

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

MONDAY, 15 MARCH 2005
9.42 a.m.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Mohamed Bangura
Mr Kevin Tavener
Mr Mohamed Stevens

For the Principal Defender:

Mr Ibrahim Yillah
Mr Kingsley Belle

For the Accused Sam Hinga Norman:

Dr Bu-Buakei Jabbi

For the Accused Moinina Fofana:

Mr Arrow Bockarie
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana
Mr Martin Michael
Ms Susan Wright

1 [Monday, 14 March 2005]
2 [The accused Kondewa and Fofana present]
3 [Open session]
4 [Upon commencing at 9.42 a.m.]
09:21:28 5 WITNESS: TF2-014 [Continued]
6 PRESIDING JUDGE: Learned counsel, good morning. Mr
7 Witness, good morning.
8 THE WITNESS: Good morning, sir.
9 PRESIDING JUDGE: We are resuming the session.
09:44:20 10 JUDGE BOUTET: Mr Yillah, you are ready?
11 PRESIDING JUDGE: I would like to reiterate what I said
12 last week. That is, we must wrap up with this witness by
13 tomorrow. If we can do it by tomorrow morning, that will be
14 fine. It will assist the bench a lot to do a number of things
09:44:40 15 before we announce the Easter break. Mr Yillah.
16 MR YILLAH: As My Lord pleases.
17 JUDGE BOUTET: So, you are moving into a different area.
18 MR YILLAH: Yes, we are heading to the War Council.
19 JUDGE BOUTET: So you are ready to proceed now?
09:45:03 20 MR YILLAH: We are.
21 PRESIDING JUDGE: And you said you would spend some 45
22 minutes on the War Council.
23 MR YILLAH: No, I said I should be done by quarter to 11.
24 PRESIDING JUDGE: Proceed, Mr Yillah.
09:45:16 25 MR YILLAH: As My Lord pleases.
26 CROSS-EXAMINED BY MR YILLAH: [Continued]
27 Q. Mr Witness --
28 A. Yes, My Lord.
29 Q. Do you know when the War Council was formed?

1 A. Yes, My Lord, but I would not be able to say the date and
2 the month.

3 Q. Can you assist us with the month and year?

4 A. I would not be able to know the month.

09:45:45 5 THE INTERPRETER: My Lords, would the witness speak a
6 little bit louder.

7 JUDGE BOUTET: Mr Witness, can you bring your mic closer to
8 you?

9 THE WITNESS: Towards the end of 1997.

09:46:04 10 MR YILLAH: Sorry, My Lord, I am having some difficulty.

11 PRESIDING JUDGE: Are you right?

12 MR YILLAH: Yes.

13 Q. Mr Witness --

14 A. Yes, My Lord.

09:46:31 15 Q. Would I be right to say that the War Council was
16 responsible for formulating strategies for prosecuting the war?

17 A. No, My Lord, the War Council recommended.

18 PRESIDING JUDGE: He said "formulate" -- to formulate.

19 When you say they recommend, they must recommend something. When
09:47:07 20 you say the War Council recommended, it means that they
21 recommended something. The word is formulate -- to formulate; to
22 give suggestions; to give ideas as to how the war was to be
23 executed. Mr Yillah, is that correct?

24 Q. Very well, My Lord.

09:47:35 25 A. Well, this question, I would like to give some explanation.
26 War Council alone did not formulate something. Because Chief
27 Hinga Norman was also a member of the War Council.

28 PRESIDING JUDGE: Wait, wait.

29 THE WITNESS: Moinina Fofana was a member of the War

1 Council and Dr Allieu Kondewa. So anything that happened which
2 was within the War Council, they all decide together and whatever
3 they said was final.

4 PRESIDING JUDGE: That is going into details.

09:49:03 5 JUDGE THOMPSON: I would like to say that your question
6 related to the functions of the War Council as distinct from the
7 membership. I think it needs to be clearly stated or simplified
8 for the purpose of the answer you are trying to elicit, and the
9 witness should appreciate that the distinction is between
09:49:24 10 functions and membership at this stage.

11 MR YILLAH: As My Lord pleases. Taking the cue, should I
12 put the question again?

13 PRESIDING JUDGE: Yes.

14 MR YILLAH: As My Lord pleases.

09:49:41 15 Q. Mr Witness --

16 A. Yes, My Lord.

17 Q. Would I be correct to say it was the function of the War
18 Council to make strategies or recommend strategies for
19 prosecuting the war?

09:49:53 20 A. Yes, My Lord.

21 Q. Mr Witness --

22 A. Yes, My Lord.

23 Q. Would I be correct to state that the War Council was the
24 highest decision-making body in the CDF?

09:50:50 25 A. Yes, My Lord, but explanation.

26 PRESIDING JUDGE: Yes, but you will explain it. Just give
27 direct answers to questions put to you.

28 MR YILLAH: As My Lord pleases.

29 PRESIDING JUDGE: You said that the War Council was a

1 decision-making body --

2 MR YILLAH: Within the CDF.

3 Q. Mr Witness --

4 A. Yes, My Lord.

09:51:29 5 Q. Would I be correct to also state that the War Council was
6 the body charged with responsibility for the discipline of
7 Kamajor commanders who misconducted themselves?

8 PRESIDING JUDGE: I know when you are taking time to answer
9 you want to say you will explain, but answer the question first.

09:51:57 10 Is that not true?

11 THE WITNESS: Yes, My Lord.

12 MR YILLAH: Thank you, Mr Witness.

13 JUDGE BOUTET: But you could explain.

14 THE WITNESS: Yes, My Lord.

09:52:10 15 PRESIDING JUDGE: Indeed, you will. There are points which
16 are in here which you will come back to explain.

17 MR YILLAH: As My Lord pleases.

18 PRESIDING JUDGE: It was a question to do with discipline.
19 How is the scenario again.?

09:52:35 20 MR YILLAH: Yes, it was the body charged with the
21 discipline of Kamajors who misconducted themselves.

22 Q. Mr Witness --

23 A. Yes, My Lord.

24 Q. Would I be correct to say that on at least one occasion on
09:53:20 25 which you were present at Base Zero the War Council tried the
26 commander of the Death Squad, Jegbeyama, for attempting to kill
27 Commander James Kaillie? Would I be correct to say that?

28 A. I want you to repeat that. You called Jim Samura.

29 Q. No, I didn't say "Jim Samura", Mr Witness. Let me put it

1 this way: Were you sent by the War Council to arrest Jegbeyama
2 for attempting to murder another Kamajor commander by the name of
3 James Kaillie? Were you or were you not?

4 A. No, My Lord.

09:54:39 5 PRESIDING JUDGE: To arrest whom?

6 MR YILLAH: Jegbeyama, My Lord.

7 PRESIDING JUDGE: For doing what?

8 MR YILLAH: For attempting to murder Commander James
9 Kaillie.

09:55:01 10 THE WITNESS: I was the overall boss for the southern
11 region, and James was not answerable to me. It had nothing to do
12 with me.

13 JUDGE THOMPSON: Mr Witness, the question was whether you
14 were sent to arrest him, and you have answered the question that
09:55:29 15 you were not sent to arrest him on the grounds which counsel was
16 suggesting. Don't complicate the issue.

17 MR YILLAH: Mr Witness --

18 A. Yes, My Lord.

19 Q. In your evidence-in-chief --

09:55:49 20 PRESIDING JUDGE: Mr Yillah, Mr Witness, there were certain
21 questions he was answering with some interjections to explain.

22 MR YILLAH: Yes, My Lord.

23 PRESIDING JUDGE: I think he should be given the
24 opportunity to explain. The first was that the War Council was
09:56:11 25 responsible for planning the strategies for the war and that it
26 was the highest decision-making body and also the disciplinary
27 organ for defaulting or offending Kamajor commanders. He had an
28 explanation to make. Can you --

29 MR YILLAH: As My Lord pleases.

1 THE WITNESS: Shall I explain?

2 PRESIDING JUDGE: Yes.

3 THE WITNESS: I will start with the War Council structure.

4 PRESIDING JUDGE: Don't take us for a ride. Yes, you said
09:56:58 5 you had certain things to explain.

6 THE WITNESS: Yes, My Lord. The head of the War Council
7 was Chief Hinga Norman, the national co-ordinator, and the
8 chairman was answerable to him. So, anything that was decided by
9 the War Council -- Norman had no deputy; he had been using
09:57:48 10 Moinina Fofana and Dr Allieu Kondewa. They would decide and give
11 the final report, what the War Council recommended.

12 PRESIDING JUDGE: Repeat that again. Repeat that. Say
13 that again please.

14 THE WITNESS: The national co-ordinator, Chief Hinga
09:58:20 15 Norman, had no deputy. So when the War Council sat down and
16 decided anything he would call his two men -- Allieu Kondewa and
17 Moinina Fofana -- and after hanging heads -- and any they
18 decision they took after hanging heads, that was the decision
19 they would go by. So, in fact, one time at Base Zero the War
09:59:08 20 Council's lives were in jeopardy. When they said to Norman that
21 their lives were not safe, he said, "I told you you should stop
22 every man and these boys. So, if you continue you have nobody no
23 blame."

24 PRESIDING JUDGE: No, no. Okay. Yes, Mr Yillah, proceed
10:00:46 25 please.

26 MR YILLAH: Thank you, My Lord.

27 Q. Mr Witness --

28 A. Yes, My Lord.

29 Q. Do you recall making a statement to the investigators for

1 the Prosecutor on the 26th of November 2002?

2 A. Yes, My Lord.

3 Q. In what language did you make that statement?

4 A. It was in Krio.

10:01:16 5 PRESIDING JUDGE: What was the date of the statement?

6 MR YILLAH: The 26th of November 2002, My Lord.

7 Q. Was it recorded?

8 JUDGE BOUTET: He spoke in what language?

9 MR YILLAH: Krio, My Lord.

10:01:37 10 Q. Was that statement recorded?

11 A. Yes, My Lord.

12 Q. At the end of the recording was it explained to you or did
13 you read it yourself?

14 A. Yes, My Lord. They read it and they explained to me and I
10:02:08 15 read it also.

16 Q. And you admitted it to be true and correct?

17 A. Yes, My Lord.

18 Q. And do you recall signing that statement as well?

19 A. Yes, My Lord.

10:02:46 20 Q. Mr Witness, with the leave of the Chamber, I will read a
21 portion -- page 6 -- of that statement to you and to refresh your
22 memory, and the question I have will follow.

23 JUDGE BOUTET: What is the purpose of doing that, just to
24 refresh the memory of the witness?

10:03:10 25 MR YILLAH: My Lord, it depends, it is about inconsistency.
26 It is based on the explanation that was just given.

27 JUDGE BOUTET: It is not to refresh the memory, it is just
28 to --

29 MR YILLAH: I will read the portion to him and ask him

1 whether he agrees with the submission.

2 JUDGE BOUTET: I am asking you the question because the
3 procedure may be a bit different. If you are asking a question
4 to refresh the memory of the witness you have to give him the
10:03:32 5 statement to refresh his memory. If the purpose of your question
6 is not that but to show inconsistencies, your approach might be
7 the right one. But that is why I am trying to find out from you
8 what it is you are attempting to do -- refresh his memory or to
9 show inconsistency.

10:03:53 10 MR YILLAH: I will take the cue from the Bench and I --

11 PRESIDING JUDGE: You have the statement and I am sure you
12 have made up your mind as to whether you want to use that
13 statement for the purposes of seeing whether there is
14 inconsistency or otherwise. It is for you to make the option.

10:04:10 15 MR YILLAH: Yes, My Lord, I will give the statement to the
16 witness to refresh his memory. I now apply to the Bench that the
17 statement --

18 JUDGE BOUTET: I see you have a view with all sorts of
19 writing on it. So presumably there is some of your writing or
10:04:30 20 underlining. Am I right?

21 MR YILLAH: Very well, My Lord.

22 JUDGE BOUTET: If you are showing him the statement it has
23 to be one that you have not written on.

24 MR YILLAH: Okay, My Lord. I will simplify the method so
10:04:46 25 that we do not waste time.

26 Q. Mr Witness --

27 A. Yes, My Lord.

28 Q. If I may attempt to -- did you say to the Prosecutors in
29 paragraph 2 of the statement at page 6:

1 "We left Njendema for Base Zero in 1997 and made it our
2 headquarters. This was located at Talia Yawbeko. At Base Zero
3 the War Council was established. It was the decision-making
4 body. The members of the War Council were Alhaji Daramy Rogers;
5 Chief Quee, Chairman of the War Council; PC Charles Caulker;
6 Charlie Tucker; RP Kombe Kajue; IMF Kanneh; DC Ngajeh Aruna
7 [phon], Vandy Sorka (Dama Chiefdom), Kandeh Samai (Juijuima
8 [phon] Chiefdom) and Hinga Norman."

9 Do you recall making that statement to the investigators,
10:05:40 10 saying that?

11 A. Yes, I talked about that.

12 PRESIDING JUDGE: You talked about that; that is what you
13 said.

14 THE WITNESS: Yes.

10:05:53 15 MR YILLAH:

16 Q. Mr Witness, in light of the statement that you made that I
17 have just refreshed your memory about, do you still stand by your
18 explanation that the War Council was not the highest
19 decision-making body?

10:06:16 20 PRESIDING JUDGE: He has not said so.

21 JUDGE BOUTET: That is not what the statement says.

22 MR YILLAH: Based on his own explanation, the addendum that
23 you made at Your Lordships request, trying to say with
24 qualification that the War Council is the body responsible for
10:06:36 25 qualifications --

26 JUDGE THOMPSON: In other words, are you saying that the
27 qualification that he has entered into the general answer which
28 he gave, that indeed the War Council was the highest
29 decision-making body, amounts to detracting or derogating from

1 that general statement? Because his testimony this morning here
2 in answer to your question was that he agrees that the War
3 Council was the highest decision-making body in the CDF
4 hierarchy. But then he went on to explain that there was a
10:07:19 5 triumvirate in the War Council that seemed to be wielding so much
6 authority, probably to render the War Council ineffectual or
7 ineffective. Is that what you were suggesting, that that
8 qualification derogates significantly from the earlier statement?

9 MR YILLAH: That is the view that I took. I will find
10:07:42 10 another way to progress.

11 PRESIDING JUDGE: Following from where my learned brother
12 has left it, are you saying that because what he has said now is
13 not in that statement that it is necessarily inconsistent to what
14 he has said or that --

10:08:05 15 MR YILLAH: Absolutely, My Lord; that is the view that I
16 take, subject to Your Lordships --

17 PRESIDING JUDGE: Mr Yillah, you may proceed.

18 MR YILLAH: As My Lord pLeases.

19 Q. I put it to you that the War Council was an entity
10:08:28 20 comprising of all the members that you have named in this Court
21 and was the highest decision-making body within the CDF
22 structure.

23 A. Yes, My Lord.

24 Q. Mr Witness --

10:09:12 25 A. Yes, My Lord.

26 Q. Do you know whether the War Council continued its functions
27 when the members had left Base Zero? Do you know whether it
28 continued carrying out its function?

29 A. No, My Lord.

1 PRESIDING JUDGE: What is "No"; is it that --

2 THE WITNESS: They did not continue to do their work.

3 PRESIDING JUDGE: They did not continue?

4 THE WITNESS: Yes, My Lord, with explanation.

10:10:13 5 PRESIDING JUDGE: What explanation?

6 THE WITNESS: Yes, My Lord.

7 PRESIDING JUDGE: Why do you say that they did not continue
8 to perform their functions after they left Base Zero?

9 THE WITNESS: The first meeting that they held at Kenema
10:10:35 10 they committed that I should be reinstated, which the national
11 co-ordinator did not honour.

12 PRESIDING JUDGE: Is your answer therefore correct? Is
13 your answer correct? It means that when they went to Kenema and
14 they had left Talia Yawbeko they continued to function. Is that
10:10:57 15 not true? Otherwise, by virtue of what did they meet to decide
16 that you be reinstated? And by virtue of what are you saying
17 that --

18 THE WITNESS: They recommended.

19 PRESIDING JUDGE: -- the recommendation was not implemented
10:11:12 20 by the national co-ordinator. You have to put things in the
21 right perspective. Do you understand?

22 THE WITNESS: Yes, My Lord.

23 MR YILLAH: Shall I put the question again?

24 PRESIDING JUDGE: I have made my remarks; you may proceed
10:11:34 25 the way you want to, please.

26 MR YILLAH: Yes, as My Lord pleases. My Lord, I will put
27 the question again.

28 Q. Mr Witness --

29 A. Yes, My Lord.

1 Q. So far as you know, did the War Council continue to perform
2 its function after its members had left Base Zero?

3 A. Yes, My Lord.

4 JUDGE THOMPSON: So that answer negates the first answer.

10:12:18 5 MR YILLAH: Absolutely, My Lord.

6 MR TAVENER: I object to that question. It does not
7 negate. I am sorry, I will make a comment.

8 JUDGE THOMPSON: Are you objecting to my comment that it
9 negates the first answer?

10 PRESIDING JUDGE: It negates it.

11 MR TAVENER: "Object" is the wrong word.

12 JUDGE THOMPSON: I beg your pardon.

13 MR TAVENER: It is the wrong word to say an objection. I
14 would say that the Court is not --

10:12:35 15 JUDGE THOMPSON: No, I made a comment. I am asking whether
16 the second answer is a negation of the first answer or a
17 retraction. Are you suggesting -- are you objecting to my
18 comment?

19 MR TAVENER: As I said, that is the wrong word; I cannot
10:12:51 20 object to Your Honour's comment.

21 JUDGE THOMPSON: Quite.

22 MR TAVENER: I am merely making the point that the witness
23 was asked a very specific question -- did it function -- and he
24 said "Yes." But he had previously given an explanation saying
10:13:06 25 that if there was a meeting, recommendations were made but not
26 followed. If the witness is asked to confine himself to a very
27 correct, very detailed answer, one then cannot make an assumption
28 as to what he was saying.

29 JUDGE THOMPSON: No, I was asking a question for the

1 witness to answer whether what he is now saying is a negation or
2 a retraction of what he said. Because I cannot have both on my
3 record.

4 MR TAVENER: I accept that, Your Honour. I understand --

10:13:41 5 JUDGE THOMPSON: I do not know how to evaluate these kinds
6 of things.

7 MR TAVENER: I accept. I also was confused.

8 JUDGE THOMPSON: All right. Thank you.

9 JUDGE BOUTET: So, this is a question to the witness. Mr
10:13:48 10 Witness, what is your answer to that question by Justice
11 Thompson?

12 THE WITNESS: Please repeat.

13 JUDGE THOMPSON: In other words, are you now saying that
14 after the members of the War Council had left Base Zero they did
10:14:11 15 continue their work. Because the first answer I got, except that
16 I misrecorded your answer, was that I agree that -- or the War
17 Council members -- the War Council did not function after the
18 members had left Base Zero.

19 PRESIDING JUDGE: That is what I have.

10:14:34 20 JUDGE THOMPSON: That is what I have. I may have reflected
21 wrongly your previous answer. I am being charitable in making
22 that statement. And if I did not, then it stands to reason and
23 commonsense that your second answer would not harmonise with your
24 first answer. So, which is which -- except if counsel feels that
10:15:00 25 I am putting two concepts to you that are not mutually exclusive?
26 But it seems to me that they are two different, opposite answers.

27 THE WITNESS: My Lord, I was confused.

28 JUDGE THOMPSON: The members left Base Zero, or did they
29 not?

1 THE WITNESS: The members left Base Zero and the War
2 Council never functioned.

3 JUDGE THOMPSON: I am satisfied with the clarification.

4 PRESIDING JUDGE: Are you saying now that your first answer
10:15:34 5 was that the War Council never functioned after they left Base
6 Zero?

7 THE WITNESS: When they left Base Zero, My Lord.

8 PRESIDING JUDGE: I made certain remarks to you because you
9 went into trying to explain how they took a decision to reinstate
10:15:58 10 you and that a resolution was taken but it was not carried out by
11 Mr Norman. Then you came back and said that the War Council did
12 that after they left Base Zero. Are you now going back to the
13 first answer -- that the War Council never functioned after they
14 left Base Zero? Otherwise you will have to explain how the
10:16:24 15 resolution was taken to reinstate you, because it was taken,
16 according to your evidence, in Kenema, and that was after the War
17 Council had left Base Zero.

18 THE WITNESS: My Lord, what I wanted to explain is that
19 when we left Base Zero, after some months the War Council had not
10:16:54 20 been functioning and after some months they suspended me because
21 of indiscipline. The members came back -- they were summoned by
22 resident minister. So they came back and went to Kenema. That
23 was the time that they took a decision. They submitted to Chief
24 Norman. Chief Norman never allowed it and that was the time that
10:17:22 25 the War Council died down. It never functioned again. That is
26 what I wanted to explain, My Lord.

27 JUDGE THOMPSON: I appreciate your explanation, because
28 that leads me now to say for the purposes of clarification, what
29 is your final answer?

1 THE WITNESS: My final answer is that the War Council held
2 a meeting to discipline me but that was never honoured by Hinga
3 Norman.

4 PRESIDING JUDGE: What is the name of this resident
10:18:58 5 minister?

6 THE WITNESS: Foday Sesay.

7 PRESIDING JUDGE: Mr Yillah, please, you may proceed.

8 MR YILLAH: As My Lord pleases. At this stage may I apply
9 that Exhibit 28 be shown to the witness? I will not stay long
10:20:23 10 with it.

11 PRESIDING JUDGE: This is okay. I wonder if we have had
12 the presence of mind perchance to have it here?

13 MS EDMONDS: Yes, sir, I've got it.

14 [Exhibit No. 28 shown to witness]

10:20:45 15 PRESIDING JUDGE: Thank you. Mr Yillah, are you referring
16 to the entire document?

17 MR YILLAH: No, not the entire document. I just want the
18 witness to read the heading; that is all.

19 PRESIDING JUDGE: Okay. Mr Witness, it is not for you to
10:21:23 20 read the entire document. Have you read the heading?

21 MR YILLAH: Mr Witness --

22 PRESIDING JUDGE: You have read the heading, have you?

23 MR YILLAH: Please read the heading of that document.

24 A. Yes, My Lord.

10:21:40 25 MR YILLAH:

26 Q. Mr Witness, the document you have in front of you is titled
27 "Conclusions of the CDF S/L National War Council (NWACO) meeting
28 held in Kenema on Monday 20th April and Tuesday 21st April 1998".
29 Were those meetings held after the members had left Base Zero?

1 A. Yes, My Lord. I will stand to explain something connected
2 with Kenema.

3 MR YILLAH: I am finished with that document. I am
4 moving -- My Lord I am moving to a new topic.

10:22:54 5 PRESIDING JUDGE: Mr Yillah, move on.

6 MR YILLAH:

7 Q. Mr Witness, as XXXXX XXXXXX XXXXXXXXXXX XXXXXXX for
8 CDF, do you recognise that there is a difference between the
9 leadership of the CDF and the commander and command? Do you
10:23:23 10 recognise that there is that difference?

11 JUDGE BOUTET: Can you repeat that question?

12 MR YILLAH: I will put it again.

13 Q. Mr Witness, in your capacity in the office you held, do you
14 recognise that there is a difference between the leadership of
10:23:46 15 the CDF and the command of the CDF. Do you or do you not
16 recognise that?

17 A. Yes, My Lord.

18 Q. Mr Witness --

19 A. Yes, My Lord.

10:24:36 20 Q. Would I be correct to suggest that you were deliberately
21 appointed by virtue of your level of education to provide
22 guidance to your fighters during combat?

23 MR TAVENER: I object to that question. It just doesn't
24 make sense. If he could be more specific as to what he means by
10:25:08 25 "education", about what my learned friend means by "guidance".
26 If the witness gives an answer, it could meaning anything. And
27 from there you may go on to issues which would be founded on
28 improper assumptions. Perhaps my learned friend could identify
29 what he means by "education" and what he means by "guidance".

1 JUDGE BOUTET: I am not sure that your objection that it
2 does not make sense is appropriate, but certainly there was some
3 confusion in the manner the question was asked. It may be almost
4 impossible for the witness to answer that question the way you
10:25:35 5 have framed it.

6 MR YILLAH: I will put it --

7 JUDGE THOMPSON: I concur in that. I think the formulation
8 is a little intriguing.

9 MR YILLAH: I will take the cue from the Bench, My Lord.

10:25:52 10 Q. Mr Witness --

11 A. Yes, My Lord.

12 Q. Would I be correct to suggest that it was your
13 responsibility as a commander on the ground to prevent your
14 fighters from committing atrocities? Would I be correct to
10:26:12 15 suggest that?

16 A. No, My Lord. I was working under instructions to which I
17 should abide strictly.

18 JUDGE THOMPSON: Counsel, is the answer that it is not
19 correct to suggest that it was his responsibility to prevent his
10:27:14 20 subordinates from committing atrocities; he was working under
21 strict instructions by which he should abide?

22 MR YILLAH: That is his answer, My Lord.

23 Q. Mr Witness --

24 A. Yes, My Lord.

10:27:33 25 Q. You told this Court in your evidence-in-chief and in
26 answers to my previous questions there were occasions when you
27 chose not to carry out those strict instructions. Am I correct?

28 PRESIDING JUDGE: And he explained.

29 MR YILLAH: He explained.

1 PRESIDING JUDGE: We are going back.

2 JUDGE BOUTET: I thought we had been through that with you,
3 Mr Yillah -- all of these questions. Are we revisiting all of
4 this again?

10:27:59 5 PRESIDING JUDGE: He explained. Mr Yillah, you have
6 visited that.

7 MR YILLAH: Yes, My Lord.

8 PRESIDING JUDGE: In fact, you have visited it quite
9 extensively and he gave explanations.

10:28:12 10 MR YILLAH: As My Lord pleases.

11 Q. Mr Witness --

12 A. Yes, My Lord.

13 PRESIDING JUDGE: I will give you an example. For
14 instance, they captured two soldiers in Koribundu. The
10:28:27 15 instructions, according to him, were that he should kill
16 soldiers, collaborators and what have you.

17 MR YILLAH: Yes, My Lord.

18 PRESIDING JUDGE: But ECOMOG stepped in at the time they
19 were in command and said they must be handed over and he handed
10:28:43 20 them over.

21 MR YILLAH: Yes, as My Lord pleases.

22 JUDGE BOUTET: And you also had a question about Hota, I
23 think is the name.

24 PRESIDING JUDGE: Hota as well.

10:28:49 25 MR YILLAH: I will take the cue; I am grateful, My Lords.

26 Q. Mr Witness --

27 A. Yes, My Lord.

28 Q. Do you know approximately what was the numerical strength
29 of the Kamajor's fighting force?

1 A. In the whole country?

2 Q. Yes, Mr Witness.

3 A. No, I was not in charge of the Eastern Province or the
4 Northern Province. I don't know.

10:29:21 5 Q. What about the south that you were in charge of?

6 A. Even that, I would not be able to show the numerical
7 strength.

8 PRESIDING JUDGE: But you have told the Court that there
9 were about 15,000 at Base Zero.

10:30:03 10 THE WITNESS: That was in Base Zero; it was not all the
11 Kamajors that went to Base Zero.

12 PRESIDING JUDGE: [Microphone not activated]

13 THE WITNESS: Yes, My Lord.

14 MR YILLAH:

10:30:55 15 Q. Mr Witness, would I be correct to suggest that because of
16 the numerical strength of the Kamajors it was very difficult for
17 you as head of the southern operations to exercise strict control
18 over them? Would I be correct to suggest that?

19 A. My Lord, I had commanders on the ground.

10:31:27 20 PRESIDING JUDGE: Mr Yillah, put the question to him again.

21 MR YILLAH:

22 Q. Would I be correct, Mr Witness, to suggest that because of
23 the numerical of the Kamajor fighting forces --

24 PRESIDING JUDGE: Because the Kamajor were many, put it
10:31:44 25 that way.

26 MR YILLAH:

27 Q. Because the Kamajors were so many, it was difficult for you
28 as head of operations south to exercise strict control over these
29 fighting forces?

1 A. Yes, My Lord.

2 Q. Mr Witness --

3 A. Yes, My Lord.

4 Q. Would I be correct if I suggested that the Kamajors were on
10:32:52 5 many occasions walking in different groups according to the
6 chiefdoms they hailed from?

7 A. At first, yes, My Lord.

8 PRESIDING JUDGE: When you say "at first", what do you
9 mean?

10:33:47 10 THE WITNESS: At the time when we were under chiefdoms,
11 when we did not come under Chief Hinga Norman's jurisdiction, we
12 were in groups fighting. When Chief Hinga Norman took over, all
13 the instructions that were coming from Base Zero were the ones
14 that everybody abided by.

10:34:37 15 MR YILLAH:

16 Q. Mr Witness --

17 A. Yes, My Lord.

18 Q. Would I be correct to say as the director for operations
19 south you did not, or you were unable, to visit all the villages
10:34:59 20 and chiefdoms in Southern Province in which the Kamajors
21 operated? Would I be correct to say that?

22 A. Yes, My Lord. I had commanders that I used to talk to and
23 these people were under their command structure.

24 PRESIDING JUDGE: You said that all the villages in the
10:35:23 25 southern zone command where Kamajors were based -- that is the
26 question.

27 THE WITNESS: No, My Lord.

28 JUDGE BOUTET: Mr Witness, when you say "No", you mean you
29 are unable to.

1 THE WITNESS: I did not visit all the villages where
2 Kamajors were.

3 MR YILLAH:

4 Q. Mr Witness, in your evidence-in-chief you spoke about a
10:36:34 5 list, or alleged list, given to you by the first accused of
6 persons who were to be killed in Bo upon taking over. Is that
7 correct?

8 A. Repeat the question.

9 Q. You said in evidence-in-chief to this Court that the first
10:36:59 10 accused gave you a list of persons to be killed when you took
11 control of Bo. Is that correct?

12 A. Yes, My Lord, it is quite correct. Those were the specific
13 instructions that he gave.

14 Q. Mr Witness, I earlier asked you about a statement you made
10:37:28 15 on the 26th of November 2002 and you had spoken that that was
16 indeed your statement. Is that correct?

17 A. Yes, My Lord.

18 Q. At this stage may I apply that a certain portion of the
19 statement be put to the witness?

10:37:56 20 JUDGE BOUTET: You want to show inconsistency?

21 MR YILLAH: Yes.

22 JUDGE BOUTET: Maybe you should ask the witness -- I don't
23 know how many pages the statement has, but it appears to have
24 more than a few pages.

10:38:10 25 MR YILLAH: My Lord, it has 15 pages.

26 JUDGE BOUTET: 15 -- 1-5?

27 MR YILLAH: Yes, My Lord.

28 Q. Mr Witness, this is a statement of the 26th of November
29 2002 containing 15 pages. I would invite you to look at the last

1 page -- page 15.

2 JUDGE BOUTET: If you are going with inconsistency you will
3 have to show him the statement. Ask him the very question, did
4 you or didn't you say whatever, and we will see from his answer.

10:38:43 5 MR YILLAH: As your Lordship pleases.

6 Q. Mr Witness, in the last paragraph of the statement of the
7 26th, page 15, do you recall telling the investigators, and I
8 quote:

9 "In 1998, I was not involved directly in the taking of Bo
10:39:00 10 from the AFRC soldiers. I went to Koribundu. My second in
11 command Mustapha Gobeh led the troops to take Bo. When the
12 looting was rampant, I was called to come and control the
13 Kamajors. I met them looting all shop and houses and burning
14 down houses. I was able to put them under control. The
15 commander on the ground told me that I deceived them by telling
16 them the police were in our camp. They were surprised to see the
17 police shooting at them. I told him that MS Dumbuya gave me that
18 assurance, especially the SSD.

19 Do you recall making this statement to the investigators?

10:39:48 20 A. That is the statement I made.

21 Q. Mr Witness, would I be correct to say from this statement
22 that you have made that you were not directly responsible for the
23 taking of Bo?

24 A. Yes, My Lord, but explanation. My Lord, we held a general
10:40:36 25 meeting. In that meeting I was supposed to capture Koribundu
26 first. From there I would adjourn, meeting at Bumpé where we
27 were supposed to take Bo on Sunday. But it was not Sunday and I
28 captured it already --

29 THE INTERPRETER: Talk slowly.

1 PRESIDING JUDGE: Slowly. Okay.

2 THE WITNESS: Okay. I was supposed to lead the two
3 operations for Koribundu and Bo. But before we left high priest
4 Dr Allieu Kondewa and Moinina Fofana said Mustafa Ngobea should
10:42:08 5 lead the operation to Bo. Dr Allieu Kondewa said anything that
6 you get in that war front I should bring it to him. So Mustafa
7 Ngobea went. Sunday we were supposed to take Bo, so I took
8 Koribundu and went to them at Bumpe.

9 PRESIDING JUDGE: Slow. Wait, wait.

10:42:57 10 THE WITNESS: When this announcement was made by Dr Allieu
11 Kondewa, by then I had got this information from my national
12 co-ordinator about what I should do. So when they gave these
13 instructions to Mustafa Ngobea, they said, "When you go, go
14 directly to Bo."

10:43:33 15 PRESIDING JUDGE: [Microphone not activated]

16 THE INTERPRETER: Your Honour's mic is not on.

17 PRESIDING JUDGE: Sorry. You were talking about receiving
18 instructions. Allieu Kondewa and Moinina Fofana said Mustafa
19 Ngobea should go and lead the attack in Bo and you should come
10:43:53 20 and start with Koribundu. Now you are going back to -- now you
21 are saying that you received special instructions and you have
22 gone back to Hinga Norman. Can you be consistent, please.

23 [Multiple speakers - transcript incomplete]

24 JUDGE THOMPSON: Perhaps I should say that from what you
10:44:14 25 are telling us is, I think, counsel's complaint or observation is
26 that you have said in this Court that you took over Bo, but then
27 your statement says that you were not directly involved in that,
28 and that is what he is putting to you as being at variance with
29 one another. I was following your explanation with a view to

1 seeing how that explanation sheds light on this problem. I am
2 not sure how at this stage if it is shedding light on this
3 allegation of a discrepancy between your statement -- alleged
4 discrepancy between your statement -- to the investigators and
10:45:03 5 your testimony in this Court. That was the trend I was following
6 and I look forward to being taken along that path.

7 THE WITNESS: Okay. We were supposed to capture Bo on
8 Sunday. When I had taken over Koribundu I should have led the
9 operation to Bo. Friday, that was the time Mustafa Ngobea
10:46:08 10 entered Bo. He was not able to capture Bo. At that time I had
11 myself to attack Koribundu before Saturday.

12 PRESIDING JUDGE: On what day?

13 THE WITNESS: On Saturday. So, Sunday Mustapha Ngobea
14 returned to Bo. On that very Sunday, I received information that
10:47:29 15 I should join Mustafa Ngobea because he was not able to capture
16 Bo.

17 PRESIDING JUDGE: You received information from whom?

18 THE WITNESS: From Chief Hinga Norman.

19 PRESIDING JUDGE: That Mustafa Ngobea was not able to
10:47:49 20 capture Bo?

21 THE WITNESS: When he went there on Friday it was just
22 looting as we know. They were not able to capture the ground.
23 So I took my bike and joined them in Bo. When I joined them in
24 Bo we were able to put the situation under control, even though
10:48:36 25 fighting was still going on.

26 PRESIDING JUDGE: Is that street fighting, or fighting was
27 still going on?

28 THE WITNESS: Fighting was still going on. It was on
29 Monday that we were able to flush out the forces, that they were

1 able to go out, to pull out.

2 PRESIDING JUDGE: Which forces were these?

3 THE WITNESS: RUF-AFRC junta. It was during that time when
4 John Hota started bringing them to me. That is all, My Lord.

10:50:24 5 MR YILLAH:

6 Q. Mr Witness --

7 A. Yes, My Lord.

8 Q. From this portion of the statement that I have read to you,
9 you also stated in your evidence-in-chief that you were looting
10:50:40 10 on the basis of the specific instructions you had. But your
11 statement says, "I was called to control the Kamajors when the
12 looting was rampant. I met them looting all shop and houses and
13 burning down houses. I was able to put them under control." So
14 you were in fact preventing looting rather than looting?

10:51:07 15 MR TAVENER: I object to that question. That is not what
16 the witness said in his evidence. His evidence was that he was
17 sent to Bo in order to control the town before looting could take
18 place. That is what his evidence was in chief. They wanted to
19 secure the town first. That is my recollection of his evidence,
10:51:34 20 not that he was sent to Bo to start looting straight away. First
21 of all, he had to achieve a military objective.

22 MR YILLAH: My Lords, my recollection of the evidence is
23 how I have put it, but the record should clarify that point. The
24 witness had said that he had specific instructions from the first
10:51:59 25 accused that they should pay themselves from this operation, and
26 he was looting.

27 PRESIDING JUDGE: He said so.

28 MR YILLAH: My Lord, I am putting it to him that, based on
29 his statement --

1 PRESIDING JUDGE: Like looting the southern pharmacy and
2 bringing everything to Base Zero?

3 MR YILLAH: Yes, My Lord.

4 PRESIDING JUDGE: Those are the instructions.

10:52:18 5 MR YILLAH: But what I am just doing is making an inference
6 from this statement now and putting it to him that he was in fact
7 called upon to control looting in Bo, contrary to what he has
8 told this Court. That is my question.

9 MR TAVENER: And that is the difficulty. His instructions
10:52:37 10 were when he went from Koribundu to Bo to first of all control
11 Bo. I am not disputing there were instructions to loot and so
12 on. But at that time his instructions were first to control and
13 secure Bo. That is the issue.

14 JUDGE THOMPSON: I think we are losing sight of the issue
10:52:55 15 that he is highlighting what he perceives to be some
16 inconsistency in his statement to the investigators and what he
17 told the Court. Isn't that what he is trying to do?

18 MR TAVENER: Yes, he is.

19 JUDGE THOMPSON: If that is what he is trying to do, it
10:53:18 20 would seem to me that that is the context in which we should
21 proceed.

22 MR TAVENER: As long as the evidence is correct.

23 JUDGE THOMPSON: Yes, quite right. I am not suggesting
24 that counsel is entitled to misrepresent the evidence of this
10:53:33 25 witness from the witness stand, but he certainly is entitled to
26 highlight in the statement to the investigators what he perceives
27 to be at variance with what he has told us.

28 MR TAVENER: To that is correct, all I am asking --

29 JUDGE THOMPSON: And I hope he does that, because that is

1 the way I think that is proper to proceed.

2 MR TAVENER: I agree, as long as he is accurate. I am
3 asking that that he be accurate.

4 JUDGE THOMPSON: Quite right, then I am with you.

10:54:06 5 JUDGE BOUTET: Mr Yillah.

6 MR YILLAH: I will put the question again.

7 JUDGE BOUTET: And the question being from the statement.
8 Make it clear.

9 MR YILLAH: Yes, from the statement.

10:54:16 10 Q. Mr Witness, from the portion of your statement that I
11 earlier read to you would I be correct to say that you were
12 called upon to prevent the looting by Kamajor fighters in Bo?

13 JUDGE THOMPSON: And not only that but that was what he
14 told the investigators.

10:54:39 15 MR YILLAH: Yes, My Lord.

16 JUDGE THOMPSON: Is that what you are alleging?

17 MR YILLAH: Yes, I am saying based on this statement --
18 [Multiple speakers - transcript incomplete]

19 THE WITNESS: My Lord, but an explanation. Kamajors have
10:54:57 20 been looting in Bo and they were not able to hold the ground.
21 Everybody who looted would go to this village.

22 JUDGE THOMPSON: But again, you see, that is where the
23 complication is setting in. Did he tell the investigators that?

24 MR YILLAH: I will read the portion again.

10:55:13 25 JUDGE THOMPSON: That is very important to me because
26 otherwise we are entering upon an exercise in futility if your
27 purpose is to seek to establish prior inconsistent statement. We
28 must know whether he told the investigators that, or did not, not
29 his explanation as to the scenario that was happening on the

1 ground. Otherwise we multiply the issues.

2 MR YILLAH: I will read the statement again with the leave
3 of the Chamber, My Lord. Page 15, the last paragraph reads:

4 "In 1998 I was not involved directly in the taking of Bo
10:39:00 5 from the AFRC soldiers. I went to Koribundo. My second in
6 command Mustapha Gobeh led the troops to take Bo. When the
7 looting was rampant, I was called to come and control the
8 Kamajors. I met them looting all shop and houses and burning
9 down houses. I was able to put them under control. The
10 commander on the ground told me that I deceived them by telling
11 them the police were in our camp. They were surprised to see the
12 police shooting at them. I told him that MS Dumbuya gave me that
13 assurance, especially the SSD."

14 So, My Lord, there is a portion which says "I was called to
10:56:25 15 come and control the Kamajors --

16 -- when the looting was rampant --

17 "I met them looting all shop and houses and burning down
18 houses."

19 JUDGE THOMPSON: And the proper question: Did he tell the
10:56:37 20 investigators that?

21 THE WITNESS: That was the time my national co-ordinator
22 told me --

23 JUDGE THOMPSON: Do not talk. We are getting into very
24 confused waters. The important thing at this stage for the
10:56:52 25 purposes of establishing or not establishing prior inconsistent
26 statement is preliminarily to find out whether he told the
27 investigators that.

28 MR YILLAH: I will take the cue, My Lord, and put it that
29 way.

1 JUDGE BOUTET: Isn't it the same statement you put to him,
2 I don't know, 15 minutes ago?

3 MR YILLAH: Yes, that was from the same paragraph.

4 JUDGE BOUTET: And he admitted making that statement to the
10:57:27 5 police then. So why again do you put the same question? I'm
6 getting lost, because he has admitted making that statement.

7 JUDGE THOMPSON: I do not think it is proper to put
8 inferences for the purposes of prior inconsistent statement.
9 Because you are calling upon the Court do a comparative
10:57:46 10 evaluation, look at the out-of-court statement and look at what
11 he said here on the particular and determine whether there is in
12 fact inconsistency, material or otherwise. Therefore, we should
13 not go outside those parameters.

14 MR YILLAH: As My Lords please.

10:58:00 15 JUDGE BOUTET: As I just stated, it is my recollection that
16 you have asked that very portion of the statement. You have put
17 it to the witness and asked him: Did you make that statement or
18 not? And he said "Yes", so he is not denying making that
19 statement.

10:58:13 20 MR YILLAH: Very well, My Lord.

21 JUDGE BOUTET: Unless you are bringing in something new
22 which I do not see. Perhaps I am wrong in saying this. Is it
23 the very same part and portion of the statement?

24 MR YILLAH: Yes, My Lord.

10:58:29 25 PRESIDING JUDGE: Let me say this: I would like to come
26 back to what this Court has said. A statement may have been made
27 to the investigators, but the witness in his oral testimony could
28 expound on that statement, and what he says in that respect is
29 admissible for the records.

1 MR YILLAH: As My Lords please.

2 PRESIDING JUDGE: And this witness, if I may follow on
3 that, has said that he went to -- I don't think he is disputing
4 that statement. But he went there because there was a lot of
10:59:04 5 looting. And he has said that the Kamajors were more concerned
6 with looting than holding the ground.

7 MR YILLAH: That is what he said now.

8 PRESIDING JUDGE: Yes, that is what he said in his oral
9 testimony now. And that they were looting and carrying the
10:59:21 10 property to their homes, and that is the situation he brought
11 under control.

12 MR YILLAH: That is now, My Lord. What I was submitting is
13 that in his evidence-in-chief he stated, if I recollect properly,
14 he stated that he was also looting because of the specific
10:59:42 15 instructions that he had received from the first accused.

16 JUDGE BOUTET: He is not denying that.

17 MR YILLAH: Based on this statement it could not have been
18 so.

19 JUDGE THOMPSON: In other words, you are saying that there
10:59:56 20 is a variance --

21 MR YILLAH: Absolutely, My Lord.

22 JUDGE THOMPSON: -- between what he has told the
23 investigators and what he has told this Court. And that is the
24 focus we must not lose. Otherwise, we are not in the game of
11:00:04 25 prior inconsistent statements.

26 MR YILLAH: Especially having admitted this paragraph
27 saying that he was called upon to prevent the looting.

28 JUDGE BOUTET: But, again, you have to look at it in the
29 larger perspective because it is my recollection that in his

1 evidence-in-chief he has said he had specific instructions to,
2 indeed, loot the southern pharmacy or whatever it is and at the
3 same time. So, that was part of his specific instructions, but
4 over and above that, he was sent to do something else. We have
11:00:38 5 to be very careful as to what issue he had instructions to do, to
6 make sure they were to loot the pharmacy but at the same time
7 control all the forms of looting.

8 MR YILLAH: I will move forward. The witness having
9 admitted making that paragraph of the statement earlier, we will
11:01:00 10 address Your Lordships on that appropriately.

11 Q. Mr Witness --

12 A. Yes, My Lord.

13 Q. I put to you that these specific instructions in respect of
14 Bo would not have been given to you by the first accused because
11:01:15 15 you were not in charge of Bo operations.

16 A. He gave these instruction because I was in charge of Bo
17 operations. He said that statement in the presence of Mr Arrow
18 Bockarie, where he said -- he said everything that Kamajors did
19 he was going to give directives.

11:02:12 20 PRESIDING JUDGE: He said what?

21 THE WITNESS: The national co-ordinator did agree when we
22 left the bush that the Bo people and the southern province as a
23 whole would hold a meeting at the Coronation Field in the
24 presence of Mr Arrow Bockarie. When he announced that, anything
11:03:01 25 that the Kamajors did he was going to send them to the
26 [Inaudible]. For anything that the Kamajors did, he should be
27 held responsible.

28 Q. Mr Witness --

29 A. Yes, My Lord.

1 Q. Were you told by the commander on the ground at Bo --
2 Mustafa Ngobea -- that the police were shooting at them? Were
3 you told that?

4 A. Yes, My Lord.

11:04:42 5 Q. Mr Witness --

6 A. Yes, My Lord.

7 Q. Is it true that it was you who told the commander on the
8 ground -- Mustafa Ngobea -- that the police where on your side --
9 I mean the side of the CDF?

11:05:04 10 A. Yes, My Lord, it was Mr Dumbuya who told me. He said he
11 had spoken to them secretly and that we should not killed them.
12 It was the national co-ordinator who said we should kill them.
13 That was what killed them.

14 PRESIDING JUDGE: Did you say that Mr Dumbuya told you this
11:05:35 15 secretly?

16 THE WITNESS: Yes, My Lord. I want to get rid of nature.

17 PRESIDING JUDGE: Mr Yillah, how much more time.

18 MR YILLAH: Not more than 30 minutes, if he does not give
19 these lengthy explanations. That is the difficulty.

11:06:47 20 PRESIDING JUDGE: The Court will rise. As soon as he is
21 ready, let us in.

22 [Break taken at 11.05 a.m.]

23 [Upon resuming at 11.10 a.m.]

24 JUDGE BOUTET: So, Mr Yillah, are you ready to proceed
11:13:40 25 ahead.

26 MR YILLAH: Yes, My Lord.

27 JUDGE BOUTET: Please do so.

28 MR YILLAH:

29 Q. Mr Witness, is it true that you expressed remorse at what

1 you said about the police to the commander on the ground, Mustafa
2 Ngobea?

3 A. Not to my knowledge.

4 PRESIDING JUDGE: How can you say not to your knowledge?

11:13:40 5 You should be able to remember that. Did you or did you not
6 express remorse? Did you or did you not? You can't say you
7 cannot remember. That not a very credible reply, is it? Did you
8 regret -- I mean, not remorse -- tell him -- put the question
9 back to him.

11:13:49 10 MR YILLAH: As My Lord pleases.

11 Q. Mr Witness, did you tell the commander on the ground
12 Mustafa Ngobea that you regretted the information you gave him
13 about this support of the police to the CDF in Bo?

14 A. No, I did not tell him.

11:14:14 15 Q. Mr Witness, would I be correct to suggest to you that one
16 of the reasons why you did not carry out the instructions given
17 to you by the first accused was because of the intervention of
18 certain War Council members like Daramy Rogers? Would I be
19 correct to say that?

11:15:09 20 A. You are correct.

21 Q. Mr Witness, would I also be correct to say that
22 specifically in respect of Bo, Alhaji Daramy Rogers as a War
23 Council member called you personally and told you not to carry
24 out these instructions? Would I be correct?

11:16:12 25 A. Yes, My Lord, with explanation.

26 MR YILLAH: This is what is time consuming, My Lord. As
27 My Lord pleases.

28 JUDGE BOUTET: That's the nature of the evidence we have to
29 live with.

1 MR YILLAH: As My Lord pleases.

2 JUDGE BOUTET: But, please, if you give explanation keep it
3 as brief as you can, please. That has to do with instructions
4 you would have received from Rogers.

11:16:56 5 THE WITNESS: Alhaji Daramy Rogers told me that -- said,
6 "Now, look, you come from a ruling house. I know that you're in
7 a difficult situation. If you don't carry out your coordinator's
8 instructions that shows that you are insubordinate." And he
9 said, "So it is not all the orders that he gave you that should
11:18:57 10 be carried out, because they are dangerous orders. So what I'm
11 tell you is that" -- [translation interrupted]

12 PRESIDING JUDGE: Wait.

13 THE WITNESS: "Those people whose names have been written
14 on the list, do not kill them." He said, "Because from 1939 to
11:20:10 15 1944/45, there was war in this country, Second World War." He
16 said, "Up to now they have been trying these people." Said, "I
17 am pleading with you, so let that be in your mind." That was
18 what made me not to kill the ones whose names were on the list,
19 so I burnt their houses. So at least I did what my commander
11:21:25 20 asked me to do.

21 MR YILLAH:

22 Q. Mr Witness, would I be correct to suggest to you that you
23 did not carry out the instructions as well because you had a
24 discretion to choose between orders that were bad and orders that
11:22:13 25 were good? Would I be correct to suggest that?

26 PRESIDING JUDGE: You are still translating it?

27 JUDGE THOMPSON: Learned counsel --

28 MR YILLAH: Yes, My Lord.

29 JUDGE THOMPSON: -- couldn't that question be put in two

1 stages. Whether first of all he recognised that he had a
2 discretion.

3 MR YILLAH: I take the cue.

4 JUDGE THOMPSON: Because it sounds as if it is two
11:23:01 5 questions rolled up in one, from my perspective.

6 MR YILLAH: As My Lord pleases.

7 Q. Mr Witness, in your capacity as operations director do you
8 recognise that you have a discretion to choose between commands
9 that were unlawful - that were bad, if I can put it that way -
11:23:25 10 and commands that were good?

11 A. My Lord, in war I did not know what law is good and what
12 law is bad. In normal times, yes, I know that.

13 Q. Mr Witness, following from that answer I will just refer
14 you to one specific incident so we cannot waste the time of the
11:24:11 15 Court. When you handed the two captured prisoners of war to
16 ECOMOG Alhaji Daramy Rogers was not there, was he?

17 A. He wasn't there.

18 Q. And on that occasion would I be correct to say that it was
19 your discretion that you used not to kill those men, contrary to
11:25:04 20 the instructions?

21 PRESIDING JUDGE: But the witness has said he was ordered
22 to hand them over. We've come back to this.

23 JUDGE BOUTET: [Overlapping speakers]

24 PRESIDING JUDGE: [Overlapping speakers]

11:25:18 25 MR YILLAH: My Lord, on the question of discretion I don't
26 recall what -- I will take the cue from the Bench.

27 JUDGE BOUTET: You asked about the two captured soldiers
28 involved. When you handed them over to ECOMOG you did so
29 contrary to the orders you have received and then you followed up

1 with some more questions. So unless you want to explore a new
2 avenue about these soldiers --

3 MR YILLAH: I only had one question on the discretionary
4 aspect.

11:25:45 5 JUDGE BOUTET: Go ahead. I thought you had already done
6 that but you are in cross-examination and therefore my purpose is
7 not to restrict you, it is only that we don't want to go over
8 terrain that has already been covered, I would say, quite
9 exhaustively.

11:25:58 10 MR YILLAH: Just one question on that, My Lord.

11 Q. Mr Witness, on that occasion was it your discretion that
12 you used not to execute those prisoners of war contrary to the
13 instructions?

14 A. It was ECOMOG that intervened on behalf of these prisoners
11:26:20 15 and during that time they had more firing power than we did. So
16 automatically I was under them. So because my [inaudible]
17 coordinator was there, so even when I tried to explain to them --
18 the order that I had with me, I was not able to carry it out.
19 That's the answer.

11:26:41 20 JUDGE THOMPSON: It was not an exercise of a discretionary
21 power at all.

22 MR YILLAH: I'm satisfied with that.

23 JUDGE BOUTET: He has explained to you the time they were
24 in the same headquarters in Bo, and so he was explaining why he
11:26:58 25 had much capability to carry on.

26 PRESIDING JUDGE: And it was there that he received an
27 education as to how prisoners of war were treated. If you
28 revisit the evidence that's what he said.

29 MR YILLAH: My Lord, his evidence is very convoluted.

1 PRESIDING JUDGE: Anyway we have all the time for this in
2 addresses.

3 MR YILLAH: As My Lord pleases.

4 Q. Mr Witness, let me ask you this: Whenever as XXXXXXX XXXXXXX
11:27:30 5 XXXXXX you were working alongside ECOMOG, would I be correct
6 to suggest that ECOMOG was in command?

7 A. Yes. Yes, we are under them directly.

8 Q. Mr Witness, would I be correct to say that on those
9 occasions where you were working with ECOMOG you took
11:28:34 10 instructions from ECOMOG contrary to the instructions that you
11 had received from Base Zero? Would I be correct to say that?

12 A. Yes, My Lord, when we were in town. That was one of the
13 reasons for which I was sacked.

14 Q. Mr Witness, you spoke about instructions given to you by
11:29:39 15 the first accused regarding Pipor, Sorgia and another village; is
16 that correct?

17 A. Yes, My Lord.

18 Q. Now, Mr Witness, would I be correct to say that those
19 villages, Pipor, Sorgia and the other village, they're found in
11:30:21 20 Bonthe District? Would I be correct to say that?

21 A. Yes, My Lord.

22 Q. Mr Witness, were paramount chiefs from Bonthe District
23 present in Base Zero when you carried out these orders on their
24 villages?

11:30:59 25 A. No, My Lord. We did not have any regard for paramount
26 chief as much.

27 MR YILLAH: That's not the question.

28 PRESIDING JUDGE: That's not the question.

29 THE WITNESS: No, My Lord, they were not there at all. It

1 was in Base Zero, in Base Zero at all.

2 PRESIDING JUDGE: I'm not clear.

3 MR YILLAH: Okay, let me put it again to him.

4 Q. Mr Witness, was there any paramount chief representing
11:31:32 5 Bonthe District at Base Zero when you carried out these
6 operations?

7 A. Yes, My Lord, paramount chief of Nongoba Bullom Chiefdom.

8 PRESIDING JUDGE: Of?

9 THE WITNESS: Nongoba Bullom Chiefdom. PC Charlie Tucker.
11:31:57 10 He was the deputy chairman War Council. PC Charles Caulker,
11 Bumpe Chiefdom. He was a member of the War Council. They were
12 all there.

13 JUDGE BOUTET: Yes, Mr Yillah.

14 MR YILLAH:

11:33:19 15 Q. Mr Witness, did these paramount chiefs - the two Bonthe
16 paramount chiefs that you have just mentioned - did they
17 intervene to prevent the loss of lives and properties in their
18 district?

19 A. No, My Lord. The time that instructions were given to me,
11:33:46 20 they were not there at all.

21 PRESIDING JUDGE: That's not the answer. That's not your
22 question, is it?

23 MR YILLAH: Absolutely, My Lord.

24 Q. My question was: Did these paramount chiefs who were
11:34:05 25 representing Bonthe District, did they intervene to prevent you
26 from carrying out the instructions relating to those villages?

27 A. No, they did not intervene.

28 JUDGE BOUTET: I don't think the evidence was that they
29 were representing Bonthe. They were from Bonthe, but his

1 evidence is there were more than these two paramount chiefs in
2 Bonthe but these were the two that were at Base Zero. So there
3 is no confusion there.

4 MR YILLAH: Yes, My Lord. I will just ask him to clarify
11:34:44 5 that point.

6 Q. Do you know whether they were representing Bonthe District,
7 those two paramount chiefs?

8 A. One was representing Bonthe District, PC Charlie Tucker of
9 Nongoba Bullom Chiefdom.

11:35:28 10 Q. Mr Witness, just one question on that front. Do you know
11 what the role of a paramount chief is in his chiefdom?

12 A. Not in war time, My Lord.

13 Q. Mr Witness, do you know or don't you know?

14 A. I don't know, I'm not a paramount chief. I'm not a
11:36:00 15 paramount chief, I don't know.

16 PRESIDING JUDGE: But you're from a ruling house.

17 THE WITNESS: Yes, but I don't have a staff. Yes, I come
18 from a ruling house but I have never held a staff.

19 PRESIDING JUDGE: [Microphone not activated]

11:36:16 20 THE WITNESS: I'm a priest.

21 PRESIDING JUDGE: You can even become -- you're eligible to
22 a throne, aren't you?

23 THE WITNESS: Yes, I have the right to a throne. I can
24 only have that right when I would have held the staff. See, when
11:36:29 25 I would have held the staff then they would tell you what and
26 what to do.

27 PRESIDING JUDGE: I don't want to go further into this.

28 JUDGE THOMPSON: So the final answer is that I don't know.

29 MR YILLAH: As My Lord pleases.

1 THE WITNESS: I don't know at all.

2 MR YILLAH:

3 Q. That notwithstanding the fact that you're from a ruling
4 house?

11:36:47 5 A. Yes, yes.

6 Q. Mr Witness, I put it to you that commands in respect of
7 those villages --

8 PRESIDING JUDGE: Mr Yillah, please let me ask him one
9 question. Was Paramount Chief Charles Tucker of Nongoba Bullom
11:37:37 10 Chiefdom, was he aware of these instructions that were given to
11 you?

12 THE WITNESS: No, My Lord.

13 PRESIDING JUDGE: He was not aware of the instructions
14 given to you about those three villages?

11:37:51 15 THE WITNESS: At all.

16 PRESIDING JUDGE: Yes, Mr Yillah, you may proceed.

17 MR YILLAH:

18 Q. Mr Witness, let me ask you this: Did Paramount Chief
19 Tucker, vice chairman of War Council, did he object or raise any
11:38:32 20 misgivings after you had carried out the operations in these
21 three villages? I'm talking about after, now.

22 A. We did not have much to discuss, he did not tell me
23 anything about that.

24 Q. No, do you know whether he raised objections at Base Zero
11:38:57 25 regarding your execution of the operations in those three
26 villages in Bonthe?

27 A. I don't know, because I am not a member of the War Council.

28 Q. But you were an important officeholder, Mr Witness. You
29 held a very high office?

1 A. That did not qualify me that I was a member of the War
2 Council. See where they used to meet, I was not there at times.

3 Q. Mr Witness, you spoke about the Death Squad in your
4 evidence-in-chief; is that correct?

11:40:14 5 A. Yes, My Lord.

6 Q. Mr Witness, I put it to you that, contrary to what you said
7 to this Court, the duty of the Death Squad and its leader
8 Jegbeyama was to provide security in and around Base Zero?

9 A. Repeat your question.

11:40:48 10 Q. Mr Witness, I am putting it to you that the function of the
11 Death Squad and its leader Jegbeyama was limited to providing
12 security in and around Base Zero?

13 A. Yes, My Lord, with explanation.

14 JUDGE BOUTET: The question is their duties were limited to
11:41:27 15 provide security --

16 THE WITNESS: Yes, My Lord.

17 JUDGE BOUTET: -- in and around Base Zero.

18 MR YILLAH: He has agreed but he is wishing to qualify it
19 by explanation.

11:41:38 20 JUDGE BOUTET: I know. That is why I was repeating the
21 question because I thought the question was quite clear.

22 THE WITNESS: I said yes, with explanation. Our National
23 Coordinator said that they were for security, but that was not
24 the work they were doing. They were the ones that used to
11:42:44 25 torture the captives. They were the ones that used to molest the
26 War Council members whom they thought were very active. They
27 threatened the War Council, the lives of War Council members.
28 They used to loot and bring all the looted property to the
29 National Coordinator.

1 MR YILLAH:

2 Q. Mr Witness, I also put it to you that the name Death Squad
3 was chosen by the leader and his members to give a name to -- to
4 give such a name to their group. It was not given by any other
11:44:31 5 person but by the leader Jegbeyama?

6 A. I don't know about that. He was not answerable to me so I
7 don't know much about him. I am only explaining about their
8 behaviour.

9 Q. Mr Witness, you also spoke about Special Forces in your
11:45:29 10 evidence-in-chief. I put it to you, Mr Witness, that the
11 fighters you referred to as Special Forces were Nigerian ECOMOG
12 soldiers who were based at Base Zero?

13 A. No, My Lord, we did not have any ECOMOG soldier that was
14 based in Base Zero. We had Liberian fighters.

11:46:11 15 Q. Mr Witness, I further put it to you that no killing in Base
16 Zero -- no killings in Base Zero took place in respect of
17 Mustapha Fallon and Dauda Kanu as you stated in your
18 evidence-in-chief?

19 A. I that am sitting here, the National Coordinator who is
11:47:25 20 Chief Hinga Norman, the high priest Kondewa and Moinina Fofana we
21 did that action. Mustapha Fallon, we killed him in the Pora
22 bush. Other people were there with us. Mr Amara Sengay was with
23 us, German was with us --

24 PRESIDING JUDGE: Who?

11:49:09 25 THE WITNESS: German, German. [Inaudible] was with us.
26 Dr Jigbao was with us. The two brothers were with us, the
27 brothers of Mustapha Fallon to whom Chief Hinga Norman gave
28 300,000.

29 MR YILLAH: I just observed that probably, because of the

1 exigencies of time, most of the explanations that the witness has
2 given are already in evidence-in-chief so if he may just limit
3 them. All of these issues have already been stated by him in his
4 evidence, just to caution him.

11:50:11 5 Q. Mr Witness, I put it to you that it was Joe Tamidey and not
6 you who was directly responsible for the Koribundu operations?

7 A. I led the Koribundu operation, My Lord. Joe Tamidey was
8 just with me, with other commanders that were with me.

9 JUDGE BOUTET: Yes, Mr Yillah.

11:50:59 10 MR YILLAH: Yes, My Lord.

11 Q. Mr Witness, you said there were many commanders in
12 Koribundu. Would I be correct to suggest that these many
13 commanders were operating with different groups when the attack
14 took place?

11:51:19 15 A. Yes, My Lord, but all of them were under my command. All
16 the commands that I took from Base Zero are the ones that they
17 had to go by for my National Coordinator so as to burn all the
18 house in Koribundu. That they shouldn't have left even a fowl.

19 Q. Mr Witness, would I be correct to suggest that ECOMOG
11:52:18 20 subsequently took over control -- took over command of Koribundu?

21 A. Yes, later on when ECOMOG had settled in Bo, they were the
22 ones that were controlling us. At the same time they were
23 controlling CDF also. But they were not based in Koribundu.

24 Q. But would I be correct to say nevertheless you were taking
11:53:23 25 instructions from ECOMOG when they settled in Bo, even though
26 they were not based in Koribundu? You were taking instructions
27 from them, were you not?

28 PRESIDING JUDGE: I think he said he has, he did, he was
29 taking instructions from them. When they came they were taking

1 instructions directly from ECOMOG.

2 MR YILLAH: And then he subsequently went later to qualify
3 it that they were not based in Koribundu. So that is what I am
4 putting to him now, that aspect.

11:53:58 5 Q. I am putting it --

6 A. I am ready to answer.

7 Q. Notwithstanding the fact that ECOMOG were not based in Base
8 Zero, but were in Bo, you took instructions from them regarding
9 operations in Koribundu?

11:54:16 10 A. Yes, My Lord. When ECOMOG [inaudible] Southern Province,
11 we were under them, when they had based there.

12 Q. Thank you, Mr Witness.

13 A. Thank you too.

14 Q. Mr Witness.

11:54:56 15 A. Yes, My Lord.

16 Q. Let me ask you this.

17 A. I'm ready to answer.

18 Q. Are you proud of your track record as XXXXXXX
19 XXXXXXX for the southern province in your role during the war?

11:55:16 20 Are you proud of your track record?

21 A. I am not somebody that's proud.

22 Q. No, the question is specific.

23 A. No, I'm not proud.

24 Q. So Mr Witness, you're not proud of your track record as
11:55:52 25 XXXXXXX XXXXXXX XXXXXXX south CDF?

26 JUDGE THOMPSON: Learned counsel, is it that you're
27 suggesting to him or asking him whether he takes credit, because
28 the word proud here might create some nuances of language.

29 PRESIDING JUDGE: Because this witness is not a proud man.

1 JUDGE THOMPSON: Because he had probably -- counsel Jabbi
2 might want to help us. Are we using -- are we on the same
3 wavelength? Is it credit for what he has done in his role as
4 XXXXXXX XXXXXXX or is it proud which of course can mean
11:56:34 5 haughtiness, that kind of thing?

6 MR YILLAH: As My Lord please. My learned senior Dr Jabbi
7 has just corrected me in that respect, that the witness seemed to
8 understand my question only in light of his character.

9 JUDGE THOMPSON: Yes, haughtiness.

11:56:53 10 MR YILLAH: As My Lord pleases.

11 Q. Mr Witness.

12 A. Yes, My Lord.

13 Q. Are you happy with your track record, your role as XXXXXXX
14 XXXXXXX south within the CDF during the war?

11:57:10 15 A. I am not happy.

16 Q. Mr Witness.

17 A. Yes, My Lord.

18 Q. How long did you spend with the first accused? How long
19 did you interact with him during the war years? How long?

11:58:03 20 A. I don't remember. I cannot remember how long. If I say
21 anything I would lie.

22 Q. May I suggest to you two years, three years or one?

23 A. We are together up to -- I don't want to lie. I cannot
24 remember how long we have been together.

11:58:44 25 Q. Okay, let me make a suggestion. You came to Base Zero at
26 the end of 1997; right? Is that correct?

27 A. Yes, towards 1997.

28 Q. '97, '98, '99, that's two years. Would I be correct if I
29 suggested two years, that you interacted with him for two years?

1 A. Even 2001 we are together, up to 2000.

2 Q. So that's about three -- you interacted with him for about
3 three, four years?

4 A. Yes, My Lord.

11:59:37 5 Q. Mr Witness, would I be correct to say that your dislike for
6 the first accused -- you were known to dislike the first accused
7 because you were fired from your position as XXXXXXXX XXXXXXXX
8 south?

9 JUDGE THOMPSON: Why not keep the two separate? Put the
12:00:02 10 first premise first and then the second premise if it becomes
11 necessary.

12 MR YILLAH: As My Lord pleases.

13 Q. Mr Witness, I put it to you that as a result of your
14 dismissal from your office --

12:00:23 15 JUDGE THOMPSON: No. Why not put the theory of dislike
16 first and then probably canvass the reason or put it as another
17 theory.

18 MR YILLAH: As My Lord pleases.

19 Q. Mr Witness.

12:00:39 20 A. Yes, My Lord.

21 Q. Okay, let me ask you this: Mr Witness, I find it very
22 strange that you have nothing good to say about the first accused
23 to this Court having interacted with him for three, four years.
24 Do you find it strange as well?

12:01:02 25 JUDGE BOUTET: What's the question?

26 THE WITNESS: My Lord, here that I am sitting here is to
27 say what had happened in the bush directly. I had told you that
28 in fact I would not leave one stone unturned, because this
29 country in which we are, it belongs to all of us, and I want

1 there to be peace and I am saying the truth and nothing but the
2 truth.

3 MR YILLAH:

4 Q. Mr Witness.

12:01:34 5 A. Yes, My Lord.

6 Q. Do you have anything good to say about the first accused,
7 having interacted with him for four years?

8 MR TAVENER: I object to this question. Is my friend
9 attempting to lead character evidence now? Is that the purpose,
12:01:47 10 character evidence?

11 JUDGE THOMPSON: That is why I thought I was guiding
12 counsel. Of course, counsel has the liberty not to take the
13 guidance of the Bench, but I thought if there was a theory of
14 dislike it could be specifically put and if there was reason also
12:02:09 15 for the dislike it could also be put as a separate theory. It
16 seemed to me that this line of cross-examination, the way you
17 have decided to go, can be argumentative and probably highly
18 speculative. I don't know whether this Court is interested in
19 getting enmeshed in argumentative kinds of questions and answers.
12:02:32 20 I wouldn't know how to evaluate it.

21 MR YILLAH: I take the cue, My Lord.

22 Q. Mr Witness.

23 A. Yes, My Lord.

24 Q. After your dismissal from office in 1998 --

12:02:57 25 PRESIDING JUDGE: Were you happy?

26 MR YILLAH:

27 Q. -- were you happy with the first accused?

28 A. I was not happy with him to [inaudible] facts, but --

29 PRESIDING JUDGE: Wait. Dismissal was in 1998?

1 MR YILLAH: Yes, My Lord.

2 PRESIDING JUDGE: The dismissal was by the first accused?

3 MR YILLAH: Yes, My Lord.

4 PRESIDING JUDGE: According to you?

12:03:49 5 THE WITNESS: It was made by Vice President AJ Demby in
6 town. Former Vice President AJ Demby.

7 MR YILLAH:

8 Q. Mr Witness, I finally put it to you - this is the last
9 question, Mr Witness - that the first accused did not give
12:04:39 10 specific and general instructions to you because you were not
11 next to him in the line of command?

12 A. My Lord --

13 PRESIDING JUDGE: Did he or did he not?

14 THE WITNESS: He did. I refer you to the Bo meeting where
12:05:03 15 Arrow Bockarie was.

16 JUDGE BOUTET: What was the last part of your answer?

17 THE WITNESS: I refer him to the Bo Town meeting that we
18 held, where Chief Hinga Norman declared that --

19 JUDGE BOUTET: But you added something about you were --

12:05:30 20 THE WITNESS: The one that I added, I said Arrow Bockarie
21 was present in that meeting.

22 JUDGE BOUTET: So that concludes your cross-examination?

23 MR YILLAH: That will be all for this witness, My Lord.

24 JUDGE BOUTET: Thank you.

12:05:49 25 PRESIDING JUDGE: Just a moment, please. Learned counsel,
26 we will rise for just about 10 minutes and we'll resume
27 thereafter.

28 [Break taken at 12.05 p.m.]

29 [Upon resuming at 12.35 p.m.]

1 arms and ammunition to the war front for the fighters. I used to
2 frequently visit the front line to ascertain the positions of
3 troops and to report that is given to me. I was interested --
4 [translation interrupted]

12:40:52 5 PRESIDING JUDGE: [Overlapping speakers] with the
6 enumeration let us know.

7 MR BOCKARIE: Let him just go ahead, My Lord.

8 PRESIDING JUDGE: Because we have had these explanations
9 before, that is what I'm saying, about what he is detailing. We
12:41:03 10 had it extensively during --

11 THE WITNESS: I and the war director had been sitting
12 together to plan the war.

13 MR BOCKARIE:

14 Q. I will come to that, Mr Witness. Mr Witness, would you
12:41:17 15 agree with me that these responsibilities you have just stated
16 constituted the core functions of the office of the Director of
17 War?

18 A. Well, I did not know his roles and responsibilities.

19 Q. But you'd agree with me that the functions you have just
12:41:45 20 highlighted were very cardinal in carrying out the functions of
21 the Director of War?

22 A. Yes, My Lord, but because he was not educated that is why I
23 did them.

24 Q. Thank you, Mr Witness.

12:42:09 25 A. Okay.

26 Q. Mr Witness.

27 A. Yes, My Lord.

28 Q. You were the architect of the Black December operation,
29 weren't you?

1 A. Yes, My Lord, with the Director of War.

2 PRESIDING JUDGE: What, Mr Bockarie? You say what?

3 MR BOCKARIE:

4 Q. You were -- my question is specific in reference to you.

12:43:00 5 You were the architect of the Black December operations, weren't
6 you?

7 A. Yes, My Lord, with explanation. We sat down meeting at
8 Base Zero -- [translation interrupted]

9 PRESIDING JUDGE: [Overlapping speakers] what happened?

12:43:43 10 THE WITNESS: Chief had been telling us what were the
11 pillars that will make your enemy to run away from you. He said
12 hunger was one and I said that chief -- I said that if hunger is
13 one then let's block all the roads. Food should not come from
14 our own operation area to go to the junta, should stop that
12:44:23 15 movement completely.

16 MR BOCKARIE:

17 Q. Mr Witness, I'll come into those details later.

18 Mr Witness, you recall making statements to the investigators
19 dated 27 November 2002?

12:44:50 20 A. Yes, I made statement. People used to go to me.

21 JUDGE BOUTET: Is that the same statement that was --

22 MR BOCKARIE: This one is on 27 November 2002.

23 THE WITNESS: I cannot remember the date, My Lord.

24 MR BOCKARIE: This statement I am referring to, My Lord, is
12:45:11 25 27 November 2002.

26 Q. Mr Witness, I'm reading on page --

27 JUDGE BOUTET: The reason I was asking was it the same
28 statement, if it is a different statement you have to go through
29 the same background.

1 MR BOCKARIE:

2 Q. Mr Witness, while making the statement in which language
3 did you speak?

4 A. It was Krio.

12:45:46 5 Q. Was it recorded?

6 A. Yes, My Lord.

7 Q. Handwritten?

8 A. Yes, My Lord.

9 Q. And then it was read over to you, wasn't it?

12:46:12 10 A. Yes, My Lord.

11 Q. And the statement was confirmed by appending your signature
12 to be true and correct?

13 A. Yes, My Lord. Yes, My Lord.

14 Q. Mr Witness.

12:46:33 15 A. Yes, My Lord.

16 Q. Just a minute. Mr Witness, did you tell the investigators
17 this, on page 10198 starting on the first paragraph -- I will
18 read slowly: "The Black December Operation was declared in
19 December 1997 and lasted 'til February 1998. The rationale was
12:47:15 20 to paralyse the AFRC/RUF operations with the clear no vehicle
21 were to be seen on the highway. This was planned at Base Zero.
22 I was the architect of this plan and presented it to the War
23 Council." The operative word here is "I was the architect of
24 this plan". Did you tell this to the investigators, Mr Witness?

12:47:41 25 A. I want you to break that word up, architect.

26 JUDGE BOUTET: Mr Witness, did you or did you not make that
27 statement to the investigators?

28 THE WITNESS: I have made statement that with explanation.

29 JUDGE BOUTET: You made that statement?

1 THE WITNESS: Yes, I made that statement.

2 MR BOCKARIE:

3 Q. Thank you, Mr Witness. Mr Witness, being the brain behind
4 that operation, can you tell this Court what were the strategies
12:48:42 5 you put in place in furtherance of the objectives?

6 A. That was done by the National Coordinator. I only made
7 suggestions, that it went on the air.

8 Q. So, Mr Witness, you're telling this Court you didn't put
9 any strategies in place in respect of the Black December
12:49:27 10 Operation?

11 PRESIDING JUDGE: He said he made suggestions.

12 MR BOCKARIE:

13 Q. Can you tell us what were the suggestions you made?

14 A. I'm quite ready to do so.

12:49:38 15 Q. Go ahead, please.

16 A. Chief Hinga Norman had been highlighting the way in which
17 he would be able to eliminate the enemies. He said it's not just
18 a question of going to war using guns. He said hunger is one
19 strategy that we could use. So from there I said, "Chief, so
12:49:59 20 what you should do, let us block all the roads" -- [translation
21 interrupted]

22 PRESIDING JUDGE: Wait, wait, wait.

23 JUDGE THOMPSON: You said that the National Coordinator
24 suggested hunger as one strategy? As one strategy? Hunger as
12:50:30 25 one strategy. And what was your input?

26 THE WITNESS: Yes, one weapon. My contribution was that we
27 should implement it. He approved.

28 PRESIDING JUDGE: Recommend it in what way? What was your
29 idea on this issue of hunger?

1 JUDGE THOMPSON: Implement it.

2 PRESIDING JUDGE: Yes, implement it how? What was your
3 input here?

4 THE WITNESS: So that food should not come from our own
12:50:58 5 area to the area of the enemies. And roadblocks.

6 PRESIDING JUDGE: You also recommended roadblocks?

7 THE WITNESS: Yes, My Lord.

8 PRESIDING JUDGE: Tell us all the suggestions you put into
9 this operation.

12:51:48 10 THE WITNESS: Those are the suggestions that I gave.

11 MR BOCKARIE:

12 Q. Mr Witness.

13 A. Yes, My Lord.

14 Q. In your evidence-in-chief you also said that you planned
12:52:06 15 and formulated strategies in respect of the war together with
16 Moinina Fofana? In your evidence-in-chief yesterday; am I
17 correct?

18 JUDGE THOMPSON: Not yesterday.

19 MR BOCKARIE: On Friday. Sorry, sir.

12:52:23 20 PRESIDING JUDGE: And he has repeated it now during your
21 cross-examination. Yes, he has. You should follow your witness.

22 MR BOCKARIE: Yes, Your Honour.

23 Q. Am I correct, Mr Witness?

24 A. Yes, I have said it.

12:52:40 25 Q. Mr Witness, I would also like to refer you to your
26 statement of the 26th of November 2002 at page 10186. I will
27 read.

28 PRESIDING JUDGE: Mr Bockarie, is that the same statement?

29 MR BOCKARIE: This is of the 26th November. The previous

1 one was the 27th.

2 JUDGE BOUTET: This is the one that was canvassed by
3 counsel for the first accused.

4 MR BOCKARIE: This one I am referring to is dated 26th
12:53:20 5 November 2002.

6 JUDGE BOUTET: But did he give only one on the 26th? Is it
7 the same that Mr Yillah used before?

8 MR YILLAH: Yes, that's the one I used.

9 JUDGE BOUTET: Okay.

12:53:30 10 MR BOCKARIE:

11 Q. Mr Witness.

12 A. Yes, My Lord.

13 Q. At page 10186 I will read second line from the top. "I
14 planned strategy for the war and presented it to the War
12:53:45 15 Council." Did you tell the investigators this?

16 A. Yes, My Lord. I used to plan because I was the one writing
17 it, because the Director of War was not educated. I was the one
18 that was doing everything. He was saying it in Mende and I was
19 writing.

12:54:34 20 PRESIDING JUDGE: He would talk to you in Mende and you
21 would write it?

22 THE WITNESS: Yes, My Lord, both of us.

23 MR BOCKARIE:

24 Q. Mr Witness, I am sure in the course of your planning, your
12:54:56 25 planning was completely devoid of killing of innocent civilians;
26 am I correct? Whilst planning and strategising the war together
27 with the Director of War, Moinina Fofana, your planning was
28 completely devoid of killing of innocent civilians; am I correct?

29 PRESIDING JUDGE: Was it part of your plan?

1 MR BOCKARIE:

2 Q. It was not part of your planning to kill innocent
3 civilians; was it?

4 A. I cannot get you clearly.

12:55:29 5 Q. Okay. Whilst planning together with the Director of War --

6 PRESIDING JUDGE: Did you include the killing of innocent
7 civilians in that plan?

8 THE WITNESS: No, My Lord. No, My Lord.

9 MR BOCKARIE:

12:56:04 10 Q. Neither did you include the looting of civilians' property?

11 A. No, My Lord.

12 Q. Mr Witness, neither did it include the raping of women?

13 A. Not at all, My Lord.

14 PRESIDING JUDGE: Are they charged with rape? Please,
12:56:57 15 limit your cross-examination to relevant issues.

16 MR BOCKARIE:

17 Q. Mr Witness.

18 A. Yes, My Lord.

19 Q. Am I correct that you had information regarding the Tongo
12:57:22 20 attack that civilians fought alongside the juntas armed with
21 sticks with nails attached and machetes against the Kamajors?
22 You were told that? You had information regarding that?

23 A. Yes, My Lord.

24 PRESIDING JUDGE: You say information about what?

12:57:41 25 MR BOCKARIE: Regarding civilians fighting alongside juntas
26 armed with machetes and sticks with nails attached.

27 PRESIDING JUDGE: Had information about civilians --

28 MR BOCKARIE: Sorry, I mean the Kamajors.

29 PRESIDING JUDGE: Yes, fighting alongside?

1 MR BOCKARIE: The juntas armed with sticks with nails --
2 THE WITNESS: This is correct, My Lord.
3 PRESIDING JUDGE: Armed with?
4 MR BOCKARIE: Sticks with nails attached and machetes.
12:58:36 5 PRESIDING JUDGE: This was in Tongo?
6 MR BOCKARIE: Yes, in respect of Tongo, My Lord.
7 THE WITNESS: Yes, My Lord.
8 PRESIDING JUDGE: And they were fighting against the
9 Kamajors?
12:58:54 10 MR BOCKARIE: Yes, My Lord.
11 THE WITNESS: Yes, My Lord.
12 MR BOCKARIE:
13 Q. Mr Witness, will I be correct to say that before February
14 1998 the relationship between the civilians in Koribundu and the
12:59:17 15 soldiers had been very cordial? They had very good relationship,
16 the civilians in Koribundu and the soldiers. I am talking of
17 Koribundu now.
18 A. Yes, My Lord. They gave their children in marriage to
19 soldiers.
13:00:20 20 Q. These civilians were strong supporters of the juntas in
21 Koribundu; am I correct?
22 A. I don't know, I was not within the environment. If they
23 had been supporting or not, I do not know.
24 Q. Mr Witness.
13:01:03 25 A. Yes, My Lord.
26 Q. Isn't it true as in Tongo that the civilians in Koribundu
27 fought alongside the juntas against the Kamajors?
28 A. In Koribundu?
29 Q. Correct.

1 A. Not to my knowledge.

2 MR BOCKARIE: Your Honour, at this stage I stand to be
3 guided.

4 PRESIDING JUDGE: Please continue. At a convenient moment
13:02:05 5 to stop we'll stop. Are you suggesting you are at the end of an
6 episode?

7 MR BOCKARIE: I want to go into another new area.

8 PRESIDING JUDGE: You want to go into a new area?

9 MR BOCKARIE: Yes, I just want to be guided.

13:02:20 10 PRESIDING JUDGE: Well, the guidance is what you expect.
11 We shall be rising to have lunch and we'll be resuming the
12 session at 2.30 p.m. So, learned counsel, the Chamber will rise,
13 please.

14 [Luncheon recess taken at 1.00 p.m.]

14:43:11 [Upon resuming at 2.45 p.m.]

PRESIDING JUDGE: Good afternoon, learned counsel. We are
17 resuming the session. Mr Bockarie.

18 MR BOCKARIE: Yes, Your Honour. Thank you.

19 PRESIDING JUDGE: You were very deep in thought. Maybe
20 thinking of the first question to shoot at the witness. You may
21 proceed, Mr Bockarie.

22 MR BOCKARIE: Thank you very much, Your Honour.

23 Q. Mr Nallo.

24 A. Yes, My Lord.

14:49:10 25 Q. When the Kamajors took over Bo in February 1998 they were
26 later chased out by the junta in that same February. Am I
27 correct?

28 A. Please repeat your question.

29 PRESIDING JUDGE: Mr Bockarie, make it short. Shorten that

1 question.

2 MR BOCKARIE: Yes, Your Honour.

3 Q. The Kamajors took over Bo in February 1998; am I
4 correct.?

14:49:30 5 A. Friday?

6 Q. February. A day in February 1998.

7 A. Yes, My Lord.

8 PRESIDING JUDGE: They took over what, Bo?

9 MR BOCKARIE: Yes, Your Honour.

14:50:07 10 Q. In less than a week the juntas re-took the town from the
11 Kamajors, that very month; isn't it?

12 A. Two days.

13 Q. Mr Witness, isn't it true that in that takeover the juntas
14 disguised themselves as Kamajors wearing the Kamajor ronko?

14:51:02 15 A. You are right. That was why I was assigned to kill Dr MB
16 Sesay.

17 PRESIDING JUDGE: You say that was why you were assigned.

18 THE WITNESS: Yes, by the national coordinator for me to
19 kill Dr MB Sesay, burn his house and loot all his property.

20 MR BOCKARIE:

21 Q. Mr Witness, isn't it correct that during this time it was
22 difficult to tell the difference between a junta and a Kamajor?

23 A. It was difficult.

24 Q. This was followed by a big confusion within the town; am I
14:52:58 25 correct?

26 A. Yes, My Lord.

27 Q. This confusion occurred in the midst of heavy firing in the
28 town; am I correct?

29 A. Yes, My Lord.

1 Q. And in the course of this firing scores of civilians lost
2 their life; isn't it?
3 A. Yes, My Lord.
4 JUDGE BOUTET: Did you say thousands?
14:54:04 5 MR BOCKARIE: Scores.
6 JUDGE BOUTET: Scores.
7 MR BOCKARIE:
8 Q. Mr Witness, did you know of the existence of the peace
9 office in Bo within the Kamajor wing in 1998?
14:54:44 10 A. You do not have that one.
11 PRESIDING JUDGE: Mr Bockarie, are you saying the peace office
12 within the Kamajor movement or what did you --
13 MR BOCKARIE: Was established in Bo in 1998.
14 PRESIDING JUDGE: Established by who, Mr Bockarie?
14:55:24 15 MR BOCKARIE:
16 Q. Established by the resident minister Foday Sesay?
17 A. We do not have a peace office. We had a war directorate
18 office. That is how we used to call it.
19 PRESIDING JUDGE: War directorate?
14:56:00 20 THE WITNESS: Office in Bo.
21 MR BOCKARIE:
22 Q. Mr Witness, isn't it true that sometime in 2002 the office
23 of director of war was replaced by the office of peace in Bo?
24 A. By then I was not there. The war director had wanted to
14:57:05 25 use me like how Chief Hinga Norman had used me. Even if I was
26 going to arrest you.
27 PRESIDING JUDGE: What did you say?
28 JUDGE THOMPSON: What was the answer?
29 THE WITNESS: I said at that time I have left the office

1 because the war director was giving me directives to carry that
2 were detrimental to me, that was why I left the office.

3 JUDGE THOMPSON: What I was interested to know, your
4 question was whether there was -- the war directorate office was
14:57:43 5 replaced by a peace office.

6 MR BOCKARIE: Yes, Your Honour.

7 JUDGE THOMPSON: And the answers seems not to have come
8 out.

9 JUDGE BOUTET: He then says then he was not there any more.

10 14:57:54 MR BOCKARIE: Sorry, this was in 2000.

11 JUDGE THOMPSON: So does he know or does he not know?

12 MR BOCKARIE: That is what I want to find out; do you know
13 whether. That is my question.

14 Q. Do you know?

15 14:58:01 A. No, I had left.

16 JUDGE THOMPSON: That's my difficulty. I find it so difficult to
17 factor these answers if they're not directly to the point.

18 MR BOCKARIE: Yes, My Lord. It is the question whether you
19 knew.

20 14:58:15 JUDGE THOMPSON: Whether you knew or you did not know.

21 MR BOCKARIE: Or you did not know.

22 THE WITNESS: I heard about it later.

23 MR BOCKARIE: This was in 2000, My Lord. The year 2000.

24 JUDGE BOUTET: I thought you said 2002.

25 14:58:31 THE WITNESS: I heard about it but I don't know the date.

26 MR BOCKARIE: Yes, sorry. It is a mistake. The appropriate year
27 is 2000.

28 JUDGE BOUTET: Your question should have been 2000.

29 MR BOCKARIE: 2000.

1 Q. I must apologise for that, Mr Witness. It is 2000, not
2 2000 -- yes, sorry.

3 JUDGE THOMPSON: So the answer would be that I heard that
4 there was a replacement of the war directorate office by the
14:58:56 5 peace office but I wasn't there at the time.

6 MR BOCKARIE: Thank you.

7 JUDGE THOMPSON: Is that the answer?

8 THE WITNESS: Yes, My Lord.

9 JUDGE THOMPSON: Right. [Inaudible] intelligible answers.

14:59:03 10 MR BOCKARIE:

11 Q. Mr Nallo.

12 A. Yes, My Lord.

13 PRESIDING JUDGE: Do you have any time frame in 2002 for
14 this peace office?

14:59:42 MR BOCKARIE: It is 2000, My Lord.

16 PRESIDING JUDGE: I'm sorry, 2000. Do you have the time
17 frame? What month, do you know?

18 MR BOCKARIE: I don't know, My Lord. Sometime in 2000.

19 PRESIDING JUDGE: Okay.

15:00:21 20 Q. Mr Witness, did you know or did you ever come to know that
21 that office was being headed by the second accused Moinina
22 Fofana?

23 A. Yes, My Lord, I heard about it. We were living in the same
24 town.

15:01:03 25 Q. Mr Witness, were you ever investigated by this office into
26 allegations of looting undertaken by you in Tikonko?

27 A. No, My Lord.

28 PRESIDING JUDGE: That is by the peace office?

29 MR BOCKARIE: Yes, Your Honour.

1 PRESIDING JUDGE: Looting in Tikonko?
2 MR BOCKARIE: Yes, Your Honour.
3 PRESIDING JUDGE: Can you spell it, please.
4 MR BOCKARIE: Yes, Your Honour. T-I-K-O-N-K-O. Tikonko.
15:02:08 5 Q. Mr Witness, before the arrest of Moinina Fofana he was the
6 chiefdom speaker of Nongoba Bullom Chiefdom; am I correct? Do
7 you know that?
8 A. Yes, My Lord.
9 PRESIDING JUDGE: He was the speaker of what chiefdom?
15:02:48 10 MR BOCKARIE: Nongoba Bullom Chiefdom.
11 Q. Mr Witness, are you aware that Sorgia and Baoma Kpengeh
12 are in Nongoba Bullom Chiefdom?
13 A. I didn't know the terrain much.
14 Q. Did you later come to know that Sorgia and Baoma Kpengeh
15:03:40 15 are in Nongoba Bullom Chiefdom?
16 A. Yes, My Lord, I knew about Baoma Kpengeh.
17 PRESIDING JUDGE: Let's have the names. Let's have the correct
18 spellings of those villages again, Mr Bockarie.
19 MR BOCKARIE: It is B-A-O-M-A K-P-E-N-G-E-H. Then Sorgia
15:04:19 20 is S-O-R-G-I-A.
21 PRESIDING JUDGE: S-O-R-G.
22 MR BOCKARIE: I-A.
23 PRESIDING JUDGE: Nongoba Bullom.
24 MR BOCKARIE: N-O-N-G-O-B-A B-U-L-L-O-M.
15:04:28 25 PRESIDING JUDGE: Is it N or M?
26 MR BOCKARIE: N, Nathaniel.
27 Q. Mr Witness, in addition to Mr Moinina Fofana being chiefdom
28 speaker of this chiefdom Do you also know that he hails from this
29 chiefdom, Nongoba Bullom Chiefdom?

1 A. I don't know that.

2 Q. Mr Witness, I am putting it to you that at no time was Mr
3 Fofana present when orders were given for the killing of rebel
4 collaborators in Sorgia and Baoma Kpengeh?

15:06:12 5 A. He was there when the instructions were given, directives.
6 Baoma Kpengeh -- in fact, he directed me. He told me.

7 Q. Mr Witness, as far as you are concerned the office of the
8 director of war has to be manned by an educated person; isn't it?

9 PRESIDING JUDGE: I don't think this witness said so.

15:07:22 10 THE WITNESS: I don't know about that. I am not the
11 national coordinator.

12 PRESIDING JUDGE: He did not say so.

13 MR BOCKARIE:

14 Q. Mr Witness, were you happy when Moinina Fofana was
15:07:43 15 appointed as director of war?

16 A. I met him as director of war.

17 Q. Were you pleased with that appointment, taking into
18 consideration that he was an illiterate?

19 A. I'm happy because he is our national coordinator -- that
15:08:21 20 gave him the position.

21 Q. Mr Witness, isn't it true that you were vehemently opposed
22 to his appointment on the grounds that he was an illiterate?

23 A. I was not there. How could I oppose his appointment?

24 Q. Thank you. Mr Witness, do you know the motto of the CDF?

15:09:52 25 A. We fight for democracy.

26 Q. And that democracy mentioned in the motto refers to the
27 reinstatement of President Tejan Kabbah after he was toppled by
28 the juntas; isn't it?

29 JUDGE THOMPSON: Would you restate the question. I can't hear. I

1 didn't hear. You lost it?

2 MR BOCKARIE: Yes, Your Honour.

3 JUDGE THOMPSON: I lost it too.

4 MR BOCKARIE:

15:10:42 5 Q. Mr Witness, you said the motto of the CDF is to fight for
6 democracy; isn't it?

7 A. Yes, My Lord.

8 Q. Could I be correct to say that the democracy referred to in
9 that motto means the reinstatement of President Ahmed Tejan

15:11:03 10 Kabbah whose government had been toppled by the juntas?

11 A. Yes, My Lord.

12 Q. And in achieving this aim he opted for the arms
13 intervention; isn't it?

14 A. Please repeat your question.

15:12:08 15 JUDGE BOUTET: You are talking to him especially as [overlapping]

16 MR BOCKARIE: No, I mean the CDF.

17 Q. I mean the CDF opted for achieving this goal of having
18 President Kabbah reinstated back to power, the CDF opted for arms
19 intervention; am I correct?

15:12:58 20 A. I joined the Kamajor -- I joined the society as a Kamajor
21 fighter for the supernatural powers that the Kamajors had. So --

22 PRESIDING JUDGE: Wait, wait.

23 THE WITNESS: So that made us invulnerable to enemy
24 bullets.

15:13:45 25 MR BOCKARIE:

26 Q. Thank you, Mr Witness, can you now answer my question,
27 please. Mr Witness --

28 A. I didn't opt for arms and ammunitions.

29 Q. Not opt for arms and ammunition. Get the question correct,

1 you were going to help restore Tejan Kabbah back to power by the
2 force of arms; by fighting?

3 A. Okay, by fighting, yeah.

4 Q. And this option, the use of fighting, was being endorsed by
15:14:54 5 the president; are you aware?

6 A. I don't know about that. In fact, we didn't want to see
7 him. Sometimes he abused us more, in fact.

8 Q. Mr Witness --

9 A. Yes, My Lord.

15:15:45 10 Q. -- you told this Court that you were relieved as director
11 of operations south in 1988 by the then Vice President Joe Demby;
12 correct, isn't it?

13 A. Yes, My Lord.

14 Q. Mr Witness --

15:15:51 15 A. Yes, My Lord.

16 Q. Do you know who Dr Demby's boss was at that time?

17 A. The president was the head of state so if you have a vice
18 president they are all working hand in glove.

19 Q. Do you know who the boss was --

15:17:09 20 PRESIDING JUDGE: Who was the president at the time?

21 THE WITNESS: That's President Tejan Kabbah.

22 MR BOCKARIE:

23 Q. Mr Witness, how long have been in Freetown under the
24 auspices of the Office of the Prosecutor?

15:17:52 25 A. I can't remember that.

26 Q. Mr Witness, will I be correct to say that it dates as far
27 back as December 2002?

28 A. I don't know.

29 PRESIDING JUDGE: As far back as 26th?

MR BOCKARIE: November 2002.

2 Q. Mr Witness --

3 A. Yes, My Lord.

4 Q. -- please tell this Court for how many years have you lived
15:19:05 5 in Freetown under the auspices of the Office of Prosecutor?

6 MR TAVENER: I object to that question. We have not been
7 to this area for some time, but if my friend could distinguish
8 between the support provided by the Court and support provided by
9 the OTP. That is all I ask that he distinguish between the two
15:19:28 10 section of the Court.

11 MR BOCKARIE: My Lord, I earlier on suggested a date and he said
12 he --

13 JUDGE BOUTET: No, it is not the date. The objection has
14 to do with your using under the control of the Office of the
15:19:43 15 Prosecution. As you know, it is the -- Witness Protection Unit
16 that is in effect --

17 MR BOCKARIE: [Overlapping speakers] sorry, I mean --

18 JUDGE BOUTET: So that is the objection.

19 MR BOCKARIE:

15:19:48 20 Q. Yes, I think it should be the Witness Protection Unit, Mr
21 Witness. Sorry, Mr Tavener?

22 A. I don't know how many years. Contact them, they will tell
23 you. They have documents, I don't have.

24 Q. Mr Witness --

15:20:06 25 A. Yes, My Lord.

26 Q. I am sure you are staying in Freetown with your family;
27 aren't you?

28 A. Yes, My Lord. I can't live without my family.

29 JUDGE THOMPSON:

1 Q. Witness, answer the question directly, otherwise you get
2 into [overlapping speakers]?

3 A. Yes, My Lord, it's true.

4 Q. We know that many people can't live without their families,
15:21:09 5 it's a given, we will take judicial notice of that. But go ahead
6 and answer the questions directly?

7 JUDGE THOMPSON: So he is staying in Freetown with his family?

8 MR BOCKARIE: Yes.

9 Q. Mr Witness --

15:21:16 10 A. Yes, My Lord.

11 Q. -- could I be correct to say that since November 2002 you
12 have been unemployed?

13 A. I was a self-centred somebody. I was at [inaudible] I had
14 power saw machines and people were working on them and I paid
15:21:56 15 them. I used to saw boards.

16 JUDGE BOUTET: But the question, Mr Witness, is since
17 November 2002.

18 THE WITNESS: I was self-employed.

19 JUDGE THOMPSON: The question was up to now, so he is a
15:22:17 20 self-employed man is what he is saying.

21 MR BOCKARIE:

22 Q. You are still in your timber business up to date?

23 JUDGE THOMPSON: Yes, self-employed.

24 THE WITNESS: Of course.

25 JUDGE THOMPSON: He is self-employed.

26 THE WITNESS: I will still continue.

27 MR BOCKARIE: Thank you very much, Mr Witness.

28 THE WITNESS: Thank you, too.

29 MR BOCKARIE: That will be all for him, sir.

1 PRESIDING JUDGE: Thank you. Yes, Mr Margai. You may proceed,
2 please.

3 MR MARGAI: My learned friend Williams will do the
4 cross-examination, My Lords.

15:24:06 5 JUDGE BOUTET: Mr Williams, you are ready to proceed now?

6 MR WILLIAMS: No, My Lord. I wish to make an application,
7 My Lords, for the deferment of the cross-examination and
8 therefore defer, My Lord. My Lord, this was a --

9 PRESIDING JUDGE: Excuse me. You see we have to go on with
15:25:04 10 these proceedings. Mr Margai, you were to do this, you know,
11 yourself because we don't intend --

12 MR MARGAI: Sorry, My Lords.

13 PRESIDING JUDGE: You were, you are to do this personally.
14 I thought that you could do it and proceed because, I mean, look
15:25:24 15 at the time, what shall we be doing between now and the end of
16 the day?

17 MR MARGAI: My Lords, I was going to take this witness, but
18 in the light of certain developments I have decided to hand the
19 cross-examination over to my colleague and it is most unfortunate
15:25:44 20 that he is not quite prepared to cross-examine because, as Your
21 Lordship's will appreciate, this witness is a very important
22 witness and quite a lot has been said. And if justice were to be
23 done to our client, then I think it is but only reasonable that
24 time be given to Mr Williams because he would need to take
15:26:05 25 instructions from the client, to have discussions with
26 investigators and then for me to hold a conference with him as to
27 the line I would have pursued. I mean, as Your Lordships have
28 always said, the ends of justice is what we are all interested
29 in.

1 PRESIDING JUDGE: We do agree. We do agree. Well, learned
2 counsel, Mr Margai --

3 MR MARGAI: Yes, My Lord.

4 PRESIDING JUDGE: The Chamber respects your position on
15:28:07 5 this issue.

6 MR MARGAI: As My Lord pleases.

7 PRESIDING JUDGE: The Chamber respects your position on
8 this issue. We would grant the adjournments that has been
9 solicited by Mr Williams --

15:28:21 10 MR MARGAI: I am grateful, My Lord.

11 PRESIDING JUDGE: -- to enable him to receive the necessary
12 briefings before he proceeds with the cross-examination of this
13 witness. As you have rightfully said, we are all here to ensure
14 that we foster the interests of justice and nothing but the
15:28:38 15 interests of justice.

16 MR MARGAI: Yes, My Lord.

17 PRESIDING JUDGE: But we observe that very much unlike you
18 Mr Williams was in these proceedings all along when this witness
19 started his testimony.

15:28:50 20 MR MARGAI: Yes, My Lord.

21 PRESIDING JUDGE: I suppose this is a plus; he is not a
22 complete stranger to these proceedings.

23 MR MARGAI: No, no, no, no.

24 PRESIDING JUDGE: And we hope that in granting this
15:29:04 25 application we will have to couple this with a constraint that we
26 start at 9.30 and see how it goes. If we can finish by one,
27 fine.

28 MR MARGAI: I couldn't agree more with Your Lordship, but
29 Your Lordship knows from Your Lordship's practice days that

1 cross-examination is an art and as long as a particular
2 counsel --

3 PRESIDING JUDGE: Mr Margai, you know, we have been very,
4 very tolerant.

15:29:32 5 MR MARGAI: I know that, My Lord.

6 PRESIDING JUDGE: I mean, the cross-examination has been so
7 elastically elaborated that it has required a lot of patience on
8 the part of this Chamber to put up with the length of
9 cross-examination. We have no regrets for that because we don't
10 want to be seen to be interfering with the rights of the Defence
11 to put across in the most appropriate manner the defence of their
12 of their clients.

13 MR MARGAI: That has been so, My Lord, in very exceptional
14 circumstances.

15:30:04 15 PRESIDING JUDGE: Yes.

16 MR MARGAI: I mean, we have been very, very brief most of
17 the time. We only exceed an hour where the circumstances of the
18 case require that it be done in that direction.

19 PRESIDING JUDGE: In this case we are not tying you to one
15:30:21 20 hour, Mr Margai. We are not tying Mr Williams to one hour, not
21 even to two hours.

22 MR MARGAI: We may surprise Your Lordships.

23 PRESIDING JUDGE: Right, that's fine. It is a pleasant
24 surprise that we need.

15:30:31 25 MR MARGAI: Thank you.

26 PRESIDING JUDGE: As a surprise packet for the end of the
27 session.

28 MR MARGAI: Whilst not renegeing in our duty.

29 PRESIDING JUDGE: Not at all, not at all. We don't --

1 MR MARGAI: -- in defending our clients to the best of our
2 ability.

3 PRESIDING JUDGE: No, that would be also in renegeing your
4 duty to this Chamber to do justice to your client.

15:30:45 5 MR MARGAI: I appreciate that, My Lord.

6 PRESIDING JUDGE: That's right.

7 MR MARGAI: I appreciate that, My Lord.

8 PRESIDING JUDGE: That's right.

9 MR MARGAI: Thank you very much, we are grateful.

15:30:51 10 PRESIDING JUDGE: Yes, the Prosecution wanted say something
11 also?

12 MR TAVENER: Very briefly, Your Honour. In response to my
13 friend's application, the Prosecution would have no difficulty,
14 should any problems arise, that Mr Williams can cross-examine on
15:31:06 15 that very small issue which causes Mr Margai difficulties,
16 releasing Mr Margai to cross-examine on the rest tomorrow
17 morning.

18 PRESIDING JUDGE: No, no, no, it is settled, please.

19 MR TAVENER: All right. Thank you.

15:31:23 20 PRESIDING JUDGE: We should respect counsel's options --

21 MR TAVENER: Certainly.

22 PRESIDING JUDGE: -- when they express them. Yes.

23 MR TAVENER: As long as it is -- Sorry, I expect the
24 cross-examination, just confirmation from my friends, that they
15:31:35 25 will be finished by tomorrow.

26 PRESIDING JUDGE: No, no, no, never mind that. Never mind
27 that. We will take care of that because I told counsel on both
28 sides that tomorrow is the last day we are sitting here. So we
29 are not coming back here on Tuesday.

1 MR TAVENER: On Wednesday.

2 PRESIDING JUDGE: On Wednesday, I am sorry, I'm sorry, on
3 Wednesday.

4 MR WILLIAMS: My Lord, that would have been my humble
15:32:03 5 application, My Lord. My Lord, the witness made over 350 pages
6 of statement, My Lord.

7 PRESIDING JUDGE: Well, it is not our fault, you could have
8 started today and ended, you know, tomorrow.

9 MR WILLIAMS: Yes, My Lord, but the circumstances that I
15:32:17 10 have to -- these documents were disclosed about year ago, My
11 Lord, but I mean from the moment they were disclosed it was
12 apportioned to Mr Margai, so you have been taking very special
13 attention or giving special attention to this particular witness.
14 My Lord, I only heard it once.

15:32:37 15 PRESIDING JUDGE: I am sure you have been in the strategy
16 all along as to the conduct of this defence. Mr Margai, being a
17 very busy person, would not have isolated you from some principal
18 aspects of the --

19 JUDGE THOMPSON: I think counsel, learned counsel, is being
15:32:49 20 modest. We have seen you perform here. We know that you will be
21 able to apply discriminating judgment to know what areas you need
22 to or you want to cross-examine vigorously on, others you may not
23 even need to cross-examine. It is just that we understand that
24 this would be perhaps a sleepless night for you, but lawyers are
15:33:11 25 used to that.

26 PRESIDING JUDGE: We all have it.

27 JUDGE THOMPSON: Lawyers are used to that, they show much
28 resilience in these matters.

29 MR WILLIAMS: I am flattered, My Lord.

1 PRESIDING JUDGE: We thought you were taken by surprise
2 with the other witness, but you did so well, didn't you? I am
3 sure you will do very well tomorrow. Yes, Mr Tavener.

4 MR TAVENER: I am not meaning to annoy you. It was
15:33:37 5 intended to call Mr Gbekie tomorrow, he has some difficulties.
6 That is one of the investigators who is to be recalled. It might
7 be better if he is recalled in the next session. His evidence is
8 quite minor, it relates to taking a statement that is suitable --
9 it was intended to call him tomorrow, but --

15:33:55 10 PRESIDING JUDGE: If he can be called during the next
11 session.

12 MR TAVENER: Thank you. I thought I would just advise the
13 Court.

14 PRESIDING JUDGE: Yes. So any other issues, Mr Jabbi?

15:34:01 15 MR JABBI: No.

16 PRESIDING JUDGE: No. Well, Mr Witness, you will have to
17 come back again tomorrow.

18 THE WITNESS: Yes, My Lord, I'm ready.

19 PRESIDING JUDGE: Right. Well, learned counsel, the Chamber will
20 rise for the day. The Court will rise.

21 [Whereupon the hearing adjourned at 3.35 p.m., to be
22 reconvened on Tuesday, the 15th day of March, 2005, at 9.30 a.m.]

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WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-014	2
CROSS-EXAMINED BY MR YILLAH	2
CROSS-EXAMINED BY MR BOCKARIE	50