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FEDERAL COURT

B E T W E E N:

ABOUSFIAN ABDELRAZIK

APPLICANT

- and -

MINISTER OF FOREIGN AFFAIRS and  
THE ATTORNEY GENERAL OF CANADA

RESPONDENTS

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CROSS-EXAMINATION VIA TELECONFERENCE OF ABOUSFIAN ABDELRAZIK  
ON HIS AFFIDAVIT SWORN JUNE 25TH, 2008, pursuant to an  
appointment made on consent of the parties, to be reported  
by Gillespie Reporting Services, on October 15th, 2008,  
commencing at the hour of 9:30 in the forenoon.

**ORIGINAL**

APPEARANCES:

Mr. Yavar Hameed, Mr. Khalid Elgazzar, and  
Ms. Audrey Brousseau for the Applicant

Mr. Mathew Johnson and  
Ms. Donna Blois for Minister of Foreign Affairs

Ms. Anne Turley and Ms. Zoe Oxaal for the Attorney General

This Cross-Examination was monitored by Gillespie Reporting  
Services at Ottawa, Ontario, having been duly appointed for the  
purpose.

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1 ABOUSFIAN ABDELRAZIK, AFFIRMED:

2 HANY GHABRIAL, INTERPRETER, SWORN:

3 CROSS-EXAMINATION BY MS. TURLEY BY TELECONFERENCE:

4 MR. HANSEN: Hello? It's the Canadian embassy in  
5 Khartoum again.

6 MS. TURLEY: Hello, Mr. Hansen. Anne Turley here.  
7 We have everybody here now around the table here in  
8 Ottawa. So I believe that we are ready to go, if you're  
9 ready to go there in Khartoum.

10 MR. HANSEN: We're ready. Mr. Abdelrazik is here  
11 with me and we're at your disposal.

12 MS. TURLEY: Great. Okay. I just want to make  
13 sure that the reporter is ready here. We are ready and  
14 we're on now? Great. Well, I guess it's good afternoon  
15 to you in Khartoum, almost good evening. It's only  
16 9:30 AM here in Ottawa but I believe it's 4:30 PM there,  
17 Khartoum time?

18 MR. HANSEN: That is correct.

19 MS. TURLEY: Okay.

20 1. Q. Mr. Abdelrazik, my name is Anne Turley. I am  
21 counsel for the Government of Canada and I will be asking  
22 you questions today.

23 A. Nice to meet you.

24 2. Q. Mr. Abdelrazik, can you please state your full  
25 name for the record?

1 A. Abousfian Abdelrazik.

2 3. Q. And can you please spell your name for the  
3 record?

4 A. A-B-O-U-S-F-I-A-N.

5 4. Q. And your last name can you spell it, please?

6 A. A-B-D-E-L-R-A-Z-I-K.

7 5. Q. Thank you. Now, before we go on, Mr.

8 Abdelrazik, if at any time you require a break please tell  
9 us and we will break so that you can walk around or use  
10 the facilities or have something to eat.

11 A. No problem.

12 6. Q. And also, Mr. Abdelrazik, it may take longer  
13 today with the interpretation. So if you want to at any  
14 point break for today we can do that and we can continue  
15 another day, because I realize it's already 4:30 PM for  
16 you.

17 A. Good.

18 7. Q. Now, Mr. Abdelrazik, I understand that your  
19 middle name is Salaman?

20 A. Yes.

21 8. Q. And you have used alternate ways of spelling  
22 your first name; isn't that true?

23 A. No, not true.

24 9. Q. You have not used other ways of spelling your  
25 first name, you're telling me?

1 A. No.

2 10. Q. Okay. I'm going to have you look at a  
3 document, Mr. Abdelrazik. Mr. Hansen has some documents  
4 and he's going to pass it to you.

5 MS. TURLEY: Mr. Hansen, it is the document B. It  
6 is written in French, dated December 19th, 2005,  
7 "Procuration".

8 MR. HANSEN: Hansen speaking. I am handing Mr.  
9 Abdelrazik document B.

10 MS. TURLEY:

11 11. Q. Mr. Abdelrazik, this is a document signed by  
12 one of your wives, Lisa Lebrun, on December 19th, 2005 and  
13 you'll note at the end of the document she writes in  
14 French that there are different ways that your name may be  
15 spelled.

16 MR. HAMEED: I'm wondering if the witness can  
17 identify the document?

18 THE WITNESS: I have not understood the question.

19 MR. HAMEED: Have you seen the document before?

20 THE WITNESS: This is the first time that I  
21 see it.

22 MS. TURLEY:

23 12. Q. So, Mr. Abdelrazik, the way that Ms. Lebrun  
24 has said that you name can be spelled, which is  
25 A-B-O-U-S-O-F-I-A-N...

1 MR. HAMEED: I don't know if we know whether Ms.  
2 Lebrun prepared this document.

3 MS. TURLEY: It's signed by Ms. Lebrun.

4 THE WITNESS: I do not recognize this document.  
5 This is the first time I see it.

6 MS. TURLEY:

7 13. Q. So are you telling me that Ms. Lebrun  
8 misunderstood that your name can be spelled different  
9 ways?

10 A. I seriously don't know.

11 MR. HAMEED: We don't know where this document  
12 comes from or -- the witness has never seen it.

13 MS. TURLEY: It comes, Mr. Hameed, from the  
14 Affidavit of Joe Wood which is your affiant. This was  
15 attached as Exhibit A, as one of the documents, and, as  
16 you can see, it's a declaration which Mr. Abdelrazik's  
17 wife Lisa Lebrun signed.

18 14. Q. Mr. Abdelrazik, Lisa Lebrun is one of your  
19 wives; isn't that true?

20 THE INTERPRETER: I would ask the witness to  
21 repeat what was just said.

22 THE WITNESS: I said that she is not a registered  
23 wife.

24 MS. TURLEY:

25 15. Q. You married her in a religious ceremony before

1 an imam; isn't that correct?

2 A. Correct, yes.

3 16. Q. And she is the mother of one of your children;  
4 correct?

5 A. That's true, yes.

6 17. Q. So my question to you, Mr. Abdelrazik, is, are  
7 you telling me that Ms. Lebrun is incorrect to say that  
8 there are different ways of spelling your name?

9 MR. HAMEED: The witness has answered the  
10 question. He has no knowledge of this document.

\*O\*

11 MS. TURLEY: That's not what I'm asking him. I'm  
12 asking him is Ms. Lebrun incorrect to say that there are  
13 different ways of spelling it. He can answer that  
14 question.

15 THE WITNESS: Yes.

16 MR. HAMEED: The witness cannot authenticate the  
17 document.

18 MS. TURLEY: He answered the question.

19 MR. HAMEED: That's fine. Maybe we can move on.

20 MS. TURLEY:

21 18. Q. Just for the record, Mr. Abdelrazik, you are  
22 saying that you do not ever spell your first name A-B-O-U-  
23 S-O-U-F-I-A-N?

24 A. No.

25 19. Q. And you never spell it A-B-O-U-S-O-F-I-A-N?

1 A. No.

2 20. Q. Mr. Abdelrazik, I'm going to get you to look  
3 at a document that Mr. Hansen is going to hand you,  
4 document C.

5 MS. TURLEY: Just before we move on, Mr. Hameed  
6 are you going to allow me to enter the Declaration dated  
7 December 19th, 2005 by Lisa Lebrun as an exhibit?

8 MR. HAMEED: We can enter it--

9 THE INTERPRETER: Is the interpreter required to  
10 interpret everything including the deliberations or just  
11 the examination of the witness? Just to make sure that  
12 it's clearly understood.

13 MS. TURLEY: I would think just what goes to the  
14 witness, but if Mr. Hameed wants his client to know what's  
15 going on at all times that's up to him.

16 MR. HAMEED: Mr. Abdelrazik, if you wish an  
17 explanation of the conversations between the lawyers you  
18 can let the interpreter know.

19 THE WITNESS: Fine.

20 MR. HAMEED: Perhaps we can mark this as a  
21 lettered exhibit just for the reason that this witness  
22 can't identify the document, but certainly as a letter  
23 exhibit I don't have a problem.

24 MS. TURLEY: Okay, that's fine. So if we can mark  
25 it then as Exhibit A.

1                    EXHIBIT NO. A: Declaration dated December 19th,  
2                    2005 by Lisa Lebrun.

3                    MS. TURLEY:

4 21.                Q. I'm going to get Mr. Hansen then now to show  
5                    you document C, which Mr. Hansen can provide to you.

6                    MR. HANSEN: I am now handing Mr. Abdelrazik  
7                    document C.

8                    MS. TURLEY:

9 22.                Q. Mr. Abdelrazik, this again is another document  
10                   that was in Exhibit A to Joe Wood's Affidavit. I  
11                   understand that you have seen Ms. Wood's Affidavit?

12                   A. Yes, I have.

13                   MR. HAMEED: To be clear--

14                   THE WITNESS: No, I have not seen these documents,  
15                   no.

16                   MR. HAMEED: To be clear for the record, the  
17                   witness has not reviewed Exhibit A to Joe Wood's Affidavit  
18                   although he has read the Affidavit proper.

19                   MS. TURLEY: Okay. Thank you.

20 23.                Q. Mr. Abdelrazik, at the bottom of the page is  
21                   an email from Myriam St-Hilaire to David Hutchings, dated  
22                   January 12th, 2004. Myriam St-Hilaire is one of your  
23                   wives?

24                   A. Yes.

25 24.                Q. And she's the mother of one of your children?

1 A. Yes, correct.

2 25. Q. And Mr. Hutchings was a consular official who  
3 visited you while you were in detention in Khartoum?

4 THE INTERPRETER: The witness indicated he has not  
5 heard the question, so I will repeat it.

6 THE WITNESS: Yes, that's correct.

7 MS. TURLEY:

8 26. Q. In this email you can see in the first line  
9 that Ms. St-Hilaire has spelled your first name A-B-O-U-S-  
10 O-F-I-A-N-E?

11 MR. HAMEED: Perhaps we can first ask if the  
12 witness has seen this document and if he can identify it?

13 THE INTERPRETER: I would ask the witness to  
14 repeat the answer because of the echo.

15 THE WITNESS: I have not seen it.

16 MS. TURLEY:

17 27. Q. Ms. St-Hilaire is spelling your first name a  
18 different way. Is this a way that you have spelled it  
19 before?

20 A. Hear me. I have not seen this document before  
21 and I'm asking you -- I don't seem to see where my name is  
22 written on that document.

23 28. Q. It's an email between Ms. St-Hilaire and Mr.  
24 Hutchings and the first line says "J'aimerais savoir si  
25 les lettres personnelles, pas les procurations, ont été

1 remis à Abousofiane Abdelrazik lors de cette rencontre".  
2 Your name is spelled there. Do you see that spelling of  
3 your name, Mr. Abdelrazik?

4 A. This is the wrong spelling. This is not  
5 correct.

6 29. Q. So your other wife is incorrect as well?

7 A. Yes, exactly.

8 30. Q. Now, I understand that you use a shortened  
9 first name of Sofian, S-O-F-I-A-N; is that true?

10 THE INTERPRETER: Yes? S-O-F-I-A-N? S-S-I-A-N?

11 MS. TURLEY:

12 31. Q. I'm going to ask Mr. Hansen to provide you  
13 with document X for you to look at.

14 MR. HANSEN: Is that F like "foxtrot"?

15 MS. TURLEY: No. S like "Sam".

16 MR. HANSEN: S? Okay. I am now handing Mr.  
17 Abdelrazik document S.

18 MS. TURLEY: Sorry. I misspoke, Mr. Hansen, not  
19 document S but document X.

20 MR. HANSEN: Document X like "x-ray"?

21 MS. TURLEY: Yes, exactly. Sorry.

22 MR. HANSEN: I am now handing Mr. Abdelrazik  
23 document X.

24 MS. TURLEY:

25 32. Q. Mr. Abdelrazik, this is a note that also was

1 in Exhibit A to Joe Wood's Affidavit. This I understand  
2 is a handwritten note from your daughter Jioyria?

3 A. Yes.

4 33. Q. And you'll see that she writes to you as  
5 Sofian, S-O-F-I-A-N?

6 THE INTERPRETER: The witness did not give a  
7 verbal answer but said "hm-hmm".

8 THE WITNESS: Yes, yes, yes, I saw it.

9 MS. TURLEY:

10 34. Q. And this is what your daughter calls you,  
11 "Sofian"?

12 A. Yes, but this is not the correct name.

13 35. Q. What do you mean it's not the correct name?

14 A. The way of writing the name, the spelling, is  
15 not correct.

16 36. Q. So your daughter is incorrect as well in her  
17 spelling of your name?

18 A. That's true, yes.

19 MS. TURLEY: Okay, we're just going to go back a  
20 moment because I didn't mark the other, the case note  
21 dated January 12th, 2004. Can we mark that as Exhibit B  
22 for identification.

23 EXHIBIT NO. B: Case note dated January 12th,  
24 2004.

25 MS. TURLEY:

1 37. Q. The handwritten note that I just showed you,  
2 Mr. Abdelrazik, this was delivered to you when you were in  
3 detention; is that correct?

4 A. Yes, correct, during my first time in prison.

5 MS. TURLEY: Okay, I'd like to mark this as  
6 Exhibit 1 to Mr. Abdelrazik's Cross-Examination.

7 EXHIBIT NO. 1: A handwritten note to Sofian.

8 MS. TURLEY: And now, Mr. Hansen, I'd like you to  
9 show Mr. Abdelrazik document A.

10 MR. HANSEN: That's document A like "alpha"?

11 MS. TURLEY: A like "ant".

12 MR. HANSEN: I am now handing Mr. Abdelrazik  
13 document A.

14 MS. TURLEY:

15 38. Q. Mr. Abdelrazik, this also came from Joe Wood's  
16 Exhibit A. This is a document that you signed in Khartoum  
17 in 2004?

18 A. I do not remember the document specifically.

19 39. Q. Is this your signature?

20 A. Yes. Yes, it's mine.

21 40. Q. You see your spelling of your first name at  
22 the top of the document, under the re line? It says "Je  
23 soussigne Abousofian Salaman Abdelrazik"?

24 A. Yes, I see that.

25 41. Q. And do you see how your first name is spelled

1 there "A-B-O-U-S-O-F-I-A-N"?

2 A. Yes.

3 42. Q. And you signed this document?

4 A. Yes, this is my signature. Correct, it's my  
5 signature.

6 43. Q. So the way that first name is spelled do you  
7 agree with that?

8 A. Yes, I see that my name is written A-B-O-U-S-  
9 O-F-I-A-N and perhaps that was based on the understanding  
10 that the spelling has to conform to other spellings in  
11 this way.

12 44. Q. What do you mean "conform to other spellings"?

13 A. What I mean by that is that maybe it was  
14 written this way in this paragraph to conform to the  
15 spelling that is shown on the first line so there would  
16 not be contradiction between the two spellings, but this  
17 is not the spelling of my name that I would agree with.

18 45. Q. You didn't ask for it to be changed?

19 A. I thought that I did not need to focus on such  
20 subtleties when it comes to the spelling of my name.

21 46. Q. And you'll see that beside your signature it  
22 says "nom du parent". Is that your handwriting?

23 A. No, this is not handwriting. This looks like  
24 machine writing.

25 47. Q. Beside "nom du parent" it is written in

1 handwriting your first name. Is that your handwriting?

2 A. Honestly, I don't remember.

3 48. Q. You see there that it's spelled another way,  
4 A-B-O-S-O-F-I-A-N?

5 A. Yes, I saw that.

6 49. Q. And is that another way you spell your name?

7 A. No.

8 50. Q. So that's incorrect as well?

9 A. Yes, incorrect.

10 MS. TURLEY: Okay, if we can have this document  
11 marked as Exhibit 2 to Mr. Abdelrazik's Cross-Examination,  
12 please.

13 EXHIBIT NO. 2: A document signed by Mr.  
14 Abdelrazik in 2004.

15 MS. TURLEY:

16 51. Q. Mr. Abdelrazik, I understand that you were  
17 affirmed this morning by Mr. Hansen?

18 A. Yes, true.

19 52. Q. And you are the Applicant in this Federal  
20 Court matter?

21 A. Yes.

22 53. Q. Now, you've asked for an Arabic interpreter to  
23 be here today?

24 A. Correct.

25

1 54. Q. Originally you said that you only needed to  
2 have your -- that you wanted to answer in Arabic; is that  
3 correct?

4 A. Correct.

5 55. Q. And you said that you would take the questions  
6 in English; is that correct?

7 A. What do you mean?

8 56. Q. That you didn't need to have my questions  
9 interpreted, that you would understand them in English?

10 A. No, what I want is for the questions to be  
11 translated into Arabic so that I will fully understand  
12 them.

13 57. Q. You speak with your lawyers in English?

14 A. Yes.

15 58. Q. And you wanted the questions translated so you  
16 would be sure to understand; is that correct?

17 A. Correct, yes.

18 59. Q. And you wanted your answers -- you wanted to  
19 be able to answer in English because you were worried  
20 about your ability to speak English?

21 MR. HAMEED: Correction. Answer in English?

22 MS. TURLEY:

23 60. Q. You wanted to answer in Arabic because you  
24 were worried about your ability to speak English; is that  
25 correct?

1 A. Correct, so that I would give a clearly  
2 understood answer.

3 61. Q. Mr. Abdelrazik, do you have your Affidavit  
4 with you today?

5 A. Yes. Yes, I have it.

6 62. Q. And your Affidavit is in English?

7 A. Yes.

8 63. Q. It was not translated into Arabic for you  
9 before you swore it?

10 A. No. However, I did use a dictionary to make  
11 sure I understood the words that were not known to me.

12 64. Q. But my understanding, Mr. Abdelrazik, is you  
13 actually did not have a hard copy of this Affidavit before  
14 you swore it first over the phone with Ms. Brousseau;  
15 isn't that true?

16 MR. HAMEED: I don't understand the question.

17 MS. TURLEY:

18 65. Q. Mr. Abdelrazik, you say that you looked up  
19 words in the dictionary but I understand that you did not  
20 have a hard copy of the Affidavit in your possession  
21 before you swore it over the phone.

22 MR. HAMEED: How could the witness swear an  
23 Affidavit over the phone?

24 MS. TURLEY: Ms. Brousseau has sworn to this in  
25 her Affidavit, Mr. Hameed. If you want to look at her

1 Affidavit she swore that on June 22nd she read it over the  
2 phone to Mr. Abdelrazik and that he swore it on the phone  
3 with her. If you'd like to look at her Affidavit that's  
4 what she's sworn.

5 MR. HAMEED: That's fine. Proceed.

6 MS. TURLEY:

7 66. Q. So let's go back. I understand that you swore  
8 it over the phone with Ms. Audrey Brousseau; is that true?

9 A. What's her name?

10 67. Q. Audrey Brousseau.

11 A. Yes.

12 68. Q. And that was on June 22nd?

13 A. I have not paid attention to the specific  
14 date.

15 69. Q. You have nothing to contradict that?

16 A. What I'm saying is I do not have an  
17 independent memory of that date.

18 70. Q. When Ms. Brousseau read it to you over the  
19 phone you had not seen it before then; isn't that true?

20 A. I don't understand the question.

21 71. Q. When Ms. Brousseau read it to you over the  
22 phone you did not have a copy of that Affidavit?

23 A. Oh, I believe I did have a copy.

24 72. Q. When did you receive a copy? Because our  
25 understanding is they could not fax it to you before then

1 so that's why they read it to you.

2 A. I don't remember the specific details and I  
3 can tell you that I'm not a hundred percent sure whether  
4 or not I had a physical copy of the document with me.

5 MR. HAMEED: Perhaps is there a copy of Ms.  
6 Brousseau's Affidavit to show the witness?

7 MS. TURLEY: No.

8 MR. HAMEED: Well, for the record, I understand  
9 that Ms. Brousseau's Affidavit has been struck from this  
10 proceeding, unless I'm mistaken.

11 MS. TURLEY: It has been struck from the  
12 proceeding, but it is -- we were provided with the  
13 Affidavit. So we have the information. I take it you're  
14 not saying it's false?

15 MR. HAMEED: I'm not saying it's false, but, in  
16 fairness, it has been struck and the witness doesn't have  
17 it in front of him.

18 MS. TURLEY: That's fine. I'm not asking for it  
19 to be put before the court. I'm simply telling him how I  
20 know the information and it's because counsel from your  
21 office swore to that. So I take it as true then.

22 73. Q. Mr. Abdelrazik, given your limited abilities  
23 in English I take it you didn't understand the Affidavit  
24 in its totality?

25 A. Oh, I understood it.

1 74. Q. You didn't write this Affidavit?

2 A. No, I did not write it.

3 75. Q. I'd like you to look at paragraph 19 of your  
4 Affidavit.

5 A. Yes.

6 76. Q. I'd like you to tell me what the meaning of  
7 the word "rudimentary" is and the interpreter Mr. Ghabrial  
8 will not be interpreting the word I'm asking you to  
9 provide the meaning of.

10 THE INTERPRETER: I'll ask the witness to repeat  
11 the answer.

12 THE WITNESS: It means "primitive" or "primary".

13 MS. TURLEY:

14 77. Q. And if we can look at paragraph 46.

15 A. Yes, 46.

16 78. Q. What is the meaning of the word "precarious"?

17 A. It means "dangerous" or "risky".

18 79. Q. And so I think, Mr. Abdelrazik, your English  
19 is better than you give yourself credit for.

20 A. These words I had the chance to examine using  
21 the dictionary to understand what they meant.

22 80. Q. And you did that before you swore the  
23 Affidavit over the phone with Ms. Brousseau?

24 MR. HAMEED: If counsel wishes to invoke that  
25 Affidavit or bring that Affidavit on the record we can,

1 but I think we've covered that already.

2 MS. TURLEY: I just want to know when he looked  
3 them up in the dictionary, was it before he swore the  
4 Affidavit over the phone. I'm not invoking the Affidavit.

5 THE WITNESS: Frankly speaking, I do not remember.

6 MS. TURLEY:

7 81. Q. So you don't know one way or the other?

8 A. I do not remember. I did not focus on these  
9 little details.

10 82. Q. Mr. Abdelrazik, I'm going to turn to the  
11 Direction to Attend. Are you aware that a Direction to  
12 Attend was served on your counsel on October 6th, 2008?

13 A. Direction to Attend for whom?

14 83. Q. For you.

15 A. Attend where?

16 84. Q. For this Cross-Examination.

17 A. So what is the question again?

18 85. Q. Are you aware that a Direction to Attend,  
19 which listed documents that we wanted you to produce, was  
20 served on your counsel?

21 A. In order for us to attend this current  
22 Examination?

23 86. Q. Yes.

24 A. Yes, the lawyer talked to me about this.

25 87. Q. Were you provided a copy of this document?

1 A. I get so many documents from my lawyer. So I  
2 do not remember specifically this one.

3 MS. TURLEY: Mr. Hansen, I'll ask you to show  
4 document E, as in "elephant", to Mr. Abdelrazik, please.

5 MR. HANSEN: I'm showing document E to Mr.  
6 Abdelrazik.

7 MR. HAMEED:

8 88. Q. Have you seen this document before, Mr.  
9 Abdelrazik?

10 A. I honestly do not remember. As I indicated to  
11 you a little earlier, I receive many documents from my  
12 lawyer. I could have received it and looked at it and no  
13 longer remember it.

14 MR. HAMEED: For the record, I don't believe this  
15 document was faxed to Mr. Abdelrazik although it was  
16 discussed with him.

17 MS. TURLEY:

18 89. Q. So your counsel asked you whether you have any  
19 of these documents, Mr. Abdelrazik?

20 A. I don't know. I don't remember. I receive  
21 many documents and I don't remember about that particular  
22 one whether or not I have it.

23 90. Q. I'm not asking you that. I'm asking you  
24 whether you spoke to counsel about this and whether he  
25 asked you whether you had these documents or not.

1 A. Again, I do not remember, because I simply  
2 have daily conversations with my lawyer. I have so many  
3 conversations with my lawyer.

4 MR. HAMEED: Perhaps the witness can get a moment  
5 just to look at the document, peruse the document.

6 THE WITNESS: Frankly speaking, I do not remember.

7 MS. TURLEY:

8 91. Q. So you don't recall in the last week speaking  
9 to your counsel about documents that we have asked for?

10 A. I do not remember. Honestly, I don't.

11 92. Q. So you don't remember asking anyone then to  
12 search for these documents for you?

13 A. I swear that I do not remember.

14 93. Q. Prior to going to Sudan in March of 2003 I  
15 understand you lived in Montreal for 13 years?

16 A. I came to Montreal in 1990 and lived in  
17 Montreal from 1990 to 2003.

18 94. Q. And during that time you lived at some point  
19 in time with Myriam St-Hilaire?

20 A. Yes.

21 95. Q. She still lives in Montreal?

22 A. She remarried and I don't know where she lives  
23 now.

24 96. Q. Any documents that you would have had in  
25 Montreal where are they now?

1                   A. The documents that I used to have while in  
2 Montreal these documents were lost. I don't know where  
3 they are now.

4 97.               Q. Lost by who?

5                   A. I would have placed them in my brother's house  
6 and later on when I tried to check on them they were no  
7 longer there.

8 98.               Q. You haven't been back to Montreal though.

9                   A. Since 2003 I have not been back to Montreal.

10 99.               Q. So how could you check on them then?

11                   A. I had the documents with me in Sudan at one  
12 point.

13 100.              Q. All your documents from Montreal you took to  
14 Sudan with you?

15                   A. But I don't know which documents in particular  
16 you're talking about.

17 101.              Q. Okay. So I take it then you haven't asked  
18 either Myriam or Lisa Lebrun to look for documents for you  
19 in answer to this Direction to Attend?

20                   A. Again, which documents do you have in mind?

21 102.              Q. The documents that are listed on your  
22 Direction to Attend that your lawyer should have spoken to  
23 you about.

24                   A. I don't understand which documents exactly  
25 you're asking about.

1 103. Q. On this Direction to Attend that Mr. Hansen  
2 has provided to you there's documents listed from number  
3 one to 15.

4 A. Frankly speaking, I do not understand what's  
5 written.

6 104. Q. Okay, so what I'm going to do... Well,  
7 actually, before we go on, you said that Myriam St-Hilaire  
8 is remarried and you don't know where she is?

9 A. Frankly speaking, I am not sure of the answer  
10 to this question and this kind of information does not  
11 concern me any more and I don't have the intention to try  
12 to answer this question.

13 105. Q. So you're not concerned about where your child  
14 is?

15 A. I do care about my son. All what I have been  
16 doing is for my child's sake and for my own sake, but in  
17 terms of Myriam St-Hilaire she does not concern me any  
18 more. I no longer care to know any such details about  
19 her.

20 106. Q. But you must know where your child is?

21 A. I care to know about my child and my child's  
22 whereabouts but I don't care to know about Myriam  
23 St-Hilaire. I no longer care about what concerns her.

24 107. Q. Mr. Abdelrazik, let's try and focus on the  
25 question. Your child still lives with Myriam St-

1 Hilaire; correct?

2 A. Correct.

3 108. Q. So you must know where that child lives,  
4 whether that child still lives in Montreal?

5 A. Yes, of course I know. I know where the child  
6 lives.

7 109. Q. And Lisa Lebrun she's still in Montreal?

8 A. No.

9 110. Q. Where does she live now?

10 A. I don't know. It's been a while since I had  
11 any communication with her. So I don't know where exactly  
12 she lives now.

13 111. Q. So you don't know where your child Hani lives?

14 A. No, I don't. I don't know about the daughter,  
15 I don't know where she currently lives. The communication  
16 with the embassy has not been established.

17 THE INTERPRETER: Go ahead.

18 THE WITNESS: Please understand clearly what I'm  
19 saying. What I'm saying is, prior to me entering the  
20 embassy I had contact with her. Since I entered the  
21 embassy I no longer have contact with her. The last I  
22 knew is that she lived in Montreal.

23 MS. TURLEY:

24 112. Q. Myriam St-Hilaire is actually the one who  
25 retained Mr. Hameed on your behalf?

1 A. Correct, yes.

2 113. Q. And that was in August of 2007?

3 A. I do not recall the exact date. I am a person  
4 that is -- that has so many troubles. From head to toe I  
5 am full of troubles and that's why I don't recall the  
6 dates and I do not focus specifically on the dates, but I  
7 would say approximately, yes, this sounds like a correct  
8 date.

9 114. Q. And Myriam St-Hilaire attended a press  
10 conference with your children in April of 2008; you're  
11 aware of that?

12 A. Yes. Yes.

13 115. Q. You spoke about a brother that had some of  
14 your documents. Does he live in Montreal or Sudan?

15 A. He lives in Sudan.

16 116. Q. When you came to Sudan in March of 2003 you  
17 lived with family members?

18 A. Correct, yes.

19 117. Q. And you still have family members that live in  
20 Sudan?

21 A. Yes. Yes.

22 118. Q. And they visit you at the embassy on a regular  
23 basis?

24 A. Yes.

25 119. Q. Okay. What I'd like to do considering that it

1 looks like there hasn't been a search done for these  
2 documents, is, I'd like your counsel to undertake two  
3 things, is to undertake to have a search done in Montreal  
4 for the documents requested at number 1, 2, 3, 6 and 13  
5 and I'd like to have an undertaking to ask your family  
6 members in Sudan to search for any documents listed at  
7 number 4, 5, 6, 7, 8, 9, 10, 11, 13, 14 and 15. Counsel,  
8 can I get that undertaking on the record?

9 MR. HAMEED: What I can state for the record is  
10 that these items were reviewed with the witness. I just  
11 have a concern about what is effectively and legally  
12 within the possession and control of this witness. I'll  
13 take all of these under advisement. My understanding is  
14 that these items would be lost, but I'll take all of them  
15 under advisement for the time being.

\*A\*

16 MS. TURLEY: Okay. Why I'm asking for them is,  
17 seeing from how the witness answered I don't think that  
18 there has been an adequate search done for these documents  
19 and that if you do review the case law you'll see that  
20 these do fall under his possession or control as he has  
21 control over his own belongings, whether they be in  
22 Montreal or the Sudan, and that he does have contact  
23 either through you or himself at the embassy with family  
24 members that can search for these.

25 If I can have this Direction to Attend marked as

1 the next exhibit. I believe we're at Exhibit 3.

2 EXHIBIT NO. 3: Direction to Attend.

3 MS. TURLEY:

4 120. Q. Mr. Abdelrazik, what you should do is you  
5 should look at this Direction to Attend that you now have  
6 and you should speak with your counsel about each one and  
7 where you think the documents may be so that we can get an  
8 answer at a later date from you.

9 A. But I don't understand exactly the kinds of  
10 documents that you are referring to, so I'd like you to  
11 specify for me, for example, a particular letter, a  
12 particular document related to health matters, and so  
13 forth.

14 121. Q. You could speak with your counsel about that,  
15 we don't need to do that today, and when documents are  
16 produced you'll have to come back and be cross-examined  
17 again. I'm going to turn now, Mr. Abdelrazik, to when you  
18 came to Canada in 1990. I understand that you came as a  
19 Convention refugee?

20 A. Correct.

21 122. Q. And that was because in 1989 you had been  
22 imprisoned in the Sudan?

23 A. Correct.

24 123. Q. And you were in jail because of your political  
25 views?

1 A. Correct, yes.

2 124. Q. And you were jailed after al-Bashir took  
3 power?

4 A. Yes, correct.

5 125. Q. And you came to Canada because you feared that  
6 if you remained in Sudan you would be persecuted?

7 A. Correct, yes.

8 126. Q. And this is what you said when you came to  
9 Canada?

10 A. Correct.

11 127. Q. In March of 2003 you went back to the Sudan?

12 A. Correct, yes.

13 128. Q. That was your choice, to return to the Sudan?

14 A. No, I wouldn't say that it was by choice when  
15 I returned to Sudan. There were underlying reasons for my  
16 decision. One, my mother was ill, and, secondly, I had  
17 been subjected to a big deal of harassment by the Canadian  
18 intelligence service, by CSIS. They were following me day  
19 and night. These were the reasons that led me to go back  
20 to Sudan.

21 129. Q. And it was your decision to go back to Sudan?

22 A. You could say that it was my decision to  
23 return to Sudan, but there were reasons for that decision.

24 130. Q. You had family in the Sudan still?

25 A. Yes.

1 131. Q. And you knew that things hadn't changed?

2 A. In Sudan?

3 132. Q. Yes.

4 A. Yes.

5 133. Q. You knew that al-Bashir was still in power?

6 A. Correct.

7 134. Q. You knew that there was an ongoing war in the  
8 south and east regions of the country?

9 A. I would have heard things.

10 135. Q. And so you knew there was a possibility that  
11 you could be put in jail again if you returned?

12 A. Well, this probability existed whether you're  
13 talking about Sudan or Canada.

14 136. Q. You had never been jailed in Canada before?

15 A. However, the harassment by CSIS made it more  
16 and more uncomfortable for me to remain in Canada.

17 137. Q. So you left all your family there?

18 A. Yes, I left my children there.

19 138. Q. So you weren't worried about them?

20 A. Oh, I was worried a big deal about my children  
21 but I did not have another recourse.

22 139. Q. You didn't take them to Sudan with you?

23 A. No.

24 140. Q. You were worried about taking them to Sudan?

25 A. Yes, yes, and I did not have the capability to

