

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

TUESDAY, 16 MAY 2006
9.47 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Roza Salibekova
For the Registry:	Mr Geoff Walker
For the Prosecution:	Mr Joseph Kamara Mr Mohamed Bangura Ms Bianca Suciu
For the Principal Defender:	Mr Lansana Dumbuya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr AlusEine Sesay Mr Kingsley Belle (legal assistant)
For the accused Moinina Fofana:	Mr Arrow Bockarie Mr Michiel Pestman Mr Andrew Ianuzzi
For the accused Allieu Kondewa:	Mr Charles Margai Mr Ansu Lansana Mr Martin Michael (legal assistant)

1 [CDF16MAY06A - EKD]
2 Tuesday, 16 May 2006
3 [Open session]
4 [The accused present]
09:36:54 5 [Upon commencing at 9.47 a.m.]
6 WITNESS: BJK SEI [Continued]
7 PRESIDING JUDGE: Good morning, counsel. Good morning,
8 Mr Witness.
9 THE WITNESS: Good morning.
09:49:03 10 PRESIDING JUDGE: Dr Jabbi or Mr Sesay, are you ready to
11 proceed with the continuation of your examination-in-chief of
12 this witness?
13 MR SESAY: Yes, Your Honour.
14 PRESIDING JUDGE: Please do so. Thank you.
09:49:15 15 EXAMINED BY MR SESAY: [Continued]
16 Q. Good morning, Mr Witness.
17 A. Yes, good morning, My Lord.
18 Q. You recall yesterday you said that there were three attacks
19 on Tongo, not so?
09:49:39 20 A. Yes.
21 Q. Can you come closer to the mic, please, Mr Witness?
22 PRESIDING JUDGE: Or maybe it would be easier if you just
23 push the mic down. Please tell your witness to just relax, sit
24 in the chair as comfortably as he can.
09:50:11 25 JUDGE ITOE: He was very relaxed the way he was sitting.
26 MR SESAY: My Lord, I thought he was fine before.
27 PRESIDING JUDGE: I think it's easier to bend down the
28 microphone.
29 JUDGE ITOE: He prefers that posture, so let the microphone

1 go closer to him, yes.

2 MR SESAY: Thank you, My Lord.

3 Q. Were you involved in those three attacks?

4 JUDGE ITOE: He also said it was on the third attack that
09:50:40 5 Tongo was captured.

6 THE WITNESS: No.

7 MR SESAY: Yes, My Lord.

8 JUDGE ITOE: It was on the third attack that Tongo was
9 captured.

09:50:48 10 MR SESAY: Yes, he had said it yesterday, My Lord.

11 JUDGE ITOE: That was where he ended.

12 MR SESAY: Yes, My Lord.

13 THE WITNESS: Yes.

14 MR SESAY:

09:50:56 15 Q. In all those attacks you said you were not involved. Where
16 were you then?

17 A. I was at Panguma in the town.

18 JUDGE ITOE: He was at Banguma?

19 MR SESAY: Panguma.

09:51:39 20 Q. Do you know the commanders who were involved in those three
21 attacks on Tongo?

22 A. Yes.

23 Q. Who were those commanders?

24 A. One was CO Mohamed Kailondo.

09:52:17 25 JUDGE ITOE: He says there were three. Let's go more
26 specifically. The first attack, the second --

27 MR SESAY:

28 Q. Let's take the first attack, do you know the commanders who
29 were involved in the first attack?

1 A. Yes.

2 Q. Can you name them, please?

3 A. Mohamed Kailondo.

4 Q. Yes.

09:52:54 5 A. Kamabotie.

6 PRESIDING JUDGE: This is still the commanders for the

7 first attack?

8 THE WITNESS: Yes.

9 MR SESAY:

09:53:07 10 Q. Who else?

11 A. Siaka Lahai.

12 Q. Now the second attack, do you know the commanders who were

13 involved?

14 A. It's left one. And Baggie Walters yes.

09:53:42 15 Q. Have you finished to name those who were the commanders for

16 the first attack?

17 A. Yes. The ones who went on the first attack.

18 Q. Who were the commanders for the second attack?

19 A. The same people whom I have named, they were the same

09:54:02 20 people who went.

21 Q. Now the third attack, do you know the commanders?

22 A. They were the same people who went.

23 PRESIDING JUDGE: On the third attack?

24 MR SESAY: Yes, My Lord, the same commanders who went.

09:54:29 25 THE WITNESS: Yes.

26 PRESIDING JUDGE: I thought he said he was on the third

27 attack.

28 MR SESAY: No. He said he wasn't involved in any of the

29 attacks. He had said it before.

1 PRESIDING JUDGE: His testimony was that it was on the
2 third occasion that he was captured, not that he was there.

3 MR SESAY: Yes, My Lord.

4 Q. You said earlier on that you were in Panguma; not so?

09:54:51 5 A. Yes.

6 Q. When all this these attacks took place?

7 A. Yes.

8 Q. Did you go to Tongo?

9 A. Yes, when they told me that they have captured Tongo, I
09:55:10 10 went there on the seventh day.

11 THE INTERPRETER: Correction, interpreter, the eighth day.

12 MR SESAY:

13 Q. Can you recall the time when you went to Tongo?

14 A. The month, in December.

09:55:45 15 Q. What year?

16 A. 1997.

17 Q. Upon your return to Tongo, what happened?

18 A. When I went and reached Tongo, I walked in the town. I
19 went round the town.

09:56:36 20 Q. Yes?

21 A. Then I asked my commanders, those who had come to fight
22 that fight, whom I have just named.

23 Q. Yes, where did you ask them?

24 A. On that last attack when they returned to Panguma, that's
09:57:09 25 when I asked them that they have captured Tongo and I said what
26 is going on there? The Kamajors, the soldiers and the rebels --

27 PRESIDING JUDGE: Yes?

28 MR SESAY:

29 Q. Yes.

1 A. The Kamajors, the soldiers and the rebels died in the
2 exchange of gun-fire.
3 Q. Did they say anything else to you?
4 A. Yes.
09:58:14 5 Q. Please proceed.
6 A. They said the Kamajors, the soldiers and the rebels, they
7 were the people who died in the exchange of gun-fire at the time.
8 Q. After that, did you yourself, did you observe anything in
9 Tongo?
09:58:43 10 A. Yes, that was what I said a while ago. That when I came to
11 Tongo after eight days, in that year called 1998, I walked around
12 the town. I didn't see corpse -- corpses, nor did any civilian
13 tell me --
14 Q. Yes?
09:59:21 15 A. That showed that civilians died.
16 Q. After that, for how long did you stay in Tongo?
17 A. I was in Tongo for 10, for 11 months.
18 Q. As far as you know, was there any other attack after the
19 third attack on Tongo?
10:00:12 20 A. Except when the rebels came and dislodged us from Tongo.
21 Q. Yes?
22 A. When we were in Tongo for 11 months, then the rebels came
23 and dislodged us from Tongo and we returned to Panguma. We were
24 in Panguma when the peace accord was signed.
10:01:20 25 Q. What peace are you referring to?
26 A. For the war to come to an end.
27 Q. Can you recall the year, the time?
28 A. 1999.
29 Q. You told us yesterday that, in fact - and today - that you

1 were not involved in the Tongo attacks, and you have narrated to
2 this Court the commanders who were involved in all these attacks.
3 Now, I want to ask you about certain issues which I would like
4 you to respond to. There is evidence before this Court --

10:02:30 5 MR SESAY: My Lord, I am referring to the testimony of
6 TF2-047.

7 PRESIDING JUDGE: Of what date?

8 MR SESAY: Testimony of 22 February 2005 at page 60 to page
9 61.

10:03:19 10 Q. I want you to listen very carefully and I will ask you to
11 respond to that. This is what he had to say:

12 "It was BJK Sei that called. He gave a warning to all the
13 civilians and that moment he said I should continue my
14 task, and I took my wheelbarrow."

10:04:09 15 "Well, I saw a lot of corpses."

16 "The corpses I buried the first day to the second day, they
17 went up to 150 corpses."

18 My question to you is did you give orders for 150 corpses
19 to be buried in Tongo?

10:04:40 20 A. I did not give such an order. I went round and walked
21 round the town and did not see any corpse. How could I give an
22 order for somebody to bury 50 corpses? I did not give such an
23 order. Not in the least.

24 Q. There is also evidence before this Court --

10:05:33 25 MR SESAY: My Lord, I am referring to the testimony of
26 TF2-035. The date of the testimony, My Lord, is on 14th February
27 2005 at pages 21 and 22.

28 Q. I want you also to listen carefully and I will ask you the
29 question in relation to that. This is what he had to say: [As

1 read] the name of the commander was BJK Sei. He was the overall
2 commander of them all. He wrote a letter and he gave it to the
3 imam and said he should take it to Tongo, that they were not able
4 to capture Tongo but they'll have to go again. When they entered
10:07:34 5 there, they will have to kill everybody. Yes, that is what they
6 wrote in the letter. In fact, they said it before they wrote it
7 down and he read it. It was BJK Sei. Yes, he wrote it and he
8 read it to us before he gave it to the imam.

9 My question to you is: Did you write any such letter?

10:08:40 10 MR KAMARA: My Lord, if I may be heard. I think it is but
11 fair to the witness that the context be given in which these
12 statements were made for him to understand the context. Because
13 if you look at it certain things happened where it happened,
14 where the statement was given, at what time it was given. As has
10:08:58 15 been presently put to the witness, it might be very confusing and
16 not helpful for the Court.

17 PRESIDING JUDGE: Thank you, but we'll let the question go
18 and see what the answer is. If the witness does not understand,
19 then obviously Mr Sesay will have to give some additional
10:09:14 20 particulars.

21 MR SESAY: As My Lord please.

22 Q. Now did you write any such letter?

23 A. No.

24 PRESIDING JUDGE: Maybe if you can ask him if he did write
10:09:29 25 any letter to the imam at any given time.

26 MR SESAY: Yes, My Lord.

27 Q. Now did you write any letter --

28 A. I did not write any letter to an imam.

29 PRESIDING JUDGE: I don't know, Mr Sesay, I don't have the

1 transcript in front of me, but the imam referred there, was it
2 that imam in Bo or Panguma or --

3 MR SESAY: My Lord, there is no name mentioned here, it is
4 just written "imam" but, My Lord, I will take it in the context
10:10:02 5 in which it will be much more clear than I have put it a minute
6 ago.

7 JUDGE THOMPSON: Provided you do not, in fact, destroy the
8 context of the exact statement that was given by the witness,
9 because your duty is not to refine what the witness said in
10:10:17 10 evidence here.

11 MR SESAY: Yes, My Lord. My Lord, that is what I am trying
12 to avoid.

13 JUDGE THOMPSON: I hope you do not do that because that
14 clearly would not be proper.

10:10:27 15 MR SESAY: That is what I am trying to avoid, My Lord, that
16 is why I have read what is really contained in the transcript as
17 it was put by the witness who testified, My Lord.

18 JUDGE THOMPSON: It would be clearly improper for you to
19 want to interpret the testimony.

10:10:48 20 MR SESAY:

21 Q. Do you know of any imam in Tongo Field?

22 A. Yes. There are so many imams there.

23 Q. Those imams that you said you know in Tongo Field, did you
24 give them any letter?

10:11:33 25 A. No.

26 Q. For how long did you remain as chiefdom commander?

27 A. I stayed there for long. I just can't remember.

28 Q. Were you ever replaced?

29 A. Not that I could remember.

1 Q. Do you know one Chief Brima Conteh?

2 A. Yes.

3 JUDGE THOMPSON: Was his answer he does not remember
4 whether he was replaced?

10:13:15 5 MR SESAY: My Lord, I didn't get him.

6 Q. Can you answer that again. Were you replaced as chiefdom
7 commander?

8 A. Oh, yes.

9 Q. Who replaced you?

10:13:43 10 A. There was a man. He was in Lalehun. He was called
11 Daniel Keifala [phon], but he's deceased.

12 Q. I asked you a while ago whether you knew one Chief Brima
13 Conteh. What did you say?

14 A. I said yes.

10:14:34 15 Q. Where is he now?

16 A. I don't know there.

17 JUDGE ITOE: When he says, "I don't know there," what does
18 that mean? Where is he now? I don't know there. What does that
19 mean in local parlance?

10:15:04 20 MR SESAY: He does not know where he is, My Lord.

21 My Lord, that is all for this witness.

22 PRESIDING JUDGE: Thank you, Mr Sesay. Good morning,
23 Mr Pestman. Do you have any questions -- is this a common
24 witness?

10:15:26 25 MR PESTMAN: No, Your Honour, he's not.

26 PRESIDING JUDGE: Do you have any questions in
27 cross-examination for this witness?

28 MR PESTMAN: Yes, Your Honours, I would like to ask a
29 couple of questions.

1 PRESIDING JUDGE: Please proceed.

2 CROSS-EXAMINED BY MR PESTMAN:

3 Q. Mr Sei, did you ever spend any time at Base Zero?

4 A. No.

10:15:56 5 Q. Do you know our client, Mr Moinina Fofana?

6 A. Yes.

7 Q. Can you tell the Court when you first met him?

8 A. The two of us met in Kenema when he was with
9 Mr Hinga Norman.

10:16:32 10 Q. Do you remember when that was, approximately?

11 A. I can't remember the month.

12 But when the government returned -- I can't tell the month,
13 but that was the time when the government was reinstated. That
14 was when Mr Norman and Fofana went.

10:16:59 15 Q. Thank you. Did you ever discuss with him matters of policy
16 or strategy for prosecuting the war?

17 A. No.

18 Q. Did you ever receive any information from Mr Fofana --

19 JUDGE ITOE: Can you allow us to have that answer,

10:17:24 20 Mr Pestman, please?

21 MR PESTMAN: I'm sorry, Your Honour.

22 Q. Did you ever receive any information with regard to those
23 matters, the prosecution of the war, from Mr Moinina Fofana?

24 A. No. What I had from him --

10:18:13 25 THE INTERPRETER: Your Honours, can he please go over the
26 last bit.

27 PRESIDING JUDGE: You want the question or the answer,
28 Mr Interpreter?

29 THE INTERPRETER: The answer.

1 PRESIDING JUDGE: Mr Witness, can you repeat your last
2 answer, please.

3 THE WITNESS: He didn't say any other thing to me. He just
4 thanked us, those of us who had stayed on the ground and fought
10:18:38 5 the war, for God to return us to this land. And that was how
6 Mr Norman, too, thanked us, that it was through us and ECOMOG
7 that they've returned to this country. That was what he told us.

8 MR PESTMAN:

9 Q. Let me specify my question a little bit then.

10:19:03 10 PRESIDING JUDGE: Maybe you should ask him if he has ever
11 talked to Mr Fofana. That appear to be the case.

12 MR PESTMAN: Perhaps I can specify the period a little bit.

13 Q. I am talking about the time Tongo was attacked by your
14 forces. Did you ever talk, liaise or co-ordinate with Mr Fofana
10:19:27 15 at that particular period?

16 A. We had -- we were not talking to each other at that time.

17 PRESIDING JUDGE: Listen to the question carefully,
18 Mr Witness. It is more than just talk. Could you take your
19 question again, please? Because you did ask liaise, talk and --

10:19:53 20 JUDGE ITOE: Talk, liaise and co-ordinate. Those are your
21 three verbs.

22 MR PESTMAN:

23 Q. So you didn't talk to Mr Fofana in that particular period.
24 Did you ever liaise with him in that particular period in any
10:20:09 25 other way?

26 A. No.

27 Q. You never coordinated the prosecution of the war with him
28 during that particular period?

29 A. No.

1 Q. Did he ever give you any orders --

2 MR PESTMAN: Slowly, slowly. Thank you, Mr Pestman.

3 THE WITNESS: No.

4 PRESIDING JUDGE: Please.

10:20:44 5 MR PESTMAN:

6 Q. Did Moinina Fofana ever give you any orders during that
7 particular period?

8 A. He did not give me any order.

9 Q. Did he ever give you --

10:20:59 10 MR PESTMAN: I'm sorry.

11 Q. Did you ever report to Mr Fofana during that particular
12 period?

13 A. No.

14 Q. Who actually gave the order to attack Tongo Field?

10:21:36 15 A. At that time, when the rebels and the soldiers drove us
16 into the bush --

17 Q. Yes.

18 A. The big men were not in this country. There were no
19 chiefs, there was no government.

10:22:09 20 Q. Please continue.

21 A. These big men run away and they left us, the boys, the
22 underlings in this country, to protect the country.

23 Q. Are you saying that it was you that ordered the attack
24 because there wasn't anyone else?

10:22:33 25 A. We organised ourselves. We sat down, came together, just
26 to protect our lives and to fight for our lives. We, too, went
27 and attacked those people. Those orders came from us.

28 Q. Mr Sei, you used the word "us." Can you please be a bit
29 more specific. Who is "us"?

1 A. Those who were with me, the Kamajors who were with me. I
2 was a Kamajor chief.

3 Q. So the order came from this group of people and the
4 planning for the attack was also carried out by this group of
10:23:52 5 Kamajors?

6 A. They consulted me and I agreed, yes.

7 MR PESTMAN: I would like to show this particular witness,
8 Your Honours, the CDF calendar, Exhibit 112, and to ask him for
9 some comments. I don't know whether it is possible to give him
10:24:22 10 the exhibit. Number 112, please.

11 PRESIDING JUDGE: It should be here.

12 MR PESTMAN:

13 Q. Could you please have a look at the month of February. I
14 think it will be the third page or the second page, top of the
10:25:19 15 month of February, please. At the top left-hand corner there is
16 a photo of my client, Mr Fofana. On the other side of the
17 calendar, Mr Sei. That's it. Have you ever seen this calendar
18 before?

19 A. I'm only seeing it now. Very beautiful. I've never seen
10:25:49 20 it before.

21 Q. There's a picture, far left corner, of Mr Fofana.
22 Underneath there is a text. I would like to read out the first
23 sentence.

24 THE INTERPRETER: Your Honours, can learned counsel please
10:26:07 25 take it slowly.

26 MR PESTMAN: I'm sorry.

27 PRESIDING JUDGE: Especially if you read the text. Slow
28 pace, please.

29 MR PESTMAN:

1 Q. I will read the first sentence under the photo --

2 A. I've looked at it.

3 Q. Okay. So you've read the sentence which starts with, "As
4 far as" - and then goes on - "the Sierra Leone Civil Defence

10:26:33 5 Forces are concerned, they don't say war unless he says war."

6 And "he" would be Mr Moinina Fofana. What is your reaction to
7 that statement, Mr Sei?

8 A. I can't say anything relating to that, because I and
9 Mr Fofana had nothing to talk about relating to the war.

10:27:23 10 Q. And then the text continues and it also says - I will read
11 it slowly - "As director he is the man who oversees the
12 mobilisation and deployment of the volunteer forces of the CDF."
13 What would your reaction be to that statement?

14 A. Well, if that happened, that was not between us.

10:28:01 15 Q. If you look at the picture, the photo itself, you can see
16 that Mr Fofana is holding a pen in his right hand. What would
17 your reaction be to that?

18 A. I can't tell what Mr Fofana is thinking. Maybe he is
19 handling it, he's literate, maybe it's just an empty bluff. I
10:28:46 20 can't tell you that.

21 Q. Do you know what his duties were at Base Zero?

22 PRESIDING JUDGE: What were what?

23 MR PESTMAN: His duties.

24 THE WITNESS: I don't know, because I didn't go there.

10:29:26 25 MR PESTMAN:

26 Q. Mr Sei, there is one witness you have heard -- or the Court
27 has heard in this case and that is TF2-008. He was heard on 16th
28 November 2004, and I would like to refer to page 47. On that day
29 that particular witness said that Mr Fofana was in charge of all

1 CDF fighting groups. I would like to ask you in your own
2 experience as a member and a commander in the CDF, did you
3 consider Mr Fofana to be in charge of all CDF fighting groups?

4 A. Can I speak?

10:30:52 5 PRESIDING JUDGE: Yes.

6 MR PESTMAN:

7 Q. Yes, please.

8 A. Even if somebody came and said that he was head of all the
9 fighters, I did not know, because they did not do such a job to
10:31:09 10 me.

11 Q. There is another Prosecution witness, TF2-005, and he
12 testified on 15th February. The relative section is on page 94
13 of that day.

14 PRESIDING JUDGE: February '04?

10:31:44 15 MR PESTMAN: '05.

16 Q. That particular witness said that Mr Fofana was one of
17 those responsible for deciding and planning how the war was
18 fought. What would your reaction be to that statement?

19 A. Maybe he was doing that, but we were not in the same place,
10:32:22 20 so I do not know anything relating to that.

21 Q. Mr Sei, the same witness on the same day at page 101 of the
22 transcript told this Court that Mr Fofana was responsible for the
23 selection of commanders in the CDF. He said that he was
24 responsible for the selection of the commanders. In your own
10:33:26 25 experience as a member and a commander of the CDF, what would
26 your reaction be to that statement?

27 A. I do not know that.

28 Q. Were you or any of your commanders appointed by Mr Fofana?

29 PRESIDING JUDGE: Selected.

1 MR PESTMAN: Selected, I'm sorry, yes.

2 THE WITNESS: I, it was the chiefdom people who gave me
3 that position. Those whom they -- the War Council, who were at
4 Bo Waterside, gave them those positions.

10:34:33 5 PRESIDING JUDGE: Maybe you can clarify that because I'm
6 getting confused now.

7 MR PESTMAN: I don't see any reason to ask an additional
8 question on this.

9 PRESIDING JUDGE: That's fine.

10:34:48 10

11 MR PESTMAN:

12 Q. The same witness, on 16th February 2005 at page 10, said
13 that the decision as to how many Kamajors would participate in
14 any given attack belonged to Mr Fofana. So he said that the
10:35:18 15 decision as to how many Kamajors would participate in any given
16 attack belonged to Mr Fofana. What would your reaction be to
17 that statement?

18 A. He did not do that to me. Even if he did so, he didn't do
19 it to me.

10:35:43 20 Q. And I have one final question, Mr Sei. Mr Sei, were you
21 ever approached -- have you ever been approached or interviewed
22 by the Prosecution?

23 A. Yes.

24 PRESIDING JUDGE: Which one of the two?

10:36:31 25

MR PESTMAN:

26 Q. Were you only approached by the Prosecution or did you also
27 give an interview to the Prosecution?

28 A. They went and met me.

29 Q. And how often did that happen; once, twice, more often?

1 A. People -- so many people were going. Black men were going,
2 white people were going, and they were saying that they had come
3 from this Court and I was prepared at all times to attend to this
4 Court in truth.

10:37:22 5 Q. When did these meetings take place approximately?

6 A. Well, I can't remember the times now. Sometimes I would be
7 in the bush and they would send for me and I would come. So I
8 can't really remember. But indeed they were going.

9 Q. Were any of your statements ever recorded on paper or on a
10:37:50 10 cassette recorder?

11 A. They were writing it on paper. There were others who were
12 recording it on a tape. Just as I have said in this Court today,
13 that was what I was telling them then.

14 Q. Do you know why you never testified on behalf of the
10:38:19 15 Prosecution?

16 JUDGE ITOE: Why should he know?

17 PRESIDING JUDGE: What is this question? How is this
18 relevant?

19 JUDGE ITOE: What is this question about?

10:38:27 20 MR PESTMAN: Maybe they told him.

21 JUDGE ITOE: That question is irrelevant. It is not for
22 him to answer that question.

23 PRESIDING JUDGE: Even if they had --

24 MR PESTMAN:

10:38:35 25 Q. Mr Sei, I will rephrase my question. Did they ever ask you
26 to come and testify in court?

27 A. What they told me was that they have come. Whatever had
28 happened to us in this war, what we had seen in this war, we
29 should give statement relating to that. Whenever the Court needs

1 us, we would be invited. Now that the Court has needed me,
2 that's why I'm here. It could be them and it could be you.
3 That's why I'm here.

4 MR PESTMAN: Thank you, Mr Sei.

10:39:25 5 PRESIDING JUDGE: Mr Margai.

6 MR MARGAI: Yes, My Lords.

7 PRESIDING JUDGE: You do have any cross-examination?

8 MR MARGAI: Yes, My Lords, I do.

9 CROSS-EXAMINED BY MR MARGAI:

10:39:38 10 Q. Good morning, Mr Sei.

11 A. Just like I heard your name, Mr Margai, good morning.

12 Q. Thank you. You were the chiefdom commander in Tongo, were
13 you not?

14 A. Yes.

10:39:57 15 Q. Were you the overall commander in Tongo?

16 A. Yes, at that time when the rebels and the soldiers -- when
17 we were fighting.

18 Q. Even though you were the overall commander in Tongo, yet
19 you never took part in the fight for Tongo?

10:40:39 20 A. No.

21 Q. Were prisoners of war ever taken to you as commander of
22 Tongo?

23 A. They were taking a large crowd to me and they would say
24 they had taken them from Tongo and they would take them to me in
10:41:24 25 Panguma.

26 Q. Were these prisoners of war or people fleeing the fighting?

27 A. When they attacked Tongo in first instance, those who were
28 coming with the Kamajors towards me, they would bring them to me.

29 PRESIDING JUDGE: Can you clarify the "them"?

1 MR MARGAI: Yes.

2 Q. What I want to know is -- all right, let me put it this
3 way: Were any prisoners of war taken before you? Prisoners of
4 war or captured prisoners?

10:42:48 5 A. Yes, they used to bring them and I release them.

6 PRESIDING JUDGE: Maybe you could ask --

7 THE WITNESS: Because they had no guns.

8 PRESIDING JUDGE: Soldiers or rebels. I don't know, maybe
9 he understands prisoners of war to be all of those who were
10:43:07 10 captured.

11 MR MARGAI: As My Lord pleases.

12 Q. Were junta forces taken before you who were caught during
13 the fighting?

14 A. At that time when I was in Panguma, or even in Tongo, I did
10:43:30 15 not see such people.

16 Q. So do I take it that they were not taken before you?

17 A. No.

18 Q. Did civilians fleeing the war go to you for protection?

19 A. Yes.

10:44:23 20 Q. Could you tell the Chamber what you did with these
21 civilians?

22 A. When I was in Panguma I called one of my Kamajors, he was
23 in Talama and he was called Kamabotie. He took the civilians --

24 Q. Slowly, slowly. Yes?

10:45:20 25 A. They were over 200.

26 THE INTERPRETER: Your Honours, the interpreter would like
27 to make a correction. Instead of the --

28 PRESIDING JUDGE: Just one moment, please. What is the
29 correction?

1 THE INTERPRETER: The interpreter said the witness called
2 one of his Kamajors Kamabotie. What he actually said was he saw
3 one of his Kamajors bring over 200 civilians.

4 PRESIDING JUDGE: Thank you.

10:45:56 5 MR MARGAI:

6 Q. Yes.

7 A. They said they had come from Tongo.

8 Q. Yes?

9 A. I said this was a war front, I could not host people.

10:46:30 10 Q. Go on.

11 A. I used to tell them that wherever somebody had come from
12 should return there, and indeed they went back.

13 Q. What year was this?

14 A. 1997, at the time I was in Panguma in December.

10:47:00 15 Q. Thank you.

16 A. Yes.

17 Q. Do you recall the year 1998?

18 A. Yes.

19 Q. Was another batch of civilians brought to you as commander
10:47:23 20 of Panguma?

21 A. Many.

22 Q. How many would you say?

23 A. They too were more than hundred.

24 Q. How did you treat them?

10:47:50 25 A. Just like I told the first people, so I also told the
26 others, that they should return to their hometown, because I had
27 no place to keep them. That was a war front.

28 JUDGE ITOE: Who brought this 1 00, Mr Margai?

29 MR MARGAI: That was the next question, My Lord.

1 Q. Could you tell the Chamber who brought the second batch?

2 A. It was Kamabotie who was in Tongo, Talama. So when they
3 come, they would hand them over to him and he would take them to
4 me. So all those people, he was the one that brought them to me.

10:48:38 5 I want to ease myself.

6 PRESIDING JUDGE: Very well. The Court will adjourn for a
7 few minutes.

8 THE WITNESS: Thank you.

9 [Break taken at 10.49 a.m.]

10:57:59 10 [CDF16MAY06B - CR.]

11 [Upon resuming at 10.59 a.m.]

12 PRESIDING JUDGE: Allow me just a few comments, Mr Margai.
13 It has nothing to do with your cross-examination of the witness.
14 I would like just to remind counsel that proper decorum must be
10:59:23 15 maintained in Court, and that applies until we walk out of Court.

16 Lately, it has become very noisy when we stand up. I just ask
17 that you refrain from commenting, discussing, challenging,
18 whatever it is, until we walk out of Court. And my comment is
19 not addressed to you, Mr Margai; it is an overall comment. We
10:59:45 20 have noticed that it seems to be getting almost out of order.

21 So I just want to remind all concerned that you should
22 refrain from discussing whatever it is until the Court is out,
23 the Bench is out. That applies, I'm reminded, to accused persons
24 as well. I know at times there is something exciting to discuss,
11:00:13 25 but please refrain until we are out of Court. After that, there
26 is not any problem. Thank you.

27 Mr Margai, we're back to you now for the continuation of
28 your cross-examination.

29 MR MARGAI: Thank you.

1 Q. Mr Sei, Tongo has always been, and still is, a diamond
2 mining area, is it not?

3 A. Yes.

4 Q. You have told the Chamber that even though you did not
11:01:05 5 participate in the battle for Tongo, it was only on the third
6 occasion that Tongo was captured by the Kamajors.

7 A. Yes.

8 Q. As the Kamajor commander in Tongo between 1997 and 1998,
9 how safe would you say Tongo was?

11:01:57 10 A. 1997, up to 1998, it was not safe. There was trouble
11 there. There were rebels and soldiers fighting against us.
12 Except in 1998 when we dislodged, that's when we had some peace.

13 Q. And was this why you told My Lords that you did not
14 consider it safe to keep the civilians who had been taken to you
11:02:55 15 by Kamabotie?

16 A. Yes, so that they would not be killed.

17 Q. You told the Chamber that because it was unsafe to keep
18 this batch of civilians, you ordered that they should go wherever
19 they wanted.

11:03:46 20 JUDGE ITOE: No, not wherever they wanted, where they came
21 from.

22 JUDGE THOMPSON: Where they came from. Quite right.

23 MR MARGAI: Sorry.

24 Q. Where they came from.

11:04:06 25 A. Yes.

26 JUDGE THOMPSON: In other words, you're saying because of
27 the concerns for their safety?

28 MR MARGAI: Yes, My Lord.

29 JUDGE THOMPSON: Right.

1 MR MARGAI:

2 Q. Do you know whether they returned?

3 A. Yes, I was fighting for them.

4 Q. Do you know whether they returned to whence they came from?

11:04:33 5 A. I was doing it sensibly. Those who were coming from Dodo,
6 then I would tell them to go --

7 Q. Slowly, slowly. Yes. Go over that again, please, but very
8 slowly.

9 A. I was asking them, "All you, where have you come from?" If
11:05:02 10 they said they had come from a place where they said there was no
11 war, I would tell like Leppeama where there was no war, and I
12 would tell them to return. If it were from Dodo, I would tell
13 them to return. From Kenema, I would tell them to go. As long
14 as it is behind us where there was no war. If they call any town
11:05:26 15 like Falla Wambor, I would tell them to return, just to protect
16 their lives.

17 MR MARGAI: That will be all for Mr Sei. Thank you very
18 much.

19 THE WITNESS: Yes, thank you, father.

11:06:04 20 PRESIDING JUDGE: Mr Prosecutor?

21 CROSS-EXAMINED BY MR KAMARA:

22 Q. Good morning, Mr Witness.

23 A. Good morning, Pa.

24 Q. I see you look well since we met two years ago.

11:06:30 25 A. Yes.

26 JUDGE THOMPSON: Did you want that recorded?

27 MR KAMARA: Yes, My Lord.

28 Q. Mr Witness, you testified to this Court that you were the
29 chieftom commander for the Kamajors -- is it for the Lower

1 Bambara Chiefdom?

2 A. Yes.

3 Q. Do you know any Musa Junisa?

4 A. Yes.

11:07:07 5 Q. Was he the battalion commander for that area?

6 PRESIDING JUDGE: Mr Witness?

7 THE WITNESS: That position which they told us that he had,
8 he was director of operations.

9 Q. How did you get that information?

11:08:20 10 A. Mr Mohamed Musa told me. Mohamed O Musa.

11 Q. Could that be Mohamed Orinko Musa?

12 A. Yes, sir.

13 Q. Now, Mr Witness, between the period 1997 to 1999, was Musa
14 Junisa your boss?

11:09:14 15 A. Yes. When he left in 1998, at the beginning of 1998 --

16 THE INTERPRETER: Your Honours, can the witness please
17 repeat his answer.

18 PRESIDING JUDGE: Mr Witness, sorry, can you repeat your
19 answer, because the interpreters could not get your answer at the

11:09:55 20 beginning. So proceed slowly. Just give your answer completely

21 again, if you can. You said when he left at the beginning of

22 1998. Can you take it from there?

23 JUDGE ITOE: But he has just admitted that Musa Junisa was
24 his boss in 1997 up to 1999.

11:10:17 25 MR KAMARA: Yes, My Lord.

26 PRESIDING JUDGE: Can you give your answer again,

27 Mr Witness, please?

28 THE WITNESS: Starting from 1997 to 1998, I was a Kamajor
29 chief for Lower Bambara Chiefdom. Then Musa Junisa too was the

1 Kamajor chief for Dodo Chiefdom. When the rebels dislodged all
2 of us from Tongo, in that chiefdom, when we all entered the bush,
3 they went to Bo Waterside. They went to Bo Waterside, together
4 with Momoh Orinko. When we returned, they had these positions in
11:12:05 5 secrecy. They didn't tell us early. They gave them a whole lot
6 of positions. When they came, they did not tell us immediately.

7 MR KAMARA:

8 Q. Mr Witness, Musa Junisa was your boss between the period
9 '97 to '99; will you agree with me?

11:12:32 10 JUDGE ITOE: But he has answered the question. You want to
11 revisit that question?

12 MR KAMARA: Yes.

13 THE WITNESS: 1998 --

14 MR KAMARA:

11:12:41 15 Q. When he was in the Lower Bambara area.

16 A. When that position came out that he was director of
17 operations, that was the time that he became my master. That was
18 what I was explaining.

19 Q. Thank you.

11:13:04 20 A. But he was in his own chiefdom and I was in my own
21 chiefdom.

22 Q. Mr Witness, at the time Musa Junisa was your boss, do you
23 know to whom he was reporting to?

24 A. He would report to the administrator in Kenema.

11:13:45 25 Q. Who was that administrator, do you know?

26 A. Mr Arthur Koroma. At first, it was Mr Jambawai. After
27 him, Mr Arthur Koroma took over.

28 Q. Thank you. Mr Witness, whilst you were chiefdom commander
29 of the Kamajors, were you aware that Musa Junisa, Musa Orinko --

1 Orinko Musa made trips to Base Zero?

2 MR JABBI: My Lord, obviously there may be a lapse of
3 tongue on the part of prosecuting counsel putting this question.
4 Can he clarify the names - he seems to have overlapped two - so
11:14:59 5 that the witness is confused.

6 MR KAMARA: My Lord, there are two names.

7 Q. Musa Junisa and Orinko Musa. The witness has referred to
8 the two people this morning.

9 PRESIDING JUDGE: What is your question, Mr Kamara?

11:15:19 10 MR KAMARA: That the period which he is the chiefdom
11 commander for the Lower Bambara, if he is aware that these two
12 people paid visits to Base Zero.

13 JUDGE THOMPSON: Why not keep them separate?

14 MR KAMARA: I'll do that, yes.

11:15:31 15 THE WITNESS: Yes, they went to Base Zero.

16 MR KAMARA:

17 Q. Let's take one at a time.

18 JUDGE ITOE: Musa Orinko and who?

19 MR KAMARA: Musa Junisa. There is Mohamed Orinko Musa and
11:15:58 20 Musa Junisa.

21 Q. Now, let's take Musa Junisa, Mr Witness. Do you know why
22 Musa Junisa went to Base Zero?

23 A. Yes.

24 Q. Could you tell the Court?

11:16:22 25 A. They said that Mr Eddie Massallay had sent for them, that
26 all the Kamajors should meet there after the war has driven us
27 out.

28 Q. Thank you. Now, Mr Witness, are you aware that Musa Junisa
29 received arms and ammunition from Base Zero in 1997 for the Tongo

1 attack?

2 A. What I know, he brought bullets and said it was
3 Eddie Massallay who had given it to him. Bullets.

4 Q. Thank you. Do you by any chance know what the quantity was
11:18:14 5 of those bullets?

6 THE INTERPRETER: Your Honours, the witness's answer is not
7 very clear.

8 PRESIDING JUDGE: Yes or no, Mr Witness; did you know?

9 THE WITNESS: I said no, I do not know the quantity.

11:18:54 10 MR KAMARA:

11 Q. Now, Mr Witness, you said the Kamajors under your command
12 attacked Tongo three times, even though you yourself did not go.
13 Is that your evidence?

14 A. Yes.

11:19:28 15 Q. Will you tell the Court where you got the weapons for that
16 attack or any of those attacks?

17 A. The guns which we had, those were the guns we used to
18 attack the rebels. The single-barrelled guns.

19 Q. Mr Witness, I am suggesting to you that the weapons for
11:20:30 20 those attacks came from Base Zero. Do you agree with me?

21 A. The single barrels?

22 Q. Not the single barrels. Let's leave the single barrels.
23 All other weapons apart from the single barrels came from Base
24 Zero. Would you agree with me?

11:20:58 25 A. I did not see that. I only saw bullets.

26 MR KAMARA: Can the witness be shown Exhibit 147, My Lord?

27 Q. Mr Witness, that's the letter from Musa Junisa, and signed
28 also by Mr Mohamed Musa, requesting for the supply of arms and
29 ammunition from Chief Norman. Have you seen that letter?

1 A. Yes, I've seen it.

2 Q. Are you aware of such requests being made from
3 Chief Norman?

4 A. No.

11:24:09 5 Q. Thank you.

6 A. Okay.

7 Q. Mr Witness, you wouldn't know the sources of logistics of
8 the other chiefdoms, would you?

9 A. No, I won't know.

11:25:01 10 Q. You testified before this Court that several chiefdoms came
11 together for the attack on Tongo.

12 A. Yes, they came to assist us.

13 Q. Was Musa Junisa's group involved in any of those attacks?

14 A. Yes.

11:26:03 15 MR KAMARA: My Lord, may the witness be shown Exhibit 86.

16 Q. Mr Witness, have you seen that document?

17 A. Yes.

18 Q. It is a situation report dated 16 November 1997. It was
19 signed again by Musa OM Junisa, Mohamed O Musa and Abu Bakar
11:29:18 20 Konuwa. Where were you in November 1997?

21 A. I was in the bush.

22 Q. You where in the bush. During that time, were you
23 answerable to Musa Junisa?

24 A. Musa Junisa, I was in my own different chiefdom. It was
11:29:50 25 there I was the chiefdom commander for Lower Bambara. He was the
26 chiefdom Kamajor in Dodo. It was Momoh Orinko who was my deputy.

27 Q. You see Orinko's signature on that document as well?

28 A. Yes. I've seen it clearly.

29 Q. Were you sending situation reports to Chief Norman during

1 that period?

2 A. I didn't know the road leading to him and I did not send
3 anybody. In fact, that month you've talked about, I was not
4 there. I was sick in my village -- bush.

11:31:02 5 PRESIDING JUDGE: When was that you were sick in the bush,
6 Mr Witness? At that time, in November 1997?

7 THE WITNESS: Starting from October, November until the
8 beginning of December. Then I started getting better. I was ill
9 from October, November. I had malaria. Still, it was not
11:31:35 10 better in November. Up to December, I got better, a little. In
11 fact, it was in December that I came and settled in Panguma.
12 This is what I'm telling you.

13 JUDGE THOMPSON: Learned counsel for the Prosecution, what
14 precisely is the object of this line of cross-examination in
11:31:55 15 respect of Exhibit 86? Probably there is some vagueness about
16 the way you are proceeding, because what I seem to be getting
17 from the witness, not anything directly in relation to what the
18 exhibit purports to do.

19 MR KAMARA: My Lord, he has recognised the signature of his
11:32:21 20 deputy.

21 JUDGE THOMPSON: That's all he's done, the deputy, quite
22 right, who was an endorsee of the document or endorsed it.

23 MR KAMARA: That is my next point, My Lord.

24 JUDGE THOMPSON: All right, go ahead.

11:32:32 25 MR KAMARA: Thank you, My Lord.

26 Q. Mr Witness, you have said you recognise the signature of
27 your deputy, Mohamed Orinko Musa on that document, Exhibit 86;
28 right?

29 A. Yes.

1 Q. Does that represent an endorsement of the report contained
2 therein to you?

3 A. They wrote it. I didn't write it. They wrote it. They
4 signed it. You're asking me their question.

11:33:19 5 Q. No, Mr Witness. I'm asking a simple question. You
6 recognise the signature of your deputy commander. Now I'm asking
7 you, is that a representation of an endorsement of what is in
8 that statement? If it's not so, then can you say so.

9 MR SESAY: May I object to that line of questioning?

11:33:43 10 THE WITNESS: He --

11 PRESIDING JUDGE: Mr Witness, just a moment.

12 MR SESAY: My Lord, the basis of that objection, if I can
13 recall, learned Justice Thompson had, in fact, said the line of
14 cross-examination by my learned colleague is quite vague. My
11:34:02 15 Lord, the way this question has been asked appears to be very
16 vague because we don't know who endorsed the document. To what
17 extent did he endorse it?

18 PRESIDING JUDGE: That's the question he has been asked.

19 MR SESAY: It is the way the question has been asked, My
11:34:22 20 Lord.

21 JUDGE ITOE: It is written on the document itself and
22 endorsed by one, two -- just on the document, on the face of the
23 document, which has been tendered.

24 MR SESAY: As My Lord pleases.

11:34:47 25 PRESIDING JUDGE: Proceed, Mr Prosecutor. We will pause
26 after that question.

27 MR KAMARA:

28 Q. Mr Witness, as I said earlier on, there is a signature of
29 your deputy commander, Mohamed Orinko Musa --

1 PRESIDING JUDGE: He has recognised that. Please proceed.

2 MR KAMARA:

3 Q. Is that a representation of an endorsement of the contents
4 of that document to you?

11:35:09 5 MR JABBI: My Lord --

6 PRESIDING JUDGE: Just a moment. I'm not sure I understand
7 your question. Do you mean to say an endorsement by the witness
8 or by Orinko Musa?

9 MR KAMARA: By Orinko Musa, My Lord, not the witness. I'm
11:35:25 10 sorry.

11 JUDGE THOMPSON: Yes, it is quite vague, because even the
12 document contains the signature of his boss..

13 PRESIDING JUDGE: I don't know why you're asking this
14 question, honestly, because the document reads "endorsed by". I
11:35:34 15 don't see what we are going to get from this witness.

16 JUDGE ITOE: It speaks for itself.

17 MR KAMARA: I take the point, My Lord.

18 PRESIDING JUDGE: That being the case, we will pause for
19 the morning recess. The Court is adjourned.

12:02:58 20 [Break taken at 11.35 a.m.]

21 [Upon resuming at 12.03 p.m.]

22 PRESIDING JUDGE: Mr Prosecutor.

23 MR KAMARA:

24 Q. Mr Witness, let me take you to the planning of the Tongo
12:03:32 25 attack. You gave evidence that you and some commanders planned
26 the attacks on Tongo; am I correct?

27 A. Yes.

28 Q. Were you planning from your sick bed in the bush?

29 A. I said I was sick in October/November. I said in December,

1 it was in December that I came to Panguma. It was at time that
2 we made that arrangement. We did the planning in the bush, then
3 we went to town in December. In December I was in town in
4 Panguma. October/November I was ill.

12:04:30 5 Q. Was Musa Junisa one of the planners?

6 A. When I came, I met them there. In fact, when they came,
7 they were the ones that told me that Eddie Massallay had given
8 them bullets and they brought the bullets.

9 Q. So he was one of the planners?

12:04:54 10 A. Who, Musa Junisa?

11 Q. Yes.

12 A. Yes, all of us ran away.

13 JUDGE ITOE: When did he start talking of running away.
14 What does he mean running away?

12:05:22 15 MR KAMARA:

16 Q. Mr Witness, the question is simply was Musa Junisa one of
17 the planners for the Tongo attacks?

18 A. Yes.

19 Q. Thank you.

12:05:39 20 A. I said I met him in Panguma.

21 Q. Mr Witness, let me suggest to you that the planning for
22 Tongo - I'm restraining myself to the final attack when Tongo was
23 captured - that planning was done from Base Zero.

24 A. It's not so. We ourselves planned it.

12:06:40 25 MR KAMARA: My Lords, I refer to transcript of TF2-005, at
26 pages 105.

27 PRESIDING JUDGE: Which date, please?

28 MR KAMARA: 15 February 2005.

29 PRESIDING JUDGE: I'm sorry, you gave the page, but I

1 didn't write it down.

2 MR KAMARA: 105.

3 Q. Mr Witness, there is evidence before this Court, as I said,
4 that the planning of the Tongo -- for the Tongo attack was done
12:07:18 5 at Base Zero. I may read this transcript to you. The persons
6 that you refer to as being part of the planning were --

7 MR KAMARA: My Lord, I'm looking at line 23. I have copies
8 for Your Lordships.

9 Q. The evidence before this Court, Mr Witness, is that the War
12:08:26 10 Council members were there during the planning. Kondewa, who is
11 the third accused, was there; Moinina Fofana, who is the second
12 accused, was there; Hinga Norman, the first accused, was there;
13 and commanders from Tongo, like Musa Junisa. Other commanders
14 were also Abu Bakar Konuwa and one Vandi Songo. At page 106 this
12:09:15 15 is what that witness had to say to the Court. The witness said
16 that the first accused, Hinga Norman stated in that meeting,
17 "Whosoever takes Tongo and keeps it wins the war."

18 MR JABBI: My Lords --

19 JUDGE THOMPSON: What page is it?

12:09:47 20 MR KAMARA: Page 106.

21 JUDGE THOMPSON: Line 8?

22 MR KAMARA: Yes, My Lord, lines 8. I'm sorry.

23 MR JABBI: My Lord, I'm sorry to intervene at this time,
24 but in the portion of the transcript that counsel wants to use on
12:10:06 25 page 105 at line 20 -- sorry, My Lord, from line 7 to line 20,
26 the context is Black December. Line 6 to 7, "When was such
27 meeting held?" "It was during days of planning of Black December
28 that Tongo came up." And then to line 20, "You said in the
29 meeting for Black December, Tongo was discussed. Specifically,

1 who were the persons involved," et cetera.

2 My Lord, if this is indeed part of the Black December,
3 there is already an order of this Court --

4 PRESIDING JUDGE: I don't think, Dr Jabbi, this is part of
12:11:04 5 Black December. We're not talking of the Black December
6 operation here; we're talking of attacks on Tongo. The fact it
7 was discussed in a meeting where Black December was discussed,
8 may be so. This is a different matter, a different issue. We
9 have not omitted completely anything that may resemble or omitted
12:11:30 10 anything that has to do with the Black December operation. This
11 is what we ruled about.

12 MR JABBI: My Lord, is the discussion not part of the
13 Black December. That is what I want to understand.

14 JUDGE THOMPSON: Let me reinforce what the Presiding Judge
12:11:43 15 has said. You would see that straight from the second part of
16 that sentence, or that question in lines 20 to 21, the issue
17 moves away from the generality of the Black December occasion as
18 context to a more specific thing. "Specifically, who were the
19 persons involved in the discussions about Tongo," and there and
12:12:19 20 then following everything seems to revolve around Tongo. So the
21 issue moved away from Black December. Black December may have
22 been the main theme there in a general sort of way, but this sub
23 thing becomes the governing thing and counsel is entitled to
24 cross-examine on it.

12:12:40 25 MR JABBI: My Lord, my understanding of it --

26 JUDGE THOMPSON: It's not difficult. We don't need a
27 rocket scientist to come and help us resolve this.

28 MR JABBI: My understanding, My Lord, is that the very
29 Tongo exercise that is being discussed at this moment is part of

1 the Black December --

2 JUDGE THOMPSON: No, no, with the greatest of respect to
3 counsel, we don't need the versatility of a rocket scientist to
4 resolve this matter. I think the whole thing moves away from
12:13:09 5 that context, the larger context of Black December and tapers on
6 to the more specific sub thing which takes on a life of its own.
7 That's the way I see it. I think to disallow counsel from
8 cross-examining on it would certainly be attempting to foreclose
9 our search for the truth on that particular issue. That's how I
12:13:37 10 feel about it. Having said that, I will restrain myself.

11 PRESIDING JUDGE: You have heard my comments, Dr Jabbi.
12 Your objection that it is a Black December issue is overruled.
13 Let's proceed with the questions, thank you.

14 MR KAMARA: I'm grateful, My Lord.
12:13:55 15 Q. Mr Witness, I was reading to you the evidence as recorded
16 in this Court about the planning for the Tongo attack. In that
17 transcript, this is what Hinga Norman said, "Whosoever takes
18 Tongo and keeps it wins the war." The question was posed to that
19 witness, "Were any specific orders given to the commanders at
12:14:42 20 Tongo?" The answer was, "And therefore, Tongo should be taken at
21 all costs."

22 At line 18, the witness answered further. He says, "In
23 that meeting, he stated" - that is Chief Norman - "that anybody
24 found working with the juntas there or mining for them should not
12:15:15 25 be spared."

26 Finally at line 24, "Hinga Norman ordered Moinina Fofana" -
27 the second accused - "to dish out the ammunitions." I'm
28 suggesting to you, Mr Witness, this is where the planning for the
29 Tongo attack was done.

1 A. It's not so. I was head of my chiefdom. You could not be
2 far away and you come and plan war for me there.

3 Q. I am further suggesting to you, Mr Witness, that
4 Musa Junisa brought instructions from Hinga Norman in Base Zero
12:16:29 5 and translated those instructions to you in the bush for
6 implementation.

7 A. I did not get that from him. He was the Kamajor chief in
8 Dodo. I was Kamajor chief in Lower Bambara. If he had said that
9 to me, I would have said so, but he did not say anything in
12:16:54 10 relation to those people whose name you have just mentioned.

11 Q. Thank you.

12 A. Yes.

13 MR KAMARA: Further on the issue of the Tongo operation, My
14 Lords, I will refer this witness to the transcript of TF2-222 of
12:17:38 15 17 February 2005, at page 110.

16 Q. Mr Witness, I would invite you to listen carefully as I
17 read the evidence to you. A question was posed to this witness
18 and the witness was invited to respond to the issue on the Tongo
19 operation, that is, at line 5.

12:18:21 20 The question is: "Were there any specific instructions for
21 that operation?" Referring to the Tongo operation.

22 The answer was, "Yes, My Lord."

23 "Q. Who gave those instructions?

24 "A. Chief Norman gave those instructions.

12:18:51 25 "Q. And what were those instructions?"

26 The witness had this to say:

27 "In the first place, he told the men, after they have been
28 trained, that the attack on Tongo will determine who the
29 winner or the loser of the war would be and that they" --

1 THE INTERPRETER: Can learned counsel take that first one
2 again.

3 MR KAMARA: Sorry.

4 Q. "In the first place, he told the men, after they have been
12:19:23 5 trained, that the attack on Tongo will determine who the
6 winner or loser of the war would be and that they should be
7 ready. In the first place he's telling them that when they
8 go to Tongo let them bear in mind that there is no place to
9 keep captured -- or war prisoners like the juntas, let
12:20:15 10 alone their collaborators."

11 Mr Witness, having heard this evidence, do you still
12 maintain that the planning was done outside of Base Zero?

13 A. I have told you a while ago, Pa, that Base Zero -- I cannot
14 talk about Base Zero. I can talk about my own chiefdom. Don't
12:20:55 15 ask me about Base Zero. I cannot say anything in relation to
16 Base Zero, whether they planned or did not plan, I don't know.
17 Whatever concerned the capture of Tongo, I did it in my own
18 chiefdom, it's not -- in fact, they had come to destroy me.

19 Q. Mr Witness, let me take you straight to the Tongo attack.
12:21:34 20 Tongo is a big town with a high concentration of the civilian
21 populace. You agree with me?

22 A. Yes.

23 Q. A military assault on Tongo would mean a serious risk of
24 civilian casualties. Do you agree with me?

12:22:25 25 A. Yes.

26 Q. You gave evidence this morning that you were informed
27 soldiers, rebels and civilians were killed during the final
28 encounter; is that not so?

29 A. No. I said that they told me that Kamajors, soldiers and

1 rebels died in that fight. But civilians did not die.

2 Q. Yes, we're in agreement. That is what I'm saying. There
3 were heavy casualties on each side of the conflict. Is that not
4 so?

12:23:24 5 A. Soldiers, rebels. Yes, those three parties.

6 Q. Yes.

7 JUDGE ITOE: What you're saying is that civilians did not
8 die?

9 THE WITNESS: Yes. That report didn't reach me. Those who
12:24:01 10 went to that fight did not report to me and no civilian came and
11 told me that they killed his relative or any civilian. That
12 report didn't reach me.

13 MR KAMARA:

14 Q. Thank you.

12:24:11 15 A. Okay.

16 Q. You're telling this Court that when you entered Tongo, you
17 walked around the town and saw no corpse?

18 JUDGE THOMPSON: He told us that this morning.

19 MR KAMARA: Yes, My Lord. I am asking him if he wants this
12:24:44 20 Court to believe that.

21 JUDGE THOMPSON: You want him to confirm that?

22 MR KAMARA: Confirm that, yes, My Lord.

23 Q. That after such a heavy battle in which you yourself have
24 acknowledged, losses on the Kamajors, the soldiers and the
12:24:57 25 rebels, you took a tour of the town; you found no corpse?

26 A. Yes.

27 Q. Mr Witness, there is evidence before this Court that there
28 was a heavy toll of civilian casualty during that final attack on
29 Tongo.

1 A. At the time that I went and walked around, I did not see a
2 corpse.

3 Q. I've moved away from that. I am now suggesting to you
4 that, as a matter of fact, there was a heavy toll of civilian
12:26:25 5 casualty resulting from that final attack on Tongo.

6 A. Nobody reported that to me.

7 Q. Mr Witness, this morning you gave evidence that you know
8 one Brima Conteh.

9 A. Yes.

12:27:14 10 Q. The question was posed to you: where is he now? What was
11 your answer again?

12 A. I said I did not know where he is.

13 Q. I'm putting it to you, Mr Witness, that you know that
14 Brima Conteh is dead.

12:27:59 15 A. Except that you are telling me now in this Court.

16 Q. Further, that he was killed by one of your commanders.

17 A. That's his question. That's not my question.

18 Q. Mr Witness, I'm suggesting to you that Brima Conteh was
19 killed by one your commanders and that is Mbaimba Aruna. Do you
12:28:47 20 know that as a fact?

21 A. Except that you're telling me now that he killed him, but I
22 don't know.

23 Q. Thank you.

24 MR KAMARA: My Lords, let the witness be shown this

12:28:59 25 document. I have copies for the Bench.

26 [CDF16MAY06C - SV]

27 Q. Have you have seen this document?

28 A. Yes.

29 Q. Do you recognise that document?

1 A. Yes.

2 Q. Is that your signature on that document, if you look at the
3 right-hand corner of each page?

4 A. Yes, yes.

12:31:46 5 Q. You remember making a statement to the Prosecution --

6 A. Yes.

7 Q. -- on 22nd May 2003?

8 A. Yes.

9 Q. And where was the statement obtained from? I mean, where
12:32:16 10 were you when this statement was being obtained?

11 A. Well, I can't tell where I was because so many people were
12 coming to me.

13 Q. And you gave evidence that what you said to the Prosecution
14 was recorded in one instance; is that not so?

12:33:03 15 A. Yes.

16 Q. And you also gave evidence that what you said to the
17 Prosecution is what you are willing to testify here today?

18 A. Yes.

19 MR KAMARA: My Lord, the Prosecution tenders this document
12:33:29 20 as an exhibit.

21 PRESIDING JUDGE: May I ask you for what purpose you're
22 tendering this document?

23 MR KAMARA: My Lord, to contradict this witness and test
24 his credibility as to matters raised in that statement. Once the
12:33:52 25 document is tendered I will raise the issue that is in the
26 content of the document as regards to the killing of
27 Brima Conteh, My Lord.

28 PRESIDING JUDGE: Dr Jabbi?

29 MR JABBI: Yes, My Lord. My Lord, this is a piece of

1 intended evidence which we now discover, and only now, that has
2 been in the possession of the Prosecution and has not been
3 disclosed to the Defence. My Lord, I object that this document
4 should have been disclosed under Rule 66 of the Rules of
12:35:26 5 Procedure and Evidence of this Court. My Lord, for example, Rule
6 66(A)(ii), with your leave, reads as follows:

7 "Subject to the provisions of Rules 50, 53, 69 and 75, the
8 Prosecutor shall" - (A)(ii) - "continuously disclose to the
9 Defence copies of the statements of all additional
12:36:25 10 prosecution witnesses whom the Prosecutor intends to call
11 to testify, but not later than 60 days before the date for
12 trial, or as otherwise ordered by a Judge of the Trial
13 Chamber."

14 PRESIDING JUDGE: Yes, but we're talking of Prosecution
12:36:48 15 witnesses here in (A)(ii). So this is not a Prosecution witness.

16 JUDGE ITOE: These are witnesses he intends to call, the
17 Prosecution intends to call.

18 MR JABBI: Yes, My Lord. My Lord, I submit that the taking
19 of this statement from the witness at the time it was taken
12:37:05 20 constituted an intention, even if he was not ultimately called by
21 the Prosecution, but it constituted an intention to call this
22 witness. Therefore it came under that rubric, Rule 66(A)(ii),
23 and the fact that he was not ultimately called does not obviate
24 the fact that it was, indeed, an intention earlier on to call the
12:37:41 25 witness. On that ground the statement ought to have been
26 disclosed to the Defence.

27 JUDGE ITOE: Dr Jabbi, are you suggesting that the
28 Prosecution would necessarily call all witnesses in respect of
29 whom statements have been taken by the investigators?

1 MR JABBI: No, My Lord. My Lord, the rule I have cited
2 does not talk about witnesses that the Prosecution has called.
3 It talks about witnesses the Prosecution intend to call. What I
4 am arguing, My Lord, is that at the time of taking this statement
12:38:38 5 from the witness, the statement that is now being proffered, that
6 manifests an intention to call the witness, notwithstanding that
7 ultimately the witness was not called. But the fact that he was
8 not ultimately called did not obviate that original intention.
9 So long as it falls within the rubric of an intended witness, the
12:39:06 10 statement taken from that witness ought to have been disclosed,
11 My Lord. It was not a matter of whether the witness was finally
12 called or, indeed, was put on a firm list of witnesses and his
13 statement was not disclosed. What I'm saying is that under
14 Rule 66(A)(ii) the witness -- it was intended by the Prosecution
12:39:33 15 to call this witness and to call this witness as their witness,
16 and that that intention is manifested by the statement they took
17 from him which is now being offered for tendering, and that that
18 intention brought them within Rule 66(A)(ii). Since
19 Rule 66(A)(ii) was not complied with, this document therefore
12:40:06 20 falls foul of that Rule and the Court cannot now take cognizance
21 of it. Thank you, My Lords.

22 PRESIDING JUDGE: Mr Kamara, would you respond to this
23 objection before we go to the other, as this is directed to you
24 in this respect?

12:40:28 25 MR KAMARA: Yes, My Lord. I wouldn't bother to go into the
26 merit of the intent to call. I think there is an oral decision
27 on this issue that the Trial Chamber has ruled on. But this is a
28 statement that has been disclosed, if only my learned friend had
29 taken time to look at the records. It was disclosed on 17th May

1 2004 and in unredacted form.

2 PRESIDING JUDGE: You mean that statement?

3 MR KAMARA: Yes, My Lord. The 15-page document, yes,
4 My Lord, we have record of that. So if the issue basically is
12:41:01 5 about disclosure pursuant to Rule 66, even though we never called
6 this witness, it was still disclosed, My Lord.

7 PRESIDING JUDGE: Pardon me, can you give me the date
8 again?

9 MR KAMARA: 17th May 2004. Sorry, My Lord, there were two
12:41:25 10 disclosures. One of the 15 pages is 22nd May 2003.

11 PRESIDING JUDGE: '03?

12 MR KAMARA: Yes, My Lord.

13 JUDGE ITOE: And you say in unredacted form?

14 MR KAMARA: Yes, unredacted form.

12:41:41 15 PRESIDING JUDGE: When you say two disclosures, are you
16 talking two disclosures of the same statement?

17 MR KAMARA: Sorry, My Lord. The unredacted was on 17th May
18 2004. That is correct.

19 PRESIDING JUDGE: The unredacted one on 17th May 2004?

12:41:56 20 MR KAMARA: Yes, My Lord.

21 PRESIDING JUDGE: What about May 2003?

22 MR KAMARA: That is the date of the statement, 22nd May
23 2003.

24 PRESIDING JUDGE: Okay, that's fine. Mr Kamara, before you
12:42:14 25 sit down.

26 JUDGE THOMPSON: Mr Kamara, can you answer for me two short
27 questions. The first one is: Does this piece of evidence as
28 contained in this statement go to the core of the Prosecution's
29 case? I mean, if you intend to tender it now, does it go to the

1 core of the Prosecution's case?

2 MR KAMARA: Yes, My Lord, it does because it deals with
3 issues of unlawful killings.

4 JUDGE THOMPSON: Right, yes. So the answer is in the
12:42:42 5 affirmative. Then my next question is: If it does go to the
6 core of the Prosecution's case, could it have been adduced in
7 examination-in-chief by the Prosecution? That's my second
8 question, if the first is in the affirmative.

9 MR KAMARA: Yes, My Lord, it could have if at all he was
12:43:08 10 called.

11 JUDGE THOMPSON: So the second is affirmative.

12 MR KAMARA: Yes, My Lord.

13 JUDGE THOMPSON: If that is the case, what would you say if
14 I say that there is a principle of law which says that the
12:43:17 15 Prosecution cannot withhold evidence that goes to the core of its
16 case which could have been adduced in examination-in-chief for
17 only to be used in cross-examination for tactical purposes.
18 Suppose I said to you that there was some rule of law on that,
19 how would you respond?

12:43:43 20 MR KAMARA: Yes, My Lord. There are several core issues to
21 the Prosecution's case and the Prosecution is selective in
22 proving all those core issues. We are under obligation not to
23 multiply issues or present evidence duplicating witnesses after
24 witnesses.

12:44:02 25 JUDGE THOMPSON: I can see that. But is the Prosecution --

26 MR KAMARA: If I may finish, My Lord.

27 JUDGE THOMPSON: Go ahead, I apologise. I'm sorry, I
28 apologise profusely.

29 MR KAMARA: Also, if there is a witness, we can always

1 present our case through the mouths of the defence witnesses as
2 well, My Lord.

3 JUDGE THOMPSON: Yes, I recognise that. Suppose I say that
4 clearly if you're giving your answers to those two questions in
12:44:29 5 the affirmative that really what has happened here is an attempt
6 to withhold evidence tactically to use it for cross-examination
7 and that as a general rule this would not be permissible, and I
8 refer you to page 151 of International Criminal Evidence by May
9 and Wierda --

12:44:57 10 MR KAMARA: My Lord, I agree with you.

11 JUDGE THOMPSON: -- where they cite the case of Krstic from
12 the ICTY and the proposition is this -- it may be that perhaps
13 that proposition needs to be refined.

14 "The Prosecution cannot hold back evidence that goes to the
12:45:16 15 heart of the case as a matter of tactics in order to use it
16 in cross-examination of the accused."

17 MR KAMARA: My Lord, this is not the kind of scenario --

18 JUDGE ITOE: My question is --

19 JUDGE THOMPSON: Right. I will say nothing more.

12:45:33 20 JUDGE ITOE: I mean, I'm also posing a question. Supposing
21 the Prosecution thinks that it has evidence that has proved the
22 core issues and does not require further evidence to overstate
23 the facts or to delay the proceedings, what would that situation
24 be? Would they be asked to keep filing in evidence even though
12:45:58 25 they have other facts which have been testified to by the
26 witnesses?

27 MR KAMARA: My Lord, we are in complete agreement on that.
28 We got to the point wherein the Prosecution is satisfied that we
29 have proved enough ingredients as regards to the core evidence

1 that we have led before the Court. And now that it is the
2 Defence's opportunity to present their case and another
3 opportunity avails itself, My Lord, we are just utilising that.
4 In response to the learned Justice Thompson's issue about
12:46:29 5 tactics, this cannot be tactics because we were never
6 contemplating that this witness would either deny or not come
7 forth and say, "Yes, this is what I said." So we can not
8 contemplate that at the time we were adducing evidence before
9 this Court. There is no tactical advantage from my point of
12:46:48 10 view, My Lords. This is only to contradict this witness with
11 facts that he has given before this Court.

12 PRESIDING JUDGE: Thank you. Dr Jabbi, you've heard what
13 the Prosecution has stated that that statement has been disclosed
14 to the Defence in May 2004. Do you recognise that, or when you
12:47:08 15 made your argument you didn't know about it or what is it?

16 MR JABBI: My Lord, I cannot comment on that information at
17 this stage. I do not remember it, but I need to cross-check it
18 before I can respond to it.

19 PRESIDING JUDGE: But if you have received that, and the
12:47:32 20 Prosecution claims that they have certification or proof that it
21 has been disclosed, so let's take it on the face of it, as such,
22 and we'll give you the time to check it out as well. But if it
23 has been disclosed, let's take it on that assumption, to the
24 Defence, meaning to you as well as the other co-defendants, is
12:47:55 25 your argument the same still?

26 MR JABBI: Yes, My Lord.

27 PRESIDING JUDGE: On what ground then?

28 MR JABBI: I would not want, My Lord, to respond fully on a
29 hypothetical basis, if you will.

1 PRESIDING JUDGE: It's not hypothetical. The Prosecution
2 says they have disclosed and they have evidence of that.

3 MR JABBI: Yes, but Your Lordship is saying if I
4 discover --

12:48:19 5 PRESIDING JUDGE: Very well.

6 MR JABBI: Thank you very much.

7 PRESIDING JUDGE: Second accused, do you any comments about
8 the admissibility of that document?

9 MR PESTMAN: We would like to postpone, if possible, Your
12:48:30 10 Honour, our comments until after the break so that we can check
11 and be sure that these documents have been disclosed to us.

12 PRESIDING JUDGE: Very well. Given that it is almost 1
13 o'clock, we will adjourn and allow you to do this verification
14 and we'll come back at the usual time, 2.30. Very well. The
12:49:17 15 Court is adjourned to 2.30.

16 [Luncheon recess taken at 12.49 p.m.]

17 [CDF16MAY06D - SV]

18 [Upon resuming at 2.40 p.m.]

19 PRESIDING JUDGE: Good afternoon, counsel. Good afternoon,
14:41:59 20 Mr Witness. Dr Jabbi, when we adjourned for lunch you were to
21 look into your documentation to see if you have indeed received a
22 disclosure of the document in question which the Prosecution
23 claims was disclosed unredacted on 17 May 2004. Have you
24 received such a document?

14:42:30 25 MR JABBI: My Lord, I am informed that it was disclosed. I
26 myself cannot say of my own direct evidence that it was, but I'm
27 informed --

28 PRESIDING JUDGE: By your team, by your people?

29 MR JABBI: By another team. I don't have any intention to

1 dispute it or doubt it, but I'm giving that information.

2 PRESIDING JUDGE: Thank you. Mr Pestman, you were as well
3 to look into --

4 MR PESTMAN: I think we are the team and we did receive it,
14:43:05 5 it's correct. I would like to raise one more point.

6 PRESIDING JUDGE: We'll come to you, Mr Pestman. I just
7 wanted to establish that, but we will allow you to raise another
8 issue if you want to. I just want to finish with Dr Jabbi.
9 Dr Jabbi, related to that, I raised with you before the break an
14:43:26 10 hypothetical scenario and you suggested that might be better to
11 wait to see what the facts are. Now you have the facts, what's
12 your position?

13 MR JABBI: My Lord, I wish to raise another objection.

14 PRESIDING JUDGE: A different one? In other words, you're
14:43:41 15 not pursuing that one?

16 MR JABBI: Yes, My Lord.

17 PRESIDING JUDGE: What's your objection now?

18 MR JABBI: My Lord --

19 PRESIDING JUDGE: Is this an objection that we could hear
14:44:08 20 in the presence of the witness, or would it be better not to?

21 MR JABBI: I think it would be harmless. In fact, it is an
22 objection based on the point that was broached by His Lordship
23 Thompson. I don't think there is any harm.

24 PRESIDING JUDGE: Very well.

14:44:34 25 MR JABBI: My Lord, I have copies of an authority here
26 which I would want to refer to. My Lords, I wish to begin with
27 paragraph 5.25 not of the authority now before Your Lordships, of
28 International Criminal Evidence by May and Wierda, paragraph
29 5.25, at page 151. With your leave, My Lords, it's a short

1 paragraph, if I may read it?

2 JUDGE ITOE: Page?

3 MR JABBI: Page 151, paragraph 5.25. It reads as
4 follows -- My Lord, it is under the rubric Scope of
14:46:16 5 Cross-Examination, which begins at page 148. Scope of
6 Cross-Examination, beginning at page 148, ending at 151, and
7 paragraph 5.25 reads as follows:

8 "Finally, the Prosecution cannot hold back evidence that
9 goes to the heart of the case as a matter of tactics in
14:47:01 10 order to use it in cross-examination of the accused. This
11 was emphasised in Krstic where the Prosecution confronted
12 General Krstic with an intercept of a conversation between
13 himself and another Bosnian Serb during which the accused
14 used a pejorative term to describe Bosnian Muslims and is
14:47:57 15 alleged to have said, 'Kill them all.' The Trial Chamber
16 found that the Prosecution appeared to have made a tactical
17 decision to use this intercept during cross-examination,
18 rather than during its case in-chief to 'explosive' effect,
19 and since it went to a fundamental part of the Prosecution
14:48:52 20 case, namely, specific intent in a genocide case, it was
21 not admissible in rebuttal."

22 My Lords, the authority cited there is the one I have
23 just given out -- copies of which I have just given out.
24 My Lords, I would like particularly to draw attention to
14:49:22 25 paragraphs 8, 25 and 26 on pages 2, and page 5 to page 6.
26 Paragraphs 8, 25 and 26. My Lords, if I may read only paragraph
27 25 and 26, but 8 is also --

28 PRESIDING JUDGE: I have not read the case, I must say, I'm
29 just leafing it through it, but this would appear to be a case

1 where the Prosecution is calling rebuttal evidence.

2 MR JABBI: Indeed, My Lord.

3 PRESIDING JUDGE: It doesn't appear to be a question of
4 cross-examination of the witness, but more the ability or
14:50:23 5 inability and limitation, if any, on the Prosecution to call
6 rebuttal evidence. I don't think we are in the rebuttal evidence
7 scenario at all here. But, anyhow, I have not read the case.
8 I've just told you that I just read very quickly through it.

9 JUDGE ITOE: In paragraph 26 of that decision which you
14:50:43 10 have just referred to, it relates to the intercepting
11 conversation which you have referred to. The intercepted
12 conversation, which, I suppose, in addition to what the learned
13 Presiding Judge has mentioned, was also considered in this
14 matter. I mean, don't you see a distinction between this
14:51:16 15 situation in hand and the one in Krstic's case?

16 MR JABBI: My Lord, they are not necessarily the very same
17 point, but the point they are illustrative --

18 JUDGE ITOE: If they are distinguishable and are not of the
19 same point, would Krstic apply?

14:51:40 20 MR JABBI: I submit so, My Lord. My Lord, I already said
21 that from the International Criminal Evidence I was citing the
22 portion under the rubric Scope of Cross-Examination.

23 JUDGE ITOE: I followed you very, very closely.

24 MR JABBI: I am citing these portions as being relevant to
14:52:16 25 issue of cross-examination. It's the same basic principle
26 involved, that is to say, holding back evidence for tactical
27 reasons and for use subsequently, obviously in cross-examination,
28 as indeed the first sentence in paragraph 5.25 clarifies, and the
29 authority is only an illustrative example of that principle,

1 notwithstanding that is a different type of material that has
2 been used to illustrate that principle.

3 JUDGE ITOE: It is true that document is not yet in
4 evidence. I would have wanted you to address us on the evidence
14:53:02 5 which you allege that the Prosecution has withheld in this case.
6 That it has withheld up to now and that has not been made
7 available by the Prosecution or adduced by the Prosecution in the
8 conduct of his case.

9 PRESIDING JUDGE: I take it that the first accused has not
14:53:21 10 alleged that they were not disclosed, therefore they abandon this
11 ground, presumably? That statement was disclosed to you,
12 Dr Jabbi, or to the first accused?

13 MR JABBI: I'm sorry I cannot answer that question directly
14 but I think -- I do answer it when I say I have been informed and
14:53:43 15 I do accept that it was disclosed to the Defence. Unfortunately,
16 I was not myself really part of this --

17 PRESIDING JUDGE: My question to you was: Do you still
18 pursue that objection? I understood you to say no because you
19 accept that it has been disclosed. The basis for your objection
14:54:03 20 was it had not been disclosed, so however you obtained your
21 information now, you have informed the Court that you're not
22 pursuing that on the ground that that matter was not disclosed to
23 the Defence.

24 MR JABBI: That is what I have said, My Lord. I said I was
14:54:20 25 not pursuing it on that ground but that I was raising a different
26 ground of objection. I said that earlier on, My Lord.

27 PRESIDING JUDGE: That's fine. Thank you.

28 MR JABBI: So, My Lord, I have just cited these paragraphs
29 and 25 and 26, in particular, if you would allow me just to read

1 them. My Lord, 25 reads as follows:

2 "The Chamber finds that the evidence which the intercept
3 intends to rebut arose out of a question asked by the
4 Prosecution which was intentionally phrased so broadly as
14:55:06 5 to encompass the entire case against the accused. In view
6 of the interview Krstic gave to the OTP as well as the
7 debates held at the pre-trial stage, the Prosecution should
8 have anticipated that confronted with a question whether he
9 ordered any killings between July 11 and November 1, the
14:55:46 10 accused would deny any such order. In fact, the Chamber
11 notes that the Prosecution expressed its intention to
12 tender the item into evidence during its rebuttal case even
13 before the question was asked of the accused. The Chamber
14 further notes that the Prosecution was in possession of the
14:56:23 15 evidence before the start of the case in chief and decided
16 not to use it. It appears that the Prosecution made the
17 tactical decision to use it during cross-examination rather
18 than in the case in chief as explained in its response and
19 as further confirmed by witness Butler on 23rd March 2001.
14:57:09 20 The Prosecution surely intended that, should the intercept
21 be admitted as evidence, it be used for more than the mere
22 purpose of testing the credibility of the accused. The
23 admission of such an explosive intercept would inevitably
24 be viewed as going to the heart of the case, the accused's
14:57:50 25 mens rea, despite the fact that its probative value was
26 openly doubted by several witnesses."

27 And 26:

28 "The Chamber concludes that the exhibits and testimony
29 related to the intercepted conversation are not admissible

1 at this stage of the trial."

2 So, My Lord, all I am saying is that the Prosecution could
3 certainly have used the evidence in the document being proffered
4 for tendering and decided not to use it in their case in chief,
14:58:46 5 but, rather, to use it in cross-examination. To that extent,
6 since the Prosecution has conceded that it is material to certain
7 points in their case, the principle outlined both in paragraph
8 5.25 of May and Wierda and also in the case cited, the Prosecutor
9 vs Krstic, on the basis of that principle, I object to the
14:59:26 10 tendering of this statement. Thank you very much, My Lords.

11 PRESIDING JUDGE: Thank you. Mr Pestman?

12 MR PESTMAN: There was just one question, a point of order,
13 I would like to raise. I filed, I think, on behalf of the other
14 teams --

14:59:48 15 PRESIDING JUDGE: We don't want to discuss that. We just
16 want a response to this objection if you have it.

17 MR PESTMAN: I have no comments.

18 PRESIDING JUDGE: So this is not the time. Mr Margai, do
19 you have any objection to the admissibility of this statement for
15:00:03 20 the stated purpose of dealing with the credibility of the
21 witness?

22 MR MARGAI: Strictly speaking, we have no objection.

23 PRESIDING JUDGE: Thank you. Mr Prosecutor, do you wish to
24 respond to the latest objection raised by counsel for the first
15:00:24 25 accused?

26 MR KAMARA: Yes, My Lord. I'll be very brief as Your
27 Lordships have already raised the crucial issues in the questions
28 posed to Dr Jabbi. It is the submission for the Prosecution,
29 My Lords, that counsel has clearly misunderstood the context of

1 the argument in May and Wierda. In May and Wierda the issue is
2 cross-examination as it relates to the accused as a witness and
3 not to any other witness called for the Defence. There is a
4 crucial distinction between the two, My Lords.

15:01:19 5 As regards to the case law cited by my learned friend, Your
6 Honours, we submit that it's totally irrelevant and inapplicable
7 under the circumstances. The ratio of this case basically, Your
8 Honours, deals with the issue of rebuttal, as the Presiding Judge
9 did make a comment about that, and further on, the issue of
15:01:50 10 intercepted conversations as against witness statements.

11 My Lords, the Prosecution submits that what we have at hand is
12 the issue of a witness statement being tendered in court and not
13 that of an intercepted conversation nor the issue of rebuttal.
14 Therefore, the case cited is inappropriate under the
15:02:15 15 circumstances, My Lord.

16 Then we further go on to submit, My Lords, that the issue
17 of disclosure as to a situation wherein the Prosecution has
18 failed to disclose to the other side --

19 PRESIDING JUDGE: I don't think it is an issue any more,
15:02:36 20 Mr Kamara.

21 MR KAMARA: I rest my case, Your Honour.

22 PRESIDING JUDGE: This is not being pursued by the first
23 accused so this is no more an objection.

24 MR KAMARA: Thank you, My Lords.

15:02:45 25 JUDGE THOMPSON: Let me ask one question. Learned counsel
26 for the Prosecution, what do you say to the fact that this is a
27 principle which comes under the issue of limiting the scope of
28 cross-examination? Is it enough to say it relates to rebuttal
29 and also it just relates to the accused? But how do you answer

1 that it's under the rubric Scope of Cross-Examination and what in
2 principle should make such a doctrine not extend to
3 cross-examination as to its scope, rather than to the narrow area
4 of mere rebuttal? Because when you look at it, it's under the
15:03:27 5 Scope of Cross-Examination. In other words, what you can do and
6 what you cannot do under cross-examination.

7 MR KAMARA: Yes, My Lord. I agree in a general way it
8 states that. But then it goes further to explain the distinction
9 between when it is an accused person testifying on his own behalf
15:03:47 10 as against an ordinary witness called for the Defence. Further,
11 I limited myself to the case that my learned friend has given to
12 the Court and that case clearly deals with rebuttal witnesses and
13 intercepted conversations.

14 JUDGE THOMPSON: Of course that's a point worth making.
15:04:00 15 But the only question, of course, for me is that why is a
16 principle, if, of course, we're not saying that you have -- the
17 Prosecution here has withheld evidence, but why is a principle
18 that if Prosecution withholds evidence which is material to its
19 case and reserves it for cross-examination as a tactical matter
15:04:27 20 can be a limiting factor in terms of the permissibility of
21 questions that can be asked under cross-examination? Isn't that
22 what May and Wierda seem to be saying? Of course, when we come
23 to the Krstic case, then it applies the principle in a narrower
24 context. But there's nothing saying that it doesn't apply to
15:04:50 25 scope.

26 MR KAMARA: You're right in that light, but that is not
27 what is going on now in the issue, My Lord. You're correct, I
28 agree with you on that. But it's slightly different from what we
29 have at hand and that is why I say May and Wierda is clear on the

1 law. I agree with you, My Lord, it can be extended. But what we
2 have in issue here does not apply.

3 JUDGE THOMPSON: Right.

4 PRESIDING JUDGE: We will consult for a few moments and
15:05:54 5 we'll come back with our decision. Thank you.

6 [Break taken at 3.06 p.m.]

7 [Upon resuming at 3.23 p.m.]

8 PRESIDING JUDGE: This is the ruling of the Court. Having
9 considered the objection raised by counsel for the first accused
15:24:47 10 as to the admissibility of this document led by the Prosecution
11 for the purpose of testing the credibility of this accused, and
12 after careful consideration of this matter, and after examination
13 of the arguments submitted by both the Defence and the
14 Prosecution, the Chamber rules that the objection is to be denied
15:25:15 15 and therefore rules that the statement is indeed admissible.

16 MR JABBI: As My Lord pleases.

17 PRESIDING JUDGE: So this document, statement of 22 May
18 2003 consisting of 15 pages and signed by the witness BJK Sei is
19 marked as Exhibit 155.

15:26:16 20 [Exhibit No. 155 was admitted]

21 MR KAMARA: Thank you, My Lords.

22 PRESIDING JUDGE: Again, so there is no ambiguity and no
23 doubt as to the admissibility of this document, it is for the
24 limited purpose of testing the credibility of this witness.

15:26:35 25 MR KAMARA: Yes, My Lord.

26 PRESIDING JUDGE: Very well.

27 MR KAMARA:

28 Q. Mr Witness, let me take you to page 12 of Exhibit 155, the
29 sentence about midway on that page, "Sometime after the capture

1 of Tongo Field some Kamajors captured Chief Brima Conteh of
2 Lalehun." Are you with me?

3 A. Yes.

4 MR KAMARA: My Lords, with your leave, I will read that to
15:28:05 5 the witness.

6 Q. "Some time after the capture of Tongo Field, some Kamajors
7 captured Chief Brima" --

8 JUDGE ITOE: We're being translated.

9 MR KAMARA: Sorry.

15:28:17 10 THE INTERPRETER: Your Honours, let him take that slowly.

11 PRESIDING JUDGE: You have been reminded.

12 MR KAMARA: Yes, I'm sorry, My Lord.

13 Q. "Some time after the capture of Tongo Field, some Kamajors
14 captured Chief Brima Conteh of Lalehun and Mualim Abu
15:28:51 15 Bakarr of Konia and brought them to me and told me that

16 they have heard information that the two people were rebel

17 collaborators. It was about night-time. I therefore

18 handed over Chief Brima Conteh to Mbaimba Aruna, the

19 section commander of Nyawa section, and handed over Mualim

15:29:57 20 Abu Bakarr to Amadu Kailondo, one of the commanders, for
21 safekeeping. They were to produce these two people the

22 following morning for investigation."

23 Now listen carefully:

24 "On the next day, Amadou Kailondo produced Mualim Abu
15:30:36 25 Bakarr but Mbaimba Aruna failed to do so. When I asked
26 him, Mbaimba Aruna told me that he has killed Chief Brima
27 Conteh."

28 Now, Mr Witness --

29 JUDGE ITOE: Please continue reading.

1 MR KAMARA: Yes, Your Honour.

2 Q. "I asked him who ordered him to kill Chief Brima Conteh.
3 He said nobody ordered him. I then told him that I was
4 going to report the matter to Otogu, the younger brother
15:31:46 5 of Chief Brima Conteh. I did not report to any of my
6 superior commanders as they were all not available. At
7 that time, also" --

8 JUDGE ITOE: No, I think this is some information which is
9 favourable to the witness. I mean, you couldn't have stopped
15:32:16 10 where you stopped. You had to continue further.

11 MR KAMARA: Thank you, My Lord.

12 Q. "At that time, also, there was no government functionaries
13 in the area and in Kenema. I only reported to Otogu and
14 told him that I did not order Mbaimba Aruna to kill
15:32:49 15 Chief Brima Conteh."

16 Mr Witness, that is your statement to the Prosecution?

17 JUDGE ITOE: Is that a question, or what?

18 MR KAMARA: I'm going further, My Lord.

19 JUDGE ITOE: Okay.

15:33:16 20 MR KAMARA:

21 Q. Do you still maintain that you do not know the
22 circumstances of the death of Chief Brima Conteh?
23 A. Yes, what I told you, you've read it now. Whoever went and
24 asked me to write something about the Court, I would explain that
15:33:58 25 to him because it was not my doing. You're not the only person.
26 The reason is that I had taken up arms to defend the people, I
27 did not take up arms to kill the people. So if you did something
28 wrong, I'll tell you that you've done something wrong. When I
29 convened the meeting, that's what I told them, but I was not the

1 one who said he should kill Mr Brima Conteh.

2 PRESIDING JUDGE: But this is not the question you were
3 asked, Mr Witness.

4 MR KAMARA: Thank you, My Lords.

15:34:45 5 PRESIDING JUDGE: Would you take the question again that
6 you had asked before.

7 MR KAMARA: Yes, My Lord.

8 Q. My question to you, Mr Witness: do you maintain the
9 position that you do not know the circumstances of the death of
15:34:55 10 Chief Brima Conteh?

11 JUDGE THOMPSON: I think it's important to find out
12 whether, in his original testimony here, he did say he did not
13 know anything about circumstances.

14 MR KAMARA: Yes, My Lord, I did ask him the question.

15:35:09 15 JUDGE THOMPSON: If we can get back to that because this is
16 quite a big chunk that you've read out to him and it's important
17 that he gets the message very clearly.

18 MR KAMARA: My Lord, I will rephrase the question.

19 JUDGE THOMPSON: Because you're seeking to impair his
15:35:27 20 credibility. I think the process is a much limited process. So
21 why not find out what he told us here this morning or as to the
22 alleged death of Chief Brima Conteh; what was his precise answer?

23 MR KAMARA: My Lord, in direct examination he was asked
24 whether he knew Chief Brima Conteh. He said yes. Then a
15:35:57 25 question was put to him as to where is he now. He said he
26 doesn't know where he is.

27 PRESIDING JUDGE: You mean in cross-examination?

28 MR KAMARA: That is in direct. In cross-examination I did
29 ask him and I suggested to him that Chief Brima Conteh is dead

1 and he said it's only now I'm hearing it from you. That's what
2 he said to me.

3 JUDGE THOMPSON: That's the context I wanted you to go back
4 to because that's the only context in which one would be able to
15:36:22 5 assess his credibility in the light of what you have just put to
6 him.

7 PRESIDING JUDGE: I have in my note that you put to the
8 witness that he was killed by one of your commanders, by Aruna.

9 MR KAMARA: Yes.

10 PRESIDING JUDGE: The answer that was given, you are
11 telling me now. I don't know that.

12 JUDGE THOMPSON: I was only asking for specificity.

13 MR KAMARA: Thank you, My Lord.

14 Q. Now do you know, having read that portion of your
15:36:55 15 statement, that Mbaimba Aruna killed Chief Brima Conteh?

16 JUDGE ITOE: Do you now know?

17 THE WITNESS: If I had not seen him, but you've explained
18 to me now. But that's not what I told you. I said Mbaimba Aruna
19 said he had taken and he had accompanied Mr Brima Conteh to
15:37:25 20 Kenema. I said if this man does not come, I will tell his
21 brother. But you've added killing there. But yet you're saying
22 that Mbaimba Aruna had killed that man. I've seen it on paper, I
23 can believe that, but that is not what I told you. I did say to
24 you that I called up Mbaimba Aruna and he said he had accompanied
15:37:48 25 him to Kenema. I said if I do not see that man, because there
26 was not other big men in the town, but if I saw his brother, I'd
27 tell him and I did tell them, that if they had gone out looking
28 for that man, and they had not seen him, then they should look
29 out for him to Mbaimba Aruna.

1 MR KAMARA:

2 Q. Now, Mr Witness, thank you for that explanation. Did you
3 tell that to the Defence about accompanying to Kenema and
4 wherever?

15:38:23 5 A. Yes. The same thing that I told you was the same thing I
6 told them. Whoever went to me to obtain statement, that was what
7 I told them. Because you were many, those of you who went to me.
8 I did not know your distinction. I did not know what this Court
9 was. I was in the bush and you would drag me from the bush and I
15:38:43 10 will come. What I did and what I saw in this war was what I was
11 telling you.

12 PRESIDING JUDGE: This is fine. Mr Witness, what we want
13 to know is the truth. That's what we're asking. The Prosecution
14 or Defence, this is the truth that we're after.

15:39:00 15 MR KAMARA: My Lord, at this stage I will make an
16 application to see the statement made by this witness to the
17 Defence, My Lord, as issues have arisen which have occurred with
18 this witness with his own statement, he's made a denial of
19 certain portions of it and he has alleged that he has made that
15:39:22 20 position to the Defence and it's not available in the summaries
21 provided to the Prosecution. So, based on that, My Lord, I think
22 it is an exceptional threshold that we've reached, making it
23 necessary for the Prosecution to see that statement so that we
24 can continue cross-examination along those lines. This is a very
15:39:40 25 crucial issue to the Prosecution's case.

26 PRESIDING JUDGE: Which issue, so I get it without any
27 ambiguity?

28 MR KAMARA: The issue of the death of Chief Brima Conteh
29 and that he was killed by Mbaimba Aruna, My Lord.

1 JUDGE ITOE: Why do you need it in the Defence summaries in
2 order to make your case? Why do you need it from the statements
3 made by this witness to the Defence in order to make your case?

4 MR KAMARA: My Lord, it is interesting in the way it was
15:40:29 5 provided in the summary it stops short of explaining how he died.

6 JUDGE ITOE: But on the principle of orality, he's
7 explaining, it's in his statement, some facts have come out in
8 cross-examination after examination-in-chief and so on and so
9 forth. Why do we need to delve into a defence witness statement
15:40:52 10 or summary in order to make your case?

11 MR KAMARA: My Lord, I'm continuing to discredit this
12 witness, in that even in the direct evidence-in-chief he stopped
13 short, he said he did not know where this man is. And now,
14 having accosted him with his own statement, he has added
15:41:09 15 something new which he said is in his statement to the Defence.
16 My Lord, it is both helpful to the witness and the Court for us
17 to see what is in that statement so that we could believe or
18 disbelieve it. It is the submission of the Prosecution that if
19 we take a look at that statement it will put that issue to rest.

15:41:28 20 PRESIDING JUDGE: Don't you think there is a limit to it?
21 I mean, you've just put a statement to the witness, presumably
22 you are asking this Court to act upon it and not believe that
23 part of the evidence or not at all the evidence of this witness.
24 So how far do you want to go with this?

15:41:44 25 JUDGE ITOE: Mr Kamara, I'm not sure you're finished
26 exploiting that statement. Why don't you finish with exploiting
27 this before going to new ground?

28 MR KAMARA: That's where I'm going to now, My Lord. I
29 reserved that for my last bullet.

1 JUDGE THOMPSON: Perhaps by way of methodology, remember
2 you already chartered through what he said in
3 examination-in-chief about this very issue and what he said under
4 cross-examination.

15:42:15 5 MR KAMARA: Yes, My Lord.

6 JUDGE THOMPSON: It would seem to me that this Court would
7 be assisted if you go back, remind him of what he said under
8 examination-in-chief, what answers he gave to you under
9 cross-examination, and then relate to this document. Because
10 that is the only way that I, speaking for myself, would be able
11 to assess this witness's credibility. I mean, as it has already
12 been adverted to, why go beyond this document, which is in
13 evidence, to a defence statement if you have all the ammunition
14 here to impair his credibility?

15:43:01 15 MR KAMARA: Yes, My Lord.

16 JUDGE THOMPSON: Because remember it's his testimony here
17 this morning, examination-in-chief and cross-examination, that's
18 your starting point and that's why I was pleading for
19 specificity. Because when you put the entire thing to him he
20 takes the liberty to give a global kind of response and it
21 doesn't help me.

22 PRESIDING JUDGE: Furthermore, if I may add to close this
23 issue, as such, to me what is contained in the summary would be
24 sufficient notification to you, Prosecutor, as to an issue and an
25 incident that has existed. It may not be with the full complete
26 details that you would have liked, but certainly this is not a
27 new matter I will put to you.

28 MR KAMARA: My Lord, I'll leave that for the time being.

29 MR JABBI: My Lord, just a point of correction.

1 JUDGE ITOE: On the summaries?

2 MR JABBI: Yes, My Lord.

3 JUDGE ITOE: Haven't you heard what the Presiding Judge
4 just said.

15:44:01 5 PRESIDING JUDGE: The information is sufficient, that's
6 what I just said.

7 MR JABBI: On the summary?

8 PRESIDING JUDGE: Yes. Dr Jabbi, please listen when I
9 speak because this is exactly what I've been saying. Maybe you
15:44:12 10 are on the wrong channel.

11 MR JABBI: No, no.

12 JUDGE ITOE: He's on the Mende channel.

13 PRESIDING JUDGE: I just said so, Dr Jabbi, so you don't
14 have to explain that. I just told the Prosecution that the
15:44:25 15 summary was sufficient in this respect. This is exactly what
16 I've said.

17 MR JABBI: Thank you very much, My Lord. Because he said
18 there was nothing in the summary, that's what I wanted to bring
19 up. The last bullet.

15:44:38 20 JUDGE ITOE: The last Kamajor bullet on him.

21 MR KAMARA: My Lord, if I may just round up on the issue
22 following the comments of learned Justice Thompson.

23 Q. Mr Witness, in your evidence this morning about Chief Brima
24 Conteh you said you do not know where he is on direct evidence?

15:45:06 25 A. Yes.

26 Q. And then in cross-examination I posed a question to you
27 whether you know if he's dead.

28 PRESIDING JUDGE: Mr Prosecutor, I thought we've been
29 through that now five minutes ago.

1 THE WITNESS: I don't know.

2 MR KAMARA: [Overlapping speakers] I finish up on that
3 issue.

4 PRESIDING JUDGE: I thought you had finished on that issue
15:45:35 5 indeed.

6 MR KAMARA: My Lord, I'm confused now.

7 PRESIDING JUDGE: Anyhow, we'll see the next question.
8 These questions, anyhow, had been asked and answered.

9 MR KAMARA: Yes, My Lord.

15:45:46 10 Q. Let me take you to another issue for the time being and
11 I'll get back to your credibility on that. In that statement
12 which you have by your side, if you look at the first page, it
13 says:

14 "The late Dr Alpha Lavalie was the national co-ordinator of
15:46:09 15 hunters and was based in Kenema. After the death of
16 Dr Alpha Lavalie we were called to a meeting in Kenema and
17 told that Chief Hinga Norman was the leader of all the
18 hunters in Sierra Leone."

19 On the next page:

15:46:39 20 "At the time the meeting was called I was the chiefdom
21 commander for hunters in the Lower Bambara Chiefdom. The
22 late Bobor Amara was my deputy, but on his death in 1994
23 Mohamed Orinko Musa became the deputy to me."

24 Mr Witness, are you saying that as early as 1994 you knew
15:47:14 25 that Hinga Norman was the leader of all the hunters in
26 Sierra Leone?

27 A. That's not what I told you too.

28 Q. You never said that?

29 A. No.

1 Q. When did you get to know that Hinga Norman was the boss of
2 all the Kamajors in Sierra Leone?

3 A. When Mr Alpha Lavalie died, then Mr Gombu [phon] was made
4 chairman. After that, they appointed Mr Charles Margai, there
15:48:32 5 has got a time among them, it was about from 1994 you're talking
6 about. That's when they told us that Mr Hinga Norman was the
7 co-ordinator between the Kamajors and the government.

8 MR KAMARA: My Lord, the witness is confused now.

9 Q. Let me take you to another issue so you don't bring in
15:49:09 10 Mr Margai any more. In your statement, Mr Witness -- before I
11 get to the statement, you did mention that Musa Junisa was your
12 boss at a point in time during the conflict; do you agree with
13 me?

14 A. Yes.

15:49:38 15 Q. Did you make reports to him?

16 A. Yes, at the time that they came from the Waterside and they
17 became head.

18 Q. You would also agree with me that he, Musa Junisa, was
19 reporting to the administrator, Arthur Koroma; is that correct?

15:50:15 20 A. Yes, that's what I told a while ago. That when they came
21 from waterside and showed their positions --

22 JUDGE ITOE: Indeed, Mr Kamara, he said so. That
23 Musa Junisa was reporting to the administrator, Arthur Koroma.

24 MR KAMARA: He agrees with me, My Lord.

15:50:31 25 JUDGE ITOE: No, he's not agreeing with you. He's telling
26 you that he had said so before.

27 MR KAMARA: Yes, My Lord.

28 JUDGE ITOE: Yes.

29 MR KAMARA:

1 Q. To whom was Arthur Koroma reporting to?

2 A. You should ask him. You should ask him. You cannot ask me
3 that.

4 PRESIDING JUDGE: Mr Witness, please. You are the witness,
15:50:53 5 Mr Koroma is not the witness here.

6 MR KAMARA: Thank you, My Lord.

7 THE WITNESS: What I know is what I'll tell you. What I
8 know is what I will tell you. I would report to --

9 THE INTERPRETER: Your Honours, the witness is going very
15:51:11 10 fast.

11 PRESIDING JUDGE: Mr Witness, would you take this last
12 answer again, slowly.

13 THE WITNESS: I said you've asked me if I was reporting to
14 Musa Junisa and I said yes. At the time that they came from the
15:51:54 15 Waterside and they told us their positions in 1998, it was at
16 that time that I was reporting to Musa Junisa.

17 MR KAMARA:

18 Q. Mr Witness, let me suggest to you that Arthur Koroma was
19 reporting to Chief Norman directly. Do you agree with me?

15:52:20 20 A. I wouldn't agree.

21 Q. Take a look at your statement again, Mr Witness. I believe
22 it's page 4. You were giving the structure of the fighters then,
23 I want to presume. It says, "The battalion commander reported to
24 OM Junisa, the national director of operations, who in turn
15:52:58 25 reported to Arthur Koroma."

26 THE INTERPRETER: Learned counsel is going very fast.

27 MR KAMARA: I'm sorry.

28 Q. "The battalion commander reported to Musa OM Junisa, the
29 national director of operations, who in turn reported to

1 Arthur Koroma, the administrator. Arthur Koroma reported
2 to the national co-ordinator, Chief Hinga Norman. I knew
3 that this was the chain of command because we were told in
4 the Kenema meeting who each commander should report to."

15:54:18 5 A. Up till now I'm telling you where I used to report is where
6 I have told you. Maybe if I told you where Arthur Koroma
7 reported, he was not taking the report there. We know that
8 Mr Hinga Norman was between the government and the Kamajors.
9 Whether he was taking his reports there or taking them somewhere,
15:54:41 10 I don't know. I know about mine.

11 Q. Mr Witness, did you make that statement to the Prosecution
12 that Arthur Koroma reported to Chief Norman?

13 A. Mr Norman was a go-between between the Kamajors and the
14 government.

15:55:06 15 PRESIDING JUDGE: Mr Witness, please answer the question.
16 The question is not that. Take your question again, please.

17 MR KAMARA:

18 Q. Did you tell the Prosecution that Arthur Koroma reported to
19 Chief Hinga Norman, the national co-ordinator?

15:55:28 20 A. I said that's what I told you. But I can't tell you now,
21 like you've asked me, whether he was giving him before.

22 JUDGE ITOE: Sorry, I'm not very clear about that response.

23 MR KAMARA: Exactly so, My Lord. The witness has not been
24 trying to answer the questions.

15:55:57 25 JUDGE ITOE: No, don't comment. I'm not clear. Please,
26 don't comment. Put the question to him. Don't impute motives,
27 please.

28 MR KAMARA: I will, sorry.

29 JUDGE THOMPSON: Counsel, does he have a copy of the

1 statement?

2 MR KAMARA: Yes, My Lord, he does have it.

3 JUDGE THOMPSON: Why not direct him to it?

4 JUDGE ITOE: He's not reading it. I'm watching the
15:56:29 5 witness, he's not looking at the statement.

6 JUDGE THOMPSON: Direct him to the portions, otherwise
7 we'll never get through this impasse.

8 MR KAMARA: He's just not looking at it. I gave him a
9 direction as to the page, page 4 of the statement. I did direct
15:56:29 10 him, he's not looking at it. His mind is made up.

11 JUDGE THOMPSON: Tell him that that's what you want; you're
12 looking at the statement and asking him questions as to whether
13 what he said there was what he told the Prosecution. Otherwise
14 he will veer away from that and go and tell you what he thought
15:56:48 15 he told the Prosecution. Because otherwise the exercise is
16 futile, in my own view.

17 MR KAMARA:

18 Q. Mr Witness, at page 4 of your statement --

19 PRESIDING JUDGE: Please take your statement, Mr Witness.

15:57:06 20 JUDGE ITOE: Please read your statement. You have it in
21 front of you, Mr Witness.

22 THE WITNESS: Yes.

23 PRESIDING JUDGE: And follow with us. Look at page 4.

24 MR KAMARA:

15:57:46 25 Q. I believe it is the third sentence. It starts with, "The
26 battalion commander reported to Musa OM Junisa." You've seen
27 that? It goes on to where it says, "Arthur Koroma reported to
28 the national co-ordinator, Chief Norman."

29 A. Yes, I've seen it.

1 Q. Is that not what you told the Prosecution?

2 A. Yes.

3 Q. Now, Mr Witness, when was that meeting in Kenema?

4 A. I am still telling you that at that time when the
15:59:01 5 government returned -- at the time that the government returned.

6 Q. Could that be in March of 1998?

7 A. Yes, that was the time that they held that meeting and they
8 explained to us.

9 Q. Thank you. Now let me take you to page 8 of your
15:59:41 10 statement. In cross-examination earlier on today I asked you a
11 question about arms being received from Base Zero and your answer
12 was that no arms and ammunition were received from Base Zero.

13 PRESIDING JUDGE: Only bullets.

14 MR KAMARA: Only bullets, yes, My Lord. Thank you,
16:00:39 15 My Lord.

16 Q. Is that still your position?

17 A. Yes.

18 [CDF16MAY2006-RK]

19 Q. Now, take a look at your statement, as I said, at page 8,
16:00:55 20 starting with: "In 1996 and 1997, we acquired ammunition from
21 Base Zero. We used to mobilise men from the chiefdom who were
22 led by Musa Junisa to Base Zero where they were supplied with
23 ammunition."

24 JUDGE THOMPSON: Ask him a question, otherwise you're
16:01:50 25 giving him the liberty to roam all over the place.

26 MR KAMARA:

27 Q. The question is: Did you make that statement to the
28 Prosecution?

29 JUDGE ITOE: He made it this morning.

1 THE WITNESS: In this Court, I did not refute that. I said
2 Musa Junisa came from Base Zero with bullets. He said that
3 Mr Eddie Massallay had given it to him to bring them.

4 MR KAMARA:

16:02:31 5 Q. I may get it wrong but my notes show that you said you're
6 not aware of ammunition coming from Base Zero?

7 A. No.

8 PRESIDING JUDGE: I thought you said only bullets.

9 THE WITNESS: No, that's not what I told you.

16:02:36 10 MR KAMARA: I'll leave that.

11 PRESIDING JUDGE: In my book, bullets and ammunitions would
12 seem to be the same.

13 JUDGE ITOE: The same, yes.

14 MR KAMARA: I will take that, My Lord.

16:02:51 15 PRESIDING JUDGE: I think your question was weapon, arms
16 and ammunition and the answer was bullets.

17 MR KAMARA: Yes, I remember that.

18 Q. Now, Mr Witness, you said you were replaced as chiefdom
19 commander. Will you tell this Court why?

16:03:17 20 A. Yes.

21 Q. Yes, tell this Court. At that time it was the reign of the
22 soldiers so I was made vice-chairman. It was the reign of the
23 soldiers.

24 Q. Mr Witness, were you ever detained by your fellow Kamajors?

16:03:56 25 A. Yes.

26 Q. Why were you detained?

27 A. Well, they told lies about me, that I was a rebel.

28 Q. Were you punished while in detention?

29 A. They just detained me, but nobody beat me up and nobody

1 insulted me.

2 Q. Now let me take you to the final episode. Did you make an
3 address whilst you were at Tongo after the final attack?

4 A. Yes.

16:05:27 5 Q. Whom did you address?

6 A. When Tongo was captured, seven days, and on the eighth day,
7 that was in 1997 --

8 THE INTERPRETER: Your Honours, we are not very clear about
9 the dates the witness has spoken of. Can he please take it
16:06:12 10 again?

11 PRESIDING JUDGE: Mr Witness, can you repeat the date that
12 you have just given? You said when Tongo was captured. What
13 date did you say after that?

14 THE WITNESS: 1998. I summoned the Kamajors and the
16:06:40 15 civilians and I spoke to them. I told the Kamajors that they
16 have taken up arms to defend the civilians. "If a civilian does
17 something wrong to you, you should come and make a report to me.
18 Don't do anything wrong to him."

19 MR KAMARA:

16:07:26 20 Q. Now, Mr Witness, I am suggesting to you that that speech
21 you made was immediately after the Kamajors took over Tongo and
22 not eight days, as you have suggested to this Court.

23 A. It is not so. In fact, I was sick, the seventh and the
24 eighth day when I went to Tongo.

16:08:04 25 Q. I'm further suggesting to you, Mr Witness, that you were
26 well and hearty; you were right in the middle of Tongo when the
27 Kamajors took over.

28 A. It is not so. I was not in Tongo.

29 Q. Where was the meeting held?

1 A. And I was sick then.

2 Q. All right. Where was the meeting held?

3 A. At that time when I came to Tongo, it was at Labor [phon].

4 MR KAMARA: Let the witness be shown transcript for
16:09:31 5 TF2-027. I have copies for My Lordships.

6 PRESIDING JUDGE: This is the evidence of TF2-027?

7 MR KAMARA: TF2-027, dated 18 February 2005.

8 JUDGE ITOE: 027 or 87?

9 MR KAMARA: 27, My Lord.

16:10:14 10 JUDGE ITOE: Of?

11 MR KAMARA: 18 February 2005.

12 Q. There is evidence before this Court, Mr Witness.

13 A. Yes.

14 Q. This witness was giving evidence as to the meeting held by
16:10:51 15 the Kamajors immediately after the takeover of Tongo and whilst
16 they were at that meeting - let me start with number 5, "We were
17 there and they said, 'Push, push.' They said the Kamajor boss is
18 coming and we saw them coming." If you go to number 22, a
19 question was posed to the witness, "Who were they?" referring to

16:11:40 20 who were the Kamajor boys. The witness answered, "Well, the head
21 of Kamajor was there I knew him. He was called Mr BJK Sei." If
22 you look at number 26, he was there with his deputy Shaka Lahai.

23 Now my question to you, Mr Witness: this witness placed
24 you squarely on that day at that meeting. Are you still denying
16:12:29 25 that fact?

26 MR PESTMAN: Your Honours, can I ask for a clarification
27 because it is not completely clear whether the name BJK Sei was
28 mentioned by the Prosecutor in his question or whether it was
29 included in the answer of the witness.

1 PRESIDING JUDGE: I am not sure what you mean by this. It
2 says, "I knew him." You mean the Prosecutor is saying "I knew
3 him"?

4 MR PESTMAN: This is how I read the statement or the
16:13:12 5 minutes, yes. There is no answer. It is still part of the same
6 question, as far as I'm concerned, and after "He was called
7 BJK Sei" is a question mark. There doesn't seem to be an answer
8 to the question.

9 JUDGE ITOE: It starts from, "Who were they? Well, the
16:13:32 10 head of Kamajor that was there I knew him." Then it continues,
11 "He was called Mr BJK Sei." How the point of interrogation come
12 is another matter. It is a continuation. I mean, 23 is a
13 follow-up of 22. Wouldn't you think so, Mr Pestman?

14 MR PESTMAN: There is some confusion with me because there
16:14:03 15 is no "A".

16 PRESIDING JUDGE: There should be an "A". I think the
17 plain reading of this is, as Justice Itoe just said, "Who were
18 they?" It is obviously an answer after that question mark and at
19 that stage, obviously the transcript should have indicated an "A"
16:14:21 20 for "answer". I agree with you, but there is no "A".

21 MR PESTMAN: In that case, the sentence starting with
22 "well" could be the answer. But the next sentence, "He was
23 called Mr BJK Sei," was that also an answer or a question? It is
24 not that clear to me.

16:14:39 25 JUDGE ITOE: Doesn't that sound like a continuation of his
26 answer? It could reasonably be understood that it is a
27 continuation of the answer. What is intriguing is there is a
28 question mark at the end. However it came there, I do not know.

29 MR PESTMAN: Nor do I, Your Honour.

1 MR JABBI: My Lord, if I may. I think that 22, 23 all
2 constitute the question that was posed.

3 PRESIDING JUDGE: I don't think so. But if this is such an
4 important issue, we can ask that the audio tape be listened to
16:15:28 5 and checked against that. I don't think it is, and I think if we
6 do that we are just wasting the precious time of the Court. But
7 if it is such a crucial issue to both of you we can do that. I
8 think the plain reading and looking at this particular transcript
9 would indicate that after the question "Who were they?", it
16:15:41 10 should have said: "A. The head of Kamajor that was there, I
11 knew him. He was called Mr BJK Sei." If you still challenge
12 that we can proceed and ask in the recess to check that and we
13 will have the answer. Mr Pestman?

14 MR PESTMAN: Well, I think it might be a good idea to deal
16:16:11 15 with my concern, but it does not necessarily have to happen now.
16 It can happen overnight and we can hear the answer tomorrow.

17 PRESIDING JUDGE: We won't adjourn, that is for sure.

18 JUDGE ITOE: Even tomorrow it is not likely we will get
19 through that mass of evidence from audio records.

16:16:36 20 PRESIDING JUDGE: We will ask the stenographers to look
21 into it and inform us as to what it is. For the time being, we
22 will take it to be a question ending at "who were they?", and the
23 answer being "Well, the head of Kamajor who was there, I knew
24 him. He was called Mr BJK Sei." This is for the purpose of
16:16:57 25 discussion. If it is different, then we will see.

26 MR PESTMAN: Thank you.

27 MR KAMARA: Thank you, My Lords.

28 Q. Mr Witness, further also, the transcript of TF2-027 places
29 you directly in that very same place, and this Court has heard

1 evidence in that regard. I take it you still deny you were not
2 there.

3 A. Where?

4 Q. At NDMC headquarters after the Kamajors took over Tongo.

16:17:50 5 PRESIDING JUDGE: The day they took over, that is what you
6 say.

7 MR KAMARA: Yes, My Lord, the day they took over.

8 PRESIDING JUDGE: Be clear and precise. The witness has
9 said he has been there. It would appear to be a question of the
16:18:02 10 when. Not whether he was there.

11 MR KAMARA: He said he came eight days after. I'm
12 suggesting to him that it could not be eight days after. He was
13 there when it happened.

14 THE WITNESS: I did not tell you that. They captured Tongo
16:18:22 15 seven days, on the eighth day I came to Tongo. That meeting that
16 you say that they held at headquarters, just after they captured
17 Tongo, that is what I'm saying, that I was not there.

18 JUDGE ITOE: And you say you were not there because you
19 were not well. Is that so, Mr Witness? Are you listening to me?

16:18:49 20 THE WITNESS: I said I was not there.

21 PRESIDING JUDGE: No. The question that Justice Itoe asked
22 you was --

23 THE WITNESS: I said --

24 PRESIDING JUDGE: -- that you were not there -- the
16:19:01 25 questions -- Mr Witness, just listen.

26 THE WITNESS: I was ill.

27 PRESIDING JUDGE: Fine, thank you.

28 MR KAMARA:

29 Q. Mr Witness, did you not tell civilians at that meeting to

1 bury the dead, civilians killed after that attack?

2 A. No.

3 Q. Now, Mr Witness, are you aware that there was a meeting
4 held at NDMC headquarters after the Kamajors took over Tongo?

16:20:09 5 A. I did not know.

6 MR JABBI: My Lords, I believe that the previous page to
7 this transcript would be a much better evidence of the timing in
8 question, but this page does not indicate any timing as to
9 whether what is on this page is referring to the day the place
16:20:47 10 was captured or to some other meeting. The previous page would
11 have helped a lot.

12 PRESIDING JUDGE: Mr Kamara, do you have the previous page?

13 MR KAMARA: For TF2-027?

14 PRESIDING JUDGE: For TF2-027, indeed. You have made a
16:21:06 15 statement that what they are talking about there --

16 MR KAMARA: No, My Lord, I don't have the previous page
17 with me. That is page 91. My Lord, it is accessible. I wasn't
18 misrepresenting any position.

19 Q. Did you receive reports from your Kamajors in Tongo while
16:21:42 20 you were sick before you entered Tongo?

21 A. Yes.

22 Q. Tell this Court the report you received.

23 A. When they went and captured Tongo, they returned and told
24 me that they had captured Tongo.

16:22:30 25 Q. Were you informed about casualties?

26 A. They said Kamajors were killed, rebels were killed.

27 JUDGE ITOE: This is the same reply we are getting from
28 him.

29 MR KAMARA:

1 Q. And no civilians?

2 A. And soldiers.

3 Q. And that is your final answer you want this Court to
4 believe; that no civilian was killed in that entire encounter?

16:23:05 5 A. I can't say, but what they told me is what I have told you.

6 Q. Finally, Mr Witness, let me suggest to you --

7 JUDGE ITOE: Let us get what he has said. He did not say
8 that civilians -- that is what he is saying?

9 MR KAMARA:

16:23:28 10 Q. Could you give your answer again, please?

11 A. I said what they told me is what I have explained to you,
12 that Kamajors were killed, rebels were killed and soldiers were
13 killed, but they did not tell me that civilians were killed.

14 THE INTERPRETER: Your Honours, correction interpreter.

16:23:56 15 "But I did not tell you that a civilian died."

16 MR KAMARA: My Lord, I now have page 91 of the transcript.

17 Q. Finally, Mr Witness, I was suggesting to you that your
18 entire evidence is a package of untruths with the intent to
19 mislead this Court. Is that not so?

16:24:59 20 A. No.

21 MR KAMARA: That is all for this witness, My Lord.

22 PRESIDING JUDGE: Thank you. Dr Jabbi, any re-examination?

23 MR SESAY: Yes, My Lord.

24 PRESIDING JUDGE: Yes, Mr Sesay.

16:25:17 25 MR SESAY: Can the witness be shown Exhibit 147 and

26 Exhibit 86.

27 RE-EXAMINED BY MR SESAY:

28 Q. Start off with Exhibit 147. Now can you look at the first
29 page of Exhibit 147, below where it is signed. Have you seen it?

1 A. Yes.

2 Q. Now, what is the date of that request on Exhibit 147?

3 A. 25/11/97.

4 Q. Now you also see the name Musa Junisa and signed; not so?

16:27:29 5 A. Yes.

6 JUDGE ITOE: [Microphone not activated] 25 or 23?

7 THE INTERPRETER: Your Honours microphone is not on.

8 JUDGE ITOE: Is it 25, like he says, or 23?

9 MR SESAY: My Lord, it appears the way it is written --

16:27:50 10 JUDGE ITOE: Look at it at the top.

11 MR SESAY:

12 Q. Can you look at it again, please?

13 PRESIDING JUDGE: Just a moment.

14 THE WITNESS: 23/11/97.

16:28:10 15 JUDGE ITOE: You can go ahead.

16 MR SESAY: Thank you, My Lord.

17 Q. Now, what was the position of Musa Junisa in relation to

18 your own position at that time, at the time of that request?

19 A. He was the chief hunter in Dodo.

16:28:56 20 Q. What was your own position at that time?

21 A. I was the chief hunter in Lower Bambara.

22 Q. Now, I will show you Exhibit 86.

23 MR SESAY: I am through with Exhibit 147, My Lord.

24 Q. Can you turn to the second page of Exhibit 86? Do you see

16:30:08 25 below the signature of Musa Junisa and the next person what is

26 written there?

27 A. Yes.

28 Q. Now, you will agree with me that is written below their

29 signature "commander-in-chief"; not so?

1 A. Yes.

2 Q. Was there any such position, as far as you know?

3 A. I'm only saying it in this Court, but I did not know that
4 position in that chiefdom.

16:30:49 5 MR SESAY: My Lord, I am through with Exhibit 86.

6 Q. Now I will come to the statement which you made to the
7 Prosecution. Exhibit 155. I want you to look at page 6 of that
8 statement which you made to the Prosecution. You recall that you
9 were asked in cross-examination by the learned Prosecutor whether

16:31:53 10 in fact the planning in respect of the attack on Tongo was done
11 at Base Zero, and you said it was done in Panguma - not so? - in
12 answer to a question by the learned Prosecutor?

13 A. Yes.

14 Q. Now, did you also say in this statement that the planning
16:32:17 15 was done in Panguma - in the statement you made to the
16 Prosecutor?

17 A. Yes.

18 Q. Will you also look at page 9 of the statement which you
19 made to the Prosecution, page 9. Now you remember when you were
16:33:00 20 asked whether, in fact, you received ammunition from Base Zero
21 and you said you received bullets; not so?

22 PRESIDING JUDGE: No, he was asked if he had received
23 weapons.

24 MR SESAY: Weapons, sorry, My Lord.

16:33:20 25 Q. You said that you'd received bullets; not so?

26 A. Bullets, yes.

27 Q. Did you also say at page 9 of that statement which you made
28 to the Prosecution that you did not receive any weapon supply
29 from either Base Zero or CDF office in Kenema? Do you see that

1 at page 9?

2 PRESIDING JUDGE: Maybe you should put it to him what is
3 there.

4 THE WITNESS: I did not tell him that. I am not the one
16:33:56 5 who told him this.

6 MR SESAY:

7 Q. I will read the sentence. If you can bear with me, I will
8 read the sentence and then I will ask you a question on that.
9 You said, "I did not receive any weapon supply from either Base
16:34:12 10 Zero or CDF office in Kenema."

11 MR KAMARA: I believe the witness has answered that, that
12 he did not tell that to the Prosecution.

13 PRESIDING JUDGE: I suggested to counsel that maybe he
14 should read that and put it to him. I noted your comments but I
16:34:29 15 will allow the question.

16 MR KAMARA: As My Lord pleases.

17 MR SESAY:

18 Q. Have you seen it, the portion which --

19 A. Yes.

16:34:39 20 Q. [Microphone not activated] the position?

21 A. I did not receive any guns. I did not receive any gun, no.

22 PRESIDING JUDGE: This is not the question, Mr Witness.
23 Please listen to the question. Put your question again.

24 MR SESAY:

16:34:55 25 Q. Now, I will read what you said in the statement to the
26 Prosecution and I want you to listen. You said, "I did not
27 receive any weapon supply from either Base Zero or CDF office in
28 Kenema."

29 A. No.

1 Q. Do you maintain that?
2 PRESIDING JUDGE: Is that what you said?
3 MR SESAY:
4 Q. Is that what you said?
16:35:20 5 A. Yes.
6 Q. It is what you said?
7 A. Yes.
8 Q. Now, I want you to look at page 10 of the same statement
9 which you made to the Prosecution. Can you see page 10? Have
16:35:46 10 you seen page 10 of that statement?
11 A. Yes.
12 Q. Let me read what you said to the Prosecution in that
13 statement.
14 PRESIDING JUDGE: Where, Mr Sesay?
16:36:00 15 MR SESAY: Page 10, line --
16 PRESIDING JUDGE: Only for you to direct the witness where
17 you want him to look.
18 MR SESAY:
19 Q. I want you to look at the penultimate -- well, a little bit
16:36:16 20 up, My Lord, in the midstream of that page of that statement. It
21 starts, "The attacks on Tongo Field was planned," have you seen
22 it? Where it starts, "The attacks on Tongo Field was planned,"
23 have you seen that portion?
24 A. Yes.
16:36:38 25 Q. Now, bear with me so I can read and ask you a question on
26 that.
27 "The attacks on Tongo Field was planned in Panguma. The
28 planning was done by me; the national director of
29 operations, Musa OM Junisa; the battalion commander, Shaka

1 Lahai; the task force commander, Albert Lebbie; and the
2 sectional commanders."
3 Now, is that what you said to the Prosecution?
4 A. That is what I told him, indeed, that this fighting was
16:37:25 5 planned in Panguma.
6 Q. I want you also to look at page 12 of that statement.
7 MR SESAY: Sorry, My Lord. It is not page 12.
8 Q. Now, page 11. Can you see page 11?
9 A. Yes.
16:38:38 10 Q. That is the last paragraph starting, "When I went to Tongo
11 Field". Have you seen it?
12 A. Yes.
13 Q. Let me read it out to you.
14 "When I went to Tongo Field, eight days after its capture I
16:39:00 15 was told that a lot of rebels were killed during the fight
16 to capture the town. I did not see dead bodies of the
17 rebels. No other atrocity was reported to me."
18 Now is that what you said to the Prosecution, that you went
19 to Tongo eight days after its capture - in that statement?
16:39:25 20 A. Yes, that is what I'm telling him and that is what I have
21 told him.
22 Q. I want you to look further up on the same page, page 11. I
23 want you to listen to what you said to the Prosecution. It
24 starts, "I am not aware of the involvement". Have you seen that
16:40:05 25 portion on the same page, the top?
26 A. Yes.
27 Q. Bear with me. I will read it out to you.
28 "I am not aware of the involvement of any other CDF
29 commander at national level on the attack of Tongo Field

1 other than Musa OM Junisa. I only went to Tongo Field
2 eight days after the capture of Tongo Field. I was in
3 Panguma since I was not feeling well."

4 Is that what you also said to the Prosecution?

16:40:46 5 A. Yes.

6 Q. Now, the final question to you. You recall you said that
7 Arthur Koroma reported as a matter of fact from what was read to
8 you in the statement that that was the chain of command. Do you
9 recall saying that about Arthur Koroma at page 2 -- starting page

16:41:24 10 1 to page 2? Do you recall saying that? Page 4, My Lord. I
11 will start from the top. "The taskforce commander co-ordinated
12 all Kamajor operations. He got with us" --

13 THE INTERPRETER: Learned counsel is going very fast.

14 PRESIDING JUDGE: Indeed, you are going too fast, Mr Sesay.

16:41:52 15 MR SESAY: Sorry, My Lord. I apologise.

16 Q. "The taskforce commander co-ordinated all Kamajor
17 operations. He got orders from the battalion commander,
18 which he carried to Kamajor fighters for action. The
19 battalion commander reported to Musa OM Junisa, the
16:42:32 20 national director of operations, who, in turn, reported to
21 Arthur Koroma, the administrator. Arthur Koroma reported
22 to the National Co-ordinator, Chief Hinga Norman. I knew
23 that this was the chain of command because we were told in
24 the Kenema meeting who each commander should report to."

16:43:09 25 Have you heard that also?

26 A. Yes.

27 Q. My question to you is: From your own knowledge, did Arthur
28 Koroma actually report to Chief Sam Hinga Norman?

29 MR KAMARA: Objection, My Lord. That is not a question for

1 re-examination. It is a question that could have been put in
2 direct examination and there is no controversial issue raised in
3 cross-examination for clarity of an ambiguity.

4 PRESIDING JUDGE: Objection sustained.

16:43:40 5 MR KAMARA: Thank you.

6 MR SESAY: Sorry, My Lord, but I wish to respond to that.

7 PRESIDING JUDGE: Go to the statement, that's fine. You
8 can ask questions about that. This is the new issue that was
9 raised, not your question.

16:43:52 10 MR SESAY: Yes, My Lord. If you can bear with me, I wish
11 to respond to that.

12 JUDGE ITOE: Why do you want to respond when it has been
13 sustained?

14 MR SESAY: As My Lord, please, I will bow to that. Sorry,
16:44:05 15 My Lord.

16 Q. Did you say that to the Prosecution? Is that what you said
17 about Chief Norman?

18 MR KAMARA: Objection, again. That question has been
19 answered.

16:44:17 20 PRESIDING JUDGE: I allowed that question. Please go
21 ahead.

22 MR SESAY: Thank you.

23 Q. Did you say to the Prosecution that Arthur Koroma reported
24 to the National Co-ordinator, Chief Hinga Norman?

16:44:34 25 A. That was not what I said.

26 MR SESAY: Your Honour, that is all I have.

27 PRESIDING JUDGE: Mr Pestman and Dr Jabbi, I am informed
28 that the tapes have been checked against the transcript and the
29 transcript should read as I said it was. The question was, "Who

1 were they?" The answer should have been marked as an answer,
2 "Well, the head of the Kamajor that was there, I knew him. He
3 was called Mr BJK Sei." The record will be modified accordingly.
4 An errata will be distributed shortly. Thank you.

16:45:28 5 MR JABBI: Thank you, My Lord.

6 PRESIDING JUDGE: Thank you, Mr Witness. That completes
7 your evidence in this Court. We thank you for coming to give
8 your evidence and we wish you a safe trip back home. Thank you
9 very much.

16:46:03 10 THE WITNESS: Thank you.

11 PRESIDING JUDGE: It is quarter to five, a bit later than
12 when we pause for the afternoon recess, but we will still pause
13 and we'll come back to take your next witness, Dr Jabbi. Thank
14 you.

16:46:42 15 [The witness withdrew]

16 [Break taken at 4.45 p.m.]

17 [Upon resuming at 5.05 p.m.]

18 [The witness entered court]

19 PRESIDING JUDGE: So, Dr Jabbi, we're coming back to you
17:07:37 20 now with your next witness.

21 MR JABBI: Yes, My Lord. My colleague who is just coming
22 in will take him.

23 PRESIDING JUDGE: Very well. In the meantime, we will
24 proceed to take the oath of this witness. We have in our notes
17:08:14 25 that the witness is to give evidence in Mende. Is the witness
26 giving evidence in Mende?

27 MR SESAY: Yes, My Lord.

28 PRESIDING JUDGE: Mr Witness.

29 THE WITNESS: Yes.

1 PRESIDING JUDGE: You hear my comments in Mende?
2 THE WITNESS: Yes, you asked me and I have answered in
3 Mende.
4 JUDGE ITOE: Is the Presiding Judge speaking Mende?
17:08:49 5 PRESIDING JUDGE: Please proceed to take the oath.
6 THE WITNESS: I speak Mende.
7 WITNESS: SIAKA LAHAI [Sworn]
8 [Witness answered through interpretation]
9 PRESIDING JUDGE: Yes, Mr Sesay.
17:09:25 10 EXAMINED BY MR SESAY:
11 Q. Good afternoon, Mr Witness.
12 A. Good afternoon. How do you do?
13 PRESIDING JUDGE: This is your 18th witness?
14 MR SESAY: Yes, My Lord, 18th.
17:09:42 15 Q. Now, before you commence your testimony may I appeal to you
16 to talk very slowly, please, because your testimony will have to
17 be interpreted.
18 A. Okay.
19 Q. Now, can you state your full names, please?
17:10:06 20 A. I am Siaka Lahai. I was born in Panguma.
21 Q. You wait for the question and you answer from me, okay.
22 A. Okay, sir.
23 Q. You said your names are?
24 A. My name is Siaka Lahai.
17:10:19 25 Q. Where do you live?
26 A. I live at Tongo, Peyama.
27 Q. How old are you?
28 A. I am 40.
29 Q. What is your occupation?

1 A. I am a farmer.
2 Q. Are you married?
3 A. I am married.
4 Q. How many children do you have?
17:11:18 5 A. Nine children.
6 Q. Can you speak up, please.
7 A. Nine children.
8 Q. When were you initiated as a Kamajor?
9 JUDGE ITOE: Is he a Kamajor?
17:11:41 10 THE WITNESS: 1996.
11 MR SESAY: Sorry, My Lord.
12 Q. Are you a Kamajor?
13 A. I am a Kamajor, then.
14 Q. When did you become a Kamajor?
17:11:55 15 A. 1996, that is the time I became a Kamajor.
16 Q. Now, after you became a Kamajor in 1996, where were you
17 based?
18 A. I was in Tongo.
19 Q. What was your status in the Kamajor society in 1996?
17:12:48 20 A. I was just an ordinary CO.
21 Q. You said you were based in Tongo. Do you know who was in
22 occupation of Tongo in 1996?
23 A. The soldiers, the soldiers.
24 Q. What was the relationship between the soldiers and the
17:13:37 25 Kamajors at that time in Tongo?
26 A. Well, at that time there was no cause to complain. We were
27 all going together as one. There was great respect between us at
28 that time.
29 Q. Yes, how was this co-existence between yourself and the

1 Kamajors and the soldiers?

2 A. Well, there was -- at one time there was a quarrel, but the
3 chiefdom people resolved it and it was over. So we thanked God
4 at the time.

17:14:41 5 Q. Now, did you yourself work with the soldiers in any
6 particular area?

7 A. Yes. At that time when the quarrel was over, they asked us
8 to make peace, so together we went to Kailahun.

9 Q. When did you go to Kailahun? The time please?

17:15:29 10 A. The time that we went to Kailahun, it was in the same 1996
11 that together with them we went to Kailahun at the end of 1997.
12 That is when we went to Kailahun.

13 PRESIDING JUDGE: Did you say end of 1997?

14 THE WITNESS: At that time --

17:15:49 15 MR SESAY:

16 Q. May I just ask you again. You said you went with the
17 soldiers to Kailahun; not so?

18 A. Yes.

19 Q. Did you go with the soldiers in Kailahun?

17:16:05 20 A. 1996.

21 PRESIDING JUDGE: Thank you.

22 MR SESAY:

23 Q. What did you go to do in Kailahun?

24 A. Those of us who left from the Tongo end, we went to fight
17:16:27 25 towards Giema for us to clear that chiefdom.

26 Q. Can you be more specific as to when you said you went to
27 clear, to clear from what?

28 A. We went to fight. We went to fight against the rebels.

29 But at that time we were fighting against the rebels.

1 Q. How long did you stay in Kailahun?

2 A. Well, we were there when we started fighting. We started
3 taking up towns. That day we set off to go to Kailahun and they
4 said we should not fight on that day because they are getting

17:17:44 5 information --

6 Q. Slowly.

7 A. Okay.

8 Q. My question is: For how long did you stay in Kailahun?

9 When you went to Kailahun Town, for how long did you stay there?

17:18:01 10 A. We stayed there for long. Only that I cannot remember, but
11 we took some time there.

12 Q. Where were you when the government of President Tejan
13 Kabbah was overthrown? Where were you at that time?

14 A. We were there when the government was overthrown.

17:18:38 15 Q. [Overlapping speakers]

16 A. We were in Kailahun when the government was overthrown.

17 THE INTERPRETER: Your Honour, can learned counsel please
18 wait for the interpretation to be done before he intervenes?

19 PRESIDING JUDGE: Have you heard the comments from the
17:18:56 20 interpreter, Mr Sesay?

21 MR SESAY: Yes, My Lord, I have heard. I will endeavour to
22 be slow.

23 PRESIDING JUDGE: It is not slow. You are too quick to ask
24 the question before it is answered.

17:19:09 25 MR SESAY: As My Lord pleases.

26 Q. Now you said you were in Kailahun when the government of
27 President Kabbah was overthrown. What did you do after that?

28 A. When they overthrew the government, those of us who had
29 gone, they asked us to report to them.

1 Q. Slower.

2 THE INTERPRETER: Can he take it again? He speaks very
3 fast.

4 MR SESAY:

17:19:45 5 Q. Can you go over it again? Slowly, please. What happened?

6 A. When we were together in Kailahun, we were there together
7 when we heard that the government has been overthrown. So we
8 should hand over the guns to them because they were controlling
9 the government, but we refused.

17:20:30 10 Q. Now, what did you do after that when they said you should
11 hand over your weapons to them? What did you do? You said you
12 refused. What did you do?

13 A. They disarmed us forcefully. They were wounding our
14 brothers, they would beat some. So some of us ran away and went
17:20:57 15 to Pendembu.

16 Q. Now, for how long were you in Pendembu?

17 A. We did not take months there. In fact, we were in
18 disarray.

19 Q. In what year did you come to Pendembu from Kailahun?

17:21:37 20 A. We were in Pendembu in 1997.

21 Q. Did you go anywhere from Pendembu?

22 A. Yes, sir. Yes.

23 Q. Where did you go?

24 A. We heard by rumour through the radio that Eddie Massallay
17:22:13 25 had said, "Those of you who knew that you have been fighting for
26 the government, today the government is around the Liberia end.
27 So you should return to the Liberian end at the Bo Waterside."

28 Q. Did you in fact go to Bo Waterside?

29 A. Yes, I was in hiding when I went there.

1 Q. Did you go alone to Bo Waterside?

2 A. We were many. We were many.

3 Q. Where were you based in Bo Waterside?

4 A. When we went, we were guests to ECOMOG.

17:24:08 5 Q. What happened in Bo Waterside, briefly, please?

6 A. When we were there, we were guests to ECOMOG. There came a
7 time when ECOMOG said, "When you come here you do not just sit
8 like that."

9 THE INTERPRETER: Your Honours, can the witness take his
17:24:40 10 last answer.

11 MR SESAY:

12 Q. Can you speak up louder a bit.

13 PRESIDING JUDGE: Mr Witness, can you repeat your last
14 answer. You said you were guests, but ECOMOG told you what?

17:24:53 15 THE WITNESS: ECOMOG said -- ECOMOG said, "If you heard
16 about snake you should not -- you should brush around you. You
17 have come so many of you. We cannot just put you somewhere and
18 be feeding you."

19 MR SESAY:

17:25:19 20 Q. Mr Witness, I'm afraid I will have to remind you again to
21 talk very slowly. Your testimony will have to be interpreted,
22 Their Lordships will have to write what you say in this Court.

23 You said ECOMOG provided food and some other things to you;
24 not so?

17:25:46 25 A. Yes.

26 Q. Can you tell this Court what happened at Bo Waterside?

27 A. What is happening is what I explained to you.

28 Q. In what year did you go to Bo Waterside?

29 A. The eighth year.

1 Q. For how long did you stay in Bo Waterside?

2 A. We took a long time there.

3 Q. Did you eventually leave Bo Waterside?

4 A. Well, at that time, before we left Bo Waterside, we had
17:26:58 5 some guests who came to us. But they too were in hiding.

6 Q. Yes?

7 A. Those guests, one of them, for instance, Mr Honourable
8 Pujeh, Mr Honourable Kallon, Mr Norman, and some other big
9 people, they said, "We too are in hiding," and we too were in
17:27:45 10 hiding. "So you pass behind us, we are here for now." And
11 Tom Nyuma. Tom Nyuma, the soldier.

12 Q. Now, was anything said to you by these people whom you said
13 came to Bo Waterside?

14 A. At the Waterside where we were, where we were we had our
17:28:31 15 own arrangements, they just passed by. They had the government
16 and they've been overthrown, so they were not able to be with us
17 and they were not with us where we were.

18 Q. Did you leave Bo Waterside?

19 A. Yes. Then we went and spoke to them and they told us
17:29:10 20 goodbye, bid us farewell. And they told us they were ready to
21 come and they told us to come and they were ready to come so we
22 should be looking for them.

23 Q. And you proceeded to where?

24 PRESIDING JUDGE: Can you clarify a bit by what the witness
17:29:24 25 means by "them" and "they" and so on. I do not understand what
26 it is.

27 MR SESAY:

28 Q. You said they told you to return. Now who are the "they"?
29 Who said to return?

1 A. It was Eddie Massallay. He was the interpreter between us,
2 yes. He was the go-between for them and us.

3 PRESIDING JUDGE: Who is the them? Mr Witness, when you
4 say "them," who is that? What do you mean?

17:30:12 5 THE WITNESS: He was the go-between for us and them.

6 PRESIDING JUDGE: But what to you mean by "them," who are
7 those that you call "them"?

8 THE WITNESS: ECOMOG, the ECOMOG is the them. He called
9 us. He called us. In fact, we were guests to him, so we
17:30:41 10 explained to him. So when he said we should return, he was the
11 very one who said we should return. We heard it from him.

12 MR SESAY:

13 Q. So you said he asked you to return. Now, did you return?

14 A. When they bid farewell to us and they told us to return,
17:31:02 15 yes, we returned.

16 Q. And you proceeded to where from Bo Waterside?

17 A. When we returned to our villages, we were in the
18 surrounding villages. We were still waiting.

19 Q. In what particular village or town did you stay around
17:31:38 20 Tongo?

21 A. We were at Komende Yetehun [phon], Lower Bambara, Kono and
22 Malegohun, that boundary, the bush that is there. That is where
23 we were, in the forest.

24 Q. Now, what happened there at the time when you said you
17:32:19 25 came -- you settled in the nearby villages around Tongo. What
26 happened from that point?

27 A. Well, what happened, we were there when Teacher Lagawo came
28 and George Jambawai and they said they had come from the Guinea
29 end and when they said we should wait for them --

1 PRESIDING JUDGE: Mr Sesay, it is 5.30, past, so before we
2 move into this new area where what happened after that, we will
3 break for today and take it back tomorrow morning.

4 MR SESAY: Yes, My Lord.

17:33:03 5 PRESIDING JUDGE: The Court will adjourn to 9.30 tomorrow
6 morning. Thank you very much.

7 [Whereupon the hearing adjourned at 5.35 p.m.
8 to be reconvened on Wednesday, the 17th day of
9 May, 2006, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 155 57

WITNESSES FOR THE DEFENCE:

WITNESS: BJK SEI 2
EXAMINED BY MR SESAY 2
CROSS-EXAMINED BY MR PESTMAN 11
CROSS-EXAMINED BY MR MARGAI 19
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