



COALITION FOR THE INTERNATIONAL CRIMINAL COURT  
ICC TRIAL SUMMARY

Reference: Ruto/Sang\_TCV(a)\_04/09/14

**Case Name:**  
Ruto and Sang

**Situation Country:**  
Kenya

**Chamber:**  
Trial Chamber V(a)

Date: 04/09/14

Type of Proceedings: Trial Proceedings

Parties and Participants Present:

- Judge: Chile Eboe-Osuji (presiding), Olga Herrera Carbuccia, Robert Fremr
- Office of the Prosecutor:  Anton Steynberg
- Defence of Mr. Ruto:  Karim Khan, Joseph Kipchumba Kigen-Katwa
- Defence of Mr. Sang:  Joseph Kipchumba Kigen-Katwa
- Accused Present:  Joshua Arap Sang, William Samoei Ruto
- Legal Representative of Victims:  Orchlou Naranrsetseg
- Legal Counsel of Witness 604: Gregory Mutai

### Oral Rulings

The Presiding Judge rendered a ruling on the Prosecution's request for protective measures. Granting the use of a pseudonym for the Witness, the use of voice and image distortion and that any self-identifying parts of the testimony to be held in private session.

### Morning Session

Witness Name/Number: P-0604  
Appearing For: Prosecution  
Protective Measures Provided:  The Witness testified via video-link  
Witness Details: Male

Examination/Proceedings: Examination-in-Chief Prosecution



## Testimony Details

### Prosecution Examination

The Witness confirmed that he had stayed in the rift valley, Tarbo, in 2007 and the time leading up to the 2007-2008 elections. He explained that the atmosphere between the PNU and ODM political supporters was characterized by high tensions. There was a negative attitude amongst the majority of the Kalenjin, supporting ODM, towards the minority of Kalenjin who supported the PNU.

The Witness was not able to give a specific account of Mr. Ruto's influence in the community but said that he was the unopposed candidate in the elections. He moreover said that he did not perceive any problems in the community before the elections but that he became aware of the tensions around the elections. The Witness provided one example of tensions, referring to a PNU rally held on a primary school ground where some confrontations occurred between ODM and PNU supporters. The ODM supporters tore down posters of the PNU candidate from the walls. The Witness said it was because the ODM supporters didn't think that the PNU meeting should take place. The police eventually came and calmed people down, but the Witness was not aware of any other violence going on. He furthermore said that he never attended any ODM rallies in person.

The Witness said that he never attended any occasions where Mr. Ruto was speaking in public or witnessed any confrontations leading up to the elections or after. He however said that he was aware of the violence from hearing his neighbors talking about it.

*The morning session adjourned in private session.*

## Afternoon Session

Witness Name/Number: P-0604

Appearing For: Prosecution

Protective Measures Provided:  The Witness testified via video-link

Witness Details: Male

Examination/Proceedings: Examination-in-Chief Prosecution



### **Testimony Details**

*The Afternoon session proceeded with a ruling held in private session.*

#### **Prosecution Examination**

The Witness provided insight on the truthfulness of his diary entries, saying he had met with investigators who told him they should write the entries together. He explained that the investigators from the Prosecution were aware that some of the information was true and some of it was false. The Witness said that the reason for making false entries was to concur with previous statements made by him.

The Witness explained that he had been approached by a woman in April 2013 who said she needed more people testify against William Ruto, claiming that it was good for the Witness to join even if some parts of the testimony would be false. She said that the ICC would provide money privileges, including free education at good schools for his children and a comfortable living in a country of his choice. He found this offer very attractive as he had a small income and therefore decided to give false testimony, but also because he felt hatred towards Ruto.

The Witness said that he was aware that the Victims and Witness Unit (VWU) who met up with him multiple times was not a part of the Prosecution and that he had never informed them that some statements were false. He decided to draw up the affidavit 11 August with his lawyer, Mr. Gregory Mutai, because he knew that the statements he had previously given were false and wanted to tell the truth.

### **Submission Details**

#### **The Prosecution**

The Prosecution applied for witness P-0604 to be declared hostile. Senior trial lawyer Anton Steynberg submitted that the witness not only had to be summoned to court to testify, but he had also recanted his previous statements and made very serious allegations against the prosecution staff. The Prosecution submitted that all of these reasons combined should be enough to declare the witness hostile and allow for cross-examination with closed and leading questions.

#### **The Defence for Mr. Ruto**

The Defence for Mr. Ruto, Mr. Karim Khan, opposed the application. He submitted that the application was poorly founded in law and that the Prosecution had failed to ask enough questions in order to declare the witness hostile. He moreover referred to “lazy prosecution” as the motivation behind the application and that the Prosecution hadn’t even attempted to enlighten the chamber of which parts of the statements were true and not.

*Mr. Sang’s defence will submit the next morning.*



Next Hearing Date: 05/09/14

Private/Closed Sessions: 2.5h

### Summary

The Chamber rendered a ruling, granting the use of protective measures during the testimony of Witness P-0604.

The examination in chief by the Prosecution of Witness P-0604 continued. The Witness provided insight on the false testimonies given by him prior to the submission of his affidavit 11 August. The witness said that a woman from the Prosecution had bribed him to submit a false testimony against Mr. Ruto and that the representatives who submitted his diary entries knew that some of them were false.

The Prosecution applied to have Witness P-0604 declared hostile by the Chamber, to allow for cross-examination and the use of leading and closed questions.