

**ENQUIRY INTO THE SOUTH GAUTENG DIRECTOR OF  
PUBLIC PROSECUTIONS' FITNESS TO HOLD OFFICE**

**HELD AT**

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DEVELOPMENT**

**26 FEBRUARY 2026**

**DAY 33**



**ENQUIRY INTO THE  
SOUTH GAUTENG  
DIRECTOR OF PUBLIC  
PROSECUTIONS'  
FITNESS TO HOLD OFFICE**

**PROCEEDINGS ON 26 FEBRUARY 2026**

**CHAIRPERSON:** Lieutenant Colonel Mangena.

**LT-COL MANGENA:** Morning, Chair.

**CHAIRPERSON:** Good morning, Advocate Chauke. Good morning, I would not say visitors, I will say family to you. You may just introduce yourself to everybody. You are now part of the team.

**MS MABENA:** Good morning, everyone. I am Lesego Mabena, an associate at Harris Nupen Molebatsi Attorneys.

10 **CHAIRPERSON:** You can just have this mic.

**MS MABENA:** Good morning, everyone. I am Lesogo Mabena, and I am an associate at Harris Nupen Molebatsi Attorneys. I am here with my colleague Njabulo Thibedi. Thank you.

**CHAIRPERSON:** Good morning, madam. Mr Thibedi must speak for himself.

**MR THIBEDI:** Good morning, everyone. My name is Njabulo Thibedi, and I am a candidate attorney at Harris Nupen Molebatsi. Thank you.

20 **CHAIRPERSON:** Thank you, Mr Thibedi. Lieutenant Colonel, you are still under oath.

**LT-COL MANGENA:** I am still on the oath, Chair.

**CHRIS MANGENA** (still under oath)

**CHAIRPERSON:** Thank you, sir. Advocate Ngcukaitobi.

**ADV NGCUKAITOBI SC:** Thank you Madam Chair. We

would like to welcome the candidate attorney to this proceedings. I do not think we have had one before, Mr Thibedi. Good morning Lieutenant Colonel.

**LT-COL MANGENA:** Good morning.

**ADV NGCUKAITOBI SC:** Yes. Now, the Madam Chair, I said to the panel that there were ten more reports to go through. I have been corrected, they are actually seven. So we could actually finish sometime today by 1 o'clock, contrary to what I suggested. But let us get going.

10 **CHAIRPERSON:** We are happy to hear.

**ADV NGCUKAITOBI SC:** Yes. Yes, thank you.

**CHAIRPERSON:** Thank you.

**ADV NGCUKAITOBI SC:** Lieutenant Colonel, the next few reports are outside of KZN. They include Thokoza, well there is Umlazi here, which is Randburg, Heidelberg, and Dawn Park, and then there is Umlazi as well. Can you just, before you deal with them individually, just explain the context in which the Cato Manor got involved in this particular one, and how you got to know that Cato Manor was involved?

20 **LT-COL MANGENA:** In the Thokoza one?

**ADV NGCUKAITOBI SC:** Well, there is Thokoza, Randburg, Daw Park, and Heidelberg, all of which are outside of the jurisdiction of KwaZulu-Natal.

**LT-COL MANGENA:** Chair, the Randburg, the Thokoza, the Heidelberg, and the Dawn Park cases, we got to know about

them as they were brought by IPID to us for, to continue with the investigations. But the Thokoza one, as I explained, it happened and I was called to attend the crime scene. At that moment, I did not know that it was Cato Manor involved. I only attended the crime scene. I only heard later that it is Cato Manor who were involved in this case.

**ADV NGCUKAITOBI SC:** Yes, because there is that list that you mentioned on day one of your evidence, which is at Annexure CM2.

10 **LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** That does mention these cases, is that correct?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** [Indistinct]... yes. And so at the time you attended the scene, would that have been right when the actual event took place?

**LT-COL MANGENA:** That is correct. I attended. It was on a Saturday morning when I attended. It happened late Friday evening, early in the Saturday morning, and then Saturday  
20 around 8, 9, that is when I attended the scene.

**ADV NGCUKAITOBI SC:** Yes, and then when did you learn that the, firstly, it was the police that had shot those people, and secondly, it was police from Cato Manor?

**LT-COL MANGENA:** When I got to the crime scene, because it was investigated by IPID, I was informed that it is police

officers involved, but I did not know that it was Cato Manor. I only heard when we were busy with the investigation that the Thokozani case is also Cato Manor involved in that one.

**ADV NGCUKAITOBI SC:** Yes, which is in 2012.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes. And did you get to know, I mean, we more or less now know the group of police officers that would carry out all of these shootings, but did you get to know the identities?

10 **LT-COL MANGENA:** I only got the identities when we were busy with the investigations around 2012.

**ADV NGCUKAITOBI SC:** Yes, no, I understand. I am saying in 2012, did you get to know the identities of the policemen that shot the deceased?

**LT-COL MANGENA:** Chair, I am speaking under correction, I think it was Warrant Officer Mostert, Warrant Officer Nel, and I cannot remember the third one who was with them, because there were three or four who went into the house. The rest were outside the house.

20 **ADV NGCUKAITOBI SC:** I understand, but the only point of importance now is to connect these to the usual persons that we see. Once you say it is Warrant Officer Nel, Inspector Mostert, that is sufficient.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** All right, thank you very much.

Can you take us then to page 272, paragraph 292, Thokoza CAS 176/08/2011? Firstly, this is the Thokoza in the East Rand.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes, thank you. Can you just explain then how, you said you got called on a Saturday morning?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes, and then? Ja, you can take  
10 us through the moment you were called, what happened.

**LT-COL MANGENA:** I just want to check the report. Which page is it?

**ADV NGCUKAITOBI SC:** Well, the report is 2A-291.

**LT-COL MANGENA:** All right, Chair, I will start at 2A-293, in paragraph 3. As I said, on the 13<sup>th</sup> of August, 2011 ...[intervenes].

**ADV NGCUKAITOBI SC:** No, sorry, just, 292, is that page complete, or is there something cut there?

**LT-COL MANGENA:** 292?

20 **ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** It is complete?

**ADV NGCUKAITOBI SC:** All right, it is complete. All right, thank you. So, you wanted to go to 293?

**LT-COL MANGENA:** Yes, 293 from paragraph 3.

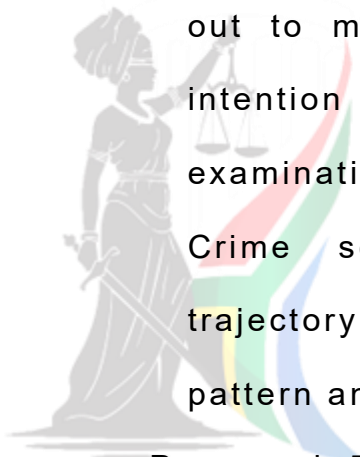
“On the 13<sup>th</sup> of August 2011, during the

performance of my official duties, I, together with Lieutenant-Colonel Mota, attended the crime scene at House No 124, Mazibuko Street in Thokoza for the purpose of crime scene reconstruction. The scene was attended on request of Sergeant Nkosi of the LCRC Germiston.”

The Local Criminal Record Centre of Germiston.

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“And the crime scene was also pointed out to me by Sergeant Nkosi. The intention and scope of the forensic examination comprised of the following. Crime scene reconstruction, bullet trajectory examination, and bloodstain pattern analysis.”



Paragraph 5:

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“At the crime scene, I found the body of the deceased lying in a pool of blood. A revolver with four cartridges and one fired cartridge case placed next to the body of the deceased. And then there were different bloodstain patterns on the crime scene. There was one fired 5.56 x 45mm calibre cartridge case in

the same room next to the body and one fired 9mm Parabellum calibre cartridge case also next to the door, but in the same room. Photo 1 ..." [intervenes]

**ADV NGCUKAITOBI SC:** Is there any significance to those pictures?

**LT-COL MANGENA:** Photo 1 depict the house where the incident occurred. And then photo 2 will be the entrance, front entrance of the house. And then photo 3 depicting the  
10 position of the deceased inside the room.

**ADV BALOYI-MERE SC:** Sorry, Advocate Ngcukaitobi, can you sensitize the viewers?

**ADV NGCUKAITOBI SC:** Oh, thank you, Madam Chair. We are about to show very sensitive images for those viewers that are sensitive. I apologize, I should have done it before. Okay, so you are already at photo 3.

**LT-COL MANGENA:** That is correct, Chair, I am on photo 3.

**ADV NGCUKAITOBI SC:** So what are you showing us at photo 3?

20 **LT-COL MANGENA:** Right, photo 3 shows the position of the deceased when entering the room that he was found in, or where the whole incident occurred. And photo 4 is also showing the position of the deceased in the same room, and the position of the revolver and the bloodstains that you see there on the scene. Photo 5 is from a different angle in the

same room. Now starting from photo 6, it is a different bloodstain pattern that was inside that room.

So because the purpose was to reconstruct the incident, how it occurred, I looked at the bloodstain pattern so that I can know the movement of the body or the movement of the deceased during the incident, because it appears that some of the wounds were inflicted while the deceased was still standing or there was movement of the deceased. So from photo 6, photo 7, photo 8, photo 9, photo 10, and photo 10 11 shows different bloodstain patterns and their positions in the room.

Now if you look at photo 11, we have two patterns there.

**ADV NGCUKAITOBI SC:** We have two?

**LT-COL MANGENA:** Two bloodstain patterns there. We have a drip trail around this area, just behind the door.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** Here we have a drip trail just behind the door, and then we have this pattern also. I think that I 20 will explain it as I continue to testify on this.

**ADV NGCUKAITOBI SC:** Okay.

**LT-COL MANGENA:** Photo 12 and photo 13. Photo 12 shows the pattern that was up next to the door, and then photo 13 depicts the dripping pattern just behind the door. And photo 14 shows the body of the deceased, how I found

the body when I arrived at the scene. And on photo 15 ...[intervenes].

**ADV NGCUKAITOBI SC:** So just to be clear here, this is the scene that you went into after the deceased was shot. It is not one of those where you went a year or two after the event.

**LT-COL MANGENA:** That is correct, Chair. This is, I went immediately after the deceased was shot while the body was still at the crime scene.

**ADV NGCUKAITOBI SC:** I see. Thank you.

10 **LT-COL MANGENA:** Right, Chair, if you look at the pattern here, here you can see that there was movement of the body. So it shows the position of the deceased as depicted on the previous photos. It is not the original position of the deceased after the incident, and I will show that as we continue.

**ADV NGCUKAITOBI SC:** Yes, I mean – sorry, I know you have your own way of doing this, but you go there, right. They have just shot this gentleman, and unfortunately because they have not given us the docket, we do not know his name.

20 Did you find out his name?

**LT-COL MANGENA:** Chair, his name was in the docket. I cannot remember.

**ADV NGCUKAITOBI SC:** No, I know, but they have not given us the docket, so hopefully at some stage when we get it, we can find out his name. But they have just shot this gentleman,

and who do you find on the scene, because the shooters must still be around.

**LT-COL MANGENA:** Right, Chair, when I arrived at the scene, I was only working with the member from LCRC who pointed out the scene to me, and members from IPID who were at the scene. I think it was the late Mandla Mahlangu from IPID who was with me from IPID.

**ADV NGCUKAITOBI SC:** And the shooters are gone?

10 **LT-COL MANGENA:** The shooters were not at the scene by then.

**ADV NGCUKAITOBI SC:** Yes, yes. And then, Mr Mahlangu, did anyone say, look, the shooters were here, they have left?

**LT-COL MANGENA:** That is correct. They said they were there, but I did not enquire a lot about them because I was only concentrating on the scene, reconstructing the incident.

**ADV NGCUKAITOBI SC:** No, what I am thinking about, if you look for instance at photo 15, according to your testimony now, the body has been moved, correct?

**LT-COL MANGENA:** That is correct, Chair.

20 **ADV NGCUKAITOBI SC:** So you would have been curious to find out who has moved this body?

**LT-COL MANGENA:** Chair, I have asked the LCRC member. I think he also said the same thing, that he found the body in this position.

**ADV NGCUKAITOBI SC:** Yes, I am saying that is the point

about why the shooters were allowed to leave the scene, because as a reconstructor, you would have wanted to know who has moved this body.

**LT-COL MANGENA:** Chair, I did not ask about who moved the body because I only worked from what I could see on the scene and the position, I started working on the position that I found the body on.

**ADV NGCUKAITOBI SC:** Yes, yes. But I am saying it would have been curious to you, like it is curious today, that there  
10 is a slight movement and therefore, you would say, well, who has moved this body and, but the shooters who are most likely the persons who moved the body, are gone.

**LT-COL MANGENA:** It is possible, Chair, because at some stage or sometimes you find that the person who moved the body would be the paramedics when they declare the person dead. So I did not ask about those who moved the body.

**ADV NGCUKAITOBI SC:** Yes, thank you. All right, you were at photo 15.

**LT-COL MANGENA:** Photo ...[intervenes].

20 **ADV BALOYI-MERE SC:** Sorry, I did not want to disturb, but now that you have been disturbed, I will ask the question. Right at the beginning, at paragraph 5, at 5.2, you say in your report:

“A revolver with four cartridges and one fired cartridge case placed next to

the body of the deceased.”

Why did you immediately get to the conclusion that the revolver was placed?

**LT-COL MANGENA:** Chair, that is the position where I found the revolver. As I said, it was placed there. It could have been placed by the LCRC member, it could have been placed, but that is the position where I found it. It might not be the original position where it was found, or it could have been moved maybe by the paramedics when they declare him dead.

10 But because of when I started examining the crime scene, it was there, it was placed there. And if you look at it, it has been opened, the cylinder has been opened, and the cartridges have been removed from the cylinder, placed next to the revolver.

**ADV BALOYI-MERE SC:** My question is, did you not consider that it could have been the deceased revolver that fell when he was shot, because when you say placed, it is like somebody came and planted it, and I am saying this is right at the beginning of your report. Or when you wrote this  
20 report, you had already considered all angles, and you came to this conclusion, or when you saw the revolver, you decided this has been placed.

**LT-COL MANGENA:** Chair, by saying that it was placed there, it is because I found it there. So I cannot say it was placed by anyone, but it is possible that, because the

cartridges and the fired cartridge case were removed from the cylinder of the revolver and placed next to it. So most likely the revolver was also placed there.

**ADV BALOYI-MERE SC:** Meaning that somebody handled the revolver.

**LT-COL MANGENA:** That is correct, Chair.

**ADV BALOYI-MERE SC:** Thank you.

**ADV NGCUKAITOBI SC:** Thank you. Where were you? You were at 15, né?

10 **LT-COL MANGENA:** Yes, I was at paragraph 15.

**ADV NGCUKAITOBI SC:** At photo 15.

**LT-COL MANGENA:** Photo 15, yes. And then I passed paragraph 15. On paragraph, on the next page, 2A-303, on paragraph 7:

“I examined the body of the deceased, and due to the bloody condition of the body, I could notice only one possible bullet gunshot wound to the right side of the temple of the deceased.”

20 So it will be on the right side of the temple, the right side of the head on the temple of the deceased. That was the only wound that was visible at that time. And then:

“The body was removed and taken to the mortuary, and we continued on examination of the crime scene.”

Now if you look at paragraph 8, that is where I said:

“After the deceased body was removed from the crime scene, I examined the area where he was lying and found a 9mm calibre bullet and a possible bullet hole in the floor on the tile, where the head of the deceased was positioned.”

Now photo 17 shows the bullet, the 9mm bullet that was recovered there on the scene. So it was basically lying  
10 underneath the body of the deceased. Right, on photo 18 shows the bullet hole in the tile on the floor where the body of the deceased was positioned. Photo 19 is a close-up photo of the same hole. Right, on paragraph 9:

“On the 17<sup>th</sup> of August 2011, I could not attend the post-mortem. I have requested Lieutenant-Colonel Mhuta[?]

to attend the crime scene in Germiston mortuary to take the photographs of the wounds sustained by the deceased. The  
20 post-mortem was conducted on body number 1502/2011.”

Photo 20 shows the body of the deceased, and then photo 21 shows the body number of the deceased. And on observation of the photos taken by Lieutenant ...[indistinct] I noticed the wounds as follows:

“There was a gunshot wound on the right temple, wound had characteristics of a bullet entrance wound. The wound was marked A.”

And then 9.2:

“The gunshot wound on the left temple, wound had characteristics of a bullet exit wound, and the wound is marked B.”

So on photo number 23:

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“And we had a gunshot wound on the left back of the head. The wound had characteristics of a bullet entry wound. The wound is marked C.”

And then on 9.4:

“A wound at the back of the head. The wound is marked D.”

Which is on photo 25. Right, if we look at, okay, 9.5:

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“The gunshot wound at the back of the shoulder, on the left shoulder of the deceased, wound had characteristics of a bullet exit wound. Wound is marked E.”

Now if you look at photograph number 28, on photograph number 28, we have this wound, which is the exit wound on the shoulder. We have this wound, which is B. We

have this wound, which is C. We have this wound, which is D, and A is on the other side. And then there is wound on the chest also, on the left chest.

**CHAIRPERSON:** Wound, just go back, please, so that you can just show me. Start with the wound.

**LT-COL MANGENA:** Right, wound B would be this one.

**CHAIRPERSON:** Wound A?

**LT-COL MANGENA:** B.

**CHAIRPERSON:** B.

10 **LT-COL MANGENA:** Which is the exit wound.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** And then wound A is on the right side of the head. It is on the temple here. And then we have, on the head, we have this wound, which is C, which is another entry wound. And then we have this wound, which is D. I will explain D later. It is not a gunshot wound. And then we have this, which is the exit wound, which is marked E. I think F is the one on the chest.

20 **ADV NGCUKAITOBI SC:** Sorry, which ones are the entry wounds there?

**LT-COL MANGENA:** Entry wounds to the head?

**ADV NGCUKAITOBI SC:** Yes, yes.

**LT-COL MANGENA:** Entry wounds to the head would be this C and A, that is on the right-hand side of the temple.

**ADV NGCUKAITOBI SC:** All right, thank you.

**CHAIRPERSON:** I thought that yesterday you said that all of the exit wounds would be B's.

**LT-COL MANGENA:** Would be big?

**CHAIRPERSON:** B's.

**LT-COL MANGENA:** B?

**CHAIRPERSON:** Will be marked B, because there would have been an entry wound, which we would refer to as A's, and then all the exit wounds would be marked B's. Now you are referring ...[intervenes].

10 **LT-COL MANGENA:** No, Chair, it depends ...[intervenes].

**CHAIRPERSON:** To that wound on the shoulder as E.

**LT-COL MANGENA:** No, Chair, if I mark B, then I will have two B's on the wound, then it will be confusing. So basically, the entrance is A, this side, and then the B is this exit on the left side of the head. Now we have an entrance in the chest here. The exit is this one. I think the entrance will be E, and then the exit will be F, or, but it is E and F. I will check now.

**CHAIRPERSON:** Ja, just check that, because you have said that that one on the shoulder, which is an exit, is E. So go  
20 back and then show us clearly where the entries are and where is the exits.

**LT-COL MANGENA:** Yes, the entry is on wound, on photo number 27. If you go to photo number 27, the entrance wound would be this one, which is marked F.

**ADV NGCUKAITOBI SC:** Is that not where the confusion is,

because we expect, as laymen, that the entry would be E and the exit would be F.

**LT-COL MANGENA**: Ja, I understand it might be confusing there. But in this instance, we have E, because it was closer to where we started with the post-mortem, because I started at the top, going down. So my E was here, of which E is the exit, and then F is in the chest, which is the entrance.

**CHAIRPERSON**: Thank you, Colonel.

**ADV NGCUKAITOBI SC**: All right, thank you.

10 **LT-COL MANGENA**: And during post-mortem, a lead bullet, possibly of .38 or .357 calibre, was removed from the head of the deceased, just below the wound marked B.

**ADV NGCUKAITOBI SC**: Sorry, where are you now on your report?

**LT-COL MANGENA**: I am on 9.6 which is page 2A-309.

**ADV NGCUKAITOBI SC**: What does that mean? It was removed by who?

**LT-COL MANGENA**: By the doctor during post-mortem.

20 **ADV NGCUKAITOBI SC**: So meaning that it had been lodged into the skull?

**LT-COL MANGENA**: That is correct. It is visible on photo 30 during X-ray. This is the bullet that was recovered from the body, from the head of the deceased. It is this one. And then go to photo 30. On X-ray, you can locate it. There is the bullet inside the head.

**ADV NGCUKAITOBI SC:** What are we looking at there?

**LT-COL MANGENA:** Here is an X-ray photo during post-mortem.

**ADV NGCUKAITOBI SC:** X-ray photo of what?

**LT-COL MANGENA:** Of the head of the deceased.

**ADV NGCUKAITOBI SC:** Of the brain?

**LT-COL MANGENA:** Yes.

**ADV NGCUKAITOBI SC:** Thank you.

**LT-COL MANGENA:** And you have your bullet here.

10 **ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** And photo 31 is after it was removed. We have it clear there.

**ADV BALOYI-MERE SC:** Lieutenant Colonel, before you proceed, I see here at 9.6 you refer to a lead bullet and I am going to link it with a question from yesterday. Yesterday you referred to a full metal jacket. What is the difference?

**LT-COL MANGENA:** The difference is how these bullets were manufactured. With a full metal jacket, it is like the, I think I have a photo of a full metal jacket bullet. I will show  
20 it to the Commission. When you say it is a lead bullet, it is only, it is a bullet that is made only of lead and it is, the one that you see here is the lead one, bullet.

In most cases when you have, because we have different types of bullet, you can have a .38 special, which is made of lead, but it is covered by a very thin layer of copper

and then it is completely closed. It would be a full metal bullet. And then you have a different one, it is the same calibre, it is covered with lead, but it is open at the front, of which we call it a hollow point. And then you have an FMJ, the full metal jacket. The full metal jacket is a bullet made of lead, and it is covered by a thin layer of copper also. I think I have a photo of the full metal jacket, of a 9mm. It will be shown on the photos.

**ADV BALOYI-MERE SC:** These different types of bullets, do they differ in their different categories of being lethal, or they are just different types of bullets that do the same thing?

**LT-COL MANGENA:** Chair, normally, it will depend on what type of a bullet it is. In some instances, the wounding might be the same, but if you take bullets like the hollow point bullets, hollow point bullets, on impact, when it hits, it opens up at the front, it mushrooms. So what will happen is, when it mushrooms, because it is in a spinning motion, it will create a more effective wound than compared to a normal full metal jacket.

20 The normal full metal jacket will just push through the body and pass, but if it is a hollow point, what will happen is, it opens up when it hits an object or a human being, and then it wraps the tissue as it spins. So it will create a bigger wound. In most instances, you will find that if a person has been shot with a hollow point, it will start, in some instances,

inside the body because it is wrapping itself with tissue that is damaged inside the body. But they do have a difference in effects when firing them.

**ADV BALOYI-MERE SC:** And now coming to the wounds at photo 28. The deceased has a number of wounds, and gunshot wounds on the head and my limited knowledge or brain tells me that if one is shot so many times in the head, the head might explode. But we see that the deceased has got so many gunshot wounds in the head, and the head is still  
10 intact.

**LT-COL MANGENA:** Chair, the head is, it looks like it is intact, but the skull has fractured a lot inside. It is only the skin that you see still intact, because if you look at, if we look at this part, you can see that the skull has fractured. And with the wound sustained, I would say it is medium velocity or low velocity. It is not a rifle. If it was a rifle it would blow the whole head. There will be a huge wound if he was shot with a rifle. But here you can see that he was shot with a handgun.

20 **ADV BALOYI-MERE SC:** Meaning the damage is inside. The skull is cracked or ruptured in different places.

**LT-COL MANGENA:** That is correct, Chair.

**ADV BALOYI-MERE SC:** Thank you.

**ADV NGCUKAITOBI SC:** Yes, where are you now?

**LT-COL MANGENA:** Page 2A-310.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** We are going to 2A-311. [Indistinct]... used a steel rod to determine the bullet trajectories through the head of the deceased.

**ADV NGCUKAITOBI SC:** So just stop there, because that picture might answer Advocate Baloyi-Mere SC's question around the damage to the bones of the skull.

**LT-COL MANGENA:** That is correct. It shows the damage to the skull of the deceased, because if you look at the skull  
10 here, it has cracked completely.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** And that I will explain, Chair. And if you look at trajectory, photo 33, showing the trajectory from ...[intervenes].

**CHAIRPERSON:** I beg your pardon. Are you okay? You may pause, just go out if you want to.

**ADV NGCUKAITOBI SC:** I think we can actually change, because we have got two skilled technicians.

**CHAIRPERSON:** Yes, thank you. Thank you, Advocate  
20 Mtsweni. I see you are playing a critical role there helping this young man. It is hard for all of us to look at these pictures. You may proceed, Counsel.

**LT-COL MANGENA:** Right, Chair, if you look at ...[intervenes].

**ADV NGCUKAITOBI SC:** Can you just explain this picture.

I could not work out if I understand the, to whether or not that is actually the throat of a person that is been opened up or not.

**LT-COL MANGENA:** That is correct there.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** That is the body of the deceased that is opened during post-mortem, because when they have to do post-mortem, they look into the internal organs. So they open up the body to check the internal organs, the damages or the  
10 injuries in the organs.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** Now if you look at this one, it enters here at wound number F. Your exit would be here at wound number E. Go to another, next page. It shows where the bullet exited at wound number E. Now from photo 36, 37, it is only the bloodstain patterns that I found on the scene.

**ADV NGCUKAITOBI SC:** Can you just go back to 34. So the person there that is wearing the blue gloves is holding something with his left hand. What is that?

20 **LT-COL MANGENA:** It is holding the skin of the head of the deceased. Here?

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** It is the skin of the head, of the deceased head.

**ADV NGCUKAITOBI SC:** Yes. Does that show that basically

the skull has been smashed?

**LT-COL MANGENA:** No, they normally cut the skull open when they conduct the post-mortem.

**ADV NGCUKAITOBI SC:** For the post-mortem.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** You were at 36 and 37.

**LT-COL MANGENA:** Right, Chair, from 36, I think to, from 36 to photo 49, it is only the bloodstain patterns that were on the scene that I found on the scene. Now, Chair, I want to  
10 explain this so that – right, Chair, I will start at page 2A-213, photo 35.

**CHAIRPERSON:** 2A?

**LT-COL MANGENA:** 2A-312.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** Right, Chair, the reason why I am starting on this photo is I can see the drip trail here. I can see the pattern that is here, which can be a cast-off, but I cannot explain how did it land there and to me it is like, it looks like the deceased was assaulted first and he started  
20 bleeding. He was standing behind the door and with an object or something, he was hit.

Now, cast-off is created when you hit somebody with an object and it gets blood. When you move it out, it creates a pattern of what is the bloodstain coming from an object as you swing it back. Now, if you look at, do you see the pattern

that goes, it is like swinging an object backwards when after hitting the person who is bleeding. Now if you look at this pattern now, we go to pattern number, we go to pattern number 38, photo 38. Now, when you go to pattern number 38, you can see the swipe here. You can see this and you can see here is an impact spatter. Now, in this, you see the movement as the person is falling down.

Now, if he was hit with an object or something on the head and then he fell down, he smeared blood on the wall in  
10 the movement of falling down to the place. Now, this is the place where we have a pool of blood. Now, the challenge in this that I had was that the wound that he sustained, the gunshot wounds he sustained, it is on the left chest, exit here, and then enters the back of the head. And then it is this wound that is on the right-hand side and it exit on the left-hand side.

Now, with the post-mortem, the doctor mentioned that the wound on the right-hand side was blackened and there is propellant powder inside the wound, which indicates  
20 that it is a contact shot. So the unburned and partially burned propellant powder that comes from the muzzle of the firearm penetrated the wound into the head. So that is why there was blackening and soot found inside the head of the deceased. So in that instance, the firearm was in contact with the head of the deceased when this wound was inflicted.

Now, you look at the position of the wounds that he sustained, it is a shot on the chest, it exit on the shoulder. The wound that is marked C is the entrance wound, re-entry of the same bullet. So basically, the shot is from downward, it enters here, it exit, and then it enters the head. But there is no exit. So I am of the opinion that the bullet did not, it only cracked the skull and then came out.

We look at the wound that is here, that is marked D. We look at the position where, behind the door where the  
10 deceased was standing. If you look at this movement, I am of the opinion that he was hit with something and then he fell down. On impact, he fell with the back of the head. That is where wound ...[intervenes].

**ADV NGCUKAITOBI SC:** Just take us to this wound so that we understand what you are talking about. So we have got 26 and 28. 26 is at 2A-308.

**LT-COL MANGENA:** Right, 228. So 28 will be this one. So this is wound D. According to the doctor, it is not a gunshot wound, but it is an impact wound. So when he fell from the  
20 position where he was standing behind the door where he was dripping, I am of the opinion that he had a wound somewhere, an open wound, so while he was standing there, the blood was dripping from that wound, creating that drip pattern behind the door that I showed. And on impact after he was hit, he fell down where he smeared blood on the wall there.

He fell on the back of his head, creating this wound because of the impact when he fall down.

And if you look at the wound on the chest, as I said, it is an entrance here. It is an exit here. The bullet re-entered that wound C. It crushed the skull. Most likely it came back and fell out of the head. Then we look at this wound A and B ...[intervenes].

**ADV NGCUKAITOBI SC:** Do we have a clear picture of A?

**LT-COL MANGENA:** Yes.

10 **ADV NGCUKAITOBI SC:** Is that at photo 22?

**LT-COL MANGENA:** Wound A is photo 22. So this A will be the entrance of a contact shot. Now if you see here, it is burned by the gas that comes from the muzzle of the firearm. So it is a contact shot to the right side of the head, and then it exits on the left-hand side. Now this wound on its own is a fatal shot. There is no way that he will stand up after this wound was inflicted.

20 Now if you look at the other wound that he sustained, it enters here. It exits here. It re-enters the head. There is no way that that wound would be inflicted while he is standing up straight. It is not possible.

**ADV NGCUKAITOBI SC:** I see. So that wound, just to make sure, there is a wound at 27.

**LT-COL MANGENA:** At 27, that is the entrance wound.

**ADV NGCUKAITOBI SC:** [Indistinct]... that would have been

shot while he was lying on his back.

**LT-COL MANGENA:** That is what I suspect. Now my challenge is, we look at the spatter, the bloodstain on the scene. If we look at photo number 50, now if we look at photo number 50, here will be your impact point of the head. Now the challenge is spitting all the blood to different directions, where does this blood come from? I cannot explain that, because here it was a pool of blood. And it is like, where you have a pool of water or a water – and then you splash that  
10 water with your hand. It splashes to all directions. It is the same as what we see here. It splashes to that side. Look at here, it splashed to that wall. It splashes to that direction, but I cannot explain how did that happen.

And you look at the last wound, which is the entrance wound on the right hand side, the exit is on the left hand side. If you go through the post-mortem report, the post-mortem report says the exit wound had characteristics of a short exit wound. Now with a short exit wound, as I have explained in other cases that the bullet, instead of proceeding and exit, it  
20 hits a hard surface. Now on the X-ray photo, where we see the bullet, I want to check the bullet that is - yes, on photo 30, we look at the nose of this bullet. It is flat.

**ADV NGCUKAITOBI SC:** Here?

**LT-COL MANGENA:** It is flat. And we look at ...[intervenes].

**CHAIRPERSON:** Which means, which signifies what, the

flatness?

**LT-COL MANGENA:** The flatness, I am going there, Chair. We look at photo number, we look at photo number 51 and photo number 52. On photo number 51, we have a hole in the tile and this is where the head of the deceased was positioned. So basically this wound was inflicted while he was still lying on the, or while he was already lying on the floor.

We can go to photo 52, I think, look how deep is that.

10 So the bullet that we see on the X-ray, that is still inside the head, it is the one that was used. It went through the head, enters, exit on, and then bounces on the tile and went back into the head.

**ADV NGCUKAITOBI SC:** I see. And so, just to explain the question of the Chair, the reason it is round shows what?

**LT-COL MANGENA:** Where it is flat ...[intervenes].

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** That is the part of the bullet that has created the hole in the tile.

20 **ADV NGCUKAITOBI SC:** Which is at 52.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** And then it goes back and ...[intervenes].

**LT-COL MANGENA:** It goes back into the wound.

**ADV NGCUKAITOBI SC:** And then gets lodged inside.

**LT-COL MANGENA:** It get lodged into the head.

**ADV NGCUKAITOBI SC:** And that is why it is like ...[indistinct].

**LT-COL MANGENA:** That is why it is like flat at the front.

**ADV NGCUKAITOBI SC:** I see.

**CHAIRPERSON:** I do not understand you. So as it hit the tile, it ricochets back.

**LT-COL MANGENA:** It ricochets back into the ...[intervenes].

10 **CHAIRPERSON:** Into the head.

**LT-COL MANGENA:** Head of the deceased. Now, if you look at the post-mortem report, where was it found? It was found just inside the head, next to wound marked B. That is where that bullet was found. And on searching the scene, there on photo number 50 ...[intervenes].

**ADV NGCUKAITOBI SC:** So it was found where you said on B. I just want to get B.

**LT-COL MANGENA:** B is the exit wound on the left-hand side of the head.

20 **ADV NGCUKAITOBI SC:** So it was found in 2A-306, photo 23. Photo 23, or photo 29.

**LT-COL MANGENA:** Right on photo 29, there it was removed from the head of the deceased. It is just next to wound B.

**ADV NGCUKAITOBI SC:** I see.

**LT-COL MANGENA:** And something that I picked up there

was on photo 50. I just need a clear photo of that. On photo 50, here where I have circled, that is where the 9mm bullet was recovered. That is the bullet that I suspect it went in here, out, and then hit the head and came out.

**ADV NGCUKAITOBI SC:** Yes, I mean, one thing I, maybe you can help us to understand. One of the bullets that are recovered from the deceased is a .38 / .357, which is mentioned at paragraph 9.6 of your report.

**LT-COL MANGENA:** Yes, I am going there, Chair.

10 **ADV NGCUKAITOBI SC:** Okay.

**LT-COL MANGENA:** I need a picture of a bullet in one of the photos. There was a bullet that was recovered, the picture of that bullet that I am talking about, that was recovered in the scene.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** Right, Chair, I, it is just I cannot find the picture. Ja, it is that one. It is photo 17. Here is the photo of the bullet that was recovered in the crime scene, just also underneath where the body of the deceased was  
20 removed. Now, this is a 9mm, and this type of bullet, that is what you call the FMJ, the full metal jacket. So basically, this will be from the police firearm.

Now, if we look at the wound sustained on the right-hand side of the head, and then the bullet is recovered inside the head, it is a .38 / .357 calibre bullet. Now, the two

calibres use the same bullet, more or less, the .38 Special and .357 Magnum. The only difference is the length of the cartridge case, but the bullet is the same. That is why normally when we have it, we will write it as a .38 / .357 calibre, because it might be from a .38, it might be from a .357. So this is a bullet that was recovered from the head of the deceased, and this bullet was fired from the revolver that was found on the scene. As I said, the revolver had four cartridges and one fired cartridge, so there is only one shot  
10 fired from that revolver that was recovered from the crime scene. And the shot that was fired is the one that was used in shooting at the deceased in the crime scene.

So with that, I cannot say that the deceased committed suicide, because in that position, he was already lying down on the ground when this wound was inflicted where the bullet has caused damage to the tiles.

**ADV NGCUKAITOBI SC:** Yes. All right, thank you. Do you still want to take us through the photo album?

**LT-COL MANGENA:** No, Chair.

20 **ADV NGCUKAITOBI SC:** What are your conclusions? One conclusion is that the deceased was most probably assaulted before he was killed.

**LT-COL MANGENA:** That is correct, Chair. It looks like he was assaulted before he was killed, because the bloodstain, the dripping pattern, I cannot explain when was he there,

because there is no way that after sustaining this wounds, he would stand up and go and stand behind the door. So at some stage, he was bleeding somewhere. I do not know where, but he was bleeding somewhere.

**ADV NGCUKAITOBI SC:** Then the second conclusion is that he was shot both with a 9mm and a revolver.

**LT-COL MANGENA:** He was shot with a 9mm and a revolver.

**ADV NGCUKAITOBI SC:** Yes. And we know the story of the revolver. It is found in at least four other crime scenes where  
10 the same police officers are present.

**LT-COL MANGENA:** It was found in Phoenix 377. It was found in ...[intervenes].

**ADV NGCUKAITOBI SC:** Rustenburg.

**LT-COL MANGENA:** Rustenburg. It was found in that other case where, I think it is ...[incomplete].

**ADV NGCUKAITOBI SC:** Estcourt.

**LT-COL MANGENA:** [Indistinct]... or something.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** No, Estcourt, it was the, Naidoo's pistol  
20 that was on the scene.

**ADV NGCUKAITOBI SC:** Yes, the - who was driving the white Honda?

**LT-COL MANGENA:** That is Phoenix 377.

**ADV NGCUKAITOBI SC:** Phoenix, I see. Yes, yes, yes. Yes, but the point is that it is found in several other incidents

where the same police officers are present.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes. And it is also found here.

**LT-COL MANGENA:** It is also found here.

**ADV NGCUKAITOBI SC:** Yes, and what are your conclusions in that regard?

**LT-COL MANGENA:** Chair, I would say the deceased was shot while in a lying position there and some of the wounds he sustained, I cannot explain where and how, or the  
10 bloodstain that is there behind the door. I cannot explain how it ended up there.

**ADV NGCUKAITOBI SC:** And we also know the story of the 9mm. This is the favourite weapon of Mr Mostert.

**LT-COL MANGENA:** That is correct, Chair. That is the firearm that he normally used, Mostert and Eric Nel. In this incident, I think it was Eric Nel who shot, if not mistaken. It could have been Eric Nel who shot there.

**ADV NGCUKAITOBI SC:** Yes. Mr Mostert and Eric Nel are the two that competed about who could kill the most people.

20 **LT-COL MANGENA:** That is correct. And they were both at this scene.

**ADV NGCUKAITOBI SC:** Yes. And is it your conclusion that they are the ones who killed this deceased?

**LT-COL MANGENA:** Chair, I cannot say they are the ones, but I could say that they were there when this person was

killed.

**ADV NGCUKAITOBI SC:** Yes. Well, it is common cause they were there when this person was killed. Your conclusion is that this person did not kill himself.

**LT-COL MANGENA:** No, no, he did not commit suicide, Chair.

**ADV NGCUKAITOBI SC:** Yes. And is it not obvious who killed him?

**LT-COL MANGENA:** Can you rephrase the ...[intervenes].

10 **ADV NGCUKAITOBI SC:** I am not rephrasing it. Is it not obvious who killed him? [Indistinct]... how to rephrase that.

**LT-COL MANGENA:** Chair, I cannot answer that again.

**ADV NGCUKAITOBI SC:** Thank you, thank you, thank you. You are not called for that reason.

**ADV BALOYI-MERE SC:** I have a question. I know you testified that the bloodstain patterns are a bit confusing and some of them you cannot explain. But go back to photo 10 and correct me if I am wrong. Does it show bloodstains on the ceiling or the picture is upside down?

20 **LT-COL MANGENA:** Yes, it is spatter on the ceiling.

**ADV BALOYI-MERE SC:** Would you ...[intervenes].

**LT-COL MANGENA:** That is the impact spatter on the scene. That is why I am saying when he fell, he fell very hard to the ground.

**ADV BALOYI-MERE SC:** He fell very hard to the ground to

a point that blood could have splattered up to the ceiling?

**LT-COL MANGENA:** Up to the ceiling, that is correct.

**CHAIRPERSON:** Will this not be explaining what you described to us as a possibility of him whilst behind the door having been hit with a hard object which when moved, slided, could have sparked splattered of blood on the wall and probably on the ceiling?

**LT-COL MANGENA:** Chair ...[indistinct] [microphone off] so it would not be possible. The cast off would also come to this  
10 line, because your cast off would give you the direction. If you are swinging to, your cast off will go in the line of your swinging your object. So this is on the other side, opposite side towards where the head of the deceased was.

**CHAIRPERSON:** Not necessarily behind the door?

**LT-COL MANGENA:** Not necessarily. That is not necessarily behind the door.

**CHAIRPERSON:** Yes, thank you. Counsel, if I may just clarify one aspect. At 2A-294, paragraph 5.4, you make mention of the fired 5.56 x 45mm calibre cartridge. You have  
20 not said anything about that or am I making a mistake?

**LT-COL MANGENA:** Chair, you are right. There is a cartridge case of a 5.56, of a rifle, R5 rifle, also on the scene, but the deceased was not shot with a rifle. So I do not know where did they fire with this because I could not find any damage that would be consistent with the 5.56.

**CHAIRPERSON:** But you found that cartridge in the same room?

**LT-COL MANGENA:** We found the cartridge case in the same room, yes.

**CHAIRPERSON:** Whereabout?

**LT-COL MANGENA:** On photo 3. Right, if you look at photo 3, I think the 9mm was around there and the 5.56 was next to this cone, because here will be the firearm and it is either here or there, would be there, the cartridge case, the 5.56  
10 that was there. And then here was another object. I cannot remember what it is but it is not ballistic related because there is no cone. What we will do is we will put cones where, when we do our examination where ballistic related evidence is found. So here would be the firearm. Here would be one cartridge case and there would be another cartridge case. It is just one was 9mm, one was 5.56. It is just I cannot recall where was the 5.56 and where was the 9mm. But both of them were found in the same room where the deceased was lying.

20 **CHAIRPERSON:** You state, however, that on examination the deceased was not shot with that calibre.

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** Thank you, Counsel, proceed.

**ADV NGCUKAITOBI SC:** Thank you. I wanted to ask you to just deal with your conclusions. You can read them to the

record which are at page 2A-320, paragraph 11.1 up until 11.21. And I want you to pay attention to where you say at page 2A-322 that when he was already lying down, he was shot again, but you can start with 11.1.

**LT-COL MANGENA:** On 11.1:

10                   “The deceased sustained gunshot wound from two different shots. The first shot was fired at the deceased with the bullet perforating the left chest and shoulder and re-enter at the head. The bullet entered the body and that wound marked F on the chest and the exit at wound marked E on the shoulder and re-enter the head at wound marked C. The bullet trajectory is from left front to back in an upward direction. When the first shot was fired, the deceased was possibly in a lying position on the floor and not in a standing position or seated position. The trajectory determined is not possible when in a seated or in a standing position.”

20                   11.1.2:

                  “The second shot was fired at the deceased with a bullet perforating the

head of the deceased. Bullet entered at wound marked A and exited at wound marked B. The bullet trajectory is from right to left. The bullet removed from the head of the deceased during post-mortem was a lead bullet of .38 / .357 calibre and was removed from the region of wound marked B. The entrance wound, as described in the post-mortem report, gives the impression that it is a contact shot wound due to the blackening inside the wound.”

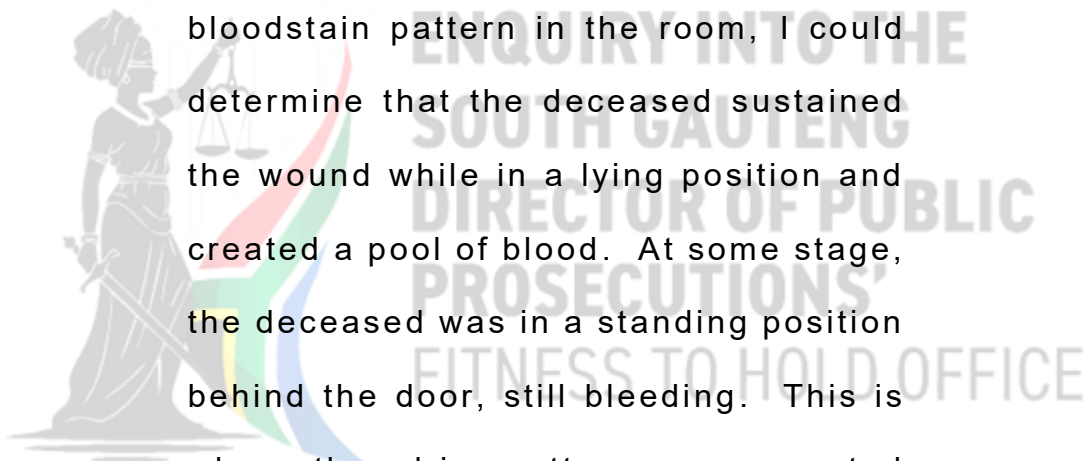
10

That is on page 3 of the post-mortem report.

“The appearance of the wound marked B gives the impression that of a short gunshot exit wound. A short gunshot exit wound is produced when the outstretched skin impaled or sandwiched and crushed between the outgoing bullet and the unyielding object over the exit site, thus leaving an abrasion colour on the wound margin. The degree of shoring abrasion increases directly with the kinetic

20

energy of the projectile and the rigidity of the shoring material. The flat nose or mushroom, as described in post-mortem report, were caused as a result of impact on a hard object and forcing the bullet back into the wound. This gives the impression that the deceased was lying down on the floor with his head in contact with the floor when this wound was inflicted. In analysing the bloodstain pattern in the room, I could determine that the deceased sustained the wound while in a lying position and created a pool of blood. At some stage, the deceased was in a standing position behind the door, still bleeding. This is when the drip pattern was created behind the door, as depicted in photos 35 and 36. There was a possible impact on the deceased's head, which created a spatter stain on the wall behind the door, which is also on page 35 and 37. This could possibly be an impact or from an object as a cast-off. From that same position, the deceased dropped



immediately and fell backward. As he fell, he smeared blood on the wall, creating the smear pattern and spatter stains pattern on the wall, as depicted in photo 38. His head landed in a pool of blood on the floor with a great impact. The impact of the head in the pool of blood created the impact spatter all over the room, as depicted in photos 40 to 10 49. To create the type of impact spatter all over the room, it has to be hard or have a very hard impact on a large volume of blood. I am of the opinion that the wound sustained in D at the back of the head was due to the impact as he fell. As he was lying there, the second set of wound was inflicted, the entrance and the exit, or were inflicted possibly with a revolver found on the scene. According to the doctor ...”  
20 [intervenes].

**ADV NGCUKAITOBI SC:** Yes, that is where I just wanted your comment on, because my reading of these conclusions is that both these bullets, the 9mm and the revolver, were discharged while the deceased was lying down.

**LT-COL MANGENA:** That is correct.

**ADV NGCUKAITOBI SC:** Yes. Thank you.

**LT-COL MANGENA:** There was no way that you would get this trajectory while he was in a standing position.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** -:

10 “According to the doctor in the post-mortem report, the wound marked A had blackening inside, which is one of the characteristics of a contact gunshot wound. The bullet perforated the head and exited at wound marked B. The head wound marked B is positioned in contact with the floor. The exiting bullet created a short exit wound by bouncing on the floor and re-entering through the same wound. It also created a bullet hole in the floor. This bullet was removed during the post-mortem.”

20 **ADV NGCUKAITOBI SC:** Thank you. We have covered most of what is in your statement using the report you compiled in 2011 and that has taken us to paragraph 312. If there is anything you wish to add to paragraph 312 of your statement, you may do so.

**LT-COL MANGENA:** No, Chair.

**ADV NGCUKAITOBI SC:** Yes, thank you.

**LT-COL MANGENA:** I think that is enough.

**ADV NGCUKAITOBI SC:** Yes, of course. All right, can we go to Umlazi, the next one. Madam Chair, I am told the docket is available for Umlazi. There is just something I would like to draw the panel's attention to. Yes, now, that docket, Madam Chair, is at page UZ0001. But if you just look at the index prepared by your researchers ...[intervenes].

**CHAIRPERSON:** You said UZ?

10 **ADV NGCUKAITOBI SC:** 0001.

**CHAIRPERSON:** 0001.

**ADV NGCUKAITOBI SC:** Yes, now ...[intervenes].

**CHAIRPERSON:** How are you going to refer to this document you have just handed to us, because I was looking at the docket itself. Are you going to name it?

**ADV NGCUKAITOBI SC:** No, Madam Chair, it is in the dockets that we found from the researchers.

**CHAIRPERSON:** Yes, thank you. My researcher tells me that this document you have handed up was given by the NPA,  
20 but it forms part of the Umlazi docket.

**ADV NGCUKAITOBI SC:** Yes, thank you. Now, if you just look at the index, it is just behind you, Lieutenant-Colonel, now, what you find there are two items. One is the docket cover page, the second is an incomplete and unsigned affidavit of one NB Sithole. But look at what happens next.

The B section and the C section are missing.

**ADV BALOYI-MERE SC:** Sorry, you are referring to, you are talking about Umlazi.

**ADV NGCUKAITOBI SC:** Yes.

**ADV BALOYI-MERE SC:** I think you gave us the wrong one. I have got Umkomaas.

**ADV NGCUKAITOBI SC:** Yes, all right, let us just complete this section, Lieutenant-Colonel. What we received from the NPA for this proceedings on 585/01/2011 is what is behind  
10 you there, which is an affidavit of one NB Sithole. And what I want to draw your attention to is the fact that the B section and the C section are missing. Is that usual?

**LT-COL MANGENA:** No, Chair, it is not usual.

**ADV NGCUKAITOBI SC:** Yes. And when you look at the actual affidavit of NB Sithole, it is also just behind you. I think it is a four-page affidavit that does not have a signature page. I think that is where it ends. Is that usual?

**LT-COL MANGENA:** No, it is not usual, Chair.

**ADV NGCUKAITOBI SC:** That you have a docket of this  
20 magnitude with six pages and a cover letter and an unsigned affidavit and the contents of section B and section C have been hollowed out.

**LT-COL MANGENA:** No, Chair, it is not usual because we did visit this crime scene.

**ADV NGCUKAITOBI SC:** I know, because ...[intervenes].

**LT-COL MANGENA:** And we visited this crime scene ...[intervenes].

**ADV NGCUKAITOBI SC:** Your report is detailed with what you found inside.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes. So do you have any explanation what is happening? I mean, this is not the first time we see this level of interference with dockets.

**LT-COL MANGENA:** No, Chair, it is not the first time we see  
10 this, because if I can recall, with the Esikhawini 3  
...[intervenes].

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** The original docket, we were informed that it went missing.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** It was fortunate that the father of Kwazi requested a copy of the docket before it got lost and when we were there, he is the one who gave us a copy that he had of the same docket.

20 **ADV NGCUKAITOBI SC:** Well, you know that we are still waiting for the docket of the killing of Superintendent Choncho three months after we asked for it. What do you think is the explanation for this level of interference with dockets?

**LT-COL MANGENA:** Chair, I do not know. I do not know

how to explain this.

**ADV NGCUKAITOBI SC:** Yes. And you know, the problem with these dockets were once with the Cato Manor prosecution team. Then they were given to head office. Then we asked for them from head office. We got six pages. So there is just something I do not understand with what is actually happening inside the NPA.

**CHAIRPERSON:** May I verify with you, Counsel. When the NPA was given the docket, did you verify with them whether  
10 they were given the missing, the docket with missing parts? Did you speak to them when they gave you this document and find out from them whether they were given this incomplete docket when they received it?

**ADV NGCUKAITOBI SC:** Madam Chair, the only thing I can say about the one we have looked at closely, which is Superintendent Choncho, I will deal with Umlazi now because the problem with Umlazi is that the witness details out what was found in the docket. So there was a point at which this docket was complete when this witness worked on it. You  
20 can see from paragraph 314 of his statement.

**CHAIRPERSON:** You have not taken us there, so maybe that is why I am trying to verify with you.

**ADV NGCUKAITOBI SC:** Yes, no, I understand.

**CHAIRPERSON:** I may be going ahead of you.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** Yes.

**ADV NGCUKAITOBI SC:** But you can see there that item 1, item 2, item 3, item 4, item 5, there was a point when this docket had documents. But I am not going to deal with that for now because evidence has not been led. But with Superintendent Choncho, the report by Mr De Kock deals with the contents of that docket, so which means it was in the NPA at head office with the De Kock panel. This is why we asked for it and it is three months later, they have not given it to us.

10 So when you say to me, Madam Chair, when they received it, did it have the full contents, we know for sure with Superintendent Choncho that it did have the full contents because they referenced those contents in the De Kock report. The problem is that they are not giving it to this panel.

**CHAIRPERSON:** I think, first of all, let us find out how you are going to place this document on record. That is the first thing because it is a loose, two pages of document which we may lose. What do we name it?

**ADV NGCUKAITOBI SC:** My learned friend says this is  
20 already with the NPA and if I am not mistaken, it is marked UZ0001.

**CHAIRPERSON:** Yes, Advocate Ngcukaitobi.

**ADV NGCUKAITOBI SC:** Yes, Madam Chair.

**CHAIRPERSON:** I am sorry that we are engaging with you this way. I think the explanation that comes from the

advocate is that the NPA bundle is complete when it was filed. But when they were producing our copies, they encountered problems with the printer.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** And it left out these papers.

**ADV NGCUKAITOBI SC:** I see.

**CHAIRPERSON:** That is why we do not have them in the bundle, the printed file. I am not sure in relation to this volume where would these pages be fitting in properly, but  
10 we will take it up with our researcher later so that they can show us at tea time where this document should be coming in. We should have been told about this maybe earlier than now. Nonetheless, I think we can proceed.

**ADV NGCUKAITOBI SC:** Yes, yes, yes, we will follow that up in the adjournment which is coming in 15 minutes.

**CHAIRPERSON:** Yes, so that we do not lose this piece of, this six pages.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** Proceed, Counsel.

20 **ADV NGCUKAITOBI SC:** Thank you, Madam Chair. I want you to go to page 2A-325. 2A-325, that is Umlazi 585/01/2011.

**LT-COL MANGENA:** I am on it, Chair.

**ADV NGCUKAITOBI SC:** Yes. You have mentioned already that you visited the scene. Can you just give us an outline of

what was happening?

**LT-COL MANGENA:** Chair, in this instance, it is the same *modus operandi*. Cato Manor was looking for this guy and they got information that he was hiding somewhere or staying in this. It is around the hostels or the shacks ...[indistinct] area and then they came here to look for him. They found him in this house and they entered. While they were busy questioning him, he tried to grab a gun and he was shot with an R5 rifle.

10 But in one of the statements, I think the brother to the deceased, he was in this adjacent room, but if you open, I will show the Commission on the photos, when you open the door to enter the room, it closes the other room. So he was apparently hiding in that other room. They did not see him.

**CHAIRPERSON:** The brother?

**LT-COL MANGENA:** The younger brother.

**CHAIRPERSON:** The younger brother.

**LT-COL MANGENA:** And then they tortured this one. They shot him. After shooting him, they placed a gun in his hand  
20 to pull a trigger so that he can test positive for primer residue. When they did that, that is when the brother screamed, shouting. That is when they realized that there was somebody in the room and he came out. But then people were outside, they could not do anything. He was released, but he submitted a statement, it is just that I do not know

where the statement is.

**ADV NGCUKAITOBI SC:** Yes, well, it is part and parcel of this issue around the docket, because you mentioned that fact to us in consultation, which is why we have to find this docket, because it is the first time there is an eyewitness to the planting of primer residue. Now, the people that were here in this particular scene are mentioned at 4.2, 4.3, and 4.4 of your statement.

**LT-COL MANGENA:** That is correct, Chair.

10 **ADV NGCUKAITOBI SC:** Who are they?

**LT-COL MANGENA:** The statement of Warrant Officer John Charles Smith, the statement of Warrant Officer Paul Mostert, and the statement of Warrant Officer Roland Naidoo.

**ADV NGCUKAITOBI SC:** And these names we have seen before. Just explain briefly.

**LT-COL MANGENA:** That is correct, Chair, we have seen them. It is members of the Cato Manor Unit.

**ADV NGCUKAITOBI SC:** Yes, thank you. Okay,, so you can take us through then in your own way.

20 **LT-COL MANGENA:** Right, Chair. On the 30<sup>th</sup> of January 2012, during the performance of my official duties, I received a number of LCRC case files from the commander of LCRC, Colonel Boltman. The case files received, including the file with reference Umlazi 585/1/2011, Durban LCRC 1408/01/2011. In this case file, I found a key to the sketch

plan and photograph compiled by Warrant Officer Ngcobo of Durban LCRC, and then the crime scene pictures, and I also received the disk, the crime scene photos on a disk.

Right:

“On the 16<sup>th</sup> of May, during the performance of my official duties, I received a copy of the police case docket, with reference Umlazi 585/1/2011, from Lieutenant-Colonel Kola[?] of the task team. Amongst other documents in the docket, I found the following documents, which were utilized  
10 in crime scene reconstruction. The post-mortem report with reference Durban PM 90/2011, compiled by Dr Subusiso Johannes Ntsele, and it was signed on the 7<sup>th</sup> of May 2011. The post-mortem was conducted on the 21<sup>st</sup> of January 2011. There was a statement of Warrant Officer John Charles Smith, a statement of Warrant Officer Paul Mostert, a statement of Warrant Officer Naidoo. The intention and scope of the forensic examination comprises of the following, crime scene reconstruction, examination and reconstruction, bullet trajectory determination, and the expert opinion  
20 concerning the case. On the 17<sup>th</sup> of May 2012, during the performance of my official duties, I took the aerial photos of the crime scene using the police chopper, and the scene was pointed out to me by Lieutenant Colonel Kola. Photo 1 shows the house in question.”

**ADV NGCUKAITOBI SC:** Just take us the page so that we

can all follow where photo 1 appears.

**LT-COL MANGENA:** It will be 2A-329. Well my photo 9 is 328. Oh ja, 328 and 329. Photo 1, 2 and 3, just from different angles. So our scene will be this house as marked. Then go to photo 4 and 5. So on photo 5 it will be this one that you see at the entrance, the same entrance. This is the room that the incident occurred, and I just want to check. Right, when you go to photo 8, photo 8 shows ...[intervenes].

**CHAIRPERSON:** Sorry, before you proceed Colonel, is  
10 photo 6 and photo 7 the same room, photo 6 at 2A-331 and photo 7 there, is it the same room?

**LT-COL MANGENA:** That is correct, it is the same room from different angles. The photos were taken from different angles.

**CHAIRPERSON:** Yes, thank you.

**LT-COL MANGENA:** Photo 8, right, this is the room where the incident occurred and this is the other room where the other brother was in. Now when you go to photo 9, right, this is the entrance into the room where the incident occurred.  
20 And that room is where the brother was staying. So now if you open this door, it closes the entrance to that other room. So you cannot see what is happening in that room. So the incident happened in this room while the brother was in that other room and he could see them through these small holes in the door.

**ADV NGCUKAITOBI SC:** Because at the time of the incident that door was like that, it was closed.

**LT-COL MANGENA:** Now in this way it is closed from outside. If you are coming from outside, entering ...[indistinct] you enter from this door. But now if you open, when you enter here, you open it, it closes to this side now. So he was in that side. When this door is open, when you enter, it is closing the other side of the other room.

**ADV NGCUKAITOBI SC:** No, no, what I mean, Colonel, is  
10 how could he see what was going on, on the other side?

**LT-COL MANGENA:** On this side?

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** It is through the, there were, he said there were spaces here between these panels that you could see inside what is happening that other side.

**ADV NGCUKAITOBI SC:** Thank you.

**LT-COL MANGENA:** Right, photo 9 also shows the same room from a different angle. Now, in paragraph 8 on 2A-334:

20 “On observation of the crime scene photos on the disk and photo albums compiled by Warrant Office Ncube of LCRC, I noticed the following. Photo 10 shows the window of that room and photo 11 shows the position of the deceased inside the room.”

**ADV NGCUKAITOBI SC:** Ater he had been shot.

**LT-COL MANGENA:** That is correct, it is after he was shot.

So here is the deceased where he is lying and here is the alleged gun that he tried to grab.

**ADV NGCUKAITOBI SC:** Is he naked or am I ...[intervenes].

**LT-COL MANGENA:** Photo 12 ...[intervenes].

**ADV NGCUKAITOBI SC:** Yes, actually photo 12 explains, yes.

**LT-COL MANGENA:** It explains. Now, when you go to photo  
10 13, what is interesting here is we have a fired cartridge case  
of R5 on top of the body, which is here on top of the body of  
the deceased. Photo 14 shows ...[intervenes].

**ADV BALOYI-MERE SC:** Sorry, sorry, and I apologize. I  
was not aware that my mic has been on all the time. But what  
does that signify, that the cartridge is on top of the body of  
the deceased?

**LT-COL MANGENA:** Chair, I will explain that.

**ADV BALOYI-MERE SC:** Thank you.

**LT-COL MANGENA:** Right, on photo 14, photo 14 shows  
20 that two gunshot wounds is sustained on the chest and photo  
15 shows another gunshot wound on the forehead, just above  
the right eye. It is positioned here. Now in this instance, you  
can see how the skull has cracked.

**CHAIRPERSON:** Sorry, photo 14, those two gunshot wounds  
in photo 14, is that the stomach?

**LT-COL MANGENA:** Ja, it is at the stomach, just between the stomach and the chest. It is around this area.

**CHAIRPERSON:** Thank you.

**LT-COL MANGENA:** Right, on paragraph 9, I explain that:

10 “During examination of the crime scene, I noticed some changes in the room as compared to the crime scene photos. I was informed that the bed was positioned where the buckets are positioned, as in photo 6 and photo 9.”

So there were changes made inside the room when we were doing our investigations ...[indistinct]. And then photo 10:

20 “I studied the post-mortem report, observed the crime scene photos, and I noticed that the wound sustained to the head of the deceased, as visible on photo 15, is consistent with the wounds described by the doctor on post-mortem report, which is wound A. According to the doctor's description of the wound, it has characteristics of a bullet entrance wound. The wounds sustained on the right side of the chest are also consistent with wounds described in the

post-mortem as B1 and C1. Again, according to the doctor's description, they both had characteristics of bullet entrance wound and were surrounded by stippling.”

Now, the doctor is mentioning it or is describing it as stippling. Stippling is the same as or another name for tattooing. So this indicates that the rifle was held at a distance of less than a meter from the deceased, because  
10 both wounds are surrounded by unburned and partially burned propellant powder on the entrance.

**ADV NGCUKAITOBI SC:** What does this mean, that you are carrying an R5 rifle in a distance of less than a meter from the deceased?

**LT-COL MANGENA:** That is correct, Chair, that is how these wounds were inflicted on the body.

“After observation of the crimes in photos and post-mortem, I am of the opinion that the wounds sustained by  
20 the deceased are consistent with high-velocity bullets or rifle bullets, and not low-velocity or maybe not a handgun, it is a rifle that was used. The presence of unburned and partially burned propellant powder particles around the

wound described by the doctor as stippling is an indication of a close-range shot. The more concentrated and smaller the pattern, the closer the muzzle of the firearm to the target. There are two bullet entry wounds on almost the same position, and both wounds are surrounded by stippling, taking into account that these two wounds are on the same position, it would be difficult to determine the possible distance determination at which the shots were fired.”

Because the reason why it is going to be difficult is that if it is one shot, you measure the pattern, how big is that pattern of propellant powder or tattooing, then you can do a distance determination. But in this instance, it is two shots, so it will be propellant from two different shots. The pattern might be bigger or might be smaller, so it is going to be confusing to say how far was, but what we can say is the firearm was less than a meter from the body of the deceased when the wound was inflicted.

**ADV NGCUKAITOBI SC:** I just remembered to go back to the question by Advocate Baloyi-Mere SC.

**LT-COL MANGENA:** Yes, I will go to that one.

**ADV NGCUKAITOBI SC:** Thank you.

**LT-COL MANGENA:** The more concentrated, right there is where I explained the tattooing.

10 “Giving my personal opinion and experience from the size of the stippling or the tattooing around the wound, as described by the doctor, I am of the opinion that the shot was fired, or the shots were fired at a range of not more than 50 meters.”

That is correct. Right, in paragraph 11.3:

“The two wounds sustained in the chest were most probably inflicted before the wound sustained on the forehead. Now, the position of the fired cartridges ...”

[intervenes].

**ADV NGCUKAITOBI SC:** Just to stop there, the wounds sustained between the chest and the stomach were sustained by an R5 rifle.

20 **LT-COL MANGENA:** R5 rifle.

**ADV NGCUKAITOBI SC:** Yes. Now, could he be able to stand after the shots of an R5 rifle within a distance of 50cm or did he fall after that?

**LT-COL MANGENA:** He fell immediately after.

**ADV NGCUKAITOBI SC:** And then after that, they shot him

in the head.

**LT-COL MANGENA:** That is correct, Chair. He fell, and then that is where the explanation of the cartridge case on top of the body comes. He was shot twice with the R5, and then he fell backwards. So this wound was inflicted while he was already down. So the fired cartridge from this shot bounced on the wall and came back and landed on top of him. So this indicates that he was already there when this wound was inflicted. The cartridge case bounced somewhere on the wall  
10 and then came and landed on top of him.

**ADV NGCUKAITOBI SC:** Is that in 11.4?

**LT-COL MANGENA:** That is what is explained on 11.4, because on 11.4, I said:

“The position of the fired cartridge case on top of the deceased body gave the impression that the deceased was already lying or seated there when the shot was fired and was placed on top of him after the incident.”

20 So basically, after falling, it came, ricochet and fell on top of him, so it was placed there, after, not that somebody picked it up and put it there. It fell on top of him after the shot was fired.

**ADV NGCUKAITOBI SC:** Yes. Now, there is still that firearm that appears at photo 11, which we must still account for.

**LT-COL MANGENA:** Yes, Chair, there is a pistol that is lying on the bed here that they allege that he grabbed the firearm and he wanted to shoot at them and then he was shot.

**ADV NGCUKAITOBI SC:** Yes. And what is your opinion on that account?

**LT-COL MANGENA:** Chair, I would say the same *modus operandi* as other cases that we have done.

**ADV NGCUKAITOBI SC:** Meaning?

**LT-COL MANGENA:** After the victim has been shot, the  
10 firearm will be found, and the *modus operandi* is that he wanted to grab the firearm, or he grabbed the firearm, and then the members shot him.

**ADV NGCUKAITOBI SC:** Yes. Now, you mentioned his brother, the deceased's brother. I think we do have the name of the deceased, Mr Philani Obed Dlamini. So you mentioned that Mr Dlamini's brother was in the vicinity.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes, can you just explain what, at the time you had access to the statement, what did it say?

20 **LT-COL MANGENA:** Chair, we, when we came there to reconstruct, he was there. I think he was there. He is the one who explained to us he was hiding in that other room, as I have explained, and he saw them doing, shooting the brother, and they started assaulting him, and then they shot him. And he could see, but he was quiet by then. He could

not do anything. After he was shot, they placed the firearm in the brother's hand and pulled the trigger so that he can test positive for primer residue. When the shot was fired, that is when he started to scream. They noticed that there was somebody inside the room. But by then, the community members were already out. They could not do anything to him. He just came out, and then they let him go.

**ADV NGCUKAITOBI SC:** Yes, now, this is the second case where there is an eyewitness who sees that a firearm is being placed there in this enquiry, and this eyewitness told you personally the story.

**LT-COL MANGENA:** That is correct, because when we went there to reconstruct, we needed somebody who stays in there, who knows the scene, and he is the one who was there, who explained to us everything there.

**ADV NGCUKAITOBI SC:** Thank you. Do you know his name?

**LT-COL MANGENA:** Chair, I cannot recall his name.

**ADV NGCUKAITOBI SC:** Yes.

20 **LT-COL MANGENA:** But the statement was in the docket.

**ADV NGCUKAITOBI SC:** Yes, no, that is fine. We will find it at some point. We may ask him to come and give evidence to this panel. Madam Chair, it is 20 past 11. I am in the panel's hands, but I finished with this docket.

**CHAIRPERSON:** Are you done with this docket?

**ADV NGCUKAITOBI SC:** Yes, I am. Well, I have not asked the witness if he has got anything else to add, sorry. Is there anything you feel you have left out?

**LT-COL MANGENA:** No, Chair, that is enough.

**ADV NGCUKAITOBI SC:** Thank you. We are finished with the docket.

**CHAIRPERSON:** And this document that was handed to us that reflects missing ...[indistinct] would have contained also the statement of the deceased's brother possible?

10 **ADV NGCUKAITOBI SC:** Yes, we assume, Madam Chair, because if the statement was once in the docket, it would have been either in B or in C. Is that correct, Lieutenant-Colonel?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes.

**MS RAMAGAGA:** I have just an observation. If, and, Lieutenant-Colonel, please assist me here. If one wanted to make a scene look like this person was shot in self-defence because of that gun, would – I am going to use a test that  
20 might not apply, would a reasonable person not made sure that the cartridge that was, that bounced on the wall and fell on the body, make sure that it is not there so that it, because it is proof. If we take what you are saying, it is proof that the deceased was shot on the head while lying down by the mere fact that the cartridge fell on his body. Now, would a

reasonable, dishonest person not take that cartridge away from the body because it is proof that the person was shot while lying down?

**LT-COL MANGENA:** Chair, it is difficult to answer such questions because I do not know what were they thinking or they did not even worry about some of the things that they were doing, because if you look at some instances, you find the 5.56 calibre cartridge case on the scene but we cannot explain how or where did they shoot with this rifle. And in  
10 some instances, you find that it is close range. There is propellant powder, so it shows that they did not worry about some of the things that they were doing. If I know that at this range, there will be the presence of propellant powder particles, I would not do that because I know that this can create a problem for me. So I think in most of the cases, they did not worry about such things.

**MS RAMAGAGA:** It could be attributed to being either careless or not caring because of their protection.

**LT-COL MANGENA:** Possibly so, Chair.

20 **CHAIRPERSON:** Yes, thank you. Colonel, we are going to take a tea break until about 5 to, let me say 12 o'clock. During the tea break, Advocate Ngcukaitobi, you will verify some of the things that I spoke about.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** This document that was handed to us, we

will also check with our researchers and anything else that needs to be brought to our attention pertaining to documents that need to be filed off record by yourself.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair.

**CHAIRPERSON:** If not now, when we reconvened by lunchtime.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair. I get the picture.

**CHAIRPERSON:** Yes, you are still under oath, Colonel. We  
10 will adjourn for tea.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon, good afternoon, Colonel.

**LT-COL MANGENA:** Good afternoon, Chair.

**CHAIRPERSON:** And good afternoon, Advocate Chauke. You are still under oath, Colonel.

**LT-COL MANGENA:** I am still under oath, Chair.

**CHAIRPERSON:** You may proceed, Advocate Ngcukaitobi.

**ADV NGCUKAITOBI SC:** Madam Chair, thank you. I should  
20 start with where we ended with docket Umlazi 585/01/11. What we have now been able to establish, is that there are two covers to the dockets. There is 585 and 586. What seems to have happened, it seems at the NPA level, because there are two separate covers, is that documents from 585 were put in 586. But Section B and Section C are still

missing, and we have no way of knowing where they are, why they are missing. But luckily for us and for the Panel, there are a number of statements in Section A. And I would like to, with the leave of the Panel, to just go back to those statements, because we did not put them to the witness. But they come from 586/01/11, which we found. It is the strangest thing, because the documents themselves talk about 585/01/11, but they are under the cover of 586/01/11. So if we could do that, I am going to put ...[intervenes]

10 **CHAIRPERSON**: Thank you, Counsel. Yes, they explained to us during tea break, and we have seen that.

**ADV NGCUKAITOBI SC**: Yes, thank you, Madam Chair. If we could start with UL0057. So there is a statement just behind you, Lieutenant-Colonel. So if you look just at the top to see the name. Yes. Now, that is the name, Ndaba Mhlongo. Now, according to the statement, you will see how he describes himself. This is one of the eyewitnesses. He says:

20 “I am an adult male with ID number (and he gives the number), 27 years old, residing at number 107, T-section, Kwathi, Umlazi, Durban with cell phone number (he gives the number). I am currently working piece jobs, et cetera.”

Then, he explains what happened on that day, or that

morning.

“On Friday, 2011-01-21, early hours of the morning at about 2.00am, I was sleeping together with my cousin, Soga Mhlongo, my elder brother, who is now deceased. Obed (I think it is) Phila, Dlamini...”

So, Mr Dlamini, you will confirm he is the deceased, Lieutenant-Colonel.

**LT-COL MANGENA:** Chair, I am not sure of the name of the  
10 deceased.

**ADV NGCUKAITOBI SC:** Yes, thank you.

“Obed Phila Dlamini was sleeping on the other room next to where we were sleeping. Two rooms were divided by curtain. I could see where my brother, deceased Obed, was sleeping. I woke up after a loud big bang. I lifted my head, remained inside the blankets. Many people came inside the house. Those people introduced themselves as police officers. It was mixed white, Indian, and I also noticed one black member amongst them. Most were whites. Those police officers were forcing him, my brother (that is now Mr Dlamini) to agree the name of Tyson Philane. My brother said he was  
20

Obed Phila Dlamini. My brother even said he can produce his identity document. My brother was answering them while his hands were lifted up, showing to surrender from those police officers. One white police officer was pointing a firearm to my brother and was the one who questioned my brother. The very same white police officer called my brother closer to him.

10 The white police officer fired shots on my brother. It sounds as if the police officer fired more than two in the same time. My brother then fell down. The very same white man who fired shots went outside and said, gun, gun. White police officer came back with a handgun. He went to my brother who was lying on the floor. A white police officer lifted my brother's hands and put that handgun as if my brother was firing shots,

20 shooting, more than one shot were fired from my brother's hand, while the white police holding a gun together with my brother's hand."

Now, this is one of the eyewitnesses. Can you comment on this?

**LT-COL MANGENA:** That is correct, Chair. I think this is the statement that I was talking about.

**ADV NGCUKAITOBI SC:** Yes. Well, there is a second one. Second statement from another eyewitness. Another brother. There were two brothers apparently. So that you will see at UL0062. And that is the Soga Petrus Mhlongo. Can you see that?

**LT-COL MANGENA:** Yes.

**ADV NGCUKAITOBI SC:** Now, he first describes himself and  
10 then from paragraph 2, he deals with that incident.

“On Friday, 2011-0-121 at about 2.00am, I  
was sleeping together with my brother  
Ndaba Mhlongo. I was sleeping in the same  
room with Ndaba. My other brother, Obed  
Phila, was sleeping on the other side. The  
room where Obed was sleeping was next  
door. Two rooms were divided by curtain. I  
was sleeping on top of the bed. Ndaba was  
sleeping on the floor. Where I was sleeping,  
20 I could see where Obed was sleeping. Our  
beds were straight to each other. I could  
see what was happening on his side and he  
can also do the same.  
I then woke up after a loud big bang on the  
door. I remained inside the blankets. I

heard noise. I could hear that those people introduced themselves as police officers. One white man, Indian, and one black police officer. A white police officer approached my brother, Obed. White policemen wanted Obed to accept the name Tyson Obed. Obed told him that he was Phila Obed Dlamini. I could see everything because it happened on my view. A police officer had torch to provide light. A black police officer ordered my brother, Obed, to produce identity document. A white police officer said no. Obed's hands were lifted up behind his head. A black police officer went out together with an Indian one. My brother remained with a white police officer. A white officer called my brother closer. My brother made two or three steps towards a white police officer. A torch was still on, I could see everything and my brother's hands were still up behind his head. A white policeman fired three shots at Obed. Obed fell down. A white policeman went outside. A white policeman came back quickly with small gun and put it against all my brother's hands.

10

20

Shots were fired. I am not sure whether the very same small firearm fired shots, but I heard a sound of a small firearm around the house.”

So if we can just stop there. Is this consistent with what you were told on the scene?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes. What would be the reason, from a scientific point of view, to kill a person and not only to  
10 put a firearm next to them, but to also make them hold it in their own hand while shooting, but they are dead already?

**LT-COL MANGENA:** Chair, the reason was to ensure that the person test positive for primer residue as he was shooting at them.

**ADV NGCUKAITOBI SC:** Yes. And why would you try to do that?

**LT-COL MANGENA:** Chair, if you look at most of their statements, their defence will be that the suspect was shooting at them and they shot back. So they will insist that  
20 the LCRC, when they come, or the photographers, they must make sure that they take the primer residue to send them for analysis. And then that will be their defence, that the person tested positive for primer residue, meaning that he was shooting at them.

**ADV NGCUKAITOBI SC:** Yes. Thank you very much. In

fact, if you go to another statement...

**CHAIRPERSON:** Would paragraph 8 be relevant?

**ADV NGCUKAITOBI SC:** Yes, Madam Chair. I have just overridden my junior. He wanted me to read paragraph 8, but... [Laughter] So if you go back to that same statement, at page UL0064... Can you see that, Colonel?

**LT-COL MANGENA:** Yes, I can see that.

**ADV NGCUKAITOBI SC:** All right. It says:

10           “The very same white man, police, went to  
the door and fired the fourth bullet from his  
big gun. A curtain was opened. In process,  
a white policeman noticed that there were  
people sleeping on the other side. Where I  
was sleeping, it was dark. That was the  
reason those policemen could not see us on  
the first occasion. I wanted to switch the  
lights on, on the room I was sleeping. A  
white policeman ordered us not to switch the  
light.”

20   Paragraph 9.

“We were taken out and made to lie on the ground. We were asked about Obed, and we told the officer that he was Obed Dlamini Phila. Obed was using Dlamini's surname, which was our mother's maiden surname. I

called Obed and Ndaba my brothers. They are not my sibling or biological brothers from one mother or one father. We were all Mhlongo, different mother and father. Our fathers were brothers. Obed had no firearm. He was killed without fighting those police officers. I am definitely sure that police came with the firearm that was found later next to Obed.”

10 Yes. And then it is the next, it is the Commissioner’s certificate. Now, is this consistent with what you learned on the scene?

**LT-COL MANGENA**: That is correct, Chair. It is consistent to what we heard on the scene.

**ADV NGCUKAITOBI SC**: Now, the oddity about this is the statement from IPID. If I can just take you to that statement. There is a statement from IPID, which is UL0043. Yes, that is the statement from Shamila Henrietta Williams, who says:

20 “I am an adult female. I am employed at the Independent Complaints Directorate, where I hold the rank of Senior Investigator. I am currently attached to the KwaZulu Natal Office, Third Floor Marine Building, Gardner Street, Durban.”

And then it gives a cell number. Paragraph two:

“I performed standby duties for the week 2011-01-17 until 2011-01-24 for the KwaZulu Natal Office. Those duties include the attendance of crime scenes and where members of the South African Police Service as well as the Metro Police officers are implicated. On the...”

It is either 12th or 21st day;

10 “...of January 2011, I attended a shooting scene at F Section in Umlazi where SAPS members fatally wounded a suspect after he had fired shots at them.”

Now, start here. I mean, IPID already concludes that the SAPS members retaliated after they were shot. What do you say to that?

**LT-COL MANGENA:** Because I think at this stage, she took their version of the incident, how they told him or told her.

**ADV NGCUKAITOBI SC:** Yes. It actually gets worse.

20 “The mother of the deceased was interviewed and she submitted a statement and informed us that her son had indeed come home with money but that he did not provide her with an explanation of where he received it, but only that it was his salary from his new job. She also informed us that

her son had a firearm. There were no witnesses traced at the scene that could dispute the SAPS version.”

Now, what do you say to that?

**LT-COL MANGENA**: I do not know where does the statement come from, Chair.

**ADV NGCUKAITOBI SC**: Yes. But I mean, is it false or true that there were no witnesses that could be traced to dispute the version of the police?

10 **LT-COL MANGENA**: There were witnesses who were in that house.

**ADV NGCUKAITOBI SC**: And what does this say then about the investigation by IPID that they can, on their own version, just accept what the police are saying?

**LT-COL MANGENA**: Chair, I would say there was no investigation conducted on this matter.

**ADV NGCUKAITOBI SC**: Yes. Thank you very much.

**CHAIRPERSON**: But was the statement taken from the deceased's mother in the light of what the IPID officer is  
20 saying?

**LT-COL MANGENA**: Chair, I...

**CHAIRPERSON**: Do you know?

**LT-COL MANGENA**: I am not sure. I do not know the statement taken from the mother because the mother was not there. According to the witness at the scene who gave their

version of the incident, the mother was not there. And it is a two-roomed house where the brother was sleeping in one room, they were sleeping in another room. What they are saying is divided by a curtain. It is a curtain when you close the door, going outside, it is a curtain. But when you open the door, the door that comes into your house closes the one, that is where the curtain is.

**CHAIRPERSON:** Yes, what I am saying is the senior investigator, investigator Shamila Williams, is telling us  
10 about what the deceased's mother told her. Now I am asking, should we not then be having a statement of the deceased's mother?

**LT-COL MANGENA:** They were supposed to have a statement from the mother in the docket.

**CHAIRPERSON:** Yes.

**ADV NGCUKAITOBI SC:** Madam Chair, we do have that statement. It is at UL0005.

**CHAIRPERSON:** 5.

**ADV NGCUKAITOBI SC:** Yes, 0005.

20 **CHAIRPERSON:** UL0005?

**ADV NGCUKAITOBI SC:** Yes, Madam Chair.

**CHAIRPERSON:** Thank you.

**ADV NGCUKAITOBI SC:** Now the name of the deceased's mother is Babongile Dlamini, Ms Babongile Dlamini. Can you see that?

**LT-COL MANGENA:** [No answer]

**ADV NGCUKAITOBI SC:** Can you see that, Lieutenant-Colonel?

**LT-COL MANGENA:** Yes, I can see that, Chair.

**ADV NGCUKAITOBI SC:** Thank you very much. Now, the relevant parts, apart from giving personal details, is when she says at paragraph 2:

10 “On Monday, 2011-01-17, at about 05.25, my son, Phila Obed Dlamini, left home for a temporary job he said they had found in Deben, a town. On the same day, at about 13h00, my other son, Ndaba Mhlongo, informed me that Phila had phoned him to meet him in town, but he never went as he was tired. On the same day, at about 16h00, Phila came back with his new clothes that he had bought from town. I asked him about the new clothes, and he told me that he got paid at his new job and that how he bought his clothes.

20 Later that day, at about 17h00, Phila left home and said he was going to sleep over his girlfriend by a Mangosuthu, which I do not know. Phila came back on Tuesday, 2011-01-18 during the day, he stayed for a

while and later informed me that he was going to Grootville, Stanger, to see his child. When I came back from the clinic, he was already gone. Later that day, at about 19.30, Phila phoned me and told me that he was going to sleep over his other home, which is at Craigville, and further informed me that he did not see his child because...”

That does not seem to be relevant. Paragraph 8:

10 “Phila came back on Wednesday, 2011-01-19. He was at home, and he slept over the house that day. On Thursday, 2011-01-20, Phila left and said he was going to his friends, that after he had received a phone call. He did not come back until we went to sleep. We live in a three-room shack house, and Phila occupies the centre room. On Friday, 2011-01-21, at about 02h00, I was asleep in my room with my sister, Theresa

20 Batabile Dlamini, and we were woken up by some noise, by someone who was kicking the door. Batabile woke up to open the door, and the door was already open, and the door frame was on the floor.

We heard people say, it is the police in Zulu,

and said they were looking for Phila, Batabile informed them that he was on the next room. After that, I heard gunshots, and the other door being kicked open while Phila was sleeping. The police were talking Afrikaans outside and could not understand what they were saying. I told one of them, speaking in Zulu, saying, do not run, you are going to get shot. The gunshots were continuing. One police came to us and told us that they are trying to enter the room, and someone is shooting at them, even though they have introduced themselves as police. I then asked where, meaning in which room, and he said here, pointing in the middle room, where Phila is sleeping. After a while, one other policeman came in and sat down and informed us that someone had been shot dead, and he gave the description, and I realised it was Phila, my son. We sat in the room, and never went to where Phila was. I know and understand the content of the statement. I have no objection....”

Now, if you just compare what is being said here versus what IPID says around the incident, is it not clear that the mother

of Mr Dlamini did not actually witness the incident?

**LT-COL MANGENA:** That is correct, Chair. She was not in the room that the incident occurred, she was in another room, because I think the room was the third one from the one where the two were sleeping in.

**ADV NGCUKAITOBI SC:** Yes. Now, she then also says that, that is IPID, that the son owns a firearm. Correct? Now, what is the relevance of that, the mere fact that a person owns a firearm?

10 **LT-COL MANGENA:** Chair, if they are saying the son owns the firearm, we would ask if it is a licenced one or unlicensed one. If it is a licenced one, he is supposed to produce a licence, at least to have a copy of the licenced one. So now if you are saying the son owns a firearm, how would she know that the son owns a firearm? It is either she took information that she got from the police and used it to write her statement.

**ADV NGCUKAITOBI SC:** But I am saying that if the mother says, look, I know my son has a firearm, what is the relevance of that to the actual killing?

20 **LT-COL MANGENA:** I do not think it would have the relevance in the killing of a person.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** But does she say that in her statement, or did I miss it?

**ADV NGCUKAITOBI SC:** There is a statement from Ms

Williams who says, the mother told me that my son owns a firearm.

**CHAIRPERSON**: Yes, I am saying the mother. Does she say that in her statement?

**ADV NGCUKAITOBI SC**: Yes, I thought she does, Madam Chair.

**CHAIRPERSON**: She does?

**ADV NGCUKAITOBI SC**: Yes, yes. Well, yes, she gave a second statement. So if you go to the second statement, at  
10 UL0008, paragraph 4, she says:

“I know that my son had a firearm because at one stage, I had them/him talking with his friends outside the room about the firearm and when I confronted him, he did not deny, but said he needed protection.”

So that is the highest this is put.

**CHAIRPERSON**: Yes.

**ADV NGCUKAITOBI SC**: That I once heard that my son has a firearm. And this is the point I am asking you. So according  
20 to IPID, the mere fact that you have a firearm, I do not understand actually what they are saying. Do you understand it?

**LT-COL MANGENA**: Chair, I do not understand the relevance of that statement in this incident.

**ADV NGCUKAITOBI SC**: Yes. Thank you. And then just to

complete, just to complete the version of the police, remember that on your version, and according to the version of the eyewitnesses, Mr Dlamini was killed by a white policeman. Was shot by a white policeman.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** And then shot him twice on the chest and then finished him on the head while he was lying down.

**LT-COL MANGENA:** That is correct, Chair.

10 **ADV NGCUKAITOBI SC:** Now, here is something that is a bit of an oddity. At UL0030, this is a statement given by *Rubendren Naidoo*, who was one of the police officers present during the killing of Mr Dlamini. He says:

“On Friday 20...”

That looks to be irrelevant until... Yes, maybe it is.

20 “On Friday 20th January 2011, I was on duty and conducting investigation duties in Montclair CAS 182/01/2011, murder of an SAP member. During the night, two suspects were arrested for the above case. One of the suspects thereafter proceeded in pointing out the third suspect, Phila Dlamini. The suspect pointed out several shacks in T Section. Further information was that Phila Dlamini was armed and was the gunman

during the murder of the police officer. At about 02.15 on the 21st of January, I proceeded to T107 Umlazi at this stage. I was in the company of Detective Warrant Officer Mostert and Detective Warrant Officer Smith. Prior to searching the shack, several other shacks were searched for the suspect by other members. I proceeded and kicked the door open.

10 As I entered the shack, screaming out police, police, I heard a firearm cock and a black male, partly dressed, fire a shot in my direction. I was armed with my R5 rifle, serial number, and fired three shots towards the black male. The suspect fell to the floor alongside a bed. The firearm or pistol fell onto the bed. I proceeded tactically towards the suspect. I noticed he was seriously wounded on his chest and head. I requested  
20 Detective Warrant Officer Mostert to contact the paramedics and the relevant role players.”

Now, here what we have is Mr Naidoo admits to having been the one who killed the suspect or the deceased. But the eyewitnesses say actually it was the white man who killed the

deceased.

**LT-COL MANGENA:** And, Chair, if you look at the shack, it is a very small shack where there is no space. If you said the victim or the suspect moved and fired a shot, and a shot that is less than two metres, or two to three metres, and he missed him, that is when he fired the shot. He moved tactically. You cannot move tactically in a shack that is only two, three metres. And look at the wounds sustained on the chest. It is a close-range shot where the firearm was less  
10 than, it was about, as I said, approximately 50 centimetres from there.

**ADV NGCUKAITOBI SC:** Yes. Well, I mean, you would have expected that if he says the suspect shot, you would have expected that it would be the cartridges of the firearm used by the suspect. But according to your testimony, the cartridges recovered, they are 5.56.

**LT-COL MANGENA:** Only those are 5.56.

**ADV NGCUKAITOBI SC:** Yes. Thank you.

**MS RAMAGAGA:** Are you able to comment to this statement  
20 that is put to you by Advocate Ngcukaitobi that notwithstanding the fact that the eyewitness says it is a white male that fired shots, now we hear Mr Naidoo claiming to be the one that actually fired shots at the deceased. Do you have any comment to that?

**LT-COL MANGENA:** Chair, I would not say who fired the

shot. The only thing that I can say that was the shots were fired with an R5 and were shot at a close range. It is only the statement of the witness that says it is a white male, but I cannot confirm whether it is a white male or whether it is Naidoo. That I cannot do.

**MS RAMAGAGA**: So you have no comment on that?

**LT-COL MANGENA**: I have no comment on that.

**MS RAMAGAGA**: Thank you.

**ADV NGCUKAITOBI SC**: Thank you very much. Can we, we  
10 were about, we were about to move then to Randburg at 2/84. Now, this is one of those where there is no docket at all that has been placed here, but your report already refers to contents of the docket. Is that correct, Lieutenant-Colonel?

**LT-COL MANGENA**: That is correct, Chair.

**ADV NGCUKAITOBI SC**: Yes. Can you just tell us what happened here? From paragraph 325, 326.

**LT-COL MANGENA**: On the Randburg matter, on 325:

20 “On the 15th of October I attended the crime scene in West-minster Street, Bryanston at the request of Lieutenant-Colonel Ramkosi of the DPC, Directorate of Priority Crimes Investigation, with the task team. On the same day I received a police case docket with case number Randburg CAS 712/9/2011, which included the following:

- The post-mortem report with reference number, death register number 1767/2011 compiled by Dr Shakira Holland.
- Statement by Detective Warrant Officer Ganesh, Jeremy Martin, Sergeant Raymond Lee, and Paul Mostert.”

**ADV NGCUKAITOBI SC:** Yes, and then those are?

**LT-COL MANGENA:** Those are the members of Kato Manor  
10 Unit.

**ADV NGCUKAITOBI SC:** Have we seen them before in other  
scenes?

**LT-COL MANGENA:** That is correct, Chair. I have come  
across these names in other cases.

**ADV NGCUKAITOBI SC:** Thank you.

**LT-COL MANGENA:**

“The crime scene photo album compiled by  
Constable Alex Kgare Magherwana. The  
premises had been renovated and tiled and  
20 therefore no physical examination of bullet  
or impact at the site could be conducted.

Crime scene analysis.

The post-mortem report describes six  
gunshot wounds. Two wounds, which is  
wound three and wound six, display

tattooing as depicted in photos 13 to photo  
16 of the report.”

**ADV NGCUKAITOBI SC:** We have to give a warning that there will be sensitive material flighted soon. Thank you. So just before you go through that, the one thing that is unique about this report is that you actually had attachments from the hospital, the Forensic Pathology Services, as well as what appears to be a report by the pathologist. So if you go through to 2A/261 up to 2A/275.

10 **LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes. Where did you obtain those?

**LT-COL MANGENA:** I made copies from the case docket.

**ADV NGCUKAITOBI SC:** Yes, thank you very much. Yes, you wanted to... So if you want to make references to the report of the pathologist which deals with these wounds, that will be at 2A/268.

**LT-COL MANGENA:** That is correct, yes. From 2A/267, that is where the post-mortem started, and it covers 2A/268 and 2A/269.

20 **ADV NGCUKAITOBI SC:** You may proceed, Lieutenant-Colonel.

**LT-COL MANGENA:** Right, Chair. The wounds, as I have marked on the photos, are consistent with the report, and I have now marked them on the body as they are numbered on the post-mortem report. Right, then I will go through to the

post-mortem report, and then the wounds are consistent with the photos, and the post-mortem report can be read in conjunction with the report that I have compiled so that the wounds can be seen on the crime scene photos.

**CHAIRPERSON:** Sorry, Colonel, Counsel, we are dealing with Randburg.

**ADV NGCUKAITOBI SC:** Yes, Madam Chair.

**CHAIRPERSON:** At which pages of the report?

**ADV NGCUKAITOBI SC:** 2A/247.

10 **CHAIRPERSON:** 2A/247.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** And when you look at 2A/264, the Forensic Pathology Services to Johannesburg, it refers to serial number 1767/2011. And then in the middle of that document, it refers to laboratory's own case number 1767. There is no mention of the case, the Randburg case number. Or where is it mentioned here? How do we know this pathology report relates to the Randburg case, 712/09/2014? Am I missing something here?

20 **ADV NGCUKAITOBI SC:** Perhaps a useful way of dealing with that would be to ask the witness to look at 2A/249, at paragraph 5. Lieutenant-Colonel, can you look at your report at 2A/249, paragraph 5?

**LT-COL MANGENA:** 2A/2?

**ADV NGCUKAITOBI SC:** 2A/249, at paragraph 5. What do

you say there?

**LT-COL MANGENA:** 5.1, the post-mortem.

**ADV NGCUKAITOBI SC:** No, no, no, just read the whole sentence.

**LT-COL MANGENA:**

10 “On the same day I received a copy of the police case docket with reference Randburg case 712/09/2011 from Lieutenant-Colonel Ramkosi. Amongst other documents in the docket, I found the following documents

which were to be utilised in crimes and reconstruction:

5.1 The post-mortem report with death register number 1767/2011, compiled by Dr Shakira Holland and was signed on the 31st of May, 2012.”

**CHAIRPERSON:** It does address my question, Counsel.

Thank you.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair.

20 **CHAIRPERSON:** Thank you.

**ADV NGCUKAITOBI SC:** You can take us through your reconstruction, Lieutenant-Colonel, in your own way.

**CHAIRPERSON:** I interrupted you, Colonel, sorry. You may proceed. You are dealing with...

**LT-COL MANGENA:** Madam Chair, I will go through the

report first.

**CHAIRPERSON:** Yes, okay.

**LT-COL MANGENA:**

- “I also received a statement of Warrant Officer Ganesh, a statement of Warrant Officer Jeremy Martin, a statement of Detective Sergeant Raymond Lee, and Warrant Officer Paul Mostert.

- The photo album of the crime scene compiled by Constable Alex Kgare Magherwana.

10  
During my investigation of the crime scene, I found that the unit was renovated and the floor was tiled. No examination was conducted at the scene.”

On photo 4534534, it shows the room that was renovated.

And on paragraph 7:

20  
“On observation of the crime scene photos by Constable Kgare, I noticed the position of the deceased, the wounds and position of the wounds sustained by the deceased and exhibits at the crime scene.”

So photo 5 shows the crime scene and photo 6 shows the entrance of the apartment.

**ADV NGCUKAITOBI SC:** If you could just help us when you

say photo 5, also give us the page because there is a record we are working on.

**LT-COL MANGENA:** Page 2A/252. And then photo 7, on 2A/253, showing position of the deceased.

**CHAIRPERSON:** Caution to the viewers, Counsel?

**ADV NGCUKAITOBI SC:** Yes, if we have not, we caution every sensitive viewer that we are going to flight sensitive images. Thank you. Thank you, Madam Chair.

**LT-COL MANGENA:** On photo 8, showing the position of the  
10 fired cartridge cases inside the house.

**ADV NGCUKAITOBI SC:** Photo 8.

**LT-COL MANGENA:** Photo 8, yes.

**ADV NGCUKAITOBI SC:** You are still going to tell us, because it is not obvious to me at least that they are cartridges, but what are the indicators that we are looking at cartridges?

**LT-COL MANGENA:** Right, the cones that are seen on the photos indicate the cartridge cases or exhibits collected from the scene or found at the scene.

20 **ADV NGCUKAITOBI SC:** Thank you.

**CHAIRPERSON:** Photo 8, 2A/253?

**LT-COL MANGENA:** Photo 8, 2A/253. And photo 9, on 2A/254, shows the position of the wounds sustained by the deceased. Photo 10 shows the position of wound marked 6. Photo 11 shows the position of wound marked 1. Photo 12,

showing the position of the wounds sustained. This would be the left arm.

“On observation of the post-mortem report, I took note of the following wounds and their position as described by the doctor. I also noticed that the wounds as described are consistent with the wounds as visible on the photos. The wounds on photos above were marked by me as described in the post-mortem report. According to the post-mortem report, there is a 190 by 100 millimetre area of tattooing around or surrounding wound marked 6.”

Now if you look at the wound marked 6, which is visible on photo 13, so around this wound there is a visible tattooing area, which indicates that the shot was a close-range shot.

**ADV NGCUKAITOBI SC:** Where are you?

**LT-COL MANGENA:** Paragraph 9 on page 2A/256.

**ADV NGCUKAITOBI SC:** No, I just wanted you to tell us when you say visible tattooing, it is not obvious to us. If you can just draw us specifically to that point.

**LT-COL MANGENA:** If you go to photo 14 and 15, just below that one.

**CHAIRPERSON:** I thought that you were referring to the tattooing at photo 13, just below 6. Earlier on you referred

to that. Would you please start at 6?

**LT-COL MANGENA:** Wound 6, close-up photo of wound 6.

**CHAIRPERSON:** Ja, on photo 13.

**LT-COL MANGENA:** Photo 13?

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** Yes, photo 13.

**CHAIRPERSON:** Were you referring to the tattooing somewhere? Is there any tattooing there?

**LT-COL MANGENA:** That is correct, Chair, and then let us  
10 go to photo 14 and photo 15. Now this is what you call  
tattooing there. This is the unburnt propellant powder  
particles penetrating the skin. It will create something like  
this, and you can even see it around this part of the wound.  
That is around wound number 6. This indicates that the  
firearm was close to the body of the deceased when the shot  
was discharged.

**CHAIRPERSON:** Yes, thank you.

**LT-COL MANGENA:** And it says there is also a 10 by 10  
millimetre area of tattooing surrounding wound mark 3 on the  
20 left upper chest. Right, wound mark 3 would be this one. So  
it is basically here on the chest towards the armpit. And there  
is also tattooing around this wound. So these two wounds  
were shot at close range. Or these two shots were fired at  
close range to the target. What I did, I conducted the test to  
determine more or less the distance between them. As it is

mentioned in paragraph 10, I said:

“I used the same type of firearm used, the 9 millimetre Parabellum Vector Model ZZ8 pistol, with the 9 millimetre Parabellum calibre PMP ammunition, the police-issued ammunition, to conduct the test with the aim of obtaining similar size or pattern of the tattooing. At a distance of 300 millimetres, meaning 30 centimetres, from the muzzle of the firearm, I obtained a pattern of approximately 200 millimetres surrounding the entrance wound. This implies that both shots were fired at the range of not more than 300 millimetres, meaning 30 centimetres from the body of the deceased. The smaller the pattern of tattooing, the closer the firearm will be to the target.”

**CHAIRPERSON:** Your statement, through you, Counsel, at paragraph 329, you do not refer to the distance of 200 millimetres that you refer to in your report.

**LT-COL MANGENA:** The statement?

**CHAIRPERSON:** In your...

**ADV NGCUKAITOBI SC:** Your witness statement.

**LT-COL MANGENA:** Witness statement.

**CHAIRPERSON:** In your affidavit?

**LT-COL MANGENA:** Yes.

**CHAIRPERSON:** At 2/85?

**LT-COL MANGENA:** 2/85.

**CHAIRPERSON:** Yes. Paragraph 329?

**LT-COL MANGENA:** Yes, Chair.

**CHAIRPERSON:** At 329, I think you are describing what you are saying in your report at paragraph 10. Am I correct?

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** Then I am saying, in the second sentence,  
10 you say:

“At the distance of approximately 300 millimetres from the muzzle, a tattooing pattern similar in size was obtained.”

Now, in paragraph 10, you refer to the distance of approximately 200 millimetres. Would you like to comment on that?

**LT-COL MANGENA:** At the distance of 300 millimetres, the muzzle of the firearm?

**CHAIRPERSON:** Yes, as stated in paragraph 10. Just  
20 explain what you are telling us in your statement at paragraph 329.

**LT-COL MANGENA:** Yes, Chair.

**CHAIRPERSON:** That seems not to repeat what you are saying in the report about the distance, the approximation you are giving there.

**LT-COL MANGENA:** Yes, Chair. That is the approximate distance from the muzzle of the firearm to the target when the shots were fired. So I did the test with the same type of firearm, the same type of ammunition. And what you do is, when you do the test, you measure the tattooing, the size or diameter of the tattooing. Now, after measuring that, to give you the distance, or more or less the distance, how far the firearm was when the shot was fired.

**CHAIRPERSON:** Almost clearly just an approximation, not  
10 exactly.

**LT-COL MANGENA:** It is an approximate.

**CHAIRPERSON:** Yes, thank you.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair.

**LT-COL MANGENA:** All right, on paragraph 11 on 2A/258:

“After my observation of the crime scene photos and post-mortem report, I reached the following conclusion. The deceased was shot at least six times. Some of the bullets re-entered the body. The possible sequence of the shots are as follows. The first shot was at wound number 3. At this shot, the firearm was very close to the body of the deceased. The second shot was at wound number 6. At this shot, the distance had increased compared to the first shot at  
20

wound number 3.

This shot was fired at a distance as the deceased turned away from the shooter towards the right hand of him and his left arm against the body. The other two shots were fired at the deceased as he fell down as wound number seven and wound number eight. Both bullets perforated the left arm of the deceased and re-entered the body at

10

wounds number 2 and number 4. Both wounds, two and four, are surrounded by an eccentric collar of abrasion, which is most prominent in the infralateral.”

Now, in this instance, when these wounds were inflicted, the arm of the deceased was against the body. So it entered and exited on the side and re-entered the body. There was tight, I would say tight... how can I use the term? Or the body was pressed tight or the arm was pressed tight against the body. So when the bullet exited the arm, it re-entered the body. So

20

now, because it is too tight, the skin of the arm and of the body is too tight, it created that type of wound that we see on photo number 9, where it says wound number 4 and wound number 2. When those bullets exited, they entered in this wound and in this other wound, wound number 2 and wound number 4.

**ADV NGCUKAITOBI SC:** Can you just explain this? I understand your point that the arm was pressed to the body of the deceased. What I do not understand is where do you say the bullet entered and exited in reference to the positioning of the shooter?

**LT-COL MANGENA:** Chair, I will say when the shot was fired, the first one is fired and then it turned around. The second shot is fired. As he falls down, the other shots follow. So all the shots were coming from this until he fell down to  
10 the ground.

**ADV NGCUKAITOBI SC:** I see.

**LT-COL MANGENA:** Then after falling there, that is when the wound at the back comes.

**ADV NGCUKAITOBI SC:** So he falls with his front.

**LT-COL MANGENA:** He falls with his front and then he was shot at the back.

**ADV NGCUKAITOBI SC:** He was shot at the back.

**LT-COL MANGENA:** As mentioned on 11.24, the fifth shot was at wound number 1.

20 “This wound was inflicted while the deceased was lying on the floor on his front. The bullet entered the back and was retrieved in the right side of the head.”

**ADV NGCUKAITOBI SC:** Again, at that point, so he is lying on his stomach and where do they shoot him? In his head?

Or do they shoot him in the body?

**LT-COL MANGENA:** Photo 11.

**ADV NGCUKAITOBI SC:** Is that the entry, the arrow there?

**LT-COL MANGENA:** That is correct, that is the entry of the bullet.

**ADV NGCUKAITOBI SC:** So how does it happen that it exits through, how does it get to the head?

**LT-COL MANGENA:** Chair, if you look at the angle, if you are shooting it in the close range, it will go down to the chest.

10 But if it is there and you are shooting it from a distance, your bullet is coming in that direction. It goes towards the head. So it will be found lodged somewhere in the head there.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** And then on 11.25, the last shot:

“The sixth shot was fired at the left side of the head of the deceased as he was lying on the floor. This is the only bullet that exited the body of the deceased. A fired bullet was recovered as the body of the deceased was moved and it was positioned just below the head of the deceased. I am of the opinion that this is the finishing shot.”

20

**ADV NGCUKAITOBI SC:** Can you show us that particular shot, the shot that went to the head?

**LT-COL MANGENA:** The one that went through the head?

**ADV NGCUKAITOBI SC:** Yes, the one that you say was the finishing shot.

**LT-COL MANGENA:** It would be on photo number 19, 2A/259. Photo 19, 2A/259. Your entrance will be here. It goes this side and exits on the other side, this side.

**ADV NGCUKAITOBI SC:** 5A and 5B.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** But on your version, he is lying on his stomach.

10 **LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes, I suppose they could still shoot him from the side of the head.

**LT-COL MANGENA:** If we look at photo number 7 again.

**ADV NGCUKAITOBI SC:** I see.

**LT-COL MANGENA:** That is photo number 7. So your entrance basically is this side of the head and then the exit is on the other side. And when this body was removed, a 9mm bullet was found underneath the head.

**ADV NGCUKAITOBI SC:** Yes.

20 **CHAIRPERSON:** The one that you described at photo 11, in relation to the gun wound at the back, the entry gun wound at the back, and then you demonstrated that if it is shot at a distance, a little distance, it will slide towards the back of the head. Is that the same as the one that you have just shown us now? If you look at photo 11.

**LT-COL MANGENA:** Photo 11, I can see photo 11, Chair.

**CHAIRPERSON:** Yes, you just described to us that entry wound.

**LT-COL MANGENA:** That is correct, Chair. The entrance wound would be this one here at the back.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** And because of the position that he is, if you are shooting at him at a close range, like in this position, it would be in here and come out towards the chest  
10 or in front of the chest.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** But because he is lying on the floor in this position, when you are close, you shoot it, it will go this direction. But because the person who was shooting at him was a little bit further away from him, he shot at him at an angle, so the bullet, instead of somebody who is close, it will go this way. Because I am here, it enters here, it goes to this direction.

**CHAIRPERSON:** To the side of the head.

20 **LT-COL MANGENA:** To the side of the head. So it enters here. Like in this angle, where it enters and then it goes to the head, but not to the chest. Because of the distance where the shooter was.

**CHAIRPERSON:** And it is not the same wound that you just showed us at picture... The last one that you showed us on

the side?

**LT-COL MANGENA:** No, Chair. The one that is on the side of the face on the left hand, that enters on the left and exits on the right.

**CHAIRPERSON:** It is a different one?

**LT-COL MANGENA:** It is a different shot. This was the finishing shot. It went through and through, it is out.

**CHAIRPERSON:** That is another one.

**LT-COL MANGENA:** The one that we are talking about, it is  
10 in here, but it was removed during post-mortem inside the head of the deceased.

**CHAIRPERSON:** I understand now.

**ADV NGCUKAITOBI SC:** Yes. Have you done photo 20?

**LT-COL MANGENA:** Photo 20. Chair, this is the 9mm bullet that was found underneath the head of the deceased. So this is the bullet that went through the head of the deceased, where it enters on the left and exits on the right.

**ADV NGCUKAITOBI SC:** Yes. And then, what are your conclusions on this?

20 **LT-COL MANGENA:** Chair, when I look at the incident, how it transpired, the shooter started shooting at him at the close range, and as he falls, he followed up with a shot. So he was shot, this will be the first shot, and as he moved away, he started to fall back, and other shots followed on the side. This was closer, and then comes this at the range of around

30 centimetres, and he moved back, he fell forward towards the cushions where he was found. When he fell there, the wound was inflicted at the back, the bullet was found in the head, and then this was the finishing where the bullet was found underneath the body, where the body was lying.

**ADV NGCUKAITOBI SC:** Is that reconcilable with a person who was attacking?

**LT-COL MANGENA:** No, Chair, I would disagree with that.

**MS RAMAGAGA:** May I just come in on your conclusions?

10 At page 2A/258, the report. Now, in particular, I want to ask you about item number 11.1. Do you see that? It is one of your conclusions, that the deceased was shot at least six times.

**LT-COL MANGENA:** That is correct, Chair.

**MS RAMAGAGA:** Right. Now, the question that I would like to ask is as to maybe why is it that it appears you are not able to say with certainty the number of times that the deceased was shot?

**LT-COL MANGENA:** Chair, I said at least six times.

20 Normally, I would write it at least six times he was shot. I would prefer to say at least six times, not less than six times, because you have multiple wounds where you have entrance and exits, but with those wounds, if you count the wounds sustained, you count them individually, you will think he was shot more than six times. Now, here I would say at least, that

would be the least number of shots that could have been fired at him, would be six. It is the first one here, the second one, and then these two that penetrate, and then the fifth one, the sixth one will be on the side.

**MS RAMAGAGA:** Actually, like you have illustrated when you were leading evidence, you said like one shot caused more than one entry point.

**LT-COL MANGENA:** That is correct. It enters on the arm and then exits and re-enters the body on the side.

10 **MS RAMAGAGA:** So, it means the entry point is not the determinant factor as to whether how many shots struck the deceased.

**LT-COL MANGENA:** That is correct, Chair.

**MS RAMAGAGA:** Thank you.

**ADV NGCUKAITOBI SC:** Yes, thank you, Madam Ramagaga. I was looking at the pathology report.

**CHAIRPERSON:** I am sorry. But your last answer, your answer to my sister here, is it not inconsistent with what you say at 11.26, at 2A/258?

20 **LT-COL MANGENA:** 2A/?

**CHAIRPERSON:** 2A/258. If you look at the last paragraph, 11.2.6.

**LT-COL MANGENA:** Where I said the deceased sustained gunshot wounds from six shots.

**CHAIRPERSON:** Yes. What was your answer to my sister

earlier?

**LT-COL MANGENA:** Where I said at least six times.

**CHAIRPERSON:** Yes, that seems to be definite. If you look at the wounds sustained. Is it not?

**LT-COL MANGENA:** That is correct, Chair. Six times.

**ADV NGCUKAITOBI SC:** Look, I just want to add more confusion. Because if you go to the pathology report, I mean, it could be that it is simply because I am reading it as a layman. At 2A/268. They count the, under item 4, external  
10 appearance of body.

**LT-COL MANGENA:** Yes, sir.

**ADV NGCUKAITOBI SC:** Wound 1, wound 2, wound 3, wound 4, wound 5A, 5B, 5, wound 6, wound 7A, wound 7B, wound 7, 8A and 8B. So it is many more wounds than the shots.

**LT-COL MANGENA:** Yes, Chair. If you look at the post mortem, the doctor would describe each and every wound that is there. So you describe the wound as wound A1 or wound A or wound B will be the exit of wound A. Or wound 2 will be  
20 the exit of wound 1. And where it re-enters, he continues with the counting of those wounds. That is why if you look at the numbering of the wounds on the body, I went exactly the same as what the doctor has mentioned in the post mortem report. Because I did not want to cause confusion. If the wounds as I have marked them on the body is the same way

that the doctor has marked them on the post mortem report, where you have wound 6 here and then you have another wound where it exits, the doctor will mark it separately. And then you have the wound that penetrates again. So all the wounds are from the six shots. Even if you can have about ten wounds, you will be in, out and in. The bullet was recovered in the body. If this bullet exited on the side, this will have another marking or another numbering. Then you will see that it will be more wounds than the number of shots  
10 fired.

**ADV NGCUKAITOBI SC:** I see. All right. No, thank you. I think you have explained it. Yes, thank you very much. You had made two conclusions around the possibility of an attack and the police warding off the attack, which are set out at paragraph 334 and 335. Maybe you can read those into the record.

**LT-COL MANGENA:** 334.

**ADV NGCUKAITOBI SC:** Of your statement. Yes. 335, 336, 337, 338.

20 **LT-COL MANGENA:** From 334, in conclusions.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** 334, in conclusions:

“Observed that the deceased was shot six times. Two shots were fired at close range. Shots were fired while the deceased was

upright and while the deceased was turning,  
when the deceased fell and while the  
deceased was lying in the prone position.  
The final shot inflicted to the head of the  
deceased while he was lying on the ground.  
Then five bullets were recovered from the  
body of the deceased. One was recovered  
at the crime scene. These conclusions are  
based on ballistic trajectory analysis and  
controlled distance determination.”

10

Or distance testing or distance determination is the same.

**ADV NGCUKAITOBI SC:** Yes, and the report we have just  
dealt with, which was originally CM16, but it is the document  
that appears at 2A/247, correct?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** And I did try to find the name of  
the deceased. I think his name is mentioned in the pathology  
report as Mr Sibusiso Selby Khumalo.

**LT-COL MANGENA:** Chair, I cannot recall the name of the  
deceased.

20

**ADV NGCUKAITOBI SC:** Well, it is at 2A/275. In the third  
paragraph:

“On 2011-09-27 and at Johannesburg, the  
body was identified to me...”

That is to Dr Nevondo;

“...by L Sithole of Mooirivier as being the body of Sibusiso Selby Khumalo.”

**LT-COL MANGENA:** Yes, I can see that, Chair.

**ADV NGCUKAITOBI SC:** And also at 265, 2A/265.

**LT-COL MANGENA:** Yes, 2A/265, it is there.

**ADV NGCUKAITOBI SC:** You will also see that the name Sibusiso Selby Khumalo appears there. Almost, Chair, birthday. Because he was born in the same year, same month, and ten days before I was born.

10 **CHAIRPERSON:** Is it not bad luck for you? [Laughter]

**LT-COL MANGENA:** It is taking me closer to the deceased. Madam Chair, it is just about twenty past one. I am ready to move to Heidelberg, but I am in your hands about whether I should or we should take the adjournment.

**CHAIRPERSON:** Thank you, Counsel.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair.

**CHAIRPERSON:** We will take our lunch a little bit early and reconvene an hour later. Colonel, we are going to pause for lunch and reconvene at twenty past two. You are still under  
20 oath.

**LT-COL MANGENA:** I am still under oath, Chair.

**CHAIRPERSON:** You can then proceed with Heidelberg when you reconvene.

**LT-COL MANGENA:** Thank you, Madam Chair.

**CHAIRPERSON:** Yes, thank you, we adjourn.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon, everyone. Good afternoon, Lieutenant-Colonel. Good afternoon, Advocate Chauke. Advocate Ngcukaitobi, you may proceed. You are still under oath, Colonel.

**CHRIS MANGENA:** (still under oath)

**EXAMINATION BY ADV NGCUKAITOBI SC (CONTINUES):**

Thank you, Madam Chair. Good afternoon, Lieutenant-  
10 Colonel Mangena. Can I take you to page 2-87, paragraph 340 of your statement to the Panel?

**LT-COL MANGENA:** I have it, Chair.

**ADV NGCUKAITOBI SC:** Yes. Now, this is your account of the Heidelberg case. Now, just to locate this, which Heidelberg is this?

**LT-COL MANGENA:** Chair, it is Heidelberg in East Rand, Gauteng.

**ADV NGCUKAITOBI SC:** Yes, thank you. All right, so this is, again, Madam Chair, one of those where we have not got  
20 the docket, but it is clear that the docket exists because the witness refers to it in paragraph 340. Please proceed, Lieutenant-Colonel. I have also been reminded that if the pictures in the previous ones have been bad, the ones here are horrific.

**CHAIRPERSON:** That means ...[indistinct].

**ADV NGCUKAITOBI SC:** Yes, thank you.

**CHAIRPERSON:** Do so, Counsel. Are you suggesting that ...[indistinct]?

**ADV NGCUKAITOBI SC:** No, they will be flighted. I do not think there is a choice.

**CHAIRPERSON:** Yes, thank you.

**ADV NGCUKAITOBI SC:** But once the witness has dealt with paragraph 340, then I will do that.

**CHAIRPERSON:** Yes.

10 **ADV NGCUKAITOBI SC:** Carry on, Lieutenant-Colonel. Sorry, your report on Heidelberg. Sorry, I thought I had it open here now. At page 2A-136, do you confirm that that is your report?

**LT-COL MANGENA:** Yes, Chair, I confirm that is my report.

**ADV NGCUKAITOBI SC:** Thank you. Carry on then.

**LT-COL MANGENA:** Chair, to give background on this incident, what transpired was, I cannot recall the name of the deceased in this matter, but Cato Manor members alleged that they were looking for him. So they were this side of  
20 Gauteng and then they got information that he is on his way back to KZN. Apparently they waited for him on the highway and they noticed his vehicle coming. They stopped the vehicle. I think on photo 1 of the crime scene on my report, 2A-139.

**ADV NGCUKAITOBI SC:** We will get to the photos, but I just

want to make sure that we have placed Cato Manor on the scene. If you look at paragraph 340.4 of your statement.

**LT-COL MANGENA**: Paragraph?

**ADV NGCUKAITOBI SC**: 340.4.

**LT-COL MANGENA**: 340.4, yes.

**ADV NGCUKAITOBI SC**: What does that say?

**LT-COL MANGENA**: We have the statement of Detective Warrant Officer Eric Nel and Detective Warrant Officer Ghaness.

10 **ADV NGCUKAITOBI SC**: Who are they?

**LT-COL MANGENA**: They are members of the Cato Manor Unit.

**ADV NGCUKAITOBI SC**: Yes. Are they the officials, when you say Cato Manor waited for him on the highway, those are the people that waited for the deceased?

**LT-COL MANGENA**: That is correct, Chair.

**ADV NGCUKAITOBI SC**: Yes. Then you wanted to take us, I think before we go to any photograph here, because everything is just bad here. We wanted to warn any sensitive  
20 viewers that the pictures that will be flighted are graphic and sensitive. Carry on, Lieutenant.

**LT-COL MANGENA**: All right, Chair. They allege that they spotted his vehicle. His vehicle was the silver BMW that is depicted on photo 1.

**ADV NGCUKAITOBI SC**: Photo 1. Page 2A-139.

**LT-COL MANGENA:** All right, Chair. On photo 1, we have two BMWs here. The suspect vehicle would be, or the deceased vehicle would be the one at the back, and then the one at the front would be the silver BMW that was driven by Cato Manor. So according to the information we had was that they stopped the vehicle and they requested the driver to come out of the vehicle.

He came out. He was not alone. He was with other, I am not sure, relative members. And then they ordered them  
10 to lie in the vehicle, must not come out. Only the driver must come out. He came out. He came to the back of the vehicle with him, and they requested him to open the boot, the one to search the vehicle.

He opened the boot, and after opening the boot, he tried to grab the firearm or he grabbed the firearm. And in the process, he was shot by, I think it was Eric Nel. He was shot by Eric Nel four times. And then the firearm is recovered next to the body. There is the firearm that is on the scene. I think it is also better on photograph number 2.

20 **CHAIRPERSON:** When you say he tried to grab the firearm, this is what you are narrating is the statement from the police statements.

**LT-COL MANGENA:** That is correct, Chair. That is the statement that they gave, that they ordered him to open the boot of the vehicle, the wanted search the vehicle and he

opened the boot. Instead of just opening the boot, he opened the boot and grabbed the firearm from the boot. That is when he was shot at.

**CHAIRPERSON:** Yes, what I am trying to say is that anyone who is listening to you testifying, saying the things that you are saying, it will appear as if you have a first-hand knowledge of what you are saying, whereas you are restating what was narrated by the police in their statement.

**LT-COL MANGENA:** That is correct. That is why I said the  
10 allegations was what they said. The alleges transpired on the scene.

**CHAIRPERSON:** Thank you.

**LT-COL MANGENA:** Now, Chair, when I do examination, I will read the statement that I have compiled, and then I will explain further on during the statement.

**CHAIRPERSON:** Yes. I interrupted you when you said that he tried to grab the firearm and warrant officer Nel shot at him.

**LT-COL MANGENA:** Shot at him four times.

20 **CHAIRPERSON:** Thank you.

**LT-COL MANGENA:** All right, I will read the statement from paragraph 3:

“On Tuesday, the one6<sup>th</sup> of October 2012,  
during the performance...” ...[intervenes].

**ADV NGCUKAITOBI SC:** Just take us to the actual page

where you are reading from.

**LT-COL MANGENA:** The actual page will be 2A-138.

**ADV NGCUKAITOBI SC:** Yes, thank you.

**LT-COL MANGENA:**

10 “On Tuesday, the one6<sup>th</sup> of October 2012,  
during the performance of my official  
duties, I received the crime scene photos,  
photo album, and a disc from Constable  
Pala of Springs LCRC with the reference  
number LCRC 525/11/2010. That will be  
the Heidelberg CAS 89/11/2010. The  
photo album was compiled by Sergeant A  
Muller of Springs LCRC. On the same  
day, the one6<sup>th</sup> of October, I also received  
a copy of a police case docket with the  
reference number Heidelberg 89/11/2010  
from Senior Investigator Rapesu [?] of  
Independent Police Investigation, IPID.  
The documents received in the docket  
20 include the following. The post-mortem  
report with reference DR255/2010  
compiled in Afrikaans by Dr Pieter Lindig  
[?] on the one6<sup>th</sup> of November 2010. The  
statement of Warrant Officer Eric Nel and  
the statement of Warrant Officer

Ghaness.”

Paragraph 5:

“Intention and scope of forensic examination comprises of the following. Crimes and reconstruction, bullet trajectory determination, and expected opinion. On the same day, the one6<sup>th</sup> of October 2012, I also received a disc from Captain Rudek of Ballistics Section containing the photos of the body examined at the post-mortem. The body she examined was body number DR255/10, examined on the one6<sup>th</sup> of November 2010. On observation of the crimes and photos, I took note of the deceased's position, exhibits, and wounds sustained by the deceased.”

All right, photo 1 is the one that we flagged there, which shows the position of the deceased and the position of the vehicles. All right, photo 2 shows the deceased and the position of the firearm. Photo 3 shows the position of the deceased and photo 4 shows the wounds sustained by the deceased on the face. And photo 5 is a close-up photo of the wounds sustained by the deceased. Paragraph 8:

“On observation of the post-mortem

photos taken by Sergeant Muller and photos taken by Captain Rudek, I took note of the position of the wounds sustained by the deceased in relation to the gunshot wounds. The wounds were marked by me one to eight.”

All right, photo 6 shows positions of wound number 1 and wound number 3. The wound that is on the upper arm here is wound 1 and the wound that you see here is wound number  
10 3. That is on the left chest. Photo 7 is a close-up of wound number 1. And then on photo 8, that is position of wound number 2, which is on the right arm, in the upper arm also. And photo 9 depicting position of wound number 3. Photo 10 depicting position of wound number 4. Photo 11 depicting positions of wound number 6.

**ADV NGCUKAITOBI SC:** Can you just explain, he appears to have been stitched? What does that mean?

**LT-COL MANGENA:** That was done during post-mortem.

**ADV NGCUKAITOBI SC:** So he was opened and stitched?

20 **LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Okay.

**LT-COL MANGENA:** Photo 11 depicting position of wound number 6 and wound number 5. So photo 12 is a close-up photo of wound number 5. And then photo 13 is a close-up photo of wound number 6. And when you go to photo 14, it

shows wound number 8A, wound number 8B, and the position of wound number 7. Now, wound number 7 is on the neck.

**ADV BALOYI-MERE SC:** You left me behind. Photo 12, because it is written in red, I am struggling to see. Is it a close-up of wound number?

**LT-COL MANGENA:** Of wound number 5.

**ADV BALOYI-MERE SC:** Number 5. Thank you.

**LT-COL MANGENA:** And then photo 13 is wound number 6. Photo 14 is wound number 7, wound number 8A, and wound  
10 number 8B.

**CHAIRPERSON:** You are running too fast for us, Colonel.

**LT-COL MANGENA:** Apologies, Chair.

**CHAIRPERSON:** Let us go back to photo 11. Photo 11 reflects wounds 5 and 6.

**LT-COL MANGENA:** 5 and 6 on the right-hand side of the face and just in the back of the head towards the neck.

**CHAIRPERSON:** Yes, and photo 12.

**LT-COL MANGENA:** Photo 12 depicting, it is a close-up photo of wound number 5.

20 **CHAIRPERSON:** Number 5. But I see in photo 5, there are 7 wounds there. 7 and eight in a circle below that metal thing.

**LT-COL MANGENA:** On photo 14?

**CHAIRPERSON:** On photo 5. You say that the wound at photo 12?

**LT-COL MANGENA:** Yes, on...

**CHAIRPERSON:** You referred back to photo 5. Which of those wounds?

**LT-COL MANGENA:** The wounds that are visible here on photo 5, this would be wound photo B. It is around just below the lip on the side. And then this photo 8, it is towards the side of the on the right-hand side. And then photo 7, it is in the neck.

**CHAIRPERSON:** Okay. Photo 12, let us go to photo 12 and use photo 5 and show us where that circled injury wound is  
10 on photo 5.

**LT-COL MANGENA:** Photo 12, the wound is positioned here at the back of ...[intervenes].

**CHAIRPERSON:** Yes. Where in photo 5 is this wound?

**LT-COL MANGENA:** It is not visible on photo 5. It is only the ones here that are visible. This one towards the back is not visible on photo 5.

**CHAIRPERSON:** Is this an entry wound?

**LT-COL MANGENA:** That is correct, Chair. That is an entry wound.

20 **CHAIRPERSON:** And it exited somewhere where you cannot see in that picture?

**LT-COL MANGENA:** It exited on, let us go to photo 5. It exited here on photo 8A.

**CHAIRPERSON:** 8A.

**LT-COL MANGENA:** That is correct.

**ADV BALOYI-MERE SC:** I think maybe the problem is because in our photos we do not see 8A.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** 8A is visible on photo 4. On photo 4 we have 8A and then we have 8B and then we have 8C. Photo 6 and then we have a photo of wound 7 in the neck.

**ADV NGCUKAITOBI SC:** Were you at photo 11?

**LT-COL MANGENA:** Yes, on photo 11.

**CHAIRPERSON:** I think he was at 12. I took him back to 12  
10 and he had just done 13.

**LT-COL MANGENA:** Yes, photo 13 is now on the left-hand side. That is the position of wound number 6. And then photo 14 shows clearly the position of wound 8A, 8B and 7 on the neck.

**CHAIRPERSON:** You see in photo 6 we have two circles there with an arrow. I beg your pardon. If you look at 13 with an arrow there, the circle wound, is that an entry wound?

**LT-COL MANGENA:** Which photo?

**CHAIRPERSON:** Photo 13.

20 **LT-COL MANGENA:** 13?

**CHAIRPERSON:** Yes. And you said that it shows at photo 6.

**LT-COL MANGENA:** Yes, photo 13 is this one where we have the wound on the left shin.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** It is this one.

**CHAIRPERSON:** Yes, I see that. It is an entry wound.

**LT-COL MANGENA:** It is an entry wound.

**CHAIRPERSON:** Where does it exit?

**LT-COL MANGENA:** Chair, the wounds are sustained. If you look at wound number 6, it goes down to the body.

**CHAIRPERSON:** Yes, that is why I am asking you because I looked at 6 and I see two yellow circles there at photo 6. And if you can explain to us there.

10 **LT-COL MANGENA:** On photo 6?

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** Photo 6 is on the body.

**CHAIRPERSON:** Yes. In relation to photo 13, you said that it is an entry wound and you said that you are looking at photo 6. Now, I am trying to verify with you the exit wound. I am sorry. I am sorry over there. I am trying to verify where this wound is exiting. Where this bullet is exiting.

**LT-COL MANGENA:** From wound 6?

20 **CHAIRPERSON:** Yes, from wound 6, 13. The entry wound on the cheek on photo 13.

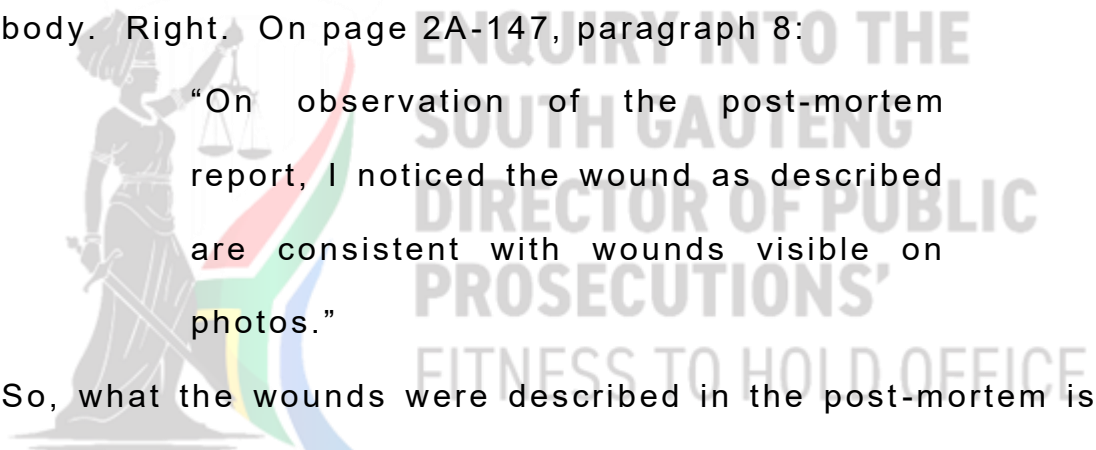
**LT-COL MANGENA:** Chair, if I explain those wounds, wound number 6, it is here, but it is going downward. It did not exit. It goes down to the upper body.

**CHAIRPERSON:** Okay.

**LT-COL MANGENA:** And then wound 8B, also, it goes in. It

breaks the jaw. It comes out here at wound 7 and re-enters at wound 7. It goes also down.

**CHAIRPERSON:** I understand. Thank you. Right. On photo 14, we can see wound 8A, 8B, and 7, the position of wound 7. So, wound 7, basically, it is like two wounds. It is like when your neck is a little bit folded, it exits and re-enters. It is like somebody who is folding their neck. It exits here, and then it re-enters again on the neck. It goes down. I think if we look at photo number 15. Here is photo number 15. It  
10 exits here, and it re-enters there. It goes down to the upper body. Right. On page 2A-147, paragraph 8:



“On observation of the post-mortem report, I noticed the wound as described are consistent with wounds visible on photos.”

So, what the wounds were described in the post-mortem is the same wounds that we see on the photos that we have here:

20 “And wounds marked 1, 2, 4, 5, 6, and 8 had characteristics of bullet entry wounds. Wounds marked 3 and wound marked 8A had characteristics of exit bullet wounds.”

Paragraph 9:

“During post-mortem, bullets were removed from both arms and chest of the

deceased, as shown on photos below.”

Photo 16. If we look at photo 16, we have a bullet that was removed on the left arm towards the elbow. And photo 18 points out where the bullet was removed. On photo 17 is when they cut the skin to remove the bullet and in photo 18, it is where exactly the bullet was, and this will be the left arm.

We go to photo 19. It shows the bullet that was removed from the right arm. Nearly the same position as where the bullet was removed on the left arm. So, photo 20 marks where the bullet was removed on the right arm. Photo 21 shows the bullet that was removed from the chest of the deceased. And in photo 22, it shows the bullet fragments which were also removed from the body of the deceased inside. These are the two shots that went downwards.

So, during post-mortem, a steel rod was used by the doctor to illustrate the possible bullet trajectories and its direction. So, the shots were fired. They went through the body downwards. It is photo wound number 6 and wound number 8B. These are the two entrances where the bullets were going downwards. And then the other two, the bullet went through the face, and I will explain. Those are the bullets which were removed from the arms.

**CHAIRPERSON:** Is the location of the wound at photo 23 the same location at photo 24? I do forget to switch on the mic. Thank you. So, is the wound reflected at photo 23 or

the position of the wound at photo 23 the same position as that in photo 24?

**LT-COL MANGENA**: No. In photo 23, it illustrates the bullet trajectory from wound 6 that is going downwards. And the one that is from photo 24 illustrates where the bullet exited and re-entered in the neck going downwards.

**CHAIRPERSON**: So, the picture at 23 is on the right?

**LT-COL MANGENA**: It is on the right, yes, Chair. Right, Chair. If you look at the position of the ...[intervenes].

10 **CHAIRPERSON**: It looks wide open. Is this during post-mortem? They opened it?

**LT-COL MANGENA**: That is during post-mortem. They opened the head and removed the brain. That is correct.

**CHAIRPERSON**: And this is what we see here?

**LT-COL MANGENA**: That is correct, Chair.

**CHAIRPERSON**: In 23?

**LT-COL MANGENA**: In 23, they removed the skull and then removed the brain. So, basically, we are seeing inside.

**CHAIRPERSON**: Thank you.

20 **LT-COL MANGENA**: Right, Chair. In this case ...[intervenes].

**ADV NGCUKAITOBI SC**: What are they showing at 24?

**LT-COL MANGENA**: In 24, they are showing with a steel rod the trajectory of the bullet from wound number 8B here. It went through the jaw. It fragmented and then came out here

and re-entered the body. So, the bullet fragments were also recovered inside the body of the deceased towards the stomach.

**ADV BALOYI-MERE SC:** Can I? Can you give the explanation again? You say it is wound 8?

**LT-COL MANGENA:** Wound 8B.

**ADV BALOYI-MERE SC:** 8B.

**LT-COL MANGENA:** 8B is the one that is close to the lip.

**ADV BALOYI-MERE SC:** Close to the lip. Okay.

10 **LT-COL MANGENA:** So, it enters here, hit the jaws and it came out right here on the neck and it re-entered and goes down. That is the bullet fragments which were recovered by the doctor during post-mortem. Right. Chair, if we look at how the deceased was shot in this instance, I would say at first, he was down, most likely in a kneeling position ...[intervenes].

**ADV NGCUKAITOBI SC:** You do not need that picture, do you? Yes, thank you.

20 **LT-COL MANGENA:** How the deceased was shot in this instance is like he was down, most likely in a kneeling position. The shooter was up. He shot him with this one. It broke the fragments, goes in. And the second shot would be either one of the two. This would be the first or this would be the first, but these two were the first wounds inflicted. Where it could have been down and it is in here, it goes down.

This one goes in and down.

And as he falls to turn the body, you have an entrance here. It goes in here towards the back. It comes out at wound number 4. It comes out at wound number 3 because the hand is tight to the body, it re-enters at wound number 1. It is the bullet that was removed during post-mortem on the left arm. So that would be the third shot.

The fourth shot is where he was shot at wound number 5, at the back on the left-hand side. It goes in here, comes out at wound number 8. Now if you look at the position of the deceased, as it appears on photo number 25, it enters here at wound number 5. By then, the arm was like his head was resting on the right arm. It exits on wound number 8. It re-enters at wound number 2 on the arm. And it was also removed on this right arm.

So basically when this wound was inflicted, he was already lying down on the ground. This would be when he turned around, moving away from the shooter. And then the other two were inflicted while he was in a lower position than the shooter.

**CHAIRPERSON:** That would be the fifth one.

**LT-COL MANGENA:** The fourth.

**CHAIRPERSON:** The fourth?

**LT-COL MANGENA:** No, the first two is these two going down.

**CHAIRPERSON:** Yes.

**LT-COL MANGENA:** And then this would be the third one. This would be the fourth one. Chair, to me, it is not consistent with the allegations that he grabbed the firearm and was trying to shoot at them.

**ADV NGCUKAITOBI SC:** Well, I mean, it is worse than that. On their version, he goes to the boot.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** And then he is actually shot whilst  
10 he is trying to grab the firearm from the boot of the car.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** But your physical reconstruction shows that this was a man probably shot while kneeling down.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** This is the fourth instance of a person that you say on your reconstruction must have been kneeling down at the time they were shot.

**LT-COL MANGENA:** Yes, that is correct.

**ADV NGCUKAITOBI SC:** I mean, can you think of why they  
20 would shoot people while they are kneeling down?

**LT-COL MANGENA:** Chair, I cannot give the reason why they shot shooting at people who are kneeling down. Because there are still other cases where you can see that they shot at people who were kneeling down. There is the one Madadeni case. The guy was kneeling down and was

facing the wall. He was shot from the back.

**ADV NGCUKAITOBI SC:** Even this one, according to you, he was shot on the side.

**LT-COL MANGENA:** He was shot on the side.

**ADV BALOYI-MERE SC:** Just on a point of clarity, you say the version of the police is that he was with other people. He was asked to come out to open the boot and they wanted to check the boot. He opened the boot and, correct me if I am wrong, he opened the boot and tried to grab or grab the gun.

10 **LT-COL MANGENA:** Chair, they allege that he opened the boot and after opening the boot he grabbed the gun. That is when he was shot at.

**ADV BALOYI-MERE SC:** Now let us go to photo 1.

**LT-COL MANGENA:** I am on photo 1.

**ADV BALOYI-MERE SC:** Photo 1. He grabbed the gun and immediately they shot at him.

**LT-COL MANGENA:** That is correct, Chair. That is what they are alleging.

20 **ADV BALOYI-MERE SC:** Now which one is his car, between the two?

**LT-COL MANGENA:** Chair, the one at the back is his car. It is a BMW, a silver BMW.

**ADV BALOYI-MERE SC:** Immediately ...[intervenes].

**LT-COL MANGENA:** Yes, the one that he is close to. And the one that is at the front is a Cato Manor vehicle.

**ADV BALOYI-MERE SC:** Is the boot open?

**LT-COL MANGENA:** The boot is closed.

**ADV BALOYI-MERE SC:** Now what does it say about the version of the police to you as a ballistic investigator and who heard this version and you had a chance to look at these pictures?

**LT-COL MANGENA:** Chair, I will say the version of the incident is not consistent to what I see on the crime scenes. This is completely different from what they were alleging.

10 **ADV NGCUKAITOBI SC:** Yes. Now, could I ask you to read paragraph 346, 347, 348 of your statement to the Panel at page 288.

**LT-COL MANGENA:** 346?

**ADV NGCUKAITOBI SC:** Yes, starting at 346.

**LT-COL MANGENA:**

20 “The pattern of the entry and exit wound in both arms suggests that the deceased may have his head or his arms raised or positioned in front of his body at the time of discharge.”

**ADV NGCUKAITOBI SC:** What does that mean? What position is that?

**LT-COL MANGENA:** That could be maybe when he is down, his arms could be up. And when he turned, that is when he turned after the shot was inflicted. When he turned around,

the left arm comes closer to the body, pressed hard against the body. That is when the bullet exited here and it entered the side.

**ADV BALOYI-MERE SC:** Sorry, if I may ask, the two shots that you say may probably be the first shots here. Would he still be alive, if I may ask, after these two shots?

**LT-COL MANGENA:** That is correct, Chair. He would still be alive with those two shots.

**ADV BALOYI-MERE SC:** Okay.

10 **ADV NGCUKAITOBI SC:** Thank you. Paragraph 347.

**LT-COL MANGENA:**

“In such position is consistent with a defensive posture.”

**ADV NGCUKAITOBI SC:** Can you just explain what that means? The position of his arms being consistent with a defensive posture.

**LT-COL MANGENA:** Whereby he just surrendered and he is not fighting. It is like he waits. It is like someone who is pointing a gun at you and then you raise your hands to block  
20 the fire, but the shots went in here and that is when he turned.

**ADV NGCUKAITOBI SC:** Thank you. And then the question that was asked by Advocate Baloyi-Mere, 348.

**LT-COL MANGENA:** And 348:

“Wound 5 in photo 11 appears, in my opinion, to have been the fatal wound and

the last shot.”

**ADV NGCUKAITOBI SC:** And you can go back to photo 11 to see that wound you are talking about.

**LT-COL MANGENA:** And I think the last photo. Wound 5 would be that one. And photo 25. On photo 25, wound 5 is this one. While he was in this position, a shot was fired into the body.

**ADV NGCUKAITOBI SC:** Yes. So you are saying here, in your opinion, he was probably shot while surrendering. And  
10 after falling down, he was still shot at the back of the head.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** All right, thank you. That takes us to your conclusions at 349, unless there is something you wish to add there.

**LT-COL MANGENA:** I am not sure. I think that will be enough.

**ADV NGCUKAITOBI SC:** Thank you. And then I want to move to the Dawn Park case, which is at 2-89, paragraph 350.

**ADV BALOYI-MERE SC:** Sorry, Advocate, we do not have a  
20 docket for this case.

**ADV NGCUKAITOBI SC:** No, no, we do not have a docket for Dawn Park as well.

**ADV BALOYI-MERE SC:** We would not know if there were witness statements or not.

**ADV NGCUKAITOBI SC:** No, we know that there were. They

are set out at paragraph 350.1, 2, 3, and 4. So we know a docket exists. Yes, I thought I was being corrected about saying there is no docket, but I was not.

**ADV BALOYI-MERE SC:** Paragraph?

**ADV NGCUKAITOBI SC:** 350.1, .2, .3, .4. So we know for a fact that there is a docket somewhere. And your report ...[intervenes].

**ADV BALOYI-MERE SC:** Sorry, you are talking about Dawn Park?

10 **ADV NGCUKAITOBI SC:** Dawn Park, yes.

**ADV BALOYI-MERE SC:** No, no, I was asking about the previous one, because if there was a docket, we would most probably have eyewitness statements because the deceased was with other people in the car.

**ADV NGCUKAITOBI SC:** Yes. No, we know there that there was a docket, Madam Baloyi-Mere, because we see from paragraph 340.1, 2, 3, 4, 5 that this particular witness extracted material from the docket.

**ADV BALOYI-MERE SC:** Okay. Thank you.

20 **ADV NGCUKAITOBI SC:** Thank you. Lieutenant-Colonel, you can take us to Dawn Park, and again, just geographically, which Dawn Park is this?

**LT-COL MANGENA:** It is the Dawn Park in Gauteng.

**CHAIRPERSON:** [Indistinct]... in relation to 340.4, in relation to 340.4, Heidelberg, only the statement of...

**ADV BALOYI-MERE SC:** Is it is on? They were raising their heads as if you did not put it on.

**CHAIRPERSON:** All right. You do not hear me? In relation to the Heidelberg, 340.4, mention is made of statements by Warrant Officer Nel and Detective Warrant Officer Ghaness only.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** Now, given the fact that there were people in that motor vehicle, should we not have had statements by those people reflected here, even though we do not have the dockets?

**LT-COL MANGENA:** Chair, I think there could have been statements in the docket, because I only referred to the ones that I wanted to use to get their version of the incident and compare their version of the incident with what I could see on the crime scene.

**CHAIRPERSON:** So the likelihood is that if the docket that seems to be missing now is to be found, we may likely find the statements of the occupants of the motor vehicle?

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** Thank you.

**ADV NGCUKAITOBI SC:** Yes, thank you. As we actually observed in Umlazi, do you remember that?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** We actually did get eyewitnesses

there. Thank you. You were going to deal with Dawn Park. So you have mentioned that this is the Dawn Park in Johannesburg, correct?

**LT-COL MANGENA:** That is correct, Chair. It is in East Rand.

**ADV NGCUKAITOBI SC:** Yes, okay. Your report on Dawn Park is 2A-54 up to 2A-67. Is that correct?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Thank you. You can take us  
10 through it, or your statement, whichever you want to use.

**CHAIRPERSON:** Before we start, if you can recap, and you remind me, Colonel, I see these cases involve investigations that are supposed to be in Gauteng. Am I correct?

**LT-COL MANGENA:** That is correct.

**CHAIRPERSON:** Most of these ones that you have referred to since, yes, the Gauteng area.

**LT-COL MANGENA:** That is correct, Chair. They were in Gauteng, and I think because it was Cato Manor that was involved, they centralised them to join the KZN ones.

20 **CHAIRPERSON:** Yes, I want to go there. Just remind me, why would KZN specialised unit come and investigate such cases in Gauteng?

**LT-COL MANGENA:** Chair, I think it is according to them, it is a suspect who they wanted from KZN, who flee from KZN to Gauteng. So they came this side to look for those

suspects.

**CHAIRPERSON:** Do you have an idea what happens with how police operate? If an offence is committed in, say, for instance, in North West and the suspect is in Johannesburg, should there not be a collaboration between the police in North West and those in Gauteng? Or the North West people can just come to Gauteng and do what they do without the involvement of the police in Gauteng? How does it work?

**LT-COL MANGENA:** Chair, I will speak under corrections.

10 In most instances, the North West will come, look for their suspects. Or in some instances, they will inform Gauteng to assist them in locating the suspects. Once they have the suspect, they will come and collect the suspect.

**CHAIRPERSON:** Yes, thank you. Maybe somebody will clarify it better for me, but thank you for that.

**LT-COL MANGENA:** Thank you.

**ADV NGCUKAITOBI SC:** I suppose there is a further question, Lieutenant-Colonel, which is if the police from KZN kill a suspect in Johannesburg, they have now murdered the  
20 suspect, it is no longer a question of trying to apprehend them, but they have killed the person, should there not be the involvement of the Gauteng police to find out exactly why were you here in this jurisdiction?

**LT-COL MANGENA:** Chair, I would say Gauteng will take over the investigations on their presence here and how did it

happen. But I am not sure how the investigation will be conducted. I cannot elaborate further on that.

**ADV NGCUKAITOBI SC:** So that is outside your area. We will have to find somebody from Detective Services to come and educate all of us about how this thing works.

**LT-COL MANGENA:** That is correct.

**ADV NGCUKAITOBI SC:** But, I mean, in your experience, is it something peculiar that you have the same people? You have now dealt with four cases, starting all the way from  
10 Rustenburg, Thokoza, Randberg, Heidelberg. We are now dealing with Dawn Park, which is the fifth example. Is this not peculiar that you have the same people from the same unit, not just looking for suspects, but killing the suspects outside of their jurisdiction?

**LT-COL MANGENA:** Chair, I do not know how they work.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** It is out of my scope. I cannot say whether they have the right to do that or they do not have the right to do that.

20 **ADV NGCUKAITOBI SC:** Well, I mean, do they have the right to kill people?

**LT-COL MANGENA:** Not to kill, but to arrest.

**ADV NGCUKAITOBI SC:** All right. You were going to analyse Dawn Park 289 on your statement and 2A-54 on the list of annexures. Can you just tell us what was happening

with this and how you got involved?

**LT-COL MANGENA:** Chair, with this one, the Dawn Park case, apparently they were looking for a suspect in Gauteng, who came to Gauteng. And it was, I think it was Mostert.

**ADV NGCUKAITOBI SC:** Yes, you have got them at paragraph 350.3. No, sorry, 350.2, 350.3, and 350.4.

**LT-COL MANGENA:** Yes, it was Warrant Officer Mostert. I think Neville ...[indistinct]. I am not sure if this was a police officer or just a ...[indistinct] person, but Mostert and Lockem  
10 came up from Cato Manor.

**ADV NGCUKAITOBI SC:** Yes, thank you.

**LT-COL MANGENA:** In this instance, they were looking for this person, and he was driving a vehicle. So as they were driving, they located the vehicle, and then they stopped the vehicle. When they stopped the suspect, I think it is Warrant Officer Mostert came to the side, and when he opened the door, he alleges that the suspect pulled the gun, and then he shot him, I think it is twice or three times.

And the suspect did not die, so they instructed him  
20 to get out of the vehicle. By then, there was a police vehicle that was passing, so the police saw that, and then they stopped the Dawn Park Police Station vehicle, and then they came to the scene. So they could not get the chance to finish him. They ordered him to lie down outside the vehicle. As he was lying there, they said, no, they called an ambulance.

They were waiting for an ambulance.

I cannot recall how did they distract the police officers who were there, and then they suddenly said, no, he is pulling a gun, he is pulling a gun, and then Mostert shot him again. He was shot in the back of the head, and then the bullet went downwards to the head. This wound was inflicted while he was lying, as depicted on photo number 1.

**ADV NGCUKAITOBI SC:** We will be showing sensitive pictures. Just take us through this narrative again because  
10 it is actually quite crucial because here, for the first time, we get a police officer from a different police station who is not part of the squad of Cato Manor.

**LT-COL MANGENA:** Chair, they were looking for this guy, and while they were driving, they located this vehicle. I do not know whether they were tracking the vehicle, but they located him while he was driving, and it was late in the evening. They stopped him. Warrant Officer Mostert alleged that he stopped him, and then they went to him. While he was in the vehicle, he alleged that he opened the door, and  
20 then the guy pulled a gun.

The suspect tried to pull a gun. That is when Warrant Officer Mostert shot him. He shot him twice or three times, and then he did not die. While the shots were fired, the police vehicle was approaching, so they stopped to see what is happening. They identified themselves as police officers.

They ordered him to get out of the vehicle and lie next to the vehicle.

In the process, they moved. Apparently, if I recall the statement, they told them to move away from the suspect. They said they must be away from the suspect. They must not be closer to the suspect, telling the guys from Dawn Park. In the process, they distracted the guys from Dawn Park, and I think Warrant Officer Mostert said he is moving closer to the suspect to check if the suspect is still alive.

10 As he walked towards the suspect, he said, no, the suspect is trying to grab a gun, grab a gun, and then he fired a shot, wounding him in the head, and he died on the scene. And what was surprising on this case, if I can recall, the statement of the police officers from Dawn Park who were there, their statement was written by Captain Lockem. They only just signed the statement.

**ADV NGCUKAITOBI SC:** Yes. Chair, I will go through the statement from paragraph 3:

20 “On Tuesday, the one6<sup>th</sup> of October, during the performance of my official duties, I received the crime scene photos, photo album on a disc from Constable Phala of Springs LCRC, with the reference number Dawn Park CAS 29/04/2008, compiled by Inspector Hatting of Springs

LCRC. On the same day, the one6th of October, I also received the following documents, which were copies of the statement and post-mortem report from a police docket with the reference number Dawn Park CAS 29/04/2008 from Senior Investigator Rapetsoa of Independent Police Investigative Directive, IPID. The documents received were the following.

10

The post-mortem report with the reference DR 800/2008, compiled by Doctor Emma Greta Maria Rabi on the 4<sup>th</sup> of April, a statement of Henry Neville Pilkington [?], a statement of Detective Inspector Mostert, and a statement of Captain Anton Lockem. The intention and scope of the forensic examination comprise of the following. The crime scene reconstruction, bullet trajectory

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determination, and expert opinion concerning the case. On observation of the post-mortem report, I took note of the description and the position of the wounds sustained by the deceased in relation to the gunshot. I took note of the wounds

photographed at the crime scene and I marked them in accordance with the post-mortem report. The wounds were marked by me 1 to 8.”

Photo 1 showed the position of the deceased at the crime scene. Photo 2 showing the wound marked 1, which is the head of the deceased, on the right back of the head of the deceased. Photo 3 is a close-up photo of wound 1. Photo 4 shows the position of wound marked 3 on the right arm of the  
10 deceased. Photo 5 shows the position of the exit wound on the same right arm of the deceased. Photo 6 showing the wound on the torso of the deceased. It would be around the stomach area of the deceased.

Photo 7 is a close-up photo of that same wound which is marked 4. Photo 8 showing the position of wound marked 5. It is on the torso of the deceased. Photo 9 is a close-up photo of wound marked 5 on the torso. Photo 10 shows the position of wound marked 6 on the left chest. Photo 11 is a close-up photo of the same wound which is  
20 marked 6. Photo 12 showing the position of wound marked 8 on the left arm. Photo 13 is a close-up photo of the same wound, wound 8 on the left arm:

“During observation of the post-mortem and wounds sustained by the deceased on photos, I noticed that the post-mortem was

consistent with the wounds visible on the photos. Some of the wounds were not photographed, which would be the wounds on the body. Deformed bullet core and bullet jackets were covered in the area of the neck.”

On paragraph 8:

10 “On observation of the crime scene photos, I noticed the position of the deceased, the possible bullet stains pattern and the exit wounds.”

Photo 14 on the crime scene shows the position of the deceased with the vehicle open. Photo 15 is from a different angle showing the vehicle of the deceased.

**CHAIRPERSON:** Is the white vehicle in photo 14 the vehicle of the deceased?

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** You found it opened like that?

20 **LT-COL MANGENA:** Chair, if we look at the first photos, the door is open. I am not sure of the boot, but when you look at the other photos, the door is still open on the driver’s door and then the boot is open on photo number 14.

**CHAIRPERSON:** Yes, thank you.

**LT-COL MANGENA:** And then photo 17 showing possible bloodstain in the car on the passenger seat. In paragraph 9:

“I studied the statement of Captain Lockem and Inspector Mostert, Mr Pilkington, and took note of the following.”

Here in paragraph 1, I said:

10 “I am in agreement with Inspector Mostert's statement that the deceased was shot while inside the vehicle on the driver's seat. The wounds marked 4 and 6 are consistent with a person seated in the driver's seat and shot through an open door or an open window. The wounds sustained in the right arm marked 3 are consistent with the deceased extending his arm to the front.”

Now this wound is like the driver's arm was extended to hold the steering wheel where it was shot through and it exited. And this could be the same bullet that has hit or caused the grazing wound on the left side of the chest:

20 “The wounds sustained on the left arm marked 8 is a grazing wound and it gives the impression that the left arm had crossed the body during the shooting also since the shooter was on the right-hand side.”

But if the deceased's arms were stretched to the steering

wheel, on the left also, the entrance is on the right side of his arm or on the inner part of the arm. So it shows that the shot is also from the right-hand side. It is on the other side of the arm.

**ADV NGCUKAITOBI SC:** Can you just explain something that could not work out in this scene? Inspector Mostert says I shot this man twice while he was in the driver's seat ...[intervenes].

**LT-COL MANGENA:** He shot him several times while he was  
10 in the driver's seat.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** And that is when the police vehicle was coming.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** So these were not the fatal shots.

**ADV NGCUKAITOBI SC:** Yes. No, I understand. But he is still posing danger even after that which explains why he is shot in the head according to Inspector Mostert.

**LT-COL MANGENA:** Chair, what they said is they ordered  
20 him out of the vehicle and they instructed him to lie next to the vehicle. So while he was lying there, they told the police officers who were there to move away from the vehicle. But what they did is they left the firearm, the alleged firearm of the suspect in the vehicle close to the suspect, and they were standing far and they said they were waiting for an

ambulance.

So apparently Captain Lockem or Mostert told the guys from the station to move away from the scene, to stand away from the suspect. And at one stage Mostert said he was approaching the suspect to check if he was still alive. When he approached, the suspect tried to grab the firearm. That is when Mostert shot him in the head. So it went in here and then the bullet was recovered. The fragmented bullet was found inside the head towards the neck.

10 **ADV NGCUKAITOBI SC:** Yes, but why would Mr Lockem tell the other police officers from Dawn Park to move away from the suspect?

**LT-COL MANGENA:** Chair, I do not understand. Why did they tell him to move away from the suspect? And why did they let the suspect, if he was still alive, with the firearm close to the suspect? If they are saying he had a firearm.

**ADV NGCUKAITOBI SC:** Yes. Because it seems that it would be consistent with the intention to execute the deceased because you do not want witnesses nearby in order  
20 to enable you to shoot them without anyone noticing.

**LT-COL MANGENA:** Chair, I would agree with that because the minute you tell them to move away and then you leave the suspect alone, even if he is wounded, you cannot move away from the suspect. You just be close to him. What if you move away and then he stand up and run? You will not be

able to catch him or to arrest him again. So they know that he was still alive.

And they had a problem because the police officers from the station arrived before they could do what they intended to do. That is why they were keeping them away from the suspect. And at that stage, when they were away, Mostert approached and he alleges that this guy tried to grab the firearm again, and that is when he shot him. And when he shot him, he was lying down. The entrance is at the back  
10 of the head. It is visible on the photo there. Chair, I do not have a clear photo of the wound sustained by the deceased. I think I had it somewhere.

**ADV NGCUKAITOBI SC:** There is photo 2 or photo 3, which is in fact ...[intervenes].

**LT-COL MANGENA:** Yes.

**ADV NGCUKAITOBI SC:** I think photo 2.

**LT-COL MANGENA:** That is photo 2 and photo 3.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** If you look at photo 2 and photo 3, this  
20 would be the entrance of this shot, and it goes down. It does not go. It goes in here and then goes down. It was removed towards the neck where it fractured. So it shows that he was still lying there when the wound was inflicted.

**ADV NGCUKAITOBI SC:** Yes, and then I just wanted to check the distance between the body of the deceased at the

time he was found lying and the vehicle where he was supposedly grabbing a firearm from. It is clearer at photo 16, which is 2A-65. Yes, there. So there is a couple of things about that photo. You say the version of the police is that he had to be shot at the back for the second time because he was trying to grab a firearm which was inside the vehicle.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Can you comment about that in relation to what you see there? Can you comment about that version in relation to the positioning of the deceased, the distance to the car?

**LT-COL MANGENA:** Chair, it is not clear that he could have been trying to grab a firearm because the door is open but it is a bit far from his hands.

**ADV NGCUKAITOBI SC:** But he is also facing the opposite direction.

**LT-COL MANGENA:** I think the head is slanted to the side because if he can slant towards the right, that is where the wound would be visible.

**ADV NGCUKAITOBI SC:** No, I am thinking about how is he trying to grab a firearm in that position.

**LT-COL MANGENA:** Chair, I would say it would be impossible for him to grab the firearm that was inside the vehicle.

**ADV NGCUKAITOBI SC:** Yes. Thank you. Where were you

in 351? You had said you agree with Inspector Mostert that the deceased was shot whilst in the car.

**LT-COL MANGENA:** Whilst inside the car, yes. There I agree. The first wounds were inflicted while he was inside the car.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** In his statement he said that he shot him while he was in the car. There I said I agree with him.

**ADV NGCUKAITOBI SC:** Yes.

10 **LT-COL MANGENA:** But not the last shot. The last shot was fired while he was lying on the ground.

**ADV NGCUKAITOBI SC:** Well, I mean, according to their version of being attacked by him because he was trying to grab a firearm to shoot them, he has been demobilised because of the shots that were sustained whilst he was in the car. Now when you look at those wounds, would they be consistent with what type of a firearm? If you look at photo 10, photo 11, photo 12 and photo 13, the body wounds and the wounds on the arms.

20 **LT-COL MANGENA:** Chair, the firearm used to be a pistol and it is Mostert.

**CHAIRPERSON:** Yes. All of them?

**LT-COL MANGENA:** All of them were from a pistol.

**ADV NGCUKAITOBI SC:** So the killer here with the nine millimetre was Inspector Mostert?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** And shot in close proximity?

**LT-COL MANGENA:** It is close proximity because he opened the door and he was close to him and was looking at him. So he said the guy tried to grab a firearm, but when he opened the door he was close to him next to the vehicle.

**ADV NGCUKAITOBI SC:** Yes. I mean, since you have done this job for a long time, you know, you have shot a person  
10 who says he has got a firearm but he is not dead. I mean, is the logical thing not to dispossess them of the firearm?

**LT-COL MANGENA:** Chair, I would say that is how they behave. If you look at most of the cases that we did, most of the suspects are very close to them.

**ADV NGCUKAITOBI SC:** Now I am trying to understand the logic of shooting this man on the back of the head after you have instructed them to lie down on their stomach, but you have left the firearm inside.

**LT-COL MANGENA:** Inside the vehicle, Your Worship.

20 **ADV NGCUKAITOBI SC:** Once you have shot him, you must take the firearm.

**LT-COL MANGENA:** Actually because he was wounded and he was lying there, you were supposed to remove the firearm close to him.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** So why would they leave the firearm close to the person?

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** Unless if the firearm was not there and after shooting him he planted the firearm on the scene. Because he told the guys from the station to be away from the vehicle, it is possible that could have transpired.

**ADV NGCUKAITOBI SC:** Yes, I understand, but I am just saying if you take their version at its best, it is illogical  
10 because you have already injured the suspect and instructed them to lie on their stomach. The logical thing is that you take the firearm, you dispossess them of the weapon. But you have said the modus operandi in an event shows that the planting of the weapon is part of the pattern.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Can I take you back to paragraph  
7 of your report? And assist me if my understanding is correct. You say during observation of the post-mortem and wounds sustained by the deceased of photos, I noticed that  
20 the post-mortem was inconsistent.

**LT-COL MANGENA:** It was consistent. I think that was just the typing error.

**ADV BALOYI-MERE SC:** The 'in' is a typo?

**LT-COL MANGENA:** The 'in' is a typing error.

**ADV BALOYI-MERE SC:** Sorry?

**LT-COL MANGENA:** ‘In’ is a typing error there.

**ADV BALOYI-MERE SC:** Thank you.

**LT-COL MANGENA:** It is consistent.

**ADV BALOYI-MERE SC:** Thank you.

**ADV NGCUKAITOBI SC:** Thank you, Madam Baloyi-Mere.

Yes, you have dealt with 351.1, 351.2, 351.3, 351.4, 351.5, and 351.6. You have not addressed the allegations made by Mr Pilkington at paragraph 351.7 and 351.8. Can you deal with that?

10 **CHAIRPERSON:** I think that the entire 351 is a replication of the entire paragraph 9 in the report.

**ADV NGCUKAITOBI SC:** Yes, that is.

**CHAIRPERSON:** Somewhat. Am I correct, Colonel?

**LT-COL MANGENA:** You are correct, Chair.

**ADV NGCUKAITOBI SC:** It is not consistent. It was not inconsistent. I think there are some mistakes in paragraph 9.6. Can you just read 351.7?

**LT-COL MANGENA:** 351.7:

20 “According to Mr Pilkington, on paragraph 8 and 9, the deceased was on all four, and ...[indistinct] has his hands on the gun.”

No, I think there is a typing error on this one. He had his hands on the gun at this position.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** I would expect the entry wound to be

more in the front of the head, and the trajectory being backward. The wound's position and the trajectory is not consistent with the allegations of Mr Pilkington. According to Mr Pilkington, he said the suspect grabbed the firearm and he was trying to point the gun at him when he was shot at. But now if you look at how he was shot, he is shot towards the back of the head.

So he cannot grab the firearm and point the firearm looking downwards. He would raise the head to look at where  
10 he is pointing the gun. And when he was shot, I would expect the wound to be somewhere to the front, directly to the back. But in this position, it is not possible that he raised his hand or his head to look at the person who he was trying to shoot.

**ADV NGCUKAITOBI SC:** Yes, 351.8, just to complete the cycle there.

**LT-COL MANGENA:**

“I am of the opinion that the deceased was  
shot with his head facing down, not as  
alleged by Mr Pilkington. The possibility  
20 of death by execution style cannot be  
ruled out or cannot be excluded.”

**ADV NGCUKAITOBI SC:** Thank you.

**ADV BALOYI-MERE SC:** Meaning that at 9.6 of the report, there is a typo or there is a grammatical error where the witness says the wound's position and trajectory does not

inconsistent in the report. I take it that you were correcting that grammatical error, and so we should maybe correct the record.

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** In other words, the wound's position and trajectory is not consistent with the allegations of Mr Pilkington.

**LT-COL MANGENA:** That is correct.

**CHAIRPERSON:** That is what you meant to say.

10 **LT-COL MANGENA:** That is correct, yes.

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair. Might we move to the next case, which is Pinetown at 2-91? I am trying to find it in the report. Pinetown, 2A-228, 227.

**LT-COL MANGENA:** 2A-227.

**ADV NGCUKAITOBI SC:** Yes, so apparently here there is a docket, so we can check for the name of the suspect and the statements of the killers. I will just find it now. The docket, Madam Chair, starts at PT0001. Yes, this is Mr Sibongiseni Ndimande.

20 **CHAIRPERSON:** And there is another Pinetown, CAS 1000/0509.

**ADV NGCUKAITOBI SC:** Yes, it looks like they have been combined into the same docket, because in our references it is 668/05/2009 and 1000/05/2009. In fact, even on the docket itself, that is how it is described on the cover of the docket.

**ADV BALOYI-MERE SC:** The same deceased?

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** Yes. You are referring us to the statements at PT0001? Yes.

**ADV NGCUKAITOBI SC:** Yes, yes, Madam Chair.

**CHAIRPERSON:** In relation to CAS 668?

**ADV NGCUKAITOBI SC:** Yes, yes, Madam Chair. So, Lieutenant-Colonel, I just want to give you the version of the police. So, we start with Mr Willem Cornelius Olivier at  
10 PT0001, how he describes the incident. Firstly, he gives us his force number. And then he talks about the killing of Mr Zondi from that Bheki Themba case number. Then in paragraph 3, he talks about the fact that they were briefed to look for this particular suspect. Then in paragraph 4, which is important:

“Upon arrival at the suspect's premises, I  
was tasked to monitor the first level of the suspect's premises in the event any attempts were made by him to escape.  
20 The rest of the members were also placed at strategic points.”

Paragraph 5:

“Whilst at my point, I heard the members knock on the suspect's door and they made themselves audible by shouting,

10 police, police. It was then that I simultaneously noticed the light inside the suspect's room had been switched on. I then noticed the window at the room where the light was switched on open and I also noticed a stockish, well-built African attempting to jump through the same window. I also noticed that he was armed with a handgun in his right hand. I then

10 shouted, police, police, and that is when the suspect African male went back into the room and the light was switched off. I alerted the members about the suspect's movement and also to be cautious as I informed them that he was armed with a handgun. I further heard the members ordering the suspect to open the door. Thereafter, there was commotion and I heard shots being fired. When everything

20 was still, I proceeded to the flat of the suspect and I met Captain Van Tonder at the front door who informed me that the suspect shot at them and they returned fire.”

So that is the first statement. Then there is Gonasagern

Padayachee who is a detective inspector. Now, he says at paragraph 3:

10 “At approximately 2 AM, Captain Van Tonder, Inspector Stoltz, Constable Naidoo and I approached the entrance of Flat 18 where the suspect resided. Inspector Stoltz knocked on the door and audibly demanded entry after identifying himself. Inspector Stoltz banged on the door several more times but there was no response from within. I heard one of our members who was positioned behind the flat shout that there was a black male armed with a firearm attempting to exit from the window. Inspector Stoltz then broke open the security gate and kicked the door open. We then entered the flat. We again shouted police. There was no body in the kitchen or the lounge. I then proceeded to take up a position against the wall separating the lounge from the bedroom. The bedroom door was closed. The bathroom door was closed. The second bedroom door was open but the light was off. I then reached over and

20

opened the bedroom door and returned to my position behind the wall. Captain Van Tonder told us that there was an armed black male in the room and a female. The door was pushed from inside and closed. We requested the occupants to exit from the bedroom with their hands above their heads. I then opened the door once again. I noticed a female, holding two children, ran out of the bedroom and out of the flat.

10

I then noticed a black male run out of the room and fired several shots at us. I took cover behind the wall. I fired three shots at the suspect with my R5 rifle...”

And he gives a serial number:

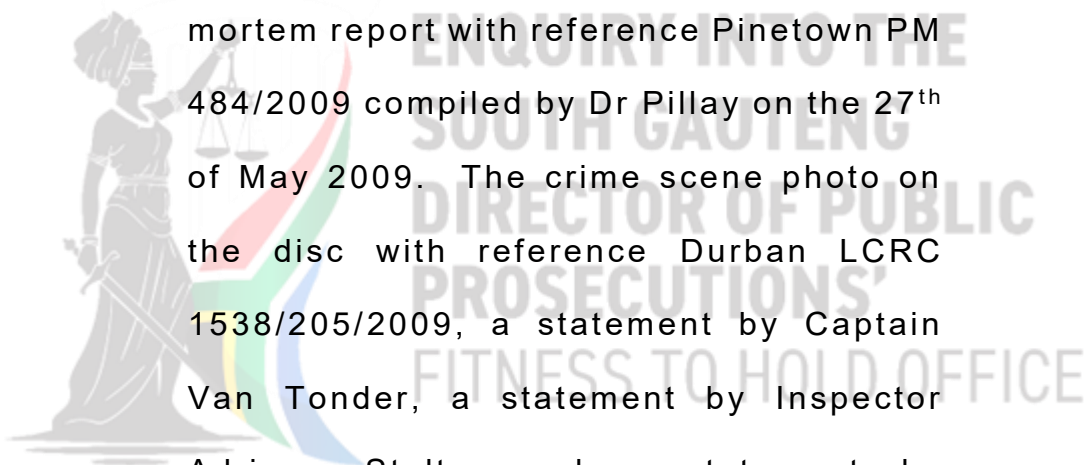
“The suspect was fatally wounded.

Captain Eva then took over the scene and all the relevant role players were informed.”

20 So the person who confesses to have killed the deceased is Inspector Padayachee with an R5 rifle, but on the justification that the suspect had in fact shot at them several times. So it is in that context then that your expert testimony is required.

**LT-COL MANGENA:** I will go through my statement. The 2A-229, from 2A-229, paragraph 3:

“On the 22<sup>nd</sup> of October 2012, during the performance of my official duties, I received a copy of police case docket with reference Pinetown CAS 668/05/2009 from investigating officer Mr Mosiapo of Independent Police Investigative Directive, IPID. Among the documents in the docket, I found the following documents which were to be utilised in crimes and reconstruction. The post-mortem report with reference Pinetown PM 484/2009 compiled by Dr Pillay on the 27<sup>th</sup> of May 2009. The crime scene photo on the disc with reference Durban LCRC 1538/205/2009, a statement by Captain Van Tonder, a statement by Inspector Adriaan Stoltz, and a statement by Detective Gonasagern Padayachee. Intention and scope of forensic examination comprise of the following. Crime scene reconstruction, bullet trajectory determination, and expected opinion concerning the matter. On observation of the post-mortem report and post-mortem photos, I noticed that the



wounds as described and marked on the diagrams are consistent to the wounds visible on the photos. I marked the wounds on photos from wound 1 to wound 15 as described by the doctor on the post-mortem report.”

Wound 1 on photo 1. Wound marked 1 on photos. The left upper eyelid shown a 10 by 10 millimetre perforating defect. It has the characteristics of an entrance wound.

10 **ADV NGCUKAITOBI SC:** Where are you looking now?

**LT-COL MANGENA:** It will be 6.1, 2A-230.

**ADV NGCUKAITOBI SC:** No, but which picture because it says on the photo.

**LT-COL MANGENA:** On the photo it will be photo number 2.

**ADV NGCUKAITOBI SC:** And we are going to show graphic images for sensitive viewers. Thank you, carry on.

**LT-COL MANGENA:** Wound marked 2 on photo. It is a 15 by 12 laceration representing an exit wound. So this is the exit wound of wound number 1. If you look at the position of wound number 1 and let us look at the position of wound number 2 on photo 3. I will explain the reason why I am saying we must look at the position of wound number 1 and wound number 2 on the photos.

20

Wound number 1 is on the left eye, just above the eye. Let us go to wound number 1. We have wound number

1 is this one. It is just above the eye here. And then wound 2 is at the back of the head. And we have wound number 3. The track of the wound passes from left to right towards the right parietal scalp via the brain over the parietal scalp. Wound number 4 on photograph, the occipital scalp showing 10 by 10 millimetre perforating defect. This wound is depicted on photo number – wound number 4 is depicted on photo number 5.

If you look at what wound, and then comes wound number 3. Overlaying the fracture of a 9 by 5 millimetre laceration in presence of over the right occipital. Wound number 3 is also at the back of the head. And then wound number 4. Wound number 3 and 4, all the three exit wounds are at the back of the head.

Wound number 5 on photo, a 36 by 10 millimetre linear wound track over the right maxilla. Wound track is superficial with no penetration of the underlying bone. So this would be wound number 5. Wound number 5. Wound number 5 is visible on photo number 11. It is just a grazing wound on the face of the deceased.

Wound number 6 on photo is 10 by 10 millimetre perforating defect of the posterior lateral aspect of the left arm. Wound number 6 will be on the left arm, and it is visible on photo number...

**ADV BALOYI-MERE SC:** Number 14.

**LT-COL MANGENA:** On photo number 14. Thank you, Chair. Wound number 12 on photo, a wound measuring 8 millimetre is present along the medial aspect. No involvement of the underlying humerus is noted. And then wound number 12. I do not have a picture of wound number 12. And then wound number 7, it is a 15 by 10 circular defect on the dorsal surface of the left forearm. Wound number 7 is visible on photo number 6, where we have wound 7, wound 8, and wound 10.

Wound 8 on photo is a 30 by 37 millimetre laceration  
10 over the ventral aspect representing an exit wound. So wound 8 will be the exit wound of wound 7. Wound 9 on photo is a 15 by 9 defect on the ulnar bone of the left hand. It is visible on photo number 7. Wound 10, it is a 12 by 9 millimetre laceration representing an exit wound. There is wound 10 on photo 6 again.

Wound mark 11, it is a 15 by 11 defect on the left  
anterior chest wall lying close to the left anterior auxiliary line. The appearance are those of a gunshot entrance wound. There is wound 11. And we have the track of the wound  
20 passes downward and towards the right along the left chest cavity without involving the left lung or heart through the left hemidiaphragm lacerating the greater curvature of the stomach and transverse column into the right abdominal wall from where a spent bullet was recovered.

And wound 13, it is a 23 by 30 millimetre defect over

the right iliac fossa. Emanating from the wound is a track that passes in the abdominal wall without entering the peritoneum overlying the anterior abdominal wall. That is wound 14. And then the last wound which is wound 15, it is a superficial wound track measuring 21 by 7 over the sternum anteriorly. There is no penetration in the underlying thoracic cage. Chair, if you look at the wounds sustained, the wounds sustained on the arms and on the body. When you go to paragraph 8:

10

“I have also noticed the bullet holes at the crime scene as follows. The bullet holes in the wall were marked W1 and W2.”

Those are visible on photo 21. They are also visible on photo 22 and 23. The bullet hole in the bed had characteristics of a bullet entering entry and possibly a close-range shot. And then on paragraph 9:

20

“After my observation of the crime scene and photos, I could reach the following possible conclusions. The wounds sustained by the deceased were inflicted with possibly two different calibres, a handgun, possibly nine millimetre, and a rifle, possibly 5.56. I move the opinion that the wounds marked 1, 6, 7, 11, and 13 were inflicted when the deceased was

positioned as visible on photos. The wounds marked 6, 8, and 11 were caused by the same bullet.”

If you check at wound number 6, wound number 8, and wound number 11.

**ADV NGCUKAITOBI SC:** Thank you. Lieutenant-Colonel, are you feeling tired? Do you want to break? Because according to Mr Ramogale, you look tired.

**CHAIRPERSON:** We are certainly going to take a break,  
10 Advocate Ramogale. I suspect that you are tired. Colonel, we are going to take a comfort break. Do you want to finish or do you want us to pause?

**LT-COL MANGENA:** We can pause.

**CHAIRPERSON:** We can pause now?

**LT-COL MANGENA:** That is correct.

**CHAIRPERSON:** Yes, we will take a 15-minute break. We  
can reconvene at 25 past or at half past. Just give you time  
to pause as well. It has been a long day explaining to us all  
these complexities. We will reconvene at half past and work  
20 until 5 o'clock. I suppose this will be your last one unless the  
next one is going to be shorter.

**ADV NGCUKAITOBI SC:** No, Chair, it is very difficult to say. I think probably ...[intervenes].

**COURT:** We can finish when we reconvene.

**ADV NGCUKAITOBI SC:** Yes, thank you.

**CHAIRPERSON:** Thank you. You are under oath, sir.

**LT-COL MANGENA:** I am still under oath, Chair.

**CHAIRPERSON:** We will pause until half past four.

**ENQUIRY ADJOURNS**

**ENQUIRY RESUMES**

**CHAIRPERSON:** Good afternoon, everyone. Good afternoon, Colonel. Good afternoon, Advocate Chauke. Advocate Ngcukaitobi, you may proceed. You are still under oath.

10 **CHRIS MANGENA:** (duly sworn states)

**ADV NGCUKAITOBI SC:** Thank you, Madam Chair. Lieutenant-Colonel, you were at photo 14 at page 2A-238.

**LT-COL MANGENA:** Page?

**ADV NGCUKAITOBI SC:** 2A-238.

**LT-COL MANGENA:** Right, Chair. If you look at the wounds ...[intervenes].

**CHAIRPERSON:** He was on the observations at 2A-224, 9.4. Am I not right?

20 **ADV NGCUKAITOBI SC:** Yes, he can start there, Madam Chair.

**CHAIRPERSON:** I was actually going to ask him. In relation to that, Colonel, if you look at the previous page, 9.3, you refer to wounds marked 6, 8 and 11, and you state that they were caused by the same bullet.

**LT-COL MANGENA:** Chair, I was looking at it. It is not 8. I

think with 8, it is a typing error. 8 goes with 7, not with 6.

**CHAIRPERSON:** Yes, actually that was my question. Because I see also now at 9.4, you refer to 8.

**LT-COL MANGENA:** 9.4?

**CHAIRPERSON:** Yes, at 2A-244.

**LT-COL MANGENA:** Yes, 9.4 goes with 7. 7 goes with 8 and 13.

**CHAIRPERSON:** What should be reflected at 9.3? Wounds marked 6, 8 and 11?

10 **LT-COL MANGENA:** It would be 8 and it exited the wound that was below the arm. I cannot recall, because I think I have marked 8 twice. This one also made it 8. I do not know how that happened. But it is 6 here, it comes out here in the inner part of the arm and then it is on 11 and it goes into the body. So I tried to check again where did I mark that one, but I cannot find it. But definitely 8 is not supposed to be there on 9.3.

**CHAIRPERSON:** Yes, I thought so because you have your 8 at phot 6 and at photo 15.

20 **LT-COL MANGENA:** That is correct.

**CHAIRPERSON:** Yes. So what should be reflected at 9.3 of your report, your observations?

**LT-COL MANGENA:** Chair, I think that wound, I have skipped it. I do not know how did I miss that wound, but it is the wound that is on the inner part of the left upper arm. That

goes with wound 6. It enters at wound 6, it exits this wound and then it enters again on wound number 11.

**CHAIRPERSON:** You see photo 8 at 2A-243?

**LT-COL MANGENA:** That is wound 11 where it re-enters the body there.

**CHAIRPERSON:** Yes, that is wound 11 and then you have your 8 at photo 6 on the arm there at 2A-234. Is that one correct, that 8?

**LT-COL MANGENA:** That is correct. 8 goes with 7. It enters  
10 at 7 and exits at 8.

**CHAIRPERSON:** So 6 is misplaced?

**LT-COL MANGENA:** Yes, 6 is on the upper arm. I think it is visible on photo 14.

**CHAIRPERSON:** Would it be caused by the same bullet?

**LT-COL MANGENA:** No, that is why I am saying this one goes with another one. I am trying to check. I think I have missed that other wound that is inside where the bullet exits and then before it enters at wound number 11.

**ADV NGCUKAITOBI SC:** So on 6 there is supposed to be  
20 another wound on the inner side of the arm.

**LT-COL MANGENA:** On the inner side, which will be the exit wound of that wound.

**ADV NGCUKAITOBI SC:** And then a new entry at 11?

**LT-COL MANGENA:** At 11.

**ADV NGCUKAITOBI SC:** I see.

**CHAIRPERSON:** Yes, it could be.

**LT-COL MANGENA:** But if you look at wound number 9. Wound number 9.

**CHAIRPERSON:** At photo 7?

**LT-COL MANGENA:** On photo 7. It goes with wound number 10 on photo 15. So it is like it is a defensive wound where the shot is fired, it pushes the arm to block the bullet. It enters here, it exits here and it goes to the chest to around wound number 15 there.

10 **CHAIRPERSON:** So you are going to deal with 9.4, unless you would like to take him back. 9.4 at 2A-224. 9.4 of your report.

**LT-COL MANGENA:** Right, wound mark 7, that is the entrance and wound mark 8 and wound mark 13 and wound mark 14 could most probably be from the same wound.

**ADV NGCUKAITOBI SC:** There is no correction you wish to make there?

**LT-COL MANGENA:** On this wound? No, no.

**ADV NGCUKAITOBI SC:** Thank you.

20 **LT-COL MANGENA:** It is like it is in here, it goes here and it exits on 14. It is like when a person is doing this, it enters, it comes out and doing this again, it is there at 9/10 to the chest.

**CHAIRPERSON:** Yes, thank you. You may proceed, Counsel.

**ADV NGCUKAITOBI SC:** Thank you. I think perhaps you should finish your 9.5 to 9.7 and then do the reconstruction after that.

**LT-COL MANGENA:** Right. On 9.5, wound mark 9 can be characterised as a defensive wound. I am of the opinion that the deceased was trying to block a bullet with his hand. This bullet perforated the hand entering at wound 9 and exiting at wound 10. The same bullet would possibly be the one that caused the laceration of wound 5 on the right side of the face or the laceration on wound number 15. So the one5 would be the one on the chest. So it could be either one of these, the one that passed or the one that got into the chest.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:**

“The two bullet holes marked W1 and W2 had characteristics of bullet that has lost speed and energy. On an intermediate target, these holes could possibly be from a bullet that has perforated the body of the deceased first. 9.6, the two exit wounds on the head of the deceased had characteristics of short exit wound. Short gunshot exit wounds are produced when the outstretched skin impaled or sandwiched and crushed between the

outgoing bullet and the yielding object over the exit site, thus leaving an abrasion caused of..." ...[intervenes].

**ADV NGCUKAITOBI SC:** So that means he was pressed against a wall or against a hard surface.

**LT-COL MANGENA:** If we look at the position of the deceased on photo 12, if we look at the wall here, there was smearing of blood there. And then bullet hole marked W1 is here, bullet hole marked W2 is here. So it looks like when  
10 these wounds were inflicted, he was against that wall. The wound, the damaged ...[indistinct] could have been the first one and he slid downward.

When sliding downward, this wound was the last one that was inflicted, the one that went on just above the eye. And then it is in line with the wound at the back of the head. Now, if you look at photo number, yes, on photo 17, the wound, the entrance wound on just above the eye is visible. If you look at photo number 21 ...[intervenes].

**ADV NGCUKAITOBI SC:** Sorry, just before you proceed,  
20 could you just deal with 17? That is the question from the Panel for now, then you can go to 21. The question is, your point that you were saying when he was shot, he was most likely compressed against a hard object. So the question was, does that picture make that point clearer?

**LT-COL MANGENA:** That is why I am saying, ja, this one

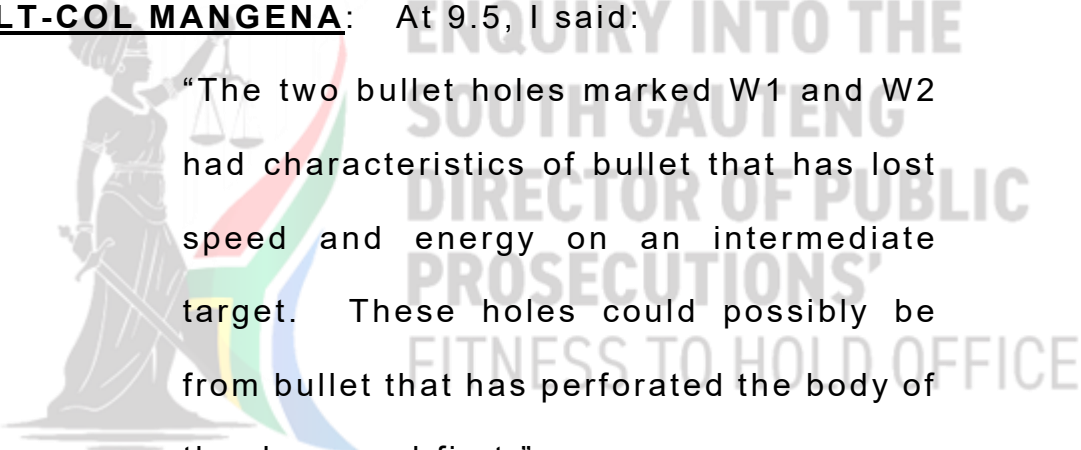
will make it clearer, this will be your entrance. And if you look to photo number 21 where the body has been removed, there is your impact point of the bullet that exited at the back of the head. This will be in line with the wound that was W1.

**ADV NGCUKAITOBI SC:** At photo 17?

**LT-COL MANGENA:** Yes, photo 17. So it simply shows that the two shots were fired while this would be most likely the last one where they finished him, where his head was against the wall there.

10 **ADV NGCUKAITOBI SC:** And you were still at 9.5.

**LT-COL MANGENA:** At 9.5, I said:



“The two bullet holes marked W1 and W2 had characteristics of bullet that has lost speed and energy on an intermediate target. These holes could possibly be from bullet that has perforated the body of the deceased first.”

So this could be, as I mentioned, from the bullet wound marked 1. On 9.6:

20 “The two exit wounds at the back of the head marked 2 and 3 had characteristics of short exit wounds. Short exit wounds are created or produced when the outstretched skin impaled or sandwiched and crushed between the outgoing bullet

and yielding object over the exit site, thus creating the abrasion colour on the wound margin. The degree of shoring abrasion increases directly with the kinetic energy of the projectile and the rigidity of the shoring material. The deceased's head was against the wall or bed during the infliction of these wounds. According to the post-mortem report, the doctor

10 mentioned that two metal fragments were recovered in the head and I am of the opinion that these fragments hit the wall as the head of the deceased was against the wall and re-entered the head through the same wound. Looking at the position of the head of the deceased and the position of the hole marked W2, it is possible that the bullet could have exited and re-entered the same wound. In

20 conclusion, I am of the opinion that the entry wound mentioned in 9.1 marked 1, 6, 7, 11 were inflicted when the deceased was already positioned on the spot as he appears on the photo.”

**ADV NGCUKAITOBI SC:** What spot is that?

**LT-COL MANGENA:** On the?

**ADV NGCUKAITOBI SC:** You say that you are of the opinion that these wounds were inflicted while the deceased was already lying in that spot. Which spot is that?

**LT-COL MANGENA:** In the spot as appearing on photo 25. It would be the same spot as how he appears on photo 20, photo 17.

**ADV NGCUKAITOBI SC:** I would like to look at photo 12 because it is a better outlay of the room because it is bigger.

10 Can you look at 12?

**LT-COL MANGENA:** Yes.

**ADV NGCUKAITOBI SC:** And 13. Was he in that position when he was shot?

**LT-COL MANGENA:** As he appears on photo 12. That is correct. I would say the last wound when it was inflicted as he was in this position.

**ADV NGCUKAITOBI SC:** Now, we know that Inspector Warrant Officer Padayachee is the one who claims to have shot him with a machine gun.

20 **LT-COL MANGENA:** With a rifle. That is correct.

**ADV NGCUKAITOBI SC:** Was that consistent with your findings that the fatal shots were from a rifle?

**LT-COL MANGENA:** That is correct, Chair. The wounds are consistent with the 5.56 with the rifle.

**ADV NGCUKAITOBI SC:** Yes. I am looking at the wound at

17 which is just below the eye. And that is the one that penetrates the entire head and then at W2 hits the wall at photo 21.

**LT-COL MANGENA:** Photo 21.

**ADV NGCUKAITOBI SC:** Yes, at photo 21. I just want to confirm that.

**LT-COL MANGENA:** At W2?

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** That is correct, Chair.

10 **ADV NGCUKAITOBI SC:** It penetrates the head and hits the wall.

**LT-COL MANGENA:** It penetrates the head and then exits at the back and hits the wall.

**ADV NGCUKAITOBI SC:** Yes, and that is what you mean when you say by the time it hit the wall, it had lost speed ...[intervenes].

**LT-COL MANGENA:** And energy on the intermediate target. So the intermediate target will be the head of the deceased.

20 **ADV NGCUKAITOBI SC:** Yes. Now, would this be consistent when you look at the type of the wound? Because you said that the bullet of an R5 fragments.

**LT-COL MANGENA:** Yes, it is consistent with it.

**ADV NGCUKAITOBI SC:** And then what is your opinion on the likely distance between the shooter and the deceased?

**LT-COL MANGENA:** Chair, I would say as long as we do not

have propellant powder or particles or we do not have the ...[indistinct], it will be difficult to tell the distance. But here the distance would be more than a metre probably, because there is no presence of propellant.

**ADV MTSWENI SC:** Yes. Now, if I take you back to photo 12 and ask for your comment on those cones. You say the cones usually reflect the number of cartridges. What is your comment on those cones?

**LT-COL MANGENA:** Chair, I would say the cones will be  
10 mostly placed next to, it is either the cartridge cases or the bullets found in the crime scene.

**ADV NGCUKAITOBI SC:** Yes. No, I am talking in relation to the allegation made by warrant officer Padayachee that he did discharge a firearm, Mr Ndimande.

**LT-COL MANGENA:** Mr Ndimande?

**ADV NGCUKAITOBI SC:** Yes, he claims that he shot at them.

**LT-COL MANGENA:** But, Chair, if you look at normally with crime scene, when you work on a crime scene or when you  
20 document the crime scene, if there is shots fired, there is bullet holes, you will take pictures of all the bullet holes in your scene. But in this instance, the only two bullet holes which were taken photos of are the ones which are marked W1 and W2, which indicates that there were no other shots fired to the direction of the members coming into the room.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** If there were those bullet holes, photos would have been taken like the way the photos of bullet holes W1 and W2 were taken.

**ADV NGCUKAITOBI SC:** Yes. And then what is your opinion on the position of the firearm in photo 13?

**LT-COL MANGENA:** The position of the firearm in photo 13, Chair, is, I would say, still the same modus operandi of the team.

10 **ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** Most likely planted on the scene.

**ADV NGCUKAITOBI SC:** Now, I did not want to take you to the statements by the eyewitnesses, but this is a case where the wife was present, I think her name is Nokupiwa [?], with two children. One of the children was sleeping in a cot, and the other was older, sleeping with the mother in the same bed. And the statement of Padayachee confirms that there was a woman with two children, and according to him, they instructed the woman to get out of the bedroom.

20 And according to Nokupiwa, she did hear shots being fired, but at that point they had covered her with a blanket. But they claim that this man was shooting at them. I mean, just looking at that position, and bearing in mind the version of the eyewitnesses, could their version of the police be possibly true?

**LT-COL MANGENA:** Chair, if they are alleging that he was shooting at them, I would say it is not possible, not from that position.

**ADV BALOYI-MERE SC:** Because your opinion is that what we see at photo 12 is his position at the time of the execution.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** Yes.

**LT-COL MANGENA:** If he was shot anywhere else within the room, he is not wearing a shirt, he is not wearing anything at  
10 the top, and he has been shot with a rifle. Bleeding will be everywhere on the walls. Why he started bleeding, because if you look at the size of wounds that he sustained, especially the ones, if he was shot somewhere else, he would start bleeding from there and the blood would start dripping from there. But if you look at the crime scene photos, especially on photo 12, the bleeding is only there at the corner where the body is found. There is no blood anywhere else on the crime scene. So basically the shooting occurs while he was there, not anywhere else. And from that point, I do not see  
20 if there is any shots fired from him towards the direction of the police officers.

**ADV NGCUKAITOBI SC:** Yes. And in fact, the wife says there was no firearms. She remembers that specifically. Would that be consistent with your, also, expert opinion?

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** So we have dealt with 355, 356, 363, and 367. So I wonder if you can just take us through your conclusions at 369.

**LT-COL MANGENA:** In conclusions from 369:

10 “The deceased sustained multiple gunshot wounds. The injuries are consistent with the use of possibly two different calibres. At least one bullet perforated the arm and re-entered the torso. One wound on the hand is consistent with a defensive action of the deceased, where he tried to block the bullet, it entered at wound 9 and exited at wound 10.”

**ADV NGCUKAITOBI SC:** So I want to take, if you go to photo 18. So the bullet has come through here. What is the explanation for that?

20 **LT-COL MANGENA:** That is why I said it shows being in a defensive position. Where you are pointed with a firearm, you do this. It enters here. It crosses and exits here at wound number 10.

**ADV NGCUKAITOBI SC:** Yes. So that would be someone trying to block.

**LT-COL MANGENA:** Trying to block the bullet with the hand.

**ADV NGCUKAITOBI SC:** Yes. So that is what you mean when you say it was a defensive position.

**LT-COL MANGENA:** That is correct, Chair.

**ADV NGCUKAITOBI SC:** All right, thank you. Carry on.

**LT-COL MANGENA:**

10 “The head exit wound indicates that the deceased head was pressed against a solid surface at the time of discharge. Wound 1 in the eye was most likely the final and fatal shot. Several entry wounds were inflicted whilst the deceased was already positioned as depicted in the photographs.”

That will be as depicted in photograph number 12:

“My full forensic reconstruction report relates to this incident. It is attached hereto as Annexure CM19.”

**ADV NGCUKAITOBI SC:** Yes. Thank you. Madam Chair, that brings us to the end of Mr Ndimande's case, and it is also 16:59, so exactly at 5 o'clock. I am in your hands.

20 **CHAIRPERSON:** Give us just a few minutes. Thank you, Advocate Ngcukaitobi. Progress made. Thank you, Colonel. We will pause until tomorrow morning at 9 o'clock, where you will hopefully finish your testimony. We are told that you have to travel to the North West because you have a case in Mafikeng.

**LT-COL MANGENA:** That is correct, Chair. I have got a

case on Monday.

**CHAIRPERSON:** On Monday.

**LT-COL MANGENA:** Yes.

**CHAIRPERSON:** Counsel, we will hopefully finish with the witness before lunch tomorrow. And we will not make a commitment as regards the pending application by NPA. When we came here, we realised that you have filed your heads of argument. And you would have noted that the NPA heads of arguments are very long. We have not had an opportunity to really make a good step on those heads of arguments. So we will not commit as to whether we will hear you tomorrow after the hearing or not. We will give an indication tomorrow. One step at a time.

**ADV NGCUKAITOBI SC:** Yes.

**CHAIRPERSON:** In that event, we will adjourn until tomorrow morning at 9 o'clock. Colonel, you are still under oath.

**LT-COL MANGENA:** That is correct, Chair.

**CHAIRPERSON:** Thank you very much. We adjourn.

20 **ENQUIRY POSTPONED TO 27 FEBRUARY 2026**

**ENQUIRY ADJOURNS**

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