

IN THE REGIONAL COURT FOR THE REGION OF CAPE TOWN HELD AT CAPE TOWN

CaseNo _____

In the matter

STATE

V

MAKABONGWE NDOMASA

ACCUSED 1

PHUTHUMANI LUPHAYILO

ACCUSED 2

SKUMBUZO SIKA

ACCUSED 3

PLEA EXPLANATION IN TERMS OF SECTION 115 (3) OF ACT 51 OF 1977

We the undersigned and accused declare that we are fully aware of the charges proffered against us in this matter and plead **not guilty** to all the charges and put the state to the proof of each element thereof.

In further elucidation of our plea of not guilty we hereby elect to reveal the following issues of dispute which are integral to our defence.

1. We hereby dispute the admissibility and constitutionality of any and all confessions and or extra curial admissions made by us either individually or collectively and specifically aver :
 - i that our constitutional rights were inadequately explained particularly our right to legal representation,

- ii that we individually and or collectively indicated that we did not wish to make a statement and required counsel and that said indication was blatantly ignored ,
- iii that our interrogation was relentless and structured in such a fashion to bring us to the brink of exhaustion both physical and mentally and that the conduct of the South African Police and in particular the organised crime unit borders on torture,
- iv that at regular intervals we were individually exposed to methods of physical persuasion which included but was not limited to physical beatings ,
- v that said actions of the South African Police negated the voluntariness of any confession and or statement made by us
- vi that the admission of these confessions and or extra curial statements would render this trial fundamentally unfair , bring the administration of justice into disrepute and cause unimaginable prejudice to us and totally negate our right to a fair trial .

2 In support hereof we attach hereto copies of our warning statements marked A13, A14 and A 15 respectively

Signed this 10th day of January 2011 at Cape Town

Accused 1 _____

Attorney _____

Accused 2 _____

Accused 4 _____

