

Trial Hearing
WITNESS: UGA-D26-P-0122

(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 Tuesday, 20 August 2019
9 (The hearing starts in open session at 9.36 a.m.)
10 THE COURT USHER: [9:36:15] All rise.
11 The International Criminal Court is now in session.
12 Please be seated.
13 PRESIDING JUDGE SCHMITT: [9:36:39] Good morning, everyone.
14 Could the court officer please call the case.
15 THE COURT OFFICER: [9:36:44] Good morning, 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 We are in open session, your Honour.
19 PRESIDING JUDGE SCHMITT: [9:36:59] Thank you.
20 I ask for the appearances of the parties. For the Prosecution, Mr Gumpert first.
21 MR GUMPERT: [9:37:05] May it please your Honours. Ben Gumpert for
22 the Prosecution. With me today, Suhong Yang, Pubudu Sachithanandan, Beti
23 Hohler, Sanyu Ndagire and Jasmina Suljanovic.
24 PRESIDING JUDGE SCHMITT: [9:37:16] Thank you.
25 And for the representatives of the victims, Ms Massidda first.

1 MS MASSIDDA: [9:37:20] Good morning, Mr President, your Honours.
2 Paolina Massidda, Orchlon Narantsetseg and Caroline Walter for the Common Legal
3 Representative team.
4 PRESIDING JUDGE SCHMITT: [9:37:29] Thank you.
5 And Mr Manoba.
6 MR MANOBA: [9:37:31] Good morning, Mr President, your Honours.
7 Joseph Manoba and James Mawira.
8 PRESIDING JUDGE SCHMITT: [9:37:36] Thank you. And for the Defence,
9 Mr Kifudde.
10 MR KIFUDDE: [9:37:40] Good morning, Mr President, your Honours. For the
11 Defence today we have myself, Gordon Kifudde, we have Thomas Obhof, we have
12 co-counsel Beth Lyons, we have co-counsel Chief Charles Achaleke Taku, and our
13 client Dominic Ongwen is in court.
14 PRESIDING JUDGE SCHMITT: [9:37:53] Thank you very much.
15 I have been informed, Mr Taku, that you shortly would want to address the Chamber.
16 MR TAKU: [9:38:00] Yes, your Honours. May it please the Court, your Honours.
17 This is just for me to put on record. Lead counsel is surely not well. His condition
18 is very bad, arising from the inhuman condition under which he was detained, and
19 would just like to go back to Uganda to be near his lawyer. He attempted to seek
20 medical attention here. It became complicated and a bit difficult. Nevertheless,
21 while in Uganda he will be working remotely on the case.
22 Now, when we resume on the 5th and the 6th, the new dates, I will not be here and
23 my friend Beth Lyons, but we would ask that he should try to come back in order to
24 make sure that there is no delay any longer since the Court has accommodated us
25 before as a result of his detention condition.

1 I will be away in Cairo. I'm a trustee and a lifelong member of the Governing
2 Council African bar and we are meeting the president of the African Union, who is
3 the president of Egypt. We are having a conference to meet him to look into so many
4 of the situations, problems facing the continent. It is very, very urgent.

5 My friend Beth Lyons had deferred the permission she had in the above times, and
6 within that time we also invited her, among experts from our colleagues from other
7 continents, to come to Cairo also to join us to assist us, so she will be there.

8 Nevertheless, for the 5th and the 6th if lead counsel is not yet here, we will make an
9 urgent application for the Court to permit Mr Obhof and Mr Gordon for those two
10 days to be in court to ensure that there is no delay. I just wanted to put this on
11 record.

12 And also, it would be disingenuous for the Court to find that myself and Beth are not
13 here. Every absence must be excused, the Court must know where counsel is at all
14 times, and that's why I take the opportunity to inform your Honours and my learned
15 colleagues here in court.

16 Thanks, my lord.

17 PRESIDING JUDGE SCHMITT: [9:40:22] Thank you, Mr Taku. The Chamber
18 appreciates very much that you inform us about what's going on there and we would
19 of course not see this in any way as disingenuous.

20 We take it and hope that on 5 September lead counsel will be back. Today, I might
21 say on behalf of the Chamber I want to deliver the best wishes to lead counsel and we
22 wish him especially a quick and speedy recovery.

23 And I don't see, and I think I can speak for my colleagues, I don't see any problem
24 with Counsel Obhof and Kifudde if need be.

25 MR TAKU: [9:40:59] Thank you very much, your Honour.

Trial Hearing
WITNESS: UGA-D26-P-0122

(Open Session)

ICC-02/04-01/15

1 PRESIDING JUDGE SCHMITT: [9:41:01] Mr Kifudde, you are the one who is
2 questioning today?

3 MR KIFUDDE: [9:41:06] Yes, Mr President.

4 PRESIDING JUDGE SCHMITT: [9:41:09] Good.

5 Now we welcome, after a little bit of a preliminary, Mr Witness, we welcome you at
6 the video link. Mr Ewicho, good morning. On behalf of the Chamber I would
7 welcome you in this extended courtroom at the video-link location.

8 I will read now to you, Mr Ewicho, the oath every witness has to take when testifying
9 before this Court. Please listen carefully.

10 I solemnly declare that I will speak the truth, the whole truth and nothing but the
11 truth.

12 Mr Witness, do you understand the oath --

13 WITNESS: UGA-D26-P-0122

14 (The witness speaks Ateso)

15 (The witness gives evidence via video link)

16 THE WITNESS: [9:42:02](Interpretation) In the name of God I am going to tell the
17 truth in this court and only the truth.

18 PRESIDING JUDGE SCHMITT: [9:42:13] I think this is exactly what we want to hear
19 from a witness. So you have now been sworn in, I would say.

20 Mr Ewicho, a small practical matter. We have to speak, because of the interpretation
21 here in the courtroom, at a slow pace so that the interpreters can follow. I was
22 already informed that I have been the first to violate this rule today already, so we
23 have to adapt to a relatively slow pace of speaking.

24 Mr Ewicho, if you want to address the Chamber, please raise your hand and I will
25 then give you the floor.

1 We can now start with the examination of the witness, the Defence (Overlapping
2 speakers).

3 THE INTERPRETER: [9:42:58] Message from the English booth: I do apologise for
4 interrupting you, your Honour. Could you please repeat what you just said slowly
5 because we need to interpret it and we haven't had time to do so. Thank you.

6 PRESIDING JUDGE SCHMITT: [9:43:10] So I have been informed that I shall repeat
7 this.

8 When you want to address the Chamber, Mr Witness, please raise your hand and
9 then I will give you the floor.

10 So it already starts. So, Mr Ewicho, please.

11 I think there was some misunderstanding. We can start with the examination.

12 Mr Kifudde, you have the floor.

13 MR KIFUDDE: [9:43:50] Thank you so much, Mr President.

14 QUESTIONED BY MR KIFUDDE:

15 Q. [9:44:00] Good morning, Emmanuel.

16 A. [9:44:02] Good morning.

17 Q. [9:44:02] Like I told you yesterday during the courtesy meeting I will be
18 questioning you on behalf of the Defence team of Dominic Ongwen.

19 A. [9:44:20] Okay.

20 Q. [9:44:22] Can you please tell this honourable Court your current legal name.

21 A. [9:44:34] My name is Ewicho Emmanuel.

22 Q. [9:44:41] And have you ever been known by any other names?

23 A. [9:44:53] Those are my legal names.

24 Q. [9:45:01] When and where were you born?

25 A. [9:45:24] I was born -- I was born in 1968, meaning that I now have 51 years.

1 And I was born in a place called Omid.

2 Q. [9:45:46] Can you tell Court your ethnic origin, place of residence and
3 nationality.

4 A. [9:46:12] I was born in a district of Kaberamaido, which is in Kalaki county, in
5 Anyara sub-county, in a village -- in a parish called Omid and the village is called
6 Amoru.

7 Q. [9:46:49] And, Mr Ewicho, what do you do for a living?

8 A. [9:47:11] I work as a VHT in a hospital, but I am also a farmer, and basically that
9 is what I do for a living.

10 Q. [9:47:28] And for clarity, VHT, what do you mean?

11 A. [9:47:53] Basically a VHT is that person who helps those that are HIV-positive,
12 gives them their medicine, and also sometimes does a bit of counselling.

13 Q. [9:48:15] Emmanuel, what is your level of education?

14 A. [9:48:27] I studied up to primary 6.

15 Q. [9:48:37] And having stopped in primary 6, what then was your first
16 employment?

17 A. [9:49:00] My first employment was with the army. I got recruited into the army
18 and, thereafter, I retired.

19 Q. [9:49:15] And by "army", which army do you mean?

20 A. [9:49:19] It was the UPDF.

21 Q. [9:49:23] When were you recruited into the UPDF?

22 A. [9:49:37] That was in 1992.

23 Q. [9:49:49] Where did you join the UPDF from?

24 A. [9:50:02] I got recruited in Kaberamaido.

25 Q. [9:50:17] Now when you joined the UPDF, were you first trained?

1 A. [9:50:20] Yes, I was trained.

2 Q. [9:50:27] Where were you trained from, and for how long were you trained?

3 A. [9:50:41] I was trained in Kaberamaido for nine months.

4 Q. [9:50:55] In what aspects were you trained while in Kaberamaido?

5 A. [9:51:10] I was trained in security matters.

6 PRESIDING JUDGE SCHMITT: [9:51:18] I think, Mr Kifudde, given the witness
7 summary that you provided us with, you can relatively quickly steer to the
8 knowledge of the witness with regard to the Arrow Boys, I would say. Because we
9 can assume when he was in the military, he has been trained and, yeah.

10 MR KIFUDDE: [9:51:39] Mr President, that is where I am heading, just two to three
11 more questions before I get there.

12 PRESIDING JUDGE SCHMITT: [9:51:44] Okay, then please continue.

13 MR KIFUDDE: [9:51:49]

14 Q. [9:51:49] Mr Witness, after training, were you immediately deployed?

15 A. [9:52:17] I was deployed to many places like Kabamba, and then from Kabamba
16 I was taken to Moroto and then from Moroto, I asked to retire.

17 Q. [9:52:34] Now in these places where you were deployed, you talked of Kabamba
18 and Moroto. What was your role, basically?

19 A. [9:52:59] In Kabamba I was a security person, and then in Moroto I was making
20 sure that the Karamojong do not go to Teso to raid them.

21 Q. [9:53:30] And if you could remember, for how long did you serve in the UPDF,
22 between 1992 going forward?

23 A. [9:54:00] I can't particularly remember how long, but what I know is that I
24 retired in 2003, and that's just about the same time that insurgency came into Teso.

25 Q. [9:54:14] Now after your retirement, were you given any special role in respect

1 of former soldiers in your village?

2 A. [9:54:40] I, I am a chairman of veterans at my place.

3 Q. [9:54:48] Now, being the chairman of veterans in your village, like you said,
4 what is your role, basically?

5 A. [9:55:21] Basically my role is to make sure that the veterans who return after
6 retirement come and ensure security and calmness, that they don't come with
7 uniforms and they do not come with guns. So I work with the DISO.

8 Q. [9:55:52] Now you said upon your retirement in 2003, you went back home and
9 found out that there was an insurgency. What then was your -- what role did you
10 play in terms of, you know, fighting off the insurgency?

11 A. [9:56:46] When I got back home and found insurgency, I again got together with
12 the army and then it was I who was showing them the places where there are possible
13 bad people, because I knew the place very well.

14 PRESIDING JUDGE SCHMITT: [9:57:11] Mr Witness, who were these bad people?

15 THE WITNESS: [9:57:24](Interpretation) Thank you for allowing me. In 2003, there
16 were rebels. These rebels covered Acholi, Lango and Teso. And they abducted
17 children, killing people, including women.

18 MR KIFUDDE: [9:58:24]

19 Q. [9:58:25] Now you said when you went back home, you got in touch with
20 the army. By "army" what do you mean? Do you mean the national army or there
21 was another paramilitary unit which was formed to fight the LRA?

22 A. [9:59:06] There were -- there was the UPDF, and then there was a paramilitary
23 called Arrow Boys. These two are working together and they were actually
24 successful to get the LRA out of Teso and chase them up to Sudan.

25 Q. [9:59:29] Now, who recruited these Arrow Boys?

1 A. [9:59:42] That paramilitary was formed within the village and that was in 2003
2 when the LRA attacked Teso. Now, they were the first to actually fight the LRA, to
3 fight off the LRA, and then the UPDF came in to assist them.

4 Q. [10:00:26] Now, Mr Ewicho, what kinds of people were recruited as
5 Arrow Boys?

6 A. [10:00:46] They were mainly the youth who were recruited.

7 Q. [10:00:57] Did the UPDF play any special role in the recruitment of the
8 Arrow Boys?

9 A. [10:01:11] That is true, and there were even the commanders in Arrow Boys.

10 Q. [10:01:22] Were these Arrow Boys given numbers like rebel soldiers are?

11 A. [10:01:36] Yes, they were given numbers and they were four-figure numbers.

12 PRESIDING JUDGE SCHMITT: [10:01:42] May I shortly, one question, please.

13 Mr Witness, you said that it was the youth that was recruited. How old were they?

14 THE WITNESS: [10:02:08](Interpretation) The youth were from 18 years and above.

15 PRESIDING JUDGE SCHMITT: [10:02:13] Mr Kifudde, please proceed.

16 MR KIFUDDE: [10:02:17]

17 Q. [10:02:18] Upon recruitment of these youths into, you know, the Arrow Boys,
18 were they trained?

19 A. [10:02:31] Yes, they were trained. That is why they were able to work with the
20 UPDF to find the LRA.

21 Q. [10:02:48] Now after training these youths, were they afterwards given a
22 uniform to prepare for battle?

23 A. [10:03:05] Yes, they would wear the uniforms of the army because it was the
24 commanders of the army who were commanding them.

25 Q. [10:03:23] And did the recruitment of these Arrow Boys target both former

1 soldiers, formally military people, like maybe yourself, and civilians?

2 A. [10:03:49] They were mixed up, those who were former soldiers and the
3 civilians.

4 Q. [10:03:57] What were the terms of engagement of these Arrow Boys? And by
5 that I mean did they even receive a salary?

6 A. [10:04:16] The government paid them an amount of money between 30,000 and
7 60,000.

8 Q. [10:04:35] Was the government consistent in paying that amount?

9 A. [10:04:45] Yes, it was consistent.

10 Q. [10:04:55] After training these Arrow Boys, were they afterwards given guns?

11 A. [10:05:09] Yes, they were given guns. But after the insurgency the government
12 took back the guns.

13 Q. [10:05:22] This might sound obvious, but I have to ask it: Who gave them the
14 guns?

15 A. [10:05:39] Now, since it was following the rank and files of the army, I do not
16 know exactly who.

17 PRESIDING JUDGE SCHMITT: [10:05:53] But I think, Mr Kifudde, let me remark
18 that we have enough fantasy to think of an entity who could have provided them
19 with the guns.

20 MR KIFUDDE: [10:06:06] Yes, Mr President, that is why I said it would sound
21 obvious.

22 Q. [10:06:14] Now, Mr Witness, after training these Arrow Boys, or even before
23 recruitment of these Arrow Boys, did the local people in Teso ever contemplate on
24 joining the LRA to fight the government?

25 A. [10:06:55] That could be true, but then there was no way they could join the LRA,

1 because the LRA killed people and also abducted some.

2 Q. [10:07:10] How long did the fight against LRA take in Teso?

3 A. [10:07:47] In the year 2003, that is when a commander called Tabuley came to
4 Teso with his people.

5 Q. [10:08:03] Now, apart from Tabuley, do you know of any other LRA
6 commanders who came to Teso?

7 A. [10:08:29] Yes, there were other commanders, but most of them were killed in
8 Teso, because even Tabuley himself was killed in a school called Omid Primary
9 School.

10 In 2004, that was the climax of insurgency in Teso, that's the time that the LRA were
11 defeated and went back to Sudan. But the name that was clearly heard and
12 commonly known in Teso was Tabuley. Because in our, in our investigation we
13 wanted to know who exactly were these commanders, but Tabuley was one of the
14 commanders that was very well known and everyone knew that he was killed.
15 So when the LRA went back to Sudan, then I heard that Dominic Ongwen had also
16 been arrested. In the whole truth, Dominic Ongwen was not in Teso, because,
17 because we did a thorough investigation to really understand who were these
18 commanders who were in Teso, but Dominic was not one of them.

19 That is the -- that is the truth and that is the reason as to why I am in this court. I do
20 not believe that Dominic Ongwen was in Teso, because I was one of the spies.

21 If Dominic Ongwen was in Teso, he would have also been one of the dead in Anyara
22 because we had a really dangerous army that was ready to fight the rebels. For
23 emphasis, that gentleman Dominic Ongwen was not there.

24 It was later that I heard on radio that Dominic Ongwen had been arrested and that he
25 was in ICC.

1 We were not happy about that because we knew that Dominic Ongwen was not
2 a killer.

3 PRESIDING JUDGE SCHMITT: [10:12:06] Thank you, Mr -- thank you, Mr Witness.
4 Mr Kifudde, I can imagine that the witness has foreshadowed and already answered
5 a lot of your remaining questions. Just a remark by me.

6 MR KIFUDDE: [10:12:18] Exactly. Maybe a few more before I wind up.

7 Q. [10:12:25] Mr Witness, thank you so much for that long narrative.

8 Now, immediately upon the invasion of Teso by the LRA, apart from the government
9 recruiting the Arrow Boys, you know, to fight the LRA, did they take any other steps
10 to protect civilians?

11 A. [10:13:07] For the Arrow Boys after the insurgency, they were all paid their
12 pensions and sent back home.

13 Q. [10:13:31] Now, as we understand it, there were camps in Teso. How were
14 living conditions in those camps?

15 A. [10:13:48] It was very bad. People died in those camps and there was just no
16 way they could survive, because there was no food.

17 MR KIFUDDE: [10:14:04] Thank you so much, Mr President. That ends our
18 examination-in-chief.

19 PRESIDING JUDGE SCHMITT: [10:14:08] Thank you very much.

20 I give now the floor to the Prosecution. Mr Gumpert.

21 MR GUMPERT: [10:14:14] No questions, your Honour.

22 PRESIDING JUDGE SCHMITT: [10:14:15] Thank you.

23 For the representatives of the victims.

24 MS MASSIDDA: [10:14:21] No question, your Honour. Thank you.

25 PRESIDING JUDGE SCHMITT: [10:14:23] Mr Manoba, I don't assume that you have

Trial Hearing
WITNESS: UGA-D26-P-0122

(Open Session)

ICC-02/04-01/15

1 questions.

2 MR MANOBA: [10:14:27] No questions, your Honour.

3 PRESIDING JUDGE SCHMITT: [10:14:28] Thank you. And since neither
4 Prosecution nor Legal Representatives of the Victims had questions, I don't assume
5 that the Defence has further questions.

6 So this concludes your testimony, Mr Ewicho. We thank you on behalf of the
7 Chamber that you came to the video-link location and helped us establish the truth.
8 We wish you a safe trip back home.

9 THE WITNESS: [10:14:57](Interpretation) Thank you very much.

10 (The witness is excused)

11 PRESIDING JUDGE SCHMITT: [10:15:00] This concludes also the hearing for today.
12 We resume on 5 September, 9.30 with D-85. And I think that that is, in light of what
13 Mr Taku said at the beginning of this session, this might be a good break that helps
14 counsel to recover and, as I said, we wish him all the best. Please deliver that to him.
15 Thank you.

16 THE COURT USHER: [10:15:25] All rise.

17 (The hearing ends in open session at 10.15 a.m.)