

Trial Hearing (Closed Session)
Witness: DRC-OTP-WWWW-0321

(Reclassified into Public)

ICC-01/04-01/06

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Situation: Democratic Republic of the Congo

4 In the case of The Prosecutor v. Thomas Lubanga Dyilo ICC-01/04-01/06

5 Presiding Judge Adrian Fulford,

6 Judge Elizabeth Odio Benito and Judge René Blattmann

7 Trial Hearing - Wednesday, 3 November 2010

8 *(The hearing resumes in closed session at 2.30 p.m from Courtroom 2) Reclassified
9 into Public

10 THE COURT USHER: All rise. Please be seated.

11 PRESIDING JUDGE FULFORD: Witness, please. Just pause a moment, usher.

12 Mr Sachdeva.

13 MR SACHDEVA: Mr President, I'm very sorry. May I just make one point? It's
14 actually a request for confirmation in fact. You may recall that we provided a lawyer
15 to witness --

16 PRESIDING JUDGE FULFORD: (Microphone not activated).

17 MR SACHDEVA: We provided the lawyer to Witness 316, the transcripts of
18 evidence of Defence Witness 16 and Prosecution Witness 15, so he can be instructed
19 accordingly by his client. The lawyer has come back and just wanted confirmation
20 that indeed the closed session material can be shared with his client.

21 The assumption I had is that that should be permissible because otherwise how can
22 he be properly instructed, and I just raised it with the Defence and the Defence also
23 agree. So if we could just get confirmation from your Honours that that's
24 permissible, we would be most grateful.

25 PRESIDING JUDGE FULFORD: Any observations, Maître Mabille?

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- 1 MS MABILLE: (Interpretation) No objection, your Honour.
- 2 PRESIDING JUDGE FULFORD: Certainly. The message must please from you be
- 3 imparted loud and clear that this is confidential information that must be treated
- 4 accordingly, and for those transcripts that weren't -- for those parts of the transcripts
- 5 that relate to closed session hearings, both the lawyer and his client must be very
- 6 careful about what they do with that material.
- 7 MR SACHDEVA: Certainly, Mr President. Thank you.
- 8 PRESIDING JUDGE FULFORD: Thank you very much indeed. Witness, please.
- 9 (The witness enters the courtroom)
- 10 WITNESS: DRC-OTP-WWWW-0321 (On former oath)
- 11 (The witness speaks Swahili)
- 12 PRESIDING JUDGE FULFORD: Yes, private session, please.
- 13 *(Private session at 2.34 p.m.) Reclassified into Public
- 14 PRESIDING JUDGE FULFORD: Good afternoon, sir.
- 15 THE WITNESS: (Interpretation) Good afternoon.
- 16 THE COURT OFFICER: We are in private session, your Honours.
- 17 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.
- 18 QUESTIONED BY MR BIJU-DUVAL: (Interpretation) (Continuing)
- 19 Q. Mr Witness, before we move on to the next point, I wish to ask you a last
- 20 question about (Expunged). You told us that you did the trip from (Expunged)
- 21 with him. Do you know what identity document (Expunged) travelled with on that
- 22 occasion?
- 23 THE INTERPRETER: The witness says, "No translation from Swahili."
- 24 THE WITNESS: (Interpretation) I can hear the Swahili interpretation now clearly.
- 25 PRESIDING JUDGE FULFORD: Question again, please.

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1 MR BIJU-DUVAL: (Interpretation)

2 Q. You informed us that you travelled with (Expunged) from (Expunged) to
3 (Expunged) by air. Do you know the identification document (Expunged) travelled
4 with? What ID papers did he use for that trip?

5 A. Thank you for the question. When we arrived at the airport, everyone did
6 their travel formalities on their own. I did not see the documents he used to travel
7 with. Thank you.

8 Q. Thank you. Mr Witness, do you know an individual who goes by the name
9 (Expunged)?

10 A. Thank you for the question. Could you please, counsel, show me the
11 photograph of this individual? The photograph will enable me to identify the
12 person. If you have the photograph, please kindly show it to me. Thank you.

13 Q. I am going to show you a photograph, but I think that you can answer my
14 question. Amongst your acquaintances, is there someone who goes by the name
15 (Expunged)? Do you know someone by the name (Expunged)?

16 A. Thank you for the question. As I told you earlier, (Expunged) is a name generally
17 born by people of Hema ethnicity. I have worked with many people who go by the
18 name (Expunged). I have also worked with many people who bear the name (Expunged),
19 and so I would like to appeal to you to show me the photograph. Thank you.

20 Q. You have worked with several people called (Expunged). You have worked with
21 several people called (Expunged). Have you ever worked with a certain individual
22 called (Expunged), someone who bears the two names?

23 A. Thank you. Counsel, I have just told you -- I have just asked you, isn't it
24 possible for you to show me the photograph? Thank you.

25 PRESIDING JUDGE FULFORD: Mr Biju-Duval, we will bear in mind the witness's

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1 reluctance to answer the question without seeing a photograph. I don't think there's
2 much point in pressing him further to give the answer before he's seen it, but we will
3 bear in mind that he has declined to answer the question without seeing the
4 photograph. So if there is one, could it be shown to him.

5 MR BIJU-DUVAL: (Interpretation) Yes, your Honour.

6 Q. Could you please therefore turn to tab 28 in the binder; it's a document which
7 bears the reference DRC-OTP-0229-0113. Mr Witness, do you know the individual
8 shown in this photograph?

9 A. Yes.

10 Q. Could you please tell us his name?

11 A. Thank you. If you followed me well earlier, when I said that there was (Expunged)
12 (Expunged), well, the person who is sitting here is the
13 one -- the person I would refer to as (Expunged).

14 Q. Thank you. Do you know his other names?

15 A. I have forgotten his other names. I often used to refer to him as (Expunged)
16 (Expunged), or in French (Expunged).

17 Q. Thank you. According to your testimony, the person who is in this
18 photograph is not called (Expunged) therefore?

19 PRESIDING JUDGE FULFORD: Problem, Mr Sachdeva?

20 MR SACHDEVA: In a sense, Mr President, because he's not saying that he's not
21 called that name. He is saying this is the name that I know him by.

22 PRESIDING JUDGE FULFORD: No, no. Mr Biju-Duval is entitled to ask whether
23 or not to his knowledge he is -- as well as being known as (Expunged), he's also
24 known as (Expunged). Of course it's all going to be within his knowledge. He may
25 be called anything outside of the witness's knowledge, but to the witness's knowledge.

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1 Yes, sir -- but thank you for the objection.

2 Sir, you're being asked whether as well as being called (Expunged) this person is also
3 to your knowledge known as (Expunged). All right? Is there a problem now,
4 Mr Sachdeva?

5 MR SACHDEVA: Mr President, with respect, the question that I have is that he's
6 saying that his testimony is this person is not called (Expunged).

7 PRESIDING JUDGE FULFORD: Well, yes. Thank you, Mr Sachdeva. I
8 understand the point.

9 Now, sir, I am going to put the question again. As well as being called (Expunged)
10 (Expunged), to your knowledge have you ever known this person to be called
11 (Expunged)?

12 THE WITNESS: (Interpretation) Thank you for the question. As I said earlier, I
13 used to call this fellow (Expunged) in French. I have forgotten
14 his other names because these events took place many years ago. Thank you.
15 However, I would like to add that his name was not (Expunged) only. Maybe
16 he had other names, but I do not remember these names.

17 MR BIJU-DUVAL: (Interpretation)

18 Q. Mr Witness, let's put this photograph aside. I would like to return to my initial
19 question: Did you at any moment whatsoever take charge of a child - of a young
20 person - whose name was (Expunged)?

21 A. Thank you. I think I have already said this. I dealt with many people called
22 (Expunged). I also dealt with many people called (Expunged). However, the
23 photograph you have shown here is -- well, the person here is somebody I recognise
24 very well. This is a child with whom I had contact. I have forgotten his name.

25 PRESIDING JUDGE FULFORD: I don't think you are going to improve on that, Mr

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1 Biju-Duval.

2 THE WITNESS: (Interpretation) As a general rule I used to refer to him as (Expunged),
3 (Expunged) or (Expunged) in French.

4 MR BIJU-DUVAL: (Interpretation)

5 Q. Thank you. Could you please turn to tab 3 of the binder. Tab 3 of the binder.

6 I beg your pardon, I am mistaken. Could you please turn to tab 8. Tab 8. The
7 reference number is DRC-OTP-0222-0450. I would refer you to page 0546 and 0547,
8 line 211. Starting from line 211. This is an excerpt from the statement which you
9 gave in January 2010 to the investigators from the OTP. Are you on that page yet?

10 A. Yes, I am on that page.

11 Q. I quote: Question: "I said (Expunged), does that name mean
12 anything to you? Do you know that individual?" Answer: "No. In any case it
13 doesn't mean anything to me. Well, unless you have the pronunciation, but it really
14 doesn't mean anything to me. Could you please spell the name? That way I will
15 take note." Question: "Okay. So the first name is (Expunged). Repeat, so we make
16 sure you heard well." Answer: "Yes, (Expunged)." Question: "Very well. The
17 second name is (Expunged). Answer: "Yes." Question: "Spell it, (Expunged)
18 Answer: "Yes." Question: "So, (Expunged), I spell it. It is (Expunged)
19 Answer: "Yes, yes." Question: "And the third name is (Expunged). Answer: "Yes,
20 I do see the name." Question: "Very well. So you have fully understood the name
21 now?" Answer: "Yes, I have understood." Question: "Do you know that
22 individual?" Answer: "Yes, I do know him." Question: "And who is this
23 individual?" Answer: "Yes, I know him. He is somebody, it's a young man
24 I know whom I reunited with his family." Question: "Ah, so this is a young person
25 whom you reintegrated with his family within the framework of your activities, your

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1 earlier activities?" Answer: "Yes." Question: "Within which framework did
2 you -- I beg your pardon, do you know his uncle, whose name is (Expunged)
3 Answer: (Expunged) Question: (Expunged) Answer: "Repetition.
4 There is -- you don't have a second name?" Question: "No, I don't have a second
5 name. Does the name (Expunged) mean anything to you?" Answer: "Repetition
6 of --" Question: (Expunged). Answer: "Yes."
7 Question: "Do you know this person?" Answer: "Yes, I do know the person."
8 Question: "Who is this person?" Answer: "Yes, it's a young man whom I
9 reintegrated with his family in (Expunged) Question: "Okay. Are you sure of that,
10 because the (Expunged) I am talking about is the uncle of (Expunged), as I
11 told you a short while ago; is that correct? Does that mean anything to you?"
12 Answer: "Yes, it means something to me. That's his uncle. So he's the older
13 brother of his mother. It's his uncle. I know him very well." Question: "He is the
14 senior brother of the mother of (Expunged)?" Answer: "Yes, that is what his
15 mother told me." Question: "Okay. Do you know the other name (Expunged)
16 (Expunged)? Do you have another name for him?" Answer: "Yes.
17 Sometimes he would give me the name (Expunged)
18 Mr Witness, do you confirm that you took charge of a young person who bore the
19 name (Expunged)
20 A. Thank you for the question. If you take the paragraph which comes
21 immediately after what you just read, you are going to see somewhere that, after
22 giving the statement, which was given by phone by the way, I was a bit confused. If
23 you continue reading this statement which I gave over the phone, you will find that I
24 corrected myself later on, because there was some confusion about (Expunged) and
25 (Expunged) with whom we travelled from (Expunged). I would like to appeal to

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1 you to read my statement again. You read the rest of the phone statement which I
2 gave. Read it, and you will find at some point that I was asked certain details and I
3 answered giving details and I even stated that I was confused between the person
4 with whom I travelled to (Expunged) and this child. Thank you.

5 PRESIDING JUDGE FULFORD: Sir, let us for the moment put to one side what may
6 have come later and it may well be that you gave a qualifying explanation in relation
7 to this. Having been reminded of the long passage that Mr Biju-Duval has read out,
8 can you help us, one way or the other, as to whether or not you took charge of a
9 young person with the name (Expunged)

10 THE WITNESS: (Interpretation) Thank you, your Honour, for the question. As I
11 said earlier, I worked with several people called (Expunged). I worked with several
12 people called (Expunged). When Mr Biju-Duval mentioned these names to me, I
13 answered saying that I have worked with several people who bear those names, and
14 if he could show me a photograph it could help to jog my memory.

15 Now, as concerns this statement, I could not say, I cannot say that I have never
16 worked with (Expunged). My version is the following: I worked with several
17 people called (Expunged); I worked with several people called (Expunged) and on the
18 day I gave this statement, if those people were with me in the same room I could have
19 asked for their photograph. I could have asked for them to provide a photograph.
20 When I met these same people in (Expunged), they showed me the photograph and
21 that is when I realised what had happened and I told them that this was a child I had
22 worked with. Thank you.

23 PRESIDING JUDGE FULFORD: Mr Biju-Duval, if there are any parts of tab 8 which
24 should be brought to our attention in due course so as to put in context the passage
25 that you've read out, can you and Mr Sachdeva please ensure that that happens, in

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1 fairness to the witness, but I think on this particular point, on the basis of what you've
2 read out, we are unlikely to improve the situation.

3 MR BIJU-DUVAL: (Interpretation) I think it's important to avoid having a
4 situation where anyone would think that the Defence would use certain excerpts
5 abusively, and this takes me -- leads me to asking two questions in order to further
6 clarify this context.

7 Q. Mr Witness, you have said that further on in this statement you did mention
8 that there had been some confusion. Is it correct to say that at one point in your
9 statement you said that (Expunged) travelled with you, and immediately
10 afterwards you corrected that statement by saying that it was not (Expunged),
11 but rather (Expunged)? Is that the confusion you are alluding to?

12 A. Yes, that is true. That is correct.

13 Q. Witness, you are telling us that this statement of which I read an extract was
14 made by telephone, and it appears that you are saying that that mode of
15 communication could lead to a certain confusion. I would like you now to
16 refer - just one moment, please - to tab 4 in the binder, which carries number
17 EVD-D01-00339 (sic). This is an extract of a statement that you made in June 2010 in
18 (Expunged) in the presence of the investigators of the Office of the Prosecutor. I
19 would like to draw your attention to page 0144 and 0145, from line 96 onwards.
20 Your Honour, I would like to begin the quote at line 96 and leave out the first five
21 lines of the text of the question which seem to me not to be relevant, but of course this
22 is all at your discretion and subject to the agreement of the Office of the Prosecutor.

23 PRESIDING JUDGE FULFORD: Well, start where you want, Mr Biju-Duval. If
24 Mr Sachdeva thinks it's unfair, I'm sure he'll invite you to put it in a greater context.

25 MR BIJU-DUVAL: (Interpretation)

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1 Q. All right. I will begin at line 96, Question: "And the first question is, do you
2 know (Expunged), someone who is called (Expunged)? Answer: "Yes,
3 I know somebody who is called (Expunged). He is -- "
4 THE COURT USHER: (Microphone not activated)
5 MR BIJU-DUVAL: (Interpretation) The page is 0144. 0144, line 96, tab 4.
6 PRESIDING JUDGE FULFORD: Tab 4, 0144, line 96. Right, good. Ah, what's the
7 problem?
8 THE COURT USHER: (Microphone not activated)
9 PRESIDING JUDGE FULFORD: Right. Start again, please. Thank you, usher.
10 MR BIJU-DUVAL: (Interpretation)
11 Q. I quote, Question: "And the first question is, do you know (Expunged),
12 someone who is called (Expunged)?" Answer: "Yes, I know someone who is
13 called (Expunged). He is among the children I am -- I was following up. He is
14 among the children I had supervised." "So the children that is supervised by the
15 CTO." Answer: "Yes." Question: "So when you talk about the CTO, which one
16 is it?" Answer: "The centre de transit et d'orientation des enfants soldats, the
17 transit and orientation of child soldiers centre, the place where we were lodging the
18 child soldiers before taking them home." Question: "Yes, but earlier you said that
19 there were -- " Answer: It was CTO (Expunged) Question: "Several CTO
20 centres?" Answer: (Expunged) Question: "CTO (Expunged) Answer: "Yes."
21 The answer continues: (Expunged)
22 (Expunged) Question: "So you had known him since the CTO
23 (Expunged) Answer: "Yes." Question: "What did you know about him?" Answer:
24 "I knew that he was a child who had been a child soldier." Answer: Yes -- question:
25 "Yes." Answer: "I was doing the follow-up, so I hadn't yet given him support. I

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1 was only doing the follow-up, but the support as such, I had not yet given him
2 support. I had come to (Expunged) before giving him support. In fact, I don't know
3 if my colleagues had given him support, because, well, I was not alone in this work.
4 There were a lot of us." Question: "All right. What does 'support' mean?"
5 Answer: "Support is financial reintegration. As I told you yesterday, supporting
6 children with regard to work in the fields, a small business, small-scale trading and
7 livestock raising, that is support. Yes, financial reintegration." Question: "All
8 right. But how far had you gone with him? You had known him since the centre; is
9 that right?" Answer: "Yes, from the centre." Question: "And then?" Answer:
10 "I had taken him back to their place. I was the one who had reunited him with his
11 family."
12 Could you please respond -- could you please turn over to the next page, page 0146,
13 at line 161 to 164, and I quote: Question: "Do you know his family, (Expunged)
14 (Expunged) family?" Answer: "Yes, (Expunged), I know it's his big brother.
15 Yes, I know his big brother but I don't know his name. He is the one who had
16 signed my reunion certificate when I took him back to his home, his big brother."
17 Witness, this is a statement that you are making in a face-to-face situation with the
18 investigators from the Office of the Prosecutor and you explain -- you are explaining
19 to them the role that you played with regard to this child, (Expunged). Does that
20 help you to clarify your testimony with regard to (Expunged)
21 A. Thank you. You are helping me to remember this. (Expunged), this
22 (Expunged) that you are talking about in the extract that you have just read out is the
23 one whose photograph you have shown me and he is the one who lived with his
24 grandfather or his grandmother. He was one of the children who went to (Expunged).
25 THE INTERPRETER: The Swahili interpreter is not certain if the witness spoke of

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1 grandfather or grandmother in using the word "tate" in Swahili, and would ask the
2 witness to speak louder into the microphone. Thank you.

3 MR BIJU-DUVAL: (Interpretation)

4 Q. The interpreters are not certain if you spoke of the grandfather or grandmother
5 of the child. Could you please specify that more clearly?

6 A. It was his grandfather.

7 Q. Thank you. So you were telling us that this (Expunged) whom you spoke
8 about in (Expunged) in June 2010 to the investigators, is in fact the person whose
9 photograph I showed you at the beginning of this afternoon's proceedings?

10 A. Yes, it is him.

11 Q. But when I showed you the photograph, you presented him as being (Expunged)
12 (Expunged), saying that you did not know his other names. But it seems that in
13 June 2010 you knew him perfectly well and you knew his other names.

14 A. Thank you for this question. I clearly explained that I had to deal with several
15 (Expunged), and when you read out an extract to me and you talk about a child that I
16 met, that helps me to remember. And I have explained a lot of things, as I said
17 earlier. I think that I called this child (Expunged). Thank you.

18 Q. And did you introduce this child to (Expunged)?

19 A. Yes, this child met (Expunged).

20 Q. And under what name did you present him to (Expunged)?

21 A. Thank you for your question. When I took him to see (Expunged), I do not
22 recall what name he bore. Perhaps we should look at the list to see how many
23 (Expunged) appear there so that I could perhaps remember. Thank you very much.

24 Q. Before looking at that list, do you really not remember if he was presented as
25 (Expunged), or another name?

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1 A. Thank you for your question. I think that it was yesterday that I told you that
2 I had given a name to (Expunged) spoke with the child I was not present
3 and so I do not know what name the child gave (Expunged), but I called him
4 (Expunged). When (Expunged) arrived in (Expunged), he asked me to contact
5 (Expunged). With regards to his full name, I really could not tell you what name he
6 gave when he introduced himself because I was not present at that moment.

7 Q. I have understood your testimony, but you will recall that you told us that you
8 had according to your testimony given a list of names to (Expunged) by telephone;
9 the names of the children you had presented to (Expunged). On that list of names
10 which you say was given you by (Expunged), did (Expunged) appear, or did the
11 name (Expunged) appear or did this child appear under a different name?

12 A. Thank you. Concerning this list which (Expunged) gave me I do not
13 remember what names appeared on it, but with regard to (Expunged) did not
14 have his name. How was I able to know that it was (Expunged)? Well, it's
15 because I had his address and thanks to his address I was able to identify him. There
16 were names that were mentioned in several documents, and the name given for him
17 was (Expunged). That name also appeared on the follow-up sheets, but on the
18 demobilisation certificate, which proves that the child had left a military group, the
19 nickname [...] did not appear. Thank you very much.

20 Q. You say that (Expunged) did not know that name, but you have told us that you
21 only went to fetch the children whose identity (Expunged) had transmitted to you, or
22 whose name he had given you, so could you please clarify that point?

23 A. Thank you. Listen, (Expunged) did not know that particular name. (Expunged)
24 gave me a name and an address, and thanks to the address I was able to understand
25 quite easily that it was (Expunged). I think that I have already given this answer.

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1 Thank you.

2 Q. I have understood you. So you went to fetch (Expunged) before presenting
3 him to (Expunged); is that correct?

4 A. Yes.

5 Q. When you were in contact with (Expunged) and when you gave him the names of
6 the children that you went to fetch, did you also give him the name of (Expunged)?

7 A. Yes. (Expunged) was there, but I do not remember the name under which I
8 listed him. I do not know whether I registered him as (Expunged), but I do
9 remember that he appeared on the list which I sent on.

10 Q. Perhaps the easiest thing would be for you to have another look at that list,
11 which appears at tab 76 in the small additional file which has an EVD number
12 EVD-D01-00328. I will take this occasion to say that we will need an EVD number
13 for tab 8 which is DRC-OTP-0222-0540, as well as for the photograph which appears
14 at tab 28.

15 THE COURT OFFICER: (Interpretation) Document DRC-OTP-0222-0540 will bear
16 the number EVD-D01-00350. And the photograph which bears the a number
17 DRC-OTP-0229-0113 will bear the number EVD-D01-00351.

18 PRESIDING JUDGE FULFORD: Thank you. The witness has the list, so your
19 question, Mr Biju-Duval?

20 MR BIJU-DUVAL: (Interpretation)

21 Q. Could you please look at the central column which corresponds to the names
22 received from -- which you sent, the names which you sent and which (Expunged)
23 received. Could you please tell us which of these names corresponds to the person
24 whom you presented as (Expunged)?

25 A. Thank you. I can't really find it. I am not quite sure how to answer you. I

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1 am going to keep thinking about this and, when I have an answer to it, I will tell you.

2 I do not know which of these names here is the one that corresponds to him. Thank
3 you.

4 Q. Thank you. (Expunged), whom you also recognise under the name (Expunged),
5 (Expunged) was he sent to (Expunged) to meet the investigators of the OTP?

6 A. Thank you for this question. I think that (Expunged)
7 (Expunged)-- just let me think. Just if I could take a moment, please. Thank you.

8 To the best of my recollection, (Expunged) did not go to (Expunged) because I
9 remember that I went to his home, to his parents' home, if my memory is correct, and
10 he was not able to find anyone to accompany him to (Expunged). So I think that
11 perhaps I confused him with another child who was of the same age as him, if I'm not
12 mistaken. I can't really give you that clarification, but it is possible that this was the
13 child who was not able to find an adult to accompany him to (Expunged), but I will
14 keep thinking about this and if I suddenly remember I will give you the answer.
15 Thank you.

16 Q. Thank you. Did you go to fetch this child to take him to Bunia to meet (Expunged)?

17 A. Thank you. That child lived on the Bunia (Expunged) road or the Bunia(Expunged)
18 road, but I cannot tell you clearly which of those roads he lived on. I went to fetch
19 him outside Bunia, but when I was doing the follow-up of the children who were in
20 the town of Bunia I had occasion to meet this child sometimes (Expunged) where he
21 (Expunged) into a vehicle as other children at the time were also doing. Thank you.

22 Q. Thank you. Do you remember the name of certain members of his family who
23 were looking after him?

24 A. Thank you. I do not remember the names of his brothers. I know that he was
25 living with his grandfather, but I don't remember the name of his brothers. He was a

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1 child who was already starting to grow up actually.

2 Q. Thank you. Could you please refer to tab 8 in the binder, please. This is a
3 document which bears the number EVD-D01-00350, and it is an extract of one of your
4 statements to the investigators of the OTP of January 2010. I would like to draw
5 your attention to page 554, lines 470 and following, and I quote: Question: "All
6 right. And the other? The other boy, (Expunged) Answer: "Yes."

7 Question: "Whom you also know, knew, as (Expunged)?" Answer: "Yes."

8 Question: "He lived -- where did he live at the time when you found him?"

9 Answer: "Yes, he was (Expunged)." Question: "Was he (Expunged) when you went to
10 fetch him?" Answer: "Yes." Question: "And how did it happen with him? You
11 went there, you found him and who did you talk to about his trip?" Answer: "Well,
12 with him I spoke with his mother and his big brother. Now, the big brother was
13 busy and the mother was also busy and that is why the two of them decided to hand
14 him over to fetch the uncle who was going to accompany the child." Question:
15 "Okay. To (Expunged); is that right?" Answer: "Yes, that's of course."
16 For the record, I would like to point out that the name (Expunged) is spelt
17 (Expunged). Does that help you remember how the child (Expunged) was
18 sent to (Expunged)?

19 A. Thank you for the question.

20 THE INTERPRETER: The Swahili interpreter points out that he did not hear the
21 witness's answer.

22 MR BIJU-DUVAL: (Interpretation)

23 Q. Can you kindly repeat your answer? The interpreter did not quite catch it.

24 A. Thank you for the question. This is what I said: What you have just read out
25 did not help me to remember. However, I am reflecting on it. Thank you. I beg

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1 your pardon, which page numbers and lines did you refer to again, please?

2 PRESIDING JUDGE FULFORD: 554, line 470, I think.

3 THE WITNESS: (Interpretation) Thank you. I have seen it now. As I said before,
4 please allow me a few moments for reflection. I have still not been able to remember.
5 Thank you.

6 Thank you. Once again, as I told you before, this extract has not helped me. I have
7 a question to put to you. I believe that this is the person whose photograph you
8 showed me. I believe it is that person, that is the person we are talking about now.
9 Isn't that so?

10 MR BIJU-DUVAL: (Interpretation)

11 Q. You told us that you identified (Expunged) on the photograph of the person
12 that you initially referred to as (Expunged)?

13 A. Yes, that is what I said. It is for that reason that I am asking you this question;
14 that is, is this the person we saw on the photograph?

15 Q. I have no answer for you. You are the only one who can tell us whether the
16 person who appears on the photographs is known as (Expunged), or not.

17 PRESIDING JUDGE FULFORD: I think you better move to the next question,
18 Mr Biju-Duval. I think it's dangerous when counsel start answering questions put by
19 witnesses.

20 MR BIJU-DUVAL: (Interpretation)

21 Q. Witness, a short while ago you testified that you had the opportunity to see
22 (Expunged) in the company of other children who
23 were doing the same thing. Was (Expunged) amongst those other children?

24 A. Thank you. When I saw (Expunged), I believe (Expunged) was not present.

25 (Expunged) was with other children. (Expunged) was with other children and I was

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1 able to identify the child to whom I had given (Expunged). When I (Expunged)
2 was not there. He was with other children, and amongst those children there were
3 those who had passed through the CTO. Thank you.

4 Q. When you tell us or, rather, when you talk (Expunged), just to be clear, are you
5 referring to the person you call (Expunged), and that you say his
6 other name is (Expunged); is that correct?

7 A. Yes, it is indeed (Expunged), but I don't yet have the confirmation that it is the
8 same person as (Expunged), but I would like to point out that it is indeed (Expunged)
9 (Expunged).

10 Q. Thank you. Do you know someone called (Expunged)

11 A. Thank you. I had a certain number of people bearing the name that you have
12 mentioned; that is a certain number of children. Some of them were handed back to
13 their respective families by another NGO while I myself had others returned to their
14 homes. There is, for example, one (Expunged) that I handed over back to his family
15 in the (Expunged) neighbourhood. There are two other people who bear the same
16 name that I handed back to their families in Bunia. Thank you.

17 Q. Did you introduce a child known as (Expunged)?

18 A. Thank you for the question. I no longer remember. However, if you have the
19 photograph, you can show it to me. I really do not remember the (Expunged) that I
20 could be talking about here; whether it is (Expunged), or another (Expunged).

21 Please, if you have a photo reference kindly show it to me, because as you know this
22 happened several years ago and even after that I had the opportunity to work with
23 many other children. Thank you.

24 Q. Please refer to tab 9 of the binder.

25 (Pause in proceedings)

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1 PRESIDING JUDGE FULFORD: Closed session, please. A short interruption,

2 Mr Biju-Duval.

3 *(Closed session at 3.45 p.m.) Reclassified into Public

4 PRESIDING JUDGE FULFORD: I am sorry to keep asking you this question,

5 Mr Biju-Duval, but so I can make a decision as to what we do now approximately

6 how much longer do you think you've got?

7 MR BIJU-DUVAL: (Interpretation) I think that if -- reasonably, I would like to be

8 able to conclude tomorrow lunchtime.

9 PRESIDING JUDGE FULFORD: Tomorrow lunchtime. Thank you. Mr Sachdeva.

10 MR SACHDEVA: Mr President, at this stage not more than 20 minutes.

11 PRESIDING JUDGE FULFORD: Thank you. It means that we are clearly going to

12 be finished tomorrow, which is the important issue. The witness needs a break now;

13 it's going to take 5 or so minutes for that to happen. I don't think it's worth rising

14 and coming back again for five or six minutes. So we are going to break off now.

15 I am afraid tomorrow morning for reasons entirely to do with me it's going to be a

16 slightly interrupted morning. I am going to ask, please, if we can sit five minutes

17 early at 25-past-9. We will then have half-an-hour of court session, but I am afraid

18 between 10 and 11 o'clock I have got something else I've then got to attend to and so

19 we will break between 10 and 11 and then sit again at 11 o'clock. Good. Thank you

20 all.

21 Witness to leave court, please.

22 (The witness stands down)

23 PRESIDING JUDGE FULFORD: So it will be tomorrow morning, Courtroom 2, 9.25.

24 Thank you.

25 THE COURT OFFICER: All rise.

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- 1 (The hearing ends in closed session at 3.45 p.m.)
- 2 RECLASSIFICATION REPORT
- 3 Pursuant to Trial Chamber I's email instructions dated 5th April 2011, the redacted
- 4 version of the transcript with its redactions is reclassified into Public.