

1 International Criminal Court
2 Trial Chamber I - Courtroom 2
3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio
4 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 Tuesday, 23 March 2010
9 (The hearing starts at 3.00 p.m.)
10 (Open session)
11 THE COURT USHER: All rise. Please be seated.
12 PRESIDING JUDGE FULFORD: Good afternoon. Yes,
13 Mr Sachdeva.
14 MR SACHDEVA: Thank you, Mr President. Over the lunch
15 recess I had an opportunity to review the transcript and, in my
16 submission, the issue related to when or how long the witness
17 has spent in The Hague is still unclear and, therefore, I seek
18 leave to simply suggest to the witness that he's been here for
19 ten days.
20 The reason why I sought to clarify it was because it
21 wasn't clear whether it was the Sunday that's just gone, or the
22 Sunday ten days beforehand, and that's why I want to clarify
23 with the witness, with your leave. And, in our submission, the
24 amount of time the witness has spent here, given what he has
25 said about the money that he's received, is significant and

1 important in our case.

2 PRESIDING JUDGE FULFORD: Isn't this something that's
3 known? I mean, when the witness arrived must be some piece of
4 information that can be obtained incredibly easy, isn't it?

5 MR SACHDEVA: Of course, Mr President. I just wanted
6 to have it on the record and, if my learned friends are happy to
7 agree, then we know --

8 PRESIDING JUDGE FULFORD: Right.

9 MR SACHDEVA: -- there's no need to ask the question.

10 PRESIDING JUDGE FULFORD: Thank you. Mr Desalliers,
11 what was the date of the witness's arrival in the Netherlands,
12 please?

13 MR DESALLIERS: (Interpretation) The witness arrived
14 (Redacted). He travelled on (Redacted) and he arrived (Redacted)
15 (Redacted), and we are ready to accept this point without any
16 problem.

17 PRESIDING JUDGE FULFORD: Thank you. Can you make
18 sure that that's confirmed and that an email is sent to
19 Mr Sachdeva, copied please to the legal adviser to the Division,
20 confirming the date of his arrival, and we will then proceed on
21 that factual basis.

22 MR DESALLIERS: (Interpretation) No problem, your
23 Honour.

24 PRESIDING JUDGE FULFORD: Thank you very much.

25 MR SACHDEVA: Thank you, Mr President.

1 PRESIDING JUDGE FULFORD: Good. Closed session and
2 witness, please.

3 *(Closed session at 3.03 p.m.) Reclassified as Open session

4 THE COURT OFFICER: We are in closed session, your
5 Honours.

6 (The witness enters the courtroom)

7 PRESIDING JUDGE FULFORD: Private, or public?

8 MR SACHDEVA: Private, Mr President.

9 PRESIDING JUDGE FULFORD: Private session, please.

10 *(Private session at 3.04 p.m.) Reclassified as Open session

11 THE COURT OFFICER: We are in private session, your
12 Honours.

13 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

14 MR SACHDEVA:

15 Q. Sir, before the break we were discussing the last
16 document within tab 4, and if I could ask you to turn back to
17 that list, please.

18 PRESIDING JUDGE FULFORD: Usher, could you help,
19 please?

20 MR SACHDEVA:

21 Q. It's DRC-D01-0003-2286. The last entry there we see
22 Mr (Redacted), and next to his name is -- it's written "(Redacted)
23 (Redacted)". What does that mean?

24 A. (Redacted)

25 (Redacted)

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 Q. Isn't it the case, sir, that actually Mr (Redacted)

6 (Redacted), his official title was "(Redacted)"?

7 A. (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. Would you mind turning to tab 3, and if you could look
14 at the document which ends 2281 in tab 3, please.

15 THE INTERPRETER: Sorry, your Honour. Could the
16 witness be asked to speak closer to his microphone, please?

17 PRESIDING JUDGE FULFORD: And, sir, can I ask you to
18 make sure you keep your voice up. The interpreters are having a
19 little bit of difficulty hearing you. Yes, Mr Sachdeva.

20 MR SACHDEVA:

21 Q. And, sir, if you look down at the bottom of the page,
22 you will see that (Redacted) has signed the document and he
23 is identified as the (Redacted); isn't that right?

24 A. Yes, indeed, that's written here.

25 Q. Now, if we can now move to tab 4. If you go back to

1 tab 4, and I'm -- I'm going to ask you to look at the first page
2 on tab 4, the first list, and that is ending at 2284. Now, was
3 this list also produced at the meeting that you have described
4 in the hut?

5 A. This list which I see here -- well, it's a list that I
6 fully understand. It was prepared while the process was still
7 ongoing. Before we went to attend the main meeting at which
8 each group head was to represent his or her group, we were
9 called once more, because they wished to double-check to make
10 sure that all of us were present. And for those who were
11 absent, the UNDP said that absentees would not have their
12 activities funded. So they said -- they told us, since there
13 are nine of you, you can look for another demobilised person
14 whose name will be put in the place of the names of absentees,
15 so long as their community reintegration has not yet been
16 carried out.

17 So we went out and we looked for -- we did our
18 research and we came up with names of other people. And so
19 together, nine of us, we signed and those who came later also
20 signed. And then you see at the end of the list, they cancelled
21 the rest of the lines, and this was not done by me, it was done
22 by the officers themselves, to say that the list ends here and
23 these are the nine demobilised persons whose activities were
24 going to be funded.

25 MR SACHDEVA: Mr President, my transcript has stalled,

1 I believe.

2 PRESIDING JUDGE FULFORD: Ours stalled, and we had to
3 restart it. Do take a moment, Mr Sachdeva, to sort it out, and
4 do sit down while you do so.

5 MR SACHDEVA:

6 Q. Let me just try and clarify a couple of things here.
7 The -- this list that we are looking at, this list includes
8 persons that were not on the initial list of the initial nine
9 that were part of this group; isn't that right?

10 A. Yes, there are other names which were replaced with
11 the names of -- the names of those who were not present. The
12 UNDP called for us; they wanted to see us. And on that day they
13 called all of us and we found that there were some of us who
14 were not present, and it was said that funding could not be
15 given for someone in our group who is not present. And so we
16 had to look for someone, someone else to represent the
17 absentees, or to replace the absentees, especially persons for
18 whom reintegration into the community had not yet been
19 completed.

20 Q. So, for example, the name on that list that reads (Redacted)
21 (Redacted), if I read it correctly, he's someone that was not on
22 the initial list of nine, and I take it he wasn't present at the
23 time this list was compiled; is that right?

24 A. The lists on which this name is found -- well, this
25 shows that that individual was present on that day, and since

1 that person was present, he replaced or he took the place of the
2 person who was absent from the meeting.

3 The result is that the UNDP will not fund the
4 activities of the absentee, and this meant that before going to
5 the UNDP, we had to go to (Redacted) to look for a replacement. We
6 were said that our list was -- we were told that the list was
7 incomplete, and (Redacted) asked us to go look for other friends to
8 complete the list before we went to the UNDP.

9 And so we went up with this individual to inform the
10 UNDP that we have already seen someone; in that case, this
11 individual who was going to replace the absentee. So this
12 individual was present and the UNDP wanted to see him. So we
13 went up individually, each person with his or her demobilisation
14 card, and we signed.

15 Q. And on this list that we have here, is it your
16 evidence that all the persons indicated here signed this list?

17 A. Each person present in the hut completed this form
18 individually with the necessary information and each individual
19 put his or her signature. There you have it.

20 Q. So, for example, the -- the person indicated at number
21 9, (Redacted), he was present, is that what you are
22 saying? He was present when he signed by his name; is that
23 right? You saw that?

24 A. Yes. I said that all the people whose names feature
25 on this list were present.

1 Q. Now, for this exercise, I want you to look at -- I'm
2 going to ask you to look at two documents.

3 MR SACHDEVA: And if I could ask the court officer to
4 -- to bring up EVD-D01-00128 and, Mr President, I am going to
5 ask the Court officer if it's possible to show this page 2284
6 alongside the page 2286. So, 2284 on the right, and 2286 on the
7 left. Excuse me, vice versa.

8 PRESIDING JUDGE FULFORD: Yes. Is that now upon the
9 witness's screen? Good. Yes, Mr Sachdeva.

10 MR SACHDEVA:

11 Q. Now, if you look at the list on the -- well, if you
12 look at the list on the right-hand side, and I want you to
13 concentrate on the entry at number 9, (Redacted);
14 you see that?

15 A. Yes.

16 Q. I want you now to look at the entry on -- at number 5
17 on the left-hand side also with the name (Redacted) (phon)
18 (Redacted); do you see that?

19 MR SACHDEVA: Actually, if it can be zoomed by the
20 court officer that would be really helpful.

21 Q. And my question, sir, is: Is it your evidence that
22 the same person signed the entries for number 5 and for number
23 9? Signed for number 5 on the left-hand list and for number 9
24 on the right-hand list?

25 A. What were you asking me?

1 PRESIDING JUDGE FULFORD: What you're not being asked
2 to do, and can I underline, you are not being asked to perform
3 the job of an expert in handwriting. So, you are not being
4 asked to do that, but Mr Sachdeva is asking you whether your
5 evidence is that the same people, the same person, completed
6 those two entries. So, to your knowledge, did the same person
7 complete the two entries?

8 THE WITNESS: Well, first of all, when you look at the
9 signatures, including mine, and you try to compare, you find
10 that they don't correspond. We were still trying to get used to
11 signing, and when you are still at the beginning, when you are
12 still learning to sign a signature, you cannot always repeat the
13 signature accurately. So don't focus so much on the signatures.
14 I even told you that if you want to get enough evidence, you
15 yourself should go to CONADER, and you can go secretly or both
16 parties can go together to CONADER to find out. I think that
17 will be the ideal thing to do.

18 PRESIDING JUDGE FULFORD: I am going to interrupt you,
19 sir. You needn't make suggestions as to how we go about the
20 investigative tasks that may need to be completed. Really, just
21 to have it clear, I think your answer is that the same person
22 completed the two entries. Now, I think that's your evidence,
23 isn't it? The same person?

24 THE WITNESS: Yes, it's indeed the same person. Each
25 person was physically present there and they signed, because

1 from your own analysis those who were absent were replaced. We
2 had to be physically present. So, if anyone was not physically
3 present, that person was replaced. So, as an intellectual, I
4 don't think you have to go into detail again to ask me whether
5 all the names here were accurate, or not. I say, yes, those who
6 signed on this list were those who were physically present and
7 they signed with their own hand. Now, compare my signature.
8 You will find there is not even -- they don't correspond, but I
9 was physically present.

10 PRESIDING JUDGE FULFORD: There you are, Mr Sachdeva.
11 Crystal clear, I think. Same person present on both occasions.

12 MR SACHDEVA:

13 Q. And is your evidence the same in relation to entry
14 number 8, on the right-hand side, and entry number 4 on the
15 left-hand side?

16 A. I have said it.

17 PRESIDING JUDGE FULFORD: Yes. I think the position
18 is, Mr Sachdeva, and the witness will tell me if I am wrong,
19 that what he is saying is that for each of the names on each
20 list they were physically present on each occasion to make the
21 entry. So, I think on that basis there's no need to go through
22 them individually because that's his position.

23 MR SACHDEVA: Very well, Mr President.

24 PRESIDING JUDGE FULFORD: Do you agree, Mr Desalliers,
25 that that's the sensible conclusion from the evidence so far?

1 MR DESALLIERS: (Interpretation) Yes, indeed, your
2 Honour.

3 PRESIDING JUDGE FULFORD: You needn't do the exercise,
4 Mr Sachdeva.

5 MR SACHDEVA: Mr President, I'm sorry. I'm just
6 trying to get back to the transcript for one moment.

7 PRESIDING JUDGE FULFORD: Take your time.
8 (Pause in proceedings)

9 MR SACHDEVA:

10 Q. Sir, it's right, is it not, that your mother -- your
11 mother was a tradesperson?

12 A. Yes, my mother was involved in trade and still is.

13 Q. And that job involved her travelling within Ituri;
14 isn't that right?

15 A. I beg your pardon?

16 Q. The job of your mother entailed travel on her part
17 within Ituri; isn't that right?

18 A. In the earlier answer I gave I said that she was
19 involved in trade and that was within the area; in other words,
20 inside Ituri.

21 Q. And for that job she would have to travel back and
22 forth to various places in Ituri; isn't that right?

23 A. For that activity, there were always the same places
24 she was accustomed to going to. The trade was such that she had
25 to go to those places.

1 THE INTERPRETER: Interpreter's correction: That one
2 place and it was just on the other side.

3 THE WITNESS: I think we are in private session, are
4 we not?

5 PRESIDING JUDGE FULFORD: Yes.

6 THE WITNESS: I can tell you that she was trading in
7 produce in the area of (Redacted) and sometimes in the (Redacted)
8 (Redacted) area, and then she went to sell the produce in (Redacted).

9 MR SACHDEVA:

10 Q. And it's right, isn't it, that when your brother (Redacted)
11 was born she was working in (Redacted) at the time? She was trading
12 in (Redacted)?

13 A. Well, I can help you out in understanding what the
14 situation was, because what my mother did she couldn't do in
15 (Redacted). She was trading in a certain product. It's a sort of
16 (Redacted), and you have to go into
17 the forest because there are trees where you tear down that
18 material. So, she went to get that material. She got it from
19 villagers. So, she did that and then there were people who
20 purchased from her. She went off to (Redacted), she hired a truck
21 and took bags of this material and it was purchased by
22 (Redacted). So, that's what she did. She supplied that material
23 which was used for (Redacted) purposes. It's very lightweight.
24 It's a type of bark taken from the trees in the forests. And
25 she went to (Redacted) to sell it. There are (Redacted) there, but in

1 (Redacted) there are no (Redacted).

2 Q. So it's your evidence, according to your knowledge,
3 that at the time (Redacted) was born your mother never travelled to
4 (Redacted) for business; is that right?

5 A. No, when (Redacted) was born, if you were to see him you
6 will see that there are marks on his face. He had a sort of
7 measles, and my mother would travel with him when he was a baby
8 to that place I was talking about, to the (Redacted), for
9 her to sell the produce. (Redacted) is a long, long way away. It's
10 not even in our district. If I am not mistaken, although I
11 don't know exactly, but I think it's probably in the district of
12 the (Redacted). I don't think (Redacted) is in Ituri.

13 In (Redacted) there are (Redacted), but there are no (Redacted), and
14 that's why my mother doesn't know (Redacted). She has never even
15 been there. Her trading was in (Redacted), or between (Redacted)
16 (Redacted) or sometimes (Redacted)
17 (Redacted). It was sort of triangular trading.

18 Q. Isn't (Redacted) near the territory of (Redacted) and
19 isn't (Redacted) in Ituri?

20 A. (Redacted) is in Ituri, but (Redacted) -- well, I don't
21 have a -- an Eastern Province map. I mean, if you have one, maybe we
22 could look at it together so as to avoid there being any
23 mistake. You and I could take a look at it, if we had a map of
24 the Oriental Province, and we could take a look at it to see
25 where (Redacted) is, but unfortunately I don't have one and so I

1 can't give you a specific answer. I don't have a map in front
2 of me and I wouldn't want us to make a mistake, whether it's you
3 or me, so I think we need a map to have a close look and then I
4 can give you the right answer.

5 Q. You were born in (Redacted), weren't you?

6 A. Yes, I was born in (Redacted), and at the time that was
7 when my mother was trading at the time and that's why I was born
8 there.

9 Q. You know of an aunt on your father's side called
10 (Redacted), don't you?

11 A. Well, you've had all sorts of talks with my little
12 brother. We were very fond of my little kid brother, but I
13 don't know what's got into him. These things happen, but I
14 don't really understand that kid. I don't know what it's been
15 done for, I'm sorry, but after all we are all preparing to enter
16 the kingdom of the gods, so we have to ask for forgiveness and I
17 hope he has forgiveness for the dishonest things he has done.

18 PRESIDING JUDGE FULFORD: Sir, that was interesting,
19 but could you answer the question, please. Is there an aunt on
20 your mother's side who has the name that Mr Sachdeva put to you?
21 And I am not going to attempt to repeat it. Do you have an
22 aunt?

23 MR SACHDEVA: May I make one clarification? I think I
24 said father's side.

25 PRESIDING JUDGE FULFORD: Well, on the transcript and

1 what I heard was mother's side, Mr Sachdeva. Do you mean
2 father's side?

3 MR SACHDEVA: Yes.

4 PRESIDING JUDGE FULFORD: All right. Put the question
5 again, then, please.

6 And, sir, can you focus on the question and answer the
7 particular matter that Mr Sachdeva puts to you.

8 MR SACHDEVA:

9 Q. Do you have an aunt on your father's side by the name
10 of (Redacted)?

11 A. Could you spell the name, because I don't understand?

12 Q. Yes, I'll do that.

13 A. Spell it out using individual letters.

14 Q. (Redacted)

15 A. Please slow down. Please go slowly. (Redacted)

16 Q. (Redacted)

17 A. Spell it in French.

18 Q. (Redacted).

19 A. And then?

20 PRESIDING JUDGE FULFORD: Why doesn't someone write it
21 down? Write it down for the witness and hand it to him, all
22 right? Have you got it there? Good. Usher, if you can sprint
23 across the Court.

24 THE WITNESS: Yes, I'll give you an answer. I gave a
25 small introduction. This name did not exist among my aunts. It

1 was not a name that existed. (Redacted)

2 (Redacted) - maybe I've got it wrong - but he knew his sisters. Many
3 of his sisters have already died, but I don't think that any of
4 the aunts had that name from among his sisters. I really don't
5 think so.

6 Q. So you don't know that she raised your brother (Redacted) in
7 (Redacted) in (Redacted) after he was born?

8 A. In that short introduction, when you asked the
9 question, I said -- well, I spoke about my kid brother, but I
10 didn't say there was a lady who brought him up. It was my
11 mother. She was responsible for his schooling, his education,
12 his bringing up, providing his clothes. There's no other
13 person. I -- and when we were in the other room, I was talking
14 to you about this when you were putting questions, I said that I
15 was sometimes taken care of by others. So, apart from myself,
16 all of the other children of my mother - not the other mother,
17 but of my mother - were brought up by her. I don't know the
18 village language very well, but because the others grew up with
19 the parents, they speak Kilendu, the language of the north. And
20 all of these things that I am saying are an expression of
21 frankness on my part. I think he'll have to ask God's
22 forgiveness for everything he's done, sooner or later. It's a
23 lack of sincerity on his part. Gradually, if he continues like
24 this, he will have to ask for God's forgiveness and I hope God
25 will forgive him.

1 Q. Sir, I suggest to you that (Redacted), the
2 aunt of (Redacted), brought him up and gave him the names (Redacted)
3 (Redacted). What do you say to that?

4 A. Go for yourself. Even when we're little, we can
5 sometimes give advice to adults. And when you're carrying out
6 your investigation, you have to go into things in depth. If you
7 pick someone up by the side of the road, you have to find out
8 who that person is. So, that's my advice, you have to go into
9 detail in an investigation. And I would say that all of this
10 and all of the people who were involved in these discussions
11 with (Redacted), I would say they hadn't correctly carried out their
12 investigation.

13 Q. Can I just have an answer? Is it a "yes" or a "no"?
14 What do you say about that?

15 PRESIDING JUDGE FULFORD: Sir, I am taking your last
16 answer as meaning that you -- you say that your brother was not
17 brought up by the aunt that Mr Sachdeva is referring to and that
18 she didn't give him those names. Is that right? You're saying
19 that didn't happen.

20 THE WITNESS: Yes. I've explained that in the answer
21 that I gave, that that didn't happen. Where is that aunt?

22 PRESIDING JUDGE FULFORD: Yes, the witness is saying
23 brought up by mother. I don't think we need to go round it
24 again, Mr Sachdeva. Thank you.

25 THE WITNESS: The -- I'm talking about the mother and

1 the father, so the parents.

2 THE INTERPRETER: Judge Fulford, could the
3 interpreters ask you to ask the witness either to speak louder,
4 or closer to the microphone? The sound quality is very poor.

5 PRESIDING JUDGE FULFORD: Absolutely. It's difficult
6 to get the witness any closer to the microphone. Perhaps the
7 file could be taken away for the time being. Yes, that's very
8 sensible, usher. Thank you. Right.

9 Where to now, Mr Sachdeva?

10 MR SACHDEVA:

11 Q. Sir, is it not the case that during your childhood you
12 were brought up by persons other than your parents?

13 A. Me? Are you talking about me?

14 Q. Yes.

15 A. I'd explained; I gave you details. When I was at
16 school in (Redacted) at the primary school, and then left to continue
17 my studies at (Redacted) until I got my schooling certificate, and
18 it was a bit like a boarding school. So, if there'd been a good
19 boarding school in (Redacted), I would have stayed in the family,
20 but that wasn't the case. So, when I did go away to study, I
21 stayed with my paternal aunt. At the end of each academic year,
22 I went back home to (Redacted). And then at the start of the next
23 school year, I came back again to school. So, it's not the same
24 as saying I've been brought up by a different family. It's just
25 I went to school but, at the end of the school year, I went back

1 to my parents' house with my parents, my brothers. We would
2 play together. We played football and we were always together.

3 Q. What was the name of the aunt that you lived with?

4 A. I beg your pardon?

5 Q. What was the name of the aunt that you lived with?

6 A. In (Redacted), I wasn't with my aunt. I was with the man
7 who called my father his uncle. It was a man. That's where I
8 was. Perhaps in Bunia, when they moved to Bunia, that man, then
9 in Bunia I lived with my big brother. And then I didn't do well
10 at school, and my parents gave thought to that and I was moved
11 and I moved to my mother's sister. Now, that's my maternal
12 aunt. So, I was with my aunt on my mother's side for two more
13 years at school, and then I had contact with my parents, and
14 that's how it is right through to today.

15 Q. And that maternal aunt lived in (Redacted); is
16 that right?

17 A. Yes, it's that aunt who was living in (Redacted)
18 (Redacted). I spent the first year with her and the second, and at
19 the end of each academic year I went back home. So, the reason
20 I was there was for schooling, not to be brought up by her.

21 Q. And what was her name?

22 A. Is it necessary to give the name of such a person?
23 What can her name give you? I don't see what you can get from
24 her name. Sometimes we give the name of an adult just like
25 that. There are some people who would have a heart attack if

1 they heard their name being quoted on the radio, or wherever,
2 because everything that happens here is being conveyed back
3 home. Even if we don't give the names, it's all going out on
4 the radio. Even if you hide people's names, it's broadcast on
5 the radio. And that's why -- I mean -- well, if this aunt,
6 who's likely to have a heart attack if she were to hear her
7 name, then she might have a stroke because people know -- they
8 know that going to the International Criminal Court is something
9 really terrible. So I'm really sorry if I don't give the name
10 of this woman. But if you want, I'll go with you to her house
11 and you can see her for yourself.

12 PRESIDING JUDGE FULFORD: Mr Sachdeva, first of all, I
13 can see in relation to the witness's brother you may be
14 interested in relevant family members. Does it really matter
15 which aunt it was that this witness lived with at some distant
16 time in his childhood? What's the issue that's engaged by the
17 name of somebody who this witness lived with?

18 MR SACHDEVA: It's initially an issue of credibility.
19 However, I can move on without the name at this point. That's
20 fine, Mr President.

21 PRESIDING JUDGE FULFORD: Thank you. All right, next
22 point then, please.

23 MR SACHDEVA:

24 Q. Witness, this aunt that you lived with, you lived with
25 her from the years 1998 until 1999 or 2000; is that right?

1 A. I lived with her when I was in my second and first
2 year, because I failed my first year at my big brother's place,
3 so I left. And I got my certificate in 1996, the 1996 academic
4 year. That's when I got my leaving certificate, and that was in
5 (Redacted). And then I went to (Redacted) with that businessman, and
6 then I went to my big brother's in (Redacted), and that was '97 to
7 '98. It was in the academic year '98 to '99 that I lived with
8 that aunt. And then 1999 to 2000 I was with that aunt. But her
9 name is not (Redacted). I cannot conceal anything from you.

10 Q. And at that time you were living with your aunt, (Redacted)
11 was not there with you; isn't that right?

12 A. They were all with our parents in (Redacted). They all
13 lived with my parents in (Redacted).

14 Q. And after you lived with your aunt, is it right that
15 you went to the Institute in (Redacted), Institute (Redacted)?

16 A. I beg your pardon?

17 Q. When you left your aunt's place in the year, I
18 believe, 1999, did you then go and study in the (Redacted)
19 (Redacted)?

20 A. No. I clearly stated that I spent two academic years
21 at my aunt's place. 1998 up to 1999, I did my first grade with
22 her. Then 1999 to 2000, I spent the second academic year at her
23 place. Now, academic year 2000/2001, when my parents came to
24 (Redacted) with everyone, including (Redacted) at that point in time I
25 went to live with them in (Redacted) to continue my studies at the

1 (Redacted) Institute in (Redacted). There you have it.

2 Q. And how long did you spend in the institute in (Redacted)?

3 A. There at (Redacted) I did not complete the academic year.
4 Once more we became refugees. We became refugees once more in
5 (Redacted). I returned. The institute had not yet opened its doors,
6 so I went to seek admission at the institution where I went to
7 do my second grade. They asked me to learn how to make chairs,
8 So I felt that this was an unnecessary expenditure. They asked
9 me to prepare or to make my own chair, so I went to the (Redacted)
10 Institute. So we all - my brothers and I - registered or
11 enrolled at the (Redacted) Institute. And I was admitted into a
12 department to -- a course that I was not even doing in (Redacted)
13 in the third academic year. And all of that because we had come
14 late. We were refugees.

15 So when -- when the (Redacted) Institute opened its doors,
16 I left that institute to go back to (Redacted) in order to study
17 with others who had returned to (Redacted). There were also other
18 candidates in (Redacted), and I was able to study with them as
19 refugees (Redacted), and this was from my
20 third grade. This was, too, in (Redacted). And after some time the
21 school was affected, so we became refugees for a second time.
22 And then we went on to (Redacted), where I continued studying, and
23 I obtained my certificate there.

24 Q. When you were in (Redacted) at the (Redacted) Institute,
25 it's right, isn't it, that (Redacted) was not at the same institute?

1 A. Yes, indeed, (Redacted) was not studying at the (Redacted)
2 Institute. He was studying at the (Redacted) Institute. There was
3 an institute known as the (Redacted) Institute. It was an official
4 establishment, that is a government establishment, and the
5 (Redacted) Institute was (Redacted). So I was studying in
6 (Redacted), whilst (Redacted) and my younger brother (Redacted) were
7 studying at the (Redacted) Institute.

8 THE INTERPRETER: Interpreter corrects: The witness
9 did say he and his sister were studying at the (Redacted) Institute.

10 MR SACHDEVA:

11 Q. Didn't you and your brother (Redacted) have a disagreement
12 over money some time ago, in 2005 or 2006?

13 A. An argument with him concerning what?

14 Q. Concerning money that he lent you. Do you remember
15 that?

16 A. He told you that he lent me money?

17 Q. Did you or did you not have a disagreement with your
18 brother (Redacted) over money? I just need you to answer the
19 question, please.

20 A. I have fully understood your question. Well, I beg
21 your pardon for making this brief introduction. I have the
22 impression here that you seem to think I have come here to do
23 something bad. I begin to see that my coming to give testimony
24 is something which is not proper. You know, the fruits of my
25 honesty can be noticed only in future. I have come to tell the

1 truth before the world and before God. Is that something bad?
2 Because I have the impression that deep down you seem to think
3 that I have done a bad thing, to come and shed some light and to
4 speak sincerely.

5 If I had known that things were going to turn out this
6 way, I would not have accepted to come to tell you the truth
7 here, because, you know, I know the consequences, the
8 consequences of dishonesty. I know what the consequences are
9 going to be in my future life, the consequences of dishonesty.
10 I like the truth. I believe in the truth, and that is why I
11 came here. And when I come here to speak the truth, it is to
12 prepare for my future life, my eternal life. But questions of
13 this nature that you are putting to me seem to indicate that I
14 did a bad thing to come here to give testimony about the truth.
15 That is my analysis of the situation, especially given the
16 questions which you have just put to me.

17 PRESIDING JUDGE FULFORD: Sir, Mr Sachdeva is simply
18 doing his job and, from the position of the Prosecution, they
19 are seeking to test your evidence because there is a -- there
20 are a number of differences between the account of your brother
21 and that of yourself. So, don't worry about the questions that
22 Mr Sachdeva is putting to you. If there was anything improper
23 about them, we would stop him.

24 Now, I think your answer is in fact clear, but we need
25 it for certain. Do I understand you to be saying that there was

1 no financial argument between you and your brother; that there
2 has never been a disagreement between the two of you about
3 money? Is that the position?

4 THE WITNESS: Well, I have fully understood this, but
5 I would like to say that in the year you mentioned, the year
6 2005 and the year 2006, I would like to say, no, there was no
7 disagreement between myself and him about money. Ask him to
8 give you more details. You can even call him here and now. But
9 I do understand that the fact that I have come to give testimony
10 is disturbing his conscience. He talks about this argument.

11 (Redacted). He talks about this
12 argument in 2005/2006. And so my answer is: In the year
13 2005/2006, I did not have any disagreement with my brother about
14 money. Well, if he is mistaken, let him tell you precisely what
15 this argument I had with him in the year 2005/2006, what this
16 argument is he talking about?

17 PRESIDING JUDGE FULFORD: Sir, I am going to
18 anticipate what may be Mr Sachdeva's next question. If there
19 wasn't an argument about money between you in the year 2005 to
20 2006, has there ever been an argument between the two of you
21 about money? I think what's being suggested is that there may
22 be bad blood between you because at some stage there's been a
23 disagreement about money. So, has there ever been a
24 disagreement between you about money?

25 THE WITNESS: I have fully understood. Well, if he

1 says that in the year 2005 and 2006 there was a disagreement
2 between us, well, I don't think that is the case. Within the
3 family, children who have the same father may quarrel with each
4 other, not necessarily about money; they could fall out because
5 of many things. Tell him that I did not come here because of
6 any disagreement between us, that I came here to prepare his
7 entrance into eternal life, into the presence of God, as our
8 parents have always taught us.

9 PRESIDING JUDGE FULFORD: I am going to ask you to
10 focus on the question, please. Forget 2005 and 2006. Has there
11 ever been a disagreement between yourself and your brother about
12 money?

13 THE WITNESS: Well, I can't hide it from you. Since
14 he has talked about an issue of money within the family, I was
15 saying that it's not only money that can cause a disagreement
16 between siblings; there are other things as well. And usually,
17 you forget about these things and you forgive. I think that --
18 I didn't imagine that such questions were going to be put to me,
19 because they really don't have any relevance to what we've come
20 to do here, but I can shed light on the whole issue.

21 I was going to (Redacted) to accompany a family member who
22 was a trader. It was at the time of the rebellion. These
23 traders and myself were going there - the (Redacted) road was
24 blocked, (Redacted) was occupied by those who were perpetrating
25 genocide - I can use that term. There was no way to pass

1 through (Redacted) to go to (Redacted), so we had to create a road in
2 order to bring in merchandise into the town.

3 In fact, the big -- the major traders had already
4 located to other areas, to other countries, and so merchandise
5 had become very expensive, and there was a shortage of certain
6 items, such as sugar. So, we will going to (Redacted), and
7 we will take canoes to (Redacted)
8 (Redacted). And when he bought these wares we will return
9 with him.

10 And when we arrived, (Redacted)
11 (Redacted)
12 where we would get a vehicle. So, my job was to be -- to stay
13 behind the train while he would be ahead leading the train so
14 that the (Redacted) would not disappear with the wares.

15 And when we arrived, we will load the sugar into
16 vehicles and it will be sold in Bunia at a higher price. And I
17 would use my own money to buy my own wares. And my kid brother
18 also gave his money to me so I could buy some wares for him.
19 And that way, I will help him to fortify his money, to invest
20 his money and get proceeds or dividends therefrom.

21 And right from birth, he's always been like that. You
22 know, when you give money to traders who move around doing their
23 business, and you ask them to pay back the money to you, they
24 can't give it all at the same time. Sometimes they give it in
25 instalments.

1 But this young man, when he saw me return from (Redacted)
2 looking well-dressed, he thought that those who go to (Redacted)
3 simply go and multiply money. He didn't understand that we go
4 to buy products to come back and sell before we could make a
5 profit. And sometimes he would ask for his money with a lot of
6 brutality, and I will tell him: You should just hold on. Your
7 money is with the traders, and they are still trying to see how
8 they can fortify the investment. And that is why this young man
9 is talking about this business.

10 And he even went and complained to my parents, and he
11 said, "I don't want to pay back this money," and I told him,
12 "Hold on, we gave your money to certain traders, and they are
13 investing it, and they have not yet completed with the
14 investment. And once they complete the investment, we will then
15 get our money and we will try to share it. You will have your
16 share and I will have my share."

17 And I think that's what he was talking about to you.
18 He thought maybe I was coming here out of vengeance against him,
19 but that's not true, it's not out of vengeance.

20 MR SACHDEVA:

21 Q. And are you sure that you did not use his money for
22 other reasons, for drinking and other reasons?

23 A. That's what was happening with the parents. The
24 person he grew up with was a drinker, so he thought that that's
25 what I was doing as well, because that person was someone who

1 drank and he would imagine I was doing the same. Ask him: Did
2 I not give it back to him? I did.

3 We calculated things, worked it all out. We were
4 paying the traders. There were the -- there is an exchange of
5 wares, and we worked out how much was due, including the
6 dividends, the profits, and I gave it to him. And the parents
7 were saying to him, "Wait, be patient," but he was -- wanted to
8 do it immediately. And he was behaving as if I wasn't going to
9 give him the money. But ask him: Did I not give him the money
10 after all? Why, why is that kid behaving like that? That's
11 always the way he is. He still behaves like a child.

12 Q. And who was the person that your brother grew up with
13 that was a drinker? Who was that person?

14 A. I didn't mean the person he was growing up with. I
15 was talking about the person who was travelling with him, who
16 was involved in the trade with him, and who helped him. That
17 trader, he was a real drinker.

18 If he went to the town, he was always attracted to
19 places where there was alcohol, and that's the way it was. It's
20 still the same; that trader is the same. You know what traders
21 are like. So that child said that I had taken him his money,
22 and I am saying go and ask him. Go and check with him. Did I
23 not give him his money, his small amount of money that was due
24 to him.

25 Q. A moment ago in one of your answers you said that, and

1 I will quote, "I do understand that the fact I've come here,
2 come to give testimony, is disturbing his conscience. He talks
3 about this argument. (Redacted)."

4 What did you mean by that, in respect of your father?

5 A. I think that when the Defence team came to look for
6 (Redacted) parents, the reason for me to take the Defence lawyers to
7 where the parents were working, (Redacted)
8 (Redacted)
9 (Redacted)
10 (Redacted)

11 But I don't know what was said when he was talking to
12 the Defence counsel. I'm just aware of the explanations I gave
13 to the Defence people, because they asked me about (Redacted), and I
14 don't know whether they passed that on to you, but I took them
15 to see (Redacted) parents, and as (Redacted)
16 (Redacted)
17 (Redacted). That's all I can say about that.

18 Q. And are there other aspects of your evidence that you
19 are similarly not so sure of, and that you just think is
20 correct?

21 PRESIDING JUDGE FULFORD: Mr Sachdeva, no. I really
22 don't think that is going to help us. If there are, you've been
23 challenging and testing the witness's evidence. You've been
24 taking him to specific topics. He's given his answers. I think
25 to put a great big general catch-all question like that is not

1 going to produce an answer which is going to assist us at all.

2 So specifics, please. Can we move on to the next topic?

3 MR SACHDEVA: Mr President, I'm about to enter another
4 topic which would most probably take 15 to 20 minutes, and
5 therefore I seek your leave, since it is five minutes before
6 adjournment time, to commence that tomorrow.

7 PRESIDING JUDGE FULFORD: And how much longer overall
8 have you got, Mr Sachdeva?

9 MR SACHDEVA: Not more than half-an-hour.

10 PRESIDING JUDGE FULFORD: Thank you. Good. We will
11 conclude this tomorrow morning, then. Thank you very much,
12 indeed. Sir, I anticipate that your -- I anticipate your
13 evidence will finish tomorrow morning. I'm sorry it's been
14 stretched out over a number of days, but it's dependent on the
15 hours that we are able to sit. We hope you have a pleasant
16 evening and we look forward to seeing you at 9.30 tomorrow
17 morning. Good. Closed session, please, so the witness can
18 withdraw.

19 *(Closed session at 4.26 p.m.) Reclassified as Open session

20 PRESIDING JUDGE FULFORD: Yes, the public gallery is
21 empty. Thank you, usher.

22 THE COURT OFFICER: We are in closed session, your
23 Honours.

24 (The witness stands down)

25 PRESIDING JUDGE FULFORD: Thank you all very much.

1 9.30 tomorrow morning.

2 THE COURT OFFICER: All rise.

3 (The hearing ends at 4.27 p.m.)

4 RECLASSIFICATION REPORT

5 Pursuant to Trial Chamber I's email instruction dated
6 15th March 2012, the transcript is reclassified as public after
7 the indicated redactions have been implemented as ordered by the
8 Chamber. All private and closed sessions (*) are now available
9 to the public with the exception of the portions of the
10 transcript that have been redacted.