

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

TUESDAY, 26 JULY 2005
9.17 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 Lesley Taylor Ms Wambui Ngunya Ms Shyamala Alagendra Ms Maja Dimitrova (Case Manager)
For the Principal Defender:	No appearances
For the accused Alex Tamba	Ms Glenna Thompson
For the accused Brima Bazy Kamara:	Mr Mohamed Pa-Momo Fofanah Mr Ibrahim Foday Mansaray Mr Andrew William Kodwo Daniels
For the accused Santigie Borbor Kan:	Mr Geert-Jan Alexander Knoop Ms Carry J Knoop-Hamburger

1 [AFRC26JUL05A-SGH]

2 Tuesday 26 July 2005

3 [Open Session]

4 [Accused Brima, Kamara and Kanu present]

09:17:49 5 [Upon commencing at 9.17 a.m.]

6 PRESIDING JUDGE: Good morning. Ms Taylor, I notice from
7 yesterday that you have a witness who is a Krio speaker this
8 morning.

9 MS TAYLOR: Yes, that is the case, Your Honour. The
09:22:20 10 witness is TF1-158 who will give evidence in Krio. This witness
11 is a category B protected witness and will give evidence via the
12 video link and will be led in evidence by my learned friend
13 Ms Alagendra.

14 PRESIDING JUDGE: Thank you for that indication.
09:22:37 15 Mr Knoops, I see you are on your feet. Do I need to get my
16 notebook out?

17 MR KNOOPS: Sorry.

18 PRESIDING JUDGE: Please proceed, Mr Knoops.

19 MR KNOOPS: Thank you, Your Honour, good morning. Your
09:22:52 20 Honours, if the Court pleases, I would like to address the
21 Honourable Trial Chamber on behalf of the accused and my learned
22 colleagues this side of the Bench and I think it is proper to do
23 this before we start with the examination-in-chief of Witness
24 158.

09:23:09 25 As Your Honours may remember yesterday, when I was asking
26 the Chamber leave to file oral submissions on the issue of 157,
27 Your Honours have not admitted my oral arguments by saying it is
28 probably proper to do this in a written form so that counsel is
29 able to exchange arguments on the issue raised in closed session.

1 In the afternoon, Your Honours may remember, that the Defence
2 suggested not to continue with Witness 158 and because Your
3 Honours did not allow me to file oral arguments as to Witness
4 157, I merely raised the issue without going into the substance.
09:24:10 5 Your Honours yesterday, after my objection as to the continuance
6 with Witness 158, said, "Well there are no substantive arguments
7 yet lying before the Chamber, so at this point we see no reason
8 why we should not continue with Witness 158." That was the
9 situation yesterday.

09:24:33 10 The Defence has filed yesterday a written application, an
11 urgent motion, an urgent joint motion, to the same extent as we
12 have applied for yesterday, and in the light of the written
13 submissions which are lying before the Honourable Trial Chamber
14 on, as we believe, the fundamental issue, we respectfully request
09:25:01 15 the Honourable Trial Chamber to review its standpoint as taken
16 yesterday. As Your Honours may read in our written submissions
17 yesterday, we ask for a remedy which --

18 JUDGE LUSSICK: Before you go on, we have not seen any
19 written submissions, Mr Knoops. We are totally unaware of what
09:25:26 20 you are talking about in your written submissions.

21 MR KNOOPS: It may be so, Your Honours, that the motion is
22 not yet brought to the attention of Your Honours. But the motion
23 was filed yesterday shortly before 5.00 o'clock and if Your
24 Honours --

09:25:43 25 PRESIDING JUDGE: Did you apply for late filing, Mr Knoops?
26 We can have it checked with the Court Management section.

27 MS TAYLOR: Your Honours, I think I may be able to assist.
28 Just ten seconds before Your Honours came on the bench, my case
29 manager indicated that the motion had been served in the normal

1 manner. So the Prosecution is also in the dark, but it was
2 served this morning.

3 PRESIDING JUDGE: Thank you for that advice, Ms Taylor.

4 MR KNOOPS: Thank you.

09:26:10 5 PRESIDING JUDGE: As you can see, Mr Knoops, we have not
6 had a chance to consider it.

7 MR KNOOPS: I realise that, Your Honour. I realise -- I
8 was aware this might occur this morning. Yet, in the light of
9 the arguments raised by the Defence in that motion, we
09:26:26 10 respectfully asked for a review of your decision in that. The
11 testimony of Witness 158 is postponed until the moment counsel,
12 learned counsel of the Prosecution, has been able to reply to it
13 and Your Honours have a possibility to review the arguments of
14 the Defence. Well, in this motion we have relied on a precedent
09:26:59 15 which occurred before the ICTY, in a different setting, but we
16 believe that this precedent may be of importance for future
17 guidance of the Chamber in the situation which emerged during the
18 closed session of yesterday.

19 Secondly - and this is the grave concern of the accused
09:27:26 20 persons which I herewith like to transfer to the Honourable Trial
21 Chamber - is that a continuation of the evidence given by Witness
22 158 may have a prejudicial impact on the case which may exceed,
23 considerably exceed, the potential probative value of the
24 testimony of 158.

09:28:03 25 And the admission of the testimony of 158 at this point may
26 amount in view of the Defence to a repeated infringement of the
27 rights of the accused to a fair trial under Article 17 of the
28 Statute. Repeated, Your Honours, because, as we noticed on
29 Friday, I had already asked for the discontinuation of the

1 evidence given by 157 due to an improper series of leading
2 questions. And we --

3 JUDGE LUSSICK: Mr Knoops, just so I can be clear on where
4 you are going on this. Do I understand the Defence to be saying
09:28:46 5 that there was no confusion regarding the evidence of 157
6 whatsoever and that he must be taken exactly at his word when you
7 referred to the questions you asked in cross-examination. In
8 other words, are you conceding that there was no problem
9 whatsoever with the interpretation?

09:29:11 10 MR KNOOPS: No, Your Honours, that's not what I am saying.

11 JUDGE LUSSICK: Well, my point is that if we can't say that
12 this evidence is an accurate recording of what the witness meant
13 to say, how can you file motions on allegations of what he said
14 when he may not have said them?

09:29:31 15 MR KNOOPS: Your Honours, I thank you for this remark, I
16 take duly note of it. But our motion is not based on this
17 argument. Our motion is based on the fact that after the
18 testimony-in-chief, which in most part took place on Friday, a
19 crucial witness, 157, was in fact during the whole weekend in the
09:29:58 20 presence of a second Witness, 158, which in sequence was
21 scheduled directly after 157. Also considering the close family
22 relationship between these two individuals, we believe, led by
23 the precedent, which is described in our motion which took place
24 before the ICTY, we believe that based on this argument there
09:30:26 25 should be a discontinuation of the testimony of 158.

26 Your Honours will not see in our motion that we have relied
27 on the incidents on Friday, this is merely a reference I bring to
28 the attention of Your Honours, but we have filed a motion on a
29 legal argument, namely that it is against the spirit and the

1 nature of also Rule 95 that evidence is being admitted before
2 your Court within which the witness, who has taken the solemn
3 declaration after giving evidence-in-chief for considerable
4 parts, is allowed to share a room with another witness, notably a
09:31:26 5 close relationship, stay together over the weekend and after
6 which the testimony-in-chief of that witness continues and after
7 that the family member who stayed with that witness is allowed to
8 give evidence-in-chief.

9 PRESIDING JUDGE: Will you be adducing evidence that there
09:31:42 10 has been some collusion between the two witnesses? Some actual
11 discussion or some form of connivance?

12 MR KNOOPS: Your Honours, we are not in a position to put
13 proof on this issue before the Honourable Trial Chamber, but if
14 Your Honours may read in our motion, this not the requirement
09:32:07 15 which can be put in a reasonable sense on the Defence. The
16 precedent we have referred to in our motion, Trial Chamber II of
17 the ICTY in the Kupreskic case indicated, that the mere
18 possibility that in that situation one of the parties in the
19 trial was able to communicate with the witness after giving --

09:32:37 20 PRESIDING JUDGE: A party or a fellow witness?

21 MR KNOOPS: The party. In that case it concerned the
22 party.

23 PRESIDING JUDGE: The party.

24 MR KNOOPS: -- is able to communicate with one of the
09:32:45 25 witnesses after giving the solemn declaration, that mere
26 opportunity may already be -- amount to a violation of the rules
27 of the tribunal.

28 JUDGE LUSSICK: Mr Knoops, while we are on that point,
29 can't you see the difference between a party communicating with a

1 witness and a witness communicating with a witness? Obviously a
2 party would tell the witness what he wishes that witness to say,
3 but a witness communicating with a witness can simply compare
4 notes if that was done - and we have no evidence that it was -
09:33:22 5 but the worst that could happen is that they could compare notes
6 on what they remember of the incident. They would not have any
7 axe to grind as far as saying that we are interested that a
8 certain version go across to the Court as a party would. That is
9 the distinction.

09:33:43 10 MR KNOOPS: I agree, Your Honours. I agree with that
11 distinction. But that, in my humble opinion, makes it even
12 worse.

13 JUDGE LUSSICK: Even worse?

14 MR KNOOPS: Even worse. The fact that in this unique
09:34:00 15 situation, not one of the parties, but one of the two witnesses
16 who are about to testify on the so-called phenomenon of child
17 soldiers, were able to communicate with each other after one of
18 them had given the solemn declaration and started his
19 evidence-in-chief, makes the violation of the rights of the
09:34:18 20 accused even worse. And, therefore, the ICTY precedent I rely on
21 is, in my humble opinion, applicable, at least by way of analogy,
22 to the situation at hand in the instant case.

23 JUDGE LUSSICK: Are you saying that for witness -- the
24 evidence of Witness 158 to be acceptable there must be some proof
09:34:42 25 that he has remained away and separated from his family since the
26 incident occurred in 1998 until the current date 2005?

27 MR KNOOPS: No, Your Honour that is not what I am saying.

28 JUDGE LUSSICK: Are you saying that no relatives can ever
29 give evidence in the same case together?

1 MR KNOOPS: No, Your Honour, that is not what I am saying
2 in all due respect. I am saying that in a situation where one of
3 the witnesses has started examination-in-chief, after giving the
4 solemn declaration, there - and I think this is also in the
09:35:18 5 nature of the spirit of the rules of the Court which, in every
6 instance, caution the witness not to discuss or to have contact
7 with any other people while being under oath - and I think this
8 is the situation we focus on the situation that this witness was
9 allowed after Friday giving the statement-in-chief to share, to
09:35:41 10 continue to share the same room with the other witness, and the
11 mere possibility that they could have exchanged thoughts and
12 experiences on what has happened during the examination-in-chief
13 over the weekend, is already a situation which may collide with
14 the rights of the accused and in my humble opinion, Article 17 of
09:36:17 15 the Statute, Section 2 and Section 4(e) which denotes the rights,
16 the minimum rights of the accused, to hear witnesses should be
17 interpreted that these witnesses should be able to give an
18 authentic statement and this can no longer be ensured after what
19 has happened on Friday.

09:36:43 20 And, in my humble submission, the mere possibility that
21 these two witnesses shared that information about what happened
22 Friday in court, what Witness 157 testified in court, cannot be
23 tolerated before an international court. It is against the
24 spirit of the rules of the Court, the rules which accompany the
09:37:06 25 issue of protective measures and especially, I think, Rule 95. I
26 am not saying that no relatives can ever be testify in court
27 because that would make, of course, the situation quite
28 impractical.

29 JUDGE SEBUTINDE: Mr Knoops, I have listened to you making

1 these submissions before TF-158 comes and takes the stand and I
2 am just wondering, you are talking about a possibility. You are
3 talking about prospective this and if that. To me it sounds as
4 if you are being speculative. Already we do not have TF-158
09:37:46 5 before us. We do not know who he or she is. We don't know what
6 they are going to say. You don't know what they are going to
7 say. The Prosecution doesn't know what they are going to say.
8 Now, before you have heard their evidence-in-chief, how can you
9 raise an objection? Will your objection not at best be
09:38:08 10 speculative? Don't you think that your objection to the intended
11 testimony of TF-158 is speculative or premature?

12 MR KNOOPS: With all due respect, Your Honour, I don't
13 think this is speculative. Witness 157 already testified that he
14 was over the whole weekend in the same room as Witness 158. I
09:38:32 15 think this is the only requirement the Defence can be confronted
16 with when it concerns a statement which should be authentic. Of
17 course we cannot see and we cannot anticipate what Witness 158
18 may or may not say, but I think that for also the perception of
19 the accused persons, the admission of this statement, 158, in
09:39:07 20 this stage of the proceedings of what happened, can already be
21 seen as highly prejudicial. Because if we hear 158 in court, the
22 evidence is given in court and Your Honours have already ruled in
23 earlier objections from the Defence that there is no phenomenon
24 before your court to strike any evidence given in court. Now, we
09:39:30 25 realise that, of course, to a certain mount Your Honours could
26 say, "Well this is a matter of reliability which has to be
27 assessed at the end of the trial." And I think this is a fair
28 position, but when it concerns the -- I think also the
29 independence of a witness, it is, I think, proper to at least

1 alert the Chamber to our fundamental objection we have right now
2 at this moment.

3 JUDGE SEBUTINDE: Incidentally, Mr Knoops, under what
4 powers do you reckon that the Trial Chamber may exclude the
09:40:08 5 evidence or the prospective evidence of a witness who has not yet
6 testified? Under what provision, for our guidance, because we
7 have not seen the motion.

8 PRESIDING JUDGE: I would endorse that question, Mr Knoops,
9 and remind you of Rule 90(D).

09:40:26 10 MR KNOOPS: Your Honours, we have primarily relied on Rule
11 95. And secondly, we have relied on the precedent I referred to.

12 JUDGE LUSSICK: I think without reading that precedent,
13 Mr Knoops it can be distinguished, even at this early stage, if a
14 party was involved in that incident.

09:40:52 15 PRESIDING JUDGE: I am sorry --

16 MR KNOOPS: I thank Your Honours for --

17 PRESIDING JUDGE: My learned sister has asked you that
18 question and I have endorsed her question.

19 MR KNOOPS: Your Honours, I believe that Rule 95 gives the
09:41:16 20 authority for the Chamber to exclude evidence, or at least not
21 admit it, at any stage of the proceedings. This Rule does not
22 say that it is only applicable at the end of the trial. In the
23 Appeals Chamber case of Barayagwiza of the ICTR, the ICTR Appeals
24 Chamber has held that in principle any remedy for the
09:41:42 25 infringement of the rights of the accused should be determined at
26 the end of the trial, but also the Appeals Chamber has left open
27 that a Chamber may remedy a certain situation in an earlier
28 stage. And I believe that Rule 95, as such, does not exclude the
29 possibility for a Chamber to endorse a remedy if it comes to the

1 conclusion that the rights of the accused are violated at the
2 stage which is the most appropriate. And I think in this
3 situation that stage should be the stage before the witness takes
4 the stand, because if the witness takes the stand and is allowed
09:42:22 5 to give evidence-in-chief, then there is already for the accused
6 a potential irreparable situation and that is the way the accused
7 persons perceive it right now.

8 JUDGE SEBUTINDE: Mr Knoops, which particular rights of the
9 accused are you alleging has been violated?

09:42:37 10 MR KNOOPS: Article 17, Section 2 -- Article 17(4) under
11 (e), the minimum right to have witnesses against him examined.
12 And in my humble submission, Your Honours --

13 JUDGE SEBUTINDE: Are you saying that the accused persons
14 have been denied a right to cross-examine TF-158?

09:43:06 15 MR KNOOPS: No, Your Honours, what I am saying is that this
16 minimum right can only be reasonably endorsed if it is properly
17 secured that witnesses are preventing from discussing the
18 contents of the testimony already given in chief by one of them
19 or together and are prevented from giving any opportunity for
09:43:33 20 such discussion. Any opportunity is also my interpretation of
21 the Kupreskic Trial Chamber decision which we rely on. After
22 all, what is the value, Your Honours, of this minimum right?
23 What is really the value of this minimum right when a witness who
24 has commenced his testimony-in-chief under oath is able to share
09:43:59 25 the content of his experiences and also the content of his
26 statement with the next witness on the stand.

27 PRESIDING JUDGE: Mr Knoops, are you stating, as part of
28 the public record, that despite the warning being given to the
29 witness on Friday not to discuss his evidence whilst he is under

1 oath, that despite that he has been in breach of that directive
2 from the Court and discussed his evidence over the weekend?

3 MR KNOOPS: Your Honours, I cannot, of course, look into
4 the mind of the witness. I am not here to blame the witness for
09:44:39 5 what happened. I am merely observe a factual situation that
6 despite the caution which is given to every witness, the witness
7 was, after commencing his testimony-in-chief, allowed to stay not
8 only one hour, not only a few hours, but two full days and three
9 full nights with another crucial witness and we don't -- we
09:45:11 10 should not forget, Your Honours, that Witness 157 testified that
11 158 was a close family relationship. And this is what actually
12 we are submitting that -- we are not submitting that the witness
13 itself was in breach of any rule, because I think the witness had
14 no understanding of the situation was happening. For him it was
09:45:44 15 apparently natural that he was with his younger brother.

16 JUDGE SEBUTINDE: But, Mr Knoop --

17 MR KNOOPS: [Overlapping speakers]

18 JUDGE SEBUTINDE: -- this witness was cautioned.

19 MR KNOOPS: Of course.

09:45:56 20 JUDGE SEBUTINDE: This Witness 157 was cautioned and asked
21 if he understood the caution on Friday. The same thing happened
22 yesterday. At the close of the day he was cautioned not to
23 discuss with anybody his testimony and he was asked whether he
24 understood the caution and he replied in the affirmative. Now,
09:46:14 25 do you have any evidence to the contrary?

26 MR KNOOPS: Your Honours, two things, if I may say so.
27 First of all, the issue of caution is apparently in the case law
28 of the ICTY no determinative factor to come to the contract
29 conclusion that there is no violation. And secondly, in our

1 humble opinion, we, as Defence, cannot be put on proof that the
2 witness in this event, 157, actually spoke about a content of his
3 testimony with 158. Suppose I would have asked 157, "Sir, did
4 you speak with your relative about your statement?" And he would
09:47:09 5 have said, "No".

6 PRESIDING JUDGE: You are saying that he would deliberately
7 have committed what you are implying is perjury?

8 MR KNOOPS: I am saying, Your Honours, we have no mechanism
9 to control the situation which happened in the weekend. We
09:47:24 10 cannot verify --

11 JUDGE SEBUTINDE: What situation, Mr Knoops? You have lost
12 us. What situation?

13 MR KNOOPS: That situation where Witness 157 spent over the
14 weekend with 158 after commencing his testimony-in-chief. That
09:47:37 15 situation I mean, Your Honours.

16 PRESIDING JUDGE: Mr Knoops, I think -- as we have noted,
17 we have not read your motion and therefore it would be imprudent
18 and improper to comment on it at this point. However, my
19 immediate question is: What remedy are you now seeking from this
09:47:57 20 Court at this time this morning?

21 MR KNOOPS: Your Honours, we, in our humble opinion, we
22 respectfully request Your Honours to reconsider your decision
23 taken yesterday as to the continuance of the testimony-in-chief
24 of 158, continue with 267, and before Your Honours allow the
09:48:23 25 admission of 158, first decide on the motion which has now been
26 submitted to the Honourable Trial Chamber. And in my humble
27 opinion, the motion is filed urgently and in that event perhaps
28 the parties could be encouraged to have a short time for their
29 response and reply.

1 Your Honours, I hope Your Honours will understand that we,
2 of course, are conscious to the fact that Your Honours have a
3 time-frame and that no time of the Court should be wasted
4 unnecessarily. But I hope Your Honours will understand that
09:49:20 5 despite the need and also the interest of the accused persons to
6 have a speedy trial of which we are conscious of, we have also
7 other rights as Defence counsel to preserve and I think it is our
8 obligation and duty to bring this to the attention of the Trial
9 Chamber. In all due respect and with respect to Your Honours'
09:49:39 10 remarks yesterday that indeed due to some unfortunate
11 circumstances time of the Court has been wasted. Therefore, I
12 hope Your Honours will understand that our submissions are not
13 meant in any way to obstruct the continuance of the trial to the
14 contrary.

09:49:56 15 PRESIDING JUDGE: I do not take that implication,
16 Mr Knoops.

17 MR KNOOPS: Thank you, Your Honour.

18 JUDGE LUSSICK: All the same, Mr Knoops, we have a witness
19 here ready to give evidence now. You are not talking to a jury;
09:50:14 20 you are talking to a Bench of three judges.

21 MR KNOOPS: I understand, Your Honour.

22 JUDGE LUSSICK: We have enough common sense to adjudicate
23 on the evidence given. If it is tainted we have got enough
24 experience to know that and to rule on it. But why should we not
09:50:24 25 hear this witness?

26 MR KNOOPS: Your Honours, it is up to Your Honours to
27 decide, of course. I think these are my submissions. I have at
28 this stage no further thing to add.

29 JUDGE LUSSICK: The other thing I was going to add is this

1 that you must be perfectly fair in these submissions. If you are
2 going to say that because there is just the merest suspicion that
3 one witness may have communicated to the other because they spent
4 the weekend together, then look at this scenario. At the end of
09:51:02 5 the Prosecution case could the Prosecution stand up and say,
6 "Well, no accused is allowed to give evidence because we know
7 that they have been in confinement together for many, many months
8 and we have got no evidence whatsoever that they have colluded.
9 However, they had the opportunity to and the merest suspicion
09:51:23 10 disqualifies them from giving evidence." Would you go along with
11 that part of your theory?

12 MR KNOOPS: I think this a very interesting comparison,
13 Your Honour.

14 JUDGE LUSSICK: Well, it is a matter of what is good for
09:51:33 15 one is good for the other.

16 MR KNOOPS: We realise because -- we realise this could, of
17 course, happen to Defence witnesses in the certain extent, I
18 realise that, Your Honour. Yet, I think it is important that
19 your court makes the principal decision on this issue. This is
09:51:57 20 the first time that in my -- to my recollection this happened
21 before the Special Court and I think a decision of your Chamber
22 on this, the principality of this issue, can be of further
23 guidance, not only for the Prosecution and the Defence. With
24 respect to the comparison with the accused persons, Your Honour,
09:52:20 25 I do not believe that when it concerns the weight and importance
26 of witnesses, such as witnesses on this specific topic, namely
27 the topic of child soldiers, can in any way be equated with a
28 statement of the accused. But it is my personal opinion and it
29 is always difficult to make analogies with other situations. I

1 realise the practicalities and the impracticalities of the
2 situation which we have put before the Honourable Trial Chamber,
3 yet I think it is in the interest of the integrity of the
4 proceedings before this Chamber, not only in this case but also
09:53:07 5 with respect to future situations and future witnesses, that
6 further guidance is to be given on this issue.

7 JUDGE LUSSICK: Mr Knoops, even if Witness TF1-158 whom we
8 have not heard --

9 MR KNOOPS: Yes.

09:53:23 10 JUDGE LUSSICK: -- Was sitting in court yesterday and
11 Friday while TF1-157 was giving evidence, would you say that
12 would preclude him from giving evidence himself?

13 MR KNOOPS: Your Honours, you mean in the same court in the
14 public gallery.

09:53:43 15 JUDGE LUSSICK: Was sitting in the public gallery listening
16 to what TF1-158 was saying.

17 MR KNOOPS: Your Honours, I think it is. I know it is
18 difficult to compare it with domestic cases, but in my
19 jurisdiction, Your Honour, the courts, even when it concerns
09:53:55 20 expert witnesses, do not allow expert witnesses or witnesses to
21 be present whilst the other witness gives testimony.

22 JUDGE LUSSICK: Well, we are aware of that. But getting to
23 the situation where, despite that, an expert witness or any other
24 witness is present, does that necessarily preclude that person
09:54:17 25 just by the mere fact of being present, does that necessarily
26 preclude that person from giving evidence himself?

27 MR KNOOPS: I think, in my submission, that would at least
28 make the statement tainted and not the authentic. There is a
29 real danger and if I were to be examining such a witness, which I

1 have good reasons to believe that he was present during the Court
2 case or the examination-in-chief of the other witness, that would
3 be my first questions to that witness, Your Honour.

4 JUDGE LUSSICK: Yes, but you are conceding that you at
09:55:00 5 least have to cross-examine him to test his testimony.

6 MR KNOOPS: That is correct, Your Honour. Although, in my
7 humble opinion, in this event Witness 157 was clear on this
8 issue, has already testified that there was a communication or at
9 least a contact over the weekend between the two of them. It has
09:55:19 10 been established that he was allowed --

11 JUDGE SEBUTINDE: Mr Knoops, let me correct you. There is
12 no evidence on record that there was communication. Yes, there
13 was contact.

14 MR KNOOPS: Sorry, contact. Yes, I am sorry.

09:55:30 15 JUDGE SEBUTINDE: It is not the same thing.

16 MR KNOOPS: I agree. I agree. I apologise.

17 [Indiscernible] said, "We stayed in the same room over the
18 weekend."

19 JUDGE SEBUTINDE: Mr Knoops, what is your interpretation of
09:55:43 20 Rule 90(d) in the second sentence. Rule 90(d) second sentence.

21 JUDGE LUSSICK: Just for the record, perhaps that could be
22 read onto the record.

23 PRESIDING JUDGE: It is the Rule I referred you to earlier,
24 Mr Knoops, and I will read it onto the record, second sentence.
09:56:03 25 "However, a witness who has heard the testimony of another
26 witness shall not for that reason alone be disqualified from
27 testifying." I read that into the record.

28 MR KNOOPS: Yes, Your Honour. I am mindful of this Rule.
29 However, we believe that this situation referred to in the second

1 sentence of Rule 90(d), I think it is not read, it is not drafted
2 to allow witnesses which have commenced the testimony-in-chief to
3 share the same private room with each other. It cannot be so
4 that the nature of this Rule would not remedy such a situation
09:57:06 5 and I am aware of the same rule before the ICTY, yet the ICTY in
6 the Kupreskic case has reasoned, albeit in the context of parties
7 communicating with witnesses - and I agree this is a different
8 situation - that despite the existence of a similar Rule 90(d)
9 second sentence, despite the existence thereof, the ICTY have
09:57:35 10 said that parties being allowed to communicate with witnesses
11 after taking the solemn declaration is against the nature of the
12 Rules and I already emphasised that when it concerns
13 intra-contact between witnesses, which are sequenced after each
14 other, that, in my humble opinion, this makes the situation even
09:58:08 15 more grave when it concerns the infringement of the Rules. And I
16 cannot believe that this Rule 90(d) the second sentence was
17 drafted in view of the situation which is at hand right now.

18 PRESIDING JUDGE: When you said it was not drafted for this
19 situation, what situation was it drafted for?

09:58:34 20 MR KNOOPS: That one witness is perhaps present in the
21 courtroom while the other gives testimony, which is a far more
22 controllable situation. Everyone can see whether that witness
23 has any communication or has any contact with the other witness
24 or is just there to hear the testimony. Perhaps to confront
09:59:00 25 witnesses, which happens -- which has happened in a court before.
26 That a court may say, "We allow a witness to come into the
27 courtroom to be confronted with the witness which is at that
28 moment given evidence-in-chief in order to confront the two
29 witnesses with each other," which is also in several other

1 domestic jurisdictions quite common.

2 JUDGE LUSSICK: But, Mr Knoops, I don't like to interrupt,
3 but obviously it is not confined -- that provision is not
4 confined at that particular situation. It deals with any
09:59:37 5 situation where a witness, a potential witness, is sitting in
6 court listening to testimony and the reason he would be sitting
7 in court is because nobody realised he was a witness, otherwise
8 he would be asked to get out. Now if you know if there is a
9 person sitting in court who is an unknown potential witness who
09:59:56 10 can give you all sorts of signals to the person in the box, he
11 can nod his head, shake his head, indicate answers that should be
12 given, and if you read that Rule, that is something in addition
13 to the mere fact that he is sitting in court. That is something
14 that can be established that he was giving signals to a witness
10:00:18 15 and there that is something that the Court ought to consider.
16 But all you are saying is that you have got nothing, except that
17 they spent company together over the weekend. That fact alone,
18 you are saying - and in the light of Rule 90(d) - that fact alone
19 without anything to substantiate any impropriety is sufficient to
10:00:41 20 stop this witness, TF-158, giving his evidence to the Court.

21 MR KNOOPS: Your Honours, my last comment to this would be,
22 if the Court allows me, that the situation which is envisaged by
23 Rule 90(d) second sentence, the witness who has heard the
24 testimony of another witness cannot be equated with the situation
10:01:15 25 whereby a witness spent three nights, two full days, in a room
26 being the younger brother of the other, therefore allowing them
27 to have time in private during which time there is a possibility
28 that the one and the other, between whom a close relationship
29 exists, can share the experience of what happened in court. Can

1 share the contents of the statement of the first one. And in my
2 submission, this cannot be meant with or compliance with the
3 rationale of Rule 90(d) second sentence. And I realise that
4 maybe 90(d) second sentence may be read more extensively as I
10:02:14 5 just, by way of example, elaborated on. Yet, in my imagination,
6 cannot be so that before an international court, witnesses of the
7 Prosecution who are about to testify on the fundamental issue
8 which is part of the indictment, can allow -- can be allowed to
9 spend days with each other before the other gives testimony
10:02:43 10 whilst being in a close family relationship. I simply cannot
11 imagine that this is what the drafters of Rule 90(d) second
12 sentence had in mind. I may be wrong, but in that event the
13 Defence is handicapped by the situation that the travaux
14 preparatoire of this Rule are not available to the Defence.

10:03:09 15 I wasn't there when this Rule was drafted by the Commission
16 here, but relying also on the precedent I mentioned in our
17 motion, which indeed addresses a different situation, but at
18 least by way of analogy can be applicable in the situation at
19 hand.

10:03:32 20 Your Honours, I realise that Your Honours have the final
21 say with this. I realise that I cannot give any evidence in
22 concreto about what has happened during these two days and three
23 nights. I think nobody of us can in this courtroom. I think it
24 is perhaps a probatum diabolica to ask for the Defence to
10:04:01 25 actually prove that these two witnesses have spoken in concreto
26 about the contents of the statement of the one with the other.
27 It is a devil's proof. And in this regard I don't think this is
28 the requisite standard which may be read into the Kupreskic
29 decision.

1 JUDGE LUSSICK: Well, I appreciate your submissions,
2 Mr Knoops, but the only decision we are going to make today is
3 whether we proceed with Witness 158 while we consider the formal
4 motion which we have not seen yet.

10:04:47 5 MR KNOOPS: Yes, I understand, Your Honour. Yes.

6 PRESIDING JUDGE: Mr Knoops, I will ask Ms Taylor to reply.
7 Oh, I am sorry I thought Mr Knoops was finished. Did I
8 prematurely interrupt?

9 MR KNOOPS: No, Your Honour, I am very grateful for the
10:05:01 10 time you have given me to elaborate on this request, which is
11 filed on behalf of my learned friends and also on behalf of the
12 accused persons. And I just look briefly to my learned
13 colleagues whether your Court allows him to make one brief
14 addition.

10:05:22 15 PRESIDING JUDGE: Very well, Mr Daniels, before I invite
16 the Prosecution to reply.

17 MR DANIELS: Respectfully, Your Honours, I wholly endorse
18 all that has been said by my senior colleague. But I just want
19 to add that there is the fundamental right that is enshrined in
10:05:40 20 Article 17(3) of the Statute which set up, which indeed reminds
21 us all of that common law principle that we are presumed innocent
22 until proven guilty. Therefore, the onus on us to prove whether
23 indeed there was some kind of communication between the parties
24 prior to 158 giving testimony, I think is premature. I think
10:06:04 25 that, in as much as our clients are presumed innocent, then there
26 is no burden, no onus on us at this stage to prove whether or not
27 there has been any contact. That is what I would add.

28 JUDGE LUSSICK: As I understand it, the members of the
29 Bench simply ask did you have any facts to substantiate any

1 interference by one witness with the other. We have not laid
2 down any principles of law of imposing onuses on anybody at this
3 stage.

4 MR DANIELS: Yes, we are just saying that the mere
10:06:41 5 possibility, the perception, the perception that there could have
6 been some kind of communication alone is stringent enough for us
7 to, at least for the time being, not allow 158 to proceed with
8 his testimony.

9 PRESIDING JUDGE: Thank you, Mr Daniels. Ms Taylor, there
10:07:03 10 are points of law and there is a practical point that Mr Knoops
11 has raised.

12 MS TAYLOR: Thank you, Your Honour. The Prosecution's
13 submission is that the evidence of Witness 158 should proceed
14 this morning.

10:07:15 15 The issue raised by my learned friends of course has been
16 detailed in a written motion that the Prosecution has not yet
17 seen and the Prosecution will respond to that in writing in the
18 normal manner.

19 However, the issues raised this morning centre on an
10:07:32 20 allegation of collusion. That collusion is raised in the form of
21 a spectre; it is merely smoke and mirrors at this stage. It is
22 insufficient, in my submission, to say that the mere possibility
23 that two people who have been together over the weekend,
24 irrespective of any familial relationship that might exist
10:08:01 25 between them, might have discussed the evidence of one of those
26 witnesses in circumstances where that witness has been warned not
27 to discuss his evidence and has said that he understood that
28 warning, is absolutely insufficient for Your Honours to conclude
29 that there is the remotest possibility of collusion between those

1 two witnesses. The nub of the matter is that contact cannot in
2 any circumstances amount to collusion.

3 My learned friend kept saying he cannot look into the mind
4 of the witness and the Defence cannot be put to their proof.

10:08:44 5 Now, leaving aside the issue of the quality of the translation
6 that was raised by Your Honour Justice Lussick, my learned
7 friend's cross-examination yesterday was notable for the
8 questions that were not asked. The sum total of the evidence
9 from yesterday was that these two witnesses 157 and 158 happened

10:09:06 10 to stay in the same place over the weekend. It was never ever
11 suggested to the witness that, contrary to the warning, he
12 discussed his evidence or that he was in any other way colluding
13 with Witness 158. And, to use the vernacular, my learned friend
14 danced around lot, but he did not throw the punch. And in those

10:09:33 15 circumstances, it is incumbent upon the Defence, if they wish to
16 raise the issue of collusion between witnesses, for Your Honours
17 to consider in the assessment of evidence given by two or more
18 witnesses, then they must lay the proper groundwork. They must
19 put fairly and squarely to those witnesses that they have

10:09:54 20 colluded. It is not enough simply to lead evidence of contact.
21 An allegation affecting the credibility of that evidence must be
22 put to the witness otherwise it is not something, in my
23 submission, that Your Honours can consider.

24 This situation is absolutely no different to a situation
10:10:20 25 that must be going on in some country around the world right now
26 and that situation can be given hypothetically as follows: Three
27 members of the same family are sitting in their lounge room on a
28 Sunday night. An armed man bursts into their house and commits
29 robbery. That man or someone is charged with armed robbery.

1 Those three family members become witnesses in that trial. They
2 live under the same roof from the time of the incident until the
3 time the trial commences. They live under the same roof while
4 each one in turn gives their evidence. Each of them is given a
10:11:02 5 warning as they are giving evidence not to discuss their evidence
6 with their other family members. Now, one of the Defence
7 strategies might be to suggest that their evidence should not be
8 considered because there has been collusion between them. If
9 that is one of the Defence strategies, that must be put to the
10:11:22 10 witnesses. It must be actually suggested to them. It is then up
11 to the trier of fact to decide whether that collusion has been
12 established or not. And important to that is if that allegation
13 of collusion has been put and it is denied, that is the evidence.
14 Now, that evidence may be believed or it may be disbelieved, but
10:11:51 15 that is the evidence and it is only the trier of fact, when
16 coming to assess the evidence as a whole, it is only the trier of
17 fact who can be satisfied whether that allegation is made out or
18 not. We are absolutely in the realm of speculation at the
19 moment.

10:12:09 20 Now, what I have said is not putting a burden of proof on
21 the Defence; far from it. What it is is putting the normal
22 course where any allegation that the Defence wishes to make that
23 will affect, they say, the credibility of a witness, must be put
24 to the witness so that that witness has an opportunity to respond
10:12:30 25 to it.

26 My learned friend has referred to this ICTY authority. I
27 do not have the authority at my fingertips, but I would adopt the
28 rationale behind the questions that Your Honour Justice Lussick
29 was asking my learned friend that it has to be, even without

1 reading the authority, distinguishable between contact between a
2 party to proceedings and contact without more between witnesses.
3 Obviously, a contact by a party during a time that a witness is
4 giving evidence is highly improper and there has been no
10:13:16 5 suggestion of that in this case.

6 Your Honours have raised Rule 90(d). Rule 90(d) was
7 obviously drafted with the rights enshrined under Article 17 in
8 mind. It therefore cannot be said that allowing a witness who
9 has heard the testimony of another witness to give evidence is,
10:13:47 10 for that reason, in breach of the Article 17 rights. And I say
11 that bearing in mind that there is absolutely nothing at the
12 moment before Your Honours that even gives rise to the
13 possibility of collusion. The state of the evidence, no more and
14 no less, is that these witnesses have had contact.

10:14:10 15 My learned friend has also referred to Rule 95 and Rule 95
16 has the requirement that evidence shall not be admitted if it is
17 going to bring the administration of justice into serious
18 disrepute. My learned friend has addressed nothing towards the
19 category of serious disrepute. And in those circumstances, it is
10:14:36 20 my submission that there is nothing before Your Honours at the
21 moment on which Your Honours could come to a conclusion that
22 there has been any collusion between witnesses 157 and 158, and
23 even if there had been, that Witness 158 should be called and
24 Your Honours, as the triers of fact in this case, are able to
10:15:02 25 deal with those issues as they arise. And because this is not a
26 jury trial, the issue of prejudice versus probative value is
27 something that leans towards Your Honours as professional judges
28 hearing evidence and then making assessments of its credibility
29 and its impact when all the evidence has been submitted. If Your

1 Honours please.

2 PRESIDING JUDGE: Ms Taylor, Mr Knoops also in the course
3 of his submission, when asked what he was seeking today, said -
4 and I quote, "To continue with 267 before we allow 158 and that
10:15:45 5 we first decide on a motion." What is your view on that
6 particular submission?

7 MS TAYLOR: My submission is that 158 should be allowed to
8 be called now for all of the reasons I have just outlined. It
9 does not matter whether we call 267 in front of 158. And for
10:16:06 10 practical reasons, including the availability of interpreters,
11 267, being a Temne speaker, it is more pragmatic to call 258 in
12 front of 267.

13 PRESIDING JUDGE: Thank you, Ms Taylor. Before I confer
14 with my learned colleagues, I would just ask if any counsel is
10:16:29 15 aware of international jurisprudence? The common law courts of
16 Northern Ireland permit witnesses to sit in and listen to other
17 witnesses. To the best of my knowledge - I am not aware of this
18 in many other common law countries - but to the best of my
19 knowledge, that has not been challenged under Article 6 of the
10:16:52 20 European Convention on Human Rights. I am not sure and I ask
21 counsel if they are aware of any international jurisprudence on
22 the particular point of witnesses listening to the other
23 witnesses?

24 MS THOMPSON: Your Honour, I am aware that in civil -- in
10:17:09 25 some civil cases in England, certain witnesses are allowed in,
26 particularly the parties are allowed in whilst the others are
27 giving evidence. Certainly not in criminal trials.

28 PRESIDING JUDGE: Well, Article 6 of the European
29 Convention applies in English cases. Are you aware of any

1 international jurisprudence?

2 MS THOMPSON: I am not aware of any international
3 jurisprudence on that, but I do know for sure that in criminal
4 trials, witnesses are not allowed in. I know it is the same in
10:17:41 5 the jurisdiction of Sierra Leone.

6 MS TAYLOR: Your Honours, I am not aware of any
7 international jurisprudence. I do know that in Australia in
8 criminal trials it is very common for expert witnesses to sit in
9 for the testimony during criminal trials. Of course, the
10:17:54 10 European Convention on Human Rights does not apply to Australia,
11 but I am not aware of any international jurisprudence.

12 PRESIDING JUDGE: Thank you, counsel. I was just asking
13 that purely for information.

14 Mr Knoops have you any reply on points of law by issues
10:18:19 15 raised by counsel for the Prosecution?

16 MR KNOOPS: Thank you, Your Honour. No, I would merely
17 reiterate myself.

18 PRESIDING JUDGE: Thank you.

19 MR KNOOPS: Thank you.

10:18:52 20 PRESIDING JUDGE: We would wish to consider the submissions
21 made and therefore we will have an early break. We normally
22 would break around 10.30, we will break now. We will break for
23 20 minutes to allow counsel a realistic assessment of when to
24 come back to court. Mr Court Attendant, please adjourn court for
10:19:14 25 20 minutes.

26 [Break taken at 10.15 a.m.]

27 [On resuming at 10.55 a.m.]

28 PRESIDING JUDGE: The unanimous decision of the Court on
29 this application will be read by my learned sister Justice

1 Sebutinde.

2 [Ruling]

3 JUDGE SEBUTINDE: This is the unanimous ruling of the Court
4 on the application on the floor. We have carefully considered
10:58:50 5 the Defence application to stay the testimony of Witness TF1-158,
6 pending our decision on written Defence motion filed late
7 yesterday. We are not persuaded that sufficient grounds have
8 been established for this stay of this witness's testimony. We
9 are of the view that this witness, TF1-158, should at this stage
10:59:18 10 give his testimony and that the Defence will in due course
11 exercise their statutory rights to cross-examine him if they so
12 wish. The formal motion, Defence motion that is, will be
13 considered in due course once all the pleadings have closed.

14 That is the ruling of the Court.

10:59:49 15 PRESIDING JUDGE: Ms Taylor, in the light of that ruling.

16 MS TAYLOR: Yes, the Prosecution will call Witness TF1-158
17 and, as earlier indicated, this witness will give evidence via
18 the video link and will be led by my learned friend Ms Alagendra.

19 MR WALKER: Your Honour, the witness is going to be a few
11:00:53 20 minutes.

21 PRESIDING JUDGE: Thank you.

22 JUDGE SEBUTINDE: Incidentally, Ms Taylor, what is the
23 religion of this witness?

24 MS TAYLOR: Muslim, Your Honour. Your Honour, I don't know
11:03:36 25 if you have noticed, but the witness has appeared on screen.

26 PRESIDING JUDGE: I beg your pardon.

27 MS TAYLOR: I said I don't know if you have noticed, but
28 the witness has appeared on screen.

29 PRESIDING JUDGE: Yes, Mr Court Attendant can you swear in

1 the witness, please?

2 MR WALKER: Certainly, Your Honour.

3 WITNESS: TF1-158 [sworn]

4 [The witness answered through interpreter]

5 [The witness testified via video link]

6 EXAMINED BY MS ALAGENDRA:

7 PRESIDING JUDGE: Ms Alagendra, the witness has been sworn.

8 Please proceed.

9 MS ALAGENDRA: Thank you, Your Honour.

11:04:30 10 Q. Good morning, witness.

11 A. Yes.

12 Q. Witness, I am going to ask you a few questions this
13 morning. And I am going to ask you to try to pace your answer so
14 the interpreter can interpret what you are saying for the Court.

11:04:47 15 Is that okay?

16 A. Okay.

17 Q. Witness, how old are you?

18 A. xx.

19 Q. Where were you born?

11:05:07 20 A. In xxxxx.

21 [AFRC23JUL05 - CR]

22 Q. Witness, are you able to spell xxxx?

23 A. Yes.

24 Q. Can you spell it for the Court, please?

11:05:43 25 A. Bxxxx.

26 Q. Witness, can you tell the Court in which district is
27 xxx?

28 A. Yes.

29 Q. Which district is it in, Witness?

1 A. Bombali District.

2 Q. Witness, are you able to spell Bombali?

3 A. I will try.

4 Q. Please try, Witness.

11:06:19 5 A. B-O-M-B-A-L-I-E.

6 Q. Witness, what is the level of your education?

7 A. I'm in Form xxx.

8 Q. Witness, where were you living in May of 1998?

9 A. I was in xxxxx.

11:06:52 10 Q. Did anything happen in xxx in May 1998?

11 A. Yes.

12 Q. Please tell the Court what happened.

13 A. At one time, by 5.00 o'clock, we saw soldiers who were

14 armed with guns. We were in the xxx at that time. They

11:07:20 15 appeared at the mosque. We were assembled together, those of us

16 who were in the xxx. They placed us in one house. Then they

17 said they were going to burn the house.

18 Q. Witness, the soldiers that you said who entered xxx, can

19 you tell the Court how they were dressed?

11:07:45 20 A. Yes.

21 Q. Please proceed, Witness.

22 A. Some were dressed in uniform trousers, combat. Some had

23 small clothes, but it resembles a combat. Some had red bands

24 around their heads.

11:08:13 25 Q. Witness, do you know if the group that attacked xxx on

26 that day had any leaders?

27 MR KNOOPS: Your Honour, I object.

28 PRESIDING JUDGE: [Microphone not activated]

29 MR KNOOPS: I think the witness has not yet stated whether

1 he's in a position to identify any leaders let alone what's, in
2 his perception, what the word "leader" means. We don't know
3 anything about the amount of soldiers and any other information
4 which may lead to this question. In addition to that, Your
11:09:08 5 Honour, I don't think that it has been established that this
6 witness is competent to verify or identify any persons which
7 qualify the word "leaders".

8 MS ALAGENDRA: In fairness to the witness, Your Honour, if
9 he is able to answer the question I would follow that up by
11:09:27 10 asking him how he came to know this, Your Honour, and he will be
11 able to explain to the Court how he got this knowledge.

12 JUDGE SEBUTINDE: Why don't you first ask if he knows, not
13 whether there were leaders, but if he knows whether they were or
14 not.

11:09:47 15 MS ALAGENDRA: I apologise, Your Honour, but that was the
16 question I was trying to put to the witness.

17 [Trial Chamber confers]

18 MS ALAGENDRA: Your Honour, if I may proceed with the
19 question?

11:10:41 20 PRESIDING JUDGE: I haven't ruled on the objection. Have a
21 seat while I sit and write something. The question asked if the
22 witness has knowledge of a particular fact, on that basis it is
23 allowable.

24 MS ALAGENDRA: Thank you, Your Honour.

11:11:10 25 Q. Witness, do you know if the group that entered xxx that
26 day had any leaders?

27 A. Yes.

28 Q. Are you able to tell the Court who the leaders are,
29 Witness?

1 A. SAJ Musa, Gullit, Five-Five and O-Five. All of them were
2 there.

3 Q. Witness, how do you know that SAJ Musa, Gullit, Five-Five
4 and O-Five were the leaders of the group that entered xxx that
11:11:53 5 day?

6 A. Well, after we have moved and reached Karina, that was the
7 time when one boy made an introduction, but he was a native of
8 Karina. He was captured in Kono who did introduction. He told
9 us that they were the leaders.

11:12:27 10 Q. Witness, at the time that he made the introduction, did you
11 see the persons he referred to as SAJ Musa, Gullit, Five-Five and
12 O-Five?

13 A. Yes.

14 Q. Witness, the boy you said who was captured in Karina who
11:12:56 15 made the introduction, do you know if he belonged to the group
16 that entered xxxx that day?

17 A. Yes, he was with them.

18 Q. Witness, you told the Court that when the soldiers entered
19 xxx, you were captured and you were put into a house. Were
11:13:26 20 you the only one that was put into a house?

21 A. We were many.

22 Q. Are you able to give an estimate as to how many people were
23 put into the house?

24 A. About 50.

11:13:55 25 Q. Witness, do you know what else happened in xxxxxxxx during
26 the attack?

27 A. Yes.

28 Q. Can you tell the Court what else happened?

29 A. After I have been placed in the house, they went around to

1 loot the house, to take properties from the houses. And they
2 chopped people and later we were removed and they said they
3 picked xxx of us that we should go with them.

4 Q. Witness, how do you know that they chopped people when you
11:14:35 5 were in the house?

6 A. We heard them crying. We heard them crying, "Oh, me, they
7 have killed me."

8 Q. Witness, did you see anybody being chopped?

9 A. Yes.

11:14:57 10 Q. Who did you see being chopped, Witness?

11 A. I saw when my father was chopped.

12 Q. Can you tell the Court who chopped your father? Who did
13 you see chopping your father?

14 A. It was xx xxx.

11:15:23 15 Q. Witness, who is xxxx?

16 A. xxx was with the group and xxx was a soldier.

17 MS ALAGENDRA: Your Honour, for the record, I believe xxx
18 is spelt xxx.

19 PRESIDING JUDGE: Thank you.

11:15:56 20 MS ALAGENDRA:

21 Q. Witness, did you see xxxxx chopping your father?

22 A. Yes, I sawxxx.

23 Q. Are you able to tell how xxxx was dressed at that time?

24 A. Yes.

11:16:09 25 Q. How was xxx dressed, Witness?

26 A. At that time, he had a jacket and then he had a uniform.
27 He had his gun at the back and --

28 PRESIDING JUDGE: Mr Interpreter, who is this "he"?

29 THE INTERPRETER: xxxx, I am sorry.

1 THE WITNESS: xx had a gun at the back and then xx had a
2 machete in xx hand.

3 MS ALAGENDRA:

4 Q. Witness, apart from your father, did you see anybody else
11:16:39 5 being killed?

6 JUDGE SEBUTINDE: I'm sorry, I don't understand what
7 chopped means and then, counsel, you are using the word "killed".
8 I'm not sure I understand what chopped means.

9 MS ALAGENDRA: I will clarify that with the witness, Your
11:16:53 10 Honour.

11 Q. Witness, when you say that xxxx chopped your
12 father, can you describe exactly what did xx do to your father?

13 A. Because my father had gone out -- after I have been removed
14 from the xxxx, we were placed in the house. Then xxx
11:17:24 15 saw him. Then they said, "There is a man going there." Then xx
16 followed xxx and then xx went there and hacked xxx, xxxx
17 all over and hacked her at the back of her neck and then xx fell
18 down.

19 PRESIDING JUDGE: Mr Interpreter, we have two hers now.
11:17:41 20 The father is normally a male. What is this answer about?

21 THE INTERPRETER: The father left the house and was thrown
22 in, [indiscernible] then xx followed her and hacked him until he
23 died.

24 JUDGE SEBUTINDE: Mr Interpreter, we would urge you to
11:17:59 25 interpret accurately and that includes the gender of the persons
26 you are speaking about. Please stop confusing us.

27 THE INTERPRETER: Yes, My Lord.

28 PRESIDING JUDGE: Please continue Ms Alagendra.

29 MS ALAGENDRA:

1 Q. Witness, apart from seeing your father being hacked until
2 he died, did you see anybody else being hacked?
3 A. Yes. The woman I saw, there were two boys and they were
4 arguing over that. The woman was pregnant and they were arguing
11:18:47 5 over the gender of the baby and they were arguing, and so her
6 stomach was slit open and they opened her womb and then removed
7 the foetus and laid it one side and the lady the other side.
8 Q. Did you see this happen, Witness?
9 A. Yes.
11:19:07 10 Q. Witness, are you able to say who split the woman's belly?
11 A. I don't know their names.
12 Q. Do you remember how they were dressed?
13 A. Yes.
14 Q. Can you tell the Court how they were dressed, Witness?
11:19:29 15 A. The one had a shorts and he had boots on and he had a
16 jacket uniform on. The other one had a rag around his head and
17 carried a cutlass.
18 Q. Witness, you said earlier that after this happened, xxx
19 xxx were picked and asked to carry loot.
11:19:58 20 PRESIDING JUDGE: I don't think the witness used the word
21 "loot". He did say they went around to loot property from houses
22 and they picked three of us to carry, but he didn't say carry
23 what.
24 MS ALAGENDRA: I apologise, Your Honour, I will clarify
11:20:14 25 that with the witness.
26 Q. Witness, you said xxx were picked and asked to
27 carry. Can you explain what xxx were asked to carry?
28 A. Yes.
29 Q. What were xxxx asked to carry, Witness?

1 A. We were asked to carry rice that they took from the houses,
2 ground nuts, the seed ground nut and they placed them on my head
3 to carry. We were in front.

4 Q. Can you tell the Court where you were heading to, carrying
11:20:58 5 this rice and ground nut on your head?

6 A. It was towards xxxx.

7 MS ALAGENDRA: Your Honour, for the record, xxxx is spelt
8 xxx.

9 Q. Witness, did anything happen when you reached xxxx?

11:21:26 10 A. When we reached xxxx, therein they entered and captured
11 two children. One was a girl and the other a boy. They were to
12 follow us. They wanted to escape. Therein they captured them
13 and killed them because they tried to escape.

14 Q. Witness, did you see them being killed, the boy and the
11:21:55 15 girl who were captured from xxxxxx

16 A. Yes.

17 Q. Do you know who killed them?

18 A. No, I don't know their names.

19 Q. Do you know if they belong to any group?

11:22:18 20 PRESIDING JUDGE: You're talking now about the persons --

21 THE WITNESS: It was the same group. They belonged to the
22 same group.

23 JUDGE SEBUTINDE: I'm afraid you haven't established which
24 group that was, because there is a whole series of compounded,
11:22:32 25 "They did this", and, "They did that". You haven't established
26 who "they" were. Now he is saying they belonged to the same
27 group. I have no clue which group this is.

28 MS ALAGENDRA: I will clarify that with the witness, Your
29 Honour.

1 Q. Witness, when you say they belonged to the same group,
2 which group do you mean?
3 A. SAJ Musa's group.
4 Q. Witness, can you repeat for the Court again the people who
11:23:17 5 killed the two children? Which group did they belong to?
6 A. They belonged to SAJ Musa's group.
7 Q. Witness, where did you go to from Karina?
8 A. We passed some villages, but the big town we went to was
9 called Mateboi.
11:23:49 10 Q. Witness, did anything happen when you went to Mateboi?
11 A. When we reached Mateboi, we did not meet anybody there,
12 because when we are leaving, they put xxxx on fire and there
13 was smoke coming up. So we did not meet anybody in the town.
14 So, they asked us to rest there.
11:24:15 15 Q. Witness, when you were at Mateboi, do you know where was
16 Gullit, O-Five and Five-Five?
17 A. Yes, they were there.
18 Q. Did you see them, Witness, in Mateboi?
19 A. Yes.
11:24:43 20 Q. Witness, how long were you at Mateboi?
21 A. We were there for three days.
22 MS ALAGENDRA: Your Honour, for the record, Mateboi is
23 spelt M-A-T-E-B-O-I.
24 Q. Witness, where did you go after the three days?
11:25:08 25 A. After the three days we went to Rosos, but we passed some
26 villages.
27 MS ALAGENDRA: Your Honour, for the record, Rosos is spelt
28 R-O-S-S-O-S [sic].
29 Q. Witness, how many people went with you from Mateboi to

1 Rosos?

2 A. We were many.

3 Q. Are you able to give an approximate number as to how many
4 people?

11:25:58 5 A. We were like 400, including those of us who were captured.

6 Q. Witness, apart from those of you who were captured, who
7 were the others who made up the 400?

8 A. The soldiers.

9 Q. Witness, when you went to Rosos, do you know where were the
11:26:41 10 leaders you named: Gullit, O-Five and Five-Five?

11 A. Yes.

12 Q. Where were they?

13 A. They were in the town. They went to one house and they
14 made that place their office. They made there an office.

11:27:14 15 Q. When you say they were in the town, what town are you
16 talking about?

17 A. Rosos, in Rosos.

18 Q. Witness, what happened after you went to Rosos?

19 A. When we entered there, they asked us to rest there. Then
11:27:44 20 they said we were to look out for food in the town so that they
21 can cook and for us to eat.

22 Q. Witness, who told you to go look for food in the town?

23 A. Staff Alhaji was the one who told us. The order was given
24 to him by Gullit.

11:28:13 25 Q. Witness, who is Staff Alhaji?

26 A. He was the soldier; he was with SAJ Musa's group.

27 Q. Witness, how do you know he received the orders for you to
28 go find food from Gullit?

29 A. He told us that; xxxx told us that.

1 Q. Witness, after you were ordered to find food, did you go to
2 find food?

3 A. Yes. We were given guns and told to leave.

4 Q. Witness, can you tell the Court how many people went
11:29:20 5 together with you to go to look for food?

6 A. Roughly, we were about 300.

7 Q. Who were the 300 who went to look for food with you?

8 A. The soldiers.

9 Q. Witness, you said that they gave you guns when you went to
11:29:52 10 look for food. Who gave you the guns?

11 A. Staff Alhaji; he was the one who gave them to us.

12 Q. Witness, how long did you stay in Rosos?

13 A. We spent a week there.

14 Q. During the one week that you were in Rosos, what did you
11:30:38 15 do?

16 A. In the morning, they will call a muster parade so that we
17 would go and train. It was around 7.00 that we still went on for
18 all to assemble at the field.

19 Q. What was the training that you had to go for, Witness?

11:30:57 20 A. To crawl on the ground and then to cock the gun and fire.

21 Q. Witness, at the time that you were trained, how old were
22 you?

23 A. By then I was xxxyears, at that time.

24 Q. Witness, can you tell the Court how many people were being
11:31:29 25 trained?

26 A. We were many.

27 Q. Are you able to give an approximate number of people?

28 A. It was like 300, 350.

29 Q. Do you know what was the age group of the civilians that

1 were being trained?

2 A. Yes.

3 Q. Can you tell the Court, please?

4 A. Some were seven years, some eight, some nine, ten onwards.

11:32:22 5 Q. Witness, were you all being trained in the same thing: to

6 crawl, and how to cock and fire a gun?

7 A. Yes.

8 Q. Witness, who was doing the training?

9 A. Staff Alhaji.

11:32:46 10 Q. Witness, during your trainings in the morning, do you know

11 where was Gullit, O-Five and Five-Five?

12 A. Yes. They will go there and stand by.

13 Q. Did you see them there while you were doing your training?

14 A. Yes, I saw them.

11:33:20 15 Q. Witness, do you know if Staff Alhaji reported to anyone

16 about the training he was conducting for you?

17 A. Yes.

18 Q. Who was he reporting to, Witness?

19 A. To Gullit.

11:33:48 20 Q. Witness, how do you know that Staff Alhaji was reporting to

21 Gullit about the training?

22 A. We will be there standing while he made the report.

23 Q. Are you able to tell the Court what was the report that

24 Staff Alhaji made to Gullit?

11:34:29 25 A. Yes.

26 Q. Did you hear it yourself, Witness?

27 A. Yes.

28 Q. Can you proceed to tell the Court what was the report that

29 he made?

1 A. When he went there, he will salute and if there were 300
2 people in the parade, then he will say, "I have 300 men on
3 parade." With your permission to stand them at ease and fall in
4 and then we would say yes and then we would say thank you, sir,
11:35:06 5 and then he would leave.
6 Q. Who would say, "Yes", Witness?
7 A. Gullit.
8 Q. Witness, you told the Court that you were in Rosos for one
9 week. Can you tell the Court how you came to leave Rosos after
11:35:27 10 the one week?
11 A. Yes.
12 Q. Please proceed, witness.
13 A. I did not get you well.
14 Q. Can you tell the Court how you came to leave xxxx after
11:35:45 15 one week.
16 A. After one week, they said we should go to look out for food
17 out of the town. So, there I was when I escaped.
18 Q. Where did you go to when you escaped, Witness.
19 A. I went back to my village in xxxxx.
11:36:28 20 Q. Witness, were you ever captured again?
21 A. At the time of the ceasefire, that was the time when SAJ
22 Musa went and based there, so they went on food-finding and they
23 asked us to go and take the food, rice and ground nut.
24 Q. Witness, can you tell the Court when you were captured
11:36:54 25 again after xxxx.
26 MR DANIELS: Respectfully --
27 MS THOMPSON: Your Honour, we don't know if he was captured
28 again.
29 PRESIDING JUDGE: In fact, the original question was, "Were

1 you captured again", is that right?

2 MS ALAGENDRA: Yes, Your Honour.

3 PRESIDING JUDGE: At the time he was asked, "At the time of

4 the ceasefire." I found the answer a little confusing. I'm

11:37:17 5 going to ask the witness to repeat it. Mr Witness, would you

6 please repeat your answer to the last question?

7 MS ALAGENDRA: Your Honour, if I may repeat the question

8 for the witness.

9 PRESIDING JUDGE: Yes, please do.

11:37:29 10 MS ALAGENDRA:

11 Q. Witness, after you escaped from xxxx, were you captured

12 again?

13 A. It was when they said there was ceasefire. They were

14 coming from the food-finding and then they looted and they asked

11:37:46 15 us to carry the things to xxxx.

16 Q. Witness, who asked you to carry the things to xxx

17 A. Officer Demo.

18 Q. Where were you at the time officer Demo asked you to carry

19 the stuff to xxxxi?

11:38:12 20 A. I was in xxx with xxxx.

21 Q. Witness, are you able to spell --

22 PRESIDING JUDGE: Ms Alagendra, can we have -- you're going

23 to ask the witness to spell it.

24 MS ALAGENDRA: Yes.

11:38:38 25 Q. Witness, can you spell xxxxx.

26 A. Yes.

27 Q. Can you spell it, please.

28 A. xxxxx.

29 Q. You said you were asked to carry things from xxxxx to

1 Kamabai. Can you spell Kamabai for the Court, please?

2 A. Yes, sir.

3 Q. Please spell, witness.

4 A. xxxxxx.

11:39:15 5 Q. Witness, do you know in which district is xxxxx?

6 A. In the Bombali District.

7 Q. And xxxxx, Witness, which district?

8 A. The same Bombali District.

9 Q. Witness, you have told the Court it was one xx who asked

11:39:47 10 you to carry things from Kamabai to xxxxx. Who is Demo,

11 Witness?

12 A. He was a soldier and was with the Savage's group.

13 Q. Witness, who is Savage?

14 A. He was a soldier.

11:40:23 15 MS ALAGENDRA: Your Honour, for the record, xxxxx, I believe

16 is spelt xxxxx, and Savage, S-A-V-A-G-E.

17 Q. Witness, how do you know that xxxxx belonged to the group of

18 Savage?

19 A. When we came to Kamabai, then Savage gave him order for us

11:40:56 20 to loot things. That was the time I knew xxxxxx was under Savage.

21 Q. Witness, are you able to describe how xxxxxx was dressed at

22 that time?

23 A. Yes.

24 Q. How was he dressed, Witness?

11:41:25 25 A. During that time, he had black boots and he had a uniform

26 trousers. He had his helmet and he had two pistol. One on side

27 and one on the other side.

28 Q. Witness, when you were in Kamabai, did you see Savage?

29 A. Yes.

1 Q. Can you describe how Savage was dressed when you saw him?

2 A. During that time, he had short pair, white short pair. He
3 had crepe, he had stockings and he had a vest, and held cow's
4 tail.

11:42:20 5 Q. Witness, how long did you remain in Kamabai after you
6 arrived?

7 A. We were there for about xxxx.

8 Q. Witness, what did you do for the xxxx in Kamabai?

9 A. In the morning I was, in the evening I was, we've been
11:42:57 10 trained to cock and fire, and so -- if there are many enemies,
11 how we could escape by crawling on the ground.

12 Q. Witness, in Kamabai, who was training you?

13 A. It was xxxxx.

14 Q. Witness, did where did you go to from Kamabai?

11:43:32 15 A. When we left Kamabai, they said since they were training
16 us, we were to go to Kabala and attack Kabala.

17 Q. Witness, who told you to attack Kabala?

18 A. It was Savage?

19 Q. Did you go to attack Kabala, witness?

11:44:06 20 A. They gathered all, nobody should remain, unless small
21 amount of women were left. One group came from Makeni. The
22 others came from Makeni. They said we should all go and attack
23 Kabala.

24 Q. After you were told to go and attack Kabala, did you go and
11:44:24 25 attack Kabala?

26 A. Yes, they went with me.

27 Q. Do you remember how many people went with you to attack
28 Kabala?

29 A. We were many.

1 Q. Are you able to give an approximate number of people?
2 A. About 500.
3 Q. When you went for the attack in Kabala, Witness, did you
4 carry anything with you?
11:45:04 5 A. Yes. They gave us guns, two pistols.
6 Q. Witness, who gave you the guns?
7 A. It was Savage.
8 Q. Witness, when you went to Kabala, did you fire the guns
9 that were given to you?
11:45:39 10 A. No, because we never entered. When we went, we were
11 divided into three groups. Some passed by KSS school, some went
12 by Gbaoria they said we should enter through the main road, but
13 the ECOMOGs, they had already opened. As they entered, they
14 opened fire. The ECOMOG themselves responded and so they started
11:46:04 15 launching.
16 Q. What happened after that, Witness?
17 A. When we were overcome, we had to pull out. Most of us were
18 held and some were killed.
19 Q. What happened after you pulled out, Witness?
11:46:34 20 A. We came to Kamabai when we pulled out; we came to Kamabai.
21 Q. Did anything happen when you came to Kamabai?
22 A. When we came to Kamabai, it took five days and then there
23 was an in-fighting in Makeni. That was RUF against AFRC.
24 Q. Witness, how do you know there was in-fighting between RUF
11:47:08 25 and AFRC?
26 A. It was xxxx who said it.
27 Q. Did anything happen as a result of the in-fighting between
28 AFRC and RUF?
29 A. Yes.

1 Q. What happened, Witness?

2 A. They fought. When they came to Kamabai, Savage said we
3 should go and disarm.

4 Q. Did you go and disarm, Witness?

11:47:59 5 A. ~~xxxxx~~ collected all the guns and they went with them. So,
6 the ECOMOG and Sierra Leone and Salone soldiers.

7 PRESIDING JUDGE: Did the witness say "MO" collected the
8 guns?

9 MS ALAGENDRA: ~~xxxxx~~, Your Honour.

11:48:20 10 THE WITNESS: ~~xxxxx~~.

11 MS ALAGENDRA:

12 Q. What did you do after that, Witness, after you disarmed?

13 A. And the UN came for us. They brought us to Port Loko. I
14 was there when ~~xxxxxx~~ for me and carried me to my

11:48:41 15 village.

16 Q. Thank you, Witness. I have no more questions for you.

17 MS ALAGENDRA: Thank you, Witness, that will be all.

18 PRESIDING JUDGE: Thank you, Ms Alagendra. Counsel for the
19 Defence, who is leading?

11:48:54 20 MR KNOOPS: If Your Honours allow, I just want to have one
21 minute to confer with my colleagues.

22 PRESIDING JUDGE: By all means.

23 MR KNOOPS: Your Honour, thank you for your patience. Your
24 Honours, thank you for your patience. We respectfully request
11:50:15 25 the Chamber to allow us to first go into closed session in order
26 to ask the witness several questions which may reveal his
27 identity. In this event, we refer to the same application we
28 made with respect to Witness 157 earlier. Because the questions
29 we're going to put to the witness immediately arise at the

1 beginning of my cross-examination, it is perhaps a proper moment
2 to file the application now and ask the Chamber to rule on this
3 application.

4 PRESIDING JUDGE: Ms Alagendra, have you your reply to this
11:51:05 5 application?

6 MS ALAGENDRA: Your Honour, we have no objections to the
7 application for closed session.

8 [Trial Chamber confers]

9 PRESIDING JUDGE: Mr Knoops, could we seek a clarification
11:52:39 10 from you, bearing in mind the right under 17(2) to a public
11 hearing? Would any reservations to do with identity and
12 protection of the witness be overcome by asking the witness to
13 write names, or does the questioning go deeper than that?

14 MR KNOOPS: Your Honour, the questioning relates directly
11:53:13 15 to the same issues as being raised during the closed session with
16 respect to Witness 157. I think it's, for us, rather difficult
17 to do this with written notes. I can restrict the closed session
18 to the issue raised during the closed session in regard to
19 Witness 157. Perhaps during the closed session, I could ask the
11:53:47 20 witness to, indeed, attach a number or a letter to one of the
21 persons we're going to refer to and then go into public session,
22 continue to refer to these acronyms.

23 PRESIDING JUDGE: Thank you for that clarification,
24 Mr Knoops.

11:54:08 25 [Trial Chamber confers]

26 PRESIDING JUDGE: We will allow the closed session for the
27 protection of the witness and the protection of other persons.
28 We note that counsel will keep the session to a minimum to uphold
29 the rights of his client. I will therefore order that we go into

1 closed session. Mr Court Attendant, please implement that.

2 MS THOMPSON: Your Honour, while the technology is being
3 put in place, I ask to be excused for just one moment.

4 PRESIDING JUDGE: Yes.

11:58:22 5 MR DANIELS: Respectfully, Your Honour, before we proceed,
6 my client indicated that he's under the weather and would like to
7 return to the detention facility.

8 PRESIDING JUDGE: Yes, I noticed he hasn't been looking too
9 good this morning. If he can be escorted out. Are there escorts
11:58:39 10 available to accompany him? Thank you.

11 [At this point in the proceedings, a portion of the
12 transcript, pages 49 to 55, was extracted and sealed under
13 separate cover, as the session was heard in camera.]

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1 [Open session]

2 PRESIDING JUDGE: Mr Knoops, please proceed with your
3 cross-examination.

4 MR KNOOPS:

12:17:46 5 Q. Mr Witness, we are back in public session, meaning that the
6 public is able to hear you now. I will please remind you that
7 you should be very careful not to mention the name of your uncle
8 and your brother you just spoke about during the
9 cross-examination I am going to conduct now. Do you understand?

12:18:17 10 A. [No audible response]

11 PRESIDING JUDGE: Mr Witness, did you understand what
12 counsel has said to you?

13 THE WITNESS: Yes.

14 PRESIDING JUDGE: This is to protect you and your brother
12:18:35 15 and your uncle.

16 THE WITNESS: Okay.

17 MR KNOOPS:

18 Q. Mr Witness, before you came to Freetown were you questioned
19 by members of the Prosecution of the Special Court? Can you
12:19:00 20 recall that?

21 A. Yes.

22 Q. On how many occasions, according to your recollection?

23 A. How many times they met me?

24 Q. Yes, how many times.

12:19:31 25 A. Two times and the third time was the time -- it was twice
26 and the third time I came over.

27 Q. How many times were you questioned in your home town?

28 A. They interviewed me once and they wanted information that
29 we should appear to Court twice and the one making the third one

1 now I was here in Court.

2 Q. Can you recall, Mr Witness, when it was the first time that
3 you were interviewed by the Prosecution in your home town?

4 A. I couldn't remember.

12:20:33 5 Q. Can you remember, Mr Witness, your brother and your uncle
6 you earlier spoke about were present during that interview?

7 MS TAYLOR: Your Honour, I object to that question.

8 THE WITNESS: Yes.

9 PRESIDING JUDGE: Just wait a moment, Mr Witness.

12:20:55 10 MS TAYLOR: I wonder on what basis that my learned friend
11 suggests to this witness that his uncle and brother were present
12 during the interview. I think that is more properly asked of the
13 witness rather than it put as fact to the witness that that
14 occurred. There is no basis for my learned friend suggesting
12:21:12 15 that the interview was conducted in the presence of other people.
16 The question being, "What does interview mean" in that context.

17 JUDGE SEBUTINDE: Yes, Mr Knoops, I'm not quite sure which
18 of the three interviews we're talking about.

19 MR KNOOPS: The first one. I said --

12:21:28 20 JUDGE SEBUTINDE: Well, you didn't ask him that. You're
21 saying so, but I'm not sure the witness knows that. If I, the
22 judge, don't know, I don't know that you are communicating
23 properly with the witness.

24 MR KNOOPS: I can rephrase the question.

12:21:41 25 Q. Mr Witness, during the first time you were interviewed in
26 your home down, were family members of you present during this
27 interview? I caution you not to mention names. Just say yes or
28 no.

29 A. They were around, but I was interviewed in the vehicle.

1 Q. If you speak about "they", do you refer to the same people
2 we spoke about just a few minutes ago during the closed session?
3 A. Those who went to question me.
4 Q. Mr Witness, the family members you referred to who were
12:22:42 5 around during your first interview in your home town, were they
6 the same people as mentioned during the closed session; namely,
7 your brother and elder brother?
8 MS ALAGENDRA: I think it's uncle.
9 THE WITNESS: Yes.
12:23:07 10 MR KNOOPS: Thank you.
11 Q. When you speak, they were around. What do you mean by
12 that? Could you please explain that?
13 A. Because when they first went, those who went to ask me,
14 they went to the Chief. There we were sent for and we went
12:23:30 15 there. They were sitting in the house somewhere, but they were
16 not really listening to what we were saying. We were in the
17 vehicle and all the doors were closed. They were not really
18 hearing what we were discussing.
19 Q. Whom of you were in the vehicle?
12:23:48 20 A. We were three.
21 Q. So your uncle and your elder brother were in the same
22 vehicle as you; is that correct?
23 JUDGE LUSSICK: No, that's not what he said, Mr Knoops. He
24 said there were three people in the vehicle.
12:24:11 25 THE WITNESS: No.
26 MR KNOOPS:
27 Q. Could you please explain who was in the vehicle?
28 A. Yes.
29 Q. Please do.

1 A. Those who went to ask me were two and I made up the number
2 three.
3 Q. Where were your uncle and elder brother at that moment you
4 were questioned in the vehicle?
12:24:48 5 A. They asked them to sit down and wait and they were doing it
6 one after the other, so they would step out.
7 Q. Were you the first in line to be questioned, the second or
8 the third?
9 A. I was the second.
12:25:18 10 Q. Who was the first, without mentioning names?
11 A. My brother.
12 Q. When your brother was questioned and left the vehicle, were
13 you able to speak to him?
14 A. No. As they asked him to go out, they asked me to enter.
12:25:59 15 Q. What happened after the interviews that day? Did the
16 members of the Prosecution leave? Did you stay in your home town
17 or --
18 PRESIDING JUDGE: You've got two questions there,
19 Mr Knoops. One at a time, please.
12:26:16 20 MR KNOOPS: Yes, I realise, Your Honour.
21 Q. First question, Mr Witness, did the interviewers of the
22 Special Court leave your home town after the interviews in the
23 vehicle?
24 A. Yes. After the interview, they went to us the ~~xxxxx~~.
12:26:47 25 Q. Did your uncle, your elder brother and you stay in your
26 home town at that moment?
27 A. Yes.
28 Q. Did you tell each other what happened in the vehicle?
29 A. To discuss it among ourselves? I did not get you clear.

1 Q. Did you speak with each other about what happened in the
2 vehicle?

3 A. That was the time when we came because my aunt that asked
4 me, then I explained it to her. I told her that it concerned
12:27:49 5 about how we were captured and they asked us whether we would be
6 happy to appear in the Court and to give evidence. That was what
7 I told her.

8 Q. Before you came to Freetown, did you speak with your elder
9 brother about what happened in the vehicle?

12:28:20 10 A. Yes, we discussed about it. He was telling me that he was
11 afraid. At that time, both of us were afraid.

12 Q. Did you speak about what you had told the members of the
13 Prosecution for the Special Court of your experiences and the
14 content of your statement?

12:29:03 15 A. No.

16 Q. Mr Witness, is your relationship with your elder brother a
17 good relationship?

18 A. My father -- it was my father's younger brother.

19 Q. Do you trust him?

12:29:37 20 A. Yes.

21 Q. Do you tell him things what happened in life? Do you share
22 these things with him?

23 MS TAYLOR: Your Honour, I object to this. It is one thing
24 to ask whether there has been discussion about a particular
12:29:55 25 incident. To go into an esoteric discussion about trust and
26 sharing of secrets is quite off the topic, in my submission. I
27 object on the grounds of relevance.

28 MR KNOOPS: Your Honour, I would like to establish that
29 there was a special relationship between the two brothers --

1 PRESIDING JUDGE: Why?

2 MR KNOOPS: -- and that it is likely that they may have
3 shared information or experiences between the two of them.

4 PRESIDING JUDGE: Why do you wish to establish that?

12:30:33 5 MR KNOOPS: In order to verify whether they also shared the
6 contents of the statements they made to the OTP.

7 [Trial Chamber confers]

8 PRESIDING JUDGE: We do not consider this a relevant line
9 of questioning. The question already has been put as to whether
12:31:27 10 it was discussed and has been answered. We do not allow this
11 question.

12 MR KNOOPS: Thank you, Your Honour.

13 Q. Mr Witness, when you were interviewed in the vehicle, did
14 the people of the tribunal give you any names?

12:31:49 15 MS TAYLOR: Your Honour, I object to this question also.
16 The objection being that the content of pre-evidence discussions
17 between members of the Prosecution and witnesses are something
18 that this Chamber has ruled is not permissible in terms of an
19 area of cross-examination.

12:32:07 20 PRESIDING JUDGE: There is a written ruling on this,
21 Mr Knoops. We've dealt with this before. You are aware of the
22 decision?

23 MR KNOOPS: I'm aware, Your Honour.

24 PRESIDING JUDGE: In the light of that decision, what is
12:32:19 25 your reply to the objection by counsel for the Prosecution?

26 MR KNOOPS: Your Honour, I think I was allowed yesterday to
27 ask the witness whether the members of the Prosecution told the
28 witness the names of the indictees before the Special Court. I
29 don't think this is any violation of privilege that the

1 Honourable Trial Chamber has already ruled on. I can also
2 rephrase my question and ask the witness which persons were
3 indicted before the Special Court before his interview started.

4 PRESIDING JUDGE: Ms Taylor, you have heard Mr Knoops'
12:33:35 5 proposed question. Does that overcome the objection you have
6 raised? What is your reply?

7 MS TAYLOR: In relation to the proposed rephrasing, I note
8 this interview took place on 12 April 2003. Only one of the
9 three accused persons in this Court was in fact indicted by that
12:33:50 10 stage. I don't have, unfortunately, to memory whether the
11 indictment was public by then or not. I'm not sure that that is
12 going to take us much further.

13 MR KNOOPS: Your Honour, with all due respect, if we're not
14 allowed to ask any questions on the way questions were put to the
12:34:17 15 witness, or whether any names were put to him, how are we to
16 establish whether a statement of a witness is authentic or not
17 and whether or not the investigators have led the witness into a
18 certain statement? We have simply no option than just to ask the
19 witness. I don't think this will violate any privilege of the
12:34:48 20 Prosecution and witness. I'm not going into meetings between
21 members of the Prosecution and the witness, I'm just asking
22 whether a name was put to the witness during the interview. Your
23 Honours must have noticed that the interviews at stake, of
24 yesterday and this statement, are not verbatim statements. It is
12:35:30 25 written in the third person.

26 JUDGE SEBUTINDE: Mr Knoops, I wish to make a few
27 observations in view of your submissions that you have just
28 given. As I understand the practice of impeaching witnesses
29 using their pre-trial statements as a technique, as I understand

1 that technique, you look at the statement at its face, you look
2 at the face of the statement. You pick out particular content
3 which you then put to the witness. You do not go behind the
4 statement and solicit the content of the interview. We have
12:36:05 5 already ruled on that issue, you do not go beyond. You take the
6 statement on its face value, you pick the content and quote the
7 context that you want to put before the witness as a technique of
8 cross-examining. That is one way of impeaching the witness.

9 The other way I know of to impeach a witness is to take his
12:36:26 10 evidence-in-chief. For instance, this witness has given
11 evidence-in-chief that he saw certain indictees. He has
12 mentioned certain names that he saw with his own eyes, certain
13 indictees in certain locations and that certain indictees gave
14 certain orders that he heard. This is evidence on the record.
12:36:45 15 Now, you can directly attack that and cross-examine him on that
16 to test whether he actually saw or whether this is something that
17 was told to him prior to his testimony and has no credibility.

18 Now, you cannot stand there and say, "How on earth does the
19 Bench expect you to cross-examine". I have given you two
12:37:12 20 examples of how you can impeach a witness legally and properly
21 within the established rules of cross-examination. One thing I
22 know is that this tribunal has ruled that you cannot go into the
23 content of the debate or the discussions between the interviewer
24 and the witness. That is a rule that we have accepted in this
12:37:30 25 Court. But everything else is open to you as a tactic of
26 cross-examination. You can attack the statement, you can also
27 attack the evidence-in-chief and cross-examine on that.

28 MR KNOOPS: Thank you, Your Honour. If Your Honours allow
29 me, I will continue and come back to this issue in another

1 context.

2 Q. Mr Witness, before the attack on **xxxx**, did you ever see a
3 soldier of the Sierra Leone Army?

4 A. Before the attack, no.

12:38:25 5 Q. You testified that during the attack, "We saw soldiers with
6 guns"; is that correct?

7 A. Yes.

8 Q. Do you know whether these were soldiers of the Sierra Leone
9 Army?

12:38:56 10 A. No.

11 Q. Mr Witness, you stated that you were introduced by a boy, a
12 boy captured in **xxx**, to what you refer to as some of the
13 leaders; is that correct?

14 A. He was captured in **xxx**, but he was born in **xxx**.

12:39:45 15 Q. Sorry. Do you recall the name of the boy?

16 A. Yes.

17 Q. Can you give us the name?

18 A. He's called **xxx**.

19 Q. You testified that this boy was with them; is that correct?

12:40:18 20 A. Yes.

21 Q. Mr Witness, were there more than one group of soldiers
22 present during the attack in **xxx**?

23 A. There were more than -- there were many.

24 Q. How many groups, by rough estimation?

12:41:00 25 A. The groups?

26 Q. Yes.

27 A. I --

28 Q. My question is how many groups did you see?

29 A. I don't understand.

1 Q. I believe you just testified to my question whether there
2 were more groups, you say there were many; is that correct?

3 PRESIDING JUDGE: To be fair, Mr Knoops, your question was:
4 "Was there more than one group of soldiers?"

12:41:48 5 MR KNOOPS:

6 Q. Mr Witness, I asked you if there was more than one group of
7 soldiers in xxx during the attack. I believe you answered,
8 "There were many"; is that correct?

9 A. I thought you were talking about individuals. There was
12:42:06 10 one group, SAJ Musa's group.

11 Q. How did you know that this xxxx belonged to that
12 group?

13 A. He told us.

14 Q. What did he tell you, exactly?

12:42:31 15 A. When he heard us speaking xxxx, myself and [REDACTED] --
16 myself and my brother, when he heard us xxx, he,
17 too, xxxxxx to us. That was the time he explained to us
18 that we should be careful, that these were the leaders. That's
19 how he explained to us.

12:42:52 20 PRESIDING JUDGE: Just pause, Mr Knoops. Any members of
21 the press or members of the media in the public gallery who have
22 heard a name mentioned in the last answer are not to repeat that
23 name or to make it public to any person or in any way.
24 Mr Knoops, please proceed.

12:43:14 25 MR KNOOPS:

26 Q. Mr Witness, you testified that this boy did make an
27 introduction to the people you referred to as the leaders. Could
28 you please explain what exactly this xxx did tell you?

29 A. That was all he told us, that we should be careful, that

1 these were the leaders: SAJ Musa, Gullit, Five-Five and 0-Five.
2 That is how he explained to us that we should be careful.
3 Q. Mr Witness, when this xxx made this introduction and said,
4 "We should be careful, these are the leaders," were these persons
12:44:15 5 at that moment present during the introduction?
6 A. If who was there?
7 Q. The soldiers mentioned by xxxxx.
8 A. Yes, they were in front. They were going. We were able to
9 see them.
12:44:45 10 Q. How many of them were there? How many people did you see
11 there?
12 A. I saw SAJ Musa, I saw Gullit, I saw Five-Five and I saw
13 0-Five.
14 Q. At the time of that introduction, how many people were
12:45:06 15 present?
16 PRESIDING JUDGE: I'm a bit vague there, Mr Knoops.
17 MR KNOOPS: Other than the five people mentioned by the
18 witness.
19 PRESIDING JUDGE: I see.
12:45:28 20 MR KNOOPS:
21 Q. Mr Witness, were any other people, soldiers, present during
22 this introduction other than --
23 A. They were there.
24 Q. What do you mean "They were there"?
12:45:43 25 A. They were in the group.
26 Q. Mr Witness, I don't understand. Who were in the group?
27 A. You asked me if there were other soldiers there and I said
28 that they were there.
29 JUDGE LUSSICK: I think you probably need to distinguish

1 between the witness's immediate presence and a general presence
2 in the area.

3 MR KNOOPS: Yes.

4 Q. Mr Witness, at the time of this introduction, how many
12:46:21 5 soldiers were present?

6 A. I don't know their names, but they were around there.

7 Q. Mr Witness, I'm not asking you about the names, but how
8 many in number - soldiers - were present during the introduction
9 made by xxxxx.

12:46:47 10 MS TAYLOR: Your Honour, I rise at this point. I'm not
11 sure that the witness understands. To be fair, he did say, "Yes,
12 they were going" when he was talking about seeing the people that
13 he has named. I do wonder whether the witness might be better
14 able to understand if he is talking about soldiers who were
12:47:07 15 present with him when xxx was making the introduction and
16 soldiers that he saw going, based on what he's earlier said?

17 JUDGE SEBUTINDE: That exactly was Judge Lussick's point,
18 that you should be distinguish these two things.

19 MR KNOOPS:

12:47:28 20 Q. Mr Witness, when you were introduced by xxxxx to these
21 people that you mentioned, how many soldiers were at that time
22 with you?

23 A. The people I called?

24 Q. Yes.

12:47:54 25 A. Three of them were there, but Five-Five was in front.

26 Q. Can you please describe how they were dressed?

27 A. Yes.

28 Q. Please do.

29 A. They had a coat but it was a muscle coat. He had pistol on

1 one side and another on the other side. Then they had uniform
2 trousers and boots.
3 Q. Can you remember the colour of the coat?
4 A. It was a soldier uniform.
12:48:46 5 Q. Can you give the colour of the coat?
6 A. Black and brown.
7 PRESIDING JUDGE: Mr Knoops, do you have many questions in
8 this particular line of your cross-examination, as I note the
9 time?
12:49:12 10 MR KNOOPS: No, Your Honour, I could, within a few minutes,
11 finish this part.
12 PRESIDING JUDGE: Very well.
13 MR KNOOPS: Thank you.
14 Q. Could you please describe how the others - you mentioned
12:49:37 15 SAJ Musa, Gullit - were dressed?
16 A. Gullit, he had glasses, sunglasses. Then he had a helmet;
17 he had a jacket uniform, a long one; it was long-sleeved. Then
18 he had a pair of shorts and with pockets on each side and there
19 he put his pistols.
12:50:33 20 Q. And Mr SAJ Musa?
21 A. SAJ Musa, he had a pair of shorts and he had a short pair
22 on; and he also had a coat on; he had rosary beads.
23 Q. You're speaking about a helmet which was worn by Mr Gullit.
24 Did the other ones wear something on their head?
12:50:56 25 A. Yes. Some had soldier caps and some --
26 THE INTERPRETER: Could the witness please go over the last
27 bit of the statement?
28 PRESIDING JUDGE: Mr Witness, could you please repeat your
29 answer so the interpreter can hear you?

1 THE WITNESS: I don't understand.

2 PRESIDING JUDGE: We did not hear you properly, so we would
3 like you to say your answer again. Do you want the lawyer to ask
4 the question again?

12:51:39 5 THE WITNESS: Yes, yes.

6 PRESIDING JUDGE: Mr Knoops.

7 MR KNOOPS:

8 Q. Mr Witness, you just said that Gullit had a helmet on his
9 head. Did you see whether the other ones had something on their
12:51:53 10 heads?

11 A. Yes. Some had red caps, soldier caps, and some had red
12 bands on their heads.

13 JUDGE SEBUTINDE: Mr Knoops, when you say "other ones" are
14 you referring to other leaders, or are you referring to the rest
12:52:15 15 of the group.

16 MR KNOOPS: Other leaders, Your Honour.

17 JUDGE SEBUTINDE: Then the answer he has given probably
18 relates to the rest of the group.

19 MR KNOOPS: I will ask again, Your Honour.

12:52:25 20 Q. Mr Witness, the people you refer to as leaders, did they
21 wear something on their heads. You have already testified that
22 Mr Gullit had a helmet.

23 A. Yes.

24 Q. Could you please explain what it was that they wore on
12:52:44 25 their head?

26 A. Yes.

27 Q. Please do.

28 A. Five-Five, he had a pair of shorts and a pocket on either
29 side. There he placed his pistols. He had a jacket on, a

1 uniform. Then he had a cap.

2 Q. Can you remember the colour of the cap?

3 A. Black and brown, the uniform.

4 Q. Did Mr SAJ Musa wear something on his head?

12:53:30 5 A. He had nothing on his head.

6 Q. Mr Witness, did you see the person you refer to as Gullit

7 and Five-Five before you were introduced to them by xxxxx?

8 A. No.

9 Q. On how many occasions did you see them afterwards?

12:54:14 10 PRESIDING JUDGE: After what, Mr Knoops?

11 MR KNOOPS:

12 Q. After the introduction?

13 A. After the introduction, when we were on the way, I

14 continued to see them. When we reached Mateboi, I saw them

12:54:27 15 there. When we reached Rosos, I saw them again.

16 Q. I count three times; is that correct?

17 MS ALAGENDRA: Your Honour, I object to this question, Your

18 Honour.

19 THE WITNESS: No.

12:54:42 20 MS ALAGENDRA: Your Honour, I think the witness is talking

21 about three places where he's seen them, not three times, if that

22 can be clarified.

23 THE WITNESS: It was not three times.

24 MR KNOOPS:

12:54:54 25 Q. Mr Witness, is it correct that you saw these individuals in

26 these three places?

27 A. Yes.

28 Q. On how many occasions did you see them in these three

29 places, if you would give us a rough --

1 A. Like seven times.

2 Q. Did you see them --

3 A. I did not see SAJ Musa frequently.

4 MR KNOOPS: Thank you, I think this is the moment to
12:55:50 5 indicate that I am moving to the next subject, Your Honour.

6 PRESIDING JUDGE: Thank you, Mr Knoops. We will adjourn
7 for lunch. Before I do, in the light of what has transpired, I
8 will tell the witness: Mr Witness, we're going to adjourn now
9 for lunchtime. You should not discuss your evidence with anyone
12:56:09 10 until all your evidence is finished. Do you understand what I
11 say?

12 THE WITNESS: Yes.

13 PRESIDING JUDGE: If there is someone there from the
14 witness unit, could they please ensure that he doesn't meet up
12:56:24 15 with any family members.

16 MADAM SPEAKER: Yes, Your Honour.

17 PRESIDING JUDGE: Mr Court Attendant, please adjourn Court
18 until 2.20 p.m..

19 [Luncheon recess taken at 12.56 p.m.]

14:24:58 20 [AFRC26JUL05C-SGH]

21 [On resuming at 2.20 p.m.]

PRESIDING JUDGE: Mr Knoops, you were cross-examining. Is the
23 witness ready to proceed? Is the Witness Support Unit there?

24 WVS OFFICER: Yes, Your Honour, the witness is ready to
14:26:14 25 proceed.

PRESIDING JUDGE: Thank you very much. Mr Knoops, please proceed.

27 MR KNOOPS: Thank you, Your Honour.

28 Q. Good afternoon, Mr Witness.

29 A. Yes.

1 Q. Mr Witness, before the break you told us that you saw
2 Mr Five-Five in total seven times?
3 PRESIDING JUDGE: He actually said "like seven times".
4 MR KNOOPS: Like seven times.
14:26:54 5 PRESIDING JUDGE: A little less precise.
6 MR KNOOPS: Yes, Your Honour.
7 Q. Mr Witness, you told before the break that you saw
8 Five-Five like seven times?
9 A. He and Gullit, yes.
14:27:14 10 Q. Did you on these occasions just saw him or -- let me put it
11 differently. Did you on these occasions actually speak with him
12 directly?
13 A. No.
14 Q. When you told us about the training in Rosos, you indicated
14:27:55 15 that Gullit and Five-Five they go there and stand by during the
16 training. Can you recall?
17 A. Yes. Yes.
18 Q. Did you recall whether Five-Five did anything while
19 standing by during this training?
14:28:09 20 A. He did not do anything.
21 Q. Mr Witness, your one week in Rosos you told us. Do you
22 remember whether any other groups than the SLA soldiers were
23 present in Rosos?
24 A. No.
14:29:06 25 Q. Do you know what the abbreviation is of the RUF?
26 JUDGE SEBUTINDE: Sorry, Mr Knoops. That answer no, does it
27 relate to no there were no other groups or no, he doesn't --
28 THE WITNESS: No.
29 JUDGE SEBUTINDE: The way the question you asked and the way the

1 answer was given, I am trying to relate, they are quite ambiguous.
2 MR KNOOPS:
3 Q. Mr Witness, the answer you just gave no, does it mean that
4 no other groups were present during the week you were in Rosos?
14:29:45 5 A. Not at all.
6 Q. You mean with not at all, no other groups were there; is
7 that correct?
8 A. We did not meet any other group there.
9 Q. Thank you. Mr Witness, did you ever hear about the term
14:30:06 10 RUF?
11 A. Yes.
12 Q. When did you hear this term RUF?
13 A. When I was captured, that was the time I heard them calling
14 the letters RUF that there were AFRC and there were RUF in
14:30:37 15 existence.
16 Q. You are referring to the capturing in xxx?
17 A. Yes.
18 Q. And who did you hear saying these terms RUF and AFRC?
19 A. It was Demo.
14:31:14 20 Q. What exactly did Demo tell you in this regard?
21 A. He did not show me the meaning, he only told me that there
22 were AFRC, there were RUFs. That is what he told me.
23 Q. Going back now to Rosos. You indicated that no other
24 groups were present there.
14:31:58 25 MR KNOOPS: I draw the attention of Your Honours to page 13826 of
26 the interview report of the witness.
27 Q. Mr Witness, I respectfully ask you to listen to what I
28 now read from this interview report which was taken during
29 your first interview in xxxxxx and after reading this portion

1 I will ask you the questions. So please pay attention.
2 "Witness states that at Rosos there were many soldiers. SLAs.
3 They wore military uniforms as described above. Witness is
4 unable to state the number of soldiers, but says there were
14:33:07 5 many. There were also men there who hold themselves RUF, such
6 as Kill Man No Blood and Alusine."
7 Mr Witness, can you remember that you gave this statement
8 during your first interview to the members of the Prosecution?
9 A. During that time I was afraid when I gave that statement.
14:33:56 10 Q. Could you please explain what you mean with that you were
11 afraid when you gave that statement?
12 A. They only came and said we should explain the way we were
13 captured. Where and where we went.
14 Q. Mr Witness, can you recall that you mentioned during this
14:34:31 15 first interview the name RUF in the context of Rosos?
16 A. Yes.
17 Q. So what has been stated here on paper, this portion I just
18 read out to you, is a correct statement from you?
19 A. No.
14:35:11 20 Q. Could you please explain the Court what part is not correct
21 from the statement? The portion I just read out.
22 A. It was there that we met RUF there. The one's name was
23 Kill Man No Blood. That information is not correct.
24 Q. And the other name, Alusine?
14:35:47 25 A. It is incorrect.
26 Q. Are you yourself familiar with these names?
27 A. These names, no.
28 Q. Did you tell the members of the Prosecution during this
29 interview about the presence of the RUF in Rosos?

1 MS TAYLOR: Your Honour, the witness has already answered that
2 question. He said yes, he did.

3 THE WITNESS: I did not tell them.

4 MR KNOOPS: Your Honours, I would like to reply to this
14:36:42 5 objection because the witness after that clearly said that this
6 portion is not correct and that is -- I am trying to find out
7 which portion, which part of this portion is not correct. So I
8 think I am entitled to, now the witness has actually overruled
9 his own earlier statement, that he remembers saying this is not
14:36:56 10 what I said.

11 JUDGE LUSSICK: Well, I am just wondering, Mr Knoops, is he
12 talking about two different parts of the one statement? Because
13 he did say earlier you mentioned the RUF in your first interview.
14 He said yes. That was your question. And then this latest one
14:37:23 15 he said, "No, I did not tell them." But I am not sure whether he
16 is referring to that segment you have quoted or whether he did
17 not tell them at all.

18 MR KNOOPS: If Your Honours allow, I can ask him.

19 Q. Mr Witness, the portion of the interview you gave the
14:37:48 20 first time in xxxx I just read out to you. Could you please
21 explain to the Court whether, during this particular occasion,
22 so the first interview, the first interview you gave, you
23 yourself mentioned the name RUF?

24 A. Therein the first interview I did not call RUF. I said
14:38:19 25 AFRC.

26 Q. Can you recall, Mr Witness, whether the name RUF was
27 mentioned by the people who interviewed you?

28 A. I cannot recall again.

29 Q. Can you remember whether the names Kill Man No Blood and

1 Alusine were mentioned during this interview by members of the
2 Prosecution?

3 MS TAYLOR: I object to this question.

4 PRESIDING JUDGE: We are back into this realm of your
14:39:18 5 relationship between the witness and the Prosecution, Mr Knoops,
6 I think.

7 MR KNOOPS: Your Honours, I realise, but in all fairness if
8 the witness is saying that he did not mention the names during
9 this interview, it is of importance for us to establish how these
14:39:39 10 names came across in his first statement.

11 JUDGE SEBUTINDE: Mr Knoops, I think you are traversing now
12 beyond your allowable scope of cross-exam. I think you have made
13 your point. If the witness says, "Those were not my words,"
14 those were not his words. If, on the other hand, he had said
14:39:56 15 "These were my words," then you would have a problem. Right now
16 you don't have a problem and I don't know by asking him further
17 whether you are adding to your case or not. That is how I see
18 it. He has told you he did not use these words and that should
19 be good enough for you.

14:40:21 20 MR KNOOPS: Thank you, much obliged.

21 PRESIDING JUDGE: Continue Mr Knoops.

22 MR KNOOPS: Thank you.

23 Q. Mr Witness, can you recall, aside from this statement,
24 we will leave your statement as it is now, can you recall that
14:40:52 25 during the training in Rosos of this week you told about,
26 members of the RUF were present?

27 A. At Rosos they were mixed.

28 Q. And how did you know that?

29 A. Because there was one man whose name was Santigie. He was

1 an RUF. He went there later.

2 Q. How was this gentleman Santigie dressed?

3 A. He was in military uniform. He had an AK-47. He had

4 pistols on both sides.

14:42:04 5 Q. Mr Witness, how did you know at that time that he was an

6 RUF?

7 A. One of my colleagues told me.

8 Q. Did you see Mr Santigie doing anything there in Rosos?

9 A. I did not see him do anything.

14:42:43 10 Q. Was he involved in the training you underwent in Rosos?

11 A. Yes.

12 Q. In which capacity? Was he training people or was he just

13 somebody who was trained himself?

14 A. At times if Staff Alhaji was not around, he was the man

14:43:18 15 that deputised him. He took care of the situation.

16 Q. How did you know that?

17 A. We were the people that were trained. If Staff Alhaji did

18 not come today, he would come.

19 Q. Did you see this gentleman after this week in Rosos, this

14:43:51 20 training, ever back again?

21 A. No, I did not see him again.

22 Q. Mr Witness, you testified earlier that Savage told you to

23 attack Kabala; is that so?

24 A. Yes.

14:44:37 25 Q. Were you familiar with the fact whether Savage was asked to

26 attack Kabala by somebody else?

27 A. No, I was not aware of that.

28 MR KNOOPS: Your Honours, I respectfully refer to page 13927 of

29 the additional information pertaining to this witness and I would like

1 to quote from that.

2 Q. Mr Witness, could you please listen to the portion of a
3 document I am going to read now and I will ask you a question
4 afterwards. Therefore, follow the same procedure as I just
14:45:37 5 did with another portion. Firstly, listen to me, I will quote
6 what is on paper here. "After the witness escaped and
7 returned to his village, he was recaptured again by xx in
8 xxxx, Bombali District. xxxx was an SLA soldier. He
9 belonged to the group led by Savage. After his capture the
14:46:21 10 witness was ordered to attack Kabala by Brigadier Issa.
11 Savage told him that Brigadier Issa gave -- had given these
12 orders to attack Kabala. Spent five days in Kabala during
13 which time witness was taught weapon handling by Savage.
14 During the attack in Kabala witness was armed with a gun. The
14:46:56 15 attack failed and all returned to Kamabai." Mr Witness, can
16 you remember giving this information to the Prosecution on
17 3rd July?

18 A. Yes.

19 Q. Is it a correct reflection?

14:47:31 20 A. Yes.

21 Q. Could you please explain how you knew that the attack on
22 Kabala was ordered by Brigadier Issa?

23 A. It was xxx who explained to me about this. During the
24 muster parade he said the order came from Makeni. The leaders
14:47:58 25 that were in Makeni they were the ones that sent the order.

26 Q. In which position Brigadier Issa had in your recollection?

27 A. Which position are you referring to?

28 Q. The position of Brigadier Issa.

29 A. He was a Brigadier.

1 Q. Did you ever meet Brigadier Issa? Did you ever seen him?
2 A. I saw him once.
3 Q. Where? Which location?
4 A. He was in a vehicle. During that time the disarmament had
14:49:12 5 already taken place. He used to go to xxxx. It was the time I
6 saw him in a vehicle.
7 Q. Do you know to which group Brigadier Issa belonged of the
8 groups you earlier mentioned?
9 A. I don't know.
14:49:58 10 Q. Mr Witness, you stated today earlier that at a certain
11 moment there was an in-fight of the RUF against the AFRC. Can
12 you recall that?
13 MS TAYLOR: I don't believe he witness used the word
14 "against", he said between.
14:50:22 15 THE WITNESS: Yes.
16 MR KNOOPS: I will rephrase.
17 Q. Mr Witness, can you recall that you testified earlier that
18 there was an in-fight between the RUF and the AFRC? Is that
19 correct? Can you recall that?
14:50:35 20 A. Yes.
21 Q. Can you recall what the reason was of this in-fight?
22 A. No.
23 Q. At that time, Mr Witness, how did you knew that the
24 in-fight went on between the RUF and the AFRC?
14:51:24 25 A. Well, it was -- first the AFRC men were held. Anyone that
26 came from Kono and arrived in Makeni he was captured and killed.
27 Q. Who do you mean with everyone?
28 A. The AFRC army. Anyone that came to Makeni he was held and
29 killed.

1 Q. By whom?

2 A. I don't know.

3 Q. Did you see members of the RUF killing members of the AFRC?

4 A. No. It was xxx that explained to us and information -- we
14:52:31 5 also had information from Makeni.

6 Q. Mr Witness, when you gave your first statement to the
7 members of the Prosecution in xxxxx the first time, when you
8 gave that statement in a vehicle; remember that? Did you know
9 what the AFRC was?

14:52:55 10 A. Yes. No.

11 Q. Do you know it now?

12 A. I don't know.

13 Q. Mr Witness, was it you who used the word AFRC in your
14 conversations with the Prosecution?

14:53:41 15 PRESIDING JUDGE: Mr Knoops, there is more than one
16 conversation, you will need to be specific.

17 JUDGE SEBUTINDE: Additionally, Mr Knoops, this witness's
18 testimony has been that he heard the words AFRC and RUF being
19 mentioned. No one has asked him thus far if he knew who these
14:54:01 20 people were. There is a difference between hearing words being
21 used and knowing who they relate to. Now, you are asking him a
22 question which I think you want to establish he has told you that
23 he did not know who the AFRC was. And then you are saying so who
24 suggested this term to him? But earlier he has told the Court
14:54:25 25 where he first heard the term. So if you could differentiate
26 your questions --

27 MR KNOOPS: Much obliged.

28 JUDGE SEBUTINDE: -- because you see what I mean, there is
29 a difference when the witness says, "I first heard the term AFRC

1 and RUF at Rosos," or wherever he says he heard it. No one asked
2 him, "Did you understand what it meant then?" No one has asked
3 him that question then. Now we are going to the interview and
4 you are suggesting that someone suggested that term to him in the
14:54:50 5 interview?

6 MR KNOOPS: Well, Your Honours, I will put it differently
7 to the witness.

8 Q. Mr Witness, can you recall that on 13th July 2005 you gave
9 the Prosecution some additional information?

14:55:16 10 A. Yes.

11 Q. At that time --

12 MR KNOOPS: And that is for Your Honours page 3927, the
13 last paragraph of that document.

14 Q. You -- there was information summarised and Mr Witness, I
14:55:49 15 will put it to you, and again I will ask you respectfully to
16 listen carefully and comment on my question thereafter.

17 According to this document you gave on 13th July 2005 the
18 following information to the Prosecution: "There was in-fighting
19 between RUF and SLA in Makeni and Savage told the witness and
14:56:28 20 other civilians to go to Kabala and surrender to the SLA soldiers
21 there." Mr Witness, can you remember giving this information on
22 13th July this year?

23 A. Yes.

24 Q. Can you explain why you didn't refer there to the AFRC?

14:57:14 25 A. I forgot.

26 Q. I put it to you, Mr Witness, that the name AFRC was never
27 ever used by you yourself; is that correct?

28 MS TAYLOR: In what context?

29 THE WITNESS: I did not get you clearly.

1 PRESIDING JUDGE: I was going to ask, Mr Knoops, you need
2 to be more specific as to time. What or location that you are
3 referring to, Mr Knoops.

4 MR KNOOPS:

14:57:55 5 Q. Mr Witness, I put it to you that the name AFRC was never
6 used by you yourself during either one of the interviews you gave
7 earlier to the Prosecution?

8 MS ALAGENDRA: Your Honour, I object to this, Your Honour.
9 The witness only used the AFRC in court today.

14:58:22 10 PRESIDING JUDGE: Well, that is the question that Mr Knoops
11 is putting to the witness. He is entitled to challenge him in
12 cross-examination.

13 MR KNOOPS:

14 Q. Mr Witness, is that correct?

14:58:53 15 A. Yes. It is only today.

16 Q. Mr Witness, why it is only today that you mentioned this
17 name, AFRC?

18 A. Repeat your question.

19 Q. Why is it, Mr Witness, that you only have mentioned the
14:59:34 20 name AFRC today during your testimony and never during your
21 earlier statements or interviews to the Prosecution? Why is it?

22 A. Because the AFRC were the SLAs.

23 Q. How did you know that? Mr Witness, isn't it so that the
24 name AFRC was heard by you after you gave evidence or you gave
15:00:37 25 statements to the Prosecution; is that correct?

26 A. Yes.

27 Q. Mr Witness, isn't it so that you heard the name AFRC just
28 before your testimony here today in court; is that so?

29 A. Yes.

1 Q. And isn't it so, Mr Witness, that you spoke about the AFRC
2 with your brother you earlier mentioned before you gave evidence
3 in court today; isn't that correct?
4 A. No.

15:02:05 5 Q. Isn't it so, Mr Witness, that you heard the name AFRC --
6 A. Yes.

7 JUDGE SEBUTINDE: Mr Witness, could you allow the lawyer to
8 first finish asking the question before you give an answer? He
9 hasn't finished asking his question.

15:02:31 10 MR KNOOPS:
11 Q. Mr Witness, isn't it so?
12 A. Okay.

13 Q. Mr Witness, isn't it so that you became only familiar with
14 the name AFRC because you knew, before you came here today, that
15:03:00 15 this related to the AFRC trial; isn't that so?
16 A. Yes.

17 Q. And isn't it so, Mr Witness, that the name of this trial,
18 AFRC, was mentioned to you by other persons; isn't that so?
19 A. It was my colleagues that used to argue that there were RUF
15:03:40 20 and AFRC. They said the other way to call the SLAs you can say
21 the AFRC.

22 Q. Isn't it so, Mr Witness, that before you came here today in
23 court that you spoke with these colleagues about this trial? And
24 this trial is mentioned, the AFRC trial; isn't that so?

15:04:13 25 MS TAYLOR: Your Honour, I am concerned about the time
26 frame of that question.

27 THE WITNESS: Not at all.

28 MS TAYLOR: When is my learned friend suggesting that these
29 colleague were spoken to?

1 MR KNOOPS: From the first moment the witness gave an
2 interview in xxxxxx.

3 Q. So, my question is whether the witness spoke about or
4 learnt about the AFRC trial from any of his colleagues in that
15:04:51 5 period prior, just prior, to this?

6 PRESIDING JUDGE: Well, there is a two year --

7 JUDGE LUSSICK: Mr Knoops, I am concerned that you may be
8 confusing the witness by the use of the term colleagues. He said
9 he heard from his colleagues et cetera. I thought when he said
15:05:08 10 that that he was referring to the colleagues that he knew after
11 he was captured. And you are referring to something totally
12 different, you are talking to people he may have spoken to
13 directly before this trial. So I think in fairness to the
14 witness you ought to make that clear to him.

15:05:25 15 MR KNOOPS: Thank you, Your Honour.

16 Q. Mr Witness, when you speak about colleagues, to whom you
17 are referring to?

18 A. We were together in xxxxxxxx. They were captured before I was
19 captured. They stayed longer than I do.

15:06:12 20 Q. Mr Witness, did you meet any of these colleagues after you
21 gave your first statement inxxxx to members of the
22 Prosecution; isn't that so?

23 A. I came for holidays. The second time holiday. Then I went
24 and visited them. They were arguing saying there were AFRC and
15:06:41 25 RUF.

26 Q. Mr Witness, are you referring now to your second statement
27 you gave to the Prosecution; is that correct?

28 JUDGE SEBUTINDE: He is referring to his visit, his private
29 visit.

1 MR KNOOPS: His private visit, yes.

2 Q. Mr Witness, in terms of time, when did this visit take
3 place? Was it after your first statement to the Prosecution in
4 ~~xxxx~~; is that correct?

15:07:31 5 A. Yes. Yes.

6 Q. [Microphone not activated]

7 A. The second time.

8 Q. How many weeks or months did pass after that first
9 interview before you saw your colleagues?

15:08:04 10 A. It was one month. I spent just one day because I went
11 there in the morning and I stayed for the rest of the day and
12 later went back. So, I went back to the place I was staying.

13 Q. Mr Witness, how many colleagues did you meet at that time?

14 A. There were three.

15:08:33 15 Q. Mr Witness, I just heard you saying that you had a
16 discussion with your colleagues. Is it correct that you told
17 them about your statement given to the Prosecution the first time
18 in ~~xxxxx~~?

19 A. No. No. It is not correct.

15:08:47 20 Q. What was the discussion then about?

21 A. I met them arguing. This one was saying there were AFRC
22 and the other said they are RUF. So I was there. They were
23 asking me about my school and how we were living in the village,
24 because they were born in that same village. But they were not
15:09:34 25 based there.

26 Q. Mr Witness, after that particular occasion you met these
27 colleagues, did you meet them again on another occasion after
28 this particular meeting; is that correct?

29 A. No.

1 Q. During this particular meeting you spoke to three of your
2 colleagues. Was your brother also present? Did he accompany
3 you?
4 A. My brother, he was not there. He was in the village.
15:10:07 5 MR KNOOPS: I have one final question, Your Honours, for
6 the witness.
7 Q. Mr Witness, I just asked you about Brigadier Sesay --
8 sorry, Issa. Sorry, Brigadier Issa. Do you remember that?
9 A. I don't know that man.
15:10:47 10 JUDGE LUSSICK: You mean Brigadier Issa?
11 MR KNOOPS:
12 Q. Issa, sorry.
13 A. Yes.
14 Q. And I recall you said that you saw him in person; is that
15:10:59 15 correct?
16 A. Yes.
17 Q. Could you please describe how he was dressed?
18 A. He was sitting right in his vehicle. It was a small jeep.
19 I only saw his face.
15:11:32 20 Q. Were you able to see what he wear?
21 A. Yes.
22 Q. Please could you describe it for us?
23 A. The shirt had a blue and black collar and he was wearing a
24 hat on his head?
15:12:11 25 Q. Hat, what kind of hat?
26 A. A cap for the cold. It was black in colour.
27 MR KNOOPS: Thank you, Your Honour. No further questions.
28 PRESIDING JUDGE: Thank you, Mr Knoops. Who is --
29 Ms Graham. Sorry, Ms Thompson. I apologise.

1 CROSS-EXAMINED BY MS THOMPSON:

2 Q. Mr Witness, this morning when you were your giving evidence
3 you said they came to your village in May 1998. Do you remember?

4 A. Yes.

15:13:01 5 Q. Were you going to school in May 1998?

6 A. Yes.

7 Q. What class were you in?

8 A. By then I was in xxxxx.

9 Q. Today you told us you were 18. What year were you born?

15:13:39 10 Do you know?

11 A. I don't know the year. No.

12 Q. So how do you know you xxx?

13 A. My mother told me that I amxxxxyears old.

14 Q. Was your mother -- do you know whether your mother went to

15:13:56 15 school?

16 A. No.

17 Q. Is that no, she did not go to school or no, you don't know?

18 A. She did not go to school.

19 Q. Now, apart from the brother who we know about, do you have

15:14:19 20 any other brothers.

21 A. Those ones are not my real brothers. Let me say they are

22 my cousins. I have brothers, yes.

23 Q. Did they go to school?

24 A. The one is attending school.

15:14:56 25 Q. Do you know what calendar your mother used to calculate

26 your age?

27 A. I don't know.

28 Q. How do you know that the time these people came to your

29 village was May 1998?

1 A. It was my uncle who told me that if I am asked I should say
2 it was in May because that was the day they entered.
3 Q. When did your uncle tell you this?
4 A. It was the day when they took me.
15:16:03 5 Q. Is that -- what the day that these people from the Special
6 Court went to take you? Is that the day you are talking about?
7 A. Yes. Yes.
8 Q. And is that the uncle that you have told us about earlier -
9 don't mention his name - but the uncle you told us about earlier?
15:16:26 10 A. That was not him.
11 Q. [Microphone not activated]
12 A. Yes. His brother.
13 Q. Oh, that uncle's brother. Okay. Now, you also said to us
14 this morning that it happened at 5.00 o'clock. Was that
15:16:43 15 5.00 o'clock in the evening or 5.00 o'clock in the morning?
16 A. It was in the morning.
17 Q. Could you tell the time then? Were you able to tell the
18 time on a watch? If you were given a watch at that time, could
19 you tell the time?
15:17:02 20 A. Yes.
21 Q. I am not talking about today I am talking about 1998 when
22 this happened. I am sure you can tell the time today, but I am
23 talking about when this happened all those years ago; were you
24 able to tell the time then?
15:17:31 25 A. There was a clock. It was ringing.
26 Q. Were you able to look at the clock then and tell the time?
27 A. Because they have just started the prayer. It was coming
28 from five going to six when they appeared on us.
29 Q. Okay. Would I be right if I said that you calculated the

1 time by the calling for prayers?

2 A. Yes. When it rings by then we are small. As it rings we
3 count. If it is 1.00 o'clock, it rings once. If it is
4 5.00 o'clock it rings five times.

15:18:20 5 Q. And on this occasion did the clock ring five times?

6 A. Yes.

7 Q. Now, do you listen to the radio at all?

8 A. Yes.

9 Q. And between the time that this happened in 1998 and now
15:18:55 10 have you heard people talk about this trial on the radio?

11 A. The Special court?

12 Q. Yes.

13 A. Yes.

14 Q. Have you heard things said about this particular trial that
15:19:13 15 you are giving evidence in now?

16 A. No.

17 Q. When you say you heard on the radio about the Special
18 Court, can you remember something said about the special -- what
19 the Special Court came here to do on the radio?

15:19:51 20 A. I listened. The last time one woman who was captured in
21 the Kono area. I can't recall the name of the village, I have
22 forgotten. The woman was captured. I don't know whether they
23 want to take her child. Then they were going to rape the woman
24 and the woman played with them, but they refused.

15:20:22 25 Q. Now, did you hear on the radio also the people who were
26 charged before the Special Court? Did you hear the names of the
27 people who were charged before the Special Court?

28 A. Yes.

29 Q. What names did you hear?

1 [AFRC26JUL05 - CR]
2 A. Like Santigie Borbor Kanu, then a Ibrahim - I've forgotten.
3 Q. But you've heard names before?
4 A. Yes.
15:21:38 5 Q. Now, you have told us that there was somebody called
6 Gullit. Do you remember the first time you saw this person you
7 refer to as Gullit?
8 A. Yes.
9 Q. When was that?
15:21:58 10 A. I can't recall the time. It has taken sometime when they
11 entered xxxxx.
12 Q. Okay, but where was it?
13 A. At xxxxx.
14 Q. How close was this person to you? Was he near you or was
15:22:20 15 he from afar? Did you see him from afar?
16 A. We were nearer.
17 Q. Okay, he was near to you.
18 A. Yes.
19 Q. How did you learn that this person was Gullit?
15:22:43 20 A. They did introduction. One by who was captured in xxxxx,
21 but he was born of xxxxx. He did the introduction.
22 Q. Can you describe how this introduction took place for me,
23 please?
24 A. He told us that this is the head of the troops, that was
15:23:16 25 SAJ Musa, and, this is his deputy, and that was Gullit.
26 Five-Five was also introduced.
27 Q. Sorry. I think my understanding of introduction is
28 different. So he did not say to these people, "SAJ Musa, this is
29 so and so." "So and so, this is SAJ Musa." That is not how it

1 took place?

2 A. I don't get you clearly.

3 Q. This boy, are we talking about xxxx, who you told us about
4 earlier?

15:24:02 5 A. Yes.

6 Q. Did xxxx take you to them and tell them who you are?

7 A. No.

8 PRESIDING JUDGE: Ms Thompson, could you just check on your
9 client, please?

15:24:23 10 MR KNOOPS: Your Honour, can the accused behind me be
11 excused to use the men's room, Your Honour.

12 PRESIDING JUDGE: Yes, Mr Knoop's? Continue, Ms Thompson.

13 MS THOMPSON:

14 Q. Did you ever speak to this person called Gullit?

15:24:51 15 A. No.

16 Q. Now, you say you saw SAJ Musa at the same time. I want you
17 to describe for me, if you can, what SAJ Musa looked like?

18 A. They were ahead. The way I saw him, he's a tall man. He's
19 not fat. He's fair in complexion.

15:25:43 20 Q. That's SAJ Musa?

21 A. Yes.

22 Q. What about Gullit? Do you remember what he looked like?

23 A. He's not very tall and he stammers when he speaks.

24 Q. What about complexion? Was he a dark person?

15:26:17 25 A. His body -- he's not black to that extent.

26 Q. He's not too dark, when you say he's not black to that
27 extent?

28 JUDGE SEBUTINDE: Ms Thompson, was that a question?

29 MS THOMPSON: Yes. Sorry.

1 Q. When you say he's not black to that extent, can you just
2 explain what you mean?
3 A. He's not black, no. He is not dark.
4 Q. What about O-Five? What did O-Five look like?
15:27:33 5 A. O-Five, he's a tall person and he's like a dark shade.
6 Q. I've got to ask you: Gullit, this man who stammers, not
7 very tall; is he a fat man?
8 A. No, he's not fat to that extent. He's bulky, but he's not
9 fat to that extent.
15:27:59 10 Q. Okay. What do you describe as bulky?
11 A. Small, yes.
12 Q. What about Five-Five?
13 A. Five-Five is a short man. He was gallant. He's fair in
14 complexion.
15:28:35 15 PRESIDING JUDGE: What was the word before fair? It
16 sounded to me like Gallit.
17 MS THOMPSON: Gallant.
18 Q. You say he's gallant?
19 A. Yes.
15:28:52 20 Q. You said yes?
21 A. Yes.
22 Q. Now, you've told us you never spoke to Gullit, but did you
23 ever speak to any of these men: SAJ Musa, O-Five or Five-Five?
24 A. I did not speak to none of them.
15:29:14 25 Q. Now you said this morning that when you got to Rosos you
26 went on food-finding. You remember?
27 A. Yes.
28 Q. You said that Staff Alhaji had told you that Gullit had
29 ordered this.

1 A. Yes.

2 Q. So I'm right in thinking you were not present when Gullit
3 gave this order to Staff Alhaji?

4 A. No, but he said so. He said Gullit gave the orders.

15:29:57 5 Q. Okay. Now, I'm going to read a passage from the additional
6 information which you provided to the Prosecution, okay, and tell
7 me if you said that.

8 MS THOMPSON: Your Honours, I'm looking at page 13926, the
9 fifth paragraph down.

15:30:18 10 Q. Mr Witness, if you just listen carefully, please. "Upon
11 arriving in Rosos, was sent out with other civilians to look for
12 food to cook. They were ordered to do so by Alhaji, a soldier,
13 who had received orders from Gullit; was present when Gullit gave
14 these orders." Did you tell the person who took this statement
15:30:49 15 that you were present when Gullit gave these orders?

16 A. I did not say so. I said it was Staff Alhaji who said he
17 was given the orders by Gullit.

18 Q. Now, you've also told us today that you were trained by
19 Staff Alhaji.

15:31:23 20 A. Yes.

21 Q. And there were occasions when Staff Alhaji would not come,
22 someone else called Santigie who was RUF would train you.

23 A. Yes.

24 Q. Now, did Staff Alhaji alone train all these 300 men? Did
15:31:54 25 he train all 300 of you?

26 A. There were two. There were two: Himself and Santigie,
27 but, at times, if the one person is not there, then the other
28 person will step in.

29 Q. So they did this together?

1 A. Yes.

2 Q. Now Rosos. When you arrived at Rosos, were there soldiers
3 already there?

4 A. No. According to my experience, we didn't meet any soldier
15:32:36 5 there.

6 Q. Were there civilians there?

7 A. No.

8 Q. It was a deserted village?

9 A. Yes, the village had already been deserted.

15:33:00 10 Q. Now, I want to ask you one final question. You've
11 mentioned a person called xxxxx. Do you know what group xxxxx
12 belonged to?

13 A. He belonged to Savage's group.

14 Q. Do you know whether xxx was an RUF?

15:33:23 15 A. No.

16 Q. No, you don't know, or no he wasn't an RUF?

17 A. He wasn't an RUF.

18 Q. How do you know that?

19 A. Because he had his documents which he showed to us when he
15:33:46 20 was a soldier. He said he was an SLA and he was a captain. When
21 he was given another post, he said he rejected it, so he went
22 with the post of a captain, he should leave there again with the
23 post of a captain.

24 Q. Now you said he had a document which he showed to you. You
15:34:10 25 just told us that when they took you, you were in xxxxx.

26 Could you read that document?

27 A. It was the picture.

28 Q. You saw a picture?

29 A. Yes.

1 Q. That was it?

2 A. I did not read the document. I was unable to read it
3 during that time.

4 MS THOMPSON: Thank you very much, Mr Witness. I have no
15:34:58 5 further questions.

6 PRESIDING JUDGE: Thank you, Ms Thompson. Mr Daniels, have
7 you questions of the witness?

8 MR DANIELS: Just a few.

9 CROSS-EXAMINED BY MR DANIELS:

15:35:10 10 Q. Good afternoon, Mr Witness.

11 A. Yes.

12 Q. Mr Witness, when your town, xxxx, was first attacked in
13 1999 --

14 MS ALAGENDRA: Your Honour, the witness said 1998.

15:35:41 15 MR DANIELS:

16 Q. 1998, what was the season?

17 A. At that time I was xxxxx. I hadn't xxxx to
18 recall.

19 Q. Do you know the months of the year?

15:36:05 20 A. During that time?

21 Q. At the moment. At the moment, do you know the months of
22 the year?

23 A. Yes.

24 Q. In 2003 in April, would you have known the months of the
15:36:27 25 year?

26 A. 2003?

27 Q. Yes?

28 A. Yes.

29 Q. You've given an additional statement when you came to

1 Freetown this time.

2 MR DANIELS: Your Honours, I'm referring to page 13926.

3 Q. I will read it to you, the second paragraph from the
4 bottom, "While in Camp Rosos, we heard SAJ Musa telling the group
15:37:12 5 that they were going to attack Freetown on 6 of January 1999."

6 Do you remember telling that to the person who took that
7 statement from you?

8 A. Yes. That was why we were trained there, that we shall
9 come to Freetown.

15:37:41 10 Q. Did you tell the person who took the statement the date 6th
11 of January 1999?

12 A. No.

13 Q. So you never gave that person the date 6th of January 1999;
14 not at all?

15:38:11 15 A. Not at all.

16 Q. Now, when your statement was first taken from you in your
17 home town, xxxx, the people who came to interview you asked you
18 to tell them about the atrocities that you witnessed; am I
19 correct, during the war?

15:38:55 20 A. Yes.

21 Q. On that first interview, you told them all that you knew on
22 the first day?

23 A. Yes.

24 Q. You remember telling them about the killing of one Isatta
15:39:33 25 Mansaray? Do you remember telling them about that? Isatta
26 Mansaray, I stand corrected.

27 A. Yes.

28 Q. Then today in your testimony you told this Court about
29 soldiers who were betting on the sex of the foetus of a pregnant

1 woman. Do you remember saying so today?

2 A. Yes. That is the woman whose name is Isatta.

3 Q. That is the same person?

4 A. Yes.

15:40:27 5 Q. Now, I want to take you to xxxx. Today you told us in
6 testimony that a boy and a girl were shot at or were killed
7 because they were running away. Do you remember you told us that
8 today?

9 PRESIDING JUDGE: Was he as specific as to how the
15:40:59 10 children --

11 THE WITNESS: Yes, they had wanted to escape.

12 MR DANIELS:

13 Q. And what happened to them?

14 A. When they had wanted to escape, they were seen and they
15:41:28 15 were hacked. So we were before, I don't know what happened
16 behind. I only saw smoke and houses on fire.

17 MR DANIELS: My Lords, I wish to 13831, the second
18 paragraph from the bottom again.

19 Q. I want to read to you from the statement that was taken
15:42:03 20 from you on 12th April 2003. "Witness was in a group which went
21 ahead, so did not witness killings at xxxx. Witness later
22 heard three men from group talking about killings which took
23 place at xxxx." In your statement here, the person who took
24 down your statement from you said you did not witness any
15:42:29 25 killings. Is the statement correct?

26 A. No. I saw a girl and boy who had wanted to escape and we
27 too had wanted to escape and we observed that, that was why we
28 never escaped.

29 Q. So the statement is not correct?

1 A. Not at all.

2 Q. In May of 1998, did you know who Tejan Kabbah was?

3 A. No.

4 MS THOMPSON: Your Honour, before my learned friend puts
15:43:31 5 his next question, might I ask if my client can be excused. He
6 would like to use the convenience.

7 PRESIDING JUDGE: Yes.

8 MR DANIELS: My Lord, I wish to refer to 1396 --

9 PRESIDING JUDGE: Mr Daniels, in case you hadn't noticed,
15:43:58 10 I'm not a Lord.

11 MR DANIELS: Your Honours, I beg your pardon.

12 PRESIDING JUDGE: Yes, please go on. What were you saying?

13 MR DANIELS: I apologise. Your Honours, I'm referring to
14 13926, the very first paragraph. With your permission, I will
15:44:27 15 read.

16 PRESIDING JUDGE: Yes, please proceed.

17 MR DANIELS:

18 Q. "The leader of the group who attacked xxxx was SAJ Musa.
19 The other leaders were Five-Five, Gullit, O-Five. O-Five,
15:44:43 20 Five-Five and Gullit were in the group that entered xxxx. The
21 attack took place before the overthrow of President Tejan
22 Kabbah."

23 MS ALAGENDRA: Your Honour, it reads "after", not "before".

24 MR DANIELS:

15:44:56 25 Q. "The attack took place after the overthrow of President
26 Tejan Kabbah." Did you make that statement to the person who
27 took the statement from you? That is, "The attack took place
28 after the overthrow of President Tejan Kabbah". Did you say
29 that?

1 A. Yes.

2 Q. Very well.

3 MR DANIELS: Your Honour, that will be all.

4 PRESIDING JUDGE: Ms Alagendra, is there any re-examination
15:45:55 5 of the witness?

6 MS ALAGENDRA: There is no re-examination.

7 PRESIDING JUDGE: Thank you. We have no questions of the
8 witness. That is your evidence, Mr Witness, and we thank you for
9 coming to court today and giving your evidence.

15:46:29 10 Counsel, there has been a series of questions concerning
11 relatives of this witness who will be or possibly be called to
12 give evidence. Normally the restrictions put on a witness are
13 lifted when his evidence is finished. Is there any comment?

14 MS TAYLOR: Your Honour, just for the sake of transparency
15:46:57 15 on the record, the problem that occurred yesterday in relation to
16 the **xxxxx** interpreter has meant that the translation unit needs
17 sometime to rectify that problem. The Prosecution, in
18 consultation with the Registry, has agreed we will not call any
19 more **xxxx** speakers until after the recess. That means that we

15:47:21 20 have released to go home the witness from yesterday and another
21 witness we had lined up for the remaining of the session. I have
22 asked the witnesses' unit to reinforce Your Honour's comments to
23 yesterday's witness, being that the Prosecution is not able to
24 speak to that witness at the moment. Beyond that, I don't know
15:47:44 25 that I wish to say anything. I wish to inform the Court and the
26 Defence of those matters considering the questions that have been
27 raised.

28 MR KNOOPS: Your Honour, it's the understanding of the
29 Defence that Your Honours might consider the testimony in-chief

1 and also part of the cross-examination to be conducted de novo at
2 any moment later during the proceedings. In the light of that,
3 it might be appropriate to instruct this witness not to exchange
4 any information with a person already left home. In the event
15:48:37 5 that witness has to be recalled, that could be of value that this
6 witness is kept under the caution, Your Honours, until so far
7 have held him.

8 PRESIDING JUDGE: There is already a restriction on the
9 previous witness. I see no reason to do anything other than
15:49:37 10 that. The witness is at liberty to go home. That is the end of
11 this witness. Mr Witness, thank you for coming to court.

12 [The witness withdrew]

13 PRESIDING JUDGE: There is some time remaining, Ms Taylor.

14 MS TAYLOR: Your Honour, the Prosecution will call Witness
15:50:00 15 TF1-267. That witness will give evidence in the Temne language.
16 The witness will be led in-chief by my learned friend Ms Ngunya
17 and this witness is a category A protected witness, meaning that
18 the voice distortion equipment needs to be turned on.

19 PRESIDING JUDGE: Mr Court Attendant, is that in place?

15:50:33 20 MR WALKER: I will just check, Your Honour. That is being
21 put in place now.

22 [Witness entered court]

23 MR WALKER: The technicians just need a moment longer, Your
24 Honour. Everything is now in place, Your Honour.

15:57:21 25 PRESIDING JUDGE: Thank you.

26 WITNESS: TF1-267 [Sworn]

27 [Witness answered through interpreter]

28 PRESIDING JUDGE: Please proceed, Ms Ngunya.

29 MS NGUNYA: Thank you, Your Honour.

1 EXAMINED BY MS NGUNYA:

2 Q. Good afternoon, Madam Witness.

3 A. Good afternoon. How are you?

4 Q. I am fine. I have a few questions for you this afternoon.

15:58:24 5 Witness, where were you born?

6 A. In xxxxxx.

7 Q. Please repeat that again?

8 A. In xxxx, in xxxx District in xxxx.

9 MS NGUNYA: For the record, xxxxx is spelt

15:58:56 10 xxxx, one word. Second word, xxxxx, chiefdom.

11 xxxxxx. xxx village, xxxx.

12 Q. Witness, what is your occupation?

13 A. I am a farmer. I cultivate rice.

14 Q. Witness, have you been to school?

15:59:49 15 A. I did not go to school.

16 Q. Can you read or write?

17 A. No. I am not able to write.

18 Q. Witness, are you married?

19 A. I do not have a husband.

16:00:12 20 Q. Do you have children?

21 A. Yes.

22 Q. How many children do you have?

23 A. I have seven children.

24 Q. Witness, what is your native language?

16:00:29 25 A. Temne.

26 Q. Do you speak any other language other than Temne?

27 A. Except Krio.

28 Q. Just to be clear, you speak Krio?

29 A. Yes, a little bit of it.

1 Q. Witness, where did you live in 1998?

2 A. I was in my home at xxxxx.

3 Q. Did anything happen to you in xxx in 1998?

4 A. Yes.

16:01:46 5 Q. Please tell the Court.

6 A. I was -- we were in a home at xxxx. The people who were

7 behind us, they passed us. They were going. We asked them,

8 "Where are you going?"

9 Q. Witness, just to clarify to the Court, you said, "We were

16:02:21 10 at home." Who was at home?

11 A. I and my people.

12 Q. Witness, you mentioned people coming from behind. What do

13 you mean by that?

14 A. The people we have with whom -- the neighbouring villages,

16:03:00 15 people who are in the neighbouring villages.

16 Q. Okay. Just to be clear for the Court, what did these

17 people from the neighbouring villages do?

18 A. They said they were running. They said the rebels --

19 people said that rebels would enter in our area whatever people

16:03:27 20 do.

21 Q. What happened next?

22 A. So our people met in the village.

23 Q. When you say, "Our people", who do you mean, Witness?

24 A. Our own people in our own village, in our own village.

16:04:01 25 Q. They met. What happened next?

26 A. They said, "Well, what we should do, we, too, should leave

27 the town. Let us don't stay here. Because they - this affair of

28 rebels is not good."

29 Q. Witness, did you leave xxxxxx?

1 A. Yes, we left there.

2 Q. Where did you go?

3 A. We went into the bush.

4 Q. Did anything happen to you in the bush?

16:04:52 5 A. Yes.

6 Q. Please tell the Court what happened?

7 A. While in the bush -- am I to continue?

8 Q. Yes, Witness. Say what happened in the bush.

9 A. Okay. When we were in the bush, if somebody -- if they are

16:05:28 10 in the town, just leave there. If you are in the bush, maybe if

11 your food is finished, maybe you come back to the town.

12 Q. Witness, let me repeat my question. Did anything happen to

13 you when you went to the bush?

14 A. Yes, something happened. While we were in the bush, some

16:05:52 15 of our companions came to town to find some food.

16 Q. Which companions returned to town to find some food?

17 A. Those with whom we were in the same group.

18 Q. What happened, Witness?

19 A. When they came, the rebels had already entered in the

16:06:24 20 evening, and they came in the morning.

21 Q. Who came in the morning, Witness?

22 A. My people. They came to look for food. They met the

23 rebels there.

24 Q. Witness, what happened after your people met the rebels in

16:06:49 25 town?

26 A. They run after them. They chase them. So, these people

27 went to us where we were and they said, "Oh, don't stand there.

28 We met the rebels there. They are many. Please, move away from

29 here." So we all run away.

1 Q. Witness, where did you run to?
2 JUDGE SEBUTINDE: I'm not quite sure who chased who.
3 MS NGUNYA: I will clarify with the witness, Your Honour.
4 Q. Witness, who chased your people from the town?
16:07:39 5 A. The rebels.
6 Q. Witness, did you see these rebels chasing your people?
7 A. Well, at that very place where they met me, I did not stand
8 to observe properly. So I inquired to know that they were the
9 ones.
16:08:13 10 Q. Witness, earlier we had reached a point where you ran away
11 from this bush. Where did you go?
12 A. To another bush again, but the bush are not the same. We
13 moved from the first bush in which we hid and went to another one
14 and hid there. That place was called ~~xxxxxx~~.
16:08:47 15 MS NGUNYA: For Your Honours, I have the spelling
16 phonetically, R-O-T-U.
17 Q. Witness, did anything happen at Rotu?
18 A. Yes.
19 Q. Please tell the Court.
16:09:16 20 A. That, my sibling, that first day they went there. They
21 entered in the morning and, in the evening, my sibling meet me
22 there and said, "This thing is very, very difficult. The
23 children have been for the whole day without food and we haven't
24 anything. I want to go and see in town if we could get food
16:09:38 25 there, because we have been here without eating anything."
26 Q. Witness, just to be clear, when you say "sibling", do you
27 mean a sister or a brother?
28 A. My brother.
29 Q. Witness, you reached where your brother said, "The children

1 have gone without food and it's very hard."

2 A. Yes.

3 Q. What did he do?

4 A. He went to where we first hid and where the rebel chased
16:10:23 5 us.

6 Q. What happened?

7 A. When he went there, he stayed there until night. We didn't
8 see him. We were confused in where we were. His mother began by
9 crying. We all cried. We were just sat in chairs without crying
16:10:53 10 loudly.

11 Q. Witness, do you know what happened to your brother?

12 A. The uncle got up and said, "Wait for me. Don't" --

13 Q. Witness --

14 A. "Don't worry. Don't worry."

16:11:18 15 Q. Witness, please listen to the question.

16 A. Okay.

17 Q. I asked you: Do you know what happened to your brother?

18 A. The rebel captured him and killed him.

19 Q. Witness, how could you know this?

16:11:36 20 A. Our uncle went there. He met his corpse.

21 PRESIDING JUDGE: Ms Ngunya, it is after our usual
22 finishing time, if this is an appropriate time in the
23 evidence-in-chief to adjourn to tomorrow.

24 MS NGUNYA: This would be fine, Your Honour.

16:12:00 25 PRESIDING JUDGE: Very well. We will adjourn until
26 tomorrow morning at 9.15. Madam Witness, this is now the time
27 that the Court finishes for the day. Your evidence in the Court
28 is not yet finished.

29 THE WITNESS: Okay.

1 PRESIDING JUDGE: There will be questions that the lawyers
2 want to ask you. Between now and all the time that your evidence
3 is finished, you must not discuss your evidence or story with
4 anyone else. Do you understand what I have said?

16:12:36 5 THE WITNESS: Okay.

6 PRESIDING JUDGE: Very well.

7 [Whereupon the hearing adjourned at 4.07 p.m.,
8 to be reconvened on Wednesday, the 27th day of
9 July 2005, at 9.15 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-158	29
EXAMINED BY MS ALAGENDRA	29
CROSS-EXAMINED BY MR KNOOPS	50
CROSS-EXAMINED BY MS THOMPSON	87
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