

Kameeldrift cas 12/01/2017

NOTICE

'POS-12'

DATE: 2017/02/13

PLACE: KAMEELDRIFT SAPS

TIME: 23:40

I Paul Robert O Sullivan ID
5508265700085 of NO 7 Famine
Road - Sandown - Sandton confirm
that the Investigating Officer
Brigadier P D Ncube noticed
me to avail myself within
48 hours to be arrested in
relation to Kameeldrift Cas
12/01/2017: OFFENCES: Fraud, Extortion
Attempted Extortion, Intimidation -
FPIA Act 1/2011 Sect 33(5) Impersonating
FPIA Investigator

Given to me on 2017-02-13 at 23:45
at Kameeldrift.

Acknowledge Receipt: A

Notice served by Brigadier P D
Ncube on 2017/02/13 at 23:47
at Kameeldrift Police Station

For any further arrangements Brigadier
P D Ncube can be contacted
on 0827728421

~~Paul Robert O Sullivan~~
Brigadier P D Ncube

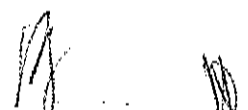
'POS-13'

From: Willie Spies [mailto:spies@hurterspies.co.za]
Sent: 14 February 2017 06:51 PM
To: mmashuga@npa.gov.za
Cc: 'Louis Taljard'; qpelser@lawcircle.co.za; mbangwaLeon@saps.gov.za;
TuntulwanaM@saps.gov.za; MonahengAmelia@saps.gov.za; mkonod@saps.gov.za;
zondim@saps.gov.za
Subject: RE: LF TALJARD/AF0108: O'SULLIVAN

Dear Advocate Mashuga,

With reference to the email below which was sent to you at 11h06 this morning we wish to record the following:

1. Last night, after our client, Mr Paul O'Sullivan was released by order of the High Court, Brigadier PD Ncube summarily handed him a written notice informing him that he was due to be summonsed to appear in court on the alleged charges for which he was arrested yesterday in contravention of an earlier High Court order;
2. Just before our client left premises of the Police Station Brigadier Ncube called him requested him to hand back the notice, which he did;
3. Brigadier Ncube tore up the notice and wrote a new notice instructing Mr O'Sullivan to report once again at the Kameeldrift Police Station within 48 hours, to be arrested;
4. It should be noted that such notice is legally flawed for the following reasons:
 - a. The order dated 16 November 2016 granted by the Honourable DJP Ledwaba provided in par 3 thereof that such a notice can only be given if "the determination is made that the arrest of the Applicant is necessary";
 - b. Brigadier Ncube acted arbitrarily and irrationally when he tore up the former notice and replaced it with a new one insisting on Mr O'Sullivan's arrest;
 - c. Brigadier Ncube did not apply his mind as to the necessity of his intended arrest of Mr O'Sullivan;
 - d. The arrest of Mr O'Sullivan in order to bring him before a court is indeed not a necessity;
 - e. The notice was given despite the fact that Mr O'Sullivan complied with all bail conditions imposed on him in other matters and that he showed his commitment to be present at court whenever summoned and even if he is not summoned (such as today);
5. This morning during our deliberations before the first appearance of Mr O'Sullivan's co-accused, Ms Sara-Jane Trent, you indicated to me that you would liaise with the investigating officers and that you would advise them not to proceed with their notice to Mr O'Sullivan directing him to report to the Kameeldrift Police station within 48 hours;
6. You further indicated that you would advise the police that it was more appropriate to summon Mr O'Sullivan to appear in court, rather than to arrest him, as intended by Brigadier Ncube; and



7. You undertook to return to us with a written withdrawal of the handwritten notice by Brigadier Ncube before noon today;
8. By close of business today we have not received your written confirmation regarding the withdrawal of the notice by Brigadier Ncube;
9. We did however, receive your verbal telephonic assurance at 14:07 this afternoon that our client "should not worry" about the written notice given to him and that your intention was to bring Mr O'Sullivan before court by way of summons;
10. I wish to record specifically that Mr O'Sullivan was present at the Tshwane Central Magistrates Court today and that he formally tendered his first voluntary appearance together with the first appearance of his co-accused, Ms Sarah-Jane Trent. This was however refused by yourself while you once again assured us that you would advise the investigating officers to agree to a summons rather than an arrest to bring Mr O'Sullivan to court.

With the above being recorded, the purpose of this letter is to record our, and our client's understanding that based on your assurance given today at 14:07, our client accepts that the arbitrary and irrational notice presented by Brigadier Ncube to our client, has been withdrawn and is of no force and effect.

Kindly confirm in writing if our understanding of the situation is not correct, in order to enable us to protect our client's interests.

All our client's rights remain reserved.

Regards

Willie Spies

Tel: 012 941 9239 / 012 664 0708
Faks/Fax: 012 644 1997 • E-pos/E-mail: spies@hurterspies.co.za
Posadres/Postal Address: Posbus/PO Box 14505, Lyttelton, 0140
Adres/Address: Eersle Vloer / First Floor, AfriForum Gebou / Building,
Hoek van / corner of DF Malan- and Unionlaan / Avenue, Kloofsig, Centurion

 **Hurter Spies** Inc.
prokureurs • attorneys



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Cc: 'Louis Taljard'; qpelser@lawcircle.co.za; mbangwaLeon@saps.gov.za;
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zondim@saps.gov.za
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Regards

Willie Spies

Tel: 012 941 9239 / 012 664 0708

Faks/Fax: 012 644 1997 • E-pos/E-mail: spies@hurterspies.co.za

Posadres/Postal Address: Posbus/PO Box 14505, Lyttelton, 0140

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Hoek van / corner of DF Mafan- and Unionlaan / Avenue, Kloofsig, Centurion

 **Hurter Spies** Inc.
prokureurs • attorneys



'POS-14'

Case nr A16/194/17

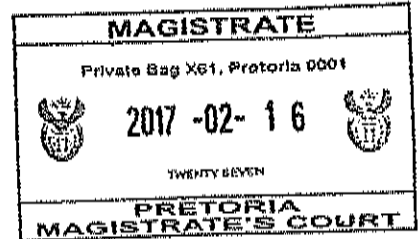
In the Magistrate's Court of Tshwane Central

In the matter of

The State

VS

Paul O'Sullivan



CONDITIONS OF RELEASE

By agreement between the prosecutor and the defence it is determined that -

1. The accused must not interfere, intimidate, contact nor communicate with the state witnesses either verbally, telephonically, by e-mail, or in any manner whatsoever. They are:

- a. [REDACTED]
- b. [REDACTED]
- c. [REDACTED]
- d. [REDACTED]
- e. [REDACTED]
- f. [REDACTED]
- g. [REDACTED]
- h. [REDACTED]

2. The abovementioned names of state witnesses must not be disclosed to any third party.
3. The accused must not go to Sable Hills Estate.
4. The accused must not commit any offences while on bail.
5. The accused must give prior notice to the investigating officer Brigadier PD Ncube before leaving the country by fax number 086-618-1825

The accused's agreement to these conditions shall not be construed as a concession that his arrest on Monday 13 February 2017 was lawful.

[Handwritten signature]

[Handwritten mark]

 **Hurter Spies** INC
prokureurs • attorneys

'POS-15'

Hurter Spies Incorporated
Reg. no. 2008/009761/21
Attorneys/Notaries/Conveyancers

First Floor
AfriForum Building
C/o DF Malan - and Union Avenue
Kloofsig
Centurion

P O Box 14505
0140 Lyttelton
Tel : 012 644 0708
012 941 9239
Fax : 012 644 1997
e-mail : admin@hurterspies.co.za
Internet : www.hurterspies.co.za

Our ref. Louis Taljard/AF0108

Your ref: Ian Small-Smith/PJ du
Plessis/ag

04 April 2017

Bdk Attorneys
Fax: (011) 836 870
C/O Jacobson & Levy Inc
Fax: (012) 342 3313
E-mail: litigation@jllaw.co.za

Dear Sir/s,

**RE: PAUL O'SULLIVAN & 3 OTHERS / JOHANNES KHOMOTSO
PHAHLANE
CASE NUMBER: 8258/2017**

1. We act on behalf of the second and third respondents.
2. We acknowledge your willingness to meet (without prejudice meeting) to discuss a possible settlement of the matter.
3. We have no desire to delay the proceedings but have received instructions to settle the matter. This should however not be perceived as an admission of wrongfulness by our clients and the order should expressly state so.
4. We propose (without prejudice to our clients) the following order in full and final settlement of the dispute between the applicant and our clients in Case no.8258/17:
 - 4.1 Without admitting wrongfulness or agreeing with the allegations as set out in the applicant's papers and as far as the identified investigations against the Applicant in this matter are concerned the

Directors: WD Spies B Com LLB MBA (UP); TP Kruger LLB (NWU); WG Human LLB; M Phil (NWU)
Associate: LF Taljard LLB (UP)
Consultant: JJ Hurter Dip. Proc (UP)



second and third respondents will refrain from acting as, or purporting to act as an investigator or investigators or delegated functionary of IPID.

AND

- 4.2 Will not threaten, harass, intimidate or abuse the applicant either verbally or by e-mail communication or any other form of communication.

AND

- 4.3 Will not enter upon the Estate in which the applicant's home is situated at Waterfront Estate, Roodeplaat, Kameeldrift, Pretoria and will not carry out surveillance of the applicant's home at 53 Sable Hills Waterfront Estate.

AND

- 4.3 Will not publish any information of and concerning the applicant, his professional conduct as a police officer and as the (Acting) National Commissioner of Police and/or his private life and circumstances and/or otherwise defaming the applicant save with the leave of a court or on the written request of an investigator of IPID. This however shall not prevent the second respondent from replying to any direct or indirect defamatory comment by the applicant of the second respondent.

- 4.4 This could be made an order of court and each party will bear its own cost.

6. We hope you find it in order

Kind regards


HURTER SPIES INC

Per. L.F. Taljard



CRIMINAL PROCEEDINGS

In the matter between

THE STATE

And

HUMBULANI INNOCENT KHUBA

DEFEATING THE ENDS OF JUSTICE AND FRAUD: PRETORIA CENTRAL CAS 2454/05/2015

1. On Wednesday of 24/02/2016 at 18h45 I was at home when three males arrived and introduced themselves as members of the DPCI based in Pretoria. They introduced themselves as Brigadier N Xaba, Lt Col H W Maluleke and Captain Sewele. Brigadier N Xaba who was the main speaker of the group; informed me that the purpose of their visit was to obtain a warning statement in connection with a case of defeating the ends of justice and fraud opened against me. According to him, these charges arise from the two recommendation reports made in rendition case which I understood to be Diepsloot Cas 390/07/2012. I was provided with the case number for defeating the ends of justice and fraud case which is Pretoria Central Cas 2454/05/2015.

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- 2 I remembered that it was the same case which Brigadier Rammela and Col Mahlangu of the DPCI showed me on 3 October 2015 when they requested me to make a witness statement implicating Mr McBride and Mr Sesoko in order to be reinstated after my dismissal without a hearing on the same matter. The same case had a charge of perjury and was cited in my founding affidavit to the Labour Court (Case No J2031/15), page 18 and paragraph 71. This is confirmed by telephonic call made to me by Col Mahlangu which was recorded and transcribed in which he encouraged me to make a statement against above mentioned individuals in order to be reinstated.
- 3 Brigadier Xaba gave me two pages document with 25 questions which he requested that I should respond to in my warning statement. The last question (question 25) requires me to give additional information in justification of my action. I hereby start with question 25 which provide with an opportunity to give background and challenges encountered during the investigation of Diepsloot Cas 390/07/2012.

4. Background

- 4.1 On 23 October 2012, Sesoko, the Acting Head of Investigations, handed a letter of appointment and a docket to me to investigate the illegal renditions of five Zimbabwean nationals. The letter was from the acting Executive Director Ms K Mbeki. However the investigation of Rendition case against the DPCI was requested by Minister Mthethwa in 2011 and shortly after the request, the Police Secretary, Ms Jenny Iris-Qhobosheane gave instruction to the then Executive Director Mr Beukman (in a meeting which I also attended) to hold-off the investigation until further communication from the Minister. At that time I was informed that I would be a lead investigator hence the request that I be part of the meeting between Ms Qhobosheane and the former Executive Director Mr Beukman.

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- 4.2 Mr Sesoko informed me that the reason for my appointment was that General Sibiya complained about the conduct of the North West Task team which was initially assembled to investigate cases of alleged assault against him, including Diepsloot Cas 390/07/2012. At that time I was dealing with high profile cases in the department which included Cator Manor "DEATH SQUARD" in Durban.
- 4.3 I was instructed to assemble my own team to assist me in the investigation, which I did. The team was comprised of the following individuals, Mr Kenneth Ratshitali, Mr L Maphetho, Mr N Mulaudzi and Mr. T Mashaphu who are all investigators from Limpopo IPID office. The docket contained 13 statements from members of the Crime Intelligence Department, friends and relatives of those deported to Zimbabwe. It was clear from the commissioned statements that the investigation was conducted by Col Maukangwe and Captain Koza of Crime Intelligence (CIG).

5. Challenges in the investigation of Diepsloot Cas 390/12/2012

- 5.1 When I began with my investigations, Ms. Koekie Mbeki , the then Acting Executive Director of IPID, instructed me to collaborate with a member of Crime Intelligence, Colonel Moukangwe ("*Moukangwe*") in the investigation. Ms Mbeki also instructed me to keep Moukangwe involvement in the matter secret.
- 5.2 I found Ms Mbeki's instruction not in keeping with the Departmental practices and processes. The instruction was unusual and problematic because members of the Crime Intelligence were themselves involved in the arrest of the Zimbabwean Nationals. Nonetheless I complied with Ms Mbeki's instructions.
- 5.3 Upon meeting with Moukangwe, he told me to work with two members from the National Prosecuting Authority ("*NPA*"), namely, Adv. Anthony Mosing ("*Mosing*") and Billy Moeletsi ("*Moeletsi*"). He advised that the pair had been guiding the investigation since its inception.

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- 5.4 Shortly after I began my investigation; I briefed Mbeki on the case and informed her that I would consult with Mr Sesoko in the course of investigation. This was common practice. As the National Head of Investigations at IPID, Sesoko was consulted and briefed on all national investigations. To my surprise Ms Mbeki categorically instructed me not to work with or discuss the case with Mr Sesoko. She stated that the person I could collaborate with was Mr Moukangwe of CIG. This was the first and the last time I received instruction to exclude the National Head of investigation on national project investigation in my almost 16 years of service with the department.
- 5.5 I then complied with the instruction of the Acting Executive Director and informed Mr Sesoko about it. I investigated the case, sometimes accompanied by Mr Moukangwe. However every time I gathered crucial evidence in his absence, I would telephonically informed him of the type of evidence obtained. He would always request me to fax or email him a copy. I enquired from the acting Executive Director whether I should share the copies of the docket with him. She informed me that he is a member of the investigation team and has a right to the content of the docket. She reiterated that the only thing required of me was to keep his involvement secret.
- 5.6 My worst fear about the arrangement was confirmed when Sunday Times started to publish certain evidence as they appears in the docket. Mr Moukangwe always wanted me to send copies of the documentary evidence and witness statements to an email which is june16@gmail.com even though I had his private email which is botsotsomoukangwe@gmail.com. He preferred that I email from Southern Sun hotel on Church Street in Pretoria rather than using the Department's email. The Sunday Times of 13 October 2013 had just published the details of Madilonga's statement and how it implicated Dramat. I was very concerned about the safety of Madilonga whom I regarded as key witness. I phoned Adv. Mosing the same Sunday and he also expressed his disappointment. I then requested Ms Mbeki in a letter

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dated 31/10/2013 that everybody involved in the investigation especially my team be polygraphed. The acting Executive Director told me that she would look into my request but nothing was done. Adv. Mosing expressed his interest in undergoing polygraph test with the rest of the investigative team. However, Col Moukangwe asked why I was worried about leaking of information whereas the Minister and my boss were not. He said they would never ask me about it, and really did not.

5.7 On the other hand, General Nhlemeza, the then Deputy Provincial Commissioner in Limpopo requested a meeting with me few months after obtaining Lt Col Madilonga's statement in 2013, I met with General Nhlemeza. We met at Wimpy, Cycad Centre in Polokwane. He said he had valuable information that could assist me in the investigation of rendition case. General Nhlemeza and I were close from working relation between IPID and SAPS in the province.

5.8 The General was with an officer from Eastern Cape claiming that when he attended a course in Cape-Town, Lt Col Maluleke confessed to him that he arrested Moyo in Zimbabwe by posing as a South African doctor who wanted to treat Moyo in South Africa. I interviewed him in the presence of General Nhlemeza and took notes by writing on my phone notepad. Advocate Mosing also took interest in the case regarding Moyo when I informed him of what General Nhlemeza has brought through Eastern Cape officer and also what was in Maluleke's laptop. He did his own investigation and emailed me a statement which was about the arrest of Moyo, which he indicated that he got it from the person who prosecuted Moyo. He also instructed me to obtain Moyo's statement from prison and check his hospital record at Musina hospital of which I did. However I could not confirm the allegation that Lt Col Maluleke posed as a doctor or he was in Zimbabwe when Moyo was arrested. Moyo story was not part of the March 2014 report but part of January 2014 report. This is also part of why I am being charged for not including it in March 2014 report despite its irrelevance to the case.

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- 5.9 During the meeting, General Nhlemeza informed me that he had transferred Lt Col Madilonga to Burgersfort and if I need him for anything I should contact him. I informed him that I am worried about Col Madilonga safety since he is a key witness. He assured me that Madilonga is his man and he is taking care of him. He then requested my wife's number as he suspected that my own number might have been intercepted. As a result, I started to have concerns about the credibility of Madilonga's statement. The main red flag was a recordal in Madilonga's second statement, which suggests that he had been put under pressure to give manufactured evidence in November 2011. I then took his statement for analysis by expert as confirmed by email dated 04/10/2013. The expert confirmed my suspicion.
- 5.10 In September 2013, General Nhlemeza called me using my wife's number and requested me to come to his house. When I arrived he asked me about the progress in the case. I informed him that there are still outstanding statements including the warnings statements of the suspects which I would be able to obtain before the end of the month. He told me that he regret to inform me that his political principals want him to head the hawks and not IPID. I said to him that I am disappointed because I was expecting him to join us as he earlier said. He promises to keep contact and assist in any investigation that I would be tasked to do.
- 5.11 Again in October 2013, my wife called me while I was watching TV and informed me that "Mhlekezi" (referring to General Nhlemeza) was at the gate. She then handed me her phone and he requested me to order the security to open for him as he had valuable information to tell me. When he was inside, he said that he has urgent information to tell. He said on Friday he was at the Airport and he met with Mdluli who requested him to tell me that I must not be afraid when dealing with rendition case because there were people who were looking after me. He said he was asked by Mdluli to deploy people for my safety and that if I see any suspicious car behind me I should call him. I was surprised because I never met or spoke with Mdluli. During my entire investigation with Col Moukangwe, he never mentioned

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Mdluli's name. However, I did not enquire anything on what he said but told General Nhlemeza that if I see anything suspicious, I would call him. General Nhlemeza asked, when would I submit my report to NPA. I informed him that even though I had requested warning statement from Dramat, I was battling to get hold of General Lebeya who signed one of the success reports. He then called someone immediately who gave him General Lebeya's number. He said my report was the one holding everything regarding his move to the Hawks. I then called General Lebeya in his presence and put him on an open speaker. I requested him to provide me with a statement regarding rendition and he said I should come to his office in Pretoria. After refreshments, General Nhlemeza left. What General Nhlemeza said got me worried. I spoke to my wife saying that by accepting the request to investigate rendition case, I do not know what I got myself into.

5.12 The article of 13 October 2013 coupled with what General Nhlemeza said gave me a final thought to request the acting Executive Director to remove me from rendition investigation. I did not tell her about what General Nhlemeza said but I only told her that I was not happy with the leaking of information. She said I had to continue with the investigation of the case because there was no one who could do it and that the Minister would not be happy with that.

5.13 I only informed one of IPID employees whom I trusted about what happened when General Nhlemeza visited me. When I sent a report to Adv. Mosing, General Nhlemeza stopped asking me about the report. The last time I met with General Nhlemeza was on 06/12/2014 at Wimpy Cycad Centre. He had just called me to tell me the good news. I arrived at approximately 15h00 with my wife but she remained in the car. I found him seated inside. He said that his time to move to the Hawks had arrived and that there was going to be a hit on Dramat. He encouraged me to watch the news on TV in the next coming weeks. What he told me happened exactly as he said. His last communication with my wife was 31/01/2015 where he sent her a message at 16h06.

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- 5.14 During January 2014, I met with Mosing and delivered the investigation report to him. The report did not have the outstanding evidence with regard to the warning statement of Sibiya and the cell phone records providing the street location of the relevant individuals making and/or receiving calls. Adv. Mosing, Moeletsi and Moukangwe had previously met on several occasions with me and they gave their input on the analysis of evidence contained in the report. I was adamant that the report had to be approved by the IPID Head as it was a national investigation. At that time the acting Executive Director was no longer coming to the office. When I enquired from Tshiamo Mahibila, the Secretary to the Acting Executive Director, she said that Ms Mbeki only signs financial documents of the IPID and not investigation related matters. Advocate Mosing told me that nevertheless I should sign the report and send it to him. There are numerous emails exchanged between me and Adv. Mosing on this issue including the one where I requested him to give me time.
- 5.15 I must state that the cell phone data analysis report that was in the docket did not give an indication of the location of the relevant persons making or receiving calls. However, Mosing was impatient and pressured me into submitting a report on the investigation even though he earlier requested me to instruct the Expert to cover such points.
- 5.16 February 2014, Sibiya responded to the questions previously sent to him. However few days before receiving Sibiya's statement, I also received the cell phone data analysis report from the expert in the manner and form required by Mosing.
- 5.17 On 27 February 2015, I submitted Sibiya's response to Mosing by email. On 28 February 2015, Mosing responded via email as follows, *"Dear Mr Khuba, in light of the fact that the matter has been referred to the DPP of South Gauteng for decision, you are requested to file these evidence in the docket which is presently with the DPP SG and in future forward any additional evidence or other matter directly with him. Kind Regards."*

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5.18 On 3 March 2015, Robert McBride ("*McBride*") commenced employment as the Executive Head of IPID.

6. The Hawks members have been in my house four times now regarding the same case. I shiver to the core of my spine with fear because I just realised that I investigated a case which was so politically charged to an extent that certain outcome were needed. I was fired without a hearing and even that seems not to be enough. These charges of defeating the ends of justice and fraud are as baffling as my departmental case itself. It is my first time to hear that a recommendation which is just the view of the investigator about the case can give birth to a criminal charge.

6.1 In 2013 I was given appointment letter to investigate Boksburg CAS 322/04/2011, 21/04/2011 and 486/03/2011 involving General Sibiya. The case was already investigated by Mr De Jager, an assistant Director in Gauteng office. He had made recommendation report in which he recommended that General Sibiya should not be charged criminally. I review the already signed report and gathered additional evidence. On 13 November 2013 I made a report in which I recommended that General Sibiya be criminally charged. However, the DPP Gauteng informed me that despite my recommendation they are still of the view that there is no enough evidence to sustain a prima facie case. The question is where did they get the view that there is no evidence because my report clearly recommended criminal charges against him? It is clear that NPA is not bound by the view of the investigator on any case but guided by the evidence in the docket. They decided not to prosecute him in this case even though I recommended prosecution.

6.2 Mr Beukman tasked me to investigate a case of *Mzilikazi wa Afrika* in August 2011 wherein he was arrested in Gauteng by the Hawks and transported to Nelspruit for detention. The case was reported by a Member of Parliament and already investigated by Poopedi who was a Monitor in Gauteng office. He submitted a report in which he recommended disciplinary steps against members of the Hawks. The report was approved by Adv. Moleshe who was

H I



the Provincial Head at the time. I reviewed his report and gathered additional evidence and consulted Criminal Procedure Act as well as SAPS Standing orders. On 06 September 2011 I gave a report with a recommendation that no member of the Hawks be criminally or departmentally charged. The findings in my report were then communicated to the Member of Parliament concerned. No one brought criminal or departmental charges against me on these cases.

7. Every time when I think of what I got myself into by accepting the task, it gives me nightmares. I fear for my personal safety because members of the Hawks had already made advances, asking me to make a statement that implicates McBride and Sesoko in order to be re-instated into my position. It seems as I am viewed as the only gate to deal with McBride and it kills me with fear. Who knows what is next with me, I am really afraid. These are the most powerful people in the country and it seems as my life is at their mercy. I spend sleepless nights thinking of the worst. I just pray that all ends in opening cases against me without any physical harm. I will be able to defend myself in court. All the evidence that I have regarding what happened during the investigation, I am ready to produce in court.
8. When I concluded an agreement with the employer on 23/09/2015, it was because I feared the worst and took my family interest at heart. I grew without a father and took myself to the University sleeping under bridges in order to attend evening classes. I never wanted my children to go through what I went through. It is clear that sometimes no matter how hard one try to choose a path, some paths chooses us.
9. I would like to respond to the remaining 24 questions as follows;

/

9.1 Question 1:

See 4.1 above.

9.2 Question 2:

See 4.2 and 5.1 above.

9.3 Question 3

See 5.3 above.

9.4 Question 4

See 5.1 above.

9.5 Question 5:

The investigation was not finished but nevertheless Advocate Mosing wanted the report and the docket. See 5.14 above.

9.6 Question 6:

Yes

9.7 Question 7:

Handed to Adv. Mosing.

9.8 Question 8

Advocate Mosing and Billy Moelets

9.9 Question 9:

I recommended criminal charges against General Sibiya, General Dramat, Lt Col Maluleke, Captain Nkosi, Warrant Officer Makoe and Constable Radebe.

9.10 Question 10:

Yes.

9.11 Question 11.

New evidence, Mosing email and McBride gave me permission to go to DPP.

9.12 Question 12

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Attach new evidence, update the docket and to do final report in terms of IPID regulations and IPID SOP.

9.13 Question 13

Attached new evidence in Sesoko's office and compiled final report.

9.14 Question 14

New evidence and review of existing evidence.

9.15 Question 15

It was with Mosing because I personally handed to him. And when I collected the docket, there was no report.

9.16 Question 16

Mr Sesoko

9.17 Question 17

New evidence and review of existing evidence.

9.18 Question 18

I was reminded that according to the IPID Act the Directorate makes recommendation to NPA and not with NPA.

9.19 Question 19

Yes

9.20 Question 20

I signed as an Investigator, Mr Sesoko as Supervisor and Head of investigation and McBride as an approving authority.

9.21 Question 21

I handed it to Mr Sesoko whom I believed that he gave it to Mr McBride.

H /



9.22 Question 22

No

9.23 Question 23

We arrived at different recommendation after new evidence and review of existing evidence.

9.24 Question 24

Yes

COMPILED AND SIGNED AT POLOKWANE ON THE 3RD DAY OF MARCH 2016



Innocent Humbulani Khuba

SWORN STATEMENT

I Jacob Nare, Identity Number 880919 5525 080 state under oath as follows:

1

I am a State Witness against Radovan Krejcir and others in the following cases:

- Sandton Case Number 180/01/2014 (Conspiracy to murder Forensic Investigator Mr. Paul O'Sullivan and Colonel Nkosana Ximba of the police)
- Bedfordview Case Number 149/10/2013 (Murder of Mr. Sam Issa)
- Heidelberg Case Number 269/07/2013 (Murder of Mr. Phumlani Ncube)
- Meadowlands Case Number 267/12/2013 (House robbery and attempted murder in a Hawks Colonel's house in Soweto)

I have been advised by Police and Prosecutors, and I believe them, that my evidence is crucial in securing convictions against Krejcir in respect of the above cases. The purpose of this sworn statement is to allege corruption and/or abuse of power on the part of Lt General Moonoo, as well as to set out why I believe that Moonoo has assisted Radovan Krejcir, to the prejudice of South Africa and, in particular, the penetration of the witness protection program. My only means of contact, is through Paul O'Sullivan, for my security.

2

As will be clear from the above, I have specific knowledge of some of the many crimes that were committed by Krejcir and his accomplices. In this regard, I had penetrated the syndicate around Krejcir and was providing information back to my 'handlers'. This took place around December 2013 and January 2014. To be clear, I never engaged in any criminal conduct myself, but was a 'plant' in the syndicate and was regularly feeding back information. It was very dangerous, as the guys in the syndicate were bragging all the time about how many cops were on the payroll of Krejcir.

3

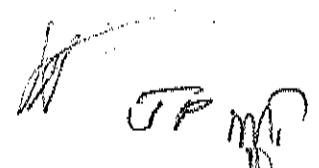
At that time, Siboniso Miya and others, were supposed to kill three people that were causing Krejcir problems. The first to be killed was a state witness, who was also a victim of Krejcir's previous crime of kidnapping, attempted murder and /or torture. His name was Bheki Lukhele. This witness was a key witness against Krejcir, after Krejcir was arrested in November 2013 and, as such, had been placed in the witness protection program. The next person to be killed was a forensic consultant by the name of Paul O'Sullivan and after him, they were to kill Colonel Nkosana Ximba.

4

I was shocked by the audacity of Krejcir and his people, particularly Miya. The information I was able to garner included evidence of the fact that O'Sullivan's coordinates were being sent to Miya, by police officials. Miya had also received an e-mail from someone, showing the precise location of where Bheki Lukhele could be found. He received this on a webmail account he set up for that very purpose. It was by now clear to me that Krejcir had penetrated, with his corruption, every organ of State including the witness protection programme.

5

I advised my handler that on or about the third week of December, O'Sullivan had been to the court where Krejcir was applying for bail and had supplied documents to assist the State to oppose bail of Krejcir. Upon hearing this, Krejcir then gave instructions to change the plans and, instead of killing Bheki Lukhele first, they were to kill O'Sullivan and to do so urgently. I kept my 'handler' fully apprised of all these actions and, on the morning of 09th January 2014, when O'Sullivan was supposed to have been killed, I was with Miya and simultaneously briefing my handler about the operation to murder O'Sullivan. I distinctly recall Miya getting a call from Krejcir, which he put on the speaker, and Krejcir complained as to why he had not heard on the radio about O'Sullivan being killed. He was desperate to



hear about O'Sullivan's murder. I was shocked as to how he could be phoning and arranging hits, whilst in prison.

6

As it transpired and because of my involvement, the syndicate around Krejcir was completely broken and most of the people arrested. The trials are to take place shortly, in respect of all the above matters.

7

As I was a key State witness, it was essential that I be properly looked after, given Krejcir's previous propensity to murder witnesses. Initially the police wanted me to go into the witness protection programme. Having seen how they were about to murder Bheki Lukhele, whilst he was supposed to be in the witness protection programme, I flatly refused to go in, as I knew that would be the end for me. If Krejcir could succeed in killing me, most of the cases against him would simply collapse.

8

Arrangements were then made for me to be taken to the UK, where I was to stay until the commencement of the trials. Although I was sad to be away from home, I agreed to it, as it is the best thing for the country.

MOONOO'S QUESTIONABLE CONDUCT

9

There were a number of incidents that took place regards to General Moonoo and when put together, I suspect Moonoo of being involved with Radovan Krejcir, to such an extent, that I believe Moonoo wants me dead. I will now explain this.

10

On the day of the operation, I was to be arrested, so the others would not suspect I was under-cover. Whilst we were arrested and sitting in Ximba's car, Moonoo came to me and took a picture of me with his cellular phone. Later on, when I met Miya at the holding cells, he told me '*If the police come and book us out of the prison, we must not say anything about the boss (referring to Krejcir)*'. He then asked me if I saw the Indian guy at the crime scene, and he named him 'Moonoo'. I said I did and that Moonoo had taken my picture with his phone. He then told me Moonoo is going to help us out, because he is '*Krejcir's connection*' and we had nothing to worry about. Miya also told me that Moonoo had contacts in Mozambique, as Moonoo had people there involved in the rhino horn trafficking.

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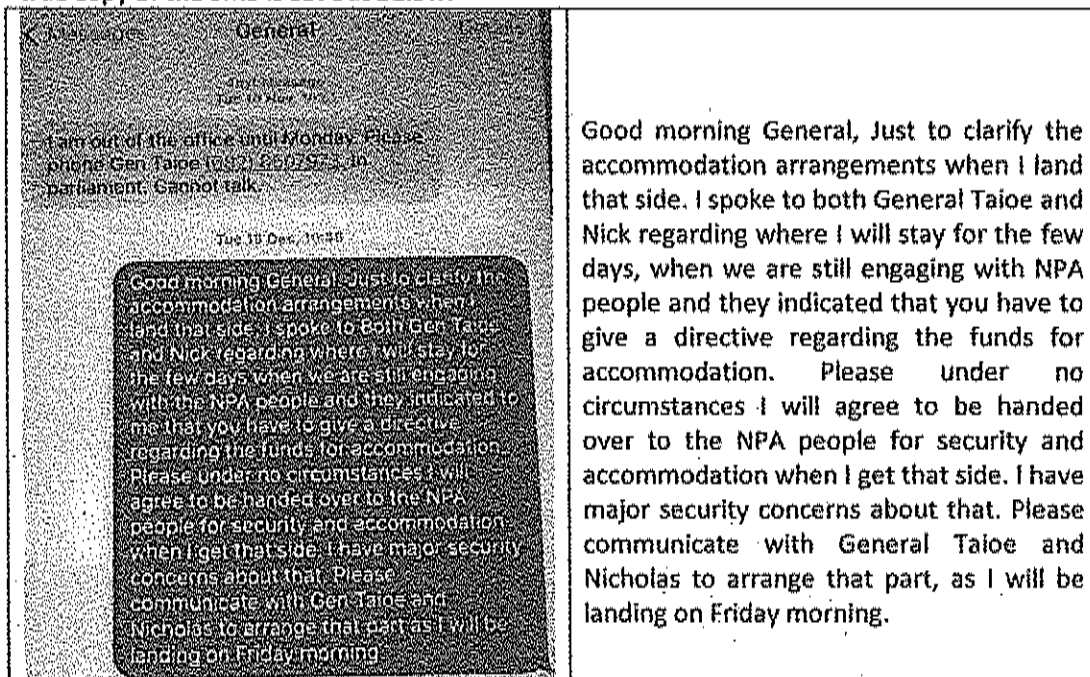
The next time I had cause for concern about Moonoo, was when I was at the office of General Sithole with Captain Greg Savari, from Interpol. Savari called Moonoo and told him he was with me, arranging money for accommodation, which Moonoo was supposed to approve, but he had refused to approve it. Moonoo then instructed Savari to hand the phone to me and I spoke directly with Moonoo. Moonoo said to me that he knew my situation, that I was back in the country (I had previously been in the UK) and he went on to tell me that I was '*in the wrong hands*'. He then told me that he had instructed Gininda to bring me to Mpumalanga to meet with Moonoo, as Moonoo was at that time in Mpumalanga. Moonoo then went on to tell me that I should NOT trust Gininda. I asked Moonoo why I should not trust Gininda, and he said, he could not tell me on the phone, but Gininda's phone is bugged and he is being followed wherever he goes. He then said '*When you're finished talking to me, you must put the phone down and not go with Gininda anymore, but you must go with Captain Savari and I will arrange with him where we will keep you and I will come and see you*'. He then made it clear that I was NOT under any circumstances to tell Gininda what he had said to me. By this stage I was very concerned and I disagreed with his instructions, as I felt it would be the end for me, especially now that I recalled Miya telling me at the prison, that Moonoo was the Krejcir connection. Since it was now clear to Moonoo, that I was a state witness, my life would be at risk.

[Handwritten initials and signature]

After this, I was very scared and went back to the UK. Whilst I was in the UK, I found that some of the upkeep conditions had been unilaterally reduced by Moonoo, to my detriment. He reduced the figure that was approved by General Phiyega and General Sithole. I decided to call him and tackle him about this. When I called him, he told me that he would fly to the UK, to discuss my future and that I should not let Gininda know that he would be coming to see me. He asked me if I had been speaking to Paul O'Sullivan. I told him I did not. He then accused me of lying to him and told me that I had indeed been speaking to O'Sullivan, which was clearly not true. This would have been around February 2015, and Moonoo alleged that O'Sullivan was in the UK to speak to me. I obtained the distinct impression from the way Moonoo spoke to me, and kept mentioned that I should consider my future, that he was suggesting in a round-about way, that I should not testify in the upcoming trials of Krejcir. He said he was not interested in the case of conspiracy to commit murder, as he (Moonoo) was more interested in other cases. I felt I was being intimidated into not giving evidence, but then thought it would be best if I simply made a report to Gininda about this. I then recall being interviewed by Gininda and General Taioe in the UK and I made a sworn statement. I do not know what happened to that statement.

Moonoo would call me many times and kept harping on about O'Sullivan. I sent him a detailed SMS and told him that I did not believe that he had the interests of the country at heart anymore. Things became strained between us as a result of his conduct and his continual insinuation that I should not give evidence. I then got a visit-request from the witness protection guy in the UK, stating that General Moonoo wanted to come and visit me. I rejected the request and advised Gininda about it.

In December 2015, I was supposed to come to South Africa, to visit my son. The trip had been postponed a number of times. I then called Moonoo and asked him why I could not visit my son before Christmas. He told me that he had instructed Taioe to fetch me. At around this time, I also sent Moonoo a message making it clear that I would NOT go into the witness protection program, as I had seen how Lukhele was almost murdered. I sent an sms to Moonoo making it clear that I would NOT go into the witness protection programme, as I knew he wanted me in there, where I would be exposed to Krejcir's corrupt associates. A true copy of the SMS is set out below:



I thought I was just visiting SA in December 2015, and would be going back to the UK. When Taioe came to fetch me he told me the following, at the hotel:

- General Phiyega had been suspended and she would not be coming back.
- Moonoo had some meetings with Lt General Phahlane and it had been agreed that I should stay in the UK and never come back to SA to give evidence, at all.
- He then told me he could call the UK protection people and make the arrangement, but I would have to tell them that this is what I wanted.
- I said that this was not possible, as I had my young son in SA.
- Taioe then told me that they could arrange for my son to come to the UK and live there with me. It was made clear to me that they, being Moonoo, Taioe and Phahlane, had the power to arrange with the UK authorities, that I could stay the rest of my life in the UK.
- I said I did not want to be in a position where I could never come back to SA.

However, when we were at the airport, to fly to Johannesburg, General Taioe told me that we would not be coming back to the UK and that Moonoo wanted me to stay in Mozambique. I was shocked, as I recalled Miya telling me that Moonoo was connected to Rhino poachers there. I felt I was being taken out into the open to be killed.

After I arrived back in South Africa, I met with Moonoo. I met him on the 22nd of December when we landed. We met at his office, as Taioe told me he had no funds and we must go and see Moonoo, so we went to Moonoo's office at Police HQ. Present at the meeting was Moonoo, Taioe, Gininda, Freddy and myself. Moonoo told me that I was to be admitted into the local witness protection programme, as he (Moonoo) had been instructed by General Phahlane to stop the process with funding and everything. I then explained I had serious security concerns, and I related the fact that Bheki Lukhele was to be killed by Krejcir's people, yet he was in witness protection. Moonoo said I was exaggerating and I should try it, before complaining, as he cannot help me if I do not go into the witness protection program. I never let on to Moonoo what Miya had told me at the prison, about him. He said if I did not go into the witness protection programme he would have to lock me in police cells. He told me I should 'stand on my own'. I refused to go into the witness protection programme, but went into a hotel in the meantime. I asked him, if I tried the witness programme and found it was not secure, could I come back to him, he said definitely not. I just wanted to see what he would say. Moonoo then asked Gininda, whilst looking at me *'if he does not exist, what are the merits of the case against Krejcir?'* Gininda made it clear that I was the key witness. The meeting then ended.

I then went to stay at a secret hotel near Sandton and Paul O'Sullivan helped me to pay for the hotel, because Moonoo refused. Later funds were obtained from Crime Intelligence, to my knowledge. However, Moonoo then made certain that no further funds would be made available for my accommodation and security, and insisted that I go to the witness protection programme.

On 24 December 2015, I attended with Taioe and Gininda at a meeting with Witness Protection Programme, as Moonoo had insisted that I be admitted to that programme, having tricked me into coming back from the UK. Present at that meeting were Gininda, Taioe, Dawood Adam and two others, from the programme. Dawood Adam waxed lyrical about how good the programme was, but he seemed to be blinded by the fact that Krejcir had penetrated the programme and that Bheki Lukhele would have been already dead, if it were not for Krejcir making a sudden change of plans and decided to kill O'Sullivan first, which ultimately led to his downfall. I got the impression during the meeting, that Dawood Adam had been primed by Moonoo.

[Handwritten signature]
[Handwritten initials]
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19

I repeatedly told Adam that the witness protection programme was not secure and that I would not go into it, as a result of the prior failings, which I have already noted. The State has a duty of care towards me and I must insist that I am properly looked after. I'm not a criminal that turned good, or a collaborator for justice as Dawood Adam refers to Section 204 witnesses, I am a citizen of South Africa and have a right to life. I have risked my life to save the lives of others and to bring Krecjir to Justice and now it's clear that Moonoo, who is obviously Krecjir's 'connection', is putting my life at risk again. I tape recorded this meeting and attach a copy of the transcription of that recording, which I confirm is true and accurate to the best of my knowledge and belief.

20

I think it would have been a couple of days after Christmas, I met again with Taioe, and Gininda at Eastgate. Gininda went inside the centre and Taioe insisted on staying in the car with me so that he could speak to me alone. I was then alone with Taioe in the car. I was shocked when Taioe said to me that I must forget about what he said to me in London, when he told me that Moonoo and Phahlane had agreed to it that I should rather stay in the UK, instead of coming back to SA to give evidence. He begged me not to mention that he had told me these things. I agreed, but now realise that Taioe could have taken a stand, as he was a general in the police and obviously was more interested in his pension than his duty of care towards me, and the people of the country. I have subsequently discovered that Moonoo was paid R5,000,000 by Krecjir to get him out of prison and out of SA. I also learnt that Moonoo promised Krecjir I would never give evidence against him. By this stage, O'Sullivan had already paid for my hotel, and it was becoming clear that if I wanted to survive in SA, I would have to rely on O'Sullivan, as Moonoo was clearly Krecjir's man and, with his known ability to persuade others, had convinced Phahlane and Taioe, that I should be left to Krecjir people to be murdered, by being put into the witness protection programme, that we all knew Krecjir had penetrated, or being put on the street to fend for myself, with no job, no money and nowhere to live.

21

On 2016-02-03 I was put out of the hotel I was staying in, as Moonoo had cut the funding for it. I was dumped at the office of Paul O'Sullivan and he has taken care of me ever since. It means I have had to throw myself upon the mercy of Paul O'Sullivan, or find myself on the street, or in the witness protection programme, either of which would be a death sentence. To this very day, O'Sullivan has provided for me, since the beginning of February 2016.

22

At this stage O'Sullivan arranged a lawyer for me and a senior counsel and paid for them, to take action against the police. However, after sending a letter, which was to be a pre-cursor to an urgent court action, O'Sullivan received Counsel's opinion that the court application could be very expensive, and might not succeed, as they would simply say I could go into the witness protection programme, which Adam was falsely claiming to be secure, despite the fact that Krecjir had details of where Lukhele was, so that he could be killed. I attach a copy of that letter hereto, and pray that the contents be considered herewith. It was therefore now clear to me that with the State having failed, principally as a result of the high levels of corruption with the hierarchy of the police, I would have no option but to rely on O'Sullivan, which I have done to this very day. In this regard, I have also been looked after, with a monthly income, a secure place to stay, a car to go around in and the school fees for my son.

23

I have subsequently heard, and believe it to be true, that Moonoo has been paid a substantial sum of money by Krecjir, in order to 'fix' the cases against him. I therefore request the IPID to investigate a case of corruption against Moonoo, and in addition, a case for the disgraceful manner in which I have been treated, initially by Moonoo, and then by Phahlane. It is clear that Moonoo could not have gotten away with what he has done, with the connivance of Phahlane.

[Handwritten signature]
[Handwritten initials]

I do not know where Lt General Nkomo fits in, but it does not appear that she has taken an interest in the matter, despite the fact that I am living in a state of fear and not knowing what will happen with regard to my future. It seems I have been abandoned, for placing my life on the line. If not for Paul O'Sullivan, I would likely be dead already, as I have heard and believe that Moonoo wanted to expose me to be murdered by Krejcir. I have authorised O'Sullivan to take the matter up with Lt General Nkomo, and with whomever the Acting Police commissioner is, after Phahlane gets suspended, which I hope is very soon.

Prior to me signing this statement, I have carefully read through it and am satisfied that the facts are correctly and accurately recorded. The following questions were put to me in person by the commissioner of oaths and I entered the answers thereto in my own handwriting:

'Do you know and understand the contents of this statement?'


YES

'Do you have any objection to taking the prescribed oath?'

NO

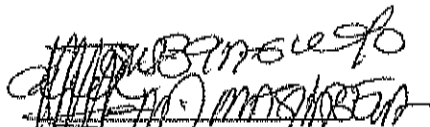
'Do you consider the prescribed oath binding on your conscience?'

YES



Jacob Nare

I certify that the deponent has acknowledged that he knows and understands the contents of this statement which was sworn to before me and the deponents signature was placed thereon in my presence at SANDTON on this TWENTY SIXTH day of JUNE 2016



Commissioner of Oaths

SOUTH AFRICAN POLICE SERVICE
CLIENT SERVICES CENTRE
GALLO MANOR
2016 -11- 26
KLIENTE DIENS SENTRUM
GALLO MANOR
SUID AFRIKAANSE POLISIEDIENS