

THE STATE VERSUS

1. GEORGE EDITOR MLULENI
2. SIMON MLONYENI
3. PHILA NKAYI

1978
PORT ELIZABERTH

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1978

PORT ELIZABETH

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION EASTERN CAPE,
HELD AT PORT ELIZABETH

CASE NUMBER: RC8/280/78

DATE: 19/7/78

THE STATE VERSUS:

MTULEKI EDITOR GEORGE & 2

BEFORE:

MR. A. J. MCCARTHY

ON BEHALF OF THE STATE:

MR. E. GROUS

ON BEHALF OF THE DEFENCE:

ALL IN PERSON

CHARGE(S):

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CONTRAVENING SUPPRESSION OF COMMUNISM AC

PLEA:

GUILTY TO MAIN COUNT
NOT GUILTY TO ALTERNATIVE COUNT

INTERPRETER:

MR. B. B. T. MABONA

CONTRACTORS:

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LUBBE RECORDINGS

CASE NO.: RC6/280/78

PROSECUTOR STATES THE CHARGES

ALL THREE ACCUSED PLEAD GUILTY TO THE MAIN COUNT

ALL THREE ACCUSED PLEAD NOT GUILTY TO THE ALTERNATIVE COUNT.

PROSECUTOR: I think it might be easier sir, if I give the Court some of the background and evidence to enable the Court to question the accused in terms of Section 112. Your Worship, the organization known as the People's United Front for the Liberation of South Africa was established in Johannesburg during 1973. The organization first started as a (10) Marxist study group to politicize people, more specifically workers and the peasants. Originally, sir, the organization existed out of six members. The organization was an underground movement. The purpose of this was, sir, to try and avoid the (Indistinct). Both accused no. 1 and 2, sir, joined the organization during 1975 at King Williams' Town. Accused no. 1 and 2 at a stage also went to Johannesburg where they were present at a meeting that was held by the organization. During December 1977 sir, accused no. 3 was recruited by accused no. 1 to become a member of the organization. Accused (20) no. 1 also politicized accused no. 3 who then in fact became a member of this organization. The organization works on an underground cell system. The idea was that each cell should consist out of six members who in turn should recruit and politicize five, beg your pardon sir, their own members. The cell leaders in their turn sir, met regularly to discuss the strategy to be followed and to inform the authorities of the organization about the membership. All three the accused, sir, were members of the cell of the organization at King William's Town. From King William's Town sir, the (30) accused, that is all three of them, recruited people for membership/.....?

membership of the organization from King William's Town itself, Grahamstown, Uitenhage and Port Elizabeth. Between the three accused sir, they recruited approximately twelve members who became members of the organization. All three the accused made use of communistic literature such as the Communistic Manifesto, the Organization of Caste^(?), the Vassential Left written by Marx & Engels; State and Revolution, Time Longer than Rope, The Awakening of the People, and The War of the Few. This they used, sir, when they were busy politicizing and recruiting new members for the organization and on this basis, sir, new (10) members were in fact recruited and politicized. Your Worship, as far as some of these books are concerned the State would produce the following evidence sir, as to the contents of these books. As far as The Organization of Caste is concerned sir, the State would show that this was a paper which was prepared to be delivered at the seminar or meeting of a group of people. It also contains a lengthy discussion of the history of dissident struggle in South Africa and indicates the recommendations regarding the action that should be taken. This is based on a communist approach. The Manifesto of the Communist Party sir, (20) Marx & Engels, this is the prime propaganda document of the early communist movement. It sets out the basic principles of communism and wanted to convince people to join the communist movement and to influence them to take action. It is still today regarded as a basic document of communism and is still widely used as educational and propaganda tools by communists. Time Longer than Rope sir, this is a book on the history of the Black man's struggle for freedom in South Africa. It is written by a self-confessed communist, Edward Roux. The representations of the history of this movement in South Africa is sympathetic (30) and partisan. A study of this book shows, sir, that it is similar/.....3

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similar to the first one I read to the Court, sir, Organization of Caste and that it is essential to understand the situation before formulating the program of action. Sir, the method used by the accused when using these books is one of firstly themselves making a very thorough study of the contents of the book, then recruiting people, making available these books and documents to them to read, then to politicize them in accordance with the contents of these different documents or books. Lectures were also given, sir, by the accused. During these lectures, sir, it was also very clear that they (10) favoured the approach by the Communist Party. In fact, by doing so sir, they spread the doctrine of Marxian Socialism and by so doing sir, also furthering the aims of the Communist Party. Accused no. 1 and 2 sir, raised and donated money to the organization. They each donated R100 to the organization, to their own organization.

COURT: People's United Front, that's for the liberation of South Africa.

PROSECUTOR: The organization then bought a motor car sir, for transport purposes, to enable them to carry out and (20) fulfil the aims of the organization. Sir, all three the accused assisted in the concealment of persons sought by the police in connection with mostly political offences and/or assisted such persons to leave the country. The three (7) accused, through their organization concealed approximately seven people from the police at Johannesburg and two people were sent to Botswana by the accused through their organization. The latter two, sir, that is the two that were sent to Botswana, were sent out of the country by the organization because it was stated sir, that the two people were becoming a security risk (30) for the existence of the organization. I just want to clarify

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one point in favour of the accused, that is that these people weren't sent out of the country for military training, they were merely just sent out to get away from the police. Sir, the object of the organization was to organize the non-Whites' matters, take part in mass action, for the purpose of bringing about the social, political and economic changes envisaged by the programme of the South African Communist Party. The Communist Party's programme, which was accepted by the organization to which the accused belonged, in this regard sir include the organization of communist and non-communist in (10) a united front of national liberation for the purpose of bringing about a national democratic revolution, put an end to race discrimination, to restore the land and wealth of the country to the (indistinct) and to guarantee to them all an equality of democratic rights. The object in so doing is to lay the foundation for the achievement in the long run of the ultimate communist aim of creating a classless society. Sir, that is the plan of action of the organization of the accused. Sir, the method envisaged by the organization of the accused to achieve these objects, is to organize the (20) working classes in trade unions and to build on that political organizations of the peasants and working class, who together will destroy the dictatorship of the capitalists by means of boycotts, stay aways and strikes which would be concluded by a revolution and the replacement of the existing Government with the dictatorship of the working classes on a system of socialism.

COURT: Did the accused follow the particulars which the State has furnished?

ALL THREE ACCUSED: Yes. (30)

COURT: Now firstly, count 1, do the accused understand this/.....5

this charge?

ALL THREE ACCUSED: Yes.

COURT: And do they understand the allegations contained therein?

ALL THREE ACCUSED: Yes.

PROSECUTOR ASKS FOR SHORT ADJOURNMENT.

COURT ADJOURNS. COURT RESUMES.

COURT: Does the Court correctly understand that the accused admit that they acted in concert with other persons in the furtherance of common purpose? And performed acts which were calculated to further the achievement of any of the objects of communism? Do they admit that? (10)

ACCUSED: Yes we admit that, your Worship.

COURT: All three accused?

ACCUSED: All three of us, yes.

COURT: By more specifically establishing or joining the organization named as The People's United Front for the Liberation of South Africa?

ACCUSED: That is correct, yes.

COURT: And do the accused admit that the aims of this organization were any one or more of the following: Firstly the establishment of a despotic system of government in South Africa based on the dictatorship of the proletariat under which one political organization would be recognized and all other political organizations would be suppressed or eliminated? Do the accused agree that that was one of the aims of this organization?

ACCUSED: If it was one Government as some explain it, there would be no despotism.

COURT: I don't quite follow? This aim of the People's United Front for the Liberation of South Africa, do you not agree that/.....6 (30)

that this was one of their aims?

INTERPRETER: Could you repeat that?

COURT: That is the establishment of a despotic system of government based on a dictatorship of the proletariat under which one political organization only would be recognized, whilst other political organizations would be suppressed or eliminated.

ACCUSED: The only difference is the word "despotic", your Worship, otherwise we agree.

COURT: I see, right, and then there is another aim, or (10) a following aim is the bringing about of political, industrial, social or economic change within the Republic by the promotion of disturbance or disorder.

ACCUSED: We agree that that is correct.

COURT: And the third aim, being the spreading of the doctrine of Marxian socialism, or

ACCUSED: That we agree to, your Worship.

COURT: And do the accused also admit that they established secret cells of this organization within the Republic?

ACCUSED: Yes, we admit that, your Worship. (20)

COURT: And to recruit or attempt to recruit persons to become members of this organization, the People's United Front?

ACCUSED: That is correct, yes.

COURT: And receive or raise and utilize financial aid for the purpose of carrying out the aims of the organization?

INTERPRETER: Nos. 1 and 2 admit that your Worship.

COURT: And accused no. 3 of course, from what the Court has gathered, was in fact recruited by accused no. 1.

ACCUSED 3: That is correct, yes.

COURT: And finally, that the accused assisted in the (30) concealment of persons being sought by the police?

ACCUSED/.....7

ACCUSED: That is correct, yes.

COURT: Mr. Prosecutor, before the Court goes on to the alternative count, is the State accepting the plea on the alternative count?

PROSECUTOR: Sir, depending on the judgment on count 1 I'll consider that.

COURT: Do you expect the Court to first give judgment on Count 1?

PROSECUTOR: Count 1, yes.

COURT: Do you wish to address the Court before the Court (10) gives judgment?

PROSECUTOR ASKS FOR A CONVICTION.

THE ACCUSED WISH TO ADDRESS THE COURT BEFORE JUDGMENT.

ACCUSED: Your Worship, we realize our mistakes. Your Worship what worries us is the fact that our leaders have since left the country. It would appear to us now that they just took us into this that was ^{happening} and left us in the lurch. We humbly plead with you to impose a suspended sentence on us, your Worship and we further promise that we will not again involve ourselves with such matters. (20)

COURT: Yes, actually the Court at this stage is not concerned with the sentence aspect, the Court must first satisfy itself that the accused are in fact guilty before the sentence aspect will be considered.

ACCUSED: We have nothing to say on the merits of the case your Worship.

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J U D G M E N T

BY THE COURT: The accused are Mluleki George, Simon Mlonyeni and Phila Nkayi, all three Bantu males aged 31, 26 and 22 years (30) of age respectively, who are charged with having contravened

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the provisions of Section 11(a) of Act 44 of 1950, to which there is also an alternative charge. The accused pleaded guilty to the, all three accused pleaded guilty to the main charge and have conducted their own defence.

By way of further particulars the State supplied a lot of information to the Court. Did the Court understand the accused correctly that they agreed with what the prosecution said? With the information the Prosecutor gave the Court?

ACCUSED: Yes your Worship.

COURT: The Court then questioned the accused in terms (10) of Section 112 of the Criminal Procedure Act. The information and the admissions made by the accused satisfies the Court that they are in fact guilty of the main charge and they are consequently all three FOUND GUILTY AS CHARGED, that is ON THE MAIN COUNT.

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PROSECUTOR: As far as the alternative count is concerned sir, the position is that the State will rely on exactly the same evidence as on the main count. I am of the opinion sir, that even if we should proceed on this, the alternative count (20) and the accused are convicted of the alternative count sir, obviously this cannot be done, so under the circumstances, where the accused have been convicted on the main count I do not lead any evidence regarding the alternative count.

COURT: Mr. Prosecutor, are you proving previous convictions?

STATE DOES NOT PROVE PREVIOUS CONVICTIONS.

PROSECUTOR: I would ask the Court to consider passing sentence when the Court is ready to do so.

COURT: Well I first want to hear the accused. Is there anything the accused wish to say or add to what they have (30) already said before sentence is passed?

ACCUSED/.....9

ACCUSED NO. 1 DOES NOT WISH TO ADDRESS THE COURT.

ACCUSED NO. 2 ADDRESSES THE COURT:

To add to what Accused no. 1, Mr. George, has first stated, firstly, the leaders of this organization left us. This is what I wish to add. We now see what communism means and what it aims at and we regret it your Worship, and we plead for a suspended sentence. That is all.

ACCUSED NO. 3 ADDRESSES THE COURT:

Your Worship, I wish to state to the Court that I have been recently recruited and I was not well versed with (10) the aims and ideas of the organization. Because I see my friends are now regretting, your Worship, I wish to express the same opinion, that of regret, sir. That is all.

INTERPRETER: No. 2 wishes to add something, your Worship.

ACCUSED NO. 2: Your Worship, when accused no. 1 were arrested, we were about to leave this organization. That is all I wish to say.

COURT TO ACCUSED NO. 1: Accused no. 1, how old are you? --

Thirty-one, your Worship.

Are you married? -- Yes, I am married. (20)

Children? -- No children.

Where were you employed? -- I had stopped working, I had been working for the Ciskeian Government.

As? --(Inaudible)Officer of the Ciskei Tender Board.

How long had you been employed there? -- Six years.

You needn't tell the Court if you don't want to but why did you, the Court would like to know why you left your employment? -- Your Worship, I left my employment because I thought that I was about to be arrested. I did not want to be arrested whilst being employed. (30)

What are your educational qualifications? -- I

am/.....10

am a matriculant your Worship.

COURT TO ACCUSED NO. 2: Accused No. 2, how old are you? --
I am 26 years of age.

Married? -- Single, sir.

Where were you employed? -- Barclays Bank, East
London.

For how long had you been employed there? -- Two
years, your Worship.

In what capacity? -- I was a Bank teller.

What are your educational qualifications? -- Also (10)
a matriculant, your Worship.

What was your income? -- R339 per month.

And No. 1 what was your income?

ACCUSED NO. 1: Two hundred and fifty (something) nett, your
Worship, after deductions.

COURT TO ACCUSED NO. 3: Accused no. 3, how old are you? --
Twenty-two, your Worship.

Where were you employed? -- I was not employed.

Have you never been employed? -- I've never
been employed. (20)

You're not married I take it? -- Unmarried.

Educational qualifications? -- A matriculant,
your Worship.

When did you matriculate? -- In 1976.

Who were you living with? -- I was living with
my mother, your Worship.

Where? -- Grahamstown.

Is there any reason why you didn't work? -- One
of my reasons was that I could not get employment in Grahamstown.

NO FURTHER QUESTIONS. (30)

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PROSECUTOR/.....11

PROSECUTOR ADDRESSES THE COURT:

There is just one aspect that I feel I should bring to the Court's notice in fairness to the accused sir. The investigating officer, capt. du Plessis, told me that right from the start, after the arrest of the three accused, all three accused co-operated fully with him. They supplied all the necessary statements and information and that he had no trouble with the accused at all.

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S E N T E N C E

(10)

BY THE COURT: In arriving at a suitable sentence, the Court will bear in mind the personal circumstances of the accused, the offence and the circumstances under which it was committed, the interests of society and the deterrent effect of sentence. The personal circumstances which the accused have conveyed to the Court will be borne in mind. There is the aspect of the accused having pleaded guilty and have shown thereby their remorse for what they have done. Moreover the accused are all first offenders. The Prosecutor also informed the Court that after the arrest of the accused they co-operated fully with (20) the police. This is a further indication of their remorseful attitude to what they had done.

The offence is a very serious one. It is aimed at the authorities, mainly at the government of the country, which was intended to be overthrown by disturbance and disorder. This would have far reaching effects on the citizens of the country. The Act makes provision for a maximum penalty of ten years' imprisonment. The sentence which is imposed must not only act as a deterrent to the accused not to participate in such activities again, but also to others who contemplate (30) similar actions. In all the circumstances of the case, the

Court/.....12

Court accepts and finds that accused no. 3 took a lesser part than accused nos. 1 and 2. He is also younger than accused nos. 1 and 2 and consequently will be treated differently to accused nos. 1 and 2. The Court is prepared to suspend a portion of the sentence of the accused. The Court, however, is of the opinion that a prison sentence is warranted in this case.

Accused nos. 1 and 2 are each sentenced to FIVE YEARS' IMPRISONMENT of which one year's imprisonment is suspended for five years on condition that the accused are (10) not convicted of having contravened any provision of Section 11 of Act 44 of 1950 during the period of suspension.

Accused no. 3 is sentenced to FOUR YEARS' IMPRISONMENT, of which one year's imprisonment is suspended for five years on condition that the accused is not convicted of having contravened any provision of Section 11 of Act 44 of 1950 during the period of suspension.

TRANSCRIBER'S CERTIFICATE

I, the undersigned, hereby certify that the foregoing is a true and correct transcription of the original evidence recorded by means of a mechanical recorder in the case of:-

THE STATE VERSUS:

M. F. GEORGE & 2

TRANSCRIBER:

J. de Roub.

LUBBE RECORDINGS (PORT ELIZABETH) (PTY) LTD.

Collection Number: AD2021

Collection Name: Security trials, Court records, 1958-1982

PUBLISHER:

Publisher: Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa

Location: Johannesburg

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