RealTime Transcriptions

TRANSCRIPTION OF THE

# **COMMISSION OF INQUIRY**

# MARIKANA

# **BEFORE TRIBUNAL**

THE HONOURABLE MR JUSTICE FARLAM (RETIRED) - CHAIRPERSON MR TOKOTA SC MS HEMRAJ SC

# HELD ON

DAY 258 18 JULY 2014 PAGES 32571 TO 32640



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# Marikana Commission of Inquiry

	Page 32571		Page 32573
1	[PROCEEDINGS ON 18 JULY 2014]	1	MR X: Morning, Sir. I am greeting you.
2	[09:06] CHAIRPERSON: The Commission resumes. Mr	2	MR NTSEBEZA SC: I want us to start at
3	Gumbi, your light is on. I understand you came to see me	3	that part of the Xhosa language. Yesterday you said you
4	in chambers but I hadn't arrived yet, to say that you had	4	are from the Qaukeni area. Is that so? Is that so?
5	asked a question on behalf of, in respect of the Fundi	5	MR X: Yes, Sir.
6	family was a slip of the tongue, you didn't intend to say	6	MR NTSEBEZA SC: Is that from King
7	Fundi. I must tell you that you didn't have to apologise.	7	Mpondombini Sigcau, is that where you come from?
8	It was obvious to us it was a slip of the tongue. We were	8	MR X: Yes, Sir.
9	following the questioning. You know for whom you appear	9	CHAIRPERSON: Mr Ntsebeza, I take it
10	and whom you don't appear. So no apology is required.	10	you're not going to narrow the focus much more. I don't
11	Thank you for coming to tender an apology, but one wasn't	11	mind you asking who his king is because that king has a
12	necessary. You came with Mr Tip, who appears for Mrs	12	couple of million subjects, I believe.
13	Fundi, and I take it he didn't take offence that you had	13	MR NTSEBEZA SC: I know.
14	the slip of the tongue either. Is that right, Mr Tip?	14	CHAIRPERSON: But the more particularised
15	MR TIP SC: That is absolutely correct,	15	the questions become, the more I'll be inclined to disallow
16	Judge.	16	them. So bear that in mind.
17	CHAIRPERSON: Don't worry about it. It's	17	MR NTSEBEZA SC: Yes, Mr Chairman, I'll
18	not a cause for concern at all. We appreciated immediately	18	be careful not to make the whole arrangement about him
19	what was happening and we didn't want to embarrass you by	19	being Mr X neutral. That is my name, Ntsebeza, my surname.
20	saying this to you obviously, it was obviously a slip of	20	CHAIRPERSON: I'm sorry –
21	the tongue, but quite in order.	21	MR MPOFU: No, I –
22	MR GUMBI: Yes, Chairperson. We wanted	22	CHAIRPERSON: I'm sorry, Mr Mpofu,
23	to correct the record specifically on that particular	23	forgive me. Mr Ntsebeza, did you ask him his name?
24	aspect. It was not my deliberate intention to undermine my	24	MR NTSEBEZA SC: No, Mr Chairman, I just
25	senior colleague Mr Tip on that one.	25	said my name is Ntsebeza. I'm telling him my name.
	Page 32572		Page 32574
1	Page 32572 CHAIRPERSON: Yes, well it's now on	1	Page 32574 CHAIRPERSON: Oh well, I have no problem
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1	obviously is covered by the order –	1	MR X: I do, Sir.
2	MR NTSEBEZA SC: Mr Chairman, I have a	2	MR NTSEBEZA SC: Even if a person is from
3	problem with that. All the time just when the families'	3	Mqanduli, Orodale or Bomvana, even if a person is from
4	representative is beginning a cross-examination of Mr X	4	Bizana or Flagstaff, even if a person is from Cala, where I
5	there is this requirement that there should be proof that	5	was born, if it's people who speak isiXhosa language there
6	people are family members.	6	is no possibility of them misunderstanding one another.
7	CHAIRPERSON: This has been the	7	You agree with me there?
8	requirement from the very beginning. The order was that	8	MR X: I understand you, Sir.
9	only parties would be entitled to enter, and I was informed	9	MR NTSEBEZA SC: You see the people
10	that arrangements were in place where people could prove	10	seated in front at the Chairperson, the lady from KZN and
11	their identity as parties before they could be admitted,	11	the short gentleman, that is Mr Tokota. Mr Tokota
12	and it was discovered yesterday that there were a number of	12	understands Xhosa. Even if he comes from the area of East
13	people in the chamber who didn't comply with that, who	13	London, the people known there as Ndlambes, and they call
14	weren't parties, and who therefore had to be in the	14	us Amatlaleka. Where I'm coming to is the following; he
15	overflow room and that was the problem. I don't see that	15	will not miss what you are saying because you're Mpondo and
16	there can be any objection to enforcing the order I made.	16	he is Ndlambe. You do understand me there, not so?
17	The fact that it wasn't enforced yesterday doesn't mean it	17	MR X: If you could please ask the
18	doesn't have to be enforced today.	18	question again, Sir.
19	MR NTSEBEZA SC: Mr Chairman, I'm at a	19	MR NTSEBEZA SC: Mr Tokota is from East
20	loss for words because it's not just a question of	20	London, he speaks Xhosa. You understand?
21	yesterday. Ever since the arrangement started this house	21	MR X: Yes, Sir.
22	has been full of people and people were quite conscious of	22	MR NTSEBEZA SC: You realise that even if
23	what your ruling had been relative to who is allowed to be	23	you speak Mpondo he understands you because we all speak
24	here when Mr X is testifying. For me the coincidence, you	24	Xhosa, not so?
25	know, is quite worrying, but –	25	MR X: Yes, Sir.
1	Page 32576 CHAIRPERSON: I'm sorry Mr Ntsebeza as	1	Page 32578
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		T	
1	Page 32579 be blocked from coming in here, and more importantly, and	1	Page 32581 the past the order wasn't enforced and it wasn't
2	without repeating what Mr Ntsebeza said, the irony is the	2	appreciated that that was the case.
3	fact that they have been allowed in the hall for the past	3	MR MPOFU: I'll try again, Chairperson.
4	six or seven days of Mr X's evidence and it is now the	4	These are people, as I say, the people who are out there
5	portion from, this is the portion that they have an	5	are people who are either my clients directly in the sense
6	interest in that is starting where the families and the	6	that they were injured or arrested, or who are relatives of
7	injured and AMCU are the ones who are doing the cross-	7	people who fall into that category. So the reason that
8	examination, and the fact that they are, only now that they	8	they are here is not for some casual incident. They are
9	are being barred. So they see it as a sinister motive,	9	either directly parties or in a broader sense of the word
10	which I assured them it was not, Chairperson, and I	10	representatives of parties, and they are only 32 and
11	explained the whole thing about the ruling, but the	11	they've been here before on that same basis, and what we
12	situation is that they're now sitting outside and they	12	don't understand is why only today that they are being
13	would like to come in.	13	blocked.
14	CHAIRPERSON: Yes, have you finished, Mr	14	So I understand what the Chairperson says. I'm
15	Mpofu? Well, as you say you explained to them the ruling.	15	saying on the basis of the fact that they are parties, or
16	The ruling was that parties could come in, that is to say	16	related to parties, they should be allowed in, in any
17	the injured and arrested persons could come in, your	17	event. But I'm also saying that whatever purpose for
18	clients, and the representatives of the families, the	18	barring them was before, it has no actual effect now.
19	widows who had been in attendance since we started could	19	CHAIRPERSON: I'm afraid you're not
20	come in as well because they were parties. But it was only	20	understanding me, Mr Mpofu. Insofar as the people
21	discovered yesterday that people had been allowed into the	21	concerned are your clients, insofar as they are injured and
22	chamber who weren't covered by the order and weren't	22	arrested persons they're entitled to be in the chamber and
23	allowed by the order. That's what happened.	23	no one can keep them out. They have a right to be here.
24	But I don't understand the problem because if	24	So I'm not concerned with that.
25	they go to the overflow room there is a television link-up;	25	There are other people here who have no right to
1	Page 32580		Page 32582
1	they will be able to see what's going on in the chamber.	1	be here, but their reasonable needs are catered for because
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1	chamber.	1	[COMMISSION ADJOURNS COMMISSION RESUMES]
2	CHAIRPERSON: Well, obviously they're	2	[10:17] CHAIRPERSON: The Commission resumes. We
3	entitled to be here and no one should keep them out.	3	took longer than five minutes for two reasons. Firstly we
4	MR MPOFU: That's the –	4	had a full discussion with the respective parties as to
5	CHAIRPERSON: We are only concerned with	5	what we need to do in the situation in which we find
6	people who are not parties in the strict sense.	6	ourselves. And the secondly the police required extra time
7	MR MPOFU: That's exactly what I – that's	7	to read certain material that had only been presented to
8	why I was saying there's a misunderstanding between us,	8	them yesterday to Mr X so he could understand. That was
9	Chairperson, because they –	9	why we took the first comfort break instead of just a five
10	CHAIRPERSON: Your clients are all males,	10	minute adjournment. What we decided is that pro tem which
11	anyway. The injured and arrested persons are all male	11	means for today only we'll allowed people who were in the
12	persons, all males.	12	chamber yesterday, who should not have been in the chamber
13	MR MPOFU: Well, Chairperson, that then	13	yesterday, who were in the chamber contrary to the order
14	becomes a matter of interpretation. That's why I was	14	that was made, to remain in the chamber today. It is to be
15	saying they are either clients. The ones who are female,	15	understood that from Monday onwards the order must be
16	if they're here it's somebody's brother is maimed, or	16	complied with. It may be that in certain aspects the order
17	sister is here, then are they a party or not a party?	17	may have to be changed, it may also be that they will not
18	CHAIRPERSON: They're obviously not	18	be changed. That's a matter that I don't have to deal with
19	parties.	19	now.
20	MR MPOFU: Well, they are. They're	20	I want to stress we must proceed with the
21	representatives of a party, Chairperson.	21	evidence with a minimum amount of interruption and
22	CHAIRPERSON: A party is a party	22	distraction so that we can perform the task we've been
23	[inaudible, speaking simultaneously with interpreter]	23	called upon to do in the time available to us. But there's
24	MR MPOFU: Well, they're certainly not	24	one thing I want to say before we start, restart and that
25	members of the public in the sense.	25	is that I expect people who are in the chamber to remain
	Page 32584		Page 32586
1	Page 32584 CHAIRPERSON: No, that's –	1	Page 32586 silent at all times while the evidence is being presented.
2	CHAIRPERSON: No, that's – MR MPOFU: That's the real issue, ja.	1 2	silent at all times while the evidence is being presented. I don't expect any comments to be made, any behaviour of a
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1	Page 32587 those who were arrested and accused in October of 2012.	1	Page 32589 approached by any other person who says since you are
2	MR X: We were not arrested in October or	2	coming out with all the truth now the law is going to take
3	charged with the crime of murder or any other charge during	3	its course and we will thereafter come to you and charge
4	October of 2012. I was not found as yet.	4	you?
5	MR NTSEBEZA SC: Yes, is that you were	5	MR X: No nobody has said so, but what I
6	not arrested by the police, you surrendered, you went	6	do know is that if one has done wrong he is guilty of a
7	yourself to the police, not so?	7	crime.
8	MR X: Correct, Sir.	8	MR NTSEBEZA SC: And also if you had done
9	MR NTSEBEZA SC: Between the dates the	9	wrong like all the others the police will charge you to
10	26th of January and the 29th of January 2013 you went to the	10	appear in courts like all other people. Do you agree with
11	police and made what is known as warning statements. Do	11	me that if you have done such things you should have
12	you remember that?	12	already appeared before court?
13	MR X: Yes I do.	13	MR X: Yes, it is so.
14	MR NTSEBEZA SC: You made seven	14	MR NTSEBEZA SC: What confuses me is that
15	statements. Do you still remember that or not?	15	after you had made all these confessions there's not been
16	MR X: I do remember that.	16	one policeman or a prosecutor who says you see now the
17	MR NTSEBEZA SC: Now, Mr Chairman, for	17	reasons for your not being charged for such serious things
18	the record those warning statements would be AAAA2 to	18	about which you have confessed, this and that – does that
19	AAAA8. According to those statements you made the	19	not worry you? Does it not surprise you that this has not
20	agreement, you made the confession that you were involved	20	happened?
21	in the murder of people, in the killing of people and	21	MR X: No, it does not.
22	attempted murders of people. Also intimidation of people.	22	MR NTSEBEZA SC: I will come back to this
23	Is it so?	23	later. Did you ever say to any person that if – did you
24	MR X: Yes, it is so.	24	ever ask any person after giving evidence about all these
25	MR NTSEBEZA SC: According to my	25	serious allegations, all these serious crimes, will I then
20		20	serious diregations, dir trese serious entres, wir r tren
	D 00500		
1	Page 32588 knowledge and how I know it you were not charged with any	1	Page 32590 be charged with these things?
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	Page 32591		Page 32593
1	MR NTSEBEZA SC: And you said the reason	1	crimes were committed. You remember that?
2	you did so is because you feel pained about all these	2	MR X: I do remember, Sir.
3	serious measures that you committed.	3	MR NTSEBEZA SC: And you said the reason
4	MR X: Yes, Sir.	4	was they knew where you come from.
5	MR NTSEBEZA SC: And again yesterday -	5	MR X: Yes, Sir.
6	before I go to that there's one thing I want to tell you.	6	MR NTSEBEZA SC: That is why you were
7	In my 30 years experience working with the law and during	7	doubtful about referring to them by their names. Did you
8	that time I've met quite a number of people that were Mr Xs	8	want the chairperson and the commission to believe that you
9	in those cases and particularly during the cases that –	9	are in danger?
10	when we were facing cases of terrorism, I'm going to put	10	MR X: I don't understand that, Sir.
11	this thing in this manner to you. People like you usually	11	MR NTSEBEZA SC: Yesterday you said I
12	give evidence because they've promised something or that	12	can't answer that question because there are people from
13	they think there is something they will gain as a result of	13	that area - you said you were reluctant to answer that
14	giving that evidence. Do you fall in that category of	14	question because there are people there that you had a
15	people? Because to come and give false evidence about	15	difficulty with.
16	others that you did this and this and this because of that	16	MR X: I remember that, yes.
17	belief.	17	MR NTSEBEZA SC: The chairperson insisted
18	MR X: No there's nothing I hope to gain.	18	that how do you know that thing come out - do you remember
19	I have not been promised anything.	19	that?
20	MR NTSEBEZA SC: As this gentleman, Mr	20	MR X: Yes, I do.
21	Budlender said yesterday that you involve yourself in	21	MR NTSEBEZA SC: Now the question is did
22	particular things where there is evidence to show that you	22	you believe that your life is in danger? Did you want us
23	were totally not involved in. Do you remember him saying	23	to believe that your life is in danger?
24	so to you yesterday?	24	MR X: Yes, it is so.
25	MR X: I do, Sir.	25	MR NTSEBEZA SC: Now that brings me to
	Page 32592		Page 32594
1	MR NTSEBEZA SC: I am also going to, at	1	the next question. As you are there where you are now
2	MR NTSEBEZA SC: I am also going to, at the end of this matter going to put it that you have	2	the next question. As you are there where you are now being referred to as Mr X and we cannot say you are a
2 3	MR NTSEBEZA SC: I am also going to, at the end of this matter going to put it that you have involved yourself in quite a number of things where - from	2 3	the next question. As you are there where you are now being referred to as Mr X and we cannot say you are a person from that area from Qaukeni have you been told by
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2 3 4 5	MR NTSEBEZA SC: I am also going to, at the end of this matter going to put it that you have involved yourself in quite a number of things where - from some other evidence that you were not at the places where you say you had been.	2 3 4 5	the next question. As you are there where you are now being referred to as Mr X and we cannot say you are a person from that area from Qaukeni have you been told by the police what would be the ultimate, what is going to happen to you after you had given evidence?
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	Page 32595		Page 32597
1	according to my recollection what he said.	1	I'm not very clear what he said.
2	MR NTSEBEZA SC: Let me ask the question.	2	MR X: I'm scared because it is alleged
3	Have you been told what is going to happen after you have	3	that it is the police at Marikana who killed us.
4	given your evidence in this commission? Will you be under	4	MR NTSEBEZA SC: Young man, you see, what
5	the protection that you're being given by the police whilst	5	you are now saying doesn't really – it's not very clear.
6	giving evidence?	6	Let me tell you in this manner. The people that are being
7	MR X: I have not been told.	7	charged were charged in 2012 before, even before you went
8	MR NTSEBEZA SC: What do you think will	8	to the police. The police knew when they charged those
9	happen? What do you think is going to happen?	9	people that they were dependent on evidence that is not
10	MR X: What I'm thinking is that I will	10	your evidence against the people who were being charged.
11	also be charged because I also killed.	11	Do you understand? In other words the police even if you
12	MR NTSEBEZA SC: When I asked you a few	12	were not there, the police already had the evidence against
13	minutes ago you said you were scared that your life could	13	the people that they had already charged. You understand
14	be in danger. You remember saying that?	14	that?
15	MR X: I remember, Sir.	15	MR X: I don't know that evidence but I
16	MR NTSEBEZA SC: What makes you think	16	understand you.
17	your life is in danger?	17	MR NTSEBEZA SC: I'm telling you if that
18	MR X: Because I mentioned everything	18	is not the position Mr Mathibedi would've said so to me
19	that we did at Marikana, everything that we did there.	19	already.
20	MR NTSEBEZA SC: Who is it that you are	20	MR MATHIBEDI SC: Well, the position is
21	scared of? Who will do something to you that will endanger	21	that there's nothing to justify that the police had all the
22	your life?	22	information that they required, that the investigation –
23	MR X: The person or people that I have	23	MR NTSEBEZA SC: The main point, Mr
24	involved about everything that we did wrong.	24	Chair, to the extent that this might be an implication of
25	CHAIRPERSON: Mr Mahlangu, I understand	25	my [inaudible]. The police have sufficient evidence on the
			5
	Page 32596		0
1	that he said when you interpreted, "I mentioned everything	1	Page 32598 basis of which they could charge all the people who he has
2	that he said when you interpreted, "I mentioned everything that we did," or words to that affect. He added "to the	2	basis of which they could charge all the people who he has implicated later on in his statements and that's the only
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2 3 4	that he said when you interpreted, "I mentioned everything that we did," or words to that affect. He added "to the police" so in other words I told the police about everything we did at Marikana. Is that correct?	2 3 4	basis of which they could charge all the people who he has implicated later on in his statements and that's the only point I'm making. CHAIRPERSON: Two points. We don't know
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		1	
1	Page 32599 is – I don't know, do you want to say something to that?	1	Page 32601 there is something you are going to gain, something that
2	MR X: Yes, I do want to talk, Sir.	2	you will get.
2	MR MAHLANGU: Mr Chairperson is now	2	MR MATHIBEDI SC: Sorry, Chair –
4	reciting his praise songs. I am not turning – in other	4	CHAIRPERSON: Mr Mathibedi, your light –
4 5	words he recited his praises and at the end of the whole	4 5	MR MATHIBEDI SC: - before the witness
	thing he said I am not turning on what I've already said.		
6		6	answers, what is the basis of the proposition that's being
7	CHAIRPERSON: What in fact did you mean	7	put to the witness? MR NTSEBEZA SC: Well, Mr Chairman, I
8	by "he recited his praise songs"?	8 9	
9	MR NTSEBEZA SC: Mr Chairman, he was, as		will argue that it is the oddest thing that a person who
10	Mr Tokota will also confirm, the witness out of turn – I	10	has committed such serious crimes, who has made these kinds
11	think the point he wants to make because at the end he says	11	of confessions to those crimes, that he has not been
12	I am from - I don't, I will not go back on anything that	12	charged, that he says he has not been told anything, it can
13	I've said. Now, what he was saying was recalling his clan	13	only be, that's the basis, it is a matter of fact [speaking
14	names where you would say I'm so and so and then he will go	14	simultaneously with interpreter] but he fears for his life.
15	and praise himself by saying I am not only – if I were to	15	CHAIRPERSON: I would have thought the
16	say I must do my own self praising I would [African	16	question could perhaps more appropriately be put on the
17	language] you know, that kind of thing. That's what he was	17 10	basis that not as an assertion that you are going to gain
18	saying. It was not an answer to any of my questions.	18 19	something, but that you must be expecting a gain of some –
19	MR MAHLANGU: If I may further explain to		you put it as a direct statement, it will happen. That's
20 21	you – CHAIRPERSON: Yes, please, Mr Mahlangu.	20	the objection. The objection I think is correct, but if
		21	you could reformulate the question you may be able to put
22 23	I didn't understand what you interpreted. Maybe you	22 23	the thrust of the point you make, the basis of the point to the witness without incurring Mr Mathibedi's objection.
	interpreted it literally but that's why I asked the witness	23 24	MR NTSEBEZA SC: Thank you very much.
24 25	what he meant by it. Perhaps you can give some explanation because I'm at a disadvantage here obviously.	24 25	Let me put it in this manner to avoid any complaints. The
25	because i in at a disadvantage nere obviously.	25	Let me put it in this manner to avoid any complaints. The
	Page 32600		Page 32602
1	Page 32600 MR MAHLANGU: Yes, Sir. The – I wouldn't	1	Page 32602 actual reason why you decided to come and give evidence in
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2	MR MAHLANGU: Yes, Sir. The – I wouldn't say all but all the black tribes of South Africa have got	2	actual reason why you decided to come and give evidence in this Commission is because you have that belief that there
2 3	MR MAHLANGU: Yes, Sir. The – I wouldn't say all but all the black tribes of South Africa have got clan names and each and every clan name says how brave	2 3	actual reason why you decided to come and give evidence in this Commission is because you have that belief that there is something to gain from it, either that you will not be
2 3 4	MR MAHLANGU: Yes, Sir. The – I wouldn't say all but all the black tribes of South Africa have got clan names and each and every clan name says how brave those people are. He was actually singing his clan names,	2 3 4	actual reason why you decided to come and give evidence in this Commission is because you have that belief that there is something to gain from it, either that you will not be charged with crimes, or else that you are going to be, you
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	Page 32603		Page 32605
1	Commission.	1	will die; there is no way he will come back alive." Yes,
2	MR NTSEBEZA SC: No, no, no, no –	2	and your mother says, "There is no way he can come back
3	MR MATHIBEDI SC: No, Chair, the witness	3	here and think he will live a normal live again." On this
4	said some people went to his home and told him that they	4	next page, "Someone asked me if I had heard what this Mr X
5	are lawyers –	5	has had to say. She, the neighbour, said she recognised
6	MR NTSEBEZA SC: From the Commission.	6	his voice and she told me the things that he has been
7	MR MAHLANGU: That they are lawyers from	7	saying. Everyone seems to know who he is. She also told
8	the Commission?	8	me that there might be people who want to hurt us. What
9	MR NTSEBEZA SC: Yes.	9	have we done? We have never been to Johannesburg. I don't
10	MR MATHIBEDI SC: That's correct.	10	even know what happened there or what is he saying."
11	MR X: There's one who said he knows the	11	And then almost halfway down the page she says,
12	names of the people that arrived at my home, that I should	12	"I last saw him 2012 and he was talking about other miners
13	give them his number.	13	not being happy about him staying a National Union of
14	MR NTSEBEZA SC: What I'm asking you is	14	Mineworkers member. He said they threatened him because he
15	if you know.	15	would not join the new union. That's when he disappeared."
16	MR X: I'm saying yes, I'm aware of this.	16	She then says, "The day he returns he's a dead man. People
17	MR NTSEBEZA SC: Now I believe that the	17	here are not happy that he's doing this. What the police
18	article can be put up. I don't know whether it's a new	18	did to those miners was wrong and he's now testifying for
19	exhibit.	19	them. It doesn't matter if these miners went to sangomas
20	CHAIRPERSON: Before you move on to the	20	or whatever, the police had no right to gun down so many
21	article I think we should take a five-minute break at this	21	people. How many police officers died that way?" And then
22	stage. Five minutes means five minutes.	22	there's, it was 34 to zero.
23	[COMMISSION ADJOURNS COMMISSION RESUMES]	23	Then towards the end of that page, "The last
24	[11:11] CHAIRPERSON: The Commission resumes, but	24 25	Christmas we were with him was probably two years ago and
25	the microphone is off at the other – oh, something is	25	he brought gifts for everyone. That's how he has always
	Page 32604		Page 32606
1	Page 32604 happening on the other side. When it comes back on again	1	Page 32606 been. That's the kind of man he was." And then on the
1 2	happening on the other side. When it comes back on again and the microphone is working, would you please remind him	1 2	5
	happening on the other side. When it comes back on again		been. That's the kind of man he was." And then on the
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1	Page 32607		Page 32609
	here and there.	1	that when one looks at your situation, you told the police
2	MR X: Yes, this appears in the	2	that you committed heinous crimes, but you have never been
3	newspapers. Yes, I have read the newspaper.	3	charged by the police for those crimes.
4	MR NTSEBEZA SC: So this is not something	4	CHAIRPERSON: I'm sorry, Mr Interpreter,
5	new, you read about this in the newspaper?	5	I'm told that you haven't interpreted everything that's
6	MR X: Yes, this does not surprise me. I	6	been said. I know it's difficult for you sometimes, you're
7	know about it.	7	interrupted while you're interpreting, but I'm told there
8	MR NTSEBEZA SC: Yes. Just [speaking	8	were some things that you didn't interpret. I don't know
9	simultaneously with interpreter] you read about it?	9	what they were, but the comment before the question.
10	MR X: Yes, I did.	10	COMMISSIONER TOKOTA: No, no, it was not
11	MR NTSEBEZA SC: So we are in agreement	11	a comment. He was about to interpret it when he said
12	that your mother has heard about what is said in this	12	"Yihasoma." That is the only part he did not interpret.
13	article?	13	You interrupted when he was about to interpret.
14	MR X: Yes.	14	CHAIRPERSON: It means?
15	MR NTSEBEZA SC: She is a Christian lady?	15	MR NTSEBEZA SC: You do speak English.
16	Or she's the mother that you love? You love your mother?	16	COMMISSIONER TOKOTA: You can speak
17	MR X: Yes, Sir.	17	English.
18	MR NTSEBEZA SC: I'm sure if you had a	18	MR QGIRANA: Yes.
19	way you would avoid, do everything to avoid that you put	19	MR NTSEBEZA SC: Out of order –
20	your mother in something that will hurt her or put her in a	20	MR X: Yes, I do.
21	predicament.	21	MR NTSEBEZA SC: You are not that blank
22	MR X: Please repeat the question.	22	because the City Press is also written in English. Is that
23	MR NTSEBEZA SC: I'm saying you'll do	23	not so?
24	everything in order not to hurt your mother. Is that not	24	MR X: Yes, Sir.
25	so?	25	MR NTSEBEZA SC: Now the second point is
1	Page 32608		Page 32610
1	MR X: Yes, Sir.	1	that you believe that you are putting your life in danger
2	CHAIRPERSON: Can I ask you a question	2	by coming to this Commission and give evidence. Is that
3 4	about something you dealt with a moment ago? Did you read	3	not so? MR X: Yes, Sir.
4 5	this article in the City Press? MR X: Yes, there is a newspaper that I	4	
5	MR X: Yes, there is a newspaper that I	F	
4	left at home that I saw that looks like this	5	MR NTSEBEZA SC: And your mother back
6	left at home that I saw that looks like this.	6	MR NTSEBEZA SC: And your mother back home also has that belief. As we see in the newspaper,
7	CHAIRPERSON: It was a City Press	6 7	MR NTSEBEZA SC: And your mother back home also has that belief. As we see in the newspaper, this is troubling her.
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7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	CHAIRPERSON:       It was a City Press         newspaper, was it?       MR X:       Yes, Sir.         MR NTSEBEZA SC:       Yes, now you are         confirming what you said earlier on to me, which Mr Chair       did not hear clearly. You told me that you read this         article.       CHAIRPERSON:       Do you read the City Press         every week?       MR QGIRANA:       Excuse me, Chair?         CHAIRPERSON:       Do you read the City Press         every week?       MR X:       I sometimes buy it, not all the         time but sometimes.       MR NTSEBEZA SC:       Seems it was yesterday,         you remember you said that thing is out of order. You       Seems it was yesterday,	6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	MR NTSEBEZA SC: And your mother back home also has that belief. As we see in the newspaper, this is troubling her. MR X: It was, yes, it does. MR NTSEBEZA SC: Now I'm not going to repeat what I've said, but we are going to argue at the end to this Commission and the other Commissioners that this person is putting his life in danger, worrying his mother, because he believes there is a gain at the end for him. You will gain something out of this. Is there something you wanted to say? CHAIRPERSON: Mr Interpreter – MR X: No. No Sir, it's no such thing. CHAIRPERSON: I think he has answered but I wanted to state that in fairness it should have been put to the witness what is it that he was going to gain. CHAIRPERSON: That sounds like a valid

	Page 32611		Page 32613
1	be that he believes that if he testifies here he will not	1	if that is the reason the fact that you say you are telling
2	be charged with those persons who have been charged with	2	the truth you will not be charged, as Mr Mathibedi wants to
3	the crimes to which he has confessed, and that's a benefit.	3	know what was the benefit to you? Do we understand each
4	CHAIRPERSON: Mr Mathibedi?	4	other?
5	MR MATHIBEDI SC: Chairperson,	5	MR X: I will be charged because I
6	[inaudible] wrong. The fact that a warning statement was	6	killed, I acted.
7	taken from the witness, it means that he was charged but he	7	MR NTSEBEZA SC: No, Mr X, what you're
8	was not brought before court. He was not prosecuted. I	8	saying now should correspond with what you said earlier on.
9	think there should be a clear line in between the two,	9	MR X: Can you repeat the question, Sir?
10	Chair.	10	MR NTSEBEZA SC: I asked you this morning
11	MR NTSEBEZA SC: The witness has not been	11	whether you know of a reason why is that you have not been
12	charged, Mr Chairman. My learned friend knows it. I don't	12	charged and you answered and said it is because you are
13	want Mr Pretorius to testify, but he will confirm and I	13	telling the truth. Do you remember that? Do you remember
14	would have expected that he'd instructed his senior counsel	14	saying that?
15	to that effect, that this man has not been charged.	15	MR X: Yes I do.
16	CHAIRPERSON: The standing rule of the	16	MR NTSEBEZA SC: Now that is one of the
17	position, the legal position is that the fact that a	17	reasons, or that is one of the benefits that you will get.
18	warning statement is taken indicates that the police	18	If you testify in this Commission, that you told the truth
19	suspect that a person may well be guilty of a crime.	19	-
20	[11:31] Which is why we give them a warning, but it	20	MR X: That is not so, Sir.
21	doesn't follow that he's been charged. It would depend	21	MR NTSEBEZA SC: We will argue about that
22	upon the statements he makes and so forth, but it doesn't	22	later I just wanted to put it to you so that you know where
23	follow automatically from the fact that a warning statement	23	I'm going. We look on day, 145 T16020 line 16 to 16021
24	has been made that a person has been charged. It very	24	line 3. Here I was asking General Mpembe about what was
25	often happens that the two coincide, but it doesn't follow	25	happening along the railway line on the 13th. I thoroughly
	Page 32612		Page 32614
1	Page 32612 automatically. So that's my understanding. But if he's	1	Page 32614 asked General Mpembe whether these young men when you were
1 2	6	1 2	0
	automatically. So that's my understanding. But if he's		asked General Mpembe whether these young men when you were
2	automatically. So that's my understanding. But if he's being charged of course, then he gets 48 hours before he	2	asked General Mpembe whether these young men when you were talking to them there show any respect to you. Not just
2 3	automatically. So that's my understanding. But if he's being charged of course, then he gets 48 hours before he can appear in court and all sorts of things. So perhaps	2 3	asked General Mpembe whether these young men when you were talking to them there show any respect to you. Not just respect, but the utmost respect as I put it in English.
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1	Page 32615	1	Page 32617
1	this part in General Mpembe's evidence and say Mr X can say	1	you putting? I don't see it on the screen.
2	what he's saying but General Mpembe himself is saying these	2	MR NTSEBEZA SC: It's paragraph 10, page
3	young men along the railway line showed me the necessary	3	6.
4	respect. Now can you please go to exhibit AAAA1? That is	4	CHAIRPERSON: It's a long paragraph and
5	your first statement you made in February 2013. And	5	it's the – which line, how does the line begin that you
6	paragraph 10 of this statement –	6	want to refer the witness to?
7	CHAIRPERSON: Mr Ntsebeza, I was	7	MR NTSEBEZA SC: It's after instructions
8	proposing to take the tea adjournment at quarter to twelve.	8	from the sangoma.
9	The witness looks to me that he's a bit tired now and in	9	MR MATHIBEDI SC: The fourth line from
10	any event we've got on the screen that handwritten version	10	the bottom, Mr Chair.
11	of the statement. May I suggest we take the tea	11	CHAIRPERSON: "He told us not to wash for
12	adjournment now, we arrange for the typed version of the	12	seven days."
13	statement to be on the screen, the witness can also	13	MR NTSEBEZA SC: Yes.
14	presumably at the location where he is also have a cup of	14	CHAIRPERSON: "Or to sleep with women or
15	tea. And I'm sure we'll all be much refreshed when you	15	ladies." I see there's a distinction between the two.
16	continue at 12 o'clock. My calculations, if I take half an	16	MR NTSEBEZA SC: "Ladies, you should not
17	hour off for the mini crisis as Mr Mpofu described it,	17	sleep with ladies or women."
18	you've had about two hours, you've got two and a half, so	18	MR X: We were not to sleep with women
19	when we resume you'll have about half an hour by my	19	and not wash for seven days.
20	calculation. We'll take the tea adjournment now. Let's	20	MR NTSEBEZA SC: I see there's a
21	all try to be back at 12 o'clock.	21	distinction being made between women and ladies.
22	MR NTSEBEZA SC: Mr Chairman, I've got	22	MR X: We were told not to sleep with
23	another half an hour from AMCU, by arrangement.	23	women, not even girls.
24	CHAIRPERSON: Oh I see, all right, well –	24	MR NTSEBEZA SC: That is you were not to
25	MR NTSEBEZA SC: At the end of the day.	25	sleep with your wives or girlfriends?
	Dawa 20/4/		Dec. 20/10
1	Page 32616 CHAIRPERSON: Okay so you'll have your	1	Page 32618 MR X: Yes, that is so.
2	half an hour then you'll have some of AMCU's half hour.	2	MR NTSEBEZA SC: Now I want us to look at
3	[COMMISSION ADJOURNS COMMISSION RESUMES]	3	the statement that you made in February of the year
4	[12:06] CHAIRPERSON: The Commission resumes. Mr	4	following, the one known as the supplementary statement.
5	Ntsebeza, I understand your going from now until 1 o'clock	5	That would be LLL26, Mr Chairperson. If you could go there
6	and that will be the end of your cross-examination. Is	6	to paragraph 16. This is the statement you made after
7	that correct?	7	meeting Adv Mathibedi, not so?
8	MR NTSEBEZA SC: Yes, Mr Chairman.	8	MR X: Yes, Sir.
9	CHAIRPERSON: There's some debate as to	9	MR NTSEBEZA SC: Now it looks as though
10	whether you needed half an hour. You're relying on half an	10	in this statement there were added instructions. If you
11	hour from AMCU. There's some debate about whether you	11	could go to 16.5, you say the sangoma, "that you were
12	actually needed it, but if AMCU got half an hour to spare I	12	instructed to wait for the police to fire first before
13	gratefully accept the donation myself.	13	launching an attack, to conduct yourselves in a manner that
14	MR NTSEBEZA SC: Thank you, Mr Chairman.	14	would provoke the police, resulting in them firing at you
15		15	first, to approach the police in a crouching manner that
1.	CHAIRPERSON: Please tell the witness		
16	CHAIRPERSON: Please tell the witness he's still under oath.		
	he's still under oath.	16	would make bullets fired by the police miss you because you
17	he's still under oath. MR X: [s.u.o. through interpreter]	16 17	would make bullets fired by the police miss you because you would be invisible, to defy any orders or instruction given
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<ol> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> <li>24</li> <li>25</li> </ol>	he's still under oath. MR X: [s.u.o. through interpreter] CROSS-EXAMINATION BY MR NTSEBEZA SC (CONTD.): Now you see over there in paragraph 10, this is what you were saying there that the sangoma had given instructions. What is important to me is the following where you say the instructions were that you shouldn't wash your hands, you shouldn't wash – no, no, you shouldn't wash for seven days.	<ol> <li>16</li> <li>17</li> <li>18</li> <li>19</li> <li>20</li> <li>21</li> <li>22</li> <li>23</li> </ol>	would make bullets fired by the police miss you because you would be invisible, to defy any orders or instruction given by the police" – 16.11, if you could look at that, "to make clicking sounds with weapons to get [inaudible, speaking simultaneously with interpreter]." You see that one in the second statement? MR X: Yes, Sir. MR NTSEBEZA SC: Let us not waste time

	Page 32619		Page 32621
1	February of 2013, the first statement, the one known as the	1	saying.
2	original statement, you made a statement when everything	2	MR MAHLANGU: He said yes.
3	was still fresh in your memory as things that had just	3	MR NTSEBEZA SC: Now I'm saying to you at
4	happened. You agree with me there?	4	the time that you made this statement in 2013, in February,
5	MR X: Yes, Sir. It's still fresh in my	5	when you were talking about things that happened in August
6	memory, though I did not mention some.	6	of 2012, those things were still fresh in your memory. You
7	MR NTSEBEZA SC: Yes, that's exactly	7	agree with me there?
8	where I'm at. A person who was explaining what had just	8	MR X: They were not all clear.
9	happened a day before, saying it today, it is more clear	9	MR NTSEBEZA SC: I understand what you
10	than when it is asked the year thereafter. You understand	10	say. You see, now you made a statement in February of the
11	that? It is [inaudible, speaking simultaneously with	11	year in which we are, that is 2014. Now you make additions
12	interpreter] the day before that you have been asked to	12	of things that you did not mention in the 2013 statement.
13	explain the following day you will remember that, you'd	13	You agree with me there?
14	remember it better than when asked the same thing the	14	MR X: Things that I'd forgotten, yes, I
15	following year. You understand that?	15	agree with you, Sir.
16	MR X: Yes, Sir, I understand.	16	MR NTSEBEZA SC: I will tell you the
17	MR NTSEBEZA SC: If I would ask you	17	reason why there are more things added to your later
18	something today that happened yesterday you would be in a	18	statement, but I want us to understand here at the time
19	better position because your mind would still be fresh	19	that you added these other things that you said were
20	about the happening, not so? Is it so?	20	instructions from the sangoma, you added these things at a
20	MR X: Yes, but I forgot some of the	20	time when the time that had lapsed was two years already.
22	-	21	Now I'm saying to you it is funny that something that
22	things. MR NTSEBEZA SC: Yes. I heard you say	22	happened in 2012 you will remember it better in 2014 than
23 24		23 24	in 2013. What do you say to that?
24 25	so. Something that happened last year and you're to talk about it this year, as you did in this statement, you were	24 25	MR X: Some other people's minds are
20	about it this year, as you did in this statement, you were	25	
	Page 32620		Page 32622
1	Page 32620 talking about something that happened in 2012, the	1	Page 32622 slowly.
1 2		1 2	-
	talking about something that happened in 2012, the		slowly.
2	talking about something that happened in 2012, the statement that would contain more things about what happened would be the one that you made last year than the	2	slowly. MR MAHLANGU: That's the word he used.
2 3	talking about something that happened in 2012, the statement that would contain more things about what	2 3	slowly. MR MAHLANGU: That's the word he used. MR NTSEBEZA SC: The second thing I want
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	Page 32623		Page 32625
1	The police are saying, the second thing they are	1	crouching manner. All these things when Adv Mathibedi was
2	saying, the second thing is that the workers, or the	2	leading you, you said why you did those things was to
3	strikers came to them in a crouching position, it's also a	3	hasten, to make the muti work fast. You understand that?
4	sign of aggression.	4	MR X: I understand you, Sir.
5	[12:26] They say the third thing, they say these people	5	MR MAHLANGU: To understand what is
6	amongst whom you are involved in yourself, that these	6	"mtsotsa" as the Xhosa, I must admit, Chairperson, I'm lost
7	people were attacking the police and the police were then	7	here, if I could get some assistance.
8	forced to defend themselves. Do you hear that, Sir?	8	MR X: When there is a function that is
9	MR X: Yes, I'm listening, Sir.	9	being conducted and there's singing going on the reason is
10	MR NTSEBEZA SC: I say when you were	10	to encourage even a coward not to be scared, and in
11	giving the statement to Adv Mathibedi during this year,	11	hunting, when hunting for animals you do it for the dogs
12	you're saying things that have been appearing in this case	12	that are following the spoor of the animal to hurry up.
13	all along, all of a sudden appears, that being the police	13	MR NTSEBEZA SC: What do you mean by
14	case before this Commission, and here you come and you say	14	that?
15	these were instructions given to you by the sangoma and it comes at the time that he had met you, here is my, what my	15	MR X: These are things I'm saying to
16	<u> </u>	16	encourage the dogs, this is being done in order to
17 18	putting to you is the – no, no, no, what you're saying in your second statement that these were instructions from the	17 18	encourage the dogs to act fast. We were doing these things for the police to be in a hurry.
19	sangoma is not so. You put it into the statement because	19	MR NTSEBEZA SC: You see, the problem you
20	you wanted to come in and wanted to put it in support of –	20	have, you keep on answering things that you have not been
21	be in line with the police case as it has been known here.	21	asked.
22	What do you say to that, Sir?	22	MR X: I was just explaining to you.
23	MR X: I'm saying these were the	23	It's okay, Sir.
24	inyanga's instructions, Sir.	24	MR NTSEBEZA SC: If I want your
25	MR NTSEBEZA SC: When we are arguing	25	explanation of something I will ask you to please just help
	Page 32624		Page 32626
1	[inaudible, speaking simultaneously with interpreter] what	1	me here. You understand me?
2	[inaudible, speaking simultaneously with interpreter] what you're saying in English as instructions, you just want the	2	me here. You understand me? MR X: I understand, Sir.
2 3	[inaudible, speaking simultaneously with interpreter] what you're saying in English as instructions, you just want the Commission to believe that it supports the police case.	2 3	me here. You understand me? MR X: I understand, Sir. MR NTSEBEZA SC: Don't jump around
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1	to do by the sangoma when you wanted the muti to work fast.	1	MR X: Yes, Sir.
2	You understand me now?	2	MR NTSEBEZA SC: We now know that Mambush
3	MR X: Yes, I understand you are saying	3	was the person who was chosen, he was brave and fearless.
4	it. I disagree with you, Sir.	4	That was how he was elected.
5	MR NTSEBEZA SC: By saying "I disagree	5	MR X: Yes, Sir.
6	with that," how do you –	6	MR NTSEBEZA SC: It was believed that he
7	MR MAHLANGU: It wasn't clear what he	7	would adhere to the instructions given by the inyanga to
8	said.	8	these that should be done. You see, where you say you were
9	MR X: Because you were not there when we	9	told not to take off the clothes that you were wearing, or
10	were consuming the muti. I'm saying what I am saying did	10	not to change the clothes that you were wearing and not to
11	exist, it was there, as you are saying to me it's not true.	11	wash those clothes, not to change them until seven days
12	MR NTSEBEZA SC: We will argue that that	12	have passed, you remember that, not so?
13	is how everything shows it, that's how it indicates. Is it	13	[12:46] MR X: Yes I do remember that, Sir.
14	true that when you did these three things would have	14	MR NTSEBEZA SC: There is something that
15	resulted in the muti working fast, you were the only one	15	we are going to show again. What we are going to do to
16	who believed in that, not that everybody who was there	16	save time I will only indicate certain places where he is
17	believed in it? That was your only belief where you had	17	wearing – we will say there he is wearing such a shirt,
18	consumed this muti alone, it was that you [inaudible,	18	over there he is not wearing it anymore and there he is
19	speaking simultaneously with interpreter] that it was in	19	wearing this and there he's not wearing it. All this being
20	your head. You believed that if you did all these things,	20	an endeavour to – you were given instructions not to change
21	ululating and so on, that it would cause the muti to work	21	your clothing or to wash them. I thought there was no such
22	fast. What do you say to that?	22	a thing or there was nobody who followed those instructions
23	MR X: I'm listening to what you're	23	even the Mambush that was elected did not do so. I'll give
24	saying.	24	you the chance of saying these things, whether you agree,
25	MR NTSEBEZA SC: I didn't understand you.	25	disagree, I just want before the end of this to know that
1	Page 32628	1	Page 32630
1	I didn't hear you. MR X: I say I'm listening to what you're	1	we know this, do you understand?
2	5 5 5	2	MR X: I hear you, Sir.
3	saying, Sir. MR NTSEBEZA SC: I will [inaudible,	3	MR NTSEBEZA SC: TTT4 where I'm – MS LEWIS: Mr Chair, the first reference
4	-	4 5	
5	speaking simultaneously with interpreter] because I want to take [inaudible, speaking simultaneously with interpreter]	5	is to exhibit TTT4 and then VTS01 to VOB.
6 7	from what you said in this statement at paragraph 19,	6	CHAIRPERSON: It's already an exhibit.
8	exhibit LLL26, if we could put up the paragraph. You see	7	MS LEWIS: Yes. CHAIRPERSON: So I don't have to –
0 9	over there at paragraph 19 you say the following - tell me,	8 9	CHAIRPERSON: So I don't have to – MS LEWIS: No. It's exhibit TTT4.
9 10	a sangoma and a Magogo, does it refer to the same thing?	9 10	
11	MR X: Yes, it's the same, it refers to	11	CHAIRPERSON: Is this the photograph or a video?
12	the same.	12	MS LEWIS: It's a video.
12	MR NTSEBEZA SC: I remember one time you	12	CHAIRPERSON: At what point in the video,
14	mentioned here that you wanted to meet your Magogo, and you	14	what part of the video?
15	say there in paragraph 19 [inaudible, speaking	15	MS LEWIS: Two minutes and twenty four
16	simultaneously with interpreter] "is a stubborn, fearless	16	seconds.
17	and brave person to lead them." You remember that?	17	CHAIRPERSON: Oh this is the DVD. Two
18	MR X: Yes, Sir.	18	minutes and how many seconds?
19	MR NTSEBEZA SC: You remember it was said	19	MS LEWIS: 24.
20	some other rituals would be conducted on this man that	20	CHAIRPERSON: Yes.
21	would be leading you? You remember that?	20	MS LEWIS: And we could pause it there.
22	MR X: Yes, Sir.	22	CHAIRPERSON: We're pausing it at 2:22 at
	MR NTSEBEZA SC: You said these other	22	the moment.
10	Interior Deserved. I du suid these dutoi	20	
23 24	rituals would be conducted on Mambush at a particular place	24	MSTEWIS: I think that will be fine
24	rituals would be conducted on Mambush at a particular place where sheep would be put in a hole. You remember that?	24 25	MS LEWIS: I think that will be fine. CHAIRPERSON: Now what do we see on this?

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	Page 32631		Page 32633
1	MR NTSEBEZA SC: You see the shirt he's	1	white, the one he was wearing yesterday. Mahlangu is doing
2	wearing which has got brown –	2	that.
3	CHAIRPERSON: Some people's brown may be	3	MR MAHLANGU: Chair, I think it's correct
4	different to other people's brown, I can't see brown.	4	to say the jacket that he's wearing on the 13th is pure
5	MR NTSEBEZA SC: No, no, no I've just	5	white.
6	been brought to – my attention has been drawn to the fact	6	CHAIRPERSON: It's a light colour. It
7	that I should have said it's a white, grey sweatshirt with	7	doesn't – lighter than what we see on the present -
8	a white, pink checked sleeveless jacket over it and a light	8	MR NTSEBEZA SC: Mr Chairman, I'm
9	coloured shirt tied around his waist.	9	comparing, this one has got a dark tinge, the one we had on
10	MR NTSEBEZA SC: Look at the smaller	10	the 13th was plain, there was no tinges of brown or black.
11	screen which is much more clear.	11	It's obviously relevant, it's going to be there, we're
12	MR X: We do have the same –	12	giving the witness an opportunity to make comment. If he
13	MR NTSEBEZA SC: Do you see Mambush?	13	disagrees so be it. Look at the jeans he's wearing.
14	MR X: Yes I do.	14	MR X: I don't agree.
15	MR NTSEBEZA SC: I also don't see the	15	MR NTSEBEZA SC: Just play this thing a
16	well known green jacket that he was always wearing, he came	16	little bit more.
17	to be known - in the green blanket.	17	CHAIRPERSON: All right let's do that.
18	MR X: Yes, Sir. MS LEWIS: And can I then asked for us to	18 19	Thank you for your answer.
19 20			MR NTSEBEZA SC: Blow it up.
20 21	go to 10:27 to 10:29.	20 21	CHAIRPERSON: No, no, no blowing up isn't
21 22	CHAIRPERSON: Of the same video? MS LEWIS: Of the same clip and just to	21 22	a good idea. You want to zoom in and back – MR NTSEBEZA SC: It's the language, I'm
22 23	MS LEWIS: Of the same clip and just to play that clip and to play it through in slow motion.	22	MR NTSEBEZA SC: It's the language, I'm thinking in Xhosa. Do you see the pants he's wearing, it's
23 24	[VIDEO IS SHOWN]	23 24	the same one he was wearing that he was wearing on that
24 25		24 25	date. This is darkish, it's dark in colour. Do you agree
20	MR NTSEBEZA SC: Do you see today, this	20	Uale. This is uarkish, it's uark in colour. Do you agree
	Page 32632		Page 32634
1	is the 14th?	1	with me?
2	is the 14th? MR X: I understand that, Sir.	2	with me? MR X: Yes, I do.
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	Page 32635		Page 32637
1	underneath the one he's wearing and again - do you see what	1	[13:06] MR NTSEBEZA SC: It looks off-white in
2	I'm taking about?	2	colour. Next video.
3	MR X: The T shirt he's wearing, these	3	MS LEWIS: Mr Chair, the next video is
4	colours, everybody is clear on this video, everybody	4	also from the SAPS hard drive. In fact I believe that this
5	appears clear on this video,	5	is an exhibit. I think it's EEE13.
6	MR NTSEBEZA SC: The dark appearing from	6	CHAIRPERSON: Alright, then I don't have
7	where I observe it is something that he's wearing beneath	7	to mark it. Where do we look on the video?
8	the white one appearing there.	8	MS LEWIS: EEE13 at 35 seconds into the
9	MR X: Yes, Sir.	9	video.
10	MR NTSEBEZA SC: The jeans are the same	10	CHAIRPERSON: Which day is this?
11	faded black. Let's play the video and stop at 1.36. 1.33	11	MS LEWIS: This is from the 16th.
12	to 1.36, play it in slow motion.	12	CHAIRPERSON: You want 35 seconds, I
13	CHAIRPERSON: How much longer do you	13	think you said.
14	need, Mr Ntsebeza?	14	MS LEWIS: Yes, I think if we could just
15	MR NTSEBEZA SC: I'm finishing, Mr	15	play through to about 37 seconds and pause.
16	Chairman.	16	MR NTSEBEZA SC: Are you still saying
17	CHAIRPERSON: There's one other thing you	17	he's wearing the same [inaudible, speaking simultaneously
18	might want to look at before you finish is L167.	18	with interpreter] that he was wearing from the 13th?
19	MR NTSEBEZA SC: Ja we are trying to get	19	MR MATHIBEDI SC: Sorry, Chairperson, the
20	there. Well, Mr Chairman, let's play the video in the	20	witness is answering, if he could be given an opportunity
21	meantime.	21	to answer without any interference it will be helpful.
22	CHAIRPERSON: The 1.34 seconds. This is	22	CHAIRPERSON: What is your answer, Mr X?
23	on what day?	23	MR X: The articles are the same –
24	MR NTSEBEZA SC: This is the 15th.	24	MR NTSEBEZA SC: I'm asking about the
25	CHAIRPERSON: This is the 15th yes and	25	shirt –
-			
1	Page 32636	1	Page 32638
1	what I referred to you is the 16th. This one	1	MR MATHIBEDI SC: Sorry, Chairperson –
2	what I referred to you is the 16th. This one MR NTSEBEZA SC: We'll get to it –	2	MR MATHIBEDI SC: Sorry, Chairperson – CHAIRPERSON: The witness must –
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2 3 4	what I referred to you is the 16th. This one MR NTSEBEZA SC: We'll get to it – CHAIRPERSON: Do we just look at 1.34 or do you want to go on a little bit, pause and it will become	2 3 4	MR MATHIBEDI SC: Sorry, Chairperson – CHAIRPERSON: The witness must – MR X: I agree with you – CHAIRPERSON: The witness must be given a
2 3 4 5	what I referred to you is the 16th. This one MR NTSEBEZA SC: We'll get to it – CHAIRPERSON: Do we just look at 1.34 or do you want to go on a little bit, pause and it will become clearer.	2 3 4 5	MR MATHIBEDI SC: Sorry, Chairperson – CHAIRPERSON: The witness must – MR X: I agree with you – CHAIRPERSON: The witness must be given a chance to answer. What is your answer? Go back to the
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1	MR NTSEBEZA SC: There it is. You want
2	somebody to hit you with a hammer before you come to the
3	right place?
4	CHAIRPERSON: No, no, Mr Ntsebeza –
5	MR MATHIBEDI SC: No, Mr Chairman –
6	CHAIRPERSON: - these comments are not
7	appropriate.
8	MR NTSEBEZA SC: Withdrawn, Mr Chairman.
9	CHAIRPERSON: Your time has run out
10	anyway, so is this the climax of your cross-examination?
11	MR NTSEBEZA SC: You'll see in the other
12	photos he had his blanket, not a [inaudible, speaking
13	simultaneously with interpreter] on the right-hand side of
14	his – but you see over there it's open? You see it over
	his shoulders. You hear that? You see it?
15	
16	MR X: I can see it, yes.
17	CHAIRPERSON: It's still the same garment
18	of course.
19	MR NTSEBEZA SC: Yes.
20	CHAIRPERSON: Is that the end of your
21	cross-examination, Mr Ntsebeza?
22	MR NTSEBEZA SC: Mr Chairman, just let me
23	check with my – I thank you because from the beginning we
24	spoke Xhosa, we understood each other, there was no
25	misunderstanding between us. Thank you, Mr Chairman.
-	
1	Page 32640
1	CHAIRPERSON: Thank you. We will now
2	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
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2 3 4	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
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2 3 4 5 6 7 8 9 10 11	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
2 3 4 5 6 7 8 9 10 11 12	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
2 3 4 5 6 7 8 9 10 11 12 13	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
2 3 4 5 6 7 8 9 10 11 12 13 14	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock.
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	CHAIRPERSON: Thank you. We will now adjourn until Monday morning, 9 o'clock. [COMMISSION ADJOURNED]
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