

Case No. SCSL-2004-16-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ALEX TAMBA BRIMA
BRIMA BAZZY KAMARA
SANTIGIE BORBOR KANU

WEDNESDAY, 25 MAY 2005
9.20 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg Mr James Tamba Kamara
For the Registry:	Mr Geoff Walker
For the Prosecution:	Ms Lesley Taylor Ms Melissa Pack Mr Jim Hodes Ms Maja Dimitrova (Case Manager)
For the Principal Defender:	No appearances
For the accused Alex Tamba Brima:	Ms Glenna Thompson Mr Abraham Mansaray
For the accused Brima Bazy Kamara:	Mr Mohamed Pa-Momo Fofanah
For the accused Santigie Borbor Kanau:	Mr Geert-Jan Alexander Knoop

[TB250505A - SGH]
2 wednesday, 25th May 2005
3 [Open session]
4 [Accused not present]
09:15:39 5 [Witness enters court]
6 [Upon commencing at 9.20 a.m.]
PRESIDING JUDGE: Good morning counsel.
8 MS PACK: Good morning.
9 PRESIDING JUDGE: Mr Witness, good morning. You remember,
09:23:27 10 as I said to you last night, you promised on oath to tell the
11 truth. That promise is still binding on you and you must answer
12 all questions truthfully. Do you understand?
13 THE WITNESS: Yes, My Lord.
14 PRESIDING JUDGE: Good. I note there are other members at
09:23:42 15 the Bar.
16 MS TAYLOR: Yes Your Honours. If you would allow me the
17 opportunity to introduce Mr Hodes, H-O-D-E-S, who has joined the
18 Prosecution team.
19 PRESIDING JUDGE: Good morning Mr Hodes. Ms Pack, please
09:23:58 20 proceed.
21 MS PACK: Thank you, Your Honour.
22 WITNESS TF1-334: [Continued]
23 EXAMINED BY MS PACK: [Continued]
24 Q. Good morning, witness.
25 A. Good morning, My Lord.
26 Q. Witness, yesterday I was asking you about when you met
27 O-Five and the men with him in Gbendembu and you told us that you
28 did meet O-Five and the men he was with in Gbendembu. Witness,
29 after you met them did you return to Colonel Eddie Town?

1 A. Yes.

2 Q. Witness, on you way back to Colonel Eddie Town did anything
3 happen?

4 A. Yes.

09:24:59 5 Q. what happened?

6 A. On the way to Colonel Eddie Town first we got news on the
7 international media about an attack in Kamalo.

8 Q. Pause.

9 MS PACK: Kamalo is spelt K-A-M-A-L-O, Your Honour.

09:25:18 10 Q. Go on, Witness.

11 A. And this was confirmed by O-Five to me and the other
12 soldiers that he wanted to pass through Kamalo. From there they
13 moved -- he moved to Kantia.

14 Q. Pause. Did he move to Kantia with others?

09:26:03 15 A. The troops in which I and the commanders went with were
16 Major King and also O-Five with his entire troop, moved directly
17 to Kantia.

18 Q. I will spell that. It is K-A-N-T-I-A. Did anything happen
19 at Kantia?

09:26:20 20 A. Yes.

21 Q. what happened there?

22 A. whilst I and the soldiers arrived at Kantia together with
23 O-Five and the commander of the troop in which I was, where Major
24 King said that the troop should rest a bit.

09:26:49 25 Q. Pause. The commander of the troop you were with - and you
26 said the name, just repeat it for their Honours, please.

27 A. Major King.

28 Q. Your Honours have heard that, K-I-N-G.

29 A. Sorry, Lieutenant Colonel King. Sorry.

1 Q. After Lieutenant Colonel King had said this, did anything
2 happen?
3 A. Indeed, the troop came to a halt at Kantia and the whole
4 troop waited.
09:27:30 5 Q. Did anything happen after that?
6 A. Yes.
7 Q. What happened?
8 A. While the troop was waiting O-Five, Major O-Five, they
9 gathered the people they had taken with, the civilians. And he
09:27:52 10 said that he took these people from Kamalo.
11 Q. Pause. Did anything happen to those civilians?
12 A. Yes.
13 Q. What happened?
14 A. Yes. O-Five chose some of these stronger ones among them.
09:28:14 15 Q. Yes, go on?
16 A. And he set aside 15 aside. He set aside 15 in number. He
17 said he would not enter with these troops -- he will not enter
18 with these people in the camp.
19 Q. Pause. Did anything happen to those 15 that he set aside?
09:28:31 20 A. Yes.
21 Q. What happened to them?
22 A. O-Five executed them through firing.
23 Q. What did he fire?
24 A. He used his AK-47 which he had in his hand to fire at these
09:28:54 25 people.
26 Q. Who was amongst the 15? Were they men; were they women?
27 A. There were five women and ten men.
28 Q. What about the other civilians who were not put aside by
29 O-Five? What happened to them?

1 A. The ones that I saw with my own eyes they were with the
2 other soldiers with whom O-Five came with. They were under their
3 command, the ones that I saw with my eyes.

4 Q. After what you have described in Kantia, did you return to
09:29:52 5 Colonel Eddie Town?

6 A. Yes.

7 Q. Are you able to say how many men O-Five came with?

8 A. Right in front of me, whilst I and Major King went together
9 with O-Five to the headquarters, as O-Five reported to Gullit he
09:30:21 10 said he came with 200 manpower.

11 Q. Who said he came with 200 manpower?

12 A. Major O-Five.

13 Q. Are you able to remember the names of any of the men who
14 came with O-Five?

09:30:42 15 A. Yes.

16 Q. Name them, please - and take it slowly for their Honours.

17 A. He came with Foyoh.

18 Q. Pause a moment. Would you spell Foyoh, please?

19 A. F-O-Y-O-H.

09:31:23 20 Q. Who was Foyoh, do you know?

21 A. He was an SLA. He was a member of the Sierra Leone Army.

22 Q. Did he have a rank?

23 A. Yes. When he came he was a captain.

24 Q. Do you recall any others who came with O-Five?

09:31:38 25 A. Yes.

26 Q. Go on.

27 A. You had Alfred Brown.

28 Q. Your Honours, that is Alfred, A-L-F-R-E-D, Brown,
29 B-R-O-W-N. Who was he, witness?

1 A. Alfred Brown was the radio man -- was a radio man for
2 O-Five's troop.
3 Q. Did he have a rank?
4 A. Yes.
09:32:10 5 Q. What was the rank?
6 A. Alfred Brown was a major.
7 Q. Do you know which group he came from?
8 A. Yes.
9 Q. Which group?
09:32:19 10 A. He was an RUF.
11 Q. Do you recall the names of anyone else?
12 A. Yes.
13 Q. Go on.
14 A. You had Captain Med Bujehjeh.
09:32:53 15 Q. I will spell that. Med, M-E-D. Bujehjeh, spelling
16 provided by the witness, is B-U-J-E-H-J-E-H.
17 A. B-A.
18 Q. The witness has corrected me. B-A-J-E-H-J-E-H. Witness,
19 was Med Bajehjeh the full name of this individual?
09:33:32 20 A. The name by which I knew him was Mohamed. But he was
21 called Med Bajehjeh.
22 Q. Mohammed, M-O-H-A-M-E-D. Did he have a rank, witness?
23 A. Yes, when he came he was a captain.
24 Q. Witness, do you know which group he was a member of?
09:33:56 25 A. He was a member of the Sierra Leone Army; SLA.
26 Q. Do you remember the names of anyone else either who was
27 from the SLA or the RUF who came with O-Five?
28 A. Yes.
29 Q. Name.

1 A. Captain Stagger.
2 Q. Would you spell Stagger, please?
3 A. S-T-A-G-G-E-R.
4 Q. He was from which group?
09:34:28 5 A. An RUF. He was an RUF.
6 Q. Now, you have mentioned men from the RUF and the SLA who
7 came with O-Five, were there men from any other group who came
8 with O-Five?
9 A. Yes.
09:34:51 10 Q. Which group?
11 A. The STF group.
12 Q. STF. Witness, are you able to provide the full name for
13 that group?
14 A. Yes.
09:35:17 15 Q. Go on.
16 A. Special Task Force.
17 Q. Do you know what the STF, Special Task Force was?
18 A. Yes.
19 Q. What was it?
09:35:27 20 A. This was the ULIMO J which came from Liberia, which was
21 fighting alongside the Sierra Leone Army.
22 Q. Pause.
23 MS PACK: ULIMO J, Your Honours, U-L-I-M-O, separate J.
24 Q. Witness, was this Special Task Force, STF, from ULIMO J
09:36:12 25 fighting alongside the SLA before the AFRC period?
26 A. Yes.
27 Q. And the men in the Special Task Force, do you know what
28 nationality they were?
29 A. Yes.

1 Q. What nationality?

2 A. They were Liberians.

3 MR KNOOPS: Your Honour, I object against this line of
4 questioning in the way as it is conducted right now because until
09:37:07 5 so far there is no foundation laid for the reason this witness is
6 able to answer all these questions. We let the Prosecution
7 pursue the line of questioning, but I, for instance, noted with
8 respect to all these names, like the person Alfred Brown, he was
9 a radio man for O-Five. Two names were mentioned and towards
09:37:36 10 which the witness has indicated that these individuals were from
11 the RUF. Now, the witness is testifying about the STF, the
12 nationalities of the alleged members thereof without any
13 foundation that this witness has specific knowledge on these
14 areas, on these individuals and on these functions and on these
09:38:00 15 groups. So, I believe that before the Prosecution can continue
16 with going to again another list of names and groups, that the
17 foundation should be laid before we can continue with this line
18 of questioning.

PRESIDING JUDGE: Thank you, Mr Knoops. Ms Pack, you have heard
09:38:22 20 the objection.

21 MS PACK: The witness has simply identified those
22 individuals he saw who came with O-Five and described them. But
23 I can ask him how he is able --

24 PRESIDING JUDGE: But we have no foundation for how the
09:38:33 25 witness could determine nationality.

26 MS PACK: I will ask him then about the nationality of the
27 STF members, if I may, Your Honour, just to clarify that.

28 JUDGE SEBUTINDE: Ms Pack, I do not think that is the
29 point. The point is foundation for his knowledge for their

1 ranks, nationality, their groups, all that. There is no
2 foundation that has been laid and you are not going to repair
3 that by compounding the problem, if you see what I mean.

4 MS PACK: Your Honour, thank you. I will seek to clarify
09:39:04 5 all of that information which I have asked the witness about.

6 Q. Witness, you have told us the names of some individuals
7 who came with O-Five, and I am going to go back through them
8 and ask how you know what you have told the Chamber about
9 these individuals. Now, you have identified some men who you
09:39:23 10 have said are members of the RUF and they were Major Alfred
11 Brown and Captain Stagger. How do you know that those two men
12 were members of the RUF?

13 A. Major Alfred Brown, in fact, when I and the other soldiers
14 were are in Kono, he was the close radio man that was with
09:39:50 15 Superman and I knew him in Kono as an RUF and he had never been a
16 member of the Sierra Leone Army.

17 Q. Witness, Captain Stagger, how did you know that he was a
18 member of the RUF?

19 A. In fact, when O-Five came with his men at the camp and I,
09:40:19 20 together with the Operation Commander A, as the troop came I met
21 him and removed to O-Five and he took O-Five to the brigade
22 administrator who was FAT Sesay, who was, in fact, taking down
23 names -- taking names down, names of all the soldiers that came
24 to the camp, especially as they came in different groups.

09:40:50 25 Q. Pause. You have identified FAT Sesay. You have heard that
26 name before, Your Honours. F-A-T, initials, Sesay, S-E-S-A-Y.
27 Now, you said FAT Sesay was taking down names of different men
28 who came to the camp. How do you know that?

29 A. I, the operation commander with FAT, we moved to these

1 people as all of them were in the camp.

2 Q. Apart from taking down names, I think you started on this,
3 what was FAT Sesay writing down, if you know this?

4 A. He was listing down the different parties that came. The
09:41:45 5 SLA, because FAT -- because when a team came he would always have
6 the SLA number and he will take down the particulars. When these
7 thing came he took down their particulars with both the RUF and
8 the STF.

9 Q. I want to ask you about the men you have talked about from
09:42:20 10 the STF, the Special Task Force. How do you know what the
11 Special Task Force was?

12 A. As I said earlier on, they had come before the AFRC. They
13 had made them part of the SLA.

14 Q. How were you able to say what the nationality of members of
09:42:53 15 the STF was?

16 A. Well, before the coming of the AFRC, these Liberians who
17 came from Liberia who from the ULIMO J and the ULIMO K, this
18 group was alongside -- was fighting alongside with the Sierra
19 Leone Army against the RUF. This was approved by the government.

09:43:30 20 Q. The men who came to Colonel Eddie Town with O-Five who were
21 from the STF, how did you know that they were Liberian?

22 A. In fact, their language, clearly they were speaking in the
23 Liberian language. They were not able to speak this Krio that we
24 are speaking.

09:44:11 25 Q. Do you know, witness, how many men approximately from the
26 STF came with O-Five?

27 A. No, I cannot recall the right amount of number.

28 MS PACK: Your Honour, I hope that satisfies my learned friend's
29 concern. That is all I was proposing to ask to clarify on this issue.

1 MR KNOOPS: Your Honour, with all due respect, I believe
2 still no foundation has been laid for the assumption that the STF
3 has been made part of the SLA, as the witness alleges. The
4 witness is merely relying on generalities and information which
09:45:09 5 he cannot compute. It is not clear whether, when he refers to
6 the government approved search, this is from his knowledge or
7 from other sources. So --

8 PRESIDING JUDGE: I note the term he used, I have recorded
9 as they fought alongside the SLA the government approved, and to
09:45:33 10 my mind, that is not the same as saying part of. In other words
11 integrated. Do you say he went as far as that? I accept your
12 point as to government approval. I agree there is no foundation
13 or evidence before the Court to show that there was government
14 approval.

09:45:52 15 MR KNOOPS: Your Honour, I noted in my notes that the
16 witness in -- I think it was in one of his last answers to the
17 Prosecution questions literally said, "They have been made part
18 of the SLA". And that assumption is never --

19 PRESIDING JUDGE: Oh yes.

09:46:04 20 MR KNOOPS: -- substantiated by the witness.

21 PRESIDING JUDGE: I agree. I have found that. I agree
22 that is in my note.

23 MR KNOOPS: And in addition to that, we don't believe that
24 it has been established that Captain Stagger was also part of the
09:46:30 25 RUF and that Mr Alfred Brown was the radio man for O-Five. The
26 witness is merely referring to an incident in Kono where he
27 apparently saw Mr Alfred Brown, Major Alfred Brown as the radio
28 man or one of the radio men of the troops there. But it is not
29 established by this witness that Mr Brown was the radio man for

1 O-Five when they met the other troops. So, I don't think the
2 questions and the answers given by the witness in the second turn
3 of the Prosecution does shed any light on the specific knowledge
4 for this witness to come to these conclusions. He did not
09:47:17 5 address the rankings, how he knows that these people hold the
6 rank of captain. There was no foundation for any registration of
7 these people by Mr Sesay. The witness has laid no foundation
8 that there was at all any form of identification or registration
9 of the RUF, the alleged RUF and SLA forces.

09:47:45 10 So, the witness is merely speculating and is assuming
11 things which are not yet in evidence. He is assuming facts which
12 are not in evidence and therefore I believe that this part of the
13 testimony should not be accepted into the record. It should be
14 stricken from the record. Thank you.

09:48:03 15 MS PACK: Your Honour, there is absolutely no basis for
16 striking any of this evidence from the record. If I can just
17 deal with all the objections in turn, there were quite a few of
18 them raised.

19 The latter one first was that this witness is speculating,
09:48:14 20 he is assuming facts not in evidence. Now, what this witness is
21 doing is he is giving evidence as to facts. He is giving
22 evidence as to what his perception was. I asked him why he, in
23 terms, I can't remember my exact question, but why it was that he
24 attributed these men as being - starting with the STF - part of
09:48:37 25 the SLA. And he explained why that was his perception. He has
26 not produced an order of the government or anything else; of
27 course not. He is just giving evidence as to what he saw and
28 what he perceived. His perception was this, and he explained
29 why. I cannot ask him to do anything more than that, Your

1 Honour.

2 Now, if that fact is challenged by the Defence then, of
3 course, they may produce their own evidence later on in the day.
4 They may seek to cross-examine this witness on this particular
09:49:12 5 issue. But the facts of the matter is that this witness has
6 given evidence as to his perception and he is absolutely entitled
7 to do that and I have sought to clarify particularly the
8 perception about the STF and he has done that and that is the
9 evidence, Your Honour.

09:49:32 10 Now, the next point that was raised was about the various
11 ranks that were held by the individuals who have been identified
12 by the witness, and Your Honours have heard what the witness has
13 said about the listing down of different parties and the taking
14 down of names of the different men who came to the camp. I can
09:49:52 15 ask him specifically if ranks were taken down on this occasion.
16 I understand my learned friend appears to be objecting to the
17 fact that there is no form of registration or something of that
18 sort. Now, Your Honours, again, this witness is giving evidence
19 as to what he saw, what he heard.

09:50:13 20 My friend appears to be suggesting that there ought to have
21 been produced some forms. I am not quite sure what he has
22 expected or what he is objecting about on that particular issue,
23 but the fact of the matter is there it is, the witness has given
24 his evidence about what he saw. He could not be clearer than
09:50:31 25 that, that is the evidence, Your Honour. He is not assuming
26 facts, not in evidence, he is giving evidence as to facts which
27 will then constitute evidence.

28 PRESIDING JUDGE: Let counsel finish, Mr Knoops.

29 MS PACK: The witness gave evidence that O-Five -- that

1 Alfred Brown was radio man for O-Five and my learned friend has
2 sought clarification of the source of his knowledge of that. I
3 will ask him.

4 PRESIDING JUDGE: Please continue the other points --

09:51:08 5 THE INTERPRETER: Your Honour's mic is not on.

6 PRESIDING JUDGE: I am sorry. I am saying please deal with
7 the other points raised by counsel for the Defence before we move
8 into anything. Yes.

9 MS PACK: Your Honour, I think it was only the two points;
09:51:19 10 the STF and the registration of individuals as they came to the
11 camp and I have dealt with those. This witness has said what he
12 has said, said what he saw, perceived, that is all he can do. It
13 is the best he can do and I do not propose to ask any further
14 questions on that.

09:51:37 15 PRESIDING JUDGE: Ms Pack, I have recorded two other
16 grounds of objection. One is that there was no foundation for
17 the evidence that, I quote, "They were part of the SLA." And he
18 cannot say that there was government approval. Those are -- yes,
19 the entire quotation is, "They came before AFRC. They had made
09:52:04 20 them part of the SLA." Those two points were also raised by
21 counsel for the Defence.

22 MS PACK: Yes, the witness has given evidence as to his
23 perception. They had made them part of the SLA, that is the
24 government, and there was government approval before the AFRC.
09:52:21 25 Now, that is his perception, Your Honour. I could ask him to
26 clarify why he is saying that, but he has given evidence as to
27 what he perceived to be the situation and there it is. That is
28 the evidence.

29 Your Honours, there does not have to be independent

1 evidence of a fact given in evidence by a witness before the
2 witness gives evidence. There may well be other evidence as to
3 this fact later on in the trial. There may well be contrary
4 evidence admitted by the Defence as to this fact later on in the
09:53:03 5 trial, but this witness is giving evidence as to his perception
6 on this fact now. And that is the best he can do.

7 PRESIDING JUDGE: Thank you, Ms Pack. Mr Knoops, you were
8 rising to your feet there.

9 MR KNOOPS: Yes, if Your Honours would be so kind to give
09:53:22 10 me one brief chance to remark.

11 Your Honours, it is not about the establishment on part of
12 the Prosecution of independent evidence in this stage before the
13 witness can answer or not answer a question. What it is all
14 about - and the Prosecution, I think, has aptly acknowledged the
09:53:39 15 objection of the Defence - the Prosecution acknowledge that the
16 answers of this witness amount to his perception. That is the
17 wording of my learned colleague. Well, when the Prosecution
18 agrees with the Defence that this witness is testifying about his
19 perception, then this is clearly not admissible and this
09:54:02 20 objection I think is justified, because it is about the witness
21 who is coming to conclusions and opinions which are clearly not
22 within his personal knowledge and are not allowed.

23 Now, with all the objections and the specific issues the
24 Defence has raised, the Prosecution merely said, "Well, this is
09:54:22 25 the evidence, this is the perception." That means that there is
26 no reason to think otherwise than the Defence has put forward. I
27 do not think it is proper in this stage of the proceedings to
28 allow the Prosecution again to ask questions to the witness as to
29 how he knows that Mr Brown was the radio man of O-Five at this

1 particular moment. To ask him again how he knows that particular
2 movement was part of SLA et cetera.

3 The thing is he never testified, he never gave evidence
4 about him direct seeing the list of alleged ranks, numbers of RUF
09:55:11 5 and SLA soldiers. He merely said that there was such a thing as
6 a list, but he never testified that he actually saw. So how can
7 he testify about ranks and identities of persons relating to the
8 RUF or the SLA? So we, the Defence, believe that this witness is
9 merely relying on opinion and conclusions without facts and
09:55:37 10 therefore we sustain our objections. Thank you.

11 MS PACK: Your Honour, may I just correct on a point of
12 definition that my learned friend has alluded to. The definition
13 of perception. Now, I am using perception in what I understand
14 perception to mean is this: what I saw and what I heard. That
09:55:58 15 is what I understand I perceive to mean. I don't understand I
16 perceive to me I conclude, I opine, I take the view. That is not
17 what it means, Your Honour. It means I saw, I heard.

18 Now, Your Honours, if trials were not allowed to proceed on
19 the basis of what a witness perceives, then Your Honours would
09:56:19 20 never hear any evidence, because Your Honours have to hear from
21 witnesses what they see and what they hear. what they saw and
22 what they heard. If this witness is not allowed to give evidence
23 as to what he perceived, I can't think what he could possibly be
24 allowed to give evidence about, Your Honours. He is not asked
09:56:37 25 for his conclusions, he is asking for his perception of what he
26 saw and heard.

27 PRESIDING JUDGE: Thank you, Ms Pack.

28 [Trial Chamber confer]

29 [TB250505B 10.00 a.m. - SV]

1 PRESIDING JUDGE: Counsel, I have recorded our ruling under
2 the various subheadings and if I omit one or get them mixed up my
3 learned colleagues will intervene, I hope, and put me straight.
4 we have considered the objections and the replies. we have
10:05:55 5 looked at them on the various questions of fact submitted by
6 counsel for the Defence and replied to by counsel for the
7 Prosecution. we are of the view that there is no foundation for
8 the evidence adduced by the witness that the government approved
9 of the SLA and the STF fighting alongside, there is no foundation
10:06:22 10 for the evidence that before the AFRC this STF group had been
11 made part of the SLA and there is no sufficient evidence to show
12 why this witness can say that the people who he says were STF
13 were of Liberian origin or nationality. we consider that the
14 witness's evidence as to Alfred Brown is admissible as he has
10:06:58 15 explained his prior meeting and knowledge of that person. we
16 consider that at present there is insufficient evidence to
17 support his views of the listings and rankings of the men he met.
18 On the application by counsel for the Defence to strike the
19 evidence from the record we are of the view that it is for this
10:07:20 20 Court to assess evidence when that evidence is in.
21 Hence the sum total of that, and I trust I've covered all
22 the various aspects, is that the objection is upheld with the
23 exception of the evidence relating to Brown. The application to
24 strike evidence from the record is refused.
10:07:56 25 MS PACK: So, as I understand Your Honour's order to mean,
26 the evidence isn't being struck out but I may be given permission
27 to ask further questions to clarify, elucidate, what the witness
28 has said on these specific issues that Your Honours have
29 identified.

1 PRESIDING JUDGE: As we have ruled, Ms Pack, foundation
2 rather than clarification is the issue and you may ask questions.

3 MS PACK: I'm grateful, Your Honour.

4 Q. Now, witness, I'm going to go back with you to deal with
10:08:48 5 some of the issues that you've testified about. Witness --

6 MR KNOOPS: Your Honour, if it's the intention of the
7 Prosecution to go again through all the items we object because
8 part of my objection was that I think it's not fair that the
9 Prosecution is able to repair any misgivings by the witness in
10:09:12 10 his first testimony. The Prosecution clearly said these are all
11 the questions we intend to put forward to the witness before the
12 objection was again replied to. I don't think it's correct that
13 after a clear ruling of the Chamber the Prosecution again gets a
14 third opportunity, a third turn, to again go through all the
10:09:42 15 items.

16 MS PACK: Your Honour, I'm not going through any items all
17 over again. I was dealing with Your Honour's ruling which --

18 PRESIDING JUDGE: Ms Pack, you have interrupted.

19 MS PACK: I do apologise.

10:09:59 20 JUDGE LUSSICK: I was just about to say to Mr Knoops, the
21 problem here, Mr Knoops, is, as you're probably well aware, that
22 if this was a trial under national jurisdiction you must object
23 to the question immediately it's asked. Once it's answered it's
24 on the record. What has happened here is that you have allowed
10:10:16 25 large passages of answers to go on the record and then objected
26 en masse and asked that they be stricken. Well, that presents
27 all sorts of problems and we can't do that. Seeing that you
28 haven't objected as the question was asked and allowed the answer
29 to be in, the only other thing we can do that we think is fair is

1 to say that a lot of that was without foundation, even though it
2 wasn't objected to at the appropriate time, and because it was
3 without foundation we should order or allow the Prosecution to
4 establish foundation if it can. If it can't we will then make an
10:11:05 5 appropriate assessment of the worth of that evidence when the
6 time comes.

7 MR KNOOPS: Your Honour, I'm very grateful for your
8 comments. I realise your remarks thoroughly. The crux of my
9 objection is that if the Prosecution intends to examine this
10:11:28 10 witness again about the same topics it would be a repetitive way
11 of questioning the witness in order to get in foundation after
12 all in spite of the clear ruling. I think it's not correct that
13 the Prosecution now gets a third turn to question this witness
14 again about the same subject. That is the crux of my objection.
10:11:59 15 So my objection relates now to a repetitive way of questioning
16 this witness on the same subject in spite of a clear ruling, and
17 of course we objected to the question now.

18 MS PACK: I haven't asked a question yet, Your Honour.

19 PRESIDING JUDGE: The Court ruled that the Prosecution be
10:12:46 20 allowed to answer that question. That ruling has been repeated
21 by my learned brother Justice Lussick. That ruling stands.

22 MS PACK: Thank you, Your Honour.

23 Q. Witness, I'm going to go back and ask you some specific
24 questions about what you've said a little earlier today.
10:13:09 25 witness, you've said that the government approved of the SLA and
26 the STF fighting alongside each other before the AFRC period.
27 How is it that you know that?

28 MS THOMPSON: Your Honour, I object to that question. This
29 witness has not been put forward as a member of any government or

1 been part of any government. He will not be able to tell this
2 Court how he came to the knowledge that this government had a
3 policy which in fact goes to security of this country; this
4 country had a policy of engaging other people to fight alongside
10:13:52 5 its own soldiers. It is not within this witness's knowledge or
6 purview or even perception.

7 JUDGE LUSSICK: You never know, Ms Thompson, he might be
8 able to be say he was sitting in cabinet when the decision was
9 made. I think we ought to at least hear his answer.

10:14:09 10 MS PACK:

11 Q. Can you remember the question, witness, or would you like
12 me to repeat it?

13 A. Well, as they asked the question, in fact in 199X when I
14 joined the Sierra Leone Army and I was first assigned the place
10:14:40 15 that they first assigned me was XXXXX, XXXXXX Regiment.

16 Q. Witness, I'm just going to caution you not to give anything
17 that might identify you. If you want to name anything specific
18 you can always write things down. So just remember -- if you're
19 concerned about identifying yourself just remember that you can
10:15:01 20 do that. Go on, please?

21 A. The STF under the APC government at that time approved of
22 the STF to fight alongside the Sierra Leone Army.

23 Q. Witness, how do you know that the government in 199X
24 approved of the STF fighting alongside the --

10:15:30 25 MS THOMPSON: Your Honour, once again I object. The
26 question was asked, it was answered. It wasn't answered in the
27 way that my learned friend anticipated. He said the APC
28 government had approved. His evidence so far in this Court is
29 that he has not been a member of any government, whether AFRC,

1 APC or whatever, and he is not in a position to tell this Court
2 how it came about that there was a government policy for other
3 forces to fight alongside the SLA. The question was asked in the
4 way that my learned friend asked it and the witness was cautioned
10:16:03 5 in the way he was going to answer the question and he answered it
6 and, in my submission, he answered it to the best of his own
7 knowledge now.

8 MS PACK: Your Honour, I don't know how my learned friend
9 can know what is within the witness's knowledge and whether he's
10:16:18 10 answering questions to the best of his knowledge. Your Honours
11 would be aware that a civilian or any individual in a country can
12 give evidence as to what they perceive or understand a government
13 approved policy might be; an approved policy about drink driving,
14 an approved policy about wearing seat belts. Now this witness of
10:16:39 15 course can give evidence, without being a member of a government,
16 as to what he thought or perceived or heard a government approved
17 policy to be and that's all I'm asking him. It's consequent upon
18 Your Honours' order. He started out by saying -- I don't really
19 want to repeat what he said because I'm concerned about his
10:17:01 20 revealing his identity, but something about him first becoming a
21 member of the SLA in 1991 in a specific area. It may be that he
22 can provide further information and I'd like to give him the
23 opportunity to do that because he seemed to be embarking upon
24 something.

10:17:18 25 JUDGE LUSSICK: well, I see what Ms Thompson is objecting
26 to. The question was very clear to the witness and he did give
27 the answer that has been recorded. I understand Ms Thompson's
28 objection to be that he has answered the question now, anything
29 further from you, Ms Pack, simply because you didn't get the

1 answer you wanted is almost tantamount to challenging your own
2 witness.

3 MS PACK: Yes, Your Honour. I have no further submissions
4 to make on this specific issue. I was going to then go and ask
10:17:55 5 the next question which in any event also involved these two
6 groups, not the issue of government approved policy but the
7 following question that Your Honours identified foundation hadn't
8 been laid.

9 JUDGE LUSSICK: I see, you're moving on from that.

10:18:08 10 MS PACK: I can move on from this question.

11 JUDGE LUSSICK: All right.

12 JUDGE SEBUTINDE: Ms Pack, before you move on, I note that
13 you keep using the word "the witness's perception". My own
14 understanding of the rules is that this is a witness of fact.
10:18:21 15 He's not an opinion witness. Therefore if this witness of fact
16 begins to delve into the waters of opinion evidence we have a
17 part to play in coming in and not admitting that evidence. It
18 does make our work a little complicated when this witness begins
19 to give opinion evidence that is couched in fact, or if you wish
10:18:47 20 for this witness to give perceptions then please make it clear
21 that they are his perceptions so that everybody knows that now
22 he's moved from fact into perception. I think that would be a
23 very good way to proceed.

24 But we will not assume that everything he's said is
10:19:03 25 perception, surely you agree with me. Everything that he's said
26 so far is not perception. He's a witness of fact. Fact is fact.
27 So when you want to draw evidence from his perception in the
28 ordinary grammatic meaning of the word please make that clear
29 that we're not delving into opinion waters so that everybody

1 knows. Otherwise you leave it to the Bench, when the Defence so
2 objects, to rule and to make a finding, a specific finding, as to
3 admissibility and I, for one, am finding great difficulty in
4 determining when we should admit and when we shouldn't admit when
10:19:51 5 we get a mixture of perception and fact. If you could just, as
6 you proceed, clearly differentiate between these two.

7 MS PACK: Yes, Your Honour.

8 MR KNOOPS: Your Honour, if I may just give a brief
9 comment. It's actually addressing also the comment of the
10:20:11 10 Honourable Judge Lussick just a few minutes ago to the Bench of
11 the Defence on this side.

12 MS PACK: Your Honour, I don't want to interrupt my learned
13 friend if he's moving on to something else but I'm going to move
14 on to the next issue that Your Honours raised. I'm going to
10:20:34 15 withdraw my question, the previous question that was objected to
16 by my learned friend Ms Thompson, and move on to the next
17 question just for the sake of expedience. Therefore if there are
18 any further observations by my learned friend on the earlier
19 question I just wanted to make him aware of that.

10:20:48 20 PRESIDING JUDGE: There is no answer to the previous
21 question and it may be withdrawn.

22 MR KNOOPS: Your Honour, it was not about the questioning
23 of the witness. It's just that now we are actually in the middle
24 of this linguistical interpretation. Your Honour Judge Lussick
10:21:00 25 just addressed the Defence by saying the Defence in some
26 instances allows some portions of the evidence to be given by
27 this witness and then comes with an objection. This is basically
28 the problem for this Defence with this witness; that we can't
29 object against every question put to this witness beforehand.

1 That will clearly obstruct this whole process. So because it's
2 not clear to the Defence what the line of questioning of this
3 prosecution is going to be, either asking perceptive evidence of
4 this witness or evidence of facts, that puts us in a position
10:21:50 5 that we first have to hear what this witness is going to say and
6 then we have no option but to object once no foundation stems
7 from it or it turns out that this witness is de facto testifying
8 on the basis of opinions or conclusions.

9 So in that respect it could indeed be helpful if the
10:22:16 10 Prosecution, in pursuing the line of questioning, beforehand
11 would indicate that they ask this witness something of fact or
12 something of perception. That would enable us to object timely
13 towards this witness, because it's clear that this witness is
14 testifying on the edge of personal knowledge and sometimes on
10:22:41 15 evidence which amounts to expert evidence and that makes it, for
16 us as Defence Counsel, difficult to every time object against an
17 answer upon which answer it's not clear what the Prosecution is
18 going to seek from that witness.

19 So it's just a matter of observation because I think it is
10:23:03 20 justified in light of the remark of the Honourable Justice
21 Lussick that the Bench has apparently the perception that the
22 Defence is sometimes objecting not in time to certain questions.
23 This is the way we as defence counsel on this side of the Bench
24 feel the struggle with regard to this witness. Therefore the
10:23:27 25 remark of the Honourable Justice Sebutinde is, I think, justified
26 in that sense that we perceive also the remark of the Prosecution
27 that the witness is sometimes giving his perception -- or the
28 Prosecution has his own interpretation on the term perception,
29 but I think de facto this witness is giving a lot of perception

1 evidence and it's only clear for us after giving the answers that
2 it's his perception and then of course the evidence is given and
3 we are aware that it's difficult to strike that from the record.
4 But I think it's justified that we take now the opportunity as
10:24:13 5 defence lawyers to express the reason why we sometimes have no
6 other option than to object already after several questions are
7 put to this witness. We were not intending to get on our feet
8 and every time object against every question with this witness
9 beforehand. That hopefully makes us more explainable for the
10:24:41 10 Bench that the position is as it is for this defence counsel with
11 this particular witness.

12 JUDGE LUSSICK: Yes, I understand what you're saying,
13 Mr Knoops. My comments were more addressed to stressing the
14 problem of striking large passages of evidence from the record
10:25:04 15 once they're in. I can understand why the Defence is allowing
16 the testimony to progress as far as it does. But, as I say, I
17 was stressing the difficulty of striking those passages from the
18 record. I want to also stress that you must bear in mind leaving
19 them on the record does not prejudice the Defence. There is no
10:25:32 20 jury here. We know the context in which they are allowed to
21 remain on the record.

22 of course, as you're well aware, you have the opportunity
23 in cross-examination to cast further doubt on that testimony if
24 you can, and then you have a further opportunity in closing
10:25:53 25 arguments to address on the weight that should be allocated to
26 such evidence. So I just wanted to make it clear that you're not
27 suffering any unfairness by these passages remaining on the
28 record.

29 MR KNOOPS: I'm very much obliged. We didn't perceive, to

1 use the word, that in this sense, Your Honour. Very much obliged
2 for your remarks.

3 MS PACK: Your Honour, just if I might deal with Your
4 Honour's observation that there might be further doubt cast on
10:26:27 5 the witness's evidence in cross-examination. I would hope that
6 there isn't doubt cast on this witness's evidence as he's giving
7 evidence-in-chief.

8 JUDGE LUSSICK: I think the Defence has cast more than a
9 little doubt on his evidence. That's the doubt I'm referring to,
10:26:46 10 not the Bench's doubt at all.

11 MS PACK: I'm grateful. I'm not going to respond to the
12 linguistic argument. If my learned friend has objections to make
13 to questions there are rules and he may object to questions that
14 are asked. I've not heard in any jurisdiction that I've worked
10:27:12 15 in of evidence being struck out because the answers aren't
16 satisfactory to one or other party. I can't tailor the witness's
17 answers to questions. I can only seek to ask further questions
18 in clarification and so on. As Your Honours have indicated in
19 the earlier order, I was about to go and proceed to that in
10:27:37 20 relation to the specific issues Your Honours identified.

21 JUDGE LUSSICK: Ms Pack, your position would be made a lot
22 more easy if this witness would simply answer the questions you
23 put to him. For instance, in that last question you asked him a
24 straightforward question. Instead of getting back to you in a
10:28:00 25 same form he went on a general discourse of the situation that
26 might be prevailing. Of course, the minute he answers something
27 like that you have all troubles with foundation never having been
28 laid and actually it's an answer to a question you never really
29 asked. So it's up to you, it's your witness, but certainly you

1 are quite entitled to keep him within the bounds of your question
2 instead of allowing him to ramble off on independent discourse.

3 MS PACK: Yes, Your Honour. It's my fault, not the
4 witness's. It's difficult in this jurisdiction to interrupt a
10:28:46 5 witness because one is waiting for the translation, and I try and
6 do that as much as I can but I'll make sure I do that a little
7 earlier -- as early as I can interrupt him in Krio so that I can
8 keep the witness to the specifics that I'm asking him about and I
9 take that on board, Your Honour.

10:28:57 10 PRESIDING JUDGE: In fact, Ms Pack, I recall reminding the
11 witness twice to answer questions. Yes, please proceed.

12 MS PACK: Thank you, Your Honour.

13 Q. Witness, it's perhaps my fault but I want to just make
14 clear to you to answer very specifically the specific question I
10:29:21 15 ask you and to make sure that you answer in specific terms, not
16 about general issues, just about what you know from what you saw
17 and what you heard. It's not a criticism of you. I think I'm
18 probably not asking the questions properly. Now, Witness, you've
19 said earlier that the STF were part of the SLA prior to the AFRC
10:29:51 20 period. Witness, how do you know that, and if you could keep to
21 specifics?

22 A. The STF had an ID card and they used to receive salary.
23 SLA, on the ID card, they had SLA/STF.

24 Q. Pause. How do you know that the STF had an ID card with
10:30:32 25 SLA/STF on it?

26 A. Well, the STF, when they came to the Sierra Leone Army they
27 gave them ID card, since the war was waging on, so as to be able
28 to identify them.

29 Q. How do you know though, you yourself, that these

1 individuals when they came received ID cards with SLA/STF marked
2 on them?

3 A. The brigade in which I was, we had this STF and they all ID
4 cards which proved that they were STF.

10:31:16 5 Q. Which brigade was that?

6 A. It was the 4th Brigade Kenema.

7 Q. This was the brigade you spoke about earlier in which you
8 were in when you joined the Sierra Leone Army in 1991; is that
9 correct?

10:31:46 10 A. Yes.

11 Q. Witness, I'm going to ask you again another specific
12 question about these STF -- persons you've identified as STF.
13 Firstly, prior to --

14 MR KNOOPS: Your Honour, I object. There is no foundation
10:32:17 15 for the answer that these persons were members of the STF. The
16 witness merely stated that ID cards were received by certain
17 individuals but he never identified or specified whether he saw
18 them receiving, who these individuals were, how many people it
19 concerned et cetera, et cetera. The answers of this witness are
10:32:47 20 still quite unspecific and general.

21 JUDGE SEBUTINDE: Mr Knoops, as I understand the evidence,
22 a few lines back this witness was asked questions relating to
23 1991 and that is all he has given. If I understand, he has
24 attested to what he saw in 1991 that these people were being
10:33:12 25 given these identity cards with SLA/STF. Then counsel, I think,
26 for the Prosecution has now come back to this era in Camp Eddie
27 Town, I think that's where we're at, and is trying to link that
28 evidence with what happened with the men in Camp Eddie Town. Do
29 I understand that to be your objection?

1 MR FOFANAH: Your Honours, if I may be of help. The answer
2 which the witness has given clearly shows that he is still
3 referring to 199X because he said the brigade that he was in was
4 the XXX Battalion in XXXXXX and that period was within 199X. My
10:34:04 5 objection, in addition to what my learned colleague has just
6 indicated, would be that Your Honours have clearly ruled on this
7 point. In fact, my learned colleague clearly told the Court that
8 she was going to move from that position. So I thought when she
9 was going to continue her line of questioning she was not coming
10:34:26 10 back to this issue, because my learned friend Ms Thompson had
11 clearly indicated --

12 MS PACK: I'm sorry, Your Honour. There were a number of
13 issues that you asked me to clarify. Number 1, no foundation
14 that government approved of SLA and STF fighting alongside.
10:34:38 15 Dealt with that, have moved on. Number 2, no foundation for
16 evidence that STF was part of SLA. That is just what I asked the
17 witness to deal with. Dealt with that, am moving on. Third
18 issue, no sufficient evidence to show how witness can say STFs
19 were of Liberian nationality. I was about to ask a question
10:34:46 20 about that specific issue back to at the time frame which the
21 witness is specifically talking about, namely Camp Eddie Town.

22 MR FOFANAH: Your Honours, I think I was really abruptly
23 interrupted. I mean, I was saying that Ms Thompson had earlier
24 raised an objection which Your Honours had ruled on and counsel
10:35:20 25 had indicated to the Court that she was going to move from that
26 position. Especially when, if I can vividly recall,
27 Ms Thompson's objection was to the effect that the witness had
28 answered the question on the STF, especially when counsel asked
29 how he or she came by the knowledge that the STF were part and

1 parcel of -- were at least fighting with the SLA. Then he just
2 basically said that the APC government approved of that. That
3 was the point that Ms Thompson was clearly harping on; that
4 counsel cannot go further on that, that that question has been
10:35:59 5 asked and answered. So the point here of counsel coming back on
6 that, reopening the issue and ebbing and flowing on the issue, I
7 think it will be very unfair to our objection because that
8 particular line of questioning was settled and Your Honours had
9 ruled on it.

10:36:19 10 PRESIDING JUDGE: Correct, Mr Fofanah. We had ruled on it.
11 Ms Thompson's objection was to the effect that the witness was
12 not a member of the APC. Counsel for the Prosecution was
13 permitted to seek clarification on the relationship of the SLA
14 and the STF. That has been answered. Further questions relating
10:36:44 15 to that issue cannot further arise. The Prosecution has
16 indicated she is now moving on to a whole new topic. I will
17 permit the Prosecution to move on to a whole new topic.

18 MS PACK: Thank you, Your Honour.

19 MR KNOOPS: Your Honour, I think I should answer the
10:37:13 20 question of the Honourable Justice Sebutinde with respect to
21 moving to the other area. If it's the Prosecution's intention to
22 move now to the alleged position of the STF in that other area,
23 so outside --

24 PRESIDING JUDGE: You're talking now about Eddie Town?

10:37:32 25 MR KNOOPS: Yes. Then it's my objection that it has not
26 been established that the STF had an ID card with /SLA as
27 previously testified on by this witness. Moreover, he also said
28 they received STF/SLA cards. There is no knowledge -- there is
29 no indication as to how this witness knows that these

1 individuals -- let alone that he explained what the STF is, the
2 composition there of, et cetera. It is my objection that the
3 Prosecution cannot move on to Eddie Town based on the subject of
4 STF once it's not established that, as the witness testified, the
10:38:22 5 STF had an ID card with the /SLA. That simply has not been
6 established by this witness. He merely stated it but he lacks
7 any foundation or any information as to how he comes to the
8 conclusion that the STF had these ID cards. My objection may be
9 in this instance quite premature but the Prosecution intends to
10:38:46 10 move now to Eddie Town --

11 PRESIDING JUDGE: Mr Knoops, we agree with your submission
12 and if I did not make that clear I make it clear now.

13 MR KNOOPS: Much obliged.

14 MS PACK: Your Honours, if I can just go on to deal with
10:39:08 15 the third issue which Your Honours made a finding on, a ruling
16 on.

17 PRESIDING JUDGE: Yes.

18 MS PACK:

19 Q. Witness, I'm going to ask you about the men you've
10:39:17 20 identified as being STFs who came with O-Five to Colonel Eddie
21 Town. You said earlier that they were of Liberian nationality.
22 How are you able to say that and please be specific?

23 MS THOMPSON: Your Honour, I object. Asked and answered.
24 My record shows that this witness was asked a similar question
10:39:49 25 and he said: "I know they're Liberians because they spoke the
26 Liberian language. They couldn't speak Krio as I do".

27 MS PACK: My misunderstanding. I thought Your Honours had
28 required me to clarify that or ask further questions on that
29 issue just from the basis of your ruling, but I'm happy not to.

1 JUDGE SEBUTINDE: Ms Pack, we will repeat the issue was not
2 clarification or cross-examination. The issue was foundation.
3 It remains foundation. We made a finding that there was no
4 foundation for this witness concluding certain facts. I think
10:40:27 5 Ms Thompson's objection is valid when she says this question was
6 asked and answered. My record also shows exactly what
7 Ms Thompson has read out.

8 MS PACK: I'll move on, Your Honour.

9 JUDGE SEBUTINDE: I'm not ruling on her objection. I'm not
10:40:43 10 the presiding judge, obviously, but I'm just making a comment.

11 MS PACK: I'll withdraw the question. I had misunderstood
12 the point of Your Honours' ruling on that issue.

13 Q. The next issue that I am going to ask you to deal with
14 witness is this: You've given evidence as to the ranks held by
10:41:08 15 various individuals who you saw at Colonel Eddie Town who came
16 with O-Five and I'm going to ask you to go through each of those
17 to identify how it is you are able to say what the ranks of these
18 individuals were. Let me start with Alfred Brown, Major Alfred
19 Brown. How do you know, and be specific, that Alfred Brown was a
10:41:36 20 major when he came to Colonel Eddie Town?

21 A. In fact, this rank -- each and every individual who had a
22 rank, they would position it on his shoulder. If you're a
23 captain, they will show that you're a captain. If you're a
24 major, they will show that you're a major. If you are a
10:42:04 25 lieutenant, they will show that you are a lieutenant. So it is
26 clearly shown.

27 Q. How is it shown? How is the signified on the shoulder?

28 A. If you wear the uniform it is on the two sides, on the left
29 and the right shoulders. If you're a captain it is on top of the

1 shoulder. It shows clearly. They fix buttons.

2 Q. Pause. Let's start with a major. How could you see that a
3 major --

4 MR KNOOPS: Objection. The witness was not a member of the
10:42:47 5 RUF. He can therefore not testify on the ranks of the RUF.

6 MS PACK: I'm asking him to testify about what he saw.

7 PRESIDING JUDGE: Yes but, Ms Pack, my observation is that
8 that question you just asked is a very general question and it
9 doesn't relate to either the witness himself or to the people at
10:43:15 10 the front.

11 MS PACK: Your Honour, I'll be specific about Major Alfred
12 Brown.

13 Q. Witness, you have talked about uniforms and I want you to
14 explain in relation specifically to Major Alfred Brown how you
10:43:29 15 knew that he was a major?

16 A. When he came to the camp he had this major on his shoulder.

17 THE INTERPRETER: Excuse me, Your Honours. The witness is
18 a little bit fast. Would he please go a little bit slower.

19 PRESIDING JUDGE: Witness, please go a little slower so
10:43:59 20 that the interpreter can interpret your answer.

21 MS PACK:

22 Q. Go ahead, witness, but just take it slower. Thank you.

23 A. The brigade administrator FAT Sesay, as I called, Operation
24 Commander A, he moved to these people. He used to take down the
10:44:29 25 ranks, the names, and in fact he used to take even their -- he
26 even took down their next of kin.

27 Q. Pause. How do you know specifically about Alfred Brown?
28 You've described what the brigade administrator FAT Sesay did.
29 How do you know specifically about Alfred Brown?

1 MS THOMPSON: Your Honour, I object. This is the second
2 time the question has been put to the witness. He's answered it.
3 He was asked specifically about Alfred Brown. The first question
4 my learned friend accepted was a bit general. My learned friend
10:45:11 5 then asked him a question about Alfred Brown. He gave an answer.
6 My learned friend is now asking the same question about Alfred
7 Brown. The witness has given the answer he's given.

8 MS PACK: I'll ask a different question, Your Honour.

9 Q. Witness, did you see anything on Alfred Brown's shoulders?

10:45:27 10 A. Yes.

11 Q. What did you see?

12 A. He was carrying the rank of major on his shoulder.

13 Q. What do you mean by that? Just explain what you actually
14 saw so that we can visualise it?

10:45:46 15 A. The Sierra Leone crown. He had a crown wherein he had the
16 lion. And this crown in the army -- there are two crowns, one on
17 the left shoulder and the other on the right shoulder. Majors
18 wear this type of crown and these were the crowns that would make
19 people know that this particular individual was a major.

10:46:18 20 Q. Did Alfred Brown remain a major?

21 A. Later he was promoted by Gullit.

22 Q. When?

23 A. Just after the Kukuna operation.

24 Q. We'll come back to that later. Kukuna is K-U-K-U-N-A. What
10:46:54 25 was he promoted to?

26 A. Lieutenant colonel.

27 Q. How do you know this?

28 A. This was after the Kukuna operation. Indeed, they gave out
29 promotions which are approved by Gullit.

1 Q. Pause. How do you know that Gullit approved promotions
2 after kukuna? Be specific, please.

3 A. I myself was there when the announcements were made. I and
4 Operation Commander A.

10:47:46 5 PRESIDING JUDGE: Ms Pack, are you moving into a new part
6 of the witness's evidence as I notice the time.

7 MS PACK: Actually I was going to go back through all those
8 individuals ranked earlier to identify how the witness knew. But
9 I can move on from this individual certainly, Alfred Brown.

10:48:04 10 PRESIDING JUDGE: Perhaps then it would be appropriate. I
11 notice the witness is looking in need of a break too. So we'll
12 adjourn now for 15 minutes.

13 [Break taken at 10.46 a.m.]

14 [TB250505C - AD]

10:56:30 15 [On resuming at 11.15 a.m.]

16 PRESIDING JUDGE: Yes, Ms Pack.

17 MS PACK: Thank you, Your Honour.

18 Q. Witness, I am going to ask you about Captain Stagger. How
19 do you know that Captain Stagger was a captain when he arrived at
11:17:17 20 Colonel Eddie Town with O-Five?

21 A. First of all, Captain Stagger was carrying the promotion
22 whilst I, Operation Commander A and the brigade administrator FAT
23 were going around taking down names, rank, nationality and
24 religion.

11:17:55 25 Q. Pause a moment. Who was taking down these details of rank,
26 nationality and religion?

27 PRESIDING JUDGE: Just pause a moment, Ms Pack. A few of
28 us are having echoes. Could the AV please check what is
29 happening?

1 MS PACK:

2 Q. Witness, who was taking down the details of rank,
3 nationality and religion?

4 A. The brigade administrator.

11:18:44 5 Q. How do you know that he was taking down the details of
6 rank, nationality and religion?

7 A. It was I, Operation Commander A and the brigade
8 administrator himself. We used to move around and collect the
9 names, ranks, religion and nationalities.

11:19:19 10 Q. You said, "used to move around". What about on this
11 occasion at Colonel Eddie Town when O-Five and his men arrived?

12 A. On this particular occasion that was the duty of the
13 brigade administrator and the operation commander, because I
14 myself was very close with the brigade administrator going around
11:19:48 15 collecting the names, rank, religion and nationality.

16 Q. Were you with him when he was taking these details on this
17 occasion?

18 MS THOMPSON: Your Honour, again, asked and answered, in a
19 few different ways. The witness has given an answer each time
11:20:08 20 the question has been posed in whatever way it has been posed.
21 It may not be the answer that my learned friend wants; in fact,
22 it is probably not the answer I would have wished him to give.
23 But he has given an answer and we just have to live with it in my
24 submission.

11:20:28 25 PRESIDING JUDGE: I was actually trying to write down the
26 answer. Again, we have the echo. But my hearing was he was
27 moving around. Is that what he said?

28 MS PACK: Yes, he was moving around and collecting this
29 information. It was he, Operation Commander A and the brigade

1 administrator.

2 PRESIDING JUDGE: The answer has been recorded, and to ask
3 the same question again is tantamount to cross-examining your own
4 witness.

11:20:58 5 MS PACK: I will move on.

6 Q. Witness, on this occasion that rank, nationality and
7 religion were being taken down as details, who were they being
8 taken down as details from?

9 A. The officers who came with the troops.

11:21:17 10 Q. Captain Stagger; did you see anything on his uniform?

11 A. Yes.

12 Q. What did you see on his uniform?

13 A. He was carrying the position of a captain; three buttons on
14 the left and right sides.

11:22:06 15 Q. Witness, I am going to ask you about Captain Foyoh. One
16 moment, I didn't ask you this about Captain Stagger: You said
17 earlier that he was a member of the RUF. How do you know that?

18 A. Just as I said, I, the brigade administrator and Operation
19 Commander A, as we went around through this checking - I myself
11:22:53 20 was there and it indicated if you are from RUF we write it down,
21 because RUF, they didn't have numbers.

22 Q. You will have to explain what you meant by the RUF didn't
23 have numbers. I am not sure what you mean by that. Please
24 explain.

11:23:20 25 A. Well, in the Sierra Leonean Army, if you are a member of
26 the Sierra Leonean Army you have a number during your passing
27 out. That indicates you in the Sierra Leonean Army. But this is
28 not the case in the RUF; they did not have numbers. We just
29 write your rank, "captain", then "RUF".

1 MR KNOOPS: I object. It has not been established that
2 this witness has specific knowledge of the ranking system of the
3 RUF and that the RUF does not have any numbering such as the SLA.

4 PRESIDING JUDGE: I have recorded, Mr Knoops, the witness
11:24:03 5 saying, "He was carrying the position of a captain. He had three
6 buttons on the right and left side." So he is recording what he
7 saw. If you are saying that he could not make a deduction from
8 what he saw then that is a different issue.

9 MR KNOOPS: My point is that the witness has not indicated
11:24:25 10 how he knows that within the RUF there is not a similar system as
11 within the SLA as regards the soldiers' numbers et cetera.

12 PRESIDING JUDGE: I understand. Ms Pack?

13 MS PACK:

14 Q. Witness, how do you know that the RUF had no numbers,
11:24:49 15 unlike the SLA system of numbers when passing out?

16 A. SLA is a trained force.

17 Q. Pause. I don't want you to generalise; just be specific
18 about what you know. How you know what you know about the RUF.

19 A. I myself was with them. They did not have numbers.

11:25:21 20 Q. Witness, I am going to ask you about Foyoh, Captain Foyoh
21 who came with O-Five. That is F-O-Y-O-H. How did you know that
22 Foyoh was a captain?

23 A. One, he was carrying the position, three buttons on the
24 left and the right. And I, together with Operation Commander A
11:26:03 25 and the brigade administrator, through their names, rank,
26 nationality, religion -- I was there and when we asked them then
27 he said, "I am a captain." That was when I knew he was a captain
28 and he was carrying the rank, and that was what we registered.

29 Q. Thank you. Witness, how do you know that he had been in

1 the SLA?

2 A. I knew Foyoh before in the Sierra Leonean Army.

3 Q. Finally, on the names you provided, witness.

4 Captain Mohamed, alias Med Bajehjeh; how did you know that

11:27:04 5 Captain Mohamed was a captain?

6 A. Captain Mohamed was carrying the rank of captain -- three

7 buttons on the left and three on the right side. I and Operation

8 Commander A and the Brigade Administrator FAT, went around. What

9 he gave when he was asked for his name, rank and nationality and

11:27:34 10 religion -- this is what he gave and that is what I saw and that

11 is what he was carrying, "captain".

12 Q. How did you know that Captain Mohamed, alias Med Bajehjeh,

13 was an SLA?

14 A. He was a man I knew before in the Sierra Leonean Army.

11:27:58 15 Q. Witness, on O-Five's arrival with his men, do you know what

16 happened to the men with O-Five?

17 A. Yes.

18 Q. What happened to them?

19 A. Later, Gullit sent one of his bodyguards called Operation

11:28:36 20 Commander A. While I, Operation Commander A reported to Gullit,

21 Gullit again called on the deputy commander.

22 Q. Pause. Just remind us the name of the deputy commander,

23 please.

24 A. Ibrahim Bazzy Kamara.

11:29:05 25 Q. Go on.

26 A. And he called on the military supervisors.

27 Q. Anyone else?

28 A. He also called on the battalion commanders.

29 Q. What happened, if anything?

1 A. Gullit, in fact, said now he is going to form a new
2 battalion.
3 Q. What else did he say?
4 A. And he made some slight changes, wherein the deputy
11:30:00 5 operation commander, Gullit appointed him --
6 Q. Go on.
7 A. -- to take care of the 5th Battalion; that is, Lieutenant
8 Colonel Junior Sheriff.
9 Q. Pause a moment, please witness. Witness, you said that
11:30:50 10 Gullit said that he was now going to form a new battalion. Do
11 you know if he did that?
12 A. Yes.
13 Q. How do you know that?
14 A. Just as I said, it was done in my presence; he read it in
11:31:14 15 my presence.
16 Q. What was the new battalion?
17 A. 5th Battalion and Red Lion Battalion.
18 Q. You have named two new battalions.
19 A. Yes.
11:31:35 20 Q. Now, the Red Lion Battalion, do you know who was in that
21 battalion?
22 A. Yes.
23 Q. Who?
24 A. It comprised mostly of STF soldiers.
11:32:03 25 Q. How do you know it comprised mostly of STF soldiers?
26 MR KNOOPS: Your Honour, I object. I think it was not yet
27 established that STF were present at that particular point as
28 Your Honours ruled that the indicators given by this witness were
29 accepted as having any foundation.

1 PRESIDING JUDGE: Mr Knoops, could you please say that
2 again? I am just thinking of a word you used.

3 MR KNOOPS: Before the break, Your Honours ruled that the
4 evidence given by this witness as to how he came to know that STF
11:32:59 5 soldiers were apparently in the area of Colonel Eddie Town was
6 insufficient. And I rely on that ruling that it has not yet been
7 established by this witness that these STF soldiers, in the
8 plurality of the word, were present at Colonel Eddie Town. Your
9 Honours also ruled that it has not yet been established that
11:33:28 10 these persons were Liberians and that they were part of the SLA
11 group. But, I think, more importantly, the Prosecution did not
12 introduce any evidence of the presence of STF soldiers. We also
13 were to establish that the previous answer of the witness
14 relating to the STF having an ID card with the stroke of SLA was
11:34:00 15 not established as having any foundation. Based on the
16 accumulation of these arguments, I object to the question, which
17 assumes that STF soldiers were in Colonel Eddie Town. It does
18 not have any foundation yet, as such. Therefore, without any
19 proper foundation, I think the prosecution is not allowed to ask
11:34:29 20 questions which relate to wording as "STF soldiers". Thank you.

21 MS PACK: Your Honour, the evidence about the ID cards was
22 in relation to 1991, not this time frame. The witness has given
23 evidence that there were STFs in Colonel Eddie Town.
24 Your Honours made a ruling in relation to Colonel Eddie Town
11:35:01 25 specifically, and that ruling was concerning the issue of
26 nationality; it was not concerning the presence of STFs in
27 Colonel Eddie Town. I was about to ask the witness how he knew
28 that the battalion had STF members in it, and the witness should
29 be permitted to answer that question. Your Honours, I would

1 caution my learned friend about seeking findings of fact,
2 conclusions or judgments from Your Honours about the quality of
3 evidence now. My learned friend, Mr Knoops, is not a witness, he
4 has not yet called any evidence, he has not yet started
11:35:53 5 cross-examining the witness. To require Your Honours to reach
6 conclusions, make findings, draw judgments as to the quality of
7 this witness's evidence during his evidence-in-chief is, in my
8 submission, quite wrong. Your Honours will hear --

9 JUDGE LUSSICK: I don't think we have ever made a finding
11:36:16 10 as to the quality of evidence. We have made a finding as to
11 whether the evidence is entitled to be led or not, based on
12 foundation and other questions. But we have never made a finding
13 on its quality; we have never indicated whether it is believable
14 or not. That is something that will not be done until all the
11:36:37 15 evidence is in.

16 MS PACK: Your Honours, in so far as the objection my
17 learned friend is concerned, that is all I have to say. I am
18 grateful.

19 MR KNOOPS: Your Honour, I am merely saying that the
11:36:52 20 question of the Prosecution assumes certain facts of evidence
21 which are not yet there; namely, the presence of STF soldiers.
22 That is all I am saying. I am not trying to seek any ruling from
23 Your Honours. I am just making an objection against this
24 question based on the fact that the question assumes facts which
11:37:16 25 are not yet in evidence. Simply that. Thank you.

26 JUDGE LUSSICK: I must say, the form of questioning causes
27 these problems. The last question was: who was in the Red Lion
28 Battalion? That assumes immediately that he would know who was
29 in the Red Lion Battalion. It would have been more pertinent to

1 ask, "Do you know who was in the Red Lion Battalion?"

2 MS PACK: Correct me if I am wrong, Your Honour, but I do
3 think that is what I asked.

4 JUDGE LUSSICK: If I am wrong, I apologise, Ms Pack. But
11:37:53 5 my note on that question was: "Who was in the Red Lion
6 Battalion?" And then he answered, "mostly STF soldiers". As I
7 say, it would not be the first time I have made a wrong note.
8 So, if I do you an injustice, I apologise.

9 [Trial Chamber confers]

11:39:56 10 MR FOFANAH: Your Honours, may I be excused for a few
11 minutes while you are deliberating?

12 PRESIDING JUDGE: Yes, Mr Fofanah.

13 [TB250505E 11.40 a.m. - EKD]

14 [Trial Chamber confers]

11:58:35 15 PRESIDING JUDGE: Counsel, we're just going to try and
16 check the transcript to clarify that element of the statements or
17 evidence of the witness where he speaks about meeting with -- I
18 just take from my notes: "With Captain Stagger, there were men
19 from STF group," et cetera. That is first thing this morning.
11:58:35 20 And ascertaining, in the light of Mr Knoops' objection, those
21 people I have just quoted, how they moved after they were met en
22 route. So I am just trying to get that transcript.

23 MS PACK: Thank you, Your Honour.

24 PRESIDING JUDGE: Unless, of course, counsel has some clear
11:58:36 25 evidential recollection of exactly where they led from the
26 meeting to the Camp Eddie Town, which is part of the basis of
27 Mr Knoops' objection.

28 [Trial Chamber confers]

29 PRESIDING JUDGE: I am authorised to give the majority view

1 on this objection.

2 The majority view is that there has been established in the
3 evidence a meeting of STF and this witness when they met with
4 O-Five. We have not yet heard how they actually got from that
11:58:36 5 meeting place to Eddie Town. The majority view is we are
6 satisfied this witness knew they were STF because he had seen STF
7 before and was told. And, therefore, the majority view is that
8 the question is admissible in its present form.

9 JUDGE SEBUTINDE: I just wish to state the minority
11:58:36 10 opinion.

11 In my opinion the objection of Mr Knoops should be
12 sustained on the following grounds:

13 From the record we have three times when this witness has
14 spoken of the STF. The first time he refers to the STF, or the
11:58:36 15 first type of evidence regarding STF is with regard to the period
16 1991. He says he knew there they were STF because they were
17 carrying identity cards and he happened to be a member of the SLA
18 and that is how he knew then, in 1991, that they were indeed STF.

19 The second piece of evidence when he speaks about STF is in
11:58:37 20 a meeting in a place - I forget the name of the place - where he
21 met O-Five for the first time with these men when they got to
22 collect them, and he simply stated O-Five was with the STF. At
23 that stage the witness said he knew they were STF because they
24 couldn't -- they were Liberian, they spoke Liberian and they did
11:58:37 25 not speak Krio. And we ruled earlier that in our opinion that
26 statement did not have a basic foundation and needed
27 clarification.

28 Now, the third time that this witness is testifying about
29 the STF is right now, the question which Mr Knoops objected,

1 which is when Ms Pack asked the witness what was Red Battalion
2 comprised of and he says STF.

3 Now, in my opinion probably the closest evidence that we
4 have to laying foundation is with regard to 1991. I do not
11:58:38 5 perceive a connection between that period or men and the STF men
6 that he saw in the SLA in 1991 with the people necessarily that
7 he met with O-Five in the field. I don't see a connection there.
8 And, furthermore, I do not see a connection between the alleged
9 STF men that were with O-Five in the bush and them arriving in
11:58:38 10 the battalion. That foundation has not been laid. In fact, no
11 foundation, as far as I'm concerned, has been laid with regard to
12 the presence of STF at all in this region where we are at.

13 For those reasons I would uphold the objection.

14 MS PACK: Thank you, Your Honour.

11:58:39 15 Q. Now, witness, I will just remind you of my question, which
16 was: How do you know that the Red Lion Battalion consisted of
17 STFs?

18 PRESIDING JUDGE: Actually, the witness said "mostly".

19 MS PACK: Thank you very much, Your Honour.

11:58:39 20 Q. Mostly STFs.

21 A. Just as I earlier said, I, the Operation Commander A and
22 the brigade administrator went round and checked for names,
23 nationality, rank and religion. After this meeting which Gullit
24 appointed a commander and made a new battalion, which was the Red
11:58:39 25 Lion Battalion, it was the STF who he ordered to be in that
26 battalion. And he called Captain Med Bajehjeh to help that
27 battalion.

28 Q. Pause a moment. Med Bajehjeh you have already spoken of,
29 B-A-J-E-H-J-E-H. At this meeting which you've spoken about, when

1 Gullit made these changes, did anything else happen to the
2 organisation of men and commanders?
3 A. Yes.
4 Q. what else happened?
11:58:40 5 A. O-Five was appointed by Gullit as deputy operations
6 commander.
7 Q. Did anything else happen --
8 A. Yes.
9 Q. -- to the organisation of men and commanders? Go on.
11:59:08 10 A. Yes. After which Gullit ordered the operations commander
11 to share these men in their various battalions.
12 Q. Pause. which men? when you say "these men", what did he
13 say?
14 A. The men who came with O-Five were to be distributed to the
11:59:41 15 battalions and the two new battalions that were formed.
16 Q. Witness, do you know from which group the majority of the
17 men who came with O-Five came from?
18 A. Yes.
19 Q. How do you know?
12:00:37 20 A. Most of them are SLAs and I have met them before.
21 Q. Do you know into which battalions the men who came with
22 O-Five were distributed?
23 A. Yes.
24 Q. How do you know?
12:01:12 25 A. well, as the meeting ended Gullit ordered -- that was,
26 sorry, before the end of the meeting. He ordered Operation
27 Commander A and he called O-Five to take the men to the field so
28 that they could be distributed into the various battalions.
29 Q. How do you know that Gullit ordered Operation Commander A

1 and O-Five to take the men to the field for distribution?

2 A. This was in my presence. Just before the meeting he said,
3 "Take these men, go with these commanders and these men to the
4 field to be distributed to the battalions."

12:02:17 5 Q. Into which battalions were the men who came with O-Five
6 distributed?

7 A. In fact, Red Lion Battalion, which was headed by
8 Captain Bajehjeh; the 5th Battalion, which was headed by
9 Lieutenant Colonel Junior Sheriff; and some men, few men were
12:02:44 10 sent to the 1st Battalion, 2nd Battalion, 3rd Battalion and the
11 4th Battalion.

12 Q. Apart from these changes that you have identified, were
13 there any other changes to the organisation of commanders and men
14 under Gullit at Colonel Eddie Town?

12:03:24 15 A. Yes.

16 Q. Tell us, please. How do you know this?

17 A. Well, it was -- it happened later.

18 Q. When?

19 A. That was the time when there was an infighting.

12:03:52 20 Q. We'll leave that, witness. At this time that you're
21 talking about, at the meeting with Gullit after the arrival of
22 O-Five, were there any other changes to the organisation of men
23 and commanders at Colonel Eddie Town?

24 A. Yes.

12:04:18 25 Q. Go on.

26 A. The 4th Battalion commander, Gullit changed him.

27 Q. From whom to whom?

28 A. From Junior Lion to Baski, Major Baski, Saidu Kambolai.

29 Q. I have already spelt these names, Your Honour. Saidu

1 Kambolai was S-A-I-D-U, Kambolai K-A-M-B-O-L-A-I, alias Baski,
2 B-A-S-K-I. Any other changes at this time, witness?
3 A. The only thing promotion of the second lieutenant did take
4 place.
12:05:37 5 Q. How do you know that second lieutenants were promoted?
6 A. I myself was one of the men that were promoted.
7 Q. Promoted to what position?
8 A. We were 30 from RSM. Some were staff sergeants. For
9 example, I was --
12:06:07 10 THE INTERPRETER: Your Honours, I did not get that bit.
11 MS PACK:
12 Q. Could you just repeat your answer, witness?
13 A. I from RSM to second lieutenant.
14 Q. Who gave the promotions?
12:06:41 15 A. It was Gullit that promoted I and the other 30 men that I
16 have been talking about.
17 Q. What rank was O-Five on his arrival?
18 A. Major.
19 Q. Did he remain in that rank to your knowledge?
12:07:17 20 A. No.
21 Q. Who promoted him?
22 A. Gullit.
23 Q. How do you know this?
24 A. It was after the Kukuna operation.
12:07:35 25 Q. Pause a moment, I'll spell that. K-U-K-U-N-A. We'll come
26 back to that, but how do you know that this happened after the
27 Kukuna operation?
28 A. Well, he called Operation Commander A, whom I escorted to
29 him. He said, "And I approve not only of O-Five but other

1 officers." And he promoted them and later he called them from
2 their various battalions and these promotions were read out
3 clearly in front of the deputy commander, Ibrahim Bazy
4 commander, the chief of staff and the military supervisors.

12:08:29 5 Q. What was O-Five promoted to on this occasion?

6 A. Lieutenant colonel.

7 Q. Do you know from this meeting that you have been talking
8 about, when O-Five was appointed to the position of deputy
9 operation commander, do you know whom he reported to?

12:09:02 10 A. Yes.

11 Q. How do you know?

12 A. Since I was with the operation commander, whenever an order
13 came out O-Five would come and meet the operation commanders.
14 And it was from him that used to receive commanders as deputy

12:09:24 15 operation commander.

16 Q. Witness, I'm going to ask you to move on now from O-Five's
17 arrival in Colonel Eddie Town. Now, witness, you've spoken about
18 an attack on Kukuna. Do you know which different --

19 MR KNOOPS: I believe it was an operation he called, not
12:10:11 20 attack.

21 MS PACK: I stand corrected.

22 PRESIDING JUDGE: It was called operation.

23 MS PACK:

24 Q. An operation on Kukuna. Do you know which district Kukuna
12:10:24 25 is in?

26 A. Yes.

27 Q. Which district?

28 A. Kambia District and it is in the Tonko Limba Chiefdom.

29 Q. Witness, do you know what happened on this operation?

1 A. Yes.

2 Q. How do you know what happened on the operation?

3 A. Gullit called the Operation Commander A, while I
4 escorted --

12:11:02 5 THE INTERPRETER: Excuse me, Your Honours, let him go a
6 little bit slower so as to be able to interpret what he says.

7 PRESIDING JUDGE: Did you hear that, Mr witness? Could you
8 go a little bit slower, please.

9 MS PACK:

12:11:18 10 Q. Go on, witness.

11 A. Deputy Commander Ibrahim Bazzy Kamara; the chief of staff,
12 Santigie Borbor Kanu; and called the military supervisors and the
13 battalion commanders.

14 Q. And before the interpreter stopped interpreting you also
12:11:59 15 said that Gullit had called on Operation Commander A while you
16 escorted him; is that correct?

17 A. Yes, it was I and Operation Commander A that moved to
18 Gullit.

19 Q. What happened?

12:12:17 20 A. In this gathering Gullit said there should be a test for
21 the second lieutenants to go and prove themselves. He said now
22 he had ordered so that Madina could be attacked, but, he said,
23 the troops should not attack Madina again.

24 Q. What else did he say then?

12:12:51 25 A. He said now he was going to order that Kukuna be attacked
26 since he had received information that it was the Guineans that
27 were based in Kukuna.

28 Q. Did an attack then take place on Kukuna?

29 A. Yes.

1 Q. How do you know it took place?
2 A. As he was speaking in the meeting, he himself chose the
3 chief of staff, Five-Five, to head the operation, whilst
4 Commander A -- whilst Operation Commander A was also chosen --
12:13:46 5 Gullit also appointed him to go on this operation, and you had
6 the battalion commanders who were also appointed by Gullit to go
7 on this operation, including the Deputy Operation Commander
8 O-Five.
9 Q. Did you remain in Colonel Eddie Town?
12:14:08 10 A. I, Operation Commander A, Five-Five, and the battalion
11 commanders who were chosen moved to Kukuna.
12 Q. What happened when you got there?
13 A. On our arrival at Kukuna I and the troops that arrived
14 there attacked the Guinean troops who were based in Kukuna.
12:14:49 15 Q. How did you know they were Guinean troops?
16 A. We captured one of their radio men, a lieutenant.
17 Q. How did you know he was Guinean?
18 A. First of all, he was with the entire radio in the place.
19 He had his ID card, he was in full Guinean uniform.
12:15:32 20 Q. Do you know what language he spoke?
21 A. Yes.
22 Q. What language?
23 A. He was speaking French.
24 Q. After you fought the Guineans did anything else happen in
12:15:55 25 Kukuna?
26 A. Yes.
27 Q. What happened?
28 A. I and the -- we captured arms and ammunition and we burnt
29 Kukuna Town.

1 Q. Was there anyone else in kukuna apart from the Guineans who
2 you fought?
3 A. It was only the Guineans when they had interviewed this
4 radio man.
12:16:41 5 Q. Were there civilians in kukuna?
6 A. Yes.
7 Q. Did anything happen to the civilians in kukuna?
8 A. They ran away.
9 [TB250505 - CR]
12:16:59 10 Q. Witness, after the kukuna operation, did anything else
11 happen at Colonel Eddie Town?
12 A. Yes.
13 Q. What happened?
14 A. Another operation for Mange Bureh also took place.
12:17:33 15 Q. I will spell that: M-A-N-G-E B-U-R-E-H. Do you know which
16 district Mange Bureh is in, witness?
17 A. Yes.
18 Q. Which district?
19 A. Port Loko District.
12:17:51 20 Q. Do you know who led this operation?
21 A. Yes.
22 Q. How do you know?
23 A. I myself was in this operation.
24 Q. Who led the operation?
12:18:08 25 A. It was Red Red Wine, Ibrahim Bioh Sesay. His call sign was
26 Red Red Wine.
27 Q. And the full name?
28 A. Ibrahim Bioh Sesay.
29 Q. Is that the same Ibrahim Bioh Sesay we've heard from

1 before?
2 A. Yes, military supervisor.
3 Q. Was he supervising anything in particular, Ibrahim Bioh
4 Sesay, at this point?
12:18:59 5 A. Yes, he was the supervisor for the 4th Battalion.
6 Q. How do you know this?
7 A. This was an appointment that was given to him before by
8 Gullit.
9 Q. When?
12:19:35 10 A. This happened at Mansofinia.
11 Q. Now, witness, you've said the operation was led by Ibrahim
12 Bioh Sesay. What happened on the operation?
13 A. In the operation, I and the soldiers who went, captured,
14 heard of Mange Bureh and were able to capture one Nigerian and
12:20:09 15 one Guinean soldier in their full uniform.
16 Q. Did anything else happen on this operation?
17 A. Well, we withdrew from Mange Bureh.
18 Q. Where did you go?
19 A. Back to Colonel Eddie Town.
12:20:41 20 Q. After you got back, did anything happen to the soldiers
21 you'd captured?
22 A. Yes.
23 Q. What happened to them?
24 A. I and the commander who was with Ibrahim Bioh Sesay took
12:21:02 25 them, this Guinean and this Nigerian and reported them to Gullit.
26 Q. Witness, after you got back from this Mange Bureh
27 operation, did anything else happen in Colonel Eddie Town?
28 A. Yes.
29 Q. What else happened?

1 A. Whilst I was at the house with Operation Commander A,
2 Gullit had to call him whilst I escorted him and as we went to
3 Gullit, he said we should go to the set, said the radio man had
4 called him.

12:21:50 5 Q. Did you go to the set then?

6 A. Yes, yes, together with Ibrahim Bazy Kamara, Santigie Bo
7 Bo Kanu and the military supervisors, including the deputy and
8 the Operation Commander 0-Five.

9 Q. Now, when you got to the set, did anything happen?

12:22:22 10 A. Yes.

11 Q. What?

12 A. A call from SAJ Musa.

13 Q. How did you know it was a call from SAJ Musa?

14 A. The radio man, he himself told me and the call sign that
12:22:43 15 SAJ used, Eagle, showed that he was the one talking.

16 Q. What was said on this communication?

17 A. SAJ said there had been an in-fight with the RUF in
18 Koinadugu and they had dislodged his position.

19 Q. Did he say anything else?

12:23:09 20 A. Now, he had left with some soldiers. He was heading
21 towards Colonel Eddie Town.

22 Q. Witness, did SAJ Musa subsequently arrive in Colonel Eddie
23 Town?

24 A. Yes.

12:23:34 25 Q. I'm going to ask you about the period after his arrival at
26 Colonel Eddie Town. Now, when SAJ Musa arrived in Colonel Eddie
27 Town, did anything happen?

28 A. Before he arrived, something happened and when he came,
29 changes took place.

1 Q. what happened when SAJ Musa arrived in Colonel Eddie Town?
2 A. There was a complete change of command.
3 Q. How do you know there was a complete change of command?
4 A. I, myself, saw with my eyes while SAJ was making his own
12:24:29 5 administration and read it out.
6 Q. where did he read it out?
7 A. This was in the field at Colonel Eddie Town.
8 JUDGE SEBUTINDE: Sorry, counsel, did he say when SAJ made
9 this restructure?
12:24:48 10 MS PACK: Making his own administration, but let me ask--
11 JUDGE SEBUTINDE: SAJ?
12 MS PACK: Yes.
13 Q. Do you know how many men SAJ Musa arrived with in Colonel
14 Eddie Town?
12:25:09 15 A. I cannot state the right amount, but SAJ he himself said he
16 came with 250 men power.
17 Q. Witness, what did SAJ do when he made his own
18 administration, which he read out at Colonel Eddie Town?
19 A. well, SAJ became the chief in command, whilst Gullit became
12:25:54 20 the deputy chief in command.
21 Q. How do you know this?
22 A. This happened before me while SAJ was reading these
23 positions.
24 Q. were there any other changes that you recall SAJ making in
12:26:23 25 his own administration at Colonel Eddie Town?
26 A. Yes.
27 Q. Go on.
28 A. He had the BFI; SAJ, including his administration; the
29 battlefield inspector.

- 1 Q. Pause. Was this a new appointment?
- 2 A. Yes, which SAJ made.
- 3 Q. Was this new appointment made at the same place in the
4 field at Colonel Eddie Town that you have spoken about?
- 12:27:15 5 A. Yes, just as SAJ had been reading his administration, he
6 mentioned this BFI, whom he appointed and he appointed Colonel
7 Konjoh.
- 8 Q. I'm going to spell that. It's K-O-N-J-O-H. Do you know
9 who Colonel Konjoh was?
- 12:27:39 10 A. Yes.
- 11 Q. Who was he?
- 12 A. He was a member of the Sierra Leone Army?
- 13 Q. Had you seen him before?
- 14 A. Yes.
- 12:27:57 15 Q. Where had you seen him?
- 16 A. In the army; we had worked together before.
- 17 Q. Had you worked with him before in Bombali district and
18 Colonel Eddie Town?
- 19 A. No.
- 12:28:27 20 Q. Had he come with SAJ Musa?
- 21 A. Yes.
- 22 Q. From this meeting that you attended in the field when SAJ
23 read out his administration, are you able to say to whom the BFI,
24 Konjoh, reported?
- 12:28:52 25 A. That was spelt out by SAJ Musa clearly that the battlefield
26 inspector should report to him directly.
- 27 Q. From this meeting that you attended, are you able to say
28 whom, if anyone, Konjoh was subordinate to?
- 29 MR KNOOPS: Your Honour, I object. There is no foundation

1 that this witness has knowledge of the military structure and the
2 terms like subordination. He only indicated that he was able to
3 see or he heard to whom Mr Konjoh had to report to, what I
4 recall. It's my estimation that this witness is not able to
12:29:56 5 answer questions on any military relationship which clearly stems
6 from the term like "subordinate". Your Honours have already
7 ruled he is not a military expert.

8 JUDGE LUSSICK: I think he can answer that question. He
9 was only asked, "Are you able to say". He can say yes or no to
12:30:20 10 that.

11 MS PACK:

12 Q. Would you like me to repeat the question, witness? Are you
13 able to say from this meeting, and what you heard at this meeting
14 to whom Konjoh, the battlefield inspector, was subordinate, if
12:30:45 15 anyone?

16 A. Yes.

17 Q. How are you able to say that he was subordinate to anyone?

18 A. He was subordinate in rank.

19 JUDGE LUSSICK: You weren't asked that, witness, you were
12:31:11 20 asked how are you able to say he was subordinate.

21 THE WITNESS: The rank which he carried on was colonel.
22 But his appointment superseded some positions -- the appointments
23 that SAJ gave him superseded other people in the brigade.

24 MS PACK:

12:31:46 25 Q. So when you say he was subordinate in rank, are you able to
26 say who he was subordinate in rank to from what was said at this
27 meeting?

28 A. Yes.

29 Q. How are you able to say that?

1 A. Well as a military, this was clearly shown when SAJ Musa
2 had read out his appointment and spelled out who this man was
3 working under, to whom he was subordinate to in rank. SAJ Musa
4 spelt that out clearly to the whole of the troop where I was
12:32:29 5 present.

6 Q. Who did SAJ Musa say that Konjoh was subordinate in rank
7 to?

8 MR KNOOPS: Your Honour, I object. The witness answered
9 before that it was a matter of reporting. He didn't use himself
12:32:46 10 the words that SAJ Musa read out that somebody was subordinate to
11 the other; they are the words of the Prosecutor.

12 MS PACK: No, it isn't. The witness just said SAJ Musa
13 spelled out who this individual was subordinate in rank to. I'd
14 asked him originally a question about reporting. I asked a
12:33:06 15 subsequent question about who he was subordinate to, and the
16 witness has just embarked upon SAJ Musa spelled out who he was
17 subordinate to. I would like him to be able to answer that
18 specific question: subordinate in rank to.

19 PRESIDING JUDGE: Mr Knoops, I have recorded he spelt out
12:33:22 20 to the whole troop and subordinate to. That's the record I have.

21 JUDGE SEBUTINDE: I have the first statement that this
22 witness said. He said SAJ Musa clearly stated that the FBI [sic]
23 should report to him, and in brackets I have indicated Musa,
24 directly. Then we went into questions, reported to him directly.
12:33:46 25 That's the first statement this witness made. Then questions
26 followed that alluding to rank, or subordination, and this
27 witness responded by saying, "I know that Konjoh was subordinate
28 in rank to certain other ranks," to which then the Prosecutor
29 asked him who was he subordinate to and how he knows that. You

1 didn't ask which rank he was subordinate to. You asked him who
2 was he subordinate to. Then the witness replied and I'm not sure
3 of the interpretation that came through. I'm not sure whether
4 the witness is using the word "reported" synonymously with or as
12:34:33 5 meaning the same thing as subordinate to. I think that
6 distinction should be made clear, in all fairness.

7 MR KNOOPS: Your Honour, with all due respect, I think the
8 problem until so far with this witness and this question is that
9 the term "subordinate" has different connotations. It can be
12:34:53 10 subordination in rank, it can also be subordination in the
11 factual sense of the word. Without the witness giving any
12 explanation of what he understands of subordination - he may
13 refer to ranking - I think it's not proper to continue on this
14 line of questioning without having laid the foundation of what
12:35:17 15 this witness understands of subordinate. As such, the term
16 subordinate is a term which relates to a form of military
17 hierarchy. For that hierarchy, there is no foundation laid by
18 this witness yet, other than referring to certain ranking. In
19 addition to that, the witness earlier on referred to reporting.

12:35:48 20 It is also my submission in this context that this witness
21 is answering the questions in an unresponsive way. He is
22 unresponsively answering questions. He is voluntarily asking
23 questions with new materials which have not previously had any
24 foundation that leaves the Defence again with the problem that
12:36:14 25 when this witness is answering every time with different -- on
26 different questions which were not put to him it gives us no
27 opportunity to object timely. In my submission, the witness
28 should again be directed to only answer questions he voluntarily
29 comes with certain information. My primary objection still

1 stands, that without having any foundation as to the term
2 subordinate, it's not proper to continue to ask this witness
3 questions on who Mr A is subordinate to whom, et cetera.

4 MS PACK: Your Honour, the witness isn't being
12:37:00 5 unresponsive. He's being asked questions about what he heard
6 SAJ Musa say at this meeting in relation to various things,
7 including who individuals report to, who -- and the witness has
8 introduced a concept of subordinate in rank to, and so on. So
9 he's giving evidence as to what he heard at this meeting, which
12:37:21 10 of course he's entitled to do. This witness is perfectly capable
11 of giving evidence about who was subordinate to whom in this
12 organisation of men. Your Honour has heard him give evidence
13 about who was subordinate to whom on numerous occasions now.
14 This witness, you have heard, Your Honours, himself was a ranking
12:37:41 15 officer who himself, Your Honours have heard now, received
16 promotion from XXX to XXXXXX. He is perfectly
17 equipped therefore to know about promoting from rank; what a rank
18 is; to know who in what rank is subordinate to whoever in another
19 rank. This is evidence that this witness is perfectly capable of
12:38:02 20 giving. In any event, on this particular issue upon which my
21 learned friend Mr Knoops is presently objecting, this witness is
22 talking about what happened at a meeting, and he should be able
23 to continue to do that.

24 JUDGE SEBUTINDE: Ms Pack, are you now suggesting this
12:38:21 25 witness is now a military expert, where we are at?

26 MS PACK: No, I've never suggested he's a military expert.

27 JUDGE SEBUTINDE: Because you just said that he is
28 perfectly capable of testifying as to ranks, generally.

29 MS PACK: Your Honour, in my submission, he is and always

1 has been capable of giving evidence about who was doing what and
2 who was subordinate or superior to whom so ever in their various
3 ranks or positions held in the organisation of men under:
4 Gullit, SAJ Musa, Superman and so forth. It is, in fact, the
12:38:52 5 position that this witness himself was promoted in rank.

6 A further illustration of his ability to know and to be
7 able to distinguish between ranks, between appointments and to
8 know who was subordinate to whom and so forth, or superior
9 subordinate in the various organisations of men in the various
12:39:12 10 organisations of men in which he was part. He has also given
11 evidence, of course, Your Honours will recall, on numerous
12 occasions on his association, and I go no further than that in
13 open session, with Operation Commander A.

14 Now, Your Honour, I'm not asking this witness for his
12:39:30 15 opinion about anything. I'm asking him for evidence of rank
16 which is not opinion evidence. It is evidence as to fact. It is
17 a fact that someone held a rank. It is a fact that someone was
18 subordinate or superior to someone else. It's not an opinion.

19 MR KNOOPS: Your Honour, if I may, by way of last remark.
12:39:55 20 I think a clear distinction should be made to what somebody like
21 SAJ Musa said about who was subordinate to another. In this
22 respect, the Prosecution asked this witness which person was
23 subordinate to which person. That's the difference. In that
24 way, there is an opinion asked from this witness from whom he
12:40:20 25 believes is subordinate to. That is something different when you
26 ask this witness what was said by SAJ Musa about the relationship
27 in terms of subordination between certain people.

28 MS PACK: Your Honour, just on a point of information, and
29 my apologies to Mr Knoops, but to clarify the point of

1 information, which is I didn't ask an opinion question. I did
2 ask are you able to say from the meeting with SAJ Musa --

3 JUDGE SEBUTINDE: Ms Pack, we would really appreciate it if
4 you'd respect the other side. We all have our notes of what you
12:41:00 5 said and didn't say. They don't interrupt you, but you
6 immediately stand up and interrupt. I think it is not right.

7 MS PACK: My apologies, Your Honour and to my learned
8 friend Mr Knoops.

9 MR KNOOPS: Accepted. No problem. It reinforces my
12:41:15 10 objection that the Prosecution has asked for a deduction from
11 this witness based on a meeting on this particular field whereby
12 SAJ Musa apparently, or allegedly, declared something about
13 subordination between certain people.

14 In my submission, of course, this witness can testify what
12:41:38 15 he heard somebody saying about a relationship in military terms,
16 but it is, I think, out of bounds to ask this witness,
17 accordingly, for his opinion on the subsequent relationship
18 between certain people in military terms. Again, I think this
19 distinction should be clearly made by the Prosecution in their
12:42:00 20 questions. Our objection is that we don't have any objection as
21 to what this witness heard people saying, but merely what he
22 deduces from it in these terms and what he thinks about that
23 particular relationship from his own perspective. I hope my
24 point is made clear to Your Honours.

12:42:25 25 JUDGE LUSSICK: I see your point, Mr Knoops. I think the
26 whole issue could be cleared up if the witness simply said what
27 he heard SAJ Musa say in the first person, the actual words that
28 SAJ Musa used, not the witness's interpretation of what he thinks
29 SAJ Musa said. In national trials, if a witness is giving

1 evidence of what he heard somebody else say, he must say the
2 exact words. If SAJ Musa, for instance, said, "I give you all
3 notice that the BFI is subordinate to so and so," then those
4 actual words should be used by the witness. Mr Knoops is
12:43:23 5 objecting to the witness speaking in the third person over
6 something that SAJ Musa says. He's saying that that can be just
7 the witness's interpretation. In my own view, and I'm not
8 speaking from the Bench because we haven't conferred yet, my own
9 view, that question in that form should not be allowed.

12:43:48 10 JUDGE SEBUTINDE: I agree.

11 PRESIDING JUDGE: I agree with that, too. I would again
12 remind the witness to answer the question asked. As counsel for
13 the Defence has pointed out, he does wander and elaborate. This
14 is what leads to the problems.

12:44:33 15 Counsel, now we have dealt with that particular objection,
16 it's almost our usual time for adjourning for lunch. This may be
17 an appropriate time to adjourn, unless there is some very
18 pertinent matter, Ms Pack?

19 MS PACK: Only the question in a revisited form. I can
12:44:50 20 deal with that tomorrow.

21 PRESIDING JUDGE: Very well. We will therefore adjourn
22 until tomorrow since today is Wednesday and we deal with other
23 matters on Wednesday afternoon.

24 Mr witness, you recall that you were warned about taking
12:45:05 25 the oath and the obligation on you not to discuss your evidence
26 with anyone else until your evidence is finished. I again remind
27 you of that obligation. Do you understand?

28 THE WITNESS: Yes, My Lord.

29 [Whereupon the hearing adjourned at 12.45 p.m.,

1 to be reconvened on Thursday, the 26th day
2 of May 2005, at 9.15 a.m.]
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WITNESSES FOR THE PROSECUTION:

WITNESS TF1-334 2

EXAMINED BY MS PACK 2