

1 International Criminal Court

2 Trial Chamber I - Courtroom 1

3 Presiding Judge Adrian Fulford, Judge Elizabeth Odio Benito

4 and Judge René Blattmann

5 Situation in the Democratic Republic of the

6 Congo - ICC-01/04-01/06

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

8 Thursday, 4 March, 2010

9 (The hearing starts at 9.33 a.m.)

10 *(Closed session) Reclassified as Open session

11 THE COURT USHER: All rise. The International Criminal

12 Court is now in session. Please be seated.

13 PRESIDING JUDGE FULFORD: Good morning. I'm sorry to have

14 kept you waiting but I realised at the last moment I'd left something

15 upstairs. Are we ready to proceed now, Ms Struyven?

16 MS STRUYVEN: Yes, Mr President.

17 PRESIDING JUDGE FULFORD: Good. Witness, please. And when

18 we start, in public in private?

19 MS STRUYVEN: In private session, your Honour.

20 (The witness enters the courtroom)

21 PRESIDING JUDGE FULFORD: Private session, please.

22 *(Private session at 9.34 a.m.) Reclassified as Open session

23 PRESIDING JUDGE FULFORD: Good morning, sir.

24 THE COURT OFFICER: We are in private session.

25 THE WITNESS: Good morning.

1 WITNESS: WWW-D01-0026 (On former oath)

2 (The witness answers through interpreter)

3 Questioned by Ms Struyven:

4 PRESIDING JUDGE FULFORD: Yes, Ms Struyven. And can you
5 remember please to take us out of private session as soon as you are
6 able to do so.

7 MS STRUYVEN: Yes, thank you, Mr President.

8 Q. Mr Witness, my name is Olivia Struyven and I am going to
9 ask you some questions on behalf of the Office of the Prosecutor.
10 Yesterday you testified that your name is (Redacted). Since
11 when do you use the name (Redacted)?

12 A. I started using this name in the year 2000, I would say.

13 Q. And you also gave a third name. Could you repeat your third
14 name?

15 A. The name is (Redacted), it is a nickname known everywhere.

16 Q. You also said that but you also said that your name was
17 (Redacted) and then you gave your last name. Could you repeat your
18 last name?

19 A. It may be but that you misunderstood me. My name is
20 (Redacted), and I bear the nickname (Redacted).

21 Q. Thankyou. So your third name is (Redacted); is that correct?

22 A. Yes.

23 Q. Did you give that name when you met the lawyers for the
24 Defence?

25 A. Yes, I did give all those names.

1 Q. Now, you explained to us that your nickname was (Redacted).

2 Is it correct that your call sign was (Redacted)?

3 A. Yes, that is my military code.

4 Q. Mr Witness, your mother (Redacted), she had you when she
5 was still very young; is that correct?

6 A. Yes.

7 Q. And after you were born, you went to live with your father's
8 family; is that correct?

9 A. I wouldn't say that I was taken there but that is where
10 I was born.

11 Q. Where did you live after you were born with your father's
12 family?

13 A. Still in Ituri, in (Redacted) (phon) locality.

14 Q. Could you explain to us where that is vis-a-vis Bunia?

15 A. I can furnish an explanation because this was our village,
16 and that is where I live even today.

17 Q. You also explained to us yesterday that after you lived
18 with your father's family you lived with your uncles. I'm sorry, I'm
19 first going to ask you another question about (Redacted). Is (Redacted)
20 close to (Redacted)?

21 A. Yes, (Redacted) is the *groupement* and (Redacted) is the
22 locality and from (Redacted) to (Redacted) there is a distance of
23 approximately one to two kilometres.

24 Q. And so, you explained to us yesterday that after you lived
25 with your father you lived with your uncles. Can you give us the names

1 of your uncles that you lived with?

2 A. The maternal uncles with whom I lived were (Redacted)
3 (Redacted) and the second was called (Redacted).

4 Q. And this was when you were a child; is that correct?

5 A. Yes, I was still a child. I was in the third grade of primary
6 school and until the fourth grade I was still there, and that is when
7 I left my uncles with a view to going to live with my mother in (Redacted).

8 Q. And you also indicated yesterday that you lived, when you
9 were a child, with (Redacted). Where did you live with (Redacted)?

10 A. No, that is not what I said. I did not say when I was a
11 child. What I did say was that when I was conducting my military service
12 that was when I lived with (Redacted), until the time he died.

13 Q. And yesterday you explained to us that you have a wife who
14 is called (Redacted); when did you get married to (Redacted)?

15 A. I took (Redacted) as my wife in the year 2003.

16 Q. And you have (Redacted) children with (Redacted); is that correct?

17 A. No. Together with (Redacted) we had (Redacted) children,
18 and I had (Redacted) further children with different women whilst I
19 was conducting my military service.

20 Q. First about (Redacted); is she living with you in (Redacted)?

21 A. Yes.

22 Q. And about the other (Redacted) children, are they from
23 (Redacted) different women?

24 A. Yes, that is correct.

25 Q. And how old are these (Redacted) children from these different

1 wives?

2 A. Some of them are eight years of age; others are five years
3 of age.

4 Q. And how old are the children of -- that you have with (Redacted)?

5 A. (Redacted).

6 Q. Now, these other (Redacted) women that you have children
7 with, where do they live?

8 PRESIDING JUDGE FULFORD: Just pause a moment, would you
9 please, sir.

10 MR BIJU-DUVAL: (Interpretation) Yes, I apologise,
11 Mr President. I am wondering as to the relevance of this question.
12 I do not mind the private life of the witness being explored in detail
13 but I do believe that we are reaching certain limits that really have
14 no relevance to the matter at hand.

15 PRESIDING JUDGE FULFORD: I have to say, Ms Struyven, the
16 same thought had occurred to me. Obviously you are entitled to explore
17 to the extent that it's relevant to your case the identity of this
18 witness, if his identity is in doubt. There are possibly limits to
19 this. How we are going to be assisted by having the separate addresses
20 for each of the other, each of the (Redacted) women with whom this
21 witness has had children, how is that going to help us?

22 MS STRUYVEN: Your Honour, the questions are actually not
23 related to the identity -- well, the purpose of these questions is
24 not related to the identity of the witness but rather to his whereabouts.

25 PRESIDING JUDGE FULFORD: Well, sorry, his whereabouts in

1 what sense? I mean, how does -- how is his whereabouts going to be -- how
2 are we going to discover useful information about his whereabouts by
3 knowing where (Redacted) other people now currently live? How is that
4 going to improve our position in understanding the facts of this case?

5 MS STRUYVEN: Mr President, I'm afraid that I cannot discuss
6 this in front of the witness.

7 PRESIDING JUDGE FULFORD: Well, Ms Struyven, I'm going to
8 trust you. But if we are going to go through the individual addresses
9 for (Redacted) people there needs to be a very good reason for it.
10 Now, for the moment, I'm going to trust you that you are putting questions
11 on a proper basis but I hope by the time it is finished it will then
12 be clear to us that this was a useful exercise for the Court to adopt,
13 but you can continue for the time being.

14 MS STRUYVEN: Thank you, Mr President.

15 Q. Mr Witness, so about these (Redacted) other women, could
16 you indicate to us the villages in which they live?

17 A. I can give you the name of the villages. I believe that
18 I have explained to you that it was when I was completing my military
19 service. Well, I might have a child at every village I reached, and
20 then I would go along my way. I can explain this to you by providing
21 an example. For example, in (Redacted) (phon) or (Redacted) or
22 (Redacted), these are some of the villages that I can name.

23 Q. Do you still visit these (Redacted) children of these women?

24 A. No. I have taken in (Redacted) of them who live with me at
25 home and the others live with their mothers but I do provide them with

1 assistance. I send them money.

2 Q. Thank you. Yesterday, you explained to us that, you
3 explained -- well, we talked about (Redacted). Do you know where
4 (Redacted) was born?

5 A. Yes.

6 Q. Where was he born?

7 A. He was born in (Redacted).

8 Q. Do you know his religion?

9 A. Yes, I do know his religion, the religion of (Redacted).
10 When he was born he was a (Redacted)

11 (Redacted)

12 (Redacted)

13 Q. (Redacted)

14 (Redacted). Do you know the year when his father went to Uganda?

15 A. I believe that yesterday I explained to you that they were
16 in (Redacted) when the war intensified and they crossed the border
17 into Uganda. I believe that this might have been in the year 2000 because
18 the disturbances in Ituri began in the year 2000.

19 Q. Now, do you know to which church your mother was going?

20 A. Yes.

21 Q. What -- what church was she going to?

22 A. She is a (Redacted).

23 Q. Do you know of a particular church that she was going to?

24 A. Could you please repeat your question?

25 Q. Do you know the name of the specific church that she was

1 going to?

2 A. I do not understand whether you are talking about her
3 religious belief today or in the past.

4 Q. Let's start with the past.

5 A. I believe that in the past she would practice her religion
6 in the place where she was. She was living in (Redacted), and she
7 was a (Redacted), and also in (Redacted) she frequented the (Redacted)
8 church but I can't provide you with the name of the congregation that
9 she was a member of.

10 Q. Is that because you don't know the name of that congregation?

11 A. I do not understand the question that you are putting to
12 me very well.

13 Q. That's okay. Yesterday, you talked about (Redacted) parents.
14 Are (Redacted) parents still together?

15 A. I did not quite grasp the question.

16 Q. Do you know if (Redacted) parents are still together?

17 A. Are you talking about his mother and father or are you talking
18 about his entire family?

19 Q. I'm talking about his mother and father; are they married?

20 A. For the time being they are no longer living together. They
21 are living separately.

22 Q. You explained to us yesterday that you saw (Redacted) at
23 (Redacted) in (Redacted); do you know with whom (Redacted) was living
24 at that time in (Redacted)?

25 A. At that moment in time he had his own house and we, as children,

1 would help him there.

2 Q. Maybe my question wasn't very clear. Yesterday, you
3 explained to us that you believe in 2006 you met your mother, (Redacted),
4 at (Redacted), in (Redacted), and my question is: Do you know with
5 whom (Redacted) was living at that time?

6 A. I believe that I explained this to you very clearly. Maybe
7 you did not understand me correctly? I said the following: That at
8 that moment in time, he was alone in his house and he received -- and
9 she received assistance from us, the children. But from time to time
10 she would live with us alone.

11 THE INTERPRETER: With our sister, correction.

12 MS STRUYVEN:

13 Q. So when (Redacted), your mother, was living in (Redacted),
14 she was living alone; is that correct?

15 A. That's correct.

16 Q. You explained to us yesterday that (Redacted) attended
17 primary school in (Redacted)?

18 A. That's true, but if you wish to check that, because I -- well,
19 I even know the teacher who was teaching him at the school in (Redacted).

20 Q. But you said that also later he continued his primary school
21 in (Redacted); correct?

22 A. Exactly. That's right.

23 Q. And then he went -- in (Redacted) he studied at the institute
24 (Redacted); right?

25 A. Well, what I am telling you is the truth, because I tell

1 you if you want to have the truth I can even show you the students
2 were there and the teacher who is well known to me.

3 Q. That's okay, I just want to have some clarification. At
4 the (Redacted) Institute he was in secondary school; right?

5 A. That's correct.

6 Q. So he finished his primary schooling in (Redacted); right?

7 A. Exactly.

8 Q. Now, yesterday you also explained to us that you were the
9 (Redacted); correct?

10 A. I didn't really grasp the question.

11 Q. Yesterday you explained to us that you were the deputy of
12 (Redacted)? The adjoint of (Redacted)

13 A. What I am telling you - and I repeat - I believe that you
14 can even check that by way of another testimony, whether I worked with
15 Mr (Redacted) until his death.

16 Q. Whose testimony would I have to consult to check whether
17 you worked with (Redacted)?

18 A. I can give you all the details so that you can understand
19 properly. I began to work with Mr (Redacted) in (Redacted), and I
20 was also with him in Uganda and I was with him in (Redacted) and many
21 people saw us together. So, if you want to check, you can ask that
22 question of the chiefs of the localities that I have just mentioned.

23 Q. That's okay. You testified that -- so if I understand you
24 correctly, you started working for (Redacted) when you were in the
25 APC; right?

1 A. I believe you haven't understood. I told you that I began
2 to work with (Redacted) during the RCD of -- until the APC, and then
3 the second place the MLC of Bemba and the UPC and up until the time
4 of his death.

5 Q. So did you start or were you with (Redacted) from the moment
6 you joined the APC?

7 A. I didn't really understand.

8 Q. So you were with (Redacted) from the moment you joined the
9 APC; is that correct?

10 A. I told you that I began with (Redacted) during the RCD,
11 the RCD movement at Wamba Dia Wamba, then we went to -- moved to APC
12 led by -- and then the LDC of Bemba and then Thomas' movement until
13 the time of his death.

14 Q. Okay. I'm sorry that I mixed up the RCD and the APC, but
15 what I want to know is that you were with (Redacted) from the moment
16 you became a soldier; is that correct?

17 A. That's right.

18 Q. And you became a soldier in 1997; right?

19 A. That's true.

20 THE INTERPRETER: Correction by interpreter. No, pardon
21 me.

22 THE WITNESS: Could you repeat the question, please?

23 MS STRUYVEN:

24 Q. You explained to us yesterday, I think several times, that
25 you became a soldier in 1997; is that correct?

1 A. That is correct.

2 Q. And from the moment you were a soldier you were with (Redacted);
3 right?

4 PRESIDING JUDGE FULFORD: Ms Struyven, that question has
5 been answered. If you look at page 10, line 12, we have been going
6 around this really quite a few times now. You put that question directly
7 and the witness answered it directly, so can we move on please.

8 MS STRUYVEN:

9 Q. Now, would it surprise you, Mr Witness, that (Redacted)
10 only joined the APC in 1999, two years after you joined the army?

11 A. Well, I told you that I began and -- in 1997 and (Redacted)
12 started in '99 and that was the RCD of Wabanda (phon), and we met then
13 and I started to work with him at that time.

14 Q. Where did you start to work with him in '99?

15 A. It was in (Redacted).

16 Q. Were you stationed anywhere before when you were with him
17 in (Redacted)?

18 A. Yes.

19 Q. Where were you stationed?

20 A. I'll give you an example: (Redacted) in (Redacted)
21 (Redacted) (phon). And, well, I went to (Redacted) with (Redacted).

22 Q. And so you were stationed in all these places before you
23 went to (Redacted) with (Redacted)?

24 PRESIDING JUDGE FULFORD: Just pause for a moment. Yes,
25 Mr Biju-Duval?

1 MR BIJU-DUVAL: (Interpretation) I'm sorry, and it doesn't
2 relate to my colleague's question, but I believe there may have been
3 a problem. The transcript in English, there seems to be a mistake
4 about a place name. The witness said (Redacted), and the English
5 transcript speaks of (Redacted). And I wouldn't want that to become
6 the cause of a misunderstanding during cross-examination.

7 PRESIDING JUDGE FULFORD: Thank you, Mr Biju-Duval. Could
8 you put the question again, Ms Struyven, perhaps ensuring that mistake,
9 if it was a mistake, doesn't reappear.

10 MS STRUYVEN: Thank you, Mr President. I think my colleague
11 is right. It was (Redacted), instead of (Redacted).

12 Q. Now, Mr Witness, wasn't (Redacted) in '99 stationed in (Redacted)?

13 A. Well, I can explain. (Redacted) was trained in Rwampara
14 with (Redacted) and then he went to (Redacted) and then after
15 he came back to (Redacted)

16 Q. So is it your testimony that (Redacted) was trained in Jinja
17 and that afterwards he was stationed in (Redacted) and (Redacted);
18 is that what you're saying?

19 PRESIDING JUDGE FULFORD: Don't answer for a moment. No.
20 Just pause for a moment, sir.

21 Yes, Mr Biju-Duval.

22 MR BIJU-DUVAL: (Interpretation) The witness said that he
23 was -- the person was trained in Rwanda. The OTP said in Jinja. And
24 I think the question asked has to correspond to what the witness actually
25 said.

1 PRESIDING JUDGE FULFORD: On the English transcript --

2 THE INTERPRETER: Correction from the English booth:

3 Rwampara.

4 PRESIDING JUDGE FULFORD: Right. I'm afraid you're going
5 to have to go around the circuit again, Ms Struyven.

6 MS STRUYVEN:

7 Q. Mr Witness, can you explain to us when (Redacted) was in (Redacted)?

8 A. Could you repeat?

9 Q. Mr Witness, can you explain to us when (Redacted) was in (Redacted)?

10 A. I told you that (Redacted) trained in Rwampara, in the DRC
11 in (Redacted). He didn't work there. But when he finished his training,
12 they came back to (Redacted) because his mother was living in (Redacted).
13 And then later he went to (Redacted). I hope you've understood me
14 correctly.

15 Q. Yes. Thank you for that clarification. But so you were
16 not with him, right, when he was in Rwampara and (Redacted) and (Redacted)?

17 A. No, I wasn't with him. I said that I -- I met him in 1997,
18 and I was -- I followed the path.

19 THE INTERPRETER: Apologies from the English booth: a long
20 series of place names.

21 MS STRUYVEN:

22 Q. Now, in the summer of 2000, you were sent to (Redacted)
23 in Uganda; correct?

24 A. That's correct.

25 Q. And that was after there had been a mutiny of Hema APC soldiers

1 against Wamba Dia Wamba; correct?

2 A. (No interpretation)

3 THE INTERPRETER: The interpreter did not hear.

4 THE WITNESS: Could you please repeat the question?

5 PRESIDING JUDGE FULFORD: I think you will need to repeat
6 the question, please, Ms Struyven.

7 And sir, can I ask you to make sure that you keep your voice
8 up and that you speak clearly into the microphone, please.

9 MS STRUYVEN:

10 Q. I will start again with this: So you explained to us that
11 from (Redacted) onwards you were with (Redacted). And yesterday you
12 said you lived with him until he died. Now, isn't it correct that in the
13 summer of 2000 you were sent to (Redacted) after there had been a mutiny?

14 A. Well, I would like to explain to you when we were with (Redacted)
15 In (Redacted), we went to fight and we were in the bush. And we went
16 to Uganda. Myself, I went to (Redacted)(phon)(Redacted) and (Redacted).
17 And you even saw the photograph. And I was surprised to see that
18 photograph, and I asked myself how that photograph got here.

19 Q. Yes. But let's start from the beginning. Where did you
20 hide in the bush? Did you understand my question?

21 A. No, I didn't understand.

22 Q. You explained that you went to fight and that afterwards
23 you hid in the bush. My question is: Where did you hide in the bush?

24 A. No, I didn't hide, because when we left from (Redacted),
25 I told you -- well, before, that we were in the bush with (Redacted) and

1 we all left the bush and they went to (Redacted), and I went to (Redacted).

2 Q. That's correct. But my question is: Where exactly did you
3 hide in the bush?

4 A. You have the army. The army didn't hide in the bush. We
5 left from (Redacted) (phon). We went to (Redacted). And then from (Redacted)
6 we went to (Redacted). We left from there and we returned to (Redacted).
7 And then we fought a bit with the armed forces that were stationed
8 there, and then we left and we went to (Redacted) (phon), (Redacted)
9 (phon). We came back to (Redacted). So there you have it. We crossed
10 through the bush in that way.

11 Q. And then you went to (Redacted) to take a plane to (Redacted)
12 (phon); correct?

13 A. That's correct.

14 MS STRUYVEN: Your Honours, with your permission, I would
15 like to show pictures to this witness.

16 PRESIDING JUDGE FULFORD: Presumably, these have been
17 disclosed to the Defence in advance, Ms Struyven.

18 MS STRUYVEN: They've been disclosed since 2007 and 2008,
19 your Honours.

20 PRESIDING JUDGE FULFORD: I am sure they have, Ms Struyven,
21 but as documents that you wish to rely on for the examination of this
22 witness?

23 MS STRUYVEN: Yes. I'm sorry, your Honours.

24 PRESIDING JUDGE FULFORD: Yes. I think that was an
25 unnecessary remark, Ms Struyven. Right.

1 Mr Biju-Duval?

2 MR BIJU-DUVAL: (Interpretation) Your Honour, we were
3 informed of the use of that -- photographs yesterday evening. We
4 prepared an objection this morning regarding basically the tendering
5 of these documents into evidence. It may be useful to raise these
6 issues and speak of them without the witness being present.

7 PRESIDING JUDGE FULFORD: I entirely understand. Sir, we
8 are going to give you a break now. Thank you very much, indeed, for
9 your assistance so far this morning. We certainly won't need you for
10 another half-an-hour or so, and so I am going to ask you to go, please,
11 with the usher back to the witness waiting room.

12 Closed session, please.

13 *(Closed session at 10.25 a.m.) Reclassified as Open session

14 THE COURT OFFICER: We are in closed session, your Honours.
15 (The witness stands down)

16 PRESIDING JUDGE FULFORD: Now, Ms Struyven, as I understand
17 it, the Defence does not object to you relying on the photographs for
18 the purposes of identifying places or individuals, but it would resist
19 any attempt to use the photograph to introduce new events into the
20 evidence in this case.

21 So we need some help and we need your assistance, please,
22 as to what the purpose is of putting these photographs, which the Chamber
23 thus far hasn't seen, into evidence in this case. So an explanation
24 will be helpful, please.

25 MS STRUYVEN: Well, your Honour, very briefly, the two

1 pictures out of the three show the group of mutineers, together with
2 the co-perpetrators in this case, mainly Thomas Lubanga, Rafiki, Bosco
3 and Kisémbó. This is the centre of the mutiny against Wamba Dia Wamba,
4 and it is, in our opinion, true Thomas Lubanga's residence that the
5 mutineers were sent to Uganda.

6 Sowe believe that this could show, in respect of this witness,
7 the relationship he had with Thomas Lubanga. In the broader scheme
8 of our case, it's -- it goes to the common plan, your Honours.

9 PRESIDING JUDGE FULFORD: That's a very brief explanation,
10 Ms Struyven. Let's try and unpick it, then, please, can we?

11 So, first of all, you want to introduce the photographs so
12 as to demonstrate that this witness was at a particular place at a
13 particular time with Thomas Lubanga, thereby tending to demonstrate
14 the relationship between the two; is that right?

15 MS STRUYVEN: Yes, your Honour.

16 PRESIDING JUDGE FULFORD: Right. Now, you then ended up
17 by saying that the photographs, in the broader scheme of your case,
18 go to the common plan. Now, what do you mean, Ms Struyven?

19 MS STRUYVEN: Well, this was in response to the fact that
20 the Defence objected to us introducing new events. The Prosecution
21 believes that this is not a new event. It's indeed -- it relates to
22 the context of our case; and namely, the knowledge and the cooperation
23 between the co-perpetrators at a very, very early stage; namely, in
24 2000.

25 PRESIDING JUDGE FULFORD: Well, the question immediately

1 arises that if the photographs potentially serve that purpose, they
2 serve the purpose independently of this witness. Now, have these
3 photographs featured so far in the case as part of the evidence that
4 the Prosecution as called?

5 MS STRUYVEN: No, your Honours.

6 PRESIDING JUDGE FULFORD: What, then, is the justification
7 for introducing this element of the Prosecution's positive case until
8 the questioning of this witness when it would have been open to you
9 to apply to introduce these photographs, at the very least, as documents
10 coming from the Bar table?

11 MS STRUYVEN: Your Honours, the problems was indeed that
12 the witness who was in a position to comment on these photographs didn't
13 testify; therefore, there was no witness who was -- who we were sure
14 of that was in a position to recognise at least the circumstances of
15 this photograph. And that is why we are indeed trying to introduce
16 these pictures through this witness, who we know would be in a position
17 to identify the circumstances in which this picture was taken.

18 PRESIDING JUDGE FULFORD: I think we better have a look at
19 them, Ms Struyven, please.

20 (Pause in proceedings)

21 PRESIDING JUDGE FULFORD: Now, at the moment we each have
22 three pieces of paper, Ms Struyven; two photographs ending 711 and
23 713, and something with some writing on 714. Now, at the moment, Judge
24 Blattmann doesn't have 714, although I think Judge Odio Benito does.
25 All right. Another one. 715.

1 MS STRUYVEN: I apologise, your Honours. I had -- the
2 pictures that was written text on the back of the pictures, and I took
3 that out so that if we were to give it to the witness, the witness
4 would not see what is written on the back of the picture, just not
5 to influence --

6 PRESIDING JUDGE FULFORD: Should we give you the text back,
7 then, Ms Struyven?

8 MS STRUYVEN: The text can come back.

9 PRESIDING JUDGE FULFORD: Text coming back. Right. So
10 four -- no. I have got three photographs; is that right?

11 MS STRUYVEN: Yes.

12 PRESIDING JUDGE FULFORD: 711, 713, 715. Now, in each of
13 these photographs is it said that the witness is to be seen?

14 MS STRUYVEN: No, your Honours, but we believe that he will
15 recognise the people that are on this photograph.

16 PRESIDING JUDGE FULFORD: What, because he was present or
17 because he knows them?

18 MS STRUYVEN: I believe both, but, of course, whether or
19 not he was present I cannot be sure of.

20 PRESIDING JUDGE FULFORD: Right. So the questioning,
21 therefore, will be, presumably, if we permit it, is first to ask whether
22 the witness was present whenever these photographs were taken and,
23 in a sense, irrespective of that answer, you want then to go on to
24 ask him to identify those people who he recognises in each photograph;
25 is that right?

1 MS STRUYVEN: Yes. And --

2 PRESIDING JUDGE FULFORD: Let's just do it in stages. And
3 then if he was present, to tell the Chamber what the context was of
4 the meeting, or whatever was taking place, whether its one or more
5 than one occasion; is that right?

6 MS STRUYVEN: Yes. I would like to ask him the circumstances
7 of what we see on the picture and the place where the picture was taken.

8 PRESIDING JUDGE FULFORD: Right. And the Prosecution's
9 belief is that the witness may be able to give evidence that -- to
10 the effect that these photographs show occasions at which the accused
11 was present, along with others who the Prosecution have alleged are
12 his co-perpetrators; is that right?

13 MS STRUYVEN: Yes, your Honour.

14 PRESIDING JUDGE FULFORD: Right. And these are alleged
15 co-perpetrators who have already been identified as such?

16 MS STRUYVEN: Yes. As I indicated, it concerns Bosco,
17 Kisembo, Rafiki, who have been identified.

18 PRESIDING JUDGE FULFORD: Well, I am not sure whether you
19 have indicated that to us, Ms Struyven, looking back over the transcript
20 of the last few minutes, but that is what you say, is it? So your -- the
21 essence of this is that the Prosecution wish to focus on three particular
22 individuals who you say were present with Thomas Lubanga in
23 circumstances which is potentially revealing of them being
24 co-perpetrators, along with the accused; is that right.

25 MS STRUYVEN: Yes. We may also ask to identify two other

1 individuals; namely Kasangaki and Chaligonza.

2 PRESIDING JUDGE FULFORD: Right. Now, is that the limit
3 of what you want to do with these photographs?

4 MS STRUYVEN: Yes. So long as we can get the circumstances,
5 that's indeed our limit.

6 PRESIDING JUDGE FULFORD: And do you have a date or a place
7 which you suggest provide the context for these photographs?

8 MS STRUYVEN: Yes. We believe it is taken at the residence
9 of Thomas Lubanga, at least one of them, and that the second one is
10 taken in the airport of Bunia.

11 PRESIDING JUDGE FULFORD: And when?

12 MS STRUYVEN: That was when the mutineers were sent for
13 training in Kyakwanzi and in Jinja, which took place over a number
14 of weeks, because there was a large group to send over. So we believe
15 it was in the summer of 2000.

16 PRESIDING JUDGE FULFORD: Have we - remind me, please - heard
17 any evidence so far of mutineers being sent for training in that place
18 on that date?

19 MS STRUYVEN: Yes, your Honours. We have heard UNICEF came
20 to the (Redacted) camp to recuperate 153 -- or 163 children, and
21 Prosecution witnesses have testified about that. That was in February,
22 2001.

23 PRESIDING JUDGE FULFORD: Good. You must remember,
24 Ms Struyven, that this is all brand new for us, so we haven't had
25 overnight to think about them. Now, the names, please, of some

1 witnesses who have given evidence in relation to these events and these
2 places.

3 MS STRUYVEN: I believe, your Honours, it were Witnesses
4 116 and Witnesses 24. And it may have been -- 41? I can only be sure,
5 your Honours, about Witness 116 and Witness 24. Those are the ones
6 that I am certain about. The other ones, I would have to look it up,
7 your Honours.

8 PRESIDING JUDGE FULFORD: And have you got some transcript
9 numbers, please, and some page references within the transcripts?

10 MS STRUYVEN: Yes, your Honour. It will take some time to
11 put that together, but we can do a search in Transcend and find all
12 the references to (Redacted) and to UNICEF and the 150 -- 163 children.

13 PRESIDING JUDGE FULFORD: Thank you. Now, photograph 711,
14 please. Counting across from the left, which individual does the
15 Prosecution allege is the accused?

16 MS STRUYVEN: The one, your Honours, with the white shirt
17 and the blue tie.

18 PRESIDING JUDGE FULFORD: Right. So back row as we look
19 at the photograph over towards the right. All right.

20 MS STRUYVEN: In the last row, your Honours, yes.

21 PRESIDING JUDGE FULFORD: Yes. Well, there are two rows.
22 There's one with two people in. So it's the -- as we look at the
23 photograph, on the right, with the white shirt and a blue tie with
24 some diagonal white stripes in it. Right.

25 Photograph 713, where do the Prosecution say the accused

1 is in that photograph?

2 MS STRUYVEN: On the right, your Honour, again, last row,
3 the person -- yeah, behind the first person from the --

4 PRESIDING JUDGE FULFORD: All right. So right at the back.

5 MS STRUYVEN: Yes, your Honours.

6 PRESIDING JUDGE FULFORD: Extreme right, back row.

7 MS STRUYVEN: Yes, your Honours.

8 PRESIDING JUDGE FULFORD: All right. And 715?

9 MS STRUYVEN: Your Honour, 715 is, in the Prosecution's
10 submission, a picture that was taken when the recruits and the mutineers
11 were sent -- were boarding a plane to go to Uganda, but -- so the accused
12 is not on this picture.

13 PRESIDING JUDGE FULFORD: All right. Good. Anything else
14 you want to say, Ms Struyven?

15 MS STRUYVEN: No, your Honours.

16 PRESIDING JUDGE FULFORD: Thank you. Mr Biju-Duval?

17 MR BIJU-DUVAL: (Interpretation) Thank you, your Honour.
18 First of all, one simple fact which we must put aside and it relates
19 to the text which accompany the photographs. I think there will be
20 no problem in putting aside those texts which accompany the photographs.

21 Now, turning to the photographs themselves, there are two
22 different questions which should be examined here. The Prosecutor
23 says that the photographs seem to relate to the mutiny of the year
24 2000. That event is one of the events which the Prosecution team wishes
25 to present to the Chamber, of course. References were given. And

1 I would like to add - well, since we are in closed session - that
2 the witness, (Redacted), who is the brother of the current witness,
3 seems to mention these events as well -- seems to mention this period.

4 This is to say that, if the Prosecutor wished to support
5 her arguments on these issues, she had enough time to do so during
6 the presentation of Prosecution evidence at the time when various
7 Prosecution witnesses were giving their testimony. It is not
8 reasonable to claim that today's witness is the only one who can identify
9 Lubanga, Kisembo, Bosco Tchaligonza; in other words, well-known figures
10 in the region of Ituri. I don't think that is a reasonable explanation,
11 or justification.

12 The first major point here is that the Defence objects to
13 the admission of these photographs into evidence. They were not filed
14 as Prosecution evidence at the time when this should have been done,
15 and I don't think that during the cross-examination of a Defence witness,
16 who is talking about other events, I don't think that that would be
17 an appropriate time for the Prosecutor to introduce these photographs
18 as evidence.

19 In the email which was sent to the Prosecution team, with
20 a copy to the Bench, we mentioned -- we cited case law which relates
21 to this event, or to this -- to such admission of evidence and I think
22 that we should respect such case law and such jurisprudence. So, we
23 object to the tendering of these photographs into evidence.

24 Secondly, what sort of questions can the Prosecution team
25 put to the witness about these photographs? If he is the one who produced

1 the photographs, he could state whether he was present at the time
2 when the photographs were taken and he could say whether he appears
3 in these photographs.

4 However, there are difficulties which result from the fact
5 that the witness during the examination-in-chief did not at any moment
6 whatsoever mention the event; that is the mutiny which is being mentioned
7 here. Of course, he talked about Mr (Redacted). He talked about Mr
8 (Redacted), but he never at any point in time mentioned that event.
9 He only talked about training in (Redacted), without talking about
10 what led to that training in (Redacted).

11 And so, in our submission, we think there is a problem of
12 admissibility here, considering the nature of the examination-in-chief.
13 The main and exclusive purpose or objective of the examination was
14 the family ties between this witness and (Redacted), and to find out
15 whether the Prosecution witness was indeed a child soldier. That is
16 why we feel that any questions beyond the questions, or the
17 questions - the type of questions mentioned by the Chamber - would
18 be inadmissible in this instance.

19 PRESIDING JUDGE FULFORD: Now, Mr Biju-Duval, I think there
20 is one matter that we do need to take a bit further. You are not
21 suggesting, are you, that somebody asking questions, and I use the
22 colloquialism, during cross-examination is limited to the issues that
23 have been raised during the course of examination-in-chief?

24 I think if we look back over some of the questions that have
25 been posed by Maître Mabilie, yourself and Mr Desalliers, we will find

1 that all three of you have on occasion investigated areas with witnesses
2 which had not been touched on at all during the course of their
3 evidence-in-chief.

4 So long as the witness can give evidence about additional
5 matters and so long as those matters are relevant to our inquiry in
6 this trial, it is open to counsel to open up new issues, isn't it?

7 MR BIJU-DUVAL: (Interpretation) Yes, your Honour, I don't
8 think I expressed myself well. There is no limit so long as we are
9 dealing with testing the credibility of the witness, but that doesn't
10 seem to be the objective of the Prosecutor here. The Prosecutor
11 seems -- wishes through her questions to enrich Prosecution evidence
12 on an event which the witness did not talk about during the
13 examination-in-chief. That is the objective of the Prosecutor and,
14 in our opinion, this makes her questions inadmissible, because we are
15 no longer dealing with the testing of the credibility of the witness
16 here.

17 PRESIDING JUDGE FULFORD: I just want to test this,
18 Mr Biju-Duval, slightly. Let's forget this case. A straightforward
19 murder trial, where the Defence call a character witness on behalf
20 of the accused. The Prosecution happens to know that that witness
21 was present when the murder took place and can give evidence as to
22 who delivered the fatal blow. Are you suggesting that the Prosecution
23 would be prohibited from asking the witness to reveal who the murderer
24 was when that individual is called by the accused?

25 MR BIJU-DUVAL: (Interpretation) Certainly not, your

1 Honour. This raises another aspect which relates to the charges. The
2 charges against Mr Lubanga start running from the end of August 2002
3 up to August 2003, and in this case we are dealing with events that
4 happened two years before the relevant period, that is in the year
5 2000, and this raises an issue of relevance. What is the relevance
6 of these charges against the accused? That is where we diverge from
7 the hypothesis which you have just mentioned, your Honour.

8 PRESIDING JUDGE FULFORD: Ms Struyven, one last question
9 from me before I ask my colleagues whether they have got any additional
10 matters that they wish to be explored on this. Mr Biju-Duval suggests
11 that (Redacted) could have dealt with these events. What do you say
12 to that?

13 MS STRUYVEN: Can I briefly discuss this with my colleagues,
14 your Honours?

15 PRESIDING JUDGE FULFORD: Of course.

16 MS STRUYVEN: Thank you, your Honours. Witness (Redacted) didn't
17 go to (Redacted) and was, of course, much less involved in the mutiny.
18 He did not go -- like Witness 26 explained, he did not go into the
19 bush around (Redacted) to fight against -- well, as part of this mutiny.
20 And, as I said, he did not take the plane in the end to go -- well,
21 sorry, Witness 26 did take the plane to go to Uganda, whereas Witness
22 294 never did.

23 PRESIDING JUDGE FULFORD: Yes.

24 MS STRUYVEN: He was not -- well, he returned somewhere else.

25 PRESIDING JUDGE FULFORD: Well, that helps potentially with

1 photograph 715. What about the other two? Are you saying that there
2 is a better chance that this witness was present when 711 and 713 were
3 taken than the possibility of (Redacted) being present?

4 MSSTRUYVEN: Well, to be more clear maybe, Witness (Redacted)
5 was ten or eleven years old at that time, whereas this witness was
6 an adult soldier at that time, and he was in the mutiny in the sense
7 that he participated in the attacks around (Redacted) he explained
8 earlier, and he was a member of the mutiny against Wamba Dia Wamba,
9 which of course Witness (Redacted) was not. So, indeed, he would have
10 a much better position -- he would be in a much better position, or
11 he had a much closer relationship to the people in this picture, than
12 Witness 294, because he was a child at the time.

13 PRESIDING JUDGE FULFORD: Thank you. Final question: In
14 711 and 713, you are not suggesting that the witness is to be seen
15 in either of those photographs, or is there a possibility?

16 MS STRUYVEN: Your Honours, I think we can exclude that he
17 would have been in picture 711. On 713 I am not 100 per cent sure,
18 because there are a lot of faces that are not all that clear.

19 PRESIDING JUDGE FULFORD: All right. You leave it open as
20 a possibility.

21 MSSTRUYVEN: Yes, but I cannot guarantee any positive result
22 on that.

23 PRESIDING JUDGE FULFORD: Okay, all right. Thank you very
24 much.

25 Ah, Mr Biju-Duval?

1 MR BIJU-DUVAL: (Interpretation) I beg your pardon, your
2 Honour. I just want to give a clarification which may be useful to
3 the Chamber. Witness (Redacted) talked about an airport. I will not
4 go into details here. I could give the Chamber the reference: T-150
5 confidential, that is the French transcript, page 59, lines 13 and
6 14, and then it goes on to line 18, line 23 and so on. This is to
7 say that an opportunity arose at that time for the Prosecutor to introduce
8 this photograph.

9 PRESIDING JUDGE FULFORD: Thank you very much. Well, the
10 timing is good. We've got to give the transcribers and interpreters
11 a break. In any event, we are going to want to discuss this. We will
12 sit again at 25 past 11. Thank you all very much.

13 THE COURT USHER: All rise.

14 (Recess taken at 10.55 a.m.)

15 (Upon resuming at 11.26 a.m.)

16 * Open session - PRESIDING JUDGE FULFORD: The Prosecution wishes to
17 introduce three photographs during the questioning of the present
18 witness. They end respectively with the numbers 711, 713 and 715.
19 It is said that two of them show the accused together with other
20 co-perpetrators of crimes with which he is charged, and there is an
21 additional photograph which is 715, which is said to relate to the
22 mutiny in 2000 when some of the mutineers were sent for training in
23 Uganda.

24 Mr Biju-Duval, during the course of his objections to the
25 introduction of these photographs, emphasised the fact that the year

1 2000 is outside of the period covered by the charges in this case,
2 and he has stressed that they could have been shown to other witnesses
3 or, indeed, an attempt could have been made to introduce them from
4 the Bar table.

5 However, in our judgment, neither of those two principal
6 objections are reasons for preventing the Prosecution from putting
7 the two -- the three photographs to the witness.

8 The test is whether the evidence that the Prosecution seeks
9 to adduce from the witness is relevant and admissible and, of course,
10 whether it is fair to allow the Prosecution at this stage to elicit
11 evidence based on the photographs.

12 As regards the two that it is said show the accused with
13 other co-perpetrators, if the evidence reveals what the Prosecution
14 suggest it may, that is clearly potentially relevant to the issues
15 that we have to consider in this case. And the particular names that
16 Ms Struyven has referred to are individuals who have already been
17 referred to during the course of this trial as being individuals who
18 share criminal responsibility with Thomas Lubanga.

19 The same applies to the mutiny in 2000. This is an issue
20 which has been touched upon during the course of the evidence that
21 has been given by a number of Prosecution witnesses.

22 Although, for instance, one or more of these photographs
23 could have been *put to witnesses such as Witness (Redacted) in our
24 judgment that is not of itself a reason for preventing the Prosecution
25 from relying on them now. As we have just identified, and I will not repeat

1 it, the test is not whether or not this or these items could have
2 been shown to other witnesses, but whether they have potential relevance
3 and admissibility and whether it is fair for this course to be followed.
4 Therefore, Ms Struyven can rely on the photographs essentially because
5 they may add a fresh dimension to evidence or issues that have already
6 been canvassed during the course of this trial. In our judgment, it
7 is fair for the Prosecution to follow the course that Ms Struyven proposes.
8 Ms Struyven, you will of course be careful to build the foundation
9 stones with these photographs, step by step. That's in fact a rather
10 poor image, but you know what I mean. You must not ask the witness
11 questions which he may not be able to answer but instead may speculate.
12 So you must take these carefully, not asking the witness things which are
13 in fact outside of his knowledge.*Closed session. - Reclassified as Open
14 session.

15 Good. Witness, please.

16 (The witness enters the courtroom)

17 PRESIDING JUDGE FULFORD: Thank you very much for coming
18 back, sir. Ms Struyven, I think with these photographs we can go into
19 public session, can't we? We are away from matters which will identify
20 the witness, I think.

21 MS STRUYVEN: Yes, your Honour, I think that's correct.

22 PRESIDING JUDGE FULFORD: Good. Public session, please.

23 (Open session at 11.34 a.m.)

24 THE COURT OFFICER: We are in open session, your Honours.

25 PRESIDING JUDGE FULFORD: Yes.

1 MS STRUYVEN:

2 Q. Mr Witness, I would like to show you three photographs.

3 PRESIDING JUDGE FULFORD: Yes. Can they, can hard copies
4 please be shown to the witness. Now, is there any reason for not showing
5 these publicly, Ms Struyven?

6 MS STRUYVEN: No, your Honours.

7 PRESIDING JUDGE FULFORD: Good. Then they can be, at an
8 appropriate moment, shown publicly if we have retrieved them from the
9 court management system, which we may not have done.

10 THE COURT OFFICER: May I have the ERN number of the
11 documents?

12 MS STRUYVEN: The first ERN is DRC-OTP-037-0711. The next
13 one ends with 713 and the third one with 715.

14 PRESIDING JUDGE FULFORD: Right. Ms Struyven, why don't
15 we go through them in turn then. Now, if you can -- which photograph
16 do you want to start with so that the usher can go over and make sure
17 that the witness has the right photograph in front of him?

18 MS STRUYVEN: I think we'll start with 711, your Honours.

19 PRESIDING JUDGE FULFORD: All right. Usher, could you go
20 over and make sure that the witness is looking at 711.

21 PRESIDING JUDGE FULFORD: Yes, Ms Struyven.

22 MS STRUYVEN: Thank you, Mr President.

23 Q. Mr Witness, do you recognise picture?

24 THE INTERPRETER: The Swahili interpreter says that the
25 witness's microphone is not on.

1 PRESIDING JUDGE FULFORD: Try again, Ms Struyven, please,
2 and can the court officer make sure that IT know that there's a problem
3 with the microphone. Right. Ask the question again, please.

4 MS STRUYVEN:

5 Q. Mr Witness, do you recognise this picture?

6 A. Yes, I am able to recognise it.

7 Q. Can you tell us who is on this picture?

8 A. I know some of the individuals, and there are others whom
9 I do not recognize well.

10 Q. I'll go over the individuals one-by-one, and I'll start
11 at the right-hand side. The first person you see on the right, I think
12 he has a cigarette in his mouth, do you know who this person is?

13 A. No, I do not know that individual.

14 Q. And the person sitting next to him, the one with the green
15 hat?

16 A. Yes.

17 Q. Who is he?

18 A. General Floribert Kisembo.

19 Q. And the person next -- sitting next to Floribert Kisembo,
20 the one with the blue shirt, do you know who he is?

21 A. The individual who is standing or who is seated?

22 Q. The one who is seated.

23 A. If I am not mistaken, I believe that this is Rafiki.

24 Q. Do you know Rafiki's full name?

25 A. No.

1 Q. Do you know the person behind Rafiki with the white shirt?

2 A. I can hazard a guess. I believe he looks like Thomas.

3 Q. Do you have the full name of Thomas?

4 A. Yes.

5 Q. Can you give us the full name?

6 A. His name is Thomas Lubanga Dino (phon).

7 Q. Now, going back to the first row, the person sitting next
8 to Rafiki, the one who has a spear in his hand and a blue hat?

9 A. Yes.

10 Q. And who is he?

11 A. It is General Bosco Ntaganda.

12 Q. And the person sitting next to Bosco Ntaganda?

13 A. It is the late Kasangaki.

14 Q. And the person sitting next to the late Kasangaki?

15 A. Are you asking about the person seated to his left or to
16 his right?

17 Q. The one with the green hat.

18 A. It is Bosco Ntaganda.

19 Q. But on the other side of Kasangaki, who is sitting on the
20 other side of Kasangaki?

21 A. No, I do not know that individual.

22 Q. And do you know the name of the person standing behind
23 Kasangaki and Bosco?

24 A. Yes.

25 Q. Who is he?

1 A. Cesar Rom (phon) Abelanga.

2 Q. Do you know where this picture is taken?

3 A. No, I do not know.

4 Q. Do you know in which village or city this picture was taken?

5 A. I have no additional information on this photograph.

6 Q. If I were to suggest to you that it's taken at the residence
7 of Thomas Lubanga, would that change your testimony?

8 A. I do not agree, because I do not really understand.

9 PRESIDING JUDGE FULFORD: Ms Struyven, I think if a witness
10 has said "I don't know where it was taken," I think there's precious
11 little benefit in putting a series of possibilities to him. I think
12 you'd better move on.

13 MS STRUYVEN: May I ask one more question about these pictures?
14 Not on the place.

15 PRESIDING JUDGE FULFORD: No. Of course. No. No. I am not
16 stopping you asking questions about the photograph, it's asking
17 questions about where it was taken. I don't know whether you want
18 to explore whether or not the witness was there when it was taken.

19 MS STRUYVEN:

20 Q. Mr Witness, were you there when this picture was taken?

21 A. No, I was not there.

22 Q. Do you know in which period this picture was taken?

23 A. No, I do not know.

24 Q. The uniforms that you see on this picture, of which army
25 are these uniforms?

1 A. The uniforms I can see are Ugandan uniforms.

2 Q. If I were to suggest to you that this picture was taken
3 after the mutiny and before people were sent to Kankwanze (phon) and
4 Jinja, would that change your testimony?

5 A. I do not have any additional information. I am not in
6 possession of this information.

7 Q. But you testified that you were part of the mutiny, didn't
8 you?

9 PRESIDING JUDGE FULFORD: I'm sorry, Ms Struyven. I just
10 don't follow this. The witness is saying that he doesn't know when
11 the photograph was taken. Now, how can whether or not he -- any
12 participation by him in the mutiny have anything to do with his ability
13 to give further details about this photograph? I really don't think
14 it's a helpful question. Now, can we move on to slightly more solid
15 ground, please?

16 Yes. Mr Biju-Duval, do you want to add anything, or not?

17 MR BIJU-DUVAL: Yes. I apologise, Mr President. Madam
18 Prosecutor made reference to what the witness allegedly said in his
19 testimony. I do not have any recollection of these utterances, and
20 I would like her to make a specific reference to the transcript, because
21 I am not sure that the witness said that he did take part in the mutiny.

22 PRESIDING JUDGE FULFORD: Well, I think Ms Struyven's about
23 to move on anyway, Mr Biju-Duval, but you've put down the marker that
24 you don't accept that he gave that evidence. Right.

25 Right. Ms Struyven, let's move on, please.

1 MS STRUYVEN:

2 Q. Witness, could you have a look at the second picture, which
3 bears the ERN number 713 at the end? And I'm going to ask you to look
4 at the person in the last row on the right side of the picture, the
5 person who is not wearing a uniform. Do you recognize this person?

6 PRESIDING JUDGE FULFORD: Pause a moment.

7 (Pause in proceedings)

8 THE WITNESS: No, I do not recognise this individual very
9 well.

10 MS STRUYVEN:

11 Q. Do you know the person standing next to this first person,
12 and I'm referring to the person with a green beret.

13 A. Yes.

14 Q. Who is he?

15 A. It is General Kisémbó.

16 Q. And next to Kisémbó, the one with the blue shirt?

17 A. I don't see this very well.

18 Q. Can you recognise the person standing next to the person
19 with the blue shirt, the one with the blue beret?

20 A. Yes. This is General Bosco.

21 Q. And the person standing again next to Bosco?

22 A. No, I do not recognise this person.

23 Q. Is there anyone else from this group that you recognise?

24 A. No. It might be that I have no -- it might be that I have no
25 recollection of these faces.

1 Q. Isn't the person on the far left of the picture the same
2 person as you already recognised in the previous picture; namely,
3 Kasangaki?

4 A. No. No. I do not recognise him here.

5 Q. Could I ask you to put the two pictures next to each other?

6 PRESIDING JUDGE FULFORD: Put the question again, Ms
7 Struyven.

8 MS STRUYVEN:

9 Q. So, isn't the person that you recognise as Kasangaki on
10 the first picture with the hairband, the white hairband, isn't he the
11 same person as -- on the second picture, the one on the left, also
12 with a white hairband?

13 A. I do not have any specific information. I cannot see this
14 on -- I can't see these photographs very well.

15 Q. Witness, can I ask you to look at the hard copies; not at
16 the screen, but at the hard copies?

17 So, would you agree that those are the same person, the one
18 with the hairband on one picture is the same person as the one with
19 the hairband on the second picture?

20 A. Yes.

21 Q. And I would like you now to look at the person in the -- with
22 the blue shirt and the jeans that you recognised on the first picture
23 as being Rafiki. On the second picture you said you didn't recognise
24 the person with the blue shirt, but would you agree that the person
25 with the blue shirt on the second picture is also Rafiki?

1 A. Yes, it could be him, but I don't recognize him here. I
2 recognised him -- well, when I recognised him I said that I recognised
3 him.

4 Q. What about Thomas Lubanga, whom you recognised in the first
5 picture? Would you agree that in the second picture Thomas Lubanga
6 is indeed the first person on the left at the last row?

7 PRESIDING JUDGE FULFORD: Well, left and right is difficult,
8 Ms Struyven. As you look at the photograph on the right-hand side,
9 back line -- usher, can you go and point out, please, the -- let me
10 hold it up. Usher, if you look at me, please, could you go and point
11 out that figure, 713. Thank you. Thank you, usher.

12 Yes. Now, the question is, is that -- do you recognise that
13 as being Thomas Lubanga or not?

14 THE WITNESS: No. I think that I told you that I think -- I
15 say that I don't recognize that person very well. I am not stating
16 that it is indeed him. I'm casting my mind about.

17 PRESIDING JUDGE FULFORD: I think that's the end of that,
18 Ms Struyven.

19 MS STRUYVEN:

20 Q. Mr Witness, do you recognise the place where the second
21 picture is taken?

22 A. No, I don't have any information about the place where the
23 photograph was taken.

24 Q. Mr Witness, could you now have a look at the third photograph.

25 PRESIDING JUDGE FULFORD: Now, forgive me interrupting, Ms

1 Struyven, but I think for this photograph we really do need to establish
2 whether or not the witness himself was there, because if he was not
3 there, unless you are asking him to identify the two or three individuals
4 in the foreground, I think there's very little that he's going to be
5 able to say about this photograph.

6 MS STRUYVEN:

7 Q. Mr Witness, do you recognize this photograph?

8 A. I don't know where they took that photograph, but I know
9 some of these people whom I identified. I recognise them.

10 Q. Who do you recognise?

11 A. On which photograph, please? On this photograph I don't
12 recognise anyone.

13 Q. Do you know where this photograph is taken, the place?

14 A. I told you that I don't have any additional information,
15 but it seems to be the office in Mandro that was burnt up. But it
16 seems like that photograph, but not -- I'm not so sure of that.

17 MS STRUYVEN: Your Honours, I think for the next set of
18 questions we need to go back into private session.

19 PRESIDING JUDGE FULFORD: Thank you. Private session,
20 please.

21 MS STRUYVEN: And maybe we have to give them a EVD number.

22 PRESIDING JUDGE FULFORD: I think we do, yes.

23 THE COURT OFFICER: Thank you, your Honour. The first
24 photograph, DRC-OTP-0137-0711, shall bear the number EVD-OTP-000529.
25 Second, DRC-OTP-0137. 0713 shall bear the number EVD-OTP-00530. And

1 the third photograph, which I can't find in the Ringtail system, and
2 apparently this would correspond to DRC-OTP-0137-0715, shall bear the
3 number EVD-OTP-00531. Thank you.

4 PRESIDING JUDGE FULFORD: We need to go into private session,
5 please.

6 *(Private session at 12.06 p.m.) Reclassified as Open session

7 THE COURT OFFICER: We're in private session, your Honours.

8 MS STRUYVEN:

9 Q. Mr Witness, you explained to us that you went to Bunia first,
10 and then from (Redacted) you went to (Redacted) in Uganda. Before
11 taking the plane you stayed (Redacted), didn't you?

12 A. It might have been the house that we had built. But, I didn't
13 sleep in that house because everybody slept where they wanted to, and
14 in the morning we would meet there.

15 Q. You would meet at (Redacted). With whom
16 would you meet?

17 A. Well, we met as members of the army, but I don't know if
18 it was (Redacted) or elsewhere, because -when we left the bush

19 THE INTERPRETER: Inaudible.

20 THE WITNESS: -- we came back, and (Redacted)

21 (Redacted), but I didn't know whether it was (Redacted) or
22 somebody's else's. I didn't know whom the house belonged to because
23 I slept elsewhere.

24 MS STRUYVEN:

25 Q. And so then you took a plane to (Redacted) and you stayed

1 there for six months; is that correct?

2 A. I can't tell you more about what I said. I didn't spend
3 a lot of -- I didn't pay a lot of attention to that, because I really
4 didn't pay too much attention to how much time I spent there, how many
5 months. I was a soldier.

6 Q. And Thomas Lubanga visited you in (Redacted); isn't correct?

7 A. I don't have anymore information. I don't remember.

8 Q. Didn't UNICEF also visit (Redacted) training camp in
9 (Redacted) 2001?

10 A. I think that UNICEF came to visit us. Myself, I followed.
11 I took that course. But as for the month and the year, I don't remember.
12 But I enrolled, and later they sent us back to a locality called
13 (Redacted) and from there I left of my own volition and I went
14 to (Redacted)

15 Q. And so, if I understand correctly, while you were in
16 (Redacted), (Redacted) and (Redacted) and (Redacted)(Redacted) were
17 in (Redacted); is that correct?

18 A. That is entirely correct.

19 Q. So in that period you were not with (Redacted), right?

20 A. So we were in -- under training and we found ourselves at
21 home. They were in their places, but we had news of each other by way
22 of people who were leaving towards (Redacted). They would send news.
23 They would send greetings through these people. And some people were
24 from Jinja. Some instructors were Ugandan, and so we would ask news
25 of our friends and families there. We exchanged information that way.

1 We weren't together, but we did have contact with one another by way
2 of these people.

3 Q. After this training in (Redacted), did you also follow
4 training in Kabero (phon) in Rwanda?

5 A. I never went to Rwanda for training.

6 Q. Now, you explained to us that after the training in Uganda,
7 you went back to Bunia. And yesterday you indicated to us that you
8 were assigned to the (Redacted), and you called him (Redacted). You
9 meant (Redacted), correct?

10 A. That is correct. Yes, that's true.

11 Q. And you stayed in (Redacted) until the (Redacted) battle;
12 is that correct?

13 A. (No interpretation).

14 Q. But during this period isn't it correct that (Redacted)
15 was stationed in (Redacted)?

16 A. That's correct.

17 Q. And that (Redacted) is quite far from (Redacted)?

18 A. It's not very far away.

19 Q. So you were not in that period with (Redacted); isn't that
20 correct?

21 A. Well, so saying that I was with (Redacted), he was a soldier,
22 and myself I was a soldier, and during that period we made reports
23 for (Redacted). He would come to (Redacted), meet with people in
24 (Redacted), we would go about together. For example, we spent a week
25 in (Redacted) and then he would go back home.

1 Q. Isn't it correct that (Redacted) also went back to (Redacted)
2 to recuperate from a (Redacted)?

3 A. No, when he had the (Redacted) I believe he was at the
4 (Redacted).

5 Q. But he was not in (Redacted); isn't that correct?

6 A. Could you please repeat the question?

7 Q. But so at that moment in time he was not in (Redacted);
8 isn't that correct?

9 A. When he had the (Redacted) he was at the (Redacted) and
10 myself I was at (Redacted). And sometimes we would go and get him,
11 we would go about just anywhere and then he would go back to the (Redacted).

12 Q. Yesterday you told us that (Redacted) was a (Redacted) in
13 the APC. Isn't it correct that he was actually a (Redacted) and that
14 he was (Redacted)?

15 A. Please repeat the question, if you could, please.

16 Q. Yesterday you explained to us that (Redacted) was a (Redacted)
17 (Redacted), but wouldn't you agree that actually he is a
18 (Redacted) and that he was (Redacted)?

19 A. I don't know where he (Redacted) because, unless I'm mistaken,
20 I told you -- well, you'll have to make the question very clear. From
21 the time of the RCD, MRC, UPC, please make this specify -- make specify,
22 because when you ask these questions I really need to know when and
23 what movement it was all about.

24 PRESIDING JUDGE FULFORD: Reasonable request, Ms Struyven,
25 by the witness.

1 MS STRUYVEN:

2 Q. Well, first, Mr Witness, just to clarify, wasn't the APC
3 the army of the RCD?

4 A. The --

5 THE INTERPRETER: (Inaudible).

6 THE WITNESS: -- because RCD belonged to Ramba Dia Ramba
7 (phon) -- Wamba Dia Wamba.

8 MS STRUYVEN:

9 Q. What was the name of the army of Wamba Dia Wamba?

10 A. RCD.

11 Q. So, it's your evidence that the APC was not the army of
12 Wamba Dia Wamba?

13 A. I think that I'm explaining properly about the RCD. It
14 belonged to Wamba Dia Wamba. I'll repeat it clearly: APC belonged
15 to Mbusa Mombusi (phon). I believe that you have understood me.

16 Q. And who did the APC belong to?

17 A. I believe I've already answered that. RCD belonged to Woppa
18 (phon) Dia -- that's for the gentleman, Mbusa Nyamwisi.

19 PRESIDING JUDGE FULFORD: Yes, Mr Biju-Duval.

20 MR BIJU-DUVAL: (Interpretation) Just to stress that the
21 witness had just answered very clearly that question, but I think there
22 was some confusion on the English transcript regarding the names.

23 PRESIDING JUDGE FULFORD: Yes, I think is all I need say.
24 Please carry on, Ms Struyven.

25 MS STRUYVEN:

1 Q. Well, yesterday you told us that when (Redacted) was in
2 the APC he was a (Redacted) and as his deputy you would know his right
3 title, wouldn't you?

4 A. Please repeat the question.

5 Q. Yesterday you explained to us that you were the deputy of
6 (Redacted) and, when you were asked what his title was when Bagonza
7 was in the APC, you said that he was a (Redacted). Now, I'm saying
8 that would you change your testimony if I would suggest to you that
9 he was actually a (Redacted)

10 (Redacted)?

11 A. I think that I will take you somewhat back in time, so please
12 specify which movement you are talking about when he was (Redacted)
13 (Redacted). I don't know which movement you're talking about,
14 so if you could make that clear I will be able to answer properly.

15 Q. I was talking about when (Redacted) was in the APC, after
16 he returned from his training.

17 A. The training in (Redacted), is that what you mean?

18 Q. Yes.

19 A. So I couldn't tell you when he left (Redacted) because,
20 as far as I know, he was (Redacted) in (Redacted).

21 Q. But that's not what you told us yesterday, is it?

22 A. I believe that yesterday I wasn't asked that question. I
23 explained to you that, when you ask me questions, please make them
24 very specific which movement you're talking about at the time. I didn't
25 really understand you very well, because there is some confusion amongst

1 the movements and so I don't necessarily understand which time you're
2 talking about. So, please make your questions more specific.

3 PRESIDING JUDGE FULFORD: Mr Biju-Duval?

4 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. On
5 page 34, line 23 and line 24, of the French transcript of
6 examination-in-chief, the witness said, and I quote, "Bagonza, within
7 the RCD, he was a (Redacted), and within the UPC he was (Redacted)
8 (Redacted)," and that is at page 38,
9 line 25, of the English transcript.

10 Now, the witness has just clearly distinguished between RCD,
11 APC, and UPC, and so I have the impression that the questions from
12 my learned colleague are based on a misunderstanding; a
13 misunderstanding of the statement made by the witness.

14 PRESIDING JUDGE FULFORD: I think that's fair, Ms Struyven.
15 I think you must split up the periods, you must split up the ranks
16 if you want to pursue this further and you must bear in mind that passage
17 just helpfully pointed out by Mr Biju-Duval.

18 MS STRUYVEN:

19 Q. Just to be 100 per cent clear, Mr Witness, it is your testimony
20 that it was only in the APC that (Redacted) was the (Redacted); is
21 that correct?

22 A. That's correct. What I'm telling you is the entire truth,
23 because if you ask a hundred people they will all confirm that information.
24 At the APC, he was (Redacted). He was not (Redacted).

25 Q. Now, yesterday you explained to us that after the Lopondo

1 attack you went to (Redacted); is that correct?

2 A. Yes, that is correct.

3 Q. And you said you (Redacted) until (Redacted) died; is that
4 correct?

5 A. I did not do (Redacted) until the death of (Redacted). I
6 said that I left when Laponda (phon) left. Before his departure,
7 (Redacted), but I didn't say that it was up until the death
8 of (Redacted).

9 PRESIDING JUDGE FULFORD: Was that your intervention, Mr
10 Biju Duval?

11 MR BIJU-DUVAL: (Interpretation) Yes, your Honour. I
12 would like the Prosecutor to be a little more specific in the references
13 which she's making to the statement of the witness.

14 PRESIDING JUDGE FULFORD: I think you must be careful, Ms
15 Struyven. I think some mistakes are potentially creeping in. But
16 please continue.

17 MS STRUYVEN:

18 Q. So then you were in, if I understand you correctly, you
19 were in (Redacted) before the Lopondo attack; is that correct?

20 PRESIDING JUDGE FULFORD: Yes, Mr Biju Duval.

21 MR BIJU-DUVAL: (Interpretation) He said -- the witness
22 said when -- that is after Lopondo was chased away from Bunia, page 30
23 of the French transcript, line 11, and I think that we can find a reference
24 in the English transcript. The witness was very clear. Question,
25 and I quote, "What were your activities after Lopondo was chased out

1 of Bunia? Answer: When Lopondo was chased out of Bunia, we went to
2 the (Redacted) to (Redacted)." The reference of the
3 English transcript is page 33, lines 22 and 23. The Prosecutor said
4 that the witness said this happened before, and I think that there
5 is an inaccuracy here which is quite substantial. I don't think we
6 should mislead the witness as to what he said during the
7 examination-in-chief.

8 PRESIDING JUDGE FULFORD: Well, thank you, Mr Biju-Duval.
9 I think, Ms Struyven, I'm going to ask you to focus on the evidence
10 in fact that's just been given. If you look at page 69 of the English,
11 lines 17 through to 19, the witness said very clearly that he left
12 when Lopondo left and that before his departure he (Redacted)

13 (Redacted). And that then you almost immediately went back
14 to exactly the same point which the witness had just covered.

15 Page 70, line 5, "If I understand you correctly, you were
16 in (Redacted) before the Lopondo attack." So you were taking, you
17 took him back to evidence that he had just given. So I think we're
18 becoming rather becalmed. Can we try not to repeat and move this forward,
19 Ms Struyven, really.

20 MS STRUYVEN: Yes, Mr President. The only thing is that
21 I'm afraid that the two versions are contradictory. So if, with your
22 permission, I would like to just ask one small --

23 PRESIDING JUDGE FULFORD: You can go around it one last time
24 and then we move on, please.

25 MS STRUYVEN:

1 Q. Mr Witness, where were you during the Lopondo attack?

2 A. I do not know because during the Lopondo attack, I don't
3 know whether he was still there or he had been chased out. But we
4 attacked because we were fighting against Lopondo's army. I don't
5 know what period you are talking about. I don't think I fully grasped
6 your question.

7 Q. My question is: Where were you during the Lopondo attack,
8 during the attack in Bunia, in August 2002, where were you?

9 A. I was in (Redacted) at (Redacted).

10 Q. And when you refer to (Redacted) do you refer to (Redacted)?

11 A. Yes.

12 Q. And after the attack, where were you after the Lopondo attack?

13 A. I asked you to be more specific in your questions. There
14 was an attack when Lopondo was still in Bunia and there was also a
15 second attack when Lopondo left Bunia. So there were various attacks.
16 So if you could be more helpful, then please tell me whether you're
17 talking about the period when he left or the period when he was still
18 there so that I can give you a clearer answer.

19 Q. I'm talking about the attack during which Lopondo was chased
20 out of Bunia. Where were you? This attack took place over several
21 days. Where were you when this attack took place in August 2002?

22 A. I think I told you quite clearly that when the attack was
23 launched, when Lopondo was chased out of Bunia, I was (Redacted).

24 Q. And you explained to us yesterday that (Redacted) then died.
25 Where were you between the moment you were (Redacted) and the

1 moment that (Redacted) died?

2 A. I would like to refresh your mind. I think I told you the
3 following: At the time the UPC was in power, (Redacted) was a (Redacted)
4 (Redacted) and, when he died, it was at a time when the war had grown
5 more intense. We were deployed to various areas. I personally was
6 deployed to the town. (Redacted) went to (Redacted). That is where
7 he fell (Redacted).

8 Q. So you were in the with him when he died; is that correct?

9 A. Well, you know, he was always between (Redacted) and (Redacted).
10 He could go to (Redacted) and return to spend the night in (Redacted)
11 and sometimes he would stay there because his troops were there, but
12 his residence was in (Redacted) and at that time I was in (Redacted).

13 Q. After (Redacted) died, you were moved to the (Redacted)
14 (Redacted); is that correct?

15 A. Yes, indeed.

16 Q. And you were stationed in the (Redacted) area?

17 A. Yes.

18 Q. And over several months you went to (Redacted)
19 (Redacted) (phon) to (Redacted) to (Redacted) to (Redacted); is that correct?

20 A. No. I was in (Redacted). That is the road I took when I
21 went to (Redacted).

22 Q. Did you participate in the (Redacted) attack?

23 A. At that time I was ill.

24 Q. Isn't it correct that during the (Redacted) attack you burned
25 houses of civilians and that during that attack you captured 30

1 civilians?

2 PRESIDING JUDGE FULFORD: Can you pause for a moment.

3 What's the difficulty, Mr Biju-Duval?

4 MR BIJU-DUVAL: (Interpretation) The difficulty, first of
5 all, is that the witness in his answer stated that he did not participate
6 in the attack. He said he was ill. And so the question which follows,
7 I find, has no basis. The second difficulty --

8 PRESIDING JUDGE FULFORD: Mr Biju-Duval, the questioner
9 isn't bound by the answer that's been given by the witness, but the
10 witness may deny something, but counsel, as you have done yourself,
11 are entitled to press the point. The witness may say that the moon
12 is red, but counsel is still entitled to suggest that it's a different
13 colour. Now, the witness has said that he didn't participate in the
14 (Redacted) attack because he was ill, and Ms Struyven is now putting
15 a suggestion to him. Now, I think in all of the world's judicial system,
16 that is legitimate. Now, unless you want to argue with that, which
17 you're entitled to do, what's your second objection?

18 MR BIJU-DUVAL: (Interpretation) My second objection is
19 that, first of all, we are broaching a subject that was not mentioned
20 at any moment whatsoever during the examination-in-chief, which has
21 nothing to do with the witness's credibility and not relevant to the
22 charges, the question of a combat in (Redacted) and I think this is
23 completely devoid of relevance as concerns the testimony given today.

24 PRESIDING JUDGE FULFORD: Thank you very much. In a
25 sentence, Ms Struyven, what does this go to?

1 MS STRUYVEN: This goes to the credibility of the witness,
2 your Honours.

3 PRESIDING JUDGE FULFORD: Closed session, please. Yes,
4 we're going to have to go into closed session because I think the witness
5 wishes to leave court. In fact, we'll therefore break for lunch now
6 if the witness wishes to depart and we've got to resolve this issue.
7 Can I please have the assistance of the court officer. I think we
8 are sitting in Court 2 at 3 o'clock this afternoon. Right. Closed
9 session, please.

10 *(Closed session at 12.44 p.m.) Reclassified as Open session

11 PRESIDING JUDGE FULFORD: Yes, thank you, usher, there's
12 no one in the public gallery.

13 THE COURT OFFICER: We're in closed session, your Honours.

14 PRESIDING JUDGE FULFORD: The relevance of this, Ms Struyven
15 or, rather, the purpose for asking the questions?

16 MS STRUYVEN: The Prosecution submits that it goes to the
17 credibility of this witness, your Honours.

18 PRESIDING JUDGE FULFORD: Right. So if he was involved in
19 burning the houses of civilians and taking captives, you say that may
20 impact on his credibility in this case; is that right?

21 MS STRUYVEN: Not only that, your Honours, if he denies that
22 he participated in these attacks and we have proof that he actually
23 did participate in them, that would also go to his credibility in a
24 different way.

25 PRESIDING JUDGE FULFORD: Good. Thank you. Anything else,

1 Mr Biju Duval?

2 MR BIJU-DUVAL: (Interpretation) Either the prosecutor
3 has proof or she hasn't got proof; and if she has proof, why was this
4 proof never disclosed?

5 PRESIDING JUDGE FULFORD: Well, Mr Biju Duval, I think it's
6 right. I'm not sure whether we've entirely dealt with it during the
7 course of the case, but I suspect that Ms Struyven will say that, although
8 she must fulfil her disclosure obligations under the Statute and must
9 provide you with all the information that's relevant for Rule -- for
10 the purposes of Rule 77, she's not under an obligation to disclose
11 everything that she may wish to use for the purposes of
12 cross-examination.

13 So that so long as you have been supplied with all exonerating
14 information and all material necessary for the presentation of the
15 defence, she - as a questioning member of the Bar - is entitled to
16 withhold and deploy when she wishes information relevant for the
17 purposes of cross-examination only.

18 Now, I don't know whether that's your position or not, Ms
19 Struyven.

20 MS STRUYVEN: Yes, Mr President. We may also add that we
21 have disclosed an intercept, a radio intercept communication between
22 this witness and someone else which deals with this attack during which
23 civilians were captured, as I already indicated. And that intercept,
24 as well as a transcript of that intercept, has been disclosed to the
25 Defence a long time ago. I don't know exactly when, but it was disclosed.

1 PRESIDING JUDGE FULFORD: And Ms Struyven, is that the
2 foundation for the suggestion that this witness was, in fact, involved
3 in that particular attack?

4 MS STRUYVEN: That is one element, your Honours. Several
5 persons have also confirmed his presence during this attack; of course,
6 not while giving testimony - because we never addressed this particular
7 attack in testimony - but several persons have indeed confirmed his
8 presence.

9 PRESIDING JUDGE FULFORD: Thank you. Mr Biju-Duval.

10 MR BIJU-DUVAL: (Interpretation) Your Honour, I don't
11 think there's no doubt about the fact that the Defence has to be provided
12 with evidence relating to this witness. To this day, we have not
13 received this evidence that the prosecutor is talking about, evidence
14 relating to the witness who is being examined today.

15 Well, unless she gives us precise information, she talks
16 about the recording of -- of radio intercepts relating to this witness.
17 Maybe we have a transcript of the conversation she is talking about,
18 but we do not have any information mentioning that this evidence relates
19 to this particular witness. I may be mistaken, but that is the point
20 the Defence is raising.

21 If the Prosecution has information, documents, evidence
22 which relate to the witness we are currently examining, we are supposed
23 to have such material. We were supposed to have had such material
24 a long time ago. Because we have disclosed the identity of this witness
25 to the Prosecution team, and we did this about six months ago. That

1 is the difficulty which we would wish to raise. We should also think
2 of the provisions of Rule 77 here.

3 PRESIDING JUDGE FULFORD: The date of the attack, Ms
4 Struyven?

5 MS STRUYVEN: Well, the attack, your Honours, took place
6 over a number of days because it was happening in different villages.

7 PRESIDING JUDGE FULFORD: Yes. But approximate date.

8 MS STRUYVEN: Well, we believe it was the (Redacted)
9 (Redacted).

10 PRESIDING JUDGE FULFORD: Which year?

11 MS STRUYVEN: 2003, your Honours.

12 PRESIDING JUDGE FULFORD: Thank you.

13 MS STRUYVEN: And if I may add, your Honours, we have actually
14 disclosed the statements that discuss this conversation to the Defence.
15 And in addition, in or around 18 February of this year we have disclosed
16 to the Defence in respect of this particular witness an
17 investigation -- an investigator's report which refers to the tapes
18 and which refers to the comments of other witnesses or of other persons
19 on the tapes, including with the call signs of Witness 26.

20 PRESIDING JUDGE FULFORD: Right. I'm sorry to add to your
21 burdens, but could someone from your team over lunch, please, send
22 an email to the legal advisor to the division, either providing the
23 disclosure which you've afforded to the Defence; or if the documents
24 are going to be substantial, a short summary of the material that has
25 been provided to Mr Biju-Duval on this issue? It will be useful for

1 us to see what has passed from the Prosecution to the Defence. Could
2 that be done, please?

3 MS STRUYVEN: That's no problem, your Honours.

4 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Good.
5 Thank you all very much. We'll rule on this, then, at 3 o'clock this
6 afternoon when we meet again in Courtroom 2.

7 THE COURT USHER: All rise.

8 (Luncheon recess taken at 12.53 a.m.)

9 RECLASSIFICATION REPORT

10 Pursuant to Trial Chamber I's decision ICC-01/04-01/06-2404, dated 29 April
11 2010, the excerpt of the transcript Page 30 line 6 to Page 32 line 14 is
12 reclassified from Closed Session to Open Session.

13 SECOND RECLASSIFICATION REPORT

14 Pursuant to Trial Chamber I's emails instructions dated 15 December
15 2011 and 16 March 2012, the transcript is Reclassified as public after
16 the indicated redactions have been implemented as ordered by the
17 Chamber. All private and closed sessions (*) are now available to
18 the public with the exception of the portions of the transcript that
19 have been redacted.