

TRUTH AND RECONCILIATION COMMISSION

HUMAN RIGHTS VIOLATIONS

QUESTIONS AND REPLIES

SECTION 29 INQUIRY

DATE: 9 JUNE 1997
NAME: SGT MKOLOKOTO
CASE: JOHANNESBURG
DAY: 1

MR WAGNER: If you don't mind, Mr Chairman, he says he would prefer Afrikaans at this stage.

DR ALLY: Afrikaans. The other thing I just need to clear beforehand, is the issue of conflict of interests was raised. In fact, it was raised by you yourself, given that there is actually a statement made by Sgt Mkolokoto, a sworn statement under oath, in which he implicates your other client, the senior superintendent, the fact that he actually did receive a weapon from Temba Khosa which he denies ever happened. So Snr Supt Van der Westhuizen. So there is potential for a conflict of interests and I just want us to clarify that matter before we proceed.

MR WAGNER: Mr Chairman, what I can say is how I as a legal practitioner see the ethical position, is the following. It may happen quite often that one or two or three of my clients may have a different recollection regarding a specific incident. Their version may differ on certain aspects of what happened at a specific incident. The mere fact that two

people give a different version, that as such, does not necessarily mean there is a conflict of interest. Therefore, and I would like to hear from my friends here as well, who are also practitioners, but I think they will agree that the fact that two people differ, I can proceed for both of them. The way I see the principle of a clash of interests is when two people implicate one another, regarding the commission of either a crime or an unlawful act. Usually that would, the way I see it, that would mean a clash of interests and in a situation like that, the classical example would be if there is, if someone is killed and one guy says he did it and the other one says no, he did it. Obviously that is the most basic example of a clash of interest. What we have here is at most, there is a difference, there are two different versions here regarding a specific incident. Even assuming that this statement of Mr Mkolokoto is in all respects the truth, the way I read it, it still doesn't mean that according to him Mr Van der WSeesthuizen committed any crime or unlawful act. That would be the way I see it, the bottom line or the worst case scenario. But my instructions at present, and we will hear Mr Mkolokoto on this issue, is what I indicated to you earlier this morning, that he has a different version of how this statement came about, and when he was, it was very spontaneous, and I want to repeat that, it was very spontaneous from his side, and therefore I considered the position of clash of interest, and I was happy to proceed, but this is, I am very sensitive about issues like this. So I mean if Mr Steenkamp here, if he has another opinion or if he wants to assist us all here as lawyers, I would greatly, I would like to hear what he says on the issue, but I am not uncomfortable at present.

ADV STEENKAMP: I think obviously it is Mr Wagenaar's own decision ultimately. Surely we can't tell him if there is a conflict. My only worry is that according to the previous witness, he said in no uncertain terms that if this was a statement of Mkolokoto,

Mkolokoto was lying, which means that Mkolokoto actually then made a false statement which is then actually a criminal act, a deed. So I understand the circumstances, but I think it is just important to note that we did put the statement of Mkolokoto to Van der Westhuizen and he actually said in no uncertain terms if that was the fact, Mkolokoto is lying. Now if Mkolokoto is lying, according to Mr Van der Westhuisen that clearly means that Mkolokoto made a false sworn statement, which is a criminal offence. So but under the circumstances, I think, ultimately, it is your own decision, it is not us, I think, that can tell you, if there is a conflict, and it is finally your decision clearly. Obviously I think so. I am not an attorney normally, but I think you are right. So the decision is not our decision. I think that is only important to note what Van der Westhuisen said if Mkolokoto said that he lied, under oath. As far as I can remember it is a criminal offence. But under the circumstances clearly it must be your decision. That's how I feel.

DR ALLY: All right, you can proceed then (indistinct - microphone not switched on) surrounding the massacre, deaths which took place in Sebokeng on the night of the 4th of September 1990. It may have begun earlier, towards midnight of the 3rd of September, and continued, the incident into the 4th of September 1990. I need to remind your client that what he says here, we are going to ask him to take the oath later, which is in the form of a sworn testimony, that the Attorney-General's office has been informed of this subpoena, that your client has to be honest with the Commission, that if he commits perjury this is - he can be guilty of a criminal offence, that in terms of Section 31 of the Act the witness can be compelled to answer a question. Even if the witness is of the view that the answer to the question may be privileged or may tend to incriminate himself or herself. That the fact that the witness can be compelled to answer a question, or produce an article of a thing, after the chairperson of the inquiry has issued an order to that effect,

that the Attorney-General who has jurisdiction over this area, has to be consulted with, which is what we do. We consult with the Attorney-General and therefore the witness can be compelled to answer the question, even if the question is incriminating. Before we actually begin formally questioning Mr Mkolokoto, I am going to ask if he will please rise to take the oath. Andre?

ADV STEENKAMP: Kan u net opstaan?

MICHAEL MKOLOKOTO: (Verklaar onder eed).

DR ALLY: Before we actually begin, given there has been this controversy around the question of the statement, which was taken, under oath, signed on the - the statement was sworn before Wessel Janse van Rensburg in Johannesburg on the 4th of March 1990 at one o'clock, I am going to actually give Mr Mkolokoto an opportunity to actually speak to this statement, the circumstances surrounding the taking of the statement and whatever unhappiness he may have had with regard to the taking of the statement before we proceed with the questioning.

MR WAGNER: In other words, he can start now and tell you how this statement came about?

DR ALLY: And any other problems that he may have had with this statement, the taking of the statement, the circumstances. Enige ontevredenheid of enige probleme wat u persoonlik het oor hierdie dokument wat ons voor ons het. Dankie.

SERS MKOLOKOTO: Mnr die Voorsitter, al wat ek kan sê in verband met die verklaring, is dat die tyd wanneer ek hierdie verklaaring gemaak het hier in Johannesburg, het ek vir mnr Van Rensburg gesê dat ek nie alles onthou wat gebeur het 1990 nie. En toe ek dit vir hom gesê het dat dies wat ek kan onthou sal ek vir hom sê, en dit was 'n punt wat gekom het waar Temba Khosa se vuurwapen betrokke was. En hy het vir my gesê

my superior, kol Van der Westhuisen, daardie tyd kapt Van der Westhuisen, se verklaring voor hom lê en dat hy gesê het dat hy my naam gegee het in verband met die - dat hy, mnr Van Rensburg moet my kontak by die werk, en ek moet getuienis kom gee in verband met Temba Khosa se voorval in Sebokeng. Die tyd wat hy vir my gesê het van die verklaring dat Van der Westhuisen sê in sy verklaring, so sê, en toe het ek vir hom gesê kyk, ek is nie seker nie, en ek wil nie myself vasbind dat ek môre kan sê ek het nie so gesê nie. En toe het hy vir my gesê die verklaring wat hy neem, gaan nie gebruik word in 'n hofsak of enige ding nie. Dis hoe dat ek die verklaring geteken het.

ADV STEENKAMP: Kan ek net vir u vra, u is nooit voorgesê nie?

SERS MKOLOKOTO: Van?

ADV STEENKAMP: U is nie voorgesê wat om te sê nie? Maar u het dit nou gesien, so ek lei af u is nie voorgesê nie. Korrek so? U is nie voorgesê wat u in die verklaring moet sê nie.

SERS MKOLOKOTO: Deur wie?

ADV STEENKAMP: Deur enigiemand nie?

SERS MKOLOKOTO: Behalwe mnr Van Rensburg.

ADV STEENKAMP: Het hy vir u gesê wat om te sê in die verklaring?

SERS MKOLOKOTO: Daar waar die "portion" van Temba Khosa se verklaring kom, daar waar die ...

ADV STEENKAMP: Is dit al?

SERS MKOLOKOTO: Ja, dit is al.

ADV STEENKAMP: Wat presies is vir u voorgesê?

SERS MKOLOKOTO: Hy het vir my gesê dat die kolonel het vir hom gesê, laat ek maar sê kaptein het hom daai tyd gesê dat Temba Khosa 'n vuurwapen gehad het, en wat weet ek van die vuurwapen.

ADV STEENKAMP: Is dit al?

SERS MKOLOKOTO: Ja.

ADV STEENKAMP: Is u seker?

SERS MKOLOKOTO: Ek is seker.

ADV STEENKAMP: Niks verder nie. Goed. Want met ander woorde, die res van die verklaring kan ons aanvaar is korrek? Dit het uself gesê, die res van die verklaring kom van uself af, reg so?

SERS MKOLOKOTO: Daar waar die verklaring foute maak is dit daar waar die ... (tussenbeide).

ADV STEENKAMP: Nee, nee, nee, nee, u het so pas gesê u het net gegaan oor Temba Khosa se vuurwapen. Nou vra ek vir u die res van die verklaring, was dit u eie getuienis?

MNR WAGNER: Mnr Steenkamp, nee, in billikheid. Hy het begin om vir jou te sê waar lê sy probleem met die verklaring, laat hy net klaarmaak, asseblief.

ADV STEENKAMP: Kan u my antwoord?

SERS MKOLOKOTO: Ja, my hele verklaring kom hier by die punt van die vuurwapen, daar waar hy vir my gesê het van as ek nie sy getuienis so gee nie, dan beteken ek beskerm Van der Westhuisen, want Van der Westhuisen het in sy verklaring gesê van die vuurwapen.

ADV STEENKAMP: Wat het hy vir u gesê presies? Nee, nee, wat het hy vir u gesê, u behoort seker nou te weet. Het u 'n probleem om te onthou? Of moet u nou van die verklaring aflees?

SERS MKOLOKOTO: Nee, ek kan nie onthou nie.

DR ALLY: Let us establish first, that it is correct to say that this statement is not to be used in a court of law. So that it is for our investigation, but it doesn't take away its status as a sworn statement. In other words, it is a statement under oath and therefore the person making the statement is expected to tell the truth, the whole truth and nothing else but the truth, and if a person lies in that statement, the person makes himself guilty of a criminal offence. A person can't just then deliberately lie in a sworn statement. So Mr Mkolokoto wasn't misled when he was told that this is not a court of law, but the fact that the statement was under oath, was in expectation that Mr Mkolokoto would tell the truth and if that is not the case, if there was a deliberate or conscious lie, then that is a criminal offence. I think we need to establish that quite clearly that the commission is not about - it is not a court of law. The proceedings of the Commission. There are certain procedures which are similar to a judicial process, but the Commission itself is not a court of law. I think that is what Mr Van Rensburg was actually pointing out, this is not a court of law, but that didn't mean therefore that the validity of the statement as an oath statement, was in any way affected. I think we need to be quite clear about that.

MR WAGNER: Yes, Mr Chairman, that is not what the witness said though, but of course, in theory you are absolutely correct, of course. This is not a court of law. And of course, that is what the Act says, but I heard the witness to say something else here.

DR ALLY: I think the witness was implying that because Mr Van Rensburg said to him this is not a court of law the witness therefore believe that he could in a statement, say certain things which were possibly not true, but it didn't really matter, because it was not a court of law. That's the implication that I got from what Mr Mkolokoto was saying, that Mr Van Rensburg said to him it is not a court of law and therefore said well, look, if I

don't remember certain things, I may just put it in, I may not put it in. Whereas I think the crux of the matter is that this was a statement under oath and I think that Mr Mkolokoto himself understands clearly what it means to make an oath statement. I am sure he has made a statement under oath before. An oath statement is where you, to the best of your knowledge, you try to tell the truth, that at the end of the statement he says I know and I understand the contents of the statement and I have no objection to taking the prescribed oath and I consider it binding on my conscience. I think that is very important. So in other words, if there were certain things in the statement which were conscious untruths, then that is a criminal offence. I am not saying that your client may not have, may have forgotten certain things or didn't remember certain things, but if to the best of his knowledge what he was saying was the truth, then that is what I understand to be an oath statement, which to the best of your knowledge, regardless of whether this is going to be used in a court of law or wherever this is going to be used. I think we need to be clear on that point, because the impression I am getting is that your client thinks because this is not a court of law, even although it is an oath statement, I have, I had leeway to say what I wanted to say.

MR WAGNER: Ja, it is difficult for me, Mr Chairman, because I am not the witness here, and I am not supposed to give evidence, but perhaps I can suggest, in all fairness, let the witness tell us what happened, because I hear him to say certain things here. He said certain things to me in chambers. Of course this statement is sworn to, it is under oath, yes. I mean, I can't argue that, it seems to be the position. All I understand this witness to be saying, is if I may argue then on his behalf, is that he says here is a sworn statement, yes, it has got all the formalities of a sworn statement, but as I sit here today, I say that not

everything therein is the truth and I want to say how it came about that I signed the statement. That is all I hear him to say.

DR ALLY: Let the witness continue then.

KOL KILLIAN: Miskien kan ek 'n bietjie hulp verleen. Mnr Mkolokoto het u die verklaring waarvan u 'n afskrif voor u het, deurgelees?

SERS MKOLOKOTO: Wanneer?

KOL KILLIAN: Enige stadium nadat u hom afgelê het.

SERS MKOLOKOTO: Die enigste stadium wat ek hom ... (tussenbeide):

KOL KILLIAN: Nee, op enige stadium, nadat u die verklaring afgelê het wat daar voor u nou lê, het u hom deurgelees en u vergewis van die inhoud van daardie verklaring?

SERS MKOLOKOTO: Ek het hierdie verklaring, ek is seker dit is 'n week terug, gekry.

KOL KILLIAN: Ja, maar u het hom gelees?

SERS MKOLOKOTO: Ek het hom gelees.

KOL KILLIAN: Nou as u hom gelees het, is alles wat daarin staan die waarheid, is dit u waarnemings, behalwe vir daardie paragraaf waar verwys word na die feit dat u sê u het gesien dat Temba Khosa 'n handpistool of 'n rewolwer aan Van der Westhuisen oorhandig?

SERS MKOLOKOTO: Dit is so.

KOL KILLIAN: Dit is die enigste gedeelte van hierdie totale verklaring wat u in dispuut plaas.

SERS MKOLOKOTO: Dit is so.

KOL KILLIAN: U sê dit het teweeg gekom as gevolg van 'n verklaring wat aan u voorgehou is wat reeds in besit sou wees van die ondersoekspan.

SERS MKOLOKOTO: Van die ondersoekspan.

KOL KILLIAN: En dat u toe gesê is om dit net te herhaal, om saam te stem met Van der Westhuizen s'n.

SERS MKOLOKOTO: Dit is so.

KOL KILLIAN: En dit is die enigste punt in dispuut.

SERS MKOLOKOTO: Dit is so.

ADV STEENKAMP: Kan ek dan net vir u reguit vra, met ander woorde, u het onder eed gelieg, u het 'n vals eedverklaring geteken? Dit is nadat u die verklaring deurgelees het.

SERS MKOLOKOTO: Dit is hoe dat ek sê, ek sou, as ek - sou hy vir my reguit gesê het hierdie een gaan gebruik word in die hof, sou ek dit nie geteken het, want al wat ek vir hom gesê het was dat ek is nie seker van al die goeters wat gebeur het. Toe het hy vir my sy telefoonnommers gegee en vir my sê die volgende dag bel my as daar iets is wat jy kan onthou, en dan kan ek die verklaring verander. Ek het die sel, ek het so gemaak. Die volgende dag het ek hom gebel en ek het vir hom gesê die feit dat Temba Khosa het die vuurwapen van Van der Westhuisen gekry, is nie so nie, en toe het hy vir my gesê hy kan dit nie aanvaar nie.

DR ALLY: Waar kom hierdie feit vandaan dat Temba Khosa 'n vuurwapen aan mnr Van der Westhuisen gee, waar kom hierdie feit vandaan?

SERS MKOLOKOTO: Ek het, ek was nie alleen by die toneel nie, ek was saam met adj Van der Licht gewees en ook kapt Van der Westhuisen. Ek het altwee van hulle genader en by hulle die feit gaan kry hoe die vuurwapen van Temba Khosa geneem was. Dit is hoedat hulle vir my gesê het hoe dit geneem was.

ADV STEENKAMP: Nee, ek vra in hierdie verklaring. Hierdie feit waar u sê dat 'n vuurwapen aan mnr Van der Westhuisen oorhandig is deur Temba Khosa. Hoe is dit dat hierdie feit in hierdie verklaring is?

SERS MKOLOKOTO: Dit is ook wat ek sê dat mnr Van Rensburg het vir my gesê die verklaring van kapt Van der Westhuisen het so gesê en ek moet nie wegkom van Van der Westhuisen se verklaring af nie, en dan sê ek ek weet nie van die vuurwapen nie.

DR ALLY: Okay, look, I hear what you are saying. (Indistinct - not speaking into microphone), let me actually, let me read the statement to you that we are absolutely clear of what we are speaking about here. Okay. Paragraph - it is, yes, this is important, very, very important, 21, paragraph 21, where you are speaking about the paragraph 21.

MR WAGNER: Shouldn't we perhaps refer, keep to the handwritten one as signed.

DR ALLY: Okay, the handwritten one would also probably be paragraph 21, I would imagine. Okay. Look what paragraph 21 says. It says:

"After the shooting I, together with my colleagues of the municipal police ran into the entrance of hostel 3. There I personally saw ..."

Ek het persoonlik gesien, dat dit is nie, dit lyk nie asof dit 'n feit is wat aan hom oorgedra is, wat sê kyk in 'n ander verklaring is dit gesê, hoe reageer jy. Here it says very clearly, it says:

"I personally saw."

It doesn't say that "I surmise from a statement from Van Rensburg that it was given or that Van Rensburg told me or I heard a second source, it says "I personally saw". Now I would like to ask your client how is it that in a sworn statement this language that "I personally saw" comes into the statement?

MR WAGNER: Mr Chairman, he has already given you the answer. But isn't the solution to this perhaps something completely different? I saw in this bundle of documents that I received from you, I saw a number of affidavits dealing with the whole

issue of the weapons of Temba Khosa, of people stating they searched the car, they found it, they gave it to this and to that and to that. I think that would relate to the rifles. There is also a number of affidavits, of people dealing with the issue of the hand weapon of Temba Khosa. A policeman is saying I requested him, whether he was armed or not, he handed me a pistol. I gave it to that guy. Is this really a dispute in the end? Because I am worried about that, because if it is really a dispute then we will have to drag this argument then on and on. But my client says yes, I was told, he said that twice that now, this afternoon, I was told that is the position and I wasn't sure and I thought okay, then it must be the position. He comes to you today and he says I made a mistake, it is false, whether it is under oath or not; if you are going to charge me for perjury or not, you can do it, I may have a defence or not, but he comes to you and that is what we are after here. We are after the truth and hasn't the truth about this hand-gun already been established in terms of the balance of the bundle. That is why I am asking, is it really productive for us now to go on and on. He says here this afternoon I signed it under oath, yes, it is wrong, yes, if I have to be charged then charge me, but as it stands there in that statement, according to what I now can remember and recall, it is not the truth.

ADV STEENKAMP: Ek kan miskien net daar, die opmerking wat u kliënt gemaak het, miskien kan u my sê, u het netnou gesê u het ook die feite bevestig met - u moet sê as ek verkeerd is, u het ook met Van der Westhuisen en Van der Licht gaan praat oor die vuurwapen. Is dit wat u gesê het?

SERS MKOLOKOTO: Ja.

ADV STEENKAMP: En hulle het ook vir u dieselfde storie gesê, dat Van der Westhuisen, ek verstaan - u moet nou mooi luister. Sê u met ander woorde Van der Westhuisen het dieselfde storie ook vir u gesê?

SERS MKOLOKOTO: Die storie wat ek hier by my verklaring gesit het, is nie wat gebeur het eintlik met Temba Khosa se vuurwapen nie. Ek het 'n fout gemaak daarvoor. Die feit is dat die vuurwapen by Temba Khosa geneem was by die polisiestasie en nie by die hostel nie. Ek het 'n fout begaan.

ADV STEENKAMP: Nou kan u net vir my sê, het u hierdie feit met Van der Westhuisen en Van der Licht gaan bespreek? Is dit wat u nou-nou net gesê het?

SERS MKOLOKOTO: Ja, ek het dit met hulle ...

ADV STEENKAMP: En wat het hulle vir u gesê?

SERS MKOLOKOTO: Van der Licht het vir my gesê die vuurwapen was deur ander polisieman by die polisiestasie geneem, na hulle die hele Zoeloes vanaf die hostel gevat het na die polisiestasie toe. Een van die polisiemanne het Temba Khosa se vuurwapen daar gevat. Hy sê dit is nie by die hostelle wat dit gebeur het nie.

ADV STEENKAMP: En wat sê Van der Westhuisen hieroor? Wat het Van der Westhuisen vir u gesê, want u sê u het met hom ook gaan praat.

SERS MKOLOKOTO: Hy het my dieselfde storie gesê, dat hy nie die vuurwapen by Temba Khosa gevat nie.

ADV STEENKAMP: Wat het hy vir u gesê van die vuurwapen?

SERS MKOLOKOTO: Hy het net vir my gesê hy het nie die vuurwapen gevat nie, maar Van der Licht het vir my gesê die polisieman wat die vuurwapen gevat het, want blykbaar Van der Licht was saam met daardie mense die tyd wat hulle die vuurwapen van Temba Khosa gevat het.

ADV STEENKAMP: Wat het Van der Westhuisen gesê, wie het die vuurwapen gevat? Ekskkuus tog Van der Westhuisen. Van der Westhuisen, het hy vir u gesê wat hy weet van die vuurwapen, wat weet hy van die vuurwapen, wie het hom gevat?

SERS MKOLOKOTO: Ek weet nie wat is daai ou, daai polisieman se van nie.

ADV STEENKAMP: Wat het Van der Westhuisen wat netnou hier was, vir u vertel van die vuurwapen?

SERS MKOLOKOTO: Ek sê hy het vir my van die polisieman gesê maar ek is nie seker wat is daai polisieman se van nie.

ADV STEENKAMP: U sien die probleem wat ek het, mnr Wagner, dit is miskien waar dat ons 'n moontlike redelike verklaring het van die vuurwapen, maar ek, op hierdie stadium is my persoonlike opinie dat ek nie weet of ons met hierdie kliënt van u kan voortgaan nie, of dit nie miskien 'n saak is wat na die Prokureur-Generaal verwys moet word vir vervolging nie, of sy beslissing nie, want ek weet nie op watter basis ek persoonlik kan voortgaan om die kliënt van u te ondervra nie. Hy is reeds vandag weer onder eed, ek weet nie wat se veiligheid of sekuriteit het ek dat hy weer vandag onder eed gaan lieg nie en wat se antwoord hy môre weer gaan gee nie. Persoonlik stem ek glad nie hiermee saam nie, want as u kyk na die verklaring - ek kan miskien net vir u vra. Die verklaring, is dit aan u voorgelees voor u dit geteken het weer, soos die kolonel gevra het? Is dit weer aan u voorgelees, voordat u geteken het?

SERS MKOLOKOTO: Daai verklaring?

ADV STEENKAMP: Ja.

SERS MKOLOKOTO: Ja.

ADV STEENKAMP: En u het dit nogtans geteken?

SERS MKOLOKOTO: Dit is nie dat ek - ek het hom geteken omdat mnr Van Rensburg vir my gesê het ek moet dit teken.

ADV STEENKAMP: Het hy - ja?

SERS MKOLOKOTO: As u vir hom nou kan vra ek en hy het 'n stry gehad in die kantoor en ons het amper gebaklei in sy kantoor in verband met daardie selfde verklaring.

Toe wil ek hom nie teken nie.

ADV STEENKAMP: Maar u het hom nogtans geteken en gesê u het geen objeksie nie.

SERS MKOLOKOTO: Ek het geen objeksie gehad omdat hy vir my gesê het dat Van der Westhuisen, hy is my senior, hy het so gesê. Toe moet ek maar die verklaring teken.

ADV STEENKAMP: Okay, dankie.

DR ALLY: I think we will give Mr Van Rensburg an opportunity to respond to some of those ...

ADV VAN RENSBURG: Wel, ek weet nie of hierdie die regte forum is om nou oor die hele dispuut te praat nie. Ek dink ons sal dit dalk maar moet verwys na die Prokureur-Generaal, want ek dink nie dit gaan enige doel dien hierso op hierdie forum nie. Ek wil dan net ter opheldering wil ek net vra vir mnr Mkolokoto; die stelling wat hy gemaak het dat hy na dieselfde dag met, op daardie stadium met kapt Van der Westhuisen gepraat het, wat vir hom gesê het dat die distrikskommissaris wie vir hom kwaad was, omdat hy die wapen afgeneem het, is dit dan ook - het ek u voorgesê om dit te sê?

SERS MKOLOKOTO: Nee, die distrikskommissaris daardie tyd, mnr Fourie, hy was kwaad omdat ek, ons en kapt Van der Westhuisen daar by die "mob" gewees en toe het hy vir ons gesê het ons geweet dat ons se lewe in gevaar is, want ons was min polisiemanne wat daar gewees het.

ADV VAN RENSBURG: Ja, ek dink nie u antwoord my vraag heeltemal nie. Het ek vir u voorgesê om dit te sê? Ek wil net duidelikheid kry. Sê u ek het vir u voorgesê om daardie stelling in u verklaring te maak?

SERS MKOLOKOTO: U het vir my gesê van u het kapt Van der Westhuisen se verklaring by u.

ADV VAN RENSBURG: Ja, wat ek u vra is, kan ek miskien vir u 'n paragraaf lees, en dan kan u vir my sê of u, of ek vir u voorgesê het om dit te sê.

"Later Van der Westhuisen told me it was on the same day, ...
that Col Fourie had scolded him for taking the weapon
from Khosa, because it could have endangered Van der
Westhuisen's life."

En al wat ek vir jou vra, het ek vir jou gesê om dit te sê? Ek wil net duidelikheid kry.

SERS MKOLOKOTO: Soos ek vir die Hof sê, ek het gesê daai paragraaf wat daar is, het ek fout gemaak. Dit is nie so nie, in daai hele paragraaf van Temba Khosa.

ADV VAN RENSBURG: Met ander woorde, ek het nie vir jou gesê om dit te sê nie.

SERS MKOLOKOTO: Jy het net vir my gesê van die kolonel se verklaring, wat u het.

DR ALLY: En wat was u vertel van die kolonel se verklaring?

SERS MKOLOKOTO: Hy het nie vir my gesê wat staan in die kolonel se verklaring nie, hy het dit nie vir my geles nie.

DR ALLY: Maar wat het hy vir jou gesê van die kolonel se verklaring?

SERS MKOLOKOTO: Hy sê, hy het net vir my gesê ek mag nie stry, want die kolonel het sy verklaring daar by hom gegee, en asook die sersant wat die Casspir bestuur het.

DR ALLY: Maar het hy jou enige feite gegee van die kolonel se verklaring? Het hy vir jou gesê dat die kolonel gesê het dat Temba Khosa die pistool aan hom gegee het of het hy vir jou net vertel dat daar is 'n verklaring of het hy die inhoud van die verklaring met jou bespreek?

SERS MKOLOKOTO: Hy het net vir my gesê van die verklaring, die kolonel se verklaring.

DR ALLY: So jy het geen idee gehad van die inhoud van die verklaring nie. Jy het net geweet dat daar 'n verklaring was van die kolonel.

SERS MKOLOKOTO: Al wat ek geweet het, die feit dat hy vir my gevra wat het gebeur met Temba Khosa se vuurwapen.

DR ALLY: Ja?

SERS MKOLOKOTO: En dat hy die verklaring so het.

DR ALLY: Wat hoe het?

SERS MKOLOKOTO: Ek het hom nie gevra nie.

DR ALLY: So in ander woorde hy het nie vir jou gesê dat die kolonel sê dat hy persoonlik die vuurwapen van Temba Khosa gekry het nie. Dit is nie wat mnr Van Rensburg vir jou gesê het. Hy het net gesê kyk, ons het 'n verklaring van die kolonel.

SERS MKOLOKOTO: Ek weet nou nie wat ek moet sê, want ek het net gevra, vir die hof gesê die feite wat daar is, is verkeerd. Ek aanvaar dat ek 'n fout gemaak het, maar ek bly nog vir daardie geval. Nou weet ek nie wat om te sê nie.

DR ALLY: Want u sien dit is baie belangrik, want dit is een ding om te sê jy persoonlik aanvaar dat jy 'n fout begaan het. Dit is een ding om dit te sê, maar om te sê dat die rede hoekom dit is omdat iemand anders vir jou gesê het jy moet dit inskryf. Dit is twee verskillende dinge. So wat is dit, het jy 'n fout begaan of was jy gesê om hierdie in jou verklaring in te sit? Dit is die belangrike vraag.

ADV STEENKAMP: Nou wat is die antwoord?

SERS MKOLOKOTO: Ek weet nie wat om te sê nie.

MR WAGNER: Mr Chairman, my client says he is confused with the wording here, he wants an interpreter and then he will answer in his own language.

ADV STEENKAMP: Ek kan net op rekord plaas dat ek as die hoof van die ondersoekspan u waarsku en verseker die streekkommissaris, die distrikkommissaris in kennis gestel van die gebeure hier en ook van u kliënt se aflê van 'n vals verklaring vir verdere ondersoek deur die polisie.

MNR WAGNER: Mnr die Voorsitter, ja, ons neem kennis daarvan. Daar lieg elke dag mense voor hierdie selfde Waarheidskommissie en ek hoop en vertrou dat u met dieselfde ywer al daardie mense ook sal vervolg, maar my kliënt sê, hy kom vandag na u toe en hy sê hy het 'n vals verklaring gemaak.

DR ALLY: I think you should be very, you should be very clear. You are saying now that your client is admitting that he made a false statement under oath?

MR WAGNER: Ja.

DR ALLY: That is different to saying that he made a mistake. I think we need to be absolutely clear, it is one thing to make a false statement under oath, to consciously and deliberately lie, and that is the implication of what you said, that your client lied under oath. That is a different thing to saying that I made a mistake, I didn't know, I didn't understand. So what is going on here? Because I am also not sure now.

MR WAGNER: I suggest we get an interpreter and we get my client to speak in his own tongue and then we try and solve this problem.

ADV VAN RENSBURG: I gave an instruction to reception to bring an interpreter through. As soon as they arrive, so the person is not here, so I think we should postpone. Maybe just before we postpone. Ek wil net graag duidelikheid hê oor elke paragraaf waaroor daar nou dispuut bestaan.

DR ALLY: Wessel, let's do this through an interpreter. When do we want to postpone this for?

ADV VAN RENSBURG: I think we must ask Mr Wagenaar.

DISCUSSION REGARDING POSTPONEMENT - (INDISTINCT)

DR ALLY: Could we start at half past eight tomorrow?

MR WAGNER: I am rather selfish now, Mr Chairman, and this is very personal. I hope it is not on record. I dropped my kids at school. You know, I stay a long way out of town, so I dropped them at school and I was here this morning, I was here at just on half past eight, so if I am happy if we can proceed at half past eight, if only you would grant me some indulgence, if I am 10 minutes late.

DR ALLY: Okay, let's try and start as close as possible to half past eight tomorrow and we will confine ourselves to the actual sworn statement and all the issues around it, and from nine o'clock onwards we will continue with the other subpoenas and if need be, we will ask that your client come again.

MR WAGNER: So if Mr Mkolokoto excused for tomorrow morning?

DR ALLY: No, he has got to be here at half past eight tomorrow morning.

MR WAGNER: Oh, he has got to be here.

DR ALLY: But he is excused for today, because I don't think we can ...

I would just like to place on record that between now and tomorrow for Mr Mkolokoto not to enter into any discussions with anybody on this matter.

MR WAGNER: I will tell him that as well. I will make sure of that.

DR ALLY: Thank you. So we reconvene at half past eight tomorrow morning.

COMMITTEE POSTPONED TO 10 JUNE 1997

COMMITTEE ADJOURNS

ON RESUMPTION ON 10 JUNE 1997:

MS SOOKA: I was under the impression that we were going to begin at nine o'clock. I understand that there is a problem in terms of the affidavit that was taken, and I would ask Mr Mkolokoto to ensure that he is getting - are you able to hear me properly? What number have you got it on? Sotho is on three, channel 3.

MR WAGNER: It is on three.

MS SOOKA: Can we just check that quickly. Are you able to hear me when the translation takes place in Sotho?

SERS MKOLOKOTO: Yes, I hear you well.

MS SOOKA: Mr Mkolokoto, from what I understand you apparently have two problems. One, you say that the affidavit that was taken, the statement which was taken under oath, I understand that you are saying that that was taken under duress, that's the first problem. The second one, the second thing is that you say that you are Sotho-speaking and therefore you were not prepared to testify in English or Afrikaans. Is that correct?

SGT MKOLOKOTO: Yes, that's true.

MS SOOKA: Please speak into the microphone when you answer.

SGT MKOLOKOTO: That's true.

MS SOOKA: Thank you.

SGT MKOLOKOTO: I am going to ask Adv Steenkamp to simply place that evidence under oath, and then I am going to postpone this matter *sine die*. We will re-issue a subpoena for you and I presume that your attorney will then furnish us with a fresh affidavit, committing what you say, your version voluntarily given under oath, but Andre, will you lead evidence about, just ensuring that Mr Mkolokoto understands what his

affidavits about, so that we can get to the nitty-gritty about what he says is not properly written down in the affidavit.

ADV STEENKAMP: Mnr Mkolokoto, ek bevestig net dat u nog steeds onder eed was.

INTERPRETER: There is no interpretation for Afrikaans, please. There is no interpretation for Afrikaans, please.

ADV STEENKAMP: I confirm that you are still under oath and that the case was only postponed until this morning.

MICHAEL MKOLOKOTO: (Still under oath).

ADV STEENKAMP: Thank you. Can you maybe just, yourself or your attorney, maybe just fully give us a brief - after our discussion yesterday, exactly, if you look at your statement, which is marked F1 - it is not marked the same, but do you have your statement in front of you, Mr Mkolokoto?

SGT MKOLOKOTO: Yes, I have it.

ADV STEENKAMP: If you maybe just can briefly give us on record exactly, if possible, point by point, what your difficulties with the statement exactly are, looking at the contents now, not at the reasons, maybe the contents of the statements, Mr Wagener. If you can maybe just assist the

Commissioner, just giving us your version exactly, what is your difficulty with the statement, exactly what, where and specifically on what paragraphs in your statement you are different from the evidence that was led yesterday by the Commission. Thanks.

MR WAGNER: Madam Chairperson, I think that, I suggest that the witness do not and not myself.

MS SOOKA: Mr Mkolokoto, do you understand that what is being asked of you?

SGT MKOLOKOTO: Yes, I do understand you well, sir.

MS SOOKA: I am going to take you through your statement, paragraph by paragraph and I want you to tell me exactly what the problem is you have with each paragraph. So that I can get that on evidence. The question that I have to decide on ultimately is whether I refer this matter to the Attorney-General for perjury, or whether I leave the matter and simply get you to come freshly before us again. So I want to make sure that you understand what version you are committing yourself to at this hearing.

ADV STEENKAMP: Mr Mkolokoto, maybe we can start with - let's make it as full as possible, as detailed as possible. Paragraph one, that is your identification. The second paragraph, you maybe can start on your second paragraph. Can you comment on the second paragraph? Do you have any comments or any additional information you want to add on the second paragraph?

SGT MKOLOKOTO: No, no additions there.

ADV STEENKAMP: The statement, that paragraph is then fully correct?

SGT MKOLOKOTO: That's true.

ADV STEENKAMP: Thank you. The third paragraph?

SGT MKOLOKOTO: No problems there, sir.

ADV STEENKAMP: Can you give us maybe more information why you are differing with the third paragraph?

MS SOOKA: No, he said that he is satisfied.

ADV STEENKAMP: Oh, sorry, sorry, it's fine. The fourth paragraph?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: The fifth paragraph? Read that carefully as well, please.

MR WAGNER: Madam Chair, sorry, may I intervene here. I think we have already established yesterday that where this witness referred to P38, it should in fact be P88, so except for that minor adjustment.

MS SOOKA: Thank you, Mr Wagenaar.

MR WAGNER: Thank you.

ADV STEENKAMP: Yes, no problems with the fifth paragraph?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: The sixth one?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. The seventh?

SGT MKOLOKOTO: No problem.

ADV STEENKAMP: The eighth paragraph?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: The ninth?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. The tenth paragraph? Except, sorry, obviously that P38 must be changed to 88.

SGT MKOLOKOTO: 88.

ADV STEENKAMP: Okay.

SGT MKOLOKOTO: No, sir.

ADV STEENKAMP: The eleventh paragraph?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: The twelfth?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. Thirteenth?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. The fourteenth?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. 15, except obviously for the P88.

SGT MKOLOKOTO: P88.

ADV STEENKAMP: Okay.

SGT MKOLOKOTO: No, sir.

ADV STEENKAMP: Thank you. 16?

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: 17?

SGT MKOLOKOTO: No, sir.

ADV STEENKAMP: Thank you. 18?

SGT MKOLOKOTO: No problem.

ADV STEENKAMP: Thank you. 19?

SGT MKOLOKOTO: No, sir.

ADV STEENKAMP: For the P88 again.

SGT MKOLOKOTO: P88.

ADV STEENKAMP: Thank you. 20?

SGT MKOLOKOTO: No, sir.

ADV STEENKAMP: Thank you. 21?

SGT MKOLOKOTO: Yes, I have problems there. Let me just read it. On the beginning of that paragraph, from the word when it says "we ran up to entrance three, that is where I saw Temba Khosa being given a gun", but it was not like that.

MS SOOKA: I would just like to get that clar, Mr Mkolokoto. You are saying that you didn't see Temba Khosa handing Mr Van der Westhuisen a gun, but you saw Temba Khosa being given a gun?

SGT MKOLOKOTO: I say it is not like that.

MS SOOKA: Okay. Do you want to tell us in your own words what it was?

SGT MKOLOKOTO: When we heard gun shots, we ran, we ran to where Mr Van der Westhuisen was standing. We were trying to go and help him, because we heard gun shots; to come to that problem when I said I had seen him being given a gun. I said that because I thought I saw him being given a gun, but it was not like that.

MS SOOKA: No, I am not interested in what you thought and I want you to tell me what you saw.

SGT MKOLOKOTO: When we arrived there, after we heard the gun shot, when Col Fourie arrived that's when we left and where we stood before.

MS SOOKA: No, I think that I need to make this fairly clear. You say here or in this statement, it is recorded that I personally saw Temba Khosa handing Van der Westhuisen a hand gun. Now in your evidence you say that you thought - that the point is, I am not interested so much in what you thought afterwards, I want to know exactly what you saw at that point in time or what you thought you saw.

SGT MKOLOKOTO: The only thing I saw after the gun shot, Temba Khosa was inside the hostel. A person fell in a ditch next to the hostel. That's the only thing which I saw there, we returned back for Temba Khosa that he has given Van der Westhuisen a gun. It is not like that.

MS SOOKA: You - I think, you know, I have to remind you you are under oath and this is probably where the biggest discrepancy in your statement is going to be. Now I am

going to offer you an opportunity again. You say or it is recorded in this statement, that Temba Khosa was standing close to the entrance of the hostel. Now you have said he was in the hostel. Now can you first clarify for me; was he standing at the entrance, was he out of the hostel, was he in the front of the hostel. That is my first question.

SGT MKOLOKOTO: He was in front of the hostel, next to where Van der Westhuisen was standing.

MS SOOKA: You then heard gun shots and you and your companion, your colleague, you ran to a place where Mr Van der Westhuisen was standing. Is that correct?

SGT MKOLOKOTO: That's true.

MS SOOKA: In the statement it is recorded that you saw Mr Temba Khosa handing Mr Van der Westhuisen a gun. Now are you saying that that is not true and that you either made a mistake ...

SGT MKOLOKOTO: That's what I said that is not true, I made a mistake by saying that, but it is not true.

MS SOOKA: Why would you make a mistake in saying that? Are you thinking you made a mistake now because you know now that it didn't happen or are you - I mean, why did you make this statement to the person taking your statement?

SGT MKOLOKOTO: I went through the advice of Mr Van der Westhuisen, when he said to us there is a statement of Col Van der Westhuisen, Van Rensburg and gave him a statement and it was not a written statement, that he was together with Temba Khosa. Then I thought that that is the time when Temba Khosa gave him the gun.

MS SOOKA: Mr Mkolokoto, even if Mr Van der Westhuisen repeated something to you, he didn't actually tell you that Temba Khosa gave Mr Van der Westhuisen a gun. That is your version. Now where did you get that from?

SGT MKOLOKOTO: I said that because he told me that he was pressurising me, that I should say that, because Van der Westhuisen has said that.

MS SOOKA: I don't believe, and I really want to caution you when you say this, are you placing on record before me, that Mr Van Rensburg told you to say that you saw Temba Khosa giving Mr Van der Westhuisen a gun?

MR WAGNER: Chairperson, this evidence has been given yesterday, already on a number of occasions. I don't know why you say you don't believe my client. Perhaps, can you tell me why you don't believe him?

MS SOOKA: Mr Wagenaar, earlier on your client made a statement. He says he thought he saw, but he realises it was a mistake. Now he never repeated in front of me, until now that - I am taking this evidence again, because I want to be absolutely sure about where the discrepancies in your client's statement lie, and I want to be sure that your client is saying that Mr Van Rensburg told him to say that he saw the gun being given. I want him to be absolutely sure when he says that.

MR WAGNER: Well, all I am saying is that he has already said that a number of occasions yesterday, and I hear him this morning to say that again.

MS SOOKA: I would like him to answer the question, please, Mr Mkolokoto.

SGT MKOLOKOTO: I don't know how to answer that question because I answered that question repeatedly.

MS SOOKA: I would like you to answer, whether or not Mr Van Rensburg told you to say that.

SGT MKOLOKOTO: I told you just now.

MS SOOKA: Thank you. Move on, Andre.

ADV STEENKAMP: Thank you, Chairlady. Mr Mkolokoto, can we proceed then to paragraph 22, please. Do you have any additional information about that specific paragraph, or what is your comment on paragraph 22, please?

SGT MKOLOKOTO: The only thing which I can say on paragraph 22, is that Col Fourie was reprimanding Col Van der Westhuisen, because we put our lives in danger by being inside the crowd, not because of the gun.

ADV STEENKAMP: Thank you. Paragraph 23?

SGT MKOLOKOTO: That paragraph is not correct.

ADV STEENKAMP: Can you please elaborate on that, why you are saying that?

SGT MKOLOKOTO: It is because it is on the same line with paragraph 21, because that is where I said Van der Westhuisen took a gun from Khosa, and that because it has been given to another policeman, is not true. The policeman took the gun from Khosa in the police station.

ADV STEENKAMP: Thank you. Paragraph 24, please?

SGT MKOLOKOTO: Nothing, sir.

ADV STEENKAMP: So can we take this paragraph then as correct?

SGT MKOLOKOTO: Yes.

ADV STEENKAMP: As your version.

SGT MKOLOKOTO: Yes, sir.

ADV STEENKAMP: Thank you. Paragraph 25?

SGT MKOLOKOTO: That's not correct.

ADV STEENKAMP: Can you elaborate on that, what exactly is not correct in that paragraph and why you are saying so?

SGT MKOLOKOTO: People were saying Temba Khosa shot a certain person because they were saying that loudly, but after I have made a statement, I immediately set then, I learnt then that people who were shooting were Zulus, not Temba Khosa.

MS SOOKA: Mr Mkolokoto, we are not talking about the research that you did afterwards. I want to know what happened at the scene. We are not interested in what you discovered afterwards. We are interested in what you told to Mr Van Rensburg about the incidents as you saw it or understood it or as it happened on that particular day. Now you, in your statement, in paragraph 25, you say that people were shouting that Khosa had shot a person trying to go through the northern wall. Now you want us to believe that it was not Mr Khosa it was other Zulus. Now which is it?

SGT MKOLOKOTO: What is true on that is that the, as I said paragraph 21 up to paragraph 25, where all of them are incorrect, and I requested the Commission that you must allow me to say it is not true what I said about those paragraphs, 21 up to 25.

ADV STEENKAMP: Thank you. 26?

SGT MKOLOKOTO: No problem.

ADV STEENKAMP: Thank you. 27?

SGT MKOLOKOTO: No problem.

ADV STEENKAMP: 28, except that it is a typing error there, it must be SANDF and not DADF.

SGT MKOLOKOTO: No problem, sir.

ADV STEENKAMP: Thank you. And paragraph 29?

SGT MKOLOKOTO: Yes, I have problems on that, because this has happened a long time ago. Then I forgot that I did go to court to give evidence.

ADV STEENKAMP: Thank you.

MS SOOKA: Mr Mkolokoto, what we will be doing, is we will be postponing this matter sine die. I am going to ask your attorney to ensure that you give us a fresh affidavit, which sets out your version of events, which I see materially differs from paragraphs 21 to 25, and now you say in paragraph in 29 that in fact you did testify at the inquest. I remind you that this is quite a serious matter, because if it involves perjury then we will have no scruples about ensuring that you are prosecuted accordingly. The matter is going to be handed over for investigation and we will take it from there and advise your attorney of the action that will be followed. But in the meantime I would request that he prepares another affidavit which sets out your version of events, and we will re-issue the subpoena for him.

MR WAGNER: Thank you. Just to make hundred per cent sure. The affidavit should deal with what he saw on the day of the 4th of September or must we deal with what happened at the time when this affidavit was taken or both? I am not sure.

MS SOOKA: I would say that you should probably set out obviously in your opening paragraphs, obviously what happened when this affidavit was taken and then later on deal with the facts of the date, his knowledge of the events of the 4th of September.

MR WAGNER: Thank you. And can we then assume that Mr Van Rensburg will also testify under oath here and that we can cross-examine him and can we further assume that he will recuse himself from this investigation from this moment onwards?

MS SOOKA: Well, at this moment in time it is only in connection with your client's statement that this problem exists and I would request that you put that in writing, those requests that Mr Van Rensburg gives us a statement and that he testify under oath. As I say, once I receive your client's statement I will take the matter under advisement, and decide where we go with it. But if you wish, you may put that in writing to me. Just, Mr

Wagenaar, I just would like to confirm with your client, that it is in relation to the contents of those paragraphs that he has a problem. I would like to make absolutely sure that he does not dispute that the statement was properly taken and that he was sworn in properly at the end of his statement. That the oath was done properly. Mr Mkolokoto, were you asked, when this statement was given, whether you understood the contents of this statement, what was your response?

SGT MKOLOKOTO: What do you mean by understanding?

MS SOOKA: When this statement was taken and you were asked to sign it, were you asked whether you understood the contents of your statement?

SGT MKOLOKOTO: We were not, we were in disagreement that, we were even shouting each other, because I didn't want to sign that statement. Then he said to me Van der Westhuisen has given a statement already, so why should I not sign the statement.

MS SOOKA: No, I am not, I am asking you that at the end of it did you read the statement?

SGT MKOLOKOTO: Yes, I did read the statement.

MS SOOKA: And did you put your signature on the statement, understanding what the contents of the statement was?

SGT MKOLOKOTO: I don't know how many times did I tell you that I was refusing to sign the statement. Then he said to me I should sign the statement, because I have already given the statement and Van der Westhuisen has given the statement.

MS SOOKA: But at the end of the statement. You see when we take a statement from people we actually ask them do they understand the contents of the statement, do they swear that this represents their version of what actually happened. Now did that happen in

your case, or are you saying that right up until the end you reluctantly signed the statement?

SGT MKOLOKOTO: I said to him these things have happened in 1990, I don't remember them well. He must give me the chance to go back and recollect the incidents. Then he said to me, he gave me his phone numbers that I should phone him if there is anything new I find out, then he said I should sign the statement. I did ask him is it going to be used as a statement. Then he said yes, then I had to sign it.

MS SOOKA: So you understood that the statement was going to be used in evidence, that you would be talking to that statement.

SGT MKOLOKOTO: They didn't tell me that I am going to appear and give evidence in terms of that statement.

MS SOOKA: Would that have changed your mind, Mr Mkolokoto?

SGT MKOLOKOTO: Changed my mind in which ways?

MS SOOKA: If you had been told that you would be subpoenaed to appear before the Commission, would you have changed your mind about signing the statement?

SGT MKOLOKOTO: He could have given me time to recollect the incidents of the day.

Then thereafter I would tell him the right thing, then I would thereafter sign the statement. I signed the statement because I just give the statement knowing that I put my life in danger to help these people. If I was not my intention to help these people I wouldn't have, I couldn't have been in danger as I am now.

MS SOOKA: What danger are you in, Mr Mkolokoto?

SGT MKOLOKOTO: If I say - if I didn't go there, maybe I could have been shot on that day, and be killed on that day.

MS SOOKA: Mr Mkolokoto, I just want to make sure, you are talking about that day, but in a few minutes ago you said that you would not be in danger now. Now can you just explain that for me because I think we are all a little confused.

SGT MKOLOKOTO: When did I say that?

MS SOOKA: A few minutes ago.

SGT MKOLOKOTO: Maybe you didn't understand exactly what I said.

MS SOOKA: Mr Mkolokoto, obviously now you place me in quite a predicament, because I think you say that you would not be in danger now. I think the question that I started off asking you is, if you knew at the time when you signed the statement that you would be subpoenaed by the Commission, to give evidence about the contents of your statement, would you not have signed this affidavit?

SGT MKOLOKOTO: I did answer you that I couldn't have signed the statement. I would ask him first to give me a chance to recollect the details of the event of that day.

MS SOOKA: Mr Mkolokoto, have you been threatened in any way?

SGT MKOLOKOTO: Mr Van Rensburg just said to me that I should sign the statement, that's what he just said, that Van der Westhuisen has given a statement already, why don't I want to give a statement.

MS SOOKA: Sorry, Mr Mkolokoto, I think you are misunderstanding me. I moved on from that point already. I am asking you, at this point in time, do you feel that your life is in danger?

SGT MKOLOKOTO: My life is not in danger.

MS SOOKA: Have you been threatened?

SGT MKOLOKOTO: No.

MS SOOKA: So there is no danger that exists at this point in time?

SGT MKOLOKOTO: Yes, there is no danger.

MS SOOKA: I see. Thank you for clearing that up. I have already explained to your client, to your attorney, that we will be issuing a fresh subpoena, I am postponing this hearing sine die. He will prepare a fresh affidavit for me, which will set out the problems which existed with the taking of your first statement and then he will set out your recollection of the events of that particular day. He may also make his request in writing to me, about the allegations about Mr Van Rensburg and at the time I receive it I will take it under advisement, and then decide whether we proceed with the matter. The problem relates simply to, I think this particular witness, and Mr Van Rensburg will of course continue in the questioning of your next two witnesses. Thank you, you may be excused.

SGT MKOLOKOTO: I just want to ask you one thing. What is the purpose of calling me to this hearing?

MS SOOKA: If you are somebody who was involved in the events on that particular day, because you were on duty and so we simply want to establish from you what your knowledge is, what you remember and I am also surprised, of course, by the fact that you are now saying that you were a witness at the inquest, because we would like to obtain a copy of your evidence given at that inquest as well. That is certainly a change from the initial situation.

SGT MKOLOKOTO: But otherwise I am just a witness, I am not charged for this case.

MS SOOKA: No, you are not charged for anything, at this point in time. You are simply a witness.

SGT MKOLOKOTO: But the way you are saying this, it seems I am prosecuted.

MS SOOKA: Certainly not.

SGT MKOLOKOTO: That is why I said I should withdraw my statement and my evidence, so that I should not put my life in danger as whether - do you really need to know what happened on that day or should I lie about what happened on that day?

MS SOOKA: Mr Wagenaar, perhaps you would like to discuss the matter with your client.

MR WAGNER: I think the matter can stand down now.

MS SOOKA: All right. Thank you.

WITNESS EXCUSED

MATTER POSTPONED SINE DIE

KAIROS