MS KOLBE: Not really M'Lord. Maybe ..... I don't know whether Your Lordship can assist here? You said they wanted a tunnel vision?

COURT: No television approach.

MR DU TOIT: Tunnel vision.

MS KOLBE: Tunnel vision approach M'Lord.

COURT: Yes. Did I understand you correctly? --- Correct M'Lord. I was of the opinion the first time I met them that they had this tunnel vision approach; I can't just work with people like that. So I asked Melissa to keep them as far away from me as possible.

MS KOLBE: No that may be so. But they said to you ..... They said to you that the accused killed the deceased. --- No I don't think they said that exactly. I said I think they said something along the lines that they suspected him. In fact when I first met with them I had the impression that they thought he had hired somebody to do it, and I just said no I am not going to go there; I would prefer to just carry out an investigation and do it objectively.

All right. Very well. Let us now go to your interview with Mr Robert Kenga. You have told the court earlier that you record all interviews. --- Correct M'Lord.

And have it transcribed? --- Correct M'Lord.

And during the interview that you had with the accused on 8th September 2015 you made it quite clear that you had a 1½ hour interview with Robert Kenga; and that it was tape recorded. --- I don't recall saying that M'Lord.

Very well. M'Lord I beg leave at this stage to hand in the

04-1061

transcript of the interview as disclosed to the defence. My learned friend has a copy. If I may mark this EXHIBIT EE M'Lord?

MR DU TOIT: M'Lord just before we continue. I think ..... If I am not mistaken there is already part of this transcript handed in.

MS KOLBE: Yes.

MR DU TOIT: Maybe we should just mark it adjacent to that?

MS KOLBE: M'Lord a portion was handed in earlier. But it is again not the full transcript.

MR DU TOIT: I am in the court's hands.

MS KOLBE: If the court would bear with me, I will find the exhibit number or. It was handed in as EXHIBIT V8 M'Lord. M'Lord that was EXHIBIT V8. That was part of the cross-examination of Constable Weidemann.

COURT: So it is like the ...[intervene]

MS KOLBE: It was just an extract from the interview.

COURT: Like V6? Oh no EXHIBIT C, that is now V7 in the main?

MS KOLBE: Yes that is correct M'Lord.

COURT: So that would be exhibit?

MS KOLBE: I wanted to hand it in as EXHIBIT EE, but we are in Your Lordship's hands, whether Your Lordship would prefer it to be V11 now?

COURT: Where does it fit in there?

MS KOLBE: M'Lord that portion handed in only related to Constable Weidemann. I would submit that it would be better to just mark this exhibit EE, it is a full transcript of the interview M'Lord.

MR DU TOIT: I agree M'Lord.

04-1061

04-1062

COURT: Yes.

MS KOLBE: As the court pleases M'Lord. M'Lord EXHIBIT EE. All right let me first take you to page 100 of EXHIBIT EE, that is the interview. --- Page 100?

100.

COURT: Earlier you will recall that I said let us use the numbers very carefully, because we may run out of the numbers.

MS KOLBE: As the court pleases M'Lord.

COURT: The reason why I am raising this is that when it comes to the ethics and the standards, my impression of it is that the work must be done with integrity. Is it really necessary to have that there? Because whether ..... The reason why I am saying this, every work that you do, it is expected to be done with integrity until you are suitable.

MS KOLBE: As the court pleases M'Lord.

COURT: So. Yes?

MS KOLBE: M'Lord my instructing attorney suggests we call this DD3, because it is relating to Mr O'Sullivan. It is .....We are in Your Lordship's hands.

COURT: No, no. Look if it makes things to flow ..... free flow of arrangements, so we will make it DD3.

MS KOLBE: As the court pleases M'Lord. Mr O'Sullivan that exhibit number is now EXHIBIT DD3 and not E.

COURT: Yes, and you said page 100?

MS KOLBE: Page 100 M'Lord. Right at the top. It starts with you, you are talking there.

04-1062

04-1063

'Okay well obviously I personally (you say) I don't interview Ernest, but I personally interviewed Robert and I interviewed him for more than 1½.'

--- Correct M'Lord.

Now please turn to page 89. Rather start ...[intervene]

COURT: Just 1 minute. Yes?

MS KOLBE: Rather start at page 88 to give you the context of what is said there. --- Yes.

That is now the starting at say line 25:

'Paul (that is you) Okay let me stop you there George. Her, then Paul, you. We have got a sworn statement from Robert. (That is Robert Kenga). The accused says okay. '

Now turn over:

'Okay and we have interviewed him and we have tape recorded that interview.'

--- That is correct M'Lord.

Right. So it was tape recorded and presumably transcribed as you do in all your matters? --- M'Lord it wasn't transcribed unfortunately.

Mmm? --- There was a problem with it, because at the time I hadn't transcribed it and when I came to transcribe it, I found that the ..... when I pressed the button I hadn't recorded it properly and there was nothing to transcribe. And it happens occasionally. You know you try and record these things; you put the recording device in your pocket

04-1063

04-1064

and you hope that it is recording. On this particular occasion I thought I had recorded it; I have looked for the recording since, because there was a file on the recorder; but thee was nothing on the file. It was blank.

So what you are telling the court now is that this most important recording of a 1½ hr interview is now missing? --- No. M'Lord I am not saying it is missing. I am saying sometimes when we make recordings, it is like the transcription equipment in the court M'Lord. Sometimes I apply for court records and there is whole spades of it missing.

COURT: Let us not make reference to other instances that aren't relevant. What the question is put to you, that that portion is missing. --- Yes M'Lord.

Yes? --- It is not missing.

It is not there? --- There is just nothing on the file. It is an empty file.

No but if it is not there. --- Yes so it is missing M'Lord.

Then ..... You know my limited knowledge of English is that if it is not there, it is missing? --- Yes.

Okay. --- Okay.

MS KOLBE: As the court pleases M'Lord. Now you will remember Mr O'Sullivan that for purposes of the bail application in 2016 ..... If the court will just bear with me? I am indebted to Your Lordship. There was a *subpoena duces tecum* served on you for purposes of the bail application ..... the new bail application on new facts. Do you

04-1064

04-1065

remember that? You responded to it in writing. --- I don't remember.

You don't remember? Let me hand you. I beg leave to hand this in as EXHIBIT EE5, and you can tell the court whether ...[intervene]

COURT: Why do you say EE5?

MS KOLBE: I beg Your Lordship's pardon. 4 M'Lord. I beg Your Lordship's pardon. All right. Now this was for purposes of the new bail application in 2016. It was in the regional court. Very well.

MR DU TOIT: M'Lord excuse. I see there is EXHIBIT DD4, not EE.

COURT: DD?

MR DU TOIT: Yes.

COURT: Okay.

MR DU TOIT: Because we have decided ..... Remember we decided we are not going to use E?

COURT: Yes.

MR DU TOIT: So I just saw the DD4.

COURT: No you are right. What is the purpose of this Ms Kolbe?

MS KOLBE: Of the *subpoena duces tecum*.

COURT: This is not cross-examination.

MS KOLBE: I will demonstrate that to Your Lordship. The witness says that he did his investigation with integrity. M'Lord I will demonstrate that that was not so.

COURT: Okay.

MS KOLBE: Now Mr O'Sullivan ...[intervene]

COURT: So we haven't come to the chase?

MS KOLBE: Not yet M'Lord. Now look at the *subpoena duces tecum*

04-1065

04-1066

annexure A paragraph 8.2. That is page 8 of the subpoena.

COURT: Page?

MS KOLBE: Page 8 of the subpoena, paragraph 8.2. --- That is correct.

COURT: Page 8 of DD4?

MS KOLBE: That is correct M'Lord. Now what the witness is there asked to produce, and that is based on what he told the accused during the interview, is the recording ..... Well the first part actually is not there ..... of the interview lasting 1½ conducted by Mr O'Sullivan personally or by any other person. Do you see that? --- Yes M'Lord, and I see my response; we cannot trace this item.

COURT: No, you know. --- Sorry M'Lord.

If we restrict ourselves to questions. --- Okay.

We will make progress.

MS KOLBE: Yes. Your answer is, M'Lord and that is on the second last page of the entire Bundle that Your Lordship has.

COURT: Yes?

MS KOLBE: There is Mr O'Sullivan's answer ..... In 8.1 because he uses the same numbering. 8.2 I beg Your Lordship's pardon.

'We cannot trace this item, but we will keep looking.'

That is totally different from saying that there was nothing on the recording, we can't give you something. Correct? --- M'Lord I can explain this.

COURT: Yes? --- The recording device is downloaded onto a server. We transcribe those items which were important. I didn't consider at

04-1066

04-1067

that time the transcription of the discussion with Kenga as being important, and I asked Constable Weidemann to go and take a second statement from him. When I looked for the recording, I only found a file that was blank and I replied to the *subpoena duces tecum* with the following:

'We cannot trace this item but we will keeping looking

and revert should we find it.'

--- We never found it M'Lord.

MS KOLBE: Well Mr O'Sullivan I will argue at the end of the day that you are untruthful in this regard, and that you do not want to disclose the record of that interview, which is of vital importance in this matter. --- That is not true M'Lord.

Well let us take this one step further. What was the date of the interview? --- I can't remember.

Very well. --- M'Lord I can't remember.

You can't remember. According to your evidence would be notes that you handed to Constable Weidemann with regards to the detail that should be included in his amplified statement. --- No M'Lord. I had a meeting with Constable Weidemann.

COURT: Where did he say that?

MS KOLBE: I understood his evidence ...[intervene]

COURT: No the evidence where he testified to the effect that I gave Constable Weidemann the notes?

MS KOLBE: Well M'Lord maybe I misunderstood him, but his evidence was that he informed her ..... He gave her the details of what has to be

04-1067

04-1068

included.

COURT: Yes.

MS KOLBE: He said it this morning.

COURT: In fact did he say ..... He knew what he had given that, but did he say the notes or the information?

MS KOLBE: May I clarify this with the witness? I understood him to have given her notes. How did you convey this? --- I had a meeting with Constable Weidemann M'Lord, and I conveyed to her the important parts that were missing from the original statement.

Did she write it down? --- I don't know M'Lord. At that time M'Lord if one can understand, when you are busy with investigations, at that moment in time your mind is very focused. 2 years later it is very hard to remember what all took place. But I do recall meeting with Constable Weidemann and Melissa was with him. Immediately afterwards or the next day from the meeting with Robert Kenga, and I pointed out to her that there were vital information missing from his sworn statement.

Yes. It was also Robert Kenga's evidence that he produced a new statement after having spoken to you. That would be correct? --- Absolutely.

Right. --- Because of the information that came out during that interview with him M'Lord. Particularly with regard to the crime scene and particularly with regard to the Will.

COURT: Ms Kolbe, yesterday you indicated to me that your client is in the habit of taking all the information of the meetings on the tape. Do

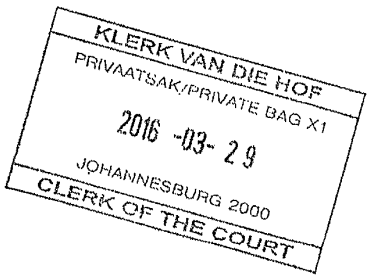
04-1068

COPY

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF GAUTENG

HELD AT JOHANNESBURG

In the matter between:



Case No: **48/27/2015**

THE STATE

and

GEORGE FREDERICK BARKHUIZEN

Applicant/Accused

SUBPOENA *DUCES TECUM* IN TERMS OF SECTION 179(1)(a) OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT 51 OF 1977)

TO: The investigating officer in the abovementioned matter, Constable Naomi Weidemann, or any other designated police official by her.

INFORM: Mr Paul O'Sullivan

OF: A physical address unknown to the accused, but known to the investigating officer, Constable N Weidemann, alternatively at PO

JN

05-763

Box 78200, Sandton, 2146, further alternatively per electronic mail at: Paul.osullivan@poaa.com.

THAT HE IS HEREBY REQUIRED to appear in person before this Court, Court number 20, in the Regional Court for the Regional Division of Gauteng, Johannesburg, on 06 April 2016, at 09h00 in the forenoon and to remain in attendance until excused by the said Honourable Court in order to give evidence in the aforementioned matter.

And inform the said Mr Paul O'Sullivan that he is further required to produce to the said Honourable Court:

All the documents referred to in the document attached hereto and marked annexure **A**.

And further inform him that he should on no account neglect to comply with this *subpoena* as he may render himself liable to a fine as determined by the Court.

And further inform him that, should he produce the abovementioned requested documents to Mr R C Krause at the Ground Floor, Oxford Terrace, number 3 on 9th Street, Houghton Estate, Johannesburg, by Thursday 31 March 2016, he would

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05-764

not be required to attend the hearing of the matter at the behest of the accused on strength of this subpoena.

DATED AT JOHANNESBURG ON THIS THE 29th DAY OF MARCH 2016.

BDK ATTORNEYS
David H Botha, Du Plessis & Kruger
Incorporated
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Facsimile: 011 836 8740
Ref: Mr R C Krause/ag
Email: rudi@bdk.co.za

JN

05-765

Issued by the Clerk of the above Honourable Court on the 29th day of March 2016.



TO: THE CLERK OF THE ABOVE
HONOURABLE COURT
REGIONAL DIVISION OF GAUTENG
JOHANNESBURG

AND TO: CONSTABLE N. WEIDEMANN
PER HAND

JN

05-766

ANNEXURE A

IN THE REGIONAL COURT FOR THE REGIONAL DIVISION OF GAUTENG

HELD AT JOHANNESBURG

In the matter between:

Case No: **48/27/2015**

THE STATE

and

GEORGE FREDERICK BARKHUIZEN *Applicant/Accused*

SUBPOENA *DUCES TECUM* IN TERMS OF SECTION 179(1)(a) OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT 51 OF 1977)

Documents to be listed in the *subpoena duces tecum* of Mr Paul O'Sullivan:

1. All documentary evidence obtained by Paul O'Sullivan and Associates during the course of their investigation into the unnatural death of Ms Odette Barkhuizen.

2. All cellular telephone data obtained, analysed and utilised during the

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05-767

course of an interview with the accused conducted on 08 September 2015. All other cellular telephone data obtained and analysed for purposes of the aforementioned investigation including, but not limited to, all data downloaded from the computer of Ms Odette Barkhuizen and the cell phone of the accused.

3. All documentation received in relating to the applications for life insurance as against the life of Ms Odette Barkhuizen and all affidavits drafted and settled in relation thereof.

4. All handwriting analyses reports obtained in relation to disputed documentation conducted at the behest of Paul O'Sullivan and Associates, more particularly, the application forms for the life insurance as aforementioned as well as the disputed will ostensibly signed by Ms Odette Barkhuizen on or about 24 April 2015.

5. All video footage material obtained by Paul O'Sullivan and Associates for purposes of the investigation into this matter, in particular the video material obtained from a resident of High Street, Oakdene, and the footage obtained at Café Bembom.

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05-768

6. All affidavits taken by Paul O'Sullivan and Associates, or any employees thereof, for purposes of its investigations and/or for purposes of assisting the prosecution and/or the South African Police Services in the course of the investigation.

7. All receipts issued by Paul O'Sullivan and Associates in relation to payments received for purposes of this investigation, alternatively, all extracts from the bank statements of Paul O'Sullivan and Associates evidencing such payments, inclusive of all accounts rendered in regard to this investigation.

8. All notes, working papers and/or rough notes (be that in manuscript or electronic format) of all investigators utilised, produced or which came into existence in the course of or as a consequence of the said investigation, including but not limited to:

8.1. The recording made by the Star Newspaper reporter Ms Lerato Mbangeni of her alleged interview with the accused during which interview he had allegedly informed the said Ms Lerato Mbangeni that he, the accused, and his private investigator had "... *found Odette's cell phone at a pawn shop*";

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05-769

8.2. The interview lasting one and a half hours conducted by Mr Paul O'Sullivan personally or by another person on behalf of Paul O'Sullivan and Associates with the State witness, Mr Robert Kenga.

JN

05-770

PAUL O'SULLIVAN & ASSOCIATES

FORENSIC AND LOSS CONTROL CONSULTANTS

Tel: 076 991 1666 P.O. Box 78200, Sandton, 2146, Republic of South Africa Fax: 086 234 5733

BDK Attorneys

Per e-mail

2016-03-30

Cc: Cst Weideman per e-mail
Adv RS du Toit per e-mail

Dear Sirs, **State v George Barkhuizen**

We refer to Annexure 'A' of the subpoena *duces tecum* dated 2016-03-29 and respond thereto as follows, using your same numbered points.

1 We do not have any documentary evidence in our possession. I am not able to say whether we had any in our possession, but if we did, it would have been handed to the police.

2 We do not have any cellular data in our possession and never had any in our possession. One or more of our staff would have assisted the police in analysing such data, with a view to establishing whether the person of interest, should be a suspect. For this purpose, certain GEO mapping would have been performed, and is included in both the docket and our investigation file.

3 Such (copies) as we may have are included in the docket and our investigation file.

4 Such as we may have are included in the docket and our investigation file.

5 We are not in possession of any video footage. Such video footage that may have been available, as a result of our investigations was uplifted by the police.

6 We did not take any affidavits during the course of our investigations. Where the taking of sworn statements was indicated, as a result of our interviews, same were taken by the police and are included in the docket. We did not receive copies.

7 The case was taken on *pro bono* and no payments were received and no invoices issued.

8 A copy of our investigation file is available for collection at our offices, 7 Janine Road, Sandown Estate, JOHANNESBURG. In this regard, you should make arrangements to collect with our PA, Girgina de Beer, on 076 991 1666.

8.1 You should take that up with the reporter named, we have no contact with her.

8.2 We cannot trace this item, but we will keep looking and revert should we find it.

In view of:

- The requisite dies not having been complied with.
- My unavailability due to being overseas at our London office.
- My having supplied all documents in our possession.

I will not be at court next week.

Finally, we wish to raise with you the matter of the theft from the estate of your client's murdered wife. We are of the opinion that your client, not only murdered his then wife, but subsequently stole large sums from her deceased estate.

In this regard, a criminal case was opened and is being investigated by the police at Mondeor. We have also decided to look into that matter, and assist the State on a *pro bono* basis.

You are therefore requested to confirm that you have complied with the Financial Intelligence Centre Act and the Prevention of Organised Crime Act, in that your services are not being retained by your client, utilising the proceeds of crime, namely cash stolen from the estate.

In this regard, we would be pleased to know the source of funds for your services on behalf of your client, as he is on record as saying that he is 'penniless'.

We look forward to hearing from you soon.

Yours sincerely,

Paul O'Sullivan CFE

CERTIFIED FRAUD EXAMINER

For Paul O'Sullivan & Associates (Pty) Limited

05-772