

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet
7 Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Tuesday, 28 November 2023
10 (The hearing starts in open session at 9.34 a.m.)
11 THE COURT USHER: [9:34:12] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:34:39] Yes, good morning, all.
15 Could we have the appearances, first of all from the Defence.
16 MR LAUCCI: [9:34:50] Good morning, Madam President. Good morning,
17 your Honours. Good morning, dear colleagues.
18 This morning, in the courtroom together with Mr Ali Muhammad Ali
19 Abd-Al-Rahman, Monsieur Thomas Chatelet, our intern; Madam Marcela Velarde,
20 assistant evidence reviewer; Mr Ahmad Issa, our case manager; and myself Cyril
21 Laucci, counsel. Iain Edwards is also attending remotely.
22 PRESIDING JUDGE KORNER: [9:35:16] Yes, thank you.
23 Yes, Prosecution.
24 MR NICHOLLS: [9:35:21] Good morning, Madam President. Good
25 morning, your Honours. Myself Julian Nicholls with Alison Whitford, Claire

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Sabatini, Laura Morris and Ed Jeremy.

2 Thank you very much.

3 PRESIDING JUDGE KORNER: [9:35:30] Yes, thank you.

4 And, yes, the representatives for the victims.

5 MS VON WISTINGHAUSEN: [9:35:37] Yes. Good morning, Madam President,
6 your Honours, dear colleagues in and around the courtroom. The participating
7 victims this morning are represented by associate counsel, Anand Shah, our case
8 manager, Saif Kassis, Charlotte Imhof and myself Natalie von Wistinghausen.

9 PRESIDING JUDGE KORNER: [9:35:56] Yes, thank you, Ms von Wistinghausen.

10 Before the witness starts, Mr Laucci -- right, you gave a very vague notice of alibi
11 some time ago and because of the problems, we accepted it -- or rather, we didn't...
12 But we did say that any further details should be provided, and this witness is an alibi
13 witness.

14 It's no good raising your eyebrows, Mr Laucci. If what he says is the truth, then he
15 provides an alibi because he says you -- I'm sorry, he and Mr Al-Rahman joined the
16 CRF in March -- he originally said 2005, but he's changed that to 2004.

17 If that is right, then Mr Abd-Al-Rahman could hardly have been leading the charge in
18 Mukjar in March 2004.

19 So -- and I say this now because if there's going to be future evidence along those lines,
20 then you are obliged by the Statute to give particulars to the Defence -- to the
21 Prosecution.

22 MR LAUCCI: [9:37:37] Well, I understand, Madam President, but you saw me
23 raising my eyebrows because -- well, subject to what the witness will say, at this
24 corner -- at this precise moment in time, we do not consider him as an alibi witness
25 because of the date issue. I mean --

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [9:38:05] What do you mean "the date"?

2 MR LAUCCI: [9:38:08] Mukjar is supposed to have taken place some time in
3 February.

4 PRESIDING JUDGE KORNER: [9:38:11] Well, it's later than that, isn't it, or at least
5 the aftermath is --

6 MR LAUCCI: [9:38:17] Exactly, and Deleig early March.

7 PRESIDING JUDGE KORNER: [9:38:24] Yes, sorry, Deleig is --

8 MR LAUCCI: [9:38:20] Yes, Deleig is the latest, so early March.

9 In both cases, once again, unless we get some new information, our understanding is
10 that that does not per se constitute a proper alibi that is not when Mukjar or Deleig
11 happened, Mr Abd-Al-Rahman was somewhere else.

12 But we will, of course, plead the difficulty of him being at a certain date in Mukjar
13 and Deleig and of being in another place some days later, but I don't think this is
14 exactly what we call an alibi.

15 PRESIDING JUDGE KORNER: [9:39:01] But it's not only that because, as I
16 understand it, the witness is going to say -- just a moment, let me find his -- or may
17 say, depending, that -- sorry?

18 JUDGE ALEXIS-WINDSOR: [9:39:18] Paragraph 25.

19 PRESIDING JUDGE KORNER: Paragraph 25, is it. Thank you very much.
20 Yes, paragraph 25:

21 "I never saw Uncle Ali leave Garsila for any long periods of time. He stayed at his
22 home in Garsila. I do not think he ever travelled to Rahad el Berdi or Nyala from
23 Garsila. During the period of [...] 2001 to [...] 2005, I would see Uncle Ali at least
24 once a day, every day."

25 If that's not an alibi for all the events, Mr Laucci, that is an alibi. He can hardly have

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 been leading the troops in the various places that we've heard about, if it's him.

2 MR LAUCCI: [9:40:01] I would say that your Honour is more daring than the
3 Defence was.

4 PRESIDING JUDGE KORNER: [9:40:07] It's not a question of being daring, Mr
5 Laucci. What else is it, if it's not -- your defence throughout has been this is a case of
6 mistaken identity.

7 MR LAUCCI: [9:40:20] Yes.

8 PRESIDING JUDGE KORNER: [9:40:20] "I am not -- if such a person as Ali Kushayb
9 ever existed, I am not he, and I was never the person who has been identified in the
10 various attacks that took place in 2003 and 2004".

11 This witness purports to say that that defence is supported by the fact that "I can say I
12 saw him every day in Garsila."

13 How is that not an alibi?

14 MR LAUCCI: [9:40:55] I understand what your Honour says.

15 PRESIDING JUDGE KORNER: [9:40:59] All right, Mr Laucci, I suppose that's the
16 equivalent of "I hear what your Honour says", which is "I hear it but I don't agree".

17 Anyhow, I'm telling you as a matter of law that that is -- counts as an alibi and if there
18 are any future witnesses coming up who say the same thing, then you are obliged to
19 give notice.

20 MR LAUCCI: [9:41:30] Yes. In any case, Madam President, and I know that will
21 not necessarily fully answer your point, but, as you can see, this witness was
22 interviewed on 6 and 7 September. I don't remember exactly when the statement
23 was disclosed, but that must not have been much longer after and, yeah, until the
24 time of the interview, and especially at the time when we filed the tentative - I need to
25 insist on that word - notice of alibi, we did not have this evidence with us.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [9:42:04] I fully appreciate that, Mr Laucci, and I'm
2 not criticising you at all. I said in the circumstances that the mere notice was
3 sufficient.

4 MR LAUCCI: [9:42:17] Yes.

5 PRESIDING JUDGE KORNER: [9:42:18] But we did say that -- and indeed I think it
6 was at the Prosecution request because the details were so scant, we did say you were
7 obliged to give notice further. Now, okay, you disclosed the statement whenever it
8 was.

9 MR LAUCCI: [9:42:34] 15 September, I am told.

10 PRESIDING JUDGE KORNER: [9:42:36] 15 September, and I'm assuming that the
11 Prosecution would have picked that up but, nonetheless, there is an obligation under
12 the rules.

13 All right. Second thing is, as far as we are concerned, I gather there is an objection to
14 something, is that we saw your email for reconsideration of our decision and we'll
15 deal with that when the witness has concluded.

16 MR LAUCCI: [9:43:00] Thank you, Madam President.

17 PRESIDING JUDGE KORNER: [9:43:02] Right. Yes. So, Mr Nicholls, there is
18 a document you are objecting to, is there?

19 MR NICHOLLS: [9:43:06] Yes, thank you. It's the document at tab 6, this
20 purported certificate.

21 PRESIDING JUDGE KORNER: [9:43:14] That, needless to say, has not been copied
22 because it wasn't highlighted, I don't think, on the --

23 MR NICHOLLS: [9:43:22] Maybe we can bring it up.

24 PRESIDING JUDGE KORNER: [9:43:25] Yes, can we bring it up. I'm not sure
25 whether it was copied.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [9:43:31] You must have -- well, what was highlighted is tab 7, which
2 is the English version of the same document.

3 PRESIDING JUDGE KORNER: [9:43:35] Oh, I see.

4 MR LAUCCI: [9:43:38] It may be more useful to the Chamber.

5 PRESIDING JUDGE KORNER: [9:43:39] Yes, I've got it.

6 MR NICHOLLS: [9:43:42] I actually think the original is also worth looking at in this
7 case. your Honour.

8 PRESIDING JUDGE KORNER: [9:43:46] Okay. Well, let's have the original up,
9 then.

10 MR NICHOLLS: [9:43:50] So we received this Friday afternoon, your Honour. This
11 document, first of all, on its face --

12 PRESIDING JUDGE KORNER: [9:44:02] This is not one that you provided?

13 MR NICHOLLS: [9:44:05] No.

14 PRESIDING JUDGE KORNER: [9:44:06] Right.

15 MR NICHOLLS: [9:44:07] This is one provided to the Defence by one of their
16 upcoming witnesses, D-4, who has not testified yet. On its face of it - I don't know if
17 it's on the screen, the original, yes - the two logos, without going into it, are not
18 persuasive on this document, the way they appear to be cropped and are not the full
19 logos. I have not seen that on any other document from Sudan.

20 And, second, it's undated and we have never seen a document of this nature,
21 a certificate "To whom it may concern", regarding the client, regarding the accused
22 that suddenly appeared.

23 Second, this witness cannot speak to this document at all. It's in the prep log at para
24 12, your Honour.

25 The witness whose illiterate has never seen this document before, he's never seen

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 a similar document, he does not have this -- a document of this nature himself, even
2 though he served in the same unit. He can't speak to it all. It's essentially almost
3 a Bar table motion trying to put this in.
4 If they want to put the document in, fine, they should call D-4. He's the one who took
5 a photo of the document from somewhere and sent it to them.
6 In emails that you're not copied on when we asked about the chain of custody, our
7 friends stated that their understanding is that D-4 took this -- took a photo of this item
8 from the administrative records somewhere, I won't say where, and they presumed
9 that the original is somewhere, but there's really no authentication provided.
10 Anyway, this witness can't provide it. On the face of it, if you look at these logos, it
11 looks very suspect. Thank you.

12 PRESIDING JUDGE KORNER: [9:46:24] I don't think he says he's totally illiterate.
13 He says he has difficulty with reading and writing, but still.
14 Yes, Mr Laucci.

15 MR LAUCCI: [9:46:33] Madam President, we do not oppose the objection.
16 Actually, we understand and we -- to some extent we are in the process of trying to
17 find more information and, yeah, to understand better that document if and when we
18 get what we are looking for --

19 PRESIDING JUDGE KORNER: [9:46:53] Well, you've got D-4, apparently, who
20 can deal with it.

21 MR LAUCCI: [9:46:57] That could be -- but the problem is that -- well, D-4 is our
22 source for the document, but it does not explain much about what is the document
23 and that's also what we are looking for.

24 We continue our efforts and if we get some results, then that will be for us, the
25 Defence, the time to resubmit this document, one way or the other -- it could be

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 through D-4 or another way. But fine for today, I'm willing -- I'm ready not to use it
2 for this witness.

3 PRESIDING JUDGE KORNER: [9:47:29] All right. Well, that's very helpful,
4 Mr Laucci.

5 Where, as a matter of interest, does the list of recruits come from, when people joined?

6 It's the document at 5, which doesn't appear to have a translation, or does it? No.

7 This is a list, is it, of people who joined the CRF?

8 MR LAUCCI: [9:48:00] Yes, for the Defence it's the same source, Madam President.

9 We also received it from this witness D-4.

10 PRESIDING JUDGE KORNER: [9:48:07] I see, okay. I just wondered -- again, it's
11 not a Prosecution document?

12 MR LAUCCI: [9:48:12] No.

13 PRESIDING JUDGE KORNER: [9:48:13] No. Okay. Yes, all right. Unless there
14 is anything else, let's have the witness in.

15 (The witness enters the video-link room)

16 PRESIDING JUDGE KORNER: [9:49:20] Could somebody give him earphones? He
17 doesn't need earphones? He doesn't, all right.

18 Good morning, sir. Can you hear and understand me?

19 WITNESS: DAR-D31-P-0032

20 (The witness speaks Arabic)

21 (The witness gives evidence via video link)

22 THE WITNESS: [9:49:34](Interpretation) I can hear you, good morning.

23 PRESIDING JUDGE KORNER: [9:49:37] Thank you for coming to give evidence in
24 this case. Before you take the solemn declaration -- before you take the solemn

25 declaration, which you will repeat after the court officer, just two things, please. First

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 of all, as you understand, everything is being interpreted. Please, therefore, do not
2 speak too quickly and answer the questions as shortly as possible.

3 Do you understand that?

4 THE WITNESS: [9:50:30](Interpretation) Yes, I understand.

5 PRESIDING JUDGE KORNER: [9:50:32] Second, there will be a break in about one
6 hour and 10 minutes and then a break over lunch, but if for any reason you need
7 a break at any time, then just say so.

8 THE WITNESS: [9:50:57](Interpretation) Okay.

9 PRESIDING JUDGE KORNER: [9:50:58] Yes. Would you now repeat after the
10 court officer the solemn declaration.

11 THE COURT OFFICER: [9:51:05] Thank you, Madam President. Mr Witness,
12 please repeat after me: I solemnly declare --

13 THE WITNESS: [9:51:20](Interpretation) I solemnly declare --

14 THE COURT OFFICER: [9:51:23] -- that I will speak the truth --

15 THE WITNESS: [9:51:27](Interpretation) -- that I will speak the truth --

16 THE COURT OFFICER: [9:51:29] -- the whole truth --

17 THE WITNESS: [9:51:34](Interpretation) -- the whole truth --

18 THE COURT OFFICER: [9:51:36] -- and nothing but the truth.

19 THE WITNESS: [9:51:40](Interpretation) -- and nothing but the truth.

20 PRESIDING JUDGE KORNER: [9:51:44] Yes, thank you.

21 Yes, Mr Laucci.

22 QUESTIONED BY MR LAUCCI:

23 Q. [9:51:51] Good morning, Mr Witness, I hope you are well.

24 A. [9:51:56] Good morning. I'm fine.

25 MR LAUCCI: [9:52:03] Madam President, I have tried to limit as much as possible

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

1 the private sessions in my examination-in-chief, but I will need one very short at the
2 beginning, another one not much late after and one at the very end, so that should be
3 only three private sessions.

4 PRESIDING JUDGE KORNER: [9:52:23] Yes, and you would like to start in private
5 session, would you?

6 MR LAUCCI: [9:52:29] Yes, please.

7 PRESIDING JUDGE KORNER: [9:52:31] Yes, very well, private session.

8 (Private session at 9.52 a.m.)

9 THE COURT OFFICER: [9:52:37] We are in private session, Madam President.

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Open session at 9.57 a.m.)

5 THE COURT OFFICER: [9:57:45] We are back in open session, Madam President.

6 MR LAUCCI: [9:57:51] Thank you, Madam President.

7 Q. [9:57:54] Mr Witness, how far did you go in your education?

8 A. [9:58:08] I studied until grade 4 and then I left school because of the difficult
9 conditions, so I had to leave school.

10 Q. [9:58:15] Are you capable of reading and writing today?

11 A. [9:58:24] No.

12 PRESIDING JUDGE KORNER: [9:58:27] (Overlapping microphones)...the length of
13 time that he was actually at the school; in other words, how many years and when he
14 left -- well, how old was he when he left.

15 MR LAUCCI: [9:58:39]

16 Q. [9:58:40] Mr Witness, Madam President, would like to know how many years
17 you spent in school?

18 A. [9:58:51] Four years, until 2004.

19 Q. [9:59:00] And so how old were you when you left school?

20 A. [9:59:13] Approximately, I was eight years old.

21 PRESIDING JUDGE KORNER: [9:59:18] Well, what you said was you left school in
22 2004, apparently, according to the interpretation, which I don't think can be right.
23 If you were born in 1989, when did you leave school?

24 THE WITNESS: [9:59:39](Interpretation) Excuse me? Can you repeat.

25 MR LAUCCI: [9:59:48]

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [9:59:48] We -- we got the answer that you had left school in 2004, but are you --

2 A. [10:00:01] It wasn't in 2004.

3 Q. [10:00:04] When was it?

4 A. [10:00:06] I studied for four years.

5 Q. [10:00:12] And how old were you when you left school?

6 A. [10:00:17] I was eight years old.

7 Q. [10:00:30] So can you confirm if you left school in 1997 -- '8?

8 A. [10:00:47] Yes.

9 Q. [10:00:54] When had you started school then?

10 A. [10:01:06] I started school approximately at '99, till 2000 and 2001, roughly
11 speaking.

12 Q. [10:01:22] Okay. So now we understand, sir. And I understand that you may
13 not have the full memory of the exact years, but now we understand that you left
14 school in 2000 or 2001, is that what you say?

15 A. [10:01:44] I don't remember when exactly, but roughly speaking, that's what it
16 is.

17 Q. [10:01:56] Thank you.

18 PRESIDING JUDGE KORNER: [10:01:56] Right. Just a moment, Mr Laucci, I mean
19 this is the third witness who's been saying this.

20 Can you tell us what you did in school for four years, if you did not learn to read or
21 write?

22 THE WITNESS: [10:02:26](Interpretation) Well, the conditions and the time did not
23 allow me to finish my education. There were tough circumstances and my father,
24 who was a policeman, passed away and there was no one to provide for us and
25 that -- and on those grounds, I left school.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:02:47] Yes. Listen, please, very carefully to the
2 question.

3 What did you do in the four years you were at school before you had to leave, if you
4 did not learn to read or write at all?

5 THE WITNESS: [10:03:19](Interpretation) I was working at that time as
6 a self-employed person at the market and in farming and things along those lines.

7 PRESIDING JUDGE KORNER: [10:03:35] This is the third and last time I will ask the
8 question, sir.

9 Before you worked in the market, before you helped at the farm, you were at school,
10 is that right?

11 THE WITNESS: [10:03:59](Interpretation) That is right. I was in school and I left
12 school.

13 PRESIDING JUDGE KORNER: [10:04:05] Now, just concentrate, would you,
14 carefully. When you were at the school, what did you do all day at school?

15 THE WITNESS: [10:04:27](Interpretation) We used to write and read. It was a state
16 school. However, it has been very long and I have forgotten things.

17 PRESIDING JUDGE KORNER: [10:04:43] Yes. Sir, I understand that you may
18 not -- since you left school -- have done a great deal, but you did learn to read and
19 write when you were at school. That's what you've just said.

20 THE WITNESS: [10:05:08](Interpretation) Yes.

21 PRESIDING JUDGE KORNER: [10:05:14] Yes.

22 MR LAUCCI: [10:05:16] Thank you, Madam President.

23 Q. [10:05:17] Sir, you already mentioned that at some point, your father died. Is
24 that the reason why you left school?

25 A. [10:05:40] My father's death is not the reason I left school. The reason was that

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 no one else was providing for us in terms of food, clothes, books and so on and so
2 forth. I left school because there was no one to help me.

3 Q. [10:06:00] I understand.

4 MR NICHOLLS: [10:06:01] Excuse me, no objection. I just wonder if we can adjust
5 the camera or have the witness lean back a bit because half the time I can't actually see
6 his eyes, which I would prefer to.

7 THE COURT OFFICER: [10:06:15] I will ask my colleague in the field to indeed try
8 to adjust the camera. Then otherwise we will need to do it during the first break.

9 Mr Witness, could you please try to sit back. It seems that you are too close to the
10 camera. Thank you.

11 MR LAUCCI: [10:06:56]

12 Q. [10:06:58] Maybe -- yeah, maybe, sir, you can try to relax a little bit and sit on
13 your chair so that we can see you better. Yes. That's perfect, like this, and that will
14 be more comfortable for you, I believe.

15 Where did you go, sir, after you left -- your father died, and you left school?

16 A. [10:07:31] We went to Garsila. We moved from Bindisi to Garsila.

17 Q. [10:07:38] Do you remember what year you arrived in Garsila?

18 A. [10:07:45] I cannot remember when.

19 Q. [10:07:55] Fair enough. And let me tell you, sir, that you are doing perfect. So
20 fine when you don't know for sure the answer to one of the questions, simply say so,
21 like you just did and that's perfect. Nobody's judging you and that's totally
22 understandable.

23 How familiar are you with the internet, sir?

24 A. [10:08:29] No, I have never heard of that -- of the internet.

25 Q. [10:08:38] Have you ever possessed a smartphone with which you could use

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 internet?

2 A. [10:08:49] To use the internet you have to be a literate person and I am not
3 a literate person and hence I cannot use the internet.

4 PRESIDING JUDGE KORNER: [10:09:07] I'm sorry, I want to be very certain, it may
5 be the translation.

6 A moment ago you said you've never heard of the internet.

7 Now you say that you have never used it because you have to be literate, so which is
8 it? Have you heard of it but never used it? Or have you never heard of it until
9 Mr Laucci asked you the question or Mr Edwards when he saw you?

10 THE WITNESS: [10:09:59](Interpretation) The internet requires a person to be
11 literate and to have some knowledge, and, in my experience, I have not used the
12 internet, Facebook or anything like that. I do not have a familiarity with these
13 things.

14 MR LAUCCI: [10:10:18]

15 Q. [10:10:20] Okay, but without familiarity, sir, do you know roughly what internet
16 is?

17 A. [10:10:28] I understand through TV and radio only.

18 Q. [10:10:42] Thank you.

19 Have you ever used any social media like Facebook, TikTok, Instagram and the like?

20 A. [10:10:59] None of those.

21 Q. [10:11:04] Do you know what a website is?

22 A. [10:11:19] I do not.

23 Q. [10:11:29] Generally, what was your access to the media when you were in
24 Darfur? How is it that you received information about events in Sudan or in the
25 wider world?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

1 A. [10:11:55] Sometimes I would go to the club or I would listen to the Dabanga
2 radio station and so on and so forth.

3 Q. [10:12:19] Did you watch TV?

4 A. [10:12:27] I did.

5 Q. [10:12:29] Where -- where did you watch TV from?

6 A. [10:12:37] At a -- at the club, which is a public space.

7 Q. [10:12:44] And you mentioned listening to Radio Dabanga. Is that the only
8 radio station that you are familiar with?

9 A. [10:12:56] Yes.

10 MR LAUCCI: [10:13:09] Okay, Madam President, that's the time for the second
11 private session.

12 PRESIDING JUDGE KORNER: [10:13:12] Yes, private session.

13 (Private session at 10.13 a.m.)

14 THE COURT OFFICER: [10:13:23] we are in private session, Madam President.

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Open session at 10.29 a.m.)
- 16 THE COURT OFFICER: [10:29:25] We are in open session, Madam President.
- 17 MR LAUCCI: [10:29:34] Thank you.
- 18 Q. [10:29:34] So, now, sir, we are -- the public can listen to us, so I will not ask you
- 19 a question that will identify you, and try to avoid any identifying information in your
- 20 answers.
- 21 You mentioned that Mr Ali was also known by the name Abu Nasser. Can you
- 22 explain that name, why Abu Nasser?
- 23 A. [10:30:09] When a man has an older son, so the father would be called with the
- 24 name -- by the name of his firstborn. This is why the name is Abu Nasser.
- 25 Q. [10:30:30] Are you aware of any other nickname that people used to call Mr Ali?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 A. [10:30:40] No. I only know him as Ali Muhammad Ali Abd-Al-Rahman, Abu
2 Nasser. I did not hear anything else.

3 Q. [10:30:53] Did you ever hear him refer to himself as "Kushayb" or "Ali
4 Kushayb"?

5 A. [10:31:05] No. No. No. This is the first time I hear such a name.

6 Q. [10:31:11] Did you ever hear anyone else refer to Mr Ali as "Kushayb" or "Ali
7 Kushayb"?

8 A. [10:31:27] I did not hear that at all.

9 Q. [10:31:30] Did you hear that name either on TV or in the radio since you were
10 listening to these two media?

11 A. [10:31:46] Yes, I heard this news when I was driving a car. So I went to work and
12 I worked. I heard that name on Dabanga channel, I heard the name Kushayb, but I
13 did not know or I do not know who Kushayb is.

14 Q. [10:32:14] Do you remember when you heard that?

15 A. [10:32:17] I remember that this happened approximately in 2022 or around this
16 date.

17 Q. [10:32:45] Thank you.

18 Do you have any clue what "Kushayb" means?

19 A. [10:32:54] I hear that Kushayb is a sort of alcohol that's present -- or a drink that
20 is present in the south of Sudan, some people say it's alcohol. I don't know anything
21 about it, but they say this is alcohol. It's not the name of a man. It's the name of an
22 alcohol that I don't know anything about.

23 PRESIDING JUDGE KORNER: [10:33:26] In what context did you hear about this
24 drink that you know nothing about?

25 MR LAUCCI: [10:33:47]

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [10:33:47] How do you know about this drink, sir?

2 A. [10:33:53] I only heard people say that this is a beverage, but I did not know it,
3 I've never seen it.

4 PRESIDING JUDGE KORNER: [10:34:05] In what context were people saying about
5 this drink? Why were they telling you about the drink?

6 THE WITNESS: [10:34:25](Interpretation) People were saying that "Kushayb" is
7 a beverage. It's -- I don't know whether it was a natural beverage or alcohol or
8 what... I don't know.

9 MR LAUCCI: [10:34:42]

10 Q. [10:34:43] Is it something that people used to drink in Darfur?

11 A. [10:34:50] No. Not in Darfur. In the south, but I don't know where the south
12 is.

13 Q. [10:34:59] Okay. And in your understanding, is drinking Kushayb permitted
14 or prohibited?

15 A. [10:35:20] Honestly I don't know if it's halal or haram, prohibited or allowed. I
16 know it's a beverage. I don't know if it's allowed or prohibited.

17 MR NICHOLLS: [10:35:33] Sorry, no objection. I just wondered if there was
18 a translation error when he says he doesn't know where the south is. If he said
19 something else.

20 PRESIDING JUDGE KORNER: [10:35:42] Can I say I was wondering about some of
21 the translation we're getting. It's not the interpreter's fault, but he said, "I have not
22 heard the name before" when he was asked by you, the Kushayb name, when he's
23 made a statement about it and everything like that.

24 So I'm wondering if there are difficulties with this witness.

25 MR LAUCCI: [10:36:06] About the question of my colleague, I'm told that the exact

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 answer that -- was that the witness does not know where in the south and not where
2 the south is, which is obviously different.

3 PRESIDING JUDGE KORNER: [10:36:20] Okay, if -- sorry to the interpreters, I mean
4 I understand the difficulties, but if there is difficulty understanding what this witness
5 is saying, could you say so, and perhaps ask the witness to repeat it. Thank you.

6 MR LAUCCI: [10:36:40]

7 Q. [10:36:41] Sir, do you know anything about Mr Ali's political opinions or
8 affiliation?

9 A. [10:36:56] I don't know anything about it.

10 Q. [10:37:01] Do you know if he belongs or belonged at any point in time to the
11 Muslim Brotherhood movement or the National Islamic Front?

12 A. [10:37:20] No, I did not see him -- I did not see him deal with such people. He
13 is only a man who did agriculture, the pharmacy and home. So he is a doctor who
14 has a pharmacy and it's a pharmacy for humans.

15 Q. [10:37:45] Okay. And did you ever see him active in the local politics in Garsila
16 or any other place?

17 A. [10:37:59] No. No.

18 Q. [10:38:03] How often would you meet Mr Ali during your years in Garsila?

19 A. [10:38:16] I used to see him everyday. Every morning, I used to see him sitting
20 down. I'd see him going farming or going to the pharmacy or in the market. I used
21 to see him very often.

22 Q. [10:38:30] Okay. What was his occupation when you -- during your stay in
23 Garsila?

24 A. [10:38:40] His profession?

25 Q. [10:38:43] Yes?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 A. [10:38:46] He is a farmer, a doctor. He used to get his food from agriculture.

2 He had some livestock or some animals and he had the pharmacy.

3 Q. [10:39:03] Okay, let's deal with the livestock first. What kind of livestock was
4 it?

5 A. [10:39:11] He had some goats. He had also a donkey and like simple animals.

6 Q. [10:39:32] So one donkey. Are you able to say roughly how many goats?

7 A. [10:39:40] Honestly I don't know the number, it has been a very long time.

8 Q. [10:39:50] But was it tens of goats or less than that?

9 A. [10:39:59] Honestly, approximately 10.

10 Q. [10:40:08] Thank you. Did you ever go to the pharmacy yourself?

11 A. [10:40:13] Yes.

12 Q. [10:40:18] Can you describe it for us, please?

13 A. [10:40:23] The pharmacy was in the north side next to the agricultural bank, so
14 to the -- if you are walking, it would be to your right-hand side from the bank. It has
15 an opening to the north and there's a tree in front of it.

16 So I used to go to him there, to the pharmacy to check on him. So if the people at
17 home need something from him, I used to come to him to take it -- to take it to them.

18 Q. [10:41:10] Okay, that is good for the location of the pharmacy. Can you
19 describe the inside of the pharmacy?

20 A. [10:41:27] The pharmacy inside had shelves with medicines stacked on it -- on
21 them.

22 Q. [10:41:43] Did Mr Ali have customers from all tribes in Garsila?

23 A. [10:41:57] Yes, it's a pharmacy for everyone. So all the tribes used to come to
24 this pharmacy. They lived in the surroundings and they used to come whenever
25 they needed something to buy from there.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [10:42:17] Did that include people from the Fur tribe?

2 A. [10:42:22] All people used to buy from there. He was not working for one tribe
3 only. So any person who needs something, used to come to him. It doesn't matter
4 what tribe they belonged to.

5 Q. [10:42:38] Did you ever hear Mr Ali say anything of a discriminatory nature
6 against the Fur tribe?

7 A. [10:42:48] No. Mr Ali never did something wrong to anybody. He was
8 a -- he's a pharmacist and a farmer and he has nothing to do with... So
9 we lived -- he lived in Darfur and we lived among the Fur -- he lived among the Fur,
10 so how come he would have problems with them?

11 Q. [10:43:27] (Overlapping microphones)...Did you ever see Mr Ali wear a uniform,
12 and I'm specifically talking about the years when he was at the pharmacy in Garsila.
13 When he was over that period with the pharmacy in Garsila, did you ever see him
14 wearing a uniform?

15 A. [10:43:57] What do you mean by "uniform"? Like, formal uniform?

16 Q. [10:44:04] Something that could be related to a military or paramilitary group?

17 A. [10:44:16] No. He was a citizen. He did not have anything to do with the
18 military. He was a farmer. He used to go to the -- farming, and he used to go to the
19 pharmacy and then go -- then go home. He had nothing to do with the military.

20 Q. [10:44:34] Are you aware of him exercising any position of authority over
21 military -- paramilitary groups or militias during these years in Garsila?

22 A. [10:44:56] Honestly I did not see that he had any authority in the military. I
23 never saw him deal with militias. I've never seen him deal with any such people. I
24 knew him only as a civilian.

25 (Counsel confers)

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [10:45:17]

2 Q. [10:45:19] Yes, sorry, Mr Witness.

3 I'm told that there is a correction in the transcript. Page 31, line 24, should be among
4 the Fur and not among Darfur as it is currently.

5 If -- if Mr Ali had been the leader of a militia over that period, do you think you
6 would have noticed it?

7 A. [10:46:02] I did not see such thing. I did not notice such thing. I've never seen
8 him being a leader of something like this. This not happened.

9 Q. [10:46:17] Would you notice if he had left the pharmacy to go on operations with
10 militias from time to time?

11 MR NICHOLLS: [10:46:26] I'm going to start objecting to leading here, your Honour.
12 I mean I've been letting it go, but I mean it's really --

13 PRESIDING JUDGE KORNER: [10:46:32] It's not so much leading, it's not terribly
14 clear. I mean I suppose it's both.

15 MR LAUCCI: [10:46:39] I can ask the question more openly.

16 PRESIDING JUDGE KORNER: [10:46:41] All right. But I think the point is, did he
17 ever leave for any long period of time.

18 MR LAUCCI: [10:46:46] That is what exactly I had in mind.

19 Q. [10:46:51] So, Mr Witness, if you can answer. I don't know if you heard the
20 question of Madam President. If you can answer it, please.

21 THE INTERPRETER: [10:47:06] Message from the interpreter: The question was not
22 relayed properly to the witness.

23 MR LAUCCI: [10:47:13]

24 Q. [10:47:13] I repeat the question: Did you ever see Mr Ali leave for any long
25 period of time during these years in Garsila?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 A. [10:47:32] No, he didn't go anywhere. He was a man working in the pharmacy
2 and in farming.

3 Q. [10:47:41] Did you ever hear Mr Ali mention the words "Fursan" or
4 "Mujahidin"?

5 A. [10:47:54] No.

6 Q. [10:48:00] Did you ever hear Mr Ali mention the word "Janjaweed"?

7 A. [10:48:11] No, I didn't hear him. This did not happen. He didn't say this.

8 Q. [10:48:21] Do you know yourself what the "Janjaweed" are?

9 A. [10:48:28] I heard about the Janjaweed from a distance, but I did not know what
10 they were. I don't know them.

11 Q. [10:48:41] What did you hear about the Janjaweed, sir?

12 A. [10:48:47] I heard people say the word "Janjaweed", but I did not know what it
13 means.

14 Q. [10:49:00](Overlapping microphones) And you were not curious or you have
15 really no clue of what this word means?

16 MR NICHOLLS: [10:49:09] Asked and answered.

17 THE WITNESS: [10:49:11](Interpretation) No.

18 PRESIDING JUDGE KORNER: [10:49:12] You know what I think of that particular
19 objection, Mr Nicholls.

20 MR NICHOLLS: [10:49:16] I understand, your Honour.

21 MR LAUCCI: [10:49:21]

22 Q. [10:49:22] Do you remember hearing about any Janjaweed activities in
23 Wadi Salih in 2003-2004?

24 A. [10:49:40] I did not hear about the Janjaweed that they attacked someone or
25 what they did. I -- I heard that they are far from the area. They were not inside the

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 area where I was, so I can tell you what they did and what they did not do. So I did
2 not see them with my own eyes.

3 Q. [10:50:04] And did you hear about attacks in 2003-2004?

4 A. [10:50:18] What attacks?

5 Q. [10:50:23] Attacks of villages in Wadi Salih, for instance?

6 A. [10:50:29] No.

7 MR LAUCCI: [10:50:41] Madam President, it's 10 to 11, I can move to the next topic,
8 which is the time in the -- maybe not to translate, oh, yes, I know, you have the
9 problem -- the time of the training of the witness. But if I start now, I don't know if
10 it's the right moment for --

11 PRESIDING JUDGE KORNER: [10:51:06] Just hold on a moment, would you,
12 Mr Laucci.

13 (Trial Chamber confers)

14 PRESIDING JUDGE KORNER: [10:51:08] No, I think, Mr Laucci, it tends to cause
15 a problem if we take the break too early. So you may as well start, yes.

16 (Counsel confers)

17 MR LAUCCI: [10:51:12] So I carry on?

18 PRESIDING JUDGE KORNER: [10:51:13] Yes.

19 MR LAUCCI: [10:51:15] Just a minute.

20 (Counsel confers)

21 MR LAUCCI: [10:51:53] Thank you.

22 Q. [10:51:58] Mr Witness, where did you go after leaving Garsila?

23 A. [10:52:08] When I left Garsila, when?

24 Q. [10:52:18] For the moment my question is, where did you go?

25 A. [10:52:28] I did not go anywhere. I stayed there. I stayed in that area.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [10:52:38] Okay. Did you ever join any military or police group? Did you
2 ever follow any military training?

3 A. [10:53:02] Yes, I was in the Central Reserve Forces.

4 Q. [10:53:08] When did you join the Central Reserve Forces?

5 A. [10:53:12] I don't know exactly, but I was receiving my training for one year in
6 the field and then I -- after that, I was sent to Zalingei and then to Garsila, and then to
7 Mukjar, then to Bindisi --

8 Q. [10:53:44] Where did you --

9 A. [10:53:46] -- and then I was working in the area.

10 Q. [10:54:01] Where did your training take place?

11 A. [10:54:05] El Obeid.

12 Q. [10:54:09] And I think you just said, but how long did your training take?

13 A. [10:54:20] The training would last one full year. So seven years in training and
14 three -- seven months, pardon, in training and three months in *tulba*.

15 Q. [10:54:38] (Overlapping microphones) I will come back to that.

16 What did you do during that training? What were you trained in?

17 A. [10:54:51] The regular police training, the regular training.

18 Q. [10:54:59] We have no clue of what it is. Can you describe it a little bit for us?

19 A. [10:55:07] It's the normal training for the military, it's the usual training.

20 Q. [10:55:18] Okay, so what are you trained in? Is it the use of weapons? Is
21 it walking? What is it?

22 A. [10:55:31] Assembling and disassembling and cleaning and things like this.

23 Q. [10:55:44] And before --

24 THE INTERPRETER: [10:55:48] Message from the interpreter: So he was talking
25 about the weapons, like disassembling and assembling of weapons and cleaning

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 them.

2 MR LAUCCI: [10:55:56] Yes, thank you for the clarification.

3 Q. [10:55:57] And before starting that training, did you go through any kind of
4 selection process?

5 A. [10:56:05] Can you please repeat.

6 Q. [10:56:14] Did you go through any kind of selection prior to entering -- prior to
7 starting your training in the CRF?

8 A. [10:56:31] There was a test -- a test for vision, for the blood, physical test, and
9 then you go to the field.

10 Q. [10:56:45] You mentioned the word "*tulba*." Can you tell us what it is, please?

11 A. [10:56:55] So a person -- when a person is recruited, he's tested to see if he is
12 capable of handling this type of work or not.

13 Q. [10:57:11] And how long does that testing process take?

14 A. [10:57:22] They check your vision to see if you see well, they check your body to
15 see if your body is sound. They check your blood to see if you have any disease or
16 illnesses. So if you are good, then you are good to go.

17 Q. [10:57:45] Okay, but how long does that take?

18 A. [10:57:50] So what are you talking about exactly?

19 Q. [10:57:56] My question is about this "*tulba*" that you mentioned?

20 A. [10:58:07] A *tulba* -- a *tulba*, for example, you're asked to take blocks for
21 construction, for example, to build, for example, a bathroom or... So you are asked
22 to do some works.

23 Q. [10:58:27] Okay, but once again, how long is the *tulba* taking? Is it days, weeks,
24 months? I don't know.

25 A. [10:58:40] Approximately three months.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [10:58:51] Okay. And so that we understand it perfectly, is that three-month
2 period in addition to the one-year training?

3 PRESIDING JUDGE KORNER: [10:59:04] Earlier it was seven months of training
4 and three months of (Overlapping speakers)

5 THE INTERPRETER: [10:59:14] Message from the interpreter: Can you please ask
6 the witness to repeat.

7 MR LAUCCI: [10:59:18]

8 Q. [10:59:19] Mr Witness, you said earlier that the training -- well, I start again.
9 Was the -- how long did the training take without the *tulba*? Is it one year or is it
10 seven months?

11 MR NICHOLLS: [10:59:37] Your Honour?

12 THE WITNESS: [10:59:41](Interpretation) Seven months approximately. I don't
13 remember, but I think it was seven months.

14 PRESIDING JUDGE KORNER: [10:59:47] Yes, sorry, Mr Nicholls, did you want to
15 make an objection?

16 That's what he said earlier, Mr Laucci.

17 MR NICHOLLS: [10:59:55] I did, but I --

18 PRESIDING JUDGE KORNER: [10:59:56] Yes, all right.

19 MR NICHOLLS: [10:59:57] -- passed it.

20 MR LAUCCI: [10:59:58] It wasn't clear to me, so that's why I was asking again.

21 PRESIDING JUDGE KORNER: [11:00:04] After this torturous process of what his
22 training consisted of, we will take the break now, Mr Laucci.

23 Sir, we're going to have a break now. I do not know if there are any persons still
24 with you who have been witnesses in this case, but if there are, you are not to speak to
25 them during any breaks. All right? Do you understand that?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [11:00:36](Interpretation) Excuse me? No, I have nobody to talk to
2 except for you.

3 PRESIDING JUDGE KORNER: [11:00:49] All right. Thank you very much. We
4 will take the break please until 11.30.

5 THE COURT USHER: [11:00:59] All rise.

6 (Recess taken at 11.01 a.m.)

7 (Upon resuming in open session at 11.38 a.m.)

8 THE COURT USHER: [11:38:02] All rise.

9 Please be seated.

10 MR LAUCCI: [11:38:24] Thank you, Madam President.

11 Before resuming my examination-in-chief, I would like to put something on the
12 record, and that is essentially to inform the Office of the Prosecutor the in-court
13 protective measures for this witness, D-0032, have been accepted by the Chamber in
14 the decision 1032. It is an *ex parte* decision, but there is a public redacted version and
15 it is in the redacted portion of paragraph 16. So that's the explanation.

16 PRESIDING JUDGE KORNER: [11:39:06] Yes. As I said, it was VWU that said that
17 protective -- so we granted them. Yes. I don't think Mr Nicholls was complaining
18 about that, I think he was just querying.

19 MR NICHOLLS: [11:39:23] No, I was just wondering about the level of care, given
20 the witness's view, but we can -- I will leave it at that.

21 MR LAUCCI: [11:39:31] That's why, just for clarification, indeed.

22 Q. [11:39:36] Mr Witness, are you with us? Are you refreshed?

23 A. [11:39:41] I have rested. I am ready. Everything's fine.

24 Q. [11:39:52] Thank you. And I understand that you hear me, so I can resume my
25 questioning.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Did your training in El Obeid include any kind of reading or writing exercise?

2 A. [11:40:14] There were simple exercises -- correction, laws, simple laws. For
3 example, if you found a citizen who violated the law, you could report that and you
4 could check the matter and refer the person to the enforcement authority in question,
5 or the competent enforcement authority.

6 Q. [11:40:49] But did you have to read or write for that?

7 A. [11:40:53] No.

8 PRESIDING JUDGE KORNER: [11:41:19] If you had stopped somebody for
9 committing a crime, did you not have to put a report in?

10 THE WITNESS: [11:41:19](Interpretation) Yes, there was a reporting mechanism, a
11 reporting officer who was in charge of that task. If a lethal attack happens, all I can
12 do is to catch the person and bring them forth. The reporting mechanism's operated
13 by someone else.

14 PRESIDING JUDGE KORNER: [11:41:52] Okay. But did you never have to put in a
15 written report of why you had arrested somebody?

16 THE WITNESS: [11:42:14](Interpretation) The laws that we were taught were like,
17 "Here's article so and so and here's what you should do if so and so happens".
18 However, I was neither able to read nor to write.

19 PRESIDING JUDGE KORNER: [11:42:29] How did you learn, therefore, what duties
20 you were assigned to on a particular day? Was that not written down somewhere
21 on a duty roster?

22 THE WITNESS: [11:42:54](Interpretation) As regards rotation, if I worked in the
23 evening, it was clear that on the -- by the next day somebody else was going to take
24 over, and so on and so forth.

25 PRESIDING JUDGE KORNER: [11:43:06] Yes, thank you, Mr Laucci.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 MR LAUCCI: [11:43:09]

2 Q. [11:43:09] Just to conclude on this matter and so that everything is clear, is it the
3 case, what you described, sir, is it that all instructions were transmitted from mouth
4 to ear? That is, orally.

5 A. [11:43:22] Yes.

6 Q. [11:43:30] To conclude once and for all, in your entire life, did you ever have to
7 read or write in your activities?

8 A. [11:43:45] Yes, I would have loved to read and write, but there was no
9 opportunity for that.

10 Q. [11:44:01] Thank you.

11 PRESIDING JUDGE KORNER: [11:44:02] I think you better ask the question again,
12 because it's not an answer.

13 You asked him, "Did you ever in your life have to read or write in your activities?"
14 And he said, "I would have loved to read and write". It's not an answer.

15 MR LAUCCI: [11:44:25] But I think the answer is the last part of the sentence, "there
16 was no opportunity for that".

17 PRESIDING JUDGE KORNER: [11:44:36] All right. Fine.

18 MR LAUCCI: [11:44:40]

19 Q. [11:44:40] Do you remember, sir, when you were officially incorporated into the
20 Central Reserve Forces?

21 A. [11:44:52] Approximately beginning of 2004 until 2016, when I left the military,
22 but I don't remember when exactly.

23 Q. [11:45:13] You just mentioned beginning of 2004. Is that the beginning of your
24 training or is that your formal incorporation, when you were admitted within the
25 Central Reserve Forces?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 A. [11:45:34] I am not sure as to when I entered. It has been a very long time since
2 and I have not been attentive to this matter, in particular, and hence I have forgotten
3 about it.

4 Q. [11:45:58] Fair enough. And let me again congratulate you for having the
5 honesty of saying when you do not remember things. That's perfect.

6 Can we have on the screen --

7 PRESIDING JUDGE KORNER: [11:46:12] Are you going to use the document,
8 because -- yes, right.

9 MR LAUCCI: [11:46:17]

10 Q. [11:46:17] Can we have on the screen the item number 4 in the Defence binder.

11 In Arabic the document is DAR-D31 -- actually, I would like to have no need for

12 number 4, let's go to 5, which is the English version. The Arabic version is

13 DAR-D31-00020003 and the English version, item number 5, is DAR-D31-00020010.

14 Sir, I have asked to put a document on the screen. Since you do not know how to

15 read, I will read for you what we see in the English version of the document and I will

16 ask you to comment on that. So, the document that we have -- maybe we scroll

17 down a little bit. Again. Next page, maybe. Up.

18 What we see -- the title that we see for this document is, "Assignment order" and it is

19 related to -- if we can go back to the first page, please. Yes. There is mention of a

20 "Group Assignment No. 58 Garsila". Does that ring a bell to you?

21 A. [11:48:46] I do remember this assignment order but I do not remember the date

22 on which it was issued and the date on which I was deployed to the field. I don't

23 remember, but I'm aware of the assignment order concerning group 58.

24 Q. [11:49:13] I was not yet asking you about any dates. Don't be afraid, I know

25 that we have asked you many questions about dates, and this is not what I was

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 asking.

2 Did you yourself form part of this group number 58?

3 A. [11:49:33] I did.

4 Q. [11:49:43] Okay. So it means that this order of designation is also related to
5 you, right?

6 A. [11:49:57] Yes, it concerns me. However, I do not see the page that is about me.

7 Q. [11:50:07] Okay. There is a date mentioned in that document, sir, and the date
8 is 28 July 2005. Could that be -- in your recollection, could that correspond to the
9 date when you were incorporated?

10 A. [11:50:32] As I said, I cannot recall the date and I cannot mention what the date
11 was specifically. It has been very long since that time. If I give you such
12 information, I risk being inaccurate and that can be problematic.

13 PRESIDING JUDGE KORNER: [11:51:05] But were you assigned to a group the
14 moment that you joined, or after you'd finished your training?

15 THE WITNESS: [11:51:19](Interpretation) I am not sure. However, I graduated as a
16 member of group 58.

17 MR LAUCCI: [11:51:40]

18 Q. [11:51:40] Can we go to the page 3 of the document, please, and, yes, if we can
19 scroll down, I would like to go to number 189 in the list. Sir, I know that you cannot
20 read and this is even not in Arabic, but what we have on the screen is a list of names
21 with numbers and the number 189 reads the following: "Recruit" and then in the
22 right column there is the name "Ali Muhammad Ali Abd-Al-Rahman". Is that
23 Mr Ali, according to you?

24 A. [11:52:40] According to me, it is him.

25 Q. [11:52:48] Okay. And --

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [11:53:01] I'm sorry, is this the same intake that
2 includes his name, this witness's name?

3 MR LAUCCI: [11:53:08] Unfortunately we only have some pages of that document,
4 and on the pages we have the name of the witness does not appear.

5 PRESIDING JUDGE KORNER: [11:53:13] I see.

6 MR LAUCCI: [11:53:19]

7 Q. [11:53:19] This word "recruit", what is it, according to you? What does that
8 mean?

9 A. [11:53:28] Recruit means deployed.

10 Q. [11:53:38] And when you entered the Central Reserve Forces were you, yourself,
11 labelled as a recruit?

12 A. [11:53:51] We were all recruits before becoming soldiers.

13 Q. [11:54:04] Okay. And last question about your time in El Obeid. During the
14 period of time that you spent there -- well, I did not ask. Were you in a camp?

15 A. [11:54:26] Yes, I was in a camp.

16 Q. [11:54:34] And were you and the other trainees allowed to leave the camp to go
17 out?

18 A. [11:54:43] No, nobody could leave the camp. If you left the camp, you'd be
19 punished.

20 Q. [11:54:59] Thank you. We can remove the document from the screen.

21 When you completed your training and you left El Obeid, where did you go, sir?

22 A. [11:55:11] We went to Zalengei.

23 Q. [11:55:19] Okay, and what did you do there?

24 A. [11:55:27] I didn't do anything specific; it was regular work based on
25 rotation -- regular military work, the protection of civilians, their assets and their

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 properties.

2 Q. [11:55:45] But did you form part of the Central Reserve Forces at that time?

3 A. [11:55:50] I was a regular military service member.

4 Q. [11:56:05] When you say "we went to Zalengei", can you clarify who is "we"?

5 Who went to Zalengei?

6 A. [11:56:15] I do not understand the question.

7 Q. [11:56:30] Who did you go to Zalengei with?

8 A. [11:56:36] Everybody in my group, in the class.

9 Q. [11:56:50] So does that mean that Mr Ali also followed you in Zalengei?

10 A. [11:56:57] All of us together.

11 Q. [11:57:03] Okay. And then were you deployed to other places?

12 A. [11:57:09] We went to Zalengei, Garsila and we were deployed to different other
13 places separately.

14 Q. [11:57:33] Separately. Does that mean that at some point in time you were
15 separated from Mr Ali?

16 A. [11:57:41] Even if we were not together, I would see him in the morning, at noon,
17 at the end of the day.

18 Q. [11:57:58] Does that mean that he followed you in all the different places where
19 you have been deployed?

20 A. [11:58:06] Yes, he was with us everywhere we went. He would accompany us
21 and guide us to prevent us from committing any violation or crime. He was
22 correcting our behaviour.

23 PRESIDING JUDGE KORNER: [11:58:34] I'm really sorry, Mr Laucci, but we seem to
24 have skipped a step. You haven't asked the witness to explain why Mr Ali and he
25 joined at the same time, given the respective differences, apart from anything else, in

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 their ages.

2 MR LAUCCI: [11:59:05]

3 Q. [11:59:06] Mr Witness, do you have any clue as to why Mr Ali joined into this
4 training in El Obeid for the Central Reserve Forces in the same batch as yourself?

5 PRESIDING JUDGE KORNER: [11:59:24] It's not joined in the training; it's joined the
6 forces. He was a recruit, apparently, like himself.

7 MR LAUCCI: [11:59:32] Okay. Well, for me it was the step before, but I can go
8 straight to that.

9 Q. [11:59:37] Do you have any clue as to why Mr Ali joined into the Central
10 Reserve Forces?

11 A. [11:59:46] Yes. He -- when he entered the force, he would stay with us
12 throughout the day. He would be with us throughout our activity. He was not
13 given extra work or outside sort of work.

14 Q. [12:00:16] Okay. Your answer is about what he was doing there, but my
15 question was more about do you know why he joined there?

16 A. [12:00:28] When he joined the Central Reserve Forces he was doing the regular
17 work, so he was like a civil servant. So he was someone who was working and he
18 was -- like, he knew the work that he had to do.

19 PRESIDING JUDGE KORNER: [12:00:52] Sir, try and listen, please, to the question.
20 Why did Mr Ali, who was considerably older than you, join the CRF at the same time
21 that you did? Not what he did. Why did he join?

22 THE WITNESS: [12:01:21](Interpretation) He was a civilian and then he joined the
23 forces to become in the military.

24 PRESIDING JUDGE KORNER: [12:01:35] Why?

25 THE WITNESS: [12:01:49] He joined to work. He was working there.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [12:01:56] I'm sorry to persist, but you told us that
2 here is a man running a pharmacy, running animals, or keeping animals, or whatever.
3 Why did he then join with you, a boy of whatever, 18 or thereabouts, I suppose, the
4 CRF?

5 THE WITNESS: [12:02:37](Interpretation) He is a poor man, so why not? So even
6 the beasts that he have, the livestock that he had, need to be fed, so he had a job.

7 MR LAUCCI: [12:02:59]

8 Q. [12:02:59] Just to clarify, is it that the pharmacy was not -- was not any longer a
9 sufficient means of earning money?

10 MR NICHOLLS: [12:03:10] Your Honour, I'm sorry, I'm going --

11 MR LAUCCI: [12:03:12] Okay.

12 PRESIDING JUDGE KORNER: [12:03:13] That really is a very leading question.

13 MR LAUCCI: [12:03:15] Okay, I leave it where it is.

14 Q. [12:03:17] Forget my question, sir, no need to answer.

15 MR LAUCCI: [12:03:50] I'm informed of an apparent mistake in the interpretation.
16 I'm at page 49, line 8. Apparently what the witness said is not that he was working
17 there, but that he wanted to work.

18 PRESIDING JUDGE KORNER: [12:04:18] I suppose we ought to clear that with the
19 interpreters, because it's not that it's something that's been -- because we all heard
20 what we heard.

21 MR LAUCCI: [12:04:39] I'm told - I will try - that the witness pronounced the word
22 in Arabic "dayer yashtaghal", which maybe the interpreter can tell us the meaning?

23 THE INTERPRETER: [12:04:55] Can you please repeat the word?

24 MR LAUCCI: [12:04:59] Thank you for that request. "Dayer yashtaghal". With
25 your authorisation, maybe my case manager can do it for me.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [12:05:14] I was about to suggest, it would be better
2 if somebody else did it.

3 MR ISSA: [12:05:17] The word is "dayer yashtaghal".

4 THE INTERPRETER: [12:05:26] Yes. The interpretation of this is "he wanted to
5 work."

6 PRESIDING JUDGE KORNER: [12:05:34] I think if your case manager hears there's a
7 mistranslation, he ought to bring it to your attention straightaway, because it's not
8 actually a correction of the transcript, it's a correction of what's been said.

9 MR LAUCCI: [12:05:53] I think he has noted this instruction. Thank you,
10 Madam President. Where was I?

11 PRESIDING JUDGE KORNER: [12:06:05] He said that the reason he joined was that
12 he was a poor man and needed a job, and you were stopped from asking your next
13 question.

14 MR LAUCCI: [12:06:15] I move to the next topic.

15 {ICR: (Redacted)}

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)}

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

1 (Private session at 12.07 p.m.)

2 THE COURT OFFICER: [12:07:33] We are in private session, Madam President.

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Open session at 12.48 p.m.)
- 18 THE COURT OFFICER: [12:48:43] We are in open session, Madam President.
- 19 MR NICHOLLS: [12:48:49]
- 20 Q. [12:48:49] Sir, we are in open session, so don't say where you are now or where
- 21 you went when you met the Defence, okay, when you gave your statement. Do you
- 22 understand?
- 23 A. [12:49:02] I understand and I know everything.
- 24 Q. [12:49:09] Now, you said today you made that journey to meet the Defence to
- 25 give your statement in August, right? That's what you said this morning?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 A. [12:49:18] Can you please repeat?

2 Q. [12:49:25] Sure. I apologise. You said this morning that you met with the
3 Defence to give your statement in August, right? Do you remember saying that this
4 morning?

5 MR LAUCCI: [12:49:40] It's September, actually.

6 THE WITNESS: [12:49:49](Interpretation) I am not sure whether it was August
7 or September.

8 MR NICHOLLS: [12:49:54] Right. That's my point. When we're talking
9 about months, you can't remember for sure whether it was one, two or three months
10 ago. In any event, you gave a statement on 6 and 7 September. Does that help you
11 remember?

12 A. [12:50:14] Yes, I remember.

13 Q. [12:50:24] And you've told us how you made this dangerous, difficult journey,
14 you called it a sacrifice, to make this statement to help Uncle Ali, right?

15 A. [12:50:41] That's right.

16 Q. [12:50:47] So that was something important that you were doing? That's why
17 you came all that way, that difficult journey?

18 A. [12:50:54] Yes.

19 Q. [12:50:58] And we don't need to go over it line by line, unless we do need to
20 because you don't remember, but the Defence lawyers, Mr Laucci and Mr Edwards,
21 they told you it was really important to be as accurate as possible in your statement,
22 right? Do you need me to ask the question again?

23 A. [12:51:36] Yes.

24 Q. [12:51:41] Okay. So they told you you need to be as accurate as possible, right?

25 A. [12:51:49] Yes, that's correct.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [12:51:57] And they said, as you did today, and Mr Laucci commended you, if
2 you don't know the answer to a question, you have to say you don't know the answer,
3 right?

4 A. [12:52:06] Yes.

5 Q. [12:52:13] And they also told you it was very important to distinguish, to tell the
6 difference, between what you saw with your own eyes, what you heard with your
7 own ears and other things that you just learned from other people, right?

8 A. [12:52:29] Yes.

9 Q. [12:52:35] And that's what you did, isn't it? You tried to make this statement as
10 accurate as you could? You didn't lie in the statement, right?

11 A. [12:52:45] That's right. I did not lie and I have never lied.

12 Q. [12:52:54] Never, okay. And at the end of the statement, as they told you it
13 would be, the whole statement was read back to you in Arabic, word for word, right?

14 A. [12:53:10] Yes, word for word, but if there's something that's not right with the
15 translation, sometimes you just have to let things take their course, and that's it.

16 Q. [12:53:33] Well, you had two days with these gentlemen from the Defence and
17 they read it back to you word for word in your own language and you had every
18 chance, didn't you, to ask questions if you didn't understand something during that
19 read-back?

20 A. [12:53:55] I am not a literate person. I don't know how to read and write and
21 this is why they repeated the words for me and I did not study much, so I was not
22 able to focus much. So they were going step by step with me.

23 Q. [12:54:26] Right. Because they wanted to make sure the statement was
24 accurate -- you knew they knew that was important, right?

25 A. [12:54:32] I did not say anything that's not true. Everything I said is true.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 This is what I saw.

2 Q. [12:54:48] And the other thing you said, and you signed to this, is that you had
3 nothing to add and nothing to clarify, right?

4 A. [12:54:57] Yes.

5 Q. [12:55:04] And then even though you can't read or write, you signed this
6 statement, you made a mark?

7 A. [12:55:20] Yes.

8 Q. [12:55:23] Okay. Who was the first person who approached you, who
9 contacted you, who spoke to you, to talk to you about being a Defence witness?

10 A. [12:55:45] A *nazir* talked to me, a *nazir*.

11 Q. [12:55:56] Do you remember when that was?

12 A. [12:55:58] Yes, a *nazir* is the one who talked to me about this.

13 Q. [12:56:13] Yes, and that's the *nazir* of the Ta'aisha tribe, right?

14 A. [12:56:23] Yes.

15 Q. [12:56:24] When did he do that? When did the *nazir* contact you and talk to
16 you about being a Defence witness?

17 A. [12:56:31] I was driving a car from Nyala to Rahad al-Berdi and he met me there
18 and he told me that I had to come with him to be a witness for Abu Nasser, and this is
19 what I did.

20 Q. [12:56:54] Okay, thank you. And just, last time, if you don't remember, it's
21 okay: When was that? Not the exact day, what month, say?

22 A. [12:57:04] I am not sure of the month because, as I told you, if I had been able to
23 read and write I would have wrote some things, but this is a lot of words, also lots of
24 things happening, so I'm not able to remember.

25 Q. [12:57:35] And just to be clear, I'm not in any way critical of you for not being

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 able to read or write well, but Mr Laucci asked you this morning about a smartphone.
2 You don't have any smartphone, do you? You don't have any smartphone, so you
3 can't get emails and texts that help you remember dates, right? You don't have a
4 smartphone?

5 A. [12:58:02] No. I don't know also anything about electronic communication, and
6 anything like this, no.

7 Q. [12:58:17] when was The first time you spoke to somebody on the Defence
8 team -- not the *nazir*, somebody who said, "Hello, we are the Defence team for
9 Mr Abd-Al-Rahman, Uncle Ali"?

10 THE INTERPRETER: [12:58:36] Can you please ask the witness to repeat?

11 MR NICHOLLS: [12:58:48]

12 Q. [12:58:48] Could you please repeat your answer, sir? The interpreters didn't
13 catch your answer.

14 A. [12:58:58] I was talking with the Defence -- victim -- pardon, with the Defence
15 witness for Abd-Al-Rahman.

16 Q. [12:59:17] Let me put it this way: How did the Defence speak to you the first
17 time, what telephone did they talk to you on?

18 A. [12:59:24] I don't know through which phone they called me, but it was a
19 regular, a normal phone call.

20 Q. [12:59:41] Okay. So you were able to take normal phone calls in {ICR:
21 (Redacted)}?

22 A. [12:59:51] Yes.

23 MR NICHOLLS: [12:59:56] Your Honour, I think this would be a good time.

24 PRESIDING JUDGE KORNER: [13:00:02] Just on that note, you're effectively a taxi
25 driver; is that right?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [13:00:12](Interpretation) That's right.

2 PRESIDING JUDGE KORNER: [13:00:14] How do you get your customers? How
3 do they contact you?

4 THE WITNESS: [13:00:22](Interpretation) The clients communicate with the person
5 who rents the car, who takes the car to the parking. So when the people come into
6 the car with me, they give me money and I take off.

7 PRESIDING JUDGE KORNER: [13:00:45] I see. So they don't communicate with
8 you; they communicate with the owner of the car?

9 THE WITNESS: [13:00:53](Interpretation) Yes.

10 PRESIDING JUDGE KORNER: [13:00:59] Yes.

11 Yes, thank you. Sir, we are going to take a lunch break now for one and a half hours
12 and you'll then resume with further questions. Thank you.

13 THE WITNESS: [13:01:15](Interpretation) Yes.

14 PRESIDING JUDGE KORNER: [13:01:15] Yes. If you'd like to leave. Thank you
15 very much.

16 THE WITNESS: [13:01:21](Interpretation) Okay.

17 PRESIDING JUDGE KORNER: [13:01:22] You can go for lunch.

18 Are you going to, do you think, conclude with this witness this afternoon,

19 Mr Nicholls? Because at the moment we are only due to sit today. I mean, I think if
20 there's a chance he's going to go into tomorrow morning, we need to notify the Court
21 now.

22 MR NICHOLLS: [13:01:45] I mean, it depends how it goes. I think I can likely
23 finish in this session. I don't know how much time there will be left over. It
24 depends, you know --

25 PRESIDING JUDGE KORNER: [13:01:59] I think in the light of what's already come

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

1 up, I think I will say that inquiries need to be made if we can sit tomorrow morning,
2 just in case. We'll see how we go this afternoon, but so that there's no rush or
3 anything like that. Thank you.

4 MR NICHOLLS: [13:02:14] Thank you, your Honour.

5 PRESIDING JUDGE KORNER: [13:02:15] Yes. We'll sit again at 2.30.

6 THE COURT USHER: [13:02:23] All rise.

7 (Recess taken at 1.02 p.m.)

8 (Upon resuming in open session at 2.35 p.m.)

9 THE COURT USHER: [14:35:08] All rise.

10 Please be seated.

11 MR NICHOLLS: [14:35:35] Thank you, your Honour.

12 We'll need to go into private for a series of questions.

13 PRESIDING JUDGE KORNER: [14:35:41] Sorry? Private session.

14 MR NICHOLLS: [14:35:43] Private please, yes.

15 PRESIDING JUDGE KORNER: [14:35:46] Private session.

16 (Private session at 2.35 p.m.)

17 THE COURT OFFICER: [14:35:54] We are in private session, Madam President.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Open session at 3.01 p.m.)

4 THE COURT OFFICER: [15:01:42] We are in open session, Madam President.

5 MR NICHOLLS: [15:02:02] Okay.

6 Q. [15:02:03] I'm going to now ask you about some other people that you would
7 know from working -- from being with Mr Abd-Al-Rahman from the time you moved
8 to Garsila until the time you quit working with him in 2017 or so.

9 Do you know a person named Mohammed Hessine Mohammed Tahar? He came
10 with Mr Abd-Al-Rahman when he surrendered in the Central African Republic.

11 A. [15:02:41] No, I don't.

12 Q. [15:02:43] What about Ibrahim Al Jazuli, who also went with
13 Mr Abd-Al-Rahman when he went to Central African Republic to surrender to this
14 court?

15 A. [15:02:59] I heard about him, but I never met him, but I heard about him. If I
16 would meet him here, I wouldn't be able to recognise him.

17 Q. [15:03:10] Okay, just very briefly what did you hear about him?

18 A. [15:03:16] Excuse me?

19 Q. [15:03:18] Who is he? What did you hear about him?

20 A. [15:03:23] I heard that Ibrahim Al-Jazuli went to Birao or Bangui. That's what I
21 heard, but I never saw him.

22 Q. [15:03:41] All right. Who told you that?

23 A. [15:03:44] People were saying so, but I -- it was not confirmed. It was not -- it
24 was not accurate. People were talking, but I wouldn't be able to say who was talking.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [15:04:04] Okay. Another person, a CRF soldier called Ahmad Yusuf al-Balul?

2 You know him, right? Or you knew him, I should say.

3 A. [15:04:19] Yes, he was my colleague and we were -- served in the same area.

4 Q. [15:04:24] And very unfortunately, he is a martyr?

5 A. [15:04:34] I heard he was a martyr. I was on leave going to Khartoum and
6 when I reached Al Fasher, I heard that he passed away. But what happened exactly,
7 I was not sure.

8 Q. [15:04:53] Okay. And that was in July 2013?

9 A. [15:05:00] Yes.

10 Q. [15:05:04] And the last one here, Abikir Al-Safi, also in the CRF with you, right?

11 A. [15:05:17] Who again?

12 Q. [15:05:19] Abikir Al-Safi.

13 A. [15:05:26] Abikir Al-Safi -- I don't know someone by this name, Abikir Al Safi.

14 Q. [15:05:42] How many people were in the CRF in Rahad al-Berdi in, say, 2013?
15 How many members under the command of Abd-Al-Rahman?

16 A. [15:05:53] Who Abd-Al-Rahman?

17 Q. [15:06:01] The accused, Ali Muhammad Ali Abd-Al-Rahman, your boss. How
18 many people were in the CRF under his command around 2013?

19 A. [15:06:14] I wouldn't be able to tell you the number of the force. This is the job
20 of administrators. I was a simple driver. I would only -- I was only concerned with
21 my job and my car. This thing did not concern me. I wouldn't be able to say if it's
22 200, 300, 50, 20, I was not sure.

23 Q. [15:06:41] Okay. Let me get this straight: You're in the {ICR: (Redacted)
24 (Redacted)}, right? You served there for a long time?

25 A. [15:06:55] Yes.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [15:06:56] Even as a simple driver, you do not know whether in your unit there
2 were 200 people or 200 people? That's you telling the truth, right?

3 A. [15:07:10] Not being able to know the number is not my problem, because this
4 was not my job.

5 Q. (Overlapping speakers) I believe I said 20 or 200, is what I said.

6 A. [15:07:21] It was not my job as an individual.

7 Q. [15:07:29] Okay, again, I know it's not your job, right? It's not my job to know
8 how many people are working on the floor I work on in this office, but I know
9 whether it's 20 or 200. So you worked for -- from 2011, '12, '13, '14, '15, '16, '17 in the
10 {PFR : (Redacted)} and you can't tell me if it's 20 people or 200?

11 A. [15:08:10] This sounds good -- if I would say 200, wouldn't I be lying if I would
12 say 200 and the number is more than that? Wouldn't I be also lying? I don't want
13 to get in trouble by saying something that's not accurate. I wouldn't be able to say if
14 it's 20, 30, 40, 200. If you ask me, this -- whose job is this or whose issue this is, it's
15 the problem or the issue of Ali Muhammad Ali Abd-Al-Rahman.

16 Q. [15:08:47] You were born in Garsila?

17 A. [15:09:01] Yes.

18 Q. [15:09:02] Then you went to school in Bindisi? I won't try to go over all the
19 years again, but you went to school in Bindisi?

20 A. [15:09:11] I did not study. My father was a law person in the police. He was
21 in the police station of Bindisi. Are you following?

22 Q. [15:09:32] Let me ask you again. You went to school in Bindisi; correct?

23 A. [15:09:40] Yes, I went to school in Bindisi.

24 Q. [15:09:47] What was the name of your school?

25 A. [15:09:50] It's a government school, public school.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [15:09:55] What was the name of the director of your school the last year you
2 were there?

3 A. [15:10:00] I forgot the name of the director. I wouldn't be able to recall his
4 name --

5 Q. [15:10:14] (Overlapping speakers)

6 THE INTERPRETER: [15:10:16] Overlapping speakers. Can you repeat the
7 question, please.

8 MR NICHOLLS: [15:10:20]

9 Q. [15:10:20] You knew a lot of people in Bindisi when you were going to school
10 there? Families?

11 A. [15:10:26] I would be able to know the people of the police, people who were
12 involved in law because of the nature of my father's job, but I wouldn't be able to
13 know a lot more.

14 Q. [15:10:43] Well, you also worked there later in the CRF, right, when you were in
15 law yourself, when you were a policeman?

16 A. [15:10:51] Yes, I was in the police force in the CRF.

17 Q. [15:11:03] In Bindisi at some time?

18 A. [15:11:05] Yes.

19 Q. [15:11:14] Now, you also lived for, you say, a long time in Garsila, where you
20 moved after your father unfortunately died?

21 A. [15:11:23] We moved to -- from Bindisi to Garsila after our father passed away.

22 Q. [15:11:35] So you know Garsila town well -- quite well?

23 A. [15:11:41] I know it really well.

24 Q. [15:11:45] Okay. Well, let me ask you about some of the people and what you
25 know about them, who you should know, since you know Garsila well.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

- 1 Ja'afar Abd-Al-Hakam. You know he was Commissioner of Wadi Salih, right?
- 2 A. [15:12:09] Yes, I know Ja'afar Abd-Al-Hakam.
- 3 Q. [15:12:16] And the *sheikh* of the western neighbourhood in 2001, 2002, *Sheikh*
- 4 Ismail Abdulaziz, people called him Dikobi?
- 5 A. [15:12:35] *Sheikh* Ismail --
- 6 Q. [15:12:39] Abdulaziz?
- 7 A. [15:12:44] Abdulaziz -- well, I heard about *Sheikh* Abdulaziz, but who exactly he
- 8 was, I wouldn't be able to tell. Even if I would meet him, I wouldn't be able to
- 9 recognise him.
- 10 Q. [15:13:03] Do you remember him by the nickname "Dikobi"? He's from your
- 11 neighbourhood in Garsila.
- 12 A. [15:13:11] Honestly, his nickname I wouldn't be able to -- I don't know his
- 13 nickname. I know *Sheikh* Ismail, but I don't know his last name or his full name.
- 14 Q. [15:13:29] Okay. And do you know that he was held, in 2004, in the prison on
- 15 the army base in Garsila?
- 16 A. [15:13:42] No. I never heard and I never witnessed.
- 17 Q. [15:13:56] You don't know who took him out of the prison with
- 18 Mr Abd-Al-Rahman?
- 19 A. [15:14:07] Excuse me?
- 20 Q. [15:14:08] Do you know who took the *sheikh* out of the prison in the SAF base in
- 21 Garsila?
- 22 A. [15:14:17] I don't know.
- 23 Q. [15:14:23] Well, you know he was murdered in 2004, right?
- 24 A. [15:14:28] Honestly, I don't know when he was killed.
- 25 Q. [15:14:34] But you know he was murdered?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

- 1 A. [15:14:38] No, no, I don't know what you're talking about.
- 2 Q. [15:14:43] Okay. So you're in Garsila this entire time, this is before under any
3 of the timelines that you go to the CRF in El Obeid. The *sheikh* of your town, one of
4 the *sheikhs* of your neighbourhood, is taken to Deleig and murdered. You've never
5 heard about that, ever?
- 6 A. [15:15:11] As I said, I heard about -- from people, but I didn't -- never
7 witnessed -- I heard about all of this, but I wouldn't be able to verify its accuracy. I
8 didn't witness it myself, so I wouldn't be able to say that this and this happened. I
9 heard exactly the same way you heard. I heard that he was killed. Who killed him?
10 I don't know.
- 11 Q. [15:15:39] Okay. So a moment ago when I said:
12 "But you know he was murdered."
13 And you answered:
14 "No, no, I don't know what you're talking about."
15 That was just a mistake?
- 16 A. [15:15:58] I don't know anything about him. This is obvious.
- 17 Q. [15:16:09] Well, it's not obvious, sir, but I will move on.
18 Let's talk for a minute about Deleig. That's really the nearest big town to Garsila,
19 right?
- 20 A. [15:16:29] Yes.
- 21 Q. [15:16:33] It's about 17 kilometres away, not a very long drive; right?
- 22 A. [15:16:40] For driving?
- 23 Q. [15:16:50](Overlapping speakers) You're a driver. How long does it take?
- 24 A. It's not that far and it's not that close.
- 25 Q. [15:17:02] And it has a big market on Sundays, right? You know all about

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Deleig, right?

2 A. [15:17:10] I know Deleig.

3 Q. [15:17:17] And you've been there many times?

4 A. [15:17:24] I would go to the market in Deleig to buy -- to do shopping and I
5 would return, but I never heard about this story. I heard about people in Dabanga,
6 but I wouldn't be able to tell for sure. I would like to focus with you and also -- only
7 give you the correct answers.

8 Q. [15:17:55] All right. Now let's talk about Mr Abd-Al-Rahman, the accused in
9 this case, the person you're testifying for, okay.

10 A. [15:18:14] Yes.

11 Q. [15:18:15] Now, you've known him for most of your life?

12 A. [15:18:25] Yes, I know him.

13 Q. [15:18:28] He's a blood relative of yours?

14 A. [15:18:33] Yes.

15 Q. [15:18:37] And we've already talked about it, but after your father unfortunately
16 died, fortunately --

17 (Overlapping speakers)

18 A. [15:18:53] May his soul rest in peace.

19 Q. [15:18:56] Fortunately, you and your whole family --

20 MR NICHOLLS: [15:18:59] Sorry, your Honour, I'm being signalled to maybe go
21 into private. I thought this was okay, but --

22 PRESIDING JUDGE KORNER: [15:19:07] Yes, probably we ought to. Private
23 session, please. Sorry.

24 (Private session at 3.19 p.m.)

25 THE COURT OFFICER: [15:19:20] We are in private session, Madam President.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

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

Page redacted – Private session

Trial Hearing
WITNESS: DAR-D31-P-0032

(Private Session)

ICC-02/05-01/20

- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Open session at 3.40 p.m.)
- 20 THE COURT OFFICER: [15:40:51] We are now back in open session.
- 21 MR NICHOLLS: [15:41:17]
- 22 Q. [15:41:19] And you told us today that in your training in the CRF,
- 23 Abd-Al-Rahman was there at the same time as you, right?
- 24 A. [15:41:34] Not with me at the same time, but he was in the field. He wasn't
- 25 with me personally all the time, but he was there, he was in the field with me.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [15:41:51] Okay. I'm talking about your training at El Obeid. When you were
2 there for that seven months, Abd-Al-Rahman was with you; is that what you were
3 telling us this morning?

4 A. [15:42:03] I didn't say with me, but I said he was in the same place, in the
5 training place, but he wasn't with me personally. He was in his own room. I saw
6 him every morning and I saw him in the camps.

7 Q. [15:42:27]

8 PRESIDING JUDGE KORNER: [15:42:28] What you said earlier today, sir - I think
9 this is at page 48 - was that "Al-Rahman was with me in all postings, he would
10 accompany us and guide us to prevent us committing crimes."

11 THE WITNESS: [15:42:55](Interpretation) That's after we became soldiers.

12 PRESIDING JUDGE KORNER: [15:42:58] I see. Okay.

13 MR NICHOLLS: [15:43:03]

14 Q. [15:43:04] Now, sir, what I am putting to you is not once in your two-day
15 statement to the Defence - not once in that statement you gave over two days - did
16 you say you were in training with Mr Abd-Al-Rahman in El Obeid?

17 A. [15:43:33] Yes. He was in the same courtyard as us. He used to come, check
18 the situation and then go back to his place, but I didn't say that he was getting the
19 training just like us.

20 Q. [15:44:02] Why in your two-day statement that was read back to you, that you
21 told us you checked, where you had nothing to clarify or add, why in your statement
22 does it not refer to Mr Abd-Al-Rahman at all during your training period in El Obeid?

23 A. [15:44:25] He was there. He was there. I told you that he was there, but he
24 was not in the same training place. He was somewhere around us, but he was there
25 doing his job.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 Q. [15:44:46] Why didn't you tell that to the Defence when you gave them your
2 written statement over two days?

3 A. [15:44:54] Maybe the interpreter didn't focus, didn't write the right thing.

4 PRESIDING JUDGE KORNER: [15:45:11] I'm really sorry, sir, but what you just said
5 is that although he was in the same courtyard as you for training, "He used to come to
6 check the situation and go back to his place". What does that mean?

7 THE WITNESS: [15:45:33](Interpretation) It means that he -- he was an experienced
8 soldier. He didn't really need the same level of training. He used to be in the
9 military for a long time, so he didn't need the same training. So he was supervising
10 people, if they have anything missing, if they need anything and, yes, so he was there.
11 He was there. That's what I meant.

12 MR NICHOLLS: [15:46:18]

13 Q. [15:46:18] So you explained all of that in the interview and it all got missed by
14 the interpreter; is that what you're saying?

15 A. [15:46:28] Yes. The interpreter didn't record what I said correctly, because
16 sometimes when they speak this Arabic -- this kind of Arabic, I don't understand it.
17 They don't know.

18 Q. [15:46:46] Fortunately, your interview was audio recorded. So if we listen to
19 the audio recording of your statement, we'll hear you explain all about how
20 Abd-Al-Rahman was connected to your training in El Obeid and how you saw him
21 every day?

22 A. [15:47:03] Yes. I used to see him every day in the morning and in the evening,
23 inside the place, but he did not train with us. So he did not go to the same training
24 as us. Do you understand what I'm saying to you?

25 Q. [15:47:31] Now, from when you get to Garsila until you join the CRF, or go for

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 training or go for *tulba*, your testimony is you see Abd-Al-Rahman every day in
2 Garsila, right?

3 A. [15:48:03] Yes, I saw him every day, every morning, every evening. All the
4 time I saw him there.

5 Q. [15:48:15] And then when you joined the CRF, even though he's in a different
6 place, he's more experienced, you see him every day there as well, every single day?

7 A. [15:48:26] Yes, yes.

8 Q. [15:48:32] So, in Garsila, he never once went without you to visit one of his
9 houses in Nyala?

10 A. [15:48:50] I told you, sometimes he goes to collect the salaries, but other than
11 that he stayed. He had houses in Nyala, but he didn't go there a lot. He only went
12 there to collect the salaries. You didn't ask me about that.

13 PRESIDING JUDGE KORNER: [15:49:14] Do you mean the rents?

14 THE WITNESS: [15:49:23](Interpretation) What rent?

15 PRESIDING JUDGE KORNER: [15:49:24] From his houses.

16 THE WITNESS: [15:49:34](Interpretation) I don't know anything about rent.

17 PRESIDING JUDGE KORNER: [15:49:36] What do you mean by "salaries" then?

18 THE WITNESS: [15:49:42](Interpretation) The soldiers' wages.

19 MR NICHOLLS: [15:49:50] Okay. I'll move on.

20 Q. [15:49:53] What I'm putting to you is that you say you saw him every day from
21 some time in 2002 till some time around 2007, because you want to provide him with
22 an alibi for every day, because you're not sure when he was out committing crimes?

23 A. [15:50:27] I don't know anything about this. Only God knows about this. I
24 don't know. If he went out and committed crime, that's something that only God
25 knows. I did not see him committing any crime. I would be lying if I say this to

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 you and I am not here to lie. I am not just saying anything. I did not see him go out

2 and I did not see him commit a crime. I saw him just between work and home.

3 What crime are you talking about?

4 Q. [15:50:59] Now, after you finish your CRF training, you're sent to Zalengei,
5 right?

6 A. [15:51:09] Yes.

7 Q. [15:51:15] Then to Mukjar?

8 A. [15:51:18] Mukjar, Bindisi, Danbar, Atala, then Garsila.

9 Q. [15:51:31] So let me break it down a bit. When are you in Mukjar? When are
10 you stationed in Mukjar or assigned to Mukjar? What years? Not every month, not
11 the month exactly, what years?

12 A. [15:51:47] I think I was in Mukjar in 2008. Yes, 2008 in Mukjar. 2007, in June,
13 I was in Bindisi, and then they moved me from Bindisi to Mukjar.

14 Q. [15:52:27] And then to Rahad al-Berdi?

15 A. [15:52:30] But nobody asked me this question before. None of the lawyers or
16 anyone else, just you.

17 Q. [15:52:32] And then you were assigned to Rahad al-Berdi in 2011?

18 A. [15:52:52] Appointed?

19 Q. [15:52:54] To Rahad al-Berdi in 2011?

20 A. [15:52:58] What do you mean by "appointed"?

21 Q. [15:53:05] From 2011 to 2016 or 2017 you are based in Rahad al-Berdi, correct?

22 A. [15:53:17] Yes.

23 Q. [15:53:20] And you are in Rahad al-Berdi working for the CRF in 2011, right?

24 A. [15:53:31] Yes. Yes.

25 Q. [15:53:39] In 2012?

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

- 1 A. [15:53:41] Yes.
- 2 Q. [15:53:48] 2013?
- 3 A. [15:53:42] Yes.
- 4 Q. [15:53:43] 2014?
- 5 A. [15:53:45] yes.
- 6 Q. [15:53:48] 2015?
- 7 A. [15:53:50] Yes.
- 8 Q. [15:53:54] And all those years that we have just discussed, you are driving --
- 9 A. [15:54:04] Until 2016, August. August 2016 I left the job.
- 10 Q. [15:54:17] In all those years up to August 2016, you're driving
- 11 Mr Abd-Al-Rahman -- you're one of his drivers?
- 12 A. [15:54:24] Yes. It wasn't just me. There were other drivers. Sometimes if
- 13 he's going in a long journey, like collecting the salaries, I used to drive him, but he
- 14 had other drivers as well. I wasn't the only driver.
- 15 Q. [15:54:51] Yes, but being a driver is pretty important. I mean, he had to trust to
- 16 you drive him, that you're a good driver?
- 17 A. [15:54:59] Yes.
- 18 Q. [15:55:11] And you knew you were loyal to him as his driver, as one of his
- 19 drivers?
- 20 A. [15:55:17] That's what he made me -- well, the things that made me be his driver
- 21 and be close to him is trust. That's number one. Number two is that I am a
- 22 straightforward person. Number three, I am -- never lie and I have -- was just
- 23 between work and home. I never was a troublemaker. I was just between work
- 24 and home. That's it.
- 25 Q. [15:56:02] Okay, I'll move on in a minute, but that's the second time you said

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

1 you never lie. You said that before the first break. Are you telling this court you
2 have never told a lie?

3 A. [15:56:16] I don't lie. I never lied, unless there is something that I didn't know
4 about. But I don't lie. No, I don't lie.

5 Q. [15:56:24] Very good.

6 PRESIDING JUDGE KORNER: [15:56:33] Are you moving on to a new topic, Mr
7 Nicholls?

8 MR NICHOLLS: [15:56:36] I was just going to say I'm going on to a new topic. I'm
9 in your hands.

10 PRESIDING JUDGE KORNER: [15:56:40] Yes, well, I --

11 MR NICHOLLS: [15:56:42] And I'm not going to finish, I'm sorry.

12 PRESIDING JUDGE KORNER: [15:56:44] No, I didn't think you would.

13 No, unfortunately I have a meeting at 4.15, so we'll have to adjourn.

14 Mr Laucci, I'll deal, I will say at the end of the evidence, with your application for
15 reconsideration. Actually, I'm told one thing I ought to mention is -- oh, yes.

16 For next week, if we are still going on Tuesday, 5 December, we are going to have to
17 start at 9 o'clock and finish at 1 p.m. It's Mr Jeremy's witness, I think.

18 Mr Jeremy, do you really think you're going to go into a second day of
19 cross-examination?

20 MR JEREMY: [15:57:39] Very unlikely, Madam President.

21 PRESIDING JUDGE KORNER: [15:57:41] Right. If necessary, we'll have to start a
22 bit earlier -- well, depending on how much is left.

23 All right. Yes, thank you very much.

24 MR NICHOLLS: [15:57:48] Your Honour, can I ask you to give a very clear
25 instruction to the witness --

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [15:57:55] Yes, I will.
- 2 MR NICHOLLS: [15:57:59] -- to make sure he understands it.
- 3 PRESIDING JUDGE KORNER: [15:58:02] Is there anybody there with you, sir,
- 4 from -- a friend or anything like that?
- 5 THE WITNESS: [15:58:15](Interpretation) No, there is nobody with me.
- 6 PRESIDING JUDGE KORNER: [15:58:18] Do you confirm that, do you, Mr Laucci?
- 7 There is no other witness or anybody from the Defence team down there?
- 8 MR LAUCCI: [15:58:24] No. I would be extremely surprised.
- 9 For the previous witnesses, the three of them, they had been separated during the
- 10 time of their appearance, and of course I did not double check that but I assume it's
- 11 the same situation.
- 12 PRESIDING JUDGE KORNER: [15:58:40] Right.
- 13 Sir, let me say this to you: You are in the middle of giving evidence. You must not
- 14 talk by telephone or any other electronic means, despite what you say about your
- 15 knowledge of telephones and electronics, to anybody else who has testified, who has
- 16 given evidence, in this case.
- 17 Do you clearly understand that? It will be a contempt of court if you try to contact
- 18 anyone and talk about the evidence. Is that clear to you?
- 19 THE WITNESS: [15:59:31](Interpretation) I don't speak to anyone. There is nobody
- 20 here that I know here to talk to anyway. I am like a prisoner here.
- 21 PRESIDING JUDGE KORNER: [15:59:40] Yes, all right. Well, your evidence hasn't
- 22 concluded, so can you be back ready to start again at whatever -- the witness unit will
- 23 tell you when you have to be back for court.
- 24 Yes, thank you.
- 25 Yes, we'll adjourn then until tomorrow morning.

Trial Hearing
WITNESS: DAR-D31-P-0032

(Open Session)

ICC-02/05-01/20

- 1 THE COURT USHER: [16:00:12] All rise.
- 2 (The hearing ends in open session at 4.00 p.m.)