JUDICIAL COMMISSION OF INQUIRY INTO CRIMINALITY, POLITICAL INTERFERENCE AND CORRUPTION IN THE CRIMINAL JUSTICE SYSTEM

HELD AT

BRIGITTE MABANDLA JUSTICE COLLEGE

9 NOVEMBER 2026

DAY 190

PROCEEDINGS HELD ON 9 NOVEMBER 2026

FEMALE SPEAKER: We are about to start. Shall we all rise and keep our cell phones on silent, please? Thank you.

CHAIRPERSON: Good morning, Ms Sello. Good morning, Ms Hassim.

ADV HASSIM SC: Morning, Chair.

ADV SELLO SC: Morning, Chair.

CHAIRPERSON: It looks like you, do you have opponents today?

ADV SELLO SC: Yes, yes, Chair, I do.

CHAIRPERSON: Good morning, it is Mr?

MR MALULEKE: Maluleke.

CHAIRPERSON: Maluleke. Good morning, Mr Maluleke. Yes?

ADV SELLO SC: Chair, today, as the Commissioners are aware, we resume with the testimony of Mr Matlala.

CHAIRPERSON: I am so, so, so sorry. Good morning, Mr Matlala.

MR MATLALA: Good morning, Chairperson.

CHAIRPERSON: Thank you very much.

ADV SELLO SC: Chair, I received a telephone call a short while ago from Mr Matlala's advocate, and she indicated she was five minutes away. As the Commissioners are aware, the Chair issued a ruling on Saturday, in brief,

requiring the parties to make submissions regarding the applicability or otherwise of section 105A(10) of the Criminal Procedure Act. As we are aware, counsel for Mr Matlala has not submitted, so that is the factual position. In her conversation with me this morning, about 10 minutes ago, she indicated she was five minutes away, and she requested that she have opportunity to confer with the Evidence Leaders before we start. There she is, Chair.

CHAIRPERSON: Good morning, Ms Van Den Heever.

ADV VAN DEN HEEVER: Good morning, Chairperson.

ADV SELLO SC: So, Chair, if I may ...[intervenes].

CHAIRPERSON: Just, it is past 09:30, Ms ...[intervenes].

ADV VAN DEN HEEVER: Yes. Chairperson, first of all, I told Ms Sello that I need to speak to her this morning. I have got quite a bad bacterial infection. I have been quite ill through the night. I got antibiotics yesterday afternoon, and I again had to get it this morning. I am still not feeling great, but I am here out of respect and courtesy for the Commission, number one.

Number two, we were stopped down the road at some random stop and kept there for no reason whatsoever by the Metro Police, and then it took us about 10 minutes to get through the front gate, so I apologise for being late.

CHAIRPERSON: Thank you. Thank you. Ms Sello did indicate that you wanted to confer with the Evidence

Leaders before we start. Perhaps this is the appropriate stage to take an adjournment. I will not say for how long. We will be told when counsel are ready.

ADV SELLO SC: Thank you, Chair. That is in order.

CHAIRPERSON: Let us adjourn.

HEARING ADJOURNS

HEARING RESUMES

CHAIRPERSON: Yes.

ADV SELLO SC: Thank you, Chair. Chair, we confirm that we had opportunity to confer with Advocate Van Den Heever, and we appreciate the opportunity. For our part, we are ready to proceed with the testimony of Mr Matlala. Mr Matlala's counsel indicated that there is certain correspondence she would like to put before the Commissioners before we resume with Mr Matlala's testimony.

We were assisting with printing the emails that she references, but they are not immediately at hand. Perhaps it might assist if she were to summarise, for purposes of understanding what the communication is about and what impact that would have, if any, on proceeding with the hearing this morning. Thank you. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Sello. Yes, Ms Van Den Heever?

ADV VAN DEN HEEVER: May it please yourself and your

fellow Commissioners, Chairperson. Chairperson, my understanding from the purpose of today is that it is for you to make a ruling as to whether the section 204 draft document that is currently in the bundle can be used in the commission or not.

CHAIRPERSON: May I immediately clarify why I issued the ruling that I issued? I issued that ruling having in mind the background that you have previously argued, not necessarily – ja, you have previously argued around the issue of section 105A, not necessarily 204 as such. So I had in mind the possibility that an argument along those lines may be revisited today. In order to have properly prepared argument, I thought I should issue the ruling, and I issued that ruling, and this is the most important part, on the assumption that there was going to be argument by you along those lines.

That was the reason. So if there is not going to be any argument by you, if no argument at all was intended by you, I am not going to call for argument. So it is up to you to indicate whether or not you want to argue the point at all, and also see how you relate it to section 204 or a section 204 statement. So from where I am sitting, I am not saying I am going to be issuing a ruling. I will only issue a ruling if there is argument by you and naturally then argument in response by the Evidence Leaders. Yes.

ADV VAN DEN HEEVER: Chairperson, first of all, there was correspondence directed at the Commission regarding the issue as to why there could be no compliance with your ruling. I only learned of it very late yesterday, and unfortunately I was not in a position to deal with it. And for various reasons, the attorneys could not deal with it either, and they therefore, I think at about 5 o'clock or 6 o'clock, directed a letter in which they asked for an indulgence to later today be able to file heads so as to deal with, to present you with submissions. There was a letter that came back in which it was said that, in the absence of written argument, oral argument can be presented this morning. That is the first issue.

The second issue is I do intend to argue the relevance of the 105A(2) to this document that purports to be a statement unsigned with highlights that is in the file. And because we respectfully submit that the distinction that the state – I have had a very, very brief look at the heads of argument, and I will embroider my argument as I listen to my learned friends. The distinction that they endeavour to draw is an artificial distinction because the 204 that was anticipated and negotiated forms part and parcel of this plea and sentence agreement in terms of section 105A, and to that extent I will address you on portions that makes direct reference to it.

I will also at this point hand up correspondence, email correspondence, in which it is patently clear that the affidavit or the 204 statement forms part and parcel of the plea and sentence agreement. So you cannot artificially try and separate the two. And that was the reason why I asked for an indulgence, because I initially understood that I have to come and address the Court on the 105A. So that is what this morning my learned friend said, no, no, no - sorry. But then when I saw the second email that came through, it made reference to not a 105A, but to a section 204 that the Commission needs to be addressed on. So we are talking, literally talking cheese almost, if you look at submissions in that regard.

I have noticed, as I said again, and I am sorry to repeat myself, the submissions made by the Evidence Leaders, and I think it will be best then for me to make my – because I am intending to make submissions in that regard, because I can from the outset, and I have indicated to my learned friend, Ms Sello, she knows it because we have had this discussion outside, that we vehemently oppose the use of either the 105A or the purported 204, whether it is the affidavit or whatever is here presented here to be used by the Commission.

We say it will bring the justice in disrepute, if that is allowed in the Commission. It will not, and I will

embroider on that particular issue in due course. So the state, I think correctly, the Evidence Leaders correctly assumed, and you too, Chairperson, that there is going to be opposition thereto at this point in time. We are respectfully going to submit to you that under no circumstances, not even in the broadest way of interpreting rules of evidence vis-à-vis rules of evidence, in inverted commas, vis-à-vis the Commission Act and/or Regulations, et cetera, can it be used in this forum, and there is good reason for it, but I will make full submissions to you once the Evidence Leaders have made their submissions. Thank you very much.

CHAIRPERSON: No, I would have thought you must argue first.

ADV VAN DEN HEEVER: I am quite ...[intervenes].

CHAIRPERSON: No, you must argue.

ADV VAN DEN HEEVER: I am quite happy then to start. Chairperson, it is trite at this point in time that there was a section ...[intervenes].

CHAIRPERSON: Sorry, sorry, just a minute, just a minute.

ADV SELLO SC: Chair, I was going to ask about amount of time to argue.

CHAIRPERSON: That is exactly, yes. Ms Van Den Heever, I give you until 11 to make all your submissions.

ADV VAN DEN HEEVER: 30 minutes?

CHAIRPERSON: It is under. It is just under 25.

ADV VAN DEN HEEVER: Thanks.

CHAIRPERSON: Ja, it is 26.

ADV VAN DEN HEEVER: I just want to see all the documents I requestion ...[indistinct – mic switched off]. Chairperson, if you just bear with me? I just need to make sure. Thank you, Chairperson. It is trite at this point because it has come and it has been mentioned before that there was a section 105A agreement that was entered into between the state and representatives of IDAC. It is further trite, I would respectfully submit, that that agreement came to naught and was regarded as null and void because of the consequences of the ruling made by the magistrate subsequently.

After the matter was postponed, there was a decision made by the accused, Mr Matlala at that point, and his legal team to withdraw from the provisions of the agreement. To give you a bit of background to that particular agreement, IDAC at all relevant times took the lead in dealing with the section 105A agreement. To that extent, if you bear with me, the three investigators took the lead and by themselves approached Mr Matlala. So it was, just for the record, Mr Perumal, Bellochun and Padayachee.

They, together with Mr Kriel at IDAC, as well as Advocate Santhos Manilall, then entered together with a

different counsel into plea negotiations. Most of the actual work was done by IDAC themselves, and I am not here to cast aspersions on any of my colleagues as to what could and what could not.

Part of that agreement, and that was very clearly expressed in the sentence agreed upon, part of the sentence that was proposed was that, and paragraph 84 refers to it, is that Mr Matlala must depose to an agreement, and the words that was used is to a statement or statements under oath and testify at all future criminal matters that is so decided on by IDAC, which included matters beyond the very issue that was dealt with in the plea agreement.

Now, these kinds of agreements are not unheard of. They get done time and time again, more specifically when you deal with a unit like IDAC. IDAC, in other words, will in turn, or in lieu of a linear sentence, make agreements regarding plea and sentence with witnesses or with accused persons pertaining to future matters that they involved in. Everybody, when they engage in this kind of plea and sentence agreement, understands at that stage that whatever is part and parcel of the agreement, if the agreement does not come to fruition, in other words, if it does not stand in a Court of law, will then fall by the wayside, which would include in the matter at hand that is currently before you would be the 204 statement that was

taken down and/or drafted by Mr Padayachee himself.

So what then happened was there was negotiations entered into, and on the 15th – let me just go back. On the Sunday 14 June, and I beg leave to hand up a copy. Unfortunately, we just have one copy. An email is directed by Ricardo Arcangeli, who was counsel at that point acting for Mr Matlala. He directs a communication to Rikus Kriel, who was the co-counsel for Mr Santhos Manilall in this particular matter, and in it he CC's in Dylan Perumal. Now, as I have already indicated to you, Dylan Perumal, together with Padayachee and Bellochun were the three that was constantly involved in this particular. In that he says the following:

> "With reference to our discussions via WhatsApp between yourself and Chief Perumal, I confirm the following."

That is now addressed to Mr Kriel. This is the representative for Mr Matlala:

> "That the prosecution has the necessary authority to enter negotiations with Mr Matlala in terms of section 105A."

This is a prerequisite because without the then head of IDAC, this could not have been done:

> "2. That such written authority was given to the previous legal representatives.

> And then lastly, that should the negotiations fall, then the affidavit will not be used as evidence against our client, Mr Matlala."

And part of this, the reference to the affidavit is the affidavit that was then deposed at that point by my client. Subsequent to this, and this is one example, I do not want to, because of course privilege in this matter is still retained by the client, but I have got his permission to deal with this particular. The response then by Mr Perumal, Dylan Perumal is the following. He says:

> "I hereby acknowledge receipt of your communication and confirm the arrangement set out in your trailing email."

Even on the very first day when I attended, I basically came quite late. At that stage, there was a whole team, including these three gentlemen, Rikus, and my attorney was there. In the presence of the attorney, and if necessary, the attorney will give evidence under oath, was it made patently clear that whatever affidavits are deposed by Mr Matlala, that is before I was no longer involved in this case. All those documents form part and parcel of the sentence agreement, because they needed that in order to, of course, sway Mr Matlala to enter into these settlement agreements,

and at the moment that the 105A comes to naught, that those agreements will all fall by the wayside.

My attorney then, subsequent to the 105A, and that is the email I am waiting for then, wrote to Santhos Manilall and requested return of *inter alia* section 204 agreements and all other documents that was drafted in lieu of the plea and sentence agreement, as the plea and sentence agreement now has fallen by the wayside and is regarded as *pro non scripto*.

And the response was, and that you will see clearly in the email by Mr Manilall, is as nobody is allowed to use these agreements and because it is sensitive, I need you to come and have a meeting with me. I am not going to go further into that aspect, but it was acknowledged by all and sundry that the affidavit and all statements and all questions put down, which I respectfully submit was put into a document by Dylan Perumal. The agreement at all relevant times was that that goes hand in hand with the plea deal, the section 105A agreement, and if same does not stand, everything else will fall by the wayside.

So to try one more, I think it is imperative to understand that at all relevant times, it was the understanding of Mr Matlala that these, whatever statements he makes, whether it is one that the Evidence Leaders intends to now place before you without proving

who took it down, under what circumstances, who was present, et cetera, et cetera, that none of those statements, whether deposed under oath or not, will ever be used if the section 105A does not continue.

More than that, there is unfortunately also a history of promises that went with the making of the 105A, and I think it is imperative that I place this on record, and same will go, my client will depose to this under oath. He was told that he does not have to ever appear at the Madlanga Commission. My attorney will also confirm that under oath, and that, two, he will be kept in witness protection once the sentence is passed.

Now, both of those promises, the one I respectfully submit comes down to defeating the ends of justice, because to tell, I respectfully submit, a potential witness to the Madlanga Commission that he does not have to appear there and whatever sanction is imposed on him does not matter, is defeating ...[intervenes].

CHAIRPERSON: That was the IDAC official. IDAC ...[intervenes].

ADV VAN DEN HEEVER: The IDAC official.

CHAIRPERSON: That ...[intervenes].

ADV VAN DEN HEEVER: I am not going to at this stage even go on record with that.

CHAIRPERSON: All right.

ADV VAN DEN HEEVER: But as I said, that will go under oath in due course, if necessary, depending on what your ruling is going to be. This can be confirmed by my attorney who is sitting next to me and my attorney sitting next to me can also confirm under oath that the question was asked time and time again about the use of these statements outside the 105, and it was confirmed – I am almost done, Chairperson – on various occasions ...[intervenes].

CHAIRPERSON: I actually thought I wanted to assist you. All right, please continue. I wanted to say your submissions on the link between the plea bargain and also the 204 are quite substantial, and I was wondering if you do not want to add to that in reply, perhaps, and now move on to the law as to the non-use. Do you not want to address that, addressing the law?

ADV VAN DEN HEEVER: So the ...[intervenes].

CHAIRPERSON: Factually, factually, I think your submissions are quite substantial on the link.

ADV VAN DEN HEEVER: I respectfully submit that any endeavour to try and use this particular statement, because it forms part and parcel of the section 105A plea, because it was at all relevant time part of the plea agreement, because that is what Mr Matlala was made to understand. There will be no consequences as a result of this. It can never be used by nobody.

He would never have made that if it was not part and parcel of the 105A. He would never have sat down and been interviewed by anybody from IDAC who then took it on himself to depose or to write it up in an affidavit form if it was not part of the agreement, and for that particular aspect, we have got ample evidence. The question then is, can you now try and divorce the two from each other? Can the Commission say, we do not care about what happened with the 105A. We are only interested in this ...[intervenes].

CHAIRPERSON: No, please continue.

ADV VAN DEN HEEVER: We are only interested in the 204. I respectfully submit, will bring the interest of justice into disrepute, because it is quite clear if we look at the provisions of section 105A where it says that once such an agreement does not come to its full conclusion, to fruition, in other words, when it does not stand, what happens with it? It is regarded as *pro non scripto*, and no party can later on utilise any aspect or any part of it.

They can neither use the content of the 105A, that is either the state or the accused person, or they can in fact use any of the negotiations that was entered into in lieu of the 105A. Now we say not only is the 204 mentioned in the 105A, but it was part and parcel of the negotiations. That was the carrot that was dangled in front of Mr Matlala's nose, *inter alia*, one of them. Again, I do not want to go

into this. There are many aspects that is important, but part and parcel of the negotiation process that then the NPA is not allowed to disseminate to anybody is, in fact, this, the interviews and/or statements solicited from Mr Matlala, whether they are later on set out in writing by whoever.

I respectfully submit that if one were to allow this situation whereby the NPA is allowed to break that solemn agreement that they have entered into, break the provisions of the Criminal Procedure Act when it comes to section 105A, to behind the back of any person that has entered into plea negotiations, and later on it comes to naught, would, in my respectful view, cause that provision to become a nullity in the Criminal Procedure Act, because not a single person will ever again enter into plea and sentence negotiations with the state, because the state's word, in other words the NPA or IDAC's word, is just not their word anymore.

For some reason, and that is still perplexing to me, Chairperson, I was, and my learned friend can confirm it, I was shocked and appalled when she told me they have been given this statement by the NPA. That means the NPA does not care about the Criminal Procedure Act, does not care about their own regulations that is issued under section 105A. It does not care about their word to other people. In fact, what they did is totally contrary to the provisions of

section 105A by just handing it over, because there was a solemn agreement, as stipulated in section 105A, that none of the negotiations nor any part of the agreement would be made available to anybody else once the actual plea and sentence agreement does not come to its fruition.

So I respectfully submit that that section 204, whatever it is, and again, you see what I am saying, because we do not know where this comes from. In the sense, we know that the NPA must have handed it over, or IDAC, but the actual document, because what I have seen here is not a signed document; it is a long document drafted by somebody. I do not know who drafted it. I do not know the content thereof.

And even this Commission to now go and try and explore that with Mr Matlala would be impermissible, because then you basically discard the provisions of the Criminal Procedure Act by doing that because now you go behind the agreement that was entered into, behind the provisions of section 105A, where it deals with plea negotiations and/or the actual plea agreement that is entered into, and you allow conduct that is reprehensible in my eyes, as far as the NPA and IDAC is concerned. You give it status.

You actually elevate it to something that is legally permissible. And I say this is not your run-of-the-mill

situation that you might deal within the Commission where you get hold of a statement or cellular data, which I still have a different view on the Commission itself, but be it as it may, that you now put to a witness. This is reprehensible conduct that is elevated and given some form of status by allowing questioning on it.

I respectfully submit that this can never be our law. I do not even want to go at this point into issues of constitutionality and infringement of my client's constitutional rights when it comes to the utilisation of this document and questioning him on it, because my respectful submission is that one of your rights as an accused person, because he is currently an accused in a criminal trial where this Medicare contract is the subject matter of. That matter has been investigated.

He is charged together with a large number of other people, and I do not have to tell the Commission about the shenanigans that has been going on behind closed doors and which has subsequently been disclosed here at the Commission. And as I said, that is not the end of it. It also relates, the shenanigans on that Medicare aspect also relates to their conduct vis-à-vis my client.

But the point is that you cannot at this stage take that questioning on it with all the repercussions that it might have in the future for his rights. Vis-à-vis that criminal trial

where he is already an accused. You have more than enough, and if one looks at the content of this, this is not like he is saying things in this document that is before you that you do not know about. You know everything that is in the document because witness after witness gave evidence about that aspect.

This is not where you are collecting evidence or information to make recommendations on. He cannot corroborate other people's evidence in this regard. It is unnecessary. The Commission does not need corroboration. As long as the Commission has the evidence that is necessary for it to make its recommendations, I submit it is good enough. Why focus on a person who is part and parcel of a case that is already being investigated, that is being transferred to the High Court? That case, that is also under the bridge.

Chairperson, you do not need to, with the greatest of respect to yourself and your fellow, bother with this matter anymore. Similarly, I say that this issue and what transpired here forms part of, and how it came about, the conduct of Bellochun, Padayachee and Perumal, and the conduct forms part and parcel of whether there is issues pertaining to my client's fair trial rights in that matter or not.

Because even a simple issue, the plea agreement that was not, that was drafted – let me put it, I am not going

to comment on who fine-tuned it – the accused pleads guilty to a charge that is not even a charge having regard to the summary of the substantial facts that is there. So the issue does not end with this.

There is so many other issues, and all the Commission will do by asking him to comment or to deal with a document that was part of pre-negotiations by people that, with the greatest of respect, has no credibility at all under circumstances that you cannot, I say with the greatest of respect, go into the circumstances that prevailed at the time would be a travesty of justice and would be contrary to the provisions of the Constitution and can never be cured, or the rights of the accused can never be dealt with proficiently by him just saying, oh, I refuse to answer this question because it is going to incriminate me.

Because I have taken notice, and I say this with a lot of respect, as to how that answer is very often dealt with by the Evidence Leaders in this Commission. It is not as simple. If it was a question of a person putting his hand up and saying I do not want to answer it because it will incriminate me or exercise my right, and one would move on to a different story, but very often it is not the end of the inquiry on a particular point.

And we have seen it with Mr Matlala himself on one of the last occasions that we were here, when we had a

discussion between us as to whether he should answer the question or not. And at the end of the day, he was duty-bound under your compulsion to answer the question. So I, with the greatest of respect, urge you at this point in time not to, in your ruling, not to allow this 204 to become part of the material before you that Mr Matlala needs to answer on. We then have for you, I also wish to hand that up, 29 July, Mr Manilall says:

> "As neither party can use the document, there is possible legal ramifications and therefore the state has to adopt a cautious approach releasing the document."

And this is, if you look at the previous document, is directly, the previous email is directly related to the statement, a statement which is this statement obtained from Mr Matlala under the provisions of section 204. May I just approach my attorney? You see, I have got 10 seconds left.

I lastly wish to remind you that without this 105, there would never have been a 204. You cannot take the one away and the other one stands, or take this one away and then the other one stands. So for that reason, I respectfully submit that you cannot, on an artificial basis, where the NPA has contravened the provision, acted in my eyes *ultra vires* vis-à-vis the Criminal Procedure Act. You

cannot tolerate such conduct and just say it is okay with us. They have acted *ultra vires*, it is okay with us, we are going to have it before us as evidence, and Mr Matlala may be questioned on it. May it please you.

CHAIRPERSON: Thank you. On that dot, thank you, Ms Van Den Heever. I am very sorry. Ms Van Den Heever, let us just look at subsection 10 of section 105A. It says:

> "Where a trial starts *de novo*, as contemplated in those subsections:
>
> a. The agreement shall be null and void and no regard shall be had or reference made to."

And then there is small (i) up to (iii). That introductory part that says, where a trial starts *de novo*, does that not show that the null and void relates to the trial that is starting *de novo* and ...[intervenes].

ADV VAN DEN HEEVER: But it goes further.

CHAIRPERSON: Yes, yes.

ADV VAN DEN HEEVER: Yes, Chairperson, it goes further. The trial starts *de novo*, but it also takes care, if you read the rest of it, of the plea negotiations and the plea itself, the use of it. So if you continue reading through it, then you will see it takes care. That aspect is specifically dealt with in ...[intervenes].

CHAIRPERSON: No, ja, my point is this. My point is this.

What then gets itemised in (i) to (iii) are matters that, or rather to which there will be no reference in the criminal trial that starts *de novo*. So I want to understand on what basis we forget or just throw away the introductory part, which is about a trial that starts *de novo*. Why is it that we may suddenly be at large, as it were, and seek to apply this section and the null and void to commissions of inquiry, to civil proceedings, to whatever else, when from that intro it seems reference is to a criminal trial that is starting *de novo*? So whatever becomes null and void, whatever may not be, or rather whatever may not be referred to should be in the context of that criminal trial that is starting *de novo*. Why is that not so?

ADV VAN DEN HEEVER: Chairperson, because of the fact that the mere fact that the trial starts, you need to – in the section they need to deal with what happens with the trial itself. So the question is what would then happen with the trial itself? So that says if the trial starts *de novo*, the agreement will be null and void and no regard will be had to any negotiation preceding the entry into the agreement. And you need to go beyond the fact that the trial starts *de novo*, because that is part and parcel of what would normally happen.

If they never dealt with what happens to the trial aspect, if the plea falls by the wayside, then the provision,

section 105 would have lacked that particular provision to say, okay, what happens now? So it was pre-emptive to do that. But you then need to go further and see there they say the agreement will be null and void, reference made to any negotiations preceding the entry into the agreement, and that is part and parcel of the negotiations. With those negotiations, and I invite you – well, I cannot invite you because you do not have the 105, but take it from me as an officer of the court, I quote it to you, this agreement is part and parcel. The mere fact that we at this point ...[intervenes].

CHAIRPERSON: No, for now that is not what I am asking you. That is not what I am asking you.

ADV VAN DEN HEEVER: And it says unless he consents to it ...[intervenes].

CHAIRPERSON: I say let us ...[intervenes].

ADV VAN DEN HEEVER: You cannot make reference to it ...[intervenes].

CHAIRPERSON: I am saying let us assume, for purposes of this debate between the two of us, let us assume that the link has been established. That is the link between the 105 and whatever went on there, the agreement and so on, and the fact that the section 204 statement was part and parcel of that 105A engagement. For purposes of this debate, let us assume that that is so. So now my question is, why is it

that the nullity of the statement does not relate only to the criminal proceedings that are starting *de novo*?

ADV VAN DEN HEEVER: Because the statement itself came about because of exactly what it says to in (i), negotiations which preceded the entry into that agreement. So, in other words, those negotiations, whatever it might have included to lead to the statement that has now become null and void, that must, it is as you clearly cannot be used at no stage.

So you need to read it together. You cannot try and – I respectfully, it is superficial, and to basically confirm what I said is if you have regard to the statements of Santhos Manilall together with the statements of IDAC themselves, the emails, both these emails are placed before you, gives the same, draw the same inference as I am trying to convince you that you should draw, that that statement, even though you might argue it is not part and parcel of the plea negotiations before at that point, or the plea and sentencing agreement, which is one thing, I respectfully submit it is part and parcel of the negotiations that ...[intervenes].

CHAIRPERSON: I have said let us accept. I have said for purposes of this debate, Ms Van Den Heever, let us accept that you are correct. Let us assume, rather, not accept. Let us assume that you are correct. So please do not

repeat that. I thought I am clear enough, but you keep going back to what you have been saying, and that is not answering the question I am asking you. So let us assume that you are correct as to the link, please. So please do not try to prove that link again.

Now, my question, as a matter of law, if we accept the factual link as a matter of law, why is it when the section says if a criminal trial starts *de novo*, that statement that was made in accordance with the link that you are referring to, therefore for purposes of the section 105A process becomes null and void? So if the sentence introduces the question or the issue of nullity in the context of a criminal trial that is starting *de novo*, my question is why should that apply to a commission of inquiry? That is a simple legal question I want you to please answer.

ADV VAN DEN HEEVER: I have made my submissions to you, Chairperson, as far as I am concerned. I say to you, and I do not want to repeat it, that that statement is part and parcel of this whole issue and you need to take into account that Mr Matlala is an accused still before Court. So for that purposes, all of the provisions that under section 105A is applicable.

So you need to take cognisance of what is set out in 105A, and you, with the greatest of respect, would, same as I say the IDAC and the NPA has acted *ultra vires*, you

would give credence to them acting *ultra vires* by going beyond this.

ADV BALOYI SC: Can I ask the question differently, Ms ...[indistinct – mic switched off]. Your submission is that it applies to the whole world and for any purpose whatsoever. What the Chairperson, and what I am also interested in, is where in subsection 10, because subsection 10, as matters stand, seems to be the only authority that tells us what should happen with the statement when there has not been an agreement, or in fact when the 105A process falls apart. Sub 10 tells us how to treat those negotiations, whatever record there is. It tells us that. Where in section 10, subsection 10, do we find support for the broad proposition that you are making, that it holds against the whole world and for any and every purpose? Where in this subsection do we find that, or for that matter, any authority that you may have?

ADV VAN DEN HEEVER: What I am saying to the Commission is the following, that it might not be spelled out, but your possession, possession, the NPA handing the document over to you violates the principles, I say, of section 105. You should not be in possession of this document because that goes contrary to what ...[intervenes].

ADV BALOYI SC: Would your submission have been

different if we had gone by way of subpoena, to subpoena the NPA to give us this document? Because we do have the power to do that, right? If we had gotten this by way of subpoena, what would be your submission? Forget they handed it up, they handed it to us.

ADV VAN DEN HEEVER: Because they should not have complied with it under a subpoena, because that would be – you cannot hand over documents as the NPA and act *ultra vires* vis-à-vis your own Criminal Procedure Act. You ...[intervenes].

ADV BALOYI SC: So you are saying we do not have the authority, we would not have had the authority to subpoena the NPA to give us the records that they have relating to their dealings with Mr Matlala?

ADV VAN DEN HEEVER: Not when by doing so the NPA, in complying with it, will act *ultra vires*. I do not believe, under circumstances like that, that the NPA should hand it over. That ...[intervenes].

ADV BALOYI SC: How would they be acting *ultra vires* if they are responding to a subpoena? There is a subpoena until it is withdrawn is a legal document which is binding on the party that it is given to. Now, unless you say I am wrong in saying that, and I am sure I am correct about that, if I am correct with that, how are you acting unlawfully if you are responding to a subpoena which is authorised by an

Act of Parliament and which the rules and regulations of this Commission give the Chairperson the power to issue? How is that to act unlawfully?

ADV VAN DEN HEEVER: Commissioner, I want to take it the other way around and answer it with an answer. Why should the Commission cause through its actions, through a subpoena, evidence to come before you because you force somebody to hand it over? By them handing it over, their conduct is *ultra vires*.

ADV BALOYI SC: Okay, I hear you. Thank you.

ADV KHUMALO SC: I just want to make sure. Assume there is a 105A and there is this 204 affidavit and it cannot be used in a criminal trial against Mr Matlala. Can IDAC/NPA/SAPS use it to follow the leads in the affidavit? They cannot use it in a criminal trial, but they now have this fact on affidavit. Can they use the same affidavit to follow those leads in the investigation?

ADV VAN DEN HEEVER: Commissioner, what I have seen before you is not an affidavit. I have seen a document before you that is not an affidavit.

ADV KHUMALO SC: No, before me is an affidavit. So I am asking you on the basis that before me there is an affidavit.

ADV VAN DEN HEEVER: Yes, you may use it as a lead, but the fact is, how do you take the lead to become

evidence?

ADV KHUMALO SC: So it can be used.

ADV VAN DEN HEEVER: How do you prevent it, Commissioner? I mean, I am not stupid in the sense that I would sit here and make a submission to you, you now have certain evidence, but you can always use it as a lead.

ADV KHUMALO SC: Yes.

ADV VAN DEN HEEVER: Because it is there. But once, but you can – if I were to prove vis-à-vis another accused person that the conduct, what led IDAC to come to me as an accused person, is because of *ultra vires* conduct by IDAC, I am going to take that point in a case.

ADV KHUMALO SC: So it can be used by the Commission for the purposes of following leads that are relevant to its terms of reference. Because if it can be used by IDAC to follow leads, or it can even be used in disciplinary proceedings against Mr Manilall, or it can be used in defamation proceedings against whoever it is that prepared it, why can the Commission not use it to conduct its investigations that are relevant to its terms of reference?

ADV VAN DEN HEEVER: Because, I submit, if you use it, you use it not as a lead to go and follow up. You use it by calling an accused person in a matter. He is an accused in that case. He is a suspect in matters that is related to that 204, and now you use a document that he only entered into

because of the plea negotiation, to ask him questions about. That can never ever be permitted, not even for the Commission to do it, because you violate his rights in so many ways by allowing that and doing that with the greatest of respect.

ADV KHUMALO SC: And lastly, because it is before us and we have now seen it, what do we do with it? If Mr Matlala is not confronted with its contents, but we as the Commissioners have seen it and we must write or draft a report that deals with issues that are dealt with in the affidavit, how then must we deal with it?

ADV VAN DEN HEEVER: That is your problem and not mine. I am just, just by way of a joke. I hear what you say. It is unfortunately so that this kind of documents should never be before you before proper this matter is dealt with and argued. So that is something that I think should never have happened. It should not have been placed before you until such time as argument has been heard on this issue. And more so when the Evidence Leaders knew that we were opposed to this. They knew from the word go what our argument – my client, in fact, if you recall quite correctly, when he was asked by one of the Evidence Leaders about the 204 and about the 105A, he said under oath here before you, you cannot use this and I do not want you to use it for a variety of reasons. That was part of a negotiation that I

entered into.

ADV BALOYI SC: Can I just check this? I mean, the protection in subsection 10, as I understand it, it is a fair trial protections that are given, will be given to Mr Matlala in this case. Now, we have a statement which is wide-ranging. It speaks to – you have seen it – in parts it speaks to matters which have nothing to do with the trial in which he is involved. Is your submission that even a matter that has nothing to do with what he is currently facing in criminal trial may not be canvassed with him because it is contained in a section 204 statement?

ADV VAN DEN HEEVER: No, because it is quite clear from the content of the statement, whether it is under oath or not, that it relates to criminal conduct where he is clearly a suspect in. And I do not even want to go down this road at this point about what he is subsequently being asked about and what he is not being asked about.

ADV BALOYI SC: Well, there are matters that he has not been charged. The statement – let me finish – the statement speaks, for example, and I will not go into the detail of it, about his parliamentary appearance. As far as I am aware, there is no criminal trial that relates to that. And why can we not discuss, if you are correct, that matters that have to do with the criminal trials that he is facing are out of bounds in this statement, why can we not discuss the

kind of example that I gave you, which has absolutely nothing to do with that section 105A discussion, the matters that were involved there, and has nothing to do, as far as I am best aware, with anything that he is appearing in court presently for? Why can we not discuss that?

ADV VAN DEN HEEVER: I have made my submissions to you before on the issue of if you are a suspect in a matter, you enjoy the same rights, and I say it is the same issue even before you. If you are entitled as a suspect to claim section 3 of the Act, the Commissions Act, then you can just as well – that extends beyond that. Also not only to an accused person, but it will extend to any issue, but ...[intervenes].

ADV BALOYI SC: I have given you a very specific example. If there is no evidence before us that he is a suspect, in the example that I have given you of the kind of matter that I have given you, if there is no evidence before us that he is a suspect that is being investigated by the police, why should we not discuss that with him? If you are correct that the statement cannot be discussed.

ADV VAN DEN HEEVER: Well, under those circumstances, what I would advise my client then is, or I would ask for an adjournment, and if we know that there is evidence that he is a suspect, we will place that evidence before you, because you are not sitting there with all the knowledge of

everything that is happening out there, with the greatest of respect. We might know more about what is actually happening on the ground than the Commission itself.

ADV BALOYI SC: Well, you have known for quite a while that the Evidence Leaders intend to lead this evidence. At some point you had taken the view that you would go to court. You have not. We are here now, and I would expect that in your preparation to come and make submissions to us, you would have covered all of those bases where you do more than just a blanket objection. You look at the statement and you say this matter was the subject of 105A negotiation, this particular topic, and therefore it is out of bounds for discussion.

This, which has nothing to do with that negotiations, for example, Mr Matlala has already testified and General Senona have testified to a meeting in an apartment. It is in that statement. Why can we not discuss that? And I would have expected you to tell us why it is we cannot discuss that part. I have given you the parliamentary issues. There is nothing before us. I do not think it is open to you to say, well, give me a chance to go and fish with the police. Maybe they are investigating him. Otherwise I expect you now to say to us, we know as a fact that he is being investigated for the parliamentary example that I am putting to you, and you say we know as a fact

because of A, B, C, D. Give me until tea time to give you proof of it. Not say, let me go and investigate, because then you would be investigating any and every question as it arises. It surely cannot be that way.

ADV VAN DEN HEEVER: Commissioner, I have got two responses to you. One based on your last one. I never said I am going to fish. I said I will treat it on a question-by-question basis. I will stand it down and I will place the evidence before you. I did not say I am going to ask ...[intervenes].

ADV BALOYI SC: Do you have ...[intervenes].

ADV VAN DEN HEEVER: If I may please ...[intervenes].

ADV BALOYI SC: Do you ...[intervenes].

ADV VAN DEN HEEVER: If I may please just ...[intervenes].

ADV BALOYI SC: No, let me ask you a direct – no, I do not want us to have an engagement that, in the end, does not yield an answer to my question. My question is, do you now, sitting there, have evidence that Mr Matlala is being investigated for the example that I gave you about Parliament? Do you have evidence of that? And if you do not have it, if you say to – if your answer to me is you do not have that kind of evidence, I am going to say then that is the end of my question, and I do not need any further answer from you. Yes, you may ...[intervenes].

ADV VAN DEN HEEVER: The issue is, I do not appear in all these matters. I need to take an instruction. You cannot put me on the spot like that. That is number one, and that takes care of that issue, and I will take an instruction. The second issue you refer to ...[intervenes].

ADV BALOYI SC: So you do not have evidence on that question right now?

ADV VAN DEN HEEVER: But I am sitting here and I have said to you, Commissioner, please may I finish ...[intervenes].

ADV BALOYI SC: No, Ms Van Den Heever ...[intervenes].

ADV VAN DEN HEEVER: I have said ...[intervenes].

ADV BALOYI SC: Ms Van Den Heever, I must interrupt you. I would like to get direct answers to my questions so that we can move on to the next ...[intervenes].

ADV VAN DEN HEEVER: I am saying to you right now, I do not have the answer because I have not taken an instruction from my ...[intervenes].

ADV BALOYI SC: You do not have ...[intervenes].

ADV VAN DEN HEEVER: May I please finish my answer to your previous ...[intervenes].

ADV BALOYI SC: No, no, no, I did not ask you if you have an answer. That is not my question. You are answering a question that I did not ask you. My question is, as you sit there and make this submission, do you have evidence that

Mr Matlala is being investigated relating to his testimony in Parliament? Because that is the example I gave you, and the answer is you either right now, as you sit there, you may want to take instructions later on. I am not interested in that. I am interested in you answering my question. You either have evidence or you do not right now as you sit there.

ADV VAN DEN HEEVER: Right now where I sit here, I am telling you for the record that I act on instructions and I have not got instructions in that regard because I do not act in all the matters. That is number one. The other issue that I just want to touch on, you said I said that we were going to go to court. Are you referring to a previous conversation that I had with Ms Sello?

ADV BALOYI SC: Yes.

ADV VAN DEN HEEVER: I have got nothing further to say. Thank you.

ADV BALOYI SC: Thank you.

ADV VAN DEN HEEVER: May I just take an instruction? My attorney wishes to tell me. My attorney has just reminded me on the parliamentary issue. We have been provided with a report and asked to comment on certain aspects that they touched on and where they have made certain findings.

ADV VAN DEN HEEVER SC: So as far as we are

concerned at this point in time, I can answer your question positively and say there seemingly he is a suspect, but we have not yet dealt with the content. I have not taken full instructions on it, because I have not even read through the whole report. It was forwarded to me. It is quite a voluminous document at this point in time, and we will have to sit and discuss it with the client. But I take my instructing attorney's word for it.

ADV BALOYI SC: Okay, so just so that I am clear, you say he seemingly is a suspect because you have got a report. You have a copy of the report that deals with his testimony before the Commission, the Ad Hoc Committee.

ADV VAN DEN HEEVER SC: So my instructions are my attorney has not studied all, everything in detail at this point in time, and we can only respond to that once it has been properly studied. But it is clear that as it goes with all of these things, and you know from your own involvement in this matter, so am I with Parliament, there is always recommendations pertaining to criminal charges and/or unlawful conduct.

ADV BALOYI SC: Thank you, Ms van den Heever, you have answered as best as you can. Thank you.

CHAIRPERSON: Twenty-six minutes.

ADV SELLO SC: That is rather precise, 26 minutes. I accept it, Chair. I think the appropriate place to start is

with a comment Advocate van den Heever made, which is that they are confronted with an unsigned document. That is incorrect for the record. What has been provided and tendered into the record as an exhibit is a signed section 204 statement, together with all its annexures, and this is found in file 1 and 2 of the section 204 statement. That should not be confused with a draft section 204 statement that has been circulating publicly.

That is not the section 204 we reference, and I think perhaps Advocate van den Heever may have made a mistake thinking that that is the document that the Commission relies on. The unsigned draft, and I do indicate draft because that is what it is called within the tramlines of the document, that draft affidavit is what was circulating publicly, it is what we have obtained, and for completeness and for purposes of dealing with the actual section 204 statement, we have also made that one available to both the Commissioners and to the other side.

Now, having made that correction, it is important that perhaps we look briefly at the history of this section 204, and this is important because Advocate van den Heever suggests, one, that the NPA was not allowed to disseminate the document to anyone, including to the Commission, and that in so doing it acted *ultra vires*. There has been an engagement between Commissioner Baloyi and

Advocate van den Heever about the threat to institute legal proceedings to challenge the NPA's decision.

The document I referenced, the Commissioners do not have it, because it was addressed to myself and to the Commission secretary when the documents were availed to the Commission, and I will print and make it available if it becomes necessary, but for the record, it is from Mr Mthunzi Mhaga of the NPA. It is dated August 27th, 2026, and in that email, Mr Mhaga advises, addressing himself to me:

> "Please find attached letter from the NDPP, Advocate Mothibi with accompanying documents. We are still trying to get assistance from our IT to unpack the voluminous affidavit so that it can be easily accessed."

Importantly, it states:

> "Please note that we have written to Mr Matlala's attorneys, informing them of our decision and that they must take the matter up with the Commission if they have objections to the disclosure or any use of the information."

So on the 27th of August 2026, Mr Matlala's legal representatives were aware that the Commission had been

provided with the documents, including the section 204, and they were encouraged to the extent that they sought to do, to raise any objections with the Commission. I can confirm that none were raised.

It is correct that having been provided with the documents, Advocate van den Heever and I have been in communication, and yes, they recorded their displeasure with the fact that the document has been provided. And they intimated, without necessarily promising, that they reserve their right to approach a Court to declare the conduct of the NPA unlawful. I do not want to go into the detail of those conversations, but just to say that I did understand that they object to the NPA having provided us with this documentation. That is after the 27th of August.

I do not know whether Mr Matlala's legal reps were in contact with, were ever in contact with the NPA regarding the provision of these documents. What I want to turn to instead is the engagement that the Commission then had with Mr Matlala's legal representatives regarding the section 204 statement. For this purpose, Commissioners, you should have, and so would Ms van den Heever, have before her a correspondence bundle and the correspondence bundle, I would like to refer us to page 408.

At page 408 is an email from the Commission's attorneys addressed to Mr Matlala's attorneys, dated the

28th of September 2026. That email at the top advises that a link together with the password to the section 204 bundle, bundle because it is both the statement and its annexure, is attached to the statement, to the email, and is being shared with his legal representatives. Importantly, the Commissioners will recall, if you go to page 405.

CHAIRPERSON: You did mention that this is correspondence dated 28th September 2026.

ADV SELLO SC: 28th September 2026, thank you, Chair. If we step back to page 405, at the bottom of page 405, it is an email, once again, from the Commission's attorneys, and states that:

> "The Commissioners issued a subpoena for Mr Matlala's appearance for Thursday, the 1st of October 2026."

So he was scheduled to appear on the 1st of October. And going back then to page 408, and that is the 24th of September, the email on page 405. At 408, at the bottom, a specific email is once again addressed to Mr Matlala's attorneys, and it reads thus:

> "Kindly note that the evidence leaders intend to lead evidence on the section 204 statement on the 1st."

So, at the latest, by September 28th 2026, Mr Matlala's representatives were aware we had been furnished with a

section 204 statement by the NPA, that the NPA had indicated to them that should they find basis to object, they will raise their objections with the Commission. A month later, a subpoena is issued for Mr Matlala's appearance on the 1st of October. The entire section 204 statement is made available to them in preparation and a specific email is forwarded, indicating that the evidence leaders do intend to rely on that section 204.

There was no objection received, to at least the stated intention, of the evidence leaders to rely on the section 204. As the Commissioners will recall, on the 30th of September, their Commissioners were faced with an application for a postponement pursuant to the subpoena that had been issued on Mr Matlala to appear on the 1st of October. It is on record. It was moved by Mr Chaskalson on behalf of the evidence leader team dealing with this matter.

That appearance was postponed, in large part because the Chairperson was unhappy with the fact that Mr Matlala had been given short notice in the subpoena. So it had been issued, I think, about four days prior, and he was required to appear on the 1st, and the Chairperson rejected that proposition, and caused for the hearing to be postponed. In terms of the transcript, which is part of the bundle, we considered postponing to the 14th of December,

which I think will be on the day or the day before the Commission finalises its oral testimony.

We then rose from public hearings at the end of September, and I think it has been stated publicly, the Commissioners were hearing some *in camera* applications and evidence, some *in camera* evidence, and where applications were being made for *in camera* hearings, those would come to the public hearing. The evidence leaders considered to run a portion of the section 204 statement *in camera*, and because the evidence leaders initiated that *in camera* hearing, it was incumbent on them to prepare an *in camera* application.

A subpoena was issued for Mr Matlala's appearance *in camera*. There is a bundle of subpoenas, Commissioners, that I would like to quickly distribute, and as you get them, it will be tab 8. Now, I am at tab 8. At tab 8, you should find a subpoena issued and sent on Mr Matlala for appearance before the Commission in an *in camera* hearing that was scheduled for Monday the 19th of October. This was issued on the 8th of October 2026. In the period between the date of issue and service of the subpoena and the scheduled hearing, and in the course of preparing the *in camera* application, the evidence leaders reconsidered their original position and concluded there is no cogent basis for any aspect of that section 204

statement to be heard *in camera*.

They then withdrew this particular subpoena at tab 8 and advised Mr Matlala's attorneys accordingly. The importance of this particular subpoena is the first bullet point under B, which advises Mr Matlala that he is hereby required to appear before the Commission on the date stipulated, being the 19th of October, and to give oral evidence on certain matters, and specifically the first bullet point:

> "Your statement in terms of section 204 of the Criminal Procedure Act submitted to the Investigating Directorate against Corruption in case number A16/212/26."

It is very specific. Upon receipt of this subpoena and its withdrawal, at no point was an objection to reliance by the Commission on this statement recorded. It was radio silence from Mr Matlala's corner.

Eventually, a subpoena was issued for today and tomorrow for Mr Matlala to appear to conclude his testimony. It is common cause that his testimony from his previous appearance is incomplete. So, from August 24th, when the NPA advised Mr Matlala's legal representatives that they provided this statement, they were at liberty to approach a Court to declare the conduct of NPA in providing this statement *ultra vires* their powers. That is a

determination that ought to be made by a Court, and they could have received a ruling in that regard.

Alternatively, they could have instituted legal proceedings to interdict this Commission from relying on that statement. And once again, a Court would have made a determination on whether or not there is a basis to so interdict the Commission. They instead elected to do none of the above. They did not even submit a written formal objection and the legal basis thereof before the Commission, while well away, at least from the 28th of September, that the evidence leaders intend to rely on the statement.

They appear on the 9th of November with no forewarning, and now they intend to object. The Commissioners issued a ruling on the 7th of November, on Saturday, to be addressed specifically by both sides on the implications of section 105, capital A, sub 10. As the Commissioners are aware, we have filed our submissions. They have not. In a communication to the Commission's attorneys, Mr Matlala's legal representatives indicated the legal importance of the point that has been raised by the Commission.

It may very well be, but we submit that the Commission's ruling of Saturday the 7th, did not render the point important. It was important from the moment they

learnt that we had been furnished with section 204. They are well familiar, I dare say, with the provisions of section 105A, including the rights afforded and accused in terms of sub 10. At no juncture did they seek to raise those rights and to assert those rights before the Commission.

Consequently, we submit that, at least from our standpoint, this is nothing but a stratagem to undermine the proceedings today and tomorrow. In engagement with Commissioner Baloyi, Commissioner Baloyi asked whether the NPA would have been compelled to provide the documents had it been subpoenaed. For the record, I confirm that the NPA provided the documents on a direct request from the Commission.

A letter was issued to the NPA under the hand of the secretary explaining precisely what the Commission was seeking and the basis for which the Commission believed that it should be provided with those documents. It was up to the NDPP to decide whether or not to provide the documents and had he failed to do so, it was the intention of the evidence leaders to cause for a subpoena to be issued in terms of section 3 of the Commission's Act, which empowers the Commission to issue a subpoena to summon any witness and to call for the production of any book, document or object.

So whether it was a request in a letter or a

subpoena, the NDPP acted within the confines of the law in responding to the request by the Commission. It then provided us with these documents. With that background, I then turn to deal with the submissions that we made on the applicability of section 105. But before I do so, perhaps let me touch on the email correspondence that Mr Matlala's legal representative submitted this morning. And in particular, the first batch.

This is the email that I think Advocate van den Heever read into the record, addressed to Mr Kriel from Ricardo Arcangeli. The important point that the email makes is the last bullet point, overleaf, which states that:

> "Should the negotiations in terms of section 105A fail, then the affidavit will not be used in evidence against our client, Mr Matlala."

That was confirmed. And that I submit accords fully with the provisions of section 105, capital A, sub 10. And in our submissions, we provided Mr Matlala's counsel and attorney with our submissions together with the authorities that we cite. I take it that the Commissioners have had opportunity to read through the submissions. And importantly, I would like to jump to page, and before I do so, we agree with the Chair and the interpretation that the Chair attaches to the opening statement of section 105, capital A, sub 10. And

the words of that section are:

> "Where a trial starts *de novo*, as contemplated in subsection 6 and 9..."

Most importantly, the plea agreement that has collapsed;

> "...together with any negotiations preceding the conclusion of that agreement, and any record of the agreement in proceedings relating thereto, would not be permitted to serve as evidence in the trial *de novo*."

The question that then arises is whether or not this Commission is bound by the provisions of 105, capital A, sub 10. I would like to jump to page 3 of our submissions.

CHAIRPERSON: I just said 26 minutes, I am not sure you know what the end point is. It is 53, so you are left with, it is now 49, so you are left with what, 4 minutes?

ADV SELLO SC: I will take that into consideration, Chair. I would like to jump to the points we raised at page 3, where we contrast the section 105A plea and sentence agreement with the section 204. And we make the point that the section 204, or the validity of the 105 plea and sentence agreement, is not dependent on whether or not there is a section 204. A section 204 is a completely separate document that has got its own statutory framework, which is contained in 204.

The fact that, in the process of negotiating, Mr Matlala offered this document, is not relevant necessarily to determine the validity of the plea and sentence agreement. They are two distinct documents, albeit they arose at the same time in the same process. That distinction is important because, on its own terms, the section 204 agreement, even if the plea and sentence agreement had been accepted by both sides, the deponent can always, let us start with the prosecutor, the prosecutor may reject it, it does not bind the prosecutor, unlike the plea and sentence agreement.

And secondly, the witness is at liberty to recount any part of that statement during subsequent proceedings. And, in those circumstances, the prosecutor cannot seek to compel the witness to stay within the confines of the section 204 statement. Because it is, and the immunity that the section 204 provides, because it is conditional upon frank responses to questions, it cannot be the basis to determine the validity of the plea and sentence agreement. It cannot be that when the deponent eventually recounts, then it undermines the first agreement. That is why they should always be seen separately.

For the moment, because of time constraints, I think it is important to specifically reference the case of *Corruption Watch and Another v. Arms Procurement*

Commission and Others 2020. We referenced that case at page 11. And it appears, Commissioners, at page 253 of your record. Now, this case dealt with, in large part, the decision of the Arms Procurement Commission to exclude from consideration a report called the Debevoise & Plimpton Report, and which then the Commission had obtained.

One of the issues that were raised by the Commission at the time in denying reliance in the Commission on this report was that the report had been furnished in legally privileged circumstances. That case invokes the case of *South African Airways SOC v. BDFM Publishers*, because at that point, the report had been circulating and was publicly available. And in the SAA case, the Court concluded that any privilege in any event that may have attached to that document has been undermined because it has become publicly available.

Most importantly, though, I would like to draw the Commissioners' attention to paragraph 18 of that judgement, which is that in refusing to have regards to a document, a valid document, deposed to by the particular witness, as the Court pointed out, the Commission would be failing to admit evidence which is highly material to its inquiry and which it already has within its possession by failing to seek and allow information or material evidence from key witnesses.

That document implicates a number of people who have not been summoned to the Commission but would have to be because they are implicated. But if it is not accepted, if it is not admitted by the Commission, then it will tie the Commission's hands and the Commission will not be in a position to test the evidence of those witnesses to be summoned by putting questions to them informed by the section 204 statement. If some of these witnesses, the Commission as it stands, has had no basis to issue a Rule 3 or potential witnesses, should I say, has not had a basis to issue a Rule 3 or a 10.6, that is only, the opportunity arises only from the section 204.

CHAIRPERSON: Your time is up.

ADV SELLO SC: Yes, Chair. Just in conclusion to then say my next reference is paragraph 66 and to caution the Commission that, if it were to reject a statement such as this, it would be guilty of precisely what the Court found in this matter, that it chooses to become supine in the face of firm and objective evidence and fails to inquire into the issues and circumstances raised in that document. We submit therefore that there is no basis for the document not to be admitted into evidence and we request the Commissioners to permit the evidence leaders to lead Mr Matlala through that statement. Thank you, Chair.

CHAIRPERSON: Thank you, Ms Sello.

ADV BALOYI SC: Ms Sello, how do we, given the purpose of sub 10, which is, at least in my understanding, to protect the trial rights of an accused, insofar as the statement, the 204 statement that we have, also deals with matters that are relevant in the trial itself, where does it draw protection or how do we go about providing the protection that in normal circumstances he may well have had, for example, with the privilege against self-incrimination? If the statement touches on material like that, how do you say protection is to be provided?

ADV SELLO SC: He is actually afforded two protections. The first is in section 3(4) of the Act, which is to assert his right against self-incrimination. The second is in Regulation 8.2, which specifically provides that any evidence that he tenders before this Commission can never be used against him in a Court of law. Thank you.

ADV BALOYI SC: Thank you.

CHAIRPERSON: Ms van den Heever, 10 minutes.

ADV VAN DEN HEEVER SC: Chairperson, the first thing I need to bring to your attention, my instructions are that my attorneys never got any email from the NPA, so we would like to have sight of this particular email that my learned friend referred to dated 27 August, as my attorney says she is never seen that email. So if that can be provided to us, I would really appreciate it. And then I can address you

further. I would like to see the email, please.

CHAIRPERSON: Oh, you want that first? Ms Sello?

ADV VAN DEN HEEVER SC: Yes, Chair. I have no difficulty in making it available, but then it will have to be printed. I do not know if that means a stand-down or whether we can proceed with the reply.

CHAIRPERSON: Is there not a copy to spare now?

ADV SELLO SC: I read it directly from my computer. It was the covering email providing the documents we had requested, and there is no difficulty in making it available to Advocate van den Heever. The question really is whether we must stand down.

CHAIRPERSON: No, let us rather do this. I would imagine, Ms van den Heever, that there must be other issues on which you are able to reply. Do you want to please do that? And then I had wanted to make my ruling on resumption after the tea break, which I thought we would take after your submissions. That will now delay the process. Is it not possible to have that printed whilst Ms van den Heever is replying on the other issues, please?

ADV SELLO SC: I will try to do so. However, Chair, I wish to point out I have read the email into record. That is the email that I read, the totality of it. There is nothing else. So receiving the physical email does not advance the case any further.

CHAIRPERSON: I thought the point is more that the attorneys on the other side never got that.

ADV SELLO SC: No, because it was never sent to them. It was communication addressed to the Commission.

CHAIRPERSON: That is the point. It was addressed to the Commission and not to your attorneys, Ms van den Heever.

ADV SELLO SC: It just simply informed us that the NPA intended informing or will be informing Mr Matlala's attorneys of their decision and that if they intended to object, they may do so before the Commission.

CHAIRPERSON: So it seems no printing will assist with regard to the point you are raising, Ms van den Heever.

ADV VAN DEN HEEVER SC: But, Chairperson, I can then place on record my instructions is that this was never raised with the instructing attorney's office at all. In other words, the NPA never sent them an email or informed them of what they were going to do.

CHAIRPERSON: Yes.

ADV VAN DEN HEEVER SC ADDRESSES THE CHAIRPERSON: Chairperson, my learned friend made much about the accused not doing certain things, Mr Matlala not doing certain things at certain times. It is up to him to raise this issue before you, as he is entitled to under normal circumstances. So the issue is now before you, and it is up to you to deal with it. The fact of the matter is that I

again submit to you that if you look at the provisions of section 105, capital A, sub 10, the only thing that it deals with is what then happens if the trial starts *de novo*. In other words, what do you do with the agreement itself? What do you do with everything else?

It does not give a blanket right just because there is a trial that starts *de novo* in terms that follows 105A that the plea negotiations and everything else that transpired then now only relates to the actual trial at hand. We respectfully submit that it covers the negotiations and all other aspects that form part of the plea negotiations outside of the actual trial that is starting *de novo*. So for that reason we say there is a direct correlation between the 204 as well as the actual 105A plea.

And it is for that reason that we still submit to you that it would be a travesty of justice that if you could just circumvent this particular process by making documents that were obtained, statements that were obtained as part of negotiations entered into, available to the defence. What should have happened under these circumstances is that if the NPA should have upheld their side of the bargain, if I can call it, they should never have handed over the document, whether it was done in the manner my learned friend argued to you or not.

Even if they were subpoena, this would have been

a situation where I respectfully submit if they were honest and they acted within the course and scope of what they are supposed to do, having regard to the policy documents and having regard to the CPA, they could have claimed privilege before the Commission. The fact of the matter, my client should not be punished because they did not do what they were supposed to do, because they acted *ultra vires*. Now we turn around and we say, okay, they acted *ultra vires*, sorry, just because they handed it over and because they acted *ultra vires*, we as the Commission now say, oh, we have got it in front of us and now we are going to deal with it in any which way we want.

That can never be part of our legal dispensation, whether it is part of what we deal with in Commissions or outside of it. The further issue that my learned friend raised as reference to the case law is that case that you referred to, I think it is the, if the Court bears with me... I think it was the Arms Procurement Act, that case. As far as I know, what happened there goes much wider than what you are currently dealing with. That matter was dealt with in the manner in which it was dealt with on review because of the fact that there was information in there that was never before the Commission at that stage.

In other words, it is evidence that should have been placed before them. That case is distinguishable from the

matter at hand. Here, as I have already submitted to you, most of the evidence that you are trying to solicit or ask Mr Matlala about is already before you. So, with the greatest of respect, it is again trying to compare apples and pears. We respectfully submit that you cannot separate the two agreements from each other and that you should not permit the evidence leaders to place this evidence before you or the mere fact that it is placed before you should be ignored.

It is placed before you and it comes to your knowledge in an *ultra vires* manner and that does not give the Commission carte blanche with the greatest of respect to now have regard to the content thereof and ignore the rights of an accused person who legitimately, with full guarantees of what is going to transpire, entered into a 105 agreement and a 204 plea deal with the state. Just ignore the guarantees that were given to him at the time when all of this happened. My learned friend's interpretation, if you have a greater, if you have regard to the matter in which it was brought, actually relates.

There is no other affidavit that was relevant at the time when that e-mail was addressed to Rikus Kriel of IDAC. The only affidavit that was relevant and was in play at that point in time was the section 204 affidavit. And it is quite clear, as I said, it was confirmed by the second in charge, the person that was part and parcel of the

negotiations, Advocate Manilall, that that affidavit cannot be handed over to anybody. It is covered by section 105A sub 10 as well as legal privilege negotiation. Call it what you want.

So we have two, my learned friend wishes to read one kind of interpretation in the first e-mail. I say both e-mails, the second one that was sent, both confirmed the same thing. At all relevant times, it was the understanding and the agreement that whatever, that 204 statement can never be utilised if the 105A does not stand. It was part and parcel of the plea negotiations that was happening. And to actually allow usage of it would be *contra bonos mores* with a great disrespect. And it would be, it will never be in the interest of justice, I respectfully submit to use it.

And I think it is important that you deal with these issues in your ruling so that once you give a ruling we can make a decision as to what we want to do pertaining to this issue. Because my learned friend is correct. My attorney directed the letter which he said this is an important issue. Of course it is an important issue. If you were to circumvent the Criminal Procedure Act and the law, that kind of negotiation environment and promises made by the NPA in this regard, it will have ramifications forever and ever. And I repeat to you, no person will enter into plea and sentence agreements with the state after this.

You cannot mislead a person by making him false promises under the guise of a 105A because you do not have evidence for what other reason. And the moment it falls flat on its face, the 105A, for whatever reason, the promises you made in that, in my eyes that already with respect in my submission, becomes a different issue at the end of the day as to if that statement was then obtained under false pretences and not in accordance with the relevant provisions of the Criminal Procedure Act and you knew that the promises that you made, you could never ever adhere to those promises, the question then stands to be answered is whether you have got the right to now challenge the content of that agreement in a forum like this, which I submit you do have, because you have now asked ...[intervenes]

CHAIRPERSON: Your time is up.

ADV VAN DEN HEEVER SC: If I can just have 30 seconds like my learned friend had. Then, under those circumstances, you will have the right to challenge the veracity and the lawfulness of that agreement that you entered into under the false pretences in this forum. May it please you.

CHAIRPERSON: Thank you, Ms van den Heever. And I must assure you that I was going to give you a little bit of extra time anyway. Thank you. I have listened carefully

and attentively to the fairly extensive submissions by both counsel on this issue. I take the view that what section 105, capital letter A, subsection 10(a) provides relates to criminal proceedings, that is the criminal proceedings that, in terms of the introductory part of the section, would have started *de novo*.

That is what the section relates to. It does not relate to proceedings of a Commission of Inquiry. Then, based on that, I will assume, I do not even need to go so far as to accept, I will assume for purposes of this reading, this ruling, I am sorry, that the link that Ms van den Heever is making between the section 204 statement and the plea bargaining process does exist. That is, I accept that that link, or I assume, I am very sorry, I assume that that link does exist.

That notwithstanding, that does not alter the view that I take of the matter, which is that the nullity of the statement that is at issue, does not apply to a situation that is outside of the criminal proceedings that the introductory part of the section refers to, that is, criminal proceedings that are contemplated to have started. Therefore, I reject the submissions made by Mr Matlala's legal representative that the section 204 statement cannot be used in these proceedings.

We will at this point take the tea adjournment, but I

will just confer with my colleagues as to ...[intervenes]

ADV VAN DEN HEEVER SC: Chairperson...

CHAIRPERSON: Yes?

ADV SELLO SC: No, Chair, it was a question of looking at the time.

CHAIRPERSON: Perhaps, why do we not just continue up to 1 o'clock?

ADV SELLO SC: It is 45 minutes from now, if it suits the Commissioners.

CHAIRPERSON: I will listen to you just now, Ms van den Heever. Yes, Ms van den Heever.

ADV VAN DEN HEEVER SC: Chairperson, I was going to ask for a very brief adjournment. I had an instruction, I want to confirm that this instruction still holds, vis-à-vis your ruling. So, if I may have a few minutes. I hate telling the magistrate or the judges, stand outside Court quickly, we are going to be back with the...

CHAIRPERSON: 20 past?

ADV VAN DEN HEEVER SC: I am quite happy with that.

CHAIRPERSON: Thank you. Let us adjourn.

ADV VAN DEN HEEVER SC: It will not take long.

CHAIRPERSON: Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Thank you. We have, oh, by the way, Ms

van den Heever was to take some instructions. Maybe there is something you want to say?

ADV SELLO SC: Chair, perhaps before she does, may I address the Commissioners?

CHAIRPERSON: Yes, yes, yes.

ADV SELLO SC: Commissioners, you will recall that we had an engagement regarding whether or not the NPA did inform Mr Matlala's attorneys that they had received a request from us and that the NPA had decided to uphold the request. During the course of argument, I suspect the NPA is following, and they have forwarded to us an email dated August 27, 2026 at 11.15 addressed to both sets of attorneys.

And I say both because the Chair will recall at some point Mr Matlala was represented by Baloyi Attorneys and then by Maluleke Attorneys. And in that email, the NPA attached the letter issued by the secretary of the Commission together with their letter to the attorneys, informing them that they had decided to release the documents to us. So they were duly informed. At least they have done both sets of attorneys. Thank you.

CHAIRPERSON: Thank you.

ADV SELLO SC: That was for the record, yes.

CHAIRPERSON: Thank you.

ADV SELLO SC: My instructions is still that my attorney

did not receive that letter, be it as it may. I hold instructions that the state take the ruling by the Commission on review. This is an extremely important issue that we believe will have profound impact, not only on our client, but on the legal process as a whole. And we therefore believe that we should be given the opportunity for a number of reasons, inter alia based on the submissions that I made, to be given an opportunity to review your ruling.

This can be done on a relatively urgent basis. We are not asking that it be done in the normal course of business, which would take some time. We will be in a position to do it on a relatively urgent process. The rules of the High Court make provision for it. There is a number of ways that you can expedite this particular issue. And we believe that it would be in the interest of justice that this issue is dealt with on review, or that it be reviewed and a decision is made in respect of that by the High Court.

Because, as I said, of the particular circumstances of this matter. As I said, we, in any event, Chairperson, have dates that was arranged with us, holding dates. Those dates still stand. I have put it in my diary, 14 and 15 December. Those were the dates that was arranged, and that we were subpoenaed for. We always understood part of the dates that needs to be kept for this matter.

CHAIRPERSON: But then today and tomorrow will be lost.

I get your point about, and I do not know what the chief evidence leader would say in that regard. But who is to tell that he has not already scheduled something else on those days?

ADV VAN DEN HEEVER SC: Well, we were never informed to cancel the dates. Let me put it to you this way, Chairperson.

CHAIRPERSON: If Mr Matlala was then subpoenaed for today and tomorrow, there would be no need for you to be told to cancel those days. Because it would be quite obvious that you just have to cancel those.

ADV VAN DEN HEEVER SC: We were always under the impression that the only reason was to deal with this issue of the 105A and the 204. That is what I have been told from the word go. And I have always understood that the dates in December is if there is anything else to tie up and any other evidence that needs to be laid.

CHAIRPERSON: [indistinct] ...[intervenes]

ADV VAN DEN HEEVER SC: I do appreciate, Chairperson, that you say that you can...

CHAIRPERSON: May I quickly say this? I can never claim to know any detail with regard to the scheduling. So you may be correct. I do not know. I just raised what I thought was, I mean, the reality is that cannot be countered, that today and tomorrow are lost. I am just raising that. I am

not saying it is necessarily dispositive of the issue that you have been raising. Any other submissions?

ADV VAN DEN HEEVER SC: Chairperson, we do understand that today and tomorrow might be lost, but of course, in law, we do have the right to review your ruling at this point in time. And that is the right we wish to exercise at this point in time. And because of, as I say, the nature of this particular issue I believe that it is prudent that we be permitted to deal with it in that manner. Can I just hear if there is anything else, please?

The other issue that I am reminded of by my attorney is that even though a draft has circulated on an open media, I understand or would hope that the signed copy has not circulated. And learned friend knows that we have raised issues of security from the beginning pertaining to the content of certain statements. This is a huge concern for us in this particular matter.

The mere fact that there was a leak, that draft was ...[intervenes]

CHAIRPERSON: But I just pray, I just pray you are not necessarily suggesting that that is a leak from the Commission. I mean, that is a document that was generated by IDAC so the leak could have come anywhere. Nor am I saying it was IDAC. All I am saying is if there is IDAC and countless people involved within IDAC and, and,

and. So, ja.

ADV VAN DEN HEEVER SC: It is unfortunate so, Chairperson, there was never, and I hope you did not take it from me as a suggestion that it is the Commission that is leaked it. But it is unfortunate so that there has been a copy in circulation. As I said, if we want to deal with the minutiae of this, of course there is the other issue of it that relates to security concerns. That is just a point that I need to raise to you.

And as per undertakings given from the word go, we will not, and I can say that very clearly on behalf of my client, he will not answer any questions unless there is a situation whereby this, the issue of the content of that statement at some point in time is done *in camera* with strict security pertaining to who can hear and who cannot hear. And if necessary, we will then make a separate application to deal with that issue because of threats to my client's life and to that of his family that is already ...[intervenes]

CHAIRPERSON: You are now making a totally different point.

ADV VAN DEN HEEVER SC: I am just saying I have been asked to place it on, I have been asked to place it on records which I have done. That is a separate issue.

CHAIRPERSON: I am not sure what its relevance is to the

submissions you have been making up to this point. I am not, anyway, any further submissions?

ADV VAN DEN HEEVER SC: Nothing else.

CHAIRPERSON: Thank you.

ADV SELLO SC: Chair, if I may very quickly, two, three, three submissions to make. Firstly, yes, a programme has been issued and finalised for the remainder of the Commission's sitting and witnesses have been allocated for the dates including the 14th of December. Chair, it helps to perhaps consider what Mr Chaskalson informed the Commissioners at the sitting of the 30th of September when the hearing of Mr Matlala's testimony for the schedule for the 1st of October was postponed. And I am reading from page 176 of that transcript. And Mr Chaskalson states:

> "Chair, while we are postponing to the 14th, can I please place on record that if there are developments in Mr Matlala's criminal trial and days become available that are currently not available, certainly from our side, we would reserve the right to subpoena him on reasonable notice."

And to this, the Chair confirms:

> "If reasonable notice be given."

Yes, we are precisely at this juncture. At the time that the postponement was granted, the understanding was that was

the 14th of December unless we are able to secure earlier dates. We were able to secure earlier dates, which is the 9th and the 10th of November and that is why we are here.

On the basis that we are able to secure these two dates, the programme for the remainder of the year was finalised. Witnesses have been allocated for the various dates and either rule 3 subpoenas, or Regulation 10.6 notices have begun to be issued calling upon their appearance on the specific dates as allocated in terms of the programme.

Lastly, Chair, I hear that Advocate van den Heever suggests to approach the Court on an urgent basis to review your ruling. Our submissions is we believe that the urgency window that was open to Mr Matlala has since closed. They have been aware, aware from the 24th of August that the Commission intended to rely on the section 204. They were periodically and systematically reminded of the Commission's intention after they have been furnished.

And that was the period to approach the Court on an urgent basis. We do not believe that they will be able to surmount the urgency hurdle when it goes for review. The semi-factor of that is that that review will not be disposed of before this Commission rises. And that effectively would amount to interdicting the Commission from dealing with the section 204 in the absence of an order from Court. Thank

you, Chair.

CHAIRPERSON: Thank you, Ms Sello. A reply, Ms van den Heever?

ADV VAN DEN HEEVER SC: The issue is, and again, I do not want to go into the law submission that my learned friend brings. The point is there is a ruling now and it is a ruling we wish to review. Rulings, I have been involved in matters where review proceedings have taken place on an urgent basis. And that can be facilitated by our Courts. And it is done, it has happened on numerous occasions.

There is a matter that is reported where a review was done overnight from the state side in a matter, and it was, I cannot recall the case reference, but then Judge President Eloff dealt with the matter overnight. So this is not an issue that it cannot happen, it can happen. So I again wish to say that we cannot be deprived of our right to review. This is part and parcel of how our law operates. It is part and parcel of how the Constitution operates. May it please you.

CHAIRPERSON: You referred to the interest of justice. Does the fact not, that the time remaining for the Commission to conduct its proceedings is now extremely limited, does it not come into that port, that is the port of interest of justice?

ADV VAN DEN HEEVER SC: It is but one factor,

respectfully, that needs to be taken into account. At the end of the day, I truly believe that it is an automatic right that a person has when there is a ruling that he is not happy with. And under those circumstances, I respectfully submit that we are entitled to review your ruling. I have indicated to you that I truly believe this is a matter of importance and that it can be done on urgency. I have got nothing further to add.

CHAIRPERSON: Thank you, Ms van den Heever.

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RULING

I have considered the submissions and the intimation that review proceedings, urgent review proceedings are going to be lodged and I have considered the interest of justice considerations that Ms van den Heever has placed before the me and the Commission. Well, there are also the considerations of the extremely tight timelines that the Commission is now operating under and which, from experience, are often impacted negatively by the non-appearance of some witnesses, which has quite a negative impact on the Commission and also on what it can still be able to in the time that is remaining.

In actual fact, the Commission now runs the real risk of not being able to hear all the testimony that it is otherwise minded to hear because of the hurdles that it

regularly encounters with regards to the appearance of some witnesses. So I take the view that the Commission will proceed with the hearing of Mr Matlala's testimony and if an order, a High Court order is obtained, one, reviewing and setting aside my ruling and two, interdicting the continuation of the hearing of Mr Matlala's testimony, the Commission will stop immediately upon receipt of that order.

Ms van den Heever has referred to the fact that sometimes urgent review orders may even be obtained overnight. If that does happen here, we will halt immediately tomorrow morning or for that matter during the course of the day tomorrow and in the face of a ruling that sets aside or rather an order, a Court order that sets aside my ruling, obviously that will mean that whatever evidence shall have been led up to the point when the order is received, shall be taken as never having been heard by this Commission. So my ruling is we will proceed.

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ADV SELLO SC: Thank you, Chair.

CHAIRPERSON: I see that there is still time remaining to one o'clock. Let us continue.

ADV SELLO SC: Thank you, Chair. Advocate Hassim will start with the testimony of Mr Matlala today. Thank you, Chair.

ADV KHUMALO SC: Advocate Hassim, what do we need in front of us?

ADV HASSIM SC: Chair and Commissioners, the first file you will need is the section 204 files, the statement and its annexures and there are two files that are marked Section 204 Statement and Annexures. You only need the first file.

ADV KHUMALO SC: What is the second one?

ADV HASSIM SC: It is section 204 statement and annexures I believe is on the spine, because of the length, it is split into two files. You only need file 1 for now.

ADV KHUMALO SC: Thank you.

ADV VAN DEN HEEVER SC: Chairperson, may my attorney be excused please? He needs to attend to something at this point in time. If my learned friend does intend to continue with the 204, then I want an opportunity to ask that the evidence be heard *in camera* as I have indicated. Based on your ruling now that we continue, if she continues with the 204, may I then address you on the fact that I believe the evidence must be heard *in camera*.

CHAIRPERSON: I think on something like that, we would require an affidavit rather than, it is not the sort of matter that can be addressed by counsel, there would have to be factual averments on affidavit by, it could be Mr Matlala himself, it could be an attorney or whoever else.

ADV VAN DEN HEEVER SC: Then we would like the

opportunity to.

CHAIRPERSON: I have no problem, a lot of time has been taken up, I will not say wasted, I will say taken up already, but... Let us just take the lunch adjournment and resume at twenty to two, let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

CHAIRPERSON: Yes, Ms Van den Heever.

ADV VAN DEN HEEVER: Thank you, Chairperson. My client has instructed me to place on record that he is going to proceed at this stage.

CHAIRPERSON: Thank you very much.

AD HASSIM SC: Thank you, Chair. Chair, Commissioners, you should have the bundle statement and annexures, file 1. Good afternoon, Mr Matlala.

MR MATLALA: Good afternoon.

AD HASSIM SC: Do you have that file in front of you, the statement, Section 204 statement with annexures?

MR MATLALA: Yes, I do have.

CHAIRPERSON: Is it not possible to try to pull the mics closer? Are they tight?

MR MATLALA: Thank you so much, Chairperson.

CHAIRPERSON: Thank you, thank you.

AD HASSIM SC: Chair, I think we need to administer the oath again to Mr Matlala.

CHAIRPERSON: Mr Matlala, do you swear that the evidence you are going to give is the truth, the whole truth, nothing but the truth. If so, please raise your right hand and say, "So help me God".

MR MATLALA: So help me God.

VUSIMUZI CAT MATLALA (duly sworn states)

CHAIRPERSON: Thank you very much, and thank you for reminding me, Ms Hassim.

AD HASSIM SC: Mr Matlala, let us turn to the first page of that file.

MR MATLALA: Excuse me, before we proceed, I was asking the Chairperson if he can please afford me some few minutes, at least, something that I need to put before the Commission, because I see that we go into the 204, if I am not wrong. So I would like to say something regarding this 204 thing.

CHAIRPERSON: Please go ahead, Mr Matlala.

MR MATLALA: Thank you so much, Chairperson.

CHAIRPERSON: Sorry, how much time do you need for that?

MR MATLALA: Maybe 5 minutes.

CHAIRPERSON: Thank you.

MR MATLALA: 5 to 7.

CHAIRPERSON: Okay, all right.

MR MATLALA: Chairperson, thank you so much for the

indulgence. First of all, what I would like to ask from the Commission is, because we are dealing with this 204, and I told my lawyers that it is fine, we can go public, and then, but I was asking the Commission if it is possible if they can grant me the indulgence to, because the contents of the 204 itself was not drafted by myself and ...[intervenes]

CHAIRPERSON: Was not what, sorry?

MR MATLALA: Drafted by myself. So I want to go a little bit backwards, just to give you a background. I think the Evidence Leaders are aware of it, because they are the one who, what is it called, requisition or subpoena to, I was in Kokstad in Ebongweni, they are the one who asked me to come and make a consultation.

CHAIRPERSON: Maybe it is too close now.

MR MATLALA: So during the consultation, when I got to, from C-Max, from C-Max to, from Kokstad to C-Max, when I got here, the guys from IDAC, it was at night, around 8 I think, they said, they came and they said they are the ones who requisitioned me. But when I left Kokstad, I asked the Head of prison that site, what is my reason for transfer? He said it is because of the Madlanga consultation. But when I got this side, they said, no, we are the one, I do not know how they found out that I have been transferred back, but anyway, they served me with a warrant of arrest, and then they said, listen, we need to speak tomorrow morning.

So the following morning, when they fetched me to court, they told me on my way to court they told that, listen, we are not actually after you, but however, we need to arrest you so that we can get to the people that we want to pursue. I asked them, who are those people? They mentioned General Masemola, General Mkhwanazi, General Khumalo. So ...[intervenes]

CHAIRPERSON: And they, they are who you say?

MR MATLALA: The IDAC ...[intervenes]

CHAIRPERSON: IDAC.

MR MATLALA: Three IDAC investigators.

CHAIRPERSON: Okay.

MR MATLALA: So I just want to cut it short because I have got 5 to 7 minutes. So I appeared on, I think for the first, my first appearance, I was by myself, and they took me back to back to, back to C-Max, and at some point I had a consultation with the Evidence Leaders, and after that, I was taken back to Kokstad. And I do not know, I think because of being in isolation, I forgot the dates, but they came again, drove me back, back to Pretoria from Kokstad, but they did not take me to C-Max. I went to the hotel in Sheraton Hotel with them.

ADV BALOYI SC: Who took you, is it IDAC still?

MR MATLALA: Ja, but they sent, ja, but the guy who was driving is, I only remember him, it was Padayachee, but the

passenger, I do not know his name.

ADV BALOYI SC: Okay.

MR MATLALA: So we went to the Sheraton Hotel. When we got to the Sheraton Hotel, they say they are going to make me meet and discuss some things with their chief. They called him chief. So when we got into the car, I saw it was chief, it was Perumal, and then, but he decided, listen, it was in the a.m.'s, around 2 a.m., and then we drove to the McDonald's next to C-Max, and then they said, listen, is there anything that you can give me for these three Generals? I said, no, I do not know, I do not have any information about them. They said, no, man, we know that you are very close with General Senona. Call him and ask him if he can give you any information. So when he gave me the phone, he said use WhatsApp. I deliberately used a straight call so that at some point we will, whatever I am saying now, can be corroborated, because a straight call, you can, with a 205 I know that you can, because I am in security, I know you can get the - so I spoke with General Senona, but it was, I think in the a.m.'s, and then he did not even trust that it was me on the phone, and he said, no, I do not know what you are talking about.

They took me back to, they checked me in in C-Max. And then over the weekend, they booked me out without the knowledge of my attorneys, took me to their

offices, told me but listen, I am saying this because I want to answer this 204 thing. I want you to know that some of the things which are there, I learned it from myself, so I cannot answer things to which I did not depose a statement to, and I have proof of that because I asked one of my, the assistant, the junior from my lawyer's office but listen, because when I was giving the statement, Perumal himself, he was the one who was typing the statement. He typed whatever suited him, and he said, and he said to me, listen, I told that lady who works for Mr Maluleke, can you please take a video, because I am not comfortable now, but she could not take a video, but she took pictures, because she was afraid that they would see her.

So I asked them now, because, sorry, Chairperson, we did not have enough time to consult. I am saying all these things because of over the weekend, I only have a few minutes to call my lawyers. I did not consult with them. In the morning, they came late, I could not make this thing earlier.

So sorry for taking so long. So I asked Ms ...[indistinct] to take pictures, so that we can keep them for the record, show a video to show that what are these guys doing. They asked me about a certain individual. When I tell you about that certain individual, which I do not want to name in public, but we can make a statement, so that

certain individual, they said no, because we know that the people who are investigating this case, they were lying. This person can never do such a thing. It is lies.

But I said, there is allegations, even if it is lies, there are allegations that a certain individual did this, why can you not just write it down, because it is my statement. They refused. That is when I took, I decided to take a video of what was happening. So they booked me on the Friday and then they took me back to, because they could not finish their statement. The following day again on Saturday, they booked me out again. And then after finishing their statement, they asked me to sign. I refused because my lawyer was not present. I asked them, can you, can I please call my lawyer? So they said it is fine. Then Mr Maluleke said he is not available.

He sent his assistant again. She came there, she witnessed everything. They were with now another SAPS General. She is a woman. And then she needed some information about certain people, which I saw they are also in the 204 statement. And those things, they did not come from myself.

So I am just saying these things to warn you that whenever it comes to a point where I need to explain, when they ask me questions regarding those kinds of statements, so I would like a chance to explain what is happening here,

because firstly, my lawyer said, you cannot want to be a state witness because you have to go to Madlanga and testify ...[indistinct] their advocate and themselves also, we were inside the boardroom in C-Max.

My lawyer said, no, you cannot do that. If you do that, I am no longer your lawyer. I cannot continue with you making statements, which you have been forced to do and then I am advising you, otherwise you do not want to listen. So my lawyer at some point left me. That is when now I got this other advocate, if you can check there, Ricardo Arcangeli. So they said, listen, if you go to Madlanga, the worst thing that they can do, they can give you six months, which because we work for the NPA, we can make it run concurrently with whatever sentence that you are going to get. Anyway, that sentence, you are going to spend it somewhere in your house, a private house. No one will even know you are staying.

So when I rejected, when they gave me the plea from court, I asked the court to give me some time to go and reconsider. They came in prison and I was with my lawyer, Maluleke. He advised me, listen, do not take these 12 years that they are giving you. So I ended up telling Mr Manilal, the state prosecutor, that I am not taking this plea. He fought very hard with my lawyer in front of the – you know, when you consult in prison, obviously there is

officials who can corroborate what I am saying now. That guy told them that you are the worst lawyer. We are telling you that those guys, there is nothing they can do. They will only give you six months, just like ex-President Zuma and then we will make it run concurrently. Between us and them, who are you afraid of, so because we can make things hard for you.

But anyway, I said, no, I am not taking the plea. It was on Friday. On Monday, I was supposed to go and take the plea. On Monday, when I got to court, obviously I rejected the plea and then we did not, from that time, I have never seen, saw them again. But this is just in a nutshell, but there is a lot that was happening, which I do not have sufficient time now to explain here. But I just wanted to give you the background of what was happening so that when I get to a point where I get a question regarding some of the things, I need to explain what was happening.

CHAIRPERSON: Thank you, Mr Matlala. Do the inaccuracies in the statement or what you consider not to be factually correct relate to certain specific persons or individuals or does this apply across the board?

MR MATLALA: No, some statements are exaggerated, some at all is not true and then some they will just add. Anyway, because you are going through them ...[intervenes]

CHAIRPERSON: Okay, all right.

MR MATLALA: So I will, when we get to where ...[indistinct] then I will explain what is it.

CHAIRPERSON: Okay. All right, all right. Ms Hassim?

AD HASSIM SC: Thank you, Chair. Thank you, Mr Matlala. I suggest that as we go through it ...[intervenes].

MR MATLALA: Of course, yes.

AD HASSIM SC: You feel free to explain a particular paragraph or add to a particular paragraph if you think there was something that should have been said that was not or is inaccurate, you want to correct it.

CHAIRPERSON: Or subtract.

AD HASSIM SC: Or something that you wish, yes, to be subtracted from the statement. Please do so as we go through it paragraph by paragraph. I do want to start with the beginning of the statement, which is ...[intervenes]

CHAIRPERSON: But there is at least the usual of at least confirmation of the signature.

AD HASSIM SC: That is where I am going.

AD HASSIM SC: Oh, okay. All right, all right.

AD HASSIM SC: So what you will see in your file on page 1 is a document that has the heading preamble to section 204 statement. You see that?

MR MATLALA: Yes, I do.

AD HASSIM SC: I will come back to that page. I just want to take you to page 2. It says, what is there is section 204

of the Criminal Procedure Act reproduced. Do you see that?

MR MATLALA: Of course I do.

AD HASSIM SC: Now was that explained to you, section 204 of the Criminal Procedure Act?

MR MATLALA: No, it was not.

AD HASSIM SC: All right, let us start at the preamble. Is that your ID number at the top of the page?

MR MATLALA: Yes, it is.

AD HASSIM SC: The handwritten. At the bottom of the page, there is a signature. Is that your signature?

MR MATLALA: Yes, that is mine.

AD HASSIM SC: And it is dated 14 June 2026. Was this signed on 14 June 2026?

MR MATLALA: I do not, ja, chances are ja. I am not sure, but I cannot dispute that.

AD HASSIM SC: Did you sign it and date it on the same day?

MR MATLALA: Yes, I did.

AD HASSIM SC: Okay. Before we go into the contents of the preamble, let us just go to the statement itself, which you will find on page 3. And you will see at the bottom of each page, there is an initial VM. Is that you?

MR MATLALA: Yes, that is.

AD HASSIM SC: Did you insert those initials?

MR MATLALA: Yes.

AD HASSIM SC: Okay. If you go to the end of the statement, I may just get the page for you. It will be page 29.

CHAIRPERSON: Not 28?

AD HASSIM SC: The paginated page 29 in red numbers.

ADV KHUMALO SC: Are we looking for Mr Matlala's signature?

AD HASSIM SC: Yes.

ADV KHUMALO SC: 28.

CHAIRPERSON: Is it 28.

AD HASSIM SC: Then my page numbers are off by a ...[intervenes]

CHAIRPERSON: Because at 29 is the signature of the Commissioner of Oath.

AD HASSIM SC: Oh, yes, yes, yes, yes. That is quite right, ja, thank you. So can you go to page 28? You are there?

MR MATLALA: Yes.

AD HASSIM SC: That signature at the bottom where it says deponent, is that your signature?

MR MATLALA: It is mine, yes.

AD HASSIM SC: And the next page, 29, it says sign and sworn to before me on 14 day of June 2026. Do you recall whether that was the same day that you did the preamble?

MR MATLALA: Ja, this I cannot recall.

AD HASSIM SC: Was it the same day on which you signed the preamble?

MR MATLALA: The thing is, the statement has been changed a lot of times, so I cannot say it is not or it is, but let us just accept that yes, it is the same day.

AD HASSIM SC: Sorry?

MR MATLALA: I am saying let us just accept it because I remember the statement has been changed, I think, three or four times, so I do not know maybe this was the last one, which 204 did you get from NPA or maybe the only, because there are statements that they used to book me out, make another 204, change it, so I am not sure whether this date ...[incomplete].

AD HASSIM SC: So those, the other versions where there were corrections and so on, did you sign those each time? Every single page, did you initial, sign it and then was it ...[intervenes]

MR MATLALA: Yes, I made three, I signed three or four times.

AD HASSIM SC: You signed fully three or four times?

MR MATLALA: Three or four times, yes.

AD HASSIM SC: And you took the oath at the end before the person who was before the Commissioner of Oaths every single time?

MR MATLALA: No, the Commissioner of Oaths was one of the investigators.

AD HASSIM SC: Yes.

MR MATLALA: So ...[incomplete].

AD HASSIM SC: Yes, I get that, but was the, when you made each amendment to those versions, did you take the oath and sign at the end of the statement after having taken the, do you know what I mean? Were you, were you, did you take the oath when you signed it followed by the signature of the Commissioner of Oaths?

MR MATLALA: Okay, I did not take an oath. They just said sign here and I signed.

AD HASSIM SC: So, so you did that in respect of every single amendment and every single version?

MR MATLALA: Yes.

AD HASSIM SC: Okay. So this version is the 14th of June 2026.

MR MATLALA: Yes.

AD HASSIM SC: Okay. Now you will see that there is a signature of the Commissioner of Oaths and it says the full name and designation of the person and that is Mr Suneel Bellochun, the Senior Investigator.

MR MATLALA: Yes.

AD HASSIM SC: Was that the person who prepared the statement with you?

MR MATLALA: The statement was prepared by Mr Perumal, not Mr Belluchun.

AD HASSIM SC: Okay, but was he with you at the time of your signature, this person, Mr Suneel Bellochun?

MR MATLALA: Yes.

AD HASSIM SC: Okay. All right, so let us go back to the preamble then. Now, this is the statement. It sets out the reasons why you deposed to the statement that we saw on page 3. Can you read out the preamble, please?

MR MATLALA: -:

> "I, Vusimuzi Matlala, with the following ID number, the undersigned, hereby state under oath, I am aware that the statement which I am about to make may incriminate me. I have been informed that I am not obliged to make the statement and I do so of my own free will. I understand that should I later be prosecuted, this statement may not be tendered in evidence against me, except in a case of perjury or one of making conflicting statements under oath. I have not been promised any indemnity from prosecution or amnesty for any crime or any other reward. Should I make the

statement, I also understand that the decision as to whether I am to be prosecuted or to be called as a state witness lies not with the IDAC investigators, but with the Investigating Director of the IDAC. Should the Investigating Director elect to use me as a state witness, I understand that my status as a state witness will depend on me giving my full cooperation to the IDAC investigators and to the prosecuting authority. Such may include assisting the IDAC investigators in gathering evidence and testifying in criminal proceedings. I understand that by making the statement, I am not entitled to claim any immunity against prosecution. Furthermore, I understand that should I fail to cooperate as aforesaid or should I not make a full disclosure, my status as a witness may be reviewed and that this could result in the charge against me being reinstated or being instituted if I had not already been charged. I understand that if I were to testify, the

provisions of Section 204 of the Criminal Procedure Act, 51 of 1977, will apply. The provisions of Section 204, a copy of which is included herewith, have been explained to me. I now wish to state as follows."

Should I continue to the next page?

AD HASSIM SC: Well, just pause there. And then there is one, there is one more sentence that is written in by hand.

"I now wish to state the full state as follows."

You are saying there was one more?

AD HASSIM SC: There is a there is a handwritten sentence that is added.

MR MATLALA: Oh, okay.

"I understand the conditions of Section 204."

AD HASSIM SC: Okay, and then your signature. Now, when you signed this, did you read and understand the contents of these paragraphs?

MR MATLALA: No, I did not read it.

AD HASSIM SC: You did not read it?

MR MATLALA: No.

AD HASSIM SC: You just signed it without reading?

MR MATLALA: Yes.

AD HASSIM SC: And why did you do that?

MR MATLALA: I was compelled to do that.

AD HASSIM SC: So this was placed in front of you.

MR MATLALA: Yes.

AD HASSIM SC: By whom?

MR MATLALA: By the investigators themselves, three of them, Mr Perumal, Mr Padayachee and Mr Bellochun.

AD HASSIM SC: And how did they compel you to do this, to sign it?

MR MATLALA: Not compelling me in using violence, but they said, they said it is either this, what, firstly what they said is the trial that you are facing in the High Court is going to take up to 5 years, so choose, you spend 5 years somewhere in in witness protection in a house with your family or you want to spend it awaiting trial and then even worse, we can even add more charges. So I have been threatened with charges and then I have been promised that if I sign this thing I will immediately after being sentenced I will be sent to somewhere private and then they will take me to court for my other charges.

AD HASSIM SC: So when you, when they said this to you, inducing you to sign, you just signed it and you did not read any further?

MR MATLALA: No, I did not sign it immediately. I refused I think for almost I think two, a month or two. They have been, it was not a once-off process. It has been, I cannot recall properly but they have been booking me in and out of

prison for a very long time. At some point even my advocate called the prison, told the Head of prison that should this guy come here again, please let me know. They must never, ever do this, take, book my client out or interview him without my presence. So they used to do that a lot. So I could not recall how many times but it was, I think this thing happened, I think I would say after a month or two.

AD HASSIM SC: After a month from the first time that they approached you to sign it?

MR MATLALA: From, ja, from the, yes.

AD HASSIM SC: From the first time. And when was the last time that they consulted with you at the prison?

MR MATLALA: The Friday that I was explained to the Chairperson that there was, before I was, that Friday it was the day that on that Monday I was supposed to go to court and accept the sentence. So they came on Friday before that Monday. The date I do not remember but if you can check the court records maybe you can find it.

AD HASSIM SC: Okay.

MR MATLALA: So that was the last time they came.

AD HASSIM SC: So are you saying that on this occasion when you signed this preamble, it may not have been the last version of the preamble that you signed, there might be another version?

MR MATLALA: Yes, yes, yes.

AD HASSIM SC: Okay. And did you get to keep a copy of these of the statement and the preamble?

MR MATLALA: There were some emails from my attorney's assistant asking for the 204. They were refusing it for a very long time, but at some point they, I think they eventually sent it to her because there was a point where I ended up even terminating their mandate and then when they did not want to help me anymore because of these people forcing me to make a statement which I did not want to.

AD HASSIM SC: Okay, I have got that. So this is signed. You say that you were induced to sign it and you did not read the paragraphs that you, you did not read it and understand it before you signed the document. You simply signed it.

MR MATLALA: Yes, I did not, yes.

AD HASSIM SC: And you say that Section 204 of the Act was not explained to you?

MR MATLALA: No, it was not.

AD HASSIM SC: Okay. And you say that there was no legal representation of your own present in all of these meetings and interviews with the investigators?

MR MATLALA: No, not all. I am saying some because at some point I insisted that they give me a phone and I called

my, Mr Maluleke and then if he was not around he would send the assistant. Most of the times, I think he only came once if I am not wrong, once or twice. I do not remember well, he will remind me. But most of the times he was not around. He did not want to participate in those things because he advised me against it.

AD HASSIM SC: Okay.

MR MATLALA: So, but I would say the legal representative was there but when they booked me out they did not notify us. Then on our way to their offices, I will ask for please can I call my lawyer and then sometimes they will allow me, sometimes they do not.

AD HASSIM SC: So your legal representative was present only on some of the occasions?

MR MATLALA: Yes.

AD HASSIM SC: Okay, I have got that. Let us go to page 3.

MR MATLALA: Page?

AD HASSIM SC: 3. Now this is the Section 204 statement. It states that it is an affidavit. You will see that in the tramlines.

MR MATLALA: Yes, I do.

AD HASSIM SC: Right. Let us start. Let us start by reading the first three paragraphs, if you can start from the beginning.

MR MATLALA: -:

"I am an adult male with identity number ..." [intervenes]

CHAIRPERSON: Skip your, oh, oh, I was going to say skip your ID number.

MR MATLALA: -:

"... currently incarcerated and awaiting trial. I confirm that I am currently held at the C-Max section of Kgosi Mampuru Correctional Services Centre. This affidavit is an explanation of my personal knowledge of the facts surrounding the Medicare SAPS contract. I depose to this affidavit with a view of cooperating with the State and in support of concluding a plea and sentencing agreement in terms of Section 105A of the Criminal Procedure Act, 51 of 1977. I also undertake to testify in the criminal case as a witness in terms of Section 204 of the Criminal Procedure Act. The provisions of Section 204 have been explained to me and I understand the same. Prior to deposing to this affidavit, I deposed to an affidavit for purposes of

testifying before the Ad Hoc Committee of Parliament. The affidavit was prepared by my erstwhile attorney, Mr Forbay."

AD HASSIM SC: Okay, let us just pause there. Is there anything that you wish to add, amend or delete in relation to these paragraphs?

MR MATLALA: Yes, there is something that I will wish to, not add, comment on, but I will comment when you ask me a question later.

AD HASSIM SC: Is there anything that is inaccurate in these three paragraphs that you have just read?

MR MATLALA: No.

AD HASSIM SC: Okay, now in that last sentence of paragraph 3 you speak about the affidavit that was prepared for the Ad Hoc Committee and you say it was prepared by your erstwhile attorney, Mr Forbay. Now, let us just, first of all, can you tell the Commission what is Mr Forbay's first name?

MR MATLALA: I know the name. I think it is Bronwyn.

AD HASSIM SC: Bronwyn?

MR MATLALA: Bronwyn. Ja, Bronwyn, something like that. I do not know how to pronounce it, Bronwyn.

AD HASSIM SC: Was it a male or female?

MR MATLALA: Male.

AD HASSIM SC: And what law firm did Mr Forbay come from?

MR MATLALA: I do not know.

AD HASSIM SC: When was the first time you met Mr Forbay?

MR MATLALA: The first time I met him was when I was in C-Max. No, I knew him before he is a lawyer, but for him to come and represent, are you referring to when the first time he came to represent me or knowing him as a lawyer?

AD HASSIM SC: Well, when was the first time you met him?

MR MATLALA: I knew him from long, I do not remember, but I know him.

AD HASSIM SC: When you say you know him, do you mean you know of him or you had met him before?

MR MATLALA: Yes.

AD HASSIM SC: Which one is it?

MR MATLALA: Yes, I met him before.

AD HASSIM SC: You had met him before.

MR MATLALA: Yes.

AD HASSIM SC: In what circumstances?

MR MATLALA: There is this other lawyer who was a friend of mine. I think he was friends with him or colleagues maybe, I think.

AD HASSIM SC: Okay.

ADV BALOYI SC: Sorry, just to clarify, Mr Matlala. When you say at that time, was he representing you or you met him in a different context?

MR MATLALA: I think I was answering that when, just knowing him.

AD HASSIM SC: So that was prior to your meeting with him for the purposes of testifying before the Ad Hoc Committee, right?

MR MATLALA: Yes, yes.

AD HASSIM SC: So when did you meet Mr Forbay for the purposes of representing you in the Ad Hoc Committee in Parliament?

MR MATLALA: I think it was, I was in C-Max. When, I do not recall, but what I know is after I had an interview, I think it was the first interview with the Evidence Leaders, if I am not wrong.

AD HASSIM SC: Okay, so it was after you, well, was he present when you met with the Evidence Leaders from the Ad Hoc Committee?

MR MATLALA: No, there was an advocate who, the first consultation with the Ad Hoc Evidence Leaders, there was this other advocate and then I do not, I just do not remember whether I had one or two consultations before he came to represent me, but it was somewhere around there.

AD HASSIM SC: Okay, so the first two consultations you

had with the Evidence Leaders, you were not represented.

MR MATLALA: No, I was represented by a different lawyer.

AD HASSIM SC: A different lawyer. Okay, and what was that lawyer's name?

MR MATLALA: Mr Ricardo Arcangeli.

AD HASSIM SC: I see, okay. How did you come to be represented by Mr Forbay for the purposes of the Ad Hoc Committee?

MR MATLALA: How, I do not ...[incomplete].

AD HASSIM SC: Did you contact him?

MR MATLALA: No, I did not contact him, but no, the first time I met Mr Forbay, it was in court before, but I was already served with the Ad Hoc things. I first met him in court. I remember he came to court first before he came to C-Max for my, for when I was attending my criminal case in Alexander Court. I first met him there, now I remember.

AD HASSIM SC: Right, and did you speak to him when you met him there, and what did you speak about?

MR MATLALA: No, I am saying I met, the first time when he was my lawyer he came, the first time when he came, it was when in Alexander, not in in C-Max, like I said before.

AD HASSIM SC: Okay. When was that?

MR MATLALA: I am sorry, advocates, you know, I forgot. Last year, around November.

AD HASSIM SC: Let me try to help you. You testified in the Ad Hoc Committee on the 26th and 27th of November 2025, right?

MR MATLALA: Yes.

AD HASSIM SC: How much earlier, before the 26th and 27th of November, did Mr Forbay come to represent you?

MR MATLALA: After our, like I said, I consulted twice with my previous lawyer and then on the third, twice, or I do not remember well, but I am saying somewhere there, and then that is when he came. So, but the first time when he came, it was not in C-Max, it was in court. So I wanted to correct that.

AD HASSIM SC: No, I get that. I am just trying to get a sense of how soon before you appeared. Was it a week before you appeared in Ad Hoc, two weeks before, three weeks? Just roughly, when did Mr Forbay become appointed to represent you?

MR MATLALA: It was maybe, I think, honestly, two, ja, it was maybe three weeks before I appeared in the Ad Hoc Committee, maybe two or three weeks.

AD HASSIM SC: Okay. And so, I asked you, how did he come to represent you and I asked you whether you contacted him to represent you, and you said no.

MR MATLALA: Yes.

AD HASSIM SC: So, then how did he come to represent

you?

MR MATLALA: He was ...[intervenes]

AD HASSIM SC: What did he say to you when he came to you to say, I am hereby representing?

MR MATLALA: He was sent by my wife.

AD HASSIM SC: Oh, so he was engaged by your wife?

MR MATLALA: Yes.

AD HASSIM SC: Okay. And when he first came to consult with you, was there anybody else with him?

MR MATLALA: The first time to consult, as remember I said, it was in Alexandra. Yes, I was with my then lawyer, Mr Nkwashu. So, but they were just exchanging, I was just changing lawyers, so Mr Nkwashu was present.

AD HASSIM SC: I see. Okay, that was the first time?

MR MATLALA: The first time, yes.

AD HASSIM SC: Okay. Well, let us move on, and I will have more questions in relation to this theme. Could you please read paragraphs 4 to 9?

MR MATLALA: -:

> "The evidence I gave before the Ad Hoc Committee in relation to Lieutenant General Shadrack Sibiya of the SAPS was as a result of me being coerced by Forbay. Forbay informed me not to reveal the whole truth about Sibiya and

my knowing him. Forbay, on more than one occasion, informed me that if I was to testify about everything I know regarding Sibiya, that Sibiya threatened to kill my family. During adjournments at the Ad Hoc Committee, Forbay will call Sibiya in front of me and hand the cellular phone to me. Sibiya will tell him that I am going to be asked, and Forbay, through Sibiya, will direct me how to answer those questions. I then realized that Sibiya was in contact with a member or members of the Ad Hoc Committee. For example, Sibiya, through Forbay, said to me to correct what I had already been directed to say, which was that had not been to his residence, and that I should go back and change it to say that I went there."

AD HASSIM SC: Sorry, just to, for the sake of accuracy, it was that I had not been to his, and then in brackets it says Sibiya's residence.

MR MATLALA: Okay.

AD HASSIM SC: Okay, continue.

MR MATLALA: Can I start from:

"For example, Sibiya, through Forbay, said to me correct that what I had already been directed to say, which was that I had not been to his (General, Sibiya's) residence, and that I should go back and change it to say that I went there once only to pick up my wife, which was not true. I had been to Sibiya's residence on a few occasions, as will be explained further in this affidavit. Forbay, in my view, was protecting Sibiya at all costs, and I decided to terminate his appointment as my legal representative. I did not appoint him to be my legal representative, and he was appointed and forced upon me by Sibiya. I have to date not even paid any money to Forbay."

AD HASSIM SC: Okay, let us pause there. So that is paragraphs 4 to 9. Are these paragraphs accurate?

MR MATLALA: No, they are not accurate.

AD HASSIM SC: What would you like to change? Let us start with paragraph 4.

MR MATLALA: From paragraph 4 until paragraph 8, I do not want to comment on that. I do not want to incriminate myself. And paragraph 9, I did pay Forbay once, I think.

AD HASSIM SC: So can you just repeat that. You said you did pay?

MR MATLALA: Yes, paragraph 9.

AD HASSIM SC: Yes.

MR MATLALA: It says I have to date not even paid any money to Forbay, so ...[intervenes]

AD HASSIM SC: Yes, do you want to correct that to say you paid him once?

MR MATLALA: So yes, I paid, I remember I paid him R50,000.00.

AD HASSIM SC: When was that?

MR MATLALA: During the Ad Hoc Committee, the time, the date, I do not remember.

AD HASSIM SC: Was it when you were present at the Ad Hoc Committee for your testimony?

MR MATLALA: It was, ja, during the, before the, before I testified. Oh, ja, before I testified, yes.

AD HASSIM SC: Okay. And so that was paragraph 9 that you corrected. Paragraph 4, I did not understand whether you wanted to make a correction or not.

MR MATLALA: I said I did not want to comment on it. I do not want to incriminate myself.

AD HASSIM SC: Okay. I am not sure now what you mean by incriminate yourself. What specifically in here? Let us take the first sentence.

MR MATLALA: Incriminate, incriminating my sense by, I will say perjury, from paragraph 4 to paragraph 5.

AD HASSIM SC: Is it correct that Mr Forbay, that, so is it correct that Mr Forbay coerced you to give evidence regarding Mr Sibiya that you did not, that was not accurate?

MR MATLALA: I said I do not want to comment on that. I do not want to incriminate myself.

AD HASSIM SC: No, I, I am not understanding. Where would you be incriminating yourself?

MR MATLALA: On this paragraph.

ADV KHUMALO SC: Mr Matlala, are you aware that this is your affidavit?

MR MATLALA: Yes, I am aware.

ADV KHUMALO SC: You have already confirmed that you signed or you initialled every page and you signed the last page.

MR MATLALA: Yes, I do.

AD HASSIM SC: Are you confirming the contents of this paragraph 4? You've already read it into the record.

MR MATLALA: Yes, I am not disputing the authenticity of the, I know about this affidavit, but what I am saying is I do not want to comment on it, on paragraph 4 and 5.

AD HASSIM SC: Let us just take it one step at a time. Paragraph 4, you confirm the truth of the contents of paragraph 4. You confirm that it is true, the contents?

MR MATLALA: I am not, I am saying I do not want to comment on it. I do not want to incriminate myself.

AD HASSIM SC: Ja, I am not asking you to comment yet. I am just asking whether you are confirming the accuracy of paragraph 4.

MR MATLALA: Confirming that is incriminating myself.

AD HASSIM SC: You know, are you saying that you did not, when you signed this and you deposed to it, this paragraph was inaccurate?

ADV VAN DEN HEEVER: Chairperson, what Mr Matlala is doing is invoking his rights to self-incrimination on these two paragraphs. My understanding has always been if you ask questions on something, whether it is his statement or not, because to prove that it is somebody's statement, it is actually more factors that need to be present before you can say that it is somebody's statement. So he says I do not want to comment on this because I do not want to incriminate myself. Now with respect ...[intervenes]

CHAIRPERSON: And we are talking about paragraph 4?

ADV VAN DEN HEEVER: Yes, and 5. He said both in respect of paragraph 4 and 5, because not only does the law say that you have to sign a statement, but the oath needs to be administered, but it also says that you need to be given an opportunity to read through it and understand the content of it before, then only can a statement be

attributed to somebody. So the mere fact that it is his statement as was said, does not make it his statement in law.

CHAIRPERSON: Thank you, Ms Van den Heever. Mr Matlala, can you indicate what it is you do not, or rather what it is that you are asserting the privilege in respect of, for example, murder, which is something that is not apparent here. I am just throwing that out there as, ja, just to get, can you indicate to us what you could possibly incriminate?

MR MATLALA: It is perjury.

CHAIRPERSON: Perjury. Ms Hassim?

AD HASSIM SC: Chair, I did hear that. The difficulty is that Mr Matlala has already explained to the Commission that while this is a statement under oath, he, it is inaccurate in certain respects. So he has already implicated himself in a sense because he says I have made a statement under oath, but there are parts of the statement that are not correct and are not true.

CHAIRPERSON: I am not sure that that answers the issue here because I do not read this, nor hear Mr Matlala to say that, how should I put it? Basically here he says Mr Forbay told him to lie and he lied. So that is where the perjury is. It is not the same thing that he was referring to earlier, which was that there are certain things that I know nothing

about here, which were written on there by Mr Perumal, I think, by the chief.

So that is totally different and I think your point would, would stand with respect to those aspects. Here he says, with my eyes wide open, I said what Forbay said I should say. So that is unlike what he knew nothing about, but which Perumal wrote on there without his knowledge, which I assume perhaps he only got to know maybe when you read the statement later. I do not know, I do not know the detail in that regard, but my sense was that there is a lot that was written on there, which had nothing to do with what he had told Mr Perumal. That is not the same as what appears here, Mr Hassim.

AD HASSIM SC: If that is the understanding, then let me, let us take it piece by piece and accept what Mr Matlala is saying ...[intervenes]

CHAIRPERSON: Yes.

AD HASSIM SC: In respect of this ...[intervenes]

CHAIRPERSON: Yes.

AD HASSIM SC: Particular paragraph. I am going to ask questions nevertheless, Chair, and of course, Mr Matlala is free to assert his right against self-incrimination.

CHAIRPERSON: Yes.

AD HASSIM SC: Mr Matlala, in respect of paragraph 4, was all, you said the evidence that I gave before the Ad Hoc

Committee was a result of coercion. Was all of it a result of coercion?

MR MATLALA: No.

AD HASSIM SC: Let us go to paragraph 5. Now, I said to you at the outset that you are free to amend any parts of the statement as we go along. Is there anything you wish to amend in respect of paragraph 5?

MR MATLALA: Yes, the entire paragraph, not the entire paragraph. Can you please repeat the question?

AD HASSIM SC: I asked if there is anything you wish to amend in respect of paragraph 5. You said some, some aspects of it were either added in or not accurate. They were added in by the investigator. So is anything in this paragraph, let us start, added in by the investigator?

MR MATLALA: So I think I would rather go line by line because I cannot, I would not say the entire paragraph.

AD HASSIM SC: Okay, that is fine. Do you want to start with the first sentence?

MR MATLALA: Yes, I had the, what I can note to say is I had been to Sibiya's residence on a few occasions as will be explained further, so this is not true. I have been there, yes, but not on a few occasions.

AD HASSIM SC: So it is the last sentence you wish to correct? You say you had been there but not on a few occasions. So how many times had you been there?

MR MATLALA: In his house once.

AD HASSIM SC: Does Mr Sibiya have more than one residence?

MR MATLALA: Mr Sibiya?

AD HASSIM SC: Yes.

MR MATLALA: I do not know.

AD HASSIM SC: Okay. Okay, so that is paragraph 5, thank you. Paragraph 9 we have dealt with and you have said that what you wish to amend was that you had not paid any money to Forbay and you confirmed that you did pay him R50,000.00, correct?

MR MATLALA: So we are going back to paragraph 4?

AD HASSIM SC: No, no, it is what is numbered as paragraph 9 on page 2. It is, the numbering is a bit off as you can see ...[intervenes]

MR MATLALA: Page 2? I am on page 4.

CHAIRPERSON: Page 4.

AD HASSIM SC: Sorry, page 4 of the red numbers.

MR MATLALA: Yes, I said I went to his residence once. So what was the next question?

AD HASSIM SC: So I am just confirming that the only thing you wish to amend ...[intervenes]

MR MATLALA: Okay, yes.

AD HASSIM SC: Was that you in fact had paid Mr Forbay R50,000.00.

MR MATLALA: Yes.

AD HASSIM SC: I have got that correction, thank you. Can we then next go to paragraphs, now you will see that the numbering is a bit, it goes from, jumps from 5 to number 9 and then we have got number 10. So let us go to paragraphs 10 to 13. Can you read those?

MR MATLALA: -:

> "My two cellular phones which were seized by SAPS, iPhone 16 Pro Max and iPhone 15 when I was arrested was placed in Forbay's possession after both devices were returned by SAPS. Forbay has since alleged that the iPhone 16 Pro Max was stolen from his briefcase at the Krugersdorp Magistrate's Court. Consequently, after I appointed Mr Maluleke Attorneys to represent me, Ms Nekhudzhiga of Hlawu Maluleke Attorneys went to Forbay's offices to collect my two cellular phones and he advised her to return the next day to collect them. The next day and on succeeding occasions, Ms Nekhudzhiga could not reach Mr Forbay, nor did he return her calls. When my wife

approached Forbay to hand over the two cellular phones it was only then that Forbay alleged that the iPhone 16 Pro Max was stolen. I suspect that Forbay is intentionally hiding this cellular phone and now alleges that it was stolen whilst the iPhone 15 was also in his briefcase. Why only the iPhone 16 Pro Max was stolen makes no sense."

AD HASSIM SC: Okay, let us pause there. Is there anything you wish to correct in paragraph 10?

MR MATLALA: Yes, I, starting from paragraph 10 both my phones is, they were iPhone 16, there is no iPhone 15 but the other one is just, it is not Pro Max, it is iPhone 16 and iPhone 16 Pro Max and ...[intervenes]

AD HASSIM SC: Sorry, just repeat that. You are saying you want to correct that it is ...[intervenes]

MR MATLALA: They are both iPhone 16. There is no iPhone 15.

AD HASSIM SC: Okay, got that. Okay, anything else in paragraph 10?

MR MATLALA: So this statement, I did not depose to this statement but they asked me where my, I think this is where I should maybe try to explain. They were looking for this iPhone 16 Pro Max, the investigators. They are saying I

was hiding my communication with General Masemole. I do not know where they got that. They are saying, I mean, I, myself and General Masemole's daughter are close and I got the contract through General Masemole, so I was having information there. So these things, I did not depose this statement, but I told them about my lost cellphones, my lost cellphone, which Mr Forbay told me that the phone was lost. So they were suspecting that I was hiding some information then from that phone, but anyway they already had copies of the cellphone downloads, so I do not know why they needed the actual cellphone.

AD HASSIM SC: Is it accurate that Mr Forbay has alleged that the iPhone 16 Pro Max was stolen from his briefcase?

MR MATLALA: Yes, my wife told me so.

AD HASSIM SC: Okay. All right, and, that is fine, thank you. I just wanted to confirm that you said that this came about because the investigators wanted access to your iPhone 16 Pro Max that you did not have in your possession anymore.

MR MATLALA: Yes, actually they also wanted to recover my iCloud, so they wanted also the phone. So that is when we had this discussion about this cellphone story.

AD HASSIM SC: I see. So they wanted the contents of the phone, including what would have been saved on the Cloud.

MR MATLALA: Ja, what have been, because they were

alleging, which I saw on the affidavit and which is not, but it is something that will get to me that some of the things were deleted. What I know is only what was added, but deleted, I do not know anything that was deleted. I know that I was arrested on the 15th, but on the 16th until the 19th there was some stuff which I think, it does not even need to be an expert to see that the phone was still operating. So what I know is there were some things which were added, but things that were deleted I do not know anything that was deleted.

AD HASSIM SC: Okay, that is a separate issue about whether your phones had been tampered with after they were seized, right?

MR MATLALA: Of course, yes.

AD HASSIM SC: Ja, I am just dealing with paragraph 10 at this point.

MR MATLALA: Yes. No, I was trying to explain the content of why they were so obsessed about this iPhone 16. They wanted some contents from my iCloud.

AD HASSIM SC: Okay, because they told you that it had been tampered with?

MR MATLALA: No, they did, no, they said there is some stuff that I am hiding from them, which later they said because I am hiding General Masemola's daughter's communications or whatever.

AD HASSIM SC: Okay, I have got that, thank you. Paragraph 11, is there anything you wish to correct there as being inaccurate?

MR MATLALA: No, there is nothing that I need to correct.

AD HASSIM SC: Paragraph 12?

MR MATLALA: Yes, what I know is Mr Forbay gave back the iPhone, one iPhone, but whether he was, he did not return Ms Nekhudzhiga's calls, I do not know about that.

AD HASSIM SC: Sorry, can you just repeat that, I did not hear it, whether it was?

MR MATLALA: I am saying, it says Mr Forbay was not taking his, Ms Nekhudzhiga's calls, and I am saying I do not know whether he was not taking her calls, but I know that he returned only one cellphone.

AD HASSIM SC: So the first sentence you say you cannot confirm the accuracy of that because you do not know?

MR MATLALA: Yes, the first sentence, yes.

AD HASSIM SC: And the second?

MR MATLALA: What I, I know that, I do not know whether Mr Forbay gave my wife or Ms Nekhudzhiga's, the phone. I do not know how it got back to me, it is through my wife or Ms Nekhudzhiga. So, I cannot, I cannot say my wife approached Forbay to hand over the two cellular phones, so I do not know how she got one phone back, ja.

AD HASSIM SC: Right, it is hearsay. Did your wife tell

you that she had approached Mr Forbay?

MR MATLALA: Yes. Ja, yes.

AD HASSIM SC: She told you that?

MR MATLALA: Yes.

AD HASSIM SC: And she reported to you that he only, did she report to you that he told her that one had been stolen, one of the phones?

MR MATLALA: Ja, she told me.

AD HASSIM SC: Okay. Let us go to paragraph 13.

MR MATLALA: -:

> "I suspect that Forbay is intentionally hiding this cellular phone and now alleges that it was stolen, whilst the iPhone 15 was also in his briefcase. Why only the iPhone 16 Pro Max was stolen makes no sense."

AD HASSIM SC: Is there anything you wish to correct here as being inaccurate?

MR MATLALA: Ja, yes, because this should be my affidavit, so I did not depose this, I did not say these things. I explained that I have received only one phone to them.

AD HASSIM SC: Okay, so paragraph 13 is something that you did not say to the investigators?

MR MATLALA: Yes.

AD HASSIM SC: Okay, so that was added in by the

investigators?

MR MATLALA: Yes, I will say, because I explained to them what happened to the cellular phones and then Mr Perumal was typing, so, but I did not say that, why did he only, why only the iPhone 15 Pro Max was stolen makes no sense.

AD HASSIM SC: Okay. So, by the same token, I just want to be clear, when it says that I suspect Forbay is intentionally hiding the cellphone, that also is inaccurate ...[intervenes]

MR MATLALA: No, it is, yes, that is inaccurate.

AD HASSIM SC: Okay, thank you. Paragraph 14, can you please read in to the record paragraph 14 and 15?

MR MATLALA: -:

> "In addition prior to me testifying before the Ad Hoc Committee, my wife, Tsakani Matlala, informed me that Sibiya had made telephonic contact with her from a private number on more than one occasion. Tsakani informed me that Sibiya will constantly remind her by way of threats that I should not disclose anything about him, meaning Sibiya, to the Ad Hoc Committee, failing which my life and that of my family will be placed in

harm's way. From the very beginning that I started to interact with Sibiya, I saved Sibiya on my phone as Sotobe. I deleted all my communications with Sibiya every time we had telephonic conversations after he advised me to do so. He said to me that I need to protect him at all cost and he did not want anybody to know that I was in communication with him. I attach hereto an annexure VM1 comprising of one page."

AD HASSIM SC: Right, paragraph 14 is quite important. Is there anything in this paragraph you wish to correct as being inaccurate?

MR MATLALA: Paragraph 14, the entire paragraph, I do not want to put any comment on it.

AD HASSIM SC: And on what basis do you say you do not want to comment?

CHAIRPERSON: Do you mean you have nothing to add?

MR MATLALA: I will say for safety precautions.

CHAIRPERSON: It is either you assert your privilege or you do not, Mr Matlala.

MR MATLALA: If it is law, I do not know what ...[incomplete].

AD HASSIM SC: Are you asserting your privilege against self-incrimination? There are three options here. One is you do not want to comment, because the paragraph is accurate and you have nothing else to add. That is in response to my question. Two, that you are asserting your right against self-incrimination. Well, those are the two grounds.

MR MATLALA: Ja.

AD HASSIM SC: Tell me, what are you trying to tell the Commission?

MR MATLALA: One.

AD HASSIM SC: That it is, you do not want to comment because everything in here is accurate.

MR MATLALA: I do not want to comment on it.

AD HASSIM SC: No, I am sorry, is your answer, my question is, you confirmed the accuracy of this paragraph. Do you confirm it?

CHAIRPERSON: It seems to me, Mr Matlala, that you are not asserting your privilege, then I guess we should accept this as is and move on.

AD HASSIM SC: Well, I just, I have questions.

CHAIRPERSON: Oh, no, no, no, you may ask other questions ...[intervenes]

AD HASSIM SC: Yes.

CHAIRPERSON: And not seeking confirmation then. You

may ask questions if you have questions, Ms Hassim.

AD HASSIM SC: Thank you. So, Mr Matlala, in this paragraph you talk about your wife informing you about threats she received from Mr Sibiya. When did she receive these threats?

MR MATLALA: This is, I do not want, okay, I cannot say it is inaccurate, but I do not want to comment on it for safety reasons.

AD HASSIM SC: You need to elaborate. You are not asserting your right against self-incrimination. You are trying to raise another ground and you need to explain that a bit more, please.

MR MATLALA: Unfortunately, I do not know the law, but I am not disputing this thing, but I do not want to comment on it.

AD HASSIM SC: No, you see, Mr Matlala, if you are asked a question in the Commission, you are required to answer it. There are exceptions to that, and we have been through this now a few times with you previously, and the exception to that is where you wish to assert your rights under Section 3.4 of the Commission's Act. We have been through that, where you may incriminate yourself. Now, what you are suggesting is not, does not fall within that exception. You are simply saying that you do not want to comment on it because you seem to be uncomfortable. But that is not

sufficient to sustain a basis for not answering a question.

MR MATLALA: I know that, but I do not want to risk someone's life because I do not have something to substantiate why I do not want to comment on it.

AD HASSIM SC: So, then what is the factual basis of your argument, of your position, if you say you do not have the evidence?

MR MATLALA: I did not say I do not have the evidence. I am saying I do not want to comment on it based on that I do not want to put someone's life at risk. No, it is not one of the provisions why I cannot comment, I know that, but someone's life should matter. I cannot just say because of I do not know the law what will substantiate me refusing to answer this question.

AD HASSIM SC: So, whose life would be at risk?

MR MATLALA: This is what worries me more because I am saying that I might as well just say, yes, the paragraph is entirely accurate and we continue with other paragraphs.

AD HASSIM SC: So, you are saying you confirm that it is accurate, but you do not want to answer questions on it. Is that what you are saying?

MR MATLALA: Yes, I do not want to answer any questions, ja.

AD HASSIM SC: I am afraid I cannot actually just, we need to understand the contents of this statement,

especially if you have confirmed the accuracy of it, and so your refusal to answer needs to be explained. Okay, let me ask you this question. Is it Mr Sibiya that you fear?

MR MATLALA: Chairperson, I do not want to lie to the Commission and say I want to claim my privilege of self-incrimination, knowing it is not correct. However, I have reasons why I do not want to answer, so, but unfortunately, they do not fall under any of the ones that you just mentioned before, but ...[incomplete].

CHAIRPERSON: What was your last question, Ms Hassim?

AD HASSIM SC: The question was, well, where this began was, the question was when Ms Matlala had been threatened, when. That is how this began and Mr Matlala says he does not wish to comment.

CHAIRPERSON: Perhaps just for purposes of progress, should we not leave it at it was prior to Mr Matlala testifying before the Ad Hoc Committee and not press for specifics just in the interest of progress? At least he has basically accepted the truthfulness of the paragraph.

AD HASSIM SC: The contents of the paragraph, that is true. That is true. Thank you, Chair. I must just say that I do not accept the basis upon which he has refused to answer as a proper basis for not answering, but in the interest of moving forward, and particularly in the light of the confirmation of accuracy, we will move forward. I want

to then go to paragraph 15. Is there anything there that you wish to correct as being inaccurate?

MR MATLALA: Yes, I need to correct that I was not communicating with General Sibiya directly, so I did not delete any communications with him.

AD HASSIM SC: You did not have direct communications with Mr Sibiya?

MR MATLALA: Yes.

AD HASSIM SC: So, is it correct that you saved him on your phone as you say in your first sentence as Sotobe?

MR MATLALA: Yes, that is correct.

AD HASSIM SC: Is that correct?

MR MATLALA: Yes.

AD HASSIM SC: Is the second sentence incorrect, that you deleted your communications after he advised you to do so? Is that ...[intervenes]

MR MATLALA: Yes, I was clarifying that I did not delete any communications with him.

AD HASSIM SC: I see.

MR MATLALA: I only have one communication with him when I made an appointment, so maybe that one is deleted, I do not know, but I do not have, I was not chatting with him. I did not have communications with him on WhatsApp.

AD HASSIM SC: That is fine. And then the next sentence, do you confirm the accuracy of that sentence, he said to

me?

MR MATLALA: The next sentence? Which one?

AD HASSIM SC: The one that begins, he said to me.

MR MATLALA: No, this is not, ja.

AD HASSIM SC: Okay, that is inaccurate, he never said that?

MR MATLALA: No, no. No, he never said that.

AD HASSIM SC: Okay. You have attached at this point your first annexure, Annexure VM1, and you will see that at page 30 of your bundle, it starts, the contents begin on 31, VM1.

MR MATLALA: Yes, I see.

AD HASSIM SC: Okay. And that is just to show that you did save Mr Sibiya as Sotobe?

MR MATLALA: Yes.

AD HASSIM SC: Okay, let us move on. Can you read the next three paragraphs including the heading?

MR MATLALA: Start with 16?

AD HASSIM SC: Yes, start with the heading and then the paragraphs.

MR MATLALA: -:

> "Medicare24 Tshwane District (Pty) Ltd (Medicare) Contract with the South African Police Services (SAPS)."

I am sorry Chairperson, but this is something that I

cannot comment on because I am facing charges for this Medicare thing and currently this case is on review last time I was in court.

AD HASSIM SC: Do you confirm the content, the accuracy of paragraph 16?

MR MATLALA: Yes, I do.

AD HASSIM SC: Do you confirm the accuracy of paragraph 17?

MR MATLALA: I confirm the last sentence, the last sentence, ja.

CHAIRPERSON: The sentence that Mike prepared all the documents to register Medicare and he dealt with the company registration?

MR MATLALA: Yes, but can you just confirm it because this is, confirming or not or disputing this now, this case is in court now and I am waiting for the outcome of this case or it is either I should continue with the trial.

AD HASSIM SC: So it is either you?

MR MATLALA: I am saying, I am waiting for the outcome of this case ...[intervenes]

AD HASSIM SC: Yes.

MR MATLALA: Or either I have to proceed with the trial.

AD HASSIM SC: I am not asking you any comments at this point on this, I just want to know whether you confirm the accuracy.

MR MATLALA: Yes, confirming it is like commenting on it and it is in public, on the screen. So, and this thing is in court. So, and I have to, at some point I need to go to court and give evidence on this.

AD HASSIM SC: Oh, so you are asserting your right against self-incrimination here. Is that what you say, okay. Paragraph 18?

MR MATLALA: I also do not want to incriminate myself in paragraph 18.

AD HASSIM SC: And can you read paragraph 19?

MR MATLALA: -:

> "I have known Sergeant Fannie Nkosi for quite a long time and I first met him at the residence of the late Mr Jotham Msibi at Msibi's property, situated at the Woodhill Estate. This was around mid-year in 2017, before Mr Msibi moved to a farm that he bought in the Dinokeng Game Reserve."

AD HASSIM SC: Do you confirm the contents of that paragraph?

MR MATLALA: No, I do not.

AD HASSIM SC: What would you like to correct?

MR MATLALA: I met Mr Nkosi in Mr Msibi's farm.

AD HASSIM SC: The farm in Dinokeng Game Reserve?

MR MATLALA: Yes.

AD HASSIM SC: So, you met him at the farm, not at Woodhill Estate?

MR MATLALA: Yes.

AD HASSIM SC: Okay. As far as the date goes, you say you met him around mid-year 2017. Is that accurate?

MR MATLALA: I am not sure about that. I think maybe I will say a year before 2019, maybe. I do not remember, 2019, maybe.

AD HASSIM SC: Okay, so you ...[intervenes]

MR MATLALA: 2018, 2019. Maybe even 2017 is correct, I do not, but I am not sure.

AD HASSIM SC: Okay, you are saying it could be 2017 or it could be 2018 or 2019.

MR MATLALA: It could be, yes.

AD HASSIM SC: Okay. Can you, so again, the numbering is all awry in this statement. So we go from 19 to paragraph 14. Can you read paragraph 14?

MR MATLALA: -:

> "At the time I was providing security management services to Mr Msibi through one of my companies, CAT Protection Security (Pty) Ltd. Mr Nkosi will usually arrive at the residence of Mr Msibi driving an unmarked police vehicle,

> which was a white Amarok bakkie. It became common knowledge to me that Mr Nkosi was a policeman. I got to know that he went by the nickname 007, and I also called him by this nickname."

AD HASSIM SC: Let us just take that paragraph. Do you confirm the accuracy of that paragraph?

MR MATLALA: The first sentence, yes.

AD HASSIM SC: Okay, the next sentence?

MR MATLALA: I actually confirm it, but the difference is that it was at the farm, not in Woodhill.

AD HASSIM SC: Right, so you would change residences to the farm?

MR MATLALA: Yes.

AD HASSIM SC: Okay. The next sentence?

MR MATLALA: -:

> "Nkosi and I exchanged contact numbers, but we did not keep much in contact. We never associated..." [intervenes]

AD HASSIM SC: No, no, sorry. I meant the next sentence of that paragraph, it became common knowledge to me.

MR MATLALA: Yes, I was saying the entire paragraph, I am not disputing anything.

AD HASSIM SC: Except for that?

MR MATLALA: Yes.

AD HASSIM SC: Thank you. All right, paragraph 20, can you read that into the record?

MR MATLALA: -:

> "Nkosi and I exchanged contact numbers, but we did not keep much in contact. We never socialized or visited each other at our houses, and even as at the date of this affidavit, I do not know where he resides, nor have I been to his house. I saved the two contact numbers of Nkosi as Colonel Nkosi 00 and the other as 00."

AD HASSIM SC: Do you confirm this paragraph?

MR MATLALA: Ja, I confirm it.

AD HASSIM SC: The next paragraph, again the numbering is all off, so it is numbered paragraph 15. It is on page 6.

MR MATLALA: So we are on 15?

AD HASSIM SC: So we are on 15 now. And I just wonder, Chair, for the sake of time, whether I cannot, instead of reading it into the record, just ask Mr Matlala whether he confirms the contents, because if we do not, we are going to spend too much time here before we can move on.

CHAIRPERSON: I agree. At least for purposes of those watching, they do see what is on there.

AD HASSIM SC: It is being flighted.

CHAIRPERSON: Yes, yes.

AD HASSIM SC: Thank you, Chair. Mr Matlala, you do not need to read into the record paragraph 15, but can you read it to yourself and confirm whether the contents of the paragraph are accurate?

MR MATLALA: I do not agree to this paragraph.

AD HASSIM SC: What would you change?

MR MATLALA: The first sentence, the second sentence.

AD HASSIM SC: Okay, what is incorrect about the first sentence?

MR MATLALA: The entire first sentence, and the second one.

ADV BALOYI SC: Are you also changing that you never engaged in any business dealings with him?

MR MATLALA: We are on paragraph 15 ...[intervenes]

AD HASSIM SC: 15.

MR MATLALA: But it is not 15, ja.

ADV BALOYI SC: 15?

MR MATLALA: Yes.

ADV BALOYI SC: So the first part of it says:

> "I never engaged in any business dealings with Nkosi."

My question is, are you saying that is not correct?

MR MATLALA: Yes, that is not correct.

ADV BALOYI SC: Okay.

ADV KHUMALO SC: Meaning you did engage in business

with him?

MR MATLALA: I did not.

AD HASSIM SC: So ...[intervenes]

MR MATLALA: Business, no, no.

AD HASSIM SC: So, Mr Matlala, it currently reads, I never engaged in any business dealings with Nkosi, the first part.

MR MATLALA: Yes.

AD HASSIM SC: Right, and you said you wanted to change that.

MR MATLALA: No, I am saying, I said the entire paragraph.

AD HASSIM SC: Ja, I need to understand what you are saying. The first sentence, what is it that you say is inaccurate?

MR MATLALA: Business dealings and introducing me to Sibiya, both, so I am saying the entire first sentence.

AD HASSIM SC: You wish to delete it, the first sentence?

MR MATLALA: It is not correct, yes.

AD HASSIM SC: Okay. So ...[incomplete].

CHAIRPERSON: So when you say it is not correct, then what is implicit in that is that you are possibly saying you did engage in business dealings with Mr Nkosi.

MR MATLALA: Say that again?

CHAIRPERSON: Implicit in saying that this is not correct is that you are saying you did engage in business dealings

with Nkosi.

MR MATLALA: No, I am saying I never engaged in any business dealings with him.

CHAIRPERSON: So that part is correct.

AD HASSIM SC: That is correct.

CHAIRPERSON: Okay, thank you.

MR MATLALA: Ja, but ...[intervenes]

CHAIRPERSON: And then:

> "And we never became close friends until around the time when he introduced me to Sibiya."

Did you become close friends at any stage?

MR MATLALA: No, Mr Nkosi was never my friend.

CHAIRPERSON: Okay.

AD HASSIM SC: And did he introduce you to Mr Sibiya?

MR MATLALA: Yes, he gave me his, what is it called, email address.

AD HASSIM SC: Okay, so that aspect of the sentence is correct, he introduced you to Mr Sibiya and he gave you an email address. So, the second sentence says the introduction happened at Msibi's in Dinokeng Game Reserve.

MR MATLALA: Ja, this is not correct.

AD HASSIM SC: There was no introduction?

MR MATLALA: The first time I met General Sibiya was in

his office.

AD HASSIM SC: And the final sentence in paragraph 15?

MR MATLALA: It is not correct.

AD HASSIM SC: Okay. Paragraph 16, is the contents of this paragraph accurate?

MR MATLALA: Yes, I am reading out for myself ...[indistinct]. Yes, I see it.

AD HASSIM SC: So, are the contents accurate?

MR MATLALA: No, they are not accurate.

AD HASSIM SC: What in particular would you like to change?

MR MATLALA: On one occasion, the second sentence.

AD HASSIM SC: When you arrived at Msibi's residence, you found him, Mr Sibiya engaged in a meeting.

MR MATLALA: Yes.

AD HASSIM SC: You are saying that never happened?

MR MATLALA: In private office, yes.

AD HASSIM SC: You are saying that never happened, that never took place?

MR MATLALA: Yes.

AD HASSIM SC: So, you did not put this into the statement, this sentence?

MR MATLALA: Come again?

AD HASSIM SC: You did not give this information to the investigators to put into the statement?

MR MATLALA: No, I did not.

AD HASSIM SC: They inserted this into the statement?

MR MATLALA: Yes, I did not.

AD HASSIM SC: So is that, are you confirming that they inserted this into the statement?

MR MATLALA: Yes, I am confirming it.

AD HASSIM SC: Okay. So, the same would be for the next sentence. And then the final sentence, the communication exchanges?

MR MATLALA: Yes, I have communications with Nkosi.

AD HASSIM SC: You confirm that sentence?

MR MATLALA: Yes.

AD HASSIM SC: You have annexed, at that point, two annexures, VM3 and VM4. If you can have a look at VM3, it begins in substance on page 56. So, these are the 26 pages of chats you had with Mr Nkosi. Is this what you provided to the investigators?

MR MATLALA: No, I did not provide them with any ...[intervenes]

AD HASSIM SC: So, do you confirm the accuracy of this annexure?

MR MATLALA: This is my cellphone downloads.

AD HASSIM SC: You confirm that these are your cellphone downloads?

MR MATLALA: No, I confirm that they have downloaded

my former cellphone. I know that for a fact, yes, so I cannot dispute this.

AD HASSIM SC: Okay. And then VM4, it starts at page 83.

MR MATLALA: Yes, I see it.

AD HASSIM SC: You confirm that? Do you confirm this to be the contents of your phone?

MR MATLALA: Yes, but there, I confirm, but there is no communication, but I see that there is communication, but there is no content.

AD HASSIM SC: There is no ...[intervenes]

MR MATLALA: Yes.

AD HASSIM SC: Sorry, there is no messages there, they are voice calls.

MR MATLALA: Yes.

AD HASSIM SC: Okay, but you accept VM4?

MR MATLALA: Yes, I was in communication with him. I cannot say, ja, I accept it.

AD HASSIM SC: Okay, let us go back to where we were. So, the next paragraph is paragraph 17.

ADV BALOYI SC: Maybe a correction, Ms Hassim. Some of VM4 does have content.

AD HASSIM SC: Oh, sorry. My apologies, Commissioner Baloyi. Well, can you go back to VM4, please, page 83.

MR MATLALA: Page 83?

AD HASSIM SC: Page 83, VM4.

ADV BALOYI SC: And then if you look at page 86, there is content there. Page 88, and then page 89.

MR MATLALA: Yes, I confirm it, yes.

AD HASSIM SC: You confirm those?

MR MATLALA: Yes.

AD HASSIM SC: Thank you. Thank you, Commissioner Baloyi. All right, let us go back to the next paragraph, back to the statement. We were, that was at paragraph 16, VM3 and VM4. Can you read paragraph 17?

MR MATLALA: Paragraph 17 speaks about ...[intervenes]

CHAIRPERSON: Sorry, sorry, I think because of the mix-up, serious mix-up in the numbering, we should say 16 at page 17, at page, because I do not know how many 15's we have had thus far.

AD HASSIM SC: Point taken, Chair.

CHAIRPERSON: Yes.

AD HASSIM SC: So we are now dealing with paragraph 17 on page 6, which begins, I have known.

MR MATLALA: That is fine, I am following the sequence here. I think we are on 17 now.

AD HASSIM SC: Yes. Have you read paragraph 17?

MR MATLALA: Yes, I did.

AD HASSIM SC: On page 6. Do you confirm the accuracy of that paragraph?

MR MATLALA: Paragraph 17, I will claim my privilege not to incriminate myself. This is my co-accused in the matter.

AD HASSIM SC: Well, let us just have a look at that. The first sentence of paragraph 17 says:

> "I have known Rachel Matjeng from around the year 2017, and I met her at her office somewhere in Church Street, Pretoria."

What is the difficulty with you confirming the accuracy of when you met Ms Matjeng?

MR MATLALA: Yes, I confirm that I know her, yes, but I am saying she is my co-accused, and she also, I do not also want to prejudice her, so, and we have not deposed any statement so when we have to go for trial for this matter.

AD HASSIM SC: So, you confirm that you do know her?

MR MATLALA: Yes.

AD HASSIM SC: You just do not want to go into the details?

MR MATLALA: Yes, I confirm I know her, yes.

AD HASSIM SC: Okay. I am going to move on then to paragraph 18 on page 7.

MR MATLALA: Also, paragraph 18 still speaks about her, and I will still want to claim my privilege not to incriminate myself.

ADV BALOYI SC: How do you incriminate yourself if you

admit that you remained friends only, because that is what that paragraph speaks to.

MR MATLALA: But she is my co-accused, Commissioner. I do not know what will her version be in court, so I do not also want to prejudice her, not only myself. So ...[incomplete].

ADV BALOYI SC: Well, the privilege that you raised before us is against you incriminating yourself, not on her behalf.

MR MATLALA: Yes, even myself ...[intervenes]

ADV BALOYI SC: It is given to you to raise that protection for yourself. Now, I do not understand how admitting that you remained friends with her, how that is, there is a question in there about self-incrimination, at least from your explanation.

MR MATLALA: It will, the version that I am going to give in court, I do not want to disclose it prematurely.

ADV VAN DEN HEEVER: Chairperson, may I at this stage deal with this aspect? My understanding has always been if a witness raises or he claims privilege on an issue, that should be the end of it. One cannot continue to probe the witness as to what can and cannot be privilege. He has raised his privilege, and it should be the end of it.

CHAIRPERSON: That cannot be, Ms Van den Heever and you are going back to ground that we traversed quite

extensively previously, and surely you are aware of that. That simply cannot be. That is, in fact, let me just plainly say, that is not the law, Ms Van den Heever, and you know the ground we covered in indicating to you what the law is previously, that was done fairly extensively. So I am very surprised to hear you make the submission that you have just made. And if that is all that you are saying, let us continue, please.

AD HASSIM SC: Thank you, Chair. Let me just also add that we had, there was an application for immunity on the basis of issues and sections, which was already disposed of. So, Mr Matlala, the question here is, this paragraph speaks to the contact you had with Rachel Matjeng and as time went on, we got to know each other and remained friends only. That does not incriminate you in any way. My question to you is, do you confirm the accuracy of the two sentences I just read, the first two sentences of paragraph 18 on page 7.

MR MATLALA: Paragraph 18, yes, I still say that it will incriminate me.

AD HASSIM SC: I am sorry, how would this incriminate you, Mr Matlala?

MR MATLALA: It is in paragraph 18, right?

AD HASSIM SC: Yes. And in fact, if I recall correctly, a moment ago you said it is not that it incriminates you, it is

that you are concerned about the rights of ...[intervenes]

MR MATLALA: I said not only myself, I will also prejudice her. I am not saying only her, I am saying also.

AD HASSIM SC: So how would this incriminate you, that you – yes?

MR MATLALA: For the investigators to put this statement here, obviously they want to reach to a certain conclusion, which I, it is not my concern to do so. So I am saying I do not want to comment on it, so that I will claim a privilege for self-incrimination, because the version that I am going to put in court, I do not want to give them a clue, because, or else they would not put this here if it has nothing to do with the case.

AD HASSIM SC: But, sorry Mr Matlala, this statement is your Section 204 statement, right?

MR MATLALA: Of course.

AD HASSIM SC: It covers a range of issues, a range of different topics and different people. This particular paragraph basically states that you were friends with Rachel, that she contacted you through a person named Dora, and as you went on to know each other you remained friends only. How does that incriminate you?

MR MATLALA: It incriminates me because this is something that I will be asked in court. Chances are they might ask me the very same question in court, how do I

know Rachel. So what if I put a different version than this one? And I am not even saying this is my version, but I am saying either way I do not want to comment on it.

CHAIRPERSON: So you are saying, you are not even saying you are being asked then for a version on this, so you cannot say you are not even saying this is your version, you are being asked for a version, Mr Matlala. And Mr Matlala, I will go back to something that I just alluded to now when I responded to Ms Van den Heever. I know I engaged you directly on this and this is when we referred to the Zuma judgment, paragraph 109 of that judgment. It is a judgment of the Constitutional Court, and that section says that:

> "If a witness is asserting privilege, that witness must 'demonstrate how an answer to the question in issue would breach the privilege'."

You cannot here hypothetically tell us about the possibility of you giving some version that may not tell you what you are telling us now. The question is, you are being asked questions about something which you either know something about or which you know nothing about. If the position is the latter, you simply tell us you know nothing about it. But if it is something that you do know about, then you tell us what you know with regard to that.

And if indeed there is a basis for asserting the privilege, then you assert the privilege, but demonstrate how an answer to the question will breach the privilege. So you are being asked a question here that relates to Ms Rachel contacting you after having obtained your phone number from a Dora, and then as time went on, you got to know each other and remained friends only, and so on and so on. That is factual, and it is facts that you either know or you do not know.

And if you do know the facts, then tell us what you know. If you are refusing to tell us what you know on the basis that you are asserting the privilege, explain to us why the privilege would be breached if you answer that question. I know for a fact that I did explain this to you previously, and you understood. So you cannot hypothetically say it just may happen that at the trial I may give an answer that is different to what I say here.

I do not see how that should arise if you are going to be truthful to us and tell you what you know to be the factual, the true factual position. The truth does not change unless perhaps due to the passage of time you may have forgotten certain facts which we would understand, but that is not what you are saying now, nor are you saying between now and the time that I testify at court I may have forgotten what I said before the Commission. That is not what you

are saying.

You are just sitting there and saying hypothetically I just may give them an answer that differs to the answer that I give here today. That cannot be a basis for asserting the privilege. Can you please respond to the question? And perhaps, Mr Hassim, if you could repeat the question. Or let me ask this, do you understand what I have tried to explain to Mr Matlala?

MR MATLALA: Chairperson, I do, but I am still worried about my fair trial rights, that if I now ventilate matters that I know I should deal with the same in court during my trial, so, doing it prematurely, I think it infringes my fair trial rights. So, I am saying this on those basis because I think my fair trial rights will be infringed.

CHAIRPERSON: I do not know, I do not know how that arises, the issue of whether or not you got to know Ms Matjeng better and how she obtained your cellphone number. I do not know how any of what you are saying arises. I honestly do not. I do not know now whether we should go to Section, is it 6 or Section 1 of the Commission?

AD HASSIM SC: It is Section 6 and to be read with Regulation 8.2, Chair.

CHAIRPERSON: You have noticed, you have seen Mr Matlala, where indeed and at least not that far back you

asserted the privilege and nobody pressed you, and in that regard, it was quite plain why you would be asserting the privilege. But whether or not Ms Rachel Matjeng got hold of your number and whether or not you got to know each other thereafter, I do not quite see, I do not quite see how the question of the privilege arises. And the only way you have been able to demonstrate it, except for what we are saying now about reference to your fair trial rights and even that, I do not quite see how it arises in this context.

The only way you try to demonstrate why you assert the right was this hypothetical, this hypothetical that you are referring to, the possibility of two different answers that you may give here and at your trial. I repeat that I just do not see how that can be a basis for asserting the privilege.

AD HASSIM SC: Chair, can I just put the provisions perhaps?

CHAIRPERSON: Yes.

AD HASSIM SC: The first is Section 6 of the Commissions Act, and the relevant part for current purposes is:

> "The failure without sufficient cause to answer a question fully and satisfactorily, that that failure would be a breach of the Commissions Act and an offence as a result."

That is Section 6.

And then, Chair, that needs to be read together with the regulations of this Commission, and regulation 8.1 provides:

> "No person appearing before the Commission may refuse to answer any question on any grounds other than those contemplated in Section 3.4 of the Commissions Act of 1947."

Now, that issue of privilege under Section 3.4 of the Commissions Act, we have discussed, debated, and at length in this Commission with this witness already. So the Chair has already heard all of those arguments, made rulings, and we have since moved on. That is insofar as Regulation 8.1, the ambit, we have debated the ambit of that Section 3.4.

CHAIRPERSON: Yes.

AD HASSIM SC: And then what is important is 8.2, Chair.

> "A self-incriminating answer or statement given by a witness before the Commission shall not be admissible as evidence against that person in any criminal proceedings brought against that person instituted in any court except in criminal proceedings where the person concerned is charged with an offence in

terms of Section 6 of the Commissions Act."

We can all ignore the last bit of that. That is a standard provision. It is even in the Criminal Procedure Act. That is where you perjure yourself in the course of proceedings and that you cannot be immunized from. But what Regulation 8.2 says is that any answer given by this witness, even a self-incriminating answer, is not admissible against this witness in the trial. That is the protection that the regulations provide. It provides that protection because of Section 6 of the Commissions Act, which is quite onerous. You are required to answer questions. And then if I might just conclude that by saying that the reason and the rationale underlying section 6.6 and that the obligation to answer questions is because of the nature of Commissions of Inquiry and the need to get to the truth, and there, too, we have cited the case law on ...[indistinct], et cetera, Constitutional Court. So that is the legal framework.

CHAIRPERSON: So the effect, oh, thank you, Ms Hassim. The effect of Regulation 8.2, Mr Matlala, is that even where, for example, you have not asserted your privilege but you have given evidence on something that actually does incriminate you, that evidence will not be admissible against you at the criminal trial. In addition to that, I also want to

say, I do not quite see in substance, underlying in substance, how evidence relating to how you know Ms Rachel Matjeng is different from the evidence as to how, for example, you know Sergeant Nkosi. You responded to questions in that regard without any reluctance, so I just do not see, one, the difference, and two, I maintain I do not see what it is that incriminates you, but – Ms Hassim has just read to you the statutory provisions as to what the consequences are for failure to answer questions in terms of the Commissions Act. Can you please just put the question once again and then we decide.

AD HASSIM SC: Yes, I will do that, Chair. It really was very simple. It was about the first two sentences of paragraph 18 on page 7 and it was to confirm the correctness of those two sentences.

MR MATLALA: Two sentences?

AD HASSIM SC: The first two sentences of paragraph 18 of page 7 of the bundle, which is your contact with Rachel Matjeng, that you obtained the cellphone number from a person named Dora and that you got to know each other and remained friends only. I did not ask for a comment on it. I simply asked for you to confirm its accuracy.

MR MATLALA: Yes, speaking about the accuracies, commenting, because whether I gave her my number or she gave me her number, I do not remember how. But I accept

that I know her, yes. But how we exchange numbers, I do not remember that, but the lady that is mentioned here, she works at her office. She used to, I do not know about now. So I know her, yes, so I cannot say this is correct. I just, the problem with this statement is I was explaining how I know. I was not typing it myself. So, and I do not remember even how, who gave who a cellphone number. So for me accepting this, saying someone gave it to me, then you find out maybe I gave her the number, I do not know. So I was just saying I know her, yes, but I do not remember how we exchanged numbers.

AD HASSIM SC: Was this information that you provided to the investigators or is this something they made up?

MR MATLALA: I am saying I was explaining to them how I know her, but how we exchanged the phone numbers, I do not remember whether I gave her my phone number or she gave me, I gave her my phone number, because I see here it is saying she obtained my cellphone number from Dora. So I do not want to say this is correct, because I do not remember how it happened.

AD HASSIM SC: Okay. I just, I was trying to establish whether, when it says here, Rachel contacted me by obtaining my cellular phone number from Dora, whether that is something that you said to the investigators. You might now say actually I am not sure, as I sit here, that that is,

you know, accurate because it might have been the other way around. And I just want to be clear that that is what you are saying. It is not that this was not information that you provided to the investigators. It is that as you sit here, you are not sure. Maybe, maybe it was that you contacted Rachel. That is what you say.

MR MATLALA: The information is correct, but I am saying I do not remember who gave who a phone number.

AD HASSIM SC: Okay.

MR MATLALA: And then also, the lady that is mentioned here, I know that she works at her office, yes.

AD HASSIM SC: Okay. So, and then you confirm that you got to know each other and remained friends only.

MR MATLALA: I never told them that.

AD HASSIM SC: So, you, that is not accurate, you did not remain friends only?

MR MATLALA: I never said we remained - no, I am not saying we did not remain friends only. I never told them that we remained friends only.

AD HASSIM SC: Okay. The last sentence is about the communication that you have access to in relation to Rachel, which is attached as annexure VM5. VM5 is 61 pages, and it starts on page 92, and we are not going to go through it, but please have a look. Oh, at least not now we are not going to go through it, but please have a look at

page 92 of the bundle, and you see that the attachment there contains the downloads from your phone.

MR MATLALA: Yes, I see.

AD HASSIM SC: And these are the communications with Ms Matjeng.

MR MATLALA: Yes.

AD HASSIM SC: Okay, let us go back to the statement. So, we were at paragraph 18 on page 7. Can we go to page 19, paragraph 19?

MR MATLALA: Yes, I am reading it.

AD HASSIM SC: You are there? Okay.

MR MATLALA: Yes, I read it.

AD HASSIM SC: Do you confirm the accuracy of paragraph 19?

MR MATLALA: No, I do not.

AD HASSIM SC: What would you like to correct?

MR MATLALA: Yes, I know General Thema, but she was not my friend, but I know her, yes. And then, yes, during Covid my company sent proposals for vaccinations. So, but we were not acquainted.

AD HASSIM SC: You knew her, but you were not acquainted?

MR MATLALA: Yes.

AD HASSIM SC: Okay. And then the next sentence is, during Covid, Thema tried to arrange for Medicare to be

appointed to conduct screening, et cetera. That sentence?

MR MATLALA: No, she did not try to arrange for Medicare. Medicare sent proposals to SAPS for vaccinations. It is my company that sent the proposals to SAPS, it is not the other way around.

AD HASSIM SC: So, you are saying that she did not try to arrange for Medicare to be appointed?

MR MATLALA: No, she did not.

AD HASSIM SC: Okay. And then the last sentence is the communication I have access to with Thema, attaches VM6, comprising four pages. Can you go to VM6? VM6 is at page, the substance begins at page 154. That is a letter from Medicare, do you see that?

MR MATLALA: Yes, I do.

AD HASSIM SC: And it is copied to General Thema, and it is from Mr James Murray, and it says slash, Vusi Matlala, and you will see it is signed at the bottom of page 155.

MR MATLALA: Yes.

AD HASSIM SC: Is that your signature?

MR MATLALA: No, it is not.

AD HASSIM SC: Whose signature is that?

MR MATLALA: It is my COO.

AD HASSIM SC: And his name?

MR MATLALA: James Murray.

AD HASSIM SC: Okay. So you confirm this letter. We are

not going to deal with the letter now, I just want to confirm.

MR MATLALA: Yes, I do.

AD HASSIM SC: Okay, thank you. Let us go back to page 7, and now we are at paragraph 20.

MR MATLALA: Ja, this is false.

AD HASSIM SC: Is the entire paragraph false?

MR MATLALA: Yes, ja, this is not true, because anyway, this contract, the contract that I have, you do not need a hospital on site to operate the trainees. You send mobile clinics to wherever the trainees are. So this is false. And anyway, I applied for this thing a long, long time ago, before even I had the SAPS tender.

AD HASSIM SC: You are talking about the lease?

MR MATLALA: Yes.

AD HASSIM SC: Okay. So this paragraph 20, you say is false in its entirety?

MR MATLALA: Ja, it is false, yes.

AD HASSIM SC: So where did this information come from? Where did the investigators get this information from? This is not from you?

MR MATLALA: These investigators, firstly, they told me that they were investigating Thema's son, actually. So I think if you can check, subpoena maybe ...[indistinct] they will show you, because they told me that they were close to her son. Then they were saying that she influenced her son

to get tenders. So now they wanted to actually incriminate General Masemola. But this thing, it goes further, because there is somewhere where they said, I do not know whether it is in this 204 or it is the other one, but somewhere where they are saying General Masemola was using the hospital for, he put his own doctors there for those trainees who were at the college. So they were going to that angle by using General Thema to get there.

AD HASSIM SC: Okay. So that came from the investigators, the insurgents.

MR MATLALA: Yes.

AD HASSIM SC: Okay. So that was paragraph 20 on page 7. Paragraph 21?

ADV BALOYI SC: Sorry, before that, can I just understand. In paragraph 20, you spoke about, you say you applied for the lease long before the Medicare contract.

MR MATLALA: Yes.

ADV BALOYI SC: Did you apply for that lease before you met General Thema?

MR MATLALA: I applied for the lease, yes, before Covid even.

ADV BALOYI SC: Okay, so it was before you met her.

MR MATLALA: Yes.

ADV BALOYI SC: Thank you.

AD HASSIM SC: Paragraph 21.

MR MATLALA: Ja, this is false.

AD HASSIM SC: In its entirety?

MR MATLALA: It is false, yes.

AD HASSIM SC: I just want to clarify because it comes up in more than one place. The last sentence, I applied for the lease of the hospital for over two years with no success. Is that not true?

MR MATLALA: It is not true. Two years, counting from 2026, it means it will be 2024.

AD HASSIM SC: Well, no, 2024, when was the lease awarded to you?

MR MATLALA: Awarded in 2024, I think. 2024, 2024, 2023, somewhere there.

AD HASSIM SC: 2023?

MR MATLALA: It was, ja, 2023 or 2024. I have the copy somewhere.

AD HASSIM SC: We will get there.

MR MATLALA: Yes.

AD HASSIM SC: I just want to remind, just to help you, you had the lease already by the time the Medicare, by the time the tender was issued for the provision of health services, the health risk management contract.

MR MATLALA: Ja.

AD HASSIM SC: So that was only advertised in January of 2024.

MR MATLALA: What?

AD HASSIM SC: It was only advertised in January 2024.

MR MATLALA: Yes, I was asking what was advertised?

AD HASSIM SC: That tender, the Medicare, the one that Medicare successfully bidded for, the health risk management contract.

MR MATLALA: Yes.

AD HASSIM SC: That was advertised in January 2024.

MR MATLALA: No, no, no, that is not true.

AD HASSIM SC: Ja, no, it was advertised in January 2024.

MR MATLALA: No, no, no, it cannot be because it was awarded in July 2024. So, and it was advertised, I think, a year before maybe. It cannot be 2024.

AD HASSIM SC: No, the record, including the evidence that you have given, in fact, and we can go there ...[intervenes]

MR MATLALA: Yes, we can.

AD HASSIM SC: Is that it was in January 2024, 31st of January 2024. The closing date was, I think, 19 February 2024 and it was then awarded to you end of June 2024.

MR MATLALA: We can go to the record. It was not advertised in 2024. That I am sure of. It cannot be, because there have to be, the process is long. It cannot be 2024. And then it cannot take 6 months for the entire process to ...[intervenes]

AD HASSIM SC: Well ...[intervenes]

MR MATLALA: It was 2023.

AD HASSIM SC: Well, we can go to the records ...[intervenes]

MR MATLALA: Ja.

AD HASSIM SC: Let us just get there, because we have dealt with it many times. Let me at least go to General Fani's evidence in the Ad Hoc, if that could be flighted. I do not have it with me, but we do have it. Okay, do you have it? Is it being flighted?

MR MATLALA: Yes, I see.

AD HASSIM SC: It was his testimony of 20 November 2025 and he says on 16 January, a pre-advertisement meeting was held for quality assurance. On 31 January 2024, the tender was published.

MR MATLALA: No, I think he made a mistake. It cannot be 2024. I still insist. It is impossible. I remember very well. It cannot be 2024. I think he made a mistake. He maybe wanted to say 2023.

AD HASSIM SC: Well, let us go to your statement then. Let us go to your witness statement in the Ad Hoc Committee, at paragraph, so that would be in the Ad Hoc. I think what would be easiest is if it is flighted. It is in the bundles that is labelled Ad Hoc Committee and it is at page 103 of that bundle. Well, what we have got there is that it

was at paragraph 19, you say you were awarded the health risk services tender at the end of June 2024. Is that correct?

MR MATLALA: Awarded, yes.

AD HASSIM SC: Hm?

MR MATLALA: Awarded, yes.

AD HASSIM SC: Okay. I will find the other references in the record.

MR MATLALA: Yes.

AD HASSIM SC: But I can tell you that on the record in several places it says that the health risk services tender was published in January 2024.

MR MATLALA: I still insist there must be a mistake.

AD HASSIM SC: Okay. Well, let us come back to it then.

MR MATLALA: Okay.

AD HASSIM SC: We will come back to it. I am saying that you are not remembering correctly. So, we were at paragraph 21 on page 7, and you said that you, I was questioning you about the last sentence, whether you had been applying for the lease for over two years with no success.

MR MATLALA: Yes.

AD HASSIM SC: And we were trying to then put that on the timeline, but let us forget the timeline for now because you are disputing it and we will get you the evidence. The

question, though, is whether it is correct that you had been applying for the lease of that hospital for two years whenever it became awarded to you, that you had been applying for it for two years without success. Is that inaccurate?

MR MATLALA: I think it is more than two years.

AD HASSIM SC: More than two years, okay. All right, that is sufficient. Let us go to paragraph 22. Can you read it and tell me whether you confirm the contents?

MR MATLALA: Yes, I see it, but the first part is not true.

AD HASSIM SC: You need to be more specific, please, Mr Matlala. What is not true?

MR MATLALA: So, the list of the vehicles was given to me by Thema after her son passed away is not true. The list of these vehicles, I got them from General Thema's daughter, not General Thema.

AD HASSIM SC: Sorry, a list of the vehicles you received from?

MR MATLALA: General Thema's daughter.

AD HASSIM SC: She got them? I cannot hear you. Sorry, it is just, can you speak up?

MR MATLALA: I am saying she gave me a list of vehicles that she was selling, yes.

AD HASSIM SC: Okay. And then did she give you that list of vehicles?

MR MATLALA: She gave me a list, yes.

AD HASSIM SC: Okay. Is there anything else you want to say about that paragraph or correct?

MR MATLALA: No, the list of the vehicles, it is only that, yes.

AD HASSIM SC: The rest of it, you are satisfied with the rest of the contents?

MR MATLALA: Yes, yes, I am fine.

AD HASSIM SC: Okay, let us turn to paragraph 23 on page 8 then. Do you confirm the contents of that paragraph?

MR MATLALA: No, I do not confirm them.

AD HASSIM SC: What would you like to change?

MR MATLALA: Not being able to get the lease agreement. So, I wanted to occupy the hospital. I already had the lease, not lease agreement.

AD HASSIM SC: So, what is inaccurate here is where it says not being able to get the lease and you were demoralized by not being able to occupy the premises?

MR MATLALA: To occupy, yes.

AD HASSIM SC: Okay. Anything else in this paragraph?

MR MATLALA: Yes. Ja, it is just to occupy.

AD HASSIM SC: Okay. Then the next paragraph, 24?

MR MATLALA: The entire paragraph 24 is false.

AD HASSIM SC: When you say it is false, you say that you never provided this information to the investigators?

MR MATLALA: The entire, yes.

AD HASSIM SC: Sorry?

MR MATLALA: Yes, the entire paragraph.

AD HASSIM SC: You never provided this information to the investigators?

MR MATLALA: No.

AD HASSIM SC: And the information that is in here is not true?

MR MATLALA: Yes.

AD HASSIM SC: To your knowledge?

MR MATLALA: It is not true, yes.

AD HASSIM SC: Paragraph 25?

MR MATLALA: At these offices, and it was in January 2024, not mid-year 2023, so the entire paragraph 25 is false.

AD HASSIM SC: Let me just take it slower. The first sentence says the meeting was arranged to take place at Sibiya's residence in Centurion. Are you saying that there was no meeting with Mr Sibiya at his residence?

MR MATLALA: There was a meeting, but not in Centurion.

AD HASSIM SC: Okay. Where was that?

MR MATLALA: His office.

AD HASSIM SC: The second sentence says you did not know where the residence was, and Nkosi sent me a pin drop, which I used to navigate to get to Sibiya's residence.

You say that is not true, that never happened?

MR MATLALA: No, ja.

AD HASSIM SC: So where did this, you never provided this information to the investigators?

MR MATLALA: No, I did not.

AD HASSIM SC: So they made this up?

MR MATLALA: So this happened, I think, what they did, this happened at the latest during 2024, not 2023 and it was not about the lease agreement. It was a party. So this is something different. But the pin location, yes.

AD HASSIM SC: So you are saying that there was a pin location that was sent to you, but it was not in mid-2023, it was in 2024?

MR MATLALA: Yes.

AD HASSIM SC: Okay. Paragraph 26?

MR MATLALA: The entire paragraph is false.

AD HASSIM SC: Mr Matlala, are you sure about this?

MR MATLALA: Yes, I am sure.

AD HASSIM SC: You are under oath before this Commission.

MR MATLALA: Yes, yes I am.

AD HASSIM SC: You are saying that you did not go to Mr Sibiya's residence?

MR MATLALA: We are talking about paragraph 26?

AD HASSIM SC: Paragraph 26, yes. And you are saying

that Mr Sibiya had never informed you that he heard you have been experiencing problems and he made no reference to a friend who is a Deputy Minister of Public Works?

MR MATLALA: Yes, Chairperson, like I said before, when I met Mr Sibiya, I already had the lease, so this entire paragraph was true. It is not correct.

AD HASSIM SC: Paragraph 27?

MR MATLALA: Paragraph 27 is also false.

AD HASSIM SC: It is false in its entirety?

MR MATLALA: Yes.

AD HASSIM SC: So in this paragraph, you speak about arranging to meet at Café 41, Eastwood, situated opposite the American Embassy. My protectors remained at Café 41 Eastwood, and I found Sibiya already at the Deputy Minister. All of that you say is false?

MR MATLALA: Not all of it. At Café 41, I met General Sibiya's friend, not General Sibiya.

CHAIRPERSON: Let us, please hold your thought. Let us adjourn and resume at quarter past 4. Let me at this point say, to make up for lost time, we are sitting late. I will not indicate until what time. Let us adjourn.

INQUIRY ADJOURNS

INQUIRY RESUMES

COMMISSIONER: Yes, Ms Hassim.

AD HASSIM SC: Thank you, Chair. Sorry, Mr Matlala, we

were at paragraph 27 at page 8, and you said this paragraph is false. And I then probed you on that, and I asked whether the details that are in here therefore are a figment of the imagination of the investigators, or is this something that you told them, where did they get it from, and you were about to respond. So do you want to do so now?

MR MATLALA: Where are we now, paragraph 27?

AD HASSIM SC: Yes, on page 8.

MR MATLALA: We were on to 26. Let me read 27.

AD HASSIM SC: No, 26 you have addressed, and we were on 27.

MR MATLALA: Yes.

AD HASSIM SC: Right.

MR MATLALA: Yes, I was saying ...[intervenes]

AD HASSIM SC: Yes, what were you saying? You wanted to correct. You said that there was something that you wanted to correct.

MR MATLALA: I think, yes, I was busy correcting 26. I think we jumped to 27. I said, on 26 you said, am I sure that Café 41, I never met, and I said I met his friend, not him.

AD HASSIM SC: So that is paragraph 27.

MR MATLALA: 26, but I see it goes to 27 also.

CHAIRPERSON: Sorry, sorry, you met whose friend?

MR MATLALA: General Sibiya's friend.

AD HASSIM SC: So just tell me exactly which paragraph and which sentence you are talking about.

MR MATLALA: 26, you asked me if this thing never happened. I said yes, I never met him. At Café 41, I met General Sibiya's friend, not him. 27, sorry, not, it is 27.

AD HASSIM SC: Yes. Right, so you said that you met General, at the time Sibiya's friend at Café 41.

MR MATLALA: Yes.

ADV BALOYI SC: The paragraph does not say you met General Sibiya. The paragraph says he was going to send his driver to fetch you.

MR MATLALA: Yes, that is what I want to explain. I was coming there, yes.

ADV BALOYI SC: Yes.

MR MATLALA: Yes, they dropped me off at Café 41 in Eastwood, and then General Sibiya's friend picked me up from Eastwood, and then we went to that ministerial residence there. So it is not General, it is General Sibiya's friend who came to fetch me there.

AD HASSIM SC: Yes, it does not say that it was General Sibiya in any way.

MR MATLALA: Yes, I was correcting what happened.

AD HASSIM SC: He says that, okay, so who dropped you off at Café 41?

MR MATLALA: My protectors.

AD HASSIM SC: Your protectors, yes.

MR MATLALA: Yes.

AD HASSIM SC: And they remained there?

MR MATLALA: Yes.

AD HASSIM SC: And then you, how did you go to the residence?

MR MATLALA: With General Sibiya's friend.

AD HASSIM SC: With his friend. And who was his friend?

MR MATLALA: Serge Cabonge.

AD HASSIM SC: And he was waiting for you at Café 41 when you got there. Was he already there?

MR MATLALA: I think I was waiting, and then he came. He was with General Sibiya in that ministerial residence, and then when I called, he came to fetch me at Café 41.

AD HASSIM SC: How do you know that he's General Sibiya's friend?

MR MATLALA: I know Serge Cabonge, he is my friend, I know him.

AD HASSIM SC: He is your friend too?

MR MATLALA: Yes, not, yes, someone that I am close to.

AD HASSIM SC: Say that again?

MR MATLALA: Someone that I know.

AD HASSIM SC: He is someone you know, not a friend?

MR MATLALA: No, I would not say a friend, but someone

that I would not pass by seeing him, I would greet him and then ...[intervenes]

AD HASSIM SC: Okay. All right, so he takes you then to the ministerial residence, and which residence, residence of which Minister?

MR MATLALA: He said it was the Deputy Minister, not the Minister actually, the Minister of ...[intervenes]

AD HASSIM SC: Okay, which Deputy Minister?

MR MATLALA: ... of Public Works.

AD HASSIM SC: Deputy Minister of Public Works?

MR MATLALA: Yes.

AD HASSIM SC: And what was that Deputy Minister's name?

MR MATLALA: I do not know her name, but they called her Berry.

AD HASSIM SC: Okay.

CHAIRPERSON: Perry with a P.

MR MATLALA: B, B.

CHAIRPERSON: Berry, Berry.

AD HASSIM SC: Berry, as in strawberry. Okay, thanks.

ADV BALOYI SC: And you say at the residence you found General Sibiya there?

MR MATLALA: General Sibiya was there. I think I assumed that he came there with his friend, and then his friend came to fetch me, and we then ...[intervenes]

ADV BALOYI SC: Thank you.

MR MATLALA: [Indistinct]... [cross-talking]

ADV KHUMALO SC: But ...[indistinct] [microphone off] was there during the meeting?

MR MATLALA: General Sibiya?

ADV KHUMALO SC: Yes.

MR MATLALA: Yes.

ADV KHUMALO SC: And the Deputy Minister was there also?

MR MATLALA: Yes, yes, yes.

ADV KHUMALO SC: So you met with the two of them?

MR MATLALA: No, it was three of them, and this other guy, I think he works with the Deputy Minister or something. I used to know him back then. They called him Dr ...[indistinct]. I do not know his real name.

AD HASSIM SC: Ja. But the important part is that where you say you found Sibiya already at Deputy Minister's residence, you confirmed that to be so.

MR MATLALA: Yes, he was there, yes.

AD HASSIM SC: Yes. Let us go to paragraph 28. Tell me whether you confirmed the contents of this paragraph.

MR MATLALA: Ja, this is false.

AD HASSIM SC: Which part is false, because we know that it is not all false. For example, there is Berry ...[intervenes]

MR MATLALA: I do not think

i, she appears here. I don't think even General Thema knows Brian Cartwright. This is false.

AD HASSIM SC: No, no ...[intervenes]

CHAIRPERSON: And I ...[intervenes]

AD HASSIM SC: Paragraph ...[intervenes]

CHAIRPERSON: And again this is 28 at 9, because there is another 28 at 10. So we are dealing with 28 at 9.

AD HASSIM SC: It is at page, so have a look at, there might be an error in your page numbering. I corrected mine. So we are looking at, do not look at the red numbers, look at the bottom, the small numbers at the bottom.

MR MATLALA: Yes, I was concentrating on the screen, but we are on 28.

AD HASSIM SC: It is page 7 of the statement, but it is ...[incomplete]

CHAIRPERSON: No, let us go by the red, please. We are going to be confused.

AD HASSIM SC: Okay.

MR MATLALA: Okay, I am on ...[intervenes]

AD HASSIM SC: Chair, it is, then it is page 10, red page 10.

ADV KHUMALO SC: No, I see what happened, Advocate Hassim. What we have as page 10 should follow page 8, and what we have as page 9 should come after page 10.

AD HASSIM SC: Yes.

ADV KHUMALO SC: Because when you look at the paragraph 27, which is the paragraph we have just looked at ...[intervenes]

AD HASSIM SC: Yes.

ADV KHUMALO SC: Details of that meeting continue on our page 10.

AD HASSIM SC: That is correct.

ADV KHUMALO SC: So that is the correct 28, not ...[intervenes]

AD HASSIM SC: That is what I am saying, exactly that.

ADV KHUMALO SC: So we must swap page 10 and page 9.

AD HASSIM SC: Exactly. So it is page 10. Page 9 and 10 should be swapped around.

ADV SELLO SC: Chair, unfortunately the numbering is completely out, so what Advocate Hassim say is page 10, it has got numbering 28 to 32. But the other page which is supposed to be the next page but is appearing in Mr Matlala's file, it also has 28 to 32. So it has got two sets of pages 28 to 32.

CHAIRPERSON: It has got too many sets of quite a number of different paragraphs all over the show.

ADV SELLO SC: Yes.

AD HASSIM SC: And, Chair, all I will say is that it is, we

will not take responsibility for it because this was prepared by IDAC.

CHAIRPERSON: I know. I know.

ADV BALOYI SC: So, Ms Hassim, just to make sure that we are on the same page, page, we are at page 8. The next page that follows that is the page that is marked 10.

AD HASSIM SC: It ought to be page ...[intervenes]

ADV BALOYI SC: Page 9. It should be 9.

AD HASSIM SC: It should not, it is, because the 9 is out of sequence. From 8 we need to go to 10.

ADV BALOYI SC: No – yes, yes, that is what I am saying.

CHAIRPERSON: Let us just make sure Mr Matlala now has the correct ...[intervenes]

AD HASSIM SC: It is the page ...[intervenes]

CHAIRPERSON: Mr Matlala, my pages have just been swopped around. Look at paragraph 27, foot of red page 8. Let us look at that 28, 8, red 8, 27 at the foot of the page. Do you see that?

MR MATLALA: Yes.

CHAIRPERSON: It reads, the last sentence starting there says:

"My protectors remained."

Do you see that? Do you have that?

MR MATLALA: [Indistinct]... says the last, the last paragraph ...[intervenes]

CHAIRPERSON: The sentence starting the middle of the last line. It says:

"My protectors remained at Café ..."

The last line, the very last line.

MR MATLALA: Mine says Sibiya then arranged for me to meet ...[intervenes]

CHAIRPERSON: Yes, that is the one. That is the one.

MR MATLALA: Yes.

CHAIRPERSON: So I am saying go to the, the sentence that starts mid last line, mid last line. That sentence says, no, no, that page where you are, where you are. You are quite right. It says:

"My protectors remained."

Do you see that, last line, very last line, Mr Matlala?

MR MATLALA: Ja. Yes, yes.

CHAIRPERSON: Yes, continue.

"Remained at Café 41, Eastwoods, and I found Sibiya already."

Is that what you have now?

MR MATLALA: Yes.

CHAIRPERSON: Thank you. Okay, so it seems Mr Matlala's pages have been sorted out as well.

AD HASSIM SC: Okay, thank you ...[indistinct] [microphone off] red number 10. Now, we have dealt with

that where I found Sibiya already at Deputy Minister's official residence when I arrived with his driver. Now look at the next paragraph, paragraph 28 on page 10.

MR MATLALA: Yes, I see.

AD HASSIM SC: Well, do you confirm the contents of that paragraph?

MR MATLALA: No, I do not confirm the contents. The first sentence, I did not, Sibiya called, because this is what I was explaining to the investigators, but I was fetched by Sibiya's friend, not by Sibiya. Sibiya's driver was called ...[indistinct] was called and he was driving a black X5 BMW. I went there with a Porsche, not a black BMW X5.

AD HASSIM SC: Yes, so that sentence is not saying that Sibiya's driver took you to the Deputy Minister in a black BMW. All it is saying is stating as a fact that Sibiya's driver was called Chivas and he was driving a black X5 BMW. Do you say that is not true?

MR MATLALA: It is true, but I think they are insinuating that he fetched me because we were ...[intervenes]

AD HASSIM SC: No ...[intervenes]

MR MATLALA: [Indistinct]... [cross-talking] now I am there, so the sequence, okay, it is fine then. But it is true that his name is ...[incomplete].

AD HASSIM SC: Okay, next sentence? Well, not next sentence. Is there anything else in this paragraph that you

want to correct?

MR MATLALA: No, I think everything is fine.

AD HASSIM SC: Okay, so you will see earlier you could not remember the name of the Deputy Minister, but you remembered that she was called Berry.

MR MATLALA: Yes.

AD HASSIM SC: And now it is clarified in this paragraph that her name is Bernice Swarts.

MR MATLALA: Yes.

AD HASSIM SC: Okay, let us go then to the next paragraph, paragraph 29.

MR MATLALA: Yes.

AD HASSIM SC: Do you confirm the contents?

MR MATLALA: No, I do not.

AD HASSIM SC: What do you want to correct?

MR MATLALA: Applying for the lease is not correct. I already had the lease, so that we can check the date of when I was there and when the lease was signed.

AD HASSIM SC: Okay, so ...[intervenes]

MR MATLALA: And also I see it says Chivas took me back to where my protectors were waiting. So it is not Chivas, it is Sibiya's friend.

AD HASSIM SC: It is who? It is Serge Cabonge?

MR MATLALA: Yes, I did not stay there long. And then, the reason for me being there is not, yes, it was for the

lease of Public Works, but not for lease of, I already had that lease for the hospital, so I was talking about National Health Insurance to get more buildings, but not the one that I already have.

AD HASSIM SC: So you were not talking about the lease?

MR MATLALA: The lease was already there.

AD HASSIM SC: The lease was already there.

MR MATLALA: Yes.

AD HASSIM SC: And you were not talking about that lease because you already had secured that lease, and that is ...[intervenes]

MR MATLALA: Okay, let me clarify. We were talking about the lease, but not the lease of the hospital in SAPS College.

ADV BALOYI SC: What lease ...[intervenes]

AD HASSIM SC: What lease were you talking about?

MR MATLALA: Yes, I want to clarify that. Sibiya's friend, this guy, Serge, told me that he is close, I think through, but some things are very sensitive. Let me not go there. But he is the one who said I must come there and when I am there, then he introduced me to her and then told him that I have a hospital, and then because she is from Public Works and then I can get more buildings.

AD HASSIM SC: You could get leases for additional buildings ...[intervenes]

MR MATLALA: Yes.

AD HASSIM SC: For the purposes of?

MR MATLALA: To have more clinics.

AD HASSIM SC: To have?

MR MATLALA: More clinics.

AD HASSIM SC: More clinics.

MR MATLALA: Yes.

AD HASSIM SC: And you said it is so that when national health insurance kicks in, you could benefit from that.

MR MATLALA: To have a footprint.

AD HASSIM SC: Yes, okay. And then the rest, we, it is fine, except that you would like to say that it was Serge Cabonge who took you back to Café 41.

MR MATLALA: Yes.

AD HASSIM SC: And just to confirm that it says Sibiya remained behind with Berry.

MR MATLALA: Yes.

AD HASSIM SC: Okay. So let us look at paragraph 30 then on page 10.

MR MATLALA: No, this is false.

AD HASSIM SC: Which part?

MR MATLALA: The entire paragraph 30.

AD HASSIM SC: The entire paragraph 30?

MR MATLALA: Yes.

AD HASSIM SC: So you did not say any of this to the

investigators?

MR MATLALA: No, no.

AD HASSIM SC: None of this?

MR MATLALA: None of this. None of this.

AD HASSIM SC: They made it up?

MR MATLALA: This never happened.

AD HASSIM SC: Okay. Let me just pause there for a moment. When you had this meeting with Bernice Swart, was there any discussion about a payment or any compensation for assisting you?

MR MATLALA: No, Chairperson, I do not think people can be careless. No, she did not even know me. It was my first time seeing her even, so there was no such thing.

AD HASSIM SC: Okay, so it was just a conversation to help you to get more buildings?

MR MATLALA: Yes.

AD HASSIM SC: And there was nothing that they would get in return?

MR MATLALA: No.

AD HASSIM SC: Let me say, the Deputy Minister, nothing the Deputy Minister would get in return?

MR MATLALA: No. No, she did not, it was my first time even meeting her.

AD HASSIM SC: No, I get that. And there was nothing that Mr Sibiya would get in return?

MR MATLALA: No.

AD HASSIM SC: Yes, okay. Let us go to paragraph 31 on page 10.

MR MATLALA: This is also false.

AD HASSIM SC: In its entirety?

MR MATLALA: Yes, the entirety 31 is false.

AD HASSIM SC: So, again, the investigators made this up?

MR MATLALA: Yes, they did.

AD HASSIM SC: Okay. Paragraph 32 on page 10. And I just need to tell you, paragraph 32, when you turn over the page to complete that paragraph, you need to go to the red number, page 9. Remember the pages were swapped around. So, Sibiya asked me to cut him on the deal, and I agreed that I, and then you go to the top of page 9, would give him part of the profits.

MR MATLALA: After 32, then it will be 28, right?

AD HASSIM SC: Yes.

MR MATLALA: According to how ...[intervenes]

AD HASSIM SC: Yes.

MR MATLALA: Yes, I am following so far, yes.

AD HASSIM SC: Okay, thanks. What is your, do you confirm the contents of paragraph 32?

MR MATLALA: No, I do not.

AD HASSIM SC: No?

MR MATLALA: I do not.

AD HASSIM SC: Which part of it is inaccurate?

MR MATLALA: The entire paragraph.

AD HASSIM SC: The entire paragraph, you say?

MR MATLALA: Yes.

AD HASSIM SC: Okay. Now, at the end of that paragraph, it says, I received the signed lease in mid-December 2023, and you attach as VM7, and it is your VM7, you can go there. You will find it starts at page 161.

MR MATLALA: It is the lease agreement?

AD HASSIM SC: The lease agreement, yes.

MR MATLALA: Yes.

AD HASSIM SC: So, are you saying that that is not true as well?

MR MATLALA: No.

AD HASSIM SC: Is this a false document?

MR MATLALA: No. No, it is not a false document, but this document, I sent it to General Sibiya when I first met him in January. You can check on my email, his email and my email is there.

AD HASSIM SC: No, that is fine. I am just testing. You said the entire paragraph is false.

MR MATLALA: Actually, it proves that it is false, yes, because of my, the email will show when was this thing sent. It was January 2024.

ADV BALOYI SC: But this paragraph says that I received the signed lease agreement in mid-December 2023. That is the last sentence in that paragraph.

MR MATLALA: Yes.

ADV BALOYI SC: And the lease, the last person signing the lease signs on the 11th of December 2023, so it looks like that sentence would be correct. If the lease was signed in December 2023, you could only have received it after the 11th of December 2023.

MR MATLALA: Yes, no, the lease I signed in 2020 – the lease ...[intervenes]

ADV BALOYI SC: Someone signed for you in November 2023, the 30th of November 2023, and then someone signed for the Department on the 11th of December 2023.

MR MATLALA: Yes, that is correct.

ADV BALOYI SC: So, I am saying to you, considering the date of December 2023 as the signature date, last signature date, then that last sentence in your statement that you received the lease in December 2023 must be correct.

MR MATLALA: No, that I agree, yes, it is correct.

AD HASSIM SC: Okay.

ADV BALOYI SC: Thank you.

AD HASSIM SC: So, it is not that the entire paragraph is false.

MR MATLALA: Yes, yes.

AD HASSIM SC: Okay, so you accept the last sentence and Annexure VM7?

MR MATLALA: Yes.

ADV KHUMALO SC: Before you leave, Advocate Hassim, Mr Martella, when did you say you first met General Sibiya?

MR MATLALA: 2024 in January.

ADV KHUMALO SC: So, when did this meeting take place, the meeting with Mr Cabonge, the Deputy Minister and what is it, ...[indistinct]? When did that meeting take place?

MR MATLALA: It was during, before, I remember because when I was awarded the contract, then I stopped pursuing to occupy there. So, it was between January and June before I was awarded the contract.

ADV KHUMALO SC: So, it was not in 2023?

MR MATLALA: No, because I met him in January and then I was pursuing to occupy the hospital. So, then in June when I was awarded the contract, I stopped pursuing to occupy the occupation of the hospital because now I was focused on the tender. So, it will be between January and June somewhere.

ADV KHUMALO SC: 2024?

MR MATLALA: 2024, yes.

ADV BALOYI SC: You say the, let me check this. If the lease is signed in December 2023, then your discussion with General Sibiya and Berry could not have been about

occupation because you do not have the lease before December. If you met before December, it must logically follow that then those discussions happened before you were given this lease in December. You understand what I am putting to you?

MR MATLALA: My meeting with Berry was not to occupy the lease. I already had the lease.

ADV BALOYI SC: So, you must have met her after December 2023 then if ...[intervenes]

MR MATLALA: Yes ...[intervenes]

ADV BALOYI SC: You already ...[intervenes]

MR MATLALA: I said between January and June 2024.

ADV BALOYI SC: Okay. So, we must accept that your meeting with the Deputy Minister was after December 2023 after you had been given the lease?

MR MATLALA: Yes.

ADV BALOYI SC: Okay.

AD HASSIM SC: On red page 9, can you go to paragraph 28 and tell us whether you confirm the contents of that paragraph?

MR MATLALA: Can I just read the first, just to confirm whether it is the right paragraph?

AD HASSIM SC: I met Brian ...[intervenes]

MR MATLALA: [Indistinct]... [cross-talking] yes. Ja, this is false.

AD HASSIM SC: In its entirety?

MR MATLALA: Yes, the entire, yes.

AD HASSIM SC: Did you ever meet Mr Cartwright in person?

MR MATLALA: Yes, I did.

AD HASSIM SC: When did you meet him?

MR MATLALA: During the, he first called and then after the award.

AD HASSIM SC: Which award?

MR MATLALA: The award of the contract. First, he came for the, what is it called? I met them, not only him, but the entire BAC team. It was during the, what is it called, when they go and evaluate the premises? I just forgot the name.

ADV BALOYI SC: Site inspection?

MR MATLALA: Let us say site, ja. Due diligence. Due diligence, ja, yes.

AD HASSIM SC: Okay, so that was the first time you met him?

MR MATLALA: Yes. Not only him, the entire BAC.

AD HASSIM SC: Okay, and you say this was after the award. If it was a due diligence, when did this due diligence take place?

MR MATLALA: I am saying the first one, the first, we applied, I applied first in 2019. And then ...[intervenes]

AD HASSIM SC: No, no, so what award or what are you

talking about now, the award of what?

MR MATLALA: The award of the SAPS tender.

AD HASSIM SC: Which tender?

MR MATLALA: The SAPS, it is only, the tender is only one tender that I had with SAPS.

AD HASSIM SC: The health risk management tender?

MR MATLALA: Yes.

AD HASSIM SC: You say you applied in 2019?

MR MATLALA: Yes, I think 2018, 2019, somewhere there.

AD HASSIM SC: But Mr Matala, it was only advertised in January 2023.

MR MATLALA: No, I first, I applied and then I was unsuccessful. I said, you were asking when did I meet him. I said the first time I met him. We applied first and then it was not awarded to me. I was unsuccessful the first time. I am taking you back to the first time we have seen, when did you meet him.

AD HASSIM SC: Okay, so you say the first time you met him was 2019?

MR MATLALA: Ja, 18, 19, I do not remember, somewhere there.

AD HASSIM SC: And so it was, you say that was an unsuccessful bid.

MR MATLALA: Yes.

AD HASSIM SC: Now, but what were you bidding for there,

which tender, because remember, the health risk services tender, the Medicare24 one ...[intervenes]

MR MATLALA: Yes.

AD HASSIM SC: That contract, that was only advertised in January 2024.

MR MATLALA: No, after every three years or four, three or four years they advertise it. It is not the first time.

AD HASSIM SC: Okay, so it was advertised before. Okay, and you were unsuccessful. Do you know who was the successful bidder then?

MR MATLALA: Yes, it was Metropolitan.

AD HASSIM SC: Okay, so you met Mr Cartwright back in 2018 or 2019. Was it through the arrangement of General Thema?

MR MATLALA: No.

AD HASSIM SC: Okay.

MR MATLALA: I do not even think they know each other.

AD HASSIM SC: Okay, paragraph 29.

MR MATLALA: This is false.

AD HASSIM SC: Again, is it false in its entirety?

MR MATLALA: Ja, the entire, yes.

AD HASSIM SC: So you are saying that this was inserted by the investigators. You did not provide any of this information to them.

MR MATLALA: No, but this too I would know. Ja, no, this

is false.

AD HASSIM SC: Okay, paragraph 30.

MR MATLALA: Ja, paragraph 30, I see.

AD HASSIM SC: You confirm that?

MR MATLALA: Yes.

AD HASSIM SC: Paragraph 31.

MR MATLALA: Ja, well, this is from their state witness. They showed me this statement also. So they were just confirming what someone already told them. So it is not me. I do not, I am denying this.

AD HASSIM SC: Well, are you denying the entire contents of paragraph 31?

MR MATLALA: Yes, I am denying it. I am even, actually, let me say I do not even want to comment on it for self-incrimination.

AD HASSIM SC: So which is it, are you denying the contents of paragraph 31, or are you saying you do not wish to answer?

MR MATLALA: I do not wish to answer to incriminate myself, yes.

AD HASSIM SC: Okay. I am going to ask another question about it, and that is whether you made any payments to Mr Cartwright. Here it refers to certain payments.

MR MATLALA: I do not wish to incriminate myself also.

AD HASSIM SC: Paragraph 32.

MR MATLALA: I do not wish to also comment on this ja, for self-incrimination.

AD HASSIM SC: No, that is a blanket claim which we have already discussed is not permissible. Let us take it bit by bit. The first sentence says, I communicated with Brian regularly, and I attach hereto the WhatsApp communication, which I shared with him and which I have access to. You have already testified that you know Mr Cartwright, that you know him since 2019, and you attach as VM8 the communications. Now, without going to the contents of the communications, how does confirming the correctness of the sentence amount to self-incrimination?

MR MATLALA: Yes, this goes straight to the heart of the case and I am saying this is, for me, I see this as self-incrimination.

AD HASSIM SC: Do you know you have already accepted that you have communicated with Mr Cartwright and you know him since 2019?

MR MATLALA: Yes, knowing him, yes, but I was not talking about the case. I say I know him, yes.

AD HASSIM SC: Okay. The second sentence, Brian's burner phone number is saved on my phone as Gunduwan. Is that correct?

MR MATLALA: Chairperson, I do not want, this is the heart of the case, I do not want to comment on this. This is

directly self-incrimination.

AD HASSIM SC: Well, we have the WhatsApp chats. I am sorry, Chair.

CHAIRPERSON: Exactly because of those chats, I think I will disallow the question because the name mentioned here is there as well and, and, and.

AD HASSIM SC: Okay, Chair, I accept that. We will move past it.

CHAIRPERSON: Thank you.

AD HASSIM SC: Chair, are you disallowing any questions on this paragraph, just to be clear, or is it just that question?

CHAIRPERSON: I would not know because I do not know the other questions.

AD HASSIM SC: Okay.

CHAIRPERSON: But it does seem to cut very close to the bone.

AD HASSIM SC: Can I ask you, Mr Matlala, at least whether Annexure VM8, you confirm that Annexure VM8 that you have attached to the statement.

MR MATLALA: I did not attach any annexure.

AD HASSIM SC: Well, let me rephrase that. Do you confirm VM8? It starts at page 176.

MR MATLALA: So VM8 is paragraph 32?

AD HASSIM SC: VM8, it is Annexure VM8, it starts at page

176.

MR MATLALA: Yes, I am saying, we were talking about paragraph 32 of the page that I am saying I do not want to comment on.

AD HASSIM SC: Yes, it is the same paragraph.

MR MATLALA: Yes, I am saying I do not want to comment on that.

AD HASSIM SC: You do not want to answer.

MR MATLALA: Yes.

AD HASSIM SC: Okay. Paragraph, okay, now let me just get the right number, page numbering. Now, we are going to go to paragraph 33, which you will find on page 11. It starts, prior to me going.

MR MATLALA: Ja, this paragraph, I think we would rather take it sentence by sentence so I can, because some I agree, some I do not. So, rather, let us go sentence by sentence.

AD HASSIM SC: Sentence by sentence.

MR MATLALA: I will start with the first sentence.

AD HASSIM SC: Yes.

MR MATLALA: The first sentence is true. Sergeant Nkosi is the one who gave me the email address to lay a complaint.

AD HASSIM SC: Okay. Second sentence?

MR MATLALA: Even the second sentence is true.

AD HASSIM SC: Okay. Third sentence?

MR MATLALA: Third sentence, this is where I was saying before that they were building this thing because they wanted to incriminate General Masemola. So, it is not true. They wanted to charge General Masemola, so they wanted to link him with General Thema, so, it is not true.

AD HASSIM SC: So, this was inserted by the investigators.

MR MATLALA: Yes, it is not true.

AD HASSIM SC: Okay. And the last sentence?

MR MATLALA: It is not true.

AD HASSIM SC: Okay. Paragraph 34.

MR MATLALA: This is not true, but however, the 50K, there is a point, but not at this occasion.

AD HASSIM SC: What is it then?

MR MATLALA: He says that I gave him 50,000 in his office. So, I am saying this is not true, not in his office.

AD HASSIM SC: Not in his office.

ADV KHUMALO SC: You are saying you gave him 50,000 at another occasion?

MR MATLALA: I am saying not here, yes.

ADV KHUMALO SC: No, no, I understand.

MR MATLALA: Yes.

ADV KHUMALO SC: Not in his office, but at another occasion or on another occasion you gave General Sibiya

50,000.

MR MATLALA: Yes.

AD HASSIM SC: And when was that other occasion?

MR MATLALA: It was during the, what is it called, excellence awards of SAPS. They were somewhere in KZN.

AD HASSIM SC: And that was in the amount of 50,000?

MR MATLALA: Yes.

AD HASSIM SC: So, in this paragraph, it speaks about money provided to Mr Sibiya at his office. Was there any amount, not 50,000, but any other amount that was provided to him?

MR MATLALA: The first time I went to General Sibiya's office, obviously I did not know him, so, there was no money that I gave him the first time. The thing is, these investigators, they told me that they know that that office was occupied by the late General ...[incomplete].

CHAIRPERSON: General Mfazi.

MR MATLALA: The late General, the National Commissioner, Siyabi, what? Ja. Who?

ADV BALOYI SC: Selebi.

MR MATLALA: Selebi, yes. So, they said they know the layout of the office, the carpets, everything, so they said I must describe it as they know it. So, that is why they said that office now was occupied by General, at that time it was occupied by General Sibiya.

AD HASSIM SC: So, you did not give them any of this information in paragraph 34?

MR MATLALA: No.

AD HASSIM SC: You never referred to a private restroom and all of that kind of thing?

MR MATLALA: No, no.

AD HASSIM SC: Okay. Paragraph 35.

MR MATLALA: This is not true.

AD HASSIM SC: Is it not true in its entirety?

MR MATLALA: Yes, the entirety of 35, yes.

AD HASSIM SC: Paragraph 36.

MR MATLALA: 36 is also false.

AD HASSIM SC: In its entirety?

MR MATLALA: Yes.

AD HASSIM SC: You never discussed the matter again after Medicare had been appointed? You never had discussions with General Sibiya about the Medicare contract?

MR MATLALA: No, no, nothing.

AD HASSIM SC: Never?

MR MATLALA: No, nothing.

AD HASSIM SC: Paragraph 37.

MR MATLALA: I wish not to comment on this.

AD HASSIM SC: Okay. You went on to, so it is paragraph 37 goes on to red number, page 12, and it ends, we agreed

on me paying ...[indistinct] time. You say you wish not to comment?

MR MATLALA: Yes.

AD HASSIM SC: But what is the basis upon which you refuse to comment?

MR MATLALA: I do not want to incriminate myself.

AD HASSIM SC: Okay. Paragraph 38.

MR MATLALA: I also do not want to incriminate myself or one of my companies where I am a sole director.

AD HASSIM SC: Paragraph 38, that company is the two companies mentioned.

MR MATLALA: Yes.

AD HASSIM SC: Medicare and Black AK. Okay, paragraph 39.

MR MATLALA: Also, I do not want to comment on this to avoid incriminating myself.

AD HASSIM SC: Okay. Paragraph 40.

MR MATLALA: Paragraph 40 as well, I do not want to incriminate myself.

AD HASSIM SC: Paragraph 41.

MR MATLALA: Paragraph 41 also, I do not want to incriminate myself.

AD HASSIM SC: Paragraph 42.

MR MATLALA: I do not want to incriminate myself.

AD HASSIM SC: Paragraph 43.

MR MATLALA: I do not want to incriminate myself.

AD HASSIM SC: Paragraph 44.

MR MATLALA: I do not want to incriminate myself.

AD HASSIM SC: Paragraph 45.

MR MATLALA: I do not want to incriminate myself.

ADV BALOYI SC: Would you incriminate yourself ...[intervenes]

AD HASSIM SC: Yes.

ADV BALOYI SC: If you are saying you are unable to account for any assistance because you say, I do not know whether he granted any assistance and then you conclude by saying that, I confirm that any alterations made were not made by me or any employee of Medicare. So that whole paragraph, how would it implicate you if you start off by saying, I do not know what he did, if he did anything?

MR MATLALA: Yes, I am saying I do not want to comment on it because I do not know, so commenting I would incriminate myself. I do not know. Maybe I did not use the correct word.

ADV BALOYI SC: Okay, you are not saying if you say anything you will incriminate yourself. You are saying, I do not know, I am not commenting any further. I need to understand what your response is.

MR MATLALA: Because, Commissioner, you said I cannot just say I do not know, I must give reasons. So saying I do

not know, I am avoiding to say on what basis.

ADV BALOYI SC: Yes, well, I am looking at what the paragraph says. In the paragraph you say, I am unable to account as to what assistance Brian provided once the bid was submitted as I did not have control of the bid document. It seems to me there should be no problem with that statement.

MR MATLALA: But it is insinuating that there was some sort of an assistance from Brian.

ADV BALOYI SC: Is that how you read it?

MR MATLALA: It says, I am unable to account as to what assistance Brian provided, so there is some insinuation that Brian might have assisted.

ADV BALOYI SC: Okay. So are you saying you do not know that he gave any assistance that he might have given once the documents were received. Is that what you are saying?

MR MATLALA: No, I was saying I do not want to incriminate myself by commenting on this.

ADV BALOYI SC: Ms Hassim.

AD HASSIM SC: Let us move on to paragraph 46.

MR MATLALA: This is false.

AD HASSIM SC: Okay, you say this is false. In other words, you are saying that General Sibiya had never offered to provide assistance with the tender.

MR MATLALA: No, he never. The tender, I already applied when I met General Sibiya. I met him in January. By that time I already applied. That is why I am saying there is a problem. I was even asking my lawyer, he said it was advertised in January. I said, I do not know, maybe it was re-advertised again, so, because in January already I applied. I applied already in January. I knew that.

AD HASSIM SC: Well, I am saying to you, and again, we will pull that out, please, the evidence of the 31st January is the date on which it was advertised and we showed you that General Fani said so, and he was responsible for procurement in the SAPS. So I am just reminding you of that, but we will find other corroborating evidence to back that up if you so wish. But there is a second point here, which is that you deny that General Sibiya said he would assist you with the tender and you are saying he could not have assisted you with the award of the tender. Did he agree to assist you after the tender was awarded?

MR MATLALA: No, already it was awarded, so there was no assistance.

AD HASSIM SC: There was no assistance or offer of assistance from General Sibiya to you at any point?

MR MATLALA: You know, there is a confusion that I think that is where your question comes from, because in December 2024, General Sibiya was an Acting National

Commissioner and at that time, I was doing, what is it called, for the trainees, a medical for the trainees. So we needed to use, we needed a place. The person who was in charge for the trainees in SAPS told me that the person who is in charge now is General Sibiya, who can assist in allowing us to use the facility inside the college, not even the hospital. It was not even the hospital. They gave us maybe a hall, and we used like screenings for privacy. It was not even the hospital. I think the confusion comes from there, because in December, yes, I did contact him about the, 2024, I did contact, December, November, I am just not sure about the dates, I did contact him about, but he did not respond even. And by the time that Brigadier said no, General Zulu gave us permission already. It is General Zulu I think, ja. Zulu. Ja, she said Zulu or something. I just do not remember. I think so, yes.

AD HASSIM SC: I just wanted to confirm something simple with you, that he did not offer to provide assistance to you in relation to the tender at any point, whether before it was awarded or after it was awarded.

MR MATLALA: No, he did not.

AD HASSIM SC: He did not?

MR MATLALA: Yes.

AD HASSIM SC: So when you went to speak to him in December 2024, you tried to get assistance and he did not

assist you?

MR MATLALA: In 2024?

AD HASSIM SC: Yes, you referred to December 2024.

MR MATLALA: No, I said I sent a message in 2024 asking for, to use the facility in SAPS College, because at that time he was an Acting National Commissioner. So we were asking in his capacity as a National Commissioner.

AD HASSIM SC: Okay.

MR MATLALA: So he did not even respond.

AD HASSIM SC: Okay. But you are categorical that General Sibiya did not assist you with the health risk management tender, any aspect of it.

MR MATLALA: Yes. No, he did not.

AD HASSIM SC: I must again warn you, Mr Matlala, that you are under oath.

MR MATLALA: Yes, yes.

AD HASSIM SC: And you say that there were no payments that were made to General Sibiya.

MR MATLALA: Except the 50K, yes, no payments.

AD HASSIM SC: Okay, we will come back to that.

MR MATLALA: Of course.

AD HASSIM SC: Paragraph 47 on page 13.

MR MATLALA: I do not want to comment on this.

AD HASSIM SC: Why?

MR MATLALA: I do not want to incriminate myself.

AD HASSIM SC: How would you incriminate yourself here?

MR MATLALA: These are the documents of the same case that I am attending.

AD HASSIM SC: Okay.

MR MATLALA: That they were seized from my house.

AD HASSIM SC: The annexure that is referred to here is VM9, and you will find that at page 205. Without commenting on the preceding part of paragraph 47, can you confirm that these are the bid documents?

MR MATLALA: Yes, they are.

AD HASSIM SC: Okay, let us go to paragraph 48.

ADV BALOYI SC: I think, Mr Matlala, you actually said that these are part of the documents that were seized from your house. You said that. So that part of the paragraph you accept.

MR MATLALA: Yes.

ADV BALOYI SC: Okay, thank you.

AD HASSIM SC: Paragraph 48.

MR MATLALA: No, this is false.

AD HASSIM SC: Is it false in its entirety?

MR MATLALA: Yes.

AD HASSIM SC: So you are saying that the investigators never, oh, sorry, the investigators inserted this. They made this up.

MR MATLALA: Yes. Ja, they made a lot of things up, yes.

AD HASSIM SC: So there was no R500,000.00 in cash that you paid to General Sibiya?

MR MATLALA: No.

AD HASSIM SC: Paragraph 49.

MR MATLALA: It is also false.

AD HASSIM SC: Mr Matlala, is it false in its entirety?

MR MATLALA: It is false that I indeed complied with his request, because I see they are relying on the 500,000 that I transferred to Mr Makofani. So, yes, the 500,000 I transferred to Mr Makofane is not false, but I am saying this was not the money that was going to General Sibiya.

AD HASSIM SC: So you accept that you transferred R500,000.00 to Mr Makofane?

MR MATLALA: Yes.

AD HASSIM SC: Paragraph 50.

MR MATLALA: The first sentence is false.

AD HASSIM SC: And the remainder?

MR MATLALA: The remainder is correct.

AD HASSIM SC: Paragraph 51.

MR MATLALA: It is false. The entire paragraph is false.

AD HASSIM SC: Paragraph 52.

MR MATLALA: This is false. The entire, I have never met General Fani.

AD HASSIM SC: The entire paragraph is false?

MR MATLALA: Yes, the entire paragraph.

AD HASSIM SC: Just give me a second, please. Paragraph 53.

MR MATLALA: Only the last sentence that I transferred 500,000 to my friend's company is true, but the rest is false.

AD HASSIM SC: Paragraph 54.

MR MATLALA: This is false.

ADV KHUMALO SC: Where do you think the IDAC investigators got this information? I mean if there was a meeting between you, General Sibiya, and Mr Fani, only the three of you would know about it.

MR MATLALA: Exactly, Commissioner.

ADV KHUMALO SC: So where would they get this information?

MR MATLALA: But there was never a meeting. So this information, they are trying to build a case against General Fani. So there is no, there was never a meeting with me and General Sibiya. I never even met, even today I do not know General Fani. I never met him.

ADV KHUMALO SC: And then the SAPS documents that were seized at your house, how did they get to your house, while Advocate Hassim is busy with what she is doing.

MR MATLALA: I do not want to comment on that. This is the documents that relates to my case, so I do not want to incriminate myself.

ADV KHUMALO SC: But you confirmed that they were

found at your house.

MR MATLALA: Yes, I confirmed that, yes.

ADV KHUMALO SC: But you do not want to say why or how they ended up at your house.

MR MATLALA: I do not want to incriminate myself, Commissioner.

AD HASSIM SC: So, you know, Mr Matlala, you would have noticed that I have asked you several times now and I have cautioned you several times now that you are under oath and I was going to wait until we were done with the statement, but it really is an appropriate time for me to do it, because it is squarely on the issues that are contained in these paragraphs that I would like to take you to another bundle. And that bundle, if someone could please assist Mr Matlala, it is the one that says "Application for Immunity, Supplementary Affidavit, Consultation Notes", file 10. Can you provide it to Mr Matlala? Thanks. Do you have it, Commissioners?

MR MATLALA: Come again?

AD HASSIM SC: I am just confirming that the Commissioners have the file.

CHAIRPERSON: Yes, we do, thank you.

AD HASSIM SC: Thank you. Mr Matlala, could you go to the tab that says "Consultation Notes". It is towards the back of the file. Do you see it?

MR MATLALA: Consultation Notes?

AD HASSIM SC: Yes. Can you help Mr Matlala find it, please?

MR MATLALA: It says "Application for Immunity, affidavit by Matlala."

AD HASSIM SC: And page one of that section. Do you see that that is an affidavit by a senior investigator, Mr Dlamini?

MR MATLALA: Yes.

AD HASSIM SC: Now, you would have seen this already because it was provided to you some time ago. Have you read this?

MR MATLALA: No. But it is fine, I can read it now.

AD HASSIM SC: Okay, so let us just go to paragraph 1. It describes who Mr Dlamini is. He is a senior investigator for the Commission. I am just going to summarize as we go through, but let me know if you would like me to pause. Just for the sake of progress, I am summarizing. Paragraph 2, he describes his duties. Paragraph 3 he says what the purpose is and he says:

> "It is to place on record under oath the consultation held with Mr Vusimuzi Mitlala at Kgosi Mampuru Correctional Centre in Pretoria on 27 March 2026 at approximately 10 a.m. and to confirm the

nature of the matters discussed during that consultation."

Paragraph 4, he says:

"The consultation was convened for investigative purposes and was attended by the following individuals ..."

And he lists all the individuals, Evidence Leaders, your legal representative, and attorneys of the Commission. In paragraph 5, he explains that:

"The primary purpose was to obtain clarification from Mr Matlala in respect of allegations made against him and to gather information that may assist the Commission."

Paragraph 6, he says:

"During the consultation, Mr Matlala provided explanations concerning his relationships, dealings, and interactions with various officials. He was afforded an opportunity to explain the context of those relationships, the nature of his engagements with the persons concerned, and any circumstances that he regarded as relevant to the Commission's assessment. I recorded

the material aspects of the consultation in my meeting notes."

Paragraph 7:

"Mr Matlala further provided information concerning financial payments allegedly made by him or on his behalf to certain individuals, including SAPS officials, politicians, and other related parties. The information provided included where available the identity or description of the persons concerned, the general nature of the payments, and the circumstances in which such payments were said to have been made."

Paragraph 8:

"In addition, Mr Matlala provided information regarding his engagements and relationships with officials of the Ekurhuleni Metropolitan Police Department, EMPD. This included information relating to alleged financial payments, benefits, gratuities, and other forms of assistance that may have been made available to such officials."

Paragraph 9:

"Mr Matlala also volunteered information relating to his testimony before the Ad Hoc Committee. In particular, he stated that he had been coerced and or forced by a senior member of the SAPS to provide false testimony before the Ad Hoc Committee. This information had not previously been within our knowledge and was not information that we would have known to raise with him during the consultation without him volunteering it."

Paragraph 10:

"I prepared notes during the consultation in the ordinary course of my investigative duties. These notes record in greater detail the issues raised, the explanations provided by Mr Matlala, and the matters identified for possible further investigation. I attach my consultation notes to this affidavit as Annexure 1."

And then he confirms the truth and the correctness of the contents, and he signs, and it is commissioned. Now I would like you to go, turn over the page, page 4 and that is where his notes begin.

> Now, just for the purposes of what we have been dealing with, you will see there is a heading that says "General Sibiya".

And what Mr, let me just say one other thing, just for completeness, sorry, Mr Matlala. You will see at page 10 of the same bundle, if you just skip forward to page 10, there is an affidavit by the attorney for the Commission who was also present at the consultation and she says she has read the affidavit of Mr Dlamini and confirms the facts contained therein so far as it relates to the content of the consultation. Page 10, do you see that?

MR MATLALA: Yes, I see it.

AD HASSIM SC: Okay, now let us go back to page 4. Under the heading "General Sibiya", what is contained in these notes is the following. He says:

> "During those interactions, General Sibiya asked Cat, since he was in the hospital business, why he does not tender for the health risk tender. He further told Nkosi about the tender."

The next bullet he talks about assistance of the tender. I am just skipping forward because I want to get to just this paragraph that brought us here.

We will return to all of the other contents at a later

point, but if you look at one, two, three, four, the fourth bullet, he says, in the house, no, let me go to the bullet before.

> "Cat indicated that after the tender was awarded, he withdrew R500,000.00 from his two companies, Medicare24 and or Luxo Africa Brand. This happened prior to him being paid. He had to borrow the money. He took the money to General Sibiya's estate, Copper Leaf Golf Estate, Nandi plot, to give General Sibiya the money."

And the next bullet:

> "In the house, there was someone sitting at the bar, General Fani, Divisional Commissioner, SCM. General Sibiya told Cat that this was the person who will help him with the contract. General Sibiya told Cat that this contract, people are going to fight for it."

Now, this directly contradicts what you have just said. This is not an issue about self-incrimination, let me be clear. This is about your previous testimony in respect of these paragraphs, which you have said are false in their entirety.

MR MATLALA: Yes.

AD HASSIM SC: If we go back to paragraph 52 that we were dealing with, about the introduction to General Fani and the gentleman who was sitting at a bar.

MR MATLALA: So, okay, are we still on this notes?

AD HASSIM SC: Now, what I want to put to you is that your evidence now to the Commission is false. You are not being truthful with the Commission today, because in this consultation, which took place on the 27th of March 2026, you volunteered this information about meeting General Fani at Mr Sibiya's place, at his residence. What do you wish to say to that?

MR MATLALA: Yes, I want to question this notes because I never met General Fani in my life. Even today, I have never met General Fani. And either way, 2024, like I said, the contract was awarded in June, July, so, and General Sibiya does not stay in Copperleaf Estate. He is a farmer who ...[indistinct] Nandi. But I think the person who was taking this notes, some of the information is true, but it is not relevant. It is not General Sibiya. This is not true. I was telling you before, even before you started cross-examining me, that there was some other information that I was disclosing to IDAC officials, which they said, no, these guys are lying, do not mention it. So, I think maybe the person who was taking this note confused the names,

because if I can check the notes, some of the things that I have mentioned, they are not here.

AD HASSIM SC: What things you mentioned? But let me, before you tell me what things you mentioned that are not here, let me say this to you. It is very strange that what is contained in Mr Dlamini's consultation notes about General Fani being in, someone who is sitting at the bar, corresponds with what you say in the Section 204 statement, paragraph 54, which you have said is false already. Sibiya is present ...[indistinct] Sibiya's entertainment area. How could they both be incorrect? Where would Mr Dlamini have gotten that information from, if it was not from you?

MR MATLALA: No, it is not from me.

AD HASSIM SC: And remember, there were witnesses.

MR MATLALA: Yes, of course, that is what I am saying the witnesses, I am questioning also myself, I am questioning also that, why the rest of the stuff that I have mentioned is not here. So, the notes, I am saying he might have confused the names, because when he says I was with Fani, General Fani, I have never met Fani in my life. I have never met him.

ADV BALOYI SC: Unless you made it up. I mean, the one possible explanation, Mr Matlala, is you made up the story about meeting General Fani at General Sibiya's house. You

would have mentioned it to the Commission investigator in March, and then later in June, you mentioned exactly the same thing to IDAC. So the best explanation for you is you made up the story.

MR MATLALA: But why would I do that?

ADV BALOYI SC: Well, then it does not make sense why you would make it up, therefore, the probability is these two people have nothing to do with each other. The investigator who has a witness, the Commission investigator who has a witness who is an attorney, and the IDAC investigators have nothing to do with each other. You give statements in March and in June on matters that only you would know about they could not have made it up. It is just improbable that two people, in fact three people, who have absolutely nothing to do with IDAC, two on the Commission side, and then you say the investigators of IDAC, they have nothing to do with each other, on different dates they say you told them the same thing.

MR MATLALA: But if we can check the bank statements, when was this money withdrawn, and we check the locations of both myself and General Fani or General Sibiya, I do not think, obviously we will be in different locations. So, that is why I am saying it cannot be that, I am saying maybe they have confused, or myself, I have confused the names, not for General Fani. I have never met General Fani in my life.

I have never met General Fani.

ADV BALOYI SC: Yes, maybe you did, but that is not your explanation. You say it is made up. We started off with you saying the IDAC people, they lie, they made this up. Now you are being confronted with, no, but that cannot be, because here is the Commission investigator, an attorney, recording a consultation where you said exactly the same thing. Explain that to us in a way that makes sense, why two groups of people would record as what you have said exactly the same thing.

MR MATLALA: Why was this statement taken after my consultation with IDAC?

ADV BALOYI SC: Sorry?

MR MATLALA: This statement, was it taken after my consultation with IDAC?

AD HASSIM SC: After your consultation with IDAC?

MR MATLALA: I am asking, yes.

AD HASSIM SC: I would not know when that consultation took place. That is between you and IDAC. This is a consultation that took place by the people we have listed here and yourself, and it is ...[intervenes]

MR MATLALA: No, I wanted to say – yes, okay ...[indistinct] want to check the dates.

AD HASSIM SC: 27 March. 27 March 2026.

MR MATLALA: It is this year, yes.

AD HASSIM SC: Sorry?

MR MATLALA: No, it is fine, it is this year. I wanted to check the date.

AD HASSIM SC: Yes, yes, it was 27 March 2026. I read it out to you in the statement, and you will see it is at the top of the consultation notes. Now, how is it, either you lied here, and in the 204 ...[intervenes]

MR MATLALA: Can you please repeat that?

AD HASSIM SC: But which of these is correct? We have got two versions that are consistent. We have got the 204 statement, you said that is false. I then take you to this statement, which is the exact same story about meeting General Fani in an entertainment area. That is one fact that is similar, but I can show you others. So, I am asking you, how is it that both happen to be so similar, and you say that it was confused, that maybe it was a confusion, that it did not come from you?

MR MATLALA: Yes, but that I cannot answer it, because I am not the one who confused the names, so I cannot answer you on that one.

AD HASSIM SC: No, how is this ...[intervenes]

ADV BALOYI SC: But you signed the Section 204 statement. You signed it. The 204 statement has got your signature, it is your affidavit and it contains allegations that are repeated in a completely unrelated document, which is

the consultation with the Commission investigators. And there was a team of them, but we know the attorney, who was also present, confirms that this is what you said in the consultation.

MR MATLALA: Yes, I agree that I have signed this affidavit, but most of the things that are here are untrue. So, I have signed it, yes, it is my signature, and my initials, I confirm that and I am not denying that. So, but I am saying I have never in my life, I do not know even General Fani, how does he look like. So, I do not know why, that is why I was asking even the dates, whether I met the investigators before IDAC or after. So, I have never met General Fani in my life, I have never.

ADV BALOYI SC: Ja, it is improbable that the Commission investigators would have come up with this story. I mean, you pluck it out of air. They do not know you, they sit in a consultation with you, they do not know your movements. It is just improbably, implausible that they would have made it up. They got it from you, that you had this meeting with General Fani. It must have come from you. And confirmation that it comes from you is that it is also contained in the Section 204 statement that you signed. So, there is that consistency, but forget the 204 statement, let us talk about the Commission investigators and the attorney, they could not have made it up.

They know nothing about your life, where you go. They do not know that stuff. You are the one in the consultation that would have told them this. You are the only person that would have said this and that is why I said to you, maybe your best shot is to say, maybe I was confused on the day and I was just blabbering names. That is the best explanation, but it comes from you. It is improbable it comes from the investigators.

MR MATLALA: I hear you, Commissioner, but I still stand by my words that I have never met General Fani, so I cannot say I was confused, but I know for sure for a fact that I do not even know how he looks like. That is a fact.

ADV BALOYI SC: Thank you. Ms Hassim?

ADV KHUMALO SC: Sorry, let us do this. You confirmed the meeting of the 27th of March 2026. You met with the Commission's investigators on the 27th of March.

MR MATLALA: The date I do not remember.

ADV KHUMALO SC: But in March you did meet with them.

MR MATLALA: I met them, but when I do not remember.

ADV KHUMALO SC: And in that meeting you volunteered certain information.

MR MATLALA: That meeting, from what I know, I have never given a statement, so we are having ...[intervenes]

ADV KHUMALO SC: No, no, I am not asking about a statement.

MR MATLALA: Off the record discussions.

ADV KHUMALO SC: Did you volunteer information during that meeting?

MR MATLALA: Yes, I did.

ADV KHUMALO SC: And did that information include your relationship with General Sibiya, the information that you volunteered?

MR MATLALA: No. No.

ADV KHUMALO SC: So you never discussed General Sibiya with the Commission's investigators during that meeting?

MR MATLALA: I do not remember.

ADV KHUMALO SC: Why do you not remember? You were in the meeting.

MR MATLALA: Yes, I do not remember that.

ADV KHUMALO SC: Yes, why, why do you not remember?

MR MATLALA: Why, so your question is why did I forget?

ADV KHUMALO SC: No, no, you were in the meeting ...[intervenes]

MR MATLALA: To not remember is, I do not have the recollection of me saying that I was with General Fani and General Sibiya.

ADV KHUMALO SC: No, I am asking about General Sibiya. Did you volunteer information about General Sibiya during that meeting?

MR MATLALA: So my question will be what information?

ADV KHUMALO SC: Any information about General Sibiya.

MR MATLALA: I already gave it before this Commission.

ADV KHUMALO SC: I am talking about the meeting, Mr Matlala. During this meeting in March 2026, did you volunteer information about General Sibiya to the Commission's investigators, yes or no?

MR MATLALA: We spoke about them, yes, but to what information is something that I am saying I do not know, because I think you want to go back to this information of General Fani and General Sibiya, so ...[intervenes]

ADV KHUMALO SC: I am not there yet.

MR MATLALA: Then what other information will that be?

ADV KHUMALO SC: I am going to ask you, what information about General Sibiya did you volunteer at that meeting?

MR MATLALA: Maybe I was drunk, I do not know. Honestly, I was under psychiatric treatment at that time, so I do not remember. So I do not remember.

ADV KHUMALO SC: So you cannot dispute that you provided this information?

MR MATLALA: I was heavily, heavily drugged, I do not remember.

ADV KHUMALO SC: Let us accept that for now. So you can dispute then that you provided this information to the

Commission's investigators?

MR MATLALA: But I cannot accept it because I do not remember it.

ADV KHUMALO SC: But you also cannot dispute it?

MR MATLALA: Yes.

ADV KHUMALO SC: Because you say you were drugged or you were under the influence of some substance.

MR MATLALA: No, I was, I was. I was under, you can even check my medical file, I was heavily under psychiatric treatment.

ADV KHUMALO SC: Maybe when you are in that condition, truth comes easily.

MR MATLALA: And how can when you are ...[incomplete].

ADV KHUMALO SC: It does happen, it is not unusual.

MR MATLALA: No, I do not know that. I am not a psychiatrist. But that is what I know for a fact that at that time, I was not okay. I was not okay.

ADV KHUMALO SC: I will leave it then, sir.

AD HASSIM SC: I just want to point out another fact that you, that is consistent between the two statements which you said, which you denied, you said it is false. Again, you did not raise self-incrimination, you actively said that it is false and that was the R500,000.00 cash, the R500,000.00 payment that arose and that you provided to General Sibiya at his estate. Now, if you look at the same page we were

looking at now, the bullet above, in the house, before the General Fani comment, it says:

> "Cat indicated after the tender was awarded, he withdrew R500,000.00 from his companies. This happened prior to him being paid. He had to borrow the money and he took the money to General Sibiya's estate to give General Sibiya the money."

Now, this is the same statement, in essence, that is made in paragraph 50 that you said is false. How is it that the exact same information is contained in the Commission's investigators' consultation notes? You said it is false in the 204, but when we go to Mr Dlamini's notes, you told the Commission that this is what happened. So were you giving false evidence here to Mr Dlamini and the Commission?

MR MATLALA: I was giving false evidence?

AD HASSIM SC: Were you giving false information here to Mr Dlamini and to the Commission's attorney?

MR MATLALA: I do not know Mr Dlamini, but I did not have a reason to give him false information, but I do not even remember him. I do not know him.

AD HASSIM SC: Do you see that it is very strange that there would be the same facts contained in these two

statements, given to entirely different people, which comes from you? It could only come from you, but that you say now, before the Commission, is false.

MR MATLALA: I agree, Chairperson, but I cannot now, what I know now and what I remember now cannot be false, because, I will say, if I was confused then, now meaning I should be better. I cannot say now what I was saying here is false. So, maybe, like I said, they have confused the names, I do not know.

AD HASSIM SC: But they could not confuse it because they do not know any of these facts. It is not in their knowledge. It could only come from you. There is a lot of detail in these notes. The address of General Sibiya's estate, the amount of money, the companies, General Fani, this peculiar fact about where you met General Fani, that it was in the, in the one statement it talks about an entertainment area, and in Mr Dlamini's statement he says that you said there was someone sitting at the bar. Those are very peculiar similarities. It is not something that somebody would just make up or get confused about. It could only have come from you.

MR MATLALA: Yes, I agree, it could have come from me. But when I check the dates here, it was after I met with these guys from IDAC here. Maybe I told them this first and that is why I told Mr Dlamini, but I do not remember ever,

ever meeting Mr Fani. Like I said, at this time I was not myself, so it is a day apart because I see that on the 28th I was in court, so I met them on the 26th. It was a day before actually I had a consultation with you. So, if I said this, meaning the same thing that I said to you, I said to, the same thing that I said to the Commission's investigators, it is things that I had a consultation with IDAC, a day before.

AD HASSIM SC: So when I was taking you through the 204 statement and I said to you, did the investigators then make this up and insert it, you said yes, they did.

MR MATLALA: Yes, I am saying they made this up. Maybe I am saying that is why, because I cannot remember. They told me to say this and then I said it to the investigators, but I do not remember saying all these things. I do not know how you can check the locations. I have never met General Fani in my life. I have never. My only thinking is that because I have met them before, maybe that is why I have said this to the investigators. But honestly, I was not myself then. I was sick and I think also even when you came to consult me, I even told you that I am under treatment, I am not okay.

AD HASSIM SC: So you were under treatment and you said things that you now say is not true, but you might have said it at the time because you were not in your right senses. Is that what you are saying?

MR MATLALA: I am saying, first of all, I said to you, I did not even know how did IDAC traced me that I was on my way back from Kokstad. I do not know. At night they just came. And then I know that I was commissioned by, I was asked to come to give testimony by Madlanga Commission. So how they knew, I do not know. So what happened after that is something which I cannot remember. I do not know. I honestly do not know what happened. But what I know is that I was not myself, I was sick and I even explained to you when you consulted me that I am not in my right space of mind, if you can remember. I do not know if you ...[intervenes]

AD HASSIM SC: So now that you remember, that part you do remember.

MR MATLALA: What?

AD HASSIM SC: That part of the consultation.

MR MATLALA: No, I am telling you that if you remember that I told you.

AD HASSIM SC: So are you asking me to go back to my memory? You are saying that you told us, you recall that that is what you said.

MR MATLALA: I am asking you if you remember.

AD HASSIM SC: I am not here to give evidence. You are here to give evidence, Mr Matlala.

MR MATLALA: Yes, I am sorry, but myself, I cannot recall

that.

AD HASSIM SC: There is more of these kind of inconsistencies that we will, we are going to get through as we continue with the evidence, but I am going to move now. I have pointed this out to you and you have responded. I am going to move back to the statement, the Section 204. We were at paragraph 54 and it was about General Fani, and that is what prompted me to go to those notes. So let us go back to paragraph 55.

MR MATLALA: I see, but I do not agree with this paragraph.

AD HASSIM SC: You do not agree with?

MR MATLALA: I do not agree, not the attachments, but I do not agree with paragraph 55.

AD HASSIM SC: Which part of paragraph 55?

MR MATLALA: The entire paragraph, except the attachments.

AD HASSIM SC: Okay, so you say again the entire paragraph is false, except the attachment, VM10. Okay, paragraph 56.

ADV BALOYI SC: Sorry, how did you know to send or to address this letter to General Fani? You have never met him. I am looking at VM10, which I assume you accept it is the letter that was sent by your company. How did you know to send to, to address it to General Fani?

MR MATLALA: It is my office who sent this letter, it is not myself. But anyway, they will know because they are the ones who were doing the work. They know what happened.

ADV BALOYI SC: No, I am asking more about the addressee. And keep in mind that I am asking the question in the light of, I know you deny the paragraph, but in the light of the paragraph where your statement says that he told you to address your letter to him and then to General Nkhuoa and to Brigadier Nthengwe and then this letter is addressed to all three people, to Fani, Nkhuoa and Nthengwe. So my question is, how would you have known, how would your company have known who to address this to?

MR MATLALA: Commissioner, this is easy. You go to the letter and you see all these three people and then you want to implicate them, because I will come to that and show how they told me to implicate General, sorry, you said there is three.

ADV BALOYI SC: Yes, the letter is addressed to General Fani, General Nkhuoa and Brigadier Nthengwe.

MR MATLALA: Yes, Brigadier ...[intervenes]

ADV BALOYI SC: And those three names are the same names in that paragraph, I think 55, your paragraph 55. So my question is, how would you have known otherwise who to address the letter to?

MR MATLALA: I am saying, obviously they saw that the letter was sent to these three people and then the statement will be based on what was, who was copied on the email. But I will, when you go further you will see that Brigadier Nthengwe, they also advised me to incriminate him and then when I refused, they did it. I saw on the, I do not know if it is 204, that they said that he was being paid from Medicare, which is not true. So I will assume that they have checked the email, these three people, and this is why they made the statement.

ADV BALOYI SC: So in your discussion with IDAC, with the IDAC investigators, the names of Fani, Nkhuoa and Nthengwe did come up. Is that what you are saying to us?

MR MATLALA: Part, it is part of them, but there is more, there is more of them.

ADV BALOYI SC: Ja, no, I am asking about the three.

MR MATLALA: Yes.

ADV BALOYI SC: The three names did come up in your discussion. Thank you, Ms Hassim.

AD HASSIM SC: When this letter was sent to those three addressees, did you have any role to play in that letter?

MR MATLALA: No, I was my ...[intervenes]

AD HASSIM SC: Did you give any input?

MR MATLALA: It was my office.

AD HASSIM SC: You gave no input into the letter

whatsoever?

MR MATLALA: No, we sat and discussed and then I, they, I think it was a reply actually. It was a reply of, from Supply Chain complaining about non-performance or something. So, obviously they told me that we have got this letter and then they told me how they were going to respond. And then we sat down in the boardroom and then that is how the letter was sent.

AD HASSIM SC: So, you did discuss it with them?

MR MATLALA: Come again?

AD HASSIM SC: You did discuss it with your ...[intervenes]

MR MATLALA: Not the operational part, that they have received the letter from Supply Chain, yes.

AD HASSIM SC: Let us go to paragraph 56.

MR MALULEKE: Chairperson, if I may raise a situation.

CHAIRPERSON: Sorry, sorry, Mr Maluleke. Ms Hassim, I, during the adjournment, I had to relent and accede to Mr Maluleke's request that we should not go beyond 6 p.m. We are beyond that point now and we must adjourn at this point. Sorry, yes, yes, yes, Ms Hassim?

AD HASSIM SC: Chair, I am in your hands. If we need to stop now, we must stop now. Obviously, I am not complete, have not completed the evidence, both the statement and the further questions that are relevant. However, that will

have to continue ...[intervenes]

CHAIRPERSON: Yes.

AD HASSIM SC: And if it is, if I am unable to do it, a colleague of mine will.

CHAIRPERSON: Yes, yes. If you are not there, I must apologise to you. I know that in my office, when we had a discussion at which you were present, I said up to half past 6, but because of what Mr Maluleke had said, especially because of the people that it involved, after the agreement we reached in my office, I just felt I should soften and be understanding, and so I said to him we would stop at 6 p.m.

AD HASSIM SC: Chair, I fully understand that, and I respect the exigencies under which we all have to live and work, and I have no issue with that.

CHAIRPERSON: Yes.

AD HASSIM SC: I would just say to the Chair that if the Chair could excuse me from being able to continue with this, because I had indicated my unavailability tomorrow.

CHAIRPERSON: No, you did a long time ago, yes, yes. And thank you, thank you, Ms Hassim. Oh, you wanted to raise something else?

MR MALULEKE: No, I think it is immaterial for now. I will deal with it tomorrow.

CHAIRPERSON: Tomorrow, all right.

MR MALULEKE: Yes ...[indistinct] only to raise that

...[indistinct] with you tomorrow. I do not think for now ...[intervenes]

CHAIRPERSON: Yes.

MR MALULEKE: It will serve any purpose.

CHAIRPERSON: So that seems to indicate you are prepared ...[intervenes]

MR MALULEKE: Yes. It will be a substantive ...[intervenes]

CHAIRPERSON: I am saying it seems then you are, in that case it seems you were prepared to go until half past 6. Let us adjourn.

MR MALULEKE: Absolutely not.

CHAIRPERSON: Let us adjourn and resume at 9:30 tomorrow.

HEARING POSTPONED TO 10 NOVEMBER 2026

HEARING ADJOURNS
