

**WALTER RODNEY COMMISSION OF INQUIRY**



**CO-OPERATIVE REPUBLIC OF GUYANA**

**THE WALTER RODNEY COMMISSION OF INQUIRY**

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**VERBATIM REPORT  
OF THE PROCEEDINGS**

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**Monday 26<sup>th</sup> January, 2015**

**WALTER RODNEY COMMISSION OF INQUIRY**

**WALTER RODNEY COMMISSION OF INQUIRY**

**67<sup>th</sup> Hearing**

**10:03hrs**

**27th July, 2015**

**Commissioners:**

Sir. Richard L. Cheltenham, K.A., Q.C., Ph.D – Chairman

Mrs. Jacqueline Samuels-Brown, Q.C.

Mr. Seenath Jairam, S.C.

**Secretary to the Commission:**

Mr. Hugh Denbow

**Counsel to the Commission:**

Mr. Glenn Hanoman - (Absent)

Ms. Latchmie Rahamat

**Administrator of the Commission Secretariat**

Mr. Hugh A. Denbow

**Attorneys for the People's National Congress (PNC):**

Mr. Selwyn Pieters

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### **Attorneys for Working People's Alliance (WPA):**

Mr. Christopher Ram

Mr. Moses Bhagwan - (Absent)

### **Attorneys for the Guyana Trades Union Congress (GTUC):**

Mr. Brian Clarke

### **Attorney for Dr. Patricia Rodney, Asha Rodney, Shaka Rodney and Kanini Rodney:**

Mr. Andrew Pilgrim, Q.C.

### **Attorney for Donald Rodney:**

Mr. Keith Scotland

Ms. Camille Warner - (Absent)

### **Attorneys for the Ex-GDF (Guyana Defence Force) Association:**

Lt. Col. (Ret'd) Joseph Harmon - (Absent)

Mr. Leslie Sobers - (Absent)

### **Attorney for Captain Gerald Gouveia:**

Mr. Devindra Kissoon - (Absent)

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### CALL TO ORDER

**Mr. Chairman [Sir Richard L. Cheltenham K.A., Q.C., Ph.D.]:** Concerning this secession, in another minute or two, we will be ready to start. I just want apologise to the public for not starting earlier, but we had a meeting among ourselves: the Commissioners, the Commission's counsels, the Commission's secretariat and the person of Mr. Denbow, discussing how best we may take full advantage the two days only - today and tomorrow - left for public hearings, which will be devoted, entirely, to receiving submissions from counsels on behalf of interested parties. Those discussions are now ended and in a minute or two we will hope to commence today's proceedings. Thank you.

Are we all ready? We are now formally in secession and I propose commencing today's proceedings by making a statement.

As I understand it, one or two counsels here on behalf of the interested parties may wish to put certain remarks and submissions on record, and as soon as I am finished, we will have the opportunity so to do.

Fellow Commissioners, the Commission's Counsels and Counsels at the table representing various parties, members of the press and members of the public in attendance, Guyanese both at home and abroad, good morning. The Walter Rodney Commission of Inquiry last sat on Friday, 27<sup>th</sup> March, 2015. Since then, much of significance has happened in Guyana. Specifically, on Monday, 11<sup>th</sup> May, 2015, a general election was held and it resulted in a change of Government.

The current Administration led by President David Granger has determined that the Rodney Commission of Inquiry will have just two more days for public hearings, today 27<sup>th</sup> July and tomorrow the 28<sup>th</sup> July. Both days will be devoted to receive submissions from counsels representing interested parties. The next three days of this week, Wednesday, Thursday and Friday, will be spent by the Commissioners in private secessions.

Among other things, we will, along with the Commission's Counsels, be reviewing the evidence received thus far. We will in addition, be identifying the themes that can be extracted there from

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and we will too be determining how best to approach the task of writing up the Report and specifically, who will be responsible for which areas of the Report.

We feel obliged to observe that is wholly within the competence the executive arm of Government to terminate the public hearings of the Commission, after two further days of public hearings. That type of action is not at all unknown, following the change of government in our Westminster Whitehall type of government or variance of them. It must be remembered that Commissions of Inquiry are creatures of the Executive. The executive arm of government establishes them and sets them up. The executive arm determines their terms of reference; the executive arm decides who the commissioners are and who will chair the commission; the executive arm of Government compensates the commissioners and terms negotiated with them; it provides the resources to fund the activities of the secretariat of the commission; the executive arrange for the location where the hearings of the Commission will take place; and much more. What the executive arm cannot do and will never be permitted to do, and I must add that nobody has made any attempt to so do, is to tell us as Commissioners what evidence we will find; what evidence we will reject; what weight we will attach to the evidence; and what our findings, facts or recommendations will be. That is the area within which we retain complete independence, but in a lot of other areas, we are creatures of the Executive.

In countries with a Whitehall Westminster types of government or variant of them, such as exist here in Guyana, a new administration can alter the terms of a commission or collapse an existing commission of inquiry. I will provide you with two illustrations only. In the Island of Nevis, just a few years ago, when Vance Amory, the current Premier, returned to office, his administration, as the first order of business, terminated the commission of inquiry then in existence. The commission was headed by an English Queen Counsel of the Competition Bar and I was then severing as Commission Counsel, and so I know at first hand of what I speak.

In Australia, in the mid-1980s, the Fraser Administration was followed by that of Whitlam. The Whitlam Administration terminated all the commissions established by the previous administration. These are just two illustrations of the fact that commissions of inquiry are creatures of the executive.

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Thus, there has been 66 days of public hearings and 29 witnesses have so far testified. The testimonies of three of those witnesses are incomplete. The witnesses whose testimonies are incomplete are Norman McLean, Alan Gates and Holland Yearwood.

The decision of the Executive may well have implications for the thoroughness of the Commission's Report. As far as witnesses still to testify will not be heard, some of the terms of reference, not adequately supported by testimonies thus far, will remain in that incomplete state.

In addition, the fairness of the Report could conceivably be impacted as well. We give this assurance, however, that insofar as there is adverse evidence provided in relation to any individual alive because some of the testimonies relate to people who have been long dead, but insofar as there is adverse evidence provided in relation to any individual alive who has not been provided an opportunity to confront that evidence and comment on it, whether by way of denial, explaining it away or otherwise commenting on it, the Commission will be disinclined to make any adverse findings. I should add that if we find it necessary to make a finding, we will be sure to add that the individual, about whom the evidence was given, did not have the opportunity to comment on it and that any report or any comment that we make should be read, subject to that major omission.

Thus far, we have had 66 days of public hearings and 29 witnesses so far have testified and those I have indicated. Three of those witnesses have not completed their testimonies.

Today, we will be hearing submissions from some of the Commission's counsels and the whole of tomorrow we will continue with those submissions. I have hesitated to impose the time limit on the length of counsels' submissions. I was hoping and still hoping that counsel will arrange, among themselves, how long they are likely to go, so that in the end, by the time we are finished with business tomorrow we would have heard all the submissions.

When we are ready, very shortly, I think that Mr. Scotland will be batting first today, as it were, but he has asked and will be given the right, to add at a later stage to his submissions, as the case may be. I am still awaiting a signal as to who will go second, but the same applies that if having gone, at this stage, one may wish to add anything subsequently, either orally or in writing, one will be given the permission to so do. That completes my remarks please.

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**Attorney for Patricia Rodney, Asha Rodney, Shaka Rodney and Kanini Rodney [Mr. Andrew Pilgrim]:** Good morning Mr. Chairman.

**Mr. Chairman:** Good Morning.

*10.18hrs*

**Mr. Pilgrim:** Andrew Pilgrim on behalf of the immediate family of Walter Rodney. I think it is incumbent on me to say that we are obviously somewhat disappointed by the fact that we find ourselves after 34 years being asked to truncate these proceedings knowing full well that at least a few extremely significant and important witnesses remain to be heard; including the completion of Mr. Norman McLean, the hearing from Mr. Cecil Skip Roberts, Dr. Rupert Roopnarine and, against that background, I think we are all very much aware that the family of Dr. Walter Rodney come to this hearing seeking some form of closure and seeking to have a hearing that can be looked upon as being fair and thorough and done in the interest of justice but as you Mr. Chairman correctly point out this is a creature of the Executive and the Executive must know that it is their right to shut us down willy-nilly or otherwise, but we would want to urge the Commission, through its good offices, to ask the Executive to acknowledge that at this stage it is our belief that with two weeks of public hearings with the appropriate notices to the relevant witnesses, this Commission could be said to have done a complete and thorough job in light of all that has been achieved by this Commission so far. As the Commission is aware, I indicated that in writing before that we support any such entreaties that the Commission seeks to make and we would view that as the best way for the Commission to be managed, going forward; that is to say to have two weeks of further hearings. We acknowledge that the Commission is not always in a position to do its own leg work in that regard but we know that these are public hearings and that they are being heard by the Executive. We were told that the Hon. Attorney General might even be present physically today and might hear more of this but in jurisdictions like ours where party politics always has some influence on proceedings – I do not mean influence in terms of findings that this Hon. Commission would make but in terms of the logistics, the payment of persons, much of which we have heard in the press – we are aware that the Executive has the final say but we want to put before this tribunal our application that there be further hearings in this matter to allow those witnesses, who we regard as essential, to be



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brought before the tribunal. We are also aware that Salmon letters were sent to some of these parties with the understanding that those parties would come before this tribunal on Wednesday's date. I am assuming that that position as outlined to us by email sometime last week remain so. My estimation was that those persons would be receiving very limited notice – I think three working days – of their opportunity to be heard and that some of those persons live overseas; so that we are very much aware that those notices which seek to allow these persons their right to respond are set against a background that the notice is inadequate. It is almost as if we are saying to them we want you to have the opportunity to be heard but we are not giving you the opportunity and that is a really grave concern as expressed to me by my clients. So it is our hope that those Salmon letters sent even now would be given some greater impact and effect if they were accompanied by an extension of time, sometime well within the life of this Commission, which I now understand to be the end of November.

**Mr. Chairman:** But the period after Tuesday was really the period within which the report will be prepared. That is my understanding. There will be no more unless there is a subsequent change to the public hearing.

**Mr. Pilgrim:** I understand, Mr. Chairman, but I am inviting the Executive and indeed this Commission to consider, especially in light of the Salmon letters which the Commission sent last week saying to people '*come on Wednesday*', to important Witnesses who we will no doubt now have no opportunity to cross in any real way. We will not have the ability to see them flinch under the cross-examination of the learned colleagues at this bar table. Against that background we continue to urge the Commission and indeed the Executive, who not doubt are hearing us, that the opportunity is still there to rescue this Commission from the status of what in Trinidad I think, my learned friend, they call a 'pappy show' and to prevent anyone being able to say years later '*Oh they just squeeze them and tell them to finish and they had to finish*'. They just grab hold of them and told them, '*You are judges but we gone tell you when to judge and how to judge*'. Obviously they cannot affect your decision, they can never tell you what to decide and what weight to give to what but if they know full well that important Witnesses remain outstanding and they chose to act in a way that prevents them from being heard in accordance with the right to fair hearing as we know and understand it *audi alteram partem*. They

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themselves are opening themselves, the Executive, to criticism and this Commission to criticism and they are then going to be exposed to the criticism that they attempted to politicize these proceedings. We urge the Executive as they listen to reconsider their position as it currently exists, as I understand it, as enunciated by you Mr. Chairman and to look into whether two weeks of expense not including any consultants as we have heard much about in the press but just the bare bones of paying for the Commissioners to be here to hear us and funding any Witnesses who require essential funding to be here, whether that is not important enough to warrant a fortnight's work and a fortnight's expense on a hearing that has waited for 34 years and against a background of several other hearings that have fallen short of what you, Mr. Chairman and your colleagues, can achieve. Having said all of that Mr. Chairman, my learned friend Mr. Scotland and myself have both made every effort to try to be ready to assist this Commission as much as possible by today's date and we have...

**Mr. Chairman:** Thank you both.

**Mr. Pilgrim:** ...and we have submitted as best we could some closing arguments and we have done a final... I better not say 'final'. We have added to what we have submitted before you on Friday's date and Saturday's date and we will seek as much as possible to take you through those submissions. My learned friend Mr. Scotland is prepared to go today as I understand it and to go immediately subject to your wishes and I am prepared to go tomorrow morning so with that I give way to my learned friend.

**Mr. Chairman:** You did write a letter to the Commissioners?

**Mr. Pilgrim:** I did. Mr. Chairman, I beg your pardon, on the 25<sup>th</sup> July.

**Mr. Chairman:** I just wondered whether you wanted it to be part of the record...

**Mr. Pilgrim:** Grateful to you, Mr. Chairman.

**Mr. Chairman:** ...and if so you should formally tender it and we would be prepared to attach a tag to it and have it admitted as part of the record. So you may just want to say something about it...

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**Mr. Pilgrim:** Yes.

**Mr. Chairman:** ...by way of introducing it, the date and its substance without reading it at this stage.

**Mr. Pilgrim:** Grateful to you Mr. Chairman. The letter was sent on 25<sup>th</sup> July, 2015, and it was addressed to Sir. Richard L. Cheltenham, Knight of St. Andrew, etcetera in care of the Walter Rodney Commission of Inquiry and it was with a caption *Re: The premature conclusion of the Commission of Inquiry into the death of Walter Rodney* and outlined a number of issues to which I have already referred including the outstanding Witnesses and the part-heard Witness, Normal McLean, and the question of the Salmon letters that were served on them. The letter refers to the fact... I will just read that paragraph. “We have recently seen the purported Salmon letters in the matter and associated notices. It appears that the Commission is thereby giving persons “six days’ notice (3 working days’ notice) of a duty to appear before the Commission on the 29<sup>th</sup> July, 2015. Based on all the above, it would seem highly unlikely that the Commission will be able to complete its work in a manner that is fair and equitable to all interested parties...” and that letter goes on to indicate that Counsel for the immediate family of Dr. Walter Rodney fully support any endeavour by the Commission to encourage the Executive to extend these proceedings though it does not speak to the two week period to which I referred earlier. I would ask that the letter, signed by myself on behalf of the immediately family and co-signed by my learned friend Mr. Keith Scotland on behalf of Donald Rodney be marked for the record.

**Mr. Chairman:** Okay, you want to call it AP 1?

**Mr. Pilgrim:** I think we should be alright with AP 1. I am recalling...

**Mr. Chairman:** You had some other Exhibits in before?

**Mr. Pilgrim:** Not in my name. I think in the names of my clients so I think AP 1 should be clear.

**Mr. Chairman:** Very well we will receive it and so tag it, AP 1.

**Mr. Pilgrim:** We are grateful to you, Mr. Chairman. It was circulated by email to the Commission’s Secretariat and to Counsel although I think through some confusion on my part I

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may not have sent it to my learned friend Mr. Christopher Ram but I will make arrangements to have it forward to him by the end of the day.

**Mr. Chairman:** Very well.

**Mr. Pilgrim:** Grateful to you, Mr. Chairman. Perhaps I am pausing, Mr. Chairman, hoping that the Attorney General will run in the door and say yes he agrees '*two weeks*' but until we see that we will proceed.

**Counsel for the People's National Congress (PNC) [Mr. Selwyn Pieters]:** Mr. Chairman, I should say that... Well firstly let me introduce myself in a different role. Mr. Chairman, as of this weekend you would have known that I have resigned as Counsel for the Guyana Trades Union Congress and I have taken up the brief as Counsel for the People's National Congress, replacing the Hon. Basil Williams who is now the Attorney General of Guyana. My colleague, Mr. Brian Clarke, has taken my role in respect to the Guyana Trades Union Congress. He will be Sole Counsel for the Guyana Trades Union Congress and I am Sole Counsel for the People's National Congress. Mr. Basil Williams was supposed to make an appearance here this morning but the President is doing a national address to the National Rice Millers Association this morning and so Mr. Williams did send his regrets a few moments ago that he is with the President and he is unable to be here but he will be here as soon as he can get here.

**Mr. Chairman:** Thank you.

**Commissioner [Mrs. Samuels-Brown, Q.C.]:** Mr. Chairman, may I just inquire because Mr. Pieters announced that he is now sole counsel for the PNC, is it that Mr. James Bond name is to be removed from the record?

**Mr. Pieters:** There is no other Counsel on the record for the People's National Congress except myself at this moment.

**Mrs. Samuels-Brown:** Mr. James Bond no longer appears for the PNC?

**Mr. Pieters:** No. He is not.

**Mrs. Samuels-Brown:** Thank you.

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**Mr. Chairman:** We will just tease you by asking you if you have permission to take him off the record?

*[Laughter]*

**Mr. Pieters:** Mr. Chairman, the instructions that I have is that I was appointed Counsel for the People's National Congress and as I know I have no co-counsel.

**Mr. Chairman:** Very well, thank you.

*10.33 hrs*

**Mr. Pilgrim:** My learned friend places himself in an interested and enviable position where he has signed two sets of submissions before this Commission, some of which seem, in my view, to run counter to each other, but I am sure that the Commission will be able to weigh it through, as is necessary.

**Mr. Chairman:** Are we asked to reconcile that or the author should reconcile that himself?

**Mr. Pieters:** Mr. Chairman, my role is an advocate, so I will let my work speak for itself. I will respond to Mr. Pilgrim's and Mr. Scotland's submissions that were made a few minutes ago.

**Mr. Chairman:** I just thought I would give you one advice that former Prime Minister Tom Adams once gave me. He said the batsman does not have to play at every ball.

*[Audience Laughter]*

Always remember that. Everything that is said, you do not have to respond to it, just let some balls pass. Who goes next?

**Mr. Pieters:** I go next, Mr. Chairman.

**Mr. Chairman:** Very well, I am happy to hear you Sir, please proceed.

**Mr. Pieters:** Thank you very much. Selwyn Pieters for the People's National Congress [PNC]. By way of *Extraordinary Gazette* dated 8<sup>th</sup> July, 2015, under the signature of Lieutenant Colonel Joseph Harmon, Minister of State, the life of the Commission was extended for the final time to

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30<sup>th</sup> November, 2015. That is the date specified by the President, by which the Commission shall render its report, findings and recommendations to the President within that specified period. It is our submission that the Commission, whose life has been extended to 30<sup>th</sup> November, has not been terminated prematurely. Mr. Chairman, the position that we take is that nothing precludes written hearing for those issues to which the summoned letter pertain. It is our position and the other parties may disagree, but certainly questions can be submitted in writing. The persons to whom the information is sought can submit affidavit evidence and the parties can be given an opportunity to file additional written submissions or supplementary written submissions - if that is necessary. Mr. Chairman, for that proposition I relied on a case called *Vale vs Sunlife Assurance of Canada*.

**Mr. Chairman:** Just spell it for the purposes of the records.

**Mr. Pieters:** *V-a-l-e vs S-u-n-l-i-f-e A-s-s-u-r-a-n-c-e Company*, a company of Canada. That was a reported decision, 1988, for the OR which is “*Ontario Reports*”, the third edition, 347. Mr. Chairman, my friend, Mr. Pilgrim, and rightfully so, spoke about the *audi alteram partem* rule and certainly we do not disagree that in administrative proceedings the *nemo judex in causa sua* and other *audi alteram partem* exist and certainly in the case of ...

**Mr. Chairman:** I think for the purposes of the listening public, you should try to avoid the Latin tides and if you use them, you should explain what they mean.

**Mr. Pieters:** Certainly Mr. Chairman. The two terms speak to issues of fairness and issues of impartiality, so they speak to those two concepts. In a case called *Marks vs Minister of Home Affairs*, 35 *West Indian Report*, at page 134, that decision cited a case called *Kanda vs the Government of Malaya*, 1962 EC322, in which Lord Denning, given the judgment of the Privy Council said this:

“The rule against bias is one thing. The right to be heard is another. Those two rules are the essential characteristics of what is often called natural justice. They are the twin pillars supporting it. The Romans put them in the two maxims: *nemo judex in causa sua*: and *audi alterem partem*. They have recently been put in the two words, impartiality and fairness. But they are separate concepts and are governed by separate considerations...

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If the right to be heard is to be a real right which is worth anything, it must carry with it a right in the accused man to know the case which is made against him. He must know what evidence has been given and what statements have been made affecting him: and then he must be given a fair opportunity to correct or contradict them... the judge or whoever has to adjudicate must not hear evidence or receive representations from one side behind the back of the other.”

Mr. Chairman, I say that because the fact is, the questions and evidence that Robert Corbin, for example, was required to answer have been crystallised since November, 2014, when Lieutenant Sydney James testified. We say that no plausible explanation has been offered on why a summoned letter was not issued to him shortly thereafter. His name was serialised in the media by the consultant of the Commission, Shaun Michael Samaroo in an article called “*Corbin delivered guns to the House of Israel*” in the *Guyana Chronicle* on 3<sup>rd</sup> June, 2014. We understand the concerns that Mr. Pilgrim has raised in respect to the three business days’ notice, to which these summoned letters were issued, but we say that no explanation has been given to us as to why the summoned letter would not have been issued to Robert Corbin, shortly after Lieutenant Colonel James testified in November, 2014.

**Mr. Chairman:** Perhaps you will allow me to interrupt you just to say that, the usual practice in commissions is that, towards the end, one sends out their summoned letters, otherwise the same person may have to get three or four, so one really determines who the persons are that merit summoned letters when the evidence is really at an end. That would have been premature to send out one at that point. It is really not in keeping with the standard practice, but I have taken note of what you said. Please proceed.

**Mr. Pieters:** In respect to Norman Mclean and “Skip” Roberts, we understand that “Skip” Roberts was here for a certain period and his evidence was not taken. We also understand as well that the evidence for “Skip” Roberts would have been crystallised in January, 2015, and the same applies in respect to him that there is no explanation as to why he was not issued his summoned letter previously. So, the PNC’s position, therefore, is that enough time has been allocated to the Commission to wrap up its proceedings, including obtaining evidence from witnesses issued summoned letters without personal appearance. Such witnesses, as I indicated before in my

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submissions, can give their evidence by way of affidavit and counsel can submit written questions to those witnesses and supplementary written submissions, arising out of any evidence that becomes available, can be made. There is therefore no breach of legitimate expectation, as Mr. Pilgrim submits and no breach of natural justice of the Rodney's family are asserting. Therefore, we submit that any request for petition to the President should be disallowed, since, indeed, one has until 30<sup>th</sup> November, 2015, to complete their mandate. Those would be my respectful submissions.

**Mr. Chairman:** Thank you very much, Sir. I regard your suggestion with respect to responses, by way of affidavit from those who have not yet testified, as worthy of serious consideration by the Commission. It is a question to some extent of resources as well, but it is certainly not an idea not worthy of serious considerations, so thanks very much for your submissions, Sir.

**Mr. Pilgrim:** Mr. Chairman, I just wonder if I could invite my learned friend, who is counsel for the Guyana Trade Union Congress [GTUC] to respond because in his written submissions submitted to this Tribunal, I think on Friday's date, at paragraph 13, he refers to the fact that this Commission is extended, and at paragraph 14, indicates that "GTUC would have liked to see the Commission to a fruitful conclusion, where each and every witness remained to be heard, was heard, including Robert Corbin, Cecil "Skip" Roberts, Norman McLean, Rupert Roopnarine and Lincoln Lewis. This solitary act would have contributed to filling *lacunae* in bizarre fashion". It is very strong language from counsel – "bizarre fashion". Summoned letters were issued on behalf of Mr. Robert Corbin, Mr. Norman McLean, Dr. Rupert Roopnarine and Mr. Cecil "Skip" Roberts to appear before the Commission on Wednesday 29<sup>th</sup> July, 2015. "Indeed the fact remains that the evidence of these Witnesses will be subjected to cross-examination and such cross-examination will obviate any misguided perception that unchallenged evidence was accepted, which is a positive, yet the Commission requested final submissions be submitted by all parties by Friday 24<sup>th</sup> July, 2015". Now it seems to me that GTUC is supporting my position. I invite them to put on record their support from my application.

**Mr. Chairman:** Who are you inviting to it?

**Mr. Pilgrim:** Whosoever is counsel for GUTC at this moment.



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**Mrs. Samuels-Brown:** But I think you should be fair, since you are referring to the written document, to say who the authors of the written document are.

**Mr. Pilgrim:** The authors of that document I understand to be Selwyn Pieters and Brian Clarke. It may be that today the appearances have been confirmed otherwise, but it is difficult in the context of a Commission of Inquiry where counsel only appear by the leave of the Commission on Friday to the Tom and on Saturday to be Dick, but if it is that one cannot be Tom and one cannot be Dick, someone, either Tom or Dick, needs to explain to us and clarify, the differing positions of GTUC and the PNC. There is nothing wrong with them having different positions. I just want them to clarify.

**Commissioner [Mr. Jairam, S.C.]:** It seems the document you have read from, which is filed on behalf of the Guyana Trade Union Congress, at paragraph 15, supports your position as well - it appears.

**Mr. Pilgrim:** That is the 15 I just read, Sir.

**Mr. Jairam:** I thought you read 14.

**Mr. Pilgrim:** I read 14 then I went on to 15 "... whilst we respect the decision taken by His Excellency, President David Granger and his Cabinet to abrogate the life of the Commission, we still need to be mindful of striking the right balance between expeditiousness and the objectives that all parties concerned, have expended time and energies to achieve". At the start of this Commission, we strived with a common goal of finding answers.

**Mr. Pieters:** Mr. Chairman, let me interrupt at this stage because Mr. Clarke is here for GTUC and I am that sure Mr. Clarke is able to make the GTUC's case and does not need Mr. Pilgrim to sit in *loco parentis* to him.

**Mr. Pilgrim:** I am just inviting him to support me.

**Mr. Pieters:** He does not need you in *loco parentis* to make the submissions that he can make.

**Mr. Chairman:** Okay, I think we may have gone ahead this morning because those of you who are now acting for others should have very earlier...

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**10:48hrs**

**Mr. Pilgrim:** I am just inviting him to support me.

**Mr Pieters:** He does not need you in *loco parentis* to make the submissions that he could make.

**Mr. Chairman:** Okay, I think that we have run ahead this morning, because those of you who are now acting for others should have very much earlier today asked for standing to represent different parties and that has not happened. I think that perhaps the time has now come when, late as it is, we should who is representing which party, given that there has been some movement in terms of representation, since last we were here.

Mr. Pieters, can you tell us who you were on record for before and who are you on record for now?

**Mr. Pieters:** Mr. Chairman, I believe I did that earlier but I am pleased to repeat myself. From 2<sup>nd</sup> May, 2015, until... As it is, Friday I represented the Guyana Trades Union Congress at this Commission of Inquiry and we were given full standing any my junior co-counsel, Mr. Brian Clarke, continues to represent the GTUC but both of us represented the GTUC for the full evidentiary stage of the proceedings.

As you spoke of earlier, there has been a change in the Government of Guyana, where the APNU/AFC has now assumed the reins of power and Mr. Basil Williams, who was Counsel for the Peoples National Congress, is the Attorney General and Minister of Legal Affairs of Guyana. There is no other Counsel that participated in the Commission or throughout the life of the Commission that has a memory of what took place and the evidence and the transcripts, et cetera and Mr. Williams has asked me to assume that role, given the issues that have to be addressed in respect to the late Prime Minister Forbes Burnham, the issues in respect to the State as it was between the period within the Commissions' mandate and the issues with respect to the Peoples National Congress.

**Mr. Chairman:** As I understand it, all of that is to indicate that you are now respectfully seeking leave to represent the PNC?

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**Mrs. Samuels-Brown:** To get standing.

**Mr. Chairman:** You want standing?

**Mr. Pieters:** Yes, so respectfully, I am asking for standing to represent fully the interest of the Peoples National Congress and my colleague Mr. Brian Clarke, who was Junior Counsel, will step up as Sole Counsel for the Guyana Trades Union Congress.

I should tell you that the issue was discussed with our client and Mr. Lincoln Lewis is quite agreeable that I resign, even though he was not happy about it; he is still accepting that I can resign from representing the GTUC and represent the Peoples National Congress. There is no conflict of interest issue.

**Mr. Chairman:** That is, as they say, 'a domestic matter' and I leave that to your good judgement. I take it that Mr. Clarke will in time be making his application for standing in relation to GTUC.

**Mr. Pieters:** Mr. Clarke has standing. He was co-counsel all the time. I do not see why he should make a new application, if he has standing already on the record, as co-counsel.

**Mr. Chairman:** Okay, thank you.

**Mr. Pilgrim:** Mr. Chairman, just a small housekeeping matter before you caucus. Just that the stream is going only with video and no audio and my clients asked to draw that to the Commission's technical staff attention so that can be rectified.

**Mr. Chairman:** They are...

**Mr. Pilgrim:** They are seeing your...

**Mrs. Samuels-Brown:** ...but they are not hearing.

**Mr. Pilgrim:** They are not hearing any of the content.

**Mr. Chairman:** They cannot work out what you are saying.

**Mr. Pilgrim:** The agony I am suffering, Sir.

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**Mr. Chairman:** Alright. I think the technical chief has heard that and he is at work already.

**Attorneys for the Guyana Trades Union Congress (GTUC) [Mr. Brian Clarke]:** Good morning, Mr. Chairman and Commissioners... Apologies.

*[10:51 hrs – 10:53 hrs Commissioners in Conference]*

**Mr. Pieters:** Yes, Mr. Chairman?

**Mr. Chairman:** We are happy to grant you standing in relation to your new client, the PNC.

**Mr. Pieters:** Thank you, Mr. Chairman.

**Mrs. Samuels-Brown:** You are going to invite Mr. Clarke?

**Mr. Chairman:** Yes.

**Mrs. Samuels-Brown:** I just want say, just to be clear... I want to ask the written submissions filed on behalf of the GTUC, has not been withdrawn and there has been no application to amend it, so I am assuming that the GTUC stands by these submissions.

**Mr. Clarke:** That is correct.

**Mrs. Samuels-Brown:** Okay, because the difficulty has arisen, or difficulty if difficulty there is, has not arisen because of submissions themselves but really centres on the change of representation in relation to Mr. Pieters and not to Mr. Clarke. I just wanted us to be very clear on that.

**Mr. Clarke:** The submissions still stand and again I would like to respond to my learned colleague, Mr. Pilgrim, when he referred to paragraph 13, 14 and 15, yes that is indeed the GTUC's position.

**Mr. Chairman:** For the benefit of all those who are listening to us, what is paragraph 13, 14 and 15?

**Mr. Clarke:** Mr. Chairman, I was referring to paragraphs 13, 14 and 15 of the GTUC's written submissions and I can...

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**Mr. Chairman:** I am hearing you well. All I am telling you that the many hundreds of thousands, perhaps, who are listening to us everywhere want to be able to follow what is happening. It is not bedroom business, you know.

**Mr. Clarke:** I am guided, Mr. Chairman.

**Mr. Chairman:** Spell it out what you are talking about.

**Mr. Clarke:** At paragraph 13, it states, “By way of extraordinary Gazette dated 8<sup>th</sup> July, 2015, the life of the Commission was extended for the final time to 30<sup>th</sup> November, 2015. The extension of the life of the Commission came to an end on 31<sup>st</sup> March, 2015. Based on the advice provided to the President, the life of the Commission is hereby extended to 30<sup>th</sup> November, 2015, being the final extension.”

**Mr. Chairman:** So, you are only referring the extension which Mr. Pilgrim already alluded to. It was important that you spell out what you were talking about and different groups of people are joining us at different stages; always be clear. I know what you meant.

**Mr. Clarke:** I am guided, Mr Chairman.

**Mr. Chairman:** Mr. Pilgrim had earlier referred to it.

**Mr. Clarke:** What I am referring to is the fact that at this point, GTUC more or less, takes the position that you cannot come to a conclusion based on incomplete evidence. It is an incomplete evidentiary record at this stage and whilst we respect the decision to bring the Commission to an end, we still need to be cautious about how we achieve that end.

It is a difficult task and it is our position that we need to be mindful of the time and energy that everyone has expended to this date as well.

More importantly, perhaps, is those people who have been waiting 34 years to see some closure to this matter. That is a very serious and careful balancing act that needs to be done to achieve this end in two days.

Just to summarise paragraphs 13, 14 and 15, Mr. Chairman.

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**Mr. Chairman:** Thank you.

**Mr. Pieters:** Mr. Chairman, since I was in the role of GTUC's Counsel and I am now in the role of the PNC's Counsel, in our submissions, both in writing and orally this morning, we suggested a way in which a balance could be achieved in terms of hearing those witnesses and those would be my reply to the three lawyers that made submissions earlier that are opposite to what I said in terms of what can be done to achieve what the Commission wants.

**Mrs. Samuels-Brown:** 'Our' means PNC, right?

**Mr. Pieters:** Yes.

**Mr. Chairman:** I am a bit lost though about the nature of the submissions that we are hearing. We have spent over 60 days in public hearings and nobody has commented on the evidence to suggest how we ought to find and what we ought not to find and so on, so there seems to be a misappreciation about what this session is about. It is largely ... Other issues have arisen because of what we call the premature termination of the public hearings. Having said that, the business of today is largely concerned to submissions about the evidence that has been received thus far but I have not heard anything about the evidence.

**Mr. Pieters:** Mr. Chairman, speaking for the Peoples National Congress, you have heard from Donald Rodney who was the only witness in these proceedings. You have heard from Anne Wagner, who is the sister and confidante of Gregory Smith, who authored a book as well but she provided extensive evidence here. You have heard from Tacuma Ogunseye, who was a member of the security committee. You have not heard from Dr. Roopnarine but...

**Mr. Chairman:** What are you doing? You are reminding us of what we already well know about the people who came forward to testified? I am not talking about that. I am saying that the purpose of our meeting here today is to receive submissions about the evidence and what colouration we should put on it as we set about writing the report. What evidence should we accept and what evidence should we reject. How should conflicts in the evidence be treated by us? It is that sort of focus that I was expecting to hear from Counsel this morning.

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**Mr. Pieters:** Mr. Chairman, let me say, I think that I have some of that in my submissions and at some point while I am doing my oral arguments I will tell you how you can deal with those issues because certainly those issues would go to issues of credibility and reliability and I am certainly happy to address them when my turn comes to do submissions.

**Mr. Chairman:** But I thought that the hour for making those submissions had come. It is just today and tomorrow.

**Mr. Pieters:** Mr. Chairman, you have heard from me and you have heard that my submissions will be made tomorrow. I think that we know that Mr. Pilgrim and Mr. Scotland will be going today.

**Mrs. Samuels-Brown:** That was not... I think that we need to be careful because it was never said that Mr. Scotland was going today, unless you Counsel have agreed on that now. It is Mr. Scotland who is going today and not Mr. Pilgrim but I knew that it was one or the other. Yes, it is not Mr. Pilgrim, it is Mr. Scotland but if I may have a moment to confer with the Chairman.

*[Commissioners in conference]*

**11.03 hrs**

**Mr. Chairman:** If the earliest session is regarding as Counsel putting on record their reservations and concerns about the premature termination of the commission's public hearing. I think we may now – correct me if I am wrong – regard that process at an end, that stage, and we can now move to the submissions in earnest.

**Attorney for Donald Rodney: Mr. Keith Scotland:** Chairman when I start and I am sorry that I haven't had a chance to put my reservations, I say this... I do not want my client, because I have firm written instructions from him... I would take, respectfully, about five minutes to put my... I haven't put my reservations yet I am ready to go and address the core issues directly thereafter. I have not said a word for the day on that on record, I must put it on record, those are my instructions.

**Mr. Chairman:** You are invited so to do.

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**Mr. Scotland:** Must oblige Mr. Chairman, May I proceed? Mr. Chairman, before I begin my oral closing submission on behalf of Donald Rodney, who is present today, I must say that the truncating or abridging of the proceedings by the executives has caused my client severed disquiet. I noted that the executive did not change the Terms of Reference what it has done was give directions and directives on the 2<sup>nd</sup> of July 2015 for the hearing of closing submissions. It is my respectful view, Mr. Chairman, and my understanding that closing remarks and addresses can only occur after all the evidence has been closed. In this Commission of Inquiry all the evidence have not been closed because all of the evidence has not been received and all completed. I am fortifying in my submissions after having reviewed the proceedings and what state we are in at this stage. Mr. Chairman in your opening remarks you alluded to some 29 witnesses who have given evidence, I have checked 26 but I defer to your calculations, but in terms of what is still outstanding this is what our records have revealed; part heard is still Norman McLean, Allan Gates and Holland Yearwood still to testify are Robert Corbin, Cecil Skip Roberts, Dr. Rupert Roopnairne and Norman McLean who summons letters have been issued too. And it is my understanding that in the commission's possession are witness statements from Lincoln Lewis, Lula Hanoman, Lennox King and Carl Martindale. In this regard Mr. Chairman is my submission that having received some 29 witnesses and part heard some 4 others, not included Senior Superintendent Leslie James, who I think was supposed to come back, Mr. Chairman, this Commission is very close in completing its mandate; therefore, I ask, why the undue haste for completion? Based on the track record and the industry of this Commission we respectfully submit that an outer limit of two weeks can give this Commission time to complete its work and Counsel for Donald Rodney remains committed to making himself available for any date set by this Commission between now and November for the completion of that task. What I am being called upon to do at this stage with great protest is to make closing submission in a very important inquiry in this diaspora that is very near the end to completion but not yet completed. Chairman, may I respectfully refer this Commission to Term of Reference (v) which reads as follows "to examine and review and report on earlier investigations and inquires done into the death of Doctor Walter Rodney". In this regard I refer the commission NRK 3M which is the ICJ report, Mr. Chairman, tendered before this Commission on the 29<sup>th</sup> of October, 2014, at hand of Mr. Kanhai and the recommendations of this report, in particular recommendation 2 and 3 reads



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as follows, its starts by saying “An independent comprehensive and thorough...” May I start with number one, please? Mr. Chairman, do you have a copy of that report?

**Mr. Chairman:** Yes... *[Inaudible]*

**Mr. Scotland:** Right and here is what it reads under “Recommendations”, “After having carefully examined the evidence placed before it he makes the following recommendations:

1. A comprehensive and thorough inquiry into the circumstances surrounding the death of Dr. Walter Rodney should be held. It should seek to establish any involvement in his death taking into account the political background existing at the time”.
2. The inquiry should be entrusted to an impartial and independent international commission with sufficient powers to summon and examine witnesses and gain excess to any relevant governmental and judicial files.
3. The appeal proceedings in the case of Donald Rodney pending since 26<sup>th</sup> February 1982 should be speedily brought to an end.”

Mr. Chairman, having juxtaposed all those recommendations it was my optimistic view at the start of this Inquiry that this Commission met all the criteria set out by this ICJ report. There is an independent international commission consisting of independent international commissioners from the Southern end of the diaspora which is Trinidad and Tobago stopping in the middle of the diaspora which is Barbados ending at the top of the diaspora which is Jamaica.

**Mr. Chairman:** I thought we were far at the East.

**Mr. Scotland:** Mr. Chairman, my nautical sense is always... my cardinal sense is always...

**Mr. Chairman:** Very well. Very well

*[Laughter]*

**Mr. Scotland:** Yes, with the palatial shifts but I say this: how then could then this Commission, having met that part of the mandate, do a thorough and comprehensive investigation without completing all the Witnesses? This Commission, Mr. Chairman, with the greatest of respect, has

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not yet gone in the gravamen of examining persons who were at the time in key positions in Government who have been referred to either directly or indirectly by Witnesses who appeared before this Commission. That, in my respectful submission, is a major short coming and I say that history will be unkind to us, Mr. Chairman. My client, Donald Rodney, has no axe to grind. He has been convicted of crime that warrants knowledge on his behalf when the only evidence that founded his convictions was a statement in which he said I had no knowledge that is an anomaly in law which, when I do my further submissions, I will address this court on. I have leave of my learning friend to say that Donald Rodney and by extension the Rodney family have waited for over 35 years now for a Commission of this nature. It is my respectful submission notwithstanding whatever has been submitted before you that they have a legitimate expectation not just from fairness but at a full and comprehensive and thorough inquiry would be held, by the truncated of the evidential hearings of this Commission, by the purported edit on the 2<sup>nd</sup> of July 2015 the Commission has been stymied in its function.

Mr. Chairman, all is not lost. The life of the Commission has been extended to November 2015. Therefore there is time, in my respectful view, for the executive to reproduce the resources to allow this Commission to sit for two weeks, on an inner limit for one week because this Commission has worked until 16:00 hrs on occasions to accommodate Witnesses. Therefore it is my oral motion that the Commission alters and petitions the Executives to extend or to review, amend, retract its initial edit to allow this commission the opportunity to hear all the evidence.

Mr. Chairman it is without prejudice to my clients rights that may exists elsewhere and the circumstances of the edit that I begin my oral ‘closing’ – in open and close quotation marks – submissions on his behalf and I remind the Chairman and the Commissioners, respectfully, of the overriding objectives now in the new CPR which is that of fairness and proportionality.

**Mrs. Samuels-Brown:** What is the CPR?

**Mr. Scotland:** The Civil Proportion Rules, the rules that governs that conduct of civil matters.

**Mr. Chairman:** But this is not a court proceeding.

**Mr. Scotland:** I am reminding of the principle.

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**Mr. Chairman:** Those considerations are relevant to ask anyhow but you do not have to evoke the Civil Procedure Rules.

**Mr. Scotland:** Yes, Mr. Chairman. I agree.

**Mr. Chairman:** It remains irrelevant considerations.

**Mr. Scotland:** What it does though... The word 'proportionality' encapsulates what GTUC's submissions are at paragraph 15. Weigh up everything and see what fairness dictates. Mr. Chairman, I do not wish to delay any further I wish to go directly into my closing...

**Mr. Chairman:** I believe that my fellow Commissioner, Mr. Jairam, may wish to say something.

**Mr. Scotland:** Yes, please.

**Mr. Jairam:** I think it is too much of an important occasion for me personally not to say something. I have listened very carefully to the majority of Counsel here, three of you; Mr. Ram has not said anything and Mr. Williams, because of the current official position, I imagine, cannot appear. I endorse fully what our Chairman had said. We, as Commissioners, have a duty and obligation to be fair and impartial and of that all the parties and public can be assured as far as I am concerned and my fellow Commissioners, I am sure.

As you know, Mr. Scotland, financing the Commission is not within our power; is it our sponsoring authority and there is nothing really we can do. Its either we as Commissioners abort entirely, which I think would be unfair to the mandate we have received and the oath and the Terms of Reference or we continue to do the best that we can. I think good sense has prevailed on me that I continue to do the best that we can under the circumstances. I want to assure all, the listening public, those who have interest, all Counsel, that as far as our impartiality and independence is concern on the evidence thus far you can be assured that we will be fair and fairness is coming to whatever conclusion that we think is appropriate and just in the circumstances.

**Mr. Scotland:** I am very grateful for those reassurances, Mr. Commissioner.

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**Mr. Chairman:** Counsel, I fear that you are about to take us on a long journey.

**Mr. Scotland:** Yes Mr. Chairman.

**Mr. Chairman:** We have not had the morning break as yet and we are proposing to do so now. You too may need some water before you commence that long journey. Thank you.

**Mr. Scotland:** Much obliged, Mr. Chairman:

**Mr. Chairman:** We are now at break for about 15 to 20 minutes.

**HEARING SUSPENDED AT 11:17HRS**

**HEARING RESUMED AT 11:56HRS**

**Mr. Chairman:** You were careful not to put your name on it, you omitted it. You must claim ownership in a more explicit way man. Please proceed. Counsel you are about to make closing submissions for Donald Rodney?

**Mr. Scotland:** Yes, please Mr. Chairman, with the leave of the Commission.

**Mr. Chairman:** Yes and as you are ready, please proceed.

**Mr. Scotland:** Much Oblige. Mr. Chairman, as a matter of background and I have submitted to the Commission, a copy of the submissions that I rely on and I will expand on orally. I start by reciting terms of reference - one to five. Do you need me to go through them for the listening public, Mr. Chairman? I can deal with each as I go on please.

**Mr. Chairman:** [*Inaudible*]

**Mr. Scotland:** Yes, please Mr. Chairman. So starting from page three, terms of reference - one, which is to examine the facts and circumstances immediately prior, at the time of and subsequent to, the death of Dr. Walter Rodney in order to determine as far as possible who was responsible for the explosion, resulting the death of Dr. Walter Rodney.

This is what the Chair rightfully referred to as background. I start on the factual basis that prior to June, 1980, and particular, between 1978 and 1980, the political struggle in Guyana intensified

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in the form of a civil resistance campaign focused on what was considered a fraudulent constitution.

The Commission received evidence from Joseph Hamilton, who was at that time, a member of the House of Israel. Joseph Hamilton, in his evidence, directly linked the Government of the day and its top echelon in the terrorising of people who were members of the Working People Alliance (WPA), by using members of the House of Israel to commit acts against them. Hamilton testified that the WPA did not utilise violence, but could have become violent in retaliation. At the time of his testimony he stated: "We were terrorising them. We were brutalising them and we believed that they might retaliate." Hamilton further noted that, even in their methodology to stop the WPA meetings from being interrupted, the WPA did not use violence, but rather a method of recognition and then surrounding the potential troublemakers.

To this end, Hamilton testified to having received instructions on opposition elements: "There were only two sacred tsars, one - Dr. Cheddi Jagan and two - Mr. Eusi Kwayana. So any other members of the WPA, the opposition party, could have been harmed or assaulted."

Mr. Chairman, then the evidence of Dr. Nanda Gopaul, who testified that there were direct acts of State oppression and in almost in every demonstration and every protest action, the norm was that there were State actors who would commit criminal activities and beat up on protestors. Many of them would dress in police uniforms and stood side by side with un-uniformed officers. Mr. Chairman, I will quote his evidence, he stated:

"We were satisfied that there were person who were not official policemen in the company of police officers. They had police uniforms and weapons, but no badge and identified themselves nor any regimental numbers. Some of the police officers were not comfortable with this, but they did their job in that environment".

I commend to this Commission the evidence and the testimony of Eusi Kwayana. I say Mr. Chairman and fellow Commissioners that the Commission had the opportunity to examine and assessed the demeanour of the witness, Eusi Kwayana. Demeanour, as the Commission well knows, is an important aspect of the assessment of the credibility of a witness. I say respectfully that Eusi Kwayana, although having a political background, showed no duplicity before this

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Commission. Not once, in his extensive examination in chief or in his cross examination, was he found to be inconsistent. I wish to commend to this Commission, at paragraph five of my submission, a quotation from the speech given by the then leader of the Government Mr. Linden Forbes Sampson Burnham and a speech made on August, 1979. This is what he had to say:

“Now comrades, one moment, we allow them to hold meetings for the time being, and we discovered what their plans were. They have confirmed the intelligence which we had before. They have exposed themselves and now we shall move to their destruction.”

Eusi Kwayana referred to the separate murders of the two WPA activists, as part of the destruction and he links back to that speech. He put it in the timeline context of the murders coming shortly after the comrade leader’s address in August, 1979.

Mr. Chairman, the persons who were killed were Ohini Kouana who was murdered on the 19<sup>th</sup> November, 1979, and Edward Dublin murdered in February, 1980. They both came after the statement made by the then Honourable Mr. Burnham. Kouana went on to testify, as matter of background, that following the burning of the Government building in Georgetown, some members of the WPA were charged with arson on the 14<sup>th</sup> July, 1979 and they made their appearance at the Magistrate’s Court. It is fitting to note that Dr. Walter Rodney was one of the persons so charged.

Therefore, Mr. Chairman and Commissioners, as a matter of background, it is our respectful position that there was and there is, clear and compelling evidence, beyond a balance of probability that there can be a finding of fact by this Commission that there has been or there was between 1979 and 1980, State involvement in the terrorisation of opposition members and members of the opposition.

Mr. Chairman, at paragraph seven of my submission, on the day that Dr. Rodney was charged there was a procession outside the Magistrate's Court and the procession...

**Mr. Chairman:** I stop you only to ask whether you want to restrict the opposition then to the WPA?

**Mr. Scotland:** No, I also would extend it to other parties who were in opposition.

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**Mr. Chairman:** Go ahead please.

**Mr. Scotland:** At this procession the gathering relocated to the Brickdam Police Station where a riot ensued. There was then a realisation that Father Darke had been killed. Donald Rodney testified that he witnessed the pursuit of Father Darke, immediately prior to the killing, by a person who was found later to be a member of the House of Israel. Commissioners, you would note that the records revealed that this person was charged and convicted. There is no doubt that he was a member of this organisation.

Soon after the death of Father Darke the witness, Donald Rodney, recalled that the then Hon. Prime Minister Forbes Burnham addressed members of his party at a public gathering and said this to them: "Members of the WPA must make their wills." This statement was taken to be an open threat to the WPA and by extension Dr. Walter Rodney and his followers. It is important to note at this time, Mr. Chairman, that that represented the advent of Donald Rodney into the politics or into assisting his brother, Walter Rodney, and putting himself as a buffer, as you would recall his testimony.

**Mr. Chairman:** Let me ask you this and there will be some interventions by me, but only seek elaboration. Do you attach any symbolic importance to Father Darke's murder?

**Mr. Scotland:** Yes, Mr. Chairman, I do and may I say that the importance is not just symbolic, but it is real and this is the basis for my submission. Father Darke was killed in broad day light. Father Darke was killed in front of the Brickdam Police Station. Father Darke was killed in the presence of uniformed armed police officers, who had, according to all the testimonies of the witnesses who came before this Commission, stood idly by without lending one ounce of assistance. Father Darke, also Mr. Chairman, was not just an ordinary citizen, but he was a member of the clergy and a well-respected citizen of Guyana and he was killed in circumstances in which he was fleeing. The symbolism is clear...

*12.11hrs*

**Mr. Jairam:** Was he a journalist?

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**Mr. Scotland:** He was both priest and journalist and he was what I would call more a recorder of events. He was a journalist in that sense that he recorded incidents, wrote about it and took photographs; so he was a chronicler. He took photographs. He was someone who, in my respectful view, was engaged in recording significant events in the life of Guyana. That is very significant Mr. Chairman.

**Mr. Chairman:** I would not go so far as to call him a historian, defining history as a record of significant events?

**Mr. Scotland:** A chronicler.

**Mr. Chairman:** You would call him a chronicler. Alright.

**Mr. Scotland:** I say that this event was a significant event. It was a watershed event, at least in the life of Donald Rodney, but I say then that the symbolic and actual effect of Father Darke's killing is something that this Commission ought not to disregard when it comes to looking at background.

**Mr. Chairman:** You seem to attach much of the significance of his death to the beginning of activism on the part of Donald Rodney, but in a wider context does it have any significance?

**Mr. Scotland:** It had significance, Mr. Chairman, in the sense that at DR FOUR, the Commission will see that there was a petition signed by civic minded persons in Guyana, who reacted to this and signed a petition for good governance and peace.

I only address it in the narrow context of its effect on Donald Rodney because that is the interest that I represent, but it had a wider significance to the society and the wider significance is gleaned from any objective analysis. This is a priest who had been killed in broad-daylight, in front of a police station, by persons who were, according to Joseph Hamilton if he is to be believed, members of the House of Israel and armed police.

**Mr. Chairman:** Was the wider lesson not this, that no one was exempted from violence or death in opposing the regime?



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**Mr. Scotland:** Agreed and adopted.

**Mrs. Samuels-Brown:** Is there any evidence that he was sympathetic to Rodney and or his ideas because that is important, when you consider the breadth of what you referred to as the atmosphere. Is it that he was targeted? You are saying because he was a chronicler or is there something else that suggests a reason why he would have been?

**Mr. Scotland:** Madam Commissioner, as I recall the evidence, his presence and his previous acts can be interpreted as someone who was a sympathiser with the WPA. That is as far as I can submit based on the evidence that came before this Commission.

**Mrs. Samuels-Brown:** Did he write for *The Catholic Standard*?

**Mr. Scotland:** He wrote for *The Catholic Standard*, which was a paper that was, in my view, at a time where journalists were being repressed, a very open newspaper and one that, at times, was critical of the then regime.

**Mr. Jairam:** I think the significance of your submission to me is that the state of lawlessness that prevailed was that anyone who dared to oppose the Government was dealt with severely, even if it meant death, and somehow the State tolerated that state of affairs at that time.

**Mr. Scotland:** Yes. Well “tolerated” is passive.

**Mr. Jairam:** Condoned.

**Mr. Scotland:** Yes, if the evidence of Joseph Hamilton is to be believed, it has to be condoned.

**Mr. Jairam:** I think was it your client who said the policeman looked the other way around?

**Mr. Scotland:** Donald Rodney pointedly indicated that the policeman looked the other way around, in paragraph 23 of his witness statement.

**Mr. Jairam:** Was Father Darke recording the events from the Magistrate’s Court as they unfolded?

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**Mr. Scotland:** As they unfolded.

**Mr. Jairam:** And where a crowd had been gathered?

**Mr. Scotland:** And they moved from the Magistrate's Court to Brickdam.

**Mr. Jairam:** And we were told that Mr. Hamilton Green and Mr. Robert Corbin were there?

**Mr. Scotland:** They were there.

**Mr. Jairam:** And I think they had, was it walkie-talkies?

**Mr. Scotland:** Walkie-talkies and there was a bus also that transported persons dressed in official uniforms that arrived...

**Mr. Jairam:** So that is how you linked that event?

**Mr. Scotland:** That is the nexus that I formed to make my submission Mr. Commissioner.

**Mrs. Samuels-Brown:** But there is no suggestion that Mr. Hamilton Green or Mr. Corbin did anything, one way or the other?

**Mr. Scotland:** There is no such suggestion and I cannot say because what I have is mere presence.

**Mrs. Samuels-Brown:** I asked because of the discussion we had this morning, the Salmon letters and so on, so I want us to be clear.

**Mr. Scotland:** Yes please.

**Mr. Chairman:** Was the State involved in the violence at the time - part of the lawlessness, either directly or indirectly?

**Mr. Scotland:** Yes Mr. Chairman and that is part of my submission. That came from the evidence of Dr. Nanda Gopaul, Eusi Kwayana and Donald Rodney, also, the evidence of Joseph Hamilton.

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**Mr. Jairam:** I think you are linking that to how your client, Donald, became more...

**Mr. Scotland:** Involved...

**Mr. Jairam:** ...with the activities of his brother Walter.

**Mr. Scotland:** Yes please. Having done what I consider the general atmosphere, Mr. Chairman, fellow Commissioners, I also would want to commend, in this regard, the evidence of Karen De Souza who spoke about the steal and the evidence of the steal of the then ruling party. Dr. Nigel Westmaas, who is and was a historian and, also, Dr. Patricia Rodney, who spoke about the attendance of Dr. Walter Rodney at the Sixth Pan-African Congress in Tanzania, at a time when he did not have an official passport. Mr. Chairman, this is evidence that is before the Commission. I do not propose to go through them in detail. I would want to concentrate on the events of 13<sup>th</sup> June, 1980 and then make my submissions as it relates to Terms of Reference number one. The events of Friday 13<sup>th</sup> June, may I pick up at...

**Mr. Chairman:** Forgive my crossing you.

**Mr. Scotland:** No.

**Mr. Chairman:** But to the extent that you referred to Walter Rodney's attendance at the Sixth Pan-African Congress in Tanzania and meeting Burnham there, in circumstances in which he had no right to travel out of Guyana.

**Mr. Scotland:** Yes.

**Mr. Chairman:** What was the significance of that? How did it affect Burnham's mind?

**Mr. Scotland:** Mr. Chairman, there is direct and indirect evidence coming out of that event. The indirect evidence comes from that of Dr. Patricia Rodney who testified that Dr. Walter Rodney's attendance at this Pan-African Congress greatly embarrassed the Comrade Leader, in that he was treated as a dignitary and Head of State and was granted a private audience with the President of Zimbabwe, whilst the Comrade Leader was not. But Justice Ramson reported that Mr. Burnham was very upset. Doing a double take that Dr. Rodney was even there and commenting that he

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was not even allowed to travel outside the country. How he was able to travel and more importantly how he was treated. That is evidence that was received by this inquiry from that of Justice Ramson. That apparently had an impact on the state of mind of Mr. Burnham at the time. I say that because of the substrata of evidence received from Dr. Patricia Rodney and...

**Mrs. Samuels-Brown:** Somebody may have to address though the perception, justified or not, which it may have fuelled and or encouraged in relation to how Dr. Rodney was regarded, since he was seen outside of the country in a faraway land.

**Mr. Scotland:** Tanzania.

**Mrs. Samuels-Brown:** When he supposedly had no right to travel.

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** So I hope some Counsel will address that.

**Mr. Scotland:** Yes, please Madam.

**Mrs. Samuels-Brown:** As it shows a disposition to the lawlessness, to defy the law or that he would have had contacts which would allowed...

**Mr. Scotland:** And his international stature and standings.

**Mrs. Samuels-Brown:** So all of that I hope...

**Mr. Chairman:** When you said it impacted Burnham's state of mind, in what respect?

**Mr. Scotland:** In that Justice Ramson, in his testimony before the Commission, said that he was very upset about it. That is evidence that was received by this Commission.

May I just make one additional point? Mr. Chairman, it is noted that this Conference was in May 1980, mere weeks before the assassination of Dr. Walter Rodney. This was in May; he died on 13<sup>th</sup> June, 1980. I think that is very important. May I continue?

**Mr. Chairman:** What is the connection?

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**Mr. Scotland:** The connection is in terms of time. In that Mr. Chairman, weeks after he was found to be in a place that he ought not to be because of the restrictions placed on him and being treated or afforded a private audience with the then President of Zimbabwe and being granted status of a dignitary and Head of State and the then Prime Minister, it being reported, being very upset.

**Mr. Pieters:** Mr. Chairman, I am sorry to interrupt at this point, but I do not get the factual basis for Counsel's submissions. I do not know if he can pinpoint which evidence he is referring to and where.

**Mr. Scotland:** Mr. Chairman, I cannot pinpoint where. I can pinpoint it is the evidence of Justice Ramson that was received by this Commission and the where will come in my written submissions, when I expand and I give details of where the evidence is located.

**Mr. Chairman:** Please proceed, thank you.

**Mr. Scotland:** Much obliged. The events of Friday, 13<sup>th</sup> June, 1980, which is the date that Dr. Walter Rodney died, Mr. Chairman, I asked the Commission to rely on the evidence of Donald Rodney. Quite frankly, Mr. Chairman, it is the evidence of Donald Rodney and Dr. Patricia Rodney that can assist the Commission in this regard.

**Mr. Chairman:** I accept that.

**Mr. Scotland:** At 19:30 on that night, Donald Rodney picked up his brother in his motor vehicle on Church Street. The seating arrangements were that Donald Rodney - Donald if I can refer to him as that for the purposes of these submissions - was driving whilst Dr. Walter Rodney remained in the passenger seat. He proceeded to the home of Gregory Smith, which was at the corner of Russell and Howes Street and arrived around 19:35 to 19:40. Commissioners, the Commission made a visit to the site and now has a clear picture of the route taken and what transpired. Donald Rodney said the purpose of his visit on that night was to collect a walkie-talkie set for testing. A lot have been said about the purpose, but what has been said about the purpose - and it is my initial submission in this regard - has been said in a book written or on instructions that were not tested by the co-author.

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*12.26 hrs*

In other words, Ann Wagner took the uncorroborated account of her brother, some 20 years after, never made one enquiry and the Commission will see her cross-examination by me and other Counsels, about anything stated in his account to her, places in it a book and then presents it as the truth. It would be my submission, when I reach that point, that the book is a work of fiction.

When Donald went to Gregory Smith's home, Gregory Smith looked surprised and immediately asked, "Where is Walter?" That is something of great significance. Gregory Smith then asked Donald Rodney if he was driving or walking and Donald responded:

"Gregory Smith went inside and returned with an object in his hand which was in a brown paper bag and he pointed to a knob at the side that was pressing against the paper bag and protruding. He explained that the set was to be tested at two positions. He gave instructions to Donald Rodney that he and Dr. Rodney should exit the car"

And here are the instructions: "Walk along Russell Street, make their first stop at Princess Street, where they would carry out the first test." Gregory Smith then said they would proceed along Camp Street and be ready to have the second test, opposite the Georgetown Prison. Gregory Smith indicated that he wanted that test near to the prison wall to observe the effect of the expanse of metal on the efficiency of the set. Gregory Smith also told Donald Rodney that Walter Rodney should hold the walkie-talkie set up to his face. Gregory Smith remained at his home to operate a companion set which was in his possession.

So Commissioners, what we have on that night is Gregory Smith presenting a package purporting to be a walkie-talkie set. What no one has addressed here is the uncontroverted evidence that Smith remain at his home with a companion set that had a nexus to the set that was given to Donald Rodney to take to Dr. Walter Rodney. That evidence is important, especially in light of the evidence received from Superintendent Leslie James about items found at the home of Smith, shortly after the death of Dr. Walter Rodney.

**Mr. Chairman:** Is there a suggestion that Smith could have regulated the set that was given to Donald?

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**Mr. Scotland:** That is our submission and we will base it on the evidence of Mr. Rohit Kanhai.

**Mr. Chairman:** Refresh me now that you are on that. Did he indicate that that was likelihood, that the set was operated by Smith?

**Mr. Scotland:** He did and he even gave the distance and said that the distance from where the explosion occurred to where Gregory Smith's house was, it was very possible to have a set connections and a detonation. He was cleared in his evidence, and I will go to that, as it relates to the Terms of Reference II, III, and IV.

Mr. Chairman, Commissioners, what happened after, was that they did not follow the route as suggested by Gregory Smith, but that they drove north along Adelaide Street and parked on John Street. It was not yet 20.00hrs so they waited until 20.00hrs and Walter looked down at the package, which he held in his lap and signal flashed. They then drove off north along John Street across Durban Street, pass the prison. Commissioners, you would recall the locus, the visit to the site that Donald Rodney took the Commission along the route that both he and Dr. Rodney took on that night. They passed the prison by some 180 feet because we did a measurement and they parked by the corner of, by the western side of John Street, approximately 20 yards from Hadfield Street, turned off the ignition and all lights.

**Mr. Chairman:** What are the implications of the path, indicated by Smith, not being followed?

**Mr. Scotland:** It meant that the second test did not occur outside the prison walls as Gregory Smith had directed. That is the implication. It was according to Gregory Smith and Donald Rodney, the second test was to occur outside the prison wall to see the efficacy of the set as it relates to metal and its interaction with metal.

**Mr. Chairman:** Did that in any way contribute to the explosion?

**Mr. Scotland:** That did not contribute to the explosion, but it certainly, in my respectful submission, contributed to the theory after the explosion that they wanted to explode the prison, "drug people" as Gregory Smith say and "go and steal arms or release prisoners" because if they had followed the route that was suggested by Gregory Smith, the explosion, which did occurred after 20.00hrs, would have occurred outside the prison walls.

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**Mr. Chairman:** What are you basing on theory on that it would have let lose all the inmates?

**Mr. Scotland:** Page 26 of *Assassination Cry of a Failed Revolution* by Gregory Smith otherwise known as Cyril Johnson and Ann Wagner. That was part of his book.

**Mr. Chairman:** Her book?

**Mr. Scotland:** Well, her book co-authored, yes.

**Mr. Chairman:** [Laughter]

**Mr. Scotland:** His *posthumous* book, her book, yes which she did no inquiries.

**Mr. Chairman:** No witness testified about that here.

**Mr. Scotland:** None whatsoever.

**Mr. Jairam:** Except Donald.

**Mr. Scotland:** Except Donald.

**Mr. Chairman:** No, I am talking about what the plan was the direction to pass by the prison.

**Mr. Scotland:** That is purely in the book of Gregory Smith, “Donald gave evidence about the route suggested by Smith and then the alternative route taken by him and Dr. Rodney”. He even testified that he was the one who decided where to drive.

**Mrs. Samuels-Brown:** So, do I understand you to be saying that it appears that the plan of Gregory Smith, unknown to the Rodneys, was that there was to be an explosion which would affect the prison walls and which would allow prisoners to escape? Is that what you are saying?

**Mr. Scotland:** The explosion, near enough to the prison walls, and I based that by what is stated in his book.

**Mrs. Samuels-Brown:** But for what purpose that is what I am ...



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**Mr. Scotland:** Oh the purpose, if you link that route to his book, was for the item to explode and in some way juxtapose that with Dr. Walter Rodney being involved in a plan to cause an explosion outside the prison walls, so I...

**Mrs. Samuels-Brown:** Even though the explosion, as it turned out, would not have been strong enough to affect the prison walls that it would have led to the impression that that was what the purpose was?

**Mr. Scotland:** That was what the plan was.

**Mrs. Samuels-Brown:** I see because we know the explosion as it was, was a very ....

**Mr. Scotland:** It was a very localised explosion.

**Mrs. Samuels-Brown:** Thank you.

**Mr. Chairman:** So who would that help?

**Mr. Scotland:** That would help Gregory Smith and whoever else were his cohorts in this regard because then there would be, rightly so, a theory that these persons planned to blow up the prison walls, things went awry and Dr. Walter Rodney was killed, pursuant to that plan.

**Mr. Jairam:** So what you are saying, that theory was that, had Dr. Walter Rodney followed those instructions, would have led to ...

**Mr. Scotland:** Crystallised.

**Mr. Jairam:** ... people saying, "Well he was trying to bomb the prison on his own"?

**Mr. Scotland:** Yes, he was trying to bomb the prison and in trying to bomb the prison, what happened was, poor *Mr. Adventure*, as theory three, suggested by the Senior Superintendent Leslie James with no evidence, "...but the bomb went off and killed him", *Hickory, Dickory, Duck*.

**Mr. Jairam:** Yes.

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**Mr. Scotland:** And it is fortunate that Donald was stubborn and did not listen to Gregory Smith. So what happened, Mr. Chairman, was that the explosion occurred outside, and I want to repeat it, the corner of John Street and Hadfield Street. Mr. Chairman, may I just, by way of illustration, I am sorry, but I have to do this ...

*[Mr. Scotland stands showing his illustration]*

Recall when we went to the site, John Street and Hadfield Street, that is the corner where the Bar was, is located this way.

*[Mr. Scotland pointing to the east]*

**Mr. Scotland:** The Prison was that way.

*[Mr. Scotland pointing to the west]*

**Mr. Scotland:** And we did an estimate, we did the calculation, 180 yards away.

**Mr. Jairam:** The Chairman had estimated 200; that would have been tight. He was not ...  
*[Inaudible] [Laughter].*

**Mr. Scotland:** We grant him 20 yards, Mr. Chairman.

**Mr. Chairman:** Normally I am accurate within feet, not yards. Anyhow, you go ahead  
*[Laughter].*

**Mr. Scotland:** It was not a straight line, so Mr. Chairman just for completeness, I ask the Commission to recall. This is John and Hadfield Streets, the prison is that way going perpendicular along.

**Mr. Chairman:** Answer this question though, I am sorry to be interrupting you, but it is important for our understanding finally now that we review the evidence. If you have Gregory Smith as intending that Walter should have been at the centre of that explosion outside the prison walls, in which he himself might have been killed, for whom was Gregory Smith acting?

**Mr. Scotland:** Mr. Chairman, I would ask you to allow me to make that submission in no less than 10 minutes. I want to before I make that submission.

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**Mr. Chairman:** But do not forget it.

**Mr. Scotland:** No, I will not because I will put all the circumstantial evidence and asked for an inference to be made.

**Mr. Chairman:** Okay, thanks.

**Mr. Scotland:** Then Mr. Chairman comes what I consider a non-issue. Donald Rodney is thrown from the car by the power of the localised explosion, automatically comes out and runs to the house of Dr. Omawale and shouted out “Something terrible had happened”. Much ado had made about Karen DeSouza reporting that he said “A terrible accident had happened”. Mr. Chairman, with the greatest of respect, assuming, but not admitting that he said that and his evidence is, he said “Something terrible had happened”. That is Donald’s first-hand evidence. Let us say that he said a terrible accident had happened, much ado was made in cross-examination by then Counsel for the PNC, now the Hon. Attorney General, Basil Williams that it meant that there was an explosion gone awry. By no stretch of the imagination is that a plausible submission.

**Mr. Chairman:** I would suggest that you should not work up yourself too much about that.

**Mr. Scotland:** You see that it has found its way in written submissions on behalf of the PNC, so I must work myself up about it. Mr. Chairman, in any plausible explanation, any credible submission ...

**Mr. Jairam:** But did your client, at the first available opportunity, give a statement to the police?

**Mr. Scotland:** Yes.

**Mr. Jairam:** And he said “Something terrible had happened” ...

**Mr. Scotland:** “Something terrible had happened” ...

**Mr. Jairam:** And that statement came from the police files?

**Mr. Scotland:** From the police files. Karen DeSouza testifying at the inquiry said “He may have said two things, “Something terrible” or “Terrible accident”. Grasping at straws, it was held on

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that he may have said an accident, meaning that they were dabbling in explosives and an accident occurred. That is no part of a plausible interpretation and I do not wish to say anything further on that.

*12:41hrs*

**Mr. Jairam:** Well, if the evidence stops there, maybe, but there is much more...

**Mr. Scotland:** There is much more.

**Mr. Jairam:** ...after the event...

**Mr. Scotland:** Yes.

**Mr. Jairam:** ...about Gregory Smith, himself, and what happened to him.

**Mr. Scotland:** I am going to subsequently death, which is... You have read exactly the point that I was going to but may I just conclude this line of submission by saying, Mr. Chairman, the *viva voce* testimony of Donald Rodney is that he said, 'something terrible had happened', that was the first thing. Karen DeSouza, is not certain, she said he could have said, '*something terrible*' or a '*terrible accident*'. I am saying, even though it was said, respectfully, that is a terrible accident, it is not the interpretation, it is the interpretation, the spin, that is going to be put on it by the persons acting on behalf of the PNC and I say no more, in this regard.

Now comes to the evidence of subsequently the death of Dr. Walter Rodney. It was...

**Mr. Chairman:** Where are you now?

**Mr. Scotland:** I am at paragraph 29 and I am at page 10, only to say that whilst this was happening Donald Rodney's house was being raided, Mr. Chairman. Whilst this was happening, Gregory Smith had, at his home on Russell Street, Government equipment, which according to Mr. Rohit Kanhai, picked up the frequency of official broadcasts. Whilst this was happening, Gregory Smith, on the following day boarded a GDF aircraft, along with relatives to be flown to Kwakwani by Captain Gerald Gouveia. Mr. Chairman, I ask the Commission to pause at this stage and consider the resources required to achieve such a feat. No ordinary citizen could have done so.

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What is the answer to that of Gregory Smith? In his book, he said that he was drugged and taken to Kwakwani by the WPA. Mr. Chairman, respectfully, that would mean that this Commission will have to have a finding of fact that the WPA had the resources to command the highest echelon of the GDF to book a flight for Gregory Smith, the first flight, on the morning because Captain Gouveia gave the significance that it was the first flight and that the orders came from higher up.

**Mr. Jairam:** Captain Gouveia impressed me... I do not know if he gave us the full story but he impressed me as a witness of truth as to whatever evidence he gave.

**Mr. Scotland:** Yes.

**Mr. Jairam:** So, are you saying that we ought to prefer his evidence over the account given in the book?

**Mr. Scotland:** It is my submission that we ought to prefer his evidence and I will say. Common sense dictates that in the atmosphere of 1980 where there were, the acts that were proclaimed against certain public activities, especially the acts against the WPA as it relates to their *Dayclean Newspapers* and the restrictions placed on them, there is no evidence before this Commission that the WPA had the wherewithal to command such an operation. To commandeer a plane and a Captain of the Army to take Gregory Smith and his family... This is not the Timehri International Airport, this is the Defense Force base at Timehri. The structure and the background just does not admit to that; that is State involvement, at least on the part of the GDF and those are my submissions..

**Mr. Jairam:** Captain Gouveia was very clear in his evidence, that this gentleman whom he did not know at the time... He was a young officer...

**Mr. Scotland:** Yes.

**Mr. Jairam:** ...he was not paying attention... Young people do not mind too much politics and so on... with a woman and children. It was the next day when the thing was in the news that...

**Mr. Scotland:** On the 17<sup>th</sup> when he saw the...

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**Mr. Jairam:** Then he realized that this was...

**Mr. Scotland:** ...the person...

**Mr. Jairam:** ... Gregory Smith, he may have taken to Kwakwani.

**Mr. Scotland:** Transported and that evidence of Captain Gouveia is supported by the evidence of the persons who controlled the landing strip at Kwakwani.

**Mr. Jairam:** The police...

**Mr. Scotland:** The police and Gregory Smith's family who saw him land there with his family, so it was corroborated. Therefore, Commissioners, may I ask the Commissioners to turn to page 45 of my written submissions as it relates to my submissions on Terms of Reference (i)?

**Mr. Chairman:** You must not be so anxious to move on.

**Mr. Scotland:** Sorry, Mr. Chairman.

**Mr. Chairman:** What interpretation do you put on the fact that Gregory Smith was able to get official support to get from Georgetown to up there?

**Mr. Scotland:** My submission is that there is a sufficient substrata of evidence for the finding of this Commission that it is more likely than not that there was State involvement in the assistance of Gregory Smith to flee from Georgetown to Kwakwani and then to French Guiana.

This is borne out in the testimony of Captain Gouveia in the documents presented by Superintendent Leslie James in LJ/CID/GS1 and 2.

**Mr. Jairam:** There is an important part of the evidence that came late as well. I do not have the exhibits here. The thing about the passports...

**Mr. Scotland:** Passport...

**Mr. Jairam:** ...and the Passport Officer who had testified...

**Mr. Scotland:** Yes.

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**Mr. Jairam:** It was apparently approved by the then Commissioner of Police.

**Mr. Scotland:** ...by the then Commissioner of Police.

**Mr. Jairam:** We would like to hear about that.

**Mr. Scotland:** Mr...

**Mrs. Samuels-Brown:** Before you do that ...

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** What is the significance of the logbook which was presented by Captain Gouveia?

**Mr. Scotland:** The significance of the logbook...

**Mrs. Samuels-Brown:** ...before you leave that.

**Mr. Scotland:** ... means that the flight from Timehri to Kwakwani was approved by the higher echelon of the GDF but there is more significance, Madame Commissioner. In cross examination of Captain Gouveia, I asked him whether the first flight because there was the first flight in the morning indicated some priority and he said, 'yes'. It means then that priority was given by the GDF to fly Gregory Smith, someone who according to their official records was not active; according to their records, out of Timehri to Kwakwani.

In response to the passport, it is....

**Mrs. Samuels-Brown:** I am sorry...

**Mr. Pieters:** Mr. Chairman ...

**Mrs. Samuels-Brown:** ...before you move on, does the logbook name Gregory Smith as a passenger in the plane?

**Mr. Scotland:** No, the logbook did not name...

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**Mrs. Samuels-Brown:** So, you are asking us to infer from the other evidence adduced that it was Gregory Smith?

**Mr. Scotland:** Yes, because Captain Gouveia, in hindsight, recognized that the person he flew was Gregory Smith.

**Mrs. Samuels-Brown:** I see.

**Mr. Scotland:** And no one put in that he was untrue.

**Mr. Chairman:** Was there a requirement then to have the name of the passenger you were flying.

**Mr. Scotland:** No, that did not come out in testimony in examination by Mr. Hanoman, who examined Captain Gouveia.

**Mr. Chairman:** So, Captain Gouveia only knew that he was flying a man...

**Mr. Scotland:** He was flying a man.

**Mr. Chairman:** ...but he did not know the name of this man.

**Mr. Scotland:** No, he did not.

**Mrs. Samuels-Brown:** But he recognized him...

**Mr. Scotland:** He recognized him after seeing a picture of him in the Catholic Standard on the 17<sup>th</sup> July.

**Mr. Chairman:** I know that fellow Commissioner regarded Captain Gouveia as a Witness of the truth but what is your judgment of Gouveia's testimony?

**Mr. Scotland:** He was a Witness of truth who did not tell the entire story.

**Mr. Chairman:** Now, I am concerned about that because I have already written that somewhere and that coincides with my own judgment.

**Mr. Scotland:** Yes.



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**Mr. Chairman:** But I am open; that is a tentative judgment. I am open to persuasion but I was concerned to get your judgment.

**Mr. Scotland:** Here is why I say that, subsequent to his testimony of taking Gregory Smith from Timehri to Kwakwani, there is other evidence received by this Commission of the same plane coming on the 17<sup>th</sup> and picking up Gregory Smith and taking him out of Kwakwani but Captain Gouveia, who says *'this plane is the plane that I had under my control'*, did not make that flight. There are signed statements from other witnesses who said that that transpired.

What we do have though, Mr. Chairman, at least uncontested is that he was taken from Timehri to Kwakwani.

**Mr. Jairam:** There is also a log in Captain Gouveia's book of a flight time of I think about five hours.

**Mr. Scotland:** Yes.

**Mr. Jairam:** It was in circumstances that I do not think, I was happy with the explanation at the time; that is my impression. I will have to review.

**Mr. Scotland:** On the second question posed by the Commission, it is my respectful submission, that all the real evidence and the circumstantial evidence points at least to involved State assistance of Gregory Smith, soon after, the next day after, the killing of Dr. Walter Rodney.

**Mr. Jairam:** The time has come for you now to... What arm of the State?

**Mr. Scotland:** It would be the GDF because they were in charge of the Timehri Base and also, in my respectful view, it would also have to be the police because the equipment that civilians were not allow to have privately, were found at the home of Gregory Smith on 14<sup>th</sup> June, 1980.

**Mr. Jairam:** So you are saying that, at the moment, there were two arms of the State...

**Mr. Scotland:** Yes.

**Mr. Jairam:** ...the Army and the Police.

**Mr. Scotland:** Yes.

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**Mr. Jairam:** Look at page 12 of your submission. What use are we to make of that? Is it a pamphlet, a leaflet or whatever?

**Mr. Scotland:** I am coming to the leaflet. Page 12... May I say this? I am trying to be disciplined in my submissions that that is contained in the rubric Terms of Reference (ii) but I will address it in Terms of Reference (i).

In order to have... This is the Hickory Dickory Dock...

**Mr. Chairman:** Page 12?

**Mr. Scotland:** Page 12 of my submission and this is what the pamphlet read... Now, with respect to that pamphlet, it has been certified that this was the pamphlet that came out on the wee hours of the 14<sup>th</sup> of June, 1980. The witness, Dr. Patricia Rodney speaks to that document, in fact, Commissioner, you could recall when I asked her to read, the Commission asked me to read it for her instead and Mr. Westmaas... He is a historian. He also recorded that this is a faithful recollection or reproduction of a pamphlet that was disturbed the following morning of the death of Dr. Walter Rodney and here is what it says...

**Mr. Chairman:** We were not able to trace, during the course of the Inquiry, its source.

*12:56 hrs*

**Mr. Scotland:** No, we were not able but, Mr. Chairman, respectfully, there can be an inference to be drawn from these circumstances. The print and you have had evidence from persons who spoke about atmosphere, certain foods were blacklisted, newspaper print, according to Eusi Kwayana and the *Dayclean* were also blacklisted and they had to get from Trinidad. In other words, to have such a mass production of such a pamphlet, in my respectful submission, involved some sort of sanction from the state. At a time when news print and paper was blacklisted you could not go buy a ream of paper in the store, but more importantly Mr. Chairman...

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**Mr. Chairman:** This ten line “Hickory Dickory Dock appointment at 8 o’clock. We would not need no bail when we done with jail”, et cetera. A considerable amount of news print was needed to have three or four hundred; that is what 2 and a half to 3 inches.

**Mr. Scotland:** Well I would tell you why. Not news print, Mr. Chairman, but paper to print the 400 copies. See you only need one sheet to have it but you need 400 sheets to distribute it.

**Mr. Chairman:** So where are you tracing it to.

**Mr. Scotland:** I am saying that an inference can be drawn to a conclusion that is more likely than not that this was aided and abetted by an arm of the State

**Mr. Chairman:** You mentioned 400, have we had any evidence of how much they were?

**Mr. Scotland:** The evidence came from Westmaas, Dr. Patricia Rodney and one other Witness and they said that the pelmets... They did not give a number. I am only going on the 400 because you said that, Mr. Chairman. They did not give a number. They just said it was distributed throughout. Persons recalled having received it. No number was elicited from any of the Witnesses, Mr. Chairman. As I am dealing with it may I address the contents?

**Mr. Chairman:** It is going through my mind that if there were 50 it might have different implications as to the source other than 400.

**Mr. Scotland:** Well maybe...

**Mr. Chairman:** A big difference.

**Mr. Scotland:** ...but if you would allow me to address you in the content of it, I may be of more assistance on this ground. Here is what it says “Hickory Dickory Dock”.

**Mr. Jairam:** No, there is an important part. It is in your submissions, “To Walter”.

**Mr. Scotland:** Yes oh, the start of it, right it is addressed “To Walter”; that is the heading of the document. “To Walter” so we know who it is targeted too and here is what it says “Hickory Dickory Dock appointment at 8 o clock” when that is dovetailed with the evidence of Gregory Smith and Donald Rodney it is clear that it had to be someone... Donald Rodney did not speak

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about it he did not produce this document and the only other persons who knew of that appointment, according to the uncontroverted evidence, even if you take Anne Wager's book, is Gregory Smith.

**Mr. Chairman:** What I am attracted to is the fact that that was out before it was known generally that Walter had died.

**Mr. Scotland:** Mr. Chairman, that is my point and the only other persons who knew of the appointment at eight o'clock were Donald Rodney, Walter Rodney and Gregory Smith so I agree with you but I go one step further.

**Mr. Chairman:** Not Walter, he was dead.

**Mr. Scotland:** No the appointment meaning that they were going to do this route at eight o'clock. We go on; "We would need no bail when we done with jail and this walkie-talkie start talk. Rockabye Rodney now lives in the past dispatched to his master so quick and so fast. T'was never his intention that his fiendish invention would choose his own lap for the blast".

**Mr. Chairman:** You think that might have been prepared even before he died?

**Mr. Scotland:** Yes, please, respectfully, because of the time in which it came out and because of the details; these details sort of dovetail with the instructions given by Gregory Smith to Donald Rodney to pass on to Dr. Walter Rodney.

**Mr. Chairman:** He must carry it in his lap?

**Mr. Scotland:** Yes, which is where the explosion occurred

**Mr. Jairam:** And the only person at the time who would have the information was Donald.

**Mr. Scotland:** Donald Rodney who by that time was in police custody or... No...

**Mr. Jairam:** He had run for help and then they took him to the doctor.

**Mr. Scotland:** Then they took him to the doctor.

**Mr. Jairam:** Then he was sort of incognito...

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**Mr. Scotland:** ...for a couple days until the 17<sup>th</sup> of June and then Gregory Smith... those were the only persons in the evidence before this Commission who would know about this, Mr. Chairman.

**Mr. Chairman:** What is the earliest hour at which these pamphlets were seen?

**Mr. Scotland:** Patricia Rodney testified at four o' clock to five o' clock in the morning.

**Mr. Chairman:** As early as 4-5:00 hrs.

**Mr. Scotland:** Yes and Father Rodrigues testified for around four o' clock also.

**Mr. Jairam:** What about Karen De Souza? Did she say anything about that?

**Mr. Scotland:** I cannot recall, Mr. Commissioner, I know Father Rodrigues...

**Mr. Chairman:** Father Rodrigues?

**Mr. Scotland:** Father Rodrigues and Dr. Patricia Rodney, those are the two persons... and Nigel Westmaas.

**Mr. Jairam:** And there is no evidence to the contrary.

**Mr. Scotland:** There is no evidence before this Commission.

**Mr. Jairam:** ...on the question of when it surfaced?

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** I am sorry; you referred to the reference to this in the ICJ report?

**Mr. Scotland:** Yes, please.

**Mrs. Samuels-Brown:** Could you assist me as to where in the report I can find it? (ii) Is it headed "the Death of Walter Rodney"?

**Mr. Scotland:** "The Death of Walter Rodney" is at page... Well the page is not recorded but...

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**Mrs. Samuels-Brown:** I have seen where there is reference to the body of Dr. Rodney not being identified until mid-morning.

**Mr. Scotland:** ...not being identify is at paragraph... page (ii) under that heading “The Death of Dr. Walter Rodney”.

**Mr. Jairam:** It is above “...full investigation into Dr. Rodney’s death has not been held...” That is on page 9.

**Mr. Scotland:** My pages are not numbered Mr....

**Mr. Jairam:** The bullet point just above that, that a leaflet entitled “to Walter”, an issue of which we obtained, that made fun of Dr. Rodney’s death was distributed in the streets of Georgetown of the day following the explosion. That was before his body had been officially identified.

**Mr. Scotland:** ...identified, yes.

**Mrs. Samuels-Brown:** Thank you and then there is the reference earlier to the sequence leading up to the identification of his body. Thank you.

**Mr. Scotland:** Mr. Commissioner, I am sorry the copy I received does not have the numbers.

**Ms. Rahamat:** Immediately above the (iii), yes it is the last bullet point (iii).

**Mr. Scotland:** Yes, right the leaflet is entitled “To Walter” that was the reference in which I referred to.

**Mr. Chairman:** When was the body officially identified because...?

**Mr. Scotland:** The body was officially identified, according to Father Rodrigues, the next day.

**Mrs. Samuels-Brown:** By Midmorning.

**Mr. Scotland:** Not four o’clock in the morning.

**Mr. Chairman:** That puts the pamphlets much later?

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**Mr. Scotland:** Much earlier

**Mr. Chairman:** Yes what I mean is that first Patricia Rodney has them around four o'clock and some other Witness having them around about that time also.

**Mr. Scotland:** About that time also. Father Rodrigues, yes

**Mr. Chairman:** But the official identification of the body is happening about nine o'clock so this is much later?

**Mr. Scotland:** Yes

**Mr. Chairman:** Much later the same day?

**Mr. Scotland:** Much later the same day than on that of the pamphlet.

**Mr. Chairman:** I am saying these pamphlets circulated as early as three o'clock?

**Mr. Scotland:** Yes.

**Mr. Chairman:** I am interested more in the first time not the official identification of Walter's body, because these were circulation long before.

**Mr. Scotland:** In the circumstances where it took his wife, who knew him, some time to identify him... Remember the bed was singed, the lower part of the body had substantial damage, yes Mr. Chairman.

**Mr. Jairam:** Father Rodrigues did not ask them to open the full body bag because he knew...

**Mr. Scotland:** He knew, yes.

**Mr. Jairam:** So he just opened the upper part.

**Mr. Scotland:** May I continue, Mr. Chairman, relative to my actual submission on Term of Reference (i)? Mr. Chairman, my submissions on Term of Reference (i) are contained at page 45 of my written document and these are my four submissions; paragraph 164:

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1. “That Donald Rodney was used as a scapegoat to conceal the true perpetrators which was the then PNC Government because he was an eye witness able to identify Gregory Smith.”

**Mr. Chairman:** Which paragraph are you at?

**Mr. Scotland:** Paragraph 164 page 45

**Mr. Chairman:** 164 page 43.

[Inaudible]

**Mrs. Samuels-Brown:** There are two 164s.

**Mr. Scotland:** Oh I am sorry about that. The submission is at page 45.

**Mr. Chairman:** There is a repetition there of numbers.

**Mr. Scotland:** Yes, of the numbers. Sorry about that, Mr. Chairman.

2. That Donald Rodney... that there were incidents prior to the death of Walter Rodney that would suggest Government was responsible for the death of Dr. Rodney. The first occurred on the 14<sup>th</sup> July, 1979, where Walter Rodney among other persons was charged for arson. This resulted in crowd demonstrators coming out to show their support. Demonstrators formed a procession and proceeded to walk and at this point the procession was attacked by a group of men. This attack resulted in the death of Father Darke. [Inaudible] Whilst the then Hon. Prime Minister was addressing his party membership and the speech included a reference to the steel of the PNC being sharper than that of the WPA and that they must make their wills and that the Prime Minister would send Dr. Walter Rodney to the Olympics and the other incidents were the composition of the song *Run Rodney Run* by the steel band of the Guyana Police Force in the music festival. That was the direct testimony of Donald Rodney at the time when this song was a new song actually and of course the, and I supplement my written by my oral, the “Hickory Dickory Dock” document directly addressed to Walter.

These are my submissions.



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**Mr. Chairman:** I want you to comprise the opposing view that when Prime Minister Burnham – I think this was before he was President – was referring to Rodney that he was playing with words and perhaps overstating things but that he was not expressing like ‘*make your will*’ and so on, he was not really trying to imply that they were planning death or death was around the corner for him.

**Mr. Scotland:** Mr. Chairman, the only way I could ascribe to that...

**Mr. Chairman:** I think Basil Williams’ earlier position that it was platform rhetoric.

**Mr. Scotland:** It was platform rhetoric. I can answer that by drawing on my literary experience and say I will have to go back to Hamlet and say “Oh my prophetic soul”. It could only be, Mr. Chairman, that these things were said and done. If they were said alone in isolation and nothing happened there after, with the evidence that came before this Commission with oblivious State involvement, then I would have no traction in these submissions. This, in my humble submission, is a threat that was accompanied shortly thereafter by a series of events.

**Mr. Chairman:** So you will not be prepared to dismiss it as a prophetic statement only?

*13:11 hrs*

**Mr. Scotland:** No Mr. Chairman and I will not be so prepared for the following reasons: the death of Ohini Kouana, a WPA member, the death also of Edward Dublin, the death also of Father Darke and then the death of Dr. Walter Rodney in those circumstances. He did not die in his sleep, Mr. Chairman, he died by an explosive device given to Donald Rodney to give to him by Gregory Smith, who had the controlling set, who then after was flown out of Timehri in a Guyana Defence Force (GDF) plane. These are my submissions in this regard, as of Terms of Reference number I.

**Mrs. Samuels-Brown:** And I guess we will hear more from Mr. Pilgrim on Hamlet and others later. I saw him smile as you mentioned Hamlet.

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**Mr. Scotland:** I take the edit of the learned Chairman, not every ball bowled I will... I leave alone. Thank you Ma'am Commissioner. May I move on to Term of Reference number II? I am looking at my time, so allow me if I truncate some of these submissions please.

**Mr. Chairman:** [*Inaudible*]

**Mr. Scotland:** Thank you Mr. Chairman. Term of Reference number II for the listening public is to inquire into the cause of the explosion. Page two relates just to the actual Terms of Reference to inquire into the cause of the explosion in which Dr. Walter Rodney died, whether it was an act of terrorism, and if so, who were the perpetrators.

I start my submissions on page 11 of my written document. Subsequent to the death of Dr. Walter Rodney, the witnesses and in particular Donald Rodney, Patricia Rodney and Eusi Kwayana noted that there were several media reports about an unidentified male. The stations or the radio stations at that time and Mr. Chairman you made a very interesting comment about the ease with which a document could be printed now. I ask the court to transport its judicial mind back to 1980, an atmosphere in Guyana. It was not like this morning where I could have asked Mr. Denbow to make 10 copies of a document and have it, this was 1980.

The stations, the radio stations, were Government controlled. We have that from Eusi Kwayana and we have that from Father Rodrigues. Several radio reports at that time stated that there was a disfigured body in a car that was unidentifiable. There was a faceless body outside the Georgetown Prison. The body was badly disfigured, they could not recognise or identify the body and the face was badly disfigured. The Report of the International Commission of Jurists (ICJ) which I referred to and as Ma'am Commissioner, Mrs. Samuels-Brown referred to it is clear from pages six-nine and supports my submission. It confirmed Donald Rodney's testimony that the control media was adamant and omitting Donald Rodney's statement that Gregory Smith played a crucial role in at least the providing, therefore, in my submission, the death of Dr. Walter Rodney.

Dr. Patricia Rodney also testified that the pamphlets were thrown outside her home on the very early morning of June 14<sup>th</sup>, stating amongst other things and that an unidentified man was killed. Dr. Walter Rodney's face, however Mr. Chairman, was identifiable to all because what transpired

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unlike instructions given by Smith was that the device exploded in his lap. Commissioners, I would ask you to recall the evidence of Eusi Kwayana and of Rohit Kanhai, who, when the instructions of Smith was put to them, demonstrated how the device would have been position at the time of the explosion, close to the face - the upper area. That will then, in my view, equate or give credence to the then State owned media reports that the person was unidentified because his face was disfigured.

After the explosion, the State controlled media maintained that Dr. Rodney intended to breach the Georgetown Prison and assist prisoners in escaping. I reiterate my submission, as it relates to the book of Gregory Smith.

**Mr. Chairman:** Did the State controlled Media indicate in their earlier reports that the face could not have been identified?

**Mr. Scotland:** Yes. Mr. Chairman, this is contained at page... I am sorry the pages are not numbered. Under rubric, "The death of Walter Rodney", the second page headed the Burnham Government... this is the official ICJ Report. The next page, paragraph 3...

**Mr. Chairman:** Of which page?

**Mr. Scotland:** On (ii) "Death of Dr. Walter Rodney", the next page of the document which will... page 6. This is from the ICJ Report which was received into evidence by this Commission. I have already referred to it in my opening remarks:

"The Burnham's Government official version on the facts..."

**Mr. Jairam:** Mr. Burnham's

**Mr. Scotland:** Sorry Mr. Commissioner. ... Government's official version on the facts was provided by:

"A brief on Walter Rodney bombing incident issued by the Ministry of Information, on the 21<sup>st</sup> June, 1980. According to this account, on the night of the 13<sup>th</sup> June two B duty constables saw a white Mazda Capella car, PBB 2349, drove up and parked in the vicinity of John and Hadfield Streets, a short distance away from the Georgetown Prison.

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Minutes later, a loud explosion rocked the parked car, terrifying residents. The constables saw someone get out from the driver side of the vehicle and hurry away. They began moving towards the vehicle, but were checked in advance by a dangling overhead electric wire, damaged by the explosion. Mastering the initial apprehension, they approached the vehicle whose windscreen and roof had been blown off and observed the body of a human being who seemed to have been killed by the explosion.

The Government's recollection of the facts added that the identification of the body found in the car was difficult. It also state that, "During the following morning local radio stations were saying that the police were still trying to identify the badly disfigured body in the car". And that one of the radio stations actually stated that the face was badly disfigured and there is a number 2.

"By mid Saturday morning on the 14<sup>th</sup> June, there was an official recognition that the body was that of Dr. Walter Rodney. In addition, the Ministry of information's brief stated that efforts were being made to bring two British Forensic Experts, Dr. Frank Skuse and Dr. Hugh Johnson."

I read that to say that when this evidence compared to that of Father Rodrigues and Dr. Patricia Rodney, she said that as soon as she zipped down the bag, the face of Dr. Rodney was identifiable and all that was smeared was his beard. I do not know if the Commissioners recall that evidence.

**Mrs. Samuels-Brown:** I recall that and I also recalled to that what you read from the ICJ Report was also presented as evidence here, in terms of the original position, that it was an unidentified person, which was later corrected.

**Mr. Chairman:** What do you make of the Government's indication, quite earlier, that two forensic experts from abroad would be brought in. What was that about? Was that a Public Relations (PR) exercise? What was that?

**Mr. Scotland:** No, the exercise bore fruition because the Commission has received the reports by Dr. Johnson and Dr. Skuse, but it stopped there. When at the trial of Donald Rodney it was

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indicated that these two persons should have been brought as witnesses. Their report, their forensic analysis, was never used.

**Mr. Chairman:** I was more concerned about the thinking.

**Mr. Scotland:** It was a publicity stunt, in the sense that they said that these two persons were coming. They did come, but their reports were ignored.

**Mrs. Samuels-Brown:** That would have been an expensive publicity stunt to have taken the trouble of bringing persons from abroad, paying for their expenses right here and paying for their services.

**Mr. Chairman:** It was a cheap publicity stunt, in terms of the damage that would have been done...

**Mr. Pieters:** Mr. Chairman that is not an appropriate comment for a Chairman sitting on a panel. How is it that your presence by the People's Progressive party (PPP) during the election could not be considered a cheap political stunt, when you had a Commission of Inquiry that was used by the PPP for politics? The same thing applies to you when you make those assertions.

**Mr. Chairman:** It is a pity that you did not allow me to finish, I was only responding.

**Mr. Pieters:** Your Commission of Inquiry was used by a consultant who was paid on the staff of this Commission and wrote a lot of inflammatory articles. Should that reflect on the three Commissioners that are sitting in front there?

**Mrs. Samuels-Brown:** Mr. Pieters, you know yourself fully, and perhaps for good or bad reasons, I think you should give the Chairman a chance to speak. He was explaining the context in which he raised that comment for question. So allow us please, I understand.

**Mr. Chairman:** Let us continue and prevent that please. In the face of that interruption, I do not even remember what I was about to say.

**Mr. Pieters:** I was a cogent juxtaposition.

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**Mr. Chairman:** I think in future you should try to address us with a little more restraint. You really damaged my ears, you came through so sudden.

**Mr. Pieters:** I apologise for damaging your ears, I did not hear comments made about...  
*[Inaudible]*

**Mr. Chairman:** Very well. Go ahead Sir.

**Mr. Scotland:** Mr. Chairman, normally when you let a ball pass you take time to regroup for the next ball to bowled

Paragraph 35 of your written submissions is that the State agencies issued various statements and this is important, denying at the time, the existence of Gregory Smith. This occurred through the highest echelon, the chief of defence. Mr. Chairman, it is my respect...

**Mrs. Samuels-Brown:** I am sorry. Do you mean Gregory Smith in the army?

**Mr. Scotland:** Yes, remember Donald Rodney said: "Gregory Smith gave me this item". There was an initial denial of the existence of Gregory Smith, until the day clean came out on the 17<sup>th</sup> June and had the picture of Gregory Smith.

*13.26hrs*

**Mrs. Samuels-Brown:** It is just that in your written submissions you have put it in general terms – denied Gregory Smith's existence

**Mr. Scotland:** No, I am going to...

**Mrs. Samuels-Brown:** General, but also as a member.

**Mr. Scotland:** As a member of the defence staff, we now know that Gregory Smith had a number, I think Sergeant number 33

**Mr. Pilgrim:** No, 4141.

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**Mr. Scotland:** 4141 was his number and up to now there has not been a discharge of Gregory Smith from the army. Now, Mr. Chairman, I have quoted, I do not wish to belabour the ICJ Report, but all these items or all these issues that are referred to are contained in the ICJ Report and I rely on them for their purport and intent. I wish to add this in my...

**Mr. Chairman:** What interpretation are you putting on that? What inference do you want us to draw from them?

**Mr. Scotland:** The inference that one is to draw, Mr. Chairman respectfully, is that in the face of cogent and compelling evidence that Gregory Smith existed and was aided and abetted by the State in fleeing Georgetown that the State is now seeking, after Donald Rodney had said it was Gregory Smith, to deny his existence.

**Mr. Chairman:** What does it say about the State?

**Mr. Scotland:** I will ask the Commission to find that it is more likely than not that that denial of Gregory Smith is a poor attempt on the part of the State to create an impression (a) that Gregory Smith did not exist, (b) Gregory Smith had no State connection and this was only done, I can tell you why, after Donald Rodney's advent, meaning Donald Rodney is still alive. According to Donald Rodney on how things transpired on that night, Dr. Walter Rodney was supposed to be the one who went to Gregory Smith alone. That is why he was surprised to see Donald. So in those circumstances no one will know or no one would have been near to say how Dr. Rodney met his death. So Gregory Smith would have been safe. Donald Rodney, however, survived and I see heavy weather made about him running and fleeing the scene. I say to you Donald, good for you because it was not safe for him to remain at the scene on that time. Those are my submissions and I wish Mr. Chairman to supplement it at pages... I hope that I have gotten the paragraphs...

**Mr. Chairman:** Those are your submissions with respect to which of the items?

**Mr. Scotland:** I am now going on my submissions with respect to Terms of Reference number II to inquire into the cause of the explosion. We submit on behalf of Donald Rodney...

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**Mr. Chairman:** You said it twice, as it were that they were your submissions. The first time you said that was in relation to which Terms of Reference?

**Mr. Scotland:** Mr. Chairman, what I am doing is, after every Terms of Reference, I will make my submissions. So I am now on my submissions as it relates to Terms of Reference number II.

**Mrs. Samuels-Brown:** You gave the evidence?

**Mr. Scotland:** I will give the evidence and then make the submissions. That is the methodology.

**Mr. Chairman:** Go ahead.

**Mr. Scotland:** Thank you Mr. Chairman. My submission in that regard is that Karen De Souza clearly showed and her evidence un-contradicted, that Donald Rodney came to the house in a distressed condition having just fled the scene of something terrible that occurred.

**Mrs. Samuels-Brown:** Is that in your submissions?

**Mr. Scotland:** Yes please, at page 46. Let me go to page 46.

**Mrs. Samuels-Brown:** Right.

**Mr. Scotland:** Numbered paragraph 168.

**Mrs. Samuels-Brown:** I have it.

**Mr. Scotland:** Donald Rodney also being the only eyewitness that there was no police station in close proximity... Quite frankly, Mr. Chairman is it not natural that he should run to the home of Dr. Omawale, someone whom he knew and knew that Working People's Alliance (WPA) persons were staying there? That is why I said the visit to the site is so important. Look how natural that run is, straight up, one turn and he is at the home calling come, making noise.

I then submit that, on behalf of Donald Rodney, the story of the State controlled media is refuted and that neither he nor his brother, Dr. Walter Rodney, ever tried to cause an explosion to occur at the prison to free prisoners. And of course, he has testified that he, having experienced the



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clanging of the prison gates behind him, knows what those walls are like and he has literally, and with respect, rubbished any suggestion in the book of Gregory Smith and Anne Wagner that this is what they intended to do. And of course Mr. Chairman, the Chair can note the extent of the explosion, even if that was the intention of the person who gave the device that certainly was not their intention.

Further, and I am at paragraph 171, of my submission. Donald Rodney submitted that Gregory Smith was the first and the only person to mention the prison. Mr. Chairman, I pause at this time. If it is we have the State controlled media saying explosion by the prison. Dr. Walter Rodney never mentioned the prison. Donald Rodney never mentioned the prison. The only person who mentioned passing by the prison was Gregory Smith. How did the State controlled media come about that publication that the explosion was near the prison? That prison was more than a block away from where that explosion occurred. More than a block, 180 yards that is by three. That is 540 feet. We saw the distance. The car never took that route and it is my respectful view that that even found its way in the Magistrate's Court. A lot was made about Donald Rodney challenging the official records and I will supplement that in my written submissions before this Commission - the written record of the Magistrate at this trial. But when in the Magistrate's written record, Mr. Chairman, it finds it way a route that takes him by the prison that tells you the state of affairs, subsequent to the death of Dr. Walter Rodney and as it relates to Donald Rodney. That even in the Magistrate's official transcript you have Donald Rodney passing in front of the prison and he mentioned that even when we went to the locus. He was put particular in identifying that route and comparing what the Magistrate said in her written record or in the typed record, as opposed to the route that he took.

**Mrs. Samuels-Brown:** Before you go any further and before you leave this area, what I would want you to address for me is your submission as to the surprise which Gregory Smith showed when Donald turned up and things went awry because it was not expected that Donald would be there. The reason I ask you to address it very specifically is that prior to that date, Donald had become involved.

**Mr. Scotland:** Yes.

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**Mrs. Samuels-Brown:** Donald had had interaction with Gregory Smith. And I also want you to address for me what has been presented as his surprise in that context. Is there any significance to the fact that he did not call it off then? He did not say, “Look the thing is not ready” since he saw that things were not going the way he had envisioned it.

**Mr. Scotland:** Yes, please.

**Mrs. Samuels-Brown:** Before you complete your submissions, I would like you to address that.

**Mr. Scotland:** I will address it now please Ma’am Commissioner. The evidence of Donald Rodney, in his written witness statement presented and I think it is from paragraphs 26 to 34, is that there was a time when his involvement with Gregory Smith and Walter Rodney petered out in that he thought that Dr. Rodney was doing his own communication and he was not involved. Then it was by pure circumstance that on the evening of the 13<sup>th</sup> June, at around 16.30, when he passed by Walter, that Walter told him, “Look there is something that the children need to go to, so they would use the car. Come back at 19:30 so we would use your car to go there.” It was not then, meaning go there by Gregory Smith. It was not something that was novel because Donald Rodney had previous interactions with Gregory Smith.

Now, second issue: “Why did Gregory Smith not call it off? Evidentially, I have no basis upon which I can make a definite pronouncement, suffice it to say the documents found after; especially the documents contained in the files LJ/CID/ONE and LJ/CID/TWO. So a note from Gregory Smith said, “Remember to use on the 13<sup>th</sup>”. It means then that things were already in train. The official to Walter’s document, the high ranking government official who was at a cocktail party and left at 20:00; that found its way in the ICJ report. It seems Ma’am Commissioner that the die was already cast. So although he was surprised, Gregory Smith that is, it was not within his power to call it off.

**Mrs. Samuels-Brown:** I will be reading the evidence again to clarify this in my own mind because it did not occur to me in these terms before. But in terms of the conversation between Gregory Smith and Donald Rodney, I will be reading it carefully to see whether it indicates whether or not Gregory Smith thought Donald would just be delivering something to Walter or

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he expected him to accompany him throughout. I think it may be of some relevance to examine the comments.

**Mr. Scotland:** Ma'am Commissioner, may I ask, through you, that your secretariat just provide me with a copy of Donald Rodney's statement of the 17<sup>th</sup> June?

**Mrs. Samuels-Brown:** I would not want to hold up or interrupt your flow.

**Mr. Scotland:** Madam, it will not take me long, but when I quote I want to be specific on this, 17<sup>th</sup> June.

**Mr. Chairman:** While that is being retrieved for you...

**Mr. Scotland:** Yes.

**Mr. Chairman:** I wish to quote when you were referring to LJ/CID/ONE and LJ/CID/TWO, remember to use on the 13<sup>th</sup>?

**Mr. Scotland:** Yes.

**Mr. Chairman:** Put that in context again for me.

**Mr. Scotland:** Putting that in context, when the police officers retrieved the items at the home of Gregory Smith either on the 14<sup>th</sup> or on the 17<sup>th</sup> June at Ruimveldt there was a note on the equipment that said, "Remember to use on the 14<sup>th</sup>".

**Mr. Pilgrim:** The 13<sup>th</sup>.

**Mr. Scotland:** On the 13<sup>th</sup>. "Remember to use on the 13<sup>th</sup>".

**Mrs. Samuels-Brown:** In other words, there may have been some interaction with some other body and they were indicating to him that the 13<sup>th</sup> was the day.

**Mr. Scotland:** To use and remember a date was scratched off and the 14<sup>th</sup> was put, so it is in direct answer to the question by Ma'am Commissioner. It is my respectful submission that based

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on those substrata of evidence that was before the Commission that things were already in train and could not have been stopped at that time.

**Mr. Chairman:** Do you remember what particular item had that notation?

**Mr. Scotland:** Yes, it was the equipment that was found - the control equipment. The equipment that Gregory Smith kept at his place or the car - the companion set to the walkie-talkie that was given to Walter Rodney.

*13:41hrs*

Madame Commissioner, to answer your question and as it relates to the evidence, I think some assistance can be found at Paragraph Six of the statement of Donald Rodney on the 17<sup>th</sup> June, 1980. May I read please? “The purpose of my visit to Smith on the night of the 13<sup>th</sup> June, 1980, was to collect one walkie-talkie set for testing. When I went to his home, Smith came to his door and appeared surprised as seeing me. He asked me where was Walter. I told him that Walter was around the corner. He asked me if we were walking or driving and whether we would test the set in the car or on foot. I replied that Walter would decide. He told me that the set...”

**Mrs. Samuels-Brown:** “I replied that, what?”

**Mr. Scotland:** ... “I replied that Walter would decide...”

**Mrs. Samuels-Brown:** “...would decide”?

**Mr. Scotland:** “...would decide that. He told me that the set was ready. He then went inside, I remain at the door”. What this paragraphs seems to indicate is that although Gregory Smith was surprised at seeing Donald Rodney he took the time to make enquiries as to whether Walter was there with him on the night and whether they would do the test as he instructed them to do on the night and Donald, in his responses confirmed that to him when he said “I replied Walter would decide that”. So implicit that we would do the test but whether we go by car or on foot, Walter would decide that. More importantly, skip the next paragraph and go to Paragraph seven; he said that “Walter and I should walk along Russell Street making our first stop at Princess Street where we would carry out the first test. He said we should then proceed along Camp Street and be

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ready to have the second test opposite the Georgetown Prison. He particularly wanted to have a test near the Prison wall so as to observe the effect the expanse of metal on the efficiency of the set. He himself would remain at home to operate the companion set which would be in his possession. He repeated his instructions and added that if we wanted the first test we could pass Princess Street but it was important that the second test takes place in Camp Street near the Prison wall. He said he wanted to observe whether the transmission may interfere with by the extensive metal wall. So, Commissioners, it is my view in terms of Terms of Reference II that being surprised at Donald Rodney appearing and not Dr. Walter Rodney alone, Gregory Smith assured himself that the test would be carried out that night, that is the first thing. Secondly, he wanted to ensure that the first test, they can do anyway, by Princess Street but the second test, he reiterated, he drove it home that it must be done near the Prison wall and he gave as his excuse the rational for so doing in that they wanted to test the effects of the expanse of metal on the test. More importantly, Mr. Chairman ...

**Mr. Chairman:** You are rejecting that as just an excuse?

**Mr. Scotland:** Yes, well ... no, I have submitted that was is how he wanted ... oh yes, that was just an excuse. He wanted that so when it exploded there the submission could be “look they went to penetrate the wall” but more importantly Commissioners, this is what I want to say about this. When he said that, he had the companion set at his house and Mr. Kanhai indicated that that frequency that the set operated was one that the Army and others could have used and he based that on the Skuse’s Report. Remember, at all times Smith had a companion set at his home.

**Mr. Chairman:** And that allowed him to do what?

**Mr. Scotland:** To detonate and that is what he did. It allowed him to detonate and that is what he did.

**Mrs. Samuels-Brown:** It seems as if his preference was or he anticipated that either they or Rodney, Walter Rodney himself would be on foot?

**Mr. Scotland:** Would be on foot.

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**Mrs. Samuels-Brown:** I do not know if that would make a difference in terms of how the impact of a detonation but from what you just read even though he asked “will you be driving or on foot” his instructions that followed after anticipated that Walter certainly would be on foot.

**Mr. Scotland:** Would be on foot and in that regard Madame Commissioner, how it played out would be that Walter is on foot, I do not expect Donald to be as if they were going into a marching procession, and he has the item in hand...

**Mrs. Samuels-Brown:** *[Inaudible]*

**Mr. Scotland:** ...Donald explaining to him, that I am in the car.

**Mr. Jairam:** Mr. Scotland, may I ask you and I am asking you because I need to hear you.

**Mr. Scotland:** Yes, Sir.

**Mr. Jairam:** Why should we prefer your Client’s version of the events over some other version for example, as contained in Gregory Smith’s book?

*[Commissioners in discussion]*

**Mr. Jairam:** Take a little pause. You will think about it before you answer.

**Mr. Scotland:** Yes, please. I am looking at my time, can I be allowed to go at least until 14:00hrs, I will complete until about 14:00 hrs.

**Mr. Jairam:** We would not stop you. I do not think so.

**Mr. Rodney:** Much obliged.

**Mr. Jairam:** Are you proposing to finish your submissions today?

**Mr. Scotland:** Today, yes please and give other Counsels ... I am proposing to finish today.

**Mr. Jairam:** Because you have other Terms of Reference.

**Mr. Scotland:** I have two other Terms of Reference.

**Mr. Jairam:** So you would be able to gallop through those?

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**Mr. Scotland:** Yes, I will. I am gathering momentum.

**Mr. Jairam:** Are you ready? Have you found it? I had asked you the question. Why should we prefer your Client's version of the events over any other version?

**Mr. Scotland:** The only competing version of the events is contained in Ann Wagner's co-authored posthumous book by Gregory Smith entitled *Failed Assassination Cry*. Donald Rodney has availed himself before this Commission to have his first-hand testimony tested in cross-examination. Ann Wagner availed herself but she was respectfully of no assistance as it relates to first-hand evidence. Her evidence was or her testimony as contained in the book was what was told to her by her brother and she did no independent checks to verify. Also I am fortified in my submission that Donald Rodney's version ought to be preferred on a balance of probabilities because of the immediate reaction of the state agencies after the death of Dr. Walter Rodney.

**Mrs. Samuels-Brown:** A point which has occurred to me is that immediately after the death of Walter Rodney the state authorities on the evidence presented to us were in touch with Gregory Smith through visiting his house and getting the material...

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** ...and reputedly, from the other Witnesses, in touch with him, the passports ...

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** ... information we got and so on and so I am curious as to why he never was placed before the Court either as a Witness against Donald Rodney as a co-accused.

**Mr. Scotland:** ...or as a co-accused under the act?

**Mrs. Samuels-Brown:** I am curious about that.

**Mr. Scotland:** We cross-examined the Witness Madame Commissioner, you can recall, I think Mr. Chairman said "you cannot squeeze anything more out of the Witness". He could not answer which is, Roach could not answer or Leslie James but Madame Commissioner, Mr. Chairman may I on the 14<sup>th</sup> document, the note on the equipment...

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**Mrs. Samuels-Brown:** Let me just correct that because there is evidence that he left the country immediately whether for Trinidad or elsewhere...

**Mr. Scotland:** Yes.

**Mrs. Samuels-Brown:** ...so perhaps it would not have been easy to put him before a Court but I would have expected a warrant or something to be going out.

**Mr. Scotland:** Something... Well actually no, Madam Commissioner, they arrest Donald Rodney...

**Mrs. Samuels-Brown:** ... a subpoena or something.

**Mr. Scotland:** They arrested Donald Rodney in the hospital. Why could they not as my recollection that Kwakwani is part of Guyana. Why could Gregory Smith not arrest in Kwakwani...

**Mrs. Samuels-Brown:** Not necessarily arrested but at least summoned as a Witness.

**Mr. Scotland:** ...as a person of interest, interviewed, a statement but Mr. Chairman, here is where I can give more assistance to the Commission. The evidence of the equipment found at the home of Gregory Smith on the 14<sup>th</sup> was given by Trenton Roach before this Commission on Friday 31<sup>st</sup> October, 2014, and with your leave, may I read from page...

**Mr. Chairman:** *[Inaudible]*

**Mr. Scotland:** Friday 31<sup>st</sup> October, 2014.

**Mr. Chairman:** Yes, go ahead.

**Mr. Scotland:** ...and Page 23 of that transcript reads as follows:

“Mr. Hanoman: [He is questioning Mr. Roach] At some point after that it had become clear to you that this equipment was seized from a place that may have had something to do with Walter Rodney’s death?”



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Mr. Roach: Yes, but I have to explain why. On the monitor was a paper marked “remember to work on the 14<sup>th</sup>” and then written over the 4, was the letter 3”.

**Mr. Scotland:** So taken ... may I pass it ...

**Mr. Chairman:** “Remember to work on the 14<sup>th</sup>”?

**Mr. Scotland:** “Remember to work on the 14<sup>th</sup>” but over the 4, the four was crossed out and a 3 superimposed. May I pass it through your Orderly to the Chairman so that the Chairman could take the direct reference?

*[Court Marshall handed over copy of document to from Commissioner Brown to Counsel of the Commission]*

*[Court Marshall handed over copy of document from Mr. Scotland to Commissioners]*

**Mr. Scotland:** So this is Trenton Roach speaking of the equipment gathered form the home of Gregory Smith which based on all the circumstantial evidence was the comparator set.

**Mr. Chairman:** You remember the equipment though? What specifically it was?

*13:56hrs*

**Mr. Scotland:** It was electronic equipment described in LJ/CID/WR1, the Crime files into the death of Walter Rodney. Electronic equipment.

Mr. Chairman, I would like to move to Terms of Reference (iii). That Terms of Reference is...

**Mr. Chairman:** How long are you likely to be?

**Mr. Scotland:** I am gathering momentum. I will be finished at 14:10hrs at the latest.

**Mrs. Samuels-Brown:** On Term of Reference (iii)? *[Laughter]*

**Mr. Pilgrim:** That is a reasonable question.

**Mr. Chairman:** You are a man of large ambitions, man.

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**Mr. Scotland:** I will be finished with everything at 15:10hrs, Madame Commissioner, 15:10hrs Christopher, sorry, 14:10hrs.

**Mr. Chairman:** You sure you were not more accurate when you spoke earlier? *[Laughter]*

**Mr. Scotland:** The Term of Reference (iii), it is at page 26 of submission, is to specifically examine the role of the late Gregory Smith, Sergeant of the GDF, played in the death of Dr. Walter Rodney and if so, to inquire into who may have counselled, procured, aid and abetted him in doing so, including facilitating his departure from Guyana after Dr. Rodney's death.

I start with the evidence of Donald Rodney given to ASP Ignatius McRae on 17<sup>th</sup> June, 1980. I commend this evidence in law and will address you in full as the first response when pressed by an arm or a police officer and I say that, unless discredited by some cogent and compelling evidence, is evidence that ought to be accepted by this Commission. Donald Rodney's account is to be compared to that of Gregory Smith and the book that was co-authored by his sister, Anne Wagner.

Anne Wagner – and I go to page 95 of my submissions – testified as to what her late brother, Gregory Smith, told her between 1980 and 2003 and it is a good thing that she came to testify because one would have thought that there was at least a transcript, some iota of corroborating evidence that would support her book. Anne Wagner's unequivocal testimony before this Commission was that she had no transcript, she had no corroborating evidence and that she never checked anything that was said to her by her brother, Gregory Smith that is contained in the book.

Now, what does the Commission make of that evidence? Apart from it being hearsay and the Commission is allowed to receive hearsay evidence but that is not tested and I ask that no weight be attached to it.

Anne Wagner also testified about... or the book also includes that the WPA provided air travel for Gregory Smith. I am at paragraph 101 and 102 about the passport. Commissioners, with respect, that evidence has been rubbished by Captain Gerald Gouveia. He has told you how

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Gregory Smith travelled and he was not drugged, he walked onto the plane with his family and when he went to Kwakwani, he greeted his brothers and his other siblings.

I move now to the other evidence, Police Sergeant Alexis Adams, testified that as an immigration officer attached to the records of the Central Immigration and Passport Office, that under instructions from her superior officers, she successfully retrieved a passport application form from one William Smith otherwise known as Cyril Mlton Johnson, whom we know as Gregory Smith. She found the application form in the name of William Smith that was signed on January, 1976 by one Goodwin McPherson, a GDF officer in the Intelligence Corp, as the guarantor who swore that she knew Smith for more than five years.

**Mr. Jairam:** Certified?

**Mr. Scotland:** Certified that he knew Smith for more than five years. Colonel McPherson and Major Lewis were both involved in the investigation that involved Gregory Smith and the death of Dr. Walter Rodney and that Adams testified that in July, 1980, the passport showed an incorrect date of birth and was issued in the name of Cyril Johnson.

Adams also found an application form approved in May, 1999, in the name Cyril Milton Johnson. This had no signature of the applicant or name or signature of a guarantor as was required ... this according to proceedings ought to have been denied but this Commission received evidence that the Guyana Passport was issued in the name of Cyril Johnson. This was an irregular application form and also showed that the application was made to replace and cancel Passport No.268685 and the signature page which displayed in Smith's book of 2007 as the false passport purportedly provided by the WPA.

The witness did not find an application form for the cancelled passport. It is my respectful view and my suspicion for you that this involves intricate State involvement. This is not normal. It is like going to Trinidad and Tobago or in any country with a passport, without anybody signing, '*I have known 'X' for five years*', without a signature and a passport was granted. In my view, this is cogent and compelling evidence to found a submission that is more likely than not that Gregory Smith was assisted, just not in 1980, in his departure but in 1999, after the warrant for his arrest was issued by State agencies.

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Captain Gerald Gouveia's evidence is also very important, Mr. Chairman, and you...

**Mr. Chairman:** When was the warrant for his arrest? What year, again?

**Mr. Scotland:** Pardon?

**Mr. Chairman:** The warrant for his arrest, what year was that?

**Mr. Scotland:** That was 1996, the warrant for his arrest. I will get back just to confirm the date. The evidence of Captain Gouveia is uncontroverted. Mr. Chairman and Commissioners, the only issue that this Commission ought to have about this evidence was in keeping with the the turn bull direction, meaning, if he may have been mistaken. It is my respectful view that based on his testimony, that he saw Gregory Smith. It was broad daylight and there was nothing obstructing his view, he saw him boarding the aircraft, he saw him leaving the aircraft, that at the time he saw him boarding. He had his full face and body to observe, that there are no weaknesses in his identification, save and except, Mr. Chairman, that he did not know him before. That weakness in my submission is overcome by the way in which he identified Gregory Smith. What he said was this, *'I dropped this person on the 14<sup>th</sup> and that was all the consideration I gave to it. Then an anomaly arose when I saw his picture in the Catholic Standard. It then dawned on me that this person, who I am seeing in the Catholic Standard, is the same person whom I transported on the plane.'*

It is my view, Mr. Chairman, respectfully, that this is akin to a criminal matter, someone being robbed, not knowing their assailant and shortly after telling the police, *'Police stop, look the person who robbed me here.'*

These are my submissions as it relates to any turn bull considerations that could be applied to weaken testimony or the Commission to give itself its warnings that, persons who know persons could be mistaken. There is no mistaking in the mind of Captain Gouveia that it was Gregory Smith whom he transported and his family. His evidence is corroborated by persons who saw Gregory Smith landing at Kwakwani at the same time ...

**Mr. Chairman:** I was just going to take you to the corroborating evidence.

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**Mr. Scotland:** Yes, Mr. Chairman. So, in that regard, the warrant is... I am very grateful to Commission Counsel... The warrant is TAM/LJ/AW/GS2 dated 13<sup>th</sup> June, 1996. Mr. Chairman, what then is the Commission to make of this state of affairs?

There is a warrant for murder, issued at the hand of the Director of Public Prosecutions for Gregory Smith, otherwise known as Cyril Johnson, yet he is being issued an official passport in 1999, without a guarantor and without a signature. I ask the court to make a finding that that smacks of State involvement.

**Mr. Chairman:** A passport in the name of...

**Mr. Scotland:** Cyril Johnson... In circumstances that were irregular. So, my submissions on Term of Reference (iii) is that, and I wish to rely on page 48 to 51 of my submission and say this ...and I lay before you, the testimony of Minister Clement Rohee, who made his testimony that he thought beyond a reasonable doubt, that he gave the persons who he concluded were responsible for the death of Dr. Walter Rodney. He put it squarely on the PNC led by the then Hon. Prime Minister, Forbes Burnham. That is testimony that is before this Commission.

My submission is this, the Skuse Report implicates official Government sources in providing Gregory Smith with the explosive device. The ICJ Report noted that Gregory Smith must have been assisted in getting the explosive material because he could not have done it alone.

Rohit Kanhai went through the Skuse Report and supported it and testified that the explosive in the device could not have been put together by a layperson and would have had to be detonated remotely.

For the sake of emphasis, I repeat that the Commission has received evidence from Trenton Roach that comparator device was found at the home of Gregory Smith with a note, "Use on 14<sup>th</sup>" scratched off and it was used on the 13<sup>th</sup>. Thereafter Gregory Smith through official immigration sources was provided with a passport in the name of Cyril Johnson in 1982 and then, Mr. Chairman, even more startling was that the guarantor or the person paying the requisite fee was, according to the evidence received by this Commission, none other than the then Commissioner of Police, Larry Lewis.

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14:14 hrs

That is the evidence received by this Commission. One other issue... [inaudible] Gwendolyn Jones and Joan Melville, two key witnesses following the assassination of Dr. Walter Rodney. No attempts were made to locate Gwendolyn Jones who gave a statement to the police. Joan Melville, the confidential secretary... and within days of the assassination of Dr. Walter Rodney was posted to a diplomatic mission. Items were removed and when asked about it there can be no explanation from the police officers as to how her personal items were removed. So we do not just have Smith, we have Smith, his reputed wife and his reputed, reputed wife and his children all being removed from Guyana.

**Mrs. Samuels-Brown:** What items are you referring to?

**Mr. Scotland:** The evidence was that Melville provided a statement that she had 2 photographs of her boyfriend Gregory Smith in her drawer that she secured with a gold chain, the drawer was broken into and the items were removed. So the connection to Smith; the photographs of Smith were removed from her drawer, in her statement, it is there Mdm. Commissioner.

**Mrs. Samuels-Brown:** So that would have implications you are saying for the whole questions around his identify?

**Mr. Scotland:** His identification...

**Mrs. Samuels-Brown:** [inaudible]

**Mr. Scotland:** Yes, please Madam.

**Mrs. Samuels-Brown:** Was connected.

**Mr. Scotland:** Yes, please Madam. My penultimate term of reference as it relates to the state activities - examine report against activities of the state, that is contained at... starting at page 34 of my submission.

**Mrs. Samuels-Brown:** Of course you do realise that my prophecy was correct, it is now 14:10 hrs.

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**Mr. Scotland:** I am motoring on and I am ..... the time that I took to answer questions but I am moving, I am moving. Terms of reference 4.

**Mr. Chairman:** Whether there was any support for our coming earlier tomorrow as the last day so that you could have perhaps 15 to 20 minutes to finish.

**Mr. Scotland:** Mr. Chair I would really prefer to finish... I am at the end

**Mr. Chairman:** Okay you are finishing up?

**Mr. Scotland:** May I motor on please?

**Mr. Chairman:** That is alright with me

**Mr. Scotland:** Thank you very much.

**Mr. Chairman:** But I would still like to hear the response to the question given that tomorrow is the last day of the public hearings...

**Mrs. Samuels-Brown:** What is the question?

**Mr. Chairman:** ...whether we come earlier so as to get in all the submissions.

**Mr. Pilgrim:** I am certainly amenable to that I do not have any difficulties to that... at this stage I imagine we still have to hear myself, Mr. Pieters, Mr. Clarke, Mr. Ram, that is four, and even if we go...

**Mr. Chairman:** Mr. Pieters, may I hear you?

**Mr. Pilgrim:** Commission's Counsel...

**Mr. Pieters:** Sorry Mr. Chairman, I am hoarse. What did you just say?

[Laughter]

[Inaudible]

**Mr. Chairman:** That was an explosive voice you put down there. Anyhow what is your view on coming in the morning say about 9?

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**Mr. Pieters:** Mr. Chairman, I agree that we should come in earlier, but it also appears that you will have to impose time limitation on us, as you see Mr. Scotland took the bulk of the day, so that if some other Counsel does the same thing you may run into the issue of all of us not being heard.

**Mr. Chairman:** How long Sir are you hoping to go now, before you finish?

**Mr. Scotland:** I have revised my position to 14.25hrs if I start now. I am finishing today Mr. Chair, I am finishing today. I am motoring, I am motoring, not in Trini time... Mr. Chair I have noticed Mr. Pieters has taken on the persona of the person he has replaced.

[Laughter]

**Mr.: Chairman:** I did not hear that one.

**Mr. Scotland:** May I continue please?

**Mr. Chairman:** Certainly, certainly.

**Mr. Scotland:** Term of Reference number 4.

4. Evidence I commend to the Commission is that of Edward Rodney, the brother of Dr. Walter Rodney, Karen DeSouza.

**Mrs. Samuels-Brown:** Where are you in your...?

**Mr. Scotland:** I am at page 34 and I do not proposed to go through the evidence but just to point to one or two witnesses in a particular area. Karen DeSouza speaks of the death squad which was confirmed. Rev. Gilbert who was a WPA supporter, spoke of the activities of the House of Israel. And Dr. Patricia Rodney who testified on the several police searches. Minister Clement Rohee, the PPP member who testified at length of certain things. Mr. Chairman I must point out that part of the caution as to persons who are Ministers who testify before a Commission, the learning is that, that has to be taken in the context that they may have an interest to serve and I just commend his evidence to you and say in considering what he has said that, that is something the commission ought to bear in mind in weighting up his testimony. My submission...



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**Mr. Chairman:** But is there any particular area of his testimony that you want to draw attention to in particular?

**Mr. Scotland:** Yes please

**Mr. Chairman:** Suggesting that we ought to be cautious.

**Mr. Scotland:** Yes please there is an area as it relates to the major shakeup in the army that occurred after the destruction of the Ministry of National Development at occurred on the 14<sup>th</sup> of July 1979. Heavy weather was made of that but Mr. Chairman that is a cause for shakeup if there was leaps in national security and something like that occurs and there is a shakeup that occurred after you cannot criticized the extra laws of the GDF major shakeup. So it is contain in paragraph 142 in my submission and also I have included the area in which I wanted to highlight in my written submission just to say as it relates to term of reference 4. That Donald Rodney spoke and that he is insistent of speaking of a government dictatorship that he personally witnessed. That government dictatorship now I am at page 52 of my submission was crystalized in the concept of paramount of the party. More importantly Mr. Chairman relative to that term of reference senior superintendent Leslie James produced 2 files on the WPA this commission received the evidence of certain documents in that file of importance is this in addressing the commission in the documentary evidence it is clear that the police standing orders required that all branches of the police force collaborate respect to the intelligence gathering if there was proper collaboration there can be no denial of the existence of Gregory Smith when in the 2 WPA files there is evidence that Gregory Smith was a double and as the chair may had rightfully pointed out triple agent as so was Mr. Gates.

**Mr. Chairman:** .... He denies that?

**Mr. Scotland:** No he could have been a quadruple agent.

**Mr. Chairman:** Yes

**Mrs. Samuels-Brown:** These WPA files were from what branch of the police force?

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**Mr. Scotland:** It was from the special branch. Everybody had a number and Donald Rodney's number only came up after the events of the 13<sup>th</sup> of June 1980 that was to tell u how important he was. He was a non-entity that might have surprised. Mr. Chairman would note the document with the pictures of all the WPA members. The Recognition of WPA members that were tendered before, the handbook the recognition handbook that was tendered before this commission, that speaks of serious state involvement and state surveillance at the time. The recognition handbook is....

**Ms. Rahmat:** TO 2

**Mr. Scotland:** To 2?

**Ms. Rahmat:** Tendered on the 25<sup>th</sup> June 2014

**Mr. Scotland:** I am very much grateful to commission counsel. That is a serious handbook and remember Mr. Chairman this is not 2015 where everything is a selfie and we could steam it live and forward via whats app you know. This is in 1980 there is a recognition handbook.

**Mr. Chairman:** And what interpretation you put on that?

**Mr. Scotland:** That there was advance state surveillance on members of the opposition and in particular members of the WPA. Advanced and in that Gregory Smith identified by the police force and nothing was done to arrest him when his name came up as a person of interest. My final term of reference is term of reference Roman numeral 5 and that is a review and report on earlier investigations done Mr. Chairman my only oral submission ....

*14:26hrs*

**Mr. Scotland:** ...evidence, all was not well at that inquiry and there is evidence from Eusi Kwayana, from Gates and from other persons as to the state of affairs in the country and the judiciary at that time.

Mr. Chairman, my closing remarks would go back to my opening remarks. I really thought that this was an opportunity and Mr. Chairman we were doing, on a scale of one to ten, nine and a half, getting all the evidence before you, as the ICJ Report implored us to do. The fact that I am

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doing this now, without all the evidence being heard, Mr. Chairman, I understand the limitations are a cause for great sadness. I end by saying, may I just have one word with Donald Rodney please Mr. Chairman.

**Mr. Chairman:** Sure. Why are you restricting yourself? Do you need two?

*[Laughter]*

**Mr. Scotland:** Unless I can be of further assistance to this Commission, Mr. Chairman may I say that these are my closing remarks. It really was a jurisprudential pleasure appearing before this Commission. It is the type of case that I want to do.

**Mr. Chairman:** I thank you for your preparation.

**Mr. Scotland:** Thank you Mr. Chairman.

**Mr. Chairman:** And for your submissions as well.

**Mr. Scotland:** The written document that I will submit will have the notation of the evidence and time and place and I will expand on the law and give cases which I rely on. I will have everything submitted before, Chair, in...

**Mr. Chairman:** You will be most helpful.

**Mr. Scotland:** Much obliged Mr. Chairman.

**Mr. Chairman:** I am happy to give you the thanks of the Commission.

**Mr. Scotland:** Thank you very much Mr. Chairman.

**Mr. Chairman:** Okay, thank you.

**Mr. Pilgrim:** We were trying to use the moment we had there just to determine if we could set an order for the rest of us for tomorrow.

**Mr. Chairman:** If you could set an?

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**Mr. Pilgrim:** An order for tomorrow. So we are trying amongst ourselves just to work out a batting order, if you will, for tomorrow.

**Mr. Chairman:** You will take the initiative in coordinating that?

**Mr. Pilgrim:** I think we are at that point, Sir. So perhaps we will confirm and let you know shortly after we are adjourned.

**Mr. Chairman:** I do not like to impose these orders. I like them to give me the orders.

**Mr. Pilgrim:** Consent order is always better.

**Mr. Chairman:** Always better, the best actually.

**Mr. Scotland:** Mr. Chairman, may I be excused from attending early in the morning. I will be here, but later down in the session. May I be excused?

**Mr. Chairman:** You will be excused.

**Mr. Scotland:** Thank you very much Mr. Chairman.

**Mr. Chairman:** What time are we coming tomorrow?

**Mr. Pilgrim:** If we could start at 9:00 hours, Mr. Chairman.

**Mr. Chairman:** Commissioner Brown thinks she can make it. Yes, we will be here tomorrow God willing at 9:00 hours. We are not unbalancing you, Commission Secretariat?

**Mr. Pilgrim:** Traffic should not be any worse half an hour earlier.

**Mr. Chairman:** Members of the public, tomorrow we start at 9:00. We will try to put in an extra hour or more tomorrow, so as to get through with all the submissions. You were fortunate Mr. Pieters.

**Mrs. Samuels-Brown:** Mr. Pieters said he only needed one hour.

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**Mr. Chairman:** I was saying your friend is fortunate because he is the only one that volunteered today; there was no time limit on him. But tomorrow, I am afraid we may have to introduce time limits.

**Mrs. Samuels-Brown:** Mr. Pieters said he only needed one hour.

**Mr. Pilgrim:** There are five of us left Sir.

**Mr. Chairman:** You have told us already Mr. Pieters that you will complete within the hour?

**Mr. Pieters:** Mr. Chairman, any time limit that the Commission impose upon Counsel, I am prepared to comply with.

**Mr. Chairman:** I thought that you had imposed that on yourself?

**Mrs. Samuels-Brown:** You did.

**Mr. Pieters:** I am known for brevity.

**Mr. Chairman:** Alright until tomorrow. I hope we will all be as prepared as Mr. Scotland was today. You were well prepared and it helped.

**Mr. Scotland:** Thank you very much Mr. Chairman. I appreciate it.

**Mr. Chairman:** You are welcome. Until tomorrow 9:00. We now stand adjourned.

**HEARING ADJOURNED ACCORDINGLY AT 14:32hrs.**