

THE INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA

CASE NO.: ICTR-00-55-T
CHAMBER II

THE PROSECUTOR
OF THE TRIBUNAL
v.
THARCISSE MUVUNYI

MONDAY, 20 MARCH 2006
1425H
CONTINUED TRIAL

Before the Judges:

Joseph Asoka de Silva, Presiding
Florence Rita Arrey
Flavia Lattanzi

For the Registry:

Ms. Felicite Talon
Mr. Ibrahim Mwamasangula
Mr. Charles Kalumo (WVSS)

For the Prosecution:

Ms. Adesola Adeboyejo
Ms. Renifa Madenga
Ms. Memory Maposa
Mr. Dennis Mabura

For the Accused Tharcisse Muvunyi:

Mr. William E. Taylor
Mr. Martin Joly

Court Reporter:

Ms. Roxane Meena

I N D E XWITNESSFor the Defence:

WITNESS MO23

Cross-examination by Ms. Madenga (*continued*) 7Re-examination by Mr. Taylor (*commenced in closed session*) 12

PROCEEDINGS

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MR. PRESIDENT:

Good afternoon, ladies and gentlemen. The Court is in session.

Appearances are as before.

Mr. Witness, we were expecting you to be here at 2:00. Tell him. Mr. Witness, we were expecting to start Court at 2:00. Where were you?

THE WITNESS:

I was waiting for them to come for me. I've been ready since the morning. They came for me just a while ago.

MR. PRESIDENT:

But I was told that they -- when they came you were not there -- that is the information that I got -- you were not in your hotel.

THE WITNESS:

Mr. President, that is not true. I was there. I was brought here in the morning, and I've been here -- I was here in the morning. I went back to the hotel. I waited for them, and they didn't come. But the person who came to take me, did not know those to be brought. He did not those from among the group who were to be brought, otherwise I have been ready.

MR. PRESIDENT:

The witness (*unintelligible*). You are from the witness protection. Yes, come here. The witness says he was waiting for -- to be picked up, and I was just told that you were -- someone went there and the witness was not there. Yes, mister --

UNIDENTIFIED SPEAKER:

(*Microphone not activated*).

MR. PRESIDENT:

The witness says that he was waiting there and there was no one to pick him up.

MR. KALUMO:

Your Honour, we went there in time, but we couldn't find the witness there, and that is the truth of the matter. As soon as we got him, that is when we brought him and we have been communicating with the man who was there, and he was supposed -- it is MO23 to be brought to court and the driver knew who it was.

MR. PRESIDENT:

He says that he was brought in the morning, taken back, left there and no one came to pick him up in the afternoon. So I don't know. You must make some other arrangements.

1 Mr. Taylor, I think the matter that we must remember is how is these people waiting in hotels without
2 the Court being informed. We thought they were in the safe houses.

3 MR. TAYLOR:

4 The WVSS approached me when -- I guess, it was Monday, when I was first interviewing these
5 witnesses, and indicated to me that all three of them were requesting to waive their security and -- and
6 that it was up to me whether or not I objected to them waiving their security. And they asked me if I
7 didn't object to them waiving their security to write WVSS a memorandum saying that I didn't object to
8 them waiving their security. And that's exactly what I did. I didn't, frankly, say any more than I didn't
9 object.

10 MR. PRESIDENT:

11 Yes, I think, again -- again, the information that we got was that you had written to them asking them
12 to -- that they should be -- I don't know who to believe. And I believe you in this instance.

13 MR. TAYLOR:

14 I wouldn't initiate this. I did what they asked me to do.

15 MR. PRESIDENT:

16 Because the Court has granted them protection. If it is going to be waived, at least, we must be
17 informed.

18 MR. TAYLOR:

19 I would think so. I would think so. And I assumed -- I guessed that WVSS would inform the Court after
20 they got my response that I didn't object that they were doing this, but I probably should have told the
21 Court that I didn't -- that they had approached --

22 MR. PRESIDENT:

23 Because somebody must be responsible. If we are waiving that, the protection that we have granted, at
24 least you must take over the responsibility. That is the idea. They can't just come and (*unintelligible*)
25 around here and -- if something happens to them, everybody will come at the Court. That is the reason.

26 MR. TAYLOR:

27 In retrospect, I see that I probably should have informed the Court that they asked me, and I so
28 responded --

29 MR. PRESIDENT:

30 Yes.

31 MR. TAYLOR:

32 -- or, at least, I should have given --

33 MR. PRESIDENT:

34 No, at least -- we are worried about the protection of the witness. That's why I'm telling you.

35 MR. TAYLOR:

36 I -- I --

37

1 MR. PRESIDENT:

2 And it is difficult now. You can see the problems --

3 MR. TAYLOR:

4 Absolutely.

5 MR. PRESIDENT:

6 Yes.

7 MR. TAYLOR:

8 And one of the things that, I guess, didn't cause me to be alerted to this problem was that, in the last
9 session, the same thing was done and there --

10 MR. PRESIDENT:

11 *(Unintelligible)*

12 MR. TAYLOR:

13 -- weren't any problems, and so I just assumed that the WVSS knew what the procedure was because
14 they certainly knew to ask me whether or not I objected. And so --

15 MR. PRESIDENT:

16 But I'm... *(unintelligible)*.

17 MR. TAYLOR:

18 -- the fact that I didn't carbon the legal officers of this Chamber probably is something that should be
19 laid at my feet, and for that I apologise.

20 MR. PRESIDENT:

21 Yes.

22 MR. TAYLOR:

23 But the fact remains, I guess, that I would -- you know, it's probably a personal -- a personal right that
24 the witnesses have. I assumed it was a personal right. If they wanted the protection, I shouldn't have
25 never -- say anything otherwise. If they didn't want the protection, all I could say is that I didn't object to
26 them waiving, if that's what they wanted to do. I don't personally think it is a good idea, but I
27 approached it in that light, and I apologise to the Court --

28 MR. PRESIDENT:

29 Yes.

30 MR. TAYLOR:

31 -- for not carboning your legal officers.

32 MR. PRESIDENT:

33 Yes.

34
35 Now, before we start, Mr. Counsel, tell us how many witnesses are they and what are we to do for the
36 rest of the week.

37

1 MR. TAYLOR:

2 I know that I've scheduled three more, for sure, and one of them, the one that I mentioned first, is
3 MO22 -- has told my investigator this weekend that he cannot appear today because he is in Kigali
4 and will not appear today. He's to tell my investigator tomorrow what -- what he's willing to do. That
5 is -- doesn't look like a good sign for me. So I can't tell you what's going to happen on this particular
6 witness.

7

8 As to MO01, WVSS has scheduled his plane to arrive Tuesday night, which would make him available,
9 I guess, Wednesday, for that session.

10

11 As to MO66, I inquired as to what the travel arrangements were Friday and Monday for MO66 and I
12 haven't received any response as we speak as to what that is. We did talk to MO66 last Friday to
13 ensure that he was still willing to travel, and he was. But I don't know what arrangements were made to
14 get him here.

15 MR. PRESIDENT:

16 So -- till the end of the Defence case you have only two more witnesses, or three.

17 MR. TAYLOR:

18 Three, possibly four.

19 MR. PRESIDENT:

20 Possibly.

21 JUDGE ARREY:

22 Two definitely.

23 MR. TAYLOR:

24 Two definitely in my mind. One at this time very iffy, and one, possibly. After that that I haven't -- I
25 haven't --

26 MR. PRESIDENT:

27 Because if we're not doing any work here I want to do some work in the other case. That is why I am
28 asking.

29 MR. TAYLOR:

30 Well, I don't see that I can do anything for sure tomorrow. I am sorry. I can't assure the Court that I can
31 put a witness on tomorrow because I just don't think MO22 is going to call -- I don't think MO22 is going
32 to end up as a witness, frankly. I would like him, but I don't think he's -- according to my investigator
33 and WVSS, giving different stories, and it just sounds like he's regretting signing up.

34 MR. PRESIDENT:

35 Yes, I can understand... (*microphone not activated*)

36

37 Yes, Counsel, you must keep in mind that we have to finish this. If you're getting 66, you must get him

1 in before the end of the week.

2 MR. TAYLOR:

3 I understand that, and he's been willing to travel. I just don't -- it wasn't my choice to have MO01 show
4 up Tuesday night.

5 MR. PRESIDENT:

6 *(Inaudible)*

7 MR. TAYLOR:

8 And that witness was -- has been willing to travel for two weeks. And this is the one that, if the Court
9 recalls, having a spat with whose done what about his travel arrangements.

10 MR. PRESIDENT:

11 He's the one who went to the airport and had to return back.

12 MR. TAYLOR:

13 And maybe KLM's at fault, maybe not. I don't know the answer to that.

14 MR. PRESIDENT:

15 What is happening in the light of what is happening here, I don't think it is KLM.

16 MR. TAYLOR:

17 Well, I share that opinion with you, but I say no more.

18 MR. PRESIDENT:

19 Yes, Madam Prosecutor, you can proceed.

20 MS. MADENGA:

21 Good afternoon, Mr. President, Your Honours.

22

23 Maybe before we proceed, if my learned colleague can just advise on the provision with regard to
24 Defence witness MO77. We've not received any information relating to that witness.

25 MR. PRESIDENT:

26 I think he's not coming. That is why he says that he has only two left, 001 and 66.

27 MS. MADENGA:

28 Secondly --

29 MR. PRESIDENT:

30 Two is a question mark, I think. The counsel says that he's on the balance, that he might drop off.

31 MS. MADENGA:

32 Thank you, Mr. President.

33

34 Secondly, on MO66, the information we have is that he is an expert and we have not received the
35 disclosures relating to the expert report. So we also wanted to know from my learned colleague the
36 position vis-a-vis Witness MO66.

37

1 MR. PRESIDENT:

2 Yes, Counsel, whether the witness comes or not, your obligations are to discharge --

3 MR. TAYLOR:

4 It is my understanding a report was filed. I'll check on it to be sure, but it is my understanding that a
5 report was filed.

6 MR. PRESIDENT:

7 I think, Counsel -- my information is there was a CD-ROM filed (*unintelligible*).

8 MR. TAYLOR:

9 There was a CD-ROM filed with disclosures, like his prior testimony. But if she's talking about the
10 report --

11 MR. PRESIDENT:

12 The report, yes.

13 MR. TAYLOR:

14 -- the report, it is my understanding, it was filed as well, but not -- I'm not -- I'm going to have to check
15 with my legal assistant, but it's -- I'm not going to say it was in that same CD-ROM, but it is my
16 understanding it was timely filed. Now, it was the same report, may it please the Court, and it is the
17 same information and testimony, frankly, of his testimony -- I believe it was in the Butare case -- so that
18 might be a problem with -- that they're having with identification, but he's the same witness. I think that
19 he's testified prior to this. And it is my understanding that it was the Butare case that he was an expert
20 in, but I'll check and make sure that the information --

21 MR. PRESIDENT:

22 Yes. At least you have some information now that he has given evidence in the Butare case.

23 MS. MADENGA:

24 Thank you, Mr. President, but the only disclosure relating to a CD-ROM, which we have, relates to a
25 different witness, Witness M046 and -- 046, that's correct. And if they're going to call M066 as an
26 expert witness, then we need the disclosures to be done properly... (*microphones overlapping*)

27 MR. PRESIDENT:

28 Well, with regard to that witness, counsel says that his information is that it has been filed.
29

30 If it is not filed in time, you are entitled to raise your objection.

31 MS. MADENGA:

32 Okay. Thank you, Mr. President.

33 MR. PRESIDENT:

34 Yes, Madam Prosecutor, you may continue.
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WITNESS M023

CROSS-EXAMINATION (continued)

BY MS. MADENGA:

Q. M023, I will ask you a couple of questions relating to the evidence in-chief you gave on the 16th of March 2006.

MS. MADENGA:

And for these questions, Your Honours, I would request a closed session since they relate to confidential evidence relating to Prosecution witnesses.

MR. PRESIDENT:

Yes, public, we are sorry that we have to close the session because of a request from the Prosecutor.

The sessions will be closed to the public from now on.
(At this point in the proceedings, a portion of the transcript [pages 8 to 14] was extracted and sealed under separate cover, as the session was heard in camera)
(Pages 1 to 7 by Roxane Meena)

CERTIFICATE

I, Roxane Meena, Official Court Reporter for the International Criminal Tribunal for Rwanda, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*stenotype*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of my ability and understanding.

I further certify that I am not of counsel nor related to any of the parties to this cause and that I am in nowise interested in the result of said cause.

Roxane Meena