

**UNITED
NATIONS**

International Tribunal for the
Prosecution of Persons
Responsible for Serious Violations of
International Humanitarian Law
Committed in the Territory of the
former Yugoslavia since 1991

Case No.: IT-09-92-T
Date: 6 August 2013

IN TRIAL CHAMBER I

Before: Judge Alphons Orie, Presiding
Judge Bakone Justice Moloto
Judge Christoph Flügge

Registrar: Mr. John Hocking

THE PROSECUTOR

v.

RATKO MLADIĆ

Public
with Public Annexes A and B

**PROSECUTION RULE 92 TER MOTION: FREDY PECCERELLI
(RM616)**

The Office of the Prosecutor:

Mr. Dermot Groome
Mr. Peter McCloskey

Counsel for Ratko Mladić:

Mr. Branko Lukić
Mr. Miodrag Stojanović

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-09-92-T

THE PROSECUTOR

v.

RATKO MLADIĆ

*Public with
Public Annexes A and B*

**PROSECUTION RULE 92TER MOTION: FREDY PECCERELLI
(RM616)**

I. INTRODUCTION

1. The Prosecution seeks leave of the Trial Chamber to adduce the evidence of Fredy Peccerelli (RM616), pursuant to Rule 92ter of the Tribunal's Rules of Procedure and Evidence ("Rules"). Mr. Peccerelli is currently scheduled to testify in September 2013. In its 24 May 2013 Oral Decision¹, the Chamber instructed the Prosecution to make Mr. Peccerelli available for cross-examination. During the intervening time, the Prosecution has carefully reviewed Mr. Peccerelli's three prior ICTY trial testimonies, and has made a focused selection to tender pursuant to Rule 92ter.
2. Mr. Peccerelli testified in *Prosecutor v. Popović et al.*,² *Prosecutor v. Tolimir*,³ and *Prosecutor v. Karadžić*.⁴ There is no signed ICTY Witness Statement for him. The Prosecution recognizes the preference of the Chamber to receive written statements *in lieu* of prior testimony. The Prosecution further recognizes the Chamber's guidance that "most important is its purpose, namely to achieve a focused presentation of evidence and ensuring that the Chamber is not flooded with evidence that the parties anyway do not intend to

¹ *Prosecutor v. Mladić*, IT-09-92-T ("Mladić"), T.11597:1-7.

² *Prosecutor v. Popović et al.*, Case No.IT-05-88-T, 13 March 2007.

³ *Prosecutor v. Tolimir*, Case No.IT-05-88/2-T, 6 December 2010.

⁴ *Prosecutor v. Karadžić*, Case No.IT-95-05/18-T, ("Karadžić"), 11 January 2012.

rely on in the end.”⁵ After careful review of Mr. Peccerelli’s prior testimony, the Prosecution tenders portions of his *Tolimir* and *Karadžić* testimony (“Transcript Excerpts”). The Transcript Excerpts from *Tolimir* and *Karadžić* comprise approximately 23 pages and 4 pages, respectively. Their admission will allow for an efficient and focused presentation of his evidence.

3. Attached at Public Annex A is a chart summarizing Mr. Peccerelli’s Rule 92ter evidence. Public Annex B attaches the Transcript Excerpts for which admission is sought.

II. APPLICABLE LAW

4. The Prosecution incorporates by reference its summary of the applicable law set forth in paragraphs 5 and 6 of its Prosecution 92ter Motion: RM505.⁶

III. DISCUSSION

A. The Chamber should admit RM616’s Transcript Excerpts pursuant to Rule 92ter

5. Mr. Peccerelli’s Transcript Excerpts satisfy all of the admissibility requirements of Rules 89 and 92ter(A). The witness will attest to the accuracy of his prior testimony; he will be present in court; and he will be available for cross-examination by the Defence.
6. Mr. Peccerelli is a forensic anthropologist who, in 2000, worked on excavations and exhumations of mass graves associated with the fall of Srebrenica. He provides evidence about the exhumation and examination of human remains from mass graves at Lazete 1 and 2. He concludes that Lazete 1 contained 127 bodies, 89 of which were associated with probable blindfolds. Mr. Peccerelli and his colleagues removed 16 bodies from Lazete 2, and concluded the grave had been robbed. Mr. Peccerelli and his team also removed several shell casings from the grave.
7. The Prosecution does not seek the admission of any associated exhibits, but expects to tender Mr. Peccerelli’s CV and two reports, as the bulk of his evidence, as identified in its Rule 94bis Notice of 7 November 2012.

IV. RELIEF REQUESTED

⁵ *Mladić*, 9 July 2012, T.526.

⁶ *Mladić*, Prosecution 92ter Motion: RM505, 2 April 2012.

8. For the foregoing reasons, the Prosecution requests that the Chamber grant the Prosecution leave to present the evidence of Fredy Peccerelli (RM616) pursuant to Rule 92*ter* and admit the Transcript Excerpts, summarised in Annex A and attached at Annex B.

Word Count: 563

Respectfully submitted,



Dermot Groome
Senior Trial Attorney



Peter McCloskey
Senior Trial Attorney

Dated this 6th day of August 2013
The Hague, Netherlands

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-09-92-T

THE PROSECUTOR

v.

RATKO MLADIĆ

Public

ANNEX A

TO

**PROSECUTION RULE 92 *TER* MOTION: FREDY PECCERELLI
(RM616)**

92 *TER* SUMMARY CHART FOR FREDY PECCERELLI (RM616)

FREDY PECCERELLI (RM616)			
Previous testimony to be admitted pursuant to Rule 92ter			
Testimony	Date	ERN / Transcript Pages	Under Seal
<i>Prosecutor v. Tolimir</i> , Case No. IT-05-88/2-T	6 December 2010	T.8455:4-8463:13 T.8464:4-8478:25 T.8480:7-8481:25	No
<i>Prosecutor v. Karadžić</i> , Case No. IT-95-5/18-T	11 January 2012	T.22740:12-22743:11 T.22746:10-22747:10	No

**THE INTERNATIONAL CRIMINAL TRIBUNAL
FOR THE FORMER YUGOSLAVIA**

Case No. IT-09-92-T

THE PROSECUTOR

v.

RATKO MLADIĆ

Public

ANNEX B

TO

**PROSECUTION RULE 92 *TER* MOTION: FREDY PECCERELLI
(RM616)**

**TRANSCRIPT EXCERPTS: TOLIMIR AND *KARADŽIĆ* TESTIMONY OF
FREDY PECCERELLI (RM616)**

1

2

3

4 Q. Mr. Peccerelli, could you briefly tell us a bit more about your
5 career, starting from when you began working as a forensic archaeologist
6 and anthropologist.

7 A. I began to work in 1995 in Guatemala for the Guatemalan Forensic
8 Anthropology Foundation. Basically, my duties were to locate, excavate
9 and exhume bodies from mass graves in Guatemala as well as analyse the
10 remains and try to identify them, as well as their cause of death, to
11 subsequently then render expert reports to the Guatemalan Prosecution or
12 Attorney General's office and eventually give back to the families the
13 identified bodies that were recovered.

14 Since then, I have become the executive director of the
15 foundation. We have a 96-person team that works and has four scientific
16 departments which are forensic archaeology, forensic anthropology, the
17 department of the investigation of missing persons, and also forensic
18 genetics. The foundation recently has now gone through the
19 accreditation, ISO accreditation 17025 2005 for its forensic genetic
20 laboratory, and during that time, I also participated in three different
21 occasions with ICTY; in 1997 and 1998, and also in 2000, as you referred.

22 Q. And the Court has heard a little bit about DNA identification and
23 its use in your line of work. Can you explain in basic detail whether
24 you continue with other methods of analysis and identification or has
25 this other work been replaced by DNA analysis?

1 A. Oh, no, the advances in DNA have been substantial in the last
2 couple of years, especially since the work carried out during the bombing
3 of the World Trade Centre in New York and also during the identification
4 process of the victims in the Balkans. Since then, many advancements
5 have been made, but in no way has this replaced traditional archaeology
6 or anthropology. As a matter of fact, it has become evident in the field
7 that DNA by itself does not produce identifications. A
8 multi-disciplinary approach is necessary, whereby we understand the
9 universe of the victims, understand how these victims were deposited in
10 their graves, try to identify them and establish their individual
11 biological profiles through anthropological analysis, and then compare
12 all of that information with DNA findings. Now it's important to
13 understand that DNA would only be able to identify a victim if we have
14 either the victim's own DNA in a database or their family's DNA. So it
15 serves just as much as ante-mortem information. In other words, to get
16 an identification, whether it be through traditional means or DNA, you
17 need to have something to compare the information to. In this case, it
18 would be familial DNA. In other words, we need the investigation team to
19 find the family members of the victims. And in order to do that, we need
20 to understand who the victims are.

21 Q. I'd like to turn now to your work in Bosnia and about the two
22 Lazete sites that you worked on. For reference, is it right that the
23 Lazete sites are at a location close to the village of Orahovac in your
24 understanding?

25 A. Yes, that's correct. The Lazete sites are basically where the

1 fields are located but down the road from the Orahovac school.

2 Q. Did you know anything about the location of the village of
3 Orahovac at the time you did the work on these graves?

4 A. I was -- at the time of the excavation, I was not -- I did not
5 have the information about Orahovac per se. I later found this out after
6 testifying here last time, that supposedly that's where -- or that's
7 where some of the victims of Srebrenica were taken prior to them being
8 transferred over to the Lazete sites.

9 Q. The Trial Chamber has, in fact, had the opportunity to visit the
10 Lazete/Orahovac location and has seen the grave sites, one close by the
11 road junction and then another one where you pass underneath the railway
12 line in a clearing by some trees. Could you tell us, in those reference
13 points, which is Lazete 1 and which is Lazete 2?

14 A. Lazete 1 is the one that's by the road. It's right by the road
15 junction, and Lazete 2 would be on the other side of the railroad tracks.
16 Lazete 1 is the smaller site and it's a smaller grave. Lazete 2 is a
17 much larger grave and also the grave that was exhumed previously, in
18 1996, by the PHR team.

19 Q. For Lazete 1, when did you start work on that site?

20 A. Let's see. July 13th, 2000, to August 8th, 2000.

21 Q. Can you please describe briefly the process of the excavation and
22 exhumation at that site.

23 A. Well, during this recovery, we were very fortunate to have
24 satellite images or aerial images that would show the field prior to some
25 disturbance in the soil. In other words, we had an image of July 5th,

1 1995, and then another image later in July -- let's see if I can find it.
2 It would be on page 11 of the Lazete 1 report.

3 Q. Actually, if I may interrupt, if we could perhaps have the report
4 up on the screen, it may help orientate everyone. It's 65 ter 1732,
5 which is P935. If we can go to page 11, please. I think that's the page
6 referenced by the witness.

7 A. Next page. That's page 10.

8 Q. One further page, please. I think the B/C/S will be page 18.
9 I guess that's going to be page -- the e-court page is 18. Apologies for
10 the interruption, Mr. Peccerelli, but if you could please continue.

11 A. Sure. So as you can see in the two top images, there is a
12 picture of July 5, 1995, with no disturbance on the field. And then
13 there is an image right next to it, image figure 13b, showing the date of
14 27 July 1995 and you can see there are two disturbances, the one at the
15 top being Lazete 1 and the one in the bottom, and larger, being Lazete 2.

16 In the figure 14a you can see a close-up of the disturbance, so
17 we had a very -- we had a hypothesis of where this grave was located in
18 the field. We later decided to scrape off the top layer of soils. We
19 did this using excavation equipment, backhoes, with a very skilled
20 operator that we had worked with in the past, and as we scraped away the
21 layers about ten centimetres at a time we noticed that there was
22 definitely a grave there, the outline came through, which you can see on
23 page 12, figure 19, which is the third image in the bottom. That's the
24 entire process there. As -- there you go. So that is an image of when
25 we located the grave. And you see another feature in the soil, another

1 grey feature in the soil. That's a pre-existing trench that was -- that
2 held a water line, that water line was severed when the trench -- when
3 the grave was dug, and then later reconnected, which was very interesting
4 because for us it showed that whoever reconnected that water pipe after
5 the grave had severed it, had knowledge of the grave, since they put the
6 new water line around it, and you can see that lower in that page, in
7 figure 20. There is a map, a drawing showing exactly what happened.
8 That is correct.

9 So we found -- not only did we find the grave but we also found
10 this pre-existing water pipe and its reconnection around the grave.

11 After we had found the grave, then we began by removing its
12 contents. In other words, removing the soil that had been put in, and
13 it's a different colour, so it comes off fairly easily. I had a
14 professor of archaeology, Professor Ochsenschlager, who said that if you
15 ever want to leave a mark in this world, you should dig a hole, and this
16 is exactly what happened here. The natural soil was compacted in such a
17 way that it was fairly easy to remove the fill that was put in there on
18 top of the bodies. As we removed the soil that was on top of the bodies,
19 then the bodies became evident. And what was evident here was that there
20 was -- you can see on page 13, figure 21 -- there was several
21 concentrations of bodies.

22 We named these concentrations 1, concentration 2, and
23 concentration 3. And the reason for this was because there were gaps
24 between these concentrations where there were no complete bodies but only
25 body parts. This also showed us that the bodies that would have been

1 there initially were removed and that produced truncated parts, in other
2 words severed bodies on the edges, but also produced body parts that we
3 found within the -- within those grave areas and nowhere else. And you
4 can see this very clearly on page 14, figure 24.

5 This grave had a length of 15 metres and 80 centimetres and a
6 width of 5 metres and 80 centimetres as well, with an average depth of
7 about 1 metre 40. It wasn't very deep but it was a very big grave. In
8 this grave, we found 127 bodies, and then we also found two bodies that
9 were in a nearby ditch that was probably a drainage ditch for the field.
10 The entire field is called Lazete 1, and this is the Lazete 1 grave.

11 Q. Did you uncover any evidence indicating how the grave had been
12 dug or how it had been subsequently robbed?

13 A. Well, we did find tooth marks of -- machine tooth marks in the
14 walls, and also the indication that the grave, the initial grave contours
15 had been changed by a secondary exhumation. If you turn to page 15, you
16 can see the location of body parts and the two robbing areas that we
17 identified. So the two areas in orange are the areas where there were no
18 complete bodies, all the way to the bottom, but there was presence of
19 body parts.

20 And also, in the grey areas that you see there, there was
21 presence of bodies that had been severed, along the edges of the robbing
22 areas.

23 Q. As well as exhuming -- excavating and exhuming the contents of
24 each grave, did you carry out any work in the surrounding area of the
25 field and identify any artefacts or bodies or body parts in the

1 surrounding area?

2 A. Well, initially, before we began to excavate the area, in other
3 words to take off the top layer, we did conduct a surface search. Within
4 this surface search, we found 456 shell cases, and they were assembled in
5 a corner of the field. If you turn to page 10, you can see a picture and
6 also a map of where the location of the shell cases, as well as some --
7 some bullets.

8 Now, the -- this type of ballistic evidence was also found within
9 the grave, but these were found in situ on the surface and were probably
10 maintained there because the secondary vegetation grew around them after
11 they were initially deposited there, and also in the ground on the track.

12 Q. Perhaps we could just zoom in briefly on the chart in the centre
13 right of that page, just so we can see the scale, the distances marked on
14 there. Mr. Peccerelli, can you just describe briefly what we are seeing
15 on this chart?

16 A. Oh, yeah. What you can see there is the corner of the field and
17 the distribution of the shell cases that were found. Most of them are on
18 the side of the track. In other words, in the lower picture you could
19 see there there is flags on the track; those flags signify the finds of
20 those shell cases. From there to the left, going into the field.

21 Those groupings suggested there was firing going on there.

22 Q. Just so we are clear with the terminology, when you're referring
23 to shell casings, what kind of size of weapon would fire the sorts of
24 shell casings that you were finding?

25 A. From the look of it, these look like 762 millimetre shell

1 casings. What kind of weapon? A 762 rifle, a Kalashnikov, I think it's
2 called. I'm not a weapon expert, but it's fairly simple to measure the
3 length and also the diameter on the shell cases to be able to see. And
4 you could also see that they were spent because they had the percussion
5 in the bottom of the shell case.

6 JUDGE FLUEGGE: May I ask a short question in between? Sir, you
7 said those groupings suggested that there was firing going on there.
8 This is page 13, line 20. What do you mean by that? And what is the
9 foundation for -- what do you mean by "firing"? And what is the
10 foundation of your estimation?

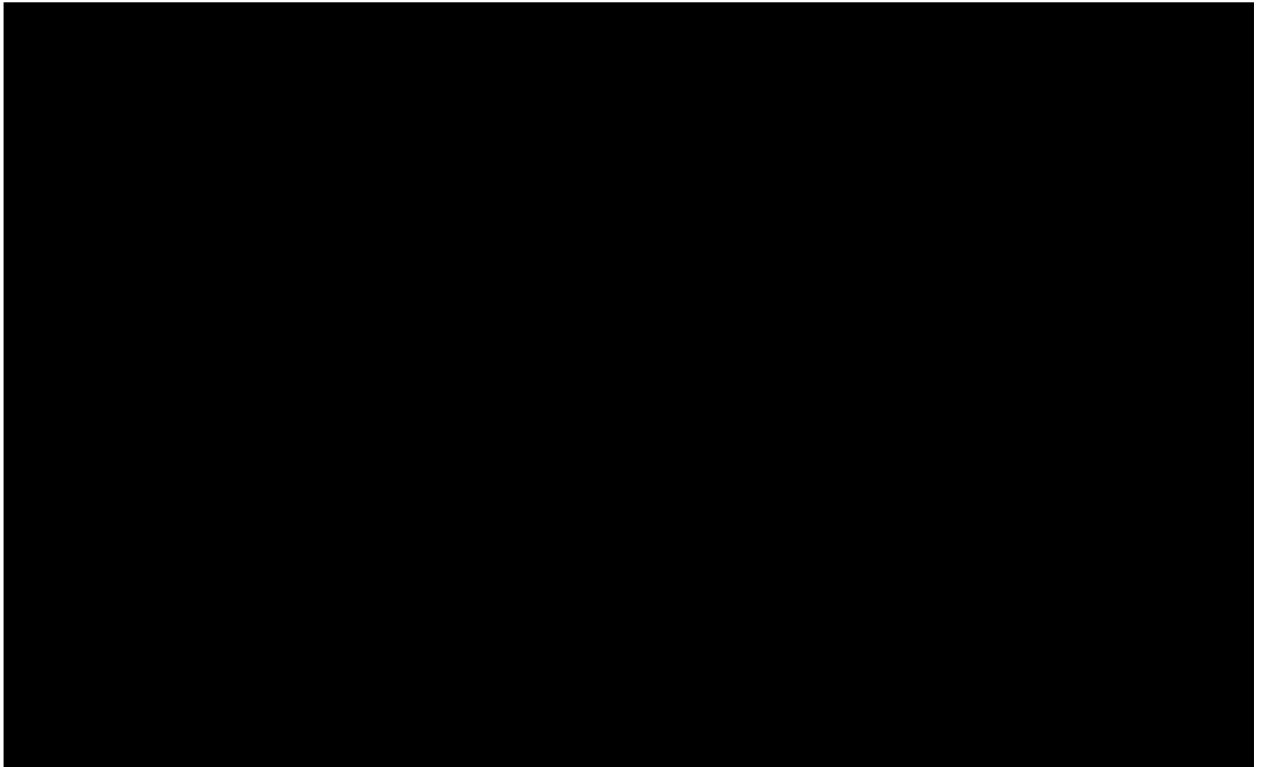
11 THE WITNESS: Well, because we found these in situ, located
12 around the grave in only one specific location. If you look, they are
13 only grouped, I believe that to be the south part of the grave, and not
14 all around it. Yeah, that is the southern edge of Lazete 1 area. Going
15 up around the grave, you could -- I wish I would have done that, but if
16 you would put the grave where you see there is a line that says outline
17 of Lazete 1, basically the shell casings were found all the way around on
18 one side and at the bottom of the grave, not necessarily inside of it.
19 Those shell cases in that location appear to be, from my experience in
20 other graves of this sort, a place where shooting was going on and the
21 shell casings were flying out of the weapons and landing in the floor and
22 then were covered up through time. I base this on my experience, not on
23 the fact that I'm a ballistic expert, like I told you.

24 JUDGE FLUEGGE: Thank you very much. Another question by Judge
25 Mindua.

1 JUDGE MINDUA: [Interpretation] As a follow-up to the Presiding
2 Judge's question, through the interpretation that I'm getting in French,
3 I heard that shots had been exchanged, but I'm not quite sure that there
4 was crossfire. I'm not quite sure that was what the witness meant.
5 I was wondering whether shots had been exchanged between two groups or
6 whether some shots had been made, just simply been made but not
7 exchanged.

8 THE WITNESS: Yeah, what I'm implying is shots had been fired,
9 not that there was an exchange. If you look, there is no opposition to
10 the pattern. It seems to be going around an area in one direction.
11 There is no opposing pattern of ballistics on the other side. So this
12 would be shooting at something, not necessarily fighting against
13 something.

14
15
16
17
18
19
20
21
22
23
24
25



1

2

3

4 Q. I'd like to ask you about other artefacts that you identified at
5 this location, and could I ask that we see page 23 in e-court in the
6 English. What objects did you find in this grave apart from human
7 remains?

8 A. Well, in these pictures, you can see that the two top pictures
9 there is people's -- persons' hands tied behind their backs, and also in
10 the bottom one you can see a ligature, wire ligature around the person's
11 leg.

12 Besides these ligatures, I guess, not allowing people to move,
13 you also have in page 22, which is the previous page, we did find 89
14 bodies that had pieces of material around the head, in some cases around
15 the eyes, which we named probable blindfolds. Not only did we find them
16 on those 89 bodies but we also found, I believe, another 37 or so in the
17 grave fill that probably fell off the other bodies. They fit the profile
18 exactly; in other words, they're the same colour, the same scalloped
19 edges, these were very particular pieces of cloth. If you go to page 22,
20 you can see some of those images of the cloths that I'm referring to.
21 You can see there -- well, on all of the images there is pieces of cloth
22 covering sometimes the eyes and sometimes these have fallen a little
23 lower because of decomposition and are covering either the nose or the
24 mouth.

25 Besides this, we also found some wrist watches and other -- I

1 believe on three other bodies we found identification documents.

2 Q. And the pictures we are seeing now on the screen, are these
3 pictures taken of the probable blindfolds as they were when they were
4 uncovered by your team?

5 A. Yes, they are. These are images taken in situ as the bodies were
6 found, and the body number is there as well. Lazete 1, body 489, body
7 660, body 534, 559, 518. These were taken for several reasons. One were
8 to document, obviously, the entire process; another reason was because
9 during the transport to the morgue, these might have moved and we needed
10 to make sure we were documenting exactly where we were finding these
11 pieces of cloth systematically around these bodies' heads.

12 MR. ELDERKIN: Could we go now to page 18 of the English report.
13 It has the heading chapter XI, Body Parts, which I think may be page 28
14 in the B/C/S.

15 Q. In your report, Mr. Peccerelli, you distinguish between bodies
16 and body parts. What is the difference between those two categories?

17 A. Well, since we started work in Bosnia in 1997, we came up with
18 this distinction because not everything, not all the bodies that we were
19 recovering were complete. So we had to come up with the term "body
20 part." The body part would be several bones that were articulated and
21 they could help us identify someone. These were not just loose remains,
22 these were actual parts of bodies, but they didn't constitute an entire
23 body. In other words, they weren't given a body number and there is no
24 body sheet filled out for them. They were given a log number with a BP
25 in front of it and a picture was taken of them. But most of the body

1 parts are important in these primary graves because they are usually
2 located in the robbed areas. In other words, these body parts came about
3 after the primary inhumation, or the burial of the bodies. When some of
4 the bodies were removed, and as the forces of that removal occurred, they
5 severed some of the parts of those bodies that were taken and some of
6 them stayed behind. As you can see, they are different. One is a leg,
7 and here you have a person's skull and cervical vertebrae.

8 Q. And the skull and cervical vertebrae, is that in the image just
9 coming on the screen now from the bottom of the page?

10 A. Yes, that is. You can see basically a person's face there, and
11 their neck, and you would also notice that this person has no teeth.
12 This is interesting also because we found some dentures in the surface as
13 well. So it's sort of different pieces of the puzzle.

14 Q. I'd like to turn now to Lazete 2. When did you start to work on
15 that site?

16 A. We began to work on Lazete 2 on August 2, about six days before
17 we ended Lazete 1. This is because most of the team was exhuming the
18 bodies from within grave 1, in other words Lazete 1, but I had equipment
19 and a couple of archeologists free, and also we had conducted our work in
20 Lazete 1 a lot faster than we anticipated, so I was asked to go and look
21 at this field to see if there was any possibilities of exhuming a grave
22 there since there had been some reports that in the 1996 exhumation there
23 were some bodies left behind. So what we did is we began to do the same
24 type of procedure; we began by stripping the surface, which took several
25 days of preparation, so by the time we ended Lazete 1, the Lazete 2 site

1 and the grave had been found and was ready also for exhumation and
2 removal of its contents. So it worked out quite nicely. And also
3 because the two sites were a couple of hundred metres away, I mean, they
4 were walking distance from each other, just along the other side of the
5 train tracks. So all of our equipment was already there, the right
6 personnel wasn't busy, and we had a question, which was to look in to see
7 if all the evidence had been recovered.

8 When we began to do this, the first thing that occurred was that
9 we noticed that a surface find or surface search had not been conducted
10 in the original exhumation, so we found -- we found even more shell cases
11 in Lazete 2 than in Lazete 1. Overall, we found 671 shell cases on the
12 surface there. Also, this grave is a lot larger than Lazete 1, but we
13 found in all 830 artefacts. 671 of these were shell cases, 20 live
14 rounds, 46 bullets, and 34 strips of material, which, I should mention,
15 the strips of material that were found in Lazete 2 were also consistent
16 with the ones found in Lazete 1, linking in some way the two events.

17 Q. You've mentioned the prior excavation in 1996. Do you have any
18 information or did you have any information at that time why Lazete 2
19 wasn't fully excavated in 1996?

20 A. Well, I think, speaking to Dr. Bill Haglund, who was in charge of
21 the exhumation, there was security issues, where decisions had to be made
22 as far as how much time they could spend at the site, and apparently they
23 chose to, instead of uncovering the entire surface, they decided to
24 trench. In other words, they put two trenches in and hit two body
25 concentrations, so by doing this they found two large locations of bodies

1 and I think they named these two different graves. I don't think they
2 were concerned so much about the archaeology of the site, more about the
3 recovery of those bodies. And that's pretty much what I know.

4 What we discovered when we got in there was that in fact Lazete 2
5 was not comprised of two graves but it was one large grave. This grave
6 was 37.70 metres in length, and about 40 -- four metres in width. It's a
7 very large grave. It's more than twice the size of Lazete 1. You can
8 probably appreciate the length of the grave and the size of it if you go
9 to the cover page, or --

10 Q. In fact, if I could ask for P939 to be put on the screen. The
11 cover page has an image on it, if we could zoom in on that, please.

12 A. I think the same image is also displayed on page 13.

13 Q. I think for this purpose we can just have the English up. It's
14 just to show the picture. It would be more visible if we have it across
15 the full width of the screen.

16 Excuse me, Mr. Peccerelli, but if you would like to continue with
17 that image now on the screen.

18 A. Sure. Several things you would be able to see. All the way in
19 the background, behind the de-mining vehicle you'll see there, you'll see
20 the train tracks, also a tent which is where -- well, that's where
21 I remained most of the time I was there. I was taking notes and
22 directing the team. Also one of our excavators, a little backhoe that we
23 had there. But this is very advanced in the process. We had recovered
24 most of the fill of the grave, but you can see that the grave itself is
25 very long. Where the backhoe is working is one of the areas where the

1 original exhumation was conducted in 1996, where they found one of the
2 two concentrations of bodies. Also very interesting about this site is
3 if you look on the right of the screen, on the surface you will see a
4 water pipe running along on top of the -- there it is -- on top of the
5 grave. It's interesting because when they dug this grave, they also
6 severed that water pipe. I'm guessing by mistake they just had bad luck
7 in both fields, they hit the water pipes, and in this case as well they
8 reconnected the water pipe around -- around the grave, again showing that
9 they knew exactly where the grave was.

10 Q. Can you also tell us a bit about what we are seeing on the
11 interior of the grave, particularly the sides of the, what I would say
12 the grave wall, where we can see some marks. What do those marks
13 represent, if anything? Why are they there?

14 A. Well, if you look on the left side, close to the bottom of the
15 screen, you will see on the left side of the screen, the bottom, you will
16 see there are three tooth marks and also a scoop. Those are imprinted in
17 the original wall of the grave. The reason why that's there is because,
18 again, the original natural soil has been compacted for thousands, maybe
19 millions of years, and when you scrape into it you sort of draw a feature
20 into the wall. Once you put the top soil mixed in there, it never will
21 compact in the same way, so it's fairly easy to remove that top soil and
22 then you get the natural features. This is obviously very careful
23 excavating. We had some very proud British archeologists who had a lot
24 of experience in these ancient type of sites and who conducted this very
25 careful excavation of the walls. They also led us to see that. Now, if

1 you look --

2 Q. Just before we continue, in fact, Mr. Peccerelli, and again while
3 we have the image on screen where you mentioned the water pipe, I wanted
4 to clarify, because you said that when they dug the grave, they must have
5 had the bad luck of hitting the water pipe, or something to that effect.
6 Who do you mean by "they"? Because we've heard from you that the grave
7 must have been dug originally and then it was also excavated by the team
8 led by Bill Haglund in 1996. So who is it who hit this water pipe?

9 A. Well, the people who originally dug the grave. In this case, the
10 original perpetrators that dug this grave in the soil with the purpose of
11 depositing bodies in it. Dr. Bill Haglund's team didn't do -- they did
12 very little excavating around this area, and only dug in two areas of the
13 whole grave. I don't think they even found this water pipe. As a matter
14 of fact, if you go to page 16 of the same report, you can see there the
15 differences -- there is a layout on the drawing of the entire grave
16 whereby they -- Bill Haglund 's excavation team dug in comparison to the
17 size of the entire grave.

18 Q. You need to go one page further, please.

19 JUDGE FLUEGGE: Could we perhaps go for a moment to the previous
20 image. Judge Mindua wants to put a question to that.

21 JUDGE MINDUA: Yes, this one.

22 JUDGE FLUEGGE: That's fine.

23 JUDGE MINDUA: [Interpretation] Witness, just a point of
24 clarification. I would like to clarify something. Please correct me if
25 I'm wrong, but I see in the actual trench, I see the soil, which is quite

1 dark, almost black, and on the left-hand side of the screen I see some
2 soil which is of a more greyish colour, almost purple. I was wondering
3 why there are different colours. What is this mound of earth or soil
4 that we see on the top left-hand corner of the picture?

5 THE WITNESS: Well, first of all, I think you have to understand
6 that this picture, there is shade over the grave so it's made to appear a
7 little darker than it actually is. Directly over the grave. But what it
8 is is that when -- most of the graves that we found in Bosnia, because of
9 decomposition itself and because of the mixture of soils, tend to turn a
10 bit darker than the rest. What you have, those mounds of dirt that are
11 piled up on the upper left-hand corner, is the top soil that was removed
12 from the surface to get down to this level. That top soil is of a
13 different colour than the contents in the soil of the grave, basically
14 because it's mixed. One is natural and the other one is a mixture of
15 different natural soils with the decomposition from the bodies.

16 I don't know if that answers your question.

17 JUDGE MINDUA: [Interpretation] Yes, it does answer my question.
18 And I see that there are three people and I was wondering what was their
19 job, who are they?

20 THE WITNESS: I think that's Jean Marie, Mirko, and I think
21 Claudia. They are Guatemalan, a Canadian Chilean, and an American, part
22 of the team. They are named in the -- in the list of people who worked
23 in this case, and they are archeologists. Their job is to locate,
24 excavate, and exhume the remains and the bodies that we find in these
25 graves and also the evidence, as well as document the entire process.

1 JUDGE MINDUA: [Interpretation] Thank you very much.

2 THE WITNESS: You're welcome, sir.

3 JUDGE FLUEGGE: Judge Nyambe has a question.

4 JUDGE NYAMBE: Thank you. I just wonder if you could, or are you
5 in a position to say -- can we remain on this picture, please. I think
6 you have stated in your evidence that among the artefacts found were
7 bullets and bullet shells. Are you in a position to say whether these
8 bullets were fired on this site or they were -- they would have been
9 brought from some other place?

10 THE WITNESS: If I may turn to an image that will help us answer
11 the question. If you turn to page 10, we can see the grouping of shell
12 cases on the surface. What you see in the bottom left-hand corner is the
13 beginning of grave Lazete 2C, which is the big grave that we are talking
14 about. That's where, more or less, where the machine was working and the
15 tent was. The grouping, if you notice, again, it has the same type of
16 grouping as it did in Lazete 1, which is basically a one-sided, sort of
17 an L-shaped, one-sided approach to the firing. These shell cases were in
18 the ground, under secondary vegetation. Some of them buried under half a
19 centimetre of soil. I would say that these bullet casings were there
20 from -- for a long time, and they were not brought there. They were most
21 likely fired at this location. And again, you could pick one up and look
22 at the bottom and they were shot there. There was also bullets and also
23 spent bullets, and also live shells that we found, but most of the
24 majority, the large majority, 671 of them, were shell cases that had been
25 fired, and they were found in this location, in this grouping.

1 JUDGE NYAMBE: Just one clarification: The position in which
2 they are grouped is exactly the position in which they are -- in which
3 they were fired?

4 THE WITNESS: No. The position which they are mapped is the
5 location where we found them. It depends on the weapon, and here again
6 I'm not a weapons expert, but it depends on whether the machine that is
7 doing the firing, I guess, spills the bullet to the right, to the left,
8 how far it shoots it, but it's a matter of a person standing there, or in
9 other cases if the machine, the machine-gun or the rifle, whatever was
10 used there, had a tripod, this would also have a certain pattern to how
11 far the shell cases fall from the weapon, and for example, how many
12 people were standing there at the time, this would create this type of
13 pattern. So basically what you have is, as you shoot, the shell cases go
14 flying a certain distance and fall on the ground, people step on them,
15 they get covered and years go by. This is a mapping of where we found
16 them.

17 JUDGE NYAMBE: How many bodies were found in this grave?

18 THE WITNESS: We only found 16 bodies in this grave, as well as
19 26 body parts. Again, I'm not sure how many bodies were found and
20 exhumed in 1996, but I know it's more than 16. What we found were the
21 bodies that were in between the areas that were excavated in 1996 by the
22 Physicians for Human Rights team, and also the bodies that were not taken
23 during the robbing exercise that was conducted afterwards.

24 So if you go to page 16, there is a drawing there that would help
25 us to understand. This is a complex excavation because basically there

1 was four excavations carried out at the site. The initial excavation of
2 the site, again, placed sometime between June 5th, 1995, and June 27th,
3 1995. Sometime between those times which are the dates on those aerial
4 images.

5 MR. ELDERKIN: Excuse me for interrupting but we are seeing on
6 the screen a reference to July 5th and July 27th.

7 THE WITNESS: I'm sorry, yeah, July. July 5th, 1995, and July
8 27th, 1995. That's when the original grave was dug here. Later on, at a
9 time that we don't know but after July 27th, and if we go to, let's see,
10 Lazete 1, there is also a date for the time that the grave was expanded
11 with the aerial images. I don't know if those aerial images exist for
12 Lazete 2, it would have to be done, but for Lazete 1, the grave was
13 expanded; in other words, somebody dug at this grave again between
14 September 7th, 1995, and September 27th, 1995. So in other words, only
15 two months after its original creation, somebody came back and they
16 excavated in these two areas that you can see here, robbing area A and
17 robbing area B. They took quite a few of those bodies out, and the only
18 bodies that we recovered were the bodies that were at the very bottom,
19 against the wall, in the edges, in other words, in the perpendicular part
20 of the grave. Since the excavation, the machine, has a natural curve, it
21 misses the bodies that are in the bottom, so these bodies were basically
22 up against the wall and were missed by the robbing excavation, also in
23 area A and area B. What you can see, those larger areas, which are L02A
24 and L02B, that's where the Physicians for Human Rights team excavated in
25 1996, so that would be the third event, those two excavations. And the

1 fourth excavation would be the one I conducted in 2000. So this site was
2 overall excavated four different times: Once between July 5th and July
3 27th, once soon after that to rob some of these bodies in areas A and B,
4 once in 1996 by the Physicians for Human Rights team, and then finally in
5 2000 by the ICTY exhumation team that I led.

6 JUDGE NYAMBE: One further question: Who sited these graves for
7 excavation? Like, who discovered them and then for you to be able to go
8 there and start the excavations?

9 THE WITNESS: Well, the investigators of the Prosecution of ICTY.
10 They are the ones that investigated. Dean Manning is the one that took
11 me to the place and gave me the aerial images, and told me that they were
12 looking for graves here and my job was to find them with those aerial
13 images and with the information they had. I also believe they had
14 information from a witness as well as, I'm guessing, other information
15 that led us to these two places. But they led us to Lazete 1 initially
16 and then Lazete 2 had been dug in 1996, so they knew of that grave, but
17 while we were there they asked us to re-excavate them.

18 JUDGE NYAMBE: Thank you very much for the clarification.

19 THE WITNESS: You're welcome.

20 JUDGE FLUEGGE: Mr. Elderkin, please go ahead.

21 MR. ELDERKIN: Thank you, Your Honour.

22 Q. If we could go briefly back to the cover page, the first page
23 image that we were looking at. Mr. Peccerelli, you mentioned the work
24 that was being carried out by the team actually inside the grave, and
25 I think you even made reference to some British archaeologists who were

1 particularly careful in their work, having worked on very ancient sites.
2 We can see some tools being used by the three members of your team
3 working here. What are they using and what kind of process are they
4 carrying out that we can see?

5 A. Well, the tools we typically use once we get down to excavating
6 those features, or excavating the bodies, are anywhere from
7 archaeological trowels, there are again some British trowels, and there
8 is a lot of history in British archaeology so they have their own very
9 developed special tools, so there are these British trowels that we love
10 to use. We also use chopsticks. Chinese chopsticks are shaped and they
11 are very helpful to dig around bones. And also small brushes. So
12 usually what you would do is you would take a trowel to get at the level
13 of the remains, then you would use one of these Chinese chopsticks to
14 clean around very specific areas, and also this is done very carefully
15 because sometimes we find bullets associated with the remains, or other
16 evidence. We have to be very careful. And then, finally, you would use
17 a brush. You see they also have pails, because the dirt that is removed
18 immediately around the bodies is also later screened to make sure we
19 don't miss any bone fragments or any bullets or any other type of
20 evidence.

21 Q. Please can we go now to page 24, e-court page number in English,
22 so that's, I think, page 23, according to the numbers at the bottom.

23 And as with the Lazete 1 report, your report for Lazete 2
24 describes finding probable blindfolds in the grave. Can you just point
25 out on the images captioned on this page whether there are any such

1 artefacts; and when we are done with this page, if you would also look at
2 the same question on the next page.

3 A. I don't know what I just did. If you look in the top picture, at
4 the skull, you will see that there is a cloth going around it right here.
5 That is one of those pieces of cloth that we refer to as a probable
6 blindfold. Once again, you will see that these bodies are directly
7 against the soil, and again you will see the difference in colour. One
8 is because there is still a little bit of the fill, which is the grey
9 soil, and then the natural soil is the brownish soil. As well as you'll
10 see that this person has Wellington boots and clothing. I think in the
11 next page, we might be able to see --

12 JUDGE FLUEGGE: Before we move from this page, Mr. Elderkin --
13 no, please don't move from that place -- page. Did you want the witness
14 to mark some parts of that?

15 THE WITNESS: Oh, I just wanted to show the skull, but when I did
16 that, the pen, the whole thing just blew up.

17 MR. ELDERKIN: Not specifically, Your Honour, simply for him to
18 talk to us about what we're seeing on screen I think is clear enough on
19 the record.

20 JUDGE FLUEGGE: Thank you very much. Judge Nyambe has a question
21 in relation to this photograph.

22 JUDGE NYAMBE: In relation to this photograph at page 28, line
23 16, you are saying something about probable blindfolds. Can we just
24 clarify that a little bit?

25 THE WITNESS: Lazete 2 report only has 26 pages. I'm not sure if

1 this is referring to the first report, which is the Lazete 1 report,
2 which has a page 28.

3 MR. ELDERKIN: If I'm correct, Your Honour, you were referring to
4 the transcript page 28, so page 28 of what we are talking about today,
5 not page 28 within Mr. Peccerelli's report.

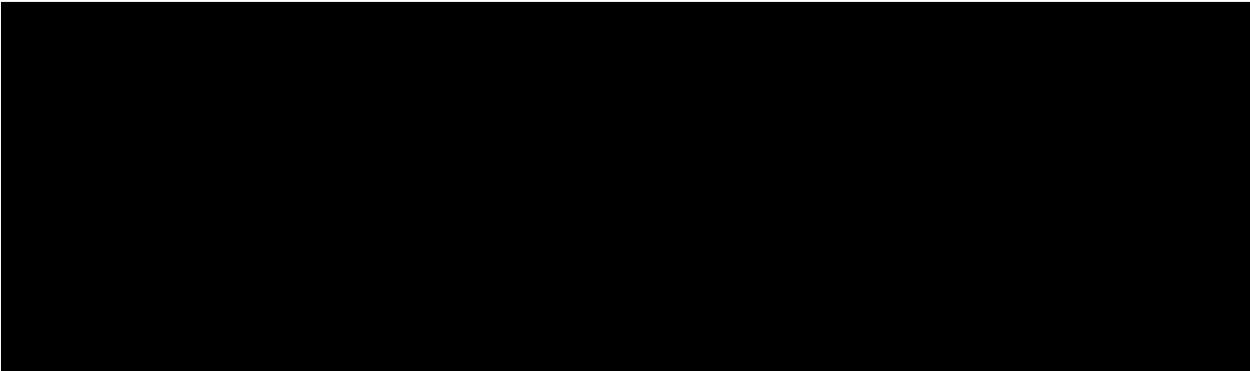
6 THE WITNESS: I'm sorry.

7 JUDGE FLUEGGE: The question was in relation to this photo we
8 have on the screen now. Could you indicate where you see a probable
9 blindfold.

10 JUDGE NYAMBE: No, no, no, no. We question was to simply explain
11 the idea of a probable blindfold as opposed to a blindfold.

12 THE WITNESS: Okay. Because at this time some of the cloths that
13 were around the bodies' heads had been moved, we decided to say "probable
14 blindfold" instead of "blindfolds," because in order to be a blindfold,
15 it should be over the eyes. It was a matter of being exact. So we
16 believed that although they were moved and they were somewhere along the
17 head, this was due to the bodies being moved and decomposition, and also
18 because there was consistency in the pieces of cloth - most of them were
19 pink, most of them had scalloped edges - it's -- there seemed to be very
20 systematic placement of cloths around the bodies that we found, 89 of
21 them in Lazete 1 and I think eight in Lazete 2, as well as over 30 loose
22 pieces of cloth found in the fill in Lazete 1 and over 30 found in the
23 fill in Lazete 2. So there was consistency in both sites as far as the
24 colour and the shape of these pieces of cloth as well as their location
25 on the bodies of -- on the bodies.

1
2
3
4
5
6



7 MR. ELDERKIN: Indeed, Your Honours, since we have now spent some
8 time with the Lazete 2 report, that was not admitted through the witness
9 in a prior testimony but I would ask that it be admitted at this stage,
10 and it's premarked as P939, 65 ter is 6483.

11 JUDGE FLUEGGE: This document will be received as an exhibit with
12 this number.

13 MR. ELDERKIN: Thank you, Your Honour. And if we may see the
14 next page now in e-court.

15 Q. Again, Mr. Peccerelli, if you can briefly talk us through what we
16 see in the images on this page, please.

17 A. Well, these images show four bodies. Three of them have -- well,
18 actually four of them have pre-excavation fractures. Pre-excavation
19 fractures were fractures that were found at the time of the exhumation
20 that occurred prior to us excavating the body. Once again, this is
21 terminology used not to come into contrast with the findings of the
22 anthropology or pathology teams but this is what we believe to have been
23 caused by some type of trauma, either prior or around the time of death.
24 In three of these images, the one on the right and the two on the bottom,
25 also show the probable blindfolds again, and always associated with the

1 skull.

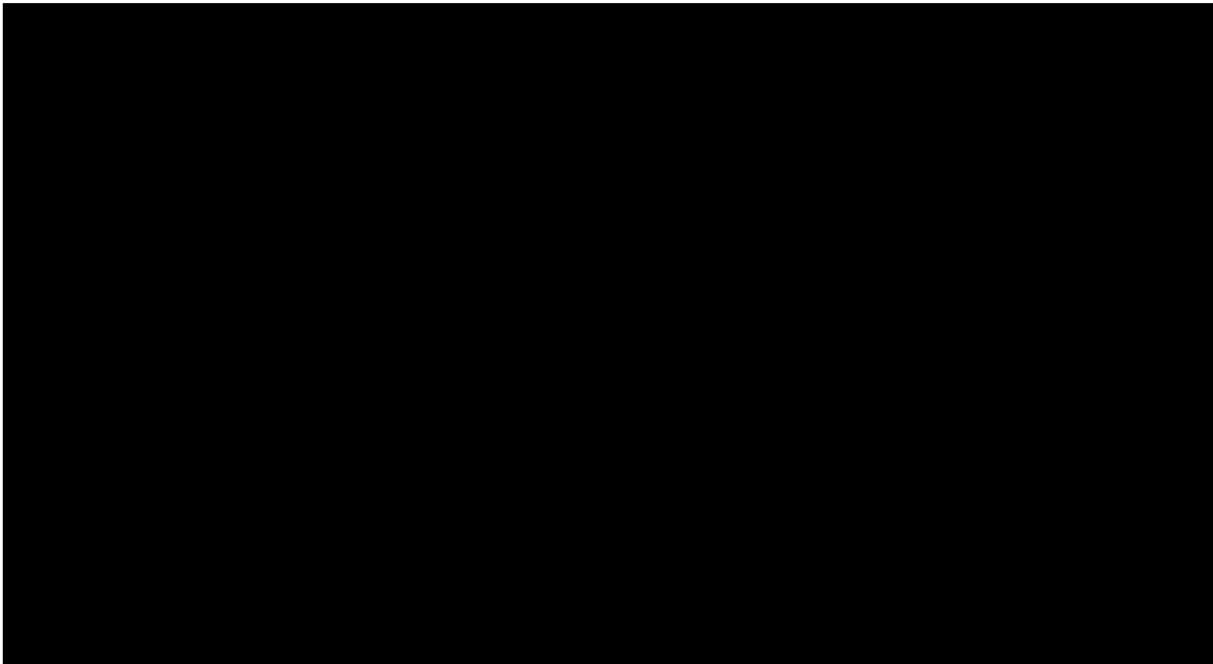
2 Q. And if we could turn now to the next page, which is titled,
3 I think, "Isolated Artefacts" and if you could give us a brief commentary
4 on what we are seeing on the images of that page, please.

5 A. These are some of the pieces of cloth that were found isolated,
6 in other words, not as directly associated to one of the bodies but that
7 were consistent enough with the probable blindfolds for us to give them a
8 specific artefact number. And we found 34 of these strips of material,
9 and if you look at these and compare them to the ones found in Lazete 1,
10 they are very consistent with those. You can see the scalloped edges in
11 both and also the pink colour.

12 Q. Lastly, if we can turn now to the last page of the report, and
13 again if you could please comment on the artefacts shown in the
14 photographs there.

15 A. We also found isolated wrist watches, and we described basically
16 what we saw. Some of these wrist watches, and this is something that we
17 found in other sites that were excavated, that these were in some cases,
18 at least, I know of the Seikos, these are automatic watches that
19 basically don't need to be wound and don't need battery, they sort of
20 wind themselves with movement. And they usually stop functioning 24 to
21 36 hours after movement has stopped. And in some of these cases, you can
22 see that there is a time and also a date, and there is consistency
23 between the dates of five of these between the 15th and the 16th. We
24 don't know what month or if the times have anything to do with it but we
25 figured that this consistency should be shown in the report.

1
2
3
4
5
6
7
8
9
10
11



12 Q. This is your report on Lazete 1.

13 MR. MITCHELL: If I can have page 12 in e-court.

14 Q. Mr. Peccerelli, I think that's page 11 in the hard copy of your
15 report.

16 Now, we can see here some photos of the site that you exhumed.
17 Were you able to tell whether the bodies in the Lazete 1 grave were
18 deposited in one event or were they deposited there at different times,
19 possibly over a period of several years?

20 A. During the excavation we were able to establish that a single
21 event was the cause of this grave. The grave showed uniform profiles and
22 as well as a uniform bottom. The bodies were displaced in a uniform
23 manner and clumped together throughout the grave. And the only thing
24 where we can see that there was a secondary excavation on the grave was
25 when a robbing event occurred posterior to the primary grave being dug,

1 and this was seen by a difference in the soil fill in those two robbing
2 areas as well as the presence of truncated body parts -- truncated bodies
3 as well as the creation of body parts specifically on the edges of the
4 robbing areas as well as in the fill.

5 It is important to note that throughout the grave you can see a
6 continuum of the edges of the grave as well as of the equipment that was
7 used to create this grave. And the bodies are laid on top of each other
8 only with small pieces of top-soil among them. This indicates that the
9 bodies were placed in there at one time and most likely had this top-soil
10 among the bodies, between the bodies, because of the way they were placed
11 in the grave, most likely pushed in the grave by machinery.

12 Q. What would you expect to see -- what archaeological evidence
13 would you expect to see if the bodies had been placed in there at
14 different times?

15 A. Well, first of all, we would expect to see the existence of
16 disarticulation of the bodies, which we did not see here. Even the body
17 parts were articulated among the bones that were there, that were left.
18 In other words, these were severed during an extraction process that was
19 posterior to the initial burial and these showed the same type of
20 decomposition as the rest of the bodies. We did not see any signs of
21 features within the grave that would lead us to believe that this was a
22 prior burial of any type. The hole, the original hole that later turned
23 into a grave when the bodies were deposited into it was dug into a virgin
24 clay yellowish soil and the fill was a combination of the strata that was
25 exhumed as well as the top-soil that was deposited into it over the

1 bodies and this was uniform throughout.

2 Q. At page 21 of this report you describe how the 20 -- 129 bodies
3 from this grave were found in various states of decomposition. So if
4 these bodies all went into the grave in a single event, can you explain
5 why the bodies show differential rates of decomposition?

6 A. Yes, well, I have worked in over 1400 investigations in
7 Guatemala, and when it comes to mass graves there is differential
8 decomposition due to many factors but decomposition in itself is a very
9 complex issue. It is impacted by specifically three types of
10 differences. For example, first we look at the biological aspects of
11 decomposition, then we look at the environmental and then the cultural.
12 As far as the biological, we have to remember that bodies might decompose
13 differently due to their weight, their size, and their sex even. As far
14 as environmental, we have to remember that the difference in humidity or
15 acidity of the soil will also impact the bodies differently and how close
16 these bodies are to that soil. Thirdly, as far as cultural aspects,
17 well, in this case we're talking about a mass grave. The bodies were
18 buried and also the cause of death or the trauma that was impacted on the
19 bodies will also affect the decomposition. Specifically in this case the
20 bodies that are closer to the edges or in contact, direct contact, with
21 the soil or are higher in the surface of the grave will decompose at
22 slightly faster rate. And the bodies that are in the nucleus of the
23 grouping of bodies will be protected from the environment more so and
24 will decompose slightly slower.

25 Now, you do have to remember that the decomposition stages here

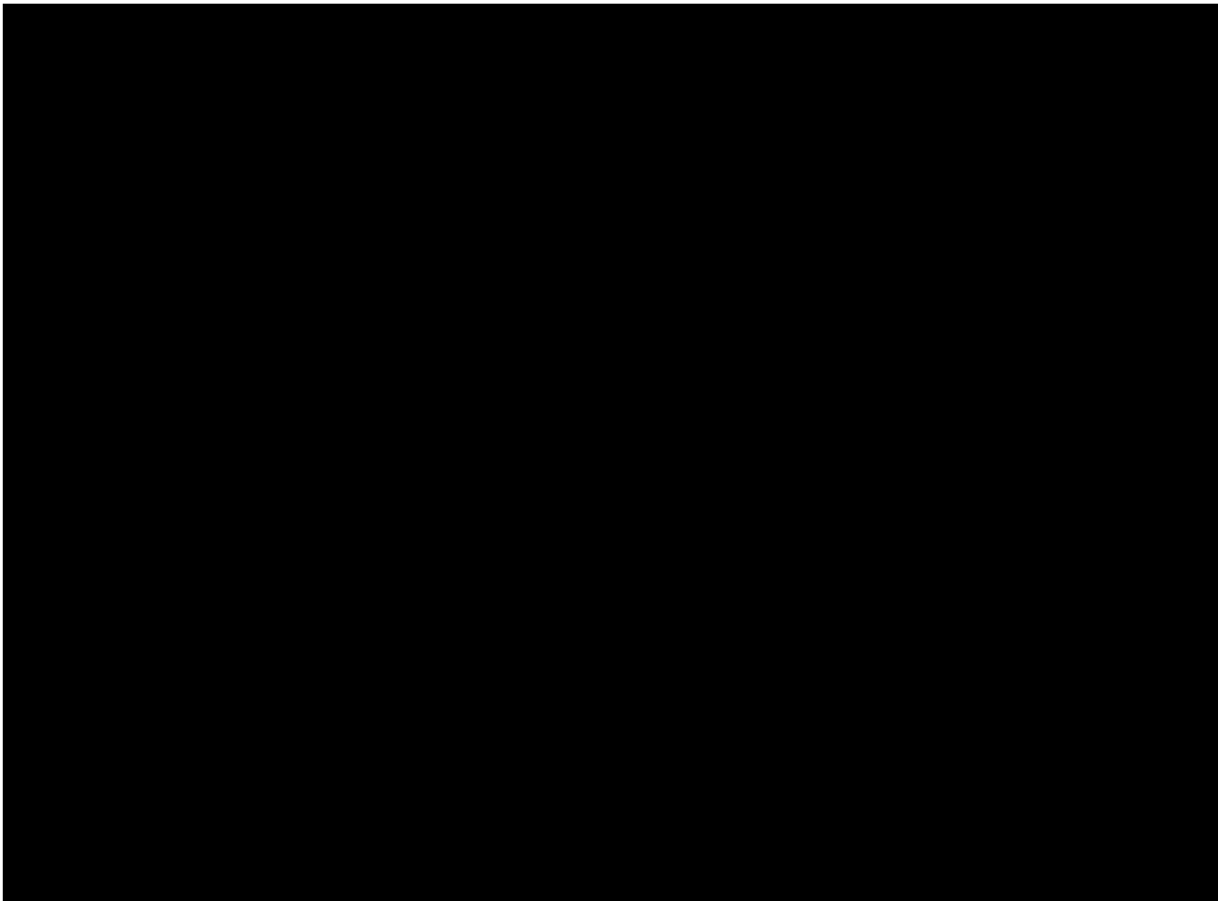
Witness: Fredy Peccerelli (Open Session)
Examination by Mr. Mitchell

Page 22743

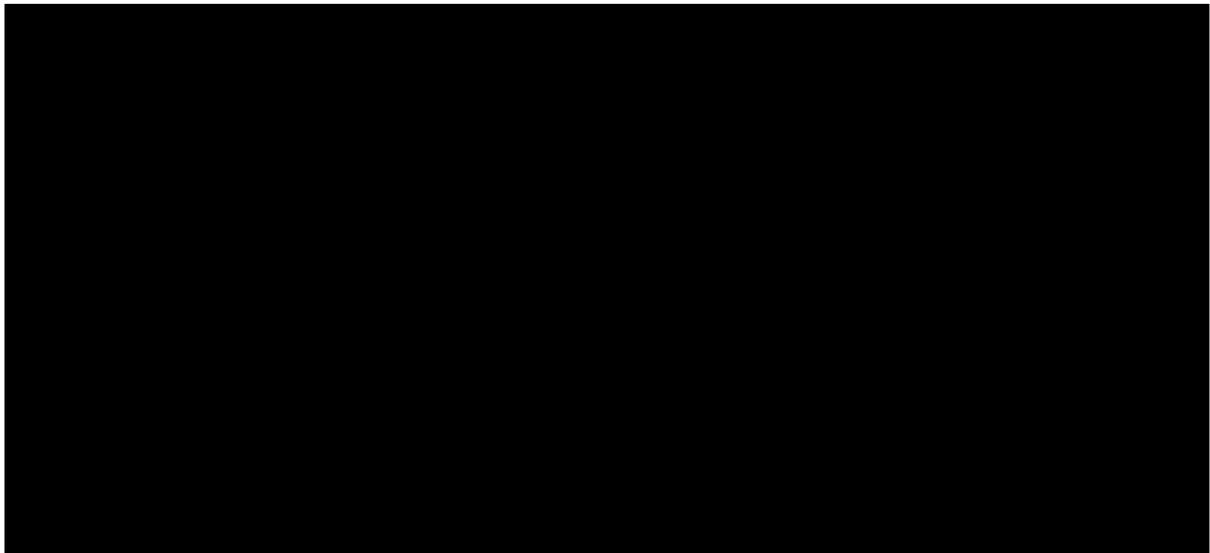
1 are transient. In other words, there we're talking about advanced
2 decomposition to skeletonisation. So there is no one step jumping to the
3 other. This is a transient state and the bodies are all among those too.
4 They show adipocere which is a greyish-whitish tissue, sort of greasy
5 initially and then eventually it becomes brittle and eventually into
6 skeletonisation. This is exactly what we have throughout these bodies in
7 the entire grave.

8 So the difference is very slight and it is related to the
9 location of the bodies within the grave. Once again, the bodies that are
10 protected from the environment by other bodies decompose at a slightly
11 slower rate than the bodies that are in direct contact with the soil.

12
13
14
15
16
17
18
19
20
21
22
23
24
25



1
2
3
4
5
6
7
8
9



10 Q. At the top of this page you describe how on 89 bodies there was
11 strips of material tied around the head and placed over the face or
12 directly associated to the head. And you concluded that these were
13 probably used as blindfolds. Now, can you explain why you concluded that
14 these 89 strips of pink material were probably blindfolds and not
15 something else. For example, some kind of ceremonial headband.

16 A. In -- what we were encountering here was a mass grave with no
17 clear funerary practices, disorganised bodies, no respect was shown as
18 far as the way the bodies were buried. It seemed to be that this is
19 concurrent with a site of deposition of or execution of bodies, and the
20 pieces of cloth which were very similar seemed to have uniformity. And
21 in most of the cases seemed to be covering the eyes. The term "probable"
22 was used because in some instances they were not covering the eyes and
23 they were covering the mouth or in a couple of instances they might have
24 moved up to the forehead. But in general they were covering the eyes.
25 And also because we found another 37 strips of material very particular,

1 again scalloped edges and pink. And we believe that these could also
2 have been used as blindfolds and might have fell off the bodies. I think
3 you can see some of those -- there's an image of those in the report as
4 well. The colour I think is also something very important. Pink is not
5 some -- is not a colour that you would use to wear as a headband in a
6 combat situation, I think.

7 Q. You found 34 strips of the same type of material in the Lazete 2C
8 grave over the other side of the railway tracks. Is that correct?

9 A. Let me check on the number, but I believe so. Yes, 34 strips of
10 material.

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

