

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-14-T
TRIAL CHAMBER I

THE PROSECUTOR
OF THE SPECIAL COURT
V.
SAM HINGA NORMAN
MOININA FOFANA
ALLIEU KONDEWA

FRIDAY, 25 FEBRUARY 2005
9.44 a.m.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison
Ms Roza Salibekova
Ms Chiara Galletti

For the Registry:

Mr Geoff walker

For the Prosecution:

Mr Raimund Sauter
Mr Kevin Tavener
Ms Crispina Fynn (intern)

For the Principal Defender:

No appearances

For the Accused Sam Hinga Norman:

Mr John Wesley Hall

For the Accused Moinina Fofana:

Mr Arrow Bockarie
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Yada Williams
Mr Ansu Lansana

1 [HN250205A - CLR]
2 [Friday, 25 February 2005]
3 [The witness entered court]
4 [Open session]
5 [Accused Kondewa not present]
6 [Upon commencing at 9.44 a.m.]
7 WITNESS: TF2-144 [Continued]
8 PRESIDING JUDGE: Learned counsel, good morning. We are
9 resuming the session.
10 JUDGE BOUTET: Mr Bockarie, you are ready to proceed with the
11 cross-examination of this witness?
12 MR BOCKARIE: Yes, Your Honour.
13 JUDGE BOUTET: Please do so. Please wait until we get the
14 answer before you carry on with your next question.
15 PRESIDING JUDGE: Don't break our rules, Mr Bockarie. You
16 have an interest to be properly reflected on the records.
17 CROSS-EXAMINED BY MR BOCKARIE:
18 Q. Good morning, Mr Witness.
19 A. Good morning to you.
20 Q. Mr Witness, in your examination-in-chief yesterday, you
21 said that upon entering the entrance of the NDMC
22 headquarters, you saw 100 bodies; am I correct?
23 A. Yes, Your Worship.
24 Q. Mr Witness, you didn't you go to school, but you can
25 count very well, can't you?
26 PRESIDING JUDGE: Mr Bockarie, I didn't have my equipment in
27 place. Did he provide an answer to the first question?
28 MR BOCKARIE: Yes, Your Honour.
29 PRESIDING JUDGE: Did he confirm that he saw 100 bodies?

- 1 MR BOCKARIE: One hundred bodies.
- 2 Q. Mr witness, I know you didn't go to school, but you can
3 count very well, can't you?
- 4 A. Yes, Your worship.
- 5 Q. Mr witness, I'd like to draw your attention to your
6 statement you made on 5 November 2003. You told this
7 Court you recall talking to officials from the special
8 Court, don't you?
- 9 PRESIDING JUDGE: Mr Bockarie, 5 November 2003.
- 10 MR BOCKARIE: 2003.
- 11 JUDGE BOUTET: Mr Bockarie, I just want to caution you. There
12 was some difficulty with dates and so on, if you're
13 moving in that direction, we may end up with major
14 problems.
- 15 MR BOCKARIE: Yes, Your Honour.
- 16 JUDGE BOUTET: I'm just warning you.
- 17 MR BOCKARIE: I take your cue, Your Honour.
- 18 Q. Mr witness, you recall talking to officials from this
19 special Court, don't you?
- 20 A. Yes, Your worship.
- 21 Q. In which language did you speak, Mr witness?
- 22 A. I spoke in Krio.
- 23 Q. As you were speaking Krio, you saw them writing it down,
24 didn't you?
- 25 A. Yes, I saw them writing.
- 26 Q. At the end, it was read and interpreted to you in Krio?
- 27 A. Yes.
- 28 Q. And you fixed your thumbprint on the said document?
- 29 A. Yes.

1 Q. Mr witness, I will now draw your attention to page 2 of 3
2 of that statement, beginning line 8 from the top, this is
3 exactly what you told the investigators. I'll read --
4 JUDGE BOUTET: This is what the statement says. This is
5 exactly what he said. That's a different question.
6 MR BOCKARIE: This is what is recorded in that statement, and
7 I'll read: "Reaching at the headquarters entrance, I saw
8 about 10 dead bodies littering on the ground." Ten dead
9 bodies. Mr witness, did you say this to the
10 investigators?
11 A. No.
12 MR BOCKARIE: My Lord, I would like at this stage to --
13 JUDGE BOUTET: Yes, but look at the other statement, too. If
14 you look at the statement of 7 April and the statement of
15 facts, second paragraph.
16 MR BOCKARIE: Which statement, Your Honour?
17 JUDGE BOUTET: Statement of 7 April 2002 where it says,
18 "Statement of facts". First paragraph says, "I was in
19 Tongo."
20 MR BOCKARIE: There is a distinction here. The statement
21 referred to on the 5th is very specific about the
22 headquarters.
23 JUDGE BOUTET: Okay. That's fine.
24 MR BOCKARIE: My Lord, I would like to have that portion
25 tendered in evidence.
26 JUDGE BOUTET: That statement you have of November is already
27 in evidence, Exhibit 66, and you want to underline --
28 MR BOCKARIE: Starting from line 8 at the top, "I saw about 10
29 dead bodies littering on the ground." It is, "Reaching

1 the headquarters entrance".
2 JUDGE BOUTET: And this is page 11658 of the Court Management
3 filing page number.
4 MR BOCKARIE: We will accord by that, Your Honour.
5 JUDGE BOUTET: Which is page 2, as you described.
6 MR TAVENER: Excuse me, Your Honour. Your Honour has drawn
7 attention to the statement of 7 April. In that
8 statement, if you read that --
9 JUDGE THOMPSON: Just a minute, is it proper that the judge
10 should do that? I'm sure it would seem to me that if
11 there is some discrepancy - remember that we are
12 undertaking that we don't read these statements and we
13 should allow both sides to conduct their case the best
14 way possible. I was wondering whether that kind of
15 intervention is not more appropriate if the Prosecution
16 takes issue with it - speaking for myself.
17 MR TAVENER: And speaking for the Prosecution, we do take
18 issue with it, Your Honour. Again, the same problem
19 arises whether or not the Court wants an inaccurate view
20 put to them and it then has to be corrected in
21 re-examination.
22 JUDGE THOMPSON: That's my difficulty. If we come with these
23 statements already read, as judges, I sense there's a
24 difficulty there in terms of the principle of orality.
25 We expect to evaluate the evidence of this witness from
26 the witness stand and then if there are alleged perceived
27 inconsistencies, it is for counsel on that side or
28 counsel on this side to point these inconsistencies out,
29 and the Prosecution, through the instrument of

1 re-examination has the opportunity to clarify things. It
2 would seem to me that that would be the proper way to go.
3 That for us to be - and I don't want to be reflected on
4 the records as one of Your Honours who, in fact, call
5 attention to some paragraph in the statement. I just
6 wanted to caution that that's --

7 JUDGE BOUTET: To alleviate the concerns of my colleague, I
8 would say to my colleague that there is absolutely no
9 impropriety in doing so, and to alleviate his concerns
10 and his fears, I have not read the statement before this
11 morning. I have the statement in front of me because
12 we're talking of statements, and I don't see any - I
13 don't underline any prohibition for the Court for doing
14 so. Thank you.

15 JUDGE THOMPSON: Perhaps I have a different understanding of
16 the law.

17 JUDGE BOUTET: That's fine.

18 JUDGE THOMPSON: And a different tradition.

19 MR TAVENER: I won't comment, Your Honour.

20 JUDGE THOMPSON: Carry on. Sorry, I do apologise. I thought
21 I should have that intervention. I am entitled to it as
22 my learned brother is entitled to his own intervention.

23 MR TAVENER: That being so, Your Honour, the guidance I am
24 seeking is whether Your Honours would prefer that this
25 matter be raised in re-examination; that is, the other
26 statement put to the witness, or, that it be best dealt
27 with at this time so the witness is not --

28 PRESIDING JUDGE: Let it be raised during re-examination.

29 JUDGE THOMPSON: Yes, because the Defence have conduct of

1 their case.

2 PRESIDING JUDGE: When he has finished, you are perfectly
3 entitled to raise it during re-examination and to
4 confront him with the statement of April.

5 MR TAVENER: My only concern was not misled or misinformed as
6 to the nature of his statements prior to coming to Court.
7 That was my concern and that may then lead the Court into
8 error. If Your Honour's are happy with the matter being
9 dealt with in re-examination, that's fine.

10 PRESIDING JUDGE: It has arisen during cross-examination. It
11 should normally arise, if you wish to raise it, during
12 re-examination.

13 MR TAVENER: That's what we will do.

14 MR BOCKARIE:

15 Q. Mr witness, at Dodo you only witnessed one chopping off
16 of the man's right hand by Kamajors?

17 PRESIDING JUDGE: Mr Bockarie, you were seeking to tender that
18 portion of the statement.

19 MR BOCKARIE: Yes, Your Honour.

20 PRESIDING JUDGE: Are you through with that? I don't think
21 you are.

22 MR BOCKARIE: Yes, sorry, Your Honour. I would like to
23 highlight that particular portion. The statement is
24 already in evidence, Your Honour. It begins from line 7,
25 beginning with the words "Reaching at the headquarter
26 entrance, I saw about 10 dead bodies littering on the
27 ground".

28 PRESIDING JUDGE: So you are highlighting page 2 from line 8?

29 MR BOCKARIE: Yes, Your Honour, line 7 from the top, beginning

1 with the words "Reaching at the headquarter entrance, I
2 saw about 10 dead bodies littering on the ground."
3 Q. Mr witness, in your examination-in-chief, you heard us to
4 say, and I'll read slowly, "At Dodo, a man was checked by
5 Kamajors and saw marks on his feet and accused him of
6 being a soldier. His right hand was chopped off."
7 A. Yes, Your worship.
8 Q. Mr witness, would I be correct to say that was the only
9 chopping off of the man's hand you witnessed at Dodo?
10 A. Yes, Your worship.
11 Q. Mr witness, I'm sure you cannot mistake a man for a
12 woman, can you?
13 A. Yes, Your worship.
14 Q. Sorry, get the question quite clearly. I'm sure you
15 cannot mistake a man for a woman, can you?
16 A. Yes, Your worship.
17 JUDGE BOUTET: what's the yes to? Yes, you can mistake it?
18 Or, yes --
19 MR BOCKARIE:
20 Q. Do you know the difference between a man and a woman?
21 MR BOCKARIE: I want to be very simple, Your Honour.
22 THE WITNESS: Yes.
23 MR BOCKARIE:
24 Q. Thank you. Mr witness, I'll refer you to your statement
25 again on the same date on 5 November 2003 at page 2 of
26 page 3. You heard this, this was what was recorded in
27 this statement, and I'll read: "Musa Junisa are coming
28 by, his group visited Dodo and said he will kill all of
29 us since we have ignored the warning he was giving us to

1 leave Tongo. In my presence, I saw Junisa`s men search a
2 lady's bag and said he quickly discovered a military
3 officer's uniform and ordered this man to cut off the
4 woman's arm. I saw this man amputate one of the woman's
5 shoulder, so I had to run into the bush and find my way
6 to Kenema."
7 PRESIDING JUDGE: What part of that statement?
8 MR BOCKARIE: This is beginning from the bottom, lines --
9 PRESIDING JUDGE: What page is that?
10 MR BOCKARIE: It is page 2 of 3, the statement of 5 November
11 2003.
12 JUDGE BOUTET: Again, Mr Bockarie, these statements have been
13 filed with Court Management and they have a page number.
14 That is much more accurate than what you are --
15 PRESIDING JUDGE: Yes, I prefer that you refer to them by the
16 Court Management numbers.
17 MR BOCKARIE: Please, Your Honours, can I get --
18 JUDGE BOUTET: It is page 11658.
19 PRESIDING JUDGE: Are you saying that you don't have those
20 numbers?
21 MR BOCKARIE: No.
22 PRESIDING JUDGE: Okay, it's not your fault. We'll proceed.
23 MR BOCKARIE: It's line 9 from the bottom, beginning with the
24 words, "Musa Junisa", terminating with the words, "Find
25 my way to Kenema", which is the fourth line on --
26 JUDGE BOUTET: Page 11659.
27 MR BOCKARIE: Yes, the fourth line. Thank you, Your Honour.
28 Q. Mr witness, there were two sets of Kamajors who occupied
29 the house at Kahunla Street; am I correct?

1 A. I don't understand what you are saying.

2 PRESIDING JUDGE: Mr Witness, don't go into very deep
3 meditation. I know it would be your nature. I would
4 like you to follow the questions and understand them
5 properly before you volunteer a reply. Do you understand
6 me?

7 THE WITNESS: Yes, Your Worship.

8 PRESIDING JUDGE: Follow the question. Ask counsel to be very
9 slow. Follow them. Make sure you understand them before
10 you answer; before you volunteer a reply, okay.

11 THE WITNESS: Yes, Your Worship.

12 MR BOCKARIE: Mr Witness, there are two sets of Kamajors who
13 occupied the house at Kahunla Street. The first batch
14 after the intervention of CO Foday and Kamoh Brima left
15 your house intact; am I correct?

16 A. Yes, Your Worship.

17 Q. Mr Witness, for how long did they have occupation of your
18 house?

19 A. They did not stay there long.

20 Q. Can you give us a very rough estimate, Mr Witness?

21 A. Well, I would not be able to tell, because I did not have
22 time to think about it.

23 PRESIDING JUDGE: No, Mr Witness. It is your house. You had
24 told us that, after the intervention, you went to see
25 Kamoh Brima. Kamoh Brima and CO Foday they sent some
26 Kamajors and the people left. You should be able to let
27 us know. You know when they occupied the house. When
28 did they leave? Because after you reported, you were
29 interested in following the event as to when they would

1 vacate your house.
2 THE WITNESS: well, it was in the evening. I do not know
3 whether it was 4.00 or 5.00.
4 PRESIDING JUDGE: The evening of what day. We want to move
5 fast.
6 THE WITNESS: I do not know the day.
7 PRESIDING JUDGE: Okay, assuming they took your house today,
8 we want to move faster in this process. They took your
9 house on this day, they came into your house. Did you
10 report on the same day?
11 THE WITNESS: Yes, Your worship.
12 PRESIDING JUDGE: when?
13 THE WITNESS: It was the same day that they left.
14 MR BOCKARIE:
15 Q. Mr witness, whilst there was an occupation of your house,
16 all your valuables were also in this house, including
17 your 10,000 USD hidden in your mattress?
18 A. Yes, Your worship.
19 Q. And they left everything intact; am I correct?
20 A. Yes, Your worship.
21 PRESIDING JUDGE: what did you say?
22 MR BOCKARIE: They left everything intact.
23 Q. Mr witness, if I describe these Kamajors as being highly
24 disciplined Kamajors and good Kamajors, would you agree
25 with me?
26 A. well, I cannot tell whether they were disciplined or not.
27 Q. This particular batch that went into your house with so
28 many valuable properties in your house, and left your
29 house --

- 1 PRESIDING JUDGE: Mr Bockarie, he says he cannot tell, please.
- 2 MR BOCKARIE: Thank you, Your Honour.
- 3 Q. Mr witness, did you directly witness the alleged death of
4 Mr Ojuku?
- 5 A. Well, I was not there when he died at the same moment.
- 6 Q. So you did not directly witness it?
- 7 A. At all.
- 8 Q. Mr witness, I would like to refer you to -- Mr witness,
9 you made statements on those days; am I correct?
- 10 A. Yes, Your worship.
- 11 Q. Mr witness, I would like to refer you to your statement
12 of 7 April 2002.
- 13 JUDGE BOUTET: Mr Bockarie, to my knowledge, that statement is
14 not in evidence.
- 15 MR BOCKARIE: Yes, I know.
- 16 JUDGE BOUTET: You will have to establish some background as
17 best as you can.
- 18 PRESIDING JUDGE: That would be the same statement which the
19 prosecution has indicated they will be raising during
20 re-examination.
- 21 MR BOCKARIE: Yes, Your Honour.
- 22 Q. Mr witness, at this time, you were interviewed at Tongo.
23 You recall talking to the investigator sometime in April
24 2002 in Tongo? Do you recall that?
- 25 A. Well, I cannot remember the time. I do remember that I
26 talked to people, but I cannot remember the time.
- 27 Q. Thank you. And the place where you spoke to them was in
28 Tongo? You recall talking to the investigators in Tongo?
- 29 A. Yes, Your worship.

- 1 Q. In which language did you speak, Mr Witness?
- 2 A. It was in Krio.
- 3 Q. Did you see them writing whilst you were talking in Krio?
- 4 A. Yes, Your worship.
- 5 Q. At the end of them writing this statement, was it read
- 6 over to you and interpreted in Krio?
- 7 A. Yes, Your worship.
- 8 Q. Now, Mr witness, I'll come back to my question. You told
- 9 this Court yesterday that after the death of Mr Ojuku,
- 10 they met his wife at the market; am I correct?
- 11 PRESIDING JUDGE: You better distinguish - are you saying that
- 12 in his oral testimony this is what he said? Let us be
- 13 very clear on that.
- 14 MR BOCKARIE: Yes.
- 15 Q. In your testimony, what you said yesterday in court, you
- 16 said after they killed Ojuku, the Kamajors went to his
- 17 wife at the market and demanded money to buy pepper, salt
- 18 and Maggi cubes.
- 19 A. Yes, Your worship.
- 20 Q. So, in effect, you were telling this Court that
- 21 Mr Ojuku's wife was not present at the scene of the
- 22 alleged death of Mr Ojuku?
- 23 A. Yes, Your worship.
- 24 Q. Mr witness, I will now refer you to your statement of
- 25 7 April 2002 at pages 2 to 3, beginning with the third
- 26 paragraph from the top. This is what has been recorded
- 27 in that statement: "I hurried on to meet an acquaintance
- 28 of mine, Mr Ojuku, who was sitting out in the street
- 29 playing dart. We stayed together for a while, chatting,

1 when another acquaintance of ours came to warn us that
2 that there was going to be some trouble and that we
3 should all go home. Mr Ojuku hurried home, which was
4 just about 100 feet. Mr Ojuku did not make it to his
5 house as he was stopped by Kamajors, who were apparently
6 looking for him. By that time I caught up with him, he
7 had already been stripped naked. By this time, a crowd
8 gathered and asked one of them what was happening. The
9 man merely replied, 'This man will not live today.'
10 Mr Ojuku's wife, who was a Mende, was also present during
11 all this. Mr Ojuku was taken to the back of his house
12 where he was beheaded. He was also disemboweled and all
13 his internal organs were placed in a plastic basket. The
14 same Kamajors came back and demanded from Mr Ojuku's wife
15 100,000 Le so, as they said, to buy ingredients to cook
16 Mr Ojuku's organs. They told her they were going to eat
17 Mr Ojuku's soup today. I was a direct witness to all
18 this."

19 MR BOCKARIE: Your Honour, I would like to tender this
20 portion, this particular paragraph of the statement of --

21 JUDGE BOUTET: Ask him.

22 MR BOCKARIE:

23 Q. Now, did you tell the investigators this, Mr witness?

24 A. Not at all.

25 JUDGE BOUTET: When you were interviewed by the investigators
26 in Tongo, was that before the interview in Kenema?

27 THE WITNESS: Yes, Your worship.

28 JUDGE BOUTET: For your information, that statement in the
29 Court Management record is from page 11653 to 11655.

- 1 MR BOCKARIE: So, My Lords, I'm referring to 11654.
- 2 JUDGE BOUTET: That's right.
- 3 MR BOCKARIE: That is the third paragraph from the top; the
4 entire paragraph, Your Honour.
- 5 JUDGE BOUTET: The statement of 7 April 2002 will be marked as
6 exhibit 69.
- 7 [Exhibit No. 69 was admitted]
- 8 MR BOCKARIE: Mr witness, at the time of the death of
9 Mr Ojuku, ECOMOG are already in Kenema?
- 10 A. Well - see, I used to see Kamajors in Kenema.
- 11 Q. Mr witness, I know it will be difficult, but can you be
12 of assistance in telling us if you know the month and
13 year Mr Ojuku was allegedly murdered by Kamajors?
- 14 A. Well, I would not be able to know the month.
- 15 Q. Mr witness, did the ECOMOG arrived in Kenema at the early
16 part of 1998; do you know?
- 17 A. Well, I knew that ECOMOG went to Kenema, but I did not
18 know the exact time that they went there.
- 19 Q. Mr witness, do you know whilst ECOMOG were in Kenema,
20 complaints were being made by civilians against Kamajors
21 to ECOMOG?
- 22 A. I know.
- 23 PRESIDING JUDGE: Complaints were being made against Kamajors
24 to ECOMOG by civilians?
- 25 MR BOCKARIE: Yes.
- 26 Q. Mr witness, isn't it a fact that when ECOMOG were in
27 Kenema, they started controlling the Kamajors? Do you
28 know that?
- 29 A. Well, I didn't know, because I did not know whether it

- 1 was ECOMOG who was in control or it was the Kamajors who
2 were in control.
- 3 PRESIDING JUDGE: That's not the question you asked,
4 Mr Bockarie. Take the question again.
- 5 MR BOCKARIE:
- 6 Q. Mr witness, do you know whilst ECOMOG were in Kenema,
7 they were controlling the Kamajors?
- 8 A. I don't know whether they are the ones controlling the
9 Kamajors.
- 10 Q. Mr witness, you spoke about the Yamorto based at
11 Nyandeyama in Kenema and you said they used to eat human
12 beings at that place; am I correct?
- 13 A. No.
- 14 MR BOCKARIE: Thank you very much. That will be all for this
15 witness.
- 16 JUDGE BOUTET: Counsel for the third accused, are you ready to
17 proceed?
- 18 MR LANSANA: By all means, Your Honour.
- 19 CROSS-EXAMINED BY MR LANSANA:
- 20 Q. Mr witness, when you were testifying before this Court,
21 you did say --
- 22 PRESIDING JUDGE: Mr Lansana, just a minute, please. Yes,
23 please proceed.
- 24 MR LANSANA:
- 25 Q. Mr witness, you testified before this Court yesterday,
26 and you said that your jobs, the work that you do,
27 includes trading, mining and farming; correct?
- 28 A. Yes, Your worship.
- 29 Q. And that in 1998, you fled Tongo for Kenema; is that so?

- 1 A. Yes, Your worship.
- 2 Q. whilst you were at Kenema, Kamajors took a mattress from
3 you in which you had hidden 10,000 USD; correct?
- 4 A. Yes, Your worship.
- 5 Q. would it be correct to say that you earned this money
6 from your job as a miner?
- 7 A. well, I did not do a single job. I did a little - I did
8 a lot of jobs through which I was able to get some money.
- 9 Q. Mr witness, do you earn US dollars from your farming?
- 10 A. I got it from my farming; I got it from my trading; and I
11 got it from the mining that I did.
- 12 Q. Mr witness, this is a very important court. Let us treat
13 it with candour.
- 14 PRESIDING JUDGE: There is no court that is not important,
15 Mr Lansana. All courts before which you appear are
16 important. Even traditional courts are important.
- 17 MR LANSANA: One of the very important courts. If you please,
18 Your Honour.
- 19 PRESIDING JUDGE: All courts are important, I don't want there
20 to be any discrimination about it.
- 21 MR LANSANA: Yes, Your Honour.
- 22 PRESIDING JUDGE: You may proceed, please.
- 23 MR LANSANA: Yes, Your Honour.
- 24 Q. Mr witness, you say you got 10,000 USD from mining,
25 trading and farming. My question was specific: whether
26 you earned this money from your farming activity. Let's
27 be specific.
- 28 JUDGE THOMPSON: But he has already answered that question.
29 It came from the occupations that he was engaged in.

1 MR LANSANA: Yes, Your Honour, we're getting to specifics now.
2 I want to put to him --
3 JUDGE THOMPSON: In other words, do you want to know how much
4 he earned from farming?
5 MR LANSANA: Yes, Your Honour.
6 JUDGE THOMPSON: well that was not the question.
7 MR LANSANA: I was coming to that.
8 Q. To be more specific, Mr witness, what did you sell as a
9 farmer that you were paid in for in United States
10 dollars?
11 A. You're the lawyer. Don't you expect that I should have
12 such money?
13 Q. No, Mr witness, we just want facts before this Court.
14 what is a fact is a fact. You tell me, I accept it.
15 A. Because the way you ask, that gives me the impression
16 that I'm not supposed to have such money.
17 Q. No, that is not my intention. Don't be annoyed. I just
18 want the facts, sir.
19 JUDGE THOMPSON: Counsel, I need some clarification on this
20 particular line of cross-inquiry. What is in issue, the
21 foreign exchange? Is that what is in issue?
22 MR LANSANA: Several things are in issue.
23 JUDGE THOMPSON: well, tell me one of them.
24 MR LANSANA: The first is the foreign currency. The second is
25 the fact that --
26 JUDGE BOUTET: I don't think this should be taking place with
27 the witness listening to what you're saying, because that
28 might be --
29 JUDGE THOMPSON: I'm indebted to my learned brother.

- 1 JUDGE BOUTET: Maybe he can stay there, but that not be
2 translated to the witness.
- 3 JUDGE THOMPSON: Yes, because I am, quite frankly, having some
4 difficulty with this line of cross-inquiry. I can't be
5 prepared to take traditional notice of practises in this
6 country where people who may not be exposed to the
7 sophistication of foreign exchange and all that. They
8 earn moneys. They engage in exchanging of money. I see
9 this all about the country. But I just want to be
10 certain whether your line of cross inquiry is designed to
11 elicit evidence which shows that he should not have been
12 in possession of foreign currency.
- 13 MR LANSANA: No.
- 14 JUDGE THOMPSON: I stand guided.
- 15 MR LANSANA: I just wanted to elicit some facts from him, but
16 the line of answering intrigues me, and I want to be
17 specific as to how it has come about that he earned
18 10,000 USD, part of it, so he says, from farming.
- 19 JUDGE THOMPSON: I think it is a little unfair to expect
20 strict accounting from this particular witness.
- 21 MR LANSANA: No, Your Honour. I will not be going into
22 specifics of quantum of money.
- 23 Q. Mr witness, can you tell this Court what produce you sold
24 from your farming that you earned United States dollars
25 for?
- 26 A. So you want me to show the Court what I sold that enabled
27 me to get this money?
- 28 Q. Yes. Like rice, like cocoa, like coffee, all that you
29 engaged in in Togo.

- 1 A. I will not be able to tell the Court what I used to sell.
- 2 Q. Thank you very much. But it is true that shortly before
3 you left Tongo for Kenema, you were engaged in all three
4 occupations: you were farming, you were trading, you
5 were mining?
- 6 A. I was doing that for over 20 years.
- 7 Q. Those 20 years include a period up to 1998; correct?
- 8 A. When I started trading, it is not over 20 years, this is
9 what I am trying to tell you.
- 10 PRESIDING JUDGE: Over 20 years. It's clear, isn't it? Let's
11 move.
- 12 MR LANSANA:
- 13 Q. Now, Mr Witness, prior to 1998, you were mining diamonds
14 in Tongo; correct?
- 15 A. Well, I had stopped mining because by then the war was
16 waging so I continued my trading.
- 17 PRESIDING JUDGE: Answer the question, Mr Witness. This is
18 prior to 1998?
- 19 THE WITNESS: No.
- 20 PRESIDING JUDGE: What is no?
- 21 THE WITNESS: well, you said I had been mining during 1998.
- 22 PRESIDING JUDGE: He said prior not during. Mr Lansana, would
23 you please put the question to him again.
- 24 MR LANSANA:
- 25 Q. Mr witness, let me put it this way: up until 1998, up
26 until the time you fled Tongo for Kenema, you were
27 mining; not so?
- 28 A. Yes.
- 29 Q. I take it that that means you were mining during the AFRC

- 1 occupation of Tongo; not so?
- 2 A. No, at that time, I was not engaged in mining. I was
3 just engaged in trading.
- 4 Q. Mr witness, I'm putting it to you that you were in fact
5 mining during the AFRC occupation of Tongo - I put it to
6 you.
- 7 PRESIDING JUDGE: Mr witness, do you agree that you were
8 mining during the AFRC occupation?
- 9 THE WITNESS: I was not engaged in mining.
- 10 MR LANSANA:
- 11 Q. Mr witness, when you were in Kenema, you said that
12 Kamajors came to occupy your premises; not so?
- 13 A. Yes, Your worship.
- 14 Q. There was the first batch and there was a second; not so?
- 15 A. Yes, Your worship.
- 16 Q. It is true that the second batch accused you of having
17 hidden AFRC soldiers in your house; not so, they accused
18 you?
- 19 A. They said so, but I didn't have any soldier in my house.
- 20 Q. You did not have?
- 21 A. I did not have any soldier, because I'm civilian.
- 22 PRESIDING JUDGE: You said the second batch?
- 23 MR LANSANA: The second batch, yes, Your Honour.
- 24 PRESIDING JUDGE: Of hiding AFRC soldiers in his house?
- 25 MR LANSANA: Yes, Your Honour.
- 26 JUDGE THOMPSON: Did he say that he denied the accusation?
- 27 MR LANSANA: I have not put it to him whether he denied, but
28 he volunteered.
- 29 JUDGE THOMPSON: He volunteered straight away.

1 MR LANSANA: That he did not, yes, Your Honour. I see Your
2 Honour wants to say something.
3 PRESIDING JUDGE: Did he tell them he did not.
4 MR LANSANA: I'll put it to him.
5 PRESIDING JUDGE: That is why I was waiting.
6 MR LANSANA:
7 Q. You just told this Court that it was not true that you
8 harboured AFRC soldiers in your house. Did you tell the
9 Kamajors that that was a lie, that you did not at all
10 harbour AFRC soldiers in your house?
11 A. Yes.
12 Q. You told them that?
13 A. Yes.
14 PRESIDING JUDGE: Mr Lansana, this man has a compound with
15 three houses in Tongo? He has one in --
16 MR LANSANA: Two in Kenema.
17 PRESIDING JUDGE: He has two in Kenema.
18 MR LANSANA: Yes, he's a very rich man, Your Honour.
19 PRESIDING JUDGE: There is nothing wrong in being rich.
20 MR LANSANA: No, I'm not casting aspersions.
21 PRESIDING JUDGE: I don't want any insinuations. There is
22 nothing wrong in being rich.
23 MR LANSANA: No, I'm not casting aspersions. I'm just trying
24 to get the facts.
25 PRESIDING JUDGE: There is absolutely nothing wrong with being
26 rich. If you can get rich, why not?
27 MR LANSANA: It's a nice thing, Your Honour.
28 PRESIDING JUDGE: What I'm saying is, I want you to be
29 specific, where did he harbour the --

- 1 MR LANSANA: He said he did not.
- 2 PRESIDING JUDGE: No, you said of harbouring soldiers in my
3 house. which house? Ask him, please.
- 4 MR LANSANA:
- 5 Q. Mr witness, where did the Kamajors allege or accuse you
6 of harbouring AFRC soldiers in your house at Kenema? Was
7 it at Kamayama [phoen], or Nyandeyama or Kahunla Street?
8 where?
- 9 A. It was Kahunla Street, yes, Your worship.
- 10 [HN250205 - 10.50 a.m. SGH]
- 11 Q. Now, Mr witness -- Your Honours, I will refer
12 to Exhibit 67. I want to put a particular
13 portion of Exhibit 67 to the witness.
- 14 JUDGE BOUTET: well, so not to confuse anybody, I had said
15 67, but I was told by Court Management that it was 68.
16 So if I have missed that cue, you should change that in
17 your own records.
- 18 MR LANSANA: I will do so, Your Honour.
- 19 JUDGE BOUTET: Please, the statement you are talking about is
20 the one --
- 21 MR LANSANA: 7th April 2002.
- 22 JUDGE BOUTET: 2002 is 69.
- 23 MR LANSANA: 69?
- 24 JUDGE BOUTET: It is the 2003 which is 68.
- 25 MR LANSANA: Then it is 69 Exhibit 69, my apologies.
- 26 JUDGE BOUTET: That's okay.
- 27 MR LANSANA:
- 28 Q. Page 3 thereof, the second paragraph.
- 29 PRESIDING JUDGE: Again, the date of Exhibit 69. 7th April?

- 1 MR LANSANA: 7th April 2002.
- 2 PRESIDING JUDGE: 2002?
- 3 MR LANSANA: Yes, Your Honour.
- 4 JUDGE BOUTET: And the record the page number of the record is
5 11655.
- 6 MR LANSANA: 11655. Thank you, Your Honour.
- 7 JUDGE BOUTET: So you are referring to which paragraph again
8 in there?
- 9 MR LANSANA: The second paragraph on that page.
- 10 JUDGE BOUTET: Okay. So you are going to read it for the
11 witness?
- 12 MR LANSANA: Yes, Your Honour.
- 13 Q. Mr witness, listen very attentively, I am
14 reading a portion of your statement to you.
15 "The next day the Kamajors came back. This
16 time they told me that they knew I had hidden
17 soldiers [AFRC] in my house and that as a
18 result they did not trust me. I had gone to
19 take away some of my things. I told them that
20 this was true, but that there was hardly anyone
21 in Sierra Leone who had not had some kind of
22 interaction with the soldier either as a
23 brother, sister, husband, wife, relative or
24 friend. I also told them that I didn't feel
25 that I had done anything wrong. But I did --
26 but they were resolved to looting my home, then
27 I could not stop them." Did you tell the
28 investigators from the office of the OTP that?
- 29 A. No. That's not my statement.

- 1 Q. And you were saying that all that I've read, you did not
2 say any bit of that to them, not even as much as saying
3 that the Kamajors came to your house the next day?
- 4 A. No, Your Worship.
- 5 Q. What is no?
- 6 A. What he said that Kamajors asked me.
- 7 PRESIDING JUDGE:
- 8 Q. Mr Witness.
- 9 A. Yes, Your Worship.
- 10 Q. You have to assist the Court; do you understand?
- 11 A. Yes, Your Worship.
- 12 Q. Do you want counsel to read back to you all those things
13 which he read to you now so that you can follow properly?
14 I know -- I know that from your status you may not
15 understand many things, but do you want him -- I will ask
16 him to read back to you what he has just read and
17 Mr Lansana, go very slowly.
- 18 MR LANSANA: I shall endeavour, Your Honour.
- 19 PRESIDING JUDGE: Let the witness follow.
- 20 MR LANSANA: I shall endeavour, Your Honour.
- 21 JUDGE THOMPSON: With your leave Mr Presiding Judge, I think
22 it is helpful for the Court from my perspective that you
23 put specifically what you are perceiving as at variance
24 with what he has said, rather than the entire thing. It
25 would help the Court.
- 26 MR LANSANA: I shall do so.
- 27 JUDGE THOMPSON: Because I would not know how to evaluate an
28 answer where the entire thing is read and we don't know
29 what you are alleging is at variance with what he has

- 1 testified here. That is for my own edification.
- 2 MR LANSANA: I shall endeavour to do that, Your Honour.
- 3 JUDGE THOMPSON: Right.
- 4 MR LANSANA:
- 5 Q. Mr witness, I will read and I will stop and I will put to
6 you what I have read for your reaction. You said, "The
7 next day..." or it is written here, "The next day the
8 Kamajors went back." Is that correct? Did you say that
9 to the investigators?
- 10 A. Yes, Your worship.
- 11 Q. "This time they told me that they knew I had hidden
12 soldiers [AFRC] in my house."
- 13 A. No, Your worship.
- 14 Q. You did not tell the investigators that the Kamajors said
15 you had hidden the AFRC soldiers in your house?
- 16 A. No, Your worship. No, Your worship.
- 17 JUDGE BOUTET: He may not understand the question.
- 18 MR LANSANA: Yes, precisely. I was going to -- there are many
19 ways of killing a cat. I was going to come again.
- 20 Q. Mr witness, we are not -- I am not saying that
21 you answer as to whether what you told them was
22 true, but that you answer as to whether you
23 told them or not. whether you told the
24 Kamajors or not, not that you kept them in your
25 house. You said you did not.
- 26 PRESIDING JUDGE: Did you -- did the Kamajors ever tell you
27 that you were keeping soldiers of the AFRC in your
28 house? Did they tell you?
- 29 THE WITNESS: No, Your worship.

1 MR LANSANA:
2 Q. Mr witness, I am putting it to you that this
3 morning you have told this Court that it was
4 true that you were accused of harbouring AFRC
5 soldiers in your house and in fact that was
6 when you were answering one of my questions.
7 JUDGE THOMPSON: Candidly I am intrigued. I said candidly I
8 am intrigued. Perhaps we should try did he tell the
9 interrogator that the Kamajors accused him of harbouring
10 AFRC soldiers?
11 MR LANSANA: Your Honour, that was the exact question your
12 brother Mr Justice Boutet -- Mr Justice Itoe asked.
13 JUDGE THOMPSON: The Presiding Judge.
14 MR LANSANA: Yes, the Presiding Judge asked just now.
15 JUDGE THOMPSON: Perhaps we should repeat that because I am
16 intrigued by the state of the evidence of -- I mean, I
17 thought perhaps the impression he might have formed from
18 that statement was that whether he -- well, I had better
19 take that back. Go ahead.
20 MR LANSANA:
21 Q. Mr witness --
22 A. Yes, Your worship.
23 Q. -- when the Kamajors went to your house the second time
24 they accused you; not so?
25 A. Yes, Your worship.
26 PRESIDING JUDGE: That's why, Mr witness, please, I want you
27 to listen to the questions, you know, very well. You
28 appear to be in a very deep meditation. Please, follow
29 the questions very, very well. It should not take us a

1 very, very long time to have, you know, an answer to the
2 questions which are so simple. So they accused you?
3 THE WITNESS: Yes, Your Worship.
4 MR LANSANA:
5 Q. And that accusation concerned AFRC soldiers?
6 A. Asked me whether I was harbouring any soldiers and I told
7 them that I wasn't.
8 Q. Thank you very much.
9 JUDGE THOMPSON: The next step actually is that you have
10 something there that you are alleging is at variance on
11 this issue.
12 MR LANSANA: Yes, Your Honour.
13 JUDGE THOMPSON: So how do you relate his answer to what you
14 are trying to establish? I don't see the nexus yet.
15 MR LANSANA: I will established a nexus in a jiffy.
16 JUDGE THOMPSON: Yes.
17 MR LANSANA: Your Honour, what I have just put to him in my
18 mind was not in contention because he had answered that
19 he was accused.
20 JUDGE THOMPSON: I thought so.
21 MR LANSANA: Yes. My contention was that he in the statement
22 said something that is at variance with what he said.
23 JUDGE THOMPSON: That is precisely what I am saying. I have
24 not seen the nexus yet between that and what you --
25 MR LANSANA: Yes, Your Honour, I will be coming to that.
26 Q. Mr witness, after this accusation it is written
27 here, "I told them that this was..."
28 PRESIDING JUDGE: Slowly, please. Slowly, slowly.
29 MR LANSANA: Yes, Your Honour.

1 PRESIDING JUDGE: "I told them."
2 MR LANSANA: "That."
3 PRESIDING JUDGE: Count the words, please.
4 MR LANSANA: As Your Honour pleases.
5 Q. You told them and I read: "I told them that this was
6 true?"
7 A. No.
8 JUDGE THOMPSON: Mr Lansana, "them" here meaning?
9 MR LANSANA: The Kamajors who had accused.
10 JUDGE THOMPSON: Yes, right.
11 MR LANSANA:
12 Q. So, Mr witness, you are telling this court that you did
13 not tell the investigators that you admitted the
14 accusation?
15 A. At all.
16 MR LANSANA: Your Honours, I will tender that portion as
17 Exhibit 70.
18 PRESIDING JUDGE: Just a portion?
19 MR LANSANA: Yes.
20 PRESIDING JUDGE: You will highlight that.
21 MR LANSANA: Yes, Your Honour, I will just highlight it.
22 PRESIDING JUDGE: You will highlight it?
23 MR LANSANA: Yes, Your Honour.
24 PRESIDING JUDGE: You will highlight that portion of Exhibit
25 69?
26 MR LANSANA: Yes, Your Honour.
27 JUDGE BOUTET: Because the confusion that existed in the
28 numbering of exhibits, I am informed by Court Management,
29 is due to the fact that yesterday when Mr Hall tendered a

1 page of that page 3 of the statement he tendered was
2 marked as Exhibit 67. But then the whole statement was
3 tendered and it was 68. So we don't want to get into the
4 same confusion again because we are still talking in your
5 case now of Exhibit 69 but a different paragraph.
6 MR LANSANA: Yes, Your Honour.
7 JUDGE BOUTET: So we are still with 69, but this paragraph at
8 page 11655?
9 MR LANSANA: Yes, Your Honour. The second paragraph.
10 JUDGE BOUTET: The second paragraph, yes.
11 MR LANSANA: Yes, Your Honour.
12 Q. Mr witness, whilst you were at Tongo, did you
13 have any interaction with the AFRC?
14 A. No.
15 PRESIDING JUDGE: Again, did he say interaction? He might
16 interpret interaction to be a collaborator. You see,
17 these are some of the nuances --
18 MR LANSANA: Yes, Your Honour, I do appreciate that.
19 PRESIDING JUDGE: -- which call for certain answers to
20 questions, you know, by witnesses of this nature. This
21 is it.
22 MR LANSANA: Yes, Your Honour. We seem to place a lot of
23 trust on the interpreters.
24 JUDGE THOMPSON: Yes. Simplification will help.
25 MR LANSANA: I shall endeavour. I shall endeavour. If I say
26 anything to do with, if that is interpreted in Krio it
27 may be worse. That's the problem; it is a linguistic
28 problem.
29 PRESIDING JUDGE: He said he did not -- he did not interact.

- 1 MR LANSANA: Yes, Your Honour.
- 2 Q. Mr witness, I am putting it to you that you
3 did.
- 4 A. which type of business do you mean, because I have told
5 you that I was a businessman and that I bought things and
6 sold and I buy rice and sold and sell and a lot of other
7 things?
- 8 PRESIDING JUDGE: It depends on what you are translated to
9 mean.
- 10 MR LANSANA: [Microphone not activated]
- 11 PRESIDING JUDGE: We are following the translation from him
12 what he is saying --
- 13 MR LANSANA: It comes across as if they told him he had
14 business with the AFRC.
- 15 PRESIDING JUDGE: Precisely, this is what -- can you take the
16 question again. Can the cabin please follow carefully
17 and faithfully translate the question which counsel is
18 putting to the witness? Mr Lansana, please take the
19 question again.
- 20 MR LANSANA: I will come again.
- 21 PRESIDING JUDGE: You put it to him, isn't it?
- 22 MR LANSANA: Yes.
- 23 Q. I am putting it to you that when you were in Tongo you
24 had something to do with the AFRC and they had something
25 to do with you. Not business like trading, but you had
26 cause to meet and arrange things and do things together.
- 27 A. No, Your worship.
- 28 Q. Now, Mr witness --
- 29 PRESIDING JUDGE: Please wait, Mr Lansana.

- 1 MR LANSANA: Yes, Your Honour, I apologise.
- 2 PRESIDING JUDGE: No, it is okay. I know you are hurrying for
3 your weekend. It is an acceptable pace.
- 4 MR LANSANA: Your Honour, I dare say a well deserved one.
- 5 PRESIDING JUDGE: Yes, I think so. would it be right to say
6 that I deny your suggestion that I had interactions --
- 7 MR LANSANA: Yes.
- 8 PRESIDING JUDGE: -- With --
- 9 MR LANSANA: Yes. For our purposes we can use interaction for
10 this, Your Honour.
- 11 Q. Mr witness, let Mr Lansana put this question to
12 you: were you happy when the kamajors routed
13 the AFRC out of Tongo?
- 14 A. well I was not happy for both sides. The AFRC and the
15 kamajors are -- I was not happy for both of them.
- 16 PRESIDING JUDGE: Happy with both of them.
- 17 MR LANSANA:
- 18 Q. May I ask you why you were not happy first with the AFRC?
- 19 A. Because I am a civilian, so if a soldier is amongst us, I
20 would not be happy.
- 21 Q. Is that the only reason why you didn't like the AFRC
22 because they were soldiers?
- 23 A. whosoever had a gun, I would not be happy with him.
- 24 Q. were there any bad things that the AFRC were doing that
25 you didn't like?
- 26 A. well, I don't know. I don't know whether they have been
27 doing bad or not. I don't know.
- 28 Q. Mr witness, for how long were the AFRC in Tongo?
- 29 A. I don't know. I cannot remember the time.

- 1 Q. Were you in Tongo when the government of President Tejan
2 Kabbah was overthrown? You were there?
- 3 A. I was there. Yes, Your worship.
- 4 Q. Were you there when the AFRC first entered Tongo?
- 5 A. Soldiers were in Tongo.
- 6 Q. I am talking about AFRC, not soldiers.
- 7 A. Well, I don't know.
- 8 Q. And you were in Tongo?
- 9 A. I don't know, because I don't know the difference between
10 them. I just saw soldiers. I did not know whether this
11 one is AFRC.
- 12 Q. Do you know about Cyborg?
- 13 A. No.
- 14 Q. You were a miner, Mr witness. Please assist this Court.
- 15 A. That is what I am trying to do.
- 16 Q. There was a mining arrangement between the AFRC and
17 miners or male -- adult males in Tongo where they forced
18 adult males in Tongo to mine for them. You were in
19 Tongo; did you hear about that?
- 20 A. I don't say that.
- 21 Q. Now, in your testimony in this Court yesterday you said
22 that when Mr Foday, I think it's MO Foday, was leading
23 Kamajors towards the house of Mr Ojuku, Mr Ojuku greeted
24 Mr Foday; not so?
- 25 PRESIDING JUDGE: Distinguish them, please.
- 26 MR LANSANA: This is M O.
- 27 PRESIDING JUDGE: M C?
- 28 MR LANSANA: M O Foday.
- 29 PRESIDING JUDGE: M O Foday or M C?

- 1 MR LANSANA: M O Foday.
- 2 PRESIDING JUDGE: Anyway one is CO and one is M C or whatever.
- 3 MR LANSANA: He can clarify that.
- 4 Q. Was it MO Foday; not so?
- 5 A. Yes, Your worship.
- 6 Q. MO. Mr Ojuku greeted him in Mende [Mende words spoken]
- 7 A. Yes, Your worship.
- 8 Q. We take it that they knew each other, Mr Ojuku and Mr MO
- 9 Foday, before that day?
- 10 A. Well, I don't know.
- 11 Q. And you told this Court that Mr Ojuku was a neighbour;
- 12 not so?
- 13 A. Yes, Your worship.
- 14 Q. Whilst you were at your house at Nyandeyama where
- 15 Mr Ojuku used to be your neighbour, did you see any
- 16 visits -- did you see Mr Foday, MO Foday, coming to visit
- 17 Mr Ojuku, or did you at any time see them together prior
- 18 to that?
- 19 A. No, Your worship.
- 20 Q. I am putting it to you that Mr MO Foday did not like
- 21 Mr Ojuku and you know it. I put it to you.
- 22 A. I don't say that.
- 23 Q. I further put it to you that he led Kamajors to kill
- 24 Mr Ojuku because of a personal feud, because of that
- 25 feud?
- 26 A. Well I don't know.
- 27 Q. (Inaudible) evidence.
- 28 JUDGE BOUTET: Thank you. Any re-examination?
- 29 MR TAVENER: Not as such, Your Honour. But for the sake of

1 completeness, if I could refer to exhibit 69, which if I
2 have my numbering correct is the statement of the 7th of
3 April 2002.

4 JUDGE BOUTET: This is indeed 69.

5 MR TAVENER: Thank you. It is page 11653 for the purposes of
6 considering whether or not there has been a prior
7 inconsistent statement I would draw Your Honours'
8 attention, and I've highlighted on the statement, if
9 that's the procedure, under the heading "Statement of
10 facts", there is paragraph commencing, "I was in Tongo in
11 1998 and the Kamajors attacked the town." If that
12 paragraph could be highlighted, for the purposes of
13 Your Honours' later consideration.

14 JUDGE BOUTET: You mean that whole paragraph.

15 MR TAVENER: The whole paragraph.

16 JUDGE BOUTET: Starting with "I was in Tongo," ending with "be
17 targeted next."

18 MR TAVENER: Yes, please.

19 That is the only matter that needs to be raised at
20 this time. If the witness could be excused.

21 MR WILLIAMS: Your Honour, we are at a loss to understand the
22 procedure Mr Tavener is adopting, My Lord. Without
23 asking a single question of the witness, he is seeking to
24 put -- I mean, to put in portions of a statement. I
25 mean, he should be re-examining. What he is seeking to
26 do is to tender something as an exhibit.

27 JUDGE BOUTET: It is an exhibit now. I mean, it is exhibit
28 69.

29 MR WILLIAMS: Your Honour, the portion. It's not the entire.

1 JUDGE BOUTET: The entire statement is in but there are
2 portions that you have -- not you, but Mr Lansana or
3 Mr Bockarie have highlighted to say, this portion
4 paragraph three or four, whatever it is, be put to the
5 witness and then ask the question, did you say this or
6 not? And the witness would say yes or no or not so, and
7 these are the portions that the Court was asked to
8 consider for the purpose of establishing a difference or
9 inconsistency between what the witness has said and the
10 questions that were asked. That is what it is. I agree
11 with you it is not a total statement that has been put in
12 for inconsistency, but specific parts of that statement.

13 JUDGE THOMPSON: Let me ask, Mr Tavener. What are you -- you
14 are seeking to put in those portions for the purpose of
15 some comparative examination?

16 MR TAVENER: That`s correct.

17 JUDGE THOMPSON: Precisely.

18 PRESIDING JUDGE: I know for (inaudible) go, you know.

19 JUDGE THOMPSON: Precisely that what he`s submitting.

20 PRESIDING JUDGE: You expressed some concern over certain
21 portions.

22 JUDGE THOMPSON: And this is what you want to do.

23 MR TAVENER: That's correct.

24 JUDGE THOMPSON: You are asking us, when we come to do the
25 evaluation, not to look only at the portions highlighted
26 by the cross-examiners but also the portions that you
27 are, in fact, indicating now.

28 MR TAVENER: That's right, from an exhibit --

29 JUDGE THOMPSON: To get a picture as to whether there is or

1 alleged or perceived inconsistency.

2 MR TAVENER: Exactly, Your Honour. That's all I'm doing.

3 That's why the witness doesn't --

4 JUDGE BOUTET: In all of this, all the same lines of these

5 statements are introduced and have been admitted as

6 exhibits for a very limited purpose, to try to establish

7 that the witness would have said at some given time

8 something that is not necessarily the same as he's saying

9 today. So that's the whole picture. That's what you

10 were alleging at that particular moment.

11 MR BOCKARIE: Yes, Your Honour, you see, the issues

12 highlighted during my cross-examination are quite

13 distinct from what he has just highlighted in paragraph 1

14 of the statement of the 7th of April.

15 PRESIDING JUDGE: That is true. That is true.

16 JUDGE BOUTET: That is true.

17 PRESIDING JUDGE: That is true, yes. And I thought that

18 Mr Tavener would come and -- because those issues which I

19 thought you would revisit in re-examination and that's

20 why we agreed here, you know, that from Mr Bockarie's

21 cross-examination there was some hesitation about even

22 raising issues on the statement, which was eventually

23 marked under -- one would have expected -- I don't know

24 whether you are satisfied with the state of the evidence

25 as it is now.

26 MR TAVENER: The state of the evidence --

27 PRESIDING JUDGE: Because I was expecting -- we are talking of

28 revisiting in re-examination. I don't know whether you

29 were.

1 MR TAVENER: It is question of procedure, Your Honour. What I
2 was asking is at what time does the Prosecution put the
3 entire statements made by this witness into evidence.
4 Mr Bockarie raised a question of how many corpses were
5 seen at a particular spot, the number of witnesses,
6 whether it was ten or 100. In this particular paragraph
7 there is reference to that issue about the number of
8 corpses, where corpses were seen, and the like.

9 So all that is it is putting to the Court that
10 portion of a statement which is already in evidence,
11 simply saying that Your Honours consider the matter, that
12 you can look at that paragraph. I might be right or
13 wrong as to whether or not there is a prior inconsistent
14 statement; we would say not. But I am simply saying that
15 because there is an exhibit in evidence, all that's
16 required is that I ask that Your Honours look at that as
17 part of the process. There is nothing -- the witness
18 made two other out-of-court statements. I'm merely
19 highlighted an issue we say addresses the matter raised
20 by Mr Bockarie. There is no need to take it any further.

21 JUDGE BOUTET: I agree with you.

22 JUDGE THOMPSON: But would you also think that a possible
23 option open to you would be to put the questions to the
24 witness, as since these questions have arisen under
25 cross-examination and as the Prosecution is entitled, is
26 entitled to a response, I am satisfied in my mind and you
27 would not be leading, as far as I understand the law, you
28 would be seeking to clarify what you thought has been an
29 alleged ambiguity here.

1 MR TAVENER: The reason --
2 JUDGE THOMPSON: Is that a possible option too?
3 PRESIDING JUDGE: Let me add that in this possible option, the
4 clarification should not come from you; it should come
5 from the witness.
6 MR TAVENER: It is not coming from me, Your Honour, it is
7 coming from a witness.
8 PRESIDING JUDGE: No, no, no. Let`s get -- the rules of
9 re-examination are very clear and you see what -- let me
10 say this, what we thought you are going to do was to
11 revisit the inconsistencies that were highlighted by
12 Mr Bockarie in his cross-examination, and possibly
13 others that may have been raised in Mr Lansana's
14 cross-examination, by putting specific questions. But if
15 you think you are satisfied, well, I won't like to press
16 the matter further.
17 MR TAVENER: All I`m doing is is putting --
18 PRESIDING JUDGE: Traditionally, it should be that way.
19 MR TAVENER: Traditionally, the question arises of what was
20 said by the witness in an out-of-court statement. He has
21 made two statements, I am simply highlighting that
22 portion of a statement he has already made which is in
23 evidence. So because it is in evidence, I don't have to
24 put him, is this your statement and so on. Because it`s
25 already tendered. All I`m saying is one aspect, one part
26 of that witness' statement about a particular issue has
27 been put by Mr Bockarie. For the sake of completeness, I
28 am putting the other part. That`s what I am doing.
29 JUDGE THOMPSON: Excellent, Mr Tavener. But could it also be

1 that you could say to this witness, the cross-examination
2 -- under cross-examination, it was put to you that you
3 told the investigators X, Y, Z, highlighted. Then in
4 this very document, which is already in evidence, could
5 you say did you also tell the investigators A, B, C, D.
6 And then the tribunal would be in a proper position,
7 properly seized of the two sets of portions for a
8 comparative examination, so as to be able to make up its
9 mind whether there is or there is not this so called
10 alleged inconsistency.

11 MR TAVENER: In this particular instance --

12 JUDGE THOMPSON: Is there any difficulty there?

13 PRESIDING JUDGE: Mr Tavener, I am sorry we have to come back
14 to this. What is in the statement is different. His
15 oral testimony is different. The evidence, what you
16 appear to be relying on in that statement and which you
17 want to highlight may not have been highlighted during
18 his oral testimony.

19 MR TAVENER: Your Honour.

20 PRESIDING JUDGE: Either under cross examination, or better
21 still, as we were expecting, during your re-examination
22 of this witness.

23 MR TAVENER: Your Honour, this witness gave evidence in chief
24 in which he spoke about what he saw, about a particular
25 topic; where bodies were seen, the number of bodies, for
26 instance. He has been cross-examined on that point as
27 the Defence are entitled to do. They raised what they
28 considered to be a prior inconsistent statement from that
29 out-of-court statement. I'm saying that within the

1 exhibit already tendered there is material which the
2 Prosecution doesn't dispute. That`s the contents of it.
3 So we are not quite in a position of the Defence. We are
4 not disputing this is the statement of the witness out of
5 court. So it`s simply a matter of Mr Bockarie's
6 highlighted part of that person's statement, out-of-court
7 statement, the Prosecution is highlighting the other
8 portions of that statement. There`s nothing further to
9 be taken from this witness. He has already testified in
10 chief about the matter. It`s not the case I need to take
11 it any further. If I did, if I thought that, I would.
12 In the Prosecution's submission, Your Honours now have
13 this statement, you can read it, you can assess it.

14 JUDGE THOMPSON: My difficulty with that is that you remember
15 that the whole purpose of admitting these documents is a
16 limited purpose.

17 MR TAVENER: Yes.

18 JUDGE THOMPSON: And are you suggesting that through the
19 mechanism that you are putting forward, we can
20 legitimately and validly look at the portions that you
21 are highlighting, if we don't have something from the
22 witness. Because my view is clearly that the defence
23 would have no leg to stand on to object to you actually
24 calling our attention, through the witness, that he also
25 said some other thing. That is the difficulty. It may
26 well be a question of difference of approaches. But I
27 will just leave it at that since I have expressed my own
28 thoughts on it.

29 MR TAVENER: I understand what Your Honour is saying.

1 JUDGE BOUTET: Mr Tavener, I do agree with you, but for the
2 sake of clarity it may be it would be good for you to
3 follow what has been suggested to you, so it would avoid
4 unnecessary debate on that matter.
5 MR TAVENER: I accept that.
6 PRESIDING JUDGE: But the point is this, Mr Tavener, it is
7 your case if you want to do it that way, we are here to
8 remain the are arbiters that we are.
9 MR TAVENER: Strange as it seems, Your Honour, I adopted this
10 process in order to speed it up. That may not have
11 worked. The reason I am simply relying on this document
12 which is his statement is: It`s already an exhibit, so
13 in my few there is no need to take it any further.
14 Because it`s part of the exhibit, we are simply
15 highlighting other sections.
16 PRESIDING JUDGE: Are you saying that there is no further --
17 no re-examination for this witness. Let's end the matter
18 because we have to -- there is no re-examination.
19 MR TAVENER: I will simply highlight on that exhibit that
20 paragraph.
21 JUDGE BOUTET: Thank you.
22 PRESIDING JUDGE: The Prosecution will highlight what?
23 Please, I want to know what you are highlighting.
24 MR TAVENER: On page 11653m that`s exhibit --
25 JUDGE BOUTET: Sixty-nine.
26 MR TAVENER: Sixty-nine, thank you.
27 PRESIDING JUDGE: And at page.
28 MR TAVENER: 11653. Exhibit 69. The paragraph that is
29 directly under the heading, "Statement of facts". It

1 commences with the words, "I was in Tongo in 1998 when
2 the Kamajors attacked the town." It finishes with the
3 sentence, "we were all afraid and there was general
4 panic."

5 PRESIDING JUDGE: The paragraph that begins with?

6 MR TAVENER: "I was in Tongo in 1998 when the Kamajors
7 attacked the town." It concludes with the words, "No one
8 was sure who would be targeted next."

9 PRESIDING JUDGE: "No one is sure who will be targeted next".

10 MR TAVENER: That is correct. Just that one paragraph.

11 PRESIDING JUDGE: Thank you.

12 MR TAVENER: Thank you.

13 PRESIDING JUDGE: Mr Witness, we have finished with you and we
14 are releasing you to go back to your place of abode. We
15 want to, before you leave, thank you very much for coming
16 to give your testimony before this Court, to assist the
17 tribunal to fulfil its mission. We thank you very much
18 for coming. Although we are releasing you, necessity may
19 arise for us to call you back here and if it does, we
20 will get in touch with you through the regular -- through
21 the normal channels. And we hope as we will be that you
22 will be pleased to -- and willing to come and assist us
23 with further testimony. I am not saying that is the case
24 now but it could well arise. So having said this, we
25 wish you the very best, and a safe journey to your place
26 and once more, thank you for coming.

27 THE WITNESS: Thank you, sir.

28 PRESIDING JUDGE: I think the Court will rise for the witness
29 to recess before we resume in the next couple of minutes.

1 [Break taken at 11.40 p.m.]

2 [Resuming at 11.52 a.m.]

3 PRESIDING JUDGE: We are assuming the session. Are there any
4 issues of concern?

5 JUDGE BOUTET: Mr Tavener, you are up.

6 MR TAVENER: Yes, Your Honour. Because of the rate at which
7 we are progressing through witnesses, next week it is
8 anticipated we will move onto the Moyamba crime base.
9 The Moyamba crime base is significant in that it brings
10 up the issue of the indictment, the consolidated
11 indictment, and this impacts directly on the first
12 accused. As Your Honour will be aware that's subject to
13 an appeal and so forth. The Moyamba crime base, as I
14 understand it, is a crime base that was not included in
15 the initial indictment, but is now in the consolidated
16 indictment, and that is part of the appeal by Mr Norman.
17 That being so, the Prosecution was concerned that whether
18 or not the first accused would be engaged in
19 cross-examining people concerning the Moyamba crime base,
20 because obviously what we want to avoid is having to come
21 back again, or not go through those witnesses. But I
22 have spoken to Mr Hall and we have a resolution we hope
23 that is acceptable to the Court in terms of the way in
24 which those people, those witnesses testifying to the
25 Moyamba crime base can be approached by the first
26 accused. Perhaps Mr Hall might outline his position.

27 MR HALL: Your Honours, it seems to me, of course, that the
28 Prosecution has the right to present the witnesses in the
29 order in which they choose but since our part of that is

1 in dispute, what we propose is that the second and third
2 accused cross-examine first. These are -- and I don't
3 know the exact order of the witnesses now but on the list
4 Mr Tavener gave me, I noted it was 57 through 66 on the
5 chart.

6 The second accused go first, third accused go second
7 and then we go third, if we choose to cross examine at
8 all. And we wish to note that our cross-examination is
9 not an agreement that we are agreeing that these
10 witnesses can be used against us, but to protect our
11 position should they say anything about us. And then we
12 may not have any questions at that point, but we prefer
13 to go third rather than first, just on that --

14 [HN250205C - JM - 11.51 a.m.]

15 JUDGE BOUTET: But let's assume that some of that evidence is
16 directed to the first accused, and directed to the first
17 accused in relation to those areas that are at this
18 particular moment in dispute in some way, as such. And
19 let's say at the end of the day, the amendment or
20 whatever it is in dispute is decided that there shall be
21 no amendments and the consolidated indictment, as far as
22 the first accused is concerned, stays along the lines
23 that we have ruled about.

24 So I'm concerned that we may move in a very soft
25 scenario now where there might be evidence that is no
26 more relevant to the first accused because of that. It
27 may be, I mean, we are in a scenario where we don't know
28 the answer; it's pending in the Court of Appeal. And I
29 know there's a motion pending for amendment as well,

1 so --

2 MR TAVENER: Perhaps if I answer Your Honour's question there,
3 if, for example, Chief Norman, or the first accused, is
4 successful, and the Moyamba crime base is not part of the
5 case against him, then any evidence that comes out in
6 respect of the Moyamba crime base would not be -- could
7 not be used against him. But in order to enable the
8 trial to proceed, the first accused has agreed to engage
9 in the trial. Otherwise, the trial would literally stop
10 because we would have some --

11 JUDGE THOMPSON: This would seem consistent with the fact that
12 interlocutory appeals do not automatically operate as a
13 stay of proceedings.

14 MR TAVENER: That's what we're trying to avoid.

15 JUDGE THOMPSON: Quite right. In other words, even though we
16 realise the complexities and intricacies involved in the
17 pending interlocutory appeals, yet since we have not
18 granted a stay of proceedings, then it seems as if some
19 kind of compromise should be worked out where we give
20 effect to the functioning of the process. So that's what
21 you're trying to do.

22 MR TAVENER: That's what we're hoping to do, yes.

23 JUDGE BOUTET: But for better clarity, certainly when we get
24 into the scenario, I would certainly appreciate something
25 on your part, Mr Hall, that you underline these issues.
26 So when we get -- in a few months` time when we get to
27 review and assess the evidence as such, what is and what
28 is now may be of some importance, vis-a-vis the first
29 accused we're talking, it doesn't apply to the second and

1 third accused obviously.

2 MR HALL: And it's also possible that we may not even get the
3 answer on these questions until we're into the Defence
4 case because we don't know when the appeal will be
5 decided. So --

6 JUDGE BOUTET: I am in the same position that you are in.

7 MR HALL: So we can't stand mute because -- in case we lose
8 the appeal, then we need to cross-examine. But our
9 brothers that are here defending the second and third
10 accused are doing just fine. I would prefer for them to
11 go first then we see where we stand, and we may not have
12 any questions.

13 JUDGE BOUTET: And certainly, Mr Tavener, you yourself have
14 certainly no opposition to that at all.

15 MR TAVENER: No, no, that's part of the resolution to enable
16 us to proceed forward.

17 PRESIDING JUDGE: You see, I'm a bit -- I'm a bit intrigued,
18 you know, by the impact that a possible continuation, you
19 know, might have on the process itself, given that the
20 Appeals Chamber is supposed to sit on and give a decision
21 on matters which are contentious which have been
22 contested by both parties, both the Prosecution and the
23 Defence. This is my worry.

24 I wanted to ask Mr Tavener, don't you have other
25 witnesses who -- don't you have other witnesses who do
26 not -- who will testify without these concerns that I'm
27 expressing, that are having these concerns.

28 MR TAVENER: We have the gender witnesses, Your Honour, which
29 are also subject to some discussion as well. But in

1 terms of a set of witnesses available to the Court to go
2 ahead, the Moyamba is next. And it only impacts on one
3 accused.

4 PRESIDING JUDGE: That's my own concern. Only one accused,
5 well, no, that is important. Even if, I mean,
6 he's -- well, he's a principal accused person. I don't
7 want us to run into problems with whether we are
8 procedurally proceeding neatly or so. I would have
9 preferred, you know, that -- we've worked well so far,
10 you know, with evidence that does not impact on what the
11 subject matter of the appeal, you know, is. If we could
12 find a way, you know, maybe it might be better for us to
13 move that way.

14 MR TAVENER: As far as I'm aware, the Prosecution won't be in
15 a position to do anything but go ahead with the Moyamba
16 witnesses. Because amongst other matters --

17 PRESIDING JUDGE: The Prosecution will --

18 MR TAVENER: We need to go ahead with the Moyamba witnesses.
19 They are ready to go. They are part of the process we've
20 undertaken --

21 PRESIDING JUDGE: Do you have other witnesses who you can go
22 ahead with? Do you have any? I'm just asking because we
23 are not arriving at a decision on this matter now, what
24 you're raising. There are concerns.

25 MR TAVENER: Off the top of my head, I would have to say if we
26 didn't go to the Moyamba witnesses, it would cause a
27 delay in the trial because it's a process that -- it's a
28 timing process of bringing people in and so forth. So
29 the Moyamba people are next. That's why we've considered

1 for some time how to address the Moyamba issue, bearing
2 in mind we have no firm date as to when the appeal
3 decision will arrive, what will be available. And the
4 solution we've arrived at will be that we'll enable the
5 trial to go ahead, and -- as I say, the Prosecution
6 accepts any evidence relating to Moyamba, depending on
7 the result of the appeal, will be isolated as far as the
8 first accused goes, and that may or may not be admissibly
9 against him. As Mr Hall said, we may not know that until
10 the Defence case, so the delay won't help us. It may not
11 help us. We don't know whether, if we went to other
12 witnesses, we'd have to -- more than likely we would have
13 to stop because we would then have to change the whole
14 timing of witnesses coming in, speaking to them and so
15 forth. So the short answer to Your Honour's question as
16 I understand the matter, we would have a great deal of
17 difficulty skipping the Moyamba crime base. The solution
18 is one that we would submit is appropriate in the
19 circumstances. And we will ensure that any evidence
20 related to the first accused in respect of Moyamba is
21 identified so that, should it have to be taken out at
22 some other time or not be admissible against him, that
23 can be done. So no harm or prejudice will be done to the
24 first accused should he be successful in his appeal.
25 It's unfortunately a matter of pragmatics and to ensure
26 that the Court proceed and the trial proceeds.

27 MR HALL: Mr Tavener --

28 PRESIDING JUDGE: We really want to proceed.

29 MR TAVENER: Yes.

1 PRESIDING JUDGE: So I think in proceeding, we should proceed
2 neatly. That's what we are looking out for.

3 MR HALL: They first brought this to our attention more than a
4 week ago, and I talked to Mr Tavener and Mr Johnson both.
5 And from our perspective, we're thoroughly confident that
6 the Court can make these divisions, and we can explain
7 this in final address if need be, that however the appeal
8 is decided, that we join with the Prosecutor, and we want
9 this to go forward as expeditiously as possible, not take
10 a day off at all if we can avoid it, in order to move
11 this process along. Because we need to end this trial,
12 and if it ends up in a week-long continuance in the
13 middle of the trial while they gather other witnesses
14 from so far away, it doesn't serve anybody. So we are in
15 agreement with them that they can go forward with those
16 witnesses. We will argue to the Court how the proof
17 needs to be segregated if need be, at the close of the
18 case, depending on the appeal, and that way we can be as
19 expeditious as possible. And we think that the
20 cross-examination method will also help expedite those
21 days. Because it is ten witnesses.

22 JUDGE BOUTET: So subject to this arrangement as suggested -
23 pardon me - I hear you to say not only you have no
24 opposition to it, but you fully and completely support
25 the approach taken because this is a position of the
26 first accused that it should not be used as a delay in
27 the process, and you want to proceed as expeditiously as
28 possible if feasible.

29 MR HALL: It's true. It could result in a delay and any delay

1 at all is unacceptable. We want this over. For what
2 it's worth, Your Honours, in two weeks, my client will
3 have been in custody for two years. And he wants this
4 over as quick as possible, too.

5 JUDGE BOUTET: At least for my part, I thank you for your
6 positive approach to this issue. We'll think about it,
7 and we'll give you a decision shortly.

8 MR TAVENER: Thank you.

9 PRESIDING JUDGE: Is there any other matter? Is there any
10 other matter in -- we'll put this on advisement and
11 address it on Monday. But we hope that some -- a witness
12 or two would be ready, depending on which way it goes.

13 Is there any other issue that was to be raised?

14 MR TAVENER: No, thank you, not from our part.

15 PRESIDING JUDGE: The Defence teams?

16 MR HALL: Nothing from us, Your Honour.

17 PRESIDING JUDGE: Mr Bockarie?

18 MR BOCKARIE: None, Your Honour.

19 PRESIDING JUDGE: Mr Williams, Mr Lansana?

20 MR LANSANA: None, Your Honours.

21 PRESIDING JUDGE: Okay.

22 Learned counsel, as you can see, it's quite a tricky
23 situation, and we would like to spend this afternoon to
24 examine the issues involved in proceeding the way -- the
25 agreement, you know, between the Defence and the
26 prosecution as it has been presented to us. So the
27 Tribunal will not sit this afternoon. We would adjourn
28 to Monday, the 27th. I think the 27th?

29 THE INTERPRETER: 28th.

1 PRESIDING JUDGE: 28th. Today's the 25th. Today's the 25th.
2 JUDGE THOMPSON: The 1st of March.
3 PRESIDING JUDGE: Pardon me? Tuesday. It is the 28th, isn't
4 it?
5 MR HALL: And I appreciate the Court giving us an expeditious
6 ruling on that because Mr Yillah and Dr Jabbi will be
7 responsible for that because I am leaving on Monday.
8 PRESIDING JUDGE: I hope you have fully consulted them on
9 this.
10 MR HALL: I have.
11 PRESIDING JUDGE: You may wish to further discuss that because
12 you never know which way we may go.
13 MR HALL: Mr Yillah and I are spending the weekend together --
14 PRESIDING JUDGE: You'll spend the weekend together?
15 MR HALL: Yes.
16 PRESIDING JUDGE: Good, that`s fine.
17 JUDGE BOUTET: You'll be in Court on Monday?
18 MR HALL: Yes, I am, until I have to leave.
19 JUDGE BOUTET: In the morning, then?
20 PRESIDING JUDGE: So today's the 25th? Today's the 25th,
21 Friday. Tomorrow the 26th. Sunday is the 27th. Yes,
22 Monday is the 28th. Monday's the 28th, isn't it?
23 MR TAVENER: I have a calendar, Your Honour, Monday is the
24 28th, and the 1st is --
25 PRESIDING JUDGE: I brought a calendar here to be referring to
26 dates, but I took it on the back on the understanding
27 that I had never used it since I brought it here. So
28 we'll rise and resume our session on Monday, the 28th at
29 9.30. The Court will rise, please.

1 [whereupon the hearing adjourned at 12.08 p.m., to be
2 reconvened on Monday, the 28th day of February, 2005, at
3 9.30 a.m.]
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EXHIBITS:

Exhibit No. 69 15

WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-144 2

CROSS-EXAMINED BY MR BOCKARIE 2

CROSS-EXAMINED BY MR LANSANA 16