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**IN THE HIGH COURT OF SOUTH AFRICA
(GAUTENG DIVISION, PRETORIA)**

CASE NUMBER: 76755/18

In the matter between:

JOAO RODRIGUES Applicant

and

THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS OF SOUTH AFRICA First Respondent

MINISTER OF JUSTICE AND CORRECTIONAL SERVICES Second Respondent

THE MINISTER OF POLICE Third Respondent

FILING SHEET

DOCUMENT: Replying affidavit in response to first respondent's answering affidavit

Nature: Opposed Motion

Filed by:

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REF: BM 01/09/18

**TO: THE REGISTRAR OF THE
HIGH COURT
PRETORIA**

AND TO: THE NATIONAL DIRECTOR OF PUBLIC PROSECUTIONS
First Respondent
C/O State Attorney
316 Thabo Sehume Street
SALU Building
Pretoria
Ref: Peter Seleka

Served by e-mail as agreed to:
Pseleka@justice.gov.za;

**AND TO: THE MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES**
Second Respondent
C/O State Attorney

316 Thabo Sehume Street
SALU Building
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Served by e-mail as agreed to:
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AND TO: THE MINISTER OF POLICE
Third Respondent
C/O State Attorney
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SALU Building
Pretoria
Ref: Peter Seleka

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Pseleka@justice.gov.za;

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First Respondent

**MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES**

Second Respondent

THE MINISTER OF POLICE

Third Respondent

**REPLYING AFFIDAVIT IRO FIRST RESPONDENT'S ANSWERING
AFFIDAVIT**

I, the undersigned,

JOAO RODRIGUES

do hereby declare under oath as follows:

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1.

1.1. I am an adult pensioner presently residing at 835 Eleventh Avenue, Wonderboom South, Pretoria, Gauteng. I have been residing at the address for the past 54 years.

1.2. The facts contained in this affidavit fall within my personal knowledge unless stated to the contrary, and are both true and correct.

2.

I have read the answering affidavit deposed to on behalf of the First Respondent and wish to indicate, already at this stage, to the Honourable Court that I dispute the correctness of such allegations insofar as these allegations are inconsistent to what I have stated in the founding affidavit. I again confirm the correctness of the allegations contained in the founding affidavit.

m. g.

AD ANSWERING AFFIDAVIT: FIRST RESPONDENT:

3.

AD PARAGRAPH 1 THEREOF:

Apart from denying that all the factual allegations contained in the affidavit are correct in all respects I take note of the further allegations contained in these paragraphs.

4.

AD PARAGRAPHS 2.1 TO 2.8 THEREOF:

- 4.1. I do not dispute that this application must be considered with due regard to the context of all relevant facts.
- 4.2. It is correct that I did not apply for amnesty with the Truth and Reconciliation Commission ("TRC"). The reason for my decision was the fact that I did not conduct myself in any unlawful manner and therefore I had no basis for an application for amnesty before the TRC.
- 4.3. Insofar as the suggestion is that the First Respondent is entitled to prosecute me because I have not received amnesty without further

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consideration of other relevant issues, I vehemently deny the correctness of these allegations. I am advised and respectfully submit that I am clearly still entitled to a fair consideration of all facts despite the fact that I did not apply and/or receive amnesty from the TRC.

- 4.4. The objective facts are that already in the mid 90's the authorities, including the TRC, were aware of the relevant facts including my alleged involvement and my whereabouts. Despite that knowledge they still waited a further 21 years before taking any steps relating to the death of the late Mr Timol. The First Respondent in this regard miserably failed to comply with its obligations in terms of the Constitution and/or other relevant Legislation. This failure is even worse when having regard to the futile attempts by the family of Mr Timol over decades to persuade the First Respondent that there was evidence available and to take further steps.

- 4.5. The above material delay is not properly explained by the Respondents.

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4.6. I agree that the person who ultimately suffered in this instance was the late Mr Timol. The fact is, however, that I deny that I was involved in the causation of the death of Mr Timol and that Mothle J found in the re-opened inquest that I was not involved in the causation of his death and/or part of the interrogation that subjected him to pain and suffering after his arrest.

5.

AD PARAGRAPHS 2.9 AND 2.10 THEREOF:

- 5.1. I find the allegations to the effect that the plight and suffering of the family of Mr Timol cannot be ignored quite cynical.
- 5.2. The objective facts are that the First Respondent is indeed the cause of the material delay in the finalisation of this incident. The First Respondent was approached by family members of Mr Timol for literally decades in order to persuade the First Respondent to take further steps in the matter without any success.
- 5.3. The re-opening of the inquest after numerous attempts by the family of Mr Timol to persuade First Respondent to commence with these

M.M. 

proceedings indeed presented everybody with an interest in the matter with the opportunity to hear the evidence relating to this incident and/or to participate in these proceedings by people with an interest in the matter.

5.4. Mothle J prepared a very detailed and lengthy judgment following hearing evidence in this matter over a lengthy period.

5.5. I therefore deny that justice demands further proceedings in this matter, especially under circumstances where it would clearly infringe my fundamental rights relating to a fair trial.

6.

AD PARAGRAPHS 2.11 TO 2.13 THEREOF:

6.1. I take note of the fact that it is alleged that all relevant evidence had not been presented during the first inquest proceedings. I was not responsible for and/or involved in the inquest proceedings apart from the fact that I was called as a witness to testify.

m.m

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- 6.2. It is not correct that the State could not prosecute any person. The prerogative to decide to prosecute or not to prosecute clearly remained with the First Respondent at all relevant times.
- 6.3. Not only did the State fail to institute a prosecution after they learned that there was evidence available to the effect that Mr Timol did not commit suicide but they also failed to set the proceedings in motion to re-open the inquest in terms of the relevant legislation. At that stage, all the people who were involved in the death of Mr Timol, according to the findings of Mothle J, were still alive and could be prosecuted. The total blame for not proceeding at that stage clearly lies at the door of the First Respondent and there is not even an attempt to properly explain the failure to do so.
- 6.4. Mothle J found that the Prosecuting Authority back in 1972 protected the State and that they betrayed and demeaned their oaths and intentionally concealed the atrocities committed by the Security Branch. It is submitted in paragraph 2.11.7 that the finding of the Magistrate should have raised the red flags as it was without any rational basis. The office of the First Respondent is therefore to

m. m

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blame for this situation and one would have expected from them to act much earlier, more particular in view of the fact that the family of Mr Timol approached them on a number of occasions indicating that they have evidence to prove that the Magistrate's decision was wrong.

7.

AD PARAGRAPHS 2.14 TO 2.24 THEREOF:

7.1. The improper motive by the First Respondent is clearly demonstrated in paragraph 2.18 of the answering affidavit. The deponent stated under oath that the criminal trial against me is intended to serve the purpose of an inquest. I am advised and respectfully submit that this is clearly a wrong and improper approach. The objective facts are that there was already a re-opened inquest where a Judge of this Honourable Court heard and evaluated all relevant evidence and received all evidential material that could remotely assist in deciding the relevant issues. In this regard I am advised that the Presiding Judge was entitled and indeed went much further in this investigation than what a Judge

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would have been entitled to do and/or will be entitled to do during a criminal trial.

- 7.2. Following the receipt of all evidential material relating to the issues Mothle J indeed prepared a very detailed judgment and made clear findings to all the relevant issues.
- 7.3. I am therefore advised and respectfully submit that the present approach by the First Respondent to subject me to a criminal trial almost 50 years after the incident under the above circumstances is not fair and would infringe my rights to a fair trial.
- 7.4. I further deny the allegation that there would be no purpose of assisting families affected by the death of their relatives if the relief is granted that I seek in the notice of motion. Every case should clearly be assessed on its own merits.
- 7.5. Apart from the material time delay my case is also based on the fact that First Respondent decided to prosecute me on a count of murder

under circumstances where Mothle J emphatically found that I was not involved and/or present at the time of the death of Mr Timol.

7.6. I therefore submit that it is indeed in the interest of Justice that this Honourable Court grant me the relief that I seek in the notice of motion.

7.7. I deny that this case is a simple one where two mutually destructive versions are the main issue. On all versions, both my own as well as the findings by Mothle J I was not responsible for and/or involved in the murder of Mr Timol.

8.

AD PARAGRAPHS 3.1 TO 3.8 THEREOF:

I deny the allegations contained in these paragraphs and submit that a proper case to establish the violation of my fundamental rights had indeed be made out in the founding affidavit and persist with the request for an order as set out in the notice of motion.

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9.

AD PARAGRAPHS 3.9 TO 3.11 THEREOF:

- 9.1. I find it difficult to understand on what basis it can be alleged that it was only ascertained that I was alive shortly prior to the commencement of the re-opened inquest. I also refer the Honourable Court to the unequivocal concession by the deponent in paragraphs 8 to 8.7 to the effect that I did not take any steps to evade justice or to cause any delay in the criminal trial.
- 9.2. I again wish to refer the Honourable Court to the fact that I have been living in the same residence for the past approximately 55 years. This is the same address that I had when I was indeed a member of SAPS and allegedly involved in the incident that forms the subject of this application.
- 9.3. I deny that I had been utilising a different name at any stage. This is the name that I had been known throughout my career as a Policeman and thereafter. It is also significant that the TRC had no

difficulty to trace me and indeed to approach me for an interview in the mid 1990's.

- 9.4. I further maintain the correctness of what I have stated in the founding affidavit and deny any allegation in the answering affidavit that contradicts what I have stated in the founding affidavit.

10.

AD PARAGRAPHS 3.12 TO 3.19 THEREOF:

- 10.1. I deny the allegations contained in these paragraphs and more in particular the correctness of the approach adopted by the First Respondent. It is clearly incorrect to suggest that the unreasonableness of any delay should be assessed with reference to the time after I had been charged with murder.

- 10.2. Even if one does not emphasise the first years following the finding by the initial inquest it is clear that the First Respondent's unexplained conduct since the mid 1990's constitutes a very material failure to comply with their obligations in terms of the Constitution. I refer *inter alia* to the following:

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- 10.2.1. The family of Mr Timol consistently for the past more than 20 years attempted to persuade First Respondent to reconsider the position relating to the death of Mr Timol.
- 10.2.2. They emphatically informed the First Respondent that they had evidential material indicating that Mr Timol had not committed suicide.
- 10.2.3. The TRC investigated the matter and heard oral evidence during the mid 1990's.
- 10.2.4. There is not even an attempt to explain the failure by the First Respondent to take action under these circumstances. In this regard it must be emphasised that there is no explanation from the First Respondent for the delay from 1972 to 2017 - therefore including the period 1994 to 2017. I respectfully submit that this is a material failure in the answering affidavit that goes to the root of this Application.

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11.

AD PARAGRAPH 3.20 THEREOF:

11.1. I deny that a proper reading of section 35(3)(d) of the Constitution provides that the reasonable time referred to can only be assessed with reference to the date on which the accused person was charge. Legal argument will be addressed in this regard to the Honourable Court at the hearing of this application.

11.2. I submit that an unreasonable delay in taking the decision to prosecute clearly falls within the ambit of section 35 of the Constitution as well.

11.3. I maintain that the First Respondent was clearly failed to comply with its obligations in terms of the Constitution and caused a material delay in commencing the prosecution against me. This clearly infringed my Constitutional right to a fair trial. I refer the Honourable Court again to what I have stated in the founding affidavit in this regard.

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12.

AD PARAGRAPH 3.21 THEREOF:

I deny that I failed to set out facts indicating an unreasonable delay by the First Respondent and/or facts indicating that First Respondent neglected to commence the prosecution within a reasonable time. I again refer to what I have stated in the founding affidavit in this regard.

13.

AD PARAGRAPH 3.22 THEREOF:

13.1. I agree that it is possible that I may testify in the envisaged trial against me. I, however, repeat that my ability to testify is seriously hampered by the extreme time delay.

13.2. It is common cause that the persons who were responsible for the interrogation and investigation of the case against Mr Timol have passed away in the meantime. It appears further to be common cause that all the pathologists and other medical experts who had the opportunity to examine the body of Mr Timol have passed away in the meantime as well.

Handwritten initials:
M.M.

14.

AD PARAGRAPHS 3.23 TO 3.24 THEREOF:

14.1. The deponent again makes the bold allegation that there was no unreasonable delay in commencing this trial without even attempting to explain the substantial time delay even if one calculates this delay only as from 1994, the time when our new democracy became a reality.

14.2. I deny that there is no irreparable trial prejudice and refer the Honourable Court to what I have already stated in this regard in the founding affidavit.

15.

AD PARAGRAPHS 2.25 TO 3.29 THEREOF:

15.1. I again emphasise that this application is an application in terms of section 35 of the Constitution. Legal argument will be addressed to the Honourable Court at the hearing of this application in this regard.

15.2. I again submit that I will be materially prejudiced because of the enormous time delay caused by the First Respondent.

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16.

AD PARAGRAPHS 3.30 TO 3.34 THEREOF:

- 16.1. It is correct that the relief sought is drastic but I submit that a proper case for the drastic relief has been made out in the founding papers.
- 16.2. I submit that it is indeed in the interest of justice to prevent an unfair trial against me. This is even more appropriate where the material time delay was caused by the First Respondent and there is not even an attempt to explain this extreme time delay caused by the failure of the First Respondent.
- 16.3. I deny that my failure to appear before the TRC is relevant to this application.
- 16.4. Although I agree that murder is a very serious offence the seriousness of the offence can clearly not take away the right to a fair trial.

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- 16.5. I further have to emphasise again that the deponent fail to take in consideration the finding by Mothle J in the re-opened inquest to the effect that I was not involved in the assault and/or murder of Mr Timol.
- 16.6. I maintain that insofar as the Timol family had been denied justice this must be laid at the door of the First Respondent for the reasons already mentioned.

17.

AD PARAGRAPHS 4.1 TO 4.8 THEREOF:

- 17.1. I again confirm the correctness of the allegations contained in the founding affidavit.
- 17.2. I maintain that the trial will indeed infringe my Constitutional right to a fair trial.
- 17.3. I therefore maintain that a proper case has been made out for the relief sought.

17.3

18.

AD PARAGRAPHS 4.9 TO 4.12 THEREOF:

I again emphasise that this application is primarily an application in terms of section 35 of the Constitution providing for a fair trial.

19.

AD PARAGRAPHS 5.4 TO 5.7 THEREOF:

19.1. The deponent fails to deal with the specific finding of Mothle J to the effect that I was not involved in the murder of Mr Timol and/or even present at the time of his death.

19.2. My legal representatives will deal with the legal issues raised in these paragraphs at the time of the hearing of the application.

20.

AD PARAGRAPHS 5.8 TO 5.9 THEREOF:

I deny the allegations in this regard. The judgment of Mothle J speaks for itself. Legal argument will be addressed to the Honourable Court in this regard at the hearing of this application.

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21.

AD PARAGRAPHS 5.10 TO 5.13 THEREOF:

- 21.1. The deponent fails to refer to the fact that Mothle J, after hearing all available evidence, indeed found that I was not part of the interrogation team and that I did not participate in the killing of Mr Timol and/or was not even present at the time.
- 21.2. The deponent now alleges that I was the only person who was with Mr Timol at the exact date and time shortly before he died. The facts are, however, that the deponent personally lead evidence at the re-opened inquest to the effect that I was not present at the time and that the death of Mr Timol occurred hours before I came to John Vorster Square Police Station.
- 21.3. The findings by Mothle J was then also to the effect that I was not present at the relevant time. This finding was based on the evidence of a number of witnesses that the deponent, as the evidence leader, presented to the Court at the inquest.

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21.4. I deny all further allegations in this regard insofar as it is inconsistent to what I have stated in the founding papers.

22.

AD PARAGRAPHS 5.14 TO 5.17 THEREOF:

22.1. I deny that I am abusing the process in order to test the strength of the State's case. The totality of the evidential material available to the State has been presented to Mothle J during the re-opened inquest proceedings. I am therefore fully aware of the content of the State's case.

22.2. I am advised that this is not the forum to test the strength of the State's case. The fact is, however, that the findings by Mothle J was to the effect that I was not involved in nor present at the time when Mr Timol fell to his death.

22.3. I deny all further allegations contained in these paragraphs insofar as they are inconsistent with what I have stated in my founding papers and hereinbefore.

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23.

AD PARAGRAPHS 6.1 TO 6.9 THEREOF:

I take note of the allegations that Mr Timol was assaulted whilst in detention. I, however, again deny that I was involved in the interrogation and/or any assault and/or other unlawful conduct against Mr Timol. I was not part of the investigating team and/or the interrogation team that question Mr Timol and/or investigated any activities against Mr Timol.

24.

AD PARAGRAPHS 6.10 TO 6.12 THEREOF:

24.1. It is correct that I refused to take any responsibility in relation to Mr Timol's death - the simple reason is that I did not participate in any unlawful conduct that led to his death.

24.2. I find the allegation to the effect that if I made full disclosure to the TRC that Messrs Gloy and Van Niekerk could be prosecuted because they were still alive at that stage quite informative. This illustrates that I am now prosecuted for something that the First Respondent know that I did not do but apparently as a punishment for the fact that I did not attend the proceedings before the TRC.

m. m. 

Apparently, the approach is that someone must be prosecuted even though First Respondent realised that I was not involved in the murder of Mr Timol.

25.

AD PARAGRAPH 6.13 THEREOF:

I indicated to Mr Pigou that I was willing to discuss the matter with him but only if he provided me with the previous relevant evidential material relating to the incident i.e. my evidence before the first inquest. The reason was that this interview occurred 25 years after the incident and I felt it necessary to refresh my memory before I would be willing to participate in a detailed interview.

26.

AD PARAGRAPH 6.20 THEREOF:

I wish to emphasise that all the alleged "new" evidence that was available during the inquest proceedings was also available to the First Respondent prior to the request to re-open the inquest proceedings.

m.m. 

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27.

AD PARAGRAPH 6.23 THEREOF:

I maintain that the reply to the request for further particulars was clearly not adequate and did not comply with the obligations of the prosecution team in this regard. It is correct that this issue will still have to be adjudicated by the Trial Court.

28.

AD PARAGRAPH 6.25 THEREOF:

I do not understand on what basis the deponent maintains that there was no unreasonable delay in the commencement of the prosecution against me. The objective facts are speaking for itself in this regard. In therefore deny the allegations contained in this paragraph.

29.

AD PARAGRAPHS 7.9 TO 7.11 THEREOF:

29.1. The full judgment of the findings is available and this Honourable Court can draw its own conclusions in this regard. The Court clearly found that I was not involved nor present at the time when Mr Timol fell to his death. It is correct that the Court made adverse credibility

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findings against me i.e. to find that I indeed lied when I said that I was present.

29.2. I deny that the First Respondent carefully assessed the evidence before concluding that I was involved in the murder. It is significant that the deponent does not provide the Honourable Court with the evidential material that led them to this decision. My legal team was assured that a complete copy of the docket was made available to them. There is clearly no evidence in this docket indicating my involvement in the murder of Mr Timol.

30.

AD PARAGRAPHS 7.12 TO 7.15 THEREOF:

30.1. I deny that the alleged new evidence is extremely important and that the State must be given an opportunity to place it before a Criminal Court.

30.2. The question is not how Mr Timol came to his tragic end but whether I was involved in unlawful conduct causing his death. I again refer the Honourable Court to the fact that Mothle J in clear terms found

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that I was not present and/or did not participate in the causation of Mr Timol's death.

31.

AD PARAGRAPHS 7.16 TO 7.23 THEREOF:

I again submit that a proper case has been made out for the relief sought in the notice of motion. I deny that there is sufficient and admissible evidence to provide a reasonable prospect of success in a prosecution against me.

32.

AD PARAGRAPHS 7.24 TO 7.27 THEREOF:

I submit that the deponent fails to appreciate that the First Respondent must comply with all its obligations in terms of the constitution including to ensure that any accused person will receive a fair trial.

33.

AD PARAGRAPHS 7.28 TO 7.31 THEREOF:

33.1. I do not suggest that the First Respondent is bound by the findings of the Inquest Court but clearly in order to act fair there must be a

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sound basis for acting contrary to findings of an Inquest Court. This is particularly so where the Inquest Court was a High Court and where the findings followed a very detailed and comprehensive investigation into the death of Mr Timol.

33.2. The approach of the First Respondent to the effect that a person may be charged at any time after an incident if such crime has not prescribed clearly fails to appreciate the Constitutional rights of an accused person. Section 35(3)(d) of the Constitution will have no practical value if such an approach is adopted by our Courts.

34.

AD PARAGRAPHS 7.32 TO 7.36 THEREOF:

I again confirm the correctness of what I have stated in the founding affidavit. I deny the allegations in these paragraphs insofar as they are inconsistent with what I have stated in the founding affidavit.

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35.

AD PARAGRAPHS 7.37 TO 7.38 THEREOF:

As already mentioned, I submit that the deponent is clearly wrong with his submission that the right to a fair trial only entitles me to be tried within a reasonable time from the date of which I am charged with the offence. I refer the Honourable Court to what I have already stated in this regard above.

36.

AD PARAGRAPHS 7.41 TO 7.57 THEREOF:

36.1. I again refer the Honourable Court to what I have stated in the founding affidavit in this regard and confirm the correctness thereof.

36.2. I deny all these allegations insofar as they are inconsistent with what I have stated in the founding affidavit.

37.

AD PARAGRAPHS 8.1 TO 8.3 THEREOF:

37.1. I again deny that the delay contemplated in section 35(3)(d) of the Constitution can only be assessed from the time of the accused

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person has been charged. I refer the Honourable Court to what I have already stated in this regard above.

37.2. The issue to be considered is whether the trial at this stage will constitute a fair trial. What is further important in this regard is the deliberate delay by the First Respondent to comply with its obligations in terms of the Constitution and to proceed with criminal prosecution against me if they indeed wished to do so already decades ago.

38.

AD PARAGRAPHS 8.5 TO 8.7 THEREOF:

38.1. I take note of the fact that the State does not suggest that I took any steps to evade justice or to cause any delay in the criminal trial. This is to some extent in contradiction to what has been stated later in the statement. I, however, agree with this statement by the deponent.

38.2. I deny that these facts are "completely relevant" to the question whether there was an unreasonable delay.

39.

AD PARAGRAPHS 8.8 TO 8.18 THEREOF:

39.1. I repeat that First Respondent clearly failed to act diligently in coming to the decision to prosecute me. I refer the Honourable Court to what I have already stated in this regard in the founding papers.

39.2. I again refer to the fact that the deponent is with respect wrong in its approach that the calculation of a delay should only commence at the time when a decision has been taken to prosecute.

39.3. With reference to the rhetoric question

"why should the families of victims suffer"

it must again be emphasised that the First Respondent is clearly responsible for this situation.

39.4. It is with respect opportunistic to now rely on the Constitutional values under circumstances where the whole situation was caused

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by the failure of the First Respondent to comply with its obligations in terms of the Constitution.

39.5. The deponent fails to deal with the material delay in complying with its obligations by the First Respondent since the mid 1990's when the family of Mr Timol on numerous occasions approached the First Respondent personally and assured him that they had convincing evidence available to the effect that Mr Timol did not commit suicide.

40.

AD PARAGRAPHS 10.1 TO 10.7 THEREOF:

40.1. I repeat my allegations in the founding affidavit to the effect that my right to a fair trial had been compromised by the conduct of the First Respondent.

40.2. I again submit that the deponent's approach to the commencement of the delay to begin with a prosecution is wrong.

40.3. I deny that I am disrespectful to the family of Mr Timol either as alleged or at all.

M.M. J

41.

AD PARAGRAPHS 10.8 TO 10.9 THEREOF:

I repeat what I have already stated in this regard in the founding papers.

42.

AD PARAGRAPHS 10.10 TO 10.17 THEREOF:

I repeat what I have already stated in this regard hereinbefore and deny the allegations insofar as they are inconsistent with what I have stated. I also refer to what I have stated in the founding papers in this regard.

Ad Opposing Affidavit: Johannes Lasch Mabelane:

43.

I took note of the content of the Supporting Affidavit of J L Mabelane on behalf of the Mabelane family.

44.

m.m. J

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It is indicated in the affidavit that the deponent indeed deposed to the affidavit personally and on behalf of the Mabelane family.

45.

The Mabelane family is not a party to these proceedings and I deny that they have an interest in this matter. There is presently an application on behalf of the family to be joined as *amicus curiae* in these proceedings. They have not been joined and this stage and I therefore do not intend to deal with any of the allegations contained in this affidavit.

46.

I deny, in any event, that the allegations contained in this affidavit are relevant to the present application.

Ad Affidavit Piers Ashley Pigou ("Pigou"):

47.

I confirm that I saw Pigou during 1996/1997. He introduced himself as an investigator on behalf of the TRC.

48.

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I confirm that I insisted that our conversation be recorded with a voice recorder. The reason for my request was to ensure that there would be no disputes later as to the content of our conversation.

49.

I further confirm that I was not willing to provide him with a statement relating to the relevant issue unless he would provide me with a copy of my evidence at the previous inquest proceedings. The reason for my request was the fact that the incident occurred, at that stage, more than 25 years prior to the interview. I deemed it necessary to appraise myself of all detail relating to the issue before I would agree to provide him with a statement relating to the issue.

50.

I deny that my daughter encouraged me to engage with the TRC.

51.

It is, however, significant to take note of the fact that Pigou had no difficulty to locate me and arrange for an interview at that stage. Clearly First

Respondent and/or SAPS would have had no difficulty to locate me either if they deemed it necessary.

WHEREFORE I persist with the Application and beg the Honourable Court for the relief sought in the Notice of Motion.

[Handwritten Signature]

DEPONENT

SIGNED and SWORN to at PRETORIA on this 14 day of DECEMBER 2018 by the Deponent who stated that:

1. He knows and understands the contents of the declaration; and
2. He has no objection to taking the prescribed oath; and
3. He considers the prescribed oath as binding on his conscience;

And Government Notice Regulation 1258 as amended by the Government Notice Regulation 1648, Government Notice Regulation 1428 and Government Notice Regulation 773 was fully complied with.

[Handwritten Signature]

2018-12-14

COMMISSIONER OF OATHS

FULL NAMES:

Koqoth, M.M

BUSINESS ADDRESS:

586 17th AVENUE

AREA:

Pretoria

DESIGNATION:

C87

