-Lewis, again (indistinct) occasion I will refer you to bundle R4 Mr Chairman, page 54.

MR DERBY-LEWIS: Yes, Mr Chairman.

MR PRINSLOO: Just before I refer to the document I mentioned, Mr Derby-Lewis, did you receive information during your detention that your wife, Mrs Gaye Derby-Lewis, was arrested?

MR DERBY-LEWIS: Mr Chairman, after I had been compelled to cooperate as I mentioned, one of the conditions for my co-operation was that my wife would not be bothered. During the process of interrogation, the subsequent process of interrogation, while it was backwards and forwards where I was told about certain things that had to be included in the statement otherwise it wouldn't be complete, and I was busy correcting and rewriting and drawing up, I was informed by a member of the Security Branch that my wife had been arrested.

It then became obvious to me that I had been totally misled by someone that I expected to be someone of integrity, who if he says something, then obviously you must accept it.

MR PRINSLOO: Mr Derby-Lewis, if you look at the document referred to at page 54 which is the typed document, and if you look at the page 27 Mr Chairman, which is a written document, that is the same document?

MR DERBY-LEWIS: That is the same document.

MR PRINSLOO: The one is just a typed version and the one is a written document? 10

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Now, the written document starting from page 27 is that in your handwriting?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: I will refer you to the typed document, it is more legible, for the convenience of the Committee Mr Chairman, Mr Derby-Lewis, you have gone through the document and I am not going to labour the document, if you look at paragraph 1 onwards, to page 65 Mr Chairman, so ending at page 64 the last paragraph 43 on page 64. 20

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: The information from paragraph 1 up to there, is that correct the information contained therein?

MR DERBY-LEWIS: With many typing errors and spelling errors excluded, it is correct Mr Chairman.

CHAIRPERSON: That means paragraph 43? 30

MR DERBY-LEWIS: Paragraph 43 Mr Chairman, yes.

MR PRINSLOO: Now starting at page 65, paragraph 44, it is over the page, will you read to the Committee this paragraph?

MR DERBY-LEWIS: Paragraph 45?

MR PRINSLOO: 44.

MR DERBY-LEWIS: 44? Certainly Mr Chairman,

"In order to achieve this, we needed this as our objective role, our participation in the armed struggle, we needed to know where they lived and so I drew up a list of names which included other names which are not important in this regard, so that it would not be clear as to the intention behind the list as far as the person we asked for the addresses, was concerned.

The intention was to avoid involving innocent people whom we needed to do certain things for us and this is also the reason why we decided to cooperate with the SAP in this regard as we used a number of people to assist us with various things without telling them or their questioning of our intentions."

MR PRINSLOO: Is this information contained in this paragraph correct Mr Derby-Lewis?

MR DERBY-LEWIS: It is partially correct from the intention to avoid involving innocent people Mr Chairman. As far as the

drawing up of the list is concerned, I did not draw up the list of names.

MR PRINSLOO: And the next paragraph 45.

MR DERBY-LEWIS: Yes, Mr Chairman. The list of names were placed on computer. I cannot remember for sure how I got the list to Arthur Kemp, a former journalist of both the Citizen and the Patriot, but asked him because I believed his journalistic background would put him in state to acquire such information.

MR PRINSLOO: Is this paragraph correct or incorrect?

MR DERBY-LEWIS: It is incorrect Mr Chairman.

MR PRINSLOO: Now turning to paragraph 46?

MR DERBY-LEWIS: Yes Mr Chairman, paragraph 46 reads as follows

"I am not sure when the addresses were returned to me, but it was either at the end of 1992 or the beginning of 1993 and could have come xxx my wife, it must be via as I remember saying at one time that I needed the addresses for some or other vague purpose.

I would not have mentioned Cuba Walus in this regard as both he and I had previously agreed not to involve our women folk, the less they knew the better. Some of the names submitted were not returned and I assumed that Kemp had not been able to obtain the addresses."

MR PRINSLOO: Is that correct or not Mr Derby-Lewis?

MR DERBY-LEWIS: It is not correct Mr Chairman, other than the sentence that refers to the fact that we agreed not to involve our women folk.

MR PRINSLOO: We are turning now to the next paragraph, I beg your pardon, you haven't gone through the bottom part? 10

MR DERBY-LEWIS: I haven't read that yet.

MR PRINSLOO: Read that.

MR DERBY-LEWIS: Must I read that.

"Cuba and I subsequently discussed the list and listed the names in order of importance. During the discussions which Cuba and I held alone, Cuba was not aware that other names were listed to cause confusion. He did not know nor ask why they were there."

MR PRINSLOO: Is that part correct? 20

MR DERBY-LEWIS: No, it is not correct Mr Chairman, except for the statement we listed the names in order of importance.

"He took the list and undertook to recce Hani's address to see whether the attack was possible. During our discussion Cuba undertook to do the attack. I was responsible for the provision of the weapon and the ammunition."

MR PRINSLOO: Mr Derby-Lewis, why did you supply that information? 30

MR DERBY-LEWIS: Well Mr Chairman, I was trying to protect my wife from any possible harassment by the SAP.

MR PRINSLOO: At what stage did you decide to do that?

MR DERBY-LEWIS: I decided to do that Mr Chairman, after I had been informed that she had been arrested under Article 29

MR PRINSLOO: Mr Derby-Lewis, I will now refer you to bundle E again. You have already told the Committee with reference to bundle E, page 6 and 7 indicating to times, without labouring the record, times you were taken into interrogation, kept awake, your sleeping conditions and what had been said to you.

Would you have made any statement or answered any questions had you been given a choice which you have today in terms of the constitution?

MR DERBY-LEWIS: I would have said not a word Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, is it correct that your term of detention was indeed continued after expiration of the first 10 days?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: For a further 10 days?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: When were your detention in terms of Section 29 of the Act, suspended? Do you recall or don't you? Are you not sure of the date?

MR DERBY-LEWIS: It was after 20 days from the 19th Mr Chairman.

MR PRINSLOO: Now **after you** were released from detention in terms of Section 29 of the Act, is it correct that a member of the Criminal Investigation Department, who was then Captain Holmes, obtained a statement from you which is referred to in page 9 Mr Chairman and 10 of bundle E, is that correct?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Is it correct that Captain Holmes informed you of your rights which appears on page 9 and you responded at page 10? Correct?

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

MR PRINSLOO: Will you please read out to the Committee?

MR DERBY-LEWIS: Certainly Mr Chairman, and as it is in Afrikaans, I will read it slowly.

"After consultation with my legal advisers, I prefer not to make any statement and I further wish to state that I was being forced under duress while I was in detention and that my rights as a private individual were affected to such an extent that I would not

receive a fair trial because even on the night of my arrest, I stated in writing that I did not wish to make any statement, and that I also did not wish to reply to any questions.

This right of mine was affected by immediately after making the statement, on 1993-04-17 I against my wish and my will, was interrogated without my legal advisers being present which action makes us entitled to a special note in terms of Act 51 of 1977, which later affected my right to silence being affected to my detriment. Signed at Benoni on the 7th day of May 1993 and I did sign it Mr Chairman, at 14H17.*

MR PRINSLOO: Mr Derby-Lewis, what was your state of mind during your detention, whilst you were detained?

MR DERBY-LEWIS: Mr Chairman, I haven't really given it much thought because I tried to drive that part of my life out of my memory.

MR PRINSLOO: Was it a pleasant experience?

MR DERBY-LEWIS: It was the worst experience I've ever had in my life including anything I had during my military service Mr Chairman.

MR PRINSLOO: Why do you say that Mr Derby-Lewis?

MR DERBY-LEWIS: Well Mr Chairman, I have never felt as insecure in my life before as I did then. Besides the fact that I wasn't allowed to sleep, I was also subjected to all sorts of, I would name them tricks, because that was what they were Mr Chairman.

Like two people in civilian clothes, suddenly rushing into my cell area in possession of a key when I could see no identity, nothing to identify them as policemen, in fact they looked like two real gangsters, came rushing in with a key in their hands and they shouted out they were here to come and fetch me.

They would be outside my cell window and say that I would not be able to sleep even when I was in bed. As part of my military training, in my young days, I was trained to stay awake, but then I was in my 20's.

There at the age of 57, it was expected of me not to sleep for as long as possible, days and days on end. And never before in my life had I been as tired as then.

MR PRINSLOO: Mr Derby-Lewis, what did you feel like during detention in terms of Section 29?

MR DERBY-LEWIS: Sir, I was constantly nervous because I never knew what was coming next. One reads about the atrocities that are committed under Section 29 detention, and one

constantly has at the back of one's mind the question when is this going to start happening to me.

MR PRINSLOO: Mr Derby-Lewis, you were questioned by Captain Deetlief's and that appears in bundle R4, page 19, that is where it starts, as indicated before.

You testified that you were removed from the cells at 04H30 that morning and which is apparent from the document of which we don't have the tape recordings, your name appears on this with a summary of the events?

MR DERBY-LEWIS: That is correct Mr Chairman.

CHAIRPERSON: Just give us the page again please.

MR PRINSLOO: Page 20 Mr Chairman. The first page is 19 Mr Chairman it starts at page 19 of bundle R4.

CHAIRPERSON: Thank you.

MR PRINSLOO: Mr Derby-Lewis, if you look at paragraph 14 on page 20, it is explained or there is a list of names, could you explain the names?

MR DERBY-LEWIS: Yes, Mr Chairman. Those are names which I drafted in the form of a list during one of the many boring moments that I experienced while I was serving in the President's Council.

MR PRINSLOO: Why did you supply those names, or to whom did you supply those names?

MR DERBY-LEWIS: To Deetliefs and Beetge because they had come to me Mr Chairman, with a list of names which had been extracted from a notebook of mine and they asked me whether I had prepared that list and I acknowledged that I had.

MR PRINSLOO: Mr Chairman, I have in my possession

JUDGE WILSON: Is that this list? 10

MR DERBY-LEWIS: Yes Mr Chairman.

MR PRINSLOO: Mr Chairman, we have in our possession a list of names, at this stage I don't have a copy of this list, I undertake to make the list available in a copy form, but I would just like to show him this list and ask him what he knows about this list.

MR DERBY-LEWIS: Mr Chairman, this is one of the lists that I drafted and it is in my printed handwriting.

MR PRINSLOO: For the purposes of the record, Mr Chairman, this list, this document as it exists was taken from the docket yesterday. 20

INTERPRETER: The speaker's microphone is off.

MR BIZOS: ... when Judge Wilson asked was this the list and he said yes, was that the list of paragraph 14 on page 20 or was it the other list that was in the A bundle? I just want that for purposes of clarity?

MR DERBY-LEWIS: Mr Chairman, this list is the list on paragraph 14 on page 20, that is not anything to do with the so-called, with the other address list.

MR PRINSLOO: Mr Derby-Lewis, the list that you refer to as being in your handwriting, do you know where the police got this list from? 10

MR DERBY-LEWIS: Yes Mr Chairman, they got it in my house after they had searched the house. And that is not the only list of names, they found numerous lists of names.

MR PRINSLOO: Mr Derby-Lewis, may I refer you to paragraph 15 on page 20. Mr Chairman, I will submit this list. May I just make copies or do you wish me to hand it in now?

CHAIRPERSON: If it is just in his handwriting and it reflects the same names, then there is no point in handing it in, unless ...

MR PRINSLOO: Mr Chairman, it is not the same list of names, I would like to submit in the next page in bundle E, E12 thank you Mr Chairman. 20

JUDGE WILSON: The only reason I mention this ... (intervention)

MR PRINSLOO: Mr Derby-Lewis, if you look at the names in E12 and paragraph 14 on page 20 of R4, the bundle, if you could just compare those names?

MR DERBY-LEWIS: Sure Mr Chairman, I will compare them quickly with your permission. 30

MR PRINSLOO: Mr Chairman, Mr Derby-Lewis unfortunately drew a circle around the name which doesn't appear in the other list. Please don't make any marks.

MR DERBY-LEWIS: Yes Mr Chairman, I have now compared the list and I have realised that it is not the same list, because in the list which I had prepared the name appears of Roelf Meyer, Ronnie Kasrils, Maharaj and Naidoo and they do not appear in the list on page 20.

And then there are names on the list on page 20 which have been inserted there, which do not appear on my list for example Palo Jordan, Steve Tswete, Sam Ramsamy, Hein Groskopff and then there is also a difference, there is a name on page 20 Bernie Disak, which on my list is Desai, which is a totally different name.

And then there also appears the name of Steve Hofmeyer on the list for some reason or other. Steve Hofmeyer as far as I am concerned, is a famous singer.

MR PRINSLOO: Was there any reason why you would have given Mr Steve Hofmeyer's name to Captain Deetlief's.

MR DERBY-LEWIS: No, not at all, even if I am not a great fan of Steve Hofmeyer's.

MR PRINSLOO: Okay, could we turn to paragraph 15 on page 20 for the sake of the record. Page 20 paragraph 15 for the sake

of the record, could you read it to the Committee Mr Derby-Lewis?

MR DERBY-LEWIS: Sure Mr Chairman.

"From the time that Lewis prepared the above list, he also prepared a list of the most important persons whom were important for them in order to obtain their addresses.

Among them names have been included which were unimportant so that for the person who would obtain the information, is should not have been clear why he had wanted to obtain the information.

This included names such as Karin Breynardt, Ken Owen, Tim du Plessis and Richard Goldstone."

MR PRINSLOO: Mr Derby-Lewis, it is so that we haven't had the privilege of listening to the tapes and to determine whose words they were, but were these your words?

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

MR PRINSLOO: Did you provide such information to Captain Deetlief?

MR DERBY-LEWIS: I can't remember Mr Chairman. I cannot remember, but I wish to repeat that the information is not correct.

MR PRINSLOO: Could we turn to paragraph 16 on the same page?

MR DERBY-LEWIS: Yes, I read Mr Chairman. Paragraph 16.

"The list was placed on computer. Lewis cannot remember whether Arthur Kemp an old journalist, an ex-journalist of both the Citizen and the Patriot, had been contacted telephonically and the names put through to him or whether it had been faxed to him. The reason why Arthur Kemp had been decided upon, was because Lewis had reckoned that with his journalistic background, he would have access to the people and their addresses."

It continues on page 21 Mr Chairman,

"Lewis was astonished when the addresses were returned in the form of an observation report even with a photograph of Mandela's house."

MR PRINSLOO: Would you like to comment on that paragraph Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, yes, I was still involved in the struggle. I was busy with stories, it is not the truth.

MR PRINSLOO: Mr Derby-Lewis, if we could look at page 21 paragraph 17?

MR DERBY-LEWIS: Paragraph 17 reads as follows

"Lewis was not at home when Kemp returned the list.

He is of the opinion that Kemp delivered it to his house personally.

Kemp gave it to his wife Gabriella. I don't know what this funny little thing after Gabriella is, but it is not my mark, who in her turn gave it to him, Lewis.

If Lewis remembers correctly, he asked his wife about the contents of the list whereupon he said that he/they were busy with something and that they needed the list.

Lewis cannot remember whether he had mentioned "Cuba",

that is a repetition of the previous paragraph and the thoughts contained in the previous paragraph.

MR PRINSLOO: Is that information correct or not?

MR DERBY-LEWIS: It was incorrect and it was deliberately given to them incorrectly.

MR PRINSLOO: Paragraph 18, same page Mr Derby-Lewis.

MR DERBY-LEWIS: I will read paragraph 18.

"The handing-over of the list plus receiving it back from Arthur Kemp took place at the end of 1992.

The list had to be abridged and Lewis assumed that Kemp had been unable to trace the others.

As far as Lewis is able to remember, he and Cuba at the end of 1992 discussed the list. They together discussed the importance of the people contained in the list and they prioritised the list of people. The discussions were held over a period and only where Lewis and Cuba were together, alone, Cuba was not aware of the fact that names such as *inter alia* Karin Breynardt had been included with the rest in order to mislead people in the process of tracing addresses.

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According to Lewis, they did not know why they were there and who they were."

MR PRINSLOO: Comment on that information Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, it is not correct except for one sentence where it was mentioned that the discussions were held over a period and only where Lewis and Cuba were alone and that we had held any discussions on our own so that we would not inform our wives of what was going on.

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MR PRINSLOO: Mr Derby-Lewis, you refer to the typed version of this document. Now if you refer to the hand-written document, Mr Chairman, this starts on page 1 and continues through to page 17, is it correct that you did not at all sign this document or had it for inspection?

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MR DERBY-LEWIS: Mr Chairman, this document is not even in my handwriting.

MR PRINSLOO: Do you know whose handwriting it is?

MR DERBY-LEWIS: No, I don't have any idea and I see there is another list.

MR PRINSLOO: It is the same list. You had a look at the list in the written document which is also contained in the typed document?

MR DERBY-LEWIS: Yes, but this document I have never seen.

MR PRINSLOO: Do you know when this document was prepared?

MR DERBY-LEWIS: No, Sir, I don't know. I don't know this document.

MR PRINSLOO: Mr Derby-Lewis, with reference to your handwritten document which you have already looked at, it is in bundle R4 Honourable Chair, page 27 onwards. If you look at page 27 onwards, did you sign it Mr Derby-Lewis?

MR DERBY-LEWIS: Mr Chairman, the note at the bottom of the page says "no alterations" and then there is my signature and the indication is that on this page no changes had been made. It doesn't concern the correctness or genuineness of the document, just that there were no corrections and this was made specifically

on each page except where changes had been made. And there I signed next to the changes.

MR PRINSLOO: If we could refer to the hand-written pages.

MR DERBY-LEWIS: Yes, Mr Chairman. Page 53 confirmed again no alterations and my signature. My signature is affirmation of the words "no alterations".

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MR PRINSLOO: Is that correct Mr Derby-Lewis that the document starting on page 1 of bundle R4 hand-written up to the one which we referred to now, you had not been warned in terms of Judges' Rules at all in regard to these documents?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, were you not detained in terms of Section 29, would you have provided this information or made this statement?

MR DERBY-LEWIS: Mr Chairman, I would not have cooperated with the South African Police, I was involved in an armed struggle, a freedom struggle and they were part of the enemy.

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MR PRINSLOO: Mr Derby-Lewis, if you look at R4 continuation thereof on page 380 Mr Chairman, I would like to refer you to a document which pretends to be the statement of Captain Deetlief, is that the same list or isn't it?

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MR DERBY-LEWIS: Mr Chairman, on page 380 it appears as if the list is the same, except for the fact that I can immediately note that where in the other list, the name Groskopff is written as Hein Groskopff it is not stated as such in this list and then at the name of the singer Steve Hofmeyer is now inserted in "Spokesman Agriculture, ANC"

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CHAIRPERSON: Sorry can you just give us the page again, please.

MR DERBY-LEWIS: Page 380 of the R4 continued.

CHAIRPERSON: Yes, thank you.

MR PRINSLOO: Do you know whether the singer Steve Hofmeyer was ever a spokesman on agriculture of the ANC?

MR DERBY-LEWIS: Mr Chairman, as far as I know, he was never involved in politics at all.

MR PRINSLOO: Did you pass on such information or provide such information to Mr Deetlief's?

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MR DERBY-LEWIS: Concerning Steve Hofmeyer, definitely not Mr Chairman.

MR PRINSLOO: Did you voluntarily provide Captain Deetlief's with this information?

MR DERBY-LEWIS: Mr Chairman, I repeat, nothing was given voluntarily and I wouldn't have given him a single sentence except

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to convince him of my political views, if I had been voluntarily allowed to testify.

MR PRINSLOO: Mr Derby-Lewis, could you please tell the Committee who was the Station Commander in Benoni, in other words the member of the Uniformed Staff when you were in detention? 10

MR DERBY-LEWIS: Mr Chairman, the Station Commander of Benoni police station, was a certain Colonel Roos.

MR PRINSLOO: He was a member of the Uniformed Branch, right?

MR DERBY-LEWIS: Yes, that is correct and I was in his custody during my detention at Benoni.

MR PRINSLOO: The members of the Uniformed Branch, were they at all involved in the interrogation?

MR DERBY-LEWIS: No not at all Mr Chairman. 20

MR PRINSLOO: And the treatment that you received from Colonel Roos and his members during your detention?

MR DERBY-LEWIS: Mr Chairman, that is the letter that I sent. That is the treatment that I received from Colonel Roos and his people while I was in their care.

MR PRINSLOO: Just a moment Mr Derby-Lewis, before you continue. You are referring to a letter which appears on page 3 Mr Chairman, that is the same letter that my learned friend Mr 30

Bizos, at the commencement of these proceedings, referred to this morning.

Mr Derby-Lewis, Honourable Chairman, it is bundle E, page 3. Could you please read this letter and tell us whom you referred to.

MR DERBY-LEWIS: Sure Mr Chairman. The letter is dated 16 May 1993. I am not going to repeat the address this has been submitted, read to the Committee, and that is the letter that reads as follows:

"Dear Colonel, just a brief letter to thank you and your staff for the decent manner in which you had treated me during my detention at Benoni.

I would also like to congratulate you with an excellent team and ask that you kindly pass on to all of them my good wishes and best luck for the future.

Thank you once again.

I will remember you all positively, kind regards, Clive Derby-Lewis.

PS. At the end of this all, I will one day come and visit you again.*

MR PRINSLOO: Mr Derby-Lewis, if you look at this letter and you say that you also wish to congratulate him on an excellent team, whom are you referring to?

MR DERBY-LEWIS: I am referring to the Uniformed Branch at Benoni police station, I was in their care all the time, and I was just handed over to the Security Branch for interrogation.

MR PRINSLOO: Mr Derby-Lewis, this excellent team that you are referring to, did they interrogate you at any stage?

MR DERBY-LEWIS: Never, at no stage. 10

MR PRINSLOO: Mr Derby-Lewis, while you were in detention, I would like to put it like this, Mr Chairman, I refer you to E11, if you look at that Mr Derby-Lewis, do you have it?

MR DERBY-LEWIS: Yes, I have it.

MR PRINSLOO: In whose handwriting is this document?

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

MR PRINSLOO: When was this document written?

MR DERBY-LEWIS: On the 30th of April 1993, during my detention under Section 29. 20

MR PRINSLOO: For what purpose did you write the letter?

MR DERBY-LEWIS: Mr Chairman, I wanted the letter to be sent to a journalist of the Citizen to be able to accept responsibility for the attack that was executed.

MR PRINSLOO: Would you please read this letter to the Committee?

MR DERBY-LEWIS: Certainly Mr Chairman. It is actually more in the form of an affidavit or a statement and it reads as follows: 30

*The objects of the attack:

1. To strike a blow for Almighty God and Christianity against the anti-Christ communism in the form of the leader of the SA Communist Party.
2. To destroy the military leader of Umkhonto weSizwe who by his own acknowledgement was responsible for the cold-blooded murders of elderly Whites, women and children and attacks on them and on our Security Force personnel.
3. To focus attention on the fact that the future of my people was being betrayed through concocted forums such as the MPF, an abbreviation for the Multi-Party Forum and that we were aware of these plans and that we would oppose them with everything in our power.
4. To focus attention on the fact that my people are entitled to a territory of their own in Southern Africa wherever it may be, but that this is indisputable.

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5. In the hope that the attack would activate Afrikaner leaders into united action to save their fatherland and their people."

I did not sign it because I did not want to provide a problem for the journalist concerned, but I closed the statement with the following:

"For God, my people and my country."

MR PRINSLOO: Mr Derby-Lewis, at the top of this document it says the Citizen and then Miss Chris Steyn.

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: This document, E11 to which you have referred, you wrote this document during your detention, what did you do with it then?

MR DERBY-LEWIS: In one way or another I smuggled it out. I was in Section 29 detention and I did not have any access to other people. I do not remember how I got it out, but I smuggled it out Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, this letter or this statement as you called it, E11, was it ever published or not?

MR DERBY-LEWIS: No Mr Chairman, in the process it was lost somehow.

MR PRINSLOO: After your release, did you manage to trace the letter?

MR DERBY-LEWIS: Yes, Mr Chairman, it was handed to me by my wife long after the sentence and the detention, she visited me.

She then brought this envelope and she asked me what it was. I then became aware of the fact that it had not reached the journalist to whom I have sent it.

MR PRINSLOO: Honourable Chairman, may I ask your indulgence so that we can ...

CHAIRPERSON: I didn't hear what you said.

MR PRINSLOO: Honourable Chairman, I would ask you indulgence for a short adjournment. I am about to close the evidence of the applicant. I would just like to make very sure that we have not left out certain aspects. It is a rather long version and all the documents that we did not have to read into the record and so forth.

If you could grant me that indulgence I would appreciate it Mr Chairman

CHAIRPERSON: We will stop these proceedings for a very short while.

MR PRINSLOO: As the Committee pleases.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: Mr Prinsloo, are we ready to proceed?

MR PRINSLOO: Honourable Chairman and Committee members, I thank you for your patience with the adjournment. I would like to refer to no.12, I'd like to hand it up, that is then Exhibit 12 that I would like to hand up, and Mr Derby-Lewis testified to that as you can remember. We had photocopies made during the adjournment, and with your leave I would hand it up to the Honourable Committee members. This is the list in Mr Derby-Lewis' handwriting that he testified to that as you can remember

JUDGE WILSON: E12?

MR PRINSLOO: That is correct Mr Chairman, it is E12.

CHAIRPERSON: Yes, please proceed.

MR PRINSLOO: Mr Chairman, I would like to continue. Mr Derby-Lewis, besides the differences in the statements, are you speaking the truth here today?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR PRINSLOO: Have you made full disclosure?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR PRINSLOO: How do you feel today with regard to reconciliation in the country, specifically reconciliation? Mr Derby-Lewis, how do you feel about the law with regard to

disclosure, the relevant Act and what the Committee is doing here today?

MR DERBY-LEWIS: Mr Chairman, since October 1993 I am a sentenced incarcerated person in a maximum prison.

During that period I have achieved reconciliation with myself and also with other political prisoners and I have reconciled myself with their political involvement and in this case, Mr Chairman, I refer to members of the ANC, members of the PAC, of the IFP and all the other political prisoners who are at present in maximum security prisons.

We achieved such a good relationship Sir, that eventually we started a political prisoner forum in the prison to look after the political interests of all persons involved.

I also Mr Chairman, during my sojourn at maximum prison became the first Chairman of the newly established recreation club of the committee of the newly established recreation club and I can assure you Mr Chairman, that I was unanimously elected to that position in a prison where, I am sure everyone knows the vast majority of prisoners, are prisoners of other racial groups.

I think Mr Chairman, that I will always be grateful for what the TRC has provided for me, an opportunity to purge myself of something out of which I gained no pleasure doing and I think

that my record at maximum prison actually confirms to what extent I found myself and also my relationship with others.

MR PRINSLOO: Carry on Mr Derby-Lewis.

MR DERBY-LEWIS: Thank you Mr Chairman. I would like to say in conclusion that my involvement in all that I have done had nothing to do with the support for, nor was it aimed at ensuring the continuance of apartheid. Whatever I had done Mr Chairman, over the past more than 25 years, has been aimed at the preservation of the freedom I and my people so treasure and for which so much has been sacrificed in the past.

If what I have done is wrong, then let it be judged in conjunction with far worse atrocities committed in the name of various struggles against totally innocent and guiltless civilians of all races.

Let it be judged Mr Chairman against the bomb set against innocent victims of all races on all sides. Let it be judged against the slaughter of innocent civilian victims of landmines set on farm roads, never used by the military.

Let it be judged against the hundreds of victims of assassination by burning tyres so nicely referred to as "necklaces"

Let it be judged against the horrendous slaughters of Black town councillors whose only crime was that they tried to use the system for the benefit of their people.

Let us rather accept that these people were all victims of war Mr Chairman, a war in which there was no victory, only victims. A war in which all of us were victims in some way or another, every single one of us Mr Chairman. There can be no fingers pointed, only deep sympathy for those bereaved of loved ones and hopefully forgiveness all round.

The war is over and it is time we turned to peaceful methods for the resolution of our problems and differences. Let us learn from the lessons of the past, rather than to cause that those who have died, did so in vain. Thank you Mr Chairman.

MR PRINSLOO: Mr Derby-Lewis, the political struggle of the Afrikaner, Conservative Party, the broad right-wing forum of which you are part, you described that in detail is that correct?

MR DERBY-LEWIS: Yes, I had.

MR PRINSLOO: Now this deed, according to your testimony if I understand it correctly, you committed this deed from a political point of view?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR PRINSLOO: Now at the time of the commitment of this act, were you a member of the Conservative Party?

MR DERBY-LEWIS: Yes Sir, I was as well as of the Afrikaner Front, as such.

MR PRINSLOO: Is that your testimony that what you and your fellow-accused did, was done in good faith and for the sake of and in support of the Conservative Party and the broad Right-wing front, the Afrikaner, whose struggle you were struggling?

MR DERBY-LEWIS: Yes, that is correct Mr Chairman.

MR PRINSLOO: And do you still believe that you planned and carried out this deed to promote the Conservative Party and the broad Right-wing forum to which you were committed in the struggle?

MR DERBY-LEWIS: Yes, I did Mr Chair.

MR PRINSLOO: Thank you Mr Chairman.

NO FURTHER QUESTIONS BY MR PRINSLOO

CHAIRPERSON: Mr Bizos?

CROSS-EXAMINATION BY MR BIZOS: Thank you Mr Chairman. Mr Derby-Lewis you used the word "let us" quite often in your peroration, let us try and find out whether you are a man who is prepared to commit perjury without any qualms; shall we try that?

Will you please have a look at R2, page 107. I beg your pardon, it is page 117. Have you got it Mr Derby-Lewis, R2,

page 117?

CHAIRPERSON: That is the notice of motion?

MR BIZOS: That is so Mr Chairman.

MR DERBY-LEWIS: Sorry Mr Chairman, the top of my numbers are cut off and I am having difficulty reading them with the photocopying.

MR BIZOS: Page 117, that is your application to reopen your trial?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: Turn to page 129.

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: Was the oath administered to you by an Commissioner of Oaths and did you swear that what you said from page 120 to 128 was true?

MR DERBY-LEWIS: I did Mr Chairman.

MR BIZOS: Does your signature appear at the bottom of page 128?

MR DERBY-LEWIS: It does Mr Chairman.

MR BIZOS: There you attempted to persuade the court that you were innocent of the killing of Hani. Is that correct?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: You put the blame on your lawyers for not explaining to you properly what your rights were in asking for a reopening of the trial?

MR DERBY-LEWIS: That was part of the story Mr Chairman.

MR BIZOS: We will come to all the parts. Answer the question that I put to you. Did you put the blame on your lawyers for not advising you of your rights? 10

MR DERBY-LEWIS: I did Mr Chairman.

MR BIZOS: Were you defended by a senior member of the Pretoria Bar?

MR DERBY-LEWIS: I was Mr Chairman.

MR BIZOS: Were you telling the truth when you were putting the blame on him or not?

MR DERBY-LEWIS: As far as his advice was concerned Mr Chairman, I was telling the truth. 20

MR BIZOS: Oh, so you are saying that he actually didn't perform his duty properly towards you in informing you of what your rights are and that he really advised you not to give evidence?

MR DERBY-LEWIS: Mr Chairman, I stated that I was advised to remain silent at all costs and not to testify.

MR BIZOS: Yes, well let's leave that out for a moment. But if we look at the application, you said that you were innocent and if you were given an opportunity to reopen your trial you would give evidence claiming your innocence. Is that correct? 30

MR DERBY-LEWIS: Mr Chairman, as I testified earlier
...(intervention)

MR BIZOS: Answer the question please Sir, and then you can explain.

MR DERBY-LEWIS: Would Counsel mind then repeating the question Mr Chairman, I am trying to answer the question.

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MR BIZOS: Yes. Was the gravamen of your application that if your trial was reopened, you would give evidence that you were innocent of any wrongdoing?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: You went on oath to say that you would, if your trial was reopened, that you would go into the witness box and plead that you were innocent and say under oath again that you were innocent?

MR DERBY-LEWIS: That is correct Mr Chairman.

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MR BIZOS: Who was acting for you when you made this application?

MR DERBY-LEWIS: Mr Chairman, the Advocate was an Advocate Brouwer.

MR BIZOS: And the attorney?

MR DERBY-LEWIS: The attorney was the attorney on my left hand.

MR BIZOS: Your present attorney?

MR DERBY-LEWIS: My present attorneys, correct.

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MR BIZOS: Did you lie to your attorney?

MR DERBY-LEWIS: I did Mr Chairman.

MR BIZOS: Nobody compelled you to lie to your attorney?

MR DERBY-LEWIS: No one compelled me Mr Chairman, except for the fact that I was busy with an armed struggle and I was determined to give as much opposition as possible under any circumstances.

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MR BIZOS: By the time you came to this application, you told your Attorney that you lied to him when he prepared this application for you?

MR DERBY-LEWIS: No Mr Chairman.

MR BIZOS: Didn't he ask you but you told me when I, when you instructed me to apply for the reopening of your trial, you told me that you were innocent, here you are now telling me that you are guilty and you want me to act for you in your amnesty application, did that not happen?

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MR DERBY-LEWIS: We have not have that discussion Mr Chairman.

MR BIZOS: Do you mean to say, Sir, that an honourable member of our profession did not ask you about your perjury and your attempt to defeat the ends of justice when you applied for the reopening of your trial?

MR DERBY-LEWIS: Mr Chairman, my attorney and my advocate asked me why I perjured and I told them that I was busy

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with the armed struggle and I was prepared to offer whatever resistance I could in any form whatsoever, even if it mean lying.

MR BIZOS: I see. Now then we have it from you Sir, that your legal representatives knew that as part of the armed struggle you committed perjury and you attempted to defeat the ends of justice?

MR DERBY-LEWIS: That is correct Mr Chairman, as did many other freedom fighters.

MR BIZOS: As what?

MR DERBY-LEWIS: As did many other freedom fighters.

MR BIZOS: Please leave the other freedom fighters, we are dealing with your case today Mr Derby-Lewis.

(Very loud clapping and cheering)

CHAIRPERSON: You are going to delay these proceedings, please, we would not like any delays. Allow the witness to give evidence.

MR BIZOS: Do we understand that your legal representatives, your present legal representatives knew that you had attempted to defeat the ends of justice and committed perjury and they did not advise you to apply for amnesty for committing perjury and attempting to defeat the ends of justice?

MR DERBY-LEWIS: They did not advise me that, Mr Chairman.

MR BIZOS: Now, why knowing that you had to make full disclosure, why did you not in your application say by the way, in

furtherance of the armed struggle I, as a freedom fighter, also committed perjury and attempted to defeat the ends of justice, why didn't you disclose that fact in your application?

MR DERBY-LEWIS: I testified to that extent now in front of the Committee Mr Chairman.

MR BIZOS: Yes, after we served papers on you containing a copy of your application. The question is why didn't you in your application disclose that you had committed perjury and attempted to defeat the ends of justice? 10

MR DERBY-LEWIS: Mr Chairman, the first statement is not correct and the second statement was, I was unaware of the fact that I had to ask amnesty for that because I was told that I had to apply for amnesty for crimes for which I had been found guilty.

MR BIZOS: I see. So you have, you didn't think that you had to disclose all the crimes that you had committed in furtherance of the struggle? 20

MR DERBY-LEWIS: No Mr Chairman, because I was not aware of a single applicant asking for amnesty for having committed perjury in the past.

MR BIZOS: Now, also this application shows that you have quite an inventive mind. Will you agree with that?

MR DERBY-LEWIS: No Mr Chairman.

MR BIZOS: Let us take a couple of examples of how you tried to mislead the court. You say on page 101 that you will set out, 111 I beg your pardon, your version.

MR DERBY-LEWIS: Can I ask Mr Chairman, to what bundle Mr Bizos is referring?

MR BIZOS: R2, we are still on this bundle until I give you notice of a change. In 3.3.1 you say that during February 1993 the witness Venter contacted you when he came to Krugersdorp.

MR DERBY-LEWIS: I am sorry Mr Chairman, it is not my 111

MR BIZOS: 112.

MR DERBY-LEWIS: It is not my 111.

MR BIZOS: 112, paragraph 3.3.1. You say there that Venter came to Krugersdorp and you tried to establish some political contact.

MR DERBY-LEWIS: He tried to establish contact Mr Chairman, correct.

MR BIZOS: He tried, yes.

"On this occasion when the said Venter visited me I jokingly asked him if he could get or if he could organise how I could get a firearm".

is that correct?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: Please explain the joke Mr Derby-Lewis.

MR DERBY-LEWIS: Mr Chairman, I was not certain of Mr Venter's loyalties and therefore to test him, jokingly requested whether he knew of anything to see what his reaction was.

MR BIZOS: Did you laugh when you made this joke?

MR DERBY-LEWIS: I did Mr Chairman.

MR BIZOS: You did?

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MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: And did he laugh?

MR DERBY-LEWIS: No Mr Chairman, he immediately answered that he could find one for me.

MR BIZOS: Precisely. So not only were you going to tell the court that this is correct, but you are trying now to say to the Committee that this whole affair started as a joke?

MR DERBY-LEWIS: I am not saying that for one minute Mr Chairman.

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MR BIZOS: Now, you were holding out at your trial and when you made this application, and the good people of the Conservative Party were collecting money for you, that you were innocent and that you were being framed up by the pariah FW de Klerk's government into being implicated in this case, have I summarised the position correctly?

MR DERBY-LEWIS: What source is Mr Bizos quoting here Mr Chairman, because when I was in prison I wasn't allowed to say anything in public.

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MR BIZOS: No, was it not held out on your behalf that the places where money was being collected for your defence, that one of our innocent members is being wrongly accused of the murder of Hani?

MR DERBY-LEWIS: I don't know what happened at those fund-raising functions Mr Chairman, I was not present. 10

MR BIZOS: I see. You have also told us that your wife was received as an idol when she was acquitted at a Conservative Party meeting. Were you contending at that time by making this application to set your conviction and sentence aside, that you were innocent?

MR DERBY-LEWIS: Mr Chairman, that reference that I made was to indicate the support of the Conservative Party.

MR BIZOS: Yes. I want to cut this short Mr Derby-Lewis. What support did you think that the honourable people in the Conservative Party would have given you if they knew that you were in fact guilty at the time when you were contending you were not guilty, that you had committed perjury and that you were attempting to defeat the ends of justice? 20

MR DERBY-LEWIS: Mr Chairman, my impression of the support I obtained was that my supporters believed that the end, the cause deserved the end used.

MR BIZOS: You claim throughout your evidence at a number of occasions that you are a religious man Mr Derby-Lewis. 30

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: And that you punctuated your evidence from time to time that some of the things that happened, appeared to you to be the Will of the Almighty?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: You also went so far as to suggest that the late Dr Treurnicht's religious background influenced you in some way. Are you going to tell the Committee that your religion and your depth of belief in the Almighty, gives you the right to commit perjury and to attempt to defeat the ends of justice? 10

MR DERBY-LEWIS: Mr Chairman, in an armed struggle, all tactics are fair and I have already expressed my regret over certain actions which I had to take. Nobody comfortably, willingly contravenes the law, no matter whose law it is.

MR BIZOS: Yes. You were going to be the leader of a glorious counter-revolution if I can summarise your evidence correctly? 20

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

MR BIZOS: Well, we will come to that. We will come to that a little later, but isn't it correct that those who act out of their depth of feeling and who commit wrongs acknowledge what they have done and try to justify their legally wrongful act on moral grounds?

MR DERBY-LEWIS: No, that is not correct Mr Chairman. 30

MR BIZOS: That is not correct according to you. And that people who really want to perform unlawful acts for a noble cause, don't lie under oath and do not commit perjury nor do they try to defeat the ends of justice, you disagree of course?

MR DERBY-LEWIS: I disagree with that Mr Chairman, yes.

MR BIZOS: Yes. Now, Mr Derby-Lewis, let's see this letter of the 16th of May 1993 which you wrote to Dear Colonel.

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Let us for the time being pending further instructions that we accept your evidence that it was to Colonel Roos. It is Exhibit E3 Mr Chairman. Now Mr Roos, or Colonel Roos you told us was the person in charge of the Benoni police station where you were held.

MR DERBY-LEWIS: He was the Station Commander.

MR BIZOS: Station Commander.

MR DERBY-LEWIS: Correct Mr Chairman.

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MR BIZOS: And he had an excellent team that you congratulated in your letter?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: Was it that team that prevented you from sleeping by putting you in a cell next to a group of APLA people that kept you awake the whole night?

MR DERBY-LEWIS: No, it wasn't Mr Chairman.

MR BIZOS: Well, wasn't he in charge of his police station?

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MR DERBY-LEWIS: Mr Chairman, I don't believe that he had any say over where I had to be placed because it was obviously a tactic to intimidate me under a circumstance like that.

MR BIZOS: Was he not the Head of the police station where you say you were given a wet mat to sleep on?

MR DERBY-LEWIS: He was the Station Commander under instructions obviously of his superior who was the Commander of the East Rand Murder and Robbery Squad and I assume he was carrying out the instructions as to how somebody that they want to interrogate had to be intimidated.

MR BIZOS: How have you come to congratulate a Colonel who hasn't got the backbone to run his own police station?

MR DERBY-LEWIS: Mr Chairman, I don't believe he willingly submitted me to that treatment.

MR BIZOS: But if he didn't, the people that you praise as an excellent team, isn't this another example of fabrication on your part?

MR DERBY-LEWIS: No it is not Mr Chairman, because the people that I referred to as an excellent team were the people who were caring for me, they were not the people who were interrogating me and subjecting me to all forms of mental torture, that was the Security Branch people, the Security Police.

MR BIZOS: They were the people who allowed you to be interfered with for gangster like looking policemen to come and

wake you up. Isn't this yet another example in which you might possibly be lying in furtherance of the struggle?

MR DERBY-LEWIS: No it is not Mr Chairman, and it can be verified by a report which appeared in a newspaper in which the reason for my being eventually transferred to the maximum prison before I was found guilty, was for my own personal safety because of these incidents which had taken place and in fact as a result of those incidents, I had very quick action from the Uniformed people to try and investigate what was going on.

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MR BIZOS: If you were prepared to lie under oath once and attempted to defeat the ends of justice, can you give the Committee any yardstick in terms of which they could judge that you are possibly not lying during these proceedings as part of the armed struggle?

MR DERBY-LEWIS: Mr Chairman, anyone attending a hearing like this where truth is of the essence, would be an absolute idiot to even endeavour to lie to this Committee.

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MR BIZOS: How much wiser were you when you falsely tried to reopen your trial?

MR DERBY-LEWIS: I don't understand the insinuation in that question Mr Chairman.

MR BIZOS: The insinuation is a simple one Mr Derby-Lewis, that you say that anyone who tries to mislead this Committee would be very foolish because the truth has to be told. Didn't the

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truth have to be told to the Judge President of this Division when you tried to bluff your way through in setting aside your conviction and sentence?

MR DERBY-LEWIS: Mr Chairman, I explained and I repeat again, it was part of the struggle and any tactic was suitable. To now lie before this Committee, what would I gain out of lying Mr Chairman? 10

MR BIZOS: To go free in order to continue the struggle.

MR DERBY-LEWIS: Mr Chairman, anyone knowing the accent on the truth as observed by this Committee and I have seen it, I watch its operations very closely, would not go along with something like that.

MR BIZOS: Yes. Mr Derby-Lewis, I want to put a number of questions to you before the court adjourns today so that we can plan the cross-examination over the weekend. 20

Will you please turn to R4 page 251 because I want to know how much of this you admit and how much you deny.

MR DERBY-LEWIS: I have page R4, 251.

MR BIZOS: 251, this is a statement by your wife. Please look at paragraph 43.

In January 1993 I telephoned Arthur Kemp at the Citizen in Johannesburg and said I was going to send him a list of names and that I wanted a description of their houses and addresses. 30

That is by way of introduction - I only want to know insofar as you are concerned, whether what is said is true or untrue?

MR DERBY-LEWIS: It is not true, Mr Chairman.

MR BIZOS: Right. Well, you can't really say whether your wife telephoned Mr Kemp or not.

MR DERBY-LEWIS: Correct.

MR BIZOS: Leave that aside for the moment, but I said that was by way of introduction.

"This was done..."

this is your wife speaking.

"This was done after much serious thought and because Clive and I felt that unless something dramatic was done, the country would be controlled by communists".

True or false?

MR DERBY-LEWIS: I cannot comment on my wife's evidence Mr Chairman. I am unable to make myself aware of the circumstances under which it was given and whether these are correct or not.

MR BIZOS: No, Mr Derby-Lewis, please listen to the question carefully. This says that there was-

* - after much serious thought and because Clive and I felt that unless something dramatic was done, the country would be controlled by communists, Clive

and I therefore highlighted the names of people whom we believed to be the enemies of South Africa".

This is what your wife is recorded as having said, it reflects you, is it true or is it false?

MR DERBY-LEWIS: It is false, Mr Chairman.

MR BIZOS: It is false? We will come back to it.

MR DERBY-LEWIS: As far as I am concerned.

MR BIZOS: Then your wife says that. -

"The journalists addresses..."

the last sentence,

"...were requested because I wanted to write to them about their attitudes towards the CP".

As far as you know, was it necessary for your wife to employ an agent, like Mr Kemp in order to find any journalists addresses?

MR DERBY-LEWIS: I don't know.

MR BIZOS: She purports to be a journalist herself. Doesn't she?

MR DERBY-LEWIS: She does Mr Chairman.

MR BIZOS: Yes. And why would Mr Kemp be employed to find journalists addresses by another journalist?

MR DERBY-LEWIS: I don't know Mr Chairman.

MR BIZOS: Well, your wife gives the answer as we go along.

MR DERBY-LEWIS: But I can't answer it Mr Chairman.

MR BIZOS: Yes.

"When I spoke to Arthur on the phone about supplying the addresses and I did not go into specifics, he is politically shrewd and I believe that he felt that there was no need to spell out why we needed the names, after all we were on the phone".

Do you know anything about that?

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MR DERBY-LEWIS: No Mr Chairman.

MR BIZOS: If those statements by your wife are true, would they tend to show that your wife was party to the conspiracy to murder Hani?

MR DERBY-LEWIS: I can't comment on what my wife said or what she was thinking or whatever Mr Chairman.

MR BIZOS: And the other people on the list?

MR DERBY-LEWIS: I can't comment on anything like that.

MR BIZOS: You can't comment?

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MR DERBY-LEWIS: No.

MR BIZOS: Paragraph 44 -

"Certain of the names of the list we "

"we" and the we in the statement is you and she,

"Certain of the names on the list, we believed to be the enemies of South Africa"

Is that correct?

MR DERBY-LEWIS: I don't know Mr Chairman.

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MR BIZOS: Oh come Mr - you have already told us that these people were the enemies of South Africa, why do you deny it now?

MR DERBY-LEWIS: Mr Chairman, Adv Bizos is trying to get me to confirm something which was given in so-called evidence by my wife under Section 29, and he wants me to confirm it. I cannot do it. 10

MR BIZOS: No, what I am asking you —

CHAIRPERSON: Even though it is said by your wife, she is expressing views in which she says that you held similar views to her. Now the question is really certain names on the list we believed to be the enemies of South Africa.

As I have understood your evidence, you have said that it is so that some people on that list you did regard as enemies of South Africa. So to that extent you have to concede that what is said by your wife, is correct. 20

MR DERBY-LEWIS: Mr Chairman, if I testified that I drew up lists of people I considered to be our enemies and our opponents, I admitted that in previous evidence.

CHAIRPERSON: ... in the first sentence is something with which you don't disagree?

MR DERBY-LEWIS: As far as I am concerned?

CHAIRPERSON: Yes.

MR DERBY-LEWIS: Yes Mr Chairman. 30

MR BIZOS: Was that not also your wife's view? After all you were married to one another and on good terms apparently.

MR DERBY-LEWIS: Mr Chairman, whether she agreed with my views or not, I cannot express an opinion on her testimony or her so-called evidence, I cannot do that.

MR BIZOS: If you listened to the preamble to my question

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

MR BIZOS: Your wife is recorded as having said, what I am asking you is whether as far as you are concerned and insofar as she make references, she makes references to you, is what is recorded correct or incorrect? Do you understand what I am saying?

MR DERBY-LEWIS: Yes Mr Chairman, as long as I am not being asked to confirm her testimony. If I am being asked to confirm her opinion, it is correct.

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MR BIZOS: Just listen again, I will repeat to confirm. I will repeat it. You are a man in public life and you have shown great understanding of the English language and particularly articulate. I will repeat my question so that there is no misunderstanding.

I will read out to you what your wife is recorded to have said. Insofar as it related to you, I want to ask you whether what is recorded is true or untrue, is that clear?

MR DERBY-LEWIS: As regards to me, it is true.

MR BIZOS: Yes.

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MR DERBY-LEWIS: Yes.

MR BIZOS: Didn't you know whether your wife regarded the people on the list as enemies of the State?

MR DERBY-LEWIS: On which list Mr Chairman?

MR BIZOS: The list that your wife is referring to, the list that is before the court in various, any list? 10

MR DERBY-LEWIS: Mr Chairman, there are already three lists before the court.

MR BIZOS: Any one of the three lists?

MR DERBY-LEWIS: She didn't know about two of those three lists that I

MR BIZOS: Any list.

MR DERBY-LEWIS: She knew about a list which she had submitted to Arthur Kemp for information, yes.

MR BIZOS: Yes, let's confine ourselves to that list. 20

MR DERBY-LEWIS: Right, correct.

MR BIZOS: "Certain of the names on the list we believed to be the enemies of South Africa"

is that correct or incorrect?

MR DERBY-LEWIS: Mr Chairman, I share that opinion, but she cannot speak on my behalf. I am an independent person.

MR BIZOS: No

JUDGE WILSON: Surely Mr Derby-Lewis, if you and your wife discuss things together as most families do, you can say whether 30

you regarded it, you in the plural regarded it as that or not. That is all that you have been asked.

MR DERBY-LEWIS: Well in that respect we did, yes. In that respect we did, yes.

MR BIZOS: "Clive and I had vague plans at the beginning that some sort of arrangement should be made to liquidate one or perhaps more leaders of the ANC and the SA Communist Party"

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Do you want me to read it again, you have got it in front of you.

MR DERBY-LEWIS: I have it in front of me Mr Chairman.

MR BIZOS: Now, you know what the question is, it says that you and your wife -

"...had vague plans at the beginning that some sort of arrangement should be made to liquidate one or perhaps more leaders of the ANC and the SA Communist Party"

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is that correct or incorrect?

MR DERBY-LEWIS: That is not, that is incorrect Mr Chairman

MR BIZOS: Are we to understand Mr Derby-Lewis that your wife, a particularly active political person, who had a column of her own in the Patriot, written in English up to a certain stage, who wrote speeches for the leaders of the Conservative Party and who was politically active, that you conspired with Mr Walus the first

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applicant in this case, without giving her any hint of what your thoughts on the matter were, ever?

MR DERBY-LEWIS: That is correct Mr Chairman, and I explained in evidence why we did not want to involve our women folk, it was too dangerous.

MR BIZOS: Yes. "We did not want to involve our wives", was a statement made at the time when you were protecting her and I am going to suggest to you that one of the reasons why you didn't give evidence is that you knew that if you gave evidence in all probability your wife may have been convicted on the strength of your evidence? 10

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

MR BIZOS: Very well. Then you say in the last sentence of the second part of this paragraph.

"Clive and Cuba decided on Chris Hani to be eliminated because of his particularly brutal record and his position as Chairman of the South African Communist Party which they believed should never have been unbanned." 20

Now, did your wife have any knowledge whatsoever from you or from Cuba?

MR DERBY-LEWIS: No, she didn't Mr Chairman because I did not say what Mr Bizos has said I said, I did not say this, my wife said this. 30

MR BIZOS: Yes. No, what I said was that your wife had no knowledge from you and as far as you know, from the first applicant that you and Cuba decided on Chris Hani to be eliminated. If this is true, she must have known of your plan?

MR DERBY-LEWIS: She did not know of our plans.

MR BIZOS: If this is true, she must have known of your plans?

MR DERBY-LEWIS: I don't believe it to be true Mr Chairman, in fact I suspect this whole statement.

MR BIZOS: Yes. The Committee will decide whether it is to be suspected or not, but what I am asking you is this, that if in fact this is the truth, which your wife by the way swore to be the truth in a hand-written statement on page 238 to 239, Mr Chairman, before Johannes Hendrik de Waal, a Commissioner of Oaths at John Vorster Square, she swore this to be true.

MR DERBY-LEWIS: Under Section 29 detention Mr Chairman.

MR BIZOS: Yes, well we will hear from her possibly of how she came to take an oath. Possibly she will also tell us in furtherance of the struggle.

"Clive and Cuba wanted a description of the residences and I can only assume that this was to determine what sort of security surrounded the houses. I simply asked Arthur what was asked of me. I am not a logistics person, nor was I present at any

discussions in 1993 between Cuba and Clive about logistics"

Now, if this is true your wife had an active part in getting the names and addresses of enemies of South Africa for the purposes of being eliminated by you and the first applicant, Cuba Walus. Would that be correct?

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MR DERBY-LEWIS: It is not true Mr Chairman.

MR BIZOS: She goes on to say -

"This does not mean to say I am denying that discussions between the two of them were not going on.

Clive told me some time in March that he and Cuba had decided upon Chris Hani as the person to be eliminated -- (tape ends) ...

MR DERBY-LEWIS: (no recorded reply)

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MR BIZOS: Yes. Was there, paragraph 46 on page 232, paragraph 46.

MR DERBY-LEWIS: 252, Mr Chairman.

MR BIZOS: 252, I beg your pardon, 252.

"Arthur Kemp phoned me to say he had gotten some of the addresses I had asked for, so I asked him to fax them to me. I asked him to fax me the street addresses and a description of the residences referring to the ANC/SACP people"

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Do you know anything about that?

MR DERBY-LEWIS: I don't know Mr Chairman, no.

MR BIZOS: And in paragraph 47 -

"Arthur and I met at Rotunda where Arthur gave me the names and a few other clippings for which I had asked, and Arthur told me that he was resigning from the Citizen and that he felt tired and was sick of the long hours especially because of the disruption to his family life.

Arthur said he would be doing other things with his life, not connected with journalism such as the "statements business" and other projects. I presumed Arthur wanted to see me rather than just faxing the list, because he saw the implications of the list and felt he should not fax it to me. However, when we met, we did not discuss the list.

After Hani's death, Arthur came to our place on 12 April for another matter, the computer programme, for which he had made an appointment during the previous week and he told Clive and I he had put two and two together and realised his list may have been used in the Hani assassination"

Did Mr Kemp say that to you and your wife?

MR DERBY-LEWIS: When he came to visit us Mr Chairman, yes, he did. I testified that he queried whether the list was his.

MR BIZOS: That the list was his?

MR DERBY-LEWIS: Yes.

MR BIZOS: Very well. And on page 254 -

"When Clive and I came back together from Cape Town in the car, I unloaded all the papers and brought them into the house. I showed the list to Clive the next day, and he took it. This was around the middle of February when we arrived back from Cape Town. Clive must have given the list to Cuba after that (February late or March 1993)".

Is that correct insofar as it refers to you?

MR DERBY-LEWIS: Mr Chairman, I testified that I saw the list in Cape Town in the latter part of January, in fact almost the end of January.

MR BIZOS: Naturally you were in court in the dock together with your wife, during the trial, and your wife went into the witness box in her own defence.

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: And you had a vital interest to listen to her evidence very carefully. What is the problem, can't you answer the question?

MR DERBY-LEWIS: Mr Chairman, I don't know what the question is. I have answered the question, I said that I have already testified that I saw the list in Cape Town at the end of January.

MR BIZOS: No, you are one question behind. You were sitting in the dock next to your wife.

MR PRINSLOO: With respect Mr Chairman, there was no question put. I didn't even record a question, we are still waiting for the question.

MR DERBY-LEWIS: And the Committee also.

MR BIZOS: My voice was not in question form. You were in the dock and did you watch and listen, watch your wife giving evidence in her own defence and listened to her evidence particularly carefully?

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

MR BIZOS: You heard her evidence. Did she tell the truth, the whole truth and nothing but the truth as she took the oath to do?

MR PRINSLOO: With respect, with regard to what Mr Chairman, can Mr Bizos indicate with regard to what, it is a very broad, wide statement, she gave lengthy evidence.

MR BIZOS: And I would like an answer to the broad question from the witness, Mr Chairman. Did your wife tell the trial court the truth or not?

MR DERBY-LEWIS: I am not able to answer that question Mr Chairman, because I believe that there is too much encompassed in, pages and pages of testimony and I actually don't remember what she testified.

MR BIZOS: No, but you see when you were sitting there and your wife was giving evidence, and she was giving evidence what passed between you and her, did it not occur to you in any particular occasion that she was possibly not telling the whole truth? 10

MR DERBY-LEWIS: Mr Chairman, that took place in October 1993, I can't be expected to remember everything that happened during that time and during the interrogation to me, even. It is a long time ago.

MR BIZOS: I will make a request to you please Mr Derby-Lewis, whether you would be good enough during the weekend, you are not obliged to do it, it is a request, if you would read through your wife's evidence and tell us which portions were true and which portions were not true, if any. 20

MR DERBY-LEWIS: Right, Mr Chairman.

MR BIZOS: Would you do that? You can even discuss it with your wife if she visits you on a daily basis, if you like, but please tell us which portions of the evidence you agree with and which portions of the evidence given by your wife, before the Judge President, may have been incorrect. Will you do that? 30

MR DERBY-LEWIS: Mr Chairman, I am prepared to read through the testimony and I am prepared then to come back and say which evidence I am aware of to be the truth and which I am totally unaware of.

MR BIZOS: Yes. Let me just refer to a portion of Mr Walus' statement on page 88 of R4. There is a statement by the accused 10
1 and now the first applicant,

"Weapon and the list was handed over by Clive
Derby-Lewis"

Is that a correct statement?

MR DERBY-LEWIS: That is a correct statement Mr Chairman.

MR PRINSLOO: Mr Chairman, with respect, first of all it doesn't appear to me to be a statement signed by Mr Walus.

MR BIZOS: is said to have been made, but in any event it doesn't matter because you say it is correct? 20

MR DERBY-LEWIS: Yes, Mr Chairman, I am quite happy to say that.

MR BIZOS: Now can't you remember being in court and your wife giving complicated evidence of how the list must have got mixed up with newspaper cuttings and accused 1 must have taken it away by mistake?

MR DERBY-LEWIS: I remember that Mr Chairman.

MR BIZOS: You remember that evidence. And whilst you sat there you knew that she was not telling the truth? 30

MR DERBY-LEWIS: I knew that she didn't know how Mr Walus got the list Mr Chairman.

MR BIZOS: Didn't you tell her?

MR DERBY-LEWIS: Mr Chairman, we were afforded virtually, actually no opportunity of private communication during all the time of our detention. We were listened to with each visit. I have been informed by members of Correctional Services staff that they even taped confidential, legal discussions when I was consulting with my lawyer.

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MR BIZOS: Mr Derby-Lewis ... (intervention)

MR DERBY-LEWIS: So we said very little to one another about this case.

MR BIZOS: Let us forget about what happened after your and/or her arrest. When you heard that Chris Hani had been murdered, and you knew that you had given the list to the first applicant, and didn't you from the time you heard of the murder of Hani and the time that you were arrested, didn't your wife ask you what had happened to the list or didn't you say to her that you had given the list to Walus, the first applicant?

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MR DERBY-LEWIS: Is this when I was detained in prison that Advocate Bizos is talking about Mr Chairman, I am sorry I am having a bit of problems focusing because I am very tired.

JUDGE WILSON: He said from the time of the murder till the time of your arrest.

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MR DERBY-LEWIS: From the time of the murder to the time of my arrest, yes, okay, can Advocate Bizos please just repeat that question Mr Chairman? I've got the timeframe now.

MR BIZOS: Did you, between the time of the murder and the time of your arrest, didn't you and your wife discuss what happened to the list that you had and your wife had for whatever purpose she may have had it and whether or not it had been handed over to Walus or not? 10

MR DERBY-LEWIS: No, Mr Chairman.

MR BIZOS: Why not?

MR DERBY-LEWIS: Because it wasn't, it was a minor detail

MR BIZOS: What was a minor detail?

MR DERBY-LEWIS: The list itself Mr Chairman, it was not a hit-list as was released by the police, it was an address list, it wasn't an important factor. The factor, the most important factor was the fact that a man had been assassinated. 20

MR BIZOS: Yes.

MR DERBY-LEWIS: And that was the thing that occupied our minds.

MR BIZOS: Yes, but you know that the man which had been assassinated was on a list which you and your fellow applicant had discussed and had even decided on the order of assassination.

MR DERBY-LEWIS: Order of priority, Mr Chairman, as I testified. 30

MR BIZOS: Oh, don't let's quibble with such niceties about murder Mr Derby-Lewis.

MR DERBY-LEWIS: Mr Chairman, to suggest that we were going to murder somebody like Ken Owen or people like that, it is ridiculous.

MR BIZOS: Don't let's talk about Ken Owen, let's talk about the person that was actually murdered. 10

MR DERBY-LEWIS: Mr Chairman, Ken Owen was on the list.

MR BIZOS: Let us talk about the person that was actually murdered. His name was on the list which you and your wife had discussed. Not so?

MR DERBY-LEWIS: Which she had shown to me in Cape Town.

MR BIZOS: And it was a list on which Hani's name was, which you had handed over to the man that you knew had pulled the trigger? 20

MR DERBY-LEWIS: That is correct Mr Chairman, but it was pure coincidence, in terms of that list, that Hani's address was on the list because there were far more names than nine submitted for that information.

MR BIZOS: When you heard that Hani had been murdered and you knew his name on the list, and you knew that Walus had killed Hani, didn't you and your wife ask one another where was the list, particularly as there was a disclosure that the list had 30

been found with Walus upon his arrest, didn't you and your wife discuss the list?

MR DERBY-LEWIS: We discussed it on Monday as I testified Mr Chairman, on the 12th of April with Arthur Kemp who questioned whether the list mentioned was anything to do with the list that he had drawn up on her behalf.

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MR BIZOS: Now, you were clear in your mind that you had given the list to Walus?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: Did you tell your wife that?

MR DERBY-LEWIS: On the 12th of April, yes Mr Chairman.

MR BIZOS: On the 12th, so your wife knew that you had given the list to Walus?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: Don't you recall her giving evidence, your wife was accused 3, wasn't she?

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MR DERBY-LEWIS: Yes Mr Chairman, she was.

MR BIZOS: Will you please have a look at page 527 of the record of her evidence.

MR DERBY-LEWIS: Mr Chairman, I have already given Advocate Bizos the undertaking that I will go over the evidence

...(intervention)

MR BIZOS: It is R1, R1 on page 667.

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MS KHAMPEPE: Mr Bizos, I think your R1 has got volume 1 until volume 5, would you please indicate what volume the page number you have referred us to, is?

MR BIZOS: R1, volume 6.

MS KHAMPEPE: Thank you.

MR BIZOS: I am sorry, Page 667.

JUDGE WILSON: What is the first line on the page Mr Bizos?

MR BIZOS: On the page, "after you returned from Cape Town"

CHAIRPERSON: Carry on

MR PRINSLOO: Mr Chairman, is Mr Bizos referring to page 667 in brackets or what page number? In brackets, page 667?

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

MR BIZOS: "Now, it has already been put to a State witness and I want to put it to you as well that accused 1 does not know how that exhibit came into his possession, but in all probability it was with the Patriot or picked up with the Patriot at your house, do you say that that is possible, impossible, what is your comment thereon?"

MR DERBY-LEWIS: It is possible Mr Chairman.

MR BIZOS: "No, it is possible, every week I get extra Patriots, I have a mailing list etc.

But I thought that you told us that you told your wife that you had given the list to Cuba?"

MR DERBY-LEWIS: I can't explain that Mr Chairman, this is my wife's testimony, not mine.

MR BIZOS: So whilst you sat there, you knew that your wife was not speaking the truth to the Judge President and the assessors?

MR DERBY-LEWIS: Mr Chairman, I was in a state where I sat in that court room totally bewildered by everything that was happening around me. If my wife testified to this extent, I know that I gave the list to Cuba Walus and I am before this Committee Mr Chairman, not my wife. I am the amnesty applicant and I am telling this Committee that I gave Walus the statement, the address list.

MR BIZOS: Yes. But you see Mr Derby-Lewis, I want to ask you a general question first. These R documents were not disclosed by you, R1, 2, 3, 4 were not disclosed by you but by us. I want to ask you this, have you changed your evidence in any way as a result of the documents becoming available which tend to show that your previous statements were false?

MR DERBY-LEWIS: I have explained where there are discrepancies in the evidence Mr Chairman, and I am here to tell the truth because I realise that without telling the truth I am not going to get amnesty.

MR BIZOS: Right. Let us see whether you are telling the truth about what happened in court. You know that you handed the list

over to Walus, you hear your wife in her evidence saying that he must have got it by mistake, mixed up with Patriots. Surely that thing isn't the sort of detail that one would forget, is it?

MR DERBY-LEWIS: Mr Chairman, I can't answer that question

MR BIZOS: I am sure not. Let's go on to other matters.

JUDGE WILSON: Isn't it fair Mr Bizos, to make it clear, as I understand the evidence that the evidence had already been given by Walus to this effect and this was counsel putting to Mrs Derby-Lewis Walus' version? 10

MR BIZOS: (microphone not switched on)

JUDGE WILSON: Well, wasn't this put on his behalf? The question seems to be -

Now it has already been put to State witness and I want to put it to you as well, that accused 1, that is Walus, doesn't know how the exhibit came into his possession. 20

MR BIZOS: Derby-Lewis knows how it came to be in his possession Mr Chairman, and the question is, if he knew how it came to his possession, how did he come to sit there when his wife, whom he had told that he had given it to Walus, was saying that it must have been by mistake, mixed up with Patriots?

That is really the ground of my ...

JUDGE WILSON: She was saying that it was possible that Walus'- the version put on Walus' behalf, was correct. Does it go any further than that Mr Bizos?

MR BIZOS: I will take that point and rephrase the question.

JUDGE WILSON: It was put by Mr Jordaan, was he not counsel for Mr Walus?

MR BIZOS: Yes, but what I am going to put to you Mr Derby-Lewis, is this, that at the trial for the protection of your wife, false evidence was given as to how Walus came to get the list when you knew that you had handed it over to him. Have you any comment on that?

MR PRINSLOO: Mr Chairman, it is not understood, who gave the false evidence?

MR BIZOS: Mrs Derby-Lewis, Mrs Derby-Lewis, knowing as a result of what you told her, that you had given the list to Walus, was saying that he must have got it by mistake amongst the Patriots. Have you any explanation in relation to that?

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

MR BIZOS: Very well.

MR DERBY-LEWIS: I did not give the evidence.

MR BIZOS: Now let me give you an opportunity to go through the record so that we do not have any misunderstandings over the weekend and we will come, we will revert to how your trial was conducted and how much of the truth came out there and how

much of that untruth is being transferred into this hearing. But we will postpone that until Monday Mr Derby-Lewis.

What I want to say to you in the next 15 minutes is the following - that you say that you acted on behalf of the Conservative Party, is that correct?

MR DERBY-LEWIS: And in support of Mr Chairman.

10

MR BIZOS: On behalf of and in support of.

MR DERBY-LEWIS: And of not only the Conservative Party, but also the broad Right, the Afrikaner.

MR BIZOS: Let's deal with the Conservative Party and if there were other people that you want to make responsible, we can deal with them individually.

Now, are you aware of the fact that Mr Hartzenberg sitting there in front, made a statement after your arrest in a television programme specifically distancing the Conservative Party from any assassination and that it was not the policy of the Conservative Party to kill people. Did you see that tape?

20

MR DERBY-LEWIS: No, Mr Chairman, I have never seen it.

MR BIZOS: An opportunity will be given to you to see it, but take it as a given. What I also want you to take as a given is the following. Your congress was in November 1992 in Kimberley was it?

MR DERBY-LEWIS: No, it wasn't Mr Chairman.

MR BIZOS: August, I beg your pardon.

30

MR DERBY-LEWIS: It was in August.

MR BIZOS: I beg your pardon, you will see why I thought November, in August, yes, and the speech at the Monument was made when?

MR DERBY-LEWIS: In October Mr Chairman,

MR BIZOS: In October of what year?

MR DERBY-LEWIS: Of the same year.

MR BIZOS: Now, do you recall, do you know the man who is a member of Parliament called Botha?

MR DERBY-LEWIS: Are you referring to Mr Koos Botha?

MR BIZOS: Koos Botha, that is the one.

MR DERBY-LEWIS: Yes, I know him.

MR BIZOS: He is the one who blew up a school here in Pretoria.

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: He too relied on those two documents as having been the source of his belief that he was acting on behalf of the Conservative Party, do you recall that?

MR DERBY-LEWIS: Yes, Mr Chairman.

MR BIZOS: What was your political office when he committed that crime?

MR DERBY-LEWIS: I don't remember when the crime was, if you will just refresh my memory Mr Chairman.

MR BIZOS: We will give you the precise date in a moment because it was recorded. Where were you in 1992, were you in the house or in the President's Council?

MR DERBY-LEWIS: No Mr Chairman, I was a member of the **President's Council**.

MR BIZOS: Were members of the President's Council members of the **caucus** of the Conservative Party? 10

MR DERBY-LEWIS: They were Mr Chairman.

MR BIZOS: Did you attend caucus meetings regularly?

MR DERBY-LEWIS: Not all of them Mr Chairman, because by the very nature of my President's Council membership I only, the President's Council only used to sit for two weeks of every month.

MR BIZOS: Do you recall being party to a decision whether to support or oppose the Indemnity Bill, not the Act that the Committee is dealing with, but with the Indemnity Bill? 20

MR DERBY-LEWIS: I can't recall whether I was part of it or not Mr Chairman.

MR BIZOS: Now, that would have been an important decision for your party in which you held office as to whether to oppose it or to support it. It would have been an important decision?

MR DERBY-LEWIS: It would have been one of many decisions the party makes Mr Chairman, in respect of all legislation. 30

MR BIZOS: Yes. And you as a leading member must have been party to the decision to oppose the Indemnity Bill as the Conservative Party did.

MR DERBY-LEWIS: I wasn't a member of Parliament then Mr Chairman, and as I said I can't recall - you were going to give me the date.

10

MR BIZOS: Yes, I will come to the dates, just answer my question in the mean time.

Do you recall whether Mr Koos Botha complained bitterly in Parliament that he stood alone in K-court in Pretoria and the Conservative Party didn't come anywhere near him?

MR DERBY-LEWIS: I was aware of the Mr Chairman, yes.

MR BIZOS: And do you recall of his complaint that the Conservative Party hierarchy was full of bluster, words, but when it came to action, they did nothing?

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MR DERBY-LEWIS: I am aware of that statement Mr Chairman.

MR BIZOS: And do you remember that your colleagues in the Conservative Party attacked him in strong terms in Parliament for suggesting that his act of blowing up a school which was going to be used partly for Black pupils, was in furtherance of the Conservative Party policy was an act with which the CP would not associate with because they did not believe in violence at all, but that they had a political programme to put into operation, do you recall that?

30

MR DERBY-LEWIS: I don't recall those exact details Mr Chairman, but I do recall that that speech was held after Mr Koos Botha had been expelled from the Conservative Party for bringing embarrassment upon the Party.

MR BIZOS: Yes. Well I am going to hand in Hansard in order to show that from October 1992 you had the clearest possible notice that the leadership of the Conservative Party and those who were responsible for its policy, disapproved of violence and they rejected Mr JJC Botha's statements that he acted on behalf of the Conservative Party.

MR DERBY-LEWIS: I recall them criticising them because he kept on blaming the Conservative Party Mr Chairman.

MR BIZOS: Yes. Let me read the words that you would no doubt have come into your notice Mr Derby-Lewis, when you committed this murder as to the policy of the Conservative Party on whose behalf you claim to have acted.

I am reading Mr Chairman, I thought that copies have been made, they have not. We will see to it that copies will be made for the Committee, but may I read out the relevant passage. Listen carefully Mr Derby-Lewis, what your colleague Mr DP du Plessis said. Who is Mr DP du Plessis?

MR DERBY-LEWIS: He was the member of Parliament for Wonderboom Mr Chairman.

MR BIZOS: A senior member of the CP?

MR DERBY-LEWIS: A member of the CP, a member of the CP caucus

MR BIZOS: A member of the CP caucus.

MR DERBY-LEWIS: Right.

MR BIZOS: And in caucus is it decided that the person that is going to speak on a specific issue, carries with it the approval of the caucus? 10

MR DERBY-LEWIS: Unless he is repudiated Mr Chairman, yes.

MR BIZOS: Unless he is repudiated. But important things are discussed in the caucus?

MR DERBY-LEWIS: I wasn't aware of a discussion surrounding Mr Du Plessis' speech and I am quite sure Mr Chairman that his speech would not be discussed as such in the caucus. 20

MR BIZOS: But the line, the caucus would give the line which was to be followed?

MR DERBY-LEWIS: Not necessarily Mr Chairman, the members of Parliament had a large degree of independence in terms of what they said in speeches as long as it didn't contravene Conservative Party policy.

MR BIZOS: That is good enough for my purpose, just listen to what he said Sir. It is Wednesday, the 21st of October 1992, at page 12806 Mr Chairman on the right-hand column. 30

"The Honourable member said that he was at the Voortrekker Monument at 26th of May 1990. At the Voortrekker Monument it was said that the third liberation struggle had begun. Of course the third liberation struggle has begun [Interjections]

The fact that I say that the Honourable members here today does not imply that they should go out and plant bombs tomorrow [Interjections]

There were 130 000 people present at the occasion. How many of them have gone out and planted bombs? My Honourable leader...."

that would be Dr Treurnicht, wouldn't it?

MR DERBY-LEWIS: That is correct Mr Chairman.

MR BIZOS: "My Honourable leader has said repeatedly that nothing gives an individual the right to commit crimes or misdeeds. If he does commit them, he does so at his own peril, he should know that there are laws in this country and if he breaks them, he should take the blame and punishment for it."

Now, surely such an important statement must have come to the notice of an important leader of the Conservative Party such as yourself?

MR DERBY-LEWIS: Mr Chairman, as a member of the President's Council I was not a recipient of the Hansard, and

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