

IN WOOLWICH CROWN COURT

Case No: T20257010

Courtroom No. 3

3 Belmarsh Road
London
SE28 0EY

Thursday, 8th January 2026

Before:

THE HONOURABLE MR JUSTICE JOHNSON

R E X

v

CHARLOTTE HEAD & ORS

MS D HEER KC appeared on behalf of the PROSECUTION
MR R MENON KC, MS M HAMMAD, MS K O'RAGHALLAIGH, MS C OBORNE,
MR T WAINWRIGHT, MR A MORRIS (Solicitor) & MS A C MOGAN appeared on behalf of the
DEFENDANTS

PROCEEDINGS

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A **Case resumes.**

DEFENCE CLOSING SPEECH

MR MENON: Good morning. If you study the history of any country in the world, you will find that real transformative social and political change has always come about because of the extraordinary courage and personal sacrifice of ordinary people. The anthropologist Margaret Mead put it well when she said, 'Never doubt that a small group of thoughtful committed citizens can change the world. Indeed, it is the only thing that ever has'.

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An example close to home of extraordinary courage and personal sacrifice is the Suffragettes who at the beginning of the 20th century waged a militant campaign to secure the vote for women in Britain. Their slogan was 'deeds, not words'. They understood that men would never give women the vote unless forced to do so; asking politely was a waste of time. They organised large marches and rallies, and engaged in civil disobedience and direct action. They vandalised property, they chained themselves to buildings and they disrupted political meetings. When in prison, they went on hunger strike, leading to brutal force-feeding by the authorities. Today we celebrate the Suffragettes for their heroism, and for securing the vote for women. There are memorials to the Suffragettes in public places around the country. They are part of the GCSE History curriculum. Recently, the London Underground Line between Gospel Oak and Barking was renamed The Suffragette Line. All this, despite the fact that-

MR JUSTICE JOHNSON: Mr Menon, I am very sorry to interrupt you. The public gallery are unable to hear.

MR MENON: Great, I just dropped water all over my speech.

MR JUSTICE JOHNSON: Do you want to have a short moment?

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MR MENON: If I could just have some tissue to clear up this water, because it's on my laptop.

Pause.

MR MENON: So, I'm just going to go back a few sentences, just to get my bearings again. So, forgive the repetition of a few sentences, ladies and gentlemen. Today, the-

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MR JUSTICE JOHNSON: No, Mr Menon. Can you hear Mr Menon?

MR MENON: I don't think I've ever been accused of being too soft. That really is a first for me.

MR JUSTICE JOHNSON: Yes, they can hear you, Mr Menon.

MR MENON: Yes, thank you very much. Today we celebrate the Suffragettes for their heroism and for securing the vote for women. There are memorials to the Suffragettes in public

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A places around the country. They are part of the GSCE History curriculum. Recently, the
B London Underground Line between Gospel Oak and Barking was renamed
C The Suffragette Line. All this despite the fact that members of parliament and the
D mainstream press at the time – all men, of course – routinely accused the Suffragettes of
E taking the law into their own hands, and routinely denounced them as terrorists
F and extremists; ‘the shrieking sisterhood’, ‘the howling mob’, ‘a threat to the established
G social order’, ‘unladylike’, ‘feral’, ‘irrational’, ‘aggressive’ and ‘violent’. You name it, and
H the Suffragettes were called it. The reality, of course, is very different. The Suffragettes
were remarkable women from all walks of life, united in their hope, their despair, their
defiance and their dedication.

Charlotte Head, who Ms O’Raghallaigh and I represent, is also a remarkable woman, and I
say that without any reservation. This is not something that lawyers defending in criminal
trials often say about their clients. We are taught to avoid the personal and retain a distance.

But, it must be said in this case not only because it is true, but also because it is relevant.
The reason that I spent quite some time, when Charlotte was giving evidence, getting her to
tell you about her background, and how she ended up becoming a member of the
overtly-arrestable Red Team at the action against the Elbit Systems factory in Filton on
6 August 2024, was that her story, her journey, her principles, how she became politicised
are so fundamental to understanding her. And we need to understand her to assess her
character as a person, the credibility of her account, her conduct during the action and, her
state of mind at critical times. You need to understand her when considering whether the
prosecution has made you sure that she is guilty of the three charges she faces.

Charlotte was born and grew up in the West Midlands, outside Birmingham. Her parents
sold second-hand cars. She did well in school, getting two As and a B in her A-levels. But
she didn’t take the conventional route of going to university; as she put it, she ‘needed some
time away from institutions’. She worked as a personal trainer for a year and made some
money, and then she moved to the south of France to learn French and the guitar. After a
few months there, she got a full-time job as a nanny in Paris. Charlotte was now
20 years old.

She told you that she had led a relatively sheltered life until then and knew little about
politics. But, living in Paris in 2016 began to politicise her. And then she had what you
may think was the first major sliding-door moment of her young life. She went to Calais

A during the Easter holidays to volunteer for a week at the refugee camp there. She told you that at its peak this camp, called ‘The Jungle’, has some 10,000 people from around the world. What started as one week in Calais become two. She quit her money-job and ended up spending much of the next three years in Calais. During that period, she did move to B London at one point, and started a university course here in International Development. But after three months she quit and returned to Calais; the course, she felt, was too theoretical. She wanted to do more practical, grassroots work.

C She told you that she did several different jobs whilst volunteering in Calais. She distributed clothes, and, as she now spoke French, she worked as a translator. As she had had a driving licence since she was 17, she drove those who needed medical assistance or to attend a local homeless persons’ clinic. And in her final year in Calais, she took over the reigns of a group called Human Rights Observers, who investigated and documented violence and harassment by the French police against refugees. They published a report on their findings in December 2018. You have an article about that report which appeared in D the Guardian newspaper on 1 December 2018, at Tab 21 of jury bundle one. Charlotte, you will remember, was quoted in that article which I read out in full. Please read it when you retire as it will give you a real sense of what Charlotte was doing during this significant chapter in her life. By early 2019, Charlotte was burned out. She told you that work in E Calais was incredibly traumatic and she needed a break. She went to Brussels next for a few months and helped someone she knew there who was finding accommodation for refugees who were sleeping rough on the streets. And then she returned to the UK, moved to London, where she shared a house with some friends.

F Now, pausing there for a minute, whatever ones individual views on immigration, on refugees, on the small boats, I trust that everybody in this courtroom can agree that it is commendable, even inspiring when a young person puts their own life on hold, their future on hold in terms of career, in terms of settling down and instead gives three years of their lives to selflessly helping complete strangers from all over the world who are in dire need. G Charlotte will be hugely embarrassed about me saying this, but I can only imagine how proud her parents must have been. Society needs people like Charlotte.

H Anyway, she tried after moving to London to get a job in the charity sector. However, the fact that she did not have a degree appeared to be an obstacle. So, having to pay the bills, she became a bicycle messenger. When Covid-19 struck a year later, and we went into

A lockdown, she trained as a bicycle mechanic and got a job during that.

B In early 2023, Charlotte and her then partner moved to the south of Wales; she had a remote job there as a writer for a cycling magazine. A year later, she returned to London, moved into a flat in Clapton, which is in the London Borough of Hackney, and again tried applying for jobs in the charity sector. This time, she was successful. She got a full-time job as a housing advocate for a charity called Advance, working with women and children suffering domestic violence. You have some notes from a notebook seized by the police from Charlotte's flat, following her arrest at Tab 21 of your jury bundle. I am not asking you to go through all those 21 pages, page by page, but it is just to give you an impression, an idea of how seriously Charlotte took her job and how she wanted to learn as much as she could about how the system worked, about the law, about safeguarding, so that she could best help and protect the women and child for whom she was advocating.

C And then, in about May 2024, Charlotte had what you may think was the second major sliding-door moment: when she walked past a protest camp outside Hackney Town Hall and stopped to see what was going on. She discovered that the camp was a protest against Hackney Council's pension fund being invested in companies doing business in Israel, specifically in weapons companies. She told you she had been following events in Gaza since 7 October 2023, attended some protests in Cardiff in late 2023 whilst still living in South Wales, and had also attended some of the monthly mass demonstrations in Central London. She told you she was increasingly feeling the impact of the events unfolding in Gaza. Although Gaza and Calais were obviously very different, there were similarities, too. One thing led to another and soon, Charlotte was spending half her nights sleeping at the protest camp whilst working full-time during the day. As she put it, 'grassroots activism really gets under your skin'.

D Charlotte told you about how those protesting outside Hackney Town Hall, including herself, were trying to engage in the democratic process; there was a petition for local people to sign in support of divestment. And eventually, the head of the Council Pension Committee agreed to a formal meeting at which an application could be made to try and get the council to stop investing in companies doing business in Israel, and specifically weapons companies. Charlotte was not part of the official deputation at that meeting, although she had contributed to putting together the presentation which had taken many weeks. She was in the public gallery at that meeting. She told you it turned out to be a

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A complete waste of time. After the protestation had been made, the head of the committee read out a pre-prepared statement refusing to divest. The committee had not even bothered to consider the application before reaching its decision. Charlotte told you about her frustration. They had played by the rules. They had done everything they had been told to do, and it was all a sham.

B Charlotte told you that she had known about Palestine Action since they were founded. In fact, people at the protest camp had already been talking about what next if the deputation failed to achieve any change in policy. Consequently, it was around the same time, maybe a few weeks earlier, at that deputation that Charlotte attended a Palestine Action training event in North London. It was a long day, she told you, with many talks on various topics, including a talk on the different types of actions that Palestine Action organised. Charlotte was adamant, you will recall, that the focus of that training event was on non-violent direct action against companies like Elbit Systems, who were arming the Israeli military. Damaging property to such companies sending weapons to Israel for use in Gaza was discussed. The possibility of having to assault or harm people was absolutely never discussed, she told you; more on that later.

D When those attending the training event divided into smaller groups, based on what type of action they might be prepared to join, Charlotte told you she went into the group of those who said they might be prepared to join a high-level arrestable action. When I asked her why she did that, given she had no previous convictions, had never been arrested before and had never been involved in any prior direct action organised by Palestine Action, she told you several things. She told you that she didn't want to look back at this period of her life and think that she didn't do enough because she was afraid of losing her job. She told you she had tried more low-level activism, but none of it was working. She told you about the pain she felt when she opened her telephone every day and a genocide was being live-streamed; she told you about one specific video of a father in Gaza holding his young child who had been decapitated by an Israeli bomb.

F She told you, when cross-examined by Ms Heer, that she did not believe she was going to be committing any crime when she indicated she might be prepared to join a high-level arrestable action, because she believed that what she was doing was going to be lawful. In her closing speech, Ms Heer described Charlotte, you will recall, as 'a lady in a hurry'. I'm sorry, but that really is unfair. Charlotte had tried for years. She had experienced, for years,

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A working within the system to effect real change. In respect of Palestine, she had been trying
for some months, as many others had, to engage in the democratic process. And, it had
achieved nothing. The genocide was continuing and, as a country, we were complicit by
B allowing the likes of Elbit Systems to operate freely here, creating their weapons for use in
Gaza. If everything, Charlotte had been incredibly patient before she indicated she might be
prepared – this is at the training event – to volunteer for an action that would result in her
getting arrested.

Now, you may remember, and I'm going to deal with this bit quite quickly, but I will come
back to it in more detail later, that a few weeks after the training event, she was contacted
C by Palestine Action, and that she later joined the Signal group for what became the action
against the Elbit Systems flagship factory in Filton. You know that everything in Palestine
Action, she told you, was on a need-to-know basis. Now, you will recall that Ms Heer was
rather dismissive about that in her closing speech. She even suggested that Charlotte played
D an organisational role. I'm sorry, but Charlotte did not play an organisational role. This is
ridiculous. How on earth was she an organiser? Yes, she went to Manchester twice to buy
the prison van with money she was given. She told you why: she had driven a van
previously in Calais and nobody else, as far as she was aware, had such experience. You
know that Charlotte drove that van after it was purchased to Bristol, and parked it outside
E the campsite. You know that Charlotte stayed at the AirBnb in Bristol, where she met her
co-defendants in the Red Team, and that was involved in the action. You know about the
various discussions, first on Signal and then at the AirBnb, that Charlotte and the rest of the
Red Team, and occasionally some of the organisers had about the action and about the red
lines of the action.

F You know that the Red Team were told by the organisers that they would have plenty of
time to damage property if they managed to get into the factory, as the security guards
would stay out and the police would take some time to arrive. And we now know, of
course, that the organisers got that terribly wrong. But that's not the fault of the Red Team,
G given their inexperience; being naive does not make you guilty of a criminal offence. And I
ask you please, to bear that in mind. And finally, though, that Charlotte did not anticipate
being remanded in custody and being denied bail. She had only taken a week off work and
had a flat with all her possessions in, in Clapton in the London Borough of Hackney. So,
that is a summary of the position. I will go into more detail, in particular, in relation to her

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A signing up for the action later on in my closing remarks to you. So, that's all I want to say about Charlotte at this stage. I've spent some time on this because your ultimate assessment of her as a person will inevitably be central to the factual conclusions you reach and the verdicts you return.

B Now, two brief administrative points before I proceed. The first is this: you will be retiring on the current schedule to consider your verdict probably sometime early next week, after the remainder of the defence closing speeches. And part two of His Lordship's summing up. Now, given that is some days away, and I know some of you are keeping notes, but please free to do that if it will help you. If you think the points I'm making are worth
C noting, it's of course entirely a matter for you whether or not you do that. And secondly, this: I'm not intending to show you any footage during my closing remarks. You will have all the time you need when you retire to watch the footage as many times as you want.

D And I am also going to keep to a bare minimum the documents I ask you to look at during my closing speech. These are the only documents I'm going to ask you at some point to look at: these are His Lordship's legal directions; the route to verdict; the indictment, which is at Tab 1 of your jury bundle; the agreed facts, which are at Tab 2 of your jury bundle; and the two plans at Tab 3. The A3 plan, you remember, the one you were given originally, which is at page six, and the smaller version of the same plan in A4, with some handwriting
E on it, which is at page 68. So, those are the only documents that I will be asking you to look at during my closing remarks to you.

Now, before I turn to the indictment and the charges that Charlotte faces, I want to make some observations on five general topics, which I hope will assist you when you retire. And those five topics are these: firstly, Palestine and Israel's attack on Gaza; secondly,
F Palestine Action; thirdly, Elbit Systems; fourthly, the action against the Elbit factory in Filton and what went wrong; and fifthly, the missing CCTV footage from inside the Elbit factory in Filton. So, those are the five general topics.

G And I will start now with the first, which is Palestine and Israel's attack on Gaza. Now, after you were sworn, which seems a very long time ago, ladies and gentlemen, and before the prosecution opened its case, His Lordship gave you some initial oral directions which included some directions on what he called the war in Gaza. His Lordship told you that whilst you were entitled to your views about the war in Gaza, whatever those views might
H be they were irrelevant to your consideration of the case. And that was a perfectly fair point

A to make at that stage of the trial. You knew virtually nothing about the case, and so, prejudging matters based on your pre-existing views, when you were yet to hear any evidence, would have been quite wrong and contrary to the affirmations that each of you had just made. But, the position now is very different.

B You have heard evidence about Israel's attack on Gaza, and about Palestine more generally from those defendants who have given evidence. And none of that evidence, by the defendants, has been challenged or contradicted by the prosecution. None of it. For example, you have heard evidence that there's a genocide taking place in Gaza, that Israel was founded on top of Palestinian land and that Britain played a key role in this. That there have been wars in Israel in Palestine for years; that there was a settler-colonial occupation of Palestinian land; that by the summer of 2024, some 40,000 Palestinians had been killed in Gaza by the Israeli military in less than a year, and a third of them were children; that more children had been killed in Gaza than in the Ukraine war; that there had been many videos, photos and news reports circulating on social media of atrocities being committed in Gaza, including people being buried under the rubble and hospitals being bombed. This is the gist of the evidence you have heard about Palestine and Israel's attack on Gaza.

D Now, all that evidence is evidence in the case. You are entitled to take it into account and give it what weight you think it justifies. Indeed, you may think it would be wrong, even
E perverse to ignore that evidence you have heard about the killing and destruction that has been taking place in Gaza now for over two years. Look, how are you to assess the evidence as a whole in this case? How are you to assess the character of the defendants, the credibility of their accounts, their conduct during the action in Filton, their state of mind at critical times during the chronology of actions that culminated in the action; how are you
F able to assess any of that if you ignore the wider context of what has been happening in Gaza, and the impact that those events have had on these defendants? Additionally, are you supposed to forget your pasts, your knowledge of the world? Your experiences of life, your principles, your values, your wisdom, your common sense, your sense of what is right and wrong and fair and reasonable when you consider the evidence in this case? Of course not.
G That would be ridiculous. You don't come into this courtroom as blank slates who know nothing about anything. You don't have to pretend you know nothing about what has been happening in Israel and Palestine.

H Given you are randomly selected members of the public, it is probably fair to assume that

A there is a broad range of views amongst you and that some of you know more and some of
you know less. That's to be expected. But none of you, I anticipate, know nothing about
B what has been happening in Israel and Palestine, because it has been live-streamed onto our
televisions, our computers and our mobile phones on a nearly daily basis now for over two
C years. You all know, so let's not pretend about this. You all know about the horrific events
of 7 October 2023, when Hamas launched a surprise attack on Israel from Gaza, killing
some 12,000 people and taking some further 250 people as hostages. You all know that
Israel has been retaliating ever since, killing tens of thousands of Palestinians in Gaza,
injuring hundreds of thousands more, destroying the majority of Gaza's building and
infrastructure, and creating one of the worst humanitarian crises of the 21st century. I mean,
this is all common knowledge.

Now, of course I agree entirely that you need to take care not to allow undue emotion and
your particular views about what has been happening to distort your assessment of the
evidence. There were many objectives obviously important. However, you are not
D emotionless robots, either. And you cannot unknow what you already know, and nobody
should ask you to do so. The reason we celebrate trial by jury in this country, although
sadly who knows for how much longer, is that there is no better system of criminal justice
anywhere in the world than 12 randomly selected members of the public, like you, bringing
their individual voices, their wide range of knowledge and experience or the table, when
E considering the evidence in deciding whether they are sure that the prosecution has proved
its case against the defendant in their charge, and the evidence in this case includes evidence
about Palestine and Israel's attack on Gaza, and it is critically important, you may think,
that you do not lose sight of that fact.

F So, that's my first general topic. The second is Palestine Action. Now, the defendants
giving evidence have told you about Palestine Action. Again, none of that evidence has
been contradicted by the prosecution. If the defendants were lying to you or exaggerating to
you, you can be sure that they would have been challenged when they gave that evidence.
G But they were not.

So, what do you know? You know that Palestine Action was formed some years ago; you
know that Palestine Action enjoyed considerable popular support in this country. In August
of last year, one defendant told you that Palestine Action had over 200,000 follows on
H Instagram. You know that Palestine Action had by August 2024 organised hundreds of

A actions, possibly as many as 400. You know that those actions had involved direct action of
various kinds, lock-ons, spraying paint, breaking windows, occupying rooftops, dismantling
cameras, and entering premises without permission and damaging weapons and other
B property therein, like the Filton action. You know that none of those actions had involved
unlawful violence on people, let alone serious unlawful violence. And you know that those
arrested for their involvement in direct action organised by Palestine Action have always
been granted bail; with one possible exception, namely someone who you were told had
been remanded in custody for a short period of time, perhaps because of some previous
C convictions. But, even that person was eventually granted bail. And you know that one of
Palestine Action's primary targets, if not its number one target was an Israeli weapons
company called Elbit Systems.

Now, none of this evidence, I repeat, about Palestine Action is in dispute. And it is all
important evidence, you may think, to bear in mind. However, there is, is there not, an
D elephant in the room, so to speak. You also know, because it was all over the news at the
time, and because His Lordship gave you a direction about it before the prosecution opened
its case, that former Home Secretary proscribed Palestine Action in June of last year under
terrorism laws; in other words, Palestine Action is now a banned organisation and it is
illegal to be a member or to express support for Palestine Action. His Lordship has rightly
E directed you that you must not hold the proscription of Palestine Action against these
defendants. It is completely irrelevant as far as any issue in the case is concerned. Firstly,
the proscription of Palestine Action postdates the action against the Elbit factory in Filton;
Palestine Action was not a proscribed organisation in August 2024. Secondly, the
F proscription of Palestine Action has been challenged in the courts and is hugely
controversial both domestically and internationally.

As you know, thousands of people have been arrested since Palestine Action was
proscribed, for sitting silently and peacefully on the ground in Parliament Square and
around the country, holding signs saying, 'I oppose genocide. I support Palestine Action'.
G Now, the reason I'm not shying away from the proscription of Palestine Action – I mean,
some might say, 'Well, why even go there?' But the reason I'm not shying away from it is
that this is precisely the type of issue that has the real danger of wrongly causing serious
prejudice against the defendants in this case and distracting you from the task at hand.
That's why I have got to address it, that's why I cannot ignore it. Now, His Lordship and I
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A have not seen eye to eye on everything during this trial. I hope that's a fair comment to
make. But as far as this matter is concerned, we are totally on the same page and in
complete agreement. I anticipate that His Lordship will repeat the direction on Palestine
B Action, that he gave you at the start of the trial, when he sums up the case to you. Please do
not allow proscription to lead you up the garden path. Please do not hold it against the
defendants. It is irrelevant.

Now, in addition to the evidence from those defendants who gave evidence about
Palestine Action, you also have Palestine Action documents in your jury bundle,
specifically at Tabs 5, 6, 9 and 18. Now, I was not intending to say very much about those
C documents at this stage, as I was of the view that you could read them at your leisure when
you retire. All I was going to say at this point was that – it's the obvious point: that there is
nothing in any of those documents to suggest that Palestine Action advocates violence
against people or that the plan in respect of the action in Filton involved an intention to
D injure or incapacitate security guards with sledgehammers if the need arose. But then, on
Tuesday, Ms Heer said to you in her closing speech that although none of the documents
explicitly refer to the use of violence or weapons against people, that does not mean, she
said, that there was no plan to use violence or weapons against people, as Palestine Action
would hardly have wanted the police or general public to know that they were planning a
E violent act. Now, what does that mean? Are you being invited by the prosecution to
speculate that there was a plan to use violence or weapons against people, even though the
planning documents on which the prosecution rely as a key plank of their case against the
defendants, say nothing of the kind. This is not a game, members of the jury. The
F defendants' lives and futures are at stake. This case is far, far too serious for anyone to be
telling you that you can fairly and properly conclude from documents, that do not speak
about using violence or weapons against people, that the plan in fact was to use violence
and weapons against people. Please do not be led up the garden path about these
documents. So, that's all I want to say to you about Palestine Action at this stage.

G I move on now to my third general topic, Elbit Systems. Now, as you know, the factory in
Filton targeted on 6 August 2024 belonged to Elbit Systems. When opening the prosecution
case, Ms Heer described Elbit Systems as an Israeli-linked defence company. Now, I'm not
going to labour this point, but it's a matter for you if that is a fair and accurate description of
Elbit Systems or somewhat of a mischaracterisation. In any event, it could not have
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A escaped your notice that on several occasions during the trial, when a question was asked about Elbit Systems, or what the witness knew about Elbit Systems, His Lordship intervened and stopped such questions being asked.

B The first time His Lordship intervened was when I was cross-examining Nigel Shaw, the security guard. I asked him what I thought was a pretty innocuous, uncontroversial question, a yes-or-no question. I asked Mr Shaw whether he knew, on August 2024, that Elbit Systems was Israel's largest weapons manufacturer. Before he could answer my question, His Lordship interrupted and said something like, 'If you're going to ask a question on this line, we need to have a discussion about it'. I responded, in your presence, C that it was just one question, but the judge asked me to move on. And, I did. His Lordship also intervened during Charlotte's evidence when I was asking her questions. Charlotte was telling you about the Palestine Action training event she had attended in north London, which I've already addressed you on, and a subject matter of various talks given during the training event. She told you there was specific mention of Elbit which she described as D Israel's largest weapons manufacturer. I asked her an open-ended question: 'Was there anything else said about Elbit during the training event that you can recall?' And it was that question that triggered another judicial interruption. His Lordship said something like, 'If we're going to get into this territory, we're going to need to have a discussion'. I responded E in your presence that I was asking Charlotte about the company that had been targeted in this case, which was directly relevant to her statement of mind and that this was a proper area for me to ask her about. You were then asked to leave court for a few minutes. Nothing unusual about that, members of the jury; when there's a dispute between the parties at a criminal trial, or between one party and the trial judge, juries are often asked to leave F court for those matters to be discussed in their absence. When you returned to court, I moved onto a different topic. In other words, Charlotte was not allowed to give any further evidence about what was said about Elbit Systems at the Palestine Action training event, or about what she knew about Elbit more generally.

G His Lordship also intervened during the evidence of Zoe Rogers, when Ms Mogan was asking her questions. Zoe was giving evidence about how she had read about Palestine Action on their website and on Instagram, and how this had led her to Elbit's website. Before Ms Mogan could ask Zoe about what she had read on that website, His Lordship stopped her and said something like, 'This is an area that is outside what I have ruled is H

A relevant. If you want to pursue this, you will have to argue this. What Ms Rogers knew
about Elbit has been adequately covered'. In your presence, Ms Mogan tried to reason with
His Lordship. She said that Zoe should be allowed to give her account about what she had
B learned about Elbit from Elbit's website. His Lordship said that Ms Rogers had already
given a sufficient account, and so Ms Mogan had no choice but to move on, which she did.
So, that, in summary, is the position: His Lordship has restricted what the defendants have
C been allowed to tell you about what they knew about Elbit, and what they knew about
Elbit's role in the Israeli attack on Gaza. The consequence of that is that you don't know
everything that the defendants knew about Elbit before each of them individually decided to
take that major step of getting involved in the action against the factory in Filton.

Now, for the avoidance of any doubt, and before I am criticised, our system allows trial
judges to make rulings like this, as to what evidence is relevant and what evidence is not. If
a judge decides that certain evidence should not be given on the grounds that it is not
D relevant to any issue in the case, then that judge is entitled to exclude such evidence,
however strange it might seem, however much the defendants or their lawyers might object.

But the consequence of such a judicial approach to the evidence in this case is that we have
only heard very limited evidence about Elbit Systems and how what the defendants knew
about Elbit Systems influenced their decision-making, because you have been prevented
E from hearing any more.

Now, having said all of that, and I have summarised the position, I hope, fairly, the little
you have been permitted to hear from several of the defendants about Elbit Systems is
nevertheless instructive. You have heard that Elbit Systems is Israel's largest weapons
F manufacture. You've heard that Elbit Systems produced 85% of the weapons used by the
Israeli military. You've heard that Elbit Systems produces drones, munitions and
battle-simulators. You have heard that the weapons Elbit Systems were making were being
sent to Israel. You have heard that Elbit Systems tests those weapons on Palestinians. That
Elbit Systems was proud of producing 85% of Israel's combat drones. That Elbit Systems'
G CEO gave a talk during which he boasted that war was good for business. That
Elbit Systems' employees have stated publicly that they are proud to be the backbone of the
Israeli military. And finally, that the Filton factory was Elbit's newest facility in the UK
and was opened by the Israeli ambassador. So, this is all important evidence in the case.

And what the defendants told you about Elbit are not just their beliefs, they are facts. And

A perhaps as important as those facts is that none of them were disputed by the prosecution. Not one of them. If any of the evidence that any of the defendants gave you about Elbit was false or exaggerated or misleading, you can be sure that the prosecution would have challenged that evidence. But they did not. So, you can be sure that what the defendants
B told you about this company is all true. There is no evidence to contradict any of it.

Now, ultimately, the unchallenged, uncontradicted evidence you have heard about Elbit is a matter for you because the facts are solely for you. It is for you and only you to decide what evidence is accurate, what evidence is significant, what evidence is reliable, what evidence is relevant, what evidence assists you in reaching your verdicts. Consequently, it
C is for you and only you to decide what weight to give the evidence you have heard about Elbit, or any other evidence for that matter. Now, you may think that it is incredibly important evidence that you have heard when assessing the character of the defendants, the credibility of their accounts, their conduct during the action in Filton and their state of mind
D at critical times during the chronology of events that culminated in that action, to take into account, indeed to remember at all times that the target of this action was a massive weapons company that has played a critical role in the killing of tens of thousands of Palestinians, as opposed to, for example, a company that makes fluffy toys for children. How can you reach true verdicts according to the evidence if you ignore the unchallenged,
E uncontradicted evidence that you have heard about this dreadful company?

I move on to my fourth general topic: the action against the Elbit factory in Filton and what went wrong. When opening the case for the prosecution, Ms Heer told you that the action was meticulously organised and that there was a step-by-step action plan, and that everyone taking part knew what was required of them. She told you that there was a Black Team of
F covert, who were to remain outside the facility and overwhelm the security guards before fleeing the scene; and a Red Team of [inaudible], who would enter the factory and cause as much damage to property as possible before the police arrived and they were arrested.

Now, in general terms, I accept entirely that this action was well-organised; it clearly was. But equally, ladies and gentlemen, it did not remotely go to plan. The footage from inside
G of the factory makes that abundantly clear. What you see in that footage is chaos, not a carefully executed plan. What you see is individual members of the Red Team trying to respond to the unexpected presence of security guards as best as they can, by shouting, by swearing, by lighting flares, by holding their sledgehammers in such a way to try and look
H

A as intimidating as possible without actually using them as weapons of offensive. But, a plan
to use the sledgehammers to injure or incapacitate the security guards if necessary...?
Please, that's not what you can see in that footage. Let's not forget that all those involved
B in this action, including the organisers, were laypeople. This was not some sort of military
operation by professional, trained and qualified soldiers. None of the Red Team had any
prior experience in being involved in an action like this. I mean no disrespect to any of
them: but they were completely out of their depth, and although there was some guidance
and some contingency planning, it turned out to be wholly inadequate as a result of several
unexpected events occurring that, to a considerable extent, derailed the action.

C There are five things specifically I want to identify for you. I'm sure they are all obvious,
but it is important to acknowledge them. The first thing to go wrong occurred soon after
Charlotte drove the van through the shutters into the loading bay. Something took place
D outside the factory, far away from and out of sight of the Red Team, which had never,
according to the evidence, previously happened in the hundreds of actions organised by
Palestine Action. Now, it started when a security guard, Nigel Shaw, ran towards a
stationary member of the Black Team who was armed with an axe and a whip, blindsided
him, and whacked him with an umbrella. You've seen the body-worn footage and I'm sure
you'll be watching it again when you retire. Now, this was quite obviously totally
E unexpected. What happened after that was that Nigel Shaw, and another security guard,
Angelo Volente, disarmed that member of the Black Team, restrained and detained him, and
dragged him around the corner of the building. You can see this on Mr Shaw's body-worn
footage.

F Now, until that happened, members of the Black Team had been engaged in making as
much noise and creating as much smoke as possible by shouting and setting off fireworks
and flares. They were also armed with weapons, including axes and whips, which were
being held in such a way as to be visible to the security guards. And the strategy, you may
think, of the Black Team was clear: it was to create as much chaos as possible, to look as
G intimidating as possible, to distract the security guards for as long as possible so as to give
the Red Team as much time as possible to barricade themselves inside the factory, so they
could damage as much property belonging to Elbit Systems as possible before the police
arrived and they were arrested.

H Up to the point of the umbrella incident, nobody in the Black Team was attacking anybody.

A Now, I am not criticising Nigel Shaw for what he did, let me make that absolutely clear.
He was a security guard: he was entitled to use reasonable force against those trespassing.
However, the consequence of what he did was that other members of the Black Team
B arrived in numbers to rescue the member of the Black Team who had been detained. And
although the body-worn footage of Mr Shaw and Mr Valente is far from clear, it must have
been during that part of the incident, you may think, that Mr Shaw was unfortunately
assaulted and suffered a wound to his head that later had to be closed with staples. Now, let
me be clear about this: the assault on Mr Shaw should never have happened. I am not
seeking to justify it in any way whatsoever. However, to suggest that that assault on Mr
C Shaw was part of a plan is absurd on the evidence.

The second thing to go wrong occurred inside the factory. The Red Team had in their rug
sacks, as you know, ropes and tape. And the plan, several defendants told you, was to use
those ropes and tape to barricade themselves inside, to delay an entry by the security guards
and eventually the police. But, the organisers had no idea in advance that the doors of this
D warehouse were designed in such a way that they could not be barricade shut with ropes and
tape: they didn't have handles on. So, consequently, barricading was impossible. The best
that they could do, and it was hopeless, was in relation to one of the doors: put up a wooden
pallet. But all you had to do was open the door and push the wooden pallet over. So, that
was hardly a barricade. And so, this is the second thing that went wrong.

The third thing to go wrong was that the Red Team had, according to the timings on the
footage, only about five minutes inside the factory before they were joined by the three
security guards, Nigel Shaw, Angelo Valente and Patrick Luke. The Red Team were
genuinely not expecting those security guards to enter the factory to try and stop them
F damaging property. They were taken by surprise. As I suggest, you can see on the CCTV
and the body-worn footage from their reactions.

Now, whilst members of the Red Team were still able to destroy a considerable amount of
Elbit property, including drones and other military equipment, the action clearly did not go
to plan. The fourth thing to go wrong was that the Red Team only had about 20 minutes on
their timings inside the factory before the police arrived. They clearly thought that they
would have much more time than that. Hence the fact that some of the defendants brought
G food with them in their rug sacks.

And the fifth and final thing to go wrong was [Sam Corner?] striking Sergeant Evans on her
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A back with a sledgehammer. Now, obviously, whatever you decide in relation to count four,
that should never have happened. Mr Wainwright will undoubtedly address you in detail in
relation to that matter. All I want to say about it at this stage is that like the assault on Mr
B Shaw, it was clearly not part of a plan. And the fact that only Sam Corner has been charged
with that assault, the fact that none of the other members of the Red Team had been charged
with intentionally assisting or encouraging Sam Corner to strike Sergeant Evans with a
sledgehammer is the clearest possible indication that what happened arose in a split second
and could not possibly have been expected or predicted by any of Sam Corner's co-
defendants, and was absolutely not pre-planned. Indeed, even the prosecution is not
C alleging that any other defendant, other than Sam Corner, is criminally responsible for what
happened to Sergeant Evans. That is why only Sam Corner is charged on count four.

Now, the reason that I have set out at some length what went wrong with this action is that
this is important evidence for you to bear in mind when you consider the evidence as a
whole, and in particular, the prosecution's contention, which we say is wholly unsupported
D by the evidence, that all those involved in this action, the organisers, the Black Team and
the Red Team, were acting together as part of a joint plan which involved the use of
unlawful violence against people if necessary. And, as you can imagine, I will return in
much more detail to this issue when I address you on aggravated burglary after the lunch
break.
E

Now, I think I have enough time to deal with my fifth and final general topic. I may even
have a little bit of time to start on aggravated burglary. But I turn to the fifth topic now, and
it is the missing CCTV footage from inside the Elbit factory in Filton. Now, this is a
discrete topic but an important one, because you still do not have a satisfactory answer as to
F what precisely has happened to this missing footage. In her closing speech, Ms Heer
floated the possibility that the defence might say that the absence of certain footage was
suspicious. Well, she was right to forewarn you about that. Because yes, you may think it
is suspicious, or at least utterly baffling and ultimately unfair to the defendants.

G Now, at this point, can we look at our first documents in this case, the plans? So, we have
the A3 plan at page six, Tab 3, and the smaller version of the same plan at page 6A. I'm
just having a look at the big plan, first of all. I'm sure you will recall: you were given this
plan during the prosecution opening when the jury bundles were distributed. And you were
given the smaller plan with the handwriting on it towards the end of the prosecution case.
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A And you will note the differences; they are the identification on the smaller plan of four additional cameras, 22, 23, 24, 25 and the angles at which they were filmed.

B Two further points about this: during the evidence, you were told that in fact, 22 and 23 are the wrong way around. And I don't think this really matters. So, 23 is actually 22, and 22 is actually 23. And secondly, looking at camera 25, you will see that that really is not much use, because it is pointing, sort of, away from the warehouse. But, if you look at what 22, 23 and 24 were filming, that clearly covered relevant spaces within that warehouse. So, that was the position in relation to those [inaudible]. I'm going to come back to them in a minute.

C So, because you only had the larger plan during the opening, there was no mention by Ms Heer when she opened the case to you of the existence of cameras 22 to 25. Now, so, how does this all come about, that this issue became the final evidential issue that you heard about during the prosecution case. Well, some of you may remember that this first arose when Ms Hammad, on behalf of [Leanne Cameo?], as the first prosecution witness, DC Phoebe Webber, who was assisting prosecution counsel and presenting the CCTV evidence. When Ms Hammad asked her, obviously noticing that there was no 22, 23, 24, 25 on that larger A3 plan, whether the witness knew where those cameras were. And DC Webber said she did not.

E The first witness to mention one of those cameras was Angelo Valente, also when cross-examined by Ms Hammad. He said that there was a camera that covered that alcove area that you see on the bottom right of the plan, underneath 'Zaman', just to the left of C21. So, that is what Mr Valente said when he was being cross-examined. And it turns out he was right. Now, that triggered, you now know, a number of questions by the defence. F Now, this is not rocket science. You can imagine the obvious question for any defence lawyer would ask in this situation: is Mr Valente right? Is there a camera covering the alcove? Are there any other cameras that cover the inside of the warehouse that are not on plan six? And our questions, our enquiries resulted in you receiving the new plan, page 6A, G and in a number of further witness statements.

And towards the end of the prosecution case, you heard from three police officers: DS Sarah Grant, DC George Reed, and DC Mathew Hamersley. But despite their evidence and their best efforts, I am afraid there remain unanswered questions. So, what is the evidential position now? Taking all of that evidence that you subsequently heard into

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A account, so, what we know is that cameras 22 to 25 were all functioning properly and recording on the night in question. Sarah Grant told you that. She was crystal-clear about it. What we do not know is what has happened to the footage from those four cameras, or what the frame rates of these four cameras were on the night of the action.

B Now, it's important to note, pausing there, that even if these cameras were not recording continuously, and we have no evidence, of course, as to whether they were or were not, and instead, for example, like Camera 21, do you remember Camera 21? They were only recording a frame every 17 seconds, they would still contain footage of some of the
C defendants, given we know the areas these cameras covered and how long some of the defendants were in those areas on the night. For example, one of the stills from Camera 21, which I'm sure Mr Morris will be addressing you about in due course, shows Mr Valente kicking Jordan Dublin. So, even a camera with a 17-second lapse between recording is potentially a camera that can produce useful evidence.

D Now, as I see it, and obviously you will assess whether this is a fair conclusion to draw from the evidential position, but as I see it, there are only two possible answers to the mystery of the missing footage. The first is that the footage recorded on the night of the action by cameras 22 to 25 was not shown to Sarah Grant, DS Sarah Grant when she attended the Elbit factory in Filton the next day, on 7 August. So, that's possibility number
E one: she was simply not shown it.

The second possibility is that DS Grant failed to notice the defendants in the footage from in particular cameras 22, 23 and 24, and therefore did not have that footage downloaded and copied. And I can't think of a third possibility, given the cameras we know were working and recording, if they weren't working and recording, then, obviously, different possibilities
F and different scenarios. But we know they were working and recording, so either Sarah Grant was not shown it or she just missed it. Now, let me deal with the latter possibility first of all. You will remember her evidence. I suppose it's possible. Everybody is fallible. It's possible that Sergeant Grant could have made an error. She was,
G after all, viewing footage from multiple cameras simultaneously from multiple screens. You remember those questions in relation to that. But she told you that she downloaded and copied all footage that showed movement when she was viewing that footage when she was viewing the factory. And we know that she copied footage from Camera 21, which recorded, as I have already said, frames every 17 seconds. So, she didn't miss that.

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A So, you may think, matter for you, that it's unlikely that this experienced police officer would have missed relevant footage from other cameras. So, that's the first possibility. Is it possible that DS Grant was not shown the footage recorded on the night of the action by cameras 22 to 25 when she attended the Filton factory? And, if so, what's happened to that footage?

B Now, the prosecution could have called Witness Alpha to answer the unanswered questions. It was Witness Alpha, after all, who Sergeant Grant told you she met when she attended the factory, and with whom she subsequently communicated by email; you remember, I put one of those emails to her and Ms Hammad dealt with it as well. Now, Witness Alpha, DS Grant told you, was a senior member of Elbit security who she believed was high up in the company. I am referring to him as Witness Alpha because his identity, as you know, has been withheld from the defence. Now, if I am wrong that Witness Alpha was the appropriate witness, the prosecution would have called someone else from Elbit to deal with this unanswered question. But no Elbit witness has been called. The security guards, you will remember, were not employed by Elbit directly; they were employed by another company, not Elbit itself. So, Elbit remains in the shadows, hidden and protected. But not, ladies and gentlemen, in the corridors of power, where no doubt they are welcomed, wined and dined, whilst Charlotte and all the other co-accused in this case have been denied bail and have been locked up for 17 months.

E The long and the short of the missing footage saga is: it is a total mess. But let me be clear about something unless I'm later accused of this: I am not inviting you to speculate about what the missing footage might show. Additionally, I'm not inviting you to speculate about what Witness Alpha or any other Elbit witness if called would have told you, if they had been called by the prosecution. That would be wholly wrong and that is not what I am inviting you to do. However, you are absolutely entitled to draw reasonable conclusions from the evidence that you have heard on this topic, which I hope I have summarised fairly to you. You are entitled to draw reasonable conclusions as to what has happened to the missing footage, and why it was not part of the evidence in this case. Now, what conclusions you think are reasonable to draw is entirely a matter for you, and not for anybody else, because you are the sole judges of the facts.

G Now, finally, as far as this topic is concerned, I return to the suggestion floated by Ms Heer during her closing speech that the defence is allegedly seeking to 'take advantage' of the

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A gaps in the footage. Members of the jury, if that were true, why is it the defence and not the
prosecution that has been trying to get to the bottom about this footage? Why is it the
B defence that has been encouraging the prosecution to call witnesses to explain the mess,
whatever that explanation might be? It's not our fault, and I'm speaking now collectively
for the defence. It is not our fault that the prosecution did not disclose to us the relevant
materials pre-trial, and that it was only disclosed after we started asking questions as a result
C of the answers that Ms Hammad received from the questions she was asking DC Webber
and then Angelo Valente. It's not our fault that the key questions about the missing footage
remain unanswered. So, that is all I want to say about that fifth and final general topic. I've
now completed all I want to say about those matters. My Lord, I note the time. It's about
16 seconds before the 12.45 cut off for reasons unconnected to this case. I would invite
My Lord to maybe rise a little earlier and then perhaps we can start at 1.45, if that works
administratively.

D MR JUSTICE JOHNSON: Yes, well, it is now spot on. So, again, it's a matter of timing.
Members of the jury, we will break there and we will start again at 1.45, thank you very
much.

Court rises.

Court resumes.

E MR JUSTICE JOHNSON: Ms Heer?

MS HEER: Yes, thank you. My learned friend and I have had an opportunity to speak, can I just –
and he tells me that he's not going to go back onto the territory that I object to.

MR JUSTICE JOHNSON: Could you use the microphone, I am so sorry?

F MS HEER: If everybody can hear me now? Okay, the detail of me not going, planning to go back
into that territory during the remainder of his speech, but could I just set out in brief terms,
it will take a minute or two?

During the course of his speech Mr Menon made comments about evidence, which was
given by the defendant on three topics: their, their beliefs about events in Gaza, their beliefs
G about the nature of previous Palestine action and actions and their beliefs about
Elbit Systems and what it does and he stated to the jury in terms that in the absence of any
challenge by the prosecution to their evidence on those topics, the jury can take it that the
prosecution accepted their evidence to be objectively true.

H Now, those comments by my learned friend, in my submission, ignored the rulings that

A were made by the Court prior to the trial and during the course of the trial the ambit of
relevance of the defendants' beliefs on those topics because it was limited to their subjective
state of mind at the time they committed these offences and their intent and the Court ruled
that any evidence as to the underlying reasons for their beliefs and the truth or otherwise of
those underlying reasons as inadmissible because it was irrelevant.

B MR JUSTICE JOHNSON: Yes.

MS HEER: Now, those rulings apply to me just as much as they apply to anybody else –

MR JUSTICE JOHNSON: Yes.

MS HEER: - in this court, so it would be quite wrong for me to cross-examine on those points.

C MR JUSTICE JOHNSON: Yes.

MS HEER: Now, what I'd invite the Court to do, not now, but in due course in part two of his
summing-up, is for My Lord to correct that position?

MR JUSTICE JOHNSON: Yes.

D MS HEER: Now, I raise it now because I know my learned friend has said that he's not going back
to that –

MR JUSTICE JOHNSON: Yes.

E MS HEER: So, I accept that from him because if any of the other defendants, if the defendants'
counsel are seeking to make the same point, then I will seek a ruling from the Court
preventing them from doing so before they make their speeches.

MR JUSTICE JOHNSON: All right.

MS HEER: If you accept that. Now, so the earliest this needs to be dealt with will be at the end of
Mr Menon's speech.

MR JUSTICE JOHNSON: Yes.

F MS HEER: I'm told by my learned friend Mr Wainwright that he's not going to take that point.

MR JUSTICE JOHNSON: Well, that is very helpful.

MS HEER: So, we can get on with his speech as well.

MR JUSTICE JOHNSON: Yes.

G MS HEER: But at some point, and I would expect my learned friends, the remainder of my learned
friends for those defendants to tell me if they are going to into that territory because if they
are then we will need to [inaudible].

H MR JUSTICE JOHNSON: Yes, well, I am not going to express any view without giving defence
counsel an opportunity to make submissions and I am certainly not going to ask Mr Menon

A to address it if he is not going back to the point and he is obviously having to focus on his speech. But it is very helpful to have that indication from Mr Wainwright, if any other defence counsel is proposing to canvas that territory it will need to be raised with you and me.

B MS HEER: Yes, I'm not seeking a ruling at this stage, I just want my learned friends, because I haven't had the chance to talk to all of them to know what my position is.

MR JUSTICE JOHNSON: Yes.

MS HEER: So that they can indicate their position if it is relevant [inaudible].

C MR JUSTICE JOHNSON: Certainly, all right, thank you very much. Sorry, can I just say to all counsel, when you are doing your speeches just make sure you have got the mike, I know it is difficult with lecterns and boxes and so on, but just try and make sure you have got the microphone in front of you.

Jury enters court.

DEFENCE CLOSING SPEECH (CONT'D)

D MR MENON: Good afternoon, I've made sure there's absolutely no water anywhere near me, so hopefully no more debacles of that kind. Before we broke for lunch I'd finished the five general topics that I'd addressed you on and I'm now turning to the indictment and the three charges that Charlotte faces and I'm going to start, perhaps unsurprisingly, with aggravated burglary, not only because it is count one on the indictment, but also because it is, as I'm
E sure you will appreciate, the most serious of the three charges that all the defendants face. Now, His Lordship has told you that you can approach the charges in any order you wish and that of course is right, how you approach the charges is a matter for you. Having said that, the prosecution has drafted the indictment in the way it has with aggravated burglary
F first, criminal damage second, violent disorder third, with good reason, and I'm going to follow that same approach as well and approach it in that way; but how you approach it ultimately you can decide.

G The first general point I want to make, and I'm not going to beat around the bush about this, to prosecute these defendants with aggravated burglary, given the evidence in this case, I suggest is manifestly misconceived and amounts to deliberate prosecutorial overkill. You could not possibly be sure on the evidence that Charlotte, or any of the co-defendants for that matter, is guilty of this most serious of criminal charges.

H Now, could I ask you just to take up the indictment, and if you've taken it out of your files,

A if you haven't it's at tab one of the jury bundle; just look at how aggravated burglary is particularised in the indictment under the heading, 'Particulars of offence'. The six defendants named there, together with a number of other names, some of which you will have heard during the course of the trial, some of which you haven't heard, and others.

B On 6 August 2024, having entered as trespassers a building of Elbit Systems UK Ltd, and the address as stated there, with intent to do unlawful damage to the said building of anything therein, and at any time of committing the said entry had with them weapons of offence, namely sledgehammers.

C Now, the first thing I want to say about the particulars of the offence is that it's important to remember that a sledgehammer is only a weapon of offence, which is a sort of legal definition, if it is intended to be used to injure or incapacitate another person. So, in other words, a sledgehammer without the necessary intention is not a weapon of offence.

D So, bearing that in mind, the key question in this case in the most general terms as far as aggravated burglary is concerned is whether the defendants intended to use the sledgehammers, they had with them to injure or incapacitate a security guard, if the need arose when they entered the Elbit building without permission. And it's the building, for the purposes of aggravated burglary, that's important as opposed to the premises, which would include the yard, for example.

E So, that's all I want to say to you about the indictment as drafted. If you could now take up the Route to Verdict, the document that His Lordship distributed to you on Tuesday, and look at the first page of that document, you see there three questions, and I'll, as has already been pointed out to you, it's the third question that is the, is the clincher, so to speak, in this case, but let's just go through them all.

F The first question, are you sure that on 6 August 2024 the defendant entered Elbit's building without permission? Now, I'll address you solely on behalf of Charlotte in relation to this, but obviously there is no dispute that when she drove the prison van through the shutters into the loading bay inside the building, she was entering the building without permission; so, in her case, no issue as far as that is concerned.

G Question two, are you sure that at the time of entering Elbit's building the defendant intended to damage property in the building? Again, in her case no dispute, she told you that was her intention when she drove that prison van into the building.

H Then we come to the, the key question, this is the third question, it's a bit of a mouthful, but

A let's just read it out, are you sure that the defendant had with them a sledgehammer, which at the time of entering the building, them, they, for these purposes is that defendant. So, let me start again and put Charlotte's name into it and [inaudible] it will be clearer.

B Are you sure that Charlotte with her a sledgehammer, which at the time of entering the building she intended to use to cause injury to incapacitate a security guard if needed, or encouraged or assisted a co-defendant to have with them a sledgehammer, which at the time of entering the Elbit building, they both intended to be used by the co-defendant for that purpose?

C Now, the reason that this is a bit wordy is, you'll remember His Lordship told you that in respect of any crime committed by multiple people, you can have a principal party who commits the act or principal parties indeed who commit the act, and you can have secondary parties who intentionally encourage or assist the act with the same state of mind, they're both guilty, the principal parties and the secondary parties, subject, of course, to the state of the evidence, can be guilty of the crime. And that's why this question is a bit wordy because the first bit is addressing the conduct of the principal party and the bit in parenthesis is addressing the conduct of a possible secondary party.

D Now, bearing that question in mind, before I turn to my analysis of the evidence in relation to that, there are four key legal points that I wish to emphasise about aggravated burglary as a criminal offence and the first is this. To answer that third question in relation to aggravated burglary, which is fundamentally about intention, you will need to consider the state of mind of each defendant.

E Now, in this case there is no direct evidence of intention, for example, a confession by the defendant that they did have the necessary intention at the relevant time. Rather in this case the prosecution allege that there is other evidence, circumstantial evidence in this case from which you, the jury, can reasonably conclude that each defendant had the necessary intention.

F So, your task when considering whether there is any such evidence and whether you can in fact reasonably conclude that necessary intention from the evidence, that is a far from straightforward task. Now, why do I say that? Because you have to avoid any guessing or speculating when considering what a defendant's state of mind was at the relevant time; you know this because you had a legal direction that tells you that guessing or speculating is expressly forbidden; it's in His Lordship's legal directions.

H

A The problem is, I mean, it's an obvious point this, but it's important to make it, it's not
always easy is it to distinguish between a guess or a speculation on the one hand and a
reasonable conclusion from the evidence on the other? But that's precisely what you must
do in respect of every factual conclusion, not only in relation to aggravated burglary, every
B factual conclusion you reach in this case you've got to be sure that it's a proper conclusion
on the evidence, proper and reasonable conclusion on the evidence as opposed to a guess or
a speculation.

And, as you know, any reasonable conclusion you reach is one that you must be sure about,
that's the standard of proof in a criminal trial, a trial, it used to be called, 'Beyond
C reasonable doubt'. We've simplified the language now, you must be sure, anything less
than that the only appropriate verdict is not guilty; you have to be sure before you can
convict, nothing less will do. So, that's the first point and it's about looking into the mind
of the individual defendants, drawing reasonable conclusions from other evidence, not
guessing or speculating.

D The second point, to be guilty of aggravated burglary a defendant must have that necessary
intention at the time when they entered the building without permission. So, in other words,
when that van went through the shutters and ended up in the loading bay, that's the time at
which the necessary intention has to be there in the minds of each individual defendant;
E that's the relevant time, so that's the second point.

The third point is this – oh, by the way, you have had these, I'm approaching them slightly
differently, but they are in His Lordship's legal directions, I'm highlighting these for your
purposes now, but these aren't new points that are not elsewhere in the material you have.

F Third point, an intention only to frighten or scare the security guard with a sledgehammer
when entering the building without permission is not enough and I suggest is not strong
evidence, as Ms Heer put it on Tuesday in her closing speech, of an intent to injure. Do you
remember, she said if somebody had an intent to frighten, that's really strong evidence of an
intent to injure?

G I'm sorry, it isn't, they're completely different; they're completely different in the
circumstances and so, be careful about that. What you need here is quite explicit, there has
to be that intention to injure or incapacitate the security guard at that point of entry, at that
time of entry.

H And finally, my thoughts and opinion on this, although no defendant in this case is saying

A that, although they didn't have that intention to injure or incapacitate when they entered the building, they did in fact form that intention sometime later when confronted by the security guards inside the building. So, rather than say that, it is nevertheless important for you to remember that an intention formed later, after they've entered the building as a result of events taking place in the building that did not exist at the time of entry, is not enough.

B So, I repeat, putting that altogether, a defendant to be guilty of aggravated burglary must've had the necessary intention to injure or incapacitate the security guard when entering the building without permission. So, putting that altogether, putting all that, those points together, the overarching point I make on aggravated burglary on behalf of Charlotte is that there is simply no evidence from which you could reasonably conclude that she, or any of the other co-defendants for that matter, but obviously my focus is on her, when entering the Filton factory without permission, intended if the need arose, to injure or incapacitate a security guard with a sledgehammer or to intentionally assist or encourage any of her co-defendants to do so with that same intention.

D And in support of that overarching, overarching point I make on her behalf, there are nine things I want to speak to you about in terms of the evidence, which I hope will assist. Now, the first is this, Charlotte has no previous convictions or cautions; in fact, prior to 6 August 2024, she'd never been arrested before. His Lordship has given you a direction about good character, it's at section eight of the legal directions, look at it when you retire, it's very important.

E It amounts to this, although previous good character is not an absolute defence, that's hardly going to surprise you, it is a positive feature, which you should take into account in Charlotte's favour when considering when you assess her credibility; in other words, when you consider whether you accept what she has told you. It is also – that's one thing, it's potentially relevant in terms of assessing the credibility of the account given to you by a defendant.

F It is also, secondly, a positive feature, which you should take into account in a defendant's favour in that that defendant has not offended previously and that may make it less likely that they have offended on this occasion. Now, obviously, the weight that you, the jury, attach to a defendant's previous good character is a matter for you, and you decide, as with all factual matters, how important is the fact that a defendant is of previous good character.

G However, given the seriousness of the allegations in this case, you may think that

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A Charlotte's previous good character speaks volumes and is hugely significant when assessing whether or not she has that intent to injure or incapacitate, or whether she had that intent at the relevant time.

B So, that's my first point of nine; secondly, it's not just that she has no previous convictions or cautions, she's somebody of positive good character. Now, I'm not going to go back to all the things I said to you before, I've already addressed you about her background and her work at length.

C You've also heard, just to remind you, good character evidence about Charlotte read to you from two witnesses, I'm sure His Lordship will remind about the detail of that in due course, I'm not going to do that; their names were Laura Hasaniyam[?] and Adrian Abbott, both of whom described Charlotte in glowing terms.

D The short point I make in relation to her positive good character is that it is nonsensical, I suggest, to suggest that someone like her would've signed up to a plan involving the use of violence to injure or incapacitate a security guard with sledgehammers if the need arose. Everything you know about her suggests the contrary, namely that she would never have signed up to that kind of plan.

E The third point, in addition to her lack of previous convictions and cautions and in addition to her previous, sorry, her positive good character, they are the principles and values that she clearly holds dear and which have governed her life. She told you that she's anti-war and anti-violence, and remember the job that she was doing at this time in 2024, it was all about helping and protecting women and children fleeing domestic violence.

F But she went even beyond that, she told you that she does not think it is morally right to use violence in any way, she doesn't believe it works as a political strategy. In other words, nobody as far as she was concerned was to be physically harmed during this action and she told you in respect of that that the red team had agreed that red line as far as this action was concerned, namely no violence against a person.

G For you to convict Charlotte of aggravated burglary you will have to be sure that all of that that she told you about her commitment to non-violence, was an elaborate lie for your benefit, that in truth she would've been perfectly prepared to strike a security guard with a sledgehammer to injure or incapacitate if the need arose; with all due respect, how could you possibly reach that conclusion?

H Fourth point, and I'll deal with this quickly because I've already dealt with it effectively

A previously. But you've heard evidence from Charlotte and other defendants about the hundreds of previous actions about Palestine Action over the years in relation to the absence of violence or serious unlawful violence with weapons like sledgehammers.

B Why on earth would Palestine Action suddenly in respect of the Filton case, after all these years, abandon non-violent direct action and embrace a wholly different approach involving planned violence with sledgehammers against security guards? I'm sorry, but the alleged in relation to this more generally does not make any sense, Palestine Action was not an organisation of violent people who assaulted security guards during their actions; that's the evidence that you've heard.

C Fifth point, now, you know that Palestine Action, before it was prescribed, was an organisation that was active on social media and thrived on the mass support it enjoyed from members of the public. This was an organisation where everyone thinks about its methods, that was committed to making a positive contribution to the struggles of Palestinian freedom and self-determination.

D Using violence against security guards would've been completely antithetical, completely contrary to the aims, objectives of this organisation and the strategy of non-violent direct action, not to mention utterly counterproductive. So, that's the fifth point.

E Sixth point, now, again I'll deal with this quickly, I've already addressed you about the Palestine Action documents in your jury bundle and what Ms Heer said about them in her closing speech. Indeed, none of those documents speak about using violence or causing injury to security guards if the need arose, none of them even speak about the fundamental right of using reasonable force to defend oneself or another if attacked.

F The height of it, from a prosecution perspective, is a reference to the converts, in other words, the black team, possibly having to push back and overrun security, but there's not a single reference to the inverts, in other words, the red team, having to use force against security guards whether the needs, the need arose or not.

G The prosecution is right, the plan all along was if necessary to injure, incapacitate security guards with sledgehammers this, you may think, would've explicitly featured somewhere in these detailed documents; the Crown cannot have its cake and eat it in relation to this point.

H Seventh point, is there any evidence that Charlotte was party to using a sledgehammer to injure or incapacitate a security guard inside that factory? Short answer, no, there's not a shred of evidence that she used a sledgehammer against a security guard, not one of the

A three security guards, Mr Shaw, Mr Volante or Mr Luke alleges that Charlotte struck or attempted to strike them with a sledgehammer, let alone injured or incapacitated them with a sledgehammer and there's no CCTV or body-worn footage of Charlotte striking or attempting to strike any of the three security guards with a sledgehammer.

B The height of it from the prosecution perspective is a few seconds of footage from Mr Luke's body-worn footage of Charlotte standing with a sledgehammer resting on her shoulder, a few metres away from where the other cameo of Mr Luke are tussling over another sledgehammer, which they're both holding. But Charlotte does nothing with the sledgehammer she's holding, she doesn't strike Mr Luke with it, she doesn't sling it, she
C does nothing.

In her closing speech, Ms Heer told you that this was Charlotte threatening unlawful violence by brandishing the sledgehammer at Mr Luke, that's what she said. Come on, that is so totally over the top, she was not threatening Mr Luke. Do you remember this footage, she's standing there, she's got it like this, she's, it's literally like two seconds and then what
D does she do? She turns around, hands the sledgehammer to Mr Devlin who runs up to smash more property.

You may think that what you can see in that footage is a non-violent woman, totally out of her depth, doesn't know what to do and so she does nothing. How can you infer from that
E intent to injure or incapacitate a security guard, she doesn't do anything? Where is the evidence of aggravated burglary?

What about secondary participation in aggravated burglary? Well, there's no evidence, either from the security guard or from the footage that Charlotte intentionally assisted or encouraged one of her co-defendants to use a sledgehammer against a security guard.

F In fact, if you look at the footage carefully, as I know you will, that's both the CCTV and the body-worn footage, at the interactions between the red team and the security guards, the only person who uses a sledgehammer as a weapon of offence to strike another person was Mr Balenti, who struck Jordan Devlin on two separate occasions with a sledgehammer and threatened others with it too.

G I'm at a complete loss as to how you could ever, given the evidence in this case, convict Charlotte of aggravated burglary. I repeat, there's no evidence from which you could reasonably infer an intention of her part to injure or incapacitate a security guard with a sledgehammer either when she entered the factory without permission, or for that matter,
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A any time prior to her arrest.

Eighth point, I briefly return to Mr Corner striking Sergeant Evans with a sledgehammer. Now, as you know, question one-three, the third question in relation to aggravated burglary, is limited to security guards, it does not extent to police officers. That, in any event,

B Sam Corner striking Sergeant Evans with a sledgehammer is not something that you can properly take into account against Charlotte as additional evidence in support of the prosecution case.

Why do I say that? Firstly, as I've already said, only Sam Corner is charged on count four, none of his co-defendants have been charged with intentionally assisting or encouraging

C him. Secondly, Charlotte, together with Fatima Zainab Rajwani, was face down on the ground somewhere else in the warehouse when Sam Corner struck Sergeant Evans with a sledgehammer. How could you possibly, in all fairness, rely on what happened subsequently, after she's lying face down on the ground, as additional evidence in support of the prosecution case against her?

D And finally, my ninth point, have any of the three security guards suffered injuries at the hands of the red team, which establish an intention to injure or incapacitate the security guards with sledgehammers if the need arose?

Mr Shaw first of all, he told you that all his physical injuries were sustained outside the factory before he came inside, so that is positive evidence of the red team having no

E intention to injure or incapacitate him; it completely contradicts the prosecution case. Mr Belanti, he told you he suffered some minor injuries, a laceration to his right wrist, a blood blister to his left thumb, a scrape to his knee and some aches and pains in his muscles and shoulder; he didn't specify when he sustained those injuries.

F If you watch Mr Shaw's body-worn footage from outside the factory when you retire, you may think Mr Volante almost certainly sustained the minor injuries that he did when members of the black team rescued the member of the black team who Mr Shaw and Mr Volante were detaining and immediately after that, when you can see on the footage

G members of the black team using a whip, or multiple whips, against Mr Belanti; that, you may think, was when he sustained those relatively minor injuries. And Mr Luke, the only injury he mentioned was a small cut to his finger that didn't require any medical attention. So, putting that all together, how on earth on those minor injuries that were suffered by Mr Volante and Mr Luke, even if sustained inside the factory, which in Mr Belanti's case is

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A highly unlikely, establish an intention on the part of the members of the red team to injure or incapacitate the security guards if the need arose? I'm sorry to say this, but the prosecution case on aggravated burglary is so weak, so dangerous and so misconceived, please do not fall for it.

B Now, if you consider the evidence carefully and if you take my nine points into account, I suggest the only way that you could possibly infer from the evidence that Charlotte, or any of her co-accused for that matter, when entering the factory without permission, intended to injure or incapacitate a security guard with a sledgehammer if the need arose, would be clearly [inaudible] the evidence altogether, and engage in impermissible speculation instead.

C That is why I say to you that the only just verdict on the count of aggravated burglary is one of not guilty.

D And with that I turn now to criminal damage, and if we could start again by looking at the indictment on count two. So, the particulars of the offence are at the top of the second page, the defendants are named there together with all the other named individuals and others, on 6 August 2024 without lawful excuse destroyed or damaged property belonging to Elbit Systems UK Ltd, intending to destroy or damage such property or being reckless as to whether such property would be destroyed or damaged.

E Now, during the evidence, I believe it was of Sam Corner, one of you sent a note to His Lordship asking the following question, 'If we decide that they genuinely believed that they were performing life-saving action and were morally compelled to destroy weapons they believed were going to be used to kill civilians in what they believed to be the legal genocide, would that amount to an unlawful, sorry, to a lawful excuse?'

F It was an excellent question and the next day His Lordship gave you an answer, it was along the following lines and I haven't got this word-for-word accurate, my apologies, but this is how I noted it down. 'If a defendant genuinely believed that they were performing life-saving action and was morally compelled to destroy weapons they believed were going to be used to kill civilians in what they believed to be a legal genocide, then I have ruled that would not count as a lawful excuse. I will give full directions on this issue at the end of the case.'

G In other words, the answer to the question was that the Judge had already ruled as a matter of law, before hearing from the defendants, that they did not have a lawful excuse for damaging property belonging to Elbit Systems. And then if you turn to the legal directions,

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A I'm sorry to jump back and forth, I hope it's not a problem, and if you look at paragraph 3.8 of the legal directions, this is the judge, His Lordship returning to that very point.

B Three-point-eight, top of page four of the legal directions, 'As I told you when you asked a question about this, if a defendant believed that they were morally justified in doing what they did to prevent what they thought was a genocide, then that would not amount to a lawful excuse. There is no evidence in this case of anything that is capable in law of amounting to a lawful excuse, so that is not something that you need to consider'.

C So, the position is, putting that altogether, the answer to the question that one of you asked, the direction at paragraph 3.8, it boils down to this. However strange it might seem, given the facts of the case are solely for you, judges are entitled as a matter of law in our system to withdraw defences from the consideration of the jury if they conclude that there is no evidence to support the defence and that is what His Lordship had decided to do in this case and that's why, when you turn to the route of verdict on criminal damage, second page, in relation to count two the words, 'Lawful excuse' do not appear in either of the questions.

D So, the first question is, are you sure that property, the premises was intentionally destroyed or damaged by one or more of the defendants, and are you sure that the defendant either personally destroyed or damaged property or encouraged or assisted another person to do so intending that the property be destroyed or damaged? So, no reasonable, I'm sorry, lawful excuse there because His Lordship as a matter of law has withdrawn that defence from your consideration.

E Now, when His Lordship on Tuesday read out the legal directions and the route to verdict, he added, and it's not in writing, but he added orally that questions 2.1 and 2.2 in relation to criminal damage were unlikely to cause you difficulty given there is no dispute that the defendants, when giving evidence at least, intentionally damaged property in Elbit's premises.

F Now, arguably, I'm not getting embroiled in this, but arguably Jordan Devlin is in a different position as he didn't give evidence, so I'm not going to say anything more about him, my focus will be, as far as criminal damage is concerned, on Charlotte and the other four who gave evidence.

G So, that's what His Lordship said to you, and Ms Heer in her closing speech, pretty much on the same theme, told you that the defendants who were giving evidence had not raised any real challenge to the charge of criminal damage.

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A I'm sorry, but it is not right to say that the defendants who gave evidence did not raise any
challenge; they did raise a challenge. They maintained that they had a lawful excuse, so
that was their challenge. Now, what's happened is His Lordship has withdrawn that
B defence as a matter of law and that is the true position that we find ourselves in; so, their
challenge was lawful excuse, the Court has withdrawn the defence from your consideration,
that is the position.

So, where does that leave you, members of the jury? Well, you could be forgiven for
thinking that His Lordship is in fact directing you as a matter of law in his legal directions
and in his route to verdict to convict Charlotte, who I'm going to focus on now again, of
C criminal damage. However, you would be wrong to think that, His Lordship is not directing
you to convict, in fact, not only is he not directing you to convict, but he's also absolutely
forbidden from doing so as a matter of law.

The law is crystal clear on this point, no judge in any criminal case is allowed to direct a
D jury to convict any defendant of any criminal charge whatever the evidence might be; that is
the law. Please remember that fundamental principle at all times when you retire, please do
not misinterpret anything in His Lordship's legal directions or in his summing-up, which
will follow defence speeches, as amounting to a legal direction to convict; that would be a
terrible mistake to make. I repeat, His Lordship is absolutely not directing you to convict
E because he's barred as a matter of law from doing so.

Now, you've got every right to be confused about this because it is confusing, you have
every right to think that the distinction between withdrawing the only available defence to a
criminal charge on the facts and a direction to convict is at best a distinction without a
difference. You've every right to think that the two effectively amount to the same thing, in
F other words, withdrawing the only available defence to the charge and a direction to
convict.

However, the fact of the matter is they're absolutely not the same thing; they are
fundamentally different. Let me try and explain it and apologies if I fail to do so, but let me
try to explain it. If you take up your legal directions again and look at the very first section,
G which is headed, 'Functions of judge and jury', it's quite a lengthy section, you'll see, it's
all of the first page and it's more than half of the second page.

Now, I'm not going to go through it point-by-point, but I would ask you to read that section,
well, all of it, but in particular this section very carefully when you retire. All the directions
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A in this document are important, but I would suggest that these directions in the function of judge and jury are particularly important in this case and it's not a coincidence, I suggest, that they are the first legal directions in the document.

B Now, the key point to summarise, rather than just read the whole thing out, is that the facts and the verdicts you return, having considered the facts, are solely for you. In short, nobody, not even His Lordship, can direct you what factual conclusions to reach; nobody, not even His Lordship, can direct you to convict. It's as simple as that, that's the law.

C So, for the avoidance of any doubt about this, I am absolutely not asking you to disregard His Lordship's legal directions. On the contrary, I'm asking you to follow them, in particular, in particular this section on the functions of judge and jury, and remind you that nobody, not even His Lordship, can dictate to you what factual conclusions to reach in this case or direct to convict the defendants of any of the charges they face.

D Indeed, it was as long ago as 1670 that the independence of the jury was definitively established beyond question. William Penn and William Mead were Quakers; they were prosecuted for preaching to an unlawful assembly. It was a crime in 1670, this is about 20, 30 years after the end of the English Civil War, to have a religious assembly of more than five people outside the auspices of the Church of England.

E And what William Penn and William Mead had done was they had preached to a group of more than five people on the streets of London; they stood trial at the Old Bailey before a judge and jury. At the end of the evidence the judge directed the jury to convict, the jury refused to convict.

F The judge was furious, he ordered the jury to convict again and stated that they would not be dismissed until they did so; the jury again refused to convict. The judge remanded the entire jury in custody for two days and ordered that they be denied all food and water. As the jurors were being taken from court to prison, William Penn, it is said, shouted out, 'You are Englishmen, mind your privilege, give not away your right', to which one member of the jury, Edward Bushell, it is said, replied, 'Nor shall we ever do'.

G When the jury returned to court two days later, having not had any food or water for that period, the judge again ordered them to convict; the jury continued to refuse and returned a verdict of not guilty. The judge was determined not to let the matter lie; he fined the jury for contempt of court and remanded them in custody until the fines were paid. Eight jurors paid their fines, four jurors refused to pay and one of those jurors was Edward Bushell.

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A Edward Bushell then petitioned a Higher Court in what is called a writ of *habeus corpus*, which if issued by the court would result in his immediate release from custody. The Higher Court issued that writ and Edward Bushell and the three other jurors were released, thereby establishing the right of a jury to return a verdict without fear of punishment from the trial judge.

B Now, this legal challenge by Edward Bushell has come to be known as Bushell's Case and is one of the most celebrated cases in British legal history. There is a marble plaque inside the Old Bailey in Central London, which reads as follows: 'Near this site, William Penn and William Mead were tried in 1670 for preaching to an unlawful assembly in Grace Church Street. This tablet commemorates the courage and endurance of the jury, Thomas Vere, Edward Bushell and 10 others, who refused to give a verdict against them, although locked up without food for two nights and were fined for their final verdict of not guilty. The case of these jury men was reviewed under a writ of *habeus corpus* and Chief Justice Vaughan delivered the opinion of the Court, which established the right of juries to give their verdict according to their convictions'.

D So, bringing that all together, members of the jury, you can find Charlotte and her co-defendants not guilty of criminal damage; it is a perfectly fair and proper verdict for you to return in this case. Please do not for one second think that you are somehow barred as a matter of law from doing so, indeed, you should find Charlotte and her co-defendants not guilty of criminal damage.

E It will undoubtedly take great courage and independence I accept to do so, but the facts ultimately are solely for you, please never forget that. And don't worry, the good news is that we've moved on since 1670, there is no prospect of you being imprisoned or fined for the factual conclusions you reach or for the verdicts you return. And that brings me, as far as criminal damage is concerned, to His Lordship's summing-up of the evidence, which will follow defence speeches.

F Now, I have no idea how His Lordship is going to pitch this, how His Lordship is going to approach his summary of the evidence. He might do what many, if not most judges, do these days, namely sum-up the evidence without making any comment, without expressing any opinion, without any edge, without any spin, without any innuendo; in other words, 100% neutrality.

G You may think that would be the fairest approach to take, given a trial judge is like a

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A referee, an umpire. However, our system does allow judges to make comment and express opinion, even strongly in certain circumstances, as long as the summing-up remains balanced and impartial, as long as the fundamental of any defendant to a fair trial is not undermined, as long as the jury is directed that you are entitled to reject any judicial opinion on the facts if you wish, as His Lordship has already directed you, and as long as any judicial opinion or comment is not wrongly expressed as a legal direction that you must follow.

B So, if His Lordship does decide to express an opinion on the evidence, please do not under any circumstances misinterpret that opinion as a legal direction because it is not.

C Obviously, if you agree with the Judge's opinion you may adopt it, but the opposite is equally true. If you don't agree with the Judge's opinion, you may reject it; that is your right, that is your privilege as jurors because I repeat, you are the sole judges of the facts, nobody, not even His Lordship, can direct you to convict in this case.

D So, that's what I say about criminal damage; I move on now to violent disorder, count three on the indictment; if we could have a look at that please, it's at, on the second page? Particulars of offence, the defendants' names together with the other names and others, on 6 August 2024, used or threatened unlawful violence when present together with others, being three or more persons in total, used or threatened unlawful violence and the conduct

E taken together was such as would cause a person of reasonable firmness present at the scene to fear for his/her personal safety.

Now, again, a complete mouthful, lawyers really struggle to express things in simple terms, this, these particulars, I think, are just another indication of that; let's try to break it down as best we can. So, first, a general point, violent disorder is a serious Public Order Act charge,

F which involves in the simplest terms the use or threat of unlawful violence by three or more people present together.

So, I repeat that, the use or threat of unlawful violence by three or more people present together; it is designed as a Public Order charge for the protection of the hypothetical

G bystander of reasonable firmness. So, it's not somebody in this case, but somebody else who happened to be present together with the relevant parties, and it's designed for the protection of that person in relation to any unlawful violence used or threatened.

Now, it's important to remember, this is there in the legal directions, implicitly at least, that violent disorder can cover a multitude of factual situations. It can be committed in private,

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A it can be committed in public, and also violence for the purposes of violent disorder includes, as you know, much as violent conduct against a person, it also includes violent conduct against property.

B So, you have to decide on a number of different matters of fact before you can reach verdicts in respect of violent disorder; if we just turn to paragraph 3.9 please of the legal directions, which is the paragraph in which His Lordship, as simply as one can, defines the offence. A person is guilty of violent disorder if they are present together with two or more people and that they used or threatened unlawful violence or assisted or encouraged at least three people to do so, intending those people to use or threaten unlawful violence, and that the conduct of the group taken together would cause a person of reasonable friendliness at the scene to fear for their personal safety.

C Again, it's a bit of a mouthful, but the words that I really want to focus upon at this stage are the words, 'Present together' and it's really important that you remember the words, 'Present together' in relation to all the three questions that you have to answer in relation to this criminal offence.

D 'Present together', so, bearing that in mind, if we then turn to the route to verdict and look at those three questions. Question one, are you sure that the defendant was one of a group of three or more persons who were together at Elbit's premises on 6 August 2024? So, slightly different [inaudible], it says here, 'Who were together', but I'm sure you get the point, it's the same thing; so, that group of three or more people have to be present together, so, that's the first thing.

E The second question, are you sure – the words, 'Present together' don't appear, but they are implicit and I'm sure His Lordship will make that clear to you when he sums up the evidence to you. So, are you sure that the defendant, and at least two others, used or threatened unlawful violence, that is violence that was not in self-defence or defence of another?

F So, those three people have to be present together, intending to do so, or that they assisted or encouraged at least three other people to use or threaten unlawful violence intending those persons to do so? And then again in relation to question three, are you sure that the conduct of the group of three or more persons, again, it's the same group from the earlier question. So, it's that same group of at least three people, present together, would have caused a person of reasonable friendliness who was present at the scene to fear for their

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A personal safety.

B So, that's why I stress that whoever ultimately was in the group, they've got to be present together, it's so absolutely essential that you remember that. Now, why do I say that? Because you cannot take into account the conduct of two or more persons other than Charlotte, in her case, when considering whether she is guilty or not of violent disorder, unless those two or more persons were present together with her.

C So, when you're deciding whether she's guilty or not of violent disorder, the conduct that needs to be taken into account has got, has got to be her conduct and the conduct of at least two others, who were present together with her. If they're not present together with her at the relevant time then it's, then it shouldn't be taken into account because it's not properly evidence in respect of violent disorder.

D And what does present together mean? Well, they should, these are words that should be given their ordinary English meaning, all present together means is in the same place at the same time. That's what present together means, it's as simple as that.

E Now, it's entirely a matter for you because this is, again, this is a matter of fact; this is not a matter of law. It's entirely a matter for you to decide who Charlotte was present together with at any time after she drove the prison van through the fence and entered Elbit's premises because for the purposes of violent disorder it's not just the building; it's the premises as a whole, so, it's from the point when the van comes through the fence.

F So, I hope that is clear, I know it's a bit of a mouthful, I apologise for that, but I hope that the way I've approached it with you in terms of the focus and present together has simplified things a little. So, with all that in mind, let's have a look at the questions insofar as they apply in Charlotte's case.

G So, there's no dispute that after Charlotte drove the prison van through the fence, she was at different times present together with at least two other people within Elbit's premises; that isn't in dispute in this case, you know what the evidence is, that's accepted. And obviously who is in that group is going to be one of the critical issues you have to decide, but I'll come back to that; in general terms, that isn't an issue in dispute.

H Second question, are you sure that – actually, before I go to the second question, sorry, apologies, I need to just make some points in relation to that.

So the complication in this case is that what happened in Elbit's premises after the prison van went through the fence is not, on any view, a single, continuous, seamless incident like,

A for example, I don't know, a classic pub brawl or a clash between opposing football fans.

B What happened here, particularly inside the factory, was a series of spontaneous incidents between different groups of people at different times. So determining, in respect of any defendant, who, at a particular time is a member of the group of three or more present together is not entirely straightforward. The reason who you decide is in that group together at any given time is so important is that it will impact what conduct you ultimately take into account when deciding whether that hypothetical bystander of reasonable firmness present at the scene would have feared for their personal safety.

C So this is – this charge is a bit of a minefield actually, frequently misunderstood even by lawyers. Now the prosecution say, in relation to the group, that it consists of all those who participated in their action on the night in question as they were all acting together in furtherance of a joint plan to use or threaten violence to people on property. In other words, the group includes the red team and it includes the black team. That's the prosecution case.

D It's a matter of fact for you to decide whether that's right or not.

E Now I've already dealt previously in relation to aggravated burglary with the plan. I'm not going to repeat anything I said then but all I said then in relation to the plan, the plan is equally to violent disorder. I make the same points. All I say now, for present purposes, in relation to violent disorder is that the red team was never party to any joint plan to use or threaten unlawful violence to people. There is simply no evidence from which you could reasonably conclude the existence of such a plan. In fact, all the evidence I suggest you have on this issue is to the contrary. Consequently, it would be wholly unfair and improper, I suggest to you, to take into account any use or threat of unlawful violence by the black team outside the building as evidence for the purposes of violent disorder against the red team.

F In addition to that, the red team was not even present together with the black team when, for example, Nigel Shaw was assaulted by members of the black team outside the factory. I mean, you know that there were others. And the others some considerable distance away, around the corner, in fact, of where the loading bay was, and out of sight. They knew nothing, the red team, about the assault on Shaw. How could it be possibly be right to hold that against Charlotte for the purposes of violent disorder? Your starting point, I suggest, in relation to violent disorder should be that the group of three or more persons is strictly confined to the red team. The starting point. That's the only fair and proper factual position

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A to take, I suggest, in this case.

B But that, of course, is not the end of the matter and that brings me to question 3.2. Are you sure that the defendant and at least two others used or threatened unlawful violence, that is violence that was not in self-defence or defence of another, intending to do so, or that they assisted or encouraged at least two other people to use or threaten unlawful violence intending those persons to do so?

C And, of course, I've already stressed to you the importance of the words 'present together' which do not expressly appear there but implicitly do. Now the importance in relation to this question is this: no defendant can be convicted of violent disorder unless they used, threatened, intentionally assisted or intentionally encouraged unlawful violence. In other words, violence not in self-defence or defence of another. So that's the first point. No defendant can be convicted of violent disorder unless they personally used, threatened, intentionally assisted or intentionally encouraged unlawful violence, i.e. not in self-defence or defence of another. Furthermore – that's my first point – no defendant can be convicted of violent disorder unless they were present together with at least two others who also used, threatened, intentionally assisted or intentionally encouraged unlawful violence. That's the basic foundations of the charge.

D So consequently, what does that mean? It means that you will need to decide precisely what unlawful violence used, threatened, assisted or encouraged can be laid at the door of each defendant. Because in the event that you be able to decide what overall conduct to take into account when applying that hypothetical bystander test. That's the only way you can do it. So for each person, you have to go through that exercise. What did this person use, threaten, assist or encourage?

E And then turning, finally, to the third question, the hypothetical bystander question. Now this is not an easy question because, again, you've got to put yourselves in the shoes of the hypothetical bystander of reasonable firmness in deciding what the answer to the question should be. And you've got to answer it on a defendant-by-defendant basis. And obviously, the answer to it will depend on who's in the group and what conduct you're taking into account as a matter of fact.

G So I go back to that point I made earlier about this not being like a pub brawl or like a clash between opposing football fans who are being indiscriminately attacking – who are indiscriminately attacking each other. Because in those situations – I mean, think about it.

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A If you're in a pub and it just kicks off, you might well fear for your personal safety in those
circumstances, if you're kind of parachuted into that pub at that particular point. Likewise,
B a clash between opposing football fans. But in this case, because of the nature of what
happens inside that factory, it is important to bear in mind that that hypothetical bystander is
not somebody who just falls out of the sky and is simply present to watch the prosecution's
favoured selection of individual episodes inside the factory from the vantage point of the
security guards and their body-worn cameras and ignore all those other episodes that take
place that paint a totally different picture. That wouldn't be a fair way to approach the
hypothetical bystander. The hypothetical bystander is going to see everything happening
C inside that factory, not just what the prosecution wants them to see.

So let me point out, just as a few examples, what that hypothetical bystander, you know,
would see from the vantage point of the defendants in this case. The hypothetical bystander
would see that there were three burly, male security guards and six young people dressed in
red, four of whom were relatively small, young women present inside the factory. So that's
D the overarching picture that that hypothetical bystander would see.

The hypothetical bystander would see that one of those security guards, namely
Angelo Volante, putting it as neutrally as I can is aggressive, if not violent, towards those in
red. The hypothetical bystander would see that a number of the women in red had real
E trouble holding the sledgehammers, let alone swinging them when damaging property,
because they were heavy. The hypothetical bystander would see that several of the
individual confrontations taking place inside the factory never became physical and merely
involved lots of shouting and/or swearing. The hypothetical bystander would see that one
of the men in red, namely Jordan Devlin, was unarmed whilst trying to de-escalate the
F situation for some considerable period of time and get one of the security guards, namely
Mr Volante, who was armed with a sledgehammer, to calm down and leave. The
hypothetical bystander would see that most of those in red were single-mindedly focused on
damaging as much property as possible and were not a threat or a danger to them. The
G hypothetical bystander would see that although the people in red were, on occasion, armed
with sledgehammers or crowbars, they were not, in fact, using them as weapons of offence
against a security guard.

And the list goes on and I am just giving these as a selection of examples of things that
don't really fit in to how the prosecution says this incident inside the factory for that period
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A of whatever it was, 15, 20 minutes, was unfolding. I hope you get the point. So you've got to decide who's in the group and what unlawful conduct can properly be attributed to that group before you apply the hypothetical bystander test. And whatever you do, please do not hold the conduct of Mr Volante, when he was assaulting Jordan Devlin or when he was screaming at Charlotte, and Fatema Zainab, against the defendants. That conduct, in isolation, may well have led the hypothetical bystander to fear for their personal safety but that can't be laid at the door of the defendants.

B Now before I turn to the evidence from which the prosecution is inviting you to conclude that these defendants are guilty of violent disorder, I just want to make some general observations about the evidence of the three security guards. So I start with Mr Shaw. And it's all – I'm [inaudible] only relevant in relation to violent disorder, which is why I'm sort of making them now. Now I'll be brief about Mr Shaw because, as you know, he accepted in cross-examination that he had no physical contact of any kind with anyone wearing red inside the factory. He was not struck by anyone with a weapon inside the factory and all his physical injuries were sustained outside the factory before he came inside.

C As far as the red team and violent disorder is concerned, Mr Shaw gave no evidence in support of the prosecution case. On the contrary, his evidence suggests that none of the red team are guilty of violent disorder because none of them used or threatened unlawful violence against him. So he – his evidence is of huge assistance to the defence, in fact, as far as what happened inside the factory is concerned.

D Mr Volante, as I'm sure you appreciate, I've got a little bit more to say about him. And I have to say on Tuesday, when Ms Heer was summarising the position in relation to Mr Volante, I was quite astounded by how she was addressing you on him because the man she described on Tuesday to you, and in such glowing terms, is neither the man who gave evidence in this trial nor the man who you see in that footage.

E Just to be clear about this, Mr Volante is the man who assaulted Jordan Devlin twice with a sledgehammer, clearly injuring him in the process. Mr Volante is the man who made no mention in his witness statement dated 7 August about that because he says he forgot. Mr Volante is the man who also kicked Jordan Devlin; the still, you remember, from camera 21. Mr Volante is the man who ran into the factory with a whip that he'd confiscated from a member of the black team.

F Why did he do that? Why didn't he leave the whip wherever he left the axe that he had also

A confiscated? And in relation to that whip, why did he make no mention of bringing the whip into the factory in that same witness statement dated 7 August, the day after? Again, he told you he forgot. There was a lot to remember, he said. Why was he forgetting to include in that witness statement all the things he did which he knew perfectly well would paint him in a bad light?

B Mr Volante is the man who was constantly seeking to escalate matters inside the factory as opposed to de-escalate. Mr Volante was the man who screamed at the very top of his voice, with his face contorted, at Charlotte, and Fatema Zainab. Now you'll remember, I described this when cross-examining Mr Luke as Mr Volante's Incredible Hulk moment. Apologies if
C any of you thought that was a bad joke but watch the footage, look at his face. Put it on full volume [inaudible] which he described that same episode on Tuesday to you as memorable.

Well, a matter for you but I thought maybe that was a rather strange choice of words to describe the way that Mr Volante was behaving. But whatever conclusions you draw about
D this man, to suggest, as Ms Heer did on Tuesday, that the only people prior to the arrival of police who had force used or threatened against them were the security guards is, I'm afraid, wholly inconsistent with the footage in this case. Wholly inconsistent with it.

What about Mr Luke? Well again, I'll be brief about Mr Luke because I know this was a long time ago but with all due respect to him, his evidence was so thoroughly confused and
E all over the place. Do you remember it? He insisted that he had put his body-worn camera on when he first entered the warehouse even though we now know that he clearly did not. When inconsistencies between his evidence and the footage were pointed out to him, he admitted getting mixed up about the order of events and using the wrong words. He also
F admitted mistakenly saying in his witness statement that he disarmed one of the women in red. And I'm going to leave it beyond this. I anticipate the other defence counsel will have more to say about Mr Luke but his evidence is just really all over the place.

So having summarised those three, let me turn to Charlotte and her actions inside the factory. And we'll start with unlawful violence to property and I'll deal with this very
G quickly. Obviously, this will depend on your verdict on count two. If you have found Charlotte not guilty of criminal damage then that will mean she did not use unlawful violence against property. If you have found her guilty of criminal damage then that will mean that she did use unlawful violence against property and you will take that violence into account, together with any other violence you find in respect of her and the other
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A members of the group of three or more, when you apply the hypothetical bystander test. So obviously, in relation to property and violent disorder, it will depend on your verdict in relation to criminal damage. I hope that's obvious.

B What about unlawful violence against a person? Well, there are two matters that the Crown alleges against Charlotte in relation to unlawful violence against a person. The first is that she used a whip on Mr Volante and the second is that she used a whip on Mr Luke. So let me just deal with those in turn.

C As far as Mr Volante is concerned and the alleged use of the whip against him, there is no CCTV or body-worn footage of Charlotte hitting him with a whip. Mr Volante said this happened in the area of that alcove. And even more important than the fact that there's no footage of it, Ms Heer did not put to Charlotte in cross-examination that she hit Mr Volante with a whip. She didn't put it. She put the Luke incident; she didn't put the Volante incident. So how are you supposed to conclude, so that you are sure, that Charlotte hit Mr Volante with a whip when the prosecution, it seems, isn't sure about it because it was never put to her when she gave evidence? Well, you can't possibly rely on this alleged assault with the whip on Mr Volante. Well, the first thing is there's no evidence of it other than Mr Volante saying it. And secondly, it wasn't put by the prosecution when the defendant was giving evidence. So that's all I say about that.

E What about the whip on Mr Luke? So you know the position on this. You've seen the footage on multiple occasions and you can watch it, of course, as many times as you want when you retire. Summarising, there is some very brief body-worn footage of Mr – sorry, excuse me, of Charlotte holding a whip in front of her whilst Leona Kamio and Mr Luke are tussling over a sledgehammer, both not letting go. Ms Heer said to you in closing that if you look carefully, you can see Charlotte whipping Mr Luke twice. That was what suggested to you. Well, I dispute you can see that. You're going to have to resolve that issue. Charlotte told you that she was half-heartedly waving the whip towards Mr Luke; as she said, 'A pathetic deterrent', when he grabbed hold of it and she let go of the whip. She denied striking Mr Luke with it. She accepted that she might have hit the whip on the ground but she denies hitting him with it. Mr Luke told you that a female tried to hit him with a whip but he caught the whip in his hand and he later said he was, in fact, not sure if he grabbed it or not.

H So I hope that's a fair summary of the position. Obviously, you are going to have to look at

A the footage to resolve this but taking that all together, how can you be sure that she hit Mr
B Luke or tried to hit Mr Luke with the whip? It's far from clear, I'd suggest, looking at all
the evidence in the round, Charlotte's evidence, Mr Luke's evidence and the footage, that
that ever happened. You may think it was as likely, if not more likely, that Charlotte was
simply holding the whip in front of her, waving it around, possibly hitting the ground with
it, all because she was worried Leona Kamio getting harmed and didn't know what else to
do. You'll remember that seconds after the whip is no longer in her hand, she's standing
waving a sledgehammer. All of this happens in about four or five seconds, literally, if that.
So that's the allegations against her in terms of the use of violence.

C What about the threat of unlawful violence? Well, again, you have to consider this but I
suggest she did nothing inside that factory that amounted to the threat of unlawful violence.
I repeat what I said earlier: simply holding a sledgehammer for a few seconds during that
tussle between Ms Kamio and Mr Luke is not threatening Mr Luke in any way. So that's
what's alleged against her individually.

D What about her intentionally assisting or encouraging others on the red team to use or
threaten unlawful violence? Well, there's nothing specifically alleged to her – against her
about this. I mean, the approach seemed to be – and I read through my notes about this
again just to make sure I was getting this right. I mean, there was very much a broad-brush
E approach being taken as far as secondary participation in violent disorder was concerned in
the sense that each of the defendants was intentionally assisting or encouraging the others.
And that's really how it was put. And you have to think very carefully about that because
this is a serious criminal charge. You have to be able to identify the facts that you're going
F to take into consideration when assessing whether the conduct of the group of three or more
meets the hypothetical bystander test. You can't deal with vague stuff here. You've got to
make specific factual decisions and it's only on the basis of those specific factual decisions
that you can answer the third question, the hypothetical bystander question that you have in
your route to verdict.

G And one final point as far as the evidence on violent disorder is concerned – again, it's
obvious, this, but I think it's so important I've got to say it. Any use or threat of unlawful
violence that occurred after Charlotte was face down on the ground should not be properly
included in the conduct of the group for the purposes of questions 3.2 and 3.3. I mean, it's
an obvious point, isn't it? That would be really unfair and improper. She's face down on

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A the ground. How is she criminally responsible for what other people are doing in other parts of the warehouse once she gets onto the ground? And so, you know, the clock starts to tick as far as Charlotte and violent disorder is concerned the minute she gets down on the ground. That's what I suggest to you. That is the fair, factual approach for you to take in this case. She cannot be held criminally responsible for whatever happens after that point.

B At the end of the day, whether you limit the use or threat of unlawful violence to Charlotte damaging property, if you've convicted her of criminal damage, or whether you include what is alleged by the prosecution in relation to the whip, if you're sure that she did what is alleged – even if you take all of that together with the use or threat of unlawful violence by any members of the group present together with Charlotte at the scene, I suggest the hypothetical bystander would not have feared for their personal safety. This was not, again, I repeat, like that pub brawl, like that fight in the park between opposing football fans, an indiscriminate free for all which might well cause fear in the hypothetical bystander. This was very different from that and, in my respectful submission, if you look at it in that way, the questions will drive you, in Charlotte's case, to return a verdict of not guilty on violent disorder.

D I'm almost there, members of the jury. I've been going about an hour and a half. I've got nearly 10 or 15 minutes left. If any of you want a break now, please put up your hand, otherwise I'll just keep going. I think that means I can keep going. If you change your mind, please indicate.

E All right, so look, two final brief topics before I make some concluding remarks. I've dealt with the charges now. Firstly, the GoPro video of Charlotte and Fatema Zainab laughing when they're lying on the ground. And you'll recall the footage. It was played to you; it's very brief. One of them says, 'We broke into the most secure [inaudible] factory', and the other says, 'You've been [inaudible] actioned.'

F Well, firstly, again, please remember the obvious point when you consider this footage, that they have been on the ground for some time. They didn't see what was happening elsewhere in that warehouse after they lay down on the ground. And you need to bear that in mind when you evaluate this. I asked Charlotte about this, you may recall, when she gave evidence, and she acknowledged that this footage did not look great, as she put it. She said watching it, it felt like that moment when you giggle at a funeral. And you may think that is a pretty good description of it because it was a bit silly and childish, quite frankly, in

A the circumstances. But she tried to explain and said, look, you know, they were shaking at
the time, they were frightened and they just did something silly and stupid to calm
B themselves down. And you may think that might explain that. Ultimately, entirely for you
to decide. I appreciate it doesn't do either of them any favours. You are entitled to take it
into account, however, you may feel that, ultimately, it is of little help when deciding the
three serious charges that they face. This really isn't that important a piece of evidence,
ultimately, that deserves any prioritisation by you when you look at it in the round. But
that's a matter of fact; it's entirely for you.

C The final topic is the arrest and interview. So you know the position: after being arrested at
the factory, Charlotte was taken to a police station. Whilst in custody and before her first
interview, she was further arrested on suspicion of having committed a terrorist offence.
This, I suggest, is another example of prosecutorial overkill in this case, this time by the
D police. She was, as you know, never charged with a terrorist offence. Prior to her first
interview, she had a private consultation with a solicitor who, as you know, advised her to
go no comment to every question she was asked in interview and instead serve a brief,
prepared statement. She followed that advice.

E Could we have a quick look at the agreed facts, please? It's the only time I'm going to ask
you to look at these. Paragraph – agreed fact 115. It's towards the end, bottom of page 21
of the agreed facts. So you can see there at the bottom of the – I think we all have it. So she
was interviewed in the presence of a solicitor between the 9th and 12 August. So she'd been
in custody for three days before her first interview. At the beginning of the interview, she
was cautioned and the caution is set out at the top of page 22: 'You do not have to say
F anything but it may harm your defence if you do not mention when questioned something
which you later rely on in Court. Anything you do say may be given in evidence.'

And then 116, during the course of the interview, she provided a written statement which
said – and you can see from this that this is not the entirety of the prepared statement. These
are the relevant bits for the purposes of this case that have been included and that's where
G you have the dot dot dots and various things. I'll just read this out: 'At no point did I use
violence, serious or otherwise, against another person. I did not intend that violence should
be used at any point. I strongly believe in non-violence and I'm committed to this in all
aspects of my professional and personal life. At no point did I see anyone other than
H security guards use violence against any other person. I did not carry any weapons.

A Nobody was carrying any type of incapacitant spray. No such spray was used other than by the police, who used it against me when they entered the building. I did not see anyone fire fireworks towards security guards or police. I did not resist arrest. When I was told by security guards to get on the floor, I did so.’ And then there’s a reference to a telephone number and a booking for the campsite.

B And you’ll recall in evidence, I also elicited from her that, in fact, it was the first line of the prepared statement – it’s not in here but the first line of the prepared statement actually said, ‘I am not a terrorist.’ It was at that stage she had just been arrested in relation to that. Otherwise, she made no comment to all questions. So that is where – the position.

C Now you have, and I’m not going to take you it – it’s a lengthy, lengthy direction that His Lordship has given you on how you should approach no comment interviews. It’s at section 9 of the legal directions and it’s a – it’s pretty complicated stuff but it sets out the circumstances in which you are entitled to hold against a defendant any facts that they had mentioned at trial that they failed to mention in interview or in their prepared statement.

D And it’s – there’s lots of preconditions and the like and it’s – you have to go through this sort of step by step, I’m afraid, in relation to each defendant.

E And it boils down, I suggest, to this. It’s an oversimplification, this, but I wanted to try to encapsulate the entire direction in one or two sentences and it effectively boils down to this:

F if you’re satisfied about certain preconditions, which are set out in the document, and you conclude that it’s fair and proper to do so, you may take into account the fact that Charlotte did not mention, when questioned by the police, two facts on which she now relies as additional support for the prosecution case. And those two facts are one, that she did not expect the security guards to intervene, and two, that she did not know the black team would be in possession of whips or axes. So those are the only two facts the prosecution is relying upon in respect of her not having mentioned them in interview.

G Now I say there are five reasons why you should not draw any adverse, any negative inference against Charlotte for the fact that she didn’t mention those two facts. Firstly, a general point that is nothing to do with this case specifically. The failure to answer questions in interview on a particular topic does not prove guilt or innocence. Some defendants who are guilty answer questions in interview; some defendants who are guilty do not. Likewise, some defendants who are innocent answer questions in interview; some defendants who are innocent do not. It is illogical, I suggest, to conclude that the issue of

A whether or not you answer no comment is somehow indicative of guilt or not; it simply isn't. It's too broad a conclusion to reach in a situation like this, and this is a general point.

B Then turning to this case, point number two: Charlotte, as you know, was advised by her solicitor to go no comment. Now the prosecution is right; she could have rejected that advice. She's an adult with mental capacity; she could've answered questions anyway. But

C why would someone who has never been arrested before reject the advice of an experienced legal professional who is there to advise her in these circumstances? Why would you do that? It would be mad to do that, wouldn't it? If any of you or any of your loved ones ever had the misfortune to get arrested and were advised by a solicitor, having no experience of the police station at all, to go no comment in the interview, would you really reject that advice and answer questions anyway? Of course you wouldn't. So that's the general point.

D I'm not saying it's 100% a get out of jail card in relation to the adverse inference but it's pretty close, you may think, in the circumstances in the context of this case.

E Third point: Charlotte told you she was in a complete state after being arrested on suspicion of having committed a terrorist offence. And you can imagine that she would have been in all the circumstances. She told you she was shocked and confused. She did not remember a lot about what had happened in the factory. She described it as the craziest 20 minutes of her life. She needed to watch the footage to get any sense of what was going on. The

F police, at one stage, she told you, had to call an appropriate adult because she couldn't stop crying. An appropriate adult is somebody who the police call, for example, for when a child is in a police station or someone who's got mental health issues. That's the – that's what was going on here at the time. She told you she couldn't have given a coherent answer even if she wanted to whilst in custody. So are you really going to hold her silence and her

G failure to mention those two facts against her, given that was what was going on?

H Fourth point: Charlotte was not a professional criminal who was playing the system, hiding behind the right to silence and keeping her powder dry so she could ambush the prosecution at trial. She knew what she had done and why she had done it. She participated in an action to damage property belonging to an Israeli arms company that she believed was complicit in a genocide. That was her case then; that is her case now. She has not made anything up to suit the prosecution evidence. How could you conclude, in those circumstances, that the reason that she didn't mention those two facts in interview was that she had no answer at the time and none that would stand up to scrutiny? It doesn't – it just doesn't satisfy the

A necessary preconditions.

B And finally this: a prepared statement – you have various examples of these prepared statements in your agreed facts. These prepared statements are legal documents which are prepared by lawyers for defendants to sign. They are necessarily selective in terms of their content. These statements are not the entirety of any defendant’s account; that’s not the purpose of them. It would’ve been impossible, I suggest, for Charlotte’s solicitor in the police station to anticipate, at that early stage, what are the important factual issues going to be at trial? I mean, how could that solicitor possibly have known, at the time, that the two facts on which the prosecution might rely against Charlotte in relation to guards intervening and the black team having whips and axes, that those were going to be important matters that needed to be addressed in the prepared statement? I mean, are you going to penalise Charlotte for what her solicitor chose to include and not include in that prepared statement?

C In any event, why would Charlotte have said – have been reasonably expected to mention those facts during interview? So at the end of the day, I suggest that if you take those five reasons into account, you will be driven to the conclusion, I hope, that it would not be fair and proper for you to hold the fact that Charlotte did not mention those facts against her as additional evidence in the prosecution case. And that’s why I ask you not to draw any adverse inference against her for not mentioning those two facts.

D So it’s been a long day and I hope you understand that this is my one and only opportunity to address you on behalf of Charlotte and there’s obviously so much to say so I hope I haven’t taxed your patience. Refaat Alareer was a Palestinian poet, academic and activist who loved the writings of William Shakespeare and John Donne. He had a master’s degree from University College London and a PhD in English Literature from a university in Malaysia. He lived in Gaza, he was married, he had six children. On 6 December 2023 he was killed, together with six other members of his extended family, in an Israeli airstrike which has been widely reported by the international media as having been a deliberate, surgical targeting of an apartment where he was staying.

E Refaat Alareer was 44 years old. His poetry had been much loved and much respected in Palestine for many years but since his killing, his poetry has gone internationally viral and will undoubtedly live on for many years to come, long after the likes of Benjamin Netanyahu and all those involved in the killing and destruction in Gaza have been forgotten.

F I want to end by reciting what has become Refaat Alareer’s most famous poem as it so

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A beautifully encapsulates, in a way that I could never replicate, not only the Palestinian tragedy but also the hope for a better future, both of which lie at the very heart of this.

B The poem is called, 'If I Must Die' by Refaat Alareer: 'If I must die, you must live to tell my story, to sell my things, to buy a piece of cloth and some strings, make it white with a long tail, so that a child somewhere in Gaza, while looking heaven in the eye, awaiting his dad who left in a blaze and bid no one farewell, not even to his flesh, not even to himself, see the kite, my kite you made, flying up above, and thinks for a moment an angel is there, bringing back love. If I must die, let it bring hope, let it be a tale.' Enough is enough. Please find Charlotte not guilty of aggravated burglary, criminal damage and violent disorder. These are fair and proper verdicts to return in her case. Acquit her so that she does not have to spend another day locked up behind bars. Set her free, end the nightmare, please. Enough is enough. Thank you so much for listening to me.

C MR JUSTICE JOHNSON: Members of the jury, we will have a 15-minute break and then I will ask you whether you feel able to hear half an hour of the next closing speech or whether you wish to stop for the day. So have 15 minutes, take a breath and I will see you then and we will see where we go from there. Thank you very much.

D **Jury leaves court.**

E MR JUSTICE JOHNSON: Ms Heer, is there anything you wish to say about Mr Menon's closing speech?

MS HEER: Not at this stage. I'd like a chance to just think about this.

MR JUSTICE JOHNSON: Can I draw your attention to paragraph 36 of the judgment I gave of...

MS HEER: 22 December.

F MR JUSTICE JOHNSON: 22 December. And I would be grateful for submissions about whether what Mr Menon said is compatible with that and if not, what consequences follow it.

MS HEER: Yes, I'll certainly do that.

MR JUSTICE JOHNSON: Mr Wainwright?

G MR WAINWRIGHT: My Lord, I would, first of all, like to do my closing speech once that matter's resolved so there is no confusion. I haven't looked at what paragraph – did My Lord say 26 or 36?

MR JUSTICE JOHNSON: No, 36.

MR WAINWRIGHT: Thirty-six, all right.

H MR JUSTICE JOHNSON: Well, did you read my judgment?

A MR WAINWRIGHT: Yes.

MR JUSTICE JOHNSON: Yes, well then there is no difficulty.

MR WAINWRIGHT: [Inaudible] –

MR JUSTICE JOHNSON: As long as you have read the judgment, I do not think there is any possibility for confusion about it so there is no difficulty.

B MR WAINWRIGHT: No, but I would like to hear if there is going to be further elaboration. But the other point is that although my time estimate was an hour and a half, I think, in fact, I've got it down to an hour, but I would like to deliver it all in one go. Because it's of that length, splitting it in half would lose all momentum and all references in the second half to what I said in the first. I'll have to explain all over again. There's a sweetener: I can try and shorten it a little further, if given overnight, but I don't want to do it half an hour now and half an hour tomorrow.

C MR JUSTICE JOHNSON: Ms Hammad, can I ask about your time estimate?

MS HAMMAD: I think my time estimate would – an hour and a half.

D MR JUSTICE JOHNSON: Yes. Mr Wainwright's – you have now heard Mr Menon's very full closing submissions.

MS HAMMAD: Well, I think Ms Kamio featured quite heavily in the prosecution closing and I think I have a lot to get through.

E MR JUSTICE JOHNSON: Hmm, all right, well, Mr Wainwright, if you think you can keep it down to an hour then I will not ask you to start today.

MR WAINWRIGHT: Thank you.

MR JUSTICE JOHNSON: But I am concerned about the – and it is nobody's – or at least, it is not counsels' fault, the delays this morning, but the aggregate impact of the delay – Mr Menon has already referred to the fact that it will be some time before the jury go out and they will have to look back and remember what he says. And it does have an aggregate impact so I am keen to avoid delays. Ms Heer, I wonder if we can deal with the matter I have just mentioned a little later today to avoid taking time tomorrow with it.

F MS HEER: Yes, I'm struggling at the moment to speak to my learned juniors and to just reflect on what was said.

G MR JUSTICE JOHNSON: Yes. I mean, if I said we can sit at four o'clock to deal with it, or 3.45.

MS HEER: I think half an hour.

MR JUSTICE JOHNSON: Half an hour, certainly.

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A MR MENON: Can I just say, I mean, I – My Lord has a very good view of the jury but I –
 MR JUSTICE JOHNSON: Yes.
 MR MENON: Well, obviously, there’s a huge difference between cross-examination – you’re questioning and you have two voices –

B MR JUSTICE JOHNSON: Yes.
 MR MENON: My Lord knows better, I’m sure, than any of us but talking at a jury is tiring and I –
 MR JUSTICE JOHNSON: Yes.
 MR MENON: The reason I asked 15 minutes before I finished whether –
 MR JUSTICE JOHNSON: Yes.

C MR MENON: They wanted a break because I thought, perhaps, they may want one.
 MR JUSTICE JOHNSON: Yes.
 MR MENON: So I’m just raising that because they looked pretty [inaudible] here, I think.
 MR JUSTICE JOHNSON: No, as I have already said to Mr Wainwright, I am not going to –

D MR MENON: Right, I’m just raising it in case My Lord had not clocked that but I – a number of them looked really tired by the end.
 MR JUSTICE JOHNSON: No, quite, and as I have said, I was going to give [inaudible] anyway but, in fact, I have now given [inaudible] them. All right, so 3.45.

Court rises.

E **Court resumes.**
 MR JUSTICE JOHNSON: Well, members of the jury, I was going to give you the option of listening to some more speeches, but I am not. We are going to stop there. The consensus is that it is enough for one day and it is hard work listening to detailed submissions so we will stop there for the day. Thank you very much for your attention today. I am sorry again for the late start this morning. These things are infuriating. It is not the fault of any defendant or any counsel for that matter. The weather is pretty bad. Can I ask you all please to try your very best to get to Court on time tomorrow? And I will try and make sure that every other thing that needs to happen to start on time happens as well. If you are kept waiting, I apologise in advance. But enjoy your evenings, put the case from your minds and be ready to start again at 10 o’clock tomorrow morning, please. Thank you very much.

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Jury leaves court.

H MR JUSTICE JOHNSON: Ms Heer, I am sorry, I caused a bit of confusion over the timings because I had to deal with the jury. Do you need some more time?

A MS HEER: No, I just wanted to remind myself of what the Court of Appeal said in the case of *Warner*.

MR JUSTICE JOHNSON: Yes. I think Saini J, in fact.

MS HEER: I think it was, yes.

B MR JUSTICE JOHNSON: Yes.

MS HEER: Yes. And having had the opportunity to look at that and remind myself of paragraph 36 – I don't know what that beeping is, sorry – of your ruling, I'm afraid it's clear that my learned friend has disregarded that ruling.

MR JUSTICE JOHNSON: Yes.

C MS HEER: And is in breach of the bar code of conduct, arguably, and that that is unlawfully in contempt of the Court's order. In *Warner*, the Court made –

MR JUSTICE JOHNSON: I would like to disentangle two things. One is the impact on this case and it is that that I am – I am very concerned about both things but it is that that I want to deal with first. Anything else, it seems to me, can wait until after the trial.

D MS HEER: Absolutely, there are two options here. One is that you deal with the matter by way of direction. And really, it's a matter for you what you think now is realistic. I don't want to make a submission that Mr Menon's gone so far that there can no longer be a trial which is fair in the Court [inaudible]. To make that submission, I need to decide whether that submission is [inaudible] instruction.

E MR JUSTICE JOHNSON: Yes.

MS HEER: I can't do that [inaudible] to do that.

MR JUSTICE JOHNSON: Yes.

MS HEER: I think it would be really not something that anybody would wish to see happen.

F MR JUSTICE JOHNSON: No.

MS HEER: [Inaudible].

MR JUSTICE JOHNSON: No, but if that is where we are, that is where we are.

MS HEER: That's where we are. So I – but I can't do that without any coordination –

G MR JUSTICE JOHNSON: I understand. You said there were two options. Those are the two options.

MS HEER: I can't see any other.

MR JUSTICE JOHNSON: No.

H MS HEER: Another way in which you would deal with it because what [inaudible] says and

A you've, My Lord has repeated it in his ruling, it is just not aggressively inviting the jury to apply the principle of a jury equity. It is even to inform them of it –

MR JUSTICE JOHNSON: Yes.

MS HEER: And what I'm afraid, also, the problem with your ruling –

B MR JUSTICE JOHNSON: Yes.

MS HEER: About the inadmissibility of the justification for this, which is also something that he ought not to have done. So it's not simply a question of walking up to the line. The line has been crossed.

MR JUSTICE JOHNSON: Yes.

C MS HEER: But I am highly reluctant to make a submission that the jury should be discharged but I must take instructions on that.

MR JUSTICE JOHNSON: Will you be in a position to address it tomorrow morning?

MS HEER: Yes.

Pause.

D MR JUSTICE JOHNSON: And I mean, irrespective of the view that the Crown takes, I have to form my own assessment.

MS HEER: I mean, one of the things I would want to consider is what you could say that would cure the damage.

E MR JUSTICE JOHNSON: Quite.

MS HEER: And at the moment, it's difficult to see what that might be. But it's such a – I suppose it's such an extreme step to take, given that we've spent so many weeks here going through the evidence but I'd like to give some proper consideration to whether a direction can establish the position.

F MR JUSTICE JOHNSON: All right.

MS HEER: I think it's only right that I do that.

MR JUSTICE JOHNSON: All right.

MS HEER: But yes, absolutely. At the end of the day, whatever the Crown say, it is entirely a matter for the Court.

G MR JUSTICE JOHNSON: Would you be in a position to send an email setting out – I do not want to form a written argument but just setting out whether you will be making an application to discharge the jury by 9.30 in the morning?

MS HEER: Yes, I do have a Court of Appeal deadline at 9.30 tomorrow morning as well.

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A MR JUSTICE JOHNSON: 9.35.

MS HEER: But I'm sure –

MR JUSTICE JOHNSON: Yes, no, all right. Or quarter to 10.

MS HEER: Thank you very much.

B MR JUSTICE JOHNSON: That would be very helpful. All right, Mr Menon, is there anything you wish to say? I am not asking you to say anything.

MR MENON: Well, the first thing I want to say is I am truly shocked that my learned friend has just made the submission she's made. Until My Lord raised it, she was not going to say anything and everybody in this courtroom knows it. She was not going to say anything because I absolutely didn't cross any line. Any line whatsoever. I don't know how many times I told the jury that they must follow My Lord's directions. I said it over and over and over again. Me telling the jury about William Penn and William Mead and *Bushel's Case* has been done thousands, if not tens of thousands of times, by defence counsel over decades, if not centuries. I myself have heard it 20, 30 times probably and I'm sure everybody else in this Court has as well. I never used the phrase jury equity. I never said anything about acquitting according to their conscience. I was perfectly entitled to tell them about William Penn and William Mead. I told them specifically that there was room in those directions that My Lord gave them to acquit, which is the case.

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E I had asked My Lord earlier to tell them explicitly that you were not directing them to convict. You refused to do so, so I had to make it clear to them otherwise, it's just a sham. Although I – there was only one verdict that this jury could possibly have returned on criminal damage which is one of guilty. I had to explain to them that the facts are solely for them and I kept on saying, over and over again, you cannot disregard these directions. So

F for you to suggest or for my learned friend, who, quite frankly, I'm just stunned that she has made this submission to suggest that we are in jury discharge territory because I did something which thousands, if not tens of thousands of barristers have done before me, is truly beyond the pale.

G And if there is an application tomorrow, I'll resist it, and as I am sure everybody else will but to even suggest we're in this territory that somehow, you know, a fair trial or a proper trial has now been compromised by that speech, when my learned friend hadn't even thought about the point until you raised it is just incredible. I did not mention jury equity, I didn't say anything about conscience. I told them about William Penn and William Mead in

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A *Bushel's Case* which I was 100% entitled to do and which tens of thousands of defence barristers have done before me.

B MR WAINWRIGHT: My Lord, it would assist me, as I've indicated before, if the Crown or My Lord could set out what line it is or what part of my learned friend's speech is said to cross the line. I don't think that I'm going to contradict other people, I'm not going to contradict My Lord's ruling from 23 December but I'm confused as to when my learned friend did so, so I don't do it inadvertently, it may help if the sentence or sentences, whatever it is, that's said to have crossed the line could be said now. But genuinely [inaudible].

C MR JUSTICE JOHNSON: Well, I have set this out at paragraph 31 of my ruling of 2 December and paragraph 36 of my ruling of 15 December – oh sorry, 22 December, I think. I think it is absolutely clear what they say and I am not going to enter into a parsing or interpretation of that now because if there is an application to be made, I want to give all parties an opportunity to make submissions on that application and I want to deal with other matters that might flow from this at the end of trial to avoid being distracted from the primary professional obligations. And if any counsel have not read those paragraphs, they should do so before giving their closing speeches.

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E MR WAINWRIGHT: I have read it. I am still confused having read it and that is why I ask so that I am not distracted by the legless – possibly legless suggestion that there's something that's been said that's crossed a line that I'm not distracted by that when I do my closing speech. And if My Lord [inaudible] for the reasons set out, I'd ask my learned friend to set out what the lines are, what the points are. I don't think there's any difficulty with that and it gives us an opportunity, before 9.30 tomorrow, to have some advance idea as to what the issue is.
F I don't think that's –

MR JUSTICE JOHNSON: Ms Hammad?

G MS HAMMAD: My Lord, I also don't understand where it is that it's said that my learned friend contravened Your Lordship's ruling. Your Lordship was very clear that the legal directions don't amount to a direction to convict. I consider it my duty to my client to tell the jury that the verdict is a matter for them, to tell the jury that facts are a matter for them and to tell the jury that Your Lordship's directions are not a direction to convict. I really am struggling to understand exactly where it is that My Lordship says that Mr Menon has contravened that ruling. I'd understand if Mr Menon said to the jury, 'You can ignore His Lordship's legal
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A directions', or 'His Lordship has directed you this in law but that doesn't matter. What matters is your conscience.' That was the sort of thing that I would've thought would contravene that ruling.

MR JUSTICE JOHNSON: Yes, I agree.

B MS HAMMAD: But he did not say that. He absolutely did not say that so I am confused. And the idea that, well, we can just put that to one side and continue, it needs to be made crystal clear exactly what it is that is being said crossed the line because as far as I heard, my learned friend invited the jury to follow Your Lordship's legal directions, told them that they had the right to acquit, which they must have that. We must be allowed to invite them to acquit. And told them that the facts were for them.

C MR JUSTICE JOHNSON: I think the rulings I have given are sufficiently clear. More than sufficiently clear. I think they are crystal clear. I am not going to enter into a debate about this now because it is something that will need to be dealt with fully and properly. You are all aware of your professional obligations. You can all read the short sentences in the judgment I gave and I am confident you will be able to comply with that. All right?

D UNKNOWN COUNSEL: My Lord, I appreciate that Your Lordship doesn't wish to discuss this in any deeper – any further but I simply wish to say that I support what Ms Hammad has said. My Lord, just in terms of how we're intending to proceed, so Ms Heer is going to provide something at 9.45 tomorrow morning.

E MR JUSTICE JOHNSON: She is going to indicate whether she is going to make an application to discharge the jury.

F UNKNOWN COUNSEL: And then we will have to, of course, deal with any application before we continue with speeches is what I'm assuming. If there is an application. Your Lordship isn't suggesting that we put that application to one side whilst we continue with the speeches?

MR JUSTICE JOHNSON: Well...

G UNKNOWN COUNSEL: If there is such an application. Because the reason I say that is because, of course, I think each and every single counsel would need to make submissions. I, of course—

MR JUSTICE JOHNSON: Oh yes, I appreciate that.

UNKNOWN COUNSEL: Yes, and I adopt, of course, everything that's been said by others –

H MR JUSTICE JOHNSON: Yes.

A UNKNOWN COUNSEL: In terms of not understanding exactly where Mr Menon crossed the line.
But in any event, we will have to make significant submissions given, as we've said, over
and over again, these defendants have waited a long time for their trial.

MR JUSTICE JOHNSON: Yes.

B UNKNOWN COUNSEL: So before any suggestion – and I wouldn't agree to any suggestion that
we could simply park that and continue with speeches. So I just – I raise that in addition to
adopting submissions as to needing to know, at some point in time, what – how we're
proceeding. But I just wanted to check that Your Lordship wasn't suggesting that if Ms
Heer says, 'I'm going to make this application', we park that to one side.

C MR JUSTICE JOHNSON: I have not made any ruling about that. I will take it in stages. It may or
may not arise. We will see what the prosecution stance is by 9.45. I also want to reflect
independently overnight and we can address this at 10 o'clock tomorrow morning.

MR MORRIS: My Lordship, can I just say I support the submissions of Ms Hammad and
Mr Wainwright that we just heard?

D MR JUSTICE JOHNSON: Right, 10 o'clock tomorrow, thank you.

UNKNOWN COUNSEL: My Lord, something separate, again about timetabling. Should all of
this not be an issue that holds us up tomorrow and it seems, looking at the timetable that Ms
Oborne provided you with, that would still leave about four hours of speeches tomorrow
with three speeches. Your Lordship knows, of course, I'm in some personal difficulties.

E MR JUSTICE JOHNSON: Yes.

UNKNOWN COUNSEL: As it stands. I wouldn't, on a Friday, after four hours of speeches – I
think we had about four hours, albeit in two speeches, today. I wouldn't ask to be – to start
on Ms Rogers' speech after the jury has been sitting and listening to three speeches on a
F Friday and four hours of that. And also, I would like to be able to, instead of – of course,
I've been working on my speech. We've had the break but I would ask that, given where
we are, that Your Lordship can say that I wouldn't start until Monday. Because it is a lot of
work. This is the only chance I will have to address them and, of course, on an incredibly
G important part of this trial. It is Friday and it looks about four hours even without breaks on
the indications that were given to Your Lordship beforehand.

MR JUSTICE JOHNSON: Well, we will see where we get to and if you have an application to
adjourn early tomorrow then I will listen to the application but I am sorry, I am not going to
rule on that now.

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A UNKNOWN COUNSEL: Why I'm asking for it now because it would assist me with my personal issues but that's why I'm asking for it now.

MR JUSTICE JOHNSON: I am sorry. I will absolutely – and I am very well aware of your issues and obviously, I am sympathetic. But there are so many variables. I just want to see where we are before I make a final decision about that. So 10 o'clock tomorrow.

B **Court rises.**

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