

**TRUTH AND RECONCILIATION COMMISSION**

**SECTION 29 HEARING**

**"IN CAMERA"**

**DATE:** 24-06-1998

**NAME:** MZWAKHE SHADRACH KHUMALO

**HELD AT:** JOHANNESBURG

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**MS SOOKA:** Is this Mr Mzwakhe ...

**MS SEALY:** Mzwakhe Shadrach Khumalo.

**MS SOOKA:** All right, can you hear me?

**MR KHUMALO:** Yes, I can.

**MS SOOKA:** Before we begin to take your evidence, I am going to ask you to stand and to place your full names on the record please.

**MR KHUMALO:** Mzwakhe Shadrach Khumalo.

**MZWAKHE SHADRACH KHUMALO:** (sworn states)

**MS SOOKA:** Thank you, you may be seated. Ms Sealy?

**MS SEALY:** Thank you. Mr Khumalo, could you perhaps tell us whether you are a member of the IFP?

**MR KHUMALO:** Yes, I am.

**MS SEALY:** Mr Khumalo, I am going to be asking you a number of questions around incidents where people have said you were responsible.

The first incident relates to the death of Nedisi Tsabalala of 666 Mdikane Street. Do you know this person?

MR KHUMALO: Yes, I do, but I do not know as to how he died.

MS SEALY: So you have no knowledge of how he died, is that correct?

MR KHUMALO: When I heard, I was told that he had been killed during 1993 by the soldiers during the violence in Tokoza.

MS SEALY: The reason I am asking you this, is that we have a statement from a Samkele Tsabalala who says that the Rev Khumalo's son, Mzwakhe, threatened us with a gun and this was in Alberton, in town, and that they hid themselves in an Indian shop and also that you burnt their house down. What do you think about that?

MR KHUMALO: That is a blue lie.

MS SEALY: So if I understand you correctly, you have no knowledge of what happened to the Tsabalala's at 666 Mdikane Street, is that correct?

MR KHUMALO: That is correct.

MS SEALY: Mr Khumalo, were you arrested with your father in September 1992 after - by the SADF when there was a problem at your house with the SADF?

MR KHUMALO: Yes, I was arrested together with my father by the SANDF because there were some youngsters who had come to

attack us during the night and the soldiers were at the following street or the back street, but these youngsters started off by shooting the soldiers whilst we were asleep.

We heard from the soldiers when they came. Then from these soldiers, they proceeded towards our house, that is where they came to shoot and attack and when we got up, they were nowhere to be seen and they still continued to shoot. I think they were about the third house now.

When the soldiers came, we were standing together with my father and my father had a gun in his possession and the soldiers said we were the ones who were shooting at them. That is how we got arrested.

MS SEALY: So the soldiers actually blamed you, they didn't blame the people who were actually attacking your house at the time, is that correct?

MR KHUMALO: My father pointed out that we were being attacked and he showed the soldiers the walls that had been shot, but that we shot at the soldiers, is not true.

MS SEALY: Why do you think the soldiers didn't listen to you?

MR KHUMALO: It is because at the time my father had a gun in his possession and it was during the night when the soldiers were being shot at, so they had to blame anyone they saw with a gun.

MS SEALY: Mr Khumalo, I have just spoken to your uncle, Mr Mphekeleli Khumalo, in regard to the shooting of Frank Happy Mbele. Do you recall that incident?

MR KHUMALO: Yes, I do.

MS SEALY: Were you with your uncle when the shooting took place?

MR KHUMALO: Yes, I was with him.

MS SEALY: So you were all at the house? Your uncle said that Happy had an AK47 and that your uncle fired certain shots at Happy. You were there when that happened, is that correct?

MR KHUMALO: Yes, I was present.

MS SEALY: Were there any other incidents that happened on that particular day, on the very same day that Happy was shot, was there any other incidents that you were involved with on that day?

MR KHUMALO: Just before Happy got shot, there is a certain man by the name of Vusi who came, whose nickname was Gunuza, I don't know what his real name is.

There were five of them who came to my place, as well as three others. I was with my mother inside the yard. They got into the yard and they started shooting. I had to actually protect myself as well as members of the family, kids and my mother.

MS SEALY: When you say you had to protect yourself, did you open fire on Vusi and these people who came into your yard?

MR KHUMALO: At the time when they were shooting, the Police came immediately, because my mother ran to the neighbours' places to phone the Police that we were being attacked.

The following day I heard that a person had been shot, or there was one person who got shot.

MS SEALY: The reason I am asking you this Mr Khumalo, is that this person that you are talking about, this Gunuza whose real name is Patrick Sizwe Nkosi, he says that on this very day that you are talking about, he was sitting outside a friend's house at [REDACTED] and they were drinking, they were sitting under a tree, and that you came there and you were with Kapano, who is also known as Gabani Ramayesa and Fannel Tsabalala.

Do you know Gabani Ramayesa and Fannel Tsabalala?

MR KHUMALO: They are neighbours, I do know them, but at the time that Gumuza got shot, they were not even present, they were at their respective places and I was at my own place. I was not with them. That is not true.

MS SEALY: According to - what I am saying to you now is not what I am saying, it is what Gunuza is saying, okay. If you can understand it like that, the person that was shot.

Gunuza then says Mzwakhe was in possession of two firearms and Kapano and Fannel had one each. Mzwakhe confronted Gunuza and pointed him with a firearm and instructed

him to come to your house. So he is saying that you went to him when he was sitting, drinking under a tree and that you told him that he must come to your house. Did that happen?

MR KHUMALO: That is not true.

MS SEALY: He said that when you refused, when he refused to come to your house, you immediately fired a shot in his direction and then you accused Nkosi of killing your brother, Percy Jabango. Do you know Percy Jabango?

MR KHUMALO: Yes, I do. He is my uncle, but that is not true.

What he said is not true that I pointed a firearm at him, forcing him to come with me to my place, that is not true.

MS SEALY: He then says, Nkosi says he raised his hands and walked towards the gate. At the gate Mzwakhe shot Nkosi three times on the leg. One of the bullets hit Nkosi on the right ankle, the second hit his left leg and the third also hit the left leg below the knee.

Nkosi managed to run away and jump over, and then he hid in a house. Do you recall any of that?

MR KHUMALO: I bear no knowledge thereof.

MS SEALY: So Mr Khumalo your version is that Gunuza and others came to your house, [REDACTED]. Did you fire any shots on that day or did you just call the Police?

MR KHUMALO: They got us at my place, it was myself and my mother, we were standing outside. They started shooting. I also

took out my gun and shot at them, and at the time that I was taking my gun out, my mother was running to the phone to phone the police station.

After a couple of minutes, the Police came, they arrived at our house and I even explained to them what had happened. We opened up a docket, I submitted a statement.

MS SEALY: So you did fire some shots. Is it possible that one of those shots that you fired, injured this person? Is it possible?

MR KHUMALO: I would not deny that, because I was aiming at them, I was pointed at them, because they were also pointing at me. So I would not deny that.

MS SEALY: When they were firing shots at your house, what kind of guns were they using? You said a group of ...

MR KHUMALO: They had small firearms. I think it was shotguns, but I don't know the type of firearms, but it was small firearms.

One of them was having an AK47.

MS SEALY: So, you called the Police and then the Police came and that is when you heard that one of them had been shot, is that correct?

MR KHUMALO: I heard the following day.

MS SEALY: Were you ever arrested for this particular case?

MR KHUMALO: Yes, I was.

MS SEALY: Can you tell us what happened at court?

MR KHUMALO: The matter ended after, I think it was withdrawn, the matter was withdrawn and that was the end of it.

MS SEALY: Okay. Were you ever arrested for the burning of 815 Mdikane Street, the house of Mfundisi Mavuso?

MR KHUMALO: Yes, I was.

MS SEALY: Do you know, you were arrested with your father and your uncle, is that correct, as well as other people for that case?

MR KHUMALO: That is correct.

MS SEALY: Do you know anything about what happened there?

MR KHUMALO: At the time we were being watched by the Police as well as the Stability Unit because we were being attacked and my father told the soldiers that there was a house that was being burnt down, he actually alerted the soldiers.

MS SEALY: And then these very same people came and arrested you, saying that you were the people that burnt the house down while you were inside the house, being guarded, is that correct?

MR KHUMALO: Yes, they did.

MS SEALY: You see, that is a bit strange, because they could provide you with an alibi, they could say that you were actually under guard in the house and yet at the same time, the court decides to, or the Police decide to arrest you. Can you explain that? Why would the Police decide to arrest you when they knew that you were actually under guard at your house?



MR KHUMALO: Could you please repeat your question?

MS SEALY: You told me earlier that you and your family were under guard at your house, [REDACTED] is that correct?

MR KHUMALO: That is correct.

MS SEALY: And then this very same Policemen come and arrest you for the burning of [REDACTED]. Did they not know that you were under guard, so if that is true, you wouldn't have been able to get out of the house?

MR KHUMALO: No, we were not arrested by the very same Policemen who kept guard on us. We were arrested by another group of Police.

It is another group of Police, a totally different one, which came to my place to arrest us.

MS SEALY: But this totally different group of Police, didn't they speak to the Police that are on duty at your house, to find out whether you did go out on that particular day? They would ask them did Mr Khumalo go outside on that day?

MR KHUMALO: I don't know whether they talked to each other to confirm our story or if they didn't.

MS SEALY: What happened with that case, did you go to court for that case?

MR KHUMALO: Yes, I did. We went to court, we appeared and the matter was withdrawn.

MS SEALY: Mr Khumalo, I would like to just turn now to when your mother was shot in Tembisa. You went to visit her in the hospital, is that correct?

MR KHUMALO: That is correct.

MS SEALY: Did you go alone or did you go with the family?

MR KHUMALO: I was with my family.

MS SEALY: At the hospital, did your mother tell you who, did she manage to tell you what had happened?

MR KHUMALO: Yes, she did.

MS SEALY: What did your mum tell you?

MR KHUMALO: My mother told me that the people who had attacked her were Lucky Mampuru, Ndesi, Vusi as well as a number of others. She actually told me but she said to me that I should not tell my father because my father was going to be very angry since my mother had been attacked.

MS SEALY: So the reason your mum asked you not to tell your father, was because your father would get very upset, is that correct?

MR KHUMALO: Yes, my mother thought that my father would be disturbed by the incident, and she thought that she would get better, she never thought she would die.

She decided that we should not tell my father, she would tell my father as soon as she gets better.

MS SEALY: But Mr Khumalo, you are a young man. Why would your mother decide to tell you as a very young man? Surely you would be just as upset as your father, I mean your mother has been shot by people that you actually know in the township.

Didn't she think that you would also be very upset?

MR KHUMALO: When my mother told me, my father was busy trying to arrange my mother's transfer to the Alberton hospital, the Union hospital and I was the one who was with my mother, and I was talking to my mother at the time.

MS SEALY: I see. Now you mentioned that the people that your mother mentioned, it was Lucky Mampuru and Ndesi Tsabalala, is that the same Ndesi Tsabalala that I mentioned in the beginning, of [REDACTED]? Is it the same person?

MR KHUMALO: Yes, that is correct.

MS SEALY: So, both people that were implicated in your mum's death, at this moment in time, is also dead, is that correct?

MR KHUMALO: Yes, that is correct, they died.

MS SEALY: The third person you mentioned is someone by the name of Vusi, is that correct? Did you say Vusi?

MR KHUMALO: That is correct.

MS SEALY: You don't know Vusi's surname by any chance?

MR KHUMALO: No, I don't.

MS SEALY: Okay. Mr Khumalo, after you got this information from your mum that Lucky Mampuru were responsible for her shooting, what did you do? What did you do with the information?

MR KHUMALO: I told my father.

MS SEALY: You see, that is what worries me. Your mum told you so that you wouldn't tell your father, because she thought he would be upset and the first thing you do is, you go and tell your father. Why did you do that?

MR KHUMALO: I wanted him to know so that we could go to the police station and report the perpetrators.

MS SEALY: When you told your father, what did he do?

MR KHUMALO: When I told my father about this, we went to the police station, that is the Tembisa police station. We reported this to the Detectives, we opened up a docket, we also went to (indistinct) to report the matter.

MS SEALY: And you told these Detectives who the people were that your mum said had shot her, is that correct?

MR KHUMALO: That is correct. Yes, I told the Police.

MS SEALY: Yes, did the Police then come to your house and asked you to show them where Lucky Mampuru stays?

MR KHUMALO: Yes, they came to my place, but they did not take me with to do the pointing out.

MS SEALY: Who did they take with, did they take someone from your house to do the pointing out?

MR KHUMALO: Yes, as the Police came, just before my mother's funeral, it was Solomon Mbuli my cousin. My father told the Police to take Solomon Mbuli, because Solomon Mbuli knew where these perpetrators stayed.

MS SEALY: So it is Solomon that went with the Police to point out where Lucky stays, is that correct?

MR KHUMALO: That is correct.

MS SEALY: When you went to visit your mum at the hospital, did Solomon Mbuli come with you or did you just go with the family?

MR KHUMALO: Only my family.

MS SEALY: You only ~~went with your family~~?

MR KHUMALO: Yes.

MS SEALY: If I can just ask you about - you drive a taxi for your father, is that correct?

MR KHUMALO: That is correct.

MS SEALY: On the day that Happy Mbele was shot, did you have a problem with your taxi on that day, do you remember, in the morning? Did someone try to shoot at your taxi at that morning, the 18th of December 1992, on the corner of Nqaqi and Khumalo, was that the same day that you had a problem with the taxi, do you recall?

MR KHUMALO: I don't remember quite well, whether it was the same day or not.

MS SEALY: When you had been driving your father's taxi, have you had quite a few problems like that, has the taxi been attacked on a number of occasions or how many times have you been attacked in the taxi?

MR KHUMALO: That is correct, twice my taxi was attacked.

MS SEALY: And was anybody injured during these attacks?

MR KHUMALO: Yes, there were people who got injured during the attacks.

MS SEALY: And where did these attacks take place, do you remember?

MR KHUMALO: It was at corner Nqaqi and Khumalo Streets as well as Nqaqi as you proceed to the church or the church hall.

MS SEALY: Okay. So there were two attacks on you, is that correct?

MR KHUMALO: That is correct.

DR RANDERA: Sorry Mr Khumalo, when you say attacks and people got injured, did somebody opened fire on your taxi, is that what you are saying?

MR KHUMALO: That is correct.

MS SEALY: Mr Khumalo when you said, when I was asking you about the incident in regard to Gunuza who you say came to your

house with other people and opened fire when you were with your mum, you had a firearm. Is that your firearm?

MR KHUMALO: No, it is my father's firearm.

MS SEALY: Do you yourself have a licensed firearm?

MR KHUMALO: Yes, I do.

MS SEALY: But at that time, did you have a licensed firearm or were you using your father's firearm?

MR KHUMALO: I did not have a licence at that time, but my father went to the police station and explained that I was being attacked at home as well as in the street, so at least I should be given a licence.

MS SEALY: So then the Police wrote a letter to say that you could use your father's firearm, is that correct?

MR KHUMALO: That is correct.

MS SEALY: Mr Khumalo, if I could just return to - this is one of the attacks that took place in Nqaqi Street in February 1993.

It relates to a person by the name of David Seyetsi Ramalato and he says that your taxi was driving along Khumalo, it was on the corner of Khumalo and Nqaqi Street and that you opened fire on him when he was standing on the corner. Do you remember this particular incident? It would have been February 1993?

MR KHUMALO: I don't remember an incident of that sort.

MS SEALY: Can I try to remind you about it? There is a statement from a person by the name of Gotso Lethele who says that on Monday, January the 4th, 1993 at about nine o'clock he was with Seyetsi at Gaza's shop on the corner of Nqaqi and Khumalo Street.

A white taxi stopped at the stop street which is on the corner of Nqaqi and Khumalo, I saw a driver take out a firearm and fire a shot at Seyetsi. The taxi driver was Mzwakhe Khumalo, son of Bishop Khumalo. The bullet hit Seyetsi in the arm, right between the shoulder and the elbow. He fell down, I picked him up and jumped over a small wall with him.

The taxi then proceeded down Khumalo Street towards Buthelezi Street and then off loaded passengers. The taxi then made a U-turn, came back to the shop and asked where the person was that was shot. People said they did not know.

You then left.

MR KHUMALO: This is not true. That day was the day on which I was shot and that is the day on which the people got injured. This statement is totally not true.

I never went back because I was being attacked, I was shot at and I ran and went to wait at Buthelezi Street for about five minutes and the Police arrived within those five minutes.



MS SEALY: When you were attacked on that day, were any of your passengers hurt or yourself? When you say shots were fired at your taxi, is that correct?

MR KHUMALO: During the day I was lucky, I never got injured, but passengers inside did get injured.

MS SEALY: Some of them got injured? Do you remember how many of them?

MR KHUMALO: I can't give you a positive number, it could be plus minus five people who got injured.

MS SEALY: And during this attack, did you ever return fire? Did you manage to pull out your firearm and shoot shots at the attackers?

MR KHUMALO: I was able to pull out my firearm, they were at close range. I was able to sort of defend myself.

MS SEALY: Is it possible that this person by the name of Seyetsi could have been shot during that incident?

MR KHUMALO: It is possible.

MS SEALY: If I can also just say that apparently in the very, in another statement relating to the same matter, a witness says that he was cleaning his house, this is the day after this incident that I have spoken to you about, and he went emptying rubbish in a bin and then he saw - I assume he is actually talking about the same incident in fact, he said he saw a Nissan E20 stop near Seyetsi and noticed one of the passengers was Peter Sebeko and then he

also noticed yourself and that you had a firearm and that you pointed it and that you immediately started shooting, and the person is not sure how many times.

And then the minibus drove away. Do you think that is the same incident?

MR KHUMALO: No, it is totally not true. I don't know of any such incident.

MS SEALY: Mr Khumalo, then if I can understand you correctly, as you said earlier, it is possible that Seyetsi Ramalato was shot during the attack on your taxi when you returned fire, and your passengers were injured as well, is that correct?

MR KHUMALO: I wouldn't say he was shot by me. There were many people who were shooting at me, so I cannot say he got shot whilst I was shooting, but because he got injured during that time frame and at the same place, there is a high probability that I shot him.

MS SEALY: That is what I am saying. I understand what you are saying, that is how I understand your evidence.

Was this the first attack on your taxi or the second attack?

MR KHUMALO: I don't remember quite well, because it is a long time ago since that happened.

MS SEALY: The other attack on your taxi, were people injured or hurt?

MR KHUMALO: No, not on the other instance.

MS SEALY: Mr Khumalo, do you know Zweli Nicholas Chamane?

MR KHUMALO: Yes, I do know him.

MS SEALY: Is he a friend of yours, how do you know him?

MR KHUMALO: He is not a friend, we are not related, we are not even close, he is just a person I know.

MS SEALY: Did he used to come to your house during the times of the violence?

MR KHUMALO: Yes, during the time that we were being attacked, he would come to my place, I would see him outside there.

MS SEALY: Why would he come to your place, what was the reason for him to come to your house at the times that you had been attacked?



MR KHUMALO: I wouldn't know why he came there.

MS SEALY: Was he a member of the IFP as well?

MR KHUMALO: Yes, he was a member of Inkatha.

MS SEALY: Was he a member of the Self Protection Unit, do you know? The IFP Self Protection Unit, the SPU's as they are called?

MR KHUMALO: I do not know.

MS SEALY: Do you know Tulani Mlaba and Themba Zimo?

MR KHUMALO: No, I don't.

MS SEALY: You have never met them?

MR KHUMALO: I seen them in the past. I was arrested so I also met them during the arrest because I was appearing with them, they were my co-accused.

MS SEALY: But you don't know them personally? When you say you were arrested with them ...

MR KHUMALO: No, there is nothing that I know about them.

DR RANDERA: Did they ever come to your house?

MR KHUMALO: I wouldn't say they never did. I wasn't able to discern who was coming and who wasn't coming, so I can't say they came or they never came.

A number of people used to come and ask us as to whether we survived the night and how we were on the following day.

DR RANDERA: Were you an SPU member?

MR KHUMALO: No, I wasn't.

MS SEALY: You say that you were arrested at one stage with Tulani Mlaba and Themba Zimo. For what case was that, do you recall?

MR KHUMALO: It was the same case for which they were arrested.

MS SEALY: Would that be the Ngema Tavern shooting? The shooting that took place in Ngema Section in Katlehong on the day before your mother's funeral?

MR KHUMALO: Yes, that is correct.

MS SEALY: Did you appear in court with them for that case?

MR KHUMALO: That is correct, but the matter was withdrawn as far as I was concerned.

MS SEALY: It was withdrawn against you, but went ahead against the others, is that right?

MR KHUMALO: That is correct.

MS SEALY: Mr Khumalo, why do you think - were you born in Tokoza?

MR KHUMALO: That is correct.

MS SEALY: Were you born at [REDACTED]

MR KHUMALO: That is correct.

MS SEALY: Before the violence, before 1990, what was your relationship with the other people of Penduka Section, the other young men from Penduka Section, how did you get on?

MR KHUMALO: There was absolutely nothing wrong. We had fairly good relationships with the other people who lived there.

MS SEALY: You were all friends, some of you may have gone to school together, that is how things worked? You sometimes maybe played soccer together, you were very friendly, is that true?

MR KHUMALO: That is correct.

MS SEALY: So when do you think things changed, when did the community turn against the Khumalo family?

MR KHUMALO: I was still very young at that time, I don't remember what transpired between the community and my family

that led to the misunderstanding or the violence that came thereafter.

MS SEALY: How old are you now Mr Khumalo?

MR KHUMALO: I am 24 years old.

MS SEALY: Okay. So you were only 16 or 17 when this began?

MR KHUMALO: That is correct.

MS SEALY: Mr Khumalo, you understand that a lot of members of the community say that you were part of a gang, that you and your father and your uncle were the leaders of what they called the Khumalo gang, which included people like Fannel Tsabalala, Solomon Mbuli, Gabani Ramayesa and Pinpin Ramayesa. What do you think about that, the fact that people in the township have said that you were part of a gang?

MR KHUMALO: That ~~is not true, that is~~ all that I can say. We never were involved in any sort of gangsterism or being a gang.

MS SEALY: You see, one of the reasons that people have given us as to why the community turned against the family, is the fact that your father didn't want to serve on the Street Committee. Did you remember anything like that, it was in 1989 which is 9 years ago, so you would have been extremely young at that point, only 15. Do you remember anything like that?

MR KHUMALO: At that time I couldn't even say I was politically aware, I was just passive in so far as all that happened in the location was concerned.

MS SEALY: So when did you join the IFP?

MR KHUMALO: My father is a member of the IFP, so we were actually following my father. That is all that I could say, but I didn't have a vested interest in the IFP and I never joined formally.

It is only during 1995 and 1996 that I became a fully fledged member of the IFP, following in my father's footsteps, not necessarily that we had any interest.

MS SEALY: So at that point, during the period of the violence, 1990 to 1993, you weren't actually a member, you were just saying that you supported the IFP because your father was a member, is that correct?

MR KHUMALO: That is correct, I can say that because I didn't know anything about joining political organisations at that time.

MS SEALY: You were very young at that time when the violence broke out.

How did you feel at that time, I mean you lived in a community all your life and suddenly your family is attacked, people that you thought were your friends, are accusing you of things which you didn't do. How did that make you feel?

MR KHUMALO: That used to trouble me, even now, it still troubles me. I still ask myself as to what happened, or whatever happened between my family and the community.

MS SEALY: Do you think or can you have any reason why, I mean apart from, I know you said that you were too young to understand the politics of the time, but can you think of any other reason why there are so many people accusing yourself and your father and your uncle and various other people of serious, serious crimes in fact, serious incidents in the township?

Why would they as you say, everything is not true or it is blue lies as you have said on many occasions, what would be the reason for people falsely implicating you?

MR KHUMALO: According to my own perception, I think we were being attacked at my place.

MS SOOKA: Can I ask you a question please. From your evidence it seems clear that you put yourself and your family always in the position of the people being attacked, but from the evidence of so many people who have given statements to this Committee as well as people who have come to give evidence at this hearing, it becomes quite clear that they see themselves as the people being attacked.

Is it your evidence that you were only defending yourself and your family all the time?

MR KHUMALO: If we weren't being attacked or we were the ones who were attacking, my mother would not have run to Tembisa from Tokoza to Tembisa. If we were the attackers.

MS SOOKA: Tell us why your mother did go to Tembisa.



MR KHUMALO: It is because we were being attacked.

MS SOOKA: That is not the evidence that people have given to this Commission. People say that in fact your mother was fleeing from the violence that your father and yourself and your uncle were inflicting on people and that is why she went to Tembisa.

MR KHUMALO: Then if she was fleeing from the violence that we were perpetrating against the other people, why did she get killed?

MS SOOKA: That is something that the Commission would like to explore because there are allegations that your father may be in fact responsible for her death.

MR KHUMALO: That is a blue lie. There is no truth in that statement.

MS SOOKA: If there ~~is no truth in the~~ evidence that is being placed before this Commission, can you tell me why you have been the accused in a number of cases, why are all these people making false claims and charges against you?

MR KHUMALO: It is because we have been victims, because we are members of Inkatha and we were being attacked.

MS SOOKA: And you deny that you ever attacked anybody else?

MR KHUMALO: We have never been involved in any acts or attacks, we always defend ourselves.

MS SOOKA: The attack on Lucky Mbele, on Happy Mbele, where you and your uncle were shooting at him, were you in a defensive position or were you in fact launching the attack?

MS VAN DER WESTHUIZEN: Just as a matter of, just to get the record straight, the witness never said that he fired shots during that attack, he said he did accompany his uncle, but he didn't say that he fired shots.

MR KHUMALO: That is correct.

MS SOOKA: So you, yourself, what were you actually doing there on that particular day?

MR KHUMALO: Which day? I was at my place.

MS SOOKA: The day when Happy Mbele was killed?

MR KHUMALO: I was at my place. At the time that Happy Mbele was shot, I was ~~with my uncle and my~~ father was phoning the Police at that time.

MS SOOKA: So it is only your uncle who was firing the shots, you had nothing to do with it?

MR KHUMALO: That is correct. I never fired any shots.

MS SOOKA: What were you actually doing there then on that particular day? Or did you just come to give him moral support?

MR KHUMALO: My uncle was at my place during that time, he was at my place.

MS SOOKA: Yes, that is not what I am actually asking you. I am asking you when your uncle was firing on Happy Mbele, what were you in fact doing there?

MR KHUMALO: Happy was inside the house and we were actually guarding him not to go outside, because my father had gone to call the Police, so we kept him under civilian arrest or ...

MS SOOKA: But while you were guarding him so that he couldn't escape out of the house, your uncle was in fact firing upon him. One shot which actually probably led to his death, that is not the way one does a civilian arrest?

MR KHUMALO: Happy started shooting and I hid myself, that is when my uncle shot at him.

MS SOOKA: So again, Happy is the person who provoked the attack and you people were simply responding?

Why should we believe that Mr Khumalo, why should we in the Commission believe that you people are always only defending yourself, when the evidence before this Commission is that you people, you, your father and your uncle were in fact the attackers on most of the occasions?

MR KHUMALO: The fact that we attacked people, that is not true, we were always being attacked because Happy had come to attack us and he ran into that particular house.

They had actually come to attack our home. We never, at any stage, attacked them. They are just telling lies.

MS SOOKA: How is it then that if Happy is the person who was attacking the two of you, that Happy is in fact the person who got killed? Were you hurt in that particular incident? Did you receive any gunshot wounds?

MR KHUMALO: No, we never got shot, but he shot at us, but we were lucky enough, God saved us, we never got injured.

MS SOOKA: So in fact the people who were being attacked, escaped scott free, and the attacker gets shot dead, is that your evidence?

MR KHUMALO: That is the case and I am relating to you the story according to my knowledge and according to what I witnessed.

MS SOOKA: And all these times when you were the accused, was that again people making stories up against you?

MR KHUMALO: Yes, that is true, they hated us at home.

MS SOOKA: Why did they hate you?

MR KHUMALO: They hated us because they were attacking our place.

MS SOOKA: No, that is not an answer. Why did the people who attacked your house, hate you?

MS VAN DER WESTHUIZEN: With all due respect, the witness was asked that question quite a number of times and he actually said that he didn't know. He also gave an explanation that it might be because they were IFP members. I think he has actually

gone to great lengths to try and answer that question as far as he can.

MS SOOKA: I think Ms Van der Westhuizen, we are asking the questions, and I am asking your client to answer the question.

He has answered it by saying because they were attacked, that is not an answer as far as I am concerned. I want him to answer the question. Why does he say, what is he basing this premise that he makes that they were hated, what does he base that on?

MS VAN DER WESTHUIZEN: With all due respect, he has already said that the people - because they attacked him, because his house was attacked.

MS SOOKA: That is not good enough. I want to know if your client says the people of Tokoza hated them, what is he basing that premise that on?

MS VAN DER WESTHUIZEN: He has already answered by saying that because they attacked them several times, with all due respect.

MS SOOKA: No, that is something that happened. I want to know what he bases his reasoning on and I want him to answer the question.

MR KHUMALO: Because we were members of the IFP.

MS SOOKA: Proceed Ms Sealy.

DR RANDERA: Sorry, let me just clear that up as well. Again, you see, in 1989 I have come back to this over and over again, you know your father was elected to stand on, to be on the Street Committee right, and he resigned because he was not happy with what was happening. He was a member of the IFP then already, but no attacks took place on your father at that time in 1990, 1991.

In 1992, almost three years later, that is when the attacks started taking place, so people knew your father was a member of the IFP for many years before that already.

Why this change suddenly in 1992?

MR KHUMALO: They arrived at my place to take my sister. We had a tuckshop and my sister was abducted during 1992.

DR RANDERA: So are you now saying that that sparked things off, because there was a gang involved in the area that you were living, and they tried to abduct your sister? Is that what sparked it off, is that what triggered things off between the young people and your father?

MS SEALY: No translation?

DR RANDERA: I didn't get it.

INTERPRETER: He was asking me to repeat the question.

DR RANDERA: Let me start again. Initially when Commissioner Sooka was asking you the question, you said

people hated you and it was because you were members of the IFP.

I then pointed out to you that people in the community knew your father as an IFP member from 1989 and he had resigned from the Street Committee, nothing happened in that period, and then you came up with this issue of your sister having been abducted.

What I am putting to you is, is that what triggered everything off between your father and the young people initially and then that continued?

MR KHUMALO: They did that because we were Inkatha members, that is why they abducted my sister.

When they came to abduct my sister, we were being attacked, even in that instance.

MS SEALY: What happened when your sister was abducted?

MR KHUMALO: I don't remember.

MS SEALY: If I recall the evidence, it was an attempted abduction, they didn't get very far. I mean and at the end of that abduction, someone else died as well.

I mean it seems to me the evidence thus far is that every time the Khumalo family home or something happens in regards to the Khumalo's, generally the attackers that end up being dead or being killed or being injured.

In that instance of the abduction as well, I think Mr Khumalo then chased the people that tried to abduct his daughter and that person ended up being shot dead as well.

But if I could just clarify something else Mr Khumalo, on the case of Happy Mbele, when you went with your uncle, Mphekeleli, to the house to ensure that Happy didn't escape as such, did you have your firearm with you then or did you just go empty handed?

MR KHUMALO: I don't remember.

MS SEALY: You see, what worries me is that it would be, you say, or even Mr Mphekeleli Khumalo says that they called the Police before you go to the house and it would seem quite strange to go to a house, you personally, if you were unarmed, when you have already heard evidence from Pinpin and other people, that the person in the house has an AK47.

I mean, what use is an unarmed man against a person with an AK?

MR KHUMALO: I did not say that I was not armed, I said I do not remember.

DR RANDERA: Can I just understand, if I remember rightly from this morning and partly in the afternoon, what your uncle was saying, was that on that day you had been attacked in your taxi, all right.



He had then rushed to your father's house and he had heard of this impending attack, because we asked him why did you not inform the Police if you knew something was going to take place, and he said because there was going to be an attack taking place and they would try and find out.

Your uncle definitely goes armed to this place, he doesn't go without his gun. Did you not have your gun with you when you went along? Can you forget something like that?

MR KHUMALO: Yes, it is possible for me to forget, because we were being constantly attacked and I don't have a clear recollection of the days when I had a gun and when I didn't have.

DR RANDERA: No, Mzwakhe, I understand what you are saying that you were constantly attacked, I am not taking that away, all right.

But here, let me first try and understand why would you think that Happy would want to attack your house in the first place? We are just accepting that he was going to attack, but what was it that was going to make him attack your house? Was he part of an SDU unit there, was he part of the ANC, was he part of the gang there, why would he want to come and attack your house?

MR KHUMALO: We were IFP members and Happy was an ANC member.

DR RANDERA: But had he ever been involved in attacking your house before? Can you remember him coming to your house or your father's shop, threatening your father?

MR KHUMALO: They would come to the shop and block other people from buying from the shop. They would even boycott taxi's.

DR RANDERA: No, no, sorry, listen to my question. I am talking of the one person who gets killed.

Let's not go to the they and the them, because I don't know who the they and the them are. I know that this person got killed.

Do you ever remember Happy coming to your house or your shop, threatening you or your father that made you and your uncle think that they were going to attack your place now?

MR KHUMALO: Yes.

DR RANDERA: You do remember?

MR KHUMALO: Yes, that is correct.

DR RANDERA: Okay.

MS SOOKA: Can you tell us on which occasion that was and if it happened more than once, tell us how many more times that happened?

MR KHUMALO: I don't remember.

MS SOOKA: So you remember that Happy threatened you people, but you don't remember anything more than that? Why not?

MR KHUMALO: I do remember that he once came to our shop, staging a boycott that people should boycott the shop, but I don't remember which date that was.

MS SOOKA: How did he do that, what exactly did he do, how did he stop people from entering your shop?

MR KHUMALO: I wouldn't know as to how he did that because I was inside the building or the house, and I was still very young. That was during 1992 and I was also scared.

MS SOOKA: So how do you know that he actually caused people to boycott your shop, did someone tell you about that, did you hear him yourself or did your father tell you that?

MR KHUMALO: My father used to tell me.

MS SOOKA: And you never heard that for yourself?

MR KHUMALO: I saw them at one instance when they were putting some placards, I was standing at my gate when I saw them putting on placards that people should boycott our shop.

MS SOOKA: Why did you think that was happening?

MR KHUMALO: Because we were members of Inkatha.

MS SOOKA: When you use the word they, does Happy, who are you talking about?

MR KHUMALO: I think I made a mistake when I said they, I should have said because he knew that we were members of Inkatha, and other people who used to come were Mampuru.

MS SOOKA: How many times did Mampuru come?

MR KHUMALO: I don't remember.

MS SOOKA: Did you see Mampuru yourself?

MR KHUMALO: Yes, I did.

MS SOOKA: Did you hear him yourself?

MR KHUMALO: No, I never heard what he said because I was inside the house, but I saw him.

MS SOOKA: What did you see him do or hear him do?

MR KHUMALO: I saw him blocking the people from entering the shop.

MS SEALY: What did he do, did he hold his hand, did he stop them from coming in, did he hold up a placard? How did it happen?

MR KHUMALO: I don't remember well, because as I said before I don't remember everything that happened at the time, because we were being attacked, and I would have really taken notice of what was happening, exactly how.

DR RANDERA: Just one last, Mzwakhe, just remind me - I understand when you say you can't remember everything, I can't remember everything either, but I remember your father and the house was given Police protection. Is that right?

MR KHUMALO: Yes.

DR RANDERA: When did that happen? Was it after Happy's death?

MR KHUMALO: Yes.

DR RANDERA: So can you remind, can you put a date to it, when the Police were actually sitting outside your house, protecting you?

MR KHUMALO: It is just that I don't even remember when exactly Happy died.

DR RANDERA: Was it after your mother's death?

MR KHUMALO: No, it was before my mother's death. My mother fled to Tembisa because of those attacks and thereafter the Police came to protect us.

Shortly thereafter ~~my mother was then~~ shot and killed. MS

SEALY: Mr Khumalo, if I can just ask you one last question, it is in relation to David Vusi Nkosi, do you know him?

MR KHUMALO: I don't know whether you are referring to the Vusi that I know.

MS SEALY: He stayed at [REDACTED]

MR KHUMALO: Yes, I know him.

MS SEALY: Okay. This Vusi says that on the very same day of the incident with Happy, he was at home and he was just going to the toilet when he heard gunshots coming from outside the house. He went outside and he saw Mzwakhe Khumalo firing shots at his

cousin, Sizwe Patrick Nkosi, that is the Gunuza that you said came to your house and fired shots at you.

He then went back inside the house to inform his mother as to what was happening, Nkosi then went outside. Mzwakhe Khumalo fired several rounds at him and he returned fire. So, Vusi is saying that you fired at him and he fired back at you and then Nkosi ran away.

The following day he heard that you had been to his house with the Municipal Police and that they had damaged his belongings. Do you remember anything like that?

MR KHUMALO: I did mention that Vusi was with Gunuza when they came to attack my home.

MS SEALY: So this is the Vusi that you are referring to in that attack? The same Vusi that I am telling you about now?

MR KHUMALO: Yes. He is the one who was with Gunuza when they came to attack my house.

MS SEALY: Do you know what has happened to Vusi Nkosi?

MR KHUMALO: I do not.

MS SEALY: According to information that we have, David Vusi Nkosi was killed after giving evidence in one of the cases against the Khumalo's when you had a bail application. Do you remember Vusi coming and giving information to the Magistrate?

MR KHUMALO: Yes, I remember.

MS SEALY: Well, shortly after Vusi gave evidence to the Magistrate, he was shot dead. Did you hear anything about that?

MR KHUMALO: No, I didn't hear anything about that.

MS SEALY: I have no further questions for this witness.

DR RANDERA: Mzwakhe, earlier on you said to Ms Sealy that you were arrested at the time of the Ngema massacre, the Tavern massacre. Afterwards the charges against you were dropped. Why were you arrested with the other people?

MR KHUMALO: I wouldn't be able to say.

DR RANDERA: What were you charged with? What were you charged with initially, so this is two questions.

MR KHUMALO: It was alleged that I had shot people.

DR RANDERA: But those charges were dropped subsequently?

MR KHUMALO: I was informed that I was innocent when I was in court.

DR RANDERA: Okay. Mzwakhe, you know, you are 24 years old, is that right?

MR KHUMALO: Yes.

DR RANDERA: 24 years. When many of the events that we are talking about, you were 18 going on 19, a young man. So much violence going on around you. I know you have given us some of your thoughts, but clearly something went wrong.

Many, many people died in that period that we are looking at and something definitely went wrong. Looking back now after

so many years, can you give us your feelings, your understanding of what was going on in that period?

MR KHUMALO: I think there was this war between the ANC and the IFP.

DR RANDERA: But what is it that started that war, what is it that is so different between the ANC and the IFP?

MR KHUMALO: I wouldn't be able to tell you why there was so much fighting between this two.

DR RANDERA: Because as I understand it, you are still an IFP member, in fact you said you are now more of a formal member of the IFP than you were then. There is still the ANC in the area. You still remain a member of the IFP, but we are not seeing the same sort of fighting going on in the East Rand, so what is it that is different now, to what was happening six years ago?

The same two movements were there, the same two movements exist today, people are still living as they were then? What is it that is different, why are people not fighting each other now?

MR KHUMALO: I don't know why there is no fighting now, because I don't even know why they were fighting to begin with.

DR RANDERA: Do you think that the fighting could start again?



MR KHUMALO: I don't know anything about that, because I am not involved even with the violence. I am only a taxi driver, I drive my family's taxi.

DR RANDERA: Thank you.

MS SOOKA: Thank you Ms Sealy?

MS SEALY: I have finished, thank you.

MS SOOKA: Thank you Mr Khumalo. We have no further questions for you, you are excused from the proceedings. This hearing is now concluded. Thank you Ms Van der Westhuizen.

WITNESS EXCUSED.

