

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

WEDNESDAY, 13 APRIL 2005
9.22 A.M.
TRIAL

Before the Judges:

Teresa Doherty, Presiding
Julia Sebutinde
Richard Lussick

For Chambers:

Mr Simon Meisenberg

For the Registry:

Mr Neil Gibson

For the Prosecution:

Ms Boi-Tia Stevens
Ms Melissa Pack

For the Principal Defender:

NO APPEARANCE

For the accused Alex Tamba Brima:

Mr Kevin Metzger

For the accused Brima Kamara:

Mr Mohamed Pa-Momo Fofanah

For the accused Santigie Kanu:

Mr Abibola Manley-Spaine
Ms Karlijn van der Voort

1 [Wednesday, 13 April 2005]
2 [TB130405A - CR]
3 [Open session]
4 [The accused entered court]
09:15:05 5 [The witness entered court]
6 [Upon commencing at 9.22 a.m.]
7 PRESIDING JUDGE: Just before we proceed with the next witness,
8 there's a matter of policy. It would be helpful to the Bench when
9 witnesses use place names or names of persons that we could get some
09:21:32 10 spelling. It would save a lot of the logistical problems we've had for the
11 last few days. We appreciate not all witnesses can read and write. We
12 will do the best we can with it being read into the record.
13 Any other preliminary matters before I invite the Court attendant to
14 swear in the witness? Madam Court Attendant, please swear in the next
09:21:57 15 witness. Ms Stevens, what is the number for this witness on the record,
16 please?
17 MS STEVENS: This is Prosecution witness TF1- 282.
18 PRESIDING JUDGE: Thank you.
19 WITNESS: TF1-282 [Sworn]
09:22:59 20 PRESIDING JUDGE: Please proceed, Ms Stevens.
21 MR METZGER: There is one matter brought to my attention. I raise it
22 for observation only perhaps to be considered when we come to
23 cross-examine. It appears that yesterday at 11.50 we were served interview
24 notes that relate to an interview dated on 11 March 2004. Technically,
09:23:24 25 that is short service. I simply wanted to bring it to the attention of the
26 Court at this stage so that we can consider any matters in relation to it
27 over the course of this witness's evidence.
28 PRESIDING JUDGE: I note it's a year old.
29 MR METZGER: I'm sure the Prosecution can assist in relation to --

1 perhaps I would guess an oversight, but the factual matter -- that is to
2 say, we were only served this in Court yesterday at 11.50.

3 PRESIDING JUDGE: Ms Stevens, is this a document that is headed
4 "Interview Notes" and starts, "The witness added the following to her
09:24:15 5 statement"?

6 MS STEVENS: Yes, Your Honour, indeed.

7 PRESIDING JUDGE: It appears to be a year old. Counsel for the
8 Defence say they have only been served with it yesterday.

9 MS STEVENS: That is indeed true, Your Honour. It was an oversight
09:24:29 10 on our part. However, in spite of the situation, we are still under an
11 obligation when we discovered the statement to disclose the statement to
12 the Defence. The interview notes do not add anything substantively new to
13 the first statement which is dated 16 September 2003. The interview notes
14 merely makes further details to information already contained in the first
09:25:05 15 statement. The witness will be led based on information contained in the
16 very first statement.

17 PRESIDING JUDGE: In the light of that, Mr Metzger, are you going to
18 object to this document?

19 MR METZGER: At this point in time, certainly on behalf of Brima, I
09:25:33 20 make no objection, but I make it for this reason: it seems to me that
21 there is material within this document that probably would fall within rule
22 68, namely exculpatory material, but we can discuss that or argue that in
23 due course. For the moment, there is no objection, and certainly no
24 objection to the way in which the Prosecution propose to lead this witness.
09:25:57 25 May I congratulate the Prosecution for observing their duty once they
26 noticed the existence of this document.

27 PRESIDING JUDGE: Thank you, Mr Metzger. That will be noted on the
28 record. We will proceed. Ms Stevens, please proceed.

29 MS STEVENS: Good morning, Your Honours. Good morning, members of

1 the Defence team.

2 EXAMINED BY MS STEVENS:

3 Q. Madam Witness, good morning. Madam Witness, where were you born?

4 A. In Port Loko District.

09:26:42 5 MS STEVENS: Your Honours, if I may pause briefly, this witness is
6 supposed to be testifying with the witness distortion mechanism. I want to
7 ensure it is indeed in place.

8 PRESIDING JUDGE: We were informed prior to coming into the Chamber
9 that it was in place.

09:26:59 10 MS STEVENS:

11 Q. Madam Witness, what year were you born?

12 A. I was born in 198X.

13 PRESIDING JUDGE: Can I pause, Ms Stevens. For the benefit of
14 yourself and other counsel, addressing the witness in a term which
09:27:14 15 indicates her gender goes some way to defeat the purpose of the voice
16 distortion. I know we do try and be respectful and polite, but we mustn't
17 be self-defeating as well.

18 MS STEVENS: Witness, let me repeat the question I posed to you
19 before. What year were you born?

09:27:43 20 A. I was born in 198X.

21 Q. How do you know you were born in 198X?

22 A. It is because my father told me that I was born in 198X, that is how
23 I declare that I was born in 198X.

24 PRESIDING JUDGE: I didn't get a translation. Maybe it's my fault.
09:28:13 25 There has been a translation. I understood what you said.

26 MS STEVENS:

27 Q. When did your father tell you you were born in 198X?

28 A. It was at the time when I was at the Connaught Hospital.

29 Q. Do you remember what year that was?

1 A. That was in 1989 -- sorry, '99.
2 Q. Witness, can you write in English?
3 A. No.
4 Q. Can you read in English?
09:29:25 5 A. No.
6 Q. Now, let me take you to the early part of 1999. Can you tell this
7 Court where you were living during this time?
8 A. Yes. Which time?
9 Q. During the period of early 1999.
09:30:12 10 A. Yes.
11 Q. Please tell us where you were living during the period of early 1999.
12 A. I was in Port Loko District.
13 Q. Can you tell us where in Port Loko District you were living?
14 A. I was in Koya.
09:30:59 15 JUDGE LUSSICK: Can you spell it, please?
16 THE INTERPRETER: Your Honours, the last bit is not clear.
17 MS STEVENS: She wasn't finished.
18 Q. Witness, could you --
19 THE INTERPRETER: Excuse me, Your Honours, could the witness speak to
09:31:15 20 the mic? We cannot get this witness clearly.
21 PRESIDING JUDGE: Witness, could you sit a little bit closer to the
22 microphone, please? Madam Court Attendant, we would be grateful if you
23 would assist the interpreters by having the microphone closer to the
24 witness, please.
09:32:14 25 MS STEVENS: Your Honours, I can take the question again.
26 PRESIDING JUDGE: Thank you.
27 MS STEVENS:
28 Q. Witness, where in Port Loko District were you living during the
29 period 1999?

- 1 A. I was in Koya, XXXXXX Village.
- 2 MS STEVENS: Koya, KOYA. XXXXXX, X-X-X-X-X.
- 3 Q. Were you living with anyone in XXXXXXXX Village?
- 4 A. Yes.
- 09:33:14 5 Q. Without giving us any names, tell us who you were living with.
- 6 A. I was with my family.
- 7 Q. Again, without giving us names and speaking merely in terms of
- 8 relations, tell us which family members you were living with.
- 9 A. I was with my father; I was with my sister; and my brothers.
- 09:34:02 10 Q. During this period of 1999 when you were living in XXXXXX, did you
- 11 receive any news about Freetown?
- 12 A. Yes.
- 13 Q. From whom?
- 14 A. From my brother.
- 09:34:37 15 Q. What did he tell you?
- 16 A. Well, my brother told me that when they came to town, the rebels told
- 17 them that they should get out and dance for them, and later they told them
- 18 that we are happy, we are glad.
- 19 Q. When your brother told you that rebels came to Freetown, where was he
- 09:35:32 20 when he gave you this information?
- 21 A. In XXXXXX Village.
- 22 Q. Did you remain in XXXXXX Village for the rest of the year of 1999?
- 23 A. No.
- 24 Q. Why not?
- 09:36:24 25 A. Because of the rebels, that is why I was not there.
- 26 Q. Please elaborate. Tell us what you mean by because of the rebels
- 27 that's why you were not there?
- 28 A. We were afraid of the rebels when they met us in the village, so we
- 29 went into the bush.

- 1 Q. How far away from XXXX village was the bush that you hid in?
- 2 A. It was far; it was far from the Village. It was a little bit far
3 from the village.
- 4 Q. Was this still in Port Loko District, or was it out of Port Loko
09:38:02 5 District?
- 6 A. It was inside Port Loko District.
- 7 Q. What season was this?
- 8 A. It was the dry season.
- 9 Q. Now, whilst you were in the bush, did anything significant happen?
09:38:42 10 A. Yes.
- 11 Q. Can you tell us what happened?
- 12 A. Yes.
- 13 Q. Please tell us what happened.
- 14 A. When we were in the bush, at one time the rebels entered the bush.
09:39:14 15 Q. Witness, how do you know rebels entered the bush.
- 16 A. Because I saw them.
- 17 Q. How many times did you see rebels in the bush?
- 18 A. Two times.
- 19 Q. Let's talk about the first time you saw rebels enter the bush.
09:40:00 20 A. I saw the rebels.
- 21 Q. The first time that the rebels entered the bush, did they do
22 anything?
- 23 A. Yes.
- 24 Q. What did the rebels do?
09:40:21 25 A. They captured some people.
- 26 Q. What season was this?
- 27 A. It was the dry season.
- 28 Q. Was this the same dry season when you went into the bush?
- 29 A. Yes.

1 Q. After the rebels came to the bush the first time, did you do
2 anything?
3 A. I run away.
4 Q. Did you return back at any point in time to the same bush?
09:41:37 5 A. I don't understand the question.
6 Q. When you saw the rebels when they came into the bush the first time,
7 you ran away?
8 A. Yes.
9 Q. Did you return back to the bush at any time?
09:42:03 10 A. Yes.
11 Q. Did you ever return back to the village at any time?
12 A. I did not return to the village. I went to the bush.
13 Q. Madam witness, let's talk now about the second time when you saw
14 rebels. Where were you the second time that you saw the rebels?
09:43:06 15 A. In the bush.
16 Q. Was this the same bush as the first time?
17 A. Yes.
18 Q. How many rebels did you see?
19 A. I saw a lot of rebels. When I turned this way, I saw rebels; I
09:43:37 20 turned this way, I saw rebels.
21 Q. Do you recall how the rebels were dressed?
22 A. Some had civilian clothes on, some wore combat.
23 Q. Were they armed?
24 A. Yes.
09:44:11 25 Q. With what?
26 A. They had weapons, they had weapons.
27 Q. What kind of weapons?
28 A. Guns.
29 Q. Did the rebels do anything this time?

1 A. Yes.

2 Q. What did they do?

3 A. After capturing us, they gathered us.

4 Q. Witness, are you saying the rebels captured you?

09:45:09 5 A. Yes.

6 Q. Besides yourself, you said "us". Who were the others who were

7 captured?

8 A. There were others.

9 Q. And the other people who were captured with you, who were these

09:45:38 10 people?

11 A. They were civilians.

12 Q. Witness, were you armed when you were captured by the rebels?

13 A. No, I did not have any weapon.

14 Q. What about the other civilians who were captured with you. Do you

09:46:10 15 know if any of them had a weapon?

16 A. No.

17 Q. Do you remember --

18 JUDGE SEBUTINDE: Sorry, was that a no, she doesn't know, or no, they

19 weren't carrying weapons?

09:46:39 20 MS STEVENS:

21 Q. Witness, when I asked you the question whether or not you knew if the

22 people who captured you had weapons, you said no. Do you mean no, you

23 don't know or no --

24 A. Those that were captured --

09:47:04 25 Q. Did they have any weapons with them?

26 A. Those that were captured, no, they did not have any weapons.

27 Q. Witness, do you remember how many of you were captured?

28 A. No, I cannot remember.

29 Q. In terms of numbers, were there more rebels than the number of people

1 captured, or was the number of people captured greater than the number of
2 rebels?
3 A. The rebels were more than we who were captured.
4 Q. After the rebels had captured you and the others, what did they do?
09:48:15 5 A. well, when they captured us, they said we should sit down.
6 Q. And did you sit down?
7 A. Yes, we sat down.
8 Q. what happened next?
9 A. They surrounded us.
09:48:37 10 Q. After they had surrounded you, did the rebels do anything?
11 A. Yes.
12 Q. what did the rebels do?
13 A. one of the rebels came and took one lady just like me and took her to
14 a bush.
09:49:20 15 Q. This rebel who took away this lady into the bush, was he armed?
16 A. Yes.
17 Q. Do you know what happened with this lady?
18 A. The one who was taken into the bush?
19 Q. The lady who was taken to the bush, do you know what happened to her?
09:49:57 20 A. No, I do not know what happened to her.
21 Q. After the rebel had led away the lady into the bush, what happened
22 next?
23 A. They came back.
24 Q. The rebel who came back, is this the rebel who led the woman away?
09:50:42 25 A. Yes.
26 Q. After he came back did he do anything?
27 A. Yes.
28 Q. what did he do?
29 A. He took me away.

1 Q. Where did he take you to?
2 A. Into the bush.
3 Q. The path that you took to go into the bush as the rebel led you away,
4 was this the same path that was used when the other lady was led into the
09:51:36 5 bush, or was it a different path?
6 A. Yes, it was the same route.
7 Q. This rebel, as he led you into the bush, was he still armed?
8 A. Yes.
9 Q. When you went into the bush, what happened?
09:52:17 10 A. When we went to the bush, I met two rebels standing, so one told the
11 other that --
12 Q. You met two rebels standing?
13 A. Yes.
14 Q. Did these rebels say anything to you?
09:52:55 15 A. Yes.
16 Q. Please tell us what the rebels said to you?
17 A. When the man that led me had left me, he called one rebel whose name
18 was Five-Five, and he returned. When he had returned --
19 Q. These --
09:54:15 20 JUDGE LUSSICK: Ms Stevens, perhaps I'm missing some of the evidence,
21 but the last I heard the witness say was "when he had returned" and then
22 nothing further. Prior to that when she was taken into the bush, she
23 started to say, "One told the other that," and that was never finished
24 either. Perhaps you could develop what she's trying to tell the Court.
09:54:44 25 MS STEVENS: I was trying to control the witness with specific
26 questions and not let her just go on. I take the cue.
27 Q. Madam witness, you have told this Court that when you arrived at the
28 bush you met two rebels standing.
29 A. Yes.

1 Q. Was there any conversation that took place amongst these rebels?
2 A. What, I don't understand.
3 Q. After you got to the bush, did the rebels say anything to each other
4 at all?
09:55:37 5 A. If the rebels spoke amongst themselves?
6 Q. Yes, that is my question.
7 A. I don't understand the question.
8 Q. These two rebels you had seen in the bush, had you ever seen them
9 before?
09:56:22 10 A. No.
11 Q. The rebel who brought you into the bush, did he say anything to these
12 rebels at all?
13 A. He just said Five-Five and went.
14 JUDGE SEBUTINDE: Ms Stevens, I think you're having a problem with
09:57:09 15 this witness. I have on my record this witness did say something earlier
16 with the name Five-Five. She is obviously under the impression that she is
17 alluding or she's drawing our attention to what she earlier said. Maybe
18 you ought to lead her right back. You did interrupt her and I have
19 something written down, but I will not read it. If what she has now said
09:57:33 20 is what you want the Court to believe, that is what we will go with, but
21 you keep jumping and we keep crossing things out because she doesn't finish
22 an incident.
23 MS STEVENS: Your Honour, I will move on. I was actually trying to
24 get at something, but I will move on.
09:58:19 25 Q. Witness, earlier you told this Court that when you got into the bush,
26 the rebel called out someone named Five-Five. When the name Five-Five was
27 called, what happened next?
28 A. When they called the name Five-Five, what happened next?
29 Q. Yes.

1 A. It was then that the man went and it was then that -- it was during
2 this time that the man Five-Five told me to undress.
3 Q. Did you undress?
4 A. Yes.
09:59:19 5 Q. Did this Five-Five do anything to you?
6 A. Yes.
7 Q. What did he do?
8 A. When I had undressed, he told me to lie down and I laid down and he
9 went on top of me and raped me.
09:59:45 10 Q. After Five-Five had raped you, what was your condition?
11 A. When I be raped by Five-Five, I was lying down there; my head has
12 been spinning.
13 Q. Earlier you indicated that there were two rebels at this bush. Where
14 was the second rebel at the time that Five-Five --
10:00:40 15 A. He was there. He was standing there.
16 Q. This other rebel, was he armed?
17 A. Yes.
18 Q. Do you remember what weapon he was carrying?
19 A. He had a gun.
10:01:19 20 Q. Now, after you had been raped by this person named Five-Five, what
21 happened next?
22 A. I laid there for sometime because my head was turning and he told me
23 to get up.
24 Q. Who told you to get up?
10:01:43 25 A. Five-Five.
26 Q. Did you get up?
27 A. Yes.
28 Q. Did you remain in the bush with Five-Five?
29 A. What do you mean?

1 Q. After you had gotten up, did Five-Five say anything to you?
2 A. Yes.
3 Q. what did he say?
4 A. He said we should go.
10:02:35 5 Q. where did you go?
6 A. We went and met the rebels and the other people they've captured.
7 Q. Was this the same group before you went off into the bush, or was
8 this a different group?
9 A. It was the same group.
10:03:24 10 Q. Now, after you returned back to this group, tell us what happened.
11 A. It was the time Five-Five gave an order that they should fire.
12 Q. How do you know that Five-Five gave an order to fire?
13 A. It was when he said they should fire.
14 Q. When you say "fire", can you tell us what you mean by fire? Fire
10:04:28 15 what?
16 A. He said he should shoot the gun up.
17 Q. Did you say up?
18 A. Yes.
19 Q. Did you hear this order?
10:04:50 20 A. Yes.
21 Q. Did anyone shoot a gun?
22 A. Yes.
23 Q. After the gunshot, or the gun had been fired, what did you do next?
24 A. They ordered us to go.
10:05:48 25 Q. Who ordered you to go? Who was "they"?
26 A. It was the time Five-Five ordered us to go.
27 Q. Did you hear Five-Five when he gave this order?
28 A. Yes, I heard.
29 Q. On Five-Five's order for you to go, did you leave the place?

1 A. Yes.

2 Q. How many of you left?

3 A. All of us went.

4 Q. Where did you go to?

10:07:02 5 Q. When did you go to Sumbuya.

6 MS STEVENS: I will spell that for the record, S-U-M-B-U-Y-A.

7 Q. Witness, tell us what district Sumbuya is located.

8 A. In the Port Loko District.

9 Q. How did you travel to Sumbuya?

10:07:45 10 A. We walked.

11 MS STEVENS: Could I get the translator to repeat the answer?

12 THE INTERPRETER: We walked.

13 MS STEVENS:

14 Q. When you walked to Sumbuya, how were you lined up?

10:08:25 15 A. As we were going, I am here, another rebel was before me, another one
16 behind me.

17 Q. Was this the same for the other civilians, or was it different?

18 A. It was the same way we stood. That was the way we are lined up as we
19 are going.

10:09:05 20 Q. Does that mean the rebels were in front --

21 PRESIDING JUDGE: Ms Stevens, don't lead the witness.

22 MS STEVENS: I was merely seeking a clarification, Your Honour, but I
23 can rephrase.

24 Q. Witness, how were the other civilians positioned as you walked to
10:09:46 25 Sumbuya?

26 A. In a like manner. They were placed the way I was placed: one rebel
27 before and another rebel behind.

28 Q. Now, as you walked to Sumbuya, did anything happen to you?

29 A. Yes.

1 Q. what happened to you?

2 A. The other rebels said they wanted me.

3 Q. what do you mean, witness, when you say the rebel told you he wanted
4 you?

10:11:12 5 JUDGE LUSSICK: Look, I took that answer to be, "The other rebels
6 said they wanted me" -- plural -- not he wanted, they wanted. I took it he
7 was just telling her that there were some other rebels who wanted her.

8 PRESIDING JUDGE: That's my record.

9 MS STEVENS:

10:11:36 10 Q. witness, as you were going to Sumbuya, you have told this Court that
11 the rebels said they wanted you. Tell us what you mean by those words.

12 A. I said one of the rebels said he wanted me.

13 Q. when he said he wanted you, what did you say; what did you respond?

14 A. I did not say anything.

10:12:36 15 Q. what happened? Did you see this rebel again as you continued to walk
16 to Sumbuya?

17 A. He was behind me as we were going.

18 Q. How long did it take you to get to Sumbuya?

19 A. Two days.

10:13:39 20 Q. when you arrived at Sumbuya, where did you go?

21 A. when we reached Sumbuya, the rebel told me that we should go to one
22 house.

23 Q. without giving me any names, which rebel was it who told you to go to
24 the house?

10:14:38 25 A. It was the rebel who told me that he wanted me. The same rebel told
26 me that we should go to the house.

27 Q. Did you go?

28 A. Yes.

29 Q. How long did you stay in this house?

1 A. I cannot recollect how long we stayed there.
2 Q. Did you remain in the house throughout that day or did you leave the
3 house that day?
4 A. We were there throughout the day -- the day.
10:16:12 5 Q. For the time that you spent in Sumbuya, where did you stay?
6 A. It was the house where the man went with me, that was the house in
7 which we stayed.
8 Q. Which man are you referring to?
9 A. It was the rebel man who said he wanted me. It is the man I'm
10:16:52 10 talking about.
11 JUDGE LUSSICK: I'm getting a little confused here. When she said we
12 went there to the house, does she just mean her and the rebels, or does she
13 mean everyone who was captured?
14 MS STEVENS:
10:17:18 15 Q. Witness, when you say we went to the house, who are you referring to?
16 A. This rebel who said he wanted me, it was he and I that went to the
17 house.
18 Q. You went to this house on the very first day you arrived in Sumbuya?
19 A. Yes.
10:18:36 20 Q. Once you got to the house, did the rebel say anything to you?
21 A. When we went to the house, we entered the house, the rebel and I.
22 Q. When you entered the house, did the rebel do anything?
23 A. Yes.
24 Q. What did he do?
10:19:35 25 A. He raped me.
26 Q. After he had raped you, what happened next?
27 A. After he had raped me we went out and sat.
28 Q. When you say "we", who are you referring to?
29 A. I'm talking about the rebel, both of us.

1 Q. After this first day when the rebel raped you, did you see him again?
2 A. I saw him again; both of us stayed together.
3 Q. When you say both of you stayed together, can you explain to us what
4 you mean by that?
10:21:24 5 A. Yes.
6 Q. Please tell us what you mean that both of you stayed together?
7 A. Both of us stayed together, we slept together. He took me as his
8 wife and every day we slept together.
9 Q. In the house where you stayed together with this rebel man, apart
10:22:40 10 from the two of you, was there anyone else living with you?
11 A. Yes, other rebels were there.
12 Q. Were these rebels armed?
13 A. Yes.
14 Q. With what?
10:23:23 15 A. Guns.
16 Q. During the time that you stayed in Sumbuya, did you ever feel that
17 you could leave the rebel with whom you were staying with?
18 A. I never thought about it that I leave him, because I was afraid that
19 if I say I should leave him, he was going to do any other thing to me. I
10:24:19 20 never thought of leaving him.
21 Q. Did this rebel and this man with whom you were staying -- this rebel
22 with whom you were living with, did he carry any weapon?
23 A. I don't understand.
24 Q. The rebel with whom you were living with, the man whom you were
10:25:11 25 sleeping with every night, did he carry a weapon?
26 A. Yes.
27 Q. What kind of weapon?
28 A. He had a gun.
29 Q. About how many rebels were in Sumbuya?

1 A. The rebels are many. I turned this way, I saw rebels; I turned this
2 way, I saw rebels, so there are so many.

3 Q. Madam witness, apart from the rebels who lived in the same house with
4 you, there were many other rebels in Sumbuya?

10:26:46 5 PRESIDING JUDGE: That's a leading question. Rephrase it, please.

6 THE WITNESS: Yes.

7 MS STEVENS:

8 Q. Witness, let me ask you a different question. You have stated there
9 were many rebels in Sumbuya: you turn this way, you see rebels; you turn
10:27:11 10 this way, you see rebels.

11 A. Yes.

12 Q. Where were these rebels living?

13 A. It was in was Sumbuya.

14 Q. Apart from the rebels who were living in the house with you, were
10:27:41 15 there other rebels in Sumbuya?

16 A. Yes.

17 Q. These other rebels who were living in Sumbuya, were they armed?

18 A. Yes, some had weapons.

19 Q. What kind of weapons did you see them using?

10:28:28 20 A. Guns.

21 Q. For how long did you stay in Sumbuya?

22 A. I do not remember the date that I was in Sumbuya.

23 Q. Was it more than a week?

24 A. Yes, it was more than one week.

10:28:55 25 Q. Was it up to a month?

26 A. No.

27 Q. Now, earlier you mentioned that you saw Five-Five around ~~XXXXXXXX~~ where
28 you were captured.

29 MR METZGER: Objection, that's an interpretation of what the witness

1 said.

2 PRESIDING JUDGE: If I recall the evidence, she was captured in the
3 bush and she met Five-Five in the bush after being led away. I don't
4 recall her saying that she saw him around ~~XXXXXXXX~~.

10:30:10 5 MS STEVENS:

6 Q. Witness, earlier you mentioned being raped by Five-Five. Do you know
7 if Five-Five remained in Sumbuya?

8 MR METZGER: Objection on two grounds: the basis of the assertion
9 that the witness said she saw Five-Five -- the evidence was a man who was
10:30:34 10 called Five-Five; secondly, on the basis that whether she can properly ask
11 this witness about the movements of someone else without laying the
12 foundation.

13 MS STEVENS: I'll rephrase the question, Your Honour.

14 Q. Witness, did you see a man called Five-Five who had raped you? Did
10:31:12 15 you see him in Sumbuya?

16 A. No, I did not see him with my eyes.

17 Q. Do you know if he was in Sumbuya during the time that you spent in
18 Sumbuya?

19 A. Yes.

10:31:35 20 Q. How do you know that?

21 MR METZGER: Objection. Clarification: how does she know whether he
22 was or that she knew about whether he was there or not?

23 MS STEVENS:

24 Q. Witness, how do you know that the man called Five-Five --

10:32:08 25 JUDGE SEBUTINDE: Counsel, the witness did not say. Don't lead her.

26 MS STEVENS: I'll rephrase the question.

27 Q. Witness, do you know if this man named Five-Five who had raped you
28 held any position amongst the rebels?

29 A. Yes.

1 Q. How do you know whether or not Five-Five held a position amongst the
2 rebels?

3 A. It was this rebel man who said he wanted me. He was the one who told
4 me that Five-Five was a big man.

10:33:30 5 Q. Where were you when this rebel told you that Five-Five was a big man?

6 A. We were in Sumbuya.

[TB130405B 10.35 a.m. - SGH]

8 Q. Can you tell us the circumstances under which the rebel
9 told you that Five-Five was a big man?

10:33:21 10 A. Yes.

11 Q. Tell us the circumstances under which he told you that Five-Five was
12 a big man?

13 A. At one time he told me that Five-Five said they were to go and
14 jah-jah.

10:34:18 15 JUDGE SEBUTINDE: Mr Interpreter, could you repeat that? We just
16 didn't catch that. Told her to?

17 INTERPRETER: Told Five-Five that they should go on the jah-jah.

18 MS STEVENS: I will seek further clarification. That is exactly what
19 the witness said; jah-jah.

10:34:44 20 Q. What did you mean by jah-jah? What does jah-jah mean?

21 A. Jah-jah means you go and take people's property and come with it.
22 You loot people's property. That is what is meant by jah-jah.

23 JUDGE SEBUTINDE: Perhaps counsel would care to spell that for us.

24 MS STEVENS: Phonetically, J-A-H-J-A-H.

10:35:48 25 Q. Did this rebel whom you were with, did he go on jah-jah?

26 A. Yes.

27 Q. Did you see him on his return?

28 A. Yes.

29 Q. And did he bring back anything?

1 A. Yes.

2 Q. What did he bring back?

3 A. He came with rice, beans, with other things.

4 Q. Was this the only time that he told you that Five-Five had told them
10:36:42 5 that they should go on jah-jah?

6 A. No.

7 Q. How many times did he tell you that Five-Five had instructed him to
8 go on jah-jah?

9 A. Two times.

10:37:41 10 Q. Witness, you indicated that you were in Sumbuya for between -- not
11 more than 30 days. Why did you leave Sumbuya?

12 A. What made us leave Sumbuya? At one time we are sitting when I heard
13 some gunshots. I did not know whether was it other rebels that came
14 shooting. So we ran away and I went into the bush.

10:38:41 15 Q. Witness, just slow down, please. You heard gunshots and then went
16 into the bush?

17 A. Yes. Yes.

18 Q. After you went into the bush, where did you go from there?

19 A. When I went to the bush, so I felt something on my foot. So I
10:39:10 20 touched it and I saw blood. They fired me, they fired me in my foot and I
21 saw blood.

22 Q. Do you know who fired the gunshots?

23 A. No, I did not know.

24 PRESIDING JUDGE: If the witness is upset, perhaps this might be an
10:39:58 25 appropriate time to have an adjournment to allow the witness to have
26 some -- Mr Court Attendant, please adjourn the Court for 15 minutes.

27 [Break taken at 10.42 a.m.]

28 [On resuming at 11.00 a.m.]

29 PRESIDING JUDGE: Ms Stevens.

1 MS STEVENS:
2 Q. Witness, before we left, you were telling us that you had fled into
3 the bush and was shot on your foot.
4 PRESIDING JUDGE: The word used was fired.
10:57:40 5 MS STEVENS:
6 Q. Fired on her foot. After this incident, did you return to Sumbuya at
7 all?
8 A. No.
9 Q. Did you receive any medical attention at all?
10:58:06 10 A. Yes.
11 Q. Where did you receive medical attention?
12 A. It was at Connaught hospital.
13 Q. Witness, you told this Court that Five-Five was a big man amongst the
14 rebels when you were in Sumbuya.
10:58:58 15 MR METZGER: Clarification, my note records that she was told he
16 was a big man.
17 MS STEVENS: Yes, that she was told --
18 Q. That you were told that Five-Five was a big man amongst the rebels.
19 whilst you were at Sumbuya, do you know where Five-Five was living at the
10:59:16 20 time?
21 A. It was within Sumbuya.
22 Q. How do you know that Five-Five was living within Sumbuya?
23 A. It was this, my rebel man, who captured me he was the one that
24 informed me.
11:00:13 25 MS STEVENS: Your Honours, I have one last question for this
26 witness. I seek to ask this question in closed session. The question
27 would elicit an answer which would lead to the identification of this
28 witness. Specifically the question is for her to tell us --
29 PRESIDING JUDGE: [Microphone not activated] is the Defence aware of

1 this?

2 MS STEVENS: I have informed members of the Defence team and they
3 have no objections.

4 PRESIDING JUDGE: Is that correct?

11:01:05 5 MR METZGER: In principle we do have an objection, but not to this
6 particular point because we don't want to delay these proceedings any
7 further. The Trial Chamber will be aware, as well as my learned friend,
8 that there is an outstanding motion in relation to an earlier occasion when
9 we went into closed session. It may be argued that it is a technicality as
11:01:28 10 to whether or not, in terms of the order that exists in relation to this
11 witness's protective status, this Trial Chamber can, without another Trial
12 Chamber having ruled on it, properly go into closed session. But in so far
13 as we are able to assist for this present purpose, the purpose that has
14 been indicated to us by Ms Boi-Tia Stevens, we certainly for the first
11:01:55 15 accused are content that the matter go into closed session because we
16 believe that it is in the interests of justice and would assist us all when
17 it comes to cross-examination to be able to have an identification in the
18 manner sought by the Prosecution in this case. Unless I can assist
19 further. I rise to say I have consulted with my colleagues for the Defence
11:02:36 20 and they are in agreement with that which I have said.

21 PRESIDING JUDGE: In the light of the application and the
22 non-objection, we will grant the application for a closed session for the
23 reasons provided in Rule 79(A)(ii), that is protecting the privacy of
24 persons. Mr Court Attendant, can you take the normal precautions, please.
11:03:42 25 I omitted to say that monitors may remain.

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1 [Closed Session]

2 PRESIDING JUDGE: Mr Court Attendant, are we ready to proceed?

3 MS STEVENS:

4 Q. Witness, please tell this Court the name of the rebel with whom you
11:05:49 5 were living in Sumbuya, with whom you were sleeping every night.

6 PRESIDING JUDGE: There are two questions there really, Ms Stevens.

7 MS STEVENS:

8 Q. Witness, tell this Court the name of the rebel with whom you slept
9 every night in Sumbuya?

11:06:02 10 A. Let me call the name?

11 Q. Yes, please. We are now in closed session, which means the public is
12 not in -- members of the public are not in the gallery.

13 A. Well, the name of the rebel is Malaria.

14 MS STEVENS: Your Honours, that is all I have for this witness in
11:06:59 15 closed session. However, it has been brought to my attention that there
16 are one or two questions that need to be put to this witness and I crave
17 the Court's indulgence if we could just go back to the public -- open
18 session, so that I may ask these questions of the witness.

19 PRESIDING JUDGE: On a practicality, could this lead us to go into a
11:07:43 20 closed session in the event of matters arising in cross-examination?

21 MS STEVENS: No, Your Honour.

22 PRESIDING JUDGE: Very well. We will re-open. I would have
23 preferred an answer from the Defence on that particular point, since they
24 are the ones doing the cross-examining.

11:08:04 25 MR METZGER: I think, Your Honour, that we can properly cross-examine
26 this witness in open session and should the need arise for us to go into
27 closed session because pertinent questions are going to be asked about
28 nomenclature, then we will ask for that to happen.

29 PRESIDING JUDGE: Thank you, Mr Metzger. Mr Court Attendant, please

1 re-open the court to the public.

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1 [Open Session]

2 PRESIDING JUDGE: Please proceed, Ms Stevens.

3 MS STEVENS:

4 Q. Witness, what season was it when the rebels captured you and took you
11:10:14 5 to Sumbuya?

6 MR METZGER: I thought that question had been answered. It's the
7 dry season. Very early on in chief.

8 MS STEVENS: Your Honours, according to our notes, the witness talked
9 about rebels coming to the bush on two occasions.

11:10:36 10 PRESIDING JUDGE: Yes, I have got the first occasion was the dry
11 season. I have two records of the witness being asked about the season.
12 One is: "Were you still in Port Loko or outside?" "I was in Port Loko
13 district," and that was the dry season and then when they were in the bush
14 and she saw the rebels coming, it was the dry season.

11:11:29 15 MS STEVENS: We stand corrected. We have reviewed our notes.

16 PRESIDING JUDGE: Don't worry.

17 MS STEVENS: I have no further questions of this witness.

18 PRESIDING JUDGE: Thank you, Ms Stevens. Cross-examination, please.
19 Mr Manley-Spaine.

11:11:37 20 CROSS-EXAMINED BY MR MANLEY-SPAINE:

21 Q. Witness, yes, how old were you when you were captured?

22 A. I cannot remember the age the time I was captured.

23 Q. Witness, you have referred to the year 1999, do you know the months
24 of the year?

11:12:22 25 A. Yes.

26 Q. Do you remember the month you were captured?

27 A. No.

28 Q. Did you say it was at the beginning of 1999?

29 A. Well, I don't know.

1 Q. You said it was in the dry season. Do you know the months that cover
2 the dry season?
3 A. If I know the months that are in the dry season?
4 Q. Yes.
11:13:47 5 JUDGE SEBUTINDE: Mr Manley-Spaine, the witness is asking you a
6 clarification and you are not helping.
7 MR MANLEY-SPAINE: I did answer. I answered, Your Honour. I said
8 yes.
9 Q. Do you know the months covered by the dry season?
11:14:22 10 A. How many months in the dry season or the months that cover the dry
11 season?
12 Q. Tell us each month that are in the dry season?
13 A. I don't know the months which cover the dry season.
14 Q. Do you know the month of January in the year?
11:14:53 15 A. Yes.
16 Q. Was it during that month that you were captured?
17 A. Yes.
18 Q. Witness, you say you were at XXXXX [sic]. Can you tell this court
19 if there are any big villages near XXXXX?
11:15:54 20 MS STEVENS: Your Honours, sorry to interrupt, but the witness said
21 XXXXXXXX, not XXXXX. It is what we have in our notes.
22 MR MANLEY-SPAINE: Thank you. Thank you for the correction.
23 Q. XXXXXXXX?
24 PRESIDING JUDGE: In fact, Mr Manley-Spaine, at Koya XXXXXX
25 village.
26 MR MANLEY-SPAINE: Yes. Thank you.
27 Q. Can you tell this Court whether there are any big villages near
28 XXXXXXXX?
29 A. Yes.

1 Q. What are their names?
2 A. The names -- the name that I know is Mamamah.
3 Q. You say that this ~~XXXXXXXX~~ is in the Port Loko District?
4 A. Yes.
11:17:21 5 Q. Can you tell this Court the time period between the first time you
6 saw the rebels and the second time you saw them?
7 A. What?
8 Q. Can you tell the Court the first time you saw the rebels and the
9 second time you saw them?
11:18:04 10 A. No, I cannot tell.
11 Q. Were you captured towards the -- at the beginning or at the end of
12 January?
13 A. Well, I don't know.
14 Q. You say you don't have time for that?
11:18:25 15 A. No, I said I didn't know.
16 Q. [Microphone not activated] time for that.
17 PRESIDING JUDGE: Mr Manley-Spaine, I am not quite sure what --
18 THE WITNESS: well, I did not know.
19 PRESIDING JUDGE: I am not quite sure what you mean by that question.
11:18:42 20 MR MANLEY-SPAINE: Your Honour, I can hear Krio. She said, "I no
21 know, I not get time for that". And that, if translated, means I do not
22 have time for what you are asking me.
23 JUDGE SEBUTINDE: But that is not what came through the
24 interpretation, Mr Manley-Spaine. We would be happy to hear what the
11:19:15 25 official interpretation is of what the witness is saying and may we caution
26 Mr Interpreter to accurately interpret what it is you are hearing. Whether
27 it is rude or not, we want to hear it exactly as the witness has said it.
28 MR MANLEY-SPAINE: I thank you for that, Your Honour. For the
29 interpretation, what the interpreters should do.

1 PRESIDING JUDGE: Mr interpreter, could you please give us the
2 interpretation again for the record.
3 INTERPRETER: Your Honours, would the attorney please ask the
4 question again.
11:19:54 5 PRESIDING JUDGE: Mr Manley-Spaine, please put the question.
6 MR MANLEY-SPAINE: Yes, Your Honour.
7 Q. Were you captured at the beginning or at the end of January 1999?
8 A. I don't know whether it was at the beginning or the end, but all I
9 know it was during January.
11:20:29 10 Q. After you were captured, do you know how long in total you stayed
11 with the rebels?
12 A. No, I don't know.
13 Q. Do you know the month of February 1999? Do you remember the month of
14 February 1999?
11:20:48 15 A. If I know February 1999?
16 Q. Yes.
17 A. I know February.
18 Q. Were you still with the rebels?
19 A. Well, I don't know.
11:21:24 20 Q. You have mentioned Sumbuya. Can you tell this Court whether Sumbuya
21 was a village or a barracks, military barracks?
22 A. It was a village where people lived. Where people lived.
23 Q. And where do you say this village is?
24 A. At Sumbuya.
11:22:17 25 Q. No, where is the village? Is it in the Port Loko District?
26 A. Yes, it is within Port Loko District.
27 Q. Do you know any place that is near this Sumbuya village?
28 A. If I know any other village that is near Sumbuya? I don't know any
29 village that is near Sumbuya.

1 Q. Okay. From XXXXXXXX to Sumbuya, do you go to the direction of Port
2 Loko Town?
3 A. You go where?
4 Q. Do you go the direction of Port Loko Town? From XXXXXXXX to go to
11:24:03 5 Sumbuya, do you go towards Port Loko Town?
6 A. I don't know.
7 Q. From XXXXXXXX to Sumbuya -- to Sumbuya, do you go towards Freetown?
8 A. Yes.
9 Q. Do you know whether this Sumbuya village is in Koya District?
11:25:01 10 PRESIDING JUDGE: Mr Manley-Spaine, would you spell Koya for us
11 into the record, please?
12 MR MANLEY-SPAINE: Yes, it is K-O-Y-A, Your Honour.
13 MS STEVENS: Does counsel mean Koya Chiefdom or does he mean Koya
14 District?
11:25:21 15 MR MANLEY-SPAINE: well, Your Honour, I know that we have a Koya
16 rural district. I don't know if we have a Koya chiefdom.
17 PRESIDING JUDGE: we will take your first question which is Koya
18 rural district.
19 MR MANLEY-SPAINE:
20 Q. My question is whether this Sumbuya village is in Koya District.
21 A. I know that it's in the Port Loko District.
22 Q. At the time you were captured by these rebels, did you see any other
23 civilians apart from those with whom you were captured?
24 A. Apart from those that were captured, if I saw any other civilians in
11:26:47 25 the Sumbuya village?
26 Q. No, no, no. At the time they captured you, you said you saw many
27 rebels. Did you see any civilians with them?
28 A. Some had civilians, some had -- some had combat clothes. Some had
29 and some did not. So I did not know whether they were civilians or not.

1 Q. Let me ask you, you have told this Court before that the rebels who
2 captured you some were in civilians clothes and some were in combat
3 clothes. Now, what I am asking you, apart from those who you saw with
4 civilian clothes and combat clothes who you referred to as rebels, did you
11:28:20 5 see any other civilians with them?
6 A. Well, I don't know.
7 Q. Pardon.
8 A. Well, I don't know.
9 Q. I can't hear the interpretation.
11:28:34 10 A. Well, I don't know.
11 JUDGE SEBUTINDE: Mr Manley-Spaine, have you switched on the right
12 channel?
13 MR MANLEY-SPAINE: Yes, yes.
14 PRESIDING JUDGE: The interpreter said, "well I do not know," at
11:28:52 15 least twice.
16 MR MANLEY-SPAINE: Yes.
17 Q. When you were walking from ~~XXXXXXXX~~ to Sumbuya, did you see any other
18 civilians from those with whom you were captured? Witness, you have to
19 help this Court.
11:29:17 20 MR MANLEY-SPAINE: I think her mic is off.
21 PRESIDING JUDGE: Mr Court Attendant, could you please put the on the
22 microphone for the witness.
23 JUDGE SEBUTINDE: Please, put the question again so that we may
24 proceed.
11:30:19 25 MR MANLEY-SPAINE: Yes.
26 Q. Witness, whilst you were walking from ~~XXXXXXXX~~ to Sumbuya, did you see
27 any other civilians apart from those with whom you were captured?
28 A. I did not see any. Only the one that captured us that were the ones
29 that I saw.

1 Q. How long were you in the bush at XXXXXXXX altogether? How long, the
2 total time?
3 A. I cannot tell the exact time that I spent in the bush.
4 Q. When you got to this village you called Sumbuya, did you meet
11:31:24 5 civilians there?
6 A. No.
7 Q. Is it the case that there were no people in Sumbuya, no people living
8 there?
9 A. I did not see anybody there during that time. I did not see anybody
11:31:55 10 there that was a civilian.
11 PRESIDING JUDGE: Mr Manley-Spaine, could you please clarify? My
12 note is that there were these civilians in the bush and then you said
13 something about Sumbuya.
14 MR MANLEY-SPAINE: whether they met civilians at Sumbuya.
11:32:34 15 Q. At XXXXXXXX you said you were raped by a man they call Five-Five. Is
16 that so?
17 A. Yes.
18 Q. Was it during the day or the night time?
19 A. It was during the day.
11:33:13 20 Q. Have you at any time described this person that you were told was
21 called Five-Five?
22 MS STEVENS: Your Honours, would you just ask that counsel perhaps
23 put a time frame or put the question in another context. As it stands it
24 is a very broad question.
11:33:36 25 PRESIDING JUDGE: It is very wide.
26 MR MANLEY-SPAINE: As Your Honour pleases.
27 Q. Witness, did you make a statement to the Prosecution of the Special
28 Court on 16th September 2003?
29 A. I cannot recall whether it was on the 16th of September 2003.

1 Q. Do you remember to whom you made a statement at the Special Court
2 Prosecution?

3 A. I don't understand the question.

4 Q. Do you remember the person who wrote down what you were telling that
11:35:00 5 person?

6 JUDGE SEBUTINDE: I am sorry, but I am not sure what the witness's
7 answer was to the question, whether she has ever made a statement to the
8 Prosecution. Perhaps that was two questions in one. I don't think the
9 witness answered that first question.

11:35:27 10 MR MANLEY-SPAIN: I will go over it.

11 Q. Did you ever make a statement to the Office of the Prosecution of the
12 Special Court?

13 PRESIDING JUDGE: I am not sure what is happening in the back row.

14 MR MANLEY-SPAIN: I don't think the witness has answered my
11:36:15 15 question.

16 PRESIDING JUDGE: She has not. Please put it again,
17 Mr Manley-Spain.

18 MR MANLEY-SPAIN:

19 Q. Did you ever make a statement to the Office of the Prosecution of the
11:36:24 20 Special Court?

21 A. I made statements.

22 Q. Do you remember if you made it on the 29th -- on 16th September 2003?

23 PRESIDING JUDGE: She has already answered that point. She said
24 she couldn't recall --

11:36:43 25 THE WITNESS: I cannot recall.

26 MR MANLEY-SPAIN:

27 Q. Well, do you remember in what language you made that statement?

28 A. Yes.

29 Q. What language was it?

1 A. It was Krio.
2 Q. Was that statement read over and explained to you?
3 A. I don't know.
4 Q. Please try and remember. Was it read over and explained to you?
11:37:51 5 A. I cannot recall.
6 Q. Do you remember what you told the person who took down the statement?
7 PRESIDING JUDGE: Witness, do you understand the question?
8 THE WITNESS: No, I don't understand.
9 MR MANLEY-SPAINE:
11:39:00 10 Q. I will ask you again. Do you remember what you told the person who
11 took the statement and what that person wrote down?
12 MS STEVENS: I hate to interrupt, but perhaps it might assist the
13 witness if -- I don't know if counsel is trying to ascertain whether or
14 not the witness recalls the contents of her statement in general, or if
11:39:29 15 there is a specific bit of information in her statement that he is asking
16 if the witness recalls making. Perhaps, I don't know, if that might
17 assist the witness.
18 PRESIDING JUDGE: Ms Stevens, if counsel is putting some prior
19 inconsistent statement he has to ascertain certain -- follow certain
11:39:50 20 groundwork. So I will permit him to ask the question he has put.
21 MR MANLEY-SPAINE: Thank you, yes. That is exactly what I am trying
22 to do now. I have been over several times to do the preamble of
23 groundwork, I am trying to do that.
24 Q. Yes, witness, would you remember what you told the person who took
11:40:08 25 your statement?
26 A. My first statement -- the first statement or which one?
27 Q. The first one. We are referring to the first one, witness.
28 A. No.
29 Q. If I put -- if I read certain sections of that statement to you,

1 would you be able to remember whether you made -- you said that to the
2 Prosecutor?
3 A. Well, if that is what I said, I can recall it. But if not what I
4 said, I cannot recall it.
11:41:49 5 Q. Witness, apart from that first statement, do you remember many other
6 statements you made? Or let me be fair. Do you remember making any other
7 statements?
8 A. Yes.
9 Q. Do you remember when you made that other statement?
11:42:14 10 A. No.
11 Q. Do you remember how many other statements you made?
12 A. I cannot recall.
13 Q. Do you recall the 11th March last year, 2004?
14 A. If I can recall?
11:43:25 15 Q. Yes.
16 A. I cannot recall.
17 Q. Do you remember any time last year that you were interviewed by
18 people from the special court?
19 PRESIDING JUDGE: witness, did you understand what counsel asked?
11:44:45 20 THE WITNESS: I don't understand.
21 PRESIDING JUDGE: Perhaps you could try rephrasing it,
22 Mr Manley-Spaine.
23 MR MANLEY-SPAINE:
24 Q. Do you remember that you spoke with somebody from the special court
11:45:01 25 sometime last year?
26 A. Somebody from the special court?
27 Q. Yes.
28 A. I cannot recall.
29 Q. Did you at any time talk to somebody from the special court to

1 clarify what you have said in your first statement?

2 A. If I spoke to anybody?

3 Q. From the Special Court to clarify your first statement?

4 A. Yes.

11:46:33 5 Q. And you remember what you told that person? Do you remember what you
6 told that person? Do you remember, witness, what you told that person?

7 PRESIDING JUDGE: Witness, did you understand the question from
8 counsel?

9 THE WITNESS: I am unable to understand the question.

11:47:44 10 MR MANLEY-SPAINE:

11 Q. Well, you have said that if you hear what you are supposed to have
12 said, you would know whether you said it or not. Let me now read to you
13 something that you said to the Prosecution in your first statement.

14 MR MANLEY-SPAINE: Your Honour, I will refer to page 6522.

11:48:14 15 JUDGE SEBUTINDE: I am sorry to interrupt, Mr Manley-Spaine. You
16 have asked this witness what language she used and she has told the Court
17 that she used Krio. We remain in doubt, however, as to -- the statement
18 you are going to read is in English, I believe. You have not linked the
19 two.

11:48:35 20 MR MANLEY-SPAINE: I am very grateful.

21 JUDGE SEBUTINDE: You get what I mean.

22 MR MANLEY-SPAINE: I am very grateful.

23 JUDGE SEBUTINDE: You have not laid the foundation. You are reading
24 an English statement. The witness has told us she does not read a word of
11:48:49 25 English. I, for one, don't know how you connect the two.

26 MR MANLEY-SPAINE: Your Honour, I will ask the questions, but I wish
27 to direct you to the statement itself. I am not reading any section yet,
28 but to the data on top, what is referred to as interview data, at page 521,
29 and under language during interview was Krio/English. But I take what you

1 have said and I will ask her the pertinent question.
2 Q. Witness, when you gave your statement in Krio, do you know what
3 language it was written down?
4 A. I don't know.
11:49:31 5 Q. Do you know whether it was written down in English?
6 A. I don't know.
7 Q. Was the statement read back to you?
8 A. I cannot recall.
9 Q. Did you sign that statement?
11:50:27 10 A. I cannot recall as to whether I signed.
11 MR MANLEY-SPAINE: Your Honour, if the Prosecution has that
12 statement, I would be grateful if it is produced.
13 MS STEVENS: Is Mr Manley-Spaine referring to the original?
14 MR MANLEY-SPAINE: We have been accepting handwritten copies and I
11:50:54 15 believe we can follow that. I will not force your for the original
16 original.
17 MS STEVENS: We can offer you a copy of a statement which we have in
18 our possession now.
19 MR MANLEY-SPAINE: Yes, thank you.
11:51:08 20 MS STEVENS: Could Court Management assist.
21 PRESIDING JUDGE: Mr Court Manager, could you please take the
22 statement that is being proffered by counsel for the Prosecution and give
23 it to counsel for the Defence?
24 MR MANLEY-SPAINE: This is not it. The handwritten one.
11:51:45 25 MS STEVENS: I am afraid --
26 PRESIDING JUDGE: Let us first ascertain if it was handwritten or
27 simultaneously typed. Was there a handwritten edition?
28 MS STEVENS: Your Honours, what we have is a statement prepared by
29 the investigator who took the statement. Her name appears at the bottom of

1 that statement. As to whether or not there was an original handwritten
2 statement, at this point in time, Your Honour, that is all we have.

3 MR MANLEY-SPAINE: You see, my problem, Your Honour, is that on this
4 statement I have been handed there is no affirmation that the witness
11:52:36 5 signed or affixed thumbprint or whatever. What we have here is just
6 interviews signature, illegible witness. I cannot put to the witness to
7 confirm whether she signed it or not.

8 JUDGE SEBUTINDE: Mr Manley-Spaine, at this stage the Court does not
9 even know the language that the interviewer used. We do not even know if
11:53:14 10 there was an interpreter between the interviewer and the witness. But we
11 have jumped to a statement.

12 MR MANLEY-SPAINE: I will say, Your Honour, in my questions she -- I
13 believe she admitted she gave interview in Krio and you direct me as to
14 whether it was written down in Krio et cetera. Your Honour, will see --

11:53:41 15 JUDGE SEBUTINDE: Writing down is one thing, Mr Manley-Spaine,
16 communication between the witness and the interviewer verbally is another
17 thing.

18 [TB130405C-JM - 11.55 a.m.]

19 MR MANLEY-SPAINE: I am aware of that, Your Honour, but what we are
11:54:53 20 getting from this witness, from all the questions I have been asking to
21 bring this out to the Court, was, "I don't know, I don't know, I don't
22 know." That is why I've asked for the statement so that I can put it to
23 her if her signature is on the statement or her mark is on the statement.
24 That is why, because she has not been helping us, I'm afraid I have to say.
11:55:17 25 She has been saying everything, "I don't know." "Was it written down in
26 English?" "I don't know."

27 JUDGE SEBUTINDE: Mr Manley-Spaine, how would a witness know what
28 language someone is writing? She can attest to what language she spoke to
29 and the other person spoke to her back. She cannot attest to what language

1 then the interviewer wrote down. So she is right when she says, "I don't
2 know".

3 MR MANLEY-SPAINE: I concede to that one point. The other, she has
4 been saying, "I don't know." She doesn't even know whether she signed the
11:55:54 5 statement. I have to put to her --

6 JUDGE SEBUTINDE: Those are her answers.

7 MR MANLEY-SPAINE: Yes, but I have to put it to her. If I see the
8 statement, then I will be able to put the pertinent questions to her. I'm
9 afraid she is not helping this Court.

11:56:06 10 JUDGE SEBUTINDE: Mr Manley-Spaine, I'm only trying to guide counsel
11 as to the laying of the foundation. I'm not telling counsel what questions
12 to put or not put to the witness. I'm assisting you to know that a certain
13 foundation must be laid, and that where we're at, that foundation has not
14 yet completely been laid. I'm just guiding you.

11:56:30 15 MR MANLEY-SPAINE: I'm much obliged. I'm trying to lay the
16 foundation but have not been getting any cooperation from this witness.
17 Your Honour, I think it is relevant in the interests of justice for
18 us to know whether there has been a handwritten statement. I'm sure this
19 is not the original statement that was taken.

11:57:05 20 PRESIDING JUDGE: In the circumstances, Mr Manley-Spaine, are you
21 making an application to defer this line of questioning to ascertain if
22 there is a handwritten statement? Ms Stevens has indicated she does not
23 know.

24 MS STEVENS: Your Honour, actually, what my -- what I said was at
11:57:26 25 this point in time, what we have is the statement which we have shown to
26 the Defence, which is -- which has the investigator's name at the bottom of
27 the statement.

28 PRESIDING JUDGE: Is there or is there not a handwritten edition
29 which was in some way marked by the witness?

1 MS STEVENS: Your Honour, our records -- our records at this point in
2 time do not show a handwritten statement that was marked by the witness.
3 We will, if such document does exist, offer that document in court. But at
4 this point in time, Your Honour, we do not show a handwritten statement
11:58:12 5 that was signed by the witness.

6 PRESIDING JUDGE: I'm a little puzzled by that answer, Ms Stevens.
7 Does that mean you've got some record here within the Court that you can
8 check what is back in the office? Or -- and are unable to do so, or you
9 have to go back to the office to check what the full record is?

11:58:36 10 MS STEVENS: We -- Your Honour, we had done -- we had done -- we had
11 checked earlier and could not find a handwritten statement. But since the
12 issue has come up, we are also in the process now of doing a second search
13 to further assist the Court should there be indeed one that does exist.
14 But to the best of my knowledge, one does not exist.

11:59:06 15 MR MANLEY-SPAIN: In the circumstances, Your Honour, may I apply to
16 defer my cross-examination until this point is clear, because my
17 cross-examination largely has to do with what she said previously to what
18 she has said now in Court.

19 JUDGE LUSSICK: Just while my fellow Judges are debating that point,
12:00:10 20 Ms Stevens, I note that this statement is in the third person. Is it the
21 Prosecution practice to take statements in the third person and still get
22 the witness to affirm them? Or what is the practice?

23 MS STEVENS: Your Honour, when a witness makes -- strike that. When
24 an investigator takes a statement in the third person -- using the third
12:00:41 25 person, it is not the norm that the witness would sign the statement. When
26 the first person "I" is used, normally the witness would sign the
27 statement. When interview notes -- what we term "interview notes" are
28 taken, again, it is not the norm that the witness would have signed a
29 statement called "interview notes." When proofing notes are taken, again,

1 it is not the norm that a witness would sign proofing notes.

2 JUDGE LUSSICK: I think, Mr Manley-Spaine, you are looking for a
3 signature that may not exist.

4 MR MANLEY-SPAINE: Your Honour, that would be strange. If you
12:01:26 5 look -- I refer you to the page: 6521, 6522, and 6523. All of them state
6 at the bottom that there is a signature, interviewer signature, illegible
7 witness. It means that there was a signature. I take it to mean that
8 there was a statement which is signed from which this is produced.

9 PRESIDING JUDGE: Very well. Mr Manley-Spaine, we
12:01:57 10 are -- share -- we're grateful for the clarification from the Prosecution
11 of the procedure. In the interests of justice, we agree that the matter
12 should be deferred to permit the Prosecution to make the search which they
13 have undertaken to make.

14 MR MANLEY-SPAINE: Yes.

12:02:14 15 PRESIDING JUDGE: And we will therefore defer this part of your
16 cross-examination.

17 MR MANLEY-SPAINE: Much obliged.

18 PRESIDING JUDGE: Now, in saying that, are there other elements of
19 your cross-examination which you can now proceed to?

12:02:26 20 MR MANLEY-SPAINE: No, that is the substantial part of [overlapping
21 speakers. I've gone over the preamble, let me say, of my
22 cross-examination. I want to go into the individual allegations against my
23 client now.

24 PRESIDING JUDGE: Very well. In that case, we will -- the record
12:02:44 25 will note that your cross-examination is deferred, and I will then invite
26 cross-examination for another Defence counsel.

27 Mr Metzger.

28 MR METZGER: Yes, I was assuming that if the cross-examination by
29 Mr Manley-Spaine has been deferred, I might find myself in a similar

1 situation. But I'm prepared to try on the basis that perhaps -- if I can
2 say first of all that the document which starts at page 6521 presented to
3 us looks extremely like a witness statement and appears to bear all the
4 hallmarks of a witness statement without the relevant signature thereon.
12:03:31 5 And I would predicate any cross-examination at this point by stating that
6 we reserve the position to make an application for the exclusion of this
7 witness's evidence in its entirety in due course.

8 MS PACK: Your Honour, I'm unclear as to the basis for any
9 application.

12:04:13 10 PRESIDING JUDGE: [Microphone not activated]

11 [Trial Chamber confers]

12 PRESIDING JUDGE: The view of the Bench is that the practical
13 solution may be to take an early lunch break. We will adjourn to 1.30. We
14 know we don't normally sit on the afternoon of Wednesday, but just for this
12:04:43 15 one point, I will ask Prosecution to make a thorough search and come back
16 and inform the Court of what they have found. That would be the more
17 appropriate time to entertain any applications, et cetera.

18 Mr Court Attendant, please adjourn Court to 1.30. And please advise
19 us if there is going to be any practical difficulties in relation to the
12:05:05 20 accused taking an early lunch break. Thank you.

21 [Luncheon recess taken at 12.06 p.m.]

22 [On resuming at 1.37 p.m.]

23 PRESIDING JUDGE: We adjourned -- yes, Ms Stevens.

24 MS STEVENS: Your Honours, I was just going to inform the Court of
13:37:36 25 the result of the search.

26 PRESIDING JUDGE: Thank you.

27 MS STEVENS: This second search did not reveal the existence of any
28 handwritten statements or notes pertaining to the interview of this
29 witness. The practice that was in place at the time this statement was

1 taken was such that rough notes would be taken by investigators; and once
2 they returned back to the office, they would then transfer the notes into
3 either handwritten witness statement or a typewritten witness statement.
4 Once the transfer had been made, then the rough notes became superfluous,
13:38:29 5 and they would then be destroyed.

6 PRESIDING JUDGE: A point of clarification, Ms Stevens: The rough
7 notes that were transferred into witness statements, were any of the
8 witness statements subsequently signed by any witness?

9 MS STEVENS: In some situations, witness statements would be
13:38:57 10 subsequently signed by a witness. This was not one of those situations,
11 Your Honour.

12 We also wish to draw Your Honours' attention to the fact that the
13 issue of disclosure of original witness statements is the subject of a
14 motion in this Chamber. That motion was filed by the Defence on March 9th,
13:39:39 15 2005. We -- the Prosecution filed its response on 6th April 2005. And I
16 draw Your Honours' attention to paragraph 4 of the Prosecution's response
17 where we outline the practice that investigators follow in recording
18 information.

19 PRESIDING JUDGE: Thank you for that assistance, Ms Stevens.

13:40:13 20 Mr Manley-Spaine, this arose as a result of your line of
21 cross-examination. And it was deferred to allow this clarification. In
22 the light of what has been explained to the Court, have you decided which
23 steps you now wish to take?

24 MR MANLEY-SPAINE: Your Honour, I must inform the Court that
13:40:39 25 Ms Stevens also was good enough to refer me to a prior decision on this
26 matter in Trial Chamber I, in the decision in the Hinga Norman case, a
27 decision that was delivered on the 16th of July 2004 by Trial Chamber I.
28 It's a decision on disclosure of witness statements and cross-examination.
29 And I submit that in that matter, the question that arose was gone into at

1 length by that Court. And it came up with the -- the Court came up with
2 certain findings which I would like to draw your attention to.

3 First of all, at page 5, under the rubric, "Meaning of a witness
4 statement," item 10 on that page, which I ask your permission to read.
13:41:58 5 "Indeed, the Chamber observes that nowhere in the Rules is a witness
6 statement defined. It is worth noting that the Appeals Chamber of the ICTY
7 has considered that the usual meaning to be ascribed to witness statement
8 is - and I quote - 'an account of a person's knowledge of a crime which is
9 recorded through due procedure in the course of an investigation into the
13:42:25 10 crime.' To end further, the Tribunals have also considered the transcribed
11 testimony, that transcribed trial testimony, interviews, unsigned witness
12 declarations, and records of questions put to witnesses and answers given
13 constitute witness statements."

14 I would like Your Honour to underline "unsigned witness
13:42:54 15 declarations," which I believe is what we have here.

16 At page 8 of the said decision, Your Honour, the -- item 21
17 "Considering this analysis and the applicable jurisprudence, this Trial
18 Chamber as a matter of law is of the opinion and rules according that, (a),
19 one, a witness may be cross-examined as to previous statements made by him
13:43:33 20 or her in writing or reduced into writing or recorded on audiotape or
21 videotape or otherwise relevant to the subject matter of the case in
22 circumstances where an inconsistency has emerged during the course of viva
23 voce testimony between a prior statement and his testimony."

24 This, I respectfully submit, is where we are at in this matter,
13:44:07 25 Your Honour.

26 And under 5, they also declared that the Trial Chamber may direct
27 that a portion of the witness statement that is the subject of
28 cross-examination and in contradiction with the viva voce testimony be
29 admitted into court record and marked as an exhibit.

1 So I'm respectfully submitting, Your Honour, that this is a helpful
2 decision, and that I can proceed with the statement that was given to me
3 and put certain parts of that statement to the witness, with your leave.

4 PRESIDING JUDGE: Before ruling on your application, I will invite
13:44:50 5 Ms Stevens' reply. You've heard application by Defence counsel,
6 Ms Stevens.

7 MS STEVENS: Your Honour, we are very pleased for the
8 cross-examination to continue.

9 [Trial Chamber confers]

10 PRESIDING JUDGE: Counsel, as you're aware, it's normal to have our
13:46:05 11 wednesday afternoons to do other things. And I would therefore invite you
12 to indicate to us, Mr Manley-Spaine, if you have many questions to complete
13 your cross-examination so we can make a decision at what point we should
14 adjourn.

15 MR MANLEY-SPAINE: I will just say I have many questions,
13:46:30 16 Your Honour, because this is really the portion of evidence that is
17 relevant to my client, and I need to be thorough. And it would also depend
18 on the way she reacts in cross-examination and how quick she answers my
19 questions. So I would need some time to do so.

13:46:58 20 [Trial Chamber confers]

21 PRESIDING JUDGE: In the light of that indication, I think -- we are
22 of the view that we will allow the rest of the afternoon for our various
23 other jobs. We will adjourn now until 9.15, tomorrow morning. I will give
24 the witness the usual caution.

13:47:26 25 Witness, can you hear me? Can the witness hear me?

26 THE WITNESS: Yes.

27 PRESIDING JUDGE: Normally, we do not sit in the Court on wednesday
28 afternoon. And we are now going to close the Court for today, until
29 tomorrow morning. You will have to come back tomorrow to answer some more

1 questions from the Defence counsel. Between now and the time that all your
2 evidence is finished, you should not discuss your evidence with anyone
3 else. Do you understand this?

4 THE WITNESS: Yes.

13:48:11 5 PRESIDING JUDGE: Thank you.

6 Mr Court Attendant, please --

7 MR METZGER: I'm sorry, just a question of courtesy. Your Honour
8 indicated something yesterday, and the Bench, just before the Bench rose.
9 And certainly our concerns at the bar were to inquire to make sure that
13:48:29 10 everything is fine. We certainly wish the best, whatever the
11 circumstances.

12 PRESIDING JUDGE: Thank you very much for your concern, Mr Metzger.
13 I'm slowly getting there, I think, but I'm -- thank you.

14 Mr Court Attendant, please adjourn Court.

13:48:47 15 [The witness stands down]

16 [Whereupon the hearing adjourned at 1.49 p.m., to be reconvened on
17 Thursday, the 14th day of April, 2005, at 9.15 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-282	2
EXAMINED BY MS STEVENS	4
CROSS-EXAMINED BY MR MANLEY-SPAINE	27