

Trial Hearing
WITNESS: UGA-OTP-P-0233

(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, 25 September 2017
9 (The hearing starts in open session at 9.32 a.m.)
10 THE COURT USHER: [9:32:44] All rise.
11 The International Criminal Court is now in session.
12 PRESIDING JUDGE SCHMITT: [9:33:10] Good morning, everyone.
13 Good morning, Mr Witness.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:33:18] Good morning, Mr President, your Honours.
16 The situation in the Republic of Uganda, in the case of The Prosecutor versus Dominic
17 Ongwen, case reference ICC-02/04-01/15.
18 And for the record, we are in open session.
19 PRESIDING JUDGE SCHMITT: [9:33:32] Thank you.
20 I call for the appearances of the parties. First the Prosecution, Mr Zeneli.
21 MR ZENELI: [9:33:37] Good morning, your Honours.
22 Ben Gumpert, Beti Hohler, Hai Do Duc, Shahriar Yeasin Khan,
23 Pubudu Sachithanandan, Ramu Bittaye, and I am Shkelzen Zeneli.
24 PRESIDING JUDGE SCHMITT: [9:33:52] Thank you very much.
25 And I would say a new face in the courtroom, but Mr Manoba, still.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 MR MANOBA: [9:33:59] Thank you, Mr President. Good morning, your Honours.

2 Joseph Manoba and James Mawira.

3 PRESIDING JUDGE SCHMITT: [9:34:06] And Mr Narantsetseg.

4 MR NARANTSETSEG: [9:34:09] Good morning, Mr President, your Honours.

5 Appearing for the Common Legal Representative Ms Hyuree Kim, Mr Caroline

6 Walter, and my name, Orchlon Narantsetseg. Thank you.

7 PRESIDING JUDGE SCHMITT: [9:34:19] Thank you.

8 And the Defence, Mr Ayena.

9 MR AYENA ODONGO: [9:34:21] Good morning, Mr President.

10 Chief Taku Achaleke, Tom Obhof, Tibor Bajnovic, Bridgman, Ms Abigail Bridgman,

11 and Salma Khamala. And our client Dominic Ongwen is in court.

12 PRESIDING JUDGE SCHMITT: [9:34:54] Yes.

13 And we have a Rule 74 counsel in the courtroom too.

14 MS VAN DER VOORT: [9:34:58] Karlijn Van der Voort for Witness P-233,

15 your Honour.

16 PRESIDING JUDGE SCHMITT: [9:35:05] Thank you very much.

17 And I give Mr Manoba the floor because Mrs Hirst indicated last Friday that you

18 wanted to question the witness.

19 MR MANOBA: [9:35:14] Mr President, we do not wish to put any questions to this

20 witness.

21 PRESIDING JUDGE SCHMITT: [9:35:19] Thank you.

22 Mr Narantsetseg.

23 MR NARANTSETSEG: [9:35:20] Mr President, thank you for the opportunity. If

24 you allow me, I would like to ask some general questions which will not take more

25 than 10 minutes.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [9:35:30] Okay, please continue.

2 WITNESS: UGA-OTP-P-0233 (On former oath)

3 (The witness speaks Acholi)

4 QUESTIONED BY MR NARANTSETSEG:

5 Q. [9:35:33] Good morning, Mr Witness.

6 A. [9:35:40] Good morning.

7 Q. [9:35:41] Mr Witness, we represent in this case about 1,500 victims and on behalf
8 of victims I would to pose some questions to you today, is that okay?

9 A. [9:36:02] That's okay. I do not know the number of victims.

10 Q. [9:36:07] No, no, no. I just meant that we represent a certain number of victims
11 and we would like to pose some questions to you.

12 PRESIDING JUDGE SCHMITT: [9:36:14] Mr Narantsetseg, simply assume that the
13 witness is here to answer questions by those who are entitled to ask questions.

14 MR NARANTSETSEG: [9:36:21] Yes, your Honour. Thank you, I'm guided.

15 Q. [9:36:23] Mr Witness, could you please tell us about your life in general before
16 your abduction.

17 A. [9:36:45] Before, before my abduction, when I was still at home with my parents,
18 when I was still a young child, there was nothing that was bad in my life.

19 Everything was -- I was being taken care of, there was nothing that we did not have.
20 We were not wanting of anything. I was going to school as well.

21 Q. [9:37:11] Right. Before you got abducted what were your dreams and wishes
22 for the future? Who did you want to become?

23 A. [9:37:34] If I had -- are you asking if I had had a good education or if I had
24 grown up?

25 Q. [9:37:40] Yes, if you -- let's say if you continued your education and if you didn't

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 have to go through this abduction and all the consequences that ensued from your
2 abduction.

3 A. [9:38:01] I wanted to become a farmer so that I could help people with -- provide
4 them with provisions, but that was not possible.

5 Q. [9:38:13] Thank you very much, Mr Witness. Mr Witness, I am moving to
6 a slightly different area. Could you please describe us your daily life as an abductee
7 in the bush.

8 A. [9:38:38] When I was initially abducted life was not easy, because there was a lot
9 of torture, you would sleep in the cold, sometimes I would be beaten, sometimes I
10 would be sent to torture other people. I was not used to all these things, so it was
11 extremely painful for me. I, I was also injured in a number of places during battle
12 and I did not get any treatment for it.

13 Q. [9:39:16] I understand, Mr Witness. So could you please tell us now what had
14 been the impact of your abduction and also the life you spent in the bush. What are
15 these -- what are the consequences that you are facing still today because of your
16 abduction?

17 A. [9:39:48] The abduction ruined my life. At one point I was beaten 120
18 strokes -- 125 strokes. I was beaten in my stomach as well. I was beaten six strokes
19 on my stomach and three machete stokes on my back. After that I was shot in the
20 chest during battle and the bullet went through my lungs. I became unconscious
21 and then revived again. On that very day I was also shot on my waist, I was also
22 shot on my thigh and my arms. So those things have not made my life very easy,
23 but I am still alive and I thank God for that.

24 Q. [9:40:50] I'm sorry to hear that, Mr Witness. Besides of those physical
25 sufferings what has been the impact in terms of your emotional and mental health?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 Do you have nightmares, for example?

2 A. [9:41:13] Are you talking about right now, whether I have nightmares right now
3 or whether you are asking about the past?

4 Q. [9:41:19] I'm sorry, I wasn't specific. Maybe just following your escape and also
5 your life today, did you have it immediately after your escape or do you still have
6 them now today?

7 A. [9:41:45] No, I did not have a lot of nightmares, but the -- one of the things that I
8 do hear at the moment are sounds. I have flashbacks of loud banging sounds and
9 that's something that always disturbs me.

10 Q. [9:42:07] Thank you very much. Once you came back to civilian life, how were
11 you welcomed by your community? Do you feel stigmatisation?

12 A. [9:42:25] Are you talking about the -- in the area where I have -- where I live at
13 the moment sometimes people talk about it, especially people who drink.
14 Drunkards talk about it, they talk about the war, but I do not respond. We have also
15 been to the police with this matter and the police have advised me that if I want these
16 people to be prosecuted, then I should go ahead and report them. This has
17 happened three times. But I just told the police that this is something that's going to
18 happen. But at the moment all that has stopped.

19 Q. [9:43:07] Thank you very much. Mr Witness, thank you for answering my
20 questions.

21 MR NARANTSETSEG: Your Honour, this concludes my questioning. Thank you.

22 PRESIDING JUDGE SCHMITT: [9:43:16] Thank you, Mr Narantsetseg.

23 And I give now the Defence and I think Mr Obhof or Mr Ayena then the floor, so.

24 We sometimes never know who is, you know. You know, from the position in the
25 first line you can't tell.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 MR AYENA ODONGO: [9:43:30] Exactly, your Honour.

2 Good morning again, Mr President and your Honours.

3 QUESTIONED BY MR AYENA ODONGO:

4 Q. [9:43:46] Mr Witness, I want to once again welcome you to this court. I'm not
5 sure whether we know each other.

6 A. [9:44:00] I know you. I've known you all the way from the past.

7 Q. [9:44:05] Thank you very much.

8 Witness, we are very glad that when you are giving your testimony you are very clear
9 and we understood you and you are courteous enough. At every opportunity you
10 asked whether we understood and the President was gracious enough to remind us
11 that we understood.

12 I am going to start to say that your narrative was as shocking as useful to this court.

13 But I want to begin, Mr Witness, from almost the tail end of your testimony.

14 Mr Witness, at the end of your testimony on Friday you told Court a very interesting
15 story about your escape from Darfur, Sudan in 2013. I'm sure your escape was
16 a very dangerous endeavour.

17 Mr Witness, by the time you escaped were you confident that there was no risk of
18 being captured?

19 A. [9:45:47] Are you talking about being captured while I was still in the bushes or
20 when I got home? It's not very clear.

21 Q. [9:45:59] Mr Witness, we are talking about all possible people who might want
22 to recapture you. There were the LRAs, then the people you were going to walk
23 through and so on and so forth. I will go step by step. Start with the LRA itself.

24 A. [9:46:38] I will start as you've stated with the LRA. When I left the LRA I knew
25 that if they found me along the way there was no longer any relationship between

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 myself and the LRA and I was ready to fight. I knew that if I met them, we were
2 going to fight to the death because we were no longer friends.

3 Q. [9:47:15] Mr Witness, you were in the bush for about 11 years and you stayed
4 part of your life in Uganda. Can you describe to Court why you found it easier to
5 escape from Darfur than when you were in Uganda?

6 A. [9:47:58] I knew that it would be easier in Darfur. It would be a little bit more
7 difficult in Uganda because when I was young, prior to my abduction, I went to town
8 with my mother. When we went to Kitgum hospital, close to Kitgum hospital, it was
9 during the rainy season. We found a lot of tents. It had rained heavily. People
10 had been amputated, their legs had been amputated, their mouths had been cut and
11 their ears had also been cut off. I asked my mother, "What happened?", and she
12 responded that she heard that somebody had escaped with a gun, with an LRA gun,
13 and they came to retaliate.

14 And I thought it might be difficult for me in Uganda because if I went back to Uganda,
15 I went back home, the same problem would befall my family. So I decided that if
16 God is going to take care of me, then he would take care of me, but if not, then
17 something would happen. That's why it was easier for me to leave Darfur than it
18 was for me to go back to Uganda.

19 Q. [9:49:21] Thank you very much, Mr Witness.

20 Now, Mr Witness, when you were captured and you were introduced to the LRA,
21 what were you told governed the LRA operations? Did they talk to you about
22 spiritual life of the LRA?

23 A. [9:50:04] Yes, they did.

24 Q. [9:50:12] Could you tell Court in outline what they told you?

25 A. [9:50:24] They told me that the LRA is -- it's the holy -- it's the spirit that is in

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 charge of the LRA. They told us that it was a holy spirit, not evil spirits. We were
2 told that at some point there should be no battle. If there is to be no battle, there's no
3 battle. If we are supposed to fight, then we fight. If there is a period when we are
4 not supposed to enter into houses, we do not enter into houses. We were told that
5 the holy spirit -- that if the holy spirit -- the holy spirit no longer, is no longer heard of
6 in Uganda, then there will be problems, the Acholi people would suffer a lot of
7 problems. The only reason why the Acholi people still exist is because they are
8 afraid of him. He is in the bush because of his tribe.

9 Q. [9:51:39] When you were abducted and taken to the LRA, did they perform
10 some rituals on you?

11 A. [9:51:56] Yes, they did. I was smeared with oil. It was put in the sign of the
12 cross on my forehead, on my chest, on the dorsal side of my hand, on my feet and on
13 my back as well.

14 Q. [9:52:17] What was this? What were you told was going to be the effect of this
15 on you?

16 A. [9:52:39] They did not explain in detail what the effects were, but we were told
17 that the rituals were performed to -- after those rituals, you became their person. So
18 it was an education that you were now their person, but they did not go into detail
19 about it.

20 Q. [9:53:07] In respect to escape, did they tell you whether it would have any effect
21 on those who may want to escape?

22 A. [9:53:28] They told us that once you escape, you would not be able to move and
23 they will find you, they will chase you until they find you.

24 Q. [9:53:48] And did you believe it, Mr Witness, you and those who were with you,
25 did you believe it?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [9:54:04] Yes, I did. I believed it.

2 Q. [9:54:13] Now, Mr Witness, you have already told Court that there was belief in
3 the spiritual power in the LRA. Who were you told actually possessed or controlled
4 or was the medium of this spirit power?

5 A. [9:54:50] The person who was the medium, the person to whom the spirits
6 spoke was Joseph Kony. There was a time when I was next to him, close to him in
7 Darfur, and he said that there are always changes, changes happening in his life. If
8 there are any plans to attack him, he knows it. He says that he is the one who is
9 spoken to, who is spoken about more than any other person.

10 Q. [9:55:31] Now, Mr Witness, I want you to tell Court in fair detail whether the
11 perception of Kony's spiritual power was more when he was in Uganda or when he
12 was in Darfur around the time you escaped.

13 A. [9:56:16] In my view, it might be a little bit difficult now or maybe at the
14 moment he is not very strong, because at the -- there was a point when he was
15 extremely strong, because I remember that at some point when he convened
16 a meeting, those times I was next to him. One of the things he said, that the reason
17 why he decided to take us all to Darfur was because some of us children were not
18 used to fighting. So the reason why he took us to Darfur was because there was
19 constant fighting in Darfur and there were always gunshots and bullets and war all
20 around. So the children who were with him should go and stay with him in Darfur
21 so that they could learn about this.
22 I believe that he still has spiritual strength because he told us that there was a point
23 when he had a dream, and when he had the dream, he saw his -- a vision of himself
24 crossing the river, limping, crossing the river. He had grey hair. And at the time he
25 was going to Uganda and he was being appointed to some kind of position.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 So I believe that he still does have some spiritual strength because he gets these
2 visions. He said that the people with whom he is going to rule the government are
3 going to be children, young people, young people who are not knowledgeable of
4 anything. But all the older people who received salaries would not -- government
5 salaries would no longer be in government, within government employment.
6 According to him, that's what the spirit told him. So I believe that he still has
7 spiritual strength.

8 Q. [9:58:27] Mr Witness, from your testimony on Friday, it would appear there was
9 a general feeling that -- I mean, for people to escape, it would appear many people
10 escaped from Darfur, more than ever before. Could this have been because there
11 was less fear about the spiritual power of Joseph Kony or was it something else?

12 A. [9:59:03] There was a fear. People were afraid. The numbers were
13 diminishing. This was not in light -- it wasn't comparable to the number of people
14 who were supposed to go to battle. We were very few, so if they tell few people to
15 go and fight, it's very scary. But he would claim that he still had power. He said
16 that there was -- there would be a point in time when the holy spirit would give him
17 some kind of power and he would put a red sign on the foreheads of the people who
18 would remain with him and be his people.

19 Q. [9:59:50] So would I be right to suggest that it was easier to escape because there
20 were less and less number of people around to capture the person who -- to detect, I
21 mean to detect, those who are escaping?

22 A. [10:00:22] That's the -- that's correct.

23 Q. [10:00:29] Would I also be right to say, Mr Witness, that at this time there was
24 less and less motive for fighting, encouragement that people might still succeed to
25 overthrow the government of Uganda?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [10:01:01] You have said it correctly.

2 Q. [10:01:16] Mr Witness, can you tell Court whether you crossed over to the DRC
3 in the company of Dominic Ongwen?

4 A. [10:01:40] At some point we were living together with him. The time when I
5 started staying close by was -- was when we were in the Congo.

6 Q. [10:02:01] Mr Witness, I am talking about the time when there was ceasefire,
7 when during the peace talks there was ceasefire and the rest of the LRA who were in
8 Uganda were given safe passage to move to Owiny Kibul. Were you part of that
9 group?

10 A. [10:02:29] We moved together with him. He was on the other side of Lacekocot.
11 We went and met in Owiny Kibul. We moved via Akworo. We were the other side
12 of Latanya.

13 Q. [10:02:52] And you were moving under Okuti; is that correct?

14 A. [10:02:56] Correct.

15 Q. [10:03:09] Mr Witness, why didn't -- first of all, did you meet Dominic Ongwen
16 at Lacekocot, that rendezvous at Lacekocot where there was a meeting with the
17 bishops and the other government officials like the late Walter Ochora?

18 A. [10:03:34] I did not meet them because we moved separately. He met those
19 people together with the group he was moving with.

20 Q. [10:03:54] Now, Mr Witness, this Court is interested to know why many people
21 did not escape. Can you tell Court why you did not escape especially during this
22 trip to Sudan, to the DRC?

23 A. [10:04:34] In my own observation, the reason why most of the people did not
24 escape even when there was space to do that was that, well, what people were being
25 told or what people observed at that time was that everyone thought that the peace

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 talks would result into an amicable settlement. I personally met my brother, my
2 mother, even my father, I met him along the way. They told me I should go and
3 report because we were near home, but I told them, I told my mum that, "Please go
4 back home. Continue praying for me. If it's God's plan, then I will eventually come
5 back and we meet." I knew, I just felt that this peace process would bear some fruits.

6 Q. [10:05:39] Thank you, Mr Witness.

7 So you had belief that after all you had been at it, you had fought, you had suffered
8 for all these years, the war was coming to an end and with the end of the war with the
9 peace talks there may be some fruits, why should you escape; is that correct, Mr
10 Witness?

11 A. [10:06:15] That was what I thought would happen.

12 Q. [10:06:28] Mr Witness, on Friday during your testimony you described the
13 incident, an incident when Kony ordered the killing of some LRA members when you
14 were in Sudan; is that correct?

15 A. [10:06:50] From the Sudan, well, I am not aware of that. Was that in southern
16 Sudan or northern Sudan, in Darfur?

17 Q. [10:07:03] Let me refer you to the real-time transcript.
18 Pages 70 to 71, your Honour.

19 PRESIDING JUDGE SCHMITT: [10:07:28] I think you're referring to what the
20 witness mentioned, the incidents before he escaped then, shortly.

21 I think Mr Ayena is referring to this, what you reported on Friday, happened shortly
22 before you escaped.

23 So -- and as always, we assume when the witness has said this he has said this and we
24 don't have to ask him again and just continue from there on. I think when the
25 witness is able to orientate it in time, that would be okay; a good starting point.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 MR AYENA ODONGO: [10:08:11] Yes.

2 Q. [10:08:12] Mr Witness, Kony was a man of many changes, so we understand.

3 And you had opportunity to at least hear about him when you were still in Uganda

4 and you stayed near him when you were in Sudan. Can you perhaps describe to this

5 Court the changes in his character between -- I mean when he was in Uganda and

6 when finally he was in Sudan.

7 A. [10:08:58] Are you talking about changes in his strength or you are talking about

8 sometimes he is possessed with the spirit, another time he's a normal human being?

9 I need to understand clearly what you are referring to.

10 Q. [10:09:16] Kony was believed to be very atrocious. Kony was believed to be

11 quick to order the killing of his people, his own commanders. That is the kind of

12 character we are talking about. Was it more when he was in Uganda or was it more

13 when he was in Sudan?

14 A. [10:09:48] The issue about Kony, I will only talk about what I know. When

15 I was in Uganda I never saw him. I would only hear about him, they were saying

16 that our overall commander was called Kony. I never saw him, whether he was tall

17 or short, light skinned or not. The first time I saw him was when we were in the

18 Sudan. That time I would only see him during periods when he is making orders for

19 the killing of some people. I only started seeing him as an atrocious man who could

20 issue orders for the killing of people. I first witnessed that when we were in the

21 Garamba, when he issued the instruction that Vincent Otti should be killed. Otti

22 was his second-in-command and that was the first time I witnessed him ordering for

23 the killing of people. Previously he would live freely with the people, he would stay

24 at his position, he would move about telling stories to his soldiers. And previously

25 he was such a man moving about and free with his people, but I did not know that he

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 was such an aggressive person.

2 PRESIDING JUDGE SCHMITT: [10:11:05] May I shortly, because this -- Mr Witness,
3 did we understand you correctly that you witnessed that Kony ordered the killing of
4 Vincent Otti?

5 THE WITNESS: [10:11:24] (Interpretation) Yes, you have understood it well.

6 PRESIDING JUDGE SCHMITT: [10:11:26] So perhaps can you describe us in more
7 detail if you recollect it till today what happened, what Kony has said, and this would
8 be, I think, of interest in this -- for this Court.

9 MR AYENA ODONGO: [10:11:41] Yes.

10 THE WITNESS: [10:11:50] (Interpretation) I will only talk about what I know and
11 how I understand it.

12 What was happening was that, you know, when we were in the Congo we were in
13 a group. He said when -- from the Congo we would be -- everyone has to be in
14 a group, we were in a group called Apu. From Apu, the overall commander was
15 called Arop. The commander was called Arop. He gave a team to Arop and they
16 opened and the ammunitions in the team was distributed secretly. Some people did
17 not receive.

18 Then there came a day when I think he had already plans for that killing. They
19 selected soldiers from Apu, because at that time crops in the garden were thriving
20 and in the villages. The place was called Angica, it was a bushy place and fairly cold.
21 We stood by the roadside and they addressed people. He said that if a battle starts,
22 please shoot anything you see. He came from Rikwangba and spent a night at
23 Gangbo, and he said there was supposed to be a ceremony at Gangbo and Otti should
24 follow him to Gangbo. Otti moved to him, but he left Gangbo and came to Angica.
25 I think they already had the plan to kill.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 They picked our commander called Arop, together with his 2IC who was called
2 Ogwal, to go and arrest some of the other commanders like a major called Adjumani.
3 There was some bit of resistance. Adjumani had sensed danger. He was, he was
4 part of the -- Kony's internal security. He was well armed, he had a grenade with
5 him. He sat at his door holding his gun ready. When they came to him, he realised,
6 he sensed danger, he was now ready to start fighting. They told him to lay down his
7 gun, but he didn't say anything, he didn't act. He just stood up and started shooting
8 at people from his house.
9 Then they also started firing at him. He managed to shoot somebody called Okwera,
10 he broke his leg. He was also shot and killed at that time. And the gunshots we
11 heard where Vincent was and people were asking what was happening. Then they
12 said some baboons had come to ravage the garden and we instructed the children to
13 shoot at them so they can run away.
14 So they told him, they told Vincent to walk and come for the ritual so that it takes
15 place in the evening. You know, in the bush when you are in -- when you are in the
16 bush there they normally say if there is an impending attack, you need to go through
17 some rituals so that you can be protected. He came to that home.
18 When Kony realised that Otti had come, he told Otti, "Please go and take a shower
19 and then you rest a bit before you come to me." Otti did exactly that and then
20 afterwards went to Kony's home.
21 When he arrived at Kony's home, he did not find Kony home. That's what I was told.
22 Kony went behind the, the back shelter and hid there. Otti went and found
23 commanders like Doctor Abudema, Odhiambo and others whose names I cannot
24 clearly recollect now. They were all seated and when Vincent arrived there he was
25 received like a commander who is superior to the rest of the commanders. They

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 received and welcomed him. When he took his seat, they cocked a pistol and then
2 had him arrested there and then. There was very tight security. When he was
3 going there, he went with only one escort, who was even unarmed.
4 He was then told -- they told Kony that, "We have already arrested him. What do
5 we do with him?" Kony said, "Before I see him or I ask him any question, go and
6 shoot him. Because if I come and I see him, I will become merciful and I will not kill
7 him".
8 They took him away. They went away with him. I did not go to see those who
9 went with him to kill him, but what I was told was that they tried several times to
10 shoot, but the guns were failing to fire, until at one point, when he decided on his
11 own that, "I have now accepted that you can kill me. You, the LRA, please go ahead
12 with your struggle and go and overthrow the government". Then eventually they
13 were able to shoot and kill him.
14 What I know is the commanders who died at that time were about four or five. I did
15 not get the clear details of that because at that time you could not ask anybody.
16 Several other people also escaped from there and you wouldn't be able to know what
17 could have happened to some of them. If you don't see somebody, there are only
18 two things, either the person has escaped or has been killed. That was what I
19 understood.

20 PRESIDING JUDGE SCHMITT: [10:18:35] Thank you, Mr Witness. And I think
21 there was quite a lot of information we have not heard already. Although it was
22 quite a long narrative, but I think it was quite interesting.

23 Please continue, Mr Ayena.

24 MR AYENA ODONGO: [10:18:49]

25 Q. [10:18:51] Mr Witness, that is a very disheartening narrative, but nevertheless

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 let's continue. You said up to that point, from the time you met Kony, you had never
2 witnessed his brutality. Now, would you say from that time it became a turning
3 point?

4 A. [10:19:33] Yes. It brought a turning point, because at that time he would now
5 plan and even make his own decisions. I used to see that because I was staying close
6 to him at that time.

7 Q. [10:19:55] Would you agree with me that he was now making his own decision,
8 because when Vincent Otti was there, was assisting him with a demonstration, but
9 now when he was gone, he had to take the dual role of Otti on his own?

10 A. [10:20:26] Yes, it could be exactly that, because at that time all the other
11 commanders were scared. Everyone was not very comfortable and free. Nobody
12 had the freedom to suggest ideas to him because you could not be sure how he would
13 take it. Everyone was scared.

14 Q. [10:20:54] At this point, Mr Witness -- but just before I forget, you talked about
15 Okuti. Which brigade did he command?

16 A. [10:21:20] Okuti previously, together with Lakwo, were in Stockree. Each of
17 them had their own group. Previously he was in charge of a battalion, but when
18 some of the people went to Congo, that was when they now starting living like I
19 explained earlier.

20 Q. [10:21:44] Okay. Now, you also -- you talked about this man called Arop. Is
21 this Arop the same person who was called Arop Bakmac?

22 A. [10:22:13] If his other name was Bakmac, well, I am not sure about that. What I
23 know is he was referred to as Lapwony Arop. I am not aware whether he was also
24 referred to as Bakmac.

25 Q. [10:22:32] How about Charles? Was he called Charles? Was his other name

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 Charles?

2 A. [10:22:41] Yes, that was his name.

3 Q. [10:22:58] Could he be the one who killed Major Adjumani?

4 A. [10:23:10] He was the one who moved with that group. He was the one
5 commanding the group that went to carry out that operation, because the group that
6 he was heading, the group called Apu, was the group -- the commander Kony.
7 Whenever he wanted to carry out something secretly, he would go to that group
8 before the information goes anywhere else.

9 Q. [10:23:45] Mr Witness, can you tell Court whether at this time Dominic Ongwen
10 was anywhere within the vicinity of Kony?

11 A. [10:24:07] At that time what I saw was that he was not near. He was also
12 somewhere far, in a control area that was not very good. In Joseph Kony's eyes, he
13 was not looking at those people as good people, because at some point when Otti was
14 no longer there and Kony was thinking that the UPDF had intentions of attacking him,
15 he identified commanders who he said -- he identified some soldiers. I was one of
16 them, because I was moving with many others and we were going northwards.
17 They kept on engaging him at a point that he would not even think about anything
18 else. They never wanted him to have any plans. We came back and found he was
19 also shot.

20 Q. [10:25:15] Who was shot?

21 A. [10:25:22] We moved. The plan was that Dominic Ongwen possibly knew
22 what we had gone to do. They said the LRA had things that were coming from
23 Uganda and going to the Sudan. Those items were meant for the LRA and we were
24 supposed to go and lay an ambush. We went to lay an ambush, and when we
25 arrived somewhere, I think we had moved for about four or five days, or even six

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 days, then we were moving very early in the morning and they had identified a few
2 of us who were leading the way.
3 You know, in the bush you don't move following roads. We came to the foot of the
4 hill and the people started telling us that there are some soldiers on top of the hill.
5 At that time we had walkie-talkies that we could use to communicate. So they were
6 telling us that there are some soldiers on top of the hill, and when we were told that,
7 we were already at the foot of that hill. But I think it was a patrol unit that had been
8 sent to meet us.
9 We started lining up at the foot of the hill so we could climb up there and face them.
10 As we were climbing up, we saw them running down and we charged after them.
11 I was the second person in that line running after them. We chased them. We
12 crossed a river, until eventually the people we were chasing got tired and we engaged
13 in a battle with them.
14 That was, that was what I referred to. That's what I talked about, that I was shot on
15 the thigh. Another person, the person who was ahead, was shot on the chest, even
16 on the arm. And other people were also shot. A lieutenant who was called Opio
17 was shot in the arm from behind. That is what I was talking about. It was not the
18 LRA shooting themselves. It was actually a battle. And after that battle, they said
19 those of us who were badly injured, they should identify people from the standby to
20 take us back, while the rest who were still healthy were to continue.
21 Commander Dominic continued with the rest of the people and they said -- they
22 arrived at a place where they could even hear vehicles passing by. Then they were
23 told to return because the spirit had changed its plan. While we were going back,
24 some of us were being carried because -- for me, I had a shot on the leg. And we
25 arrived home in the morning. They came back later in the day. We came and

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 found military helicopters hovering above. There was a report that Rikwangba was
2 all destroyed, and the whole thing was a mess. The standby did not achieve
3 anything. The standby came back only to find the entire place, the base was all in
4 a mess. That was what I came to understand.

5 Q. [10:29:09] Thank you, Mr Witness.

6 Can you now tell Court what the mood among the senior commanders of LRA was
7 after the incident in which Otti was killed.

8 A. [10:29:41] I think, what I understood -- well, I was low in rank and I would only
9 hear things from other people. I would not hear directly. But I think there was
10 a divergence between what Otti stood for and what Kony was standing for. And
11 I think the reason that came was because there was a white man who possibly came
12 and was telling Vincent that since Kony did not will the peace talk to continue, Otti
13 should look for a way of killing Kony so that Otti would now be in charge and then
14 they would proceed with the peace process so that there would be a peaceful
15 resolution to that.

16 And I think Kony got to know that and what he was saying was that these -- "This
17 guy tried to kill me". He would refer to Vincent as "this guy". So he said this guy
18 tried to kill him and he said there was something -- the reason -- the way he
19 succeeded in killing Vincent was that he told Vincent that, "There is something I want
20 us to look at together", and he was saying the item included a pistol that was in a box
21 and there was also a coat in it.

22 Vincent used to call Kony "aba", aba to mean father. So he wanted to use that coat to
23 blindfold Kony before he could shoot Kony. But I think Kony got to know of that.
24 They had agreed that the meeting would just be between the two of them and they
25 were just only them. He told Ogwal and Arop that, "We are going to meet. I am

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 going to meet with Vincent and if you hear any gunshot in that house, shoot anybody
2 you see in the house, even if you know we are only two. I am very much aware that
3 Mego Silindi will be the one to identify between me and Vincent if there is any
4 gunshot."
5 When these people came, immediately they came and pushed their guns inside the
6 building and they kept on talking and somehow they were seating facing each other,
7 but eventually he moved his chair and both of them were facing the same direction.
8 It became a bit difficult. But later I was also told he tried to do the same in an
9 ambush about two or three times, but all these attempts were not successful and in all
10 these attempts nothing happened.
11 Then Kony saw the situation being very volatile and difficult, then he eventually
12 chose to kill Vincent so that the plan does not come to be realised. Even when he
13 wanted to kill Vincent he never told him anything. He called for a meeting and he
14 even told people that, you know, whenever he wants to kill you, he begins talking
15 well about you. He was saying, "If the Odomis keep on disturbing you, just catch
16 them and kill them. They are talking about women and this and that, you just catch
17 them and kill them. But for you, I think God needs to change your mindset because
18 if God doesn't change your mindset, I think you are not thinking well about me.
19 You know, I love you so much so that I feel like getting a gum and sticking me to you
20 together".
21 Whenever he is talking very well about you he wants to blindfold you, he wants to
22 confuse you so that people will think he loves you so much. When he keeps talking
23 well about you, he really is about to kill you. He kept on talking well about Otti
24 because he thought Otti never knew of that and eventually he succeeded in doing
25 that.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [10:34:03] Thank you, Mr Witness. I think I
2 initiated it and there was a lot of new information, but I think we -- but it's also not
3 your fault, so to speak, but I think we have now enough information about this
4 incident and the follow-up, so to speak.

5 MR AYENA ODONGO: [10:34:21] But maybe a short follow-up.

6 Q. [10:34:25] Who is Mego Silindi?

7 A. [10:34:34] He would say that Mego Silindi was a holy spirit, the holy spirit that
8 protected stupid people. So if there is anybody within the LRA who is foolish or
9 stupid, that person would be protected by Mego Silindi. If there are problems
10 within the LRA, he would tell people, "Do not worry, Mego Silindi is taking care of
11 us".

12 Q. [10:35:02] Thank you very much. Now, Mr Witness, during your testimony on
13 Friday you testified that at that time Dominic Ongwen was completely under another
14 command, he did not have any power, there was nothing else that he was in charge
15 of.

16 PRESIDING JUDGE SCHMITT: [10:35:24] We have it in our mind I think --

17 MR AYENA ODONGO: Yes.

18 PRESIDING JUDGE SCHMITT: -- that he said this.

19 MR AYENA ODONGO: [10:35:28]

20 Q. [10:35:29] And you also testified that:

21 "Even Lapwony Odomi, whom I used to go to and talk to, at this time he was
22 powerless."

23 Mr Witness, would you agree with me that Dominic Ongwen was also afraid that
24 Kony will decide to kill him on account of what you described to Court?

25 A. [10:36:02] That's correct at the time. But when the place had already been

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 bombarded he separated people. He went in a different direction. Dominic stayed
2 behind. Sometimes he would walk, get to the middle, sometimes he would stop,
3 come back to the back. You would be in charge of your people and he would not
4 arrange meetings on a regular basis. If he finds you, he would follow you. If there
5 are no soldiers pursuing you, he would follow you until he finds you. But he would
6 not actually set meetings, he would not say let's meet at a scheduled place.
7 Whenever there was a communication at that time, whenever we had radio calls we
8 would be pursued by gunships. So there were no gunships, he would just follow
9 people and then meet with them. He would pick a number of people, two, three or
10 five people and take them, select them to make the communication. But as soon as
11 the communication is set up, as soon as they finish speaking, there would be gunships
12 hovering about, so at that time they limited the number of calls, he would just follow
13 people and he would advise you, you take care of your people, this person take care
14 of his people. And that's how he used to manage people.

15 Q. [10:37:35] Now this scorching, I mean beatings where you would receive
16 upwards of a hundred strokes of the stick, was it limited to the junior soldiers only or
17 would even the officers be beaten?

18 A. [10:38:03] Most times senior officers were not beaten, but if you commit any
19 kind of infraction you are beaten. Most of the junior soldiers would be beaten, but
20 for senior soldiers they would take into account the number of infringements and
21 then you would be killed.

22 Q. [10:38:27] And, Mr Witness, maybe I should have asked you this earlier, but it's
23 never too late. Before you were abducted, did you -- had you heard anything about
24 the LRA?

25 A. [10:38:58] In what capacity? That what would they have done or in what

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 capacity? Or are you asking whether I knew that they existed?

2 Q. [10:39:15] Mr Witness, as somebody coming from there, that's part of the region,
3 I know that you knew that they existed. But what I want you to tell Court is what
4 you heard about them. What were they like? What were they capable of doing?
5 What was their character?

6 A. [10:39:46] What I heard when I was still at home was people would talk about
7 the LRA and say that the LRA -- anyway, they never really used to refer to them as
8 the LRA. They mostly referred to them as Lakwena. They would say, "Oh,
9 Lakwena does not like white chicken. Lakwena does not like pigs. Lakwena, this
10 season are not abducting people. This season, Lakwena only fighting against
11 soldiers". Those were the kind of things that I would hear when I was still at home
12 and those are things that I would hear people talking about.

13 Q. [10:40:31] And of course the incident that you described when you went to
14 hospital with your mother and you saw people mutilated and you were told they
15 were -- they suffered under the hands of Lakwena; is that correct?

16 A. [10:41:02] I saw that and the people who had been, some of the people who had
17 been injured spoke to my mum. My mother asked them "What happened to these
18 people?" She asked somebody and they told her that it was done by the Lakwena
19 people. She asked "Why did they do this?" They told her that somebody escaped
20 with their gun and they came back and did this in retaliation for somebody escaping
21 with their gun. That is something that I witnessed firsthand.

22 Q. [10:41:42] This was at Mucwini?

23 A. [10:41:54] Yes, that was at Mucwini.

24 Q. [10:42:04] Would I, Mr Witness, be correct, therefore, to say that when you went
25 to the bush, when you were abducted, the remembrance of what you saw with people

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 who allegedly were trying to escape was a great disincentive to you from escaping?

2 A. [10:42:41] Yes.

3 Q. [10:42:46] And you stated that there were five other clan brothers from your
4 area who were killed by the LRA for attempting to escape?

5 A. [10:43:02] That's correct.

6 Q. [10:43:17] Mr Witness, would you agree with me that these were revenge attacks
7 on villages in case one of their own escaped and especially if he has -- he was alleged
8 to have escaped with the LRA gun?

9 A. [10:44:00] That's correct.

10 Q. [10:44:10] Mr Witness, the other reason why people were killed, could it have
11 been because they were alleged to be informers of government?

12 A. [10:44:34] If -- one of the reasons why people were killed, well, the LRA wasn't
13 the only people that was killing. Government soldiers were also killing. You know,
14 when the LRA go, they say they are abducting people. The government would also
15 send people, send gunships and helicopters saying that they are going to collect their
16 people. But, you know, the veterans know how to fight. When in the heat of battle
17 civilians run and fall, the government would then chase the civilians and bombard
18 the civilians. So the killing was both way. The LRA killed civilians. Government
19 soldiers also killed civilians.

20 The LRA would kill civilians on grounds that these people escaped with a gun. The
21 government soldiers would kill civilians under -- claiming to go to rescue people, but
22 in the end they would kill civilians instead. So both, both sides killed people. The
23 LRA killed people, civilians. The government soldiers also killed people.

24 I do not know why the government soldiers were killing people who were not armed.
25 Most of the people were unable to arm, to fight because they were -- they were not

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 experienced. They would send three, up to three gunships. One gunship would go
2 from around the corner, would circle around and the one that was bombarding
3 people would be right above the people. And when they are bombarding people the
4 government would be able to tell that these are civilians. Sometimes they would just
5 shoot. Sometimes they wouldn't be able to distinguish between civilians and LRA.
6 They were -- there is one occasion when I saw the gunship hovering without moving.
7 There were two of them. One of them was in front, one of them was behind. They
8 would both fire their guns to the civilians. They would claim that they are there to
9 save civilians, but they were not there to protect civilians. They were not there to
10 rescue civilians. They were there to kill civilians.

11 The reasons why they kill civilians, well, I do not know. I cannot answer that.

12 Q. [10:47:07] Did this sometimes happen at IDP camps?

13 A. [10:47:22] No. They would not actually do this in the camps.

14 Q. [10:47:31] So from what you have described, would it be fair for me to say that
15 the number of casualties during any particular incident could not all be attributed to
16 LRA?

17 MR GUMPERT: [10:48:12] Your Honours, there have been objections from
18 the Defence properly over the last few weeks about a lack of specificity in questioning.
19 I would respectfully submit that if it's going to be suggested by this witness that there
20 has been, it seems, deliberate shooting or at least indiscriminate shooting of civilians
21 by government soldiers, it will be helpful to know whether this is a matter of his
22 direct experience and if so, where he says he directly experienced it.

23 PRESIDING JUDGE SCHMITT: [10:48:46] Yes, of course. But this would be to be
24 elaborated because it's now the Defence questioning by the Defence.

25 And I think, Mr Ayena, this is a fair objection by Mr Gumpert. We would have to be

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 more specific. Perhaps we refer to incidents where the witness has direct knowledge
2 of and then he can answer the question meaningful.

3 MR AYENA ODONGO: [10:49:17] Thank you, Mr President. But I thought
4 Mr Gumpert should have reasonably anticipated that I was going there because
5 already he said he witnessed two helicopters in a place. The logical thing to ask
6 would be: Where was this? And that's exactly where I was going.

7 PRESIDING JUDGE SCHMITT: [10:49:39] Perfect. Then please continue.

8 MR AYENA ODONGO: [10:49:43] Yes.

9 Q. [10:49:44] Mr Witness, in particular you talked about the incidents where you
10 saw two helicopters, one in front and the other behind directing attacks on civilian
11 population. Can you tell Court where this was and -- yes, where this was?

12 A. [10:50:15] This happened to our group in an area known as Omot. When we
13 crossed Palwo road in the evening, we went and encamped. On the second day in
14 the morning, I was supposed to -- I was waiting for somebody to take over my
15 position because I was on guard at the moment. I was waiting for people to come
16 from behind. When the person who was supposed to come and swap positions,
17 because you are normally on guard two days in a row, but soldiers came and I fought,
18 I fired at those soldiers and they left.

19 But the soldiers had already planned how to attack us. There was a river. So when
20 the people were crossing the river, we were on -- we were to position where we were
21 supposed to have been swapped, guards were supposed to have been swapped. We
22 fired and chased away the soldiers.

23 We started fighting against the soldiers at around Omot, we ran. We went toward
24 the river. On the river bank we found other people fighting with another group of
25 soldiers on the river bank, those were different from the soldiers that we were firing

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 at. So there were a number of soldiers. When we got to the riverbanks we found
2 soldiers there. Another group was fighting against soldiers. There were people
3 who were on one side of the river, also fighting against another group of soldiers.
4 There was another group on the other side of the river fighting against another group
5 of soldiers.

6 At the time Okuti was with us. He told us that "If these soldiers continue pursuing
7 us, I know that they are going to meet with another group. What we are going to do
8 is fight against them".

9 We walked, we followed a big road, and we got to a river. They told us "Stop. Stop
10 here. If you see them following us, run, run very fast and go and inform people,
11 come and inform people that we are being pursued". I stopped. I stopped. I saw
12 them coming. I watched them. We ran. We ran very fast. We ran and met the
13 other group and we told them that they are coming.

14 PRESIDING JUDGE SCHMITT: [10:52:55] May I shortly, Mr Witness, because I
15 think we see when we don't narrow the questions the answers are quite long, which is
16 no reproach, but I think we should be aware of that.

17 Mr Witness, but you told about helicopter gunships, as I understood it. When did
18 they arrive and what did they do? And please try to be as short as possible to
19 explain that to us because you have already told about, in general, about what
20 happened, but in that incident.

21 THE WITNESS: [10:53:35] (Interpretation) The gunships came at around 11. It
22 followed us. It went and it turned around. There was a place where civilians were
23 being taken care of. The soldiers were behind. The gunship flew, it went, it turned
24 around and starting firing at us. They were shooting, there was battle at the back.
25 Some of the soldiers ran and followed us. And they started shooting the people.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 They started shooting people indiscriminately and those were civilians. I saw that.
2 I saw people in the helicopter looking. They actually looked down, they were
3 looking at people from the helicopter because it was flying very low and they started
4 shooting.

5 I was in a helicopter myself, because I know that when you are in a helicopter if the
6 helicopter is flying really low, you can even see a lizard. So I was sure that the
7 soldiers were actually seeing, they knew that they were looking at civilians and firing
8 at civilians.

9 People were piled as logs, corpses were piled as logs. They sent cars, a number of
10 cars to come and collect those corpses. It was not the LRA that killed them, it was
11 the government soldiers that killed them. The bodies were piled this high. They
12 used four cars to come and collect the bodies. It was not the LRA that killed them, it
13 was the government soldiers that killed them. If the LRA were the ones that were
14 killing the people, then they should have actually been informed.

15 MR AYENA ODONGO:

16 Q. Sorry, was this --

17 PRESIDING JUDGE SCHMITT: [10:55:26] One question, one follow-up he question
18 in that respect. When you say there was a place where civilians were "taken care of",
19 what do you mean by that?

20 THE WITNESS: [10:55:44] (Interpretation) When I say where civilians are being
21 taken care of, that's a place where they believe that the place is not going to be
22 attacked, that it's a safe place that civilians will not be attacked. And the mobile
23 forces are on a different place and the civilians are being kept in a place where we
24 assume would be safe for them.

25 PRESIDING JUDGE SCHMITT: [10:56:07] So we are talking about civilians that had

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 been abducted by the LRA?

2 THE WITNESS: [10:56:14] (Interpretation) That's correct.

3 PRESIDING JUDGE SCHMITT: [10:56:15] And the last one and then, Mr Ayena, I
4 give you the floor again.

5 When you said you have also been in a helicopter, that means at another point in time
6 before that or after that; do I assume that correctly?

7 THE WITNESS: [10:56:38] (Interpretation) No. I was in a helicopter when I came
8 back from the bush. So they were taking me from Central to Sudan and back home.
9 That's when I was in the helicopter, when I escaped from the bush.

10 PRESIDING JUDGE SCHMITT: [10:56:59] Thank you.
11 Mr Ayena, please.

12 MR AYENA ODONGO: [10:57:02] With the short time before break and I think I am
13 just going to ask a few questions.

14 Q. [10:57:11] Can you tell Court this idea of escape and the mood in the group
15 where you were in the coy, in the battalion, was it possible for people to discuss
16 escape plan? If you wanted to escape, was it possible for you to go and discuss with
17 your unit, with your coy, or with your battalion?

18 A. [10:57:47] It's really difficult, because every individual has their own views or
19 thoughts. You cannot -- you are always afraid to speak to somebody because you do
20 not know when this person might report, whether they would report, and if they do
21 you are going to be beaten. So it's very difficult to discuss those matters.

22 Q. [10:58:14] Mr Witness, would I therefore be right to say that you -- nobody
23 trusted his neighbour?

24 A. [10:58:41] If you are talking about escaping, trust somebody with your
25 intentions to escape, that is correct. But if you're talking about trust in the sense that

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 we are together, we have to work together, then yes, you did not distinguish between
2 trusting whether somebody wants to escape or where general living.

3 Q. [10:59:09] And, Mr Witness, in respect to senior commanders, were you aware
4 whether around them there would always be spies to make sure they conformed to
5 the rules and regulations of the LRA, and in particular to make sure that they did not
6 escape?

7 A. [10:59:48] Are you talking about the thoughts or views of each commander?

8 Q. [10:59:57] Yes, please, Mr Witness.

9 A. [11:00:06] It's possible that each person observes the other. In the LRA people
10 are always observing each other. If somebody noticing something fishy or
11 something funny in another person's behaviour, if, for example, your commander
12 decides that we are leaving with this convoy, we are all leaving, if that person does
13 not want to escape, the person would go, kill you and then run back.
14 That is something that we have all been instructed to do. You would be
15 congratulated, you would be praised for doing, for doing that.

16 Q. [11:00:51] Thank you.

17 MR AYENA ODONGO: Mr President and your Honours, I think this is a logical
18 place to take a break.

19 PRESIDING JUDGE SCHMITT: [11:00:59] This is very logical I would say.
20 We meet together at 11.30.

21 THE COURT USHER: [11:01:06] All rise.

22 (Recess taken at 11.01 a.m.)

23 (Upon resuming in open session at 11.31 a.m.)

24 THE COURT USHER: [11:31:05] All rise.

25 PRESIDING JUDGE SCHMITT: [11:31:25] Mr Ayena has the floor.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

- 1 And I ask you if you have already an idea how long the examination of the witness
2 will last. Prosecution took three hours on Friday. What is your estimate?
3 MR AYENA ODONGO: [11:31:42] My estimate is that I should imitate them.
4 PRESIDING JUDGE SCHMITT: [11:31:46] Good.
5 MR AYENA ODONGO: [11:31:48] And without your permission, I remain standing,
6 just in case you allowed me to remain standing.
7 PRESIDING JUDGE SCHMITT: [11:31:56] I allowed you to remain standing and that
8 means that you can continue your examination.
9 MR AYENA ODONGO: [11:32:03] I'm very much obliged.
10 PRESIDING JUDGE SCHMITT: [11:32:04] Except when we have a video link
11 witness, then you are allowed to keep sitting. But this is not the case here at the
12 moment. So please continue.
13 MR AYENA ODONGO: [11:32:11] Much obliged.
14 Q. [11:32:13] Mr Witness, welcome back. I hope you had a good coffee.
15 By the way, I forgot to ask you about something very simple but important to me. I
16 see your name, your bush name was --
17 PRESIDING JUDGE SCHMITT: [11:32:34] I think this would have to be elicited in
18 private session.
19 MR AYENA ODONGO: [11:32:36] Oh, yes.
20 PRESIDING JUDGE SCHMITT: [11:32:37] But nothing has happened. So we go
21 shortly to private session, I would suggest. Nothing has happened. That's okay.
22 MR AYENA ODONGO: [11:32:49] I owe it to ...
23 (Private session at 11.32 a.m.)
24 (Redacted)
25 (Redacted)

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Private Session)

ICC-02/04-01/15

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Page redacted – Private session.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Private Session)

ICC-02/04-01/15

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Open session at 11.37 a.m.)

12 THE COURT OFFICER: [11:37:00] We are back in open session, Mr President.

13 MR AYENA ODONGO:

14 Q. [11:37:04] Mr Witness, we are progressing so well. Let's now focus about what
15 you saw in relation to the commanders, especially the treatment that was meted to the
16 commanders.

17 You told Court on Friday that the orders and the regulations or rules of LRA
18 emanated directly from Joseph Kony. Were these regulations supposed to be
19 reverently followed by the commanders within the units, brigades, coys and
20 battalions in which they are in charge?

21 A. [11:38:24] These rules were supposed to be followed by everyone. There was
22 no way anybody could fail to follow and yet they are not the ones who started that
23 rebellion.

24 Q. [11:38:45] Now, Mr Witness, if a commander refused to implement the rules set
25 down or refused to follow an order issued by Kony, what would Kony do to him?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [11:39:10] He used to say that there is no prison for the rebels, so he would just
2 be picked and killed.

3 Q. [11:39:26] Would I therefore be right to suggest, Mr Witness, that every
4 commander, brigade, division, battalion, coy or even unit knew that he had no choice
5 but to implement the spirit and letter of Kony's order?

6 A. [11:39:59] That's correct.

7 Q. [11:40:04] Now, Mr Witness, when you were talking to the UPDF about Kony
8 and LRA structure, you stated a name, Acaye Doctor. Can you tell Court what was
9 his position within the LRA and his relationship to Kony?

10 A. [11:40:55] Well, it's difficult to talk at length or in details about Doctor, but I will
11 only tell you what I know. I used to hear and -- well, I have to emphasise that
12 I didn't see this myself, but I was told that Acaye Doctor and his brother Layap, his
13 father and mother I think must have wilfully joined the LRA. I am not very sure, but
14 I was told that they went of their own volition to join the LRA. And Doctor's
15 position was not clear to me, but most times he would stay at Control Altar.

16 Q. [11:42:02] Mr Witness, in that frame of things, would you say, because of his
17 foundational background, Doctor Acaye was very close to Joseph Kony?

18 A. [11:42:23] He was very close, and even at the time when I was leaving, he was
19 still very close to Kony. He is not a medical doctor, but that was just his name.

20 Q. [11:42:52] And let's talk about this question of Arabs. You talked about these
21 Arabs and you stated that the LRA are getting some of the supplies, informations
22 from the Arabs. And you further said, "Arabs came and enquired from the LRA if at
23 all the LRA have sent their force in southwest direction". Then you continued at
24 a certain point to say that during the process, the Arab forces would add some
25 reinforcement and so on and so forth. Can you tell Court whether you actually saw

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 the Arabs supply the LRA?

2 A. [11:43:55] That happened and I witnessed it myself. What I saw was when
3 they were giving out drugs and we went and also found that they had given 12 horses.
4 But the LRA could not sustain the horses and they all died. They were supposed to
5 be used to help and transport the food items that they will have cultivated. The
6 horses were supposed to be used to transport food items along the way.

7 I did not see the horses myself, but for the drugs I witnessed, because I went and
8 stood to provide security for the commanders. There was a commander called
9 Binany, and if I can clearly recall, I also moved with Odomi in one of the instances.

10 Q. [11:45:04] Mr Witness, is it correct to say that the Arabs you are talking about
11 were forces of President al-Bashir of the Khartoum government?

12 A. [11:45:27] That's correct.

13 Q. [11:45:35] Would it also be correct to say that al-Bashir government was
14 collaborating with the LRA?

15 A. [11:45:53] In my own observation, yes, there was collaboration, because when
16 we went to meet them to receive the drugs, our commanders went to meet their
17 commanders. There was a military vehicle that they would use to come with. I am
18 aware that they were working closely with each other.

19 Q. [11:46:24] Mr Witness, did you get to know whether the Arabs were also at war
20 with some group in South Sudan?

21 A. [11:46:49] At war, are you talking about some groups being rebels against the
22 government?

23 Q. [11:46:58] Yes.

24 A. [11:47:07] Well, I heard about the name of some rebels. From there they used
25 to refer to them as Tora Boro and we were told that most times they would attack the

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 government forces during dry season. They would not disturb the government
2 forces during rainy seasons because during that period they will not be able to cross
3 big water points. These were more organised rebel groups because they would
4 move in vehicles and not walk like we used to do. I was told that, yes, they were
5 there and disturbing the government.

6 Q. [11:47:48] How about the Dinkas, the SPLA?

7 A. [11:48:02] Those people, well, I think their conflict has taken quite a while and
8 most of the people worldwide know about that. But for the other kind of -- for the
9 other group I had never heard of before, I only started hearing of them when I was in
10 Darfur.

11 Q. [11:48:23] Mr Witness, let's talk about the Dinkas, the SPLA. I mean I call them
12 Dinkas because they are more associated with Dinkas than anything.
13 Do you know whether the Dinkas were helping the government of Uganda to fight
14 LRA at some point?

15 A. [11:48:57] I learned that that happened several times.

16 Q. [11:49:15] So while LRA was fighting side by side with the Arabs, SPLA was
17 fighting side by side with the government of Uganda; is that correct?

18 A. [11:49:29] That is how I understood it.

19 Q. [11:49:38] Would I therefore be correct to say that this was the battle -- at
20 a certain point this was the battle of the big boys using the small boys to fight their
21 battles?

22 A. [11:49:59] Yes, the big commanders were using the small people down there to
23 fight.

24 Q. [11:50:11] What I mean to say is that the government of Khartoum was trying to
25 use the LRA to fight on their behalf while the government of Uganda was also using

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 SPLA to fight on their behalf.

2 A. [11:50:39] Well, about that, you have said it rightly. Only that the Arab
3 government on its own did not give its soldiers to come and fight against the rebels
4 who were composed of the Dinka or to command fight against the Uganda
5 government. But what I came to understand was that they provided weapons and
6 that happened sometime back. I did not witness it myself. The only thing I saw
7 was the giving out of drugs. I went and met them in their town, in their big barracks,
8 but they never provided the fighting forces.

9 Q. [11:51:34] Thank you, Mr Witness.

10 Talking about the character of commanders, when you were in the Sudan you said
11 you saw commanders like Buk Abudema, Odhiambo, Otti Vincent, Okuti and several
12 others of course, not to mention Dominic Ongwen. Of these commanders were there
13 some who were very brutal and some who were friendly, at least to the soldiers and
14 even towards the civilian population?

15 A. [11:52:46] Yes, they were there.

16 Q. [11:52:53] Let's talk about a person like Okot Odhiambo. If he went to attack
17 a target, whether it was a civilian target or a military target, how would he handle the
18 situation, would he be sympathetic, I mean to the soldiers and also to the civilians
19 along the way? What was he like?

20 A. [11:53:36] He would say -- well, it's difficult for me to mention what he would
21 say particularly, but he was merciless. When he is addressing the people he would
22 tell them that if a dog barks at you it's already reporting you. If it's a chicken and it
23 makes noise it's already reporting you. If a child chases you from a house and then
24 the child runs back to the house, the child will have reported you to the mother.
25 Therefore you should not have any mercy on anything. Out of the commanders he

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 was the most brutal and merciless commander. I think he could also be merciless to
2 his own child.

3 Q. [11:54:30] Can you tell Court the conduct of Dominic Ongwen, can you describe
4 Dominic Ongwen, the person you saw in the bush, his relationship with the soldiers
5 and also his relationship against the UPDF, and his relationship with the civilian
6 population.

7 A. [11:55:06] Regarding Dominic Ongwen, well, I will not just be speaking well of
8 him or supporting him, but I will be talking about what I have witnessed and seen.
9 In his whole life he's been living very well with the people. He would really ensure
10 that his soldiers were happy. He wouldn't -- he would never give instructions about
11 killing of civilians. I never heard him instruct or give instructions for the killing of
12 civilians. His soldiers loved him so much and whenever he was identified to go for
13 a standby, even when the battle ahead is a very difficult one, people would willingly
14 join him to go and fight. I personally used to love him. I used to like him a lot
15 because I never saw anything so bad that he ordered for. He never ordered for the
16 killing of any civilian. He never ordered for the killing of anyone. I did not see or
17 hear of that.

18 Q. [11:56:20] Now, this Odhiambo man, the brutal man described, which unit of
19 LRA did he command?

20 A. [11:56:41] Previously what I understood was that Odhiambo was moving, was
21 in Trinkle brigade and then later on he came and replaced somebody at the division.
22 That was what I came to understand. I don't really know how he came to become
23 a leader. I joined the LRA sometime along the way.

24 Q. [11:57:09] Now, Mr Witness, you said you had a lot of confidence in
25 Dominic Ongwen. Can you describe Dominic Ongwen as a fighter against

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 government forces. What was he like if he went to attack a UPDF, you know, detach
2 or if he was attacked and he was fighting against the UPDF?

3 A. [11:57:53] What he was very good at doing was something I could also do very
4 well. As a soldier, if your enemy comes to kill you, you must kill him. That was
5 what I was very sure he was doing very well and he loved doing that. That was
6 what he was trained on.

7 Q. [11:58:20] According to your experience in the bush, did UPDF commanders get
8 to know that Ongwen was such a courageous fighter?

9 A. [11:58:41] Yes, they were well aware of the fact that he was very brave and he
10 would work very well. There were two who were considered very lucky during
11 battles. One of them is now deceased. He was called Ongayo Wang Tyet, but his
12 regular name known by the government was Charles Tabu, but in the bush we would
13 call him Ongayo Wang Tyet. He and Dominic were the most fierce fighters amongst
14 the commanders.

15 Q. [11:59:21] This -- was this the man referred to as Tabuley?

16 A. [11:59:31] No. That is not Tabuley. Tabuley died a long time back.

17 Q. [11:59:42] Okay. Now, Mr Witness, as you can see, Dominic Ongwen is in
18 court. One of the other four who were brought to court together with him,
19 Joseph Kony, the late Vincent Otti, the late Raska Lukwiya and the late Odhiambo,
20 can you tell Court why -- whether Dominic Ongwen would properly fit within that
21 category of people?

22 PRESIDING JUDGE SCHMITT: [12:00:45] I think we should not ask -- no, I don't
23 allow this question. I think it's not up to the witness to judge any judicial
24 proceedings, so to speak. So I would ask you to go to another point, or rephrase or
25 whatsoever.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 You know, it is -- we, the Judges -- what you are at the moment elaborating and trying
2 to get out of the witness, there might be conclusions to be taken or not to be taken, but
3 not -- I would not ask the witness that.

4 MR AYENA ODONGO: [12:01:29] I am much obliged, but allow me to canvass it in
5 a different manner.

6 PRESIDING JUDGE SCHMITT: [12:01:35] Let's listen to the different manner first.

7 MR AYENA ODONGO: [12:01:38] Yes. And if I go wrong, Mr President, don't
8 hesitate to stop me.

9 PRESIDING JUDGE SCHMITT: [12:01:46] I will not hesitate, although I don't like it
10 of course. But I will not hesitate, if need be.

11 MR AYENA ODONGO: [12:02:07]

12 Q. [12:02:07] Mr Witness, do you know when your commanders were referred to
13 this Court?

14 A. [12:02:25] I do not know the exact date. Nor do I know the year that they were
15 referred.

16 Q. [12:02:36] Would it refresh your memory if you were told that they were
17 referred to this Court just before the commencement of the peace talks?

18 A. [12:03:06] Yes, that refreshes my memory.

19 Is it possible for me to take a bathroom break?

20 PRESIDING JUDGE SCHMITT: [12:03:13] Of course that is possible. We will have,
21 I think, five minutes, or we just have a break. We don't get far away from this
22 courtroom, and reconvene when it is possible.

23 MR AYENA ODONGO: [12:03:24] Yes.

24 THE COURT USHER: [12:03:25] All rise.

25 (Recess taken at 12.03 p.m.)

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 (Upon resuming in open session at 12.08 p.m.)

2 THE COURT USHER: [12:08:48] All rise.

3 PRESIDING JUDGE SCHMITT: [12:09:05] There was a new noise here in the
4 courtroom, but obviously it's over.

5 Please, Mr Ayena.

6 MR AYENA ODONGO: [12:09:23]

7 Q. [12:09:23] So, Mr Witness, I want you to tell Court how you rated the position of
8 Dominic Ongwen vis-à-vis the positions of those other people together with whom he
9 was brought to this Court.

10 A. [12:10:01] I stated earlier that I'm not just praising him for the sake of it, but he
11 conducted himself in a manner as a soldier should. When the investigators came
12 and found me, I told them that there are certain things that he would do, that he
13 would do without listening. He was undisciplined, in such a way that he would not
14 listen to the rules, which means that he would do things out of context, out of
15 the rules. But, yes, he would not directly follow the rules, he did -- but he was
16 powerless. He did not have authority. But he did not do anything bad.
17 In reality, the person that should be brought here, that should be brought to the Court,
18 is Kony. Kony was the one who issued those orders. As well as Odhiambo,
19 Odhiambo the malevolent, because he was somebody who was merciless. He would
20 beat somebody. He would even beat his own child. He would not care about his
21 own child.

22 But if we are talking about the accused, then I do not know the exact reason why he is
23 brought here. Personally, I do not know.

24 PRESIDING JUDGE SCHMITT: [12:11:43] I think we can now move to another topic,
25 perhaps even.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 MR AYENA ODONGO: [12:11:48] Okay.

2 PRESIDING JUDGE SCHMITT: [12:11:56] You circumvented it ably, I would say,
3 the problem.

4 MR AYENA ODONGO: [12:12:01] I was impressed that you didn't stop me.

5 Mr President, your Honours, some of these are more for the general information to
6 this Court, giving a background, because I discern that this witness ended up being
7 very close to Joseph Kony and therefore he provides an opportunity for an insight, a
8 scrutiny of who Joseph Kony is.

9 PRESIDING JUDGE SCHMITT: [12:12:44] Let's see, and of course we always keep in
10 mind if he has directly observed it --

11 MR AYENA ODONGO: [12:12:47] Yes.

12 PRESIDING JUDGE SCHMITT: [12:12:48] -- or only -- I think, when it comes to what
13 he has heard, I think we perhaps --

14 MR AYENA ODONGO: [12:12:50] That's a different matter.

15 PRESIDING JUDGE SCHMITT: [12:12:51] Yes, we should not dwell into it. But
16 when it comes to incidents or behaviour, attitudes, whatsoever, of Kony that he
17 directly has observed, perhaps you can initiate it like that, and then we simply move
18 on and get out the information that he can provide us.

19 MR AYENA ODONGO: [12:13:16]

20 Q. [12:13:16] Mr Witness, during your time at Rikwangba, did you witness some
21 meetings where Kony convened and addressed soldiers in the presence of his top
22 commanders?

23 A. [12:13:53] That used to happen regularly. I was also part of the group that was
24 being addressed. He would say that we are going to pray. After prayers he would
25 tell us that Lakwena said -- has issued these instructions and we should do this and

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 that, and that was the kind of information he would give us.

2 Q. [12:14:23] Mr Witness, did you get to know that at one stage Joseph Kony
3 wanted to harm those who were -- delegations that were involved in the peace talks?

4 A. [12:15:01] Are you talking about the people who came from Uganda and went to
5 the Congo to meet him? From Uganda to the Congo to meet him?

6 Q. [12:15:18] Yes, Mr Witness.

7 A. [12:15:22] It's very difficult for me to state that there was an intention to kill
8 those people or beat them, because I did not hear anything. Maybe he discussed it
9 with his inner circle in private, but I do not know.

10 Q. [12:15:43] Very well.

11 PRESIDING JUDGE SCHMITT: [12:15:44] That's absolutely okay, Mr Witness.

12 And you -- of course, you follow also the conversation that I had five minutes ago
13 with counsel that -- make it absolutely clear when you have observed something
14 directly, heard something directly, or when you only heard it from others and did not
15 observe it. That's absolutely correct, like you're doing it.

16 MR AYENA ODONGO: [12:16:09]

17 Q. [12:16:10] Now, Mr Witness, let's go to your Gulu meetings. Now, Mr Witness,
18 during your testimony on Friday you mentioned that you met with
19 Dominic Ongwen's wives - your Honours, I'm referring to the real time transcript at
20 page 67, lines 9 to 14 - and you also mentioned that they told you that after
21 Dominic Ongwen left, their life in the bush had become hard.

22 And in one of your statements to the Prosecution investigators, which, your Honours,
23 is in tab 8, UGA-OTP-0243-1222, at 1242, line 646, Mr Witness, you stated:

24 "So he" -- that is Dominic Ongwen -- "told them" -- that is his wives -- that "life was
25 not good, this was going to be the last time they would see him."

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 Now, I'm asking you, Mr Witness, would you agree with me that Dominic Ongwen at
2 least tried to protect the lives of his wives? He was a caring husband?

3 A. [12:18:23] That's correct. That's correct.

4 Q. [12:18:28] And from what you observed between Dominic Ongwen and his
5 wives in the bush, and even when they talked to you, was there a love relationship
6 between them? Did they love each other?

7 A. [12:19:04] They loved each other. Dominic loved his wives and his wives also
8 loved him.

9 Q. [12:19:18] Would you therefore, Mr Witness, agree with me that perhaps it took
10 Dominic Ongwen much longer to decide to escape because he had many wives and
11 many children that he loved and cared for?

12 PRESIDING JUDGE SCHMITT: [12:19:38] It's a very speculative question, I would
13 say. Could you rephrase it a little bit?

14 MR AYENA ODONGO: [12:19:46] Yes.

15 PRESIDING JUDGE SCHMITT: [12:19:47] So not to make the witness --

16 MR AYENA ODONGO: [12:19:50] (Overlapping speakers)

17 PRESIDING JUDGE SCHMITT: [12:19:51] You know we are -- yes, we are
18 relatively -- we allow a lot, but this is really a little bit -- because he would have to put
19 himself into the mind of another person. It is not so easy, I think, for nobody.

20 MR AYENA ODONGO: [12:20:08] Yes. Sometimes when I get out of the way and
21 you let it pass, Mr President, I know that you are just being kind. But on an occasion
22 like this, I feel indebted and I can only rephrase so that he says it himself.

23 PRESIDING JUDGE SCHMITT: [12:20:28] I could not have worded it better than
24 you, Mr Ayena.

25 MR AYENA ODONGO: [12:20:34] Much obliged.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 Q. [12:20:36] In the bush there were people who -- did you have a family yourself,
2 Mr Witness?

3 A. [12:20:56] No. I did not have a household, but I had a wife. Not a household.

4 Q. [12:21:07] Did you have children, or a child at least?

5 A. [12:21:22] No.

6 Q. [12:21:29] Did you care about your wife and love her?

7 A. [12:21:42] Of course we did. We loved each other.

8 Q. [12:21:49] When you were escaping, did you escape together?

9 A. [12:22:03] My wife was captured before me. She had gone to fetch water and
10 on the way back they captured her and they took her. But I left afterwards.

11 Q. [12:22:23] Now, Mr Witness, can you tell this Court whether in the times when
12 you considered escaping, you had at the back -- before your wife was, I mean, was
13 captured, you all the time at your back -- at the back of your mind had your wife?
14 Did you think about her when every time you thought of escaping and perhaps found
15 it difficult to escape on account of that?

16 A. [12:23:18] If my wife was there, I would not have left her behind. We would
17 have left together, because if you leave, if I tell my wife that we are leaving, she
18 would not refuse. If there is something else other than leaving, then I wouldn't tell
19 her. But if I wanted to leave -- because there are other issues relating to the army
20 that I do not discuss with my wife. She realises that these are being done or have
21 been done.

22 PRESIDING JUDGE SCHMITT: [12:23:57] Mr Witness, you said that your wife had
23 been captured before you escaped. Do I understand it correctly, captured by the
24 UPDF?

25 THE WITNESS: [12:24:11] (Interpretation) It was a mixture of UPDF and Congolese

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 soldiers. They were together.

2 PRESIDING JUDGE SCHMITT: [12:24:25] So knowing that your wife was no longer
3 with the LRA, did this influence your decision to escape, your own decision?

4 THE WITNESS: [12:24:41] (Interpretation) No, that wasn't the case. If I had
5 decided to escape simply because she was no longer there, I wouldn't have stayed
6 much longer. I knew -- I know that these things happen and these things are part of
7 life. I wasn't the first and I won't be the last.

8 PRESIDING JUDGE SCHMITT: [12:25:11] Thank you.

9 Mr Ayena.

10 MR AYENA ODONGO: [12:25:15]

11 Q. [12:25:17] But, Mr Witness, can you tell Court whether it was easier or more
12 difficult when you had to plan for an escape when you have a wife?

13 A. [12:25:49] If she was there, if she had not been taken, it would have been a little
14 bit difficult, because it's difficult for you, two people, to get up and start leaving
15 together. That's not something that is usual. If something -- if people see the two of
16 you leaving together, then people would suspect something. They would either
17 fight against you or they would arrest you, one of the two.

18 Q. [12:26:22] So would I be right to suggest that maybe this was a common feeling
19 among the soldiers of LRA who may have wanted to escape?

20 A. [12:26:51] Even if there are a number of soldiers who wanted to escape or had
21 the intention to, they did not discuss it among themselves. Because if you discuss it
22 with somebody else, this is equivalent to your own death sentence, passing your own
23 death sentence. You decide this on your own. There are some people who agree;
24 for example, you discuss it with somebody and the person would actually agree.
25 You leave together. Halfway along the way, the person would shoot you and come

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 back. So people did not discuss these things.

2 PRESIDING JUDGE SCHMITT: [12:27:28] I think that's fair enough, because also it

3 underlines that the witness can only speak about his own intentions, of course.

4 Otherwise we would go into the area of speculation, as I said before.

5 MR AYENA ODONGO: [12:27:46] I'm directed. I'm guided.

6 Q. [12:27:49] Now, Mr Witness, when you came back, did you rejoin with your

7 wife?

8 A. [12:28:04] No. We are not together anymore. I did not see her again. I never

9 saw her again. Neither did she see me when I came out.

10 Q. [12:28:27] Now, when you met Dominic's wives, did they tell you that they were

11 treated well when -- of course you have already said that. Now, the next question I

12 wanted to ask is: When you met them, did they tell you that they were emboldened

13 to escape because they missed their husband, Dominic Ongwen, when they finally

14 escaped?

15 A. [12:29:12] They told me that they did not escape. They were released. But

16 when they were moving with other people, no man or woman was allowed to speak

17 with them. If somebody branches and speak to them, the person would be

18 questioned seriously, "What were you -- what did you ask them? What did they tell

19 you?" They were released.

20 Q. [12:29:47] When they were released, when you talked to them, did they tell you

21 whether they knew whether Dominic Ongwen had been killed or was still alive?

22 A. [12:30:19] They told me that they were not sure whether or not he was alive or

23 dead, because if he was still alive, they would not have released them. That's what

24 they told me. They told me clear. They were not guessing.

25 Q. [12:30:39] And by the way, Mr Witness, who did they say released them?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [12:30:52] The order came from Kony. But they said it was an officer called Olo
2 who moved with them. He is the one who released them, moved with them, and left
3 them along the way somewhere in the bush. They had to roam about for two days
4 before they could come to a civilian's garden and dress themselves. They moved
5 together with that gentleman up to some point.

6 Q. [12:31:32] Now, Mr Witness, did they discuss with you whether they got to
7 know that Dominic Ongwen was severely beaten, caned?

8 A. [12:31:50] They never talked about his beating. Instead they said he must have
9 been killed. I never came to hear of any beating. I heard of his beating from
10 a person called Ocora who said he was beaten to a point I think he was about to die.
11 And if he didn't die, then it he was not going to take long before he would die. Then
12 I think somebody who was very merciful decided to release him sometime late in the
13 night. If that was not done, he would have died.

14 Q. [12:32:48] Now, Mr Witness, did this same Ocora also tell you that he was put in
15 a hole filled with water?

16 A. [12:33:04] Yes, he said that.

17 Q. [12:33:07] (Redacted)

18 (Redacted) Mr Witness, can you tell Court when you first met with the ICC
19 Prosecution investigators. Can you describe the meeting, how it all started, who
20 initiated it, how did they reach you. And just give a narrative of what you were told
21 and how you were invited to come and make the first statement.

22 A. [12:34:06] Before I, I met (Redacted), I received a telephone call asking me to
23 travel to Gulu because there were some people who wanted to meet me there. I
24 discovered that Achila had died from Nairobi and his body was being brought home.
25 He came for the burial and he told me to wait for him, he would pick me and then

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Private Session)

ICC-02/04-01/15

1 move with me to Gulu. Then he came, picked me from Kitgum town and we

2 travelled to Gulu. When we arrived --

3 PRESIDING JUDGE SCHMITT: [12:34:51] Mr Zeneli.

4 MR ZENELI: [12:34:52] Just out of caution, perhaps it's best to move into private for
5 this section.

6 PRESIDING JUDGE SCHMITT: [12:34:58] That might be correct, yes.

7 Private session.

8 (Private session at 12.35 p.m.) *(Reclassified partially in public)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 MR AYENA ODONGO: [12:36:11] Okay.

20 Q. [12:36:13] So, Mr Witness, how many times did you meet the ICC, from that
21 time, how many times did you meet the Prosecutors, if you remember?

22 A. [12:36:30] My first time to meet them was that time (Redacted)

23 (Redacted) I met with them. I went back. Later on they invited me and I think, I

24 think I met with them about three or four times and the fourth one was when I was

25 coming here. I think it was the third time when I was about to come here.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Private Session)

ICC-02/04-01/15

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 MR AYENA ODONGO: [12:38:42]

14 Q. [12:38:43] What did he say would happen to you if you refused to come?

15 A. [12:38:55] He said nothing would happen. Whether I accepted to come or not,
16 that would be it. The people I was going to meet with were not going to do anything
17 wrong to me. That was what he told me.

18 PRESIDING JUDGE SCHMITT: [12:39:12] Can we go back to open session?

19 Also Prosecution, what do you think? Not -- discussing amongst themselves, but I
20 think we go to open session.

21 MR GUMPERT: [12:39:23] Sorry, we were. That was not intended as any
22 disrespect. There's no objection.

23 PRESIDING JUDGE SCHMITT: [12:39:28] Yes, open session.

24 (Open session at 12.39 p.m.)

25 THE COURT OFFICER: [12:39:35] We are back in open session, Mr President.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [12:39:43] Thank you. And I think in this line of
2 questioning there does not seem too much, to put it this way, because witness has
3 said he was not influenced in any way and I think you can move on.

4 MR AYENA ODONGO: [12:40:02] Yes.

5 Q. [12:40:03] Mr Witness, you, you said you were informed of your right to have
6 a lawyer during your investigation but that you were told it would take about one
7 week before a lawyer would be available; is that correct?

8 A. [12:40:37] They talked about that. Then I asked them that how can I have
9 a lawyer when I know I have not done anything wrong to anyone? That's what I
10 asked them.

11 Q. [12:41:04] Mr Witness, besides the ICC Prosecution investigators, did you talk to
12 anybody else about this case?

13 A. [12:41:22] No, nobody else came to me, save for these people we met with.

14 Q. [12:41:42] Mr Witness, let's talk about Stockree. During your testimony on
15 Friday you mentioned that you were abducted by Stockree brigade, Kipola battalion
16 and B coy.

17 Is it still your testimony, Mr Witness, that you stayed with the same brigade, battalion
18 and coy until your escape?

19 A. [12:42:25] I stayed there for a while before I was moved, and at the time I was
20 being moved the issues about brigades were almost no more. Kony was the overall
21 commander who would only say people are in groups and the names of brigades
22 were already diminishing.

23 Q. [12:42:50] Who was your commander in Stockree?

24 A. [12:43:05] At the time I was abducted it was Loum Icaya.

25 Q. [12:43:18] Was he finally replaced by somebody else?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [12:43:33] Yes, there were changes, because eventually he, he left, he left some
2 time back and returned home. But I do not recall the name of the person who
3 replaced him.

4 Q. [12:43:50] Okay. Do you recall a person called Silvio Ayoli?

5 A. [12:44:08] Yes, I recall about him and he also returned home.

6 Q. [12:44:59] Now, Mr Witness, during the Acet attack was Loum Icaya still with
7 Stockree brigade?

8 A. [12:45:24] No. I think at that time he had already left. That time there
9 were -- the fighting was a bit more difficult and he was not there.

10 Q. [12:45:47] And you told Court on Friday, Mr Witness, that you heard about the
11 Odek attack from a person called Okot -- Ocan, rather, Ocan Bogi.

12 Your Honours, I'm referring to real-time transcript 111 at page 43, lines 17 to 25 and
13 page 44, lines 7 to 8.

14 Mr Witness, can you approximate the time when this attack happened.

15 A. [12:46:51] It's difficult for me to approximate that, but it came as a story. They
16 said they went and worked. I didn't ask them at what time they carried out the
17 operation.

18 PRESIDING JUDGE SCHMITT: [12:47:12] And the witness has only heard about it.

19 MR AYENA ODONGO: [12:47:16] (Microphone not activated)

20 Q. [12:47:26] And, Mr Witness, in your interview with the ICC Prosecution
21 investigators, which, your Honours, is in line -- I mean tab 4, UGA-OTP-0243-1120 at
22 1135.

23 Mr Witness, you also confirmed that it was Loum Icaya and David Lakwo as Stockree
24 co-members who went with you to Acet.

25 Do you remember that, Mr Witness, or maybe it was just a lapse of memory?

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 A. [12:48:31] If that is what was recorded then I think they did not get it right
2 because I didn't forget that. They asked me so they could understand and I told
3 them so they could understand it clearly.

4 Q. [12:48:47] Actually, to your credit, Mr Witness, you kept on throwing it back at
5 us whether we understood what you said, so if this is what -- that's not what you said,
6 maybe you want to repeat to Court what exactly happened, who you went with to
7 Acet.

8 A. [12:49:16] I moved together with Lakwo. He moved with me from up and
9 there was another person whose name I cannot recall now. We were three in
10 number. The rest of the people came from Sinia brigade. They were also not many.
11 We, we went there, but there was no mention of Loum Icaya.

12 PRESIDING JUDGE SCHMITT: [12:49:49] Mr Zeneli.

13 MR ZENELI: [12:49:50] Yes, your Honour, I was looking carefully at page 1135
14 made reference by my learned counsel, my learned friend there, I don't see the
15 witness saying that he moved with Loum to Acet. Can he kindly point to that.

16 PRESIDING JUDGE SCHMITT: [12:50:07] No, I think we -- that's correct, what
17 you are saying is correct. But simply the witness has now clarified it and has made
18 his statement here in the courtroom and that is what stands at the moment. It has
19 been clarified. That's okay.

20 Mr Ayena, please continue.

21 MR AYENA ODONGO: [12:50:28] Yes, Mr President and your Honours, before my
22 learned friend honourably volunteered that information which unfortunately I did
23 not need, I was about to say this ends the Defence cross-examination for this witness.

24 PRESIDING JUDGE SCHMITT: [12:50:50] Thank you very much, Mr Ayena. And
25 this concludes the testimony of this witness.

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 Mr Witness, I would like to address you personally.

2 Thank you very much on behalf of the Chamber that you have come to this Court to
3 help us establishing the truth and we wish you a safe trip back.

4 (The witness is excused)

5 PRESIDING JUDGE SCHMITT: We continue the hearing tomorrow at 9.30 with
6 Witness 172. There's a little bit of a change in the sequence, which is absolutely
7 justified.

8 And I think, as I understand it, the Prosecution envisions three to four hours, is
9 that -- I have correctly that in mind?

10 MR GUMPERT: [12:51:36] I believe it that your Honour is right. Counsel
11 concerned isn't in the room at the moment and I don't have her estimate in front of
12 me.

13 PRESIDING JUDGE SCHMITT: [12:51:43] So this was more a question where I knew
14 the answer.

15 MR GUMPERT: [12:51:47] You know the answer, always the safest kind of question.

16 PRESIDING JUDGE SCHMITT: Yes, yes, the safest kind. No, but isn't it so in the
17 common law system that counsel should ask only such questions, ideally.

18 MR GUMPERT: [12:51:58] A cardinal principle of common law advocacy, your
19 Honour is absolutely right. It makes proceedings very boring by comparison with
20 Germany of course.

21 PRESIDING JUDGE SCHMITT: [12:52:07] So now I have understood it obviously.
22 So three to four hours meaning that I think we should strive to finish this witness by
23 Wednesday with all the questioning. For Wednesday I can, because we are talking
24 about these matters, I can announce that we have only, only two, only two sessions,
25 but longer ones, meaning we sit from, on Wednesday, from 9.30 to 11.30, then we

Trial Hearing
WITNESS: UGA-OTP-P-0233

(Open Session)

ICC-02/04-01/15

1 have an earlier break from 11.30 until 12.30, and from 12.30 until 2.30. So we have
2 four hours instead of four and a half hours, but still I think we can finish the next
3 witness by Wednesday.
4 So thank you very much. We see each other tomorrow at 9.30.
5 THE COURT USHER: [12:53:00] All rise.
6 (The hearing ends in open session at 12.53 p.m.)
7 RECLASSIFICATION REPORT
8 Pursuant to the Trial Chamber' IX's instructions, ICC-02/04-01/15-497, dated 13 July
9 2016, the public reclassified and lesser redacted version of this transcript is filed in the
10 case.