

Trial Hearing
WITNESS: DAR-OTP-P-0736

(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
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 3
9 Tuesday, 26 April 2022
10 (The hearing starts in open session at 9.32 a.m.)
11 THE COURT USHER: [9:32:16] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:32:40] Yes, good morning, all.
15 Could we call the case, please.
16 THE COURT OFFICER: [9:32:45] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we are in open session.
21 PRESIDING JUDGE KORNER: [9:33:04] Yes. Appearances, please, from
22 the Prosecution.
23 MR NICHOLLS: [9:33:09] Good morning, your Honours. Excuse me. Good
24 morning, everyone. I'm Julian Nicholls. I'm with Octavio Sillitti today,
25 Claire Sabatini, Alison Whitford and Mohanad Elkholy. Thank you.

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1 PRESIDING JUDGE KORNER: [9:33:20] Yes, thank you.

2 Defence.

3 MR LAUCCI: [9:33:26](Interpretation) Good morning, Madam President. Good
4 morning, your Honours. This morning, in addition to Mr Ali Muhammad Ali
5 Abd-Al-Rahman present in the courtroom for his defence, Madam Paola Pallot, in
6 charge of reviewing evidence, Mr Ahmad Issa, our case manager, and
7 Mr Iain Edwards, co-counsel, and myself, Mr Cyril Laucci.

8 MR NICHOLLS: [9:33:56] Sorry to interrupt, your Honour, I just wonder if
9 the witness needs something.

10 PRESIDING JUDGE KORNER: [9:34:01] Has he got his head up -- hand up?

11 MR NICHOLLS: [9:34:05] No, but he doesn't look well at the moment.

12 PRESIDING JUDGE KORNER: [9:34:22] Witness, would you like to take a break
13 right now?

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15 (The witness speaks Arabic)

16 THE WITNESS: [9:34:27](Interpretation) No, not at all. I can continue.

17 PRESIDING JUDGE KORNER: [9:34:30] Thank you very much. I'm just going to
18 finish with the introductions and then we'll come straight to you.

19 Yes, could we have the Legal Representative of Victims, please.

20 MR SHAH: [9:34:39] Good morning, your Honours. Good morning, colleagues.

21 The victims are represented today by Mr Nasser Amin Abdalla, appearing by video
22 link, Idriss Anbari, and myself, Anand Shah. Thank you.

23 PRESIDING JUDGE KORNER: [9:34:49] Thank you very much.

24 Yes, can I, just before the witness takes the affirmation, say to all in court, I'm afraid
25 the heat is going to be pretty terrible today. The air conditioning has broken down

1 completely, and at the moment they don't know how to fix it. So I'm told there's
2 a possibility, if it goes on like this, that on Thursday we can sit in one of the other
3 courts. But I'm afraid today is not going to be very pleasant.
4 Above all, if the witness feels that -- sir, if you need to take a break at any stage
5 because of the heat - and we understand giving evidence is not going to be easy for
6 you - then please doesn't hesitate to say so.

7 THE WITNESS: [9:35:44](Interpretation) Okay, that is fine.

8 PRESIDING JUDGE KORNER: [9:35:46] And the same for counsel. If anybody
9 feels that this is getting too oppressive, then we'll take an earlier break.

10 Yes, thank you very much.

11 Sir, the -- you'll be asked to take the affirmation, which I think you may have to repeat,
12 is that right, after the court officer?

13 Yes, so if the court officer could administer the affirmation.

14 THE COURT OFFICER: [9:36:14] Good morning, Mr Witness. On behalf of
15 the Chamber, I would like to welcome you to the courtroom.

16 You are called to testify to this Chamber in the case of The Prosecutor v. Ali
17 Muhammad Ali Abd-Al-Rahman.

18 Witness, you have first to take the solemn undertaking to tell the truth, so I will read
19 it out to you. Please could you follow and repeat what I am saying.

20 I solemnly --

21 THE WITNESS: [9:36:52](Interpretation) Yes, that is fine.

22 THE COURT OFFICER: [9:36:54] Mr Witness, do you hear me?

23 THE WITNESS: [9:37:07](Interpretation) Yes, I do.

24 THE COURT OFFICER: [9:37:09] Please repeat after me: I solemnly declare.

25 THE WITNESS: [9:37:17](Interpretation) I solemnly declare.

- 1 THE COURT OFFICER: [9:37:19] That I will speak the truth.
- 2 THE WITNESS: [9:37:24](Interpretation) That I will speak the truth.
- 3 THE COURT OFFICER: [9:37:28] The whole truth and nothing but the truth.
- 4 THE WITNESS: [9:37:33](Interpretation) The whole truth and nothing but the truth.
- 5 THE COURT OFFICER: [9:37:39] Thank you, Mr Witness. You are now under
- 6 oath.
- 7 PRESIDING JUDGE KORNER: [9:37:42] Yes.
- 8 Sir, I'll just say one more thing to you. Again, just to emphasise, that if you need
- 9 a break say so. It's probably better, from your point of view, if you can continue,
- 10 even if it does become emotional, because that way the giving of evidence will be over
- 11 faster.
- 12 But the second thing I have to tell you is there will be breaks. During the break you
- 13 mustn't discuss the evidence that you're giving with anybody else. That's very
- 14 important. So just so that you know that.
- 15 Yes, so, Mr Nicholls.
- 16 MR NICHOLLS: [9:38:29] Thank you, your Honour.
- 17 Your Honour, if we may, could we go into private session for the -- well --
- 18 PRESIDING JUDGE KORNER: [9:38:37] Well, do we need to? Everything -- other
- 19 than his age, everything else is in the statement.
- 20 MR NICHOLLS: [9:38:43] No, that's fine. I will go through, then, the -- a little bit of
- 21 the Rule 68 procedure. I will then need to go into private session to go through some
- 22 of the clarifications.
- 23 PRESIDING JUDGE KORNER: [9:38:59] Yes.
- 24 MR NICHOLLS: [9:38:59] But I will --
- 25 PRESIDING JUDGE KORNER: [9:39:01] Well, if we could start in public session and

1 then if we need to go into private session.

2 MR NICHOLLS: [9:39:05] All right. Thank you. I'll start in public then.

3 QUESTIONED BY MR NICHOLLS:

4 Q. [9:39:11] Good morning, Mr Witness.

5 A. [9:39:16] Good morning.

6 Q. [9:39:20] Okay. We'll try to take it nice and slow and easy today. And if

7 any --

8 A. [9:39:32](Overlapping speakers)

9 Q. [9:39:32] -- if any of my questions aren't clear to you, just let me know and I'll
10 re-ask them.

11 A. [9:39:42] Okay.

12 Q. [9:39:42] If you need time to think or, as her Honour said, the Presiding Judge, if
13 you need a little break just let us know, okay?

14 A. [9:39:53] That's fine.

15 Q. [9:39:55] Thank you.

16 Now, do you remember last week that you met with me for the first time that we've
17 met, actually, as well as with Mr Sillitti?

18 A. [9:40:10] Yes.

19 Q. [9:40:11] And during that meeting you had with an interpreter, your English
20 statement that you had given to my office some years ago, that was read back to you
21 in its entirety in Arabic, do you remember that?

22 A. [9:40:35] Yes.

23 Q. [9:40:38] And you made some corrections and you clarified some points when
24 that was -- when your statement was read back to you, right?

25 A. [9:40:54] Yes.

1 Q. [9:40:56] And you also made some markings, marked some places on some
2 aerial imagery of Garsila and Deleig, do you remember that?

3 A. [9:41:11] Yes.

4 Q. [9:41:12] And we talked about how your testimony would be here in court today
5 and you agreed that instead of saying everything again, that your statement could be
6 put into evidence, and that statement would be your testimony. You agreed to that,
7 do you remember?

8 A. [9:41:37] Yes.

9 Q. [9:41:42] Okay. What I'd like to do now, sir, is just go through some of those
10 corrections that you made and just confirm that those were made and are correct.
11 And to do that we'd need to go into private session, your Honour, if I may.

12 PRESIDING JUDGE KORNER: [9:42:01] Yes, all right.

13 MR NICHOLLS: [9:42:11]

14 Q. [9:42:11] And before we do that, as we're in private session, you were born
15 on -- oh, sorry.

16 (Private session at 9.42 a.m.)

17 THE COURT OFFICER: [9:42:22] We're in private session, Madam President.

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- 16 (Open session at 9.52 a.m.)
- 17 THE COURT OFFICER: [9:52:51] We're back in open session, Madam President.
- 18 MR NICHOLLS: [9:52:58]
- 19 Q. [9:52:58] Okay, we'll just continue now, Witness, all right?
- 20 A. [9:53:04] Yes.
- 21 Q. [9:53:06] At paragraph 28 you clarified that you saw the Land Cruiser that
- 22 belonged to Ali Kushayb first in Deleig on a Friday and then later saw that same
- 23 vehicle in Garsila?
- 24 A. [9:53:30] Correct.
- 25 Q. [9:53:33] And without going into any further details of the questions I'm going

1 to ask, at paragraph 74 you clarified that your aunt did not know where
2 the Kalashnikov was hidden?

3 A. [9:53:56] Correct.

4 Q. [9:54:03] And at paragraphs 90 and at 91, in both paragraphs where "2010" was
5 written, you clarified that that should be "2012"?

6 A. [9:54:25] Correct.

7 Q. [9:54:33] Now, again talking about paragraph 45, sir, when talking about seeing
8 Ali Kushayb in Garsila when Ali Kushayb was at the entrance to his pharmacy, you
9 were asked to estimate the distance -- how far away you were, from Ali Kushayb
10 when you saw him sitting in front of his pharmacy or in front of his pharmacy when
11 you walked by, and what you said was, when we were in the interview room, that it
12 was the same distance away as the door to that office room we were in; do you
13 remember that?

14 A. [9:55:30] Yes, correct.

15 Q. [9:55:31] Okay.

16 And we did not measure the room, your Honour.

17 But, Mr Witness, if you could look at me, please, for a second. Can you tell me,
18 compared to how far away I am from you now, when you saw Ali Kushayb, when
19 you walked past his pharmacy in Garsila and Ali Kushayb was out front, were you
20 closer or farther away from me to him?

21 A. [9:56:09] Approximately it is the same distance.

22 Q. [9:56:13](Microphone not activated)

23 THE INTERPRETER: [9:56:18] Microphone.

24 MR NICHOLLS: [9:56:19] Thank you. Just for the transcript, I'm at the right-hand
25 side of the first Prosecution bench.

1 PRESIDING JUDGE KORNER: [9:56:28] We've actually got the measurements,

2 Mr Nicholls, so somebody on your team can have a look at them.

3 MR NICHOLLS: [9:56:36] Yes. Yes. Thank you, your Honour.

4 Q. [9:56:38] Thank you. Thank you, sir. A couple more questions.

5 You were asked if you could give a sort of overall physical description of Ali Kushayb,

6 the way he looked back when you knew him, when you saw him, I should say, in

7 Garsila in 2003, and you said that Ali Kushayb was tall and thin and had not too long

8 hair; is that right?

9 A. [9:57:14] Correct.

10 Q. [9:57:17] And at paragraph 30 you described how at the end of the month,

11 during market days on Thursday or Friday, if it was at the end of the month on those

12 days, you saw the Janjaweed at the pharmacy of Ali Kushayb waiting to collect their

13 salary, their pay?

14 A. [9:57:46] Correct.

15 PRESIDING JUDGE KORNER: [9:57:46] Are we -- when you say "the end of

16 the month", every month?

17 MR NICHOLLS: [9:57:51] No. So what -- I can follow up on that. It's a bit

18 complicated. What the witness said is that when a market day coincided with

19 the end of the month, so if the end of the month was a Thursday or a market day, that

20 those are the days where he would see the Janjaweed gathered at the pharmacy to

21 collect their salary.

22 PRESIDING JUDGE KORNER: [9:58:13] Right. Could you confirm that, sir, that

23 that's what you're saying?

24 THE WITNESS: [9:58:20](Interpretation) That's correct.

25 MR NICHOLLS: [9:58:23]

1 Q. [9:58:23] And you stated that you saw this more than once?

2 A. [9:58:31] Correct.

3 Q. [9:58:32] And you stated that you saw approximately 30 Janjaweed waiting to
4 get paid and that when you saw that you felt in danger?

5 A. [9:58:47] Correct.

6 Q. [9:58:57] And at paragraph 57, where you were discussing Deleig, you clarified
7 that the person you saw in Deleig and recognised as Ali Kushayb, was the same
8 person that you had seen many times in Garsila?

9 A. [9:59:27] Correct.

10 Q. [9:59:30] And when you saw Ali Kushayb in Deleig, you stated that he was
11 approximately 15-20 -- 15 to 20 metres away from you?

12 A. [9:59:46] Correct.

13 Q. [9:59:48] And you stated that if you had had to run to the vehicle where
14 Ali Kushayb was, it would have taken less than a minute?

15 A. [10:00:04] Correct.

16 Q. [10:00:07] And you further stated that Ali Kushayb got out of the vehicle and
17 stayed with the vehicle when others went to escort Issa Nusra?

18 A. [10:00:26] Correct.

19 Q. [10:00:34] And finally, you stated that the statement would read more accurately
20 that Ali Kushayb remained with his vehicle, not in his vehicle?

21 A. [10:00:47] Correct.

22 Q. [10:00:56] And at paragraph 4 - so I'm sorry, going back to the beginning of
23 the statement - you clarified that you never applied to be represented as a victim in
24 this case?

25 A. [10:01:15] That's correct.

1 Q. [10:01:20] And we showed you a satellite image, which we will look at soon, and
2 that image, you looked at various locations and you noted that to go from Ordo to
3 Garsila on a bicycle would take about an hour?

4 A. [10:01:48] That is correct.

5 Q. [10:01:52] And this is the last one, at paragraph 59. This is also when you're
6 talking about Deleig. The witness was asked why he thought a person wearing
7 a trousers -- trousers would be suspected to be a rebel, and you clarified that you did
8 not know and that your aunt had told you to change clothes?

9 A. [10:02:27] That is correct.

10 Q. [10:02:28] And it was your aunt who said that if you wore trousers you might be
11 suspected of being a rebel?

12 A. [10:02:39] That is correct.

13 Q. [10:02:41] And finally, you don't know why your aunt thought that?

14 A. [10:02:52] That is correct.

15 Q. [10:02:57] Okay. Thank you witness.

16 I'd like to now just show the Court the aerial images --

17 PRESIDING JUDGE KORNER: [10:03:06] Just, sorry, before you move on,

18 Mr Nicholls, as a matter of interest what -- what would be the traditional garment
19 that he's talking -- sir, you say you were told to change from trousers to a traditional
20 garment. What are we talking about?

21 THE WITNESS: [10:03:29](Interpretation) It's the *jallabiya*, it's the dress, the man
22 dress.

23 MR NICHOLLS: [10:03:37] Thank you, your Honour.

24 Q. [10:03:40] So now, Witness, what I'll show you are the aerial images that we
25 showed you during the session when we met last week, just so that we can show their

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1 honours, the judges, what -- what you were shown.

2 These should not be broadcast, please.

3 PRESIDING JUDGE KORNER: [10:04:13] Are these the documents we have marked
4 "A", "B" and "C"?

5 MR NICHOLLS: [10:04:17] Yes, and the first one should be "A".

6 And if we can bring that up on the screen for the witness, that might be easier than
7 having him have to look in the binder.

8 Q. [10:04:35] All right.

9 So for the transcript, this is DAR-OTP-0220-3743.

10 Sir, do you remember that we looked at this image together last week?

11 A. [10:05:04] That is correct.

12 PRESIDING JUDGE KORNER: [10:05:05] Before you go on again, Mr Nicholls, are
13 these recent Google Earth images, or are they ones from the period?

14 MR NICHOLLS: [10:05:16] The date is on it and it's almost indecipherable, but it's
15 June 2004.

16 PRESIDING JUDGE KORNER: [10:05:23] I can just see it. Thank you.

17 MR NICHOLLS: [10:05:28]

18 Q. [10:05:28] And, sir, you marked four locations on this aerial imagery, correct?

19 A. [10:05:40] Yes, that is correct.

20 Q. [10:05:42] What happened was you -- you drew a number on each place and
21 then circled it?

22 A. [10:05:53] That is correct.

23 Q. [10:05:54] And then you said what those places were?

24 A. [10:06:03] That is correct.

25 Q. [10:06:04] And then we wrote the numbers 1 to 4 in -- on the side of the image,

1 and we wrote in English what those places were, and then that was read back to you

2 and you confirmed that it was correct; is that right?

3 A. [10:06:27] That is correct.

4 Q. [10:06:30] And just to move through it quickly -- and we'll look at this image

5 later, perhaps, but you marked 1 as the mosque?

6 A. [10:06:44] Yes.

7 Q. [10:06:46] Two as the court in Garsila?

8 A. [10:06:53] That's correct.

9 Q. [10:06:53] Three as a school?

10 A. [10:06:59] Correct.

11 Q. [10:06:59] And four the approximate location of Ali Kushayb's pharmacy?

12 A. [10:07:10] Yes.

13 Q. [10:07:10] Thank you.

14 I'll just do the same thing now, sir, with the image that we showed you of Deleig.

15 This is "B", your Honours. I'll read the ERN. DAR-OTP-0220-3745. This is an

16 image from October 2006.

17 Now I won't go through it again the way we identified and marked -- or the way you

18 identified and marked these places, Mr Witness, but we did it the same way as for

19 Garsila; correct? The image I just showed you before.

20 A. [10:08:08] That is correct.

21 Q. [10:08:12] And here -- can you see the image in front of you well?

22 A. [10:08:22] Yes.

23 Q. [10:08:23] Okay. So here you marked a building with a "1" and circled it and

24 said that was the police station?

25 A. [10:08:38] Yes.

1 Q. [10:08:39] You marked an area with a number "2" and said it was the school?

2 A. [10:08:51] Yes.

3 Q. [10:08:52] You marked a building with a "4" and said it was a mosque?

4 A. [10:09:04] Yes.

5 Q. [10:09:06] And you marked with a "5" where you were sitting with a friend - I
6 won't say his name - when you saw Ali Kushayb in Deleig?

7 A. [10:09:22] Yes.

8 Q. [10:09:23] And you marked with a "6" where Ali Kushayb was when you saw
9 him in Deleig?

10 A. [10:09:39] Yes.

11 Q. [10:09:40] And I -- I think I forgot to say you marked the market as number "3"?

12 A. [10:09:49] Yes.

13 Q. [10:09:53] And then the last one, "C", this is 0220-3747.

14 PRESIDING JUDGE KORNER: [10:10:09](Microphone not activated) Sorry, is there
15 any reason why this can't be shown for the public? There's no markings that I can
16 see.

17 MR NICHOLLS: [10:10:16] No, that's true. Sorry, your Honour. He hasn't signed
18 this one, correct. So this can be broadcast.

19 Q. [10:10:32] Now, simply, sir, we also showed you this aerial image of Deleig area
20 in West Darfur and you helped us to understand where some of these places were
21 when we looked at this image.

22 A. [10:10:57] Correct.

23 MR NICHOLLS: [10:11:08] And, your Honours, with that, I would tender this
24 statement and the annexes and I have some additional questions.

25 PRESIDING JUDGE KORNER: [10:11:28] Yes.

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1 MR NICHOLLS: [10:11:32]

2 Q. [10:11:32] All right, sir, to continue?

3 A. [10:11:42] Yes.

4 Q. [10:11:43] Okay. I'm only going to ask you questions now, not for very long,
5 about two topics.

6 First I'm going to ask you about how you describe in your statement seeing
7 Ali Kushayb in Garsila, and then I'm going to ask you about seeing Ali Kushayb in
8 Deleig. And then we'll be done, okay?

9 A. [10:12:14] Yes.

10 MR NICHOLLS: [10:12:25] Now, your Honour, I will have to request to go into
11 private session for some of these questions.

12 PRESIDING JUDGE KORNER: [10:12:31] Yeah. If you can group the questions, if
13 at all possible, into those that must be asked in private and those that can be in public.
14 I'm conscious of the fact that we have a very full public gallery today and so I would
15 like to limit.

16 MR NICHOLLS: [10:12:51] Yeah, I -- I will -- I will do that. I'll try to do the first.

17 PRESIDING JUDGE KORNER: [10:12:54] Yes.

18 MR NICHOLLS: [10:12:54] It may not be -- there may be slight -- some slight
19 jumping around when we get to the second part, but I'll try to group them.

20 PRESIDING JUDGE KORNER: [10:13:01] All right. So you want to start in private
21 session?

22 MR NICHOLLS: [10:13:03] Yes, please.

23 PRESIDING JUDGE KORNER: [10:13:05] Thank you.

24 Yes, private session, please.

25 (Private session at 10.13 a.m.)

- 1 (Redacted)
- 2 THE COURT OFFICER: [10:13:20] We're in private session, Madam President.
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Page redacted – Private session

Trial Hearing
WITNESS: DAR-OTP-P-0736

(Private Session)

ICC-02/05-01/20

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- 24 (Open session at 10.27 a.m.)
- 25 THE COURT OFFICER: [10:27:37] We're back in open session, Madam President.

1 MR NICHOLLS: [10:27:43]

2 Q. [10:27:43] Now, thank you, Witness. We're in open session now.

3 So now the -- the image which is not being broadcast on the screen, where you've
4 marked Ali Kushayb's pharmacy in Garsila, as well as locations 1, 2 and 3, which I
5 won't name what they are at the moment, how much time did you spend in this
6 neighbourhood during those years in 2000 and 2003? And just in the neighbourhood
7 we see in this sketch.

8 A. [10:28:39] A year. One year.

9 Q. [10:28:44] And during that time when you were going to the mosque and going
10 to locations 1, 2 and 3 - and please let me know if that's not clear to you what I mean
11 by 1, 2 and 3, but it's on the image - how many times, roughly, if you can estimate, did
12 you see Ali Kushayb in front of his pharmacy?

13 A. [10:29:23] Almost twenty times.

14 Q. [10:29:30] Thank you. All right. I'm now going to move on, sir, to the end.
15 And I'm going to ask you some questions about seeing Ali Kushayb in Deleig that
16 you describe in your statement.

17 And I won't go over everything that's in your statement, just really some new
18 information that's clearer on the aerial image. So could I please have the aerial
19 0220-3745. And that is the aerial B, your Honours. The aerial image of Deleig in
20 October 2006.

21 Now can you see that? Is it in front of you on the screen, the picture of Deleig that
22 you marked?

23 A. [10:30:55] Yes.

24 Q. [10:30:57] Okay. Again, I won't go over what's already in your statement and
25 what we've clarified today, to save time, but you -- don't say his name, but location 5

1 you marked, that's in paragraph 56 to 57 of the statement, that is where you were
2 sitting with a friend when you saw Ali Kushayb's vehicle and Ali Kushayb arrive; is
3 that right?

4 A. [10:31:37] Correct.

5 Q. [10:31:39] And number 6 you marked and circled is where you saw Ali Kushayb
6 that day in Deleig?

7 A. [10:31:53] Correct.

8 Q. [10:31:56] What I'd like you to do is just tell their Honours how you were sure
9 that this person Ali Kushayb that you saw in Deleig is the Ali Kushayb you saw in
10 the pharmacy, in your own words. How long did you see him for? What was he
11 doing? And how could you tell it was him?

12 A. [10:32:28] I did not understand the question.

13 Q. [10:32:31] I'm not surprised. It was not a great question.

14 What --

15 PRESIDING JUDGE KORNER: [10:32:39] One fact per question, Mr Nicholls.

16 MR NICHOLLS: [10:32:42] Yes.

17 Q. [10:32:42] What were you and your friend doing - I'll just go over -- back up
18 a little bit - sitting there at the location marked "5"? What were you doing there
19 when you were sitting there when you saw the vehicles arrive?

20 A. [10:33:06] My friend and I were working and we saw a soldier, so I asked him
21 what is happening and he said "Nothing is happening." We walked a bit further and
22 we saw the Janjaweed in front of us and then Ali arrived and we went back to
23 the shops and we stayed there. We couldn't leave.

24 And after a bit, three vehicles, and one of the vehicles belonged to Ali Kushayb,
25 passed by while we were at the shop. His people got out of the cars. He got out of

1 the car as well. And after a while his people went to Ja'afar Abd-Al-Hakam's house
2 and they brought him while we were sitting in the same spot.

3 Q. [10:34:38] Okay. Thank you. And I won't go over you said how far away you
4 were at this time. But what was Ali Kushayb doing while his people went to get
5 the other person and escort him back? What was he doing outside of the car?

6 A. [10:35:01] He was waiting for them.

7 Q. [10:35:07] And were you -- what were you able to see of Ali Kushayb? In other
8 words, that's a strange sounding question, but were you able to see his face, his hands,
9 his body, what were you able to see of him?

10 A. [10:35:29] I could only see his clothes. He had nothing in his hand.

11 Q. [10:35:37] And were you able to see his face, or not able to -- when you
12 saw -- when you were in Deleig?

13 A. [10:35:43] Yes.

14 Q. [10:35:47] Was he talking to anybody while he was there, Ali Kushayb?

15 A. [10:35:55] He was talking with his people, but I could not hear them at -- from
16 the distance where I was.

17 Q. [10:36:05] And how long did this episode last? And by how long did it last, I
18 mean from the time the vehicles arrived, the vehicles that Ali Kushayb came and got
19 out of, to the time that Ali Kushayb left, approximately?

20 A. [10:36:26] Half an hour.

21 Q. [10:36:37] Okay.

22 Thank you very much, sir. That's basically the end of my questions for now.

23 The last question I'd like to ask, if you want to answer it, is how has what you lived
24 through, what happened to you, and what you saw that you describe in your
25 statement, how has that affected your life?

- 1 A. [10:37:27] Thanks be to God, I am fine.
- 2 MR NICHOLLS: [10:37:31] Thank you.
- 3 I've no further questions at this time.
- 4 PRESIDING JUDGE KORNER: [10:37:34] Just before you do move on, while we've
- 5 still got that map up on the screen, "3", which is the left-hand side, it's quite difficult
- 6 to make it out as a "3", but it's on the left-hand side, is said to be the market; is that
- 7 right? What we would like to know is -- is the -- which part of what we can see there
- 8 is the actual market, or was the market? Because it's quite -- it covers quite a number
- 9 of what appear to be houses.
- 10 MR NICHOLLS: [10:38:08] Then I would propose to give him a hard copy and have
- 11 him circle the market. What he calls (Overlapping speakers)
- 12 PRESIDING JUDGE KORNER: [10:38:14] Yes, do that (Overlapping speakers)
- 13 MR NICHOLLS: [10:38:17](Overlapping speakers)
- 14 THE COURT OFFICER: [10:38:19] Your Honour, with apologies, at this point in
- 15 time I will be assigning the number for the document that was marked by the witness
- 16 earlier.
- 17 So the document will bear reference DAR-REG-0001-0002 and will be classified as
- 18 confidential. Thank you.
- 19 PRESIDING JUDGE KORNER: [10:38:37] Thank you very much, yes. If we could
- 20 now ask the witness just to look at the map.
- 21 MR NICHOLLS: [10:38:42] If the court officer could help.
- 22 Q. [10:38:58] Thanks very much, sir. So before -- before you start writing, let me
- 23 just ask the question again. You see where the number "3" in the circle you said is
- 24 the market in Deleig?
- 25 A. [10:39:15] Yes.

1 Q. [10:39:15] So to the best you can, could you circle just the outline, the perimeter
2 of the market. What the market area is, if you can tell that on this photo.

3 A. [10:39:32] Yes.

4 Q. [10:40:15] All right.

5 PRESIDING JUDGE KORNER: [10:40:17] Right, so the whole.

6 And are those all stalls that we're looking at, or houses?

7 MR NICHOLLS: [10:40:30]

8 Q. [10:40:30] Witness, can you just describe what's inside that area you've circled.

9 Are those market stalls, buildings, houses? If you can describe that area you've just
10 drawn around number 3.

11 A. [10:40:42] These are the market kiosks.

12 Q. [10:40:52] Thank you very much.

13 PRESIDING JUDGE KORNER: [10:40:59] No, that's fine. Thank you very much.

14 MR NICHOLLS: [10:41:01] Thank you.

15 Thank you, sir. You'll now be asked some questions by the Defence.

16 PRESIDING JUDGE KORNER: [10:41:07] Do the victims wish to ask any questions,
17 the victims' reps?

18 MR SHAH: [10:41:13] With the Chamber's leave, your Honour, we have a few
19 questions.

20 PRESIDING JUDGE KORNER: [10:41:17] Yes. Can we stay off, though, any topics
21 that might be controversial, please, Mr Shah.

22 MR SHAH: [10:41:27] Absolutely, your Honour. I hope we can do that.

23 QUESTIONED BY MR SHAH:

24 Q. [10:41:31] Good morning, Mr Witness. You may remember that we met last
25 Friday in this courtroom very briefly. I am one of the lawyers representing

1 the victims in these proceedings. Like you, our clients were impacted by the events
2 that you have testified about. And I would like to ask you a few questions on behalf
3 of our clients, if that's okay?

4 A. [10:42:01] Please go ahead.

5 Q. [10:42:03] Mr Witness, I'd like to ask you a few questions about your home
6 village. We are in public session, so please don't mention the name of your home
7 village or the name of any persons. You can just refer to -- you can just say "my
8 home Village". Is that fine, Mr Witness?

9 A. [10:42:27] Yes.

10 Q. [10:42:29] Mr Witness, can you describe to the judges what life was like in your
11 home village with your grandmother before the conflict started?

12 A. [10:42:56] Would you please repeat the question.

13 Q. [10:42:58] Yes, Mr Witness. Can you tell the judges what life was like for you
14 in your home village with your grandmother before the conflict started.

15 A. [10:43:16] Life was beautiful.

16 Q. [10:43:21] Thank you, Mr Witness.

17 Are you okay to continue, Mr Witness?

18 A. [10:44:16] Yes, you can continue.

19 Q. [10:44:17] Thank you. Mr Witness, at paragraph 42 of your statement you
20 describe fleeing from your home village into the mountains when it was attacked by
21 the Janjaweed.

22 Were you able to see what happened to your home village?

23 A. [10:44:45] Yes.

24 Q. [10:44:49] Can you explain to us what you saw.

25 A. [10:45:02] Okay. Before the attack, we were in Hela (phon) and somebody

1 from Arawala came and told us that it was burned down and there was nothing left
2 of it. So there was no place for us to go to. So all of us went to the mountain. That
3 was the only place for us to hide. We stayed for a week in the mountain.
4 After that, after a week, the children and the women stayed in the mountain and we
5 the men, the young men, went back to the Hela. We wanted to prepare breakfast.
6 And while doing that, (Redacted) came and her husband is from Taringa and she
7 found us preparing breakfast, and she said to us, "You have to hurry. Have
8 breakfast quickly before these people catch up with you." And she told us that
9 Taringa, Taringa was attacked and there was nothing left of it.

10 While we were gathering our things to go back to the mountain, before we reached
11 the mountain they came to us from the direction of Koska. We went into
12 the mountain and they were shooting at us.

13 After that, my maternal uncle was not quick. He couldn't run. And because he was
14 lagging behind he was shot in the foot or in the leg. And also there was an older
15 man who was shot and he died on the spot. And around 8 p.m. we went down
16 before Koska. We rested for a bit. Then we went to Deleig.

17 PRESIDING JUDGE KORNER: [10:47:59] Mr Shah, I really don't think this is
18 necessary.

19 MR SHAH: [10:48:01] Yes, I agree, your Honour.

20 PRESIDING JUDGE KORNER: [10:48:02] I think some discretion has to be shown.

21 MR SHAH: [10:48:05] Yes, yes.

22 Q. [10:48:07] Mr Witness, did you ever return to your home village after this
23 attack?

24 A. [10:48:17] Never, no. There was nothing left of it.

25 Q. [10:48:24] Mr Witness, I would now like to take you to a later time, after

1 the siege in Deleig.

2 At paragraph 81 of your statement you say that two weeks after the siege of Deleig
3 you moved to an IDP camp outside of Garsila where you stayed until April or May of
4 2005. Could you describe to us what the living conditions were like at the IDP camp.

5 A. [10:49:07] Yes. After we moved to Garsila --

6 THE INTERPRETER: [10:49:20] Note from the interpreter: I couldn't hear exactly
7 what the witness said about whom they couldn't take with them.

8 THE WITNESS: [10:49:29](Interpretation) People were on the street. We had
9 nothing to cover ourselves with.

10 After a while there was an engineer, engineer Aradi (phon). I only know his
11 brothers, Hassan and Hussein, he saw how these people were staying on the street, so
12 he went to the east of Garsila. There were empty shops there and he arranged for
13 people to move to these shops to stay there. And then organisations came after that
14 and gave us material to cover ourselves with.

15 Then the relief came. Every four people got half a sack of seeds and some oil and
16 a mix - I don't know exactly what it was made of - and some lentils. So that is what
17 we got every month to live off.

18 Q. [10:51:08] Thank you, Mr Witness. I have one last question for you. And
19 that's simply to ask whether you would like to return to Darfur one day?

20 A. [10:51:22] Certainly.

21 Q. [10:51:27] Thank you so much, Mr Witness. On behalf of our clients, we
22 appreciate your willingness to -- to come and testify before their Honours. Thank
23 you so much.

24 PRESIDING JUDGE KORNER: [10:51:39] I'm going to take a break now,
25 Mr Nicholls.

1 Yes, we'll take the break now until -- sir, we're going to take a break, so it will give
2 you a chance to compose yourself. I appreciate this is difficult for you.
3 We'll break until -- Mr Edwards, have you any idea how you're going to be, because I
4 might just give him 40 minutes, otherwise?

5 MR EDWARDS: [10:52:06] Well, in fact, the end time is still about twenty to, if
6 your Honour recalls the -- my request of yesterday. So could we break until twenty
7 to?

8 PRESIDING JUDGE KORNER: [10:52:24] Yes. Well, certainly. I mean, in light of
9 everything I think it's ...

10 All right. We will break - in fact, I had forgotten, thank you for reminding,
11 Mr Edwards - until twenty to 12.

12 And, sir, that will give you a chance, as I say, I hope, to compose yourself.

13 Yes, thank you.

14 THE COURT USHER: [10:52:46] All rise.

15 (Recess taken at 10.52 a.m.)

16 (Upon resuming in open session at 11.45 a.m.)

17 THE COURT USHER: [11:45:09] All rise.

18 Please be seated.

19 PRESIDING JUDGE KORNER: [11:45:39] Yes, I hope the break's given you a chance
20 to recover. And you're going to be asked questions now by Mr Edwards.

21 QUESTIONED BY MR EDWARDS:

22 Q. [11:45:54] Good morning, Mr Witness.

23 We -- we met last week, briefly. I'm going to remind you of what I said to you last
24 week, and indeed to what the Prosecutor said to you earlier this morning, that if I
25 ever say anything, if I ever ask you a question that you'd like me to repeat, please

- 1 don't hesitate to ask me to and I'll rephrase. Okay?
- 2 A. [11:46:30] I'm not sure I understood what you said. I can ask you to repeat
3 the question or reformulate the question?
- 4 Q. [11:46:37] You certainly can. No problem at all.
- 5 And not only is it not --
- 6 A. [11:46:48] Okay. Perfect.
- 7 Q. [11:46:51] And let me just say, you must not hesitate to ask me to repeat, please,
8 because it's important that you understand what I'm asking you, all right?
- 9 A. [11:47:07] Perfect.
- 10 Q. [11:47:11] And I can assure you that the questioning will finish today, all right?
- 11 A. [11:47:25] God willing.
- 12 Q. [11:47:26] Let me start by asking you about the term *tora bora*. That's a term
13 you're familiar with, right?
- 14 A. [11:47:40] Yes.
- 15 Q. [11:47:44] Now, you heard the term for the first time when you were a boy. I
16 take that on board.
- 17 A. [11:47:57] That's correct.
- 18 Q. [11:48:00] Did you know at the time where the term derived from?
- 19 A. [11:48:19] No, I don't know.
- 20 Q. [11:48:28] Okay. Let me ask you about a person that you refer to in your
21 statement, Ja'afar Abd-Al-Hakam. All right. Just a few questions about him.
22 He was the commissioner of Garsila, you say; is that right?
- 23 A. [11:48:50] That's correct.
- 24 Q. [11:48:52] He was undeniably the most senior authority figure in the whole
25 region; is that fair?

1 A. [11:49:04] That is correct.

2 Q. [11:49:07] Now, in your statement you talk about an incident where a number of
3 Fur men had deserted from the Popular Defence Forces in Arawala, and this is
4 something that Ja'afar Abd-Al-Hakam wanted to sort out. Are you with me?

5 A. [11:49:36] Yes.

6 Q. [11:49:40] You may not have known at the time, but at the age that you are now,
7 are you able to confirm that deserting from the forces in Sudan was -- was a crime?

8 A. [11:50:04] That is correct, yes.

9 Q. [11:50:09] And are you able to tell us something, just in a couple of -- couple of
10 sentences, what the background to this desertion was? If you don't know, just say
11 you don't know. But if you do know, can you just explain it in a few sentences.

12 A. [11:50:31] I don't know.

13 Q. [11:50:34] Fair enough.

14 As far as you know, did *Umdah* Issa know the identity of these alleged deserters?

15 A. [11:50:55] Yes.

16 Q. [11:51:00] Were these deserters then living in -- in Arawala or within
17 the jurisdiction of Arawala?

18 A. [11:51:18] Yes, in the suburbs of Arawala.

19 Q. [11:51:23] Thank you. And you say that -- or your understanding was that
20 Ja'afar Abd-Al-Hakam had promised a number of firearms to *Umdah* Issa if he handed
21 these deserters over to him, correct?

22 A. [11:51:48] This is what I heard of.

23 Q. [11:51:51] Do you know why such a powerful commissioner would have
24 required the cooperation of the *umdah* of Arawala in order to affect the arrest of
25 the deserters?

- 1 A. [11:52:13] I don't know.
- 2 Q. [11:52:20] And do you know what ultimately happened to these deserters?
- 3 A. [11:52:29] Yes.
- 4 Q. [11:52:32] Please go on.
- 5 A. [11:52:39] When we were in Garsila, I saw one guy, he was called Buk Buk
- 6 (phon) and Nasrallah (phon), Issa Nasrallah, because he was married to the cousin of
- 7 Ja'afar Abd-Al-Hakam. Issa Nasrallah was residing in the household of Ja'afar
- 8 Abd-Al-Hakam and he was a member of the armed forces of Garsila.
- 9 Q. [11:53:13] But this person Nusara, was he a suspected deserter from the PDF,
- 10 from the Popular Defence Forces in Arawala?
- 11 A. [11:53:31] Issa Nasrallah was not member of the PDR -- PDA, but Buka (phon)
- 12 was.
- 13 Q. [11:53:41] Okay. And what happened --
- 14 A. [11:53:43] (Overlapping speakers)
- 15 Q. [11:53:44] All right. And what happened to Buk?
- 16 A. [11:53:49] He joined the PDA in Garsila.
- 17 Q. [11:53:55] All right. Now what you say in your statement is that the *umdah*
- 18 refused to hand over the deserters because he knew that they would be killed. Do
- 19 you know on what -- well, do you know why the *umdah* thought that they would be
- 20 killed, as opposed to just put on trial and -- and punished for breaking the law?
- 21 A. [11:54:22] I don't know.
- 22 Q. [11:54:24] And the implication is that the firearms weren't handed over to the
- 23 *umdah* because there wasn't the reciprocity, there wasn't the assistance,
- 24 the cooperation of the *umdah*, right?
- 25 A. [11:54:46] That is correct.

1 Q. [11:54:51] Yes, thank you. Right, we're going to come back to the issue of
2 firearms a bit later.

3 Let me ask you about the Janjaweed itself. Members of Arab tribes, right?

4 A. [11:55:13] Not all of them are from Arab tribes.

5 Q. [11:55:21] Some Janjaweed were Fur or other African -- African groups?

6 A. [11:55:31] There were some from the Gamir or the Tam.

7 Q. [11:55:41] And your basis for knowing this is what?

8 A. [11:55:45] Because I was living with them in Garsila and there are a number of
9 these tribes in Garsila.

10 Q. [11:56:00] You mention Musa Hilal in your -- in your statement and your
11 knowledge of Musa Hilal. He was of the Mahamid clan of the Rizeigat tribe, correct?

12 A. [11:56:20] That is correct.

13 Q. [11:56:21] And in 2000 -- in 2000 he was essentially the leader of the Janjaweed,
14 correct?

15 A. [11:56:39] That is correct.

16 Q. [11:56:45] And he remained a very powerful leader of the Janjaweed throughout
17 the conflict, correct?

18 A. [11:56:58] Musa Hilal in Wadi Salih wasn't in charge. It was Ali Kushayb who
19 was in charge in our region.

20 Q. [11:57:17] What do you know of the hierarchy, if there is a hierarchy, as between
21 Musa Hilal and Ali Kushayb?

22 A. [11:57:31] Can you clarify the question, please.

23 Q. [11:57:33] Do you know whether there was a relationship of
24 superior/subordinate between Musa Hilal and Ali Kushayb?

25 A. [11:57:51] Honestly, I did not understand the question.

1 Q. [11:57:54] Was -- was Musa Hilal in a position to give orders to Ali Kushayb, do
2 you know?

3 A. [11:58:05] No, not at all.

4 Q. [11:58:09] Sorry, that was a clumsy question.

5 No, he wasn't able to give orders, or no you don't know if he was able to give orders?
6 Just clarify that, please.

7 A. [11:58:25] He could -- I don't know if Musa Hilal is subordinate to Ali Kushayb
8 or can give him orders. I don't know that.

9 Q. [11:58:37] What do you understand was the area of control of Musa Hilal, then?

10 A. [11:58:48] Musa Hilal was in charge, from what I heard, is in Darfur.

11 Q. [11:59:07] The whole of Darfur?

12 A. [11:59:17] Edd El Fursan. Edd El Fursan.

13 Q. [11:59:27] And what was the basis of your -- of such a belief?

14 A. [11:59:39] Because this is what people were saying and this is what I heard
15 people talk about.

16 Q. [11:59:44] This is what you as a -- a boy was hearing from what people were
17 talking about in the community?

18 A. [11:59:58] Yes.

19 Q. [11:59:59] Thank you.

20 MR EDWARDS: [12:00:02] Your Honour, I'm very sorry. Could -- I wonder if
21 the court officer could just move the Elmo out of the way, because it's blocking my
22 view of the witness. It's right in front of his face.

23 PRESIDING JUDGE KORNER: [12:00:14] Yes, unless there's a need, can we move it?
24 Isn't it always there, actually?

25 MR EDWARDS: [12:00:23] No, I don't remember it being quite there yesterday. I

1 think it's -- anyway ...

2 PRESIDING JUDGE KORNER: [12:00:29] Well, nobody seems to be doing anything,
3 so I imagine it's rather more difficult than you think, Mr Edwards.

4 MR EDWARDS: [12:00:35] Right. I'll -- I'll just move then.

5 Q. [12:00:48] Sir, just coming back to your last answer, was that also
6 the basis -- thank you very much indeed, thank you. I'm grateful.

7 That's also the basis of your understanding of Ali Kushayb's authority, what you as
8 a boy was hearing from others speaking about in the community, correct?

9 A. [12:01:25] A while ago you said that you were not talking about Ali Kushayb.

10 Q. [12:01:34] Sorry, I'm now talking about Ali Kushayb, okay. So we've finished
11 with Musa Hilal. Is it the case that -- yeah, is it the case that your understanding of
12 the authority of Ali Kushayb comes from what you heard as a boy from those talking
13 around you in the community?

14 A. [12:02:04] No, not at all. I have seen this with my very own eyes.

15 Q. [12:02:09] Okay. Well, we'll come on to that very shortly.
16 Well, the very first time you see him with your own eyes - paragraph 27 of
17 the witness statement for the record, it doesn't have to be brought up - when
18 (Redacted). Does that sound right to you? The first time you saw and heard of
19 Ali Kushayb.

20 A. [12:02:48] Approximately.

21 Q. [12:02:49] Yeah. So I just want to get it clear in my mind what -- how it
22 happened. You're in -- you're at the shop of (Redacted)- let's not say
23 his name, all right - and (Redacted) says to you that a man who's passing or
24 has passed was Ali Kushayb. Have I got that right?

25 A. [12:03:35] Yes.

1 Q. [12:03:42] The shop of (Redacted), was it actually like a shop, four walls,
2 a door, a roof, or was it more in the nature of a stall? Can you help us with that.

3 A. [12:04:00] (Redacted)
4 (Redacted). That's it.

5 MR NICHOLLS: [12:04:27] Excuse me.

6 PRESIDING JUDGE KORNER: [12:04:32] Mr Nicholls.

7 MR NICHOLLS: [12:04:33] I'm sorry, could we go into private session for one
8 minute.

9 PRESIDING JUDGE KORNER: [12:04:37] Yes.

10 (Private session at 12.04 p.m.)

11 THE COURT OFFICER: [12:04:46] We're in private session, Madam President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

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Trial Hearing
WITNESS: DAR-OTP-P-0736

(Open Session)

ICC-02/05-01/20

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8 (Open session at 12.06 p.m.)

9 THE COURT OFFICER: [12:06:06] We're back in open session, Madam President.

10 MR EDWARDS: [12:06:10]

11 Q. [12:06:14] Sir, why did your brother-in-law point Ali Kushayb out to you?

12 A. [12:06:26] Because at this time everybody was talking about Ali Kushayb.

13 Q. [12:06:32] This is in about 2000?

14 A. [12:06:38] Yes.

15 Q. [12:06:40] Three years before the conflict really kicked off?

16 A. [12:06:52] 2002. When did the conflict start?

17 Q. [12:07:00] Maybe late 2002, early 2003. But nevertheless, this is long before that
18 happened. Why did -- why did Ali Kushayb merit -- why did he deserve this
19 attention from your brother-in-law?

20 A. [12:07:18] Because Ali Kushayb was a well-known person. And my
21 brother-in-law did not say to me this is Ali Kushayb, he said that this is *amali* (phon),
22 Uncle Ali.

23 Q. [12:07:38] I'm just going to read from your statement. This is exactly what you
24 said: "One day in 2000, a male passed in front of the [place] and my brother-in-law
25 told me that the male was Ali Kushayb." That's exactly what is written in your

1 statement of 2018.

2 MR NICHOLLS: [12:08:17] What's the question?

3 MR EDWARDS: [12:08:22] Well, I'm --

4 Q. [12:08:24] Mr Witness, when you -- when you gave your statement in 2018, you
5 gave your statement over the course of five days, yes?

6 A. [12:08:45] Yes.

7 Q. [12:08:47] And you were assisted by an interpreter that spoke a language that
8 you understood?

9 A. [12:09:00] Yes.

10 Q. [12:09:02] You had as much time as you needed to give your account to
11 the investigator?

12 A. [12:09:19] Yes.

13 Q. [12:09:21] You weren't put under any pressure of time to hurry up and finish
14 your account?

15 A. [12:09:32] I did not understand the question.

16 Q. [12:09:35] After your statement was taken it was read back to you in a language
17 that you understood?

18 A. [12:09:50] Correct.

19 Q. [12:09:51] Were you given every opportunity to make changes, amendments to
20 anything that was wrong in your statement?

21 A. [12:10:06] Yes.

22 Q. [12:10:12] At any point did you say, "Oh, no, I need to amend this, I need to
23 change that." And the investigator said, "No, it's not a problem. We'll leave it
24 the way it is." Did that ever happen?

25 A. [12:10:30] No, never.

1 Q. [12:10:31] And then -- that was in 2018. And then last week the statement was
2 read back to you again by the lawyers from the Prosecution, right?

3 A. [12:10:49] Yes, exactly.

4 Q. [12:10:50] And you remember the sentence I just read back to you about your
5 brother-in-law pointing out Ali Kushayb. That was read back to you last week as
6 well?

7 A. [12:11:12] Yes.

8 Q. [12:11:13] And when the witness -- when your statement was being read back to
9 you, you were told that the purpose of doing this was to clarify anything, make any
10 further changes, give any further detail, right?

11 A. [12:11:36] Correct.

12 Q. [12:11:45] And in fact, in respect of this particular paragraph, it was read back to
13 you and you said, well, you had a clarification to make. You said, you said this -- or
14 the Prosecution writes that you clarified that the first time that you saw Ali Kushayb
15 was in the middle of the market in Garsila when Ali Kushayb was coming from
16 the west, passing by the front of (Redacted)., who told him --

17 A. [12:12:21] Correct.

18 Q. [12:12:22] -- that person is Ali Kushayb.

19 A. [12:12:32] Correct.

20 Q. [12:12:36] You didn't say to the Prosecution last week, "Well, actually, he didn't
21 say Ali Kushayb, my brother-in-law said he's called Mr Ali."

22 A. [12:13:00] This is something that I remember just now.

23 Q. [12:13:09] Just now?

24 A. [12:13:10] Not just now, but in the past days when I was present here during my
25 stay here in The Hague.

1 Q. [12:13:21] Okay. And what -- what set off this sudden recollection four years
2 after you first made your statement?

3 A. [12:13:38] Because I had an interview here I was thinking about what happened,
4 and this helped me recollect some things. There are some things that I did not say in
5 the witness statement but I remember them now.

6 Q. [12:14:01] The thing that causes you to say that in fact I was told that this
7 person's name is Mr Ali is the fact that you know that my client's name is Ali, right?

8 A. [12:14:29] No, I know Ali Kushayb.

9 MR EDWARDS: [12:14:44] I don't know if my learned friend has an intervention.

10 MR NICHOLLS: [12:14:48] My apologies, the mic was on.

11 Mr Edwards has probably inadvertently misstated the witness's earlier evidence.

12 The witness said - and I was looking for this section - that the person who pointed out

13 Ali Kushayb to him said -- said this is Ali Kushayb and then said the line about Uncle

14 Ali. And what was put to him was that you never said that the person who pointed

15 him out did -- didn't say that he was Ali Kushayb, suggesting to the witness that he

16 has changed what was said to him, which is actually not the case. The witness

17 added the mention of Uncle Ali, but did not say that -- that the person who pointed

18 Ali Kushayb out to hi, who I'm not naming -- I can find the line, your Honour.

19 PRESIDING JUDGE KORNER: [12:15:43] Mr Nicholls, it was certainly confused, but

20 I don't think what Mr Edwards is putting is -- is wrong. He said that the witness

21 said, going back to page -- where are we? - yes, it's page 48, line 17, and "why did

22 Ali Kushayb" -- this was a question about the dates: "Why did Ali Kushayb

23 merit -- why did he deserve this attention from your brother-in-law?"

24 Answer: "Because Ali Kushayb was a well-known person and my brother-in-law

25 did not say to me this is Ali Kushayb, he said that this is ... Uncle Ali."

1 And I think what Mr Edwards is now putting to him, that that is a change. Because
2 the witness, as I understood it, and the witness presumably can understand what
3 we're saying, originally said his brother-in-law told him it was Ali Kushayb. Now
4 he's saying, as I understand it, that he didn't say Ali Kushayb, he said Uncle Ali.
5 But before you go on, Mr Edwards, let's just confirm.

6 Is that right, sir?

7 THE WITNESS: [12:17:26](Interpretation) Correct.

8 PRESIDING JUDGE KORNER: [12:17:27] So I don't think, Mr Nicholls, Mr Edwards
9 is putting something that's not right.

10 MR NICHOLLS: [12:17:32] I apologise.

11 MR EDWARDS: [12:17:42]

12 Q. [12:17:44] Your brother-in-law didn't use the word "Uncle Ali", did he? I'm
13 going to suggest that he didn't. What have you got to say (Overlapping speakers)

14 PRESIDING JUDGE KORNER: [12:17:56] Mr Edwards, you have to be a bit careful.
15 I don't know now you can suggest he didn't, unless you -- you happen to be calling
16 the person in question as a witness. All you can suggest is, are you sure? Unless
17 you've got strict instructions, how can you put in terms that that wasn't said?

18 MR EDWARDS: [12:18:44]

19 Q. [12:18:47] Was the person who said Ali Kushayb or Uncle Ali, whatever,
20 whatever the version is now, was he in the habit of just naming various passers-by?

21 A. [12:19:10] I did not understand the question.

22 Q. [12:19:18] Was your relative in the habit of just randomly naming passers-by to
23 you in Garsila?

24 A. [12:19:35] No, not at all.

25 Q. [12:19:37] Because it just -- it just sounds like a curious thing to do. What's

1 the point? Why was he doing that? Why did he mention Ali Kushayb or Uncle Ali
2 to you?

3 A. [12:19:53] Why? Because in that time there were wars. He was the leader of
4 the Janjaweed. That's why my relative described him to me or pointed him out to
5 me.

6 Q. [12:20:11] In 2000? Are you sure about that?

7 A. [12:20:20] Just a second. You are referring to the year 2000? What do you
8 mean?

9 Q. [12:20:28] Yes, I'm referring to the year 2000, sir.

10 A. [12:20:35] The year 2000. No, in the year 2000 he said to me that this is Uncle
11 Ali. He said this is Ali Kushayb. That's it.

12 Q. [12:20:56] Which one is it?

13 A. [12:21:05] In my village, you do not call an elderly person with his name. So if
14 your name is Ali Kushayb, you are not being called Ali Kushayb, you are being called
15 Uncle Ali, out of respect for his age. So for senior people, we do not call them by
16 their name, we give them another way of calling them.

17 Q. [12:21:32] How old was he then in 2000?

18 A. [12:21:40] Whom do you mean?

19 Q. [12:21:44] The person that was pointed out to you as Ali Kushayb or Uncle Ali?

20 A. [12:21:58] I do not know exactly how old he was, but what I do know is that he
21 was an older man.

22 Q. [12:22:08] And when you -- when he was passing in front of the -- the place
23 where you were with your relative, you got a brief look at him?

24 A. [12:22:36] I saw him. I saw him enough.

25 Q. [12:22:41] Notice anything in particular about his face or his ears? Let's start

1 with his face. Anything in particular about his face?

2 A. [12:22:55] No, I do not have any remarks about his face.

3 Q. [12:23:01] Okay. What about his ears?

4 A. [12:23:08] I did not focus on his ears, but he was wearing a yellow *jallabiya* or
5 gown and a head cover.

6 Q. [12:23:30] And -- well, you've given evidence today that you saw Ali Kushayb
7 many times over the years. In --

8 A. [12:23:40] Yes.

9 Q. [12:23:42] Over those many times of seeing Ali Kushayb, did you notice
10 anything particular about his face?

11 A. [12:24:00] No, not at all.

12 Q. [12:24:01] Or his ears?

13 A. [12:24:05] I did not focus on his ears.

14 Q. [12:24:12] So you say that you would -- this is paragraph 45, your Honour: "I
15 would often see Ali Kushayb sitting in front of the entrance of his pharmacy, usually
16 wearing a grey-coloured lapsa." So this is when you're in Garsila.

17 First thing, we're talking about a veterinary pharmacy, aren't we?

18 A. [12:24:51] Yes.

19 Q. [12:24:53] And is it right that -- sorry, just bear with me for one second.

20 (Counsel confer)

21 MR EDWARDS: [12:25:17]

22 Q. [12:25:18] His -- this pharmacy in Garsila, it was -- it was located under
23 the shade of two acacia trees; is that right?

24 A. [12:25:42] A neem tree, not acacia.

25 Q. [12:25:56] Is it a place where people would regularly come and seek shade from

1 the Darfurian sun?

2 A. [12:26:15] I did not understand the question.

3 Q. [12:26:18] The fact that this was an area under the shade of two trees, that made
4 it an agreeable place for people to come and just and sit and escape the heat of the day,
5 no?

6 A. [12:26:43] No, not at all.

7 Q. [12:26:46] Okay. Now talking about -- moving on to vehicles and the vehicle
8 that you associate -- associated with Ali Kushayb, the Land Cruiser. Tell us about
9 the number plate of this vehicle. What did you notice of it?

10 A. [12:27:27] The number plate, I did not focus on the number because
11 the government licence plates are black and red. That's it. But I did not focus on
12 the numbers.

13 Q. [12:27:49] There are yellow number plates, or there were yellow number plates
14 in Sudan at the time, weren't there?

15 PRESIDING JUDGE KORNER: [12:27:59] Are you suggesting the government
16 licence plates or just ordinary vehicles?

17 MR EDWARDS: [12:28:04] Well, taking it a step at a time, but yes,
18 government -- government licence plates.

19 THE WITNESS: [12:28:14](Interpretation) I did not understand the question.

20 MR EDWARDS: [12:28:17]

21 Q. [12:28:18] Government number plates at the time were yellow in colour, weren't
22 they?

23 A. [12:28:27] No, not at all.

24 Q. [12:28:34] Anything else distinctive about the -- the vehicle that you associated
25 with Ali Kushayb?

1 A. [12:28:48] Yes.

2 Q. [12:28:56] Tell us.

3 A. [12:28:56] It was a Land Cruiser and it was painted the same colour as the army
4 khaki colour, and at the front there were chains that were tied to it.

5 THE INTERPRETER: [12:29:22] And a note from the interpreter: The witness
6 mentioned something about the top that was cut, but I'm not sure, so maybe he
7 should repeat that part.

8 MR EDWARDS: [12:29:32] Thank you.

9 Q. [12:29:33] You mentioned chains and also something about the top being cut.
10 The interpreter didn't quite follow what you said. Can you repeat, please.

11 A. [12:29:45] Yes. It was like a jeep, so it was an open car. And there were chains
12 at the front.

13 THE INTERPRETER: [12:30:03] And again, there was a word that the interpreter did
14 not get, *tila* (phon). I'm not sure exactly what that means.

15 MR EDWARDS: [12:30:10]

16 Q. [12:30:10] Is there another word that you can use other than *tila*, because
17 the interpreter doesn't -- doesn't know that word?

18 A. [12:30:22] Small. So a small weapon.

19 Q. [12:30:27] A small weapon. Okay.

20 Let's talk about the chains. Where on the jeep were the chains located? You say
21 the front, but can you be more specific?

22 A. [12:30:48] No, it was in the form of a chain that was put in the front of the car.
23 So there were some bullets that were put in the form of a chain on -- in the front side
24 of the car.

25 Q. [12:31:07] Do you mean like a chain like a bandolier, like a -- like the sort of

1 the chain of cartridges that would feed, that would feed a machine gun?

2 A. [12:31:27] Yes, but it wasn't in any kind of a specific belt, but they were just tied
3 together as if in the shape of a belt, the different bullets.

4 Q. [12:31:40] So sort of decorative?

5 A. [12:31:44] I don't know. They would know better. I don't know.

6 Q. [12:31:47] And was this -- was this a feature that was always on the front of
7 the vehicle associated with Ali Kushayb? Was it always the same vehicle?

8 A. [12:32:09] No, this is the car that I saw on Friday in Deleig. It was in that shape
9 or it was that front part of it.

10 Q. [12:32:24] All right. Well, what about the vehicle -- forget about the vehicle
11 that you saw in Deleig, what about the vehicle that you would see in Garsila. Let's
12 focus on that vehicle for a moment. Did that have the decoration or the bullets in
13 a chain on the front of the car as well?

14 A. [12:32:48] I saw it more in Garsila. There were more than one car in Garsila
15 that was decorated that way, not just one car.

16 Q. [12:32:57] And were these all cars associated with Ali Kushayb?

17 A. [12:33:07] These were government vehicles.

18 Q. [12:33:12] Very good. Thank you.

19 Okay. You've told us that you never went into the pharmacy, you never spoke with
20 Ali Kushayb, you never purchased anything from him. What about your relative?

21 A. [12:33:41] I don't know. Who do you mean by my relatives? You mean my
22 relatives, Ali Kushayb relatives? I didn't quite understand your question.

23 Q. [12:33:50] Your relative that you spent time with at the market in Garsila.

24 A. [12:33:58] Yes.

25 Q. [12:33:59] Did he ever purchase anything from Ali Kushayb's pharmacy?

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1 A. [12:34:10] I don't know.

2 Q. [12:34:12] Was Ali Kushayb ever (Redacted)?

3 A. [12:34:25] That never happened when I was there. I never saw him (Redacted)
4 (Redacted).

5 Q. [12:34:32] Did (Redacted)
6 (Redacted)?

7 A. [12:34:45] No, not at all.

8 Q. [12:34:52] Do you have any reason to believe that the basis of your relative's
9 knowledge of Ali Kushayb was simply what people discussed amongst themselves
10 within the community?

11 A. [12:35:17] No, not at all, because Ali Kushayb was resident of Garsila and
12 (Redacted), so of course they know each other.

13 Q. [12:35:32] All right. Now I'm interested to just explore one thing, where you
14 talk about gatherings outside Ali Kushayb's pharmacy.

15 In -- paragraph 29, your Honour.

16 I want to focus on 2002, 2003, okay. That's what I want to talk about now. Are you
17 with me?

18 A. [12:36:06] Yes.

19 Q. [12:36:09] You hadn't been going to school for many years by 2002, 2003; is
20 that -- is that fair to say? I don't mean any disrespect. I just need to clarify that
21 point.

22 A. [12:36:35] No, that's not correct.

23 Q. [12:36:39] Well --

24 PRESIDING JUDGE KORNER: [12:36:43](Overlapping speakers)

25 THE WITNESS: [12:36:44](Interpretation) I did not understand the question.

- 1 MR EDWARDS: [12:36:49] I'll try again, your Honour.
- 2 Q. [12:36:55] Right, let's not talk about any locations, but you attended primary
3 school in 1994 and 1995, right?
- 4 A. [12:37:10] Yes.
- 5 Q. [12:37:11] Your family couldn't afford -- or your mother could not afford school
6 fees after your second year of primary school, right?
- 7 A. [12:37:28] Correct.
- 8 Q. [12:37:30] The second year of primary school was 1995; is that right?
- 9 A. [12:37:40] That is correct.
- 10 Q. [12:37:45] "I did not attend school further in Darfur due to the conflict and my
11 family's financial situation." Is that correct, what you told the investigators?
- 12 A. [12:38:00] That is correct.
- 13 Q. [12:38:01] So in 2002 to 2003 you hadn't been going to school for -- it was a long
14 time since you had last been at school?
- 15 A. [12:38:20] Correct.
- 16 Q. [12:38:24] Was it important for you to follow where you were in any given
17 month -- in other words, was it important for you to know when you were at the
18 beginning of the month, in the middle of the month, at the end of the month? Was
19 that a feature of your life at the time?
- 20 A. [12:38:52] What do you mean by that exactly?
- 21 Q. [12:38:59] Did you -- did you follow the passage of the calendar months?
- 22 PRESIDING JUDGE KORNER: [12:39:07] I don't think that's any better,
23 Mr Edwards.
- 24 MR EDWARDS: [12:39:15]
- 25 Q. [12:39:16] Why -- why was it important for you to know when it was

1 the beginning of the month?

2 A. [12:39:32] I still don't understand the question.

3 Q. [12:39:35] You say that you saw Ali Kushayb and many Janjaweed gathering at
4 his pharmacy towards the end of each month. Right?

5 A. [12:40:00] I did say that because the salaries in Sudan are being paid on the 30th
6 or the 31st of the month, not in the middle of the month.

7 Q. [12:40:21] The -- I'm sorry, we're going to have to go into private session just for
8 a second please. My apologies.

9 PRESIDING JUDGE KORNER: [12:40:30] Yes, private session, please.

10 (Private session at 12.40 p.m.)

11 THE COURT OFFICER: [12:40:38] We're in private session, Madam President.

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- 18 (Open session at 12.46 p.m.)
- 19 THE COURT OFFICER: [12:46:50] We're back in open session, Madam President.
- 20 MR EDWARDS: [12:46:57]
- 21 Q. [12:46:58] That man was an Arab?
- 22 A. [12:47:04] Yes.
- 23 Q. [12:47:07] He knew what village you were from?
- 24 A. [12:47:15] Yes.
- 25 Q. [12:47:17] That village was entirely a Fur village?

- 1 A. [12:47:27] Yes.
- 2 Q. [12:47:28] He knew you were Fur?
- 3 A. [12:47:34] Yes.
- 4 Q. [12:47:36] Now, in 2004, this was the height of operations against the rebels in
5 West Darfur, wasn't it?
- 6 A. [12:47:54] Yes.
- 7 Q. [12:47:56] The conflict between the Janjaweed and the Fur was extremely intense,
8 wasn't it, in 2004?
- 9 A. [12:48:16] What do you mean "between the Janjaweed and the Fur"?
- 10 Q. [12:48:23] Well, it's simply a fact that the Janjaweed treated the Fur generally
11 with great suspicion.
- 12 A. [12:48:33] Yes, that is correct.
- 13 Q. [12:48:35] Especially young Fur men.
- 14 A. [12:48:41] Yes, that is correct.
- 15 Q. [12:48:43] The general suspicion was that young Fur men were either rebels or
16 very much supporting the rebels, correct?
- 17 A. [12:48:57] Correct.
- 18 Q. [12:49:01] And yet, you say that that man spoke to you in Garsila in 2004 and
19 said that he and the other Janjaweed were collecting their salaries from Ali Kushayb's
20 pharmacy; is that your evidence?
- 21 A. [12:49:24] Yes, correct.
- 22 Q. [12:49:25] Okay. He's telling you that he's receiving a salary through that
23 information?
- 24 A. [12:49:37] Correct.
- 25 Q. [12:49:38] He's saying where he's receiving that salary?

- 1 A. [12:49:44] Correct.
- 2 Q. [12:49:46] He's saying to you from whom he's receiving that salary?
- 3 A. [12:49:54] Correct.
- 4 Q. [12:49:56] And in 2004 you represent -- or you are, as a young Fur male, you
- 5 represent the enemy, don't you, to the Janjaweed?
- 6 A. [12:50:16] Yes, that is correct.
- 7 Q. [12:50:29] Let me ask you now about the attack on Fere village. I should be
- 8 able to finish this section before the break, your Honour.
- 9 Can I please ask you to -- or perhaps you can be assisted, tab 13 of the Prosecution
- 10 bundle.
- 11 Your Honours, this is DAR-OTP-0220-3747, please.
- 12 Can the witness be assisted to pull up that document.
- 13 PRESIDING JUDGE KORNER: [12:51:33] This is the one that can go on the screen
- 14 for the public, right?
- 15 MR EDWARDS: [12:51:37] Yes, this is -- this is absolutely public, your Honour.
- 16 All right.
- 17 Q. [12:51:43] Now, Mr --
- 18 PRESIDING JUDGE KORNER: [12:51:47] I don't think anything is up yet.
- 19 MR EDWARDS: [12:51:49] Oh, I'm seeing something on my screen.
- 20 Q. [12:51:59] Yes. You -- okay, I'm afraid we're going to need the assistance of
- 21 a court -- a court officer, please, just to assist the witness with some reading, please, or
- 22 the identification of some locations.
- 23 Okay. If the court officer can please point out the -- the location of the town of Ordo,
- 24 which is right in the middle of the white square. Tab 13 I think it was, yeah. Just
- 25 point out Ordo, please, in the middle of the white square.

1 You don't need to write anything, I just need it.

2 And then Fere, the village of Fere to the north, it's about 3 kilometres away, isn't it?

3 A. [12:53:04] Yes.

4 Q. [12:53:05] Okay. Now, you say that when you were in Ordo village,
5 paragraph 36, you could hear shooting from the direction of Fere village.

6 A. [12:53:25] Correct.

7 Q. [12:53:26] You could hear the sound of gunfire 3 kilometres away, could you?

8 A. [12:53:33] Yes.

9 Q. [12:53:36] Now given -- at that time, given the recent attacks on Arawala and
10 your fears that Ordo would also be attacked, you certainly believed that -- that there
11 was an attack going on in Fere or towards Fere; is that fair?

12 A. [12:54:02] Yes.

13 Q. [12:54:06] Attacked by the Janjaweed?

14 A. [12:54:13] Yes.

15 Q. [12:54:15] And a member of your family and other men left Ordo and headed
16 towards Fere, towards the sound of gunfire; is that right?

17 A. [12:54:43] Yes.

18 Q. [12:54:45] Did you speak to any of them before they went? Any of these men
19 heading off to --

20 A. [12:54:56] Yes.

21 Q. [12:54:57] And did any of them tell you what they hoped to achieve by making
22 their way to Fere?

23 A. [12:55:09] I did not understand the question.

24 Q. [12:55:12] Why -- did they tell you why they were going to Fere?

25 A. [12:55:18] Yes. Because in Fere, their families were there, so when they heard

1 the gunshots they said that they want to go and check what was going on.

2 Q. [12:55:39] They went to try and defend their families in Fere, is that
3 the situation?

4 A. [12:55:47] No, not at all.

5 Q. [12:55:50] To do what then?

6 A. [12:55:55] Just to see what was going on, what was happening. That's all.

7 Q. [12:56:05] Are you sure these men weren't armed?

8 A. [12:56:12] Yes.

9 Q. [12:56:23] There were -- a decision was taken that some young men would stay
10 in Ordo while other villagers left Ordo to seek refuge elsewhere, correct?

11 A. [12:56:46] I did not understand the question.

12 Q. [12:56:49] All right.

13 PRESIDING JUDGE KORNER: [12:56:52]

14 Q. [12:56:54] Let's put Fere --

15 PRESIDING JUDGE KORNER: [12:56:56] Mr Edwards, I think you need to make it
16 clear whether you mean at the time of the attack, or after, or what.

17 MR EDWARDS: [12:57:03] Okay.

18 Q. [12:57:05] Putting to one side Fere village, there was a time when there was
19 concern that Ordo would be attacked by the Janjaweed. Many villagers left Ordo,
20 but some young men stayed in Ordo; is that accurate?

21 A. [12:57:26] No, that's not correct.

22 Q. [12:57:42] I'm just trying to find the correct passage.

23 Okay, I'll come back to that when I can find it in a moment. Oh, here we are.

24 Right, paragraph 35. Paragraph 35. I'm talking about just before the attack on Fere
25 village. Just before, okay? There were -- there was fear among the villagers in

1 Ordo that Ordo was going to be attacked. Let's take it step by step. That's right,
2 isn't it?

3 A. [12:58:59] Yes.

4 Q. [12:59:00] Okay. You decided not to flee with them to Ordo mountain. You
5 decided to stay behind in the village, right?

6 A. [12:59:19] Yes and no.

7 Q. [12:59:24] Okay. You -- you say in your statement: "I decided to stay because
8 I was young and able to flee quickly if an attack happened." Okay. Those are your
9 words.

10 A. [12:59:40] Yes. We -- I said that we all went to the mountain, that we used to
11 go back -- the young men among us used to go back to the village. The elderly and
12 the children remained in the mountain, but we used to come back to the village and
13 return to the mountain at night. This is what I meant by yes and no.

14 Q. [13:00:05] What you say is, "... I remained in the village. I decided to stay
15 because I was young and able to flee quickly if an attack happened." Which suggests
16 that it was more permanent than that, no?

17 A. [13:00:18] No, not at all. Maybe there's a mistake here, maybe the full image
18 was not conveyed by the translator or interpreter.

19 Q. [13:00:27] Did Ordo - just very briefly - did Ordo have a village defence militia?

20 A. [13:00:39] No, not at all.

21 Q. [13:00:42] Did Fere have a village defence militia?

22 A. [13:00:49] No, not at all.

23 Q. [13:00:52] Is it your evidence, before we break, that generally there were -- well,
24 no -- in the villages, did people have firearms?

25 A. [13:01:18] Some people had, but it is not something that I saw. I heard of this.

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WITNESS: DAR-OTP-P-0736

(Open Session)

ICC-02/05-01/20

- 1 MR EDWARDS: [13:01:29] That's a convenient point, your Honour.
- 2 PRESIDING JUDGE KORNER: [13:01:34] Yes. All right.
- 3 Sir, we're going to take the break for lunch now, which lasts until 2.30. But, as
- 4 Mr Edwards said, you will be -- your evidence will be concluded this afternoon.
- 5 And please don't discuss it over lunch.
- 6 Yes, thank you very much. We're adjourned till 2.30.
- 7 THE COURT OFFICER: [13:01:54] All rise.
- 8 (Recess taken at 1.01 p.m.)
- 9 (Upon resuming in open session at 2.35 p.m.)
- 10 THE COURT USHER: [14:35:44] All rise.
- 11 Please be seated.
- 12 PRESIDING JUDGE KORNER: [14:36:05] Mr Edwards, just before you start, I forgot
- 13 to allow time before lunch for the admission, the formal admission of the -- I think it's
- 14 the second diagram that the witness dealt with.
- 15 THE COURT OFFICER: [14:36:21] Your Honour, the satellite image bearing ERN
- 16 DAR-OTP-0220-3745 and sketched or marked by the witness will be assigned number
- 17 DAR-REG-0001-0003 and will be marked as confidential. Thank you.
- 18 PRESIDING JUDGE KORNER: [14:36:45] Yes. Thank you.
- 19 Yes, Mr Edwards.
- 20 MR EDWARDS: [14:36:47] Thank you, your Honour.
- 21 Q. [14:36:54] Good afternoon, Mr Witness, I hope you're feeling a bit refreshed after
- 22 the lunch break.
- 23 Now, we were talking about weapons at the very end of the session just before lunch
- 24 and you said that some people had weapons, it wasn't something that you saw.
- 25 Did -- did that situation ever change? Did there come a time when there were much

1 more weapons in the hands of villagers in your part of Darfur?

2 A. [14:37:45] No, no.

3 Q. [14:37:55] You say you hadn't seen weapons. Of course - paragraph 92,
4 your Honour - in 2003 it's right, isn't it, that a male came to Ordo village from Sindu
5 and said that there were rebels based in Sindu protecting villages there, and he asked
6 you collectively to keep that information secret. Do you remember telling
7 the Prosecution about that?

8 A. [14:38:31] Correct.

9 Q. [14:38:33] And you saw that that rebel was carrying a Kalashnikov?

10 A. [14:38:41] Correct.

11 Q. [14:38:53] There was a time when -- actually, I'm moving to a topic which could
12 well identify the witness. I'm terribly sorry, could we move into private session,
13 please?

14 PRESIDING JUDGE KORNER: [14:39:11] Yes.

15 Private session, please.

16 (Private session at 2.39 p.m.)

17 THE COURT OFFICER: [14:39:22] We're in private session, Madam President.

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

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1 (Open session at 2.59 p.m.)

2 THE COURT OFFICER: [14:59:36] We're back in open session, Madam President.

3 MR EDWARDS: [14:59:41] Thank you, Madam Court Officer.

4 Q. [14:59:46] Mr Witness, on that Friday did you see anyone at the mosque? Were
5 there people praying at the mosque that Friday?

6 A. [15:00:08] Yes, there was a group praying.

7 Q. [15:00:12] Now, our understanding is that the mosque itself, the mosque
8 building was itself inside a walled compound; is that correct?

9 A. [15:00:36] What do you mean by "walled"?

10 Q. [15:00:39] The mosque itself was in a compound and there was a wall around
11 the periphery of the compound; is that true?

12 A. [15:00:56] Do you mean surrounded by a wall?

13 Q. [15:00:58] Yes.

14 A. [15:00:59] Or fenced?

15 Q. [15:01:04] Yes.

16 A. [15:01:08] Yes, yes.

17 Q. [15:01:11] And how high was that wall around the -- the compound?

18 A. [15:01:25] At the mosque itself, correct?

19 Q. [15:01:29] No, how tall was the wall of the compound?

20 A. [15:01:40] 1.5 to 2 metres high, more or less. I cannot tell exactly, but more or
21 less it was 1.5 to 2 metres.

22 Q. [15:01:53] Okay. Now let's forget about the wall around the compound. Let's
23 talk about the mosque building itself. Are you with me?

24 A. [15:02:08] Yes.

25 Q. [15:02:09] Did the mosque itself have windows?

1 A. [15:02:19] Yes.

2 Q. [15:02:21] People inside the mosque were able to see out, were they?

3 A. [15:02:35] No, because I never prayed. I cannot tell because I never prayed in
4 the mosque.

5 Q. [15:02:43] Okay, fair enough. Well, I won't ask you any more about
6 the mosque if you never prayed there.

7 What time of day was it when you saw the vehicle that you say was being used by
8 Ali Kushayb on this Friday?

9 A. [15:03:04] I did not understand the question. What do you mean by the day?

10 Q. [15:03:13] What time, what time of day was it? Was it before noon, after noon?
11 Are you able to give us an idea of when you saw Ali Kushayb -- Ali Kushayb's
12 vehicle?

13 A. [15:03:31] In the morning.

14 Q. [15:03:38] Early in the morning or late morning?

15 A. [15:03:45] Frankly, I did not have a watch to identify the timing. It was in
16 the morning, but I cannot tell about the timing, I did not have a watch.

17 Q. [15:03:59] Was the vehicle that you saw that day in Deleig, was it a vehicle that
18 had that belt of bullets decoration on the bonnet, on the hood?

19 A. [15:04:21] Yes.

20 Q. [15:04:24] Now, this whole incident, tell me if you agree, this whole incident
21 involves the Janjaweed or the police collecting and arresting a person who you
22 believe to be Issa Nusara. Is that a fair summary of the situation?

23 A. [15:05:07] I did not understand the question.

24 Do you mean that the Janjaweed and the police arrested Issa Nusara? Is that what
25 you meant?

1 Q. [15:05:20] Sorry, I'll -- I'll try it again.

2 After he was arrested or collected, or what -- however you want to describe it, was
3 Issa Nusara taken into the police station?

4 A. [15:05:41] Yes.

5 Q. [15:05:44] Was it your impression that that was the purpose of Ali Kushayb's
6 presence there that day?

7 A. [15:06:04] I'm sorry, I did not understand the question.

8 Q. [15:06:11] When Issa Nusara was taken into the police station, did the person
9 that you thought was Ali Kushayb go into the police station also?

10 A. [15:06:34] No. His soldiers did so.

11 Q. [15:06:38] What did the person that you thought was Ali Kushayb do after
12 Nusara was taken into the police station?

13 A. [15:06:52] What is the question? I did not understand it.

14 Q. [15:06:59] What did --

15 PRESIDING JUDGE KORNER: [15:07:00] Sorry, Mr Edwards, I mean he's already
16 said what the person did. Are you asking him to go back over it? Or are you
17 putting a case to him almost?

18 MR EDWARDS: [15:07:10] Yes, yes, yeah.

19 PRESIDING JUDGE KORNER: [15:07:11] All right.

20 MR EDWARDS: [15:07:11]

21 Q. [15:07:12] No, what -- just remind us then, what did the person that you thought
22 was Ali Kushayb do after Nusara had been taken into the police station?

23 A. [15:07:33] After Issa Nusara was taken into the police station, the vehicles
24 moved from there and we left.

25 Q. [15:07:59] Now thinking very carefully about it, is it possible that where you

1 saw the vehicle used by Ali Kushayb, it was in fact in front of the police station, right
2 next to the police station?

3 A. [15:08:30] Yes.

4 Q. [15:08:33] Now the police station on the map, if you look at it on the screen, you
5 see it's there marked with a "1".

6 A. [15:08:46] Yes.

7 Q. [15:08:51] Sir, the -- the point which is marked with a "6", that in fact should be
8 closer and in front of the police station; is that right?

9 A. [15:09:15] Please repeat the question.

10 Q. [15:09:20] All right. How -- if you were at Ali Kushayb's car -- imagine you
11 were at Ali Kushayb's car where he was parked in front of the police station and you
12 wanted to walk into the police station, was it just a couple of metres away?

13 A. [15:09:48] Do you mean from where I was to Kushayb's vehicle or from my
14 place to the police station, what is closer?

15 Q. [15:09:54] No, sorry.

16 A. [15:09:55] Correct?

17 Q. [15:09:59] No, I've -- I'm not being very helpful. If Ali Kushayb's car was just in
18 front of the police station, how many metres roughly are we talking between the car
19 and the police station?

20 A. [15:10:19] There was a field, a football field where we used to play football, so
21 that was separating between us.

22 Q. [15:10:36] I see. Now you told us earlier that -- you told us that if you were
23 to -- from where you were, if you were to run to Ali Kushayb's vehicle, it would take
24 less than a minute. Do you remember giving that clarification?

25 A. [15:11:12] Correct. That's correct.

1 Q. [15:11:15] Okay. Now never mind running. If you were to walk, would it
2 take about a minute -- would it take about a minute?

3 A. [15:11:29] No, I don't think so.

4 Q. [15:11:36] It's just I'm -- I'm -- yeah, I'm just intrigued by how you measured it in
5 terms of, if running, it would take less than a minute. I'm just trying to clarify that.
6 If you were walking, how long would it take for you to get from where you were to
7 Ali Kushayb's car, if you were walking?

8 A. [15:12:02] Yes, we have street 40, 30 and 20, they have numbers. I was to
9 the west of the street. So if we are in street 40, it would mean, for instance, 30 metres,
10 and in another street it would require more metres if we walked there.

11 Q. [15:12:33] From where you are sitting now, all right, was the distance to
12 Ali Kushayb's car more or less than the distance between you and the judges?

13 A. [15:12:58] Close to the wall, the wall behind the judges, approximately.

14 Q. [15:13:08] Now, when you gave your statement, you -- you indicated
15 the following, paragraph 57: "Ali Kushayb remained in his [car] in the football field."
16 Okay. I'm reading out directly from your statement. Are you with me?

17 A. [15:13:34] He was not there. He was next to his car, not in his car.

18 Q. [15:13:40] All right. Well, then I'm -- I'd like to know why you told
19 the investigators that he remained in his vehicle. Why were those the words that
20 you used when you gave the statement to the investigators?

21 A. [15:14:02] Yes, because in --the Fur interpreter did not understand me well.
22 However, the second one got me better, he understood me better than the first
23 interpreter.

24 Q. [15:14:27] Oh, I see. So it's the interpreter's fault that it says "in his vehicle" and
25 not "by his vehicle"?

1 A. [15:14:45] Yes.

2 Q. [15:15:03] Is it not possible that in fact Ali -- the person that you thought was
3 Ali Kushayb did remain in the vehicle, where it was -- where he was in the shade?

4 A. [15:15:27] That was an open car. It had no roof, in fact.

5 Q. [15:15:34] It had no roof. Now, when did -- did you see -- actually, I don't need
6 to ask that question. Bear with me for just a second.

7 Yeah. Paragraph 61. You went back to the place where you were staying and you
8 were told, weren't you, that there was an order that all of the people in Deleig must
9 stay inside their houses so that the Janjaweed could check people inside. My
10 question is: How was that order communicated to the population of Deleig?

11 A. [15:16:57] There was a curfew, which means that we have to stay home.

12 Q. [15:17:04] Was that a sort of a standing order curfew, or was it an order that was
13 made on the day?

14 A. [15:17:19] It was only on Friday.

15 Q. [15:17:21] Okay. So how was that order communicated?

16 A. [15:17:32] My aunt communicated this to me, but I don't know if she knew from
17 whom.

18 Q. [15:17:37] All right. And what time of the day was that order communicated?
19 Was it still in the morning?

20 A. [15:17:53] Yes, in the morning.

21 Q. [15:17:55] Before midday prayers?

22 A. [15:18:03] In the morning before midday prayers.

23 Q. [15:18:07] So if there was an order that people must stay inside their houses, did
24 that mean that people -- men weren't able to go to the mosque for midday prayers?

25 A. [15:18:29] Some people, not all of them. We were at home, but some of them

1 went. We considered that it was dangerous for us to go out and we preferred to stay
2 home.

3 Q. [15:18:41] How do you know that people went to the mosque?

4 A. [15:18:51] I --

5 THE INTERPRETER: [15:18:54] I'm sorry, the interpreter could not hear the witness.

6 Q. [15:18:57] Just repeat that answer, please. Can you -- can you move a little bit
7 forward so that you're closer to the microphones, please.

8 A. [15:19:11] I heard, after the afternoon's prayer, that some people went to
9 the mosque.

10 Q. [15:19:20] Despite a curfew being ordered by the Janjaweed, have I got that
11 right?

12 A. [15:19:35] I do not know.

13 Q. [15:19:40] Do you know if the people who did go to the mosque were Fur or
14 non-Fur, or a mixture?

15 A. [15:19:57] In Deleig we have the whole -- the entire population is Fur and
16 Zaghawa.

17 Q. [15:20:08] Exactly. So the people that you heard had gone to the mosque,
18 the midday mosque for Friday prayers, were they Fur or Zaghawa, or both? Or do
19 you not know?

20 A. [15:20:28] Yes.

21 Q. [15:20:31] "Yes" what?

22 A. [15:20:38] Both Fur and Zaghawa.

23 Q. [15:20:41] Was there a time set for how long this curfew was going to last?

24 A. [15:20:57] Until the afternoon's or sunset prayer, just after it.

25 Q. [15:21:05] During the house search that you talk about in your statement, is it

1 fair to say that the focus of the Janjaweed was to find out principally where Sindu
2 villagers could be found?

3 A. [15:21:30] Yes.

4 Q. [15:21:41] During the house search, when you were being questioned about
5 a Kalashnikov and questioned about being from Sindu, you were there with a number
6 of other people, correct?

7 A. [15:22:03] Yes.

8 Q. [15:22:05] And there were at least three females with you, correct?

9 A. [15:22:15] That's correct.

10 Q. [15:22:18] Was it only three or were there -- were there more than three females?

11 A. [15:22:25] No, not more.

12 Q. [15:22:31] Now you say that later that day you were worried about your aunt.
13 You decided to visit her.

14 A. [15:22:42] Yes.

15 Q. [15:22:45] Was that before or after sunset?

16 A. [15:22:54] I left around sunset.

17 Q. [15:23:16] So the -- it was getting darker. The lighting conditions was getting
18 darker, right?

19 A. [15:23:30] No, it wasn't really sunset, it was the beginning of the sunset.

20 Q. [15:23:37] Okay. So does that mean, then, that the curfew was still in place?

21 A. [15:23:47] In our neighbour, no. But in other neighbourhoods I cannot tell.

22 Q. [15:23:54] Well you said earlier that the curfew was to stay in place until -- till
23 sunset, right?

24 A. [15:24:08] That's correct. But in our neighbourhood after the sunset prayer,
25 there was no curfew. I don't know about other neighbourhoods as I did not go there.

1 Q. [15:24:21] Okay. So this is what I want to know. When you decided to go and
2 see if your aunt was okay, was this before or after the sunset prayer?

3 A. [15:24:37] Before sunset prayer.

4 Q. [15:24:40] All right. So the curfew was still in place?

5 A. [15:24:51] From where I was I felt secure and I did not check.

6 Q. [15:24:58] Why didn't you ask one of the women that you were in the -- in
7 the house with to go and check on your aunt on your behalf? Wouldn't that have
8 been the more -- the safer way to proceed?

9 A. [15:25:24] We were all scared, men and women alike.

10 Q. [15:25:30] But the Janjaweed weren't ...

11 Are you okay to continue, Mr Witness?

12 PRESIDING JUDGE KORNER: [15:25:53] Mr Edwards, I think you really can get to
13 the point of this. He's been here all day and leading up to what appears to be a very
14 small point could be done much quicker.

15 MR EDWARDS:

16 Q. [15:26:19] Are you --

17 A. [15:26:21] Yes, I can go on.

18 Q. [15:26:35] When you went to the market the following day, the Saturday, I want
19 to ask about that for a moment, okay? Yeah?

20 A. [15:26:53] Yes.

21 Q. [15:26:55] What were you doing going to the market that Saturday?

22 A. [15:27:05] Because these are the only stores or shops that we have. We don't
23 have any other shops to buy from.

24 Q. [15:27:19] Was the Janjaweed still stopping people and arresting people that
25 Saturday?

1 A. [15:27:30] On Saturday there was no curfew.

2 Q. [15:27:42] Now you say that at the Deleig mosque you were standing around
3 with a group of young people chatting?

4 A. [15:28:07] Yes, that's correct.

5 Q. [15:28:10] And I want to ask you about what you saw of vehicles travelling past
6 with men in the back, okay?

7 A. [15:28:32] They were Land Cruisers travelling past with men between Deleig
8 and Koska. There were people on board of these Land Cruisers. And maybe
9 30 minutes later they were -- they came back empty, with no people on board.

10 Q. [15:28:54] You're saying your -- you say that the people in the back of the vehicle
11 appeared to be Fur. Can you tell us what you mean by that. What makes them
12 appear to be Fur?

13 A. [15:29:15] That was clear. Almost all regions were empty of people and these
14 vehicles were moving between Deleig and Garsila, so.

15 Q. [15:29:40] Yes. And what you say is there were men wearing civilian clothes
16 and appeared to be Fur. What made them appear to be Fur?

17 A. [15:29:58] Because two of my brothers -- two of my uncles died.

18 PRESIDING JUDGE KORNER: [15:30:17] Mr Edwards, I really --

19 MR EDWARDS: [15:30:18] Bear with me for a moment, please.

20 PRESIDING JUDGE KORNER: -- think you can get to the end of your
21 cross-examination fairly quickly now.

22 MR EDWARDS: [15:30:23] Yeah. I was just saying if he could bear with me, I just
23 want to (Overlapping speakers)

24 PRESIDING JUDGE KORNER: [15:30:31] All right.

25 MR EDWARDS: [15:30:32] Yes, thank you very much. Those are my questions.

- 1 PRESIDING JUDGE KORNER: [15:30:36] Yes.
- 2 Re-examination, Mr Nicholls?
- 3 MR NICHOLLS: [15:30:42] Just very briefly, your Honour.
- 4 Take your time, sir, it's all right. Tell me when you're ready.
- 5 Actually, I'll skip it, your Honour. Thank you.
- 6 PRESIDING JUDGE KORNER: [15:31:28] Sir, do you think you could answer just
- 7 a few more questions? If you'd rather finish now, then we'll finish now.
- 8 No, all right.
- 9 THE WITNESS: [15:31:48](Interpretation) I can carry on.
- 10 PRESIDING JUDGE KORNER: Are you sure?
- 11 THE WITNESS: [15:31:49](Interpretation) Yes.
- 12 PRESIDING JUDGE KORNER: [15:31:54] Mr Nicholls, then.
- 13 QUESTIONED BY MR NICHOLLS:
- 14 Q. [15:32:00] Thank you. I'll try to be brief, sir.
- 15 Maybe if you could look at me a second.
- 16 You were asked a lot of questions about seeing Ali Kushayb in Deleig on that Friday
- 17 just now by the Defence. I want to very -- and I want to make exactly what you saw
- 18 and what you remember clear. Okay? So that's -- that's what I'm going to ask you
- 19 about.
- 20 Now just take me through in your own words that morning when you were walking
- 21 to work and you saw Ali Kushayb's vehicle, and what you saw of him after that.
- 22 Just tell me in your own words, just very briefly, how you saw Ali Kushayb that
- 23 morning.
- 24 A. [15:33:08] We were sat down and about three cars arrived with Janjaweed on
- 25 board of it, and that included Ali Kushayb's -- Ali Kushayb's car. Because it was an

1 open cab. I was with my cousin, (Redacted), and we were sat down and we watched
2 what happened.

3 Q. [15:33:37] And -- and just if you could just tell the judges how sure or not sure
4 you were that it was Ali Kushayb you saw that day in Deleig.

5 A. [15:34:03] I will add something. Before the attack on Sindu, three days before
6 the attack, Ali Kushayb visited Deleig, the police station in Deleig, in the southeast
7 area. And we were there. It was like a small café and Ali Kushayb sat there and I
8 saw him there. I didn't see him only once or twice. I know him very well. I
9 a hundred per cent know him.

10 Q. [15:34:44] Thank you.

11 I'll stop there.

12 JUDGE ALAPINI-GANSOU: [15:34:57](Interpretation) Thank you,
13 Madam President.

14 I would like to put a question to Mr Witness. With regard to the curfew that he
15 mentioned continuously, I understood that there were constantly curfews, namely,
16 during the week.

17 Are you trying to make a comparison between the time when the Janjaweed came to
18 the houses searching for weapons and this curfew?

19 THE WITNESS: [15:35:55](Interpretation) Yes, yes.

20 JUDGE ALAPINI-GANSOU: [15:36:00](Overlapping speakers)

21 (Interpretation) -- the number of times that the Janjaweed went through the houses
22 looking for weapons.

23 THE INTERPRETER: [15:36:06] The interpreter did not catch the beginning of
24 the sentence, the question, because the microphone was engaged elsewhere.

25 JUDGE ALAPINI-GANSOU: [15:36:34](Interpretation) Do you have an idea of

1 the number of times that the Janjaweed came by looking for weapons in the houses?

2 THE WITNESS: [15:36:50](Interpretation) No, because after that Friday incident I
3 went back to Garsila. I don't know how many times they came.

4 JUDGE ALAPINI-GANSOU: [15:37:01](Interpretation) Okay. Thank you.

5 PRESIDING JUDGE KORNER: [15:37:07] Yes, so I've just got one question, or one
6 topic.

7 You were asked a number of questions about the time that your relation identified
8 Ali Kushayb to you as "Uncle Ali" I think you said it was.

9 Was that before the -- the conflict started, before the Janjaweed were acting in your
10 area?

11 THE WITNESS: [15:37:55](Interpretation) This is before I left Ordo and went to
12 Garsila.

13 PRESIDING JUDGE KORNER: [15:38:01] So you were working at the shop
14 from -- the shop owned by your relative from time to time?

15 THE WITNESS: [15:38:12](Interpretation) Yes.

16 PRESIDING JUDGE KORNER: [15:38:15] Did he explain to you, your relative, why
17 he was pointing this man out? You were asked by Mr Edwards what was special
18 about him.

19 THE WITNESS: [15:38:38](Interpretation) Yes, because during that period
20 everybody was talking about him. And that's why -- that's why he pointed him out
21 to me, because everybody was talking about him.

22 PRESIDING JUDGE KORNER: [15:38:52] You've said that before, but if this is before
23 the conflict, why was everybody talking about him?

24 THE WITNESS: [15:39:09](Interpretation) I don't know. I don't know really why
25 they were talking about him. It's been a very long time. I can't remember

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1 everything. It's been nearly 20 years now, so I can't remember everything.

2 PRESIDING JUDGE KORNER: [15:39:21] Yes, well, don't worry.

3 Yes, all right.

4 Sir, can I thank you on behalf of the whole Court for coming to court. We can all see
5 it's been a highly emotional experience for you. I'm sorry about that. But can I
6 reassure you that your evidence, as with all witnesses, is very important. And so I
7 do thank you for coming.

8 Yes, so if you would like to go with the court officer now and I wish you a safe return
9 home.

10 THE WITNESS: [15:40:00](Interpretation) Thank you all.

11 (The witness is excused)

12 PRESIDING JUDGE KORNER: [15:40:16] While the witness is being -- we're going
13 to admit the other documents or they're going to be read out and given a number
14 rather than admitting, I suppose.

15 THE COURT OFFICER: [15:40:27] Thank you, your Honour.

16 The document with ERN DAR-OTP-0220-3745 and marked by the witness will be
17 assigned Registry number DAR-REG-0001-0004 and will be marked as confidential.
18 Thank you.

19 PRESIDING JUDGE KORNER: [15:40:45] Yes.

20 Mr Edwards, in the end you never really put a case to him, but I'm assuming that it's
21 simply that he's -- he's made a mistake in his identification.

22 MR EDWARDS: [15:40:57] Yes, I --

23 PRESIDING JUDGE KORNER: [15:40:58] I mean, I know it's -- it was difficult, I
24 appreciate.

25 MR EDWARDS: [15:41:02] Yes, and I -- and I didn't want to prolong matters and I

1 think -- I hope my position was reasonably clear (Overlapping speakers)

2 PRESIDING JUDGE KORNER: [15:41:15] Well, I mean your position is clear.

3 MR EDWARDS: [15:41:17] Yeah, yeah.

4 PRESIDING JUDGE KORNER: [15:41:21] But as I say, I think it's -- I think, well, I

5 mean, in any event, he answered even if it wasn't put strongly through

6 re-examination, which is that he's absolutely positive it's him.

7 MR EDWARDS: [15:41:34](Overlapping speakers) That's what he said.

8 PRESIDING JUDGE KORNER: [15:41:36] Yes, all right.

9 So tomorrow obviously is off. And are there any problems over Thursday's witness,

10 no, anybody knows of?

11 MR NICHOLLS: [15:41:47] Not that I'm aware of, Judge, unless I've missed an email.

12 I'm in court now.

13 PRESIDING JUDGE KORNER: [15:41:52] He's the one on video link. However,

14 if -- is the -- is the Friday's one on video link as well? No, he's a live one --

15 MR NICHOLLS: [15:42:00] Thursday -- sorry. Thursday is video link, Friday is in

16 person.

17 PRESIDING JUDGE KORNER: [15:42:04] Is Thursday's video-link witness going to

18 take the whole day? Because if not, we might try and start Friday's witness.

19 MR NICHOLLS: [15:42:14] The direct, I hope, will be -- it's not my witness, but

20 the information I received was an hour. So I was a little over an hour today, but ...

21 PRESIDING JUDGE KORNER: [15:42:25] But not so much, yeah.

22 MR NICHOLLS: [15:42:27] No. So I think about an hour is what we're planning on.

23 PRESIDING JUDGE KORNER: [15:42:32] Mr Laucci, have you any idea?

24 MR LAUCCI: [15:42:35] Thank you for having asked that. In that case, I think our

25 colleagues in the Office of the Prosecutor should be ready to have P-0120 come for

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- 1 the afternoon session.
- 2 PRESIDING JUDGE KORNER: [15:42:45] Right. Well, if we can arrange that,
- 3 because that way at least it will give the Defence more time.
- 4 Is he 68(3) as well, the last witness, the witness for Friday? Yes, he is, isn't he?
- 5 MR NICHOLLS: [15:43:01] Both are, I believe. Yes.
- 6 PRESIDING JUDGE KORNER: [15:43:02] All right. Yes.
- 7 Very well, so Friday morning. I'm happy to say that the air conditioning in the court
- 8 appears to have been fixed or at least remedied. So whether --
- 9 MR NICHOLLS: [15:43:16] Does that mean we're in this courtroom still or?
- 10 PRESIDING JUDGE KORNER: [15:43:20] I don't know. Are we -- Wilfred, are we?
- 11 Apparently it's being left up to us. Do we want here or courtroom -- here or
- 12 courtroom 2? All right. There's an "I don't care" from here, so I'll say all right we'll
- 13 stay where we are, if everybody's happy with that.
- 14 Yes, well, I wish everybody a happy Queen's Day -- King's Day.
- 15 Thank you.
- 16 THE COURT USHER: [15:43:57] All rise.
- 17 (The hearing ends in open session at 3.43 p.m.)