

1 Good afternoon, Mr. Witness.

2 THE WITNESS:

3 Good day, Mr. President.

4 MR. PRESIDENT:

5 We thank you for coming to give evidence before the Tribunal. The first step in your giving testimony is  
6 to take an oath to tell the truth. The registrar will now administer the oath to you.

7 *(Declaration made by the Witness AWB in Kinyarwanda)*

8 MR. PRESIDENT:

9 Now, Mr. Witness, the method of operating in giving your testimony is that the lawyers designated for  
10 that purpose will ask you questions, and you will answer their questions. Your answers constitute the  
11 evidence that will be adduced in our judgement in this trial. The Prosecutor will be the first lawyer who  
12 will question you.

13

14 And I will now invite Mr. Lahaie to commence your examination.

15

16 MR. LAHAIE:

17 For the first part of his testimony I would request it be done in closed session.

18 MR. ROBINSON:

19 Excuse me, Mr. President, before we go into closed session; this morning, we had a meeting with this  
20 witness and, we had first gone in to see him without the Prosecutor, as he had requested.

21 MR. PRESIDENT:

22 Mr. Lahaie -- thank you.

23 MR. ROBINSON:

24 So we had met him without the presence of the Prosecutor very briefly. And he told us that he did, in  
25 fact, wish the Prosecutor to be present. So we stopped our meeting, and we asked Mr. Webster to join  
26 us, which he did after the break that we took at quarter -- between 10:15 and 11 o'clock.

27

28 And then when we returned with Mr. Webster, the witness informed Mr. Webster and us that he did not  
29 want to -- that he did not intend to give testimony in the trial. So we, again, left, and we thanked him,  
30 because we did not think that under those circumstances it would be fruitful to have any -- to ask him  
31 any questions about his testimony.

32

33 So at this time I would -- I would like to ask you to call on the witness to clarify his position. And if it is  
34 now his intention to give testimony, we would like the opportunity to meet with him beforehand, or if it is  
35 not his intention to testify, I think this would be the right time for him to express that as he did to us this  
36 morning. So I put that out there for whatever actions you deem appropriate.

37 MR. WEBSTER:

1 Your Honours, it shouldn't surprise you that I have a slightly different recollection of the meeting where I  
2 was present with the Defence counsel. But I would -- rather than go into what I thought I heard, and I  
3 may be mistaken, I think the more appropriate thing to do is for the Court to do as Mr. Robinson has  
4 suggested and ask the witness what he said and what he intended. I remember something different,  
5 but I would rather the witness explain himself to the Court.

6 MR. PRESIDENT:

7 Yes, we are not going to again adjudicate on what actually transpired.

8

9 But, Mr. Witness, have you heard the exchanges that occurred between counsel just now?

10 THE WITNESS:

11 Yes, I heard everybody, Mr. President; and, in fact, that is what happened. I took this decision last  
12 night. I realised that there was no point in giving testimony in this court, in this trial because I had been  
13 called as a Prosecution witness. I had made it clear to the Prosecutor and the Defence counsel that I  
14 did not intend to testify. I said I was prepared to speak to the Defence counsel in the absence of the  
15 Prosecutor.

16 In fact, I would like to tell you I am not prepared to appear as a Prosecution witness. I am not prepared  
17 to testify. I have just been sworn in, taken the oath. And I cannot come to tell lies whereas I have  
18 already taken an oath, I cannot violate that oath. I would like to ask for the forgiveness of the  
19 Prosecutor because I know I lied on many occasions. I also apologise to your Trial Chamber because I  
20 have told a lot of lies, and I no longer want to lie. That is the situation.

21

22 I was called as a Prosecution witness; therefore I was supposed to come to testify against the Accused.  
23 And I can confirm events -- the events did occur, but the Accused I was supposed to testify against did  
24 not play a role in those incidents in Rwanda.

25

26 I often give testimony. So for -- somebody who had his own interests to protect said that I should come  
27 and mention this person in all of the statements I made. I agreed to do this. I accepted the offer made  
28 to me, and I mentioned that person's name. But last night over the radio I heard that there was a trial in  
29 which an Accused person I was testifying against, appeared. When I was to return to Rwanda -- rather  
30 when I return to Rwanda I will testify against that person. And the acts he is accused of are the same  
31 as those of the person -- the charges brought against the person here. So that I do not see how I can  
32 say that the same act was committed by different perpetrators. These acts were committed by the  
33 person in Rwanda. I did not come here to attribute those facts to the person here.

34 MR. WEBSTER:

35 Well, Your Honour, I must admit I am taken by surprise because I did not understand that to be what  
36 the witness said when we met earlier this morning; so, clearly, I was in error, because the witness  
37 should know what he said and what he meant.

1  
2 What I can clarify for the Court, however, is that early this morning when we were to meet with this  
3 witness, the meeting that was originally planned for 8:30 a.m. did not take place because there was no  
4 interpreter. And we ran into a bit of delay. And then it came to light that it was not Mr. Robinson that  
5 was going to speak to the witness; it was Mr. Weyl and Madam Hounkpatin.

6  
7 Since the witness's consent to be interviewed was directed to Mr. Robinson, I then went in to see the  
8 witness, which was the first time I met him. And I asked if he would consent to meet with  
9 Madam Weyl -- excuse me, Mr. Weyl and Madam Hounkpatin for the Accused Ngirumpatse, which was  
10 a bit of a shift. And when he -- when I clarified that with him, he said there would be no problem, that  
11 he would be willing to meet with those two attorneys. And at that point he did not indicate in any  
12 respect that he was not willing to testify.

13  
14 Afterwards, Mr. Robinson, Mr. Weyl and Madam Hounkpatin went in to meet with the witness, along  
15 with Mr. Nsengiyumva, and I don't know how many other people because there was a group of them  
16 outside of the waiting room. And I left them on their own since the witness had indicated that he did not  
17 require or request the presence of the Prosecutor. And when they came out to -- I'm referring to the  
18 attorneys -- came out to see me, they indicated that the witness wanted my presence in their meeting.  
19 So when I returned to the room with the other Defence counsel, my understanding was that the witness  
20 simply did not want to speak to the Defence counsel.

21  
22 Now clearly I was mistaken because if the witness had indicated, or if I had understood him to indicate  
23 that he did not want to testify I certainly would have made further enquiries, or brought the matter to the  
24 attention of the Court or I would have done something; I would not have done nothing, which is what I  
25 did because my assumption is that he simply did not want to meet with the Defence attorney.

26  
27 Clearly, I was wrong. The witness has clarified the matter for us. This is the first time I'm learning of it.  
28 I must say that our exchange lasted no more than two minutes because it was simple -- simply for me  
29 anyway, a matter -- my understanding was that the witness did not want that meeting to take place. But  
30 now it seems that the witness does not want his testimony to take place. So, I leave the matter in the  
31 hands of the Court. That is all I know about the matter.

32  
33 I would add, however, that I would think that the Defence had met with the witness for at least ten or  
34 15 minutes when I was not present, because when I saw them leave for the room the time it took for  
35 them to come back and tell me that my presence was required was around ten or 15 minute later. I  
36 don't know if they were meeting that entire time. But clearly, to my mind anyway, something transpired  
37 between this morning when the witness was willing to meet with the Defence attorneys and said nothing

1 to me about not wanting to testify, and the subsequent meeting. But I leave that for the Court to reason  
2 through. And I will simply await the Court's recommendation of how we should proceed.

3 MS. HOUNKPATIN:

4 Mr. President --

5 MR. PRESIDENT:

6 Please, please, we are still in the courtroom.

7

8 Mr. Webster, we don't think that we should make a *proprie modus* (*phonetic*) decision on what to do  
9 about the witness. So we expect you to apply as to what steps you would expect to take place with  
10 regard to his testimony. If you -- but before you do that, there are a few questions we want to ask the  
11 witness.

12

13 Mr. Witness, you appreciate that as a trial -- Trial Chamber, we are taken a bit by surprise by the fact  
14 that you are actually here, present before us and make the statement that you've made just now. So,  
15 there are a few matters which we think we should enquire of you to protect the integrity of our  
16 Trial Chamber.

17 Now the first thing that is of interest to me is how often have you met with investigators and Prosecutors  
18 concerning your testimony in this matter? Do you recall?

19 THE WITNESS:

20 I do not remember the number of times I met them any more; nevertheless, I do know that I met them  
21 on several occasions.

22 MR. PRESIDENT:

23 Now, do you recall how many statements you made; how many statements you signed, that were  
24 reduced to writing?

25 THE WITNESS:

26 I no longer recall the number of statements I signed, but I remember the testimony I gave to the  
27 investigators. However, as I made those statements, Mr. President, I would like to tell you this; there is  
28 one person who led the investigators to me. The investigators did not just think up where I lived, and  
29 said, this is where X lives let's asked him questions about Y. I have no relation to the person against  
30 whom I have been asked to testify, that person is not even my neighbour.

31

32 So there is one person who brought the investigators to me and that individual made me tell lies to the  
33 investigators, because that person knew what statements I had made in Rwanda. I have relied on the  
34 guilty plea and confession procedure in the past; so that individual was aware of my guilty plea and  
35 confession. And since this individual had something to gain from my testifying against these Accused,  
36 he came to see me and asked that I help him by testifying against the Accused in this Tribunal. That  
37 individual was detained together with me. He knows me very well. However, right now he is a free

1 man.

2

3 So, the testimony I gave in Rwanda, in that testimony I removed someone's name and I added  
4 Ngirumpatse's name. I will not give the name of that person because he is on trial in Rwanda. I knew  
5 there was a person accused in Rwanda and against whom I was to testify. And since I would not like to  
6 tell lies in your Court, I will go to Rwanda, this time truthfully against a detainee in Rwanda. And in  
7 Rwanda I would be considered a fool if I were to agree to testify here whereas I am yet to testify in  
8 Rwanda.

9

10 Yesterday for some time I listened to broadcasts on Radio Rwanda and I found out that there are  
11 persons -- or another person arrested in Rwanda had began his trial, and decided to testify in his trial in  
12 Rwanda instead of testifying against the person detained here. Therefore, my conscience told me not  
13 to lie about the person detained here because I had, in fact, been asked to remove a name from  
14 testimony in Rwanda, and slot in Ngirumpatse's name. I decided not to do this, but I will just testify in  
15 Rwanda.

16 When the Defence lawyers came to see me, I said, no, I do not want to meet you in the absence of a  
17 representative from the Prosecutor's office. I asked who was representing the Prosecutor. When they  
18 came to see me, I told them to go and fetch a person from the Office of the Prosecutor before they saw  
19 me. So they came back with a representative from the OTP. And I told that representative I did not  
20 want to testify any more. And I said I would outline the reasons for my refusal to testify to the  
21 Prosecutor. So I, therefore, hoped to meet the Prosecutor in order to explain the reasons to him.

22

23 But to my surprise, I just noticed I was brought into the room. And for that reason, I decided to tell you  
24 this after taking the oath. That is all I want to say. I have nothing to say about the individuals detained  
25 here.

26

27 Furthermore, in my view I should not give the name of the person who brought the investigators to meet  
28 me, because that person could most likely be a Prosecution witness, nor do I want to talk about the  
29 other trial that is under way in Rwanda, because I have not yet been called to appear in that trial. This  
30 is what I would like to tell you, Your Honours. Thank you.

31 MR. PRESIDENT:

32 Mr. Witness, how long have you been in Arusha, on this trip?

33 THE WITNESS:

34 I arrived in Arusha on the 15th of May; that is to say then, that I have just spent more than 50 days  
35 here.

36 MR. PRESIDENT:

37 Now, during that time, have you had any meetings with investigators or with lawyer in this trial?

1 THE WITNESS:

2 I met one investigator who told me the Prosecutor was unavailable but that he would come to meet me  
3 when the time was right. So the Prosecutor came to meet me on the 4th, in the evening.

4 THE ENGLISH INTERPRETER:

5 The witness does not give the month.

6 THE WITNESS:

7 So he came in the evening of the 4th to meet me for the first time here. We were not able to speak.  
8 And yesterday he came to meet me -- I mean the Prosecutor. And the next occasion on which I saw  
9 him was today.

10 MR. PRESIDENT:

11 Are you saying that since you have been in Arusha, you have spoken to lawyers prosecuting this  
12 case -- you have met lawyers prosecuting this case on only three occasions and you have not given  
13 them any statements? Is that what you are saying?

14 THE WITNESS:

15 I spoke to them. We spoke about my testimony, but at that time I had not yet taken the decision which I  
16 took yesterday evening.

17 MR. PRESIDENT:

18 When was the last time you spoke to the lawyers from the Prosecutor about your testimony?

19 THE WITNESS:

20 The last time I spoke to the Prosecutor about my testimony was yesterday. Yesterday I met him for a  
21 few hours, we spoke about my testimony. And so yesterday, after my meeting with him, in my room I  
22 decided that I would not testify.

23 MR. PRESIDENT:

24 Yes. So yesterday afternoon you left the Prosecutor with the impression that you were going to testify?

25 THE WITNESS:

26 When I parted from the Prosecutor, I still wanted to testify; I was still intent on testifying.

27 MR. PRESIDENT:

28 At what time (*microphone overlapping*) --

29 THE WITNESS:

30 At any rate (*microphone overlapping*) --

31 MR. PRESIDENT:

32 At what time would that have been?

33 THE WITNESS:

34 At approximately 12 or 1 p.m.

35 MR. PRESIDENT:

36 Now, when was it you said that you took the decision not to testify?

37 THE WITNESS:

1 It was last night when I got to my bedroom, 17 (*sic*) hours -- or 19 (*sic*) hours Kigali time and  
2 20 (*sic*) hours here, because at that time Radio Rwanda was broadcasting the news. Furthermore,  
3 Mr. President I believe that it is better to -- for me to tell the truth rather than sit down here and lie, I  
4 would rather speak the truth. I am a Christian.

5  
6 Even if I hadn't taken the decision last night, and having taken the oath, I don't think I would have  
7 proceeded to testify. But you know, I would like you to know that I took this decision before coming to  
8 take the oath. But even after taking the oath, I could not come here to testify and tell lies. I thank you.

9 MR. PRESIDENT:

10 Now after you took the decision, did you have any discussion with the Prosecutor about your decision?

11 THE WITNESS:

12 I took the decision last night. I went to bed; and this morning when I got up I didn't have an opportunity  
13 to meet the Prosecutor. However, the Prosecutor's representative who had met me with the Defence  
14 counsels, I told them that I had come to the decision not to testify. But I promised them to explain to the  
15 Prosecutor that I was going to behave in that matter. So I was surprised when I was brought into the  
16 courtroom, because my understanding was that I was going to meet the Prosecutor to tell him my  
17 decision. But now that I am before you, Mr. President, I would like to tell you what my position is.

18 Thank you, Mr. President.

19 MR. PRESIDENT:

20 Had you explained your position to any other authority?

21 THE WITNESS:

22 I took the decision not to testify last night. At that time I was alone in my bedroom. This morning I was  
23 taken from the place of accommodation to come here. So I did not meet any official at night. And I  
24 could not have communicated my idea to anyone else except the Prosecutor. Now, I am telling you  
25 what my position is, Mr. President. Thank you.

26 MR. WEBSTER:

27 Your Honour, I would like to offer just one or two additional comments and then perhaps the Court may  
28 wish to address the witness again. But this morning when the interpreter from WVSS arrived in the  
29 waiting room, I entered the room with the interpreter. And the first thing I did was identify myself to this  
30 witness. And I explained to him that I was a Prosecutor on the case, that I worked directly with  
31 Mr. Lahaie, and with Mr. Muto (*phonetic*), who had met with him the day before. And that I was going to  
32 arrange for him to speak with the Defence counsel that he had agreed to meet with.

33  
34 And at that time, as far as I understood, based on the witness's responses to me, I was left with the  
35 impression that he understood what my role in this case was, and that I was working with Mr. Lahaie,  
36 and with Mr. Muto. And I made that quite clear. And at that time he seemed -- he -- I had no indication  
37 that there was any problem with his testimony going forward. And the only issue I raised with him was

1 whether he would be willing, also, to meet with the counsel for Mr. Ngirumpatse. And after he indicated  
2 that he would, I promptly informed Mr. Weyl and Mr. Robinson. And that is when the rest of these  
3 events sort of went forward.

4  
5 When I left the meeting with Defence attorneys and this witness, I was still under the impression that his  
6 testimony was going forward. Now, clearly, that was my mistake because the Defence attorneys and  
7 the witness are giving a consistent account, but I was left with the impression that he did not want the  
8 meeting to go forward, not that he did not want his testimony to go forward.

9  
10 So, just to reiterate, I am completely taken by surprise at this moment. If I had any indication earlier on  
11 that this witness was not going to be a willing witness, than certainly I would have taken some other  
12 precautions or I would have raised the issue with the Trial Chamber or we would not even have had the  
13 witness brought in to be sworn. So, clearly the Prosecution was always in the mode of moving forward  
14 with this witness's testimony, had no idea whatsoever that he had a change of heart, particularly in light  
15 of the fact that I had spoken with him this morning, and introduced myself as a member of the  
16 Prosecution team and arranged for him to meet with the Defence in the interest of moving his testimony  
17 forward.

18  
19 So I can only surmise that something transpired during his meeting with the Defence because there  
20 was no indication from this witness prior to meeting with the Defence that he did not want to testify at  
21 this trial. Now hearing that from this witness, I am not inclined to ask the Court to force him to testify.  
22 We don't want to move forward with his evidence. I would like to give the matter some further thought,  
23 however, because that is not the end of the issue for us.

24  
25 This witness's evidence was incorporated in our indictment. There are at least one or two specific  
26 paragraphs that were drafted exclusively on his testimony. So, the issue is not a dead issue for us. We  
27 may not take his evidence at this time, or in this trial. But the issue is far from dispensed with as far as  
28 we are concerned. But I can't say where we are going with it. It is going to take a bit more thought  
29 before we know how we would like to proceed. We are not interested in hearing his evidence as part of  
30 the Prosecution case, but I don't think that this is an issue that should be swept aside. There are other  
31 things that need to be explored by the Trial Chamber in relation to this witness, and in relations to how  
32 we all participated in where we find ourselves at this moment.

33 MR. PRESIDENT:

34 Mr. Witness, can I ask you another question? Are you -- what is your status in Rwanda at the moment?  
35 Are you free; are you in detention; are you -- what is your status according to the judicial process in  
36 Rwanda?

37 THE WITNESS:

1 I am an inmate.

2 MR. PRESIDENT:

3 Are you an inmate in detention, waiting trial; are you convicted? I don't need to know what crime you  
4 are convicted of, I need to know what is your status?

5 THE WITNESS:

6 Mr. President, I was already sentenced by the gacaca system in our *secteur* to 25 years of  
7 imprisonment. I have appealed against that judgement before the gacaca system in our *secteur*. I am  
8 expected to appear before the gacaca -- or I was expected to appear at the gacaca in mid-May, but at  
9 that time I was already here. So upon my return to Rwanda, I will again appear before the gacaca.

10 That is my status, Mr. President.

11 MR. PRESIDENT:

12 Thank you.

13 THE WITNESS:

14 Thank you, Mr. President.

15

16 MR. PRESIDENT:

17 Yes, Mr. Weyl.

18 MR. WEYL:

19 Obligated, Mr. President. I am on my feet, Mr. President, following the first comments by Mr. Webster.  
20 You also gave the floor to the witness because you deemed it necessary to hear from the witness's own  
21 mouth what had actually transpired. Now, I also am on my feet, Mr. President, because once again  
22 Mr. Webster raised some issues, and made insinuations about the Defence which were not very well  
23 taken. But after Mr. Webster spoke the third time, the same insinuations were repeated.

24

25 Now, the same thing happens, Mr. President, whenever Mr. Webster is in difficulties, he shifts the  
26 burden to the Defence. And you said, Mr. President, that it is not for you to serve as an arbiter between  
27 the statements that are made by various parties. But, again, Mr. President, Mr. Webster has again  
28 repeated the same thing, which amounts to an insult to the Defence.

29

30 Let me say, Mr. President, that the code of ethics, Article 17, provides that all parties in the Tribunal  
31 must be treated with fairness, integrity and courtesy; matters of dignity, may I say, and this must be  
32 done with reciprocity. When Counsel Webster, the Prosecutor, tells you that Mr. Robinson is a liar, that  
33 we are all liars, although we haven't said a thing; that is not acceptable, Mr. President.

34

35 Following Mr. Webster's first statement, I didn't say anything. I rose, but I didn't say anything on his  
36 second statement. But a third time around, Mr. President, when he insinuated these things against us, I  
37 still didn't say anything. But let me say now, Mr. President, that we would like the record to show that

1 we are committed to conduct Defence cases with dignity. And we suppose that the Prosecutor would  
2 do the same, and that he would also be mindful of his duties, as well as of the duties of the Bench. On  
3 these grounds, I would ask that he withdraw all of those statements that he has made regarding the  
4 Defence, without having to depend on any justification from the -- from the witness.

5  
6 I believe, therefore, that there is no need for the statement of the representative of the WVSS, or of the  
7 witness, or of any other party to be made for this statement to be withdrawn by Mr. Webster, who in his  
8 offhanded statement does not reflect the fair nature of the trial.

9  
10 Mr. President, therefore, I request that these statements be withdrawn. Thank you.

11 MR. WEBSTER:

12 Well, Your Honours, what I can say, or remind all of the parties to these proceedings is my recollection  
13 of where I started in this intervention, which is basically with an apology because I misunderstood what  
14 transpired when we were all in the same room together, and here I am referring to the Defence, the  
15 witness and myself, because I understood the witness to say that he no longer wanted to proceed with  
16 the meeting.

17  
18 Now, clearly that was my error. The witness has clarified that. And Mr. Robinson and Mr. Weyl have  
19 made representations to the Court, so I misunderstood what had been translated to me. It was a very  
20 brief exchange, but I assumed the witness was talking about the meeting that had been arranged, that  
21 he no longer wanted to go forward with that meeting. So, the Court and all of the parties have my  
22 apologies for my misunderstanding, but I made that quite clear when I took the floor initially. What is  
23 also something I can say unequivocally is that when I met with the witness this morning, he gave no  
24 indication this morning, whatsoever, of not wanting to go forward with his testimony. I explained in no  
25 uncertain terms that I was a member of the Prosecution team, and that I worked directly with Mr. Lahaie  
26 and Mr. Muto, and the persons who had met with him previously. That was clear as far as I could see.

27  
28 The witness gave no indication whatsoever that things should not go forward. In the interests of  
29 making -- having things go forward, I then contacted -- I then solicited Mr. Weyl and Madam Hounkpatin  
30 and Mr. Robinson to come in and meet with the witness. It is only now after that meeting that it seems  
31 that there is a problem with going forward with this witness's testimony.

32  
33 So I don't think there is anything I have to withdraw in all that I have said this morning. All I can do is to  
34 reinforce the things that I have already said.

35  
36 I would point out to the Court that this witness has been to Arusha at least twice before to testify in this  
37 case. He met with investigators in Rwanda when he first gave his statement. He confirmed that

1 statement in, I believe, it was in November of 2005 when Mr. Lahaie went to Rwanda and met with the  
2 witness for the first time at that time, so he met with a member of the Prosecution team, not just an  
3 investigator, I believe this was in November 2005. And then came to Arusha twice before, because he  
4 was scheduled to testify in the previous two trial sessions. I may be in error, maybe not the first, but as  
5 least once before. This is not the first time he has come to Arusha for this trial.

6  
7 The investigator -- the crime analyst and one of the associate legal officers on my team met with this  
8 witness at least three or four weeks ago when he first came to Arusha, and did the first stage -- the first  
9 phase of our trial preparation with him. And I believe that took at least a day or two. And I did not learn  
10 anything from them that would indicate that this witness was not going forward with his testimony.

11  
12 And then when it became clear to us that we would have to move his testimony up, and take this  
13 witness, AWB, a much shorter witness than AOG, at that point Mr. Lahaie and another member of our  
14 staff met with him at least two or three times. And I believe the last meeting they had with him was at  
15 around 6 p.m. yesterday. And at that -- I just spoke to my colleague. He tells me that there was no  
16 indication at that time that the witness had a change of heart in regard to his testimony.

17  
18 The first indication of that to me was just a half hour ago in this courtroom. I was not aware of that  
19 before. So, that is where we stand.

20 MR. LAHAIE:

21 Respectfully, I, in fact, met the witness Tuesday until 6 p.m., between approximately 5 and 6. And I met  
22 him yesterday during the lunch break, rather between 11 and 1 p.m., something like that. And there  
23 was no question of the witness not having told the truth in the past, nor was there such a question  
24 raised this morning. Therefore, this is news to me.

25  
26 As for the arguments brought by Mr. Weyl, if we are to calculate the number of times that the Defence  
27 has accused the Prosecution of dishonesty, I think that it would be more on his side.

28 MR. PRESIDENT:

29 The issue of civility between counsel is a matter which I don't need to address now.

30  
31 Mr. Webster, what is of interest to us now, first of all, is there going to be any application on the part of  
32 the Prosecution to compel this witness to give testimony?

33 MR. WEBSTER:

34 No, Your Honour.

35 *(Pages 23 to 35 by Donna M. Lewis)*

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1532H

MR. WEBSTER:

No, Your Honour.

MR. PRESIDENT:

What -- what -- what are you going to do about him?

MR. WEBSTER:

In terms of providing evidence for this Court, I would simply request that he be returned to Rwanda. In terms of taking any other measures, I'd have to think about it a bit. I've been looking through the -- our Rules of Procedure and Evidence. Nothing comes immediately to mind. I'm going to have to think about the issue more carefully, but we do not intend to go forward with his evidence as part of the Prosecution case.

MR. PRESIDENT:

Mr. Witness, after having heard your statement and having heard the -- the -- the application from the Prosecutor, we've decided to excuse you, and you may leave now.

MR. ROBINSON:

Excuse me, Mr. President. May I make a small intervention before the witness leaves?

First of all, I appreciate -- I think you -- the way you've handled this has been very correct, and you asked a lot of good questions. But some questions you didn't ask were -- you kind of stopped at the point of our meeting with this witness. And I just -- I don't want the witness to leave with anybody having even a scintilla of doubt in their mind about whether we did anything to encourage this witness not to testify, especially in light of battles that I've fought with Mr. Webster over even trying to have a meeting with the witness. So I would ask you to enquire of this witness about the circumstances of our meeting, to ask him whether he'd ever met me or anyone from the Defence before, so that when we all leave this courtroom we realise that what this witness has done today is an act of courage of his own volition, is not a product of any influence from anyone. And I -- I think that that's -- when you speak of the integrity of the proceedings, that's an essential component, that there be no question that Defence has influenced this witness.

Secondly, once you're convinced of that, you see from what this witness has told you what is

going on in Rwanda with the business of accusing people like Mr. Ngirumpatse and Mr. Nzirorera, and that should also have a great -- cause you great concern about the integrity of these proceedings. And so I would ask that you make those enquiries.

And since I won't be addressing the witness any further, I want to thank the witness for his courage and for his honesty today.

MR. PRESIDENT:

Mr. Robinson, although I understand the reason for your request, we think that the position we adopted, we ought to maintain it. We don't think it's proper for us to conduct evidentiary hearings of matters of this nature and make judgements as to whether one counsel or another is telling the truth in matters of this nature.

Secondly, we don't think that we are an appropriate body to carry out any investigations into the reasons for the witness's change of heart. And I -- I don't think that it would be appropriate for us to embark on those enquiries in any form or fashion. If -- if it's -- anybody desires to investigate, they can do that, but we can't carry out any investigation of this sort. So we think that that -- our -- our -- it is not by accident that we didn't ask him any questions about it. We think it would not be an appropriate course for us to adopt.

Mr. Witness, you are excused.

THE WITNESS:

Thank you, Mr. President.

*(Witness excused)*