

Trial Hearing
WITNESS: DAR-OTP-P-0585

(Open Session)

ICC-02/05-01/20

1 International Criminal Court
2 Trial Chamber I
3 Situation: Darfur, Sudan
4 In the case of The Prosecutor v. Ali Muhammad Ali Abd-Al-Rahman
5 ("Ali Kushayb") - ICC-02/05-01/20
6 Presiding Judge Joanna Korner, Judge Reine Alapini-Gansou and
7 Judge Althea Violet Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Monday, 21 November 2022
10 (The hearing starts in open session at 11.33 a.m.)
11 THE COURT USHER: [11:33:14] All rise.
12 The International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [11:33:42] Yes, good morning, all.
15 Can we call the case, please.
16 THE COURT OFFICER: [11:33:47] Thank you, Madam President.
17 The situation in Darfur, Sudan, in the case of The Prosecutor versus Ali Muhammad
18 Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
19 We are in open session.
20 PRESIDING JUDGE KORNER: [11:34:04](Microphone not activated)
21 MR NICHOLLS: [11:34:08] Good morning, Madam President. Good morning,
22 your Honours. Good morning to everyone. Julian Nicholls with Mohanad Elkholy
23 and Claire Sabatini. Thank you.
24 PRESIDING JUDGE KORNER: [11:34:19](Microphone not activated)
25 MR LAUCCI: [11:34:21](Interpretation) Good morning, your Honour. Good

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1 morning, your Honours. Good morning, dear colleagues. This morning
2 Mr Al-Rahman is present in the courtroom and his team is composed of
3 Nina Guilloux, assistant responsible for evidence analysis; Ahmad Issa, case manager;
4 and Iain Edwards; and myself, Cyril Laucci, counsel.

5 MS VON WISTINGHAUSEN: [11:34:56] Madam President, your Honours, good
6 morning. The victims this morning are represented by associate counsel
7 Anand Shah. We have two interns with us, Nur Mahameed and Randa Bellahdid.
8 And I am Natalie von Wistinghausen. Thank you.

9 PRESIDING JUDGE KORNER: [11:35:16] This morning, before the witness returns
10 to court, as the parties are no doubt aware, over the weekend, in particular on
11 19 November, Saturday, the Defence filed two separate motions relating to what are
12 described as issues arising from the cross-examination of the witness.

13 As a result of these matters being raised in writing over a weekend, rather than being
14 raised orally in court this morning, in order for the judges to be able to consult
15 together properly and to deal with those issues, the Chamber was forced to order that
16 the start of the trial be delayed so that, as I say, proper consideration could be given.

17 The first of these motions alleges that the Defence right to cross-examine under
18 Article 61 -- Article 67(1)(e) of the Statute have not been respected in that
19 Defence counsel, Mr Laucci, was instructed by me as Presiding Judge to bring
20 cross-examination on two of the topics to a close.

21 The first cross-examination was - sorry - about events in Kalma camp after
22 the witness had left the area. It began on page 28 of the uncorrected transcript of
23 Friday's proceedings, at 11.34 a.m. and concluded, finally, at 12 noon on page 35
24 when I said there were to be no further questions on this topic.

25 At no stage did Mr Laucci offer any explanation for this line of questioning or explain

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1 why it was relevant to any issue in the case.

2 As specified at page 31 of the transcript -- I think I have got the wrong -- yes, sorry,

3 page 33, line 20, when I interrupted for the first time, when the question was asked

4 about the -- the witness said at line 3: "I left Kalma camp at the end of 2007." And:

5 "Until that date, did the situation remain the same or did it improve at some point?"

6 And there was a very long answer. And I then intervened at that stage and said to

7 Mr Laucci: "It's interesting, but does it have much to do with the issues we've got to

8 consider?"

9 Mr Laucci at that stage said: "I'm almost done with that topic. I will reach

10 the conclusion."

11 No explanation given as to what the issue was that required this questioning.

12 The questioning went on for a further page, until 11.58, when the question went: "Did

13 you hear any improvement in the course" -- I think "did you have" -- no, sorry. "Did

14 you hear of any improvement in the course of the year 2020?"

15 And Mr Laucci was then asked by me, again: "What relevance does 2020 have to

16 anything ..."

17 Response: "Okay. I jump to the next question."

18 And the next question had to do with the surrender of his client having "any positive

19 impact on the situation that you describe". And the witness not surprisingly said:

20 "Did you mean in Kalma camp?"

21 At this stage I pointed out that this did not appear -- in fact what I actually said was in

22 shorthand, "Got nothing to do with anything," and that at that stage Mr Laucci merely

23 thanked me and indeed moved on.

24 We returned to this topic during the course of discussions about the length of time

25 this cross-examination was likely to take. And, yes, what Mr Laucci said then, I

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1 think, was at page 55, but I've lost it now. He said that, in relation to his -- yes, I
2 know where it was, sorry --

3 MR LAUCCI: [11:41:52](Overlapping speakers)

4 PRESIDING JUDGE KORNER: [11:41:53] His questioning about Kalma camp. This
5 is, I'm sorry, at page 51, line 20, when I asked the question, asking how long he was
6 going to be: "I'd be more sympathetic to this, Mr Laucci, if you hadn't spent the first
7 20 to 25 minutes of cross-examination asking about Kalma camp ..."

8 And I've no idea what I said because this is uncorrected and it doesn't make sense.
9 I was asking how much longer.

10 "Mr Laucci: The rest of the cross-examination is, of course, much more focused, and
11 I was just reacting to the questioning of my learned friends, the Legal Representatives
12 of the Victims of yesterday."

13 And he then went on to say that "the way that the displaced persons were treated in
14 Kalma camp ... is relevant information for this case and because it is related to the role
15 played by the authorities of Sudan."

16 Still no explanation of the relevance.

17 I will come back to what I said at that stage, because that forms the part of the second
18 motion.

19 So, accordingly, no reason at all was given for why the events of what happened in
20 2020 in Kalma camp or, indeed, any of the events in Kalma camp were relevant to any
21 of the issues that the Trial Chamber has to decide.

22 The second topic was cross-examination on the witness's journey to eventually Deleig,
23 but to other places, which took place around 5 March 2004. This questioning began
24 at 1433, at page 57 of the transcript, and concluded only when I interrupted at 14 -- at
25 1541.

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1 It is alleged in the motion that effectively, under the Statute and the conduct of
2 proceedings, the Defence provided the questioning is relevant, and I underline those
3 words, has an unfettered right to cross-examine at whatever length it chooses.
4 In our judgment, questioning of witnesses requires not only that the matters are
5 relevant, but that the questioning is also proportionate to the issue which is being
6 covered, which includes credibility. As was said a -- long ago, as long ago as 2005, in
7 a case before the International Criminal Tribunal for the former Yugoslavia during
8 the Krajišnik case by the judge there:
9 "... cross-examination is not a boundless exercise and must be conducted within
10 reasonable elements. One such limit ... is that witnesses should not be subjected to
11 improper or unfair questions."
12 Witnesses are entitled not to be subjected to lengthy questioning which goes far
13 beyond the needs of the necessity to put a case or test credibility. When that
14 happens, it goes well beyond what is necessary and becomes both unfair and
15 oppressive, as I said on Friday.
16 The duty to prevent such questioning, particularly in the light of the attention that is
17 being paid by the media and other organisations to the form of questioning of
18 witnesses, that duty is placed firmly on the shoulder of judges and does not depend
19 on an objection being raised by the opposing party.
20 As is demonstrated by what took place on Friday, the Chamber has so far and will
21 continue to make such decisions on a case-by-case basis.
22 The motion further alleges that the Defence was told that its cross-examination would
23 be interrupted by implication without good reason. That is not the case. If one
24 looks at page 56 of the transcript at lines 14, what was said was this: "I think
25 you" -- by myself:

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1 "I think you ought to consider over the weekend whether all the questions you have
2 now got written down are ones that you really want to ask. And I am going to stop
3 you if I think we are drifting well away from any issues in the case or any relevance."
4 It could not have been clearer that, again, the duty of the Chamber to stop questioning
5 would only arise if it was irrelevant or drifting away from issues in the case.
6 The second motion deals with remarks that I made which I have already referred to
7 when dealing with why -- querying why all these questions had been asked about
8 Kalma camp, when Mr Laucci said: "It is relevant information for this case because it
9 is related to the role played by the authorities of Sudan."
10 If what was meant by Mr Laucci's remark is that this was to do with the authorities
11 seeking to blame -- authorities unspecified seeking to blame, I suppose, the accused
12 for events that they themselves were responsible for, in other words, as has been
13 clearly suggested in the pretrial brief, then for the avoidance of doubt, we make it
14 clear that we understand fully that the Defence in this case involves the allegation that
15 the Sudanese authorities, whoever they may have been, since 2004 have sought to
16 blame someone called Ali Kushayb for crimes committed by others and that they
17 have suborned witnesses to suggest that Ali Kushayb is in fact this accused
18 Al-Rahman.
19 We repeat, and as is clear from the transcript throughout the time that this case has
20 been continuing, that no cross-examination to that effect has been nor will it in
21 the future be prevented.

22 Yes, let's have the witness.

23 MR LAUCCI: [11:51:13] Thank you, Madam President.

24 PRESIDING JUDGE KORNER: [11:51:36] And while he's being brought in, I should
25 have added that we were referred to Article 69 of the -- 67, sorry.

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1 (The witness enters the courtroom)

2 PRESIDING JUDGE KORNER: [11:51:51] Sorry, Article 68, Protection of the victims
3 and witnesses and their participation in the proceedings. The motion referred to
4 safety of the witness. What it omitted was the physical, psychological well-being,
5 dignity of witnesses.

6 Sir, good morning to you. I'm very sorry that you were kept waiting this morning.
7 Unfortunately, matters arose over the weekend which needed to be dealt with before
8 your evidence could continue.

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10 (The witness speaks Fur)

11 THE WITNESS: [11:52:46](Interpretation) Good morning.

12 PRESIDING JUDGE KORNER: [11:52:50] Yes, Mr Laucci.

13 MR LAUCCI: [11:52:54] Thank you, Madam President.

14 QUESTIONED BY MR LAUCCI: (Continuing)

15 Q. [11:52:58] Good morning, Mr Witness. I hope you are well and you are
16 refreshed from the weekend.

17 A. [11:53:18] Good morning. I had a good weekend.

18 Q. [11:53:22] My first question for today is, when did you learn for the first time
19 that the International Criminal Court had delivered a warrant of arrest against
20 the person that is referred to by the Court as Ali Kushayb?

21 A. [11:54:05] I'm not sure which year this arrest warrant was issued, but I heard
22 about it.

23 Q. [11:54:14] If that can help you, the Court delivered a warrant of arrest against
24 President al-Bashir in 2009. I imagine this news must have had a lot of attention.
25 When you learned about the warrant of arrest against President al-Bashir, do you

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1 remember if you knew already about the warrant of arrest against the person called
2 Ali Kushayb?

3 A. [11:55:18] Yes.

4 Q. [11:55:20] Thank you.

5 Just for the interpreters who are following the cross plan, I have jumped to page 7,
6 bottom of page 7, if that can help you. I refer to the events that we have discussed at
7 length Friday afternoon, about your passing by Deleig and what you saw there
8 the two times you -- you went.

9 Did you mention that story when you submitted your asylum request in May 2011 to
10 the UNHCR?

11 A. [11:57:01] I did not mention that I returned to Deleig. But I might have
12 mentioned that I went to Deleig in order to travel.

13 Q. [11:57:13] For the record, I'm referring to the document
14 DAR-OTP-0000020-000001.

15 Mr Witness, to refresh your memory, I propose to -- to read the relevant section of
16 your asylum request, but, if you like, I can ask for a private session. I don't think
17 there is much identifying you, but if you are more comfortable, I can ask a private
18 session to Madam President.

19 A. [11:58:22] Yes, we can go to a private session if you need more details.

20 MR LAUCCI: [11:58:33] Madam President, please.

21 PRESIDING JUDGE KORNER: [11:58:34] Private session.

22 (Private session at 11.58 a.m.)

23 THE COURT OFFICER: [11:58:46] We're in private session, Madam President.

24 MR LAUCCI: [11:58:50] (Redacted)

25 (Redacted)

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- 1 (Redacted)
- 2 (Redacted)
- 3 (Redacted)
- 4 Q. [12:13:15] (Redacted)
- 5 (Redacted)
- 6 (Redacted)
- 7 A. [12:14:13] (Redacted)
- 8 (Redacted)
- 9 (Redacted)
- 10 Q. [12:14:35] (Redacted)
- 11 (Redacted)
- 12 (Redacted)
- 13 PRESIDING JUDGE KORNER: [12:14:48] Open session.
- 14 (Open session at 12.15 p.m.)
- 15 THE COURT OFFICER: [12:15:08] We are back in open session, Madam President.
- 16 MR LAUCCI: [12:15:12] Thank you.
- 17 Q. [12:15:13] Mr Witness, you never lived in Garsila, did you?
- 18 A. [12:15:53] No, I didn't live in Garsila for an extended period of time. Our
- 19 village was quite close to Garsila, but I had relatives, I had family in Garsila, so
- 20 sometimes I would go and spend a few nights with them or a week, something like
- 21 that.
- 22 Q. [12:16:17] Was there a veterinary pharmacy in your village?
- 23 A. [12:16:40] No, there was no veterinary pharmacy in our village at all.
- 24 Q. [12:16:47] Okay. You mention that the man you call
- 25 Ali Kushayb -- Ali Kushayb owned a veterinary pharmacy. Was it the only one in

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1 Garsila or were there others?

2 A. [12:17:51] As far as I know, his main pharmacy was in the market of Garsila. It
3 was in the market itself. It was quite a big pharmacy. He also used to give his
4 medicines to other people so that they would sell it in different markets.

5 Q. [12:18:21] Mr Witness, to answer my question, please forget one minute
6 the person you call Ali Kushayb. My question is, in Garsila, were there other
7 veterinary pharmacies owned by other people?

8 A. [12:19:25] I'm not sure if there were another veterinary pharmacy, but as far as I
9 know, Ali Kushayb's pharmacy was the biggest one. I know that some people had
10 stalls in the markets selling medicines as well.

11 Q. [12:20:19] There is one reference that I'm looking for. Yes, thank you.
12 On Wednesday, I'm in real-time transcript 99, page 47, line 23 to 25, you said: "If
13 he" - "he" being Ali Kushayb - "did not have the medicines that we were after, we
14 used to go to other pharmacies." So do I understand correctly that there were other
15 veterinary pharmacies in Garsila then?

16 A. [12:22:04] If you are talking about the size of the pharmacies, then the biggest
17 pharmacy was definitely Ali Kushayb's pharmacy. But if you're talking about
18 people who sold medicines, there were many people who had stalls in the market and
19 sold medicines.

20 Q. [12:22:28] Thank you. Do you know where is the area called Sagargar in
21 Garsila?

22 A. [12:23:02] Yes, Sagargar is a neighbourhood in Garsila. It's in the northern side.
23 It's the northern neighbourhood.

24 Q. [12:23:14] Was the pharmacy of the person you call Ali Kushayb located in
25 Sagargar?

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1 A. [12:23:40] Sagargar was a residential neighbourhood. The pharmacy of
2 Ali Kushayb was in the market.

3 Q. [12:23:50] Thank you. So the answer is no.

4 And you said also on Wednesday, page 48, line 22 to 23 that the pharmacy of
5 the person you call Ali Kushayb was four to five minutes away from
6 the Agricultural Bank; is that correct?

7 A. [12:24:44] Yeah, approximately. Or maybe less than that. It was very close.

8 Q. [12:24:50] Thank you. How did you, or other customers, address the owner of
9 the pharmacy when they visited it, please?

10 A. [12:25:56] Yes, when we visited his pharmacy, we used to call him *sheikh*, *Sheikh*
11 Ali, because he was older than us. I personally used to speak to him in Arabic.

12 Q. [12:26:17] Thank you. And actually you -- you said that -- and I'm on
13 the transcript of Thursday, real-time transcript 100, page 30, lines 16 to 18, that
14 because the owner of the pharmacy was an elderly person, nobody would call him by
15 the name -- directly by the name Ali Kushayb. Do you confirm so?

16 MR NICHOLLS: [12:27:31] Excuse me, your Honours --

17 THE WITNESS: [12:27:35](Interpretation) Yes, we didn't call him by his name, we
18 used to call him *sheikh* so-and-so or uncle so-and-so, out of respect.

19 MR NICHOLLS: [12:27:49] Excuse me, your Honours, no objection. What
20 the transcript says, page 30, 16 to 18, "He was older than us", so we went by this name,
21 not "he was an elderly person". There's a bit of a difference.

22 MR LAUCCI: [12:28:05] Yeah, thank you. I do not have the transcript in front of
23 me so that's useful.

24 Q. [12:28:12] So, sir, how could that person be known by the name Ali Kushayb if
25 nobody ever could use it? Can you clarify.

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1 PRESIDING JUDGE KORNER: [12:28:30] Do not understand the question,

2 Mr Laucci. Rephrase, please.

3 MR LAUCCI: [12:28:37]

4 Q. [12:28:37] If nobody called the owner of the pharmacy Ali Kushayb, how come
5 he was known by that name?

6 A. [12:29:48] We as young people used to call him *Sheikh* Ali or sometimes Dr Ali
7 and sometimes Mr Ali, but that doesn't mean that we don't know his full name. We
8 know that people who were older than us used to call him Ali Kushayb directly and
9 that was the name that he was known by in our region.

10 Q. [12:30:15] And to be perfectly clear, are you still talking about the pharmacist or
11 are you talking to -- about the -- the Janjaweed leader?

12 A. [12:31:00] It's the same person. The person who was managing the pharmacy
13 and the person called Ali Kushayb are the same person, and it is the same person who
14 was armed by the government and who was made a leader of the Janjaweed.

15 Q. [12:31:16] I rephrase my question. When people were talking about
16 the pharmacist, would they use, as you said, the nickname Ali Kushayb?

17 A. [12:32:24] Yes, people used to call him Ali Kushayb directly, especially those
18 who were older than I was. Sometimes if a person asks you where are you going or
19 where did you come from, we used to say directly, "I am going to the shop of
20 Ali Kushayb."

21 Q. [12:32:42] On Wednesday, I'm referring to real-time transcript 99, page 48, line 3,
22 you mention for the first time that Ali Kushayb's real name was Ali Abd-Al-Rahman.
23 Did you learn that name -- did you learn that name Ali Abd-Al-Rahman through
24 the coverage of the ICC proceedings?

25 A. [12:34:20] No, not at all. As I said in my testimony earlier, Ali Kushayb used to

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1 come repetitively to my village and he held meetings in my village. I have attended
2 some of these meetings in my village and he introduced himself as Ali
3 Abd-Al-Rahman. He always introduced himself using his full name to the public.

4 Q. [12:34:57] How come this name is nowhere mentioned in your written statement
5 then, sir?

6 A. [12:35:29] I mentioned Ali Kushayb, the name of Ali Kushayb because this is
7 how he's known as.

8 Q. [12:35:37] Okay. But you were delivering a statement to
9 the Office of the Prosecutor which had indicted Ali Muhammad Ali Abd-Al-Rahman,
10 also known as Ali Kushayb. The identity of that person was an important issue and
11 you did not mention it, right?

12 MR NICHOLLS: [12:36:08] I'm sorry, I have to object to that. We're talking about
13 the statement of 2016?

14 PRESIDING JUDGE KORNER: [12:36:14](Microphone not activated)

15 MR NICHOLLS: [12:36:15] Yeah (Overlapping speakers)

16 PRESIDING JUDGE KORNER: [12:36:16] Sorry, that's the only statement
17 the witness made.

18 MR NICHOLLS: [12:36:21] That's what he was referring to?

19 MR LAUCCI: [12:36:23] It is.

20 MR NICHOLLS: [12:36:24] Yeah. There was no important issue under that rubric
21 at that time.

22 MR LAUCCI: [12:36:29] Is my learned friend suggesting that the identity of
23 the person indicted was not an important information?

24 MR NICHOLLS: [12:36:39] No, it was not, because we knew that

25 Mr Abd-Al-Rahman was Ali Kushayb at that point and that issue had not been raised.

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1 PRESIDING JUDGE KORNER: [12:36:49] Yeah. I think the point that -- that
2 Mr Nicholls is making, Mr Laucci, which is a good one, until your client appeared
3 and you appeared, nobody knew that he was going to deny that he was one and
4 the same person.

5 MR LAUCCI: [12:37:03] Is there a need for such an objection for a proper
6 investigation to verify the name of the person who is suspected? That's my question.

7 PRESIDING JUDGE KORNER: [12:37:15] To whom?

8 MR NICHOLLS: [12:37:18] I'd say that's for me --

9 PRESIDING JUDGE KORNER: [12:37:20] No. Just a moment.
10 To whom? To whom is that the question, Mr Laucci?

11 MR LAUCCI: [12:37:29] Ah, to whom. To my learned friend.

12 PRESIDING JUDGE KORNER: [12:37:32] Yes. Well, you won't be asking questions
13 of your learned friend, you'll be carrying on with your cross-examination.

14 MR LAUCCI: [12:37:39] Thank you, Madam President.

15 On this point I move on, now that it's on the record that the name Abd-Al-Rahman is
16 not in the written statement.

17 Q. [12:38:04] Sir, now I want you to focus on the period 2003 to 2004 only. Forget
18 before, forget after, for a while. Okay?

19 Did you visit Ali Kushayb's pharmacy over that period?

20 A. [12:38:58] Yes, I visited it several times.

21 Q. [12:39:03] Was it open?

22 A. [12:39:27] Yes, when I went to the market and went to Ali Kushayb's pharmacy,
23 so sometimes it was open and some other times -- or sometimes I would find
24 Ali Kushayb there and some other times I wouldn't find him there.

25 Q. [12:39:45] Thank you. And by that time, I'm still talking about that period, you

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1 already knew that the person you call Ali Kushayb had been appointed in some
2 position of authority over the Janjaweed, did you?

3 A. [12:40:19] Yes.

4 Q. [12:40:21] So how come you, a Fur, decided to go precisely to the pharmacy
5 owned by the famous Janjaweed leader instead of the other pharmacies that you
6 mentioned were open in Garsila?

7 A. [12:41:32] Yes, during that time Ali Kushayb's pharmacy was one of the largest
8 pharmacies of the area. Some medications were only available in Ali Kushayb's
9 pharmacy. This is why we were obliged to go to his pharmacy and to buy such
10 medications. However, if we were able to find these medications in other places, we
11 would buy them there and we would not come to Ali Kushayb's pharmacy.

12 Q. [12:42:00] Thank you. During your preparation session you -- you mention an
13 episode about a radio cassette player that you had. If I'm not mistaken, it was in
14 April or May 2004.

15 I'm at paragraph 31 of the prep log.

16 Was the -- the person you call Ali Kushayb at his pharmacy when he asked you to sell
17 him your radio cassette player?

18 A. [12:43:36] Yes, he was in his pharmacy and he called me and told me, "Come,
19 boy." When I came to him, I entered to the pharmacy and he asked me, "Is this
20 device or radio cassette for sale?" And I answered, "No."

21 Q. [12:43:59] Did you pass by the pharmacy deliberately on that day?

22 A. [12:44:37] I was only passing by. My audio cassette was in a certain shop, at
23 my friend's, and I wanted to take it to another friend's shop or place.

24 Q. [12:45:04] Thank you. And April/May 2004, that is after the events in Deleig,
25 isn't it? Actually, you don't need to answer that.

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1 So how come, after having allegedly seen the terrible things that you saw in Deleig,
2 you passed by Ali Kushayb's pharmacy? This should have been the last place to
3 pass by, isn't it?

4 A. [12:46:49] Ali Kushayb's pharmacy was right on the road and people had to pass
5 on that road. And I didn't have a personal problem with Ali Kushayb. And there
6 was some freedom in Garsila, people were going and coming as they wished. So we
7 had to pass by Ali Kushayb's pharmacy.

8 Q. [12:47:23] Okay. So after what you said had happened in your village, what
9 happened in Deleig, at this point in time you had no personal problem with
10 Ali Kushayb. This is what you say?

11 A. [12:48:27] Yes, I knew at the time that Ali Kushayb was the Janjaweed leader
12 and he was the one who gave them orders to conduct all of these attacks, whether in
13 our village or the neighbouring villages. But we were unarmed civilians and we had
14 nothing in our hands to do. And Ali Kushayb had huge authority in the region, we
15 were forced to have dealings with him.

16 Q. [12:49:00] And did that compel you to precisely pass by his pharmacy every
17 time you were in the surroundings?

18 A. [12:50:01] We used to go to the market. That was not the first time or
19 the second time. And the road where the pharmacy was is one of the main roads
20 and everybody had to pass through this road. And going there had nothing at all to
21 do with Ali Kushayb's role or authority in the area.

22 Q. [12:50:25] And you mentioned that when you pass by this pharmacy on that day
23 with your radio cassette, Ali Kushayb was there with his guards; is that correct?

24 A. [12:51:23] Yes, that's correct.

25 Q. [12:51:26] And to be clear, neither Ali Kushayb nor his guard tried to -- to steal

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1 that video cassette from you, right?

2 A. [12:52:28] When Ali Kushayb offered to buy my cassette, I said no. And when I
3 left the pharmacy, his guards caught up with me and they said, "Why don't you want
4 to sell this cassette to your lord?" And they threatened me, but I said no. And then
5 they said, "If we were outside the city right now, we would have taken this cassette by
6 force." And they insulted me using really bad -- many bad names.

7 Q. [12:53:12] Okay. I take from your answer then that because this scene took
8 place in Garsila, the -- the man you call Ali Kushayb and his guards had no -- didn't
9 feel they had sufficient authority to -- to take what they wanted from you, isn't it?

10 A. [12:54:33] No, they had authority and power in the area. But maybe there was
11 some kind of an agreement between them and the government to maintain peace and
12 calm in Garsila and Deleig. And I think that's what they were trying to do. They
13 were just trying to keep things calm in these two cities and they were allowing people
14 to wander around the city freely, somehow.

15 Q. [12:55:02] Thank you. Last question on this topic. Some minutes ago, I'm at
16 page 21, line 20 of the transcript of today, you said that you were only passing by
17 the pharmacy. On Thursday, I'm taking it from transcript 100, page 37, line 4, you
18 said that actually you went to the pharmacy in order to buy medicine. So what is
19 the correct version? Did you simply pass by or did you stop at the pharmacy to buy
20 medicine?

21 MR NICHOLLS: [12:55:51] Objection.

22 I don't think it's a fair characterisation of that --

23 PRESIDING JUDGE KORNER: [12:55:57](Microphone not activated)

24 MR NICHOLLS: [12:55:59] Page 37, lines 4 to 9.

25 PRESIDING JUDGE KORNER: [12:56:10](Microphone not activated)

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- 1 THE INTERPRETER: [12:56:15] Mic, please, your Honour.
- 2 PRESIDING JUDGE KORNER: [12:56:18](Microphone not activated)
- 3 Sorry, I've got it now.
- 4 MR NICHOLLS: [12:56:32] It's being put to the witness that he's being inconsistent
- 5 and that previously he said in this section that the incident with the cassette player
- 6 happened when he went to the pharmacy to buy medicine. If you read this, that's
- 7 not what -- well, at least it should be read to the witness. This is not what it says.
- 8 PRESIDING JUDGE KORNER: [12:56:50] Yeah, read the exact words, Mr Laucci,
- 9 because that's not what it says.
- 10 MR LAUCCI: [12:56:57] What is written on the transcript of Thursday, Mr Witness,
- 11 is the following:
- 12 "I saw him at his drugstore when I wanted to buy some medicine, and the last time I
- 13 saw him was when I passed near his pharmacy and he called on me and I was
- 14 carrying a radio cassette player."
- 15 PRESIDING JUDGE KORNER: [12:57:25] Why does that say he was going to
- 16 the pharmacy when he was stopped with the cassette player?
- 17 MR LAUCCI: [12:57:31] Well, this is what I understand from what I'm reading,
- 18 Madam President, at line 4.
- 19 PRESIDING JUDGE KORNER: [12:57:38] Yeah, I should read it in French.
- 20 MR LAUCCI: [12:57:45] Madam President, it's an appropriate time for the lunch
- 21 break, if you like.
- 22 PRESIDING JUDGE KORNER: [12:57:49] Five minutes more, please.
- 23 MR LAUCCI: [12:57:53]
- 24 Q. [12:57:54] Mr Witness, on Wednesday, I'm in real-time transcript - let me
- 25 double-check - yes, real-time transcript, page 52, line 4, you said that the person you

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1 call Ali Kushayb had been a civil servant. In your preparation session, you also said,
2 paragraph 30, that he held a position within the government. Do you know in which
3 branch of the government the person you call Ali Kushayb was a civil servant?

4 A. [12:59:26] I'm not sure. I'm not sure what his exact position was, but I know
5 that he was a civil servant.

6 Q. [12:59:39] I was not specifically asking about the position, I was more asking
7 about the branch within the -- the government authorities. Do you have any
8 knowledge about what it was?

9 A. [13:00:29] I am not sure. I am not sure in what department exactly he was
10 working. But after the war started, we knew him as the leader of the Janjaweed.

11 Q. [13:00:42] Fair enough. I move on. And --

12 PRESIDING JUDGE KORNER: [13:00:45](Microphone not activated)

13 Right, sir, if you'd like to go for lunch and be back, please, at 2.30.

14 Yes, could you escort -- could somebody escort the witness from the court, please.

15 THE COURT USHER: [13:01:02] All rise.

16 PRESIDING JUDGE KORNER: [13:01:03] No, would somebody take the witness out
17 of court.

18 (The witness exits the courtroom)

19 PRESIDING JUDGE KORNER: [13:01:32] How much longer?

20 MR LAUCCI: [13:01:34] I will be done during the session.

21 PRESIDING JUDGE KORNER: [13:01:38] Right. But the next witness, as you know,
22 is a victim of sexual assault. I do not want her hanging around court unnecessarily.
23 Are you going to finish with enough time to deal with that witness?

24 MR LAUCCI: [13:01:54] No, we cannot start the next witness today,
25 Madam President, I'm afraid.

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- 1 PRESIDING JUDGE KORNER: [13:01:59] Right.
- 2 THE COURT OFFICER: [13:02:05] All rise.
- 3 (Recess taken at 1.02 p.m.)
- 4 (Upon resuming in open session at 2.30 p.m.)
- 5 THE COURT USHER: [14:30:33] All rise.
- 6 Please be seated.
- 7 MR LAUCCI: [14:31:14] Can I start, Madam President?
- 8 PRESIDING JUDGE KORNER: [14:31:18] You may.
- 9 MR LAUCCI: [14:31:22](Microphone not activated)
- 10 Q. [14:31:26] Good afternoon, Mr Witness.
- 11 During your preparation session, you --
- 12 A. [14:31:35] Good afternoon.
- 13 Q. [14:31:36] -- described the activities and authority of the man you call
- 14 Ali Kushayb in your village area, travelling all the time. On Thursday, real-time
- 15 transcript 100, page 4, line 13 to 15, you said that he was coming constantly. That's
- 16 your word.
- 17 This person, the man you call Ali Kushayb, must have been permanently on the road,
- 18 wasn't he?
- 19 PRESIDING JUDGE KORNER: [14:32:15] It's a comment. Put a question, please.
- 20 MR LAUCCI: [14:32:22]
- 21 Q. [14:32:22] Let me quote the transcript of Wednesday, so real-time transcript 99,
- 22 page 72, line 13 to 16. He was overseeing the following. I will stop for translation.
- 23 Okay:
- 24 "Three villages had one checkpoint. Two other villages had one checkpoint and one
- 25 remote village -- one remote village was far from those checkpoint. So he oversaw

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1 all of that."

2 How did he do to oversee all of that?

3 A. [14:34:06] In his capacity as *agid al-ogada*, he would come constantly to those
4 checkpoints. They would brief him on any developments and he would ask them
5 about what was going on. He would also issue occasionally instructions to them
6 before leaving those posts.

7 Q. [14:34:35] Thank you. When did the person you call Ali Kushayb become
8 the famous leader -- the big -- big -- I repeat my question. When did the person you
9 call Ali Kushayb become famous as leader of the Janjaweed?

10 A. [14:35:59] There is a story that I'd like to relate. It happened when I was young.
11 When I was young, I heard from my father and mother that Ali Kushayb would
12 accompany some members of the army and the police to go to areas where there was
13 grazing and where they looted some cattle and some possessions. This is something
14 I heard from my parents.

15 But I knew him directly and clearly in mid-2003 when the government started
16 distributing weapons to the Janjaweed militia. Ali Kushayb was directly overseeing
17 the distribution of those arms. The Arabs that we met were telling us that
18 Ali Kushayb was the one who distributed arms.

19 Q. [14:37:40] Mr Witness, we -- you said when you were young. What -- what age
20 had you, approximately, when what you described took place?

21 A. [14:38:22] I don't remember when exactly, but it occurred in the '90s.

22 Q. [14:38:30] (Redacted). Is that the period
23 you are referring to?

24 A. [14:38:59] Approximately.

25 Q. [14:39:03] Thank you. When did you hear for the first time the title *agid ogada*

1 or *agid al-ogada*?

2 A. [14:40:03] First time I heard that he was *agid al-ogada* was when he was
3 distributing weapons. The *sheikh* and the *umdah* of our village were supposed to go
4 there and obtain weapons. However, Ali Kushayb, along with Lieutenant Hamdi,
5 declined to hand them weapons. The *sheikh* and the *umdah* came back to the village
6 in the evening and told us that it was him who was appointed *agid al-ogada* in
7 the entire region.

8 The meeting that took place in our village, Ali Kushayb was present in person and
9 confirmed himself that he was *agid al-ogada*.

10 Q. [14:41:00] And did anybody know what *agid al-ogada* stood for?

11 A. [14:41:41] The term *agid al-ogada*, as far as I heard when it was explained by
12 some people, meant that there were a number of colonels or *ogada* in different areas,
13 they were headed or commanded by Ali Kushayb. They all reported to him.

14 Q. [14:42:10] And you said on Wednesday, I'm in real-time transcript 99, page 50,
15 lines 4 to 12, you said that the position of *agid* itself did not exist before the conflict; is
16 that correct?

17 A. [14:43:17] The terms *agid* and *agid al-ogada* surface clearly once the Janjaweed
18 were armed. These terms were not as clear beforehand and we hadn't heard much
19 of them beforehand.

20 Q. [14:43:39] In your understanding, this authority as *agid*, I'm talking about *agid*
21 here, this authority as *agid*, *agid*, was it lower or higher than the authority of an
22 *umdah*?

23 A. [14:44:47] The positions of *umdah*, *sheikh* and *shartay* stand for a community
24 hierarchy in * community administration. However, the term *agid* and *agid al-ogada*
25 are closer to the military domain or to field combatants.

1 Q. [14:45:14] Is it a military or a tribal title, *agid*?

2 A. [14:46:12] I don't know whether *agid* is a military position or whether there is
3 a position in the army called an *agid*. However, what I know is that these *ogada* were
4 regular citizens. They were camel and cattle herders. They were brought together,
5 armed and appointed to their positions afterwards.

6 These *ogada* were in their respective areas in the wilderness. Ali Kushayb would call
7 on them each time he needed them, should there be a war, should there be any
8 problem requiring their involvement. So they would come and take part in warfare
9 and once battles -- and they would go back to their original positions.

10 Q. [14:47:26] I understand, sir, from your answer that *agid* or *agid al-ogada*, you do
11 not consider them as official military position from the army, I mean. But did they
12 have a tribal connotation?

13 A. [14:48:42] The position of *agid* is not directly linked to a tribe, nor was it
14 a military or a police position. It is a way of organising things set up by
15 the government in order to bring together these Janjaweed. Afterwards, they were
16 used each time they were needed.

17 Q. [14:49:09] Thank you. On Thursday, I'm in real-time transcript 100, page 49,
18 lines 15 to 18, you said the following: "*Umdahs* were symbols, symbols in our
19 community and in the entire region of Darfur."
20 Does that apply to *agid* as well?

21 A. [14:50:41] No, the *ogada* were not community symbols in their communities.
22 However, they were military commanders who mobilised and brought together
23 fighters. They were led by Ali Kushayb.

24 Q. [14:51:00] Do you know about any other *agid al-ogada* before, at the same time or
25 after the person you call Ali Kushayb?

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1 A. [14:52:20] Before Ali Kushayb's appointment as *agid al-ogada* I had not heard of
2 that position. That position surfaced during the time when weapons were
3 distributed to the Janjaweed. It surfaced, it became famous -- the name Ali Kushayb
4 became famous as *agid al-ogada*. Afterwards, I left Wadi Salih, so I don't know
5 whether someone else was appointed as *agid al-ogada*.

6 Q. [14:52:53] Did you ever hear the name Abdul Aziz Al Hera, sir?

7 A. [14:53:23] No, I haven't heard of him.

8 Q. [14:53:27] At paragraph 76 of your written statement, you mentioned an *agid* of
9 all the *agids* named Al-Hafith from the Nawaiba tribe. So this title *agid* of all *agids*, is
10 it different from *agid al-ogada*?

11 A. [14:54:54] His name is actually * *agid* Al-Hafith and not Afifi (phon). He was
12 *agid al-ogada* in a small area within our district, the -- in charge of a particular group.
13 Ali Kushayb had *ogada* who were in charge of other groups elsewhere but who were
14 all reporting to Ali Kushayb.

15 Q. [14:55:25] The group of Al-Hafith, you say it was the Nawaiba tribe?

16 A. [14:55:51] Who is Afifi? I wasn't talking about Afifi. I mentioned a man by
17 the name * *agid* Al-Hafith.

18 Q. [14:56:00] That man, was he of the Nawaiba tribe, sir?

19 A. [14:56:18] * *Agid* Al-Hafith did belong to the Nawaiba tribe.

20 Q. [14:56:22] And when you say that he was in charge of a group, was this group
21 the Nawaiba tribe?

22 A. [14:56:49] Yes, that group belonged to the Nawaiba tribe.

23 Q. [14:56:58] Was it a big tribe in Wadi Salih?

24 A. [14:57:19] Yes, a big tribe, because they had brought their folks who were in
25 other countries and that is how the town grew bigger and bigger.

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1 Q. [14:57:31] Would you say it was the biggest Arabic tribe in Wadi Salih?

2 A. [14:58:04] I don't know about Wadi Salih, but it was one of the biggest tribes in
3 our area.

4 Q. [14:58:11] Do you know by any chance what was the tribe of the man you call
5 Ali Kushayb?

6 A. [14:58:46] I don't know precisely what Ali Kushayb's tribe is. But I heard from
7 people that he belonged to the Salamat tribe and at other times they would say he
8 belonged to the Ta'aisha tribe. What is clear is that his tribe was not very present in
9 our area or in Wadi Salih.

10 Q. [14:59:11] At paragraph 63 of your statement you provide a list of all Janjaweed
11 leaders with their tribe. And the tribes you mention are Misseriya, Nawaiba, you
12 specify two *agids*, Khozam and Mahariya, sorry for pronunciation. None of them is
13 Salamat, none of them is Ta'aisha.

14 How could a person -- how could a person belonging to one of these two tribes that
15 you mention become the *agid al-ogada* for Wadi Salih if his tribe was not represented
16 there?

17 A. [15:01:45] The Salamat tribe, according to what I know, is one of
18 the cow-herders tribes, but it was not represented in our area. But as far as I know, it
19 was one of the tribes that were involved in cow herding. Ali Kushayb's tribe, yes,
20 was not -- did not have a big presence there. Maybe the government brought him
21 after he retired as a government employee, after which he opened a pharmacy in
22 Garsila.

23 The Ta'aisha and Salamat tribes did not exist in our area in south -- nor in
24 South Darfur. His appointment as *agid al-ogada*, the appointment of Ali Kushayb,
25 could be attributed to his military experience.

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1 As far as I heard, I heard that he was one of the people who plundered cows, along
2 with a group of police and army retired officers.

3 PRESIDING JUDGE KORNER: [15:03:29] Mr Laucci, that question you asked invites
4 the witness to speculate and he is indeed speculating, about which you cannot
5 complain because that's what you asked him to do. Can you just please put factual
6 matters that he can deal with.

7 MR LAUCCI: [15:03:51] I do not complain about speculation, Madam President, but
8 I hear what you say.

9 Q. [15:03:58] You mentioned the position of *Umdah* Haran, who you say bore
10 the title of *umdah* of all *umdahs*. Can you explain more what it is.

11 A. [15:05:11] *Umdah* Haran is the mayor or the *umdah* of his tribe. At the same
12 time, he is the *umdah* of the Arab *umdahs*, he was appointed *umdah* over the other
13 Arab *umdahs*. At that time there was an *umdah* for the Fur *umdahs*, and a committee
14 was formed which included the Arab and Fur *umdahs* to resolve any issues that may
15 arise between the two types of tribes, the Arabs and the Furs.

16 Q. [15:05:56] So this must have been a very preeminent position, wasn't it?

17 A. [15:06:22] The position of *umdah* could be considered a permanent one, yet as
18 the president of the Arab *umdahs*, ie *umdah* -- *umdah* of *umad* that was temporary.

19 Q. [15:06:43] At paragraph 49 of your written statement, you describe that *Umdah*
20 Haran is actually the one who is delivering the following messages: "... we are
21 fighting the rebels and not the Fur as a tribe"; is that correct?

22 A. [15:07:38] Yes, that's what he said and this is what he said. But in fact they
23 would call all the -- they called all the Fur -- they named all the Fur as rebels.

24 Q. [15:07:52] And he said, "You the Fur were ruling us before and now it is our turn
25 to rule you and you -- you should submit to our rule." Correct as well?

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1 A. [15:08:34] Yes, this is correct.

2 Q. [15:08:37] And on Wednesday, real-time transcript 99, page 69, line 9 to 13, you
3 said that it is to *Umdah* Haran that the village representative spoke during that
4 meeting of December 2003, right?

5 A. [15:09:21] Yes, this is correct.

6 Q. [15:09:22] So the man you call -- you describe as Ali Kushayb, if he had been
7 there at all, would have been totally subordinate, subordinate to *Umdah* Haran, wasn't
8 he?

9 A. [15:10:33] *Umdah* Haran was an *umdah* who worked with the communal
10 * administrations. He was an *umdah* over his people and over the area where he lived.
11 Yet Ali Kushayb was *agid al-ogada*, which means he was the *agid* of all the *ogadas* in
12 the region. So his position was more senior and higher than that of *Umdah* Haran.

13 Q. [15:11:00] But he was delivering the main messages and the representative of
14 your village were speaking to him in December 2003; right?

15 A. [15:11:29] Yes, this is correct.

16 Q. [15:11:32] In case there is any doubt, my last question was related to *Umdah*
17 Haran.

18 A. [15:11:55] Yes, all right.

19 Q. [15:11:59] Thank you.

20 At paragraph 119 of your statement, you mention an office of the Janjaweed in Garsila
21 and you say that it was located in the coordination office of the Popular Defence
22 Forces' headquarters. Where was that office located in Garsila, please?

23 A. [15:13:17] The headquarters of the coordination office of the PPF was located in
24 the southern -- the southeastern direction of Ali Kushayb's pharmacy.

25 Q. [15:13:35] During your preparation session, I am at paragraph 54 of the prep log,

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1 you said that the PDF coordination office was considered Ali Kushayb's office. Do
2 you confirm so?

3 A. [15:14:39] Yes, I saw him getting in and out to the coordination office of the PDF
4 and it seemed that the PDF didn't have other roles than the one played by
5 Ali Kushayb. It might have been delegated to Ali Kushayb to lead the PDF during
6 that time.

7 Q. [15:15:02] Did the -- the Janjaweed belong to the PDF?

8 A. [15:15:54] The PDF was present before, but when the Janjaweed were -- were
9 armed, Ali Kushayb led them. And it may have been possible that both
10 the Janjaweed and the PDF were incorporated into one force because Ali Kushayb
11 was the one leading this army.

12 Q. [15:16:23] Was the person you call Ali Kushayb a member of the PDF himself?

13 A. [15:17:00] I'm not quite sure before the conflict started. But after the conflict
14 started and the Janjaweed were armed, his role was very clear in the PDF and its
15 leadership. He led all of these militias.

16 Q. [15:17:16] Thank you. Did you know the name of the PDF coordinator in
17 Garsila at that time?

18 A. [15:17:55] If the question is about the coordinator of the PDF, unfortunately
19 I don't remember the name. But if you are asking about Ali Kushayb, Ali Kushayb
20 had a significant role in the command of the PDF.

21 Q. [15:18:22] Thank you, Mr Witness.

22 I have asked all my questions and I will now put to you some conclusions of my
23 cross-examination. You say if you agree. If you disagree, no need to repeat what
24 you have already said.

25 First of all, you never passed by Deleig in March 2004, neither the first time nor

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1 the second time, and everything you say that you have seen there is untrue.

2 A. [15:19:38] I disagree with that.

3 Q. [15:19:42] The Janjaweed in your village were under the authority of *Agid*
4 Al-Hafith in charge for the whole region.

5 MR NICHOLLS: [15:20:13] Sorry to interrupt, just for clarity, what does "whole
6 region" mean?

7 MR LAUCCI: [15:20:19] Yes, good question. The village and the other village in
8 the area that are described in the witness evidence.

9 PRESIDING JUDGE KORNER: [15:20:32] So you're not putting that it's Al Haran
10 who is in charge of everything, which I thought you were putting earlier.

11 MR LAUCCI: [15:20:39] I will come to Al Haran. For the moment I am talking
12 about the Janjaweed.

13 THE WITNESS: [15:21:07](Interpretation) I disagree with that.

14 MR LAUCCI: [15:21:09]

15 Q. [15:21:10] *Umdah* Haran was the highest -- highest authority who took all
16 the important decisions regarding the movement of villagers, delivered speeches and
17 instructions.

18 A. [15:21:57] I don't agree with this either.

19 Q. [15:22:01] Everything you say about the presence of the man you call
20 Ali Kushayb in your village is also untrue.

21 A. [15:22:26] I disagree with this too.

22 Q. [15:22:29] And finally, you have no knowledge of the man you call Ali Kushayb
23 and the truth is that you never met that person.

24 A. [15:23:09] I disagree with this, because the person who is sitting behind you is
25 Ali Kushayb and we would call him *Sheikh* Ali or Mr Ali or Dr Ali, and he had -- he

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1 owned the pharmacy.

2 Q. [15:23:26] I thank you, Mr Witness.

3 I thank you, Madam President. I have completed my cross-examination.

4 PRESIDING JUDGE KORNER: [15:23:31] Do you want to put a reason why he's told
5 all these lies, from beginning to end, about everything, effectively? Any reason you
6 want to suggest to him?

7 MR LAUCCI: [15:23:45] I cannot guess, but --

8 PRESIDING JUDGE KORNER: [15:23:48] I'm not asking you to guess, I'm just
9 asking if, on the basis of your general instructions and your case as you present it,
10 you wish to suggest a reason to this witness why he has told so many lies.

11 MR LAUCCI: [15:24:00] I have no instruction, but what I would say is that
12 the witness has told all these stories to the Office of the Prosecutor for the sole
13 purpose of becoming a witness before the Court and contributing to the conviction of
14 a person in the Darfur case.

15 PRESIDING JUDGE KORNER: [15:24:25] Right. Thank you.
16 Yes, re-examination?

17 MR NICHOLLS: [15:24:27] No, your Honour. Thank you.

18 PRESIDING JUDGE KORNER: [15:24:29] Yes, I think Judge Alexis-Windsor has
19 a couple of questions.

20 JUDGE ALEXIS-WINDSOR: [15:24:36] Thank you, Madam President.

21 I think I have two questions.

22 Good day, sir.

23 THE WITNESS: [15:24:53](Interpretation) Good day, ma'am.

24 JUDGE ALEXIS-WINDSOR: [15:24:56] In your evidence you said that the police
25 chief said that if someone had a complaint, they should report any aggressions or

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1 a theft carried out by the Janjaweed to Ali Kushayb. This was on 16 November 2022,
2 page 74, lines 1 to 10 of the provisional transcript, for the record.

3 THE WITNESS: [15:25:57](Interpretation) Yes, this is correct, indeed.

4 JUDGE ALEXIS-WINDSOR: [15:26:00] All right. So that leads me to my question.

5 In relation to rapes which you testified that you heard about, do you know whether
6 any individual or any authority of the Fur community brought rapes to the attention
7 of the Janjaweed leadership? Or indeed any member of the Janjaweed?

8 THE WITNESS: [15:27:31](Interpretation) Yes, the *sheikhs* of our village went to
9 the police station close to -- or, rather, the checkpoint of the Janjaweed, the one closer
10 to our village where the *ogada* had been. They were there, they reported in that
11 checkpoint that was run or managed by Ali Kushayb, but when they did not find
12 actual or serious responsiveness, they would take the complaints to Garsila, to
13 the office of Ali Kushayb. So there they would file the complaints. If they -- if he
14 was not there, they would just take a report or file a report of what had happened in
15 that area.

16 JUDGE ALEXIS-WINDSOR: [15:28:26] Sir, just a clarification. You said that "they
17 reported in that checkpoint that was run or managed by Ali Kushayb".

18 What I'm not understanding is, do you mean that they reported to Ali Kushayb or
19 they did not report to Ali Kushayb? I'm not quite clear.

20 THE WITNESS: [15:30:12](Interpretation) When Ali Kushayb set up that checkpoint,
21 the one closer to our village, the purpose of setting up this checkpoint was to protect
22 the village from the Janjaweed crossing by from other areas, because those Janjaweed
23 thought that we had destroyed and we were the cause of
24 the displace -- the displacement of -- they were thinking we have already finished
25 the displacement of all the villages, so why not this village had been displaced. So

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1 Ali Kushayb set up this checkpoint and he assigned them with the protection of this
2 village.

3 Yes, *sheikhs* and *umdahs* were moving around, they would go to the checkpoint and
4 present complaints, reports about Janjaweed who had come at night and raped
5 women and girls.

6 Also, at times when girls went to the wilderness to bring firewood, they would be
7 subject to rape and aggression. When a *sheikh* wanted to report an incident, the *agid*
8 from the Janjaweed would react by belittling the matter and considering it beneath
9 reporting. And that is why they did not feel the need to report anything to
10 Ali Kushayb. They were stalling people all the time.

11 Sometimes the *sheikhs* and *umdahs* would ask to us go to Garsila, to Ali Kushayb's
12 office to present the complaints regarding aggressions that took place in the area.

13 However, all that Ali Kushayb did all the time was to give promises, promises that he
14 would solve those problems. He never came himself in person to know what was
15 going on or to resolve the issues.

16 JUDGE ALEXIS-WINDSOR: [15:33:48] Sir, that leads me to a few more issues I'd like
17 to have clarified, please. You said that the rapes were reported to the *agid* from
18 the Janjaweed at the checkpoint. Can you tell us who was that person?

19 THE WITNESS: [15:35:04](Interpretation) There were a number of -- there was
20 a number of *ogada* who were rotating roles. They included * Assil, Abdulrahman
21 Fallan and *Agid* Al-Safi.

22 JUDGE ALEXIS-WINDSOR: [15:35:27] All right. So you said that people would go
23 to Ali Kushayb's office in Garsila. Where was Ali Kushayb's office in Garsila?

24 THE WITNESS: [15:36:33](Interpretation) I don't recall where it was exactly, where
25 his office was exactly. However, when people had to go to Garsila, they would try

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1 meeting Ali Kushayb at his pharmacy. Should he not be found at his pharmacy,
2 they would go to his home. So at times they would go see him in his home and at
3 other times to his pharmacy and at other times to wherever he was. And quite often
4 he was present at the PDF coordination location.

5 JUDGE ALEXIS-WINDSOR: [15:37:16] Thank you, sir.

6 Sir, you said that: "Sometimes the *sheikhs* and *umdahs* would ask us to go to Garsila, to
7 Ali Kushayb's office to present the complaints ..."

8 Did you yourself ever go?

9 THE WITNESS: [15:38:37](Interpretation) Yes, it occurred several times that I was
10 among them, that I went with them, especially if it occurred on a market day. On
11 such day, the Janjaweed would deploy an escort team with us and when we reached
12 Garsila, the *umdahs* and *sheikhs* would tell us that we were about to meet Ali Kushayb
13 there. However, I did not -- when -- given that I did not have a particular position or
14 official capacity in -- within the delegation, I would part ways with them at the
15 marketplace.

16 JUDGE ALEXIS-WINDSOR: [15:39:24] So did you actually witness, or was it told to
17 you, that persons from your community made complaints to Ali Kushayb with
18 respect to rapes of women that had occurred in the community by the Janjaweed?

19 THE WITNESS: [15:40:59](Interpretation) Yes, I saw this with my own eyes several
20 times. When the *umdahs* and *sheikhs* would go to see Ali Kushayb, they would first
21 hold a large meeting at the village to listen to people's complaints and reports.
22 Afterwards, they would draft a long list of complaints and things to be reported,
23 which they would take with them when they go to Garsila to let Ali Kushayb know
24 about.

25 JUDGE ALEXIS-WINDSOR: [15:41:35] And my last question on this topic: To your

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1 knowledge, did Ali Kushayb do anything with the information that was given to him
2 in relation to rapes of women by the Janjaweed?

3 THE WITNESS: [15:42:42](Interpretation) No, Ali Kushayb never came himself to
4 inspect those cases himself. He only gave false promises. He promised them that
5 he would designate a committee of *sheikhs* that would move on the ground and assess
6 the situation. But he was absent and he was lying all the time. He never came
7 there himself.

8 JUDGE ALEXIS-WINDSOR: [15:43:14] Thank you, sir. Those are all my questions.

9 THE WITNESS: [15:43:23](No interpretation)

10 JUDGE ALAPINI-GANSOU: [15:43:30](Interpretation) Thank you very much.

11 Mr Witness, I'd also like to share some concerns with you about your testimony in
12 front of this Court. The first one is linked to the fact that you told us three or four
13 days ago that the people were being confined and that roads were blocked. Do you
14 remember this?

15 THE WITNESS: [15:44:47](Interpretation) Yes, I remember that.

16 JUDGE ALAPINI-GANSOU: [15:44:50](Interpretation) So you can confirm this, you
17 confirm that this was how it was?

18 THE WITNESS: [15:45:06](Interpretation) Yes, I am very certain regarding what
19 happened. I reassert it.

20 JUDGE ALAPINI-GANSOU: [15:45:18](Interpretation) How do you explain that
21 things were in this -- in this state? Why was it like that?

22 THE WITNESS: [15:46:40](Interpretation) Yes. The objective of the Arab tribes in
23 our area was encircling us and keeping us in our area, their objective was to benefit
24 from our -- from us and for us to render them services. The Arabs had destroyed
25 the areas of Zamey 1, Zamey 2, in addition to the Kobra area, so they did that and

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1 then people got displaced from those areas. Consequently the Arabs suffered a lot
2 and that is why they were -- they were telling their Arab brothers, "You're
3 lucky -- the Arabs were in our area, you're lucky because the other communities in
4 your area have not been displaced yet. Keep them there, make sure they stay close
5 to you. Do not let them engage in commercial activities so that they don't earn more
6 money. Just keep them as they are and keep benefiting from them because
7 you cannot be without them."

8 JUDGE ALAPINI-GANSOU: [15:48:00](Interpretation) Did the population suffer
9 because of this state of affairs?

10 THE WITNESS: [15:49:38](Interpretation) Yes, they suffered a lot from the blockade.
11 Previously, we were engaged in farming, commerce and livestock herding. We were
12 the only ones doing these activities. However, when we were kicked out of towns,
13 the towns became unsafe. So the population thought of going back to their towns
14 and resuming farming activity. As a consequence, it is Arabs that became farmers,
15 owners of people's lands, and employers of locals. This is a form of enslavement.

16 JUDGE ALAPINI-GANSOU: [15:50:39](Interpretation) Okay. I'd like to come back
17 to another topic.

18 During your testimony, you also mentioned that there were meetings that took place.
19 Meetings took place following these difficulties that you presented to us. And you
20 stated that the first meeting -- as concerns the first meeting, who directed, who
21 presided over it?

22 THE WITNESS: [15:52:52](Interpretation) The meeting included two parts, the first
23 part was for the community leaders, including both Arabs and Fur. The second part
24 of the meeting concerned the protection of citizens, or in other terms, putting an end
25 to the presence of those who -- Janjaweed members aggressing citizens.

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1 There was actually a third part which concerned -- which consisted in government
2 representatives, police, *mu'atamids* and other government representatives who
3 attended the meeting. But overall, it was Ali Kushayb who was calling the shots and
4 who was overseeing this meeting. It was him who spoke as a -- who act as
5 a spokesperson of this meeting. He was in charge of all the outcomes and all that
6 concerned protection of citizens.

7 JUDGE ALAPINI-GANSOU: [15:54:04](Interpretation) You mentioned the chief of
8 police whose name is Ja'afar. I'd like to understand his role in all of this.

9 THE WITNESS: [15:55:25](Interpretation) Ja'afar was a *mu'atamid*. But the police
10 chief was among the delegation that was present there. The police chief and
11 Ja'afar Abd-Al-Hakam were political officials, they did not have authority or a clear
12 role. What was clear is they were not able to stop Ali Kushayb or prevent him from
13 doing whatever it is he was doing. So I'm not sure if they were in agreement or if
14 they weren't. What is clear is that Ali Kushayb had greater power.

15 JUDGE ALAPINI-GANSOU: [15:56:13](Interpretation) So you're saying that despite
16 the presence of several officials in these meetings, Ali Kushayb still had a certain
17 superiority over them, if I'm to use your own words?

18 THE WITNESS: [15:56:58](Interpretation) Yes, that is what I meant exactly.

19 JUDGE ALAPINI-GANSOU: [15:57:03](Interpretation) Thank you very much,
20 Mr Witness. You have clarified many things.

21 And I have finished, Madam President.

22 PRESIDING JUDGE KORNER: [15:57:14] Sir, I've just got one follow-up question
23 from what you were asked by Judge Alexis-Windsor.

24 The complaints of rapes that you've talked about, over what time period were those
25 complaints made?

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1 THE WITNESS: [15:58:42](Interpretation) The acts of rape and the rape incidents
2 started with the start of the blockade on the village. They continued until September
3 of 2003. In fact, they continue to this day. Rapes may intensify at some point or
4 decrease at other points, but they never totally ceased.

5 PRESIDING JUDGE KORNER: [15:59:22] Yes, it's more the -- I think you said that
6 before, sir. It's more the -- when did the complaints that were made to the *agid*, and
7 then you say to Ali Kushayb, when did they start? Straightaway after the roadblocks
8 were set up or later?

9 THE WITNESS: [16:01:14](Interpretation) When people started to report -- file these
10 complaints to Ali Kushayb, that started in December 2003 when Ali Kushayb came in
11 that famous meeting and he pledged that he would protect the people. There was an
12 agreement between the different * communal administrations in order to protect such
13 violations again, in order to prevent them from happening again. Yet, when
14 the Janjaweed didn't commit to what they had agreed, people would go to
15 Ali Kushayb to tell him of what had happened in the region.

16 PRESIDING JUDGE KORNER: [16:02:01] Yes, thank you very much, sir. It was
17 just the date that I wanted.

18 Sir, that, finally, concludes your evidence in this case. As you have gathered today,
19 and probably earlier, a lot of what you said has been disputed by the Defence. But
20 I don't think that anybody would dispute or do less than commend you for
21 the extreme patience that you have shown in answering all the questions that
22 you were asked. And I see Mr Laucci nodding.

23 Without people being prepared to come to court to give evidence, these trials would
24 not take place. And they are of course important for everyone concerned, in
25 particular the accused.

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1 So we do thank you, sir, for coming and we wish you a safe return to the country in
2 which you now live and we hope eventually, perhaps, to your own country.

3 Yes, thank you very much.

4 THE COURT USHER: [16:03:46] All rise.

5 PRESIDING JUDGE KORNER: [16:03:51] No, witness.

6 THE WITNESS: [16:03:59](Interpretation) Thank you very much. We would like
7 to -- I would like to thank you for this opportunity and I would -- I hope that my
8 testimony would contribute in establishing justice for the victims of Darfur.

9 (The witness is excused)

10 PRESIDING JUDGE KORNER: [16:04:19] Yes. Now, Witnesses 1073 and 1074,
11 Mr Edwards, are you only -- are you doing both witnesses?

12 MR EDWARDS: [16:04:34] Only the second witness, 1074.

13 PRESIDING JUDGE KORNER: [16:04:38] 1074?

14 MR EDWARDS: [16:04:40] Yes.

15 PRESIDING JUDGE KORNER: [16:04:41] Right. Well, the same extraordinary
16 interview with this doctor is conducted in respect of Witness 1073. Mr Laucci, that's
17 your witness. Do I take it you're not objecting?

18 MR LAUCCI: [16:05:00] (Microphone not activated) Actually, there are information
19 in the interview of Witness 1074 which were not present in the interview of 1073.

20 Like, for instance, the fact that -- the fact that it was an audio -- AVL interview.

21 PRESIDING JUDGE KORNER: [16:05:22] Yeah, no, I'm just -- so are you or are you
22 not objecting to annex A in the case of 1073?

23 MR LAUCCI: [16:05:32] I think that, as a matter of principle, knowing
24 the circumstances in which these interviews take place, the Defence will object, now
25 and for the future, every time we will see the name of that doctor.

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1 PRESIDING JUDGE KORNER: [16:05:47] Right. Okay. And as far as you're
2 concerned, Mr Edwards, I've seen what -- the specifics of what you object to.

3 MR EDWARDS: [16:05:57] Yes, yes, and in fact, and I'm grateful to my learned
4 friend that there was a response that came through just before -- in fact, just after --

5 PRESIDING JUDGE KORNER: [16:06:01] Yeah, we asked for that.

6 MR EDWARDS: [16:06:07] -- and I rather cheekily fired off a response, I don't know
7 if you've seen -- or a reply, rather --

8 PRESIDING JUDGE KORNER: [16:06:16] I did.

9 MR EDWARDS: [16:06:17] Yes. And I would respectfully invite your Honours to
10 consider the content of (Overlapping speakers)

11 PRESIDING JUDGE KORNER: [16:06:19] Well, we've got -- we'll have to consider
12 that. But I -- all right.

13 MR EDWARDS: [16:06:21] There's -- there's one thing which I raised in the initial
14 objection, which my learned friend hasn't dealt with in her response, but I -- I will
15 make the point that, lest it be suggested that these sort of interviews are useful for
16 bringing out other evidence or for amplifying -- no, sorry, let me start again, not
17 amplifying, but actually bringing out new evidence, that in and of itself would tend to
18 fall foul of paragraph 2 of the -- the Chamber's own victim protocol.

19 PRESIDING JUDGE KORNER: [16:07:06] I'm going to ask what's going on here, but
20 at the moment can I just confirm this: For neither 1073 or 1074 are you contesting
21 the rapes.

22 MR EDWARDS: [16:07:16] Not for a second.

23 PRESIDING JUDGE KORNER: [16:07:18] Right.

24 MR LAUCCI: [16:07:19] Same for 1073.

25 PRESIDING JUDGE KORNER: [16:07:21] Yeah, well, I gathered that, Mr Laucci,

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1 yeah.

2 Yeah, I don't -- all right.

3 Right, Mr Nicholls, I'll rule on this tomorrow morning, but can you explain to me why
4 this -- this doctor, or whatever she is, is allowed to ask all these questions as part of
5 the preparation.

6 MR NICHOLLS: [16:07:45] Well, if we could split that up, your Honour, Ms Simms
7 will respond re Witness 1074. But I have to say, first of all, I don't know what my
8 friend meant by any further interviews with this doctor. The doctor hasn't done
9 anything wrong here at all, in my submission, so I don't know what that meant.
10 There is a difference between 1073 and 1074 which is fairly significant, which is that
11 1073 is fully viva voce. So the description with -- in the past with our -- our friend's
12 agreement, which we respect, is that that part of the assault goes in on paper so that
13 the witness does not need to repeat it in the courtroom. If -- if this is objected to,
14 then we're going to have to lead the witness through all the details because
15 the statement isn't coming in.

16 1074 is a different category because that one is a 68(3), and I think we agree that much
17 of the information in the doctor's report and in the written statement is the same or
18 similar and that written statement is coming in. So it's a very different -- to suppress
19 this or not accept this for 1073.

20 PRESIDING JUDGE KORNER: [16:09:00] But why would you -- in the case of 1074,
21 1074, as you saw from the various reports and the special measures applied for, this
22 a traumatised woman and -- and you -- and you put her through a whole load of
23 questions from a forensic psychiatrist of some sort, or whatever she is.

24 MR NICHOLLS: [16:09:23] If I can, I'll ask Ms Simms who's prepared for 1074.

25 MR EDWARDS: [16:09:27] May -- may I add, because it compounds the problem via

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1 AVL over screen.

2 PRESIDING JUDGE KORNER: [16:09:33] Well, I mean -- I mean that -- that was
3 obviously a complete mess, I mean, there's no question about that, because she had to
4 go in the middle, I gather.

5 Anyhow, but I'm sorry, Ms Simms, at the moment I am not clear what the purpose is,
6 nor do I think, I have to say, that it is a good idea.

7 MS SIMMS: [16:09:51] Your Honours, I accept the views of the Chamber. If I may
8 offer some observations.

9 PRESIDING JUDGE KORNER: [16:09:59] Yeah.

10 MS SIMMS: [16:10:00] Firstly, your Honours, I would start with the fact that
11 the witness is a survivor of sexual violence.

12 PRESIDING JUDGE KORNER: [16:10:12] Quite.

13 MS SIMMS: [16:10:13] Secondly, her evidence is to be admitted via Rule 68(3). An
14 assessment, your Honours, had been made of the witness at different points, but one
15 of the factors that has been very obvious is that the witness wants an opportunity to
16 share her ordeal. And so, your Honour, consideration has been given as to how best
17 to accommodate this desire of the witness, and so it was thought prudent to rely on
18 a medical doctor who has the requisite bedside manner and, irrespective of the fact
19 that it was via AVL, was still able to cultivate warmth, trust and confidence with
20 the witness being able, your Honours, to fully detail in a very slow and clear way
21 what she suffered during the event.

22 Now, your Honours, if we look at the last response of Defence counsel, he essentially
23 makes the point that the engagement was of no substance. However, your Honours,
24 if you look at the very submission of counsel later in that last interview, he himself
25 accepts that some of the elements that has been extracted from the witness in relation

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1 to her being held by the neck almost to the point of unconsciousness, that he accepts
2 that that is an aggravating aspect of the rape.

3 Furthermore, your Honours, there are other details that have been extracted from
4 the witness in terms of it's not clear in the -- it's not in the witness statement that an
5 attempt was made by the perpetrator to put his penis in the mouth of the complainant
6 twice. It's also not reflected on the statement that during the process the witness
7 urinated on herself. Your Honours, I take the opportunity to remind the Court,
8 remind the Defence that we're not only dealing with a charge of rape, but they are
9 also counts 6 and 7 which relates to other inhumane acts and outrages upon
10 the personal dignity of the witnesses.

11 And if we look to the elements of the crime, in particular to outrages, it makes
12 the point that the cultural background of the survivor witness is an important
13 consideration as it relates to what amounts to degradation or humiliation. And so
14 the additional aspect of the urination -- the survivor urinating on herself, the repeated
15 attempts of the perpetrator placing his penis in her mouth, your Honours, would be
16 factors that the Court can consider in relation to counts 6 and 7.

17 Finally, your Honour, I make the point that the proceedings before the ICC is not
18 limited to the act of conviction, but after the Court makes a determination as to
19 conviction, the Court may have to consider the issue of reparations in relation to
20 the survivors and witnesses. And so, your Honours, the Court benefits from having
21 a full auditing or full information in relation to what each survivor, especially those
22 who suffered sexual violence, the harm and injury that they would have experienced
23 during the ordeal.

24 Your Honours, I of course am prepared to take responsibility in relation (Overlapping
25 speakers)

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1 PRESIDING JUDGE KORNER: [16:14:07] Well, can I say straight away, Ms Simms --

2 MS SIMMS: [16:14:08](Overlapping speakers)

3 PRESIDING JUDGE KORNER: [16:14:09] -- that the form which this particular
4 interview took with 1074, plus this woman, was, in my view, positively negligent,
5 a part interview over AVL on matters as intimate as this. But that's the first thing.
6 Second thing is this: You want to pull that whole interview in as an exhibit, don't
7 you, or as part of the statement?

8 MS SIMMS: [16:14:40] It's insofar, your Honours -- it is --

9 PRESIDING JUDGE KORNER: [16:14:43] Do you or don't you?

10 MS SIMMS: [16:14:46] We would, your Honours, but --

11 PRESIDING JUDGE KORNER: [16:14:48] Right. What is the effect, do you think,
12 going to be of that?

13 MS SIMMS: [16:14:52] Your Honours, of course we are reflecting on the entire
14 exchanges and so we anticipate the issue of duplication. However, given
15 the additional elements that are reflected in the annex, we would humbly ask
16 the Court for the annex to be admitted specific to the information that has been
17 elicited --

18 PRESIDING JUDGE KORNER: [16:15:16] What do you think will happen,
19 Ms Simms, if I allow you to do this? What do you expect will happen? Using your
20 experience.

21 MS SIMMS: [16:15:33] Your Honours, at this point I am in your hands and I will
22 (Overlapping speakers)

23 PRESIDING JUDGE KORNER: [16:15:38] The obvious thing that will happen is this,
24 isn't it, though there are no specific instructions that Mr Edwards has, obviously can't
25 have because it is not suggested that his client under the alias of Ali Kushayb,

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1 whatever, if that is him, carried out the rape himself, he has a duty, does he not, if
2 the witness has made inconsistent statements or added to it to cross-examine. Do
3 you want that to happen?

4 MS SIMMS: [16:16:16] Your Honours, I understand that observation.

5 PRESIDING JUDGE KORNER: [16:16:23] Right. Well, you think about this
6 overnight.

7 MS SIMMS: [16:16:26] Very well, your Honours.

8 PRESIDING JUDGE KORNER: [16:16:30] I will leave any ruling, Mr Edwards, till
9 we hear what Ms Simms has got to say tomorrow morning.

10 MR NICHOLLS: [16:16:37] And, your Honours, just if -- I can stop if you like. No, I
11 would just draw a bright line between 1073 and 1074, these are very different
12 situations. The fact that it happened to be the same doctor has no bearing on it.

13 PRESIDING JUDGE KORNER: [16:16:51] But it appears -- is this what you do, is this
14 what the office policy is in every case where there's a rape victim? Because if so, you
15 should think long and hard about this.

16 MR NICHOLLS: [16:17:01] Yes, your Honour, but it's similar to P-11, if I have
17 the number right, where we had a viva voce witness who was not going to have to go
18 through all of the details because, with the help of an expert, they were set forth in
19 writing and those were tendered rather than --

20 PRESIDING JUDGE KORNER: [16:17:21] I don't recall with P-11 there being this
21 woman doctor.

22 MR NICHOLLS: [16:17:25] Maybe I have the number --

23 PRESIDING JUDGE KORNER: [16:17:27] No, I don't think this -- the one who
24 testified in full, viva voce, no such document was there. Well, that any of us recall
25 anyhow.

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1 MR NICHOLLS: [16:17:42] I'll check that, your Honour, but my recollection is
2 different and I'll ensure that's right.

3 PRESIDING JUDGE KORNER: [16:17:48] Well, one way or another, with
4 the particular witness who requires all these special measures, to make her relive
5 the whole thing like that, in my view, was thoroughly misguided.
6 Yeah.

7 MR LAUCCI: [16:18:04] And if you allow me, Madam President, just to explain
8 the position. The position is that until the case, the unfortunate case of Witness
9 P-1074, we had no clue about the actual circumstances of these interviews and
10 especially that it was conducted by AVL through the other parts of the world. And
11 that is, in our view, totally inappropriate. That is a factor of serious retraumatisation
12 of the poor witnesses and that's the reason why we don't want to accept that, now
13 that we know.

14 PRESIDING JUDGE KORNER: [16:18:41] Yeah.

15 MR NICHOLLS: [16:18:41] Just to respond quickly. We could discuss that, but
16 AVL doesn't make it any more or less probative or useful or necessary. And
17 whether my friend agrees with that or not, going through it again on the stand is not
18 the remedy.

19 PRESIDING JUDGE KORNER: [16:18:57] No, well, I mean, as I say -- as I say, all
20 somewhat unfortunate. Right.

21 Very well. Right. And do I understand you've withdrawn yet another witness,
22 Mr Nicholls?

23 MR NICHOLLS: [16:19:13] Yes, that is correct, your Honour. I'm sorry about that,
24 it's regrettable, but P-0868 was prepped on Friday and Saturday by Mr Jeremy and
25 the unavoidable conclusion was that it was best to withdraw.

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1 PRESIDING JUDGE KORNER: [16:19:31] Right. So the last two witnesses are
2 10 -- for this period, you're saying, subject to you being able to get witnesses here for
3 the first week of December, will be those tomorrow?

4 MR NICHOLLS: [16:19:48] Yes, your Honour. And we're looking at two witnesses
5 now speaking with VWS and there's been some emails this morning. I spoke to
6 Mr Edwards about one of them that we're hopeful to bring that week, or even earlier
7 if we can, and I will follow up on this. They would both be AVL. I won't go into it
8 in open session. One there would be an objection, one there might not.

9 PRESIDING JUDGE KORNER: [16:20:20] So there's a possibility that one of them
10 might be called next week?

11 MR NICHOLLS: [16:20:25] I don't know. What I'm trying to do with VWS is have
12 them come as soon as possible. I don't think that's possible is my guess, I talked to
13 Mr Edwards about it, but we will call them as soon as we can. I think the
14 December 5 week is probably, in reality, the soonest that this can be set up. But,
15 again, we'll be talking to VWS, who are doing their utmost, after court, and I can
16 report back to you tomorrow.

17 PRESIDING JUDGE KORNER: [16:20:52] Yeah, all right.
18 Yes, very well.

19 Do you want to say something else, Mr Laucci?

20 MR LAUCCI: [16:20:58] Yes. It was just to say that we will wait for
21 the identification of the actual witness, the one I understand -- I understand that
22 the one that has been discussed will not be problematic, but of course depending on
23 which other witness you propose to call, that will be subject to feasibility to be ready
24 on time, of course.

25 MR NICHOLLS: [16:21:16] I'll discuss that with my friend right after court.

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- 1 PRESIDING JUDGE KORNER: [16:21:20] Yes, all right. Thank you.
- 2 (Microphone not activated)
- 3 THE COURT USHER: [16:21:26] All rise.
- 4 (The hearing ends in open session at 4.21 p.m.)