

Trial Hearing  
WITNESS: DAR-D31-P-0008

(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 ("Ali  
5 Kushayb") - ICC-02/05-01/20  
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and Judge Althea Violet  
7 Alexis-Windsor  
8 Trial Hearing - Courtroom 2  
9 Tuesday, 21 November 2023  
10 (The hearing starts in open session at 9.35 a.m.)  
11 THE COURT USHER: [9:35:09] All rise.  
12 The International Criminal Court is now in session.  
13 Please be seated.  
14 PRESIDING JUDGE KORNER: [9:35:29] Yes. Good morning, all.  
15 Appearances. Defence, please?  
16 MR LAUCCI: [9:35:41] Good morning, Madam President. Good morning, your  
17 Honours. Good morning, dear colleagues. Good morning to the public. Together  
18 with Mr Ali Muhammad Ali Abd-Al-Rahman, present in the courtroom today,  
19 Madam Eva Kalb, assistant evidence reviewer; Mr Ahmad Issa, our case manager; my  
20 colleague, Iain Edwards; and myself, Cyril Laucci, counsel.  
21 PRESIDING JUDGE KORNER: [9:36:04] Yes, thank you. Prosecution.  
22 MR NICHOLLS: [9:36:07] Good morning, Madam President. Good  
23 morning, your Honours. Same as yesterday.  
24 PRESIDING JUDGE KORNER: [9:36:11] Is it? Oh, I see Ms Whitford's moved to  
25 the back.

Trial Hearing

(Open Session)

ICC-02/05-01/20

WITNESS: DAR-D31-P-0008

1 Yes, and the victims representatives?

2 MR SHAH: [09:36:18] Yes, good morning, Madam President. Good morning, your

3 Honours. Same as yesterday with the exception of our case manager.

4 PRESIDING JUDGE KORNER: [9:36:26] Thank you.

5 Yes, and the witness is in court, so we'll go straight ahead.

6 WITNESS: DAR-D31-P-0008

7 (The witness speaks Arabic)

8 (The witness gives evidence via video link)

9 PRESIDING JUDGE KORNER: [9:36:35] sir, good morning. Can you hear and  
10 understand me? Or has that sent him away again.

11 Is there a reason why he's sent -- yes, I'll start that one again.

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

13 THE WITNESS: [9:37:23] Good morning, yes. I can hear you loud and clear.

14 PRESIDING JUDGE KORNER: [9:37:26] Thank you very much. As you know,  
15 you're here to give evidence. In a moment you will be asked to repeat after the court  
16 officer the solemn declaration to tell the truth. As you gather, everything that you  
17 say has to be interpreted from Arabic into English and French, so it's important that  
18 you don't speak too quickly, and try and keep your answers short.

19 And there will be a break in the morning at 11 o'clock our time for half an hour and  
20 then a break over lunch, if necessary. Yes. Is all of that clear?

21 THE WITNESS: [9:38:24](Interpretation) Very clear.

22 PRESIDING JUDGE KORNER: [9:38:26] Good. Thank you. Yes,

23 Mr Laucci -- sorry, no, off you go.

24 THE COURT OFFICER: [9:38:32] Good morning, witness. Can you please repeat  
25 the solemn undertaking after me. I solemnly declare.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

- 1 THE WITNESS: [9:38:41](Interpretation) I solemnly declare.
- 2 THE COURT OFFICER: [9:38:45] That I will speak the truth.
- 3 THE WITNESS: [9:38:50](Interpretation) That I will speak the truth.
- 4 THE COURT OFFICER: [9:38:52] The whole truth and nothing but the truth.
- 5 THE WITNESS: [9:38:57](Interpretation) The whole truth and nothing but the truth.
- 6 THE COURT OFFICER: [9:39:05] You are under oath now.
- 7 PRESIDING JUDGE KORNER: [9:39:07] Yes, Mr Laucci.
- 8 MR LAUCCI: [9:39:09] Thank you, Madam President.
- 9 QUESTIONED BY MR LAUCCI:
- 10 Q. [9:39:11] Good morning, Mr Witness. Do you hear me?
- 11 A. [9:39:15] Good morning, sir. I can hear you loud and clear.
- 12 Q. [9:39:20] Thank you for that. I will start with questions regarding your identity,
- 13 but before doing so I would ask Madam President to authorise that we go in private
- 14 session.
- 15 PRESIDING JUDGE KORNER: [9:39:32] Yes, private session, please.
- 16 (Private session at 9.39 a.m.)
- 17 THE COURT OFFICER: [9:39:49] We are in private session, Madam President.
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Open session at 10.01 a.m.)

4 THE COURT OFFICER: [10:01:43] We are back in open session, Madam President.

5 MR LAUCCI: [10:01:54]

6 Q. [10:01:55] Thank you, sir. We are back in public session, which means that  
7 now the public can hear what you say, and I will avoid asking you questions that may  
8 reveal your identity. Try yourself to avoid mentioning it. I want to explore a little  
9 bit your access to information in the media in general. Can you tell us, sir, how  
10 familiar you are with what we call internet?

11 A. [10:02:47] I don't know anything about the internet.

12 Q. [10:02:57] Did you hear that word before?

13 A. [10:03:02] Yes. I don't know the internet.

14 Q. [10:03:11] Okay. So you heard about it, but you have no clear idea about what  
15 it is; do I understand correctly?

16 A. [10:03:20] Yes, I heard the word, but I don't know what it is.

17 Q. [10:03:28] Did you ever possess a smartphone or any other item with which you  
18 could explore and navigate the internet?

19 A. [10:03:44] No.

20 Q. [10:03:50] Have you ever used social media like Facebook, TikTok, Instagram  
21 and the like?

22 A. [10:04:05] No. No.

23 Q. [10:04:08] Are you able to tell us what a website is?

24 A. [10:04:14] Honestly, I don't know anything about it.

25 Q. [10:04:29] Generally, what is your access to information in the media? How do

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 you receive information about events that take place in Sudan or anywhere else in the  
2 world?

3 A. [10:04:46] Sometimes I hear them on the radio or from people in the street.

4 Q. [10:05:03] And you used to listen to the radio regularly?

5 A. [10:05:12] No.

6 MR NICHOLLS: [10:05:14] Sorry. No objection at all, I just wonder if there's a time  
7 frame? This is present tense and I don't know if we are also talking about earlier  
8 years.

9 MR LAUCCI: [10:05:25] Well, thank you. My questions were actually in a  
10 continuum, but if you -- or maybe you can explore that in cross.

11 MR NICHOLLS: [10:05:34] It just wasn't clear to me, that's all.

12 PRESIDING JUDGE KORNER: [10:05:37] Okay.

13 Sir, does that mean throughout the whole of your career in the army and the CRF,  
14 you have never once heard about the internet and never once used it?

15 THE WITNESS: [10:05:56](Interpretation) I have never used it and I don't know it.

16 PRESIDING JUDGE KORNER: [10:06:03] Okay. When you were listening to the  
17 radio, does that mean throughout your career or only recently?

18 THE WITNESS: [10:06:13](Interpretation) Sometimes I would go to the club and I  
19 would listen to the radio, and also I would hear people talk in the street.

20 PRESIDING JUDGE KORNER: [10:06:34] Okay, so that's the only source --

21 THE WITNESS: [10:06:35](Interpretation) So there is the radio and what people say  
22 on the street.

23 PRESIDING JUDGE KORNER: [10:06:34] So that's your only source of information  
24 about what was happening in Sudan or elsewhere?

25 THE WITNESS: [10:06:52](Interpretation) Yes.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:06:53] Thank you.

2 Yes, thank you, Mr Laucci.

3 MR LAUCCI: [10:06:55]

4 Q. [10:06:56] Are you able to specify any specific radio channel that you used to  
5 listen to?

6 A. [10:07:06] I would -- if there's someone next to me, I would listen to a specific  
7 channel.

8 THE INTERPRETER: [10:07:26] Message from the interpreter: The name of the  
9 channel was not very clear.

10 MR LAUCCI: [10:07:31] Can you ask to repeat, please.

11 THE WITNESS: [10:07:40](Interpretation) The name of the channel is Omdurman,  
12 it's a Sudanese channel.

13 MR LAUCCI: [10:07:58]

14 Q. [10:07:59] And you only mentioned the radio, but I want to ask you if you ever  
15 watch news on the TV?

16 A. [10:08:09] I don't have a television, so I wouldn't watch the TV. In case I go to  
17 someone who owns a television, then I would see the news on the TV.

18 Q. [10:08:27] Thank you, sir. My next topic is the events that were already  
19 mentioned by Madam President that took place in 2003 and 2004 in Wadi Salih. You  
20 mentioned that it was a tribal conflict. What do you know about what happened  
21 then in Wadi Salih in 2003 and 2004?

22 A. [10:09:02] There was a problem with the tribes. I was far away from it, so I  
23 didn't really know what it was. So it was in Wadi Salih. In my area there was no  
24 problem. In Wadi Salih there were tribal problem and -- problems and I did not  
25 really know what they were.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [10:09:28] Do you know which tribes were in that problem -- were part of that  
2 problem?

3 A. [10:09:39] They were saying that the problems were between the Arabs and the  
4 Fur. So they were speaking about the Arabs,  
5 I know about the Arabs in general, but I don't know which tribes exactly.

6 Q. [10:09:59] Did you hear about the presence of a rebellion or a rebel movement?

7 A. [10:10:10] There was a rebellion in the mountain, but I don't know what the  
8 rebellion was about.

9 Q. [10:10:22] Which mountain are you talking about?

10 A. [10:10:28] Marra -- Jebel Marra.

11 Q. [10:10:39] Okay. And -- well, maybe last question on this event: Did you hear  
12 about a counterinsurgency that was called to fight against the rebellion at some point?

13 A. [10:10:57] Honestly, I did not hear about this.

14 Q. [10:11:06] Thank you. I understand from the questions -- your answers to the  
15 questions of Madam President that in this period of time, 2003/2004, this is when you  
16 returned to Rahad al-Berdi, right?

17 A. [10:11:31] Yes, up until 2010.

18 Q. [10:11:40] Do you remember seeing or hearing about refugees fleeing from  
19 Wadi Salih to Rahad al-Berdi over that period?

20 A. [10:11:54] Yes.

21 Q. [10:11:59] Do you know which tribe these persons belonged to?

22 A. [10:12:12] Most of them were from the Fur tribe and some of them were from  
23 Arab tribes.

24 Q. [10:12:25] Do you have any idea as to why these persons came to seek refuge in  
25 Rahad al-Berdi instead of another place?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [10:12:37] Can you repeat, please?

2 Q. [10:12:45] Do you know -- did you ever discuss with these persons or is there a  
3 way you can know why these persons from Wadi Salih chose to come and seek refuge  
4 in Rahad al-Berdi instead of another place?

5 A. [10:13:07] Some of them came to Rahad al-Berdi and some of them stayed in Ali  
6 Muhammad Ali Abd-Al-Rahman's house. But I don't know them, so -- but -- some  
7 of them were from the Fur tribe, some were from Arab tribes, but I don't know their  
8 names.

9 Q. [10:13:38] Thank you. I was not asking about their names, sir. My question is  
10 do you have any idea why these persons chose to come to Rahad al-Berdi when they  
11 fled the Wadi Salih?

12 A. [10:14:00] They fled from the war and they came to Rahad al-Berdi.

13 Q. [10:14:09] Before that, was there already a Fur community in Rahad al-Berdi?

14 A. [10:14:16] There were -- there were numerous. All the people of Rahad al-Berdi  
15 are Fur.

16 Q. [10:14:37] Maybe I will ask you to repeat that or clarify. Are you saying that  
17 the Fur tribe is the only tribe present in Rahad al-Berdi?

18 A. [10:14:51] No, there are Arabs too. Not Ta'aisha, there were Arabs from other  
19 tribes. There were numerous tribes. There are numerous tribes in Rahad al-Berdi.  
20 So there are no problems -- or there were no problems in Rahad al-Berdi, and this is  
21 why people were coming there.

22 Q. [10:15:16] Okay. Sir, to make sure that we understand fully what you say, is  
23 Rahad al-Berdi the *Dar* of a specific tribe and, if so, which one?

24 A. [10:15:39] Originally, Rahad al-Berdi is the *Dar* of the Ta'aisha tribe. However,  
25 many other tribes live there. However, its name or its -- it is the *Dar* of the Ta'aisha



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 tribe. Nonetheless, numerous tribes live there and the majority are from the Fur.

2 Q. [10:16:11] Okay. And when these new displaced persons from the Fur tribe  
3 arrived in Rahad al-Berdi in 2003/2004, where did they go? How were they -- how  
4 were they welcomed?

5 A. [10:16:36] They are still there until now. So they were received by people, they  
6 were protected by people and they are still there until today. They were given  
7 houses or homes where they still live.

8 Q. [10:16:50] Okay. And did all of these displaced persons arriving from  
9 Wadi Salih go to the houses of the inhabitants of Rahad al-Berdi, or did some others  
10 go to other places?

11 A. [10:17:10] So they are in the surroundings of Rahad al-Berdi also, and they are  
12 working and farming and agriculture. They are also in the surroundings, or the  
13 suburbs of Rahad al-Berdi.

14 Q. [10:17:30] Did some of them go into camps at some point?

15 A. [10:17:37] After they came, they lived -- they were given tents. However,  
16 afterwards they were distributed in houses or homes and there were no more tents.

17 Q. [10:18:02] So we understand that the camps were only temporary  
18 accommodation, right?

19 A. [10:18:10] Yes.

20 Q. [10:18:16] Do you have any idea or knowledge about who administered those  
21 camps?

22 A. [10:18:29] Al-Nazir Abdelarahman Al-Sanoussi is the person who was  
23 administering them and who was from the Ta'aisha in Rahad al-Berdi, and he had  
24 some people working with him. So there were people working who were receiving  
25 people, arriving to the area. They were giving them some items to survive. They

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 were giving them homes. So these people stayed there for a while and -- these  
2 people stayed there for a while and then they started looking for their livelihoods.

3 Some of them work in agriculture and they live in the suburbs of Rahad al-Berdi.

4 Q. [10:19:26] Okay. And you mentioned a little bit earlier that Mr Ali Muhammad  
5 Ali Abd-Al-Rahman is one of the persons who welcomed some of these displaced  
6 persons?

7 A. [10:19:41] Yes.

8 Q. [10:19:46] How do you know that?

9 A. [10:19:49] I was there. Once I went to him to his home and I found people,  
10 newcomers, who were at his home. I saw them but I don't know their names. I  
11 only saw these people from the Fur tribe in his home, but I don't know them -- I didn't  
12 know them, so I knew that these were people who brought their families there.

13 Q. [10:20:17] Do you know how many people that made? To be more specific --

14 A. [10:20:31] I'm unable to specify the number of families. I saw numerous  
15 families, but I'm unable to specify the exact number. Whether it was eight or nine  
16 families, I'm unable to specify.

17 PRESIDING JUDGE KORNER: [10:20:50] Could we establish which home?

18 MR LAUCCI: [10:20:53] I will come to that.

19 Q. [10:20:57] Maybe my question was not specific enough, sir, but do you  
20 remember -- are you able to tell us how many people were welcomed by Mr Ali?

21 A. [10:21:15] I'm unable to specify. When I went there, I saw a family or families,  
22 but I cannot specify whether they were 20, 10 or 15. I have seen families inside the  
23 house and they were from the Fur, from the displaced Fur community. They were in  
24 the house or around it. I'm unable to specify how many they were.

25 Q. [10:21:41] And to which home did they go? What were their houses where

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 they were accommodated?

2 A. [10:21:48] If there was, like, an empty house, they would stay there or in the  
3 yard in front of this house. This is where they would stay.

4 Q. [10:22:07] But are you talking about houses belonging to Mr Ali?

5 A. [10:22:16] He has only two houses.

6 Q. [10:22:26] And --

7 PRESIDING JUDGE KORNER: [10:22:28] Sorry. This is really confusing. Two  
8 houses where?

9 THE WITNESS: [10:22:35](Interpretation) In Rahad al-Berdi.

10 MR LAUCCI: [10:22:46]

11 Q. [10:22:46] Okay. And so is it what you say that he accommodated these Fur  
12 displaced persons in one of these two houses or in the yard?

13 A. [10:22:58] Excuse me?

14 Q. [10:23:06] I try to clarify where these persons who were welcomed by Mr Ali  
15 were accommodated. Were they accommodated in one of his two houses or in the  
16 yard of his houses?

17 A. [10:23:29] In both his houses. His houses are next to one another and people  
18 stayed in both of them.

19 Q. [10:23:41] So are you saying that he received some displaced persons in the  
20 same house where he was himself living?

21 A. [10:23:51] Yes.

22 Q. [10:23:57] And did you see those persons --

23 MR NICHOLLS: [10:24:02] (Microphone not activated)

24 THE INTERPRETER: [10:24:04] Microphone, please.

25 MR NICHOLLS: [10:24:06] I didn't object earlier. We just had a leading question.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:24:10] (Microphone not activated) It's not really.

2 It's not that -- sorry.

3 Mr Laucci, at the moment it's utterly confusing, because we have suddenly jumped to  
4 Mr Al-Rahman without any explanation of who Mr Al-Rahman is, how he knows this,  
5 why he was going to his house.

6 MR LAUCCI: [10:24:27] I will ask those questions, Madam President, but since we  
7 were talking about the arrival of displaced persons to Rahad al-Berdi, I was just  
8 following up to what the witness had said.

9 PRESIDING JUDGE KORNER: [10:24:37] All right. But at the moment, I think it  
10 might assist more if we discovered how he knows this, how it is that Mr Al-Rahman  
11 had two houses there, what he was doing at the time, and so on and so forth.

12 MR LAUCCI: [10:24:53] Yes. I will definitely go to that topic. Maybe I will ask a  
13 last question to close that bracket and then we move on to the next topic, which is this  
14 one.

15 Q. [10:25:04] Sir, do you remember how long these persons stayed at Mr Ali's  
16 place?

17 A. [10:25:20] I don't know how long they stayed. I'm unable to specify the period  
18 of time.

19 Q. [10:25:33] Okay. So let's talk now about Mr Ali. Since when have you known  
20 Mr Ali?

21 A. [10:25:53] When I -- he was in Rahad al-Berdi since I've known him.

22 Q. [10:26:18] And how old were you yourself when you came to know him for the  
23 first time?

24 A. [10:26:25] I've -- I have known Mr Ali since I -- since very long time, since all the  
25 time in Rahad al-Berdi.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Q. [10:26:49] But were you yourself a child, a teenager, a grown-up, an adult?
- 2 A. [10:27:04] I was approximately 12 years old -- 12, 14 or 15 years old.
- 3 Q. [10:27:17] As far as you know, is Mr Ali from Rahad al-Berdi?
- 4 A. [10:27:22] Yes.
- 5 Q. [10:27:29] Does he belong to the Ta'aisha tribe?
- 6 A. [10:27:33] Yes.
- 7 Q. [10:27:40] What are the names — and I say plural, in case there is more than  
8 one — what are the names under which you know Mr Ali?
- 9 A. [10:27:53] Ali Muhammad Ali Abd-Al-Rahman, Abu Nasser.
- 10 Q. [10:28:04] Why Abu Nasser?
- 11 A. [10:28:08] Because when a man has a child, the eldest son, he would be called by  
12 the name of his oldest son.
- 13 Q. [10:28:23] Did you ever hear Mr Ali refer to himself as Kushayb or Ali Kushayb?
- 14 A. [10:28:41] I did not hear that.
- 15 Q. [10:28:43] Did you ever hear anyone else call Mr Ali, Kushayb or Ali Kushayb?
- 16 A. [10:28:58] I didn't hear that.
- 17 Q. [10:29:00] Did you ever hear anyone refer to Mr Ali as Kushayb or Ali Kushayb?
- 18 A. [10:29:10] I didn't hear that.
- 19 Q. [10:29:15] Did you hear -- did you ever hear the name Ali Kushayb — well, if  
20 your access to the media was only the radio — on the radio?
- 21 A. [10:29:29] I have heard it on the radio, but I didn't know who that person was.
- 22 Q. [10:29:34] And how did you find out that some people were making a link  
23 between this name "Ali Kushayb" and Mr Ali?
- 24 A. [10:29:53] I didn't know that.
- 25 Q. [10:30:04] Sir, you are before the International Criminal Court. Do you know

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 why Mr Ali is before the Court himself?

2 A. [10:30:22] Now? Now, yes, he is there.

3 Q. [10:30:34] Okay, but do you know why he is there?

4 A. [10:30:42] Yes, I do.

5 Q. [10:30:46] Can you tell us what you know about that?

6 A. [10:30:50] I heard that he was wanted by the ICC, but I didn't know why. He  
7 said, "I was going to go to figure out why".

8 PRESIDING JUDGE KORNER: [10:31:12] Who said, "I was going to go and figure  
9 out why"?

10 THE WITNESS: [10:31:18](Interpretation) Ali Muhammad Ali Abd-Al-Rahman.

11 He told me -- he told me that he was requested -- wanted for the Court, so he said,  
12 "I was going to go to see what was going on. I was going to see what was going on  
13 or why".

14 MR LAUCCI: [10:31:46]

15 Q. [10:31:46] Do you remember when this discussion took place between the two of  
16 you?

17 A. [10:31:51] We were having this discussion and he said, "I was going to see  
18 why -- what was going on." I am not sure of the time; it may be 2020. He said,  
19 "I was going to verify why I was wanted."

20 Q. [10:32:20] And did Mr Ali mention the name Ali Kushayb in that conversation?

21 A. [10:32:27] No, he didn't.

22 Q. [10:32:35] But did you -- had you heard already at this time that some people,  
23 including at the court, were saying that his name -- his other name is Ali Kushayb?

24 A. [10:32:52] I don't know who Kushayb is. I don't know who Kushayb is. I am  
25 not familiar with this name.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [10:33:09] I thought -- I'm sorry, sir, I thought a  
2 moment ago you told us you'd heard the name "Kushayb" on the radio?

3 THE WITNESS: [10:33:23](Interpretation) That's correct.

4 MR LAUCCI: [10:33:32]

5 Q. [10:33:32] And that information that you heard on the radio, was it making the  
6 link -- a link between this Ali Kushayb and Mr Ali?

7 A. [10:33:42] I -- I didn't know about Ali Kushayb in Rahad al-Berdi. I heard it on  
8 the radio. The name I heard on the radio.

9 Q. [10:34:01] Okay, stop there.

10 PRESIDING JUDGE KORNER: [10:34:02] Well, I mean, yes, but in what connection  
11 did you hear this name on the radio?

12 THE WITNESS: [10:34:17](Interpretation) I heard the name "Ali Kushayb", but I  
13 didn't know who that person was. There was no connection or relation, that's why I  
14 was not interested in it.

15 PRESIDING JUDGE KORNER: [10:34:31] What did the radio say about the person  
16 called Ali Kushayb?

17 THE WITNESS: [10:34:39](Interpretation) I heard that on the radio, but I didn't  
18 know who that person was.

19 MR LAUCCI: [10:34:51]

20 Q. [10:34:51] Sir, did you ever hear about a warrant of arrest delivered by the  
21 International Criminal Court against president Al-Bashir?

22 A. [10:35:07] Yes.

23 Q. [10:35:16] Would you be able to tell us when you heard about that for the first  
24 time?

25 A. [10:35:25] I cannot tell for sure when.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Q. [10:35:34] Do you know who Ahmad Harun is?
- 2 A. [10:35:48] I heard that name, but I don't know who Ahmad Harun was.
- 3 Q. [10:35:56] And I want to make sure that you have understood my question. I'm  
4 not asking you if you know Ahmad Harun personally, my question is whether you  
5 know who that person is without ever meeting him?
- 6 A. [10:36:14] I heard the name on the radio, but I wouldn't be able to tell his  
7 position or his rank, or what he did.
- 8 Q. [10:36:23] Do you remember hearing about a warrant of arrest of the  
9 International Criminal Court against Ahmed Harun?
- 10 A. [10:36:37] Yes.
- 11 Q. [10:36:40] Do you remember when you heard about that information?
- 12 A. [10:36:47] I don't remember when exactly, because I was not interested in -- it  
13 did not concern me. That's why I did not follow up closely.
- 14 Q. [10:37:01] And did you ever hear about a warrant of arrest of the court against  
15 the person named Ali Kushayb?
- 16 A. [10:37:12] As I mentioned, I heard it on the radio, but it did not concern me. I  
17 didn't know who Harun was or Ali Kushayb was. This all did not concern me.  
18 That's why I was not interested in it.
- 19 Q. [10:37:29] Sir, to your knowledge, did representatives of the Office of the  
20 Prosecutor of the court ever come to Rahad al-Berdi for an investigation?
- 21 A. [10:37:47] I did not see them.
- 22 Q. [10:37:52] You did not see them, but do you know if some ever came?
- 23 A. [10:38:00] I did not hear about that.
- 24 Q. [10:38:10] If representatives of the Office of the Prosecutor had come to  
25 Rahad al-Berdi, would you have met with them to tell them what you know about



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Mr Ali?

2 A. [10:38:39] I didn't hear about people ever coming to Rahad al-Berdi. I never  
3 heard about that.

4 Q. [10:38:44] Did you ever try to contact the court yourself to say that you knew  
5 Mr Ali and that he is not Ali Kushayb, to your knowledge?

6 A. [10:39:03] Yes.

7 Q. [10:39:11] Can you elaborate? What did you do?

8 A. [10:39:16] They called me and they said, "You are required by the ICC", and {ICR:  
9 (Redacted)}

10 Q. [10:39:34] Okay. In your recollection and understanding, sir, was this  
11 conversation with the Defence or with the Office of the Prosecutor?

12 A. [10:39:44] Repeat the question, please.

13 Q. [10:39:51] This conversation, when --

14 MR NICHOLLS: [10:39:56] Sorry. He hasn't said he had any -- sorry, he hasn't said  
15 he had any conversation with the court. He said --(Overlapping speakers)

16 PRESIDING JUDGE KORNER: [10:40:01] Is there any dispute about this? I mean,  
17 this is very tortuous, Mr Laucci.

18 MR LAUCCI: [10:40:07](Microphone not activated) Yes. I can move on. I don't  
19 think there is --

20 PRESIDING JUDGE KORNER: [10:40:10] I don't imagine he did see the Office of the  
21 Prosecutor.

22 MR LAUCCI: [10:40:13] Okay. So I move -- I move on.

23 PRESIDING JUDGE KORNER: [10:40:15] Yes.

24 MR LAUCCI: [10:40:19]

25 Q. [10:40:19] How would you describe your personal relations with Mr Ali?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

1 A. [10:40:30] {ICR: (Redacted)}

2 (Redacted)

3 (Redacted)

4 (Redacted)}

5 MR LAUCCI: [10:41:01] My apologies, Madam President, we are going to ask for a  
6 redaction and I think we need a short -- very short private session for the next  
7 questions.

8 PRESIDING JUDGE KORNER: [10:41:11] Yes. Well, you can deal with the  
9 redaction, and we'll go into private session.

10 (Private session at 10.41 a.m.)

11 THE COURT OFFICER: [10:41:35] We are in private session, Madam President.

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Redacted)

7 (Redacted)

8 (Redacted)

9 (Redacted)

10 (Redacted)

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Open session at 10.48 a.m.)

22 THE COURT OFFICER: [10:48:20] We are back in open session, Madam President.

23 MR LAUCCI: [10:48:26] How would you describe the reputation of Mr Ali within  
24 the community in Rahad al-Berdi?

25 A. [10:48:47] He had a nice reputation. He was very helpful. He would help

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 people with -- in any matter. If someone was sick, he would go and give some  
2 medication; if they were unable to pay, he would give for free. If there was any issue,  
3 he would mediate to resolve the issue.

4 Also he would help the farmers. When they would need anything, they would come  
5 to him. And if people -- or shepherds needed to pass their cows through the  
6 vegetation, they would come to him and he would allow it. He helped in many  
7 ways.

8 Q. [10:49:40] Do you know if he encumbered any customary position within the  
9 tribe, the Ta'aisha tribe?

10 A. [10:49:50] No, he didn't.

11 Q. [10:50:01] Do you know anything about his political affiliation or opinions?

12 A. [10:50:15] No.

13 Q. [10:50:19] Did you ever hear about any link whatsoever with the Muslim  
14 Brotherhood movement or with the National Islamic Front?

15 A. [10:50:41] No.

16 Q. [10:50:45] Did you ever witness him having any discriminatory behaviour or  
17 making any discriminatory speech against the Fur tribe?

18 A. [10:51:06] No.

19 Q. [10:51:10] Would you describe Mr Ali as a wealthy man?

20 A. [10:51:25] No.

21 Q. [10:51:31] Do you know how he earned his money for his family?

22 A. [10:51:40] From his salary -- his salary from the army, in the CRF.

23 Q. [10:51:53] Okay. And you mentioned a little bit earlier that he was also selling  
24 medications?

25 A. [10:52:05] What do you mean he sells medications? People who -- he had a

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 clinic. He opened -- he had his own clinic and people would come to him. If  
2 people were unable -- or couldn't afford it, he would help. He would help those  
3 who can't afford. He would offer treatment and he would ask them just to leave, not  
4 to pay.

5 Q. [10:52:30] Can you describe that clinic for us?

6 A. [10:52:35] He had a clinic in the market.

7 Q. [10:52:48] The market of Rahad al-Berdi?

8 A. [10:52:52] Yes, the market of Rahad al-Berdi.

9 Q. [10:52:57] Was it a clinic to sell medication for humans or for animals, or both?

10 A. [10:53:07] It was a clinic for humans.

11 Q. [10:53:12] Are you able to describe it a little bit? What did it look like, this  
12 clinic? Was it a big thing? How was it?

13 A. [10:53:26] It was very small, very basic. Even the medication was not in big  
14 quantities; it was only in small quantities. He didn't have a lot of medications.

15 Q. [10:53:42] Do you know if Mr Ali ever had another clinic in another locality in  
16 his life?

17 A. [10:53:53] No.

18 Q. [10:53:57] Did you ever hear about Mr Ali having a similar shop in Garsila?

19 A. [10:54:10] What do you mean "similar shop"?

20 Q. [10:54:19] Similar clinic, or whatever way you like.

21 A. [10:54:24] He had -- he used to have a clinic in Garsila and then he moved it to  
22 Rahad al-Berdi.

23 Q. [10:54:34] Did you ever visit that other clinic in Garsila?

24 A. [10:54:39] I went to Garsila, but I did not go to the clinic. I did not see it.

25 Q. [10:54:49] Do you remember when you went to Garsila?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [10:54:54] I'm not sure. I had some errand to run there, but -- which I did, and  
2 then I went back. I didn't go there.

3 Q. [10:55:06] But which period is it? Is it after you left the army, before?

4 A. [10:55:14] After I left the army, but I did not see it. I did not see his clinic.  
5 However, I heard that he had a clinic in Garsila. However, I did not see it.

6 Q. [10:55:32] Okay. Thank you, Mr Witness.

7 MR LAUCCI: [10:55:34] Madam President, that completes my examination-in-chief.

8 PRESIDING JUDGE KORNER: [10:55:37] Yes. Thank you very much, Mr Laucci.  
9 All right, I think we'll take the break now.

10 Sir, there's going to be a break for -- between now and half past 11, about 35 minutes,  
11 and then you'll continue your evidence, being asked questions by the Prosecution, all  
12 right?

13 THE WITNESS: [10:56:05](Interpretation) No problems.

14 PRESIDING JUDGE KORNER: [10:56:06] Thank you.

15 THE COURT USHER: [10:56:07] All rise.

16 (Recess taken at 10.56 a.m.)

17 (Upon resuming in open session at 11.31 a.m.)

18 THE COURT USHER: [11:31:48] All rise. Please be seated.

19 PRESIDING JUDGE KORNER: [11:32:03] Mr Nicholls, it's you cross-examining, is it?  
20 Just to say this, we've got to rise a little earlier this afternoon at about a quarter to four,  
21 so I don't know how long you intend to be but...

22 MR NICHOLLS: [11:32:21] I don't think I will be that long unless there's a huge  
23 re-direct or (Overlapping speakers)

24 PRESIDING JUDGE KORNER: [11:32:26] Yeah, well I mean just to leave enough  
25 time for, as you put it re-direct.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 MR NICHOLLS: [11:32:32] A quarter to four, did you say, your Honour?
- 2 PRESIDING JUDGE KORNER: [11:32:36] A quarter to four, 3:45.
- 3 MR NICHOLLS: [11:32:39] My guess that won't be a problem.
- 4 PRESIDING JUDGE KORNER: [11:32:40] Okay.
- 5 Yes.
- 6 MR NICHOLLS: [11:32:42] Thank you, your Honour.
- 7 QUESTIONED BY MR NICHOLLS:
- 8 Q. [11:32:44] Good morning, sir.
- 9 A. [11:32:53] Good morning.
- 10 Q. [11:32:54] Do you hear me okay?
- 11 A. [11:32:58] Yes.
- 12 Q. [11:33:01] You remember we met yesterday. My name is Julian Nicholls and I
- 13 said I'd be asking you some questions today. Okay?
- 14 A. [11:33:09] Go ahead.
- 15 Q. [11:33:10] All right. Just a little bit of background -- you went over a lot of this
- 16 with my friends on the Defence, but I'll ask you a few more questions.
- 17 {ICR: (Redacted)}
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted)



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

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

21.11.2023

Page 33

The in-court redactions are identified with {ICR: text to be redacted}

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

- 1 (Redacted)}
- 2 PRESIDING JUDGE KORNER: [11:35:59] Thank you.
- 3 Yes, let's go into private session, then.
- 4 (Private session at 11.36 a.m.)
- 5 THE COURT OFFICER: [11:36:10] We are in private session, Madam President.
- 6 (Redacted)
- 7 (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 (Redacted)
- 14 (Redacted)
- 15 (Redacted)
- 16 (Redacted)
- 17 (Redacted)
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Redacted).

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 (Redacted)

2 (Redacted)

3 (Redacted)

4 (Redacted)

5 (Redacted)

6 (Open session at 11.51 a.m.)

7 THE COURT OFFICER: [11:51:49] We are back in open session, Madam President.

8 MR NICHOLLS: [11:51:52]

9 Q. [11:51:54] All right, sir, different topic but we may come back to that period that  
10 we were discussing a few minutes ago.

11 I'm going to ask you some questions now about your witness statement that you gave  
12 to the Defence, okay?

13 A. [11:52:14] Yes.

14 Q. [11:52:17] Now, the Defence explained to you how important it was to be  
15 accurate in your witness statement, right?

16 A. [11:52:31] Yes.

17 Q. [11:52:36] And they stated that you needed to be as accurate as possible, right?

18 A. [11:52:52] Yes.

19 Q. [11:52:55] And you should say when you don't understand a question, right?

20 A. [11:53:02] Yes.

21 Q. [11:53:03] And if you don't know the answer, you should make sure that's clear,  
22 right?

23 A. [11:53:10] Yes.

24 Q. [11:53:12] And you have to tell the Defence very carefully the difference  
25 between what you saw yourself and what you learnt from other people, right?



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 A. [11:53:29] Yes, that -- well, I know what I saw and I know what I didn't see.
- 2 Q. [11:53:37] And they told you that at the end, after you had given your statement,  
3 that they would read it back to you in Arabic to make sure it was correct, right?
- 4 A. [11:53:53] Yes.
- 5 Q. [11:53:56] And you knew it was important so you listened carefully while they  
6 read it back to you and made sure there was no mistakes, right?
- 7 A. [11:54:07] Yes.
- 8 Q. [11:54:15] And after that, you signed it, that it was all correct?
- 9 A. [11:54:20] Yes.
- 10 PRESIDING JUDGE KORNER: [11:54:32] Can I just ask, how did you sign it?
- 11 THE WITNESS: [11:54:39](Interpretation) I signed because I said things that I know.
- 12 PRESIDING JUDGE KORNER: [11:54:46] No, but I understood that you could  
13 neither read nor write. How were you able to sign the statement?
- 14 THE WITNESS: [11:54:57](Interpretation) In this world, even if a person doesn't  
15 know how to read and write, this person would know how to sign, because  
16 this -- because if I say something also, I follow up on it to be sure because I was  
17 supposed to sign. So I had to listen carefully to what I said in order to sign and if I  
18 heard something that I didn't say, I wouldn't have signed.
- 19 PRESIDING JUDGE KORNER: [11:55:31] Yes, thank you.
- 20 MR NICHOLLS: [11:55:34]
- 21 Q. [11:55:47] Now we are moving on to a different topic, sir, so listen to my  
22 questions carefully, please. You explained to us that you were born in Rahad  
23 Al-Berdi and you are of the Ta'aisha tribe, right?
- 24 A. [11:56:03] Yes.
- 25 Q. [11:56:04] And just while we are at it, Rahad Al-Berdi is not a tiny town, right?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

- 1 It's not as big as Nyala but it's a fairly big town, right?
- 2 A. [11:56:18] Yes.
- 3 Q. [11:56:19] And the leader of the Ta'aisha tribe is the *nazir*, correct?
- 4 A. [11:56:32] Yes.
- 5 Q. [11:56:35] He's an important person?
- 6 A. [11:56:42] Yes.
- 7 Q. [11:56:43] If I get it right, his name is Mahmoud Abd-Al-Rahman Bichara?
- 8 A. [11:56:54] Al-Sanoussi.
- 9 Q. [11:56:57] Yes, thank you.
- 10 MR NICHOLLS: [11:57:02] Actually, sorry, private session for one question.
- 11 PRESIDING JUDGE KORNER: [11:57:11] Sorry, did you say private session?
- 12 MR NICHOLLS: [11:57:12] Yes, just for one question.
- 13 PRESIDING JUDGE KORNER: [11:57:14] All right. Try and group them if you can,
- 14 Mr Nicholls.
- 15 MR NICHOLLS: [11:57:17] Yes.
- 16 (Private session at 11.57 a.m.)
- 17 THE COURT OFFICER: [11:57:22] We are in private session, Madam President.
- 18 (Redacted)
- 19 (Redacted)
- 20 (Redacted)
- 21 (Redacted)
- 22 (Redacted)
- 23 (Redacted)
- 24 (Redacted)
- 25 (Open session at 11.58 a.m.)

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 THE COURT OFFICER: [11:58:05] We are back in open session, Madam President.
- 2 MR NICHOLLS: [11:58:11]
- 3 Q. [11:58:13] Now, the *nazir*, Al-Sanoussi --
- 4 A. [11:58:28] Abd-Al-Rahman -- Mahmoud -- Mahmoud Abd-Al-Rahman Bichara
- 5 Al-Sanoussi.
- 6 Q. [11:58:36] Yes, thank you. He knows the accused in this
- 7 case -- Mr Abd-Al-Rahman, right?
- 8 A. [11:58:45] Yes.
- 9 Q. [11:58:47] He cares about him? He wants to help him, doesn't he?
- 10 MR EDWARDS: [11:58:55] Your Honour, forgive me, this witness can't be asked
- 11 {ICR: (Redacted)}
- 12 MR NICHOLLS: [11:59:06] I think we may want to redact that one part of what --
- 13 PRESIDING JUDGE KORNER: [11:59:11] Just a moment.
- 14 MR NICHOLLS: [11:59:13] -- Mr Edwards just said.
- 15 PRESIDING JUDGE KORNER: [11:59:24] I was distracted. Yes, well, he can
- 16 certainly --
- 17 MR NICHOLLS: [11:49:42] I can respond. I mean, based on what happened in
- 18 direct, he knows about a lot about the *nazir* and what the *nazir* is doing for this case.
- 19 PRESIDING JUDGE KORNER: [11:59:31] Mr Edwards, he can certainly ask what
- 20 steps he knows the *nazir* has taken, if any. I mean, it's clear that he has, obviously.
- 21 MR EDWARDS: [11:59:49] A foundation can be built, but the question was "X
- 22 person wants" something --
- 23 PRESIDING JUDGE KORNER: [11:59:58] All right. Yes.
- 24 I mean it's skipping a few steps, I suppose, Mr Nicholls.
- 25 Can you build it up a bit --

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

1 MR NICHOLLS: [12:00:00] Yes, I thought my friends basically built that up in the  
2 direct, but I can do that.

3 Q. [12:00:04] Now, the *nazir* came to you -- this is what you said today, and it's fine.  
4 What you said today was the *nazir* came to you and said you are required to be  
5 a witness in this case that you are now testifying in, right?

6 A. [12:00:26] Yes.

7 Q. [12:00:31] And he said that you should go -- that you must go, you said, {ICR:  
8 (Redacted)} in order to meet with the Defence lawyers. And there's nothing wrong  
9 with that, but that is what the *nazir* told you to do, right?

10 A. [12:00:45] Yes, he said I needed to go and I did.

11 Q. [12:00:51] And you are not the only person from Rahad Al-Berdi that the *nazir*  
12 told to go {ICR: (Redacted)} to meet with the Defence, either, are you?

13 MR LAUCCI: [12:01:00] Just one thing --

14 THE WITNESS: [12:01:05](Interpretation) I was not the only one.

15 MR NICHOLLS: [12:01:12](Overlapping microphones) We'll redact that.

16 MR LAUCCI: [12:01:13] Yes, exactly. If we can avoid any reference to where the  
17 witness is.

18 MR NICHOLLS: [12:01:19] My apologies.

19 Q. [12:01:27] And the first time you learned that you were going to be a witness in  
20 this case, that you were going to come here to testify for Mr Abd-Al-Rahman, that  
21 was from the *nazir*, he told you that?

22 A. [12:01:48] No.

23 Q. [12:01:52] Where did you first hear it?

24 A. [12:02:00] They called someone there and they said, "We need to talk to the *nazir*  
25 and {ICR: (Redacted)} too." After which, the *nazir* called me and he said, "The people

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

1 from the ICC wants to talk to you" or "wants you" -- or "want you", rather.

2 Q. [12:02:21] Right. That was my point. The first person you heard about this  
3 from was the *nazir*, right? You didn't get a call on a personal phone? (Overlapping  
4 microphones)

5 A. [12:02:31] No. no. They called me and they said, "You are wanted by the ICC."

6 Q. [12:02:43] Okay.

7 MR NICHOLLS: [12:03:04] Now, your Honour, I do need to go into private.

8 PRESIDING JUDGE KORNER: [12:03:07] Yes, private session.

9 (Private session at 12.03 p.m.)

10 THE COURT OFFICER: [12:03:16] We are in private session, Madam President.

11 (Redacted)

12 (Redacted)

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

18 (Redacted)

19 (Redacted)

20 (Redacted)

21 (Redacted)

22 (Redacted)

23 (Redacted)

24 (Redacted)

25 (Redacted)

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

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

Page redacted – private session



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Private Session)

ICC-02/05-01/20

1 (Redacted)  
2 (Redacted)  
3 (Redacted)  
4 (Redacted)  
5 (Redacted)  
6 (Redacted)  
7 (Redacted)  
8 (Redacted)  
9 (Redacted)  
10 (Redacted)  
11 (Redacted)  
12 (Redacted)  
13 (Open session at 12.12 p.m.)  
14 THE COURT OFFICER: [12:12:48] We are back in open session.  
15 And I note that we seem to have lost the connection to the witness, so we will look  
16 into that.  
17 PRESIDING JUDGE KORNER: [12:13:16] Yes.  
18 MR NICHOLLS: [12:13:20] We don't have the witness, your Honour.  
19 (Pause in proceedings)  
20 PRESIDING JUDGE KORNER: [12:14:00] Do you think actually, we can at all stay  
21 entirely in open session, apart from the desirability? I think back and forth from  
22 private to open can cause this sort of thing.  
23 MR EDWARDS: [12:14:34] While we are waiting, your Honour, both Mr Nicholls  
24 and indeed your Honour at some point referred to Mr Laucci and I -- or the team  
25 being the witnesses' lawyers. We are not the witnesses' lawyers.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [12:14:51](Microphone not activated)

2 MR EDWARDS: [12:14:52] It's a minor point, but both your Honour and Mr Nicholls  
3 at some point this morning referred to Mr Abd-Al-Rahman's Defence team, Mr Laucci  
4 and myself, as the witnesses' lawyers, and of course we are not.

5 PRESIDING JUDGE KORNER: [12:15:13] I don't remember doing that but  
6 (Microphone not activated)

7 THE INTERPRETER: [12:15:17] Microphone, please.

8 PRESIDING JUDGE KORNER: [12:15:19] I don't remember doing that, but I  
9 suppose it's differentiating between the OTP and the Defence. But you are quite  
10 right, of course, Mr Edwards, you are not the lawyers for the witnesses.

11 MR NICHOLLS: [12:15:34] I'm sorry if I said that, but could I have the reference?

12 PRESIDING JUDGE KORNER: [12:16:06] Instead of arguing about this, let's get on  
13 with it.

14 MR NICHOLLS: [12:16:20]

15 Q. [12:16:22] Okay, sorry, sir, we lost the connection for a minute. Can you hear  
16 me all right?

17 A. [12:16:29] Yes.

18 Q. [12:16:30] And we are in -- I'm sorry, we are in public now, correct?

19 Okay, don't say -- we are in public session now, so do not say where you are at the  
20 moment. But I think you can just confirm for me, you and your colleagues want to  
21 keep where you are a secret. You don't want anybody to know where you are living,  
22 correct?

23 A. [12:17:03] Yes, we don't want anyone to know.

24 Q. [12:17:10] And that's very important because what -- what you stated is that  
25 you're concerned that if the RSF knew where you were, they would kill you.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [12:17:26] Yes.

2 Q. [12:17:29] And that's something you would have discussed with your two CRF  
3 colleagues -- "It's important not to let anybody know where we are, the town we're  
4 in." Right?

5 A. [12:17:48] Yes. Yes.

6 PRESIDING JUDGE KORNER: [12:17:52] Be a little careful, we are in public session,  
7 Mr Nicholls.

8 MR NICHOLLS: [12:17:59] Yes, I thought that was okay, actually.

9 Q. [12:18:04] And, in fact - and, I think, counsel for the Defence, Mr Laucci said this  
10 in his direct - but earlier you -- you refused to testify for some time, correct? Until  
11 these safety concerns were sorted out.

12 And it's nothing -- I'm not being critical about that. There's nothing wrong with that,  
13 but for some time you said, "No. I'm not going to testify until my safety concerns are  
14 sorted out." Right?

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

16 Q. [12:18:52] And that was the common position with your colleagues as well,  
17 correct? They also refused to testify?

18 A. [12:19:00] Yes.

19 Q. [12:19:03] And then later on you met Mr Laucci when he was able to come and  
20 visit you. He talked to the three of you and after that, you agreed to testify. He  
21 solved the problem?

22 A. [12:19:23] Yes, yes.

23 Q. [12:19:26] (Microphone not activated)  
24 Apologise.

25 A different topic now. Nothing very complicated. I just want to ask you about

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 some of your other colleagues from the CRF. Not the two gentlemen we were  
2 talking about, okay?

3 A. [12:20:07] Yes, go ahead, please.

4 Q. [12:20:09] Thank you. You know Hassan Mohamed Hussein Bashir?

5 A. [12:20:17] Yes, I do.

6 Q. [12:20:19] And he has a twin brother, right?

7 A. [12:20:24] Yes, he does.

8 Q. [12:20:39] Okay. And the accused in this case, Mr Abd-Al-Rahman was also his  
9 boss. He was Mohamed Hussein Bashir's boss?

10 A. [12:20:57] Formerly, yes.

11 Q. [12:21:02] Yes, formerly. Thank you.

12 And if we have that right, Mohamed Hussein Bashir's main job was he was a driver  
13 for Mr Abd-Al-Rahman?

14 A. [12:21:16] Yes, indeed.

15 Q. [12:21:19] And because they're these twins, Mohamed Hussein Bashir and his  
16 twin brother, did they have different nicknames?

17 A. [12:21:37] I don't think so. One of them did, that person does not live with us  
18 here.

19 Q. [12:21:45] No, that wasn't the question but that's all right.

20 And when was the last time you saw Hassan Mohamed Hussein Bashir?

21 A. [12:22:02] A while ago he came here.

22 Q. [12:22:08] Okay. When was the last time you spoke with him?

23 A. [12:22:11] After he came here, before he returned.

24 Q. [12:22:15] Okay. All right, just a few more.

25 Up -- in the past, before Mr Abd-Al-Rahman decided to come here to the Court, he

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 had somebody work for him named Mohammed Hessine Mohammed Tahar, right?
- 2 A. [12:22:42] Mohammed Hessine Mohammed Tahar. Mohammed Hessine
- 3 Mohammed Tahar. It doesn't ring a bell.
- 4 Q. [12:22:54] (Overlapping microphones)...he worked as a bodyguard. Does that
- 5 help you?
- 6 A. [12:23:00] Bodyguard for who?
- 7 Q. [12:23:01] (Overlapping microphones)...Mr Abd-Al-Rahman.
- 8 A. [12:23:02] He didn't have any guard.
- 9 Q. [12:23:03] (Overlapping microphones)...Never?
- 10 A. [12:23:04] Never.
- 11 Q. [12:23:17] Well, you can't say "never" because you weren't with him the whole
- 12 time, but "never", you mean, when you were in the CRF working for him; right?
- 13 A. [12:23:26] He never had any security detail at all. Never.
- 14 Q. [12:23:39] What about Ibrahim Al Jazuli?
- 15 A. [12:23:49] Ibrahim Al Jazuli?
- 16 Q. [12:23:54] Yes?
- 17 A. [12:23:57] I know someone called Al Jazuli Hussein. But Ibrahim Al Jazuli, I
- 18 don't know that person.
- 19 Q. [12:24:10] Last one: Ahmad Yousef Al-Baloul was in the CRF, right?
- 20 A. [12:24:22] Yousef Al-Baloul, he passed away.
- 21 Q. [12:24:29] Yes, that's unfortunate and he was a martyr, correct? He was --
- 22 A. [12:24:37] Yes, he did -- he was.
- 23 Q. [12:24:39] And that unfortunate incident happened in Nyala in 2013, right?
- 24 A. [12:24:50] Yes.
- 25 Q. [12:24:54] Okay. Just for a minute going back to -- I don't want to spend a lot of

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 time on this, I just want to clear something up. We already talked about the arrest  
2 warrant for former President Omar Al-Bashir, and what you've told us over and over  
3 again, is that you didn't hear about that until 2019, correct?

4 A. [12:25:43] Yes, that's correct.

5 Q. [12:25:49] And you also heard about the arrest warrant for Abdel Raheem  
6 Muhammad Hussein, who used to be the minister of the interior. Did you hear  
7 about that in 2019?

8 A. [12:26:05] Yes, I heard it on the radio.

9 Q. [12:26:11] And you said to my friend that you'd heard of Ahmad Harun in 2019  
10 after the regime fell. Ahmad Harun was actually arrested. You heard then about  
11 the arrest warrant for Ahmad Harun?

12 MR LAUCCI: [12:26:31] Just one thing, I'm not sure I said that much (Overlapping  
13 speakers)

14 THE WITNESS: [12:26:35](Interpretation) I didn't know that person, but I heard  
15 about the arrest warrant.

16 MR LAUCCI: [12:26:42] Sorry, I was just saying, I am not sure during the  
17 examination-in-chief at least the witness said everything you (Overlapping  
18 microphones)

19 MR NICHOLLS: [12:26:51] I'm not --

20 MR LAUCCI: [12:26:51] -- mentioned.

21 MR NICHOLLS: [12:26:52] No, but what he said was he heard about him.  
22 (Microphone not activated)...made it clear.

23 Q. [12:27:04] And in 2019, you didn't hear about any arrest warrant for Ali  
24 Kushayb, is that right? You only heard about Ali Kushayb's name on the radio at  
25 some point, but you didn't know why the name was out there?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 A. [12:27:26] Yes, I did not know that person.
- 2 Q. [12:27:32] Do you know that Ali Kushayb is on the same arrest warrant with  
3 Ahmad Harun? Has anybody ever told you that?
- 4 A. [12:27:46] I did not know about that.
- 5 Q. [12:27:50] Did you know that the arrest warrant for Ahmad Harun from 2007  
6 also says Ali Muhammad Ali Abd-Al-Rahman, also known as Ali Kushayb on that  
7 same arrest warrant?
- 8 A. [12:28:10] I heard about Ali Kushayb, but I didn't hear the name Ali Muhammad  
9 Ali Abd-Al-Rahman.
- 10 Q. [12:28:19] And so you heard about half of the warrant? Only the part that went  
11 to Harun?
- 12 A. [12:28:29] Yes. I didn't hear about the other.
- 13 Q. [12:28:36] There was another warrant in the name of Ali Muhammad Ali  
14 Abd-Al-Rahman that came out later; that one was secret for a while, but do you know  
15 what happened in Deleig in March 2004? Did you ever hear about that?
- 16 A. [12:28:59] I just heard faintly about it, but I don't know anything about it.
- 17 Q. [12:29:07] What did you faintly hear about it? Just tell us what you heard.
- 18 A. [12:29:14] People say there was a conflict between Arabs and Fur, but I was not  
19 sure about the whereabouts of that conflict because we didn't have any conflict. If it  
20 does not concern me or relate to me, I am not interested in it.
- 21 Q. [12:29:30] All right. Well, I'll leave that there.  
22 But you heard expressly something about Deleig? That there was a conflict there in  
23 2004?
- 24 A. Yes, but I did not know the background or the details, I just heard in the street.
- 25 Q. [12:30:07] And in the streets without all the background details, did you hear

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 that hundreds of Fur men had been rounded up, held in the square of Deleig and then  
2 executed, just outside?

3 A. [12:30:20] I did not hear that. I heard that there were problems. I heard that  
4 there were problems between the Arabs and the Fur, but I did not know what  
5 happened.

6 Q. [12:30:33] And you didn't know -- and I'll finish it at this, you didn't hear later  
7 that your friend, Mr Ali Muhammad Ali Abd-Al-Rahman, also had a warrant against  
8 him for those Deleig killings?

9 A. [12:30:52] I didn't hear about that.

10 Q. [12:30:53](Overlapping microphones)...that's news to you today?

11 A. [12:30:55] I only heard -- heard that about the Court and Ali Muhammad Ali  
12 Abd-Al-Rahman being at the Court.

13 Q. [12:31:12] Okay. You talked on your direct examination a bit about -- and you  
14 just said it again, hearing there was a conflict between Arabs and other tribes in 2003  
15 and '04; right?

16 A. [12:31:50] Yes.

17 Q. [12:31:52] Okay. You were stationed on the army base in the second biggest  
18 city in the country at that time, right?

19 A. [12:32:09] Yes.

20 Q. [12:32:10] You have been a professional soldier for over 25 years?

21 A. [12:32:21] Yes.

22 Q. [12:32:25] You hung out on the base and you went to the club with the other  
23 soldiers?

24 A. [12:32:37] I didn't go to the club a lot.

25 Q. [12:32:38] My point is --



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [12:32:39] I didn't go a lot.

2 Q. [12:32:44] -- yeah, but you're on the army base in the second biggest city in the  
3 country and you don't know anything about the crimes -- excuse me, the conflict in  
4 Wadi Salih and Mukjar happening just west of you? You don't hear anything about  
5 that?

6 A. [12:33:04] I didn't know anything about it.

7 Q. [12:33:10] You don't even know which army units were taking part, right?

8 A. [12:33:15] No, I didn't know that.

9 Q. [12:33:17] You don't know anything about crimes in Mukjar in August  
10 2013 -- 2003?

11 A. [12:33:29] No.

12 Q. [12:33:31] You don't know anything about crimes in Kodoom and Bindisi?  
13 You've never heard about them?

14 MR EDWARDS: [12:33:40] Your Honour --

15 THE WITNESS: [12:33:42](Interpretation) I said -- I said --

16 MR EDWARDS: [12:33:43] -- these questions have been asked and my learned friend  
17 is simply reformulating essentially the same thing a dozen times. The witness has  
18 answered.

19 PRESIDING JUDGE KORNER: [12:33:53] Well, I mean, there's nothing wrong with  
20 the question, they may be a bit repetitive, I agree, but we have actually been through  
21 all this, Mr Nicholls, but I mean it's a matter for you.

22 MR NICHOLLS: [12:34:04] No, I'm finishing up, I'm just drilling down because he  
23 did say, "I'd heard -- yeah, I heard something about Deleig" specifically. So I  
24 just -- this will be two more questions.

25 PRESIDING JUDGE KORNER: [12:34:14] All right.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 MR NICHOLLS: [12:34:15] And this goes to credibility, I would say, your Honour.

2 PRESIDING JUDGE KORNER: [12:34:18] Yes, I think Mr Edwards is complaining  
3 that you've asked all these questions, but I suppose, as you say, drilling down to the  
4 actual essentials.

5 MR NICHOLLS: [12:34:29] Yes, he said he doesn't know nothing about nothing and  
6 now I'm asking about a couple of specifics. Where was I before I was interrupted.

7 Q. [12:34:38] Just a couple more questions, sir.

8 You don't know anything about any crimes in Kodoom and Bindisi, right?

9 A. [12:34:49] Right.

10 Q. [12:34:54] Okay. Now -- and you still, as you sit here today just --

11 I want this to be clear. Do you have any idea what Mr Abd-Al-Rahman is charged  
12 with? Do you have any idea what the crimes are that he's charged with? Or do you  
13 have no idea at all?

14 A. [12:35:18] Honestly, I don't know anything about it. I heard that Ali was  
15 wanted and that he came here.

16 Q. [12:35:32] Yeah, and when you went to Wadi Salih, I thought you'd  
17 worked -- you know, conducted business activities there as it said in your statement,  
18 but it turns out it was one trip. Where did you go on that one trip?

19 A. [12:35:51] I went there to buy some things -- some goods that I needed and I  
20 returned immediately.

21 Q. [12:36:06] Yeah. What city did you go to? Village or town?

22 A. [12:36:13] In the suburbs of Wadi Salih.

23 Q. [12:36:19] Okay. Have you heard the term ever "Janjaweed" or "Yanyaweed"?

24 A. [12:36:33] I heard this word Janjaweed, but I don't know what it is -- I didn't  
25 know what it was.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Q. [12:36:41] Okay. I'll move on.
- 2 PRESIDING JUDGE KORNER: [12:36:57] Before we move on, I think we've done it  
3 but are you telling us, sir, that in all the time you were in the barracks in Nyala, while  
4 the conflict was going on, nobody discussed with you in the club or anywhere what  
5 was happening?
- 6 THE WITNESS: [12:37:25](Interpretation) No. Honestly I only used to go to work  
7 and go back home. I did not have a lot of communication with people.
- 8 PRESIDING JUDGE KORNER: [12:37:33] And none of your neighbours said to you,  
9 "Have you heard what's happening in Wadi Salih" or anywhere around there?
- 10 THE WITNESS: [12:37:51](Interpretation) I did not hear anything really.
- 11 PRESIDING JUDGE KORNER: [12:37:56] Yes. Thank you.
- 12 MR NICHOLLS: [12:38:01]
- 13 Q. [12:38:03] Okay, I don't think this is any problem, but --
- 14 THE INTERPRETER: [12:38:12] Correction from the interpretation booth. The  
15 witness said: I heard it, but I did not really concern myself with it.
- 16 PRESIDING JUDGE KORNER: [12:38:25](Microphone not activated)
- 17 JUDGE ALEXIS-WINDSOR: [12:38:40] Say it again.
- 18 PRESIDING JUDGE KORNER: [12:38:42] Interpreter, what did he hear? I mean  
19 what was that in answer to that you got wrong? Which question?
- 20 THE INTERPRETER: [12:38:50] The last question. The question about his  
21 neighbours or nobody telling him anything about the things that happened in  
22 Wadi Salih.
- 23 PRESIDING JUDGE KORNER: [12:39:02](Overlapping microphones) Oh, I see, all  
24 right. Okay. Yes, I see.
- 25 MR NICHOLLS: [12:39:06]

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [12:39:06] Okay, so you did hear about what happened in Wadi Salih from your  
2 neighbours and from other people, but you didn't concern yourself with it?

3 A. [12:39:17] Yes.

4 Q. [12:39:20] So you heard about huge mass-scale murders, rapes, burning of entire  
5 villages, the displacement of entire villages and populations, the theft of all their  
6 property and it didn't concern you?

7 A. [12:39:42] I only heard that some things were happening, but I didn't hear that it  
8 was a big thing that was happening. Back then I was in Rahad Al-Berdi and that  
9 was it.

10 Q. [12:40:13] Okay. So I'll avoid breaking this down for -- to stay in open session,  
11 but I don't think there's any problem with this.

12 You joined the SAF, the army, in the mid-1970s; correct?

13 A. [12:40:33] Yes.

14 Q. [12:40:38] And very unfortunately, you didn't have the opportunity to go to  
15 school much before then, right?

16 A. [12:40:52] Yes.

17 Q. [12:40:55] And then you left the CRF -- excuse me, you left the SAF and there  
18 was six years before you joined the CRF in 2010, right?

19 A. [12:41:08] Yes.

20 Q. [12:41:20] So other than that six-year gap, since you were a young man under 20,  
21 you spent your entire career either in the army or in law enforcement?

22 A. [12:41:49] I was in Rahad Al-Berdi. Before I was in the army, I was in Rahad  
23 Al-Berdi and after I left the army, I returned to Rahad Al-Berdi.

24 Q. [12:42:03](Overlapping microphones)...I won't ask you where you were but  
25 that's all right. Don't worry --

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [12:42:05] One moment.

2 Q. [12:42:08] -- don't worry.

3 My point was, you're in the army for a long time, and then you're in the CRF  
4 until -- yeah, I think that's fine, from 2010 until just recently, the whole time you've  
5 worked in the army or the CRF, you've done your best to do your job properly, right?  
6 Be a good soldier or policeman?

7 A. [12:42:33] Yes.

8 Q. [12:42:36] And these are important jobs, aren't they? In the army, you have to  
9 protect Sudan and all the people of Sudan, right? That's the job of the army?

10 A. [12:42:48] Yes.

11 Q. [12:42:53] And when you were in the CRF in Rahad Al-Berdi, you have to  
12 protect all the people of Rahad Al-Berdi under the command of Mr Abd-Al-Rahman,  
13 right?

14 A. [12:43:07] Yes.

15 Q. [12:43:10] And when you're in the army, right from the beginning all the way  
16 until recent times -- it sounds maybe like a cliché, but you've done your best to  
17 honour the uniform you're wearing, whether it's the army or the CRF?

18 A. [12:43:33] Yes.

19 Q. [12:43:46] I understand that in the army, you say you didn't go out on any  
20 missions whatsoever, you never saw any combat. But if you had been sent on  
21 a mission by your superiors in the army - in the 1970s or the '80s or the '90s or the  
22 early 2000s - you wouldn't have committed any crimes against civilians, would you,  
23 on an army mission?

24 A. [12:44:19] I have never been on any mission.

25 Q. [12:44:27] No, but if you were on a mission, you would have never committed

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 a crime against a civilian, would you?

2 It's not a trick question.

3 A. [12:44:36] That is not possible, God will hold me accountable.

4 Q. [12:44:40] Exactly. You wouldn't commit crimes against civilians because it's  
5 wrong, it's against what -- as you said, God would hold you accountable.

6 And -- correct?

7 A. [12:45:04] Yes.

8 Q. [12:45:07] And you wouldn't do it anyway because it's wrong. But it's not just  
9 God that would hold you accountable, if you're a soldier and you murder a civilian,  
10 that's against the rules, isn't it, of being a soldier?

11 A. [12:45:25] First of all, as a military person -- as a soldier, would I protect  
12 a civilian or kill the civilian? I would protect the civilian and not kill them. My job  
13 as a soldier in the military is to protect citizens, and, if I do not protect citizens, then I  
14 would not uphold the principles of being in the military.

15 Q. [12:45:56] Very good. And you knew from the beginning when you first  
16 started working in the army in the '70s, that if you broke the rules, that if didn't  
17 protect the civilian, if you murdered a civilian, that you could be punished for that?

18 A. [12:46:16] Yes. But I would never kill a citizen because God will hold me  
19 accountable. I would be held accountable in this life and in the next life.

20 Q. [12:46:26] Yes, exactly. God would hold you accountable. But in addition, the  
21 Court would hold you accountable. You could be sentenced, sent to prison.

22 A. [12:46:37] Yes, I would be held accountable on -- in both places.

23 Q. [12:46:44] Thank you.

24 MR NICHOLLS: [12:47:00] Sorry, your Honour, I'm just trying to see...

25 Q. [12:47:15] Now, I want to move back to --

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Sorry, your Honour, one second.
- 2 Now, when you retired from the army around 2004 -- as you said, you moved back to
- 3 Rahad Al-Berdi to take care of your parents; correct?
- 4 A. [12:48:02] Yes.
- 5 Q. [12:48:04] And Mr Abd-Al-Rahman was already in the CRF. He was a *musaid*
- 6 when you joined in 2010, right?
- 7 A. [12:48:21] Yes.
- 8 Q. [12:48:22] And he was your boss the entire time until he came here to this
- 9 Court?
- 10 A. [12:48:32] Yes.
- 11 Q. [12:48:37] Now, before you joined the CRF and were with Mr Abd-Al-Rahman
- 12 in Rahad Al-Berdi, you said you ran into him -- today, you said you ran into him
- 13 somewhere and you asked if he was still in the army; right?
- 14 A. [12:49:15] Yes.
- 15 Q. [12:49:25] And he told you he had left the army?
- 16 A. [12:49:33] Yes.
- 17 Q. [12:49:34] And I don't expect you to know the exact date, but that was some time
- 18 after you had also left the army. That's what you said today?
- 19 A. [12:49:48] Yes.
- 20 Q. [12:49:56] We know in this case approximately when Mr Abd-Al-Rahman left
- 21 the army, when he retired from the army. He, with his lawyers, and in agreement
- 22 with us, told us when he left the army, okay?
- 23 What we know is that Mr Abd-Al-Rahman, your old boss in the CRF, retired from the
- 24 Sudanese Armed Forces in around the early to middle 1990s and then he moved to
- 25 Garsila.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 So when you saw him after 2004 and asked if he was still in the army, you didn't  
2 know he had been out of the army for about 10 years?

3 A. [12:51:02] I left the army. After I left the army, I saw him and I asked him if he  
4 had left. So before that, I didn't know.

5 Q. [12:51:18] All right. Thank you.

6 So for some time in the mid-1990s till after you left the army, you had no idea what he  
7 was doing?

8 A. [12:51:47] I knew that he was working in the army and he was a nurse -- or,  
9 rather, a doctor. So he was in the military -- in the medical branch of the military.

10 Q. [12:52:01] Now, you worked with him -- by "him," excuse me, I mean  
11 Mr Abd-Al-Rahman from about 10 years? From 2010 until he left to come to this  
12 Court, right?

13 A. [12:52:27] Yes.

14 Q. [12:52:28] And not once during those 10 years until just before he left, did he tell  
15 you he was wanted by this Court? That there was an arrest warrant for him?

16 A. [12:52:47] I did not hear that. No.

17 Q. [12:52:54] And when Mr Abd-Al-Rahman surrendered -- when he spoke to you  
18 before he came to this Court, did he tell you why he hadn't told you for 10 years that  
19 there was an arrest warrant for him?

20 A. [12:53:17] No, I didn't hear that.

21 Q. [12:53:33] Now, you told us today about your seeing refugees in  
22 Mr Abd-Al-Rahman's houses in Rahad Al-Berdi in 2004 or so. Right?

23 A. [12:54:00] Yes.

24 Q. [12:54:00] And you weren't able to tell where they were -- where -- whether they  
25 were living in front or inside or -- can you just explain that?



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 You saw them once? Or how many times did you see them?

2 A. [12:54:17] They lived inside the house. When I came to him to get a treatment,  
3 I saw that they were inside the house.

4 Q. [12:54:30] You don't remember exactly when that was, right?

5 A. [12:54:35] Honestly I don't remember.

6 Q. [12:54:40] You said there was something like -- you didn't remember the  
7 numbers, but there was sort of 15 people in each house living there. Refugees from  
8 Wadi Salih?

9 A. [12:54:54] I saw numerous families. I don't know them -- I didn't know them.  
10 I didn't know where they came from. They're -- I didn't know who these people  
11 were.

12 MR LAUCCI: [12:55:11] Just in fairness, I think what the witness said during the  
13 examination-in-chief, he mentioned a number that varied from 10 to 20, 15 being the  
14 average.

15 But it was total, not in each house.

16 MR NICHOLLS: [12:55:27] Thank you.

17 Q. [12:55:28] And Mr Abd-Al-Rahman took care of these Fur refugees, he provided  
18 them with food?

19 A. [12:55:43] Yes.

20 Q. [12:55:47] And how many people did he have living in his house at the  
21 time -- his family members?

22 A. [12:55:56] Do you mean his personal family?

23 Q. [12:56:08] Yes, exactly.

24 A. [12:56:11] He had two wives and children. So he had two wives and several  
25 children.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [12:56:29] Right. So what number total family members then is that, living  
2 with him there?

3 A. [12:56:38] Honest -- I honestly, I don't know. I don't know how many children  
4 he has.

5 Q. [12:56:44] Did he ever tell you how he was able to afford all of these Fur family  
6 members, 12 to 20 or whatever it is my friend said, when he was a humble man  
7 without wealth, as you put it, that he wasn't wealthy?

8 A. [12:57:04] Because he also planted or farmed the land.

9 PRESIDING JUDGE KORNER: [12:57:13] Sorry, is that the same time that he was in  
10 the CRF, he was farming and running a dispensary, a pharmacy of some kind?

11 THE WITNESS: [12:57:28](Interpretation) Yes.

12 PRESIDING JUDGE KORNER: [12:57:32] And he had two houses?

13 THE WITNESS: [12:57:36](Interpretation) Yes.

14 PRESIDING JUDGE KORNER: [12:57:38] And do many people in Rahad Al-Berdi  
15 have two houses?

16 THE WITNESS: [12:57:44](Interpretation) Yes.

17 PRESIDING JUDGE KORNER: [12:57:53] I see. Thank you.

18 MR NICHOLLS: [12:57:53]

19 Q. [12:57:54] Just a quick follow-up, it's not a big deal, witness, but he also had  
20 houses in Nyala and Garsila, right, you knew that?

21 A. [12:58:04] I didn't hear about this.

22 Q. [12:58:12] Okay, you didn't know that?

23 A. [12:58:16] No.

24 Q. [12:58:17] Okay. And it says in your statement, which we talked about how  
25 careful you were to make sure it is accurate, that in 2003 and 2004, people from

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 everywhere - including Fur people from Wadi Salih - came to Rahad Al-Berdi as  
2 refugees and then you said that some of them stayed in Mr Abd-Al-Rahman's house;  
3 correct?

4 A. [12:58:47] Yes.

5 Q. [12:58:51] And during that period you never heard the name "Ali Kushayb"?

6 A. [12:58:59] I didn't hear it. I heard the name Ali Kushayb, but I did not know  
7 who that person was.

8 Q. [12:59:10] Well, when did you -- I thought you were saying you didn't hear the  
9 name Ali Kushayb until 2019?

10 A. [12:59:29] I heard the name Ali Kushayb. I did not know who that person was,  
11 whether this person was a man or a woman, I didn't know -- I didn't know who that  
12 person was.

13 Q. [12:59:43] Okay. But in any event, in 2004, when these Fur refugees have  
14 escaped the war and are staying in Mr Abd-Al-Rahman's house, you didn't ever hear  
15 any of them say anything like: Thank God we've escaped from Ali Kushayb. Now  
16 we're safe here with Mr Abd-Al-Rahman?

17 A. [13:00:10] I did not sit with them, but they would say: We have arrived to safety.  
18 We are safe in this area.

19 Q. [13:00:22] Your Honour, I see the -- I'll try to shorten it over the --

20 PRESIDING JUDGE KORNER: [13:00:29](Microphone not activated)

21 THE INTERPRETER: [13:00:35] Microphone, please.

22 PRESIDING JUDGE KORNER: [13:00:36] This is all taking some time, Mr Nicholls,  
23 and I'm just wondering whether we shouldn't for safety sake, particularly if it's going  
24 to be re-examination plus any questions by the judges, sit earlier today. So if we sit  
25 at 2:15 instead of 2.30. Yes, I think it's probably safer.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Sir, we are going to have lunch now, so if you could be back in an hour and  
2 15 minutes, please. If you tell whoever is with you -- or they can't hear it.  
3 Yes, so 2.15.  
4 THE WITNESS: [13:01:16](Interpretation) Well noted, thank you.  
5 THE COURT USHER: [13:01:18] All rise.  
6 (Recess taken at 1.01 p.m.)  
7 (Upon resuming in open session at 2.17 p.m.)  
8 THE COURT USHER: [14:17:31] All rise.  
9 Please be seated.  
10 PRESIDING JUDGE KORNER: [14:17:58] Yes, Mr Nicholls.  
11 MR NICHOLLS: [14:18:04] Thank you, your Honour.  
12 Q. [14:18:07] Good afternoon, Mr Witness. Can you see and hear me okay?  
13 A. [14:18:19] I can hear you, but I can't see you. Now it's fine.  
14 Q. [14:18:25] Okay, good. Thank you. I hope you had a good short break. Are  
15 you okay to continue?  
16 A. [14:18:35] I am ready, at your convenience.  
17 Q. [14:18:37] Thank you, sir. Okay, now I just want to ask you a little -- a few  
18 questions about Mr Abd-Al-Rahman's family.  
19 You saw the Fur in his home, you saw that they were treated well by  
20 Mr Abd-Al-Rahman, you say. He also treated his family well, didn't he? He was a  
21 good father, a good husband?  
22 A. [14:19:12] Yes.  
23 Q. [14:19:19] Is that something you saw with your own eyes?  
24 A. [14:19:26] Yes.  
25 Q. [14:19:29] Let me just ask you a couple of questions about that.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 You said earlier that he can be referred to as the father of Nasser, that's because his  
2 eldest son is named Nasser, right?

3 A. [14:19:47] Yes.

4 Q. [14:19:47] And Nasser -- I'll skip that in case it's a private session thing.

5 But he's the eldest and he didn't -- he doesn't live in Rahad al-Berdi, but you met him  
6 at some point, Nasser?

7 A. [14:20:07] I have not met him before.

8 Q. [14:20:11] Okay. Let me just ask you about his other -- a couple of other  
9 questions about his kids.

10 He had a son named Salah, who unfortunately died recently. You know he had a  
11 son named Salah; right?

12 A. [14:20:33] I-- I'm aware of him, but I was not around when he passed away.

13 Q. [14:20:40] Okay. Understood.

14 You met Salah, though, you must have, he was well-known in Rahad al-Berdi.

15 A. [14:20:55] Yes.

16 Q. [14:20:56] I just want to show you a picture of Salah to confirm.

17 Could we have tab 67 up, please. It can be displayed, I think. 000005867.

18 Just one question, sir, to confirm we've got the right person here. This is Salah;  
19 right?

20 A. [14:21:32] Yes, yes.

21 Q. [14:21:36] And his nickname was Bush; correct?

22 A. [14:21:46] That I'm not aware of.

23 Q. [14:21:52] You also know that Mr Abd-Al-Rahman had another son called  
24 Anwar.

25 A. [14:22:09] Yes, I'm aware of Anwar. I'm not that acquainted with him, but I'm

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 aware of him.
- 2 Q. [14:22:20] Okay. Have you met him, ever?
- 3 A. [14:22:29] I met him once only, last year. I met him once last year.
- 4 Q. [14:22:39] Okay. Was that in Rahad al-Berdi?
- 5 A. [14:22:44] Yes.
- 6 Q. [14:22:46] Let me -- let me just show you a photo of Anwar. Tab 61, please.
- 7 This is DAR-OTP-00005935 -- 5953, excuse me. Do you recognise Anwar there, sir?
- 8 A. [14:23:13] I do.
- 9 Q. [14:23:14] Okay. And just very quickly another photo of Anwar, tab 76, please,
- 10 00005876. Can we make it a little bigger? Again, there we see another photo of
- 11 Anwar; correct?
- 12 A. [14:24:00] Yes.
- 13 Q. [14:24:02] Okay, thank you. Just a couple more. This is the last son I'm going
- 14 to ask you about. Mr Abd-Al-Rahman also had a son called al-Nazir; correct? You
- 15 know that?
- 16 A. [14:24:24] No.
- 17 Q. [14:24:28] You never heard of his son called al-Nazir? Sorry.
- 18 A. [14:24:36](Interpretation) I've heard of him, but I'm not acquainted with him.
- 19 MR LAUCCI: [14:24:41] Maybe not for interpretation to the witness, what I will say.
- 20 THE INTERPRETER: [14:24:46] Counsel, interpretation is equally provided to your
- 21 client.
- 22 MR LAUCCI: [14:24:51] Okay, but what I'm told is that the answer to the
- 23 question -- in relation to the previous question that is still on the screen here was not
- 24 what has been translated. Actually, according to what I'm told, it was the exact
- 25 opposite.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [14:25:10] (Microphone not activated) What? The  
2 answer at line 5 of page 82?
- 3 MR NICHOLLS: [14:25:28] (Microphone not activated)
- 4 PRESIDING JUDGE KORNER: [14:25:28] Which line is it, Mr Laucci?
- 5 MR LAUCCI: [14:25:34] Page 81, line 23 -- 24.
- 6 PRESIDING JUDGE KORNER: [14:25:39] Oh, right.
- 7 MR NICHOLLS: [14:25:40] Sorry, your Honours, my live note has frozen.
- 8 MR LAUCCI: [14:25:44] Maybe we can ask the question again.
- 9 PRESIDING JUDGE KORNER: [14:25:48] Well, at line 23 the answer is "Yes", and  
10 you say the answer is "No"?
- 11 MR LAUCCI: [14:25:53] That's what I'm told. I have no mastery of Arabic, so I'm in  
12 the hands of my team.
- 13 PRESIDING JUDGE KORNER: [14:26:00] Okay, can you ask him -- could you ask  
14 him to look at the photograph again, then, Mr Nicholls.
- 15 MR NICHOLLS: [14:26:07] Yes.
- 16 Q. [14:26:10] Sorry --
- 17 MR LAUCCI: [14:26:15] (Microphone not activated)
- 18 PRESIDING JUDGE KORNER: [14:26:19] Okay, can we -- let's just get on with it.  
19 Yes, on we go.
- 20 MR NICHOLLS: [14:26:25]
- 21 Q. [14:26:25] Okay, sir, again, just -- sorry, ignore all this back and forth. You can  
22 see here in front of you another photo of Anwar.  
23 And maybe let's make it a little bigger for the witness.
- 24 Sir, let me ask again: We can see Anwar here on this screen in this photo; correct?
- 25 THE INTERPRETER: [14:27:32] The interpreter's observation: We did not hear

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 clearly what the witness said.
- 2 PRESIDING JUDGE KORNER: [14:27:46] Mr Nicholls, he's identified him, so do we  
3 need to do this?
- 4 MR NICHOLLS: [14:27:49] I don't think so. There was just an intervention.
- 5 PRESIDING JUDGE KORNER: [14:27:54] Can we move on. We haven't got that  
6 much time left.
- 7 MR NICHOLLS: [14:27:57] No, and I've cut it down, your Honour, to try to be quick.
- 8 Q. [14:28:02] Okay, sir, just a couple more photos -- I'm sorry, have you ever met  
9 al-Nazir, his other son -- one of his other sons?
- 10 A. [14:28:23] I met him, but I'm not well acquainted with him. I met him a long  
11 time ago.
- 12 Q. [14:28:28] All right. Let me just show you a picture, see if it helps. Tab 72,  
13 please. 00005872 is the ERN number.
- 14 Do you recognise Mr Abd-Al-Rahman's son al-Nazir there?
- 15 A. [14:29:04] Yes, the late person.
- 16 Q. [14:29:08] Yes, and I'm sorry, I should have said --
- 17 A. [14:29:11] He has passed away. May he rest in peace.
- 18 Q. [14:29:15] Yes, and I should have said that we're aware that, unfortunately, he  
19 passed away, earlier.
- 20 One more photo of Mr Abd-Al-Rahman's son al-Nazir, the young man, 00005873.
- 21 THE COURT OFFICER: [14:29:41] Could counsel please give us the tab number?
- 22 MR NICHOLLS: [14:29:45] Sorry, tab 73.
- 23 Q. [14:29:57] Another photo of him; correct?
- 24 A. [14:30:01] Yes.
- 25 Q. [14:30:02] Okay. Last one. Tab 74, please; 00005874 is the ERN.



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 And, sir, just there, we see another photo of al-Nazir, right?

2 A. [14:30:34] Yes.

3 Q. [14:30:34] Okay, thank you. Done with that.

4 Different topic now, sir.

5 In your -- in the past we talked -- sorry, earlier today, we spoke about Yusuf al-Balul  
6 who was unfortunately martyred in July 2013. Do you remember we spoke about  
7 that this morning?

8 A. [14:31:12] Yes, I'm aware of that person.

9 Q. [14:31:17] Yes. And, in fact, the circumstances of him dying was he was killed  
10 while protecting Mr Abd-Al-Rahman, wasn't he? Maybe saved  
11 Mr Abd-Al-Rahman's life.

12 A. [14:31:38] He was a driver with us.

13 Q. [14:31:46] Yep, and you know that he was killed, he died -- he was martyred  
14 protecting Mr Abd-Al-Rahman, wasn't he -- didn't he?

15 A. [14:31:58] Yes.

16 Q. [14:32:26] And if we could go to tab 42, please, which is 00006581. Go down to  
17 the middle, kind of.

18 Well, sir, I know you can't read this so I'm just going to read out part of this for you.

19 It's dated 8 July 2013. And what it states in this Radio Dabanga article, in the middle,  
20 is:

21 "A medical source in the police hospital in Nyala confirmed to Radio Dabanga that  
22 Ali Kushayb's bodyguard Ahmad Yusuf al-Balul had succumbed to his injuries."

23 So, very simply, that's the story about the incident; correct?

24 A. [14:33:29] This gentleman was not a bodyguard, he was a driver, a driver for Ali,  
25 and he was on a mission and he was driving the vehicle, but he was not a bodyguard.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 Q. [14:33:43] Okay, thank you very much.
- 2 PRESIDING JUDGE KORNER: [14:33:47] Was anybody with him on this mission,  
3 that you knew about?
- 4 MR NICHOLLS: [14:33:57] I think he's already answered that, your Honour.
- 5 PRESIDING JUDGE KORNER: [14:34:00] Has he? He was on a mission, he just  
6 said, driving the vehicle -- or, rather, let me ask him: What kind of mission was this  
7 man -- was this driver on?
- 8 THE WITNESS: [14:34:31](Interpretation) They were out to bring the payroll, the  
9 wages.
- 10 MR NICHOLLS: [14:34:39] It would be at lines 17 and 18 of page 85, your Honour.
- 11 PRESIDING JUDGE KORNER: [14:34:52] Yes, I see. All right, yes. Okay.  
12 Yes, I see. So, Mr Abd-Al-Rahman was with him to get the payroll?
- 13 THE WITNESS: [14:35:06](Interpretation) Yes, with that very same driver, yes.
- 14 PRESIDING JUDGE KORNER: [14:35:11] Sorry, Mr Nicholls, I'd missed that bit.
- 15 MR NICHOLLS: [14:35:17]
- 16 Q. [14:35:17] Okay, thank you, sir, very much. Now, I'll try to keep this simple  
17 and brief. You are aware, aren't you, that in 2013 the Ta'aisha tribe had armed  
18 conflicts -- problems and armed conflicts with the Salamat tribe; correct?
- 19 A. [14:35:59] At that time, I was not around.
- 20 Q. [14:36:01] All right. Where were you in 2013?
- 21 A. [14:36:09] I was in Atbara.
- 22 Q. [14:36:16] well, I've got a sense of deja vu, but let me just put it this way: Do  
23 you have any knowledge about Mr Abd-al-Rahman leading CRF troops in the fight  
24 against the Salamat? Is that something you never heard about?
- 25 A. [14:36:42] There isn't.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [14:36:49] Okay. Right, sir, now let me -- excuse me one moment.

2 (Counsel confers)

3 MR NICHOLLS: [14:37:23] All right, sir, now earlier -- I'm talking now about  
4 probably right around the last time you saw Mr Abd-Al-Rahman in person or near  
5 that time -- you said you were speaking to him and he said that he was going to the  
6 ICC to figure out why, to see what was going on; do you remember that?

7 A. [14:38:02] Well, Ali Muhammad Ali Abd-Al-Rahman told me that he was  
8 wanted at the court and he wanted to go see what he was wanted for, and that he was  
9 volunteering himself to go there to find out what it was about.

10 Q. [14:38:19] Okay, thank you, that's what I'm going to ask you about now.

11 The question is: As somebody who worked in the police for, well, around 13 years,  
12 couldn't Mr Abd-Al-Rahman have gone to the Sudanese authorities and said,  
13 "They've got the wrong person, it's not me"? And then Sudan would have not sent  
14 him to The Hague; they would have shown that it was the wrong person. Why  
15 didn't he go to the Sudanese authorities? Did he tell you anything about that?

16 A. [14:39:06] He did not explain that to me. I did not hear him explaining that.

17 Q. [14:39:12] Okay. In all your years as a policeman, have you heard about  
18 somebody surrendering across a state border on an arrest warrant and saying, "It's  
19 not me, but I'm coming anyway"? Have you ever heard that?

20 MR LAUCCI: [14:39:43] Ah --

21 THE WITNESS: [14:39:44](Interpretation) Ali -- I've heard that Ali Mohammed Ali  
22 wanted to go find out what it was about, to reassure himself. He told me that he  
23 wanted to see what it was about, what was happening.

24 MR NICHOLLS: [14:40:03] Okay. I'm moving on, if that helps my friend.

25 MR LAUCCI: [14:40:09] Okay, yes, because I think we are entering into commentary

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 here.

2 MR NICHOLLS: [14:40:11] Well, it was based on his experience, but in any event.

3 Q. [14:40:15] Well, let me just tell you what Mr Abd-Al-Rahman's attorney, his  
4 lawyer Mr Laucci said in this courtroom during a hearing — it's called a confirmation  
5 hearing but that doesn't matter — when he talked about why Mr Abd-Al-Rahman  
6 surrendered to the court.

7 Mr Laucci said:

8 "So let's come back to the context. As the OTP accepted, Mr Abd-Al-Rahman from  
9 his own initiative took a long and difficult journey from Sudan, the place of his last  
10 residence, to the Central African Republic. Why did he take -- undertake this  
11 difficult journey? He did this because he was informed that the Sudanese authorities  
12 intended to arrest him because the International Criminal Court was seeking him as  
13 Ali Kushayb."

14 So my question is: Did you know when Mr Abd-Al-Rahman came to this court that  
15 there was an arrest warrant in Sudan for him?

16 A. [14:41:41] No, I have not heard anything about that.

17 PRESIDING JUDGE KORNER: [14:41:52] Are you finished with this conversation,  
18 Mr Nicholls, or have you got more to ask?

19 MR NICHOLLS: [14:41:57] I'm done.

20 PRESIDING JUDGE KORNER: [14:41:59] Okay. Sir, how did this conversation  
21 come about, that he suddenly told you he was going to The Hague to surrender  
22 himself?

23 THE WITNESS: [14:42:20](Interpretation) After I came there, he -- one person told  
24 me that he heard Ali Muhammad Ali Abd-Al-Rahman over the radio was wanted and  
25 that he wanted to go find out more about it. Then he moved out.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [14:42:46] Okay. Let's take this, please, in stages.

2 Do you -- did you meet with Mr Al-Rahman by arrangement?

3 THE WITNESS: [14:43:04](Interpretation) I was -- it was not arranged. I came  
4 across him and he told me that he was going to surrender himself in two days, but  
5 I did not meet him on the same day.

6 PRESIDING JUDGE KORNER: [14:43:20] Yes, but, I'm sorry, why did he -- well, he  
7 may not.

8 Can you think of any reason why he suddenly told you that out of the blue?

9 THE WITNESS: [14:43:46](Interpretation) We just had a chat and he said that a  
10 person by the name of Ali Muhammad Ali Abd-Al-Rahman was wanted by the court.  
11 He just told me that, and told me why he wanted to go. He said he wanted to find  
12 out about it, but I did not meet him on the same day.

13 PRESIDING JUDGE KORNER: [14:44:07] What? Do you mean the same day he  
14 left?

15 THE WITNESS: [14:44:18](Interpretation) I met him one or two days before he  
16 travelled.

17 PRESIDING JUDGE KORNER: [14:44:27] And at that stage were you both still in the  
18 same jobs? Was he still your superior?

19 THE WITNESS: [14:44:44](Interpretation) He was my supervisor as warrant officer  
20 and I was sergeant. I was not a first-sergeant yet, but after he left I became a  
21 first-sergeant.

22 PRESIDING JUDGE KORNER: [14:44:59] All right. Okay. So the two of you were  
23 still working at the job and nobody before that had mentioned to you that there was  
24 an arrest warrant for him in Sudan?

25 THE WITNESS: [14:45:24](Interpretation) I did not hear of that.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [14:45:27] And he didn't tell you that?
- 2 THE WITNESS: [14:45:32](Interpretation) No.
- 3 PRESIDING JUDGE KORNER: [14:45:35] Okay. Yes, sorry, Mr Nicholls. I know
- 4 I have cut into your time.
- 5 MR NICHOLLS: [14:45:40] That's all right, your Honour. I'm basically done.
- 6 Q. [14:45:44] Sir, I'm putting it to you, you know Ali Muhammad
- 7 Ali Abd-Al-Rahman is Ali Kushayb, you know he was called by that name, you came
- 8 here to lie, to protect your superior, to protect somebody from your tribe?
- 9 A. [14:46:17] No. That's not his name. His name is Ali Muhammad
- 10 Ali Abd-Al-Rahman. His name is not Ali Kushayb.
- 11 PRESIDING JUDGE KORNER: [14:46:38] Mr Nicholls, in your list of documents are
- 12 these two videos, which have been the subject of much discussion. This witness has
- 13 not been asked about it by Mr Laucci. However, it seems to me that everybody
- 14 would be assisted if we could get some kind of context for this, particularly as one is
- 15 supposedly filmed in this man's town.
- 16 MR NICHOLLS: [14:47:12] Um --
- 17 PRESIDING JUDGE KORNER: [14:47:14] It is on your list, but, I mean, it may not
- 18 be -- I mean, yesterday's witness, possibly not, but this witness has known him for
- 19 about 20 years.
- 20 MR NICHOLLS: [14:47:23] Yeah, your Honour, may we have a brief discussion
- 21 without the witness listening in?
- 22 PRESIDING JUDGE KORNER: [14:47:32] Yes, certainly.
- 23 Sir, would you mind just leaving the room for a couple of minutes? The person with
- 24 you will let you know when you can come in.
- 25 Did you understand that? Yes, thank you. If you just leave and somebody will let

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 you know.

2 Just a moment. He's still there.

3 (The witness exits the video—link room)

4 MR NICHOLLS: [14:48:27] Thank you, your Honour.

5 The first video is uncontested that it is Mr Abd-Al-Rahman and there isn't -- that's  
6 true, we may not know the context where he is speaking.

7 PRESIDING JUDGE KORNER: [14:48:43] No, it's the context.

8 MR NICHOLLS: [14:48:44] But the second video — I didn't want to say this in front  
9 of witness — I didn't show it because I don't believe he is credible, so I didn't show  
10 this second video to him, which was in dispute, as I think there -- he's very likely to  
11 know about that video and deny that it's Mr Abd-Al-Rahman.

12 PRESIDING JUDGE KORNER: [14:49:07] Well, are you proposing to show it to  
13 anybody, of these, all of whom who live in this place. Is the second one -- which  
14 one's in?

15 I mean, I imagine, Mr Laucci, if that's what he was going to say, would have shown  
16 that to him, if that's what the --

17 No, the first one is in Rahad Al-Berdi. But, nonetheless, some kind of context as to  
18 what he's doing, making a speech in this area, would really assist, I think.

19 You know, you've put these videos in without any kind -- I mean, not surprisingly,  
20 without any kind of -- well, I'm sorry, without any kind of explanation. Somebody  
21 said -- a couple of witnesses said it was him, but we really haven't got any context for  
22 any of this.

23 Well, I mean, Mr Nicholls, it's up to you, but, I mean, certainly -- I think it would  
24 certainly assist us if, even for the first, we got some sort of context as to why this man  
25 in the CRF was making a speech and roughly when it was.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 MR NICHOLLS: [14:50:35] All right, your Honour.

2 PRESIDING JUDGE KORNER: [14:50:38] Whatever -- you know, whether or

3 not -- I accept that you would say he's not a credible witness, but, nonetheless.

4 MR NICHOLLS: [14:50:49] Yeah, my view is I wanted to see how it would go before

5 deciding whether to play these and I thought I could anticipate the answers and

6 I didn't think it would help, so I did not.

7 PRESIDING JUDGE KORNER: [14:51:01] Well, I mean, the difficulty is, Mr Nicholls,

8 I appreciate that, of course, the way these things go that the Prosecution isn't -- isn't

9 obliged to deal with evidence that is not likely to assist it. I absolutely -- but I do

10 think whatever the situation -- and the matter of his credibility is a matter for us to

11 decide -- it would assist us if we had some idea of the context of this video, even if

12 it's only the first. The second one -- and, I mean, as I say, they're on your witness

13 list -- I mean, they're on your document list.

14 MR NICHOLLS: [14:51:52] Um --

15 PRESIDING JUDGE KORNER: [14:51:53] I mean, we can do it, I suppose,

16 technically at the end when Mr Laucci is finished, but I thought I had better raise this

17 before Mr Laucci did re-examine in case anything comes out of this that he wants to

18 re-examine on.

19 MR NICHOLLS: [14:52:08] All right, your Honours. We can show the video.

20 I think we'll have to ask for assistance to do that. And that is --

21 PRESIDING JUDGE KORNER: [14:52:17] Oh, do we not -- can he not see videos

22 from where he is? Is that not possible?

23 (Discussion between the Chamber and the court officer)

24 PRESIDING JUDGE KORNER: [14:52:24] He can. I'm told he can.

25 MR NICHOLLS: [14:52:25] Yes, so that would be tab 3.



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [14:52:30] Yes, yes -- no, tab 5 I think. The  
2 transcript is tab 5.
- 3 MR NICHOLLS: [14:52:39] Yes.
- 4 PRESIDING JUDGE KORNER: [14:52:41] Yes, Mr Laucci.
- 5 MR LAUCCI: [14:52:46] Just for the record, Madam President, of course, your  
6 Honours have full discretion to empower -- to ask any question to the witness, but my  
7 impression was that the  
8 cross-examination of my learned friend was over, and I must say I'm a little bit  
9 surprised by the way the Prosecution is guided, or instructed on the way it  
10 should -- it should cross-examine the witness.
- 11 PRESIDING JUDGE KORNER: [14:53:20] No. That's not -- no, it's quite clear. As  
12 I said, it's a matter for Mr Nicholls. I'm not instructing him. I'm asking why it  
13 hasn't been shown and I'm pointing out -- as you know, the Statute says we have to  
14 find the truth, and here we have a witness who can tell us something about two of the  
15 exhibits that are part of the case. And that is the reason, Mr Laucci. I'm not in  
16 any -- in fact, Mr Nicholls is dead against doing it, as you can see, so he doesn't think  
17 I'm helping him out at all.
- 18 But it does seem to me that we do have someone here who can tell us something  
19 about the context and that, therefore, we really need to know. We have got to decide  
20 in the end how we treat these videos.
- 21 MR NICHOLLS: [14:54:20] Your Honour, if I may then, following this, I would  
22 humbly suggest that the Court show these two videos. You can ask questions and  
23 show the videos and I would have done it very differently in my cross-examination if  
24 I had gone into those.
- 25 PRESIDING JUDGE KORNER: [14:54:42] All right. Okay.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 MR NICHOLLS: [14:54:43] And I have to say, I do have a certain sympathy with my  
2 friend. After I sat down, he breathes out and thinks it's over, so I can understand  
3 that.

4 PRESIDING JUDGE KORNER: [14:54:57] Well, yes, that may be so.  
5 All right. Are you both objecting, then?

6 MR NICHOLLS: [14:55:04] I'm not objecting. That was just a suggestion that the  
7 Court just show them and ask their questions.

8 PRESIDING JUDGE KORNER: [14:55:13] Right.

9 MR LAUCCI: [14:55:13] I have no objection to questions asked by your Honours.

10 PRESIDING JUDGE KORNER: [14:55:17] Okay, all right. Thank you, Mr Laucci.  
11 In that case, can we have the witness back and can we just set up the first -- I don't  
12 want to play the whole thing. I just want to see if he can give us some context.

13 THE COURT OFFICER: [14:55:30] We have provided evidence channel 2 access to  
14 the Prosecution so they can play the video on evidence channel 2, and we will also  
15 route evidence channel 2 to the witness.

16 (The witness enters the video-link room)

17 PRESIDING JUDGE KORNER: [14:56:09] All right. Sir, thank you very much.  
18 I'm going to ask you now to watch, please, a video for a few minutes and then ask  
19 you some questions about it.

20 Yes, can we play the video?

21 (Viewing of the video excerpt)

22 PRESIDING JUDGE KORNER: [15:00:02] All right. Yes, thank you.

23 MR LAUCCI: [15:00:06] Madam President, we -- I was looking at the -- the --

24 PRESIDING JUDGE KORNER: [15:00:14] Subtitles.

25 MR LAUCCI: [15:00:16] Subtitles, yes, and this version contains the portion that was

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 struck out.

2 MR NICHOLLS: [15:00:22] (Microphone not activated)

3 PRESIDING JUDGE KORNER: [15:00:23] Yes, but, I mean, he doesn't --

4 MR LAUCCI: [15:00:25] I know.

5 PRESIDING JUDGE KORNER: [15:00:28] I appreciate that. I saw that when it came  
6 up.

7 All right.

8 Sir, first of all, the first question I want to ask is: Do you recognise the speaker?

9 THE WITNESS: [15:00:40](Interpretation) Yes.

10 PRESIDING JUDGE KORNER: [15:00:42] And who is that?

11 THE WITNESS: [15:00:44](Interpretation) Ali Muhammad Ali Abd-Al-Rahman,  
12 Abu Nasser.

13 PRESIDING JUDGE KORNER: [15:00:53] And can you -- did you hear this speech or  
14 see this video?

15 THE WITNESS: [15:01:00](Interpretation) This speech -- I was there when he gave  
16 this speech because there was -- a student hit a female teacher and then the teachers  
17 went on strike and refused to teach, and this is when the security committee  
18 convened.

19 Usually the security committee has members from the CRF and from the military and  
20 from the education sector and the *nazir*, so they all came together and wanted to solve  
21 the problem -- this problem about this student who hit his teacher. That's what  
22 happened.

23 PRESIDING JUDGE KORNER: [15:01:52] And why was Mr Abd-Al-Rahman taking  
24 the lead in this?

25 THE WITNESS: [15:02:05](Interpretation) I told you the security committee usually

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 brings a lot of people, so they brought the head of the CRF and the head of the  
2 military, head of the police and the executive director and the teachers, and the *nazir*.  
3 So these are the people who represented the security committee in Rahad Al-Berdi.  
4 The child slapped his teacher on the face and that's why they convened. That's why  
5 they sat together to solve the problem.

6 So everyone spoke. The head of the police spoke, the *nazir* spoke, the head of the  
7 military spoke. So each one had their say, so they wanted to stop this from ever  
8 happening again.

9 PRESIDING JUDGE KORNER: [15:02:56] Are you saying that Mr Al-Rahman was  
10 the head of the police for the purposes of this committee?

11 THE WITNESS: [15:03:07](Interpretation) No, he was the head of the Central  
12 Reserve Forces. The police are separate from the CRF.

13 PRESIDING JUDGE KORNER: [15:03:16] You told us he was a *musaid*, a sergeant,  
14 which isn't a particularly high rank, is it?

15 THE WITNESS: [15:03:29](Interpretation) Yes, yes.  
16 The region --

17 THE INTERPRETER: [15:03:41] Can we ask the -- can we ask the witness to repeat,  
18 please?

19 PRESIDING JUDGE KORNER: [15:03:46] Sorry, sir, you spoke a little too fast. Can  
20 you repeat what you just said?

21 THE WITNESS: [15:03:57](Interpretation) I was saying that in the military system,  
22 sometimes a person at this rank can lead a whole region, so just one sergeant, and he  
23 is the leader of many soldiers. Yes, as a *musaid* he was able to be the head of  
24 CRF -- of the CRF in Rahad Al-Berdi.

25 PRESIDING JUDGE KORNER: [15:04:26] And, roughly, when was this incident?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 THE WITNESS: [15:04:39](Interpretation) I can't remember exactly, but I was there.  
2 I was present. We heard that a student hit his teacher, and then the parents arrived  
3 and they all came because they all had to warn their children not to do this.
- 4 PRESIDING JUDGE KORNER: [15:04:57] Okay. All right. Thank you.  
5 (Trial Chamber confers)
- 6 PRESIDING JUDGE KORNER: [15:05:56] Yes, all right. Yes, thank you, sir. Yes,  
7 you want -- I do have some other questions but that is all on the video, unless  
8 anybody wants to ask any questions arising from that.
- 9 MR NICHOLLS: [15:06:08] No, your Honour, just to say apologies to my friend.  
10 I think we actually both misspoke. The two words that we'd agreed should not be  
11 heard on the transcript, that was the second video; this one, our position is there is no  
12 redaction necessary, those words are spoken.
- 13 PRESIDING JUDGE KORNER: [15:06:28] Right, okay. Yes.  
14 All right. Yes.  
15 Yes, Mr Laucci, any re-examination from --
- 16 MR LAUCCI: [15:06:49] From the video, not at all. Re-examination, yes.
- 17 PRESIDING JUDGE KORNER: [15:06:52] Yes, okay. Well, I mean, because we do  
18 have some other questions but they don't relate to the video.
- 19 MR NICHOLLS: [15:06:58] On this point that I think he's raising, I think my friend  
20 and I can talk after court because there is actually no dispute, I don't think, it's just  
21 which video is which.
- 22 MR LAUCCI: [15:07:08] I mean, for the reference to the words "Ali Kushayb" in the  
23 subtitles, no, there is no -- we do not agree at all that this is spoken, and this is highly  
24 challenged.
- 25 MR NICHOLLS: [15:07:21] I understand, but in the second video there was a similar

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 dispute and in that one we conceded, but not in this one.

2 PRESIDING JUDGE KORNER: [15:07:27] Oh, I see. All right. Well, I suppose,

3 actually, we've got the witness here, we may as well ask him. Absolutely.

4 Sir, at any stage during that time when you were present at this incident, at the

5 meeting about the person who slapped, was there any mention of Ali Kushayb?

6 THE WITNESS: [15:07:55](Interpretation) I didn't hear that.

7 PRESIDING JUDGE KORNER: [15:07:57] All right. Yes, thank you.

8 Yes, Mr Laucci.

9 MR LAUCCI: [15:08:03] Thank you, Madam President.

10 I have two topics for re-examination.

11 QUESTIONED BY MR LAUCCI:

12 Q. [15:08:14]

13 Sir, in your response to my learned friend from the Office of the Prosecutor about

14 what had happened in Wadi Salih in 2003, 2004, I would just summarise what you

15 said, which was that you heard about it but you did not feel concerned. Was that

16 your position?

17 A. [15:08:55] I heard about it. I heard about it.

18 Q. [15:09:03] Yes. I may go back to the exact page of the transcripts, but will my

19 learned friend agree if I summarise that essentially your position is that you heard

20 about it but you did not ask questions or you did not display any interest in knowing

21 more about these events?

22 A. [15:09:30] Yes, because it wasn't in my region or in a place where any of my  
23 relatives were, so I didn't have any -- any connection with it.

24 Q. [15:09:45] Thank you. In this time, 2003, 2004, did you have any access to

25 international media?

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 A. [15:10:04] No.

2 Q. [15:10:08] And do you remember hearing anything about -- hearing in Sudan,  
3 around you, in the persons that you were meeting with, did you -- do you remember  
4 having heard any comment about the reporting of massive -- of massive crimes in  
5 Darfur at the international level?

6 A. [15:10:49] I didn't hear anything about that. I heard about the events, but  
7 I didn't hear any more information.

8 Q. [15:10:56] Okay. And in 2003, 2004 -- we are under the rule of President  
9 Al-Bashir -- how safe was it to ask questions about that kind of event happening in  
10 Sudan?

11 A. [15:11:24] To ask who?

12 Q. [15:11:27] To discuss, to ask people around you, to have discussions about that  
13 kind of event happening in Sudan, was it something that could place you at threat?

14 A. [15:11:50] These events were very far from us. I didn't ask anybody about it.  
15 I didn't discuss them with anybody, so it was very, very far from where I was and  
16 I didn't have any relatives living there, so it was just a group of people fighting each  
17 other so I wasn't concerned that much.

18 Q. [15:12:15] Other than that, there was no specific reason why you never  
19 discussed these issues with other people?

20 A. [15:12:32] I -- as a military personnel, I don't like to talk about politics. I don't  
21 like to discuss politics. I just want to do my job and live safely back home. Unless  
22 they ask me to go on mission, then the situation would have been different. But if it  
23 doesn't concern me, I don't ask about it.

24 Q. [15:13:01] Is -- is discussing politics a taboo for military personnel?

25 A. [15:13:24] No.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [15:13:27] I'm not sure you understand my question.

2 MR NICHOLLS: [15:13:36] I mean, it was a very leading question, and I didn't object,  
3 but if the --

4 MR LAUCCI: [15:13:44] Yeah. Okay. I stop here. I stop here.

5 Q. [15:13:47] Second topic.

6 Sir, I move to the second topic of my re-examination, totally different.

7 Sir, do you remember talking for the first time to the Defence in a phone  
8 conversation?

9 A. [15:14:21] Yes, yeah, it was -- yes, yes, I do.

10 Q. [15:14:26] Do you remember roughly when that first phone conversation took  
11 place?

12 A. [15:14:40] I -- they called me and they asked me about my name, and then they  
13 said, "We want you in the ICC as a witness", but other than that, I don't know  
14 anything at all. They didn't say anything to me.

15 Q. [15:15:05] Well, you said that we -- we -- we told you that we wanted you as a  
16 witness, but did we ask you whether you would agree to appear as a witness?

17 A. [15:15:22] Of course. Of course.

18 Q. [15:15:26] Okay. And without being more specific, or leading, was that  
19 conversation -- this phone conversation, do you remember if it was before or after the  
20 outbreak of the war in Sudan on 15 April?

21 A. [15:15:52] Before.

22 Q. [15:15:56] Okay. And -- well, you confirmed to my learned friend that  
23 you -- the interview when we collected your statement took place in August; is that  
24 right?

25 A. [15:16:18] Yes.



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Q. [15:16:19] And do you remember a meeting that we had, you and I, at the end of  
2 October? Don't say the place, please.

3 A. [15:16:43] In October?

4 Q. [15:16:46] End of October, without telling where you were at this time.

5 A. [15:17:05] I do not quite understand your question.

6 Q. [15:17:09] If I tell -- if I tell you, sir, that I came where you were at the end of  
7 October to meet and talk with you about the conditions of your appearance, do you  
8 remember that? It's --

9 A. [15:17:41] That in October you spoke to me about appearing as a witness?

10 Q. [15:17:49] Yes. It was about two -- two weeks ago, three weeks maximum.  
11 I came at the place where you were.

12 A. [15:18:00] Yes, yes.

13 Q. [15:18:03] Okay. And we discussed under which conditions you would  
14 feel -- you would feel ready to appear; is that right?

15 A. [15:18:21] Yes, yes.

16 Q. [15:18:24] And in all these conversations can you tell the Court if the decision to  
17 appear, was it your decision or the decision of somebody else?

18 A. [15:18:50] I volunteered to appear before the Court to tell that which I know. It  
19 is an oath before God, and I take that oath as consequential before my Lord. I only  
20 tell that which I know; that which I do not know, I would not tell.

21 Q. [15:19:19] Thank you.

22 MR LAUCCI: [15:19:20] That's the end of my re-examination, Madam President.

23 PRESIDING JUDGE KORNER: [15:19:24] Thank you, Mr Laucci.

24 (The Trial Chamber confers)

25 JUDGE ALAPINI-GANSOU: [15:19:37] Thank you, Madam President.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 I have two concerns, and, with your permission, I would like to backtrack a little bit.
- 2 Mr Witness, can you hear me?
- 3 Would you allow me to take you a little back in your testimony. When you were
- 4 talking about the accused person, you told us that he was managing a clinic. Was it
- 5 a clinic or a pharmacy? I think you talked of a pharmacy, right?
- 6 THE WITNESS: [15:20:40](Interpretation) He had a small pharmacy in the form of
- 7 what we call a *rakuba*.
- 8 JUDGE ALAPINI-GANSOU: [15:20:55] Very well. Thank you. Now, can you
- 9 confirm to us what type of medications or drugs he would be selling in this
- 10 pharmacy.
- 11 THE WITNESS: [15:21:13](Interpretation) Penicillin and other drugs, he brought
- 12 there to sell. As a doctor, he was able to sell and to prescribe.
- 13 JUDGE ALAPINI-GANSOU: [15:21:27] For human beings or for animals?
- 14 THE WITNESS: [15:21:32](Interpretation) For humans.
- 15 JUDGE ALAPINI-GANSOU: [15:21:43] For human beings, very well.
- 16 Now, my other concern is that you told us that you left the army in 2004; is that
- 17 correct?
- 18 Now, does this mean --
- 19 THE WITNESS: [15:22:04](Interpretation) It is actually 2003. That's when I left the
- 20 army.
- 21 JUDGE ALAPINI-GANSOU: [15:22:08] You left the army in 2003?
- 22 THE WITNESS: [15:22:12](Interpretation) At the end of 2003.
- 23 JUDGE ALAPINI-GANSOU: [15:22:17] End of 2003. Now, would this mean that
- 24 you were indeed able to spend a bit of time in the army in 2003?
- 25 THE WITNESS: [15:22:40](Interpretation) Yes.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 JUDGE ALAPINI-GANSOU: [15:22:47] Your answer is "yes"?
- 2 THE WITNESS: [15:22:51](Interpretation) But afterwards, when I left the army, I did  
3 not go back to the army. I went on leave and I have not been back to the army since.
- 4 JUDGE ALAPINI-GANSOU: [15:23:05] I simply wanted you to try and situate me in  
5 time -- 2003, 2004.
- 6 PRESIDING JUDGE KORNER: [15:23:34] I don't think he understands what the  
7 question is.
- 8 JUDGE ALAPINI-GANSOU: [15:23:38] Can you situate me in time, please? Were  
9 you still in the army in 2003?
- 10 THE WITNESS: [15:23:52](Interpretation) Yes, and I left immediately afterwards.
- 11 JUDGE ALAPINI-GANSOU: [15:23:57] Are you aware -- can I speak now?  
12 Were you, nevertheless, informed about the events that took place in early 2003?
- 13 THE WITNESS: [15:24:30](Interpretation) There were events.
- 14 JUDGE ALAPINI-GANSOU: [15:24:39] A conflict. There were events that took  
15 place, political events, in Darfur. I'm asking you the question as a former soldier in  
16 the army.
- 17 THE WITNESS: [15:25:04](Interpretation) The political events regarding the  
18 insurgents who came from certain locations, those were the political events. There  
19 were no other political locations. There were southern insurgents who came from  
20 the south. They entered Sudan, ended up in Jebel Marra. Those are the things I'm  
21 aware of. These are the political events I'm aware of.
- 22 JUDGE ALAPINI-GANSOU: [15:25:41] So, these events had nothing to do with the  
23 fact that there were internally displaced people in the region who are supposed to  
24 have taken refuge in Rahad Al-Berdi.
- 25 THE WITNESS: [15:26:05](Interpretation) The political events, as I said, consisted in

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 some southern insurgents who came from the south to the mountain or the Jebel area.

2 This caused a problem. This is what I'm aware of. There is a difference between

3 tribal events and political events.

4 JUDGE ALAPINI-GANSOU: [15:26:30] Very well. Madam President, I'm going to  
5 stop there.

6 PRESIDING JUDGE KORNER: [15:26:36] Just to finish that off, are you saying that  
7 you were wholly unaware of any of your army comrades being called to deal with the  
8 rebels?

9 THE WITNESS: [15:27:06](Interpretation) We -- as a technical unit, we were not sent  
10 to any combat operation. The same applies to any military -- to any technical unit.  
11 The same thing applies to engineer units, war units, musical units; and the police, in  
12 particular, they were not assigned to a war effort. That is why our familiarity with  
13 these things is limited.

14 PRESIDING JUDGE KORNER: [15:27:34] No, no. I understand -- I understand that  
15 you didn't go off to fight. What I'm asking is if you were unaware that any other  
16 regiment stationed in Nyala were sent off to deal with the rebels?

17 THE WITNESS: [15:28:04](Interpretation) The people who entered, I'm not familiar  
18 with them. There was a force and there was a counterforce against the insurgents,  
19 but I'm not familiar with them. There were insurgents who came to the mountain  
20 area, or the Jebel area, but that's the limit of my knowledge. We had a different  
21 command from the command that was responsible for what was happening there.  
22 Our organisational system is different from that -- that was related to those events,  
23 not to mention the long distance separating us.

24 PRESIDING JUDGE KORNER: [15:28:51] Okay, and did you ever ask the refugees,  
25 the Fur refugees that you found in Mr Al-Rahman's house, what had happened to

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 them?

2 THE WITNESS: [15:29:06](Interpretation) I-- I did not ask them. I greeted them.  
3 I was aware that there was a problem, but I did not ask anybody. I merely greeted  
4 them. I did not have any other business with these people. I simply greeted them  
5 and went about -- to go about my business.

6 PRESIDING JUDGE KORNER: [15:29:24] All right.

7 And the other matter I want to ask you is how can you came to give evidence.

8 You told us that the *nazir* spoke to you and said that you were going to be a witness  
9 for Mr Al-Rahman; is that right?

10 THE WITNESS: [15:29:55](Interpretation) He told me that I-- that I am sought as a  
11 witness. He did not order me to go as a witness. He told me that a phone call was  
12 received and that I was sought after as a witness before the ICC. And he sent me a  
13 motorbike in the {ICR: (Redacted)  
14 (Redacted)}.

15 Afterwards, in the evening -- actually the second night, we left in the evening and  
16 I went to the *nazir's* house, and when I entered his house, he told me that "You are  
17 wanted at the ICC as a witness", so I told him, "Yes, very much so."

18 Afterwards, we left Rahad Al-Berdi and {ICR: (Redacted)  
19 (Redacted)}

20 PRESIDING JUDGE KORNER: [15:30:50] Yeah, yeah. Don't worry about -- do not  
21 worry about that. I'm still -- I'm just dealing with you being told that you were  
22 going to be a witness. Did you ask the *nazir* what were you supposed to be -- be a  
23 witness about?

24 THE WITNESS: [15:31:12](Interpretation) Well, I knew the answer before asking  
25 him. He told me that the phone call that was received concerned me being a witness

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 for Ali Muhammad Ali Abd-Al-Rahman.

2 PRESIDING JUDGE KORNER: [15:31:24] Yes, I know that, but being a witness  
3 about what?

4 THE WITNESS: [15:31:33](Interpretation) For someone called Ali Muhammad  
5 Ali Abd-Al-Rahman, Abu Nasser, whose name was not Kushayb, a name that I have  
6 not heard before and I have taken an oath to say the truth.

7 PRESIDING JUDGE KORNER: [15:31:54] Yes. Yes. This is what I'm trying to  
8 understand. Did he say, "Your job is to go and explain to the Court that Al-Rahman,  
9 the person I know, is not Ali Kushayb"? Is that what was said to you?

10 THE WITNESS: [15:32:17](Interpretation) The *nazir* did not say so. How can he tell  
11 me what to do? I am older than the *nazir*. I got acquainted with Ali before the *nazir*  
12 got acquainted with him. How could he tell me go to tell them so-and-so? I was  
13 aware that Ali is innocent and that his name is not Ali Kushayb. How come he  
14 would dictate to me what to testify about?

15 PRESIDING JUDGE KORNER: [15:32:49] I see. So you were -- sorry. I see. So  
16 you knew before the *nazir* contacted you that Mr Al-Rahman was here at The Hague  
17 and was being accused of being Ali Kushayb.

18 THE WITNESS: [15:33:20](Interpretation) I was not aware that he was Ali Kushayb.  
19 That was not his name. That is not his name. The name I know is Ali Muhammad  
20 Ali Abd-Al-Rahman. Well, if I thought that his name was Ali Kushayb, why would  
21 I come to testify. The name I know is Ali Muhammad Ali Abd-Al-Rahman,  
22 Abu Nasser. I would then be assisting in the incrimination of a defendant, but  
23 I came because I was confident -- I am confident that his name is Ali Muhammad  
24 Ali Abd-Al-Rahman, Abu Nasser. That's what I know about him.

25 PRESIDING JUDGE KORNER: [15:33:54] Yes, okay. I'm just trying to understand,

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 sir, how it is that you realised what it was that you were supposed to be saying in  
2 respect of Mr Al-Rahman.

3 How did you know why you were being called to be a witness?

4 THE WITNESS: [15:34:28](Interpretation) Because I was aware that his name is  
5 Ali Muhammad Ali Abd-Al-Rahman, Abu Nasser, and that he had no other name.  
6 I was confident enough to come forth and speak.

7 PRESIDING JUDGE KORNER: [15:34:39] Okay. So you knew all along that was  
8 the reason why you were being called?

9 THE WITNESS: [15:35:00](Interpretation) I was not aware of a particular reason.  
10 I was asked to come, appear as a witness. And I agreed immediately because I was  
11 fully confident that the gentleman in question was Ali Muhammad  
12 Ali Abd-Al-Rahman, Abu Nasser, and I took an oath as regards his name.

13 PRESIDING JUDGE KORNER: [15:35:24] Okay. Yes. All right. Yes.

14 MR LAUCCI: [15:35:27] If that can assist, Madam President, now, I think, if -- I don't  
15 know if you want to pursue the topic with the witness, the last topic.

16 PRESIDING JUDGE KORNER: [15:35:35] No, no. I've got the answer, thank you.

17 MR LAUCCI: [15:35:38] Okay, because I just want to remind that the witness has  
18 confirmed that we had a preliminary phone conversation, vetting conversation,  
19 before the beginning of the war. We did not give the date, but that has been  
20 confirmed by him during my re-examination.

21 PRESIDING JUDGE KORNER: [15:35:58] Yes, I know. Yes.

22 MR LAUCCI: [15:36:00] Okay.

23 PRESIDING JUDGE KORNER: [15:36:01] I appreciate it, but as I understand it,  
24 unless I've got that completely wrong, whether you had a phone conversation with  
25 him or not, it was the -- it was the -- the *nazir* who told him he was going to have to

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 testify.

2 MR NICHOLLS: [15:36:17] I'm just going to say, if this was going to continue and  
3 there be more --

4 PRESIDING JUDGE KORNER: [15:36:21] Yeah, well, I've got no further questions.  
5 I don't -- I don't -- well, I think --

6 MR LAUCCI: [15:36:25] I would --

7 PRESIDING JUDGE KORNER: [15:36:26] Just a moment, Mr Laucci.

8 My understanding was, and if I have got that wrong, the first he heard of -- I know  
9 you had a conversation with him before the conflict broke out in April, but it was the  
10 *nazir* who told him that he was going to have to testify before you ever had any  
11 conversation with him at all.

12 MR LAUCCI: [15:36:44] No, no, no.

13 PRESIDING JUDGE KORNER: [15:36:46] Well, that's my understanding. Have I  
14 got that wrong? Okay.

15 MR LAUCCI: [15:36:52] Madam -- maybe you should ask when the *nazir*  
16 approached him about being a witness. But what I tried to clarify during my  
17 re-examination is that the first time the witness heard about becoming a witness was  
18 during that vetting process, the initial conversation that we had.

19 MR NICHOLLS: [15:37:19] I think we're getting into the argument here and we have  
20 the transcript.

21 MR LAUCCI: [15:37:23] Yes. It's on the transcript, indeed.

22 PRESIDING JUDGE KORNER: [15:37:26] Yes, but that (Microphone not activated)  
23 Hang on -- all right --

24 THE INTERPRETER: [15:37:31] Microphone, please.

25 PRESIDING JUDGE KORNER: [15:37:33] Sorry.



Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 Sir, just clear this up, would you. Was the first that you heard of this, the *nazir*

2 asking you to give evidence, or did you speak to Mr Laucci before the *nazir* asked

3 you?

4 THE WITNESS: [15:37:55](Interpretation) Ma'am, I'm not acquainted with Mr Laucci.

5 I only met him while he was where he is now. I received a phone call. There were

6 problems back then regarding the fall of the regime. There were no phone calls -- or

7 phone communications were not that available. However, the *nazir* had a satellite

8 phone.

9 PRESIDING JUDGE KORNER: [15:38:33] Yes. All that I'm interested in, sir -- it's a

10 simple question: Did the *nazir* ask you to give evidence for Al-Rahman before you

11 spoke to anybody from the Defence team on the telephone?

12 THE WITNESS: [15:39:00](No Interpretation)

13 THE INTERPRETER: [15:39:04] Interpreter's observation: Could he be asked to

14 repeat his answer.

15 PRESIDING JUDGE KORNER: [15:39:10] Can you repeat your answer?

16 THE WITNESS: [15:39:24](Interpretation) I heard that a phone call was received

17 seeking me as a witness before the ICC. A phone call was received, and in that

18 phone call my name was mentioned and that I was sought as a witness before the ICC.

19 Further to that, the *nazir* spoke to me and told me to go appear before the court as a

20 witness.

21 PRESIDING JUDGE KORNER: [15:39:46] Okay. All right. Thank you very much,

22 sir.

23 Yes. I think that sorts it out, Mr Laucci.

24 MR LAUCCI: [15:39:52] We will have to disclose the vetting notes of that witness to

25 establish when that vetting conversation took place.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [15:40:02] Well, all right. Never mind that. That  
2 doesn't affect the witness. The witness has told us what he did.
- 3 Yes, sir, that completes your evidence. Thank you for coming and you're free to go.
- 4 THE WITNESS: [15:40:23](Interpretation) Thank you.
- 5 PRESIDING JUDGE KORNER: [15:40:33] Thank you. Yes. All right. You can  
6 leave the room, thanks.
- 7 THE WITNESS: [15:40:36](Interpretation) I extend my greetings to everyone  
8 working at the ICC.
- 9 (The witness is excused)
- 10 PRESIDING JUDGE KORNER: [15:40:53] All right. Are there any other matters?  
11 Is there anything that is going to delay things tomorrow morning because, as you  
12 know, we're not sitting Thursday, Friday? So, if there are any legal arguments, we'll  
13 sit earlier, possibly.
- 14 MR LAUCCI: [15:41:12] Regarding tomorrow, Madam President, after a very  
15 thorough and painful consideration on the Defence bench, I am unfortunately  
16 compelled to announce that we are dropping Witness D-6. We will not call him.
- 17 PRESIDING JUDGE KORNER: [15:41:33] You do surprise me, Mr Laucci.  
18 You should have notified us before.
- 19 MR LAUCCI: [15:41:41] That decision, that has really been taken today. As you  
20 know, we have received, last week on Thursday and Friday, hundreds of documents  
21 that it takes time to analyse and to -- to assess and measure what is the possible  
22 impact on the appearance of the witness, and this -- unfortunately, we could not  
23 complete that significant task before today when I announced you that.
- 24 PRESIDING JUDGE KORNER: [15:42:16] Yeah. Right.  
25 Mr Nicholls will be regretting that he gave all over all those documents so early.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 All right. In which case, there's nobody here until next Monday then.

2 MR LAUCCI: [15:42:37] And that brings me to announcing you what the  
3 information I received from VWU regarding the programme for next week.

4 So the answer is: VWU cannot arrange the appearance of the witnesses -- of any  
5 witness on Monday, which means that we will have, normally, in the same order --  
6 and I will come back to that -- D-28 on Tuesday, D-29 on Thursday, and --

7 PRESIDING JUDGE KORNER: [15:43:18] Why is it -- why is D-28 going to take  
8 two days?

9 MR LAUCCI: [15:43:23] No, no, no. D28, one day, Tuesday; then D29 on  
10 Wednesday.

11 PRESIDING JUDGE KORNER: [15:43:28] Right.

12 MR LAUCCI: [15:43:29] And what I see here on the screen is that for D-32 -- that is,  
13 for the third witness -- they -- for various VWU processes, they announce us that  
14 they cannot make him appear on Thursday. Friday, 1 December, is off in the  
15 country where the witness is testifying from.

16 And, so, the proposal from VWU is to have D-32 appearing on the 6th -- that is, after  
17 Witness Gout.

18 PRESIDING JUDGE KORNER: [15:44:10] Yeah, but Witness Gout is probably going  
19 to go into the 7th, isn't he, one way or another?

20 MR LAUCCI: [15:44:17] What is scheduled so far is 4 and 5 for him, two days.

21 PRESIDING JUDGE KORNER: [15:44:21] Four and five, I see what you mean; yes.

22 MR LAUCCI: [15:44:23] So that will be the solution. I need to add to this that the  
23 arrival of D-28 and D-29 at the place where they have to go to be able to appear is not  
24 yet confirmed. We expect them today -- between today and tomorrow. If,  
25 tomorrow night, they are not there, then, I think they will never be ready for next

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

1 week, which means then that, well, the only witness that we would have, who is D-32,  
2 is already ready -- no, not ready for VWU purposes, but who is ready in the place  
3 where he should be to appear.

4 PRESIDING JUDGE KORNER: [15:45:07] Okay. All right. Well, it's all a bit  
5 messy but I'm not surprised.

6 I can't remember whether we set an exact date for starting after new year. I was told  
7 not.

8 MR LAUCCI: [15:45:18] I do not have that in memory. You mentioned at some  
9 point around the 15th.

10 PRESIDING JUDGE KORNER: [15:45:23] Yes. I think we'll say -- Mr Laucci, we're  
11 anxious to give you as much time as possible to get your witnesses together.

12 MR LAUCCI: [15:45:31] Yes, please; much appreciated.

13 PRESIDING JUDGE KORNER: [15:45:32] Yes. And, therefore, and possibly proceed  
14 fairly smoothly then, although it doesn't look like it. So, as I said, and I now confirm,  
15 we will not start until I think it's 15 -- Monday, 15 January, which gives you the best  
16 part of a month, excepting that there's Christmas in the middle.

17 MR LAUCCI: [15:45:53] Well, the song is saying, "We wish you a wonderful  
18 Christmas time".

19 PRESIDING JUDGE KORNER: [15:46:00] Yes; quite.

20 Yes, so, I mean, that's when we'll start again, so hopefully then we can proceed  
21 without too much delay because that does give you a full month.

22 MR LAUCCI: [15:46:09] We'll do our real best for that month, Madam President.

23 PRESIDING JUDGE KORNER: [15:46:14] Well, okay. All right. Well, in which  
24 case, then there's nothing tomorrow?

25 MR LAUCCI: [15:46:21] Nothing tomorrow and we should sit again Tuesday.

Trial Hearing  
WITNESS: DAR-D31-P-0008

(Open Session)

ICC-02/05-01/20

- 1 PRESIDING JUDGE KORNER: [15:46:25] Yes. Okay. And sit again Tuesday.
- 2 All right. Yes. Okay, court adjourned then.
- 3 THE COURT USHER: [15:46:40] All rise.
- 4 (The hearing ends in open session at 3.46 pm)