

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DAVID BONIFACE, NISSAGE MARTYR,)	
AND JUDERS YSEMÉ,)	
)	
Plaintiffs,)	Civil Action
)	No. 17-10477-ADB
v.)	
)	
JEAN MOROSE VILIENA,)	
a.k.a. JEAN MOROSE VILLIENA,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE ALLISON D. BURROUGHS
UNITED STATES DISTRICT JUDGE

JURY TRIAL DAY TWO

March 14, 2023
9:41 a.m.

John J. Moakley United States Courthouse
Courtroom No. 17
One Courthouse Way
Boston, Massachusetts 02210

Kelly Mortellite, RMR, CRR
Kristin Kelley, RPR, CRR
Official Court Reporters
One Courthouse Way, Room 3200
Boston, Massachusetts 02210
mortellite@gmail.com

1 APPEARANCES:

2 On Behalf of the Plaintiffs:

3 Bonnie Lau

4 Christina L. Golden Ademola

5 Sarah Jane Vandervalk

6 Morrison & Foerster LLP

7 425 Market Street

8 San Francisco, CA 94105

9 (415) 268-6511

10 blau@mofo.com

11 cademola@mofo.com

12 svandervalk@mofo.com

13 Daniel McLaughlin

14 Elzbieta Matthews

15 Center for Justice and Accountability

16 268 Bush Street

17 Suite 3432

18 San Francisco, CA 94104

19 (347) 989-5138

20 dmclaughlin@cja.org

21

22 Philip A. O'Connell, Jr.

23 Dentons US LLP

24 Suite 2750

25 101 Federal Street

Boston, MA 02110

(617) 235-6802

philip.oconnelljr@dentons.com

26

27 On Behalf of the Defendant:

28 Peter J. Haley

29 Nelson Mullins Riley & Scarborough LLP

30 One Post Office Square

31 30th Floor

32 Boston, MA 02109

33 (617) 217-4714

34 peter.haley@nelsonmullins.com

35

36

37

38

39

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS

PAGE

DAVID BONIFACE

Direct Examination By Mr. McLaughlin
Cross-Examination By Mr. Haley

11
34

JUDERS YSEMÉ

Direct Examination By Ms. Lau
Cross-Examination By Mr. Haley

42
88

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(The following proceedings were held in open court before the Honorable Allison D. Burroughs, United States District Judge, United States District Court, District of Massachusetts, at the John J. Moakley United States Courthouse, One Courthouse Way, Courtroom 17, Boston, Massachusetts, on March 14, 2023.)

THE COURT: All right. So he was here before you. And we were discussing -- I asked him to raise with you all a schedule for today. I just don't feel right keeping them until 4:00 when some of them live kind of far away. Nobody lives crazy far away. I checked this morning and most of them live south versus north. So for those of you who are not from here, they're more apt to have rain than snow. But one of them lives -- one of them -- some of them have to go a distance even if it's south.

So what do you think about today? What do you want to do?

MS. LAU: Your Honor, plaintiffs are happy to defer to the judge's preference with respect to schedule. In terms of who we have on deck for today, we'll be presenting David Boniface. And I think his testimony, depending on the length of Mr. Haley's cross, will roughly take us the morning session through noon. And then we can present Mr. Ysemé in the afternoon. I anticipate that his testimony would likely take

1 the full afternoon, but we can adjourn at the time the court
2 feels is appropriate and resume him tomorrow morning, assuming
3 the weather holds.

4 THE COURT: I don't think we're going to be here
5 tomorrow.

6 MS. LAU: Okay.

7 THE COURT: I could be wrong. I would love to be
8 wrong, but my snow day calculator says we will not be here
9 tomorrow. Have you checked it recently? Now I've made
10 Mr. Haley a fan of the snow day calculator. I'm probably the
11 only one with a signal in here, right?

12 It's back to 55 percent chance for tomorrow. It was
13 at 90 this morning. Maybe we will be here tomorrow. Boston
14 has a 68 percent chance of snow day tomorrow.

15 MR. HALEY: Cambridge and Somerville closed this
16 afternoon.

17 THE COURT: Yeah, I saw it. My little cherubs are out
18 at noon. Happily, they have learned to fend for themselves.

19 MS. LAU: So if we're not going to be in session
20 tomorrow, would you still like to adjourn early today?

21 THE COURT: Well, the problem is I'm not -- the only
22 reason I'm thinking about adjourning early is I don't want to
23 put these people in peril trying to get home. It's not for my
24 own account. It's not for scheduling purposes. It's just for,
25 I don't want them stressing about it and I don't want them

1 distracted about it. Some of them live far away. And some of
2 them, even in good weather, some of them have close to an hour
3 drive.

4 MR. HALEY: I think counsel, Your Honor, feels
5 confident that we'll accomplish the direct and
6 cross-examination of Mr. Boniface today. And then depending on
7 the time allotment, we can commence the direct examination of
8 Juders Ysemé. And then I think the idea of shortening the
9 lunch break, having a snack, and then adjourning in that 1:00
10 timeframe, as the court has suggested, works fine. Ms. Lau and
11 I did discuss that earlier but whatever -- of course, we agree
12 with plaintiffs, whatever the court's preference is on that.

13 THE COURT: How long do you think the direct is going
14 to be?

15 MS. LAU: For Mr. Boniface?

16 THE COURT: Yes.

17 MR. MCLAUGHLIN: 15.

18 THE COURT: You've been very prescient. So I want you
19 to know you're the only lawyers in nine years doing this job
20 that have ever underestimated the length of anything, for which
21 I am grateful. Openings were short, direct were efficient,
22 cross was efficient. It was nice yesterday. I don't care how
23 long you take but the accurate estimates are helpful.

24 So that will go to 11:15, and then we could still have
25 lunch come up at 12:00 and just tell them to take a snack. I

1 need to take a break for the court reporter after a couple of
2 hours anyway. So I'll have lunch come up at 12:00. We'll have
3 them have lunch at 12:00. And we'll try and hold them to a
4 very tight lunch. We'll see how much is left when we break for
5 lunch, and then we'll see where we are. But let's keep the
6 lunch coming up. They can always grab it for the road if
7 they're going to head out, and that gives Kelly her break.

8 MS. LAU: Thank you, Your Honor. Do you have any
9 guidance about likelihood of session on Thursday, only because
10 we do have third-party witnesses and experts.

11 THE COURT: I don't see any reason why we wouldn't be
12 here on Thursday.

13 MS. LAU: Thank you, Your Honor. That's helpful.

14 THE COURT: It's all supposed to be over by tomorrow.
15 And I don't have anything Thursday morning at this
16 point so we can start earlier and try to make up some time.
17 The problem with starting earlier -- I've tried to do this many
18 times -- I still need to give the court reporter a break at two
19 hours. So if we start at 9:00, we end up with a break at
20 11:00, and then we still end up having to take break for lunch.
21 So if we start at 9:00, we don't actually gain very much time
22 between the extra breaks that you have to put in. But we can.

23 MS. LAU: For plaintiffs I think we're fine using the
24 normal schedule for Thursday. I just thought if we lost two
25 trial days, that would significantly rearrange the travel that

1 we had planned for our other witnesses and experts.

2 THE COURT: I would be shocked if we lost -- I don't
3 see any reason to lose Thursday. I shouldn't say that in the
4 age of COVID, but I don't see any foreseeable reason, not for
5 the weather.

6 MS. LAU: Thank you, Your Honor.

7 THE COURT: So in ten minutes we'll bring the jury
8 down. Karen will run up in a minute. I hope they're all here.
9 We'll see what's going on there, too. Anything for this
10 morning before we get started?

11 MS. LAU: Nothing for the plaintiffs, Your Honor.

12 MR. HALEY: No, Your Honor.

13 THE COURT: At ease for ten minutes.

14 She's going to get the jury and line them up outside.

15 MR. MCLAUGHLIN: I think Ms. Lau had to run to the
16 restroom.

17 (Discussion off the record.)

18 (Jury enters the courtroom.)

19 (Case called to order.)

20 THE COURT: You people are on your way to being my
21 favorite jury of all time. Not only are you here on time but
22 you're here on time on a day when you would have been well
23 justified in complaining about the traffic, I'm sure. So thank
24 you for that.

25 I have been discussing as a group and want to discuss

1 with you our schedule for today because I really don't want
2 anybody hung up in terrible traffic or terrible weather or an
3 unsafe driving condition, and I've talked to the parties about
4 it. I try to be as transparent with my jurors as possible. So
5 here are the factors: We have to give the court reporter a
6 break about every two hours. So that's constraint number one.
7 And then, I'm sure you all can do the math, but the shorter our
8 days are, the longer the trial goes, right? So that's just how
9 it works. It's going to take them as long to present this case
10 as it's going to take them.

11 I was just saying to them I get estimates from them on
12 the witnesses. In the nine years I've been doing this job,
13 these are the first group of people that have underestimated
14 their time. So they've been very efficient. But we do have to
15 give them enough time to properly present the case.

16 So what they have on tap today is two witnesses, two
17 of the plaintiffs, and it was their intention to put on one in
18 the morning and one in the afternoon. And I'm thinking what
19 makes sense is to have them do the one in the morning. We'd
20 still probably need to take a quick lunch break to give Kelly a
21 break, and we've already ordered you lunch. And plus, if
22 you're going to get back on the road afterwards, you might as
23 well be fed before you go.

24 So I'm thinking we'll go from 10:00 to 12:00, take
25 quick lunch break, like have you knock on the door when you're

1 done, and then finish up the first witness and then recess for
2 the day.

3 If you all want to get through the two witnesses
4 today, we can accommodate that. But I don't want to put
5 anybody in a bad position on the traffic. So I'm going to
6 assume for the moment that we'll do the first witness and then
7 recess whenever that's done, but if you decide at the lunch
8 break you want to do something different, just let me know and
9 you can look out the window and make your decision. Okay?
10 Does that work for everybody? Okay. Does that work for
11 everybody?

12 MR. HALEY: Yes, Your Honor.

13 THE COURT: All right. So you need to call your next
14 witness and we'll go.

15 MR. MCLAUGHLIN: Thank you, Your Honor. Plaintiffs
16 call David Boniface.

17 Do we need to swear in the interpreters first.

18 (Interpreters duly sworn.)

19 (Discussion off the record.)

20 THE COURT: So he'll be mic'd for the jury but not for
21 the recording. Let's go and see how it goes.

22 DAVID BONIFACE, Sworn

23 THE CLERK: Can you please state your name and spell
24 your last name for the record.

25 THE WITNESS: My name is Boniface David,

1 B-o-n-i-f-a-c-e.

2 MR. MCLAUGHLIN: Thank you, Mr. Boniface.

3 DIRECT EXAMINATION BY MR. MCLAUGHLIN:

4 Q. Good morning, Mr. Boniface. Could you please tell the
5 jury how old you are.

6 A. I am 42 years old.

7 Q. And where did you grow up, Mr. Boniface?

8 A. I grew up in a city called Les Irois in the Grand'Anse
9 department in Haiti.

10 Q. And what was life like in Les Irois growing up there?

11 A. Life in Les Irois was perfectly normal. Everyone was
12 living as a community, in fact, even though there was no
13 police.

14 Q. And in 2006, did you still live in Les Irois?

15 A. Yes.

16 Q. Apologies.

17 And who did you live with in Les Irois in 2006?

18 A. I was living with my family, my mother, my father,
19 brothers and sisters.

20 Q. And what was your brother's name?

21 A. His name was Ecclesiaste Boniface.

22 Q. And how would you describe your relationship with your
23 brother Ecclesiaste Boniface?

24 A. Ecclesiaste Boniface was my younger brother, but he was
25 very dear to the family.

1 Q. And -- please, go ahead.

2 A. Although he was younger, he was a businessman and he was
3 constantly helping my mother and the rest of the family.

4 Q. And did your younger brother Ecclesiaste help you?

5 A. Yes. Even though he was younger than I was, he was still
6 helping with the family and helping my schooling and stuff like
7 that.

8 Q. And in 2006, were you employed in Les Irois?

9 A. Yes. I was a school teacher.

10 Q. And what grades did you teach?

11 A. I was teaching in first year and six year of school.

12 Q. And were you following any courses of training at the
13 time?

14 A. Yes. I was taking classes with RNDDH. It's a network,
15 national network, for human rights.

16 Q. And what type of human rights training were you receiving
17 from this national network of human rights?

18 A. During that, educators, they were teaching us about
19 violence, injustices, and a lot of other things, including
20 women's rights.

21 Q. And where did you receive this human rights training?

22 A. I had to leave and go to the capital in Port-au-Prince,
23 and that's where I received that teaching. And then from there
24 I left the capital and went back to Les Irois.

25 Q. And for how long did you receive this human rights

1 training?

2 A. Each teaching would last about one to two weeks. And
3 every time it's over, I go back home.

4 Q. And over how many years did you receive this training?

5 A. It lasted three years, from 2006, '07 and '08.

6 Q. And did you receive any certificates for human rights
7 training?

8 A. Yes. Each session, each training they give you a
9 certificate.

10 Q. And could you tell the jury why you decided to become a
11 certified human rights advocate?

12 A. Given the situation, the way things were, I wanted to know
13 my own rights and the rights of others and I wanted to know
14 that I would not violate other people's rights as well, so that
15 I will not fall prey to injustices and violence and also to
16 help others.

17 Q. And did you tell others in Les Irois that you were a
18 certified human rights advocate?

19 A. Yes.

20 Q. Mr. Boniface, do you know the defendant, Jean Morose
21 Viliena?

22 A. Yes.

23 Q. How long have you known him?

24 A. Yes, he was -- I've known him for quite some time. He is
25 my cousin. He was my teacher in like eighth grade.

1 Q. And can you identify Defendant Viliena for the jury,
2 please.

3 A. Yes. Here he is.

4 Q. In 2006 did Defendant Viliena live in Les Irois?

5 A. Yes.

6 Q. And in 2006 did Les Irois hold elections for mayor?

7 A. Yes.

8 Q. Do you recall who the candidates were in the election for
9 mayor of Les Irois in 2006?

10 A. Yes. It was Jean Morose Viliena, William Lebon, and there
11 was somebody else. I believe his name was Renault Vaillant.

12 Q. Which candidate did you vote for for mayor in Les Irois in
13 the 2006 election?

14 A. I voted for William Lebon.

15 Q. And which political party did William Lebon belong to?

16 A. William Lebon was a candidate under the banner of People's
17 Struggling Party -- Struggling People's Party.

18 Q. And are you yourself a member of the Struggling People's
19 Party?

20 A. No.

21 INTERPRETER: Sorry, this is the interpreter. I
22 didn't quite hear the last answer.

23 MR. MCLAUGHLIN: Do you want me to repeat the
24 question?

25 THE COURT: You didn't hear the answer or the

1 question?

2 INTERPRETER: I didn't hear the answer.

3 THE COURT: Ask him to repeat it.

4 A. I said that I was not a member. I voted for the
5 Struggling People's Party, OPL. I fulfilled my duty, my civic
6 duty as a citizen.

7 Q. And when Defendant Viliena ran for mayor of Les Irois in
8 2006, do you know which political party he belonged to?

9 A. It was under political party called MODEREH.

10 Q. And who became mayor of Les Irois following the 2006
11 elections?

12 A. Jean Morose Viliena.

13 Q. I want to turn your attention now to 2007. Were you
14 living in Les Irois in 2007?

15 A. Yes.

16 Q. Was your brother Ecclesiaste still living with you in the
17 family home?

18 A. Yes.

19 Q. Where were you on the morning of July 27, 2007?

20 A. I was at my house.

21 Q. Did anyone come to your house that morning?

22 A. Yes.

23 Q. Who?

24 A. I have one of the plaintiffs who died, Nissage Martyr who
25 came to see me.

1 Q. And why did Nissage Martyr come to see you on the morning
2 of July 27, 2007?

3 A. Nissage Martyr came to my house in my capacity as a
4 certified human rights advocate because of an argument
5 apparently Ms. Ostanie had with Jean Morose Viliena.

6 Q. And after Nissage Martyr told you this, what did you do?

7 A. Shortly after that I went to a judge's house by the name
8 of Judge Bell, who was listening to different parties.

9 Q. And what did you see when you arrived at the house of
10 Judge Bell?

11 A. I positioned myself so I could hear Ms. Ostanie explaining
12 to the judge what had happened.

13 Q. And was Defendant Viliena present at the time when you
14 arrived?

15 A. Yes.

16 Q. And were there other individuals present with Defendant
17 Viliena?

18 A. Yes, there were many other people.

19 Q. Could you identify any of those individuals?

20 A. There was Hautefort Bajon, Meritus Beaublanc -- Meritus
21 Beaublanc and many other people were there.

22 Q. You mentioned Hautefort Bajon. Did you know that
23 individual?

24 A. Yes. He was the director of City Hall working for Jean
25 Morose Viliena at the time.

1 Q. And could you hear what was being said at Judge Bell's
2 house?

3 A. Yes.

4 Q. Did Defendant Viliena say anything?

5 A. Yes.

6 Q. What did he say?

7 A. While Ms. Ostanie Mersier was explaining to the judge what
8 had happened, he then stopped the lady while speaking. Jean
9 Morose requested from Judge Bell to make me leave the area.

10 Jean Morose continued to say for me to leave. And then
11 the judge asked why, and he stated that he heard they say that
12 I am certified agent for human rights. When it comes to human
13 rights, he has nothing to do with that story, that issue.

14 Q. And when you say Jean Morose said this, are you referring
15 to Defendant Viliena?

16 A. Yes, Jean Morose Viliena.

17 Q. And when Defendant Viliena asked the judge to have you
18 leave because he had heard that you were a certified human
19 rights defender and he didn't know anything about human rights,
20 what did you do?

21 A. I then spoke and said that everyone has rights. That is
22 when Bajon, the director of City Hall under him, said where do
23 you think you are speaking in such harsh terms?

24 Q. And how did Defendant Viliena react to what you said?

25 A. Once I said that, the accused Viliena just stormed out and

1 left the judge's house.

2 Q. And did you remain at Judge Bell's house after this?

3 A. Yes.

4 Q. And what happened next?

5 A. Given that the accused Jean Morose Viliena stormed out,
6 the judge asked me to leave to go home because he said that my
7 life was threatened.

8 Q. And did you leave?

9 A. Yes, yes. Yes, I listened to the judge and left. And
10 while I was leaving, in the process of leaving the judge's
11 house, then Jean Morose Viliena came back.

12 Q. And was he accompanied by anybody when he came back?

13 A. Yes. He had a group of people who were not there before.
14 He came back with them.

15 Q. And were you able to leave?

16 A. I have to say prior to that from his group, there was
17 someone by the name of Jean Louis Bell, who started swinging at
18 me.

19 Q. And was Defendant Viliena present when Jean Louis Bell
20 started swinging at you?

21 A. Yes.

22 Q. And was Hautefort Bajon also present when that happened?

23 A. Yes, Hautefort Bajon came out of the judge's house to join
24 the group.

25 Q. Did you feel threatened at the time?

1 A. I was very -- I felt very threatened where I had to try to
2 distance myself from them walking backwards. And then there
3 was a pastor who was in the area who grabbed me and pulled me
4 out.

5 Q. And where did he pull you to?

6 A. He yanked me out from that group and then put me in a
7 church for safety, away from the crowd.

8 Q. Did you remain at the church?

9 A. I did not stay for long because I was also a teacher in
10 the community and there was a group of parents and my students
11 who came to accompany me so I can leave the church.

12 Q. What happened next?

13 A. And then Jean Morose did not stop and his group did not
14 stop following me. They kept following me all the way up to
15 the house of Nissage Martyr.

16 Q. And what happened in front of the house of Nissage Martyr?

17 A. Once I got there, they were still following me, and then
18 one of the partisans of Mayor Jean Morose took -- grabbed a
19 bicycle and was about to throw it at me. It was another parent
20 who actually caught the bicycle midair to avoid me getting hit
21 by the bicycle.

22 Q. And was Defendant Viliena present when this happened?

23 A. Yes.

24 Q. What happened next?

25 A. That is at that very moment that Jean Morose Viliena

1 looked at Hautefort Bajon and then Hautefort, he said, Well,
2 leave him alone, we'll deal with him later.

3 Q. And when Hautefort Bajon said, "We'll deal with him
4 later," did Defendant Viliena react to that?

5 A. Viliena did like this (gesturing).

6 Q. And what is "this"? Could you describe it for the
7 transcript?

8 A. In our culture, when you want to say something, if you
9 nodded your head like this, it means yes; if you do like this,
10 it means no. But he did like this (gesturing).

11 MR. MCLAUGHLIN: And let the record reflect that the
12 witness nodded affirmatively.

13 Q. Were you then able to return home?

14 A. Yes. Once Jean Morose nodded like this (gesturing), he
15 then went back with his -- the group of people that he was
16 with, and then the parents and children just escorted me to my
17 house.

18 Q. Later that night, did you go anywhere?

19 A. Yes. Later on I went to the church for worship.

20 Q. Did anyone go with you to the church?

21 A. Yes, I went with my mother that day.

22 Q. And did your brother Ecclesiaste accompany you?

23 A. No. My brother Ecclesiaste stayed home.

24 Q. Did anything happen while you were at church?

25 A. Yes, a friend came and told me that Ecclesiaste Boniface

1 died, and I know he wasn't sick when I left.

2 Q. Were you able to return home that night?

3 A. I wasn't able to go home that night because the group,
4 Jean Morose's group, came and surrounded the church so they
5 could kill me.

6 Q. Where did you stay that night?

7 A. That night I had to -- my mother and I, we had to go to
8 the pastor's church and spent the night there.

9 INTERPRETER: I'm sorry. This is the interpreter.
10 Pastor's home and spent the night there.

11 MR. MCLAUGHLIN: Okay. I would invite the jurors to
12 take out their screens if they haven't.

13 Q. The following morning, on July 28, 2007, where did you go?

14 A. Right away, the next morning, when I woke up, although I
15 spent the night before unable to sleep, I went straight to
16 Judge Bell's house to get him to start the investigation.

17 Q. And after you went to Judge Bell's house, where did you
18 go?

19 A. I went to my house with the judge to see my brother whose
20 body was laying on the floor so that the judge can make his
21 report, start the investigation.

22 Q. And what did you see?

23 A. When I arrived, the first thing I saw was a white sheet.
24 Judge Bell lifted up the white sheet and my brother's body was
25 underneath.

1 MR. MCLAUGHLIN: Your Honor, permission to publish to
2 the witness and to the jury what has been entered into evidence
3 as Exhibit 1.

4 THE COURT: Yes.

5 Q. Do you recognize the body in this photograph,
6 Mr. Boniface?

7 A. Yes.

8 Q. And whose body is it?

9 A. This is the body of my brother Ecclesiaste Boniface.

10 Q. And what was your reaction when you saw your brother's
11 body that morning?

12 THE COURT: Take the exhibit down, please.

13 Can they step out, please.

14 Q. Mr. Boniface, could you describe for the jury your
15 reaction when you saw your brother's body?

16 A. I wasn't well at all. It really affected me and I was
17 trying to approach my brother, but the judge had stopped me.

18 Q. On the morning when you saw your brother's body, did you
19 take the body anywhere?

20 A. Yes, the population picked up my brother's body and they
21 carried it to Jean Morose Viliena's office at the City Hall.

22 Q. And did you accompany them?

23 A. Yes, I went with them.

24 Q. And was Defendant Viliena present at the City Hall when
25 you arrived with your brother's body?

1 A. He was present. When we arrived, when he noticed us, he
2 called police officers to come and evacuate us, and the police
3 officers hit us with the back of their shotgun and had
4 everybody evacuate.

5 Q. And did you bury your brother?

6 A. Yes. I did bury my brother, although Jean Morose Viliena
7 did what he did and I couldn't leave my brother's body and we
8 went and took care of the funeral rights.

9 Q. And did you remain in Les Irois after you buried your
10 brother Ecclesiaste?

11 A. I was not able to remain living in Les Irois because
12 Lissage Viliena, who is the Defendant Viliena's father,
13 announced in public that they would have to kill me to put an
14 end to this story.

15 Q. And when you --

16 MR. HALEY: Move to strike.

17 MR. MCLAUGHLIN: Your Honor, it's a --

18 THE COURT: So it's a hearsay objection, I take it?

19 MR. HALEY: Yes, Your Honor. In the first instance
20 the response was non-responsive, and then further a hearsay
21 objection to the extent the follow-up question comes.

22 THE COURT: Let me just explain to the jurors. So you
23 remember during my opening instructions I said that there might
24 sometimes be pieces of evidence that you could consider for one
25 purpose but not for another purpose. This is one of those

1 things.

2 So he's made a hearsay objection. That means --
3 hearsay is when somebody says something that's not in court, so
4 that person can't be cross-examined on the statement. So that
5 statement comes in for the limited purpose of explaining why he
6 left. It does not come in for the truth of the matter asserted
7 in the statement.

8 So to the extent that he said they would have to kill
9 me to put an end to this story, that does not come in for the
10 truth. It only comes in to explain why he left. Okay?

11 So I take your objection on the non-responsive but
12 that would have been the follow-up question and what he said
13 was admissible as a follow-up, so that part of the objection is
14 overruled. The hearsay objection is sustained, but I've
15 corrected it with a limiting instruction.

16 Are you satisfied with the instruction?

17 MR. HALEY: I am. Thank you, Your Honor.

18 THE COURT: Okay. How about plaintiffs?

19 MR. MCLAUGHLIN: Yes.

20 THE COURT: Okay. All right.

21 Q. I'd like to now turn your attention to the year 2009. Was
22 Defendant Viliena mayor of Les Irois in October of 2009?

23 A. Yes.

24 Q. And did you still own your family home in Les Irois in
25 October of 2009?

1 A. Yes.

2 Q. And on October 29, 2009, did anything happen to your
3 family home?

4 A. Yes. On October 29, 2009, defendant Jean Morose Viliena
5 and his crew, they set on fire 36 homes in the area, including
6 my family home.

7 Q. And were you present in Les Irois when this happened?

8 A. No.

9 Q. Did you return to Les Irois to see your family home?

10 A. Yes, I did come back to Les Irois.

11 Q. And what did you see when you returned to Les Irois?

12 A. Yes. When I came back to Les Irois, I was able to see
13 that my house was set on fire, was completely burned down. And
14 with the investigation that I had was -- I was investigating as
15 a certified human rights advocate, I also observed that 35
16 other homes were set ablaze, including mine, for a total of 42
17 families.

18 Q. Can you please describe for the jury your reaction to the
19 loss of your family home?

20 A. I was out of myself with the feeling of desolation, and I
21 realized that had it been that myself and my family were at the
22 house that night, we could have all been dead.

23 Q. And did you lose any personal possessions when your house
24 was burned down?

25 A. We lost everything we had at the house. We were not able

1 to save anything.

2 Q. Did you lose any official documents?

3 A. We lost everything. We lost all the -- I lost all kinds
4 of pictures we had from the family, any official documents.

5 MR. HALEY: I had reports, documents from the RNDDH,
6 which is --

7 INTERPRETER: This is the interpreter. May I please
8 look up for the acronym. It's National Human Rights Defense
9 Network.

10 A. All the reports that I had collected all were set ablaze,
11 gone.

12 THE COURT: Sorry. Can I interrupt you for a second.
13 This may be my own, whatever, but did he say -- I'm unclear
14 whether he came back to the village before or after the arson.

15 MR. MCLAUGHLIN: After.

16 THE COURT: Can you clarify that for the record. I
17 don't think it was clear.

18 MR. MCLAUGHLIN: I asked the witness if he was present
19 in Les Irois on the night, and he said no, but I can ask him.

20 Q. Mr. Boniface, did you come back to Les Irois after the
21 arsons?

22 A. Yes.

23 THE COURT: Okay. How long after, please?

24 Q. How long after did you return? How much time passed
25 between the arsons and when you returned to Les Irois?

1 A. I came back three weeks later.

2 Q. And when you returned to Les Irois and saw your house
3 burnt down, did you see any other houses that had been burned?

4 A. Yes. As I stated earlier, when I investigated about how
5 many houses were set ablaze, I found 36 homes were burned down,
6 including mine.

7 Q. And did you count the number of homes?

8 A. Yes.

9 Q. Did you know those other families whose homes were burned
10 down?

11 A. These were people that I recognized in the area. Although
12 I didn't know whose houses were burned down, others have taken
13 me to see which ones were burned down.

14 Q. And of those families, how many supported the Struggling
15 People's Party?

16 MR. HALEY: Objection.

17 THE COURT: Basis?

18 MR. HALEY: Competency.

19 THE COURT: You're objecting to the question?

20 MR. HALEY: I'm objecting to the question on the
21 grounds of competency.

22 THE COURT: Yes, that's sustained without a
23 foundation.

24 MR. MCLAUGHLIN: Okay.

25 Q. Can you explain how you knew those 40 families, 42

1 families?

2 A. I knew about the 42 families during my investigation about
3 the fire. So every time I would go and meet one family, they
4 would explain to me someone else whose house was burned down
5 also.

6 Q. And to your knowledge did Defendant Viliena's house burn
7 down in October of 2009?

8 A. No. His house was not set on fire and none of his
9 supporters' houses were set on fire either.

10 Q. You previously testified that following your brother
11 Ecclesiaste's death, Defendant Viliena's father publicly
12 threatened you; is that correct?

13 MR. HALEY: Objection.

14 THE COURT: Well, let's hear what the question is.

15 Q. Following those threats, did you leave Les Irois?

16 A. Yes, I had to leave Les Irois because Judge Bell, as he
17 was investigating on a public plaza, Lissage Viliena, who is
18 the defendant's father, had threatened to kill me to put an end
19 to the --

20 MR. MCLAUGHLIN: I'm just trying to establish that he
21 left following the threats.

22 THE COURT: Okay. I think you've already established
23 that, number one.

24 But number two, again, the father is not here to be
25 cross-examined. Those threats do not come in for you to

1 understand that threats occurred. They only come in to explain
2 why he left. So in other words, they don't come in for the
3 truth of the matter asserted. They only come in to explain his
4 subsequent actions.

5 Sufficient, Mr. Haley?

6 MR. HALEY: Yes. Thank you, Your Honor.

7 THE COURT: Plaintiffs.

8 MR. MCLAUGHLIN: Yeah, that's fine.

9 THE COURT: Go ahead.

10 Q. Did you eventually return to live in Les Irois with your
11 family?

12 A. I don't understand the question.

13 Q. Following your departure from Les Irois after the threats,
14 did you eventually return to Les Irois to live with your
15 family?

16 A. Yes, yes, I would go back and forth to come to Les Irois.

17 Q. And did you receive any additional threats related to your
18 brother's death?

19 A. Yes.

20 THE COURT: Hold on. He's got an objection. It
21 depends on the source of the threat. So let's go.

22 MR. MCLAUGHLIN: Yes.

23 Q. Did you receive any threats by telephone?

24 A. Yes.

25 Q. Could you describe that phone call, please?

1 A. One time it was a trial, there was a trial going on with
2 regard to the death of my brother in Jérémie, and Jean Morose
3 Viliena called me over the phone.

4 Q. And did the caller identify himself to you?

5 A. Not only he identified himself as Jean Morose Viliena, but
6 he's also my cousin and he was also my teacher, so I recognize
7 his voice perfectly.

8 Q. What did he say?

9 A. He told me because I cause his dad to go to jail, he'll
10 take care of me.

11 Q. And why do you think Defendant Viliena held you
12 responsible for his father being in jail?

13 MR. HALEY: Objection.

14 THE COURT: Well, let's hear the answer and then we'll
15 decide whether to strike it. He cannot speculate. So if you
16 can lay a foundation, go ahead, but if the answer is totally
17 speculative, move on to your next question.

18 MR. MCLAUGHLIN: Can I have him answer that question
19 and see if that satisfies --

20 THE COURT: Yes.

21 Q. Why do you think Defendant Viliena held you responsible
22 for his father being in jail?

23 A. Because his dad participated in the death of my brother
24 and he made me responsible for getting him in jail.

25 THE COURT: I'm going strike that answer. So you are

1 not to consider that. There's no foundation for it.

2 Q. Did you feel threatened by this call?

3 A. I was very -- I felt very threatened because I wasn't
4 even -- I wasn't even aware that he had my phone number.

5 Q. Did you attend any court hearings in Haiti related to your
6 brother's death?

7 A. Yes. We had had trials over the death of my brother in
8 Haiti.

9 Q. And did you receive any threats related to attendance at
10 these court hearings?

11 A. Yes, I received many threats because of that.

12 Q. And could you describe any instances where you were trying
13 to travel for attendance at these court hearings where you may
14 have received threats?

15 A. Yes. I had come to Les Irois on my way to go to Jérémie,
16 where the trial was being held, and we had to go through Anse
17 d'Hainault, and there's a man by the name of George Simon, who
18 had blocked the road preventing us from getting to the trial.

19 Q. And had you previously seen this individual George Simon
20 with the Defendant Viliena?

21 A. Yes. He would accompany Jean Morose Viliena during his
22 election campaign.

23 Q. Do you still live in Les Irois?

24 A. No.

25 Q. When did you leave Les Irois?

1 A. I left Les Irois in 2017.

2 Q. And why did you leave Les Irois in 2017?

3 A. I left Les Irois is when I filed a complaint in the U.S.,
4 and quickly after filing this complaint, Nissage Martyr died
5 without being sick.

6 Q. And at the time did you feel threatened?

7 A. Yes, I felt very threatened because Lissage Viliena,
8 Viliena's father, after his declaration to put a stop to this
9 process, they needed to kill us.

10 MR. HALEY: Move to strike.

11 MR. MCLAUGHLIN: Again, I'm just trying to establish
12 his motivation for his departure.

13 THE COURT: Yes, so that is stricken in that way. It
14 can only be considered by you to explain why he left.

15 Q. And when you left Les Irois in 2007, were you able to live
16 openly in another city in Haiti?

17 THE COURT: I'm sorry. Are you talking about 2007 or
18 2017?

19 MR. MCLAUGHLIN: 2017.

20 THE COURT: '17.

21 MR. MCLAUGHLIN: My apologies. Thank you.

22 A. I left Les Irois to go -- I fled Les Irois and I went to
23 live in another area, another city in Haiti, but I was in
24 hiding still until January 8, 2023.

25 Q. Are you currently married?

1 INTERPRETER: Your Honor, this is the interpreter.
2 Can I please ask for a repeat.

3 THE COURT: Yes. She'd like you to repeat the
4 question.

5 Q. Are you married Mr. Boniface?

6 A. Yes.

7 Q. Do you have children?

8 A. I have two daughters.

9 Q. Are you able to live with your wife and children?

10 A. No.

11 Q. And what is your life like in Haiti without being able to
12 live with your wife and daughters?

13 A. I would have to say after all the persecution that I lived
14 with staying in hiding and unable to work, it was a very harsh
15 life that I had to live, and I was unable to take care of my
16 family.

17 Q. Please.

18 A. And my health declined, and mentally it was very difficult
19 for me. I had a very hard time because I had to stay separated
20 from my family.

21 Q. And given everything you've testified to, why do you
22 pursue justice in this case?

23 MR. HALEY: Objection.

24 THE COURT: Let's hear what the answer is.

25 A. I had made the decision to continue to seek justice. I

1 had learned in school that justice will uplift a nation. And
2 also I continued to seek justice because I wanted people like
3 that, who are causing injustices, that they should know, they
4 should understand and get the message that at one point they
5 are not above the law and they can be punished.

6 MR. MCLAUGHLIN: Your Honor, defense counsel has
7 questioned the motivations of the --

8 THE COURT: The objection is overruled.

9 MR. MCLAUGHLIN: Thank you.

10 No further questions at this time.

11 CROSS-EXAMINATION BY MR. HALEY:

12 A. Mr. Boniface, I'm sorry about the loss of your brother.

13 THE COURT: Mr. Haley, if you want the podium, you can
14 move it.

15 MR. HALEY: Thank you.

16 THE COURT: Watching you juggle that pile.

17 MR. HALEY: I know, I'm going to drop it sooner or
18 later.

19 Q. You have three other brothers and sisters; is that
20 correct?

21 A. Yes. I do have other brothers and sisters.

22 Q. And one of your sisters died as well?

23 A. Yes. I have one of my sisters, who passed away due to
24 illness.

25 Q. And you've been unemployed for many years?

1 A. Yes.

2 Q. And the last salary you had as a school teacher was 50,000
3 gourdes a year; is that correct?

4 A. Yes.

5 Q. And how did you get here to the United States to testify
6 in court?

7 A. I had filed a complaint against Jean Morose Viliena, given
8 that he is living here.

9 Q. And who paid for your plane travel here?

10 A. My pro bono lawyers.

11 Q. And did they also pay for your hotel room?

12 A. Yes.

13 Q. And Ecclesiaste was 23 years old when he died; is that
14 correct?

15 A. Yes.

16 Q. And was he living in Miragoane at the time?

17 INTERPRETER: I'm sorry. This is the interpreter
18 speaking. I didn't hear the name of the village.

19 MR. HALEY: Miragoane, M-i-r-a-g-o-a-n-e.

20 INTERPRETER: Thank you.

21 A. He was staying in Miragoane once but he had moved back
22 home.

23 Q. And he was not married?

24 A. No.

25 Q. He had no children?

1 A. No.

2 Q. And he sold ice drinks but you're not sure how much money
3 he made doing that?

4 A. I did not have an estimation how much he made but he was
5 making money.

6 Q. And you testified earlier that he helped you out with your
7 school tuition; is that correct?

8 A. Yes.

9 Q. And that was about 7,500 gourdes a year; is that correct?

10 A. I don't recall the exact amount because I was attending
11 many schools since then.

12 Q. And you recall that you gave a deposition in this case; is
13 that correct?

14 A. Which case are you referring to, please?

15 Q. So my question is about this case that we're in, the one
16 that you brought in the United States that we're here trying,
17 and my question is, do you recall that you -- and I think it
18 was videotaped, the deposition that you gave in this case; you
19 were asked questions, you gave answers?

20 A. Yes, I recall video.

21 Q. And when you testified at the deposition, did you give
22 truthful and honest answers?

23 A. Everything I stated regarding this case is the truth.

24 Q. And at the deposition --

25 MR. HALEY: Counsel, I'm on page 17 of the transcript.

1 Q. Starting at line 3, at the deposition, you said, "He used
2 to pay tuition fee for me." And I asked, "How much was the
3 tuition?" And you said, "At this time school was not
4 expensive. It was 1,500 Haitian dollars." And I said, not
5 being good at math, "So 1500 gourdes?" And you said, "No."
6 And "How much money was that in gourdes, 1500 Haitian dollars?"
7 And you said, "7,500 gourdes."

8 A. The complaint is a lot and a lot had happened since then
9 and I cannot, frankly, remember the exact things that was said,
10 but you can refer to the transcript.

11 Q. And do you have any reason to believe the transcript is
12 incorrect or that the answer you gave was incorrect?

13 A. Would you mind repeating that question for me, please.

14 Q. Sure. My question was, do you have any reason to believe
15 that the transcript or the answer you gave at that time was
16 incorrect?

17 A. I don't really have any doubt on that.

18 Q. And Mr. Boniface, you're not a member of OPL; is that
19 correct?

20 A. No.

21 Q. And in 2006 you were 25 years old; is that right?

22 A. 2006. To my recollection, I was born, I believe 1981. I
23 don't know if that's the exact age you mentioned.

24 Q. I'm not great at math either but I think that's correct,
25 25.

1 And you've never held any elected or appointed position
2 with OPL?

3 A. No.

4 Q. And in 2006, 2007 and 2008 you undertook a human rights
5 investigation; is that correct?

6 A. Yes.

7 Q. And the other people who were involved in that
8 investigation were Juders Ysemé, Nissage Martyr, Frankel Ysemé,
9 William Lebon, Osephita Lebon and Vilfranc Larrieux; is that
10 correct?

11 INTERPRETER: This is the interpreter speaking. Would
12 you mind repeating the names for me.

13 MR. HALEY: Sure. Franckel Isme.

14 A. In reference to what exactly?

15 Q. The other people who were involved with you in the
16 investigation were Juders Ysemé, Nissage Martyr, Franckel Isme,
17 William Lebon, Osephita Lebon and Vilfranc Larrieux?

18 MR. MCLAUGHLIN: Your Honor, there may have been a
19 misinterpretation issue where "investigation" got translated to
20 "training." I wonder if that's part of the confusion.

21 A. I am not sure with all the names that you mentioned
22 exactly what the question was. You stated Nissage Martyr and
23 all, so I'm not following.

24 Q. So at your deposition --

25 MR. HALEY: Counsel, I'm on page 30, line 21.

1 Q. And at your deposition I asked you, "Other than yourself,
2 who else participated in the investigation?" And you answered,
3 "So in terms of the investigation, I had with me Nissage
4 Martyr, Franckel Ysemé, Juders Ysemé, who were all participate
5 filing, the complaint filing, and more than this, there are
6 many other people who have been victims of the mayor." And
7 then I asked, "Just speaking about people who are part of the
8 investigation. Other than those you've just named, was there
9 anyone else involved in the investigation?" You said, "Yes."
10 I asked, "Who else?" You said, "William Lebon." I asked,
11 "Anyone else?" You said "Osephita Lebon." "Anyone else?"
12 "Vilfranc Larrieux." "Anyone else?" "Senta Souverain."

13 MR. MCLAUGHLIN: Judge, it's going to be impossible
14 for the interpreters to remember all of that.

15 THE COURT: Well, aren't the names the same in both
16 languages?

17 MR. MCLAUGHLIN: If he is quoting directly from the
18 transcript. It's going to be impossible for them to remember
19 the entirety of that section and interpret it correctly. If
20 counsel maybe has another deposition transcript he could
21 provide.

22 THE COURT: Do you have another copy of the
23 transcript?

24 MR. HALEY: I do, Your Honor.

25 THE COURT: Why don't you give it to the interpreter.

1 MR. HALEY: Certainly, Your Honor.

2 Your Honor, may I address the interpreter?

3 THE COURT: Yes.

4 MR. HALEY: So I'm on page 30, line 21, and I have
5 read through page 31, line 17.

6 A. Yes.

7 Q. And the house that burned down in 2009 was your parents'
8 house; is that correct?

9 A. My parents' house and other houses that did not belong to
10 my parents.

11 Q. And you testified, when Mr. McLaughlin was asking you
12 questions, that after the fire, you continued your
13 investigation; is that correct?

14 A. Yes, there was an investigation.

15 Q. And were you part of that investigation?

16 A. Yes.

17 Q. And did you keep records of that investigation?

18 A. Yes, I did so I could pass them along to my attorney.

19 Q. And you testified that all of your earlier records of the
20 investigation about the shooting of your brother, those were
21 lost in the fire, right?

22 A. What I stated was everything that I did not have with me
23 at the time, everything in the house was burned down.

24 Q. And the records from the investigation of the fire,
25 though, they weren't burned down, right?

1 A. When I went to do the investigation on the house, the
2 house was already burned down.

3 Q. You were not in Les Irois on the day the house was burned
4 down, correct?

5 A. Yes.

6 Q. And the day of the radio station attack, you were not
7 there; is that correct?

8 A. I was not there but the radio station was not burned down.
9 It was destroyed.

10 Q. I may have added a word I didn't intend there.
11 But you weren't there that day, right?

12 INTERPRETER: This is the interpreter speaking. I
13 heard "you weren't there" in the statement before, Your Honor.

14 MR. HALEY: I apologize. I was speaking to myself.

15 Q. On the day of the radio station attack, you were not there
16 in Les Irois?

17 A. No.

18 Q. And the night that your brother was shot, you were not
19 there?

20 A. I was in Les Irois but not in the house at the moment.

21 MR. HALEY: I don't have anything further, Your Honor.

22 THE COURT: Redirect?

23 MR. MCLAUGHLIN: No, nothing further.

24 THE COURT: You're excused.

25 All right. We're going to go forward with your next

1 witness.

2 MS. LAU: Your Honor, plaintiffs call Juders Ysemé.

3 JUDERS YSEMÉ, Sworn

4 THE CLERK: Can you please state your name and spell
5 your last name for the record.

6 THE WITNESS: Juders Ysemé. My name is Juders Ysemé.
7 J-u-d-e-r-s, Ysemé is Ysemé.

8 DIRECT EXAMINATION BY MS. LAU:

9 Q. Thank you, Mr. Ysemé. You may take your seat.

10 How old are you?

11 A. 36 years old.

12 Q. And Mr. Ysemé, do you have a family?

13 A. Yes, I do have a family.

14 Q. And who are your family members?

15 THE COURT: I'm going to ask you to keep your voice
16 up. Your back is to the interpreter and I'm guessing she's
17 going to have trouble hearing you.

18 Q. And did you previously have a job?

19 A. Yes.

20 THE COURT: The mic looks like it's on but I'm not
21 sure -- let me ask the interpreter, can you hear her all right?

22 INTERPRETER: Yes, Your Honor, so far.

23 THE COURT: Okay.

24 INTERPRETER: Thank you.

25 Q. And what was your prior job?

1 A. I worked as a school gatekeeper of the national school of
2 Les Irois. And I also was a fisherman, so sometimes I go do
3 that at sea.

4 Q. Where did you grow up?

5 A. I was born in Les Irois and I was raised in Les Irois.

6 Q. And can you tell the jury what was it like growing up in
7 Les Irois?

8 A. Yes. Les Irois is a small town. It's not very big. It
9 has only one entrance and one exit. And it's a town that's
10 been quite a long time without any police, any police station.
11 And people love each other.

12 And often, if someone didn't have anything or had less,
13 they will always find somebody else to give them a helping
14 hand. And this is a city where other vendors from surrounding
15 cities would come to it to sell, vendors from Les Cayes would
16 come to sell their merchandise and vendors from Anse d'Hainault
17 would come to sell merchandise as well. Overall it was a very
18 beautiful city.

19 Q. Mr. Ysemé, do you know the defendant, Jean Morose Viliena?

20 A. Yes, I know him.

21 Q. How do you know him?

22 A. Jean Morose was the school principal, my school principal
23 in Les Irois. I was going to school at the high school, and he
24 was my principal there. And Jean Morose was a mayor, the mayor
25 of Les Irois. So he was my mayor.

1 Q. Can you please identify the defendant for the jury.

2 A. Yes (pointing). Here is Jean Morose Viliena.

3 MS. LAU: May the record reflect that the witness has
4 correctly identified the defendant.

5 THE COURT: The record will so reflect.

6 Q. At the time the defendant ran for and became the mayor of
7 Les Irois, do you know what party the defendant was affiliated
8 with?

9 A. Yes.

10 Q. Which party?

11 A. MODEREH.

12 Q. And how do you know that the defendant was affiliated with
13 the MODEREH party?

14 A. Yes. He had the logo of MODEREH, then he was posting on
15 different fliers all throughout Les Irois. And the picture of
16 Jean Morose Viliena was on these documents.

17 Q. Do you know if any other organizations supported Viliena
18 when he ran for mayor in 2006?

19 A. Yes.

20 Q. Which organization?

21 A. KOREGA.

22 Q. What is KOREGA?

23 A. KOREGA is a political organization in the area of
24 Grand'Anse.

25 Q. And how do you know that KOREGA supported Defendant

1 Viliena?

2 A. Yes. Viliena was always accompanied by the KOREGA members
3 and also had T shirts with the name of KOREGA all through, all
4 over Les Irois.

5 Q. Who are some of the KOREGA associates who wore KOREGA
6 T shirts that you would see with Defendant Viliena in Les
7 Irois?

8 A. I used to see Meritus Beaublanc, Lemon Bajon, Agnel Jean,
9 Gardy Jean-Pierre, and many others.

10 Q. Was there an election in Les Irois in 2006?

11 A. Yes.

12 Q. Who were the candidates for mayor?

13 A. Jean Morose Viliena, William Lebon and Renault Vaillant.

14 Q. And candidate William Lebon, what political party was he
15 affiliated with?

16 A. The Struggling People's Party.

17 Q. And for candidate Renault Vaillant, which party was he
18 affiliated with?

19 A. ESKANP.

20 Q. Did you vote in the 2006 election?

21 A. Yes.

22 Q. Who did you vote for?

23 A. William Lebon.

24 Q. Are you a member of any particular political party?

25 A. No.

1 Q. Were you a member in 2006 of any political party?

2 A. No.

3 Q. And have you ever been a member of a political party?

4 A. No.

5 Q. Did anything unusual happen when you were voting in the
6 2006 election?

7 A. Yes.

8 Q. And can you describe what happened?

9 A. Yes. Where I went to vote, it's located in the third
10 district of Les Irois. Jean Morose Viliena was accompanied by
11 his crew, and his crew that accompanied him, they had stopped
12 people from voting, the people who were voting for William or
13 for Renault Vaillant. They beat them up. They busted their
14 heads. People had blood flowing down their faces, their head
15 and faces. And that day this is how things were.

16 Q. Did you see them do anything to voters who were perceived
17 to be KOREGA supporters?

18 A. No. They allowed them to go and vote. And the other
19 people, they were sending them back, pushing them away.

20 Q. And who specifically did you see blocking the voters or
21 hitting them on the head?

22 A. They were partisan of Mayor Jean Morose, Villeme Duclona,
23 Alain Duclona, Lifaite Livert, Michelet Noel, and many others.

24 Q. Who won the election for mayor of Les Irois?

25 A. Morose Viliena.

1 Q. Mr. Ysemé, I'm going to switch topics now to the radio
2 station.

3 In April of 2008, were you living in Les Irois?

4 A. Yes.

5 Q. How old were you at the time?

6 A. 21 years old.

7 Q. And were you still in school?

8 A. Yes.

9 Q. And was Defendant Viliena still the mayor of Les Irois at
10 this time?

11 A. Yes.

12 Q. Was there a radio station in Les Irois at this time?

13 A. Yes.

14 Q. What was the name of it?

15 A. New Vision Radio.

16 Q. And where was the radio station located?

17 A. At the house of Nissage Martyr.

18 Q. How often did you go to the radio station?

19 A. Whenever I don't have school, I would go there, and after
20 school also I would go there, and in the evening I would spend
21 my time there.

22 Q. Why did you go to the radio station so frequently?

23 A. This is the first radio station that was installed in the
24 community. And we had the cyber cafe in it. So I would always
25 go there so I could learn things on the internet. Also to

1 teach other people, to start teaching people.

2 Q. In 2008, did you ever hear Defendant Viliena speak on the
3 radio station?

4 A. Yes, he spoke on the air on the radio.

5 Q. And what did you hear Defendant Viliena say?

6 A. He had called on the air live and the population was
7 listening in, and he had announced that he would shut down the
8 radio.

9 Q. Were you at the radio station on April 8, 2008?

10 A. Yes.

11 Q. Where?

12 A. I was on the porch at Nissage Martyr's house.

13 Q. And was there anyone with you at Nissage's house?

14 A. I was with Nissage and his family was inside the house.

15 Q. Did you see Defendant Viliena that day?

16 A. Yes, I did.

17 Q. And when did you first see him?

18 A. It was around noon. I saw Viliena went by. He was on a
19 motorcycle, with one of his other henchmen, whose name is
20 Maxene Vilsaint. And they were heading toward the town of Anse
21 d'Hainault.

22 Q. After you saw Defendant Viliena and Maxene Vilsaint
23 heading towards Anse d'Hainault on a motorcycle, when did you
24 see them next?

25 A. Maybe around an hour and a half I saw him came back.

1 Q. And where did they go when they came back?

2 A. When they came back, they were standing right next to
3 Nissage's house in front of a health clinic.

4 Q. Can you show the jury how far apart the health clinic and
5 Nissage's house are?

6 A. Yes. The distance from where I'm sitting and behind the
7 gallery here.

8 Q. And can you see the health clinic from Nissage's house
9 from his front porch?

10 A. Yes.

11 Q. So when you saw Defendant Viliena and Maxene Vilsaint
12 return from Anse d'Hainault, did they have anything with them?

13 A. Yes, they did.

14 Q. And what did they have?

15 A. Jean Morose had a bag in front of him, and between Jean
16 Morose and Maxene Vilsaint there was a long type duffle bag in
17 between two of them.

18 Q. Was there anyone else with Viliena and Vilsaint at the
19 health clinic?

20 A. There were many people there waiting for Jean Morose.

21 Q. What, if anything, did Defendant Viliena do with the bags
22 that were on the motorcycle that they brought back from Anse
23 d'Hainault?

24 A. I saw Jean Morose putting his hand in the bag and he was
25 handing, distributing things to the mob that was with him. He

1 kept putting his hand in the bag and giving them the stuff from
2 the bag.

3 Q. And could you see what the stuff was that he was handing
4 out from the bag?

5 A. He was handing them guns.

6 Q. Who was he handing guns out to?

7 A. His partisan.

8 Q. And can you specifically identify any of the partisans
9 that you saw that day in front of the health clinic?

10 A. Yes. Lissage Viliena, who is the father of Jean Morose
11 Viliena, Lifaite Livert, Agnel Jean, Gardy Jean-Pierre, Pierrot
12 Boileau, Meritus Beaublanc, Villeme Duclona and many others.

13 Q. At this time did Defendant Viliena have a weapon?

14 A. Yes.

15 Q. What kind of weapon?

16 A. I'm not an expert in guns. He looked like he had a
17 handgun in his hand.

18 Q. And did any of the defendant's associates have a gun?

19 A. Yes.

20 Q. Which associate?

21 A. Villeme Duclona.

22 Q. And could you see what kind of weapon Villeme Duclona had
23 at that time?

24 A. Yes.

25 Q. Can you describe the weapon?

1 A. A shotgun.

2 Q. Did Defendant Viliena's associates have any other weapons?

3 A. Yes.

4 Q. Can you describe those weapons?

5 A. They had machetes. They had ice picks.

6 Q. Any other weapons?

7 A. They had clubs.

8 Q. And at this time did you have a weapon?

9 A. No.

10 Q. And did Nissage have a weapon?

11 A. No.

12 MS. LAU: Your Honor, for my next portion of
13 questioning I'm going have a demonstrative to set up, so with
14 your permission, it might make sense to take a break now.

15 THE COURT: How long will it take to set up the
16 demonstrative?

17 Mr. Haley, if you need to move to see it, go ahead.

18 MR. HALEY: Thank you, Your Honor.

19 Q. Mr. Ysemé, how many people roughly do you see in the group
20 with Viliena at this time?

21 A. More than 30 people.

22 Q. And after Defendant Viliena handed out weapons to his
23 associates, what happened next?

24 A. They headed toward the radio station.

25 Q. Mr. Ysemé, have you ever prepared a hand-drawn diagram of

1 the radio station?

2 A. Yes.

3 MS. LAU: Your Honor, permission to approach the
4 witness with a copy of the demonstrative.

5 THE COURT: Yes.

6 Q. Are you familiar with the radio station and the layout of
7 Nissage Martyr's house?

8 A. Yes.

9 Q. And does this diagram look like the one that you drew by
10 hand of the radio station?

11 A. Yes.

12 Q. Is it a true and accurate depiction of the radio station,
13 Nissage's house and the surrounding area?

14 A. Yes.

15 Q. I'd like to walk you through this diagram now. So
16 starting at the very top of the diagram, I'm marking this area
17 with the letter A.

18 INTERPRETER: Your Honor, this is the interpreter.
19 I'm sorry, I need to repeat. Somebody coughed.

20 MS. LAU: Sure.

21 Q. Starting at the top of the diagram, I am marking this area
22 with the letter A. Can you explain what this area represents?

23 A. This is a house, a house is there and this is Nissage
24 Martyr's neighbor.

25 Q. And I'm now marking the area between the two long

1 horizontal lines with the letter B. Can you describe what this
2 area represents?

3 A. This is the national road and this is the road you take if
4 you're heading toward Anse d'Hainault and if you're coming back
5 to us and you take the same road.

6 Q. There's a large box below the national road. Can you
7 describe what that box is?

8 A. It is a picture of Nissage Martyr's home.

9 Q. Now I'd like to walk you through the different sections of
10 Nissage's house. So I'm going to mark the area at the top of
11 Nissage's house with the letter C. What does this area
12 represent?

13 A. That is Nissage's porch.

14 Q. And what do these small vertical lines represent?

15 A. This is the entrance door to Nissage's house.

16 Q. And I'm marking the middle section of Nissage's house with
17 the letter D, these long vertical lines. What does that area
18 marked by D represent?

19 A. This is a hallway that separates the house in two.

20 Q. And what do these three vertical boxes on the right side
21 of the hallway represent?

22 A. This represents where all the radio's equipment were held.

23 Q. And what about these four vertical boxes on the left side
24 of the hallway, what do these represent?

25 A. This is the space where Nissage occupies with his family.

1 Q. And at the bottom of the hallway there's another door.
2 I'm marking the area below the house with the letter E. What
3 does this area represent?

4 A. Can you lift up the page to see better?

5 This is the area when Jean Morose and his crew came and
6 busted the front door. I ran there to hide.

7 Q. And is this back area, is that open or is it enclosed?

8 A. It's enclosed.

9 MS. LAU: Your Honor, I'd like to take a break for
10 lunch now if that's okay.

11 THE COURT: Lunch doesn't come until 12:00.

12 MS. LAU: Is it not 12:00? Your clock says 12:05.

13 THE CLERK: That's wrong.

14 MS. LAU: I was trying to time it. Understood. Okay,
15 yes. It would be great if you could change the time. Okay.

16 THE COURT: I don't know how to do it.

17 I got that one right, which it was not right
18 yesterday. We're working on it. It's the government.

19 Q. Mr. Ysemé, I'd like to take you back to defendant and his
20 associates. So you testified you could see them coming towards
21 the house. What happened next?

22 A. Jean Morose and his crew, they came onto the porch. They
23 busted the front, the entrance door to Nissage's house. They
24 entered the house.

25 Q. When you say they broke down the front door of the house,

1 do you mean these doors next to the letter C?

2 A. Yes.

3 Q. And you testified that you were hiding in the back of the
4 house near letter E?

5 A. Yes.

6 Q. Where was Nissage?

7 A. Nissage went to the side of the house where his family
8 stays.

9 Q. From where you were hiding, could you see Nissage or the
10 defendant?

11 A. No.

12 Q. From where you were hiding, could you hear Nissage and the
13 defendant?

14 A. Yes.

15 Q. Could you recognize any of the voices in the house?

16 A. Yes.

17 Q. And whose voices could you recognize?

18 A. Jean Morose Viliena, Meritus Beaublanc, Lifaite Livert.

19 Q. And did you hear Defendant Viliena say anything?

20 A. Yes.

21 Q. What did you hear him say?

22 A. I heard the Defendant Viliena, Jean Morose Viliena say to
23 Nissage, "So this is where you're hiding," so that he can say
24 later who came to destroy the radio station.

25 Q. And what, if anything, could you hear defendant do to

1 Nissage?

2 A. Morose started beating up Nissage and Nissage was
3 screaming, screaming, "Jean Morose, you are beating me up. I'm
4 at my house and you came to beat me up." And where I was
5 standing, I could hear Nissage's screams.

6 And Nissage was saying, "Morose, you busted my head with
7 your gun. You busted my head with your gun." He was pleading
8 with him.

9 Q. How long could you hear Defendant Viliena beating up
10 Nissage in the hallway?

11 A. To me, more than one minute had lapsed when he was still
12 beating him up.

13 Q. Can you please mark the location on the diagram where you
14 could hear Defendant Viliena beating up Nissage Martyr.

15 A. Yes.

16 Q. And could you please show that diagram to me and then to
17 the jury. Thank you.

18 MS. LAU: And for the record, the witness has
19 indicated that Defendant Viliena attacked Nissage in the
20 hallway of Nissage's house which has been marked with a number
21 1 on the diagram.

22 Q. After attacking Nissage, what did Defendant Viliena do
23 next?

24 A. Jean Morose came to the back house where I was hiding,
25 then he discovered me. So he grabbed me by the collar, and he

1 started beating me up. And he was hitting me all over my face,
2 my body. And then he dragged me through the hallway all the
3 way to the porch.

4 Q. Before he dragged you up to the porch did he say anything
5 to you while he was beating you?

6 A. Yes. He said, "So this is where you're hiding so you can
7 go and report this is who destroyed the radio? I'm going to
8 put a noose around your neck, and then I'm going to hang you on
9 the public plaza."

10 Q. How many times do you think that Defendant Viliena punched
11 you?

12 A. For all the blows that I received from Viliena, I couldn't
13 count.

14 Q. Now, you testified that he dragged you up to the front
15 porch and threatened to hang you. When you arrived at the
16 front porch, were there any other people there?

17 A. Yes.

18 Q. Who else was there?

19 A. Villeme Duclona, Gardy Jean-Pierre, Lifaite Livert,
20 Lissage Viliena, Agnel Jean, and many others.

21 Q. And what were these other individuals doing?

22 A. They were vandalizing the radio station, removing all the
23 equipment from the station.

24 Q. And so you testified that Viliena dragged you up to the
25 front of the hallway. Then what happened?

1 A. He held my hand and said to Lifaite, "Restrain Juders.
2 We're going to hang him on the public plaza."

3 Q. And how did it feel in that moment when you were
4 restrained?

5 A. During that time I feel like my -- all of my bones were
6 cracking because I was in pain from all the blows from Jean
7 Morose. And Lifaite was holding me very tightly. I felt like
8 my bones were breaking.

9 Q. Where was Villeme Duclona at this time?

10 A. He was standing next to the porch.

11 Q. Can you mark on the diagram where you saw Villeme Duclona,
12 please, with the number 2.

13 A. Yes.

14 THE COURT: How much is left on your direct?

15 MS. LAU: I have a lot more on direct. If I could get
16 three more minutes right now.

17 THE COURT: Yes, of course. I'm always in favor of
18 more.

19 Q. Mr. Ysemé, could you please show me where you marked the
20 number 2 on the diagram and then show it to the jury.

21 Did Duclona have a weapon at this time?

22 A. Yes.

23 Q. And can you remind the jury what kind of weapon?

24 A. A shotgun.

25 Q. What happened next?

1 A. Lifaite, who was restraining me, at one point let go of me
2 so that he can go and take equipment, vandalize some equipment
3 as well. And then I realized that I was free, so I ran, I
4 started running. And while I was getting away, I was running,
5 I heard Jean Morose Viliena's voice very forcefully said, he
6 said, "Villeme, shoot him. Shoot Juders."

7 That's when I got shot and my eyes -- got shot in my eyes
8 and lost my eye.

9 Q. When Duclona shot you, which direction were you facing?

10 A. My right side was facing him because I was coming from the
11 house trying to cross the street going in this direction. So
12 when I got shot, my whole side and my head got hurt and my eye.

13 Q. And what were you struck by?

14 A. It was 12-gauge gun with many bullets that got shot.

15 Q. And where did they strike you?

16 A. It was, the shotgun pellets hit my head, my eyes, my arm,
17 the side of my stomach, my abdomen.

18 Q. How did you feel?

19 A. At this point I started to understand the end of my life
20 was beginning. I was seeing that blood was running down my
21 face, my head, and I saw death in front of me. And this is the
22 time I started to understand the turn my life was taking. And
23 I was suffering with pain. After getting beat up so forcefully
24 from Jean Morose Viliena inside the house, Jean Morose ordered
25 Villeme to shoot me. It was a desolate time for me.

1 Q. Can you please mark on the diagram the location where you
2 were shot using the number 3, please.

3 Mr. Ysemé, can you show it to me and then to the jury,
4 please.

5 MS. LAU: Your Honor, plaintiffs move to admit the
6 annotated diagram as Exhibit 5, please.

7 MR. HALEY: Your Honor, it's an appropriate
8 demonstrative A, but I don't know that it otherwise has
9 independent relevance to the proceeding or is appropriate as an
10 exhibit.

11 THE COURT: I'm going to reserve on that because I
12 think it is just a demonstrative. We can discuss it, but it
13 doesn't need to be done in front of the jury.

14 MS. LAU: Okay. Thank you, Your Honor.

15 THE COURT: So the exhibits get admitted.
16 Demonstratives that are sort of visual aids typically don't get
17 admitted, but we'll take that up later.

18 MS. LAU: And I think this is a good time --

19 THE COURT: Lunchtime?

20 MS. LAU: Yes, good time for a lunch break.

21 THE COURT: How much time do you have on direct?

22 MS. LAU: 45 minutes, maybe less.

23 THE COURT: Okay. Can you guys -- how long do you
24 think you want for lunch? Can we knock on your door at 12:30
25 and see where we are? Does that make sense? Okay. Recess for

1 lunch.

2 (Jury exits the courtroom.)

3 MS. LAU: Your Honor, may Juders step out from the
4 witness box?

5 THE COURT: Yes. Go ahead.

6 Let's plan on 12:30. Okay. We're not going to go all
7 afternoon. I'll try and give you enough time so you can eat
8 lunch now, or you can eat when we recess, which will probably
9 be 1:00 or thereabouts. Okay. Recess until 12:30.

10 (Recess taken 12:05 p.m. - 12:34 p.m.)

11 THE CLERK: All rise for the jury.

12 (Jury enters the courtroom.)

13 THE COURT: Thoughts on how long we can go today?

14 JUROR: It's not snowing yet.

15 THE COURT: Is everyone okay with 2:00 or finishing
16 with this witness, whichever comes first?

17 MR. HALEY: Yes.

18 THE COURT: Great. Thank you.

19 By MS. LAU:

20 Q. Mr. Ysemé, before the lunch break, you testified to the
21 radio station attack where you were beaten by Defendant Viliena
22 and shot by Villeme Duclona. Were you treated for your
23 injuries?

24 THE INTERPRETER: This is the interpreter speaking.

25 May I hear that again?

1 Q. Were you treated for your injuries?

2 A. I went to a first hospital. They couldn't do anything for
3 me there. I was transferred to another hospital in Les Cayes.

4 Q. Can you describe your injuries?

5 A. Yes. I was shot. Part of the pellets went through my
6 eye. I lost an eye, and throughout my head, the side of my
7 head, many pellets were there too. And I was shot in that arm,
8 all the area of that arm. I have some pellets in my head as
9 well. They're still there. Some of them are still there.

10 Q. How many shotgun pellets were removed from your face and
11 body?

12 A. There were so many, the doctors could not remove
13 everything. They had to leave some in there.

14 Q. How many surgeries did you have to undergo to remove the
15 pellets that they were able to remove?

16 A. The same day when I get to that city called Les Cayes,
17 they automatically placed three doctors working on me. My
18 skin, my body started to swell. I had many surgeries.

19 Q. How long did you stay in the hospital in Les Cayes?

20 A. I was hospitalized for 15 days.

21 Q. And were you required to go back to the hospital after the
22 15-day stay for further treatment?

23 A. I was -- I had an appointment with the doctor to go back
24 to the hospital for my eye so they can continue treating my
25 eyes.

1 Q. And how frequently did you return to the hospital?

2 A. Every month.

3 Q. Did you suffer any permanent injuries from the attack and
4 the shooting?

5 A. Yes.

6 Q. Can you describe them for the jury.

7 A. I lost my eye. I still have pellets, remaining pellets,
8 in my head and throughout my body. They're still there.

9 Q. And how do they make you feel?

10 A. At times, my eye is continuously watery. As for the
11 pellets in my body and those in my head, I have a continuing
12 excruciating headache, nonstop. As for the pellets in my body,
13 in my skin, I still feel pain. At times, it feels like my skin
14 is tearing apart.

15 Q. Can you see at all out of your right eye?

16 A. No, I can't see at all.

17 Q. And do your injuries limit your ability to do certain
18 types of jobs?

19 A. There are many things I'm unable to do. Simple tasks like
20 using my phone, staring, looking at it, I have to put it down.
21 It start affecting my vision. If I am to bend over to grab
22 something off the floor, then the headache got even worse.

23 Q. I'm now introducing previously admitted Exhibit 2.

24 MS. LAU: Your Honor, permission to publish?

25 THE COURT: Yes.

1 Q. Mr. Ysemé, do you recognize these photographs?

2 A. Yes.

3 Q. What do they show?

4 A. That is my picture after Jean Morose Viliena beat me up
5 where my bone was feeling like it was cracking and then placed
6 the order to shoot me. That is my picture after that moment.

7 Q. Who took this photograph?

8 A. I did.

9 Q. And is this a true and accurate depiction of the injuries
10 to your eye after the radio station attack and shooting?

11 A. Yes.

12 MS. LAU: We can take that photo down, please.

13 Q. Did Nissage Martyr suffer any permanent injuries from the
14 shooting in the radio station attack?

15 A. Yes.

16 Q. Can you describe his injuries.

17 MR. HALEY: Objection.

18 THE COURT: Basis?

19 MR. HALEY: Competency as to his ability to describe
20 Mr. Martyr's injuries.

21 THE COURT: To the extent that he -- he can't give a
22 medical opinion, but he can talk about what he observed, what
23 he saw.

24 MS. LAU: Understood, Your Honor.

25 Q. Mr. Ysemé, please describe Nissage's injuries.

1 A. I see his head, the area where Jean Morose busted his head
2 with the butt of his weapon, and eventually, his right leg,
3 they had to amputate his right leg.

4 Q. To your knowledge, how long did Nissage stay in the
5 hospital after the radio station attack?

6 A. I believe it was at least four months in a hospital bed.
7 He was staying at the first hospital in Jérémie. They were
8 unable to do anything for him. A follow-up, he was transferred
9 to another hospital in the south, in Les Cayes. The doctors
10 stated, to save his life, they had to amputate his leg. They
11 had to amputate his leg at that hospital.

12 MR. HALEY: Objection. Move to strike.

13 THE COURT: Yes. What the doctors said is stricken.

14 So you can consider the fact that his leg was
15 amputated but not the doctor's statements about why it was
16 amputated. The doctor is not here to cross-examine.

17 Q. Mr. Ysemé, I'm going to switch topics now to the mass
18 arson.

19 Were you still living in Les Irois in October of 2009?

20 A. Yes.

21 Q. And was Defendant Viliena still mayor of Les Irois at that
22 time?

23 A. Yes.

24 Q. Do you know a man named Hautefort Bajon?

25 A. Yes.

1 Q. How do you know him?

2 A. Hautefort Bajon was -- is a former mayor of Les Irois. He
3 was a former candidate as a deputy in Les Irois. Hautefort
4 Bajon was the director of the city hall where Jean Morose was
5 running.

6 Q. And was he also director of the city hall when the
7 defendant was mayor?

8 A. Yes.

9 Q. To your knowledge, were the defendant and Hautefort Bajon
10 close?

11 A. Yes.

12 Q. And why do you think that?

13 A. Jean Morose is the one who nominated him, hired him, as
14 his director at city hall while he was mayor.

15 Q. And what happened -- I'm sorry.

16 A. Hautefort Bajon was a French teacher at the high school,
17 and Jean Morose was the principal.

18 Q. What happened to Hautefort Bajon in October 2009?

19 A. Hautefort Bajon got sick and then he passed away.

20 Q. Before Bajon passed away and before the mass arson, did
21 you see Defendant Viliena's associates in Les Irois in October
22 2009?

23 A. No.

24 Q. And in the days immediately preceding the arson, did you
25 see defendant's associates in Les Irois?

1 A. No. I don't know if he was in Les Irois.

2 Q. Now I'm referring to defendant's associates, not the
3 defendant. Did you see the associates in Les Irois shortly
4 before the mass arson?

5 A. Yes.

6 Q. And where did you see defendant's associates?

7 A. My house is separated. It's like the street is right in
8 front of my house. And I saw Jean Morose's partisans. They
9 were heading towards a city called Matador.

10 Q. What date was this?

11 THE INTERPRETER: This is the interpreter speaking. I
12 didn't quite hear.

13 Q. What date was this?

14 A. October 28th, 2009.

15 Q. And which associates, specifically, did you see heading to
16 Matador?

17 A. Lissage Viliena, who was the father of the accused, Jean
18 Morose Viliena, Meritus Beaublanc, Villeme Duclona, Lifaite
19 Livert, Michelet Noel, Alain Duclona, and many others.

20 Q. And did you see these associates return from Matador?

21 A. Yes.

22 Q. Where were you when you saw them return?

23 A. They were always -- they were in front of my house.

24 Q. At around what time did you see them?

25 A. Two to three o'clock.

1 Q. What were defendant's associates doing at that time?

2 A. I saw them coming back with two people that they had tied
3 up with cords.

4 Q. Who were those two individuals who were tied up with
5 cords?

6 A. Doston Lebon and somebody else. I believe the name is
7 Torchon.

8 Q. And did you hear any of defendant's associates speaking to
9 the two men who were tied together?

10 A. Yes.

11 Q. What did you hear them say?

12 A. They said that they tied them up and -- in order to heal
13 and treat Hautefort Bajon who is sick.

14 Q. And what did Defendant Viliena's associates do next with
15 the two men that were tied together?

16 A. They brought them all the way to the area where Hautefort
17 was sick.

18 Q. Then what happened to Hautefort Bajon?

19 A. Hautefort Bajon passed away on October 29, 2009.

20 Q. To your knowledge, how did he die?

21 MR. HALEY: Objection.

22 THE COURT: Basis?

23 MR. HALEY: Competency.

24 THE COURT: If he knows, he can testify to it.

25 A. He was sick.

1 Q. When was the next time that you saw defendant's associates
2 in Les Irois?

3 A. October 29, 2009.

4 Q. And where were you on October 29th, 2009?

5 A. I was at my house.

6 Q. What did you see?

7 A. October 29, 2009, that was a Thursday. It was a day for
8 open public market in Les Irois. A lot of people came from Les
9 Cayes and below to sell and buy stuff. I saw Jean Morose
10 Viliena's partisans. They were throwing away items people
11 came -- either they bought or they came to sell. They were
12 throwing them away. They stated Hautefort died, want everyone
13 to evacuate the market, the public marketplace.

14 Q. How far away were these men from you?

15 A. I would say it's the area from where I'm sitting, the
16 distance would be where my attorneys are sitting.

17 Q. And did you recognize any of these men specifically?

18 A. Yes.

19 Q. Who?

20 A. Villeme Duclona, Meritus Beaublanc, Alain Duclona, Lifaite
21 Livert, Agnel Jean, and many others.

22 Q. And did you hear them say anything else at the Les Irois
23 market that day?

24 A. Yes.

25 Q. What did they say?

1 A. They stated Hautefort died, we're about to cut off heads
2 and burn down houses.

3 Q. Did you see Defendant Viliena's associates later on that
4 day?

5 A. Yes.

6 Q. What time of day did you see them again?

7 A. Around six o'clock.

8 Q. And who did you see?

9 THE INTERPRETER: This is the interpreter speaking.

10 Can you --

11 Q. Who did you see?

12 A. Lissage Viliena, the father of Jean Morose Viliena,
13 Lifaite Livert, Villeme Duclona, Michelet Noel and many others.

14 Q. And did you see these men carrying anything?

15 A. Yes.

16 Q. What did you see?

17 A. They had guns. They had machetes. They had gallons with
18 them. And they had some sort of liquid in the gallons, but I
19 don't know what was in there. Lissage Viliena, who was the
20 father of the accused, he had two gallons in his hands.

21 Q. And how many men total did you see gathering that evening
22 at six p.m.?

23 THE INTERPRETER: My apologies. Would you repeat for
24 me again. This is the interpreter speaking.

25 Q. Yes. How many men did you see gather that evening around

1 six p.m.?

2 A. It was over 25 people.

3 Q. What did you see them doing?

4 A. They were heading towards the city of Matador.

5 Q. And what did you see them do later that evening?

6 A. By the time they came back, they were in front of my
7 house. They burned down the house that's right across from
8 mine. A lady called Rene -- someone called Rene. A gentleman
9 called Rene.

10 Q. And did you see defendant's associates setting fire to
11 Rene's home?

12 A. Yes.

13 Q. Did you see Defendant that day in Les Irois?

14 A. I don't know. I didn't see him.

15 Q. Did you hear Defendant Viliena that day?

16 A. Yes.

17 Q. When did you hear defendant -- how did you hear Defendant
18 Viliena that day?

19 A. The partisans of Viliena, they were standing right across
20 from my house. Once I noticed that they burned down Rene's
21 house -- by my house there are plantain trees that I have grown
22 there -- I went into hiding in that area. I heard Lifaite
23 Livert. He spoke very loudly. He stated, well, Morose Viliena
24 just called me on the phone. Everybody quiet so we can hear
25 what he has to say. One of them in the group, he stated, well,

1 put the phone on speaker so we all can hear. That is when I
2 know it was Jean Morose speaking to Livert.

3 Q. And did you recognize the defendant's voice?

4 A. Yes.

5 Q. And did you hear him speaking?

6 A. Yes.

7 Q. What did he say?

8 A. He asked, did -- will you burn down Juders' houses yet?

9 He asked again, did Senta's house get burned down yet? Did you
10 burn down Nissage's house yet? And the crowd answered no. And
11 Jean Morose ordered, go burn down those houses.

12 Q. And can you show the jury, how far away were you when you
13 were hiding in the bushes from the group of men speaking?

14 A. From where I'm sitting, I would say where that equipment
15 you have there (indicating).

16 Q. After you heard the associates speaking on the
17 speakerphone with Defendant Viliena, what did they do next?

18 A. They proceeded very rapidly to burn down my house.

19 Q. Who specifically set fire to your house?

20 A. Doston Lebon, Villeme Duclona.

21 Q. Juders, can you repeat the name of the first individual.
22 I think the interpretation must have been off.

23 A. Merer Souverain, Villeme Duclona.

24 Q. Thank you.

25 That night, did you see any other homes burn down?

1 A. I saw my house and Rene's house and my father's house,
2 which was not too far from mine.

3 Q. The next day, did you see any other homes that had been
4 burned down?

5 A. Yes.

6 Q. How many homes?

7 A. I was heading to Matador and going to Anse d'Hainault. I
8 saw many other houses that burned down.

9 Q. For the homes that were burned down, to your knowledge,
10 were they the supporters of any political party?

11 A. Yes.

12 Q. Which party?

13 A. Struggling People's Party.

14 Q. Was Defendant Viliena's home burned down that night?

15 A. No.

16 Q. Were the homes of any of defendant's KOREGA associates
17 burned down that night?

18 A. No.

19 Q. What happened to your personal possessions that were in
20 your home?

21 A. Everything got burned down. I didn't have a chance to
22 save anything.

23 Q. What types of personal possessions did you lose?

24 A. I lost even my birth certificate that's very dear to me.
25 Pictures that I had with my family, that was also burned down.

1 I also had a television at my house. I had a lot of solar
2 panels at my house. I had a lot of batteries for the solar
3 panels as well. I had a refrigerator at home. I had pretty
4 much everything one would need at your house.

5 Q. And can you explain the value of solar panels?

6 A. The city of Les Irois does not have any electricity. I
7 had them at home. It was an additional hustle that I had. I
8 would sell drinks, and that's what I'd use to buy things so I
9 can sell juice and other stuff. I used to help others in the
10 neighborhood, let them charge their phone at my house.

11 Q. Did you have insurance for any of these possessions?

12 A. No.

13 Q. Did you have insurance for your home?

14 A. No.

15 Q. Were you able to rebuild your house?

16 A. No.

17 Q. And why not?

18 A. I didn't have anything, pretty much, left for me to
19 rebuild the house. After all the expenses I made for the
20 hospital bills, everything I had, really, was gone, and my
21 expenses at the hospital, I did not have anything left.

22 Q. After your house was burned down, did you even have
23 another place to live?

24 A. I did not have anywhere else. The way that I was living,
25 I went to sleep over at one friend's house today. The next

1 day, I had to sleep somewhere else. I did not have any other.
2 Clothes might stay with me for about three or four days.

3 Q. Mr. Ysemé, I'm going to switch topics now.

4 Do you remember filing the complaint in this case in the
5 United States on March 22nd, 2017?

6 A. Yes.

7 Q. When was the defendant served or notified of the
8 complaint?

9 A. March 23rd, 2017.

10 Q. And did anything happen to you on March 23rd, 2017?

11 A. Yes.

12 Q. What happened?

13 A. I was by the front of the health clinic in Les Irois. A
14 partisan of Jean Morose, Ti Amerikan or Meritus Beaublanc,
15 Lemot Bajon, they said to me, where Jean Morose is located now,
16 you went after him over there. Jean Morose will have to kill
17 you and Nissage and David Boniface.

18 MR. HALEY: Objection. Move to strike.

19 MS. LAU: Your Honor, co-conspirator exception
20 801(d)(2)(E).

21 MR. HALEY: Lack of foundation.

22 THE COURT: There's a lack of foundation for that at
23 the moment. I'm going to reserve on that for now under -- to
24 make the findings on the co-conspirator hearsay later.

25 MS. LAU: When would you like to address?

1 THE COURT: After court today or before court
2 tomorrow.

3 MS. LAU: Okay.

4 Q. Mr. Ysemé, how did those threats make you feel?

5 A. At that moment, I was going through some pain. I could
6 not stop crying because I noticed everything that Jean Morose
7 inflicted on me, now his partisans are requesting my death.

8 MR. HALEY: Objection. Move to strike.

9 MS. LAU: Your Honor, effect on hearer as well.

10 THE COURT: What?

11 MS. LAU: Effect on hearer as well, although I would
12 prefer 801(d)(2)(E).

13 THE COURT: It's not coming in for truth of the matter
14 asserted, right?

15 MS. LAU: You could limit it.

16 MR. HALEY: There was a hearsay objection. The Court
17 reserved. Now the witness is testifying.

18 THE COURT: I reserved on the 801 on the --

19 MR. HALEY: Co-conspirator.

20 THE COURT: -- the co-conspirator, but now I'm
21 wondering if it's actually coming in for the truth of the
22 matter asserted, because he says -- what he said was, now you
23 have to die. Whether or not that's true, he's responding to
24 it, right? So if I let it in for the limited purpose of --

25 MR. HALEY: Absent its truth, it's not really relevant

1 to how it made him feel.

2 THE COURT: Well, if he has a conversation with
3 someone where they say something, whether or not that thing is
4 true or is admissible as a co-conspirator hearsay statement, he
5 still is reacting to it, right? So I can give a limiting
6 instruction for now, and we can circle back on it later. All
7 right? Does that make sense to everybody?

8 MR. HALEY: Yes, Your Honor.

9 THE COURT: Okay. So for all those that did not
10 follow that -- these hearsay rules are so complicated -- but
11 I'm going to reserve on whether you can consider whether the
12 threats were actual threats or not and whether you can consider
13 that threats were made. But he's saying that somebody said
14 something to him and it caused him to react in a certain way,
15 so for the moment, you can consider his reaction, why he
16 reacted that way. So, for example, I don't know what's coming
17 next, but if he left or if he was hiding or whatever happened,
18 you can consider that.

19 We'll circle back on the rest of it.

20 MS. LAU: Thank you, Your Honor.

21 Q. Mr. Ysemé, did anything happen the next day, Friday,
22 March 24th, 2017?

23 A. Yes.

24 Q. What happened?

25 A. Nissage died.

1 Q. Were you with Nissage earlier that day?

2 A. Yes.

3 Q. And at the beginning of the day, how did Nissage look and
4 feel?

5 MR. HALEY: Objection.

6 THE COURT: He can testify as to how he looked, but
7 not how he felt.

8 A. Nissage was well, because we were talking. He looked
9 well. He was comfortable.

10 Q. And what did you do together that day?

11 A. At one point, he came to my house. We live very close by.
12 So he came to my house and we were watching a soccer game
13 together at my dad's house.

14 Q. And were you with any others in your home that day?

15 A. Yes.

16 Q. Who else?

17 A. There was about ten of us at the house.

18 Q. Did anything happen to Nissage during the soccer game?

19 A. Yes.

20 Q. Can you describe it for the jury.

21 A. He said to me that he wasn't feeling well. I went to get
22 some water he could splash on his face, and then I told him
23 then that I'll accompany him home. And I noticed that he
24 couldn't walk. I put him on my back, and I had his crutches
25 because he has one foot amputated, and I had held his crutches

1 for him. And I took him home.

2 Q. Can you describe Nissage's face at that time?

3 A. At that point, Nissage's face had changed. He was
4 sweating a lot. He couldn't talk. And I was trying to talk to
5 him. I called him, but he wasn't responsive. He couldn't
6 respond to me.

7 Q. Did you take him anywhere else that night then?

8 A. I told his wife -- I asked his wife, let's take him to the
9 hospital, and I would go with her.

10 Q. And what happened at the hospital?

11 A. When Nissage arrived at the hospital, he couldn't speak at
12 all. They had given him IV at the hospital, and he was very
13 agitated. He was twisting and turning. And I told the doctor,
14 should he be transferred to a bigger hospital? And the doctor
15 put him in an ambulance to take him to Anse d'Hainault.
16 Nissage didn't get to the hospital in Anse d'Hainault. He died
17 on the way there.

18 Q. So if I understand your testimony, one day after the
19 Defendant Viliena received the complaint in this case, Nissage
20 died?

21 MR. HALEY: Objection. Leading.

22 THE COURT: Sustained.

23 Q. When Nissage died, how did that make you feel?

24 A. Nissage was more than a friend to me. I considered
25 Nissage like a dad. In the community in Les Irois, everybody

1 considered Nissage as a father figure. He didn't make a
2 difference between his own children and the other children of
3 Les Irois in our community. My heart was tearing up when that
4 happened. When Nissage died, it was as if I was dead.

5 Q. How did Nissage's death affect you personally?

6 A. It impacted me a lot because we understood my death,
7 David's death, Nissage's death was being planned by the
8 Defendant Viliena's crew and himself.

9 MR. HALEY: Objection. Move to strike.

10 THE COURT: Sustained.

11 Q. Mr. Ysemé, can you tell me, how did Nissage's death affect
12 your own life?

13 A. It affected my life a lot. The -- with Nissage, when he
14 wasn't able to walk, there are times that if he cannot walk
15 anymore, I would have him lean on me so I can carry him and his
16 crutches, and I would help him carry the crutches and I would
17 have him on my back. And Nissage is someone -- and until today
18 that I'm speaking of him, he still remains in my memory. This
19 is not someone I'll ever forget in my life.

20 THE INTERPRETER: Your Honor, this is the interpreter
21 requesting a repeat.

22 A. Although I -- I see Nissage's children and I keep in touch
23 with them, but I miss Nissage a lot. This is somebody who has
24 a big impact in my life.

25 Q. Did the Haitian government ever investigate Nissage's

1 death?

2 MR. HALEY: Objection.

3 THE COURT: If he knows. You need to lay a
4 foundation.

5 A. No.

6 THE COURT: And how does he know that?

7 Q. How do you know that?

8 A. I've always been there. We ask -- I ask for that to be
9 done, but it was never done. They never did an investigation.

10 THE COURT: So to his knowledge, there was no
11 investigation?

12 A. They never did one.

13 Q. To your knowledge, was Nissage's body ever autopsied?

14 A. Yes.

15 Q. And did you ever ask for the autopsy results?

16 A. Yes.

17 Q. How many times did you ask?

18 A. Several times.

19 Q. And did you ever receive the autopsy results?

20 A. No.

21 Q. Mr. Ysemé, since filing the U.S. complaint, have you ever
22 received any threats by telephone?

23 A. Yes.

24 Q. Can you please describe them.

25 A. I always receive a phone call from people, and these were

1 unknown callers. I didn't recognize the numbers. And they --
2 every time, it was a different voice. Every time I receive a
3 phone call, it was somebody different.

4 THE INTERPRETER: Your Honor, this is the interpreter.
5 May I please ask for a repeat.

6 THE COURT: Yes.

7 THE INTERPRETER: This is the interpreter. Can you
8 please repeat, because I'm hearing David's name, but I'm not
9 understanding.

10 A. Even if I go into hiding, Jean Morose still pursued us to
11 kill us.

12 MR. HALEY: Objection. Move to strike.

13 THE COURT: I'm going to strike that as
14 non-responsive.

15 Q. What did the caller say to you?

16 A. They said that in pursuing Jean Morose, we filed a
17 complaint to them to -- against him, we will kill you -- we
18 will surely kill you.

19 MR. HALEY: Objection. Move to strike.

20 MS. LAU: Your Honor, affect --

21 THE COURT: He's objecting. How are you going to
22 connect the dots?

23 MS. LAU: Effect on hearer, Your Honor. We're going
24 to move to how Mr. Ysemé reacted to these calls.

25 THE COURT: I'm going to strike it for now on a

1 prejudice relevance analysis.

2 Q. Did you ever see any threatening documents?

3 A. Yes.

4 Q. And what did the documents say?

5 MR. HALEY: Objection.

6 THE COURT: Lay a foundation first, please. Where did
7 he get them?

8 Q. Did you see the threatening documents?

9 A. Yes.

10 Q. And what did the documents say?

11 THE COURT: Where did he see it? You have to lay a
12 foundation for it, what these documents are, where he got them.

13 Q. How did you see the documents?

14 A. They sent me a copy over my phone.

15 Q. Do you know who sent you a copy of the threatening
16 document on your phone?

17 THE INTERPRETER: The interpreter was interpreting.
18 May I please ask for a repetition.

19 Q. Do you know who sent you the threatening document to your
20 phone?

21 A. It's a friend of mine, and because of the insecurity in
22 Haiti, I cannot say his name.

23 THE COURT: So he gets a document from a friend. Take
24 it from there.

25 A. Yes.

1 Q. And what did the document that you received from your
2 friend say?

3 MR. HALEY: Objection.

4 THE COURT: You haven't linked it to the defendant.

5 MS. LAU: Your Honor, this is the MIL protecting
6 witnesses' identification and location. I don't think we can
7 get beyond that. I don't think he is able to disclose --

8 THE COURT: Why did he send it? How does he know --
9 you need to somehow link it up before the jury hears what the
10 document says.

11 Q. Why did your friend send you this document?

12 MR. HALEY: Objection, Your Honor.

13 THE COURT: Well, if he knows.

14 A. He sent me a document that listed my name and David's name
15 to alert myself and David to go into hiding further away from
16 where we were.

17 MR. HALEY: Objection.

18 THE COURT: Let me see you at sidebar, please.

19 *** Beginning of sidebar ***

20 THE COURT: How are you going to show that these came
21 from the defendant, that the phone calls were made by him or on
22 his behalf?

23 MS. LAU: By virtue of the threats themselves, which
24 state that Viliena and his associates are planning to kill
25 these three individuals.

1 THE COURT: But how do you know that it's being
2 directed by Viliena and not just some associate?

3 MS. LAU: I think that's circumstantial, Your Honor.
4 Conspirators don't wander around saying, I'm directing you to
5 kill somebody.

6 THE COURT: Have you established who is in the
7 conspiracy?

8 MS. LAU: I think we have, Your Honor. We've
9 repeatedly identified them.

10 THE COURT: Did these emails or texts, whatever they
11 are, come from Viliena's people?

12 MS. LAU: We can't disclose who the individual is
13 without compromising that perpetrator.

14 THE COURT: Not who forwarded to him, but who was the
15 author or who sent it to the friend? Even if you established
16 those people as co-conspirators, which I'll give you for the
17 time being, how do you show that the person on the phone or the
18 person initiating that transmission is one of those people?

19 MS. LAU: I don't believe that we can do that, Your
20 Honor, without compromising their safety. I can move on. I
21 understand your position.

22 THE COURT: Okay. It's so prejudicial.

23 MS. LAU: I understand.

24 I disagree that it's prejudicial, but I understand
25 your position.

1 THE COURT: The idea that he's getting threats from
2 these people after the lawsuit is filed and they're sending,
3 threatening them, very prejudicial. If you can link it to him,
4 I'd let you have it. If you want to think about it, you have
5 days left of this trial. Or if you want to muster your
6 arguments and be heard about it again, that's fine too. But at
7 the moment, to just say that he got these things and then
8 attribute them to him is just a step I'm not going to take at
9 the moment.

10 MS. LAU: Understood. I don't think we're actually
11 trying to directly link it to the defendant in this moment.
12 We're trying to show that there was a pattern of threats
13 directed from who we believed to be defendant's associates. I
14 understand your position.

15 THE COURT: Okay.

16 *** End of sidebar ***

17 Q. Mr. Ysemé, did you receive any physical threats?

18 A. Yes.

19 Q. Can you please describe the physical threat.

20 A. I was in an area -- and I cannot state the location
21 because of safety reason -- and where I was located, two men
22 came on a motorcycle, and one of them asked me, they asked
23 if -- do I know Juders. And I was surprised, and I said no.
24 Then I go and explained what had happened to the house owner,
25 and the house owner said he's lived here for a long time and

1 never had things like that happen. He got scared, and I was
2 afraid. He had us moved out of the house and placed us in
3 another place.

4 Q. And when you moved, did you have to leave all of your
5 belongings behind?

6 A. Everything was left.

7 Q. Without disclosing your current location, do you still
8 live in Les Irois?

9 A. No.

10 Q. When did you leave Les Irois?

11 A. 2017.

12 Q. And why did you leave Les Irois?

13 A. Because of safety reasons. I was scared. I didn't want
14 for Jean Morose and his crew to kill me.

15 Q. Are you able to live with your wife and family?

16 THE INTERPRETER: This is the interpreter. Sorry.

17 A. No.

18 Q. How many times have you been able to see your wife and
19 family since 2017?

20 A. Twice.

21 Q. How would you describe the impact of having to live in
22 hiding for these few years?

23 A. It has a huge impact in my life. I have two boys, two
24 sons. I cannot go see my children. I can't see my family. I
25 don't -- I'm not well because I've had to live a life in

1 hiding, and people have to support my children. And me, as a
2 young man, I had a bright future, and men -- people have to
3 support me. That has a huge impact on my life.

4 Q. Why do you continue to pursue justice when it's cost you
5 so much personally?

6 MR. HALEY: Objection.

7 THE COURT: Overruled.

8 A. I'm seeking justice against Jean Morose for all he has
9 done to my life. He caused me to go blind. He set my house on
10 fire. After all he has done to us, I'm seeking justice so that
11 he doesn't do that to anyone else.

12 MS. LAU: Thank you, Mr. Ysemé.

13 I pass the witness.

14 MR. HALEY: I want to show the witness what is trial
15 Exhibit No. 4.

16 CROSS-EXAMINATION BY MR. HALEY:

17 Q. Mr. Ysemé, I'm showing you what counsel showed you as
18 trial Exhibit No. 4. And your testimony was this is what you
19 looked like after the shooting in April of 2008; is that
20 correct?

21 A. Yes.

22 Q. Now I'm showing you what was marked as Exhibit No. 3 at
23 your deposition. Same photograph, correct?

24 A. Yes.

25 Q. And this photograph was actually taken by your lawyers in

1 Haiti; is that correct?

2 A. I took it.

3 Q. And you remember you gave a deposition in this case?

4 A. Yes.

5 Q. And you swore to tell the truth?

6 A. Yes.

7 Q. And did you do that? Did you testify truthfully at your
8 deposition?

9 A. Yes.

10 MR. HALEY: Counsel, I'm on page 61 of the transcript.

11 Q. This Exhibit 3, it says Exhibit 3 document Bates-labeled
12 Plaintiffs_528 marked for identification.

13 Mr. Cagel, who was your lawyer at the deposition, asked me
14 if I had a copy of it. I say I do.

15 And then he asked you, "Do you recognize this picture?"

16 And you said, "Yes."

17 "What is it a picture of?"

18 "Myself."

19 "Do you know who took the photo?"

20 "Yes."

21 "Who took it?"

22 Answer, "My lawyers."

23 "Do you know when it was taken?"

24 "Yes."

25 "When was it taken?"

1 "After I sit down with them."

2 "Do you know the year?"

3 "I don't recall it."

4 "Was it shortly after the radio station attack or many
5 years after?"

6 "Many years after."

7 THE INTERPRETER: This is the interpreter, Your Honor.
8 I'm told page 61, and I'm looking at page 61 and not finding
9 that.

10 MR. HALEY: Your Honor, may I approach the
11 interpreter?

12 THE COURT: Yes, please.

13 THE INTERPRETER: This is the interpreter. Mr. Cagel,
14 may the interpreter know, because I -- it seems like the
15 plaintiff is answering, but the name says Mr. Cagel. Can I
16 please have some clarification?

17 MR. HALEY: Yes. Counsel, that's page 61, line 13.
18 And that's just a lawyer -- it was a remote deposition, and
19 he's just asking me, do I have a copy of it on my screen.

20 THE INTERPRETER: Okay.

21 A. Yes.

22 Q. So this photograph was actually taken many years after
23 your accident; is that correct?

24 A. Quickly after I got shot, I took the pictures to give to
25 my lawyer.

1 Q. So, in your deposition on page 62, you're asked, "Was it
2 shortly after the radio station attack or many years after?"
3 And your answer at your deposition was, "Many years after."

4 Did you testify truthfully at your deposition?

5 A. Yes.

6 MR. HALEY: I'm through with the photograph. Thank
7 you.

8 Q. When did you get married?

9 A. I'm not married.

10 Q. In your testimony, Ms. Lau asked you if you missed your
11 wife. But you're not married?

12 A. I have two children. I have a wife, but I'm not married.

13 Q. How did you get here to court in the United States?

14 A. My lawyers paid for my travel.

15 Q. And they also paid for your hotel as well?

16 A. Yes.

17 Q. And the last job you had was in 2017; is that correct?

18 A. It was since 2017.

19 Q. And that job paid you 11,000 gourdes a month; is that
20 correct?

21 A. Yes, plus bonuses.

22 Q. And the bonus was 6,500 gourdes; is that correct?

23 A. Yes.

24 Q. And you did not see the events of July 2007 involving the
25 death of Ecclesiaste Boniface?

1 A. No.

2 Q. In April 2008, you had no job and you were not in school,
3 correct?

4 A. I didn't have school back then.

5 Q. Were you in school then?

6 A. I was still in school. On that day, school let out early,
7 around ten, so I went straight to the radio station.

8 Q. In your deposition --

9 MR. HALEY: Counsel, I'm on page 12 at line 12.

10 Q. -- I asked, "How old were you in April 2008?"

11 You said, "I was between, I was around 20, but give me a
12 moment to think about it. I was 21 years."

13 "And were you in school at the time?"

14 And your answer, line 17, is, "No. I was not at school at
15 the time."

16 So were you in school in April 2008 or not?

17 A. There was no school that day.

18 Q. You've never been a member of a political party?

19 A. No.

20 Q. And you had no idea if OPL, the Struggling People's Party,
21 supported the radio station or not?

22 A. No.

23 Q. And on the day of the radio station attack in April 2008,
24 you were outside the radio station, correct, in the street?

25 A. I was on the porch at Nissage's house.

1 Q. So in your deposition --

2 MR. HALEY: Counsel, I'm on page 24, line 14.

3 Q. In your deposition, I asked, "When you saw Mr. Viliena and
4 others gathered outside the health center, where were you
5 located?"

6 You said, "I was in front of the radio station."

7 And my question was, "On the porch?"

8 And your answer was, "No, outside."

9 Did you testify truthfully at the time?

10 A. I stated I was on the porch near the outside.

11 Q. So your answer, line 17, page 24, was, "I was in front of
12 the radio station."

13 And my question was, "On the porch?"

14 And your answer was "No, outside."

15 A. I stated -- my answer to you, Counselor, was I was on the
16 porch but close to outside.

17 Q. I don't want to keep asking you the same question, but
18 your answer to me, which I read, was -- to the question, "Were
19 you on the porch" was, "No, I was outside."

20 A. If, Your Honor, you would allow me to explain and also to
21 the jury to have an idea what I said.

22 THE COURT: You can answer his question.

23 A. My answer, Counselor, was I was on the porch, but the
24 porch is close to outside. But I was on the porch.

25 Q. You saw a group of people, about 20 people; is that

1 correct?

2 A. More.

3 Q. More. So 40, 50 people?

4 A. Around 20 and up.

5 Q. And these people had guns?

6 A. Yes.

7 Q. And they were moving towards the radio station?

8 A. Yes.

9 Q. And you thought they were going to attack the radio
10 station?

11 A. I didn't think they were coming to attack the radio
12 station.

13 Q. What did you think they were coming to do?

14 A. I saw them coming towards us. I didn't know what they
15 were coming to do. Nissage and I went inside the radio
16 station.

17 Q. So you saw a group of people, more than 20, with guns,
18 walking towards the radio station, and you were outside the
19 radio station and you went inside to it?

20 A. And they shot. There was a gunshot, and then everyone
21 scattered around outside and we also went inside, indoors.

22 MR. HALEY: Ms. Folan, could I use the screen? I'm
23 going to put up the demonstrative aid, the electronic version
24 of it, that was previously marked.

25 Q. Mr. Ysemé, you testified that when you went inside the

1 radio station, you were at the position that's marked as "E";
2 is that correct?

3 A. Yes.

4 Q. And Nissage Martyr was at the position marked "1"; is that
5 correct?

6 A. Yes.

7 Q. And there was a wall in between you and Nissage, right?

8 A. Yes.

9 Q. And so you couldn't see what was happening to Nissage,
10 correct?

11 A. No.

12 Q. But your testimony is that Mr. Martyr said, "Mayor, why
13 are you beating me?"

14 A. Yes.

15 Q. And you then ran out on to the porch; is that correct?

16 A. No, that's not what I said.

17 Q. You testified that the mayor dragged you out on to the
18 porch?

19 A. Yes.

20 Q. And while you were out on the porch, what happened to all
21 those people?

22 A. They were vandalizing equipment at the radio station.

23 Q. So there was nobody outside when you were shot?

24 A. Yes.

25 Q. I'm going to ask my question again because I phrased it so

1 poorly.

2 Was there anyone else outside on the porch when you were
3 shot?

4 A. Jean Morose's partisans were there.

5 Q. How many of them?

6 A. There were a lot.

7 Q. In your deposition testimony, I asked you about that.

8 MR. HALEY: I'm on page 20, Counsel, line 8.

9 Q. And I asked you, "So when you were shot, you were outside
10 the house, correct?"

11 And your answer was, "Yes, I already left the house. I
12 was in the street."

13 And my question was, "How far away from the house were
14 you?" And there's an interpreter question.

15 And your answer is, "I was across the street."

16 THE COURT: How much more do you have?

17 MR. HALEY: Probably 15 or 20 minutes, I guess.

18 THE COURT: I don't want to hold them any longer
19 today. I'm just not sure what the weather's going to be.

20 MR. HALEY: Understood, Your Honor.

21 THE COURT: I'm going to release you for the day.
22 Keep an open mind. Don't talk to anyone about the case. No
23 extracurricular research. And I'm just going to reiterate, in
24 case there's any media coverage, to stay away from it. And my
25 snow day calculator says we will not see you tomorrow. It's

1 sort of 50/50, 60/40. So I hope I will see you tomorrow. If
2 we do, we will start at ten. If we don't, we'll see you on
3 Thursday, also at ten. Okay?

4 JUROR: If there's no Boston schools --

5 THE COURT: No Boston schools or if they're delayed.

6 THE CLERK: All rise for the jury.

7 (Jury exits the courtroom.)

8 THE COURT: So I'm hoping we'll see you tomorrow. I
9 will be on the bench. In anticipation of not being here
10 tomorrow, I've cancelled everything before you. So I'll be on
11 the bench by 9:30 if you have anything you want to talk about.
12 If not, same thing on Thursday, except I have something -- I
13 moved my Wednesday morning thing to Thursday morning, so I
14 can't be on the bench before 9:30 on Thursday, but I will be on
15 by 9:30. All right?

16 Anything else for today?

17 MR. HALEY: No, Your Honor.

18 MS. LAU: Nothing from plaintiffs, Your Honor.

19 THE COURT: Okay. See everyone, hopefully, tomorrow.

20 (Adjourned, 2:05 p.m.)

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE OF OFFICIAL REPORTERS

Kelly Mortellite, RMR, CRR and Kristin Kelly,
RPR, CRR, in and for the United States District Court for the
District of Massachusetts, do hereby certify that the foregoing
transcript is a true and correct transcript of the
stenographically reported proceedings held in the
above-entitled matter to the best of our skill and ability.

Dated this 14h day of March, 2023.

/s/ Kelly Mortellite

/s/ Kristin Kelley
