

Trial Hearing
WITNESS: DAR-OTP-P-0547

(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 Al 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 1
9 Friday, 17 June 2022
10 (The hearing starts in private session at 9.31 a.m.)
11 (Redacted)
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26
17.06.2022

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(Open Session)

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- 1 (Redacted)
- 2 (Open session at 12.37 p.m.)
- 3 THE COURT OFFICER: [12:37:29] We are in public session, Madam President.
- 4 (Redacted)
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1 (Private session at 12.43 p.m.)

2 THE COURT OFFICER: [12:43:27] We are back in private session, Madam President.

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24 (Open session at 3.52 p.m.)

25 THE COURT OFFICER: [15:52:55] We are back in open session, Madam President.

1 PRESIDING JUDGE KORNER: [15:52:59] Thank you.

2 Right, yes, we were talking about interpretation and interpreters, well, I mean, I'm
3 assuming that we would have been told if it wasn't going to happen. The only
4 question is, is it going to be simultaneous because if it's not, it's obviously going to
5 take more time and all of us, and I -- really, I know I'm the worst sinner at this, are
6 going to have to be so careful not to intervene before we've gone through about a
7 triple translation.

8 MR NICHOLLS: [15:53:30] My understanding, your Honour, from the
9 communication we've had with the Registry is that it will be available from 1st of July,
10 and that it will be consecutive.

11 PRESIDING JUDGE KORNER: [15:53:39] Right. Well, in that case, we'll have to see
12 how the first witness goes to gauge how much longer it's actually going to take for
13 everybody to do that.

14 Next, the joint expert that the Chamber asked for and you've both identified, we
15 haven't got an expert report.

16 Does anybody know when we're going get one?

17 MR NICHOLLS: [15:54:04] I can answer just sort of very generally without going
18 into private session. I think my friend will agree with me, we're probably going to
19 be looking for another expert because we've done our best. We had a very positive
20 first interaction with the person we both agreed on, and then the person we spoke to
21 agreed to serve, but again, without going into private session, I think --

22 PRESIDING JUDGE KORNER: [15:54:35] All right.

23 MR NICHOLLS: [15:54:35] -- it hasn't -- the person may not be available.

24 PRESIDING JUDGE KORNER: [15:54:39] All right. Well, it's unfortunate,
25 particularly as it's obviously taking some time to identify anybody who can deal with

1 these matters.

2 MR NICHOLLS: [15:54:48] Well, we have been talking about that, and, again, I don't
3 think I need to say more than I have, but there are unfortunate -- well, we don't know
4 the exact reasons, but we suspect the reasons and -- why this first person has not
5 worked out. I'm sorry to be cryptic.

6 PRESIDING JUDGE KORNER: [15:55:10] All right. Well, that's that one then.
7 Yes, as far as P-0643 and P-0931 are concerned, they are viva voce with no statements
8 but very, very lengthy transcripts.

9 Please, Mr Nicholls, in advance - and I mean, in advance - can we have a -- as it were,
10 a guide to which areas -- well, firstly, a list really of the topics that you're going to
11 cover with them, and then where those topics appear in the very very lengthy
12 interviews. In other words, what page.

13 MR NICHOLLS: [15:56:10] Yes, your Honour. We'll be put something together. I
14 mean we don't normally side send our directs to each other in advance, which, you
15 know --

16 PRESIDING JUDGE KORNER: [15:56:21] Well, I think, Mr Nicholls, in fairness,
17 everybody ought to know what you are going to be adducing from stream of
18 consciousness interviews.

19 MR NICHOLLS: [15:56:32] Yes, no, I understand, and part of the reason -- and,
20 again, not to waste your Honours' time, but part of the reason we -- this witness, we
21 did not consider for Rule 68 was just because of the sheer number, seven statements,
22 plus a four-hour interview --

23 PRESIDING JUDGE KORNER: [15:56:48] Yeah.

24 MR NICHOLLS: [15:56:48] We thought that --

25 PRESIDING JUDGE KORNER: [15:56:49] No, I see that.

1 MR NICHOLLS: [15:56:50] So we will -- yes, it's taken on board, we will present
2 a guide in advance.

3 PRESIDING JUDGE KORNER: [15:56:55] Yes, that's why we will not be suggesting
4 in respect of those witnesses that either are suitable for 68(3). I mean, you're
5 absolutely right about this one. It would've been impossible. It was pretty difficult
6 as it was.

7 MR EDWARDS: [15:57:13] Your Honour, you indicate that those two *witnesses
8 don't have statements. In fact, I think each of them have provided, as it were,
9 mop-up statements to their transcripts. Yeah.

10 PRESIDING JUDGE KORNER: [15:57:24] I must have missed those. Do you mean
11 that what's in the transcripts has all been redone or they simply made an added
12 statement?

13 MR EDWARDS: [15:57:34] Yes, they're not amalgamated statements as exists
14 elsewhere, but for 64(3), perhaps your Honours would look at DAR-OTP-0218-0638
15 and for 0931, DAR-OTP-0222-0040.

16 PRESIDING JUDGE KORNER: [15:58:00] All right. Well, thank you. Next, yes,
17 your document lists. On this occasion, both sides are equally bad. If you're going
18 to add items to the list at the last moment, can you put them at the end instead of
19 redoing all of the list, so that it's clear which documents have been added. And if
20 you can try and avoid -- I know it's not always easy because witnesses are being
21 interviewed shortly before testimony, but if you can at least give us notice -- the
22 Chamber notice of which documents they are likely to be. And I'm not altogether
23 sure either that your highlighting all the documents that you actually show the
24 witnesses, because we're only printing the ones which you say will be used or shown
25 to the witness or, in some way, used, and there have been occasions when documents

1 have been used, which weren't on the list to be printed. You see what I mean.

2 So again, I know it's sometimes difficult because something comes up, which means
3 you've got to use a document you weren't intending to, but if you could, that would
4 be very helpful.

5 And finally, I will -- we're in private session, but it matters not, I forgot to say when
6 we were discussing the LRV's motion, yes, the Trial Chamber will issue, which will
7 solve Mr Laucci's problem, a confidential redacted version of its original decision.

8 Right, are there any other matters before we adjourn?

9 No.

10 MR NICHOLLS: [16:00:07] Not really a matter, your Honour, just that we -- I don't
11 know if you've seen them, but we passed out some map books --

12 PRESIDING JUDGE KORNER: [16:00:14] Yes.

13 MR NICHOLLS: [16:00:15] -- in the break, and we have not yet ERN-ed the entire
14 map book and hadn't thought to do that yet, but if there's any feedback, we'd be
15 happy to improve those map books if they're not -- if you think they could be better or
16 you need different materials.

17 PRESIDING JUDGE KORNER: [16:00:35] Yes. No, we'll have a look, and we're
18 very grateful to both sides for agreeing to what is a very useful tool.

19 I presumed you agreed to them, Mr Laucci; so for that, you get our gratitude.

20 Yes, well, if there's nothing else, thank you all very much and we'll see you on the
21 30th of June.

22 THE COURT USHER: [16:01:00] All rise.

23 (The hearing ends in open session at 4.01 p.m.)