

Boy TSHETSHA.

1 Reading.

2.

3.

•  
○

MEMO

PLAINTIFF'S FULL NAMES : Sony TSHE TSHA .

CASE NO. :

ADDRESS :

SA CITIZEN OR NOT :

Nature of injuries :

Date and time of incident :

Quantum :

Eye-witnesses :

Other witnesses :

Number of visits to doctor or hospital :

Specify visits to doctor or hospital :  
(names and venues)

Employed or not :

Nature of employment :

Income and proof thereof :

Current state of injuries :

If future loss of earnings are claimed, the  
relevant duration and proof that it was so claimed :

Names of assaulters :

Were criminal charges laid, if so where?

Was an ID parade attended?



Issued by

ISSUED BY  
UITGEREIK DEUR

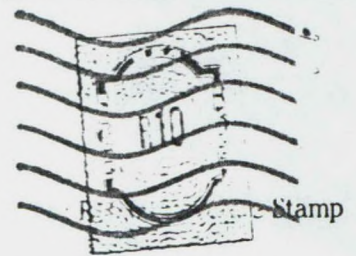
*M. S. M. M. M.*

Clerk of the Court

CLERK OF THE COURT  
KLERK VAN DIE HOF

PRETORIA  
Case No.  
22.09.92  
Date

072635



Stamp

**No. RM2 Summons Commencing Action (Ordinary)**

Sued out by

NICHOLLS, CAMBANIS & SUDANO  
c/o ADAMS & ADAMS  
Shorburg  
429 Church Street  
PRETORIA  
0002  
Postal address

*C. M. M.*

Signature of Plaintiff or his Attorney

P.O. Box 1014, Pretoria, 0001

In the Magistrate's Court for the District of PRETORIA

held at PRETORIA

Between BOY TSHETSHA

Plaintiff

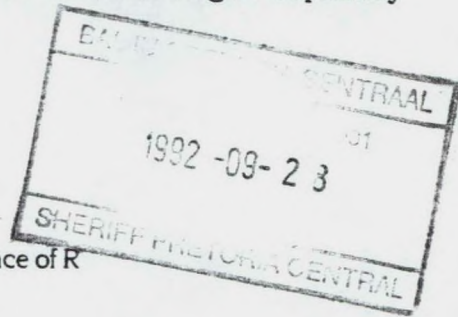
and THE MINISTER OF DEFENCE

Defendant

To: THE MINISTER OF DEFENCE, cited herein in his capacity as head of the South African Defence Force, and as such responsible for and in control of members of the South African Defence Force, c/o The State Attorney, 888 Royal St. Mary's Building, 85 Eloff Street, Johannesburg

You are hereby summoned that you do within 21 (TWENTY-ONE) days of the service of this summons deliver or cause to be delivered to the CLERK OF THE AFORESAID COURT and also the PLAINTIFF OR HIS ATTORNEY, at the address specified herein, a notice in writing of your intention to defend this action and answer the claim of

BOY TSHETSHA, an adult male, unemployed of full legal capacity resident at G 503 Phola Park, Tokoza.



the plaintiff herein, particulars whereof are endorsed hereunder

**(1) Particulars**

Plaintiff's claim against defendant is for payment of the sum/balance of R

for:

SEE ANNEXURE HERETO

Wherefore plaintiff prays for judgment against the defendant in the said sum, with costs.

Costs if the action is undefended will be as follows:

	Summons		Judgment	
	R	c	R	c
Attorney's charges .....	150	00	125	00
Court fees .....	10	00		
Messenger's fees .....				
Messenger's fees on re-issue .....				
Totals .....	_____		_____	
Total .....	R _____		R _____	



## PARTICULARS OF CLAIM

1. The Plaintiff is BOY TSHETSHA adult male, unemployed of full legal capacity resident at G 503 Phola Park, TOKOZA.
2. The Defendant is the MINISTER OF DEFENCE, cited herein in his capacity as head of the SOUTH AFRICAN DEFENCE FORCE, and as such responsible for and in control of members of the SOUTH AFRICAN DEFENCE FORCE, c/o The State Attorney, 888 Royal St.Mary's Building, 85 Eloff Street, Johannesburg.
3. On or about the 8th April 1992 and at Phola Park, Tokoza, the Plaintiff was unlawfully and without lawful justification assaulted by members of the SOUTH AFRICAN DEFENCE Force, who at material times hereto were acting within the course and scope of their employment as members of the SOUTH AFRICAN DEFENCE FORCE.
4. As a consequence of the aforesaid assault, the Plaintiff suffered bodily injuries.
5. In consequence thereof, the Plaintiff has suffered damages in the amount of FIFTEEN THOUSAND RAND (R15 000.00) in respect of contumelia, pain and suffering, loss of amenities of life and disability.

6. The Plaintiff has given notice in terms of Section 113 of the Defence Act.
7. Notwithstanding demand, the Defendant has failed and/or neglected to pay the aforesaid sum as claimed.

WHEREFORE the Plaintiff claims : -

- a. Payment of the sum of R15 000.00;
- b. Interest on the aforesaid sum at the rate of 18.5% per annum from date of judgement to date of payment;
- c. Costs of suit;
- d. Further and/or alternative relief.

DATED at JOHANNESBURG on this the *21* day of *Sept* 1992.

*Nicholls*

NICHOLLS, CAMBANIS,  
KOOBASAMMY AND PILLAY  
PLAINTIFF'S ATTORNEYS  
c/o ADAMS & ADAMS  
SHORBURG  
429 CHURCH STREET  
PRETORIA  
REF : M.BEDHESI/mvd



NOTIFICATION IN ACCORDANCE WITH THE PROVISIONS OF - RULE 8(4) -  
of the - MAGISTRATE'S COURTS ACT 32 of 1944

DEPUTY : F. A. RUSSOUW  
ACC No.: NICHOLL050

RETURN No.: 92/0,044,104.00  
CASE No. : 72635/92

IN THE MAGISTRATE'S COURT FOR THE DISTRICT  
PRETORIA HELD AT PRETORIA

BETWEEN  
BOY TSHETSHA

Plaintiff

AND  
THE MINISTER OF DEFENCE  
C/O STATE ATTORNEY  
ADDRESS : 4THF FEDLIFE FORUM BUILDING  
VAN DER WALT STREET  
PRETORIA 0000

Defendant

NATURE OF PROCESS:- SUMMONS COMMENCING ACTION (Ordinary)

ON 92/09/28 AT 15h45 THE ABOVEMENTIONED DOCUMENT WAS HANDLED IN THE MANNER  
INDICATED BELOW:

RETURN OF SERVICE : STATE ATTORNEY.

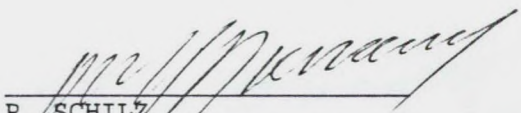
RULE 9(3)(g) : THIS IS TO CERTIFY THE A COPY OF THE ABOVE MENTIONED  
PROCESS WAS SERVED ON B BESTER A PERSON APPARENTLY NOT LESS  
THAN (16) SIXTEEN YEARS OF AGE AND DESIGNATED IN THE STATE  
ATTORNEY'S OFFICE FOR THIS PURPOSE, BY HANDING A COPY  
THEREOF TO SAID PERSON.

RECEIVED - 6 OCT 1992

CODE	DESCRIPTION	PRICE	QTY	AMOUNT	VAT	TOTAL
ADB	SERVICE (0-6km)	11.00/SERVICE	001	11.00	1.10	12.10
PST	POSTAGE	2.60/ACTUAL	001	2.60	0.26	2.86
						=====
						14.96

To THE CLERK OF THE COURT PRETORIA  
Copy to (Your Ref. )  
NICHOLLS, CAMBANIS, KOOPASAMMY & PILLAY  
P O BOX 8694  
JOHANNESBURG

2000

  
R. SCHILZ  
SHERIFF - PRETORIA CENTRAL  
P.O. BOX 478  
PRETORIA - 0001  
TEL: (012) 320-8482/3/4/5

(EMP 1 1 of 3 )

You may require this PRO FORMA statement to be taxed and vouched before payment.

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

CASE NO : 72635/92

In the matter between : -

BOY TSHETSHA

Plaintiff

and

MINISTER OF DEFENCE

Defendant

-----  
FILING SHEET  
-----

PRESENTED FOR FILING BY : -

*C. Nicholls*  
-----  
NICHOLLS, CAMBANIS AND  
SUDANO  
PLAINTIFF'S ATTORNEYS  
c/o ADAMS & ADAMS  
SHORBURG  
429 CHURCH STREET  
PRETORIA  
REF :

TO : THE CLERK OF THE COURT  
PRETORIA

AND TO : THE STATE ATTORNEY  
DEFENDANT'S ATTORNEYS  
4TH FLOOR, FEDLIFE FORUM BUILDING  
VAN DER WALT STREET  
PRETORIA

Received copy hereof on this  
the        day of APRIL 1993.

-----  
FOR : DEFENDANT'S ATTORNEY



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

CASE NO : 72635/92

In the matter between : -

BOY TSHETSHA

Plaintiff

and

THE MINISTER OF DEFENCE

Defendant

-----  
AFFIDAVIT IN TERMS OF RULE 10  
-----

I, the undersigned,

CAROLINE HEATON-NICHOLLS

do hereby make oath and say that : -

1. I am an attorney of the Supreme Court of South Africa (Transvaal Provincial Division), duly admitted and practising as such in partnership under the name and style of NICHOLLS, CAMBANIS AND SUDANO, at 23rd Floor, Kine Centre, 141 Commissioner Street, Johannesburg.
2. The facts herein contained are within my personal knowledge and belief and are both true and correct.
3. I am acting for the Plaintiff in this matter. Summons herein were issued at the Above Honourable Court on the 22nd September 1992. At the request of the Defendant, Plaintiff granted an extension for the entering of an Appearance to Defend by Defendant.

*Car AD*



4. On the 15th December 1992 Defendant's attorneys requested that the further exchange of pleadings in the above matter be held in abeyance pending the outcome of Supreme Court actions relating to the same facts as this matter. Attached hereto is a copy of a letter from the Defendant's attorneys marked "A" containing such request.
5. On the 15th December 1992 the Plaintiff agreed to such extensions as requested by the Defendant.
6. I therefore pray that the Summons shall not lapse until 12 months after the expiration of conclusion of the Supreme Court actions.

*C. H. Richards*

DEPONENT

THUS DONE, SIGNED AND SWORN TO BEFORE ME AT JOHANNESBURG on this the 22 day of APRIL 1993. Deponent having affirmed that she knows and understands the contents of this affidavit, she has no objections to taking this oath and considers this oath binding on her conscience.

*Dissel*

COMMISSIONER OF OATHS

AMANDA JOY DISSEL  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
700 MEDICAL ARTS BUILDING  
220 JEFFREY STREET, JOHANNESBURG  
REPUBLIC OF SOUTH AFRICA  
23<sup>rd</sup> Floor Kine Centre  
141 Commissioner Street.

322-0900/1/2 X235  
322-8522

# "GOVAT"

FAX 322 0177



REPUBLIEK VAN SUID-AFRIKA • REPUBLIC OF SOUTH AFRICA

TWGB/MS

J 417  
My Verw. 9875/92/C13  
My Ref. ....  
U Verw. Mr Sithole  
Your Ref. ....

FEDLIFE FORUM  
SUIDTORING • SOUTH TOWER  
Van der Waltstraat  
Van der Walt Street  
PRETORIA

DIE STAATSPROKUREUR  
THE STATE ATTORNEY  
Privaatsak: X91  
Private Bag  
PRETORIA  
0001

Navrae: T W G BESTER  
Enquiries:

15 December 1992

Messrs Nicholls, Cambanis and Sudano  
P O Box 8694  
JOHANNESBURG  
2000

Sirs

JACKIE HERBST AND THIRTY-THREE OTHERS / MINISTER OF DEFENCE

The telephonic discussion between writer and your Mr Sithole on 15 December 1992 refers.

I confirm that the further exchange of pleadings in the above matters will be held in abeyance pending the outcome of the various Supreme Court actions instituted in respect of the alleged assaults by members of the South African Defence Force at Phola Park, Tokoza on/or about 9 April 1992. Defendant does not, accordingly, require Plaintiff to take further steps in the prosecution of the above actions within twelve months of the date of service of the summonses commencing such actions. The details of the actions governed by this agreement appear in the annexure hereto marked "A".

Yours faithfully

T W G BESTER  
FOR : STATE ATTORNEY (PRETORIA)

Ch 20



ANNEXURE "A"

Case No:

- 1. 72637/92
- 2. 72634/92
- 3. 72654/92
- 4. 72661/92
- 5. 72652/92
- 6. 72653/92
- 7. 72643/92
- 8. 72651/92
- 9. 72650/92
- 10. 72663/92
- 11. 72659/92
- 12. 72658/92
- 13. 72646/92
- 14. 72649/92
- 15. 72655/92
- 16. 72660/92
- 17. 72662/92
- 18. 72638/92
- 19. 72639/92
- 20. 72640/92
- 21. 72665/92
- 22. 72666/92
- 23. 72667/92
- 24. 72645/92

Pleintiff

- Jackie Herbst
- Joseph Keni
- Lennox Bhedi
- Steven Zali
- Richard Roger
- Malibongwe Mkhatyana
- Koekie Mofokeng
- Colledge Nkwenkwezi
- Nceba Somakile
- Nelson Tsotetsi
- Zwelinlangene George
- Sizwe Arosi
- Portia Rawu
- Fumanekile Zweli
- Ben Khesa
- Ndudumo Mayekiso
- Larrington Nogania
- Mxoleli Bambata
- Lungile Gabhayi
- Zolani Dina
- Matthews Mahloma
- Sampson Ngumla
- Lennox Sinoko
- Noweight Monco

*CU AD*

Case No:

Plaintiff

- 25. 72644/92
- 26. 72664/92
- 27. 72656/92
- 28. 72657/92
- 29. 72636/92
- 30. 72635/92
- 31. 72642/92
- 32. 72641/92
- 33. 72648/92
- 34. 72647/92

- Nophumzile Bokoda
- Mbekeni Makiki
- Jojo Kuzani
- Amos Fumbatha
- Albert Goutyana
- Boy Tshetsha
- Peterson Sweli
- Walter Mnisi
- Priscilla Qaqane
- Nophakamile Khala

*Ch* AO



## AFFIDAVIT

I, the undersigned

BOY TSHETSHA

do hereby make oath and say: -

1. I am an adult male person of 9503 Phola Park, Tokoza. The facts herein contained are within my personal knowledge and are both true and correct.
2. I reside with Zolani Dima and Vusi Khuleko at the above mentioned address. We heard sound of gunfire at or about 9 pm. As we were already asleep at that time we decided to remain in bed.
3. At or about 11 pm our door was kicked open. Two Black soldiers entered the shack and talked to us in a language we did not understand. Suddenly they started assaulting us with bullets of their rifles, steel pipes and sjamboks. I managed to escape from the shack and ran into the forest near the railway lines. I remained there until the following morning.
4. I returned to the settlement at or about 8 pm the following morning. I was taken by ambulance to Ntatalapruet Hospital where I was treated and discharged.
5. I sustained lacerations on my back, swollen lips and bruises and cuts on my right leg. I felt severe pain for a period of four days.

B.T. M

I am still experiencing mild pains

B. Brown

DEPOSITION

This done and signed before me at Thebes on this the 14th day of April 1992. The deponent having acknowledged that he knows and understands the contents of this declaration and considers the oath to be binding on his conscience.

M. Taylor

MIRANDA JANE TAYLOR  
PRACTISING ATTORNEY (R.S.A.)  
COMMISSIONER OF OATHS  
23rd FLOOR KING CENTRE  
141 COMMISSIONER STREET  
JOHANNESBURG 2001



**Collection Number: AK2702**

**Goldstone Commission of Enquiry into PHOLA PARK Records 1992-1993**

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