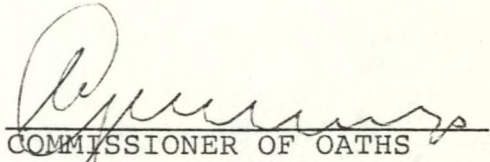


knows and understands the contents of this affidavit
which was signed and sworn to before me at Johannesburg
on the 7th day of May 1982.



COMMISSIONER OF OATHS

CARLO ANDREAS GERMESHUYS

41 RISSIK STR. 41,

FULL NAME

JOHANNESBURG

Praktiserende Prokureur R.S.A.

Practising Attorney R.S.A.

BUSINESS ADDRESS

CAPACITY



Telegramadres } "GOVAT"
Telegraphic address }

Telefoon } 28-2736
Telephone }

Navrae }
Enquiries } Mnr C Beukes

REPUBLIEK VAN
SUID-AFRIKA



REPUBLIC OF
SOUTH AFRICA

By beantwoording verwys na
in reply please quote

No. A/726/82/P4

U Verw: Mnr P A J Kotze

4 MEI 1982

Die Landdros
JOHANNESBURG

Kantoor van Staatsprokureur
Office of State Attorney
Hooggeregshofgebou
Supreme Court Buildings
H/v Von Brandis- en Pritchardstraat
Cor. of Von Brandis and Pritchard Streets
Privaatsak } X9
Private Bag }
2000 Johannesburg

PER HAND

MINISTER VAN WET EN ORDE EN ANDERE v USELF EN ANDERE

Hierdie skrywe word aan u gerig na aanleiding van mnre Bell, Dewar & Hall se brief aan u van 30 APRIL 1982.

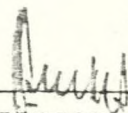
Met betrekking tot die submissies in die brief vervat, word die standpunt van my kliënte, die Applikante in bogemelde geding, hieronder beleefd aan u bekend gemaak.

1. U word ingevolge die Kennisgewing van Mosie versoek om die notule van die geregtelike doodsondersoek aan die Griffier van die Hooggeregshof te besorg. Dié notule bestaan uit die oorkonde van die verrigtinge op 13 APRIL 1982 voor uself en die verrigtinge op 2 MAART 1982 voor Landdros De Kock. Die ingelewerde bewysstukke, te wete die beëdigde verklarings van die getuies J E Lloyd en D H P Zeelie en die verslag van Dr V D Kemp, maak deel daarvan uit.
2. U word ingevolge die Kennisgewing van Mosie ook versoek om die verklarings, stukke en inligting wat ingevolge Artikel 5 van die Wet op Geregtelike Doodsondersoeke, nr. 58 van 1959, aan u voorgelê is, aan die Griffier te besorg. Hierdie versoek word aan u gerig omdat die Hooggeregshof by hersiening van u beslissing met verwysing na dokumentasie in dieselfde posisie geplaas behoort te word as dié waarin u u bevind het toe u oor die geopperde beswaar beslis het.
3. Wat die Artikel 5 dokumentasie betref, het u voorganger en uself sekere verklarings en ander stukke aan die regsverteenvoerders van die belanghebbendes verskaf. Hierdie belanghebbendes is die Derde Respondent en die Applikante. Ten opsigte van sekere ander stukke is slegs insae aan die belanghebbendes verskaf. Behoudens die beëdigde verklarings en

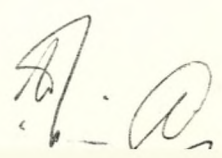
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verslag waarna in paragraaf 1 hierbo verwys word, is geeneen van die aldus verskafde afskrifte of ander Artikel 5 dokumente nog ingevolge Artikel 13(1) of andersins in die geregtelike doodsondersoek toegelaat en die inhoud daarvan daarin openbaar gemaak nie. Die feit dat daar nou 'n hersieningsaansoek gedoen word, verander nie aan hierdie karakter en status van sodanige dokumente nie. Vandaar dan ook dat die oorledene se verklaring nie by my kliënte se aansoek aangeheg is nie. In hierdie verband word u verwys na paragraaf 22 van die ondersteunende beëdigde verklaring van Petrus Johannes Coetzee waaruit hierdie benadering ook blyk.

4. Die Respondente is myns insiens nie geregtig om in hulle Antwoordende Beëdigde Verklarings op sodanige wyse na die Artikel 5 dokumentasie te verwys dat die inhoud daarvan openbaar gemaak word nie. U het die afskrifte met die oog op die verrigtinge voor u beskikbaar gestel, klaarblyklik onderworpe aan moontlike besware teen toelaatbaarheid en ontvanklikheid daarvan in die verrigtinge asook moontlike besware teen die aanbieding van viva voce getuienis deur enige deponente. In die huidige aansoek behoort hierdie toedrag van sake nie versteur te word nie en behoort die verrigtinge voor u nie vooruit geloop te word nie. Meer bepaald het my kliënte en die Derde Respondent tans geen aanspraak op of ten opsigte van die Artikel 5 dokumentasie wat hulle voor u nie gehad het nie.
5. In die lig van voorgaande word aan die hand gedoen dat u die Artikel 5 dokumentasie as synde sodanige dokumente aan die Griffier van die Hooggeregshof besorg vir bewaring en beheer en voorlegging mettertied aan die geëerde regters wat die hersieningsaansoek verhoor. Die partye behoort inmiddels en by die verhoor van die aansoek dieselfde toegang tot die Artikel 5 dokumentasie te geniet as waarop u reeds besluit het.
6. Afskrifte van hierdie skrywe word besorg aan die Griffier van die Hooggeregshof, die Prokureur-Generaal van Transvaal en mnr Bell, Dewar & Hall.



STAATSPROKUREUR



BELL, DEWAR & HALL ⁹²

ATTORNEYS, NOTARIES AND CONVEYANCERS

10th Floor, Norwich Union House

91 Commissioner Street, Johannesburg, 2001

Telephone (011) 833-5665 Telegrams 'Justinian'

P.O. Box 61680, Marshalltown, 2107 Telex 8-8122 SA

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 M.J. Simpson, BA, LLB
 D.K. Sinclair, BA, LLB

K.D. Finegan, BA, LLB
 C.L. Green, BA, LLB
 N.D. Carman, BA, LLB
 A. Mitchell, BSc (Eng), LLB
 D.R. Hoffe, BA, LLB

Assisted by
 V. Mtetwa, BA, BProc

N.J. Roodt, B Com, LLB

Your reference

Our reference Mr P A J Kotze

Mr W Lane/TJM

5 May 1982

The Magistrate
 Johannesburg

By hand

Dear Sir

Minister of Law and Order and Others v Yourself and Others
 Our client: Mr J A E Aggett

We refer to our letter to you of 30 April and the letter which the State Attorney wrote to you on 4 May 1982.

There is much in the State Attorney's letter with which we do not agree. We will deal with this at the appropriate time in the appropriate manner. But we are pleased that the State Attorney's conclusion is the same as ours and we trust that all the relevant papers are now in the care of the Registrar.

In the hope of ensuring that the Supreme Court application has been dealt with by 1 June, we hope, despite problems of distance, to be ready to serve our client's affidavit by the end of the current week. Before we do this, however, we must have sight of the papers delivered up by you, if only to confirm that they are what we expect them to be and to ascertain whether the index has been brought up-to-date. In view of the provisions of the Rules of Court, we could be criticised by the court and by our client if we were not to take this precaution.

In the confidence that there will be no problem, the writer is arranging to call at the office of the Registrar of the Court at 2.00 p.m. on Friday, 7 May, to inspect the papers. In the interest of expediting the proceedings, it will be appreciated if you could ensure that the Registrar is, by that time, in possession of all the papers. Your co-operation will be appreciated.

In so far as the State Attorney refers to the fact that we were not given copies of certain material placed before

you under section 5 of the Inquests Act, we wish to place on record that, in our dealings with your predecessor about this material, our conduct has been governed by what we and your predecessor considered to be good taste rather than a matter of law. We will certainly resist any attempt to attach legal significance to what has happened in this regard.

We are sending copies of this letter to the Registrar of the Supreme Court, the State Attorney and to the Attorney General of the Transvaal.

Yours faithfully

BELL DEWAR & HALL

A. Q.

BELL, DEWAR & HALP

ATTORNEYS, NOTARIES AND CONVEYANCERS

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91 Commissioner Street, Johannesburg, 2001

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Assisted by
 V. Mtetwa, BA, BProc

N.J. Roodt, B Com, LLB

Your reference

Our reference

A/726/82/P4

Mr W Lane/TJM

7 May 1982

The State Attorney
 Supreme Court Buildings
 Johannesburg

By hand

Dear Sir

Minister of Law and Order and Others v P A J Kotze and
 Others

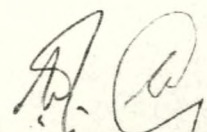
1. We are serving on you with this letter the answering affidavit of the third respondent.
2. We refer to the discussion recorded on pages 74 and 75 of the transcript of the proceedings before the magistrate on 13 April 1982 from which it is apparent that all concerned wished the proceedings in the Supreme Court to proceed expeditiously so that the inquest hearing can resume on 1 June, being the date agreed by all concerned. From our letters it will have been apparent to you that we are doing our best to expedite matters as much as we can. This present affidavit is being filed even before the expiry of the time for giving notice of intention to oppose these proceedings.
3. The last advice we have from our Pretoria correspondents is that the papers called for by you in your notice of motion have not yet been received by the Registrar. On rereading the provisions of rule 53, it is apparent that the obligation rests upon you to prepare the record for the court and for us and that it is unnecessary for us to inspect the record at the office of the Registrar. We have, however, wished to do this in order to expedite the proceedings.
4. It will be appreciated if you will let us know by return what your intentions are in regard to the

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further compliance with the rules, particularly in regard to the preparation of the record. In this regard we repeat what we have previously indicated to the effect that we are prepared to discuss the exclusion of certain papers such as the occurrences book. Such discussions should not, however, delay further progress of the matter. As we are already in possession of most, if not all, of the material which was before the magistrate, our client will, in the interests of saving time and costs, be prepared to consider waiving his right under sub-rule (3) to a copy of the record, provided, however, that we know exactly what is in the record and how it has been indexed.

5. We are also ready to discuss with you, as a matter of urgency, an approach to the Registrar, and to the Judge President if necessary, to arrange a date for the hearing.
6. You will see from the affidavits now being filed and from our recent letters that we consider it correct, and indeed vital, that the Supreme Court is referred to the material which is placed before the magistrate under section 5 of the Inquests Act.
7. Finally, we cannot stress too strongly how important we believe it to be that this application be dealt with urgently by the Supreme Court so that every effort can be made to have a decision before 1 June 1982. Our clients are elderly and any protraction of the proceedings causes them unnecessary anguish. That the Government of the Republic considers it a matter of national concern that the enquiry be dealt with with efficiency and speed so that all the facts relating to the death of Dr Aggett may become known as soon as possible appears from a statement which was made by the Minister of Justice in the House of Assembly on 10 February 1982. If there is any respect in which we can assist in expediting matters, please let us know.
8. As this letter will be referred to in the affidavits now being served, copies are not being separately sent to other interested parties.

Yours faithfully



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

In the matter between:

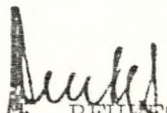
<u>MINISTER OF LAW AND ORDER</u>	1st Applicant
<u>SOUTH AFRICAN TRANSPORT SERVICES</u>	2nd Applicant
<u>STEPHAN PETER WHITEHEAD</u>	3rd Applicant
<u>WALTER MACPHERSON</u>	4th Applicant
<u>JAMES ANDREW VAN SCHALKWYK</u>	5th Applicant
<u>MAGEZI EDDIE CHAUKE</u>	6th Applicant

and

<u>PETRUS ARNOLDUS JURGENS KOTZÉ, N.O.</u>	1st Respondent
<u>ATTORNEY GENERAL OF TRANSVAAL</u>	2nd Respondent
<u>JOHN AUBREY EDWARD AGGETT</u>	3rd Respondent

APPLICANTS' ANSWERING AFFIDAVIT

FILED BY:


C.S. BEUKES
 APPLICANTS' ATTORNEY,
 STATE ATTORNEY,
JOHANNESBURG.

c/o THE STATE ATTORNEY,
 Thibault Building,
 225, Pretorius Street,
PRETORIA.


TO/....

TO: The Registrar of the above
Honourable Court,
PRETORIA.

AND TO: PETRUS ARNOLDUS KOTZÉ, N.O.,
FIRST RESPONDENT,
Magistrate's Court,
West Street,
JOHANNESBURG.

Received copy hereof this the

25 day of MAY, 1982.
oms Pns Kotze


FIRST RESPONDENT

AND TO: ATTORNEY GENERAL OF TRANSVAAL,
SECOND RESPONDENT,
Palace of Justice,
Church Square,
PRETORIA.

Received copy hereof this the
day of MAY, 1982.

SECOND RESPONDENT

AND TO: MESSRS. BELL, DEWAR AND HALL,
THIRD RESPONDENT'S ATTORNEYS,
c/o Messrs. Savage, Jooste
and Adams Inc.,
210, Permanent Buildings,
PRETORIA.

Ref.: Mr. J. Viviers/LT/A373.

Received copy hereof this the
25th day of MAY, 1982.

6/5/82
THIRD RESPONDENT'S ATTORNEYS.

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

CASE NO. 6533/82

In the matter between:

<u>MINISTER OF LAW AND ORDER</u>	First Applicant
<u>SOUTH AFRICAN TRANSPORT SERVICES</u>	Second Applicant
<u>STEPHAN PETER WHITEHEAD</u>	Third Applicant
<u>WALTER MACPHERSON</u>	Fourth Applicant
<u>JAMES ANDREW VAN SCHALKWYK</u>	Fifth Applicant
<u>MAGEZI EDDIE CHAUKE</u>	Sixth Applicant

and

<u>PETRUS ARNOLDUS JURGENS KOTZÉ, N.O.</u>	First Respondent
<u>ATTORNEY GENERAL OF TRANSVAAL</u>	Second Respondent
<u>JOHN AUBREY EDWARD AGGETT</u>	Third Respondent

BEËDIGDE VERKLARING

Ek, die ondergetekende,

PETRUS JOHANNES COETZEE

verklaar hiermee onder eed soos volg:

1. Ek is die hoof adjunk-kommissaris van die Suid-Afrikaanse Polisie en bevelvoerder van die Veiligheidstak van die Suid-Afrikaanse Polisie.

Ek/... *B. J.*


Ek het die vestigende eedsverklaring hierin namens die Eerste en Tweede Applikante afgelê en is behoorlik gemagtig om hierdie repliserende beëdigde verklaring namens hulle af te lê.

2. Behalwe waar anders aangedui of uit die samehang blyk, dra ek persoonlik kennis van die feite hierin uiteengesit.
3. Ek het die antwoordende eedsverklarings van die Eerste en Derde Respondente gelees, en antwoord soos volg daarop:

AD EERSTE RESPONDENT SE EEDSVERKLARINGS
GEDATEER 28 APRIL 1982 EN 11 MEI 1982

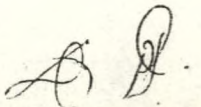
4. (a) Die Applikante se standpunt ten aansien van dokumente wat die Eerste Respondent regtens verplig is om aan hierdie Agbare Hof voor te lê en van sekere feitlike bewerings in die Eerste Respondent se antwoordende eedsverklaring van 28 April 1982 vervat, blyk uit 'n skrywe van die Applikante se prokureur aan die Eerste Respondent, gedateer 4 Mei 1982 en 'n skrywe van die Applikante se prokureur aan die Derde Respondent se prokureur, gedateer 14 Mei 1982. 'n Afskrif van eersgenoemde skrywe is aanhangsel "I" van die Derde Respondent se antwoordende eedsverklaring en 'n afskrif van laasgenoemde skrywe word hierby aangeheg, gemerk "L".

(b) / ... Soos



- (b) Soos uit paragraaf 3 van die Eerste Respondent se eedsverklaring van 11 Mei 1982 en die deur hom ingelewerde notule van die doodsondersoek blyk, was tot op die tydstip van die beslissing wat tans op hersiening geneem word, slegs beëdigde verklarings van J.E. LLOYD en D.H.P. ZEELIE en die verslag van Dr. V.D. Kemp as bewys van die inhoud daarvan in die verrigtinge aanvaar.
- (c) Die Applikante se regsverteenwoordigers het sedert bogemelde briefwisseling plaasgevind het, in oorleg met die Derde Respondent se regverteenwoordigers en die Tweede Respondent se verteenwoordigers gereël dat laasgenoemde die artikel 5 dokumentasie by die verhoor van hierdie aansoek aan hierdie Agbare Hof voorlê. In hierdie verband heg ek 'n skrywe van die Applikantese prokureur aan die Derde Respondent se prokureurs, gedateer 17 Mei 1982, hierby aan, gemerk "M". Die Applikante voer eerbiediglik aan dat die aard en status van die artikel 5 dokumentasie voor hierdie Agbare Hof dieselfde is as wat dit voor die Eerste Respondent was.

AD/...



AD DERDE RESPONDENT SE EEDSVERKLARING

5. AD PARAGRAAF 2.1

- (a) Die Applikante se standpunt in hierdie verband blyk uit paragraaf 4 hierbo.
- (b) Soos hierna vollediger blyk, betwis die Applikante dat die Derde Respondent geregtig is om die artikel 5 dokumentasie te gebruik op die wyse en vir die doel in sy antwoordende eedsverklaring gedoen.

6. AD PARAGRAAF 3.1

Vir die redes in paragrawe 25 tot 29 van my vestigende eedsverklaring uiteengesit, doen die Applikante aan die hand dat die Eerste Respondent se beslissing by wyse van hierdie aansoek hersien behoort te word alvorens die geregtelike doods-ondersoek voortgesit word.

7. AD PARAGRAAF 3.3

Die Applikante ontken dat die verklaring in die

geregtelike/...
[Handwritten signature]

geregtelike doodsondersoek toelaatbaar is om die waarheid van die inhoud daarvan te bewys of dat dit vir enige van die doeleindes in hierdie paragraaf vermeld, in die geregtelike doodsondersoek gebruik kan word.

8. AD PARAGRAAF 4

Die Eerste Respondent het die notule van die geregtelike doodsondersoek inmiddels by hierdie Agbare Hof ingelewer. Betreffende voorlegging van die artikel 5 dokumentasie en die aard en status daarvan voor die Eerste Respondent en hierdie Agbare Hof, verwys die Applikante eerbiediglik na paragraaf 4 hierbo.

9. AD PARAGRAAF 6

- (a) Die Applikante ontken dat toelaatbaarheid van die oorledene se verklaring enigsins beheers of bepaal word deur feite en omstandighede in die artikel 5 dokumentasie, die notule van die geregtelike doodsondersoek of sodanige dokumentasie en notule gesamentlik, vervat.

Die/...

LO J

Die Applikante word geadviseer dat dit gevolglik ook nie vir hulle nodig is om met die gegewens waarna die Derde Respondent verwys en wat deur hom aangehaal en bespreek word, te handel nie.

(b) Die Applikante word geadviseer dat, vir sover dit ingevolge artikel 13(1) en (2) van die Wet tersprake mag kom en nodig mag wees, met dié gegewens in die verloop van die geregtelike doodsondersoek gehandel sal word.

(c) Die Applikante ontken bepaaldelik dat die gegewens waarop die Derde Respondent steun, enige grondslag vir toelaatbaarheid van die oorledene se verklaring bied.

10. AD PARAGRAAF 7

Die Applikante ontken dat die bewerings en bespiegelings in hierdie paragraaf vervat, enige grondslag vir die toelaatbaarheid van die oorledene se verklaring bied. Ek handel gevolglik nie daarmee nie. Vir sover dit ingevolge artikel 13(1) of (2) van die Wet by die geregtelike doodsondersoek tersprake mag kom en nodig mag wees, sal aldaar daarmee gehandel word.

11/...AD
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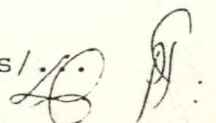
11. AD PARAGRAAF 8

Die Applikante ontken dat die beweerde regspligte van die Applikante en ander persone ten opsigte van aangehoudenenes ingevolge die Wet op Terrorisme, Nr. 83 van 1967 en die beweerde regspligte van die Eerste Respondent by die vervulling van sy funksie ingevolge die Wet enige grondslag vir die toelaatbaarheid van die oorledene se verklaring bied. Ek handel gevolglik nie hierin met die bewerings en newegaande oorwegings deur die Derde Respondent geopper nie. Die Applikante voer eerbiediglik aan dat ontvanklikheid van die oorledene se verklaring as getuienis voor die Eerste Respondent en as bewysmiddel vir doeleindes van ondervraging, aan die hand van die bepalinge van die Wet en erkende beginsels van bewysleer beoordeel behoort te word.

12. AD PARAGRAAF 9

Die aard en omvang van die Eerste Respondent se ondersoek word omskryf in die Wet, en die toelaatbaarheid van getuienis met die oog op die bevindings wat van die Eerste Respondent geverg word is

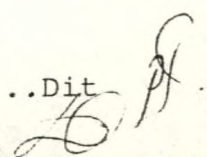
insgelyks/



insgelyks 'n regs kwessie. Ek word geadviseer dat die vrae wat in hierdie paragraaf gepostuleer word slegs met behulp van toelaatbare getuienis beantwoord kan word, en dat daar niks in hierdie vrae vervat is wat 'n grondslag bied vir die ontvanklikheid van die oorledene se verklaring as getuienis of as bewysmiddel by die ondervraging van getuies nie.

13. AD PARAGRAAF 10

(a) Die Applikante ontken dat die "Polisie gekies het om sekere eedsverklarings voor die Eerste Respondent te plaas". Verklarings van polisiebeamptes wat voor die Eerste Respondent geplaas is, insluitende dié van die Applikante wat polisiebeamptes is, is ingevolge artikels 3 en 4 van die Wet deur die verantwoordelike polisiebeampte, Kaptein Carel Jacobus Adriaan Victor, verkry en dit is ingevolge artikel 5 van die Wet voor die Eerste Respondent geplaas. Van die betrokke polisiebeampte het tot die tydstop van die Eerste Respondent se beslissing net J.E. Lloyd en D.H.P. Zeelie getuienis gelewer en is slegs hulle beëdigde verklarings as bewysstukke ingehandig.

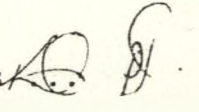
(b) / ...Dit 

(b) Dit blyk uit die notule van verrigtinge dat nog geen beslissing by die geregtelike doodsondersoek gelewer is oor die vraag welke ander polisiebeamptes getuienis moet aflê nie. 'n Skrywe van Landdros L.V. de Kock aan die Tweede Respondent se verteenwoordigers, 'n afskrif waarvan aan die Applikante se prokureur en die prokureurs van die Derde Respondent beskikbaar gestel is, dat gereël moet word dat sekere polisiebeamptes die verhoor bywoon om te getuig, behels nie enige sodanige beslissing nie. 'n Afskrif van Landdros de Kock se brief word hierby aangeheg, gemerk "N".

(c) Die Applikante doen verder eerbiediglik aan die hand dat die vraag of die oorledene se verklaring toelaatbaar is, nie afhanklik is van die bestaan aldan nie, of die inhoud van verklarings van polisiebeamptes wat ingevolge die Wet verkry en voor die Eerste Respondent geplaas is nie.

14. AD PARAGRAAF 11

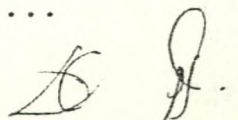
(a) Die Applikante ontken dat die Eerste Respondent verplig was om by die geregtelike doodsondersoek alle dokumente wat ingevolge artikel 5 voor hom

geplaas 

geplaas is, aan die belanghebbende partye beskikbaar te stel. Voorts ontken die Applikante dat die oorledene se verklaring omrede dit beskikbaar gestel is, vir doeleindes van kruisondervraging gebruik kon word.

- (b) Die Applikante voer aan dat die oorledene se verklaring nie ter bewys van sy geestesgesteldheid of van wat fisies met hom gebeur het ontvanklik is nie. Die doel waarvoor die Derde Respondent die verklaring voor die Eerste Respondent wou gebruik was bowendien nie om ter bewys van die oorledene se geestesgesteldheid te dien nie, maar ter bewys van die waarheid van die inhoud daarvan.
- (c) Die Applikante doen met eerbied aan die hand dat in geheel genome geen gronde vir die toelaatbaarheid van die oorledene se verklaring in die bewerings en argumente in hierdie paragraaf vervat, te vinde is nie. Ek word geadviseer dat dit gevolglik nie vir die Applikante nodig is om verder daarmee te handel nie.
- (d) Die Applikante ontken bepaaldelik dat hulle

"gekies/...

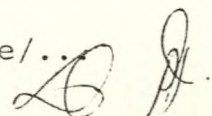


"gekies het om 'n saak uit te maak" soos in paragraaf 11.4 beweer word. Die Applikante wat polisiebeamptes is, is ooreenkomstig artikels 3 en 4 van die Wet om verklarings genader, en het dit afgelê. Dit geld ook alle ander polisiebeamptes van wie verklarings ingevolge artikel 5 voor die Eerste Respondent geplaas is.

15. AD PARAGRAAF 13 EN PARAGRAAF 2.2 VAN AANHANGSEL "G".

- (a) Die Derde Respondent is nie geregtig om vir huidige doeleindes te steun op "affidavits of certain other ex-detainees which are to be placed before the First Respondent" soos hy in paragraaf 13.2 doen nie. Daarbenewens blyk die Applikante se standpunt betreffende die artikel 5 dokumentasie asook die afgelegde getuienis uit paragraaf 9 hierbo.
- (b) Die Applikante voer eerbiediglik aan dat die bewerings en argumente in hierdie paragraaf vervat geen grondslag vir die toelaatbaarheid van die oorledene se verklaring bied nie en ek is gevolglik geadviseer dat ek nie daarmee hoef

te/...



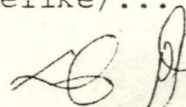
-12-

te handel nie. In besonder voer die Applikante aan dat die inhoud van die ander persone soos polisiebeamptes se verklarings nie 'n grondslag vir die toelaatbaarheid van die oorledene se verklaring bied nie. Sodanige polisiebeamptes het ook nie hulle optrede en ondervragingsmetodes "in geskil geplaas" soos in paragraaf 13.4 beweer word nie, maar bloot ooreenkomstig artikels 3 en 4 van die Wet verklarings verskaf toe hulle daarvoor genader is.

16. AD PARAGRAWE 14, 15, 16 en 17

- (a) Met betrekking tot die omstandighede waarin polisiebeamptes beëdigde verklarings afgelê het, word na paragraaf 13(a) hierbo verwys. Die aanwending en toelaatbaarheid van sodanige verklarings en moontlike openbaarmaking daarvan is aangeleenthede wat, behoudens die gevalle van Lloyd en Zeelie, nog nie in die geregtelike doodsondersoek te berde gebring is nie.
- (b) Vir sover polisiebeamptes se ondervraging van en optrede teenoor die oorledene in die

geregtelike/...

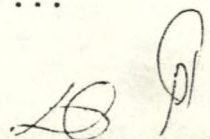


geregtelike doodsondersoek tersprake mag kom, kan dit slegs by wyse van toelaatbare getuienis geskied en ontken die Applikante dat die oorledene se verklaring om enige van die aangevoerde oorwegings toelaatbaar is.

- (c) Die feit dat daar reeds 'n sekere mate van publisiteit aan die oorledene se verklaring verleen is en na aanleiding van die huidige verrigtinge verleen sal word, kan nie as grondslag dien vir die toelaatbaarheid daarvan nie. Weerlegging van die oorledene se aantygings, hoe ongegrond dit ook mag wees, is 'n aangeleentheid wat in die geregtelike doodsondersoek slegs tersprake kom indien die verklaring wel toelaatbaar is.
- (d) Die Applikante staan origens by die inhoud van paragrawe 27, 28, 29 en 30 van my vestigende beëdigde verklaring.

17. Beëdigde verklarings van die Derde Applikant, Vierde Applikant, Vyfde Applikant en Sesde Applikant word hierby aangeheg onderskeidelik gemerk "O", "P", "Q" en "R". Hierdie Applikante

bevestig/...



bevestig daarin hulle betrokkenheid by hierdie repliserende beëdigde verklaring en die korrektheid van feite daarin uiteengesit.

P. K. ...

GETEKEN en BEËDIG te JOHANNESBURG hierdie 24^e dag van MEI 1982, nadat die deponent verklaar het dat hy die inhoud van hierdie eedsverklaring begryp en verstaan, dit bindend op sy gewete beskou en dat hy geen beswaar maak teen die neem van die eed nie.

R. van Antwerpen

KOMMISSARIS VAN EDE

Telegramadres } "GOVAT"
Telegraphic address }

Telefoon } 28-2736
Telephone }

Navrae } C.J. Beukes
Enquiries }

REPUBLIEK VAN
SUID-AFRIKA



REPUBLIC OF
SOUTH AFRICA

By beantwoording verwys na
In reply please quote

No A/726/82/P4

Your Ref. Mr. W. Lane

Kantoor van Staatsprokureur
Office of State Attorney
Hooggeregshofgebou
Supreme Court Buildings
H/v Von Brandis- en Pritchardstraat
Cor. of Von Brandis and Pritchard Streets
Privaatsak } X9
Private Bag }
2000 Johannesburg

14th May, 1982.

Messrs Bell, Dewar & Hall
10th Floor, Norwich Union House
91 Commissioner Street
JOHANNESBURG

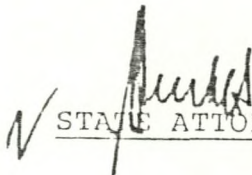
Dear Sirs,

re: MINISTER OF LAW AND ORDER AND OTHERS / P.A.J. KOTZE AND OTHERS

1. I refer to your letter of the 7th May.
2. It is correct that the proceedings in the Supreme Court should proceed as expeditiously as possible. For that very reason my counsel gave an informal undertaking when the matter was postponed on the 13th April that a serious endeavour would be made to have my clients' application ready and to serve same by 26th April. This was done.
3. The Presiding Magistrate's affidavit dated 28th April 1982 was thereafter received by my office, while a further affidavit by him was handed to me during the afternoon of 12th May. Although it was stated in the later affidavit that a certified copy of the proceedings had been annexed to the earlier affidavit the registrar only received the record, together with the aforesaid two affidavits, on Wednesday 12th May. The record was, accordingly, only made available to me in terms of Rule 53(3) on 13th May, and I have forthwith proceeded to prepare the necessary certified copies thereof. Enclosed herewith, you will find two copies of the certified record for your attention.
4. As I understand the Presiding Magistrate's attitude, the material placed before him in terms of section 5 of the Inquests Act is available to all interested parties, although such documents have not been formally despatched by him to the registrar, and therefore do not form part of the record of the review proceedings filed with the registrar. May I have your attitude to this aspect by return.

5. In the afternoon of 7th May and before my clients could avail themselves of their rights in terms of RSC 53(4), your client's answering affidavit was served on me. Not only does it contain various references to documents and statements which do not at present form part of the formal record of the inquest proceedings filed by the Presiding Magistrate, but it also contains references to a document which is not, according to the index prepared by yourselves and furnished to us, before the Presiding Magistrate in terms of section 5 of the said Act.
6. Be that as it may, my clients now have to consider their position in view of the foregoing. As you have been aware, my senior counsel had to leave for Bloemfontein on the 10th May where he is involved in a trial which has been set down for one and a half weeks. This fact seriously hampers the preparation and the final settling of my clients' replying affidavit.
7. Our respective counsel had earlier provisionally discussed the possibility of approaching the Judge President with a request that the review application be heard on Monday the 24th May. I believe that this date is now not suitable to your senior counsel, who would prefer the matter to proceed before the Supreme Court on the 26th May. Both the above dates appear to me to be optimistic, and I do not think that it will be possible to have the application ready for hearing during May. The inquest was postponed until 1st June, which date was understood by all parties concerned to be a provisional date only. May I suggest that an endeavour be made to arrange a date with the Judge President during the first week of June to have the review proceedings heard. Our respective counsel can then forthwith approach the Judge President with a request to have the matter heard during that week. If my senior counsel should still be involved in the trial in Bloemfontein, my junior counsel can approach the Judge President on behalf of my clients.

Yours faithfully,


STATE ATTORNEY

114 M

J 485

Telegramadres } "GOVAT"
Telegraphic address }

Telefoon } 28-2736
Telephone }

Navrae } Mr Beukes
Enquiries }

REPUBLIEK VAN
SUID-AFRIKA



REPUBLIC OF
SOUTH AFRICA

By beantwoording verwys na
In reply please quote

No. A/726/82/P4

Your ref : Mr W Lane/TJM

Kantoor van Staatsprokureur
Office of State Attorney
Hooggeregshofgebou
Supreme Court Buildings
H/v Von Brandis- en Pritchardstraat
Cor. of Von Brandis and Pritchard Streets
Privaatsak } X9
Private Bag }
2000 Johannesburg

17 MAY 1982

Messrs Bell, Dewar & Hall
10th Floor
Norwich Union House
91 Commissioner Street
JOHANNESBURG

BY HAND

Dear Sir


MINISTER OF LAW AND ORDER and OTHERS v P A J KOTZE and OTHERS

1. I refer to your letter of even date. I do not propose to deal with aspects of no real importance at this stage.
2. I confirm that the date for the hearing of the review has been fixed for the 2nd June 1982. I shall shortly serve the necessary notice of set down on the parties.
3. I have made arrangements with the representatives of the Attorney General's office to have the relevant original Section 5 documents in Court when the matter is heard. Arrangements are underway to have sets of copies of these documents prepared for the Court and the parties.
4. The Magistrate, Mr Kotze, has not included in the record of the proceedings before him any affidavits admitted under Section 13(1) in proof of the facts stated therein. I am of the view, as expressed in my letter of the 4th May 1982, that no documents have in fact been admitted in terms of the said Section. I should point out in this connection that I do not construe the letters of the Magistrate Mr L de Kock as "rulings" under Section 13, but as private instructions to the public prosecutor with a view to the latter's examination of witnesses at the inquest. I am accordingly of the opinion that these letters do not form part of the Section 5 documentation proper and that Mr De Kock did not

intend thereby to receive any of the affidavits therein mentioned in terms of Section 13(1).

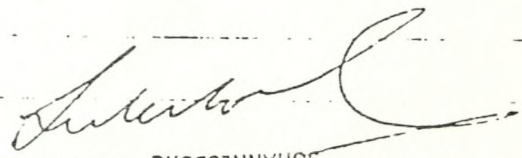
- 5. There has been an express and specific agreement between advocate Bizos and advocate Schabort that as far as they were concerned the inquest would not proceed during July 1982. Mr Schabort has on the strength of this agreement confirmed arrangements to hold a valuation board meeting in Springs on the 1st and 2nd July and to be away from Johannesburg for the rest of July. Any suggestion at this stage which runs counter to the above agreement between Counsel can accordingly not be entertained. It must be stressed in this connection that the agreement was not subject to any implications or qualifications. It was at all times realized that the first of June 1982 was only a provisional date for the resumption of the inquest and that there was no certainty when the review would be ripe for hearing or be heard.

Yours faithfully


STATE ATTORNEY

Lt Stephen Peter Whitehead,
 Det Sgt J.A. van Schaikburgh
 Det Const M.E. G. Lambie
 Det Sgt W/O N.J. Steetlefs
 Sgt D.E. Swanepoel
 W/O J. Carr
 Sgt J.N. Visser
 W/O K.J. de Bruin

S.A. Police Jhb.
 S.A. Railway Police Jhb
 S.A. Police, Jhb.
 - do -
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REGIONAL COURT PRESIDENT
 STREKHOFFPRESIDENT
 JOHANNESBURG

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. 6533/82

In the matter between:

MINISTER OF LAW AND ORDER
AND OTHER APPLICANTS

First Applicant

and

PETRUS ARNOLDUS JURGENS KOTZE, N.O.
AND OTHER RESPONDENTS

First Respondent

EEDSVERKLARING

Ek, die ondergetekende,

STEPHAN PETER WHITEHEAD

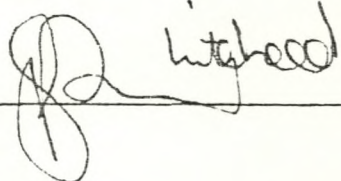
verklaar hiermee onder eed soos volg:

1. Ek is die Derde Applikant in die bogenoemde aansoek.
2. Ek het PETRUS JOHANNES COETZEE se eedsverklaring waarvan hierdie eedsverklaring 'n aanhangsel is, gelees, en bevestig die inhoud daarvan sover dit op my betrekking het.

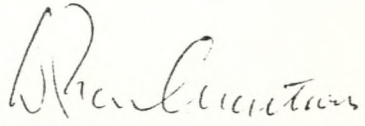


3/...Ek


3. Ek vra steeds die regshulp aan in die Kennisgewing van Mosie uiteengesit en steun op die gronde, feite en omstandighede in die vermelde Coetzee se gemelde eedsverklaring vervat.



ALDUS GEDAAN EN BEËDIG, voor my, te *Beaumont*
hierdie *25e* dag van MEI 1982, deur die deponent
wat verklaar het dat hy ten volle vertrouwd is met
die inhoud hiervan.



KOMMISSARIS VAN EDE



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

CASE NO. 6533/82

In the matter between:

MINISTER OF LAW AND ORDER
AND OTHER APPLICANTS

First Applicant

and

PETRUS ARNOLDUS JURGENS KOTZE, N.O.
AND OTHER RESPONDENTS

First Respondent

EEDSVERKLARING

Ek, die ondergetekende,

WALTER MACPHERSON

verklaar hiermee onder eed soos volg:

1. Ek is die Vierde Applikant in bogenoemde aansoek.
2. Ek het PETRUS JOHANNES COETZEE se eedsverklaring waarvan hierdie eedsverklaring 'n aanhangsel is, gelees, en bevestig die inhoud daarvan sover dit op my betrekking het.

3/...Ek

WM.



3. Ek vra steeds die regshulp aan in die Kennisgewing van Mosie uiteengesit en steun op die gronde, feite en omstandighede in die vermelde Coetzee se gemelde eedsverklaring vervat.

W. Mac Pherson

ALDUS GEDAAN EN BEËDIG, voor my, te *Johannesburg*
hierdie 24^e dag van MEI 1982, deur die deponent
wat verklaar het dat hy ten volle vertrouwd is met
die inhoud hiervan.

W. Mac Pherson

KOMMISSARIS VAN EDE

REPUBLIC OF SOUTH AFRICA
DEPARTMENT OF JUSTICE
JOHANNESBURG
1982

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. 6533/82

In the matter between:

MINISTER OF LAW AND ORDER
AND OTHER APPLICANTS

First Applicant

and

PETRUS ARNOLDUS JURGENS KOTZE N.O.
AND OTHER RESPONDENTS

First Respondent

EEDSVERKLARING

Ek, die ondergetekende,

JAMES ANDREW VAN SCHALKWYK

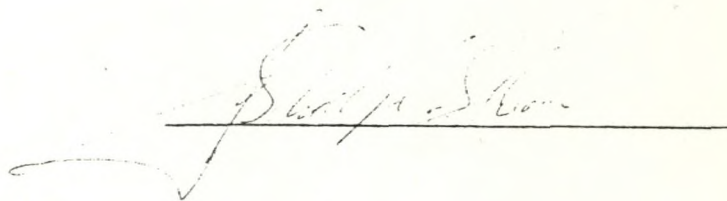
verklaar hiermee onder eed soos volg:

1. Ek is die Vyfde Applikant in bogenoemde aansoek.
2. Ek het PETRUS JOHANNES COETZEE se eedsverklaring waarvan hierdie eedsverklaring 'n aanhangsel is, gelees, en bevestig die inhoud daarvan sover dit op my betrekking het.

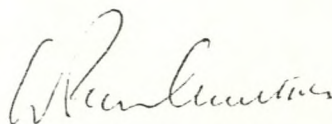
3/...Ek



3. Ek vra steeds die regshulp aan in die Kennisgewing van Mosie uiteengesit en steun op die gronde, feite en omstandighede in die vermelde Coetzee se gemelde eedsverklaring vervat.



ALDUS GEDAAN EN BEËDIG, voor my, te *Johannes*
hierdie 25^e dag van MEI 1982, deur die deponent
wat verklaar het dat hy ten volle vertrouwd is met
die inhoud hiervan.



KOMMISSARIS VAN EDE

IN THE SUPREME COURT OF SOUTH AFRICA

(TRANSVAAL PROVINCIAL DIVISION)

CASE NO. 6533/82

In the matter between:

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First Applicant

and

PETRUS ARNOLDUS JURGENS KOTZE N.O.
AND OTHER RESPONDENTS

First Respondent

EEDSVERKLARING

Ek, die ondergetekende,

MAGEZI EDDIE CHAUKE

verklaar hiermee onder eed soos volg:

1. Ek is die Sesde Applikant in bogenoemde aansoek.
2. Ek het PETRUS JOHANNES COETZEE se eedsverklaring waarvan hierdie eedsverklaring 'n aanhangsel is, gelees, en bevestig die inhoud daarvan sover dit op my betrekking het.

LG31...EK *mf. / k. s.*

3. Ek vra steeds die regshulp aan in die Kennisgewing van Mosie uiteengesit en steun op die gronde, feite en omstandighede in die vermelde Coetzee se gemelde eedsverklaring vervat.

M. E. Chacko Sene

ALDUS GEDAAN EN BEËDIG, voor my, te *Johannesburg* hierdie *24^e* dag van MEI 1982, deur die deponent wat verklaar het dat hy ten volle vertrouwd is met die inhoud hiervan.

[Handwritten Signature]

KOMMISSARIS VAN EDE

Collection Number: AK2216

AGGETT, Dr Neil, Inquest, 1982

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Location:- Johannesburg

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