

1 International Criminal Court

2 Trial Chamber I - Courtroom 2

3 Presiding Judge Adrian Fulford,

4 Judge Elizabeth Odio Benito and Judge René Blattmann

5 Situation in the Democratic Republic of the Congo -

6 ICC-01/04-01/06

7 In the case of The Prosecutor v. Thomas Lubanga Dyilo

8 Monday, 17 May 2010

9 (The hearing starts at 2.45 p.m.)

10 *(Closed session) Reclassified as open session

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

12 PRESIDING JUDGE FULFORD: Good afternoon. On 11 May 2010,
13 document 2431, the Registry filed confidentially its report on Swahili
14 interpretation matters. The sole justification for filing the report
15 confidentially was that there had been an error in the administration
16 of the court records. In our judgment, that is not a proper reason
17 for filing a report of this kind confidentially, and we therefore order
18 the report to be redesignated as a public report.

19 Witness, please.

20 (The witness enters the courtroom)

21 (The accused enters the courtroom)

22 PRESIDING JUDGE FULFORD: Public or private, Ms Samson?

23 MS SAMSON: Public, please, your Honour.

24 PRESIDING JUDGE FULFORD: Public session, please.

25 (Open session at 2.50 p.m.)

Case No.: ICC-01/04-01/06

1 THE COURT OFFICER: We are in open session, Mr President.

2 PRESIDING JUDGE FULFORD: Good afternoon, sir.

3 THE WITNESS: Good afternoon.

4 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

5 MS SAMSON: Thank you.

6 Q. Mr Witness, before the break you were describing how
7 Commander Kisémbó and other soldiers came to your school to take you
8 and other children to the Katoto training camp, and you were describing
9 the two vehicles that they came in. Do you remember if the vehicles
10 were open in the back or closed in the back?

11 A. With regard to this vehicle, this vehicle which was white
12 in colour, was open at the back, whereas the vehicle that was red in
13 colour was closed at the back.

14 Q. And did you get into the red vehicle or the white vehicle?

15 A. I got into the red vehicle.

16 Q. Did Commander Kisémbó and the other soldiers get into the
17 red vehicle with you?

18 A. Mr Kisémbó had his own vehicle, which was a four-by-four,
19 manufactured by Stout.

20 Q. So did any of the soldiers get in with you, into the red
21 vehicle?

22 A. Yes, indeed.

23 Q. Did either Commander Kisémbó or the soldiers tell you and
24 the other children where they were taking you?

25 A. No, they did not tell us where they were taking us. They

1 just took us on board with them.

2 Q. Did the soldiers speak to you while they were driving you
3 away?

4 A. We asked them where they were taking us, but we did not
5 receive any answer to that question. They just took us on board their
6 vehicle.

7 Q. Did they say anything to you or the other children while
8 you were driving along in the vehicle?

9 A. Throughout the journey we received no information. Nobody
10 spoke to us. Not one of them spoke to us.

11 Q. Can you remember if amongst the children there were girls
12 and boys?

13 A. Yes. They picked up some girls and they also picked up some
14 boys.

15 Q. When the red vehicle that you were in stopped, at that time
16 did the soldiers say anything to you and the other children?

17 A. When we reached our destination, we were offloaded into
18 a military camp that had been built on a football field in Katoto.
19 So we were offloaded, and a group of children from the same school
20 was -- one group was given over to a specific military group that was
21 supposed to provide them with training, and we were all put together.

22 Q. So when you were offloaded from the vehicle, were you divided
23 into groups, or did you stay as one group that was supposed to do training?

24 A. We were divided up into groups. The group that I was a member
25 of was divided into two groups; those who had been travelling in the

1 same vehicle as I, notably. Children from the other group were taken
2 elsewhere. I do not know where they went.

3 Q. And your two friends who you had talked about earlier, were
4 they put into your group or another group?

5 A. As far as my friends are concerned, well, we stayed together
6 on that day.

7 Q. Did your group have a leader or a commander?

8 A. Yes, we did have a commander.

9 Q. Do you remember the name of your commander?

10 A. At the time my commander was Mr Kitembo, and he was the
11 one who took care of us.

12 Q. When you arrived at this camp, were there other soldiers
13 there as well?

14 A. Yes, there were other soldiers there and they had been well
15 trained. They had received their training well before our arrival.
16 We were all together.

17 Q. And how could you tell that these soldiers had already
18 received their training?

19 A. The soldiers that we found there had military uniform. They
20 also had weapons. And they were the ones who provided us with military
21 training. They taught us how to march and they also taught us how
22 to conduct a number of exercises to do with military training.

23 Q. Do you remember the names of any of these trainers?

24 A. I remember one name, Abelanga, the only person -- he is
25 the only person who I recognised amongst those who provided us with

1 our training.

2 Q. Did you start this training as soon as you arrived at the
3 camp?

4 A. The day we arrived at the Katoto pitch, I spent two days
5 there and then I fled. After that, when there were clashes in Katoto,
6 we were all called. I had fled towards Central, and when I got to
7 Central, everyone was called and they were asked to come and to report
8 to Katoto. And when we got there, that was the second time that I
9 reported to that place or went to that place, and that is when I was
10 taken to Nizi.

11 Q. Before we talk about the second time that you reported to
12 Katoto, I just want to finish discussing the first time that you reported
13 there. Did you actually do any military training yourself over the
14 two days that you spent in the Katoto camp the first time?

15 A. Yes. During those two days that I spent in Katoto, my group,
16 as well as other soldiers who were in charge of our security, we were
17 sent into the bush to find straw. And then at that time I took advantage
18 of the opportunity to run away.

19 Q. Why did you decide to run away?

20 A. I said to myself I had to run away because I thought that
21 this training would be tough and I wouldn't be able to hack it. And
22 two of us fled. Two of us together, we fled. That is how it came
23 to be that I was able to get away.

24 MS SAMSON: Mr President, may I ask one question in private
25 session, please?

1 PRESIDING JUDGE FULFORD: Private session, please.

2 *(Private session at 3.05 p.m.) Reclassified as open session

3 THE COURT OFFICER: We are in private session, Mr President.

4 MS SAMSON:

5 Q. What was the name of the person that you fled with?

6 A. I've forgotten the name of that individual. We studied
7 together and we met up with each other in the same group when we were
8 sent out to look for straw. We met up with each other and we fled
9 together, but I've forgotten his name.

10 Q. Thank you.

11 PRESIDING JUDGE FULFORD: Public session, please.

12 (Open session at 3.06 p.m.)

13 THE COURT OFFICER: We are in open session, Mr President.

14 MS SAMSON:

15 Q. Do you remember approximately how many days or weeks or
16 months after you had been brought to the Katoto camp the first time
17 that you went back there the second time?

18 A. When I fled, after two days I spent some time; but I think
19 it was after one month -- one week, rather. I spent one week, and
20 in Katoto the conflict broke out. Myself, I headed towards Centrale,
21 and everything in Centrale -- everyone in Centrale went back to Katoto
22 and I found myself in Katoto for the second time. I was put into a
23 vehicle to go to Nizi.

24 Q. So is it right, then, from what you've just said that after
25 leaving the camp the first time, you spent about a week in the village

1 of Katoto before the conflict broke out, and then you fled towards
2 Centrale; is that right?

3 A. No. I fled. And then after that, I went back to Katoto.
4 I spent one week; and after one week of the clashes, the fighting broke
5 out in Katoto, and I fled towards a valley very close to the Katoto
6 market with my little brother. And we got to the market of Katoto
7 and we hid in a restaurant. And when we saw the Lendu arrive, my little
8 brother went out and I stayed in the restaurant.

9 Q. And when did you leave the restaurant?

10 A. After that battle, when I realised that the UPC had just
11 pushed off the Lendu, that was when I took advantage of the moment
12 to leave my hiding place, and I followed other members of the populace
13 who were fleeing towards Centrale. I followed them and I found myself
14 in Centrale.

15 Q. Did you find your little brother again?

16 A. When we hid in this restaurant, my little brother was afraid
17 and he went out - he was looking for another hiding place - and the
18 Lendus saw him and they killed him. Myself, I was still in my hiding
19 place.

20 Q. What did you do when you arrived in Centrale?

21 A. Before arriving in Centrale, I was hiding in this restaurant
22 that was at the Katoto market. After the fighting, when I realised
23 that there were UPC soldiers who were repelling the Lendu, I left my
24 hiding place and I fled to Centrale.

25 MS SAMSON: Mr President, may I ask one question in private

1 session, please?

2 PRESIDING JUDGE FULFORD: Private session, please.

3 *(Private session at 3.13 p.m.) Reclassified as open session

4 THE COURT OFFICER: We are in private session, Mr President.

5 PRESIDING JUDGE FULFORD: Yes, Ms Samson.

6 MS SAMSON:

7 Q. (Redacted), I only have one question about your little
8 brother who was killed. What was his name?

9 A. My little brother, his name was (Redacted).

10 Q. Thank you.

11 PRESIDING JUDGE FULFORD: Public session, please.

12 (Open session at 3.14 p.m.)

13 THE COURT OFFICER: We are in open session, Mr President.

14 PRESIDING JUDGE FULFORD: Yes.

15 MS SAMSON:

16 Q. And where did you go in Centrale? Did you go to a house?
17 Did you go somewhere else?

18 A. When I arrived in Centrale, we found ourselves together
19 on a football pitch. Many of the people remained at that place, and
20 that is where I was.

21 Q. Did you see any soldiers from the UPC in Centrale?

22 A. Yes. I found Commander Bosco there in Centrale. We were
23 not far from his camp there in Centrale.

24 Q. Do you know any other names for Bosco?

25 A. I've heard people speak of Bosco Ntaganda. That's the name

1 I know. That's according to what many people say. Bosco Ntaganda.

2 Q. Would you mind repeating Bosco's full name again slowly
3 into the microphone?

4 A. His name is Bosco Ntaganda.

5 Q. Did Bosco speak to you or others when you were in Centrale?

6 A. When we arrived in Centrale, he did not speak with me; he
7 spoke only to the entire populace and I, too, heard what he said. This
8 is what he said: "We must go back to Katoto because there are UPC
9 soldiers who have taken Katoto." He said, "If some people have fled
10 Katoto they should go back to Katoto because the fighting was over
11 and UPC soldiers were controlling Katoto." Several people tried to
12 go back to Katoto, including me.

13 Q. And you already mentioned that when you returned to Katoto
14 at some point, you reported back to the military camp. How did that
15 happen?

16 A. We arrived in Katoto during the evening, around 5 or 6.
17 That was the time that we --

18 THE INTERPRETER: Correction from the English booth.

19 THE WITNESS: 4 or 5 in the afternoon. That was the time
20 we went back to Katoto. We spent the night beside Kitembo's camp also
21 in Katoto. The next morning, very early in the morning a meeting was
22 called, an actual military parade, so to speak. And the request was
23 made that all soldiers be there. The civilian populace was also called
24 to attend the parade.

25 MS SAMSON:

1 Q. I have just one question in relation to Bosco Ntaganda.
2 Do you know what his function was or title in the UPC?

3 A. Yes. Hewas the commander responsible for operations. That
4 was his mandate.

5 Q. You just said that the next morning, after spending the
6 night beside Kisémbó's camp, a meeting was called. Do you know who
7 called for the meeting?

8 A. The evening when we arrived there, that night, Bosco came
9 from Centrale; he arrived in Katoto. So it was Bosco and Kisémbó who
10 called this meeting. As well, there were soldiers who were going all
11 over the place and they were calling everyone, forcing everyone to
12 go to the meeting; young people, old people, children, women, telling
13 them all to go to the soldiers' camp because there were some leaders,
14 military leaders, who had information to announce. And since this
15 meeting had been called, I went too.

16 Q. Did you see the military leaders who had information to
17 announce?

18 A. Yes. At that time it was the head of the neighbourhood in
19 Katoto. Hewas the one who was responsible for going around the locality
20 and informing the people to go to the soldiers' camp and tell them
21 that there was this meeting that was going to be held at the soldiers'
22 camp.

23 Q. What was the name of the head of the neighbourhood in Katoto?

24 A. I've forgotten the name of the head of the neighbourhood.

25 Q. And this meeting, it took place at the military camp in

1 Katoto; is that right?

2 A. Yes, that meeting was held at the Katoto camp.

3 Q. And who spoke at that meeting?

4 A. It was Commander Bosco and Commander Kisémbó. They were
5 the ones who spoke before the public.

6 Q. Can you tell us what they said?

7 A. Yes. This is what they said: "Do we recognise that we are
8 being wiped off the map?" That is what they said before the populace.
9 They said this: "They have come to take the children and they have
10 set aside the adults. They have chosen the children who were strong
11 and they put them into a vehicle, forced them to go into a vehicle."

12 Q. The first time you had been at the Katoto military camp
13 you said that Commanders Kisémbó and Abelanga were there. Were Kisémbó
14 and Abelanga at this meeting at the Katoto camp?

15 A. The day of the meeting I did not say Abelanga; I did not
16 see Abelanga. I saw only Commanders Bosco and Kisémbó, as well as
17 another one, Patrick, another Patrick.

18 Q. In fact, you had already mentioned Commander Kisémbó. It
19 was my mistake not to have heard it the first time. Thank you. So
20 you describe that Commanders Bosco and Kisémbó separated the group
21 and set aside the adults, and that the children who were strong were
22 put into a vehicle, they were forced into a vehicle. Could you describe
23 for the Court how the children who were strong were forced into a vehicle?

24 A. That was another group. I was part of the group and that
25 was when they came to take us, to take us to Nizi. We had to go to

1 Nizi and undergo training.

2 Q. So you're at the meeting and you hear Commanders Kisémbó
3 and Bosco talk. Then the group is divided. How is it that you came
4 to be put on a vehicle?

5 A. Before they made us get into the vehicle they took the group
6 that I was part of and said to us -- they ordered us to get into the
7 vehicle. Before we got into the vehicle we asked a question. We said,
8 "Where are we going because we are leaving without knowing our
9 destination." At that time Commander Bosco said this: "Anyone who
10 asks a question or refuses to get into the vehicle, let them go, and
11 once everyone is in the vehicle and once everyone has left, that person
12 will be left behind and that person will ultimately be buried."

13 Q. What did you understand Bosco to mean when he said that,
14 "if somebody wants to stay behind they will ultimately be buried"?

15 A. When Bosco said, "Anyone who refuses to get into the vehicle
16 will be left behind, and that if the vehicle leaves such a person will
17 remain behind and he alone will know who shall bury him if anything
18 happens to him," that's what he said. That anybody who stays behind
19 will have to say who shall bury him. When he made that statement everyone
20 was afraid and, because they were afraid, they all boarded the vehicle.

21 Q. Did Bosco and Kisémbó and the other UPC soldiers have weapons
22 on that day?

23 A. Yes, they all had weapons. If they had not had weapons many
24 people would not have boarded the vehicle on that day. The people
25 were afraid because they had firearms; they had guns.

1 Q. Did you personally know or recognise any of the other children
2 who boarded the vehicles with you that day?

3 A. We boarded the vehicles; that is, myself, (Redacted),
4 and there was also (Redacted) boarded another vehicle. (Redacted),
5 (Redacted) and myself boarded the same vehicle.

6 MS SAMSON: Your Honour, may I ask that at least portions
7 of the last answer be redacted, where names are mentioned?

8 PRESIDING JUDGE FULFORD: Certainly. I think in reality
9 the whole of the last answer should be redacted, please. Yes, please
10 carry on, Ms Samson.

11 MS SAMSON:

12 Q. And while you were on the -- in the vehicle, and the vehicle
13 was driving you somewhere, did the soldiers ever speak to you?

14 A. No, they did not speak to us on that day. We went all the
15 way to Nizi and no one spoke to us on the way.

16 Q. When you arrived in Nizi what did you do?

17 A. When we arrived at Nizi we found other persons who were
18 undergoing military training. We were left in that training camp in
19 Nizi.

20 Q. Were there any commanders in the Nizi camp?

21 A. On the day we arrived at the Nizi camp we found a commander
22 there on the spot. I do not know that commander's name, and it was
23 Kisembo who took us to that place. I do not know the name of the commander
24 we found on the spot there in Nizi.

25 Q. How long did you stay in Nizi at the camp?

1 A. I spent three weeks at the Nizi camp. Afterwards, I was
2 taken to Katoto and from Katoto I went to Mandro.

3 Q. Did you yourself undergo military training at the Nizi camp?

4 A. Yes. I was not alone. There were many of us. Our group
5 spent three weeks there. Afterwards we were given weapons and military
6 uniforms. This was done in the evening. And on that same evening
7 we returned to Katoto, and we left Katoto at night.

8 Q. And who gave you weapons and military uniforms after your
9 three weeks of training?

10 A. The person who gave me the military uniform was Bosco and
11 Kisémbó. Bosco was sitting on a chair and Kisémbó was handing out
12 weapons to us. To tell you the truth, they threw out the guns and
13 the military uniform, and you tried to catch a uniform and your gun
14 as it was thrown out to you.

15 Q. What kind of gun did you receive?

16 A. It was a NATO.

17 Q. Did you ever receive training at a place called Barrière?

18 A. After Nizi we went to Katoto. From Katoto we went to Mandro.
19 After Mandro I shot at someone and my gun and my military uniform were
20 taken away from me, and I was placed in a different military group
21 which was undergoing a new form of military training. It was at that
22 point in time that I was taken to Barrière.

23 Q. Okay. Let's just go through your last answer. So after
24 the training camp in Nizi you went to Katoto. Did you go to Katoto
25 with a particular commander?

1 A. At that time I was under the orders of Kisembo.

2 Q. What did you do in Katoto?

3 A. When we arrived at Katoto we were called away to Mandro.
4 When we arrived at Mandro we got involved in fighting. After the
5 fighting in Mandro I spent three days. I killed someone. I killed
6 a soldier, and for that reason my weapon and my uniform were taken
7 away. I was sent to Barrière.

8 MS SAMSON: Mr President, may we move into private session,
9 with your leave?

10 PRESIDING JUDGE FULFORD: Certainly. Private session,
11 please. We'll take a mid-afternoon break in about five minutes, Ms
12 Samson.

13 *(Private session at 3.41 p.m.) Reclassified as open session

14 THE COURT OFFICER: We are in private session, Mr President.

15 MS SAMSON:

16 Q. Do you remember the name of the soldier you killed?

17 A. The soldier I killed was called (Redacted).

18 Q. Was he a UPC soldier?

19 A. Yes, he was a UPC soldier.

20 Q. Why were you disciplined for -- for killing him? Did you
21 kill him during battle, or did you kill him in a different context?

22 A. I killed him for the following reason: (Redacted)

23 (Redacted). There were certain soldiers who

24 had seized money from the civilian population on the way. I was
25 a member of that group, but I did not take money from anybody. I did

1 not see any money. (Redacted),

2 (Redacted)

3 (Redacted)

4 (Redacted). At night I was angry. We were standing guard. It was
5 at night. We were standing guard along a road with him, and I seized
6 the opportunity to kill him.

7 MS SAMSON: Thank you, Mr President.

8 PRESIDING JUDGE FULFORD: If that's convenient to you, Ms
9 Samson.

10 Sir, we're going to give you a ten-minute break now.

11 Closed session, please. Thank you, Mr Lubanga.

12 (The accused exits the courtroom)

13 *(Closed session at 3.44 p.m.) Reclassified as open session

14 THE COURT OFFICER: We are in closed session, Mr President.

15 PRESIDING JUDGE FULFORD: Yes, usher. Can you ...

16 (The witness exits the courtroom)

17 PRESIDING JUDGE FULFORD: Five-to.

18 THE COURT USHER: All rise.

19 (Recess taken at 3.45 p.m.)

20 (Upon resuming at 3.57 p.m.)

21 *(Closed session) Reclassified as open session

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

23 PRESIDING JUDGE FULFORD: Witness, please.

24 (The witness enters the courtroom)

25 PRESIDING JUDGE FULFORD: Public session, please.

1 (The accused enters the courtroom)

2 PRESIDING JUDGE FULFORD: Thank you, Mr Lubanga.

3 (Open session at 3.59 a.m.)

4 THE COURT OFFICER: We are in open session, Mr President.

5 PRESIDING JUDGE FULFORD: Ms Samson.

6 MS SAMSON: Thank you.

7 Q. Mr Witness, did Bosco and Kisémbó know your name?

8 A. Yes. They called me (Redacted) (phon). They had given me
9 the name of (Redacted)

10 MS SAMSON: Your Honour, may I ask for one redaction to that
11 name and may we move into private session?

12 PRESIDING JUDGE FULFORD: Redaction and private session,
13 please.

14 *(Private session at 4.00 p.m.) Reclassified as open session

15 THE COURT OFFICER: We are in private session, Mr President.

16 MS SAMSON:

17 Q. Does (Redacted) have any particular meaning?

18 A. In Swahili --

19 THE INTERPRETER: The Swahili interpreter did not
20 understand the witness's answer.

21 MS SAMSON:

22 Q. I'm sorry, sir. Could you please repeat your answer? Does
23 (Redacted) have any particular meaning?

24 A. (Redacted)

25 (Redacted). For example, (Redacted)

1 (Redacted)

2 (Redacted)

3 Q. Do you know why they chose to nickname you (Redacted)

4 A. I do not know. They decided to give me this nickname, and
5 I had no authority in the matter. I could not refuse this nickname.
6 Nicknames were given to people, and those to whom such nicknames were
7 given could only accept. They had no choice but to be called in such
8 a manner.

9 Q. Thank you.

10 MS SAMSON: Mr President, with your leave, we can move into
11 public session.

12 PRESIDING JUDGE FULFORD: Thank you very much, Ms Samson.
13 Public session, please.

14 (Open session at 4.03 p.m.)

15 THE COURT OFFICER: We are in open session, Mr President.

16 MS SAMSON:

17 Q. And Mr Witness, following the time you spent at Mandro,
18 you told the Court that you then undertook some new training at Barrière;
19 is that right?

20 A. Yes. This was at the time of (Redacted) in

21 Barrière. I was loaded into a vehicle, and I was taken to Barrière
22 where soldiers were to be found. We arrived in Barrière in this vehicle,
23 and in this vehicle there were bags of maize and beans.

24 MS SAMSON:

25 Q. Was Commander Kisembo with you in Barrière?

1 A. On that day, I left him behind in Mandro and I went in
2 Mr Bosco's vehicle.

3 Q. Does that mean that Bosco travelled with you to Barrière?

4 A. Yes, we travelled together in one and the same vehicle.
5 We went to Barrière.

6 Q. Did you, in fact, undertake more military training in
7 Barrière?

8 A. Yes. Upon my arrival in Barrière I remained there for a
9 duration of five days. I was given a gun, a rifle, and I was told
10 not to do what I had done on the first occasion again. And I was told
11 that if I attempted to do what I had done before I would be killed.
12 I stayed there for five days and I was given a firearm.

13 Q. Do you remember what kind of firearm you were given?

14 A. In Barrière I was given a firearm. I was given an SMG.

15 Q. Could you describe the types of military training that you
16 undertook in Barrière?

17 A. I had received different training in Nizi but I received
18 the same training, military training, in Barrière. We were requested
19 to do press-ups and we were told to lie on the ground and we were beaten.
20 We were told how to handle a firearm and how to shoot with a firearm
21 and how to hit a target and aim at a target. We -- some planks of
22 wood were placed before us and we were requested to shoot at them as
23 if they were targets. It was as if we were asked to shoot at them,
24 at these planks of wood, as if they were people.

25 Q. Do you remember if there were other UPC commanders in the

1 military camp at Barrière?

2 A. At the Barrière camp there were commanders, but I do not
3 know their names. The only one I did know was Bosco. On that day
4 I arrived in the company of Bosco and he remained there. He remained
5 in Barrière. However, I did not know the other commanders. I would
6 say, however, that there were other commanders there, even if I did
7 not know their names.

8 Q. Do you remember the names of any of the persons who gave
9 the training?

10 A. I remember the name of one of the instructors, notably,
11 the one who trained me in Barrière. His name was --

12 THE INTERPRETER: The Swahili interpreter thinks that the
13 name is Kabonjo, but the Swahili interpreter requests that the name
14 be repeated because he did not quite understand it.

15 MS SAMSON:

16 Q. Could you please repeat the name of the instructor whose
17 name you remember?

18 A. The name of our instructor in Barrière is Kabo (phon).

19 Q. While you were in the Katoto camp, or the Nizi camp, or
20 the Mandro camp, or the Barrière camp, did you ever see Thomas Lubanga?

21 A. The only location where I saw Mr Thomas Lubanga was in Lopa,
22 but I also saw him in the town of Bunia on the day when I returned
23 to that place, and on that day we returned to Bunia and I saw him.

24 Q. When you saw Mr Thomas Lubanga in Lopa what was he doing?

25 A. When I saw him in Lopa we had just come from Lonio and we

1 were travelling through there. He was in the company of Commander
2 Kisémbó. However, I do not know whether he was the one who called
3 Commander Kisémbó. We were in the company of Commander Kisémbó. We
4 arrived in Lopa and they had a discussion inside the house. We were
5 tasked with guarding the house. We set up guard behind the house and
6 they were discussing things, but we did not know the contents of their
7 discussion. When the time came to leave Kisémbó gave us some magazines
8 and also gave us the authorisation to get ammunition.

9 Q. You mentioned that you arrived in Lopa and that Mr Thomas
10 Lubanga and Commander Kisémbó had a discussion inside the house; whose
11 house was it?

12 A. I do not know who the owner of the house is. This house
13 was located within a military camp. It was a very large abode, and
14 I do not know whether it was his own house or a house belonging to
15 a member of the population. I merely noted that he had a discussion
16 with Commander Kisémbó and other commanders inside this house. And,
17 as I said, this house was to be found within the military camp itself
18 and it was a very large house, even if I do not know who the owner
19 of this house is.

20 Q. Were you many guarding the house or just a few of you?

21 A. There were many of us. Other commanders had arrived with
22 their troops and Commander Kisémbó and ourselves, that is the members
23 of his guard, had just arrived. So all of those who were in -- who
24 had been tasked with guarding those commanders were present. There
25 were many of us.

1 Q. Do you remember the names of some of the other commanders
2 who arrived that day?

3 A. On that day Commander Kisémbó was present, Commander Bosco,
4 Patrick, and Commander Asimwe. Those are the commanders I saw.
5 However, other commanders arrived at that very location, but I do not
6 know their names.

7 Q. And the soldiers who were guarding this house in Lopa, were
8 they about your age, or older than you, or younger than you; do you
9 know?

10 A. Those who were elder than myself were more numerous. There
11 were others who were of the same age as myself but those who were older
12 than us were far more numerous. We were all mixed together. However,
13 those who were older were far more numerous.

14 Q. Do you remember approximately how long you stayed there
15 waiting for the commanders to finish their meeting?

16 A. We spent two hours at that location.

17 Q. Did you see Mr Thomas Lubanga again after the meeting?

18 A. After the meeting I saw him when he came out of the house.
19 Kisémbó said that we had no ammunition left and we received the
20 authorisation to fetch ammunition from the house where they were leading
21 their discussions, and that is what we did; we went to get ammunition
22 from that house.

23 Q. Do you know if the fact that you had no ammunition left
24 was discussed during the meeting? Did Commander Kisémbó tell you that
25 afterwards?

1 A. When they came out of the house Commander Kisémbó wanted
2 us to get into the vehicle but he then said that he wanted to go back
3 into the house, and they had a discussion. After the discussion Kisémbó
4 called us and we entered the house with a view to fetching ammunition.

5 Q. Were you able to find ammunition from the house to take
6 it with you?

7 A. Yes. We found some crates of ammunition and we took away
8 with us what we were able to carry. We left the rest behind in the
9 house.

10 Q. Did you speak to Thomas Lubanga before or after this meeting?

11 A. I would be lying if I said that I had a discussion with
12 Thomas Lubanga. I only saw him in Lopa. I saw him once again when
13 we were providing his escort in the town of Bunia, and to date I have
14 not seen him again.

15 Q. Can you please tell the Court what you were doing when you
16 were providing his escort in the town of Bunia, while you were going
17 to Bunia?

18 A. When we accompanied him to Bunia, we were tasked with
19 providing his security. We were in a vehicle before his, or in front
20 of his, and there were other vehicles in front and behind his own vehicle
21 containing soldiers. We accompanied him to the town, and then my group
22 went back to Mandro.

23 Q. Who asked you to accompany Mr Lubanga and provide his
24 security?

25 A. It was Mr Bosco and Kisémbó who requested this of us.

1 Q. Does Mr Lubanga know your name?

2 A. I do not know whether he knows my name. What is more, I
3 am not sure that he knows my name.

4 Q. Did he ever address you directly during this trip when you
5 accompanied him to Bunia?

6 A. No, we never had a discussion. Our role was to provide his
7 security, and it was only the commanders who could have a discussion
8 with him. We were under the orders of the commanders who were in his
9 company.

10 Q. Do you remember approximately the date that you accompanied
11 Mr Lubanga to Bunia?

12 A. I neither recall the date nor the month during which we
13 accompanied him to Bunia. All that I do know is that it was towards
14 the end of the year 2002 or at the beginning of the year 2003.

15 Q. Did anybody tell you why Mr Lubanga was going to Bunia?

16 A. I heard my military peers saying that Ngudjolo did not have
17 the opportunity of going to Bunia and that it was Mr Lubanga who was
18 going to go to Bunia, and that Bunia was under the control of Thomas
19 Lubanga. This is how he came to go to Bunia, because Ngudjolo did
20 not have power over the town of Bunia. This is what I heard my fellow
21 soldiers saying to me. This is not something that was said by the
22 commanders, no. This is what my peers said. They said that Bunia
23 was under our control.

24 Q. You mentioned earlier that you had retrieved ammunition
25 from the house in Lopa. Were there other occasions when you retrieved

1 ammunition?

2 A. When we retrieved this ammunition we returned to Lonio,
3 and in the evening we went in the direction of Mandro. We dropped
4 the ammunition off in Mandro.

5 THE INTERPRETER: The Swahili interpreter requests that the
6 witness speak more slowly.

7 MS SAMSON:

8 Q. In the -- the last part of your answer might not have been
9 captured by the interpreters. You said that when you retrieved the
10 ammunition you returned to Lonio, and in the evening you went in the
11 direction of Mandro. You dropped the ammunition off in Mandro. Did
12 you say anything else?

13 A. On that day we took the ammunition, or retrieved the
14 ammunition, in Lopa, and this was subsequent to a battle that we had
15 waged in Lonio. We pursued the Lendu until we reached a specific
16 location. Mr Kisémbó was having a discussion with somebody over his
17 Motorola radio at the time. I do not know whether he was talking to
18 Mr Lubanga or not. We went to Lopa, and this is how we came to retrieve
19 this ammunition. On that same evening we returned to Lonio, and that
20 night we went to Mandro.

21 Q. Did you often see Mr Kisémbó having discussions on his
22 Motorola radio?

23 A. Every day; the morning, in the evening, at night. He spoke
24 on his Motorola radio every day.

25 Q. Did you ever hear who he was speaking with?

1 A. Most of the time he was speaking to Bosco, Patrick or other
2 commanders whose names I do not know. He used codes, but I could identify
3 the name of Patrick and -- the voice of Patrick and Bosco during the
4 conversations. I was able to identify their voices.

5 Q. And you mentioned earlier going to Mandro with the ammunition
6 and dropping it off there. Did you ever retrieve ammunition from Mandro
7 itself, or see ammunition being dropped off there by others?

8 A. I haven't understood your question. Could you please repeat
9 it?

10 Q. Were you ever in Mandro when you saw ammunition being dropped
11 there by other persons?

12 A. All the ammunition was kept in Mandro and all the camps
13 would go to Mandro to get their supplies, and airplanes would drop
14 off the ammunition. And all the camps would come and get their supplies
15 of ammunition from the camp in Mandro.

16 Q. Did you ever see airplanes dropping off ammunition at Mandro?

17 A. Yes. The airplanes would come one, two or three times per
18 week; every Monday, Wednesday and Friday. If the airplane did not
19 come on Friday, it might come on Saturday. So it was three times a
20 week. They came three times a week to bring ammunition and firearms.

21 Q. So after you dropped off the ammunition that you had retrieved
22 in Lopa, after you had dropped it off in Mandro, where did you go?

23 A. From Mandro I went to Katoto.

24 Q. And do you remember approximately how long you stayed in
25 Katoto?

1 A. From Mandro I went to Katoto. In fact, we were asked to
2 go to set up a group of guards in Katoto, because there were rumours
3 that the Lendu were going to attack Katoto, so my group was positioned
4 along a road in Katoto to ensure safety.

5 Q. And do you remember about how long you stayed in Katoto
6 ensuring the safety of the road?

7 A. We spent a whole week there. After one week we were called
8 back to an assembly, a gathering. And various groups were set up
9 and -- well, my group, the group I was within, was sent to Mandro.
10 And the other group stayed in Katoto.

11 Q. (Microphone not activated) ... the commanders at the
12 assembly in Katoto?

13 A. Bosco was the one who had control over Katoto.

14 Q. Were there any other UPC commanders at this assembly?

15 A. What gathering are you speaking of?

16 Q. You told the Court that you spent a week in Katoto, and
17 after a week you were called back to an assembly, a gathering. And
18 I was wondering which commanders were at this assembly, if you can
19 remember.

20 A. There was Patrick and Bosco, just the two of them. There
21 were other commanders, lower-ranked commanders, but I've forgotten
22 their names.

23 PRESIDING JUDGE FULFORD: Ms Samson, we're soon going to
24 reach our Cinderella moment. I don't want to interrupt you at a bad
25 moment, but would this be convenient?

1 MS SAMSON: Yes, thank you very much, your Honour.

2 PRESIDING JUDGE FULFORD: Sir, thank you very much indeed.
3 You've been extremely patient today and extremely clear, and thank
4 you very much for following the instructions that we gave at the beginning
5 of your evidence. We're going to break off now for the rest of the
6 afternoon, and we look forward to seeing you again tomorrow morning
7 at 9.30. And we hope you have a good evening's rest. Closed session,
8 please.

9 (The accused exits the courtroom)

10 *(Closed session at 4.41 p.m.) Reclassified as open session

11 THE WITNESS: Thank you.

12 PRESIDING JUDGE FULFORD: Yes, usher, thank you.

13 THE COURT OFFICER: We are in closed session, Mr President.

14 (The witness stands down)

15 PRESIDING JUDGE FULFORD: Could Mr Lubanga come back just
16 for a moment, please.

17 (The accused enters the courtroom)

18 PRESIDING JUDGE FULFORD: Maître Mabilille, please don't
19 attempt to answer now, not least because the tapes are about to run
20 out. We will, certainly by Wednesday morning, be asking from you,
21 following what we hope will be useful consultations with the Prosecution,
22 what you envisage as being the agenda and, more precisely, the timetable
23 for evidence and submissions as regards your abuse of process
24 application. We need to know definitively what is going to be the
25 position in terms of your expectations as to when submissions will

1 be advanced, when the Chamber will be addressed to the extent that
2 oral submissions are going to be appropriate on that issue. It is
3 clearly critical, for numerous reasons, but including those witnesses
4 who are outstanding on your list, if we're against you on the abuse
5 application, that we know really what is proposed. I make it clear
6 that we will not necessarily accept the timetable that is proposed,
7 but we would like to know in the first instance what you in the best
8 of all possible worlds would wish to happen.

9 So, no answer needed today, but if we could have that, please,
10 by Wednesday -- by sometime on Wednesday during the hearing.

11 How much longer, Ms Samson, do you think? And that's not
12 meant in any way critically.

13 MS SAMSON: I think, your Honour, perhaps an hour and a half
14 to two hours left.

15 PRESIDING JUDGE FULFORD: Thank you very much. Final
16 instruction: Can IT please be asked to turn off the sound on individual
17 computers so that we don't hear a bleep every time somebody receives
18 a new email. It is extremely distracting having Outlook registering
19 the fact that new emails are arriving during the course of court hearings.

20 9.30 tomorrow morning.

21 (The hearing ends at 4.45 p.m.)

22 RECLASSIFICATION REPORT

23 Pursuant to Trial Chamber I's email instruction dated 2nd December
24 2011, the transcript is reclassified as public after the indicated
25 redactions have been implemented as ordered by the Chamber. All private

1 and closed sessions (*) are now available to the public with the exception
2 of the portions the transcript that have been redacted.

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