

**THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS
REGARDING EFFORTS OR ATTEMPTS TO STOP THE INVESTIGATION OR
PROSECUTION OF TRUTH AND RECONCILIATION COMMISSION CASES
(TRC CASES INQUIRY)**

HELD AT:

Sci-Bono Discovery Centre, Corner of Miriam Makeba & Helen Joseph Street
Newtown, Johannesburg

BEFORE:

COMMISSIONERS:

The Honourable Ms Justice Sisi Khampepe (Judge Ret.) – Chairperson
The Honourable Mr Justice Frans Diale Kgomo (Judge President Ret.)
Adv Andrea Gabriel (SC)

EVIDENCE LEADERS:

Adv Ishmael Semanya (SC)
Adv Vas Soni (SC)
Adv Fana Nalane (SC)
Adv Nompumelelo Seme
Ms Baitseng Rangata

REPRESENTATIVES

Adv Mfundo Salukazana (for Ex-NDPP's Officials)
Adv Nwabisa Mtshizana (for Ex-NDPP's Officials)
Adv Yanela Ntloko- NPA representative
Adv Vivian Rikhotso (for Adv Menzi Simelane)
Adv Bridgette Nthambeleni (for Adv Jiba)
Adv Irene de Vos for President Cyril Ramaphosa
Adv KD Moroka (SC) – DoJ representative
Adv Tlotlego Tsagae (DoJ representative)
Adv Ebenezer Propy (for SAPS)
Adv Varney (SC) – The Calata Group
Adv D Pillay – The Calata Group
Mr Jao Venter – The Calata Group
Mr Siphon Tlhaole – The Calata Group
Ms Vuya Nako– The Calata Group

18 MAY 2026

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PROCEEDINGS ON 18 MAY 2026

CHAIRPERSON: Good morning. Mr Semenya?

ADV SEMENYA: Again, good morning, Chair and the Commissioners. We have Dr Pretorius to help us with his evidence led by my learned colleague, Mr Salukazana.

CHAIRPERSON: Yes. Mr Salukazana?

ADV SALUKAZANA: Thank you, Chairperson. We are going to be leading evidence by Mr Pretorius. He has submitted a number of affidavits. The one we are going to use is the final and last affidavit
10 that he submitted and that is where we will focus today. We will obviously refer to the Rule 3.3 notice and also to the affidavit submitted by Mr Cajee which the 3.3 notice is based on. Good morning, Mr Pretorius.

DR PRETORIUS: Morning.

CHAIRPERSON: Morning. Before you commence, I have got to swear him in.

ADV SALUKAZANA: Indeed.

CHAIRPERSON: Adv Pretorius, are you going to take an oath or affirmation?

20 DR PRETORIUS: Oath, Chairperson.

CHAIRPERSON: Thank you. Do you swear that the evidence you will give before this commission will be the truth, the whole truth and nothing but the truth? If so, raise your right hand and say 'so help me God'.

DR PRETORIUS: So help me God.

JACOBUS PETRUS PRETORIUS: duly sworn states

CHAIRPERSON: Thank you. Mr Salukazana?

EXAMINATION BY ADV SALUKAZANA: Thank you, Chairperson.

Mr Pretorius, you would have a file in front of you that has your statement. The statement I wish to refer you to is the statement with the heading or title: "Judicial Commission of Inquiry to enquire into allegations regarding efforts or attempts having been made to stop the investigation or prosecutions of Truth and Reconciliation Commission Cases". Do you have that?

10 DR PRETORIUS: I have got that. Thank you, Counsel.

ADV SALUKAZANA: May you please go to page 23 of that affidavit?
That is internal page 24.

DR PRETORIUS: I am there, Counsel, page 1777.

ADV SALUKAZANA: Thank you.

DR PRETORIUS: [Indistinct] numbered ones.

ADV SALUKAZANA: Do you confirm that that is your signature?

DR PRETORIUS: That is my signature.

ADV SALUKAZANA: Do you confirm that the matter of the statement is true and correct?

20 DR PRETORIUS: I do.

ADV SALUKAZANA: And it is binding on what you say.

DR PRETORIUS: It is binding on my [indistinct].

ADV SALUKAZANA: Before we start then, may I ask that you confirm that you received a Rule 3.3 notice from the commission?

DR PRETORIUS: I did receive a Rule 3 ...[intervenes]

ADV SALUKAZANA: And that you have considered what is said to be implicating you or may implicate you in matters of this commission and have responded to it in your statement.

DR PRETORIUS: It is correct, Counsel.

ADV SALUKAZANA: So in taking you through your statement, I will consider each allegation. I am aware that your statement does quote the allegations before you respond to them, but in order to be clear about where it is, the allegation is made in your statement, I will refer to the number and the Rule 3.3 and then take you to your statement
10 to address that particular allegation.

DR PRETORIUS: I understand. Thank you, Counsel.

ADV SALUKAZANA: Now we start then with the introduction; if you can just give us, looking at paragraph 1, a background of your professional career in so far as the justice and the NPA.

DR PRETORIUS: Thank you, Counsel. I joined the NPA or the Department of Justice in 1976. I had a justice bursary at that stage, worked on holidays, *et cetera*, and I remained in the service of the Prosecuting Authority until the end of May 2022. So basically just more than 46 years.

20 ADV SALUKAZANA: Thank you. And then can you just give us a brief rundown of your positions in the justice and the NPA, as set out in paragraph 2?

DR PRETORIUS: Thank you. Thank you, Counsel. During that 46 years I served in many ranks. I was a clerk of the court from 76 until 80. I then worked as a district court prosecutor and then regional

court prosecutor. Then I became a state advocate and a senior state advocate. And in 1991 Muller van der Merwe he seconded me to the Goldstone Commission and with Adv JJ du Toit; I was evidence leader at the Goldstone Commission from 1991 to 1994. I served as a member of the Priority Crimes Litigation Unit since its inception in 2003. And then in October 2015 I was appointed as the acting special director of the PCLU until about March 2019. That more or less is where I served in the Prosecuting Authority.

ADV SALUKAZANA: Certainly. Then if we could go to paragraph 4,
10 could you read that for us, please?

DR PRETORIUS: Yes, I will, page 1757 of the numbered pages.

“And I must state; we are relying on facts and statements made by third parties. I do so on the belief that such facts and statements are true and correct. In so far as same is necessary, I refer to the statements and confirmatory affidavits of Mr Vusi Pikoli, Adv Chris Macadam, Adv Ackermann SC, which are filed in the Lukhanyo Calata papers.”

20 And there is a reference to the Calata papers.

“I also refer to my affidavits that I had to make in the Rodrigues matter in which Mr Rodrigues applied for a permanent stay of prosecution in respect of the murder of Ahmed Timol and I confirm the contents of those two affidavits and

the contents thereof.”

It is attached to my affidavit as JPP1 and JPP2, Counsel.

ADV SALUKAZANA: Thank you. Paragraph 4 you make a statement that:

“I refer to statements and/or confirmatory affidavits of Mr Pikoli, Mr Macadam and Mr Ackermann”.

Why was that necessary?

DR PRETORIUS: It was necessary, because I did not have personal
10 knowledge of political interference. Obviously I worked with my colleagues and I lived through it, like Shaun Abrahams, Adv Shaun Abrahams said – I lived through it, but I do not have personal knowledge of that. So I have got to refer to Adv Ackermann, Vusi Pikoli, Adv Pikoli and Chris Macadam that found some of those secret documents. So, that is why I had to refer to them, because I do not have personal knowledge of that, but I verily believe their versions.

ADV SALUKAZANA: Thank you. Could you, we have already gone through you receiving the notice. I am going to ask now that we consider what is set out as allegations and start with the first
20 allegation at the Rule 3.3 notice that is at internal page 2 and it is paragraph 7.1. At least that starts with paragraph 6 actually.

DR PRETORIUS: Counsel, I need a bit of direction. Is this the Rule 3.3 notice?

ADV SALUKAZANA: Yes, the Rule 3.3 and that is internal page 2 of it and paragraph 6.

DR PRETORIUS: Let me just see the index of this one. I have got my own Rule 3.3, but it is not the paginated one. So I just want to see if I cannot get the Rule 3.3 notice in that. I have indexed mine according to the affidavits and the annexures.

ADV SALUKAZANA: Since it is the same document, it is fine to use the file you are most comfortable with.

DR PRETORIUS: Come again?

ADV SALUKAZANA: Since it is the same document, I think there is no problem with you referring to your own file.

10 DR PRETORIUS: I agree with you, Counsel. We can just move on. Can I read from the internal 6 and then 7.1?

ADV SALUKAZANA: Certainly. Start at paragraph 6.

DR PRETORIUS: Okay.

“The commission’s evidence leaders intend to present the evidence of Mr Imtiaz Cajee, Mr Cajee, amongst the allegations that Mr Cajee makes in concerning you and related to the terms of reference of the commission of that.

20 7.1 There was no concerted effort on your part to investigate the death of his uncle, Mr Ahmed Timol, and that you should be held accountable for failing to execute your duties. In this respect, he says: In my view, had there been a concerted and intentional will on the part of the prosecutors to guide

the investigator, this evidence could have been presented as early as 2003 when all those involved in my uncle's matter were alive. In essence, both the NPA's PCLU and investigators from the DSO who were seized in investigating the TRC matters shifted the responsibility to me to furnish further information to take the investigation forward, despite them having the powers and functions to investigate and prosecute. It is my considered view that they must be held accountable for failing to execute their duties. Without having regard to all available evidence, they took the decision to close the file."

10

That is at paragraph 45.

ADV SALUKAZANA: Thank you very much. We are going to go now to paragraph 18 of your statement. Could you read that for us? It is internal page 8.

20 DR PRETORIUS: Yes. The numbered page is page 1762.

ADV SALUKAZANA: Thank you.

DR PRETORIUS: Okay, firstly, I begin by saying:

"I deny this allegation."

Can I continue, Counsel?

ADV SALUKAZANA: Certainly.

DR PRETORIUS: Paragraph 19.

ADV SALUKAZANA: Ja.

DR PRETORIUS:

10 “I became involved in the Ahmed Timol matter only in January of 2016. Prior to my appointment as the Acting Special Director of the PCLU in October 2015, I had no managerial responsibility in TRC matters generally and I was not involved whatsoever with the Ahmed Timol matter. I did not take part in, influence or participate in any decision to close the file.”

ADV SALUKAZANA: So any allegation about your involvement between 2003 and October 2015 would not be correct.

DR PRETORIUS: In relating to the Ahmed Timol matter, correct, Counsel.

ADV SALUKAZANA: Could you please read paragraph 20 for us?

DR PRETORIUS:

20 “On the contrary, once the matter came to my attention in January 2016, I acted with the requisite commitment and intent to advance the investigation. I guided the investigator, Captain Ben Nel, of the Crimes Against the State, the CATS Unit, in obtaining Dr Salim Essop’s affidavit at the NPA offices. It was taken by Mr Varney’s office, but we obtained it from them. We

proactively sought and consulted witnesses. I was personally involved throughout this process, Counsel.”

ADV SALUKAZANA: Thank you. Over the page is paragraph 21.

DR PRETORIUS: Page 1763, paragraph 21:

10 “I undertook detailed research into the available material and the applicable law, including the Inquest Act and the public available historical sources. I prepared a comprehensive memorandum, which I submitted to the NDPP, the National Director of Public Prosecutions, for onwards submission to the minister for the reopened inquest, notwithstanding recommendations that was made to me to the contrary. You can look at the affidavits of Adv Chris Macadam and Adv Shaun Abrahams to confirm this process.”

20 ADV SALUKAZANA: When you say you wrote a memorandum, despite previous disagreements, what was the nature of the disagreements?

DR PRETORIUS: Adv Macadam, he handled these matters before me and he reopened the Ahmed Timol matter also. So I approached him and said I need a report from him, as to should I reopen this inquest or not; and he made a report to me what has been done and what was the history of the process. And he at that stage did not feel

that the inquest should be reopened, but I did not think so at that stage and I continued to open it.

ADV SALUKAZANA: Thank you. Could you read paragraph 22 for us, please?

DR PRETORIUS:

10 “I consulted with the individuals, such as the former Security Branch officer, Mr Paul Erasmus, and experts, including Dr Don Forster, who provided relevant evidence in the reopened proceedings.”

I worked with Frank Dutton at the Goldstone Commission and there I got to know Mr Paul Erasmus quite well. So, I consulted with him and ensured that his evidence be obtained.

ADV SALUKAZANA: Thank you, paragraph 23?

DR PRETORIUS:

20 “I also met with the attorneys from Webber Wentzel on several occasions. Together we developed a coordinated schedule allocating responsibility for witness consultations and preparatory work. Our working relationship was collaborative and we engaged as partners in progressing this matter. I attach an email addressed to me from Mr Moray Hathorn in which he recognises and expresses his appreciation for our constructive collaboration in the Timol

Inquest, as per Annexure JPP3.”

ADV SALUKAZANA: Do you recall when your first meeting Webber Wentzel was?

DR PRETORIUS: Well, it started in January of 2016 when they came to see the NDPP. The first meeting after that would have been in March 2016; and from then onwards on a regular basis and they kept up correspondence also with me and saying at the previous you said you still want to consult this and this. So, it started in January 2016.

10 ADV SALUKAZANA: In what capacity were you engaging with them?

DR PRETORIUS: I was the Acting Head of the PCLU at that stage and the NDPP called me in when they came to see Adv Howard Varney SC and Mr Moray Hathorn and George Bizos SC, when they came to see him. So I was called in. So it was part of the instruction that I should look. It was also Dr Neil Aggett's, the reopened inquest of Dr Neil Aggett and not just Ahmed Timol's one that the first one was about.

20 ADV SALUKAZANA: So they approached the NDPP on behalf of the Timol family. Is it?

DR PRETORIUS: That is correct.

ADV SALUKAZANA: And it was about ...[intervenues]

DR PRETORIUS: And Mr Imtiaz Cajee was also there. It is true.

ADV SALUKAZANA: That was my next question. So you met with him upon assuming your role and considering the reopening of the

matter.

DR PRETORIUS: That is correct, Counsel.

ADV SALUKAZANA: And this is in January 2016 when you had assumed your office in October 2015.

DR PRETORIUS: That is correct.

ADV SALUKAZANA: Could you please read paragraph 24 for us?

DR PRETORIUS:

10 “There were multiple meetings with investigators that I attended. I personally consulted witnesses, I prepared them, I led their evidence and I conducted cross-examination in the Timol Inquest. I was also directly involved in related TRC matters, including the reopening of the Dr Aggett Inquest and I supervised, which was done by Adv Shubnam Singh brilliantly, the Haffajee matter.”

I supervised that also.

20 ADV SALUKAZANA: Thank you. And with regard to the statement that was made that you shifted the responsibility to me to furnish, to him, which is Mr Cajee, to furnish further information to take the investigation forward, despite them having the powers – them being the NPA and functions to investigate the prosecution. Do you have any comment about that?

DR PRETORIUS: I do not think it is applicable to me at all. I mean, since I started that thing, I never shifted it to him. We worked in

collaborative matters. So, no, I do not think that is applicable to me at all, Counsel.

ADV SALUKAZANA: Certainly. You have already explained what you did before you assumed your responsibilities relating to the Timol matter, but I think for the record, could you read paragraph 25 for us, please?

DR PRETORIUS: Yes.

10 “Between 2003 and 2017, before my involvement in the Timol matter, I was engaged in numerous high-profile and highly-complex prosecutions and investigations. These, firstly, included the appeal in the Dr Wouter Basson matter.”

We just finished that case at that stage, and the state tried to appeal to reserve a question of law, *et cetera*. We worked with Adv Wim Trengove at a certain stage. So firstly, it was the Wouter Basson matter, the appeal there.

20 Also, I assisted with the Hefer Commission, the allegations against Adv Bulelani Ngcuka. So I went down to Bloemfontein to help with the Hefer Commission. I was instructed by the NDPP to do the prosecution for Foreign Military Assistance. At that stage that statute was on the books already for nearly 10 years and there was no prosecution. So he instructed me and I did the first Foreign Military Assistance one for mercenaries, mercenarism of Rouget of the Ivory Coast in which I was successful.

Then I was allocated the investigation and the prosecution of

the attempted coup d'état in Equatorial Guinea. That included the investigation against Sir Mark Thatcher. I did not eventually do the plea bargain, but I did the investigation and I did the other prosecutions in the Equatorial Guinea matter.

I have done several matters involving international law under the ICC Act, including litigation relating to the South African Litigation Centre in regard to international crimes that was torture; concerning, for instance, the Zimbabwean matter. Later on I worked with some raid matters. I handled matters such as *S v Majali*. That was the
10 hijacking of companies, *S v Scheepers* and *Steenkamp*. That related to a right-wing matter, *Nuwe Boer Kommando*, and Steenkamp was a projectile. It was conventional arms.

I had to do a disciplinary prosecution under the instruction of the NDPP of a one Mr Terence Joubert. In that matter I had three different presiding officers. All of them had to recuse themselves. I did that one. I did the missile-related matter; and then I did the Mangaung case where they wanted to attack the ANC elective conference. 2012 they planned to do that with mortar attack and take out the whole cabinet at that stage. So I did that Mangaung case of
20 Prinsloo, Keevy and Boonzaaier and those people.

Later on I did the alleged coup d'état in the DRC before Judge Mothle, *S v Kazongo*. Later on, after I have been appointed, it became really busy. I got the Paul O'Sullivan matter. I got the, what is colloquially known as the rogue unit matters, the South African Revenue Services matter, the Robert McBride matter. And then 2015

the Marikana matter was relating to the prosecution of the police was also sent to my office, and that is where I got to know Adv Shubnam Singh. Four advocates were given to the PCLU and there we investigated the prosecution of the police in the Marikana matter.

ADV SALUKAZANA: And at no stage during this time before October 2015 were you involved in any TRC cases, including the Timol case. Is that correct?

DR PRETORIUS: No, I will not say that I was not involved in no TRC cases. Very early on Adv Vusi Pikoli asked me to do evaluation
10 in the Chris, Gert and Manie; Chris Smit, Gert Otto and Manie van Staden's case whether they complied with the new policy, the prosecution policy; and I said no, they did not do a full disclosure and they should be prosecuted.

So, there I was involved in the sideways, but not with the task team or anything like that. I just evaluated whether they made a full disclosure. And from my previous work at the Goldstone Commission, I still had some cases, like the Smit murders and some cases like that. So, there was one or two cases that can strictly speaking be regarded as the third, four strike of cases.

20 ADV SALUKAZANA: Certainly. Would you read 26, paragraph 26 and 27 for us, please?

DR PRETORIUS: I will, Counsel.

“My workload over this period was extensive and complex, but at no stage did it diminish my commitment to the Timol investigation in 2016 or

other TRC investigations once it became my responsibility. The allegation that I lacked concerted or intentional will to investigate the matter is therefore unfounded. My actions demonstrate the opposite: active leadership, personal involvement and decisive steps that culminated in the successful reopening of the Ahmed Timol Inquest.”

ADV SALUKAZANA: Certainly. Thank you for that. At paragraph 23
10 you refer us to an email from Mr Moray Hathorn and it is attached as JPP3. Could you go to that, please?

DR PRETORIUS: Will do so, Counsel.

CHAIRPERSON: Give us the page number, Mr Salukazana.

ADV SALUKAZANA: I apologise, Chair. I will ask him to give the
...[intervenes]

DR PRETORIUS: Chairperson, I will. It is 1892, 1892.

ADV SALUKAZANA: Because I do not have the...

DR PRETORIUS: I am there, Counsel.

ADV SALUKAZANA: Thank you. What is this document?

20 DR PRETORIUS: We were just finished with presenting the evidence in the Timol Inquest, *et cetera*, and here you can see did not only relate to the Timol Inquest, but now we should go further and start with the new Aggett Inquest. So, Mr Moray Hathorn from Webber Wentzel sent me on Thursday, 4 September 2017, he sent me this email where he said:

“Dear Torie

Thank you for the NPA’s very constructive role in the Timol Inquest. With the Timol Inquest nearly behind us, we request that we refocus attention to the Neil Aggett case.”

ADV SALUKAZANA: Had you have any complaint about how you conducted the Timol matter before this?

DR PRETORIUS: No, no, I did not have, Counsel, no.

10 ADV SALUKAZANA: Is this the only communication you received at least from Webber Wentzel about how you conducted the Timol matter?

DR PRETORIUS: Yes, the one that I can immediately remember. I know Mr Imtiaz Cajee has also written a letter to thank the NDPP for the role that Adv Shubnam Singh and me played in that. So, no, I did not have a complaint about the way we handled the reopening of the inquest of the Ahmed Timol.

ADV SALUKAZANA: Thank you. Now that you have referred to Mr Cajee’s email, may I ask that you turn to Annexure JPP5? The page is 1899.

20 DR PRETORIUS: I am there, Counsel.

ADV SALUKAZANA: Is this the email you say you received from Mr Cajee or is it a different email?

DR PRETORIUS: No, this is in a different context. This is in the context when we had a task team between the police, Webber Wentzel where there was meetings, accountability meetings. At that

stage CATS was helping us. We were about 15 investigators and at that stage we met to proceed. It is about a dozen other cases that we looked at, at that stage. And I felt that the complainant was too close to the investigation, and I quoted the Natal case ...[intervenes]

ADV SALUKAZANA: And then if you could look at JPP6 for us, please and it is at page 1900.

DR PRETORIUS: I have got that.

ADV SALUKAZANA: Over the page is an email addressed to the NDPP. Is this the email you are talking about?

10 DR PRETORIUS: That is the email that I talked that Mr Imtiaz Cajee has sent at that stage.

ADV SALUKAZANA: Read the email for us.

DR PRETORIUS:

Dear NDPP.

I hope you are well.

20 It appears as just the other day, 19 January 2016, when we made a presentation to you and your team on the reopening of the Ahmed Timol Inquest. Almost 20 months have passed and the reopened inquest is over and we await final judgment from Judge Billy Mothle. I want to once again thank you, the NDPP, for supporting our application to reopen the inquest into the death of my beloved uncle, Ahmed Timol, who died in police detention in October 1971. It was indeed

being an emotional 19 days attending the inquest, but something that is long overdue in our democratic South Africa.

Please pass my appreciation to the NPA team, Adv Torie Pretorius, Adv Shubnam Singh, and investigating officer, Ben Nel, who had been professional and thorough in their conduct during the inquest proceedings. This is highly appreciated by the Timol family, as we eagerly
10 await judgment. Once again, your assistance in this matter is highly appreciated.

Kind regards

Imtiaz Ahmed Cajee.”

ADV SALUKAZANA: Is the Adv Torie Pretorius referred to in that last paragraph a reference to you?

DR PRETORIUS: It is me, yes.

COMMISSIONER KGOMO: Yes, it appears, Dr Pretorius that this letter was written on 19 January 2016. This is by Mr Cajee. If one looks at the opening line, “it appears as if it was just the other day (19
20 January 2016)”, because the letter itself has no date; so, it appears this is the day that he wrote the letter.

DR PRETORIUS: Commissioner Kgomo, I think if we look just one page earlier, this letter was sent to the PA of Adv Shaun Abrahams, Helena Zwart. And there you will see from Helena Zwart on 31 August 2017 where she says:

“Please see the email below from Mr Cajee.”

And I think she refers to that letter. So it is in that time frame, Judge Kgomo, that I think that we received this letter. He is referring to our first meeting where the NDPP called me in and said: attend to the Neil Aggett and to the Ahmed Timol thing. So, I think more it is in the time frame of August 2017.

COMMISSIONER KGOMO: Yes. Thank you.

ADV SALUKAZANA: So, before the October 2025 affidavit by Mr Cajee, you had no idea that he was not happy with how you
10 conducted yourself.

DR PRETORIUS: No, I will not say that, Counsel. I mean the reopened inquest of the Rodrigues, I had to put in two answering affidavits and a supplementary affidavit. And if you look at the second one, JPP2 there, you will see already there we could see that the people is not happy with the advocates there and saying that they did not comply. So if you look at JPP2, the supplementary affidavit in the Rodrigues matter, it was clear there that they were not happy at that stage and we had to answer there.

ADV SALUKAZANA: When you say ‘they’, is it Rodrigues or the
20 Timol family?

DR PRETORIUS: The Timol family.

ADV SALUKAZANA: Okay, thank you. We are going to turn now to the second allegation; and that is at paragraph 7.2 of the Rule 3.3 notice.

DR PRETORIUS: I have got that.

ADV SALUKAZANA: It is internal page 3.

DR PRETORIUS: I got that, Counsel. Can I read that?

ADV SALUKAZANA: Yes, please, 7.2.

DR PRETORIUS:

“You conducted a substandard prosecution in respect of the TRC cases in this regard.”

He says.

10 Lastly, Judge Hartzenberg accused the state of appearing to be certain as to what the truth was and by urging the Court not to believe anything that contradicted the state’s version of the truth. In other words, despite compelling evidence available, state prosecutors Ackermann and Pretorius, both alleged political interference in post-TRC prosecutions, presented a substandard case before the courts, resulting in Basson’s acquittal (paragraph 221.5).”

20 ADV SALUKAZANA: Thank you. In your statement we quote that complaint at paragraph 28. You quote. Could you read paragraph 29 for us of your statement?

DR PRETORIUS: Just a second. I just want to get there, Counsel.

ADV SALUKAZANA: Sure. It is page 1766.

DR PRETORIUS: I apologise. I will be there now. I am at page 1766.

ADV SALUKAZANA: Please read paragraph 29.

DR PRETORIUS: 29.

“I deny this allegation. The prosecution in the Basson matter was conducted diligently, professionally and with meticulous attention to detail. At no stage was the prosecution substandard, nor did the state fail to present the extensive body of evidence available.”

ADV SALUKAZANA: Please read paragraph 30.

DR PRETORIUS: “The Scope and the Nature of the Basson Case.”

10 In 30 we talk about it.

“The Basson prosecution was unprecedented in scope and complexity. When Dr Basson was arrested in a sting operation at Magnolia Dell in Pretoria in 1997, he was apprehended *in flagrante delicto* and after handing over ecstasy tablets to an undercover agent, Mr Grant Wentzel, and receiving R60 000 in marked notes. The transaction was recorded. He was caught red-handed.”

20 Should I continue?

ADV SALUKAZANA: Please read 31, ja.

DR PRETORIUS: Paragraph 31 on page 1766:

“The trial ran for approximately 30 months with the record amounting to roughly 30 000 pages. It commenced on 4 October 1999 and concluded on

11 April 2002. The state called 153 witnesses. It remains one of the longest and most expensive criminal trials in South African history.”

ADV SALUKAZANA: Could you read 32 for us, please?

DR PRETORIUS:

10 “Dr Basson’s own testimony ran into 4 521 pages, containing what the prosecution regarded as ‘inventive spy stories’ and ‘imaginative improvisations’. His evidence frequently consisted of new factual allegations that had not been put to state witnesses during cross-examination or that differed materially from previous versions. This placed substantial and unfair burdens on the prosecution.”

Should I continue?

ADV SALUKAZANA: Continue, please, 33.

DR PRETORIUS:

20 “From 1999 to 2005, the NPA pursued the prosecution of Dr Basson across multiple legal forums and appeal processes. He was charged with murder, attempted murder, conspiracy to commit murder, fraud and the manufacturing, possession and dealing in drugs. Many of these crimes were connected to the apartheid-era chemical and biological warfare programme.”

ADV SALUKAZANA: Thank you. Could you then, in so far as the appeals are concerned, explain to us what the appeals processes you refer to there are?

DR PRETORIUS: Before the case started, Judge Hartzenberg nullified a number of the conspiracy charges where he found that the conspiracy that is done in South Africa at Speskop to murder people in Namibia is not triable by a South African court. So a number of those conspiracy charges were thrown out at that stage.

We continued with some other evidence and led some of the
10 evidence regarding those conspiracy charges. For instance, it is conspiracy to put cholera in the water supply of Windhoek in the Döbra camp. So he said the conspiracy done at Speskop to go and do that kind of thing is not triable by South African court, but we continued to present the evidence.

So, quite early in the case we also asked for the recusal of the presiding officer, because we found some animosity and that kind of thing. So we asked for the recusal, which was also denied at that stage, and then eventually there was a finding of not guilty; and then we enlisted Adv Wim Trengove. First we went to the Supreme Court
20 of Appeal. Judge Harmse denied our request for the appeal there and then we went to the Constitutional Court and Adv Wim Trengove argued for us and he was successful.

ADV SALUKAZANA: Thank you. You have covered paragraph 35 in your last statement.

COMMISSIONER KGOMO: Successful in which way?

DR PRETORIUS: It was found that the squashing of the charges where it said that the conspiracy in South Africa to commit a murder, for instance in Namibia, is triable by a South African court and those charges should not have been squashed. In that way it was successful.

COMMISSIONER KGOMO: Yes, thank you.

ADV SALUKAZANA: Do you consider the success to have any relevance to the complaint that you conducted a substandard prosecution?

10 DR PRETORIUS: No, it was not a substandard prosecution. I enlisted about eight CCB members to give direct evidence; the probabilities and the poison list, *et cetera*. No, we did not do a substandard prosecution. We tried our utmost best and the type of evidence that was presented there was proper and profound. I think this Death Flight by Mark Schmidt, that book say it is also the backbone. So no, I deny that allegation that it was a substandard prosecution.

ADV SALUKAZANA: Just to have your conclusion as recorded in the statement, could you please read paragraph 36?

20 DR PRETORIUS:

“The suggestion that the prosecution was substandard is unfounded. The evidence presented was voluminous, coherent, corroborated and meticulously prepared. The difficulties the prosecution faced arose from

erroneous dismissals of the charges by the presiding judge; a hostile attitude toward the prosecution; multiple factual errors in the judgment; and the legally constrained ability of the state to appeal on questions of fact.”

ADV SALUKAZANA: Paragraph 37?

DR PRETORIUS:

10 “Mr Cajee does not, however, explain the successful prosecution of Eugene de Kock and Ferdi Barnard or the other matters in which we were involved in, how we would have choose that.”

Can in conclude?

ADV SALUKAZANA: Yes, conclude.

DR PRETORIUS:

20 “And the prosecution team acted with diligence, professionalism and integrity. The adverse outcome was not the result of prosecutorial failure, but of judicial misdirection and errors which were subsequently confirmed, although too late, by the Constitutional Court.”

ADV SALUKAZANA: You refer to the prosecution of Eugene de Kock, Ferdi Barnard and other matters. What were those matters?

DR PRETORIUS: Ja, because I was at the Goldstone Commission and the 13 March Goldstone Report led actually to the prosecution of

Eugene de Kock. I went overseas with the witnesses, Q1, Q2 and Q3 – Chappie Klopper, Brood van Heerden and Willie, and Judge Arthur Chaskalson joined us. And when we came back for continuity purpose, I was also part of the prosecution team. The team was led by Adv Ackermann. Ferdi Barnard was a CCB member; and civil society brought his partner, Amore, on Saturday to my home and we provided witness protection, and successful prosecution was done of Ferdi Barnard by Adv Ackermann after that.

ADV SALUKAZANA: So what is the relevance to the complaint that
10 you had substandard prosecutor of the TRC cases?

DR PRETORIUS: I mean how do you distinguish that in the one case we prosecute Eugene de Kock and we are quite successful in that one and quite successful with Ferdi Barnard, but then in the other one we decide no, we do not want to have a successful prosecution there. So, it does not make sense then.

ADV SALUKAZANA: Thank you. We will turn now to the third complaint as set out in the Rule 3.3 and that is paragraph 7.3. Are you there?

DR PRETORIUS: I am there.

20 ADV SALUKAZANA: Could you read that for us, please?

DR PRETORIUS:

“Your failure to investigate his uncle matter was not due to political interference, as you claimed in the Rodrigues matter. He says: PCLU was seized with the TRC matters from 2003 and they

oversaw and dealt with these matters. Under their control, and at that stage, in my view, there was no political interference. Neither was there a lack of logistics or capacity raised as a reason for the hindrance to the investigation. It was only during the 2019 full bench hearings when the NPA made reference to political interference; this after I had raised this in my affidavit (as advised by my legal counsel). Prior to this, they were
10 silent on the matter. It was only Pikoli who made the allegation in his 2015 affidavit in the Simelane matter (paragraph 44).”

ADV SALUKAZANA: Thank you very much. Before we turn to your statement on this, are you familiar with the terms of reference of the commission?

DR PRETORIUS: Yes, I am.

ADV SALUKAZANA: What do you understand them to be looking into?

DR PRETORIUS: Attempts or any attempts made to stop the
20 investigation and the prosecution of TRC matters and whether any state organ should be held responsible for that. I can read it. I have got it in front of me, if you so want me.

ADV SALUKAZANA: I was going to ask that, please.

DR PRETORIUS: Okay.

“A Judicial Commission of Inquiry is hereby

appointed in terms of section 84(2)(f) of the Constitution of the Republic of South Africa. The commission is appointed to investigate matters of public and national interest concerning allegations regarding efforts or attempts having been made to stop the investigation or prosecution of the Truth and Reconciliation Commission Cases.”

And then in 1 it set out:

10 “The commission must, in relation to the period since 2003, enquire into, make findings, report or make recommendations concerning the following – guided by the Constitution, relevant legislation, policies and guideline:

1.1 Whether why and to what extent and by whom efforts or attempts were made to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or
20 prosecuting TRC cases.

1.2 Whether any members of the South African Police Service or the National Prosecuting Authority improperly colluded with such attempt to influence or pressure them.

1.3 Whether any action should be taken by an

organ of state, including possible further investigations to be conducted or prosecutions to be instituted, where appropriate, of persons who may have acted unlawfully by attempting to influence or pressure members of the South African Police Service or the National Prosecuting Authority to stop investigating or prosecuting TRC cases.

10 1.3.2 Members of the South African Police Service or the National Prosecuting Authority colluded with or succumbed to attempts to influence or pressure such members to stop investigating or prosecuting TRC cases; and

1.4 Finally, whether in terms of the law and fairness, the payment of any amount in constitutional damages to any persons is appropriate.”

20 ADV SALUKAZANA: So if we are looking at paragraph 7.3 of the Rule 3.3 notice, Mr Cajee’s allegation against you is that he denies that there was political interference. What do you consider the significance of that to be to the terms of reference?

DR PRETORIUS: Ja, it is totally different from his initial allegations in the Rodrigues matter. I really think the political interference is a

very, very big part of this commission's injunction. So, I mean after the evidence of Dr Silas Ramaite supporting Adv Vusi Pikoli and Anton Ackermann. And that to me, there is no question that it does relate to political interference and I stated in my affidavits. I mean I stated in my affidavits clearly that I believe that.

ADV SALUKAZANA: But does him saying it is not due to political interference not essentially take you out of the ambit of the scope of the terms of reference, because he seems to be saying it is only your incompetence and not necessarily interference that resulted in the
10 substandard prosecution of his uncle's case?

DR PRETORIUS: Ja, I hear what you are saying. Indirect a way I do not think whether the allegation is that I colluded with somebody to do a substandard prosecution in the Wouter Basson's case, not in the Imtiaz Cajee's case, because in the Imtiaz Cajee case I worked with Webber Wentzel and Adv Howard Varney and that was successful in the reopening. So, I do not follow if he says there is no political interference. It does not make sense to me.

ADV SALUKAZANA: Thank you. Can we turn now to your response to the allegation; and we want to start at paragraph 42 of your
20 statement and it is internal page 16.

DR PRETORIUS: It is page 1770, Commissioners. Okay, obviously I start with the obvious thing "I deny these allegations" once again. Can I continue?

ADV SALUKAZANA: Yes.

DR PRETORIUS:

“I was not involved in the Ahmed Timol matter before 2016.”

This is a bit of a repetition that I stated.

“I became involved only when the National Director of Public Prosecutions requested that I attend a meeting with Webber Wentzel, Adv George Bizos SC, Adv Howard Varney, Mr Frank Dutton and Mr Imtiaz Cajee on or about 16 January 2016.”

- 10 ADV SALUKAZANA: Thank you. You have already stated that this seems to be a repetition or listed as a repetition of your involvement in the Cajee matter, Timol matter, I beg your pardon. Could we then just, to avoid a repetition, start from paragraph 51, and this is the response to the complaint that you shifted your responsibilities and put the burden on him.

DR PRETORIUS: Surely, Counsel, page 1772, paragraph 51.

- 20 “I did not place any burden on Mr Cajee to investigate the matter. Where he supplied information, it was considered and processed through formal investigative channels. My understanding of prosecutorial duties is consistent with the principle in Nkadimeng – victims do not investigate crime. We still have public prosecutors, not private prosecutors.”

Can I continue?

ADV SALUKAZANA: 52, please.

DR PRETORIUS:

“I do not have direct personal evidence of political interference in any matter that I personally handled. Where I refer to political interference in relation to TRC matters, I do so on the sworn versions of those who did, including Adv Pikoli, Ackermann and Macadam.

10 52.1 I refer to the contents of and align myself with the affidavit of Adv Vusi Pikoli deposed to on 6 May 2015 and marked as TN7. A copy of this affidavit was annexed to the founding affidavit of Mr Lukhanyo Calata, marked FA22 in Nkadimeng 2.”

Can I continue?

ADV SALUKAZANA: Continue, please.

DR PRETORIUS: Thank you.

20 “52.2 I similarly refer to the supporting affidavit of Adv Anton Ackermann, marked TN8 (pages 217 to 235), signed on 7 May 2015 and attached to Mr Cajee’s statement as IAC68. A copy of this affidavit was annexed as FA8 in Nkadimeng 2.

52.3 I also refer to the contents of Mr RC Macadam’s affidavit filed in the João

Rodrigues stay of prosecution matter,
Rodrigues v NDPP [2021] 3 All SA 775
(SCA). These are attached to Mr Cajee's
statement as IAC11 and related
annexures."

ADV SALUKAZANA: Thank you. In the light of that, could we refer to these affidavits you speak of? We will go to JPP2. It is at page 1848.

DR PRETORIUS: I am there, Counsel.

10 ADV SALUKAZANA: Could you specifically go to paragraph 2.17?

COMMISSIONER KGOMO: Mr Salukazana, it will help each time, like the witness to refer to the page number, not only to the annexure.

ADV SALUKAZANA: Judge Kgomo, the problem is that when I was preparing and I used the document that had not been paginated yet.

COMMISSIONER KGOMO: Oh, I see.

ADV SALUKAZANA: So we have different documents. That is why I had asked him to announce the page number to ...[intervenes]

COMMISSIONER KGOMO: That is quite in order. It is in order.

ADV SALUKAZANA: Thank you.

20 DR PRETORIUS: Commissioner, it is 1858, 1858.

ADV SALUKAZANA: Could you read the paragraph 2.17, please?

DR PRETORIUS: "The affidavit of Adv Vusi Pikoli" is the heading, 2.17.

"The fourth respondent says that the contents of the affidavit of Adv Pikoli constitutes evidence of

some of the various steps aimed at ensuring political control over prosecutorial decisions dealing with TRC cases.”

ADV SALUKAZANA: Thank you. And then over the page, could you read 2.20?

DR PRETORIUS:

10 “I must say upfront that I do not dispute the contents of Pikoli’s affidavit upon which the fourth respondent relies. The contents of such affidavit, however, do not constitute a basis to grant a permanent stay which the applicant seeks an application and further shows that the first respondent did not abandon the intention to prosecute people such as the applicant.”

ADV SALUKAZANA: What is that you do not dispute about Mr Pikoli’s affidavit?

20 DR PRETORIUS: Well, he had a nuanced approach about how he tried to implement the new prosecutorial policy until he was at his wit’s end. And then he said: well, I need some direction now. I need direction, because this political influence on my work is improper. So, that I do not dispute. And I do not have personal knowledge of him, but I have got the utmost respect for him and I worked with him. So I believe it if he says there was improper influence in his work. That is what I say.

ADV SALUKAZANA: Certainly. Could we go then to paragraph

2.21.2, 2.21.2?

DR PRETORIUS: Commissioners, it is on page 1860.

10 “It is clear from the above quoted paragraph 8 of
Pikoli affidavit that he did take a decision to
pursue prosecutions of apartheid-era perpetrators
who had not applied for amnesty or had been
denied amnesty by the Truth and Reconciliation
Commission. Pikoli suspects that this decision
also influenced President Mbeki to suspend him.
Accordingly, not only was there political
interference in the work of the highest office of
the National Prosecuting Authority, but there was
also action taken against the highest office of the
National Prosecuting Authority for taking
prosecutorial decisions.”

ADV SALUKAZANA: Again, when you say “accordingly, not only
was there political interference in the work of the highest office of the
National Prosecuting Authority”. On what basis are you saying that?

20 DR PRETORIUS: Just repeat the question, please, Counsel, that I
just get the...

ADV SALUKAZANA: You say not only was there political
interference in the work of the highest office. On what basis are you
saying that if you never experienced it first-hand?

DR PRETORIUS: I based it on his affidavits that I learnt about.

ADV SALUKAZANA: So, in so far as any person they say that you

have previously stated those political interference, those statements were made only in relation to what Mr Pikoli and what Mr Macadam and what Mr Ackermann had said to you.

DR PRETORIUS: Exactly, Counsel, exactly. I rely on them and I believe them. Obviously I have seen; I lived through that. So I would see if Mr Ackermann was cross about he saying there is a falsification. That I have seen; if he was livid about the falsification, but I do not have personal. I rely on them and I knew there is role-players, like Wagenaar and Ackermann. I did not know of the
10 communication between Wagenaar and Ackermann at that stage. I only learnt it with this commission and the affidavits that they put in, in Nkadimeng 2.

ADV SALUKAZANA: So that is the extent of your understanding of any political interference.

DR PRETORIUS: Exactly. Ja, obviously there was also not the infrastructure at that stage where we had to prosecute people. So there was no 30 investigators or 20 prosecutors at that stage. So at that stage there was not such infrastructure and I relied on that.

ADV SALUKAZANA: Thank you. We are turning now to 7.4 of the
20 Rule 3.3 notice.

DR PRETORIUS: Should I read it?

ADV SALUKAZANA: Yes, please.

DR PRETORIUS:

“You failed to earnestly follow up on leads furnished by him stating that Macadam made no

mention of any further investigation pertaining to the leads that I had submitted. It is the transcripts of the TRC hearing, input from detainees, details of the SAP members involved in Uncle Ahmed's interrogation and photographs of his body that might have been relevant to an expert or specialist forensic pathologist. Nor was there any mention made of any further investigation that Macadam did or could have directed to obtain to either support or refute the suicide allegation. In my view, the NPA failed me dismally. Working with the NPA/DPCI, I now have a clear understanding of how investigations are presently undertaken with guidance and accountability from the prosecutor. I have found no evidence that this was done in my uncle's matter (paragraph 33)."

ADV SALUKAZANA: Thank you. This paragraph refers to Macadam. Does it mention you in any way?

20 DR PRETORIUS: No, it does not mention me in any way.

ADV SALUKAZANA: So, in so far as it may be said to implicate you; that would be incorrect.

DR PRETORIUS: Quite true.

ADV SALUKAZANA: Thank you. Chairperson, I see that it is 11:08. I do not know if we go to 11:15.

CHAIRPERSON: We will adjourn at 11:15.

ADV SALUKAZANA: Thank you, Chairperson. I might even be finished by then. Can we turn then to 7.5 of Rule 3.3?

DR PRETORIUS: Just a sec, Counsel. I am there.

ADV SALUKAZANA: Could you read that for us, please?

DR PRETORIUS:

10 “You unlawfully placed the burden of investigating his uncle’s death on me. He alleges that, contrary to the prosecutor guiding the investigator or investigation the case, the impression I got was that they placed an onus on me to investigate the matter. In the *Nkadimeng and Others v National Director of Public Prosecutions and Others* (TPD case number 32709/07), Judge Legodi in 2008 held thus at paragraph 16.2.3.3: ‘Crimes are not investigated by victims. It is the responsibility of the police and the Prosecuting Authority to ensure that cases are properly investigated and prosecuted.’”

20 ADV SALUKAZANA: Do you have any comment on that before we ...[intervenes]

DR PRETORIUS: Once again, a bit of a repetition. I think we did previously touch that. I deny that. I did not place the responsibility on him. In fact, I think my one letter say: complainant should not get too close to the investigation.

ADV SALUKAZANA: Could you turn to page JPP4? That is 1894.

DR PRETORIUS: I am there, Counsel.

ADV SALUKAZANA: This is the letter to which or list that you are talking about when you say that you indicated that you thought he was getting too close.

DR PRETORIUS: Quite correct, quite correct.

ADV SALUKAZANA: What was the reason for writing the letter to him?

DR PRETORIUS: After the inquest, Judge Mothle said there is a
10 number of things that should be done. Firstly, Rodrigues must be investigated to see if murder charges or defeating the ends of justice should be done; and then there was two witnesses – Seth Sons and one Else. They denied during these proceedings that they know of any assault by the Security Police. So they say they do not know about it. They have only read about it in the media that there were assaults by the Security Police. So they were also referred for perjury charges.

At that stage there was a reorganisation at the PCLU. The NDPP decided that the PCLU shall not prosecute these TRC cases
20 anymore. It should be referred to the regions. Like Rodrigues should be referred to the South Gauteng; and the two other cases of Seth Sons and Else should be referred to the North Gauteng ones, because that perjury related to their area of jurisdiction.

Within eight days we opened those dockets. I see to it that Ben Nel, the investigator, opened the docket relating to murder and

the two other to perjury. So within eight days those dockets were opened. And then I explained to him now it is not my prosecutorial discretion anymore. I cannot prescribe to Andrew Chauke how he should use his prosecutorial discretion and whether he should use *dolus eventualis* in prosecuting Rodrigues or I cannot prescribe to George Baloyi in the Pretoria office how he should use his prosecutorial discretion. And Mr Imtiaz Cajee kept asking me: but where is these prosecutions? Where is these prosecutions?

At that stage we were also having these accountability
10 meetings at the police. General Sylvia Ledwaba, she was quite with us and we had 15 people of CATS that is looking at these dozen investigations at that stage. So we were having these accountability meetings at the police where Webber Wentzel was sitting and we have to give account. How is the investigation on Dr Neil Aggett? How is it proceeding, *et cetera*, at that stage?

And it is in that regard where I have written that letter to him to say I have seen in my international law cases about Israel and Gaza that if the complainants get too close to the investigation, it is not a healthy situation. So in that regard I quoted and say your
20 attorneys, your lawyers are there. They can give you feedback. And that is the reason why I have written that letter.

ADV SALUKAZANA: Thank you very much.

COMMISSIONER KGOMO: You wrote a letter on; is it 10 May 2018, on page 1898.

DR PRETORIUS: 10 May 2018 on page 1898, yes, thank you,

Commissioner.

ADV SALUKAZANA: Thank you, Commissioner Kgomo. May we turn then to your statement at paragraph 54? That is under the heading: "Fourth allegation, reason for filing a supplementary affidavit in the Rodrigues matter".

DR PRETORIUS: Just give me a second to get to my... Yes, page 54, Commissioners. It is on page 1773.

ADV SALUKAZANA: Thank you. Just before you read that paragraph, what was the reason for, because we have gone through
10 the Rule 3.3 and there is not further allegation at least in so far as the notice is concerned and you being implicated or possibly being implicated is concerned. Why did you write or respond to this so-called fourth allegation?

DR PRETORIUS: I think the answer is in paragraph 54 on the very next page where I say:

20 "In paragraph 354 and 367 of his founding affidavit, Mr Lukhanyo Calata raises the questions regarding the timing and the reasons for my filing of a supplementary affidavit in the Rodrigues matter."

So that basically is in the Calata papers. They refer specifically and the courts criticised us for that supplementary affidavit and say we wanted to hide something by that. So, it is because of paragraph 354 and 367 of the Calata papers that we felt that we must answer this allegation.

ADV SALUKAZANA: Thank you. Please read paragraph 55 then where the explanation starts.

DR PRETORIUS: Okay.

10 “At the time when the affidavits were being prepared and filed in the Rodrigues matter, - it was approximately November, December 2018; there was a reorganisation within the Priority Crimes Litigation Unit. Part of the reorganisation involved a policy shift towards decentralising matters. As a result, prosecutions arising from TRC cases were to be handled by the respective provincial DPP Office, like the South Gauteng office under Adv Andrew Chauke and then also obviously the other two matters, the North Gauteng Office.”

ADV SALUKAZANA: Thank you. Chairperson, that is 11:15.

CHAIRPERSON: Yes. I think it is a convenient time to adjourn and reconvene at 11:30.

INQUIRY ADJOURNS

20 INQUIRY RESUMES

CHAIRPERSON: Thank you, Mr Salukazana.

ADV SALUKAZANA: Thank you, Chairperson. Are you at paragraph 55?

DR PRETORIUS: At 56, I think we... [intervenes]

ADV SALUKAZANA: It is 56, yes.

DR PRETORIUS: [Indistinct]

ADV SALUKAZANA: That is correct, could you read paragraph 56 for us?

DR PRETORIUS:

10 “Adv Shubnam Singh whom I had appointed in the reopened Timol inquest and other matters, ensured continuity and became personally involved in the prosecution team in South Gauteng. During this period I also experienced some health difficulties. I had been diagnosed with cancer and was receiving chemotherapy for some time.”

ADV SALUKAZANA: 57, please?

DR PRETORIUS:

20 “For the litigation involving the NPA, the Legal Affairs Division, LAD, appointed counsel for NPA officials. I worked through Adv Thobile Chita in this regard and consulted with Adv Kennedy Tsatsawane.”
Adv Chris Macadam had deposed...

It is the next page, 1775, paragraph 58:

“Adv Chris Macadam had deposed to a full affidavit which he forwarded to counsel already on 18 November 2018. However, he became unavailable to consult with counsel thereafter. On

3 December 2018, when we were already late, I received an email from Adv Thobile Chita from the Legal Affairs Division of the NPA, stating:

10 “Dear Dr Torie, kindly be advised that the state attorney informed me that counsel is not willing to confirm the affidavit that makes reference to the affidavit of Adv Macadam, who he has not consulted. It will create problems for him. As a result the state attorney is suggesting that the original draft be filed and the supplementary affidavit of Adv Macadam be filed after having consulted with counsel.”

ADV SALUKAZANA: Paragraph 60, please.

DR PRETORIUS:

20 “I was able to respond to the applicant’s argument for a permanent stay of prosecution, it was presented by Adv Jaap Cilliers, with the assistance of my counsel, because they only for most of it relied on Section 342(A) of the Criminal Procedure Act. However, after Mr Imtiaz Cajee in his answering affidavit made detailed allegations about relating to political interference, it became necessary for me to address these issues. I had no personal knowledge of the alleged interference

and therefore had to rely on the evidence of those who did, particularly Adv Macadam and Adv Pikoli.”

ADV SALUKAZANA: Paragraph 61, please?

DR PRETORIUS: Page 1776:

10 “Because senior counsel was unwilling to file an affidavit referring to Adv Macadam’s evidence without first consulting with him and because Adv Macadam was unavailable at the time and we were already pressed for time, the instruction from counsel and the state attorney was that:

61.1. My original affidavit should be filed without delay; and

61.2. Adv Macadam’s confirmatory or supplementary affidavit would be filed once counsel had been able to consult with him.”

ADV SALUKAZANA: Thank you. Paragraph 62?

DR PRETORIUS:

20 “That is the reason why I filed my original affidavit when I did and why a supplementary affidavit was later necessary. My actions were consistent with the legal advice provided to me by the Legal Affairs Division, the state attorney and senior counsel. They were procedurally driven by time constraints and consultation requirements and

were not motivated by any improper purpose.”

ADV SALUKAZANA: Okay, so the complaint that your affidavit being available from 1 November, but only being filed on 8 December and that that demonstrates some withholding of information would not be correct?

DR PRETORIUS: Exactly, counsel, that is exactly it. It is not because I tried to hide something at that stage, it was because of the legal advice that I had at that stage and I did not have personal knowledge of it, I was relying on other people’s affidavits, correct.

10 ADV SALUKAZANA: Thank you very much. Could you then just read your concluding paragraphs for us, 63, 64, 65 and 66, please?

DR PRETORIUS: Yes, I think there once again is a bit of duplication, but I will start with 63 at least, page 1776.

20 “I deny any allegation of gross dereliction of duty or lack of commitment in the discharge of my responsibilities relating to the Timol investigation. In all TRC related matters allocated to me, including the Ahmed Timol, the Aggett, Rev Chikane matter, the Smith murders matter and other matters, I applied myself diligently, professionally and in good faith in pursuit of accountability.”

I think we did go through with JPP6 already.

ADV SALUKAZANA: [Indistinct] yes.

DR PRETORIUS: So I will just finish off with 66, if you do not mind.

ADV SALUKAZANA: Sure.

DR PRETORIUS:

“I accordingly respectfully deny the allegations made against me and confirm my willingness to assist this commission further, should it so require.”

ADV SALUKAZANA: Thank you, Dr Pretorius. Chairperson, that is the evidence.

10 CHAIRPERSON: Thank you, Mr Salukazana. Ms Ntloko, any clarificatory questions?

ADV NTLOKO: Thank you, Chair, at this point we do not, but we may reserve our right to cross-examine, because we are unclear on a few things.

CHAIRPERSON: Thank you.

ADV NTLOKO: But they would not fall as a clarification.

CHAIRPERSON: Thank you. Mr Propy?

ADV PROPHY: Thank you, Chair, equally we do not have any clarification questions.

CHAIRPERSON: Thank you. Ms de Vos?

20 ADV DE VOS: Chair, Commissioners, no questions from us.

CHAIRPERSON: Thank you. Ms Moroka?

ADV MOROKA: Chair, same with Ms Ntloko, we wish to reserve our rights to apply to cross and only say that I have known the applicant when I was very, very young and we were doing very dangerous things in some commissions. Thank you, Commissioner.

CHAIRPERSON: Thank you. Mr Varney?

ADV VARNEY: Chair, there were couple of aspects that were not canvassed in the evidence in chief. So we will apply to cross-examine Adv Pretorius.

CHAIRPERSON: Thank you. Mr Semenya?

ADV SEMENYA: Chair, I am advised that the following counsel are on Teams, Adv Gwala SC, Adv Rantho.

CHAIRPERSON: Mr Gwala has been attended to by Ms Ntloko.

ADV SEMENYA: Well I am told that on what... [intervenes]

10 CHAIRPERSON: Yes.

ADV SEMENYA: [Indistinct] that I must just place on record that he... [intervenes]

CHAIRPERSON: Yes.

ADV SEMENYA: Has been following the proceedings on Teams, Adv Rikhotso and Adv Nthambeleni. Chair, I... Commissioners, I... [intervenes]

COMMISSIONER KGOMO: Just lower your...

COMMISSIONER GABRIEL: Your mic.

COMMISSIONER KGOMO: Your mic.

20 ADV SEMENYA: Yes, I say with respect this way of reserving possible cross-examination is very frustrating, because we prepare to put questions to witnesses for possibility of cross-examination to arise later. Had we known differently, we would not have made preparations that we have to repeat. I implore my colleagues, if they are of the mind that on the face of the statement of a witness a

possible cross-examination is possible, to advise us in advance.

CHAIRPERSON: Yes. Thank you. Ms Rikhotso, yes?

MR HATHORN: Madam Chair, Moray Hathorn, attorney, I am here for the Dulcie September family and if you would permit, I would like to ask Dr Pretorius some questions, what he knows about what happened, whether he... whether it ever came across his desk, the Dulcie September matter. Whether he have any knowledge of the investigation and what happened to it. I would like to put those questions and perhaps... [intervenes]

10 CHAIRPERSON: And your name?

MR HATHORN: One or two additional questions.

CHAIRPERSON: And your name?

MR HATHORN: Moray Hathorn, attorney Moray Hathorn.

CHAIRPERSON: Hathorn?

MR HATHORN: Yes. I have been here in this commission before, I made an opening statement on behalf of the family, Dulcie September family.

CHAIRPERSON: Yes. Yes, you may proceed.

20 MR HATHORN: Dr Pretorius, I just want to ask you a few questions of clarification concerning the Dulcie September... [intervenes]

CHAIRPERSON: I think raise your voice, because we cannot hear you... [intervenes]

MR HATHORN: [Indistinct]

CHAIRPERSON: From here.

MR HATHORN: I just want to ask you, Dr Pretorius, some questions

concerning the Dulcie September case.

COMMISSIONER KGOMO: Dr Pretorius, can you hear him?

CHAIRPERSON: Mr Hathorn.

DR PRETORIUS: Okay, thank you.

COMMISSIONER KGOMO: That is what matter, sorry Chair.

CHAIRPERSON: Your questions should relate to the evidence that has been presented before us, those are the clarificatory questions that you are permitted to put to the witness. Any other matter that you wish to put to him that does not relate to the evidence that he has presented in chief, may be done in cross-examination.

MR HATHORN: Madam Chair, I understand. We will then reserve the right to bring an application to cross-examine Dr Pretorius...
[intervenes]

CHAIRPERSON: Yes.

MR HATHORN: [Indistinct]

CHAIRPERSON: Yes.

MR HATHORN: Thank you.

CHAIRPERSON: Thank you.

MR HATHORN: Thank you very much.

20 CHAIRPERSON: Counsel, I think we are aware that we are on a tight rope when it comes to our time limit, we have been granted an extension but on the firm understanding that we should have completed our work and have written our report on 18 December. I think the request that has been made by the evidence leaders that if counsel is aware that on the basis of the evidence, of the statement

that has been filed on behalf of the intended witness, the intent to put questions of cross-examination to a witness, they must please indicate to the evidence leaders in advance. So that that can be streamlined accordingly.

ADV MOROKA: May I respond?

CHAIRPERSON: Yes, you may.

ADV MOROKA: We do appreciate what Mr Semenya has raised ...[indistinct] by some parties is that the answers that are elicited from the witness, from the statement and liberation, are not anticipated, we
10 will try our best, but sometimes it is not anticipated.

CHAIRPERSON: Yes.

ADV MOROKA: And therefore we have to take a view. Sometimes we then do not apply for cross-examination.

CHAIRPERSON: Yes.

ADV MOROKA: But we do, in all fairness need to be given a chance to examine what we have heard.

CHAIRPERSON: Yes.

ADV MOROKA: Thank you.

CHAIRPERSON: Adv Pretorius, we thank you for having come to
20 give evidence before this commission. As you have heard, there is an intention to bring an application for your cross-examination, in which case you will be expected to return to the commission for such cross-examination. But for now you are excused as a witness.

DR PRETORIUS: Thank you, Chairperson.

CHAIRPERSON: Thank you. These proceedings are adjourned until

tomorrow at 10:00. Thank you, Mr Salukazana.

INQUIRY ADJOURNS UNTIL 19 MAY 2026

CERTIFICATE OF VERACITY

I, the undersigned, hereby certify that **as far as it is audible**, the foregoing is a true and correct transcript of the digitally recorded proceedings in the matter of:

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