

IN THE MAGISTRATE'S COURT FOR THE DISTRICT OF PRETORIA  
HELD AT PRETORIA CASE NO : 72638/92

In the matter between : -

MXOLELI BAMBATA Plaintiff

and

MINISTER OF DEFENCE Defendant

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

PRESENTED FOR FILING BY : -

*Att 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 : 72638/92

In the matter between : -

MXOLELI BAMBATA

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.

*CH* 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. A. Mitchell*

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.

*A. Dissel*  
COMMISSIONER OF OATHS

AMANDA JOY DISSEL  
COMMISSIONER OF OATHS  
PRACTISING ATTORNEY  
708 MEDICAL ARTS BUILDING  
220 JEPPE STREET, JOHANNESBURG  
REPUBLIC OF SOUTH AFRICA  
23rd Floor Kine Centre  
141 Commissioner Street

I, the undersigned

MYOLEL: BamBata

do hereby make oath and say:

1. I am an adult male and I reside at L 223 Phola Park.
2. The facts contained herein are true and correct and within my personal knowledge.

M B  
MT

~~3. On Wednesday 8 April 1992~~

3. On Thursday 9 April 1992 at 1hoo I was at home on my own. I was woken up by the sound of people crying. I then heard loud banging on the door and someone said I must open the door. I got up and opened the door.

4. There were many soldiers at the door, holding guns and torches. They asked me where is the gun and I said I don't know anything about a gun.

5. They then started to hit me with their open hands on my face. They then hit me over my right eye with the back of a gun. This happened inside the house.

M B  
MT

6. They made me lie down beside my legs.



and they then kicked me repeatedly  
and hit me with the back of their  
guns.

They then said I must get up and go  
back into the house and they then left.

I went into my house and slept until  
morning.

On my way to work at about 6.30  
that morning I met 5 black soldiers.  
They were walking between the houses.  
They asked me where I was going to.  
I replied that I was going to work.  
They then started to hit me using  
sjamboks and the back of their guns.  
They then left me there and I went  
on to work.

The following day I went to Netel's  
Hospital and they treated the injuries  
to my face and back.

MXOLELI Bumbata

This done and signed before me at Tokozan on the  
14 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 signature.

MIRANDA IANE TAYLOR  
PRACTISING ATTORNEY (LEGAL)  
COMMISSIONER OF OATHS  
23rd FLOOR KINE CENTRE  
141 COMMISSIONER STREET  
JOHANNESBURG 2001

M. Taylor



SA WEERMAG

# KONSULTASIE/OPNAME

Voltooi volledig

Merk "X" in genommerde blokkies

Weermagsdeel

SA Leër  1 SA Lugmag  2 SA Vloot  3 SAGD  5 Ander  6

406717

(2#) 18

Bladsy 1

7530-18-411-3469  
DD 2293 (AFR.)  
(86 Hers)

Plek van Konsultasie

WITS M.M.C.

Tuis-eenheid

THOKO ZA

Afgeede Eenhed

Mediese Skema

DD 2618C Datum 1 9

## IDENTIFIKASIE BESONDERHEDE

Pasiënt se Nommer: 5611035735082  
 Pasiënt se Rang: CIVIL  
 Verwantskap: S  
 Pasiënt se Voorletters: M  
 Pasiënt se Geboorte Datum: 19561103  
 Pasiënt se Geslag: M  
 Pasiënt se Huwelikstaats: M  
 Datum waarop Opleiding/Kamp verstrvk: 1 9  
 Pasiënt se Allergie: NIL KNOWN

## KONSULTASIE/OPNAME BESONDERHEDE

Konsultasie Opname Datum: 19950123  
 Oopname Tyd: [ ] Saai: [ ] Kamer: [ ] Bed: [ ]  
 Diagnose: [ ]  
 Leke taal: [ ]  
 Diens aanbeveling: [ ]  
 Periode Vanaf: [ ] Tot: [ ]  
 Hand- OFFISIER: *[Handwritten Signature]*  
 Drukskrif: J.C. COETZEE  
 Dokters-kode: [ ]  
 Rede vir opname/ Konsultasie: [ ]  
 1 Aanmeldbare Siekte [ ] 2 Operasionele Besering [ ] 3 Ander [ ] 4 Geboorte [ ] 5 Dooc met Aankoms [ ] 6 Selfmoord [ ] 7 Rehabilitasie [ ] 8  
 Oorsaak van Konsultasie/Behandeling: Redekode E [ ]  
 DD 101 [ ] DD 153 [ ]  
 Voitooi op: 1 9

## VERWANTE BESONDERHEDE MET OPNAME/KONSULTASIE

Naasbestande Titel: [ ] Naasbestande Voorletters: [ ] Naasbestande Van: [ ]  
 Adres: [ ]  
 Tel. nr.: [ ]  
 Kerk Verband: [ ] Kerk Kode: [ ]







SA WEERMAG

KONSULTASIE/OPNAME

Voltooi volledig

Merk "X" in genommerde blokkies

Veermagsdeel

SA Leër 1 SA Lugmag 2 SA Vloot 3 SAGD 5 Ander 6

406717

Bladsy 1

Plek van Konsultasie

Tuis-eenheid

Afgedeelde Eenheid

Mediese Skema

7530-18-411-3469

DD 2293 (AFR.) (86 Hers)

W 115 M. J. C.
115 10 57
DD 2618C Datum 1 9

DENTIFIKASIE BESONDERHEDE

Pasiënt se Nommer 5611035135082
Pasiënt se Rang 1111
Ver-want-skap S
Pasiënt se Voorletters M
Pasiënt se Geboorte Datum 1 9 5 6 1 1 0 3
Pasiënt se Geslag M
Pasiënt se Huwelikstaat M
Datum waarop Opleiding/Kamp verstrvk 1 9
Pasiënt se Allergieë

KONSULTASIE/OPNAME BESONDERHEDE

Konsultasie Opname Datum 1 9 7 5 0 1 2 3
Opname Tyd:
Saai:
Kamer:
Bed:
Diagnose
Leke taal
Diens aanbeveling
Periode Vanaf:
Tot:
MEDIESE Hand-OFFISIER: tekening
Drukskrif J. C. COETZEE
Dokters-kode
Rede vir opname/Konsultasie:
Besering 1 Aanmeidbare Siekte 2 Operasionele Besering 3 Ander 4
Geboorte 5 Dood met Aankoms 6 Selfmoord 7 Rehabilitasie 8
Oorsaak van Konsultasie/Behandeling:
Redekode E
DD 101
DD 153
Voltooi op 1 9

VERWANTE BESONDERHEDE MET OPNAME/KONSULTASIE

Naasbestaende Titel:
Naasbestaende Voorletters:
Naasbestaende Van:
Adres:
Tel. nr.:
Kerk Verband:
Kerk Kode:

VOORSKRIF: OPNAME/KONSULTASIE/ONTSLAG

Table with columns for patient details and medical notes.

Voorskrif Datum 1 9 7 5 0 1 2 3
Mediese Hand-Offisier: tekening
Uitbreiding
Kode

HIERDIE VORM IS VIR GEBUIK BY ALLE MILITÊRE MEDIESE INSTANSIES VIR DIE OPNAME/BEHANDELING/KONSULTASIE OF VERWYSING VAN 'N PASIËNT

Pasiënt verwys na kliniek
Kliniek Kode
Sente Profie JA
Voorskrif 1
Eerste konsultasie 2
Opvolg konsultasie 3
Konsultasie teiken op mediese rekord
3 Maande 1
1 Jaar 2
5 Jaar 5



A. KLAGTE:

Aanvanding Arata Park. Gestaan  
in geshop.

- ① Probleme met ad
- ② Geen ander klachten.  
Alle problemen tot opgelost. ago  
aanvanding.

B. GESKIEDENIS:

① Probleme met ad as warm is  
Voel paresthesie in ad.  
Kan goed sien - lees goed.

C. BEVINDINGS:

Geen sequelae van aanvanding na

10: 150 120/80

Fast lange + leuk WAG

NB Polisie tene

verruys klucht

aanvanding van  
Hadselle



D. SPESIALE ONDERSOEKE:

geen.

E. KORT OPSOMMING VAN GESKIEDENIS, FISIESE ONDERSOEK, SPESIALE ONDERSOEKE, DIFFERENSIËLE DIAGNOSE, BEHANDELING EN BEHANDELINGSPLAN, MET ONTSLAG: DEPARTEMENTELE OPINIE:  DISSCIPLINE:

Diagnose: geen regelmatige aanwending van  
Uit Politieterm (misk te doen  
met GANW me) - kliniek  
Kwantum: < R 2000.



F. VOORBEREIDING VIR OPVOLG/VERDERE PLANNE/AANBEVELINGS:

G. VIR VASLEGGING – PROBLEEMLYS

1. ....
2. ....

Haal lyn  
Nommer  Af van probleemlys

H. DIAGNOSE:

Merk toepaslike genommerte kolom met "X"																	
U	Diagnose																
N	Volgehoue Toestand								Verbygaande Toestand								
	Aktief				Onaktief				Belangrik				Onbelangrik				
E	Finaal	Tent	Finaal	Tent	Finaal	Tent	Finaal	Tent	Finaal	Tent	Finaal	Tent	Finaal	Tent			
	OB	OB	OB	OB	OB	OB	OB	OB	OB	OB	OB	OB	OB	OB			
F	00	01	02	03	04	05	06	07	08	09	10	11	12	13	14	15	16
1. ....																	
2. ....																	
3. ....																	
4. ....																	
5. ....																	
6. ....																	

Kode

Tent = Tentatief      OB = Voig Behandeling Op

OPERASIE/PROSEDURE

1. ....
2. ....

Kode

Handtekening  
Mediese Offisier

Dokterskode

Datum van  
Opname  
konsultasie

1 9

Handtekening  
Mediese Offisier

Dokterskode

Datum van  
Ontslag

1 9

Handtekening van Siekte profiel konsultasie



Issued by

*M. L. L. L. L.*

Case No.

22.09.92

072638



Clerk of the Court

CLERK OF THE COURT  
KLERK VAN DIE HOF

Date

Stamp

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

Sued out by

NICHOLLS, CAMBANIS & SUDANO  
c/o ADAMS & ADAMS  
Shorburg  
429 Church Street  
PRETORIA  
0001  
Postal address  
P.O. Box 1014, PRETORIA, 0001.

*C. M. L. L.*

Signature of Plaintiff or his Attorney

In the Magistrate's Court for the District of PRETORIA

held at PRETORIA

Between MXOLELI BAMBATA

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.

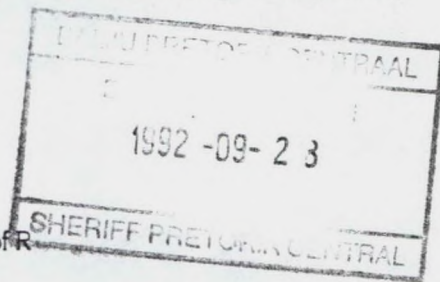
You are hereby summoned that you do within 21 (twenty-one) days of the service of this summons deliver or cause to be delivered to the CLERK OF THE AFORESAID COURT and also the PLAINTIFF OR HIS ATTORNEY, at the address specified herein, a notice in writing of your intention to defend this action and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

MXOLELI BAMBATA, an adult male, unemployed of full legal capacity resident at L 223 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 .....	R		R	
Total .....			R	

(See back)



## PARTICULARS OF CLAIM

1. The Plaintiff is MXOLELI BAMBATA an adult male, unemployed of full legal capacity resident at L 223 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 TWENTY THOUSAND RAND (R20 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 R20 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.

*C. Nicholls*

NICHOLLS, CAMBANIS,  
KOOPASAMMY 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.: 92/0,044,110.00  
CASE No. : 72638/92

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

BETWEEN  
MXOLELI BAMBATA

Plaintiff

AND  
THE MINISTER OF DEFENCE  
STATE ATTORNEY

Defendant

ADDRESS : PLOT : 4THF FEDLIFE FORUM BUILDING  
VAN DER WALT STREET  
PRETORIA 0000

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.

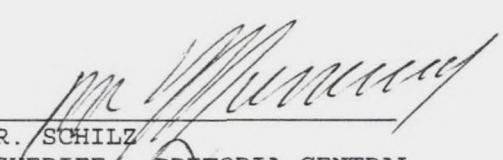
RULE 9(3)(g) : THIS IS TO CERTIFY THE A COPY OF THE ABOVE MENTIONED  
PROCESS WAS SERVED ON M BESTER A PERSON APPARENTLY NOT LESS  
THAN (16) SIXTEEN YEARS OF AGE AND DESIGNATED IN THE STATE  
ATTORNEY'S OFFICE FOR THIS PURPOSE, BY HANDING A COPY  
THEREOF TO SAID PERSON.

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.



**Collection Number: AK2702**

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

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*Location:* Johannesburg

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