

Gilbert Marcus

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SALER: Sawnty trials

Aggett, N.H

INQUEST NO. 139/82

DATE: 20th December, 1982

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF JOHANNESBURG  
HELD AT JOHANNESBURG

BEFORE: MR. P.A.J. KOTZE

AND ASSESSOR: PROF. L.S. SMITH

Inquest into the death of: NEIL HUDSON AGGETT

TO LEAD THE EVIDENCE : ADV. P.G. HAASBROEK S.C.

ADV. A. DE VRIES

FOR THE POLICE: ADV. P.J. SCHABORT S.C.

ADV. S. BURGER

FOR THE AGGETT FAMILY: ADV. G. BIZOS S.C.

ADV. D. KUNY

### J U D G M E N T

Neil Hudson Aggett, hereinafter referred to as Dr. Aggett, died on the 5th February, 1982, in a cell in John Vorster Square Police Station while he was in the custody of the South African Police. The relatives of Dr. Aggett were informed and an attorney was appointed to act on their behalf. Dr. Botha was nominated by them to attend and did attend when a District Surgeon conducted a post mortem examination on the body.

The District Surgeon's post mortem report was sent to the local Magistrate and the Public Prosecutor. Criminal proceedings were not instituted in connection with the death and the Public Prosecutor submitted the statements and documents relating to the death to the Magistrate of Johannesburg. The Magistrate decided to hold a formal Inquest and notice was given. The matter was set

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down for the 2nd March, 1982. On this date no evidence was adduced. This occasion was to iron out all preliminaries and to set a date for the commencement of hearing evidence. All the statements and documents submitted to me were considered and where applicable directions in terms of Section 13 of the Inquest Act of 1959 were given. Copies of the statements were handed to the lawyers acting on behalf of the interested parties. During the course of the proceedings a number of affidavits were submitted to me. These affidavits were dealt with summarily. 10

Mr. P.J. Haasbroek, S.C. and Mr. A.P. de Vries appeared to lead the evidence. Mr. G. Bizos, S.C. and Mr. D.A. Kuny, instructed by Bell, Dewar and Hall appeared on behalf of the family of Dr. Aggett. Mr. P.J. Schabort, S.C. and Mr. S. Burger instructed by the Deputy State Attorney, Johannesburg appeared on behalf of the Minister of Law and Order and the South African Police.

Section 16(2) and (3) of the Inquest Act, 1959 reads: 20

"The Magistrate holding an Inquest shall record a finding upon the Inquest -

- (a) as to the identity of the deceased person;
- (b) as to the cause or likely cause of death;
- (c) as to the date of the death;
- (d) as to whether the death was brought about by any act or omission involving or amounting to an offence on the part of any person.

(3) If the Magistrate is unable to record any such finding he shall record that fact." 30

Fifty-two persons were called to give oral evidence

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and twenty one affidavits were accepted in proof of the facts stated therein in terms of Section 13(1) of the Inquest Act, 1959.

Jacob Kasper Strauss, a Captain in the South African Police and a member of the Security Branch, testified. He made the affidavit, Exhibit D.1. On the 26th November, 1981 at 6.15 a.m. he had a warrant in terms of Section 22(1) of Act 62 of 1966 to execute. He arrested Dr. Aggett at Crown Mines 823, Johannesburg. He also had a search warrant. They went to 420A Fox Street, Fairview, Johannesburg where the house was searched and a number of exhibits were taken. The same happened at Lakton House No. 816. He questioned Dr. Aggett about his activities in the A.N.C. SATU; (African National Congress; South African Trade Union.) Dr. Aggett refused to answer any questions. 10

During cross-examination by Mr. Kuny, Captain Strauss stated, inter alia, he arrested Dr. Aggett for promoting the objects of the banned A.N.C. He was taken to Pretoria as a detainee. Major Mahoney and other members were present when Dr. Aggett was arrested. 20  
Major Mahoney was in charge of the taking of the documents. Both of them prepared a list of the documents taken.

Lawrence Charles Phillip Prince, a Detective Warrant Officer in the South African Police and a member of the Security Branch, testified. He prepared the inventory, Exhibit Y.2 of the books handed to him by Captain Strauss. He selected the books and documents which in his opinion were relevant to the political activities of Dr. Aggett. He prepared an inventory after Dr. Aggett had pointed out his property. 30

Daniel Dennis Mahoney a Major in the South African

/ Police ...

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Police, testified. He made the affidavit, EXHIBIT BB. He was in charge of the search of the house of Dr. Aggett and Dr. Floyd. They seized a quantity of books and documents. Two inventories of goods taken were prepared. The one was signed by Dr. Aggett and the other by Dr. Floyd. The inventory of Dr. Floyd is Exhibit Y.4. They also went to the office of Dr. Aggett at Lakton House.

Tom Lodge in an affidavit admitted as Exhibit TTT expressed an opinion on the possible inferences that can be drawn from the fact that Dr. Aggett had certain books and documents, those mentioned by Warrant Officer Prince, in his possession. I do not consider it necessary for the purpose of my Judgment to give a detailed summary of what he had to say.

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Christopher Johannes Hendrik Delpport, a Lieutenant in the Department of Prisons at Pretoria, declared: He made the affidavit, Exhibit H. Neil Hudson Aggett was detained in terms of Section 22(1) of Act, 62 of 1966 in the prison at Pretoria from the 27th November, 1981 until the 11th December, 1981. During his detention there he visited him twice. Dr. Aggett had no complaints and he did not see any injuries on him.

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Wessel Johannes Strydom van Niekerk, a Lieutenant-Colonel in the Department of Prisons at Pretoria declared: He made the affidavit, Exhibit J. He visited Dr. Aggett in a cell at Pretoria every morning during the period 30th November, 1981 to the 7th December, 1981, and during the period the 9th December, 1981 to the 11th December, 1981. He asked him whether he had any complaints. He never mentioned any complaints to him. He never saw any injuries on Dr. Aggett. According to his records Dr. Aggett was

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/ visited ...

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visited by a doctor on the 30th November, 1981 and on the 7th December, 1981 for treatment.

James Agenbagh, a Sergeant in the South African Police, testified: He was employed at the cells at John Vorster Square. The people detained under the provisions of the Security Legislation were detained on the second floor. There is a steel door leading to the cells behind a partition in the charge office. A guard on duty would open this door to allow entrance to the cells. The night of the 4th February, 1982 there were about 250 prisoners in all the cells. Six policemen were on duty. Their instructions were that they had to visit the cells every hour. In case a member of the Security Branch wanted to take a detainee on the second floor, he had to go to the ground floor past the guard on duty. He would arrive at another gate where constable Shehlolo was on duty with a key. Usually this gate is locked. Once through this gate he would go to the cell. The cell is provided with two doors, a grill door locked with a padlock and a key kept by the Security Police and another door locked with an ordinary lock of which the key is kept by the uniform branch. If a detainee is taken out of the cell he has to be taken to the ground floor where an occurrence book is kept and an entry is made. Only then would he be allowed through the gate on the ground floor. Duplicate keys to the padlocks are kept in a sealed container in the charge office to be used in case of an emergency. A member of the Security Branch is not on duty at the cells during the night. He reported on duty at about 9.45 p.m. on the 4th of February, 1982. The others on duty were Enslin, Shehlolo, Mweni, Martin and Koshibe Warrant Officer Marais

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was in the charge office. He and Marais inspected the cells after they reported on duty. They visited the cell where Dr. Aggett was detained. Dr. Aggett intimated with his eyes and thumb that everything was in order, Dr. Aggett was on his bed. The next visit to the cells had to be at 11.30 p.m. It was not done because he was too busy with other duties and did not pay attention to the time of night. There were no members of the Security Branch on duty that evening. At about 12.45 a.m. on the 5th February, 1982 an entry of the next visit to the cells was made. They visited the cells. Shehlolo opened the gate of the cell on the second floor. Shehlolo unlocked the door of cell No. 209. He opened the door and saw Dr. Aggett hanging against the grid door ; a piece of cloth, Exhibit 1, was around his neck and the other end tied to the bar. His back was towards the door. He felt the pulse, there was no beat. There was no breathing. In his opinion Dr. Aggett was dead. He found the body at about 1.30 a.m. He reported the incident to Warrant Officer Marais. The Security Police was notified. They arrived and he took them to the cell. From the time he reported on duty until he found the body he did not see a member of the Security Police bringing a person to the cell or taking anyone away.

During examination by Mr. Kuny Sergeant Agenbaqh stated inter alia. No one could reach the cells without going through the gate on the first floor. The Security Police did not have a key to unlock that gate. The guard is at that gate night and day. On the second floor one has to go through a gate to reach the cells. Warrant Officer McPherson is in control of the cells on the second floor during the day. Depending on the wish of the prisoner the

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lights are switched off or on. He cannot remember whether the light in the cell No. 209 was on or off when he found the body. He thought Dr. Aggett was reading when he visited the cell at 10.30 p.m. There is a member on each floor to attend to complaints by prisoners. It was put to sergeant Agenbagh that if he had visited Dr. Aggett every hour he would perhaps still have been alive. Sergeant Agenbagh replied: "Dit is miskien soos daar gesê word, hy kon nog gesterf het, ek glo nie dat 'n persoon wat homself ophang sal aan sy nek hang vir langer as tien minute voordat hy dood is nie en as ek elke uur besoek was daar genoeg tyd vir hom om dood te gaan as gevolg van die feit dat hy aan sy nek hang, of hy nou wurg of sy nek breek".

During examination by Mr. Schabert he testified he saw Dr. Aggett regularly, Dr. Aggett never had ever complained to him. He never noticed anything strange in Dr. Aggett's conduct. In the course of his duties he had to deal with deaths and suicides.

Andre Martin, a constable in the South African Police, testified: He made the affidavit, Exhibit T. On the night of the 4th February, 1982 he was on duty with sergeant Agenbagh. He corroborates Agenbagh on most of the aspects of his evidence. He made the entry of the cell visit at 12.56 a.m. but Agenbagh in fact only visited at 1.25 a.m. He was more concerned with the other work at the cells and kept the register of people taken out of the cells and those brought in. A prisoner could not have been taken out without having his co-operation. During the night of the 4th February, 1982 no member of the Security Police came into the cells or went out of the cells. He did not see any of them. Usually he does not

/ accompany ...



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accompany the sergeant on his cell visits. A member of the Force is on duty on each floor to attend to the request for switching off or on of the lights.

Johannes Stephanus Marais, a Warrant Officer in the South African Police, testified. His affidavit is handed in as Exhibit M. On the 4th February, 1982 he reported on duty at 8.45 p.m. at the charge office at John Vorster Square. He corroborates the evidence given by Sergeant Agenbagh on events where he was involved. He added that the keys were taken out of the sealed parcel in his presence.

Stephen Enslin, a Constable in the South African Police, declared in the affidavit, Exhibit V. On the night of the 4th February, 1982 he was on duty with Sergeant Agenbagh. He corroborates the evidence of the latter on the events where he was involved.

Moseu Paul Shehlolo, a constable in the South African Police, testified. He submitted the affidavit Exhibit CC. He is employed at the cells on the second floor of John Vorster Square where the detainees are detained. During night time he is the only person to keep the keys to the cells on the second floor. On the 4th February, 1982, he reported on duty at 9.45 p.m. and went to the cells. At 10.30 p.m. Sergeant Agenbagh and Warrant Officer Marais visited the cells. He opened the main door to allow entrance. Thereafter he opened the door of the cells including the cell where Dr. Aggett was detained. There were no complaints by the detainees. At about 11 p.m. he visited the cell again and only peeped through a small hole. Dr. Aggett was still reading. At 1.30 a.m. Sergeant Agenbagh visited the cells again. He

/ opened ...

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opened the door. When the door of the cell where Dr. Aggett was detained was opened they saw Dr. Aggett hanging from the door with a cloth around his neck. Since the time he reported on duty until 1.30 a.m. he saw nobody else except the persons he mentioned. He heard Dr. Aggett said everything was in order when Sergeant Agenbagh asked him whether he had any complaints on the previous visit. Dr. Aggett spoke and gave a thumb-up sign. Dr. Aggett was not taken out of the cell during the night of his death.

Daniel Gert Oosthuizen, a Colonel in the South African Police, testified that he is the Station Commander at John Vorster Square. Part of his duties were to visit the prisoners in the cells and enquire about complaints, if any. On every occasion he visited Dr. Aggett he asked him whether he had any complaints. Dr. Aggett had no complaints. The last time he asked him was the morning of the 4th February, 1981. When necessary he would make arrangements for a doctor to see a detainee without notifying the Security Police. It happened that he instructed the Security Police to bring a doctor to a detainee. At page 410:

"Volgens u ervaring van die Veiligheidstak wat was hulle optrede en houding teenoor die kwessie van mediese behandeling? --- Hulle houding en optrede was baie stiptelik, as hulle gesê is hierdie man wil 'n dokter sien dan die volgende môre het hulle gereeld gesê 'n dokter het hulle gesien en hulle is tevrede."

Karel Wynand Lamprecht, a Detective Warrant Officer in the South African Police attached to the Fingerprints Expert Branch testified: He made the affidavit, Exhibit W.1.

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During the morning of the 5th February, 1982, he visited cell No. 209, John Vorster Square. The body of the deceased was hanging against the door with the end of Exhibit 1 knotted around the neck and the other end tied to a bar of the grid door. He took photographs. About two and a half meter above the floor on top where the cloth was tied to the grill he lifted fingerprints. He received a set of fingerprints of Dr. Aggett from he thinks Ntsoane and compared it with the fingerprints he found on the grill and found it to be identical. 10  
See Exhibits W.2, W.3 and W.4.

Christiaan Stephanus Scholtz, a Lieutenant-Colonel in the South African Police, declared: On the 5th February, 1982, at 2 a.m. he received a telephone call from Warrant Officer Marais. He contacted Colonel Muller. He arrived at the Charge Office, John Vorster Square at 2.20 a.m. and found Colonel Muller present. At 3.15 a.m. he informed Captain Victor, the officer on duty.

Andries Abraham Struwig, a Captain in the South African Police and member of the Security Branch, declared: 20  
On the 5th February, 1982 at 3 a.m. he received a telephone call and went to John Vorster Square where he found Colonel Muller, Lieutenant Colonel Scholtz, Major Cronwright and Sergeant Agenbagh. He saw the body of Dr. Aggett hanging in cell No. 209 about 6 inches from the floor, ostensibly dead. Photographs were taken. Brigadier Swanepoel who also arrived, instructed that the cloth by means of which Dr. Aggett was hanged be cut. One piece was left around the neck and the other on the bar. The body was removed to the laboratories. He never interrogated Dr. Aggett. 30  
See his affidavit, Exhibit M.

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Theunis Jacobus Swanepoel, a Brigadier in the South African Police declared: On the 5th February, 1982 at 3.25 a.m. he received a call from Colonel Muller. He went to John Vorster Square. He saw the body of Dr. Neil Aggett hanging from the bar on a piece of striped cloth. One end was around the neck and the other tied to a bar. The body was cold. Photographs and fingerprints were taken. Thereafter he ordered that the body be taken off. The cloth was cut. The body was removed to the mortuary with the piece of cloth still around the neck. In the cell he saw quite a lot of clean clothes. There were a pair of trousers, shirts, jerseys, underwear, a pair of shoes without laces. There were parcels of sweets, biscuits and other foodstuffs, cigarettes... dices and there were about 20 books. Two books were opened, the one titled "Go down Moses", <sup>at</sup> /pages 196 and 197. And the one titled "Zorba, the Greek" at pages 246 and 247. These books, both were on the bench next to the bed. From his observation of the facilities in the cells he got the impression that Dr. Aggett received better treatment as he would normally have expected in the case of any detainee. The light in the cell is not very bright. He did not see any injuries on the face or hands of the deceased and did not examine the rest of the body. See his affidavit, Exhibit P.

Johannes Christiaan Pretorius, a Detective Warrant Officer in the South African Police, declared: On the 5th February, 1982, at 4 a.m. he went to cell No. 209, John Vorster Square. He prepared an inventory of the contents of the cell. This inventory is attached, see his affidavit, Exhibit R.

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Abraham Ntsoane, a Constable in the South African Police, declared: On the 8th February, 1982 he obtained the fingerprints of the body marked No. 270/82, on form SAP.91(a).

John Edward Lloyd testified: During the period the 2nd January, 1982 to the 31st January, 1982 he was a Constable in the South African Police, John Vorster Square. During December, 1981 he was employed at John Vorster Square Police Station. His duties were to receive parcels for detainees from their families and friends. On the 4th December, 1981 he received the cloth, Exhibit 1, foodstuffs and clothing from he thinks a doctor, a Mr. Kaplan, for Dr. Aggett. An entry of the receipt was made in the register. The person who brought the articles signed the register. He left the articles on the tenth floor, John Vorster Square in office No. 1010.

Daniel Hendrik Petrus Zeelie, a Constable in the South African Police and a member of the Security Branch testified: On the 4th December, 1981 he received a parcel handed to Mr. Lloyd by Mr. Kaplan. It contained food, clothing and the coloured cloth, Exhibit 1. Each item was entered into a register, Kaplan and Lloyd signed the entry. The Prison Authorities where Dr. Aggett was detained at the time refused to accept this parcel. They kept it and on the 11th December, 1981, the date that Dr. Aggett was transferred to John Vorster Square, the parcel was delivered to Dr. Aggett who gave receipt. Exhibit B.1 to B.12 are copies of the entries of articles received and handed over. An officer, a Captain van Rensburg, decides what articles may be handed to a detainee. He does not know of goods being taken away from detainees. Exhibit B1 is in the hand-

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writing of Dr. Aggett. The person who brought the goods concerned is Dr. Kaplan. The goods according to Exhibits B.1 to B.12 handed to Dr. Aggett consisted inter alia food, books, puzzle cross-words etc. All the articles brought to Dr. Aggett or brought for Dr. Aggett were handed over to him.

Vernon Denis Kemp, the District Surgeon of Johannesburg, testified: On the 5th February, 1982, he examined the body of the late Dr. Aggett. His findings were recorded on Form Health 1, Exhibit C. After weighing up the facts he concluded the cause of death as from hanging. The injuries to the body he found are recorded on the report, Exhibit C, and circling the neck and double knotted just below the right ear there was a length of striped material, Exhibit 1, he stated inter alia. " And then on the back aspect of the right forearm five centimetres above the wrist there was a faint one centimetre triangular irregular scar which still showed a slight pinkish tinge of the surface. That was a small scar, superficial area, a scar which had recently healed." This wound could have been anything from about three weeks old to about three months old. And further: "The fact that there was infiltration of blood around the neck, I think, indicates that there was pressure to the neck." He took microscopic sections of the brain, heart, lungs, skin from the neck and skin from the back and sent these to Prof. Schepers for histology. A specimen of blood was sent for alcohol and toxic substance testing. The liver and kidneys were sent for toxic substance testing. He also handed to Dr. Botha, the private Pathologist, a specimen of skin from the neck and a specimen of the blood.

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During examination by Mr. Bizos, a statement, Exhibit E made by Dr. Aggett on the 4th February, 1982 in which he alleged that he was assaulted on the 4th January, 1982 was read to Dr. Kemp and he was asked:

"Could you please tell us whether at the time that you carried out the post mortem there was any marks or scabs or other evidence corresponding with one or other of the injuries described in Exhibit E." The answer was: "On the posterior aspect of the right forearm, five centimetres above the wrist, that is roughly in this area here, there was a faint 1,5 cm triangular irregular scar which still showed a slight pink tinge of the surface indicating that this was an abrasion like injury which had been sustained some time before. Now the sometime is very difficult to say what it was but certainly not recently and not more than three months old.

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So this is consistent with what Dr. Aggett described happened to him as a result of an assault on him by Schalk on the 4th of January?---

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Yes. " This injury would have been visible to anyone who had contact with Dr. Aggett at or about the time that injury may have been inflicted.

It was on the back of the arm, it may be that the reason why apparently no medical attention was given to the injury is that it was not that bad that it needed medical attention.

Still referring to the statement by Dr. Aggett, his evidence reads -

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"Are there any other injuries that are consistent with the statement? --- There are two other injuries mentioned here in the statement and the first one is that was allegedly inflicted on the 4th January, that is a scab on the back. I didn't see any scab on the back and the second one which first of all is described as a 'scratch on my left pulse' (radial nerve) and then later it is described as a scar on my pulse, this is very confusing because it is talking about completely different things. First of all I think what could have happened here was that the translation of the wrist was given in Afrikaans and translated "pols" "said pulse" the second thing is I can't understand why there is in brackets 'radial nerve' because a pulse is here and the radial nerve is there. So I saw no scratch or scar.

There is of course evidence in the statement itself that the person who took it was not very proficient in English. You would agree with that? -- Yes.

Now as to whether or not there was a scab on the 5th February or not, one cannot say with any degree of certainty as to whether there was a scab shortly after the 4th, is that correct? --- You can't.

Are there any other injuries which are consistent with what is mentioned? --- No.

He then continued -

"It ...



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It depends tremendously on the current that is used and that and the amperage of the current and all sorts of things, whether it was put onto a dry skin or a wet skin and the place that was used to be shocked whether it would be detectable whether a person was electrically shocked or not. As far as he knows no District Surgeon saw Dr. Aggett in detention. It <sup>is</sup> unlikely that anyone would have managed to hang a person who is unconscious without leaving a mark of a struggle. 10

There are no clear signs of depression. Some lay persons would notice depression, others not. Crying by an adult, a mood of dejection, failures to greet people, slowness in movement, loss of appetite might be signs of depression. He cannot say with absolute certainty whether Dr. Aggett hanged himself or died because of manual strangulation.

During examination by Mr. Schabert Dr. Kemp testified:

The reference in the statement, Exhibit E, by Dr. Aggett to a scratch on his left pulse and the radial nerve is contradictory. There was nothing to be seen of such an injury whether on the pulse or radial nerve. If there was a scab on Dr. Aggett's back on the 4th of January, 1982 there should have been a mark a month later. They did not find any. Because of the position of the body it is sometimes extremely <sup>difficult</sup> to find something like that. The mark on the arm was found with great difficulty. It is impossible to say what caused the irregular scar in question. It was ostensibly <sup>a</sup> very superficial injury and not the kind one would

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go to a doctor for. The mere fact that a man finds himself in an interrogation room for a certain period need not necessarily be more conducive to depression than what it would be like to spend a similar period of time in the cell. In his experience he found the police at Johannesburg co-operative to the utmost in connection with visits and examinations of detainees by District Surgeons. As a result of his observations he concluded that the cause of death was hanging.

His evidence continues and I quote from page 122 of the record:

"Now in the light, dr. Kemp, of the various aspects that we have canvassed now and your findings and the best to which you are able to apply your mind to the particular question before you, what was the cause of the deceased's death? Would you adhere to your view point that this was hanging? --- In my opinion and in accordance with the findings that I have, I am perfectly correct in saying that in my opinion this was death due to hanging. And unless someone else can persuade me otherwise I must remain with that."

Nicolaas Jacobus Schepers, a registered medical practitioner and Chief State Pathologist and Professor at an University testified; On 8th February, 1982, he received a container which contained samples of brain, heart, lungs, skin of the neck and some from the back. He examined the samples and compiled his report, Exhibit D. "The general appearance of the brain is that of a relative bloodless brain. The skin from the neck, the epidermis is not damaged. There is an extravasation of

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red blood cells in the subcutaneous tissues. In the dermis there are strands of haemoglobin pigmentation similar to what one sees when there is haemolysis of red blood cells and liberation of haemoglobin. No evidence whatsoever of any inflammatory reaction is seen, not even perivascular cuffing by neutrophil leucocytes or scattered loose lying neutrophil cells."

During examination by Mr. Bizos he stated inter alia -

"I can give an opinion or confirmatory evidence of what I have seen in the brain to confirm the method of dying, the mechanism of dying."

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His evidence continues -

"The mechanism of death can take place in the same way whether one dies in a homicidal hanging or is killed with a ligature. There is a difference.

No, are you saying that there is a difference of diagnosis which will guide us in all cases or that there may be cases where you might be able to tell the difference? --- There are certain criteria which one may study to help us to formulate an opinion. One can't form an opinion just on the histology alone. But in conjunction with other criteria one may form an opinion.

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Yes, we are dealing with your report which is a histology report. Is there anything in your histological report which assists us in the enquiry as to whether it is the one or

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/ the ...

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the other? --- The first thing that assists us in the histology report is that the brain is bloodless; in other words there was no pumping of the blood up into the brain. Now if a person is hanged, if he hangs himself as in suicidal hanging, the blood supply to the brain is cut off because the man wants to become unconscious and he lets himself go loose and hang against the ligature and the blood supply is adequately cut off to the brain and if you see a person hanging who has done it himself, the first thing that strikes you is the pale face of the deceased. On the other hand if a man has been strangled by means of a ligature, in a homicidal strangulation by someone else, the first thing that strikes you is the congestion and the blue colour of the face. So there is a world of difference between the two and there is a good reason for it. Now the first thing I have found was this blood-

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less appearance of the brain which will fall in line with suicidal hanging. Can the measure which has been described by Mr. Winter, were you in Court when I read it out?

--- Yes. Which says that a wet towel is wrapped around the throat and pulled tight until the victim is about to faint, it leaves no marks on the throat, the duration of strangling times range from person to person, some passes out quicker than others, recovering consciousness is a horrifying experience, so that the speed with

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/ which ...

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which the ligature is applied or the hanging may vary? --- Correct.

That it may depend upon the size and strength of the person doing it and incapacity of the victim? --- You mean the outcome?

Not the outcome, the outcome of this, you say there is a difference between the two, Professor, because hanging is quicker, do I understand you correctly? --- I didn't say hanging is quicker, I said hanging in suicidal hanging there is a cutting off of the blood supply to the brain because your person does not tense his neck muscles to prevent this happening, because his blood pressure doesn't go up as much as when he fights and resists himself."

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And further -

"Prof. Schepers, sou dit korrek wees om te sê dat die hele verslag, al u bevindings is versoenbaar met selfmoord? --- Dit is so ja. Selfmoord deur self ophang? --- Ja, daar is niks teenstrydigs in die histologiese verslag met die toestand van self ophang nie."

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And further -

"Kan ek dit dan so saamvat, Professor, dat u mening ten opsigte van kliniese beeld van daardie letsels wat u daar waarneem en die getuienis daaromtrent wat u gehoor het, alles is versoenbaar --- met self-ophang?

Jan Barend Christiaan Botha, a qualified pathologist testified. On the morning of the 5th February, 1982, he attended an autopsy performed on Dr. Aggett by Dr. Kemp.

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He prepared the report, Exhibit F. He was also present when Dr. Kemp performed an autopsy on the spinal cord on the 10th February, 1982. Dr. Botha read out the findings in his report, Exhibit F, and inter alia stated at page 186 -

"There was no evidence of recent or past injury to the penis."

At page 187 --

"no material was found under the fingernails."

At page 187 -

"Now the injury that you found about 5 cm above the right wrist, could you describe in your own opinion as how old? --- I don't think it is possible to indicate the age with any degree of accuracy but I want to say it was between three weeks and three months duration. Serious wounds? --- No, it was a trivial lesion. Can you mention any opinion as to what could have caused it, what could have been likely to have caused it? --- I would say it is a result of a contact of this with a hard sharp object. It would correspond to the allegation of an assault made in the statement handed in by Dr. Aggett."

At page 188 -

"You have come to no particular conclusion in your statement as to the cause or likely cause of death. Would you care to venture an opinion? --- The findings at autopsy in my opinion are consistent with those of hanging. I could find no evidence of any other possible

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cause of death, nor was there any evidence of recent assaults at the time of the autopsy. By recent I mean within a few days preceding the death.

You have heard the postulations made as to hanging as opposed to manual strangulation with a ligature? Are there any indications?

--- There are no concrete indications one way or the other. There is no diagnostical

detrimonial feature to indicate that this

was hanging and not another possible cause

but I found no evidence to suggest any other

mechanism of death, and as far in my opinion

the changes that were found at autopsy were

entirely compatible with hanging.

Dr. Kemp was of the opinion that it was hanging because of mainly, if I understood him correctly,

the underlying damage to the skin? --- I am

certain that death was due to the application

of the garment around the deceased's neck.

I cannot accept a situation where the deceased

died and was then suspended post mortem. To

me the haemorrhage in the vicinity of the right

carotid sheath which corresponded with the

position of the knot indicated that this was

what caused his death".

During cross-examination by Mr. Bizos Dr. Botha stated, inter alia, at page 189 -

"Dr. Botha, before you heard the description

called the "Adams apple" by Mr. Winter

yesterday, were you aware of this possible

/ technique ...

Judgment.  
 technique of someone? --- No, I wasn't aware of it.

So that if there is any or some substance in this it was not something in the forefront of your mind at the time when you thought about the post mortem results that you witnessed?

--- Mr. Bizos, this particular technique was not in the forefront of my mind but I was asked to consider all possibilities.

And if we understood your evidence correctly that you would favour the theory that he was alive when he was suspended either by himself or by someone else? --- That is correct."

And at page 190 to 191 -

"The scientific evidence I think points strongly to death by hanging but that is about as far as we can go. But it cannot say whether it was suicidal hanging or hanging of the semi-conscious person as Winter described?

--- Mr. Bizos, I have some difficulty with Winter's technique. I don't know whether you would like me to elaborate on that.

Well, if you think it necessary by all means? --- If you are going to tie a towel around a man's neck with sufficient force to induce a level of unconsciousness, then in all probability and here I think of probabilities because I have never come across a case like this and as far as I am aware no one has ever done any experiment of evidence or is ever likely to do this kind of work because it is so



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dangerous. I think in all probability as soon as a person loses consciousness the towel or ligature or what have you would have to be released and I think consciousness would, the patient then would regain consciousness fairly rapidly. You would therefore have to suspend the person fairly quickly and I am talking about a matter of minutes, not in terms of quarter of an hour or half an hour. The person having been semi-throttled is then suspended almost immediately, I would expect to see some evidence of this procedure at the time of autopsy."

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And during examination by Mr. Schabort; at page 195 to 196 -

"Now from your description of the scar on the deceased's arm which was consistent with the lesion described in his statement, I gather that this was hardly an injury which required medical attention? --- I don't think it could have required any specific attention. It has apparently healed quite well without interference or any treatment. I certainly do not think that he would have asked for medical attention for so small a lesion.

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Dr. Botha, the deceased gives descriptions of two injuries in his statement, that one was made hours approximately before his death as we have learnt. He has given descriptions of two injuries on his body, these were not found during the autopsy, is that right? --- That is correct.

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The one was a scratch on the left pulse, apparently

/ above ...

Judgment.

above the radial nerve and the other one was described as a scab on the back, is that right? --- Correct.

I suppose you are also not in a position to explain this? --- The scab on the back is related to an alleged assault approximately one month prior to his death. If this was a very superficial abbrasion which has occurred at this time, I would not expect to see the scab one month after this event. Certainly I would have expected to see the scratch which is described as being on the left pulse in the vicinity of the radial nerve. That was not present, so that is a paradox in his statement.

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So far as the back injury is concerned that would have depended on the extent, the nature and the severity of that particular injury? --- That is so.

/ Jan ...

## Judgment.

Johann David Laubscher, a Professor at the University of Pretoria, and a Chief Government Pathologist, testified. He read the reports by Drs. Kemp and Botha and saw the photographs and was in Court when the medical considerations were given in evidence. His report he prepared is handed in as Exhibit G. His evidence at page 193 reads:

"Wat is u mening omtrent die dood van Dr. Aggett?  
 --- Edelagbare, in die tweede paragraaf van my opinie stuk stel ek dit soos volg: Ek stem saam met Dr. Kemp dat die dood in hierdie geval  
 waarskynlik die gevolg van ophang was en dit  
 onderskryf dan ook die waarskynlikheidsmening  
 van beide Drs. Schepers en Botha wat sedertdien  
 voor hierdie Hof geplaas is."

He continued and gave the reasons and grounds for his opinion at page 201.

"Dit is my oorwoë mening dat ons volgens waarskynlikhede hier te make het met 'n akute onderbreking van die bloed toevoer na die brein as gevolg van arteriële obstruksie veroorsaak deur die manier van hang en dat daar ook waarskynlik tegelyk 'n aansienlike vagus-prikkeling van die halsstrukture uitgegaan het. Dit is die enigste basis waarop ek in hierdie soort geval 'n sub-endokardiale bloeding se teenwoordigheid kan verklaar. Soos u gister gehoor het as gevolg van die skielike val in die bloeddruk wat met 'n 'depressor response' gepaard gaan."

And at page 203:

"Dit is my oorwoë mening dat die dood van

Judgment.

Dr. Neil Aggett volgens die patologiese bevinding wat wel deur ophang veroorsaak kon gewees het en dat geen ander redelike verklaring uit die patologiese getuienis komende is nie."

And at page 206/207:

"Professor, just one or two questions that I want to ask you before coming to the main matter that I would like to ask you and that is the pressure to one's scrotum or testicles would cause considerable pain. Would they leave any visible marks approximately

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--- Edelagbare, as die druk geweld van so 'n omvang was dat bloeding kon plaasgevind het en ek het al sulke gevalle ondersoek waar ek vars bloeding gesien het, dan kan ek my voorstel dat daar wel nog tekens na 'n maand sigbaar sou gewees het. Die opremmingsmeganisme van die liggaam is naamlik so dat die opremmingselle die makrofage wat hierdie bloed wat in die weefsel gevorm het moet verwyder, dat dit in daardie gebied van die besering veranker raak. Dit bly vir 'n baie lang tyd daar teenwoordig. Dit sou sekerlik na 'n maand nog onder die mikroskoop sigbaar gewees het en 'n mens kan in hierdie selle, kan 'n mens afbreek produkte van die rooi selle dan vind, byvoorbeeld yster pigment en selfs bilirubin.

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Hulle kan die voorkoms van siderophage hê.

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Hulle kan ysterpigment bevat.

/ But ...

Judgment.

But of course there can be considerable pain even in the absence of bleeding? ---  
 Sekerlik ja, Edelagbare."

At page 215/216:

"Do you agree with Dr. Kemp and Dr. Botha that if we take the post mortem results and the pathology together, although there may be preference on the probabilities in relation to hanging, that strangulation cannot be excluded? --- As ek dit dan mag kwalifiseer, Edelagbare, dan kan 'n instrumentele verwurging nie uitgesluit word mits ons van die standpunt uitgaan dat diè nog lewendige persoon in die hang posisie geplaas was nie. Maar om dit aan my te stel dat instrumentele verwurging hier as die alternatiewe oorsaak van dood oorweeg moet word, gaan nie op nie. Ek kan dit alleen in die abstrak hanteer in die sin dat hier was bevindinge in sowel die makroskopiese as die mikroskopiese prototcolle wat daarop dui dat hierdie persoon in hierdie ligatuur wat Dr. Kemp verwyder het nog gelewe het. But that does not exclude the technique described by Mr. Winter? --- Nee maar ek wil met u verskil, met respek, mnr. Bizos. Die tegniek wat deur Winter beskryf is soos ek daardie bladsy wat u vir my 'n afskrif van laat toekom het, gelees het, is dat die persoon word per ongeluk gedood en die lyk word opgehang. Hier is nie sprake van soiets in hierdie opset nie."

And at pages 217 to 218:

/ "Wat ...

## Judgment.

"Wat ek graag net aan u wil vra is as u nou vir ons vertel dat 'n persoon in 'n bewustelose toestand beland het en van daardie posisie af geneem moes word met daardie ligatuur wat ons daar van bewus is en opgehang moet word in 'n posisie soos diê waarin die oorledene hom bevind het en dit moes geskied sonder dat daar enige kneusing aan hom sigbaar is, soos waarvan ons reeds daar nou nie was nie, wat sou u sê hoeveel persone moes daarmee behulpsaam wees en hoe moes hulle te werk gaan? --- Edelagbare, die opset hier is vir my die volgende, dat om hierdie eindresultaat te bereik naamlik om die liggaam dan in hierdie houding te plaas, sekerlik as daar nie 'n 'block en tackle' beskikbaar was nie sou daar 'n hele aantal persone nodig gewees het. Ek sou reken tenminste vyf om die liggaam dan in hierdie posisie te plaas op so 'n manier dat daar nie wesenlike naspeurbare fisiese versteurings is nie. Ek wil die Hof se aandag vestig op die voorkoms soos 'n mens verwag het het die hemp, en dit lyk na 'n trui, het dit 'n bietjie opgeskuif bo die broek maar as ons kyk waar die hoogte van die mou sit en die algemene staat van die kleding van die liggaam dan is dit weer vir my baie onwaarskynlik dat hier enige hantering van hierdie liggaam kon gewees het. Dit is wat op hierdie fotos uitwendig sigbaar is. As ons dan kom by die lykskouingsbevinding dan sou ek verwag het van so 'n hantering met die hand en as ek die moontlikheid van 'block en tackle'

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Judgment.

moet uitsluit, as die hand gebruik was dan sou ek sekerlik daarvan wel sekere tekens verwag het. Die oorledene was nie 'n kort persoon, soos persone gaan nie. Dit was hier in die orde van 6 voet skat ek wat sy lengte is en om so 'n persoon te lig op die hoogte wat hier op die fotos klaarblyklik is waar die suspensor punt van die orde van 7 voet of meer bo die grond is, sou myns insiens 'n redelike tour de force afgegee het en ek sou merke daarvan aan die liggaam verwag het. Nie soseer kneuswonde nie maar oppervlakkige epidermale ophoping of selfs wat die voorkoms na bewering van die liggaam van skaafwonde sou hê. Maar dit sou anti-faktueel dan in die sin wees dat dit brein uitdrogingsvlekkies sou wees. In dié soort hantering van die liggaam sou die epidermis in dieselfde manier min of meer, maar nie met so 'n opvallende spoor as wat in die hals sigbaar is nie aangetas gewees het en 'n mens sou hierdie afleiding tenminste verwag het."

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Jacobus Johannes Floris Mostert, a Warrant Officer in the South African Police testified, declared in an affidavit: On the 4th February, 1982 he received a blood specimen from Dr. Kemp. On the 8th February, 1982 he handed it to the Chemical Laboratories, see his affidavit Exhibit K.5.

Dorothy Elizabeth Gill of the Chemical Laboratories declared in an affidavit: She received the blood

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/ specimen

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specimen from the South African Police, examined it. Alcohol could not be detected in the blood.

Jacobus Johannes Floris Mostert in a further affidavit filed declared, on the 8th February, 1982 he received a sealed box and handed it in at the Chemical Laboratories for toxic tests. See his affidavit, Exhibit K.7.

Maurice Freiman, a qualified chemist, declared: On the 9th February, 1982, he received a sealed box which contained liver and kidneys. He examined the contents and detected no narcotic drugs in the organs. He examined the blood specimen received separately for the presence of carbon monoxide with negative results. See his affidavit, Exhibit K.9. He further declared that in further tests on the organs and the blood it has been established that no morphine and the metals arsenic Mercury and antimony were not present. See his affidavit, Exhibit K.10.

Marius Louis E. Smith, a Constable in the South African Police, employed at the Government Mortuary declared: On the 5th February, 1982 he received a body from Captain Struwig and transferred it to the Government Mortuary. Serial No. 270/82 was allocated to it. He identified the body to Warrant Officer Visser. No injuries were sustained during the transportation. See his affidavit, Exhibit K.1.

Jacobus Frederik Visser, a Warrant Officer in the South African Police declared: He received the body No. 270/82 from Constable Smith on the 5th February, 1982. On the same day it was identified to him by Mr. P.A. Burger as the body of Neil Hudson Aggett. He identified

/ this ...



## Judgment.

this body to Dr. Kemp. Whilst under his care the body sustained no injuries.

Paul Anthony Burger declared: On the 5th February 1982, in the Government Mortuary, Johannesburg he identified the body shown to him as being that of Neil Hudson Aggett, his brother-in-law. See affidavit, Exhibit K.3.

Elizabeth Catherine Floyd testified. She made the affidavit Exhibit 00. She knew Dr. Aggett since 1973/74 and lived with him prior to his arrest. When asked what kind of man Dr. Aggett was she replied:

"It is quite difficult when you are very close to somebody to give an objective idea what a man is like".

Dr. Aggett attended to his Trade Union activities during the day and two nights per week he also worked at the Baragwanath Hospital. He was working a 12 hour shift and an 8 hour shift. He used to go without sleep when he worked the 12 hour shift. She was also detained on the 27th November, 1981. At the beginning of her detention she was detained at Bronkhorstspuit where Captain Oliver and Captain Naude visited her after more than three weeks, asked her a few questions and told her to write a statement. During the last week of December, 1981 she was brought to John Vorster Square; introduced to Lieutenant Whitehead and Major Cronwright; told her statement was inadequate and she had to rewrite it. She was taken to the tenth floor at John Vorster Square on almost a daily basis. There were a few days in the last week of December and a few days in the first week of January, 1982. On an occasion Warrant Officer Prince

/ shouted ...

## Judgment.

shouted at her and said it was in her interests to write without him having to give pressure. After the first week in January until the 4th February, 1982 she was not taken to John Vorster Square, she was detained at Hillbrow Police Station. On the 4th February she was again taken to the tenth floor of John Vorster Square. Warrant Officer Carr talked to her. She was told she could get a five year's sentence for withholding information. Carr became aggressive when she said that he was talking nonsense and ordered her to stand. When Carr left the office she sat down again. He came back and again ordered her to stand. She stood for about half to three-quarter of an hour. She added -

"After I had been standing for a while I said to Carr you know I have got arthritis and after that he said I could sit down".

Lieutenant Whitehead came in and remarked we will see how you feel when you have been standing till Saturday. He appeared to be irritated that Carr had allowed her to sit down. She was told that they were not satisfied with her statement as she was intimidated. Dr. Aggett had no affair with any other women. She swore at Lieutenant Whitehead after he had gone on and on and treated her like a liar and told him 'if you hit me I will hit you back'. Her evidence continues at page 1304 -

"Can I just put to you what Lieut. Whitehead will say on this aspect. Lieut. Whitehead's memory is to the effect that you told him to stop talking shit and that you threatened to hit him and he then retorted and said you are not the only one who could throw your weight

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