

Trial Hearing
WITNESS: DAR-OTP-P-0643

(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 Judge Althea Violet
7 Alexis-Windsor
8 Trial Hearing - Courtroom 2
9 Tuesday, 5 July 2022
10 (The hearing starts in open session at 9.31 a.m.)
11 THE COURT USHER: [9:31:04] All rise.
12 International Criminal Court is now in session.
13 Please be seated.
14 PRESIDING JUDGE KORNER: [9:31:21] Yes, good morning.
15 Can we have the case called, please.
16 THE COURT OFFICER: [9:31:29] Good morning, Madam President. Good
17 morning, your Honours.
18 This is the situation in Darfur, Sudan, in the case of The Prosecutor versus
19 Ali Muhammad Ali Abd-Al-Rahman, case reference ICC-02/05-01/20.
20 And for the record, we're in open session.
21 PRESIDING JUDGE KORNER: [9:31:51] Yeah. Appearances. We'll start with
22 the Defence this morning.
23 MR LAUCCI: [9:31:56] Good morning, Madam President, your Honours. In
24 addition to Mr Ali Muhammad Ali Abd-Al-Rahman this morning in the courtroom,
25 my colleague Mr Mohammad El Rahi, assistant in charge of the review of evidence;

Trial Hearing
WITNESS: DAR-OTP-P-0643

(Open Session)

ICC-02/05-01/20

1 Counsel Iain Edwards; and myself, Cyril Laucci.

2 PRESIDING JUDGE KORNER: [9:32:09] Yes, thank you, Mr Laucci. I'm glad to see
3 the mask has gone.

4 All right. Yes, representatives of the victims then next.

5 MR SHAH: [9:32:18] Yes. Good morning, Madam President. Good morning,
6 your Honours. Good morning to everyone in and around the courtroom.

7 The participating victims are represented today by my colleague Idriss Anbari, and
8 myself, Anand Shah, associate counsel. Thank you.

9 PRESIDING JUDGE KORNER: [9:32:32] Yes, thank you, Mr Shah.
10 Yes, and finally Prosecution.

11 MR NICHOLLS: [9:32:35] Good morning, Madam President. Good morning,
12 your Honours. Good morning, everyone. Today it's me, Julian Nicholls, with
13 Mr Jeremy, Ms Mazarella, Ms Sabatini, Ms Whitford and Mr Elkholy. Thank you.

14 PRESIDING JUDGE KORNER: [9:32:49] Yeah, a lot of you here this morning.

15 MR NICHOLLS: [9:32:53] Yes, I know.

16 PRESIDING JUDGE KORNER: [9:32:54] All right.

17 Before the witness comes in, first of all, I understand he has some medical problem
18 which may require extra breaks.

19 I don't know, Mr Jeremy, whether that's -- you know anything about that.

20 MR JEREMY: [9:33:09] No specific details, but I saw that recommendation as well.

21 PRESIDING JUDGE KORNER: [9:33:13] All right. Well, I think -- I think I'll simply
22 tell him, if he wants a break, to raise his hand.

23 MR JEREMY: [9:33:19] And I think that will be fine. We certainly were not -- were
24 having hour-and-a-half sessions during our witness prep.

25 PRESIDING JUDGE KORNER: [9:33:25] Right. Yes. Thank you.

Trial Hearing
WITNESS: DAR-OTP-P-0643

(Open Session)

ICC-02/05-01/20

1 We discussed the question of the cultural expert after court yesterday, and we have
2 concluded that we -- we rather regret not asking the last witness a few questions more
3 about cultural matters, but we think we can cover what we would like to know
4 through some of the upcoming witnesses. And if necessary, and I merely float this,
5 we may ask for the recall at the end of -- what was he called?

6 JUDGE ALEXIS-WINDSOR: Professor de Waal.

7 PRESIDING JUDGE KORNER: [9:33:58] Thank you. The --

8 JUDGE ALEXIS-WINDSOR: [9:34:02] Professor de Waal.

9 PRESIDING JUDGE KORNER: I still can't hear. Never mind. The chap who
10 testified first of all.

11 JUDGE ALEXIS-WINDSOR: [9:34:14] Professor de Waal.

12 MR NICHOLLS: [9:34:17] Alex de Waal.

13 PRESIDING JUDGE KORNER: [9:34:20] de Waal. Thank you. There are -- there
14 are times when my memory goes.

15 All right. As I say, but seeing the difficulties that both sides have encountered, we'll
16 say we don't require an expert.

17 Yes. Unless there's any other matters, the witness can come into court.

18 Can he read?

19 MR JEREMY: [9:34:43] Yes. Yes, Madam President.

20 PRESIDING JUDGE KORNER: [9:34:45] So he can take the oath --

21 MR JEREMY: Yes.

22 PRESIDING JUDGE KORNER: [9:34:45] -- and the declaration. Right.

23 MR JEREMY: [9:34:50] And just -- just while the witness is coming in, I anticipate
24 that the majority of the testimony will need to be in private session.

25 PRESIDING JUDGE KORNER: [9:35:06] Now we've got the interpretation problem

Trial Hearing
WITNESS: DAR-OTP-P-0643

(Open Session)

ICC-02/05-01/20

1 again.

2 (The witness enters the courtroom)

3 PRESIDING JUDGE KORNER: [9:35:54] Yes. Good morning, sir. Can you hear
4 and understand me?

5 I'll start again.

6 Sir, can you hear and understand what I'm saying to you? Could you say yes or no,
7 please.

8 WITNESS: DAR-OTP-P-0643

9 (The witness speaks Arabic)

10 THE WITNESS: [9:36:15](Interpretation) Yes, I can hear you very well.

11 PRESIDING JUDGE KORNER: [9:36:17] Thank you.

12 In a moment you will start giving evidence. Before you do start, you will be asked to
13 read the solemn declaration to tell the truth. There will be, as I've no doubt you've
14 been told - sorry - breaks during the course of your evidence. And if -- the breaks
15 this morning will be at 11 o'clock for half an hour, and then at 1 o'clock for one and
16 a half hours.

17 However, if you require any other breaks, then just raise your hand and the Court
18 will give you those extra breaks.

19 And finally this: It is very, very important during the course of any break, whether
20 it is a short break, or longer, or overnight, that you do not discuss the evidence that
21 you are giving with anybody else. Do you understand that?

22 THE WITNESS: [9:37:49](Interpretation) Yes, I do understand that.

23 PRESIDING JUDGE KORNER: [9:37:52] Yes. Thank you very much.

24 In which case I'll ask you to read the solemn declaration and then Mr Jeffreys will
25 begin his examination.

Trial Hearing
WITNESS: DAR-OTP-P-0643

(Open Session)

ICC-02/05-01/20

1 THE WITNESS: [9:38:24](Interpretation) I solemnly declare that I will tell the truth,
2 the whole truth and nothing but the truth.

3 PRESIDING JUDGE KORNER: [9:38:34] Yes. Mr Jeremy, with apologies, again.
4 Not a good morning.

5 MR JEREMY: [9:38:43] Thank you, Madam President.

6 QUESTIONED BY MR JEREMY:

7 Q. [9:38:48] Good morning, Mr Witness.

8 A. [9:38:51] Good morning.

9 Q. [9:38:52] Now, sir, we met during the witness preparation session. But, for the
10 record, my name is Edward Jeremy, and I'll be asking you questions on behalf of
11 the Prosecution today.

12 Just a reminder to you to speak slowly and clearly when you provide answers to my
13 questions. We must also leave a pause between my question and your answer, and I
14 must remember to leave a pause between your answer and my next question.

15 And as I mentioned during the witness preparation session, the Trial Chamber has
16 approved the use of protective measures for you in this case, including face distortion
17 and voice distortion.

18 Is that clear to you, sir?

19 A. [9:40:03] Yes, this is very clear to me.

20 Q. [9:40:07] Okay. Now, I'm going to start with some questions on your
21 background, which will require us to go into private session.

22 And, Madam President, with my -- yeah, apologies, I think a large proportion of this
23 witness's testimony will need to be in private session because most of the evidence he
24 is able to give arises by virtue of his position and would tend to identify him on that
25 basis.

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

1 PRESIDING JUDGE KORNER: [9:40:44] Yeah. I mean, we don't have an
2 overwhelming number of people in the public gallery. Is there anything that -- that
3 can be said in public session? I mean, if there isn't, then we may as well start and
4 stay in private session.

5 MR JEREMY: [9:41:04] There is -- there is something that we can do in public session,
6 but that will be towards the end of the examination at the end of the day, I anticipate.

7 PRESIDING JUDGE KORNER: [9:41:15] Yeah, all right. Well, then, so that nobody
8 wastes their time in the public gallery, we'll go into private session. And as anybody
9 has heard, it's unlikely that we'll be in public session until near the end of the day.
10 All right. Private session, please.

11 (Private session at 9.41 a.m.)

12 THE COURT OFFICER: [9:41:44] We're in private session, Madam President.

13 (Redacted)

14 (Redacted)

15 (Redacted)

16 (Redacted)

17 (Redacted)

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Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 3
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- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
- 2
- 3
- 4
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- 16
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- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
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- 18
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- 20
- 21
- 22
- 23
- 24
- 25

Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

- 1
- 2
- 3
- 4
- 5
- 6
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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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Page redacted – Private session

Trial Hearing
WITNESS: D AR-OTP-P-0643

(Private Session)

ICC-02/05-01/20

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