

SABC News

Amnesty Hearings

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NAMES HEINRICH JOHANNES GROSSKOPF
CASE NUMBER AM5917/97

CHAIRPERSON: Good morning. We want to start the proceedings. For the record it is Tuesday 21 November 2000. We are continuing with the amnesty sitting at the IDASA Centre in Johannesburg. The presiding panel is constituted as should be apparent from the record. The first matter that's on the roll this morning is the amnesty application of Heinrich Johannes Grosskopf. The amnesty reference number is AM5917/97. I will allow an opportunity for the legal representatives to place themselves on record, starting with Mr van der Berg.

MR VAN DER BERG: Thank you Mr Chairperson. Eric van Der Berg from Attorneys Bell, Dewar and Hall on behalf of the applicant, Mr Grosskopf and also on behalf of a number of implicated persons, but I'll deal with those later.

CHAIRPERSON: Thank you Mr van Der Berg. And then on behalf of the victims?

MR RICHARD: Thank you Chairperson. Tony Richard from Johannesburg instructed by the TRC to represent Mrs Claassen and one other victim who might get here. Thank you Chair.

CHAIRPERSON: Thank you Mr Richard. Yes and then the Leader of Evidence?

MR MAPOMA: Thank you Chairperson. My name is Zuko Mapoma, I'm the Leader of Evidence for the Amnesty Committee.

CHAIRPERSON: Yes, thank you Mr Mapoma. Mr van Der Berg is there anything you want to put on record or do you want your client to take the oath?

MR VAN DER BERG: Mr Chairperson, if I could put just a couple of things on record to start with which I believe may facilitate in the disposal of this application. As I indicated earlier I act on behalf of the applicant, Mr Grosskopf. I also act on behalf of certain implicated persons, some who have been given notice and some who have not. Those are Abubaker Ismail who has been notified. Ernest Lakota Pule, who has been notified. Lester Dumakude, who has not been notified and Johannes Mnisi who has been notified.

In the week commencing the 5th May 1998, Mr Ismail and Mr Mnisi applied for amnesty for this incident. Their applications were heard that time. There is a record of that evidence. I've not had an opportunity to make a copy to hand up to the panel and I can do that at a later stage if it is required. Mr Ismail's evidence is at page 52 of that bundle. There are also, Mr Chairperson, in the bundle which has been prepared by the TRC at pages 14, a statement by Mr

Ismail which was confirmed under oath at the hearing which I've already referred to and at page 24, if my memory serves me correctly.

CHAIRPERSON: Mr van Der Berg is that paginated page 14?

MR VAN DER BERG: That's paginated page 14 of the bundle.

CHAIRPERSON: Yes, they've done us in here, or they've done me in. Oh okay, yes. No, no, no, I'm not left out, I do have it. I just want to get there. Oh yes, the statement by Abubaker Ismail.

MR VAN DER BERG: Thank you Mr Chairperson. And then at page 24 there's a statement by Mr Mnisi who also testified at that hearing that I've referred to and this statement was also confirmed under oath at that time.

Additionally at that hearing, Mr Ismail testified at some length as to establishment, the mandate and the history of the special operations unit of uMkhonto weSizwe and we don't want to repeat that evidence, we take it that that evidence is before you. Bits and pieces of that evidence were repeated at the application of Mr Ismail and also Mr McBride in respect of the Why Not Bombing. I'm sorry, I don't have the dates when that was heard but if my memory serves me correctly, October last year. I'm indebted to Mr Richard. Other than those remarks, Mr Chairperson, perhaps I can deal with the bundles of documents which are before you and we can mark those before Mr Grosskopf takes the oath. There's a statement by Mr Grosskopf to which he will talk as a guide to his evidence. Perhaps we could mark that A?

CHAIRPERSON: Exhibit A then.

MR VAN DER BERG: And then secondly, Mr Chairperson, I made copies of a bundle which was used at the application of Mr Abubaker Ismail and Mr Mnisi which I've already referred to. If we could mark that B? I have made a copy of that available to my learned friend, Mr Richard, but I didn't have time this morning to make a copy for my learned friend Mr Mapoma and I will try to remedy that during the course of the day. If we could mark that B?

CHAIRPERSON: That will be Exhibit B then.

MR VAN DER BERG: Thank you Mr Chairperson, I then call the applicant.

CHAIRPERSON: Thank you Mr van Der Berg.

HEINRICH JOHANNES GROSSKOPF: (sworn states)

EXAMINATION BY MR VAN DER BERG: Thank you Mr Chairperson.

Mr Grosskopf, you've prepared a statement which is before the panel marked A. If I could just before we deal with that statement refer you to the bundle which was prepared by the TRC and page 1 of that bundle? Is it correct that that is your amnesty application?

MR GROSSKOPF: It is.

MR VAN DER BERG: Completed in your handwriting and signed by yourself?

MR GROSSKOPF: It is.

MR VAN DER BERG: At page 10 of that bundle, Mr Grosskopf, is a letter from yourself, I think, if you would just confirm that, in which you give certain additional detail relating to your amnesty application.

MR GROSSKOPF: It is, that is correct.

MR VAN DER BERG: How did you become to prepare that letter?

MR GROSSKOPF: If memory serves me well it was the day before which would have been therefore the 28th September, I received a telephone call in the evening from Ms Whittle from the Amnesty Committee in Cape Town. It

was the only message on my answer phone in fact. I phoned her the next day being 29th September and she clarified that additional information was required. She faxed - no, she E-mailed to me the letter requesting additional information and on the same day I responded.

MR VAN DER BERG: Thank you. Could I then refer you to Exhibit A? You set out in Exhibit A your personal background and your family situation. Could you - you were born on the 21st December 1963 in Bloemfontein and you relocated to Johannesburg when you were about two years old, is that correct?

MR GROSSKOPF: That's right.

MR VAN DER BERG: You then deal with your family situation and some of the incidents which formulated or assisted your thinking in latter years. Could you deal with paragraphs 2, 3 to start with, Mr Grosskopf? Do you want to put those into the record?

MR GROSSKOPF: Ours was a house in which political, moral and intellectual questions were often discussed and with a wide variety of people from many disparate backgrounds. I have a clear memory as a fairly young child of noticing the incongruous situation that my parents' Black friends who would visit our house and be treated as my parents' equals, with we children addressing them respectfully, as "Oom" and "Tanie", but they still had to return to the townships at night.

It was impossible to be brought up in South Africa, even the White suburbs, without being aware of the inequalities and injustices of apartheid.

Throughout my school career this led to arguments with fellow pupils and increasingly, as I grew older, with teachers.

MR VAN DER BERG: You then list in paragraph 4 a number of incidents which were central to life experience. Are there any of those that you would specifically wish to highlight?

MR GROSSKOPF: I would probably choose to highlight as those that had the greatest impact on my thinking and certainly emotion at the time when I experienced them, sub-paragraphs 4.3, 4.4 and 4.5.

MR VAN DER BERG: Would you read those into the record please?

MR GROSSKOPF: "During 1980/1981 I was the Junior Mayor of Johannesburg. During this period, Alexandra status was finally changed from that of temporary township and a massive cleanup and improvement campaign was launched. At the invitation of the Alexandra Youth League, the Junior City Council visited Alexandra. I was shocked at the fact that from this filthy, unhygienic slum, thousands of people came everyday to work in comfortable White homes just a few miles away.

A few months later we visited Soweto on an official West Rand Administration Board tour. Even the physical conditions we were shown were immeasurably better than those at Alexandra. The context of the tour made an experience I can still remember. The impression created by the tour was that this was some foreign, exotic place filled by foreign, exotic and dangerous people who had no part of the real South Africa, of big houses and manicured lawns. In 1991, during my Matric year, I'd had a spinal operation and some friends came to visit me at home where I was convalescing. They brought along their cousin who said conversationally "It's time for me to go to the army, I need

to shoot my first kaffir before I'm 21." It's indicative of White attitudes at the time that my greatest horror was not at this truly, awful statement because I'd often heard similar or worse, growing up in White South Africa but at his own shock and surprise when I politely asked him to leave the house and never to come back. I was horrified by his expectation of complicity in this and his belief that all White Afrikaners would automatically agree with him. In the same year, 1981, my school put on a production of N P F van Wyk Louw's epic poem "Die Diepe Reg" which I translate as the deeper right or truth. This poem is set outside the gates of heaven where the Afrikaners have to justify their rebellion against English rule in order to gain entry into heaven. One line, which I can still hear myself say read "as jy 'n trotse volk verkneg word opstaan teen die reg sy reg" which I translate as "if you enslave a proud nation, rising up against the law becomes its right" As we recited this, I wanted to shout out "Good heavens, can't you yourselves?" I found it incredible even then that Afrikaner Nationalists, who took great pride in their resistance to British Imperialism and had experienced themselves the effects of discrimination, could not see the injustice they were now perpetrating. I argued with my peers that Afrikaners of all people should be able to understand the effects of State oppression and discrimination and should therefore align themselves to African Nationalism."

MR VAN DER BERG: Paragraph 5 you deal with the end of your school career and the fact that you travelled to the United States and the United Kingdom in 1982. Would you just read the final sentence of that paragraph into the record?

MR GROSSKOPF: "When I left South Africa I resolved to settle elsewhere. But given the opportunity, I found myself unable to leave Africa and my conscience behind."

MR VAN DER BERG: Paragraph 6 you deal with your experiences in the United States and the United Kingdom. Would you read that into the record please?

MR GROSSKOPF: "Even though my upbringing had been very liberal by White South African standards, it was still a shock to see Whites performing menial jobs in the U.S.A., jobs that in my previous experience were always fulfilled by Blacks. Hitchhiking in the U.S.A. and having to discuss South Africa's racial politics with drivers ranged from very well informed Black Americans to White racists, brought the inherent insanity of apartheid into sharper focus. In the U.K. I met for the first time openly pro-ANC South Africans and read a copy of Nelson Mandela's "No Easy Walk to Freedom" which I dared not bring back to South Africa."

MR VAN DER BERG: Please continue?

MR GROSSKOPF: "This first exposure to the much maligned ANC made a great impression on me, in particular the humanity and lack of racial prejudice that was totally out of keeping with the misinformation available in South Africa. I was sceptical enough to know that a book could be a pack of lies but I knew enough of people by that time to realise that I was being treated with tremendous courtesy, compassion and understanding by those with whom I argued."

MR VAN DER BERG: On your return from the United States and the United Kingdom, you enrolled at the University of the Witwatersrand. What did you study there?

MR GROSSKOPF: I studied towards becoming a teacher.

MR VAN DER BERG: You set out in paragraph 8 some of the experiences that you had at Wits. Would you read that into the record?

MR GROSSKOPF: "While a student at Wits during 1983/1984 I participated in a protest march on campus. The march was intended to leave the campus to John Vorster Square, but at the campus exit a group of around 30 Riot Policemen stopped us. As the protest march was about 1000 strong, I expected some concern from the heavily outnumbered Police. I was mistaken. They were entirely relaxed, joking and laughing about the ineffectual lefties and when they ordered us to sit down and later to disperse, the entire crowd complied without a murmur. Their confidence in their own power contrasted with the inability of the 1000 strong crowd to even sense their power. It started me thinking that two processes were necessary before apartheid could be effectively challenged. The Police's power and confidence must be broken and the people's belief in their own agency and power must be fostered. In the run up to the tricameral elections Oscar Mpetha came to Wits University Campus. The charisma, integrity and courage of the man tremendously impressed me. He spoke informally to students and asked "Are you against apartheid?" When he received a positive response he simply said "So why are you here then, why aren't you with the ANC?" The words shocked me for I'd only ever heard similar spoken by someone I considered a Police spy. The greatest shock for me was the simple logic of his statement. It was during the same year, during the tricameral elections that I agreed with a friend to act as a poll watcher as it was expected that the State would falsify the election turnout. For personal reasons I did not and the Police beat up a friend who went and broke his camera. For a few hours we, he and I, planned our own military campaign against Apartheid State, but fortunately, reason prevailed. While we did not act on this, I had begun the journey to realising that apartheid and separate development and State brutality were all aspects of the same system."

MR VAN DER BERG: Carry on with paragraphs 11 and 12?

MR GROSSKOPF: "For a number of reasons, both personal and due to cowardice, I tried hard for the following two years to ignore what was happening around me. This became impossible during 1985, during the National State of Emergency. A friend who had already completed his initial two year stint in the South African Defence Force was expecting to be called up for camps. At the same time people were being shot indiscriminately in the townships.

During the June and July of that year we had many conversations about the inherent justice of the national uprising and the brutality of State repression. Around October 1985 Louis le Grange issued a statement in parliament, which to the best of my recall, admitted to three deaths and ten detentions every day since the imposition of the State of Emergency. He ended this statement with "We are in control." The fact that not a single parliamentary voice was raised or at least reported to challenge this statement meant to me that one

of two situations prevailed. Either the whole of parliament agreed that killing and imprisoning so many people was compatible with good governance and control or they attached no value to the lives that were being destroyed. Whichever was the case, I finally realised that apartheid was not a least bad option. The creature of people who made honest mistakes with good intentions, apartheid was a system that existed on the systematic oppression and brutalization of a whole nation, including all my school friends who were doing their patriotic duty in the SADF or Police and had to be destroyed before people, including myself, could live lives of honour and dignity."

MR VAN DER BERG: You set out in paragraph 3.13 the reasons why you left South Africa and joined the ANC. Would you read those into the record?

MR GROSSKOPF: "My decision to leave South Africa and join the ANC was relatively unsophisticated and effectively based on seeing that all around me people were fighting for their freedom with inadequate weapons, skills and training and consequently dying in their hundreds. The realisation that I could not fight apartheid single handedly but that it had to be done within an effective organisation. The fact that according to the State the ANC posed the greatest threat to it and was therefore the best organisation to join. The slight knowledge I had about the ANC from my trip abroad as well as the State's insistence on communist White instigators within the ANC that belied the State's claim of it as a racist anti-White organisation and the fact that if I wanted to join the ANC I had to do this in exile as I knew nobody inside South Africa in the ANC."

MR VAN DER BERG: Now in paragraphs 14 and 15 you deal with your departure from South Africa, that you went to Swaziland and from there onto Botswana, trying to make your way to Zambia. Is that correct?

MR GROSSKOPF: That is correct.

MR VAN DER BERG: And after some time you were granted refugee status and then found your way to Lusaka. Would you pick up the story at paragraph 16?

MR GROSSKOPF: "I found in Charleston, the ANC transit residence in Lusaka a sense of social, political and emotional belonging that I have never known. Where previously my hatred of apartheid was to a significant extent intellectual, I could now emotionally identify with my earlier intellectual statement that the State isn't killing the people, they're killing our people. When I left South Africa, joined the ANC, I had not given serious thought to joining MK to a great extent because I did not then differentiate between the two bodies. As far as I knew from State reports, the ANC and MK was one and the same thing. In Lusaka I was explicitly asked whether I wanted to join MK. After serious consideration over a number of days I volunteered for military service based on a number of considerations including that I'd expected to find the ANC baying for the blood of their oppressors, especially in the context of the national uprising. To my surprise I found senior ANC cadres in long conversations with new recruits to urge restraint. Growing knowledge of and respect for the ANC as an organisation and as a group of people, immense respect for the restraint and reluctance with which it finally decided to counter violence with violence. Understanding the historic justification of the ANC's decision to declare war on the apartheid State and

recognising the inalienable right of people to defend themselves. I found a humbling humanity and understanding amongst the majority of ANC members I encountered, that the end does not justify the means and that revolutionary violence must not be indiscriminate and this understanding had been bred by painful experience of State violence and brutalization. The fact that unlike the SADF, MK was a volunteer army and much to the chagrin of younger exiles refused to train child soldiers. Once I'd decided to join MK, I knew that as a White Afrikaner I could offer the armed struggle something that few other recruits could. The ability to move freely in a racist society where both my skin and my language would offer protection and greater operational opportunities."

MR VAN DER BERG: You deal with your military training in paragraphs 19 and 20. Would you read those into the record?

MR GROSSKOPF: "From around May to October 1986 I underwent military training in Angola at Pango Camp. Training included instruction in firearms, military engineering and sabotage, politics and political history, tactics and military and combat work which entailed the politics, organisation and tactics of underground struggle. One incident during my training made an immense impression on me and validated my trust in the ANC and its policies. During an evening political discussion, one of the junior instructors and camp and company commissar, who was nicknamed Bungalagata, contributed to a discussion about the need for military orders to be obeyed immediately. Quoting the dictum "comply then complain" he added that MK was different to most armies and that it expected all its soldiers to be personally accountable to the strategy, aims and objectives of the revolutionary struggle. In practise, he explained, this meant that it was the duty of every MK soldier to scrutinise orders they received for compliance to these. If an order was considered counter-revolutionary, or damaging to the ANC and its policies, it was the duty of an MK soldier to defy such an order. MK soldiers should never be able to say "I was just following orders" as many SS guards did during the Nuremberg trials. The fact that none of the more senior instructors were willing to gainsay him stressed that this was indeed how MK was expected to operate."

MR VAN DER BERG: In the paragraphs that follow, you set out how you were recruited into special operations. Would you read those into the record please?

MR GROSSKOPF: " I returned to Lusaka at the end of 1986 and instead of going to one of the general MK residences, I was taken to stay with Jackie Mabusa, which is an MK name, I don't know his real name, unfortunately, who was later poisoned in the late '80's in Lusaka. He was the Deputy Chief of Regional Security and went to his house in Kabwata, a Lusaka suburb. Jackie explained that he wanted to speak to comrades in special operations as to whether I should be deployed there. Because a White MK member would cause general interest and thereby compromise my security, I would stay with him and his family until my deployment was finalised. After a number of weeks Jackie brought Rashied Patel, whom we now know as Abubaker Ismail and Victor Moelegi whose real name is Johannes Mnisi. He identified them as the commanders of special ops and then left us to discuss in private. The

initial discussions with Rashied and Victor covered my reasons for leaving the country and joining MK and discussion of possible targets and ways of attacking them. My willingness to undertake military operations was not taken for granted and I was explicitly asked whether I was willing to volunteer. After this discussion it was agreed that I would be deployed in special ops as a single operative and I was moved to an underground residence removed from the general exile and MK population."

MR VAN DER BERG: Can I interrupt you there? You say that you were to be deployed as a single operative. Can you give the Committee a little more detail in respect of that?

MR GROSSKOPF: Effectively, it would mean that I would operate on my own and I believe that though I never chose to clarify this with my commanders, but I considered it a reasonable response from them, though it was based on two main concerns. One, the fact that I could not identify anybody inside South Africa whom I felt either willing or able to recruit into MK and for reasons of security and maintaining the security of all the operatives inside the country, it well may well have been felt not appropriate to introduce me to other operatives who were surviving clandestinely at that time.

MR VAN DER BERG: Thank you Mr Grosskopf. Paragraph 26, would you read that into the record?

MR GROSSKOPF: "Approximately the next six months were spent in planning my infiltration, selecting a target and means of attacking it and planning the operation in as much detail as could be done without further reconnaissance inside South Africa."

MR VAN DER BERG: Please continue?

MR GROSSKOPF: "During discussions with Rashied and Victor, a number of possible operations and targets were discussed in a fairly general way initially. Targets included those familiar to me, for example Wits Command and the Johannesburg Gas Works. The Gas Works were ruled out at an early stage due to its proximity to the civilian population. Rashied supplied me with previous reconnaissance information on Wits Command which identified locations, security routine, including parking restrictions, likely SADF strength and personnel seniority and possible ways of attacking the headquarters. This target was certainly not chosen by default. A great amount of thought and planning went into considering the political content and consequences of an attack on this military headquarters in central Johannesburg. Considerations included the fact that South Africa was still in the midst of a national uprising that was being put down with increasing brutality. It was important to support people fighting and dying in the townships by increasing MK activity outside the townships. This would stretch State Security resources as well as raise the morale of people fighting in the townships. Because the State had so clearly politicised the role of the SADF by deploying troops in the townships, SADF personnel and installations were by definition justifiable targets. Attacking a command centre with senior personnel would have a significant on both the efficiency and morale of the South African Defence Force. Due to its location in the city centre, this operation could therefore not be denied or significantly minimised by State propaganda.

MR VAN DER BERG: The following paragraphs you deal with the aspect of civilian casualties. We know from the bundle and from the Police docket that a number of civilians were injured in this operation. Please would you read into the record paragraphs 31 and 32?

MR GROSSKOPF: "I'm aware that the issue of civilian casualties had been addressed by the Kabwe Conference and it was discussed at length in the camps while I was training and it was anticipated in these discussions which stressed and reinforced the position taken at Kabwe as outlined in paragraph 4.3.1 on pages 65 and 66 of the ANC's second submission to the TRC on the 12th May 1997. In addition, while recognising that civilian casualties could not be ruled out, the planning of the operation considered in great detail ways of reducing the possibility of civilian casualties in the following ways. Timing the attack for 9.45 in the morning when the morning rush hour would be over, children would be in school and recreational facilities like the ...(indistinct) cinema and restaurants would either still be closed or have very few patrons. Using high explosive charges covered in thin plate only without adding additional shrapnel, using hollow charges to direct the force of the blast towards the front on the vehicle thereby concentrating the blast effect onto the Wits Command building and reducing at the same time the blast effect in all other directions. While a night time attack would reduce the possibility of civilian casualties in the street, it would increase the possibility of civilian casualties at the cinema complex, restaurants and hotels. The plan also included a relatively short time delay, about 15 to 20 seconds between placing the vehicle in position and de-detonating, thereby allowing me to reduce the possibility of the car bomb exploding next to or crushing into an oncoming car and establishing a clear preference from an attack in Court Street, the quietest of the four streets surrounding Wits command."

MR VAN DER BERG: You then deal with the initial operational planning in your modus operandi when you were in the country. Would you read that into the record?

MR GROSSKOPF: "The outline operational plan was that I would be infiltrated into South Africa, establish a base, carry out initial reconnaissance to establish whether an attack was feasible and then return to Botswana for a debrief by Rashied. If it were decided that the attack could go ahead, I would then take military material into the country with me on my return before finalising reconnaissance and planning. The initial method chosen to attack this command was by car bomb as there was no other feasible way to deliver enough explosives near the target to be effective. I believed it would be possible to use a car with an automatic gearbox to move itself, without a driver, up to Wits Command before exploding. This would involve fixing the steering wheel into the desired position and improvising ways to increase fuel to the engine as if the accelerator pedal were pressed and changing the position of the gear selector from neutral or parked to drive. It was agreed that the method would have to be tested before it could be considered. If it was found to be feasible, then reconnaissance should establish whether it could be possible to park a car opposite Wits Command, leave it with the engine running and make an escape into an area safe from the explosion within fifteen to twenty seconds. Rashied and I discussed the possibility of

achieving this and examined possible pitfalls. Potential operational pitfalls identified at this stage included a car coming down Court Street, crashing into the bomb vehicle before it reached Wits Command. This concern would be addressed by choosing a quiet time to attack Wits Command, as well as a short time delay before detonation to allow the operation to be delayed until a clear road was available. Another potential pitfall was that the bomb vehicle might fail to mount the kerb before reaching the wall of Wits Command. This would be addressed by practical test in the bomb vehicle, taking notice of the height of the kerb outside Wits Command.

Around the last week of June 1987 I bought a 125cc Scrambler motor cycle in Botswana, intending to travel on this to Johannesburg after physically jumping the fence into South Africa. It was also recognised...(indistinct) departing here from ...(indistinct) that there were considerations of security if normal infiltration routes were used because once again, a White operative might have stuck out and may therefore have comprised security if I were infiltrated through established routes inside the country.

Around the night of 3-4 July 1987, I was infiltrated into South Africa across the Botswana border fence and I was escorted by members of the Botswana special ops support unit. Chris, whose real name was Lester Dumakude, and T-Man - Ernest Lekota Pule. The support unit was a logistical unit which continued to take instructions from special ops command and would not be involved in the planning or execution of operations. Along the way I bought a Valiant Rustler bakkie in De Deur and travelled to Johannesburg with the motor cycle in the back of the van. Around the evening of the 4th July 1987 I booked into the Pretoria Holiday Inn, using the name of a false South African passport supplied to me by the special ops command in the name of J.R. Evans. Because I believed that computerised city Estate Agent firms might have connections with State Security structures, I decided to look for private rented accommodation in the Star classified advertisements. I saw a flatlet advertised in Lyndon, a suburb in northern Johannesburg where I grew up and arranged to view it the same night. I arranged with the owner of the property, Mr Peter Collett, according to Police information, that I would move into the property on the 6th July 1987."

MR VAN DER BERG: Mr Grosskopf, in respect of these dates which you set out here, have you relied on the bundle of documents, Exhibit B in the reconstruction?

MR GROSSKOPF: I have. I took the dates as were supplied in the bundle by the South African Police investigating officer. It follows the chronology of events as I recall but I cannot attest the accuracy of the dates which is why I speak of being around those times, around those dates.

MR VAN DER BERG: You then deal with the further reconnaissance and planning of this particular operation. Could you pick it up at paragraph 44?

MR GROSSKOPF: "From around the 5th to the 10th July 1987 I carried out further reconnaissance at Wits Command and established that it was possible to park in Court Street opposite Wits Command, that the streets were generally quiet after 9.30 in the morning. Due to the proximity of a cinema complex, restaurant and hotels, there were many civilians in and around this command in the evening. In spite of sentries outside Wits Command, security

appeared to be fairly lax. I measured the distance a car parked on the left hand side of Court Street would have to travel to reach the wall of Wits Command. I measured the height of the kerb onto the pavement the vehicle would have to mount before reaching the wall of Wits Command. I checked that it would be possible to walk quickly, without running, from a parked car to inside the Sterland Complex in 15 seconds. Court Street was effectively level, allowing the car to be parked in neutral without the hand brake, without it moving. I spent three afternoons conducting various tests to determine the feasibility of piloting an unmanned vehicle towards the target. To the best of my recall I believed that I timed the car to take ten seconds from initial increase in revolutions to travelling the required distance. As a result, if this sequence started ten seconds after I started walking away from the car, I would have twenty seconds before a charge detonated giving me enough time to get into the Sterland Complex and away from the direction of the main force of the blast. As a result of this reconnaissance and experimentation, I believed the operation was feasible and arranged to return to Botswana to meet with the support unit and Rashied.

Around 10th July 1987 I travelled to Botswana in the Valiant bakkie, taking the Botswana registered 125 cc motor cycle with me. I reported to Rashied in the support unit that the operation was feasible and that I would need, as agreed, explosives for a car bomb. In order to maintain security, the support unit did not know the details of the operation, so this was not discussed with them."

MR VAN DER BERG: Can I just ask you to clarify there? What was discussed with the support unit?

MR GROSSKOPF: What was discussed? After debrief and discussion and further planning with Rashied, what was discussed, he instructed the support unit to supply to material that was necessary. The only issues that were discussed with the support unit were the practicalities of getting explosives and other arms to me. They assisted me in fitting it into the vehicle and in practical terms there was some discussion about border posts but it was not - they were at the time, to the best of my recollection, not aware through which border post I would return even. So discussion of detail with the support unit was not done.

MR VAN DER BERG: To the best of your recollection were they aware of the target?

MR GROSSKOPF: I would be extremely surprised if they were. We operated very strictly on a need to know basis. They knew and if they did not know, they would have been able to deduct from the amount of explosives that I took from Botswana that there would be a large operation, but they had no idea about the intended target or even which area of the country I was staying in.

MR VAN DER BERG: Thank you Mr Grosskopf. You deal with the explosives that you received from the support unit and how you transported this into the country at paragraph 48. Would you read that into the record?

MR GROSSKOPF: "I received from the support unit around 120 kilograms of high explosives which included four 5kg hollow charges that I would use to direct the force of the blast, small arms and a small number limpet mines. I

placed these in a large compartment already existing in the vehicle compartment behind the seats and welded a steel plate over it. This steel plate was covered in paint and bitumen to mask the smell of explosives and to create the impression that it was an integral part of the vehicle."

MR VAN DER BERG: Please continue?

MR GROSSKOPF: "I left the small motor cycle in Botswana with the support unit for their use and returned to South Africa around the 13th or 14th July. Back in Johannesburg I stored the explosives in a steel trunk in the flatlet that I had rented in Second Street, Lyndon. Around the 16th July I bought a 500 cc Honda Scrambler motor cycle, intending it to be used as a get away vehicle after using the Valiant bakkie in a car bomb. Around the 17th July I rented a house in Ventersdorp, intending to use it as an operational base. I believed, incorrectly as it turned out, that a single Afrikaner would be under less scrutiny in a small town than in Johannesburg suburbs. I rented the house through an Estate Agent and visited the council offices, arranged for the connection of water and electricity. Because I did not have an I.D. book, I had to identify myself with a false passport at the council offices. On the same day I bought second hand furniture to furnish the house and placed these in the back of the bakkie and took them to the rented property. Just as I parked the vehicle, two policemen, one in track suit and the younger one in uniform confronted me. The older one explained they were father and son named Labuschagne and he, the older one, was a colonel and instructor at the Police College. Col. Labuschagne told me that he had run a Police computer check on my vehicle and had checked with the Estate Agent from whom I'd rented the house. He wanted to know why the house and car were in different names. He also asked about the connection of services to the house, giving me the impression that he was aware I had identified myself with the passport, an unusual thing to do. I explained that I had only recently bought the vehicle and was in the process of registering it. In order to give a reasonable explanation for my own discomfort at speaking to them, I explained that I had recently bought myself out of the SADF and intended to do some travelling and "om dinge net rustig to vat" - to just take things easy. When the two policemen departed, I was left with the distinct impression that they were unsatisfied with my story and that they would investigate my claims and background. I was aware that a computer check on the passport used at the council offices would likely identify as false and that this would put them on to me. I resolved to leave Ventersdorp as soon as prudent. In case they, the Police, were watching for any reaction to their visit, I unpacked the furniture and made the house habitable. I stayed in the house that night then returned to Johannesburg.

During the next week I contacted the special ops support unit in Botswana, informing them that I considered my cover blown. Because I believed that it would take the Police some time to investigate me and to make a link between Ventersdorp and Johannesburg, I advised the unit that I felt it was safe to continue the operation. I carried out further reconnaissance at Wits Command to confirm all my earlier findings and bought material to improvise time switches and chain to lash the steering wheel into place. Using a car wiper motor fastened to a wooden board I manufactured a winch that would

(a) increase the fuel flow to the engine, and (b) pull the gear selector from neutral into drive when the car was running fast enough to move off without the wheel spinning."

MR VAN DER BERG: Mr Grosskopf, can you explain to the panel what it was that you had in mind, what you had intended to achieve?

MR GROSSKOPF: What I had intended to achieve would be for the - if I understand your question to mean the object of the operation?

MR VAN DER BERG: Indeed.

MR GROSSKOPF: Right, the object of the operation was to attack military personnel inside Wits Command by blast damage to the building. The intention was therefore not to attack sentries or military personnel or civilians for that matter outside the command, the intention was to bring the car bomb into actual contact with the Wits Command building so that the effect of the explosion would be maximised.

MR VAN DER BERG: Would you read paragraph 60 and 61 into the record?

MR GROSSKOPF: "Even though I knew the Police were possibly looking for the Valiant bakkie by now I spent many hours over two days testing out the apparatus. I would do this while sitting in the car, checking the noise of the car as its revolutions increased, accuracy of completing the required quarter circle to face a wall head on and timing from setting the apparatus, getting out of the car, locking and walking away. At the end of this I was satisfied that the operation was likely to succeed in all its objectives. Because I believed I had very little if any time left in South Africa before the Police started actively searching for me, I resolved to burn my bridges by carrying out the operation, then immediately leaving South Africa for Botswana by motor cycle. As I believed the Police may well be alert to the name of J.R. Evans and possibly alert to false passports, I decided to use a legally issued passport with a false date extension stamp in it to cross the border into Botswana.

Around the 24th July I created a cache of small arms and materials that I would not be using in this attack and this cache included from memory, four limpet mines with fuses and detonators, two handgrenades and one AK-47 with ammunition in the vicinity of Emmarentia Dam in Johannesburg. On my return to Zambia I handed a sketch of the location of this cache to the special ops command."

MR VAN DER BERG: You then deal with the incident itself, the events on the 30th July 1987. Perhaps before you do that, can I refer you to Exhibit B and page 75 of that bundle?

MR GROSSKOPF: Yes, thank you.

MR VAN DER BERG: You'll see that that is a sketch plan of the area itself. Can you take the Committee through that sketch plan, indicate where the vehicle was to be parked, where Wits Command was, etc?

MR GROSSKOPF: From my understanding of the plan - can I just refer to the person who drew the plan? It is my understanding that the plan was a sketch plan drawn by Willem Petrus du Plessis who was one of the soldiers on sentry duty at the time and that was his witness statement to the Police, would that be correct?

MR VAN DER BERG: I think that that is correct.

MR GROSSKOPF: Looking at the plan the person drawing it identified the Valiant bakkie, therefore the vehicle containing the car bomb as B. C was identified as a blue Cressida belonging to Paul Ehlers who was one of the soldiers also on sentry duty outside. G is indicated as the steps leading into Sterland Cinema Complex. H - Wits Command building. D, E and F being cars travelling in De Villiers or Court Street.

MR VAN DER BERG: Can you take the Committee through the reasons for choosing Court Street rather than either De Villiers or I think it's Twist Street on the other side of Wits Command?

MR GROSSKOPF: Of all the roads there were a number of considerations, one already having been alluded to, the fact that Court Street was certainly the closest, I'd say the quietest of all the streets around Wits Command. It was also a relatively narrow street meaning that the car would not have to travel very far, the intention being that the car parked where it was at B, next to Sterland, would actually cross Court Street on its own to make contact with the Wits Command building before exploding. De Villiers Street, as is shown on the map, is not one way traffic as Court Street is. It was therefore also a far busier road than any of the other, therefore both by way of perspective of success of the operation tactically and the likelihood of impact on civilians either on foot or in cars by parking in De Villiers or any of the other streets, both the success of the operation was less likely and the impact on civilians more likely. Also, if memory serves me well, if Twist Street ran parallel to Court, you could not park into a street going up the hill and there was also the consideration that at the back of Wits Command, which is where I parked in Court Street, the building was actually part of the fabric of the wall, therefore there would not be a wall stopping the car before it reached Wits Command. Because it was a one way road with only a single lane of traffic going down it, I would have far greater ability to delay the operation if a car was coming down which could therefore impede the ability of the bomb car to cross the road towards Wits Command.

MR VAN DER BERG: Thank you Mr Grosskopf. Would you pick the sequence up at paragraph 63 where you describe the incidents which occurred that day?

MR GROSSKOPF: "Early in the morning on the 30th July 1987, I rode to town on my motorcycle, leaving it about two blocks away from Wits Command. I returned by taxi to Lyndon and packed the explosives into a trunk which I placed in the back of the van. In order to create initial confusion about my identity, I wore a thick grey padded jacket and over this a white laboratory or medical coat. I intended to focus the attention of witnesses on easily identifiable items which, if I removed them, could create enough uncertainty to make my escape. Around 9 in the morning I left Lyndon and drove to central Johannesburg with the explosives in place. In the front of the van I had two parallel time switches, manufactured from alarm clocks, to detonate the charges. From memory they were set at 20 to 25 second delays. Another time switch, also manufactured from an alarm clock, controlled electricity to the motor that would increase engine speed and move the gear selector. From memory, this was set at 10 seconds.

Around 9.45 a.m. I parked the car in a parking space in Court Street. The street and surrounding area were relatively quiet in terms of civilian pedestrians and cars. With the car idling, I lashed the steering wheel in the required position. While doing this I could see in the rear view mirror the soldier on sentry duty talking to a young woman. He seemed to look in my direction but did not give any sign of suspecting me. I threw all three switches, got out of the car, locked it and walked towards Sterland. Before reaching inside the cinema complex proper, I heard the Valiant's engine revving very fast and loudly, then a loud explosion that shattered all the glass in front of me. I ran through the cinema complex and was soon joined by other people running in the same direction, away from the blast. When I was a block away from the explosion I removed the white overcoat and put it into a rubbish bin. I then stopped running and walked quickly to where the motorcycle was parked. By the time I reached the motorcycle I could hear sirens all over the city. I drove back to Lyndon, collected some belongings and headed for Botswana on the motorcycle. I crossed the border into Botswana at Ramathlabane and contacted the special ops support unit at a pre-arranged rendezvous.

On 31st July I travelled to Zambia where I was met by Victor and taken to Lusaka where special operations and MHQ commanders debriefed me. I was then informed that Rashied had been redeployed as chief of ordinance in MHQ and that Chris, real name Lester Dumakude, was the new commander of special ops. The chain of command was also changed and special ops would in future report directly to MSQ chief of operations Lambert Malloy."

MR VAN DER BERG: Can I interrupt you there? Do I understand your evidence correctly that the planning and the execution of this operation you did on your own and that you were not assisted by anybody internally?

MR GROSSKOPF: There was nobody assisting me inside the country at all.

MR VAN DER BERG: Thank you. Would you continue at paragraph 74?

MR GROSSKOPF: "Around December 1984 I was waiting in Botswana to be infiltrated back into South Africa. Just before this could happen, Rashied informed the support unit that the Police were aware of my expected arrival and had set an ambush. I was instructed to return to Lusaka.

Around March 1988 I was again being prepared for further operations and went to Angola to be trained in the use of clandestine radios. This training was conducted by a Soviet instructor in the Propaganda House in Luanda and continued for approximately two months. It included the use of morse code, coding systems and using special transmitters that transmit pre-recorded messages at very high speed to avoid detection. While I was in Luanda I was informed that Adriaan Vlok had named me in the South African media as responsible for a number of MK operations and that there was consequently no chance of deployment inside South Africa again."

MR VAN DER BERG: The allegations that he made in respect of you, can you recall what they were?

MR GROSSKOPF: To best of my memory he accused me of an explosion outside the Johannesburg Magistrates' Court, the Wits Command attack and an attack at the Krugersdorp Magistrates' Court.

MR VAN DER BERG: If we just take those one by one. The Johannesburg Magistrates' Court, were you involved in that?

MR GROSSKOPF: I was not, I was not in the country at the time.

MR VAN DER BERG: You've testified already in respect of Wits Command and the last item that he mentioned was the bomb blast at the Krugersdorp Magistrates' Court. Were you involved in that?

MR GROSSKOPF: I was not and again if memory serves me well I was actually on Luanda Airport on that day.

MR VAN DER BERG: And are you aware that a unit named the Dolphin Unit has claimed responsibility and that evidence has been led in respect of the Krugersdorp Magistrates' Court bombing?

MR GROSSKOPF: I'm aware of that.

MR VAN DER BERG: Please will you continue? I think we had got to paragraph 78.

MR GROSSKOPF: "After this I went to the Soviet Union for specialised training in military engineering and sabotage, unarmed combat and military and combat work. Around September 1988, after my return to Lusaka, I was deployed in the command collective of special operations in charge of administration and operations. I can remember the details of only one operation planned by the collective during this period, a planned attack on a military base near the Zimbabwean border that was cancelled before it could be carried out."

MR VAN DER BERG: You then deal with your involvement in the ANC Repatriation Committee?

MR GROSSKOPF: "Around November or December 1989, with the start of negotiations and the likely return of exiles, I asked to be relieved from deployment in MK to work in the Repatriation Committee. The ANC Repatriation Committee arranged for the return of around 500 exiles from Zambia, Tanzania and Mozambique before this task was taken over by the UNHCR. In discussion with senior ANC members it was clear that it was not safe in 1991 for me to return to South Africa with most of the exiles where the main thrust of political activity was focused. As a result, I decided to go to the U.K. in August 1991 where I'm still resident."

MR VAN DER BERG: Thank you Mr Grosskopf. You've testified about your activities as an MK cadre and specifically in respect of the operation at Wits Command on the 30th July 1987. Is there anything that you would wish to add to your testimony?

MR GROSSKOPF: Thank you. I am proud to have played even a small part in the birth of a free South Africa and pay homage to all of those who suffered pain and death to achieve this. As a soldier in MK I share the sentiment of a statement in the ANC's second submission to the TRC on the 12th May and I quote

"We extend our condolences to the families of all those who were killed or injured including the soldiers and police who fought against us. The taking of a life is not an easy thing to us, (to me) all life is sacred."

I believe that violence can never be good, it can at best be necessary. The violence I encompassed other comrades used in the defence of our people was necessary, for the consequences of this violence, for any injury or

suffering that I have caused, regardless of to whom, I feel deep regret and continued sadness. Thank you.

MR VAN DER BERG: Thank you Mr Grosskopf.

Mr Chairperson, I have no further questions at this time. Perhaps this might be an appropriate time to take the tea break?

NO FURTHER QUESTIONS BY MR VAN DER BERG

CHAIRPERSON: Yes, thank you Mr van Der Berg.

Yes thank you, we'll adjourn for 15 minutes.

COMMITTEE ADJOURNS

ON RESUMPTION

CHAIRPERSON: Yes Mr van Der Berg, is there anything else?

MR VAN DER BERG: There is not, Mr Chairperson.

CHAIRPERSON: Yes, Mr Richard?

CROSS-EXAMINATION BY MR RICHARD: Thank you Chairperson.

Mr Grosskopf, I believe that the point has already been covered but I need some classification. When you described yourself as a single operative, does that mean you worked completely alone?

MR GROSSKOPF: I worked completely alone inside the country, yes.

MR RICHARD: Now within the command structure of MK where would you have fitted in, under who and above who?

MR GROSSKOPF: I would have fitted in above nobody. I would have fitted in underneath special ops command.

MR RICHARD: And to whom were you responsible?

MR GROSSKOPF: To the commander of special ops, Rashied.

MR RICHARD: And then after that to Mr Dumakude?

MR GROSSKOPF: Yes that's right.

MR RICHARD: So you never belonged to any particular unit within South Africa or any structure within the Republic?

MR GROSSKOPF: I'm not sure I understand the question.

MR RICHARD: You were based outside the country?

MR GROSSKOPF: Yes.

MR RICHARD: But while inside the country you weren't associated with any particular structure?

MR GROSSKOPF: Are you referring to ANC or other structures within South Africa?

MR RICHARD: ANC within the borders.

MR GROSSKOPF: No.

CHAIRPERSON: In other words you were not part of an MK unit?

MR GROSSKOPF: Well I was part of an MK unit insofar as I was part of special ops. I was not part of any MK unit inside South Africa other than myself. I was the unit.

CHAIRPERSON: Inside the country you operated on your own?

MR GROSSKOPF: Completely.

CHAIRPERSON: Entirely?

MR GROSSKOPF: Entirely on my own.

CHAIRPERSON: Thank you.

MR RICHARD: That continues, now on the chronology you left the Republic in January 1986 and then except for the period around July 1987 when this operation was carried out, you never came back?

MR GROSSKOPF: That's right.

MR RICHARD: And while outside South Africa did you deal with operatives who returned to Angola or Botswana?

MR GROSSKOPF: Do you mean returned?

MR RICHARD: An operative was sent into South Africa, they came back, while you were outside South Africa would you have dealt with people who had finished their operation within South Africa and had gone back to ... (indistinct) they may be at?

MR GROSSKOPF: To the best of my recall, no. To the best of my recall, no.

MR RICHARD: Does the name John Dube mean anything to you?

MR GROSSKOPF: No.

MR RICHARD: Would you have recalled the name Silbert?

MR GROSSKOPF: Yes.

MR RICHARD: I don't intend, Chairperson, going very far on the ... (indistinct) cross-connected with other hearings.

CHAIRPERSON: Yes, please.

MR RICHARD: Thank you Chairperson. Now it's a simple question and if there's a simple answer I will leave it there and then. Did Silbert, also known as John Dube, ever discuss the killing of Sekelo Nglomu with you?

MR GROSSKOPF: No, I have not. To the best of my recall, I have never met him.

MR RICHARD: And when he returned from South Africa he wouldn't have reported to you?

MR GROSSKOPF: Well he didn't.

MR RICHARD: No, that's the end of that point. I take it no further.

Now let's go to the 30th July. How many times had you been to the scene of the car bomb attack on the Wits Command headquarters before that morning?

MR GROSSKOPF: Numerous times. All in all certainly more than ten times. I didn't keep a diary, I don't know the exact number. I'm aware that I went to Wits Command prior to going to Botswana to report back to Rashied and get material and I carried out further reconnaissance subsequent to that. More than ten I can't give you more.

MR RICHARD: It's not important, but you very familiar, you were highly familiar with the environment?

MR GROSSKOPF: Yes.

MR RICHARD: Now if we turn to page 75, that's of bundle B and we go to Sterland and there's a letter G which is described as a stairway?

MR GROSSKOPF: Yes.

MR RICHARD: Is that the main entrance to the movie complex?

MR GROSSKOPF: I don't know, I did not draw the map. There was an entrance in Court Street that too, again to the best of my recall, would run diagonally through the building, coming out in whichever the street north of De Villiers was. Whether that was the main entrance or not I don't know.

MR RICHARD: But it was, to put it in general terms, a principal entrance?

MR GROSSKOPF: It was an entrance, yes.

MR RICHARD: Now in the papers and I can't find my annotation, there's a reference to Mike's Kitchen. Would you be able to tell us where it is on the map?

MR GROSSKOPF: No, I would not. This was thirteen years ago.

MR RICHARD: I accept that. It's simply that, you would agree that a restaurant such as Mike's Kitchen is a popular place at that time?

MR GROSSKOPF: 9.45 in the morning? Hardly. I mean I once, when I was at school, worked at a Mike's Kitchen so I knew it as a steakhouse and restaurant, not an early morning cafe.

MR RICHARD: Do you recall whether the schools were on vacation or not as at July?

MR GROSSKOPF: To the best of my recall not and I seem to remember - well no, there on hearsay, to the best of my recall they were not.

MR RICHARD: Now on your reconnaissance would you agree that you were aware at all times that there was every probability that there would be pedestrians in and around the Court Street, De Villiers Street area?

MR GROSSKOPF: I was aware of that, yes.

MR RICHARD: Now was there any point in the day time, because this was a day time attack, at which time there wouldn't have been no pedestrians?

MR GROSSKOPF: During the day time no and which is why I timed it for the time when there would be the lowest number of pedestrians around.

MR RICHARD: Now it's very difficult to reconstruct after thirteen years but we note from the one bundle some 26, 30 people were injured. Now that leads me to the inference that at that point, whether it was 30 or 50 people in the environment, there were people trafficking backwards and forwards?

MR GROSSKOPF: Yes.

MR RICHARD: Now compared to your reconnaissance, at that point how many soldiers would have been in visible sight?

MR GROSSKOPF: Well, I would give you both a short and a more complete answer. The short answer is three with the sentries that were visible at the time. I will also remind you that the intention was actually to primarily attack the building itself rather than the soldiers who were on sentry duty at the time.

MR RICHARD: Now if one looks at page 75 again, your plan was to have the vehicle marked B to do a 90 degree turn and bring itself to a halt against the wall of the building. Now the wall of the building, how far away is it from the kerb of the street?

MR GROSSKOPF: Sitting here I don't know. It was a normal pavement but I'm not going to hazard a guess.

MR RICHARD: So if I put it this way, it's the distance of the pavement?

MR GROSSKOPF: Yes.

MR RICHARD: Now on page 75, that plan, where would the three soldiers have been? Would you recall?

MR GROSSKOPF: From memory, the soldiers that I could see stood on the two corners in Court Street. There was one group of two and one single, I cannot recall on which corner there were two soldiers, on which there was one.

MR RICHARD: I'm not sure whether it's intended to be an A, but if one looks at this, there's an A on the one corner of the Wits H.

MR GROSSKOPF: Yes.

MR RICHARD: And that's where some soldiers, one or two, and then on the other corner the other one or two?

MR GROSSKOPF: That's right and if I can refer you to the plan on page 76 it indicates at least on this and I will only add that this is not my sketch and that there were - two soldiers stood on this corner.

MR RICHARD: Now in your construction of the bomb, was the bomb designed to achieve any particular purpose? Was it designed to do particular types of damage?

MR GROSSKOPF: Yes.

MR RICHARD: What sort?

MR GROSSKOPF: It was designed as far as was possible in the circumstances to create a very strong shock wave rather than emit shrapnel in order to attack the fabric of the building and thereby attack the soldiers and senior officers whom we knew to be inside.

MR RICHARD: How were the explosives placed in the vehicle?

MR GROSSKOPF: They were placed in a steel trunk in the back of the vehicle.

MR RICHARD: In other words the height of the duct board at the back of the bakkie?

MR GROSSKOPF: Yes.

MR RICHARD: Were they packed into the steel trunk in any particular manner?

MR GROSSKOPF: They were, they were packed - I just trying to think of words to describe it without getting into sketches. If you take the rectangular shape of a steel trunk, they were packed along practically to fill the trunk. Behind them and behind - therefore being furthest away from the front of the vehicle, I placed the four hollow charges that I referred to in my statement and the source of detonation was, for the whole lot, was from those hollow charges therefore to direct the force of the explosion towards the front of the vehicle which had the operation gone entirely to plan, would have been directed mainly towards the ...(indistinct) command itself.

MR RICHARD: Now if the vehicle had done its right hand turn and collided with the wall, at what angle would the vehicle have hit the wall?

MR GROSSKOPF: About perpendicular to it, in other words at a right angle.

MR RICHARD: At a right angle, so that means the trunk in the back of the light delivery van and the engine and cab of the bakkie would have been between?

MR GROSSKOPF: Yes.

MR RICHARD: So then had you examined the fabric of the wall against which it was planned that the vehicle would come to a standstill?

MR GROSSKOPF: It was a brick as far as I recall.

MR RICHARD: Now during your training had you been given any explosives training?

MR GROSSKOPF: I have.

MR RICHARD: And so that means I'm not going to have to spend time going through the fact that on an explosion both the gaseous and the shrapnel take

the line of least resistance and go the opposite direction to the maximum resistance?

MR GROSSKOPF: Sorry, can you just rephrase that?

MR RICHARD: Oh, I'm sorry, I might have convoluted the question. When an explosion goes off the matter produced by the explosion, whether it be gas, fire or shrapnel, takes the line away from the explosion of least resistance?

MR GROSSKOPF: The short answer to that is I am not sure. I am aware because to the best of my recollection from my training many other considerations in the direction that an explosion would take, very important among those are the shape of the charge and the source of detonation.

MR RICHARD: Amongst other things?

MR GROSSKOPF: Amongst other things, certainly.

MR RICHARD: I don't want to belabour the record with a long technical debate about - the reality of the matter was that, as planned, the explosion would take place against a wall which would act as a device that would cause the effect of the explosion to bounce back into the street away from the wall and not through the wall?

MR GROSSKOPF: Surely that would depend - no, honest, I can't quite see that the direction is going but to answer your question and that would surely depend on the size of the explosion and whether the wall was actually knocked down or not. If the wall was actually knocked down then the main force of the explosion would not bounce back, it would continue through the hole that was created by the explosion.

MR RICHARD: But a considerable amount of the explosion would radiate back into the street?

MR GROSSKOPF: There would be explosive force in all directions, in a full circle, that is certainly true and the way the charge was constructed was to ensure that the greatest proportion of that force was directed towards the front of the vehicle.

MR RICHARD: But none the less we had a situation where there's a building, which is the target, the military building - legitimate, no query on that, surrounded by civilian streets in which civilians are walking, three visible soldiers in the street, so it's obvious to me that you did foresee that there would be civilian casualties?

MR GROSSKOPF: Again I would like to answer that question at some length. At the risk, Mr Chairperson, at belabouring the point and going into lots of documents that had already been before the Commission at various time, I would like to make the point that - sorry, where were we? The South African Defence Force, contrary to Geneva protocols, did place military personnel and military targets within a civilian area. I'm not going to say that I have no responsibility for the attack on the operation but it was not purely by coincidence that a very important military headquarters was placed in a civilian area. That does not in any way or shape or form alter the fact that yes, I was aware that there was the possibility of civilian injuries and on a policy level that had been dealt with by statements of for example President Tambo in '83 and the Kabwe Conference in '85 ...(intervention)

MR RICHARD: We'll return to that point but let's look at it this way. You say you were born in 1963 and you came to Johannesburg in 1965?

MR GROSSKOPF: Yes.

MR RICHARD: For how long had you been aware of the existence of the place called Wits Command in Court Street or that area of town? It had been there all along, it wasn't a new building?

MR GROSSKOPF: I don't understand. I don't understand what -by the two years of my infancy in Bloemfontein has to do ...(intervention)

MR RICHARD: I'm saying that Wits Command had been in Johannesburg from the day that you had arrived in Johannesburg?

MR GROSSKOPF: Certainly.

MR RICHARD: So I would submit to you that it's nonsense to say that Wits Command was positioned where it was as a result of some deliberate strategy to mix military operations in the middle of civilian areas which had been there since the previous war?

MR GROSSKOPF: And?

MR RICHARD: So your statement that ...(intervention)

MR GROSSKOPF: I did not say it was built subsequent to my birth by deliberate design, what I'm saying that whoever chose to site the command, as many other commands, in densely populated areas, have to accept some responsibility. I'm quite aware it was not the apartheid State which attacked Wits Command, I'm quite aware of that but what I'm saying is that they also have to accept some responsibility for the way in which they chose to govern this country and that includes siting headquarters in populated areas.

MR RICHARD: Were you aware of what went on on the other side of the wall within the Wits Command building?

MR GROSSKOPF: I had some idea, yes.

MR RICHARD: What?

MR GROSSKOPF: It was a military headquarters which meant that a lot of the operations that were planned within Wits Command would be planned and administered and supported from there.

MR RICHARD: Now the primary objective of the bomb was to do damage within the building. It's natural that it had to be a very big bomb?

MR GROSSKOPF: That's right.

MR RICHARD: And so that means the corresponding damage to the area around it on the outside of the building would be that much larger as well?

MR GROSSKOPF: That is true.

MR RICHARD: Now the point I've made which I don't think is in dispute is you really didn't know what happened inside the building immediately off the street other than the fact that it was a military building and you didn't know whether there was any particular officer or ...(intervention)

MR GROSSKOPF: It was not an attempt at assassination, so it was no particular officer who was being targeted.

MR RICHARD: Now - or for that matter it might have been a storeroom on the other side of the wall?

MR GROSSKOPF: It is possible.

MR RICHARD: Now you made mention of Kabwe. What happened in Kabwe?

CHAIRPERSON: In what context, Mr Richard?

MR RICHARD: The Kabwe Conference ...(intervention)

CHAIRPERSON: Yes, but be specific, what must the applicant tell you, must he tell you the whole history of Kabwe or what? What do you want to know?

MR RICHARD: Chairperson, I'll put it this way. I have before me various documents one of which is styled "The Report of the Main Decisions and Recommendations of the Second National Consultative Conference of the African National Congress - Zambia, June 16 - 23 1985." That's the Kabwe Conference. Now the context that you mentioned it in was that civilian casualties were discussed at that conference?

MR GROSSKOPF: Yes.

MR RICHARD: Now my question is - and I've never quite understood the exact position - what was the essence of the policy post-Kabwe towards civilian casualties?

MR GROSSKOPF: I think I shall refer to page 65 in the ANC's second submission to the TRC, May 1997, paragraph 4.3.1, at the bottom of the page "Conference reaffirmed ANC policy with regard to targets considered legitimate: South African Defence Force and South African Police personnel and selected economic installations and administrative infrastructure. But the risk of civilians being caught in the crossfire when such operations took place could no longer be allowed to prevent the urgency needed all round intensification of the armed struggle."

That is the context within which I placed that.

MR RICHARD: In other words it's plain to me that two things flow from that. At no stage was it permissible for an attack to take place which would have had merely civilian casualties without a military component or a security component. Is that correct?

MR GROSSKOPF: In my understanding of it, yes.

MR RICHARD: Now as in this particular situation it was obviously perfectly permissible to attack, to use the words, the army and police and so-called defence units?

MR GROSSKOPF: That's right.

MR RICHARD: Now the next question is, when would civilians and civilian casualties as a consequence of an attack on a military establish persuade a person not to carry on an attack? In other words, when would the number of civilians about to be injured not justify the attack? How would you determine that?

MR GROSSKOPF: That's a very complex question you're asking. You would determine it clearly on the basis of the most accurate information possible. You would also determine it on the basis of discussion with commanders but I cannot refer you a pat formula of soldiers versus civilians if that's what your asking.

MR RICHARD: In this specific instance we have a situation where you've certainly been there on somewhere around ten times, I don't mind whether it's eleven or nine, that's neither here nor there. You're physically there when the bomb is about to be planted and you see three soldiers and you see civilians in the street. You know three soldiers might be injured, some damage might be done to a building and you do not know what injuries might happen inside the building. But you know for certain that civilians are going to be hurt?

MR GROSSKOPF: Is that a statement or a question?

MR RICHARD: My question is, is my outline of the situation you were in correct?

MR GROSSKOPF: Yes.

MR RICHARD: Now the next thing that fits into the situation that you were in is you are in complete control of what is going to happen. There are three switches which you must choose to turn on to cause the device to explode. In other words, you can abort the mission at any time. Now it's quite correct, and this is the question, that in that situation you decided to go ahead despite the probability of a significant number of civilian casualties versus an insignificant number of military casualties?

MR GROSSKOPF: I find the whole issue of how - I'll start from the beginning again. I find the issue of trying, you know, of trying to bandy about what the actual numbers of casualties in some ways quite distasteful. I also would like to stress that what I said in the conclusion of my statement that for me all life is sacred and that is an absolute. I mean I'm aware that in three different - from three different sources there are three very disparate accounts of the number of people injured and whether anybody was actually killed or not. The Police reports certainly indicate none. So whether one number of casualties was significant or was more significant than another, one group was insignificant is a statement I have to reject but I have to accept that when the charge was placed and yes, you are right and as I said in my own statement, that I have to accept moral responsibility for the consequences of my actions, which I do. And yes, I did foresee the possibility of civilian casualties by virtue of certainly the construction of the charge and the decision not to add additional shrapnel to what would be contained in the vehicle and the charges themselves, but to attack the fabric of the building with the force of a blast was an attempt to limit the impact and injuries to civilians to the greatest extent I possibly can. But we also have to realise that at that stage South Africa was in a state of war, that there was a civil uprising against apartheid and that if we, as the ANC and as uMkhonto weSizwe, had actually totally held our hands from striking at the enemy then we may very well not be in the position where we are today, where we are in a free and democratic country. I do not believe that there was the possibility of carrying out military operations against the apartheid State that would not have endangered civilians.

MR RICHARD: What was your attitude to the civilians you saw in the street that morning at quarter to ten. What did you see them as?

MR GROSSKOPF: As people. As I saw the soldiers, as people.

MR RICHARD: Did you see them as your enemy? I'm talking about the pedestrians, the civilians?

MR GROSSKOPF: Certainly not.

MR RICHARD: In other words you saw no reason why you should attack them?

MR GROSSKOPF: I did not and still do not see myself as attacking them.

MR RICHARD: You saw three soldiers?

MR GROSSKOPF: I did and I saw military headquarters.

MR RICHARD: Now I go through it again. You knew for certain that the pedestrians who were nameless civilians, who were not your enemy, would be the principal casualties, not soldiers or the military building?

MR GROSSKOPF: I disagree with that entirely. In terms of principal casualties, no. I would just like to make something clear about my view or the way I perceived the people who would be exposed to the explosion that I was about to cause. I was quite aware that there could be kids I went to school with inside that building. I was aware of that. The vast majority of children I went to school with, at least the boys, end up either in the South African Defence Force or in the Police. I knew they had faces, I knew they had people, they were not some amorphous enemy. But at the same time, the system that they chose to be a part of was killing people in their hundreds and their thousands and that had to be resisted.

MR RICHARD: I have a very simple situation. There's a military installation with soldiers, whoever they may be, inside. You are a soldier?

MR GROSSKOPF: Yes.

MR RICHARD: Within the context there's nothing untoward, tragic though it may be in a South African context that you attack a military installation. But in the factual situation of that morning, I am going to argue and I'm giving you a chance to rebut it, that you knew perfectly well that your damage to the building would be material, not significant. In other words, you damage the fabric of the building. Injuries to civilians and civilian property would be large and at best you could have hoped for three military personnel which were obvious. In other words, it was not an attack. You knew what a car bomb was. You knew its effect. What do you say to the proposition?

MR GROSSKOPF: There are many propositions in there. Which proposition are you speaking of?

MR RICHARD: Did you attack, as I will argue, the civilians in and around a military establishment or did you commit a legitimate act of war?

MR GROSSKOPF: I committed a legitimate act of war.

MR RICHARD: Despite the fact that you knew that the overwhelming preponderance of damage and injury would be to civilians?

MR GROSSKOPF: That I reject utterly. Had the operation gone to plan then I personally very strongly believe that the vast preponderance of damage would have been suffered by SADF personnel. But I must say that with hindsight had the operation succeeded in its full intention, there would have been probably a significant number of soldiers killed. To the best of my knowledge and I'm going by figures, as I say, I don't want to ...(indistinct) but to the best of my knowledge, nobody actually died in this attack. I am, in some ways, quite relieved that there were not five or ten or however many funerals as a consequence of that because life, whether that life is in uniform or that life in civilian clothes, is a life.

MR RICHARD: What went wrong?

MR GROSSKOPF: I don't know. I know the car did not move. I don't know. I can speculate that the gear selector did not move out of neutral, that would be the only explanation that would fit the facts as I know them, which would be that the electrical switch running the wiper motor was clearly working

because I and other witnesses all heard the car revving, but it did not move off as far as I know. So that is supposition, I don't know that for a fact.

MR RICHARD: Now what you're saying is the mechanics of the device didn't work? The bomb didn't ...(intervention)

MR GROSSKOPF: Yes.

MR RICHARD: Now was that a foreseen possibility?

MR GROSSKOPF: It was a possibility but I tried to rule out by very extensive tests all of which were successful.

MR RICHARD: Are you an engineer?

MR GROSSKOPF: No.

MR RICHARD: Mechanic of any description?

MR GROSSKOPF: I'm not.

MR RICHARD: So I'm correct in saying that this device whereby the car would get out of neutral into drive, the bakkie to be more precise, was in fact an amateurish device?

MR GROSSKOPF: If by amateurish you use it in its proper sense of a non-professional, that I'm not a mechanical engineer, that's true. I don't see the relevance, particularly.

MR RICHARD: The point is, you're not an expert in making mechanical devices that will on a pre-planned nature that will set a car into motion within 30 seconds of you pressing a button?

MR GROSSKOPF: You're right, but may I remind you that this was a national war and if we expected only professionals in every possible aspect of the endeavour to be doing it, apartheid would still be reigning and as a consequence, you know, I would like to remind you that as a consequence of people who made mistakes, very often MK cadres were the ones to die themselves. The risks were very great, that is true. The risks were also very great for those participating in it and the consequences of us not engaging in armed struggle were far, far greater. I mean, at the risk of belabouring the issue and going to policy statements, going a long way ago, people were dying in their hundreds and had done for a very long time.

MR RICHARD: I'm not going back into the training you received. You've covered that ground by saying that you were aware of the distinction between a legitimate target and what would be inappropriate. I haven't had a quarrel with your answer, but we now have a factual specific situation which is not theoretical, it's very immediate, where there's a device parked on the left hand side of a road, in other words the entire road width away from the target with a non-professional, to avoid the word amateurish, mechanical device which is designed or planned to get it to drive across the road and stop at right angles to a wall. Surely you foresaw that if it went on that corner, as opposed to where it was intended to go, it would look very much like an attack on the civilians who so happened to be in around a military building?

MR GROSSKOPF: I would ...(indistinct) up the last part of that first, is that even the newspaper reports which got their information from the Police the day after and identified as an attack on Wits Command. So the fact that the car was there was even then, so it was not seen at the time as attack primarily on civilians. But I would like - I mean I accept, you may not, I don't

know, I accept as an article of faith that the South African people had a right and an urgent need to defend themselves. Within that context, what would you have me do?

MR RICHARD: Now I put the question this way. If, as we have it here, vehicle B on page 75, were deliberately parked there and intended to explode near the entrance to a cinema complex, would it really matter that there was a military building across the road?

MR GROSSKOPF: Clearly in the view of the South African press and Police for that matter yes, because for all intents and purposes, that is what happened because as far as I know, at least, certainly the bakkie did not start moving. Yet from the afternoon of the 30th it was seen as an attack primarily on Wits Command.

MR RICHARD: However, the facts are ambiguous. It's capable of either construction.

MR GROSSKOPF: That was not the interpretation that was given by people including the Police the very same day.

MR RICHARD: Now if we look at it this way, certainly a choice was made to attack the Wits Command headquarters. Now would it have made any difference to your objectives if the attack had taken place at 3 a.m. in the morning or 10 a.m.?

MR GROSSKOPF: It would, yes.

MR RICHARD: Why?

MR GROSSKOPF: At 10 p.m. - well, okay ...(intervention)

MR RICHARD: At 3 a.m. in the morning.

MR GROSSKOPF: At 3 a.m. in the morning, the chance of actually being able to carry out an operation like that would have been very negligible, the chance of my actually being able to park the car and get away with it, were infinitesimal. At the same time I remind you that the primary purpose of the attack was not just to blow a hole in the wall, the primary purpose of the attack was the senior officers inside Wits Command who would not have been present at 3 a.m.

ADV SANDI: Sorry Mr Grosskopf? At that time at 3 a.m. in the morning, what are the chances of you being apprehended in that area and getting arrested?

MR GROSSKOPF: Massive, I do not think I could have attempted the operation unless I was willing to have that as a suicide mission which I chose not to do.

MR RICHARD: Let us turn to page 82 of bundle B. I assume you can still read Afrikaans?

MR GROSSKOPF: I can.

MR RICHARD: Have a look at paragraph 6 at the foot thereof. My impression is that you did a U-turn before parking the car, is that correct?

MR GROSSKOPF: That's not my memory of it, no. I don't think it's particularly pertinent to the issues but that's not my memory of it, certainly.

MR RICHARD: No, would you then please tell us, when you arrived in the vehicle which street did you use to come to that particular corner?

MR GROSSKOPF: From memory I don't know. I would certainly be very surprised if I made a U-turn against the flow of traffic in a one way road, but

whether I came further up from Court Street down it or turned right or left from De Villiers I don't know.

MR RICHARD: Now when you approached the scene at some time shortly before quarter to ten that morning, what would you have done if the parking bay where B is designated were occupied?

MR GROSSKOPF: I would have gone round the block until such time as I could find parking which is after all what people often do in city centres, go around the block until parking is available.

MR RICHARD: Now did you - were you lucky on the first pass?

MR GROSSKOPF: I was. From memory, I mean I cannot remember having to go around the block, but you know it was thirteen years ago, I'm not going to swear as an absolute truth, I have no memory of it.

MR RICHARD: Now between stopping in the parking bay and detonating the bomb did you at any stage get out of the vehicle and get back into it?

MR GROSSKOPF: No.

MR RICHARD: Then have a look at page 83 of bundle B

"The driver of the vehicle then looked into our direction where I asked him "what are you looking at?"

Do you remember that?

MR GROSSKOPF: No.

MR RICHARD: Did you speak to anyone?

MR GROSSKOPF: No.

MR RICHARD: It is possible it may have been said without my hearing it, I certainly did not hear anybody speak to me.

MR GROSSKOPF: Because the deponent of this affidavit is correct in many other particular details

"The bakkie then parked behind a blue Toyota. He had a pair of jeans on and a white doctor's coat."

You know, that sort of particular detail is there?

MR GROSSKOPF: There were some errors in it as well. I mean the issue is not in dispute that I planted the car and that it exploded. So whether it was a first or second try at parking I fail to see the relevance.

MR RICHARD: The relevance is that I find no particular reason to disbelieve this deponent, Mrs Claassen, who if she were called to give evidence would say she saw you there, she spoke to you, you saw the civilians in and around the environment. My question is, did you look them in the eye and think "I am now going to detonate a bomb which may kill them"?

MR GROSSKOPF: Yes. Yes.

MR RICHARD: Subject to my client, no further questions.

NO FURTHER QUESTIONS BY MR RICHARD

CHAIRPERSON: Thank you Mr Richard. Mr Mapoma any questions?

CROSS-EXAMINATION BY MR MAPOMA: Just one, Chair-person.

Mr Grosskopf, when you were debriefed by the commanders in Zambia I take it that you explained to them what happened and how the operation went?

MR GROSSKOPF: I did.

MR MAPOMA: And was the operation regarded a success?

MR GROSSKOPF: It was.

MR MAPOMA: Thank you Chairperson.

NO FURTHER QUESTIONS BY MR MAPOMA

CHAIRPERSON: Thank you, Mr Mapoma. Has the panel got any questions?

ADV BOSMAN: Thank you, Chairperson.

Mr Grosskopf, I have a technical difficulty here. In your application you apply for amnesty for the Court Street, Johannesburg, outside Witwatersrand Command SADF relating to the bombing but in the further particulars on page 10 of the bundle you mention three mentions for which you apply:

The bomb attack, the ...(indistinct) creating a cache of military material and then thirdly, non-combat support.

Can you just assist me here? Is there any direct link between the creating a cache of military material and the attack on the Witwatersrand Command?

MR GROSSKOPF: No direct link at all, Adv Bosman, it was material that I took into the country at the same time as the explosives used then. When I took the decision that I will carry on with the operation, such material was not needed, I established in a cache.

ADV BOSMAN: I see. Is there any reason why you did not mention this in your application form?

MR GROSSKOPF: I did not consider it particularly relevant and it was only in discussion with Ms Patricia Whittle of the Amnesty Committee in Cape Town, that she advised that it might, even though it was unrelated to the main issue that it might as well be to mention it.

ADV BOSMAN: Did you have any assistance when you completed the form?

MR GROSSKOPF: The initial form?

ADV BOSMAN: The initial form, yes.

MR GROSSKOPF: No, I did not.

ADV BOSMAN: I see, so you hadn't been advised at that time?

MR GROSSKOPF: No.

ADV BOSMAN: And then as far as the third incident is concerned, the non-combat support, I don't recall having heard particular evidence in that regard. What were you referring to there, in non-combat support?

MR GROSSKOPF: When I returned from the Soviet Union at the end of 1988 I was deployed in the command structure of special ops under the command of Lester Dumakude at the time. It was intended that it would be assistance with the planning operations and as I speak, I could recall one operation which was cancelled in Zimbabwe, which probably took out a good six months of that time, where most of the command structure went to Zimbabwe to carry out reconnaissance and planning. It was abandoned probably about a week before the intended operation was carried out and there was also a plan, which did not come to fruition, to attack the fuel installations in Durban. But again, that did not come to fruition. At the same time I did most of the administration for the special ops unit at that time.

ADV BOSMAN: Okay, so this relates to sort of general acts outside the country?

MR GROSSKOPF: Yes.

ADV BOSMAN: Outside the country?

MR GROSSKOPF: Yes, I was entirely outside the country. I did not at the time debrief any of the cadres that came back.

ADV BOSMAN: Just one more question. Was this also included on the advice of Ms Whittle?

MR GROSSKOPF: It was.

ADV BOSMAN: Thank you Chairperson, that will be all.

ADV SANDI: Thank you, Chairperson.

Mr Grosskopf, I understood you to say that at the moment you are based in the U.K.?

MR GROSSKOPF: I am.

ADV SANDI: Yes, I must first apologise that I'll be asking you a question that does not really have anything to do with the merits or demerits of your application. Don't you think it would be a waste of human resources for someone like yourself to be sitting outside there, not coming back to be part of the solution to some of the problems people are trying to address here today?

MR GROSSKOPF: First of all, thank you for the compliment inherent in that. Yes, you are right. However, it will for personal reasons not be possible for me to return and bring children with me and as a result, I'm not willing to put that strain on young children to be without their parents. So yes, it is a sentiment I share.

ADV SANDI: Thank you. Thank you Chair.

CHAIRPERSON: Thank you very much. Mr van Der Berg, any re-examination?

MR VAN DER BERG: No Mr Chairperson.

CHAIRPERSON: Yes Mr Grosskopf, thank you very much. We'll excuse you. Mr van Der Berg, anything else?

MR VAN DER BERG: No Mr Chairperson, that's the case for the applicant.

WITNESS EXCUSED

CHAIRPERSON: Mr Richard, any evidence? Mr Mapoma?

MR MAPOMA: I've no further evidence, Chairperson, thank you.

CHAIRPERSON: Yes Mr van Der Berg, have you got any submissions on the merits of the application?

MR VAN DER BERG IN ARGUMENT: Very briefly, Mr Chairperson.

The applicant's political motivation and the applicant's position within the African National Congress and within MK is not in dispute. As the common cause issues, the only issue which may be in dispute may be related to proportionality. In that regard my submission is that based on the evidence of the applicant, this was an attack aimed at the Wits Command. It was an accepted military establishment. The primary motive for the attack was an attack on enemy personnel and enemy installations. I think that it falls squarely within the ambit of what the ANC and MK were about at the time. Mr Grosskopf has testified at some length about the precautions he took in respect of civilian casualties and the manner in which he approached that and whilst the various propositions were put to him by Mr Richard, I don't believe that those propositions in any way impact on the manner in which this operation was carried out. The considerations which Mr Grosskopf applied his mind to in the planning and execution of the operation. It's my respectful submission that the applicant has fulfilled the criteria of the Promotion of National Unity and Reconciliation Act and that he fulfils all the criteria which are required and that he is entitled to amnesty in respect of - well, there's a

debate as to whether anybody was killed in this matter. It would appear from the papers before us that there were no deaths but he certainly would be entitled to amnesty in respect of attempted murder and related incidents on the 30th July 1987. I don't believe that there's anything else that I need to address you on, Mr Chairperson.

CHAIRPERSON: Just on the other - you're also asking for amnesty in respect of the arms cache that was established?

MR VAN DER BERG: That is correct, Mr Chairperson, added in through the correspondence with Ms Whittle. I'm aware of the debates which have gone on with previous panels and Committees as to the extent that he is bound by the four corners of his amnesty application.

CHAIRPERSON: Yes and the other incidents?

MR VAN DER BERG: The other incident really relates to logistical support, planning and operational support for operations which did not materialise. So whether that's amnestiable or not, I suppose it's really up for debate.

CHAIRPERSON: What is your submission?

MR VAN DER BERG: There were no gross human rights violations arising from that planning, from the work that was done in respect of operations which did not come to fruition. So in the strict sense I would think that there's no offence which has been perpetrated. There may be an argument about conspiracy but I leave that in the panel's hands, Mr Chairperson.

CHAIRPERSON: Thank you Mr van Der Berg. Yes, Mr Richard?

MR RICHARD IN ARGUMENT: Thank you Chairperson.

Very shortly, I start with the objective facts. A vehicle, with a very large and powerful bomb, is parked outside a cinema complex. The cinema complex is across the road from a military establishment. We know for certain that the car bomb did not explode in or on the property of the military establishment. Next factor, there are three soldiers in visible killing range of the car bomb and many civilians. And the third most important point of those that I emphasise is that this area is a down town city centre teeming with civilians. The applicant seeks to justify his action on what I can dismiss as a mere spades, a mere hope, that what I do describe as a highly inept and amateurish device, if he is to be believed, that will propel the vehicle across the road, through traffic, over a pavement and against the wall. On those facts there's an obvious and clear inference that must be drawn. Civilians must be hurt.

CHAIRPERSON: Well, Mr Richard, you must add to your objective facts, that's going back to this device, that it was tested over some time and it appeared to have operated properly.

MR RICHARD: Is that an objective fact? The fact where the bomb exploded is objective, the other is a statement of what's intended.

CHAIRPERSON: Yes, then is there any basis, are you suggesting that we should reject the applicant's version on that aspect?

MR RICHARD: I haven't said that, I've got no basis to say that we can reject it.

CHAIRPERSON: Well would it then not be part of the objective facts?

MR RICHARD: I accept that the applicant's version is that it was tested and did work when tested. In the nature of these applications there's nothing

besides the applicant's ipse dixit that we have to go on that I really have no particular reason to criticise his versions in that particular context and I don't.

CHAIRPERSON: Yes.

MR RICHARD: Now to progress to that point, if the operation had gone as planned notwithstanding that fact, we now have a light delivery van with a bomb in its container at the back that is not immediately against the wall that will explode, still causing obvious injury to the civilian environment around it. Now we then look to sub-section 3(d) of Section 20 of the Act. Was this act primarily directed at a political opponent or State property or against property? The word primarily to me is important. To say it was primarily intended at anything in particular other than the environment in which it was placed is wrong. It was clear that the attack would damage civilian property and civilian people and it is not so clear that the damage to State property or military equipment was anywhere near as obvious.

ADV BOSMAN: But Mr Richard, to ascertain whether it was primarily directed at the military headquarters or a property, shouldn't one look at the subjective belief of the applicant?

MR RICHARD: Take Exhibit A and ...(inaudible). I haven't counted how many paragraphs he deals with his subjective orientation and beliefs about what he was doing in relation to the struggle. Those paragraphs stand as they are written. Certainly on a subject to perception he is in the situation and not here to argue my learned colleagues case. He has the instructions and orders from above, many planning sessions and his beliefs. However, the objectives circumstances of which he's in, I don't believe that with all the good intentions and the will a person is entitled to commit what would ordinarily be at international law a wrong simply because he believes it might be right in his context.

CHAIRPERSON: But Mr Richard, I mean, is there - seriously, is there any other objective, primarily or otherwise, then the attack upon this military headquarters?

MR RICHARD: My submission ...(intervention)

CHAIRPERSON: On what conceivable basis can we find any other objective?

MR RICHARD: Chairperson, on the facts I argue and I leave it there that there was an attack on a military installation, I never disputed that in my cross-examination, but also the attack involved an attack on the environment in which the bomb would be placed so that meant ...(indistinct) with whether the question - to use the catch phrase nowadays "the collateral casualties".

CHAIRPERSON: Yes, but what is your submission on Section 23(d)? Which was the primary target?

MR RICHARD: I'm saying that that environment was the primary target and to distinguish between the civilian and the military my argument goes is to ignore the fact that more damage and more injury would be done to civilians than to anything else.

CHAIRPERSON: Yes, yes, that's a different point. The point of Section 23(d) is identifying a target. Now was it Sterland or was it Wits Command?

MR RICHARD: My submission and I leave it there is as a result of where the bomb was placed, the proximity of everything to the bomb, to say that the

primary intention was to only attack, the military installation is incorrect. It was an attack on whatever was around the bomb.

CHAIRPERSON: You say he was attacking both. He was attacking Sterland and he was attacking the civilians?

MR RICHARD: Yes.

CHAIRPERSON: And he was attacking whoever was in the vicinity and also attacking the Wits Command?

MR RICHARD: Yes.

CHAIRPERSON: Yes. Well I've noted that. Does that conclude your submission on 23(d)?

MR RICHARD: And then I go to proportionality.

CHAIRPERSON: Yes.

MR RICHARD: I do not need to labour it. The evidence speaks for itself. It was obvious that there were three soldiers in the vicinity and many civilians. It was also obvious that civilian property around would be damaged and in that regard we need only look to the schedules annexed to bundle B. Now taking into account that the applicant has conceded that the civilian injuries and damage was probable and could be foreseen, my argument and submission is that the consequences of the attack and its nature were completely disproportionate to the value of blowing a potential hole through a wall of a military building.

Then my final point which I add on and also as it's been argued before in other hearings I will not labour it, is intrinsic in the Act is that the Norgaard Principles do apply. Now proportionality, as per Prof Norgaard, would have extended to use the case I've often quoted before - the car park incident. Where to place a bomb in a car park planned to detonate late at night was not acceptable. On that precedent neither would be planting a car bomb outside a cinema complex even though there might be some benefit in it damaging a military installation. And that is my submission.

CHAIRPERSON: Was there anybody killed here? Was there anybody killed? Nobody killed.

MR RICHARD: ...(inaudible).

CHAIRPERSON: Yes, you were saying that there's an annexure to one of the bundles indicating the victims. Is it B?

MR RICHARD: It's B. The last - from page 114 onwards there's a schedule.

CHAIRPERSON: Onto the end?

MR RICHARD: Yes.

CHAIRPERSON: Yes.

MR RICHARD: And then in bundle - the bundle I received on Saturday, at pages 33 onwards.

CHAIRPERSON: Yes.

MR RICHARD: As the Committee pleases.

CHAIRPERSON: Thank you Mr Richard. Yes, Mr Mapoma?

MR MAPOMA: Chairperson, I leave it in the hands of the Committee. I have no submissions thank you.

CHAIRPERSON: Thank you Mr Mapoma. Mr van Der Berg any reply?

MR VAN DER BERG IN REPLY: Just a very brief aspect Mr Chairperson. The suggestion that - and I don't think it was put very, very strongly by Mr

Richard but certainly an element of it was flown as to a suggestion that the target was anything other than Wits Command and the suggestion that it was a matter of convenience that Wits Command was there and that the target was something else, Mr Chairperson. That proposition was never put to Mr Grosskopf and certainly I don't think that you can attack any weight to that argument. The applicant's evidence has been quite clear that the primary target was Wits Command and it's correct as Adv Bosman asked Mr Richard, it's the applicant's subjective belief which one needs to look to and the surrounding circumstances and facts to which he's testified to. As the Committee pleases.

CHAIRPERSON: Yes, thank you Mr van Der Berg.

Yes, that concludes the formalities in regard to the formal proceedings in regard to this application. The panel will consider the matter. The material that has been placed before us, the evidence and the submissions on behalf of the parties and we will take some time to formulate a decision on the application. In the circumstances, the decision in this matter will be reserved. We take the opportunity to thank the legal representatives for their assistance in this matter, Mr van Der Berg on behalf of the applicant, Mr Richard and your client for having attended the proceedings and participating and Mr Mapoma for your usual assistance and of course also to Mr Grosskopf for having come and having participated in the proceedings. It is important in the overall importance that we establish as much of the facts and circumstances surrounding the political conflict in this country as possible through the process, as been established. And it is of importance to have the various perspectives placed before the country to understand.

We will then excuse Mr van Der Berg and Mr Richard if you so wish and we thank you once again for your assistance.

We have the details of your client in regard to the question of possible victimhood.

MR RICHARD: ...(inaudible)

CHAIRPERSON: Yes, so perhaps you can just convey that to her again. Very well.

MR RICHARD: ...(inaudible)

CHAIRPERSON: Yes, so perhaps you can convey all of those facts which are very relevant. Yes, thank you very much for your assistance. Thank you.