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SCSL-03-01-T
(20411 - 20653)

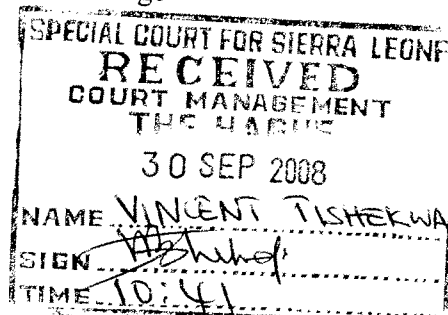
20411

SPECIAL COURT FOR SIERRA LEONE
OFFICE OF THE PROSECUTOR
Freetown - Sierra Leone

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

Registrar: Mr. Herman von Hebel

Date filed: 30 September 2008



THE PROSECUTOR

Against

Charles Ghankay Taylor

Case No. SCSL-03-01-T

PUBLIC WITH CONFIDENTIAL ANNEXES B TO G

**PROSECUTION NOTICE UNDER RULE 92bis FOR THE ADMISSION OF EVIDENCE RELATED
TO *INTER ALIA* FREETOWN & WESTERN AREA - TF1-024, TF1-081 & TF1-084**

Office of the Prosecutor:
Ms. Brenda J. Hollis
Ms. Leigh Lawrie

Counsel for the Accused:
Mr. Courtenay Griffiths Q.C.
Mr. Andrew Cayley
Mr. Terry Munyard
Mr. Morris Anyah

I. INTRODUCTION

1. The Prosecution submits this filing under Rules 73, 89(C) and 92*bis* of the Rules of Procedure and Evidence of the Special Court for Sierra Leone (“**Rules**”).
2. The Prosecution gives notice under Rule 92*bis* of its intention to seek admission of the prior trial transcripts, exhibits and statements relating to the witnesses TF1-024, TF1-081 and TF1-084 in other proceedings before the Special Court for Sierra Leone (“**SCSL**”)¹.
3. The material which is the subject of this filing is relevant to the crimes charged in the Second Amended Indictment² and committed predominantly in Freetown and the Western Area of Sierra Leone.

II. APPLICABLE LAW

4. Rule 89 sets out the basic principles to be applied by the Court in relation to the admission of evidence. Rule 89(B) provides that the Chamber: “... shall apply rules of evidence which will best favour a fair determination of the matter before it and are consonant with the spirit of the Statute and the general principles of law”. Further, Rule 89(C) provides the Chamber with the discretion to admit relevant evidence.
5. Rule 92*bis* of the Rules provides that:
 - (A) In addition to the provisions of Rule 92*ter*, a Chamber may, in lieu of oral testimony, admit as evidence, in whole or in part, information including written statements and transcripts, that do not go to proof of the acts and conduct of the accused.
 - (B) The information submitted may be received in evidence if, in the view of the Trial Chamber, it is relevant to the purpose for which it is submitted and if its reliability is susceptible of confirmation.
 - (C) A party wishing to submit information as evidence shall give 10 days notice to the opposing party. Objections, if any, must be submitted within 5 days.
6. Rule 89 constitutes the basic rule regulating the admission of evidence which

¹ TF1-024 testified in *Prosecutor v. Brima et al* (SCSL-04-16-T) (“**AFRC trial**”) on 7 and 8 March 2005; TF1-081 testified in the **AFRC trial** on 4 July 2005 and appeared for cross-examination in *Prosecutor v. Sesay et al* (SCSL-04-15-T) (“**RUF trial**”) on 6 April 2006; and TF1-084 testified in the AFRC trial on 6 April 2005. The Prosecution has identified the portions of the prior testimonies and the related exhibits which it seeks to admit via this notice and these portions and exhibit are provided in the **Annexes** hereto.

² *Prosecutor v. Taylor*, SCSL-03-01-T-263, “Prosecution’s Second Amended Indictment”, 29 May 2007 (“**Indictment**”).

applies in addition to the more specific provisions contained in Rule 92*bis*.³ Rule 89(C) only requires that evidence be *relevant* to be admissible. There is no requirement that the evidence be both relevant and probative.⁴

7. The procedural requirements of Rule 92*bis* must be met by the party seeking admission of a transcript or statement *in lieu of oral testimony*, in addition to the requirements of Rule 89. Accordingly, for witness specific material to be admitted pursuant to Rules 89(C) and 92*bis*, the evidence must not go to proof of the acts and conduct of the accused, must be relevant and its reliability susceptible of confirmation. Rule 92*bis* does not otherwise limit the evidence which might be admitted under it.
8. The Prosecution, therefore, notifies the Court of its intention to seek the admission of the prior trial transcripts, exhibits and statements provided in the **Annexes** hereto which relate to the witnesses TF1-024, TF1-081 and TF1-084 under Rules 89(C) and 92*bis*.

III. BACKGROUND

9. On 4 April 2007, the Prosecution filed its Rule 73*bis* Pre-Trial Conference Materials.⁵ As part of these materials, the Prosecution filed a witness list (“**Witness List**”) and, in the introductory pages to the Witness List, advised the Court that it might seek to present the evidence of some witnesses through the admission of prior testimony under Rule 92*bis*. TF1-081 and TF1-084 were included on the Witness List and identified as being such witnesses. Pursuant to this Chamber’s decision of 5 February 2008⁶, TF1-024 was added to the Witness List and identified as being a witness whose evidence would be submitted pursuant to an application under Rule 92*bis*.⁷

³ *Prosecutor v. Slobodan Milošević*, Case No. IT-02-54-AR73.4, “Decision on Interlocutory Appeal on the Admissibility of Evidence-In-Chief in the Form of Written Statements”, 30 September 2003, paras 9-10.

⁴ *Prosecutor v. Brima et al.*, SCSL-04-16-T-280, “Decision on Joint Defence Motion to Exclude all Evidence from Witness TF1-277 Pursuant to Rule 89(C) and/or Rule 95”, 24 May 2005, para. 13.

⁵ *Prosecutor v. Taylor*, SCSL-03-01-PT-218, “Public Rule 73*bis* Pre-Trial Conference Materials”, 4 April 2007 (“**Pre-Trial Conference Materials**”).

⁶ *Prosecutor v. Taylor*, SCSL-03-01-T-408, “Decision on Public with Confidential Annex D, Motion for Leave to Vary the Witness List & to Disclose Statements of Additional Witnesses”, 5 February 2008.

⁷ See *Prosecutor v. Taylor*, SCSL-03-01-T-410, “Prosecution’s Amended List”, 7 February 2008.

10. All three witnesses are protected.⁸ The protective measures ordered in the other proceedings before this Court continue to have effect *mutatis mutandis* in these proceedings pursuant to Rule 75(F)(i).
11. TF1-024 testified in the AFRC trial on 7 and 8 March 2005. The witness' testimony consisted of approximately half an hour of examination-in-chief and approximately four hours of cross-examination. The prior trial transcripts of TF1-024 were disclosed in redacted format to the Defence on 17 May 2006 and in unredacted format on 4 August 2008. The prior testimony of TF1-024 is provided in **Annex A** and confidential **Annex B**.⁹
12. TF1-081 testified in the AFRC trial on 4 July 2005 entirely in closed session.¹⁰ The witness' testimony, direct and cross-examination lasted just under an hour. This closed session prior testimony is provided in confidential **Annex C**. One exhibit, ARFC P25, was admitted through this witness under seal. This is provided in confidential **Annex D**.
13. Pursuant to Trial Chamber I's decision,¹¹ TF1-081's transcripts and exhibit from the AFRC trial were admitted in the RUF trial under Rule 92*bis* as confidential exhibits P104A and P104B.¹² In the RUF trial, TF1-081 appeared for cross-examination by all three Defence Counsel on 6 April 2006. The prior transcript relating to TF1-081's cross-examination in the RUF trial is provided in confidential **Annex D**.¹³

⁸ The protective measures decision applicable to TF1-024 and TF1-084 is the decision given in the RUF trial, *Prosecutor v. Sesay et al.*, SCSL-05-15-T-180, "Decision on Prosecution Motion for Modification of Protective Measures for Witnesses", 5 July 2004, which Decision is the subject of differing interpretations in this trial and is the subject of an appeal and a motion for leave to appeal. Pursuant to this decision, both testified as Category 1 witnesses (using pseudonym and screen) even though TF1-024 was included as a Category 1B witness. In respect to TF1-081, closed session was ordered by *Prosecutor v. Brima et al. and Sesay et al.*, SCSL-04-16-T-259, "Decision on the Urgent and Confidential Prosecution Application to vary Protective Measures regarding Witnesses TF1-104 and TF1-081", 11 May 2005.

⁹ It is to be noted that pursuant to the witness' protected status, page 61 of the public version of the 7 March 2005 transcript published on the Special Court's website contains a redaction made by WVS. A copy of this page without this redaction is provided in confidential **Annex B**.

¹⁰ See reference to decision ordering closed session in footnote 8 above.

¹¹ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-489, "Decision on the Prosecution Confidential Notice under 92*bis* to Admit the Transcript of Testimony of TF1-081", 21 February 2006 ("**TF1-081 Decision**").

¹² See RUF trial Transcript, 6 April 2006, p. 18, lines 25 – 26. Exhibits 104A and 104B are not provided as they duplicate the material provided in **Annexes C** and **D**.

¹³ TF1-081 was cross-examined entirely in closed session (see ruling given at RUF trial Transcript, 6 April 2006, p. 14, line 14 to p. 15, line 6).

14. The prior trial transcripts and exhibit of TF1-081 were disclosed in redacted format to the Defence on 17 May 2006 and in unredacted format on 4 August 2008.
15. TF1-084 testified in the AFRC trial on 6 April 2005. The witness' testimony, direct and cross-examination, lasted just over an hour and is provided in confidential **Annex E**.¹⁴ One exhibit, AFRC D3, was admitted through this witness and is provided in confidential **Annex F**.¹⁵ Subsequent to his testimony, TF1-084 gave two supplemental statements. The first supplemental statement dated 19 March 2007 and signed by the witness concerns the impact the crimes have had on his life. The second supplemental statement dated 23 May 2008 and signed by the witness provides further information on the events dealt with in his testimony. Both statements are provided in confidential **Annex G**.¹⁶ The prior testimony and related exhibit of this witness was disclosed in redacted format on 17 May 2006. The redacted versions of the supplemental statements were disclosed on 3 April 2007 and 6 June 2008 respectively. All unredacted material for this witness was disclosed on 4 August 2008.

IV. SUBMISSIONS

16. The jurisprudence of the SCSL clearly establishes that the Rules "favour a flexible approach to the issue of admissibility of evidence."¹⁷ The jurisprudence of the SCSL also supports the view that expedient and fair trials are promoted where sworn testimony before the Court is admitted in a subsequent trial.¹⁸ This

¹⁴ It is to be noted that pursuant to the witness' protected status, the public version of the 6 April 2005 transcript published on the Special Court's website contains redactions made by WVS. The copy of the transcript provided in confidential **Annex E** does not contain such redactions.

¹⁵ As the exhibit is a prior statement of the witness which includes his name, the exhibit is filed confidentially in order not to compromise this witness' protected status.

¹⁶ The statements are filed confidentially as they refer to the witness' name. The handwritten and typed versions of each statement are provided.

¹⁷ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-618, "Decision on Prosecution Notice Pursuant to Rule 92bis to Admit Information into Evidence", 2 August 2006, p. 3, quoting with approval *Prosecutor v. Sesay et al.*, SCSL-04-15-T-391, "Ruling on Gbao Application to Exclude Evidence of Prosecution Witness Mr. Koker", 23 May 2005, para. 4.

¹⁸ See: *Prosecutor v. Sesay et al.*, SCSL-04-15-T-448, "Decision on the Prosecution Confidential Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-023, TF1-104 and TF1-169", 9 November 2005; *Prosecutor v. Sesay et al.*, SCSL-04-15-T-557, "Decision on the Prosecution Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-256", 23 May 2006; and *Prosecutor v. Sesay et al.*, SCSL-04-15-T-559, "Decision on the Prosecution Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-334", 23 May 2006.

jurisprudence applies the principles enshrined in Article 17 of the SCSL's Statute regarding the Accused's right to a fair and expeditious trial, and the principles underlining Rule 26bis which require that trial proceedings be conducted in a fair and expeditious manner.

The evidence is relevant

17. As required under both Rules 89(C) and 92bis, the evidence of TF1-024, TF1-081 and TF1-084 is relevant to the current proceedings as it concerns *inter alia* crimes committed in Freetown and the Western Area during the Indictment period.¹⁹
18. Witness TF1-024 gives evidence of burning, unlawful killings, sexual violence, the abduction and forced labour of civilians and the use of child soldiers in Freetown and the Western area by the AFRC/RUF, all during the Indictment period. Witness TF1-081 gives evidence of sexual violence and the abduction of civilians by the AFRC/RUF occurring predominantly in Freetown and the Western area, all during the Indictment period. Witness TF1-084 gives evidence of burning, unlawful killings, physical violence, looting, and the use of child soldiers by the AFRC/RUF occurring predominantly in Freetown and the Western area, all during the Indictment period.
19. In addition to specific crime base evidence, the witnesses also provide evidence relevant to the chapeau requirements of the crimes charged in the Indictment such as the widespread or systematic nature of the attack, the nexus between the violation or crime and the armed conflict and the civilian status of the victims. As noted by Trial Chamber I, TF1-081 also gives evidence relating to the gang rape of a woman "coming from Bo".²⁰ While sexual violence in Bo is not charged in the Indictment, such evidence is relevant to the chapeau requirements of the crimes and, accordingly, should not be excluded.

Susceptible of Confirmation

20. As also required under Rule 92bis, the material referred to in this notice is susceptible of confirmation. At this stage the Prosecution is not required to prove that the evidence is in fact reliable, only that the reliability of the evidence is

¹⁹ See also the summaries of the witnesses' evidence provided as part of the Pre-Trial Conference Materials.

²⁰ TF1-081 Decision, page 4.

susceptible of confirmation.²¹ The phrase “susceptible of confirmation” contained in Rule 92bis (B) has been interpreted by the Appeals Chamber in the CDF trial to mean that the “proof of reliability is not a condition of admission: all that is required is that the information should be capable of corroboration in due course.”²² This approach was noted with approval by Trial Chamber I in relation to the reception of witness statements into evidence in the RUF trial.²³

21. This Trial Chamber in the AFRC trial reiterated that “evidence may be excluded because it is unreliable, but it is not necessary to demonstrate the reliability of the evidence before it is admitted.”²⁴ The Trial Chamber further considered that “reliability of the evidence is something to be considered by the Trial Chamber at the end of the trial when weighing and evaluating the evidence as a whole, in light of the context and nature of the evidence itself, including the credibility and reliability of the relevant evidence.”²⁵

Proof of the acts and conduct of the accused

22. The evidence which the witnesses provide on the RUF command structure, the AFRC/RUF command structure and the relationship between the RUF and the AFRC during the Indictment period is all relevant to the chapeau elements of the crimes such as the systematic nature of the attack, as noted in paragraph 19 above and to several forms of liability alleged by the Prosecution in this case, including the Accused’s participation in a common plan, design or purpose, and his liability

²¹ *Prosecutor v. Norman et al.*, SCSL-04-14AR73, “Fofana – Decision on Appeal Against ‘Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence’”, 16 May 2005, para. 27.

²² *Ibid.*, para. 26, which dicta was recently referred to by this Chamber in *Prosecutor v. Taylor*, SCSL-01-03-T-556, “Decision on Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule 92bis for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008 (“**Taylor Rule 92bis Decision**”), p. 4.

²³ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1125, “Decision on Sesay Defence Motion and Three Sesay Defence Applications to Admit 23 Witness Statements under Rule 92bis”, 15 May 2009, paras. 29-31.

²⁴ *Prosecutor v. Brima et al.*, SCSL-04-16-T, “Decision on Prosecution Tender for Admission into Evidence of Information Contained in Notice Pursuant to Rule 92bis”, 18 November 2005, page 2 (last para), citing *Prosecutor v. Brima et al.*, SCSL-04-16-T, “Decision on Joint Defence Application for Leave to Appeal from Decision on Defence Motion to Exclude All Evidence from Witness TF1-277”, 2 August 2005, para. 6.

²⁵ *Prosecutor v. Brima et al.*, SCSL-04-16-T, “Decision on Prosecution Tender for Admission into Evidence of Information Contained in Notice Pursuant to Rule 92bis”, 18 November 2005, page. 3 (second full paragraph). See also *Prosecutor v. Norman et al.*, SCSL-04-14-T-447, “Decision on Prosecution’s Request to Admit into Evidence Certain Documents Pursuant to Rules 92bis and 89(C)”, 14 July 2005, page 3.

based on superior authority for the crimes committed by the AFRC and RUF alliance. In relation to this evidence, it is acknowledged that Rule 92*bis* specifically excludes witness statements or transcripts which go to proof of the acts and conduct of the accused.

23. However, as noted by this Trial Chamber in its recent decision on Rule 92*bis*, “there must be a distinction made between ‘the acts and conduct of those others who commit the crimes for which the Indictment alleges that the accused is individually responsible’ and ‘the acts and conduct of the accused as charged in the Indictment which establish his responsibility for the acts and conduct of others;’ and that only written statements which go to proof of the latter are excluded by Rule 92*bis*.”²⁶
24. The prior trial transcripts, exhibits and statements of the three witnesses which the Prosecution seeks to admit under Rule 92*bis* do not go to proof of the acts and conduct of the Accused as that term is defined and limited by the jurisprudence.

Cross-examination

25. In the recent *Taylor* Rule 92*bis* Decision, this Chamber noted that it is within its inherent power to order cross-examination where the evidence to be admitted under Rule 92*bis*: (i) is so “pivotal to the Prosecution’s case and ... the person whose acts and conduct [the evidence] describes is so proximate to the accused”; or (ii) goes to a critical element of the Prosecution’s case.²⁷
26. The Prosecution considers that the following factors support the conclusion that a further cross-examination of TF1-024, TF1-081 and TF1-084 is not required.
27. First, the evidence provided by both TF1-081 and TF1-084 is crime base evidence, evidence which the Defence has indicated on previous occasions it will not seek to challenge.²⁸ As regards the evidence of TF1-024, the Prosecution appreciates that this witness’ testimony refers to “Gullit” and his presence at State

²⁶ *Taylor* Rule 92*bis* Decision, p. 4, citing *Prosecutor v. Galić*, IT-98-29-AR73.2, “Decision on Interlocutory Appeal Concerning Rule 92*bis* (C)”, 7 June 2002, para. 9 and referring to *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1049, “Decision on Defence Application for the Admission of the Witness Statement of DIS-192 Under Rule 92*bis*, or in the alternative, Under Rule 92*ter*”, 12 March 2008, p. 2-3.

²⁷ *Taylor* Rule 92*bis* Decision, p. 4.

²⁸ See footnote 29 of *Prosecutor v. Taylor*, SCSL-01-03-T-586, “Public, With Confidential Annex A to G Prosecution Notice Under Rule 92*bis* for the Admission of Evidence Related to Inter Alia Kono District – TF1-195, TF1-197, TF1-198 & TF1-206”, 11 September 2008 regarding Defence Counsel’s previous statements regarding crime base evidence.

House during the occurrence of certain crimes and, therefore, that such evidence might be considered to sufficiently proximate to the Prosecution's case. However, as noted below, this evidence has been tested in other proceedings.

28. The evidence of all three witnesses has already been tested by cross-examination by defence counsel in other proceedings. As noted above, while TF1-024's testimony refers to "Gullit", this evidence was cross-examined by all three defence counsel in the AFRC trial, including defence counsel acting for Alex Tamba Brima aka "Gullit". In relation to TF1-081, this witness' evidence has now been tested in two separate proceedings, by five defence counsel and, should cross-examination be ordered in these proceedings, would be tested for a third time. Finally, TF1-084 was cross-examined in the AFRC trial by all three defence counsel. In relation to prior cross-examination, Trial Chamber I has considered this testing of evidence to be a relevant factor to be considered when determining whether to order further cross-examination.²⁹ Indeed, Trial Chamber I went so far as to find that if evidence *similar* to that being sought to be admitted under Rule 92bis had been given by other witnesses in the proceedings and this *similar* evidence had been subject to cross-examination, then a cross-examination of the *actual* Rule 92bis evidence might *not* be necessary. It is acknowledged that TF1-084's supplemental statements have not been so tested. However, the evidence contained therein is crime base evidence and does not implicate the Accused in the perpetration of a crime or those who might be considered so proximate to him. Therefore, its admission without cross-examination would not prejudice the Accused.
29. Notwithstanding the foregoing, the Prosecution advises that, should the Chamber order cross-examination of any of the witnesses in question, then the Prosecution will not seek to conduct a *viva voce* examination-in-chief of these witnesses. The Prosecution has made this determination despite any disadvantage that may occur where it does not elicit during *viva voce* examination-in-chief the mental and physical effect of the crimes on the witnesses and other relevant evidence

²⁹ *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1125, "Decision on Sesay Defence Motion and Three Defence Applications to Admit 23 Witness Statements under Rule 92bis", 15 May 2008, para. 40.

previously not elicited. In this regard, should further cross examination be allowed, limiting it to matters not previously covered would be efficient and would not impact the fair trial rights of the Accused.

V. NOTICE

30. The Prosecution gives notice of its intention to submit for admission into evidence the parts of the prior trial transcripts relating to TF1-024, TF1-081 and TF1-084 provided in **Annexes A, B, C and E**. As permitted under Rule 92*bis*, the Prosecution seeks to admit *parts* only of the prior testimony into evidence and wishes to exclude those sections which concern: (i) legal argument which had no impact on the evidence of the witness; (ii) trial administrative matters; and (iii) evidence of the acts and conduct of the Accused. Accordingly, portions of the transcripts set out in the **Annexes** have been redacted on this basis.³⁰
31. The Prosecution gives notice of its intention to submit for admission into evidence the exhibits provided in confidential **Annexes D and F**.
32. The Prosecution gives notice of its intention to submit for admission into evidence the statements of TF1-084 provided in **Annex G**.

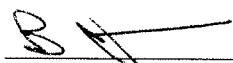
VI. CONCLUSION

33. The Prosecution hereby gives notice under Rule 92*bis* of its intention to seek admission into evidence the material identified in paragraphs 30 and 32.

Filed in The Hague,

30 September 2008

For the Prosecution,



Brenda J. Hollis
Principal Trial Attorney

³⁰ This procedure also conforms to the procedure adopted at the ICTR. At the ICTR statements tendered pursuant to Rule 92*bis* are reviewed. Where a statement is tendered that includes information that falls within Rule 92*bis* and information that falls outside the Rule, the statement is admitted but the paragraphs or information that fall outside the Rule are simply not admitted into evidence. See for example *Prosecutor v. Bagosora et al*, ICTR-98-41-T, “Decision on Prosecutor’s Motion for the Admission of Written Witness Statements Under Rule 92*bis*,” 9 March 2004. This procedure has now been adopted at the SCSL – see *Prosecutor v. Sesay et al.*, SCSL-04-15-T-1049, “Decision on Defence Application for the Admission of the Witness Statement of DIS-192 under Rule 92*bis* or, in the alternative, under Rule 92*ter*”, 12 March 2008.

LIST OF AUTHORITIES

SCSL**Prosecutor v. Taylor, SCSL-2003-01-T**

Prosecutor v. Taylor, SCSL-03-01-PT-218, “Public Rule 73bis Pre-Trial Conference Materials”, 4 April 2007

Prosecutor v. Taylor, SCSL-03-01-T-263, “Prosecution’s Second Amended Indictment”, 29 May 2007

Prosecutor v. Taylor, SCSL-03-01-T-408, “Decision on Public with Confidential Annex D, Motion for Leave to Vary the Witness List & to Disclose Statements of Additional Witnesses”, 5 February 2008

Prosecutor v. Taylor, SCSL-03-01-T-410, “Prosecution’s Amended List”, 7 February 2008

Prosecutor v. Taylor, SCSL-01-03-T-556, “Decision on Prosecution Notice under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kenema District And on Prosecution Notice under Rule 92bis for the Admission of the Prior Testimony of TF1-036 into Evidence”, 15 July 2008

Prosecutor v. Taylor, SCSL-01-03-T-586, “Public, With Confidential Annex A to G Prosecution Notice Under Rule 92bis for the Admission of Evidence Related to *Inter Alia* Kono District – TF1-195, TF1-197, TF1-198 & TF1-206”, 11 September 2008

Prosecutor v. Norman et al., SCSL-04-14-T

Prosecutor v. Norman et al., SCSL-2004-14AR73, “Fofana – Decision on Appeal Against “Decision on Prosecution’s Motion for Judicial Notice and Admission of Evidence”, 16 May 2005

Prosecutor v. Norman et al., SCSL-04-14-T-447, “Decision on Prosecution’s Request to Admit into Evidence Certain Documents Pursuant to Rules 92bis and 89(C)”, 14 July 2005

Prosecutor v Sesay, Kallon & Gbao, SCSL-2004-15-T

Prosecutor v. Sesay et al., SCSL-04-15-T-391, “Ruling on Gbao Application to Exclude Evidence of Prosecution Witness Mr. Koker”, 23 May 2005

Prosecutor v. Sesay et al., SCSL-05-15-T-180, “Decision on Prosecution Motion for Modification of Protective Measures for Witnesses”, 5 July 2004

Prosecutor v. Sesay et al., SCSL-04-15-T-448, “Decision on the Prosecution Confidential Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-023, TF1-104 and TF1-169”, 9 November 2005

Prosecutor v. Sesay et al., SCSL-04-15-T-489, “Decision on the Prosecution Confidential Notice under 92bis to Admit the Transcript of Testimony of TF1-081”, 21 February 2006

Prosecutor v. Sesay et al., SCSL-04-15-T, Trial Transcript, 6 April 2006

Prosecutor v. Sesay et al., SCSL-04-15-T-557, “Decision on the Prosecution Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-256”, 23 May 2006

Prosecutor v. Sesay et al., SCSL-04-15-T-559, “Decision on the Prosecution Notice under Rule 92bis to Admit the Transcripts of Testimony of TF1-334”, 23 May 2006

Prosecutor v. Sesay et al., SCSL-04-15-T-618, “Decision on Prosecution Notice Pursuant to Rule 92bis to Admit Information into Evidence”, 2 August 2006

Prosecutor v. Sesay et al., SCSL-04-15-T-1049, “Decision on Defence Application for the Admission of the Witness Statement of DIS-192 under Rule 92bis or, in the alternative, under Rule 92ter”, 12 March 2008

Prosecutor v. Sesay et al., SCSL-04-15-T-1125, “Decision on Sesay Defence Motion and Three Defence Applications to Admit 23 Witness Statements under Rule 92bis”, 15 May 2008

***Prosecutor v. Brima et al.*, SCSL-04-16-T**

Prosecutor v. Brima et al. and Sesay et al., SCSL-04-16-T-259, “Decision on the Urgent and Confidential Prosecution Application to vary Protective Measures regarding Witnesses TF1-104 and TF1-081”, 11 May 2005

Prosecutor v. Brima et al., SCSL-04-16-T-280, “Decision on Joint Defence Motion to Exclude all Evidence from Witness TF1-277 Pursuant to Rule 89(C) and/or Rule 95”, 24 May 2005

Prosecutor v. Brima et al., SCSL-04-16-T, “Decision on Joint Defence Application for Leave to Appeal from Decision on Defence Motion to Exclude All Evidence from Witness TF1-277”, 2 August 2005

Prosecutor v. Brima et al., SCSL-04-16-T, “Decision on Prosecution Tender for Admission into Evidence of Information Contained in Notice Pursuant to Rule 92bis”, 18 November 2005

ICTY Cases

Prosecutor v. Galić, IT-98-29-AR73.2, Decision on Interlocutory Appeal Concerning Rule 92 bis (C), 7 June 2002 (*Copy provided in previous filing – see SCSL-03-01-T-571*)

Prosecutor v. Slobodan Milošević, Case No. IT-02-54-AR73.4, “Decision on Interlocutory Appeal on the Admissibility of Evidence-In-Chief in the Form of Written Statements”, 30 September 2003

<http://www.un.org/icty/milosevic/appeal/decision-e/030930.htm>

ICTR Cases

Prosecutor v. Bagosora et al, ICTR-98-41-T, “Decision on Prosecutor’s Motion for the Admission of Written Witness Statements Under Rule 92bis,” 9 March 2004

<http://69.94.11.53/ENGLISH/cases/Bagosora/decisions/040309.htm>

ANNEX ATRIAL TRANSCRIPTS OF TF1-024

1. TF1-024, AFRC trial transcript, 7 March 2005
2. TF1-024, AFRC trial transcript, 8 March 2005

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-16-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA KAMARA
SANTIGIE KANU

MONDAY, 7 MARCH 2005
9.19 A.M.
TRIAL

Before the Judges:

Teresa Doherty, Presiding
Julia Sebutinde
Richard Lussick

For Chambers:

Ms Caitlin Reiger
Mr Simon Meisenberg

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Mr David Crane
Mr Luc Cote
Ms Lesley Taylor
Ms Boi-Tia Stevens
Ms Melissa Pack
Mr Jim Johnson
Mr Christopher Santora
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 2 [REDACTED]
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 11:40:41 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 11:41:09 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 14:28:32 15 [REDACTED]
 16 [REDACTED]
 17 [REDACTED]
 18 [REDACTED]
 19 [REDACTED]

14:29:27 20 WITNESS: TF1-024 [Sworn]
 21 PRESIDING JUDGE: Proper attention will be taken during the oath. No
 22 one will talk or move.

23 MS TAYLOR: Your Honour, the first witness, TF1-024, who gives
 24 evidence in English, will be led by my learned friend, Mr Santora. I have
 14:29:48 25 not had the opportunity to introduce Mr Santora to the Bench beforehand. I
 26 do so now. I also point out Mr Wallbridge sits with the Prosecution, too,
 27 and he has not been introduced to the Bench either.

28 PRESIDING JUDGE: Proceed, Mr Santora.
 29 MR SANTORA: Thank you, Your Honour.

1 EXAMINED BY MR SANTORA :

2 Q. Good afternoon, Mr witness.

3 A. Good afternoon, sir.

4 Q. Mr witness, can you tell the Court what city you were born in?

14:30:34 5 JUDGE LUSSICK: Just before you start, for the record, if this
6 witness has a number, I think you should identify him by a number, at
7 least.

8 MR SANTORA: This witness is TF1-024, Your Honour.

9 Q. Mr witness, can you tell the Court what city you were born in?

14:31:07 10 A. I born in Freetown here.

11 Q. Can you tell the Court what city you live in now?

12 A. I live in Freetown. Mr witness, what is your profession?

13 A. I'm a [inaudible] mechanic engineer.

14 Q. Can you read and write, Mr witness?

14:31:30 15 A. Yes.

16 Q. Mr witness, during the war in Sierra Leone, where were you living?

17 A. I was living in Freetown.

18 Q. Can you tell the Court what happened to you while you were living in
19 Freetown during the war in Sierra Leone?

14:32:01 20 A. Yes.

21 Q. Please go ahead and start explaining what happened to you.

22 A. I was in Freetown during 1998 when the rebels came in the centre of
23 Freetown. The rebel captured me. They took me to State House.

24 Q. Mr witness, before you proceed, you were living in Freetown, and what
14:32:37 25 was the year you were captured?

26 A. I was captured 8 of January.

27 Q. what year was that?

28 A. That was 1998.

29 Q. who captured you?

1 A. Three rebel boys.

2 Q. What were they wearing?

3 A. Don't understand.

4 Q. What kind of clothes were they wearing?

14:33:09 5 A. ECOMOG uniform.

6 Q. When you say three rebel boys, what do you mean by the word "rebel"?

7 A. Well, during that time, the rebel and the soldier, they all combine
8 together, so they are all rebel at night-time.

9 Q. Mr witness, without telling me the exact address, can you tell me the
14:33:36 10 street you were living on when you were captured?

11 A. Yes. I was living Waterloo Street, 79 Waterloo Street in Freetown.

12 Q. You said three rebels captured you?

13 A. Yeah.

14 Q. Did these rebels have weapons?

14:33:57 15 A. Yes, have weapons - guns.

16 Q. Do you remember the type of guns that they had?

17 A. AK-47.

18 Q. When you encountered these rebels, what did they say to you?

19 A. They said I should join them, because they have lost more men, so I
14:34:24 20 should join them.

21 Q. What language were they speaking?

22 A. They were speaking Liberian English.

23 Q. After they asked you to join them, what did you do?

24 A. I refused but they forced me to go to State House.

14:34:46 25 Q. Please tell the Court what happened when you arrived at the State
26 house?

27 A. When I arrived at the State House, they beat me up. They forced me
28 to join them; I refused, so they locked me inside the kitchen of State
29 House.

1 Q. Mr Witness, when you arrived at the State House, can you tell the
2 Court what was happening there?

3 A. Yeah. In the night, they go out and find womens, little child --
4 raped, every night.

14:35:35 5 Q. Mr Witness, when you first arrived at the State House, from where you
6 were on Waterloo Street, what exactly did you see?

7 A. I saw they were burning people's houses, looting properties.

8 Q. When the three rebels took you to the State House, were there other
9 rebels at State House?

14:36:04 10 A. Yes, My Lord.

11 Q. who were they?

12 A. Gullit was there. They were calling him Honorable Gullit, but I
13 didn't know him.

14 Q. who was calling him Honorable Gullit?

14:36:25 15 A. Boys, the rebel boys.

16 Q. About how many rebel boys were at the State House when you got there?

17 A. There were many. There were many.

18 Q. After you arrived, you said you heard these boys calling him
19 Honorable Gullit; is that correct?

14:36:58 20 A. Yes.

21 Q. what else did you see?

22 A. Explain it again -- understand.

23 Q. When you arrived at State House?

24 A. Yes.

14:37:06 25 Q. You said that Gullit's boys were calling him Honorable Gullit?

26 A. Yeah.

27 Q. Can you tell the Court if you actually saw Gullit?

28 A. I saw Gullit through the window when I was inside the kitchen.

29 Q. Prior to that, did you see him when you arrived at State House?

- 1 A. I saw him.
- 2 Q. what was he doing when you arrived?
- 3 A. He was commanding his boys during that time.
- 4 Q. How do you know he was commanding his boys?
- 14:37:41 5 A. Because during that time, he was the only commander at State House
6 during that time. They were calling him Honorable Gullit.
- 7 Q. were there other people with you who were captured and brought to
8 State House?
- 9 A. Yeah.
- 14:37:58 10 Q. Can you tell the Court what happened to those people?
11 A. They killed some people. They raped some women and children.
- 12 Q. You said "they killed some people"; who killed some people?
- 13 A. The rebel boys - Gullit's boys.
- 14 Q. And did you see this?
- 14:38:25 15 A. Yeah.
- 16 Q. Can you tell the Court exactly what you saw?
- 17 A. Yeah. when they were in State House, they go eat food for
18 themself -- cow, sheep and goods and rice. Also, palm oil for themself. I
19 saw that.
- 14:38:50 20 Q. Mr witness, you said that they, Gullit's boys, killed people?
21 A. Yeah.
- 22 Q. I want to ask you again about that specific assertion. Explain
23 exactly what you saw with regards to Gullit's boys killing people.
- 24 A. Because people was -- people will be forced to join them. People
14:39:13 25 refuse; they kill them.
- 26 Q. You said people refused to join.
- 27 A. Yeah.
- 28 Q. How many people refused to join?
- 29 A. More than 30 people.

1 Q. How many people were killed?

2 A. I can't remember the number again, but there were many.

3 Q. Who exactly was asking them to join?

4 A. Gullit was telling his boys to force people to join them because they
14:39:51 5 have lost many boys -- many rebel boys -- those who were killed by ECOMOG,
6 so they wanted to regain more men to join them.

7 Q. So you said Gullit's boys were asking people to join them; is that
8 correct?

9 A. Gullit was forcing his boys to tell people to join.

14:40:18 10 Q. How do you know Gullit was forcing his boys to tell people to join?

11 A. I was there; I saw him commanding these boys.

12 Q. Do you remember exactly what he said to his boys?

13 A. Yeah. He told his boys that as far now we have lost more men, so all
14 civilians that we are capturing, we are going to force them to join and we
14:40:43 15 are going there at the provinces. That's what he was saying.

16 Q. You said some people refused to join?

17 A. Yeah.

18 Q. And some people were killed?

19 A. Yes.

14:40:57 20 Q. Did you actually see them being killed?

21 A. Yes.

22 Q. How were they killed?

23 A. They killed them through their chests, some their legs.

24 Q. Is that - did you say they got shot?

14:41:14 25 A. Yeah, they shot them down.

26 Q. When these people were shot down, was Gullit present?

27 A. Yes, Gullit was there during that time. He was standing by the side
28 of the window by the carpet grass at the State House.

29 Q. After these people were shot for refusing to join, what happened?

1 A. They threw them out of the back of the building, the State House, the
2 dead body.

3 Q. After these bodies were taken out, what happened to you?

4 A. They forced me to go with them. They chain me, put bomb on my head
14:42:06 5 to carry. I carried the bomb through Parliament Road?

6 Q. Mr witness, you said before you were locked in a kitchen; is that
7 right?

8 A. Yes.

9 Q. Now, I just want to make sure that I understand exactly the sequence
14:42:28 10 of events. You said that you saw Gullit's boys killing people?

11 A. Yeah.

12 Q. You also said that you were locked in a kitchen?

13 A. Yeah.

14 Q. were you locked in a kitchen after this shooting?

14:42:41 15 A. Yes, I was watching through the window. I was inside the kitchen,
16 but I was watching through the window.

17 Q. Okay. who put you in the kitchen?

18 A. The three rebel boys who brought me to State House.

19 Q. where exactly was this kitchen?

14:43:00 20 A. It's at the State House there.

21 Q. were there other civilians --

22 A. Yes.

23 Q. -- in the kitchen?

24 A. Yes.

14:43:11 25 Q. Do you remember how many?

26 A. we are 50 in number.

27 Q. How long did you stay in the kitchen?

28 A. Four days.

29 Q. what did you eat?

1 A. Nothing - no food, no water.

2 Q. Now, you just stated that you were looking outside a window?

3 A. Yeah.

4 Q. Was this while you were in the kitchen?

14:43:36 5 A. Yes.

6 Q. Can you tell the Court what you observed from this window during your
7 detention in the kitchen for four days?

8 A. I was there in the kitchen. When night comes, they light this lamp
9 around the State House in the night, cook, eat, look out for girls.

14:44:07 10 Peoples go and collect girls in the night, rape them.

11 Q. Who would go and collect girls and rape them?

12 A. The rebel boys.

13 Q. How do you know that?

14 A. I was watching through the window during that time. I was seeing
14:44:23 15 them.

16 Q. So from the window, you observed women being raped?

17 A. Yeah.

18 Q. How do you know they were being raped?

19 A. Well, they are crying in the night. The women were crying. In Krio,
14:44:38 20 that's "A no de gri. Mi na small pikin."

21 Q. Can you tell the Court what "A no de gri. Mi na small pikin" means
22 in English.

23 A. Yeah, they were saying that "we not agree. We are small child. We
24 are school-going girls."

14:45:01 25 Q. You were held in the kitchen for how many days?

26 A. For four days.

27 Q. How many nights did you observe women on the State House lawn being
28 raped?

29 A. All the night.

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- 1 Q. So each night you were there you observed this?
- 2 A. Yes.
- 3 Q. About how many women would you see approximately each night being
4 raped?
- 14:45:37 5 A. Many women, many women.
- 6 Q. And the rebels that were raping these women, were they the same
7 rebels that were there initially when you arrived at the State house?
- 8 A. No.
- 9 Q. Who were these rebels?
- 14:46:01 10 A. I don't understand the question.
- 11 Q. The people who were raping, were they rebels?
- 12 A. The rebels are raping civilian.
- 13 Q. Is this the same group of rebels?
- 14 A. No.
- 14:46:15 15 Q. Do you know this group of rebels?
- 16 A. I don't know them.
- 17 Q. After four days of being locked up in the kitchen, what happened?
- 18 A. Somebody came - somebody was there, helped the man, he broke down the
19 door of the kitchen. During that time, ECOMOG was down at the cotton tree.
- 14:46:53 20 At that time, ECOMOG was coming up to State House, so they broke the
21 kitchen, went outside. So they capture us to go, they forced us to go.
- 22 Q. Who forced you to go?
- 23 A. The rebels.
- 24 Q. You said that ECOMOG was down at the cotton tree; is that correct?
- 14:47:11 25 A. Yeah, they were down at the cotton tree.
- 26 Q. So people were leaving State House; is that correct?
- 27 A. Yeah.
- 28 Q. When you came out of the kitchen, what exactly did you see?
- 29 A. I saw people were running up and down. The rebels were running up

1 and down. They find their way to go back to the provinces.

2 Q. You said that when you arrived at State House and sometime
3 thereafter, you saw Gullit. When you came out of the kitchen, was Gullit
4 present?

14:47:47 5 A. Yes. He was telling his boys that - let them go. Let them go, they
6 have lost the battle. But before they are going, they would burn down --
7 they were going to burn down State House on the vice-president's office.

8 Q. who said that?

9 A. Gullit will say that.

14:48:13 10 Q. And you heard this?

11 A. I heard that.

12 Q. where exactly was Gullit when you came out of the kitchen?

13 A. I was inside a white Toyota Hilux van.

14 Q. You said a white Toyota Hilux van; is that correct?

14:48:36 15 A. Yeah.

16 Q. Did you observe him doing anything else?

17 A. I don't understand.

18 Q. was he doing anything else aside from what you said?

19 A. Only that he was just commanding his boys to go.

14:48:50 20 Q. what happened to you at this moment then?

21 A. He forced me to go. He gave me bomb to carry.

22 Q. who gave you a bomb to carry?

23 A. The two rebel boys gave me this bomb to carry.

24 Q. Do you know what type of bomb it was?

14:49:20 25 A. I cannot remember the name of the bomb.

26 Q. After they gave this bomb to you, what happened?

27 A. I carried the bomb as far as Calaba Town.

28 Q. I want to ask you your observations from leaving State House to the
29 time you reached Calaba Town. As you left State House, in which direction

1 were you moving?

2 A. I moved through Parliament Road, right up to Berry Street towards
3 College.

4 Q. who was moving with you?

14:50:14 5 A. Gullit was moving with us. He was ahead of us at that time.

6 Q. Aside from Gullit, were there other people moving as well?

7 A. Yeah, all the rebel are moving together.

8 Q. what about civilians?

9 A. Civilian, too. Civilian too are moving together.

14:50:39 10 Q. As you were moving, what were the rebels doing?

11 A. They were burning people's houses, looting properties.

12 Q. Can you tell the Court any specific streets where they were burning
13 houses?

14 A. Yes, they were burning down each roadside and during that time, that
14:51:06 15 was the first day they burnt down the vice-president's office at Tower
16 Hill.

17 Q. You said they were looting?

18 A. Yeah.

19 Q. Do you remember where they were looting from?

14:51:20 20 A. Yeah. They loot from the vice-president's office. Even myself; loot
21 my trousers, loot my shoes.

22 Q. Aside from the vice-president's house and yourself, did you see them
23 looting anywhere else?

24 A. Yes.

14:51:39 25 Q. where?

26 A. They loot somebody's car at Berry Street Junction, go over the car.
27 They loot my father's car, too.

28 Q. You said that they were burning houses along Kissi Road?

29 A. Yeah.

1 Q. Was there looting occurring at Kissi Road?

2 A. Looting and burning.

3 Q. About how long did it take you to walk with this bomb from State
4 house to Calaba Town?

14:52:24 5 A. Just 45 minutes.

6 Q. What happened when you arrived at Calaba Town?

7 A. I was carrying the bomb. They took the bomb from me and gave it to
8 another person to carry. From there, I find the way back to my father's
9 house.

14:52:56 10 Q. Mr Witness, when you started describing this story to us, you said
11 that the day you were captured was January 8th. How do you remember that
12 day?

13 A. Can't remember because it's too long time now.

14 Q. But you told this Court January 8th; is that correct?

14:53:17 15 A. Yeah.

16 Q. How do you know it was January 8th?

17 A. Because they came January 6, they were in Freetown; 7, they were in
18 Freetown; captured me 8th -- 8th of January.

19 Q. You said they came on January 6th; is that correct?

14:53:38 20 A. Yeah.

21 Q. Do you know where they actually came into on January 6th?

22 A. No.

23 Q. What year was that when they came in on January 6th?

24 PRESIDING JUDGE: Mr Santora, you've asked that question twice
14:54:02 25 already.

26 MR SANTORA: Your Honour, we have no further questions for this
27 witness. Thank you very much, Mr Witness.

28 PRESIDING JUDGE: Counsel, who is the more senior counsel? We'll
29 follow the usual procedure: most senior counsel cross-examines first.

1 MR METZGER: In terms of seniority, I would have thought Mr Harris
2 supersedes me. However, this witness does directly purport to name my
3 client and we had, at the Bar, agreed, that I may go first, if the Court
4 pleases.

14:54:49 5 PRESIDING JUDGE: Yes, please proceed, Mr Metzger.

6 MR METZGER: I'm very much obliged.

7 CROSS-EXAMINED BY MR METZGER:

8 Q. Mr witness, can I ask you first some general questions. How did you
9 come to speak to the Office of the Prosecution in this case?

14:55:10 10 A. I don't understand.

11 Q. Okay. I will ask it in another way. Were you approached by the
12 Office of the Prosecution, or did you go to tell them that you had
13 something to tell them in relation to the January 8th incident? Do you
14 understand the question, Mr witness?

14:55:43 15 A. No.

16 Q. I shall try again. Can you remember the first time you made a
17 statement to the Office of the Prosecutor?

18 A. I can't understand anything else you say.

19 MR METZGER: Your Honour, perhaps the witness might require the
14:56:12 20 services of an interpreter. I don't know if that would help.

21 PRESIDING JUDGE: Mr witness, you said you didn't understand. Do you
22 want the question put in a different language? would that help you?

23 THE WITNESS: Yeah.

24 PRESIDING JUDGE: which language do you choose?

14:56:31 25 THE WITNESS: Krio.

26 PRESIDING JUDGE: Can we have a Krio interpretation. Please put the
27 question, Mr Metzger. Please have the question interpreted in Krio.
28 Please listen.

29 [The witness answered through interpreter]

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1 MR METZGER:

2 Q. Can you recall when the first time you gave a statement to the Office
3 of the Prosecution?

4 PRESIDING JUDGE: I have just been advised there needs to be an
14:56:56 5 adjustment to the channel.

6 MR METZGER: Certainly.

7 PRESIDING JUDGE: Witness, do you hear the interpreter speaking to
8 you?

9 THE WITNESS: Yeah.

14:57:18 10 PRESIDING JUDGE: Mr Metzger, please proceed.

11 MR METZGER:

12 Q. Mr Witness, when was the first time you made a statement to the
13 Office of the Prosecution?

14 A. I no remember again.

14:57:41 15 Q. How many times have you made a statement to the Office of the
16 Prosecution?

17 A. I can't remember now. Because it's taken a long time since I made
18 this report.

19 Q. Mr witness, one statement --

14:58:05 20 PRESIDING JUDGE: Mr Metzger, please allow the interpretation to
21 finish. Please repeat the answer, Mr Interpreter.

22 MR METZGER:

23 Q. Mr witness, one statement, two statements, three statements - a rough
24 idea, please?

14:58:36 25 A. About five.

26 Q. You have made about five statements to the Office of the Prosecution?

27 A. Yeah.

28 Q. Thank you, Mr witness. We have in our possession a statement dated
29 20 February 2003.

1 A. Okay.

2 Q. Can you say whether that was the first statement you made to the
3 Office of the Prosecution or not?

4 A. No.

14:59:24 5 Q. Is that it was not the first statement?

6 A. No.

7 Q. You had made one before 20 February 2003?

8 A. Yes, sir.

9 Q. Thank you, Mr witness. On each occasion when you made a statement --
14:59:51 10 if the Court will allow me to call it the OTP, it might assist -- were you
11 given money?

12 A. No, sir.

13 Q. Were you given money on any occasion that you went to give a
14 statement?

15:00:12 15 A. I was not given money. I paid my own way except for one of these
16 days when they gave me money.

17 MR METZGER: Your Honour, there seems to be a technological hitch in
18 so far as the Bar is concerned. My learned friends are not in a position
19 to hear the English translation.

15:01:12 20 MS EDMONDS: You need to change your mic to English.

21 THE INTERPRETER: Can you hear me now? Can you hear me from the
22 English channel? Can you hear me from the English booth?

23 MR METZGER: I can hear, but I'm not particularly affected by the
24 lack of translation.

15:01:20 25 PRESIDING JUDGE: Are other counsel comfortable with the translation?

26 MR METZGER: I'm very much obliged.

27 PRESIDING JUDGE: Please proceed, please.

28 MR METZGER:

29 Q. Mr witness, you said originally you had to pay your own fare to see

1 the OTP?

2 A. Yes, sir.

3 Q. And that it is only recently that you have been given money to cover
4 your transport.

15:01:56 5 PRESIDING JUDGE: That's not what the witness said, Mr Metzger. You
6 must put it as he said it.

7 MR METZGER: I'm sorry.

8 Q. It is only recently that you have been given money.

9 A. Yes, sir.

15:02:10 10 Q. To the best of your knowledge, why were you given money by the OTP?

11 A. well, I believe it was for my transport. It was for my transport
12 that he gave me, because I have been coming and going.

13 Q. How recently did the OTP start giving you money, please?

14 A. Friday.

15:02:54 15 Q. Since this Friday just gone past?

16 A. Yes.

17 Q. Is that the only time you have been given money?

18 A. Yes, sir.

19 Q. How much money was it, please?

15:03:12 20 A. It was 25,000 for the five days that I've been coming, because they
21 asked me how many days I've been coming for, and they gave me 25 ,000.

22 Q. So you were given a lump sum of 25,000 Leones Friday just gone?

23 A. Yeah.

24 Q. And you're absolutely sure of that?

15:03:47 25 A. Yes, that's the money that they gave me.

26 Q. Prior to that date, you had not been given any money whatsoever?

27 A. I don't remember, no, since I've been coming here.

28 Q. what do you mean since you've been coming here? Since you've been
29 coming here, you've been given no other money than that?

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1 A. No, sir.

2 Q. Were you ever visited at your home address by the OTP?

3 A. Yes, sir.

4 Q. On any occasion that you were visited by a member of the OTP, were
15:04:50 5 you given money?

6 A. No, they meet me working and they wouldn't give me money.

7 Q. I'm going to put it to you, Mr witness, that on 10 September 2003 you
8 were paid 5,000 Leones by the OTP.

9 MS TAYLOR: I object to this. Your Honour, the date of 10 March 2003
15:05:23 10 -- was that the date that I heard?

11 PRESIDING JUDGE: I thought I heard September.

12 MR METZGER: Your Honour's right.

13 MS TAYLOR: I beg your pardon, it was my mishearing.

14 MR METZGER:

15:05:39 15 Q. So September 2003, you received 5,000 Leones from the OTP; is that
16 correct?

17 A. I don't remember, they didn't give me.

18 Q. That's two answers, Mr witness. Either I don't remember or I wasn't
19 given the money.

15:06:03 20 A. They didn't give me money. They didn't give me money.

21 Q. Thank you, Mr witness. I put it to you that on another occasion,
22 26 November 2003, you were given 10,000 Leones.

23 MS TAYLOR: Your Honour, I'm sorry, I do renew my objection at this
24 point. Your Honour, I am unclear upon the basis which my learned friend is
15:06:29 25 choosing these dates. The Prosecution has disclosed to my learned friend
26 certain dates on which the Prosecution either paid money directly to or on
27 behalf of this witness, but the dates mentioned by my learned friend are
28 not from the material disclosed by the OTP.

29 MR METZGER: I may have been looking at the wrong page. I shall

1 correct it. Let's start again.

2 Q. On 16 January 2004, you were given 10,000 Leones; is that correct?

3 A. No, sir, they didn't give me money.

4 Q. On a second occasion on 4 March 2005, you were given 15,000 Leones.

15:07:27 5 MS TAYLOR: Your Honour, I object to that also. The information
6 disclosed clearly shows that the money itself was not given, but the money
7 was used to buy a telephone top-up card and it was the top-up card that was
8 given to the witness.

9 MR METZGER: With the greatest respect --

15:07:43 10 PRESIDING JUDGE: It may be difficult for us to rule. I don't know
11 what rebuttal evidence the Defence is going to bring.

12 MR METZGER: I'm operating from a document provided to us this
13 morning by the Prosecution. It's perhaps a little new. I take it that
14 Your Honour and the Bench have a copy of the same document? It would be
15 unfair otherwise to the Bench, in my respectful submission.

15:08:07 15 MS TAYLOR: There is not a copy of this document before Your Honours.
16 It was a matter that has been disclosed to the Defence pursuant to Rule 68.
17 It's not a witness statement, therefore it was not filed with the Chamber.
18

19 MR METZGER: It is, of course, a matter for Your Honours. I simply
15:08:37 20 seek to help so you can follow. Of course, it does go to the credit of the
21 witness.

22 JUDGE LUSSICK: Mr Metzger, I suggest you ask your questions. There
23 is such a thing as re-examination if the Prosecution wants to clarify some
24 confusion in the witness's testimony or dates or anything else.

15:09:11 25 MR METZGER: Indeed. I'm very much obliged, Your Honour.

26 Q. Mr witness, Friday, 4 March 2005, were you either given money or was
27 a telephone card purchased for you by the OTP?

28 A. They bought a telephone card for me and gave it to me in the office.

29 Q. On that same day you were given 25,000 Leones?

1 A. Yes, sir.

2 Q. The person who gave you that money, do you know who it was?

3 A. Yes, sir.

4 Q. Is that person, for the moment, just in Court today?

15:10:16 5 A. No, I've not seen him around.

6 Q. So your evidence as it stands at the moment, Mr Witness, you were
7 given a phone card and 25,000 Leones last Friday, but you have been given
8 no other money by the OTP?

9 A. No, sir.

15:10:54 10 Q. well, let me ask one or two other things along those lines. Have you
11 ever had a meal bought for you by the OTP?

12 A. No, when I was there, that's when they were feeding - they were
13 giving me food.

14 Q. when you were there; at the office of the OTP?

15:11:18 15 A. No.

16 THE INTERPRETER: Can he speak louder? we can't get him here. Your
17 Honour, we can't get the witness. Let him speak through the microphone.

18 PRESIDING JUDGE: Mr witness, would you bring the microphone closer
19 to you.

15:11:57 20 MR METZGER:

21 Q. Mr witness, would you try again. The interpreter was unable to hear
22 your voice. Your last answer, please.

23 A. Okay, sir.

24 Q. Was food ever provided for you by the OTP I think was the question I
15:12:17 25 asked you.

26 A. No, sir.

27 Q. You then went on to say something along the lines wherever you were,
28 you were being fed; is that correct?

29 A. where they placed me for now, that's where I am at the moment.

**Page 61 omitted (provided
in confidential Annex B)**

1 Q. Yes what? what do you mean by yes in the circumstances?

2 A. I did it out of my own free will.

3 Q. And you understood that this was required?

4 A. Yes, sir.

15:15:43 5 Q. And that you could be called to court to give evidence about that
6 statement?

7 A. Yes, sir.

8 Q. And that if you were willfully and knowingly making a false
9 statement, that there could be proceedings against you for giving false
10 testimony?

15:16:09 11 A. Yes, sir.

12 Q. And did you confirm before you signed the statement that you
13 understood the importance of speaking the truth?

14 A. Yes, I'm saying the truth.

15:16:40 15 Q. And that the information contained in your statement was true and
16 correct to the best of your knowledge and belief?

17 A. Yes, sir.

18 Q. Now, you've told us that it was on January 8, 1998 that you were
19 taken by three rebel boys?

15:17:18 20 A. Yes, sir.

21 Q. That must have been a traumatic experience.

22 A. At all.

23 Q. Something that you won't forget in a hurry or perhaps even ever?

24 A. No, sir.

15:17:45 25 Q. And you can have no doubt about the date on which that occurred?

26 A. I can't remember some of the dates, because it has taken a long time.

27 Q. No, witness, in relation to the day that you were - I think the term
28 is abducted - you can't forget that date, can you?

29 A. No, I wouldn't forget that date.

1 Q. And you have categorically told us that that was on 8 January 1998.

2 A. 1998, no. 1999, that's when the rebels came in.

3 Q. Yes, I think it's a matter of record that the rebels came in 1999,

4 Mr witness, but your evidence was that you were taken on 8 January 1998.

15:18:52 5 That is recorded. Do you wish to change that evidence now?

6 A. It's 1999 that I told people about - they put it 1998. I would never
7 forget that date I was captured. I would never forget.

8 Q. No, Mr witness, this is evidence that came from your own mouth this
9 afternoon: 8 January 1998, when Mr Santora was asking you questions.

15:19:38 10 A. well, the questions are too many for me. It was in 1999.

11 Q. Can you tell us why you made that mistake in relation to the day you
12 say you were abducted?

13 A. I was panic-stricken and this is the first time that I've been in
14 court.

15:20:05 15 Q. It was also about the third question that you were asked.

16 MS TAYLOR: Was that a question or a statement, Your Honours?

17 MR METZGER:

18 Q. Is that not the case?

19 A. Pardon me. I didn't understand.

15:20:26 20 Q. It was about the third question that you were asked when you first
21 came to this Court today.

22 A. Yes, sir.

23 Q. what was confusing about that, Mr witness?

24 A. It was because the questions are too many and there are many people.

15:20:56 25 I'm scared of the people, that's what caused the panic.

26 Q. I shall move on, Mr witness. Perhaps just this: is it correct that
27 when statements were taken from you by the OTP, you chose to give your
28 statements in the English language?

29 A. Yes, sir.

1 Q. So it is not a case of your inability to understand and speak
2 English?

3 A. Repeat it. I did not understand.

4 Q. So you are well able to speak English and to understand spoken
15:22:01 5 English?

6 A. Yes, sir. There are some bits of English I do not understand.

7 PRESIDING JUDGE: In fact, Mr Metzger, you have two questions there.
8 Are you able to speak English, one question; are you able to understand
9 English, second question. You should separate them.

10 MR METZGER: That is correct, Your Honour. Every so often one does
11 make mistakes. But I shall move on, in any event. I think the point is
12 made.

13 Q. You told us, Mr Witness, at the time you were living in Waterloo
14 Street and that you were captured by three rebels speaking Liberian
15:23:11 15 English.

16 A. Yes, sir.

17 Q. At that time did you know what group those rebels belonged to?

18 A. No, sir.

19 Q. Did they beat you up at the scene where you were captured or did they
15:23:27 20 beat you up later?

21 A. I was beaten later when they took me to the State House.

22 Q. Would it then be fair to say that you went willingly with them to
23 State House?

24 A. Before they could kill me at the earliest, I walked with them to the
15:24:00 25 State House, because I knew that I would escape.

26 Q. So you walked with them because you were afraid they were going to
27 kill you?

28 A. Yes, sir.

29 Q. Why had you come to that conclusion that if you didn't go with them

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1 that they were going to kill you?

2 A. They told me that.

3 Q. And when you got to State House, you said that you were able to see
4 the commander who was in charge, and he was someone called Gullit; is that
15:24:52 5 right?

6 A. Yes, sir.

7 Q. Now this Gullit, it is correct that you didn't know him?

8 A. I didn't know him.

9 Q. Your evidence is that you believed him to be Gullit, because you
15:25:13 10 heard rebel boys calling him Gullit?

11 A. Yes, sir.

12 Q. When you told the Prosecution that this was the position, were you
13 shown any photographs and asked to identify this person Gullit?

14 A. No, sir.

15:25:50 15 Q. But you were asked to describe the person Gullit, isn't it?

16 A. I wasn't asked to describe him. I never know him any more.

17 Q. Mr witness, on 20 February 2003, the statement we've had served on
18 us, you do describe a man you say was the Gullit that you saw. Do you
19 remember doing that?

15:26:33 20 A. Repeat it.

21 Q. When you made a statement dated 20 February 2003, you described the
22 man you are referring to as Gullit.

23 A. Yeah.

24 Q. You described him as a man of medium height with a fair complexion.

15:27:18 25 A. Fair complexion, but medium height.

26 MS TAYLOR: Your Honour --

27 MR METZGER: would counsel please allow me to cross-examine the
28 witness. Her turn will come.

29 PRESIDING JUDGE: If counsel has an objection, I will hear it.

1 MS TAYLOR: Your Honour, I would ask that the matters in the
2 statement be put in a fair manner. The witness didn't say simply "had a
3 fair complexion."

4 MR METZGER: I do object to my learned friend's objection. There is
15:27:37 5 a manner and form of doing this. If we are going to launch into argument,
6 this Court should go into closed session or the witness should leave.

7 JUDGE LUSSICK: Mr Metzger, I think counsel is just pointing out she
8 considers your question unfair. We can't rule on that until we hear the
9 reason for that.

10 MR METZGER: You ought not to hear the reason for that in the
11 presence of the witness. Normally, that point can be taken at a point in
12 time after my cross-examination because I've just started a couple of
13 lines. With respect to the Prosecution, they didn't seek to elicit a
14 description, and perhaps one will find out why in due course. With the
15:28:17 15 greatest respect to my learned friend, I think she will find in due course
16 I am fair and professional in anything that I do in relation to this Court.

17 JUDGE LUSSICK: We don't have a copy of the statement, so it is very
18 difficult to understand where you are going on this, Mr Metzger.

19 MS TAYLOR: If I may finish my objection, Your Honours. My point --

15:28:38 20 MR METZGER: I object to the objection. Unless the witness is made
21 to leave the court, it will have the effect of refreshing the memory of the
22 witness and directing, as it were, the witness at this point in time. If
23 my learned friend wishes to refer - in order for Your Honours to rule on
24 this matter - to the statement, then it ought not be done in the presence
15:29:01 25 of the witness.

26 [Trial Chamber confers]

27 JUDGE LUSSICK: I am afraid, Mr Metzger, unless we hear the reason
28 why the objection was made, we are unable to rule. I don't understand the
29 objection; I don't understand where you're going because we don't have a

1 copy of the statement.

2 MR METZGER: I'm content, Your Honour, for you to hear the reason for
3 the objection. I'm simply making an application for that to be done in the
4 absence --

15:30:28 5 JUDGE LUSSICK: Well, we're not in any position to see whether it's
6 fair to the witness to do it in his absence or to do it in his presence.
7 We don't have the statement. If you would like to tender the statement,
8 perhaps we can make a ruling.

15:30:46 9 MR METZGER: I'm content for you to see the statement, if that's the
10 position. I do remind the Court, and my learned friend, that I'm in the
11 course of my cross-examination and respectfully suggest that her
12 intervention is precipitant.

13 JUDGE LUSSICK: Every counsel is entitled to object. We cannot rule
14 until we see what you're talking about.

15:31:06 15 MR METZGER: As Your Honour pleases.

16 MS TAYLOR: Your Honour, I can make the objection in a way that will
17 allay my learned friend's fears. My learned friend is putting matters to
18 this witness from his statement. In that statement, there is a description
19 of the person referred to as Gullit. My learned friend referred to one
15:31:30 20 sentence, he then missed out a sentence and he referred to the third
21 sentence. The second sentence precedes the third sentence and they are
22 necessarily connected. My objection is when my learned friend says, "You
23 said he is fair in complexion," that is not all the witness said about the
24 person called Gullit's complexion and, in the circumstances, that is unfair
15:31:56 25 and confusing to the witness.

26 JUDGE LUSSICK: What's difficult about that, Mr Metzger? Why don't
27 you put all of what the witness is alleged to have said.

28 MR METZGER: Had this not occurred, I would have done that about five
29 minutes ago. This is what I was trying to tell my learned friend.

1 JUDGE LUSSICK: well, you are the one who has been causing the delay
2 by simply not allowing your learned friend in the Prosecution to voice her
3 objection without interrupting.

4 MR METZGER: well, may I continue and do that which has been asked of
15:32:31 5 me, which I intended to do in the first place, and we can all move on.

6 JUDGE LUSSICK: well, about time.

7 PRESIDING JUDGE: Are you putting in a prior inconsistent statement,
8 Mr Metzger?

9 MR METZGER: I am, Your Honour.

10 PRESIDING JUDGE: well, go about it in the normal way.
15:32:45

11 MR METZGER: I am very much obliged to you.

12 Q. Mr witness, your last answer, I think you agreed that you had
13 indicated that the man you described as Gullit was fair in complexion; is
14 that correct?

15:33:05 15 A. Not really.

16 Q. Not really, is that your answer now?

17 THE INTERPRETER: Your Honours, his microphone is not on.

18 PRESIDING JUDGE: Ms Edmonds, please put on his microphone. Please
19 proceed.

15:33:32 20 MR METZGER:

21 Q. Mr witness, I was just recapping where we had reached. You had
22 agreed with me that you described in part of your statement the man you
23 knew as Gullit as being fair in complexion, amongst other things.

24 A. I want you to repeat that statement.

15:34:07 25 Q. I think we already have a transcription of what you said. I shall
26 put the exact words of your statement to you, Mr witness, in relation to
27 this matter. For those that have a copy of this statement, it is the
28 second paragraph thereof. You say this: "Gullit was talking to the whole
29 group."

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1 A. Yes.

2 Q. "I knew this man was Commander Gullit because the other rebels and
3 ex-soldiers were calling him Honorable Gullit."

4 A. Yes, sir.

15:34:52 5 Q. "Gullit is a medium-height man."

6 A. Yes, sir.

7 Q. "He is not too black."

8 A. No.

9 Q. "I can say he is fair in complexion."

15:35:13 10 A. Mmm-hmm.

11 Q. That is the description that you gave of Gullit in your statement,
12 Mr witness.

13 A. Yes, sir.

14 Q. Can you tell us now what you mean by that description?

15:35:40 15 A. what I mean? Repeat that.

16 Q. what do you mean when you describe Gullit in that way? what are you
17 trying to say about that description -- that person?

18 A. At the time that I saw him, that was the way that he was.

19 Q. so you recall him being a person who was fair in complexion; is that
20 correct?

15:36:16

21 A. Yes, sir.

22 Q. And when you say "not too black" in the typical way that somebody
23 speaking Krio would say, that is really an emphasis that he was not a black
24 person, he was fair; is that correct?

15:36:39 25 A. He's not a white man.

26 Q. All right, let's put it in this way: would you call me fair or would
27 you call me a white man?

28 A. I would call you a white man.

29 Q. You'd call me a white man. I see. Now, there is a phrase, if you

1 like, that is used in Krio for somebody who is fair. You say yellow; is
2 that correct?

3 A. Yes, yellow. Yes, yellow is correct.

15:37:44 4 Q. were you in fact describing this man Gullit - borrowing the
5 terminology from Krio - a yellow person?

6 A. He's not yellow, he is fair complexion.

7 Q. would you describe yourself as fair in complexion?

8 A. I am black.

9 Q. You are black. So the man Gullit you were describing was fairer in
10 complexion than you, Mr Witness?

11 A. A little bit.

12 Q. Did you, in fact, see anybody called Gullit that day, Mr Witness?

13 A. The day that I was captured?

14 Q. Yes, Mr Witness.

15:38:33 15 A. Yes, I heard the boys calling him Gullit, Gullit.

16 Q. Is this not a case of you trying to fit the name Gullit into whatever
17 sad situation you found yourself in on that occasion, Mr Witness?

18 A. No. I heard people calling Gullit, and he was answering to the name.

19 Q. when you were taken to State House, Mr Witness, you say you were
15:39:02 20 eventually locked up in a kitchen.

21 A. Yes.

22 Q. was that after you had been beaten up?

23 A. They locked me when I had been beaten up.

24 Q. This kitchen that you're referring to in the State House, can you
15:39:28 25 describe in relation to the building how you got into that kitchen? where
26 is it situated in the building?

27 A. Yes.

28 Q. Do go ahead then, please.

29 A. The kitchen is in the compound. You turn to the right-hand side,

1 there the kitchen is, but the kitchen has a window through which you are
2 able to see out that. There I have been watching.

3 Q. Is the kitchen part of the State House building or not?

4 A. It's part of the State House building.

15:40:16 5 Q. Within the State House building, or is it an outhouse in the State
6 House compound?

7 A. It is within the building.

8 Q. What floor is it on?

9 A. In the basement.

15:40:37 10 Q. Do you have to go down some stairs to get into it?

11 A. No.

12 Q. Do you mean, then, the ground floor - you walk on the same level to
13 get into the property?

14 A. Yes.

15:40:55 15 Q. How many windows did the kitchen have?

16 A. It has about three windows.

17 Q. On one wall or more than one wall?

18 A. One wall.

19 Q. When you look out of that window, what is the view that you see
15:41:21 20 outside the State House?

21 A. You see grass.

22 Q. What about further down from the building? What view of Freetown can
23 you see?

24 A. You cannot see that far, you see Paramount Hotel's compound.

15:41:49 25 Q. So we have now some idea of the way that window faces, Mr Witness; is
26 that correct?

27 A. Yes, you will see inside the compound, the State House compound, and
28 hotel compound.

29 Q. And is that the only place from which you could look out?

1 A. Yes, sir.

2 Q. How could you tell that this room you were in was a kitchen?

3 A. Well, I see pots on the inside. These big pots, they were both in
4 there. They are washing basins.

15:42:50 5 Q. And when you looked out of the window, you say you could see the
6 grass of State House, the lawn?

7 A. Yes. Yes, you would see the grass inside there.

8 Q. You see, Mr Witness, I'm going to suggest to you that that cannot be
9 true, that if you looked out of the window, as you describe it, you should
10 see a parking lot and not grass -- where cars park.

15:43:23 11 A. Yes, there's grass. There's a car park. We have carpet grass around
12 it. But during that time, there was no motor car parking there.

13 Q. Mr Witness, I'm suggesting to you that what is out there is a car
14 parked area, not grass - no grass at all, Mr witness.

15:44:02 15 A. There is carpet grass.

16 Q. We shall agree to disagree and I shall move on to ask you another
17 question. You told this Chamber you witnessed some people who were killed.

18 A. Yes.

19 Q. And you saw these people being thrown over the back window; is that
20 correct?

15:44:38 21 A. Yes, sir.

22 Q. In fact, in your original handwritten witness statement, you go
23 further to say, "They threw them over the back wall of State House into
24 Paramount Hotel"; is that correct?

15:45:07 25 A. They threw them over the wall, the State House wall, the dead bodies.

26 Q. Yes, I'm putting it to you, Mr Witness, that in your original
27 handwritten statement, you don't just end there over the back wall of State
28 House, you say "Into Paramount Hotel"?

29 A. They threw them there and they threw some over the State House

1 compound.

2 Q. So now your recollection, Mr witness, is that some were thrown into
3 Paramount Hotel and some were thrown over the State House wall somewhere
4 else on separate occasions; is that your evidence?

15:45:58 5 A. They threw them over State House wall and they threw some over the
6 Paramount Hotel's compound, because during that distance, the bodies could
7 not be seen.

8 Q. Mr witness, I'm simply asking you whether you're talking about one
9 incident when a number of bodies were thrown out at the same time, or a
10 number of incidents when some were thrown in one direction and some in
11 another thrown in another direction; that's what I am asking you.

12 A. They sent the bodies in two directions.

13 Q. Were these on two separate occasions, Mr witness?

14 A. One day.

15:46:46 15 Q. It may have happened on one day, Mr witness, but was it more or less
16 - we would say simultaneously - at the same time, or two different times?

17 A. At the same time.

18 Q. Are you making this up as you're going along, Mr witness?

19 A. I don't understand.

15:47:17 20 Q. Are you lying, Mr witness?

21 A. I'm saying the truth.

22 PRESIDING JUDGE: Mr Metzger, you cannot put such a question.

23 MR METZGER: I suggest that the witness is lying about certain
24 things; am I not to do that?

15:47:37 25 PRESIDING JUDGE: It's not the terminology that's usually allowed in
26 Court.

27 MR METZGER:

28 Q. Mr witness, I'll ask you about something else, please.

29 A. Yes.

1 Q. You have told us you were forced to carry a bomb from State House as
2 you were withdrawing.

3 A. Mmm-hmm.

4 Q. which you carried until you got to Calaba Town?

15:48:20 5 A. Yes.

6 Q. You say you carried the bomb on your head until you got to Calaba
7 Town?

8 A. Yes.

9 Q. I'll come back to that, Mr witness, before I forget the other matter.

15:48:35 10 You indicated every night when you were in the kitchen, you could see women
11 and young girls being raped.

12 A. Yes.

13 Q. Do you actually mean, Mr witness, that you witnessed the rapes
14 actually happening as you looked through the windows?

15:49:01 15 A. I heard a voice when the ladies are screaming.

16 MR METZGER: Mr Interpreter, he said the "pikin," which normally
17 means the child.

18 THE WITNESS: The little girls.

19 MR METZGER:

15:49:21 20 Q. Mr witness, you do agree that on your previous answer, you said you
21 could hear the girl crying; is that not correct?

22 A. Yes, they were crying.

23 Q. Latterly, that is, after that, you said the girls were crying.

24 A. Yes.

15:49:44 25 Q. Did you hear one girl or lady crying or more than one on each
26 occasion that you are referring to?

27 A. They all had been crying.

28 Q. which all, Mr witness?

29 A. The women, the little girls and the girls were crying at night.

1 Q. Could you see them, Mr witness?

2 A. I saw some. Some I did not see. Some, I only heard the voices.

3 Q. Let's talk first of all about the ones you did see. What did you
4 see?

15:50:27 5 A. I saw the girls being raped. These little girls who are schoolgirls,
6 they are being raped.

7 Q. Your evidence is that you actually saw them being raped and
8 intercourse taking place; is that your evidence?

9 A. Yes, sir.

15:50:48 10 Q. From your window in the kitchen where you were kept with 50 other
11 people or 49 other people?

12 A. Yes.

13 [TB070305D 3.50 p.m. - SGH]

14 Q. Now how many of these did you actually see?

15:50:59 15 PRESIDING JUDGE: I am not clear in the question, Mr Metzger, girls
16 or --

17 MR METZGER:

18 Q. How many these incidents of rape did he actually see? How many
19 incidents of rape did you actually see with your own two eyes?

15:51:22 20 A. All the four days that I stayed at the State House.

21 Q. You see, Mr witness, you have said to us that you saw some rapes
22 taking place and others you heard. Is that your evidence?

23 A. I heard them and I saw them through the window?

24 Q. Is it your evidence now that you heard and saw it happening at the
15:51:50 25 same time? I am trying to understand your evidence, Mr witness.

26 A. I heard them crying at night and I saw them. The voice used to come
27 to me and I saw them. I lighted the lamp and I saw. In fact, I lighted
28 the bottle light.

29 Q. I beg your pardon, what did you light?

1 A. It's a big lamp, it's called Kabu [phon] lights.

2 Q. who provided that Kabu light?

3 A. It was the rebels.

4 Q. So they provided light for you, but no food?

15:52:28 5 A. It was for themselves. They were so many in the compound.

6 Q. Mr witness, are we to understand that amongst the 50 of you that were
7 locked in the kitchen there were also rebels?

8 A. No, only civilians.

9 Q. Can you explain, if you can, of course, why providing you with a
10 light would be for themselves?

11 A. It was for themselves.

12 Q. what was for themselves, the fact that they provided you with a
13 light?

14 A. No, well we were locked in a dark room.

15:53:10 15 Q. You were locked in a dark room?

16 A. Yes, sir.

17 Q. And if you were locked in a dark room, how did you switch on the
18 light?

19 A. It was they that were outside they lighted, we saw them through the
15:53:25 20 window. We saw them in the compound.

21 Q. Your evidence is that they lit lamps, not you?

22 A. They lit the lamps it was they. It was they themselves that lit the
23 lamps, it wasn't us the civilians that were captured.

24 Q. Now let me again put another portion of your statement of the 20th
15:53:55 25 February 2003 to you, please. For those who are interested it is
26 the third paragraph, the second page of this witness's statement. You say,
27 Mr witness, "while I was sitting by the window I heard women crying in the
28 night. I heard women saying [Krio words spoken]"

29 A. Yes.

1 Q. I saw girls --

2 A. Yes.

3 Q. -- being raped because because then I heard them crying.

4 A. Yes.

15:54:44 5 Q. Can you explain what you meant by that sequence of events?

6 A. I'm so sorry, anyway.

7 Q. No, can you explain what you meant, Mr Witness, when you say, "I saw
8 the girls being raped because then I heard them crying"?

9 A. To explain?

15:55:22 10 Q. Yes, that is what I am asking you to do.

11 A. When they were raping them the children had been crying at night.

12 They have been crying the whole of the night, you see.

13 Q. Yes, you see, normally, Mr witness, one would say, "I saw them being
14 raped," or "I heard them being raped," or "I saw and heard them being

15:55:49 15 raped." What I am suggesting to you are saying here is --

16 A. Yes.

17 Q. -- "I saw the girls being raped because then I heard them cry." You
18 have made an assumption because of what you heard.

19 A. Yes.

15:56:01 20 Q. Is that in fact the true position? *****

21 A. I saw them being raped and I heard their voices through the window.

22 Q. We shall move on. Now you told us that when it came time for you to
23 leave somebody broke open the kitchen door. That is the evidence you gave
24 here today.

15:56:33 25 A. Yes. Yes.

26 Q. In your statement you say, "On the fifth day at about 11 o'clock a
27 small rebel boy opened the door for us and told us that we should go into
28 the bush. Go to the bush." I'm sorry [inaudible]

29 A. Before the man came and broke -- the door, this rebel had already

1 come and took us out but some were afraid to go.

2 Q. Normally, Mr witness, when a door is opened there is no need to break
3 it. Can you explain what happened on this occasion?

4 A. If I would be able to to explain what happened in that time. Repeat
15:57:28 5 that.

6 Q. You say in your statement that a small boy opened the door and told
7 us that we should go in the bush. Is it correct that that happened?

8 A. No.

9 Q. why did you say that in your statement that you made on the 20th
10 February 2003 to the Prosecution?

11 A. I did not say so.

12 Q. So the statement is wrong?

13 A. The one that was written was not correct. It was a very hefty fellow
14 that broke the door -- the door and all of us came out and they called us
15 to go.
15:58:10

16 MR METZGER: Your Honour, I have just received a note whereby it
17 would assist certainly people behind me if a comfort break -- if they
18 were allowed a comfort break. I don't know whether it would be
19 appropriate.

20 PRESIDING JUDGE: We were just thinking in those terms, Mr Metzger.
21 If this is a convenient time for all counsel and for the witness. An
22 indication of how long -- those behind.

23 MR METZGER: There are only two other areas that I want to ask this
24 witness about. One I have already, as it were, laid the groundwork for
25 in relation to their eventual evaluation.
15:59:10

26 PRESIDING JUDGE: Perhaps 15 minutes will be sufficient time for
27 the --

28 MR METZGER: May I just ask in terms of whether there is problem with
29 that. Well I am told that 15 minutes would suffice. It may be prudent to

1 perhaps have an extra five minutes, 20, just --

2 PRESIDING JUDGE: We will adjourn for 15 minutes.

3 [Break taken at 4.02 p.m.]

4 [On Resuming at 4.18 p.m.]

16:16:58 5 PRESIDING JUDGE: Before we recommence the cross-examination, I would
6 like to remind the witness that he has taken an oath to tell the truth and
7 that oath is still binding on him. Do you understand? Was that
8 interpreted?

9 THE INTERPRETER: Yes, it was.

15:17:31 10 PRESIDING JUDGE: Mr witness, did you hear what I said? Did you
11 understand?

12 THE WITNESS: [No interpretation]

13 PRESIDING JUDGE: Yes, please proceed.

14 MR METZGER: I am much obliged.

16:17:43 15 THE INTERPRETER: Your Honours, the witness's microphone is off.

16 MR METZGER:

17 Q. Mr witness --

18 A. Yes, sir.

19 Q. I was asking you about how you came to leave that kitchen before the
16:18:16 20 break, but I forgot to ask you one other thing and I will just ask you that
21 before we go on. The girls that you say you saw being raped, is it right
22 that they were paid for their services?

23 A. They did not pay them at all, but they used to give them 5,000 Leones
24 and I do not accept that is a pay.

16:18:55 25 Q. So it is your evidence, you say, that these girls who you say were
26 raped were given 5,000 Leones?

27 A. They gave them 5,000 Leones, but I would not consider that as a pay.

28 Q. I don't know what the going rate is, but we shall move on,
29 Mr witness. Now you say in relation to when you came out of the room for

1 the first time in four days that somebody broke the door down?

2 A. Yes, sir.

3 Q. And you deny the correctness of your purported statement in which it
4 is suggested that a small rebel boy opened the door for you and told you
16:19:54 5 that you could go into the bush, all of you in that kitchen?

6 A. The rebel fellow told us to go to the bush. When they opened the
7 place he went into the kitchen and told us to go to the bush.

8 Q. So is it your evidence now that a small rebel boy came in and told
9 you to go to the bush?

16:20:34 10 A. He told us to go to the bush.

11 Q. And is it your evidence now that the door was broken open or opened
12 by the small rebel boy?

13 A. They broke the door and a small rebel boy came inside and told us to
14 go to the bush.

16:21:06 15 Q. What, then, do you say happened after the small rebel boy told you to
16 go to the bush?

17 A. All of us came out into the compound and they gave me the bomb and
18 they said I should take it on my head.

19 Q. So you were given a bomb to carry on your head?

16:21:27 20 A. Yes.

21 Q. You say you now no longer remember what that bomb was called or what
22 type of bomb it was?

23 A. I cannot remember again. I do not know those things.

24 Q. Can you describe what the bomb looked like?

16:21:54 25 A. It looked long and round. Long and round.

26 Q. Long and round in what sense? You mean cylindrical, spheroidal?

27 A. It's not that long. It's like -- it is a little bit long, but not
28 that long. It is green.

29 Q. Mr Witness, perhaps you can describe by extending your hands as to

1 how long you recall it being?

2 A. Like one yard.

3 Q. About a yard in length?

4 A. Yes.

16:22:50 5 Q. And what about the other part of it diameter wise?

6 A. To me it's just like this with -- how my hands are. That is the
7 roundness of the bomb. It is one yard long.

8 Q. About a yard long and I am not quite sure how that works out. It
9 looks like a metre-ish to me but -- And how heavy was this bomb,

16:23:21 10 Mr witness?

11 A. It's heavy. It's heavy. In fact, I had pains in my neck when I was
12 taking it along.

13 Q. And you had to carry it some significant distance until Calaba Town
14 when you were able to get rid of it and make good your escape?

16:23:59 15 A. Yes, sir.

16 Q. After four days without any food that must have been very difficult.

17 A. It was difficult. It was only God that helped me that time.

18 Q. And he must have helped you very significantly, Mr witness, for you
19 to be able to make it from State House to Calaba Town in 45 minutes.

16:24:21 20 A. Only God.

21 Q. In fact, Mr witness, I would submit to you that it would be difficult
22 to make it from State House to Calaba Town by car in 45 minutes let alone
23 on foot.

24 A. They were running with us, they had been forcing us to run and we had
16:25:06 25 to run. So we were asked to walk faster.

26 Q. But it is a distance of something like 12 miles, Mr witness; isn't
27 it? Something like 12 miles?

28 A. I cannot remember the kilometre, but it is far.

29 Q. That would be far in excess of the world record for that distance.

1 A. Really, yes.

2 Q. Please tell us what your route was. I mean, of course, including
3 bomb, you went up towards Berry Street by the bottom where Model School is;
4 is that right?

16:25:59 5 A. Yes, sir. We walked from State House up to Parliament, then we came
6 to Berry Street.

7 Q. So all the way up the hill and then, as it were, coming downhill
8 towards Berry street?

9 A. No, we took it up Berry Street and we went to College Road and we
10 came down the hill.

11 Q. You went all the way up to College Road then you came down the hill.
12 When you came down the hill, what area did you reach?

13 A. I cannot remember that route because I have never been to that place.
14 That was my first time of going.

16:26:45 15 Q. You see, Mr Witness, if you went that way it is highly unlikely. I
16 beg your pardon, it is impossible that you would have passed Kissy Road;
17 isn't it?

18 A. We were up the hill and we used to see Kissy Road.

19 Q. So your evidence now is that you weren't actually passing along Kissy
20 Road as the burning was taking place?

21 A. We used to see --

22 Q. Can you answer the question, please?

23 A. We used to see there.

24 Q. Can you answer the question, please. Is it your evidence that you
25 did not go along Kissy Road?

26 A. Yes, we didn't go by the Kissy Road, but we were off Kissy Road, up
27 the hill, but we used to see Kissy Road. We will see far the houses.

28 Q. And you were able to see exactly what was going on on Kissy Road from
29 as it were Mount Aureol?

1 A. Yes, sir.

2 Q. were you able to look with binoculars down? It is some distance
3 away; isn't it?

4 A. It's not that far. We saw there. We saw Kissy Road clearly.

16:28:33 5 Q. So there you were, Mr Witness, with a very big, heavy bomb, a yard
6 long and about a metre wide, not having eaten for four days, running along
7 and looking down to your side, your left side, it would have been, seeing
8 what was going on on Kissy Road. Is that really your evidence?

9 A. Yes, we used to see there. I used to see there, sir.

16:29:23 10 Q. I shall move on, Mr Witness. You have told us that when you got to
11 Calaba Town, however and you did so, you managed to escape?

12 A. Yes, sir.

13 Q. At that time, where did you go?

14 A. I went to one Pa, it was one Pa that saw me. I explained my problems
16:29:51 15 to him and he escaped with me and kept me in his house.

16 Q. And was that in or around the Calaba Town area?

17 A. Yes, sir.

18 Q. When you managed to escape, was there anything that had happened to
19 you at the time of escaping or before you escaped that you can remember
16:30:12 20 significantly?

21 A. No, except my sister that died, that is what was paining me.

22 Q. But not as a result of your capture, was it?

23 A. When she died? No.

24 Q. Well let me then ask you this. You were able to escape with the
16:30:59 25 clothes you had on your back, but nothing else really. Would that be the
26 situation?

27 A. I did not have any clothes on. I did not have any shoes. That is
28 the way I escaped. I only had shorts on because they had taken everything
29 that I had.

1 Q. They had taken everything that you had, Mr Witness, other than your
2 shorts?

3 A. Yes, sir. Yes, sir.

16:31:34

4 Q. You see in your first -- well, I beg your pardon. In the witness
5 statement that you made on 20th February 2003, you simply say they had
6 stolen your trousers.

7 A. Yes.

8 Q. The shorts that you were wearing, where did you get those from?

9 A. I bought them, sir.

16:32:03

10 Q. You bought them?

11 A. Yes.

12 Q. Where were your trousers stolen from you? Was it on your way to
13 Calaba Town or at any other time?

14 A. They stole my trousers when we were going to Calaba Town on the way.

16:32:35

15 Q. On the way. Clearly, Mr Witness, that is something that you could
16 not forget, you were in an abject state of fear carrying a bomb.

17 A. Yes, sir.

18 Q. And you clearly remember your trousers being taken on the way to
19 Calaba Town?

16:33:00

20 A. Yes, sir.

21 Q. Where had you reached on your journey at the time your trousers were
22 so rudely taken from you?

23 A. We were up this [inaudible] side up the hill. I don't know how that
24 area is called. So one man's trousers were torn and they took mine and
25 wore it.

16:33:22

26 Q. So this happened to you -- well, certainly once you had passed Mount
27 Oriel where [inaudible] college is, is that right?

28 A. Yes, right -- right -- right ahead. I have never been there. That
29 was my first time of going there.

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1 Q. So it would be wrong to say that your trousers had been stolen from
2 you at State House?

3 A. I don't understand.

16:34:11

4 Q. It is fairly straight-forward, Mr witness. If they stole your
5 trousers from you in that place on your way to Calaba Town, then they
6 couldn't have stolen your trousers from you at State House. Would you
7 agree with that?

16:34:45

8 A. No, they took one at State House because I had two trousers on. So
9 the boxers that I wore was the one that was taken at Calaba Town Road. I
10 had two trousers on. They took one at State House and one at Calaba Town
11 when we are going.

12 Q. All right, let's just confirm what it is you are now saying,
13 Mr witness. You had on two pairs of trousers when you were at State House;
14 is that right?

16:35:03

15 A. That is what I wore, the trousers and the shorts called boxer.

16 Q. Right. And at State House one pair was taken from you?

17 A. Yes.

18 Q. And that was the boxer shorts?

19 A. The trousers.

16:35:26

20 Q. I beg your pardon, they took the trousers, and you were left with the
21 boxer shorts?

22 A. Yes.

23 Q. Right. And then when you got to the point that you have been
24 describing to us even the boxers were ignominiously ripped from you. Were
25 taken from you?

16:35:45

26 A. Yes, they took off the boxer.

27 Q. And by this stage would it be fair to say you had nothing on on your
28 bottom half?

29 A. Totally naked. what I had on was a small short trousers, sir,

1 resembling pants. That is what I wore.

2 Q. So you had a pair of short trousers under the boxers which you had
3 under the long trousers originally when you were in State House?

4 A. Yes, sir.

16:36:32 5 Q. And first the long trousers were taken from you, then the boxers and
6 that left you with your inner-most layer the very short trousers like
7 underpants?

8 A. Yes, that is what was left with me. It was that Pa that gave me
9 trousers to wear.

16:36:55 10 Q. And that is how you escaped?

11 A. Yes, sir.

12 Q. And the Pa, as you call him, that gave you trousers to wear, was he
13 able to do that when you got to his house?

14 A. Yes, I explained myself to him.

16:37:18 15 Q. Now, can you then please explain, Mr witness, how it is that you said
16 when you escaped -- I shall read it to you, it is from your statement, yes?
17 After you have talked about carrying a bomb your statement says this, "I
18 carried it up to Calaba Town at which point I said I was tired. They gave
19 it," meaning the bomb, "to another person. I said I needed to use the
20 toilet and they allowed me. I escaped at this point. I went to my

21 brother's house who I did not find. I was wearing a pair of trousers I had
22 picked in the street because the rebel boys had taken my trousers at State
23 House." Mr witness, that is what it says in your statement. Is that true?

24 A. Before that happened I went to the Pa because the trousers that I had
16:38:49 25 was not good, that is why I went to this Pa because this was a Pa that I
26 have known for so long.

27 Q. Mr witness, before what happened?

28 A. Before what happened? Explain that again.

29 Q. Your evidence is, "Before that happened I went to the Pa and then he

1 gave me trousers."

2 A. Yes, because that trousers was not good enough for me because there
3 was blood on it. It was the one that I found in the street was not good.

4 Q. So are you saying that what you wrote in the statement about that is
16:39:39 5 true?

6 A. About the trousers that I said I found in the street?

7 Q. No, the whole passage in relation to wearing a pair of trousers that
8 you had picked up in the street because the rebel boys had taken your
9 trousers at the State House.

16:40:13 10 A. All is true.

11 Q. Did you not also just a short while ago, on 11th February, tell the
12 Prosecution that not only your trousers, but they took your shoes and your
13 shirt?

14 A. Yes, sir.

16:40:41 15 Q. You haven't mentioned those today.

16 A. I said so some minutes ago. I said they took my shoes.

17 Q. I see. Has anybody talked to you about compensation in relation to
18 what has happened to you in this thing? Did anybody mention compensation
19 to you?

16:41:03 20 A. Nobody.

21 Q. Mr Witness, I simply submit to you that you did not see my lay client
22 at State House.

23 MS TAYLOR: Your Honour, I am not sure that the witness would
24 understand what my learned friend means by his lay client.

16:41:42 25 MR METZGER: I don't propose to start having the dock
26 identification at this late day or stage in the game. I shall ask no
27 further questions. What I would seek to do, Your Honour, is to reserve
28 any further cross-examination after perhaps a matter in relation to
29 disclosure. But I shall explain that in due course. It may not be the

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1 appropriate moment.

2 PRESIDING JUDGE: Do you mean the cross-examination of this witness?

3 MR METZGER: Indeed, Your Honour. The point being - I can explain it
4 now, I don't want to unnecessarily state something now because it arises,
16:42:23 5 it seems to me, only when the witness has completed his evidence.

6 JUDGE LUSSIC: Mr Metzger, would it get around your problem at the
7 moment, you described in your question, "Did you see my lay client," if you
8 referred instead to Gullit.

9 MR METZGER: Well no, because if Your Honour has had the opportunity,
16:42:54 10 I know there are a lot of papers in this case, but to look through our
11 pre-trial brief, you will see that we do accept the nonmenclature Gullit or
12 Gullit. So it makes it very difficult for me to put it in any other way.
13 I don't need to ask the question at this stage in any event. It does
14 become very difficult.

16:43:17 15 PRESIDING JUDGE: [Microphone not activated]

16 MR METZGER: I said I don't need to ask that particular question and
17 I can deal with any other matters at the conclusion of this witness's
18 evidence in relation to this witness's evidence.

19 PRESIDING JUDGE: [Microphone not activated]

16:43:50 20 MR METZGER: I cannot hear you, Your Honour, the microphone.

21 PRESIDING JUDGE: I apologise. Are you reserving some point to come
22 back?

23 MR METZGER: Not on anything that I have already asked him about,
24 save one small portion of his evidence, but it doesn't need to be aired at
16:44:10 25 this point in time. It simply gives rise to perhaps a motion or some
26 explanation once this witness has given his evidence as called by the
27 Prosecution on this motion.

28 JUDGE LUSSIC: what you are saying is you would seek leave to recall
29 this witness at some later time, subject to further evidence.

1 MR METZGER: Yes, further disclosure as regards this particular
2 witness as opposed to another one. I am very much obliged.

3 JUDGE LUSSIC: Yes.

4 PRESIDING JUDGE: Yes, Mr Harris, have you questions of the witness?

16:44:44

5 MR HARRIS: I think -- I am sorry, Your Honour, I think the Bar has
6 in fact agreed that we go along this way, without any disrespect to you,
7 that is what we in fact agreed.

8 PRESIDING JUDGE: Yes, indeed, that is acceptable. Mr Knoops, have
9 you questions of the witness?

16:45:08

10 MR KNOOPS: Thank you, Your Honour. Yes, indeed a few question for
11 this witness, Your Honour.

12 CROSS-EXAMINED BY MR KNOOPS :

13 Q. Mr witness, were you ever in the military?

14 A. No.

16:45:21

15 Q. Do you have any military knowledge or experience outside the military
16 service?

17 A. No, not a day.

18 Q. In your previous statement you refer to the events at the State House
19 building and you mention the presence of rebels; is that correct?

16:45:48

20 A. Repeat that again.

21 Q. With respect to the events described by you at the State House, you
22 referred in your earlier evidence to the presence of rebels; is that
23 correct?

24 A. Yes, they were there.

16:46:10

25 Q. In addition to rebels, were any other individuals present there?

26 A. Only the civilians.

27 Q. Mr Witness, in your statement of the --

28 A. Yes.

29 Q. -- I think it is February 2003, you refer to the presence of rebels

1 and ex-soldiers. Now, I understand your evidence today that you only
 2 recall the presence of rebels. However, I submit to you your previous
 3 statement you gave to the OTP where you referred to rebels and ex-soldiers.
 4 Now the question is what is your recollection? were there only rebels or
 16:47:10 5 rebels and ex-soldiers?

6 MS TAYLOR: Your Honours, I object to this question. My learned
 7 friend is putting a part of the first statement to this witness. In
 8 fairness to the witness I think it is right that in the subsequent
 9 statement that was disclosed to the Defence on 11th February this year,
 16:47:38 10 which is entitled "Additional or clarifying information provided by witness
 11 TF1-024," the third paragraph of that talks about when the witness says
 12 rebels he explained that he means certain things. And because that
 13 information has been provided to my learned friends, I think the question
 14 in its current form is unfair.

16:48:07 15 PRESIDING JUDGE: Mr Knoops, if you are putting a prior
 16 inconsistent statement to the witness you should put it as it is
 17 recorded.

18 MR KNOOPS: Yes, I will do so.

19 PRESIDING JUDGE: It has not been tendered in evidence, therefore I
 16:48:18 20 do not have it before me.

21 MR KNOOPS: Your Honour, if may address my learned colleague from the
 22 OTP. wasn't that statement being referred to as mistakenly disclosed?

23 MS TAYLOR: No, if you will -- pardon me, Your Honours. There was a
 24 statement dated 10th March 2004 that by letter you were informed belonged
 16:48:45 25 to another witness who shares this witness's name. But you were also
 26 served with a document dated 11th February 2005 entitled, "Additional or
 27 clarifying information provided by witness T F1-024". And in that statement
 28 the additional or clarifying information refers to what this witness means
 29 when he uses the words "rebels".

1 MR KNOOPS: well, yes, I put before this court that this material, as
 2 this clarification mentions, is not being reviewed with the witness or
 3 right read back to him, so I don't think it is correct to correct me in my
 4 submission to the witness. And by the way, in that so-called additional
 5 clarifying information in the third linear, the witness is supposed that it
 6 is given by him. He refers to rebels and soldiers. So I don't see the
 7 point.

16:49:54

8 JUDGE LUSSIC: Mr Knoops, what was your question again? I have
 9 forgotten it.



16:50:05

10 MR KNOOPS: My question to this witness was, Your Honour, whether the
 11 witness recalls only the presence of rebels or in addition to rebels other
 12 individuals at the State House events on the -- or about the 8th
 13 January 1999. And the witness just answered my question by saying that he
 14 recalled the presence of rebels. He did not refer to soldier or
 15 ex-soldiers. So I am now confronting him with his previous statement.

16:50:38

16 JUDGE LUSSIC: Miss --

17 MS TAYLOR: Taylor, Your Honour.

18 JUDGE LUSSIC: I beg your pardon. I will overrule your objection.
 19 That question is allowed.

16:50:57

20 MR KNOOPS: So, Your Honour, could you please instruct the witness
 21 to answer my question.



22 JUDGE LUSSIC: Perhaps if you could just ask it to him again.

23 MR KNOOPS: Thank you, Your Honour.

24 Q. Mr witness, I was resume my question. Do I have to
 25 recall the question or you -- my question is, Mr witness, is
 26 it correct that in your previous statement you refer to the
 27 presence of rebels and ex-soldiers?

16:51:11

28 A. Yes.

29 Q. Could you explain the court why you now refer to the presence of only

1 rebels at the State House?

2 A. Because at that time the rebels and the soldiers had all come
3 together so we used to call them rebels.

16:52:06

4 Q. Are you in a position, Mr witness, to make a differentiation between
5 the rebel and an ex-soldier? You just testified before this Trial Chamber
6 that you have no military experience or background, could you please inform
7 the Trial Chamber on how you are able or were able to differentiate between
8 rebels and ex-soldiers?

16:52:38

9 A. During that time the rebels and the soldiers had come together. They
10 did everything together, so all of them are called rebels. So because of
11 that we called them rebels.

16:53:11

12 Q. But, Mr witness, is this your direct knowledge, or is this your
13 perception of certain events, or perhaps even information you heard from
14 third parties? My question is simply: Is this your direct knowledge and
15 if so, could you explain how you are able to come to that assertion that
16 soldiers and -- ex-soldiers and rebels were coming together and,
17 apparently, in your statement were forming one group?

18 A. At that time all of them were together. They came together.

16:53:41

19 Q. But, Mr witness, the question is: How can you come to that
20 conclusion? What are the facts which underlie this conclusion? How do you
21 know that these groups were mixed?

22 A. Well, at that time the rebels and the soldiers did the same thing.
23 They killed innocent civilians. They did the same thing. That is why I
24 said they were mixed together.

16:54:15

25 Q. Could you explain to the Honourable Trial Chamber what are the facts
26 which justify your conclusion that these two groups mixed and were
27 responsible for the killing of innocent persons? Is this an assumption
28 from you? Did you hear from other people, or did you see yourself that
29 groups were joined?

1 A. Yes, we used to see them. They were together.

2 Q. Could you then, please, clarify and assist the Trial Chamber on the
3 difference between a rebel and ex-soldier?

4 A. What do you mean? I don't understand what you are saying.

16:55:11

5 Q. Could you simply explain to the Honourable Trial Chamber whether the
6 distinction you are apparently able to make between a rebel and an
7 ex-soldier pertains, for instance, to the weaponry they were wearing, the
8 uniforms, expressions? Could you simply try to explain us how you were
9 able to differentiate between these two different groups?

16:55:46

10 A. The soldiers had uniforms and the rebels had uniforms and all of them
11 were together.

12 Q. What was in your view, then, the difference between the two groups?

13 A. There is no difference, because all of them are the same.

16:56:08

14 Q. So then you are actually not in a position to say that person was
15 rebel and that person was an ex-soldier, because if they wore all the same
16 uniforms, how making a difference? Isn't it correct, Mr witness, that
17 based on the fact that you have no military experience or knowledge that
18 you are actually not in a position, aren't you, to comment on the
19 difference between a rebel and ex-soldier? Is that correct?

16:56:42

20 A. All of them came to Freetown at the same time, so all of them worked
21 together as one body. We used to see them.

22 Q. Were you there when they entered Freetown?

23 A. I was in Freetown.

24 Q. Yes?

16:56:59

25 A. I was in Freetown, in my house.

26 Q. Yes, that we know, Mr witness, but were you there when they entered
27 Freetown?

28 A. When they came, we used to see them.

29 Q. But were you actually able -- were you in a position to view the

1 so-called reunion of rebel groups and ex-soldiers? were you there when
2 they renewed -- re-joined? Did you actually see that they were mixed up?

3 A. Yes.

4 Q. when did you see that?

16:57:38 5 A. when they came January 6th.

6 Q. How?

7 A. All of them had been liaising together.

8 Q. were they dressing themselves at that moment or were they already
9 wearing uniforms by that time?

16:58:08 10 A. Soldiers had uniform, rebels had uniform.

11 Q. so when you saw them, they actually already wore uniforms, weren't
12 they?

13 A. Yes, all of them had uniform. Some would wear a T-shirt and wear a
14 combat trousers.

16:58:32 15 Q. were you able to distinguish between ranks?

16 A. No.

17 Q. why not?

18 A. Because I did not see ranks on them.

19 Q. would you describe the uniforms?

16:58:58 20 MR KNOOPS: Your Honour, I just received a note from my learned
21 colleague that the interpreters are assisting the witness by responding
22 to questions by -- put by me.

23 PRESIDING JUDGE: I don't quite understand what you mean by that.

24 MR KNOOPS: Your Honour, if you will allow me one second, please.

16:59:51 25 Your Honour, I respectfully request the Trial Chamber to again instruct the
26 translators to strictly comply with the answers of the witness and not
27 adding anything to it.

28 PRESIDING JUDGE: Mr Knoops, is it the implication that the
29 interpreters are answering the questions?

1 MR KNOOPS: The defendants are putting a note to the Defence counsel
2 that they are concerned -- excuse me, Your Honour. Mr Spaine, you would
3 like to address the Court on this?

17:00:44

4 MR MANLEY-SPAINE: Your Honour, with your leave, what the accused
5 persons are saying is that when the interpreter interprets from Krio to
6 English, he adds a few words which the witness has not said. That is what
7 they are saying.

17:01:03

8 PRESIDING JUDGE: I understand. I will therefore direct the
9 interpreters. I will remind them of the declaration they made this morning
10 that they will truthfully and faithfully translate exactly what is said.
11 They neither add nor do they subtract from what is said.

12 MR KNOOPS: Thank you very much, Your Honour. Thank you. Sorry for
13 this interruption.

17:01:33

14 Q. Mr witness, I resume my examination and I believe we
15 were -- arrived at the moment that you informed the Honourable
16 Trial Chamber that you were not able to distinguish any ranks ;
17 is that correct? That was your last answer.

18 A. I said I didn't know the ranks.

17:02:04

19 Q. And in believe the next question on my behalf was whether you could
20 give a brief description of the uniforms. Are you in a position to give a
21 description of the uniforms you recall?

22 A. Some had soldier uniforms, that's what they wore. They wore
23 soldiers' uniforms.

17:02:37

24 Q. And in your perception, Mr witness, what does a uniform of a soldier
25 look like? Could you --

26 A. They wore combat uniform. It's a military uniform, combat.

27 Q. Could you describe, for instance, the Colour?

28 A. It is green and it had grey something on it, Khaki, but they were
29 different and different colours on it.

1 Q. And did they wear anything on their heads?

2 A. They had helmets on their heads.

3 Q. What colour did the helmets have?

4 A. Green.

17:03:38 5 Q. Green helmets. Mr witness, in your statement you put into evidence
6 through the OTP, you mention rebels and ex-soldiers. Now, we understand
7 your statement as that in your view these two groups were mixed, but my
8 question now in this regard is: How are you able to distinguish between a
9 soldier and an ex-soldier? Could you assist us in this matter by
10 explaining to the Trial Chamber by what in your view is the distinction
11 between an ex-soldier and a soldier? That is my first question and the
12 second one I will save for a few seconds.

13 A. I am not able to to make a distinction, because I am not soldier nor
14 the child of a soldier.

17:04:55 15 Q. Right, Mr witness, but what is the reason that you state in your
16 previous statement, which is put to the Defence, why do you refer to
17 ex-soldier? If you are not in a position to comment on the difference
18 between a soldier and ex-soldier, is not it correct that you are not in a
19 position to qualify whether somebody is an ex-soldier or not, aren't you?

17:05:33 20 PRESIDING JUDGE: Let the witness answer.

21 THE INTERPRETER: Repeat it.

22 MR KNOOPS:

23 Q. Mr witness, if the court allows me, I will re-phrase the
24 question. Is it fair to say, Mr witness, that you are not
17:05:48 25 able to qualify somebody as an ex-soldier? Is that a fair
26 conclusion?

27 A. I'm a student. I don't know about soldiers. I can't distinguish
28 between a soldier and an ex-soldier. I don't know them.

29 Q. So, Mr witness, it is therefore fair to say before this Trial Chamber

1 that your reference to ex-soldiers in your statement is in correct, or I
2 will put it another way. It is a statement which you cannot substantiate?

3 A. To say ex-soldier, it means soldier -- a soldier that they do not
4 want any more. The soldier that they do not want any more.

17:06:53 5 Q. I think that is a fair definition of a soldier, Mr witness, but the
6 question is: Can you see from somebody's expression, or from a uniform, or
7 from other external factors whether somebody is an ex-soldier? Yes or no?

8 A. I don't know.

9 Q. Thank you. I will move onto my next topic. Mr witness, is it
17:07:28 10 correct that you previously stated that during the events at the State
11 House around January 8th, 1999, you have described, that you were with a
12 group of about 50 people; is that correct?

13 A. Yes, Civilians.

14 Q. Were you familiar with these people? Was there among these 50 people
17:08:00 15 somebody who was --

16 A. I don't know them.

17 Q. So these people were for you strangers; is that correct?

18 A. Most of them were strangers. Some were from afar. I don't know them.

19 Q. Right. When you describe, when you assert that you were requested or
17:08:33 20 ordered to join the rebels, were all these 50 people accepting to join the
21 rebels?

22 A. No, none of them agreed.

23 Q. Sorry, can you repeat that? None -- do I understand none of them
24 accepted that?

17:09:05 25 A. None of us agreed to join them.

26 Q. Thank you. Are you sure about that?

27 A. Yes.

28 Q. In your statement before the Prosecution you state that of the group
29 of 50 about 30 people didn't challenge the request or order to join the

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1 rebels. Thirty people I recall did not challenge that request. Now, you
2 are telling the court that none of this -- none of the group of 50 opposed.
3 Could you please explain us, Mr witness?

4 A. I can't explain.

17:10:04 5 Q. Either, Mr witness, you telling today not the truth or you didn't
6 tell the truth to the Prosecution. It is either or.

7 A. All of us disagreed to join the rebels, all of us who were there.

8 Q. Sorry, do I understand you all agreed to join the rebels?

9 A. None of us agreed.

17:10:38 10 Q. Sorry. Again, Mr witness, could you explain why you told before in
11 your statement that 30 people didn't challenge that request. It is not
12 just one, it is not just two, it's not just five, that you spoke about 30
13 people. That is a big difference with your statement today, is not it?

14 A. I said all of us disagreed to join the rebels. None of us agreed.

17:11:19 15 Q. So I think, Mr witness, it is fair to say that on this point you did
16 not inform the Prosecution correctly. Is that not so?

17 A. Nobody joined the rebels.

18 MR KNOOPS: Your Honour, I am sorry to direct myself to your
19 Chamber, but I get the impression even more and more that the witness is
17:11:45 20 not willing to answer any fair questions of the Defence. He is simply
21 evading questions which put him on his own evidence. And I ask --
22 respectfully ask the Trial Chamber to direct the witness to simply ask --
23 answer the questions of the Defence, yes or no.

24 PRESIDING JUDGE: Mr witness, do you understand the questions that
17:12:12 25 have been asked of you by counsel?

26 THE WITNESS: I want him to repeat the question.

27 PRESIDING JUDGE: Mr Knoops, please ask the question again and please
28 limit it to one question.

29 MR KNOOPS:

1 Q. Mr witness, is it correct that you gave a different statement to the
2 Prosecution as you are now giving to the Trial Chamber as far as it
3 concerns the number of people from the group who opposed to join the
4 rebels? Simply yes or no. Is your statement today different from that
17:13:01 5 statement given to the OTP? Yes or no?

6 A. No, none of us agreed. All of us opposed to join them.

7 PRESIDING JUDGE: Mr witness, that is not the question counsel has
8 asked. He has asked: Did you make one statement to the Prosecution and
9 did you make a different statement today?

17:13:36 10 THE WITNESS: You put it clear to me so that I can understand it
11 properly. I cannot understand the English he is speaking. Say for me to
12 understand.

13 MR KNOOPS: Your Honour, I think this point we should leave it
14 behind. Hopefully it is clear for the Trial Chamber that the Defence has
17:14:01 15 put a fair question which is not answered by this witness.

16 JUDGE SEBUTINDE: Mr Knoops, usually it helps when you quote from the
17 statement of the witness and you quote back to him that this is what he has
18 stated in his statement, and then ask him if it is true. For one thing, we
19 don't have a statement legally before us, so we don't even know what
17:14:27 20 quotation you are referring to, but it helps.

21 MR KNOOPS: Yes, sorry. If the Court pleases so, I can cite just the
22 two sentences from the specific paragraph of the witness statement of the
23 20th February.

24 Q. Mr witness, I read out your statement on this particular point you
17:14:56 25 gave to the Prosecution. "Of the group of 50, about 30 people did not
26 challenge the request or order to join the rebels." I hope now for you --
27 no, let me put it differently.

28 A. Yes.

29 Q. Can you recall making this statement to the Prosecution in 2003? Can

1 you recall these numbers?

2 A. Yes.

3 Q. what you then stated in 2003 was that according to the truth, that
4 you tell the truth at that time?

17:15:56 5 A. Yes, I said the truth.

6 Q. But, Mr witness, you must agree with me that what you have just told
7 the Court under oath that --

8 A. Yes.

9 Q. -- all of the group didn't want to join the rebels is it different
10 statement, isn't it?

17:16:16

11 A. No.

12 Q. why not?

13 A. All that I said was true.

14 Q. I think it is -- so in your view, both statements, today and then ae
15 true?

17:17:02

16 A. Yes, because I have taken a long time when I gave those statements,
17 so I can't remember many things. Different people have been interviewing
18 me.

19 Q. Mr witness, let us move on to the next subject. Do you recall how --
20 you just, if I recall well, put to the Trial Chamber that some people of
21 the group were shot; isn't that?

17:17:26

22 A. Yes.

23 Q. Can you recall the number of individuals who were shot in your
24 recollection?

17:17:53 25 A. Over 30 people were killed.

26 Q. From that group of 50?

27 A. Yes, among the group of 50 some were killed.

28 Q. So to be perfectly clear, your statement today is that from the group
29 of 50, 30 people were shot? Is that correct?

1 A. Over 30 people were shot. Many of them, more than 30 people.

2 Q. Right. In keeping with the valuable suggestion of the honourable
3 member of the Bench, I would like to put -- submit to this witness the
4 following sentence from his previous statement. After the witness has

17:18:57 5 elaborated on the fact that of the group of 50, about 30 people did not
6 challenge, he goes on saying and I will quote. Mr witness, I encourage you
7 to listen well.

8 A. Yes, okay.

9 Q. This a quote from your statement. "However, five of the people who
10 openly refused to join were shot right there in front of us. The dead were
11 three women and two men."

12 A. Yes.

13 Q. Was that a correct statement at that time, in your view?

14 A. Five people refused to join. They were killed in my presence. I saw
17:19:57 15 them. They killed them in my presence; I saw them. And after that they
16 killed over 30 people.

17 Q. So that totals 35 then?

18 A. Yes, that gave a total for over 30 something, including the five
19 people.

17:20:22 20 Q. But, Mr witness, I'm sorry to say again but this seems quite a
21 discrepancy with your previous statement we just quoted from. Are you
22 telling the truth today?

23 A. I'm saying the truth. All that I have been saying this truth. I
24 couldn't tell lies to anybody.

17:20:52 25 Q. Mr witness, these 35 people who were shot, in your view, did this
26 happen before you were brought to the kitchen?

27 A. We were in the kitchen when we saw the five people being killed.
28 Then those who were killed from the kitchen because they refused to join
29 them and they threw them over the wall.

1 Q. So you're actually saying to the Trial Chamber that from the kitchen
2 30 people were taken and subsequently shot to death?

3 A. All of them were in the kitchen. When they came out they killed
4 them.

17:22:05 5 Q. Can you perhaps give us an explanation why your statement today on
6 this particular point is -- let me phrase it otherwise. Why didn't you
7 speak about these numbers in your statement before the Prosecution?

8 A. I explained to them but it looks like they didn't listen clearly.
9 They were using deep English and I didn't understand the English they were
10 using.

17:22:44 11 Q. So Mr witness, you are saying to this Trial Chamber that you did tell
12 the Prosecution about these 35 people who were apparently shot to death and
13 they didn't record it into your statement. Is that correct?

14 A. I told them the 30 something anyway but that five is what makes it
17:23:11 15 rounds it up to 35. I can't recall. Because now I am beginning to
16 remember what was happening. I feel sorry anyway.

17 Q. Let us go back, let us go back to your statement. Let us divide the
18 time frame into two stages. The situation before the kitchen and after the
19 kitchen. In your statement before the OTP we just heard you assert that
17:24:04 20 from a group of 50 people, 30 people didn't challenge the request or the

21 order to join the rebels. And that five people who openly refused to join
22 were shot to death. According to that statement 20 individuals did
23 challenge the order or the request. Is that a correct estimation? I am
24 now basing myself on what you told the Prosecution in your statement. You
17:24:44 25 agree with me that at least 20 people didn't challenge the request is not
26 it? Are you able to count?

27 A. I can't count.

28 Q. Sorry?

29 A. I cannot count them. I cannot even remember.

1 Q. You have no ability to count?

2 A. I cannot count the number that has died.

3 Q. I mean are you able to count in general? 1-2-3-4-5 et cetera?

4 A. The people who died I have told you that they were about 30 something
17:25:41 5 people. That I could remember now.

6 Q. My question is, Mr witness, is: Are you able to count?

7 A. Yes.

8 Q. You agree with me that when we assume that there's a group of 50
9 people, 30 people are not challenging the request to join. At least 20

17:26:10 10 people who did challenge. Is that correct estimation? Fifty with -- we
11 deduct 30 that leaves 20, is that correct? You can follow me?

12 A. No.

13 Q. How were you able to make the estimation of 50 people. Did you count
14 them? Did you say in your memory 1-2-3?

17:26:45 15 A. They counted the people. They counted the people.

16 Q. who are "they"?

17 A. The rebels counted them.

18 Q. So you did not count them yourself; isn't it,

19 A. No, we got it from them that was the amount of people who died. They
17:27:26 20 themselves said it.

21 Q. when was this counting being administered? At what moment the
22 counting took place?

23 A. Before we left the compound.

24 Q. which compound?

17:27:52 25 A. The State House compound.

26 Q. You were present during the counting?

27 A. I was not there but that's what they told me, what I heard from them.
28 That is why the let us to follow them.

29 Q. But who specifically told you that this group totalled 50 persons?

1 A. It was one rebel boy.

2 Q. And why did he tell you? Or did you ask him?

3 A. I didn't ask him; he told us. He told us that we have killed those
4 people and if you are recalcitrant, we'll kill you too.

17:28:43 5 Q. You have any reason to indicate why the rebel told you that the group
6 totalled 50 persons?

7 A. If I have any proof? I don't have any proof. But because they told
8 us so we just concluded that that is it. We saw the corpses on the ground
9 but we were unable to count them.

17:29:15 10 Q. Mr witness?

11 A. Yes.

12 Q. I go back to the issue of the numbering. According to your statement
13 we just cited from, 20 people didn't challenge the request -- sorry, 20
14 people did challenge the request or the order to join the rebels and five
17:30:10 15 were shot who openly refused to join.?

16 A. Yes.

17 Q. You agree with that?

18 A. I agree. They killed five because they disagreed to join them.

19 Q. In my account that leaves 15 persons left who did challenge but were
17:30:36 20 not shot to death in your own statement; is that correct?

21 A. No.

22 Q. Why not?

23 A. They killed all the people. But summed up to that number.

24 Q. But Mr witness, I have to be frank to you and recall your earlier
17:31:09 25 statement a few seconds ago that you testified under oath before this Trial
26 Chamber that the other you mentioned 30 people were killed after the
27 kitchen. You are now speaking still about the situation before you
28 apparently went to the kitchen. You recall that statement. We can read it
29 back for you but you just testified?

1 A. Okay.

2 Q. You agree with me?

3 A. Yes.

4 Q. So I recall my question, Mr witness, that in this account these 15

17:31:50 5 people who did challenge the so-called order or request to join the rebels
6 but were not shot to death. My question is what happened to them?

7 A. Repeat it. I can't understand it.

8 Q. Okay, hopefully the last time I will go back to -- we just agreed,
9 you and me, Mr witness, that 20 people out of the group of 50 did

17:32:39 10 challenge, they opposed the request to join the rebels; correct? Yes or
11 no?

12 A. No.

13 Q. I recall that you just agreed with me. That from this group of 20
14 people who did challenge the request five persons were shot before the

17:33:21 15 kitchen, before you went into the kitchen. Before you went into the
16 kitchen only five people were shot to death. Is that correct?

17 A. Yes.

18 Q. So after the kitchen - that was your statement today - 30 additional
19 people were shot to death?

17:33:54 20 A. After the kitchen when we were going that's when they killed the 30
21 people. Because we are forcing them to go and they are refusing to go.

22 Q. Okay, then, it is fair to say that you agree with this number that
23 before you went with these people into the kitchen there were five people
24 shot to death and at least 15 people not shot to death out of the group who

17:34:25 25 challenged the request to join the rebels? So my question is what happened
26 to these 15 people?

27 A. The rest that remained in the kitchen, the 15 people went with them.
28 The rest of the people were killed.

29 Q. Okay, Mr witness, we move on to the next stage. You are in the

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1 kitchen. How many people?

2 A. In the kitchen.

3 Q. In the kitchen.

4 A. we were many. Over 50 people were in the kitchen.

17:35:15 5 Q. Over 50 people. You just testified that --

6 A. Over 50, yes.

7 Q. You are absolutely sure about that?

8 A. Yeah.

9 Q. I recall that we started with a number of 50 people, the number which
10 was told to you, as you just stated, by a rebel boy. Five people were shot
11 to death before you went into the kitchen, that leaves 45. And you now are
12 now trying to believe the Trial Chamber that in the kitchen were over 50
13 people. Mr witness, I urge you, you're testifying here under oath. It is
14 a serious matter we are dealing with.

17:36:01 15 A. Yes.

16 Q. I give you once more the opportunity to think about your statement.

17 A. we were in the kitchen, 50 of us, then they shot five people. when
18 we came out of the kitchen and they killed 30 people. Because at that time
19 they are forcing us to go, and the others they say they are not going so
20 they killed them. The rest went together.

17:36:32

21 PRESIDING JUDGE: Mr Knoops, as you're aware, this court had a
22 schedule to finish at five. We had hoped you would come to the end of
23 your cross-examination. Could you indicate to us if you have many more
24 questions or should this be a convenient point to adjourn?

17:37:00 25 MR KNOOPS: Your Honour, thank you for reminding me to the schedule.
26 I think I, if with the court indulgence, I could finish within ten minutes
27 my cross-examination, but I leave it up to the court. It depends, of
28 course, how effective the witness will answer the questions.

29 MR KNOOPS: Okay, I have no problem continuing tomorrow.

**Pages 107 to 109
omitted**

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THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-16-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA KAMARA
SANTIGIE KANU

TUESDAY, 8 MARCH 2005
9.23 A.M.
TRIAL

Before the Judges:

Teresa Doherty, Presiding
Julia Sebutinde
Richard Lussick

For Chambers:

Mr Simon Meisenberg

For the Registry:

Ms Maureen Edmonds

For the Prosecution:

Ms Lesley Taylor
Ms Boi-Tia Stevens
Mr Christopher Santora
Mr Mark wallbridge (Case Manager)

For the Principal Defender:

No appearances

For the accused Alex Tamba Brima:

Mr Kevin Metzger
Ms Glenna Thompson
Mr Kojo Graham

For the accused Brima Kamara:

Mr Wilbert Harris
Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Kanu:

Mr Geert-Jan Alexander Knoops

1 [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

09:17:57 5 [REDACTED]

6 [REDACTED] [REDACTED] [REDACTED]

7 [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED]

9 [REDACTED] [REDACTED]

09:22:27 10 [REDACTED]

11 [REDACTED] [REDACTED]

12 [REDACTED]

13 [REDACTED] [REDACTED]

14 [REDACTED] [REDACTED]

09:22:57 15 [REDACTED] [REDACTED]

16 [REDACTED] [REDACTED]

17 [REDACTED] [REDACTED]

18 [REDACTED]

19 [REDACTED]

09:23:22 20 [REDACTED]

21 [REDACTED] [REDACTED]

22 [REDACTED] [REDACTED]

23 [REDACTED] [REDACTED]

24 [REDACTED] [REDACTED]

09:23:43 25 [REDACTED] [REDACTED]

26 [REDACTED] [REDACTED]

27 [REDACTED] [REDACTED]

WITNESS: TF1-024 [Continued]

CROSS-EXAMINED BY MR KNOOPS: [Continued]

1 Q. Mr witness, good morning.

2 A. Yes, sir.

3 Q. Perhaps you will recall we put some questions to you yesterday about
4 the situation prior to the kitchen and the situation when you were in the
09:24:19 5 kitchen.

6 A. Yes, sir.

7 Q. Yesterday you were asked to give a description of the kitchen, but I
8 don't recall that you were asked the question to describe the total amount
9 of square metres of the kitchen. Could you indicate the size of the
09:24:56 10 kitchen?

11 A. No, I don't know how the kitchen is.

12 MR KNOOPS: Sorry, I didn't get the interpretation, Your Honour.

13 PRESIDING JUDGE: Neither did I. What was the interpretation?

14 THE INTERPRETER: No, I didn't know this, the size of the kitchen.

09:25:35 15 PRESIDING JUDGE: I had it on the wrong language. Mr Interpreter,
16 can you please repeat the answer.

17 THE INTERPRETER: Your Honours, can you get me?

18 PRESIDING JUDGE: I can get you loud and clear.

19 THE INTERPRETER: "No, I didn't get the size of the kitchen".

09:26:01 20 MR KNOOPS: Thank you.

21 Q. Mr witness, I recall that you stated yesterday in your evidence
22 before this Court that over 50 people stayed in the kitchen; is that
23 correct?

24 A. Yes, sir.

09:26:27 25 Q. Could you tell the Court whether you were able to sleep in the
26 kitchen?

27 A. I wasn't able to sleep.

28 Q. Mr Witness, is it your testimony that you were able to permanently
29 watch out of the window you described?

1 A. Yes, I was in the kitchen and I saw through the window.

2 Q. I will repeat my question. Is it your testimony that you looked
3 permanently through that window?

4 JUDGE LUSSICK: I think you will have to rephrase that. Permanently
09:27:35 5 means all day, all night without cessation.

6 MR KNOOPS: Quite, Your Honour. Thank you.

7 Q. Mr witness, were you able to - were you actually looking through the
8 window every minute, every moment of the three days or four days you
9 described you were in the kitchen?

09:28:00 10 A. Yes, I had been watching through the window.

11 Q. Through your proofing of February 2005 --

12 MR KNOOPS: And Your Honours, we'll be tendering the proofing into
13 the evidence -- that proofing was already referred to yesterday and I
14 already observed that this material was not reviewed with the witness or
09:28:43 15 read back, but nonetheless --

16 Q. I'm putting it to you, Mr witness, that additional or clarified
17 information you gave to the Prosecution on 11 February of this year --

18 THE INTERPRETER: Your Honours, the attorney is going too fast.

19 MR KNOOPS: I'm sorry.

09:29:03 20 Q. Mr witness, in your additional information you gave to the
21 Prosecution on 11th February of this year, it is described in the fourth
22 paragraph, and I will quote --

23 PRESIDING JUDGE: Pause, Mr Knoops. Counsel, you are not to walk in
24 front of the Bench. Please take the long way around.

09:29:47 25 MR FOFANAH: Sorry.

26 MR KNOOPS: Thank you, Your Honour.

27 PRESIDING JUDGE: Please continue.

28 MR KNOOPS: Thank your, Your Honour.

29 Q. It's noted in the fourth paragraph: "There was a window with bars

1 that he" - referring to you, Mr witness - "That he was able to often look
2 out the window."

3 A. Yes.

4 Q. So you recall making -- so you agree you made this addition to the
09:30:26 5 Prosecution?

6 A. Repeat so that I can understand properly.

7 JUDGE LUSSICK: Mr Knoops, I think you will have to be careful how
8 you tailor your questions. The statement you are referring to is not
9 actually a first-hand statement from this witness. It is an interpretation
09:30:54 10 by somebody else of what he said. I think you will have to tailor your
11 questions with that in mind.

12 MR KNOOPS: Thank you, Your Honour. Therefore I mentioned before I
13 put the question to the witness that this material has not been reviewed
14 with the witness and read back to him. So, I'm aware. I'll agree, I'll
09:31:14 15 rephrase my question again and I put the witness - I confront the witness
16 with this statement in another direction.

17 JUDGE SEBUTINDE: Mr Knoops, additionally, please do not forget the
18 opening remarks by the Presiding Judge, that when you want to quote
19 anything out of a statement or an additional statement, you quote it in its
09:31:39 20 entirety. You do not paraphrase the paraphrased statement. You're bound
21 to confuse everyone.

22 MR KNOOPS: Thank you, Your Honour, for reminding me to this. Of
23 course, this is indeed not an official statement, that we agree upon. If
24 Your Honours allow me to do so, I can paraphrase the whole linear from this
09:32:05 25 additional information. I put it differently.

26 Q. Mr witness, do you recall that you were additionally interviewed,
27 say, about a month ago by the Prosecution?

28 A. Yes, they interviewed me.

29 Q. Do you recall, Mr Witness, that during that interview, you gave

1 additional or clarifying information to the Prosecution; is that correct?

2 A. No. No, I said the same thing that I had told him before.

3 JUDGE LUSSICK: I will have to interrupt you. I'm sorry, Mr Knoops.
4 Court officer, I'm not getting any of this translation at all.

09:33:20 5 THE INTERPRETER: Your Honours, can you get me?

6 PRESIDING JUDGE: I can hear.

7 THE INTERPRETER: Hello, Your Honours. Can you get me?

8 PRESIDING JUDGE: I can hear, but my learned brother cannot. My
9 learned sister can hear.

09:33:51 10 THE INTERPRETER: Can you get me now, Your Honour? Can you get me
11 now?

12 JUDGE LUSSICK: Yes, I can hear you now, thank you.

13 THE INTERPRETER: Yes, welcome.

14 JUDGE LUSSICK: I'm sorry for that interruption, Mr Knoops. Go
09:34:13 15 ahead.

16 MR KNOOPS:

17 Q. So you don't recall making any additional comments on your previous
18 statement during that interview?

19 A. I remember all that I had said to them.

09:34:36 20 Q. Mr witness, I will paraphrase the whole fourth linear from that
21 additional information. The Prosecution summarised your proofing on
22 11 February 2005 in this respect as follows: "The witness said that while
23 he and others were locked in the kitchen in the State House he said the
24 kitchen was located on the downstairs floor of the State House; hence there
09:35:29 25 was a window with bars that he was able to often look out the window."

26 Mr witness, do you recall making this additional or clarifying remark, or
27 giving this additional information to the Prosecution?

28 A. Yes, I said it yesterday. I've been saying it all along.

29 Q. what, Mr witness, did you say all along?

1 A. I said it yesterday. He asked me the same question and I gave him
2 the same answer.

3 Q. Mr Witness, you testified that you were every moment of your time
4 spent in the kitchen watching through the window?

09:36:47 5 A. Yes.

6 Q. According to the information which was given by you on 11 February
7 2005, according to this document, you informed the Prosecution that you're
8 able to often look out the window. So my question is, which statement or
9 which information - that's probably more accurate - is correct?

09:37:38 10 A. I looked through the window.

11 Q. The question is, every second of your time spent in the kitchen, or
12 not every moment?

13 A. Yes, I continued watching through.

14 PRESIDING JUDGE: Mr Knoops, I think we've exhausted that line.

09:38:10 15 we're into a battle of semantics here.

16 MR KNOOPS: Yes.

17 Q. Mr Witness, after you left the kitchen with how many people were you?

18 PRESIDING JUDGE: Mr Knoops, I thought that was asked yesterday.

19 MR KNOOPS: Yes, Your Honour, that was asked, indeed, but I recall

09:38:41 20 that the witness provided us yesterday with several different numbers and I
21 didn't cross-examine the witness with respect to the moment he left the
22 kitchen. I only cross-examined until the moment he entered the kitchen.

23 PRESIDING JUDGE: What are you putting to him now? That it was a
24 different number that came in and a different number that came out?

09:39:22 25 MR KNOOPS: No, my question is simply, Your Honour, that I asked the
26 witness with how many people he recalls he left the kitchen.

27 PRESIDING JUDGE: I think he's answered that question. He said they
28 counted the people, Mr Knoops.

29 JUDGE LUSSICK: Mr Knoops, this witness was very capably

1 cross-examined yesterday on these exact points. There would be no purpose
2 at all in going over the same cross-examination again, but if you have some
3 aspects that weren't covered already in the cross-examination, then, by all
4 means, go ahead and ask those questions.

09:40:13 5 MR KNOOPS: Thank you.

6 Q. Mr witness, you testified that after you left the kitchen several
7 people tried to run away; is that correct?

8 A. Yes, sir.

9 Q. Can you recall how many people tried to run away?

09:40:53 10 A. There are many who wanted to run away.

11 Q. My first question is can you describe what you mean "with plenty"?

12 A. There were a large number who wanted to go away.

13 Q. what is a large number?

14 A. I mean there were a lot of people.

09:41:36 15 Q. How many?

16 PRESIDING JUDGE: You have asked that twice, Mr Knoops.

17 MR KNOOPS: But I'm not getting any answer, Your Honour. I'm sorry.

18 JUDGE LUSSICK: witness, when you say a lot of people, was it more
19 than five people?

09:41:48 20 THE WITNESS: Yes, there were more than five.

21 JUDGE LUSSICK: was it more than ten people?

22 THE WITNESS: There are more than five to ten people that run away.

23 JUDGE LUSSICK: How many would you say ran away?

24 THE WITNESS: Some wanted to run away -- they wanted to go away, but
09:42:23 25 they were not able to go away because the rebels stopped them from going.

26 JUDGE LUSSICK: Yes, but I didn't ask you that. You said it was more
27 than five or ten people that ran away. How many would you say ran away?

28 THE WITNESS: I cannot tell the amount. There are many. I cannot
29 tell you a direct figure.

1 MR KNOOPS: Thank you, Your Honour.

2 Q. Mr witness, do I understand you well? Correct me if I'm wrong, but
3 you used the words "ran away" and "tried to run away". Were there people
4 who actually ran away?

09:43:14 5 A. They tried to run away, but they were not able to go because the
6 rebels stopped them.

7 Q. Can you describe to the Trial Chamber how they stopped the people
8 trying to run away? How did they stop the people who, in your view, tried
9 to run away?

09:43:57 10 A. It was at the gates. They were trying to get out of the gates.

11 JUDGE LUSSICK: Witness, you're not answering the question. He
12 didn't ask you where they tried to escape from. He asked you how were they
13 stopped from running away; that's the question.

14 THE WITNESS: They stopped them with guns. They blocked them.

09:44:35 15 MR KNOOPS:

16 Q. Was physical force used?

17 A. Yes, they forced them.

18 Q. Can you describe how that force was used?

19 A. They used guns. They pointed guns at them.

09:45:09 20 Q. Can you give a description of that gun you saw?

21 A. It was AK-47 that they used to point at them.

22 Q. How do you know that it was an AK-47?

23 A. I saw people went with them and they told me that they are called
24 AK-47, so that was the word they used called them.

09:45:49 25 Q. Who told you that these weapons were AK-47?

26 A. It was they themselves, the rebels, that called them AK-47.

27 Q. Mr witness, do you recall during your last interview -- were you
28 asked to give additional information if it existed on 11 February that you
29 gave a statement about the type of weapons?

1 MS TAYLOR: I object to this, Your Honour. The point of the
2 additional information during which the witness described the type of guns
3 was at the time of his capture with the three rebel boys. The time which
4 the witness is now testifying about is the rebels at the State House.

09:47:00 5 There is no prior statement for there to be an inconsistency with.

6 PRESIDING JUDGE: [Microphone not activated]

7 MS TAYLOR: Yes, it's paragraph 2 of the additional or clarifying
8 information. The page is 6296.

9 JUDGE LUSSICK: Yes, Mr KNOOPS, I agree with what Ms Taylor says
10 there. You'll have to make it clear what aspect of time you're referring
11 to. Your present question is not allowed.

12 MR KNOOPS:

13 Q. Mr witness, yesterday you testified that you have no military
14 experience or knowledge; is that correct?

09:48:05 15 A. Yes, sir.

16 Q. At any point of the events you described, were able to identify a
17 weapon yourself?

18 PRESIDING JUDGE: Mr KNOOPS, I don't understand that question. He's
19 already told us that he heard people referring to them as AK-47s. Are you
09:48:43 20 referring to some other weapon?

21 MR KNOOPS: Yes, Your Honour.

22 PRESIDING JUDGE: well, perhaps clarify that.

23 MR KNOOPS: Let me put it then directly to the witness.

24 Q. Mr witness, in the proofing of the 11 February 2005, the second
09:49:08 25 paragraph, it is said, I quote: "When the witness was captured from his
26 home on Waterloo Street on 8 January 1999, there were three rebels that
27 captured him. They were wearing army uniforms and were young boys. They
28 spoke Liberian English. They were carrying guns. The witness believed
29 they were G3s. Mr witness, can you recall giving this information to the

1 Prosecution a month ago?

2 A. Yes.

3 Q. If you agree that you gave this information to the Prosecution, could
4 you explain to the Court how you came to believe that the weapons at that
09:50:25 5 moment were G3s?

6 A. It was they that was calling them G3, the rebels. That was how I
7 came to know that they are G3.

8 Q. Mr Witness, prior to your interviews, were any pictures shown to you
9 about weapons by the investigators?

09:50:59 10 A. No, they did not show me anything.

11 Q. Your statement is that the rebels every time informed you about the
12 type of weapons they have with them; is that correct? Is that your
13 statement?

14 PRESIDING JUDGE: Mr KNOOPS I feel that is misleading. To use the
09:51:25 15 word "informed" directly, he didn't say that. He said they called them
16 G3s. To say you were informed is a direct misinformation. Please rephrase
17 that.

18 MR KNOOPS:

19 Q. Mr Witness, is it your statement that the type of weapons was deduced
09:52:00 20 by you from what you heard by the rebels or what they told you?

21 A. They used to say that amongst themselves. They used to call the
22 weapons among themselves, so that was why I came to know the names of the
23 weapons.

24 Q. Thank you. Mr witness, I recall that you testified yesterday and it
09:52:29 25 was, I believe, a question of my learned colleague who examined you in
26 chief, that at a certain moment, you answered a question by saying that
27 there were different groups. Can you recall that remark yesterday?

28 MS TAYLOR: Your Honour, that is a very broad question. There is no
29 point in time that --

1 PRESIDING JUDGE: I was going to ask if he was talking about
2 different groups of weapons, or different groups of people, or different
3 times.

4 JUDGE LUSSICK: You'll have to rephrase that question, Mr Knoops.

09:53:11 5 MR KNOOPS: Your Honour, I'm not sure at which moment it was, but I
6 recall that the witness - I believe it was when Mr Santora examined him
7 about the seizure between the events at the State House building and going
8 to the kitchen, but I'm not sure. But I recall definitely that the witness
9 testified yesterday --

09:53:50 10 JUDGE LUSSICK: Perhaps if you could just put that question to him.
11 Did he say yesterday, et cetera, et cetera.

12 MR KNOOPS: Correct. That was actually my question, indeed.

13 Q. Mr witness, do you recall yesterday during your examination-in-chief
14 making a distinction between groups of rebels; that you referred to
09:54:18 15 different groups of rebels in your statement yesterday?

16 A. The only thing that I know is that those that captured me, they were
17 speaking with a Liberian accent.

18 JUDGE SEBUTINDE: Mr Knoops, yesterday you, in cross-examination,
19 raised the issue of the ex-soldiers and the rebels and the distinction
09:54:49 20 between the two. This was not examination-in-chief and you, at length,
21 cross-examined the witness on the phenomenon of ex-soldiers and rebels, and
22 between the two. Maybe that is what you recall. If there's anything
23 additional, you may cross-examine in that line, but, otherwise, it appears
24 to me that you have exhausted the question.

09:55:11 25 MR KNOOPS: Thank you, Your Honour. I definitely recall that during
26 the examination-in-chief - I'm sorry, my microphone is not -- I definitely
27 recall that the witness, yesterday, during the examination-in-chief,
28 referred to - he phrased literally, I have it in my notes - different
29 groups of rebels, and that area was not cross-examined yet by the Defence.

1 JUDGE SEBUTINDE: Mr Knoops, what I have written down was with regard
2 to the rape of the women and the girls and the witness said something to
3 the effect that he heard the victims crying in Krio and he named the words.
4 He said, "I saw many women each night being raped. Different groups of
09:56:24 5 rebels were doing the raping." Now, as to the meaning of "different groups
6 of rebels" maybe you wish to cross-examine on that. I thought when the
7 questions were asked that that meant it was not the same individuals, but,
8 rather, different individuals doing the raping, not necessarily different
9 armies of rebels. Maybe you wish to seek clarification on that.

09:56:52 10 MR KNOOPS: Yes, Your Honour.

11 JUDGE SEBUTINDE: It was with regard to the raping of the women.
12 That's what I have on my regard.

13 MR KNOOPS: Correct. That's a fair interpretation, but that was
14 actually my question for the witness.

09:57:12 15 Q. Mr witness, could you please clarify for the Court what you mean with
16 the term "different groups of rebels" you spoke about yesterday?

17 A. Yesterday, I said that the rebels and --

18 MR KNOOPS: I didn't get the full interpretation.

19 PRESIDING JUDGE: Mr Interpreter, please repeat the full answer.

09:57:51 20 None of us have got the full answer.

21 THE INTERPRETER: Your Honours, the witness has not given a full
22 answer, that's why I stopped.

23 PRESIDING JUDGE: Thank you, Mr Interpreter. That's clear now.

24 Mr witness, did you understand the question?

09:58:03 25 THE WITNESS: No.

26 PRESIDING JUDGE: You did not understand the question? Mr Knoops,
27 the witness did not understand the question and therefore has not answered
28 it.

29 MR KNOOPS:

1 Q. Mr witness, you remember saying yesterday that, at the moment, you
2 assert that women were raped. You used the term "different groups of
3 rebels". You recall referring to that term "different groups of rebels";
4 yes or no?

09:58:45 5 A. No, no. I just said rebels with the soldiers all came together. I
6 would call them rebels, because all of them have come together.

7 MS TAYLOR: Your Honours, perhaps the question would be more fairly
8 put if it was put in terms of the answer that the witness gave. The
9 witness said on different nights there were different groups of rebels, not
10 just that there were different rebels per se.

11 PRESIDING JUDGE: I am upholding Ms Taylor's objection. If you are
12 putting what he said, you should put it as he said it.

13 MR KNOOPS: Let me put it then more simply.

14 Q. Mr witness, the groups of rebels and ex-soldiers you referred to
09:59:56 15 yesterday, you referred to them as one group or different groups?

16 A. They were one group, because all of them had come to one.

17 MR THOMPSON: Your Honours, I rise, because I'd like the interpreters
18 to be reminded that they need to interpret directly what the witness is
19 saying. For those of us who can understand both languages, we can get a
10:00:56 20 little bit of addition long after the witness has stopped talking.

21 PRESIDING JUDGE: How can you get an addition if he has stopped
22 talking?

23 MR THOMPSON: We know what the witness is saying in Krio and then we
24 get the English translation, which is not always accurate and sometimes
10:01:16 25 there are words added. I just want the interpreters to be reminded they
26 need to interpret exactly what the witness is saying. Even if the witness
27 says just one word, they have to stick to that one-word answer. We don't
28 seek clarification, all we need is the correct answer.

29 PRESIDING JUDGE: Thank you, I will repeat what I said yesterday.

1 Mr Interpreters, I repeat what I said yesterday: you interpret what the
2 witness said. You don't add, you don't subtract. The words coming out of
3 your mouth are the same as the words coming out of the witness's mouth,
4 exactly. Do you understand?

10:01:52 5 THE INTERPRETER: Yes, we do.

6 PRESIDING JUDGE: Thank you.

7 MR KNOOPS: Your Honour, I have one last question.

8 Q. Mr witness, on questions of the Honourable Trial Chamber informs us
9 that, in your view, approximately between five and ten people of the group
10 tried to run away.

10:02:30 11 JUDGE LUSSICK: No, he didn't say that, Mr Knoops. He said it was
12 more than five or ten, but that he couldn't give an exact number.

13 MR KNOOPS: Okay. I'm sorry, I understood he meant between five and
14 ten. But it doesn't matter for my question. Thank you.

10:02:48 15 Q. Mr witness, do you know of some of the civilians in that group sought
16 refugee or protection from the people you refer to as rebels?

17 A. No.

18 PRESIDING JUDGE: Mr Knoops, we on the Bench don't really understand
19 that question. Do you mean the people running away sought protection from
20 the rebels? Is that what you mean?

10:03:24 21 MR KNOOPS: My question is, and I refer to the time frame of the
22 moment the witness says that they left the kitchen. He is asserting that
23 some of the people tried to run away. My question is: in that context, if
24 the witness has direct knowledge on the question of some of the civilians
25 of that group --

10:04:03 26 PRESIDING JUDGE: The group running away?

27 MR KNOOPS: Correct - tried to run away.

28 JUDGE SEBUTINDE: Mr Knoops, why do you not ask the question directly
29 did he actually see these people trying to run away, rather than confuse

1 the witness by saying, "Did they seek protection from the rebels in
2 refuge?" What are you asking?

3 MR KNOOPS: Your Honour, that is my second question. I'm not
4 finishing yet my cross-examination on this point.

10:04:43 5 JUDGE SEBUTINDE: All the Bench really requires, Mr Knoops, is that
6 you ask simple, clear questions that we can understand, that the witness
7 can understand, please.

8 MR KNOOPS: Thank you. Perhaps we're still overestimating the
9 potential knowledge of witnesses. I will --

10:05:05 10 JUDGE SEBUTINDE: Mr Knoops, please.

11 MR KNOOPS: Yes.

12 Q. Mr witness, did you see or hear that from that group of civilians who
13 tried to run away --

14 A. I saw them.

10:05:44 15 Q. I know. You're testifying whether some people of the group actually
16 wanted to stay with the group, with the rebels?

17 A. Nobody wanted to stay with them.

18 Q. How do you know that?

19 A. Because all of us were tired with them.

10:06:21 20 MR KNOOPS: I understood the word "tired".

21 THE WITNESS: Tired.

22 MR KNOOPS: Tired.

23 Q. Mr witness, in this respect, were you able to communicate with these
24 people? Did you speak to them at that time?

10:06:57 25 A. Repeat. What people are you talking?

26 Q. I'm referring, Mr witness, to the people, the group that left the
27 kitchen and were to go to the bush with the rebels.

28 A. Okay.

29 Q. My question is were you able to speak to each other?

1 PRESIDING JUDGE: Did you say, Mr Knoops, with the rebels?

2 THE WITNESS: Yes, we talked amongst ourselves.

3 MR KNOOPS:

4 Q. Did you speak with all members of that group at that time?

10:07:39 5 A. We talked amongst ourselves, we, the civilians.

6 Q. Did you speak to every individual of that group at the moment you
7 were asked to go to the bush; yes or no?

8 A. No, I did not talk to everybody.

9 MR KNOOPS: Thank you, Your Honour, I have no further questions.

10:08:15 10 PRESIDING JUDGE: Thank you, Mr Knoops. Mr Harris, do you have any
11 questions for the witness?

12 MR HARRIS: I have a couple of things.

13 CROSS-EXAMINED BY MR HARRIS:

14 Q. You went to the investigators and spoke in English; is that right?

10:08:35 15 A. Yes, I spoke English to them.

16 Q. You understood them and they understood you?

17 A. Yes, I understood the English that they spoke.

18 Q. Then you went again on 11 February of this year, just a couple of
19 weeks ago; is that right?

10:09:07 20 A. I do not understand what you said.

21 Q. I'll rephrase it. A couple of weeks ago you came to the Special
22 Court to speak to the Prosecution?

23 A. Yes, they called me.

24 Q. And you spoke to them in English.

10:09:32 25 A. Yes, it was English, but mine was not clear. Theirs and mine was
26 different.

27 Q. I will come to yours in a moment. You spoke to them in English; is
28 that right?

29 A. Yes.

1 Q. And they spoke to you in English?

2 A. Yes, but there was somebody who was interpreting it to me in bits.

3 Q. There was an interpreter, you say, two weeks ago when you came here;
4 is that right?

10:10:16 5 A. Yes, there was an interpreter who was giving it to me in full
6 English.

7 Q. Let me go on from there. You are a mechanic; is that right?

8 A. Yes, I am a mechanic.

9 Q. And you have been a mechanic now for a number of years.

10:10:41 10 A. Since I was a little boy as when I was growing up.

11 Q. And you have been a full-time mechanic from what year, would you say?

12 A. Since I was growing up when I was going to school.

13 Q. The question is badly put. I'll put it again.

14 A. Okay.

10:11:09 15 Q. You left school, what -- what year would you say you left school?

16 A. I left school in 1998.

17 Q. Yes. How old would you say you were at that time?

18 A. 1998 I was -- I cannot remember again, because I don't have a birth
19 certificate.

10:11:43 20 Q. Okay, never mind. Let me go on from there then. You have no
21 military training, have you?

22 A. No.

23 Q. So you do not know the difference between an AK-47 and a G3, do you?

24 A. No, I don't know at this moment. I don't know.

10:12:15 25 Q. Well, did you know the difference between an AK-47 and a G3 when you
26 gave your evidence yesterday?

27 A. Well, the reason why I gave that evidence is because the people were
28 calling the names to me, that's how I remember the names.

29 Q. Well, which people?

1 A. The rebels.

2 Q. I will come to them, trust me. I want to ask you about the evidence
3 you gave yesterday before this Court; do you follow me? Do you understand?

4 A. Yes.

10:13:08 5 Q. Yesterday you told the Court that you -- you described to the Court
6 an AK-47. I rephrase the word "described". You told the Court that the
7 rebels had AK-47. Do you understand that?

8 MS TAYLOR: Perhaps my learned friend can be specific about the time.
9 which rebels?

10:13:37 10 MR HARRIS: Please don't help me cross-examine. You can re-examine.

11 MS TAYLOR: I'm making an objection.

12 MR HARRIS: well, thank you for your objection. It must be of some
13 substance.

14 PRESIDING JUDGE: I will rule on --

10:13:48 15 JUDGE LUSSICK: The Court will rule on that, Mr Harris.

16 PRESIDING JUDGE: There was quite a bit of evidence concerning AK-47s
17 yesterday, Mr Harris. Please be precise exactly what evidence you refer
18 to.

19 MR HARRIS: The question I'm directing myself to is the words AK-47
10:14:13 20 which came from the witness as part of nothing else. I'm not trying to
21 direct my mind or the witness's mind to any of the counsels in the place,
22 including those who appear on my right, simply about his knowledge of
23 AK-47, nothing more.

24 PRESIDING JUDGE: I think they have established the point that he
10:14:36 25 only heard the use of those words and he adopted the use of those words.

26 MR HARRIS: Thank you. Then I'll move on from there.

27 Q. Today, you've described - well, you've answered or accepted from my
28 learned friend something about a G3. Do you know what a G3 is?

29 A. I don't know how it is.

1 Q. You have no idea, but when you went to the -- to those on my right --
2 when you went to the Prosecution on 11 February, you're recorded as saying
3 you believed the guns used were G3.

4 MS TAYLOR: Your Honours, I object to this. This is repetitive
10:15:32 5 cross-examination. The witness has said on numerous occasions that the
6 reason he could identify the various guns was because he heard the rebels
7 at different times talking about what type of guns they were.

8 JUDGE LUSSICK: MS Taylor, I think that question is allowable. I'll
9 overrule you. He's going to a different point of the witness's knowledge.
10:16:02 10 You go ahead, Mr Harris.

11 MR HARRIS: Thank you, Your Honour.

12 Q. would you describe to us a G3, please?

13 A. I can't describe it now.

14 Q. where did you get the words G3 from?

10:16:27 15 A. From the rebels who captured me.

16 Q. I see. Well, just help me about this. When you made your statement
17 on 20 February 2003 -- Your Honours, if your bundle is the same as mine,
18 it's 6292. It's that statement to which I refer. There is no mention in
19 that statement about a G3. Do you follow me? Do you understand that?

10:17:34 20 A. No, I did not understand.

21 Q. I go a little further. There is no mention in that statement of an
22 AK-47, is there?

23 A. I cannot remember, because it has taken a long time.

24 Q. Before you came to give evidence yesterday, did someone refresh your
10:18:07 25 memory as to the contents of the statement you made on 20 February 2003?

26 A. Nobody --

27 THE INTERPRETER: That was not clear, My Lords, can he take it again,
28 the witness.

29 PRESIDING JUDGE: I'm sorry, I don't understand, Mr Interpreter. Do

1 you mean the witness did not --

2 THE INTERPRETER: The witness's answer is not audible enough for me
3 to interpret.

4 PRESIDING JUDGE: I see. Mr witness, repeat your answer exactly as
10:18:43 5 you said it before.

6 THE WITNESS: Nobody reminded me. That's what I said.

7 PRESIDING JUDGE: Thank you.

8 MR HARRIS:

9 Q. when you came to the Prosecution on 11 February this year - that is
10:19:11 10 just about two weeks ago, either over or under - didn't then someone remind
11 you of the statement you made in February 2003?

12 A. Nobody reminded me.

13 Q. Let me move on quickly, if I may. Help me about one thing, then.
14 where did you get the words G3 from two weeks ago?

10:20:07 15 A. Nobody told me. It was the rebels who were telling me. That's why I
16 could remember that name. They were saying it among themselves and we
17 heard it.

18 Q. I will just ask you one other question before I move on from there
19 then. If that be right, why it was then in 2003 when you made your
10:20:43 20 statement you didn't mention in that G3?

21 A. The first people who interviewed me, I said it to them. I cannot
22 remember them, they were white people.

23 Q. Are you saying to the Court that you were interviewed by someone to
24 whom you made a statement which has never been recorded?

10:21:28 25 A. They interviewed me at my house once and they wrote it. They asked
26 me if they caught me with a gun. If those who captured me had guns and I
27 said yes, and they asked me about the gun and I told them.

28 Q. You told them what?

29 A. They asked me the type of gun that they had when they caught me. I

1 told them that they had G3.

2 Q. That is what you told them you knew they had because what the rebels
3 had said?

4 A. Yes, they told us that it was a G3 gun.

10:22:17 5 Q. I made the point that yesterday in answer to many questions, you
6 mentioned just AK-47. Can I just go on from there. The bomb you were
7 carrying, you described as -- in fact, very large, very heavy; is that
8 right?

9 A. Yes, it was big and heavy.

10:23:12 10 MR HARRIS: Your Honours, just give me one moment, please. I just
11 want to be accurate.

12 Q. would you tell me the width of it again?

13 A. It was heavy. I couldn't remember the weight any more. It was
14 heavy.

10:23:35 15 Q. Yes, about one yard; is that right?

16 A. Yes.

17 Q. Never mind. But you have never seen, have you, a bomb like that
18 before?

19 A. One day, no.

10:24:00 20 PRESIDING JUDGE:

21 JUDGE SEBUTINDE: I'm sorry, I didn't understand the question or the
22 answer.

23 MR HARRIS: He said he has never seen a bomb like the one he was
24 asked to carry before.

10:24:09 25 JUDGE SEBUTINDE: what is the relevance of the one day?

26 MR HARRIS: well, please, like the --

27 MR METZGER: May I rise to be of some assistance, Your Honour?

28 PRESIDING JUDGE: It is not proper to interpret another counsel when
29 he's on his feet, Mr Metzger.

1 MR METZGER: I'm sorry. I was trying to assist in terms of what the
2 Krio one day means.

3 JUDGE SEBUTINDE: Mr Metzger, we do have an official interpreter.

4 MR METZGER: I'm very sorry. I shall not seek to assist in this
10:24:42 5 manner in the future.

6 MR HARRIS: Your Honour, were you addressing me about one day?

7 JUDGE SEBUTINDE: Yes, I was addressing you about the question that
8 you asked, but also the answer that it elicited. If you don't mind,
9 Mr Harris, could you ask your question again and could the witness answer
10 again.

11 MR HARRIS: Thank you, Ma'am.

12 Q. Can I just ask you this question: the bomb you were asked to carry,
13 you had not seen one like that before?

14 JUDGE SEBUTINDE: That is not a question, sir, that is a statement.

10:25:21 15 MR HARRIS: I will rephrase it.

16 Q. Have you seen a bomb like that before?

17 A. I've never seen it in my life, never in my life.

18 Q. You describe the bomb as a B15 in your statement. Sorry, Your
19 Honour, I shall tell you what page it is in your bundle. Page 6294 in your
10:26:00 20 bundle. It's the first line of that page. So in February 2003 you were
21 describing a bomb as a B15 in a statement. Do you understand that? well,
22 if you had never seen one like that before, where did you get the words
23 B15?

24 A. It's a nickname to themselves. That's how they called the bomb. Its
10:26:46 25 a nickname. I didn't took it that way. That's how they were calling it
26 amongst themselves. That's how they call it.

27 Q. I understand, you got it from the rebels again?

28 A. Yes, sir, from them.

29 Q. Now, help me about ECONOG [sic]. I'll come back to ECONOG [sic].

1 Help me about something else. You described to the Court yesterday about
2 people being killed who had refused to join the rebels, as you called them.
3 Do you remember that?

4 A. Yes, people.

10:27:28 5 Q. You also told the Court that you also refused to join; correct?

6 A. Yes, I refused to join.

7 Q. But you were not killed?

8 A. They didn't kill me.

9 Q. You would simply be --

10:27:48 10 A. They beat me, yes.

11 Q. And when you said that the bomb you were carrying was too heavy, they
12 gave it to some other person to carry; is that right?

13 A. Yes, sir.

14 Q. And then you just walked home to your father's residence; correct?

10:28:10 15 A. Yes.

16 Q. I understand. I just want you to help me about something else. You
17 described to counsel a number of dead bodies and of course to the counsels
18 asking you questions yesterday from the Prosecution. Do you remember that?

19 A. I could remember the corpses, yes.

10:28:49 20 Q. All right. I'm just focusing your mind. Were you asked to assist in
21 the disposal of dead bodies?

22 A. No.

23 Q. All right. You were simply perched - I withdraw that. You simply
24 sat on a window in the kitchen looking out on the activities outside; is
10:29:27 25 that right?

26 MS TAYLOR: Your Honours, I'm not quite sure what the phrase "sat on
27 a window" means.

28 MR HARRIS: My learned friend clearly hasn't read the statement. I
29 will assist her by referring her to the - it is page 6293, I think.

1 PRESIDING JUDGE: My records show sitting by a window, not on a
2 window.

3 MR HARRIS: Thank you, Ma'am -- Your Honour, thank you.

4 PRESIDING JUDGE: I'm not the Queen.

10:30:07 5 MR HARRIS: Thank you. I made an error. I said "on" instead of
6 "by".

7 Q. You were sitting by a window observing what was going on outside; is
8 that right?

9 A. Yes, I was by.

10:30:23 10 Q. I just want you to help me about two other things. I think you
11 agreed with Mr Metzger yesterday that you didn't go to Kissi Road; am I
12 right?

13 A. Yeah.

14 Q. Because he described, quite accurately, the geographical location up
10:30:53 15 on the hill and Kissi Road is some distance on your right; am I correct?

16 A. Yeah.

17 Q. Are they right or left, but you were some distance away.

18 A. Yeah.

19 Q. And today that's what you think happened; is that right? Now, just
10:31:19 20 help me about one other matter. You also described to the Court about
21 rebels going in and out of houses on Kissi Road, in fact, raiding them; is
22 that right?

23 A. Yes.

24 Q. When you went to the Prosecution on 11 February -- Your Honour, it is
10:32:00 25 page 6296, it's four lines from the bottom -- did you say this to the
26 Prosecution: "The rebels were taking things from people and taking things
27 from the houses"; did you?

28 A. Yeah.

29 Q. And that's true, was it?

1 A. Yes, yes, yes.

2 Q. "Before they burnt them and carrying these items or loading them into
3 vehicles"; did you say that?

4 A. Yes, they were carrying them.

10:33:13 5 Q. were they loading them on to vehicles?

6 A. Yes, they were carrying them.

7 Q. well, would you describe to the Court the vehicles?

8 A. Toyota Hilux van, white.

9 Q. Yes, that's one. Any more?

10:33:34 10 A. No, only Toyota Hilux, that's what they had.

11 Q. Can I go on from there? "Or loaded them into vehicles as they moved
12 out on Kissi Road." Do you see that: "moved out on Kissi Road"?

13 A. Yes, they were moving out from Kissi Road - going.

14 Q. And you saw, no doubt, all this from Fourah Bay Road -- Fourah Hill;
15 correct?

10:34:35 16 A. Yes, I was up the hill, yes.

17 Q. Now, just help me about something else. ECONOG --

18 MS TAYLOR: Your Honours, I believe my learned friend means to say
19 ECOMOG.

10:34:58 20 MR HARRIS: All right. Sorry. Thank you, thank you. My learned
21 friend is so helpful.

22 PRESIDING JUDGE: I was going to help you, too, Mr Harris.

23 MR HARRIS: Thank you, Ma'am.

24 Q. Can I just ask you something else, too. They were discharging bombs,
25 weren't they?

10:35:15 26 MS TAYLOR: Can there be a time given to that question?

27 MR HARRIS:

28 Q. Yes. ECOMOG were dropping bombs, weren't they?

29 A. I didn't see --

1 MS TAYLOR: I still object to that question; it is not clear.

2 MR HARRIS: May the witness answer the question as he understands it,
3 then I shall no doubt assist.

4 PRESIDING JUDGE: No, Mr Harris, let us be precise about times.

10:35:48

5 There are too many vague questions with inconclusive answers.

6 Incidentally, I repeat what I said yesterday, Mr Harris. My learned sister
7 and I --

8 MR HARRIS: Yes, I am sorry. It's just, from my jurisdiction, whilst
9 you wear what you are wearing now, Their Lordships are referred to as Ma'
10 ams. That's why it is my mistake. It is no disrespect, Your Honour. It
11 is clearly no disrespect to you. I'll get over it in a day or two. Now
12 I've forgotten where I was when I was so ably assisted by my learned friend
13 from the other side.

10:36:04

14 PRESIDING JUDGE: You were being asked to be precise as to the
15 bombing.

10:36:31

16 MR HARRIS: Thank you.

17 Q. When you were being detained, as you say, with the rebels, ECONOG --
18 ECOMOG were actively trying, were they, to regain the lost ground. Do you
19 understand the question first?

10:36:51

20 MS TAYLOR: Your Honour, the witness cannot possibly answer that
21 question as to what ECOMOG was trying to do. If the question is to whether
22 ECOMOG were dropping bombs, that's a permissible question.

23 MR HARRIS: Then I will ask the question direct again.

24 Q. Was ECONOG dropping bombs on the -- dropping bombs?

10:37:13

25 A. I did not see ECOMOG dropping bombs when I was up the hill.

26 Q. Well, did you see them dropping bombs at any time?

27 A. No.

28 Q. Did you see the ECOMOG jets going overhead?

29 A. No.

1 Q. Did you see the gun boats offshore?

2 A. No, I didn't see it.

3 Q. You were living in Freetown all this time, were you?

4 A. I was in Freetown, yes.

10:38:04 5 PRESIDING JUDGE: Mr Harris, what is the relevance of this line of
6 questioning?

7 MR HARRIS: Ma'am -- Your Honour, put simply, the Prosecution's case
8 is that there was devastation, loss of life of civilians. That's the
9 substance of their case. They are saying that that was done by the rebels.

10:38:29 10 I seek to demonstrate that it may be in an attempt to perhaps bring
11 peace -- my words perhaps unfortunate -- that many others who are not
12 rebels died in that attack.

13 PRESIDING JUDGE: Very well, proceed, but please keep it to the
14 point. Do not stray into irrelevancies.

10:39:06 15 MR HARRIS: I would not do that, Your Honour.

16 Q. Let me go back to two weeks ago then when you came to speak to the
17 Prosecution.

18 PRESIDING JUDGE: Do not point at other counsel in that way,
19 Mr Harris.

10:39:24 20 MR HARRIS:

21 Q. When you came to speak to the Prosecution. The reason why you left
22 State House was because ECOMOG was coming; is that right?

23 A. Yes. ECOMOG was coming from the cotton tree.

24 Q. Were they?

10:39:51 25 JUDGE SEBUTINDE: Mr Harris, I believe you're referring to the
26 additional statement of 2 February?

27 MR HARRIS: 6296, Your Honour.

28 JUDGE SEBUTINDE: Yes, that is the one, 11 February 2005.

29 MR HARRIS: Yes, Ma'am.

1 JUDGE SEBUTINDE: And you might be referring to paragraph five.

2 MR HARRIS: Five down from the top, yes.

3 JUDGE SEBUTINDE: Where he also observed that Gullit was on the
4 radio, because ECOMOG was said to be coming; is that what you might be
10:40:27 5 referring to?

6 MR HARRIS: Yes.

7 JUDGE SEBUTINDE: Then please do refer to what is written, not your
8 interpretation.

9 MR HARRIS: No, I'm asking him whether he knew, he knew.

10:40:37 10 JUDGE SEBUTINDE: That is not what you said, Mr Harris. We are just
11 reminding you of the rules set forth this morning by the Honourable
12 Presiding Judge.

13 MR HARRIS: Thank you.

14 JUDGE SEBUTINDE: For all our sakes. Thank you.

10:40:49 15 MR HARRIS:

16 Q. Did you know ECONOG was coming?

17 A. I didn't know. The rebels knew they were coming; they told me.

18 Q. Did you a moment ago say in answer to a question so badly put that
19 ECONOG was by the cotton tree?

10:41:18 20 A. Yes.

21 Q. And the cotton tree is, what, 100 metres from the State House; would
22 you agree?

23 A. Yes.

24 Q. And from your position at the State House, you could see ECONOG or
10:41:51 25 persons wearing ECONOG uniforms coming in your direction; is that right?

26 JUDGE SEBUTINDE: Mr Harris, the word is ECOMOG - M - ECOMOG.

27 MR HARRIS: All right.

28 JUDGE SEBUTINDE: You're beginning to sound like egg nog.

29 MR HARRIS: Yes, well, perhaps. Perhaps because I missed breakfast

1 this morning in order to get here for 9 o'clock. ECOMOG, whatever.

2 Q. Did you see them, whatever they're called?

3 A. I didn't see ECOMOG. The rebels saw them and they told us they were
4 coming.

10:42:39 5 Q. I'm finished. The truth of the matter is this: you're not here to
6 tell the truth at all, are you?

7 A. Yeah.

8 Q. You're here to help the Court in the inquiry as to what happened; you
9 are? Or are you here just to get the money that you got from the

10:43:04 10 Prosecution?

11 PRESIDING JUDGE: That is an improper question. Also, Mr Harris,
12 Mr Metzger has indicated his knowledge of Krio, and I maybe would add mine.
13 There are difficulties in Krio when you use a negative in the way you've
14 done.

10:43:25 15 MR HARRIS: I see.

16 PRESIDING JUDGE: We must take care what type of answer we get.

17 MR HARRIS: Would you give me one moment, please?

18 PRESIDING JUDGE: Certainly.

19 MR HARRIS: There is just one question I forgot to ask.

10:43:51 20 PRESIDING JUDGE: Yes.

21 MR HARRIS:

22 Q. When you were leaving State House, and by that I mean the group,
23 including yourself, you were hurrying away from State House; is that right?

24 A. Yes, we were in a hurry to come out.

10:44:14 25 Q. Because bombs and bullets were coming in your direction?

26 A. Yes.

27 Q. From ECOMOG; is that right?

28 A. It was the rebels who were firing.

29 Q. Let me put it another way: it was coming from the cotton tree

1 direction towards State House?

2 A. It was the rebels who were afraid and they were firing towards
3 ECOMOG. At that time, they were trying to pull out.

4 MR HARRIS: Thank you.

10:45:17 5 [Trial Chamber confers]

6 PRESIDING JUDGE: [Microphone not activated]

7 MR SANTORA: Your Honours, the Prosecution has no re-examination for
8 this witness and we would kindly request that he be excused. Thank you.

9 PRESIDING JUDGE: [Microphone not activated]

10:45:48 10 MR METZGER: May I address Your Honours on the question of the
11 release of this witness?

12 PRESIDING JUDGE: I am just going to invite of my learned judicial
13 colleagues if they have any questions, Mr Metzger, before dealing with that
14 matter.

10:46:08 15 MR METZGER: I'm much obliged.

16 [Trial Chamber confers.]

17 QUESTIONED BY PRESIDING JUDGE :

18 PRESIDING JUDGE: I have one or two questions.

19 Q. Mr witness, do you understand what a mile is?

10:46:39 20 A. Yes, I know what is a mile.

21 Q. How long does it take you to walk one mile?

22 A. I've never walked that mile, never. I don't know.

23 Q. If you walked out of the Special Court gate and walked towards the
24 cotton tree, how far would the mile be? Where would you reach after one
10:47:17 25 mile?

26 A. I don't know, really.

27 [Trial Chamber confers]

28 QUESTIONED BY JUDGE SEBUTINDE :

29 Q. Mr witness, I want to ask a question which will help us understand

1 the size of the kitchen at State house where you were imprisoned, okay.

2 A. Yes.

3 Q. I appreciate that you cannot precisely say the size, but if you look
4 at the size of this courtroom, can you say that the kitchen was as big as
10:47:58 5 this courtroom?

6 A. No, it's long. It's not wide. It's longer than in here. It's
7 squared.

8 Q. You say that the kitchen was the same area, maybe half the size of
9 this courtroom?

10:48:21 10 A. This courtroom is bigger than the kitchen a little bit.

11 Q. How much smaller than this courtroom was the kitchen? Was it half as
12 big as this courtroom?

13 A. Half, just half.

14 Q. Was it a quarter of this courtroom?

10:48:50 15 A. About a quarter, yes.

16 Q. Was it smaller than a quarter of this courtroom?

17 A. This is round, and that one is long. This place is bigger than
18 there.

19 Q. I understand that. We are just trying to compare the size where 50
10:49:19 20 people can fit, and that is why I am asking was the kitchen smaller than
21 one quarter in area?

22 A. It is just like twice that waiting hole. The waiting hole outside,
23 twice that waiting hole, that's how big the kitchen was.

24 Q. From the kitchen window where you were standing up to the carpet
10:50:02 25 grass where the rebels you said were raping the women, can you estimate the
26 distance in terms of yards?

27 A. Mmm-hmm.

28 Q. Please do.

29 A. From where I am sitting here to the waiting hole outside, this

1 waiting hole.

2 PRESIDING JUDGE: Mr Metzger, you had a matter you wished to raise.

3 MR METZGER: Before any decision is taken as to the disposal of this
4 witness, there were two small points that arose, if you like, in his
10:51:05 5 evidence and I thought this might be a convenient moment to ask the Bench
6 to consider whether anything can be done about those.

7 First and foremost, the witness indicated that there were five
8 statements that he made to the Prosecution. As I understand it, Your
9 Honours would now have had the statements that are disclosed to us and
10:51:27 10 there aren't five. Secondly, the description he gives of the room in State
11 House and the vista, so to speak, perhaps might require the Court to
12 consider something of the view of the locus in quo. Those are the two
13 matters that I thought, perhaps, the Court could consider.

14 PRESIDING JUDGE: I will seek clarification of the point concerning
10:51:59 15 the statements. The other matter will be discussed by the Bench.

16 MR METZGER: I'm very much obliged, Your Honour.

17 PRESIDING JUDGE: Ms Taylor.

18 MS TAYLOR: Your Honour, there are only two statements relating to
19 this witness taken by the Prosecution, and they are the two that have been
10:52:12 20 disclosed and filed with the Court.

21 PRESIDING JUDGE: Thank you, Ms Taylor.

22 [Trial Chamber confers]

23 PRESIDING JUDGE: Mr Witness, that is all your evidence before this
24 Court today. We wish to thank you for coming to Court and telling your
10:53:06 25 story. There is a possibility you may be asked to come back.

26 THE WITNESS: Thanks to you, too.

27 PRESIDING JUDGE: Thank you very much. You are free to go now, but
28 you may possibly be asked to come back at some point. Do you understand?

29 THE WITNESS: Yes.

**Pages 34 to 128
omitted**



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Case Name: **The Prosecutor – v- Charles Ghankay Taylor**

Case Number: **SCSL-03-01-T**

Document Index Number: **611**

Document Date **30 September 2008**

Filing Date: **30 September 2008**

Document Type: - **Confidential Annexes B -G**

Number of Pages **126** Numbers from: **20526-20653**

Application

Order

Indictment

Motion

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Correspondence

Document Title:

**PUBLIC WITH CONFIDENTIAL ANNEXES B TO G – PROSECUTION NOTICE
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