

TRUTH AND RECONCILIATION COMMISSION

UPINGTON HEARINGS - DAY 2 - 3 OCTOBER 1996

CASE NO: CTO/1417.UPI

VICTIM: NICHOLAS MAKANDILE LINKS

NATURE OF VIOLENCE: SHOT AND KILLED A CHILD

TESTIMONY FROM: NICHOLAS MAKANDILE LINKS

MR POTGIETER: Mr Links.

MR LINKS: Good afternoon sir.

MR POTGIETER: Do you prefer to give your evidence in Afrikaans?

MR LINKS: Yes I would.

MR POTGIETER: That is fine, we will speak Afrikaans, it is not a problem. It is actually very nice to be in Afrikaans because we don't often have the opportunity to speak Afrikaans. Who is that next to you?

MR LINKS: It's my uncle. It's my father's brother.

MR POTGIETER: Is that also a Mr Links?

MR LINKS: That's correct.

MR POTGIETER: Mr Links senior, good afternoon. Welcome. Thank you for accompanying Oupa today.

MR LINKS: You're very welcome.

MR POTGIETER: Mr Links before we can start with your testimony could you please stand to take the oath.

NICHOLAS MAKANDILE LINKS Duly sworn states

MR POTGIETER: Thank you. Please be seated. Mr Links your nickname is Oupa? --- That's correct.

And you were formerly a municipal policeman? --- That's correct.

Is it correct that when you became aware of the fact that the Commission would have hearings here in Upington, you voluntarily approached the Commission and made a statement to us in which you made certain submissions? --- That's correct.

Yesterday we heard some evidence, the evidence of Ms Lumkwana. She testified yesterday afternoon and we heard her referring to you in her testimony, you aware of that evidence? --- No I must have left by that stage.

Did you become aware of that, that she made a reference to you? --- No, no, this is now the first time that I've become aware of it.

Well we will get back to that. Perhaps you can tell us now - you were a municipal policeman? --- Yes.

But you left the service, when did you leave the police force, the municipal police force? --- It was around about six months after the incident about which I am now going to testify and I immediately left to go to Namibia and I returned from Namibia in 1991 and I then went back to Cape Town with my family and at the end of 92 I came back to Upington.

Now at the moment you are employed, where? --- At the South African Police service. At the South African Police service as a labourer.

So you are not actually a policeman as such, you are just in the employ of the South African Police service? --- Yes that's correct.

And that is here in Upington? --- Yes.

At which police station are you? --- At the Upington police station in town.

You want to tell us about an incident which took place and a couple of months after that you left the municipal police force. Please tell us about this incident. --- I would like to give my statement to you. Allow me to read it Mr Chairman.

Yes, please go ahead. ---

I, Mr Nicholas Makandile Links from Brown Street 572 in Paballelo at telephone 26425 (at my house). My works telephone number 22792. I was a municipal policeman during this incident. I, my wife and child returned from church on the 31st December 1985. While walking to our residence at 709 Brown Street, we could smell teargas. At approximately five minutes past 12 on the 1st January 1986 we heard stones falling onto our roof. I then went out and saw four young males standing opposite my house. When I approached them they fled and ran away. I went back into my house and informed my wife to switch off all the lights and I hid my family in the lounge. The same four young men returned to my house and threw my front windows broken. I ran out again and fired two warning shots at the four young men. They fled and returned a few minutes later and once again stoned the house. I chased after them and shot one of the young men who had thrown at my house. I then realised that I had killed this young boy. I phoned the Paballelo police station twice to inform them that I had shot somebody. The following policemen arrived in a casspir - Inspector Swanepoel, Fanie Burger and Tarrie Smith [Tarrie, Tarrie, that's correct] and Captain Botha. Inspector Swanepoel congratulated me on my first murder but I was severely reprimanded by Captain Botha who called me a **hoer kind** and that I was a bad shot and I should have killed all four. Captain Botha commanded Swanepoel to give me a shotgun with one

hundred rounds of SSG ammunition. Constable Ben Rabuthle was posted at my residence as a guard for the evening. At approximately 04:00 a.m. some children once again returned and stoned the house. I informed my colleague not to shoot at the children but to fire in the air. The next morning I was once again severely reprimanded by Captain Botha who accused me of being a bad policeman who wasted the government's money and that I was a bad shot. I later discovered that the victim was Matan Jonga but I am not sure about his age. I do not know who the others were. I left the employ of the municipal police and went to Namibia where I stayed from 1986 till December 1991 when I returned to Upington. When I came back the community accepted me back and I wish to apologise in public to the community and the victim's parents. In September 1996 I went to the Station Commissioner to retrieve the inquest docket relating to the death of Matan Jonga. I was told by the aforementioned that the inquest docket had already been destroyed. To my knowledge this is contrary to the regulations because all documentation has to be kept for 15 years. Approximately three weeks ago I saw documentation being destroyed by the police and I assume that it was as a result of the Truth and Reconciliation Commission's investigator's pending visit to the police station.

That is all I would like to state.

Thank you Mr Links. Could I start at the end. Is it the police station in town where you work, where these documents were destroyed? --- Yes.

Do you know the person who destroyed the documents? --- I went to the archives where they keep the dockets. I asked the people who work there, the clerks, I asked them to give me my docket because I wanted to submit it to the Commission and one Ralie Kok told me that Captain Raaf had given instructions that the documentation should be destroyed. Captain Raaf is fortunately here today.

CHAIRPERSON: If I ask you to please be quiet then you must please obey me. I don't want to keep on repeating the same thing as if I am dealing with small children. Please we are dealing with serious matters here. Please.

MR POTGIETER: Mr Links you say that according to what you were told, Captain Raaf gave the order that the documentation be destroyed. --- Yes that's correct.

And you also indicated that Captain Raaf is present here in this hall? --- Yes he is working outside the hall. I don't think it will be very difficult to get hold of him.

Did you notice Captain Raaf here this afternoon at the proceedings? --- Yes.

Can you see him at the moment in the hall, is he present in the hall? --- I can't see him right now, I think he is outside.

According to the clerks, when were they given these instructions to destroy the documents? --- They didn't tell me the exact time and date when they received the instructions but it was in this period just before the Truth and Reconciliation Commission was to come to Upington.

So it was during the time that the TRC was present here in Upington? --- Yes, according to the clerks.

And you said that it was approximately three weeks ago that you noticed that somebody was busy destroying documents. --- Yes.

Do you know this person, who is it? --- Ms Ralie Kok. Ralie Kok.

Is Ms Kok employed by the police in Upington? --- Yes she works in the archives, she works with the dockets. She is a clerk.

Could you see what kind of documents these were that she was busy destroying? --- I noticed that they were dockets but I don't know what kind of dockets because the dockets are actually supposed to be very confidential. People are not allowed to have access to the dockets, apart from these two clerks responsible for them.

And how did she destroy them? --- It was shredded. There is a shredding machine at the police station and it's just fed into the shredder and then it is taken away to the refuse heaps and the bulldozers then make holes in the ground and it is ploughed into the earth.

Was that the first time that you saw dockets being destroyed in that way, shredded in that way? --
- No, no, at, there was a time when they asked me to actually assist them in destroying dockets.

Thank you. So at some stage you were asked to help destroy dockets? --- That is correct.

When was that, more or less? --- Let me see, it was I think in June or July of this year.

Now as far as you are aware, is that a normal practice for the police to destroy dockets? --- I don't really know but I know that the dockets are shredded and it wasn't the first time that I had noticed dockets being shredded. I'd been working at Upington police station for three and a quarter years and since I started working there I had noticed dockets being destroyed.

When you were asked to help, did that relate to dockets that needed to be shredded? --- Yes.

Was it a large amount of dockets? --- Yes, heaps of dockets. It was a pile of dockets almost as high as this table.

Now the shredding machine, the shredder, where is that, in the offices of the police here in Upington? --- Yes there are two of these shredding machines. There is one at the docket area and the other one at the security branch.

Which one was used by Ms Kok to shred the dockets? --- The one downstairs where the dockets are kept.

Thank you. Now could I turn to the incident which you mentioned. When you fired the shots during this incident, had you been, if you're honest, were you being threatened, was there a reason for you to shoot? --- Yes I would say there was a reason for me to shoot because the deceased and his friends were busy attacking my home, they were stoning my home and they also threw a petrol bomb at my home. I was standing in the house, my hand was on my child's head. The stone came through the window and hit me on the hand. If it wasn't for the fact that my hand had been on my child's head my daughter would probably be dead today. So yes I felt threatened and I felt there was a riot. It was during the time of the riots and I felt that I had to defend my family and also defend myself. I didn't want to shoot to kill. I wanted to form an arrest but because I couldn't arrest the deceased I fired a shot and I hit the deceased.

What type of weapon did you have? --- I had a 9mm Parabelum, the capacity was 13 rounds and my shotgun which I had was a Parabelum shotgun with, the number was Hotel 11 Echo.

Did you keep all these weapons at your house? --- No, as I mentioned in my statement, Captain Botha told Inspector Swanepoel to fetch my shotgun at the police station and give me a hundred SSG rounds. I want to state it here in public that an SSG bullet is extremely dangerous. It is not like other bullets. It is lethal, it kills immediately. So in other words I was supposed to kill lots of people.

As far as the shooting incident itself is concerned, what kind of weapon did you use? --- It was the 9mm Parabelum.

Now that was your service pistol? --- Yes.

Was that the only firearm you had in your possession at home at that stage? --- Yes.

When you fired the shot, were you in the street outside or where were you? --- Yes, I was outside in the street and I tried to arrest these people but the people ran away, I chased after them, I couldn't arrest the deceased so I fired a shot. So it was outside in the street, I was not in my own yard.

What kind of training did you have as a municipal policeman in the handling of weapons? --- I went to Hammanskraal, the Hammanskraal Training College in the Northern Transvaal. I spent three years, three months of training, also in the practice of shooting and communication skills, human relations, riot control etc.

And that was a three month course? --- Yes.

Now after the three months, were you then employed? --- Yes I was transferred to my station.

Now an ordinary policeman, how much training, how many months of training do they get? --- Six months of training.

So the period of training for the municipal policemen was half that of the ordinary South African Police? --- Yes.

Were you properly trained in handling a firearm during the three months? --- I will say that I am not a very good shot but I at least knew the mechanism of these weapons. They train you, they say if you want to fire a shot you must hold your breath and mustn't breathe normally, you must actually hold your breath, aim your weapon, aim carefully and then you can fire the shot.

Now before receiving your three months training at Hammanskraal, did you know how to handle a weapon before that? --- Not at all.

So that was your first exposure to firearms? --- Yes.

Before this incident during which you shot this boy, had you handled or used the weapon in such a situation against people? --- Yes I had used my firearm at some stage, I was walking from the police station, I was attacked by people from the Paballelo location and I fired two warning shots at them and I then took my jacket and hung it over the gate of the church and after having fired the warning shots they ran away. I went back to the police station but I forgot my jacket. They

then came back and took my jacket and burnt it so I had used my weapon before this particular incident.

So it was the second time that you actually used your weapon? --- Yes.

After the shooting, did you then notice that you had shot a young boy? --- Yes and the moment he fell I ran towards him. I thought I had only wounded him and I thought I could arrest him then and take him to a doctor, whatever, take a statement but when I got to him I saw that it was a young boy.

And did you notice that he was dead? --- Well at that stage I wasn't sure whether he was dead or not.

You just assumed that he was dead. How did you feel? --- Yes that is actually the reason why I am here for the Commission today. I want to express my, what I felt during the incident. I felt very sad, it was a young boy in the prime of his life and I had just cut short his young life and what made me feel even worse was the fact that Warrant Officer Swanepoel congratulated me and said congratulations on your first murder. That really hurt me. I felt sad. I was raised as a Christian and it really affected me badly emotionally and I felt that I wanted to end my employment as a municipal policeman.

Now if one looks at the circumstances, you see it was at night this thing took place. You weren't really in a position to say whether this child had been stoning your house. --- Yes I can actually confirm it because there was moonlight. My wife and I came back from church, we went into our house, they started throwing stones, I went outside and the one I shot was wearing a white shirt. I could identify him by his white shirt. The other one, the other boy, one of the other three was wearing a straw hat and this straw hat was left behind at the scene and Warrant Officer Sybrand de Waal from ... [indistinct] came and picked up the hat so I am quite sure that the deceased was involved in the stoning at my house.

If I think about these circumstances on that day, there must be a lot of doubt. Was there ever a risk that you would have been charged? How did the police handle this matter? --- That is what I would like to tell you about. I was never taken to court. I just heard from Sybrand de Waal that there had been an inquest. At that stage I was new in the police force. I didn't know exactly what an inquest was but he told me that the Attorney General declined to prosecute me and that was the end of the matter. So he told me, he said to me don't worry, the case has been finalised, it's all over.

Now were, there had been an inquest, you will know from your experience as a policeman that when a person dies in unnatural circumstances like here, an inquest must be held so a decision can be taken as to what should happen. So an inquest had to be held in connection with this incident. Are you saying however that you never testified in a court? --- Not once.

So this case was decided without your version having been heard and you were actually the only person who could have explained what had happened but they didn't even listen to your evidence? --- No. No, they just took my statement, Sybrand de Waal took my statement and the next day was New Year, New Year's day and the local fingerprint office people came to take photographs of my house and then they took my statement. They took my firearm. My firearm was sent away for ballistic tests and Sybrand de Waal then said to them, give me a weapon immediately and I was given a brand new weapon. On that very same day I was given a brand new weapon. They took a statement from me and if I didn't go to Warrant Officer de Waal to ask him what progress

had been made in the case, I wouldn't have heard anything. He then said to me no the case had been finalised a long time ago, it was an inquest.

Now as I mentioned to you, we heard evidence yesterday, it was Ms Xjoliswa Lumkwana's evidence ... **end of Tape side A** ... and that according to what people told her, you were the person responsible for the shooting. --- Yes I shot, I did shoot, I admit that.

That person also died, according to Ms Lumkwana's evidence. Is that now Mata Jonga? --- Yes.

Now what happened there, because Ms Lumkwana was not present at the scene so she couldn't really explain to us what happened. Maybe you can tell us. --- Yes well you see as I have just said in my statement, my wife and I and my children were walking from church, we were on our way home and when we arrived home and we were in our home and preparing to go to bed ...
[intervention]

I am sorry, I have to interrupt you here. I think I am not understanding it properly, is Mbulelo Jonga is the person you have just referred to, the person wearing the white shirt, Mata? --- Yes, Jonga.

Right I understand now. So that is the same incident? --- Yes.

Thank you. So Ms Lumkwana is also now able to know what the circumstances were regarding that incident.

Mr Links perhaps just in conclusion, you have thrown quite a bit of light on a situation which we came across in Upington where our investigating team were told when they went to the Upington police station to look at the records and documents, they were told that the documents relating to the time between 1985 and 1992 had been destroyed. Now you have thrown quite a bit of light on that aspect. You are now in the employ of the police. --- Yes.

Do you have any fears or problems, any concerns regarding the fact that you have now testified as you have done today? --- Well advocate, we're here, sitting here today at the Truth and Reconciliation Commission. I can't come here and lie. Here I must speak the truth. If they want to discharge me from their service that's their problem. If, then I will talk about it and I will say what I know. Perhaps I will lose my job, I don't know. There is something in the police, they call it, you are systematically, there is a SAP incident report which has to be written on a monthly basis - are you reliable etc. do you do your job well - now they might want to grind me in these incident reports. They might give me bad reports. They might not like me now very much because of what I have just said because this hall is full of policemen.

CHAIRPERSON: Order! I told you at the beginning that we have a particular way of behaving and I allow you to clap at certain times but we have to be careful that we don't let this degenerate even when you are feeling very strongly, you have to try to restrain yourselves. This is not a concert or a rally. Please.

MR POTGIETER: Mr Links the persons that you mentioned who came to your house after the shooting - Inspector Swanepoel, you mentioned a lot of names, were they all policemen? --- Inspector Swanepoel is still in the police force here in Upington. Fanie Burger has left the police force. Captain Tarrie Smit, he is at Kanon Island about six or seven kilometres from here.

And Captain Botha? --- Captain Botha has died.

Is there anything else you would like to add to your evidence? --- Yes. This afternoon I would like to say to the Truth Commission, to the members of the public and to the family of the victim, I would like to apologise. The community has accepted me but I feel that I must say it personally here in public. That's all.

Thank you Mr Links. Mary Burton?

MS BURTON: Thank you. This is not the first time that we have been made aware of the terrible situation experienced by municipal policemen and people referred to as **kitskonstabels** stuck between the difficulties of their own communities and between the strong arm of the law. It is my first experience of having somebody testify before us and make a public apology and I would like to thank you for that. I would also like to ask you just for clarity sake, you said that the shredding of documents which you witnessed recently, took place three weeks before you made your statement to us. I just want to know whether that statement was made now this week or whether it was made when our statement takers were in this area a week or so ago, just so we get the timing right? --- That's correct. I gave my statement in the time that the investigating team were here. Mark and Milanie, I gave my statement when they were here, yes.

Thank you.

CHAIRPERSON: ... very much for your testimony. It is never easy to say I am sorry and especially to say so in public and therefore we want to say just how much we appreciate what you have done. This Commission is called the Truth and Reconciliation Commission and if we are able to make a small contribution to reconciliation here in Uppington, we will believe that the Commission has been worth all the trouble and you say that the community has already accepted you back but that you have felt, and it is a very noble thing that you have done, you have, it won't bring back the person that you killed but it will somehow pour balm on the pain in the hearts of his family and we want to thank you for that. We are very concerned at the testimony that you have given about the destruction of records. One of the tasks of this Commission is to try to follow up all of this kind of thing. In fact I have just had a letter from the Minister of Safety and Security informing me that many records have been destroyed in the police service and we are asking that investigations must be put under way to discover what records, who destroyed them, who gave the instructions for this to happen and we will certainly follow up what is a very serious matter because it means that we will not always be able to know what happened precisely. The records are important in assisting us. We may be able obviously to corroborate things that people claim because others are there to testify, like I mean in your case there would be the family who say yes this killing did happen and, well of course you will confess that you did shoot and the families, as they think you did it, so in this case we are all right. We may not always have it quite as straightforward as that. We are a Commission that seeks to look at the past, to make all of us realise how horrible that past was, for thus not to pretend it didn't happen. We must say yes all of these things happened. On all sides people did all sorts of things but now we want to deal with it, we want those who did the things that are wrong to acknowledge they have done them and let them be surprised at the fact that people are ready to forgive them and we hope, I mean, that your example will be followed by others, the example of this community. We thank you the people of Uppington and Paballelo, people who have suffered as much as you have suffered, who are able to show the world that it is in fact possible to deal with pain and suffering and anguish in a way that is not destructive. We could easily have become like Bosnia, like Rwanda where people say you did such and such to us, we are going to pay it back. South Africa has, ja I mean, maybe God loves us in a way that is almost different from the ways that God loves people in other places, I don't know, because as we have sat here and listened, you say what has stopped people from

saying I want to revenge. Our people on the whole have not said that. People say we want to know who did it and then we can talk about forgiving and many forgive and in many of our communities, people who hurt others still live in those communities. They are accepted and we want to thank God for the fact that you are such people. You are people who have suffered but you are also people who have said we have humanity ... got to try to restore relationships. Maybe God is saying, South Africa I want you to do this so that you may be able to show people in other countries how to deal with past, how to deal with pain, how to deal with suffering. This weekend a group from the Truth and Reconciliation Commission is going to Rwanda. The government of Rwanda have invited us and said please can you come and help us share a bit of your experience and maybe the things that are happening in our country are for the sake of the world as well. That we must not feel maybe proud, we must just be thankful that God has made us as God has made us, that we should be people who can accept pain and not go on the streets to wreak revenge. But we hope that those who have caused others pain, don't take it for granted, this forgiveness, because there are, I think, many in our country who think it is easy to forgive. It is not easy to forgive. A mother of four who has a child and a mother of a four year old who has a child killed like that, it is not easy for her to forget, as we have heard and so we appeal to the people of our land, please let the people know what it is that you did and ask to be forgiven and you will be surprised that the people will forgive me. Now although I scolded you once or twice, I think you are not such bad people. Actually I think you are very good people and I am going to clap you but because it will look silly, you people will say well long ago we thought that there was something wrong with Tutu's head, so in clapping you for being such a wonderful group of people, can give yourself a nice clap. Come on! Thank you. Before we finish, **Dominee** Beukes...