

CHAIRPERSON: You may be excused Mr Nieuwenhuis.

MR NIEUWENHUIS: Thank you.

WITNESS EXCUSED

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NAME: WILLIAM CLAAS CECIL SMITH

APPLICATION NO: AM5469/97

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MR VISSER: Chairperson, if you want to adjourn early, now is the time, it's seven minutes to four.

CHAIRPERSON: We'll proceed with the applications who you represent Mr Visser.

MR VISSER: Chairperson, I may mention that my client Mr Smith is available and I don't have any further - I have two witnesses to go but they're not presently available.

ADV DE JAGER: It looks as if there is somebody who is putting on a tie at the back and it would appear that he wants to give evidence.

MR VISSER: Perhaps Mr Marais who has just arrived here from the Little Karoo and he has been travelling since 7 o'clock this morning, he cannot give evidence because his evidence and his statement have not yet been cleared with him. That will only be done this evening so he might as well take the tie off.

CHAIRPERSON: You did indicate before we commenced of the problem that you had with Mr Marais, he hasn't deposed to the affidavit that we intend to hand up. We will then proceed with the applicant Mr Smith who is being represented by Mr Du Plessis.

MR DU PLESSIS: Thank you Chairperson.

WILLIAM CLAAS CECIL SMITH: (sworn states)

EXAMINATION BY MR DU PLESSIS: Chairperson, you will find his application in bundle 11 from page 38.

Mr Smith, will you please page to page 78? Page 38.

Chairperson, it doesn't seem that Mr Smith has the copies of the pages that I want to refer him to. Oh sorry, he has got it.

Mr Smith, could you please look at page 38, your personal particulars are given there as well as your background. On page 44 we have your general background as well as your political motive right up until the end of page 62. Do you confirm the correctness thereof?

MR SMITH: That is correct.

MR DU PLESSIS: And you have heard the evidence of the previous witnesses and persons who were commanders during the relevant incident. Do you confirm the evidence with regard to your political motive?

MR SMITH: I confirm that.

MR DU PLESSIS: Your evidence is on page 64 of the bundle where you begin with the nature and particulars and I would just like to take you through this very briefly. In paragraph 1 you say that you were stationed at the Thabazimbi security branch. What was your rank at that stage?

MR SMITH: I was a Warrant Officer.

MR DU PLESSIS: And you were under the command of Colonel Venter?

MR SMITH: That is correct.

MR DU PLESSIS: And you were called in to assist with an operation, you went to a determined place and you found members of the security branch there and you were under the command of Wickus Loots?

MR SMITH: That is correct.

MR DU PLESSIS: The following paragraph, would you please read this to the Committee?

MR SMITH: " At late afternoon the senior members decided that an ambush would be set for the insurgents. All the present members were given specific tasks in relation to the ambush for example to cordon off the roads in the immediate vicinity and to form part of the ambush itself which would be set up at the T-junction. I was part of the latter mentioned group."

MR DU PLESSIS: Did you have contact with the other applicants who have given evidence here before you compiled this version of yours?

MR SMITH: No I didn't.

MR DU PLESSIS: And you have heard evidence here today regarding the practice run which took place during the preparation for the events. Can you recall that?

MR SMITH: Yes I recall that.

MR DU PLESSIS: Is this in line with the evidence which has been given about it before the Committee by the other witnesses?

MR SMITH: Yes that is correct.

MR DU PLESSIS: And then you say that you and the other members were armed with official firearms, you said that you had an R1 gun and that you were under the command of Lieutenant Venter and that you had to take position in the main road into which the vehicle would turn?

MR SMITH: Initially we were positioned on both sides of the road and then we moved over to one side.

MR DU PLESSIS: You say that the information came through that the terrorists would be armed, was it specifically that they were armed or that they would be armed?

MR SMITH: No, the information which was given was that the terrorists were armed.

MR DU PLESSIS: And then you say that there would be an attempt to apprehend the group and to arrest them but if they should resist fire would be opened on the vehicle?

MR SMITH: That is correct.

MR DU PLESSIS: Could we just pause there for a moment? Evidence has been given by other applicants in the matter that at a given stage a change of plan took place and that certain of the other persons who have given evidence here stated that it would have been dangerous to attempt to arrest the persons. You've heard that evidence?

MR SMITH: I have.

MR DU PLESSIS: Will you tell the Committee what your approach was with regard to that evidence?

MR SMITH: It is as it was put to the Committee this morning, the plan was amended to the effect that fire would be opened immediately on the vehicle as soon as the light of the generator was switched on.

MR DU PLESSIS: The reason why I'm asking you is because you don't state it pertinently on the final paragraph of page 64 that the plan was indeed changed. Is this something which has peaked your recollection during the course of the day?

MR SMITH: That is correct.

MR DU PLESSIS: You said that the order to fire would be given by one of the senior members on the scene ...[intervention].

CHAIRPERSON: May I interpose there Mr Du Plessis, before you proceed further? Were you present when the other members of the police registered their objection to the plan?

MR SMITH: I was.

CHAIRPERSON: And were you present when they gave reasons why they objected to the plan and gave the basic and primary reason that it posed inherent dangers to their lives?

MR SMITH: That is correct, I was present and that was one of the reasons why it was too dangerous to arrest them.

CHAIRPERSON: Did that apply to you?

MR SMITH: It did.

CHAIRPERSON: Thank you.

MR DU PLESSIS: Thank you Chairperson. You say at the top of page 65 that you do not recall who

would have given the order. Can you read the next paragraph before the Committee, the second paragraph on page 65?

MR SMITH: "An obstacle was placed in the road and a generator

was set up which would provide the light which was necessary for the arrest because it was already beginning to get dark. It was late and already dark when the vehicle approached the ambush. The members took in their positions as allocated to them and the generator lights were switched on when the vehicle approached the obstacle. The vehicle stopped suddenly and I heard someone shout the command "fire". I cannot recall exactly who it was but it must have been one of the senior members in command. All the members including myself began to fire at the vehicle."

MR DU PLESSIS: Very well, can you just pause there, can you recall specifically that someone called out "fire"? You recall that specifically?

MR SMITH: I recall that it would have been that way, I cannot say specifically that there was such a command perhaps as the lights were switched on, the command to fire was issued.

MR DU PLESSIS: You say that you fired at the front of the vehicle and that you fired between 15 and 20 rounds?

MR SMITH: That is correct.

MR DU PLESSIS: After the command to cease fire had been shouted out, you moved closer and you saw that the vehicle had been hit in the crossfire and that all three passengers had been killed?

MR SMITH: That is correct.

MR DU PLESSIS: Did you do any other inspection or closer inspection of the vehicle?

MR SMITH: I myself did not move closer, there was the problem that the area surrounding the vehicle was dangerous. Later I heard about the pistols and the hand grenades which were found in the vehicle and I later saw a photo which was in the post-mortem dossier in which the weapons were clearly visible.

MR DU PLESSIS: Can you remember anything about an AK47?

MR SMITH: No.

MR DU PLESSIS: On page 66 you say that the scene was examined and cleared by other members of the security branch and that you were not involved in that. You say that you then departed?

MR SMITH: Yes that is correct. The other members who helped with the cordoning off of the road were taken away by me.

MR DU PLESSIS: You say that you do not know or you did not have any knowledge that weapons would be planted on the bodies. Under whose command were you?

MR SMITH: I was under the command of Venter who was the branch commander.

MR DU PLESSIS: Did you have any choice in your execution of duties?

MR SMITH: No, I would have obeyed orders.

MR DU PLESSIS: Did you have any financial gain from these events?

MR SMITH: No.

MR DU PLESSIS: Can you please turn to page 68? To page 70. You give a further explanation of your political motivation, do you confirm the correctness thereof?

MR SMITH: Yes I do.

MR DU PLESSIS: I have no further questions, Chairperson.

NO FURTHER QUESTIONS BY MR DU PLESSIS

CHAIRPERSON: Thank you Mr du Plessis. Before I give an opportunity to Mr Visser, I just wanted to clear one issue.

In your viva voce and in your written application you have continuously referred to the fact that you were under the command of Lieutenant Venter?

MR SMITH: Chairperson that's correct, Venter was my immediate branch commander. At the scene I was under the command of the senior officer there who would be Brigadier Loots.

CHAIRPERSON: But that is not suggested by what is contained in your original application or what you've just stated in your viva voce?

MR SMITH: My immediate commander, I was stationed at Thabazimbi, my immediate commander was Colonel Venter. At the scene, if I took part in an operation with other members I would be under command of the senior member at the scene the same as Colonel Venter would be under the command of the Brigadier.

CHAIRPERSON: Thank you. Mr Visser do you have any questions to put?

CROSS-EXAMINATION BY MR VISSER: Thank you Chairperson.

I want to join up with what the Honourable Chairperson has asked you and you have cleared up that at the scene you and other officers would come under the command of the most senior officer, is that your evidence? The question I would like to ask is as to what you have said on page 64 that you were

under the command of Colonel Wickus Loots. Now we know that the then Colonel Steyn was the divisional Commissioner of the Western Transvaal and at some stage he was at the scene for a short while when you were under the command of Wickus Loots. To which stage do you refer?

MR SMITH: Chairperson, that would be in the absence of the General.

MR VISSER: I just wanted to get clarity as to that and where you refer in your amnesty application to a ambush and that initially the idea was to ambush these persons and murder them or did you mean anything else?

MR SMITH: I would say that an ambush would be an obstacle.

MR VISSER: Would you say that you mean by ambush you mean a roadblock?

MR SMITH: Yes an obstacle, a roadblock.

MR VISSER: To cut a long story short Mr Smith, please tell me if I'm incorrect but I make the inference that after your memory has been refreshed, you agree with whatever the other applicants have said here today?

MR SMITH: That is correct, Chairperson.

NO FURTHER QUESTIONS BY MR VISSER

CHAIRPERSON: Mr Smith, flowing from what has been put to you by Mr Visser and my initial enquiry which is just causing me some problems, in your application specifically at paragraph 35 and the second paragraph from the bottom. If one reads that paragraph ...[intervention]

MR VISSER: Chairperson, which paragraph are you referring to, I beg your pardon?

CHAIRPERSON: I'm referring to the second paragraph from the bottom.

ADV DE JAGER: Page 35 of your application.

CHAIRPERSON: That would be page 64, paragraph 35. Oh no, I think yes it is paragraph 35.

MR LAX: 9a(iv) is the paragraph.

CHAIRPERSON: The second paragraph from the bottom.

CHAIRPERSON: Correct. Do you see that?

MR LAX: I starts with the words "ek en die ander lede was bewapen", do you see where that?

MR SMITH: I see that.

CHAIRPERSON: Yes now if one reads what is contained in that paragraph, one gets an impression that you were put in command, I mean you were put under the command of Lieutenant Venter at the scene where the operation was planned. Do you read it the way I do, if not can you give us an explanation?

MR SMITH: Chairperson, the easiest manner to explain this is I think where I say I was under the command of Lieutenant Venter and I was told to take a position in the road where the vehicle would turn meaning that I took up a position with Lieutenant Venter in the roadblock itself, the position



was next to Lieutenant Venter.

CHAIRPERSON: So that does no - you did not want to suggest that you were under his command?

MR SMITH: No, I was placed next to him, everyone of us was pointed out to positions where I was placed, where Lieutenant Venter was placed as well, he was next to me and therefore he was my senior.

CHAIRPERSON: And who put you with Lieutenant Venter, do you remember the name of the official who suggested that you must be with him?

MR SMITH: No Chairperson, I don't recall but it was part of the preparations made at the scene, I cannot recall specifically who said who must stand where, it was just part of the preparations.

CHAIRPERSON: But with your better recollection now, you are almost positive if not ...[indistinct] sure that the person who was in command of this operation was Captain Loots?

MR SMITH: Chairperson, Brigadier Loots, he was the senior officer at the scene at that time.

CHAIRPERSON: And that we should read what appears on the same page and that's the second paragraph from the top. That even though Captain Loots was in command of seven officials as that is suggested by that paragraph, he was appointed commander of that operation by General Steyn. You would agree with that evidence?

MR SMITH: I agree Chairperson, that's correct.

CHAIRPERSON: Thank you. Ms Lockhat?

MS LOCKAT: No questions Chairperson.

CHAIRPERSON: Thank you. You are excused Mr Smith.

MR DU PLESSIS: Thank you Chairperson.

WITNESS EXCUSED

CHAIRPERSON: I want to believe Mr du Plessis that there wouldn't have been anything for you to re-examine on?

MR DU PLESSIS: No there was nothing that I wanted to ask, Chairperson. Thank you.

CHAIRPERSON: Thank you. Is that all for today?

MR VISSER: From our side Chairperson yes.

CHAIRPERSON: We'll then adjourn and reconvene tomorrow at 9.30. Can I also, Ms Lockhat, suggest that Mr Thabede be advised to be here at about 10.30 instead of 9.30.

MS LOCKAT: I've done that Chairperson.

CHAIRPERSON: May I find out from the legal representatives

involved in this matter whether they will be in a position to address us immediately after concluding evidence in respect of this incident?

MR VISSER: Chairperson, Visser on record, if you're not going to expect anything in writing?

CHAIRPERSON: No, we don't want anything in writing.

MR VISSER: Then clearly there's no problem with addressing you.

CHAIRPERSON: We would appreciate that.

ADV DE JAGER: I think you've already furnished us with that.

MR VISSER: I mean in connection with this particular incident, I just won't have time to go and do that.

CHAIRPERSON: We don't think it's a matter that would require reading heads, we would think it's sufficient for you to give us oral argument.

MS LOCKAT: Chairperson, just one other issue, I just want to place on record that in connection with the victims relating to this matter I've furnished our investigative unit Fanie Malapo here in Johannesburg with the information that we obtained and I've enquired and instructed them to make the necessary enquiries relating to the victims in this matter, Chairperson, and he will get back to me tomorrow.

CHAIRPERSON: Did you convey the urgency of the matter?

MS LOCKAT: I have indeed Chairperson and his instructions were that he'll get back to me tomorrow on this issue so that he can investigate it.

CHAIRPERSON: Did you convey the dissatisfaction expressed by the Committee in which this investigation was conducted?

MS LOCKAT: I have indeed Chairperson.

CHAIRPERSON: Yes, thank you.

MR VISSER: Chairperson, before you rise on a matter of information it would be helpful to know how you see the programme for tomorrow. You gave instructions that someone else, I didn't hear who it was has to be here at 10.30. Is there going to be an application interposed after the Silent Valley matter.

CHAIRPERSON: Yes, after you've presented your argument.

MR VISSER: Oh, after presenting it and you that's going to be finished by half past ten?

CHAIRPERSON: Well I'm being very optimistic Mr Visser, if one does become optimistic.

MR VISSER: We can probably accommodate you.

CHAIRPERSON: Yes I think what I wanted to convey across is not to have Mr Thabede here at 9.30.

MR VISSER: To listen to our argument.

CHAIRPERSON: To listen to your argument which I am saying would not find interesting but to rather have him here safely at 10.30.



MR VISSER: Yes. Yes.

CHAIRPERSON: If your argument obviously proceeds until lunch time then that will be so.

MR VISSER: So be it, yes. As far as the McKenzie squad is concerned, would it be prudent to warn them to be hear by lunch time? It would seem to be a reasonable estimate?

CHAIRPERSON: I would like to believe that if you are able to conclude your argument by tea time, the Thabede matter is capable of being concluded by lunch time.

MR VISSER: Yes.

CHAIRPERSON: It really would depend on when you conclude your argument.

MR VISSER: Yes, which again in turn would depend on when we finish with the two witnesses although they're the last two and really they should go very briefly.

CHAIRPERSON: We are completely in your hands.

MR VISSER: Yes but we might set our sights on 11 o'clock, yes Chairperson.

CHAIRPERSON: I think lunch time probably would be more ...[intervention]

MR VISSER: I can tell now I'm going to have very little to say to you in argument. You've heard the evidence and really I'm not going to repeat it.

CHAIRPERSON: I wish I could believe that Mr Visser.

MR VISSER: Well, we'll see what happened tomorrow.

CHAIRPERSON: Thank you.

COMMITTEE ADJOURNS