

Trial Hearing
WITNESS: DAR-OTP-P-0905

(Private Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Tuesday, 4 October 2022
10 (The hearing starts in private session at 9.34 a.m.)
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20 (Open session at 10.13 a.m.)

21 THE COURT OFFICER: [10:13:34] We are back in open session, Madam President.

22 MR JEREMY: [10:13:38]

23 Q. [10:13:39] Okay. Sir, we are in open session now, so I would remind you just to

24 be careful not to provide any details which could reveal your identity. So if we need

25 to refer to the location that you were just referring to, then if you can just mention it in

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1 general terms.

2 Sir, I also see on this diagram that you marked a number 6, the Agricultural Bank.

3 Was this a location that was familiar to you?

4 A. [10:14:19] Yes.

5 Q. [10:14:22] And just in general terms, can you tell us why that location was
6 familiar to you? Would you go there?

7 A. [10:14:34] The Agricultural Bank, I go there sometimes and I pass by it when I'm
8 going home. So I see it when I'm leaving the souk or the market.

9 Q. [10:14:55] Okay. So the next location I want to focus on is location number 7,
10 which you've marked as Ali Kushayb's pharmacy.

11 A. [10:15:11] Yes.

12 Q. [10:15:14] Okay. Now first of all, when you were in Garsila in this period in
13 2003, did you know Ali Kushayb?

14 A. [10:15:27] Yes, I know him.

15 Q. [10:15:33] Okay. And how did you know him?

16 A. [10:15:39] I know him from before. So he was in that pharmacy a long time
17 before this period, and he was in the armed forces as well, so -- and I used to call him
18 Mr Musa'id or Mr Warrant Officer.

19 Q. [10:16:25] Okay. So you say that he was in the armed forces before. How do
20 you know that?

21 A. [10:16:39] I know that this is how people used to call him, they used to call him
22 Mr Musa'id or Mr Warrant. So -- and he was known -- and even in his civilian life he
23 was known as Mr Warrant or Mr Musa'id.

24 Q. [10:17:10] Would you -- you said that you would call him *musa'id* or warrant
25 officer, when would you call him that -- in what circumstances?

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1 A. [10:17:28] Not all the people would call him Mr Warrant Officer. Some people
2 would call him that. He is known as Ali Kushayb. Most people would refer to him
3 as Ali Kushayb.

4 Q. [10:17:45] But you mentioned, sir, that you would call him *musa'id* or warrant
5 officer; is that right?

6 A. [10:18:00] Yes.

7 Q. [10:18:03] And in what circumstances, in what situation would you -- would
8 you address Ali Kushayb in that way, if you can remember?

9 A. [10:18:19] I would tell him, "Mr Warrant Officer, good morning", or "good
10 evening". So when I walk in the street, I pass in front of his pharmacy.

11 Q. [10:18:37] And you mentioned that the -- that he had been in that pharmacy
12 a long time before this 2003 period. How did you know that?

13 A. [10:18:51] As far as I know, or as far as I'm concerned, I knew him in his
14 pharmacy over there, this is where I got to know him. He is present there, and some
15 people would go and would be sitting there. And there's * *sitt al-chai* who is his
16 neighbour who would deal with us and would give us things. So we used to go to
17 this shop was close to his pharmacy, so he was the neighbour of that shop or that
18 store.

19 MR EDWARDS: [10:19:44] Can we get a spelling for that, the name of the neighbour,
20 please.

21 MR JEREMY: [10:19:50] Yes.

22 Q. [10:19:50] Sir, could you slowly say the name of the individual who was his
23 neighbour who you would deal with.

24 A. [10:19:59] I'm not sure of the name. So the people used to go, so this
25 person -- I'm not sure of the name, but people used to go to that person at the end of

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1 their shift.

2 PRESIDING JUDGE KORNER: [10:20:18] What sort of shop was it? This other
3 person?

4 THE WITNESS: [10:20:41](Interpretation) In Sudan, we have places like food courts,
5 we have places -- food courts where women work, or like for tea, places for tea. So if
6 you go and sit at any shop or any place, they would offer you a cup of tea or
7 something to drink.

8 MR JEREMY: [10:21:13]

9 Q. [10:21:14] Sir, you mentioned Ali Kushayb's neighbour. Were you referring to
10 the neighbouring -- the neighbouring shop or his neighbour at his home address?

11 A. [10:21:36] Yes. The neighbour is the woman who makes the tea but I don't
12 know her name. So she is a person -- a woman who prepares the tea in that place.

13 PRESIDING JUDGE KORNER: [10:21:55] It wasn't clear. Are we talking about still
14 in the market, where -- the place where the woman made tea was that next to his
15 pharmacy?

16 THE WITNESS: [10:22:16](Interpretation) Yes, exactly adjacent to him, from the
17 south -- southern direction. From the northern direction, you would find the
18 Agricultural Bank. So there's the street in the north that -- and he -- facing the shop,
19 there is the guards of the Agricultural Bank, that is next to the Agricultural Bank.
20 And the guards of the Agricultural Bank would be there also.

21 MR EDWARDS: [10:22:51] Your Honour, it's really not an objection, but whether the
22 witness is sure of the name or not, he did nevertheless at page 20, line 25, provide
23 a name that I heard, it's not made its way on to the transcript. And I could deal with
24 it in cross-examination, but it seems more sensible for it to be dealt with (Overlapping
25 speakers)

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1 PRESIDING JUDGE KORNER: [10:23:16] I thought I heard him say something like
2 *shartay*. But --

3 MR EDWARDS: [10:23:20] Well, yes, I don't --

4 PRESIDING JUDGE KORNER: [10:23:21] All right. You did give a name, sir, so
5 can you just repeat it. Whether it's the right name or not doesn't really matter, but
6 what was the name that you gave earlier?

7 THE WITNESS: [10:23:36](Interpretation) * *Sitt al-chai* or the lady of the tea, or
8 maybe a nickname. Excuse me ...

9 MR JEREMY: [10:23:53](Microphone not activated)

10 THE WITNESS: [10:23:55](Interpretation) I said *sitt ishahi*. This is how we call
11 a madam or sir. So I'm -- we are not calling her by her name. We don't really know
12 her name. It's not necessary to know the name. But -- so *sitt*, in Arabic, means
13 madam or lady of -- of * *chai* or of the tea. So we say Madam Morano (phon), for
14 example. So * *sitt al-chai*, it means the lady or the madam.

15 MR JEREMY: [10:24:33] Okay. Thank you for that clarification, sir.

16 Q. [10:24:38] So you would go to this location and have tea; is that right?

17 A. [10:24:45] So I go to work and just to -- to show respect, they offer me tea when I
18 go there. So I go and sit just like anybody else, whether it's a person who works
19 there or not, so they -- we would be offered this tea. So I don't go to the lady to get
20 the tea, but when I'm there, somebody brings me the tea.

21 Q. [10:25:32] Okay. What can you tell us about Ali Kushayb's shop, sir? What
22 type of shop was it?

23 A. [10:25:43] It was a pharmacy, veterinarian pharmacy, so a pharmacy to sell
24 medications for animals.

25 Q. [10:26:01] Did you ever go inside that pharmacy?

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1 A. [10:26:12] I did not enter the pharmacy, I've never entered it. Only people who
2 have a sick animal would go to that pharmacy, otherwise we have no business to go
3 inside.

4 Q. [10:26:39] But you saw that pharmacy; is that right? You didn't go inside but
5 you saw it?

6 A. [10:26:47] Yes, I saw this pharmacy.

7 Q. [10:26:54] And do you recall what you would see at that pharmacy as you
8 would pass by? Was there anything noteworthy?

9 A. [10:27:13] You would see the *umdah*, the *umad*, and the leaders there also. So
10 when you pass by there, you would see -- you would find them sitting there, they
11 would be there.

12 Q. [10:27:38] Okay. And did you --

13 A. [10:27:40] Under a *rakuba* hut, they would be sitting under a *rakuba* hut.

14 Q. [10:27:46] The *rakuba*, that's a shaded area; is that right?

15 A. [10:27:53] Yes.

16 Q. [10:27:57] Okay. And did you recognise any of these *umdahs* sat under the
17 *rakuba*?

18 A. [10:28:17] So these people who are Arabs, they come and sit there and they
19 converse. They have conversations. So this is where the *umdah* used to sit. Also
20 some livestock owners used to come and take medication from this place. The
21 *rakuba* is large. So it provides a shade because it has a large tree. There is also
22 a very large tree that provides shade. So it gives a good shade.

23 Q. [10:28:57] Do you recall the names of any of these Arab *umdahs* you would see
24 under the *rakuba*?

25 A. [10:29:13] These people are always there, some of them leave, others come, so

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1 they come and go. So I was not able to exactly identify any of them.

2 Q. [10:29:30] And you say that they would sit there and converse. Did you have
3 any knowledge about what they were talking about or were you not able to hear?

4 A. [10:29:43] In one of the meetings they were talking about the execution of the
5 genocide and how to breach some locations. So when they are having a session,
6 such a session, the pharmacy would be closed. So when they have a private meeting
7 about how to execute any breach on any area, and how -- the organisation of the
8 operation, so when they are talking about this, I would try to focus on when they
9 were talking about this. So there were no *sheikhs* among them, there were only *umad*.
10 So there were no *sheikhs*, only *umad*.

11 Q. [10:30:40] So you said an *umad*. Is an *umad* different to an *umdah*?

12 THE INTERPRETER: [10:30:51] Mr Counsel, the gentleman said *umad* which is the
13 Arabic plural for *umdah*. If it may help, you may as well put your question. Your
14 call.

15 PRESIDING JUDGE KORNER: [10:31:06](Microphone not activated) to say that, that
16 he is talking about more than one. But I think you also need to explore the rest of
17 that answer, Mr Jeremy.

18 MR JEREMY: [10:31:14] Yes.

19 Q. [10:31:14] Yes, sir, when you referred to the *umad*, is that the same as an *umdah*?

20 A. [10:31:32] *Umdah* is plural -- correction, *umad* is plural, *umdah* is singular. In
21 our society we refer to *umdahs* by the plural *umad*. If I were an *umdah*, I would be
22 called an *umdah*.

23 Q. [10:31:58] And you say you overheard this meeting with the *umdahs* outside Ali
24 Kushayb's pharmacy. Do you recall if Ali Kushayb was present during that
25 meeting?

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1 THE COURT OFFICER: [10:32:20] Counsel, kindly turn off your microphone.

2 THE WITNESS: [10:32:25](Interpretation) All meetings that took place in his *rakuba*
3 were attended by him. He actually presided over such meetings about how to carry
4 out the execution of operations, such meetings were solely dedicated by the execution
5 of their operations. This revolves around the story of the Janjaweed, the role of the
6 *umdahs*, and -- I'm sorry, did you want to say something, counsel?

7 Q. [10:33:06] Yes, sir. You said that in one of the meetings, they were talking
8 about the execution of the genocide and how to breach some locations. So I just
9 want you to explain what it is you heard, just in general terms.

10 A. [10:33:29] It's similar to the way I'm talking here in this gathering. After
11 meetings are held with *umdahs*, subsequently the *umdahs* give instructions to the *agids*,
12 colonels. They are the individuals commanding horsemen. Now, each *umdah* had
13 15 *agids* reporting to him, his subordinates. But not everyone attended these
14 meetings. Only the senior ones attended these meetings to deliberate on how to
15 carry out things and how to take action leading to the actual execution in the
16 operational sense.

17 Q. [10:34:27] Okay, sir, and you said that you would overhear the contents of some
18 of these meetings. How far away would you be from the *rakuba*, for example, when
19 you would overhear these meetings, for example, the one that you were referring to
20 earlier? And to assist, sir, the distance between you and I is around 6 metres.

21 A. [10:35:04] Fine. I was not present, I was not involved in the meeting. I had no
22 reason to be in such a meeting. But I could tell that there was no *sheikh* attending
23 such meetings. There were no other individuals. They were only *umdahs*. These
24 meetings happened successively and a lot and they were followed by the crimes of
25 genocide. Subsequently, they mobilised to the army base to obtain the weapons

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1 from the hands of the army. So in those meetings only general directives were given.

2 There were no other meetings afterwards. It was just execution that followed.

3 PRESIDING JUDGE KORNER: [10:36:07] Okay. What Mr Jeremy asked you, sir,
4 was did you actually overhear what was said or did you simply draw the conclusion
5 from what happened afterwards that this is what they were discussing? Do you see
6 the difference?

7 THE WITNESS: [10:36:30](Interpretation) It was a mere conclusion regarding what
8 actually took place in those meetings. I was not able to understand what actually
9 took place in those meetings.

10 PRESIDING JUDGE KORNER: [10:36:54] Mr Jeremy, I think it's really important,
11 because I noticed that there were pages and pages of a description during the
12 interviews and then, you know, two pages on, "I didn't actually hear that at all. I
13 drew the conclusion." I think you need to be careful in establishing what he actually
14 heard or saw himself and what he drew a conclusion about.

15 MR JEREMY: [10:37:18] Yes, Madam President.

16 Q. [10:37:24] Sir, did you know any members of Ali Kushayb's family?

17 A. [10:37:40] Could you please repeat the question.

18 Q. [10:37:43] Yes. Did you know any members of Ali Kushayb's family?

19 A. [10:37:52] The only family members of his that I knew were his children. And I
20 was also familiar with the force that was his -- or that was with him.

21 Q. [10:38:19] Okay. And a reminder that we are still in open session, but for now,
22 can you tell us which of Ali Kushayb's children you knew?

23 A. [10:38:47] I knew his son, Mohamed Ali Abd-Al-Rahman, aka Kushayb. Also
24 his daughter, whose name I do not know.

25 Q. [10:39:05] Okay. We'll discuss his son shortly. What did you know about Ali

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1 Kushayb's daughter?

2 A. [10:39:21] Are you asking me about the daughter or the son?

3 Q. [10:39:30] So, in a moment, we'll discuss the son, but for now, I want to focus on
4 the daughter and I want you to tell us what you knew about her.

5 A. [10:39:46] This daughter stood out. Each time she came to the marketplace, she
6 would be dressed in a very unusual manner, a manner we were not accustomed to.

7 She would be dressed in pants, shirt, and she would carry a *sonki* GM3, and she
8 would also wear a cap. And everyone recognised her as Ali Kushayb's daughter.

9 Because there, we have no women who wear pants and shirts. Women are
10 accustomed to wearing a dress.

11 Q. [10:40:52] And how did you know, sir, that this was Ali Kushayb's daughter?
12 Did you speak with her directly? Did somebody tell you? How did you know?

13 A. [10:41:01] I asked her brother, Mohamed, I told him, "Why is -- why does your
14 sister dress like that?" He replied by saying, "She's the daughter of the Nile", and by
15 that he was referring to Nyala. So she grew up in Nyala and folks in Nyala dress
16 like that. And he told me that, "You are accustomed to something different as far as
17 what women wear, but back in Nyala, that's what women wear." So he used the
18 word "Nile" but he was referring most likely to Nyala.

19 PRESIDING JUDGE KORNER: [10:41:51] I don't really think this is getting us very
20 far, is it?

21 MR JEREMY: [10:41:55] I'm just going to clarify one thing from the answer.

22 Q. [10:41:55] You said that she would carry something -- you referred to
23 a GM -- the transcript says "GM3". Can you just clarify what you were referring to?

24 A. [10:42:10] A *sonki* of the GM3. There is something called *sonki* and GM3 that
25 only military men would recognise. Military men would know what I'm talking

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1 about. It's something that you could put on top of the GM3. When you run out of
2 bullets, you end up using butt strokes with the gun and you cannot use butt strokes
3 unless you put on the *sonki* over the GM3.

4 Q. [10:42:48] If I understand correctly, sir, you are referring to a knife, like
5 a bayonet, on the end of a weapon; is that correct?

6 A. [10:43:08] It is the knife of the gun. Our guns, they're usually arrived with
7 knives. The Kalashnikovs had their knives. The * GM3 also had their own knives.
8 It is the knife of the gun.

9 PRESIDING JUDGE KORNER: [10:43:27] The GM3 is a make of weapon, is it?

10 MR JEREMY: [10:43:39]

11 Q. [10:43:39] Sir, the GM3 is a weapon, is it?

12 A. [10:43:45] GM3 is a weapon.

13 PRESIDING JUDGE KORNER: [10:43:47] Yes, okay.

14 THE WITNESS: [10:43:47](Interpretation) We have two weapons, the Kalashnikov
15 and the GM3. The Kalashnikov is carried by army service members, the
16 Kalashnikov is used by police officers. In 2007, the GM3 was no longer allowed to be
17 used in army barracks. But we have two weapons overall, the Kalashnikov and the
18 GM3.

19 Q. [10:44:25] Okay, sir, and you mentioned -- I think we can do this in open session.
20 You mentioned you knew Ali Kushayb's son. You said Mohamed Ali
21 Abd-Al-Rahman, aka Kushayb. How did you know him, sir, in this period in 2003?
22 And a reminder that we are in open session, so please be careful about revealing
23 details about your identity.

24 A. [10:45:02] He got trained and he became an officer, and I did not know him
25 before, and that's how I got acquainted with him afterwards. And of course after the

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1 operation carried out by his father, he too became well known because he had held
2 the same nickname, Kushayb.

3 MR JEREMY: [10:45:38] I think we will need to move into private session,
4 Madam President.

5 PRESIDING JUDGE KORNER: [10:45:45] Yes, private session, then.
6 (Private session at 10.45 a.m.)

7 THE COURT OFFICER: [10:45:53] We are in private session, Madam President.

8 (Redacted)

9 (Redacted)

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- 14 (Upon resuming in open session at 11.28 a.m.)
- 15 THE COURT USHER: [11:28:08] All rise.
- 16 Please be seated.
- 17 PRESIDING JUDGE KORNER: [11:28:34] Are we in public session? We are.
- 18 Right.
- 19 MR JEREMY: [11:28:43]
- 20 Q. [11:28:44] Sir, can you -- you can hear me well?
- 21 A. [11:28:47] I hear you very well.
- 22 Q. [11:28:50] And just to remind you that we are now in open, public session, so
- 23 please be careful not to provide any details that could reveal your identity.
- 24 Sir, you were familiar with the Garsila military base, correct?
- 25 A. [11:29:16] Yes.

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1 Q. [11:29:18] And do you recall marking an aerial image -- satellite image of that
2 base during the preparation session?

3 A. [11:29:31] Yes.

4 Q. [11:29:35] I'd like to look at an exhibit now, DAR-OTP-00000256-000001. Do
5 you see that image on the screen before you, sir?

6 A. [11:29:57] Yes.

7 Q. [11:30:00] And if the court officer would be so kind, can we zoom in on the right
8 side of that image. Okay, that's good. That's good.

9 A. [11:30:17] Yes, that's good.

10 Q. [11:30:19] Sir, do you recognise this image as the satellite image of Garsila base
11 that you marked?

12 A. [11:30:32] Yes.

13 Q. [11:30:35] Okay. Now without going into detail, I'm just going to run through
14 a few locations. So we see towards the southern end, number 2, a commander's
15 office. Was this a location that you knew?

16 A. [11:30:57] Yes.

17 Q. [11:30:59] And the commander in this period was Major * Bakhat, correct?

18 A. [11:31:09] Yes.

19 Q. [11:31:12] Can you recall the name of his deputy at this time in 2003?

20 A. [11:31:23] Yes.

21 Q. [11:31:26] And who was that?

22 A. [11:31:30] Qasim Adam Dawoud. Qasim Adam Dawoud.

23 Q. [11:31:49] Okay. We see location number 3, intelligence office. Do you see
24 that there, sir?

25 A. [11:31:59] Yes.

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1 Q. [11:32:04] And in this 2003 period, can you tell us the names, if you recall them,
2 of the senior intelligence officers in the Garsila barracks?

3 A. [11:32:19] Yes. Hamdi Sharaf-Al-Din, he was the commander of the
4 intelligence forces in Garsila.

5 Q. [11:32:43] Do you recall the names of any other intelligence officers, sir?

6 A. [11:32:50] His -- there was First Sergeant Abdullah Kortukila. First Sergeant
7 Abdullah Kortukila, he was his deputy.

8 Q. [11:33:15] Okay. I see number 4, signal office. In general terms can you tell us
9 what this was, please? And that's below the intelligence office we were just looking
10 at.

11 A. [11:33:42] The signal office. Number 4 is the signal office.

12 Q. [11:34:02] And can you tell us what was a signal and what this office did?

13 A. [11:34:16] The signal is related any information that comes through a signal. So
14 it is for wireless communication between different people.

15 Q. [11:34:35] Okay. And typically who would these signals come into the Garsila
16 base -- who may they come from?

17 A. [11:34:54] It comes from Zalingei. It comes from Zalingei.

18 Q. [11:35:03] And where in Zalingei?

19 A. [11:35:12] From the signal office of Zalingei. From the signal office of Zalingei
20 to the signal office of Garsila.

21 Q. [11:35:26] And was that a military base in Zalingei?

22 A. [11:35:35] From the general commander of the area of Zalingei to the
23 command -- the general command of the area of Garsila.

24 Q. [11:35:52] Now, within the Garsila base, was there a particular unit that would
25 handle the signals that were received?

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1 A. [11:36:03] Yes. It's the signal force.

2 Q. [11:36:12] And when the signal force would receive this signal, this
3 communication, would they typically pass it on to somebody?

4 A. [11:36:29] If the signal comes, it's sent to the highest commander of the
5 intelligence service and -- and the intelligence service sends it to the general
6 commander.

7 Q. [11:36:51] And in the Garsila base in 2003, who was the highest commander of
8 the intelligence service?

9 A. [11:37:03] Hamdi Sharaf-Al-Din.

10 PRESIDING JUDGE KORNER: [11:37:13] Just tell us, sir, what rank was Hamdi?

11 THE WITNESS: [11:37:23](Interpretation) Hamdi was a first lieutenant. A first
12 lieutenant.

13 PRESIDING JUDGE KORNER: [11:37:30] So there was nobody of a higher rank in
14 the intelligence office in Garsila?

15 THE WITNESS: [11:37:39](Interpretation) There was only Hamdi, Hamdi was the
16 only officer in the intelligence. Before Hamdi came, there was a first sergeant, it was
17 Abdullah Kortukila.

18 PRESIDING JUDGE KORNER: [11:37:58] Is it unusual to have somebody of
19 a relatively low rank as an officer as head of intelligence?

20 THE WITNESS: [11:38:07](No interpretation)

21 THE INTERPRETER: [11:38:22] Note from the interpreter: could you please ask the
22 witness to repeat.

23 PRESIDING JUDGE KORNER: [11:38:26] I'm sorry, sir. You have to repeat your
24 answer. The interpreter didn't get it.

25 THE WITNESS: [11:38:32](Interpretation) The lower ranks are first sergeant, and

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1 that is Abdullah Kortukila. And then there's Sergeant Abd-Al-Mun'im Abu Lahab.

2 The rest are sergeants -- or, corporals, sorry.

3 PRESIDING JUDGE KORNER: [11:38:57] This is -- I'm sorry, Mr Jeremy, but I've just
4 been wondering about this throughout.

5 Intelligence is an important arm of the military, isn't it?

6 THE WITNESS: [11:39:17](Interpretation) It's the most important arm of the
7 military.

8 PRESIDING JUDGE KORNER: [11:39:22] And so do you know why - and if you
9 don't, please say so - why it wasn't somebody who was a captain or a major who was
10 in charge?

11 THE WITNESS: [11:39:37](Interpretation) Back then, the higher ranks were not
12 brought to the area yet because Hamdi Sharaf-Al-Din, who was first lieutenant, was
13 brought at the beginning of the operations of Darfur and that was after Ali Kushayb
14 started his movements. The highest commander of the intelligence was a major, in
15 Zalingei. In Zalingei, the highest rank of the intelligence commander was a major.

16 PRESIDING JUDGE KORNER: [11:40:25] Yes, okay. Yes, thank you. Sorry, sir.

17 MR JEREMY: [11:40:27]

18 Q. [11:40:29] Sir, you mentioned the name of another intelligence officer, you said
19 he was a sergeant and we didn't quite catch it in the transcript. I believe you
20 mentioned the name Abd-Al-Mun'im Abu Lahab; is that correct?

21 A. [11:40:57] Yes.

22 Q. [11:40:58] The "Abu Lahab" part of that name, was that part of the full name or
23 is that a nickname?

24 A. [11:41:09] He's -- his known as Abd-Al-Mun'im Abu Lahab.

25 MR JEREMY: [11:41:28] I think we are going to need to move into private session for

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1 my next questions, please.

2 PRESIDING JUDGE KORNER: [11:41:39] Yes, private session, please.

3 (Private session at 11.41 a.m.)

4 THE COURT OFFICER: [11:41:45] We're in private session, Madam President.

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2 (Open session at 11.55 a.m.)

3 THE COURT OFFICER: [11:55:01] We are back in open session, Madam President.

4 MR JEREMY: [11:55:13]

5 Q. [11:55:16] Now, sir, after this signal communication was received, do you recall
6 if -- if weapons and khaki uniforms and boots were delivered to the Sudanese Armed
7 Forces base in Garsila?

8 A. [11:55:39] Yes.

9 Q. [11:55:48] And how long after this signal did this delivery take place?

10 A. [11:56:04] Less than one month, less than 30 days.

11 Q. [11:56:12] And was this material delivered in vehicles?

12 A. [11:56:31] They put them in the stores. So when they arrived, they put them in
13 the stores or warehouse.

14 Q. [11:56:43] Were these the weapons stores in the Garsila base?

15 A. [11:56:48] Yes.

16 Q. [11:56:53] And just for the record, you noted that on this aerial image of Garsila
17 as number 5. Do you recall that?

18 A. [11:57:07] Yes.

19 Q. [11:57:11] And very briefly, do you recall the types of weapons and the volume
20 of weapons that were delivered?

21 A. [11:57:26] I cannot -- I'm unable to specify the quantity, but I can talk about the
22 types. So Kalashnikovs, RPGs, and machine-guns.

23 Q. [11:57:50] Was this material delivered in vehicles?

24 A. [11:58:01] They arrived in a large vehicle that they called Rhino (phon) -- or,
25 Renault.

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1 Q. [11:58:18] And how were you able to observe this delivery, without going into
2 detail about your specific role?

3 MR EDWARDS: [11:58:30] I'm not too sure he said he observed it, your Honour.

4 MR JEREMY: [11:58:34]

5 Q. [11:58:34] Sir, did you observe this delivery?

6 A. [11:58:40] Yes.

7 Q. [11:58:43] How were you able to observe this delivery, sir, without going into
8 specifics about your role?

9 A. [11:58:53] The delivery? What do you mean by delivery? Do you mean the
10 arrival?

11 Q. [11:59:12] Sir, you have referred to the delivery of weapons following the signal.

12 A. [11:59:22] Yes.

13 Q. [11:59:25] And you confirmed a moment ago that you saw this delivery of
14 weapons.

15 A. [11:59:36] Yes.

16 Q. [11:59:39] My question is simply, how were you able to see this delivery,
17 without going into the specifics of your role?

18 A. [11:59:50] I was standing there and I saw it with my own eyes.

19 Q. [12:00:02] Sir, do you recall any visits to the Garsila base from officials within
20 the government or the military from outside the base?

21 A. [12:00:20] A helicopter landed carrying three senior officers, a major,
22 a lieutenant-colonel, and a colonel. The others were dressed in plain clothes.

23 Q. [12:00:55] Approximately how long after the delivery of the weapons did this
24 helicopter land, sir?

25 A. [12:01:02] The aircraft landed less than a month after the delivery of the

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1 weapons.

2 Q. [12:01:26] Did you see the aircraft land with your own eyes?

3 A. [12:01:32] I did see it with my own eyes.

4 Q. [12:01:39] Where did it land?

5 A. [12:01:43] In the training camp for rookies.

6 Q. [12:01:59] And that's location number 9 on the aerial image that you marked; is
7 that right, sir?

8 A. [12:02:06] It is.

9 MR JEREMY: [12:02:12] Could we put that image back on our screens, please.
10 Thank you.

11 Q. [12:02:23] Now, sir, you mentioned that there were three officers, a major,
12 a lieutenant-colonel, and a colonel. Could you recognise them?

13 A. [12:02:39] I only recognised their military ranks but not who they were as
14 individuals, I did not know them.

15 Q. [12:02:53] And you said that there were others in plain clothes. Did you
16 recognise them?

17 A. [12:03:00] I did not.

18 Q. [12:03:07] And when this delegation arrived, when this group arrived, did you
19 see where they went?

20 A. [12:03:20] They entered the officers' mess in their military vehicles.

21 Q. [12:03:30] And that's location number 7 on this aerial image in front of you?
22 If we can move up, please.

23 A. [12:03:44] It is number 7, yes.

24 Q. [12:03:48] And without going into specifics, sir, how could you see this
25 helicopter land and the delegation going into the officers' mess?

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1 A. [12:04:16] This was my place, this was my location, near location 6.

2 Q. [12:04:27] Did you see any officers from the Garsila base attending this meeting,
3 sir?

4 A. [12:04:44] Commander Muhammad Khatir, the intelligence commander, Hamdi
5 Sharaf-Al-Din, the operations commander of Garsila, Adam Qasim Dawoud. These
6 were the commanding officers who attended the meeting.

7 Q. [12:05:06] And Commander Khatir is Commander Khatir * Bakhat; is that right?

8 A. [12:05:19] Yes, it is Khatir * Bakhat.

9 Q. [12:05:24] And could you observe how long the delegation stayed in Garsila on
10 this day?

11 A. [12:05:35] Approximately six or seven hours, that's what they spent at the
12 officers' mess, and they had a meal there, a lunch.

13 Q. [12:05:59] Sir, did you see Ali Kushayb at the Garsila base either during or after
14 this period, after this visit?

15 A. [12:06:22] After the visit.

16 Q. [12:06:32] How long after the visit approximately?

17 A. [12:06:39] One or two days after the visit, he began holding meetings with the
18 commander of the base in addition to the intelligence commander.

19 Q. [12:06:56] Okay. And, again, a reminder we are in public session, but how did
20 you know that Ali Kushayb was at the base one or two days after this delegation left,
21 holding meetings with the commander of the base and the intelligence commander?

22 A. [12:07:23] I would be standing between locations 7 and 6, right in the middle
23 between the two, between 6 and 7, here.

24 Q. [12:07:53] And where were these meetings held?

25 A. [12:07:58] They had these meetings at the officers' mess. And I wasn't aware of

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1 what was taking place there, but later on it became clear that -- those meetings
2 marked the beginning of the operations because the distribution of weapons followed
3 subsequently.

4 Q. [12:08:22] Can you give an estimate of how many of those meetings you recall
5 Ali Kushayb attending with the commander of the base and the commander of the
6 intelligence?

7 A. [12:08:38] Numerous. Ali Kushayb came very often and went straight to the
8 officers' mess. And sometimes Hamdi Sharaf-Al-Din went to see him, I can't say
9 once, twice or three times, it happened so many times. There was
10 a constant -- a continuous interaction between Hamdi Sharaf-Al-Din and Ali
11 Kushayb.

12 Q. [12:09:11] Okay. After the -- after the delivery of these weapons, the visit of the
13 delegation, these meetings with Ali Kushayb, and Hamdi and the commander, were
14 the -- were these weapons distributed at a certain point?

15 A. [12:09:31] It happened straightaway afterwards in groups.

16 Q. [12:09:48] Could you observe those distributions of weapons, sir?

17 A. [12:09:53] I observed it yes.

18 Q. [12:10:07] And, again, without going into detail about your role, but how were
19 you able to observe it?

20 A. [12:10:17] I was standing beside it.

21 Q. [12:10:30] And where did this distribution of weapons and material take place,
22 sir?

23 A. [12:10:39] The distribution of weapons and of materials happened at location 5,
24 which is the location of the warehouses, eastern -- east of the location where
25 Janjaweed groups were stationed when they came with their colonels or *agids* present.

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1 Q. [12:11:22] Okay. So you've mentioned these Janjaweed groups and that they
2 were there with their colonels or *agids*. So what can you tell us about the process of
3 this distribution of weapons and material?

4 A. [12:11:53] As I have previously told you, the meeting took place with *umdahs*, it
5 convened *umdahs*. Each *umdah* had seven *agids* under their authority. It is the *agids'*
6 duty to have a list of names that would be given to the intelligence officer carrying
7 out the distribution of weapons. If your name was on the list, you would get a rifle
8 with three magazines, each one having 90 bullets, a khaki uniform and military boots.

9 Q. [12:12:44] Sir, you mentioned that you'd previously told me about the meeting
10 taking place with the *umdahs*. Which meeting were you referring to?

11 A. [12:13:07] The meetings that were conducted in the marketplace with *umdahs* to
12 organise the distribution of weapons, how to carry out the distribution of weapons.
13 Each *umdah* would be asked, "How many colonels do you have under your
14 authority?" So the *umdah* would reply, "I have this number of colonels." Because
15 each *agid* when coming there, they need to invoke or cite the name of the *umdah* they
16 reported to.

17 Q. [12:13:39] And where in the marketplace would these *umdahs* meet, sir?

18 A. [12:13:46] In the marketplace at Ali Kushayb's office. But they -- the *umdahs*
19 did not attend the distribution of weapons, they only attended the meeting. It's only
20 the colonels or the *agids* who attended the distribution of weapons occasion, the *agids*,
21 or colonels, along with their men.

22 Q. [12:14:16] Sir, we are both -- both you and I are being reminded to slow down a
23 little bit for the benefit of the interpreters and the transcribers.

24 Sir, you have mentioned that the *agids* were present at the Garsila base receiving these
25 weapons. Who was it in the base responsible for the distribution of those weapons?

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1 A. [12:14:46] Abd-Al-Mun'im Abu Lahab was in charge of the distribution of
2 weapons. He was the second in the chain of command after Abdullah Kortukila at
3 the intelligence office. Under Abdallah Kortukila was Abd-Al-Mun'im Abu Lahab,
4 tasked with the distribution of weapons.

5 PRESIDING JUDGE KORNER: [12:15:26] I'm sorry, can we just go back, please.
6 You said that the *agids* had to have a list of names that would be given to the
7 intelligence officer who -- identified as Lahab. How did you know that? Did you
8 see the list being handed over? Or were you told that's what -- by Lahab or
9 somebody else that that's what happened?

10 THE WITNESS: [12:16:02](Interpretation) I was present. If you come with
11 a paper -- holding a paper and you hand it to Abu Lahab, who was an intelligence
12 officer, and -- consequently, Abu Lahab would be calling out names in a roll call to
13 check which names had to be on the list and which names might have been there by
14 mistake.

15 PRESIDING JUDGE KORNER: [12:16:29] Yes, okay. I understand. Thanks.

16 MR JEREMY: [12:16:36]

17 Q. [12:16:37] Sir, do you recall how long this distribution process took?

18 A. [12:16:44] The distribution of weapons lasted approximately for a month
19 because people came in groups. For example, this evening, a number of colonels
20 would come. Tomorrow, another number of colonels would come. But during
21 official holidays there was no distribution of weapons. So during five working days,
22 each week, there was a distribution of weapons. Then it would stop. Then the
23 working week would start again, distribution would resume, and so forth, until the
24 operation the -- which is the distribution of weapons ended.

25 Q. [12:17:32] And this distribution of weapons to the colonels or the *agids*, did they

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1 represent all of the different tribes in Garsila or only certain tribes?

2 A. [12:17:56] All Arab tribes. The Fur tribe was excluded from distribution of
3 weapons. However, there was Ereigat, the Salamat, the Arab tribes were included.

4 Q. [12:18:29] Okay, sir, and a reminder that we are still in open session, but can you
5 tell us how you knew that the Fur tribes were excluded in general terms? And if we
6 need to move into private session, we can.

7 A. [12:18:50] The Fur *umdah* named Karafolu, who was leading the tribe, went there
8 and had the list of names with him and said -- and requested that they be armed,
9 because the weapons belonged to the PDF anyway. Hamdi Sharaf-Al-Din replied by
10 saying, "It's not your turn yet. We will finish with those whose turn is up now, then
11 we will come to you." Umdah Karafolu told me about this in person at his shop in
12 the marketplace and he told me all about it in detail. And he asked me, "Why things
13 are like this?" I replied by saying, "We have no idea."

14 Q. [12:19:58] Okay. And you said that Hamdi told Umdah Karafolu that, "It's not
15 yet your time and we will come to you." Do you know if weapons were ever
16 distributed to the Fur?

17 A. [12:20:27] Not at all. No weapons were distributed to the Fur at all. He told
18 him so, he told him that, "It's not your turn yet and we'll let you know when
19 it's -- when your turn is up", but it turned out that they were not to be included in that
20 process.

21 Q. [12:20:52] And you've referred to this distribution of weapons. Was it only
22 weapons that were distributed or was any other material also distributed?

23 A. [12:21:13] Weapons, khaki uniforms, military boots and ammunition.

24 Q. [12:21:24] And did you -- did you see the distribution of this other material, did
25 you see that in the same way that you saw the weapons distributed?

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1 A. [12:21:40] I did.

2 MR JEREMY: [12:21:57] Madam President, I think we need to move into the private
3 session and --

4 PRESIDING JUDGE KORNER: [12:21:59](Microphone not activated)

5 MR JEREMY: [12:22:00] Regrettably, I think we will need to stay there, yeah, for the
6 rest of the session.

7 PRESIDING JUDGE KORNER: [12:22:06] Right. Okay, we will go back into private
8 session. That means, for those in the public galley, you won't be able to hear
9 anything between now and the break at lunchtime.

10 (Private session at 12.22 p.m.)

11 THE COURT OFFICER: [12:22:23] We are back in private session, Madam President.

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- 21 (The hearing ends in private session at 4.07 p.m.)