

TRUTH AND RECONCILIATION COMMISSION

SECTION 29 HEARING

"IN CAMERA"

CHAIRPERSON: Mr Malaba, you will be sworn in before you testify and I will ask Dr Randerera to swear you in.

May I just get an indication, was there a provision for tea or anything of the sort this afternoon? If you can just establish that.

Can we take a ten minute adjournment for tea, so that we can ease the exit of Mr Gampe which wants to leave and I was saying if we could take tea now, we could take tea so that if you need to exit, we can ease it for you whilst we take tea and Mr Madasa's entry maybe they would like to rearrange the seating.

We will adjourn until twenty five past.

COMMITTEE ADJOURNS

ON RESUMPTION:

TULANI THEMBA MALABA: (sworn states)

CHAIRPERSON: The witness has been sworn in. Ms Sealey?

MS SEALEY: Mr Malaba, if you could - I would like to just start at the very beginning and if I could just ask you how did you become involved with the Khumalo gang, what led to you becoming a member of the Khumalo gang? If you could just give us the background as to how you joined the gang?

MR MALABA: I resided in Katlehong, Twana Section, that is where I was born and bred.

Because at the time I used to steal cars, I had buyers from the Thokoza area, particularly in the hostel. It happened that because of the corporation I had with IFP people, there was no demarcation at the time between IFP and ANC and the person who used to buy my cars mostly.

During the conflicts in 1991 between ANC and IFP, just between the Zulu and the Xhosa's, we as the youth were not involved, but ultimately we were involved and in my area was an area close to the hostel, so that when the youth became involved in the conflict, when people were forced to get involved in the ANC and IFP conflict, every person had to clarify which side he was on.

I was in Thokoza and on that day, there was a lot of fighting. It was on a Sunday, I don't remember the date. I heard that an IFP car coming from Natal had been stopped and its occupants killed. I could not leave Thokoza for my home, and I spent the evening in Thokoza.

On the following morning, there was fighting still going on and during this time, you wouldn't be questioned of which side you were on. If you were not known in the area, you would just be killed.

I was reporting to Mr Malaba, who is present. I told him that I could no longer return home to Spruit and I was known in the area and because of what was happening, I could not refuse to oblige with whatever was happening in the area.

I just, I had to do whatever was happening. After three days and at the time I had not as yet returned home, I called my house and my mother told me that I shouldn't return home, because I was responsible for the killing of the people in the car.

I then told her that I will talk to the people in the area and see what one can do. Mr Mafumela then told me that I should be accompanied by some people from the hostel to go fetch my belongings from my house, because I could no longer return home. We did this, using his kombi. On arriving at my house, I did not alight. He and other two persons alighted. My mother came out of the house, talked to me and he told her that my life was not in danger, they would protect me.

He will just remove me from the area and take me to the other side. As we were there, we were also obviously not free, we expected that we would be attacked, because there was fighting going on at the time. I then removed my belongings and went to stay in Mr Malaba's house.

On staying there, I was assigned tasks, that is to and steal cars for specific purposes. I no longer worked on my own accord. I would be actually sent to steal cars particularly vans.

This I would do until one instance where Khumalo had already been involved in killing people. There was this person called Mugabe, who was apparently after Khumalo. Mr Khumalo arrived in a white E20 kombi and we knew that he didn't particularly liked people who looked like tsotsi's.

If he didn't know who you were and where you were from, he would actually quarrel with you. When he arrived at this shibeen, we were in a garage and the door was closed. He and a lot of other people, about ten of them, entered the room and he spoke to the women of the house.

The lady went out of the house to speak to Mr Khumalo. We were actually listening what they were talking and he said that he is aware that she is hiding some criminals in the house, and that he will return to burn the house the evening.

~~I was with small Mugabe, somebody else called Astro as well as Veli. I don't remember the others correctly. We were also with our girlfriends. Mugabe said we should actually try to escape, and we couldn't do so because Khumalo was out, standing in front of the gate. As we were talking, Khumalo actually opened a bag and from there retrieved AK47's and gave to the people that we were with.~~

They seemed to be going around towards the kitchen and he actually indicated that he was returning in the evening to burn the house down.

It looked like they were leaving the house, but then from there they returned. They were coming straight to the garage, but before he opened the door, we opened the door, we had a revolver, a 38 revolver and Mugabe just fired a shot and we ran from the room and this house was on the edge of Thokoza, so we ran from the house into the Thokoza section and on doing so, we heard a scream inside the house.

We jumped into Mzwaki's place. After a while, he informed us that they had taken Small, the person was not actually being sought by Khumalo. About 100 metres from where Khumalo was standing, or rather from where Khumalo had been, we heard a shot and it transpired that he in fact was shooting at Small.

Some of our belongings were hanging in the garage. When we returned in the evening to pick up our stuff, the house was already burning and there were paramedics around the house and we enquired from the people and they told us that Khumalo had returned and he has shot another person.

This happened before the incident that I was involved in. I was worried because I did not know if Khumalo knew me or not, but he knew where my house was and informed them that wherever he saw me, he was going to kill me, but I was not very worried about it, because I knew that he did not know me personally, he knew about me, but he had not seen me personally.

When the conflict began, I was already in Thokoza. The person who actually got me involved in the Khumalo gang, was Mafumela Malaba. He actually contacted Khumalo and that is how I got involved.

From then on, I told Mafumela, Khumalo had actually come to the house to fetch some bullets and I told Mafumela about the house in Spruit that was burnt down, and I told him that we were not on good terms with Khumalo.

I tried not to get close to him, you know, to try to monitor if he knew me or not. The first time I talked to Khumalo was I think Mr Mafumela had briefed him about me, that I could help him, but I knew that Khumalo was responsible for killings and he was involved in destroying opponents with the help of the police.

He said to me that I should not return to Spruit. If I were to return there, my parents will be in danger. He showed me the people that he was working with, people like Zweli Chamane, Peter Masego and Mzwaki Khumalo, his son. There were quite a few, but many of them came from the hostel.

I used to see some of them around the area. I met Themba who was Mr Khumalo's driver. I knew Themba previously but we were not quite close. He would sometimes Mafumela's place to buy liquor. I then got in touch with Themba. We were supposed to steal two cars with him. We were ...

MS SEALEY: Mr Malaba, can I just stop you there, because you are racing ahead and I've just a few questions that I would like to ask you about the beginning of your testimony, about how you became involved in the gang.

Before you move on to where you stole the two cars, if I could just go back and just clarify a few things about what you have said now as to how you became involved.

I am just a little confused, when you first started giving testimony, you said that you knew people in the hostel because and in particular Mafumela because you were involved in stealing cars. Did you know Mafumela before the incident of when you were with Mugabe? Before what happened when you were in the garage with Mugabe, did you know Mafumela before that incident?

MR MALABA: Yes, I knew him.

MS SEALEY: Because I think you recall when Piers Pigou from the Truth Commission came to see you in prison, do you recall that? It is just that you say, when you spoke to Mr Pigou you said that your first contact with Khumalo was when there was this incident when you were drinking with Mugabe and then Khumalo arrived at the house.

You relate as you did in your testimony now, how Small was shot dead. You also then state, which you haven't stated now, and that is where I am confused, you say that Mr Khumalo

then went to your house and fired a shot into the roof, frightening your parents, is that true?

MR MALABA: Yes, that is correct.

MS SEALEY: And because of this incident, it is your sister Rosalyn Tsotetsi, is that your sister, Rosalyn Tsotetsi?

MR MALABA: Yes, that is correct.

MS SEALEY: And you stated at that time that because Khumalo had come and frightened your parents, your sister actually suggested to you that you go to Mafumela because she was aware that he had some connection with Khumalo and that maybe Mafumela could solve the problem with Khumalo for you, do you recall that?

MR MALABA: Yes, I remember although I don't quite remember the sequence of events, but I do remember something like that.

MS SEALEY: So it is not quite true, you see originally when you first spoke to Mr Pigou, you said that it is after this incident that Mafumela then accepted you because he thought that you would be a good person for him, because you stole cars, and what you have said earlier today is that you actually knew him before the incident with Mugabe, is that correct?

MR MALABA: I would just like you to clarify the question.

MS SEALEY: Did you know Mafumela before the Mugabe incident?

MR MALABA: Yes, I did.

MS SEALEY: In what way, how did you know him, what was your connection with Mafumela before Mugabe?

MR MALABA: We were involved in the stealing of cars.

MS SEALEY: So then it is not quite true that Mafumela accepted you after Mugabe's incident, because he already knew you, you were already together, stealing cars, is that correct?

You didn't go to Mafumela because of what happened with Khumalo, you were already working with him from before Mugabe's incident, is that correct?

MR MALABA: I think there is something that I don't quite get. I knew - I cannot be sure but as I have explained, Mugabe grew up in the township and I only knew Mafumela through my business, that was of stealing cars.

I am certain that I knew Mugabe before I knew Mafumela.

MR NDLOSI: Mr Tulani, when you knew Mafumela, did you also know that he was also a friend of Mr Khumalo? Before the Mugabe incident, did you know Mafumela as a person who was closed to Mbekiseni Khumalo?

MR MALABA: No, I did not know. I did not know that they knew each other.

MR NDLOSI: So your knowledge of him was restricted to the business of car stealing?

MR MALABA: I knew Mafumela as a buyer for my cars, until I then got to know of his involvement in this incidents.

MS SEALEY: Now when you spoke to Mr Pigou, you said that Mr Malaba helped you to resolve your problem with Mr Khumalo and that you were actually taken to the Kutuza hostel and you were beaten at the Kutuza hostel until you know, you said you were sorry and then they allowed you to join the gang, is that correct?

MR MALABA: Yes, that is correct.

CHAIRPERSON: Can you just for the sake of the record, clear this thing up because the witness who is testifying is Malaba, now there is another mention of Malaba.

This Malaba that you are talking about, were you related in any sort of way or are you related in any sort of way and what is he doing?

MR MALABA: I am talking Albert Malaba. Malaba is actually not my surname but because of my involvement, my surname had to be changed to Malaba so that I could have my case handled in an easier way.

CHAIRPERSON: Now, do I understand you to be saying up until the time that you went to stay with Malaba, you were known as Tsotetsi?

MR MALABA: Yes, that is correct.

CHAIRPERSON: Are you still being known as Tsotetsi or have you permanently changed yourself, your name from Tsotetsi?

MR MALABA: My surname is Tsotetsi.

CHAIRPERSON: So in order to make sure that the record is not confused, shall we talk about you as Tsotetsi and that other Malaba as Malaba, or do we stick with Malaba because that is who we have accepted you to be? How do you clear the record, because there is going to be a very great confusion when we read the record, but maybe when we get to this portion, it will be clearer. So you are Malaba Tsotetsi and the other Malaba is Malaba.

MR MALABA: I think the Commission will decide, because I am known as Malaba in my prison record.

MS SEALEY: When you spoke to Mr Pigou and you have just confirmed that you were taken to Kutuza hostel and you were beaten and you were accused of being a member of the Mugabe gang, is that true? Mr Khumalo accused you of being a member of the Mugabe gang, did that happen?

MR MALABA: Will you please repeat the question?

MS SEALEY: When you were taken to Kutuza hostel, and the Khumalo's they beat you, did they beat you because they thought you were a member of the Mugabe gang or because of your association with Mugabe?

MR MALABA: I can say that they beat me without really knowing what they were beating for, but at the time they actually beat me because I was associated with Mugabe.

MS SEALEY: So, after this beating, is that when you returned, you fetched your clothes from home and then you went to go and stay with Mafumela, is that correct, with Mafumela Malaba?

MR MALABA: Yes, that is correct.

MS SEALEY: Once you start staying at Mafumela's house, that is when you started to become involved in the planning of various attacks, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: Can you possibly tell the Commission what were the kind of things that the Khumalo gang used to do, what were the incidents, I don't mean the specific incidents that you were involved in, but what were the general activities of the Khumalo gang, if you could maybe give us an idea?

MR MALABA: What I know is what I have already explained, the death of Small. Secondly the burning down of people's houses and confiscating property. They would not burn the house before they actually confiscated furniture in the house and there was another incident that happened in (indistinct). The death of two people as well as the death of Happy who used to work at Shell.

As well as the death of Lucky, there is quite a number of incidents although I cannot put them in their correct sequence.

MS SEALEY: Mr Malaba, I am going to try to help you with the sequence. What I will try to do is to try to go in terms of as the

incidents happened, in a date order, but I just first want to get some general background from you, so I will at a later stage ask you about the death of Happy and the death of Lucky. What I just want to ask you now is how did the gang work, who were the leaders of the gang and how were they connected, were they connected in any way to the IFP in Thokoza?

MR MALABA: The leader of the gang, the first one was Mr Khumalo himself. There was Mzwaki Khumalo, Zweli Chamane and a few others whose names I do not remember.

People like Bekhi, (indistinct) and Peter. Others resided in the hostel. Some were there as guards at his house.

MS SEALEY: Mr Malaba, could you possibly tell us which people of the IFP in Thokoza were actually involved, who from the IFP in Thokoza had connections with the Khumalo's?

MR MALABA: People who were connected to the Khumalo gang are Mbekiseni Khumalo, Mbekelele Khumalo, Msomi, we used to call him Terreblance as well, that was his popular name and Noqunu and Mzizi, the Mzizi family. These were the people who were strongly involved with the Khumalo gang.

CHAIRPERSON: Was the reference to him as Terreblance anything to do with Eugene Terreblanche or was the name already there?

MR MALABA: He was called Terreblanche because he had a hard head, he did not understand, he therefore was equated to Terreblanche.

CHAIRPERSON: You mean the Terreblanche, Eugene Terreblanche from the Afrikaans Weerstand Beweging?

MR MALABA: We referred to him as Terreblanche because if he heard about something, being a problem, he did not bother himself about having to get it solved through discussion, he was therefore a Commander of the Khumalo gang and also a Commander of the people at the hostel.

MS SEALEY: Mr Malaba, when you refer to Msomi as Terreblanche, are we talking about Osca Msomi because there are two Msomi's in Thokoza, there is Themba Msomi who is a very young man and Osca Msomi who is quite an elderly gentleman.

Do you know which one you are referring to when you call him Terreblanche?

MR MALABA: I don't know the other Msomi, the one that I know is one tall Msomi. Police came to his place and confiscated his photographs, he is tall with a beard. That is the one I am talking about.

MS SEALEY: Mr Malaba when meetings were held, when meetings were held between the Khumalo's and the IFP leadership, where were those meetings held? Was there a specific place or where did you usually hold your meetings?

MR MALABA: The situation was such that I already knew for example if there was to be a meeting, there would be three, four cars at the Mzizi household, cars, the people or the owners of which I knew, and I knew that if there was to be a meeting perhaps at a hostel, myself will be called and other members.

There were two ways of convening the meeting, for example if there was a task to be carried out, killing a person, only a few people would be called, including myself. But if there was a meeting pertaining to an envisaged attack by the ANC, everybody would be called and medicines would be used, and that was a general meeting.

But if it was a meeting that had to do with killing certain leadership, only a few people were called.

MS SEALEY: Mr Malaba, you talk about if it was a general meeting that sometimes ntilezi would be used. When you spoke to Mr Pigou you mentioned that human parts were used in this ntilezi. Do you have any knowledge yourself of seeing this happen? Were you ever at the hostel when you saw bodies with parts missing?

MR MALABA: Even though I did not see them when they were putting these body parts together, mixing it with the medicine, but I knew I did see them taking these things out and taking them somewhere to mix them together.

MS SEALEY: If I understand you correctly Mr Malaba, you mean you saw them taking parts of the body out to go and mix, you actually saw that? You saw them taking pieces of the bodies to go and mix them elsewhere for ntilési, is that correct?

MR MALABA: Yes, I did see such things happening three times but they would later come back and say here is the medicine. Sometimes we would skip over the medicine, or they would sometimes sprinkle it or they would sometimes drink it.

I saw this thing happening three times, but I don't know exactly who was involved in combining the concoction.

CHAIRPERSON: What body parts were these? What body parts were these?

MR MALABA: They were using private parts, male private parts.

MS SEALEY: Mr Malaba, before we go on to the specific incidents, I would just like to ask you what was the Khumalo gang's connection with the police in the area, with example with the Thokoza police station, with the Murder and Robbery Unit and the police that were based at Nyoni Park, what was the Khumalo gang's relationship with the police?

MR MALABA: I cannot explain the detail here, because when I arrived there was police cooperation. The Murder and Robbery Squad for example, I cannot refer to the Thokoza police station.

As far as I am concerned, it did not exist because certain things were happening. Khumalo would kill people and he would personally go to the police station and tell them how many people he had shot and the police would take this vehicle, go and pick up the corpses. The people who were in the Murder and Robbery Squad in Benoni, were also involved. I would be given car registration numbers for example, if I were for example to go to some place and after a person had been identified as stirring trouble, I would be sent over to take care of him.

We would sometimes come across police, I do not want to mention the so-called hippo's here. The Murder and Robbery Squad was such that they furnished us with the car registration numbers. If we had guns, on our way to or from the killing, I would be frisked by some of these people, the police that is. I would indicate to them that I under so and so and they would just let me go.

That is one reason that persuaded me to believe that Gertrude Mzizi and others were directly involved. Every now and then this Murder and Robbery Unit would come and make a braai at Mzizi's place. I would also take guns from their vehicles, for example if we were in the house, I would be instructed to go to the boot and take out a black bag which had guns in it and these guns would be brought to the (indistinct) and thereafter these guns would be taken to the hostel.

And it is because of that that I concluded that they were directly connected with the Murder and Robbery Unit.

MS SEALEY: You indicated that when you were frisked by the police, you indicated that you were working under, and you didn't complete the sentence. What exactly did you tell the police when they frisked you?

MR MALABA: Before frisking me, they would tell me to stop and I would for example, they would draw out a gun and say I should stop, they would ask me where I come from. I would not talk to them, but I would produce something and tell them that so and so has instructed me.

For you to understand this better, please accompany me so that I can give you phone numbers for you to talk to him directly.

And they would accompany me, for example if I came from Spruit where I was assigned to carry out a certain duty, and on coming back for example, they would take a direction towards the hostel, the same direction that I was taking, and on arrival at the hostel, I would report back and tell them what people I came across, the police that is.

At the same time these people would be parking just opposite the hostel gate and obviously as the Murder and Robbery Unit was communicating with the gang from the hostel, I would therefore conclude that they are discussing the matter, they know what is happening.

MR NDLOSI: Mr Tulani, I will take you back a little bit here, you spoke about human parts, you did see this happening, but you did not give us the names of the people who were involved in taking these body parts, can you give us the names?

MR MALABA: (No translation) I am just giving you an example, I am not necessarily saying it is Themba. It is difficult for me to say who was exactly involved in taking these body parts.

I might perhaps mention three or four people, mostly people whose parts were amputated from their bodies were such that they were brought in a kombi, brought to the hostel. I would sometimes be sitting around and these people would be taken out of the kombi.

Some would slip off and flee, maybe two or three people would be required in the kombi for their body parts and the two would be shot but would not be shot at the place where the kombi is.

There is a hole at the hostel and they would be made to crawl through the hole and be shot on the other side of the hostel wall where there was a railroad. These body parts would be cut off their bodies. I saw Msomi twice and there is also another one called Umkonzibuwe that is the name that I know.

Those are the people that I saw doing this. They were not alone, there may have been five, six or seven but people who were

concentrating on carrying on this job, were the people I have just mentioned.

MR NDLOSI: Are these the only two people that you can remember?

MR MALABA: I know some of the people, even though I don't know their names.

CHAIRPERSON: When last did you see these people?

MR MALABA: I was arrested as we are still incarcerated, but I was released from the police station and went back to the township in 1993 and until December the same year. I therefore can say that I saw them last in December 1993.

CHAIRPERSON: George?

MR NDLOSI: After these people were killed, was there perhaps a grave or graves that were prepared for them or would they just dump them at the spot where they were killed?

MR MALABA: It would be difficult for me to say whether there were graves prepared for these people. They would be just left laying on the scene of crime and thereafter you would see this white so-called hippo, driving to the veld to pick the corpses up.

Sometimes you would pick up a very strange smell coming from the veld, and sometimes some of them were still in a condition that one could recognise them. Therefore I would not say that they were buried.

MR NDLOSI: Which people came, bringing the medicine to the hostel, are they the same people as Umkonzibuwe and Msomi?

MR MALABA: We were residing at a hostel and it was such that it has the first Madala hostel, Kutuza and (indistinct) the third one.

The second hostel was that is Madala hostel, was controlled by Nqunu and the other one by Terreblanche, that is Msomi, and the third one was controlled by Umkonzibuwe. These are the people who gave instructions as to what should be done.

These are people who knew what they were doing because for example in a conflict situation, Terreblanche and Khumalo and Umkonzibuwe and Nqunu and others, people like Zweli, would come or bring this ntilezi along and they would make us sniff some of this and sprinkle some of the medicine on us and thereafter we would go on and carry out our duties as required.

MR NDLOSI: If I understand you very well, you are referring to the same names, Msomi and Umkonzibuwe, these are the ones who brought the medicine along?

MR MALABA: Yes, that is correct.

MR NDLOSI: Was perhaps there any medicine that was brought along combining the human body parts?

MR MALABA: As I have explained, it would be very difficult to say that I saw them doing it. This medicine can really sicken you

because after having inhaled the smell, it is so terrible you can actually feel very strong and invincible after having used it.

I was also not of the idea of drinking it, but the one that they used for drinking is the one that was often used by people like Khumalo and others, and they would sprinkle another one on us and we would inhale some of it after it was burnt.

MR NDLOSI: Let me take you back a little bit. You have also referred to the fact that when a meeting was to be held, you would know because there would be cars whose owners you knew.

Who are the owners of these cars that you identified at the meetings?

MR MALABA: This happened several times. I knew for example that if there was Khumalo's car, the E20, and Mbekiseni Khumalo's grey Mercedes Benz and Obet's vehicle, a Honda, I also would identify, I have forgotten the surname, and you would have also people like Terreblanche and I would know then that we too would be called, there would be something happening.

MR NDLOSI: Would you please explain to me, you said there would be Khumalo's vehicle and Mbekiseni's vehicle. You are referring to Mbekelele?

MR MALABA: Those are siblings.

MR NDLOSI: Okay, thank you.

CHAIRPERSON: Sally Mrs Seroke?

MS SEROKE: When the meeting was to be held, these special meetings, where exactly were they held?

MR MALABA: They were held at Abraham Mzizi's place.

MS SEROKE: This Abraham Mzizi and Gertrude, did they attend the meetings that were held at the hostel?

MR MALABA: Yes, they did, even though they did not regularly attend the meetings at the hostel.

The one serious meeting that used to happen was a meeting where the killing of people was planned. Gertrude Mzizi would partake of meetings where decisions were made to gather funds for whatever reason.

CHAIRPERSON: Ms Sealey?

MS SEALEY: Mr Malaba, if we can just - you were earlier testifying about the relationship between the Khumalo gang and the police. When you were consulted in regard to this matter, when Mr Pigou came to see you at Zonderwater, you make mention that you actually witnessed members of the Benoni Murder and Robbery Unit at Mafumela's house. Do you remember that occasion and what happened when the Benoni Murder and Robbery Unit came to Mafumela's house?

MR MALABA: Police came at Mafumela's house several times, even though I cannot remember very well. I cannot say exactly what they came there for, but they really frequented the place.

MS SEALEY: Mr Malaba, I am particularly referring you to any firearms that they may have delivered. When you spoke to Mr Pigou, you specifically mentioned that you remembered an occasion when they brought three pistols and three machine guns and that they also delivered a gun which you say it was so big that you couldn't carry it, do you remember that?

MR MALABA: That did not happen at Mafumela's house, but it happened at Mafumela's room at the hostel, at A4. That is where it happened.

They also frequented the place where they used to braai meat at the hostel, not at his residence, that is his family residence.

MS SEALEY: Do you know the names of any of these policemen that used to deliver the weapons?

MR MALABA: I don't remember the names. There were registration, car registration numbers that I had that those are the ones that I was using at the time, so I cannot remember the names, but I know them, I can identify them.

MS SEALEY: You also mentioned that on three separate occasions you witnessed Mr Themba Khoza bringing weapons into Thokoza. Would you be able to tell us, can you elaborate on that?

MR MALABA: Mr Khoza used to bring guns to Thokoza, AK47's and many other sorts of guns that I did not understand.

But he would go to Mr Abraham Mzizi's place, park his car.

My life was such that I was always close to these people at the time, and if they wanted something for example, Mzizi's house and the hostel gate are opposite each other, they would call for me at the time when Themba Khoza's car was parking at the gate, I would open the boot and take out the luggage and after Themba Khoza has left, I would take the guns to the hostels. This I did three times.

CHAIRPERSON: Can I just ask, on the occasions that Themba Khoza would be bringing these weapons, was he to your knowledge, always in the company of white policemen or on some of the occasions he was, or on none of the occasions were there white policemen when he delivered his weapons, to your knowledge?

MR MALABA: I would not say whether they were police or not, because Themba Khoza was using a Corolla and often times he would be accompanied or followed by two whites with one black person, driving a four wheel drive.

Therefore he would not dare go to Thokoza without company, he was never alone at any given time.

MS SOOKA: I just want to make sure that we are recording this properly, you say that at least on three occasions you, yourself witnessed this handing over of guns to the Mzizi's?

MR MALABA: Yes, I am very sure about that because I am the one who took the guns from the car boot into the house, and from the house, into the hostel.

MS SOOKA: You also mention that there were other kinds of guns, which you really didn't know about and was strange to you.

Can you tell us a little more about that please? What kind of size are we talking about, small guns, hand guns, rocket launchers?

MR MALABA: Sorts of guns that I was seeing for the first time, were big such that they were pushed, you could not carry them.

You would pour the bullets into some place, something that looked like a stove chimney.

You could not lift it, you had to use your feet to pull the trigger.

CHAIRPERSON: Do you know what a rocket launcher is?

MR MALABA: No, I don't.

CHAIRPERSON: I see. Do you know a Bozooker?

MR MALABA: The one that I know, even though I am not sure it is the same Bozooker you are talking about, it shoots only once. It doesn't release a bullet, but a bomb.

CHAIRPERSON: Were there no Bazookas among the weapons that you off loaded and delivered to the Mzizi's?

MR MALABA: I was used to Bazookas, I would not mention them, it was different from the one big gun that I am talking about.

CHAIRPERSON: Yes, I understand that, but were Bazookas not among those? I will tell you why I am asking, a previous witness has told us here that people were pressured out of their residences by their houses being burnt and their houses being subjected to having bombarded of hand grenades, and I was just wondering whether Bazookas was also not used in that process and you could assist us if you saw among the weapons that you delivered weapons like Bazookas and RPG rifles. RPG rifles are the ones that shoot hand grenades.

MR MALABA: Thank you very much. I was used to Bazookas, that is why I am not concentrating on them. These were used for burning down people's houses.

MS SEALEY: Mr Malaba, apart from the guns that was supplied by the police, did the Khumalo gang use any other methods to get firearms?

MR MALABA: Mr Khumalo used to get some of the guns. They would perhaps go to the Vosloorus hostel, collecting 20 or 30 AK's and ammunition and these would be used.

People that used to supply Thokoza with guns were the hostel in Vosloorus and Themba Khoza and also (indistinct) hostel used to provide us with firearms.

MS SEALEY: Did you ever hear Themba Khoza say where those guns that he supplied to the Mzizi's was coming from, did he say that it was supplied by the police or the military because I am sure you must have heard when they were talking.

MR MALABA: I did not speak to Themba Khoza myself, personally. I would see them moving from one room to the kitchen for example, but I did not talk to him.

MS SEALEY: So you don't know where those guns were coming from?

MR MALABA: Yes, that is correct.

MS SEALEY: Mr Malaba, Mr Zimo told us earlier that Mr Khumalo had a home made bullet machine, are you aware of that that he had a machine that used to make bullets?

MR MALABA: Yes, I also know the machine itself.

MS SEALEY: This machine, what kind of bullets did it make, did it make bullets for all types of guns or for a specific type of weapon?

MR MALABA: The machine was such that it manufactured bullets for all sorts of guns and they would manufacture an ordinary bullet and also a particular bullet that seemed to have a needle in front, which he would call a hollow point. He used to use this bullet most of the time.

MS SEROKE: Would he use this bullet for any kind of gun, or was there a special gun that used to take this bullets?

MR MALABA: When he made these bullets, if say for example I had a 9 mm pistol, there would be bullets for that and some for an AK and others for various other guns.

MS SEROKE: Would he make these bullets for all sorts of weapons?

MR MALABA: Yes, that is true.

MR NDLOSI: Mr Tulani, you mention that there would be a time when you would go to Vosloorus to fetch guns. From whom did you get these guns?

MR MALABA: I am not sure who these guns were obtained from. Even though I did not know this, but I would be driving the vehicle that would fetch these guns. That is how I was involved. Even we went to (indistinct) this is how I would be involved.

But I was not involved in the negotiations or the striking of the deal.

MR NDLOSI: Do you still remember the specifics of the blocks that you actually visited in the hostel?

MR MALABA: No, I do not. I cannot say which blocks we actually went to.

MR NDLOSI: This machine that used to make bullets, do you have any idea where Mr Khumalo obtained it from?

MR MALABA: No, I do not because when I knew him, he already had this machine.

CHAIRPERSON: Can I ask in connection therewith, was it known that Mr Khumalo, what is known to the police you could say, that he had all these things at his place? I would also ask the same question about do you consider that it was known that the Mzizi's had these weapons by the police and that nothing, nonetheless was happening to them?

MR MALABA: I would say that even if they knew or even if they didn't know, the way they frequented the area, these houses, one would assume that they knew about this weapons.

I don't think they would not know that there was such a machine or so many guns in the house.

CHAIRPERSON: Yes, George?

MR NDLOSI: Mr Tulani, were you ever involved in violence in other areas?

MR MALABA: What sort of violence are you referring to?

MR NDLOSI: We have a report that when you actually talked to Piers, you conducted certain operations in Alexandra, George Goch and Sebokeng. What sort of operations were these?

MR MALABA: I once went to Alexandra, it was in 1993 if I am not mistaken. There was fighting in Alexandra. We went there in a kombi to assist those people who were fighting.

We were helping by supplying guns, like in Sebokeng, there is a hostel, a Madala hostel in Sebokeng. We went there when there was fighting, we just dropped two Bazookas and AK47's.

MR NDLOSI: When you say we, we went, who was it?

MR MALABA: It was myself, Umkonzibuwe and somebody else called Nqunu as well as Mkauleni. I don't quite remember the names of the others who were present.

MR NDLOSI: Who actually sent you there, who told you to go to these places?

MR MALABA: Mkauleni was the person who came to me and said I was required and when I got there, I found Umkonzibuwe, Msomi and Nqunu who explained to me where we were going.

When I enquired about what was happening, I was told that we were just going to investigate about what was going on in those areas. We are going to assist them by giving them these weapons.

MR NDLOSI: If I heard you correctly you mentioned Sebokeng and Alexandra where you left guns. You did not actually partake in the conflict?

MR MALABA: I will put it in this way, we did not partake in the conflict in Sebokeng, but in Alexandra, some people actually left and went to partake in the fighting. One got injured.

One of the people we picked up from Alexandra I think is in prison. I think maybe two or three people from our group actually went with this person from Alexandra and partook in the fighting.

MR NDLOSI: Perhaps you remember that maybe there were others who were involved in the conflict in Alexandra whose names you haven't mentioned.

MR MALABA: Let me put it this way, these people had other names, war names that I cannot quite remember. You cannot remember that name easily.

It was those kinds of nicknames.

MR NDLOSI: The person who you mention who is in prison, do you remember his name?

MR MALABA: His name is Vusiso, I forget his surname.

MR NDLOSI: Perhaps you could remember the date of that incident?

MR MALABA: No, I don't remember.

MS SOOKA: The year perhaps? Do you remember the year?

MR MALABA: I think it was between 1991 and 1992. I had not been arrested at that time, so it is surely between those two years.

MS SOOKA: Also do you remember the time in that year, was it in the beginning of the year, the middle of the year, at the end of the year?

MR MALABA: It was around September, October.

MR NDLOSI: What were you doing in the George Goch operation?

MR MALABA: We went to George Goch twice. On the first occasion we went there to fetch AK47's. On the second occasion we went there, we were told that we were going to assist some people had been injured in a train station, and people were intimidated by the ANC.

We went there in a kombi, we arrived there at around six in the evening and we stayed there until the following morning, but nothing happened during that time.

MS SEROKE: Was that were you (indistinct) in a hostel?

MR MALABA: We went into George Goch and we were made to wait inside. A car would sometimes leave the place and return, patrolling, monitoring the area whilst we were in the hostel.

MR NDLOSI: Earlier on you said you went to George Goch to pick up guns. On such occasions, who would you get the guns from and who had ordered that?

MR MALABA: The person who had connections in George Goch was Umkonzibuwe and Terreblanche. I am not sure if they were personally involved in the negotiations, or if they were giving instructions.

CHAIRPERSON: I would like to indicate that we would be sitting as far as five o'clock and we have got about ten minutes, but I don't want to rush you. If you think that you won't be finished with this particular witness, then we have to call the

witness back in the morning, then you should just pace yourselves.

It has been a fairly long day, I must say.

MR NDLOSI: I think Mr Chairperson, we will just deal with the George Goch issue and then maybe we can call Mr Tulani to appear first thing in the morning.

CHAIRPERSON: Mr Malaba you mean?

MR NDLOSI: Mr Malaba, yes.

CHAIRPERSON: We don't want to give him a third surname.

MR NDLOSI: Sorry Mr Chairperson. Mr Malaba, you mentioned that the person who had contacts were Umkonzibuwe and Msomi. You also explained that you would go there as a group in kombi's. As far as I know if a unit goes out, there would be a Commander?

MR MALABA: Yes, that is so.

MR NDLOSI: This person will be responsible for that unit and will give report backs on how the operation went. Who actually ordered you and who was the Commander and who actually received you at George Goch?

MR MALABA: The person we were always with in most instances, was Terreblanche and on arrival he would maybe take us, on arrival we would be known about our business and then he would disappear, presumably to talk with the leadership of that hostel.

And then they would later emerge as a group, talking. Then they would come to us, greet us and then we would wait until whatever time. Maybe they would all come to us as a group and tell us what the situation was like, but their specific names I do not have knowledge of because I did not speak to them personally.

MR NDLOSI: Was Mr Khumalo's gang also involved in those operations?

MR MALABA: Mr Khumalo had a gang of older persons and another one for the youth. I will say that Mbekelele was a member of that gang and he was also his brother. Mzwaki Khumalo was his son and Mbekelele is his father's youngest brother.

They would also be people from the hostel, people like Umkonzibuwe and Terreblanche. The only problem that I have is with the names. I can identify them, but I just do not remember their names.

What I can explain is that between these two groups, the older group and the youth, I started by being close to Zweli Chamane and others, not really knowing what their involvement was.

I eventually was quite distant from them. I ended up being the one that was picking them up, giving them information. For instance I would have to check the guns if we had enough guns, if

we had retrieved guns from our operations, I ended up being too close to Mr Khumalo himself and people like Terreblanche.

MR NDLOSI: Does that mean that they were also involved in the George Goch operation?

MR MALABA: Yes, sometimes they would personally go. For instance if Khumalo went as well as Terreblanche and maybe with a small group from the hostel. There were people who resided at the hostel and also had a shack or a house in the township but who spent most of their time in the hostel.

Even though they had houses in the township, they spent most of their time in the hostel. He would maybe leave the hostel if maybe his girlfriend was around, but in most instances they spent their time in the hostel.

MR NDLOSI: Thank you Chairperson.

CHAIRPERSON: Do you have any other questions, there is five minutes more or do you think that you would, if there is an aspect you think you can do within the next five minutes, maybe you go on to do it?

MR NDLOSI: You mentioned that you became close to people like (indistinct), Terreblanche, does that mean that when you went to talk to people like Zweli, does that imply that you now had a certain position?

MR MALABA: As I have explained before, I was arrested together with Themba and others and somehow I was fetched

from prison and released. When I was released, I was no longer working closely with people like Mzwaki. The youths, the people I interacted with mostly, were people like Khumalo, as well as Terreblanche.

MR NDLOSI: Does this mean that you obtained a position because you had been in prison and because that you had sufficient knowledge about what was happening within the Khumalo gang and the IFP?

MR MALABA: What I saw or what I think motivated them to bring me close to them, was that a lot of people wanted information about Spruit, about how they could attack Spruit and I had knowledge about the area.

The person who could actually assist them, was somebody like me. At the same time, if they gave me weapons or ~~instructions to take a group to a certain area, I would not refuse,~~
I would go or maybe drive.

And on arrival at our destination, somebody else would actually sit at the steering wheel and I would go with the people who were supposed to carry out an operation.

MR NDLOSI: As you had explained about the George Goch incident, you were sent there to assist people there. Were you ever involved in the train violence incidents?

MR MALABA: No, I have no knowledge about that.

MR NDLOSI: Thank you Chairperson.

MS SOOKA: You used the word operations, can you explain that, what sort of operations?

MR MALABA: When I say operations, as I had explained that on attacking an area for the people or the people in authority to prove that you had actually carried out the task, you should actually bring some form of evidence like weapons or maybe they should hear from other people that the task had actually been carried out.

When you brought these weapons it would actually indicate that you had indeed carried out the task.

CHAIRPERSON: Are there any other members of the Panel who would like to put any further questions? Ms Seroke?

MS SOOKA: When you completed these operations, were you ever paid anything for the role you had played in these operations? Were you given any money, were you given a gun, what sort of remuneration did you receive for the role you played in all of these activities?

MR MALABA: I did not receive remuneration. I was promised that I would become rich one day, but this never materialised, instead, I was arrested and incarcerated.

They have not really done anything for me, except to bribe me not to appear before the TRC.

CHAIRPERSON: Was it ever clear to you during that time and even now maybe, that all of these was violence perpetrated by and

in the name of the IFP and if so, what reasons do you think you can adduce for saying that it was violence perpetrated in the name of the IFP?

MR MALABA: I would explain it this way. It was IFP people who actually carried out these activities.

I usually see Mzizi on TV and he represents the IFP. Khumalo himself is known nationally. All dignitaries from the IFP attended the funeral, everything that happened, even if it was referred to as the Khumalo gang, he was actually fighting against the ANC, they were out to wipe out ANC members.

CHAIRPERSON: Now just a follow up. When you testified earlier on, in fact almost at the beginning, you seemed to suggest that this started off as violence between the Zulu's and the Xhosa's then it took a political dimension.

Was it so that everyone who was Zulu speaking was later then assumed to be IFP and everyone who was Xhosa speaking was assumed to be ANC, or did it not really matter now at a certain stage whether you were Xhosa speaking, you were ANC if you lived in the township and you were IFP if you lived in the hostels?

MR MALABA: I would explain it this way. When the conflict started between the Zulu's and the Xhosa's it was not political, but when the youth from the township started getting involved, if

you were a Zulu living in the Spruit location, you would actually be killed, if you were not aware of this.

And if you were not killed, you would actually have to call the police to escort you to the hostel, so that the area in the surroundings of the hostel was assumed to be an IFP area.

If the people living in this area, they will be destroyed unless they could actually ask the police to actually escort them out of the area.

There was a straight dividing the ANC and the IFP areas. Demarcations lines were known about which area it was.

CHAIRPERSON: Was it from that sort of situation that this concept of no-go areas developed, a certain area would be a no-go area for ANC people and a certain area would be a no-go area for IFP people?

~~MR MALABA: Yes, that is how I would explain it. Because~~
after this conflict started, perhaps there was a house on the corner, there would be signs written indicating whether the area was ANC or IFP.

There actually would be no houses between the two sides, in between the edges. Even if there was no fighting, and maybe you just went to the toilet, you would actually be shot at. People were always on the look out, monitoring these demarcation lines, these boundaries.

Maybe on some evenings, a bomb will actually be thrown at the areas. There was always war. Such that taxi's towards the Vergenoeg area would not pass through Thokoza which was an IFP area, they had in stead used the Phola Park area which was known to be an ANC area.

Taxi's that operated in Thokoza, were used by IFP members and they had their rank at the hostel. In town, if you actually made a sign, they would know which sign went to an ANC or which sign indicated an IFP area.

CHAIRPERSON: Let the record show that the witness has indicated that if you point your finger towards the sky, that it indicated IFP and if you indicated with a waving movement of the hand, as if you are indicating waves, you are indicating you want to go to an ANC area.

Dr Randera?

DR RANDERA: Mr Malaba, let me try one more time at trying to understand motivation here. We start off with you telling us that you joined the gang because of fear.

Because you are part of the Mugabe gang, the Archbishop Khumalo is looking for Mugabe for one reason or another, you start, that is how you get into this gang yourself. This is 1991, not that long ago - you are then involved in all sorts of things, you know, from hijacking to stealing to almost 20 murders that -you have actually admitted to yourself.

You are also involved in taking arms into other areas where of course people get killed as well. Now earlier on you said to Ms Sooka that you thought that one day you would become rich, that may have been one motivation, but let's try and understand what was your motivation in those two or three years that you were involved in this gang, or maybe four years.

Was it because you were so intimately and integrally involved in the IFP structures, was it a belief in their ideas, what was it that has landed you in the position that you are in today, because if we don't understand that in a sense, it makes it very difficult for us to make a recommendation for the future as well, because I think that is what I am trying to understand and grapple as I sit here, opposite you.

What was it that actually motivated you at the end, because ~~I am not getting that from you, you see. Was it criminal at the~~ end of the day?

MR MALABA: I got involved with this people because of the circumstances in which myself and my family found ourselves. I did many things, but I got involved in this thing because I was under pressure. I did not have a choice. Mr Khumalo used to involve the parents most of the time.

My sister Nonqubelo died, killed by the people from Spruit, because they said I had now joined the IFP. They killed her because they wanted to attract me or force me to attend the

funeral which they thought I would attend and Mr Malaba then told me that I should rush, there was something that had happened at my home.

This happened on Sunday and on Monday I went to hospital where my sister was laying, after being hacked and burnt. I therefore realised that it was a problem because she started crying when I was talking to her.

The person who was in my company, could actually pick up the explanation from my companion, who said that my family was now going to be wiped out, and therefore I should remain with the people and I went to the suburbs where I stayed at the back rooms and others went to Sebokeng.

On burying her, my mother did not spend for funeral expenses and they indicated that they were taking the responsibility of meeting the funeral costs, ~~apologising that they made a mistake.~~ That is when it transpired that I should go, people certain people, were to go and undergo some training in the use of firearms, because the IFP wanted people who would guard the area.

MS SOOKA: When you joined in a sense, did they pay for your food, did they give you clothes and where exactly did you stay, is that the form of looking after you that they actually did?

MR MALABA: I would not say that they were paying me or not because things were such that they did not pay me, but they

would give me what things I requested like food. I ended up residing at the hostel, I was now so much involved in their matters and such that even though they did not give me food, there was nowhere else to go because I had no way out.

I could not just leave. They did not pay me, be it weekly or monthly, they did not even buy me clothes.

CHAIRPERSON: I think we should adjourn and I must say to you Mr Tsotetsi that this Panel as Dr Randera said, wants to know exactly the sort of things that are now coming through, not only through what you are saying, but through what you appear to us to be going through by way of emotion.

I can well imagine the day on which this war erupted and you happened at that particular time, to be in an area that had become designated as IFP and because the war started and it was ~~perpetuated because you were in that area, that is the area you~~ became condemned to.

We will continue with this enquiry tomorrow morning. We will adjourn until nine o'clock. I take it Mr Madasa, you are available?

MR MADASA: That is correct Mr Chairman.

CHAIRPERSON: We will adjourn until nine o'clock tomorrow morning.

COMMITTEE ADJOURNS

ON RESUMPTION: 28TH MAY 1998

CHAIRPERSON: This is a resumption of the evidence of Mr Malaba Tsoatetsi.

Mr Malaba you are reminded that you are still under oath and Ms Sealey and George will continue with the putting of questions to you.

TULANI TSOATETSI MALABA: (s.u.o.)

CHAIRPERSON: Ms Sealey?

MS SEALEY: Mr Malaba, your attorney has a copy of the various lists of incidents that I'd like to ask you about and they basically go in date order. If I mention the incident, if you could possibly confirm whether you have any information on the particular incident and then elaborate what your particular role was in the incident. The first case I'd like to ask you about,

~~the Truth Commission has received a human rights violation~~
statement from the mother of Dixon Nkosi, who claims that on September the 5th 1991 a group of men who were allegedly members of the Khumalo gang, abducted her son Dixon Nkosi and they then took him to a school where he was later shot and beaten. Do you have any knowledge of that particular incident?

MR MALABA: Let me explain it as follows: The incident you are referring to yes, is something that I know about but I was not there when it happened, I was not part of the group that did this thing.

MS SEALEY: Thank you. The next incident, if you could perhaps explain your role in is the assassination of Mr Sam Ntuli.

We've already heard from Mr Zimo that there was a meeting and perhaps you can just explain to us where the meeting took place, where the plan was to assassinate Mr Ntuli and who was present.

MR MALABA: With reference to the Sam Ntuli incident, yes I was one of the people that was supposed to carry out the mission.

My duty was supposed to be to go out and steal two cars, myself with Themba Zimo.

The day that was set aside for us to steal the cars was such that we were not able to conduct the mission. I think we went to town in Johannesburg, came back the following day and they were hoping that we would bring cars along but we did not. And the ...[intervention]

~~MR MALABA: Mr Malaba, can I just stop you there please. I think it's better if you explain - because when you start talking about stealing cars, it doesn't really - I actually asked you who attended the planning meeting. If you can maybe start at the beginning as to who was at the meeting where it was decided that Mr Ntuli should be assassinated.~~

MR MALABA: People who were plotting the assassination, I would say the meeting was held at Abraham Mzizi's home and Abraham Mzizi was present as well as Gert Mzizi and Albert

Malaba was present at well, Obet Gadebe, Msomi also known as Terreblanche, he too was present. Yes, Mr was also present.

Zweli Tjamai, but I would not involve him with the group that was forming or plotting the assassination, he was mostly on our part. These are the people who were plotting and who would later on call us.

MS SEALEY: And what was decided at that meeting, what did you discuss? Did you discuss the way you were going to kill Mr Ntuli? What was discussed at the meeting?

MR MALABA: What they did - what we learnt was that on a Sunday we should go and steal two vehicles so that by sunset Sam Ntuli must have been killed. And they explained to us, I was also present when it was discussed, that Mr Ntuli should be killed. And they said they will come up with means to make sure that he is found wherever he is and they were going to explain to us as to how to get hold of him.

MS SEALEY: Was it immediately after this meeting that you and Mr Zimo went to steal two cars?

MR MALABA: Yes, that is correct.

MS SEALEY: Can you explain where you stole the cars and what the purpose was for stealing those cars?

MR MALABA: We stole the cars in Alberton. These were the vehicles that were to be used in the murdering of Sam Ntuli.

MS SEALEY: Apart from stealing the cars, what was - did you have any other role in the assassination of Mr Ntuli?

MR MALABA: If I still remember very well, after the cars were stolen, there are two guns that were brought to me and I gave them to the people who were supposed to carry out the killing.

MS SEALEY: Who gave you these two guns and what type of guns were they?

MR MALABA: If I still remember very well, they were two pistols. I cannot remember very well but I still remember handling the pistols. I'm not sure whether they were rifles or what. These are guns that were given to me by - I cannot remember exactly who gave me the guns. He gave the guns so that I can give them to someone who was in a van.

MS SEALEY: Do you remember who you gave the guns to?

~~MR MALABA: Even though I cannot remember very well there were people who were sitting at the back of the van but I cannot remember exactly to whom I directly gave the firearms or the guns.~~

MS SEALEY: Was this on the day that Sam Ntuli was assassinated?

MR MALABA: When guns and the vehicles were made available yes, Sam Ntuli died on that particular day.

MS SEALEY: Apart from giving the guns to the people on the back of the bakkie, did you have any other dealings with the Sam Ntuli killing? Were you requested to do anything else?

MR MALABA: If I still - when they came back I still remember I took the vehicle and took it actually to where I was supposed to park it.

MS SEALEY: Which vehicle are you referring to now?

MR MALABA: The van, the white van.

MS SEALEY: Where did you park it?

MR MALABA: I took it Nchazafe Hostel.

MS SEALEY: Did you give it to anyone specifically at Nchazafe Hostel or did you just park it there?

MR MALABA: I parked it and gave the keys to someone to whom I was directed to give the keys.

~~MS SEALEY: Do you remember who you gave the keys to?~~

MR MALABA: Yes, I still remember. I gave them to Terreblanch.

MS SOOKA: Who drove with you to the hostel, who sat with you?

MR MALABA: I think I was alone, if I still remember very well and I found Terreblanch at the place where I was supposed to meet him at the hostel.

MS SOOKA: You say you were directed to hand the keys over, who directed you?

MR MALABA: It was the person who gave me the vehicle. If I still remember very well it was Mkowleni. That is the person who was initially driving the car, and he ordered me to park it at a particular place and hand the keys over to Terreblanch.

MS SOOKA: You said you were not sure about whether it was a pistol or a rifle but there's an obvious discrepancy in the size of the two kinds of firearms, so do you remember how big the guns were that you were given?

MR MALABA: I cannot remember very well but there was a pistol and a rifle but I cannot remember who exactly I handed these over to. I'm talking here about an AK47, two or three of them and two or three pistols as well.

CHAIRPERSON: Doctor Randera?

DR RANDERA: Mr Malaba, just let me take you back one step.

~~The plan was that you and Zimo stole the cars, right?~~

MR MALABA: Yes, that is correct.

DR RANDERA: Now surely part of the plan is that you take the car somewhere else and you deliver those cars to wherever, you didn't drive around with those vehicles for several days. I'm sure after you stole them you took them straight to the hostel, did you not?

MR MALABA: As I have explained before, when this was planned we were involved and it was indicated that we should go and kill the people but now that they realised that we were

capable of stealing the cars, it was decided that we should go and steal the cars and hand them over to Terreblanch and Nkunu and Mdladla and Mzizi.

DR RANDERA: I'm just clearing up something that you said earlier on, that the keys of the vehicle was handed to you by somebody, you mentioned Maklaule. Now where does he come in? If you steal the cars and you were told to deliver it to the hostel, why does he then give you the keys to the car again? I mean you've got the keys already, you've stolen it, you're now supposed to deliver it to the hostel.

MR MALABA: I took the keys, actually we brought the cars after having stolen them, they were used for the assassination and they were brought back and that is when the keys were handed over to me to take the car to the hostel. That was after Sam Ntuli had been killed and the keys were given to me so I could take the vehicle to the hostel, by that time Sam Ntuli had already been killed.

DR RANDERA: Maybe you are jumping ahead of us you see because we are talking from the time that you steal the cars and then it's delivered somewhere to the hostel, that is how I understood it, you see? And now you are saying to us no, they vehicles are used by somebody to kill Sam Ntuli and then you are told to deliver the cars to the hostel. Now let's just clear this up.

When you stole the cars from Alberton okay, what was the plan after that?

MR MALABA: The plan was that we should steal the vehicles after which we would take them to the hostel and on arrival at the hostel, the people who were supposed to carry out the assassination were to use these vehicles. We indeed dropped the cars at the hostel, gave the cars to Mdladla, Terreblanch and Nkunu. They then ...[intervention]

CHAIRPERSON: No, no, not at this present moment Mr Khumalo, thank you.

Carry on Mr Malaba.

MR MALABA: As I have explained, we stole the cars in Alberton, after which - actually these are the cars that were to be used in the assassination. We brought the cars and handed them ~~over to Terreblanch and Mdladla and Nkunu together with~~ Umkunje Bomf.

Obet and people like Khumalo and Abraham Mzizi, these are people who were in the house. We took the cars to the hostel and they took these vehicles which were to be used at the same time and they were indeed used immediately thereafter to kill Sam Ntuli during which time we remained behind at the hostel.

And they came back with the vehicles after the assassination and I went to Mkwoleni to take the vehicles, shift it

from where they found me Katuza, took the vehicle Mchaizafe where I dropped it.

MS SEROKE: This vehicle, when you handed it over to the people who were to carry out the assassination, who exactly did you give the keys to?

INTERPRETER: Chairperson, the speaker's mike is off.

MR MALABA: I handed this vehicle to Terreblanche, Nkunu, Mdladla. I'm not quite sure as to whether Obet was among those but I handed the keys over to Terreblanch.

MS SEROKE: Did they all get into the vehicle?

MR MALABA: People who got in the vehicle were Mkowleni, Zweli Tjamai and Obet followed in another private vehicle. I'm talking about a van here. There was a van and a private vehicle. It was Zweli, Mkowleni and Mkonze Bomf. I cannot remember the others quite well, there were about four or five of them in the van but there was only one person in front.

MS SEROKE: Did they leave you behind? That is after you had given them the keys, they drove away in the vehicle and you remained behind?

MR MALABA: Yes, they drove away even though they did not leave immediately. It must have been after two or three minutes.

They took the guns but indeed these are the people who drove away in the van. I remained behind and they came back to find me still at the place.

MR NDLOSI: Mr Tulani Malaba, you are explaining here that after the assassination they brought the car back to you, you took it to the person whom you referred to. You are saying you locked the vehicle and handed over the keys to the person. This, was it a stolen vehicle or did it have an owner?

MR MALABA: This was the vehicle that we had stolen in Alberton.

MR NDLOSI: How did you steal the car, did you highjack it, took it from a person or really, how did you steal the vehicle?

MR MALABA: I used some devices to steal the car which was parked, I did not highjack it.

MR NDLOSI: Are you explaining that this device was used to open the parked car and used also to start the ignition? Did you similarly use the same device to lock the car?

~~MR MALABA: I can explain a little bit here. When I used this device it actually destroys the keyhole. After using this device it can no longer be used again but it can only be used for opening or closing the driver's door. Any key can open that door if that is the case.~~

CHAIRPERSON: What's this Gogtla, is it a key? Just tell us - it may not have anything to do with gross violations of human rights but now that we are on the topic just tell us how do you steal these cars.

MR MALABA: When I'm talking about the Gogtla, it is something like an allen key. It has been ground to the shape of a knife, to be as flat and sharp as a knife and once that has been done we file it to create some grooves so that when you put it in the car ignition...[intervention]

CHAIRPERSON: You are starting with ...[indistinct] My car is standing out there, it's locked and everything is there, how do you open the car and then the ignition and then drive away and all that and the alarm?

MR MALABA: It depends, it all depends. If the vehicle has an alarm system I can open it and shift to stand somewhere while the alarm is on and when he comes back, that is the owner, he will switch the alarm off after which he will leave and I will then come back and open the car using this so-called Gogtla, this device.

~~After that I will go straight to the ignition and use the same~~
Gogtla, the same device so that it can destroy the grooves of the key.

CHAIRPERSON: Now, how long does this take to destroy the teeth of the ignition so that they key does not work? How long does that process take?

MS SEALEY: That depends on how well used is to the procedure, two minutes is just enough for me.

MR NDLOSI: Mr Malaba, you referred to one meeting. I just want to know from you, how many meetings did you attend,

meetings that were held to plan or brought the assassination of Mr Ntuli?

MR MALABA: I attended - actually, I did not attend meetings. They attended the first meeting, people like Mdladla, Nkunu, Terreblanch and they then reported back to us as to what we were expected to do.

On the date that had been set for us to go and steal the vehicles we somehow delayed and there was a postponement. And during that time they said we should not be part of the assassination because we are boys from the township. We should instead go and steal vehicles and they would reorganise another day for the assassination.

They said I should make sure that the vehicles are available.

And during that time they had not indicated to me that I would be present during the killing or not. I then gave them the vehicles. That is how I did not become part of the assassination directly.

MR NDLOSI: The meeting that you attended, what meeting was that and how many days lapsed before the assassination of Ntuli after the meeting?

MR MALABA: The one meeting that I attended, I cannot say whether it was the first meeting or not. It was actually a meeting that was actually aimed at plotting the assassination.

Sam Ntuli was one person about whom they often spoke and people such these who were speaking about a person for so many times were really intent on killing him. They had started quite a long time ago, planning and plotting the assassination.

MR NDLOSI: You personally, how many meetings did you personally attend, meetings at which Sam Ntuli's assassination was discussed and what last meeting did you attend before the assassination of Sam Ntuli?

MR MALABA: I wouldn't say how many days remained before the assassination, after the last meeting. What I can explain here is that I can refer to the meeting that was actually to lead to the assassination of Sam Ntuli. It was Tuesday, if I still remember very well, and the assassination was supposed to be carried out on Thursday or Friday if I am not mistaken.

~~That did not happen on Thursday or Friday as planned~~
because on Wednesday we had to go and steal vehicles but we were not able to do that. And when came back we were told that we were indeed to go and steal vehicles so that by Sunday Sam Ntuli should be dead. I am therefore am not in the position exactly as to how many days lapsed between the meeting and the assassination. It was Thursday, Friday, Saturday and Sunday for us to finalise everything insofar as the planning is concerned.

There was a lot of talking as I have indicated, about these assassinations. If I had come there would be perhaps Obet

Malaba, Khumalo and Terreblanche. These would be people discussing the assassination but not necessarily that that was a meeting, it would be a casual discussion at the hostel. It was not necessarily a meeting such as would happen.

Obet Malaba for example used to sell beer and he would have patrons who would be drinking at the same time as they were discussing the assassination. We used to overhear these things being discussed even though I was not part of them. I would be sitting, say a few metres away from them. This does not necessarily mean that I was a distant or not part of the whole thing or part of it as such.

MR NDLOSI: In the statement that you have made, the one that is in Mr Ntuli's docket, there is some place where you indicate that you had a meeting on Friday where you were supposed to bring vehicles. Can you say something about that meeting? Do you still remember that meeting?

MR MALABA: That was not a meeting, as I have explained, it was something to line of a casual discussion. When I am saying a meeting I am not necessarily referring to a convened meeting but a casual discussion amongst these people.

Yes, there were instances where a meeting would be convened. In those instances we would meet with the people who were supposed to carry out the assassination and exchange ideas,

discuss amongst other things, things as Indelezi. On Friday Sam Ntuli was supposed to be killed.

As I have said we went to steal a car on Tuesday but we could not but we were told later on that we should postpone the killing on Friday to Sunday. I think there must have been a mistake when they indicated to the meeting having been held.

MR NDLOSI: Mr Malaba, you have also referred to Mr Mdladla and Mr Mkwoleni, how do they fit into this picture? I'm talking about your group, are they members of the Khumalo gang or were they just members of the IFP? We are lost here, would you please explain.

MR MALABA: The person you are talking about is Mdladla and Mkwoleni. Mkwoleni is a male of my size or should I say of my age. He is an IFP member as well as Mkwoleni.

MR NDLOSI: They were working hand in hand with Mr Khumalo, that is in your group.

MR MALABA: These were people - I remember some of these names as we continue. These are some of the people with whom we worked, that is in the Khumalo gang and elsewhere.

MR NDLOSI: On the day of Sam Ntuli's assassination, you said to us that you were left behind. How did it all come about that you were left behind whilst other people were going, especially knowing you were a loyal member of the gang as well?

MR MALABA: Even though I did things without thinking, but I learnt later on that there must have been something that they suspected and did not like about me because they said we are boys from the township, we have different views because they said we should do something and we did not do it.

And they said we might make mistakes, we might run to the police and we might not do things as well as they expected us to.

I concluded that they may have had a problem trusting us. Mr Ntuli was a very important member of the community and therefore I ended up not being part of it somewhere. They had doubts as far as I'm concerned about me having to be part of the assassination.

MR NDLOSI: You also said here that you remained behind, who else remained behind with you? I'm talking about people here who were in your gang, people who specialised in operations.

Who else remained behind with you?

MR MALABA: Themba Zimo was also not involved. I think it was Themba and myself only.

MR NDLOSI: Did you attend another meeting where the issue Sam Ntuli's assassination was discussed and Themba Zimo was given a task of some sort?

MR MALABA: Although we did not discuss much with Themba, he worked very closely with Khumalo, they would see each other on a daily basis because he was Khumalo's driver.

So you could see Themba at work and shortly thereafter you would see his car at the Khumalo household and you would not know what is happening. He would also take Khumalo and them in the taxi.

The only thing I knew about Themba is that we were supposed to steal the cars with him, which we could not do as I have explained but I don't know much about him.

MR NDLOSI: I want us to be clear about this, do you mean that there is no meeting which you attended where Themba was also present and was given an order to monitor Sam Ntuli?

MR MALABA: As I've explained I would not regard that as a meeting, it was something that was discussed by four of us, people with whom I worked. I would not necessarily regard that as a meeting.

~~When I speak of a meeting I speak of a discussion that has been necessarily convened like this one here where serious discussions are held but something like: "George, you should look after Thulani, those kind of orders I would not call a meeting.~~

If I remember correctly we were in the hostel when this was discussed. If we were not at the hostel, we must have been in a car inside the hostel on the day that Themba was given that instruction to monitor Mr Ntuli.

MR NDLOSI: Amongst the people who were in the van that was supposed to carry out the mission, was Nicholas Jamani there? And who else was in the van from your group?

MR MALABA: Nicholas Jamani was there, Mkwoleni was also present. I don't quite remember whether Nkunu went into the van or with Obet's group and the other two people whose names I forget. In the van there was Mkwoleni and the other two people.

MR NDLOSI: What time did they leave the hostel to carry out this operation and when did they return?

MR MALABA: Although I'm not sure of the time but it was around mid morning, 10, half past ten in the morning.

MR NDLOSI: Is ten the time that they left or is it the time that they returned?

MR MALABA: I am only assuming that is around that time, I'm just looking at the time of day. I think they left at around ten, half past ten. ...[intervention]

CHAIRPERSON: Can I just ask, are there any issues in dispute here? Are you trying - I'm just worried about time quite frankly. I would want to be sure that we are canvassing issues in relation to which we believe the witness is either not making a full disclosure or has not made a disclosure at all and that we should really concern ourselves with the substance ...[indistinct] And I think if there are issues that are in dispute in the way he has

testified and in the way in which you have investigated and there are things in relation to which, I think you should put them.

If otherwise you are in agreement as to what happened, who was involved, how were they involved, I think you should put them in a way in which he should either confirm or deny them.

Far should it be for me to dictate to you how you should conduct your questioning but I think in the interest of time let us try and capture as much as possible those things that we need to be satisfied as investigators and as an inquiry to an investigation which we need to have on record, whilst you contemplate what you ought to do.

Mr Malaba, I have a problem with everything that has been said here. We have documentation which tells us, and I would like you to confirm or deny this, the documentation I have states the position as the following: That you were part of a group that had been tasked to kill Ntuli, is that correct?

MR MALABA: That is correct.

CHAIRPERSON: The documentation also says that you say Mafulele, Oscar Msomi, Gertrude and Abraham Mzizi, Lucky Xhosa, Sabelo, Obet Gadebe from Mshaiasafe Hostel, Zweli Jamani and you were present and part of the planning for the Ntuli assassination, is that correct?

MR MALABA: That is correct.

CHAIRPERSON: That the meeting was held in Mzizi's house and at Mshaiasafe Hostel, is that so?

MR MALABA: The meeting, I wouldn't call that one a meeting but we were all there after the planning.

CHAIRPERSON: Mbekiseni and Mzwaki Khumalo were also present in a second meeting which I believe was planning this assassination, is that right?

MR HLONGWANE: That is correct.

CHAIRPERSON: Mafulela and Obet Gadebe and possibly others were tasked with the killing and Gadebe's Honda, that's the part I want clarification on, Gadebe's Honda was used. Do you recall this to be the position?

MR HLONGWANE: Yes, Obet's car was used in the assassination.

CHAIRPERSON: ~~In other words it was not the stolen car that~~ used in the assassination, it was Gadebe's Honda that was used, is that correct?

MR MALABA: Obet's car was used for them to flee after operating or after conducting the mission. It was used as a car that would render them assistance.

CHAIRPERSON: Was this the car the was driven to Durban after the killing?

MR MALABA: Yes, that is correct.

CHAIRPERSON: By whom was it driven to Durban?

MR MALABA: If I remember - I'm not quite sure whether it was Obet Malaba, I mean Obet Gadebe or Mafulela. I'm not quite sure between the two.

CHAIRPERSON: But when car was fetched several days later it was by you?

MR MALABA: That is correct.

CHAIRPERSON: Was it by you or was it by Malaba, ...[indistinct] Malaba.

MR MALABA: The person who fetched the car from Durban was myself, Tulani Tsoatetsi Malaba.

CHAIRPERSON: I am not going to ask about Gugu Mzizi because the investigators have not put that line of questioning.

Miss Sealey?

MS SEALEY: Mr Malaba, if you can just, did you know Gugu Mzizi?

MR MALABA: Yes, I knew her but I wasn't close to her.

MS SEALEY: Do you know how she was used in the planning to assassinate Sam Ntuli?

MR MALABA: When the planning was made for her to be used I was not present but I heard from Themba Zimo how she had been used in the assassination of Sam Ntuli.

MS SEALEY: Do you have any knowledge as to what happened to Gugu Mzizi after the assassination?

MR MALABA: If I remember correctly, I don't know whether Abraham and Gertrude are her parents, but she was used to phone Sam and tell him that her father was sick. Thereafter - did not live that long. The information I received was that she was killed by the very same people who had used her in the assassination of Sam Ntuli.

MS SEALEY: When you say: "they very same people", who specifically did you hear allegedly killed Gugu Mzizi?

MR MALABA: People who killed her I would say was Abraham, Mzizi, Gertrude Mzizi, Albert Malaba and Obet Gadebe as well as people like Terreblanche, Zweli. Even if it may not be the entire group it must be something that they all discussed, that she should be killed.

CHAIRPERSON: Let me just ask in connection with that, do you know if there was a direct relationship between Gugu and Gertrude Mzizi and the other Mzizi? Was she their daughter or was it just a distant relationship, a relation?

MR MALABA: As I explained, I do not really have information on whether she was their daughter or a relative. They were related but I don't know how.

CHAIRPERSON: Do you know anything about her having been kept as a sex slave for Mafulela and Gadebe at Mafunela's house? Did you hear any rumours about that? Did you know it as a fact? Did you know if she was ever kept at Mafunela's house?

MR MALABA: I did not know about her being captured but I know that she was very close to Mr Mafunela. I'm not sure if she was captured or if she was being used in any way but they were quite close. They were quite close because they were apparently in love.

CHAIRPERSON: I see. Doctor Randera?

DR RANDERA: Mr Malaba, I just want to clarify this whole Gugu Mzizi issue. You see you tell us that there's this planning that goes to kill Sam Ntuli, there are two meetings that took place that you were part of alright.

Now Sam was killed in September of 19 ...[intervention]

MS SEALEY: Sorry, that is incorrect, he was killed on the 29th of September 1991, my apologies. When did these meetings take place?

~~MR MALABA: I will ask for the Commission to excuse me~~
because I am not sure of the dates on which the meetings were held.

DR RANDERA: Alright, at these meetings then, is that where the name of Gugu Mzizi comes up? How does this person - essentially here is a person who has died and now you are telling us that this person was giving you information because she happened to be the girlfriend of Sam Ntuli, about Sam's whereabouts, his movements.

I want to know how does this person, because it's very important, we are taking another person's name here who has died and I think her family have also made a statement to us.

Now you must tell us because you are telling us, here is this young woman who not only gives you information before Sam Ntuli's death but afterwards, according to you in your statement she become a sex slave to these people or she is living with these people and then three months later, three months later after Sam's death suddenly people decide that she knows too much and she must also be killed.

Now Mr Malaba, you are making a lot of statements here today and yesterday but I think you need to be much more careful in what you're saying and if you are saying it then give us more information, let's not give very superficial statements and leave it at that and destroy a person's reputation in the process. So I want you to think it out and give me an answer to the question that I have raised with you.

MR MALABA: I will explain this as follows: Gugu Mzizi was used to get hold of Sam Ntuli. I don't think they informed her that they wanted her to get information so that they should kill Sam. It was I think, because they were close to her.

Whether her father was sick or not, I would not know because I did not speak to her directly. It was just the information I received on how Sam Ntuli was actually gotten hold

of, that Gugu Mzizi was used to phone him. Whether Gugu Mzizi had knowledge of what the information she was gathering was for, I have no knowledge of that.

CHAIRPERSON: Are you then saying that you are not claiming that Gugu Mzizi was part of the conspiracy to murder Sam Ntuli, she possibly was an unwitting aid in the killing of Sam Ntuli in that she genuinely collected and passed information about Sam Ntuli without knowing that it was going to be used for his murder? Is that your evidence?

MR MALABA: Yes, I would so because I don't believe that she knew that Sam was going to be killed because Gugu and Mafunela, after the death of Sam Ntuli were people who were very close. The way I think of it was that she must have been sent to call Mr Sam Ntuli without knowing what she was being used for. I don't think she knew she had the details of the plan to murder Sam Ntuli.

MS SOOKA: Do you think that Mafunela had some kind of hold over Gugu Mzizi or any members of her family?

MR MALABA: Mafulela and Gugu Mzizi were, appeared to me after the death of Sam Ntuli, to be very close. I'm not sure what the situation was before that but I actually took notice of them after the death of Sam Ntuli.

MS SOOKA: When you say close, what are you referring to, as a father and a daughter, to partners, a man and a woman, what kind

of closeness are you talking about? I think that is important for this.

MR MALABA: They were lovers.

MS SOOKA: Were the parents of Gugu Mzizi part of this whole grouping before Sam Ntuli's death? Did you know them? Were they familiar with the other Mzizi's? Were they closely related? Did they socialise together? Can you tell us?

MR MALABA: Are you referring to Gugu Mzizi and Gertrude and Abraham Mzizi?

MS SOOKA: Firstly I want you to tell me about Gugu's parents, were they close to Gertrude and Abraham Mzizi? And then tell me about Gugu Mzizi herself, was she close to the Mzizi's.

CHAIRPERSON: When?

MS SOOKA: Before the death of Sam Ntuli?

~~MR MALABA: I'll explain it as follows. I do not know Gugu's~~
parents but Gugu was always at the home of Abraham and Gertrude but if those were her parents, I am not sure.

CHAIRPERSON: Sorry, your evidence on this part is that you have been assuming all along that Gertrude and Abraham Mzizi are Gugu Mzizi's biological parents, even though you are not aware of this. You assumed that because she is Gugu Mzizi and there is Abraham and Gertrude Mzizi, you assumed that they were her biological parents.

MR MALABA: Yes, that is correct, I thought that they were indeed her parents.

CHAIRPERSON: You would not rule out the possibility, if you were to be told for instance, that no, they were other than Gertrude and Abraham Mzizi, other Mzizis who were her direct and biological parents. You would say you didn't know about that?

MR MALABA: If there were other people who were Gugu Mzizi's parents I would not dispute that.

MS SEROKE: Where did Gertrude stay? Sorry, I'm talking about Gugu here. Where did she reside? Did she have a home or did she stay alone? Where did she reside?

MR MALABA: Although I am not certain, when I knew here I actually knew her from Abraham Mzizi but I did not see her there very often. I would see her in Mazibugo Street, she would visit a house there. Whether she was based in Abraham Mzizi's house or in the other house in Mazibugo Street I am not sure but I would just see her in the street and in the other two houses that I've mentioned.

MS SOOKA: You see I'm a little confused, you say that you don't think that Gugu knew that she was being used to in fact gather information on Sam and at the same time she frequented the Mzizi's house. Now Sam Ntuli was somebody who was on the other side almost and you just wonder how they could have had a

relationship, knowing that she was close to the Mzizis, so that leaves us a little confused.

Then immediately after that you tell us that she and Mafulela were lovers, now do you have personal knowledge of that, did you actually see them or was that the stuff that was talked about? I think that is what we are trying to establish here.

. Was she part of the conspiracy or was she an innocent pawn?

MR MALABA: I would explain it briefly. The death of Sam Ntuli was not such that he was aware that he was an enemy to these people. He was not aware that he was indeed an enemy. They are the only people who knew that they regarded him as an opponent.

I did not even know that Gugu Mzizi was Sam Ntuli's girlfriend, I only learnt of this after his death. Before this all ~~happened I did not know that she and Sam were lovers.~~

CHAIRPERSON: Had you seen Sam Ntuli before he was killed, in circumstances which might have led you to believe that he was not aware that Abraham Mzizi, Gertrude Mzizi and all these others gang had a grudge against him? In other words, had you ever seen them together or Sam visiting the Mzizis or fraternising? I think that is what we are trying to get at.

Was there no open enmity given the background that you sketched for us about this place? There were no-go areas, there was an IFP section, there was an ANC section, Ntuli was a well-

known trade Unionist and Unionists were associated with COSATU, COSATU with the ANC and all that sort of thing, UDF and all that.

I think what we are trying to get at here is: was this group of people that plotted to murder him, were they behaving in a manner that could have created an impression that they have nothing against him, that they did not have these dark plans about him and that his assassination came almost as a bolt from the blue?

MR MALABA: I will ask you to excuse me, can you please ...[intervention]

CHAIRPERSON: You see we have Sam Ntuli who was a Unionist and therefore in the context of what you have been telling about the relations between the ANC and the IFP, he would have been an enemy of the IFP, do you agree with that proposition?

MR MALABA: Yes, the situation was such that Sam Ntuli would be an enemy of the IFP but he died before this enmity between the ANC and the IFP. But at the time he was very prominent in the Thokoza community.

CHAIRPERSON: Now, is your evidence that Sam Ntuli was a very well-known and popular figure in Thokoza?

MR MALABA: That is correct.

CHAIRPERSON: With what politics was he identified? Would you say he was identified with the politics of the IFP or with the politics of the ANC or was it not clear at that time?

MR MALABA: Even though it was not clear politically, it was clear regarding him, that he was an ANC supporter and he worked in the Thokoza office.

CHAIRPERSON: Now, it is clear from what you have said that these people you have talked about, Gertrude Mzizi, Abraham Mzizi, Khumalo and all these other people, they were IFP inclined people, do you agree?

MR MALABA: That is correct.

CHAIRPERSON: Now, what we are trying to find out is whether Gugu Mzizi, whether it was not funny to say the least that Gugu Mzizi had a relationship with Sam Ntuli in those circumstances?

~~What is your thinking about that relationship?~~

MR MALABA: I would explain it as follows: Because of the situation in Thokoza, he was a well-known person, but because of the situation it was possible that Gugu could actually be involved with Sam Ntuli.

CHAIRPERSON: Are you therefore saying that that could have been the reason why it was possible for this group of people who were planning to kill him to convey through her a message to Sam Ntuli that misled him into going to hospital because they had said he must rush to hospital? He would not have received that news

with suspicion because it comes from Gugu Mzizi, is that what you are saying?

MR MALABA: Can you please repeat the question?

CHAIRPERSON: When the news came from Gugu Mzizi that Sam must go to a hospital because somebody related to him was there, is it your view that he would not have received that news with suspicion simply because it came from Mzizi, because he had no reason to suspect that those people regarded him as an enemy?

MR MALABA: From what I know, even if Gugu told Sam the news he was not supposed to go to the hospital, he was actually supposed to go to somebody's house. I'm not sure where this house was but it was not the hospital.

CHAIRPERSON: Oh yes, even if it was the house, what I'm trying to say is, when they said: "Gugu please tell Sam that so and so is ill at a certain place", is it your view that Sam would not have been suspicious that he was about to be killed because the message was coming from Mzizi, from Gugu Mzizi?

MR MALABA: I would explain it as follows: I do not have knowledge of how much they trusted each other in their relationship. I have no information or idea how he received this message. So I can say that he trusted her because he actually did leave from where he was and went to this place where he was subsequently killed.

CHAIRPERSON: To ask the same question differently, in your view, and I'm deliberately asking your view because we are trying to see how you saw this thing as it happened at the time, Gugu Mzizi herself did not necessarily think that the Abraham and Gertrude Mzizis were regarding Sam Ntuli to be an enemy worthy of being killed? She could not have suspected that she was actually luring him into his death, or don't you know?

MR MALABA: I think Gugu Mzizi was not aware that by performing this task she was actually luring him to his death. I don't think she understood this.

CHAIRPERSON: Did you see Gugu after the assassination of Ntuli? If you did, how did she take the news of Ntuli's death?

MR MALABA: I was not really close to Gugu, I knew her from the area. I wouldn't really be able to tell whether she was happy or sad but as a person whose boyfriend had died I knew that Sam Ntuli was married but Gugu was just a girlfriend. I would not be able to explain how she felt about the news because I did not know her closely.

MS SEROKE: Don't you think it was funny that after the death of Sam Ntuli, Gugu got romantically involved with Mafulela, people who were from opposite camps?

MR MALABA: As I am explaining now, if Mafulela and Gugu got involved before or after the assassination, I have not

information about it but after the death of Sam Ntuli I realised that Gugu had become very close to Mafulela.

After the death of Sam Ntuli, on the day of his funeral, there was a lot of shooting between the ANC and IFP groups after the funeral. This shooting happened in the street next to Mzizi's house. I think that was the only time that I actually saw her, that she was shocked. Whether she was worried about the death of Sam Ntuli or maybe she was worried about the shooting that was actually taking place, I am not sure. But on that date we were just protecting the women and the children whilst this shooting was going on.

MS SEROKE: Something that I don't understand is that Gertrude and Abraham Mzizi were also wellknown figures in the area, known to be IFP members and Gugu seemed to be related in a way to these people and the very same Gugu who was related to the IFP members was in love with Sam Ntuli, a very staunch ANC member.

I understand that at the time there was no political division as to political party affiliation. I therefore do not quite understand that Gugu herself did not know that she was being used to lure Sam Ntuli to his death.

MR MADASA: Sorry Mr Chairman, I do not wish to answer for him but I think there is a missing link here which he has already

supplied but I think he did perhaps not articulate it to the satisfaction of the panel.

From what I could gather from what he has said, Sam Ntuli was a Civic leader, amongst other things Leader of the Civic which was an umbrella body for all political organisations at the time regardless of affiliation. And at the time when he was a Civic Leader he was popular and famous amongst all the members of the community, regardless of political affiliation.

And that time, although there was IFP and ANC, there was no enmity as yet between those two organisations. They co-existed within the same area, being Thokoza. It was not yet divided but the IFP people recognised the danger that in future Ntuli because of his fame had a potential to woo all the members of the community to his organisation at a later stage when the organisation was going to be divided.

What I'm saying is, therefore Gugu's movements and association with Ntuli should then be seen in that light.

CHAIRPERSON: Well there is always the other factor, that love conquers all. Sometimes it acts in very strange ways. Thank you Mr Madasa for that.

Doctor Randera, your last question before we break for tea.

DR RANDERA: Mr Malaba, to me it is clear, and you've said that yourself, that you didn't know about Gugu's involvement with Sam until after his death. I mean, you had just seen her going

into somebody's house, you don't even know whose daughter she was, but yet after the death of Sammy Ntuli you are able to make a statement saying that this woman was involved with this person, that certain phone calls took place between her and San Ntuli.

Now what I want to know from you, because it's very clear to me that this happens after, Gugu was not part of the planning that you had been involved in the two meetings because you said yourself that her name did not come up. Now after the killing of Sam Ntuli somehow you find out about her involvement, who do you get this information from? Is it from Mr Mafulela who happened to be your saviour in the first place because if we go back in your own history, as to how you became involved with the gang, that is the person your sister went to go and see. So who was the person who shared this information with you as to Gugu's involvement or alleged involvement in this whole conspiracy? Where did you hear it from?

MR MALABA: I have explained earlier on that one person who indicated this was Themba Zimo. I did not have any knowledge to this effect, that Gugu was used for the assassination of Sam Ntuli. This is something that we discussed after the assassination. Sam Ntuli had already been assassinated but not yet buried when we discussed this. We took it seriously but as to who gave him this information I really did not ask him because there were not only the two of us there.

There was also an opinion that there was a mistake that Gugu was used in the assassination of Sam Ntuli. And when I started asking Themba Zimo exactly what had happened he explained to me as I am explaining it to you here.

CHAIRPERSON: We'll take an adjournment for 15 minutes and we might possibly use that period also to try and see in what way we can streamline the process of gathering evidence from this witness and other similar witnesses. Miss Sooka has got some ideas which she can share as to how we should proceed. We'll adjourn until twenty past.

COMMITTEE ADJOURNS

ON RESUMPTION

TULANI TSOATETSI MALABA: (s.u.o.)

CHAIRPERSON: Miss Sealey?

MS SEALEY: Just before we resume, if we can just put a bit of political context to the actual time when Ntuli was assassinated. It was exactly one week after there was an attack on an IFP march in Khumalo Street where 16 IFP members were shot dead by alleged members of the Polar Park SDU.

Also at the time of Sam Ntuli's killing Thokoza wasn't divided into no-go areas at that point. That happened at the beginning of 1992 onwards. Maybe that will assist with the actual political context as to when.

Also just in terms in terms of Sam's involvement in the Civic, there were at that stage part of an organisation called TOCA which was the Thokoza Civic Association and they had been in a long struggle with the Thokoza Town Council of which both Mzisis were Councillors at the time and had actually been forced to resign.

The Mzizi house also by this time had been bombed on several occasions so that possibly provides some of the motive behind, possible motive behind the targeting of Sam Ntuli.

Mr Malaba, if we can just move on from Sam Ntuli. I'm not going to canvass every single case with you. We have an agreement with your attorney that he will take a full statement from you afterwards.

What I'd like to question you on now is the murder of Vusi Shabalala. This incident occurred in October 1992. The information that we have before us at the moment is that Mr Shabalala got into a taxi that was driven by yourself, is that correct?

MR MALABA: No, he did not get into a taxi that was driven by myself but he got into a taxi that was driven by Themba in my presence.

MS SEALEY: I apologise for that. So you were in the taxi with Themba Zimo who picked up Vusi Shabalala, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: When Mr Shabalala got into the taxi, was there a vehicle following the taxi?

MR MALABA: There was a car following the taxi but I cannot say as to when it started following us. I only spotted this car after a few streets. I got to notice this vehicle because looking at it I could identify it and it's occupants.

MS SEALEY: Who were the occupants of the vehicle that was following the taxi?

MR MALABA: The occupants were Mbekelele Khumalo and Mzwaki.

MS SEALEY: When Mr Shabalala get off the taxi at Buthelezi Street?

MR MALABA: Yes, that is correct.

MS SEALEY: What happened next?

MR MALABA: Even though we were not noticing I just heard a gunshot but I could not determine as to where the shot came from. Yes, I did hear a gunshot at the time.

MS SEALEY: Mr Malaba, if I can just clear up a couple of contradictions with you. When Mr Shabalala got off the taxi, was he running, was he walking normally? When he got off the taxi did he notice that the Khumalo's were behind him and did he start running or did he walk normally down Buthelezi Street?

MR MALABA: He had a fright when he got off the taxi but he did not let it show. He got off the taxi, closed the door and

walked a little faster and on turning at the street I'm not sure whether he ran or he just walked.

MS SEALEY: So am I correct in saying you didn't see for example Mbekelele Khumalo and Mzwaki Khumalo get off the van and chasing Vusi down the street?

MR MALABA: No, I do not remember seeing them getting off the vehicle. What I know is that the vehicle took a turn, it took a turn and came to a halt.

MS SEALEY: So if I understand you correctly, all you saw was Mr Shabalala getting out of the taxi and moving down Buthelezi Street at a fast pace, you didn't see the Khumalo's following him down Buthelezi Street?

MR MALABA: I did not see them following him but what we learnt after some time is that Vusi had been shot by Khumalo and his son and his brother.

MS SEALEY: That is basically what I'd like to take issue with because there is an eye witness to the shooting of Mr Shabalala that says in fact that it was a person by the name of Percy Tjabangu who in fact shot Mr Khumalo. Can you tell me what the relationship is between Mr Tjabangu and the Khumalo gang?

MR MALABA: Percy and the Khumalo gang were such that I cannot explain their connection. Percy was Khumalo's bodyguard. He was in our group, but he was always with Khumalo.

MS SEALEY: So you're saying that Percy was always with Khumalo and you never, from what you heard afterwards it was Mbekelele, Mzwaki and Mbekiseni that had something to do with Vusi Shabalala's death, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: If we can then just move on to the murder of Frank Happy Mbele. I notice in the annexure to your amnesty application that you said that during 1992 you shot and killed another member/comrade/supporter of the ANC, by the name of Happy Mbele Ntekoza, is that correct?

MR MALABA: Would you please explain as to whether you are saying I fired the shot or what.

MS SEALEY: According to an affidavit that you yourself made, it says and I quote:

~~"Also during 1992 I shot and killed another member/comrade/supporter of the ANC by the name of Happy Mbele Ntekoza"~~

is that correct?

MR MALABA: No, that is not correct. I know about Happy's death but I am not the one who shot him.

MS SEALEY: Mr Malaba, can you explain why it should say here that:

"I shot Happy Mbele"

when in fact you only have knowledge of the case? Can you explain how come there is this discrepancy?

MR MALABA: The statement that you are reading to me was written by Pierre from the TRC.

MS SEALEY: That is not correct Mr Malaba, this is a statement that actually is attached to your amnesty application and it was taken at the Boksburg Prison by your advocate, Advocate Nobanda on the 11th of December 1996. Do you recall that?

MR MALABA: Yes, I do remember that.

MS SEALEY: In this particular statement which an Annexure to your amnesty application, there's a question that asks you about murders that you committed and under Point C you say:

"I shot Happy Mbele"

are you disputing that?

MR MALABA: I do not remember saying that. I think a mistake must have been made there.

MS SEALEY: Mr Malaba, if that is the case, are you then saying that you had knowledge of Mr Mbele's death, you yourself were not actually involved?

MR MALABA: My knowledge about Happy's death is that I was present when he was killed but I am not the one who pulled the trigger.

MS SEALEY: Can you please then tell us who is the person that - if you were present, who pulled the trigger that killed Happy Mbele?

MR MALABA: I would not be specific because there were several people with gun, there were more than three of them. Happy was fleeing from the house, jumping a fence and therefore I cannot say whose bullet amongst the three killed him.

MS SEALEY: Yes, I'm sure you can't say which specific bullet killed him but what I'm trying to ask you is, if there were three people with guns, who are the three people who had the firearms that were chasing Lucky down the street?

MR MALABA: These three people were myself, Mzwaki, Khumalo as well as Mbekelele and Peter.

MS SEALEY: Did you yourself have a firearm?

CHAIRPERSON: He said so.

MR MALABA: Yes, that is correct.

MS SEALEY: Did you fire on that day?

MR MALABA: I was supposed to shoot but the situation was such that there were people in front of me and I was behind them and therefore I could not shoot.

MS SEALEY: So if I understand you correctly you were amongst this group chasing after Happy Mbele, you were all armed with firearms but you didn't fire, everybody else did, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: Mr Malaba, on the very same day there were a number of other people that were shot, do you recall that? This particular incident happened on the 18th of December 1992, are you aware on that day in the very same street that other people were shot?

MR MALABA: Shortly I can say, there were people who were indeed shot and houses burnt down but because people were on the other side of Happy's area I did not know them very well. People that I knew were people of my age like Happy for example, whom I knew was working and involved with the ANC.

MR NDLOSI: Would you perhaps be able to remember as to whether there is a person that you personally killed on that day?

MS SEALEY: I would explain it as follows, maybe it would be clearer. Things were such that, for example as we are all here say with guns, if you see you, say you are George and we want you we will all shoot at the same time.

We would perhaps see you fall and there might be some people who want to finish you off whilst lying on the ground. I may say that must be the person who has shot him but it is not possible exactly for me to say which bullet really killed him. I can say that we, shots were fired but not knowing exactly which bullet got him.

MS SEALEY: Mr Malaba, originally you said that you didn't fire when you were chasing Lucky, during any course of that particular day did you fire your firearm?

MR MALABA: Would you please explain, are we talking about Lucky or Happy?

MS SEALEY: Happy Mbele, sorry.

MR MALABA: Insofar as Happy Mbele is concerned I did not fire a shot but we were not the only people who wanted him on that day. I was involved in the shooting of other people however on that day.

MS SEALEY: Can you tell us which people you were involved in shooting on that particular day if it wasn't Happy Mbele.

MR MALABA: Before arriving at Happy's place there is also another boy called Fish. He used to stay nearer Happy's place.

~~He was shot at the knees but he did not die. I too shot him and it~~
was such that he should not die but he should be shot because he used to involve himself in things that did really require his involvement.

There is also another person who was caught in the crossfire and I think he died. I have forgotten his name. He was Fish's friend.

MS SEALEY: Is it possible Mr Malaba, that the person that was shot in the legs is someone by the name of Patrick Sizwe Nkosi, also known as Genuza?

MR MALABA: It may as well be him but I only know the name Fish, I don't know his other names.

MS SEALEY: Do you remember where you actually shot this person in the legs?

MR MALABA: I cannot explain but it was such that he was shot between the knees. I would say the knees because of the way he walked thereafter.

MS SEALEY: Sorry, you misunderstood me, I don't mean where on his body was he shot, do you recall which particular street in which he was shot, the street name?

MR MALABA: I do not remember the name but I know the street, I just cannot recall the name.

MS SEALEY: In the case where Patrick Sizwe Nkosi was shot, he was shot in the knee as you explained but he claims that the person that shot him was Mzwaki Khumalo. He makes absolutely no mention of yourself, do you think there could have been another person that was shot in the legs that day?

MR MALABA: I don't quite remember very well as to whether there was another person also shot at the knees but I can say that Mzwaki was not in good terms with Happy.

This Fish that I am talking about stayed nearer to the Khumalo household. We went there because one person with whom he had a problem was Mzwaki. I don't think he knew me as well at the time.

MS SEALEY: Mr Malaba, if I can just ask you about one more specific case and that is the murder of Lucky Maseko which actually occurred at Bishop Khumalo's house at 901 in Dekani Street. Were you present when Lucky was shot dead?

MR MALABA: If I'm not mistaken I think that is the Lucky we were talking about. He was shot at the gate, the Khumalo household's gate.

MS SEALEY: That is correct but what I'm asking you is, were you present when Lucky was shot?

MR MALABA: Yes, I was present.

MS SEALEY: Can you tell us who shot Lucky?

MR MALABA: He was shot by Mbekiseni Khumalo.

MS SEALEY: I'm just going to quickly ask you - I've got a paragraph here about what actually happened, if you can just confirm whether you believe that is what happened.

"Lucky went to Khumalo's house with a man by the name of Willis Ngobese and on arrival he asked if they could see Khumalo, that is Mbekiseni Khumalo. A short while later Mr Khumalo came out of the house with a 9mm firearm. Khumalo immediately asked Ngobese who he was and what did he want to see him about. Khumalo then grabbed Lucky by the arm and went towards the gate. Khumalo then told Lucky to go and stand on the other side of the road.

Lucky then went to stand across the road and told Khumalo he knew nothing about Khumalo's things. Khumalo then shot Lucky with a 9mm firearm. After Lucky fell Khumalo walked towards him and shot him for a second time while he was lying on the ground. He then told Ngobese to leave. According to Ngobese Lucky didn't have a firearm and at no time did he attack Khumalo"

Is that what actually happened, do you recall?

MR MALABA: Yes, that's exactly what happened. When Lucky went to Khumalo's home there was, I can say Lucky was attacked at his room at his home and he then went to Khumalo to try and find out as to whether he had ...[indistinct] or not. Lucky room was shot and after which he went to Khumalo to find out what the hell was wrong.

MS SEALEY: Mr Malaba, I'm not going to ask you any more questions about specific incidents because I think your lawyer is going to canvass them with you afterwards. I would just like to ask you a few questions about the period when you were arrested by the police for the first time in 1993. You were arrested shortly after the Ngema Tavern shooting, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: Is it correct that once you were arrested you wanted to make, you made a statement to the Magistrate

explaining in details the incidents in which you were involved and who gave you the orders?

MR MALABA: Yes, that is correct.

MS SEALEY: When you were arrested for the Ngema Tavern massacre, apart from Mr Zimo and Mr Jamani, who else was arrested with you?

MR MALABA: Petros, I was seeing him for the first time that day and also Khumalo was arrested and Mzwaki and Pashini Mlango. I think these are the people whose names I still can remember.

MS SEALEY: You say that after you made, you tried to make a confession to the Magistrate the case was remanded and you were sent Modder B Prison. And at Modder B Prison you managed to get a message to the Benoni Murder and Robbery Unit and that those detectives basically came to see you at the prison, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: Is it true that when they came to fetch you from the prison you explained everything to them, you again confessed to everything that you'd been involved with as well as the involvement of the Khumalo gang?

MR MALABA: Yes, that is correct.

MS SEALEY: Do you remember the name of this detective who you gave this information to?

MR MALABA: Yes, I do.

MS SEALEY: Can you give us that name please?

MR MALABA: Nyakane is the name, Detective Nyakane.

MS SEALEY: You then went - after Detective Nyakane fetched you you then drove to Brakpan and then on to Benoni where you made a full statement and you spent the night in the Benoni cells, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: You were then taken on the 19th of February at 4 a.m. in the morning, with two white policemen, one of them was a Captain and you were taken to the Thokoza Police Station where you found other policemen including the Internal Stability Unit, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: It was then when everybody else was arrested, is that correct? That is when they arrested Nicholas and Thembizimo and you also went to Mbekiseni Khumalo's house, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: When the police entered the Khumalo house, were you present?

MR MALABA: Yes, I was present but I was in the car.

MS SEALEY: So you didn't see what the police found inside the Khumalo house, you were not in the house when the police were inside the house, is that correct?

MR MALABA: Yes, I was not in the house.

MS SEALEY: After leaving Thokoza you then went back to the Benoni Murder and Robbery Unit, is that correct?

MR MALABA: We did not leave Thokoza straight for Benoni, we went to Katlehong.

MS SEALEY: Was there any specific reason why you went to Katlehong, were they searching for other people or were you pointing out other people? Why did you go to Katlehong?

MR MALABA: Yes, that is correct.

MS SEALEY: You've also told us that you did appear in Court on one occasion and you asked to speak to the Magistrate confidentially without Mbekiseni being present because you were afraid, is that true?

MR MALABA: Yes, that is correct.

MS SEALEY: You then made a full confession to that Magistrate, that was in, ja, you made a full confession to that Magistrate in 1993, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: And is this the same Magistrate that appeared at your trial when you were sentenced for the Ngema Tavern shootings?

MR MALABA: I do not quite remember as to whether it was the same Magistrate or not.

MS SEALEY: I don't mean to confuse you. I don't mean the Magistrate that sentenced you, but did that Magistrate come to Court to say that you had given a statement to him?

MR MALABA: In Court they also asked me about him but I was not sure as to whether it was the same person that I was talking to or not.

MS SEALEY: In mid 1993 you appeared in the Germiston Regional Court in front of Magistrate van Wyk, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: And it's at this Court that a policeman said that they were going to take you to Natalspruit Hospital for medical treatment, is that correct?

~~MR MALABA: Yes, that is correct.~~

MS SEALEY: You were then taken to Katlehong station where you spent two nights and you were then taken, and then after that you were taken to the Natalspruit Hospital, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: You then say that an SAP member told you that Mbekiseni would be waiting for you at Natalspruit Hospital, is that correct?

MR MALABA: Yes, that is correct.

MS SEALEY: Who was the policeman that told you that Mbekiseni would be waiting for you at the hospital?

MR MALABA: I do not remember his surname. I used to know his surname but I cannot remember. There were three policeman and two of them left me with this one policeman and this one person is the one who told me. I did not get the information that Khumalo wanted to see when I was in the police station but whilst I was at the hospital.

MS SEALEY: What happened next, you went to the hospital, you got this information, what happened?

MR MALABA: What I said to the police was that he has helped me by bringing me to the hospital because after seeing the doctor with a back pain he ...[indistinct] hospitals. He had my wrists cuffed, took me to the doctor before which he uncuffed me and he said I would come back to see the doctor after I having spoken

Khumalo and I then left the hospital and went to the hostel.

MS SEALEY: If I can just clear up a bit of a discrepancy. This policeman didn't release you, you escaped?

MR MALABA: No, that is not correct.

MS SEALEY: Did the policeman actively assist you in leaving the hospital?

MR MALABA: Yes, that is correct.

MS SEALEY: You say the policeman took you to the hospital to see the doctor, he took off your handcuffs, did he then tell you you are free to go or you must leave? What did he say?

MR MALABA: At the hospital I was not necessarily taken there because I was sick. I left Germiston and I was told to go to the hospital and I went to Katlehong Police Station where I spent two nights and the following, on the third day in the morning I was called to say I should go to the hospital.

When I was arrested for example I had been injured and I was told to go to the hospital to see the doctor. And when these two police people left, leaving me with this one policeman, I was told that Khumalo wanted to see me. I was hoping Khumalo would come to see me at the hospital but he did not come instead.

And as I was busy with my checkup we were told to leave. We had been walking for a short distance and he then left me, went back to say I should go and see Khumalo. I believe that had I been running, there were police at the gate, and I did not leave the hospital through the main gates for vehicles but I used the pedestrian gate so therefore I was not running, I was walking. The following day for example, I went back to the police station in the company of Khumalo.

MS SEALEY: Mr Malaba, can I just be clear here. You basically - the policeman said to you you can go and see Khumalo, you walked out of the hospital, out of the pedestrian

gate and you walked straight to Khumalo's house, is that correct?
- the hostel.

MR MALABA: That is correct.

MS SEALEY: And you say the following day you went to the police station with Mr Khumalo?

MR MALABA: That's correct.

MS SEALEY: What was the purpose of that? I mean, surely you realised that you had now escaped from custody?

MR MALABA: I am not sure why Khumalo went to the police station but I was with him.

CHAIRPERSON: Miss Sealey?

MS SEALEY: After you walked out of the hospital you say you went straight to the hostel.

MR MALABA: That's correct.

MS SEALEY: You then went to see Mafulele, is that correct?

MR MALABA: That's correct.

MS SEALEY: And what did Mafulele say to you?

MR MALABA: We did not speak much, he just offered me something to eat. I told him I'd already had something. He asked me if I had seen Khumalo and I said: "no", and he said Khumalo would come and see me.

MS SEALEY: After you escaped, when were you rearrested?

MR MALABA: I was arrested in November 1993.

MS SEALEY: And what were the circumstances of that arrest, how did the police manage to find you?

MR MALABA: The policemen actually got hold of me at Bophutatswana. I was driving Khumalo's car, a Cressida. They were not actually arresting me but they suspected that the car was stolen. They took me to the Boputhatswana Police Station, the Mgwase Police Station. On arriving there they checked the car and discovered that it was not stolen. They said they were awaiting another policeman who ascertain that the car was indeed not stolen but there was something not clear about the car registration.

I was at the police station at about ten and this policeman came at about 4 p.m. He called me in and enquired if I was driving the car and I said: "yes" and then he said police from the Brixton Unit were on their way to collect me. When I enquired what was going on he said he did not know but that they wanted to know about the car but even though the car was not stolen there was a problem about it.

They eventually arrived and they took me to the Brixton Unit in Johannesburg. We first went to John Vorster then to Brixton. They then told me to wait. I spent the night there. On the following morning I was taken to Court, the Westgate Court.

On arrival there they told me that the car was linked to the murder of a certain person and the case remanded and I was taken to Sun City. At Sun City I found Themba Zimo, Willie Jamani and Petros Mbuza whom I did not know. I enquired for them what was going on and they said the case was in progress. I was the only person who was outstanding so they had been waiting for me as a person who was quite close to Khumalo.

Ngana was claiming that he did not know how I had escaped because he in fact was looking for me. The date for the trial that I had originally been under arrest before was the one that I ended up being charged with.

MS SEALEY: And that is the case you are currently serving a sentence for, is that correct?

MR MALABA: That's correct.

~~MS SEALEY: Are you serving a sentence for any of these other cases?~~

MR MALABA: Yes.

MS SEALEY: Which case are you also serving a sentence for?

MR MALABA: It is the case of Norman Maluleka from Spruit.

MS SEALEY: That's a case of a - he was a member of an SDU and you allegedly, you shot and killed him, is that correct?

MR MALABA: That's correct.

CHAIRPERSON: Thank you. Well subject to the arrangement that has been struck between the leader of evidence and your

lawyer, that concludes your evidence for today and I suppose we will receive the rest of the evidence as and when the arrangement is able to be put into operation. I must thank you and I must particularly thank your lawyer who at great sacrifice is here, yesterday and today, in order to be able to represent you. You are excused then on that basis.

WITNESS EXCUSED