

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

CASE NO: CC113/2013

DATES: 2014-04-09

In the matter between

THE STATE

and

OSCAR LEONARD CARL PISTORIUS

Accused

BEFORE: THE HONOURABLE MADAM JUSTICE MASIPA

ASSESSORS:

ADV J HENZEN-DU TOIT

ADV T MAZIBUKO

ON BEHALF OF THE STATE:

ADV GERRIE C NEL

ADV ANDREA JOHNSON

ON BEHALF OF THE DEFENCE:

ADV BARRY ROUX SC

ADV KENNY OLDWAGE

INTERPRETERS:

MS F HENDRICKS

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PROCEEDINGS RESUME ON 2014-04-09

[09:33]

OSCAR LEONARD CARL PISTORIUS (s.u.o.)

COURT: Yes.

EXAMINATION BY MR ROUX: (Continued) Thank you, M'Lady. Mr Pistorius, yesterday the last part of your evidence dealt with you entering the toilet. Can you start from there. If it is possible, to speak up Mr Pistorius and maybe lean a bit forward. --- M'Lady, after I entered the toilet I knelt down over Reeva. She was sitting with her weight on top of the toilet bowl. I checked to see if she was breathing and she was not
10 and I put my arms underneath her shoulders and I pulled her weight onto me and I sat there, crying for a.. for some time. I had her.. I had her head on my left shoulder and I could.. I could feel the blood was running down on me. At a point she... I heard her breathing so I immediately put her weight on top of me and I swivelled around. I sat back with my.. with my bum against the floor and my back up against the wall, where the door is on the left hand side of the door and I pulled her weight on me, and I turned around. So that I could get her to the.. to the door of the toilet so that I could pick her up. I could see that her arm was.. I could see that her arm was broken. I placed her in the... I could not pick her up, but I
20 was kind of.. I was on my knees and on one of my feet and I was pulling her into the bathroom. I placed her down and I pulled one of the bathroom carpets closer and I placed her head down softly on the carpet. I saw that her cell phone was in the toilet, so I grabbed her cell phone and I tried to phone off it, but it had a pass code on it that I could not access. I ran back to my bedroom, where my phone was. Next to the left hand side

of the bed and ... both my phones were there. I picked them up and I ran back to Reeva. I then phoned Mr Stander... Mr Johan Stander, who is a gentleman who lived in the estates. Somebody that I become a friend with. I phoned him, to ask him for help, to help me... come and help. I could not pick Reeva up. I was struggling to pick her up.

We know from the records Mr Pistorius, that that call was at 03:19:03. --- That is correct, M'Lady.

That is the record ZZ8.

COURT: [No audio 09:39:08]

10 MR ROUX: Double Z8. --- I was trying to pick Reeva up but I could not. I could not pick her up. I was scared that I hurt her more, so I put her on .. I pulled her over onto...onto body and I was trying to pick her up.

If I may just stop you there Mr Pistorius. I see from the records at 03:20:05 you phoned 911. --- That is correct, M'Lady.

Could you tell the court about that? --- I was trying to pick Reeva up and I did not really know what to do. I could see that she was breathing. She was struggling to breath. ...[crying]... I phoned... I phoned 91108, Netcare 911. I do not recall speaking to the operator, but I remember him telling me that I needed to get Reeva to the hospital, that I
20 must not wait for him.

I also see from the records at 03:21:33 you phoned security. A call lasting nine seconds. --- That is correct, M'Lady. I do not remember phoning the security though, but from the phone records, I see that there was a call made from my cell phone to the security. The... after I got off the phone with the.. with the Netcare 911 call centre, I ran down

downstairs to open the front door. I could barely pick Reeva up, I would not have been able to open the door and carry her. So I ran, I open my bedroom door and I open the front door. I then ran back up to my room and on the way into my room I tried to force the door open. There is.. there is two... two doors to my bedroom, M'Lady. The one I use, just locks with a key and then the other one, has got a latch at the top and at the bottom. So I ran into the door and it did not break open and I unlatched the bottom latch and when I unlatch the bottom latch, the door opened. The house.. all the doors at the bottom of the house, and much of
10 the doors at the top are double doors. The one door is open, you can walk through it. I have got the doors made so that the house is wheelchair friendly, so the .. if you want to have a wider passage, you have to open both the doors. Then I went back to the bathroom and then I picked Reeva up. I do not recall carrying her some of the way, but I remember getting to the second flight of stairs and Mr Stander and his daughter Ms Stander arrived. At that point, I was shouting and screaming for him to help me get her to the hospital. When I got down to the bottom of the flight of stairs, either Mr Stander or Carika Stander told me to put Reeva down. They said: That the ambulance was on its way. Before I
20 put her down, I said to them: That we need to get to the hospital.. we need to get to the hospital. They said: Just put her down, the ambulance is on its way. And then, I just sat there with her and I waited for the ambulance to arrive and ..[crying].. I felt helpless. I wanted to take her to the hospital and it was... I had my fingers in her mouth to help her try breath. I had my hand on her hip, I was trying to stop the bleeding.

Who was with you at that time? --- Mr Stander and Ms Stander were at my house at that time, M'Lady.

Could you explain the presence of plastic bags at the scene? --- I was trying to hold Reeva's hip with my hand to put pressure on it so that.. so that it stop bleeding as much. Ms Stander asked me if I had any tape or any rope or anything like that, so the she could... so that she could tie on Reeva's... tie her arms in order not to bleed as much. I do not remember... I do not remember if I went to collect the.. the.. there is a cabinet in my pantry, that has got all the type of utility things one would
10 use in a house, like tape and bags and things. I do not know if I went and fetch them or if Ms Stander went and fetch them.

Did you do anything with the bags? --- I do not remember, M'Lady.

Did the paramedics arrive at the scene? Or first Doctor Stipp? Which was [intervene]. --- There was a .. there was a person that arrived at the house. Carika came in and she said to me that there is a Doctor and I immediately felt relieved. I looked up and I saw a person walking into my house. He was later.. I later found out it was Doctor Stipp. I still do not remember his face or what he looked like. Once he came into
20 the house, I remember me crying for him to help me, to help Reeva. He did not seem like he knew what he was doing. He did not seem like he.. he seemed to be overwhelmed by the..by the situation. Everything he told me to do, I was already doing. I was already trying to stop the bleeding, I was already trying help Reeva breath. He kneeled down on her.. on her right hand side for a couple of minutes I think and then.. I do not

remember seeing him again. He walked outside and he was outside. I was shouting for him to come back into the house and help me. But... the paramedics then arrived. They asked for some space to work, so I stood up.

Did you still remain there or did you go somewhere else? --- [no audible reply]

Can you remember going to the kitchen? --- ...[crying]... Reeva... Reeva had already died whilst I was holding her. Before the ambulance arrived, so I knew there was nothing that they could do for her.

10 Did you at some stage go to the kitchen? --- I am.. I stood back when they arrived and I stood a couple of metres away from them. It is a open plan home so I stood at the.. couple of metres away, where the dining room and the kitchen kind of meet and then the lady paramedic came to me and she said to me: That she would like to inform me that Reeva has passed. The paramedic asked me for identification, if there was some form of ID. So I went and I got Reeva's handbag in my.. it was in my... in my bedroom. I did not go through her handbag I just simply picked it up, walked into the room and got her handbag and brought it out. Ms Stander was waiting there on the first floor outside my room and I gave
20 her.. I gave the handbag to her.

Could you move a little bit forward if you do not mind, Mr Pistorius. --- I then went with Ms Stander downstairs to.. where the paramedics were. I sat in the kitchen on the floor, crying. Against the.. there a island in the kitchen, serving counter and I sat there and then I do not know how much time passed. But at that point a police, or some police officers

arrive shortly thereafter.

Do you know who it was? --- It was.. there were two officers. They were not dressed in police clothing. They were dressed in civilian clothing. I think the one officer had shorts on and the other one.. the were just both casually dressed and then, it was Colonel van Rensburg who arrived, I think at more or less the same time. He came up to me and he introduced himself. I was at that point unable to speak with him. I was just sitting on the floor crying. Sometime had passed then he.. a police officer asked me to just stay in the kitchen. I saw the one police officer
10 was standing nearby at the bottom of the stairs. Another police officer asked me if there was anybody else in the house and I just motioned to him that there was not. He proceeded to check the bottom of the home. He then went upstairs and then he came downstairs. I did not have my head up much and I was not in sight of the stair case but at times I could not sit. At times I stood up and I was... every time I looked up, there were more people in the house. There were more policemen. There were people going up and down the stairs. I was standing in the kitchen against the.. where the far side of the kitchen is, away from the dining room where there is prep bowl small sink and I asked a policeman if I may
20 wash my hands. Because the smell of the blood was making throw up and he said he would ask and Mr van Rensburg, Colonel van Rensburg came back to me and he said me, I may wash my hands. I do not remember washing my chest. I just remember washing my hands and washing my face. At that point I was still standing in the kitchen and I saw Mr Hilton.. Hilton Botha arrived. He came in straight from the front door

up to me. He asked me if I remember him. He immediately from where I was, he went upstairs. He came downstairs some time later. At the time I was in the kitchen, I could not look around the corner. Because every time I saw Reeve, I got sick. So I stayed.. stayed more inside the kitchen and at a time.. and a time I went and sat in the pantry against the washing machine.

Can you remember the photographer that arriving? --- I was.. I was still in the kitchen. It was some time and Mr Botha came downstairs, when he went up the second time Mr van Re... Colonel van Rensburg
10 came up to me and he said to me that, he put his hand on my shoulder and he said to me that I do not have to speak to anyone but I need to go to the garage. They would like to take some photos. There will be a police photographer. I think the same officer that was standing at the bottom of the staircases.. staircase, he followed me with Mr van Rensburg to the..to the garage. There was a police officer that stayed in the garage the whole time. I think it was the same gentleman who was at the bottom of the staircase and I was in the garage for several hours. I asked the police photographer if he could just please take all the photos he needed so I could take my clothes off because they were also stained.

20 And from the garage, where did you go to? --- From the garage I was taken to the foyer of the reception area of my home and a police officer, surname Labuschagne came up to me. He introduced himself. He told me he was a friend of a family member of mine and that I did not have anything to worry about. I must just...he was there to look after me. It was at that point that Colonel van Rensburg said to me that because I

was the only person in the house, that they are going to charge me. He charged me at the time, he said to me that I was under arrest. I walked with Mr Labuschagne to the car that was waiting in my driveway with two other officers. One officer sat next to me, to my right in the vehicle and another officer was driving the vehicle. Labuschagne sat on the front left hand side of the car. As we were leaving my estate, Mr Labuschagne said to me that there was a lot of media waiting outside. That I should put my head down. He said to me that he would tell me if at any point there was somebody that he thought was following us, or was taking photos that

10 I should put my head down and he will tell me so. My head was down anyway. I was leaning forward, just crying. I did not want to speak to anyone. I did not really follow where we were driving to but I realised we had got to an academic hospital in Mamelodi. When we arrived there, I was taken inside the reception area and a doctor introduced himself to me. I do not recall his name, but we were there for some time and he conducted various tests. Samples and things.

Mr Pistorius, I asked Captain Mangena to bring the cricket bat today. Whilst he is fetching the cricket bat, what I want you to do is to demonstrate to the court, but please do not hit the door, but the actions

20 followed by you. The body actions followed by you in trying and breaking open the door. Will you do that? In the meantime I see from EXHIBIT ZZ8 that at 03:55, close to four o' clock, there was a call to Mr Divaris. Can you tell the court about that? --- Ms Stander asked me if she should phone anyone. I do not remember if I spoke to Mr Divaris or not, but I know that she contacted him. I think he also contacted.. she also

contacted my agent whom I am very close with and spend a lot of time with throughout the year. I think she also phoned my brother if I am not mistaken.

Did you phone any lawyer? --- No, I did not, M'Lady.

Mr Pistorius, you are going to demonstrate the door, but the evidence of Colonel Vermeulen was, that you was standing on your stumps when you hit the toilet door with the cricket bat. What do you say about that? --- I can barely stand on my stumps, let alone yield a bat. M'Lady, on my stumps, I was wearing my prosthetic legs.

10 In relation to time, if I may take you through times that we could establish by virtue of the telephone records. We know there was a time 03:17 where witnesses, there is a variation but where.. if I look at Doctor Stipp's evidence and Ms Stipp's evidence, where they heard the sound.. three sounds, doef, doef, doef. Which to them resembled firearm shots and then we know at 03:19, approximately two minutes later, you made a call to Mr Stander. --- That is correct, M'Lady.

Do you have any idea, on your version, the three sounds, what would that represent by 03:17? --- M'Lady, I.. the three sounds would have been the cricket bat hitting the door. Obviously listened to Doctor
20 Stipp and Ms Stipp's evidence, whereby they said shortly before they phoned 1011, they saw.. he told her that he had seen a man walk from right to left in the bathroom.

We will get to that point. I am first dealing... sorry that I interrupt you. We will come back to that point specifically. But if the 03:17 you say, were you walking in the bathroom shortly before you hit the cricket

bat? --- Yes, M'Lady. I was walking.. I was walking through the bathroom when I went to go and kick the door, when I went to go and fetch the cricket bat, I was walking through the bath..through the bathroom with my prosthetic legs on.

Doctor Stipp and Ms Stipp also gave evidence about prior shots. You hear that in court? --- I did, M'Lady.

What would that have been? --- That would have been firing my pistol, Ma'am. M'Lady.

Now, if you can at all draw a timeline, I know it is difficult.
10 According to Doctor Stipp, you know he is talking about moments, but we have the notes of Mr Johnson saying that he heard the screaming about 03:12 and then he also made a call at 03:16 and 58 seconds and shortly thereafter he heard further shots. So we know that.. that is the same as the 03:17 of Doctor Stipp. Now he is referring to 03:12, approximately. Also approximately that he woke up. What would you say in time, how long before you hit the cricket bat, more or less that you fired the shots?
--- M'Lady, I have marked out the distance that I have walked on my stumps but I remember.. as far as I can remember how fast I walked, how fast I could walk, it was about five minutes before I hit the door with the
20 cricket bat that I .. I fired.. that I fired my weapon.

Would that more or less be consistent with Mr Johnson's evidence, or his notes about 03:12? --- It would be consistent with Mr Johnson's notes.

Now what you say about Doctor Stipp's evidence, and let us think away Ms Burger's evidence, talking about minutes and think away the

03:12 of the notes of Mr Johnson from the time hearing the screaming till the 03:17. What do you say about Doctor Stipp's evidence that it was so quick from the time that he heard first shots, he was referring to moments going out of bed quickly, onto the balcony and back into the room and making a call to 10111. What do you say about that? --- It cannot be. It psychically cannot be that amount of time. If you look at the phone calls that were made from many of the witnesses that gave statements that were not used in the state's case and you look at all the times that the calls were made at, out of many, many, many facts, it points to five
10 minutes. Between the sounds..the first sounds and the second sounds.

Mr Pistorius, the bat is there. I want you to do two demonstrations. The first one, there is evidence or statements put on your behalf of a prosthetic print on the door caused by you kicking the door. You gave evidence about you kicking the door and Colonel Vermeulen response to that is that he did not know how high you can kick. So please do not kick the door, but just if you would not mind to go to the door and show how high you can lift your prostheses in a kicking motion.
--- M'Lady, would you like me to do the cricket bat and the kicking?

You can first do the kick and then we will do the cricket bat. I
20 would just describe the first action or demonstration. Unfortunately I could not see, I would just ask someone.. if you can just point to where you made contact about. It is just above the door knob, it seems to me, M'Lady in height.

COURT: Mr Nel.

MR NEL: Indeed, M'Lady. It is about just above the door handle.

COURT: Thank you.

MR ROUX: Thank you. Is that correct, Mr Pistorius? If you can just get back to the microphone. You do not have to sit down because you are going to walk back again. --- That is correct, M'Lady.

Now I want you to demonstrate to the court how you would have handled the cricket bat in hitting the door. But please do not hit the door, just show the motion. --- I will do that. I watched the demonstrations that has been done on this door. To say that it is an unnatural motion to swing a bat in a certain way is very true. It is not.. when breaking down a door, you do not swing in a natural way. You trying to break the door with
10 as force...if you look at a game of golf, you do not hit a ga.. you do not hit the ball with a natural swing. But you do it in order to obj..to get to an objective. My .. the way I swung at the door is, I used my entire body. It is very hard for me to demonstrate now, in a passive way of how I broke down the door. But I will do so.

We will know, there will also be expert evidence about that. Thank you. Could you demonstrate... could tell the court what you demonstrated? --- M'Lady, I was demonstrating how I hit the door.

You took the bat back towards your back and forward, a forward
20 movement. --- That is correct, M'Lady. arc

And the height was more or less where that sticker is. --- It is more or less, M'Lady. But if you stand further from the door, although it is not following an arc, the cricket bat would hit the door lower, the further back you stand. I do not remember how close I was standing to the door.

How hard did you hit the door? --- I hit the door with all my

might, M'Lady.

Can you remember if you remained in one position. You said it was approximately three times that you hit the door. Can you remember if you remained in the same position? --- I doubt I remained in the same position, M'Lady. I had socks on my prosthetic legs at the time. I was standing on a tiled floor. The amount of force I was swinging the bat, I do not think anyone of the three shots would have been similar.

I then want to take you to photo 920. Mr Pistorius, we are going to deal with the state witnesses, not called by the state. --- I understand.

10 Could you identify your house, and I would ask the assistance that there is a little circle that you point out the position. That is in fact, to make it easier, there is a little red arrow and it says 'Oscar's house'. --- That is correct, M'Lady.

Then we see there is a house, number 285. Your next door neighbour. Facing your house, your next door neighbour to the right. --- That is correct, M'Lady. If you look at my house from the street, to the right is number 285. My neighbour is known to me as Kenny or Kenith.

We know he is Mr Motshuane. --- That is correct, M'Lady.

20 We also know, if... so far as his statement is the truth that it makes reference to crying and not to a woman screaming. --- That is correct, M'Lady.

Can you share with the court your relationship with Mr Motshuane? --- Mr Motshuane has been staying... we moved, if I remember correctly, we both moved into the estate in 2008 in the beginning when the estate was still being developed. I gave him some

trees as a welcoming gift.

Apart from that, contact with him. Any other contact with him? ---

On a odd occasion his children are playing in the street in the afternoon and I drive by and I greet him and sometimes if I come back from a period where I have been of absence for a long time, then I stop and chat to him. But we just have a...just my neighbour, I do not know him very well.

Ever been to his house? --- No, M'Lady.

Apart from when you gave him the gift, the welcoming gift. --- I have never been inside his home.

10 You were not inside, I am sorry. Has he ever been to your house?

--- No, he has never been to my home, M'Lady.

His wife, do you know her? --- I [intervene].

Ms Motshuane. --- I do not know his wife, M'Lady.

If her statement is correct, she also did not hear a woman screaming as your next door neighbour. --- That is correct, M'Lady.

Have you ever met her? --- I do not think I have formally met her, M'Lady. I have greeted her on several occasions, but I have never met her.

20 Now let us look at the house number 287. That is your neighbour on the other side. --- That is correct, M'Lady.

It is Mr Nhlengethwa. --- That is correct, M'Lady.

Do you know him? --- I do know him, M'Lady.

If his statement is to be believed, he did not hear a woman screaming. --- That is correct, M'Lady.

He heard crying but not.. that he described as a man crying, but

not a woman screaming. --- That is correct, M'Lady.

How do you know him? --- We..we had the same developer who build our homes, at the time of my house getting finished I arrived one afternoon and he was having a look at my house. At the finishes and things.

Could you speak up a little bit, if you do not mind Mr Pistorius. ---
I beg your pardon, M'Lady. I met.. I met Mike when my house was busy getting window finishing, the building on my home, he came over to come and have a look at some of the finishes, to talk to the building contractor
10 to look at what he was going to do in his home. We spoke briefly. Several months later, once his home was finished and he moved in, we saw that we both had a passion for motor vehicles. We chat on the driveway sometimes in the afternoon when I got home late from training, about cars. His.. he became a good neighbour to me. I do not know him on a social level but we chat often. He would often, if I was leaving my house, I would reverse out my driveway and if I saw him in his driveway I would reverse a little bit further and just greet him and if he came past my house, even if he was in a rush, he would get out and greet me as well.

Does.. has he ever come to your house for a social event? ---
20 No, M'Lady.

Have you ever gone to his house for a social event? --- I have been in his home when they were developing his home but I have never been there on a social event.

His bedroom window, in relation to your bathroom window, where is that? --- My bathroom window is... if you look at this picture, on the

right hand side of my house. It is facing...it is facing west. My bedroom also faces West.

Are you sure it is West? --- [no audible reply]

Could you maybe demonstrate on the.. on the photograph where your bathroom window is and just ask the photographer to make [indistinct]. --- My bathroom window is, no that is not it. Further up. Correct, it is below there. And Mike's bedroom window is higher up. Correct.

Let me make it easy. Are they on they on the same side? ---

10 They are on the same side.

We.. do you know his wife? --- I had met his wife.

Mr Nhlengethwa's wife. --- Yes, I have met his wife. They got married a couple of years ago. Likewise I met her on a brief interaction between him and myself. But he is better known to me as my neighbour. I greet her when she drives past my house and on an odd occasion she would stop and say hi. But we.. I knew Mike better then I.. far better than I knew her.

Well if her statement were to be believed, we know two things. One, that she woke up, hearing a 'bang' and that her husband, Mike as you
20 refer to him, got up and that subsequently at 03:16, meaning before the noises of 03:17, he made a phone call to security. --- That is correct, M'Lady.

And if her statement were to be believed, she heard loud crying and not a woman screaming. --- That is correct, M'Lady.

Do you know Ms Mkhwanazi who works for Doctor and Ms Stipp?

--- I do not, M'Lady.

If her statement were to be believed that she did not hear a woman screaming. --- I [intervene].

You know about that? --- I do know about that, M'Lady. I have read her statements. She said she.. if I remember correctly, she only heard crying. She could not hear screaming or shouting.

Yes. Now you referred to one aspect that is quite important and I will take you there. We know from..and then I want to ask you some questions about it. We know from Ms Stipp's evidence and in her
10 statement, that shortly before the three noises, the 03:17 noises, and if I may say in brackets, the noises relied upon by the state to be the shots fired by you. --- That is correct, M'Lady.

You know what I am referring to? --- Yes, I do, M'Lady.

Shortly before, because she said that she was on the balcony, her husband told her... she initially said that she saw it, but her husband told her about the man walking from right to left in the bathroom and she went inside... that is her evidence and statement and she heard the three thuyd sounds. 'doef, doef, doef.' So it was whenever, but we know it was relatively shortly before 03:17. --- That is correct.

20 A man was walking. Now Mr Pistorius, if you are walking in the bathroom with your legs on, would you cover the bathroom window? --- M'Lady [intervene].

COURT: I do not understand the question.

MR ROUX: If you walk in the bathroom with your prostheses on [intervene]

COURT: Yes.

MR ROUX: To what extend would you cover the window? Your body cover the window --- M'Lady, [intervene].

The visible to cover parts of the window. --- M'Lady, if you look at the heights of the window frames, if I do not have my prosthetic legs on, I am a lot shorter. Only my head would stick out, at most my shoulder would be visible from the outside. In the Stipp's evidence, she says her husband told her that shortly before phoning 911, when he went inside, he saw a man [intervene].

10 Not 911. 10111. --- I beg your pardon. 10111. He saw a man's body move [intervene].

COURT: Not a person? --- A person.

Yes. --- Sorry. I beg your pardon, Ma'am. Person with a light complexion move from right to left. He would have not been able to see my torso if I did not have my prosthetic legs on.

Now accepting the correctness of that evidence, that could only mean one thing. And that is this: Were you in the bathroom, shortly, briefly before 03:17? --- I was, M'Lady. .

10 Accepting then, in order to see you, that you must have been on your prostheses, what were you doing in the bathroom? --- I came into the bathroom to kick the door and then I ran to fetch the cricket bat. I came back and then I hit the door. So what they must have seen, was me running from right to left to kick the door, M'Lady, whereby they later, or at that moment they went in to phone 10111.

Now I know it is a stupid question and I apologise for that, but

after kicking the door, did you take off your prosthetic legs in order to fire shots? --- I did not, M'Lady. I fired the shots without my prosthetic legs on. Afterwards I put my prosthetic legs on and I tried to get access to the toilet and to get Reeva out. The only way they would have been able to see me, was if I have my prosthetic legs on at that time when they said they saw I had.. when they saw the person moving from right to left. It means I had to have my legs on.

Mr Pistorius, did you at any time intent to kill Reeva? --- I did not intent to kill Reeva, M'Lady or anybody else for that matter.

10 M'Lady, may I just ask for a five minute adjournment? I just want to converse with Mr Oldwage. Oldwage, to make sure that all aspects are covered.

COURT: Court will adjourn.

COURT ADJOURNS [10:31] ~ ~ ~ [10:37] COURT RESUMES

OSCAR LEONARD CARL PISTORIUS (s.u.o.)

COURT: Yes, Mr Roux.

MR ROUX: Thank you for the indulgence, M'Lady. I have no further questions.

COURT: Thank you, very much. Yes Mr Nel.

20 CROSS-EXAMINATION BY MR NEL: As the court pleases, M'Lady. Mr Pistorius, you were and you still are one of the most recognised faces in the world. Do you agree? --- I agree, M'Lady.

You are a model for sportsmen, disabled and able body sportsmen all over the world. --- I think I was, M'Lady. I made a terrible mistake and.

You..you made a mistake. --- That is correct.

You killed a person, that is what you did. Is it not? --- I made a mistake.

You killed Reeva Steenkamp, that is what you did. --- I made a mistake, M'Lady.

You sa.. you repeating it three times, what was your mistake? --- My mistake is that I took Reeva's life, M'Lady.

You killed her. You shot and killed her. Will you not take responsibility for that? --- I did, M'Lady.

10 Then say it then. Say yes. I killed... I shot and killed Reeva Steenkamp. --- I did, M'Lady.

Okay. Now Mr Pistorius, you know that people would be looking up at you? --- I did not hear the question, M'Lady.

People look up at you as a sport hero. --- [no reply]

Is that correct? --- I have not had any.. I do not check any of my media things anymore. I do not check any of my media reports. I know that a lot people's opinions of me have changed. I know in the past, people did look up to me.

20 Let us talk about, in the past. Before you killed Reeva, people looked up at you. --- That is correct, M'Lady.

And that you have a responsibility to now tell the truth. Let us get to the truth. --- I think I have a responsibility for myself and Reeva to tell the truth, M'Lady.

And you will not lie? --- I am here to tell the truth. I am here to tell the truth as much as I can remember on that night.

And you will not hide things to the court? --- I will not, M'Lady.

And coupled with that, you live strictly upon Christian principles?
--- I tried to, M'Lady. I am human, I make many faults. I have sins. I am a Christian because of the reason that I am sinner. The Lord said he came down to this world for the people that have sins. I do not always think the things I do are right.

But, as a Christian you will not lie? --- I try not to lie, M'Lady. As I said, I am human. I am here to tell the truth.

Now let us answer this question. What is a zombie stopper? --- I
10 have no idea what a zombie stopper is, M'Lady.

Have you never been in the presence of any person using the word 'zombie stopper'? --- Not that I can recall, M'Lady.

Have you ever seen a video of yourself in the presence of people, referring to a 'zombie stopper'? --- I have never seen a video of myself where someone in the video has referred to a 'zombie stopper' in my.. as far as I can remember, M'Lady.

If there was such a video on Skynews, showing you shooting and somebody saying, talking about a 'zombie stopper', would you be surprised? --- I am.. I would not be surprised. I am saying I cannot
20 remember. You can show me a video like that and I am in the presence of that person, then I can agree with that.

Gladly. Can we show that video please?

MR ROUX: M'Lady, may I just enquire. You know the old rules pertaining to ambush. We know that we get a docket from the state with all statements and video material. Maybe the state must first tell us what this

is all about and adjournment. Because one thing the state cannot do, is introduce evidence not forming part of the state's case.

We do not know what it is all about. We may not be ambushed. We have certain constitutional rights. That is not in the docket, it was never ever referred to in the state's case. And if we start to do that, we will get back to the state's case, an ambush tactics. We need.. the state must show us what it is before we carry on. We, as the defence team might not be isolated from it.

COURT: Yes, Mr Nel.

10 MR NEL: M'Lady, I am not presenting it in the state's case. It is not in my docket. It is however, relevant evidence based on the long character evidence led by the accused. We led no character evidence. We investigate...we do not investigate a case on the character of the accused, but once a accused opens the avenues for character evidence, then one will lead that. But, there is one other aspect, M'Lady.

I asked the witness if he would like to see it. It is in the public domain, it was on Skynews. The witness himself said, he would like to see it. That is why I presented it. M'Lady, I never got up and try to present something that I did not disclose to the defence.

20 I asked this witness M'Lady, would you like to see it. No, it is even.. it is even better than that. The witness said: Please show me the video.

COURT: Are you saying the defence team is not entitled to know in advance or?

MR NEL: Well M'Lady, it is not part of my case. It is part of my cross-

examination. If the defence would like to stand down and see the video, I have got no problem with that now. On that basis I have no problem with that. But, I am doing it not as part of evidence I am leading, I am leading it through this witness and this witness indicated he would like see it and I am willing to show it.

COURT: Yes, Mr Roux.

MR ROUX: M'Lady, no. There may be confusion about character evidence and the law pertaining to it. There is a section 197. What section 197.. I will read it to you. It tells you that if the accused introduce
10 evidence of character he may be cross-examined on that.

It does not allow the state to adduce evidence not forming part of the state's case. That is why there is a state's case. You have a choice as a prosecutor to present what you think fit. Section 197 does not open the door. It opens the door to cross-examination but not to presenting new evidence. I can read it to you If I may, M'Lady. It says:

20 "An accused who gives evidence at criminal proceedings, shall not be asked or required to answer any questions tending to show that he has committed or has been convicted or has been charged with any offence other than the offence of which he is charged or that he is of bad character."

That is questions, not evidence.

"Unless he or his legal representative ask any questions of any witness with the view to establishing his own good character or he himself

gives evidence of his own good character or the nature or conduct of the defence is such as to involve imputation of the character of the complaint or any other witness for the prosecution.”

Then you can ask questions. You cannot belatedly in ambush introduce evidence, not introduce as part of the state’s case. Section 197 does not provide for that.

MR NEL: As the court pleases, M’Lady. I had no section... the section that we refer to. M’Lady, I asked a question. From that question the
10 witness wanted to see the video. Now M’Lady, I can go through the video in questions. I can ask the questions. If he shot at the watermelon and all those things and I can bring it out.

So if I am allowed to ask questions about this, and the witness show me the best evidence, show me the video and we will ask questions after that. Certainly M’Lady, it is admissible. The question is, is it admissible and the answer to that M’Lady, it is admissible. The witness ask for it to be seen.

It goes towards his character M’Lady, that he opened up. So M’Lady, my respectful submission is, that the court will allow it. That the
20 witness asked for it. That he see it, that we ask questions after that. Otherwise M’Lady, it just... with the utmost respect to the court, if just does not make sense for me to ask questions about the video in detail and for the witness not to see it, having asked for it, M’Lady. So therefore M’Lady, with the utmost respect, my argument is that it should be allowed. As the court pleases.

COURT: Mr Roux, what is the difference between asking questions and showing the video.

MR ROUX: M'Lady, he may. The difference showing the video is introducing evidence. That is not provided for in section 197.

COURT: Are you saying it is different from asking questions?

MR ROUX: M'Lady, he may ask questions. I cannot stop him from asking questions. Of course [intervene].

COURT: Are you saying ... are you saying it is different from asking questions?

10 MR ROUX: Yes it is M'Lady, because now you introduce evidence. That is evidence if the state wanted that [intervene].

COURT: No, no, no. Hold on. If you are asking questions, you are still introducing evidence, are you not?

MR ROUX: You introduce evidence from the accused himself. It is question, answer. But you may not introduce outside evidence. There is rule against that. If it is not part of your state case, you cannot do it. Because that would be ambush. You must decide what you introduce as part of your state's case.

20 Section 197.. and I am not objecting against him as asking as many questions as he want. But you cannot.. the moment you introduce the video, you introduce real evidence. You cannot do that, M'Lady.

COURT: What if the video goes with the questions? Supports the questions.

MR ROUX: M'Lady, it would be exactly the same as what you say there a witness saying that and now you call the witness. What I put to you, there

is a witness saying that, but I did not call the witness. It will always go with the question. But you must decide, you cannot ambush. You must decide what you call in your state's case. You can ask question as many as you like, as long as they are relevant. But that means.. whether you bring in.. introduce a video or whether you call that witness, it is the same. It is either real evidence or *viva voce* evidence. It is prohibited, M'Lady. You cannot do that.

COURT: You are saying it is inadmissible?

MR ROUX: It is inadmissible, M'Lady. Because you then present
10 evidence not forming part of your case. Contrary to section 197. 197 does not open the gate for that. It opens the gate for cross-examination. Otherwise the state can... because there is no difference between.. it is evidence, real evidence in the form of a video. *Viva voce* evidence and calling a witness to say a witness will say that. You have to do that in the state's case. You cannot come in the cross-examination of the accused and then start introduce evidence. You can cross-examine.

What the state is doing , is ambush. Why did he not do it. We know nothing about it. We hear it for the first time now. It is not part of the docket, it was not inserted in the docket. It is just new and that is
20 unfair. We driving then to an unfair procedure and that is what I object against, M'Lady.

COURT: Yes Mr Nel.

MR NEL: M'Lady, I am reiterating my argument. But my argument is, if I can ask questions about a specific video and the witness said, let me see it. It is so much safer M'Lady, for everybody to see it before I ask the

questions about it. It is exactly the same thing, M'Lady. With the utmost respect. If he.. if I ask a question, about that video or I show the video, it is exactly the same. M'Lady, but one step back, I think it is fair to everyone for us to see the video. So that I cannot put things to this witness that is not on the video.

But M'Lady, it goes one step back and that is, how this all happened. It happened M'Lady, with the witness saying, can I see it. And I am willing to let him see it. Are we now saying no, he is asking the court, or he is asking through the state, can I see it. We say yes. M'Lady,
10 the principle is.. can I.. can I deal with character evidence.

We both agree, myself and Mr Roux. I can now deal with character evidence. I am saying, this is how I deal with character evidence. I can ask lots of questions about this video or I can show the video, but M'Lady, I am not entering the video into evidence. I am showing the witness the video and then I will ask questions about it. So on that basis, M'Lady it is not new evidence. It is the witness saying, can I see the video. I am saying yes, let us see it and then I ask him questions about it. Because the video as itself, is not evidence. The questions that I will be asking about the video, will be the evidence. But that is my
20 argument. I think it is admissible.

COURT: We will take a few minutes adjournment. I want ...[intervened]

MR ROUX: Thank you, My Lady.

COURT: Unless you want to add something before?

MR ROUX: Thank you, My Lady.

COURT ADJOURNS [10:52] ~ ~ ~ [11:57] COURT RESUMES

COURT: I have had time to consider the submissions by counsel. I think both counsel have a point. So what I am going to do is to stand this matter down, allow the defence to have a look at the video and then make further submissions if you so wish.

MR ROUX: As the court pleases, My Lady.

MR NEL: As the court pleases.

COURT: The court will adjourn.

COURT ADJOURNS [11:18] ~ ~ ~ [11:57] COURT RESUMES

MR ROUX: Thank you, My Lady. My Lady, I will make a submission to
10 you that I believe will resolve the issue, subject of course to your finding
and your ruling in this matter.

COURT: Yes.

MR ROUX ADDRESSES COURT: But we see that this may be a solution to this, but I need to preface it by making two other submissions. The one is to just quote from one of many letters written to the prosecution, all in the same tenure saying and I read, this was 25 September 2013 and it is paragraph 11, and I am not going to hand it up. I am just going to read it for present purposes. Just requesting information and then stating:

20 "You are no doubt aware that our client has the right
to a fair trial which includes the right to be informed
of the charges to be proffered against him with
sufficient particularity so as to enable him to prepare
adequately and timeously for the trial. It goes
without saying that any attempt to ambush our client

viz a viz his fair trial rights will be unconstitutional. We will not tolerate any attempt by yourselves to introduce any matter at the trial hearing should same not have been disclosed to our client during this trial preparation. In any event, any further matter which you seek to place reliance upon, must be disclosed to our client, by no later than 30 September 2013.”

Now we have explained to you that this did not form part of the docket,
10 however My Lady, in order to get to some resolution of the matter, we asked to you see you in chambers and to indicate that Mr Pistorius is under cross-examination and ordinarily I may not see him.

We obtained permission to see him for a very short period, to take this matter up in order to try and address the unfairness of this. We have done so My Lady. He has not seen the video clip, we have seen it and in order for the matter to proceed we are not persisting with the objection, on the understanding of the state’s submission that it will not be evidence that is put before you, but that it is for purposes of cross-examination.

20 It is also on the understanding that we understand the indirect and derivative effect of this but that we would make the submission that this should not be seen as any further opportunity for the state to introduce in cross-examination, evidence which should have and could have formed part of the state’s case.

So we do not want this to be seen from our side as a

precedent, by just taking a supine position but we believe that taking everything into account and the fact that we had now the opportunity to consult, very briefly, that we will not persist with the objection against the evidence on the basis as presented by the state, that the ... what is put in the video would in itself not form part of the evidence. Thank you My Lady.

COURT: Thank you. Yes, Mr Nel?

MR NEL ADDRESSES COURT: As the court pleases. I agree with the submission and on that basis, I will proceed if it is in order with the court?

10

COURT: Yes. Please do.

MR NEL: May I then request My Lady, that we view the video?

COURT: Yes, you may do so.

[VIDEO BEING SHOWN]

MR NEL: Thank you My Lady. That is how far we will view this video. May I then proceed with the cross-examination?

COURT: Yes. Yes, you may.

CROSS-EXAMINATION BY MR NEL: (Continued) Can you now recall what happened there Mr Pistorius? --- My Lady, I can recall this video.

20 I have seen this video before. I did not remember the word 'zombie stopper'. I was at a shooting range where Mr Rens, who testified as part of the state's evidence, I was at his shooting range. I was shooting at a watermelon with a handgun. That was not me laughing in the background, but that was my voice saying those words.

It was your voice. --- I think in hindsight My Lady, it makes me

very upset to hear myself say something like that. But to compare a zombie which is a fictional animation character to a human being, is.. the relevance is... I can... I cannot put two and two together and if shooting at a watermelon or at a piece of wood, or at a target, I did not at any point compare it to a human or shooting at a human.

No, you did. You did. You said:

"It is softer than brains."

Who else has got brains? --- My Lady I was, in that whole sentence I was referring to a zombie.

10 But what we see there is... What ammunition did you use? --- My Lady, it was a 50.50 ammunition in the second part. The first part was a shotgun and the second part was a .50 calibre handgun.

And black Talon ammunition? --- It was ammunition... the different ammunition My Lady, it was far bigger calibre that firearm, although it had applied for a licence for it, I had not taken possession of it, it was at the shooting range. That firearm was made for trail walking, it was made by an American company for trail walking, for self protection against animals. It was never... I had never taken possession of it, but it did not use black Talon ammunition, it used a
20 bigger calibre ammunition.

Now, but what we can see there is the effect the ammunition had on a watermelon. It exploded. Am I right? --- That is correct, My Lady.

You know that the same happened to Reeva's head? It exploded. Have a look. I am going to show you Mr Pistorius, it had the exact same effect, the bullet that went into her head. ...[Pause]... ---

My Lady I was there that night. I ...[intervened]

That is it. --- I will ...[intervened]

Have a look there Mister. I know you do not want to, because you do not want to take responsibility, but it is time that you look at it ! Take responsibility for what you have done Mr Pistorius! --- My Lady, I have taken responsibility. By me waiting... I am not wanting to live my life, but waiting for my time on this stand to tell my story for the respect of Reeva and for myself, I have taken the responsibility but I will not look at a picture where I am tormented by what I saw and felt that night !

10 As I picked Reeva up, my fingers touched her head, I remember. I do not have to look at a picture ! I was there !

It is the same thing as the watermelon ! You had it now in practice Mister. It is ...[intervened]

MR ROUX: My Lady, it ...[intervened]

MR NEL: It is softer than brains !

MR ROUX: My Lady, I think that is extremely unfair to say that is the same thing as a watermelon. I think it is uncalled for. I see no basis for that.

MR NEL: My Lady, I will rephrase. It had the same effect as your
20 watermelon on ...[intervened]

MR ROUX: My Lady, that is equally uncalled for.

COURT: It is the same...[intervened]

MR ROUX: There is no evidence that it had the same effect. It is very different. It is unfair. It is not relevant and it is an unfair question.

COURT: Mr Nel?

MR NEL: My Lady, with respect I will leave it. I do not think it is unfair, but I will... I will leave it.

COURT: Well, I think it is unfair.

MR NEL: Okay.

COURT: And can you just remove this from the screen?

MR NEL: Yes. We will do so. Mr Pistorius... are you... Can we carry on? --- [No audible answer].

COURT: Just give him time.

MR NEL: ...[Pause]... Mr Pistorius, I will give you time. I understand
10 that it is difficult. So just indicate when you are ready and I will proceed
then. --- [Accused heard to be weeping] ...[Pause]...

My Lady, I think I have to be fair and I can see that Mr Pistorius
is distressed and I understand that he should be distressed. So My
Lady, ...[intervened] --- [Accused heard to be weeping]

May I then ask that the court just adjourn and we give Mr
Pistorius time.

COURT: Yes.

MR NEL: To become better and we can proceed then.

COURT: We will take the adjournment.

20 COURT ADJOURNS [12:06] ~ ~ ~ [13:40] COURT RESUMES

OSCAR LEONARD CARL PISTORIUS: (s.u.o.)

MR NEL: May it please the court. Thank you My lady.

COURT: Yes.

MR NEL: Mr Pistorius, let us just put on record what we have seen in
the video. You are on a shooting range with, inter alia Mr Derick

Hougaardt. Is that correct? --- Correct My Lady.

You and Mr Hougaardt is shooting shotguns? --- I was not on any shooting range with Mr Derick Hougaardt, My Lady.

Francois. Who was with you? --- There were a group of people in our party My Lady.

Who? Who stood next to you, firing a gun? --- Mr Francois Hougaardt.

Ja, I got the name wrong. I apologise to you. Mr Francois Hougaardt. You and him were firing shotguns, am I right? --- That is
10 correct, My Lady.

Then there were cameras erect... One behind you and one to the side, for you to see what the effect of that firearm on a watermelon would be. Am I right? --- That is correct My Lady.

So you knew this, you took part in all this rigging, because there is a countdown for you to shoot? --- That is correct, My Lady.

What was the purpose of this whole incident? --- My Lady, the calibre of the firearm that the revolver was that I was firing with, was a 50 calibre ammunition, not often used in handguns. Despite Mr Nel putting to me that it was black Talon ammunition, he has fired with my
20 very same gun on the same range, using my same ammunition so he knows that it is not Black Talon ammunition and ...[intervened]

Tell me what... Ja? --- The purpose of that exercise, it was not an exercise. We were spending the afternoon out on the range with a group of friends. Somebody suggested that we shoot a watermelon because of the calibre of the ammunition. Like I said earlier it is used

for protection. Whilst walking, travelling in North America, the purpose of the firearm, the round is nearly if not double the size of the 9mm round that I had in my pistol, as Mr Nel knows, because he did fire the same gun from the same range.

You wanted to see the effect on the watermelon? --- I did My Lady, as did many of the other people that were there.

And you then said words to the effect:

"It is a lot softer than brain."

Am I right? --- That is correct My Lady.

10 Referring to? --- Referring to the watermelon.

But:

"It is like a zombie stopper."

Referring to? --- I guess referring to a firearm that would be used to stop the zombie My Lord.

So, am I correct in saying that you were shooting at the watermelon to see what the effect would be if you shoot somebody in the brain. Or not? Because that is the inference I am drawing. --- My Lady, the day was spent on the shooting range, At the time I enjoyed handling firearms, I enjoyed shooting. I shot, we used to shoot at pieces
20 of wood, we used to shoot at target. On that day we... I shot at a watermelon. The comments I made afterwards was distasteful, but it was made in reference to a zombie, not to a human being. I do not see how you can link the two.

I am going to ask you one or two more questions and then I am moving on, but I think you are wrong. Why do you not just admit that

you shot that firearm at the watermelon to see what the effect would be if you hit somebody in the head, in the brains? --- I never said that comment before. I shot the watermelon. So I do not know how Mr Nel can make the comment.

I am using your words:

"It is a lot softer than brains."

That is the watermelon. --- It was a comment I made after I shot the watermelon, My Lady. I did not at any point try and compare it to shooting a person in the head, or a fictional character in the head,
10 before I shot it..

So the brains you referred to, whose brains would that have been? --- My Lady, as I said earlier, the context... it was made with a zombie, so ...[intervened]

You see, I thought you would say that. Therefore I am going to read out the whole sentence again.

"It is a lot softer than brains, but it is like a zombie
stopper."

It is like zombie stopper. Not it is a zombie stopper. Or a zombie's brains, you werereferring to something else. Do you want to respond to
20 that? --- No, My Lady.

You do not have to. Now Mr Pistorius, I just want to know your evidence you gave in the days that you were sitting there, is that what you can remember or is that a reconstruction? --- It is what I remember, My Lady.

I want to be fair. Is it not a reconstruction of everything you

heard and you read and that is why you gave the evidence? --- My Lady, there were many topics that we have spoken about. There was my upbringing, there was my athletic career. There was my faith. There was the night, the morning in question. As I have been sitting here, I have been telling the truth, and some of the things we spoke about, obviously I would not know about phone calls made from other people. So some of it is a reconstruction from what I have read from the records from what the state has furnished me with. So it is a mixture of what I remember and in some of the topics, some of the points it would be a
10 reconstruction. If I look at the time, I cannot remember how much time certain things took me that evening. But I can see from the times of the phone calls being made from people's testimonies and statements, not out of just the couple that the state called, but of the hundred and plus witnesses that the state said they had, I have read most of those and all of the statements and that is how I have reconstructed some time, some of the things I remember that I have spoken about myself. I have spoken about what I remember and in the situations that I have spoken about. I have spoken about the context of information that I have.

So there is an element of reconstruction in your evidence? --- I
20 guess there is an element of reconstruction My Lady.

So we will have to test what you reconstructed and what you can remember? --- That is correct, My Lady.

Now can I see if we can narrow it down. The evening of, since you fell asleep on the evening of 13 November... ag, 13 February, until you shot and killed Reeva, is there any reconstruction or not? --- No

My Lady.

COURT: You would have to speak a little louder. --- I beg your pardon. From the time that I went to sleep to the time that I took Reeva's life, there was no reconstruction. Afterwards there were some points that I do not remember on that evening. I do not recall calling security or speaking to Mr Baba. I do not recall switching on the lights in the bathroom. I do not recall parts of me carrying Reeva downstairs.

So let us just get an answer to this, I just want to know. From the time that you fell asleep to the time that you shot and killed Reeva,
10 is there reconstruction of the scene, or not? --- There is no reconstruction of the scene, My Lady ...[intervened]

You did ...[intervened] --- In a physical sense, there was no reconstruction of anything, in my house.

You... A reconstruction of your evidence, taking into account other evidence in giving a version, did you do that?

COURT: Please just repeat that?

MR NEL: Did you take into account other evidence to form your version for the period? --- My Lady I think it is important to state now that I furnished the court with my bail hearing with a set of... with my version
20 of what happened. My version has never changed. I knew that and I said that version before I knew any of the evidence that would be compiled against me. I tendered my story to my counsel, they compiled the bail transcript... the bail statement. My story has not changed since then. Even I... granted on, in the bail there are some aspects that I spoke to my counsel with, that they would not include in my bail. The

bail was... I did not know it had to be an exhausted document. At the time of my bail, I wanted to give evidence. My counsel told me that I was not stable at the time, that I would not be able to cope with the giving of evidence, but I wrote, I wrote my version of what happened that night and nothing has changed. There has not been... The state's case has changed many times. There has not been anything that they have given to me, that has made me change what I said in those first couple of days.

Mr Pistorius, with respect and through the court, you have
10 given... you have been afforded an opportunity to give evidence. Do you not just want to listen to the question and answer the question? --- I beg your pardon, My Lady.

Let us just answer the questions. I know you want to say a lot of things and it is interesting. You are arguing, you are not answering. Why are you arguing and not answering? --- I am sorry, My Lady.

No, not sorry. Sorry does not answer the question of 'why'. The question is: Why. Sorry is not an answer to why. --- I am ...[intervened]

Why are you arguing and not answering?

ADV ROUX: I think with respect, My Lady, the difficulty in the question
20 is: There are other things. You make it so wide. If he puts to him a certain aspect and say: Is that reconstruction or is that what you remember? Then I can understand, but once the witness is confronted with 'other things', then he must expect a long answer, because you try to cover whatever 'other things' may include and not include. So I think if the question is put differently, to say: This is what I say to you, can

you tell me is that reconstructed or real? Then we will not have what we have seen here.

MR NEL: Without disrespect My Lady ... [intervene]

COURT: I am just... One minute. One minute. Mr Roux, I am not quite sure that I understand the objection?

ADV ROUX: My Lady, the question put to Mr Pistorius was: There are other things. What was reconstructed, what not? We do not know what the 'other things' is. If it is put pertinently: What do you say about A? Was A reconstructed or is it your independent memory?, then he can
10 answer. But the moment you ask a question about 'other things', then the witness will answer as widely as possible.

All I am asking is that the question must be put to the point and say: What do you say about A, was that reconstructed or independent memory? B. C. But he used the words 'other things'. That is wide. It is very difficult for a witness to know what it is.

COURT: I think the witness should say: I do not quite understand.

ADV ROUX: Yes, of course My Lady, but he is still a lay person and it is my duty to stand up and maybe sometimes, from a legal perspective bring that to your attention. I agree with that, but it is also my duty to
20 bring certain aspects to your attention.

MR NEL: With respect My Lady, I expect lots of objections. My Lady, I could not have put the question clearer and I never used the word 'other things'. Did you use other evidence to create your version? I also said between the time you went to bed and the time you shot her. My Lady, I cannot do it any way else. I ask the court to allow me to proceed with

these questions.

COURT: Yes, please proceed, but the witness has already say... said when you said: Why do you not answer the questions? He gave you an answer. .

MR NEL: Yes.

COURT: He said so.

MR NEL: Ja.

COURT: That was the answer.

MR NEL: I agree.

10 COURT: Yes.

MR NEL: May I just ask... I will carry on. My Lady, with respect. Now perhaps I just did not get it with all the objections. Mr Pistorius, did you not take anything else into account that you read and or heard for your version, during the period when you went to bed and the time you shot and killed Reeve? --- No, I did not, My Lady.

You did not. Okay. And your answers are very interesting. I take it that you know the bail application very well. Am I right? --- I have read through the bail application a couple of times My Lady. At the time that my counsel ...[intervened]

20 COURT: You have to pick up your voice a little. --- I beg your pardon.

Yes? --- At the time that the bail application was brought to me during my bail, at the Brooklyn police station. I was very emotional. I had... My counsel brought my statement to me. I read... or they read it to me, I was not able to read it, and I signed that anything that was in there, was the truth. My version has not changed since then. I have

read it a couple of times, I [indistinct] I wanted to try and remember the night more than I have to. I read it yesterday, the day before yesterday, I read my bail statement again so it is not very well known to me, but I do know what I said there, that is the truth.

And you also know what you said in your plea explanation? --- I will not be able to recite it, My Lady.

But when counsel read it out, the court asked you if you agree with it and you agreed with the contents of your plea explanation? --- That is correct, My Lady.

10 And it was discussed with you before, before it was drafted and agreed upon. Am I right? By counsel? --- That is correct, My Lady.

You now said that there are certain things in your bail application that counsel did not put in. What was that? --- I cannot think of... if I think off the top of my head, it would be Reeva speaking to me as I sat up in bed. It would be phoning Mr Baba, which I do not remember. Amongst... I guess there would be a lot of things, My Lady. The statement I made for the bail purposes was not of every minor detail that I told my counsel and it was explained that I did not have to be either. It was there for the purpose of the bail hearing.

20 I have got that, but I am still asking you. You said there are certain things in there that counsel did not put. So, I have got two. I have got that Reeva spoke to you and you could not remember phoning Baba. What else can you remember, that should have been in there that is not? --- I do not... I cannot think of anything at the moment My Lady.

But nothing that is in it that one can read in your affidavit for the bail application is untrue? --- My bail application, my statement was truthful. My Lady.

Now and your evidence in court was also true? --- That is correct, My Lady.

Then did you put the fans onto the balcony, or just in the door with the one leg on the balcony? --- My Lady, the fans are different. They are not the same. The one is a tripod standing fan, has got three legs, tripod. It is a stainless steel fan. It is about waist height. I put the
10 one leg out onto the tiles of the balcony and I put two of the legs on... inside the room. So the fan was more or less in the... more or less in the middle of the doors. The floor fan I put in between the two legs of the standing fan, so it would have been slightly forward, so it would have been on the carpet in the bedroom.

To retrieve them, you never went outside. You were inside your room and you just brought them back in? --- That is correct, My Lady.

You never went onto the balcony? --- I did not go onto the balcony to retrieve them My Lady.

Yes. And so, you were never on the balcony when you heard
20 noises in the bathroom? --- No, I was at the amplifier when I heard the noise in the bathroom.

Now if someone would say that you went onto the balcony to fetch the fans, that would not be true? --- I beg your pardon, My Lady, can you please...[intervened]

If somebody would say that you went onto the balcony to fetch

the fan, to bring the fans in, that would not be true? --- If somebody said I went onto the balcony to fetch the fans, that would not be true, My Lady.

Would not be true? --- It would not be true, that is correct.

And if somebody would say that whilst on the balcony bringing in the fans, you heard a noise in the bathroom, that would not be true? --- That would not be true, My Lady.

Apart from being true, it would be difficult to hear a voice in the bathroom from the balcony? --- The question Mr Nel asked me My
10 Lady, was noises. I heard one noise from the amplifier and what he put to me is 'voices'. No, I did not hear any voices. I heard one noise.

But what I am asking you is if you were on the balcony would it have been difficult to hear a noise in the bathroom? --- I am not sure, My Lady.

Okay, but you did not. --- I was at the amplifier when I heard the window open, My Lady.

I know what your version is. We are still on the balcony. Could you not follow it? We are on the balcony. You did not hear, whilst on the balcony, a noise in the bathroom? --- I was never on the balcony
20 My Lady.

Now, I have got a difficulty and that is that in fact you said you went onto the balcony to bring the fan in. Did you not say that? --- What I said in my... you can give me a copy of my bail transcript, I will gladly read it. What I meant was ...[intervened]

Why are you referring to your bail? --- Because I would like to

see it in front of me My Lady.

How do you know that I am referring to your bail? --- That is what I understood from your question

How would you understand that from my question? --- Madam it is what I... My Lady it is what I interpreted from Mr Nel asking ...[intervened]

Why? Why would you do that? --- I am not sure, that is what I interpreted.

No. You have to tell the court why you would interpret it as
10 coming from your bail. You are sitting there Mr Pistorius, arguing, thinking of evidence. That is the danger of your evidence. --- My Lady, there is no danger in my evidence. I have not lied. I am asking simply where it says, or where somebody said Mr Nel put to me that if somebody saw me on the balcony, he said ...[intervened]

I never said that. Are you now... Is that what you heard? That I said somebody saw you on the balcony? --- [No audio 12:53:42] ... if somebody had seen me [indistinct].

No. No, I did not... You see, Mr Pistorius... With the leave of the court. Mr Pistorius, please answer the questions. Do not argue the
20 case. If you would just answer the questions we will get somewhere. If you argue or think about other evidence, you will get into trouble. --- My Lady, I am trying to answer the question that Mr Nel is asking me about being on the balcony. When I got the fans in, I was holding the handle of the door. The balcony... the tripod fan's leg was on the balcony and I brought the fan... I first brought the floor fan in and then I held the door

and I brought the tripod fan in, from the door.

You see, page 64 and I will make it available to you. It is the white file to your right... to your left. The top one. No, that one.

COURT: Is it page 64 of the record?

MR NEL: Of the bail application, My Lady.

COURT: Oh, the bail application?

MR NEL: Yes, My Lady. That is EXHIBIT D My Lady. It is a full file.

COURT: There is too much on this bench. So it is difficult.

MR NEL: Yes. No, I know it is much to carry My Lady.

10 COURT: Yes.

MR NEL: I would read it out and I am sure Mr Roux would follow it and if it becomes an issue I will make sure we fetch the files from your office.

COURT: You may proceed.

MR NEL: Do you have page 64, sir? --- I do My Lady.

Now if you look at line 20, let us start at 19. I will read it and if you just follow:

"During the early morning of 14 February 2013, I woke up, went onto the balcony to bring the fan in."

20 --- That is correct, My Lady.

Now there are two problems there, is it not so? --- It see that it says:

"I went onto the balcony to bring the fan in."

I agree with Mr Nel, My Lady that the fan was partly on the balcony, but I did not go onto the balcony to bring the fan in. I do not know where

the second problem would be?

The fans. In your whole of your bail statement there is only reference to one fan. Am I right? --- If we are talking in reference with the sentence that was read to me, My Lady, it says: I went onto the balcony to bring the fan in. As I have said earlier, the one fan's leg was on the balcony and the other fan was between the two legs of the tripod fan and it was on the carpet. So that not outside. I brought the fan that was on the balcony, inside.

You see, there is a... I asked a different question. You know the
10 bail statement. There is only reference to one fan in the bail statement.
Am I right? --- Give me time to read through it, My Lady, I will check
...[intervened]

Ja, you are welcome. Read. --- What I can say here, is that this talks about bringing in the fan. There was one fan that was not inside the house.

Read. See if you can see another fan in your statement? --- My Lady, I do not have my full bail transcript here. This is just extracts of my bail transcript.

It is a full thing from when it started, from when your statement
20 started. Your affidavit was read into the record sir, from page 58. That is where it starts. Do you... Let us carry on. Do you want to read the whole thing? I will keep this question until after lunch. I will ask you other things and if you would read your bail statement during lunch, would that be fine? --- Yes. I will do that.

Good. Because I want to refer you to something else and that is

page 117. Can you go there?

COURT: Is it of the same bail application?

MR NEL: It is of the same bail application, My Lady.

COURT: Thank you.

MR NEL: ...[Pause]... You see? Do you have it with you? --- I do, My Lady.

My Lady, I will be reading from line 11. It is Mr Roux cross-examining Mr Botha.

“He got up he said and went onto the balcony”.

10 Or that is me. That is me. I am leading.

“Onto the balcony to bring the fan in.”

Do you see that? --- I do, My Lady.

And I go on:

“So he was there on the balcony and he heard a noise in the bathroom and he realised there was someone in the bathroom”.

ADV ROUX: My Lady, he does not say that he was on the balcony and he heard a noise in the bathroom. That sentence is there. It does not say that at all, that he was on the balcony when he heard the noise.

20 MR NEL: I am reading the record. Mr Roux is wrong.

“So he was here on the balcony and he heard a noise in the bathroom”.

ADV ROUX: He says that, that is what he put to Mr Botha, that is correct. If he says that is in the bail application affidavit, that is not so. It must just be that distinction must be made.

MR NEL: Yes, My Lady ...[intervened]

MR ROUX: If it is a wrong statement made by Mr Nel in the bail application so be it, but then he must in all fairness say that does not come from the bail affidavit.

COURT: Oh? It does not come from the affidavit.

ADV ROUX: Yes My Lady, we ...[intervened]

COURT: Not from the affidavit?

ADV ROUX: Mr Nel can read it. I do not want to interfere, but he can read.

10 COURT: Yes, no I want to hear. That is very important. Thank you.

MR NEL: No, that is... But it is clear from the record. It is me leading the evidence and I said, that is what he said and Mr Botha agreed, but that was never taken up with Mr Botha in the bail application.

COURT: No, can you read that again? I just want to make sure that I understand.

MR NEL: I will do that My Lady. I am leading the witness.

COURT: Yes?

MR NEL: I say:

20 “He got up, he said he went onto the balcony, onto the
 balcony, to bring the fan in and closed the sliding
 doors, the blinds and the curtains.”

Then I quote from the affidavit:

 “I heard a noise in the bathroom”.

So he was here on the balcony and he heard a noise in the bathroom and realised that somebody was in the bathroom. That is what he said

and Mr Botha then said that is what he said, but that is not your version today. Is that so?

ADV ROUX: No My Lady, it is not his version today and it was not his version then. I think in all fairness he must just read what was the version then, because the imputation is that then that was his version, but today it is different and I invite Mr Nel to read the bail application, the affidavit, to see what he said, whether it was ever said that he was on the balcony when he heard the noise.

MR NEL: I will do so. My Lady, I will read the bail affidavit.

10 COURT: Yes?

MR NEL: Page 64. You said:

“During the early morning hours of 14 February 2013, I woke up and went onto the balcony to bring the fan in and closed the sliding doors, the blinds and the curtains. I heard a noise in the bathroom and realised that somebody was in the bathroom.”

That is what you said? --- I said... I have just turned the page My Lady. If I can just read this.

20 Okay, read it please. ...[Pause]... Do you see that? --- That is correct, My Lady.

But there is something wrong with that statement today? --- I do not see anything wrong with my statement today, My Lady.

Except that you did not go onto the balcony. --- I do not follow what Mr Nel is asking me. I am sorry.

I think I have dealt with it, but we will go through it again. It is

just past one My Lady, I will just ask one more question. It reads:

“During the early morning hours of 14 February 2013, I
woke up and went onto the balcony...”

Went onto the balcony.

“... to bring the fan in.”

That is not true. --- I concede My Lady, I did not go onto the
balcony. I picked the fan up which was on the balcony and I brought the
fan in.

My Lady, may we take the lunch adjournment?

10 COURT: The court will adjourn.

COURT ADJOURNS [13:03] ~ ~ ~ [14:03] COURT RESUMES

COURT: You are still under oath, Mr Pistorius. --- I understand,
My Lady.

OSCAR LEONARD CARL PISTORIUS (s.u.o.)

COURT: Thank you. Yes, Mr Nel?

CROSS EXAMINATION BY MR NEL (Continued): As the court pleases.

Mr Pistorius, was it ever your version that you went on to the balcony to
bring the fans in? Was it your version? --- In my bail statement it says
here that I went on to the balcony, My Lady. I think what was
20 interpreted there was that I went to get the fan that was on the
balcony... partly on the balcony. At the time that my counsel brought my
statement to me, they read it out to me. I agreed with everything that
was in it. So that was at that point my... what I said there was the truth
and at that time it was interpreted that I went on to the balcony. What I
am saying is, I never went on to the balcony. I got the fan that was on

the balcony.

I hear what you are saying. So the fact that it is in your statement that it is 'on to the balcony', you have now admitted it is clearly wrong. I just want to know why? --- I admit that it is incorrect that I went on to the balcony. I did not go on to the balcony. I collected the fan from the balcony.

I hear what you are saying. I am asking a different question. Which is why? Why is there this difference? --- My Lady, as I said at the time that... I was not there when my statement got drawn up. I was
10 not the one who drew it up. I was not... if I could change... if I could look at my bail things, I am sure there would be things that I would add or more details. But at the time when the statement was made, my counsel advised me that it does not have to an exhaustive set of facts, that it needs to state what the facts were. I am sure that what they wrote there, they interpreted as my explanation to them. Maybe I did not pick it up at the time, that they said I went on to the balcony. Or maybe when I read it, I interpreted it as... it as them bringing... I interpreted it as me getting the fan from the balcony. But as I said, I never went on to the balcony to bring the fan in.

20 You see it is a bit strange, because Mr Roux challenged Warrant Officer Botha about this version of yours. You were present when Mr Roux cross examined Warrant Officer Botha? --- I was present, My Lady.

And at page 137 [intervenenes]

COURT: Can you just refer to it as an exhibit?

MR NEL: "D", My Lady.

COURT: Yes.

MR NEL: "D". Page 137. Are you there? --- I am My Lady.

You see this is an interesting page because this is where Mr Roux is really saying the same thing that you are saying.

"I put it to the version was available. The affidavit was signed before we saw the state's charge sheet and the heads of arguments. It could be facts so..."

Then Mr Botha said:

10 "No, I cannot."

Mr Roux said:

"I put it to you there could be... has been no adaptation. It is there... before we saw what the state is going to hand up. It is there.

He is saying:

"Okay."

And this is important, "But", now Mr Roux is challenging Warrant Officer Botha:

20 "But now you have it and you see his version... now did you care to test his version in the following respect: you go to the house, you walk to the balcony, you are outside on the balcony and you bring the fan in? --- No, I did not."

Why would he challenge him on your version if that is not your version? --- My version in my bail... I did not say I was outside on the

balcony. I said I went to go fetch the fan from outside... from the balcony which is outside. As I have said, I understand Mr Roux challenged Warrant Officer Botha at the time. I can maybe ask that you ask my counsel why. But I do not remember. What I told them was the truth. What they put in the bail [intervenes]

So Mr Roux made a mistake? --- What they put in the bail testament was what they interpreted my truth to be on paper. I am not saying Mr Botha made a mistake.

No, not Botha, Roux. --- Mr Roux made a mistake then of
10 putting [intervenes]

Why would he go that far, a respected senior counsel? Why would he put that version in so many words? He said:

“You are outside on the balcony and you are bringing the fan in.”
Why would he make that mistake if he did not get it from you? --- It is maybe the way that he interpreted it, My Lady. That is the only understanding [intervenes]

But the mistake here, was his? --- Well, that is it.

No, no, listen to the question. The mistake here was Mr Roux's, not yours? --- That is correct.

20 Okay. Now before we carry on there is just one aspect I have to deal with and that is your plea explanation. Do you remember your plea explanation in court? Not in detail, but do you remember that there was one handed up and read into the record? --- I do My Lady.

And do you remember that it was a detailed 115 plea explanation? --- I do not recall what a 115 is, My Lady.

It is a plea explanation, sorry. It is my mistake. It is plea explanation. --- I do recall that, My Lady.

Now I will deal with lots of these, but I am going to deal with one this afternoon and that is... it is page 11 of the record, My Lady, of the court record My Lady, and that is... I am sending across just the one page and that is the only page that I will use at the moment. So do you have page 11 before you at the moment? --- I do, My Lady.

Ad line... let us start at line 18.

10

“It will also be demonstrated during this trial, whilst Botha was the Investigating Officer and tasked with preserving the scene, that the scene was contaminated, disturbed and tampered with.”

That is your plea explanation. That is the reason why you are pleading not guilty, I am right? --- That is not the reason I am pleading not guilty, My Lady, but that is part of...

20

COURT: You will have to speak a little louder. You are very soft. --- I beg your pardon. That is not the reason why I am pleading not guilty, My Lady. I am not pleading not guilty because “the scene was contaminated, disturbed and tampered” with at all. I think that is an extract that is taken out of the entire document that they read out.

MR NEL: Ja, but you see this is a plea explanation, that is what it is. I explain my plea. My plea is not guilty and this is what I say. Is that the reason why you pleaded not guilty, or not? --- This is not the sole reason why I pleaded not guilty, and it is not the reason why I pleaded not guilty, My Lady.

I said 'a' reason. I never used the word 'sole' reason. Is it a reason why you pleaded not guilty because "the scene was contaminated, disturbed and tampered with"? --- No, My Lady. I plead not guilty because what I am accused of did not happen.

Yes. So this... although it is called a plea explanation and it was read out as your reasons why you plead not guilty, you never took this into account in arriving to your plea? --- I beg your pardon. I do not understand the question that is being posed to me My Lady.

When you had to decide will I plead guilty or not guilty, was this
10 one of the factors you took into account? --- No, not at all, My Lady.

I see. --- When I pleaded not guilty that was already at my bail. We did not know that "the scene had been contaminated, disturbed or tampered with". We only got to learn that through the photos that the state showed us, that the scene had been tampered with and disturbed and contaminated.

Okay. --- So this was not part of my plea at my bail. At my bail I already gave my plea on the charges that were levelled against me.

This is technical, but we will leave it for argument. Let us just deal with the essence of it. Is it still your version that the scene was
20 tampered with? --- Yes, My Lady.

Where? --- My Lady, I am advised through my counsel that there will be people that will come forward. I have seen many of the photos that the state has handed to me where there are massive inconsistencies, where items have been moved, where things were not as they were left on previous photos.

It is unfortunately not that easy. Really it is not that easy. I am asking you. It is your plea explanation, you are in the box. You tell me, sir, where was the scene tampered with? --- My Lady, we can go through all the photos.

Yes, please let us. Where do you want to start? Show me... tell me one thing that was changed...'tampered'. Do you know what 'tampered' is? --- If Mr Nel would not mind you giving the definition of tampered, Madam... My Lady.

It is with intention changing. What was changed on it? ---
10 My Lady, we can go through the photo files and I can show you many things that we changed.

Let us... we have got time. Tell me what is the tampering that bothered you the most? --- There was not... I think in a case with this much severity, many things... anything that gets changed would bother a person involved. Throughout the photos there were many things that moved. There were cell phones in my bathroom that moved. My firearm had moved. The cricket bat had moved in the bathroom. The discs in my room had moved. The fan's cord had moved. The curtains had moved.

20 Wait, wait. Let us take it slowly. Let us take it slowly. Let us take it slowly. We will deal with all those things, Mr Pistorius. Let us just take it slowly. You say the cell phones were moved. Am I right? --- That is correct, My Lady.

Which cell phones are we referring to? --- I am referring to Reeva's cell phone and one of my cell phones, My Lady.

So the police moved Reeva's cell phone? --- Someone moved them, My Lady.

Where was it before it was on the photograph, do you know?
--- My Lady, there is evidence that has been given and statements that have been made where police officers talk about the two phones being next to each other and then phones... one phone being taken at one point. If you zoom in on the photos you can see that the outline from where the blood touched the phone, the phone had been moved. In one photo there is a cell phone cover on the photo and then in the cover has
10 been taken off to make it look like there was a misunderstanding where one was a cell phone and one was a cover. But in the one photo you can clearly see the camera through the whole of the cover. On another one, you cannot.

Okay. I have got all that. So you say Reeva's cell phone was moved. Where was it before the police moved it? Where did you put it down? --- My Lady, I do not have the photos in front of me.

So can I just ask you a question then? Reeva's cell phone on the scene, was that at a different position as where you left the cell phone? --- I do not remember where I left the cell phone, My Lady.
20 What I am saying is that between photos that were taken and tendered to us by the state, things changed.

Okay. So you looked at photographs and you say the state tampered with it? That is all? You cannot remember where you put down Reeva's phone after you used it? --- I am not saying the state tampered with them, My Lady. I am saying things were moved. Things

were changed. There were people that were not wearing protective clothing in my house. I saw people go... police officers go up and down the stairs, that is why I talk about contamination.

Please, you know sir, I do not want to do it every time. I think you have got lots of answers in your head and you are giving that. I have not touched the word 'contamination' at all now. We are dealing with tampering. Now you are telling the court about contamination and people not having protective clothing. You want to answer that, because that is what you are prepared to answer. Deal with tampering, please. I cannot use the word 'warning', I will advise that you listen to questions and deal with them, Mr Pistorius. Let us deal with tampering. You say the fans were tampered with? --- My Lady, these three words were used in conjunction with each other. I do not think it is says the fan was tampered with. It does not say the phone was contaminated. It does not say the cricket bat was disturbed. It talks about the preservation of the scene and Mr Botha's task that he was... the sentence reads:

20 "It will also demonstrate during this trial whilst Botha was the Investigating Officer and tasked with preserving the scene, that the scene was contaminated, disturbed and tampered with."

It does not say that during my evidence it will show that. It says during, "it will be demonstrated during this trial". It does not speak about items. It does not speak... it speaks in general. That is the context. I did not write this document but my counsel has investigated through experts,

through people that they have spoken with, various things were contaminated. Various things were disturbed and various things were tampered with. I do not have the knowledge of what it was, but I know that the experts that will come and testify, these things did happen.

Ja, do you [intervenes]

COURT: Just one minute. Were you reading from page 11? --- That is correct, My Lady.

Yes. What line was that? --- Paragraph 14, My Lady.

Paragraph 14. --- Three lines from the bottom of 14, it ends the
10 sentence. From the middle of 14 it starts with:

“It will also be demonstrated ...”

Thank you.

MR NEL: You see, unfortunately Mr Pistorius, I have to get an answer and we have to go through this. Are you saying that the fans were tampered with? It is your case. It is your plea explanation. I am asking you. --- Mr Nel, please just give me the meaning of ‘tampered’ again, My Lady.

You see that makes it so much more interesting. It is your plea explanation. You told this court [intervenes]

20 COURT: No, Mr... it may be his plea explanation, but he did not write it. So if he wants clarification about what ‘tampered’ exactly means, I think he is entitled to it.

MR NEL: My Lady, with respect to the court, I will do it. My Lady, but when the state witnesses were struggling with words and things, they were asked and they were said to take responsibility for every word and

every statement. So we have been through the state's case, but My Lady, I am not arguing. I will go with that. I will do what the court says. Tampering is, if you change something on the scene with the intention to let it look different. --- My Lady, Mr Nel is asking me if the fan was changed to look different. I remember the fans were running that night, it was an extremely warm evening. According to some of the officers that they had, they said the fans were off. So yes then in that case, I would it was tampered with and in the photo that came up which the state did not have a time or a date set on the camera, we saw one
10 of the police officers unplugging the fan to plug in his cell phone. That was a photo taken by the police. So in that respect I would say it was tampered with, My Lady.

So it was disturbed? Let me just... I have to get this. Are you only referring to that photograph that was taken on the 15th or later, where a policeman put in his cell phone? You are not referring to the album [intervenes]

MR ROUX: My Lady, that was not the 15th that photograph, or later. That was a photo where the magazine, the firearm magazine was still on the bed and it was still half dark outside and we know that the
20 evidence was that the magazine was taken in as an exhibit that day and that was the 14th. So it could not have been a photo of the 15th, where Colonel van Rensburg was there at the time... at the plugs.

MR NEL: Let us just make it... no. I cannot... I will go there later. So what are you saying about the fans? What happened to the fans? How did the police disturb the fans? --- My Lady, I say that Mr Nel asked

me if the fans were tampered with. I said they were tampered with. I did not say that they were disturbed.

Okay, how were they tampered [intervenues] --- If you ask [intervenues]

What, sorry, I know... can you just tell how were the fans tampered with? --- Well, in the statements that have been given nobody says that the fans were on. It was a very warm evening and in the photo as I said that the state gave to us, it showed that a police officer was plugging in his cell phone to the same socket where the fan
10 was plugged in. So that is why I say it was tampered with. The fans were also moved at different points around the room. So in that instance they could be disturbed. My understanding of all these words is that some items may have been contaminated, some items may have been disturbed, some items may have been tampered with. It does not mean that every item was all three of those things. I do not... and I have not spent time checking all the evidence, but this sentence says:

“It will be demonstrated during the trial.”

It does not say through my evidence.

I hear what you are saying, but you are now there and it is your
20 plea explanation. Who will give that evidence? --- There will be experts that will come and testify to [intervenues]

Who will testify about tampering on the scene? --- I am busy testifying to tampering on the scene. I have testified now that the phone was tampered with and the fan was disturbed. We can go through some of these things if the court pleases, My Lady, as to what I can

show the court what was contaminated, what was disturbed, what was contaminated.

I hear what you are saying, but you are not answering [intervenens] --- Why [intervenens]

The question. Who will testify about tampering of the scene? --- There will be specialists that will come and testify.

Who? Who? --- I do not know by name, My Lady.

Are you telling me that you have not consulted with these people and you have not been told what they will say? --- My Lady, I do not
10 meet with every expert that my counsel has met with. I do not understand half the information they have. I know background in ballistics or in forensic compiling of information. I know that people have sat for many hours and looked at the photos that the state has tendered. I do not think that is in dispute that things have changed. We saw in previous evidence where all of a sudden a disc was in the photo. Where remote controls were moved, where tissues were placed next to the bed, where wires were moved, where things were in different positions to other photos. Where in this bail Mr Botha in his first statement said that the bedding was on one side. *Die beddegoed was*
20 *op die een kant van die bed.* Meaning the bedding was on one side of the bed. Yet in all the police photos there is only bedding shown on the floor. So it is clear that there is contamination. The scene was disturbed and that it was tampered with. In this... I understand that this is my plea, but it says "It will be demonstrated". What my counsel read in, what Mr Roux read in:

“It will also be demonstrated that during this trial whilst Botha was the Investigating Officer and tasked with preserving the scene, that the scene was contaminated, disturbed and tampered with.”

It does not say my evidence and I do not have a clear understanding of the specialist that we have. I do not know all their backgrounds, or their evidence, or their insight and their knowledge to go through these things. We can talk about it if we go through the photo files, I can get a photo file from my counsel and I can see where. We have made
10 hundreds and hundreds of notes of photos that were compared, where things have been moved and changed. But I do not have the knowledge to tell you exactly what was tampered with, what was disturbed and what was contaminated.

After that long argument, do you still remember what I asked you? --- You asked... Mr Nel asked me, My Lady, if the fan had been disturbed.

No, no. You are wrong. You see you argue and you are wrong. It is not my question. --- I beg your pardon, My Lady. I do not remember is question.

20 You just want to argue. You have recreated the scene, you have been... you have thought of answers and you want to give it to the court, you are not listening. You are not listening, Mr Pistorius. I asked you, who will... who the experts are and have you not consulted with them about the tampering, that is what I asked you and I am asking you that again. Give me an answer. --- My Lady, I have not consulted with

the experts. My counsel has. I have sat in on some of the meetings and listened to perceptions of theirs. I have explained how things happened, because I was the only person that was there. I have explained to them certain facts.

I am just dealing with tampering and disturbance. The expert that you will call about tampering and disturbance, who will that be? --- I do not know, My Lady. It will be up to my counsel. I guess in the coming weeks they will decide who they call.

Let me just ask you a question and get a straight answer.
10 Where you are sitting now, you do not know who that will be, but you know there will be somebody? --- My Lady, there will be people that will come and say that certain things could not have been in the place that they were at and Mr Wolmarans will be one of those people. He will talk about objects in the bathroom. He will talk about the door. There are some others. I do not know if my counsel has decided who they are going to call yet, or in which order they are going to call them. When I leave court I am extremely tired. I do not really consult with them much. I have given them my version many, many, many months ago. We have reworked on it... spoken about it and they have worked
20 with it... with me. But as far as what this... part of this plea says is that it was from Mr Roux, it says:

“It will also be demonstrated during this trial whilst Botha was the Investigating Officer...”

so I guess it is pertaining to whilst Mr Botha was in charge of my home, my house and whilst he was tasked with the preservation of my house,

that there was contamination, disturbance and tampering.

I am going to be very fair and I do not want to use this in argument later, I want to ask you if that is what you meant. You said:

“I have given them my evidence over months. We reworked my evidence.”

Is that what you said? --- I corrected myself, My Lady, by saying we worked together.

So if you used the word ‘reworked’ you never wanted to use that word? --- I did not want to use that word, My Lady.

10 Okay, interesting that you did, but you do not want to? --- I make mistakes, My Lady.

Now let us just have a look at this one photograph. It is on the original photograph... it is 184. In the album it is 55, My Lady. It is E55, My Lady. Now those were, that is the photograph in album 1. The photograph was taken by Warrant Officer van Staden early morning. Sitting where you are sitting, was anything tampered with? --- My Lady, I did not see this room with the light on in my bedroom that morning, so I would not know what was tampered with, if I had to compare this photo with other photos. There are other photos that show
20 these items in different places.

So you by your own accord, if you look at that, there is not something striking out of place, or that should not be there, or that was put there by the police or something like that? --- There was not anything that I think that was put there. In other photos there shows the TV remote on the tissues. There is another photo where there is a disc

that I remember the evidence being told, that they found the disc under the bed.

No, that is fine. But apart from that, those are other photos and we will deal with that, but that photo was taken early morning and there is nothing out of order as far as you know, because you do not... you cannot really relate it back to the day? --- I cannot relate it back to the day, My Lady. I can relate it to the other photos.

Ja, no, I know. --- It is clear that from... when the photos were read in by the witnesses, those were not the way that the photos were placed in the file. We went through every photo's properties. We looked at all the times. We tracked the photographer's movements. He came up to my room. At a point he then left my room briefly. The bathroom... he went back to the bathroom and then for 15 minutes he was walking outside, and then he came into the room. After that time there were many things in the room that had changed, or in the bathroom. We picked up small things that had changed.

Okay. --- In this photo I remember the vest being on the other side of the cord. I do not know if that photo off the top of my head was taken before or after this photo. So I cannot say that at this point... if I had seen this that morning, that this is what I would have seen.

That is brilliant, Mr Pistorius. So you really know exactly what the photographer had done. You know these albums and times by heart? --- As I said, My Lady, I do not have the files in front of me. I do not have the time sheet [intervenes]

No [intervenes] --- In front of me, but I know that there were

photos that were different to this photo.

There next to your vest, if we could perhaps zoom in, in there. No.... My Lady, may I just point out to... higher up. May I just... there we go. What is that? I mean... not the iPad, next to it on the stand? --- It is a hair clipper, My Lady.

So you have that hair clipper next to your bed? You had it there? --- I am not sure if it was there, My Lady. In another photo it was... the hair clipper was on the floor but not on the stand. It is possible that it could have been there. I plug it in to that extension cord
10 to charge. So it is possible that it could have been.

Okay. So you plug that in to charge and that extension cord is also where you plugged in the fan? --- That is correct, My Lady.

And you are convinced of that? --- The fans are plugged into the extension cord that is... behind the bed on the right hand side of the bed there is a plug. I am not sure what is plugged in there. I am not sure if it is a double plug. I know that the extension cord is... that is where the power source was for the extension cord.

Ja, no, that is, but [intervenes] --- I think [intervenes]

We can see it there, that white cable there, that is the extension
20 cord's cable? --- That is correct, My Lady.

So and you plug the fans into that extension cord? --- I plugged the fans into that extension cord, My Lady. I am not sure if the clipper was plugged into that extension cord, or if it was plugged into the two prong plug which is behind the headboard, but that was usually where I plugged it in, next to my bed.

No, you are right. Can we just go down and just show Mr Pistorius that he is... you see there the clipper is plugged in and the fan? Do you see that? --- I see that, My Lady.

There is only one problem with that, Mr Pistorius, do you see the problem? --- I do not, My Lady.

There is no other place for the other fan. --- The other fan, My Lady, if you look at the police photos was on the side of the room where the TV cabinet is. There is a plug behind the TV cabinet where the fan could have been plugged in. I do not recall [intervenues]

10 Could have been? --- If I may just finish please. I do not remember which fan which plugged in at which power point. My Lady, I had three fans. I had two floor fans and I had one standing fan. A friend of mine came to visit me in January. I lent him one of the fans for his room downstairs. So there were two fans in my room. I cannot be certain as to this plug was... if this fan was plugged in here and the other fan was plugged in where ever. But as far as I remembered it both the fans were plugged into this power source. I am not sure if it had been... if I had tripped over the cord on the way to open the balcony door, or if the fan was plugged in the other side. I do not have an
20 independent recollection of where the fan was plugged in.

One thing we know is, you said before I showed you the specific plug, you said "both fans were plugged in there". That is what you said? Am I right, today? --- I do not recall it, My Lady, but if Mr Nel says that that is so, then I believe him.

Why can you not recall it? It happened two minutes ago. When

we started you said, "both fans were plugged into the extension cord."
Now you want to say that you cannot remember. Why? --- My Lady,
my memory is not very good at the moment. I am under a lot of
pressure sitting here. It is not easy. I am defending for my life and I
have... if I tell the truth and you ask me five minutes later again what I
asked... what you asked me, I will probably tell you the same thing
because I am not trying to lie. If I say I do not have an independent
recollection of where the fan was plugged in, for something so
insignificant as to where the fan was plugged in, all I can say is that the
10 fans were both on.

It is not so insignificant, Mr Pistorius. It will show that you are
lying and it is very significant. --- I understand the point that it is
significant, My Lady. It is a significant thing, but the act of plugging in a
fan and putting a fan on, a year and a half ago, I cannot remember.

But one thing we can agree on you and me, is that that fan was
not plugged into that extension? --- I do not know if I can agree with
that, My Lady.

Is it possible that it was? --- It is possible that it was, My Lady.
I am not sure if [intervenes]

20 Is it probable that it was? In all probability you would have
plugged it in there? --- I am not sure where I would have plugged it in.
I know that both the fans were running, My Lady.

Are you telling the court that your other fan's cord is long enough
to go in between the legs of that one from the power source in the
corner of the room? --- My Lady, I do not... I have not thought about

where I plugged in what fan. I know that both the fans were working. So they were... if the fan's length of the one cord is not long enough to fit in a power source, then it is obvious that both of them were in the extension cord.

Yes. Yes. Let us do that. Now can we just go to the other photograph please. This My Lady, will be 187 and 56. I apologise My Lady, it is 61.

COURT: 61?

MR NEL: Yes, My Lady. Now can you see that power... the plug of that
10 fan? --- I can see the plug of the fan, My Lady.

It is a two point plug? --- That is correct, My Lady.

That was not plugged into the extension, because there is no place to put it in. --- I see it has got a very long cord, My Lady, but as I said I do not remember which power source it was plugged into.

No, but no, no. That is not the answer, Mr... that is not an answer to my question. The question is, do you agree that was not plugged into the extension? --- My Lady, I have said I do not remember which plug was... which fan was plugged in which power source. I remember them both being plugged in at the extension.

20 Let us [intervenes] --- That was the reason for having the extension was because the cords were not long enough to reach the wall. So I had an extension for that reason. So as far as I can remember and what would make logical sense to me, is that the fans were plugged in. This is not where I moved the fan that evening. I do not walk and put the fan in the corner of the room with the plug out. So

I cannot say if the plug was plugged in at an extension power source, or at the wall behind this cabinet.

I see. --- But what I can say is that this was not where I left the fan.

Let us just go back to the previous photograph and just zoom into the plug on the extension cord. You see? There is no way that another double plug can be plugged in there. It is two, three-point plug that is available, nothing else. Do you agree with me? --- I agree that... ...*[No audio 14:41:14]* ...My Lady, the time of this photo it would
10 be impossible to put another two prong plug into that adaptor, because... or the two spots that there seem to be available, are both taken. I agree with that.

But then you are lying. Then that other fan was never plugged in there or on, or used that day. --- My Lady, I can simply say I remember *[No audio 14:41:41]* both of the plugs being plugged in there, if I am not [indistinct] the one plug is [indistinct] another [indistinct] that [indistinct]

But you see unfortunately I have to just deal with this a little further. The other fan, if you never unplugged the other fan on your
20 version... --- I never unplugged any fan on my version, My Lady. It is possible that when I ran to the balcony to call for help, that I tripped over a fan cord. It is possible that I pushed the fan aside. I do not have a memory of moving the fans.

No but... you see again I understand and we are in the same position where we are creating a version. You never ran from the door?

Never. When did you run from the door?

COURT: From which door?

MR NEL: He is saying "when I ran from the door". Is that what you said? --- No, I said when I ran to the balcony.

To the balcony, but did you run from that area to the bathroom? --- Yes, I did, My Lady.

When? --- I ran from the... I ran... when I put my prosthetic legs on I turned around. When I ran to the... when I ran from the bathroom I ran on to the balcony. I pulled the curtains open, I opened
10 the doors and I shouted for help. After that I put my prosthetic legs on which is right there where the fans would have been placed... where between the fans would have been... my legs were between where the fans were and where the plugs would have been plugged in for the extension. I do not remember unplugging a fan.

But if we look at the other fan, let us say... which is not so. You are trying to adapt your evidence. Let us say it was plugged behind the wall behind the music centre in a plug, that would not have been in your way if you walked past it and it would not have ended up where it is lying there, on your version? --- On my version the fan was never
20 there to start off with, My Lady.

Oh. So a policeman moved the fan to there? Or somebody moved the fan to there, knowing that your evidence will be that the fan was in the door? --- I do not think the police or anyone knew what my version was at the time of taking these photos, My Lady.

Why would they move it then? --- My Lady, they probably

moved the fan so that they could spread out... if you look at other photos where they spread out my duvet, they had to move things. So at no point when they were busy with Hilton Botha's investigation until the point that I tendered my statement and during the bail, did they know my version. So I am not saying that they deliberately moved the fan, because they did not know the fan was part of where the... where the accident happened, but the fan was moved. I did not place it there. If I had brought it in, I faced it towards the bed. I would not have faced it... I would not have placed it to face the curtains.

10 I know what you are saying. But you see why it is important is in your bail application you mentioned one thing and you now over lunch break read your bail application statement, and there is only mention of one fan, am I right? --- That is correct, My Lady.

Only in your plea explanation did you talk about 'fans', more than one. Am I right? --- That is correct, My Lady.

Why? --- My Lady, as I said there were things that were left out. When Mr Nel started his cross examination on my bail, I told my counsel everything that happened, everything that I could remember at that time. It was if I remember correctly two days after the incident. I
20 have obviously given him a lot more detail since February last year. What they decided to put into my statement was what they decided to put in. They did not include every single aspect. I understand that they did not talk of the plural 'fans'. If I could go back I wish they did. But I cannot change my evidence because it does not suit me in my bail transcript. I have to tell the truth. So because of what was written in my

statement, if it suited me I would stick to everything that was written there, but the truth is that there were two fans, and even if it does not suit me to say it, to talk about it now, I have to talk about the extra information. The bail is but a summary of what happened that evening.

I hear you [intervenues] --- And I would rather place my... I would rather place all the evidence in front of the court now, even if it is not in my favour, because it is not what is in the bail and I understand I will be taken apart because of that. But that is the evidence. I cannot change the truth.

10 Mr Pistorius, I know that you have rehearsed that answer and you wanted to give it. Let us stick to the answers. The fact is, do you agree with me that that fan was never plugged into the power source... into the lead that one can see under the tripod fan? Do you agree with me as far as that is concerned? --- My Lady, I believe I have answered this question three times. I do not remember where I plugged which fan in.

But that is not the question. I never asked you what you did. Mr Pistorius, you are not listening. You have got long answers, long arguments, you are not listening. It is not good for you. I will argue this.
20 Listen to the question. The question is the following: do you agree with me that that fan was not plugged into the lead? --- My Lady, I have listened to Mr Nel's question. I cannot agree with him because I do not remember.

Let us just go back. Show me, please. Let us just go back to that other photo. Let us not...show me where it was. If you cannot

remember, show me. --- I cannot show Mr Nel if I cannot remember, My Lady.

But because it is impossible. You cannot tell me you cannot remember, it is impossible.

COURT: Mr Nel ...[intervened]

MR NEL: Where was it plugged in? --- I do not remember where it was plugged in, My Lady. I do not have a [intervenes]

But it was not plugged in there? --- Well, at the time of this photo, what I am saying is that this extension was full. If the plug was plugged in at the extension at the time, then I understand then the plug was... it must have been plugged in at the TV cabinet. That is what I am saying. I say I do not have a memory or a recollection of where I plugged in which fan. It was... most of the time most of the fans were plugged in here. If I had to use a plug from this extension for another purpose, then I would have plugged the fan in somewhere else. What I can remember is I brought in two fans that night. I put the tripod fan up and I put the smaller fan in underneath it. I would not have placed the fan there if it was not plugged in.

Mr Pistorius, let us deal with something else. We will get back to this. You referred in your plea explanation to this incident, or this occurrence as "an accident". Is that correct? --- That is correct, My Lady.

What was the accident? --- The accident was that I discharged my firearm in the belief that an intruder was coming out to attack me, My Lady.

So the discharge was not accidental? Or was the discharge accidental? --- The discharge was accidental, My Lady. I believed that somebody was coming out. I believed the noise that I heard inside the toilet was somebody coming out to attack me, or to take my life.

No. Do you know what an 'accidental discharge' is? --- Mr Nel, would like to explain to me what an 'accidental discharge' is, My Lady [intervenes]

You know [intervenes] --- My understanding is that I did not intend to discharge my firearm.

10 Okay, no then you do. So you never intended to shoot the intruders? --- I never intended to shoot anyone, My Lady. I got a fright from a noise that I heard inside the toilet. I perceived it to be somebody coming out to attack me. That is what I believed.

But we can think that away. The fact that they attacked you never caused you to shoot at them. We can think that away today, on day one. You never fired at the intruders because they intend to attack you, the gun went off accidentally? And please, if you do not understand the question, I want to repeat it because it is day one and it is very important. --- Mr Nel, please repeat the question because,
20 My Lady, I do not understand.

Okay, I will. You never fired your gun at the intruders with intention to shoot at them? --- My Lady, as I said, I was not meaning to shoot anyone. I went to the bathroom so I could put myself between what I perceived was danger and Reeva. To approach... in the time that I did, I did not have much time to think. I was not... I dealt with a set of

circumstances that I was trying to deal with. When I got to the door I was unsure if there was somebody on a ladder or behind the door. I stood [intervenes]

I am going to be rude, Mr Pistorius, but I have warned you before. You are giving evidence, you are not answering. You have had an opportunity. My Lady, with the utmost respect, I have to do it, you had your opportunity. You are trying to give me a version every time. The fact is, did you shoot at the intruders with the intention to shoot them? --- My Lady, I shot because I was at that point with that... that
10 split moment I believed somebody was coming out to attack me, that is what made me fire my... out of fear. I did not have time to think. I discharged my firearm.

So let us make it easier. Because you feared, you shot at them? Am I right, or am I wrong and you have to please... this is important. --- I did not shoot at anyone. I did not intend to shoot at someone. I shot out of fear, My Lady.

Mr Pistorius, please. Okay, let me rather do something different. Are you feeling okay? --- I am not feeling okay, My Lady.

Okay, then you will use it as an excuse. What is wrong? ---
20 My life is on the line, My Lady. I need to answer and understand the questions that are being posed to me.

No, but [intervenes]

COURT: Hold on. Hold on. --- I am trying to answer them in the best manner I can. I did not shoot at someone. I did not shoot or intend to kill anyone. When I heard a noise I believed that there was someone at

that point already in the toilet because I had heard the door slam. When I heard the noise come from the toilet, I believed that a person was coming out, or persons were coming out to attack me.

MR NEL: Okay. --- I did not have time to think about what I was doing.

No, you see it is not that easy. I mean you... you know where we started? And the record will... luckily we have got a record. The record will be... "I discharged my firearm accidentally". It went off by accident. That is where we started now. Now we moved a full circle
10 and now you say [intervenes]

MR ROUX: My Lady, he never said that he discharged his firearm. He said... he was asked what does he mean by an 'accident'. He never said that he discharged it accidentally. It was the state putting that to him and he then explained his version. It was never his answer.

COURT: I am not sure you are correct, Mr Roux. I am not sure you are correct. I have it down here, unless I also misunderstood his answer. "I discharged the firearm accidentally."

MR ROUX: My Lady, then I did not... because I understood it differently. I will listen to it and then come back to you in the morning.

20 MR NEL: I agree on hundred percent with the court's note. I have the exact same note. We can listen to it 20 times, but I agree with the court. So now I am asking you and we have five more minutes Mr Pistorius, did your gun accidentally go off, or did you fire at the intruders? It is easy. --- My Lady, my firearm was in my possession. I was... I had my finger on the trigger... it was an accident what

happened. I agree with that. I did not intend to shoot anyone. I shot... I fired my firearm before I could think. Before I even had a moment to comprehend what was happening, I believed someone was coming out the toilet.

You see... okay. I will have to ask it in a way that you understand it. The only way... was the only way out for you to shoot this intruder, to protect yourself? Yes, or no? --- I did not have time to think about shooting an intruder, or not shooting an intruder, My Lady.

You know, Mr Pistorius, I am going to go through your evidence.
10 It is minute detail about when I go slower, or when I go faster, what I do, but just on this point, you do not know. You did not have time to think. --- No, I [intervenes]

The court will not accept it, Mr Pistorius. Let us try again. Let just get one thing out of the way. Did your gun go off accidentally? Yes, or no? --- My Lady, when I fired my firearm I believed that someone was coming out of the toilet to attack me. I do not know how to put it in a different way. I do not know what the implications of what Mr Nel is asking me about, if my firearm went off accidentally or not accidentally. I pulled the trigger at that moment when I heard the noise.
20 I did not have time to think about what was happening. I knew that somebody... or I thought that somebody was coming out to attack me. That is what I thought.

Now you see [intervenes] --- It is easy for me to sit back now and think back to that day and what I would have done, and what I could have done and if I had granted all the time in the world, but at that time I

did not. I had to deal with the situation that I found myself in. I believed that I was going to be attacked. I believed I was going to... my life was in danger... these very thoughts were going through my mind of what could have happened to Reeva. There have been people tied up in our estate before and assaulted. I had many, many thoughts. When I heard the noise I did not have time to think. So I do not know if the... I do not know if by me saying I fired my firearm accidentally what that means. I can say when I heard a noise inside the toilet, before thinking, out of fear, I fired four shots. When I realised the scale of what was happening, I stopped firing and I stood there and I was in shock. I do not know if I fired my gun accidentally or not.

Mr Pistorius, please. You have given your evidence. I will stop you every time now, because I have warned you. Why are you emotional now? Now that the question is so difficult, why are you emotional? What happened now?

COURT: No, hold on, hold on. Hold on.

MR NEL: He is emotional, My Lady. May I just ask [intervenes]

COURT: It is fine. It is fine. He may be emotional, but I do not think you can ask him why now. He has been emotional throughout.

MR NEL: I will abide with the court's finding and I will not pursue that question, but may I then ... and we are almost at the time for the adjournment and I am not going to go away. You are thinking of implications of an answer, am I right? You said that on two times. I do not know what the implications of Mr Nel's question and my answer would be. That is what is bothering you, the implication of the answer,

am I right? --- My Lady, I understand that, but what I am saying it is not just a physical accident. It is not just a physical movement of what happened that night. It is not just a firing of a firearm and the firearm went off by accident. What I am saying is that at that time I did not know what to think. I fired into the toilet door which was... I believed somebody coming out to attack me. I would not have had any way... if the person was armed or unarmed, to protect myself.

Mr Pistorius, I do not know what you are answering. My question was, are you thinking of the implications of the answer. Yes, 10 or no? That was the answer and you give me this version. --- My Lady, if I was sitting here and I was to think of every implication of what I say, it would be reckless. My life is on the line. Of course I think of every single word I say when I am sitting here.

But Reeva does not have a life anymore, because of what you have done. She is not alive anymore. So please, listen to the questions and give us the truth, and not think of the implications for you, Mr Pistorius. Now I am repeating the question. Is the implication of the answer bothering you? --- My Lady, all I can say is what happened. I need to say it as it did happen. At the time when I fired the shots, I did 20 not have time to think. I do not know if that... if it was by accident, yes, then I fired by accident. I did not intend to shoot into or... I did not intend to shoot at anyone.

You never intended to shoot [intervenes] --- So then if it is on that basis, I agree. Then I did. Then it was an... then it was an accident in the way I discharged the firearm. I cannot say I intended to shoot.

You never purposefully fired shots into the door? --- No, My Lady, I did not.

Okay, and that is where we will stop today. But, I unfortunately will have to show you something. My Lady, I will be referring to the bail application and Mr Pistorius, please open it at page 65. That is EXHIBIT D, My Lady. It is the bail application. Are you there, sir? --- I am My Lady.

Line 21. Let us start at line 19. My Lady, I will read it into the record.

10 "I felt trapped as my bedroom door was locked and I have limited mobility on my stumps. I fired shots at the toilet door and shouted to Reeva."

Why would you say that? --- That is correct, My Lady, that is what I said in my bail.

Why? --- I do not understand the question Mr Nel is posing to me.

Why would you say you shot at the door, and today you said you never did? --- I think it is obvious My Lady, that I shot at the door.

No. Okay. So when you said in your bail application you shot at
20 the door, it is because it was so obvious? --- I am not denying shooting at the door, My Lady.

You did. --- I said I fired at the door. I said I fired shots at the toilet door, that is what I did.

No, sir, you cannot get away, Mr Pistorius. I just asked you a question. Did you deliberately fire into the door and you said, no. Then

I read to you the bail application and now you changed it. Why? ---
My Lady, it is not that I did not do it. I did not say I did not do it. I said I
did not deliberately do it. I never said I did not do it.

But in your bail application you said you fired shots at the door,
and that was because it was obvious? --- No, that is because it was
the facts. That is the truth of what happened and I have not changed. I
still say I fired the shots at the door.

My Lady, it is [intervenes] --- That is what I said then and it is
what I say now, My Lady.

10 Are you done, sir? --- I am My Lady.

It is just past three, My Lady. Would that be an opportune
moment?

COURT: The court will adjourn.

MATTER POSTPONED TO 10 APRIL 2014

COURT ADJOURNS

[15:03]
