

Public Prosecutor v Hamidah Binte Awang and another
[2015] SGHC 4

Case Number : Criminal Case No 32 of 2014
Decision Date : 08 January 2015
Tribunal/Court : High Court
Coram : Lee Seiu Kin J
Counsel Name(s) : Ng Cheng Thiam and Chee Min Ping (Attorney-General's Chambers) for the public prosecutor; Amolat Singh (Amolat & Partners) and Supramaniam Rajan (Hilborne Law LLC) for the first accused; Eugene Thuraisingam and Jerrie Tan (Eugene Thuraisingam) for the second accused.
Parties : Public Prosecutor — Hamidah Binte Awang — Ilechukwu Uchechukwu Chukwudi

Criminal Law – Statutory offences – Misuse of Drugs Act

8 January 2015

Lee Seiu Kin J:

Introduction

1 This is a case where controlled drugs, concealed in a luggage bag, were brought from Nigeria to Singapore for delivery to Malaysia *via* the Woodlands Causeway. The evidence established that the luggage bag was brought into Singapore by the second accused, Ilechukwu Uchechukwu Chukwudi ("Ilechukwu"), a 29 year old Nigerian male, and handed over to the first accused, Hamidah Binte Awang ("Hamidah"), a 49 year old Singaporean female, to be delivered into Malaysia. The issue was whether they had knowledge of the drugs concealed in the luggage bag.

2 Hamidah was charged with attempting to export not less than 1,963.3g of methamphetamine, an offence under s 7 read with s 12 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) ("MDA"), punishable under s 33 or s 33B of the MDA. Ilechukwu was charged with trafficking by giving to Hamidah not less than 1,963.3g of methamphetamine, an offence under s 5(1)(a) of the MDA, punishable under s 33 or s 33B of the MDA.

3 Both Hamidah and Ilechukwu claimed trial. At the end of the trial, I convicted Hamidah and acquitted Ilechukwu. I now give my reasons.

Prosecution's case

4 On 13 November 2011, Ilechukwu flew from Lagos, Nigeria to Singapore. He had checked in a black luggage bag bearing a logo which reads "Star Express" ("the Black Luggage"). [\[note: 1\]](#) Upon his arrival in Singapore, Ilechukwu collected the Black Luggage from the luggage belt and eventually made his way to Hotel 81, Chinatown at 8.36pm. [\[note: 2\]](#) At 10.16pm, Ilechukwu left the hotel with the Black Luggage. [\[note: 3\]](#) He met Hamidah and handed her the Black Luggage. [\[note: 4\]](#) Hamidah placed the Black Luggage in the boot of her car and eventually made her way to the Woodlands Checkpoint. [\[note: 5\]](#)

5 At the Woodlands Checkpoint, Hamidah was stopped and her car was searched. [\[note: 6\]](#) The Black Luggage was cut open at the sides and two packets of crystalline substance wrapped in brown packaging were recovered (exhibited and marked P3 and P4). [\[note: 7\]](#) Hamidah was then arrested. The next morning, Ilechukwu was arrested in his room at Hotel 81, Chinatown.

6 The two packets of crystalline substance marked A1 and A2 were subsequently analysed by the Health Sciences Authority. The analysis revealed that A1 contained not less than 980.2g of methamphetamine and A2 contained not less than 983.1g of methamphetamine [\[note: 8\]](#), adding to a total of not less than 1963.3g of methamphetamine ("the Drugs").

7 Hamidah did not dispute that she was, at the time of her arrest, in control and possession of the Black Luggage in which the Drugs were found. [\[note: 9\]](#) However, she denied knowledge of the Drugs in the Black Luggage. Ilechukwu similarly denied knowledge. Since Hamidah and Ilechukwu had the Black Luggage in their possession at the material time, by virtue of s 18(1)(a) of the MDA, the Drugs were presumed to have been in their possession at those times. Pursuant to s 18(2) of the MDA, they were also presumed, until the contrary was proven, to have known the nature of the Drugs.

8 The crux of the case, therefore, was whether Hamidah and Ilechukwu could prove on a balance of probability that each of them did not know about the Drugs: *Nagaenthran a/l K Dharmalingam v Public Prosecutor* [2011] 4 SLR 1156 ("*Nagaenthran*") at [23]–[24] and [31]. The prosecution took the position that both Hamidah and Ilechukwu had not rebutted the presumption of knowledge under s 18(2) of the MDA. I now turn to their respective cases and my reasons, starting with Hamidah.

Reasons for Hamidah's conviction

9 Hamidah's case was essentially one of trust and betrayal. Her evidence was that she did not know that the Black Luggage contained the Drugs. She was asked by her lover, Bengoodman Chukwunonso ("Bengoodman"), whom she trusted, to deliver a piece of luggage to him in Malaysia. [\[note: 10\]](#) He told her that it contained two Nigerian passports. Hamidah added that when she received the Black Luggage, she had checked to make sure that it did not contain any drugs. [\[note: 11\]](#)

10 I found that Hamidah had not rebutted the presumption of knowledge under s 18(2) of the MDA for the following reasons:

- (a) Hamidah's defence did not paint a consistent story; and
- (b) Hamidah's behaviour at the time of arrest.

I will elaborate on my reasons below.

Hamidah's inconsistent defence

11 Mr Amolat Singh ("Mr Singh"), counsel for Hamidah, argued that she was a "simpleton" who had been tricked by her lover, Bengoodman. Hamidah's evidence was that she had met Bengoodman in Kuala Lumpur, Malaysia and eventually became intimately involved with him. [\[note: 12\]](#) To support this, Mr Singh highlighted the phone records and in particular the short messaging service ("SMS") message sent by Hamidah to Bengoodman, a few days before the date of her arrest, on 11 November 2011, which reads: [\[note: 13\]](#)

Bengood men you never change since i no you i no you always make me like a fool i thank you for tat i test you so many things wat i can see you dont really luv me i no you are married *i dont no why i still luv you* ben all the money tat you gv is for my debt not tat i use to enjoy myself and one thing abt you when i want to discuss something you like to ascape so you not really serious ben so i dont no wat to say again so left everything to GOD hands thank you ben [emphasis added]

12 While this is evidence that Hamidah has had an intimate relationship with Bengoodman, it is equivocal as to whether she trusted him at the material time. The message contains expressions of disappointment and betrayal, and it is not clear from her evidence whether their relationship had, by 13 November 2011, been restored to the level that she would trust that he would not put her in harm's way. The evidence would suggest that Hamidah was infatuated with Bengoodman, but that could also mean that she was willing to transport drugs for Bengoodman to prove her affection for him.

13 More importantly, Hamidah had given evidence which would indicate that she did not believe that Bengoodman would never use her to transport drugs. Her assessment of Bengoodman in court suggested that she could not have believed that Bengoodman would not harm her. Hamidah admitted during cross-examination that she knew very little about Bengoodman, [\[note: 14\]](#) and that she did not trust him completely. [\[note: 15\]](#) Among other things, Hamidah accepted that she knew that Bengoodman cheated women of their money. [\[note: 16\]](#) It was also apparent from the SMS message dated 11 November 2011 ([11] above) that she had doubts about whether Bengoodman actually loved her.

14 Further evidence of distrust is found in certain aspects of Hamidah's conduct. Hamidah gave evidence that she had checked the Black Luggage for drugs when Ilechukwu handed it to her, as advised by her Nigerian fiancé, Simwuba Samuel ("Samuel"). [\[note: 17\]](#) It was also revealed during the trial that she had previously delivered a luggage, said to contain "traditional Nigerian clothes", to Bengoodman in Malaysia ([16] below). Hamidah's evidence was that she had also checked the contents of the luggage for drugs on that occasion. [\[note: 18\]](#) This would be inconsistent with Hamidah's case that she had trusted Bengoodman and genuinely believed that he would not have used her to transport drugs. On the contrary, if these checks were made, it would be precisely because Hamidah did not trust or believe Bengoodman.

15 If Hamidah had been the trusting simpleton that Mr Singh had submitted, it is puzzling that she did not show any sign of shock or disbelief when the Immigration and Checkpoints Authority ("ICA") officers at Woodlands Checkpoint cut the Black Luggage and took out the Drugs in her presence. There was no evidence from her or from any of the officers present that she had reacted in this manner.

16 Hamidah also described an earlier delivery. About one or two months before Hamidah was arrested, Bengoodman had asked her to pick up a bag of "traditional Nigerian clothes" from a couple who had just arrived in Singapore and deliver it to him in Malaysia. [\[note: 19\]](#) As she was planning to visit her mother in Malaysia, Hamidah said that she agreed to help Bengoodman "as a favour for a friend". [\[note: 20\]](#) She got the contact details of the couple from Bengoodman and met them at the lobby of Hotel 81, Geylang. [\[note: 21\]](#) Hamidah's evidence was that she had requested to see the contents of the bag to make sure that the bag did not contain "drugs or anything illegal". [\[note: 22\]](#) She then delivered the bag to Bengoodman at his condominium in Malaysia. [\[note: 23\]](#)

17 After this first delivery, Bengoodman again contacted Hamidah on 2 November 2011. Hamidah received two SMS messages from Bengoodman in the wee hours of the morning: [\[note: 24\]](#)

From/To	Time	Message
Bengoodman to Hamidah	1.56am	[phone number redacted] izube
Bengoodman to Hamidah	1.57am	Cl him now then tomorrow u collect it ok.

18 Hamidah's evidence was that she did not call "izube". [\[note: 25\]](#) Hamidah said she did not ask Bengoodman what was the item that she was supposed to collect, but later prevaricated and said that she had asked but Bengoodman refused to tell her. [\[note: 26\]](#) Hamidah claimed that she did not mention this incident in her statements because she had forgotten about it. [\[note: 27\]](#)

19 The third request was made a few days later on 7 November 2011. Hamidah's phone records revealed the following SMS messages: [\[note: 28\]](#)

From/To	Time	Message
Bengoodman to Hamidah	9.20pm	Wait bee
Hamidah to Bengoodman	9.21pm	Everything ok at the airport
Bengoodman to Hamidah	9.22pm	Yes
Hamidah to Bengoodman	9.46pm	Beeeeeeeeeeeeee
Bengoodman to Hamidah	9.49pm	Wait plz u know landing time is 10:35. Then before they wil be free u can go and collect it. If there is any problem I tell u just wait no problem at all.
Hamidah to Bengoodman	9.52pm	You dey craze
Bengoodman to Hamidah	10.38pm	Hotel 81 palace no25 lorong 16 geylang 398867 singapore. Telephone number is [XXX]
Hamidah to Bengoodman	10.40pm	You want me to call now
Bengoodman to Hamidah	10.40pm	Yes
Bengoodman to Hamidah	10.45pm	Usman
Bengoodman to Hamidah	11.08pm	Hajia memuna

20 Hamidah did not talk about this incident in her statements. At trial, she explained that Bengoodman had asked her to meet a person. [\[note: 29\]](#) Hamidah's evidence was that Bengoodman gave her the contact details but did not tell her the reason for which she was supposed to meet the person. [\[note: 30\]](#) Bengoodman told Hamidah that the person's name was "Usman" but a lady answered when she called the number. [\[note: 31\]](#) She hung up and related this to Bengoodman. Bengoodman then gave her the name of Hajia Memuna ("Hajia"). [\[note: 32\]](#) Hamidah said that the meeting did not happen because Hajia was supposed to meet a person with a young child and Hamidah did not have

one. [\[note: 33\]](#)

21 Hamidah said that she did not know why she was asked to meet Hajia but she made the calls because she was curious. [\[note: 34\]](#) At the trial, she explained that: [\[note: 35\]](#)

Sir, at first, Ben Goodman--- *at that time, coincidentally, I was going to Malaysia*. He asked me--
-Ben Goodman asked me to meet this person. So he gave me the telephone number and the hotel
the person is staying. ... [emphasis added]

22 Later, while Hamidah was explaining why she did not eventually meet up with Hajia, she said that: [\[note: 36\]](#)

This person says that *she has to give to a person who carries a child*. I told her that I do not have a small child. [emphasis added]

23 There were clear indications that Bengoodman's requests were not simple deliveries. Hamidah, on her own evidence, asked to check the luggage in the first delivery for drugs ([16] above). It was also strange that Bengoodman had made his second request in the wee hours of the morning and refused to tell Hamidah what was the item that she was supposed to collect ([17]–[18] above). As for the third request, Hamidah decided not to use her real name but chose to use her alias, "Maria". [\[note: 37\]](#) Furthermore, the delivery was supposed to be given to someone who was carrying a young child. [\[note: 38\]](#) If Hamidah had no inkling of any illegality, these circumstances would have aroused her suspicions. Contrary to Mr Singh's contention, [\[note: 39\]](#) and unlike in *Khor Soon Lee v Public Prosecutor* [2011] 3 SLR 201 (see [23]–[28] of the judgment), there was no consistent pattern of conduct which induced Hamidah into believing that she was not delivering drugs for Bengoodman. Rather, the evidence showed that Hamidah was suspicious of Bengoodman on the occasions that she helped him.

24 On 13 November 2011, Bengoodman made his fourth and final request. He informed Hamidah that someone was coming to Singapore and asked her to collect from that person a luggage which would contain clothes and two passports. [\[note: 40\]](#) According to Hamidah, she initially refused but Bengoodman managed to convince her. [\[note: 41\]](#) Bengoodman told her that the passports were hidden inside the clothes and explained that it was meant for two of his Nigerian friends whose passports had expired. [\[note: 42\]](#) Hamidah was supposed to collect the luggage and deliver it to Bengoodman in Malaysia. [\[note: 43\]](#) This was the Black Luggage that was in Hamidah's possession when she was arrested at the Woodlands Checkpoint.

25 In Hamidah's statements, it was recorded that Bengoodman had promised to pay her RM1000 for the delivery:

(a) Statement dated 14 November 2011: [\[note: 44\]](#)

... He also told me that he will pay me RM1000 for helping him do this delivery ...

(b) Statement dated 17 November 2011: [\[note: 45\]](#)

... I am now asked why I had agreed to help him despite knowing that I would be doing something illegal. I agreed to help him because I was on the way to Malaysia to meet my

mother so I agreed to do him a favour. Furthermore, he had offered to give me RM1000 as transport money. ...

26 At the trial, Hamidah shifted from the position taken in her statements and claimed that Bengoodman was only joking when he offered to give Hamidah the sum of RM1000. [\[note: 46\]](#) Her evidence was that she was not doing it for the money. [\[note: 47\]](#) She also alleged that she did not take Bengoodman's offer seriously as he owed her S\$2000 which he had yet to repay. [\[note: 48\]](#) However, the alleged debt was not mentioned in her statements. Instead, she stated on two occasions that Bengoodman had promised her RM1000 for the delivery.

27 Hamidah was cross-examined by the prosecution on this point, and was referred to her SMS message to Bengoodman dated 11 November 2011 ([11] above). The relevant part of the SMS message read:

... all the money tat you gv is for my debt not tat i use to enjoy myself ...

28 Hamidah agreed that the SMS message showed that Bengoodman was giving her money but she explained that: [\[note: 49\]](#)

Yes, because he owed ---he owed me. It is very difficult to ask back for money if they had owed us. We have to portray that we are in debt and we need the money, that's how they would give us the money.

29 Before Hamidah met Ilechukwu to collect the Black Luggage, she called her fiancé, Samuel. [\[note: 50\]](#) She told Samuel that she was helping Bengoodman deliver a luggage to Malaysia, and was advised by Samuel to check the luggage to see if it contained drugs. [\[note: 51\]](#) Hamidah explained that Samuel had advised her to check because he, being a Nigerian, was aware that some Nigerians were involved in drug activities. [\[note: 52\]](#) Indeed, Hamidah said that she shared the same concern; in her statement she said that she told Samuel that she felt "very scared" and that she will decide whether to help Bengoodman with the delivery later. [\[note: 53\]](#)

30 Hamidah met Ilechukwu at a bus stop near Clarke Quay at or around 10.47pm on 13 November 2011. [\[note: 54\]](#) Hamidah said that, at the bus stop, she observed that the Black Luggage was on the floor a few meters behind Ilechukwu and that he "looked scared". [\[note: 55\]](#) Hamidah said in her statement that: [\[note: 56\]](#)

... my heart didn't feel good as I seen that [Ilechukwu] looked very scared and I was very suspicious of him. Furthermore, I also found it suspicious that the bag was some distance away from [Ilechukwu] when we first met. ... [Ilechukwu] looked like he wanted to get rid of the bag. ...

31 Despite that, Hamidah allowed Ilechukwu to put the Black Luggage into the car. [\[note: 57\]](#) This was notwithstanding her own observation that Ilechukwu had behaved suspiciously at the bus stop and the fact that Samuel had warned her about the possibility of drugs just moments before her meeting with Ilechukwu.

32 After Hamidah dropped Ilechukwu at the taxi stand near Clarke Quay, she called Ilechukwu and then Samuel. Her evidence in her statement clearly showed that she remained suspicious: [\[note: 58\]](#)

After I dropped [Ilechukwu] off, I called [Ilechukwu] again. I asked him what's wrong with him and why he looked so scared. He just said nothing. I asked if he had reached his hotel. He said wait and told me that he will call me back. I am now asked if I believed [Ilechukwu] when he had said nothing in response to my question as to why he looked so scared. I wish to say that I did not believe him. I am now asked why I had called [Ilechukwu]. I had called him because I was still very suspicious of him and feel that something is not right. After that, while I was travelling towards Woodlands Checkpoint, I talked to [Samuel] on the phone. I told him that I had already met [Ilechukwu] and picked up the luggage bag. I did not mention that the person's name was [Ilechukwu], I just said 'the person'. I told him that [Ilechukwu] looked very scared and that I was very suspicious of him and the contents of the bag. [Samuel] told me that if my heart doesn't feel right, then I should U-turn and return the bag to him. I am now asked why I did not make a U-turn and return the bag to [Ilechukwu] since I was so highly suspicious. I wish to say that again I thought of what my mother had told me, which is go straight and don't look back. I am now asked if I wanted to, could I have made a U-turn and return the bag to [Ilechukwu]. I wish to say that I could have done that but I did not.

33 This was corroborated by Ilechukwu, who testified at the trial that Hamidah had called him after she dropped him off at the taxi stand. [\[note: 59\]](#) This was also supported by Hamidah's phone records which revealed that there were several calls between Hamidah and Ilechukwu at around 11.33pm to 11.39pm. [\[note: 60\]](#) Ilechukwu was seen entering the hotel at about 11.34pm. [\[note: 61\]](#) Moreover, Hamidah's phone records also confirmed that at least two calls were made to Samuel at 11.42pm, [\[note: 62\]](#) after the last call was made to Ilechukwu at 11.39pm.

34 Based on Hamidah's evidence in her statement, corroborated by Ilechukwu's evidence and Hamidah's phone records, Hamidah was highly suspicious of the Black Luggage. At that point, Hamidah was not just worried about the Nigerian passports. From her own evidence, Hamidah was worried that it might have been drugs.

Hamidah's behaviour at time of arrest

35 After Hamidah dropped Ilechukwu at the taxi stand in Clarke Quay, she drove towards the Woodlands Checkpoint. [\[note: 63\]](#) At around 11.55pm, Hamidah was stopped at the Woodlands Checkpoint for a search. [\[note: 64\]](#) Hamidah was asked by the ICA officer if the Black Luggage belonged to her. [\[note: 65\]](#) She said that it belonged to her friend by the name of "Rina". [\[note: 66\]](#) The Black Luggage was eventually cut open at the sides and two packets of crystalline substance wrapped in brown packaging were recovered. [\[note: 67\]](#) Hamidah was asked if she knew what the crystalline substance was, to which she simply answered that she did not know. [\[note: 68\]](#) She did not express any surprise that drugs were found in the Black Luggage. She did not say that she was under the impression that the only contraband was Nigerian passports. Hamidah's response when the two packets of crystalline substance were found was consistent with suspicion or knowledge on her part that she was carrying drugs (see *Pang Siew Fum and another v Public Prosecutor* [2011] 2 SLR 635 at [65]–[67]).

36 To my mind, the most significant evidence against Hamidah was her confession. This was recorded in her cautioned statement dated 14 November 2011, shortly after she was arrested. The statement that was recorded stated as follows: [\[note: 69\]](#)

I don't want to say anything but just to say that I am guilty. I am begging not to receive the death penalty because of my children. Please try and help me. I don't know what else to say.

The evidence is already there. I'm only begging for a lighter sentence. I wouldn't do this anymore. I wouldn't carry anybody's bag anymore. I don't know what to say to the judge. I never go through this and face the judge and go through court. I am begging for leniency due to my age.

37 Hamidah's case was that the statement was inaccurately recorded due to an error in the translation. She claimed that she had said "*apa saya nak cakap, saya dah buat salah*", which should have been translated to "I have done something wrong" and not "I am guilty". [\[note: 70\]](#) The interpreter gave evidence in court. She testified that she could not recall the exact words that Hamidah had said to her, but if Hamidah had in fact said the words claimed then she (the interpreter) would have recorded them as "I have done something wrong". [\[note: 71\]](#) The interpreter also stated that the statement was read back to Hamidah and she did not want to make any amendments. [\[note: 72\]](#)

38 In my view, Hamidah's claim did not make sense in the context of the rest of the statement and the situation she was in. She did not dispute that the remainder of the statement was recorded accurately. What followed the first sentence were pleas for a lighter sentence. This was consistent with the note of resignation in the disputed first sentence. Hamidah was in a situation where she was facing a capital charge, a fact that she was fully aware of from the words in her statement. She had testified that at that time she was "scared and sad", [\[note: 73\]](#) and that she loved and trusted Bengoodman. Yet, she did not appear to have been in shock and disbelief at the betrayal and did not come out with what she claimed was the truth, that she had thought that the only illegal items in the Black Luggage were the two Nigerian passports.

39 I should add that I also accepted the evidence of the interpreter and found that the statement was accurately recorded.

Checking the Black Luggage

40 There was some controversy in the trial over whether Hamidah had checked the Black Luggage when she received it from Ilechukwu. In my view, this issue was a red herring. Firstly, even if she had conducted a check, detailed or otherwise, this did not mean that the presumption of knowledge under s 18(2) of the MDA was rebutted. The fact that an accused had performed a check but could not find any drugs in the bag would not, in itself, suffice to prove on a balance of probability that the accused had no knowledge of the drugs and thereby rebut the presumption under s 18(2) of the MDA. At issue is whether an accused person has knowledge of the drugs found in his possession and not whether he was negligent in failing to ensure that there were no drugs. Indeed, someone who has no suspicion at all that the bag he is given contains drugs would not be likely to make a check. And the fact that a bag is checked could very well indicate that the person doing it believes that there could be something sinister about its contents. In my view, the notion of wilful blindness expounded in *Tan Kiam Peng v Public Prosecutor* [2008] 1 SLR(R) 1 has been misinterpreted in such a manner that concepts from the law of negligence have been imported into this area of criminal law. The issue is not whether any duty of care has been satisfied by performing an adequate check of a bag. It is about whether the accused had knowledge of the nature of the drugs found in his possession. In this connection, the statements in [30]–[31] of the Court of Appeal in *Nagaenthran* are apposite:

30 In *Tan Kiam Peng* at [141], this court held that s 18(2) of the MDA included both actual knowledge in its "purest form" (also referred to as "actual knowledge simpliciter" in *PP v Lim Boon Hiong* [2010] 4 SLR 696) as well as wilful blindness. However, one must be careful to avoid unnecessary refinement of the *mens rea* of knowledge. Wilful blindness (or "Nelsonian blindness") is merely "lawyer-speak" for actual knowledge that is inferred from the circumstances of the

case. It is an indirect way to prove actual knowledge; *ie*, actual knowledge is proved because the inference of knowledge is *irresistible* and is the *only rational inference available on the facts* (see *Pereira v Director of Public Prosecutions* (1988) 63 ALJR 1 at 3). It is a subjective concept, in that the extent of knowledge in question is the knowledge of the *accused* and not that which might be postulated of a hypothetical person in the position of the accused (although this last-mentioned point may not be an irrelevant consideration) (*ibid*). Wilful blindness is not negligence or an inadvertent failure to make inquiries. It refers to the blindness of a person to facts which, in the relevant context, he *deliberately refuses to inquire into*. *Such failure to inquire may sustain an inference of knowledge of the actual or likely existence of the relevant drug. It must also be emphasised that where the Prosecution seeks to rely on actual knowledge in the form of wilful blindness, the alleged wilful blindness must be proved beyond a reasonable doubt.*

31 In so far as *rebutting* the s 18(2) presumption of knowledge is concerned, we have stated earlier that the accused only needs to prove that he had no knowledge of the *nature* of the controlled drug. Consistent with the burden which he has to discharge, the accused has to adduce sufficient evidence to demonstrate, on a *balance of probabilities*, that he did not know the *nature* of that drug. This is a question of fact in each case, and turns very much on the trial judge's assessment of the credibility of the defence witnesses (especially that of the accused, if he chooses to testify).

[emphasis in original]

Summary

41 Accordingly, I found that Hamidah's confession, together with her reaction when the charge was read out to her, was strong evidence that she knew that the Black Luggage contained drugs. This, combined with the inconsistent evidence she had given in court, formed the basis of my conclusion that Hamidah had not rebutted the presumption of knowledge under s 18(2) of the MDA.

Reasons for Ilechukwu's acquittal

42 Ilechukwu's case was that he came to Singapore for business, [\[note: 74\]](#) and had been asked to deliver the Black Luggage on behalf of a friend to a business contact he was supposed to meet in Singapore. [\[note: 75\]](#) He had no reason to suspect that the Black Luggage contained drugs given the various checks that were done. [\[note: 76\]](#) In addition, it was not inexplicable for him to take a defensive stance after he was arrested and charged with an offence that carries the death penalty. [\[note: 77\]](#)

43 I accepted that Ilechukwu had rebutted the presumption under s 18(2) of the MDA for the following reasons:

- (a) Ilechukwu's evidence was consistent with his position that he had come to Singapore as a trader and had carried the Black Luggage as a favour for a friend, with no reason to suspect that it contained drugs; and
- (b) Ilechukwu's defensive stance after he was arrested and charged was not sufficient to show that he knew about the drugs in the Black Luggage *before* the arrest.

I will elaborate on my reasons below.

Ilechukwu's evidence consistent with his position

44 According to Ilechukwu, he ran a business in Nigeria selling second-hand electronic goods such as laptops. [\[note: 78\]](#) His purpose in Singapore was to buy second-hand electronic goods for resale in Nigeria. [\[note: 79\]](#) In relation to these two points, Ilechukwu's statement was generally consistent with his evidence at trial.

45 Ilechukwu gave evidence that he was budding businessman in Nigeria, [\[note: 80\]](#) with a shop in Alaba International. [\[note: 81\]](#) He wanted to come to Singapore to source for cheap second-hand electronic goods for resale in Nigeria. [\[note: 82\]](#) His childhood friend, Izuchukwu had put him in touch with one Kingsley, who had contacts in Singapore. [\[note: 83\]](#) Ilechukwu said that he relied on Kingsley to provide him with the Singaporean contact upon arrival.

At Murtala Muhammed International Airport in Nigeria

46 On the day of Ilechukwu's flight into Singapore, he met Kingsley and Izuchukwu at the Murtala Muhammed International Airport in Lagos, Nigeria. [\[note: 84\]](#) Kingsley passed the Black Luggage to Ilechukwu with a request to pass it to the contact in Singapore who was going to help Ilechukwu source for the second-hand electronic goods. [\[note: 85\]](#) Kingsley then called his contact in Singapore to tell him that Ilechukwu was on his way. [\[note: 86\]](#) Ilechukwu testified that this was the first time he knew of this. [\[note: 87\]](#) He was told that it contained clothes that belonged to Kingsley's contact in Singapore. [\[note: 88\]](#) Ilechukwu testified that he did not think anything about it because Kingsley was Izuchukwu's friend. [\[note: 89\]](#) While Ilechukwu did not know Kingsley very well, [\[note: 90\]](#) he was aware that Izuchukwu was "quite close" to Kingsley. [\[note: 91\]](#) To him, it was just a small favour for Kingsley and his contact in Singapore. [\[note: 92\]](#) Ilechukwu opened the Black Luggage to confirm that it contained clothes. [\[note: 93\]](#) He explained that he checked even though he did not think that there were drugs in the Black Luggage because it was customary in Nigeria to check the contents of a bag that one was asked to carry. [\[note: 94\]](#) Ilechukwu stated that the Black Luggage also went through a physical check as well as an X-ray scan at the immigration counter in the airport before it was checked-in for the flight to Singapore. [\[note: 95\]](#) Those checks had gone through without incident.

47 Ilechukwu gave evidence that he had tried to ask Kingsley for the details of the contact person but Kingsley had refused. [\[note: 96\]](#) Ilechukwu said that he went along with Kingsley's arrangement because he felt that once he was able to meet up, he would be able to conduct future transactions through that contact. [\[note: 97\]](#) While this may not be the most prudent course of action to take, it was certainly not implausible given the context; a young man with an ambition to succeed in business presented with an opportunity.

48 I found that Ilechukwu's testimony on this point was corroborated by evidence. Firstly, he had entered Singapore with the equivalent of US\$5000; at the time of his arrest, he had US\$4510, S\$275.90 and 1,615 Nigerian Niara. [\[note: 98\]](#) This was consistent with his evidence that he was here to source for second-hand electronic goods for resale in Nigeria. Secondly, Kervinn Leng Seng Yau ("Kervinn"), the director of ESP Lines (S) Pte Ltd, a freight forwarding company, gave evidence that many Nigerians came to Singapore to buy electronic goods and ship them back to Nigeria. [\[note: 99\]](#) Kervinn also said that he had been informed by his Lagos office that Ilechukwu was a trader coming

to Singapore. [\[note: 100\]](#) The prosecution had neither challenged nor offered an alternative explanation for the evidence.

At Changi Airport in Singapore

49 Ilechukwu received several SMS messages shortly after he arrived in Singapore on 13 November 2011. These SMS messages are set out below: [\[note: 101\]](#)

From/To	Time	Message
Izuchukwu to Ilechukwu	8.43am	Have u seen him?
Izuchukwu to Ilechukwu	8.54am	[phone number redacted] cal him plz
Izuchukwu to Ilechukwu	8.57am	Have u finished?
Izuchukwu to Ilechukwu	9.03am	Are u out?
Izuchukwu to Ilechukwu	9.06am	What is the problem
Izuchukwu to Ilechukwu	9.16am	If dey didnt stamp u tel dem 2 cal ESP at de back of ur IV he is de one inviting u.
Izuchukwu to Ilechukwu	9.21am	Go nd cary ur bag Delet
Izuchukwu to Ilechukwu	9.28am	Are u out.
Izuchukwu to Ilechukwu	9.35am	Daddy u say dey have stamp u b4
Izuchukwu to Ilechukwu	9.44am	Yes or No did dey refuse 2 stamp u
Izuchukwu to Ilechukwu	9.46am	Have dey stamp u?
Izuchukwu to Ilechukwu	9.58am	How many are u there.
Izuchukwu to Ilechukwu	10.04am	ESP wil cal u now dont tel Chairman dat i cal u
Izuchukwu to Ilechukwu	10.12am	Did ESP cal u?

50 At the trial, Ilechukwu explained that it was his first time travelling out of Nigeria. [\[note: 102\]](#) Izuchukwu, who was working as a travel agent, told Ilechukwu that he had arranged the visa for another Nigerian, and asked if he had seen him. [\[note: 103\]](#) Izuchukwu then gave Ilechukwu the number of the other Nigerian and asked Ilechukwu to call him. [\[note: 104\]](#) Ilechukwu's evidence was that the words "ESP [phone number redacted]" were written at the back of his visa and he was told by Izuchukwu to ask the ICA officers to call the number if he encountered delays or problems at Changi Airport. [\[note: 105\]](#) He also confirmed that the "ESP" in the SMS messages referred to the freight forwarder that was mentioned earlier ([48] above). [\[note: 106\]](#)

51 In my view, the SMS messages were not indicative that Ilechukwu knew or must have suspected that the Black Luggage contained drugs. While it was clear from what had happened that Kingsley and possibly even Izuchukwu had knowledge of the illicit contents of the Black Luggage, what was important was to test the evidence against Ilechukwu's evidence. This was his first time travelling out of Nigeria. It would not be unusual for Izuchukwu, as a childhood friend and the person in charge of Ilechukwu's travel arrangements, to be concerned with whether Ilechukwu was able to

clear immigration in Singapore. There was only one SMS message that referred to a "bag" (at 9.21am), and Ilechukwu's evidence was that it meant "go and carry your bag". [\[note: 107\]](#) Ilechukwu said he did not know what "Delet" meant. [\[note: 108\]](#) I noted that the name of the other Nigerian who was on the same flight as Ilechukwu ([50] above) was recorded in the transcript as "Adili" or "Diley", [\[note: 109\]](#) and the SMS message might have been meant for him instead. I also considered the possibility that it was instructions for Ilechukwu to delete the SMS message after reading it. However, the prosecution did not explore with Ilechuku what "Delet" might possibly mean. As such, I did not think that it was appropriate to draw any inferences based on it.

52 Despite the delay at the immigration, Ilechukwu remained composed and went ahead to collect the Black Luggage instead of quietly walking away. This was inconsistent with the behaviour of a person who knew that the bag that he was asked to carry contained drugs. Such a person, having been picked out by the authorities, would have seriously considered walking away without the bag. However, Ilechukwu went to pick up the Black Luggage and, more importantly, did not appear from the CCTV recording to be flustered. He was certainly not flustered enough to be stopped by the ICA or Central Narcotics Bureau officers when the Black Luggage was passed through the X-ray machine and physically checked by an officer. [\[note: 110\]](#)

53 Ilechukwu's conduct at Changi Airport was consistent with his position that he had no idea that there were illicit drugs in the Black Luggage.

From Changi Airport to Hotel 81, Chinatown

54 Ilechukwu left Changi Airport for Kim Tian Hotel, where he was originally supposed to stay. However, when he got there, he was asked to go to Hotel 81, Chinatown instead. [\[note: 111\]](#) When he inquired at the check-in counter, he found that he did not have enough Singapore dollars to pay for the room in Hotel 81. He went out to a moneychanger which was located across the street. [\[note: 112\]](#) According to the CCTV footage, Ilechukwu left the Black Luggage at the hotel lobby for about 12 minutes (between 8.40pm and 8.52pm) before returning from the moneychanger with the local currency. [\[note: 113\]](#) This suggested that he had no knowledge of the drugs in the Black Luggage. It would have been unusual for a person with the knowledge that that he is carrying a bag containing drugs for a drugs syndicate to leave the bag unattended in that manner as he would expect severe consequences if he lost it.

55 Ilechukwu paid for one night's stay at the hotel. [\[note: 114\]](#) He explained that this was because Kingsley's contact was to show him where to get the second-hand electronic goods the following day. [\[note: 115\]](#) When the prosecution pointed out to him that the call from Kingsley's contact (telling Ilechukwu, *inter alia*, that he will meet him tomorrow) had come only *after* he checked in at the hotel for one night, Ilechukwu maintained that his reason for staying only for one night was that he did not know what the arrangement with Kingsley's contact was, but added that the hotel was too expensive and Kingsley's contact might relocate him to a cheaper one after the first night. [\[note: 116\]](#) This might be prevarication on the part of Ilechukwu. However, Ilechukwu's consistent evidence had been that Kingsley's contact would meet him on the day after his arrival in Singapore. This was why, according to Ilechukwu, he decided to only pay for one night's stay in Hotel 81, Chinatown. I noted that Ilechukwu had earlier testified that Kingsley had called him when he was at Kim Tian Hotel. [\[note: 117\]](#) Besides telling Ilechukwu to go to Hotel 81, Chinatown, Kingsley had also told Ilechukwu that his contact would meet Ilechukwu on the next day. [\[note: 118\]](#) This was before the call from Kingsley's contact that the prosecution had pointed out to Ilechukwu. In other words, Ilechukwu knew that he

was meeting Kingsley's contact on the next day even before he reached Hotel 81, Chinatown.

56 Ilechukwu's conduct after he left Changi Airport up to the check in at Hotel 81, Chinatown was consistent with his position that that he did not know about the drugs.

Meeting with Hamidah

57 Apart from arranging to meet on the next day, Kingsley's contact had also told Ilechukwu that "[his] woman will come and take the bag" from Ilechukwu. [\[note: 119\]](#) This led to the meeting between Ilechukwu and Hamidah on the night of 13 November 2011. Because Hamidah did not know the way to Hotel 81, Chinatown, it was decided that Ilechukwu would take a taxi and meet Hamidah at Clarke Quay instead. [\[note: 120\]](#)

58 Hamidah arrived at the designated place but could not see Ilechukwu there. [\[note: 121\]](#) She called him to ask for his location, and with the assistance of a Caucasian man who happened to be nearby, Hamidah managed to find him at the bus stop in Clarke Quay. [\[note: 122\]](#)

59 When Hamidah arrived at the bus stop in Clarke Quay, she noticed that the Black Luggage was "near a dust bin or rubbish bin", at the rear of the bus stop, some distance away from Ilechukwu. [\[note: 123\]](#) As mentioned earlier ([30]–[31] above), Hamidah observed that Ilechukwu looked worried. [\[note: 124\]](#) She explained that when Ilechukwu went to retrieve the Black Luggage, he was looking to his right, and she wondered if he was looking for or at someone. [\[note: 125\]](#) However, she did not try to ascertain who or what Ilechukwu was looking at. [\[note: 126\]](#) Given that this was his first time in a foreign country ([50] above) and left in an unfamiliar place by the taxi that took him there, it would have been quite normal for Ilechukwu to appear a little worried. [\[note: 127\]](#) Ilechukwu said that he had left the Black Luggage at the rear of the bus stop in order to approach the Caucasian man, [\[note: 128\]](#) and not because he wanted to put a distance between himself and the Black Luggage, which was not in itself unusual.

60 After Ilechukwu handed the Black Luggage to Hamidah, they did not part immediately. Instead, it was the evidence of both Hamidah and Ilechukwu that he got into the car with Hamidah. [\[note: 129\]](#) There was some inconsistency as to the exact sequence of events, but both of them stated that Hamidah asked if Ilechukwu had eaten and he replied in the negative. Hamidah offered to take him to an African restaurant and Ilechukwu, who had not eaten since he landed several hours earlier, accepted her offer. If Ilechukwu knew of the illicit contents of the Black Luggage, it would be highly unusual for him to agree to continue to be associated with it and prolong the risk of being caught, no matter how hungry he was at that moment. The natural instinct of any person with such knowledge would be to go off immediately. Ilechukwu's conduct in this regard was consistent with his position that he did not know about the drugs.

Defensive stance after arrest

61 After his arrest, Ilechukwu had insisted in all of his statements that he did not have anything to do with the Black Luggage or Hamidah. This was subsequently proven to be untrue. The prosecution submitted that these lies showed that he knew that the Black Luggage contained illicit drugs, otherwise he would have come clean upon questioning.

62 In his first statement recorded shortly after he was arrested, Ilechukwu said he brought only

one luggage into Singapore: [\[note: 130\]](#)

Q: When you arrive at airport in Singapore, how many luggage did you bring?

A: One

Q: Is that the luggage? (Recorder's note: accused was pointed to a black bag on the floor in the room)

A: Yes.

63 Ilechukwu explained that he did not lie in this statement because he considered that the laptop bag (or in his words, "handbag") was not a luggage. [\[note: 131\]](#) Since he had one laptop bag and one luggage (*ie*, Black Luggage), it was not wrong for him to say that he had only brought one luggage into Singapore. [\[note: 132\]](#) The prosecution submitted that Ilechukwu's explanation cannot be true in light of the next question ([62] above). [\[note: 133\]](#) In response, Ilechukwu claimed that everything, including his laptop bag, had been taken out of the hotel room and the officer did not point to any bag when the statement was taken. [\[note: 134\]](#)

64 It was not disputed that SI Mohamed Affendi Bin Ideris ("SI Affendi"), the officer who recorded the statement, asked the question "[i]s that the luggage" and Ilechukwu answered it in the positive. The only question was whether the laptop bag was in the room, and whether SI Affendi pointed to it. SI Affendi testified that the laptop bag was still in the room when the statement was taken. [\[note: 135\]](#) I noticed that the evidence of ASP Edmund Lim Changwei ("ASP Lim") was that the items in Ilechukwu's room were seized before the statement was recorded:

4 At about 11.17 a.m., after Ilechukwu was handcuffed, SI Affendi and Senior Staff Sergeant Mohammad Abdillah Bin Rahman ("SSS Abdillah") commenced a search of the hotel room in his presence. *A number of items found in the room were seized and the search ended at about 11.32 a.m.*

5 ... At about 1.00 p.m., SI Affendi recorded a statement from Ilechukwu in the room. ...

[emphasis added]

However, this did not contradict SI Affendi's evidence given that he had testified that the items seized were placed in Ilechukwu's room. [\[note: 136\]](#) On the whole, I preferred SI Affendi's evidence. I found it was unlikely that Ilechukwu would have said yes to the question, as it was framed (see [62] above), if SI Affendi had asked the question without pointing at the laptop bag in the room.

65 Ilechukwu's counsel, Mr Eugene Thuraisingam, ran the alternative case that Ilechukwu had lied in the statement because he was told that there was an arrest the previous night and two packets of drugs were found in a bag brought by him. [\[note: 137\]](#) This was put to SI Affendi when he was recalled to the witness stand on the next day. [\[note: 138\]](#) SI Affendi's evidence was that he was only told to proceed to Hotel 81 to arrest a Nigerian male by the name of "Ilechukwu". [\[note: 139\]](#) He denied having knowledge about what happened on the previous night at the time when he took the statement from Ilechukwu. [\[note: 140\]](#) ASP Lim, the leader of the arresting party, also denied that he or the other officers conducting the arrest had told Ilechukwu that there was an arrest on the night before and a

luggage with two packets of drugs was found. [\[note: 141\]](#) However, SI Affendi agreed that Ilechukwu was informed that he was arrested for a drug offence before the statement was taken. [\[note: 142\]](#) SI Affendi also accepted that he could not remember and therefore could not rule out the possibility that Ilechukwu might have been told that there was an arrest on the night before and a luggage with two packets of drugs were found. [\[note: 143\]](#) In the same vein, ASP Lim testified that he could not say that the other officers had not accused Ilechukwu of drug trafficking. [\[note: 144\]](#) I noted that there was also no record of the people who were in the hotel room between the time that the officers entered the hotel room (at about 11.00am) to the time that the first statement was taken (at about 1.00pm). [\[note: 145\]](#) Significantly, DSP Xavier Lek Lai Ann ("DSP Lek") gave evidence during the trial that he knew that Ilechukwu's arrest was related to Hamidah's arrest, [\[note: 146\]](#) even though he could not remember if he was briefed or concluded based on his experience that the two cases were related. [\[note: 147\]](#) DSP Lek also believed that the officers conducting the arrest would have known the details of the case, [\[note: 148\]](#) and accepted that it was possible that some of them might have told the accused what he was being arrested for. [\[note: 149\]](#) To add to that, SI Affendi confirmed that it was DSP Lek who gave him the instructions with regard to the taking of the statement from Ilechukwu. [\[note: 150\]](#)

66 On the evidence before me, I could not rule out the possibility that Ilechukwu had lied because he realised that there was an arrest on the night before and a luggage with two packets of drugs were found and/or that he was arrested for drug trafficking. The statement was taken approximately two hours after the officers entered Ilechukwu's hotel room (from 11.00am to 1.00pm). At least one of the officers, namely DSP Lek, knew that there was an arrest on the previous night that was in some way related to Ilechukwu's arrest. None of the officers could rule out the possibility that someone might have told Ilechukwu about it, and there was no evidence on the officers who were present at the hotel room between 11.00am and 1.00pm. Even if none of the officers had mentioned it to Ilechukwu, it was possible that he might have overheard the conversations between the officers and surmise that his arrest must have something to do with the Black Luggage before the statement was taken. In any event, it would not have been too difficult for Ilechukwu to surmise, after being told that the arrest was related to a drug offence, that the arrest could have something to do with the Black Luggage, as he had arrived the previous night and had not done anything except pass the Black Luggage to Hamidah. At the end of the day, I was not convinced based on the evidence before me that Ilechukwu had lied in the statement about the number of luggage that he had brought into Singapore because he knew *before he was arrested* that the Black Luggage contained drugs. It was a possible inference to draw in these circumstances but not the only one. In my view, it was equally possible that Ilechukwu realised (whether he was told or otherwise) that there was an arrest on the night before and a luggage with two packets of drugs were found and/or that he was arrested for drug trafficking, and decided that the best way forward was to lie about the Black Luggage.

67 In his cautioned statement and long statements, Ilechukwu maintained that he had nothing to do with the Black Luggage or Hamidah. [\[note: 151\]](#) At trial, Ilechukwu explained that he was not informed about the full facts surrounding his arrest, and having heard that the offence carried the death penalty, he decided that the safest course of action was to deny everything that was not in his possession. [\[note: 152\]](#) It was clear from the evidence that Ilechukwu was being defensive, and perhaps excessively so, but I did not think that this showed unequivocally that Ilechukwu must have known about the drugs in the Black Luggage *before* he was arrested. This is especially so given that I have found that his conduct *before* his arrest was not at all consistent with a person with knowledge of the drugs. I also took into account the fact that he had considered himself to be a victim of circumstances and viewed the investigating officer, ASP Deng Kaile, with absolute suspicion. [\[note:](#)

[1531](#) This could have contributed to Ilechukwu's decision to deny everything relating to the Black Luggage and Hamidah. In these circumstances, I was not confident that the lies in the statements meant that Ilechukwu must have known about the drugs *before* he was arrested. It was equally possible that he came to realise that there were drugs in the Black Luggage *after* he was arrested but *before* his statements were recorded.

68 In *Public Prosecutor v Yeo Choon Poh* [1993] 3 SLR(R) 302, the accused was charged for abetment in conspiring to traffic drugs. His defence was that he was an innocent bailee of the drugs and did not know what was inside the two plastic bags that were found in the boot of his car. Despite finding that the accused was not a "good witness", the trial judge held that the accused had successfully rebutted the presumption of knowledge under s 18(2) of the MDA and acquitted him. The Court of Appeal allowed the appeal and convicted the accused. According to the Court of Appeal, the lies of the accused were a deliberate attempt on his part to dissociate himself from his conspirators as well as to maintain ignorance of the drugs in his car, and rejected his explanation for the lies as being incredible (at [34]). The essence of the appeal, as the Court noted, was whether the trial judge was correct to decide that the accused was a credible witness and therefore successfully rebutted the presumption of knowledge (at [43]). In this regard, the Court disagreed with the decision of the trial judge and stated that (at [44]–[45]):

44 ... Unfortunately, we were of the view that the reasons he gave for this conclusion were focused more on the fact that the respondent was not in the presence of the other conspirators at all times and was kept out of their discussions. Since we have held earlier that presence throughout is not critical to a conspiracy, *the trial judge should have directed his mind to the other evidence against the respondent, and decided whether despite all the contradictions and lies, the respondent could still be believed.*

45 As was held by Spenser-Wilkinson J in *Tara Singh v PP* [1949] MLJ 88 at 89, the principle is that an impression as to the demeanour of the witness ought not to be adopted by a trial judge without testing it against the whole of his evidence. Thus in the present case, *we were not satisfied from the reasons given in his findings that the trial judge had in the present case sufficiently considered all the evidence against the respondent, especially the contradictions and lies told by the respondent, when he came to a conclusion as to his veracity. In fact, as we have already observed, the respondent's evidence at some points was quite incredible.* We were firmly convinced that he was not a credible witness and had not succeeded in rebutting the presumption of knowledge, and the trial judge ought to have rejected his innocent bailee defence.

[emphasis added]

69 Applying this approach in the present case, I found Ilechukwu's evidence at the trial to be generally credible and supported by objective evidence: eg, on the meeting with Hamidah ([57]–[60] above) and with regard to his purpose in Singapore as a trader of second-hand electronic goods ([45] above). Viewing the evidence in its totality, the lies in Ilechukwu's statements as against his conduct from the time of his arrival into Singapore up to his arrest, I found on the balance of probabilities that it was more consistent with a person with no knowledge of the drugs in the Black Luggage.

Summary

70 On the evidence that I have before me, I found that Ilechukwu had rebutted the presumption of knowledge under s 18(2) of the MDA. The drugs were so well hidden that he could not have known about it unless he was told of it. His behaviour throughout, except at the time of arrest, had been

consistent with a person who had no inkling of the presence of drugs in the Black Luggage. His explanation for his lies at the time of arrest was not unreasonable given the situation he found himself, including the fact that he was in a foreign land for the first time and unfamiliar with its laws and customs. Indeed, the evidence before me was such that, if Ilechukwu actually knew about the drugs or even the possibility that there were drugs in the Black Luggage, they were not sufficient to lead me to that conclusion.

Conclusion

71 For the above reasons, I convicted Hamidah for the offence of attempting to export not less than 1963.3g of methamphetamine under s 7 read with s 12 of the MDA, and I acquitted Ilechukwu for the offence of trafficking not less than 1963.3g of methamphetamine under s 5(1)(a) of the MDA.

[\[note: 1\]](#) Prosecution's closing submissions ("PCS") at para 4.

[\[note: 2\]](#) PCS at para 4.

[\[note: 3\]](#) PCS at para 4.

[\[note: 4\]](#) PCS at para 4.

[\[note: 5\]](#) PCS at para 4.

[\[note: 6\]](#) PCS at para 5.

[\[note: 7\]](#) PCS at para 5.

[\[note: 8\]](#) PCS at para 6.

[\[note: 9\]](#) First accused's closing submissions ("1ACS") at para 43.

[\[note: 10\]](#) 1ACS at para 10(d).

[\[note: 11\]](#) 1ACS at para 10(e).

[\[note: 12\]](#) Notes of evidence ("NE"), 23.9.14, p 22 line 29.

[\[note: 13\]](#) D3.

[\[note: 14\]](#) NE, 24.9.14, p 44 line 14.

[\[note: 15\]](#) NE, 24.9.14, p 45 line 1.

[\[note: 16\]](#) NE, 24.9.14, p 45 line 13.

[\[note: 17\]](#) NE, 24.9.14, p 22 line 19; p 61 line 29; p 63 line 22; p 66 line 1.

[\[note: 18\]](#) NE, 24.9.14, p 52 line 1.

[\[note: 19\]](#) AB 332. See also NE, 23.9.14, p 24 line 11.

[\[note: 20\]](#) AB 332 para 12.

[\[note: 21\]](#) AB 332 para 13. See also NE, 23.9.14, p 24 line 24.

[\[note: 22\]](#) AB 332 para 13. See also NE, 23.9.14, p 25 line 26.

[\[note: 23\]](#) AB 333 para 14. See also NE, 23.9.14, p 27 line 2.

[\[note: 24\]](#) D3, A Nos 16–17.

[\[note: 25\]](#) NE, 24.9.14, p 49 line 11.

[\[note: 26\]](#) NE, 24.9.14, p 49 line 26.

[\[note: 27\]](#) NE, 24.9.14, p 50 line 3.

[\[note: 28\]](#) D3, A Nos 39–54.

[\[note: 29\]](#) NE, 23.9.14, p 27 line 23.

[\[note: 30\]](#) NE, 23.9.14, p 27 lines 24–29.

[\[note: 31\]](#) NE, 23.9.14, p 28 line 21.

[\[note: 32\]](#) NE, 23.9.14, p 28 line 29.

[\[note: 33\]](#) NE, 23.9.14, p 29 line 7.

[\[note: 34\]](#) NE, 23.9.14, p 27 line 29; p 31 line 25; p 32 line 22.

[\[note: 35\]](#) NE, 23.9.14, p 27 line 23.

[\[note: 36\]](#) NE, 23.9.14, p 29 line 7.

[\[note: 37\]](#) NE, 23.9.14, p 29 line 1; p 34 line 29.

[\[note: 38\]](#) NE, 23.9.14, p 29 line 7.

[\[note: 39\]](#) 1ACS at paras 21–28.

[\[note: 40\]](#) NE, 23.9.14, p 36 line 20.

[\[note: 41\]](#) NE, 23.9.14, p 36 line 26.

[\[note: 42\]](#) NE, 23.9.14, p 36 line 27; AB 328, 333.

[\[note: 43\]](#) NE, 23.9.14, p 36 line 30; AB 333,

[\[note: 44\]](#) AB 328.

[\[note: 45\]](#) AB 333.

[\[note: 46\]](#) NE, 24.9.14, p 35 line 18.

[\[note: 47\]](#) NE, 24.9.14, p 36 line 2.

[\[note: 48\]](#) NE, 24.9.14, p 35 line 23.

[\[note: 49\]](#) NE, 24.9.14, p 57 line 23

[\[note: 50\]](#) AB 330–331. See also AB 172 (S/Nos 349 and 351).

[\[note: 51\]](#) AB 331, 334; NE, 24.9.14, p 61 line 26.

[\[note: 52\]](#) AB 331, 334. See also NE, 24.9.14, p 63 line 25.

[\[note: 53\]](#) AB 334.

[\[note: 54\]](#) AB 334; D3, A No 130.

[\[note: 55\]](#) AB 334; NE, 24.9.14, p 62 line 1.

[\[note: 56\]](#) AB 335.

[\[note: 57\]](#) AB 334.

[\[note: 58\]](#) AB 336.

[\[note: 59\]](#) NE, 25.9.14, p 52 line 10. See also D3, A Nos 135–139.

[\[note: 60\]](#) D3, A Nos 135–139.

[\[note: 61\]](#) AB 280.

[\[note: 62\]](#) AB 172–173 (S/No 353 and 364).

[\[note: 63\]](#) AB 329.

[\[note: 64\]](#) AB 248; 256.

[\[note: 65\]](#) AB 248.

[\[note: 66\]](#) AB 251.

[\[note: 67\]](#) AB 257, 268.

[\[note: 68\]](#) AB 252.

[\[note: 69\]](#) AB 321.

[\[note: 70\]](#) NE, 23.9.14, p 5 lines 14, 30; NE, 24.9.14, p 34 line 9; p 75 line 2.

[\[note: 71\]](#) NE, 23.9.14, p 5 line 30.

[\[note: 72\]](#) NE, 23.9.14, p 6 line 14.

[\[note: 73\]](#) NE, 24.9.14, p 34 line 5.

[\[note: 74\]](#) Second accused's closing submissions ("2ACS") at paras 8–11.

[\[note: 75\]](#) 2ACS at paras 14–16.

[\[note: 76\]](#) 2ACS at paras 17–21 and 27–28.

[\[note: 77\]](#) 2ACS at paras 53–55.

[\[note: 78\]](#) P49; NE, 25.9.14, p 4 line 5; p 79 line 11.

[\[note: 79\]](#) P49; NE, 25.9.14, p 4 line 24.

[\[note: 80\]](#) NE, 25.9.14, p 76 line 8.

[\[note: 81\]](#) NE, 25.9.14, p 76 line 32.

[\[note: 82\]](#) NE, 25.9.14, p 80 line 20.

[\[note: 83\]](#) NE, 25.9.14, p 5 line 13; p 78 line 11.

[\[note: 84\]](#) NE, 25.9.14, p 82 line 10.

[\[note: 85\]](#) NE, 25.9.14, p 8 line 10; p 82 line 19.

[\[note: 86\]](#) NE, 25.9.14, p 8 line 26; p 82 line 25.

[\[note: 87\]](#) NE, 25.9.14, p 82 line 30.

[\[note: 88\]](#) NE, 25.9.14, p 9 line 4; p 11 line 21.

[\[note: 89\]](#) NE, 25.9.14, p 9 line 6.

[\[note: 90\]](#) NE, 25.9.14, p 6 line 29.

[\[note: 91\]](#) NE, 25.9.14, p 7 line 10.

[\[note: 92\]](#) NE, 25.9.14, p 84 line 8.

[\[note: 93\]](#) NE, 25.9.14, p 9 line 4; p 10 line 27; p 11 line 21

[\[note: 94\]](#) NE, 25.9.14, p 85 line 25.

[\[note: 95\]](#) NE, 25.9.14, p 12 line 29; p 13 line 20.

[\[note: 96\]](#) NE, 25.9.14, p 83 line 14.

[\[note: 97\]](#) NE, 25.9.14, p 83 line 20.

[\[note: 98\]](#) P49; AB 291.

[\[note: 99\]](#) NE, 12.9.14, p 25 line 10.

[\[note: 100\]](#) NE, 12.9.14, p 25 line 22.

[\[note: 101\]](#) AB 225–228. See NE, 25.9.14, p 20 line 25 (Izuchukwu's number).

[\[note: 102\]](#) NE, 25.9.14, p 15 line 21.

[\[note: 103\]](#) NE, 25.9.14, p 18 line 16.

[\[note: 104\]](#) NE, 25.9.14, p 19 line 10.

[\[note: 105\]](#) P52; NE, 25.9.14, p 24 line 22.

[\[note: 106\]](#) NE, 25.9.14, p 25 line 22.

[\[note: 107\]](#) NE, 25.9.14, p 122 line 8.

[\[note: 108\]](#) NE, 25.9.14, p 123 line 6.

[\[note: 109\]](#) NE, 12.9.14, p 97 line 5 (by ASP Deng Kaile); NE, 25.9.14, p 19 line 28 (by Ilechukwu).

[\[note: 110\]](#) NE, 25.9.14, p 26 line 7.

[\[note: 111\]](#) NE, 25.9.14, p 27 line 12; p 28 line 18; p 29 line 5; p 32 line 5.

[\[note: 112\]](#) NE, 25.9.14, p 32 line 22.

[\[note: 113\]](#) NE, 17.9.14, p 70 line 2. See also PCS at para 13.

[\[note: 114\]](#) NE, 25.9.14, p 132 line 13.

[\[note: 115\]](#) NE, 25.9.14, p 132 line 15.

[\[note: 116\]](#) NE, 25.9.14, p 136 line 30.

[\[note: 117\]](#) NE, 25.9.14, p 28 line 18.

[\[note: 118\]](#) NE, 25.9.14, p 29 line 11.

[\[note: 119\]](#) NE, 25.9.14, p 42 line 6.

[\[note: 120\]](#) NE, 25.9.14, p 43 line 5. See also NE, 24.9.14, p 9 line 19.

[\[note: 121\]](#) NE, 24.9.14, p 9 line 28.

[\[note: 122\]](#) NE, 25.9.14, p 9 line 28; NE, 25.9.14, p 46 line 6.

[\[note: 123\]](#) NE, 24.9.14, p 12 line 8. See also PH22 and PH23.

[\[note: 124\]](#) NE, 24.9.14, p 13 line 23; p 17 line 7.

[\[note: 125\]](#) NE, 24.9.14, p 17 line 24.

[\[note: 126\]](#) NE, 24.9.14, p 17 line 30.

[\[note: 127\]](#) NE, 25.9.14, p 46 line 1; NE, 24.9.14, p 39 line 25.

[\[note: 128\]](#) NE, 25.9.14, p 47 line 23.

[\[note: 129\]](#) NE, 24.9.14, p 18 line 4; NE, 25.9.14, p 50 line 6.

[\[note: 130\]](#) P42.

[\[note: 131\]](#) NE, 25.9.14, p 55 line 24.

[\[note: 132\]](#) NE, 25.9.14, p 55 line 24.

[\[note: 133\]](#) Prosecution's reply submissions at para 14.

[\[note: 134\]](#) NE, 25.9.14, p 56 line 8; p 56 line 22.

[\[note: 135\]](#) NE, 10.9.14, p 76 line 16; p 76 line 23.

[\[note: 136\]](#) NE, 10.9.14, p 76 line 5.

[\[note: 137\]](#) NE, 12.9.14, p 6 line 6.

[\[note: 138\]](#) NE, 12.9.14, p 6 line 6.

[\[note: 139\]](#) NE, 12.9.14, p 3 line 21; p 11 line 9.

[\[note: 140\]](#) NE, 12.9.14, p 4 line 7.

[\[note: 141\]](#) NE, 12.9.14, p 18 line 1.

[\[note: 142\]](#) NE, 12.9.14, p 5 line 13.

[\[note: 143\]](#) NE, 12.9.14, p 6 line 18.

[\[note: 144\]](#) NE, 12.9.14, p 16 line 9; p 17 line 23.

[\[note: 145\]](#) NE, 12.9.14, p 7 line 14.

[\[note: 146\]](#) NE, 17.9.14, p 44 line 20.

[\[note: 147\]](#) NE, 17.9.14, p 49 line 9.

[\[note: 148\]](#) NE, 17.9.14, p 44 line 26.

[\[note: 149\]](#) NE, 17.9.14, p 46 line 2.

[\[note: 150\]](#) NE, 12.9.14, p 4 line 27.

[\[note: 151\]](#) P45.

[\[note: 152\]](#) NE, 25.9.14, p 57 line 3; p 58 line 14; p 60 line 2; p 61 line 6.

[\[note: 153\]](#) NE, 25.9.14, p 60 line 2; p 64 line 28; p 70 line 20; p 88 line 11; p 91 line 7; p 102 line 31; p 113 line 9; p 113 line 30; p 114 line 18; p 118 line 14.