

Cops sued by Derby-Lewis ruled liable

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The police are liable for the damages Gaye Derby-Lewis – the wife of Chris Hani's killer Clive Derby-Lewis – suffered when about 15 officers swooped on her Waterkloof Ridge home nearly 10 years ago and arrested her for illegal possession of firearms and ammunition.

Pretoria High Court Acting Judge Andre Bosman on Thursday rejected the police's version that they raided the house in the early hours of November 29, 2002, as they had information that Boeremag fugitives were hiding out there.

In his judgment he also rejected the version of the arresting officer in charge, that he had no idea that the operation was going to take place at Derby-Lewis's home, as he simply went to the address given to him by the task group commander.

Judge Bosman said the police knew very well they were going to Derby-Lewis's home and were determined to find anything to nail her.

The police did not only act unlawfully when they entered the house without a warrant for arrest and held the elderly woman for three days in custody, but they also acted in violation of the constitution, he said. The arresting officer, Captain PM Maluleke (now a Lieutenant-Colonel), lied to the court to hide the real motive for raiding Derby-Lewis's home, he added.

Derby-Lewis is claiming R1.3 million from the police for her unlawful arrest and detention. The court will at a later stage determine how much in damages she is entitled to.

Derby-Lewis, who is now 73, said she was woken up at 5am by a noise and found police - carrying rifles that looked like AK-47s - outside her gate. They jumped over the wall and stormed into her house, damaging a gate and her Zulu pots. Maluleke said he was looking for fugitives and doing "spot checks", she said.

They kicked down the door of a storage room and searched the house. Asked if she had weapons, she pointed out a Rossi revolver.

The police also found antique rifles in a cupboard, taped together with duct tape. These belonged to her husband and were not in working condition, she said.

The police did not confiscate those when they arrested her husband in 1993. Derby-Lewis felt she did not need licences for antiques.

She could not immediately hand over her licence for the Rossi as she was too shaken, but later handed it over to the police. She was nevertheless placed in the back of a police van and held in custody for three days under appalling conditions.

Derby-Lewis was charged, but later acquitted on all charges.

Maluleke told the court that the police received a tip-off from an informant that Boeremag fugitives were hiding there, but he had no idea who the address belonged to.

He could not find any fugitives, but was obliged to arrest and detain the woman after firearms were found for which she could not provide licences, he said.

The raid followed a briefing in which they received the information. At first he said the meeting took place earlier in the evening. He later changed his version to say they immediately left for the Waterkloof house after the meeting and got there at 5am.

He could not supply details about the “fugitives” he was to search for.

The court also rejected his version that there was no time to apply for a search warrant, or that he did not know who lived at that address.

“In my view he started and possibly planned the whole operation with the full knowledge the plaintiff was resident at the house,” the judge said.

The officer’s evidence on the briefing session was vague and he could not explain how they only arrived at the house at 5am if the session was earlier that night.

“Based on the evidence, it is clear Captain Maluleke had a premeditated aim.

“He and his team arrived at the residence, duly planned, to look for any possible evidence to arrest the plaintiff and to look for any possible criminal offence which would entitle them to effect such an arrest,” the judge said. - Pretoria News