

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

WEDNESDAY, 29 JUNE 2005
9.20 A.M.
TRIAL

TRIAL CHAMBER II

Before the Judges:	Teresa Doherty, Presiding Julia Sebutinde Richard Lussick
For Chambers:	Mr Simon Meisenberg
For the Registry:	Mr Geoff walker
For the Prosecution:	Ms Wambui Ngunya Ms Melissa Pack Mr Alain Werner Ms Maja Dimitrova (Case Manager)
For the Principal Defender:	No appearances
For the accused Alex Tamba Brima:	Mr Kojo Graham Mr Osman Keh Kamara
For the accused Brima Bazy Kamara:	Mr Mohamed Pa-Momo Fofanah Mr Ibrahim Foday Mansaray
For the accused Santigie Borbor Kanuu:	Mr Ajibola E Manly-Spain Ms Viola Trebicka (intern)

1 [TB290605A - EKD]
2 wednesday, 29 June 2005
3 [The accused not present]
4 [Open session]
09:19:58 5 [Upon resuming at 9.20 a.m.]
6 WITNESS: TF1-206 [Continued]
7 [The witness answered through interpretation]
8 PRESIDING JUDGE: Unless there is some other preliminary
9 matters I will remind the witness of his oath. Mr Witness, you
09:28:13 10 recall yesterday you swore to tell the truth?
11 THE WITNESS: Yes, yes.
12 PRESIDING JUDGE: That oath and promise to tell the truth
13 is still binding on you. You must answer all questions
14 truthfully. Do you understand?
09:28:33 15 THE WITNESS: Yes.
16 PRESIDING JUDGE: Thank you. Please proceed. I note there
17 is none of the accused in court. Yesterday Mr Kanu was in court.
18 There is no one here today. What is the situation?
19 MR MANLY-SPAIN: May it please Your Honour, Mr Kanu told me
09:28:56 20 yesterday before we left that he is having a medical appointment
21 for medical examination this morning. That is why he wouldn't be
22 here today.
23 PRESIDING JUDGE: Thank you, Mr Manly-Spain. We will note
24 under Rule 60 that he has voluntarily absented himself.
09:29:13 25 Mr Court Attendant, could you assist us, please. Mr Manly-Spain,
26 your light is on. Is there something you wish to address?
27 MR MANLY-SPAIN: It is for me to continue, Your Honour.
28 PRESIDING JUDGE: Indeed, you're quite right. Please
29 continue with your cross-examination.

1 CROSS-EXAMINED BY MR MANLY-SPAIN: [Continued]

2 Q. Mr Witness, good morning.

3 A. How is the morning, sir?

4 Q. Yesterday I believe we finished off when I was asking you
09:29:49 5 whether you saw any ECOMOG soldiers -- any soldiers between 9th
6 and 12th of April 1998. Do you remember?

7 A. Yes, I do remember.

8 Q. Before 12th April 1998 did you see ECOMOG soldiers in your
9 area of Kono?

09:30:25 10 A. Where I was at Massingbi, when I left Freetown and went
11 back, that's where I saw them.

12 Q. You saw them at Massingbi?

13 A. Yes.

14 Q. May I ask you, Mr Witness, do you know whether they were in
09:30:46 15 control of Massingbi?

16 A. They were in control.

17 Q. Is Massingbi, Mr Witness, a town along the Makeni-Kono
18 highway?

19 A. Yes.

09:31:31 20 Q. Would you agree with me, Mr Witness, that when somebody is
21 coming from Makeni to go to Kono, that person would have to go
22 through Massingbi on the highway?

23 A. Yes.

24 Q. Mr Witness, you remember you told us about February 1998
09:32:03 25 when you said soldiers passed through Kono with Johnny Paul
26 Koroma?

27 A. Yes.

28 Q. Before that time, Mr Williams -- Mr Witness, were there SLA
29 soldiers in Kono?

1 A. Well, the soldiers were there.

2 JUDGE SEBUTINDE: Mr Manly-Spain, which soldiers are we
3 referring to; ECOMOG soldiers or other soldiers or what are we
4 referring to?

09:32:56 5 MR MANLY-SPAIN: I'm grateful, Your Honour.

6 Q. SLA soldiers. I am asking about SLA soldiers.

7 A. Well, I did not know whether SLA soldiers were there at
8 that time, because I was not in the town. I was in the village.

9 Q. Mr Witness, after the overthrow of the AFRC, do you know
09:33:33 10 whether any other soldier -- group of soldiers -- any other force
11 of soldiers occupied Kono apart from the SLAs that I asked you
12 about before?

13 A. Well, I don't know about that, because I was not going in
14 to Koidu Town. I was in my village.

09:34:03 15 Q. Finally, Mr Witness, between February of 1998 and April of
16 1998, were you aware of any fighting in Kono between SLA
17 soldiers, on the one hand, and ECOMOG and Kamajors on the other
18 hand?

19 A. I did remember, but I was in my village. We did hear that.

09:35:17 20 MR MANLY-SPAIN: That is all, Your Honour.

21 PRESIDING JUDGE: Thank you, Mr Manly-Spain. Mr Fofanah,
22 you had indicated yesterday that you were going to cross-examine
23 next.

24 MR FOFANAH: Yes, Your Honour.

09:35:29 25 PRESIDING JUDGE: Mr Fofanah, we have noted the absence of
26 your client in court and you have indicated to us you sought
27 leave to leave early today. Is your client's interest going to
28 be protected in your absence?

29 MR FOFANAH: Certainly, Your Honour. I have discussed

1 things with my college, Mr Graham, and he has decided to look
2 over my interest.

3 PRESIDING JUDGE: Please proceed, Mr Fofanah.

4 MR FOFANAH: Most grateful, Your Honour.

09:36:10 5 MR MANLY-SPAIN: May it please Your Honour, I am more or
6 less in the same boat as my learned friend. My situation is that
7 I was served with an application to attend court this morning in
8 Freetown and I want to crave your indulgence to excuse me for
9 about an hour. I will try to come back. It is an urgent summons
09:36:31 10 that was served at my chambers yesterday afternoon and I got to
11 know about it this morning.

12 PRESIDING JUDGE: Your client up until now has been present
13 and you have explained this morning why he is not present. What
14 about his interests?

09:36:47 15 MR MANLY-SPAIN: Ms Trebicka will be taking --

16 PRESIDING JUDGE: Yes, indeed, she is here.

17 JUDGE LUSSICK: When do you want to go, Mr Manly-Spain?

18 MR MANLY-SPAIN: I should appear at 10.00, Your Honour.

19 PRESIDING JUDGE: Mr Manly-Spain, it is our understanding
09:37:54 20 that this lady is not a member of the bar.

21 MR MANLY-SPAIN: Yes, Your Honour. I mentioned that she
22 will be taking notes. I didn't complete that I have asked
23 Mr Graham to watch my interests.

24 PRESIDING JUDGE: Thank you, Mr Manly-Spain. We have noted
09:38:12 25 that.

26 MR MANLY-SPAIN: Much obliged.

27 PRESIDING JUDGE: In the light of that and in the light of
28 the traffic, Mr Manly-Spain, you better be making your way out.

29 MR MANLY-SPAIN: Thank you.

1 PRESIDING JUDGE: Yes, Mr Fofanah, please proceed.
2 MR FOFANAH: Most grateful, Your Honour. My colleague
3 Mr Mansaray will also be taking notes in my absence.
4 PRESIDING JUDGE: We note that, thank you.
09:38:33 5 CROSS-EXAMINED BY MR FOFANAH:
6 Q. Good morning, Mr Witness.
7 A. How is the morning, sir?
8 Q. Fine. Mr Witness, you were testifying yesterday and I am
9 going to ask you questions about what you told the Court
09:38:48 10 yesterday. Mr Witness, when you left your village for the first
11 time to Freetown did you go through Makeni?
12 A. Yes.
13 Q. How long did you spend in Makeni?
14 A. Well, I do not know the time any more.
09:39:19 15 Q. Did you take up to a week there?
16 A. It was more than one week.
17 Q. And from Makeni you came to Freetown; not so?
18 A. Yes.
19 Q. Do you recall about what time you left your village for
09:39:43 20 Makeni -- for Freetown via Makeni?
21 A. I left Freetown on 7th for Makeni.
22 Q. No, I mean on your way to Freetown you said you went
23 through Makeni. I want to know when was the time you left your
24 village for Freetown via Makeni?
09:40:15 25 A. Well, I do not remember the time.
26 Q. Okay, we'll come to Freetown. You just said you left
27 Freetown on 7th April 1998; not so?
28 A. Yes, sir.
29 THE INTERPRETER: Your Honours, can the witness be a little

1 audible.

2 PRESIDING JUDGE: Mr Witness, could you bring the
3 microphone a little closer to yourself and speak a little louder
4 so the interpreter can hear you. Mr Court Attendant, maybe you
09:40:52 5 can assist.

6 MR FOFANAH: May I proceed, Your Honour?

7 PRESIDING JUDGE: Yes, Mr Fofanah, please proceed.

8 MR FOFANAH:

9 Q. So Mr witness, you said you left Freetown on 7th and
09:41:04 10 arrived at Masingbi - not so - on the same day?

11 A. Yes.

12 Q. And did you say you arrived at your village on 9th April
13 1998?

14 A. Yes.

09:41:28 15 Q. That was on the first day?

16 A. Yes.

17 Q. You're absolutely sure that was the day you arrived at your
18 village Bomboafuidu; not so?

19 A. Yes.

09:41:52 20 Q. Mr witness, do you recall giving an additional information
21 to the Prosecution on 11th March this year?

22 A. I do remember.

23 Q. I'm going to read out to you a statement you made from that
24 information and you tell me whether you made that statement or
09:42:21 25 not?

26 MR FOFANAH: Your Honours, I'm reading from page 7349 of
27 the records at paragraph 9. Can I proceed, Your Honours?

28 PRESIDING JUDGE: Yes, please do so.

29 MR FOFANAH:

1 Q. Now, Mr Witness, this was what you told the Prosecutor,
2 those who took the further information from you. You said: "I
3 arrived in my village on 10th April 1998. I remember the precise
4 day because 9th April was the date of a Muslim festival." Did
09:43:05 5 you say that to the statement-takers -- to the Prosecutor, I'm
6 sorry?

7 A. No.

8 Q. You did not?

9 A. It was on a Thursday. I reached my village on a Thursday.

09:43:28 10 Q. But certainly, Mr Witness, that first day was not 9th; not
11 so? Was it 9th April 1998?

12 PRESIDING JUDGE: You have two questions there, Mr Fofanah.
13 which one do you wish to ask?

14 MR FOFANAH:

09:43:52 15 Q. Was Thursday the 9th April 1998?

16 A. Well, if I do forget the date, but the day was Thursday
17 when I reached my village. That I can't forget.

18 Q. Mr Witness, in the statement I just read out to you you
19 said in that statement that you remember the precise day of your
09:44:20 20 arrival at the village as 10th because the day prior to that was
21 9th and it was a Muslim festival. Did you not say that,
22 Mr Witness?

23 A. That Muslim holiday met me in Massingbi. I passed the
24 night in Massingbi, then I passed.

09:45:03 25 Q. And you subsequently arrived in your village on 10th April;
26 not so?

27 A. That was on a Thursday.

28 Q. Was it on 10th April, Mr Witness, 1998?

29 A. Yes, sir. That was on a Thursday.

1 Q. So Mr witness, why did you tell the Court yesterday that
2 you arrived there on 9th April 1998?

3 A. I thought that Thursday was on 9th. That was why I said
4 so, but I wouldn't forget the day.

09:45:55 5 Q. Okay, we'll move forward, Mr witness. Before the rebels
6 attacked your village Bomboafuidu were Kamajors coming to that
7 village?

8 A. Kamajors did come to the village. They were coming from
9 the Mende area and they came to sell salt. Because at that time
09:46:27 10 no vehicles were going through, the roads were blocked. People
11 were not walking, people were not going around. It was the
12 Kamajors who were going around, selling salts in the villages.

13 Q. Were these Kamajors armed when they were coming to your
14 village?

09:46:42 15 A. Well, those who were selling salt were not armed. But
16 there was some armed Kamajors who were coming and they did shoot
17 around, which caused us to run away. And they took some things
18 away. And after that we came back to the village.

19 Q. So when was it that these Kamajors came through your
09:47:08 20 village, shooting and looting?

21 A. Well, at that time Johnny Paul had not passed.

22 Q. How long was it before Johnny Paul, according to you,
23 passed through your village?

24 A. Well, it took a long time.

09:47:44 25 Q. Mr witness, is your village located along the main highway
26 to Kono?

27 A. It's not on a main highway. It's off the main highway.

28 Q. How far is it from the main highway?

29 A. It's about 3 miles.

1 Q. Now, did you say you heard vehicles, trucks and buses,
2 passing by allegedly carrying Johnny Paul to Kono?

3 A. Yes, yes.

4 Q. And you heard the sound of those vehicles from your village
09:48:46 5 three miles away; not so?

6 A. Yes, yes. I was not the only person who heard - all of us
7 who were in the village.

8 Q. How did you know that persons other than you heard the
9 sound?

09:49:03 10 A. Because all of us came out and stood and we heard the sound
11 of the vehicles as they went by.

12 Q. How did you know that the vehicles included buses and
13 trucks?

14 A. How I knew, when I came from Freetown to Massingbi, Makeni
09:49:36 15 to Massingbi, I met a charter bus on the road and Kamajors were
16 removing parts from the bus. That bus had broken down on its way
17 to Kono so they abandoned it there. So I met the Kamajors
18 removing parts from there. So we just left there and went by.

19 Q. But this was before you arrived at your village; not so?

09:49:59 20 A. When I was coming from Massingbi to my village.

21 Q. You said you heard the sound of these trucks and buses when
22 you were in your village?

23 A. Yes.

24 Q. Mr witness, I'm putting it to you that because you did not
09:50:27 25 see these trucks and buses yourself, you wouldn't have known if
26 they were in fact trucks and buses. I'm putting that to you,
27 Mr witness.

28 A. I heard the sound of the trucks, then I saw the bus which
29 broke down on the highway.

1 Q. Did you see the bus yourself when it was going to Kono?

2 A. It was when it broke down and when I was coming from
3 Massingbi going to my village, it broke down. That was the bus
4 that they were going with.

09:51:19 5 Q. Now, Mr witness, you recall testifying that rebels came to
6 your village; not so - men in combat, according to you?

7 A. Yes. Yes, yes.

8 Q. You have said that there were about a hundred of you in
9 that village before they came?

09:52:09 10 A. Yes.

11 Q. Now, to the best of your knowledge, were at least most of
12 these people present in the village at the time of the arrival of
13 the rebels?

14 A. Yes, people were in the village.

09:52:34 15 Q. I mean most of them. To the best of your knowledge, the
16 majority of them, were they present?

17 A. Yes, those who were in the town were more than those who
18 were in the bush.

19 Q. Are you saying that there were still people in the bush
09:52:56 20 from your village when the rebels arrived?

21 A. Yes, the women and the children stayed in the bush.

22 Q. You mean all the women and the children?

23 A. It's not all the women.

24 Q. So how many women did you see in the village when the
09:53:31 25 rebels arrived?

26 A. The women were there and they were many, but they escaped
27 together with some people. Some escaped together with some
28 people.

29 Q. When did they escape?

1 A. At the time when the attack happened.

2 Q. After the attack, when, according to you, the rebels were
3 now in the village, did you see any woman?

4 A. We are captured together with some women.

09:54:19 5 Q. Do you know how many of these women were captured together
6 with you?

7 A. Seven women.

8 Q. Do you recall testifying that these seven women were laid
9 on the ground and then the rebels selected seven of you to have
09:54:45 10 sex with them; not so?

11 A. Yes, yes.

12 Q. According to you, all seven of you had sex with them; not
13 so?

14 MR WERNER: I object. "All seven of you". There were more
09:55:01 15 than seven men. Seven men were selected is what he's saying in
16 examination-in-chief. All seven of you doesn't mean anything.

17 PRESIDING JUDGE: Your reply?

18 MR FOFANAH: I think the question is clear enough. I'm
19 referring to the seven people who were selected to have sex with
09:55:21 20 the seven women.

21 PRESIDING JUDGE: I think put it as clearly as that then,
22 Mr Fofanah.

23 MR FOFANAH: Most grateful, Your Honour.

24 Q. Now the seven of you who were selected to have sex with the
09:55:32 25 seven women who were placed on the ground, in fact had sex with
26 the seven women; not so?

27 A. When death is hanging over you, you have no option.
28 whatever they say, you just say, "Yes, sir." If you refuse you
29 will be killed, so you just have to accept what you have been

1 told.

2 Q. So the seven of you were forced to have sex with these
3 women; not so?

4 A. Yes, yes.

09:56:02 5 Q. You are absolutely sure about that, that seven of you were
6 involved in this; seven women, seven men?

7 A. Yes, I'm sure of that.

8 Q. Okay, Mr witness. Do you recall making a statement on the
9 18th of September 2003? The first one I read to you was in March
09:56:40 10 2005. This one was on the 18th of September 2003. Do you recall
11 anybody taking a statement from you from the Special Court?

12 A. Yes, I do remember.

13 Q. Mr witness, I'm going to read out statements contained in
14 that statement and then you tell me if you made those statements
09:57:10 15 to the statement-taker.

16 MR FOFANAH: Your Honours, I'm referring to - I think it is
17 7344. 7344, Your Honours. It should be the second paragraph
18 starting with: "Then the commander ordered some soldiers". I
19 don't know if you've seen it. Can I go on, Your Honours?

09:57:48 20 PRESIDING JUDGE: Please proceed, Mr Fofanah.

21 MR FOFANAH:

22 Q. Mr witness, this is what I have in that statement and
23 kindly tell me if you recall making it or not: "Then the
24 commander ordered some soldiers to remove the women from the
09:58:02 25 group. There were seven women in the group. They removed all of
26 them except a woman named ~~XXXXX XXXXXX~~. The six women they
27 picked included" --

28 PRESIDING JUDGE: Pause. Mr witness, do you have any
29 problems with counsel reading the next name - the person who is

1 your mother-in-law?

2 THE WITNESS: No.

3 PRESIDING JUDGE: Proceed, Mr Fofanah.

4 MR FOFANAH:

09:58:51 5 Q. In any case, I will just read out as mother-in-law if you
6 are okay with that. "The six women they picked included my
7 mother-in-law. XXXXX later told me she thinks they had left her
8 because earlier in the evening a few of the rebels who seemed to
9 have been on a mission to get intelligence from the village
09:59:14 10 bought cigarettes from her."

11 THE INTERPRETER: Mr Fofanah, you are a little fast for the
12 interpreter.

13 MR FOFANAH: I'm exceedingly sorry. I will go over it
14 slowly.

09:59:23 15 Q. "The six women they picked included my mother-in-law.
16 XXXXXX later told me that she thinks they had left her because
17 earlier in the evening a few of the rebels who seemed to have
18 been on a mission to get intelligence from the village bought
19 cigarettes from her. XXXXX had no idea that at that point that
09:59:58 20 the two were rebels, nor why they spared her. There were more
21 men than women, because not that many women and children had felt
22 safe enough to come out of the bush." Mr witness, do you recall
23 saying that to the statement-taker?

24 A. Yes.

10:00:31 25 Q. So based on what I've read to you, only six women were in
26 fact allegedly involved in this sexual intercourse with the seven
27 of you men; not so?

28 A. There were seven of them. They took six women to go and
29 burn them, and they left the one.

1 Q. Yes, I am just saying that in this statement you said seven
2 women were picked out but XXXXX was later left out. XXXXX was
3 left out of the ordeal you had with the women because, according
4 to you, XXXXXX had had contact with the rebels prior to their
10:01:20 5 coming to the village.

6 JUDGE SEBUTINDE: Mr Fofanah, what ordeal are you referring
7 to?

8 MR FOFANAH: The sexual intercourse, Your Honour.

9 JUDGE SEBUTINDE: Is that what the statement says? That
10:01:34 10 particular paragraph you have read contains nothing about sexual
11 intercourse.

12 MR FOFANAH:

13 Q. Mr witness, when were these seven women picked out of the
14 group?

10:01:55 15 A. It was after they had killed that women and that boy had
16 run away, and we too were trying to run away when the other boy
17 was caught and he was beaten. It was after that that the --
18 after they had placed the women down and they had had sex with
19 them, that was when they took the six women to go and burn them.

10:02:28 20 Q. So are you now saying that XXXXX in fact had sex with one
21 of the seven men?

22 A. Yes, she was involved. She too was laid down and it was
23 done together.

24 Q. Mr witness, I'm going to read a subsequent statement just
10:03:10 25 below what I have read and then you tell me if you made that
26 statement. This, according to you, follows from what I have just
27 said when you said seven women were picked out, including XXXXXX
28 XXXXX, but then you said six of them were chosen from that
29 seven. Now you have said it was for burning. I am going to read

1 out a statement following from that and you tell me whether you
2 recall making it. You said, "Then the commander told the women
3 to lie down naked in front of him. He started pointing at men in
4 our village, including me, and eventually picked out six of us.
10:04:03 5 He instructed us to come forward. Then the rebels walked around
6 the six women, kicking their legs apart, and ordered us to have
7 sex with the women." Do you recall making that statement,
8 Mr witness?

9 A. Yes.

10:04:34 10 Q. So do you now agree with me that in fact there were six of
11 you men chosen to have sex with six women, according to your
12 story?

13 A. We were seven. There were seven women and seven of us were
14 selected. And after that they picked up the six women to go and
10:04:51 15 burn them.

16 Q. So you never in fact made this statement that six men had
17 sex with six women?

18 A. We were seven, and together with seven women.

19 Q. Just a yes or no, Mr Witness. You never in fact made the
10:05:16 20 statement that six men had sex with six women on that day; yes or
21 no, Mr Witness?

22 A. No.

23 Q. You did not make that statement?

24 A. We were seven.

10:05:37 25 Q. Okay, no problem. We'll still move forward. Mr witness,
26 you will recall saying that the rebels came to your village at
27 about 2.00 in the morning, not so, when you were sleeping?

28 A. Yes.

29 Q. You said they were there until - correct me if I am wrong -

1 until 6.00 p.m. in the evening?

2 MR WERNER: I object. He never said that, he said --

3 THE WITNESS: It was not in the evening.

4 MR WERNER: It was 6.00 in the morning, the four hours in
10:06:22 5 the village.

6 PRESIDING JUDGE: I recall that as well, Mr Fofanah, 6.00 a.m.

7 MR FOFANAH: In fact, that is why I asked him to correct me
8 if I am wrong, but in any case, I will take that if that is what
9 Your Honours have.

10:06:39 10 JUDGE SEBUTINDE: In fact, I think the witness didn't say.
11 He just said 6.00. He didn't say which 6.00, whether a.m.
12 or p.m., and he wasn't asked.

13 THE WITNESS: 6.00 in the morning.

14 MR FOFANAH:

10:07:01 15 Q. So they left very early in the morning; not so?

16 A. Yes.

17 Q. You recall seeing all of these incidents between the hours
18 of 2.00 to 6.00 in the morning?

19 A. I saw everything.

10:07:32 20 Q. Mr witness, were you ever told by any rebel that the women
21 whom you said were taken to be burned were in fact not burned but
22 were allowed to escape?

23 A. No rebel told me that. The one who escaped - the person
24 who escaped told me.

10:08:01 25 Q. okay. One of the women told you that, was it? That they
26 were in fact not burned, they were allowed to escape; not so?

27 A. Yes.

28 Q. We'll move to the last limb, Mr witness, of your testimony.
29 I just want to get this clear in your testimony yesterday. Now,

1 do you know how many people were amputated by rebels in your
2 village?

3 A. Those that I saw were all 18. All of us were 18. I don't
4 know of those who died in the bush whom I was not able to see,
10:09:07 5 but those whom I saw and I know about.

6 Q. This was what you knew up till the time you came to
7 Freetown, not so, that there were 18 of you, to the best of your
8 knowledge?

9 A. Yes.

10:09:32 10 Q. I will read this statement to you and tell me if you recall
11 saying that.

12 MR FOFANAH: At page 7350, Your Honours, paragraph 22.

13 Q. Paragraph 22, page 7350. Mr witness, this is what you are
14 quoted as saying: "Even if I do not know the names of all of the
10:10:11 15 persons who suffered from amputations or attempted amputations
16 during that night in my village, I think that we were 22 of us,
17 because that is the number of people who were finally taken by us
18 from Sewafe to Makeni and then to Freetown." Did you make that
19 statement to the Prosecutor?

10:10:37 20 JUDGE SEBUTINDE: I'm sorry, Mr Fofanah, we have to stop
21 you a while. We don't have that page. We have to secure it
22 first.

23 MR FOFANAH: 7350.

24 JUDGE SEBUTINDE: We don't have the page, we don't have the
10:10:51 25 physical page.

26 PRESIDING JUDGE: Mr Fofanah, we have that document before
27 us now. Please proceed.

28 MR FOFANAH: Thank you, Your Honour.

29 Q. Mr witness, I was just reading out a statement which I said

1 you made to the Prosecutor as recent as the 11th of March 2005
2 and to tell me whether you recall making that statement. The
3 statement reads at paragraph 22, "Even if I do not know the names
4 of all the persons who suffered from amputations or attempted
10:13:48 5 amputations during that night in my village, I think that we were
6 22 of us, because that is the number of people who were finally
7 taken by bus from Sewafe to Makeni and then to Freetown." Did
8 you make that statement?

9 A. Those that computed number to 22 were caretakers, but those
10:14:25 10 of us whose hands were chopped off or attempted amputation were
11 18. But the caretakers made the number to 22.

12 Q. Okay, no problem. Mr Witness, you were recalling names of
13 people whom you vividly recalled were amputated when you last
14 testified. I'm going to ask you questions about some of them.

10:15:09 15 You recall the name Pa Osman; not so?

16 A. Yes.

17 Q. Was any of Pa Osman's hands chopped off?

18 A. No, it was not completely amputated. His hand was only
19 mutilated.

10:15:46 20 Q. I don't know if I have this name, but let me see. What
21 about Adama?

22 A. Adama's - one of her hands was chopped off and the other
23 was mutilated just like mine.

24 Q. Do you recall the name Idrissa Gborie?

10:16:26 25 A. Yes.

26 MR FOFANAH: I don't know if Your Honours had that name
27 before. I think it is spelt I-D-R-I-S-S-A, Idrissa. Gborie,
28 G-B-O-R-I-E.

29 Q. Did anything happen to Idrissa Gborie that night?

1 A. Yes.

2 Q. What happened to him?

3 A. One of his hands was amputated.

4 Q. What about Abdul Rahan?

10:17:41 5 A. His hand was mutilated.

6 Q. Was it chopped off?

7 A. It was not completely chopped off.

8 MR FOFANAH: In that case I have no further questions for

9 the witness, thank you.

10:18:09 10 PRESIDING JUDGE: Thank you, Mr Fofanah. Mr Graham,

11 questions for the witness?

12 MR GRAHAM: Thank you, Your Honour.

13 CROSS-EXAMINATION BY MR GRAHAM:

14 Good morning, Mr Witness.

10:18:18 15 A. How is the morning, sir?

16 Q. Fine. Mr Witness, I have a few questions for you this

17 morning. Mr Witness --

18 A. Go ahead.

19 Q. Earlier on in your evidence-in-chief, as well as in your

10:18:35 20 cross-examination, you did that say you heard one night a big

21 convoy of vehicles passing through Bomboafuidu?

22 A. I did not say in Bomboafuidu, but I said it was in the

23 highway.

24 Q. You heard vehicles passing through the main highway; is

10:19:04 25 that right?

26 A. Yes.

27 Q. Mr Witness, you didn't physically see these vehicles; is

28 that right?

29 A. I heard them.

1 Q. But you didn't see --

2 A. Then I saw the one that broke down. It was a charter bus.

3 Q. My question is that you didn't see them passing at the time
4 you referred to, did you?

10:19:35 5 PRESIDING JUDGE: Mr Graham, has this line of questioning
6 already been -- [Overlapping speakers]

7 THE WITNESS: I did not see them but I heard the sound.

8 PRESIDING JUDGE: I am referring here to counsel for the
9 Defence.

10:19:46 10 MR GRAHAM: I am proceeding, Your Honour.

11 PRESIDING JUDGE: I am asking you this line of questioning
12 has been put to this witness in cross-examination already. Have
13 you some other aspect of this part of the evidence that you wish
14 to put to this witness?

10:20:02 15 MR GRAHAM: Your Honour, respectfully, I am moving on.

16 PRESIDING JUDGE: Very well.

17 MR FOFANAH: Your Honours, in that case, may I respectfully
18 seek your leave, to leave at this stage?

19 PRESIDING JUDGE: Yes, please go, Mr Fofanah.

10:20:16 20 MR FOFANAH: Most grateful.

21 PRESIDING JUDGE: Mr Graham, proceed.

22 MR GRAHAM: Thank you.

23 Q. Mr witness, you also did say in your earlier testimony that
24 you had heard that Johnny Paul Koroma was riding with a convoy of
10:20:41 25 vehicles that you heard pass by; is that right?

26 A. Yes, you're right.

27 Q. Mr witness, am I right in saying that you didn't physically
28 see Johnny Paul Koroma, did you?

29 A. Those who saw him live along the highway. They told me

1 that he was passing the convoy.

2 Q. My question is that you did not see him yourself
3 physically, did you?

4 A. I did not see him, but I heard them passing and we were
10:21:22 5 told that they passed.

6 Q. Mr witness, my question is you did not physically see
7 Johnny Paul Koroma, did you?

8 PRESIDING JUDGE: Mr Graham, the witness has answered "I
9 did not see him".

10:21:37 10 MR GRAHAM: Okay, very well, Your Honour, I'll proceed.

11 Q. Mr witness, it was also your testimony earlier on that the
12 rebels that attacked your village had on combat uniform as well
13 as civilian clothes; is that right?

14 A. Yes.

10:22:01 15 Q. Mr witness, it was also your testimony earlier on that the
16 commander of the rebels gave permission for them to engage in the
17 killings and amputations; is that right?

18 A. Yes.

19 Q. Mr witness, at the time did you hear any of the rebels or
10:22:28 20 soldiers mention the name of the commander?

21 A. Yes, sir.

22 Q. Mr witness, what did you hear the name of the commander to
23 be?

24 A. It's an error here. That he was called "yes, sir". Each
10:23:01 25 time they went to obtain permission from him, they will say "yes,
26 sir". They only say "yes, sir" to him.

27 Q. Thank you. Mr witness, did the rebels have any
28 communication equipment with them at the time?

29 A. Well, I did not see any machine with them, but the

1 commander had some gadgets on him.

2 Q. Mr witness, could you tell us which type of gadgets the
3 commander had on him?

4 A. He had something like purse, like mobiles and pistols
10:23:55 5 around his waist.

6 JUDGE SEBUTINDE: Sorry, what was that first word,
7 Mr Interpreter?

8 THE INTERPRETER: "Mobile".

9 JUDGE SEBUTINDE: Before "mobile," what was the first word
10:24:07 10 you said?

11 THE INTERPRETER: Please let the witness take it again.

12 THE WITNESS: He had a purse and there was something in it,
13 and then he hung another one, which was a pistol.

14 MR GRAHAM:

10:24:28 15 Q. Mr witness, did I hear you say you saw something like a
16 mobile?

17 A. Yes, the purse, in the purse that he had on.

18 Q. Mr witness, by "mobile," do you mean mobile phone or mobile
19 communication?

10:24:44 20 A. It was a mobile communication.

21 Q. Thank you.

22 A. It was not like a mobile.

23 Q. Mr witness, at this point did you observe the commander
24 engaging in any form of communication on the mobile equipment?

10:25:10 25 A. No, he did not communicate. It was only there with him.

26 Q. Mr witness, did you at this point also observe the
27 commander taking instructions from anywhere else?

28 A. Yes.

29 Q. Where was the commander taking such instructions from,

1 Mr witness?
2 A. From our veranda.
3 Q. Could you say that again, Mr witness? You said he was
4 taking instructions from where? The commander was taking
10:25:53 5 instructions from where?
6 A. The commander was on our verandah. So the rebels went
7 there to meet him and whatever instructions they wanted, he would
8 tell them what to do.
9 Q. So, Mr witness, in effect you are saying that the commander
10:26:13 10 had full control over the rebels and they were all taking orders
11 from him; is that right?
12 A. Anything they wanted to do, they will come to meet him.
13 Q. Mr witness, prior to your -- Mr witness, when did you leave
14 your village to go to Freetown?
10:26:38 15 A. well, I don't know the time.
16 Q. Roughly around what time - month? I'm not talking about an
17 exact date, but you can give an indication as to the time.
18 A. well, at that time we didn't hear anything about months and
19 we don't -- we did not think about months. what we only thought
10:27:05 20 about was what we really -- what was happening around us.
21 Q. Mr witness, was that some time in March of 1998 that you
22 left your village for Freetown?
23 A. well, I wouldn't know whether it was March or February.
24 Q. Mr witness, prior to your departure to Freetown from your
10:27:38 25 village, were there any rebels or soldiers in your village?
26 A. The time when I was going to Freetown?
27 Q. Yes.
28 A. They were not there.
29 Q. And do you, Mr witness, remember when you came back to your

1 village from Freetown?

2 A. Yes.

3 Q. Mr witness, did you, on your return to your village, meet
4 any rebels or soldiers?

10:28:21 5 A. I did not meet any rebels, but I met the people were
6 already panic-stricken and people were passing the night in the
7 bush since the last attack.

8 Q. Mr witness, why were they panic-stricken?

9 A. Because of the attack on Tongboi, in between Tongboi and
10 Sewafe.

11 Q. Mr witness --

12 A. Yes.

13 Q. -- who told you about the attacks on Tongboi and Sewafe?

14 A. My father and other people in the village.

10:29:14 15 Q. Did they tell you they were witnesses to the attack on
16 Tongboi and Sewafe?

17 PRESIDING JUDGE: A minor point, Mr Graham. I heard the
18 witness say "between Tongboi and Sewafe". You are using plural
19 attacks, whereas I understood the witness to say one attack
10:29:34 20 between Tongboi and Sewafe.

21 MR GRAHAM: Very well, Your Honour.

22 Q. Mr witness, did they tell you whether they witnessed the
23 attack on Tongboi and Sewafe?

24 A. Even my small brother, he went to sell gari in Tongboi.
10:29:55 25 The place in the gari, he left everything there. He used the
26 bush path to come back to the village. That was what he told me.

27 Q. Did he tell you he witnessed the attack on Tongboi and
28 Sewafe?

29 A. Yes.

1 JUDGE SEBUTINDE: Mr Graham, mind your language. You still
2 keep saying the attack on Tongboi and Sewafe and there is no such
3 evidence.

4 MR GRAHAM: I'm sorry, Your Honour.

10:30:32 5 Q. Mr witness, do you recall the time of the attack on your
6 village?

7 A. Yes.

8 Q. Could you please tell us the time of the attack on your
9 village?

10:30:51 10 A. Well, the time I could recall, it was 2.00.

11 Q. And Mr witness, in your estimation, how long did this
12 attack take?

13 A. It was from 2.00 up to 6.00 before they left.

14 Q. Up to 6.00 - 6.00 a.m. in the morning or 6.00 p.m. in the
10:31:24 15 evening?

16 MR WERNER: I'm sorry, he answered repeatedly. Three times
17 he said it was 6.00 a.m. in the morning.

18 THE WITNESS: It was 6.00 in the morning.

19 MR GRAHAM: Thank you.

10:31:33 20 PRESIDING JUDGE: Mr Graham, you must not ask questions
21 already asked by other counsel in cross-examination. You are
22 entitled to put fresh questions.

23 MR GRAHAM: Very well, Your Honour.

24 Q. Mr witness, you would agree with me -- what was the
10:31:47 25 lighting situation, Mr witness? Was it dark at the time?

26 A. It was in the night, but there was -- the moon was shining,
27 but not very bright.

28 Q. So you couldn't see your way around very clearly at the
29 time, could you?

1 A. From where they took us and made us to rest I could see up
2 to the last house in the village.

3 Q. Mr witness, how many houses did you have in your village in
4 your estimation? How many houses did you have in your village?

10:32:27 5 A. Well, by then there were about 21 houses.

6 Q. And Mr witness, is it your testimony that from your
7 position in your house that night, you could see all the houses
8 at that time of the night?

9 A. The moon was shining, although it was not very bright. But
10:32:56 10 where we were seated, I could see the houses.

11 Q. And could you see the rebels and soldiers, all of them as
12 well?

13 A. They were all over the town, all over the village.

14 [TB290605B - SV]

10:33:15 15 Q. Mr witness, at that time in that night did you witness any
16 of the rebels or soldiers committing any atrocities, any
17 killings?

18 A. Yes.

19 Q. Mr witness, where were you at this point in time in your
10:33:40 20 house? Where were you?

21 A. At the time when we are captured and we were placed in a
22 queue.

23 Q. Mr witness, the time I'm referring to is the time of the
24 night when you said the rebels came in, at 2.00, and were there
10:34:08 25 until 6.00 a.m. in the morning?

26 A. Yes.

27 Q. Are you saying -- I didn't hear you, please if you could
28 just clarify. Are you saying that you witnessed killings by the
29 rebels at that time of the night?

1 A. Yes, they brought an old woman and killed her. They were
2 performing a sacrifice.

3 Q. Mr witness, your reference to the killing of the old woman
4 as a sacrifice I believe took place at the time when you were all
10:34:49 5 gathered in the compound; am I right?

6 A. It was not in the compound. On the main road, that is
7 where we were all placed.

8 Q. Mr witness, during your return to your village did you hear
9 of any AFRC or rebel commanders in the area, who were operating
10:35:25 10 in the area at the time?

11 A. Well, when I went back they told me of that attack.

12 Q. My question was that did you hear or were you told of any
13 AFRC or rebel commanders operating in your village at the time of
14 your return from Freetown?

10:35:55 15 A. They were not operating in my village. But when I came
16 back they told me of the attack between Tongboi and Sewafe.

17 Q. So all you were told of was about -- sorry. So,
18 Mr witness, am I right in saying that apart from the commander
19 who was in control of the rebels and soldiers who attacked your
10:36:24 20 village that night, you never had any contact with any other
21 commander, be it for the AFRC or rebel soldiers, at that point or
22 during that period, did you?

23 A. I did not meet them. I did not see them.

24 MR GRAHAM: Your Honour, I have no further questions for
10:36:47 25 this witness.

26 PRESIDING JUDGE: Thank you, Mr Graham. Any
27 re-examination?

28 MR WERNER: No re-examination for this witness.

29 PRESIDING JUDGE: Thank you. Mr Witness, that is the end

1 of your evidence. We thank you for coming to court and giving
2 your evidence yesterday and today. You are now free to leave the
3 Court. Thank you.

4 As it is 10.30 and the time for our usual mid-morning break
10:37:22 5 we will adjourn for 15 minutes. Mr Court Attendant, please
6 adjourn the Court.

7 [Break taken at 10.34 a.m.]

8 [The witness entered court]

9 [Upon resuming at 10.55 a.m.]

11:01:17 10 PRESIDING JUDGE: Mr Hodes, you're on your feet.

11 MR HODES: Yes, your Honour, Mr Graham and I were
12 discussing this over the break that he's sort of on his own at
13 this point with a brand new witness and we were going to ask the
14 Court jointly to consider the possibility of just adjourning for
11:01:33 15 today and starting again tomorrow morning so that all three
16 Defence counsel could be present.

17 PRESIDING JUDGE: I recall Mr Manly-Spain said he would be
18 gone for an hour. He's clearly not sitting at the bar. Has
19 anyone got any explanation.

11:02:02 20 MR GRAHAM: Your Honour, we haven't heard from him. It
21 appears probably he might have taken a little bit longer than
22 anticipated because we tried reaching him during the short break
23 and we couldn't get through to him.

24 PRESIDING JUDGE: Mr Graham, Mr Hodes has indicated that
11:02:20 25 this is a joint -- that you are in agreement with him.

26 MR GRAHAM: Your Honour, I think that is right. We have
27 discussed it and I think we have reached a consensus on that.

28 JUDGE LUSSICK: Mr Graham, just to make things clear, I
29 take it that you're quite ready to protect the interests of your

1 own client but you feel a little bit uneasy with a new witness in
2 having to protect the interests of the other two accused as well.
3 would that be correct?

4 MR GRAHAM: That is so, Your Honour.

11:03:20 5 JUDGE LUSSICK: Yes, I understand that, thank you. I'm
6 addressing this to defence counsel, just for future occurrences,
7 Mr Manly-Spain today sought our leave to go down to a national
8 court. Now in future I'd ask all counsel to observe this: That,
9 as a matter of legislation, this Court has primacy over any
11:04:06 10 national court and if there is a conflict in appearances in one
11 court or the other we would expect counsel to apply to the
12 national court for leave to come to this Court, but not the other
13 way around. So we wouldn't like to think in future that we are
14 giving away priority to a national court.

11:04:41 15 well, it seems while I'm saying these things that there's
16 something else I should say and that is that we all have health
17 problems and we don't think that they're a light matter by any
18 means, but it's common knowledge that this Court has every
19 wednesday afternoon off and so common sense would tell anybody,
11:05:05 20 any counsel who wants to go to see a doctor, that that is the
21 appropriate time to make the appointment. Once more, that is
22 just another matter that I think in future we're going to have to
23 enforce fairly rigidly. But, thank you, Mr Graham. I wasn't
24 addressing these comments to you personally. You haven't
11:05:28 25 offended in any way on either subject.

26 MR GRAHAM: Not at all, Your Honour. Indeed, Your Honour,
27 we've taken due note of your observations and I think I will
28 communicate accordingly to my learned friends and I believe we
29 will not have to go through this another time.

1 JUDGE LUSSICK: Thank you.

2 PRESIDING JUDGE: Therefore by consent and by consent of
3 the Court we will adjourn the case until tomorrow. Mr Witness,
4 we apologise for the inconvenience that this has caused to you
11:05:58 5 but we at the Court must also take care of the interests of all
6 the parties, both the Defence and the Prosecution, and we will
7 hope to hear your evidence tomorrow. Do you understand?

8 THE WITNESS: Yes.

9 PRESIDING JUDGE: In the light of the situation we will
11:06:16 10 adjourn court to tomorrow morning at 9.15. The witness has not
11 been sworn and therefore I am not obliged to remind him or give
12 him any warning. Sorry, Ms Pack, are you concerned about something?

13 MS PACK: I was just discussing with my learned friend that
14 there had been, as I understand it, another witness who had been
11:06:36 15 scheduled for first thing in the morning who needed to be
16 interposed because of his time commitments. I'm just trying to
17 establish the witness with my learned friend.

18 PRESIDING JUDGE: This is a matter for the Prosecution.
19 The Bench will not interfere. I'm merely offering an explanation
11:06:52 20 to the witness who has gone to the trouble of coming to this Court and
21 taken time to come to the Court.

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

23 PRESIDING JUDGE: The rest is for you, for the Prosecution.
24 Mr Court Attendant, please adjourn court to tomorrow morning at
11:07:22 25 9.15 a.m.

26 [whereupon the hearing adjourned at 11.05 a.m.,
27 to be reconvened on Thursday, the 30th day of
28 June 2005, at 9.15 a.m.]

29

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-206	2
CROSS-EXAMINED BY MR MANLY-SPAIN	3
CROSS-EXAMINED BY MR FOFANAH	6
CROSS-EXAMINATION BY MR GRAHAM	20