

Trial Hearing
WITNESS: UGA-D26-P-0131

(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
6 Judge Raul Cano Pangalangan
7 Trial Hearing - Courtroom 3
8 Monday, 4 March 2019
9 (The hearing starts in open session at 9.31 a.m.)
10 THE COURT USHER: [9:31:57] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:32:12] Good morning, everyone.
13 Could the court officer please call the case.
14 THE COURT OFFICER: [9:32:27] Good morning, Mr President, your Honours.
15 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
16 Ongwen, case reference ICC-02/04-01/15.
17 And for the record, we are in open session.
18 PRESIDING JUDGE SCHMITT: [9:32:44] Thank you.
19 I call for the appearances of the parties.
20 Mr Gumpert for the Prosecution first.
21 MR GUMPERT: [9:32:48] May it please, your Honour. With me today Hai Do Duc,
22 Beti Hohler, Pubudu Sachithanandan, Adesola Adeboyejo and Jasmina Suljanovic.
23 PRESIDING JUDGE SCHMITT: [9:32:58] Thank you.
24 And Mr Manoba.
25 MR MANOBA: [9:33:02] Good morning, Mr President, your Honours.

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1 James Mawira, and myself, Joseph Manoba.

2 PRESIDING JUDGE SCHMITT: [9:33:08] Mr Narantsetseg.

3 MR NARANTSETSEG: [9:33:10] Good morning, Mr President, your Honours.

4 My name is Orchlon Narantsetseg and I'm appearing with Ms Caroline Walter.

5 Thank you.

6 PRESIDING JUDGE SCHMITT: [9:33:16] And finally the Defence. Mr Obhof.

7 MR OBHOF: [9:33:20] Good morning, your Honours. Thank you.

8 My name is Thomas Obhof and today we are with Chief Charles Achaleke Taku, Beth

9 Lyons, Gordon Kifudde, Hagop Mouradian, and of course our client Mr Ongwen is in
10 court today. And our counsel sends his apologies, he has fallen ill so he will not be
11 here today.

12 PRESIDING JUDGE SCHMITT: [9:33:42] Then please transmit our best wishes, I
13 think, in the name of every one of the Chamber and also here in the room.

14 The next witness we turn to is D-131.

15 Mr Witness, also to you, welcome here in the courtroom on behalf of the Chamber.

16 Good morning.

17 WITNESS: UGA-D26-P-0131

18 (The witness speaks English)

19 THE WITNESS: [09:34:01] Good morning. Thank you.

20 PRESIDING JUDGE SCHMITT: [9:34:02] There should be a card in front of you,

21 Mr Witness, with a solemn undertaking to tell the truth. Could you please make this
22 undertaking by reading the card out aloud.

23 THE WITNESS: [09:34:20] Thank you, your Honour.

24 I solemnly declare that I will speak the truth, the whole truth and nothing but the
25 truth.

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1 PRESIDING JUDGE SCHMITT: [9:34:24] Thank you, Mr Witness. You are now
2 sworn in.
3 Before we start with your testimony, I explain the measures that we have taken as
4 a Chamber to protect you.
5 We have face distortion. That means that no one outside this courtroom can see
6 your face during your testimony.
7 Furthermore, we use a pseudonym. That means that we do not address you with
8 your real name, we address you as "Mr Witness" as I do at the moment.
9 When you answer questions that do not give away your identity, we will do that in
10 what we call open session. This means that the public - the audience here - and the
11 outside world can hear you. On the other hand, if we discuss matters that could
12 reveal your identity, we do this in private session and then the outside world and the
13 audience could -- cannot hear you.
14 A practical matter before we start. Everything we say here in the courtroom is
15 written down and interpreted, and to allow for the interpretation we have to speak at
16 a relatively slow pace so that the interpreters can follow.
17 Everyone in the courtroom quite often, or sometimes, does not abide to that because
18 we are used to talk relatively quickly, but please try to keep that in mind so that the
19 interpreters can follow.
20 If you have any questions yourself you may raise your hand and then I will give you
21 the floor.
22 Thank you very much for the moment, and I give then Mr Obhof the floor for the --
23 MR OBHOF: [9:36:04] Seventy-five, your Honour. Rule 75.
24 PRESIDING JUDGE SCHMITT: [9:36:28] Yes. Of course. But shouldn't we
25 address this in private session? Okay. Then we go to private session.

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1 (Private session at 9.36 a.m.)

2 THE COURT OFFICER: [9:36:36] We are in private session, Mr President.

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11 (Open session at 9.45 a.m.)
12 THE COURT OFFICER: [9:45:23] We are back in open session, Mr President.
13 PRESIDING JUDGE SCHMITT: [9:45:32] Thank you.
14 And for the audience, shortly, we were in private session because we first had to
15 enquire the identity of the witness and the identity is of course protected, and
16 relatives and so on and so forth.
17 And now we can start in open session and hope we can stay for a substantive amount
18 of time there, but we see -- yes, we will see.
19 Mr Obhof, please.
20 MR OBHOF: [9:45:57] Thank you, your Honour.
21 Q. [9:45:59] Mr Witness, now of course again, like we stated, without saying their
22 names but using the persons, with whom did you spend -- with whom did you grow
23 up?
24 A. [9:46:21] I grew up with person 2.
25 PRESIDING JUDGE SCHMITT: [9:46:34] Perhaps also that the audience can follow,

1 when you hear now persons with a certain number these are also pseudonyms.

2 Otherwise we would have to entertain this completely in private session and you
3 couldn't listen at all.

4 So, Mr Obhof, excuse me that I interrupted you again.

5 MR OBHOF: [9:46:54]

6 Q. [9:46:57] Mr Witness, can you tell the Court the memories that you have of
7 person 1?

8 A. [9:47:10] Thank you. My recollection of person 1 was really I can say very
9 beautiful, a strong memory. Person 1 was very loving, strong person, person 1 had
10 a strong personality, who was always welcoming, always listening to others, always
11 taking care of people and she was hard working. And I remember the love person 1
12 showed me was really, really, was unforgettable.

13 Q. [9:48:11] Now from what you remember or was told, what did person 1 do for
14 remuneration when person 1 was still alive?

15 A. [9:48:24] She used to make -- on and off she used to make, you know, baby
16 blankets, that she had lots of clients who used to, you know, used to purchase from
17 her. And with that she, she was able, you know, to put me in school because of what
18 she was doing.

19 Q. [9:48:56] How did her being abducted and a forced fighter in the LRA cause
20 people to treat person 1 when she returned home?

21 A. [9:49:11] All I know is when she returned, how people looked at her was very
22 different. You know, people had a lot of resentment and hate and discrimination
23 just because of what was happening and, you know, like everybody -- anyone who
24 came out was looked at in a certain way which was not good. They were looked as
25 outcast of the society, discriminated against. And you know, very, very hurtful

1 things, hurtful words were said to them and it's really -- it makes it very difficult.
2 And a lot was said to person 1. But from the people within the -- within the
3 community and then, you know, when person 1 was out, she faced challenges a lot,
4 like she was always being called, you know, taken -- being picked and taken to -- to
5 the military barracks for questioning. And that one I don't understand what, maybe
6 what the -- what the reason was for, but she was being taken several times for
7 questioning.

8 Q. [9:51:17] Can you tell the Court how the military would treat person 1 and
9 during your explanation could you also say who told you this?

10 A. [9:51:36] Thank you. All -- all I can say is the military treated person 1 with
11 a lot of disrespect. You know, they looked at person 1 -- you know, they didn't look
12 at her as a citizen of Uganda, they didn't look at her as a human being, someone who
13 had feelings, someone, you know, with a soul. So they, they treated her in a very,
14 very bad way. Even when she was out, she was, as I said, she was picked several
15 times, taken for interrogation, I wonder about what, which was really, really sad to
16 me.

17 And all this information about that, that was my grandmother, she was -- she told me
18 all this because she was trying -- she was, like, had already come of age so I needed to
19 know what was happening and what happened so that, you know, so that for her,
20 because she was old, and right now she's extremely old, and she would -- if she were
21 to pass away, at least I would be having the knowledge, the information about what
22 happened.

23 Q. [9:53:22] How did you interact while growing up, let's say before your move to
24 place 5, before you moved there, how did you interact with children of your
25 approximate age?

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1 A. [9:53:54] Thank you. Because of whatever was happening as a child, you know,
2 sometimes you can be aware of your surrounding and the people around you and
3 you see some things happening and of course you -- I was afraid. I was afraid. I
4 wasn't as free as other children. I wasn't very free. Because I was a child, you
5 know, I could hear things, but I didn't understand, but right -- as I grew up, you
6 know, I got to understand better what people were saying, especially people
7 from -- from, you know, from the community. You know, there are people like some
8 long -- some relatives as well, and because of the losses they had, you know, they,
9 they had a lot of resentment towards person 1 and I. They, you know, they looked at
10 person 1 as -- as a part of everything that happened and they put a lot of blame on
11 person 1. And they saw me as -- they saw me and person 1 as -- and person 1 as
12 unfit, you know, to live in the community provided person 7 was (Redacted). So in
13 their thinking, all they could conclude was that I was maybe destined to, you know,
14 to take over from person 7, something like that.

15 PRESIDING JUDGE SCHMITT: [9:56:09] I think it's clear that we have a very smart,
16 very clever witness here who tries to circumvent certain information, but I have the
17 impression that he might perhaps speak out more in detail and perhaps we go shortly
18 into private session to give Mr Witness the possibility to do so. I have the
19 impression simply.

20 MR OBHOF: [9:56:37] You have actually read my mind because the next question
21 I'm going to ask I would like to do in private.

22 PRESIDING JUDGE SCHMITT: [9:56:45] Yes, we go to private session.
23 (Private session at 9.56 a.m.)

24 THE COURT OFFICER: [9:56:48] We are in private session, Mr President.
25 (Redacted)

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- 13 (Open session at 10.07 a.m.)
- 14 THE COURT OFFICER: [10:07:51] We are back in open session, Mr President.
- 15 MR OBHOF:
- 16 Q. [10:08:04] Now again, Mr Witness I remind you of your list of all the names and
- 17 locations.
- 18 A. [10:08:13] Yes.
- 19 Q. [10:08:15] Now, when person 1 was still alive where were you staying?
- 20 A. [10:08:26] Thank you, your Honour. When person 1 was alive, was staying at
- 21 location 4.
- 22 Q. [10:08:38] After the passing of person 1, to where did you move?
- 23 A. [10:08:48] After person 1 passed away, I moved to location 5.
- 24 Q. [10:08:58] And with whom did you stay at this location?
- 25 A. [10:09:04] At location 5 I stayed with person 2.

1 Q. [10:09:15] And approximately how long did you stay at this location?

2 A. [10:09:21] At location 5 I stayed for, for some years, for a couple of years. Like
3 four, three to four years, something like that.

4 Q. [10:09:46] Now, at location 5, how did people treat you there?

5 A. [10:09:59] At location 5, some people treated me well, especially my closest
6 relative. Because -- and, yeah, and, yeah, my closest relatives, my -- and -- and the
7 others, the sons of persons 2 that were living there as well treated me well. And of
8 course there were other negative treatments, especially from distant relatives, because
9 at, at the time the war was going on, there were losses, so others didn't look at me in
10 a good way, in a friendly way.

11 Q. [10:11:27] You mention about relatives. How did the populace at large, how
12 did those people treat you?

13 A. [10:11:36] The treatment, I can, I can say the treatment I received from outside
14 people was basically on what they know, was just on what they know about me.
15 You know, some -- even I believe some who -- who didn't know me and treated me
16 well, had they known I believe their -- they would have changed their way.

17 Q. [10:12:27] Did the government soldiers stop bothering you and your family
18 when you moved to location 5?

19 A. [10:12:38] When we move -- when -- when we moved to location 5, we had
20 disturbances, especially now that since the war was intensifying and they, they
21 tried -- they followed, they followed, I believe in that case, what person 1 was telling
22 me was that they were asking -- I mean, what person 2, rather, what person 2 told me
23 was they were asking questions about person 7's locations, and person 2 was telling
24 them she didn't know. Because, because person 2 was the mother of person 1 and
25 person 1 was the wife of person 7, so they concluded -- they had that conclusion in

1 their minds that person 2 had an idea of where person 7 was.

2 Q. [10:14:23] During your time in location 5, did you live in a village-type setting
3 for those three to four years?

4 A. [10:14:36] Yes, at location 5, I lived in a village setting.

5 Q. [10:14:46] So after those three or four years were over, to where did you move?

6 A. [10:15:02] I moved to location 6 with person 3.

7 MR OBHOF: [10:15:16] Your Honour, if I could go into private session for one,
8 maybe two questions for about one to two minutes.

9 PRESIDING JUDGE SCHMITT: [10:15:29] Yes, private session.

10 (Private session at 10.15 a.m.)

11 THE COURT OFFICER: [10:15:31] We are in private session, Mr President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

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17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Open session at 10.16 a.m.)

21 THE COURT OFFICER: [10:16:26] We are back in open session, Mr President.

22 MR OBHOF: [10:16:34]

23 Q. [10:16:36] Mr Witness, when you moved to location 6, how were you treated
24 there, first, by family members?

25 A. [10:16:52] Thank you. At location 6, family members treated me well, they

1 welcomed me. And in fact at home, the only -- at location 6, the only challenge I had
2 there was after I reached there, I didn't last for more than a week, there was already
3 a rising concern from the landlord that was concerning having connecting to, you
4 know, who I -- who I am and connecting to my father. I don't understand how they
5 got the information, but, you know, some people have their own ways of getting
6 information, but I got a negative reception from the, the landlord which at that time
7 forced (Redacted) I mean, my -- it forced -- it forced person 3 to -- to, you know, to
8 change houses.

9 Q. [10:18:29] Now, you stated that you moved. How long did you live in location
10 6 after you moved, after you shifted houses?

11 A. [10:19:13] After at the same location 6, about something like a mile from where
12 we were, person 3 got another place, which was more welcoming basically because
13 my identity was concealed, nobody knew and we -- we were able to settle there and
14 we stayed there for -- for quite some time, quite a long time. That was when I -- I
15 finished, I finished my entire primary -- my primary from that location.

16 Q. [10:20:17] Now once you shifted the one mile, that's 1.609 kilometres away, were
17 you treated differently by family members?

18 A. [10:20:41] When -- when -- for the new -- when we shifted from location 6, the
19 treatment I got from the new place was okay. It was good. The family members
20 treated me well, because person 3 had also children, so those children looked at me
21 because I was a bit -- I was a bit older than all of them, so they looked at me as
22 the -- as the elder brother.

23 Q. [10:21:31] Now, Mr Witness, without saying when and where, while growing up
24 did you ever hear from person number 7?

25 A. [10:21:58] Yes, I heard from person 7.

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1 MR OBHOF: [10:22:07] Now that part, your Honour, the follow-up questions will
2 have to be in private session. I do apologise again.

3 PRESIDING JUDGE SCHMITT: [10:22:13] Indeed, indeed, but you do your very best,
4 I can say that, I think.

5 We go to private session.

6 (Private session at 10.22 a.m.)

7 THE COURT OFFICER: [10:22:21] We are in private session, Mr President.

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- 15 (Open session at 10.26 a.m.)
- 16 THE COURT OFFICER: [10:26:00] We are back in open session, Mr President.
- 17 MR OBHOF: [10:26:11]
- 18 Q. [10:26:13] Now again I remind you of your list.
- 19 A. [10:26:20] Okay.
- 20 Q. [10:26:22] The person you would talk to on the phone, how often did that person
- 21 contact you?
- 22 A. [10:26:33] Well, person 7 contacted me at the most was like in a week, like three
- 23 times.
- 24 Q. [10:26:52] Now, what kind of messages would he relay? What would you talk
- 25 about?

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1 A. [10:26:59] We basically -- person 7 basically talked about education, you know,
2 being obedient, being respectful, always listening. So those were the main things he
3 used to talk to me about.

4 MR OBHOF: [10:27:27] Now, your Honour, for those in the public gallery, I do
5 apologise, this last part is essentially that highlighted paragraph at the end of the
6 summary which will have to be entirely --

7 PRESIDING JUDGE SCHMITT: [10:27:39] This is clear of course. I think we and
8 today you try our very best to discuss issues as far as possible in open session, but if it
9 is not possible, and we have this prevailing argument of protection of the witness, we
10 have to go to private session. That is clear. Now?

11 MR OBHOF: [10:28:04] Yes, your Honour. It will be about 10 to 15 minutes and I
12 will actually end in --

13 PRESIDING JUDGE SCHMITT: [10:28:08] Yes, I also assumed that.
14 We go to private session.

15 (Private session at 10.28 a.m.)

16 THE COURT OFFICER: [10:28:14] We are in private session, Mr President.

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- 20 (Open session at 10.40 a.m.)
- 21 THE COURT OFFICER: [10:40:14] We are back in open session, Mr President.
- 22 PRESIDING JUDGE SCHMITT: [10:40:28] Thank you very much.
- 23 And the Prosecution -- the Defence has completed their questioning of Mr Witness,
- 24 and I ask the Prosecution if they have any questions to the witness?
- 25 MR GUMPERT: [10:40:40] None, your Honour.

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- 1 PRESIDING JUDGE SCHMITT: [10:40:41] And for the representatives of the victims,
2 Mr Manoba?
- 3 MR MANOBA: [10:40:46] No questions, your Honour.
- 4 PRESIDING JUDGE SCHMITT: [10:40:48] Mr Narantsetseg?
- 5 MR NARANTSETSEG: [10:40:49] No question, your Honour. Thank you.
- 6 PRESIDING JUDGE SCHMITT: [10:40:54] Thank you.
- 7 MR OBHOF: [10:40:54] Your Honour, for posterity --
- 8 PRESIDING JUDGE SCHMITT: [10:40:56] yes.
- 9 MR OBHOF: - if it would please the Court and if there would no objections, we
10 would stamp the list, and of course add person number 7 to this so it can be at the
11 Judges' hands.
- 12 PRESIDING JUDGE SCHMITT: [10:41:07] Absolutely. I don't see any problem
13 with that. Thank you, Mr Obhof.
- 14 Mr Witness, you have recognised, obviously, that this ends your questioning. On
15 behalf of the Chamber I would like to thank you that you came to this Court to testify
16 and to clarify things and help us establish the truth. We wish you a safe trip back
17 home.
- 18 THE WITNESS: [10:41:29] Thank you.
- 19 (The witness is excused)
- 20 PRESIDING JUDGE SCHMITT: [10:41:29] This ends also the hearing for today.
21 We resume tomorrow at 9.30 with Witness 140. Thank you.
- 22 THE COURT USHER: [10:41:44] All rise.
- 23 (The hearing ends in open session at 10.41 a.m.)