

Case No. SCSL-2004-14-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

MONDAY, 20 FEBRUARY 2006
9.47 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Ms Roza Salibekova Ms Anna Matas
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Mr Kevin Tavener Mr Joseph Kamara Ms Bianca Suciu (Case Manager)
For the Principal Defender:	No appearance
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Alusine Sesay Ms Claire da Silva (legal assistant) Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana

1 [CDF20FEB06A-SGH]

2 Monday, 20 February 2006

3 [Open Session]

4 [The accused present]

09:32:03 5 [Upon commencing at 9.47 a.m.]

6 WITNESS: OSMAN VANDI [Continued]

7 CROSS-EXAMINED BY MR KAMARA:

8 PRESIDING JUDGE: Good morning. Good morning, Mr Witness.

9 Good morning, Mr Prosecutor. I realised later on Friday that I
09:48:39 10 had mistakenly called you Mr Bangura. It was not intended to
11 offend you. I will try to remember that you are not Mr Bangura,
12 but Mr Kamara. So Mr Kamara are you ready to proceed.

13 MR KAMARA: Certainly, thanks, Your Honour. It was all
14 taken in good faith.

15 PRESIDING JUDGE: Thank you.

16 MR KAMARA:

17 Q. Good morning, Mr Witness.

18 A. Good morning.

19 Q. My questions to you are going to be confined to the period
09:49:06 20 of May 1997 to December 1999. And if I have reason to move away
21 from that date, I well let you know, all right? Mr Witness, it
22 is your evidence before this Court that you were a battalion
23 commander; were you not?

24 THE INTERPRETER: Your Honours, it is like the witness is
09:50:06 25 not getting the interpretation, the Mende interpretation.

26 PRESIDING JUDGE: It looks that way. Can we --

27 THE WITNESS: Yes.

28 PRESIDING JUDGE: Mr Kamara, I think you had better start
29 right from the beginning again.

1 MR KAMARA: Thank you, Your Honour.

2 Q. Mr Witness, I said to you earlier on that my questions are
3 going to be confined within a certain period, and that is
4 May 1997 to December 1999.

09:50:53 5 A. Okay.

6 Q. If I have cause to move away from that time frame I will
7 let you know. My question again to you, Mr Witness, is you
8 testified before this Court that you were a battalion commander;
9 is that so?

09:51:15 10 A. Yes.

11 Q. Who appointed you to that position?

12 A. The council appointed me to that position.

13 Q. When you say "council," are you referring to War Council at
14 Base Zero?

09:51:33 15 A. Yes.

16 Q. Will you tell this Court how you got that appointment?

17 A. What happened that I got that position --

18 THE INTERPRETER: Your Honours, can the witness go back to
19 the last bit? He is not very clear.

09:52:14 20 PRESIDING JUDGE: What do you mean "he is not very clear"?

21 THE INTERPRETER: His voice.

22 PRESIDING JUDGE: Mr Court Officer, can you see to adjust
23 the microphone? Mr Witness, can you repeat your last answer as
24 to how you got that appointment.

09:52:59 25 THE WITNESS: I got the recommendation from my colleague
26 fighters.

27 MR KAMARA:

28 Q. At the time the appointment was made at Base Zero, were the
29 three accused persons part of that War Council that made the

1 appointment?

2 JUDGE THOMPSON: Isn't it better to proceed singly?

3 MR KAMARA: Yes, I will do that, Your Honour.

4 JUDGE THOMPSON: Otherwise it can be complicated.

09:53:31 5 MR KAMARA: Certainly, Your Honour.

6 Q. Mr Witness, was the first accused a member of that
7 War Council that appointed you as battalion commander?

8 A. No, he was not there.

9 Q. What about the second accused, was he there?

09:54:16 10 JUDGE ITOE: Why don't you call them by names. He may not
11 understand who the second accused is, who the third is. Try and
12 call them by their names.

13 MR KAMARA: I will do so, Your Honour.

14 Q. Was Moinina Fofana there in that council that appointed
09:54:30 15 you?

16 A. During that period I did not see him.

17 Q. And how about Allieu Kondewa, was he part of the council
18 that made the appointment?

19 A. Allieu Kondewa was not a fighter. When always we were
09:55:08 20 planning for war he was not there.

21 JUDGE ITOE: No, that's not the question. That's not the
22 question. That's not the question. The question again, please.

23 THE WITNESS: He was not there. He was not there. He was
24 not there.

09:55:18 25 MR KAMARA:

26 Q. Mr Witness, try to answer my questions, okay. Hold on,
27 wait. Don't get so excited. Wait, wait. The question is
28 simple: Was Allieu Kondewa part of the War Council that made
29 your appointment as battalion commander?

1 A. No, he was not there.

2 Q. Thank you. Now, Mr Witness, let me take your mind back to
3 the Koribundu attack. Were you ever part of any attack on
4 Koribundu?

09:56:03 5 A. No.

6 Q. And you're telling this Court at no point in time you were
7 part of any attack on Koribundu?

8 A. No.

9 Q. Now, Mr Witness, would it surprise you to know that
09:56:52 10 Chief Norman in his evidence said that you were one of the first
11 commanders in the attack on Koribundu?

12 A. If he says that, he is telling lies on me.

13 Q. Thank you, Mr Witness. In other words, are you suggesting
14 to this Court --

09:57:46 15 JUDGE THOMPSON: Just a minute, let's have that. Yes.

16 MR KAMARA:

17 Q. In other words, you are inviting this --

18 JUDGE THOMPSON: Counsel, why "in other words"? Why --
19 this answer, isn't it clear?

09:57:54 20 MR KAMARA: It is clear.

21 JUDGE THOMPSON: Why do you want to draw inferences? Is
22 that what you are trying? "In other words"; why do you want to
23 paraphrase it? Or why do you want to suggest an alternative?

24 MR KAMARA: Not an alternative, Your Honour. I was merely
09:58:10 25 trying to bring us something that is akin to -- [Overlapping
26 speakers]

27 THE WITNESS: [No interpretation].

28 JUDGE THOMPSON: It's all right, leave it, Witness.

29 THE WITNESS: Okay [in English].

1 JUDGE THOMPSON: Let the witness -- please, let the witness
2 restrain himself. No, I am just asking because the answer seems
3 so direct and precise and you want to put the answer in other
4 words. That's what I am finding extremely complicated.

09:58:32 5 MR KAMARA: It is another alternative that I want from him,
6 Your Honour.

7 JUDGE THOMPSON: Related to this answer or separate and
8 distinct from it?

9 MR KAMARA: Separate but related.

09:58:41 10 JUDGE THOMPSON: Right.

11 MR KAMARA:

12 Q. Mr Witness, the question to you is: Are you inviting this
13 Court not to believe the evidence of Chief Norman in that
14 respect?

09:58:52 15 PRESIDING JUDGE: [Overlapping speakers]

16 JUDGE THOMPSON: Again, that's the thing. I mean, it is
17 completely -- I don't think that is the way to proceed. You have
18 established a precise answer. And the question of him inviting
19 or not inviting the Court does not seem to me to be the proper
09:59:13 20 approach in cross-examination. I mean, why are you -- I mean,
21 suppose he says he is not inviting the Court to do that, what do
22 you do with that kind of answer? I find it extremely
23 incongruous.

24 MR KAMARA: Thank you, Your Honour. The point I was --

09:59:22 25 PRESIDING JUDGE: And it is tantamount to be argumentative
26 with the witness. We have an answer, we will deal with it.

27 MR KAMARA: We will deal with that. I will take that
28 answer, Your Honours.

29 JUDGE ITOE: The witness has all ready said that if

1 Chief Norman said he participated in the Koribundu attack or in
2 any of them, then he is telling lies? Is that not the state of
3 the evidence?

4 MR KAMARA: That is the state of the evidence. I will
09:59:51 5 proceed on that and leave the inference.

6 JUDGE THOMPSON: All right, counsel.

7 MR KAMARA: Thank you, Your Honour.

8 Q. Mr Witness, in addition to that, it is evidence before this
9 Court that you were at Koribundu and that you and your men
10:00:14 10 committed certain atrocities or violence against civilians.
11 Would you deny ever being part of a troop like that?

12 MR SESAY: My Lord, may I object at this stage. My Lord,
13 again I believe counsel has not laid the proper foundation for
14 that question to come, because he is referring to evidence before
10:00:35 15 this Court. Evidence from whom, My Lord? By whom?

16 JUDGE ITOE: But he is on cross-examination. He is coming.
17 I think he will -- he is on cross-examination, let's follow him
18 and see how he moves. I think it's premature for you to object
19 to that question.

10:00:51 20 MR KAMARA: Thank you, Your Honour. I have not even
21 finished the question yet.

22 JUDGE ITOE: It was even too long anyway.

23 MR KAMARA: I will make it shorter.

24 Q. Mr Witness, as I was saying, there is evidence before this
10:01:09 25 Court that you participated in acts of violence against civilians
26 in Koribundu. The evidence is that of TF2-082, Your Honours,
27 from the transcript of 16th September 2004 at page 56. What's
28 your response to that, Mr Witness?

29 A. I have told you I never went there.

1 Q. Thank you. Now, Mr Witness, I will move you to another
2 issue, the ECOMOG issue, in your evidence. You did testify
3 before this Court that you were airlifted to Lungi; is that so?
4 A. Yes.
10:02:58 5 Q. And that at Lungi --
6 A. Yes.
7 Q. -- you met with the President?
8 A. Yes.
9 Q. Was Chief Norman in that entourage?
10:03:36 10 A. Time we went there I didn't see him there. He was not
11 there.
12 Q. Again, Mr Witness, would it surprise you to know that in
13 Chief Norman's evidence he was in that meeting with the President
14 at Lungi?
10:04:21 15 A. Well, I don't know that.
16 Q. Now, Mr Witness, let me take you onto Boama, your days at
17 Boama. That is at the Jiama Bongor Chiefdom. Do you remember
18 it?
19 A. Yes.
10:05:08 20 Q. Was there a place called Bloody Gate?
21 A. No, I don't know there.
22 JUDGE ITOE: Is it Blood Gate or Bloody Gate?
23 MR KAMARA: Bloody Gate, Your Honour.
24 Q. I am suggesting to you, Mr Witness, that there was a Bloody
10:05:49 25 Gate at Boama and you were the commander over that station?
26 A. Unless when I'm getting it now from you, but I don't know.
27 Q. Do you recall --
28 JUDGE ITOE: Please, can you wait.
29 MR KAMARA: Sorry, My Lord.

1 Q. Does the name Foday Vandy ring a bell to you?

2 A. No.

3 JUDGE ITOE: Foday Vandy?

4 MR KAMARA: Vandy, yes, Your Honour. V-A-N-D-Y. Your
10:07:16 5 Honours, at this stage I seek leave to call Foday Vandy for
6 identification. He might recognise him by face.

7 PRESIDING JUDGE: So what is it you are proposing to do?

8 MR KAMARA: For him to identify Foday Vandy if he
9 recognises him by face, he does not recognise the name.

10:07:45 10 PRESIDING JUDGE: I'm not sure that this is the proper way
11 of doing this in a courtroom as such. There must be other ways
12 than having a confrontation in court between a witness and some
13 other individual.

14 MR KAMARA: Your Honour, it is not to confront him with
10:07:59 15 facts, but for identification. Just for identification, as in
16 domestic jurisdictions where you call in a witness for
17 identification, he is identified or not and then he exits the
18 Court and then questions are put to this witness as to that
19 individual.

10:08:17 20 MR SESAY: My Lord, I differ on that even because even in
21 the domestic courts, My Lord, there is a procedure which has to
22 be complied with if counsel intends a witness or a certain
23 individual to be identified by a witness. But it does not lie in
24 the lips of my learned friend to just say to this Court that the
10:08:42 25 witness should come forward for him to be identified, because the
26 witness has already said he does not know the individual he is
27 referring to.

28 PRESIDING JUDGE: He does not recall the name Foday Vandy.

29 MR SESAY: Yes, but, My Lord, he has not gone further to

1 ask, with all due respect to my friend, whether in fact he knows
2 him or not. If he cannot recall him he would have gone further
3 to ask whether he knows the witness and the person who he intends
4 to identify by this witness, My Lord.

10:09:21 5 PRESIDING JUDGE: Mr Kamara, do you wish to rely to that?

6 MR KAMARA: Yes, My Lord.

7 PRESIDING JUDGE: And what is the intended purpose of this?

8 Let's assume that, just for my understanding, this witness, this
9 person, comes in and he says no. So what? How are we further

10:09:41 10 ahead from what we have at this particular moment?

11 MR JABBI: My Lord --

12 PRESIDING JUDGE: I will come back to you, Dr Jabbi.

13 MR JABBI: I wanted to pose a question which he can answer
14 together with the two questions that have come already both from

10:09:57 15 my colleague and from yourself. Maybe if I put this third one
16 in. But I will wait. My Lord. I will wait.

17 PRESIDING JUDGE: Well, if it is to assist, fine, put your
18 question and we'll see. What's your question, Dr Jabbi?

19 MR JABBI: My Lord, my question is actually a concern.

10:10:13 20 There were two expressions used by my learned friend in the last
21 series of questions. One, ring a bell. His question about this

22 person he wants to call was does so and so name ring a bell to
23 you? My Lord, one is not very clear how "ring a bell" was
24 interpreted to the witness. "Ring a bell." There was also a

10:10:51 25 previous question, I don't remember it exactly now, which to me
26 had the same possibility of a possible difficulty of

27 interpretation and how the witness may well have received it. I

28 don't know the implication of that. Those are concerns that

29 maybe at least in subsequent questions my learned friend may

1 watch.

2 PRESIDING JUDGE: Thank you, Dr Jabbi.

3 MR KAMARA: Your Honour, if may respond firstly to
4 Mr Jabbi's issues. The witness has answered that, "I don't know
10:11:19 5 anyone of that name." That resolves it.

6 With regards to Mr Sesay's objection, I fail to perceive
7 whatever he was trying to say in terms of procedure. He didn't
8 identify any procedure and, from my understanding of the common
9 law situation, from there --

10:11:34 10 PRESIDING JUDGE: Yes, but we are not in a common law court
11 so let's start with this. We do follow some of their principles
12 but we are not in a common law court.

13 MR KAMARA: Because his reference was to domestic
14 jurisdiction which is a common law position. Your Honour, coming
10:11:47 15 to your question, which I think is the crux of the matter, that
16 once a witness is called for identification purposes he merely
17 comes in and identifies just like yesterday when under
18 cross-examination by Mr Margai he was asked to -- he identified
19 the third accused in court. If for any reason he was not in
10:12:06 20 court he would have similarly been called in for identification
21 if it was Mr Margai's --

22 PRESIDING JUDGE: I do not necessarily agree with you, with
23 your suggestion in this respect but that's a different issue. We
24 are talking here of an accused by opposition to other witnesses.
10:12:20 25 So let's not confuse issues.

26 MR KAMARA: All right, Your Honour. Then, as I was saying,
27 if we invite this witness in, he has already given evidence that
28 he does not recall the name, he doesn't know someone by that
29 name, if he knows him, he sees him, yes, he'll recognise him, "I

1 know this man," then my questions will follow. If he doesn't,
2 then it stops there. I will still ask the questions that I want
3 to ask.

4 PRESIDING JUDGE: Yes, but my observation was how are we
10:12:41 5 further ahead? Let's say the witness comes in, that person comes
6 in, and he says, "No, I have never seen that person." This is
7 what we have on the record at this particular moment, so what
8 have we achieved other than losing the time of the Court?

9 MR KAMARA: Your Honour, we are supposing that might be the
10:13:04 10 case, but until we get there we do not know that he will say,
11 "No, I don't know."

12 PRESIDING JUDGE: But if he says, "I do. Yes, I know that
13 person but I don't know the name"?

14 MR KAMARA: Then I will proceed with my questions
10:13:14 15 notwithstanding. But until we there we are only supposing that
16 he will say he doesn't know if he doesn't know and I assume we
17 waste the time of the Court. But for the purposes which I have
18 in mind, I wouldn't consider that wasting the time of the Court.

19 MR JABBI: My Lord, if I may --

10:13:21 20 PRESIDING JUDGE: Yes, Dr Jabbi.

21 MR JABBI: Let me raise some other issue. My learned
22 friend has referred to this person two or three times as "when
23 the witness comes in."

24 PRESIDING JUDGE: I understand, but we are not talking of a
10:13:49 25 witness here. That person, to my knowledge, is not a witness in
26 this Court yet.

27 MR JABBI: I mean, just clarification from my learned
28 friend whether the person he is calling in is indeed a witness or
29 has given evidence and in what capacity he gave evidence, that

1 sort of thing. But he has referred to the person two or three
2 times as "when this witness comes in."

3 PRESIDING JUDGE: Mr Kamara.

4 MR KAMARA: Thank you, Your Honour. He is not a witness
10:14:17 5 for our purposes and it is merely referring to him as witness
6 because coming in for the Court's purpose. He is not a witness
7 that has been called by the Prosecution. Not at all.

8 PRESIDING JUDGE: And that person has not testified in
9 court?

10:14:27 10 MR KAMARA: Not at all. He hasn't testified in court and
11 it's only for identification.

12 JUDGE THOMPSON: Isn't that why perhaps, again consistent
13 with the practice of other tribunals in the international
14 criminal law context, that it seems to be settled law up to this
10:14:49 15 time - of course there is a possibility that the tribunals might
16 revisit the law - that identification evidence should be treated
17 with great circumspection and the Court must proceed extremely
18 cautiously because of the possibilities of the vagaries, they
19 call it -- difficulties inherent in the identification process
10:14:58 20 resulting from the vagaries of human perception and recollection.

21 My difficulty with this line of cross-enquiry is that I am
22 not clear at all what is the purpose or rationale behind this
23 request for identifying someone who has not been a witness in
24 court. Of course, we are not talking about identification of
10:15:54 25 accused persons by the witness in the witness stand because there
26 again the law enjoins us to again tread extremely cautiously. It
27 would seem as if - and I mean no disrespect to learned counsel -
28 that this looks like a bolt from the blue.

29 Why is it necessary at this point in time? How germane is

1 this to your cross-examination and how helpful or instructive
2 would this be to the Court in ascertaining the truth? That would
3 be my own considered position or, if you like, random position.

4 MR KAMARA: Your Honour, I take your point very well. The
10:16:34 5 intent of this is merely like introducing someone for the Court,
6 and the purpose of it, it goes to the indictment, Your Honour.
7 The indictment, as we see, it will tend to prove ingredients in
8 the indictment as to certain occurrences within the period I have
9 specified. And this witness is in a unique position, in that he
10:16:52 10 was a commander of the Kamajors. And as a commander, certain
11 things happened under his leadership.

12 PRESIDING JUDGE: Yes, but I mean, I am clearly of the view
13 that to move in that direction, the direction you are proposing,
14 we are really moving into secondary issues that may or may not
10:17:10 15 have to do with credibility of a particular witness about certain
16 issues, rather than the core matters that we have to deal with.
17 There are other means of doing this, one of which being in
18 rebuttal. I mean, if that is the case, you can do it. We will
19 see when we get there. I am not prepared to say that we will
10:17:27 20 stop the -- we will proceed with identification parade in court.
21 Absolutely not.

22 JUDGE THOMPSON: Suppose I were to say to you that the
23 state of the jurisprudence as it is evolving now as a matter of
24 law is that identification evidence carries little weight?
10:17:51 25 Suppose I were to say as a matter of law it carries little
26 weight? So what is the purpose of doing it at all?

27 MR KAMARA: It is so simple to identify him, if at all.
28 And it is like a photograph.

29 PRESIDING JUDGE: Then bring a photograph. Why not have a

1 photograph?

2 MR KAMARA: But it is the best evidence rule we are looking
3 for, Your Honour. If we have the individual - and maybe we
4 cannot substitute him with a photograph - he can easily come in,
10:18:14 5 identify him or not. And following the wide understanding that I
6 have with the admissibility of evidence in this case, we can
7 merely call him and it doesn't prejudice the Defence.

8 JUDGE THOMPSON: With the greatest respect to learned
9 counsel, I think your own perception and analysis of
10:18:35 10 identification evidence is heavily loaded towards the common law
11 system. And clearly, as you know, one of our own fundamental
12 principles is that rules of evidence of the national legal
13 systems do not bind us. In fact, we are trying to apply a
14 synthesis of the common law system and the civil law system,
10:18:58 15 rules which are best or which would in fact help us to determine
16 fairly the matters in issue. And I think there is really this
17 caution against identification evidence in this kind of way.

18 MR KAMARA: My Lord, I will move away from there and not to
19 stay further.

10:19:18 20 PRESIDING JUDGE: Thank you.

21 MR KAMARA: Yes, I appreciate, Your Honour.

22 Q. Mr Witness, the question I was posing to you was that you
23 do not recall the name of Foday Vandí?

24 A. What? I didn't get you clearly.

10:19:47 25 Q. I was merely restating what you said that you do not recall
26 knowing Foday Vandí or remembering the name Foday Vandí.

27 A. No.

28 Q. Now, Mr Witness, it is your evidence before this Court that
29 you had to face the War Council on several occasions, is that so,

1 relating to disciplinary matters?

2 A. It was not for many times. I faced them only once.

3 Q. Thank you. Was that relating to the issue of the death of
4 Jeneba? You were accused of killing one Jeneba; is that so?

10:21:19 5 A. I didn't kill her.

6 Q. I said you were accused of I didn't say you did?

7 A. That is what they said, but I didn't kill her.

8 Q. And in your evidence you told this Court that the War
9 Council investigated and found out that you did not do it; is

10:21:54 10 that so?

11 A. Yes.

12 Q. Mr Witness, would it surprise you to know that in Chief
13 Norman's evidence he told this Court that you were found guilty
14 for that offence of killing Jeneba?

10:22:59 15 A. If he says that he is telling lies on me, he is telling
16 lies on the Council.

17 Q. And further to that --

18 JUDGE ITOE: Please wait.

19 MR KAMARA: Yes, Your Honour.

10:23:47 20 Q. And further to that that it was for the advice of the War
21 Council otherwise that punishment must have been carried out.

22 JUDGE ITOE: What punishment?

23 MR KAMARA: The death sentence.

24 JUDGE ITOE: Have you laid the grounds that in that list in
10:24:03 25 your evidence you should suggest it to the witness. Do it
26 neatly.

27 MR KAMARA: Yes, Your Honour.

28 Q. Mr Witness --

29 PRESIDING JUDGE: You have put to the witness that he was

1 accused of.

2 JUDGE ITOE: But there is no verdict. Or rather there is
3 no penalty, no sanction.

4 PRESIDING JUDGE: That is right. You have not put to him
10:24:20 5 that he has sentenced to anything.

6 MR KAMARA: All right, sorry, Your Honours.

7 Q. Mr Witness, let me suggest to you that the sanction that
8 was passed by the War Council was a threat of death. Do you
9 agree with me?

10:24:50 10 A. No, that was not what they said.

11 MR KAMARA: My Lords, I am going to refer to the transcript
12 of 17th November 2004, evidence of TF2-008.

13 PRESIDING JUDGE: TF2-008?

14 MR KAMARA: Yes, Your Honour.

10:25:32 15 PRESIDING JUDGE: What is the date again, pardon me?

16 MR KAMARA: 17th November 2004. And it started from
17 page 37 to 38.

18 Q. And Mr Witness, let me just read the questions and answers
19 to you briefly and then I will ask the question of your response.

10:25:57 20 With the leave of the Court, Your Honours.

21 JUDGE ITOE: And slowly, please.

22 MR KAMARA: Yes, Your Honour.

23 Q. At number 27, "The witness testified that he was found
24 guilty of that offence," referring to you Vanjawai. And the

10:26:22 25 question that followed:

26 "Q. What was the recommendation for him?

27 "A. This was not the only person that is killed so far."
28 Was the response.

29 "Q. And in order to put a stop to these kind of things

1 the War Council recommended a threat of death penalty. A
2 threat of death penalty. Though not to be carried out.
3 But to instill fear in commanders to stop this kind of
4 behaviour."

10:27:14 5 Now, my question to you, Mr Witness, this is the state of
6 the evidence we have from this one I have referred to; what is
7 your response to that?

8 A. That is what he said, but that is not what I was told.

9 Q. Mr Witness, your days as commander, as battalion commander
10:28:17 10 for the Kamajors, and while you were at Talia, were you able to
11 observe any form of training?

12 A. I am not a soldier. I don't know about the training.

13 Q. I wasn't asking you if you were a soldier, you were a
14 Kamajor?

10:28:44 15 A. I was not trained.

16 Q. I was not asking if you were training. Hold on. Wait,
17 Mr Witness, take your time. The question is: Did you observe
18 training going on at Talia?

19 A. The time I went there I never saw people being trained
10:29:27 20 there. That is what I am saying.

21 MR KAMARA: Your Honours, with your leave I would like the
22 witness to take a look at Exhibit 112.

23 PRESIDING JUDGE: Yes.

24 MR KAMARA: Which is the CDF calendar.

10:29:56 25 PRESIDING JUDGE: Calendar?

26 MR KAMARA: Yes, Your Honour.

27 PRESIDING JUDGE: Because I do seem to recall that the
28 witness has said that he is illiterate.

29 MR KAMARA: It has a picture.

1 PRESIDING JUDGE: Yes, I know, and that is why I am asking
2 too if it is to look at the picture, that's different.

3 MR KAMARA: Yes, Your Honour.

4 PRESIDING JUDGE: So the witness is looking at Exhibit 112?

10:30:37 5 JUDGE ITOE: If the Court Management can stand by this
6 witness to help him through the pages because he might not know
7 what the reference may be to page 1, 2 or 3.

8 MR KAMARA: Thank you, Your Honour.

9 Q. Let the witness be shown - I think it is the fourth page.
10:31:29 10 The fourth page, I think it is the one with picture of Moinina
11 Fofana.

12 PRESIDING JUDGE: Is it the one with number 0840?

13 MR KAMARA: Yes Your Honour.

14 Q. Mr Witness, do you recognise Moinina Fofana in that
10:31:52 15 picture?

16 A. Yes.

17 Q. That is the CDF calendar for 2001. Now, Mr Witness, with
18 the leave of the Court, let me read to you what is written on
19 underneath the name the person you have identified.

10:32:31 20 MR BOCKARIE: I am objecting to that, Your Honour.

21 PRESIDING JUDGE: What is the purpose and what is your
22 question.

23 MR BOCKARIE: I don't know what is the nexus between what
24 is written on underneath the name Moinina Fofana and this
10:32:43 25 witness. How is it connected with this witness?

26 PRESIDING JUDGE: You are forgetting that this is a witness
27 that has been called by the Defence and the Prosecution is in
28 cross-examination of this witness. I mean this is an exhibit
29 that is in court. I don't see what is improper with that

1 question.

2 MR BOCKARIE: My Lord, taking into consideration what was
3 earlier said, the objection that was earlier raised in respect of
4 what is written underneath Moinina Fofana.

10:33:06 5 PRESIDING JUDGE: You have --

6 MR BOCKARIE: And also when the authorship of what is
7 written has been denied by the Defence.

8 JUDGE THOMPSON: Well, I see that he is not really -- the
9 witness has answered that he recognises Moinina Fofana and
10:33:36 10 counsel is seeking to put to him some kind of, I would say,
11 biographical information in terms of CDF profile, and this
12 witness is part of the culture which he is testifying to. Why
13 would it not be relevant for counsel to cross-examine on that? I
14 mean, if counsel, if he violates the rules, then of course the
10:34:11 15 Court will uphold any objection, but in this particular case why
16 is this question objectionable? I mean, I want to know the
17 grounds.

18 MR BOCKARIE: Based to on that premise I will then watch
19 cautiously, Your Honour.

10:34:27 20 JUDGE THOMPSON: Yes, it is relevance we are guided by here
21 and I don't see why counsel should not be allowed to put his
22 question at this point in time and if he goes beyond the
23 permissible limits, then counsel is at liberty to object.

24 MR BOCKARIE: I will, Your Honour. Thank you.

10:34:52 25 PRESIDING JUDGE: Mr Kamara.

26 MR KAMARA: Thank you, Your Honour.

27 Q. Mr Witness, I was going to read to you what is written
28 underneath the name of the person you identified as Moinina
29 Fofana. [As read] As far as the Sierra Leone Civil Defence

1 Forces are concerned they don't say war unless he says they say

2 will Moinina Fofana.

3 PRESIDING JUDGE: War.

4 MR KAMARA: Yes, unless they say war. Yes, sorry, Your

5 Honour, it is a bit blurry on my copy.

6 Q. "Unless they say war. Moinina Fofana, popularly known
7 within the CDF as director..." Would you agree to that that I
8 have read as a reflection of what you understand the CDF?

9 A. No.

10:35:51 10 Q. And why?

11 A. Because I don't know him as a director. He had never
12 directed me in war.

13 Q. All right, I will move further slightly. It says, "...is
14 the man who oversees the mobilisation and deployment of the
10:36:29 15 volunteer fighters of the CDF."

16 JUDGE THOMPSON: What is the question?

17 MR KAMARA:

18 Q. Do you agree with that description?

19 A. No, I will not accept that because he never sent me to war.
10:37:06 20 He never prepared me for war.

21 Q. Do you know if he made deployments with regards to other
22 commanders?

23 A. I don't know that. I don't know anything about that.

24 Q. Mr Witness, it is your evidence before this Court that
10:38:13 25 Chief Norman may not have been saying the truth with regards to
26 the findings of the War Council.

27 JUDGE ITOE: He did not say he may not have been saying the
28 truth, he said he lied.

29 MR KAMARA: Yes, he lied. I didn't want to use that --

1 JUDGE ITOE: No, Use the words which have been used in the
2 records.

3 MR KAMARA: Thank you, Your Honours.

4 MR JABBI: My Lords, however, the restatement of that
10:38:41 5 evidence is much -- very, very much wider and --

6 PRESIDING JUDGE: Yes, but we are in cross-examination,
7 Dr Jabbi, you have to wait for the whole question. I mean this
8 is the first sentence, we don't know what the question is. I
9 mean, wait for the full question and then if you have an
10:38:58 10 objection before the witness answers we will go to you.

11 MR JABBI: My Lord, but --

12 PRESIDING JUDGE: Otherwise we will not be able to
13 progress. There is only part of the question now and you are
14 objecting to it and you say it is much larger. Well, maybe he
10:39:13 15 will put to the witness a much larger question. So let's wait
16 and we will hear your objection, if any, then.

17 MR JABBI: The premise of the question --

18 PRESIDING JUDGE: Dr Jabbi, I have just told you what we
19 are going to do. Please.

10:39:30 20 MR JABBI: As your Lordship pleases.

21 MR KAMARA: Thank you, Your Honour. I was merely trying to
22 move him to the issue that I am focusing now from the calendar so
23 that is why I tried to recapitulate the evidence.

24 Q. Following that statement of yours, Mr Witness, you gave
10:40:04 25 evidence that you were promoted to task force commander after the
26 investigations of the War Council; is that correct?

27 A. Yes, my colleague fighters promoted me.

28 Q. I thought you said the War Council. What are you trying to
29 say now?

1 A. That is what I am saying. I was promoted. I was promoted.

2 Q. Mr Witness, who promoted you; your colleague fighters or
3 War Council?

4 A. War Council. War Council. War Council.

10:40:46 5 Q. Please make up your mind, tell us who promoted you.

6 A. I am saying the same thing.

7 Q. Mr Witness, there is evidence before this Court that Chief
8 Norman himself promoted you. You agreed to that.

9 A. If somebody says that, he is not saying the truth.

10:42:12 10 Q. Mr Witness, I am under the impression that everyone else is
11 telling lies except --

12 JUDGE ITOE: No, no, no, no, no, no, no. No, no, no, that
13 is not it.

14 MR KAMARA: Yes, My Lord I will re-phrase it.

10:42:14 15 JUDGE ITOE: That is not it.

16 MR KAMARA: I will re-phrase it, Your Honour. Thank you.

17 Q. Mr Witness, we have evidence, contrary to that which you
18 have stated before this Court, and I am suggesting to you that
19 you have been very frugal with the truth; is that so?

10:42:40 20 A. I know I am saying the truth.

21 Q. Mr Witness, there were reports that as commander -- let me
22 re-phrase that. There is evidence before this Court,
23 Mr Witness -- and that is of TF2-008 again, Your Honours.

24 PRESIDING JUDGE: Still 17th November?

10:43:20 25 MR KAMARA: Yes, Your Honour, I think it is still on
26 page 37.

27 Q. That you, Vanjawai, cut off the ear of one section chief
28 called Foday Hayama. Hayama.

29 A. If somebody had said that he had not said the truth.

1 JUDGE ITOE: What is the name of the chief, the section
2 chief?
3 MR KAMARA: Foday Hayama.
4 PRESIDING JUDGE: Spell it out, please.
10:44:07 5 MR KAMARA: F-O-D-A-Y.
6 PRESIDING JUDGE: Yes.
7 MR KAMARA: H-A-Y-A-M-A.
8 Q. Are you by any chance aware of that incident?
9 A. I know nothing about that. I know nothing about the
10:44:34 10 chopping off of somebody's ears.
11 Q. Was that not one of the allegations for which you were
12 charged before the War Council committee?
13 A. Nobody took me before the War Council for what you are
14 saying now.
10:45:36 15 Q. Mr Witness, I am taking you back to your days at Koribundu.
16 There is evidence before this Court, Mr Witness, and that at
17 Boamahun village, you and your boys reportedly killed one woman.
18 Do you recall any incident like that?
19 A. I know nothing about Boamahun, except that you are saying
10:46:23 20 it now.
21 Q. And further to that, Mr Witness, it was on account of that
22 that you were removed from Koribundu and replaced with Joe
23 Tamidey. Now, you do recall that, don't you?
24 A. No.
10:47:04 25 Q. But you agree with me you were removed from Koribundu?
26 A. Boamahun, no. I didn't go to Koribundu. Since the war I
27 had never settled in Koribundu.
28 Q. I didn't say you settled.
29 MR JABBI: I am sorry, My Lords, but the translation of the

1 last statement by the witness is deficient, My Lord. He said
2 since the war I have not settled in Koribundu that is not what
3 the witness said.

4 PRESIDING JUDGE: What did he say?

10:47:41 5 MR JABBI: The witness -- the translation of what the
6 witness said was "throughout the war I was not in Koribundu".
7 Not since the war. Thank you, My Lord.

8 PRESIDING JUDGE: Well, Mr Interpreter, what do you have to
9 say about that?

10:47:59 10 THE INTERPRETER: Your Honours, we are not very clear with
11 what the learned counsel is saying.

12 PRESIDING JUDGE: What he is saying is that you have
13 translated that what the answer was by "since the war" and he
14 says the witness didn't say "since the war" but "throughout war",
10:48:20 15 which is not the same at all.

16 JUDGE ITOE: [Microphone not activated] did he say
17 "throughout the war" or did he said "since war"? You heard the
18 words there.

19 THE INTERPRETER: He is saying since the war started he had
10:48:38 20 never settled in Koribundu. That is the --

21 PRESIDING JUDGE: What you are saying now is quite
22 different from what you have given, because since the war started
23 as such would be the same as throughout the war, but you said
24 since the war which would mean after the war was over. So your
10:49:02 25 rendering of what he said is now since the war started?

26 THE INTERPRETER: Yes, Your Honours, we are sorry for the
27 first rendition.

28 PRESIDING JUDGE: Mr Kamara.

29 MR KAMARA: Thank you, Your Honour.

1 Q. Now, Mr Witness, do you know the village of Magihun.

2 Magihun, something like that? Magihun village.

3 A. Except when you are calling them now, but I don't know

4 there.

10:49:59 5 PRESIDING JUDGE: Can you spell it out, Mr Kamara, please?

6 MR KAMARA: Yes, Your Honour. It is M-A-G-I-H-U-N.

7 Q. Mr Witness, during your days as commander did you operate

8 in Gbap Chiefdom? G-B-A-P, Your Honours.

9 A. No.

10:50:54 10 Q. Do you remember the names of Agba Satani?

11 A. No, except when you are calling it.

12 Q. Do you recall the name of Gbanawai? These were all

13 comrades of yours while you were operating at Gbap Chiefdom.

14 A. I don't know the person called by that name.

10:51:31 15 PRESIDING JUDGE: Can you spell these names, please?

16 MR KAMARA: Yes, Your. Honour the first one, which is Agba

17 Satani, is A-G-B-A S-A-T-A-N-I.

18 PRESIDING JUDGE: And Gbanawai.

19 MR KAMARA: Is G-B-A-N-A-W-A-I.

10:51:51 20 PRESIDING JUDGE: Thank you.

21 MR KAMARA: I am suggesting it to him, Your Honours, that

22 these were his comrades while he was operating in Gbap Chiefdom.

23 A. We didn't work together. I don't know them.

24 Q. Now, Mr Witness, in your evidence you said you fought with

10:52:31 25 ECOMOG; am I right?

26 A. Yes. We went together to fight.

27 Q. Where?

28 A. In so many places.

29 Q. And in your evidence, Mr Witness, you mentioned that in

1 that visit to Lungi that is where strategies were planned for a
2 sort of all-out attack; am I right?

3 A. Yes.

4 Q. And then you returned to Talia?

10:53:51 5 A. Yes.

6 [CDF20FEB06B - EKD]

7 Q. And then from there you launched different forms of
8 attacks?

9 A. Yes. We went to fight, went and attack.

10:54:16 10 Q. Which was your first location that you attacked when you
11 came back to Talia?

12 A. Bonthe Town.

13 Q. Is it your evidence that that attack was done together with
14 ECOMOG?

10:55:13 15 A. That very day we did the attack together.

16 MR JABBI: My Lords.

17 PRESIDING JUDGE: Yes, Dr Jabbi.

18 MR JABBI: My Lords, the question was asking whether that
19 attack -- ECOMOG and the witness participated in that attack
10:55:41 20 which the witness spoke about. However, both the answer of the
21 witness and the translation suggested contemporaneity as distinct
22 from participation in one incident. Contemporaneity of different
23 incidents. That is what the answer suggested, My Lord.

24 PRESIDING JUDGE: Dr Jabbi, we will have to come to some
10:56:11 25 solution to this because if you are to challenge the
26 interpretation, which is perfectly your right, you shall do it in
27 a proper way and then we will have to move to find out the
28 translators as such. I am not a translator. I have to trust
29 what is going on. I know you are a doctor in linguistics, as

1 such, and you have a much greater knowledge than I ever will have
2 in this matter, but we have to be able to move and we have to
3 trust that these people are qualified to do their work. If you
4 are to challenge that every time they speak, we won't progress,
10:56:42 5 as such. But, as I say, this is your right to do so. If you do
6 so, apply for a challenge to their ability to do the translation
7 and we will seek some remedy to it.

8 MR JABBI: With respect, My Lord, I have not challenged
9 every translation.

10:57:00 10 PRESIDING JUDGE: No, but every two answers.

11 MR JABBI: And the previous example showed the challenge
12 was in place. I am only trying to say that the question
13 anticipated participation in a single incident, but the
14 translation of the answer implied contemporaneity of different
10:57:21 15 attacks taking place.

16 JUDGE THOMPSON: That presumption is based on the
17 assumption, which is questionable, whether the witness himself is
18 not answering questions in that way. Because there are times
19 when witnesses are asked precise and direct questions then launch
10:57:43 20 into convoluted responses. So even if your observation is right,
21 which I am not, in fact, taking issue with, it still leaves open
22 the possibility that this may not be a translation deficiency but
23 may be some kind of overzealousness on the part of the witness to
24 give a packaged answer. Is that a possibility?

10:58:08 25 MR JABBI: Yes, indeed, My Lord. My Lord, in that case I
26 hope my intervention at least suggests to the honourable counsel
27 for the Prosecution to perhaps ask the question.

28 JUDGE THOMPSON: In other words -- all right. I mean, for
29 me --

1 JUDGE ITOE: And let the witness to be forthright in his
2 responses to avoid --

3 MR JABBI: Yes, My Lord.

4 JUDGE ITOE: -- circumventing issues and giving responses
10:58:35 5 which are not related to the question or put to him.

6 MR JABBI: I agree entirely, My Lord.

7 PRESIDING JUDGE: Thank you, Mr Jabbi. Mr Kamara, can you
8 take the question again. As you can see, we have some
9 difficulties with the proper terminology so try to keep it as
10:58:52 10 precise and simple as you can so we avoid ambiguities.

11 MR KAMARA: My Lord, I will endeavour to do that. But the
12 witness has volunteered it. It's typical of him so far.

13 PRESIDING JUDGE: That's fine.

14 JUDGE THOMPSON: We would ask you to take that back.

10:59:10 15 MR KAMARA: I will, Your Honour.

16 Q. Mr Witness, my question to you is this -- and please answer
17 the question. After you came back to Talia which was the first
18 place you attacked. You said Bonthe. Then I asked you: Did
19 ECOMOG participate in that attack?

10:59:36 20 A. Yes. Yes, they participated in it.

21 Q. Mr Witness, I am suggesting to you that that is not the
22 truth?

23 A. We fought together.

24 Q. There is evidence before this Court that ECOMOG did not
11:00:40 25 come into Sierra Leone until after the President came back, which
26 is about 10th March, and he made a plea --

27 JUDGE ITOE: Too long. Too long. Too long. This guy will
28 not follow your lecture.

29 MR KAMARA: All right, Your Honour.

1 JUDGE ITOE: Can you break it down for him and take it at
2 village level, please.

3 MR KAMARA: I will, My Lord, thank you.

4 Q. Mr Witness, there is evidence before this Court that ECOMOG
11:01:16 5 did not come to Sierra Leone until post-March 1998?

6 JUDGE THOMPSON: What is the question?

7 MR KAMARA:

8 Q. Well after the incident you have narrated?

9 JUDGE THOMPSON: What's the question then? Having given
11:01:36 10 him that scenario, what's the question?

11 MR KAMARA:

12 Q. Mr Witness, would you agree with me that that is the state
13 of fact as against what you have?

14 A. They were here when we fought, when we did that attack.

11:02:23 15 Q. And which other attack again that you participated in?

16 A. When we captured there, I came to Bo. That's where I was
17 based. Then I was sent to Bo.

18 Q. Now my final question to you, Mr Witness: I am suggesting
19 to you that you were the untouchable commander of the CDF. Is
11:03:19 20 that correct?

21 A. Is that a commander who could not be touched?

22 Q. Yes, and that is you.

23 A. No.

24 MR KAMARA: That's all for this witness.

11:03:42 25 PRESIDING JUDGE: Thank you. Any re-examination?

26 MR SESAY: No re-examination.

27 PRESIDING JUDGE: Thank you. Thank you, Mr Witness, that
28 concludes your evidence. Can the Witness Protection Unit assist
29 the witness, please.

1 Dr Jabbi, where are we with the evidence for the Defence?

2 I know you have a witness coming in tomorrow morning.

3 [The witness withdrew]

4 MR JABBI: Yes, My Lord. My Lord, we do have a witness to
11:04:15 5 follow the present one, but we just want to bring to the
6 attention of the Court for due consideration your original
7 statement that the evidence of the witness will not be
8 discontinued in order to accommodate general --

9 PRESIDING JUDGE: Another witness.

11:04:42 10 MR JABBI: Yes, My Lord. And since we are not totally in
11 control of all aspects of the evidence of the witness, we can
12 only do the examination-in-chief, we would want the guidance of
13 the Court as to the testimony of the next witness. He is ready,
14 we are prepared to take him and we can only say for how long we
11:05:02 15 can take him.

16 PRESIDING JUDGE: Well, tell us, please, for how long
17 you're going to take him.

18 MR JABBI: My colleague will do that.

19 MR SESAY: My Lord, I am sure I will be only guessing,
11:05:15 20 My Lord, but I contemplate --

21 PRESIDING JUDGE: Your best estimate.

22 MR SESAY: My best estimate, thank you, My Lord. Two and a
23 half hours.

24 PRESIDING JUDGE: In chief?

11:05:26 25 MR SESAY: In chief.

26 PRESIDING JUDGE: Very well. Thank you. Dr Jabbi, your
27 next witness - not this one, but the one that is coming from
28 abroad - how long do you expect that witness to be? I am just
29 asking that because is there a possibility that we could finish

1 the witness you are about to call, if not finish today, then
2 tomorrow morning, and then carry on with the other witness
3 without putting anything in jeopardy? I'm just trying to see how
4 we can make the necessary adjustment here.

11:06:02 5 MR JABBI: My Lord, the little problem will be the
6 Wednesday program. Wednesday is only an --

7 PRESIDING JUDGE: But your witness leaves on Thursday;
8 isn't it? That witness flies back to the UK on Thursday?

9 MR JABBI: Yes, that is my understanding, My Lord.

11:06:22 10 PRESIDING JUDGE: So that leaves at least Thursday morning
11 and, if need be, part of the afternoon on Thursday. With that
12 witness, I mean the witness that you intend to call tomorrow, how
13 long is your examination-in-chief of that witness? Two, three
14 hours?

11:06:39 15 MR JABBI: My Lord, as of now we have not met with the
16 witness himself. We were intending to also bring that to the
17 attention of the Court for perhaps tomorrow morning to have to
18 meet him before he gives his evidence. I do not contemplate more
19 than two hours of evidence-in-chief with him and possibly less.

11:07:10 20 PRESIDING JUDGE: Thank you. Dr Jabbi, let's proceed the
21 way you suggested for now. Let's hope we will make the
22 adjustments as they may be needed. So let's proceed with the
23 examination-in-chief of that witness and let's hope it's all
24 finished by tomorrow, but we'll see.

11:08:11 25 MR JABBI: Thank you, My Lord.

26 PRESIDING JUDGE: Call your next witness. Who is the
27 witness?

28 MR SESAY: My Lord, he is Kenneth Koker.

29 PRESIDING JUDGE: Kenneth Koker. So that is the witness

1 number eight of your proposed order for the first 16 witnesses,

2 is it?

3 MR SESAY: Yes, My Lord.

4 PRESIDING JUDGE: And this witness will testify in Mende?

11:08:37 5 MR SESAY: My Lord, it has indicated on the list that he
6 will be testifying in Mende, but, from what I understand from the
7 witness, he will want to testify in Krio.

8 PRESIDING JUDGE: That is his choice, not ours. That's
9 fine. So for the interpreters --

11:08:57 10 MR SESAY: Yes, I have informed the --

11 PRESIDING JUDGE: They know?

12 MR SESAY: Yes, My Lord.

13 PRESIDING JUDGE: Okay.

14 [The witness entered court]

11:09:07 15 JUDGE THOMPSON: Learned counsel, how is Koker spelt?

16 MR SESAY: K-O-K-E-R.

17 JUDGE THOMPSON: Thanks.

18 THE INTERPRETER: Your Honours, we would have to need some
19 time for a switch to the appropriate channels, both for the
11:09:25 20 witness and the interpreters' booth.

21 PRESIDING JUDGE: What do you mean "time"? How much time?

22 THE INTERPRETER: Maybe five. Five will do. Five minutes.

23 PRESIDING JUDGE: We seem to be running all the time into
24 all sorts of technical difficulties. But, anyhow, if you need
11:09:48 25 five minutes, we don't have any choice. You have to make the
26 adjustment to switch to Krio and we will come back. We will
27 adjourn to -- I am told five minutes so we will come back in five
28 minutes.

29 THE INTERPRETER: Thank you.

1 [Break taken at 11.10 a.m.]

2 [Upon resuming at 11.25 a.m.]

3 PRESIDING JUDGE: Mr Counsel, I am told that the
4 translation office was informed at the last moment of the change
11:25:41 5 of language for the evidence of this witness. What I am asking
6 is cooperation on the part of everybody so we avoid losing time
7 when we proceed. I recognise that this is the right of a witness
8 to testify in any language of his choice, but we need to know so
9 we have the technicians and the ability to proceed when that
11:26:02 10 happens. So I am just seeking your help and cooperation in this
11 respect.

12 MR SESAY: I shall do so, My Lord --

13 PRESIDING JUDGE: Thank you.

14 MR SESAY: -- in future.

11:26:14 15 MR BOCKARIE: Before my learned colleague commences, just
16 to inform the Court that this witness is a common --

17 PRESIDING JUDGE: Common witness.

18 MR BOCKARIE: Yes, Your Honour. And I will be less than
19 one hour 30 minutes, Your Honour.

11:26:28 20 PRESIDING JUDGE: Less than an hour and 30 minutes. So it
21 may be an hour?

22 MR BOCKARIE: It's possible, or less, Your Honour.

23 PRESIDING JUDGE: Thank you. In fact, I forgot to ask you
24 and others if this witness was common. So I guess that in the
11:26:43 25 future whenever there is a new witness I shall ask the question.
26 Because I don't know who's common or not. But, as a matter of
27 course, we are going do that for all witnesses to come.

28 MR BOCKARIE: Thank you, Your Honour.

29 JUDGE ITOE: I think the parties should let us know before

1 calling him and we would know that we are dealing with a common

2 witness.

3 MR BOCKARIE: Yes, Your Honour.

4 PRESIDING JUDGE: Mr Sesay, please proceed. Has the

11:27:14 5 witness been sworn?

6 MR SESAY: No.

7 PRESIDING JUDGE: Let's proceed with this first.

8 MR SESAY: Yes, Your Honour.

9 WITNESS: KENNETH KOKER [Sworn]

11:27:51 10 PRESIDING JUDGE: So this is witness for defence number

11 seven?

12 MR SESAY: Six, My Lord.

13 PRESIDING JUDGE: Thank you.

14 EXAMINED BY MR SESAY:

11:28:02 15 Q. Good morning, Mr Witness.

16 A. Yeah, good morning, sir.

17 Q. Before I commence your testimony I will advise that you
18 keep the pace, you watch the pens and --

19 JUDGE ITOE: Tell him to go slowly. Not all of us may
11:28:22 20 understand what "pace" means.

21 MR SESAY: As My Lord pleases.

22 Q. You go slowly, please. You wait for the question, you
23 answer and you take a very slow pace. Okay?

24 A. Okay.

11:28:38 25 Q. Now, can you tell the Court your full names?

26 A. I'm called Kenneth Koker.

27 MR SESAY: My Lords, for the records, Kenneth is spelt

28 K-E-N-N-E-T-H.

29 JUDGE ITOE: I am more interested in the spelling of Koker.

1 MR SESAY: My Lords, Kenneth, some spell it K-E-N-E-T-H.
2 JUDGE ITOE: I've not seen it somewhere that way. And what
3 is Koker spelt?
4 MR SESAY: Koker is K-O-K-E-R.
11:29:24 5 JUDGE ITOE: Thank you.
6 MR SESAY: Thank you.
7 Q. Where were you born?
8 A. I was born in Bo.
9 Q. Where in Bo?
11:29:34 10 A. At Bo Number 2. Bo.
11 Q. How old are you?
12 A. I'm 40 years.
13 Q. Where do you presently reside?
14 A. I'm in Bo at this present moment.
11:30:17 15 Q. Are you a Kamajor?
16 A. Yeah, I'm a full fledged Kamajor.
17 Q. I will be glad if you answer "yes" instead of "yeah".
18 A. Yes.
19 Q. When did you become a Kamajor?
11:30:43 20 A. 1996, August. That is the time that I joined the Kamajor
21 society.
22 JUDGE ITOE: August 1996?
23 MR SESAY: Yes, My Lord.
24 JUDGE ITOE: August 1996?
11:31:04 25 MR SESAY: 1996, My Lord.
26 Q. And where?
27 A. It was at Messima in Bo.
28 MR SESAY: Messima, My Lords, is spelt M-E-S-S-I-M-A.
29 Q. Now, were you initiated?

1 A. Yes.

2 Q. Who was your initiator?

3 A. Mama Munda Fortune.

4 MR SESAY: Munda, My Lords, is spelt M-U-N-D-A.

11:32:19 5 Q. Now, do you recall 25th May 1997?

6 A. Yes.

7 Q. Where were you?

8 A. I was in one village that was called Tongie.

9 MR SESAY: Tongie, My Lords, is T-O-N-G-I-E.

11:32:52 10 Q. In what district or chiefdom is Tongie?

11 A. Bo District.

12 Q. Whilst you were at Tongie, did anything happen?

13 A. Yes.

14 Q. Can you please slowly tell the Court what happened at

11:33:49 15 Tongie?

16 A. Yes.

17 Q. Carry on.

18 A. We're at Tongie one morning. We went to our business area.

19 I started listening to the news. That was the time that I heard

11:34:18 20 over the radio, BBC, that they had overthrown the elected

21 government. I left the site where we were doing our business and

22 I came to town. When I came to town --

23 Q. To which town did you come?

24 A. Within Tongie Town. When I came to town, I observed that

11:34:50 25 everybody was standing up, listening to the radio. Later in the

26 evening we saw people with bundles on their heads and we started

27 hearing deep gun sounds in Bo and we saw people coming with

28 bundles on their head.

29 Q. Slowly, please. Hold it there for us. You said you saw

1 people with bundles coming from Bo. Yes, what happened?

2 A. Yes. They said that the soldiers had taken control of the
3 town Bo. So I asked whether I would be able to go to Bo.

4 Q. Who did you ask?

11:36:07 5 A. It was the civilians who had been coming towards the town.
6 They said no. They said whosoever went to Bo and who had a mark,
7 they said he was a Kamajor and that he would be killed. So I
8 myself, within those two days, I tried very hard. I entered Bo
9 and went to the house. When I went to the house --

11:36:43 10 JUDGE ITOE: Your house?

11 THE WITNESS: Yes, sir.

12 MR SESAY:

13 Q. Why did you go to Bo? You said your house?

14 A. Yes, I went to my house.

11:36:57 15 Q. What is the address of that house in Bo?

16 A. Number 8, Fifth Street, Bo Number 2.

17 Q. Yes.

18 A. After two days, we heard that the soldiers had called the
19 RUF to come from the bush. After two days again, one morning I
11:37:37 20 saw --

21 THE INTERPRETER: Your Honours, would the witness go a
22 little bit slower. Your Honours, I cannot keep pace with the
23 witness. Would he please go over his last testimony, this
24 segment of his last testimony.

11:38:00 25 PRESIDING JUDGE: Mr Witness, can you repeat your last
26 answer and, please, go slowly when you answer so it can be
27 translated.

28 THE WITNESS: Okay, sir.

29 PRESIDING JUDGE: So can you repeat your last answer that

1 you said the RUF came out of the bush. What happened after that?

2 Slowly, please.

3 THE WITNESS: Okay, sir. When the soldiers had come to
4 town and had called the RUF to come to town -- when they came to
11:38:33 5 town I was at number 8. At number 9 Fifth Street, one of the RUF
6 men came and lodged there. When he came and lodged there, he
7 started shooting around 5.00 in the morning. So I did not ask --

8 MR SESAY:

9 Q. You said this RUF man was shooting. What did you do when
11:39:17 10 you saw him shooting?

11 A. Well, I did not do anything.

12 Q. And what happened?

13 A. What I did, I took two clothes and I went to the bush. I
14 went to my initiator.

11:39:59 15 Q. Yes.

16 A. I went to my initiator, because that was the only safe
17 place.

18 Q. Did you come back from the place where you said you met
19 your initiator?

11:40:19 20 A. That was the only safe place, that is where we stayed. We
21 were there. That is the time that we heard that Mosquito was
22 trying to open the Makeni Road up to Yele.

23 Q. Who was Mosquito?

24 A. Sam Bockarie. So they said that Sam Bockarie was going to
11:40:54 25 use that road to go to Makeni. So we ourselves were in the
26 village that was called Kpa, with our machetes and sticks. We
27 came to the road by Dambala.

28 Q. Slowly.

29 PRESIDING JUDGE: Dambala, how do you spell that?

1 MR SESAY: It's D-A-M-B-A-L-A, My Lords.

2 Q. Continue, please.

3 A. We're on that road at the checkpoint with our sticks and
4 our machetes. So this continued for some time --

11:41:43 5 Q. Now, what were you doing with these sticks and -- you said
6 you were there with your sticks and cutlasses. Now, what were
7 you doing at that road?

8 A. Well, that road, because there we were and there our people
9 were with sticks and machetes. We were trying to protect our
11:42:11 10 people.

11 Q. So you were there protecting the people?

12 A. Yes, sir. When we are there, every day we'd be threatened
13 and Mosquito would come and he had very heavy guns. After some
14 months we heard that the Kamajors had gone to Base Zero. So we
11:42:57 15 had people that we used to send during that time.

16 Q. You send these people to where?

17 A. We sent them to Base Zero so as to go and see what the
18 situation was.

19 PRESIDING JUDGE: Who is the "we"?

11:43:29 20 MR SESAY: Sorry, My Lord.

21 Q. You said "we." "We," meaning who?

22 A. The people that we used to send.

23 PRESIDING JUDGE: I still don't have the answer to the --

24 MR SESAY:

11:43:48 25 Q. You said "we send people," meaning who? What is the "we"?

26 A. I, I.

27 Q. You said to Talia?

28 A. Yes.

29 Q. Continue, please.

1 A. But it used to take some time. It used to take something
2 like three weeks before these people that we sent could come
3 back. After three weeks, they came back, these people that we
4 sent. When they came, they came with few single barrel guns with
11:45:04 5 some medicines.

6 Q. Who sent them, the people who came with the medicine and
7 the few single barrel guns?

8 A. Well, when they came with these things they came with a
9 message. They said that CDF at Base Zero were well organised,
11:45:37 10 and they had people that were called War Council. So they said
11 that it was the War Council that sent them, that sent these guns
12 and these medicines to us. They said that the President in
13 Guinea, he was the one that gave them these -- he was the one
14 that gave these things to the ECOMOG in Liberia so as to bring
11:46:22 15 them to us, these things. When they came with these things at
16 Kpa, we had our chiefdom authorities who had been taking care of
17 us. There and then the guns and the medicines were given to
18 chiefdom authorities.

19 Q. Stop there for now. Yes, continue, please.

11:47:25 20 A. So the chiefdom authorities, they gave us these guns and
21 they gave us these medicines to some of us that were ill.

22 Q. Yes.

23 A. When we were at Kpa, we heard that ECOMOG had joined our
24 brothers from Bo Waterside to come to Kenema, and they were
11:48:08 25 coming, capturing those areas. We that were at the surrounding
26 villages in Bo, we decided to come to Bo.

27 JUDGE THOMPSON: Learned counsel, when he said joined their
28 brothers, what is that referring to?

29 MR SESAY: If Your Lord pleases, I will go over that,

1 My Lord.

2 Q. You have just said that you joined your brothers. Now who
3 joined their brothers?

4 JUDGE THOMPSON: Not who, he said [Overlapping speakers].

11:48:50 5 THE WITNESS: ECOMOG soldiers that came from Liberia.

6 MR SESAY: The brothers, My Lord.

7 JUDGE THOMPSON: Brothers, who was that?

8 MR SESAY:

9 Q. Who were your brothers? Who did you refer to as --

11:49:00 10 A. The Kamajors.

11 Q. The Kamajors.

12 A. The Kamajors.

13 Q. You said you came to Bo; not so.

14 A. Yes.

11:49:12 15 Q. What happened when you arrived in Bo?

16 A. When we had got information that the ECOMOG and Kamajors
17 were coming towards Bo, we came. When we came to Bo, we were not
18 able to see ECOMOG or the soldiers, the RUF.

19 Q. Yes.

11:50:05 20 A. We came to Bo. We did not see the ECOMOG, we did not see
21 the soldiers and the rebels. So we were in the town for two
22 days. The third day, I and my Kamajors, we went down at
23 reservation by the brigade where the soldiers where.

24 JUDGE ITOE: He is talking as "I." Who is he? "I," "with
11:50:35 25 my Kamajors" now he's moving.

26 MR SESAY: Yes, My Lord. I am about to ask that question
27 on that.

28 Q. Now, you said you moved with your men. Did you occupy any
29 position in the Kamajor society at that time?

1 A. Yes.

2 Q. Yes, what were you at that time?

3 A. I was a commander.

4 Q. You were a commander. What commander? Just a commander?

11:51:10 5 JUDGE ITOE: You were a Kamajor commander?

6 THE WITNESS: I was a task force commander.

7 JUDGE ITOE: Kamajor task force commander?

8 THE WITNESS: Yes, sir.

9 MR SESAY:

11:51:25 10 Q. Now you said you took the men, your men; not so?

11 A. Yes.

12 JUDGE ITOE: Of what particular zone? Were you limited to

13 a commander zone or so? You were a task force commander?

14 THE WITNESS: Well, during that time we were under

11:51:50 15 chiefdoms. I was under my chiefdom.

16 MR SESAY:

17 Q. For which chiefdom were you operating as task force

18 commander? What chiefdom?

19 A. Kakua.

11:52:09 20 MR SESAY: My Lords, Kakua is K-A-K-U-A.

21 Q. You said you took your men. Where did you go with your

22 men?

23 A. Reservation at the brigade, where the soldiers were based.

24 Q. Which soldiers?

11:52:33 25 A. The government soldiers and the RUF.

26 Q. And where was that brigade?

27 A. At reservation.

28 Q. Reservation where?

29 A. In Bo.

1 JUDGE ITOE: Does he say it was where the soldiers -- the
2 government soldiers and the RUF were base?

3 MR SESAY: Yes, My Lord, that was what he said.

4 Q. When you arrived there what happened?

11:53:28 5 A. Behind the reservation there was a thick forest. My men
6 with whom I went, the Kamajors with whom I went, they saw
7 Kamajors -- they saw some Kamajors coming from the bush. So they
8 went there.

9 Q. Yes?

11:54:09 10 A. They saw some Kamajors coming from the bush. They went
11 there to welcome them.

12 Q. Yes?

13 A. Those that were dressed in Kamajor uniform, so they opened
14 fire at us.

11:54:44 15 JUDGE ITOE: Let's get that clear. Let's get that clear.

16 MR SESAY:

17 Q. You said you had arrived at the brigade?

18 MR SESAY: My Lord, I don't know whether I should go
19 over --

11:54:53 20 JUDGE ITOE: No, I mean he has taken us to a thick forest,
21 you know, behind the reservation or so.

22 MR SESAY: Yes, My Lord.

23 JUDGE ITOE: The reservation and there they saw a group of
24 Kamajors.

11:55:07 25 MR SESAY: Yes, My Lord.

26 JUDGE ITOE: And they went to greet them, to welcome them.

27 MR SESAY: Yes, My Lord, and then they opened fire,
28 My Lord.

29 PRESIDING JUDGE: That is the link I want to get.

1 JUDGE THOMPSON: They met with friendly fire, is it?

2 JUDGE ITOE: Unfriendly fire maybe.

3 MR SESAY: My Lord, I will clarify that as he goes along.

4 But, My Lord, I will take him back to the point where these
11:55:33 5 people who, he said were Kamajors --

6 Q. You said you saw them coming from that end. Now where did
7 they come from?

8 JUDGE THOMPSON: He was very careful to say they were
9 dressed in Kamajor uniform and then they opened fire. So my own
11:55:44 10 interpretation would be that friendly fire was coming. But,
11 anyway, clarify it.

12 MR SESAY: My Lord, he is now coming to that. I don't want
13 My Lord to jump the --

14 JUDGE THOMPSON: I appreciate that.

11:55:55 15 MR SESAY: I'm grateful, My Lord.

16 Q. Now you said they came and they started firing; not so?

17 A. Yes.

18 Q. What happened at that point when they started firing at
19 you, yourself and your men?

11:56:08 20 A. When we took them -- took it for granted that they were our
21 brother Kamajors. But, to our surprise, we started getting fire
22 from us -- from them and some people started dying. So we had to
23 retreat that day. So we left the township of Bo. So we went
24 back to the villages.

11:56:43 25 Q. Now, these men whom you said started firing whom you said
26 you thought they were brothers, what did you find out about them
27 later? Did you find out anything about them later?

28 A. Yes. After they had fired at us, because Bo was a big town
29 and they started leaving the township. So we came to know that

1 they were soldiers.

2 Q. So you knew they were soldiers?

3 A. Yes. The first batch that preceded them were dressed in
4 Kamajor uniform and both that came after them were dressed in
11:57:26 5 soldier uniform. So they were all mixed up.

6 Q. Were they in fact Kamajors, these people that you said were
7 shooting? Were they in fact Kamajors? That is my question.

8 Were they?

9 A. No, no. No, they are not Kamajors.

11:58:15 10 JUDGE ITOE: Learned counsel, so the point you are trying
11 to establish is that these were, in fact, soldiers dressed in the
12 Kamajor uniform?

13 MR SESAY: Yes. Yes, My Lord.

14 JUDGE ITOE: Is that not what you are trying to establish?

11:58:33 15 MR SESAY: Yes, My Lord. But in fact further, My Lord,
16 that in fact they were--

17 JUDGE ITOE: No, I don't want you to go further.

18 MR SESAY: As My Lord pleases.

19 Q. Now you said you left the town, not so, Bo Town?

11:58:44 20 A. Yes.

21 Q. Where did you go?

22 A. I went back to Kpa.

23 Q. You went back to Kpa?

24 A. Yes.

11:59:08 25 Q. Yes, what happened?

26 A. When we had gone back to Kpa, they took over the town.

27 Q. Who took over the township?

28 A. The soldiers. The soldiers and the RUF, they were the ones
29 that took over the town.

1 Q. Which town?

2 A. Bo Town.

3 Q. When did all this happen? Can you remember the date, the
4 month, year?

11:59:42 5 A. Well, I cannot recall the date, but I can recall the year.

6 Q. What year?

7 A. It was in 1998.

8 Q. After the soldiers and the RUF -- you said, they took over
9 the township of Bo. Now, were you still at Kpa?

12:00:18 10 A. Yes.

11 Q. Let me take you back to the date. Was it early 1998 or
12 mid 1998 or late 1998?

13 A. Early 1998.

14 Q. Early 1998. Now did you come back to Bo?

12:00:51 15 A. Yes. After three days the ECOMOG whom they said were going
16 to move from Bo Waterside to come, so they told us that they had
17 come closer to Bo.

18 Q. Now, from where to Bo, along what route?

19 A. Kenema Road.

12:01:35 20 Q. You mean the road linking Kenema to Bo?

21 A. Yes.

22 Q. Yes?

23 A. So we that were in the surrounding villages, we decided to
24 come back to Bo to come and join the ECOMOG. But it was during
12:02:05 25 the night that they arrived in Bo, around 12.00 to 1.00. That
26 was the time they arrived in Bo. It was during the night. So we
27 started hearing very deep, deep gun sounds. But we're not able
28 to --

29 Q. From what direction were you hearing these heavy sounds?

1 A. We started hearing the heavy sound from the new police
2 barracks, when you are going towards Kenema.

3 Q. Yes?

4 A. So because of -- since it was during the night we were not
12:02:56 5 able to join them. So we waited until daybreak. In the morning
6 we went and met them.

7 Q. Let me ask you this question, Mr Witness: From where you
8 said you were, waiting to come to Bo when you heard that ECOMOG,
9 in fact, had come to Bo, now, how many -- do you know the miles?
12:03:31 10 How many miles is that from Kpa to Bo?

11 A. Yes. Well, from Bo to Kpa, it was just four and a half
12 miles.

13 Q. Four and a half miles. You said you decided to wait until
14 the morning; not so?

12:03:58 15 A. Yes.

16 Q. Why did you decide to wait until the morning? Was there
17 any particular reason for that?

18 A. Yes.

19 Q. What was the reason?

12:04:11 20 A. It was because of the past experience when the soldiers
21 disguised as Kamajors and when they fired at us. That was why we
22 feared to go.

23 Q. You said you came back -- I mean, you came to Bo in the
24 morning; not so?

12:04:37 25 A. Yes.

26 Q. Where did you go when you came in the morning?

27 A. Went directly to the new police barracks, where the ECOMOG
28 were coming to base.

29 Q. Now, at the police barracks did you see the ECOMOG

1 soldiers?

2 A. Yes.

3 Q. Were you able to identify them that those were ECOMOG
4 soldiers?

12:05:21 5 A. Yes.

6 Q. How were you able to identify them as ECOMOG soldiers?

7 A. One, they had the Nigerian flag; green, white and green.
8 They had the Nigerian flag on their soldiers. Their flag colour
9 was green, white and green. Then they had tribal marks on them.

12:06:28 10 Q. Is there any name akin to that tribal mark?

11 A. Yes. We used to call them in Sierra Leone "markjabone".

12 Q. You said you met them at the barracks; not so? You met the
13 ECOMOG officers at the barracks; not so?

14 A. Yes.

12:07:09 15 Q. What happened at the barracks? Can you tell the Court what
16 happened?

17 A. Yes. After that morning, when ECOMOG --

18 THE INTERPRETER: Your Honours, would the witness go a
19 little bit slower.

12:07:33 20 PRESIDING JUDGE: Mr Witness, can you repeat your last
21 answer and, please, proceed slowly again.

22 MR SESAY: As My Lord please.

23 Q. You proceed slowly and you repeat the -- I asked you what
24 happened at the barracks and you started testifying as to what
12:07:47 25 happened at the barracks. Now can you start it from there?

26 A. Yes. When we went to the barracks we saw the Nigerians, we
27 saw the ECOMOG soldiers. They had their badge colour which was
28 green, white and green.

29 Q. Starting from the point where you said they summoned a

1 meeting of all Kamajor commanders. Do you recall saying that?

2 A. Yes. After, when they had captured the whole of the town,
3 they called a general meeting for all of the Kamajor commanders.

4 Q. What happened at that meeting?

12:08:54 5 A. They told us that from that particular point no Kamajor
6 should not do anything by himself; they should take orders from
7 ECOMOG.

8 Q. Who addressed you at that meeting?

9 A. It was one General Buhari Musa.

12:09:37 10 Q. Continue, please.

11 A. He said anything that the Kamajors wanted to do, they
12 should take orders from them. And it was from that very point
13 that we started taking orders from them.

14 Q. Yes?

12:10:11 15 A. We started taking orders from them within the township of
16 Bo. See, we, both of us, would patrol during the night. I would
17 take the Kamajors, we would go to their headquarters --

18 Q. Slowly, please.

19 JUDGE ITOE: What is happening? There is an impasse
12:11:16 20 somewhere.

21 MR SESAY: No, My Lord, I was just waiting for his
22 testimony to be translated.

23 Q. Now you said you were now taking orders from the ECOMOG
24 officers; not so? That was your last answer?

12:11:31 25 A. Yes.

26 Q. Was any other thing -- were you doing any other thing in
27 relation to ECOMOG, apart from orders?

28 A. Yes. Every evening ECOMOG -- we and the ECOMOG, the
29 Kamajors and the police, we would do night patrols in Bo. Before

1 we went to these night patrols, because we did not have guns, we
2 went to them and they would give us guns. In the morning we
3 would report and give them back the guns. We were on that for
4 some time.

12:12:34 5 Q. Yes?

6 A. One morning they told us that soldiers and rebels had come
7 to Freetown.

8 Q. Before you come to that, let me ask you another question.
9 Was anything done by ECOMOG in relation to the organisation of

12:13:09 10 the Kamajors in Bo?

11 A. Yes, sir.

12 Q. What was done?

13 A. Because during that time we were in chiefdom orders. So
14 the ECOMOG, they decided to form us into battalions.

12:13:47 15 Q. Who was the head of your own battalion?

16 A. Augustine Sule Ngaoujia.

17 PRESIDING JUDGE: Spell the name, please.

18 MR SESAY: Augustine is A-U-G-U-S-T-I-N-E, Sule is S-U-L-E,
19 Ngaoujia is N-G-A-O-U-J-I-A. At times there are variances,

12:14:48 20 My Lord, in respect of the spelling.

21 JUDGE ITOE: Never mind the variances. Let's move on.

22 MR SESAY: Thank you.

23 Q. What were you at that point in time when Augustine Ngaoujia
24 was made the battalion commander? What position did you occupy

12:15:06 25 at that time?

26 A. During that time I was a deputy battalion commander to him.

27 Q. So you were made deputy battalion commander?

28 A. Yes, sir.

29 JUDGE ITOE: So he was made?

1 MR SESAY: No, My Lord --

2 JUDGE ITOE: He said he was. So was he made?

3 MR SESAY:

4 Q. Now, who made you -- were you made a deputy battalion
12:15:36 5 commander?

6 JUDGE ITOE: Because he was a task force commander up to
7 now.

8 MR SESAY: No, My Lord, he has now gone to the stage where
9 he says ECOMOG organised them into battalions.

10 JUDGE ITOE: Organised them into battalions and appointed
11 Ngaoujia as the battalion commander.

12 MR SESAY: The battalion commander.

13 JUDGE ITOE: What was his status now?

14 MR SESAY: Grateful, My Lord.

12:15:57 15 Q. What was your status at that time when Ngaoujia was made
16 the battalion commander in Bo? Your status. I am referring to
17 what was your own status at that time?

18 A. Well, during that time -- before the organisation, the
19 chiefdom -- we had task force commanders in the chiefdom. I was
12:16:23 20 a task force commander. After when ECOMOG had come and organised
21 us, I was made deputy battalion commander.

22 Q. So it was ECOMOG who made you deputy battalion commander?

23 A. Yes, sir.

24 Q. Yes. Now, you said one morning you were in Bo and you said
12:17:00 25 you were informed that soldiers and the rebels had, in fact, come
26 to Freetown; not so?

27 A. Yes, sir.

28 Q. When was that?

29 A. January 6th.

1 Q. January 6th of what year?

2 A. Late 1998. See, I cannot tell any more.

3 Q. You cannot tell the year?

4 A. 19 --

12:17:35 5 Q. [Overlapping speakers]

6 PRESIDING JUDGE: Mr Sesay, let the witness complete his

7 answer before you speak, otherwise the translator and everybody

8 will get confused.

9 MR SESAY: Grateful, My Lord.

12:17:48 10 Q. Now, was it in January 1999?

11 A. Yes, yes.

12 Q. Say yes, please?

13 A. Yes, please, My Lord.

14 Q. Now, what happened from that point when you had heard that,

12:18:15 15 in fact, on January 6th the soldiers and the rebels had entered

16 -- they had, in fact, come to Freetown? What happened?

17 A. Well, ECOMOG called us to our base and they told us that

18 that was the situation in Freetown. So we should take care of

19 our own township, Bo.

12:18:48 20 Q. Yes?

21 A. So after two days we saw a helicopter arrive in Bo.

22 Q. In what part of Bo did the helicopter arrive?

23 A. It was in the airfield. So we and the ECOMOG soldiers --

24 during that time it was Colonel Jack that was there. They had

12:19:24 25 changed. So went to the airfield. When we went to the

26 airfield --

27 Q. Slowly.

28 A. -- we saw some ECOMOG soldiers coming from the plane, they

29 alighted.

1 Q. How many of them, can you tell?

2 A. There were four. Then they said they had run out of
3 manpower in Freetown, so they wanted -- they needed the Kamajors
4 to come down to Freetown to come and reinforce them.

12:20:25 5 Q. Yes?

6 A. So they started bringing us to Freetown, in Cockerill.

7 Q. How were you taken to Cockerill?

8 A. It was through the helicopter. They would put us into the
9 helicopter and they would bring us --

12:20:46 10 Q. Was it on one occasion?

11 A. No, no, no. It was for the whole day.

12 Q. For the entire day?

13 A. Yes.

14 Q. You said they brought you to Cockerill?

12:21:06 15 A. Yes, sir.

16 Q. Where in Cockerill did they, in fact, bring you people?

17 A. It was at the military headquarters.

18 Q. At the military headquarters at Cockerill.

19 THE INTERPRETER: Your Honours, we do appreciate the fact
12:21:21 20 that learned counsel understands Krio, but will he be instructed
21 to please wait for the interpretation.

22 MR SESAY:

23 Q. What happened after that?

24 PRESIDING JUDGE: Mr Counsel, there is a comment again from
12:21:33 25 the interpreters to let the witness complete his answer before
26 you ask the question.

27 MR SESAY: As My Lord pleases. I am sure I will start
28 to -- I will soon begin to adopt to that kind of scenario,
29 My Lord. I will take the cue from the Bench.

1 Q. Now, let me go over this question again. You said they
2 brought you at the military headquarters in Cockerill; not so?

3 A. Yes, sir.

4 Q. What happened from there?

12:22:12 5 A. From there, because we did not have any guns -- from there,
6 we that were brought, we were given guns. When they gave you a
7 gun, you that was taken to Ferry Junction, they will deploy you
8 with ECOMOG. You that were taken to Uppun will be deployed with
9 ECOMOG.

12:22:48 10 Q. Where were you taken?

11 A. I was taken to Ferry Junction.

12 Q. At that point how were you, in fact, working alongside with
13 ECOMOG, when you said they were taking you to various locations
14 in the city? How, in fact, were you operating with ECOMOG?

12:23:18 15 A. Well, we the commanders that were brought with the
16 Kamajors, because the areas in which we were, we were not able to
17 talk to them. So we were given a communication set, a radio set.

18 Q. So you are given radio sets by whom?

19 A. The ECOMOG.

12:23:58 20 Q. Did you use them?

21 A. Yes, we used them to communicate with them. If they wanted
22 to communicate with us, they would talk to our commanders and
23 they would talk to us.

24 Q. Now, for how long did you stay in Freetown?

12:24:33 25 A. Well, when we had been alongside with ECOMOG, when we had
26 driven the soldiers and rebels up to Waterloo -- because they
27 asked me that came from Bo, they said I should go back to Bo.

28 Q. Who asked you to go back to Bo?

29 A. ECOMOG.

1 Q. Was any particular reason given?

2 A. Yes. They said we were receiving threats from Yele. The
3 RUF and the soldiers, they wanted to use that way to come and
4 attack us. So they said I should go to Bo so as to protect the
12:25:51 5 town.

6 Q. Did you go back eventually?

7 A. Yes, I went back to Bo.

8 Q. And you were there up to when?

9 A. Well, we were in Bo with ECOMOG. We were with them and
12:26:42 10 with the police. All of us were in Bo by then. We were there.
11 We continued the work that we'd been doing. That is to protect
12 the town. During the night, we were there guarding the town.

13 Q. Let me take you back a bit. Do you know Daramy Rogers?

14 A. Yes, sir.

12:27:14 15 Q. Who was Daramy Rogers in the CDF?

16 A. Daramy Rogers, he was our district co-ordinator for the
17 CDF.

18 Q. When? Do you remember the time, the year?

19 A. It was during the year when we and ECOMOG entered Bo and we
12:27:50 20 captured Bo. Because he himself came from Base Zero, he said
21 that he was sent by the War Council.

22 Q. Was he a member of the War Council, as far as you know?

23 A. Yes, he was a member of the War Council.

24 Q. You said he was district administrator; not so?

12:28:39 25 PRESIDING JUDGE: District co-ordinator.

26 MR SESAY: District co-ordinator. Sorry, My Lord, I
27 apologise. District co-ordinator.

28 Q. Do you know the function he was performing as district
29 co-ordinator? What function was he performing?

1 A. He was mainly with the ECOMOG. Food that was coming
2 through the ECOMOG, it was he and the ECOMOG who had been
3 distributing this food to us, rice.

4 Q. Did he continue in that capacity as district co-ordinator?

12:29:24 5 A. Well, it did not take long in that position.

6 Q. What happened to him, do you know?

7 A. Yes.

8 Q. Yes, what happened to him?

9 A. We were in Bo for about two months without food. We found
12:30:05 10 out that our ration --

11 MR SESAY: My Lord, I seek permission from the Court for
12 the witness to have --

13 PRESIDING JUDGE: That's fine. He has a bottle of water
14 that is for his use.

12:30:42 15 MR SESAY:

16 Q. Are you all right now?

17 A. Yes.

18 Q. Continue from there. You were explaining what happened to
19 Mr Daramy Rogers?

12:30:57 20 A. We were in Bo for two months without food, so we begin to
21 grumble.

22 Q. Slowly, please.

23 A. We begin to grumble. We came to understand that the
24 government sent some rice for us, which was 3,000 bags of rice.

12:31:38 25 Q. Yes?

26 A. We were not able to get that rice. So that brought some
27 small, small problems in Bo.

28 Q. In Bo you mean among you Kamajors?

29 A. Among we, the Kamajors, yes.

1 Q. Yes?

2 A. So when the government knew that there was a problem, they
3 sent people from Freetown to go and look into the case.

4 Q. Hold it here for now. Who were these people that they
12:32:38 5 sent, the government sent?

6 A. The former vice-president.

7 Q. Name, please?

8 A. Albert Joe Demby.

9 Q. Yes?

12:33:00 10 A. And the internal minister of affairs during that time.

11 Q. Who was that person during that time?

12 A. Charles Margai.

13 Q. What happened when the -- are those the people that you can
14 recall?

12:33:32 15 A. There are others, but I don't know their names. I said
16 there were others, but I cannot recall their names.

17 Q. Did they, in fact, investigate the issue about the 3,000
18 bags of rice?

19 A. Yes, they find out about the 3,000 bags of rice. But what
12:34:19 20 we saw, we are the Kamajors, was that he was replaced.

21 Q. He was replaced?

22 A. Yes.

23 Q. By whom?

24 A. Kosseh Hindowa.

12:34:42 25 MR SESAY: My Lords, Kosseh is spelt K-O-S-S-E-H, Kosseh.
26 Hindowa is H-I-N-D-O-W-A. My Lord, that will be all for this
27 witness.

28 PRESIDING JUDGE: Thank you, Mr Sesay. Mr Bockarie.

29 MR BOCKARIE: Yes, Your Honour.

1 PRESIDING JUDGE: Are you ready to proceed?

2 MR BOCKARIE: I am, Your Honour

3 EXAMINED BY MR BOCKARIE:

4 Q. Mr Koker, after the coup in May 1995 you said you fled Bo.

12:36:56 5 Where did you go?

6 A. I went to Kpa.

7 Q. Did you meet Kamajors at Kpa?

8 A. Yes, sir.

9 Q. Who was the commander of the Kamajors at Kpa?

12:37:41 10 JUDGE ITOE: Can you spell that Kpa, please?

11 MR BOCKARIE: K-P-A, Your Honour.

12 JUDGE ITOE: K-P-A?

13 MR BOCKARIE: Yes, Your Honour.

14 Q. Who was the Kamajor commander at Kpa?

12:38:00 15 A. Francis Yajah.

16 PRESIDING JUDGE: How do you spell that?

17 MR BOCKARIE: Yajah is Y-A-J-A-H.

18 PRESIDING JUDGE: Thank you.

19 MR BOCKARIE:

12:38:24 20 Q. Do you know whether Francis Yajah took command from

21 anybody?

22 A. Yes.

23 Q. Who was that?

24 A. From the chiefdom authorities, sir.

12:39:01 25 MR BOCKARIE: Sorry, Your Honour.

26 Q. Yes, Mr Koker, in your evidence-in-chief you said early

27 1998 the Kamajors attempted to attack the junta position at

28 Kebbie Town in Bo; correct?

29 A. Yes, sir. I want you to repeat, sir.

1 Q. In your evidence-in-chief you said in early 1998 the
2 Kamajors attempted to attack junta positions at Kebbie Town in
3 Bo. Am I correct?

4 A. Yes.

12:40:16 5 MR KAMARA: Your Honours, my recollection - I'm sorry,
6 Mr Bockarie - of the evidence is that they attempted to attack
7 the position of the juntas at the headquarters and no mention was
8 made of Kebbie Town. If that is the case, then you might want to
9 put it to the witness whether the headquarters was at Kebbie
12:40:36 10 Town.

11 PRESIDING JUDGE: That is my recollection too. I don't
12 think Kebbie Town --

13 MR BOCKARIE: Thank you, Your Honour.

14 Q. The attack was at reservation headquarters of the juntas?

12:40:47 15 A. The attack was at reservation. It was there that the junta
16 was living.

17 Q. Mr Koker, who ordered that attack?

18 A. That attack was just a random attack. It was not ordered
19 by anybody.

12:41:47 20 Q. Mr Koker, did you ever hear of attack by juntas against
21 Kamajor positions disguised in --

22 PRESIDING JUDGE: Mr Bockarie, I just want to remind you of
23 something here. You are in examination-in-chief. This is a
24 common witness. So your line of question is more of a
12:42:06 25 cross-examination nature than examination-in-chief. You have
26 stated this is your witness.

27 MR BOCKARIE: Yes, Your Honour, indeed.

28 PRESIDING JUDGE: So these last few questions are more of
29 cross-examination than examination-in-chief.

1 JUDGE ITOE: One would imagine, Mr Bockarie, that if
2 evidence has been adduced, you know, in examination-in-chief by
3 counsel for the first defendant, which is favourable or which
4 goes along with your thesis and that of your client, I mean, you
12:42:42 5 wouldn't revisit that.

6 MR BOCKARIE: Yes, Your Honour, that is exactly what we are
7 trying to do. We are trying to see what other areas --

8 JUDGE ITOE: Because this witness has testified abundantly
9 on the disguised soldiers who attacked them. And after the
12:43:00 10 attack they ran away because they saw many people dying in his
11 camp. Is that not the evidence you want to rely on?

12 MR BOCKARIE: That's exactly what, yes. Sorry.

13 Q. Mr Koker --

14 A. Yes, sir.

12:43:20 15 Q. -- now before -- I am still in early 1998. Whilst the
16 Kamajors were in Bo Town, before the joint attack by CDF and
17 ECOMOG, did the juntas do anything in Bo?

18 A. Yes.

19 Q. What did they do?

12:44:17 20 A. Well, I can remember one day around Tikonko area they board
21 on a vehicle in great number and they were in Kamajor clothes.
22 During that time we're in the bush. We were not in town again.
23 They came; they were singing, welcoming. They were singing,
24 welcoming. Our people came out. Our people who were
12:45:01 25 sympathising with them came out. They thought that we were the
26 Kamajors that were in town that came out. So during that day
27 anybody that they saw that were happy for them, you will have
28 problem with them. They will kill you or they burn your house.

29 Q. Did you ever own a house in Bo?

1 A. Yes. My father built a house at 8 Fifth Street, Bo 2. I,
2 too, own a house because I'm a Kamajor.
3 Q. Just a minute. You own a house in Bo?
4 A. Yes.
12:45:59 5 Q. Did anything happen to that house?
6 A. Yes.
7 Q. Can you tell this Court what happened to the house?
8 A. After they had come to town they found out that --
9 JUDGE ITOE: He too had a house where?
12:46:20 10 MR BOCKARIE:
11 Q. Where did you own a house, your own house?
12 A. At 8 Fifth Street, Bo 2.
13 JUDGE ITOE: Number 8 what street? Fifth Street or what?
14 What --
12:46:35 15 THE WITNESS: Fifth Street.
16 JUDGE ITOE: 8 Fifth Street.
17 MR BOCKARIE:
18 Q. Can you tell this Court what happened to that house?
19 A. Yeah. The soldiers, they moved directly to my house. They
12:47:14 20 burnt my house. One of my younger brothers was there, who was
21 not able to come out. He was killed. They burnt all my house.
22 So that was what they did to us.
23 PRESIDING JUDGE: Mr Bockarie, we could stop here and just
24 resume after lunch, if you think it might be better to allow the
12:48:05 25 witness to regain his composure.
26 MR BOCKARIE: I will, Your Honour.
27 PRESIDING JUDGE: Very well. It is almost ten to one
28 anyhow. Court will adjourn to 2.30 this afternoon. Thank you.
29 [Luncheon recess taken at 12.48 p.m.]

1 [CDF20FEB06C - SV]

2 [Upon resuming at 2.42 p.m.]

3 PRESIDING JUDGE: Good afternoon. Mr Bockarie, are you
4 ready to resume the examination-in-chief of this witness?

14:43:49 5 MR BOCKARIE: Yes, Your Honour.

6 Q. Mr Koker, sorry about the burning of the house before we
7 left. Mr Koker, before we left for the lunch break you did
8 inform this Court that the junta forces burnt your house.

9 A. Yes, sir.

14:44:28 10 Q. Was it only restricted to your house?

11 A. No, sir. They burnt in the same street, they went down,
12 they went to another Kamajor's house who was a Kamajor under me
13 who was Daniel Sandy. His house was also burnt. And even at
14 Fourth Street, one of our brothers is there also --

14:44:59 15 Q. Go slowly, please. Slowly.

16 JUDGE ITOE: You should stop rattling.

17 THE WITNESS: Yes, sir.

18 MR BOCKARIE:

19 Q. Yes, continue --

14:45:11 20 JUDGE THOMPSON: I think we should take it back from where
21 they went to another house, that of another Kamajor. And what
22 did you say after that and please proceed slowly? So they burnt
23 the house of another Kamajor that was under you?

24 JUDGE ITOE: He mentioned the name of that Kamajor.

14:45:27 25 PRESIDING JUDGE: Yes. What was the name of that Kamajor?

26 THE WITNESS: Daniel Sandy.

27 PRESIDING JUDGE: And what after that?

28 THE WITNESS: They went to Fourth Street, there was another
29 brother of us who was not a Kamajor; he was mistaken for a

1 Kamajor. His house was also burnt.

2 PRESIDING JUDGE: And this is on the Fourth Street?

3 THE WITNESS: Yes, sir.

4 MR BOCKARIE:

14:46:25 5 Q. Mr Koker?

6 A. Yes, sir.

7 Q. -- you also told this Court that in early 1998 CDF and

8 ECOMOG jointly attacked the juntas in Bo; am I correct?

9 A. Yes, sir.

14:46:41 10 Q. To your knowledge, do you know who ordered this attack?

11 A. Well, we were in Bo and we got a message from the War
12 Council at Talia. They said the President said we should join
13 forces with ECOMOG and we are to restore the democratically
14 elected government back, so we, ourselves, when we got this

14:48:17 15 directive from the War Council, we joined ECOMOG and we did the
16 attack.

17 Q. Did you take part in that attack?

18 A. Yes.

19 JUDGE ITOE: Let me get it clearly. This was an attack on
14:48:58 20 what again?

21 MR BOCKARIE: This is the joint attack by ECOMOG and --

22 JUDGE ITOE: CDF?

23 MR BOCKARIE: Yes.

24 JUDGE ITOE: On?

14:49:08 25 MR BOCKARIE: Junta position in Bo in early 1998.

26 Q. During that attack were you taking orders from anybody?

27 A. Well, when ECOMOG came, before the coming of ECOMOG we were
28 taking attack from War Council and when ECOMOG came we were
29 already with ECOMOG. Everything we did was with ECOMOG.

1 JUDGE ITOE: So before ECOMOG came you were -- just let me
2 get it clear. You were taking orders from the War Council; is
3 that true? Is that what you've said?

4 THE WITNESS: Yes, sir.

14:50:18 5 MR BOCKARIE:

6 Q. Now, Mr Koker, evidence has been adduced in this Court that
7 Mr Fofana was given a title at Base Zero. Are you aware of that
8 title?

9 A. Yes.

14:50:43 10 Q. What was the title?

11 A. They said he was war director.

12 Q. Now, between May 1997 and December 1999 did you ever
13 receive any orders from Mr Fofana?

14 A. During that time I never knew him, I only heard of his
14:51:41 15 name.

16 JUDGE ITOE: That time there, that would mean May to what?

17 MR BOCKARIE: May 1997 to December 1999.

18 JUDGE ITOE: Is the witness saying that he never knew him
19 during that period?

14:52:07 20 MR BOCKARIE: Yes, Your Honour.

21 JUDGE ITOE: That he never knew him?

22 PRESIDING JUDGE: And only heard of his name.

23 JUDGE ITOE: He only heard of his name?

24 MR BOCKARIE: The question was whether he got any orders
14:52:16 25 from Mr Fofana. He said he didn't know him, he only heard of his
26 name.

27 Q. Mr Koker --

28 A. Yes, sir.

29 Q. -- in your experience as a commander what were your views

1 as to that appointment when he was called Director of War?

2 PRESIDING JUDGE: Can you repeat that question again?

3 MR BOCKARIE:

4 Q. You were a commander; am I correct?

14:52:51 5 A. Yes, sir.

6 Q. And also you've told this Court that Moinina was given a
7 title?

8 A. Yes, sir.

9 Q. And that title was Director of War?

14:53:13 10 A. Yes, sir.

11 Q. In your view, did he play any role in relation to that
12 title as Director of War?

13 A. Well, according to me, I never saw him play any -- I never
14 saw him playing any active role as a Director of War.

14:53:58 15 JUDGE ITOE: You said you never saw him playing any active
16 role as a Director of War?

17 MR BOCKARIE: That is what he says, Your Honour.

18 Q. Mr Koker --

19 A. Yes, sir.

14:54:11 20 Q. -- you mentioned this morning that you attended a meeting
21 in Bo by an ECOMOG officer called Buhari Musa; correct?

22 A. Yes, sir.

23 Q. Were other Kamajors in attendance at that meeting?

24 A. Yes, sir.

14:54:38 25 Q. Was Moinina Fofana present at that meeting?

26 A. No, sir.

27 Q. Mr Koker --

28 A. Yes, sir.

29 Q. -- during the joint ECOMOG and CDF attack on junta position

1 in Bo in early 1998, who were the senior Kamajor officials in Bo
2 during that attack?

3 A. The time we came to Bo newly, it was Albert Nallo and
4 Ngobeh.

14:56:02 5 Q. Albert Nallo and Ngobeh. Do you know the full name of
6 Ngobeh?

7 A. It's only the last name I know.

8 MR BOCKARIE: Thank you very much, Mr Koker. That will be
9 all for this witness, Your Honours.

14:56:41 10 PRESIDING JUDGE: Thank you. Mr Margai?

11 THE WITNESS: Thank you too.

12 PRESIDING JUDGE: Mr Margai or Mr Lansana.

13 MR MARGAI: My learned friend Lansana will cross-examine.

14 PRESIDING JUDGE: Thank you.

14:57:07 15 CROSS-EXAMINED BY MR LANSANA:

16 Q. Good afternoon, Mr Witness.

17 A. Good afternoon, sir.

18 Q. In your evidence-in-chief you did tell this Court that you
19 were initiated by a Mama Munda Fortune; is that correct?

14:57:49 20 A. Yes.

21 Q. And this was in 1996; correct?

22 A. Yes, sir.

23 Q. Were you aware of the existence of other initiators at the
24 time you were initiated?

14:58:15 25 A. Yes, sir.

26 Q. Your initiator, Mama Munda Fortune, was he or she a man or
27 a woman?

28 A. A man. I mean, woman, sorry. She was a woman.

29 Q. She was a woman. Thank you.

1 A. Yes, sir.

2 JUDGE ITOE: I think we have her on record as being a
3 woman.

4 MR LANSANA: As it pleases Your Honour. I just wanted to
14:59:12 5 make assurance double sure.

6 JUDGE ITOE: There were initiators who were ladies and
7 others who were men. This particular one was very outstanding,
8 you know, as a lady initiator. You may continue, Mr Lansana.

9 MR LANSANA: I just wanted to rub that in, Your Honour.

14:59:27 10 JUDGE ITOE: Yes, please. Go ahead.

11 MR LANSANA: Thank you very much, Your Honour.

12 Q. Now, you've told this Court that you were aware of other
13 initiators apart from Mama Munda Fortune. Can you please inform
14 this Court about the initiators that you knew were operating as
14:59:47 15 initiators at that time?

16 A. Yes.

17 Q. Can you please call them?

18 A. The other one I knew was Kamoh Lahai Bangura.

19 Q. Any other?

15:00:16 20 A. Allieu Kondewa, Dr Mohamed Mansaray, Kamoh Brima,
21 Lahai Massaquoi.

22 Q. Now, of these initiators did you know who was their chief,
23 who was the chief initiator?

24 A. Yes.

15:01:22 25 Q. And who was that individual?

26 A. Allieu Kondewa.

27 Q. Thank you. Do you know that Allieu Kondewa in person?

28 A. Yes, sir.

29 Q. Can you please take a look around the Court and see whether

1 the person you know to be Allieu Kondewa is present?

2 A. Yes, sir.

3 Q. Where is he?

4 A. He is at my right-hand side, far off here.

15:02:22 5 [Identification of accused Allieu Kondewa]

6 PRESIDING JUDGE: The witness points to the accused, Allieu
7 Kondewa.

8 MR LANSANA: Thank you very much, and the record reflects
9 that.

15:02:32 10 PRESIDING JUDGE: Yes.

11 MR LANSANA: Thank you very much, Your Honour.

12 Q. Now, the initiators, as you knew them, did these initiators
13 go to the war front?

14 A. God forbid. They never went to the war front.

15:02:53 15 Q. Thank you. Did they ever command troops?

16 A. They were only there to initiate. They were not commanding
17 troops.

18 Q. Thank you. You were initiated in 1996. After your
19 initiation did you go anywhere?

15:03:33 20 A. No.

21 Q. You were initiated, as you say, in Bo, a section called
22 Messima; is that correct?

23 A. Yes. Yes.

24 Q. Were you a resident of Messima?

15:04:22 25 A. I live in Bo 2.

26 Q. You were initiated at Messima. After the initiation at
27 Messima did you remain at Messima? That's my question.

28 A. I had my own place in Bo. That was where I went there
29 directly. After we'd been initiated we left the initiation place

1 and went to our respective places.

2 Q. Thank you very much. Now, you were initiated into the
3 Kamajor society. Were you given any rules governing that
4 initiation?

15:05:24 5 A. Yes, we were given rules.

6 Q. Can you oblige the Court with a few of them?

7 A. Yes, sir. One, we shouldn't kill an innocent person. Two,
8 we shouldn't loot. Three, we shouldn't shake hands with a
9 woman -- a woman that is not yours, you should not have any

15:06:18 10 affair with her. Three, we should not touch the body of a dead
11 person, a corpse. Four --

12 JUDGE ITOE: It's five now.

13 THE WITNESS: Okay.

14 JUDGE ITOE: He's losing his own count.

15:06:34 15 PRESIDING JUDGE: One is not to kill an innocent person,
16 two is no looting, three --

17 JUDGE ITOE: No shaking hands with a woman or touching a
18 woman who is not yours.

19 MR LANSANA: Or having an affair.

15:06:49 20 JUDGE ITOE: Or having an affair, rather, with a woman who
21 is not yours.

22 MR LANSANA: Yes, Your Honour.

23 PRESIDING JUDGE: That's three.

24 JUDGE ITOE: That's three. This is now the fourth.

15:07:02 25 MR LANSANA: Yes, please, Your Honour.

26 Q. Number four?

27 A. We shouldn't enter anybody's room. We should not have any
28 body contact with the bed.

29 Q. Now, did the initiators tell you the consequences of

1 violating these rules or any of those rules?

2 A. Yes, they told us. They told us that if we made any
3 cleavage of these rules, if we went to the war front we'd be
4 killed there.

15:08:00 5 Q. Cleavage or violation?

6 JUDGE THOMPSON: Yes, I think word "cleavage" again is
7 opaque. We should not really -- cleavage doesn't sound
8 intelligible. I don't understand it.

9 MR LANSANA: It's mal appropriate.

15:08:17 10 JUDGE THOMPSON: I think it's obscure too.

11 MR LANSANA: As it please Your Honour.

12 PRESIDING JUDGE: Mr Interpreter, can you look at that
13 again, please.

14 THE INTERPRETER: Your Honours, can the question be put
15:08:29 15 back to the witness so that the interpreter can get it very
16 clearly.

17 PRESIDING JUDGE: Can you put the question back again,
18 please.

19 MR LANSANA: Yes, Your Honour, I will.

15:08:36 20 Q. Now, did these initiators tell you the consequences of any
21 violation of these rules?

22 A. Yes. Any of the laws, if we spoiled them none -- anyone
23 who spoiled those rules would not return; he would die at the war
24 front.

15:09:10 25 Q. Thank you. Was it the case that all initiates into the
26 Kamajor society were fighters?

27 A. Repeat the question.

28 Q. I'm asking, according to your knowledge, do you know if it
29 was the case that all initiates into the Kamajor society were

1 fighters?

2 A. No.

3 Q. In your evidence-in-chief you did say that you were
4 informed of the SLA/RUF killing people with marks on their bodies
15:10:17 5 in Bo; is that correct?

6 A. Yes. That was what they were doing in Bo.

7 Q. What kind of marks, or is it any mark at all?

8 A. During that time, any mark they observe on somebody's skin,
9 they will take you to be a Kamajor, he will die.

15:11:06 10 Q. As a Kamajor, were you aware of any specific marks on
11 Kamajors?

12 A. Yes.

13 Q. Did you have any personal experience with either the
14 killing or the harassment or the infliction of injury on anybody
15:11:59 15 with marks on their bodies?

16 JUDGE THOMPSON: Though the question appears to be
17 disjunctive, it is conjunctive.

18 MR LANSANA: It is, My Lord.

19 JUDGE THOMPSON: Why not take them separately?

15:12:12 20 MR LANSANA: With pleasure I will, Your Honour.

21 JUDGE THOMPSON: Yes.

22 MR LANSANA:

23 Q. Were you or did you have any experience with the killing of
24 anybody with marks on his body?

15:12:31 25 A. Yes.

26 Q. And what was that experience?

27 A. The very first day I left Tongie, when I made my first
28 statement, when I arrived at the highway I met two bodies laid
29 across the road. They said, "These were Kamajors. We have

1 killed them." Then one of my friends who is now in Bo, called
2 Senzo, his two back veins were cut altogether.
3 Q. Now the two incidents you've narrated, do you know --
4 JUDGE ITOE: Who of his friends? Who? Who is this?
15:13:58 5 MR LANSANA: Yes, Your Honour.
6 Q. Who was that friend? You said one of your friends.
7 JUDGE ITOE: And what happened to him?
8 THE WITNESS: He is called Senzo.
9 PRESIDING JUDGE: What happened to him?
15:14:14 10 MR LANSANA: Senzo, Your Honours --
11 THE WITNESS: His foot --
12 MR LANSANA: -- I think that's supposed to be a nickname
13 for somebody called Senesie. I don't know but I'll put it to
14 him. I'll put it him, Your Honour. I wanted to spell it, but I
15:14:28 15 don't -- [Overlapping speakers]
16 JUDGE ITOE: Don't take it so slightly, Mr Fofana.
17 MR LANSANA: Mr Lansana, Your Honour.
18 JUDGE ITOE: Mr Lansana, I'm sorry. Don't take it so
19 lightly.
15:14:43 20 MR LANSANA:
21 Q. Mr Witness, that Senzo you're talking about, do you know
22 his full name?
23 A. He's Senesie. I don't know the last name but his first
24 name is Senesie. We call him Senesie.
15:14:53 25 PRESIDING JUDGE: And what happened to him?
26 MR LANSANA:
27 Q. And what happened to Senesie?
28 A. Senesie, they captured him. They said he was a Kamajor.
29 On his two feet, the back veins were cut off. They said he was a

1 Kamajor.

2 Q. When you say "they," who do you refer to as they?

3 A. The soldiers. They were the soldiers.

4 PRESIDING JUDGE: Mr Lansana, when the witness described
15:15:37 5 the other incident, when he said "when I arrived at the highway,
6 I met two bodies and they said they are," who's the "they"?

7 MR LANSANA: Yes, I was just coming to that, Your Honour.

8 Q. You talked about two bodies you found along the highway and
9 you said some people said, "These are Kamajors. We killed them."
15:16:04 10 Can you tell this Court who "they" refers to?

11 A. The soldiers. The soldiers that I met at the checkpoint,
12 they were boasting that these are the two Kamajors we had already
13 killed.

14 Q. Thank you. The soldiers you're talking about, to which of
15:16:39 15 the warring factions did these soldiers belong?

16 A. They were SLA.

17 Q. Thank you. In your evidence-in-chief you were talking
18 about impersonation by soldiers in a thick forest behind the
19 brigade headquarters at reservation in Bo; that's correct?

15:17:18 20 A. Yes, sir.

21 Q. My question is were you aware of any other impersonations
22 of Kamajors between November 1996 to December 1999?

23 A. I want you to repeat that question and put it properly,
24 sir.

15:17:49 25 Q. Thank you, I will. As far as you know, were there any
26 other impersonations of Kamajors during the war?

27 A. Well, we, the Kamajors, did not impersonate.

28 PRESIDING JUDGE: Maybe use a different language.

29 Obviously it's --

1 MR LANSANA: It's a matter of the interpretation.

2 PRESIDING JUDGE: Ask him if he knew of -- rather than use
3 the word impersonation, use disguised as.

4 MR LANSANA: As it pleases Your Honour.

15:18:41 5 Q. During the war were you aware of any situation in which
6 people who were not Kamajors dressed as Kamajors?

7 A. Yes.

8 Q. Can you oblige the Court with a few incidents of that
9 nature?

15:19:04 10 A. Yes. Early 1998 a group came from the Towama end. They
11 dressed in full Kamajor gear. They were singing while they
12 entered the town, saying that they were Kamajors. The people,
13 the sympathisers --

14 JUDGE ITOE: Has this instance already been -- correct me.
15 I hope we're not going to the same instance which has been the
16 subject matter of his testimony this morning. If it has been, do
17 we need to visit that?

18 MR LANSANA: I wouldn't know until I hear what he's saying
19 in its totality.

15:19:55 20 JUDGE ITOE: Well, I see it coming. I see it coming.

21 MR LANSANA: I will guide him if he has any in addition to
22 that which he has testified to.

23 JUDGE ITOE: You may proceed.

24 MR LANSANA: As it pleases Your Honour.

15:20:08 25 JUDGE ITOE: There are two instances he's talked of today
26 in his evidence.

27 MR LANSANA: As Your Honour pleases.

28 Q. Mr Witness, you have heard his Honour talking about a
29 situation where you had testified to people dressing as Kamajors

1 apart from the one at the brigade; is that correct?

2 A. Yes.

3 Q. Now, apart from those two incidents, can you recall any
4 additional incident to your knowledge of people disguising as
15:20:45 5 Kamajors?

6 A. No.

7 MR LANSANA: Thank you very much. Your Honour, that will
8 be all for this witness.

9 PRESIDING JUDGE: That's all. Thank you. Mr Kamara,
15:21:04 10 you're prepared to proceed with your cross-examination?

11 MR KAMARA: Yes, Your Honour. Just a comment before
12 starting that. Your Honour, the Prosecution wish to note that
13 the issue with regards to the summaries, it appears this witness
14 has gone way beyond the five lines provided. I'm just
15:21:28 15 reiterating our concerns with the summaries and our request for
16 statements. We've had novel issues introduced, such as issues
17 regarding one Alhaji Daramy Rogers, issues of burning of houses,
18 issues of murder, issues of impersonation. All those issues
19 compounded together in his testimony which we had no inkling was
15:21:53 20 going to be discussed this afternoon. For the records,

21 Your Honours, we wish to make our position known again on this
22 issue of summaries and we've made our request for statements.

23 PRESIDING JUDGE: Well, you know our ruling on it, or at
24 least the verbal ruling. The written one shall be filed soon. I
15:22:18 25 don't have with me here - it may be in my documents here - the
26 descriptive of the summary produced by the second accused for
27 this witness. What I know is what I have in front of me, which
28 is the summary provided by the first accused. And I have to
29 agree that, looking at it, it would give absolutely no

1 information of that nature. So that's all I can observe for the
2 time being.

3 MR KAMARA: Thank you, Your Honour.

4 CROSS-EXAMINED BY MR KAMARA:

15:22:54 5 Q. Mr Witness, I have a few questions for you. In times of
6 war is it that the allegiance of the Kamajors is owed to the
7 initiators rather than the chiefdom authorities?

8 A. In the first place, the people who initiated us,
9 immediately after the initiation, they would hand us to the
15:23:27 10 people who sent us.

11 Q. You have not answered the question, Mr Witness. Let me put
12 it again.

13 PRESIDING JUDGE: Mr Kamara, please wait for the complete
14 translation, otherwise if you are to comment we need to hear what
15:23:37 15 you have to say.

16 MR KAMARA: Thank you, Your Honour.

17 PRESIDING JUDGE: Thank you. Yes.

18 MR KAMARA:

19 Q. Mr Witness, I will pose the question again and please
15:23:48 20 listen carefully, all right. In times of war, is it correct to
21 say that the allegiance of Kamajors is owed firstly to the
22 initiators rather than the chiefdom authorities?

23 A. We are loyal directly to our chiefdom authorities.

24 Q. In your evidence this morning, Mr Witness, you did testify
15:24:42 25 that upon hearing the coup you were at Kpa; is that not so?

26 A. No, I didn't say I was in Bo. I said it was in Tongie.

27 Q. And there was a point you mentioned you had soldiers
28 talking about killing Kamajors, and the first thing you did was
29 that you ran straight to the bush to your initiator, one Mama

1 Munda Fortune; is that so?

2 A. Yes, I went straight to Mama Munda Fortune.

3 Q. Mr Witness, why didn't you run to your chiefdom
4 authorities?

15:26:08 5 A. Why I went to Mama Munda? It was because I wanted to
6 regain more power because that was the place where the chiefdom
7 authorities came to collect us to do any other thing.

8 Q. Mr Witness, you did mention also this morning in your
9 evidence that you commanded a group of Kamajors between the
15:26:48 10 period of May 1997 and 1999. Correct me if I'm wrong. Is that
11 so?

12 MR SESAY: I'll object to that.

13 THE WITNESS: Yes.

14 PRESIDING JUDGE: What's your objection?

15:27:08 15 MR SESAY: My Lord, that is not the state of the evidence.

16 PRESIDING JUDGE: What is the state of the evidence,
17 according to you?

18 MR SESAY: My Lord, the state of the evidence is that the
19 witness did mention two stages, My Lord. The first stage he
15:27:21 20 referred to, before the arrival of ECOMOG he was a commander.
21 Then the next stage, he did refer to the organising into
22 battalions and there was one Ngaoujia, My Lord, who was the
23 battalion commander and he was the deputy battalion commander.
24 So at that stage, My Lord, he did say that he never had Kamajors
15:27:47 25 under his control at that point, My Lord. But it was not within
26 that date which he has referred to, May up to 1999, My Lord.

27 PRESIDING JUDGE: But I have to admit to you that I don't
28 have that recollection. I have that he did not have any Kamajors
29 under him when he was a deputy battalion commander. Maybe it's

1 right, but I don't have that in my notes.

2 MR SESAY: That is the area where I am referring to,
3 My Lord. That when he was deputy battalion commander he did not
4 have Kamajors under him. Prior to that he was a commander,
15:28:29 5 My Lord.

6 PRESIDING JUDGE: Yes, I know. But that last part when he
7 was a deputy, I don't have recollection of that what you're
8 saying, nor do I have it in my notes, but it may be on the
9 record. I don't know. If it is important for you we'll ask for
15:28:42 10 the record to be read back.

11 MR SESAY: As My Lord pleases.

12 PRESIDING JUDGE: I don't know. You may have that in your
13 notes, intending to have that evidence and it never came out. I
14 don't know. Are you sure that it was out in evidence?

15:28:55 15 MR SESAY: Yes, My Lord, it was out in evidence regarding
16 the stages. Because the question he has asked, My Lord, is
17 general, it refers to the entire period when this witness was a
18 Kamajor.

19 PRESIDING JUDGE: I hear you on this, but we'll see what
15:29:09 20 the response is. Mr Kamara?

21 MR KAMARA: Thank you, Your Honour. The question was
22 whether he was a commander of Kamajors and the question was not
23 as to whether he was deputy battalion commander post ECOMOG. The
24 reference made by my learned friend, I believe, is relating to
15:29:26 25 that evidence and even his citation or even his recitation of the
26 evidence, I do not have it in my notes saying, "At that time I
27 never had Kamajors under my command."

28 PRESIDING JUDGE: I don't have it either.

29 JUDGE ITOE: I don't have it. It's not on my record

1 either.

2 MR KAMARA: Thank you.

3 JUDGE ITOE: All I know is that he moved from the position
4 of a task force commander --

15:29:50 5 PRESIDING JUDGE: Within the chiefdom.

6 JUDGE ITOE: Within the chiefdom and then, you know, when
7 the ECOMOG came he was the deputy in command.

8 PRESIDING JUDGE: Deputy battalion commander.

9 JUDGE ITOE: Deputy battalion commander. But I did not
15:30:03 10 hear him say that he did not have Kamajors under his command.
11 The records may prove us wrong, but I don't have it on my
12 records.

13 MR SESAY: As the Court pleases.

14 MR KAMARA:

15:30:20 15 Q. Mr Witness, let me pose a question to you again --

16 JUDGE ITOE: In any event, I think it's a matter of common
17 sense, when you are a deputy, what are you commanding, really?
18 When you are a deputy, what are you commanding? I mean, those
19 are needlessly creating storms in teacups. We should proceed,
15:30:37 20 please.

21 MR KAMARA: Thank you, Your Honour.

22 Q. You did testify this morning that you were task force
23 commander, Kakua Chiefdom; is that not so?

24 A. Yes, sir.

15:30:50 25 Q. In that capacity did you give orders to Kamajors that were
26 under your control?

27 A. I also was receiving orders and I was working with those
28 orders.

29 Q. I did not ask --

1 PRESIDING JUDGE: This is not the question, Mr Witness.
2 Answer the question. Did you give orders to those Kamajors that
3 were under your command, you?
4 THE WITNESS: No, sir.
15:31:40 5 MR KAMARA: Thank you.
6 Q. Now please tell the Court what was your role as task force
7 commander; what is it that you were doing?
8 A. The time I was task force commander in my chiefdom, we made
9 sure that we gathered our chiefdom at night so that the soldiers
15:32:15 10 and the rebels could not come to our area where we were at night.
11 We had a boundary. We would come and walk around that area at
12 night. From there we go back to Kpa. So that was all we were
13 doing.
14 Q. And who was leading these night patrols more or less?
15:33:19 15 A. It was the chiefdom commander.
16 JUDGE ITOE: The chiefdom commander who?
17 MR KAMARA:
18 Q. Who was that chiefdom commander?
19 JUDGE ITOE: No, no, you say --
15:33:33 20 PRESIDING JUDGE: Who was the leading the night patrols.
21 JUDGE ITOE: It was the chiefdom commander?
22 MR KAMARA: That was leading the night patrols.
23 JUDGE ITOE: That would be him.
24 MR KAMARA: He's a task force commander.
15:33:43 25 JUDGE ITOE: I see. Of the chiefdom, isn't it?
26 MR KAMARA: Of the chiefdom, yes.
27 JUDGE ITOE: Are we not still in the chiefdom?
28 MR KAMARA: We are.
29 JUDGE ITOE: Okay.

1 PRESIDING JUDGE: So maybe you can clarify with the witness
2 those differences, if any.

3 MR KAMARA: Yes.

4 Q. Now, Mr Witness, what is the difference between your
15:34:00 5 position as task force commander and that of this chiefdom
6 commander you've mentioned?

7 A. Task force was under the chiefdom. The chiefdom was the
8 superior for all of us.

9 PRESIDING JUDGE: So the chiefdom commander was the
15:34:31 10 superior to all of you; that's what you say?

11 THE WITNESS: Yes, sir.

12 MR KAMARA:

13 Q. Now, Mr Witness, who was that chiefdom commander; do you
14 know?

15:35:13 15 A. Yes.

16 Q. What was his name?

17 A. Francis Yajah.

18 MR SESAY: Sorry, My Lord. My Lord, may I say that the
19 interpreter said "Yayah" but it should be "Yajah", My Lord. The
15:35:36 20 witness said "Yajah".

21 PRESIDING JUDGE: That's fine. We can manage with that,
22 Mr Counsel. Thank you. Mr Kamara.

23 MR KAMARA: Thank you.

24 Q. Now, Mr Witness, let me take you to the attack on the
15:35:59 25 brigade, was it? Correct me if I'm wrong. You described it as a
26 rampage attack. Do you recall?

27 A. Yes.

28 MR BOCKARIE: Sorry, your Honour, I think the word was
29 "random", not "rampage." I stand to be corrected.

1 JUDGE THOMPSON: I think the word was "random". I heard
2 that word. I didn't hear "rampage" at all.

3 MR KAMARA: Thank you, Your Honour. I thought I heard
4 "rampage."

15:36:33 5 Q. You did say it was a random attack, is it?

6 A. Yes.

7 Q. Could you explain to this Court what do you mean by that
8 random attack?

9 A. Yes. The attack in which we didn't get order from the
15:37:11 10 chiefdom, which we went and did on our own because we wanted --
11 because we wanted arms and ammunition from them because that was
12 the place they were based.

13 Q. Thank you. Now did you yourself lay that attack?

14 A. I had told you that we had our chiefdom commander who was
15:38:15 15 Francis Yajah.

16 Q. You're telling this Court that that attack was led by
17 Francis Yajah?

18 A. Yes, sir.

19 Q. Thank you. In your answer to examination-in-chief on
15:38:52 20 behalf of the second accused, a question posed by my learned
21 friend Mr Arrow Bockarie, you did say that you did not know the
22 second accused Moinina Fofana for the period of May 1997 to
23 December 1999, you only heard of his name. Is that a correct
24 position of your statement?

15:39:18 25 A. Yes.

26 Q. Mr Witness, isn't it true that you worked directly with
27 Moinina Fofana during the period of 1999? Directly under him at
28 Mahei Boima Road?

29 A. I was working directly with ECOMOG.

1 Q. That is not the question, Mr Witness, I'm sorry. I never
2 mentioned ECOMOG. I'll put the question again. Isn't it true
3 that you, Kenneth Koker, worked directly with the second accused
4 Moinina Fofana at Mahei Boima Road in Bo in 1999?

15:40:21 5 PRESIDING JUDGE: In 1999?

6 MR KAMARA: Yes, Your Honour.

7 THE WITNESS: No.

8 MR KAMARA:

9 Q. Pardon me?

15:40:33 10 A. I said no.

11 JUDGE ITOE: Which place again, which road?

12 MR KAMARA: Mahei Boima Road. M-A-H-E-I B-O-I-M-A, Your
13 Honour. Mahei Boima Road.

14 Q. And in your testimony this morning you did also mention the
15:41:10 15 name of one Kosseh Hindowa.

16 A. Yes

17 Q. Didn't you work directly with Kosseh Hindowa in Bo at the
18 same address?

19 A. Kosseh Hindowa is not in the same address.

15:41:58 20 PRESIDING JUDGE: The question is more precisely,
21 Mr Witness, if you worked with him at the same address. Not if
22 you lived at the same address, if you worked with him.

23 MR MARGAI: May I be heard, My Lord?

24 PRESIDING JUDGE: For what? You have completed your
15:42:19 25 cross-examination. You may not be heard.

26 MR MARGAI: As My Lord pleases.

27 MR KAMARA: Thank you, Your Honour.

28 Q. The learned Presiding Judge had posed a question to you.

29 A. I did not work with him directly.

1 Q. Mr Koker, were you ever arrested in Bo in relation to a
2 murder charge?

3 A. No, sir.

4 Q. I'll be more specific. Mr Koker, were you arrested in Bo
15:43:35 5 for the beating of a boy to death?

6 A. I was never arrested in Bo, no.

7 Q. Do you recall the incident of the death of the MSF Belgian
8 administrator in Bo who was murdered in Bo?

9 MR BOCKARIE: Your Honour, it's not an objection but for
15:44:29 10 proper clarification can we be assisted with a time frame?

11 PRESIDING JUDGE: Indeed, indeed.

12 MR KAMARA:

13 Q. In 1998 do you recall the murder of one MSF Belgian
14 administrator? If you don't remember it's all right.

15:44:55 15 A. No, I cannot remember.

16 JUDGE ITOE: You cannot remember what? The death of the --

17 MR KAMARA: The MSF Belgian administrator?

18 PRESIDING JUDGE: In Bo?

19 MR KAMARA: In Bo, yes, Your Honour.

15:45:11 20 JUDGE ITOE: Would that be Medecins Sans Frontieres?

21 MR KAMARA: Certainly, Your Honour.

22 JUDGE ITOE: MSF?

23 MR KAMARA: MSF.

24 Q. Mr Witness, I am suggesting to you that you and your
15:45:38 25 Kamajors stormed the Bo police station with AK-47s and RPGs to
26 release the suspects related to that murder?

27 A. It didn't happen that way.

28 [CDF20FEB06D - SGH]

29 Q. By chance anyway, Mr Witness, how many times did you

1 storm the Bo Police Station to release prisoners?

2 MR SESAY: Again I object. Objection, My Lord.

3 PRESIDING JUDGE: What for?

4 MR SESAY: The witness had said earlier on he had denied
15:46:45 5 that at no time did he and his men storm the Bo police station.

6 And now my --

7 PRESIDING JUDGE: [Overlapping speakers].

8 JUDGE ITOE: To release, to release -- continue.

9 MR SESAY: Yes, to release suspects.

10 JUDGE ITOE: To release suspects related to the
15:46:59 11 particular --

12 MR SESAY: Yes, to the death of -- an alleged death of MSF.

13 JUDGE ITOE: Do you see a difference between this question
14 and the earlier one.

15 MR SESAY: I go further than that, My Lord. Because he has
15:47:07 16 now -- the presumption, My Lord, is that, in fact, the witness
17 and his men stormed the Bo Police Station.

18 PRESIDING JUDGE: Yes, but he is in cross-examination.
19 What is the basis for your objection? What is the basis?

20 JUDGE THOMPSON: It may well have been for a different
15:47:25 21 purpose, if that's his instructions.

22 MR SESAY: It was not as clear, My Lord, as he puts it.

23 JUDGE THOMPSON: I know, but, in fact, it's a general
24 question. I don't see the difficulty there because the fact that
15:47:38 25 he has answered that in relation to the alleged murder they did
26 not storm the Bo Police Station does not exclude the possibility
27 of asking him whether at any other time the Bo Police Station was
28 stormed by himself and his men, probably for other reasons.

29 MR SESAY: Yes, well, My Lord, I appreciate the point which

1 you have made the distinction. But, My Lord, his question was
2 not as clear and specific in that direction, My Lord.

3 JUDGE THOMPSON: I thought that was what I gathered, that
4 he had moved away from the particular to the universal, and there
15:48:16 5 is nothing wrong with that. He has denied any involvement in the
6 particular but counsel can legitimately ask the universal
7 question.

8 MR SESAY: As My Lord pleases.

9 MR MARGAI: I seek your Lordship's leave to be heard.

15:48:33 10 PRESIDING JUDGE: No. No, Mr Margai. Mr Kamara.
11 Mr Margai, you know the rule. I have told you in the past. You
12 have cross-examined. That is, your other colleague has
13 cross-examined. He had all the latitude to cover anything in
14 cross-examination. There is no re-cross-examination. I regret
15:48:45 15 that, but that is the procedure.

16 MR MARGAI: As My Lord pleases.

17 PRESIDING JUDGE: Thank you. Mr Kamara.

18 MR KAMARA: Yes, Your Honour.

19 JUDGE THOMPSON: Probably if it was the American system you
15:48:57 20 would have sought leave to re-cross. Unfortunately we don't, or
21 fortunately, in fact, we do not adopt the American procedure here
22 which allows for re-cross-examination.

23 PRESIDING JUDGE: Mr Kamara, please.

24 MR KAMARA: Yes, Your Honour.

15:49:25 25 Q. Mr Witness, the question again is: Did you or your men at
26 any point in time storm the Bo Police Station to release
27 prisoners?

28 A. I never stormed the Bo Police Station, no.

29 Q. Now, Mr Witness, where was the CDF headquarters in Bo?

1 A. It was Mahei Boma Road.

2 Q. Do you recall the complaints of stolen rice, stored at that
3 CDF headquarters, made to the police in 1999?

4 A. I cannot remember.

15:51:24 5 Q. Do I understand your answer to mean I do not remember or I
6 am refusing remember? Which is it? I don't understand you.
7 Help me. Because my understanding of what you said was like I
8 don't want to remember something. I am not clear. That is why I
9 am asking. You don't remember or you don't want to remember?

15:51:45 10 JUDGE ITOE: But the witness did not say he doesn't want to
11 remember.

12 MR KAMARA: Yes, but it wasn't as clear as to I don't want
13 remember --

14 JUDGE ITOE: He says he cannot remember.

15:51:55 15 MR MARGAI: My Lords, may I seek your direction here on the
16 interpretation --

17 PRESIDING JUDGE: Mr Margai, I told you no. Please.

18 MR MARGAI: May I seek your direction on the interpretation
19 of Rule 82(A)

15:52:04 20 PRESIDING JUDGE: What is 82(A)?

21 MR MARGAI: 82(A) states that in joint trials each accused
22 shall be accorded the same rights as if he were being tried
23 separately.

24 PRESIDING JUDGE: Yes.

15:52:20 25 MR MARGAI: This is a joint trial.

26 PRESIDING JUDGE: Except you have cross-examined the
27 witness. It is a joint trial but this is not your witness. When
28 you will call your witnesses you will indeed be entitled to
29 cross-examine -- to re-examine and make these observations. This

1 is not a witness of yours. You have selected and you have been
2 given the right to cross-examine.

3 MR MARGAI: This is --

4 PRESIDING JUDGE: And therefore -- no. Because --

15:52:47 5 MR MARGAI: This is why I am seeking your direction as to
6 the applicability of Rule 82(A) to a situation where a witness is
7 not a joint witness.

8 PRESIDING JUDGE: I told you what the position is. You are
9 entitled to cross-examine, period. Not to re-examine and
15:53:05 10 re-examine and re-cross-examine.

11 MR MARGAI: With relation to objections, My Lords.

12 PRESIDING JUDGE: In relation to objections, your objection
13 has to be in relation to your cross-examination. So tell me what
14 objection could be sustained as a result of your
15:53:18 15 cross-examination when another party is cross-examining?

16 MR MARGAI: My Lord, my authority is Rule 82(A)

17 PRESIDING JUDGE: Well, I have told you what my decision is
18 on this, Mr Margai.

19 MR MARGAI: As My Lord pleases.

15:53:29 20 PRESIDING JUDGE: Thank you.

21 MR KAMARA:

22 Q. My final question to you, Mr Witness, you did give evidence
23 today that Moinina Fofana did not play an active role as a
24 director of war. Did he play any other role that is not active?

15:54:13 25 A. Only when he was called director of peace because he was
26 making peace.

27 Q. Let me put it this way, again: He did not play an active
28 role, right? Correct me if I am wrong. He did not?

29 A. Repeat your question. I don't --

1 Q. In your evidence you said he did not play an active role.?

2 A. Yes.

3 Q. And that presupposes he played another role that is not
4 active.

15:55:00 5 A. That was the peace which he was coming -- which he was
6 bringing between us, the Kamajors.

7 Q. Apart from the peace what else did he do?

8 A. Well, I did not see him do any other thing.

9 Q. Thank you very much. That is all.

15:55:17 10 PRESIDING JUDGE: That completes your cross-examination?

11 MR KAMARA: Yes, Your Honour.

12 PRESIDING JUDGE: Thank you. Mr Sesay, you wish to
13 re-examine?

14 MR SESAY: No re-examination. Mr Bockarie?

15:55:31 15 MR BOCKARIE: Yes, Your Honour, it is just to --

16 RE-EXAMINED BY MR BOCKARIE:

17 Q. Mr Witness, there were two CDF offices situated at Mahei
18 Boma Road; am I correct?

19 A. Yes, sir. The one was at 88 Mahei Boma Road and the other
15:55:58 20 was other was at 42 Mahei Boma Road.

21 JUDGE ITOE: Number 88 and what?

22 PRESIDING JUDGE: 42.

23 THE WITNESS: 42.

24 MR BOCKARIE:

15:56:19 25 Q. Who was the Kamajor boss at 88 Mahei Boma Road?

26 MR KAMARA: Objection to that, Your Honour. The question
27 posed with regards to Mahei Boma Road did not focus on boss or
28 personnel. That is an alien territory that my learned friend is
29 going into. The question posed with regard to Mahei Boma Road is

1 as to his working with the second accused.

2 MR BOCKARIE: Your Honours, the impression created to this
3 Court is that both offices are synonymous, that both offices are
4 being manned by the same personnel. Because there was a question
15:56:54 5 asked whether he worked directly with Kosseh Hindowa. I want to
6 clear that ambiguity.

7 PRESIDING JUDGE: Well, the question was not, with all due
8 respect -- this is the answer given by the witness, but the
9 question was not whether he worked directly. The question was:
15:57:12 10 Did you work with him in Bo at the same address?

11 MR BOCKARIE: At the same address.

12 PRESIDING JUDGE: But the question wasn't whether he worked
13 directly. The same address, yes.

14 MR BOCKARIE: Okay. Thanks for the cue.

15:57:26 15 Q. Mr Koker, did you ever --

16 A. Yes, sir.

17 Q. -- work at 88 Mahei Boma Road?

18 JUDGE ITOE: Put the question again.

19 MR BOCKARIE:

15:57:37 20 Q. Mr Koker, did you ever work at 88 Mahei Boma Road?

21 A. No, sir.

22 MR BOCKARIE: That will be all for him.

23 PRESIDING JUDGE: Thank you very much. Thank you,
24 Mr Witness, and thank you for coming to give your evidence to
15:57:55 25 this Court. So that concludes your evidence. Wait for the
26 Witness Protection Unit; they will escort you out of the court
27 room. Going back to you, Dr Jabbi.

28 MR JABBI: Yes, My Lord.

29 THE WITNESS: Thank you very much, sir.

1 [The witness withdrew]

2 PRESIDING JUDGE: Thank you. We are at 4.00. I don't
3 think we have enough time for you to call in another witness,
4 unless you have a very, very short witness.

15:58:31 5 MR JABBI: No, My Lord, not for today.

6 PRESIDING JUDGE: Not for today.

7 MR JABBI: No, My Lord. My Lord, whilst on that, I wish to
8 raise again the issue of the time for testimony to be given by
9 General Richards. My Lord, my understanding is that he comes in
10 tonight and it may well be that it is only in the morning that
11 the first accused defence team will be able to meet with him. So
12 we are wondering whether time can be allowed for that so that a
13 specific hour is chosen for tomorrow's session of court, making
14 allowance for adequate time to meet with General Richards after
15:59:42 15 his arrival, My Lord.

16 PRESIDING JUDGE: I had subsequent information, because I
17 understand last week there were indications that his flight may
18 have been delayed and be arriving late. But I am informed that
19 the flight is now back on normal schedule, so should be arriving
16:00:06 20 earlier than 10.00. I am not sure. I think flights normally
21 arrive at Lungi at 5.00 and then --

22 MR JABBI: 6.00, My Lord. That is the earliest possible,
23 My Lord. My Lord, because of -- I mean, that is the flight
24 schedule that has been indicated, but there are a few
16:00:30 25 unpredictable aspects of it and it may well be, for instance,
26 that notwithstanding the schedule is that it arrives around 6.00,
27 it may well not be so in actual fact. And, of course, there is
28 transiting from Lungi to the hosts with the British garrison, I
29 think. We are not sure whether we would be able tonight to have

1 enough time with him, My Lord.

2 JUDGE THOMPSON: What's your projection of a workable time
3 option here? I mean, clearly the way you have put it, in a way,
4 sort of invites the Court to have some regard or take judicial
16:01:31 5 notice, in parenthesis, of some of the ceremonial dimensions of
6 high profile celebrities like these. It certainly would be a
7 little difficult for us to come here and be told that this
8 celebrity has not arrived or is a little late or is going through
9 some diplomatic ritual. So perhaps if you were to propose some
16:02:08 10 viable option in terms of time the Court might have something to
11 work with. Otherwise it would be so difficult for us to come in
12 here only to be told to take a break for two hours or one hour
13 because this celebrity figure has not yet arrived or is otherwise
14 engaged somewhere. That would be my own kind of reasoning on
16:02:37 15 this issue.

16 MR JABBI: Yes, indeed, My Lord. My Lord, our hope is that
17 he will certainly arrive sometime this evening, but that it will
18 probably be only in the morning that we will be able to meet with
19 him.

16:02:47 20 PRESIDING JUDGE: Why? That's my question to you. Why?
21 He is coming here for one purpose and one purpose only; to give
22 evidence for the Defence in this trial. He is not coming here,
23 from what I understand, for any protocol visit. This is what
24 he's coming for. So presumably, if that is the case, he will
16:03:09 25 make himself available tonight for you to meet and interview him.
26 I don't have any problem with that. You are concerned that it
27 may be delayed, but based on my past experience coming from Lungi
28 on these flights, as such, you are normally on this side at 7.00
29 at the latest. Especially if he is escorted, as such, I can only

1 guess that he might be on this side even sooner than that.

2 MR JABBI: My Lords, it is precisely to avoid the sort of
3 scenario that his Lordship Thompson referred to. I mean, I don't
4 have control over these possibilities and I don't want to come
16:03:48 5 here in the morning when we have all assembled, only to say that
6 because of this or that problem we are asking for a break.

7 PRESIDING JUDGE: What is it you are asking for, Dr Jabbi?

8 MR JABBI: My Lord, I would want us to play safe and allow
9 the Defence team some time in the morning, from about 9.00 until
16:04:15 10 about 11.30, to meet with General Richards. Then we can be sure
11 that it will take place, rather than say it is likely to take
12 place tonight and we make no provision for the morning and then
13 we come here only to ask for some sort of postponement, My Lord.

14 PRESIDING JUDGE: You have obviously succeeded in
16:05:06 15 convincing the Bench so I am granting you some time. So we will,
16 but not to 12.00, but to 11.00.

17 MR JABBI: As your Lordships please.

18 JUDGE ITOE: The Court will start sitting at 11.00.

19 PRESIDING JUDGE: And we will resume the Court sitting
16:05:18 20 tomorrow morning at 11.00. Please don't ask for an adjournment
21 because you haven't had sufficient time then to meet with that
22 witness. It is unlikely to be granted.

23 MR JABBI: I hope, My Lord, it will also be unlikely to
24 actually occur.

16:05:35 25 PRESIDING JUDGE: I hope so.

26 MR JABBI: Thank you very much.

27 MR MARGAI: Will the Court hear me on an oral submission
28 tomorrow morning on this aspect of Rule 82?

29 PRESIDING JUDGE: No. You make a written submission on

1 this and we'll dispose of it in due course.

2 MR MARGAI: My Lord, I think it will be for the guidance of
3 all of us and perhaps advancing the jurisprudence.

4 PRESIDING JUDGE: Mr Margai, if you want to make any
16:05:54 5 application, do it in writing and we will hear from all the
6 parties and we will respond to it in due course.

7 MR MARGAI: We will do that, My Lord, thank you.

8 PRESIDING JUDGE: Thank you.

9 MR TAVENER: This is not about the next witness General
16:06:07 10 Richards, but if the Prosecution can be told who the next two
11 witnesses are after General Richards. We seem to have moved away
12 from the time table and we are not certain as to the current
13 order.

14 MR JABBI: My Lords, can we be allowed until tomorrow
16:06:26 15 morning to supply that information on a very definitive basis?

16 JUDGE ITOE: You can interact amongst yourselves.

17 MR JABBI: Yes, indeed, My Lord.

18 JUDGE ITOE: Please, don't get the Court involved in this.
19 Interact. You are all friends.

16:06:39 20 MR JABBI: Tomorrow morning, please.

21 JUDGE ITOE: We encourage the exchange of information
22 amongst you. So, please, even if you can do it tonight, why not.
23 Get in touch with your learned friend on the other side.

24 MR TAVENER: We live in hope, Your Honour. Thank you,

16:06:53 25 MR JABBI: On a more definitive basis.

26 PRESIDING JUDGE: The Court is adjourned until
27 11.00 tomorrow morning. Thank you.

28 [Whereupon the hearing adjourned at 4.07 p.m.,
29 to be reconvened on Tuesday, the 21st day of

1 February 2006, at 11.00 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: OSMAN VANDI	2
CROSS-EXAMINED BY MR KAMARA	2
WITNESS: KENNETH KOKER	35
EXAMINED BY MR SESAY	35
EXAMINED BY MR BOCKARIE	59
CROSS-EXAMINED BY MR LANSANA	67
CROSS-EXAMINED BY MR KAMARA	77
RE-EXAMINED BY MR BOCKARIE	90