

1 International Criminal Court
2 Trial Chamber II - Courtroom 1
3 Presiding Judge Bruno Cotte, Judge Fatoumata Dembele Diarra, and
4 Judge Christine Van den Wyngaert
5 Situation in the Democratic Republic of Congo - ICC-01/04-01/07
6 In the case of the Prosecutor versus Germain Katanga and Mathieu
7 Ngudjolo Chui
8 Trial Hearing
9 Wednesday, 9 June 2010
10 The hearing starts at 9.01 a.m.
11 (Closed session)
12 (Expunged)
13 (Expunged)
14 (Expunged)
15 (Expunged)
16 (Expunged)
17 (Expunged)
18 (Expunged)
19 (Expunged)
20 (Expunged)
21 (Expunged)
22 (Expunged)
23 (Open session at 9.03 a.m.)
24 COURT OFFICER: (Interpretation) We are in open session, your
25 Honour.

1 (The accused entered court)

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
3 Court Officer.

4 Before we take up the cross-examination of Counsel Hooper --
5 Counsel Hooper's cross-examination, the Bench would like to inform the
6 parties that the draft protocol which is being discussed between the
7 Defence -- or between the Defence teams and the Legal Representatives of
8 Victims has been translated into English and the Court Officer can
9 provide you with this this morning. This should facilitate the work that
10 the Defence team of Germain Katanga, taking into account what
11 Counsel O'Shea said, has done.

12 Now, there's also a small correction that needs to be made to the
13 EVD number which finished the session yesterday.

14 Please go ahead, Court Officer.

15 COURT OFFICER: (Interpretation) Thank you, your Honour. During
16 the hearing of the 8th of June there was an EVD number given to six
17 documents which were presented by the Defence of Mr. Katanga and I would
18 like to make a correction thereto. The document entitled an independent
19 electoral commission with the number EVD-D02-00035 is in fact filed as
20 DRC-D02-0001-0118. The electoral card of the witness with the number
21 EVD-D02-00036 is in fact registered as DRC-D02-0001-0113.

22 PRESIDING JUDGE COTTE: (Interpretation) Thank you very much,
23 Court Officer.

24 Good morning, Witness.

25 THE WITNESS: (Interpretation) Good morning.

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1 PRESIDING JUDGE COTTE: (Interpretation) I can see that you can
2 hear me well. We can therefore go back into our work.

3 Counsel Hooper, you have the floor.

4 WITNESS: WITNESS P-0279 (Resumed)
5 (Witness answered through interpreter)

6 Questioned by Mr. Hooper: (Continued)

7 Q. Yes, good morning, Mr. Witness.

8 A. (No interpretation)

9 Q. Now, I recall from your evidence when you were asked how long
10 you'd spent in Zombe camp, that you told us - I'm looking at transcript
11 149, page 47 and 46 - that you'd spent a month and a few weeks at Zombe
12 camp. And you later said that that was -- that you arrived three weeks
13 and a few days before the Bogoro attack, and that after the Bogoro attack
14 you were in Zombe hill, though now at another place, Ladile, for a month
15 and beyond. And you may recall you later said that that was month -- a
16 month and a week or so.

17 So what we have overall is a picture of you being in -- on Zombe
18 hill from the time that you were taken there to the time (Expunged)
19 (Expunged) that you were there all together for a period of two
20 months or perhaps a little over two months. Now, is that right? Would
21 that be -- and I summarised what you've said. Is that a fair summary of
22 what you say happened?

23 A. (No interpretation)

24 THE INTERPRETER: The Swahili interpreter did not hear what the
25 witness said.

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1 PRESIDING JUDGE COTTE: (Interpretation) Witness, the
2 interpreter did not hear the remark that you made, please could you
3 repeat it for us. The answer that you've just given to Counsel Hooper
4 was not heard by the interpretation booth.

5 THE WITNESS: (Interpretation) The answer is no.

6 MR. HOOPER:

7 Q. Well, I understood myself to merely be repeating what you said to
8 the Judges on previous days in your evidence. So can you tell us in what
9 respect, in what way, what I've just said is not correct.

10 A. Please could you repeat your question.

11 Q. All right. Let me break this down. Do you remember telling us
12 when you were asked how long you were in Zumbe camp that you said you
13 were there a month and a few weeks. You remember that?

14 A. Yes, what you have just said is correct.

15 Q. And then you were asked to tell us how long you were there or how
16 long you had been there by the time as the attack on Bogoro, and your
17 reply to that was:

18 "I was there three weeks and a few days before the Bogoro
19 attack."

20 And you remember saying that?

21 THE INTERPRETER: Your Honour, the Swahili booth has a problem
22 with the Swahili channel. There is a problem that prevents them from
23 working.

24 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, the
25 Swahili booth has stated that there is a problem, a background noise,

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1 which is stopping them working correctly. Please could this issue of the
2 background hum be solved.

3 I also have to state that myself, I have a 50-cycle hum in my
4 headphones myself this morning.

5 Technicians are going to come. I would like to address the
6 Swahili booth. For you, is it possible to continue or is it really a
7 condition that is very difficult for you?

8 THE INTERPRETER: Your Honour, this is a very difficult condition
9 for us. We have no problem with the French channel, but the problem is
10 with the Swahili channel.

11 PRESIDING JUDGE COTTE: (Interpretation) It is on the Swahili
12 channel that the conditions are such that proper interpretation cannot be
13 assured.

14 I am sorry for that, Counsel Hooper.

15 MR. HOOPER: Can I say that there's one matter that I can raise
16 that needn't concern the Swahili interpreter. It won't be with the
17 witness needless to say, just a matter I could raise with the Court
18 briefly, English/French/Lingala. Is Lingala all right? I don't know.

19 PRESIDING JUDGE COTTE: (Interpretation) Does the Lingala -- is
20 the Lingala working okay or not? No, the same problem is in Lingala, on
21 the Lingala channel.

22 Court Officer, do you have an idea of the time that it will take?
23 Do we have to adjourn the hearing? Should we let everybody work in place
24 or leave everybody sitting in place or what should we do? What sort of
25 time-frame do you think is likely to be involved here?

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1 (Trial Chamber and Court Officer confer)

2 PRESIDING JUDGE COTTE: (Interpretation) We have been asked to
3 do a trial, or rather, a test.

4 Mr. Witness, we are going to do a test to be sure that everything
5 is working perfectly in the interpretation booth. I will address myself
6 to you. I hope the booth can hear me and they will try to interpret so I
7 can hear you.

8 THE WITNESS: (Interpretation) Yes.

9 PRESIDING JUDGE COTTE: (Interpretation) It appears you can also
10 hear me well because this is a test we are doing. We are not saying
11 anything in particular, but simply for the interpreters to tell us
12 whether everything is working well.

13 Do the interpreters still have the same background sound or hum?

14 THE INTERPRETER: We don't have a problem for now.

15 PRESIDING JUDGE COTTE: (Interpretation) That is very well. We
16 have -- we will give the floor back to Mr. Hooper.

17 THE INTERPRETER: But the English booth will still need to point
18 out that there is a hum coming from the French channel.

19 MR. HOOPER: And the English one because the hum has also moved
20 into my ears as well. I think it's what the learned Judge described as
21 the 50-cycle hum. It's not unworkable there.

22 Q. All right. Now, Mr. Witness, if you have any difficulty hearing
23 the translation, you let us know straight away. All right.

24 Now, you had agreed with me that you had understood what I'd said
25 and what I said was right in terms of your story of being in Zombe. I

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1 think the last bit was lost, so let me put the last part of the account
2 to you. And it was this that: Do you remember telling us that after the
3 attack on Bogoro you remained on Zumbe hill, though you moved to another
4 camp, as I understand it; and you were there, on Zumbe hill, after the
5 attack on Bogoro for what you said was a month and a week or so. Do you
6 remember that?

7 A. I remember.

8 Q. And so if we add that time together, that is, the three weeks and
9 a few days before Bogoro that you were there, and the one month and a
10 week or so afterwards, we're looking at two months or just over two
11 months as the time that you spent on Zumbe hill; is that correct?

12 A. Are you talking about Bogoro or Zumbe?

13 Q. Well, I'm trying to make my questions clear. Let me put it
14 again. If we join up the time that you've told us that you spent on
15 Zumbe hill before the Bogoro attack, which was three weeks and a few
16 days, and then after the Bogoro attack, which was a month and a week or
17 so; if we add those together, we get two months, two and a half months as
18 being the time that you are on Zumbe hill. That's right, isn't it, and
19 do you agree with it?

20 A. No.

21 Q. Well, how long were you on Zumbe hill?

22 A. I stayed on Zumbe hill for a month and some weeks.

23 Q. All right. All right. So that's less than I had suggested. So
24 you're on Zumbe hill for a month and a few weeks. Now, how much of that
25 time were your mother and father up there with you? Because you remember

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1 that yesterday you told us they were there and you lived in the same
2 house as them on Zumbe hill. So what period of the time you were there
3 did you spend with your parents, as you told us?

4 A. This took place well before everything you have just mentioned.

5 Q. And so what are you telling us now, that you were living on Zumbe
6 hill on another occasion? Is that what you're saying?

7 A. This was the time when we fled. There was the war in Bunia.

8 Q. Well, I asked you some days ago whether your family had fled with
9 you and you'd said "no." So when was this? When was this then?

10 A. I just answered you. It was at the time when there was the war
11 in Bunia.

12 Q. Well, was that after Lompondo fell or another time?

13 A. I do not remember.

14 Q. And are you saying that having fled because of the war to Zumbe
15 with your family and lived at Zumbe with your family, that your family
16 then went back home?

17 A. Yes.

18 Q. And now what? Having gone home, you get abducted by Boba Boba;
19 is that what you're now saying?

20 A. Are you talking about when my family went to where?

21 Q. Well, you tell us. You're the witness. Where did they go after
22 they'd been -- and don't mention -- don't mention the name of where your
23 home is. You can name any other village, but don't name your home. You
24 know what I mean. Go on, please reply.

25 A. When he arrived, he found us and we were all there where we had

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1 been living for a long time.

2 Q. I don't understand. I'm sorry. When who arrived?

3 A. When Boba Boba arrived.

4 Q. Well, you've told us that you were at home when Boba Boba
5 arrived, and this morning you've told us that before that you and your
6 family had fled to Zumbe. Is that right, you'd fled all together to
7 Zumbe and lived in Zumbe?

8 A. This is what I said. We were at the place where we had been
9 living before. That is when Boba Boba arrived. It was not in Zumbe.

10 Q. Of course it wasn't in Zumbe. So you're living at home -- let's
11 just break this down bit by bit. There comes a time when because of the
12 war you and your parents flee home and go to Zumbe. Am I understanding
13 you correctly?

14 A. I do not know why you are saying that. I do not know why you are
15 doing that. I do not know why you are contradicting yourself. What you
16 said before is different from what you have just said here. I have
17 already given my answer to that question, and I'm not going to give it
18 again.

19 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the
20 Defence of Germain Katanga is trying to understand whether there were two
21 stages in your life at that period. They are not trying to contradict
22 you or to contradict themselves. They're simply trying to understand so
23 that the Chamber should also understand. They would like you to tell us
24 whether you spent an initial period of time in Zumbe with your parents,
25 after which you returned to the place where your home was located. And

1 then was it after that return to your home that Boba Boba arrived and
2 then you went back to Zumbe for a second time? He simply wants to
3 clarify whether that is indeed what happened because we didn't quite
4 understand whether you went to Zumbe on two occasions, the first time
5 with your parents and the second time after you had been abducted by
6 Boba Boba.

7 So you have to answer the question that has been put to you
8 because that will enable all of us to better understand. Mr. Hooper is
9 asking his questions to you as precisely as possible so that you should
10 also be in a position to give answers that are as precise as possible.
11 So reflect on it and you answer his questions, and the fact is when you
12 answer his questions you are providing information to all of us. It is
13 not simply a discussion between the two of you. It is all the
14 participants that benefit from what you are telling us. Thank you for
15 kindly answering.

16 MR. HOOPER:

17 Q. So am I right in understanding what you say now as this: There
18 came a time when because of the war in Bunia, I - together with my
19 parents and the family - fled our home and went to live in Zumbe. Is
20 that what you're saying?

21 A. Yes.

22 Q. And how long did you spend living with your family in Zumbe?

23 A. I no longer remember.

24 Q. Well, was it weeks or months or longer?

25 A. I do not remember.

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1 Q. Right. Now, what happened then?

2 A. After that we returned to the house in which we had been living
3 before.

4 Q. And then are you saying that it was after that that Boba Boba and
5 the soldiers came and took you and other people back up to Zumbe; is that
6 right?

7 A. Yes.

8 Q. And how long a period of time was it between you getting back
9 home from Zumbe and Boba Boba coming to take you back up to Zumbe?

10 A. I have no idea.

11 Q. But in fact your mother and other members of your family, with
12 the exception of your father, left Zumbe not for home but for the safety
13 of Walendu-Bindi, did they not?

14 A. I have no idea. I do not have an answer to give you.

15 Q. All right. Let's move on to slightly different aspect of your
16 account. You remember going to Beni and meeting with the Prosecutor, is
17 that right, and making a document? Do you remember that?

18 A. Yes.

19 Q. And I'm looking at document -- I think its reference is
20 1007-1077, which is the statement you made. I don't need you to look at
21 it. We've referred to it already as the statement where you give the
22 date of birth of the 8th of March, 1991. Can I ask you again, do you
23 remember giving that date of birth to the investigators?

24 A. Yes. I gave them a date of birth which I no longer remember.

25 Q. Right. Now, you were interviewed on the 28th of March, 2007,

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1 from 10.00 in the morning till 12.00 in the morning. You were
2 interviewed the next day, the 29th of March, 2007, from half past 9.00 to
3 10.30 in the morning and then from 1600 to 1700. You were then
4 interviewed on the 30th of March, 2007, from 10.00 to 11.30 and from 1720
5 in the afternoon to 1900, so just under seven hours of interview. Those
6 are the times that appear on the statement. I don't expect you to
7 remember the times, but does that fit in with your recollection?

8 A. Yes, I do remember but I do not have any idea about the specific
9 times of the interviews.

10 Q. Of course not. Now, you were interviewed by a (Expunged)
11 Do you remember her?

12 A. Yes.

13 Q. And an (Expunged). Do you remember her?

14 A. I forgot that person. As you are aware, I was not able to
15 remember the names of certain people.

16 Q. Well, I'd be in the same position as you, so don't worry about
17 that. It's three years ago since this interview, but let me just assist
18 you. That's obviously two women. And then I think there's a third woman
19 there called Danica Anderson who's described as a "psychotherapeute
20 forensique." So she was there not to question you but just to make sure
21 you were comfortable and that the interview was conducted appropriately.
22 Do you remember a lady, another later sitting there during the interview?

23 A. Yes, I do remember that lady.

24 Q. And then there was a man there who again may not have played a
25 part. He's described as an "analyste ," and his name is (Expunged),

1 (Expunged). Do you remember one gentleman there who probably just sat
2 there and didn't do very much? Do you remember that man?

3 A. Yes.

4 Q. And there was also of course the interpreter who spoke to you and
5 translated for you in Swahili; is that right?

6 A. Yes.

7 Q. Am I to understand you also speak some French?

8 A. Yes.

9 Q. Probably a lot better than I do. And some of that interview was
10 in French, was it?

11 A. No.

12 Q. Now, I see the languages that are listed that you speak are
13 Swahili and Lingala, Francais ("un peu").

14 May I ask you this: Do you speak Ngiti?

15 A. No, I do not know that language. I can understand a little bit
16 and I also know how to say "good morning" in that language.

17 Q. Now, do you remember that at the end of the interview when it had
18 all been written down and prepared, the interview was read back to you
19 and you were given the opportunity to correct anything or to alter
20 anything in the interview. Do you remember that?

21 A. Yes, I remember, but I no longer had any idea about that.

22 Q. All right. Well I take it you agree that you were given an
23 opportunity and indeed you said you had nothing to add to the declaration
24 and no clarifications to make to the statement. In short, when you left
25 that interview you were happy after those three days of interview that

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1 the statement, the written statement, accurately reflected what you had
2 said in the interview? You didn't disagree with it; is that right?

3 A. Can you kindly repeat your question, please.

4 Q. All right. Let me put it perhaps more simply, more
5 straightforwardly, rather, and clearer. When you came to sign that
6 interview, you knew what it contained and you agreed with it; is that
7 right?

8 A. Yes.

9 Q. Now, in this interview you make no mention of going to Zumbe and
10 then going home and then being taken by Boba Boba. You understand? You
11 make absolutely no mention of any visit to Zumbe before Boba Boba takes
12 you up there. Why didn't you mention anything about this earlier flight
13 by the family and you to Zumbe, if that was something that happened?

14 A. That is because they didn't ask me any such questions. It is
15 only here that these questions have been put to me.

16 Q. Now, in this interview you were asked about your time in the
17 militia, and I'm looking at paragraph 18. And its first sentence reads
18 in this way. Let me read it to you.

19 "I stayed a year and some months in the militia."

20 Now, what do you say about that, given what you've told us over
21 the last few days?

22 A. No.

23 Q. Well, this is what it clearly says:

24 "I stayed a year and some months in the militia."

25 Did you tell the investigators that?

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1 A. I do not remember.

2 Q. Now, before you gave -- started to give your evidence here before
3 the Judges, is it right that you had this statement and were able to read
4 it or somebody else read it to you? Is that right?

5 A. I do not remember.

6 Q. Let me read another part of the statement to you, and this is at
7 paragraph 48. It reads:

8 "I left the militia on the 3rd of May, 2003. A little after, the
9 Ugandans left Bunia."

10 Is that right?

11 A. I do not remember.

12 Q. The paragraph continues as to the next sentence in this way:

13 "I remember the date because I wrote it on the wall of the house
14 where I am living now with my parents. I did that so that I could
15 remember the day that I left the militia. The date is still visible at
16 our house."

17 Is that right? Did you say it?

18 A. I remember that point, but I have difficulties remembering the
19 dates because that was a long time ago.

20 Q. But you remembered it when you made your statement and you were
21 very clear about the date, the 3rd of May. Are you saying that you've
22 forgotten these details since you made the statement?

23 A. Yes.

24 Q. Why would your statement say that you'd stayed in the militia a
25 year and some months? Why would you have said that in your statement?

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1 Well, did you -- do you accept that you said it? Did you tell
2 the investigators you'd been in the militia for a year and some months?

3 A. I do not remember.

4 Q. Well, whether you remember or not, is it true or untrue?

5 A. I would say that the investigators probably did not understand me
6 well.

7 Q. And when it was read back to you, you didn't understand what they
8 were saying in their statement -- in your statement?

9 A. No.

10 Q. Now, when you first went to Zumbe, as you tell us now, with your
11 parents, was there a military camp there or not?

12 A. Where we settled, there was no military camp.

13 Q. And where did you settle?

14 A. It was in Zumbe.

15 Q. So when you went there, in Zumbe there was no military camp.
16 Were there any soldiers there or combatants?

17 MR. GARCIA: (Interpretation) With your permission, your Honour.
18 I apologise for interrupting. I would like to make one thing clear with
19 respect to the answer given by the witness. His answer was: "Where we
20 settled, there was no military camp," and not when he went to Zumbe there
21 was no military camp. I think there is a nuance there that needs to be
22 clarified.

23 MR. HOOPER: (Previous translation continues) ...

24 PRESIDING JUDGE COTTE: (Interpretation) I have difficulties
25 following you in the French transcript. Could you explain further

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1 Prosecutor? I am looking on the French transcript and I see the question
2 of Mr. Hooper which goes as follows:

3 "When you first went to Zombe, as you say now, with your parents,
4 was there a military camp on this spot or not?

5 "A. Where we settled, there was no military camp.

6 "Q. And where did you settle?

7 "A. It was in Zombe.

8 "Q. So when you went to Zombe, there was no military camp. Were
9 there soldiers on this spot or fighters?"

10 At that point, you stood up and you said something which I must
11 admit I did not quite understand.

12 MR. GARCIA: (Interpretation) With your permission, your Honour,
13 I simply want to state that the witness was saying that there was no
14 military camp on that side. He's not saying that there was no military
15 camp or there was no military camp at that point in time in Zombe.

16 PRESIDING JUDGE COTTE: (Interpretation) I don't think there was
17 any reference to a particular point in time. Mr. Hooper asked:

18 "When you went there, there was no military camp. Were there any
19 soldiers or fighters?"

20 I think that was the last question. In any case, the transcript
21 has taken note of what you said. We are going to look at it later on.

22 Mr. Hooper, could you please continue with your examination.
23 Maybe I'm the only person who did not fully understand the intervention
24 of the Prosecutor.

25 Mr. Hooper, could you please go ahead.

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1 MR. HOOPER:

2 Q. Were there any combatants or soldiers there?

3 A. (No verbal response)

4 Q. I'll ask again. Were there any soldiers or combatants there?

5 A. (No verbal response)

6 Q. Let me put it another way. When you went with your parents to
7 Zumbe, were there any soldiers or combatants there? Can you please
8 answer. Or is that in fact a difficult question for you? Are you
9 getting a bit stuck?

10 A. (No verbal response)

11 Q. Let me ask you another question in an absence to an answer to
12 that one. While you were there, did you suffer any attacks? Did you
13 witness any attacks?

14 A. No.

15 Q. And by that question I mean at any time when you were there at
16 Zumbe, did you witness any attacks?

17 A. No.

18 Q. Now, when you later get taken by Boba Boba, as you tell us you
19 were, and you go to Zumbe camp, how many combatants or fighters were
20 there in that camp?

21 A. There were combatants there on the spot.

22 Q. How many approximately? A football team? Ten football teams?

23 A. There were many of them; however, I cannot give you the exact
24 number.

25 Q. Well, I'm not asking for an exact number. Were there more than a

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1 hundred there?

2 A. I have no idea.

3 Q. Who was the commander?

4 A. The commander of Zumbe camp was Chief Ngudjolo.

5 Q. Wasn't it Nyunye?

6 A. Well, Nyunye was one of the officers. There was also Boba Boba
7 and Crikaka. All of them were there on the spot.

8 Q. When I put Nyunye's name to you yesterday, you said you didn't
9 know the name. So have you remembered it overnight?

10 A. Yes, I do remember that individual.

11 Q. Now, a previous witness has told us that Nyunye was the man who
12 was in command of the camp at Zumbe. He was the commander at Zumbe camp.
13 What do you say to that?

14 A. What you are saying is not correct.

15 Q. Well, what the witness said is not correct. Very well.

16 Were there any girls there?

17 A. I saw girls there, and these girls were indeed the wives of
18 soldiers.

19 Q. Were there any girls who were combatants there?

20 A. (No verbal response)

21 Q. Were there any girls among the child soldiers?

22 A. (No verbal response)

23 Q. Well, if you don't have an answer to that question, let me ask
24 you something else. You've mentioned Mr. or Commander Kpadhole,
25 K-p-a-d-h-o-l-e, he's one of the four that you always mention or often

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1 mention. Where was he based?

2 A. I do not remember.

3 Q. All right. Do you remember if there was -- well, you've
4 mentioned another camp, a camp called Lagura. How far was that from
5 Zumbe camp?

6 A. I cannot answer that question, to give you the number of
7 kilometres. I don't have an idea.

8 Q. All right. Well, how long would it take to walk there?

9 A. It is a long distance if you have to walk or to go there on foot.
10 I don't have an idea as to the time it would take to walk there.

11 Q. Did you ever walk there?

12 A. No.

13 Q. I understood you to tell us you walked there when you went to the
14 front, to Bogoro. Is that right or wrong?

15 MR. GARCIA: (Interpretation) Your Honour, could Mr. Hooper give
16 us the exact reference because I think there is an error with respect to
17 the time the witness allegedly went to Lagura.

18 MR. HOOPER: (Previous translation continues) ... come back to
19 that, but let me just ask the witness, I don't want to mislead the
20 witness.

21 Q. Mr. Witness, did you go to Lagura when you went to the front to
22 attack Bogoro?

23 A. I went through Lagura after the attack on Bogoro.

24 Q. And were you going to Zumbe and how long did it take you?

25 A. I have no answer.

1 Q. All right. Now, while you were in Zumbe, as you told us, as a
2 member of the militia, I want to ask you about what you did. Now, you'll
3 remember - and let me help you by reminding you - that you said that on
4 arrival after a day you started training and you were trained for a week.
5 Do you remember telling us that and is that right?

6 A. (No verbal response)

7 Q. Now, these are not difficult questions, I suggest, and you are
8 capable of answering questions you want to answer. So can you pay me the
9 courtesy of giving me a reply, please. After you arrived at Zumbe, is it
10 right - as I understood you to tell us - that you were trained for a
11 week?

12 A. Yes.

13 Q. And after that, was your -- you told us this. You said: After
14 training there was nothing to do in the camp. We took part in training
15 and we guarded our positions. Is that right? That's transcript
16 114 (sic), page 51. Is that right?

17 A. Yes.

18 Q. And those duties, sentry duties in English, "sentinel," sentry
19 duties, were the duties you performed up until the attack on Bogoro; and
20 then after Bogoro, you were (Expunged). Have I
21 understood that correctly?

22 A. Yes.

23 Q. And your sentry duties before -- in the time before the Bogoro
24 attack, again as I understand your evidence, related to a road. You were
25 asked where the road was and that was on the next hill, the next hill to

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Zumbe; is that right?

2 A. Right.

3 Q. And in which direction from Zumbe was that hill? Can you help
4 us? In other words, if you carried on past your sentry point, where
5 would it take you?

6 A. The hill was not very far away. It was at a -- located at a
7 distance which was not very far.

8 Q. All right. Was this hill going towards Lagura or was it in
9 another direction?

10 A. It was in another direction.

11 Q. Was it in the direction of Ezekere or another direction?

12 A. It was in another direction, not in the direction of Ezekere.

13 Q. Was it in the direction of Kasenyi or another direction?

14 A. The hill was located towards Kasenyi, but Kasenyi is located very
15 far away.

16 Q. Could you see Kasenyi from your position, from your sentry
17 position?

18 A. From our position, you could see Kasenyi but it was located very
19 far away.

20 Q. All right. Thank you. Now, you were asked to give us the names
21 of Boba Boba's guard, his bodyguard, and you told us - this is at T145,
22 page 8, line 19 - you said there was one called Ndjangu. Do you remember
23 telling us that?

24 A. Yes.

25 Q. In fact, let me give you the question from Mr. Garcia and your

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

Page 23

1 answer that you gave us on that day because it was now quite a long time
2 ago. Line 19 at page 8 you said -- Mr. Garcia asked you this question:

3 "Q. Mr. Witness, can you tell us the names of the people who
4 made up the guard detail of Commander Boba Boba?"

5 Your answer:

6 "A. One of these bodyguards was called Ndjangu," N-d-j-a-n-g-u.
7 "He had about four bodyguards, but I no longer remember their names."

8 Do you remember saying that?

9 A. I remember.

10 Q. And you went on to tell us that Ndjangu, he was 14, and that he
11 was -- you said:

12 "As far as I could tell," this is at page 9, line 14.

13 "As far as I could tell, Ndjangu was the youngest one in that
14 group."

15 So he was the youngest of the bodyguards obviously; is that
16 right?

17 A. I do not remember.

18 Q. Well, I'm reading what you told us on the 21st of May, just --
19 well, it's now some time ago now. I appreciate that. Let me remind you
20 what you said. You were talking about Ndjangu and the question that's
21 been put to you is this by Mr. Garcia. He asks you this:

22 "Q. I do understand you're not able to remember the names of the
23 other bodyguards of Commander Boba Boba, but is it possible for you to
24 tell us how old they were?"

25 Your answer:

Witness: Witness P-0279 (Resumed) (Open Session)
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1 "A. As far as I could tell, Ndjangu was the youngest one in that
2 group."

3 So I'm repeating your words. Do you agree with that or not?

4 A. Are you referring to our own group or to the group of
5 Commander Boba Boba's bodyguard?

6 Q. No, I'm still talking about Boba Boba's bodyguard. Let me remind
7 you what we've said so far. You've been asked:

8 "Can you tell us" -- this is Mr. Garcia asking the question of
9 you.

10 "Q. Can you tell us the names of the people who made up the
11 guard detail of Commander Boba Boba?

12 "A. One of these bodyguards was called Ndjangu. He had about
13 four bodyguards. I no longer remember their names."

14 You continue about Ndjangu. You say:

15 "At that time, he was 14 years old."

16 You're asked if you can tell the ages of the others, and you say:

17 "As far as I could tell, Ndjangu was the youngest one in that
18 group."

19 So those are your words as recorded. Do you accept that that's
20 true, is that the position?

21 A. Yes.

22 Q. All right. So that's Boba Boba's bodyguard. Now, there comes a
23 time when you're (Expunged). Do you remember
24 telling us about that? Let me read what you said and this is at
25 transcript 146 at page 8 at line 20. I'll start with the preceding

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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1 question. Question of Mr. Garcia:

2 "Q. Are you able to tell us how much time after the Bogoro

3 attack (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 PRESIDING JUDGE COTTE: (Interpretation) Prosecutor.

9 MR. GARCIA: (Interpretation) Once again I'm taking into account
10 the number of redactions that can be made within a certain time and it's
11 a limited number. I understand that Counsel Hooper, if he intends to
12 continue along the same line of questioning, it would be wise in that
13 case to go into private session.

14 PRESIDING JUDGE COTTE: (Interpretation) Certainly. With
15 regards to this point, yes.

16 Court Officer, please go into private session for the answers.
17 I've already signed several orders, but it's also quite laudable that
18 we've been able to go on for so long in open session.

19 (Private session at 10.38 a.m.)

20 (Expunged)

21 (Expunged)

22 (Expunged)

23 (Expunged)

24 (Expunged)

25 (Expunged)

Witness: Witness P-0279 (Resumed) (Private Session)
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Page 26 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 27 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
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Page 28 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
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Page 29 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Private Session)
Questioned by Mr. Hooper (Continued)

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Page 30 expunged. Private Session.

Witness: Witness P-0279 (Resumed) (Closed Session)
Questioned by Mr. Hooper (Continued)

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1 (Expunged)
2 (Expunged)
3 (Expunged)
4 (Closed session at 10.57 a.m.)
5 (Expunged)
6 (Expunged)
7 (Expunged)
8 (Expunged)
9 (Expunged)
10 (Expunged)
11 (Expunged)
12 (Expunged)
13 (Expunged)
14 (Open session at 10.58 a.m.)
15 COURT OFFICER: (Interpretation) We are in open session, your
16 Honour.
17 PRESIDING JUDGE COTTE: (Interpretation) The hearing is
18 therefore adjourned for 30 minutes. We'll be back at 11.30.
19 Recess taken at 10.58 a.m.
20 On resuming at 11.32 a.m.
21 (The accused entered court)
22 (Open session)
23 COURT USHER: All rise.
24 PRESIDING JUDGE COTTE: (Interpretation) Court is reconvened.
25 Please take your seats. We are in open session.

1 Mr. Prosecutor, you wanted to address the Court.

2 MR. GARCIA: (Interpretation) Mr. President, it is not my
3 intention to interrupt the cross-examination of Mr. Hooper. I am going
4 to be very brief. I simply wanted to draw the attention of the Chamber
5 that I realised that the witness seemed to be a little tired at the end
6 of that first part of the hearing. We have a concern regarding the
7 duration of the cross-examination in relation to the direct examination
8 of the witness, but I would not want the quality of his testimony to be
9 affected by the fact that he is apparently tired. I cannot be any --
10 very certain of that. Maybe we can ask him about that. Initially we had
11 shorter hearings, and it is my feeling that those shorter hearings were
12 much better. During this cross-examination the witness seemed to be
13 quite tired, so it is simply a suggestion because I was watching the
14 witness and the hearing lasted for about two hours. I do not know
15 whether VWU can be consulted on this issue. Maybe they are better placed
16 to tell us how the witness feels after longer hearings and all
17 respectfully submitted.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, please.

19 MR. HOOPER: Just for the record, obviously myself and other
20 members of the team have sight of the witness, have been watching him
21 with great care. It's certainly not my impression that he's suffering at
22 all from any tiredness. He may from time to time appear resentful of the
23 questions, but that might very well be a resentment born of the situation
24 we think that he's placed himself in. We don't agree with the
25 Prosecution. We don't see any objective basis for what Mr. Garcia has

1 just said. On the other hand, of course, if the Court wishes us to
2 prolong our business with this witness, then yes we can take breaks more
3 regularly. But we don't feel for our part that it would be justified on
4 the basis that's been suggested. I'm entirely of course in your hands.
5 I know you'll want to be extremely cautious in respect of a witness such
6 as this. But we wouldn't like it to be left unsaid that our subjective
7 view of this witness is rather different to the one just expressed by the
8 Prosecution.

9 PRESIDING JUDGE COTTE: (Interpretation) Professor Fofe.

10 And thank you, Mr. Hooper.

11 MR. FOFE: (Interpretation) Good morning, Mr. President, your
12 Honours. I would like to re-emphasise what our learned colleague
13 Mr. Hooper has just said. We did not at any time note or observe any
14 sign of tiredness with regard to that witness. We have many things to
15 say about the witness in question. What we are realising is that the
16 witness has adopted a certain strategy to refuse to answer certain
17 questions, and yet we are all aware that the witness and in fact all
18 witnesses do not have the right to silence. The witness has to answer
19 the questions.

20 And, Mr. President, you reminded him of that duty to answer on
21 several occasions. And so, in a nutshell, at this particular stage the
22 witness is not tired. In fact, he is a rather robust witness to the
23 extent that we were even wondering whether the fact that he had been
24 described as a fragile witness should not be reconsidered.

25 Thank you, Mr. President.

1 PRESIDING JUDGE COTTE: (Interpretation) Thank you to all
2 parties. We would simply want to inform you that this morning before
3 coming into the courtroom we wondered whether, as recommended by the
4 unit, since we wished to have an uninterrupted hearing, that is, a
5 hearing uninterrupted by decisions, we wondered whether we should work
6 for two hours in a stretch or for two periods of 50 minutes each. We
7 decided that we should work for two hours on the stretch because the
8 there were even certain technical problems with the interpretation booth,
9 particularly the Lingala and Swahili booths. We did not have the
10 impression that the witness was particularly tired. Maybe the witness
11 was slightly unsettled by certain questions. He takes his time to
12 reflect and that time is also time that enables him to rest. So he is
13 not under a barrage of questions because the pace that has been followed
14 is the usual pace that enables all the parties to use their time as
15 appropriately as possible.

16 So depending on how you look at it, it is not the tenor, it is
17 the ability to concentrate of the witness which is important. His
18 situation is not very convenient, but he has to concentrate. We wondered
19 whether for the second part of the hearing we should have adopted the two
20 periods of 50 minutes each, but we appreciate the concerns raised by all
21 the parties and the ability to concentrate of this witness had been
22 mentioned as a possible problem to us. The essential thing is not to go
23 to a point that makes it impossible for him to concentrate because that
24 would be a problem. So I would like to thank all the parties. We are
25 going to bring in the witness now, so the accused persons will have to

1 leave the courtroom for a while.

2 (The accused withdrew)

3 PRESIDING JUDGE COTTE: (Interpretation) And, Court Officer,
4 please take us into closed session and we will come back to open session
5 later. It is a quarter to 12.00. We have right up to 1.30 p.m., so I
6 believe for the time being we will go up to 12.30, suspend for ten
7 minutes, and then resume afterwards so that things should be very clear.
8 We should have a little -- a slight margin for manoeuvre because it is
9 not a good thing to be interrupted in the middle of a question.

10 (Closed session at 11.42 a.m.)

11 (Expunged)

12 (Expunged)

13 (Expunged)

14 (Expunged)

15 (Expunged)

16 (Expunged)

17 (Expunged)

18 (Open session at 11.43 a.m.)

19 COURT OFFICER: (Interpretation) We are in open session, your
20 Honour.

21 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

22 (The accused entered court)

23 PRESIDING JUDGE COTTE: (Interpretation) The accused persons
24 have now taken their seats.

25 Witness, can you hear me?

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 THE WITNESS: (Interpretation) Yes.

2 PRESIDING JUDGE COTTE: (Interpretation) Thank you.

3 Witness, we are resuming our hearing and we will go on to half
4 past 12.00, that is, for 45 minutes. We'll break for ten minutes -- up
5 until 1.30 p.m. So Mr. Hooper will continue with his cross-examination
6 and we have 45 minutes.

7 Please proceed.

8 MR. HOOPER: Thank you, your Honour.

9 Q. Mr. Witness, let me come to Germain Katanga, who as you know I
10 represent. My understanding is that you saw him three times, first of
11 all when you were on guard duty in Zombe; secondly, at Bogoro; thirdly,
12 in Aveba on one occasion when he was pointed out to you. Have I
13 understood that correctly?

14 A. Yes.

15 Q. Now, let me read to you what you said on the 20th of May in
16 transcript 144 at page 48 at line 11 to remind you and all of us of what
17 you've said about that.

18 "I'm going to talk about the battle," you said. I'm quoting here
19 your words.

20 "When we were in the Zombe camp, we spent one week there. We
21 were already used to living in that camp and they started deploying us.
22 We were sent to provide security on a road. And a few weeks later on
23 that road that we were guarding, Mr. Germain Katanga and his group passed
24 by. They went to our camp in Zombe and they met with Ngudjolo there.
25 They discussed. They even slaughtered a cow and feasted, while talking

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 about the Bogoro battle. They were planning that battle."

2 Do you remember saying that and is that correct?

3 A. Yes.

4 Q. To your knowledge, was there a radio at Zumbe or a radio
5 available to those at Zumbe?

6 A. I do not remember.

7 Q. Now, this occasion when you say you saw Germain Katanga and his
8 group, for how long had you been in Zumbe when that happened?

9 A. I had spent a few weeks there.

10 Q. And what time of day was this?

11 A. I do not believe so.

12 Q. Well --

13 THE INTERPRETER: The Swahili booth corrects:

14 THE WITNESS: (Interpretation) I do not remember.

15 MR. HOOPER:

16 Q. When you saw this group, were you going to your sentry position
17 or were you already at your sentry position?

18 A. We were already at our position.

19 Q. Who else was with you doing sentry duty?

20 A. We were with other soldiers.

21 Q. Can you remember who they were?

22 A. I no longer remember.

23 Q. Had you seen Germain Katanga before then at all?

24 A. I do not have any answer to that.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, we have

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 started our hearing and it is important to adopt the right habits from
2 the very beginning of the hearing. As I told you yesterday, either you
3 know or you do not know. But as far as the Court is concerned, an answer
4 such as "I have no answer to that" is not appropriate. It is possible
5 for you not to remember. It is possible for you not to know, and if you
6 know, tell us what you know. But do not give us the impression that you
7 do not wish to answer because you are there to answer all questions
8 irrespective of where they come from, from the Prosecutor, the Legal
9 Representatives of the Victims, the Defence, or the Bench. So it is very
10 important for us to start off on the right foot.

11 Please proceed, Mr. Hooper.

12 MR. HOOPER:

13 Q. Well, let me put the question again to give you an opportunity to
14 provide a reply other than the one you gave me. The question was: Had
15 you seen Germain Katanga before then at all?

16 A. I would say that I no longer remember. I have forgotten.

17 Q. Now, your sentry point where you were that day, is that the
18 sentry point you've told us about from which you could see Kasenyi a long
19 way away?

20 A. Yes.

21 Q. And was your sentry point at a position where there was a path or
22 a road; and if so, was it a path, a walking path, or was it a road that
23 vehicles could use? Can you tell us, please.

24 A. It was a path for people on foot. Vehicles could not take that
25 road.

Witness: Witness P-0279 (Resumed) (Open Session)
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1 Q. And was, do you say, Germain Katanga and his group on foot? I
2 assume you say they were. Just please confirm, were they on foot or on a
3 vehicle of any kind?

4 A. Yes.

5 Q. So they were on foot; is that right?

6 A. Yes.

7 Q. And how many of them were there in this group?

8 A. I no longer remember. I cannot give you the number.

9 Q. And who was he with, do you know?

10 A. I have no idea.

11 Q. Did he stop and talk to you or what? What did he do?

12 A. He stopped briefly to greet us and his group went on their way.

13 Q. Can you remember how he was dressed?

14 A. He was wearing clothes.

15 Q. And what kind of clothes, do you remember?

16 A. Regarding the clothes he was wearing, he was wearing a military
17 uniform.

18 Q. And the others with him, were they similarly dressed?

19 A. Some of them were dressed like him, but others were dressed in
20 civilian clothing.

21 Q. And who told you it was Germain Katanga?

22 A. It was the soldiers who were with me at our position.

23 Q. And when did they tell you it was Germain Katanga?

24 A. It was at the time where we were positioned or where we were at
25 the position where we were located.

Witness: Witness P-0279 (Resumed) (Open Session)
Questioned by Mr. Hooper (Continued)

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1 Q. Did you learn who the other people with him were? Or were you
2 just told that one of them was Germain Katanga?

3 A. Yes.

4 Q. And is that "yes," yes, I was only told who Germain Katanga was
5 and the others were not identified to me? Is that what you're saying?

6 A. Yes.

7 Q. Right. Now, I'd like to read paragraph 26 of your statement to
8 you, and invite your comment about it. So these are your words provided
9 to the investigator when you made your statement. Paragraph 26:

10 "Three days before the attack on Bogoro, I was on the path to
11 take my sentry position. At that moment I crossed Germain, Cobra,
12 Ndargue," that's N-d-a-r-g-u-e, "and Oudo who were going towards the
13 camp. They were accompanied by their guards. All together about 20
14 people with some other commanders I cannot recall. It was the first time
15 I saw Ndargue and Oudo," Oudo is O-u-d-o.

16 What do you say to that?

17 A. I do not remember.

18 Q. You see, plainly in your statement you're saying that you were on
19 your way to take a sentry position. You said:

20 "I was on the path to take my sentry position."

21 So were you on the path to take your position or were you already
22 in position? Which was it?

23 A. I was already in position.

24 Q. Did you see Cobra, Ndargue, and Oudo?

25 A. Well, to answer your question, I do not remember.

Witness: Witness P-0279 (Resumed) (Open Session)
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1 Q. In your statement you say:

2 "It was the first time I saw Ndargue and Oudo."

3 So how did you know it was Ndargue and Oudo, can you tell us?

4 A. I have forgotten.

5 Q. I mean, that's quite a lot of people amongst a group of people of
6 20 or more to remember, isn't it, just passing you by? Have you got a
7 good memory?

8 A. (No verbal response)

9 Q. Well, that's quite a long pause. I'm not going to wait for your
10 answer.

11 Now, we've had a witness before you who claims to have been at
12 Zumbe and (Expunged)
13 He told us this:

14 "I am certain Germain Katanga and no FRPI commander came to Zumbe
15 before the Bogoro attack. Germain Katanga didn't know the road to
16 Zumbe."

17 That's Witness 250, transcript 104, page 17.

18 Now, are you sure you saw Germain Katanga or any other FRPI
19 commander at Zumbe a few days before Bogoro? Are you sure you're right
20 about that?

21 A. All I know is what I have just told you here.

22 Q. Now, you've told us here that you learnt it was Germain Katanga
23 because one of the other soldiers told you at the time when that group
24 passed through your lines. Now, I'd like to read to you part of
25 paragraph 25 of your statement that you made to the investigator. What

1 you said was this:

2 "I participated at the battle of Bogoro against the UPC. Our
3 group won this battle. The other group with us was the FRPI. I do not
4 know what that means. Germain was the first chief of the FRPI, and after
5 him there was Cobra Matata. I saw Germain and Cobra Matata before my
6 abduction. My parents had indicated that it was Germain and Cobra one
7 day on the road."

8 You go on to then talk about his arrival at Zombe. So your basis
9 for knowing it was Germain Katanga passing through your line in your
10 statement is because of a previous identification made to you by your
11 parents; quite different to the account you give us today. Why is that?

12 A. (No verbal response)

13 Q. Well, that's a minute since I asked the question or finished
14 asking the question. Do you have an answer?

15 A. I have no answer.

16 Q. Am I right in saying that there never was a time when your
17 parents pointed out Germain and Cobra to you on the road before your
18 abduction? Am I right in saying that that never happened?

19 A. (No verbal response)

20 Q. Is that right that what is said in your statement never happened?
21 Now, come on, that's not a difficult question -- well, it might be, I
22 don't know, for you. But that never happened, did it? Your parents
23 never pointed Germain Katanga nor anybody else out to you, have they?

24 A. (No verbal response)

25 Q. Well, there's been a prolonged silence and I think we can draw

1 our own conclusions perhaps from that.

2 So why did you tell the investigators that your parents had
3 pointed Germain Katanga out to you before your abduction? Why did you
4 feel it was necessary to tell them that when it wasn't true?

5 Is the truth of it that those investigators wanted to hear you
6 say things about Germain Katanga and so you made things up and you won
7 yourself a place in the victim protection programme - isn't that
8 right? - and all the advantages of that?

9 A. (No verbal response)

10 Q. I want to show you a photograph. We don't have it on the screen
11 because we only received it this morning. We do have hard copies of it
12 and this is a very private photograph which can go to the witness, but
13 can I just ask that no one points the photograph towards the public
14 gallery.

15 MR. HOOPER: If Mr. Garcia can be given a copy. I won't say its
16 source for obvious reasons.

17 Q. So we have the picture here. Do you recognise that person, yes
18 or no?

19 A. I do not recognise this person.

20 Q. And that is on your oath, is it? Is that on your oath?

21 A. (No verbal response)

22 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, the Court
23 will like to remind you once more that you have to answer the questions
24 that are put to you. Several questions have been put to you and you have
25 not answered them; you stayed silent. You certainly heard Mr. Katanga's

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1 counsel say that he will draw the consequences or the conclusion from
2 your silence, everyone will. You have to answer, to avoid a situation
3 where we have to draw conclusions that do not tally with what you really
4 know.

5 At this juncture a photograph has been shown to you, and I think
6 you should reflect well before you give an answer. And if indeed you do
7 not recognise this person you should say so. However, it is very
8 important for you to bear in mind the oath you took at the time you
9 started to give your testimony. I am certain that you have fully
10 understood me. We have been at this for several days now and I have kept
11 giving you this reminder.

12 Mr. Hooper, you may proceed, sir.

13 MR. HOOPER:

14 Q. All right. Let me ask again. Do you recognise the person in
15 that photograph?

16 A. (No verbal response)

17 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, you have
18 to answer yes or no. You cannot afford to stay silent here before the
19 Court when questions are put to you. You have to answer yes or no. And
20 we are going to rise at 12.30 for ten minutes, but then you have to give
21 us answers. The Court does not intend to force you to answer in one way
22 or the other. You have to understand me. The Court simply wants you to
23 answer the questions which are put to you.

24 A short while ago you said "no." Do you confirm that answer of
25 no? Is that the case?

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1 I turn to the French transcript, page 52, line 1. In line 1 you
2 said:

3 "I do not recognise this person."

4 That's the answer we're going to take. Is that the case?

5 THE WITNESS: (Interpretation) I do not recognise this
6 individual very well.

7 PRESIDING JUDGE COTTE: (Interpretation) You simply had to give
8 your answer or confirm what you said previously. Thank you.

9 MR. HOOPER: And just for future reference, can I just give some
10 numbers. 2801007-1089. That is sufficient for the transcript.

11 Q. Now --

12 JUDGE DIARRA: (Interpretation) The witness said "know" the
13 first time, and the English transcript wrote "(no verbal response)."

14 PRESIDING JUDGE COTTE: (Interpretation) I think we should make
15 sure that the two transcripts reflect the same thing. Thank you,
16 Judge Diarra.

17 French transcript page 52, line 1 it states:

18 "I do not recognise this person." And the witness has just
19 repeated the answer, stating:

20 "I do not recognise this person" -- or rather "I do not know this
21 person."

22 So if the witness says "know," then the transcript should also
23 bear what he said, so namely "know" and not say "I do not recognise this
24 person."

25 MR. HOOPER: In fact, it's been pointed out to me in the English

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1 transcript it goes even further than that and it says:

2 "I do not know this person very well," which is -- so that
3 wasn't -- that wasn't said as far as I know or ...

4 (Defence counsel confer)

5 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Mr. Hooper.

6 Page 52 of the French transcript, line 16, I read:

7 "I do not know this person very well."

8 And this tallies with what you have just read out from the
9 English transcript.

10 MR. HOOPER: (Previous translation continues) ...

11 PRESIDING JUDGE COTTE: (Interpretation) That is the point now.

12 MR. HOOPER: Can I say --

13 Q. Mr. Witness, still dealing with this photograph, did you say
14 "sikufamia ye bien," "sikufamia ye bien," and if so, what does it mean?

15 A. This means that I do not know the person.

16 Q. Thank you.

17 PRESIDING JUDGE COTTE: (No interpretation)

18 (Interpretation) We are going to rise for ten minutes in order to
19 allow the witness to rest. So could the security officers lead out the
20 accused persons.

21 Mr. Witness, we are going to resume at 12.40.

22 (The accused withdrew)

23 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, could we
24 go into closed session in order to enable the witness to leave the
25 courtroom, please.

1 (Closed session at 12.29 p.m.)

2 (Expunged)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Open session at 12.30 p.m.)

9 COURT OFFICER: (Interpretation) We are in open session, your

10 Honour.

11 PRESIDING JUDGE COTTE: (Interpretation) Thank you,

12 Court Officer.

13 We are going to resume at 12.40, and we stand adjourned.

14 Break taken at 12.30 p.m.

15 On resuming at 12.44 p.m.

16 (Closed session)

17 (Expunged)

18 (Expunged)

19 (Expunged)

20 (Expunged)

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Page 48 expunged. Closed Session.

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12 Page 49 expunged. Closed Session.

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1 (Expunged)
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14 (Expunged)
15 (Open session at 12.51 p.m.)
16 COURT OFFICER: (Interpretation) We are in open session, your
17 Honour.
18 PRESIDING JUDGE COTTE: (Interpretation) Thank you,
19 Court Officer.
20 The accused are with us.
21 Witness -- the witness is with us.
22 Witness, can you hear me well?
23 THE WITNESS: (Interpretation) Yes.
24 PRESIDING JUDGE COTTE: (Interpretation) Thank you, Witness.
25 So, Counsel Hooper, you can continue. You can take the floor

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1 again.

2 MR. HOOPER: Very well.

3 Just for the record and in open Court, just a moment ago we gave
4 some identifying features to the photograph and it's been given an EVD
5 number, and that's now a matter of record. Thank you.

6 Q. Mr. Witness, let's move to your account of your participation in
7 the battle at Bogoro. Prior to your going there to attack it, had you
8 visited Bogoro before?

9 A. No.

10 Q. After the day on which the battle of Bogoro took place, did you
11 visit Bogoro after that?

12 A. After the attack on Bogoro and at the time that I was a
13 taxi-driver, I used to be in Bogoro.

14 Q. And so Bogoro is a place you're familiar with; is that right?

15 A. No, it's not a place that I'm used to going.

16 Q. But as a taxi-driver from time to time you would, what, pass
17 through it or go there with a passenger? Is that the position?

18 A. Yes.

19 Q. And what year would it be that you'd be going there as a
20 taxi-driver?

21 A. From 2005.

22 Q. And at that time -- and I ask, did you have a licence as a
23 taxi-driver?

24 A. I had a driving licence. I have forgotten the year in which I
25 obtained this driving licence.

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

Page 52

1 Q. And how old do you have to be or how old did you have to be in
2 Congo to get a driving licence that would allow you to take passengers,
3 to work as a taxi? How old would you have to be?

4 A. I do not know.

5 Q. All right. Now, I'm not going to ask you about what happened in
6 Zumbe before the battle. You'll be asked questions about that by my
7 learned friend who follows me. Can I ask you just this: What route did
8 you take to go from Zumbe to Bogoro?

9 A. I went on the road of the hill.

10 Q. Well, now you know the area and we don't. Just tell us where
11 that takes you. Where did you pass through?

12 A. From Zumbe there is firstly a road for pedestrians and this goes
13 from a village which we call Katonie. From Katonie there were several
14 roads or tracks which could take you there by foot.

15 Q. And which track did you take, do you know?

16 A. I would say the following: If you go on the main road, there are
17 also other tracks, shortcuts, that you can take on foot.

18 Q. Well, which side of the main road did you go, left or right?

19 A. To go to Bogoro, you had to take the left.

20 Q. Yes, that wasn't -- I appreciate you'd go left. You're on a
21 track, are you? You're not on the main road; is that right?

22 A. I took the road, and when I reached the path --

23 THE INTERPRETER: The Swahili interpreter says the witness did
24 not complete his answer.

25 PRESIDING JUDGE COTTE: (Interpretation) Mr. Witness, did you

1 complete your answer? What we got is as follows:

2 "I took the road, and when I reached the path ..."

3 And then there is nothing more because apparently you stopped at
4 that point. Can you complete your answer or perhaps tell us that that
5 was the end of it, although it is our feeling that you had not completed
6 the answer or at least the end of your answer was not heard by the
7 interpreters. Thank you for helping us, Mr. Witness.

8 Do you remember Mr. Hooper's question? I will repeat it so that
9 you can give us a complete response.

10 "Indeed," said Mr. Hooper, "I understand that you went to the
11 left, but you were on a track, is that correct, but not the main road?"

12 And then your answer was:

13 "I took the road, and when I reached the path ..." but you have
14 to complete your answer, Mr. Witness.

15 THE WITNESS: (Interpretation) There, there is a path and there
16 is a crossing point between the path and the road where vehicles can
17 move. That is the place I was referring to.

18 MR. HOOPER:

19 Q. All right. Thank you. So let's just review that. You go down
20 from Zumbe to the main road at Katonie. Now, we know Katonie, which is
21 on the main road between Bunia and Bogoro. Having got to Katonie, you
22 join the main road. You turn left to go towards Bogoro. How far down
23 the road towards Bogoro did you go before you turned off on the path?

24 A. No.

25 Q. Let me put the question again. We understand you to say that you

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Questioned by Mr. Hooper (Continued)

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1 get to Katonie, and there you join the main road; is that correct?

2 A. Yes. You leave Zumbe, you arrive Katonie, and then you take the
3 main road. After that you go on a track, a shortcut.

4 Q. Yes, yes. Okay. So now you get to Katonie and you start walking
5 along the main road. My question is: How far along that road do you go
6 before you turn off onto this track?

7 A. I do not have any idea about the distances.

8 Q. Well, you're a taxi-driver or you were and using that road. So
9 see if you can help us. Think about it. How far from Katonie was it
10 before you turned off onto the footpath?

11 A. I really cannot understand it. I cannot make any sense of that.

12 Q. All right. Well, let's leave that then. Now, you've turned off
13 the road and you're going along the path. Who else is with you on the
14 path?

15 A. I was with other soldiers and Chief Ngudjolo was also there.

16 Q. Any other commanders with you on the path?

17 A. Yes.

18 Q. And who were they?

19 A. There was Commander Boba Boba, Crikaka, and others.

20 Q. And Kpadhole, Kpadhole, was he there?

21 A. Yes, he was there.

22 Q. And how many combatants or soldiers were with you?

23 A. It is not possible for me to remember. I cannot give you a
24 number.

25 Q. And how were you dressed?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. Are you asking me that question? Do you wish to know what I was
2 wearing at that time?

3 Q. That's the question. How were you dressed?

4 A. I was wearing a military top and a civilian pair of trousers.

5 Q. And you walked down the path, and where does the path bring you
6 out to in Bogoro? Which bit of Bogoro do you come to at the end of the
7 path?

8 A. That path led to another main road, and the road would lead you
9 right to Bogoro.

10 Q. Now, which main road was this? Was it the road between Bogoro
11 and Katonie?

12 A. This was a road from Katonie to Bogoro.

13 Q. So am I right in saying you start off on the main road from
14 Katonie, you come off the main road and go along a path, and that path
15 then rejoins the main road again; is that right?

16 A. Yes.

17 Q. And which bit of the main road did it rejoin?

18 A. It was between Katonie and Bogoro.

19 Q. When you rejoined the road, how far were you from Bogoro?

20 A. It is a long distance, but I cannot give you an estimate of that
21 distance.

22 Q. So do you then all march down this road towards Bogoro; is that
23 what happened?

24 A. Yes.

25 Q. And where were you on the road when the fighting started?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. We were there, not far away from Bogoro.

2 Q. How far away from the church in Bogoro were you?

3 A. Which church are you referring to?

4 Q. How many were there?

5 A. I do not know.

6 Q. All right. Now, let me, please, just read part of what you said
7 about -- in your brief description of the battle. Let me just read part
8 of the transcript. Now, these are your words which I'm going to read
9 back to you. It's at page 26 of transcript 145. It reads as follows:

10 "The Bogoro attack started at 4.00 in the morning. All the
11 commanders were ready for the launching of the operation and all of them
12 knew that at 4.00 a.m. the attack was going to start. The first
13 gun-shots served as a signal. The attack therefore commenced and they
14 entered into the camp. There was gun-fire and people were killed in the
15 camp. It was at 4.00 or 5.00 in the morning. Around 5.00 a.m., the
16 members of the civilian population started fleeing. Some of the
17 civilians were killed while others fled, but it was mostly soldiers who
18 died. Members of the civilian population also perished. Even us, we
19 lost some of our soldiers. Towards the end of the fighting,
20 Commander Ngudjolo and Commander Katanga went into the room of the Bogoro
21 school. I do not know what they discussed amongst themselves."

22 Then you told us at page 28 that the end of the fighting -- when
23 you were asked when the fighting ended, you said it was 10.00 to
24 11.00 a.m.

25 Now, do you remember telling us all that?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. Yes.

2 Q. And we know from what you said, it's towards the end of the
3 fighting that you say Ngudjolo and Katanga go into the room at the Bogoro
4 school. So would I be right in understanding you to say that that would
5 be towards the end of the fighting, at 10.00 or 11.00 in the morning?
6 Would that be right?

7 A. Yes, it was at the end of the fighting.

8 Q. And you told us they didn't stay in the school for long and there
9 came a time when Ngudjolo and Katanga left. Can you remember how long
10 after the end of the fighting that was?

11 A. (No verbal response)

12 Q. Again, that's perhaps a reflective silence on your part. Let me
13 re-capsulate. The end of the fighting is at 10.00 or 11.00 a.m. You've
14 told us that towards the end of the fighting those two go into the
15 schoolroom, and you've told us they weren't in the schoolroom long, and
16 you tell us at some point they leave. And I'm asking you how long after
17 the end of the fighting was it that they left?

18 A. I do not remember the time.

19 Q. Well, was it half an hour? An hour? Two hours? Can you help
20 us?

21 A. I have forgotten.

22 Q. All right. Now, after they leave you told us, do you remember,
23 that there was some celebrations and cheering by the soldiers celebrating
24 their victory? And then you said that you went back to Zombe. What time
25 did you get back to Zombe, can you remember?

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

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1 A. I do not remember.

2 Q. Well, was it still light or was it dark? Try and help us.

3 A. It was still daylight.

4 Q. And I think you told us it was what, three, three and a half
5 hours to get from Zumbe to -- sorry, three, three and a half hours to get
6 from -- yes, from Zumbe -- from Bogoro to Zumbe, is that right, to walk
7 up the hill and get to the top to Zumbe to where you say your camp was
8 took you three, three and a half hours; is that right?

9 A. Yes.

10 Q. And we've seen some photographs of the hill and some of us have
11 been there and we know the geography a bit. It's a difficult climb up,
12 is it not?

13 A. Yes.

14 Q. And did you still have your gun with you?

15 A. Yes.

16 Q. Were you carrying the bed with you?

17 A. Yes.

18 PRESIDING JUDGE COTTE: (Interpretation) Mr. Hooper, did you
19 carry with you -- the word does not appear? The rest does not appear in
20 the English. You asked whether he still had his weapon. The answer is
21 yes. Then you said were you still carrying, were you still with -- but
22 we didn't understand what the witness was supposed to be carrying. He
23 said yes, but we do not know what.

24 MR. HOOPER: (Previous translation continues) ...

25 PRESIDING JUDGE COTTE: (Interpretation) Were you transporting

Witness: Witness P-0279 (Resumed)(Open Session)
Questioned by Mr. Hooper (Continued)

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1 or carrying with you the ... ?

2 MR. HOOPER: (Previous translation continues) ...

3 PRESIDING JUDGE COTTE: (Interpretation) The bed. That is what
4 I thought I understood, but which was not understood by the others.
5 Thank you.

6 MR. HOOPER: And he said he was.

7 PRESIDING JUDGE COTTE: (Interpretation) Yes, indeed.

8 MR. HOOPER: So I don't know if that's a suitable moment. I have
9 a few questions to ask but not very many.

10 PRESIDING JUDGE COTTE: (Interpretation) I doubt.

11 Court Officer -- Mr. Hooper, exactly how much time do you think
12 you'll need?

13 MR. HOOPER: 20 minutes.

14 PRESIDING JUDGE COTTE: (Interpretation) Unfortunately, I think
15 we have to stop here and resume tomorrow morning at 9.00 a.m.

16 This means that tomorrow morning Mr. Hooper will conclude his
17 cross-examination and the Defence team of Mathieu Ngudjolo will start
18 theirs. So we will most probably be with this witness the entire morning
19 of tomorrow. Very well. Thank you to all the parties and participants
20 and to all our support staff who assisted us in difficult circumstances
21 because there was a lot of humming in our ears.

22 Security officers, please escort the accused persons out.

23 And we will see you again tomorrow morning.

24 (The accused withdrew)

25 PRESIDING JUDGE COTTE: (Interpretation) Court Officer, we will

Witness: Witness P-0279 (Resumed)(Closed Session)
Questioned by Mr. Hooper (Continued)

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1 go into closed session to enable the witness to withdraw.

2 (Closed session at 1.29 a.m.)

3 (Expunged)

4 (Expunged)

5 (Expunged)

6 (Expunged)

7 (Expunged)

8 (Expunged)

9 (Expunged)

10 (Expunged)

11 (Expunged)

12 (Open session at 1.30 p.m.)

13 COURT OFFICER: (Interpretation) We are in open session, your
14 Honour.

15 PRESIDING JUDGE COTTE: (Interpretation) Hearing is adjourned.
16 We will resume tomorrow at 9.00 a.m.

17 The hearing ends at 1.31 p.m.

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