

In: KSC-CA-2023-02

Name: The Specialist Prosecutor v. Salih Mustafa

Before: A Panel of the Court of Appeals Chamber
Judge Michèle Picard, Presiding
Judge Kai Ambos
Judge Nina Jørgensen

Registrar: Dr. Fidelma Donlon

Date: 9 January 2024

Classification: PUBLIC

[POST SESSION - REDACTION ORDER]

The Presiding Judge of a Panel of the Court of Appeals Chamber FINDS that the following blacked out portion of the record contains confidential information and ORDERS this information shall be removed/ edited from the PUBLIC broadcast/streaming, audio visual recording and transcripts in all three languages *Albanian/ English/ Serbian*. Hearing of 26 October 2023, transcript reference Page 40 Line 11, (time code 14:53:18).

40:9	The Trial Panel fell short of the location of the place of	14:53:09
10	death, and there is no evidence that this victim was actually killed	14:53:13
11	at the compound. [REDACTED]. Nonetheless, the	14:53:18
12	Confirmed Indictment states that he was killed at the Zllash	14:53:24
13	detention compound.	14:53:28
14	The Trial Panel failed to address this issue. While the victim	14:53:31
15	might have been mistreated in the one place, he might have well been	14:53:38
16	killed in another location, and, for that matter, by anybody else.	14:53:41
17	Regarding the time and place of death. The Defence asserts that	14:53:44
18	the victim's time and place of death were not established. And,	14:53:48

Hearing of 26 October 2023, transcript reference Page 63 Line 9 to Page 63 Line 16 (time code:16:12:03-16:12:39) and Page 63 Line 18 to Page 63 Line 20 (time code:16:12:49 to 16:12:58).

Registry implementation: Yes No Feed Terminated Time From _____ to _____
AV: Name _____ Signature: _____ Time From _____ to _____

63:7	As we go through the issues in this appeal, we would do well not	16:11:50
8	to lose sight of the polite of the man who was denied the opportunity	16:11:58
9	to tell his story in this Court. That unhappy story began [REDACTED]	16:12:03
10	[REDACTED] April 1999. The murder victim was [REDACTED]	16:12:09
11	[REDACTED]	16:12:16
12	[REDACTED]	16:12:21
13	[REDACTED]	16:12:27
14	[REDACTED]	16:12:27
15	[REDACTED]	16:12:32
16	[REDACTED]. At the	16:12:39
17	Zllash detention compound, the murder victim was handed over to BIA	16:12:45
18	members under Salih Mustafa's command, and [REDACTED]	16:12:49
19	[REDACTED]	16:12:55
20	[REDACTED]	16:12:58
21	The murder victim's name, date, and place of birth were entered	16:13:00
22	into the list of prisoners. He was taken into a barn where he was	16:13:07
23	held in deplorable conditions described as unfit for humans. He	16:13:12
24	slept on damp muddy ground covered with hay and water. The air	16:13:21
25	smelled of livestock excrement. Days would go by without food being	16:13:27

Hearing of 26 October 2023, transcript reference Page 64 Line 24 (time code 16:15:26), and Page 65 Line 5 to Page 65 Line 6 (time code 16:16:02-16:16:09).

64:22	importantly the murder victim was denied the badly needed medical	16:15:21
23	care that could have saved his life.	16:15:24
24	On 19 April 1999, [REDACTED] after he was first taken	16:15:26
25	into Salih Mustafa's custody, the murder victim was in a	16:15:36
<hr/>		
65:1	near-to-death state. At that point, he was no longer able to stand	16:15:43
2	or walk. All the other prisoners were released at this time. Only	16:15:46
3	the murder victim and one other detainee, who were the most	16:15:54
4	mistreated detainees, remained in detention.	16:15:57
5	A few days later, Witness 4600 learned from a [REDACTED]	16:16:02
6	[REDACTED] that the murder victim was dead. The murder victim's body	16:16:09
7	was found later that year in July 1999 in a shallow grave some	16:16:15
8	distance from the Zllash detention compound. The body was already	16:16:25
9	decomposing and showed signs of serious injuries on the arms and legs	16:16:31
10	as well as bullet wounds on the torso.	16:16:35
11	These are the facts, Your Honours, and I would urge you not to	16:16:42

Hearing of 26 October 2023, transcript reference Page 89 Line 10 (time code: 17:11:47).

89:9	Witness 4600, just a few days after the Serb offensive, that is, well	17:11:42
10	before the end of April, was told by [REDACTED] that	17:11:47
11	the murder victim was dead, was dead at that point.	17:11:55
12	We say that the Trial Panel's finding on that is reasonable, and	17:12:00
13	certainly the standard of review has not been met in challenging that	17:12:08
14	finding.	17:12:12
15	In relation to the availability of medical treatment. The trial	17:12:13
16	judgment at paragraph 621, footnote 1346, established that medical	17:12:18
17	treatment was generally available at the Zllash detention compound	17:12:30
18	contrary to submissions made by Mr. von Bone.	17:12:34

ORDERS any person or organization, including media organizations, which has possession of the PUBLIC recording of all or the relevant portion of the proceeding containing the confidential information to refrain from disclosing it to any other person(s) or organization(s) as of the date and time this order is published; and **NOTING** that the failure to comply with this order may result in the initiation of proceedings in accordance with Article 15(2) of the Law.

Judge Michèle Picard
Presiding Judge

Registry implementation: Yes No Feed Terminated Time From _____ to _____
 AV: Name _____ Signature: _____ Time From _____ to _____