

Trial Hearing
WITNESS: MLI-OTP-P-0099

(Open Session)

ICC-01/12-01/18

1 International Criminal Court
2 Trial Chamber X
3 Situation: Republic of Mali
4 In the case of The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag
5 Mahmoud - ICC-01/12-01/18
6 Presiding Judge Antoine Kesia-Mbe Mindua, Judge Tomoko Akane and
7 Judge Kimberly Prost
8 Trial Hearing - Courtroom 3
9 Monday, 18 October 2021
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:13] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE MINDUA: [9:31:37](Interpretation) The hearing shall now
15 commence.
16 Good morning, everyone. And I wish you all a good week ahead.
17 Court officer, kindly call the case.
18 THE COURT OFFICER: [9:31:55] Good morning, Mr President, your Honours.
19 This is the situation in the Republic of Mali, in the case of The Prosecutor versus Al
20 Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, case reference ICC-01/12-01/18.
21 And for the record, we are in open session.
22 PRESIDING JUDGE MINDUA: [9:32:14](Interpretation) Thank you very much,
23 court officer.
24 Now, for the purposes of the case record, we will now proceed with -- to
25 introductions, as we do every day.

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1 OTP, if you could present your team.

2 MS LUPING: [9:32:31] Good morning, Mr President. Good morning,
3 your Honours. Appearing this morning on behalf of the Prosecution are the same
4 team as last Friday. That's Mr Gilles Dutertre, Sandra Schoeters, and myself,
5 Dianne Luping.

6 PRESIDING JUDGE MINDUA: [9:32:45](Interpretation) Thank you very much,
7 Madam Prosecutor.

8 And now the Defence.

9 Counsel.

10 MS PRADHAN: [9:32:53] Good morning, Mr President, your Honours. On behalf
11 of Mr Al Hassan, myself Alka Pradhan, Ms Melinda Taylor, Ms Julia Basile and
12 Mr Shan Patel.

13 PRESIDING JUDGE MINDUA: [09:33:11](Interpretation) Thank you very much,
14 Counsel.

15 And now the Legal Representatives of Victims.

16 Counsel.

17 MR LUVENGIKA: [09:33:23](Interpretation) Good morning, your Honours,
18 Mr President. The victims are represented here today by Claire Laplace and myself,
19 Fidel Nsita Luvengika.

20 And I take this opportunity to greet all my -- everyone here in the courtroom.

21 PRESIDING JUDGE MINDUA: [9:33:52](Interpretation) And now duty counsel for
22 the witness.

23 MR CANTIER: [09:33:52](Interpretation) Yes. Good morning, everyone. I am
24 here alongside the current witness, P-099.

25 PRESIDING JUDGE MINDUA: [9:34:04](Interpretation) Thank you very much,

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1 Counsel.

2 Now, this morning we will continue with testimony from Prosecution Witness P-0099.

3 I now address the witness.

4 Good morning, Mr Witness. How are you?

5 WITNESS: MLI-OTP-P-0099 (On former oath)

6 (The witness speaks French)

7 THE WITNESS: [9:34:16](Interpretation) Good morning. Very well, thank you.

8 PRESIDING JUDGE MINDUA: [9:34:19](Interpretation) On behalf of the Chamber I

9 welcome you once again and I thank you for making yourself available. And I

10 would like to remind you that you are still under oath.

11 THE WITNESS: [9:34:31](Interpretation) Yes.

12 PRESIDING JUDGE MINDUA: [9:34:34](Interpretation) You must tell the truth, the

13 whole truth and nothing but the truth.

14 THE WITNESS: [9:34:39](Interpretation) Yes.

15 PRESIDING JUDGE MINDUA: [9:34:42](Interpretation) I remind you of my

16 practical instructions about speaking before the Court. * Like everyone else in the

17 courtroom, we must speak slowly, clearly, and from time to time we should allow for

18 some pauses.

19 THE WITNESS: [9:35:06](Interpretation) Yes.

20 PRESIDING JUDGE MINDUA: [9:35:07](Interpretation) Today we continue with

21 examination-in-chief by the Office of the Prosecutor.

22 Madam Prosecutor, you may go ahead.

23 MS LUPING: [9:35:13] Thank you, Mr President. Mr President, before starting, I

24 just wanted to note that, having gone through a comparison of the English and the

25 French transcripts, I did notice that there were a number of instances of overlapping

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1 speakers in the English which are not in the French and one instance of an
2 overlapping speaker in the French which is not in the English.
3 So just for the sake of expediency and efficiency, Mr President, I would just
4 request - obviously the Prosecution can pass on the information to the court officer
5 the precise references - but just request that, for the sake of expediency, that those
6 corrections be made subsequently by the interpreters by using a sight reference of the
7 alternative transcript.

8 PRESIDING JUDGE MINDUA: [9:36:18](Interpretation) Thank you very much,
9 Madam Prosecutor. Of course I will leave that to the court officer to deal with with
10 the interpreters, with the parties and participants cross-checking of course, Madam
11 Prosecutor.

12 MS LUPING: Thank you, Mr President.

13 QUESTIONED BY MS LUPING: (Continuing)

14 Q. [9:36:35] So good morning, Mr Witness. I hope you're well.

15 A. [9:36:39] I'm fine. Thank you.

16 Q. [9:36:41] So, Mr Witness, I would just like to ask you a few questions to follow
17 up on your testimony on Friday before starting a new topic altogether.

18 On Friday -- I'm going to refer to a transcript reference. That's transcript 145, French
19 real-time, page 40, lines 10 to 15. And you referred to an instance where Mr Al
20 Hassan was involved in arranging an appointment for you with a judge.

21 Now, my question is this: Can you remember what other type of work Mr Al
22 Hassan did with the Islamic police?

23 A. [9:37:52] No, no. Actually, I didn't know what procedures they used and I
24 think that * he would carry out arrests when there were complaints, when there were
25 people. Once I saw some vehicles that had been confiscated that had been used to

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1 smuggle cigarettes, but I really had no knowledge about their procedures or what
2 they were doing exactly.

3 Q. [9:38:30] And you stated: (Interpretation) "They would carry out arrests when
4 there were complaints."

5 (Speaks English) How do you -- how do you know that this is types of work that he
6 did?

7 A. [9:38:57] Just at the very beginning when -- well, before there were any actions
8 to establish Sharia law, I met some people who had made complaints to the
9 gendarmerie. Once it was someone whose car had been stolen, and once there was a
10 kid who was arrested who had been stealing telephones. And each time he was
11 arrested he was -- he would just keep on stealing again and no one really knew what
12 to do with the kid. That was before Sharia law was actually established.

13 Afterwards, I saw what the morality police were doing for the most part, but the
14 Islamic police, I really did not know at all what they were doing exactly.

15 Q. [9:40:19] Now, you said that, "... before there were any actions to establish Sharia
16 law, I met some people who made complaints to the gendarmerie."

17 Can you give examples of the types of complaints that had been made to the
18 gendarmerie?

19 A. [9:40:48] Yes. As I said, it was a citizen from Timbuktu who told me he had
20 filed a complaint because he had been assaulted on the road and someone had taken
21 his car. And then there was the case of the kid who had been arrested several times
22 for stealing telephones. And I think that in actual fact in the hierarchy, there
23 was -- well, the morality police, when they arrested someone, I think that would go
24 then by -- that would be done through the Islamic police. I don't think the morality
25 police did investigations or anything along those lines.

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1 Q. [9:41:36] And when you state, "... the morality police, when they arrested
2 someone, I think that would ... then ... that would be done through the Islamic police",
3 and how do you know that?

4 A. [9:42:05] Once, yes. I seem to remember that once I was, well, around the
5 gendarmerie or the governor's palace. It seems to me I saw them bringing a woman
6 and the young people there said that she had been caught committing adultery. So I
7 suppose that went through the morality police before it was sent on to the Islamic
8 police.

9 Q. [9:42:50] And this example you gave of them bringing a woman that
10 young people said had been caught committing adultery, do you remember when
11 you saw this woman being brought?
12 Do you remember when that was?

13 A. [9:43:09] It was at the governor's palace after the gendarmerie changed. I also
14 remember at the same time I was talking to some technicians who had come from
15 Bamako for the telephone network, and that must have been maybe two months
16 before the French intervened.

17 Q. [9:44:04] And you said it was at the same time you were talking to some
18 technicians who'd come from Bamako for the telephone network. What -- what
19 telephone network was that?

20 A. [9:44:16] They had a big truck, several vehicles. And they explained to me, I
21 think it was for a relay station, a telephone relay station.

22 Q. [9:44:33] And when you spoke to them, just so it's clear, was this at the
23 gendarmerie, at the governor's palace?

24 A. [9:44:48] Not in the gendarmerie or in the compound, but in the square, just
25 in -- right in front.

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1 Q. [9:45:03] And when you refer to the "gendarmerie", can you clarify what you
2 mean by that?

3 A. [9:45:11] * The gendarmerie, that was before at the bank, was transferred to the
4 governor's palace. When I say "gendarmerie", I mean the place where the police are,
5 the Islamic police, in actual fact.

6 Q. [9:45:51] And you also mentioned - and I'm going to find the precise
7 reference - a role of Mr Al Hassan in what you said were the arrests.
8 To your knowledge, what was his role in arrests?

9 A. [9:46:13] I only saw him in his office the two or three times that I had dealings
10 with him, twice. Two or three times I would go by and I -- and I greeted him.
11 When you went into the governor's palace, to the left there was a room and that was
12 the office. And to the right there was another room, and it seems to me that is the
13 room when they -- that's where they put that woman that they had brought in.
14 And between the two rooms there was sort of a lobby. People would sit there and
15 wait to carry out their business with the police.

16 Q. [9:47:22] And from what you heard or what you saw or learnt, do you know
17 who was issuing summonses to appear?

18 A. [9:47:37] No, not at all.

19 MS LUPING: [9:47:56] I'm now going to move to another issue.

20 But for that, Mr President, I would request that we move briefly into private session.

21 PRESIDING JUDGE MINDUA: [9:48:08](Interpretation) Court officer, private
22 session, please.

23 (Private session at 9.48 a.m.)

24 THE COURT OFFICER: [9:48:12] We are in private session, Mr President.

25 (Redacted)

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- 19 (Open session at 10.01 a.m.)
- 20 THE COURT OFFICER: [10:01:57] We are back in open session, Mr President.
- 21 PRESIDING JUDGE MINDUA: [10:02:07](Interpretation) Thank you very much,
- 22 court officer.
- 23 Madam Prosecutor.
- 24 MS LUPING: [10:02:13] Thank you, Mr President.
- 25 Q. [10:02:16] Mr Witness, I'm changing topics, and I'm going to refer to something

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1 you stated at transcript 145, the French real-time, page 51, lines 7 to 15. When I
2 asked you what you knew about the closure of schools in Timbuktu you responded:
3 (Interpretation) "I don't know a lot of things, but I know that there's a director of a
4 school who had friendly relations with members of AQIM and his aim was to find a
5 means of reopening his school."

6 (Speaks English) End of quote. Do you -- sorry. I'll wait for a translation.

7 Do you remember the name of this school director that you were talking about?

8 A. [10:03:13] No. I only remember that the school was opposite Grand Hotel
9 Gaddafi, just opposite. There's Hotel Gaddafi. * There's a big hole in the middle, which
10 I think holds some water sometimes. On the other side opposite, there is this school.

11 Q. [10:03:40] And do you remember the name of that school?

12 A. [10:03:48] No.

13 MS LUPING: [10:04:03] Mr President, I think for my next few questions I'll need to
14 go into private.

15 PRESIDING JUDGE MINDUA: [10:04:14](Interpretation) Court officer, private
16 session, please.

17 (Private session at 10.04 a.m.)

18 THE COURT OFFICER: [10:04:18] We are in private session, Mr President.

19 (Redacted)

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4 (Open session at 10.19 a.m.)

5 THE COURT OFFICER: [10:19:56] We are back in open session, Mr President.

6 PRESIDING JUDGE MINDUA: [10:20:06](Interpretation) Thank you very much,
7 court officer.

8 Madam Prosecutor.

9 MS LUPING: [10:20:12] Thank you, Mr President.

10 Q. [10:20:13] Now, Mr Witness, I'm moving to a totally different subject. And last
11 Friday, you mentioned a person called Abou Darda. And I refer to transcript 145,
12 French real-time.

13 Can you hear me all right? Is your microphone working okay? All right.

14 At page 30, lines 15 to 26. And in relation to Abou Darda, you stated, and I quote:
15 (Interpretation) "He was responsible for Radio Timbuktu." (Speaks English) And
16 you said it was called Radio Bouctou.

17 Now, Mr Witness, do you remember hearing a conversation between Abou Darda
18 and Mohamed Moussa about a story he did on Radio Bouctou?

19 A. [10:21:26] I vaguely remember that there was an event such as that between
20 Mohamed Moussa and Abou Darda, yes.

21 Q. [10:21:31] And can you remember or can you explain what this conversation
22 was about in relation to this story on Radio Bouctou.

23 A. [10:21:51] Oh, yes. It's coming back to me now. That's to say that Mohamed
24 Moussa, if I remember well, he spoke on Radio Bouctou. And his intervention was
25 very radical it seemed to me. I don't remember the exact subject of it. Abou Darda

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1 on the same radio station congratulated Mohamed Moussa. And I remember I was
2 shocked by that at the time.

3 Q. [10:22:44] And do you remember what he was congratulating Mohamed
4 Moussa about?

5 A. [10:22:48] Well, he was congratulating him. I think he had God as his witness,
6 and he was congratulating him for what he had said, which were very radical things
7 that he had expressed about morality.

8 Q. [10:23:25] And you said, "... he was congratulating him for what he had said,
9 which were very radical things that he had expressed about morality."
10 What do you mean? What -- what radical things?

11 A. [10:23:46] Well, I no longer remember. I -- I mean, I remember the event, but I
12 don't remember the exact terms of Mohamed Moussa's speech. But I was shocked
13 by the way in which Abou Darda congratulated him. He was giving a eulogy to
14 him.

15 Q. [10:24:29] And to the best of your knowledge, do you remember them speaking
16 about women at all?

17 A. [10:24:47] Yes. Well, I think he was praising him for all the abuses that he had
18 carried out, all the exactions that he had done at that time. If I remember, that is
19 what it was about, all the violent acts.

20 Q. [10:25:18] And for all the abuses that he had carried out against whom?

21 A. [10:25:24] Well, his way of behaving with women in a very authoritarian and
22 radical way. He was praising his authority and his actions.

23 Q. [10:25:59] And when they were speaking, were you present when they were
24 having this conversation, Abou Darda and Mohamed Moussa? Were you there?

25 A. [10:26:13] No.

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1 What I remember is that there was an intervention by Abou Darda on Radio Bouctou
2 where he praised the work of Mohamed Moussa for Islam and for God himself.

3 Q. [10:26:48] And when they had this conversation, what -- what language were
4 they speaking?

5 A. [10:26:55] It was in Arabic. On Radio Bouctou, it was in Arabic.

6 Q. [10:27:14] And this conversation between Abou Darda and Mohamed Moussa,
7 was it on the radio, or was it outside of the radio that you heard them talking about
8 this story on Radio Bouctou?

9 A. [10:27:35] Well, the praise that he made was made on Radio Bouctou. I wasn't
10 participating in their conversation. You spoke to me about the conversation, but it
11 reminds me of that time then. But I wasn't participating in the conversation.

12 Q. [10:28:09] I understand you were not participating in the conversation, but when
13 you heard them speaking to each other, did you hear them speaking to each other on
14 Radio Bouctou or outside Radio Bouctou? I'm not sure if my question is clear.

15 A. [10:28:46] I'll come back to what I was saying. I heard this praise that Abou
16 Darda was giving for the actions carried out by Mohamed Moussa. I heard that on
17 Radio Bouctou. I was shocked by this praise. And I thought that they had had a
18 conversation together on that subject and that they were very much in agreement on
19 this type of action.

20 Q. [10:29:25] I just want to note that in the French, it states: (Interpretation) "I
21 heard, myself, praise * that Abou Darda gave for the actions undertaken by Mohamed
22 Moussa." (Overlapping speakers) (Speaks English) But in the English, it states, "I
23 heard this praise that Mohamed Moussa was giving for the actions." I just wanted to
24 note that there needs to be a correction on the English transcript on this because the
25 witness is testifying in French, and that is what he said.

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1 And can you recall when this conversation happened between Abou Darda and
2 Mohamed Moussa?

3 A. [10:30:23] No. What I said is that I remembered that Mohamed Moussa had
4 spoken on Radio Bouctou. He had spoken about the way in which he practiced
5 Islamic Sharia, Islamic law with women, et cetera, et cetera, where it concerns their
6 way of dressing. I found his speech to be very radical. And sometime afterwards,
7 on the same channel, Radio Bouctou - I don't know if it was the same time or a bit
8 later - on the same radio station, I heard this praise coming from Abou Darda.

9 Q. [10:31:18] Thank you for that clarification.

10 And do you remember when this -- first of all, when you heard this speech by
11 Mohamed Moussa on Radio Bouctou?

12 A. [10:31:35] Certainly after, somewhat after I did that video, that is to say, towards
13 the end of October. At the same time, there was -- not far from the communications
14 centre, there was a mosque. And Mohamed Moussa was the imam of that mosque,
15 well before. He had been the imam there for a long time. And sometimes I would
16 go there on Friday to pray in that mosque where Mohamed Moussa was the imam.
17 So he was the one who would give the speech.

18 Q. [10:32:28] And to the best of your knowledge, do you know who Abou Darda
19 reported to within the group, within the hierarchy?

20 A. [10:33:11] He reported directly to Abou Zeid and -- and the emir of AQMI,
21 Yahia.

22 Q. [10:33:41] Again, the English transcript has frozen. Oh, now -- now it's coming.
23 And how do you know that, that he reported to these two individuals, Abou Zeid and
24 Yahia?

25 A. [10:33:57] Abou Darda, I saw him once or twice in the -- on the premises of

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1 Radio Bouctou. Sometimes he would come to the house and spend a few moments
2 there. * But after that, I always saw him return with his vehicle towards the centre
3 where Yahia was living and all the AQMI authorities. And the only times that I was
4 at the centre where Yahia and all the authorities were living, I would nearly always
5 see him there.

6 And I can add that he was living in a house with his wife that was very close, very
7 close to the centre where the AQMI authorities were.

8 Q. [10:35:28] Thank you.

9 Now I'm going to be asking or dealing with a different topic. And I ask,
10 Mr President, if we could briefly move into private session for that purpose.

11 PRESIDING JUDGE MINDUA: [10:35:52](Interpretation) Court officer, private
12 session, please.

13 (Private session at 10.35 a.m.)

14 THE COURT OFFICER: [10:36:00] We are in private session, Mr President.

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6 (Open session at 10.59 a.m.)

7 THE COURT OFFICER: [10:59:02] We are back in open session, Mr President.

8 PRESIDING JUDGE MINDUA: [10:59:10](Interpretation) Thank you very much,
9 court officer.

10 Madam Prosecutor.

11 MS LUPING: [10:59:14] Mr President, I see that we only have one minute before 11.

12 I would like to show the witness a series of photographs that can be shown in public
13 session. There possibly is time for one photograph before the break. I can assure
14 the Chamber I will comfortably complete this witness's testimony today in plenty of
15 time. So I -- I leave it in your hands, Mr President. I could show him one photo,
16 possibly, or we could wait till the break -- after the break.

17 PRESIDING JUDGE MINDUA: [10:59:47](Interpretation) Go ahead.

18 MS LUPING: [11:00:01] All right. I will do so.

19 Q. [11:00:05] Now, Mr Witness, I'm going to be showing you a series of images and
20 photographs and at -- now I'm only going to show you the one photograph. And I'm
21 going to be asking you if you recognise this person.

22 And for the record, it's at tab 97, and that is 0022-0478.

23 A. [11:00:42] Yes. That's Abou Zeid.

24 Q. [11:00:44] And I'm now going to remove this photograph.

25 Mr President, I believe that it is now time for the break.

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- 1 Thank you, Mr Witness.
- 2 PRESIDING JUDGE MINDUA: [11:00:59](Interpretation) It is 11 o'clock, and we will
- 3 now take our break for 30 minutes and resume at 11.30.
- 4 The hearing is suspended.
- 5 THE COURT USHER: [11:01:05] All rise.
- 6 (Recess taken at 11.01 a.m.)
- 7 (Upon resuming in open session at 11.32 a.m.)
- 8 THE COURT USHER: [11:32:29] All rise.
- 9 Please be seated.
- 10 PRESIDING JUDGE MINDUA: [11:32:31](Interpretation) Court is in session.
- 11 The Office of the Prosecutor has the floor.
- 12 Madam Prosecutor.
- 13 MS LUPING: [11:32:38] Thank you, Mr President.
- 14 Q. [11:32:44] Mr Witness, just before the break I said I was going to be showing you
- 15 a series of images. I've shown you one. They can be shown in public.
- 16 The second image I'm going to show you is at tab 99, and that is 022-0480.
- 17 Do you recognise this person?
- 18 A. [11:33:21] Yes, this is Abou Talha.
- 19 Q. [11:33:27] And this is the Abou Talha that you have been testifying about so far?
- 20 A. [11:33:34] * Ehh yes.
- 21 Q. [11:33:47] I'm now going to remove it and show you another image, this time
- 22 from a video. And I will be playing a few seconds from this video. It is 0018-0379,
- 23 found at tab 327. I will not be playing it with any sound. I'll be starting from 0
- 24 timestamp.
- 25 (Viewing of the video excerpt)

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- 1 MS LUPING: [11:34:39] And I paused at 00:00:12:23.
- 2 Q. [11:34:46] Do you recognise this person?
- 3 A. [11:34:50] Yes.
- 4 Q. [11:34:54] And who is it?
- 5 A. [11:34:57] This is Hassan.
- 6 Q. [11:35:09] I'm going to remove this from the screen.
- 7 Now, Mr Witness, is it -- or do you remember being shown a photograph of
- 8 Mr Al Hassan by your Rule 74 counsel, Maître Cantier, in about July of this year?
- 9 A. [11:35:43] I think so, yes.
- 10 Q. [11:35:45] And can you remember what that photograph or image of
- 11 Mr Al Hassan looked like?
- 12 A. [11:35:52] No.
- 13 Q. [11:35:57] I'm now going to show you a series of other images. And this image
- 14 is at tab 90, 0022-0471.
- 15 Do you recognise this person?
- 16 A. [11:36:32] Yes. This is the person I called Abou Dhar.
- 17 Q. [11:36:47] And again, this is the Abou Dhar that you have mentioned in your
- 18 testimony so far?
- 19 A. [11:37:06] Yes.
- 20 Q. [11:37:08] I'm now showing you another image that is at * 0022-0465.
- 21 Do you recognise this person?
- 22 A. [11:37:40] Yes. This is the judge from Timbuktu, Houka Houka, if my memory
- 23 serves me well.
- 24 Q. [11:37:51] I'm just going to remove that image to show you the next one. And
- 25 the tab number for this is at tab 92. That's 0022-0473.

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1 Do you recognise this person?

2 A. [11:38:25] * Yes. I knew this person by the name of Sanda.

3 Q. [11:38:42] And this is the Sandal that you have talked about in your testimony?

4 A. [11:38:49] Yes, that's correct.

5 Q. [11:39:01] And the next image is 0022-0468.

6 Do you recognise this person? Sorry, I should say that's at tab 87.

7 A. [11:39:31] This is Omar who had the nickname Red Beard.

8 Q. [11:39:37] And, again, the person that you have mentioned in your testimony; is
9 that correct?

10 A. [11:39:43] Yes, that's correct.

11 Q. [11:39:49] And I'm now showing an image from tab 107. * That's 0022-0488.

12 Do you recognise this person?

13 A. [11:40:14] Yes. The person is the one who was firstly responsible for the
14 morality police, but I've forgotten his name.

15 Q. [11:40:38] I'm now going to remove this image from the screen.

16 I'm now going to show you a few images from a document at tab 114, and that's
17 0062-1295. First the image number 16 at page 1307.

18 Do you recognise this person?

19 A. [11:41:56] Yes. This is Abou Hafs. But as I already said, this photograph
20 doesn't resemble him. But, well, I can see it's him. But he doesn't resemble him as
21 he looked in Timbuktu as I saw him.

22 Q. [11:42:37] And in what way did he look different in Timbuktu?

23 A. [11:42:42] * His face was fuller as he was swearing a ... and he's got a very high
24 forehead. But as he had a turban which covers his ears, that changes, and he wasn't
25 wearing glasses, so it does completely change. But the first time that I've seen this

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1 photo, I nevertheless recognized him. I think I recognize -- I think it is him.

2 MS LUPING: [11:43:11] Mr President, for the next image I would ask that we go into
3 private session and also that the next image not be transmitted publicly.

4 PRESIDING JUDGE MINDUA: [11:43:20](Interpretation) Court officer.

5 (Private session at 11.43 a.m.)

6 THE COURT OFFICER: [11:43:25] We're in private session, Mr President.

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21 (Open session at 11.44 a.m.)

22 THE COURT OFFICER: [11:44:42] We're back in open session, Mr President.

23 PRESIDING JUDGE MINDUA: [11:44:56](Interpretation) Thank you very much,
24 court officer.

25 Madam Prosecutor.

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1 MS LUPING: [11:44:59] Thank you.

2 Q. [11:45:04] Mr Witness, we are now at image 26 at page 1313 of the same
3 document.

4 Do you recognise this person?

5 A. [11:45:20] Yes. Whenever I see it, I would say it's Yahia. * But the photo is
6 similar. I could be mistaken.

7 Q. [11:45:44] I'm now going to show you another image. And this is photograph
8 number 47 at page 1322.

9 Do you recognise this person?

10 A. [11:46:17] Yes. I recognise that as Abou Darda, but as -- like the photo of Abou
11 Hafs, well, it's similar. He's not wearing a turban. But I'm almost certain that it's
12 him.

13 Q. [11:46:51] I'm now going to remove this image.

14 I'm going to be showing a short extract without sound from a video. That's
15 0018-0408. I'll be playing it from 0 timestamp and I'll be playing the first few
16 seconds without sound. And 0018-0408 is found at tab 332. But no interpretation is
17 needed.

18 (Viewing of the video excerpt)

19 MS LUPING: [11:47:40] And I'm stopping at 2 seconds.

20 Q. [11:47:43] Mr Witness, do you recognise anybody in this short video excerpt?

21 A. [11:47:49] I recognise on the left the person I called Khalid.

22 Q. [11:48:04] And is that Khalid that you mentioned being with the Islamic police?

23 A. [11:48:12] Yes, the Khalid who was a deputy in the police.

24 Q. [11:48:25] I'm just going to remove that from the screen.

25 A. [11:48:27] The -- of the Islamic police.

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1 Q. [11:48:31] And the next image is at tab 94 and the ERN is 0022-0475.

2 Do you recognise this person?

3 A. [11:49:01] This is the person who I said was the deputy of the judge, but I don't
4 remember having known his name.

5 Q. [11:49:33] I'm now going to remove this photograph from the screen.

6 Now, Mr Witness, I'm now going to be changing topics and I'm going to be asking
7 you a question about your wife. But I ask that you don't say her name, so that you
8 don't identify her, as we're in public session.

9 My -- my question is whether your wife was able to move easily around Timbuktu,
10 for example, to do the shopping or simply to move around. Was that possible?

11 A. [11:50:32] Yes, it was possible. But at a particular time I was reproached.
12 People -- I was told that she went out too much.

13 Q. [11:50:48] Now, again, the English transcript appears to have frozen.
14 Now, you said that you were reproached. Who reproached you?

15 A. [11:51:16] I can't remember anymore. Abou Hafs, Abou Darda, one of them
16 told me that she went out too much. And also my wife didn't wear the hijab. She
17 wore the same clothing as the Africans.

18 Q. [11:52:05] And after you were reproached, did your wife continue to go out as
19 often?

20 A. [11:52:13] Yes. But I remember that she was given a chador, that's to say, the
21 black attire. So at a certain time she would go out with that on.

22 Q. [11:52:43] And who gave her that black attire to wear, the chador?

23 A. [11:52:51] Well, I know it was somebody, a wife of one of the members of AQIM,
24 but I can't remember which one.

25 MS LUPING: [11:53:07] Mr President, I'm going to be changing topic. But for the

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1 first, say, two minutes or so, I need to go into private session.

2 PRESIDING JUDGE MINDUA: [11:53:24](Interpretation) Court officer, private
3 session, please.

4 (Private session at 11.53 a.m.)

5 THE COURT OFFICER: [11:53:31] We're in private session, Mr President.

6 (Redacted)

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11 (Open session at 11.57 a.m.)
12 THE COURT OFFICER: [11:57:20] We're back in open session, Mr President.
13 PRESIDING JUDGE MINDUA: [11:57:35](Interpretation) Thank you very much,
14 court officer.
15 Madam Prosecutor.
16 MS LUPING: [11:57:39]
17 Q. [11:57:40] Now, Mr Witness, you've mentioned an expedition to Diabaly. What
18 was that about? Can you explain what happened at Diabaly.
19 A. [11:57:59] Yes. We got to Diabaly from the south. We came from the north,
20 but we took a road that went alongside Diabaly and we -- that came back into Diabaly
21 from the south. We spent the night in this place. There were groups who came
22 from all different places. And at a particular time, there were lots of Tuareg, lots of
23 people from AQIM, a lot of combatants.
24 In the morning at dawn, the convoy left on the orders of Abou Zeid and there was the
25 bombing from the army, the Malian army, when we approached the first houses of

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1 Diabaly. And afterwards, they advanced towards the barracks and the barracks
2 were quickly deserted. So Abou Zeid went into the barracks with his combatants
3 and a bit later they started to gather together all the material which Abou Zeid
4 wanted to take away.

5 Q. [12:00:19] Now, Mr Witness, you said: "At a particular time, there were lots of
6 Tuareg, lots of people from AQIM, a lot of combatants."

7 Now, the Tuaregs, do you know what armed group they were with?

8 A. [12:00:46] That day, I saw many people I had not seen before, never before.
9 There were many Tuareg people. People from Ansar Dine, I think.

10 Q. [12:01:14] And do you remember any specific leaders of Ansar Dine at Diabaly?

11 A. [12:01:19] Not leaders, no. But there were some people who had a -- some
12 importance within Ansar Dine who at one moment -- well, there was a conflict
13 between those people and Abou Zeid, and it had to do with getting back some
14 vehicles. At one time, those people said to Abou Zeid, "Listen, you, you're the small
15 emir. * They told him you don't have authority to say "that's for me, this is for you."
16 They were somewhat jealous because of the -- the materiels, the equipment that they
17 wanted to get back.

18 Q. [12:02:23] And these people from Ansar Dine who said this to Abou Zeid, do
19 you remember any of their names?

20 A. [12:02:30] No. People -- they were people I had never met. I'm sure that they
21 were Tuaregs. And for them, the emir, the great emir, was Iyad Ag Ghaly, not -- not
22 Yahia and certainly not Abou Zeid.

23 Q. [12:03:11] And this conversation that you heard between these people from
24 Ansar Dine and Abou Zeid -- sorry, just to clarify, were you present and did you hear
25 this with your own ears?

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1 A. [12:03:28] Yes, I heard it myself.

2 Q. [12:03:37] And you mentioned Iyad Ag Ghaly. Did you learn where he was at
3 this time during this operation in Diabaly?

4 A. [12:03:54] No. I learned before leaving Timbuktu that he had left and went to
5 Severe, for the same reason as Diabaly, I think.

6 Q. [12:04:21] And to your knowledge, what happened at Severe?

7 A. [12:04:36] To my knowledge, they looted the bank I believe. I believe there
8 were many losses. That's what I heard. And they came back to Timbuktu, like the
9 ones from Diabaly came back to Timbuktu, whereas the initial objective of Iyad Ag
10 Ghaly was to go down to Bamako. I think it was the first shelling by French aircraft
11 that led them to turning around and going back.

12 Q. [12:05:36] Now, at page 45, lines 11 to 12, you stated: (Interpretation) "To my
13 knowledge, they looted the bank I believe."

14 (Speaks English) Who is "they"? Who pillaged the bank?

15 A. [12:06:09] I don't know exactly who it was, but it was the combatants who were
16 with Iyad Ag Ghaly who headed towards Severe.

17 Q. [12:06:20] And the combatants with Iyad Ag Ghaly, were they also with Ansar
18 Dine?

19 A. [12:06:34] Like in Diabaly there were also combatants from -- well, combatants
20 from AQMI who had left and gone there, yes. But I don't remember exactly who.

21 Q. [12:06:57] And you said that AQMI combatants also went to Severe. To the
22 best of your knowledge, do you know if Ansar Dine combatants also went to Severe?

23 A. [12:07:10] Yes. * When we left, I heard that most of Ansar Dine had gone to
24 Severe. We left with a small team from AQMI. And before getting to Diabaly, as I
25 explained to you, there were many groups who joined one another, some groups

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1 entirely from Ansar Dine, and amongst them some groups with AQMI members.

2 Q. [12:08:03] And you said that Iyad Ag Ghaly and combatants with him

3 (Interpretation) "they went back to Timbuktu."

4 (Speaks English) How do you know that?

5 A. [12:08:29] I think it was by talking to people from AQMI. That's how I found
6 out before leaving. (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted). I was at his place, and someone

11 said to me that some of them were going to Sevare and the others to Diabaly.

12 THE INTERPRETER: [12:09:44] Interpreter correction. (Redacted)

13 (Redacted)

14 MS LUPING: [12:09:50]

15 Q. [12:09:51] (Overlapping speakers) And when you returned to Timbuktu yourself,
16 did you see these Ansar Dine combatants in Timbuktu with your own eyes?

17 A. [12:09:59] When Iyad Ag Ghaly came to Timbuktu and stayed for a while there,
18 many vehicles came that we had never seen before with only Ansar Dine combatants
19 in them. As I said, these were vehicles that we had never seen before, pick-up trucks
20 with a kind of -- with a sort of secured cabin or cab with a large machine gun behind.
21 We had never seen that in Timbuktu before that time, and there were many of them.
22 And those Ansar Dine combatants stayed in Timbuktu for several weeks before they
23 decided to move towards Sevare. First Sevare, they left and went to Sevare. And
24 then the ones who went Diabaly, left a bit later.

25 Q. [12:11:46] And did you ever learn who ordered the return of Ansar Dine

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1 combatants from Sebare to Timbuktu? Did you find out who ordered these
2 combatants to go to -- to return to Timbuktu?

3 A. [12:12:02] No. All I learned was that with the air shelling, they had many
4 casualties and so they turned around and went back. That's why. I think it was
5 certainly Iyad Ag Ghaly because he was the one who had the authority.

6 Q. [12:12:48] And the combatants from Ansar Dine at Diabaly, do you know who
7 ordered their return to Timbuktu?

8 A. [12:12:56] At that time, I had the impression that Abou Zeid had come there
9 only, only to get as much equipment as possible. That's the impression I had. They
10 even travelled within this town of Diabaly to get some vehicles, vehicles that could be
11 requisitioned, so vehicles that belonged to the authorities, you see.

12 Q. [12:13:44] And I'm just going to go back to page 47, lines 26 to 27, when I was
13 asking you if you learnt who ordered the return of the combatants, first from Sebare.
14 You stated: (Interpretation) "I think it was certainly Iyad Ag Ghaly because he was
15 the one who had the authority."

16 (Speaks English) End of quote. What did you mean that it was he who had the
17 authority?

18 A. [12:14:25] He was the one, he was the recognised leader of Ansar Dine. And
19 even according to Abou Darda, people like Abou Darda, he was even recognised as
20 the emir of AQMI and the entire organisation, the entire organisation in the Timbuktu
21 region and Gao.

22 Q. [12:14:57] And you've mentioned that Abou Darda expressed that view too.
23 Did you hear this about Iyad Ag Ghaly's authority from anybody else?

24 A. [12:15:32] No. It was particularly from Abou Darda. We talked about that
25 because I wasn't particularly in agreement. I thought Iyad Ag Ghaly was asking for

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1 independence more than -- more than creating an Islamic state. But when I learned
2 about all of that, Iyad Ag Ghaly had set up shop in Timbuktu in a large
3 administrative building not far from the centre where Yahia was. And his
4 combatants, who were quite numerous, I think, set up operations here or there
5 throughout Timbuktu about three weeks before the departure to the south.

6 MS LUPING: [12:17:02] Mr President, I need to now ask that we move into private
7 session for my next topic. I -- yes.

8 PRESIDING JUDGE MINDUA: [12:17:14](Interpretation) Court officer, if you could.
9 (Private session at 12.17 p.m.)

10 THE COURT OFFICER: [12:17:15] We are in private session, Mr President.

11 (Redacted)

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21 (Redacted)

22 (Open session at 12.52 p.m.)

23 THE COURT OFFICER: [12:52:07] We're back in open session, Mr President.

24 PRESIDING JUDGE MINDUA: [12:52:16](Interpretation) Thank you very much,

25 court officer.

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1 Madam Prosecutor.

2 MS LUPING: [12:52:19] Mr President, your Honours, it's just for the sake of the
3 information of the public in the gallery and the public who might be following the
4 proceedings, I just wanted to request authorisation for my last two topics to remain in
5 private session. Unfortunately, they are highly identifying and I do envisage that
6 this will take me through to the end of this witness's examination-in-chief, these two
7 topics.

8 PRESIDING JUDGE MINDUA: [12:52:48](Interpretation) Thank you very much,
9 Madam Prosecutor.

10 Court officer.

11 (Private session at 12.52 p.m.)

12 THE COURT OFFICER: [12:52:58] We're back in private session, Mr President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

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16 (Recess taken in private session at 1.04 p.m.)
17 (Upon resuming in open session at 2.33 p.m.)
18 THE COURT USHER: [14:33:09] All rise.
19 Please be seated.
20 PRESIDING JUDGE MINDUA: [14:33:28](Interpretation) Court is in session once
21 again and I shall hand over to the Office of the Prosecutor for the continuation and
22 the wrapping up of the examination-in-chief.
23 MS LUPING: [14:33:46] Thank you, Mr President. I just note, for the information
24 also of the public, that I will need to go into private session for the remainder of my
25 questions. I anticipate it should be approximately 10 minutes to complete the

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1 examination-in-chief.

2 PRESIDING JUDGE MINDUA: [14:34:01](Interpretation) Very well.

3 Mr Courtroom Officer, please.

4 (Private session at 2.34 p.m.)

5 THE COURT OFFICER: [14:34:13] We're in private session, Mr President.

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

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12 (Redacted)

13 (Redacted)

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7 (Open session at 2.55 p.m.)

8 THE COURT OFFICER: [14:55:13] We are back in open session, Mr President.

9 PRESIDING JUDGE MINDUA: [14:55:27](Interpretation) Thank you very much,
10 Mr Courtroom Officer.

11 So the Office of the Prosecutor has just finished its examination-in-chief and now I'm
12 turning to the Legal Representatives for Victims with a view to ascertaining from
13 Maître Nsita whether the Legal Representatives for Victims wish or still wish to
14 intervene, because we have of course received your submissions on the matter.

15 MR LUVENGIKA: [14:56:03](Interpretation) I thank you very much, Mr President.
16 The Legal Representatives for Victims have just one or two questions of clarification,
17 and that will be all. It won't take us too long.

18 PRESIDING JUDGE MINDUA: [14:56:16](Interpretation) Thank you very much,
19 Maître Nsita.

20 Now I'm turning to the Defence for my ritual question.

21 Does the Defence have any objection to raise?

22 Maître Pradhan?

23 MS PRADHAN: [14:56:35] No, Mr President. No objection.

24 PRESIDING JUDGE MINDUA: [14:56:38](Interpretation) Thank you very much,
25 Ms Pradhan.

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1 So, Maître Nsita, over to you, please.

2 QUESTIONED BY MR LUVENGIKA: (Interpretation)

3 Q. [14:56:56] Good afternoon, Mr Witness.

4 A. [14:56:58] Good afternoon.

5 Q. [14:56:58] I shall be putting one or two questions to you. It won't be too
6 lengthy. And in order to so, I would rather we remain in open session. I shall try
7 and phrase my questions in such a way for us to be able to do so, and I would request
8 that you be attentive in the answers that you furnish that we are in open session.
9 So we were in private session. Had we already come back to open session?

10 PRESIDING JUDGE MINDUA: [14:57:30](Interpretation) We are in open session.

11 MR LUVENGIKA: [14:57:36](Interpretation) Thank you.

12 Q. [14:57:37] Mr Witness, during last Friday's hearing in transcript 145, you talked
13 to us about the fixed-term marriage that we hear speak of in the Koran.
14 Now, my question is: Because you experienced such a marriage, how it was
15 organised in Timbuktu with the jihadists, et cetera, what judgment did the local
16 population have of such marriages? What was their opinion?

17 A. [14:58:14] I didn't hear much about that, but it was part and parcel of the
18 excesses of the true Muslim law. There were many Muslims who were of the
19 opinion that this fix-termed marriage should not be put into practice. And in the
20 regions of Timbuktu and Gao, one individual told me that the judge in Gao did
21 practice it but in a very excessive manner indeed, that is to say providing a dowry
22 and then getting married in a fixed term and * " then every week breaking off the
23 marriages with several women, and then a week later marrying other women.
24 That's a very excessive manner of going about it.
25 And as I said to you, in Islam, there are certain doubts as to the validity of these ayats.

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1 Q. [14:59:28] Yes. Well, you're talking to us here of an example of what you heard
2 speak of as a practice in Gao.

3 Now, in Timbuktu itself amongst the young jihadists, was there such a type of
4 marriage in existence?

5 A. [14:59:45] No. I didn't see that type of marriage. Most people who got
6 married, well, their wives were pregnant. And visibly for them, it was a done deal.
7 It was definitive. It was normal marriage.

8 Q. [15:00:14] And let's speak specifically of these marriages of these young people
9 that gave rise to the birth of children.

10 In your testimony dated last Friday, you mentioned the time at which AQIM had left
11 Timbuktu. Could you clarify what happened to those women of whom you said
12 they had young children.

13 What happened to them? What was their fate?

14 A. [15:00:43] Well, when I went back to Ber to pick up my wife and children, I was
15 angry to hear that my wife no longer had items for her basic comfort. And some
16 young people came to see me, at least one that is, and said, "Well, for us, it's the
17 same." And he told me how things had unfolded and it was visibly even worse for
18 them, in the sense that they had been thrown out without anything at all, with their
19 hands in their pockets. * So those women were pregnant and found themselves
20 without any blankets or coverage, without anything. They were just left outside of
21 Timbuktu with nothing. So that made me even more angry to think that it was not
22 only my wife, but it was all of those people as well, who -- with whom there had
23 been -- or to whom people had not behaved properly.

24 Q. [15:02:02] I thank you very much for this response.

25 Mr President, I have now finished with my questions.

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1 PRESIDING JUDGE MINDUA: [15:02:08](Interpretation) Thank you very much,

2 Maître Nsita. The Chamber is very grateful you kept your word.

3 Now, Mr Witness, we have now reached the time of the cross-examination on the part
4 of the Defence. I would like to ask you to answer the questions in such a willing
5 manner that you did for the Office of the Prosecutor.

6 Now, Ms Pradhan, it's over to you.

7 MS PRADHAN: [15:02:39] Mr President, I of course am at the Court's disposal. But
8 I would request -- I would just like to say that it would actually be in everyone's
9 interest if we were able to start first thing tomorrow. I can represent that I will be
10 able to finish by the end of the day on Wednesday. And this is just because I will
11 in fact be editing and shortening my outline based on the Prosecution's items.

12 And also, the witness raised certain translation issues at the end of this morning and
13 this afternoon regarding the letter to which he referred, that we have reviewed, and
14 we'll be disclosing a new translation. And so that's the last item that we'd like to do.
15 And so if we could have all of that finished, it would be I think in everyone's interest
16 and I would not take very much time.

17 PRESIDING JUDGE MINDUA: [15:03:48](Interpretation) Ms Pradhan, we have an
18 hour ahead of us and you want to give up that hour and start tomorrow? I don't
19 know. Because you say that if you start tomorrow you will end when?

20 MS PRADHAN: [15:04:00] I can represent that I will be finished by the end of the
21 day on Wednesday, if not earlier.

22 PRESIDING JUDGE MINDUA: [15:04:14](Interpretation) I'm going to confer briefly
23 with my colleagues.

24 (Trial Chamber confers)

25 PRESIDING JUDGE MINDUA: [15:06:37](Interpretation) Ms Pradhan, as you can

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1 see, the Chamber has discussed this a bit longer than one might expect. So I'm afraid
2 your request does cause problems for our scheduling, because we want to make good
3 use of our time. Since you promise to finish by Wednesday, if not before that time,
4 that is the only condition under which we will delay your cross-examination until
5 tomorrow. The absolute prerequisite is that you shall finish by Wednesday, if not
6 earlier.

7 Agreed? Very well.

8 So under that particular condition we shall adjourn. And I now address the witness.

9 Are we still in open session, court officer? Very well.

10 Mr Witness, as you have seen, the Defence is not yet ready to beginning its
11 cross-examination now. We will continue tomorrow morning. As you already
12 know, in the meantime, you must not talk about your testimony to anyone.

13 Before adjourning, I would like to express my thanks to all those who have helped
14 make today's hearing a success, the parties, the participants, the court reporters, the
15 interpreters, our security officers, and of course the public who is always supportive.

16 We shall now adjourn today's hearing. The hearing is now adjourned.

17 THE COURT USHER: All rise.

18 (The hearing ends in open session at 3.08 p.m.)