Date of hearing: 03 MAY 2002

BE CARTON-BARBER                         COMPLAINANT

vs

SABC                         RESPONDENT

TRIBUNAL: PROF KOBUS VAN ROOYEN SC (CHAIRPERSON)
          MRS DOLLY MGOQI
          PROF WILLEM DE KLERK

For the Respondent: Mrs Dorothy van Tonder, Acting Manager, Policy and Regulatory Affairs, accompanied by the Executive Producer: Afrikaans TV News Mr Peet van Staden.

News – error in stating that a hero from the Republics’ side in the Anglo-Boer war had been murdered, whilst he had died in conventional battle – error not of such a nature that negligence could be inferred. Error result of translation mistake. SABC cautioned. However, no contravention of Code.
SUMMARY

A news item stated that one of the South African heroes of the Anglo-Boer war had been murdered. The truth is that he had died in conventional battle, which, of course, does not amount to murder. Error due to translation error and not regarded as negligent. No contravention of Code, but SABC cautioned.

JUDGMENT

JCW van Rooyen

A news item broadcast on SABC2 Afrikaans news dealt with the unveiling of a newly erected statue in honour of one of the South African heroes of the Anglo-Boer War (1899-1902), Commandant Danie Theron. Nelson Mandela, South Africa’s previous president, and hero of the Liberation Struggle, held a speech at the unveiling and spoke with respect of freedom fighters like Danie Theron.

The Registrar received the following complaint:
“...Theron was killed in action. This is not a war crime, is not representative of execution and murder, and I have very legitimate expectation to demand a righting of the record. I state that I ‘phoned SABC TV2 newsdesk, where I was informed that the broadcast was based on information supplied by the journalist, and that therefore it is believed to be the truth.

The innuendo is obvious: my assertion that the journalist has distorted through an utterance from the back of her head, makes of me a liar. Unless this matter is rectified, I shall sue the SABC. I was most happy to be informed via tape recorded message, whilst waiting for connection to the newsdesk, that all telephonic conversations are recorded. I trust that my conversation shall be preserved in anticipation of possible future litigation. I trust further that SABC journalists are to be expected to cease from inflammatory and emotive utterances of puff.”

The SABC responded as follows:
Ms Dorothy van Tonder: “Enclosed a letter from the Executive Producer: Afrikaans TV News, Mr Peet van Staden and respond as follows:
Mr van Staden’s letter is self-explanatory. I should like to add that such errors of translation have occurred many times in South Africa over the years, in both radio and TV news bulletins. As a language practitioner of many years’ experience, I can attest to the ease with such mistakes are made – with results that are sometimes humorous and sometimes serious. In this instance there was no intention to falsify or distort history, or to disseminate propaganda.

Mr van Peet Staden: “The Complainant did indeed, as his complaint states, call the SABC newsroom about the news item. In fact, he spoke to the bulletin writer who handled the story, which included checking the reporter’s script. He was indeed told that as a general principle we trust the judgment of our people in the field. I can also confirm that the choice of phrase was the reporter’s.

There are two ways of looking at this. One might argue that morality in wars, like many other actions viewed a century on, changes; that rights and wrongs seem more relative; that in the eyes of some beholders “fallen” or “killed in action” might become “murdered”. For example, to many South Africans “terrorist killed in hot pursuit by the South African security Forces” in the apartheid years 15 years on means, and in certain media is reflected as such, “murdered by the apartheid structures”. Without wishing to start a debate about some obvious similarities and differences between the two cases, the point is simply that what used to be clear concepts to everyone are open to questioning and rephrasing these days. The media, including the SABC, is not unaffected by this process. The second is to admit that, in hindsight, the better word would have been “doodgemaak” (killed), not “vermoor” (murdered).

The reality is that the reporter did not wish to make a political statement. Although she is Afrikaans speaking, she wrote her script, as is SABC news custom, in English. The word she used is killed, not murdered. She then translated this to Afrikaans, and admits to making a semantic mistake in doing so. But to suggest that the reporter “has shown herself either to be a dangerous ignoramus or an even more dangerous propagandist of false presentations” is in our view a misrepresentation of both her intentions and the mistake.”

At first level the response of the SABC was accepted but the Complainant indicated that he was not happy with the approach and, accordingly, the matter was placed before a Tribunal of the BCCSA.

The Tribunal inquired into the matter and heard the evidence of the news editor, who explained that a translation error had occurred.

The indignation of the Complainant is understandable, because by implication, the British Forces are accused of a crime, which had not, in reality, been a crime but a death in combat.

The explanation which was given, however, made the error understandable from an editorial perspective. We are convinced that the error was not attributable to malice and was a translation error. The question is now whether, for purposes of establishing negligence, a reasonable news editor could make such an error. Mistakes are made in newsrooms all over the world. Some of the mistakes are so grave that no explanation will excuse them. Although the error under consideration was considerable from an historical perspective, it could lead to no present danger, as for example, misinformation in a weather forecast could. Death in combat almost 98 years ago is indeed totally different from murder, but its present impact is negligible. Of course, and here the Complainant is
perfectly correct, such an error gives rise to indignation amongst the informed. And of course, one would be concerned about the misinformation to the less informed. The news editor also stated that he was most embarrassed by the mistake and that the error was discussed during their newsroom session. Nevertheless, we do not believe that the heavy hand of the law should get involved in the present matter. Even a reasonable journalist and newsroom translator could make such a mistake and it would be unrealistic to expect perfect translation under all circumstances. It was not as if a “black flag” went up when this item came up for translation.

We accordingly hold that the Code was not contravened. We, however, believe that this oversight should be discussed again at editorial level and that cautionary measures should be taken so as to ensure that this kind of error is not repeated.

JCW van Rooyen SC  
Chairperson  
*The other Commissioners agreed.*