

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
6 Judge Raul Pangalangan
7 Trial Hearing - Courtroom 3
8 Tuesday, 6 June 2017
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:41] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:32:00] Good morning, everyone.
14 Good morning, Mr Witness.
15 Could the court officer please call the case.
16 THE COURT OFFICER: [9:32:08] Good morning, your Honours.
17 Situation in Uganda, in the case of The Prosecutor versus Dominic Ongwen, case
18 reference ICC-02/04-01/15.
19 And for the record we are in open session.
20 PRESIDING JUDGE SCHMITT: [9:32:21] Thank you very much.
21 The appearances of the parties, we start with the Prosecution.
22 MS ADEBOYEJO: [9:32:26] Good morning, Mr President, your Honours. For the
23 Office of the Prosecutor Adesola Adeboyejo, Benjamin Gumpert, Kamran Choudhry,
24 Pubudu Sachithanandan, Yulia Nuzban, Ramu Fatima Bittaye, Shahriar Yeasin Khan.
25 PRESIDING JUDGE SCHMITT: [9:32:45] Mrs Massidda for the Legal

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1 Representatives of the Victims.

2 MS MASSIDDA: [9:32:48] Good morning, Mr President, your Honours. For the
3 common legal representative teams, Paolina Massidda and Orchlon Narantsetseg.

4 PRESIDING JUDGE SCHMITT: [9:32:57] And Mrs Hirst.

5 MS HIRST: [9:32:59] Good morning, your Honours, Megan Hirst with
6 James Mawira.

7 PRESIDING JUDGE SCHMITT: [9:33:03] Thank you.

8 And for the Defence, please, Mr Obhof.

9 MR OBHOF: [9:33:05] Good morning, your Honour, today we have Counsel
10 Ayena Odongo, Ms Eniko Sandor, Chief Achaleke Taku, Mr Dominic Ongwen, our
11 client, and myself, Thomas Obhof.

12 PRESIDING JUDGE SCHMITT: [9:33:19] Thank you, Mr Obhof. You can remain
13 standing, I would put it this, and you have the floor for the Defence questioning.

14 MR OBHOF: [9:33:23] Thank you very much, your Honour.

15 Just a small housekeeping, I went through, I estimate three and a half hours today. I
16 can guarantee we won't use the entire third session.

17 WITNESS: UGA-OTP-P-0249 (On former oath)
18 (The witness speaks Acholi)

19 PRESIDING JUDGE SCHMITT: [9:33:38] We'll see.

20 QUESTIONED BY MR OBHOF:

21 Q. [9:33:43] Good morning, Mr Witness.

22 A. [9:33:45] Good morning.

23 Q. [9:33:47] Now, Mr Witness, in which year were you born?

24 A. [9:33:58] I was born in 1976.

25 Q. [9:34:03] And how do you know that you were born in 1976?

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1 A. [9:34:18] At my age when I grew up and I was able to know, I was told that I
2 was born at that time. My parents told me.

3 Q. [9:34:29] So it would be correct to say you were not born in a hospital?

4 A. [9:34:39] They completed all the hospital processes, they only told me the date,
5 the time. So I knew when I was old enough and the time I was told that I was born in
6 that year.

7 Q. [9:35:01] Now, Mr Witness, without saying any names, because we are in
8 public session, was your brother born in a hospital?

9 A. [9:35:18] We were all born in the hospital.

10 Q. [9:35:26] Now, Mr Witness, yesterday and in your statement to the Prosecution
11 you said that many of Mr Ongwen's soldiers were below the age of 18; is that correct?

12 A. [9:35:46] Yes, I stated that myself.

13 Q. [9:35:51] And you told the investigators that you determined the age of
14 Ongwen soldiers by comparing them to your relatives, which included your sister,
15 who was 12 years old when she was abducted; is that correct?

16 A. [9:36:14] Yes, I stated that statement.

17 MR OBHOF: [9:36:23] Private session for two questions, your Honour, please.

18 PRESIDING JUDGE SCHMITT: [9:36:25] We go to private session.

19 (Private session at 9.36 a.m.)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Open session at 9.38 a.m.)
- 17 THE COURT OFFICER: [9:38:12] We're back in open session, Mr President.
- 18 MR OBHOF: [9:38:27]
- 19 Q. [9:38:28] Now, Mr Witness, although you were able to estimate the age of
- 20 Ongwen's soldiers and place many in the category of between 9 to 14, you were unable
- 21 to tell the age of Oryem and other males you saw with him while you were on your
- 22 way back home from the bush; is that correct?
- 23 A. [9:39:01] Could you repeat the question again?
- 24 Q. [9:39:06] Sorry, Mr Witness, yes.
- 25 You were able to estimate the ages of Mr Ongwen's soldiers and place many of them

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1 between the ages of 9 to 14, but yet you were unable to tell the age of Oryem and the
2 other male that you saw with him while you were on your way back home from the
3 bush. That's from (Redacted) in the binder, paragraph 106. Is that correct, Mr Witness?

4 A. [9:39:52] I said that there were some younger soldiers from the age of, like, 9
5 to 15, to 18, but there were others who were actually older. That's what I stated.

6 Q. [9:40:18] Now, you were able to estimate all of these ages during a time of high
7 stress; is that correct?

8 A. [9:40:37] Well, stating these ages, I only estimated them, I estimated to give the
9 Court an idea of what the ages of these people were.

10 Q. [9:40:59] In (Redacted), that's (Redacted), at (Redacted), you also made note
11 that many children were taken from Ongwen's army to Sudan for training. How did
12 you come to learn this, Mr Witness?

13 A. [9:41:34] Well, there is no place that the LRA stayed in, in apart from the Sudan,
14 so they only come to operate in Uganda so all these people who were abducted were
15 all taken to Sudan.

16 Q. [9:41:53] So is it correct to state that you're just assuming this and you have no
17 direct knowledge, Mr Witness?

18 A. [9:42:08] I know that they abduct people and they take them to Sudan. Even
19 my brother (Redacted) went to Sudan, he was trained from there and he came back
20 from Sudan with a gun. Then where would I stay from here in Uganda? Which
21 position would they stay? They only operate here and they return to Uganda. So I
22 am not just guessing, I am sure that they send people to Sudan.

23 Q. [9:42:40] Now, Mr Witness, would it surprise you if I said that no such
24 trainings took place in Sudan after Operation Iron Fist which happened around
25 March of 2002?

1 A. [9:43:09] What I know is that they take people Sudan. I have not personally
2 been to Sudan, so I don't know what they do in the Sudan, but to know that they send
3 people Sudan I know, and that's where my knowledge stops.

4 Q. [9:43:29] Now, Mr Witness, you also mentioned Teso child soldiers who were
5 trained in Sudan who could not speak Acholi and could only speak Teso and English
6 in Mr Ongwen's group; is that still correct today?

7 A. [9:43:52] Yes, I stated that myself and I even saw with my own eyes.

8 Q. [9:44:01] If these persons from Teso could not speak Acholi, how were they
9 receiving orders?

10 A. [9:44:15] I don't know in the military language what they use, because I was
11 also still new, so I don't know how they communicate to enable them to be able to
12 work against us.

13 Q. [9:44:30] Which would be correct, but language is language. And it's not to
14 say that the same word for "gone" in English would be the same in other languages,
15 and if you were in the midst of a battle, as you say, in Pajule how would these Teso
16 children receive orders?

17 MS ADEBOYEJO: [9:44:49] Your Honours, I would object to that question as
18 phrased by my learned friend. I think it's argumentative if the witness has already
19 given his answer.

20 PRESIDING JUDGE SCHMITT: [9:44:59] But you can continue in this way in a little
21 bit.

22 Perhaps, Mr Witness, you said you don't know how they communicate, but what I
23 would like to ask you: Have you heard, for example, commanders giving orders to
24 these people and do you recall something like that and, if so, in what language have
25 they communicated, if you recall it?

1 THE WITNESS: [9:45:36] (Interpretation) I do not know how the orders were
2 given to them because there was no any other language that those people used to
3 speak to us apart from English. But I also said these people were mixed up, they
4 were Acholi, they were Lango, they were also Teso, so they were all working together.
5 All these atrocities they were actually doing together. So how they were
6 coordinating, speaking amongst themselves in what language, I don't know.

7 PRESIDING JUDGE SCHMITT: [9:46:01] So this is a no. Please continue to
8 another issue.

9 MR OBHOF: [9:46:06]

10 Q. [9:46:07] Mr Witness, can you name any of the Teso soldiers that you saw?

11 A. [9:46:18] I do not know their names.

12 Q. [9:46:23] Now, Mr Witness, you stated, is it correct to say, that you heard
13 Mr Ongwen tell his soldiers to get food supplies from the shop? At Pajule, sorry.

14 A. [9:46:58] Correct.

15 Q. [9:47:02] You saw the soldiers carry beans, maize, sugar and soap along with
16 the people that you say Mr Ongwen abducted, correct?

17 A. [9:47:21] Correct.

18 Q. [9:47:28] Now, these looted foodstuffs were later used to cook for the LRA
19 fighters and the abductees alike; is that correct?

20 A. [9:47:47] Correct. Because you cannot stay hungry there, you have to eat.

21 Q. [9:47:53] And they even gave you some of these foodstuffs to eat; is that
22 correct?

23 A. [9:48:04] I ate because I did not carry any food from my home. They're the
24 ones who should give me food.

25 Q. [9:48:14] So without the food everybody, as you state, in Ongwen's group, they

1 would have starved?

2 A. [9:48:33] Well, I don't know. If they had not looted food I don't know where
3 they would get food from because they didn't even have, but all I saw was that food
4 was looted and people ate that same food.

5 Q. [9:48:48] And according to your first statement to the Prosecution, when you
6 were camping in Omot you saw similar type actions coming from the LRA soldiers
7 who brought back foodstuffs such as maize, beans, dried fish, sugar, soda and biscuits;
8 is that correct?

9 A. [9:49:15] Yes, I gave that statement.

10 Q. [9:49:19] And is that still correct today, Mr Witness?

11 A. [9:49:32] Which statement again?

12 Q. [9:49:33] It's okay. The one about the food being brought back from Omot and
13 being used to feed people in the camp.

14 A. [9:49:52] Well, if I was the one who gave the statement, then why should it not
15 be the same statement today. I am the one who gave that statement, that means I saw
16 it with my own eyes.

17 PRESIDING JUDGE SCHMITT: [9:50:05] This quite often happens when we refer
18 to former statements, that the answer "That was my statement." And here he said
19 "Yes, I gave that statement." So we can fairly understand it that he still says the same
20 today.

21 MR OBHOF: [9:50:17] Okay.

22 Q. [9:50:19] And the reason why we ask, Mr Witness, I'm sorry, is that some
23 people do say their statements are different, so we just wanted to make sure that it still
24 is correct. And it's not anything against you or your memory.

25 Now, Mr Witness, considering that you didn't know who Ongwen was until after the

1 whole ordeal at Pajule ended, how did you know it was him giving orders to loot
2 foodstuff from the shop?

3 A. [9:50:59] I do not just -- I did not just know, but I saw because I was already
4 captured and I saw himself. I did not just know, I just saw. So if I just knew, then I
5 would have probably -- it could have been that I just heard from somewhere.

6 Q. [9:51:29] Mr Witness, could you explain in your opinion why the government
7 of Uganda moved everyone into the IDP camps?

8 PRESIDING JUDGE SCHMITT: [9:51:48] What did you think, Mr Witness, when
9 you were told you should go to the IDP camps? Because he cannot -- he cannot
10 seriously say something about the motivation of the government, but, for example,
11 what he thought, what has been discussed in the community, these things.

12 Mr Witness, has there been talk in the community why you should go to these camps
13 and what was your idea and so forth?

14 THE WITNESS: [9:52:25] (Interpretation) Well, the government's idea of sending
15 people to IDP camps was not a problem, it was a good thing because it helped to save
16 so many lives. Myself, even myself, I did not see it in a bad light. It helped people.
17 Even though it did not help me because I was captured, but it helped other people, so I
18 don't have any problem with it.

19 MR OBHOF: [9:52:56]

20 Q. [9:52:56] Now, were -- during the 90s were the people in the populace feeding
21 the LRA with food from their crops before the IDP camps?

22 A. [9:53:16] At that time I was not with the LRA, so I wouldn't be privy to such
23 secrets.

24 Q. [9:53:25] Were people's crops suddenly missing, or did people complain about
25 how their cassava or their sorghum or their maize were not entirely in the field?

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1 A. [9:53:47] Well, when we were still at home when they come, yes, they would
2 uproot people's cassava, they would do -- take chicken. That's what they were doing
3 while we were still at home. Nobody actually gives them, they just do it in their own
4 interest and orders. I do not even say that that is Ongwen's group, but that was the
5 LRA, and I don't know the group, so if they pass in your area, that is what -- the kind
6 of things that they would do.

7 Q. [9:54:20] Now, Mr Witness, if crops aren't being grown in the fields and the
8 LRA lacks a food supply, as they used to with the government of Sudan, in your
9 opinion where would they get this food from if they had no arable land to grow it in?

10 A. [9:54:49] I do not know where they get their food from, but at the time when I
11 was still -- when I was with them, they picked food from Pajule. But when I was not
12 there and when I left, I do not know where they picked their food from. They know
13 where to get their food from.

14 Q. [9:55:20] Now, back on to the attack on Pajule, Mr Witness. Did you
15 personally see shops being looted during this time?

16 A. [9:55:44] I saw with my own eyes when shops were being looted. I saw. I
17 saw from the middle of the road when shops were being looted. Nobody told me.
18 But the shops that were along the roadside, I saw them by -- by my own eyes.

19 MR OBHOF: [9:56:04] Your Honour, I'm going to refresh the witness's memory
20 about his statement. This is in tab 8. And for the record, because I have not stated
21 the UGA at -- UGA-OTP-0238-0771, page 0775, paragraph 30:

22 "After Ongwen's soldiers had looted and collected enough stuff they got us to start
23 marching again. I did not see them loot because I and the other abductees were on
24 the side of the road, but I know they looted my shop. They broke the shops open and
25 looted them, I was watching this and I could see them taking things out ... like sugar,

1 soap, salt and lots of other items."

2 Now, Mr Witness, in that sentence, or in that part I read to you, you have first stated
3 that you did not see them loot but then again after that you stated they did. So is
4 your testimony today that you did see them loot?

5 A. [9:57:20] Yes. What I can say is that I saw when shops were being looted, the
6 shops that were along the roadside. But the shops that were being looted in the
7 market, I did not see them because by that time I was already captured, I was already
8 abducted, I did not have any permission or authority to move. But the shops that
9 were along the roads are the ones that I saw being looted.

10 Q. [9:58:00] Now, Mr Witness, you moved to Pajule around 2000; is that correct?

11 A. [9:58:08] Correct.

12 Q. [9:58:10] And you moved there, as you've just stated earlier today in your
13 statement, that it was a better place for protection and peace, correct?

14 A. [9:58:28] Yes, because in the year 2000 the situation had become precarious
15 again, so I was -- I had a shop at Pot Ogali. Then I thought it wise that for better
16 security of my property, I had to find a place where there were many more soldiers
17 and security is better. So I divided up my business. I left some to my sister, to my
18 mother, then others. I came with it to Pajule. But even the one at Pot Ogali did not
19 last two days. After that, they were actually looted and if I had also stayed there for a
20 long time or much longer, all my items would have been looted from Pot Ogali. I did
21 not include this in my initial statement, but this is what happened. They just -- barely
22 three days after I left, every item that I left at Pot Ogali were also looted.

23 Q. [9:59:35] So just to be clear, Mr Witness, that you moved in because of safety
24 and not because the government of Uganda ordered all people in the northern region
25 of Uganda to move into IDP camps during the years of 2000 and 2001; is that correct?

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1 A. [10:00:02] The issue of the IDP camps that was set up by the government, by
2 the time people came to the camp, I had already left home because the security in the
3 village was not good now. So when I came to the more safer place is not the same
4 year with the year that people came to the camps. The camps came after I had
5 already moved to the centre.

6 Q. [10:00:38] Now, Mr Witness, the one -- the attack on 10 October 2003 was not
7 the first attack on Pajule IDP camp; is that correct?

8 A. [10:00:59] That was not the first attack on Pajule. At one point there was an
9 attack that took place at 6 p.m. and we fled and left our shops open. We did not
10 know which group had attacked the place, but it was an LRA group. Another time
11 again, the LRA attacked at night, about 10 p.m., and lots of atrocities were done, and
12 my -- my shop was also looted that day. We also survived that day. We survived
13 because there was a bomb on our -- on our house. There were several attacks that
14 used to take place in Pajule. Those are the ones that I learnt about when I was in
15 Pajule.

16 Q. [10:01:53] So I'm going to list -- list off a few -- a few dates, Mr Witness. Was
17 the camp attacked in 2001?

18 A. [10:02:16] Which attack are you talking about? Because you asked me
19 whether Pajule was attacked once and I told you that Pajule was attacked more than
20 three times. Which attack exactly are you referring to?

21 Q. [10:02:31] Were there any attacks on Pajule IDP camp in 2001, the year 2001, the
22 year after you moved to Pajule?

23 A. [10:02:47] What I said is that attacks -- there were several attacks on Pajule. It
24 was not only the attack which was led by Ongwen. We did not have memorised the
25 dates that the attacks took place because we didn't know it was important.

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1 Q. [10:03:06] Okay. Were there also issues with the government soldiers in the
2 camp committing crimes?

3 A. [10:03:26] I did not hear and I did not see any atrocity committed by
4 government soldiers.

5 Q. [10:03:37] So it's still your testimony that you moved to Pajule IDP camp out of
6 safety even though there had been many attacks on the camp from when you moved
7 in 2000 until you were abducted in October of 2003?

8 A. [10:04:04] That is correct.

9 Q. [10:04:11] Now, Mr Witness, 9 October is Uhuru Day, Independence Day, as
10 you spoke yesterday. What was going on on 9 October 2003, the day before the
11 attack?

12 A. [10:04:38] There was celebration going on. Even me, I was part of the people
13 who were celebrating, together with my household. That is what was taking place.

14 Q. [10:04:50] Now, when you say "celebrating", could you please elaborate on that
15 more?

16 A. [10:05:04] We call it Uhuru. If the Court does not know what Uhuru is,
17 somebody should explain to the Court what Uhuru is so that the Court can
18 understand. It's a big day, people were celebrating. You know what -- what entails
19 celebration on a big day. If you have resources, you can celebrate with -- by
20 merry-making. If the Court does not know what Uhuru is, someone should explain
21 to the Court that Uhuru is a big day that people celebrate.

22 PRESIDING JUDGE SCHMITT: [10:05:41] Mr Witness, we have understood in the
23 meantime. The Court knows now what Uhuru is, and not only what Uhuru is, the
24 Court also, I think, has a concept of what a day of festivities means.

25 MR OBHOF: [10:06:01]

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1 Q. [10:06:01] Now, when you said "merry-making", that includes consuming
2 alcohol; is that correct, Mr Witness?

3 A. [10:06:15] Yes, for those who drink, consume alcohol. Even me, I had taken
4 alcohol. The others were taking soda and other soft drinks. It depends on what you
5 take.

6 Q. [10:06:31] Were you drinking the Nile Special or were you consuming a local
7 homebrew at the time?

8 A. [10:06:45] I was taking alcohol which I -- it was Bell, it was beer, up to
9 about 9 p.m., then I went and lay down.

10 PRESIDING JUDGE SCHMITT: [10:06:59] Mr Obhof, although the significance or
11 even relevance is not really clear to me, but I would be interested to know what Nile
12 Special is perhaps.

13 MR OBHOF: [10:07:10] It's a rather nice beer that's made in Uganda that I generally
14 drink one of every night before going to bed.

15 PRESIDING JUDGE SCHMITT: [10:07:18] Okay, so, yeah, I think we have clarified
16 that. And there is also other beer obviously in --

17 MR OBHOF: [10:07:25] Oh, there's plenty different types of beer down there.

18 PRESIDING JUDGE SCHMITT: [10:07:28] This is relieving to hear. But please
19 continue.

20 MR OBHOF: [10:07:33]

21 Q. [10:07:33] Now, Mr Witness, you stated to the Prosecution that your head was,
22 and just recently, that your head was still heavy with booze and you were intoxicated
23 when the LRA soldiers abducted you; is that correct?

24 A. [10:07:53] What I said is that I took alcohol. You know, when you take alcohol
25 you don't gain your soberness immediately, but when the attack took place I sobered

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1 up.

2 Q. [10:08:16] So you sobered up immediately upon the attack?

3 A. [10:08:25] Yes, I was very sober. And I, I was sweating a lot and I could not
4 feel tipsy anymore.

5 Q. [10:08:38] Now, Mr Witness, does anything cure drunkenness other than time,
6 other than your body processing?

7 MR OBHOF: [10:08:50] Your Honour, I would argue that as a known act fact that
8 only time can --

9 PRESIDING JUDGE SCHMITT: [10:08:54] Exactly, so don't ask the witness this
10 question please.

11 MR OBHOF: [10:09:01]

12 Q. [10:09:02] So you admit when you woke up you were still drunk but yet you
13 can still remember and recognise everything that happened in that morning; is that
14 correct?

15 A. [10:09:24] I did not wake up voluntarily like everybody wakes up in the
16 morning. The gunshots and the noise that was being made is the one that woke me
17 up from where I was sleeping with my wife. I did not wake up voluntarily like I
18 would do every morning.

19 PRESIDING JUDGE SCHMITT: [10:09:46] And when it, Mr Obhof, again, when it
20 comes to the question if a person is drunk or not, a person can only say something
21 about how he or she felt about it. If we don't have a blood sample at the time we
22 cannot really verify scientifically, so it's really about what the witness felt about.

23 MR OBHOF: [10:10:11] Which is correct, sir. Your Honour, I'd just like to read on
24 to the record and make sure this is still a statement of what he said in tab 8, at
25 paragraph 34:

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1 "I was still a little drunk myself. I had taken some alcohol and when they abducted
2 me my head was still heavy with the booze."

3 Q. [10:10:31] Is that what you stated to the Prosecution, Mr Witness?

4 A. [10:10:41] I clarified this earlier. This is the second time I'm clarifying. I said
5 true, I was drinking, and I went to bed with a heavy head. But when the attack
6 became hot, I sobered up. I sweated and I sobered up and I obeyed whatever they
7 were asking me to do. I don't know if this is understood.

8 PRESIDING JUDGE SCHMITT: [10:11:06] Yeah.

9 MR OBHOF: [10:11:07]

10 Q. [10:11:07] And you were in terror when you woke up, you were fearful; is that
11 correct?

12 A. [10:11:23] The LRA are a group of soldiers who in the north of Uganda I feared
13 a lot, so when you realise that they are present and they will abduct you, you will
14 definitely fear. I was afraid and I was -- I knew that my life was at stake at that time.

15 Q. [10:11:51] Now, according to your recollection, did Mr Ongwen attack the
16 military barracks, the trading centre or the Catholic mission that morning?

17 A. [10:12:13] Ongwen sent his troops to Pajule to attack Pajule IDP camp
18 indiscriminately. I was -- I was on the road together with them, but there were
19 operations taking place in all parts of the camp. That is what I know.

20 Q. [10:12:33] But where did you see Mr Ongwen, Mr Witness?

21 A. [10:12:44] I saw Ongwen in Pajule during the operations for the attack that he
22 went for at the time that I was abducted.

23 Q. [10:12:57] Mr Witness, you drew us a -- drew the Prosecution a nice map
24 during your interview and you gave locations, and I'm merely asking where it was
25 that you first saw Mr Ongwen?

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1 A. [10:13:17] If you open the map you will see that is the map of how Pajule looks
2 like, how the roads pass. Even though it's not to scale and it's not well drawn, I tried
3 to draw because I'm not well learned so that I can visualise how Pajule looks like.

4 Q. [10:13:45] No, it is a pretty decent map, I do notice that. I've been to Pajule
5 many times and you did draw it rather well, sir, but I'm just asking, from your
6 memory, where did you first see Mr Ongwen?

7 A. [10:14:08] I'm not seeing the map, I'm not seeing the map on my screen. I
8 would have pointed where I saw him first. If I see without -- if I point without seeing
9 the map, I wouldn't point the correct place. If you want me to tell you, please,
10 display the map so that I can also see it.

11 PRESIDING JUDGE SCHMITT: [10:14:28] Perhaps what we can do, Mr Witness, is
12 try to circumscribe it, if it was -- I don't know -- if it was on the free field, it was on the
13 road or any road, or whatsoever, and then we have a look again at this map, at your
14 drawing and then you can point it out. Perhaps we do it this way (Overlapping
15 speakers)

16 MR OBHOF: [10:14:47] (Overlapping speakers) memory first.

17 PRESIDING JUDGE SCHMITT: [10:14:49] (Overlapping speakers) First the
18 memory.

19 UNIDENTIFIED SPEAKER: [10:14:53] Yes.

20 PRESIDING JUDGE SCHMITT: [10:14:55] As I said, try to circumscribe it.

21 THE WITNESS: [10:14:57] (Interpretation) When I was abducted from my home I
22 moved towards the market. There is a road that comes from the main street to the
23 market. I found Ongwen was standing on the road leading to the market. I moved
24 together with them now to the main road at that point. That is what I know and that
25 is what I saw.

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- 1 PRESIDING JUDGE SCHMITT: [10:15:19] And this is tab 1.
- 2 MR OBHOF: [10:15:21] Correct.
- 3 PRESIDING JUDGE SCHMITT: [10:15:22] The drawing of the Prosecution binder
- 4 and perhaps we can --
- 5 MR OBHOF: [10:15:26] Yes.
- 6 PRESIDING JUDGE SCHMITT: [10:15:27] -- give him a look at it too.
- 7 MR OBHOF: [10:15:30] Yes. I do not remember if the Prosecution gave a copy
- 8 that was available -- well, for the public, so I recommend it remain confidential from
- 9 the public at large, just in case.
- 10 PRESIDING JUDGE SCHMITT: [10:15:39] I'm not sure if -- I think it could be
- 11 displaced. But Mrs Adeboyejo is nodding, so it can be displayed --
- 12 MR OBHOF: [10:15:46] Okay.
- 13 PRESIDING JUDGE SCHMITT: [10:15:47] -- to the public, yeah.
- 14 MR OBHOF: [10:16:06] And that's tab 1 UGA-OTP-0238-0795.
- 15 Q. [10:16:20] Now, Mr Witness, could you please tell us via this map where you
- 16 first saw Mr Ongwen?
- 17 A. [10:16:39] If you see where I had written "A3" that is where I first saw him.
- 18 Q. [10:16:53] So would that be considered the Catholic mission, the army barracks
- 19 or the market, Mr Witness?
- 20 A. [10:17:13] A3 is -- is a route going to the market. You see they have written
- 21 there "market". That's where we sell our commodities. The round circle is the
- 22 roundabout within the centre of Pajule. There are so many roads. The one going to
- 23 the mission, the one going to the barracks is also there. And then there is the road
- 24 going to Kitgum and to Lira. That is how Pajule is.
- 25 Q. [10:17:54] Around what time was this in the morning, Mr Witness, when you

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1 first saw Mr Ongwen?

2 A. [10:18:07] The attack in Pajule was on everybody. It started about between 5
3 and 6 a.m. in the morning, that is when the people of Pajule was attacked. I therefore
4 moved when I was taken from my house, it was almost daylight, that is when I -- I
5 found Ongwen in A3. It was hot at that time, the attack was at its peak. We moved
6 now to the main street and there was lots of lootings taking place. Along the Lira
7 route there were some soldiers and they were shot from there. That is what I know.

8 Q. [10:18:56] So how long from when the fighting started until you first saw
9 Mr Ongwen? We don't need an actual time but if you say it was 15, 30 minutes, 45
10 minutes, an hour. Could you estimate, sir, please?

11 A. [10:19:20] When it comes to issue of time it's difficult to state. I didn't have a
12 watch myself. And during such an attack you cannot even know how time moves.
13 You are not even free to estimate, for you to -- to estimate time you need to be free and
14 not under pressure. At that point there is a lot of pressure and it was not important
15 to know time because of the pressure that you are going through. As I said, we -- we
16 moved about 8 or 9 o'clock in the morning to leave the centre and go towards -- I
17 meant get out of the trading centre. There was a lot of pressure at that time and it
18 was difficult to estimate, but it was already daylight and the sun had risen already.

19 Q. [10:20:15] You did not know or you could not have the presence of mind for
20 how much time was going on, but you had heard so many other things, Mr Witness,
21 allegedly Mr Ongwen deploying soldiers to fight at the military barracks; is that
22 correct?

23 A. [10:20:42] I saw when he was telling some soldiers to go to the barracks, that I
24 heard and saw myself.

25 Q. [10:20:59] Mr Witness, what time would you say that you were being collected

1 and being prepared to leave Pajule?

2 A. [10:21:19] What I can say is that the issue of time is not important because I was
3 not using, I was not wearing a watch and I was not keen about what time it was.
4 Besides, I was under pressure and it was not easy to see what time it was. I cannot
5 commit myself to say what time it was because I was not free, I was under pressure.
6 I estimate that it could have been 9 o'clock, as an estimation really. I am not sure, I
7 can't commit myself to issue of time.

8 MR OBHOF: [10:21:54] Your Honours, I'm going to read from tab 1, paragraph 30
9 which is on page 0775.

10 "After Ongwen soldiers had looted and collected enough stuff and got us to start
11 marching again, I did not see them loot because I and other abductees were on the side
12 of the road, but I know they looted my shop. They broke the shops open and looted
13 them. I was watching this and I could see them taking things out of the shops like
14 sugar, soap, salt and lots of other items. They made us take stuff and put it on our
15 heads. At this time, it was between 7.30 a.m. and 8 a.m. but it could have been
16 earlier. In Acholi, we can estimate the time by looking at the position of the sun."

17 Q. [10:23:07] Now, Mr Witness, you've stated a lot about not wearing a watch, but
18 do you need to wear a watch to know approximately what time it is and how much
19 time has passed?

20 A. [10:23:32] Like right now I don't have a watch. If you ask me what time it is, if
21 you could ask me what time it is, and I tell you. Of course, it's not easy to say what
22 time it is, to estimate, especially if you don't have a watch. If you ask me what time it
23 is, I don't know, I wouldn't say. I don't know whether the sun is rising or the sun is
24 setting. It's not easy to estimate time. If it is -- whatever is estimated, please use that
25 because that is also an estimate.

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1 PRESIDING JUDGE SCHMITT: [10:24:09] Mr Witness, you have heard what you
2 said in your former statement. Here in this, today, in the courtroom, does this in any
3 form refresh your memory that you say, oh yes, at the time I knew better; perhaps it
4 was between 7.30 and 8 a.m. or do you today say no recollection any more?

5 THE WITNESS: [10:24:40] Like I estimated, that is how it should be, but if we were
6 to go to the exact time, I don't think it would be correct; I just estimated. I just
7 estimated the time that I mentioned there because that is what I estimated with the
8 sun, position of the sun at that time.

9 PRESIDING JUDGE SCHMITT: [10:24:58] Mr Witness, nobody demands more
10 from you. It is perfectly clear that you cannot say exactly what time it was. It's only
11 about estimation and assessments by you at the time. I think we can move to another
12 point, Mr Obhof.

13 MR OBHOF: [10:25:19]

14 Q. [10:25:19] Now, during this time when you were being abducted, did you ever
15 see Raska Lukwiya?

16 A. [10:25:36] If I recollect well, I said yesterday that I saw Raska Lukwiya from the
17 rock that we stopped at. That's what I know.

18 MR OBHOF: [10:26:06] I'm sorry, I just have to make one correction on something I
19 said earlier. When I stated that he sent soldiers to the barracks, where he sent
20 soldiers in the direction, which the witness did actually correct, saying "to the road."

21 Q. [10:26:29] Now, when you saw Mr Ongwen for the first time, he was wearing a
22 military uniform and carrying a walking stick; correct?

23 A. [10:26:45] That is what I stated.

24 Q. [10:26:50] That he was using the long walking stick to command soldiers;
25 correct?

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1 A. [10:27:02] That is my statement.

2 Q. [10:27:05] Do you know what Mr Ongwen's rank was during the Pajule IDP
3 camp attack?

4 A. [10:27:21] I was a civilian and I am a civilian; I do not know issues of ranks. I
5 cannot commit myself to mention someone's ranks because I'm not a trained soldier.
6 It is difficult to estimate someone's rank. I cannot say. It is difficult for me to say.
7 That's what I can tell the Court. A civilian does not know military issues.

8 Q. [10:27:49] But Mr Ongwen was guiding the soldiers with the long walking stick
9 like a shepherd leading his flock; is that correct?

10 A. [10:28:06] I did not say he was herding his flock. I said he was pointing and
11 giving directives with the stick that he was holding.

12 Q. [10:28:25] Now, you also made the statement yesterday, and I'm quoting from
13 T-79, page 36 to -- page 36, line 23, 37, line 2, "There's no other group of soldiers other
14 than that of Ongwen that came to Pajule on that day. There was only that one group,
15 so all the crimes that could have been committed in Pajule on that day was done or
16 carried out by Ongwen's soldiers. Whatever was done, there was no other LRA
17 group that came in there."

18 Now, Mr Witness, as you stated, when you left the RV point, there were six groups
19 that went in different directions. With six groups at the RV point, is it your testimony
20 that only one group went in to Pajule to attack a camp of 14 to 20,000 people?

21 A. [10:29:40] What I know and what I saw is that there was a group of soldiers
22 being led by Ongwen. The one I -- that is what I saw. The attack was -- I did not see
23 what each other group was carrying out the attack. I was the only one, I was just one
24 and I saw what I could see. The rest of the troops, I met them at the rock, and that is
25 what I know.

1 Q. [10:30:16] Also, Mr Witness, don't you think it's rather strange that a -- that an
2 alleged commander or a leader of fighters in a battle is carrying a walking stick and
3 not an AK-47 or a G3 rifle?

4 A. [10:30:45] Well, I can't say what I have not seen on somebody. So I cannot just
5 force seeing something on somebody, so I only say what I have seen.

6 Q. [10:31:03] Now, during this time both -- well, we'll go first to the attack on
7 Pajule. Besides maybe using his stick, how else was Mr Ongwen relaying messages
8 to the fighters?

9 A. [10:31:33] What I saw was him giving orders that the items should be collected
10 and that the soldiers should go and help those or reinforce those who had gone to the
11 barracks, and then the radio that he was using to communicate and whatever he was
12 communicating on radio, I do not know; that was their military secrets, even I'm sure
13 the civilians wouldn't know.

14 Q. [10:32:01] So was he jogging or running around between different troops on the
15 different roads in the map that you drew?

16 A. [10:32:20] Ongwen was not running; he was very free at Pajule. There was
17 nothing, he was not under any pressure. He was just walking. He was not running
18 because there was nothing that he was fearing at Pajule.

19 Q. [10:32:47] So he's walking freely?

20 A. [10:32:56] I did not see anything that Ongwen was fearing at Pajule because
21 even the fighting in the barracks, we were not actually feeling the effect of the fighting
22 at the barracks, so I saw he was really free. He was really very relaxed doing his
23 things.

24 Q. [10:33:18] So was there anything strange about him walking back and forth?

25 A. [10:33:38] That's still the same question that I responded to. I said he was very

1 relaxed, he was free. According to him, I think he did not see there was anything
2 going wrong.

3 Q. [10:33:50] So he didn't look hurt or injured?

4 A. [10:34:06] From our location, he was not shot, unless he was shot from another
5 place and I wouldn't know that, but from where we were in the middle of the road, he
6 was not shot because there was no fighting in the middle of the road; the fightings
7 were just at the sides.

8 Q. [10:34:29] So he didn't appear to walk like he had been shot in the leg, he
9 walked normal?

10 A. [10:34:44] I said, from Pajule he was not shot, but also, you know, as a civilian
11 you cannot completely observe a soldier as if you are a free person. All I know is that
12 he was not shot from Pajule, unless he had injuries before. And then that I don't
13 know, but from where we were, he was not shot. That's what I know. And also you
14 cannot be observing a soldier for a long time, it's not possible. What would you be
15 looking for?

16 Q. [10:35:19] Can you describe to this Court how Mr Ongwen was walking?

17 A. [10:35:29] I said he was walking and he was very free. He was walking slowly,
18 he did not have any fear. I already explained that.

19 Q. [10:35:38] So there is nothing -- sorry, there was nothing abnormal about the
20 way in which he walked, abnormal or distinctive?

21 Sorry about that.

22 A. [10:36:03] Ongwen was performing his commanding role, so, you know, a big
23 soldier, a commander, walks as a commander should walk, he was doing his job, his
24 commanding work. That's what I think he was doing.

25 PRESIDING JUDGE SCHMITT: [10:36:20] I think Mr Obhof it's --

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1 MR OBHOF: [10:36:22] Yeah. I'll move on.

2 PRESIDING JUDGE SCHMITT: [10:36:23] If I were you, I would think I would
3 continue.

4 MR OBHOF: [10:36:27] You mean move on, correct, your Honour?

5 Q. [10:36:36] Now, Mr Witness, I'm going to say a few names and I would like to
6 know if you've heard of them before. Lagany or Lagany, L-A-G-A-N-Y. Lagany.

7 A. [10:37:03] If it is not in my statement or if this -- if the information you're asking
8 me is not in my statement, then I think you would not -- you should not ask me
9 because it is not in my statement, it would be difficult to respond to it.

10 Q. [10:37:15] Well, Mr Witness, we're asking you for your memory. Did you hear
11 of anybody in the LRA whilst you were there called Lagany?

12 A. [10:37:39] I said if I have not stated that information in my document, I think it
13 is not useful to ask me. Ask me what I have written through my statement, because if
14 I knew, I would have put it down there.

15 Q. [10:37:59] So is that a yes or a no?

16 A. [10:38:13] I don't know because I've not also put it in my statement.

17 Q. [10:38:21] Have you heard of anybody called Bwona, B-W-O-N-A?

18 A. [10:38:36] I said, ask me what I have included in my statement and the names
19 of the people that I have provided in my statement, because if I did not include, then I
20 think it's useless to ask me because if I knew, I would have written there and you
21 would not have asked me now. So I don't know. Even if I had seen it was there or
22 not, if I have not written it there, then it is not useful.

23 Q. [10:39:03] So is that a no, Mr Witness, you do not recognise that name of a
24 person in the LRA?

25 A. [10:39:17] You're asking me different things. Ask me about Ongwen, ask me

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1 about the people I saw there, like Otti and Lukwiya, and ask me how you saw them.

2 I think that's what you should ask me. Don't ask me information on somebody that I

3 have not included there. I don't have anything with them.

4 PRESIDING JUDGE SCHMITT: [10:39:35] Mr Witness, just shortly I want to

5 interrupt you. You cannot determine what Defence counsel is going to ask you.

6 Simply if you don't know say, "I don't recall this person." There's nothing --

7 THE WITNESS: (No interpretation)

8 PRESIDING JUDGE SCHMITT: There's no problem -- no, please don't interrupt me

9 too. There is no problem with that at all, if you say, "I do not recall this anymore."

10 There is no problem about that. So there is nothing to be excited about. Just -- just

11 answer the questions and to the best of your knowledge, as you said.

12 THE WITNESS: [10:40:08] (Interpretation) I don't know, I don't know. I don't

13 know if -- if you're talking of names that I have not included in my statement, I don't

14 know. Whether I've seen there or not, I don't know, because I've not included in my

15 statement.

16 MR OBHOF: [10:40:26]

17 Q. [10:40:26] That's okay, Mr Witness. Just let us know, and all you have to do is

18 say no.

19 PRESIDING JUDGE SCHMITT: [10:40:32] So perhaps if indeed there is -- a certain

20 name does not appear now in the statement, we can take it that he does not know the

21 person, I would say. So this could shorten the procedure. If you had other names,

22 we can really take it that he does not know.

23 MR OBHOF: [10:40:47] If the Prosecution is willing to say yes to that judicial fact.

24 PRESIDING JUDGE SCHMITT: [10:40:51] I would not see it so formally but -- so if

25 you want it as a formal act, then you have to ask him and you will receive the answer

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1 that we have heard now several times.

2 MR OBHOF: [10:41:03] I'll just ask a couple more, then I'll get rid of a few.

3 PRESIDING JUDGE SCHMITT: [10:41:06] Okay.

4 MR OBHOF: Yeah.

5 PRESIDING JUDGE SCHMITT: Then, Mr Witness, counsel is now putting other
6 names to you. Simply say -- if you don't recall them here now in this courtroom,
7 simply say no. That is the quickest way to go through the process.

8 So please, Mr Obhof.

9 MR OBHOF: [10:41:20] Thank you, your Honour.

10 Q. [10:41:23] Wai Wai?

11 A. [10:41:29] I don't know.

12 Q. [10:41:30] Nyeko Tolbert Yadin?

13 A. [10:41:42] Nyeko Tolbert Yadin, I only heard about his name while I was still
14 home. I did not see him.

15 Q. [10:41:51] Bogi Bosco?

16 A. [10:41:59] I did not see him.

17 Q. [10:42:02] And finally, Mr Witness, Cesar Acellam?

18 A. [10:42:08] I heard about this name, but I did not see him.

19 MR OBHOF: [10:42:28] One second, your Honour. I'm sorry.

20 Q. [10:42:53] Now, Mr Witness, when you first met with the Office of the
21 Prosecutor, they informed you that you need to be as accurate as possible in your
22 statement; is that correct?

23 A. [10:43:16] Well, correct. If you look at my document, it states that right from
24 the time I was abducted by the LRA, I took about two weeks and slightly more with
25 them. So that's why even the names that you're asking me, I don't know, because I

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1 did not take long there. It requires somebody who has taken some time there in the
2 bush to be able to know. I only stayed there for about two weeks, so I cannot be able
3 to really investigate and know a lot of things which took place there. That's why I'm
4 saying some of the things I don't know.

5 Q. [10:43:59] And that you did, you gave a first statement to the Office of the
6 Prosecutor and then about 11 months later the Prosecution allowed you to read
7 through and clarify your statement; is that correct?

8 A. [10:44:22] Yes, that's correct.

9 MR OBHOF: [10:44:26] Now, your Honours, I'm going to be referring to tab 11,
10 UGA-OTP-0240-0181, on page 0182.

11 Q. [10:44:46] Now, Mr Witness, do you have a problem trying to distinguish
12 between your personal experiences and things that you have learned from other
13 people?

14 A. [10:45:16] What I saw personally I can tell -- can talk about it, but if I didn't see
15 it personally, then I will say I only heard, and of course you cannot really rely on what
16 you've heard. So if the ones that I heard and I wrote them down, you can ask me and
17 I can explain to you, but if -- the ones that happened to me that I experienced myself, I
18 will tell you that I actually experienced them myself.

19 Q. [10:45:48] (Microphone not activated)

20 PRESIDING JUDGE SCHMITT: [10:45:51] Microphone. Microphone, please.

21 MR OBHOF: [10:45:54] Sorry, your Honour. Thank you. Sorry to the people in
22 the booth.

23 Q. [10:45:58] But again is it sometimes hard for you to distinguish between what
24 you experienced and the experience in which other people have talked to you about?

25 A. [10:46:24] If you went through something, if somebody else experienced

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1 something, why -- then I wouldn't know. I only know what I went through and what

2 I saw myself.

3 PRESIDING JUDGE SCHMITT: [10:46:35] I think, Mr Obhof, you can continue.

4 We have seen this tab 11. It's on the record. I think you can move to another issue.

5 MR OBHOF: [10:46:47]

6 Q. [10:46:47] Now, Mr Witness, during the attack on Pajule you stated that you
7 saw the fighters abduct - and, sorry, I'm going to mispronounce this - Rwot Oywak; is
8 that correct?

9 A. [10:47:07] Yes, Rwot Oywak was abducted together -- I was together with him
10 and we went together.

11 Q. [10:47:20] And he didn't carry any luggage or anything on his head; is that
12 correct?

13 A. [10:47:32] I saw myself, he did not carry anything. And up to the position we
14 reached, we were supposed -- when -- where we reached, he did not carry anything.
15 If you're talking about the Oywak of Pajule, yes, then he's the one.

16 Q. [10:47:49] Yes, so Oywak, Ywakamoi.

17 A. [10:47:56] Yes, he did not carry anything.

18 Q. [10:47:58] Did it appear to you that the rebels knew who he was?

19 A. [10:48:14] Well, these rebels know Rwot Oywak because all these Rwots in
20 Acholi the -- the rebels know them. So when Oywak reached them, they were very
21 free, they were relaxed, they were -- he was not like a -- like a prisoner. So I think,
22 yes, they knew each other. How they know, how they know each other, I do not
23 know very well, but from what I know and what I saw, he was not like a prisoner like
24 we were.

25 Q. [10:48:47] And just so we have a clear -- and I know we discussed him a lot

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1 yesterday, but I just want to make sure everything is clear on the record. You know
2 him because you live there and you have seen him a lot, maybe not talked to him but
3 you do see him -- you did see him on a regular basis, correct?

4 A. [10:49:13] Rwot Oywak lives in Pajule. (Redacted)
5 and Rwot Oywak is from Koyo Lalogi and he's the Rwot of Koyo Lalogi. But
6 (Redacted)
7 That's my response.

8 Q. [10:49:39] Did you ever hear anything - pardon me - did you ever hear
9 anything about Rwot Oywak working for the LRA as a collaborator?

10 A. [10:50:01] Well, even if I'd heard, I don't -- I do not -- I do not work and I do not
11 believe in hearsays. There could be many things going on in the -- yeah,
12 Rwot Oywak was also among the people who went for the peace talk in Juba. I did
13 not write that in my statement. It is not my duty to mention it here. So I don't work
14 with hearsays.

15 Q. [10:50:42] Now -- now at that time in 2003, do you know if Rwot Oywak had a
16 mobile phone?

17 A. [10:51:00] I saw that mobile phone with my own eyes. So there was a time I
18 was -- I heard on radio when Ocora was on radio and he ordered that Rwot Oywak
19 should take that phone immediately to Gulu and he should take it immediately, and I
20 think he even get like an ultimatum, like a 24 hours' ultimatum, that that radio should
21 be taken to Gulu immediately. But I saw the radio with my own eyes. I did not
22 know who gave him, and I don't know the secrets, but I saw it with him, he was
23 holding it in his hand.

24 Q. [10:51:44] Just to make sure, Mr Witness, and I'm sorry about asking this, do
25 you mean radio or mobile phone?

1 A. [10:52:01] Did you ask me that the one time you saw Oywak with a radio, I said,
2 yes, I saw. I saw that radio with my own eyes. The late Ocora ordered, and he
3 made this statement on radio, that Oywak should take this radio to Gulu immediately.
4 He was not allowed to own it and he took it.

5 Q. [10:52:24] Now, could you please describe this radio, Mr Witness, what it
6 looked like, the size?

7 A. [10:52:39] I did not hold it in my hands, I saw him moving with it. How
8 would you -- how would you hold it in your hands? I did not hold it. So to see that
9 this was the radio and to explain to you that this was the kind of radio, I cannot, but I
10 would see it, him holding it in his hand and, yeah, that's what I saw.

11 Q. [10:53:03] From what you saw was the radio about the size of my hand or was
12 it larger like one of these little grey devices that we see here?

13 A. [10:53:24] I do not have anything here to use to compare with. Maybe
14 this -- this thing here. I -- maybe -- maybe this thing I'm holding in my hand I can use,
15 I can compare it, compare it with. I even saw it from afar, I was not sitting close to
16 him to see, so I'm just trying to estimate, but that's what I saw. I saw it in his hands.

17 MR OBHOF: For the record, the witness picked up a television remote control which
18 is approximately, I'd say, 12 centimetres, 12 to 14 centimetres in length and about 3
19 centimetres wide.

20 Q. [10:54:05] And now, Mr Witness, this radio, was it something in which he
21 would communicate with or was it an AM/FM radio?

22 A. [10:54:25] Well, that radio, I think it was a radio that he would use to
23 communicate with. If it was this FM radio which were just in abundance in the
24 villages, then why wouldn't Ocora also order that people should take all these radios,
25 because even at my home I had it. So I think that was a radio that he used for

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1 communication. I don't know who gave, but these FM radios are very many. Even
2 at my home I have them. But no orders were given that we should take them to
3 Gulu.

4 Q. [10:54:57] Now, did you ever -- you only saw him walking around with this
5 though, but you never saw him use it; is that correct, Mr Witness?

6 A. [10:55:10] Well, I -- well, I also had my own things to do, maybe that was -- his
7 role was given to do that, so I was not monitoring him to see what he was doing. I
8 had my things, I would also go to do my things. But if he passes by me, then I would
9 see him holding it in his hand. Everyone had his job to do, so I was doing my job. I
10 was doing my work. But to follow him as if it will have something to do with it in
11 the future, I wasn't following.

12 MR OBHOF: [10:55:44] Your Honour, only because of the time, I think right now
13 would be a good time for a break, and by the looks of it, it looks like we'll be done by
14 the second session.

15 PRESIDING JUDGE SCHMITT: [10:55:54] Thank you very much, Mr Obhof.
16 So we have now the break until 11.30.

17 THE COURT USHER: [10:56:01] All rise.

18 (Recess taken at 10.56 a.m.)

19 (Upon resuming in open session at 11.30 a.m.)

20 THE COURT USHER: [11:30:57] All rise.

21 Please be seated.

22 PRESIDING JUDGE SCHMITT: [11:31:19] Mr Obhof, you have still the floor.

23 MR OBHOF: [11:31:23] Thank you very much, your Honour.

24 Q. So, good morning, Mr Witness. I hope you had a good break.

25 A. [11:31:35] Thank you.

1 Q. [11:31:39] Now, with Rwot Oywak, when did you first see him during the attack?

2 I'm sorry, I'll clarify that. During the attack, Mr Witness.

3 A. [11:32:00] I saw Rwot Oywak on the day that the attack took place in Pajule,
4 when people were abducted. I said I lived together with him in Pajule, and on the
5 day of the attack he was also abducted like I was.

6 Q. [11:32:15] Did you see him with -- around the market area or the trading centre
7 before you left Pajule?

8 A. [11:32:28] When we started moving towards the bush, and then a young soldier,
9 a kadogo soldier, came running with him and got us along the way as we had already
10 branched off from the camp. He had been undressed, he had no shirt on him, and
11 one soldier ordered that his shirt be given back and asked the other soldier whether he
12 knew the person, and then he ordered him to give back the shirt to him. And he was
13 not beaten, and that is what I heard and saw. Whatever I was told earlier, I did not
14 hear.

15 Q. [11:33:12] It's okay to say both what you heard and what you saw. Did you see
16 him being beaten at all?

17 A. [11:33:31] What I am saying is that I saw when they were coming with him,
18 while running. The person who was bringing him was asked whether he knew the
19 person, and they told him to give back his shirt and he should not carry any luggage,
20 he should not be beaten. And that's what I saw.

21 Q. [11:33:55] Did you ever see Rwot speak with Mr Ongwen at any time before you,
22 the group, stopped where Otti Vincent and Raska Lukwiya was at?

23 A. [11:34:12] Maybe they spoke along the route while we were moving, but when
24 they arrived under the tree, they sat together with Ongwen, but along the road I did
25 not see that they were speaking.

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1 Q. [11:34:32] From what you witnessed, did it seem to you that Rwot knew the
2 people that were sitting under the tree?

3 A. [11:34:52] The commanders who were there, they knew, themselves, and he was
4 speaking freely, he was free while I was staying with them. But I do not understand
5 how they knew, themselves. He was moving freely, and he was not made to sit
6 down the way we were made to sit down. He was free.

7 Q. [11:35:17] Did you see if Rwot had any private discussions with any of the
8 people when you stopped and met up with Raska Lukwiya and Otti Vincent?

9 A. [11:35:38] I was abducted and I was prisoner. It was not possible for me to
10 follow and know what was going on between them because I was -- I was an abductee.
11 It was possible for them probably to go and hold private talks a distance away, but I
12 did not see. But what I can confirm is that Rwot Oywak was free and it was possible
13 for him to do anything.

14 Q. [11:36:11] Now, Mr Witness, you mentioned in your statement at paragraphs 57
15 in tab 8 that the commanders had a discussion about releasing Rwot Oywak but Rwot
16 refused to go back home without others; is that correct?

17 A. [11:36:37] Yes, that is my statement. Rwot Oywak could have been called and
18 they wanted to release him. I think he realised that it would raise suspicion if he
19 went back alone and the government would interpret it a different way. That is
20 when a few people were selected, the older people were selected and released. That
21 is my statement, that's what I said.

22 Q. [11:37:04] Now you state it might have raised suspicion with the government
23 and that they might interpret it a different way. Do you know or did you ever hear
24 about the government conducting investigations against Rwot Oywak for working
25 with the LRA?

1 A. [11:37:37] The issue of Oywak's collaboration, I cannot confirm. It's hearsay. I
2 do not put hearsay to use. There's rumours that he was collaborating with the rebels.
3 I just heard it. Even if I heard, I cannot confirm it here that I know because I did not
4 see personally or how he was collaborating with them.

5 Q. [11:38:07] Now, these discussions that we just mentioned in which he demanded
6 that people be released with him, do you know which commanders were with him
7 during these discussions?

8 A. [11:38:32] I only know who gave the orders to release those people; it was
9 Ongwen who gave the orders. Like I said, I did not stay long there, I did not take
10 long there, and I do not know the people who were there. The way you are asking
11 me about the different commanders, it's as if I had stayed there for a year. The
12 person who released the people with whom Rwot went back with home was Ongwen.

13 Q. [11:39:02] And in reference to the date on which you were abducted, which date
14 did Mr Ongwen release Rwot and the people that he left with?

15 A. [11:39:23] Rwot Oywak stayed for one night in the bush and the next day he was
16 released in morning together with the people that I mentioned. He did not spend
17 two nights in the bush.

18 Q. [11:39:39] By that time, it is still your testimony that Otti Vincent and
19 Raska Lukwiya had already left, correct?

20 A. [11:39:54] I was not seeing them at the time. Maybe as a civilian, I was not able
21 to see the military movements, but I did not see them at that time, and of course as
22 a prisoner I was not free to move and search to see whether they were still around.

23 Q. [11:40:16] Now, during the rest of your time in the bush for those few one to two
24 weeks, did you ever see Otti Vincent or Raska Lukwiya or Nyeko Tolbert Yadin after
25 the date on which you were abducted?

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1 A. [11:40:42] I said I did not see them, maybe because I was a prisoner and I was not
2 free to search and look for them.

3 Q. [11:40:59] Now, Mr Witness, do you find it out of the ordinary or strange that
4 Rwot Oywak received such special treatment?

5 A. [11:41:24] Even if he was giving -- he was given special treatment that is how
6 probably God arranged it for him. There was nothing I could do about the way he
7 was being treated. For me, I had my own ways for which I was treated. That's what
8 I can say.

9 Q. [11:41:46] Do you think it strange or odd that Rwot Oywak was able to demand
10 the release of so many people after the attack on Pajule?

11 A. [11:42:10] For me, I saw as he was being released. I thought he would be
12 released alone and he refused for fear that if he went back alone he would be
13 questioned. That is what I think. That's probably why he was released together
14 with some people. There's nothing else I know other than that.

15 Q. [11:42:34] Now after the -- the incident where an LRA soldier identified
16 Rwot Oywak and he was given his shirt back, did you at any time witness
17 Rwot Oywak being chastised by anybody in the LRA?

18 A. [11:43:06] I have said it repeatedly that Rwot Oywak was free while staying
19 amongst these people, and I did not see anything bad happen to him. This is
20 probably third time I was saying. I did not see anything, any harm done to him. He
21 was a free man.

22 Q. [11:43:32] During those first two days in the bush, did you at any time see Otti
23 Vincent conduct a prayer session with the members of the LRA and the newly
24 abducted people?

25 A. [11:43:53] I did not hear any prayer but I heard people speaking. If the prayer

1 was conducted in a different language, then probably I did not notice that there was
2 prayer, but I heard speeches.

3 Q. [11:44:19] Now, Mr Witness, you stated that no one with a higher command than
4 Ongwen who abducted people, that there were no one with a higher command. So
5 would you say that Raska Lukwiya did not abduct anyone?

6 A. [11:44:49] If I had seen that he was abducting, I would have seen. He could
7 probably have abducted, but I did not see him abduct in Pajule, so I cannot say that he
8 abducted people.

9 Q. [11:45:05] Not counting the persons who had been abducted, how many people
10 would you estimate were in Mr Ongwen's group?

11 A. [11:45:25] Those who were abducted, if you are an abducted civilian you cannot
12 count soldiers if you are under pressure. Ongwen had many soldiers. The only
13 thing I can tell this Court is that there were many soldiers. A prisoner cannot start
14 counting soldiers. That cannot happen anywhere in any place which is insecure;
15 you cannot count soldiers if you are abducted.

16 Q. [11:45:58] Now, during the two weeks when you were on the move, were there
17 women and children with you?

18 A. [11:46:17] Those who were abducted, I saw, yes, some women. And then the
19 soldiers were young. There were actually girls who were abducted amongst those
20 who were abducted, too. There are those abducted and there's the soldiers.

21 Q. [11:46:44] Now, the people who were not abducted, were there people, women
22 and children who were not abducted from Pajule with your group that you travelled
23 with for one to two weeks?

24 A. [11:47:07] From my position, there was no -- there was none, but there are girls.
25 Those who did not have children, those who were not carrying young children, I do

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1 not know if they were there in other places, but where I was sitting, in the position
2 where I was sitting, I did not see.

3 Q. [11:47:34] During your time in the one to two weeks in the bush, did you meet or
4 hear of anyone by the name of Onyee, O-N-Y-E-E?

5 A. [11:47:56] No, I never heard.

6 Q. [11:48:04] Now, Mr Witness, while during the attack you mentioned that you
7 saw Mr Ongwen with a walk-and-talk radio; is that correct?

8 A. [11:48:18] Yes, I saw him from a distance. I could not go close to him.

9 Q. [11:48:26] Did you see if he was communicating with that radio?

10 A. [11:48:35] Yes, he was using the radio, and he was using it for communication.

11 Q. [11:48:47] And you mention the phrase yesterday and today "military jargon".
12 What do you mean by "military jargon"?

13 A. [11:49:05] I do not understand military jargon. I am not a trained soldier, and I
14 do not know the way they talk amongst themselves. I do not know what it means,
15 how can I know then? If I was trained, I would definitely know what they were
16 talking about. I was not trained and therefore I did not know the language they were
17 speaking and how they express their secrets.

18 Q. [11:49:35] And was Mr Ongwen speaking in a different language other than
19 Acholi?

20 A. [11:49:47] Even if he was speaking in Acholi, I do not know the way they express
21 certain things amongst themselves. What I can confirm is that he was speaking on
22 the radio. But what they were saying, I cannot say.

23 Q. [11:50:05] Did Mr Ongwen have a code book in his hand in order to speak in this
24 military jargon?

25 A. [11:50:28] I do not know. I, I cannot know because that's how soldiers

1 communicate. If someone had stayed long in the bush, he could know.

2 Q. [11:50:40] Now, back on to the assembly point. You stated that it was
3 a place - and please, I apologise, I accept that I am going to say it wrong - Got Lela Mu;
4 is that correct, Mr Witness?

5 A. [11:51:01] Yes, that is correct.

6 Q. [11:51:04] About how far away was that from Pajule IDP camp?

7 A. [11:51:18] I just estimate, I don't know whether it is correct, I can estimate that it
8 is probably four miles or five, thereabouts. It could even be more than five. I'm just
9 estimating because I did not measure to confirm the -- the distance. That's what I
10 know.

11 Q. [11:51:37] No, we understand that, Mr Witness.

12 And for the Chamber, that's between 6.5 and 8 kilometres.

13 Now, when you returned there, do you know if Otti Vincent was angry because
14 somebody lost an SPG-9 weapon during the attack?

15 A. [11:52:08] I have no knowledge of that. It's not even in my statement. That
16 was a military communication and it is their secret. I do not know.

17 Q. [11:52:24] And while you were walking to this location, there was a UPDF
18 helicopter, UPDF helicopter gunship above; is that correct?

19 A. [11:52:41] Yes, that is correct.

20 Q. [11:52:45] Did it fire down on the people as it hovered above?

21 A. [11:52:56] Yes, it was firing lots of bullets. But it was not shooting directly on
22 the people, it was shooting on the periphery. I think they were imagining that some
23 abducted people would be able to flee, but it was not possible because the rebels were
24 many.

25 Q. [11:53:17] Was it dropping bombs as well?

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1 A. [11:53:28] No, it was not, there was no bomb. There were smaller bullets that
2 were being fired.

3 Q. [11:53:37] This is from tab 8, paragraph 37, which is at page 0777, and I am
4 quoting:

5 "The whole time we were walking a helicopter was dropping bombs on us until we
6 got to our position. It was dropping bombs not at the people but around the people."
7 So is it your statement today that they were or were not dropping bombs around the
8 people?

9 A. [11:54:19] What I can say is that they were firing bullets in the periphery. The
10 helicopter was shooting from up. I was not up there to know what type of gun was
11 being fired. I can confirm that bullets were being fired and we could hear the
12 gunshots. We did not see the type of gun which was being fired because it was up.

13 Q. [11:54:43] Now, was it firing on the outside, was it -- sorry, was it firing the
14 entire time that you were walking or was it only sporadic points here and there?

15 A. [11:55:03] Yeah, they were firing and then when they realised it was not possible
16 to save the situation, they went back. Then at some point when we left Lela, they
17 were also hovering above us, and there was nothing they could do. That's what I
18 saw.

19 Q. [11:55:29] One final question about this helicopter, Mr Witness. How do you
20 know that the helicopter came from Achol Pii barracks, as you told Court yesterday?

21 A. [11:55:51] There was no major barracks in the area other than Achol Pii which
22 could have a helicopter. That is what I can tell Court.

23 Q. [11:56:02] So you are just guessing based upon the location of Achol Pii versus
24 the location of other military barracks which you believe have helicopter gunships; is
25 that correct?

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1 A. [11:56:19] Yes, I can confirm that the helicopter gunship came from Achol Pii to
2 rescue people. When I returned home, I even found out that it came from Achol Pii.

3 Q. [11:56:37] Now, Mr Witness, how did you know that the location you stopped at
4 was Got Lela Mu?

5 A. [11:57:09] The rock or lela, it's about four or five kilometres. Up to now it is
6 called like that. It's not far from Pajule. So that is still part of Pajule. It's within the
7 Pajule area, that's how I know it.

8 Q. [11:57:39] Now, without saying any -- actually, your Honour, could we please go
9 into private session for these next few questions?

10 PRESIDING JUDGE SCHMITT: [11:57:49] Private session.

11 (Private session at 11.57 a.m.)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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- 1 (Redacted)
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- 5 (Redacted)
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- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Open session at 12.00 p.m.)
- 12 THE COURT OFFICER: [12:00:41] We are back in open session, Mr President.
- 13 MR OBHOF: [12:00:49]
- 14 Q. [12:00:49] Now, Mr Witness, Otti Vincent addressed the people when they
- 15 arrived at Got Lela Mu, correct?
- 16 A. [12:01:02] Yes, he addressed.
- 17 Q. [12:01:05] And he was the first person to address everyone there, correct?
- 18 A. [12:01:14] Yes.
- 19 Q. [12:01:20] And during that address he gave instructions to everyone that had
- 20 been recently abducted; is that not correct?
- 21 A. [12:01:34] Correct.
- 22 Q. [12:01:37] And the instructions that you stated you heard from Mr Ongwen were
- 23 the same instructions that Otti Vincent pronounced first; is that correct?
- 24 A. [12:01:54] Correct.
- 25 Q. [12:02:09] Now, on your route leaving on the second day, you stated that the

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1 group started heading towards Soroti. Were you with any other commanders other
2 than Mr Ongwen during these next one to two weeks?

3 A. [12:02:41] Where will I have got the other commander from? So I was with
4 a person who abducted me, so how else would I have got another commander?
5 I didn't have the opportunity to even go anywhere else.

6 Q. [12:03:03] And all the abductees left with Mr Ongwen's group; is that still
7 correct?

8 A. [12:03:16] That is what I said, that everyone who was abducted moved together
9 with Dominic Ongwen. I was also amongst them.

10 Q. [12:03:38] Mr Witness, if I stated that it has been claimed that Mr Ongwen was in
11 fact travelling with Raska Lukwiya, Nyeko Tolbert Yadin and Otti Vincent for the
12 three weeks, three to four weeks following Pajule, would I be correct in saying that or
13 would I be wrong in saying that?

14 A. [12:04:18] Well, maybe that is not what I have indicated in my statement. If
15 they were moving together, then I -- and I have not seen them, yes, that is why I have
16 not put it in my statement, because I will not have seen them moving together.

17 Q. [12:04:48] Only a few more questions, Mr Witness, from me. After you returned
18 home you went to the hospital; is that correct?

19 A. [12:04:57] Correct.

20 Q. [12:04:59] Did the Office of the Prosecutor ever ask you to go to the hospital and
21 retrieve the medical records from that hospital about the injuries that you say you
22 sustained during your two weeks in the bush?

23 A. [12:05:25] No, I was not given that information. I was not told to do that. It
24 was not told to me.

25 MR OBHOF: [12:05:48] Your Honours, Counsel Ayena Odongo will be finishing up

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1 today.

2 PRESIDING JUDGE SCHMITT: [12:05:56] Thank you, Mr Obhof.

3 And, Mr Ayena Odongo, you have the floor.

4 MR AYENA ODONGO: [12:06:09] I thank you, Mr President and your Honours.

5 QUESTIONED BY MR AYENA ODONGO:

6 Q. [12:06:16] Mr Witness, good afternoon and thank you for availing yourself today
7 in court and giving very vital information. I have two or three questions for you.
8 Number one, Mr Witness, you talked about somebody called -- you called late Ocora.
9 Can you tell this Court who this Ocora was?

10 A. [12:06:57] Well, the issues relating to Ocora is not in my statement, but I mention
11 it because of the ultimatum he gave to Oywak to take that radio to Gulu. That is why
12 his name was mentioned. But Ocora comes from Gulu, I don't know which place he
13 comes from, but he was the resident district commissioner of Gulu.

14 Q. [12:07:25] Well, Mr Witness, maybe it may be useful for you to correct the
15 impression that you should only talk about what you have put in your statement. If
16 that were true there would be no need for you to come here. The reason why you
17 have come here is to talk to Court generally about any question that you are asked.
18 So be kind, be so kind enough to go with that impression when you go back.
19 I want to ask you something about Rwot Oywak and when I ask you this I am aware
20 that you have already said you do not talk about hearsay. But my question is: It
21 would still be useful to Court if you ever heard people talk about Rwot Oywak as
22 a collaborator. Did you ever hear that? Forget about whether you believed it or not.
23 A. [12:09:02] Even if I heard and I -- and I tell the Court that I heard, what
24 will -- what will happen if they ask me that where did you see this from, where did
25 you see them talk? So even if I heard, it is not my duty to say that I have heard

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1 because when it becomes a court issue I will not be able to stand in for it.

2 PRESIDING JUDGE SCHMITT: [12:09:30] Mr Witness, there is no -- we have no rule
3 here that hearsay is completely excluded. And as counsel has correctly worded it,
4 you can simply answer the question if you have heard something like that and -- and
5 that's it then, and then we continue, and nothing more. It's not about if you thought
6 it was true or not or incorrect or not. Not about that. But simply you can answer if
7 there were talks about such issues or not and then that's it for this issue.

8 THE WITNESS: [12:10:12] (Interpretation) Well, to confirm that statement is difficult,
9 because even if I heard I will say I have not heard because when it becomes a court
10 issue I cannot be able to stand in for it. I say I have not heard. Even if he was free
11 and interacting freely with them and maybe he knew them, I do not know their secret
12 because if you ask me to tell, I may not be able to tell you.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

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21 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Private session at 12.11 p.m.)
- 4 (Redacted)
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- 22 (Redacted)
- 23 (Redacted)
- 24 (Open session at 12.13 p.m.)
- 25 THE COURT OFFICER: [12:13:20] We are back in open session, Mr President.

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- 1 PRESIDING JUDGE SCHMITT: [12:13:24] Thank you very much.
- 2 Thank you very much, Mr Ayena. I understood that this concludes the questioning
- 3 by the Defence.
- 4 MR AYENA ODONGO: [12:13:30] Yes.
- 5 PRESIDING JUDGE SCHMITT: [12:13:31] And, Mr Witness, this was also the last
- 6 question that has been put to you and this concludes your testimony. We thank you
- 7 for coming to this Court and assisting us in establishing the truth. We wish you
- 8 a safe trip back, Mr Witness. Thank you again very much.
- 9 (The witness is excused)
- 10 PRESIDING JUDGE SCHMITT: And we conclude for today and resume with fresh
- 11 minds and with all the vitality that we have tomorrow morning at 9.30 with the next
- 12 witness, P-9, P-9. It was something with 9, yes. Thank you.
- 13 THE COURT USHER: [12:14:11] All rise.
- 14 (The hearing ends in open session at 12.14 p.m.)