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SCSL-03-01-T
(29738-29799)

29738



**SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR**

TRIAL CHAMBER II

Before: Justice Julia Sebutinde, Presiding
Justice Richard Lussick
Justice Teresa Doherty
Justice El Hadji Malick Sow, Alternate Judge

Registrar: Ms. Binta Mansaray

Date filed: 16 August 2010

SPECIAL COURT FOR SIERRA LEONE	
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THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC

**URGENT APPLICATION FOR LEAVE TO APPEAL DECISION EXCLUDING THE USE OF CUSTODIAL
STATEMENT OF ISSA SESAY**

Office of the Prosecutor:

Ms. Brenda J. Hollis
Mr. Nicholas Koumjian
Ms. Kathryn Howarth

Counsel for the Accused:

Mr. Courtenay Griffiths, Q.C.
Mr. Terry Munyard
Mr. Morris Anyah
Mr. Silas Chekera
Mr. James Supuwood

I. INTRODUCTION

1. Pursuant to Rule 73(B) of the Rules of Procedure and Evidence, the Prosecution files this Motion seeking leave to appeal the Decision made by the Trial Chamber on 13 August 2010 prohibiting the use of the custodial interview of Issa Sesay, dated 10 March 2003, for the purposes of impeachment of Issa Sesay's evidence on direct examination.¹
2. In view of the advanced stage of the evidence of Issa Sesay, the cross-examination having commenced, the Prosecution requests an expedited timetable for filings and for a determination of this application so as to prevent unnecessary delay in the trial proceedings.

II. BACKGROUND

3. On 1 July 2010 the Defence filed a Motion ("Motion") requesting that the Trial Chamber exclude from use in these proceedings eleven custodial statements made by Issa Sesay, on the basis that Trial Chamber I had excluded these statements from use by the Prosecution during the cross-examination of Issa Sesay in his own trial before Trial Chamber I.²
4. On 12 July 2010 the Prosecution responded to the Motion requesting that the Trial Chamber dismiss the Motion and permit the Prosecution to use the first custodial interview of Issa Sesay, dated 10 March 2003 during its cross-examination of Issa Sesay in these proceedings.³
5. On 19 July 2010 the Defence filed a Reply repeating its request that all eleven custodial statements made by Issa Sesay be excluded from use by the Prosecution in these proceedings.⁴

¹ *Prosecutor v Taylor*, Trial Transcript 13 August 2010, pp 46255 – 46266.

² *Prosecutor v Taylor*, "Public with Annexes A, B, C and D, Defence Motion to Exclude Custodial Statements of Issa Sesay", SCSL-03-01-T-998, 1 July 2010.

³ *Prosecutor v Taylor*, "Public with Annexes A-C Prosecution Response to Defence Motion to Exclude Custodial Statements of Issa Sesay", SCSL-03-01-T-1002, 12 July 2010.

⁴ *Prosecutor v Taylor*, "Public Defence Reply to Prosecution Response to Defence Motion to Exclude Custodial Statements of Issa Sesay", SCSL-03-01-T-1002, 19 July 2010.

6. On 12 August 2010 the Trial Chamber by way of a majority Decision dismissed the Defence Motion on the basis that it was premature.⁵
7. On 13 August 2010 in response to evidence given by Issa Sesay during cross-examination that he did not take diamonds to Charles Taylor,⁶ Prosecution Counsel sought to impeach the witness by referring to the first custodial interview of Issa Sesay, in which Issa Sesay stated that he personally took parcels of diamonds to Charles Taylor on 11-12 occasions.⁷
8. In response to the above, the Trial Chamber issued the following oral decision (“the Impugned Decision”), delivered by Justice Lussick:

JUDGE LUSSICK: Mr. Koumjian, this is a unanimous decision. Now, we would have no objection to the pages of the document that you've indicated being put to the witness if the material put to him simply went to the fact that it's a prior inconsistent statement, inconsistent, that is, with his prior testimony – with his current testimony. But the material very clearly goes to proof of guilt of the accused. Now, we're aware of the way in which it was obtained and I think the application you referred to earlier sets out the details of how it was obtained involuntarily from the witness and adjudicated by Trial Chamber I to have been so involuntarily obtained. Now, because it does go to the - the material does go to the proof of guilt of the accused, we're of the view, as we have expressed in our decision of 30 November 2009, that such material would not be in the interests of justice to be used against the accused by cross-examining this witness on that material. It also, in our view, would violate the fair trial rights of the accused. And, so, Mr. Koumjian, we rule in the document, or the parts of the document you've indicated, cannot be used in cross-examination of this witness.⁸

III. APPLICABLE LAW

9. Rule 73(B) provides that leave to appeal may be granted in “exceptional circumstances” and to avoid “irreparable prejudice” to a party. These two limbs are conjunctive and both must be satisfied if an application for leave to appeal is to succeed.⁹ The rule involves a high threshold,¹⁰ however, as recognized by the

⁵ *Prosecutor v Taylor*, SCSL-03-01-T-1045, “Decision on Defence Motion to Exclude Custodial Statements of Issa Sesay”, 12 August 2010, Justice Sebutinde dissenting.

⁶ *Prosecutor v Taylor*, Trial Transcript 13 August 2010, pp 46250 and 46253.

⁷ See the custodial interview of Issa Sesay of 10 March 2003, appended at Annex A, “Custodial interview” at pg 40.

⁸ *Prosecutor v Taylor*, Trial Transcript 13 August 2010, pp 46255 – 46266.

⁹ *Prosecutor v Sesay et al.*, SCSL-04-15-PT-014, “Decision on Prosecution’s Application for Leave to File an Interlocutory Appeal against the Decision on the Prosecution Motions for Joinder”, 13 February 2004, para. 10.

Appeals Chamber, “the underlying rationale for permitting such appeals is that *certain matters cannot be cured or resolved by final appeal against judgment*”.¹¹

10. The categories of exceptional circumstances are not “closed or fixed” and what constitutes such circumstances necessarily depends on, and varies with, the circumstances of each case.¹² Exceptional circumstances may arise “where the cause of justice might be interfered with” or where issues of “fundamental legal importance” to the Special Court for Sierra Leone, in particular, or international criminal law, in general are raised, including where a question of general legal principle is to be decided for the first time.¹³ Notably, Trial Chamber I has stated that exceptional circumstances arise if the course of justice *might* be interfered with; there is no requirement to prove that such interference *will* definitely arise. Irreparable prejudice arises where the Trial Chamber’s decision is not remediable on final appeal.

IV. ARGUMENT

Error of Law

11. As a preliminary, it is necessary to identify the error of law in respect of which leave to appeal is sought, although it is appreciated that the fact that an error in law has occurred does not mean that leave to appeal must be granted. The Impugned Decision involves two errors of law.
12. First, there is no legal basis to exclude the use of Issa Sesay’s 10 March 2003 statement in the current case. The Chamber erred by adopting legal findings adjudicated in another case and applying them to manifestly distinct issues in the present case. The decision to exclude the statements in the RUF case was based on

¹⁰ Ibid; also *Prosecutor v Brima et al*, SCSL-04-16-T-483, “Decision on Joint Defence Request for Leave to Appeal from decision on Defence Motions for Judgment of Acquittal pursuant to Rule 98 of 31 March 2006”, 4 May 2006, p. 2.

¹¹ *Prosecutor v Norman et al.*, SCSL-04-14-T-319, “Decision on Prosecution Appeal against Trial Chamber Decision of August 2004 Refusing Leave to File an Interlocutory Appeal”, 17 January 2005, para. 29; see also *Prosecutor v Sesay, Kallon and Gbao*, SCSL-2004-15-T-357, “Decision on Defence Applications for Leave to Appeal Ruling of 3rd February 2005 on the Exclusion of Statements of Witness TF1-141”, 28 April 2005. (“Sesay Decision”) para.21. Emphasis added.

¹² Sesay Decision, para. 25.

¹³ Ibid., para. 26.

the legal finding that they were a product of a violation of his rights as an accused, and is inapplicable to the current situation where Issa Sesay is appearing as a witness.

13. Second, the Chamber erred in finding that it was not in the interests of justice to allow the Prosecution to use the 10 March statement in its cross examination of Issa Sesay. It indeed is in the interests of justice for the Prosecution to be able to put to the witness his own words contradicting his testimony concerning Taylor's relationship with the AFRC/RUF. Further, no reasons were given as to why cross-examining the witness, Issa Sesay, by reference to the witness' own words would breach the fair trial rights of the Accused, Charles Taylor.

Exceptional Circumstances

Interference with the course of justice

14. The Impugned Decision gives rise to "exceptional circumstances" under Rule 73(B) as there is a clear danger that the course of justice will be interfered with because the Trial Chamber's Decision prevents the Prosecution from fully exercising its right to cross-examine Issa Sesay, and thus hinders both the fair trial rights of the Prosecution,¹⁴ and the search for truth. Significantly, the matters in the custodial interview of 10 March 2003, in relation to which the Prosecution seek to cross-examine Issa Sesay are issues which go to the heart of the Trial Chamber's ability to assess the credibility of the Issa Sesay as a witness and the reliability of Issa Sesay's evidence in relation to central issues in the case.¹⁵ The ability of the Prosecution to effectively cross-examine Issa Sesay is critical as the defence for Charles Taylor has placed great reliance on his evidence, his direct examination consisting of well over

¹⁴ As regards the fair trial rights of the Prosecution, see *Prosecutor v Gbao*, SCSL-2003-09-PT-048, "Decision on the Prosecution Motion for the Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure", 10 October 2003, Judge Boutet at para. 34 stating that "the concept of a fair trial must be understood as fairness to both parties and not just to the Accused", relying on the case of *Prosecutor v Aleksovski*, ICTY. "Appeals Chamber Decision on Admissibility of Evidence". 16 February 1999, para. 25.

¹⁵ These central issues include for example: the role of the Accused in relation to the RUF and AFRC/RUF; the Accused's relationship with senior figures in the RUF (including Foday Sankoh, Sam Bockarie and Issa Sesay); the Accused's leadership role of the RUF, particularly in the absence of Foday Sankoh; the Accused's "sponsorship" of the RUF from Camp Naama up until disarmament in Sierra Leone; and the arrangement that diamonds mined by the RUF in Sierra Leone would be transported to the Accused in Liberia, in return for the supply of ammunition and other supplies to the RUF; and the participation of senior members of the RUF (including Issa Sesay) in this process.

2000 pages.

15. The evidence-in-chief of Issa Sesay in relation to the central issues in this case, is contradicted by the statements made by Issa Sesay in his first custodial interview with the Prosecution. In particular:¹⁶
- In the custodial interview Issa Sesay stated that he first met Charles Taylor when he and other recruits were en route to Camp Naama, and that Charles Taylor specifically addressed the recruits, including the witness; informing them that they were going to take training and that they were needed for an operation in Sierra Leone;¹⁷ by contrast in his evidence-in-chief, Issa Sesay has testified that he never heard of the name Charles Taylor whilst training as a recruit at Camp Naama;¹⁸
 - In the custodial interview Issa Sesay stated that in the absence of Foday Sankoh, when Sam Bockarie was the commander, Sam Bockarie took instructions from Charles Taylor and that Charles Taylor had “complete responsibility”;¹⁹ by contrast in his evidence-in-chief, Issa Sesay has specifically denied that Sam Bockarie took orders from Charles Taylor, and that Charles Taylor had any responsibility for the RUF.²⁰
 - In the custodial interview Issa Sesay stated that he was instructed by Foday Sankoh to take orders from Charles Taylor in Foday Sankoh’s absence, in the same way that Sam Bockarie had taken orders from Charles Taylor in Foday Sankoh’s absence;²¹ by contrast in his evidence-in-chief, Issa Sesay has specifically denied being either instructed to, or taking orders from Charles Taylor.²²
 - In the custodial interview Issa Sesay described how Charles Taylor “sponsored the whole revolution; he trained the men, he sponsored the whole

¹⁶ Listed below are examples of the major inconsistencies in relation to central issues, although there are further inconsistencies not all of which are included in this Motion.

¹⁷ Custodial interview at pages 33 and 34.

¹⁸ *Prosecutor v Taylor* Issa Sesay, Transcript 5 July 2010 pp 43623.

¹⁹ Custodial interview at pages 35 and 36.

²⁰ *Prosecutor v Taylor* Issa Sesay, Transcript 5 July 2010 pp 43594; *Prosecutor v Taylor* Issa Sesay, Transcript 26 July 2010 pp 44597-44599.

²¹ Custodial interview at pages 35, 36, 38, 39 and 41.

²² *Prosecutor v Taylor* Issa Sesay, Transcript 26 July 2010 pp 44597-44599; Issa Sesay, Transcript 28 July 2010 pp 44843.

program”;²³ by contrast in his evidence-in-chief, Issa Sesay has refuted the Prosecution allegation that the Accused “sponsored” the RUF.²⁴

- In his custodial interview Issa Sesay specifically admitted taking parcels of diamonds to Charles Taylor on “about 12 – 11, 12 times. Twelve times” and he explained that in return for delivering parcels of diamonds to Charles Taylor the RUF would receive ammunition and other supplies from the Accused;²⁵ by contrast in his evidence-in-chief Issa Sesay has specifically denied ever having taken a diamond to the Accused, and has denied that the RUF received ammunition from the Accused.²⁶
- In the custodial interview Issa Sesay explained that Colonel “Jungle”, a member of Charles Taylor’s SSS would communicate information to the RUF from Liberia;²⁷ by contrast in his testimony Issa Sesay has denied that “Jungle” ever worked for Charles Taylor after joining the RUF in 1992.²⁸

Issa Sesay has therefore given evidence-in-chief which is diametrically opposite to the statement he initially gave to Prosecution investigators on the first occasion he was interviewed, as regards his dealings with the Accused and the role of the Accused in relation to the RUF. In order to make a reliable assessment of the evidence-in-chief of Issa Sesay the Trial Chamber ought to have before it this radically contradictory statement of Issa Sesay and ought properly to make an assessment of what was said by Issa Sesay in his initial interview with the Prosecution as compared to his evidence-in-chief, and any reasons given by the witness for the radical variations in these statements.

16. “Exceptional circumstances” therefore arise in this instance because what is in issue, is the veracity of evidence given by a witness who as a surviving senior RUF commander is uniquely situated to provide evidence in relation to central issues in the case – issues which will impact upon ultimate findings in this case.

²³ Custodial interview at pages 35 and also 36.

²⁴ *Prosecutor v Taylor* Issa Sesay, Transcript 26 July 2010 pp 44628; *Prosecutor v Taylor* Transcript 28 July 2010 pp 44906; *Prosecutor v Taylor* Issa Sesay, Transcript 29 July 2010 pp 45077.

²⁵ Custodial interview at pages 39, 40, 42 and 43, page 40 in relation to the quotation.

²⁶ *Prosecutor v Taylor* Issa Sesay, Transcript 5 July 2010 pp 43594; *Prosecutor v Taylor* Issa Sesay, Transcript 26 July 2010 pp 44628; *Prosecutor v Taylor* Issa Sesay, Transcript 29 July 2010 pp 44996.

²⁷ Custodial interview at pg 44.

²⁸ See for example, *Prosecutor v Charles Taylor*, Trial Transcript, 6 July 2010, 43802 – 43803.

Issue of fundamental legal importance

17. The Impugned Decision also gives rise to “exceptional circumstances” under Rule 73(B) an issue of fundamental legal importance arises in that novel issues of law arise. The use of this witness’s prior Prosecution interview in these proceedings in which he appears voluntarily as a witness is an issue of fundamental legal importance which has not been dealt with in this Court. It is of key legal significance whether, and under what circumstances a party has the ability to use a Prosecution interview of an Accused in separate proceedings where that Accused, now an adjudged prisoner whose case is final through appeal, volunteers to come forward to testify as a witness; including in circumstances where a different Trial Chamber has previously ruled the Prosecution statements inadmissible. A further issue is whether a Trial Chamber can simply follow the decision of another Trial Chamber in adjudicating on the admissibility of statements offered in cross-examination. Not only are these issues of fundamental legal importance in this case but they are issues of much broader legal importance to other international criminal courts as well, and thus give rise to “exceptional circumstances”.

Irreparable Prejudice

18. The Prosecution will necessarily suffer prejudice as a result of the Impugned Decision because the Prosecution will be prevented from using a prior statement which is diametrically opposite to in court evidence on key issues in this case. The Decision thus prevents the Prosecution from conducting a full and proper cross-examination of witness Issa Sesay in contradiction of the Prosecution’s fair trial rights. The result is that the Trial Chamber is denied crucial contradictory evidence when assessing the credibility of the witness and the merits of the case. The Impugned Decision gives rise to “irreparable prejudice” because there will be no cure available upon final appeal. The only remedy would be to re-open the trial phase of the case in order to allow for further cross-examination of Issa Sesay in relation to the statements made by Issa Sesay in his custodial interview, and to allow re-examination in relation to the same. Re-opening the case, post appeal, would patently be highly

undesirable. Furthermore, it is not a possibility that the Appeals Chamber has so far entertained in its judgments.²⁹

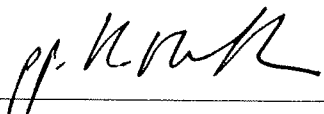
V. CONCLUSION

19. For these reasons the Prosecution seeks leave to appeal the Impugned Decision and requests an expedited timetable for a resolution of this application.

Filed in The Hague,

16 August 2010,

For the Prosecution,



Brenda J. Hollis
Principal Trial Attorney

²⁹ See e.g. *Prosecutor v. Brima, Kamara, Kanu*, SCSL-2004-16-A-675, “Judgment”, Appeals Chamber, para. 87.

INDEX OF AUTHORITIES

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Prosecutor v Taylor, SCSL-03-01-T-1045, “Decision on Defence Motion to Exclude Custodial Statements of Issa Sesay”, 12 August 2010

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Prosecutor v Taylor, SCSL-03-01-T-1002, “Public with Annexes A-C Prosecution Response to Defence Motion to Exclude Custodial Statements of Issa Sesay”, 12 July 2010

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Prosecutor v Gbao, SCSL-2003-09-PT-048, “Decision on the Prosecution Motion for the Immediate Protective Measures for Witnesses and Victims and for Non-Public Disclosure”, 10 October 2003

ICTY

Prosecutor v Aleksovski, ICTY, “Decision on Prosecutor’s Appeal on Admissibility of Evidence”, 16 February 1999, para. 25.

<http://www.icty.org/x/cases/aleksovski/acdec/en/90216EV36313.htm>

ANNEX A

Monday, 10 March 2003

INTERVIEW OF ISSA HASSAN SESAY, a.k.a. ISSA SESAY

--- Upon commencing at 3:03 p.m.

Present: Gilbert Morissette, Deputy Chief of Investigation; Joseph Saffa, Investigator; Stacey Donison, Court Reporter.

GILBERT MORISSETTE: Okay, we're ready to begin. My name is Gilbert Morissette. I'm with the Special Court, for the Office of the Prosecutor, in Freetown, Sierra Leone. It is three minutes after three on the 10th of March, 2002 [sic]. Present in the room is also Joseph Saffa, who is also an investigator with the Office of the Prosecutor, and Mr. Issa Sesay.

Q. To begin with, Mr. Sesay, I want to show you a copy of the arrest warrant which has been issued by the Special Court for Sierra Leone, which was signed by Judge Bankole Thompson, the Presiding Judge of the Trial Chamber --

A. Yes.

Q. -- ordering your arrest and detention in regards to crimes committed during the mandate, or over the mandate for the Special Court.

A. Yes.

Q. You'll have a chance to read that later if you want to.

A. Yes, sir.

Q. Also I will show you, which we will read to you, as a matter of fact I will read the whole thing to you, in regards to the rights of accused under Article 17 of the Statute, and Rules 42 and 43 of the Rules

of Procedure and Evidence of the Special Court for Sierra Leone. Do you understand me so far?

A. Yes, sir. Yes, sir.

Q. Article 17 of the Statute in regards to the right of the accused says:

- "1. All accused shall be equal before the Special Court.
2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Special Court for the protection of victims and witnesses.
3. The accused shall be presumed innocent until proven guilty according to the provision of the present Statute.
4. In the determination of any charge against the accused pursuant to the present Statute, he or she shall be entitled to the following minimum guarantees, in full equality:
 - a. To be informed promptly and in detail in a language which he or she understands of the nature and cause of the charge against him or her;"

which is in the warrant which I will read to you later, okay?

A. Yes.

Q. "To have adequate" -- sorry, we'll just take a little break here.

- "b. To have adequate time and facility for the preparation of his or her defence and to

communicate with counsel of his or her own choosing;

- c. To be tried without undue delay;
- d. To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interest of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;
- e. To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
- f. To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the Special Court;
- g. Not to be compelled to testify against himself or herself or to confess guilt."

So these are the rights of the accused, okay?

A. Yes, sir.

Q. Under Rules 42 and 43 of the Rules of Procedure and Evidence of the Special Court for Sierra Leone, there are also rights of suspect during investigation. Basically the rights of the suspect is when you're being interviewed by -- like we are doing now.

A. Yes, sir.

Q. I will read those rights before we start the interview with you, okay?

A. Yes, sir.

Q. But first let's go over the arrest warrant. Okay. The arrest warrant, a decision for the arrest warrant, and the issue was dated in London on the 7th day of March, 2003. As I said earlier, it's signed by Judge Bankole Thompson, Presiding Judge of the Trial Chamber, and it reads as follows:

"The Special Court for Sierra Leone (the "Special Court"), sitting as Judge Thompson, designated by the President of the Special Court according to Rule 28 of the Rules of Procedure and Evidence,"

which are called later "the Rules"

"Considering that the Indictment against Issa Hassan Sesay also known as Issa Sesay, a citizen of Sierra Leone, born 27 June 1970 at Freetown, Western Area, Republic of Sierra Leone, who is accused of Crimes against Humanity, violations of Article 3 common to the Geneva Conventions and of Additional Protocol II, and other Serious Violations of International Humanitarian

Law, ("the Accused"); was reviewed and approved by the Special Court on 7 March 2003;

Considering that an Order for the Non-Disclosure was ordered on 7 March 2003;

Hereby orders the Registrar of the Special Court

- (A) to address this Warrant of Arrest, Decision Approving the Indictment, the Approved Indictment of the Accused and a Statement of the Rights of the Accused to the national authorities of Sierra Leone in accordance with Rules 55."

So this is what happened this morning. These documents, all these documents are in the hands of the Sierra Leone police, and as soon as the official turnover takes place, you will be getting a copy of all this, okay?

A. Yes, sir.

Q. "(C) to cause to be served on the Accused, at the time of his arrest, or as soon as is practicable immediately following his arrest, in English or have read to him in a language he understands, a certified copy of the Warrant of Arrest,"

which is what I'm doing now,

"a certified copy of the Indictment,"

which, as I said, will be served to you as soon as the turnover is done,

"a statement of the rights of the Accused,"

which I read earlier to you --

A. Yes, sir.

Q. "and to caution the Accused that any statement made by him shall be recorded and may be used as evidence against him in coordination with the National Authorities of the State concerned;"

which is what -- the third form I will read to you after we finish this part.

"(D) to remand the Accused, into the custody of the Special Court Detention Facility or such other Detention Facility as determined by the President in accordance with Rule 57."

Okay?

"Hereby orders the relevant authorities of the government of Sierra Leone

(A) promptly notify the Registrar of the Court of the arrest of the accused for the purpose of effectuating his transfer to the custody of the Court, and to surrender the Accused to the Court without delay;

(B) to transfer the Accused to the custody of the Special Court without delay, or to such other place as the President may decide. The

transfer shall be arranged between with the relevant national authorities of the Government of Sierra Leone and the Registrar of the Special Court;

- (C) to assist and facilitate the Office of the Prosecutor of the Special Court, at any location, in the search for and seizure of all evidence related to the crimes alleged to have been committed by the Accused;
- (D) to identify and locate assets owned by the Accused located within the territory of any State and adopt provisional measures to free such assets without prejudice to the rights of third parties;
- (E) not to disclose to the public, including the media or any public record, the existence of the Indictment and this Warrant of Arrest, or any part thereof or information pertaining to the Indictment and this Warrant for Arrest until further order of the Court or at the direction of the Prosecutor;
- (F) if the relevant national authorities of the Government of Sierra Leone are unable to immediately execute the present Warrant of Arrest and Order for Transfer, as requested,

the Government of Sierra Leone is requested to indicate the reason for its inability to affect thereto.

A Member of the Office of the Prosecutor may be present from the time of arrest."

[Mobile phone interruption]

GILBERT MORISSETTE: We'll take a short break because of the telephone.

--- Recess taken at 3:15 p.m.

--- On resuming at 3:16 p.m.

GILBERT MORISSETTE: We'll start again there. It's just been a short break because of a call.

Q. As I said:

"A Member of the Office of the Prosecutor may be present from the time of arrest. Done in London, this 7th day of March 2003."

Okay?

A. Yes, sir.

Q. So this is the order of arrest -- warrant of arrest and order for transfer, so that's the authority on which you were arrested this morning.

A. Yes.

Q. Now, having read these rights to you, the right of the accused and the right of a suspect during an investigation, which I will do now, the reason you are here this afternoon is for us to discuss your

implication or involvement during the events related here.

A. Yes, sir.

Q. Now, before we go any further, I have to read to you what we call the right advisement for a suspect or accused, okay?

A. Yes, sir.

Q. Again, we'll read this, it says:

"In accordance with Rule 42 of the International Criminal Tribunal for Rwanda Rules of Evidence and Procedure applicable to Special Court for Sierra Leone..."

What I want to explain to you here is that the Special Court for Sierra Leone follows the same Rules of Evidence and Procedure as the Rwanda tribunal. That's how the court was formed.

"...you are hereby advised that you are a suspected of being a participant involved in International War Crimes and/or Crimes Against Humanity and as such you are advised of the following".

So being a suspect, which is the reason why there was an arrest warrant issued for you, and that's why you are considered as a suspect, okay?

A. Yes, sir.

Q. Now, the rights that I'll read to you -- so far you understand what I'm saying?

A. Yes, sir. Yes, sir. I'm getting you, sir.

Q. Okay. You have:

"The right to be assisted by counsel of your choice or to have legal assistance assigned to you without payment if you do not have sufficient means to pay for it;"

Okay? Basically it's what -- the rights of the accused I read to you earlier here, it's a repetition of what we're doing now. But the reason we're doing this is this will become part of the suspect statement if there is such a thing that we -- if we do take a suspect statement.

"The right to have the free assistance of an interpreter if you cannot understand or speak the language to be used for questioning."

Understand?

A. Yes.

Q. And:

"The right to remain silent, and to be cautioned that any statement you make shall be recorded and may be used in evidence."

Do you understand these rights?

A. Yes, sir.

Q. Okay. I will ask you to put your initial here or circle where it says yes, if you want to make a circle around the yes, saying that you understand?

A. You're talking now about this paragraph?

Q. Yes, exactly, those three that I've read there.

A. Yes.

Q. Just make a circle around the yes, and put your initial here.

[The interviewee complies]

A. Why?

Q. Your initial or name, signature.

A. Initials?

Q. Yeah, whatever you normally sign, okay?

A. I sign my initials.

Q. So this is the right for assistance by counsel, you're saying you understand, the right of free assistance, interpreter, and the right to remain silent.

A. Yes, sir.

Q. Good. Now we continue as saying:

"Are you willing to waive the right to counsel and proceed with the interview and preparation of a witness statement; yes or no?"

In other words, are you willing to discuss with us your involvement? Are you willing to tell us what happened and what you know of these events?

A. Yes, sir.

Q. Yes?

A. Yes, sir.

Q. And again, put your initial.

[The interviewee complies]

Q. Thank you. Now we continue again with the rights advisement:

"In accordance with Rule 43 of the International Criminal Tribunal for Rwanda Rules of Evidence and

Procedure applicable to Special Court for Sierra Leone
you are hereby advised that the questioning of a suspect
shall be audio-recorded or video-recorded, in accordance
with the following procedure."

So for the purpose of today's procedure, what we are doing is we
are audio-recording.

A. Yes.

Q. Okay?

A. Yes, sir.

Q. "That you will be informed in a language you speak and
understand that the questioning is being audio-recorded
or video-recorded;".

So again, I repeat, we are audio-recording. Do you understand so
far?

A. Yes, sir.

Q. "In the event of a break in the course of the
questioning, the fact and the time of the break shall be
recorded before audio-recording or video-recording ends,
and the time of the resumption of the questioning shall
also be recorded;";.

Do you understand?

A. Yes, sir.

Q. "At the conclusion of the questioning you shall be
offered the opportunity to clarify anything you have
said, and to add anything you wish, and the time of

conclusion shall be recorded;" .

Do you understand?

A. Yes.

Q. "The content of the recording shall then be transcribed as soon as practicable after the conclusion of questioning and a copy of the transcript supplied to you, together with a copy of the recording or, if multiple recording apparatus was used, one of the original recorded tapes;".

In this case it's only one tape at a time, so there will be a copy supplied to you later. And:

"After a copy has been made, if necessary,"

which will be the case here,

"of the recorded tape for purpose of transcription, the original recorded tape or one of the original recorded tapes shall be sealed in your presence under the signature of yourself and the Prosecutor/designee.

I understand these requirements and agree to have my interview recorded."

Do you agree with this?

A. Yes, sir.

Q. Again, if you want to sign -- circle the yes and put your initial.

[The interviewee complies]

Q. Okay. Mr. Sesay --

A. Yes, sir.

Q. -- I understand that you have indicated your willingness to talk with the investigator for the Special Court and discuss your involvement and your collaboration with us.

A. Yes, sir.

Q. Is that what you want to do?

A. Yes, sir.

Q. Good. Joseph Saffa and myself have a list of questions that we would like to ask you to begin with --

A. Yes, sir.

Q. -- and at the same time I want to know from you exactly what it is that you know. And I want you to understand that we are not making any promises to you.

A. Yes, sir.

Q. Whatever cooperation you are offering to the Office of the Prosecutor will be taken into full consideration.

A. Yes, sir.

Q. Then it will be passed on, at the appropriate time, to the Judge to be taken into consideration with -- for their intention to use this collaboration, or to take into consideration this collaboration. Whenever -- you know, if found guilty of any offence, whenever sentencing occurs, it will be the position of the Prosecutor to request the Judge to take into consideration, you know, whatever the sentence could be.

I want to make sure, that it is quite clear, that there is no promise made to you here in regards to a negotiation of sentencing, place

of sentencing or whatever. It will be up to the Judge to take this into consideration.

A. Yes, sir.

Q. Do you understand that?

A. Yes, sir.

Q. Okay. For us, as for the Office of the Prosecutor, you know, we will take whatever you tell us, we will record it, we will -- it will be transcribed, it will be shown to you, and we will go over it. What we want to do is get the truth --

A. Yes, sir.

Q. -- for the whole population of Sierra Leone who are looking for justice and deserve justice. And we will do whatever it is in our means, possibility, to make sure that, you know, this is taken into consideration when the case goes to court.

A. Yes, sir.

Q. What is it you want to tell us?

A. Yes, sir. When they took us to -- they took us to Jui, and I was called by Mr. David and one other brother that, you know, they need my cooperation to explain the exact story what happening during the days of the war. And I said that as for me I have already carried a lot of, you know, bad name, that I'm the one who betrayed the revolution by cooperating with the United Nations to work for peace, and the government of Sierra Leone. So for this reason, that's why I never make any step to go anywhere in the country. As a peaceful citizen, I make sure that all of us are going to talk in front of the Special Court, as for me as an

individual, to talk about my involvement and whatsoever I know that happened during the days of the war.

See, this morning we are called at the CID headquarter with the warrant of arrest, and they took us and now I'm here. I'm willing a hundred percent to explain my own involvement and whatsoever I know that took place during the war that the international community is interested -- I mean the Special Court is interested in getting this information. I'm willing to cooperate.

Q. Okay. How old are you?

A. Now I'm 33 -- yes, sir, 33.

Q. Thirty-three?

A. Yes.

Q. Are you married?

A. Yes, sir.

Q. Do you have children?

A. Yes, sir.

Q. How many?

A. Two.

Q. How old are they?

A. They're right ... [Interviewee cries].

Q. That's okay. Take your time. Do you want a tissue?

A. The one is seven years and the other one is two years old.

Q. Okay. The one who is seven years old, going to school?

A. Yes, since last year.

Q. Okay. You don't mind if I call you Issa?

A. Yes, sir. That's my name, sir.

Q. And me, I'm Gilbert, my first name is Gilbert.

A. Gilbert.

Q. Yeah, Gilbert.

A. Oh, Gilbert.

Q. Okay, Issa, I know it's not easy, it's hard. But, you know, I still think that if anybody has the courage to come forward and say what happened, you know, and tell the world and tell the court, you know, we did something wrong, it takes a man to be able to do that, to have the courage to admit that he has done some bad things. And, you know, for us it's to show to the whole -- to the whole population, to the whole world of Sierra Leone that --

A. Yes, sir, I'm not --

Q. If you did some wrong, let's admit it and let's carry on with it.

A. Yes.

Q. And I'm sure you're not the only person that did things wrong.

A. Chief, frankly speaking with you, sir, what shattered me I know when you ask me about my children.

Q. Excuse me?

A. You know, I said what got me so shattered, when you ask me about my children, because presently they don't even know my whereabouts, you know, that cause me to cry.

But in terms of for me to explain what transpired, it's not something that I'm supposed to cry, you know, because I know that I have a story, I mean, to tell the world, I have a story to explain to the

Special Court. But I know personally, I, Issa, never committed bad that I have to, you know, confess. But I knew what transpire, I knew what happening, you see.

Q. Okay.

A. I have a cigarette, because if I'm smoking then I'm able to talk.

Q. Yeah, yeah, no problem, you can have a cigarette. Tell me something, Issa -

A. Yes, sir.

Q. -- what was your role in the UNAMSIL abduction in the year 2000?

[Interviewee takes cigarette]

A. Thank you very much, sir. After the Lome accord, sir, and when Sam Bockarie left for Monrovia, I was the field commander, you know. Foday Sankoh made me field commander, based in Makeni. So Foday Sankoh visited Makeni about two times. But the third time, he call all in the room, in his bedroom where he usually lodge in Makeni, around the -- around Teka barracks, going to the Teka barracks. A man called Mr. Bio, his house, residence. So he called Issa Sesay, Morris Kallon -- Issa Sesay, Morris Kallon, Gibril Massaquoi, Rashid Sandy, Akim Turay, and he, Foday Sankoh, with one of his bodyguards by the name of Ray. We are seven in number in the room.

Q. Okay. Explain to me again exactly where that room was.

A. Okay. The room was Teka -- the room -- the house is in Teka Road, in Makeni. The man who owned the house, the owner of the house is Mr. Bio, so that's the place Foday Sankoh usually lodge and go to Makeni. So when you ask me about my own commitment toward the UN abduction, okay,

that's why I wanted to start to explain why the whole thing come about.

Q. Yes, please.

A. So when we're in the room, seven of us, including Foday Sankoh, Foday Sankoh come up that, you know, he want for me as a field commander to mobilize the men to attack the UN, yeah.

Q. How did he say that? How did that come about?

A. Okay. You know, I don't -- the nine months where Foday Sankoh stayed in Freetown, I never came to Freetown, you know. We usually take orders from him. He can't explain things into details, you know. He said that he, Foday Sankoh, Gibril Massaquoi, Akim, they have already mobilized Johnny Paul's men, the AFRC men in Freetown, to join their operation. So I -- I and the others, you know, officers of the RUF, should mobilize and attack the UN in Makeni. I said, "Okay, I get your word," I said, "but please, sir, this is very, very wrong," I said, "because" -- I say, "We've fought with the ECOMOG, now you are released. Now the international community is here." I say, "It is not advisable for us to attack the UN." I said, "One, the whole thing is going to dissolve, they are going to get rid of you in Freetown; two, and we don't have, we don't have the capability to fight the UN, so don't do that." He shout on me that, "You people look at this guy, call himself field commander. He's a coward." So right there the meeting close. He get outside and get into the vehicle, and we escort him to Wusum airfield. That evening he flew back to Freetown with the heli.

So the next day he send -- he call me on my satellite phone that I should proceed to Kono and leave Morris Kallon and Augustine Gbao in

command of Makeni and Magburaka. I should try fly in Kono immediately. The next day -- okay, so when he give these orders, so myself, I don't delay, I move to Kono. I left Kallon, Morris Kallon, and Augustine Gbao in Makeni and Magburaka as commanders.

So I was in Kono where he usually call for people like Komba, Bai Bureh, Gibril Massaquoi, having some previous meeting here in Freetown with this -- Eldred Collins himself can confirm -- get account of those meetings, planning how to attack the UN. So I was in Kono. One day I just got an information on the HF station, the operator -- my radio operator came to me, saying that, "Oh, Morris Kallon is talking on the HF station that wheresoever the international community deploy, they are enemies, we should no more regard them." I said, "Hey, these people want to cause problem."

The next day I receive a message from Foday Sankoh that there is a fighting break-out in Makeni and Magburaka, that I should come down there and put the situation under control. I said, "In which way?" So myself, the next day I get to Makeni and Magburaka where I meet the fighting was going on. So even the UNAMSIL, the UNAMSIL have fell in the ambush in Makeni --

[Mobile phone interruption]

GILBERT MORISSETTE: Excuse me a second. What time is it? 3:32. Sorry about that there. We're going to take a break in a minute there and inform people to stop calling me.

Q. Let's go back a little bit, Issa. You have the first meeting and you question his decision. He comes to town. You've been transferred

to, what is it --

A. To Kono --

Q. -- to Kono --

A. -- to Kono, because I don't support the idea, I'm trying to advise. That's why he get annoyed with me.

Q. Right. But did he tell you why he wanted specifically to attack the UN in Makeni?

A. In Makeni, because the UN was in Makeni and Magburaka, you know, and Lunsar and Kambia.

Q. Yeah, but what was the purpose, the reason for attacking the UN?

A. Please, sir, I don't stay with Foday Sankoh back then. I was up in there while he and Gibril Massaquoi and others was in Freetown. So when I came up in the room advising Foday Sankoh we should not do that, right away Gibril Massaquoi respond that -- to Foday Sankoh that if I am not ready, they are ready; they are going to treat the UN just like the way they treat them in Somalia. I said, "Hey, you people want to cause problem," so the meeting dissolve. But Foday Sankoh did not explain the reason of attacking the UN, because when he started the topic, as a field commander, I advised.

Q. Okay. Now, you came back -- they all came back to Freetown?

A. All of them came back to Freetown.

Q. And you mentioned something, that they were working on the plans in Freetown?

A. Yes, sir, having some -- calling for some commanders like Gbao, calling for Bai Bureh from Kambia, calling for Komba Gbundema from

Kambia, you know, in a meeting, talking to them.

Q. To come to Freetown for the meeting?

A. No, he usually call them in Freetown, how to plan about these attacks.

Q. Okay.

A. Yes, sir. But Eldred Collins will be able to testify, because he stayed with them in Freetown here.

Q. Okay. How do you know about this? Because you were not in Freetown.

A. Yes, sir. Collins explained this to me after they released them, after the disarmament. When they released them, Collins explained this to me, because we usually sat down and complained that what brought -- I mean the downfall of the RUF, you know, because of the UN attack. Collins too come up with this statement that, you know, he usually advise, but the man don't listen to him.

Q. That's Eldred Collins?

A. Yes, sir.

Q. Okay, good. What else can you tell us about the abduction, the UNAMSIL abduction?

A. Yes, sir. So when he instruct Komba Gbundema and Bai Bureh to set the ambush between Makeni and Magburaka -- sorry, between Makeni and Lunsar.

Q. Who instructed them?

A. Foday Sankoh.

Q. And how do you know that?

A. Well, we know that now through this -- after the whole thing, because by then he usually called them in Freetown and talked to them directly. Not even in the radio, but call them in Freetown and talk to them, you see. And the way the boys move, you know, and carry on that ambush operation by adopting the UN, I mean they cannot do that on their own without order from Sankoh.

Q. But how do you know personally that Sankoh instructed them to carry out the attack?

A. Okay, sir. Sankoh called for these guys in Freetown. While talking to them, behind his house, side of his house, one came in his house, according to Eldred Collins, when Eldred Collins was coming there to advise, you know, he put Eldred Collins under gunpoint - he has a white pistol; that Collins is a coward so Collins should wait; he responsible for civilian, he should not listen while they are talking as military commanders, you see.

Q. Okay. Carry on, please.

A. Yes, sir. So when I get there now, by then they have already adopt the UN. So myself I tried to get them and carry them to Kono for safety, because the area was not under control. All these boys are going meetings on their own, and they know that -- I mean I was not willing to take the instruction from Foday Sankoh so they are not usually listening to my own words, you see. So when I took the men to Kono, I was contacted by Charles Taylor that we should release the people immediately.

Q. You were contacted?

A. Yes, sir.

Q. And asked to release the people?

A. Yes, sir. I was contacted and called in Monrovia by Charles Taylor. He sent the helicopter all the way to Pendembu.

Q. To pick you, to get you?

A. To pick me, yes, sir.

Q. Mm-hm.

A. Yes, sir.

Q. And you went to Monrovia in the helicopter?

A. Yes, sir.

Q. And you met with Charles Taylor?

A. I met with Charles Taylor.

Q. And what did he tell you?

A. He told me that, "Oh, you know, Sankoh is a stupid man." That was the first statement. "Sankoh don't know that he can't fight the UN, we can't challenge the integrity of the UN, so the best thing -- you people are children. Go and dispatch these people to me immediately." So the next day I flew back to Pendembu, I came to Kono, and organized the men and take them to Liberia and hand them over.

Q. Okay. How long ago did this take place after the abduction? How long after, excuse me, not ago, how long after?

A. About two weeks' to three weeks' time, sir, something like that.

Q. And in the meantime -

A. Ten days' to 12 days' time.

Q. In the meantime, who was responsible for keeping these people?

A. Well, by then, sir, I was the commander, I was the commander, you know. I send them to the various areas to stay, like Yengema and Tombodu, and I instruct the commander in Kono to give them food, you know. And when Charles Taylor called, myself immediately I released -- I escorted them, I myself carried them.

Q. But during that two-week period there, did you ever yourself have any contact with any of the troops on the ground who were holding these people hostage?

A. If I talked to the commanders?

Q. The commanders, or any of the troops on the ground.

A. Yes, sir, chief. Just after that, these guys that run this operation, just after adopting these men in Makeni they started advancing in Lunsar, coming to Gberi Junction, you see. And the whole thing was -- it's not an he -- the whole thing is an order from Sankoh, and an order from Sankoh, the entire RUF respect that, chief.

Q. Okay. But who was in charge? Who was in charge on the ground to execute Sankoh's order? You said you refused to participate in that.

A. Yes, sir. Frankly speaking, sir, Gbao, Morris Kallon, Bai Bureh, Komba Gbundema, you know, yes, sir.

Q. Okay. Let's talk about Augustine Gbao. What do you know about him?

A. Myself know that Augustine Gbao, he is the one who planned the whole thing, because he came -- Sankoh call him in Freetown. When he get back he was so arrogant, even with General Jet Lee. He was so argument, arrogant, even with one Colonel Joe, a British colonel who was there as

the chief military observer, mil-ops. So any time they tried to talk to Gbao, conduct Gbao on the disarmament, Gbao only tried to cause problem by challenging their integrity, you know.

Q. Okay. But you say Gbao came to town, they prepared the plan, he went back. Did he ever discuss anything with you about this plan?

A. No, sir. By then I was in Kono. And they don't usually consider me on this particular operation, because they knew that I'm not supporting the operation. So when he get back, everybody want to show himself now to Sankoh that he's very strong, everybody want to show himself to Sankoh that they are obeying Sankoh than some of us.

Q. Okay. Did you order the transfer of the abductees, the hostages? Did you order their transfer to Kono?

A. Yes, sir, because when I get to Makeni, you know, some were undressed, you know, so myself I said, "No, this place now is not too safe." So before we can be here with these people, anything can happen, so the best thing, let them take them -- let we take them to a safety area.

Q. So you're saying that the reason you ordered a transfer was for safety?

A. Yes, sir. Yes, sir.

Q. Why? Why?

A. Because they have already adopted. They adopt them, you know, and they marginalized them by -- because an officer, when you took off your uniform, then you have no more function, you have no more strength.

Q. So it was for safety from the RUF?

A. Yes, sir. Yes, sir, from us, because we are the one who attack them.

Q. And who was the commander in charge of these people there where they would have been held before they went to Kono?

A. Their commander?

Q. Who was responsible?

A. For Makeni?

Q. Yes.

A. It's Morris Kallon and Augustine Gbao.

Q. Okay.

A. Both Makeni and Magburaka.

Q. When you ordered the transfer, Augustine and Morris, were they in Makeni when you ordered the transfer of the hostages to Kono?

A. Yes, sir. Yes, sir. Usually Morris used to come to the front line and go back to Makeni, come to the front line and go back to Makeni. But they are there when I said, "Let's try to take these people from here and get them to a safety zone; one, for food; and, two, for any other problem."

Q. Okay. But you were in Kono; Augustine and Morris were in Makeni.

A. Yes, sir.

Q. Okay. When you ordered the transfer, how was it done? Did you go to Kono?

A. No, I was -- I came to Makeni.

Q. Excuse me, to Makeni.

A. Yes, sir, I came to Makeni.

Q. You came to Makeni.

A. Yes, sir. And my presence make for them to --

Q. Okay. When you came to Makeni you met with Augustine and you met with Morris? You met with them?

A. Yes, sir.

Q. And you gave them the order to transfer the people to Kono.

A. Yes, sir. They did not implement that. When I get there, I said, "Okay, the UNAMSIL vehicles should not just be taken by individual. Let's move these vehicles to transfer these people to the safety area."

Q. Okay.

A. Yes, sir.

Q. Now, what do you know about Augustine's implication in the abduction? When they took these people as hostages, what do you know about his own implication?

A. What?

JOSEPH SAFFA:

Q. His involvement.

GILBERT MORISSETTE:

Q. His involvement.

A. Mine?

Q. No, Augustine Gbao.

A. Augustine Gbao.

Q. Yeah.

A. Well, these are the main -- Augustine Gbao was the main causer of the whole thing, because they are telling people that Colonel Gbao --

Colonel Joe disarmed people, disarmed some RUF people by force, which is not true.

Q. Did you ever discuss with Augustine how the abduction was -- how the rebels -- how the UNAMSIL people were taken hostage, how the operation was conducted? Did you discuss it with him?

A. Please, sir, you see the way Sankoh planned the whole thing, Morris Kallon in Makeni, and Gbao, he gave them instruction for Makeni and Magburaka. Bai Bureh and Komba Gbundema, he call them in Freetown, give them instruction, you know, with the other commanders in Lunsar, you see. So he can call these other people and talk to them, call this other one and talk to them, so like that.

Q. Yeah. But what I'm trying to find out from you is if you are aware, either through conversation after the fact, if you are aware, you know, which role each of these individuals played when the operation was actually carried out.

A. Yes, sir, because after the whole thing, we will sit down and discuss. Especially after the election, we usually grumble to one another that you people are the cause. And everybody come of that, "Oh, it's not me, it's an order from Foday, it's an order from Sankoh."

Q. Mm-hm.

A. Yes, sir. But Gbao and Morris Kallon, they are the main pillar in Makeni and Magburaka. But the ambush was by Komba Gbundema and Bai Bureh.

Q. So Gbao and Kallon had nothing to do with the actual ambush, as far as you're concerned.

A. No, sir. No, sir, I can't say directly they did that, because I was not present, I was not there. But all these guys, they work, I mean, with the chain of command. They work with the chain of command here, yes, sir.

Q. Okay. When you ordered the transfer of the prisoners to Kono, when was that?

A. Well, chief, I can't recall the dates now, you see. But just after the fighting, the other day -- the second day -- the third day, in the evening, they started moving with them in Kono.

Q. Yeah, but was that because you had ordered the transfer, or it was done on their own initiative?

A. No, sir. I'm the one who said we should take them from Makeni to Kono, upon my arrival, after the whole fighting had -- excuse me, sir -- had break up.

Q. And that's, what, a week, ten days, before you went to Monrovia?

A. Yes, sir, just a week. Just a week. Not completely a week. Yes, sir. Just a week.

Q. Do you remember when you were contacted by Charles Taylor?

A. Yes, sir.

Q. When was it?

A. Well, these are -- the dates, I can't recall the dates. But just after the problem when the adopt the UN, just about four, five days to a week's time, Taylor contacted. He send his Director of National Security, Benjamin Yeaten. He came all the way to Pendembu with the helicopter, yes, sir, to wait for me.

Q. But when he did that the prisoners had already been transferred to Kono; right?

A. Yes, sir. Yes, sir. Yes, sir.

Q. And that was -- was that the first contact you had received from Charles Taylor in regards to the abduction?

A. Yes, sir. Yes, sir.

Q. And you say he sent the helicopter for you.

A. Yes, sir.

Q. Was there any telephone contacts or something before that?

[Mobile phone interruption]

Q. How was it, you know -- excuse me. Can we take a break for a few minutes there, please? It's, what, ten to four. We'll just take a couple minutes for a break, okay?

A. Yes, sir.

Q. In the meantime I would like you just to think about how the -- try to refresh your memory how it came about that Charles Taylor sent the helicopter for you.

A. Yes, sir.

Q. I mean there had to be some contacts prior to that to make sure that you were there, that you knew that it was coming, that you would be waiting for it.

A. Yes, sir. That one is clear. When --

Q. Just think about it and I'll be back in a minute.

A. Okay, sir.

--- Recess taken at 3:45 p.m.

--- On resuming at 3:55 p.m.

GILBERT MORISSETTE: It's almost ten to four. I'm sorry about that, Issa, but -- no, five to four.

Q. Okay, let's go back there. We're going to be going back and forth because there's a lot of things that we have to fill in the blanks, you know, and what we're doing here is rebuilding the puzzle so every piece has to fit in.

A. Yes.

Q. And I think this is where you can help us.

A. Yes, sir.

Q. It's going to take a long time. You're going to have to be patient, because sometimes we'll be asking the same question. But, you know, it has to be very clear, okay?

A. Yes, sir. Yes, sir.

Q. Okay, so let's go back. You say you did get -- Charles Taylor sent the helicopter for you.

A. Yes, sir.

Q. How was that arranged? How were you informed? How was the contact made?

A. Frankly speaking, sir, by then I have a satellite phone, but the number was not known by Charles Taylor, you see. But he sent the helicopter to Pendembu with the Director of National Security of Liberia, which is Benjamin Yeaten. So Benjamin Yeaten came to our commander in Pendembu, which is Colonel Denis, he's working with the NCDDR now, Denis Lansana. So he give the message to Denis Lansana; Denis Lansana send the

message to the HF station, to my own station in Kono, that Charles Taylor send Benjamin Yeaten to come and collect me, he wanted to see me immediately. So the next day I proceeded.

Q. So that's the first time you heard that Charles Taylor wanted to see you?

A. Yes, sir.

Q. Okay. Now, for Charles Taylor to want to see you, that means he knew you from before.

A. Yes, sir.

Q. Okay.

A. Yes, sir.

Q. Let's go back, we'll come back to this story, but let's go back now to when was the first time you ever met Charles Taylor, and under which circumstances?

A. Yes, sir. Yes, sir. Frankly speaking, sir, I know Charles Taylor from the year 1990.

Q. Mm-hm, I'm listening.

A. In 1990.

Q. How did you meet him in 1990?

A. Yes, sir. Well, we are taken to him by Foday Sankoh.

Q. And what was the purpose of that meeting?

A. They took us, he called us there for a training that we should do, we should overgo [sic], for a training that we should overgo. So from that Charles Taylor sent us to Nama with Foday Sankoh.

Q. What kind of training?

A. Training, military training.

Q. So Sankoh took you --

A. Yes, sir.

Q. -- to Charles Taylor.

A. Took us, we, the Sierra Leoneans. By then we were in Liberia.
We are about 12 in number that he carried.

Q. Twelve?

A. Yes, sir.

Q. Who was with you?

A. Who was with me?

Q. You said you were 12.

A. Yes, sir.

Q. Who were the others?

A. The others, some dead. Only one with me today.

Q. And who is that?

A. It's a Mamei -- Mamei Kanu, Mamei Kanu. He's a former colonel.
He's here.

Q. Where is "here"?

A. He's presently in Makeni. He's in Makeni, sir.

Q. Okay. And the purpose was to go to military training?

A. Yes, sir.

Q. And you met at that time with Charles Taylor?

A. Yes, sir, but he never know us, I mean by our names. He only
come, he say, "Oh, gentleman, okay, you people are going to take
training. Sankoh is my brother. And you people are going to stay here

and take training, and we'll have to get certain amount that we need, you know, for the operation in Sierra Leone."

Q. So it was for the operation in Sierra Leone.

A. Yes, sir.

Q. What kind --

A. The RUF war.

Q. Okay.

A. Yes, sir.

Q. So that was the first time you met him.

A. Yes, sir.

Q. Okay, we'll come back to that again later. When was the second time after that?

A. After that, I met him facially again at LIA, during the signing of the Lome Accord, because I was the one who carried the second delegation from Buedu. He sent the helicopter in Foya. So when they pick up, they carry us to LIA. So that's the place we met for the second time. From the airport, we get to the plane to Lome for the signing of the accord. That is the second time. The third time --

Q. What was the implication of Taylor into this?

A. Well, by then when -- chief, frankly speaking, Taylor, you know, worked with Foday Sankoh here. We know that he sponsored the whole revolution; he trained the men, he sponsored the whole program. And even when Sankoh was arrested in Abuja in 1996, you know, Taylor take the complete responsibility when Sam Bockarie was the commander.

Q. How do you know that?

A. Chief, I mean I'm a commander, close to Sam Bockarie, and we usually know that Sam Bockarie go to Liberia and get ammunition, food, condiment, medicine, and everything. And when he come he said that Charles Taylor has given us everything and he's going to support us, that he's going to support the whole ECOMOG process, together with Blaise Compoare.

Q. Okay.

A. Yeah, because Blaise Compoare is the one who send the large materiel for us to move the ECOMOG from Kono all the way down to Makeni.

Q. Okay.

A. And I can even testify with those he went to Burkina Faso with. He went with Rashid Sandy, who is a journalist now working with Talking Drums --

Q. Who?

A. Rashid Sandy, he went along with Sam Bockarie to Burkina Faso to receive the consignment to come and push the ECOMOG from Kono down to Makeni, all the way.

Q. That's Rashish --

A. Rashid, Rashid.

Q. Rashid.

A. Sandy.

Q. Sandy.

A. Yes.

Q. Okay. And where is he working now?

A. Talking Drums.

Q. Where?

A. At Bo.

Q. Okay. Before we skip -- we go too far there, the second time was when you went to Lome.

A. Yes, sir.

Q. Can we say that it was -- the reason that Taylor, from what I understand from what you're telling me, he was -- basically what he did, he was facilitating for you to travel to Lome, for you to travel to Lome --

A. Yes, sir. They said that we should go along with the delegation on the witnessing of the accord, the signing of the accord. I went with six men, and with me, seven.

Q. We'll come back to that again later. But basically it was to organize the travel for you, a way to get there.

A. Yes, sir.

Q. And the third time after that you said?

A. On the UN adopt, after that night.

Q. So when we were talking earlier, then, when he sent for you, that was the third time you met with him?

A. Yes, sir.

Q. Did you ever meet with him after that?

A. Oh, several times, sir.

Q. Okay.

A. Several times.

Q. And what was the purpose of those meetings?

A. Well, yes, sir, let me just clarify that point. When -- because when he called me for the release of the UN adoptees, he told me that, "Oh, guy, don't worry. The international community have contacted me. If I make sure that you people release the UN hostages, I'm going to be the current ECOWAS chairman; and if I be the current ECOWAS chairman, I'm going to take Sankoh from Freetown to another country. So you people move down and make sure you hand over the UN."

Q. Charles Taylor told you that.

A. Yes, told me and the two guys that went.

Q. Who were the two other guys?

A. One fellow by the name of Jabbah, by the name of Jabbah, and myself went. He told us that he's going to be the current ECOWAS chairman so should not delay to release the people.

Q. But you said there were two others with you. Or you were two together?

A. Two.

Q. Only two --

A. Yes, sir.

Q. -- you and Jabbah.

A. Yes, sir. So after releasing them, you know, so when Foday Sankoh -- you know, first he hide in Freetown, he hide himself for some days. So Gibril Massaquoi, "Superman", and FOC, with other senior men around Sankoh, went to Makeni. They met Morris Kallon in Lunsar that, you know, Foday Sankoh said that now I should take over as field commander, but I should make sure that I take all order from Charles

Taylor, which is, one, any diamond I am working in Kono is to be taken to Charles Taylor. That was the directive he sent to me.

Q. He sent to you, or give it to you personally.

A. No, he sent Gibril Massaquoi, "Superman", and FOC, Francis O. Charles, yes, sir. The three of them delivered this information to Morris Kallon. By then I was in Monrovia.

Q. And can you repeat that for me again, the information -- what was the instruction?

A. The instruction they said is from Mr. Sankoh, is that I should take all orders from Charles Taylor, just like the way Sam Bockarie used to do. I should take all orders from Sam Bockarie, and whatsoever work in Kono in terms of diamonds should be taken to Taylor. That was the order they carried to me. And the orders are usually welcomed.

Q. And did you carry out those orders?

A. Yes, sir. Later I break away from those orders because --

Q. Okay. But before you break away from the orders, you did carry them out.

A. Yes.

Q. So you did take diamonds to Charles Taylor?

A. Yes, sir.

Q. Tell me how that worked.

A. Well, frankly speaking, sir, to actually know the work, because as I say, I don't know diamond before, you know, I don't know the actual price of diamond. But when we work, I build the parcel, I carry it to him.

Q. Excuse me?

A. A parcel mean when you put diamonds together.

Q. Yeah, a parcel?

A. A parcel, yes, sir. Carry it to him. So he can give us materiel, give me materiel, and we'll come, we'll fight, fight, by the time we used to attack --

Q. So you carried the diamond directly to him yourself?

A. Directly. That time I met, when I go, I can only be received and only keep company with the SS director. They can't allow other people to get to me, only with Benjamin Yeaten. So any time he want to see me, we talk midnight at Flower House, to his residence, or at his executive mansion, at around 1 or 2:00.

Q. How many times did you do that?

A. Well, if I would say five times or six times, then it's lie, you know. All that time, you know, even the time we talked with the UN, we signed the Lome -- the Abidjan cease-fire, because the first delegation went to Monrovia. The second one now, General Opande told me, he said, "No, you have to make your own people to trust you. The delegation should go to Lungi, and then Taylor feel offended." You see, so I carry a lot of diamonds to him.

Q. How many times; do you know?

A. Yeah, it's about -- it's about 12 -- 11, 12 times. Twelve times.

Q. When was the last time you carried the diamonds? Do you remember the last time?

A. The last time, the last time was -- the last time, it was before

the disarmament in Kono, that's the last time. So after the disarmament in Kono, by then Mike Lamin, the government released Mike Lamin. And Eldred Collins, who -- he called for me and Mike Lamin and others who went there back, that's my last time now. From that time I never go there.

Q. Okay.

A. That is after the disarmament of Kono. So when I went he was very -- he was seriously annoyed with me, because even the money, what caused they never release the money to us for us to campaign, he said that, "Why talking with the UN, disarming, as we take 3,000 armed men to Liberia for them to be there under safekeeping? So if we don't win the election, we are not treated good, then we should go back to Liberia and start another operation." So myself, I totally refused, I said, "No, I can't fool my own people."

Q. Okay. And the first time I imagine was not long after you received the orders that were carried out to you by Massaquoi and company.

A. Yes, sir.

Q. And when were those orders carried out to you?

A. Pardon me, sir.

Q. When did Massaquoi and company come to you, bringing the orders from Sankoh that you should take your order from Charles Taylor? When was that?

A. Well, just about a week when the incident took place in Freetown. When he, Foday Sankoh, hide, it's just about a week, sir, in a week's

time. Gibril Massaquoi and others were facing Lunsar.

Q. Okay. We'll have to come back on this again. Did you ever -- those 11, 12 times that you took diamonds to Taylor, what did you receive in return?

A. Well, usually it was ammunitions.

Q. What kind of ammunition?

A. AK arms, RPG bombs, G3 arms, GNG arms, and some AK rifles. They were -- they are not new there. He give me about 450 AKs through Benjamin Yeaten, but they are not new there. But he give us ammunition; AK, G3, RPG rocket bombs, mortar bombs, and --

Q. Okay.

A. Yes, sir.

Q. Was that every time that you took diamonds and you received ammunition back?

A. Yes. Any time I go he usually give me ammunition.

Q. Okay. What else besides ammunition?

A. Well, besides ammunition, only one time he give us -- only one time he give me 1,000 bags of rice, but I'm only able to bring 200 bags in, because I myself have to charter a truck. So the truck is very expensive so I only managed to bring the 200 bags in. The 800 bags left at Monrovia, at the guesthouse, "Superman" sold some of the rice.

Q. Stole some of the rice?

A. Yeah.

Q. Okay.

A. Sold, sold.

Q. Oh, sold, excuse me.

A. Yes.

Q. Now, the ammunition, the times that you received the ammunition, how was it brought back into the country, into Sierra Leone? And where?

A. Yes, sir. Usually transport ammunition from Monrovia with -- from Camp Sufrin [phoen], when we are coming with ammunition.

Q. What's the name of the camp?

A. Camp Sufrin.

THE COURT REPORTER: Sufrin?

A. Sufrin, yeah, between LIA and Monrovia.

GILBERT MORISSETTE:

Q. How do you spell it; do you know?

A. No, sir, I can't -- Camp, C-a-m-p is camp. Camp Sufrin. That is a military barracks there.

Q. So from Monrovia to the military camp --

A. They would transport -- they would transport the ammunition to the military camp, which is Camp Sufrin by this ADC, who is presently the HU commander, Momoh Juba.

Q. Okay.

A. So when they transport it, then Benjamin Yeaten can receive the ammunition, put in the helicopter and transfer in Foya. So from Foya now, I can use our own truck and transport them into Kailahun, and move them into Kono.

Q. Okay.

A. Yes, sir.

Q. We're going to cover these things. What I want to do here is go over, you know, try to get a global picture --

A. Yes, sir.

Q. -- then we'll go back into lots of details later.

A. Yes, sir.

Q. Let's change the subject completely. And what was your relationship with JPK?

A. JPK?

Q. Yeah.

A. Yes, sir. The first time I know JPK when they overturn, they call for the RUF. By then Sam Bockarie was the head of the RUF. You know, when we came to Freetown, by then I was the deputy to Sam Bockarie. You know, we met JP, and Foday Sankoh said we should take all orders from JP, because Foday Sankoh used to communicate to Liberia, through telephone. When he communicate to Liberia, then we can get information through Liberia by a fellow called Colonel "Jungle". He's an SSS of Charles Taylor, Special Security. So usually he deliver a message to us, to the HF station, that Mr. Foday said that we should take all orders from Johnny Paul. So we came in Freetown and we were working with Johnny Paul until we get back to the bush. That's the only relationship I know. I work with him as a boss.

Q. So you were -- you did receive orders from JPK.

A. Yes, sir. We received orders from him during the days of war. Yes, sir.

Q. Give me an example.

A. Yes, sir. Like, when the ECOMOG pass in Freetown, when we get -- you know, the first place we get to, to Masiaka, JP instructed SO Williams, who is the brigade commander now in Bo, to organize us for us to reattack the Kamajors in Bo. The brigade commander now in Kenema, JP pass the order to him and we implement that. Then it's an order taken from JP.

Q. How was it implemented?

A. By us to -- by us moving Bo, and we attacked Bo.

Q. Okay. And what were the direct instructions?

A. The direct instruction was to capture Bo, from there to capture Kenema, and link him to Kailahun, because by then Charles Taylor was calling for him.

Q. Okay.

A. Yes, sir.

Q. Any instruction as to burning houses, taking prisoners? Was there any such instruction given then?

A. Yes, sir. Yes, sir. Instruction was given to destroy, because even Sam Bockarie came on the radio saying that, you know, Operation No Living Thing. And even the mission when we attacked ECOMOG, because I should not lie, I'm the one who attacked ECOMOG troops as a commander in Kono, down to Makeni, sir. And by then, before we leave, "Mosquito" came from Burkina Faso and brought us ammunition, which is a very good amount of ammunition, about five trucks.

Q. Five trucks?

A. Yes, sir.

Q. And what kind of ammunition?

A. RPG, GNG arms, G3 arms, you know, those are the materiels, AK-1, sufficient. So when he came, we went to JP. JP gave advice and give further blessing that we should make sure we move the war, you know, and that we should go and attack Kono. But before that time they have already burned Kono down, before we prepared the attack in Kono from ECOMOG. Our men, when they pull out, because the one who carried JP in Kailahun, I was the one who took JP from Makeni to Kono, from Kono to Kailahun -- from Kono to Gandorhun, we were not able to go the main road so we go with him through the bush road, you see.

So by then I mean the men left in Kono, Denis Mingo, Morris Kallon and others, with this "Five-Five", "Gullit", they are the ones who destroyed Kono, burning Kono.

Q. To your knowledge, were they given orders to do that, or was it on their own initiative?

A. Well, according to some of the officers, it's an order from Sam Bockarie, yeah. But some did that on their -- it's an order from Sam Bockarie. Because even the vehicles, Sam Bockarie send orders that "Superman" should burn all the vehicles down, and the vehicles we retreated with from Lunsar, Makeni, I mean, there are over 500 vehicles, and everything was burned down, including the town.

Q. Did you ever receive such order yourself?

A. No, sir. All the areas I fought, I never burned any town. I was the one who attacked Makeni and I secured Makeni, the civilian population. And I usually defend civilians. People can testify that.

Q. So you never burned any town.

A. No, sir.

Q. You've never taken any civilian as a hostage?

A. Civilian as a hostage? Civilian as a hostage, no, sir. No, sir, because even the war I don't fought in the jungle, like I never went to --

[Mobile phone interruption]

GILBERT MORISSETTE:

Q. Sorry about that again.

A. Yes, sir.

Q. Sorry about that. Crazy day.

A. Yes, sir.

Q. Okay. Well, let me -- you told us, Issa, it's very important, you know, because this interview, you know, we need to find out everything, you cannot hide anything from us --

A. I will not.

Q. -- because if you -- you know, as I say, you have agreed to collaborate --

A. I will not.

Q. Good. Let me ask you: What is it that you feel is the worst thing you've done yourself during that period, during this whole period?

A. The worst thing I've done?

Q. Yes.

A. Frankly speaking, sir, the worst thing I've done is by me killing my own men in the -- in the safety of the civilians.

Q. Killing your own men?

A. Yes, sir, because when you kill someone unnecessarily, I return the same thing. The people of Kono knew of that; the people of Makeni new of that.

Q. Explain to me, please. I don't understand.

A. Yes, sir. Like, you see, when we -- this is our area of control. We have civilian population; we task them to provide food for us, other things, you know. When someone go again and kill them unnecessarily, I usually take action.

Q. What do you mean by taking action?

A. Taking action, we call the people and investigate you, why you should do such things. Like, for example, in Kono, two commandos went into the village and met the town chief, the head man in the village. They asked him for palm wine. The head man have a gallon of palm wine, the old man have a gallon of palm. So they requested the palm wine from him. The old man said, "No, all of us who are here serving the RUF, you know, now there is no food, we only survive through this wine. I have my wife, and when I get home now, she will see I don't have a gallon of wine." The boys -- I mean he continued to deny, requesting the wine from he old man. The old man said, "Okay, then let's get to the village and I will give you people a litre of wine" --

[Mobile phone interruption].

GILBERT MORISSETTE: Excuse me.

THE COURT REPORTER: 4:15, Joseph?

JOSEPH SAFFA: Yeah. The time? 4:17.

THE COURT REPORTER: 4:17, okay.

--- Recess taken at 4:17 p.m.

--- On resuming at 4:35 p.m.

GILBERT MORISSETTE: Okay, it's, what, 4:35 now.

Q. We're going to have to stop it for now because we need to get --
to have you transferred, secure for the night, okay?

A. Yes, sir.

Q. We'll continue this tomorrow morning, okay?

A. Yes.

Q. So we'll stop --

A. Chief, as I'm saying --

Q. Go ahead.

A. -- I have lot of things to deliver in my discussions. And for me, I'm worried because I work with the UN, I work with General Opande and Ambassador Dineji [phoen]. You know, at the time I met with them, you know, I'm very -- I mean I'm very cooperative with the job. So whatsoever I did during the cause, I'm ready to explain my own commitment, and commitment of others that I know.

Q. That's what I want to know, the commitment of others.

A. Yes, sir.

Q. Okay. And I guarantee you we'll --

A. I know why they killed 4, 500 people, the spot, and who did that, I mean what took place, all these things.

Q. Okay. That's fine, that's what I want to hear from you.
Unfortunately, I'm very sorry, and I apologize, we have to rush it there

because we have to get moving. But tomorrow morning we'll continue. I may not be there myself, Joseph will be there and John, the other investigator, John Berry, the other Canadian investigator. So we'll stop it for now and we'll continue tomorrow, okay?

A. Yes, sir.

Q. Thank you.

A. Thank you very much, sir.

GILBERT MORISSETTE: So whatever time, 4:35 -- :37 p.m. Okay, we're off.

--- Whereupon the interview concluded at 4:37 p.m.