

Trial Hearing
WITNESS: DRC-OTP-P-0055

(Open Session)

ICC-01/04-02/06

1 International Criminal Court
2 Trial Chamber VI - Courtroom 2
3 Situation: Democratic Republic of Congo
4 In the case of The Prosecutor v. Bosco Ntaganda - ICC-01/04-02/06
5 Presiding Judge Robert Fremr, Judge Kuniko Ozaki and
6 Judge Chang-ho Chung
7 Trial Hearing
8 Friday, 26 February 2016
9 (Hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE FREMR: Good morning, everybody.
14 Court officer, please call the case.
15 THE COURT OFFICER: Good morning, your Honours. This is the situation in the
16 democratic republic of the Congo, in the case of The Prosecutor versus Bosco Ntaganda,
17 case reference number ICC-01/04-02/06.
18 We are in open session, Mr President.
19 PRESIDING JUDGE FREMR: Thank you, court officer.
20 Now appearances as usual starting with Prosecution.
21 MS SAMSON: Good morning, Mr President and your Honours. Appearing for the
22 Prosecution today are Mr Rens van der Werf and Mr James Pace, both assistant trial
23 lawyers; Ms Marion Rabanit, associate trial lawyer; Ms Dianne Luping, trial lawyer;
24 Ms Selam Yirgou, case manager; and myself, Nicole Samson, senior trial lawyer.
25 PRESIDING JUDGE FREMR: Thank you, Ms Samson.

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1 Defence, please.

2 MR BOURGON: (Interpretation) Good morning, Mr President. Good morning your,
3 Honours. Good morning to all those in the courtroom. Representing Bosco Ntaganda,
4 who is here with us this morning, Isabelle Martineau, legal assistant on a temporary
5 basis; Dignité Bwiza, legal consultant on a temporary basis; and myself, Stéphane
6 Bourgon. Thank you, Mr President.

7 PRESIDING JUDGE FREMR: Thank you, Mr Bourgon.

8 Now Legal Representatives of Victims, please.

9 MS PELLET: (Interpretation) Thank you, Mr President. Former child soldiers are
10 represented by Mohamed Abdou and myself, Sarah Pellet, counsel at the OPCV. Thank
11 you.

12 MR SUPRUN: (Interpretation) Good morning, Mr President. Good morning, your
13 Honours. The victims of the attacks are represented by the OPCV by Anne Grabowski,
14 associate lawyer, and myself, Dmytro Suprun, counsel.

15 PRESIDING JUDGE FREMR: Thank you, Ms Pellet. Thank you, Mr Suprun.

16 And at the end duty counsel, please, for the record.

17 MR CIKONZA: (Interpretation) Good morning, Mr President. Good morning, your
18 Honours. Good morning to all participants in the courtroom. I have the honour to
19 appear as legal advisor to Witness P-55. My name is Mundere Cikonza of the Brussels
20 Bar and a member on the list of counsel at the ICC. Thank you, Mr President.

21 PRESIDING JUDGE FREMR: Thank you, Mr Cikonza.

22 Mr Witness, good morning. It's my duty to remind you that you are still under oath, so
23 you have to speak truth and nothing but the truth. We will continue with your
24 testimony by cross-examination conducted by Defence.

25 Mr Bourgon, I'm asking, clearly at the moment we are in public session, this witness is

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1 protected, so subject to your upcoming questions, it's up to you to decide whether we
2 should remain in open or to move to private.

3 MR BOURGON: I believe, Mr President, that we can remain in public for a very short
4 while.

5 PRESIDING JUDGE FREMR: Okay. But please be vigilant.

6 So you may proceed, Mr Bourgon.

7 WITNESS: DRC-OTP-P-0055 (On former oath)

8 (The witness speaks Swahili)

9 QUESTIONED BY MR BOURGON: (Continuing)

10 Q. Good morning, Mr Witness.

11 A. Good morning.

12 Q. I would like to begin this morning by returning to a topic which was raised
13 initially or at the beginning of your cross-examination. And I refer here to the
14 transcript T-70 and this was at page 81 -- or 51, sorry, and this was at line 12 -- or 8 -- 9 to
15 15.

16 My topic has to do with the ANR. Do you recall us talking about the ANR?

17 A. Yes.

18 Q. And the ANR, if I understand correctly, is l'agence nationale de Renseignement.
19 Would that be correct?

20 A. Yes.

21 Q. Sir, you mentioned some individuals working in the ANR and I believe you
22 referred to a man called Rafiki; is that correct?

23 A. Yes.

24 Q. You also referred to a man called José. Do you recall this?

25 A. Yes, I remember.

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1 Mr President, Defence counsel has mentioned the name José and I remember that the
2 Prosecutor had asked me the question about the family name of José. Now I remember
3 the name. The name is Bourassa. Bourassa José.

4 PRESIDING JUDGE FREMR: Thank you, Mr Witness.

5 MR BOURGON:

6 Q. Sir, just about José, do you recall that people used a derogatory name for him at the
7 time, if you recall?

8 A. Yes. I do remember.

9 Q. And what was that name, sir.

10 A. Munyato.

11 Q. And what does this mean because I'm not getting any translation of this? Is that a
12 term or is that a name?

13 A. It is somewhat of a nickname. When I arrived there, his nickname was Munyato.
14 It was not his name. I think that he was given that nickname because he was a very
15 humorous person and he used to enjoy listening to Congolese music. And so I don't -- I
16 can't say with certainty that I know why he was being called Munyato. In any event,
17 Munyato was his nickname, some sort of parody, so to speak.
18 It was a way of teasing him.

19 Q. Now, of course, sir, I don't speak Swahili, so to me Munyato doesn't ring a bell.
20 But if I say Munyato in your language, what does that -- what does that -- what image
21 does that bring to you?

22 A. Munyato is not a Swahili word. Maybe it is in Lingala, but I'm not very sure. In
23 any event, what is certain is that this is not a Swahili word. But even if it were a Swahili
24 word, I am not familiar with it.

25 Q. So I understand from your testimony that you -- that he was called Munyato but

1 that for you it was just a name and nothing else?

2 A. Yes. It was a name. People used to call him Munyato, but I don't know why he
3 was called by that name. But he was happy whenever people called him by that name.
4 But I do not know why he was called Munyato.

5 Q. One last question on this topic. At page 5, lines 1 -- line 3. You say, "It was a
6 way of teasing him." Do you know why the word "Munyato" would tease José? What
7 was teasing in the term "Munyato," if you know?

8 A. Well, when he was called Munyato, he was happy. But I never called him by that
9 nickname. So what I am providing here is explanations about what I know. But I
10 never personally called him Munyato and I don't know why he was given that
11 nickname.

12 Q. I'll leave this topic aside, because we will return to that later because if I am -- if I'm
13 correct, (Redacted) in the -- in the years that separate us from
14 your time you were in Bunia until today; is that correct?

15 PRESIDING JUDGE FREMR: Mr Witness, if you would be a little bit more specific
16 about your contacts, then probably we will have to move into private session.

17 MR BOURGON: I'm just looking for a yes or a no, Mr President, and I'm leaving it
18 aside.

19 PRESIDING JUDGE FREMR: Yes or no. Okay, then if yes or no, it's still fine.

20 MR BOURGON:

21 Q. So my question, sir, is (Redacted) after leaving UPC?

22 A. Now, if you want me to answer this question, then I would request that we go into
23 private session.

24 Q. Then we'll leave it aside and we'll come back later because I'd like to stay as long as
25 possible into public session, so we'll come back to that later.

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1 Another individual that was (Redacted), correct me if I'm wrong, was a man
2 called (Redacted); is that correct?

3 A. Mr President, I would like to insist that we go into private session. Questions are
4 being put to me in relation to persons about whom I cannot provide answers in open
5 session.

6 MR BOURGON: Let's move in private session, Mr President.

7 PRESIDING JUDGE FREMR: Yeah. Otherwise we will probably just get limited
8 answers and it's better for us to make witness comfortable and to leave him express
9 freely.

10 So now we will have to move into private session. And for the information of the
11 public it's because this witness is protected, so he was given guarantee that his identity
12 will not be revealed during this proceedings.

13 (Private session at 9.46 a.m.)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

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- 25 (Recess taken at 11.02 a.m.)

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1 (Upon resuming in open session at 11.38 a.m.)

2 THE COURT USHER: All rise.

3 Please be seated.

4 PRESIDING JUDGE FREMR: The short delay we are starting with was caused by some
5 technical problems, but I was told that this problem had been solved, so Mr Bourgon,
6 everything is, on your part, ready for --

7 MR BOURGON: (Microphone not activated)

8 PRESIDING JUDGE FREMR: Fine. At the moment we are in public session. Do you
9 think that the character of the upcoming examination will allow us to remain in open or
10 should we move into private?

11 MR BOURGON: Well, I -- we'll go into private session.

12 PRESIDING JUDGE FREMR: So it's for the public, because the witness is protected,
13 there is a guarantee that his identity will not be revealed and, because of that risk, we
14 have to move into private session.

15 Court officer, let's move into private session.

16 (Private session at 11.39 a.m.)

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- 14 (Redacted)
- 15 (Recess taken at 1.08 p.m.)
- 16 (Upon resuming in open session at 2.30 p.m.)
- 17 THE COURT USHER: All rise.
- 18 PRESIDING JUDGE FREMR: Ms Samson.
- 19 MS SAMSON: Yes, your Honour, I just wanted to note that from the Prosecution's side
- 20 Mr Rens van der Werf had to leave this afternoon and he will not be in the courtroom.
- 21 PRESIDING JUDGE FREMR: Yes, I appreciate the announcement because you entirely
- 22 follow my previous guidance to keep our record accurate. So thank you for that.
- 23 We will continue with the witness's testimony.
- 24 Mr Bourgon, you may proceed.
- 25 MR BOURGON: Thank you, Mr President. I'd like to begin, Mr President, by -- I

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1 provided a reference that appears to be erroneous this morning.

2 PRESIDING JUDGE FREMR: So, Mr Bourgon, I guess we will have to move again to
3 private?

4 MR BOURGON: Yes, Mr President.

5 PRESIDING JUDGE FREMR: So, court officer, please let's move into private session.

6 (Private session at 2.31 p.m.)

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- 9 (The hearing ends in private session at 4.36 p.m.)