

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

THURSDAY, 3 FEBRUARY 2005
10.00 A.M.
MOTION HEARING

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:

Ms Lesley Taylor
Ms Boi-Tia Stevens
Mr Mark Wallbridge (Case Manager)

For the Principal Defender:

No appearance

For the accused Alex Tamba Brima:

Ms Glenna Thompson

For the accused Brima Kamara:

Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Kanu:

Mr Abibola Manley-Spaine

1 Thursday, 3 February 2005
2 [Open session]
3 [On commencing at 10.00 a.m.]
4 [HB030205A - JM]
5 PRESIDING JUDGE: Appearances.
6 MS TAYLOR: May it please Your Honour, my name is Taylor. I
7 appear with my learned friend, Ms Stevens --
8 PRESIDING JUDGE: Do you mind giving them to me again, please.
9 MS TAYLOR: I'm sorry. My name is Taylor, T-A-Y-L-O-R. I
10 appear with Ms Stevens and Mr Wallbridge,
11 W-A-L-L-B-R-I-D-G-E.
12 PRESIDING JUDGE: Thank you, Ms Taylor.
13 MS THOMPSON: May it please Your Honour, Glenna Thompson for
14 Alex Tamba Brima.
15 MR FOFANAH: May it please Your Honour, Mohamed Pa-Momo
16 Fofanah for Ibrahim Bazy Kamara.
17 PRESIDING JUDGE: For Mr Kamara?
18 MR FOFANAH: For Brima Bazy Kamara.
19 MR MANLEY-SPAINE: Abibola Manley-Spaine for Santigie Kanu.
20 PRESIDING JUDGE: Ms Thompson, Mr Fofanah, Mr Manley-Spaine, I
21 notice your clients are not present in Court.
22 MS THOMPSON: Your Honour, my understanding was that they were
23 going to be brought this morning.
24 PRESIDING JUDGE: I see.
25 MS THOMPSON: I haven't seen them; I don't know why. Maybe
26 somebody, Court management, can make a phone call to the
27 detention centre as to why they're not here.
28 PRESIDING JUDGE: Madam Registrar, is there any reason the
29 accused are not present today?

1 THE REGISTRAR: As far as I know, they're on their way over.

2 PRESIDING JUDGE: Does counsel wish to proceed or does counsel
3 prefer to wait for the accused be present?

4 MS THOMPSON: Your Honour, I would prefer to wait.

5 MS TAYLOR: Given that indication by my learned friend, I'm
6 content to wait until the accused are present before the
7 Court.

8 PRESIDING JUDGE: Very well. We'll adjourn briefly to allow
9 the accused to be present. I'd be grateful if they are
10 told that this Court is scheduled to start at 10.00, and
11 it will start at 10.00 and it will start on time in the
12 future. They should be present.

13 [Break taken at 10.04 a.m.]

14 [The accused entered court]

15 [On resuming at 10.07 a.m.]

16 PRESIDING JUDGE: Please proceed.

17 MS TAYLOR: I'm sorry, Your Honour. I don't believe your
18 microphone was on at the time you spoke. I didn't hear
19 you.

20 PRESIDING JUDGE: I see. I was speaking and switching it at
21 the same time. I was saying please proceed.

22 MS TAYLOR: Your Honour, we're here -- I'm sorry, I'm just
23 having trouble about my own microphone. We're here on a
24 status hearing in relation to the Prosecution renewed
25 motion for protective measures. At the time that that
26 motion was filed, Trial Chamber II did not exist, and
27 therefore it was filed in front of Trial Chamber I. An
28 identical -- a motion in identical terms in relation to
29 the RUF trial, of which Trial Chamber I is seized, was

1 filed and a decision has been rendered in that matter
2 granting certain protective measures to the list. In
3 compliance with Your Honour's order, Your Honour's
4 scheduling order, the Prosecution has filed a list of all
5 of the witnesses that are nominated as being witnesses in
6 the RUF trial as also in the AFRC trial, and indicating
7 which of protective measures apply to those witnesses.
8 We have done that by category because we were invited by
9 Trial Chamber I when filing the renewed motion for
10 protective measures to do so by category.

11 In simple terms, group 2 witnesses are experts, and
12 therefore protective measures at this stage don't apply
13 to them. Group 1 witnesses are then further divided into
14 three categories: Category A are victims of sexual
15 violence; category B are children; and category C are
16 insider witnesses. Now, not all group 1 witnesses fall
17 into one of those three categories. There are some basic
18 protective measures that have been granted for all group
19 1 witnesses, the most important of these, in terms of
20 evidence before the Court, is that all group 1 witnesses
21 have the use of a screen, they testify behind a screen.
22 And they are referred to by pseudonym rather than by
23 name.

24 PRESIDING JUDGE: You tell me there is -- that you have filed
25 the list, and as you say, following the direction made,
26 the original documents we had indicated that you
27 anticipated calling 266 witnesses. According to the
28 calculation in Chambers, you have now given us 259.
29 What's happening to the other seven?

1 MS TAYLOR: I believe it was 260.

2 PRESIDING JUDGE: Well, then, we'll not argue about the
3 arithmetic. But there is a discrepancy.

4 MS TAYLOR: As was set out in the motion, following the filing
5 of the witness list of 266 on the 26th of April last
6 year, which was done pursuant to order to the Prosecution
7 to do so, the Prosecution filed on the 11th of May last
8 year an updated compliance report that indicated that six
9 of the witnesses of the original 266 were no longer
10 witnesses for the Prosecution. And that explains the
11 discrepancy. Therefore, currently before this Chamber in
12 the AFRC trial, the Prosecution has a witness list of
13 260. While we're discussing that, Your Honour, I can say
14 that the Prosecution does anticipate to reduce that
15 witness list quite markedly but would like to be in a
16 position to receive decisions on outstanding motions and
17 also be in a position to review the outstanding Defence
18 pre-trial briefs before decisions are made as to which
19 witnesses may be dispensed with.

20 In terms of the protective measures to be granted to
21 witnesses before this Trial Chamber, Your Honour, I'm
22 sure that you're familiar with Rule 75 and Rule 75(F).

23 PRESIDING JUDGE: Just let me have it before me. Yes, I have
24 that before me.

25 MS TAYLOR: And Your Honour, Rule 75(F) says "once protection
26 measures have been ordered in respect of a witness or
27 victim in any proceedings before the Special Court known
28 as the first proceedings, such protective measures shall
29 continue to have effect mutatis mutandis in any other

1 proceedings before the Special Court, the second
2 proceedings, unless and until they are rescinded, varied,
3 or augmented in accordance with the procedure set out in
4 this rule." And the second subsection goes on to talk
5 about the Prosecution's disclosure obligations.

6 PRESIDING JUDGE: That's why we're here today.

7 MS TAYLOR: Yes. But (G) of Rule 75 goes on to say that "a
8 party to the second proceedings seeking to rescind, vary,
9 or augment protective measures ordered in the first
10 proceedings must apply to any Chamber, however
11 constituted, remaining seized of the first proceedings,
12 or if no Chamber remains seized of the first proceedings
13 to the Chamber seized of the second proceedings. It
14 seems that Trial Chamber I is still seized of the first
15 proceedings.

16 PRESIDING JUDGE: Are you saying that all of these witnesses,
17 the 260 or however they may eventually be, that will be
18 called in this trial before this Chamber are already
19 protected by an order of Trial Chamber Number I in
20 another trial?

21 MS TAYLOR: Yes, Your Honour.

22 PRESIDING JUDGE: So it's exactly the same lot of witnesses.

23 MS TAYLOR: The list of 260 that is currently before this
24 Chamber was identical to the list of 260 that was before
25 Trial Chamber I in relation to the RUF proceedings. Now,
26 because we are at trial in the RUF proceedings, there
27 have been a reduction of the number of witnesses that are
28 currently filed with Trial Chamber I. But the way that
29 that has been done, in accordance with the order of Trial

1 Chamber I, is for the Prosecution to nominate its core
2 witnesses and its backup witnesses. The core witnesses
3 being the ones that at the moment the Prosecution
4 anticipates actually giving evidence before the Trial
5 Chamber, and the backup witnesses to be there in case
6 there's a problem with any of the core witnesses as
7 sometimes happens in this jurisdiction. And all of the
8 witnesses on that list have been granted protective
9 measures to a greater or lesser extent, and they are the
10 same witnesses that are filed with this Trial Chamber in
11 this Court.

12 As Your Honour will appreciate, the RUF and AFRC
13 indictments alleged identical crimes in identical
14 circumstances.

15 PRESIDING JUDGE: I think it is premature to go into the
16 substance of it. But what is coming through my mind, in
17 the light of the Rules and in light of what you're
18 saying, is to ask, is the application today a redundant
19 application?

20 MS TAYLOR: Well, I'm not sure what application we are talking
21 about, Your Honour.

22 PRESIDING JUDGE: You had filed an application to renew the
23 protective measures in the trial against Kamara, Kanu,
24 and Brima. There were two responses from the Defence.
25 That, according to the record, had not been dealt with.

26 MS TAYLOR: Yes.

27 PRESIDING JUDGE: And I, therefore, listed it to deal with it
28 today.

29 MS TAYLOR: The -- at the time that it was filed, it was not

1 redundant because Trial Chamber II did not exist.

2 PRESIDING JUDGE: But you haven't withdrawn it. It's still on
3 the books. I still have to deal with it.

4 MS TAYLOR: Yes, it is still on the books, and it hasn't been
5 withdrawn. Following Your Honour's order, when we have
6 reviewed the matter and looking at the Rules, it appears
7 from the Rules that the protective measures granted by
8 Trial Chamber I cannot be altered unless there is a
9 motion from a party before this Court, and then that has
10 to go back to Trial Chamber I as opposed to before
11 Your Honour, if I read the Rules correctly.

12 PRESIDING JUDGE: I was concerned at some of the discrepancies
13 relating to the witness list. It appears that some of
14 the witnesses that you have listed, given numbers to, and
15 categorised differ from those in Trial Chamber I. But
16 what you're now saying to me is that there is already in
17 place an order that I cannot -- I certainly wouldn't
18 dream of interfering with another Court's order. But you
19 are making an application and if I rule against you, I
20 could well be interfering with another Court's decision.

21 MS TAYLOR: Yes.

22 PRESIDING JUDGE: And that would be contrary to the Rules.

23 MS TAYLOR: Yes, Your Honour.

24 PRESIDING JUDGE: So -- before I ask the Defence to respond to
25 that submission, is there anything -- we will have to
26 determine that first before we get into the substantive
27 issues.

28 MS TAYLOR: Yes.

29 PRESIDING JUDGE: Is there any other point you want to raise

1 on that one preliminary matter?

2 MS TAYLOR: No, Your Honour.

3 PRESIDING JUDGE: Therefore, I will invite the Defence to
4 reply to that preliminary issue, and we will rule on that
5 first.

6 Ms Thompson.

7 MS THOMPSON: Your Honour, if my understanding is right, then,
8 and the existing protective measures -- and there's an
9 existing order in respect of these witnesses, we have no
10 business being here this morning.

11 PRESIDING JUDGE: That's what Ms Taylor is now telling me.

12 MS TAYLOR: What the Prosecution should have done, if there
13 are any witnesses to whom that order does not actually
14 relate, they could have given us a list and said "this
15 list 02 X" already have a protective order in respect of
16 that, and these lot are the ones we need to deal with.
17 But my understanding is that there is nobody now
18 outstanding. All the witnesses on the list already have
19 an order in that respect.

20 PRESIDING JUDGE: That is what it appears to say. I'm
21 somewhat surprised that at this point in the game, when
22 there has been an invitation to submit that this has only
23 been brought up now. So are you concurring with your
24 colleague?

25 MS THOMPSON: Your Honour, my submission is that instead of us
26 being here today, when your order came for supplementary
27 motions to be filed, then at the very least, what we
28 should have had was that there's already an existing
29 order in respect of these witnesses. And it may be that

1 we would not have been needed here this morning.

2 PRESIDING JUDGE: Well, it didn't come to light until the
3 Court directed that there be a cross-reference. So in
4 other words, you're agreeing that this is a redundant
5 application.

6 MS THOMPSON: This is a redundant application, yes.

7 PRESIDING JUDGE: Thank you, Ms Thompson. Mr Fofanah, do you
8 have any reply to counsel for the Prosecution?

9 MR FOFANAH: Yes, I'll just adopt the reasoning of my
10 colleague.

11 PRESIDING JUDGE: Which colleague?

12 MR FOFANAH: Thompson for Brima. My confusion, Your Honour,
13 is that two responses we have filed, the first is dated
14 -- the first response --

15 PRESIDING JUDGE: The two responses filed by the Defence?

16 MR FOFANAH: Yes, filed by the Defence.

17 PRESIDING JUDGE: Yes, I was intrigued by those, Mr Fofanah,
18 by the law in them. But we'll come to that, I'm sure.

19 MR FOFANAH: Basically we're saying there was a decision
20 subsequent to those responses, and that decision touches
21 on concerns why we're here. So in essence, if there was
22 a decision by the first Trial Chamber, which actually
23 talks about protective measures for witnesses, and that
24 decision comes subsequent to responses filed by counsel
25 for the Defence, then I don't know if we are actually not
26 bringing the cart before the horse in the sense that the
27 first Trial Chamber ought to have had sufficient judicial
28 notice of those responses, and then -- I was just
29 referring Your Honour to the dates so that you can see

1 the sequence.

2 PRESIDING JUDGE: Which date is that?

3 MR FOFANAH: The first response --

4 THE COURT: Is that the response of the 13th of May 2004?

5 MR FOFANAH: Yes, May 2004.

6 PRESIDING JUDGE: Yes, I've read that.

7 MR FOFANAH: And the second is also dated May 2004. Now, it

8 will interest Your Honour to learn that the decision

9 given by the first Trial Chamber on the issue of

10 protective measures is dated June -- yes, is dated June

11 -- 5th day of June 2004. So my understanding is that

12 that decision was given with knowledge, and at least

13 judicial notice of the existence of those Defence

14 responses.

15 PRESIDING JUDGE: Yes. I am aware of that. I've read them.

16 I've already read the decision. But the matter before me

17 today is an application to renew and extend those.

18 MR FOFANAH: But I'm saying that --

19 PRESIDING JUDGE: If you read the order, the orders sought are

20 not in exactly in the same terms. What I'm dealing with

21 now is a procedural rule, interpretation, of Rule 75. Do

22 we have to deal with this or not?

23 MR FOFANAH: My Lord, I'm not only saying --

24 PRESIDING JUDGE: I got reclassified as a woman.

25 MR FOFANAH: Oh sorry. Your Honour, I'm not only saying that

26 it is flawed and a waste of time, but I'm saying that the

27 motion before you is dated sometime in 2004.

28 PRESIDING JUDGE: Correct.

29 MR FOFANAH: So how can it be a renewed motion when it is

1 dated -- when was it renewed?

2 PRESIDING JUDGE: It wasn't dealt with. It is only being
3 dealt with now. But in any event --

4 MR FOFANAH: There was a decision subsequent to that motion.

5 PRESIDING JUDGE: So you're saying that it's --

6 MR FOFANAH: I'm saying that Your Honour ought to recognise
7 that that Trial Chamber should have judicial notice of
8 the existence of --

9 PRESIDING JUDGE: Read the order that you're referring to in
10 June. Is it not in a different case? We're dealing with
11 Brima, Kamara, Kanu. I think you'll find it's a
12 different defendant. The tendency on the part of the
13 Prosecution to file documents with the incorrect cover
14 sheets is not helping the Court and it's not obviously
15 helping the Defence.

16 MR FOFANAH: I'm basically saying that that same Trial Chamber
17 was seized of all issues that touch and concern
18 protective measures, whether they were brought by a
19 different team or not. But I mean, if you can rightly
20 see the decision is simply titled "decision of
21 Prosecution motion for modification of protective
22 measures."

23 PRESIDING JUDGE: Yes, what's the heading?

24 MR FOFANAH: It's Trial Chamber -- Prosecutor against
25 Issa Hassan Sesay.

26 PRESIDING JUDGE: This is not Issa Hassan Sesay. It's
27 different.

28 MR FOFANAH: My Lord, I'm saying it is one and the same Trial
29 Chamber, Trial Chamber I dealt with the issues. It's the

1 same Trial Chamber. So suffice it to say, that when
2 their decision was given, there was an existing response.
3 So if they're saying that the witnesses which they have
4 identified are already protected, then I'm equally saying
5 that there is no need for us to be here because the
6 decision has already been made on that.

7 PRESIDING JUDGE: Thank you, Mr Fofanah. I'm clear on that
8 point, now. Thank you.

9 Mr Manley-Spaine, anything?

10 MR MANLEY-SPAIN: Counsel, there isn't much I should say at
11 this stage. I will adopt what counsel for the first
12 indictee has said.

13 PRESIDING JUDGE: Thank you. Any reply, Ms Taylor?

14 MS TAYLOR: No, Your Honour.

15 PRESIDING JUDGE: I will adjourn and make a decision on this
16 preliminary matter. Please adjourn the Court.

17 [Break taken at 10.23 a.m.]

18 [On resuming at 11.27 a.m.]

19 PRESIDING JUDGE: [Microphone not activated]

20 My apologies. This is a ruling on an application,
21 submission by counsel for the Prosecution. The
22 Prosecution applied on the 4th of May 2004 to renew
23 protective measures to protect witnesses that may be
24 called in this trial. Objections on fact and law were
25 filed by Kanu and Brima. No reply was filed by Kamara,
26 and I therefore note that he does not object. No
27 rebuttal evidence was adduced by the Defence.

28 In compliance with a directive of the 1st of
29 February 2005 by this Court, the Prosecution filed an

1 information of which witnesses are already subject to
2 protective measures in any other trials in the Special
3 Court. It is now noted that all the witnesses which the
4 Prosecution indicate may be called are already subject to
5 protective measures. The Prosecution submits, and
6 Defence counsel concur, that the provisions of the Rule
7 75(F) applies to all the prospective witnesses. The Rule
8 provides as follows: "Once protective measures have been
9 ordered in respect of a witness or victim in any
10 proceedings before the Special Court, such protective
11 measures shall continue to have effect mutatis mutandis
12 in any other proceedings before the Special Court unless
13 and until they are rescinded, varied, or augmented in
14 concordance with the procedure set out in this Rule, but
15 shall not prevent the Prosecutor from discharging any
16 disclosure obligation under the Rules in the second
17 proceedings provided that the Prosecutor notifies the
18 Defence to whom the disclosure is being made of the
19 nature of the protective measures ordered in the first
20 proceedings."

21 I consider that once protective measures have been
22 ordered in respect of a witness or a victim in any
23 proceedings, such protective measures continue to have
24 effect mutatis mutandis in cases where a witness will
25 testify in different proceedings before the Special Court
26 and unless and until they are rescinded, varied, or
27 augmented by the Court making them. I would add that
28 such measures, however, cannot be used as an excuse to
29 prevent the Prosecutor from discharging any disclosure

1 obligation under the Rules in other proceedings provided
2 that the Prosecutor notifies the Defence to whom the
3 disclosure is being made of the nature of the protective
4 measures ordered in the first proceedings where the
5 witness appeared.

6 I therefore hold that this application before me
7 today is redundant in respect of all witnesses contained
8 in the list in the updated compliance report filed by the
9 Prosecution on the 11th of May 2004. I therefore invite
10 the Prosecution to withdraw this application in relation
11 to all witnesses. Before doing so, I would note that
12 this ruling confirms the order of the Court in the matter
13 of the Prosecutor and Sesay, Kallon, Gbao in its decision
14 of the 5th of July 2004 extends to all witnesses in this
15 case, that is, the case of Prosecutor and Brima, Kamara,
16 and Kanu. And the Court further notes that references to
17 the Defence in the order are deemed to include the
18 accused and their Defence teams for the purposes of this
19 case.

20 Ms Taylor, you've heard the ruling.

21 MS TAYLOR: Thank you, Your Honour. And in response to
22 Your Honour's invitation, on behalf of the Prosecution, I
23 apply to withdraw the renewed Prosecution motion for
24 protective measures pursuant to order to the Prosecution
25 for renewed motion for protective measures dated 2 April
26 2004 that was filed on the 4th of May 2004.

27 PRESIDING JUDGE: Thank you, Ms Taylor.

28 Ms Thompson.

29 MS THOMPSON: Your Honour, I have nothing further.

1 MR FOFANAH: Your Honour, I have nothing further.

2 PRESIDING JUDGE: Mr Manley-Spaine.

3 MR MANLEY-SPAINE: Same here.

4 PRESIDING JUDGE: The Court then notes that the order and
5 application has been withdrawn, and I again confirm that
6 the order of the Court in the matter of the Prosecutor
7 and Sesay, Kallon, Gbao extends as I've already noted.
8 Before proceeding further, however, the Court seeks
9 clarification of the measures in place in relation to the
10 following witnesses, and I will read them out: TF1-071,
11 which is mentioned on the February list as a category C
12 witness but is not mentioned in the annex list; TF1-139,
13 we understand has waived protective measures except for
14 the disclosure of his address, obviously it's up to him
15 what he does, it may not apply in this trial; Witness
16 TF1-167 has waived some protective measures; TF1-305 is
17 referred to as a category A witness, but has not been
18 mentioned in the annex list - this is annex to your
19 motion - for particular category A protection.

20 TF1-232 is not referred to as a group 2 witness even
21 though in the annex list, that witness is classified as
22 an expert; TF1-332 is not referred to as a group 2
23 witness, even though in the annex list that witness is
24 classified as an expert; and TF1-355, we understand, has
25 waived all protective measures except for his address or
26 her address.

27 Ms Taylor, do you wish to address Court now on those
28 matters?

29 MS TAYLOR: Your Honour, in relation to all of the witnesses

1 other than the two that you have mentioned, the group 2
2 situation, I can respond in relation to the others now.

3 PRESIDING JUDGE: Thank you.

4 MS TAYLOR: Although those witnesses were not referred to in
5 the various annexes as Your Honour has said, those
6 witnesses have already given evidence before Trial
7 Chamber I, and oral applications were made before Trial
8 Chamber I to vary the protective measures for those
9 witnesses. And the variations of the protective measures
10 are what has been noted in the list that was filed this
11 week pursuant to Your Honour's order.

12 PRESIDING JUDGE: Yes, that is where we picked it up.

13 MS TAYLOR: That explains the difference. From the top of my
14 head, I'm not in a position to inform Your Honour as to
15 the 232 and 332, but I can check and either file
16 something in writing before Your Honour or respond --

17 PRESIDING JUDGE: I think if you file it in writing to the
18 Court and to Defence so that we know the situation. Is
19 it anticipated that it may be that you will make similar
20 applications for those category, TF1-071, et cetera, in
21 the course of the trial?

22 MS TAYLOR: Well, my understanding from reading the Rules is
23 that the protective measures that have been accorded to
24 those witnesses are, in fact, the measures that they were
25 given when they gave evidence. Therefore, the original
26 written application that didn't have them in an annex but
27 allowed them the protection of a particular category --

28 PRESIDING JUDGE: Yes. The order was made and gave them
29 protective measures. That continues. It stands. It

1 stands before this one. What I don't know now is whether
2 there will be a variation, either in the course of
3 proceedings or before me today, for those witnesses in
4 view of what they have -- has transpired since the
5 original order was made.

6 MS TAYLOR: Your Honour, in my submission Rule 75(F) talks
7 about once protection measures have been ordered in
8 respect of a witness, and then talks about variations,
9 and that variation must also be an order of the Court.
10 And the very fact that there has been a variation, my
11 submission is that the order in relation to those
12 witnesses that you have identified is, in fact, the
13 varied order that was done on an oral application.

14 PRESIDING JUDGE: Very well. So they were varied on an oral
15 application as an order, and therefore, my ruling should
16 say "the ruling confirms that the order of the Court in
17 the matter of the Prosecutor and Sesay, Kallon, Gbao,
18 made on the 5th of July 2004 as varied..."

19 MS TAYLOR: Yes.

20 PRESIDING JUDGE: "Now extends to the witnesses."

21 MS TAYLOR: Yes.

22 PRESIDING JUDGE: I will therefore amend that ruling
23 accordingly. The ruling confirms that "the order of the
24 Court in matter of the Prosecutor and Sesay, Kallon, and
25 Gbao made on the 5th of July 2004 as varied from time to
26 time..." And that means that these -- the situation for
27 those witnesses which I've called out, with the exception
28 of the two you're clarifying are now also varied before
29 me.

1 MS TAYLOR: As Your Honour pleases.

2 PRESIDING JUDGE: Thank you. I'll ensure that that's written
3 properly.

4 Defence were aware of these variations, were they?

5 MS THOMPSON: [Microphone not activated]

6 PRESIDING JUDGE: Well, in that case, a fuller protective
7 measures order should be served on the Defence to include
8 the variations so they are aware of the situation.

9 MS TAYLOR: Certainly, Your Honour. In terms of the
10 disclosures that have been made to date, none of the
11 witnesses that have been identified as having variations
12 have been disclosed for the first session of the AFRC
13 trial. At the time, when it becomes appropriate to do
14 so, we will make sure that the Defence are notified of
15 those variations.

16 PRESIDING JUDGE: Very well. Does that satisfy Defence?

17 MS THOMPSON: Yes, Your Honour.

18 PRESIDING JUDGE: Any other matters, counsel?

19 MS TAYLOR: No, Your Honour.

20 PRESIDING JUDGE: We'll adjourn the session -- close the
21 session then. Please adjourn the Court.

22 [Whereupon the motion hearing adjourned at 11.39 a.m.]

23

24

25

26

27

28

29

