

# Political Conflict:

## State vs Aaron Sipho Madondo (19)

Charge: 3 counts under the Terrorism Act.

Count 1: The state alleged that, acting either alone or with Toto Skhosana, the accused committed a series of acts which were calculated to undermine law and order in South Africa. These acts, undertaken during October and early November 1977, allegedly took place in Swaziland, Pongola, Driefontein and the Mkhwakweni Trustland in the Piet Retief district, Eastern Transvaal.

The acts which the state claimed Madondo had committed were as follows:

- (1) On about October 14th, 1977, together with Toto Skhosana, he entered South Africa illegally from Swaziland, both of them carrying falsified South African travel documents;
- (2) Acting with Skhosana, a trained guerrilla fighter, he searched for and located a safe hiding place in the Mkhwakweni Trustlands in the district of Piet Retief;
- (3) From here the accused travelled to Driefontein, and there looked for a safe hiding place to store arms, ammunition and explosives;
- (4) During the second half of October, near Driefontein, he attempted to find a safe and suitable location for the training of others in the use of arms and ammunition;
- (5) In the latter part of October he illegally left South Africa with Skhosana, and travelled to Manzini. There they had a meeting with one Steve who supplied them with an amount of arms, ammunition and handgrenades;
- (6) With Skhosana, he returned to South Africa illegally, smuggling in the arms, ammunition and handgrenades;
- (7) The accused took the arms, ammunition and grenades to a hut in the Mkhwakweni Trustland, where they were stored.

Count 2: During October 1976, the accused left South Africa for Botswana, with the intention of undergoing military training and then returning to South Africa to wage a struggle against the state. From Botswana he travelled via Zambia, Tanzania and Angola, where he received military and political training.

After the completion of the training period, Madondo met Skhosana at Luanda airport, and travelled to Swaziland via Mocambique. He arrived in Manzini on October 12th, 1977, where he was provided with forged South African identity documents, and an amount of South African money (R200,00).

Count 3: During the period October until 2nd November 1977, the accused possessed the following weapons, explosives and ammunition, which were stored in the Piet Retief district:

- RG-42 and RGD-5 Russian offensive grenades;
- a 7,65mm VZ 61 (Scorpion) machine-pistol;
- an amount of 7,65mm Scorpion machine-pistol ammunition.

Brought to court in March 1978 directly from detention, these charges were put to the legally unrepresented accused.

He pleaded guilty to all 3 charges, and the case was remanded to March 20th in the Ermelo Circuit Court. There, before Mr Justice Boshoff, pro-deo council for Madondo confirmed the guilty pleas.

Leading the minimum evidence necessary in terms of the Criminal Procedure Act, the state called 5 witnesses. The first of these was Sgt Albertus Steyn, who testified that, on November 2nd 1977, he went together with a Capt van Wyk to Border Stores in the Mkhwakeni Trustland. On the basis of certain information received, they proceeded to a specific hut, and ordered the occupants to open the door of the hut. When this order was not complied with, the witness forced open the door, and saw Madondo standing in the doorway. Armed with an R-1 gun and a 9mm pistol, the witness grabbed Madondo and pulled him from the hut.

He then entered the hut to apprehend the other occupants, but was fired on from within the hut. He jumped out of the hut, and returned the fire, again ordering the occupants out. Two black women emerged.

The police were again fired on, and a handgrenade thrown from the hut. It exploded, injuring a different Sgt Steyn. On the instructions of the senior officer present, the hut was set fire to. The occupant (later identified as Skhosana) still did not emerge, and 2 explosions and the sound of ammunition going off followed.

The following day, the remains of the hut were searched, and the following weapons found:

- 2x Scorpion machine-pistols of Czechoslovakian origin;
- 200x 7,65mm bullets for a Scorpion;
- a Scorpion magazine, containing bullets;
- 3 empty Scorpion magazines;
- a cleaning kit for a Scorpion machine-pistol;
- the exploded components of 2 Russian offensive handgrenades.

According to the witness, the Trustlands are not mountainous, but are covered by scattered hills. The hut where the shoot-out occurred was some 5km from the Swaziland border.

The state's second witness was Maj FJ van Eeden, an explosives expert attached to the Security Police, Pretoria, who testified on the nature of the arms, ammunition and grenades found in the hut.

The next witness was Ephraim Jende, a cousin of the accused. He testified that when Madondo visited him in Driefontein, he admitted that he had undergone military training, and was a "soldier of freedom". The accused further told the witness that he wanted to

investigate the place he lived in, with the intention of storing weapons there, and was also willing to teach the witness to use firearms.

The state then called Mamteri Mabel Phakati, who told the court that she lived in the Mkhwakwesi Trustlands. During October 1977 she met two people in the Trustlands, calling themselves Ronnie Dlamini and Mike (Toto) Skosana. She testified that Skosana was a member of her family, whom she had previously known, and that his parents lived in that area.

Ronnie Dlamini she identified as the accused.

She said that Skosana and the accused had obtained a hut in the the Skosana kraal, and there had shown her and a friend certain weapons. The accused and Skosana had been staying in the hut for over two weeks when the police raided.

She and a friend had been in the hut at the time of the police raid on 2nd November and had come out when the police had called for the occupants to come out.

At the conclusion of the state case, Madondo was found guilty of 3 counts of Terrorism on the basis of his plea of guilty, and the evidence led. He went into the witness box to give evidence in mitigation of sentence and told the court that he had been an outstanding pupil at school, being the only Std 6 scholar at his school who had obtained a first class pass.

When the June 1976 riots broke out in Soweto he stopped attending school, and in October 1976 was recruited by the ANC. He left South Africa, and was transported to East Germany, where he underwent training between January and June 1977. On travelling to Luanda, he met Skosana, his commander, who had been trained in Russia.

Madondo admitted that his whole operation, and his recruitment, had been under the leadership of the ANC.

The defence then called the investigating officer, Maj NJJ van Rensburg, attached to the Ermelo Security Police. He told the court that, from the time of his arrest, the accused had cooperated fully and openly with the police.

Passing sentence, the Acting Judge-President of the Transvaal, Justice Boshoff, told the accused that he could hang for the offences he had committed. However, he took into account certain mitigating factors, including the fact that the accused was under

the influence of the older and more experienced Skosana, and had cooperated with the police.

Madondo was sentenced to 6 years imprisonment on each of the 3 counts, but because sentence on counts 1 and 3 is to run concurrently, this is an effective sentence of 12 years.

## State vs John Pala & others

State vs Mahwidi John Phala (50)

John Afheli Thabo (37)

Letsie Ben Mashinini (34)

Solomon Musi (25)

Bafana Vincent Nkosi (21)

Philip Khoza (Sibisi) (53)

On January 7th, 1977, an explosion took place in a house in Klipspruit, Soweto. At the time of the explosion, a number of people were present in the house:

Patrick Mabinda

Sipho Nhlapo

Edmund Nkuna

Lazarus Ndlovu

Solomon Ngobane, as well as accused no's 3, 4, 5 and 6 (Mashinini, Musi, Nkosi and Khoza, who was the occupier of the house).

That night a bomb was placed on a railway line between Johannesburg and Vereeniging.

The appearance in court on June 16th, 1977, of the 6 accused, and their subsequent trial, was a sequel to these events. Of those present in the Klipspruit house at the time of the explosion, 4 were charged. Patrick Mabinda was detained by the Security Police, but escaped from John Vorster Square in dramatic circumstances; Edmund Nkuna was killed in the blast, and; Sipho Nhlapo fled the country. Lazarus Ndlovu and Solomon Ngobane were detained by the Security Police, and subsequently testified for the state against the accused.

A name which featured prominently in the trial was that of Elmon Malele, and ex Treason Trialist, who a number of witnesses testified was a member of the ANC. He was detained on January 10th, 1977. During inquest proceedings, Capt AB Cronwright of the Security Police, John Vorster Square, testified that he had interrogated

Malele on January 12th from 09h00 until 15h00, keeping him standing all the time. Malele, aged 61, had suddenly fallen down, unconscious, hitting his head on a table.

Transferred to hospital, and operated on, Malele died of brain haemorrhage 7 days later, to become yet another in the growing list of South Africa's deaths in detention.

Charges: All the accused faced three counts under the Terrorism Act.

Count 1: The state claimed that, between June 1st 1976 and January 31st 1977 the accused, acting with a common purpose, committed a series of acts together with Patrick Mabinda, Sipho Nhlapo and Edmund Nkuna. The commission of these acts, together with the encouragement of others to perform certain of the acts, constituted an offence under the Terrorism Act, according to the state.

John Phala, accused no 1, was alleged to have committed the following acts:

- a) During the month of August 1976, he hid 5 handgrenades, detonators, ignition oil, and a plastic bag containing 212x 7,62mm bullets at the home of one Rebecca Marule.
- b) During September 1976, acting with Elmon Malele, he hid a bag containing a further 630x 7,62mm bullets used in firing a Tokarev pistol.
- c) During the period 17th-21st October 1976, he hid 4x 500gm blocks of plastic explosives, 2x 200gm blocks of TNT originating from Russia, 10 metres of safety fuse, 1 Tokarev pistol of Russian make, and 5 detonators at the home of Rebecca Marule.
- d) On October 23rd 1976, he concealed a bag containing 6x 200gm blocks of TNT explosives at the house of Emily Manatuko.
- e) During December 1976 he told Bafana Matsemela that he was a member of the ANC, and that he possessed blocks of TNT.
- f) During December 1976 at Nancefield Hostel in Soweto, he gave instructions in the manufacturing and use of bombs and explosives.
- g) On January 4th, 1977 he and Elmon Malele told Solomon Mzwandile Ngobane that they would fetch him and Bafana Vincent Nkosi 2 days later, to show them how to make and use bombs and explosives.
- h) On January 7th, 1977, Phala took Lazarus Ndlovu, Sipho Nhlapo and Elmon Malele to a railway bridge on the Johannesburg-Vereeniging line. There they planted a time bomb, intending to blow up the railway line.
- i) On the same day (January 7th) he and Elmon Malele took Solomon Mzwandile Ngobane and Bafana Vincent Nkosi to the home of Philip Khoza to receive instructions in the manufacture of bombs and explosives.
- j) On January 8th he asked Rebecca Marule to harbour Patrick Mabinda, knowing that he was a trained guerrilla, and that he had been responsible for the explosion at Philip Khoza's house.
- k) During the period 1st December 1976 to 27th January 1977, he possessed an automatic Kalashnikov rifle, 2 magazines, and 60x 7,62mm bullets.

According to the state accused no 2, John Thabo, committed the following acts, rendering him guilty on the first count of Terrorism.

- a) During July 1976 Thabo informed Thomas Dagada that he had joined the ANC, and that instructions had to be given to blacks in the manufacture of bombs. He encouraged Dagada to attend lectures where he would learn to manufacture bombs.
- b) On December 4th 1976, at Nancefield Hostel, Soweto, he possessed blocks of TNT explosives and other material necessary in the production of bombs.
- c) On the same day he told John Kekane and others, who were gathered at Nancefield Hostel during the demonstration of how to make bombs, that he intended organising blacks. When a man present said that the South African Railways should be sabotaged, Thabo said that when he circulated a note, people would know when to act.
- d) During December 1976 he told Bafana Michael Matsemela that he was a member of the ANC, and was in possession of TNT explosives.
- e) In the same month (December) he encouraged Joseph Mwamba to receive military training.
- f) During December 1976 and January 1977, Thabo possessed a book entitled "The Story of Simon and Jane". This book contained instructions on how to make bombs, how to handle firearms, and also puts forward the aims and objectives of the ANC. Thabo made this book available to Letsie Ben Mashinini (accused no 3) and Solomon Musi (accused no 4).

Letsie Ben Mashinini, accused no 3, supposedly performed the following acts:

- a) Possessed the book "The Story of Simon and Jane", the contents of which are detailed above.
- b) On December 4th, 1976, advised Solomon Musi (accused no 4) and John Thabo (accused no 2) to receive training in the manufacture of bombs and explosives.
- c) In a room in Nancefield Hostel, he received instruction in the manufacture and use of bombs and explosives on 11th December, 1976.
- d) On January 7th, 1977 he attended a lecture in Klipspruit on how to make bombs and explosives.
- e) On the same day, Mashinini manufactured a bomb with the intention of endangering the maintenance of law and order in South Africa.

The acts which the state claimed rendered Solomon Musi, accused no 4, guilty on the first count of Terrorism, were as follows:

- a) On December 11th, 1976, in a room in Nancefield Hostel, he received instructions in the manufacture and use of bombs.
- b) On January 7th, 1977, he attended a lecture in Klipspruit, where a discussion was held on how to manufacture bombs.
- c) Between November 1976 and January 1977 he possessed a copy of the book, "The Story of Simon and Jane", the contents of which are described above.
- d) On January 7th 1977 Musi manufactured a bomb with the intention of endangering the maintenance of law and order in South Africa.

Accused no 5, Bafana Vincent Nkosi, was alleged to have undertaken the following:

- a) On December 4th, 1976 he was willing to attend a lecture on how to make bombs and explosives.
- b) On December 11th, 1976 he attended such a lecture at Nancefield Hostel.
- c) On January 6th and 7th, 1977, he attended lectures in Klipspruit on how to make bombs and explosives.
- d) On January 7th he manufactured a bomb.

Accused no 6, Philip Khoza, was accused of the following:

- a) Between 4th and 7th January, 1977, he made a portion of his Klipspruit home available to Patrick Mabinda and others, for the purpose of making bombs and explosives.
- b) During the same period he assisted those who were making explosives by heating a soldering iron in his kitchen and taking it to the room where bombs and explosives were being manufactured.
- c) After the explosion at his house on January 7th, he deliberately neglected to report this incident to the police.

Count 2: During the period from the beginning of June 1976 until the end of January 1977, the accused received training in the Johannesburg area which would be of use to a person intending to endanger the maintenance of law and order; they further encouraged others to receive such training.

Count 3: During the period beginning June 1976 and ending January 1977, the accused possessed explosives, dynamite, ammunition and firearms as set out in the acts relating to Count 1.

The trial of the 6 accused began on August 1st, 1977, in a specially convened Supreme Court at Springs, before Mr Justice de Villiers. One of its features was the amount of evidence led by the state, involving some 70 state witnesses. This testimony can be conveniently divided up into 3 major sections - police and railway police witnesses, evidence of ordinary civilians (including medical evidence), and the most important testimony, that of accomplices.

Police and civilian evidence dealt mainly with the discovery of a bomb on the Johannesburg-Vereeniging railway line, investigation of the explosion at Khoza's Klipspruit house, transportation of those injured in the explosion to hospital, medical details of injuries sustained by some of the accused and others in the Klipspruit blast, and the nature and potential power of the arms, explosives and ammunition found in the possession of certain accused and accomplices.

One of the civilian witnesses, Silvester Carlos Gobini, testified that he knew Khoza (accused no 6) as a citizen of Mocambique. He (Gobini) was employed as a clerk at the Mocambique Labour Office in Johannesburg and on January 10th, 1977, Khoza, his wife and child had come to these offices and applied for travel documents to

return to Mocambique.

When Khoza told Gobini that there had been an explosion at his house in Klipspruit, Gobini reported this matter to the chief of the office. Shortly after that, the police arrived and detained Khoza and his wife.

A police witness, Lt D Greyling of the Security Police, John Vorster Square, told the court that on January 13th, 1977, he went to Nancefield Hostel with accused no 2, John Thabo. There, hidden in an unoccupied bed, he found a shopping bag containing 200gm of TNT explosives, wires, and batteries.

On January 26th, Greyling said that he went to a house in Moletsane, where more TNT, 5 hand grenades, and plastic explosives were found. The grenades were of foreign origin.

One of the first accomplices to testify was a 65-year old widow, Rebecca Marule. She was detained on February 9th, and was still being held in detention when brought to court in August 1977.

She told the court that, on various occasions Phala (accused no 1), sometimes accompanied by Elmon Malele, had asked her to store packages for him. Evidence was led that these packages contained bullets, hand grenades and detonators.

Subsequent to the Klipspruit explosion, Phala and Malele asked her to accommodate Patrick Mabinda for a few days. She agreed, and Mabinda was detained by police at her house on January 14th.

Bafana Matsimela told the court that he and John Thabo (accused no 2) were employed at the same place. Thabo had told him that John Phala was part of Umkhonto (we Sizwe), and that he (Thabo) possessed TNT, and was a member of the ANC.

Joseph Mwamba testified that he lived in the same hostel (Nancefield) as John Thabo. Thabo had invited him to a hostel room, and there suggested that he undergo military training.

Thomas Dagada, a relative of Thabo's, testified that accused no 2 had told him that he had joined the ANC. He invited Dagada to Nancefield Hostel where he said they "made bombs and read books".

Other witnesses warned as accomplices, most of whom were in detention, and who testified against the accused, included

Emily Mamathoko,  
Kleinboy Mogoswane,  
Evelyn Sedibe,  
Elizabeth Ranoto,



Marcus Ranoto,  
 Godfrey Thlape,  
 John Kekane,  
 Solomon Ngobane,  
 Lazarus Ndhlovu,  
 and Patrick Gadoutobe.

4 young members of the Soweto Students Representative Council,  
 Albert Oupa Moloto,  
 Andrew Roy Mbele,  
 Welcome Madiba, and  
 Piti Mthenyane

were also called to give evidence, and warned as accomplices. All 4 had been in detention for very lengthy periods when brought to court. Moloto and Mbele gave evidence in the trial of Paul Langa. Mthenyane was called as a witness in that trial but refused to testify. For this refusal he was sentenced to 3 years imprisonment. He was subsequently called as a state witness in the Pretoria ANC trial (5 vs Sexwale and 11 others), where he testified.

Lazarus Ndhlovu, warned as an accomplice and still a detainee, told the court he had been recruited by the ANC. On the night of January 7th, 1977, accused no 1, John Phala, had transported Elmon Malele, Sipho Nhlapo and himself to a place on the Johannesburg-Vereeniging railway line, where they planted a bomb with the intention of derailing the train.

All the accused, having pleaded not guilty to all charges, gave evidence in their defence. Apart from personal background, this evidence related primarily to rebutting state evidence, and giving an alternative explanation for presence at lectures on bomb making, possession of explosives, and presence at the Klipepruit explosion.

In a lengthy judgement, presiding Judge de Villiers made the following findings:

Accused no 1, John Phala: Guilty on counts 1 and 3. It was found that, of the acts allegedly committed by him, a), b), h), i), j) and k) had been proved.

Accused no 2, John Thabo: Guilty on counts 2 and 3. It was found that, in his case, the state proved acts a), d) and e) as listed.

Accused no 3, Letsie Ben Mashinini: Guilty on counts 1 and 3. In his case, the state proved acts c), d) and e) as listed.

Accused no 4, Solomon Musi: Guilty on count 1. Acts b) and c) as listed were proved against him.

Accused no 5, Bafana Vincent Nkosi: Guilty on counts 1 and 2. Acts b), c) and d) as listed, were proved by the state.

Accused no 6, Philip Khoza: Guilty on count 1. Acts a) and b) listed were proved against him.

**Sentence:** In sentencing accused no 1, John Phala, Justice de Villiers stated that he would have imposed the death penalty if it had been proved that Phala was more involved in the placing of the bomb on the railway line.

- No 1: On count 1, Phala was sentenced to 15 years; on count 2 a further 15 years was imposed, making an effective sentence of 30 years.
- No 2: Count 1 - 10 years; count 2 - 10 years, making an effective sentence of 20 years for John Thabo.
- No 3: Ben Mashinini: Count 1 - 10 years; count 2 - 7 years, 5 to run concurrently with sentence on count 1. This is an effective sentence of 12 years.
- No 4: Solomon Musi: 5 years.
- No 5: Bafana Vincent Nkosi: 10 years on count 1; 7 years on count 2, 5 to run concurrently with sentence on count 1. This is an effective sentence of 12 years.
- No 6: Philip Khoza: 15 years.

In total, Justice de Villiers handed down sentences of 104 years imprisonment for the accused. Below, for information, is the way Johannesburg's English-language press (RDM, Star and Post) covered judgement and sentence. As far as can be ascertained, this was the only report which appeared in these 3 newspapers.

# 'Bomb school' men jailed

SIX Soweto men gave the clenched fist salute when they were given long jail sentences at the end of the Terrorism Act trial in Springs.

Mahwidi John Phala (50) was jailed for 30 years for his part in the attempted derailment of a train on the Johannesburg-Vereeniging railway line, and also for being in possession of TNT, handgrenades and Russian weapons.

The other sentences were: John Asheli Thabo (37), 20 years; Solomon Musi (25), five years; Philip Khoza (55), 15 years; Letsi Ben Mashinini (34) and Bafana Vincent Nkosi (20), 12 years each.

The men were alleged to have operated bomb training schools in Soweto. One at Khosa's house in Klipspruit, was blasted by an explosion on January 7.

Mr Justice de Villiers, sitting in a special court at Springs, said in a three-day judgement the men could have probably succeeded in committing acts of sabotage if their bomb making session had not ended up in a fiasco.

He said had Phala played a more active part in the attempted derailment, the death penalty might well have been brought into effect.