

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 Wednesday, March 24, 2010

9 (The hearing starts at 9.30 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 THE COURT OFFICER: Good morning, your Honours. We are in

14 closed session.

15 PRESIDING JUDGE FULFORD: Good morning. I think the clock

16 in this court is permanently set at about two or three minutes too

17 fast, which makes me feel permanently guilty every time we walk into

18 court two or three minutes late. Could somebody at some stage put

19 it so it matches real time.

20 Witness, please.

21 (The witness enters the courtroom)

22 PRESIDING JUDGE FULFORD: Private or public, Mr Sachdeva?

23 MR SACHDEVA: Private, Mr President.

24 PRESIDING JUDGE FULFORD: Private session, please.

25 *(Private session at 9.32 a.m.) Reclassified as Open session

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

2 WITNESS: WWW-D01-0023 (On former oath)

3 (The witness answers through interpreter)

4 PRESIDING JUDGE FULFORD: Good morning, sir.

5 THE WITNESS: Good morning.

6 PRESIDING JUDGE FULFORD: I remind you, please, to keep
7 your voice up, do not speak too quickly and most particularly
8 can you remember to focus on the question that is asked of you by
9 whichever counsel is questioning and to answer the question.
10 So keep very much in mind, please, the matter that's
11 raised by counsel in the questions that are asked of
12 you.

13 Yes, Mr Sachdeva.

14 QUESTIONED BY MR SACHDEVA:

15 Q. Sir, it's right, isn't it, that in preparation for your
16 testimony here you met with somebody called Dieudonné Mbuna?

17 A. Well, I think I met the Defence counsel who had come to
18 look for the parents of (Redacted). As they explained to me, they
19 were Defence counsel; the Defence counsel for Mr Lubanga. They said
20 they were coming to look for (Redacted) parents and they wanted to
21 know how they could meet his parents. That is why I took them to the
22 village where our parents were living.

23 Q. When you talk about "the Defence counsel," do you mean the
24 people sitting to the left of you in this courtroom?

25 A. Well, I don't know their names, but I do know that they

1 told me that they were the Defence counsel for Lubanga and that they
2 were looking for (Redacted) parents and they asked me whether I could
3 show them where his parents were living at that point in time. So,
4 I don't know them by their names. When they asked me my name each
5 of them introduced themselves, but I did not jot down the names in my diary.

6 Q. Before you met the Defence counsel, did you meet somebody
7 from the DRC by the name of Dieudonné Mbuna, who was a resource person
8 or an investigator of the Defence of Mr Lubanga? Do you remember
9 meeting that person?

10 A. I did respond, saying that there were three people from the Defence.
11 I only know that these members of the Defence came looking for (Redacted)
12 parents and they wanted to know where they resided. I don't
13 even know who informed them that I was (Redacted) parents - (Redacted)
14 brother, but they came directly to see me and they asked me where (Redacted)
15 parents were. So I did not meet one person; one individual only.

16 Q. And the three people from the Defence that you met, were
17 they all from Europe or were there also persons from the DRC?

18 A. Well, in general, they did not tell me what their countries
19 of origin were. Each of them introduced him or herself by name. I
20 did not jot down the names, but I did agree to accompany them to the
21 place where the parents were living and we directly or immediately
22 went there.

23 Q. So you could --

24 PRESIDING JUDGE FULFORD: Sorry, I'm going to interrupt,
25 Mr Sachdeva. Forgive me doing so.

1 Sir, the question that Mr Sachdeva asked was whether your
2 understanding was that they were all from Europe, or whether one or
3 more of them came from the DRC. Now, could you deal with that question,
4 please? Were they all European, or were one or more of them from the
5 DRC?

6 THE WITNESS: I did answer a short while ago saying that
7 I don't have any details about them. There were two white people and
8 one black person. I don't know whether they all came from Europe because
9 there are certain black people who have changed their nationality,
10 so I don't know their details. All I knew was that these were people
11 from Lubanga's Defence team who were looking for (Redacted) parents.
12 So I cannot claim to know their nationality because, right up to today,
13 they did not tell me anything about their nationality. Each of them
14 introduced themselves by name and I also introduced myself by name.
15 Since they were looking for (Redacted) parents, I asked them why they
16 were looking for (Redacted) parents.

17 PRESIDING JUDGE FULFORD: Thank you. You needn't go into
18 more detail, and I think you answered Mr Sachdeva's question, because
19 I suspect what he really wanted to discover was whether they were all
20 white or whether one or more of them were black, and you've dealt with
21 that. Good. Thank you.

22 Yes, Mr. Sachdeva.

23 MR SACHDEVA:

24 Q. And, sir, you said they all introduced themselves to you,
25 but I take it your evidence is you don't remember the name that the

1 black person gave to you when he introduced himself; is this right?

2 A. Even right up to now, as I speak, and even yesterday, as
3 I told you, well, you introduced yourself but I don't remember your
4 name. I didn't retain it. That is why, when each of them introduced
5 themselves, I did not pay special attention to what they said, to retain
6 the names. When we went to see the parents, I simply informed the
7 parents that these are people from Lubanga's Defence team, because
8 I did not pay particular attention to their names in order to retain
9 them.

10 Q. So, I understand that you took them to your parents' place.
11 How long would the journey be from where you were to your parents'
12 place?

13 A. Could you please repeat that question? Because I understood
14 that you wanted to know how long after he met me, how long afterwards
15 did we, well, go to look for the parents. So I didn't fully get what
16 you said. Could you please specify or rephrase the question so that
17 I can provide you with an answer?

18 Q. You said that you took the three persons to meet your parents,
19 and I want to know how long did that journey take.

20 A. The distance from Bunia to that place, well, you can go
21 to that place and return to Bunia in one day. I don't know exactly
22 how much time we spent on the way, but all I know is that we went there
23 and we returned.

24 Q. And all this time you were with the three persons, the three
25 persons from the Defence; is that right?

1 A. I beg your pardon. Well, when we went there, I do remember
2 that we went there in a vehicle, and the vehicle was driven by the
3 member of the Defence who was a black person. The white people were
4 not driving the car. So, we went to see the parents in a vehicle.
5 I accompanied all the three members of the Defence team to that place.

6 Q. And during this time that you spent with the three persons,
7 is it your evidence that you don't know that the person who was driving,
8 the black person, was from Ituri; is that what you're saying?

9 A. Of course, I did say that I didn't know. All I knew was
10 that they were all members of the Defence team. The three of them
11 introduced themselves to me, saying they were the Defence team of Lubanga,
12 and that they were looking for (Redacted) parents and wanted to know
13 whether I could take them to the place where his parents lived and
14 I said, "Yes, I can take you to them, no problem. And if you give
15 me some time, I will help you."

16 Q. And this time when the three Defence persons came to your
17 house, was that the only time you met the Defence? Or were there persons
18 who came to you before?

19 A. I beg your pardon? Could you please repeat the question.

20 Q. That time that you met the three persons and when you took
21 them to your parents' place, was that the only time you met the Defence?
22 Was that the first time you met the Defence?

23 A. The first time, since you put the question to me, was when
24 they came and asked me to accompany them to where my parents lived.
25 That was the first time. I took them all the way to the place where

1 my father and my mother were living, where they were living to carry
2 out their farm work. So they discussed with my parents, and at that
3 time I went to visit other relatives. Well, I can't hide anything
4 from you. I found white people and they were taking photographs of
5 the landscape. Well, those are details. And even my parents gave
6 me some foodstuff to take back to the children, and I returned with
7 these people. I even told them that if they wanted more details from
8 my kid brother, I could help them. This was when we were returning.
9 I told them.

10 PRESIDING JUDGE FULFORD: I'm going to interrupt you.
11 Mr Sachdeva's question was simply whether this was the first time you
12 met them, and I think that only needs a very short answer.

13 Yes, Mr Sachdeva, please continue.

14 MR SACHDEVA:

15 Q. When did that meeting take place?

16 A. I did not jot down the date in my diary.

17 Q. Well, do you remember the year?

18 A. I need a lot of time and reflection before I can give you
19 an accurate answer. I would like to venture giving you an answer which
20 I cannot prove. If I give you an answer directly, without reflecting,
21 I may not give you an accurate answer. As I told you, I didn't jot
22 anything down. And you asked about a year. The year is also a part
23 of the date, which I cannot remember. As I told you, I didn't jot
24 down the date or I did not attach much importance to the date to retain
25 it because, if I start reflecting on the answer now, it may take us

1 a lot of time and I may not give you an accurate answer.

2 PRESIDING JUDGE FULFORD: We understand you don't remember.

3 Maître Mabilille, when was the meeting, please? Have you got
4 a date for this?

5 MR DESALLIERS: (Interpretation) Your Honour, I think it
6 was on 8 July 2008.

7 PRESIDING JUDGE FULFORD: Thank you.

8 MR DESALLIERS: (Interpretation) Or, rather, 2009, your
9 Honour.

10 PRESIDING JUDGE FULFORD: Right. Yes, Mr Sachdeva, please
11 continue.

12 MR SACHDEVA:

13 Q. Sir, if I suggest to you that the black person that we were
14 speaking about, the person who was driving the car, was called Dieudonné
15 Mbuna and that he visited your house and your mother before that date,
16 before you met the Defence, what do you say to that?

17 PRESIDING JUDGE FULFORD: There are two questions in that.
18 In relation to the first the witness has already said he can't remember
19 his name, so let's not confuse it, Mr Sachdeva, by asking the witness
20 again to deal with something that he said he can't help us on.

21 So the question, sir, is simply was the person who was driving
22 the car, the individual who was black -- had he visited your house
23 and your mother before the meeting with the white European lawyers?
24 So, had there been an earlier meeting with the black driver of the
25 car?

1 THE WITNESS: First of all, it was the first time that I
2 was meeting him. Personally, that's what I know. It was the first
3 time. It was also on that same day that we introduced ourselves to
4 each other. That was the day I got to know those people and that was
5 the first day I got to know about this case. Well, I spend a lot of
6 my time at work and I don't know anything else, but I would like to
7 say that as far as I am concerned that was the very first time.

8 MR SACHDEVA:

9 Q. It's right, isn't it, that your mother was or is part of
10 a Hema committee of elders in Bunia? Is that right?

11 A. I beg your pardon?

12 Q. I'm putting to you, sir, that your mother is part of a
13 committee of elders - a committee of Hema elders - in Bunia. What
14 do you say to that?

15 A. That's a question you should put to my mother, because I
16 don't know her business in detail. If you ask me questions about my
17 own business, I can tell a lot of things that my mother doesn't know
18 anything about. I have my wife, I have my children and I am concerned
19 with what happens to my wife and children. What she does, she does
20 them taking into consideration her children, and what I do I do taking
21 into consideration my wife and children. So, each person is involved
22 in his or her own business. There you have it.

23 Q. Do I take it then your answer is, no, that you don't know
24 about this? That's all I want to know.

25 A. Well, I don't think I will venture a reply to that because

1 that's something that concerns my mother. I came here for something
2 that concerns me. I can answer questions that relate to me. As to
3 the personal business or affairs of my mother, I think she's the best
4 person to answer questions relating to that subject.

5 PRESIDING JUDGE FULFORD: Sir, it's a very simple and
6 reasonable question for Mr Sachdeva to ask you and, if you are able
7 to assist, I am going to ask you to do so. To your knowledge, is your
8 mother a member of a committee of elder Hemas? Do you know the answer
9 to that, one way or the other?

10 THE WITNESS: I can give you an answer. When you refer to
11 my uncle and his business, I would like to say that an uncle may do
12 things at the instigation of his nephew. As far as I am concerned,
13 all I know is that there is nothing like a -- or rather that she is
14 not -- there is no committee of Hema elders. Can you give us proof
15 of that? What is the proof of that; the proof of what you are saying?

16 PRESIDING JUDGE FULFORD: The answer then, sir, that you
17 are giving is, no, as far as you are aware she is not a member of a
18 committee of this kind.

19 Right. Mr Sachdeva, please continue.

20 THE WITNESS: I beg your pardon. I beg your pardon. I have
21 clearly stated that, if you go to do your investigation secretly or
22 openly, you will not find that there is a committee of elders in Ituri.
23 There is no committee of Hema elders in Ituri. There is none. That
24 is why I referred to the films, or the firms, of my uncle.

25 THE INTERPRETER: The interpreter apologises. The witness

1 is a bit incoherent.

2 PRESIDING JUDGE FULFORD: There we are, Mr Sachdeva. You
3 have your answer.

4 MR SACHDEVA:

5 Q. Sir, you have just referred to your uncle. What -- which
6 uncle are you speaking of?

7 A. I am referring to the scenes of films here. Sometimes these
8 can be a source of advice. Now, those films, well, the uncle, sometimes
9 the uncle would try something, and it is true that the uncle is allowed
10 to make a mistake.

11 PRESIDING JUDGE FULFORD: I am going to interrupt and forgive
12 me for doing so. Mr Sachdeva, can we avoid this particular diversion,
13 please. Can we return to questions relevant to the case. Now, what
14 was your next subject and please move to it.

15 MR SACHDEVA: Yes, Mr President. If I can ask the court
16 officer to bring up EVD-DRC-D01-0124, I believe. And if the binder
17 can be provided to the witness.

18 PRESIDING JUDGE FULFORD: So, this is tab 1 of the folder.

19 MR SACHDEVA: I would like to, I would like the witness to
20 look at the document in tab 2; and it's the first page and it's his
21 electoral card.

22 Q. Sir, do you see your electoral card there in the binder?

23 A. Yes, indeed.

24 Q. Do you remember when you received this card?

25 A. This was in -- during the enlistment. In fact, it was in

1 the run-up to the election, and during that period I was also enlisted,
2 after which I was given this card.

3 Q. Would that be sometime in 2006?

4 A. I believe that I did not really realise the importance of
5 noting down the date. I realised that, well, we were given this on
6 the day of our enlistment.

7 Q. And what's the process by which you were able to receive
8 this card; did you go with somebody else or how did you receive the
9 card?

10 A. I was at (Redacted) because at that moment in time I had
11 my shop there, and my sister was selling the shop. I had another small
12 shop in Bunia and my younger brother would sell things there, so I
13 would go to and fro, and on that day I was in (Redacted).

14 So, I had taken the time to go and register at the (Redacted)
15 centre. I believe that you will have further details when you go to
16 Bunia because each centre where people enrolled, well, they will see
17 when they see the number, they will remember that, well, this is an
18 individual who enrolled in (Redacted). So, if you want to obtain
19 further details as to how the enrolment occurred, then I can furnish
20 you with them.

21 Q. And it's normal isn't it, that when you go to these centres
22 for enrolment, you have a witness with you to verify that you indeed
23 are who you say you are; is that right?

24 A. In view of the fact that everyone goes to register as a
25 voter, well, in general terms, you were asked your date of birth and

1 sometimes they would even calculate whether you were older than 18,
2 or whether you were aged 18. And if you were 18 years of age then
3 you were allowed to register. You did not have to bring a person to
4 testify to this effect with you. You stand in line and, in turn, you
5 go from one office to another, and it is ascertained whether in fact
6 you are 18 years of age or not, subsequent to which you are immediately
7 registered. Your name is asked for and your date of birth; the names
8 of your mother and father; and then, you are registered. And then,
9 you are requested to provide a fingerprint. I think you will find
10 all those details there. And even on the registration card you will
11 see this to one side; the fingerprint, that is.

12 Q. Yes. So on your card at the bottom right-hand corner that's
13 your fingerprint, isn't it?

14 A. Yes, indeed.

15 Q. And we see the names of your parents on the right-hand -- on
16 the left-hand side, don't we?

17 A. Yes.

18 Q. And you use this as an official documentation of your
19 identification, don't you?

20 A. I also believe that this document notes the fact -- well,
21 in fact, a Congolese citizen must use this in order to vote, in order
22 to elect a president. Now, the first role of the card was to -- was
23 to go and vote and the second role of the card was to provide one's
24 identity.

25 Q. And just correct me if I am wrong, but at the bottom there's

1 a barcode, isn't there?

2 A. I beg your pardon?

3 Q. At the bottom of the card, there is what's termed a barcode,
4 a specific barcode that is particular to this identification card;
5 isn't that right?

6 A. Everything reflected on the card, with the exception of
7 what I can read here, DRD-D01-0003-2273, well, I believe that this
8 wasn't on the card itself. However, you will find a copy of this card
9 in Bunia. I also have the original of this card that was given to
10 me in (Redacted). I believe that what you have before you here is
11 a duplicata, and also the original. When I came back from school one
12 day, you know, it was raining, and sometimes when rain hits things,
13 then it can rub things off. Well, you know, my photograph might have
14 been somewhat deformed by the rain. However, if you lose the original
15 of your card or if it has become dog-eared and you try and get a duplicate,
16 it is given to you without any problem. And if the first copy has --

17 Q. I'm sorry to interrupt you, but you've answered the question.
18 I'd now like to show you another document.

19 PRESIDING JUDGE FULFORD: Now, what's the point of the
20 barcode, Mr Sachdeva? Why did we need to ask the witness whether or
21 not there was barcode at the bottom of this particular item?

22 MR SACHDEVA: Mr President, I wanted to identify the
23 legitimacy of this card, that's all, for my next series of questions.

24 PRESIDING JUDGE FULFORD: But this information is clearly
25 available to the Prosecution, without us having to take time in asking

1 the witness about it. Now, please move on to the next issue.

2 MR SACHDEVA: I'd like to now show the witness a document
3 and to be able to show the witness an enhanced copy. It's going to
4 be shown on a CD, with your leave, and the DRC number is DRC-OTP-0166-0073.
5 And I understand that can be shown on the screens.

6 PRESIDING JUDGE FULFORD: Have you had notification of this,
7 Mr Desalliers?

8 MR DESALLIERS: (Interpretation) Yes, indeed,
9 Mr President.

10 PRESIDING JUDGE FULFORD: Thank you very much. Right.
11 Usher, can you go and check, please, that that's up on the screen in
12 front of the witness. Good. Thank you.

13 Yes, Mr Desalliers -- Mr Sachdeva.

14 MR SACHDEVA:

15 Q. Now, sir, look at this image carefully. Now, that's an
16 electoral card of your brother (Redacted), isn't it?

17 A. There is no way of -- way of providing you with this duplicata
18 in order for things to be clear. If you still see things in such a
19 light, well, if you're referring -- if you are playing with the
20 intelligence with adult individuals here, well, if you want to mislead
21 me, there might be a way of having the information, with getting hold
22 of the copy of this, of getting hold of a clear copy, in order for
23 you to be able to see things clearly, because it really is dog eared.
24 Because, to my mind, what is dog eared or burnt like this, well, I
25 knew that one day I might have to come here. That's why I went to

1 get a copy, a really clear copy, of mine. However, no duplicata of
2 this can be provided that is clearer.

3 I might be able to give you an answer with regard to this
4 but there are many things that are difficult to see. His face is deformed.
5 There are many things that we can criticise about this card. Also,
6 with regard to the mother's name, it does correspond to what was mentioned
7 on my card, but I can see that the name of the father, notably, (Redacted)
8 does not correspond with what is written on my card because, of course,
9 we are the children of the same parents and this is why I might be
10 providing you with a very direct answer here but, in view of the fact
11 it is dog eared, well, I think that you should come up with a copy
12 that is clear so that we can see everything and then this would provide
13 us with the answer. But I am doubtful because I can see that there
14 are contradictions here. There are things that do not correspond or
15 tally. For example, you can see the names here. There is the name
16 of the father, that does not tally. And that is the reason why I am
17 somewhat doubtful with regard to this card.

18 Q. Sir, I suggest to you that the name of the father reads
19 (Redacted) and that is indeed a name that you have told the Court two
20 days ago that was one of your father's names. Now, what do you say
21 to that?

22 A. You should ask father himself. You should -- we came here
23 with him. You should ask him that he provide his name himself so that
24 you can understand things clearly, in view of the fact that you have
25 many doubts as to what I am telling you. What is more, he came with

1 his father and they resembled each other closely and, in terms of biology
2 or physiognomy, well, I resemble my mother very much and he resembles
3 his father. And we came here in his company. Now, if you think of
4 this in terms of biology, in terms of the innovation and technology
5 that has been used in this field, then, really, you shouldn't go into
6 anything that doesn't have any evidence here or attach importance to
7 things that don't really furnish us with any evidence.

8 PRESIDING JUDGE FULFORD: Yes, what's the point on this,
9 Mr Sachdeva? What assistance do you want from the witness in addition
10 to what he's said? He finds it difficult to read. It's unclear. What
11 else?

12 MR SACHDEVA: I am going to suggest to the witness that this
13 indeed appears to be the electoral card of his brother and that the
14 name (Redacted) is indeed the name that the witness has himself said
15 is his father's name.

16 PRESIDING JUDGE FULFORD: Absolutely. We understand that
17 that is the proposition. Absolutely ringingly clear, Mr Sachdeva.
18 The witness says that there are problems in answering that, not least
19 because the document that he sees in front of him is extremely unclear
20 and, as far as he's concerned, there may be a problem with the father's
21 name. Now, we've dealt with that. The witness has given that answer,
22 and I think we can move on.

23 MR SACHDEVA:

24 Q. And what do you have to say about the name of (Redacted)
25 there? It says that (Redacted). Aren't those the names of your

1 brothers -- of your brother; is this right?

2 A. (Redacted) is the name by which mother used to call him.
3 Mother often used to call me -- when I was a child my mother called
4 me (Redacted)- and she used to say (Redacted) to him. So these are
5 the names that everyone knew us by. And if you were to go to (Redacted)
6 today -- and, well, you know, there's some love that is coming back
7 to the area. And when you go to (Redacted), for example, you might
8 go and ask our friends in (Redacted), who will shed light on the matter
9 with regard to (Redacted) and his names.

10 So, if you go to the Lendus in Bindi, you will note that
11 he has many friends there and, if you conduct research, they will tell
12 you all about his names, you know, with regard to his mother or his
13 father and his friends and who -- how they called him, and also the
14 Ngiti, they can tell you his story in detail if you doubt, as you do,
15 many things here. But there are many things that you should know,
16 notably, that I can see that my presence is very important -- well,
17 that it causes many difficulties in people's minds, and sometimes I
18 regret that I came to shed light on the matter here.

19 Last night I didn't sleep because of this. I really regretted
20 having come here to shed light on matters here, you know. There is
21 also a certain degree of dishonesty with regard to law.

22 Now, those who are shedding light on things, well, you see
23 me as a bad person. I really have regretted coming here but in view
24 of the fact that I have already come here to testify, I have to carry
25 on doing so, and I have to carry on helping you. I did not come here

1 because I had grievances; I wanted to come here to help you to understand
2 things, and for you to realise what is real and so that you can trap
3 the right individual and so that I believe that with regard to the
4 (Redacted) issue everyone knows, in (Redacted), who he is; in (Redacted),
5 in (Redacted), but many people in (Redacted) know who he is. So there we are.

6 There is evidence that is clear. If you want to know further
7 details then his father can tell you; he came. Whether his -- well,
8 you talked to, yesterday, you talked about the fact whether his father
9 has money or not.

10 MR SACHDEVA: Mr President, can that be given an EVD number?

11 PRESIDING JUDGE FULFORD: Yes, certainly, and I think we
12 need an EVD number as well for the name that you wrote down on a piece
13 of paper yesterday and, in fact, we ought to read into the court record,
14 I think, the name that was written down on that piece of paper. I
15 think it needs to be spelt out please. Good. Court officer, can you
16 deal with both of those, please.

17 THE COURT OFFICER: The document under DRC-OTP-0166-0073
18 will be assigned EVD-OTP-00555 and marked as confidential. And the
19 handwritten note with the name, your Honours, will be assigned
20 EVD-OTP-00556 and marked as confidential.

21 PRESIDING JUDGE FULFORD: Right. What Mr Sachdeva had
22 written down, or someone on his behalf, was two words, which were
23 separated by the word "or". The first is (Redacted), and the second
24 word is (Redacted).

25 Yes, Mr Sachdeva, now, where are we going from here?

1 MR SACHDEVA: That's the end of the cross-examination.

2 PRESIDING JUDGE FULFORD: Thank you very much, indeed. Can
3 I be reminded: Had there been an application by any participating
4 victims to question or not? I see from the silence it seems no.

5 MS BAPITA: (Interpretation) No, Mr President.

6 PRESIDING JUDGE FULFORD: Thank you very much indeed, Ms
7 Bapita. Anything further, Mr Desalliers?

8 MR DESALLIERS: (Interpretation) No, Mr President.

9 PRESIDING JUDGE FULFORD: Thank you very much indeed.

10 Sir, I am sorry that this morning you have regretted coming
11 here today. Certainly, as far as the Judges are concerned, there is
12 absolutely no reason at all for you to regret having travelled from
13 the DRC to The Netherlands to assist us with this case. In order for
14 the Judges to find the truth effectively in this trial it is absolutely
15 critical that witnesses in the position of yourself are prepared to
16 give of their time and possibly put themselves in a position of some
17 considerable personal inconvenience, in order to come to this Court
18 to give evidence.

19 Live testimony is of great assistance to us in this case.
20 So you leave here now having concluded your evidence with our thanks,
21 and we hope that once your father has concluded his evidence, you will
22 be able to return speedily back home.

23 Closed session, please, so the witness can withdraw.

24 *(Closed session at 10.26 a.m.) Reclassified as Open session

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

1 (The witness is excused)

2 PRESIDING JUDGE FULFORD: We will take the midmorning break
3 now, so that everything necessary can be put in hand for the next witness.
4 We are going to need two interpreters for him. So what we will do
5 is we will sit at 11 and then in all probability we will have a further
6 short break so that the witness isn't answering questions for too long.
7 So 11 o'clock, please. Thank you very much.

8 THE COURT OFFICER: All rise.

9 (Recess taken at 10.29 a.m.)

10 (Upon resuming at 11.00 a.m.)

11 *(Closed session) Reclassified as Open session

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

13 PRESIDING JUDGE FULFORD: Now, with the witness to come,
14 can counsel please be particularly careful to ensure that we take it
15 at an appropriate speed. This is going to be something of a logistical
16 nightmare in terms of the number of different languages that are involved
17 and the relay system that's going to have to be used to get the questions
18 and answers across. So, slow speaking and big pauses, please. I shall
19 probably institute a system of fining for those who ignore this
20 instruction. Right.

21 Witness, please.

22 (The witness enters the courtroom)

23 PRESIDING JUDGE FULFORD: Good morning, sir.

24 THE WITNESS: (Interpretation) Good morning, your Honour.

25 PRESIDING JUDGE FULFORD: As you can see, we have a

1 complicated method for you to give evidence.

2 THE WITNESS: (Interpretation) Yes.

3 PRESIDING JUDGE FULFORD: This means, I must ask you to be
4 patient and not to speak too quickly.

5 THE WITNESS: (Interpretation) Yes.

6 PRESIDING JUDGE FULFORD: Good. I know that you have
7 requested to be allowed to speak in two languages, but I am going to
8 ask you to tell us in advance each time you want to move from one language
9 to another.

10 THE WITNESS: (Interpretation) Yes, I shall speak in two
11 languages.

12 PRESIDING JUDGE FULFORD: You most certainly can speak in
13 two languages but, whenever you are going to change from one language
14 to another, can you please tell us so that we can make sure that the
15 right interpreter is able to assist you.

16 THE WITNESS: (Interpretation) Very well.

17 PRESIDING JUDGE FULFORD: Thank you very much, indeed. We
18 have agreed that your identity will be protected and that, as far as
19 the general public are concerned, you will be giving your evidence
20 anonymously.

21 THE WITNESS: (Interpretation) Very well.

22 THE INTERPRETER: Message from the English interpreter.
23 Mr President, could the microphone please be moved towards the
24 interpreter, rather. Thank you.

25 PRESIDING JUDGE FULFORD: The final thing is, you will become

1 aware that during your evidence we will sometimes be in public session
2 and sometimes we will be in private session, but don't worry about
3 that. Your identity will be protected throughout.

4 THE WITNESS: (Interpretation) I am ready.

5 PRESIDING JUDGE FULFORD: Excellent. Now, the first thing
6 I am going to ask of you in a moment is, that when we've moved into
7 public session you repeat slowly the solemn undertaking which the lady
8 interpreter sitting next to you will read out for you.

9 THE WITNESS: (Interpretation) Yes, I accept.

10 PRESIDING JUDGE FULFORD: Good. Thank you very much.
11 Public session, please.

12 (Open session at 11.09 a.m.)

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

14 PRESIDING JUDGE FULFORD: So, Madam Interpreter, if you
15 could take it in - as it were - short pieces, could you read out the
16 words of the card, but break it up so that the witness can then repeat
17 what you say. Thank you very much.

18 THE WITNESS: (Interpretation) Before I speak, I would like
19 to request for an apology. Before I swear my solemn undertaking, I
20 would like to apologise. I am apologising because there are figures
21 of authority who went to our country, and they asked us to tell the
22 truth with regard to the children, and I said that I had eight children.
23 The five other children I had not declared.

24 PRESIDING JUDGE FULFORD: Thank you for explaining that.
25 And if you could now take the solemn undertaking with the assistance

1 of the lady interpreter.

2 So, madam, if you could begin, please.

3 WITNESS: WWW-D01-0009 (Sworn)

4 (The witness answers through interpreter)

5 PRESIDING JUDGE FULFORD: Thank you very much. Ms Buteau,
6 in private session I imagine to begin?

7 MS BUTEAU: (Interpretation) Thank you, Mr President. In
8 fact, in view of the protective measures that have been requested by
9 the witness and in view of the contents of his testimony, the whole
10 of the examination-in-chief will be in private session.

11 THE WITNESS: Yes, I accept.

12 PRESIDING JUDGE FULFORD: Private session, please.

13 *(Private session at 11.13 a.m.) Reclassified as Open session

14 PRESIDING JUDGE FULFORD: Good. Over to you, Ms Buteau.
15 One lesson that I have learnt over the last two or three minutes is,
16 wait a long time before - as it were - the next question, because it
17 is surprising how long it takes sometimes for the answer to be relayed.
18 But I hope that's helpful. Yes, please continue.

19 QUESTIONED BY MS BUTEAU: (Interpretation)

20 Q. Good morning, Witness.

21 A. Good morning.

22 Q. I shall introduce myself; we have already met before. My
23 name is Caroline Buteau.

24 A. Yes, I did hear that.

25 Q. And today I shall be asking questions on behalf of the Defence

1 of Mr Thomas Lubanga.

2 A. And I say thank you to you for that.

3 Q. Sir, could you please provide us with your full name?

4 A. Yes, I will provide you with my name. My name is (Redacted)
5 (Redacted). My name is (Redacted).

6 Q. And do you have any other names?

7 A. No.

8 Q. Mr Witness, could you provide us with your date of birth,
9 please?

10 A. I was born in the year 1944.

11 Q. Could you tell us where you were born?

12 A. Yes, I can. I was born in (Redacted), in (Redacted) localité,
13 (Redacted)

14 Q. And is that located in Ituri?

15 A. It is in the area of Djugu in Ituri.

16 Q. Could you tell us of which ethnic group you are?

17 A. I am Hema North. I am a member of the (Redacted) clan.

18 Q. I thank you. Are you married?

19 A. Yes.

20 Q. Could you give us your wife's full name, please?

21 A. Yes, I can. I agree to provide you with that. Her name
22 is (Redacted). (Redacted) (phon).

23 Q. Very well. Thank you.

24 MS BUTEAU: (Interpretation) Mr President, I would like
25 to put a document before the witness, bearing the ERN number

1 DRC-D01-0003-2315?

2 PRESIDING JUDGE FULFORD: Certainly, Ms Buteau. And are
3 there copies for the witness and the Judges?

4 MS BUTEAU: (Interpretation) The interpreters have
5 already received a copy of the documents. And while the documents
6 are being distributed, I would like to say that these are the same
7 document; that is, notably, a copy of the same document and an enlarged
8 version thereof.

9 PRESIDING JUDGE FULFORD: Thank you, Maître Buteau. Yes,
10 Ms Buteau. What is your question?

11 MS BUTEAU: (Interpretation) I just wanted to make sure
12 that the interpreter received a copy of the document.

13 THE INTERPRETER: Yes, I do have the document before me.

14 MS BUTEAU: (Interpretation) I am referring to the
15 interpreter who is sitting next to the witness.

16 THE INTERPRETER: Mr President, the interpreter next to the
17 witness just said that she did receive a copy of the document.

18 PRESIDING JUDGE FULFORD: I think it would be helpful if
19 there's one more. There's one in front of the witness, and I think
20 it'd be useful - if there's another copy - if that could be straight
21 in front of the interpreter, please.

22 THE INTERPRETER: Thank you.

23 MS BUTEAU: (Interpretation) The enlarged version has just
24 been distributed to make matters easier in terms of reading. It is
25 one and the same document.

1 THE INTERPRETER: Yes.

2 MS BUTEAU: (Interpretation)

3 Q. Mr Witness, do you recognise the document before you?

4 A. Yes, I do recognise it.

5 Q. Could you tell us which document this is?

6 A. This is my photograph.

7 Q. Very well. And your photograph is to be found on a document.

8 Can you tell us whether you recognise the document; and if so, which
9 document it is?

10 A. Yes. I can see that this is my photograph, but I do not
11 understand -- well, could I be helped with what is written next to
12 it?

13 MS BUTEAU: (Interpretation) Maybe we could read the
14 document to the witness, Mr President.

15 PRESIDING JUDGE FULFORD: Yes. I think, Ms Buteau, if I
16 may say so, we probably don't need to read every word on the document.
17 Perhaps, Madam Interpreter, if you could in the first instance just
18 read out what we see in the top left-hand side, beginning - and forgive
19 my French - "The Republic Democratic." Just that, those three lines
20 on the left-hand side, please.

21 THE INTERPRETER: Yes. Yes, I have understood.

22 MS BUTEAU: (Interpretation)

23 Q. Could you tell us which document this is?

24 THE INTERPRETER: The interpreter is explaining the
25 document to the witness.

1 THE WITNESS: Yes, I have understood, but I can't provide
2 you with an answer. I can see that this is a voter's card.

3 PRESIDING JUDGE FULFORD: I think that's enough, Maître
4 Buteau. The witness has identified his own photograph; he's had the
5 card read out in terms of identifying what it is, and he's said that
6 he can see that it is a voter's card. Of course, we will await to
7 hear any further questioning, but for the time being I think that's
8 a sufficient identification as this being the witness's voter's card.
9 So, where do we go from here?

10 MS BUTEAU: (Interpretation)

11 Q. Mr Witness, do you remember having had a voter's card issued
12 at one point in time?

13 A. Yes.

14 Q. And at what time and on what occasion did you have this
15 card issued?

16 A. I forgot the date.

17 Q. And do you remember at what point in time, under what
18 circumstances or on what occasion you had such a card - a voter's
19 card - issued?

20 A. I accepted this card, because I accepted to come and testify.

21 MS BUTEAU: (Interpretation) Very well. Thank you.

22 Mr President, I would like to tender this document into evidence,
23 please.

24 PRESIDING JUDGE FULFORD: Yes. I wonder, in fact, whether
25 we need both copies. The more useful one is the enlarged one, I think;

1 and unless there is any dissent, if we could give the blown-up version
2 an EVD number, please.

3 THE COURT OFFICER: The document under DRC-D01-0003-2315,
4 your Honours, will be assigned EVD-D01-00129 and marked as
5 confidential.

6 PRESIDING JUDGE FULFORD: Thank you. Yes, Ms Buteau.

7 MS BUTEAU: (Interpretation)

8 Q. Mr Witness, do you have a son by the name of (Redacted)?

9 A. Yes, I do have a son.

10 Q. And your son (Redacted), does he bear any other names?

11 A. Yes, he does have other names.

12 Q. Could you provide us with them, please?

13 A. Yes. (Redacted).

14 Q. Thank you. And your son (Redacted), of which ethnic origin
15 is he?

16 A. He is also from (Redacted), in terms of ethnic origin. He
17 is North Hema.

18 Q. I thank you. Could you tell us where (Redacted) was born?

19 A. (Redacted) was born in (Redacted).

20 Q. And do you know where (Redacted) did his primary studies?

21 A. (Redacted) completed his primary studies in (Redacted).

22 Q. And at that moment in time, who did (Redacted) live with,
23 if you know?

24 A. He was with me.

25 Q. And did he live with you throughout the entire duration

1 of his primary studies?

2 A. Yes, we did stay together.

3 MS BUTEAU: (Interpretation) There is a problem with the
4 transcript. I can continue, but I do not know whether the Chamber
5 wishes us to.

6 PRESIDING JUDGE FULFORD: Please continue, Ms Buteau, but
7 can the transcript please be sorted out. Thank you.

8 MS BUTEAU: (Interpretation)

9 Q. Mr Witness, until when did you remain in (Redacted)?

10 A. For nearly 25 years.

11 Q. And then what did you do?

12 A. We were traders in (Redacted).

13 Q. And you say that you remained in (Redacted) for 25 years.
14 After that, what did you do?

15 A. I remained in (Redacted) for 25 years. We only left (Redacted)
16 at the time of the war.

17 Q. And at the time of which war did you leave (Redacted)?

18 A. The war which is ongoing.

19 Q. And after (Redacted), where did you go?

20 A. We fled to (Redacted).

21 Q. Did you flee in the company of other people, or did you
22 flee alone to (Redacted)?

23 A. I fled in the company of my entire family.

24 PRESIDING JUDGE FULFORD: Ms Buteau, you are doing
25 admirably, but we have now reached the 30-minute mark, at which point

1 we have to change interpreters. So I'm afraid I'm going to have to
2 rudely interrupt you. Thank you very much, madam. We are going to
3 go into closed session for a moment for you to withdraw, so please
4 remain where you are for a minute.

5 Closed session, please.

6 *(Closed session at 11.34 a.m.) Reclassified as Open session

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

8 (Change of interpreters)

9 PRESIDING JUDGE FULFORD: Private session, please.

10 *(Private session at 11.34 a.m.) Reclassified as Open session

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

12 PRESIDING JUDGE FULFORD: Thank you for your assistance,

13 sir.

14 Yes, Ms Buteau.

15 MS BUTEAU: (Interpretation)

16 Q. Witness, before the closed session you said you fled to
17 (Redacted) with your entire family. Was your son, (Redacted), with
18 you when you fled?

19 A. Yes, indeed.

20 Q. And for how long did you stay in (Redacted)?

21 A. I spent three weeks in (Redacted).

22 Q. During the three weeks you spent in (Redacted), where was (Redacted)?

23 A. (Redacted) was with me.

24 Q. And why did you leave (Redacted)?

25 THE INTERPRETER: The interpreter did not hear the question.

1 MS BUTEAU: (Interpretation)

2 Q. Why did you leave (Redacted)?

3 A. We fled -- we left (Redacted) because we were fleeing from
4 the war.

5 Q. Could you tell us what war you are talking about?

6 A. I am referring to the Kabila war.

7 Q. And where did you flee to after (Redacted)?

8 A. From (Redacted), we fled to Bunia, to (Redacted) specifically.

9 Q. And for how long did you stay in (Redacted)?

10 A. We spent three months in (Redacted). We spent three months
11 in (Redacted) in a rented house.

12 Q. And who were you living with in that rented house?

13 A. I was with everyone, including (Redacted).

14 Q. And at the end of the three months, what did you do? Where
15 did you go to?

16 A. From there we went to the (Redacted) neighbourhood where
17 we are currently living.

18 Q. Mr Witness, could you inform the Court who you went with
19 to (Redacted)?

20 A. We all left together, and at the time (Redacted) was studying.

21 MS BUTEAU: Just a minute, your Honour. Your Honour, I wish
22 to ask a question to get clarification.

23 Q. Witness, you said when you left the town of (Redacted) you
24 said you fled because of the war. Could you please repeat your answer,
25 the answer you gave? What war were you referring to?

1 A. I was referring to the war between the Lendus and the Hemas.

2 Q. Very well. Thank you.

3 A. Thank you.

4 Q. When you went to the (Redacted) neighbourhood, who did you
5 go with; that is, from your household?

6 A. Since we moved to (Redacted), we have not yet moved. The
7 entire family is still living there, and for -- but we live in a rural
8 area because we have to carry out our farm work in order to provide
9 for our needs.

10 Q. And when you left your house in (Redacted) to go to (Redacted),
11 where was (Redacted) at the time?

12 A. (Redacted) was with me under my roof.

13 Q. So (Redacted) moved with you to the house in (Redacted)?

14 A. Yes, indeed.

15 Q. And how much time did he spend with you there?

16 A. Right up to the time he left us, we were together.

17 Q. Could you please tell us approximately when he left you?

18 A. I cannot tell you precisely when he left, because at the
19 time I was engaged in my farm work. It was while I was at my farm
20 that I learned that (Redacted) was no longer at home.

21 Q. And do you know why (Redacted) left?

22 A. I don't know why.

23 Q. When did you see your son for the last time?

24 THE INTERPRETER: The Lendu interpreter did not hear or
25 understand your question.

1 MS BUTEAU: (Interpretation)

2 Q. When was the last time you saw your son, (Redacted)?

3 A. I haven't seen him. All this time I haven't seen him.

4 Q. Sir, to the best of your knowledge, did your son, (Redacted),
5 serve in an armed group?

6 A. Absolutely not.

7 Q. And how can you be so absolutely certain?

8 A. I can clearly state to you that (Redacted) has never been
9 in military service. When we heard that (Redacted) had moved away
10 from home we tried to look for him, but we never found him.

11 MS BUTEAU: (Interpretation) Your Honour, could I have one
12 moment please?

13 (Defence counsel confer)

14 MS BUTEAU: (Interpretation) Thank you, your Honour, for
15 the indulgence.

16 Q. Witness, could you tell us for how long has your son been
17 away from home?

18 A. It's been a long time.

19 MS BUTEAU: (Interpretation) Your Honour, that's the
20 examination-in-chief. Thank you.

21 PRESIDING JUDGE FULFORD: Thank you very much indeed,
22 Ms Buteau.

23 Mr Sachdeva.

24 QUESTIONED BY MR SACHDEVA:

25 Q. Good morning, sir.

1 A. Good morning.

2 Q. My name is Manoj Sachdeva and I am going to be asking you
3 some questions on behalf of the Prosecution.

4 A. Very well, thank you.

5 Q. During the war between the Hema and the Lendu, were you
6 working at your farm?

7 A. At that time I was in (Redacted). This is what I told you earlier.

8 Q. Do you perhaps remember the year in which you moved to
9 (Redacted) in Bunia?

10 A. Not from Bunia to (Redacted), but rather from (Redacted)
11 to (Redacted), and that was in the year 2001.

12 Q. And is it right that, once you were in (Redacted), you worked
13 on the farm?

14 A. Yes, indeed.

15 Q. And do you know roughly how far the farm was from (Redacted)?

16 A. I was in (Redacted) and I was doing farming very close to
17 (Redacted), but we could not survive on that, and so I had to move
18 further into the bush in order to do more farming.

19 Q. So, in order to do more farming, did you spend long periods
20 of time in the bush?

21 A. We worked in turns. Sometimes I will work for a month at
22 the farm and my wife will stay at home and when I return home my wife
23 will go to the farm and spend a month there, and so we did stints of
24 one month each.

25 Q. And during that time I take it that the children remained

1 at the home in (Redacted); is that right?

2 A. Yes, that's right.

3 Q. And do I understand it that you still have that farm today?

4 A. Yes, indeed, I still carry on farm work in the bush.

5 Q. Sir, when you travelled here, you travelled with your son,
6 (Redacted); isn't that right?

7 A. Yes.

8 Q. And when you arrived here you also stayed with him for a
9 couple of days?

10 A. Yes.

11 Q. And you were surprised to see him, weren't you, on the same
12 plane and travelling with you?

13 A. Not at all.

14 Q. Did you know why he was coming here?

15 A. Yes, I knew we were coming here to give testimony.

16 Q. And did you know what he was coming here to say?

17 A. Yes.

18 Q. So, am I right to assume that you discussed his testimony
19 while you were travelling together?

20 A. No.

21 Q. How did you know what he was coming to say?

22 A. I am not saying that I knew what he was going to say
23 specifically. All I knew was that both of us were coming here and
24 I was certain that he too was coming to give testimony.

25 Q. Sir, do you have sisters?

1 THE INTERPRETER: The Lendu interpreter did not understand
2 your question, sir.

3 MR SACHDEVA: I wanted to ask the witness whether he has
4 any sisters.

5 THE WITNESS: I have only one sister.

6 MR SACHDEVA:

7 Q. Can you tell us her name, please?

8 A. Her name is (Redacted) (phon).

9 Q. Do you know somebody called (Redacted), or (Redacted)?

10 A. Not at all.

11 Q. Sir, is it right that your wife was part of a committee
12 of Hema elders in Bunia?

13 A. No.

14 Q. It's right, isn't it, that the community in which you live
15 were putting pressure on you and your family about (Redacted) testimony
16 here?

17 A. Not at all.

18 PRESIDING JUDGE FULFORD: Forgive me, Mr Sachdeva, we've
19 reached the half-hour point. We need to effect another change-over.

20 Thank you very much indeed, sir, for your assistance. Please
21 stay where you are. We are about to go into closed session so a new
22 interpreter can replace you.

23 Closed session, please.

24 *(Closed session at 12.00 p.m.) Reclassified as Open session

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

1 (Change of interpreters)

2 PRESIDING JUDGE FULFORD: Private session, please.

3 *(Private session at 12.01 p.m.) Reclassified as Open session

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

5 PRESIDING JUDGE FULFORD: Yes, Mr Sachdeva.

6 MR SACHDEVA:

7 Q. Sir, it is right, isn't it, that somebody called Dieudonné
8 Mbuna came to visit you and your family sometime in June 2009?

9 A. Yes, Mbuna did come to speak to us one day.

10 Q. And did he come alone, or did he come with other persons?

11 A. Yes, he came in the company of other individuals.

12 Q. And where was this visit? Was it at the farm? Was it at
13 the house in (Redacted)

14 A. The people came to see us at the farm.

15 Q. And who were the other people with Mr Mbuna?

16 A. The people who came from Europe.

17 Q. And was that the only time that Mbuna came to visit you
18 and your family, just that one time?

19 A. Mbuna came on his own with those people from Europe, but
20 on the second occasion those individuals called me. On the second
21 occasion I was at home and those people came to put questions to me.
22 They asked me whether I would be ready to come and testify on the subject
23 of (Redacted). This was the question they put to me.

24 Q. And, sir, are you sure that Mr Mbuna did not come to see
25 you and your family before that first time by himself, or with other

1 people who were not from Europe?

2 A. On the first occasion, Mbuna came to see me on his own in
3 order to put questions to me on the subject of (Redacted). On the
4 second occasion it is the people who came from Europe. On the third
5 occasion it was the whites who came from Europe who put questions to
6 me, asking me whether I would be ready once people would come to seek
7 my testimony on the subject of (Redacted).

8 Q. So, on the first occasion when Mbuna came to see you alone,
9 were you expecting him to come that day? Did you know he was coming
10 to see you?

11 A. Mbuna came to see me. He did not know where I lived. He
12 came in the company of (Redacted). Yes, the question he put to me
13 was whether I would be ready when people came to find me to testify
14 on the subject of (Redacted), and I said that, yes, I would be ready.

15 Q. So, it was after that meeting, this meeting that you had
16 with Mbuna and where (Redacted) was also present, it was after that
17 that you met the persons from Europe; is that right?

18 A. (Redacted) and Mbuna came to see me on the first occasion.
19 On the second occasion it was the people who came from Europe who came
20 to see me.

21 Q. And on that first occasion, how did the discussion take
22 place? Was Mbuna talking to you and (Redacted) together; is that right?

23 A. (Redacted) came with a view to showing Mbuna where we lived
24 because Mbuna did not know where we lived.

25 Q. And did Mbuna take photographs when he came that time?

1 A. Are you asking the photograph -- the question about my
2 photograph? Yes, Mbuna came and he took photographs of us.

3 Q. And I take it that it was (Redacted) that introduced Mbuna
4 to you?

5 A. No.

6 Q. But (Redacted) must have told you who Mr Mbuna was; isn't
7 that right?

8 A. I knew who Mbuna was. I knew who Mbuna was.

9 Q. You knew him from before; is that right?

10 A. Yes, I already knew Mbuna previously.

11 Q. And did (Redacted) also know Mbuna from before?

12 A. Yes, (Redacted) also knew Mbuna.

13 Q. So, when they came to the -- when they came to see you,
14 did they have discussions with you? Did Mbuna have discussions with
15 you?

16 A. Mbuna came to talk to me and put questions to me on the
17 subject of (Redacted).

18 Q. And during that time Mbuna was putting questions to you
19 about (Redacted), (Redacted) was present as well?

20 A. At that moment, (Redacted) was not present.

21 Q. Is it right that somebody called (Redacted) also came to
22 visit you and your family?

23 A. No, I don't even know that individual.

24 Q. I just want to make sure that you heard the name correctly.
25 (Redacted)

1 A. No, I do not know this person.

2 Q. And how about (Redacted)

3 A. No, I do not know (Redacted).

4 Q. And to your knowledge, nobody else from the community, or
5 no one else, came to speak to you about (Redacted) testimony here in
6 The Hague?

7 A. Are you referring to there back home?

8 Q. Yes. Either at the house or at the farm.

9 A. No.

10 PRESIDING JUDGE FULFORD: Mr Sachdeva, in ten minutes we're
11 going to need to do another change of interpreters, and I want to give
12 the witness a ten-minute break, I think at this stage. He has now
13 been in the witness box for quite a long time.

14 So, what we propose to do is to break off now for -- in fact,
15 I will make it 15 minutes so the witness can have a break and we can
16 change interpreters.

17 Closed session, please. And, madam, could you quietly
18 explain to the witness that we're going to have a break now for 15
19 minutes.

20 THE INTERPRETER: Thank you.

21 THE WITNESS: Yes. Thank you. I accept.

22 PRESIDING JUDGE FULFORD: So, we will sit at 25 to. Usher,
23 could you accompany the witness, please.

24 *(Closed session at 12.17 p.m.) Reclassified as Open session

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

1 (The witness stands down)

2 PRESIDING JUDGE FULFORD: 25 to.

3 THE COURT OFFICER: All rise.

4 (Recess taken at 12.19 p.m.)

5 (Upon resuming at 12.36 p.m.)

6 *(Closed session) Reclassified as Open session

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

8 PRESIDING JUDGE FULFORD: Witness and interpreter, please.

9 (The witness enters the courtroom)

10 (The interpreter enters the courtroom)

11 PRESIDING JUDGE FULFORD: Private session, please.

12 *(Private session at 12.37 p.m.) Reclassified as Open session

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

14 PRESIDING JUDGE FULFORD: Mr Interpreter, is there

15 something you wish to say?

16 THE INTERPRETER: Right now nothing, your Honour.

17 PRESIDING JUDGE FULFORD: Thank you. Mr Sachdeva.

18 MR SACHDEVA:

19 Q. Sir, it's right, isn't it, that your son (Redacted) did
20 not grow up with you and your family?

21 A. (Redacted) grew up with me. He never grew up outside the family.

22 Q. It's right, isn't it, that (Redacted) is also known by the
23 names (Redacted)

24 A. No.

25 Q. It's right, isn't it, that your son (Redacted) was a soldier in

1 the UPC?

2 A. Not at all.

3 Q. Do you know somebody called (Redacted)?

4 A. Yes.

5 Q. And how do you know him?

6 A. I know (Redacted) because he is the son of my
7 brother-in-law.

8 Q. Sir, are you sure that you did not go and pick up your son
9 (Redacted) from a military camp in Rwampara?

10 THE INTERPRETER: The Lendu interpreter did not understand
11 your question.

12 MR SACHDEVA: I can repeat it.

13 Q. Sir, my question is this: Are you sure that you did not go to
14 Rwampara camp and take your son (Redacted) from the camp to
15 (Redacted)?

16 What do you say to that?

17 A. My son was not a soldier.

18 MR SACHDEVA: Mr President, that's the cross-examination.

19 PRESIDING JUDGE FULFORD: Thank you, Mr Sachdeva. Very
20 clear. Thank you very much indeed.

21 Maître Buteau, anything further?

22 MS BUTEAU: (Interpretation) No further questions, your Honour.

23 PRESIDING JUDGE FULFORD: Thank you very much, indeed.

24 Sir, we are extremely grateful to you for having come this
25 very long way to give evidence.

1 THE WITNESS: Very well.

2 PRESIDING JUDGE FULFORD: In order for the Court to function,
3 it is critical that people such as yourself are prepared to help us.

4 THE WITNESS: Very well.

5 PRESIDING JUDGE FULFORD: And you are now free to return
6 to Africa with our thanks.

7 THE WITNESS: Thank you as well.

8 PRESIDING JUDGE FULFORD: Thank you for your help,
9 Mr Interpreter.

10 Closed session, please, so the witness and interpreter can
11 withdraw.

12 *(Closed session at 12.43 p.m.) Reclassified as Open session

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

14 (The interpreter is excused)

15 (The witness is excused)

16 PRESIDING JUDGE FULFORD: Private session, please.

17 *(Private session at 12.44 p.m.) Reclassified as Open session

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

19 PRESIDING JUDGE FULFORD: This is the Chamber's oral
20 decision in relation to the variation of protective measures in
21 accordance with Regulation 42 (filing 2097).

22 On 31 August 2009, the Prosecution submitted, first, a
23 confidential ex parte version and, second, a public redacted version
24 of an application for variation of protective measures for Witness
25 219 (documents 2097 and 2098).

1 The Lubanga Defence team informed the Chamber on 15 September
2 2009 that it would not file observations on this application.

3 Protective measures for Witness 219 had been sought for this
4 witness in both Trial Chamber I and Trial Chamber II. At the time,
5 the Prosecution did not inform either Chamber of the various measures
6 requested and authorised in the other Chamber.

7 On 9 April 2009, Trial Chamber I authorised non-disclosure
8 of Witness 219's identity and the disclosure of summaries and an
9 admission of facts in lieu of the witness's interview transcripts
10 (document 1814).

11 Corrected and redacted versions of this decision were issued
12 on 2 June 2009 (document 1924).

13 On 12 June 2009, Trial Chamber I authorised redactions to
14 the identity of Witness 219 in documents relating to another witness
15 (document 1965).

16 A public redacted version was issued on 24 June 2009 (document
17 1980).

18 A more detailed procedural history to these matters is set
19 out in the Prosecution's application of 31 August 2009.

20 The Prosecution informs the Chamber that on 18 August 2009
21 it disclosed the identity of Witness 219 in the Katanga case after
22 considerable protective measures ordered by Trial Chamber II had been
23 implemented. The Prosecution now seeks to vary the protective measures
24 that remain in place before Trial Chamber I so as to disclose to the
25 Defence team in the Lubanga case the same material with the same

1 protective measures as disclosed in the Katanga case. The Prosecution
2 submits that the witness would not be endangered if his identity is
3 now disclosed in the Lubanga case consistently with the decision of
4 Trial Chamber II.

5 In all the circumstances, the Chamber authorises the
6 variation of the protective measures currently in place before Trial
7 Chamber I as requested by the Prosecution pursuant to Regulation 42
8 of the Regulations of the Court. The material relating to Witness
9 219 is to be disclosed to the Lubanga Defence team with the same
10 protective measures as ordered by Trial Chamber II on 27 August 2009,
11 i.e. with redactions to various transcripts as proposed by the
12 Prosecution. The Chamber has scrutinised the remaining redactions,
13 which are proportionate and necessary. No lesser measures are
14 available and they do not cause unfairness to the accused (filing 2104).

15 On 2 December 2009, the Prosecution submitted, first, a
16 confidential ex parte version and, second, a public redacted version
17 of an application to vary the protective measures for a witness
18 (documents 2104 and 2105). The Prosecution seeks to lift the redactions
19 to the name of Witness 219, who is referred to in the transcript of
20 a witness included by the Prosecution in its ex parte filing. The
21 Lubanga Defence team informed the Chamber by email, on 15 September
22 2009, that it did not oppose this application.

23 Redactions had originally been authorised by Trial Chamber
24 I on 12 June 2009 (see document 1965). A public redacted version was
25 issued on 24 June 2009 (document 1980).

1 The Chamber notes that this application overlaps in part
2 with the application for a variation of protective measures as just
3 addressed in relation to Witness 219. In these similar circumstances,
4 the Chamber authorises the variations in accordance with Regulation
5 42 of the Regulations of the Court.

6 That concludes this oral ruling.

7 Maître Mabilille, I think in accordance with the indications
8 that you gave us earlier today, or not earlier today earlier in the
9 week, that in fact brings to an end the evidence that the Defence are
10 able to call this week. Is that still the position?

11 MS MABILLE: (Interpretation) Yes, indeed, your Honour.

12 PRESIDING JUDGE FULFORD: Thank you very much. The Chamber
13 will then this afternoon take the available time to deliver two further
14 decisions: The first will be in private session and all those present
15 now are welcome to attend for that. It is another decision under
16 Regulation 42. That will then be followed by an ex parte Defence only
17 ruling, the final paragraph of which you received in an email, I think
18 towards the end of last week, but the entirety of that ruling has to
19 be given.

20 I attempted to deliver the ruling without delivering it at
21 all, but instead by having what we intend to say simply incorporated
22 into the transcript. That caused a near revolution within the Court
23 administration and I was told that I am not allowed to do that. What
24 I say has to be said, apparently.

25 Right. Thank you all very much. We will meet again in the

1 other courtroom at 3 o'clock this afternoon for those purposes.

2 Maître Mabilille?

3 MS MABILLE: (Interpretation) Well, your Honour, I have
4 one little detail to submit to the Chamber and I prefer to do that
5 before we rise.

6 For the video conference which is going to be held next week,
7 does the Chamber see any inconvenience that we supply the individual
8 who is going to go to Bunia a photograph which we are going to ask
9 the witness to -- whether he or she recognises it, because we feel
10 that the picture which is going to be projected from e-Court may not
11 be clear enough, and so we would like that hard copy be available that
12 can be shown to the witness. Does the Chamber agree with that
13 arrangement, please?

14 PRESIDING JUDGE FULFORD: Does Mr Sachdeva disagree with
15 that suggestion?

16 MR SACHDEVA: We have no objection, Mr President.

17 PRESIDING JUDGE FULFORD: Thank you.

18 (Trial Chamber confers)

19 PRESIDING JUDGE FULFORD: It seems to be an extremely good
20 idea, Maître Mabilille, if I may say so, and I think this is something
21 for everybody to reflect on whether for that witness, and this may
22 apply to two witnesses who are to follow, but not immediately, whether
23 there are documents which should already be in Africa waiting to be
24 shown in hard copy to the witness, rather than relying on the e-Court
25 system. And I think both Prosecution and Defence should reflect on

1 this, because it may be a sensible precaution, and I think the court
2 officer is about to say something to me.

3 Right. We understand this has been addressed to an extent
4 and including - and this is clearly sensible - by participating victims
5 who have made an application to question, which hasn't yet been
6 determined, as a precautionary measure, the documents that they would
7 wish to rely on if they are granted leave have already been transmitted
8 in hard copy and that is undoubtedly a sensible step to have taken.

9 Good. Anything else? No. Three o'clock, Courtroom 2.
10 Thank you.

11 (The hearing ends at 12.58 p.m.)

12 RECLASSIFICATION REPORT

13 Pursuant to Trial Chamber I's email instruction dated 4th May 2012, the
14 transcript is reclassified as public after the indicated redactions have
15 been implemented as ordered by the Chamber. All private and closed sessions
16 (*) are now available to the public with the exception of the portions
17 of the transcript that have been redacted.