

Trial Hearing
WITNESS: UGA-OTP-P-0309

(Open Session)

ICC-02/04-01/15

1 International Criminal Court
2 Trial Chamber IX
3 Situation: Republic of Uganda
4 In the case of The Prosecutor v. Dominic Ongwen - ICC-02/04-01/15
5 Presiding Judge Bertram Schmitt, Judge Péter Kovács and Judge Raul Pangalangan
6 Trial Hearing - Courtroom 3
7 Friday, 31 March 2017
8 (The hearing starts in open session at 9.30 a.m.)
9 THE COURT USHER: [9:30:12] All rise.
10 The International Criminal Court is now in session.
11 PRESIDING JUDGE SCHMITT: [9:30:27] Good morning, everyone.
12 Good morning, Mr Witness.
13 Could the court officer please call the case.
14 THE COURT OFFICER: [9:30:44] Thank you, Mr President.
15 The situation in Uganda, in the case of The Prosecutor versus Dominic Ongwen, case
16 reference ICC-02/04-01/15.
17 For the record, we are in open session.
18 PRESIDING JUDGE SCHMITT: [9:30:58] Thank you. I ask for the appearances of
19 the parties.
20 MR CHOUDHRY: [9:31:03] Good morning, your Honour.
21 Kamran Choudhry, today with me in court is Mr Colin Black, Ms Beti Hohler,
22 Mr Shkelzen Zeneli, Ms Yulia Nuzban, Mr Pubudu Sachithanandan, Ms Ramu Fatima
23 Bittaye, Mari Pilvio, and Xinwei Liu.
24 PRESIDING JUDGE SCHMITT: [9:31:18] Thank you.
25 Mr Cox.

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- 1 MR COX: [9:31:21] Good morning, your Honours. Francisco Cox and
2 James Mawira for the victims.
- 3 MR NARANTSETSEG: [9:31:28] Good morning, your Honours.
4 Orchlon Narantsetseg for the Common Legal Representative.
- 5 PRESIDING JUDGE SCHMITT: [9:31:35] Thank you. And for the Defence.
- 6 MR OBHOF: [9:31:36] Good morning, your Honours. We have counsel
7 Ayena Odongo here, Chief Achaleke Taku, Mr Roy Titus Ayena, our client
8 Mr Dominic Ongwen, and myself Thomas Obhof.
- 9 PRESIDING JUDGE SCHMITT: [9:31:47] And counsel for the witness.
- 10 MS KERWEGI: [9:31:51] Good morning, your Honours. Sarah Kerwegi.
- 11 PRESIDING JUDGE SCHMITT: [9:31:56] Thank you very much.
12 And, Mr Obhof, you still have the floor.
- 13 WITNESS: UGA-OTP-P-0309 (On former oath)
14 (The witness speaks Acholi)
- 15 QUESTIONED BY MR OBHOF: (Continuing)
- 16 MR OBHOF: [9:32:06]
- 17 Q. [9:32:07] Good morning, Mr Witness. I hope you slept well last night, and
18 we'll do our best to get you out of here as early as possible today.
- 19 Mr Witness, do you know what the local Defence units were while you were in the
20 bush?
- 21 A. [9:32:30] No, I did not.
- 22 Q. [9:32:33] Had you ever heard of the group the Kaladuska?
- 23 A. [9:32:39] No, I did not hear about them?
- 24 Q. [9:32:46] Have you ever heard of the group called Bookec?
- 25 A. [9:33:02] Yes, I have.

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1 Q. [9:33:03] Could you please describe what the group Bookec was.

2 A. [9:33:20] I said I heard about them, but I do not know what kind of group they
3 belong to or what kind of group it was.

4 Q. [9:33:30] Thank you, Mr Witness.

5 Have you heard of Arrow boys?

6 A. [9:33:43] When I was in the bush, no, I did not hear about that name.

7 Q. [9:33:50] When you left the bush did you later learn what the Arrow boys
8 were?

9 A. [9:34:02] Yes, I did.

10 Q. [9:34:06] If you know what they are now, could you please describe to this
11 Court what the Arrow boys were?

12 A. [9:34:17] My understanding -- I found out about the Arrow boys when I came
13 back from the bush. They are local -- the local populace who were not happy with
14 what the LRA was doing. They did not have any weapons like guns. They mostly
15 used bows and arrows and that's why they call them the Arrow boys. They used
16 that to fight against the LRA.

17 Q. [9:34:55] Mr Witness, do you know if they received any formal training from
18 the government of Uganda?

19 A. [9:35:04] No, I do not know.

20 Q. [9:35:09] Do you know what the Amukas were?

21 A. [9:35:17] No, I do not know.

22 Q. [9:35:21] Mr Witness, for some of these, for the groups that you at least
23 recognize the name or if you know about now, when you were in the bush do you
24 know where they lived? I.e. did they live in the barracks or in the camp?

25 A. [9:35:40] When I was in the bush I did not see them so I do not know where

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1 they were staying.

2 Q. [9:35:52] Mr Witness, I have a -- do you remember yesterday when we talked
3 about your short time in Teso?

4 A. [9:36:16] I do not recall every single thing.

5 Q. [9:36:26] But you do remember we talked about it yesterday; is that correct?

6 A. [9:36:33] Yes, I do.

7 Q. [9:36:36] And do you remember yesterday when I refreshed your memory by
8 reading part of your statement about you learning about Tabuley dying whilst you
9 were leaving Teso?

10 A. [9:37:01] Yes, I do.

11 Q. [9:37:05] Mr Witness, if I told you that Tabuley died on 30 October 2003 in a
12 place called Anyara near a town called Otuboi would it surprise you?

13 And Otuboi is spelled O-T-U-B-O-I.

14 A. [9:37:39] I do not know because I do not know the date that he died.

15 Q. [9:37:45] Mr Witness, did you ever go to Obalanga whilst in Teso?

16 A. [9:38:00] I do not recall because I did not know the names of all the places in
17 that area.

18 Q. [9:38:08] But it is still your statement today that you did not abduct anyone
19 whilst in Teso? Or sorry, better put, that your group did not abduct anybody whilst
20 in Teso?

21 A. [9:38:26] I do not recall of any people being abducted from Teso.

22 Q. [9:38:38] Mr Witness, whilst your group was in Teso did the group launch any
23 large-scale attacks where three to 400 people were killed?

24 A. [9:39:01] I have no recollection of that.

25 Q. [9:39:07] Is it just that you don't remember or that you did not -- you did not

1 do it?

2 A. [9:39:20] If I say I do not remember, that means I do not remember. Maybe it
3 did happen, but I just do not remember.

4 Q. [9:39:33] Now, Mr Witness, with Pajule could you please tell the Court again
5 where the RV was for the attack on Pajule.

6 A. [9:39:58] When Pajule was attacked we met in an area known as Wanduku.

7 Q. [9:40:11] Did you first meet in a place called Latanya?

8 A. [9:40:21] We had come from that area.

9 Q. [9:40:27] Mr Witness, around what time did you leave the RV for Pajule?

10 A. [9:40:57] I do not recall the exact time that we left.

11 Q. [9:41:03] Do you remember how long it took you to walk from Wanduku to
12 Pajule?

13 A. [9:41:23] From Wanduku to Pajule it took us a long while. We did not go
14 directly to Pajule. We walked, stopped along the way, stayed in the bushes for a
15 while, walked, stopped, so it's extremely difficult to estimate the exact amount of time
16 because we delayed along the way.

17 Q. [9:41:56] Do you remember how many times during that walk that you
18 stopped? Two times? Three times? Five times?

19 A. [9:42:12] No, I do not recall.

20 Q. [9:42:14] When you left the RV point was it still light outside, had the sun just
21 set, or was it in the middle of the night?

22 A. [9:42:27] I do not remember the exact location of the sun.

23 Q. [9:42:44] Was the sun still out though or was it dark, if you can remember?

24 A. [9:42:53] I recall that when we were walking it was still dark, but I do not
25 recall the exact location where the sun was at the time.

1 Q. [9:43:06] Mr Witness, I'm going to read you a short list of names and if you
2 could, if you remember if these persons were at the attack for Pajule. You merely
3 answer "yes", "no", or "I don't recall." And if you do remember being there, could
4 you please tell the Court, if you know, what their function was for the attack on
5 Pajule.

6 The first name is Bogi Bosco.

7 A. [9:43:49] I have no recollection.

8 Q. [9:43:53] Charles Kapere.

9 A. [9:44:00] No recollection either.

10 Q. [9:44:03] Onek Padibay?

11 A. [9:44:11] I do not recall. I do not recall him.

12 Q. [9:44:17] Odong Cow.

13 A. [9:44:27] I do not recall whether Odong Cow was present when we attacked
14 Pajule because I cannot distinguish between the times that we attacked Pajule and the
15 time that he escaped.

16 Q. [9:44:46] Opio Sam?

17 A. [9:44:53] I do not recall.

18 Q. [9:44:57] Onyee?

19 A. [9:45:03] I do not recall.

20 Q. [9:45:08] Anena Margaret?

21 A. [9:45:18] Could you please repeat that name?

22 Q. [9:45:22] Anena Margaret?

23 A. [9:45:27] No, I do not recall.

24 Q. [9:45:32] Icaya Loum?

25 A. [9:45:37] I do not recall.

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- 1 Q. [9:45:41] David Oyenga?
- 2 A. [9:45:46] I do not recall.
- 3 Q. [9:45:51] Charles Lukwiya?
- 4 A. [9:45:56] I cannot remember as well.
- 5 Q. [9:46:00] Arop Bakmac?
- 6 A. [9:46:06] I cannot remember.
- 7 Q. [9:46:09] And the final one, Ocan Bunia?
- 8 A. [9:46:16] I do not remember.
- 9 Q. [9:46:21] Mr Witness, you previously stated to the Court that on the way to
- 10 Pajule you stopped off at a place called Laloyo - it's spelled L-A -- Laloyo - at that
- 11 home. How long were you there before you went into Pajule?
- 12 A. [9:46:54] I do not recall how long we stayed at Laloyo's place. I do remember
- 13 that we did stay in that place when we were going, we stayed at Laloyo's place. I
- 14 remember that home.
- 15 Q. [9:47:13] If I asked you to give an estimate, was it more than 30 minutes, more
- 16 than an hour, or you just do not know?
- 17 A. [9:47:27] We stayed -- we stayed there for a while. We actually sat down, so I
- 18 do not know, I cannot estimate the exact amount of time we spent there.
- 19 Q. [9:47:41] Now, Mr Witness, you told the Court that your group, which you
- 20 state that Mr Ongwen led, went to the military barracks when it first arrived in Pajule.
- 21 Is that correct?
- 22 A. [9:47:58] Yes, it is.
- 23 Q. [9:48:01] And you also stated that another group went to the trading centre; is
- 24 that correct?
- 25 A. [9:48:10] Yes, it is.

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1 Q. [9:48:14] Mr Witness, who was in charge of the attack on the trading centre?

2 A. [9:48:32] The person who was in charge of the trading centre, the name I heard
3 was Raska.

4 Q. [9:48:42] Did you see Raska go to Pajule?

5 A. [9:48:54] When we were going to Pajule, I did not pay -- look around to pay
6 attention to where he was.

7 Q. [9:49:03] When you were travelling from Wanduku to Pajule, did you see
8 Raska in the convoy at all?

9 A. [9:49:18] I did not personally see him, but what -- what I heard, was the
10 information that we were given, that Raska was also going to fight there, but I did not
11 personally see him.

12 Q. [9:49:35] And at this time of Pajule what was Raska's rank and his
13 position -- or, sorry, his rank and his job?

14 A. [9:49:53] I do not know his exact rank.

15 Q. [9:50:05] Did he lead a group as a commander?

16 A. [9:50:13] He was, he was a commander and he led a group. When we met
17 Dominic would actually show him respect, so my assumption was that he was higher
18 than Dominic.

19 Q. [9:50:32] Do you know which group he led, Mr Witness?

20 A. [9:50:38] No, I do not know the name of the group.

21 Q. [9:50:43] Mr Witness, did another group attack the Catholic mission?

22 A. [9:51:01] I do not know about any group that went to the mission.

23 Q. [9:51:10] Mr Witness, on Wednesday you said that the group that you were
24 with that engaged the UPDF at the barracks spent about 40 to 50 minutes fighting
25 with the UPDF at the barracks; is that correct?

1 A. [9:51:36] Yes, it is.

2 Q. [9:51:39] And please excuse me for asking the repeating question, but are you
3 sure that your group was tasked with fighting the barracks and was led by
4 Mr Ongwen?

5 A. [9:51:55] That's correct.

6 Q. [9:51:59] Now, after being overpowered by the UPDF, you retreated -- the
7 group that you were with retreated to the trading centre; is that correct?

8 A. [9:52:14] Yes, that's correct.

9 Q. [9:52:18] And you stated that the UPDF did not pursue the group immediately
10 thereafter; correct?

11 A. [9:52:30] Yes.

12 Q. [9:52:34] Mr Witness, why did you retreat to the trading centre?

13 A. [9:52:44] Because we -- we had been defeated at the barracks.

14 Q. [9:52:52] To the best of your knowledge, was there any reason for going to the
15 trading centre instead of going back to the RV point?

16 A. [9:53:10] I do not know because I did not lead people to go to the centre, so I
17 do not know the reason why.

18 Q. [9:53:19] Now, Mr Witness, in your opinion why would the group retreat to
19 the centre to loot houses and abduct people if Raska Lukwiya's group had already
20 been there for 40 to 50 minutes allegedly looting houses and abducting people?

21 A. [9:53:46] I do not know why.

22 Q. [9:53:50] When the group which you were in retreated to the trading centre,
23 were you with Mr Ongwen during the 30 or so minutes that you were there?

24 A. [9:54:12] When we got to the centre, yes, we were with him.

25 Q. [9:54:19] At any time whilst in the trading centre did you see Mr Ongwen

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1 physically attack Rwot Oywak?

2 A. [9:54:37] At the time I did not even know Rwot Oywak.

3 MR OBHOF: [9:54:45] Your Honours, I would like everyone to turn to tab 2,

4 UGA-OTP-0258-0818, at page 0823, paragraph 31. And this is confidential for the
5 court officers.

6 "I did not see the Rwot in Pajule but I saw him after. I did not know who he was but
7 the other LRA soldiers told me who he was. I cannot remember who told me this.
8 Before I was abducted, I had heard about Rwot in Pajule. However, I had never met
9 him."

10 Q. Now, you are correct, you had stated that you had never met the Rwot but that
11 you were shown him after with the civilians at the RV; is that correct?

12 A. [9:56:09] That's correct.

13 Q. [9:56:10] Do you remember Dominic physically attacking that person which
14 was later identified to you at the RV whilst in the trading centre?

15 A. [9:56:30] I did not know Rwot Oywak so I do not remember what happened.
16 I knew about Rwot Oywak once we got to our RV and the position where people
17 were released.

18 Q. [9:56:49] Mr Witness, after the attack did the LRA groups retreat back to the
19 RV point from which you started the night before?

20 A. [9:57:08] Yes, they did.

21 Q. [9:57:10] Do you remember how long it took the group to get from Pajule to
22 the RV point?

23 A. [9:57:26] I do not recall how long it took.

24 Q. [9:57:35] How long did you stay at that RV point before you moved again?

25 A. [9:57:44] I do not recall how long we stayed there but, to my recollection we

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1 left, but I do not know if we stayed there for a long time, but I do know that we left.

2 Q. [9:58:04] Do you remember if you left that same day or the day after?

3 A. [9:58:15] I recall that we left on the same day.

4 Q. [9:58:20] Do you remember how many people were abducted at Pajule? An
5 estimate.

6 A. [9:58:36] There were -- when people were gathered together there were a
7 number of people. If I hazard a guess, perhaps a hundred and more.

8 Q. [9:58:51] Now, Mr Witness, when you left the RV point, did all of the
9 abductees leave with you -- or leave with the group? Sorry.

10 A. [9:59:18] I do not know if -- I wasn't aware if we were moving with all the
11 people who had been abducted because I did not know all the people that had been
12 abducted.

13 Q. [9:59:33] At the RV point then, did the large group at the RV point split into
14 smaller groups or did it move all as one group to the next location?

15 A. [9:59:56] There were so many people so I did not know of people who split
16 and people who stayed. It wasn't very obvious.

17 Q. [10:00:10] After you returned from Pajule, or after the group returned from
18 Pajule, did you see any meetings between the alleged top commanders?

19 A. [10:00:31] I saw when the civilians had been gathered together. I do not
20 know whether there was any other meeting.

21 Q. [10:00:47] At any time when you returned to the RV point, did Otti Vincent
22 address the abductees or the LRA group that was there?

23 A. [10:01:12] Well, I don't remember if Otti addressed the LRA fighters who were
24 there. What I can remember is that the people who were released were addressed.

25 Q. [10:01:26] Who addressed them?

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1 A. [10:01:33] Otti.

2 Q. [10:01:39] To the best of your recollection, did Otti Vincent meet with Rwot
3 Oywak?

4 A. [10:01:55] I don't know whether they had met earlier, but what I know was
5 that I saw them together at the time when people were being released.

6 Q. [10:02:08] In your opinion did Rwot Oywak appear to be worried for his life?

7 A. [10:02:26] Well, I couldn't have known from him how he was feeling at that
8 time.

9 Q. [10:02:34] Did Rwot Oywak ever address the abductees before they left?

10 A. [10:03:01] I did not hear him talk.

11 Q. [10:03:06] Did they leave before or after you left the RV point at Wanduku?

12 A. [10:03:28] We had already left the RV, we had moved to another location.

13 Q. [10:03:38] Did those persons who were released, did they spend the night with
14 the group of LRA?

15 A. [10:03:58] Well, I don't know.

16 Q. [10:04:03] Mr Witness, when did the attack on Pajule happen?

17 A. [10:04:19] I don't know the exact date.

18 Q. [10:04:27] Was it the day after Independence Day?

19 A. [10:04:39] It was shortly after Independence Day celebration. Independence
20 Day celebration had taken place around about three days earlier. Something like
21 that.

22 Q. [10:04:57] Now, Mr Witness, am I correct in saying that Independence Day in
23 Uganda is 9 October?

24 A. [10:05:20] That's correct.

25 Q. [10:05:24] And when you went to Pajule you had already been trained; is that

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1 correct?

2 A. [10:05:44] Correct.

3 Q. [10:05:47] And since you came back from the bush in 2004 before
4 Independence Day, would I be correct in saying that this attack happened after
5 Independence Day in 2003 in the month of October?

6 A. [10:06:18] Well, I cannot clearly recall that. I don't understand it.

7 PRESIDING JUDGE SCHMITT: [10:06:25] He has answered it already, I think.
8 This is lines 20 -- 20 following.

9 MR OBHOF: [10:06:36]

10 Q. [10:06:36] Now, Mr Witness, you stated to the Court that you spent a week in
11 Teso and about a week at Latanya before that. And that you moved to Latanya after
12 Otti ordered everyone to move to Teso. Mr Witness, following this timeline,
13 including in the fact that you said you heard about Tabuley's death after you were
14 leaving Teso, are you still sure that you attacked Pajule 20 days at the most before
15 leaving Teso?

16 A. [10:07:27] I don't clearly recall the date, because even while I was in the bush
17 I was not -- I could not recognize days and dates. I wouldn't even know which
18 month we are in. I would just estimate that we could be in this month or the other.
19 Or sometimes I would inquire from other people.

20 Q. [10:07:59] But, Mr Witness, no fewer than 14 days before you left Teso is
21 when -- is the latest in which Mr Ongwen, as you state, could have received the
22 orders from Otti to meet him and for others to meet him in Teso. Now, Mr Witness,
23 considering the time lines of when Mr Tabuley died, and that if Mr Ongwen received
24 orders from Otti to meet him in Teso, and others, how is it possible that you attacked
25 Pajule?

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1 PRESIDING JUDGE SCHMITT: [10:08:48] I think the timeline is uncertain to say
2 the least. The witness has said that he learned to know that Tabuley had died, but he
3 did not say or state that he really knew when he died. And also, when orders were
4 given could not be fixed on a day, so to speak. So it's a little bit unclear how the
5 witness can answer to that. So you can put it on the table, so to speak, these -- this
6 evidence, but you would rephrase, I think, would have to rephrase the question.
7 I think the witness will be confused by this.

8 MR OBHOF: [10:09:31] I'll ask it in a simpler form, your Honour. Thank you.

9 Q. [10:09:36] Considering everything we've talked about, Mr Witness, are you
10 sure that you went to Pajule in October of 2003?

11 A. [10:10:08] I can confirm that I went to Pajule and witnessed what happened
12 there. Even if the year was different from what I have said, well, maybe I have
13 gotten the year wrongly.

14 Q. [10:10:28] Mr Witness, we're going to move on to Odek now.

15 A housekeeping question about Odek, Mr Witness: Could you please tell Court
16 what type of big gun has bullets that explode?

17 A. [10:11:05] All the heavy weapons that had bullets that could explode, what I
18 know very well was the RPG and a mortar. But there were also others whose names
19 I didn't know but the LRAs would move with them.

20 Q. [10:11:25] So would I be correct in stating that you allege that artillery was
21 used at Odek by the LRA?

22 A. [10:11:42] You've said it correctly.

23 Q. [10:11:48] Mr Witness, you confirm to the Prosecution and Court that the RV
24 point for Odek was at Loyo Ajonga, correct?

25 PRESIDING JUDGE SCHMITT: [10:12:10] I think, again, Mr Obhof, he has said it

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1 and this was his testimony until now.

2 MR OBHOF: [10:12:16] Yes. I was making sure because he had had his memory
3 refreshed, your Honour, when the Prosecution asked and that's why (Overlapping
4 speakers)

5 PRESIDING JUDGE SCHMITT: [10:12:22] Okay. So might be an exception.

6 MR OBHOF: [10:12:26] Yes.

7 PRESIDING JUDGE SCHMITT: [10:12:26] But as I repeat it, in principle when a
8 witness, when we have it in the transcript, then this is the evidence this witness has
9 given before this Court until this moment.

10 MR OBHOF: [10:12:35] Yes, I understand, your Honour.

11 PRESIDING JUDGE SCHMITT: [10:12:38] We don't have to, you know, because
12 it's only for streamlining the proceedings.

13 MR OBHOF: [10:12:42] Yes.

14 PRESIDING JUDGE SCHMITT: [10:12:42] We don't have to verify again is -- did
15 you say that because he said that.

16 MR OBHOF: [10:12:47] Thank you, your Honour. I'm really sorry.

17 Q. [10:12:58] Now, Mr Witness, when did you meet at the RV point? And by
18 that, was it the day before the attack or the day of the attack?

19 A. [10:13:20] I don't remember the exact date we met.

20 Q. [10:13:25] Well, I'm not looking for a day, whether it was the 1st, 2nd or
21 the 3rd. Did you meet at the RV point on the day of the attack or the day before the
22 attack?

23 A. [10:13:58] I don't know. Meeting with who? Because we were already there.
24 I don't know who else we met.

25 Q. [10:14:09] Do you remember how long you were at the RV point then before

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1 the attack was launched? Was the group there for a day, for two days, three days, a
2 week?

3 A. [10:14:29] It was -- we were in the bush and there is no time the LRA would
4 really set a period that when we go to this place we stay for a week or a month, but
5 you would station at one point basing on the security of the place and then the
6 availability of the resources like water. If you find a place that has security and all
7 that you can stay for a day or a week or even more than that.

8 Q. [10:15:03] Now, do you remember around what time of the day you left for
9 Odek from the RV point?

10 A. [10:15:16] I don't remember the time.

11 Q. [10:15:20] Do you remember how long it took to walk from the RV point to
12 Odek?

13 A. [10:15:45] What I remember was that we left when it was not yet dark, but I
14 cannot really estimate the exact time we left.

15 Q. [10:16:01] Do you remember any of the names of the persons who went to
16 Odek?

17 A. [10:16:23] I can remember some.

18 Q. [10:16:28] Could you please tell the Court the names that you remember.

19 A. [10:16:38] I can recall about Richard, Ocaya, and Opio Korea, and Dominic.

20 Q. [10:16:59] I'm going to say a few more names, Mr Witness. Please let the
21 Court know if by saying these names it refreshes your memory on whether or not
22 they went. The first name is David Oyenga?

23 A. [10:17:21] I have no recollection of that.

24 Q. [10:17:25] Okwonga Alero?

25 A. [10:17:33] I also don't remember.

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- 1 Q. [10:17:35] Ojok Kampala?
- 2 A. [10:17:42] I don't remember.
- 3 Q. [10:17:45] Icaya Loum?
- 4 A. [10:17:50] I don't remember either.
- 5 Q. [10:17:53] Ben Acellam?
- 6 A. [10:18:00] That too I don't remember.
- 7 Q. [10:18:05] When we discussed the names yesterday you noted that you knew
- 8 an Acellam. Did the -- or you had heard of Acellam. Did the Acellam that you
- 9 heard of go to Odek?
- 10 A. [10:18:25] I said I don't remember whether he went or not.
- 11 Q. [10:18:31] Okello Kalalang?
- 12 A. [10:18:39] I don't remember.
- 13 Q. [10:18:43] Ocan George Labongo?
- 14 A. [10:18:52] I can't recall whether he was in the Odek attack.
- 15 Q. [10:18:59] Okello Richard?
- 16 A. [10:19:08] I also don't recall.
- 17 Q. [10:19:11] Daniel Wokorach?
- 18 A. [10:19:18] I don't remember.
- 19 Q. [10:19:22] Pai-Pai?
- 20 A. [10:19:26] I don't remember.
- 21 Q. [10:19:28] And finally, Kidega Pakpala?
- 22 A. [10:19:35] I also don't recall that.
- 23 Q. [10:19:43] Now, Mr Witness, I'd like to try to refresh your memory at the time
- 24 it went to -- you know, the time it took to go from the RV point to Odek. You
- 25 previously stated to the Prosecution that it took about three or four hours. Would

1 that still be around a good estimate, Mr Witness?

2 A. [10:20:23] Yeah, it could be a correct estimate.

3 Q. [10:20:27] Mr Witness, do you know how far it is from the RV point you
4 indicated to Odek?

5 A. [10:20:45] I don't know the distance.

6 Q. [10:20:49] Did you make any stops along the way as you did when you were
7 going from the RV point to Pajule?

8 A. [10:21:04] Yes, we did.

9 Q. [10:21:07] Did you make just one stop or did you make a couple stops or many
10 stops?

11 A. [10:21:21] We stopped several times. Sometimes we would stop while we
12 were passing in thickets and the people who were ahead would have to clear the
13 thickets so that we can be able to pass through the bushes. So we made several
14 stops.

15 Q. [10:21:43] Now, Mr Witness, April is during the heart of rainy season in north
16 Uganda, is that correct?

17 A. [10:22:02] I am not sure. I don't know how the year would start because
18 I don't know whether it would be the heights of the rainy season or not. These
19 are -- changes are always there.

20 Q. [10:22:16] But April is still in the rainy season; is that correct?

21 A. [10:22:26] Yes.

22 Q. [10:22:32] And you were also walking with Mr Ongwen who you said when
23 you left the bush walked like one leg was shorter than the other; is that correct?

24 A. [10:22:58] Correct.

25 Q. [10:23:01] Mr Witness, does it surprise you to learn that the RV point you

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1 indicated is approximately 21 kilometres from Odek?

2 PRESIDING JUDGE SCHMITT: [10:23:27] Are we talking about this Loyo Ajonga?

3 MR OBHOF: [10:23:38] Yes, that is correct, your Honour.

4 THE WITNESS: [10:23:41] (Interpretation) Well, I really don't know because

5 I don't know from where he started the measurement. I don't know the start point,

6 whether you measured it using the roads or direct from using the bushes. So I don't

7 know the actual distance.

8 MR OBHOF: [10:24:01]

9 Q. [10:24:03] Mr Witness, I measured it using a straight line from point A to

10 point B. So if you could walk directly from Loyo Ajonga to Odek without any

11 impediments, no prairies, no marshes, no mountains, if you were in a plane and flew

12 a straight line, it's approximately 21 kilometres.

13 So now knowing that, what do you have to say about that, Mr Witness?

14 A. [10:24:43] Well, I cannot comment on that because I actually don't have any

15 knowledge of that.

16 Q. [10:24:50] Mr Witness, from which direction did the group that you were with

17 enter Odek?

18 A. [10:25:22] Well, I don't know what I should use to make people understand.

19 Q. [10:25:28] If you want to use north, south, east and west, that would be okay.

20 Or if you say from the direction of the trading centre, that would be okay.

21 A. Well, if I should use that, then I would say it was from the northeast direction.

22 Q. [10:26:01] You entered in on the northeast part of the town or you were

23 heading that direction? I'm just trying to be -- make sure we have everything correct,

24 Mr Witness. I'm sorry.

25 A. [10:26:22] We entered from -- well, I don't know what you mean by northeast.

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1 I have not understood it.

2 Q. [10:26:35] At line 24 and 25 of page 22, you stated that:

3 "Well, if I should use that, then I would say it was from the northeast direction."

4 So what I mean is did you enter in on the northeast part of the town, or when you
5 entered the town the LRA group that you were with was walking northeast?

6 A. [10:27:13] You asked me from which direction we entered to Odek, as the LRA,
7 from which direction it would enter to, and I said we entered through the northeast,
8 not directly from the north but from the northeast, midway between north and east.

9 Q. [10:27:36] Now, Mr Witness, does it surprise you to learn that Loyo Ajonga
10 is 21 miles -- or, sorry, 21 kilometres west by northwest of Odek?

11 A. [10:27:56] When I was in Odek --

12 MR CHOUDHRY: [10:28:11] Your Honour, I rise because as my -- there's no
13 evidence to suggest that, where Loyo Ajonga was in fact in terms of compass
14 measurements. So perhaps -- it seems like my learned friend it actually giving
15 evidence whilst asking the question. And the reason I say that is, without wishing to
16 state my own opinion, I've just done a Google Map search for it. I think perhaps my
17 learned friend could rephrase or put it some other way. I think he has already asked
18 that question and the witness has answered in any event.

19 PRESIDING JUDGE SCHMITT: [10:28:44] Yeah, I think that's correct what counsel
20 is saying. You know, I would say that distances from known places in any country
21 of the world are facts of common knowledge in the end. It can be established
22 however, you looked in Google Maps, for example, it could be established analogue if
23 we look at a map you can unfold or whatsoever. The witness has stated where he
24 said and what he recalls he entered with the group and that's it. And we would
25 have to put it together whatsoever.

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1 And also people often have difficulties to really establish for themselves directions.
2 That's not so easy. And that has nothing to do with the intellect of people. Even
3 people with high intellect have sometimes problems to establish that. But distances
4 and from towns that are known, for example, from places are known can be easily
5 established by looking to public sources.

6 Yeah, please continue.

7 MR OBHOF: [10:29:54] Why don't we state that, your Honour, without stating
8 what he does. His current career path would -- when to show somebody that
9 direction would be an important part of it.

10 PRESIDING JUDGE SCHMITT: [10:30:11] But also when we have, for example, a
11 map, whatsoever, if it is an electronic map or a normal map that is printed on paper,
12 we can easily look at this map and then Judges and counsel can establish where west
13 and northwest and east and northeast is. And the witness has said where he thinks
14 in his recollection they came from, and you have mentioned two places, and the
15 witness has mentioned two places and they are located in space, so to speak, and we
16 can put this together. Without any assessment how this would be put together in the
17 end, of course.

18 MR OBHOF: [10:31:11]

19 Q. [10:31:12] Mr Witness, who was tasked with attacking the military barracks?

20 A. [10:31:25] I don't remember who was given that task.

21 Q. [10:31:31] Mr Witness, was it your group alone that allegedly attacked Odek?

22 A. [10:31:55] I do not know if it was only our group because I do not recall
23 whether it was just our group because I know we went there, but that's all I can say.

24 MR OBHOF: [10:32:11] Your Honour I'm going to read from tab 1, page 0494,
25 paragraph 137:

1 "I cannot remember if other LRA groups took part in the attack on Odek. It is
2 possible that another group took part because the group who went to the barracks
3 had a big gun which they used and they said that the bullets from the gun went into
4 the ground but did not explode. We did not have this big gun in our group so
5 maybe another LRA group came with it."

6 Q. [10:32:49] Is that still your statement today, Mr Witness?

7 A. [10:33:00] It's close to my earlier statement. I said I do not recall. Perhaps
8 we were merged with another group. Perhaps we went by ourselves. I do not
9 recall.

10 Q. [10:33:15] But this big gun, your group did not have one, did it, Mr Witness?

11 A. [10:33:32] I had not seen that big gun while we were in our group, but after
12 they used it in Odek, then I saw that gun. But I do not know where they found that
13 gun from. I do not know where the LRA hide their weapons. Sometimes they hide
14 their weapons and when they're going on mission they go and collect their weapons.
15 And I do not know where they hide them or retrieve them from, that's why I said I do
16 not know whether it was just our group or whether it was a merger of groups at the
17 time that we went there.

18 Q. [10:34:14] During any of your stops from the RV point to Odek, considering
19 you were only walking with 30 to 40 people during daylight, did you see anyone go
20 and retrieve one of these big guns from a hidden place?

21 A. [10:34:42] No, I did not.

22 Q. [10:34:51] Now, Mr Witness, do you remember if it rained very hard any time
23 before or after the attack?

24 A. [10:35:05] I do recall that it rained. It had rained when you were leaving and
25 it also rained on the way back.

1 Q. [10:35:21] And there is a river, a small river that is just west of the trading
2 centre in Odek; is that correct?

3 A. [10:35:35] I do not know that river.

4 Q. [10:35:40] When you were heading from the RV point to Odek, did you have
5 to cross any natural boundaries like hills, fields, grasslands, rivers or marshes?

6 A. [10:35:59] I do not recall.

7 Q. [10:36:05] Mr Witness, when the group that you were with first arrived, did
8 they fire at the soldiers when they started firing or did they first fire into the air?

9 A. [10:36:36] I did not pay attention to every particular person's weapon and
10 determine what exactly they were doing with it.

11 Q. [10:36:50] Now, whilst you were in the centre, the town centre, you didn't see
12 Mr Ongwen in the town centre; correct?

13 A. [10:37:08] No, I did not see him when I was at the centre.

14 Q. [10:37:12] To the best of your knowledge, did Mr Ongwen ever go into the
15 town centre or the barracks at Odek?

16 A. [10:37:27] I do not know exactly where he went when we were running into
17 the barracks because when we were going into the centre we ran. We ran to the
18 centre. I do not know what direction he ran to. I did not see -- I did not see him
19 while we were at the centre.

20 Q. [10:37:49] When you told the Prosecution that you saw him approximately six
21 times the length of this court, or the distance of this court the other day, you were in
22 the trading centre; correct?

23 A. [10:38:05] When I stated that I said I saw him when we were leaving. They
24 asked me, "Did you see him when you were leaving the centre? Where did you see
25 him when you were leaving the centre? How far was the -- how far was the

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1 distance?" And I explained that it's six times the size of this room. I saw him
2 between that distance when we were leaving.

3 Q. [10:38:39] So you were already outside of the trading centre when you saw
4 him?

5 A. [10:38:47] We had left.

6 Q. [10:38:49] Approximately how far were you away from the trading centre?

7 A. [10:39:00] I said the distance between us and the centre was approximately
8 four or five sizes the size of this room.

9 Q. [10:39:12] My apologies, Mr Witness, for asking you that then. I
10 misinterpreted it that that's how far you said Mr Ongwen was from you. When you
11 saw Mr Ongwen after being about 60 metres away from the trading centre, how far
12 away from you was he?

13 A. [10:39:45] I saw him among people, but I did not measure the distance.

14 Q. [10:39:52] So is it possible that Mr Ongwen never actually went into Odek?

15 A. [10:40:10] We went together but, when we were running, I do not know which
16 direction he ran to.

17 Q. [10:40:23] Mr Witness, material submitted to this Court does not show
18 Mr Ongwen went into -- went into Odek. What is your position on that statement,
19 Mr Witness?

20 MR CHOUDHRY: [10:40:54] Your Honour, I rise. I'm not sure what material --

21 PRESIDING JUDGE SCHMITT: Yeah.

22 MR CHOUDHRY: -- my learned friend is --

23 PRESIDING JUDGE SCHMITT: [10:41:00] Yeah, yeah. This is in the obscure, so
24 to speak. You have asked the witness if he can say something about the
25 whereabouts, so to speak, of Mr Ongwen when they went into Odek. You can

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1 explore that further. The witness has already given an answer, he has not seen him
2 at a certain place and in a certain instance and has later seen him.

3 And again, perhaps you could ask him also, for example, an estimate how far away
4 he was then because there seems to be a little bit of a misunderstand how far he was
5 away, the witness, from the trading centre already, and then when he saw
6 Mr Ongwen, how far away from that he was. That would be something that you
7 could explore, for example.

8 MR TAKU: [10:41:51] May it please the Court. I think this raises another problem,
9 probably of a legal nature because clearly, from the pre-trial brief and other material
10 in the pleadings, the Prosecutor does not allege that Mr Ongwen actually went to
11 Odek.

12 PRESIDING JUDGE SCHMITT: [10:42:11] Mr Choudhry.

13 MR CHOUDHRY: [10:42:11] Your Honour, that's neither here nor there. The
14 witness is providing his evidence and it's the evidence that you will have to consider.

15 PRESIDING JUDGE SCHMITT: [10:42:19] Yes, that's correct. You know, the
16 Prosecution alleges something, Judges confirm charges to a certain extent, or not, and
17 then we try to establish the evidence here and try to make a final assessment then.
18 So I don't see here something that should be objected to.

19 MR TAKU: [10:42:41] Your Honours, still by saying it's a matter of a legal nature
20 because it goes to the forms of criminal liability. Was he there. Is the Prosecutor
21 the notice, matter of notice. Is the Defence on notice that they said that he went there
22 and participated in the attacks, or participated otherwise by being physically present?
23 That is the issue here.
24 Although it is not an appropriate issue for this witness, but I merely say that now that
25 it arose, I should place that on record.

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1 PRESIDING JUDGE SCHMITT: [10:43:09] The last sentence you said it exactly
2 correct. We have here a witness who is still providing evidence to this Court and
3 any legal matters arising than this evidence would have to be assessed and any legal
4 matters arising of this assessment would have to be made then by the Chamber.
5 And nobody in this courtroom tells the Defence that this line of questioning is not
6 proper or whatsoever, it was just about the word we have material that indicates it,
7 not more, not less.

8 Please Mr Obhof, you can continue.

9 MR OBHOF: [10:44:10]

10 Q. [10:44:11] Now, Mr Witness, finally when you left Odek, did you return to the
11 same RV from which you left?

12 A. [10:44:33] We went back in the same -- we went back in the same direction that
13 we had approached Odek, but when we were in the bush we did not go back to the
14 exact location where we had come from.

15 Q. [10:44:47] It's all right, I'll do a follow up. So you didn't go back to the exact
16 location, but did you go back to around the same area of the RV point?

17 A. [10:45:07] I do not know the name of the place that we went to, but we did not
18 go back to the exact position that we were when we left to go to Odek.

19 Q. [10:45:19] Would you say it's still in the same sub-county area? Or maybe in
20 the same parish?

21 A. [10:45:31] I said I do not know the area that we went to. I do not know the
22 name of that place.

23 Q. [10:45:39] Now, within the next day or so after Odek, do you remember if you
24 stayed within the same area of Gulu, or did you travel further away?

25 A. [10:46:10] I do not know the boundaries of the areas that we went to, but we

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1 entered into the jungle and we continued as before.

2 Q. [10:46:26] So do you remember if you went north, south, east or west?

3 A. [10:46:47] We went back in the same direction that we -- we were when we
4 approached Odek, but we did not go back to the exact location. If I'm to make a
5 comparison between the place where we left to go to Odek and the place we went to,
6 then it's probably northwards.

7 Q. [10:47:09] Did you stay there for a long time or just only a few days?

8 A. [10:47:17] I do not recall how -- how long we spent there because we went
9 back to our regular life, our normal life in the bush. That's what I recall.

10 (Counsel confers)

11 MR OBHOF: [10:47:51] Your Honour, that's it for my portion. Our counsel would
12 like to ask the witness a few questions.

13 PRESIDING JUDGE SCHMITT: [10:47:59] Of course.

14 MR AYENA ODONGO: [10:48:09] Thank you, Mr President and your Honours.

15 QUESTIONED BY MR AYENA:

16 Q. [10:48:12] Mr Witness, before you take leave, in fact you're about to come to
17 the end, I thought I would ask you a few questions I want to put to you so that you
18 may help Court to know you a little more. Now, Mr Witness, when you were
19 abducted you said you were about 12 years old and you were in P7; is that right?

20 PRESIDING JUDGE SCHMITT: [10:48:50] No, I think he did not say he
21 was 12 years old. I'm not sure this is -- we have all of this, we have all the dates and
22 the uncertainties that might be there we have established, so.

23 MR AYENA ODONGO: [10:49:04] I beg your pardon.

24 PRESIDING JUDGE SCHMITT: [10:49:05] And we know this ranges I think
25 from 20 October of 1987 to January 1989 and then there must be some -- another point

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1 in time when he was abducted and you know then it's counting after that.

2 MR AYENA ODONGO: [10:49:21] I beg your pardon, your Honour.

3 Q. [10:49:25] In fact I'm more interested about your class. You said you were in

4 P7; is that correct?

5 A. [10:49:40] That's correct.

6 Q. [10:49:42] Now, when you returned from the bush but before you joined the

7 technical schools, did you go back to school for formal education?

8 A. [10:50:08] No, I did not go back to school.

9 MR AYENA ODONGO: [10:50:16] Can we go to private session for a --

10 PRESIDING JUDGE SCHMITT: [10:50:19] Private session.

11 (Private session at 10.50 a.m.)

12 (Redacted)

13 (Redacted)

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16 (Redacted)

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20 (Open session at 11.04 a.m.)

21 THE COURT OFFICER: [11:04:39] We are back in open session, Mr President.

22 PRESIDING JUDGE SCHMITT: [11:04:50] Thank you very much.

23 Mr Witness, this concludes your testimony. The Court thanks you for having

24 yourself made available as a witness and we thank you also for your assistance and

25 we wish you a safe trip back.

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- 1 (The witness is excused)
- 2 PRESIDING JUDGE SCHMITT: [11:05:17] This concludes the hearing for today.
- 3 We resume on Monday at 9.30 with P-264 I would say.
- 4 THE COURT USHER: [11:05:29] All rise.
- 5 (The hearing ends in open session at 11.05 a.m.)