

**THE SPECIAL COURT FOR SIERRA LEONE****BEFORE:**

**Hon. Justice Bankole Thompson, Presiding**  
**Hon. Justice Pierre Boutet**  
**Hon. Justice Benjamin Itoe**

**Registrar: Mr. Lovemore Green Munlo, SC**

**Date filed: 26<sup>th</sup> June 2006**

**The Prosecutor**

**-v-**

**Issa Hassan Sesay**

**Case No: SCSL – 04 – 15 – T**

**Public**

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**SESAY DEFENCE RESPONSE TO “PROSECUTION MOTION FOR JUDICIAL NOTICE” OF SIGNIFICANT DAYS OF THE ISLAMIC CALENDAR**

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**Office of the Prosecutor**

Desmond De Silva QC  
 Christopher Staker  
 James C Johnson  
 Peter Harrison

**Defence**

Wayne Jordash  
 Sareta Ashraph  
 Jared Kneitel

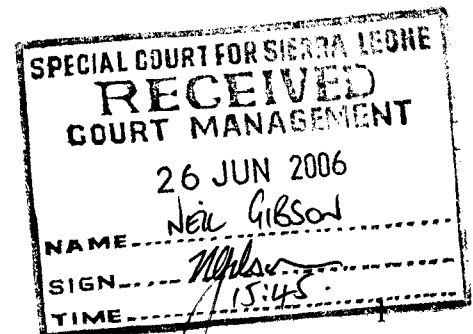
**Defence Counsel for Kallon**

Mr. Shekou Touray, Mr. Charles Taku and Mr. Melron Nichol-Wilson

**Defence Counsel for Gbao**

Mr. Andreas O’Shea and Mr. John Cammegh

*Prosecutor v. Sesay, Kallon & Gbao, SCSL-04-15*



## INTRODUCTION

1. On 15<sup>th</sup> June 2006, the Prosecution applied for judicial notice to be taken with respect to the following significant days of the Islamic Calendar for the years 1997 to 2000 inclusive: Commencement of Ramadhaan, Eid-ul-Fitr, Day of Hajj, Eid-ul-Adha, Muharram, Day of Aa'shura, Birth of Prophet Muhammad, Lailatul Me'raj (Eve), and Lailatul Baraat (Eve).<sup>1</sup>
2. The Prosecution has appended Islamic Calendars for the years 1997 to 2000 with assumed dates for the aforementioned holidays based on lunar calculations by the South African organization Jamiatul Ulama (Council of Muslim Theologians) of when the moon was going to be sighted in South Africa.
3. The Defence on behalf of Issa Sesay (the 'Defence') objects to the Prosecution's Motion.

## SUBMISSIONS

4. Paragraph 11 of the Prosecution Motion reads:

Several witnesses who have testified in the trial are Muslim. They are obviously more familiar with significant dates from the Islamic calendar and have referred to significant dates from the Islamic calendar, such as Ramadhaan, during their testimony. The dates of the Islamic calendar are facts of common knowledge and they are relevant to the present proceedings as witnesses used such dates in their testimony to indicate the timeframe of the alleged offences.

### Relevance

5. The Defence notes that the Prosecution in its Motion failed to specify (i) which witnesses used the Islamic calendar as a reference point in their testimony and (ii) the dates or time periods in the Islamic Calendar to which witnesses testified apart from Ramadhaan.<sup>2</sup>

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<sup>1</sup> *Prosecutor v. Sesay et al.*, SCSL-04-15-T, "Public Prosecution Motion for Judicial Notice," 15 June 2006 (23905-23920) (hereinafter "Prosecution's Motion" or "Motion").

<sup>2</sup> *Id.*

6. The Defence is only aware of one specific reference to the Islamic Calendar testified to by a Prosecution witness. That reference is to witness TF1-172 and Ramadhaan<sup>3</sup>. This reference to Ramadhaan, however, is to the month of Ramadhaan and not the Commencement of Ramadhaan or Eid-ul-Fitr (the marking of the end of the month of Ramadhaan).
7. TF1-172 is a crime base witness from Seraduya, Koinadugu who suffers an amputation of his right hand in 1998 during “the planting time”<sup>4</sup>. He testified that he was taken to Freetown by helicopter, remained in Connaught hospital for 12 days<sup>5</sup> before being placed in the Waterloo amputee camp for 8 months.<sup>6</sup> The reference to Ramadhaan refers to the witness being driven from the Waterloo camp by rebels after 8 months. The testimony reads: “What happened in that camp? We were there during the month of Ramadan. The rebels came again and drove us...”<sup>7</sup>
8. Rule 89(C) of Rules states: “A Chamber may admit any relevant evidence.”
9. Rule 94(B) states: “At the request of a party or of its own motion, a Chamber, after hearing the parties, may decide to take judicial notice of adjudicated facts or documentary evidence from other proceedings of the Special Court relating to the matter at issue in proceedings.”
10. The Defence submits that the dates of the Islamic calendar sought to be admitted under Rule 94 are not relevant to the case against the Accused as no witness has used the Islamic calendar “to indicate the timeframe of alleged offences.” For the same reason, the Defence submits the information the Prosecution seeks to have judicially noticed does not relate to the matter at issue in the proceedings, as demanded by Rule 94 (B).

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<sup>3</sup> Line 19-20, page 31, Transcript of 17<sup>th</sup> May 2005, Prosecutor v. Sesay et al.

<sup>4</sup> Line 24, page 8 – line 13, page 9, Transcript of 17<sup>th</sup> May 2005, Prosecutor v. Sesay et al.

<sup>5</sup> Lines 23-24, page 30, Transcript of 17<sup>th</sup> May 2005, Prosecutor v. Sesay et al.

<sup>6</sup> Lines 6-7, page 31, Transcript of 17<sup>th</sup> May 2005, Prosecutor v. Sesay et al.

<sup>7</sup> Above at footnote 3.

**'Facts of Common Knowledge'**

11. Rule 94(A) is set out in paragraph 5 of the Prosecution Motion. The Defence agrees with the definitions of 'facts of common knowledge' as set out of paragraphs 7-9 of the Prosecution Motion.
12. It is the position of the Defence, however, that the dates of the Islamic calendar sought to be judicially noticed are indeed subject to reasonable dispute and cannot be properly described as "notorious or clearly established."
13. The dates of the Islamic Calendar the Prosecution would like to have judicially noticed are from "Significant Days of the Islamic Calendar for 1997" and Significant Days and Nights of the Islamic Calendar for South Africa 1998 to 2007" (Prosecution's Motion; Appendix A), calendars from the Jamiatul Ulama (Council of Muslim Theologians) - an organization that serves the Islamic community in South Africa, particularly in the KwaZulu-Natal region. Defence Counsel submits that the Prosecution has made no showing that the Islamic community in Sierra Leone would observe the Jamiatul Ulama calendar nor is there any suggestion in Appendix A of the Prosecution Motion that the Islamic community in Sierra Leone would observe the calendar.
14. Significant dates in the Islamic calendar are determined by reference to the phases of the moon, with the start of months being marked by the lunar crescent after a new moon. The determination of the phase of the moon (and therefore the calendar dates) dependent on the location of the observer and environmental factors such as the weather, as some Islamic communities require actual sighting of the moon. It is indisputable that the lunar crescents are sighted at different times in different parts of the world, especially when great distances separate those different parts of the world as is the case between South Africa and Sierra Leone.
15. Moreover, the Jamiatul Ulama calendar shows *prospective* dates in the Islamic Calendar based on *anticipated* sightings of the lunar crescent. The "Significant Days

of the Islamic Calendar for 1997” calendar was last modified in November 30, 1996 and there is a disclaimer that “Note: All dates are computed on the basis of ‘expected visibility’ of the moon and are subject to change depending on actual sighting.”<sup>8</sup> Similarly, the “Significant Days and Nights of the Islamic Calendar for South Africa 1998 to 2007” calendars were last modified June 07, 1997 and the disclaimer again follows.<sup>9</sup>

16. Simply put, there is no showing or suggestion that the calendars in Appendix A are indeed accurate nor is there any showing or suggestion that they would be observed by the Islamic community in Sierra Leone. The Defence does not accept that the dates in these calendars are “so notorious or clearly established”<sup>10</sup> that they “are not subject to reasonable dispute.”<sup>11</sup>

## CONCLUSION

17. The Prosecution’s Motion makes no specific showing of witnesses that have testified to the Islamic Calendar or specific dates in the Islamic Calendar. The Defence has found no witness which uses the relevant dates of the Islamic calendar as a time frame for the commission of alleged offences save for TF-172 who mentions the month of Ramadhaan. Consequently, the Prosecution has not established that it is relevant to the proceedings to have the Islamic Calendar judicially noticed.
18. Additionally, the “facts” stated in Appendix B are from calendars of prospective dates based on anticipated moon sightings in South Africa. There is no showing that the Islamic community in Sierra Leone would observe the start of new months or

<sup>8</sup> Prosecution’s Motion, Appendix A (23912).

<sup>9</sup> Prosecution’s Motion, Appendix A (21918).


<sup>10</sup> *Prosecutor v. Semanza*, ICTR-27-97-20-I, “Decision on the Prosecutor’s Motion for Judicial Notice and Presumption of facts Pursuant to 94 and 54,” 3 November 2000 (hereinafter “*Semanza Decision on Judicial Notice*”), para. 23; *Prosecutor v. Sam Hinga Norman et al.*, SCSL-04-14-T-398, “Fofana – Decision on Appeal Against ‘Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence,’” 16 May 2005 (hereinafter “*Fofana Appeal Decision on Judicial Notice*”), para. 21.

<sup>11</sup> *Semanza Decision on Judicial Notice*, paras. 24 and 25; *Fofana Appeal Decision on Judicial Notice*, para. 36; *Prosecutor v. Blagoje Simic et al.*, Case No. IT-95-9-PT, “Decision on Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina,” 25 March 1999, para. 5.

significant days based on those sightings in South Africa. Furthermore, the relevant dates are from calendars of prospective dates based on anticipated moon sightings in South Africa. There is no showing that these moon sightings did actually occur.

19. The Defence requests that the Trial Chamber dismiss the Prosecution Motion.

Dated 26<sup>th</sup> June 2006



Wayne Jordash  
Sareta Ashraph  
Jared Kneitel

### Book of Authorities

*Prosecutor v. Semanza*, ICTR-27-97-20-I, “Decision on the Prosecutor’s Motion for Judicial Notice and Presumption of facts Pursuant to 94 and 54,” 3 November 2000.

*Prosecutor v. Sam Hinga Norman et al.*, SCSL-04-14-T-398, “Fofana – Decision on Appeal Against ‘Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence,’” 16 May 2005.

*Prosecutor v. Blagoje Simic et al.*, Case No. IT-95-9-PT, “Decision on Pre-trial Motion by the Prosecution Requesting the Trial Chamber to take Judicial Notice of the International Character of the Conflict in Bosnia-Herzegovina,” 25 March 1999.

*Prosecutor v. Sesay et al.*, SCSL-04-15-T, “Public Prosecution Motion for Judicial Notice,” 15 June 2006 (23905-23920).

### Annexes

- A Pages 8-9, Transcript of 17<sup>th</sup> May 2005, *Prosecutor v. Sesay et al*, SCSL-04-15
- B Pages 30-31, Transcript of 17<sup>th</sup> May 2005, *Prosecutor v. Sesay et al*, SCSL-04-15

# Annex A



1 A. 1980.

2 Q. Can you tell us what season it was, Mr Witness.

3 PRESIDING JUDGE: 19 what?

4 THE WITNESS: It was during the rains.

10:28:20 5 PRESIDING JUDGE: 19 what? 80? Did I hear him say 1980?

6 THE WITNESS: Yes.

7 MS PARMAR:

8 Q. Mr Witness, do you remember who was in power in the  
9 Government of Sierra Leone during this year?

10:29:02 10 A. Yes.

11 Q. Who was the president of Sierra Leone?

12 A. Tejan Kabbah.

13 Q. Do you remember at what time in the season, whether it was  
14 the beginning, middle, or end that this happened in Seraduya  
10:29:41 15 town?

16 A. Yes. It happened during the planting time. Okay, the  
17 brushing time, to be specific.

18 Q. You've told this Court that Tejan Kabbah was the president  
19 of Sierra Leone. Had anything happened to the government of  
10:30:31 20 Tejan Kabbah?

21 A. No.

22 Q. Did you ever see the rebels again?

23 A. I saw them after that.

24 Q. What happened when you saw them again?

10:31:32 25 A. When I saw them at that time, we had finished brushing,  
26 when it was time for us to start planting.

27 Q. Please continue.

28 A. Okay. We had all started up. I didn't go to my farm on  
29 that day. I went to another farm. I came across them on my way.

1 When we went into their midst, they captured us.

2 Q. Who captured you, Mr witness?

3 A. The rebels.

4 Q. How far were you from Seraduya?

10:33:43 5 A. It was half a mile.

6 Q. Who were you with at this time?

7 A. My companions, about five or six of us.

8 Q. What was the year at this time?

9 A. Yes.

10:34:32 10 Q. Can you tell us what the year was?

11 A. Yes.

12 Q. What was the year?

13 A. That same year. That same year, 1998.

14 Q. How many rebels captured you?

10:35:12 15 A. Twelve of them. Twelve of them caught me.

16 Q. What were they wearing?

17 A. They wore combat fatigues.

18 Q. Please tell Court what happened when you were captured.

19 A. When I was captured, including the 12 people, I was tied  
10:36:10 20 up. The dagger that they had, they used it to penetrate my chest  
21 three times. But God didn't allow that dagger to enter into my  
22 body.

23 Q. Please continue.

24 A. Okay. When this was used and it couldn't go into my body,  
10:37:18 25 then they told me that I have proven to them that I am a man,  
26 that I am a Kamajor. Then I said, "No, I am not a Kamajor."  
27 Then they said, "You're a Tamaboro." And I said, "No, I'm not a  
28 Tamaboro." That's when they caught me and tied me up. They tied  
29 me at my back. They knock my two shoulders so they went at the

Annex B

1 kulanko; from kulanko you went to solia; from solia you travelled  
2 to foria; and then from foria you reached alikalia?

3 A. No, solia, yanwulia.

4 Q. Sorry, yanwulia?

11:50:12 5 A. Yes.

6 Q. Tell us, how long did you stay at alikalia?

7 A. Yes.

8 Q. For how long were you there?

9 A. I spent five days. On the sixth day --

11:50:42 10 Q. Please continue what happened on the sixth day.

11 A. On the sixth day the helicopter arrived. They chopped off  
12 our hands. Nine days we didn't receive any medicine; our hands  
13 started going bad. That's when they sent a helicopter for us.  
14 The helicopter brought us here. That was on Thursday.

11:51:22 15 Q. who had sent the helicopter?

16 A. Well, it came from here, Freetown. You know, as a farmer,  
17 we didn't know anything about helicopters.

18 Q. Did you know who was flying the helicopter?

19 A. At that time, I couldn't discern anything. I was  
11:51:53 20 unconscious.

21 Q. where did you go when you reached Freetown?

22 A. Connaught.

23 Q. How long did you stay at Connaught?

24 A. Twelve days.

11:52:16 25 Q. Did you see others who were being treated at Connaught?

26 A. Day in, day out they would bring people.

27 Q. what had happened to those people who were brought to  
28 Connaught?

29 A. Most of them had the same problem like I had. They said

1 their hands were chopped off by rebels and I said, "Me, too."

2 Q. Where did you go from Connaught?

3 A. I was sent to Waterloo.

4 Q. How long did you stay at the camp in Waterloo?

11:53:35 5 A. Say, "How many months did you spend there?"

6 Q. How many months did you spend at Waterloo?

7 A. Ah-ha. I spent eight months there.

8 PRESIDING JUDGE: In Waterloo?

9 THE WITNESS: Yes, Waterloo camp. That's where we were.

11:54:08 10 MS PARMAR:

11 Q. Who else stayed at the camp in Waterloo?

12 A. We were there.

13 Q. Who were "we"?

14 A. Amputees, war-wounded.

11:54:51 15 Q. Did anything happen in the camp at Waterloo after eight  
16 months?

17 A. Very well.

18 Q. What happened at the camp?

19 A. What happened in that camp? We were there during the month  
11:55:21 20 of Ramadan. The rebels came again and they drove us -- it was  
21 the rebels who drove us out of there.

22 Q. Mr witness, thank you very much.

23 MS PARMAR: Your Honours, those are all the questions the  
24 Prosecution has for this witness.

11:56:27 25 THE WITNESS: Okay. I'm listening to you.

26 PRESIDING JUDGE: Learned counsel, we'll rise for five  
27 minutes.

28 [Break taken at 11.55 a.m.]

29 [HS170505C 12.05 p.m. - AD]

1 [On resuming at 12.10 p.m.]

2 PRESIDING JUDGE: We are resuming the session, learned  
3 counsel. Mr Jordash, you may proceed with cross-examination of  
4 the witness please.

12:14:06 5 CROSS-EXAMINED BY MR JORDASH :

6 MR JORDASH: Thank you. Good afternoon, Mr witness.

7 Q. I would like to ask a few questions.

8 A. Yes.

9 PRESIDING JUDGE: Mr Jordash, just explain to him briefly.

12:14:25 10 He doesn't appear to be paying attention. I hope he is listening  
11 to you.

12 MR JORDASH:

13 Q. Can you hear me, Mr witness?

14 A. Very well.

12:14:41 15 PRESIDING JUDGE: Okay.

16 MR JORDASH:

17 Q. I would just like to ask you a few questions. So you  
18 understand, Mr witness, I am not seeking to --

19 A. Yes.

12:14:53 20 Q. -- I am not seeking to challenge anything you have said. I  
21 would simply like to ask a few details about what you have said.  
22 Do you follow me?

23 A. Yes.

24 Q. when the rebels first came to Seraduya it was 1998.

12:15:35 25 A. Yes.

26 Q. And it was the dry season, almost entering the rainy  
27 season?

28 A. Yes. That was close to the rainy season.

29 Q. And is it right that you ran away to the bush?

1 A. Very well.

2 Q. And did you stay in the bush for several months?

3 A. Four months.

4 Q. And the attack in which you had your hand chopped off

12:17:07 5 occurred after that four months?

6 A. No. We were there and when we heard about them we ran  
7 away.

8 Q. When you were hiding in the bush?

9 A. Yes. We were hiding in the bush.

12:17:56 10 Q. How long did you hide in the bush before you met the rebels  
11 who cut off your hand?

12 A. Okay, we were in the bush; we were brushing our farm when  
13 we were in the bush. We cut down sticks when we were in the bush  
14 and when they came running we left the town.

12:18:35 15 Q. Do you know how many months had passed from the time you  
16 saw the first rebels to the time you met the rebels who cut off  
17 your hand?

18 A. Yes. We ran away when the rice was being harvested, and  
19 when they started harvesting, up to the time they finished, we  
12:19:31 20 were on the run. We were still running away in the bush.

21 Q. Had the rainy season come and gone, or was it still the  
22 rainy season of 1998 when you met?

23 A. No, the time that they chopped off our hands --

24 Q. Yes, had the rainy season come and gone or --

12:20:04 25 A. No.

26 Q. Was it, do you know, the middle, the beginning or the end?

27 A. It was close to the ending of the rainy season.

28 Q. Thank you, Mr witness. I have nothing further.

29 A. Okay.

1 JUDGE THOMPSON: Mr Touray, your turn.

2 CROSS-EXAMINED BY MR TOURAY :

3 MR TOURAY: Okay.

4 Q. Good afternoon, Mr witness.

12:21:15 5 A. Okay.

6 Q. Now, these so-called rebels you met, could you tell us how  
7 many of them, roughly?

8 A. There were more than 50 -- 500, sorry.

9 Q. 500. How many rebels were involved in the chopping off of  
12:22:01 10 your hand?

11 A. There were many; they surrounded us.

12 Q. Did all of them take part in the cutting off of your hand?

13 A. No, one person.

14 Q. Only one person.

12:22:38 15 A. It was one person who chopped off our hands. There was a  
16 person who chopped off people's hands. They called him Cutty  
17 Hand.

18 Q. And you heard them mention a Captain Blood; not so?

19 A. Yes.

12:23:12 20 PRESIDING JUDGE: what?

21 MR TOURAY: He heard them mention Captain Blood, somebody  
22 called Captain Blood.

23 JUDGE BOUTET: You are asking him if he has heard that?

24 MR TOURAY: Yes.

12:23:24 25 THE WITNESS: Yes, I heard that. I heard another name  
26 [inaudible].

27 THE INTERPRETER: Can he say that other name? It is not  
28 audible.

29 MR TOURAY:



1 Q. What was the other name you heard? Was it Killer?  
2 A. Yes, Killer.  
3 Q. And you also heard the name Cut Hand?  
4 JUDGE BOUTET: What is the name again, Mr Touray?  
12:24:00 5 MR TOURAY: The other one was Killer. I am suggesting Cut  
6 Hand.  
7 JUDGE BOUTET: Cut Hand?  
8 MR TOURAY: Yes.  
9 PRESIDING JUDGE: He said Cutty Hand.  
12:24:13 10 MR TOURAY: Yes.  
11 THE WITNESS: Yes.  
12 Q. And many of these people you saw wore combats?  
13 A. Well, those whom I saw, they were all wearing combats.  
14 What I saw -- those whom I saw them carrying were civilians.  
12:24:41 15 Q. No further questions.  
16 A. Yes.  
17 JUDGE THOMPSON: Mr Cammegh, your witness.  
18 MR CAMMEGH: I have no questions.  
19 JUDGE THOMPSON: Thanks.  
12:25:19 20 THE WITNESS: Okay.  
21 JUDGE THOMPSON: Miss Parmar, re-examination?  
22 MS PARMAR: No, Your Honours, there will be no  
23 re-examination.  
24 JUDGE THOMPSON: Thanks.  
12:25:33 25 PRESIDING JUDGE: Okay, Mr Witness.  
26 THE WITNESS: Yes.  
27 PRESIDING JUDGE: We have finished with you. We would like  
28 to thank you for coming before this Court to testify on the  
29 matters which are within your personal knowledge --

1 THE WITNESS: Indeed. what happened is what I talked  
2 about.

3 PRESIDING JUDGE: -- in relation to the events you brought  
4 to our attention here. We thank you very much and we will be  
12:26:40 5 releasing you now. But necessity may arise for us to have you  
6 here again some time. That is not the case now, but it could  
7 well arise.

8 THE WITNESS: Okay.

9 PRESIDING JUDGE: We are sure that you will be able to come  
12:27:00 10 if we do request you to do so. Once again, thank you. We wish  
11 you a safe journey to your place of abode.

12 THE WITNESS: I will thank you too. Like you are here now,  
13 you are the type of people who weren't amongst us. If we have  
14 such people amongst us in the country, that country would have  
12:27:39 15 peace. I know if you people were here I am not sure if they  
16 would have chopped off my hand. But you know, we the people who  
17 are here are each other's keeper. Those who chopped off my hand,  
18 there was no white man among them; there was no other nation  
19 among them -- there was no Liberian, there was no Monrovia,  
12:28:16 20 there was no Guinean. They were Sierra Leoneans. I am thanking  
21 you too, and may the Good Lord bless you.

22 PRESIDING JUDGE: Thank you, Mr Witness. Have a safe  
23 journey home.

24 THE WITNESS: Amen.

12:28:44 25 PRESIDING JUDGE: We wish you and your family the very  
26 best. Okay?

27 THE WITNESS: Amen.

28 PRESIDING JUDGE: Before we do some housekeeping,  
29 Mr Harrison, we are asking ourselves whether we have a witness as

1 short as this.

2 MR HARRISON: The answer is no. And, in fact, the answer  
3 goes on a bit longer than that.

4 PRESIDING JUDGE: Oh.

12:30:06 5 MR HARRISON: The witness I indicated would be present and  
6 the backup witness was TF1-212, and that was by virtue of the  
7 agreement that was reached with counsel yesterday afternoon after  
8 the Court had recessed. I met that witness this morning and I  
9 had to release her because her child is quite ill. So I in fact  
12:30:28 10 told her this morning to attend to the ill child, who I  
11 understand is getting medical attention as we speak. I am not  
12 sure of the severity of that illness. There is certainly a  
13 possibility that during the lunch break I may learn some more  
14 information and I may be able to arrange for her to come back  
12:30:52 15 later this afternoon. But the short answer to the question is,  
16 no, it is not as short as this witness. But whether or not it  
17 would take more than two hours to complete the direct exam -- I  
18 think it could be under two hours; 90 minutes to two hours for  
19 the direct examination.

12:31:06 20 PRESIDING JUDGE: And the witness will be testifying in  
21 what language?

22 MR HARRISON: Krio.

23 PRESIDING JUDGE: Krio.

24 MR HARRISON: But I would have to make inquiries over the  
12:31:16 25 lunch break to determine if it is in fact possible to arrange for  
26 the witness to be separated from her child and attend.

27 PRESIDING JUDGE: Okay. Because of this, we will give you  
28 ample time from now until about 3.00 p.m. to be able to see  
29 whether the witness whose child is ill could be available. If

1 that is the case we will take the witness at 3.00 p.m. or some  
2 time thereafter. We should be able to be done with the direct  
3 and also start the cross-examination and get somewhere before  
4 tomorrow, so that we round up at around 12.00 p.m. tomorrow or a  
12:32:17 5 bit thereafter.

6 MR HARRISON: I am not sure if you want any guidance from  
7 Defence counsel as to how long they anticipate being with that  
8 particular witness.

9 PRESIDING JUDGE: No, we cannot. It will depend on -- we  
12:32:28 10 don't want to push them too far. Once you can be done in two  
11 hours, then they can start their cross-examination some time this  
12 afternoon. Depending on whether you are able to get her, we will  
13 come back here and see what the situation is. It is then that we  
14 shall determine whether we should go on with any witness at all  
12:33:00 15 or whether we should close the session and reconvene during the  
16 next session for this trial. So, learned counsel, we would be  
17 breaking for lunch and we will be back here by 3.00 p.m., during  
18 which time we will continue with the housekeeping and see how we  
19 proceed at that time. Thank you.

12:33:34 20 [Luncheon recess taken at 12.32 p.m.]

21 [HS170505D 3.20 p.m. - AD]

22 [On resuming at 3.20 p.m.]

23 PRESIDING JUDGE: Good afternoon, learned counsel. We are  
24 resuming the session. Yes, Mr Harrison, the housekeeping  
15:22:36 25 continues.

26 THE INTERPRETER: Your Honour's mic is not on.

27 PRESIDING JUDGE: It is on; it is right on here. You are  
28 accusing the judge falsely. I know I have the habit of not  
29 putting it on, but it is right on here now. Are you hearing me,

1 Mr Interpreter?

2 THE INTERPRETER: [Microphone not activated]

3 PRESIDING JUDGE: There must be a technical problem.

4 JUDGE THOMPSON: [Microphone not activated]

15:23:06 5 MR CAMMEGH: Your Honour's mic isn't on.

6 JUDGE THOMPSON: I was just saying I do not know whether  
7 you have any pragmatic solutions for us at this stage.

8 MR CAMMEGH: Having the microphone on would have helped.

9 MR HARRISON: Perhaps I will just proceed and if I am not  
15:23:25 10 being heard the interpretation unit can let me know if there is  
11 some error with my microphone as well.

12 PRESIDING JUDGE: It is like I am doing a press  
13 conference -- I have two today.

14 MR HARRISON: Where we are standing at the present time is  
15:23:40 15 that I did arrange for the witness to come so that I could speak  
16 to the witness myself. It is witness TF1-212.

17 PRESIDING JUDGE: Yes.

18 MR HARRISON: I have spoken to that witness and the  
19 circumstances are that the child of that witness -- it is a young  
15:24:01 20 child, a child that is too young to go to school -- was ill as of  
21 last night. The child did receive some medical treatment this  
22 morning and there is some hope that that medical treatment will  
23 be successful and resolve whatever the outstanding problems are.  
24 But the witness's clear preference as expressed to me was that  
15:24:20 25 she be permitted to go and be with the child forthwith. I am  
26 asking the Court to accept that as some guidance from the  
27 witness. The Prosecution concurs that if it is a young child  
28 involved then it is the Prosecution's view that the parent ought  
29 to be with the young child.

1 PRESIDING JUDGE: The Defence please.

2 MR JORDASH: These things happen and I think the  
3 Prosecution stance is a reasonable one.

4 PRESIDING JUDGE: I am sure Messrs Touray and Cammegh  
15:24:59 5 concur with Mr Jordash.

6 MR TOURAY: Indeed, Your Honour.

7 PRESIDING JUDGE: And with Mr Harrison, of course.

8 MR CAMMEGH: Yes.

9 MR HARRISON: The other part of the information that I feel  
15:25:11 10 obliged to inform you of is that there certainly are other  
11 witnesses that the Prosecution could call, but the frank report  
12 that we would make is that we don't think there is any reasonable  
13 possibility that any of those witnesses would complete in their  
14 entirety prior to one o'clock tomorrow. Certainly, the direct  
15:25:31 15 evidence would complete, but I very much doubt that their  
16 evidence in its entirety would be finished.

17 [Trial Chamber confers]

18 PRESIDING JUDGE: well, I think we share the submissions  
19 and the concerns of Mr Harrison about the caretaking involvement  
15:26:14 20 of this witness as far as the child is concerned. There is  
21 nothing we can do about it. One can think of the situation where  
22 she is giving evidence here and something goes very seriously  
23 wrong with the child in hospital. That would not be too good for  
24 us, would it? I don't think so. Because we cannot have another  
15:26:42 25 witness to be able to complete by tomorrow at 1.00, the only  
26 option that is left open to the Chamber is to adjourn to the next  
27 session. The next session, as we have it on record, is the  
28 status conference on the 1st of July 2005. So, the status  
29 conference will be on Friday, the 1st of July at 10.00, and then