

Director of Public Prosecutions Gauteng Local Division



Reference number: 10/2/11/1(2018/041)
Enquiries: Ms LC Riba
Telephone number: 011 220 4021

26 July 2018

**DPP Gauteng
Local Division**
Regional Office

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Innes Chambers
Cnr Pritchard &
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Private Bag X8
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The Magistrate
c/o The Senior Public Prosecutor
Private Bag x 34
JOHANNESBURG
2000

THE STATE versus JAO ANASTACIO RODERIGUES JOHANNESBURG CAS 798/10/2017

The Director of Public Prosecutions remarks as follows:

"1 In terms of section 75(1)(c) of Act number 51 of 1977 it has been decided to arraign the accused

JOAO ANASTACIO RODERIGUES

for trial in the High Court, Johannesburg on the following charges:

1 MURDER READ WITH SECTION 257 OF THE CRIMINAL PROCEDURE ACT, 51 OF 1977

2 DEFEATING AND/OR OBSTRUCTING THE ADMINISTRATION OF JUSTICE, READ WITH SECTION 256 OF THE CRIMINAL PROCEDURE ACT, 51 OF 1977

2. Copies of the notice of trial and of the indictment, including the summary of substantial facts and list of witnesses, are forwarded herewith.

3. The Magistrate must be requested to:

- (1) Inform the accused accordingly and in terms of section 75(2) of act number 51 of 1997 to commit the accused for a summary trial before the said Court.
- (2) Inform the accused that the matter has been set down for pre-trial hearing on 18 September 2018. Adv Singh and Adv Khumalo has been assigned to deal with this matter.
- (3) Hand to the accused, in open court, copies of the notice and to record the fact of such service on the record of the proceedings.
- (4) determine whether the accused requires that a legal representative be appointed for him through the Legal Aid Board or whether he will arrange for his own defence. In the latter event the name/s and address/es of the legal representative/s is/are required;
- (5) establish whether the accused desires defence witnesses to be subpoenaed by the State on his behalf and, if so, their names and addresses;
- (6) add as part of the bail conditions in terms of section 62(d) of Act number 51 of 1977 the necessary particulars concerning the place at which a document may be served on the accused in the event of the accused being released on bail;
- (7) order that the accused, if in custody and not held at the Johannesburg Prison, be transferred to the said prison and that this office be informed of the date of such transfer;
- (8) determine from the accused, if in custody, what his prison number is;
- (9) forward the original of the record of the proceedings in the Magistrate's Court and six certified copies thereof to this office;
- (10) determine what language the accused will prefer to use at his trial."



for the DIRECTOR ADMINISTRATION TO THE DIRECTOR OF PUBLIC
PROSECUTIONS
GAUTENG LOCAL DIVISION: JOHANNESBURG

Guided by the Constitution, we in the National Prosecuting Authority
ensure justice for the victims of crime by prosecuting without fear
favour or prejudice and by working with our partners and the public to
solve and prevent crime

The Senior Prosecutor

Private Bag x 34

JOHANNESBURG

2000

THE STATE versus JAO ANASTACIO RODERIGUES

JOHANNESBURG CAS 798/10/2017

1** A copy for your information.

2 The Director of Public Prosecutions remarks as follows:

- ** "i Copies of the notice of trial and of the indictment, including the summary of substantial facts and list of witnesses, are forwarded herewith. The documents must be served on the accused in open court and the Magistrate must be requested to record the fact of such service on the record of the proceedings.
- ii The police docket is retained by this office and will take up the further investigations with the Investigating Officer directly."



for the DIRECTOR ADMINISTRATION: DIRECTOR OF PUBLIC
PROSECUTIONS

GAUTENG LOCAL DIVISION OF THE HIGH COURT: JOHANNESBURG

**WARRANT TO SUMMON ACCUSED AND
SERVE NOTICE OF TRIAL IN THE
HIGH COURT OF SOUTH AFRICA**

**LASBRIEF TOT DAGVAARDING VAN
BESKULDIGDE EN BETEKENING VAN
KENNISGEWING VAN VERHOOR IN DIE
HOOGGEREGSHOF VAN SUID-AFRIKA**

Province * Provincie GAUTENG		Division* Afdeling GAUTENG LOCAL DIVISION
Place of trial* Plek van verhoor SOUTH GAUTENG HIGH COURT	Court* Hof HIGH COURT OF SOUTH AFRICA, GAUTENG LOCAL DIVISION	Date of trial* Verhoordatum 18/9/2018 Pretrial
Name of accused* Naam van beskuldigde JAO ANASTACIO RODERIQUES		
Address: 835 11th AVENUE, WONDERBOOM SOUTH, PRETORIA		
Sex* Geslag MALE	Age* Ouderdom 80	Identity No.* Identiteits No.

To the Deputy Sheriff

You are hereby required and directed in the name and on behalf of the State to summon the above-mentioned person that he/she appear personally before the above-mentioned Court on the date stated above at 9:00 o'clock in the forenoon and the following days, if necessary, to answer and abide the judgement of the Court upon a certain indictment (whereof copy is attached) to be preferred against him/her by the Director of Public Prosecutions that he/she is guilty of the offence(s) set out in the said indictment.

Serve on the accused a copy of this warrant and the indictment and return to the Registrar of the said Division what you have done thereon.

WITNESS:

The Honourable ~~Judge President of the~~
~~NATIONAL JUDICIAL~~
WITWATERSRAND LOCAL DIVISION
of the High Court of South Africa at
JOHANNESBURG
this day of
27 JUL 2018

LITIGATION UNIT
JOHANNESBURG 2000
DIRECTOR OF PUBLIC PROSECUTIONS

Chief Clerk to ~~THE DIRECTOR/REGISTRAR~~

Aan die Adjunk-balju

Namens en ten behoeve van die Staat word u hierby gelas om bogenoemde persoon te dagvaar om in persoon voor bogenoemde Hof om 9:00 uur in die voormiddag op die datum wat hierbo gemeld word en daaropvolgende dae, indien nodig, te verskyn om verantwoording te doen voor die Hof en uitspraak af te wag insake 'n sekere akte van beskuldiging (waarvan 'n afskrif aangeheg is) wat teen hom/haar aangevoer sal word deur die Direkteur van Openbare Vervolgings dat hy/sy skuldig is aan die misdryf/misdrywe in genoemde akte van beskuldiging uiteengesit.

Beteken aan die beskuldigde 'n afskrif van hierdie lasbrief en die akte van beskuldiging en doen aan die Griffier van voormalde Afdeling verslag van wat u hieromtrent gedoen het.

GETUIE:

Sy Edele die Regter-president van die
WITWATERSRANDSE PLAASLIKE AFDELING
van die Hooggeregshof van Suid-Afrika te
JOHANNESBURG
die dag van

Hoofklerk van die Direkteur/Griffier

IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG LOCAL DIVISION, JOHANNESBURG)

The Director of Public Prosecutions for the Gauteng Local Division, Johannesburg who prosecutes for and on behalf of the State, hereby informs the Honourable Court that:

JOAO ANASTACIO RODERIGUES

An 80 year old male, residing at 835 11th Avenue, Wonderboom South, Pretoria

(hereinafter referred to as the accused)

is guilty of the crimes of:

- 1 MURDER, READ WITH SECTION 257 OF THE CRIMINAL PROCEDURE ACT, 51 OF 1977**

- 2 DEFEATING AND/OR OBSTRUCTING THE ADMINISTRATION OF JUSTICE, READ WITH SECTION 256 OF THE CRIMINAL PROCEDURE ACT, 51 OF 1977**

COUNT 1: MURDER

THAT the Accused is guilty of the crime of Murder

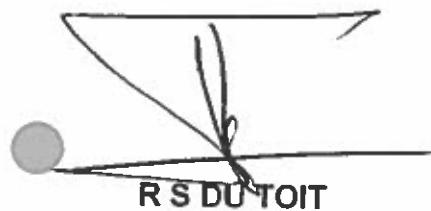
IN THAT on or about 27 October 1971, and at or near Johannesburg Central Police Station, (John Vorster Square, as it was then known), in the district of Johannesburg Central, the accused, together with *inter alia* Johannes Zacharia van Niekerk and Johannes Hendrik Gloy, separately and/or together in the execution or the furtherance of a common purpose did unlawfully and intentionally kill **AHMED ESSOP TIMOL**, a 29 year old adult male.

COUNT 2: DEFEATING AND/OR OBSTRUCTING THE ADMINISTRATION OF JUSTICE

THAT the Accused is guilty of the crime of Defeating and/or obstructing the administration of justice

IN THAT during the period 26 October 2016 to 12 October 2017, and at or near the High Court of South Africa, sitting in Johannesburg, the accused did unlawfully and with intent to defeat and/or obstruct the course of justice, commit an act to wit, by furnishing false information to the members of the South African Police and/or the court in the 2017 re-opened inquest proceedings, which led them and or the said court to believe that **AHMED ESSOP TIMOL** had committed suicide when in fact he knew that **AHMED ESSOP TIMOL** had not committed suicide, which act defeated or obstructed the administration of justice.

Wherefore upon due proof and conviction, the said Acting Director of Public Prosecutions prays for sentence against the accused according to law.



R S DU TOIT

DEPUTY DIRECTOR OF PUBLIC PROSECUTIONS

GAUTENG LOCAL DIVISION, JOHANNESBURG

SUMMARY OF SUBSTANTIAL FACTS

- 1 On the evening of 22 October 1971, a Ford Anglia bearing registration TU 22315, driven by Mr Salim Essop (Essop) a third year medical student was intercepted at a roadblock, on Fuel Road, Coronationville. Mr Ahmed Essop Timol (the deceased), a teacher was a passenger in the vehicle.
- 2 The roadblock set up on 22 October 1971 at approximately 22H40, was manned by amongst others but not limited to, members of the then South African Police, uniform branch members, Sergeant Leonard Kleyns (Kleyns), Constable Adam Alexandra Thinnies (Thinnies) and the Station Commander of Newlands police station, Major Kloppers. The abovementioned vehicle was stopped at the roadblock.
- 3 After searching the boot of the vehicle, both the deceased and Essop were arrested for allegedly being in possession of prohibited pamphlets and documents of banned political organisations namely the South African Communist Party (SACP) and the African National Congress (ANC).
- 4 Both the deceased and Essop were transferred in custody to Newlands Police station and further detained for contravening the provisions of section 6 of the Terrorism Act, Act 83 of 1967.

- 5 The Security Branch was a branch of the South African Police whose function, amongst others, was to gather intelligence so as to assess the threats to the State in the then Apartheid South Africa. Apartheid was a system of institutionalised racial segregation and discrimination that was in existence from 1948.
- 6 Members of the security branch at John Vorster Square police station, including senior members, were informed of the arrests of both the deceased and Essop.
- 7 At Newlands Police station, Essop and the deceased were separated from each other.
- 8 Soon thereafter, and during the early parts of the morning of 23 October 1971, other senior members of the security branch at John Vorster Square, including and not limited to Captain Dirker(Dirker) and Colonel Greyling (Greyling) arrived at Newlands police station.
- 9 Essop was interrogated and repeatedly assaulted by members of the security branch. After the assault, Essop was handcuffed, placed in an unmarked police vehicle and driven by Greyling and another police official, to the offices of the South African Police, John Vorster Square.
- 10 During the early parts of the morning of 23 October 1971, the deceased was also transported to John Vorster Square police station, by Dirker and Kleyns.

11 Lieutenant Colonel Willem van Wyk (van Wyk) from the security branch headquarters in Pretoria, was also informed of the arrest of Essop and the deceased on the morning of 23 October 1971. He arrived at John Vorster Square police station at 03H15.

12 During his period of detention from 23 October 1971 until 26 October 1971, Essop was tortured and severely assaulted by members of the security branch, at John Vorster Square Police Station.

13 On 26 October 1971, Essop was hospitalised in a comatose state, as a result of assault and torture on him by members of the security branch.

14 From the time of his detention on 22 October 1971, until his death on 27 October 1971, the deceased was still in police detention, in room 1026, and subjected to continuous interrogation and torture by the security branch.

15 On 27 October 1971, the deceased was still in room 1026, on the tenth floor of John Vorster Square Police Station, never having ever been detained in a cell at any stage of his detention at John Vorster Square.

- 16 At the time of his death, the deceased was under the care of the accused and Captains Johannes Hendrik Gloy (Gloy) and Johannes Zacharias van Niekerk (Van Niekerk) who each had a legal duty of care over detainees by virtue of the office they held and their appointment as police officers.
- 17 All three police officials, Gloy, van Niekerk and the accused were based at the security branch headquarters at Compol Building, Pretoria. Gloy and van Niekerk arrived at John Vorster Square on the morning of 23 October 1971 at 06H00, on instructions of van Wyk.
- 18 The accused arrived at John Vorster Square police station on 27 October 1971. The accused, Gloy and van Niekerk tortured and assaulted the deceased. Prior to his death, and whilst in their custody and under their care, the deceased sustained multiple bruises and fractures including and not limited to inter alia the nasal bone, left orbital ramus, right inferior orbital ramus, fractures of the left and upper jaw, an isolated depressed skull fracture, extensive contusions on the right leg, and a dislocated left angle.
- 19 Subsequently, they thereafter either pushed him out of the window of room 1026 and/ or threw the deceased down from and/ or rolled the deceased from the roof of John Vorster Square Police Station on 27 October 1971.

20 The deceased died at the scene of the crime on 27 October 1971. The cause of death was **Massive head (brain) and chest (vital centre damage and compromised respiration) injuries.**

21 After the demise of the deceased, the accused and his cohorts alleged that the deceased committed suicide by jumping from the window of the tenth floor (room 1026) of John Vorster Square Police Station.

22 The State will allege that the accused at all relevant times committed the offence in count one above in the execution of a common purpose. Precisely when, where and how it was formed, and/or who all the parties thereto were, are at present unknown to the State. The State does, however allege that the said common purpose was in existence from at least shortly before and for the duration of the commission of the crime.

LIST OF WITNESSES

1 Advocate George Bizos, SC
Legal Resource Centre
Johannesburg

2 Dr Salim Essop
Leeds, United Kingdom

3 Dr Dilshad Jetham
Johannesburg

4 Professor Kantilal Naik
University of Witwatersrand
Johannesburg

5 Mr Ernest Alexander Matthis
Cathkin Park
Kwazulu Natal

6 Dr Essop Goolam Pahad
Johannesburg

7 Mr Ronnie Kasrils
Pretoria

8 Ms Stephanie Kemp
Kensington
Johannesburg

9 Dr S Holland
Department of Forensic Medicine and Pathology
University of Witwatersrand
Johannesburg

10 Mr Edward Ramolefe
Johannesburg Magistrate Court
Johannesburg

11 Mr Mohammed Timol
Victory Park
Johannesburg

12 Mr Paul Francis Erasmus
George

13 Professor Steven Naidoo
Umhlanga
Kwazulu-Natal

14 Mr Frank Kennan Dutton
Durban
Kwazulu Natal

15 Mr T Moodley
The Innovation Hub
Pretoria

16 Professor Kenneth David Boffard

Department of Surgery, University of Witwatersrand
Johannesburg

17 Mr Ali Thokan

Johannesburg

18 Mr Imtiaz Ahmed Cajee

Pretoria

19 Professor Don Foster

University of Cape Town

20 Mrs Shantavothie Tweedie

Johannesburg

21 Dr Snuki Zikakalala

Johannesburg

22 Mr Abdulay Jassat

Johannesburg

23 Mr Peter Sexford Magubane

Johannesburg

24 Mr Nassim Pahad

Houghton

Johannesburg

25 Dr Farouk Dindar
Toronto
Canada

26 Mrs Gadija Chothia
Johannesburg

27 Mr Piers Ashley Pigou
Pretoria

28 Mrs Geraldine Frieslaar
Pretoria

29 Ms Mutondi Muofhe Mulaudzi
Legal Resource Centre
Johannesburg

30 General Eleanor Delaine Groenewald
SAPS
Pretoria

31 Ms Monica Dube
Johannesburg

32 Mr Abdullah Goolam Mohammed Adam
Johannesburg

33 Mr Alwyn Dononvan Graham Musson
Johannesburg

34 Mr Hanif Mohamed Vally
Johannesburg

35 Mr Pramanathan Naidoo
Johannesburg

36 Mr Ismail Momoniat
Johannesburg

37 Mr Colin Woodall Savage
Johannesburg

38 Advocate Raymond Christopher Macadam
NPA
Pretoria

39 Mr Kevin Martin
Johannesburg

40 Ms Zahira Adams
National Archives
Pretoria

41 Ms Madeleine Fullard
NPA
Pretoria

42 Captain JM Kruger
LCRC Johannesburg
Johannesburg

43 Captain F Mathipa
Directorate: Priority Crimes Investigation (HAWKS)
Pretoria

44 Captain Ben Nel
Directorate Priority Crimes Investigation (HAWKS)
Pretoria

45 Sgt Freddy Khoza
DPCI
Pretoria

46 Sgt B Dlamini
DPCI
Pretoria

47 Constable J Ubisi
DPCI
Pretoria

48 Warrant Officer Neville Els
Pretoria

49 Ms Marcia Shreuder
Webber Wentzel Attorneys
Sandton

50 Zahira Adams-Ngoepe
National Archives Repository
Department of Arts and Culture

51 Mr Collin Woodall Savage
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52 Captain JM Kruger
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54 General ED Groenewald
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55 Ms Geraldine Frieslaar
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56 Ms Mutondi Muothe Mulaudzi
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