

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

THURSDAY, 25 MAY 2006
10.05 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Roza Salibekova Ms Andrea Marlowe
For the Registry:	Mr Geoff Walker Ms Maureen Edmonds
For the Prosecution:	Mr Joseph Kamara Mr Mohamed Bangura Ms Wendy van Tongeren Ms Leigh Lawrie (intern)
For the Principal Defender:	Mr Lansana Dumbuya
For the accused Sam Hinga Norman:	Dr Bu-Buakei Jabbi Mr Aluseine Sesay
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

1 [CDF25MAY06A-RK]
2 Thursday, 25 May 2006
3 [The accused present]
4 [Open session]
09:47:50 5 [Upon commencing at 10.05 a.m.]
6 WITNESS: LAHAI KOROMA [Continued]
7 [Witness answered through interpreter]
8 PRESIDING JUDGE: Good morning, counsel. Good morning,
9 Mr Witness. We were yesterday at the --
10:05:13 10 THE WITNESS: Good morning, old one.
11 PRESIDING JUDGE: At the cross-examination of this witness
12 and we were, if I'm not mistaken, with counsel for the third
13 accused. I don't know if it is you, Mr Margai, or Mr Lansana.
14 MR MARGAI: It is me.
10:05:31 15 PRESIDING JUDGE: Fine. Yes, Dr Jabbi.
16 MR JABBI: Yes, My Lords. Yesterday Your Lordship
17 indicated that certain pieces of information were required to be
18 supplied by us.
19 PRESIDING JUDGE: If you allow me, Dr Jabbi, we will get to
10:05:52 20 that. We will finish with this witness and I intend to pursue
21 that with you, and counsel for the second accused as well.
22 MR JABBI: I just want to make an indication that we would
23 want Your Lordships to grant a closed session during which those
24 issues and some related matter can be discussed, which need not
10:06:07 25 necessarily be discussed in the closed session right away,
26 My Lord.
27 PRESIDING JUDGE: Let me think about it. What we want to
28 do is find proper ways and means to move ahead. If this is the
29 way to move ahead and that is the best possible solution, then we

1 may have to do it. I have reserved the decision on that
2 application.

3 MR JABBI: Thank you very much.

4 PRESIDING JUDGE: Mr Norman, you may remain seated, please.
10:06:43 5 I had indicated to your counsel while you were away that we have
6 noticed that you have at times difficulty to stand up and sit
7 down as such. We will allow you to remain seated if you want to
8 when we come in and out, so you don't have to go through this
9 exercise if you don't want to do that. Please feel at ease and
10:06:59 10 we will leave it to you to make that decision. If you feel that
11 it is painful and you would prefer not to stand up, we will not
12 be offended by your behaviour. It is for your information.

13 THE ACCUSED NORMAN: I'm very grateful, My Lords, and very
14 respectful. Thank you.

10:07:27 15 MR MARGAI: Good morning, My Lords.

16 CROSS-EXAMINED BY MR MARGAI:

17 Q. Good morning, Mr Witness.

18 A. Yes, good morning, old one.

19 Q. Mr Witness, how did you come to be initiated into the
10:07:48 20 Kamajor society? What I mean is did you go there of your own
21 free will or were you asked to go there by the chiefs or how did
22 you come to be initiated?

23 A. The chiefs made me to join the Kamajor society.

24 PRESIDING JUDGE: Mr Margai, I don't want to unduly
10:08:19 25 restrict you, but he has been through that yesterday and I don't
26 think it is disputed.

27 MR MARGAI: Sorry?

28 PRESIDING JUDGE: I said I don't want to restrict you in
29 your cross-examination, but we have been through that with this

1 witness yesterday. Not you for the third accused, but that
2 evidence has been adduced by this witness and there is absolutely
3 no -- I mean, he has recited how he joined the society, how he
4 was initiated, how it was done through his chiefdom, and so on.

10:08:44 5 MR MARGAI: I am following a train, if only Your Lordship
6 will bear with me.

7 PRESIDING JUDGE: We will bear with you provided you do not
8 go too far.

9 MR MARGAI: I am not going to be repetitious, I can assure
10:08:59 10 you of that.

11 PRESIDING JUDGE: Thank you.

12 MR MARGAI: Thank you.

13 Q. Tell me, Mr Witness, did a would-be initiate have to
14 satisfy any particular criteria to be selected by the chiefs for
10:09:11 15 joining the society?

16 A. Yes. The criteria were all set up by the chiefs and the
17 chiefs paid all the subscriptions for us.

18 Q. And I believe you told the Chamber yesterday of the
19 criteria, one of them being to be of good repute?

10:10:13 20 A. Yes. Even as you see me here, I am a man of good repute.

21 Q. I will leave that to the judges to decide. I have no doubt
22 about it. Now, tell me, is it true that every Kamajor fighting
23 force had people who would go and recce the enemy camp?

24 A. No, I did not see that and it did not the happen.

10:11:14 25 Q. Now, what I mean by recceing is that one of your members
26 would go into the enemy camp, watch their location, come back and
27 report. That is what I mean.

28 A. No. We hadn't such a person amongst us that I saw.

29 Q. Thank you.

1 A. Thank you too.

2 Q. Now, you took part --

3 JUDGE THOMPSON: Counsel, let's clear it up. Is it the
4 practice or whether there was someone who did that? Are you
10:12:11 5 making a distinction between the practice of this kind of
6 activity or --

7 MR MARGAI: Initially it was restricted to the practice.

8 JUDGE THOMPSON: In other words, they didn't have that
9 practice according to this witness.

10:12:28 10 MR MARGAI: He was not aware of it.

11 JUDGE THOMPSON: That's what I wanted to clear up rather
12 than saying I don't know anyone who did that.

13 MR MARGAI: Let me ask him.

14 Q. By your answer are you saying that in your own location you
10:12:42 15 did not have somebody who would go and recce?

16 A. Yes.

17 Q. Thank you.

18 A. Thank you too.

19 Q. Did you take part in the attack on the SS Camp?

10:13:12 20 A. Yes.

21 Q. Now how many commanders, as far as you can recall, took
22 part in that SS Camp attack?

23 A. The Kamajor that was my own commander that I knew and I can
24 still remember I said was CO Sahr.

10:13:58 25 Q. I know that. What I want to know is apart from CO Sahr did
26 other commanders take part to the best of your recollection?

27 A. No, no, no. Even if they were there, I cannot remember
28 their names now and I can't tell.

29 Q. Thank you.

1 A. Because there was several people there.

2 Q. Thank you.

3 JUDGE THOMPSON: Let's leave this even if the -- because it
4 complicates the answer. Is he saying there was more than one
10:14:42 5 commander?

6 MR MARGAI: He's saying that there was more than one but he
7 could not recall the names.

8 JUDGE THOMPSON: Perhaps that is better than rather even
9 if. It complicates the answer.

10:14:54 10 MR MARGAI: That's his own way of expressing --

11 JUDGE THOMPSON: I know. It's just that counsel more or
12 less could help us, because these are really answers that need to
13 be valued as to their factual content, not to hypothetical
14 aspects.

10:15:10 15 PRESIDING JUDGE: Mr Margai, I did not understand the
16 answer of witness to be that there was more than one commander.
17 I was going to ask you the question if you could clarify this
18 matter with the witness, because that may be your understanding
19 but this is not the way I understood his answer. When you asked
10:15:30 20 him the question, he says there were many people there. So yes,
21 there were many people attacking, but it does not mean there was
22 more than CO Sahr. I don't think he has answered your question.

23 MR MARGAI: I will assist him.

24 PRESIDING JUDGE: Mr Kamara, you were --

10:15:52 25 MR KAMARA: That is the same point I was going to make.

26 JUDGE THOMPSON: Counsel, it depends on what your question
27 is, how precise it is.

28 MR MARGAI: I shall assist him.

29 Q. Do you know of Mohamed Bhonie Koroma?

1 A. No, I don't know him.

2 Q. Do you know of Fallah Bindi?

3 A. No.

4 Q. Now, Mr Witness, do you believe in the mystical powers of
10:17:03 5 the initiators?

6 A. Very well.

7 Q. Could you tell this Court of your personnel experience of
8 how it worked?

9 A. When we were initiated and graduated and given all those
10:17:58 10 rules by our initiator and I kept them --

11 Q. Slowly, slowly. Yes.

12 A. At the time they attacked us, the soldiers at the SS camp,
13 when they came to Tiloma and burnt there, during that war --

14 Q. Yes?

10:18:39 15 A. All the bullets that they were firing never hurt me. None
16 ever pierced me. That is one of the ways I knew that the
17 immunisation was actually effective.

18 Q. Is it your belief that you were unhurt because you strictly
19 adhered to the laws given to you by the initiators?

10:19:28 20 A. Yes, because I believe in it and I also believed in God
21 because that thing is Islamic as well. So if you believe in God
22 and also believe in it, then it will work for you.

23 Q. Do you know Allieu Kondewa, the gentlemen seated over
24 there?

10:19:54 25 A. No. I only hear his name, but I have never seen him
26 physically.

27 Q. Well, that is him.

28 A. Whereabouts?

29 Q. That handsome gentlemen behind the glasses.

1 A. I'm only seeing him today.

2 PRESIDING JUDGE: What purpose does that serve? He says he
3 doesn't know him.

4 MR MARGAI: My Lord, I'm coming. I don't ask questions
10:20:28 5 just for the sake of asking questions. I have a focus.

6 PRESIDING JUDGE: Good.

7 MR MARGAI: Thank you.

8 Q. Did you hear of Allieu Kondewa as an initiator?

9 A. Yes, I heard about it later.

10:21:20 10 Q. You say you were initiated by Kamoh Bangura Brima?

11 A. Yes.

12 Q. Was Kamoh Brima Bangura a combatant?

13 A. No.

14 Q. Apart from being an initiator, did Kamoh Brima Bangura take
10:22:17 15 part in the planning of an attack?

16 A. No.

17 Q. Apart from being an initiator, did Kamoh Brima Bangura take
18 part in the distribution of weapons to combatants?

19 A. No.

10:22:42 20 MR MARGAI: Thank you, very much. That will be all for
21 this witness.

22 PRESIDING JUDGE: Thank you.

23 THE WITNESS: Thank you, old one.

24 PRESIDING JUDGE: Prosecution, any cross-examination of
10:22:57 25 this witness?

26 MR BANGURA: Yes, Your Honour.

27 CROSS-EXAMINED BY MR BANGURA:

28 Q. Good morning, Mr Witness.

29 A. Good morning, old one.

1 Q. Mr Witness, you have testified to this Court that you do
2 not know the word "yamorto"; is that correct?

3 A. Just as I have said that I don't know it, it's true, I
4 don't know it.

10:23:46 5 Q. If I said to you morto in Mende, what does that mean?

6 A. In fact, I have never heard that Mende word before now
7 except when I have heard it from you here.

8 Q. The word "morto" is what I'm asking you about, Mr Witness?

9 A. No, I do not know that particular Mende word. I don't know
10:24:23 10 it.

11 Q. If I said to you, mortomeh, what does that mean, it's a
12 Mende word?

13 A. No, I don't know that. I don't know it at all what you are
14 talking about.

10:24:52 15 Q. I suggest to you, Mr Witness, that morto means something
16 like which you chew like a biscuit. It is a suggestion.

17 PRESIDING JUDGE: You mean "morto" means that?

18 MR BANGURA: Yes, Your Honour, M-O-T-O-R [sic] would be the
19 second half of the word "yamorto".

10:25:26 20 PRESIDING JUDGE: And you're suggesting to the witnesses
21 that this word "morto" in Mende would mean something you chew
22 like a biscuit?

23 MR BANGURA: Yes, Your Honour.

24 JUDGE THOMPSON: You are also suggesting that the level of
10:25:37 25 proficiency in the language would be the same throughout for
26 everyone.

27 MR BANGURA: I'm not actually suggesting that. It may
28 vary, certainly. This is just my own --

29 JUDGE THOMPSON: That's fine. I just thought I should

1 factor that in.

2 MR BANGURA: Thank you.

3 Q. Yes, Mr Witness, what do you say?

4 A. I have not heard that Mende word except when I have heard
10:26:04 5 it from you.

6 Q. So you do not agree that if I say "mortomeh", it means
7 someone one who eats biscuits, "mortomeh"?

8 A. No. Thank you, old one.

9 Q. Mr Witness, Tiloma from Kenema is about five miles; am I
10:26:47 10 correct?

11 A. From Kenema to Tiloma is four and a half miles. The fifth
12 mile is after us.

13 Q. So a person, even if you did not live in Kenema, if you
14 lived in Tiloma, you would be aware of a lot of the things that
10:27:18 15 happened in Kenema because it is not so far away; is that
16 correct?

17 A. Old one, if anyone told you that he would be telling a lie.
18 Kenema is a very big town. You cannot know everything that
19 happened in there, except someone explained to you. But if not
10:27:47 20 that, you can't say something about that. And you can only say
21 something concrete about anything when you are there yourself.

22 Q. You would go to Kenema very often. When you are at Tiloma,
23 you would go to Kenema very often?

24 JUDGE ITOE: That he would or he did go to Kenema very
10:28:07 25 often?

26 MR BANGURA: I will put it more directly.

27 Q. You in fact do go to Kenema very often, Mr Witness; is that
28 not so?

29 A. Yes, I come to Kenema.

1 Q. And you go to Kenema for various reasons?

2 A. Yes.

3 Q. And this has always been the position; you have always
4 lived in Tiloma but you would go to Kenema often to conduct your
10:28:46 5 affairs. Is that correct?

6 A. It had been like that ever since I was born. In fact, I
7 have a house in Kenema, myself sitting here. Number 7, Yaneh
8 Street [phon].

9 Q. Mr Witness, you have testified that you have been at Tiloma
10:29:20 10 more or less all your life; is that correct?

11 A. Every since I was born I have been in Tiloma. For me to
12 stay out of Tiloma for about eight to nine months, it was during
13 the war. But besides that I have been there and I am still
14 there.

10:29:44 15 Q. Tiloma and SS Camp are more or less in the same place?

16 A. Yes. Even when I am a chief there now, whosoever is in
17 that SS Camp would be under my authority.

18 Q. There would be nothing going on SS Camp that you would not
19 be aware of; correct?

10:30:21 20 A. Nothing would happen at SS Camp that I don't know of.

21 Q. This goes back to all the time that there was fighting in
22 that area?

23 A. Yes.

24 Q. Mr Witness, when you attacked Kenema you were under the
10:31:01 25 command of CO Sahr; is that correct?

26 A. Yes.

27 Q. And you were also under his command when you attacked SS
28 Camp?

29 A. Yes.

1 Q. And you did not know of any other commanders who attacked
2 SS Camp?

3 A. No.

4 Q. Was your commander CO Sahr the commander that led the
10:31:52 5 attack on SS Camp?

6 A. Yes.

7 Q. So all other fighters who took part in that attack were
8 under your commander CO Sahr; is that correct?

9 A. Yes, that is his area. He knew the terrain. If everybody,
10:32:26 10 that crowd came, as they came, he would be the leader for all of
11 them.

12 Q. And how long had CO Sahr been commander for that area
13 before the attack on SS Camp?

14 A. CO Sahr, just as when Kamoh initiated us and handed us over
10:32:57 15 to the chiefs, he was given to us as our leader. He was
16 occupying that commander position when the soldiers attacked us
17 at Tiloma when we went, and even when we returned he was still
18 the commander.

19 Q. Thank you, Mr Witness.

10:33:17 20 A. Thank you too, old one.

21 Q. Mr Witness, in Kenema, Co Sahr was there. Did you know of
22 any other commanders?

23 A. No.

24 Q. Were there in fact any other commanders that attacked
10:33:49 25 Kenema?

26 A. I cannot name them now, because I don't know them.

27 Q. Are you saying that there were commanders who attacked
28 Kenema -- other commanders who attacked Kenema, but you do not
29 know their names, or that there were no other commanders? Which

1 is which?

2 A. The crowd was large. The person that I knew was my
3 commander under whose jurisdiction I was. I cannot say there
4 were other commanders because if I say so, it would mean that I
10:34:25 5 knew them. I only know of CO Sahr. I did not see any other
6 commander. That is what I want to tell you.

7 Q. Mr Witness, you have testified that after the attack on
8 Kenema you came back to Tiloma. Was it the same day?

9 A. When we did that attack and took Kenema we returned to
10:34:59 10 Tiloma. When they did that attack and dislodged us from Tiloma
11 we went there back. When the soldiers attacked us, it was then
12 that we returned.

13 Q. Let's get it clear, Mr Witness.

14 A. Okay.

10:35:22 15 Q. Now, if I get it right, according to your testimony, after
16 you had attacked SS Camp under CO Sahr you moved on to attack
17 Kenema; is that not so?

18 A. Yes.

19 Q. You have said also that after taking Kenema you came back
10:35:47 20 to Tiloma that same day; am I correct?

21 A. No. Listen carefully so you would understand what I mean.

22 Q. Let's get it clear then.

23 A. Ask the question again so I will answer you.

24 Q. The question was: After you had taken Kenema, am I correct
10:36:18 25 that you returned to Tiloma that same day? That is as far as I
26 remember what your evidence was in chief.

27 A. Just when we captured Kenema, on that same day we returned
28 to Tiloma. We went there and settled in Tiloma.

29 Q. You were at Tiloma, but you kept on coming to Kenema; is

1 that not so?

2 A. Yes.

3 Q. Would you come to Kenema -- did you come to Kenema on a
4 daily basis?

10:37:12 5 A. No, not on a daily basis.

6 Q. But you would agree with me that just after you had taken
7 Kenema and had gone back to Tiloma you were able to follow the
8 events that were occurring in Kenema?

9 A. Old one, I told you just now that Kenema is a big town. I
10:37:53 10 wouldn't be in Tiloma and tell you everything that was happening
11 in Kenema, even if I would be going there everyday. Only what I
12 would see is what I would explain and that would be the truth.

13 Q. You have, for instance, talked about burning of houses by
14 civilians after Kenema was taken; is that not so?

10:38:25 15 A. Yes.

16 Q. And that incident did not just occur -- it was not just one
17 incident of burning that took place in Kenema?

18 A. I knew it was just that one time. When we came, we met
19 civilians burning houses. So that house burning, we stopped
10:38:54 20 that. We stopped that. Where those rebels were, they were
21 burning the houses and we stopped that.

22 Q. And the next time you came to Kenema after that first day
23 was when, can you remember?

24 A. When we left and returned, all that did the attacks, we
10:39:24 25 came back and returned, because when we dislodged them, the
26 following day they came again and attacked. We came again and we
27 returned.

28 Q. So you kept coming back to Kenema for three days in a row
29 from the first day that you had taken Kenema?

1 A. No, not in a row. Not three days in a row. When they did
2 the attack, we left there, they attacked and when we went back we
3 were settled in Tiloma.

4 Q. You took Kenema on a Sunday; correct?

10:40:04 5 A. Yes.

6 Q. And went back to Tiloma?

7 A. Yes.

8 Q. The next day there was an attack on Kenema, you say?

9 A. Yes.

10:40:14 10 Q. You came to Kenema to repel that attack?

11 A. Yes.

12 Q. The day after that you say there was another attack on
13 Kenema; am I correct?

14 A. Yes.

10:40:26 15 Q. And you came back to Kenema again to repel that one; is
16 that so?

17 A. Our colleagues went there, but I did not go there on that
18 day.

19 Q. Those days that you were in Kenema, Mr Witness, you were
10:40:44 20 able to observe -- apart from the houses that were burnt, you
21 also observed that people were killed. Am I correct?

22 A. No, I did not see that. I did not see people killed.

23 PRESIDING JUDGE: Mr Bangura, is your question for the next
24 day or the first day or any day?

10:41:16 25 MR BANGURA: The days following. The next day, because he
26 only came back the next day.

27 Q. You did not see any dead person in Kenema on those two days
28 that you were in Kenema?

29 A. No, I did not see any corpse.

1 Q. How many houses did you see that were burnt in Kenema?

2 A. The house that I saw burnt in Kenema, I saw a house burnt
3 at Dakeya Street. They went to Sumaila Street and burnt a house
4 there. I cannot give you the total number of houses burnt now.

10:42:24 5 Q. Mr Witness, you are aware that there was a meeting in
6 Kenema after it had -- after you had taken the town; is that not
7 so? There was a CDF meeting in Kenema after you had taken the
8 town?

9 A. I don't know all of that. I don't know it, if there was a
10:42:58 10 CDF meeting.

11 Q. Are you aware that senior CDF personnel came to Kenema
12 after you had taken the town? They came to see what had happened
13 after you had taken the town?

14 A. No. The only people I saw who came to Kenema after we had
10:43:29 15 taken the town were the ECOMOG. We were there under them. But
16 beside that I didn't see any other people that came to the
17 Kenema. Even that I heard of, no.

18 Q. When ECOMOG came they had a meeting with Kamajors, did you
19 say that in your testimony earlier?

10:43:48 20 A. No, they didn't hold a meeting. When they came the
21 Kamajors were under their control. That is what I knew. That is
22 what I saw. The Kamajors were working under them.

23 JUDGE ITOE: Is he saying that the ECOMOG did not hold a
24 meeting?

10:44:17 25 MR BANGURA: That is what he is saying. That is what I
26 understand him to be saying.

27 MR JABBI: My Lord, I believe what the witness is saying is
28 that he did not know of it. That is not the same as saying it
29 did not happen.

1 PRESIDING JUDGE: I thought he had said that there were no
2 meetings between Kamajors and ECOMOG. Ask your question again.

3 MR BANGURA: I think the witness was very clear that there
4 was no meeting. The answer is very clear.

10:44:47 5 JUDGE THOMPSON: I do not see any rule of impermissibility
6 which counsel infringed and I thought that that was an
7 unjustifiable interruption, counsel.

8 MR JABBI: Thank you, My Lord.

9 PRESIDING JUDGE: Proceed, Mr Bangura.

10:45:18 10 MR BANGURA:

11 Q. Mr Witness, the day ECOMOG came to Kenema was the third day
12 after you had taken Kenema; is that correct?

13 A. It took up to a week when we took Kenema. It took a week
14 before the ECOMOG came.

10:45:45 15 Q. It took one week?

16 A. Yes.

17 Q. And during that one week, Mr Witness, how many times did
18 you come to Kenema from Tiloma?

19 A. I told you that when we took Kenema and we returned, the
10:46:12 20 other day they attacked there and we came there again and
21 returned. Apart from that day, I can't tell you dates now when I
22 came back to Kenema, but --

23 Q. But you came to Kenema when ECOMOG --

24 THE INTERPRETER: Your Honours, may the witness repeat his
10:46:30 25 last answer.

26 PRESIDING JUDGE: Mr Witness, can you repeat your last
27 answer, please.

28 THE WITNESS: I said when we captured Kenema and returned
29 the other day when they attacked there we came there again, but

1 when I returned -- even if I came there again, no, it was not for
2 any Kamajor business again. It was for my personal business.

3 PRESIDING JUDGE: Mr Witness, that is not the question.
4 The question is did you return to Kenema, period?

10:47:09 5 MR BANGURA:

6 Q. Mr Witness --

7 A. Go over that again once more. Ask the question again.

8 Q. You have already told the Court that you came to Kenema on
9 the next day after the attack and on the third day; that's

10:47:27 10 correct, is that not so?

11 A. Yes.

12 Q. Did you come back to Kenema after that? I mean, before
13 ECOMOG came did you come back to Kenema?

14 A. No.

10:47:46 15 Q. Did you come to Kenema on a private business which was not
16 Kamajor business within that period?

17 A. No, within that week I did not go to Kenema.

18 Q. So you only came back to Kenema when ECOMOG entered Kenema,
19 the day they entered Kenema; is that correct?

10:48:29 20 A. They entered first before I went there. It was not on the
21 day that they entered.

22 Q. And you say that they entered Kenema one week after you had
23 taken the town; correct?

24 A. Yes.

10:48:55 25 Q. Mr Witness, during that one-week period that you had gone
26 back to Tiloma, basically that's where you were, what was going
27 on at the SS Camp?

28 A. All that we know happened was -- when the ECOMOG came, they
29 stopped -- some of them stopped where we were and they stayed

1 there together. Nothing else happened, apart from what I have
2 explained.

3 Q. Before ECOMOG came it was just you Kamajors who were in
4 control of the camp; correct?

10:49:46 5 A. When we captured Kenema and returned before the ECOMOG came
6 we were the only ones that were there, the Kamajors.

7 Q. Mr Witness, let me take you back to Kenema. You know where
8 the police barracks is in Kenema; not so?

9 A. Yes.

10:50:30 10 Q. Did you ever go to the police barracks area during this
11 period that you came to Kenema during the time that you were
12 taking Kenema? Let's say the day that you entered Kenema, 15th,
13 the Sunday, did you go to the police barracks?

14 A. No, no, I did not go to that part, the police barracks. I
10:51:01 15 did not go to the police barracks.

16 Q. Did you go to the police barracks on any other day after
17 the first day?

18 A. Yes. The other day when we came, we went towards there
19 when they did that attack. But that day when we came, I did not
10:51:34 20 go there.

21 Q. When you say "the other day," are you talking of the second
22 day or the third day?

23 A. The second day.

24 Q. What did you go to do at the barracks on that second day?

10:51:58 25 A. Those rebels that did the attack came from that end, from
26 Hangha Road end, because that is where the police barracks is
27 located. Some of them came from the Kombema Road end. So that
28 day when we went there, some of them came from that path. So
29 when we went there, we reached there.

1 JUDGE THOMPSON: He has not answered your question.
2 Because you asked what did he go to do there and apparently he
3 veered away from that. Perhaps you need to put it again. Try
4 again.

10:52:42 5 MR BANGURA:

6 Q. Mr Witness, what did you go to do at the police barracks on
7 the second day that you were in Kenema. You have said that you
8 went there on the second day. What did you go to do there?

9 A. We went to fight towards there, because the rebels came
10:53:03 10 from that end and they also returned by that same end. So we
11 used that end to chase them.

12 Q. Thank you.

13 A. Thank you, old one.

14 Q. Mr Witness, did you know that policemen were, in fact,
10:53:28 15 killed in Kenema on the first day that you entered the town in
16 the barracks?

17 A. I said I did not go there on that first day and I cannot
18 explain anything about the thing that I did not --

19 Q. Witness, did you not hear at all that policemen, seven
10:53:58 20 policemen had been killed in the barracks on that first day? Did
21 you not hear that at all?

22 A. No, did I not hear that.

23 Q. Did you get to learn about this incident later on at all,
24 Mr Witness? That, in fact, policemen were killed in the barracks
10:54:33 25 on the 15th, the day you entered?

26 A. No, I did not hear that too.

27 Q. Are you saying that this is the first time that you have
28 heard about that incident?

29 A. Yes. This is my first time when you are saying it and I am

1 listening.

2 Q. Mr Witness, you were not in Kenema in the days following
3 the attack, but you came at least a couple of days, two days.

4 Did you not hear about civilians who were being killed by your
10:55:23 5 colleagues, Kamajors?

6 A. No. I did not hear that.

7 Q. Mr Witness, have you heard the word "collaborator"?

8 A. In fact, I don't know what you mean by that word.

9 Q. Or "junta collaborator," have you heard that word at all?

10:56:00 10 A. I don't know it. That word that you have used, I don't
11 know it.

12 Q. You have never heard somebody use it before amongst your
13 colleagues, Kamajors?

14 A. No.

10:56:26 15 Q. Mr Witness, when you went back to Tiloma, was it CO Sahr
16 who continued to be your commander at all times?

17 A. Yes. Up 'til when the ECOMOG came he was my commander
18 until the disarmament.

19 Q. When you say "up 'til when the ECOMOG came," when did
10:57:02 20 ECOMOG come to the SS Camp?

21 A. In that same week that I explained that ECOMOG came to
22 Kenema and that other week, it was between there that they
23 encountered that riverside, that SS camp.

24 Q. It is not very clear, Mr Witness. You have said that
10:57:31 25 ECOMOG came to Kenema one week after you took Kenema. My
26 question is: When did ECOMOG come to SS Camp?

27 A. Within that same week, within that same week.

28 Q. When you say "within that same week," do you mean the week
29 that ECOMOG came to Kenema?

1 A. Yes.

2 Q. So it would be after ECOMOG came to Kenema, the week that
3 they came or within -- I confused myself.

4 PRESIDING JUDGE: Take it back again because the witness is
10:58:23 5 saying that ECOMOG came to Kenema one week after they had taken
6 Kenema. So now he's talking of a week. So it would mean the
7 week following that week presumably, but clear that up, please.

8 MR BANGURA: That is what I'm moving towards, actually.

9 Q. Mr Witness, we are agreed that one week passed after you
10:58:45 10 took Kenema before ECOMOG came; not so?

11 A. Counsel, repeat the question.

12 Q. We agree that one week passed after you took Kenema before
13 ECOMOG then came in; not so?

14 A. Yes.

10:59:08 15 Q. And the week after ECOMOG came in, was the week that they
16 sent the forces to SS Camp; is that what you're saying?

17 A. That same week that they entered Kenema was the same week.
18 It was not another week.

19 Q. Was it a day after they entered that they sent troops there
10:59:38 20 or was it two days? Can you tell us how many days after they
21 entered Kenema?

22 A. The same day that they entered Kenema was the same day that
23 they settled in the SS camp.

24 Q. Mr Witness, your evidence is that they continued to be
11:00:10 25 deployed at SS camp all the time that you were there, the
26 Kamajors were there; is that correct?

27 A. Yes. I was there.

28 Q. When they were deployed at SS camp, who had control?

29 JUDGE ITOE: Which control?

1 MR BANGURA: Between the Kamajors and ECOMOG, who had
2 overall control?

3 JUDGE ITOE: But we are clear on this, aren't we?

4 MR BANGURA: I'm not so sure.

11:00:59 5 JUDGE ITOE: Go ahead. Go ahead.

6 [CDF25MAY06B - EKD]

7 MR BANGURA:

8 Q. Who had control over the camp; was it Kamajors or ECOMOG?

9 A. The ECOMOG.

11:01:18 10 Q. You will agree, then, with me that ECOMOG was in a position
11 to control the behaviour of Kamajors at the camp, by what you
12 say?

13 A. Yes.

14 Q. Mr Witness, would it surprise you, then, that ECOMOG were
11:01:58 15 in fact complaining about the behaviour of Kamajors who were at
16 the SS Camp? Would it surprise you?

17 A. It did not happen, even.

18 MR BANGURA: Your Honours, may the witness be shown -- just
19 for purposes -- I'm not too sure about his standard.

11:02:27 20 PRESIDING JUDGE: Ask him.

21 JUDGE THOMPSON: I don't know what he answered in fact.

22 MR BANGURA: That there was no complaint or ECOMOG never
23 complained.

24 JUDGE THOMPSON: I thought it sounded like a rolled-up
11:02:43 25 answer.

26 JUDGE ITOE: He said it did not happen; that ECOMOG
27 complained about Kamajors, unless --

28 MR BANGURA:

29 Q. Mr Witness, the question is you have said that ECOMOG was

1 in control and they were in a position to control the behaviour
2 of Kamajors.

3 JUDGE THOMPSON: Then you said whether it would surprise
4 him that - what?

11:03:05 5 MR BANGURA: That in fact ECOMOG who were supposed to be
6 controlling the behaviour of Kamajors at the camp were
7 complaining about the Kamajor misbehaviour.

8 JUDGE THOMPSON: What is his answer?

9 MR BANGURA: He says it did not happen, I believe.

11:03:25 10 JUDGE THOMPSON: Your question was whether he was
11 surprised?

12 MR BANGURA: Yes, Your Honour.

13 JUDGE THOMPSON: I'm not sure -- I'm entangled. What did
14 not happen?

11:03:35 15 MR BANGURA: I can rephrase.

16 JUDGE THOMPSON: That's fine but that is the kind of
17 rolled-up answers we get sometimes. I'm not saying that the
18 question itself was rolled up. All right, I will restrain
19 myself.

11:03:47 20 MR BANGURA:

21 Q. Mr Witness, I in fact put it to you that ECOMOG, who were
22 supposed to be in control over the Kamajors at SS Camp, were
23 complaining or complained about the behaviour of Kamajors at the
24 SS Camp.

11:04:02 25 JUDGE THOMPSON: In other words, indeed ECOMOG complained,
26 not whether it did not happen or something, or some misbehaviour.
27 That is why I called it a rolled-up answer. What did not happen?
28 Did ECOMOG complain or did ECOMOG not complain?

29 MR BANGURA: Did ECOMOG not complain.

1 JUDGE THOMPSON: That is why I am saying I don't know what
2 his answer is. Okay.

3 MR BANGURA:

4 Q. Mr Witness, I haven't got your answer to that question.
11:04:42 5 Did you not understand the question?

6 A. What question?

7 Q. I put it to you that ECOMOG complained about the conduct of
8 Kamajors at SS Camp while you were there, while your Kamajors
9 were there.

11:05:04 10 JUDGE THOMPSON: That is better. It is because of that
11 surprise thing that brings the confusion.

12 THE WITNESS: I did not know about that.

13 MR BANGURA:

14 Q. Mr Witness, are you literate in English? Are you able to
11:05:30 15 read and write English?

16 A. I learnt Arabic, not English.

17 Q. Mr Witness, there is evidence before this Court in the form
18 of a letter written by ECOMOG, complaining about the behaviour of
19 one Kamajor commander called KBK Magonna.

11:05:56 20 MR BANGURA: Your Honours, I am referring here to
21 Exhibit 89.

22 Q. That letter states that Magonna engaged in acts of killing
23 at SS Camp; do you agree?

24 JUDGE ITOE: [Overlapping speakers].

11:06:21 25 MR SESAY: [Overlapping speakers].

26 PRESIDING JUDGE: Mr Sesay [Overlapping speakers]

27 MR SESAY: I was just wondering whether my learned
28 colleague will not be in a position to -- probably since he is
29 referring to a letter -- maybe to show the witness, rather

1 than --

2 PRESIDING JUDGE: The witness just said he does not read
3 English, does not know English. He only reads Arabic. So why
4 show him the letter? Counsel has referred to Exhibit 89. We
11:06:52 5 know it is in English. Why would he need to show it to the
6 witness?

7 MR SESAY: My concern really, My Lord, was in respect of
8 the content of that letter, whether in fact that reflects the
9 content of what is contained in that letter, which he is now
11:07:09 10 putting to that witness.

11 PRESIDING JUDGE: I think it is --

12 JUDGE THOMPSON: No.

13 PRESIDING JUDGE: If that is your objection, your objection
14 is denied.

11:07:20 15 MR JABBI: My Lord, maybe it was necessary for my learned
16 friend to introduce this personality to the witness before --
17 [Overlapping speakers].

18 PRESIDING JUDGE: He is in cross-examination. Obviously,
19 if he does not give enough information, the answer and the
11:07:40 20 question will be assessed accordingly. We will see. I don't
21 think it is an improper question. Your objection is denied.
22 Carry on, Mr Bangura.

23 MR BANGURA: Thank you, Your Honour.

24 Q. Mr Witness, do you know somebody called KBK Magonna?

11:07:59 25 A. No.

26 Q. Mr Witness, I suggest to you that in fact Kamajors were --
27 I suggest to you that, in fact, ECOMOG had no control over what
28 Kamajors did at the SS Camp.

29 A. I don't believe there is any iota of truth in what you

1 said, because I believe that it was the ECOMOG that had control
2 over us.

3 Q. Mr Witness, are you disagreeing with me that in fact ECOMOG
4 complained about the behaviour of Kamajors at the SS Camp? Is
11:09:28 5 that what you're saying?

6 PRESIDING JUDGE: You have been through that. He has said
7 no to this. I don't know why you need ask the same question
8 again.

9 MR BANGURA: It didn't seem quite clear to me, Your Honour.

11:09:46 10 PRESIDING JUDGE: Well, it is clear to me. We have had
11 three different types of questions for that.

12 MR BANGURA:

13 Q. Mr Witness, SS Camp had the facility -- you have already
14 said to this Court that it was a water treatment plant; correct?

11:10:15 15 A. Yes. Yes, it was an old place for water treatment.

16 Q. You would agree me that there are areas within the plant
17 where you had pits the size -- like manholes within the plant; is
18 that not so?

19 A. No. No, there are no holes there. Everything is sealed
11:10:46 20 because they knew people were there. Even before the war.

21 Everything is sealed. Pipes are beneath --

22 Q. Mr Witness, do you know one Murrie Vangahun?

23 A. No.

24 Q. Do you know one Stephen Lahai Fassah?

11:11:21 25 A. No.

26 Q. Apart from CO Sahr, who was your commander who you were
27 answerable to, were there any other commanders that were senior
28 to him that you knew whilst at SS Camp?

29 A. No.

1 Q. Do I take that to mean at SS Camp CO Sahr was always the
2 most senior Kamajor there?

3 A. Yes, that was his area. He was there before even the war.
4 So when we came, he was still senior. He was still senior
11:12:36 5 Kamajor.

6 Q. Do you know who CO Sahr answered to; who was his boss?

7 A. No. CO Sahr's bosses were only the chiefs, because they
8 gave him that assignment. I don't know any boss for him.

9 Q. Mr Witness, did you have Kamajor bosses in Kenema, senior
11:13:12 10 members of the Kamajor society in Kenema, or the CDF in Kenema?

11 A. I did not know anything about that. My own commander was
12 CO Sahr, because I used to get everything from him. If I say
13 anything about that, I'll be telling a lie. I do not know any
14 other commander.

11:13:48 15 Q. Mr Witness, have you heard about a person called
16 Arthur Koroma?

17 A. I used to hear about him, but I don't know him physically.

18 Q. You knew that in Kenema there was a CDF administration; not
19 so?

11:14:20 20 A. I used to hear it. They will tell me -- they used to tell
21 me.

22 Q. You did not yourself know that there was a CDF
23 administration in Kenema?

24 A. No. Besides what they were telling me, I did not go there.
11:14:57 25 Not a day I went there.

26 Q. Did you know that the CDF had an office in --

27 A. I was in Tiloma. No, I did not know that.

28 Q. And you did not know that -- or I suggest to you,
29 Mr Witness, that 27 Kaisamba Terrace was the address of the CDF

1 office in Kenema. Did you know that?

2 A. I don't know that.

3 Q. Mr Witness, when did you disarm?

4 A. In fact, I did not disarm with a gun. I did not disarm. I

11:15:59 5 only had a knife. All the times that I was passing I had a

6 knife.

7 Q. Did you go through that process of disarmament?

8 A. I did not disarm with a gun.

9 Q. Did you go through the process of disarmament?

11:16:13 10 A. No.

11 Q. Up to what time did you continue to serve as a Kamajor at
12 the SS Camp? Up to what time?

13 A. Just up to the time of the disarmament.

14 Q. So, Mr Witness, you are saying that up until that time, as
11:16:56 15 a Kamajor who was based at SS Camp, you did not know that there
16 was a CDF administration in Kenema, four and a half miles away?

17 A. No, I only heard about it. I told you I only heard about
18 it, but I never went there.

19 Q. And you did not know that there were CDF bosses in Kenema
11:17:36 20 who were supposed to be in charge of SS Camp as well? You did
21 not know that?

22 A. No.

23 Q. Mr Witness, were you actually a Kamajor?

24 A. Yes.

11:18:06 25 MR BANGURA: Your Honours, that will be all for this
26 witness.

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

28 MR JABBI: Thank you, My Lord.

29 RE-EXAMINED BY MR JABBI:

1 Q. Mr Witness, in answer to prosecuting counsel you said you
2 were under the command of CO Sahr when Kenema was taken; not so?

3 A. Yes.

4 Q. Do you know how many Kamajors were under the command of
11:19:34 5 CO Sahr at that time?

6 MR BANGURA: May it please Your Honours, re-examination is
7 supposed to be addressing issues which arose in cross-examination
8 that are probably new; they were new or they were in controversy.
9 I don't see any --

11:19:52 10 PRESIDING JUDGE: Or for clarification.

11 MR BANGURA: I don't see any clarification here.

12 JUDGE THOMPSON: I thought perhaps counsel wants to
13 enlighten the Bench as to what was said under
14 examination-in-chief in respect of which that answer of, "We were
11:20:07 15 under the command of CO Sahr when Kenema was taken" is -- in
16 other words, what is this discrepancy between what he now said
17 and what may well have been given in examination-in-chief on that
18 very issue? That is the scope.

19 MR JABBI: Yes, My Lord.

11:20:28 20 JUDGE THOMPSON: If this is not new. So could you
21 enlighten the Bench?

22 MR JABBI: Yes, My Lord. My Lord, questions were posed to
23 the witness in respect of whether he knew who commanded the
24 Kamajors both in the taking of SS Camp and also in the taking of
11:20:59 25 Kenema. The answers of the witness, I believe, did not clarify
26 whether the taking of either of those places involved other
27 Kamajors under other commanders --

28 JUDGE THOMPSON: Counsel, no, I think you are expanding the
29 universe of discourse. You should not expand the universe of

1 discourse. The context here is: He answered a question, you
2 yourself said he said he was under the command of CO Sahr when
3 Kenema was taken. What answer in examination-in-chief is that
4 discrepant in respect of? If you expand the universe of
11:22:00 5 discourse you infringe the rules of re-examination. It is a very
6 narrow universe of discourse.

7 JUDGE ITOE: I think that your objection is overruled. I
8 think we need to proceed. This objection by the Prosecution is
9 sustained. We have to get along, because when we get into too
11:22:27 10 much talking and talking we waste time. The truth of it is that
11 I think we are unanimous on the point that the objection raised
12 by the Prosecution is founded and it is therefore sustained and
13 we will proceed, please.

14 JUDGE THOMPSON: I think it is also important that we give
11:22:45 15 reason why we are not upholding a particular objection and I do
16 not think it is a waste of time to have counsel articulate why he
17 thinks the question should be put and then the Bench respond
18 responsibly with, in fact, an enlightened response. I am saying
19 that your question goes to expanding the universe of discourse,
11:23:12 20 it is not permissible in re-examination. That is the
21 enlightenment I wanted to give you. So we sustain the objection.

22 MR JABBI: My Lord, may the witness remove his earphones so
23 that I can say what I want to say?

24 JUDGE THOMPSON: Not on this particular issue, because I
11:23:32 25 raised it. I responded and said that I thought you were moving
26 outside the permissible universe of discourse and I think,
27 counsel, you understand that as a lawyer. You're moving outside
28 the legitimate scope of re-examination.

29 MR JABBI: As Your Lordships please.

1 Q. Mr Witness, were you in Kenema when ECOMOG entered Kenema?

2 PRESIDING JUDGE: Is this a new matter that was raised in
3 cross-examination?

4 THE WITNESS: I was in --

11:24:27 5 PRESIDING JUDGE: I don't think it is a new matter that has
6 been raised in cross-examination.

7 JUDGE ITOE: I don't think so too.

8 MR JABBI: But there is need for clarification on that
9 point.

11:24:37 10 PRESIDING JUDGE: Absolutely not on this issue.

11 MR JABBI: As Your Lordships please.

12 PRESIDING JUDGE: Thank you, Dr Jabbi.

13 Mr Witness, that concludes your evidence in this Court. We
14 thank you very much for coming and we wish you a safe trip back
11:24:52 15 home. Thank you. Can the witness be assisted?

16 THE WITNESS: By God's grace.

17 [The witness withdrew]

18 PRESIDING JUDGE: Dr Jabbi, we will recess as usual now or
19 in a few minutes. Would you tell us, in a nutshell, what the
11:25:27 20 issue is you want to raise in a closed session so that we may
21 think about it. Can you address that in open session or you need
22 to do that in a closed session? If it is a closed session for
23 that purpose, then when we come back we may indeed go in a closed
24 session to hear whatever you have to say in this respect. I am
11:25:55 25 just putting to you what it is you want to raise, so we may have
26 to hear you in a closed session.

27 MR JABBI: My Lord, with your indulgence, I would really
28 want to state even the subject matter of discussion only in
29 closed session.

1 PRESIDING JUDGE: Very well. So we will take the recess.
2 When we come back we will go in a closed session to hear what you
3 have to say in this respect. If I have no other means than to
4 determine this but to hear what you have to say. So thank you.

11:26:57 5 [Break taken at 11.27 a.m.]

6 [At this point in the proceedings, a portion of the
7 transcript, pages 34 to 53, was extracted and sealed under
8 separate cover, as the session was heard in camera.]

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1 [Open session]

2 MS EDMONDS: Court is now in open session, Your Honour.

3 PRESIDING JUDGE: Thank you. Dr Jabbi, yesterday I did ask
4 you questions about your list of witnesses that we have. I am
12:46:12 5 making reference here to the document you filed in this respect,
6 described as Norman Further Filing Following Consequential Order
7 to the Status Conference of 22 March 2006 and the Status
8 Conference of 5 April 2006. I did refer to some of the witnesses
9 listed therein, because the way we are proceeding, we are coming
12:46:41 10 close to the end of that list of witnesses. I know you have
11 indicated yesterday that in the case of General Abdu-One Mohamed,
12 that one of your legal assistants is proceeding to Nigeria to
13 determine what it is.

14 As I say, I expect and we expect that you are going to be
12:47:21 15 complying with your order of witnesses and finish this list of
16 witnesses in this session if possible. We still have more than a
17 few weeks to go and we would certainly like to see that we get to
18 the end of your list of witnesses.

19 I have one more question. In your list you have witness 8
12:47:45 20 that we did not hear. You had indicated that he was away at the
21 time. I don't know if he is back or what is the status of that
22 witness, if you have decided not to call him.

23 MR JABBI: May I proceed, My Lord?

24 PRESIDING JUDGE: Yes.

12:48:27 25 MR JABBI: My Lord, yesterday My Lord Justice Itoe in fact
26 admonished consideration of the evidence that has been adduced so
27 far with a view to deciding on which witnesses or, indeed, how
28 many further witnesses we intend to call. As I said yesterday,
29 we had been considering that issue already. So indeed, My Lord,

1 we intend even to reduce further the core witness list that is
2 filed in the Norman further filing that Your Lordship referred to
3 just now.

4 However, My Lord, there are a few witnesses that we think
12:49:40 5 are crucial and indispensable, but who are not yet available to
6 us. We are making every effort to ensure that we obtain them.
7 As Your Lordship hinted just now --

8 PRESIDING JUDGE: You must clearly understand me. On this
9 aspect I am not speaking for the Bench, I am speaking for myself.
12:50:11 10 I will not be inclined to grant any adjournment for witnesses
11 that are not available at this time because you have been on
12 notice for a long, long time. If you decided to send somebody
13 only yesterday to Nigeria to determine if this witness was
14 available, to me it is not a good enough justification. But I am
12:50:30 15 speaking for myself. I have not consulted on this issue and I am
16 not, for the time being, speaking for the Bench. But having said
17 that, please proceed.

18 MR JABBI: Yes, My Lord. With respect to the witness from
19 Nigeria, our constraint has been his own medical condition so far
12:50:53 20 as we have been made aware. As I said, however, yesterday, we
21 expect that by Monday we will have got some information from
22 Nigeria, because the legal assistant left this morning. He flew
23 this morning from 5.00 a.m. Yesterday there was a problem with
24 the flight and they were going to leave this morning at five. He
12:51:31 25 is under instructions to keep in touch with us by telephone when
26 he arrives there. So by Monday, latest Tuesday, we would have
27 got some information from there.

28 Now, if any deferment, that will probably be only in
29 respect of that witness, number 21, and number 1.

1 PRESIDING JUDGE: Let's leave number 1 aside for the time
2 being because it is not depending upon you, it is depending on
3 the Bench. So this is a different scenario. Number 1 is
4 understood, so you don't have to justify that one at this moment.

12:52:16 5 MR JABBI: Thank you, My Lord. Those are the two on whom
6 we expect a possible deferment, number 21 and number 1.

7 With respect to the others, My Lord, we believe that we can
8 afford to dispense with a few even on the core list. With
9 respect to 23, for instance, My Lord, Hassan Feika, who is at
12:52:53 10 present out of the country, we are going to make an effort to
11 determine whether he will be available during this session. If
12 he is not available we will make the appropriate application.

13 There is another witness, number 24, who has completely
14 eluded us. We have sent at least three missions to the
12:53:39 15 Moyamba District area to track him down and we have had problems
16 with that. He is the only witness on the crime base in question
17 that we had wanted to call. We will continue that effort,
18 My Lord, and it is possible we will still be able to get him
19 during this session.

12:54:17 20 JUDGE ITOE: When you say that you are trying to track him
21 down and he is eluding you, are you suggesting that there is a
22 reluctance on his part?

23 MR JABBI: No, My Lord. It is just that with his own
24 commitments, when our missions have gone, they have not found him
12:54:40 25 where they expected him to be, and we have not been able to get
26 his telephone number so that we can contact him. He operates in
27 an area also that is largely without network coverage. But we
28 are still continuing the efforts to get him.

29 PRESIDING JUDGE: But don't you think you are getting late

1 with your efforts? We are at the end of the session now. I told
2 you, Dr Jabbi, I am not inclined to grant you any particular
3 adjournment on this matter, as such. These witnesses, you have
4 listed them for quite a time. It has been a long time since the
12:55:27 5 Prosecution has closed their case, you knew what was coming up,
6 and I am not inclined to grant you any favour for any
7 postponement of the evidence of these witnesses. I am just
8 warning you that this is my view at this particular moment.

9 MR JABBI: My Lord, unfortunately the availability and
12:55:56 10 access to these witnesses is not entirely within the control of
11 the Defence teams.

12 PRESIDING JUDGE: It was within your control to put these
13 witnesses on your witness list. So you decided to put these
14 witnesses on your witness list presumably - I say presumably -
12:56:15 15 you did talk to them at some given time, because you had to
16 inform them that you were calling them as witnesses. Presumably.
17 So presumably they have been warned that in the coming months
18 they would be called as a witness.

19 MR JABBI: Yes, My Lord. But they ultimately remain at
12:56:38 20 their own -- they are free to move around, go where they want to
21 go, and when we have needed them we have not always -- we have
22 had a very high percentage of success with access to witnesses.
23 Out of the large number we are talking about there are only about
24 one or two with whom we are having problems.

12:57:04 25 PRESIDING JUDGE: Dr Jabbi, we will not delay these
26 proceedings because we are waiting for one or two witnesses that
27 you may at some given time find out somewhere.

28 MR JABBI: We do not intend to bring the Court to that.

29 JUDGE ITOE: Because if we have to work at your pace, for

1 how long do we keep the trial in a situation of a hold-up
2 scenario? Do you think that it is one of our responsibilities
3 here to put the trials on hold because you are finding it
4 difficult to come by one or two witnesses? You can understand
12:57:46 5 the logic.

6 MR JABBI: Yes, indeed.

7 JUDGE ITOE: And the position of the Presiding Judge on
8 this matter, because we would not have to wait indefinitely for
9 you to uncover or discover your witnesses.

12:57:59 10 MR JABBI: Yes, indeed, My Lord. But, My Lord, it is also
11 true that we have not had any experience of this. This team has
12 not requested any adjournment for the reason of the
13 unavailability of a witness so far out of 24 witnesses that we
14 have already led. And we just have a few more to go and I am
12:58:28 15 just drawing attention to one whose availability is giving us a
16 problem and who is the only witness on a certain crime area.

17 PRESIDING JUDGE: I am also drawing to your attention my
18 vision of what's coming up, so you know what I think about it,
19 Dr Jabbi. We will wait to see if -- I hope that they do show up
12:58:50 20 and I hope that we can proceed. If we cannot, then we will have
21 to make a decision and you will have to make a decision too.

22 MR JABBI: As Your Lordship pleases. My Lord, we will
23 continue to do everything in our power to get this witness. If
24 we cannot get him, then so be it.

12:59:09 25 PRESIDING JUDGE: Before I intervened and interjected with
26 my comments, Dr Jabbi, you had indicated that you were further
27 reducing your witness list. What did you mean by that? I
28 haven't heard anything of that nature yet in your comments this
29 morning.

1 MR JABBI: Well, My Lord, I do not want to be specific on
2 that for the moment, but we are also reviewing the evidence and
3 we would want to avoid repetitiveness. So if we think that
4 certain areas have already been well covered on which we were
12:59:43 5 planning to call a further witness, maybe we will reconsider that
6 particular witness.

7 PRESIDING JUDGE: I would strongly encourage you to proceed
8 in that direction.

9 MR JABBI: We are thinking very actively in that direction,
12:59:58 10 My Lord.

11 PRESIDING JUDGE: I completely share the views of my
12 brother Justice Itoe in this respect. What he said yesterday, I
13 fully and completely endorse it.

14 MR JABBI: Yes, My Lord. But, My Lord, we would want to be
13:00:11 15 allowed at least up to about at least Tuesday or Wednesday before
16 we can be absolutely clear on that particular issue.

17 PRESIDING JUDGE: No problem until Monday.

18 MR JABBI: Thank you very much, My Lord.

19 PRESIDING JUDGE: The other question you still have to
13:00:27 20 provide the Bench and the Court with an answer about witness 8
21 and your witnesses. This witness was not available at the time,
22 but we need to know what you are doing as such. Is he still on
23 your witness list or that witness has been dropped now or you are
24 going to be dropping him?

13:00:48 25 MR JABBI: My Lord, that witness has not been dropped. He
26 went to an area where there is a highly selective availability of
27 the network and he has to seek a point where he can contact us to
28 see whether he should come. He has not done it so far. But he
29 also falls within the comment I made just now --

1 PRESIDING JUDGE: On reassessment?

2 MR JABBI: Yes, My Lord. In order to avoid repetitiveness
3 in the evidence, we may reconsider some of the witnesses as to
4 whether they need come at all.

13:01:34 5 JUDGE ITOE: Otherwise, instead of depending on the
6 telephone, you might dispatch somebody on the spot, since you
7 know what his location is.

8 MR JABBI: Yes, My Lord.

9 JUDGE ITOE: You should dispatch somebody to see if they
13:01:48 10 can locate him.

11 MR JABBI: There are three of them we are going to do that
12 with.

13 PRESIDING JUDGE: If I do my counting properly, if
14 witnesses 8, 21 and 23 are not called or not available for the
13:02:02 15 time being, and leaving aside witness 1, it means that you have
16 seven witnesses left, and at the pace we are proceeding now you
17 will be finished by the end of next week.

18 MR JABBI: Yes.

19 PRESIDING JUDGE: So whatever you do, you will have to make
13:02:22 20 a decision between now and the end of next week. Because if the
21 witnesses you have that are still on your list are available, are
22 heard, and we have proceeded with them, it means - and as I say
23 leaving aside witness 8, 21, 23 - by the end of next week we are
24 done with that.

13:02:46 25 MR JABBI: Yes, My Lord. Certainly before the end of next
26 week we'll make clarification about whether we are calling any
27 more witnesses.

28 PRESIDING JUDGE: I would like to ask you as well that you
29 inform the Court, by Monday or Tuesday next week, you indicate to

1 the Court if you intend to file any 92bis type of information as
2 part of your evidence or not.

3 MR JABBI: We certainly intend to do that, My Lord.

4 PRESIDING JUDGE: But again, this is something we would
13:03:19 5 like to know sooner rather than later.

6 MR JABBI: Yes, My Lord.

7 PRESIDING JUDGE: To avoid, again, arguments and
8 unnecessary delays in the proceedings, because there has been
9 absolutely no indication on your part. I am asking the question
13:03:35 10 because I want to know, but there has been no indication that you
11 intend to do that. But if you intend to do it, I ask you that
12 you do that, as I say, at the soonest.

13 MR JABBI: As Your Lordship pleases.

14 PRESIDING JUDGE: Thank you, Dr Jabbi.

13:03:59 15 MR JABBI: Thank you very much, My Lord.

16 PRESIDING JUDGE: Mr Pestman.

17 MR PESTMAN: Your Honours, I am a bit puzzled, as I imagine
18 you are, about what will happen in the next couple of weeks. I
19 know that there is a back-up list of witnesses for the first
13:04:14 20 accused. I am wondering whether the Defence for Mr Norman is
21 intending to call any back-up witnesses to fill the holes. I
22 don't know. All I can say is that we had or have a particular
23 schedule, and maybe I can just shortly explain what our schedule
24 is. We always were under the assumption, and we still are, that
13:04:36 25 we will not have to start with our case before 9th or 11th
26 September. I will continue assuming that until we are told
27 differently or otherwise. We have told all our witnesses to be
28 ready in September. We have not warned them that maybe they have
29 to be ready earlier.

1 PRESIDING JUDGE: You have been quite either
2 pessimistic/optimistic; I'm not sure how to look at it.

3 MR PESTMAN: We expect to call maybe 20 witnesses. We will
4 try to use Rule 92bis diligently and as often as we think
13:05:15 5 possible to save time, so we will not take a lot of time hearing
6 our witnesses, maybe three or four weeks would be sufficient. I
7 know that Defence for --

8 PRESIDING JUDGE: Pardon me?

9 MR PESTMAN: Three or four weeks should be sufficient to
13:05:31 10 hear our witnesses.

11 PRESIDING JUDGE: That means all inclusive,
12 cross-examination and so on?

13 MR PESTMAN: Yes. I have to make one reservation for the
14 common witness, Abdu-One Mohamed of course, I don't know when he
13:05:46 15 is going to be heard. We always assumed that he was going to be
16 heard this session.

17 PRESIDING JUDGE: But he is a common witness.

18 MR PESTMAN: He is a common witness, yes. I was informed
19 he was planning to undergo medical treatment soon abroad. I
13:06:01 20 don't know whether that will be something the investigator or
21 legal assistant can inform us about next week, actually what that
22 witness is planning to do in the next couple of weeks, because I
23 know there might be a problem with this medical treatment.
24 Because we went to speak to him some time ago.

13:06:23 25 PRESIDING JUDGE: You have met with him? Your team has met
26 with him?

27 MR PESTMAN: Our team has spoken to him, yes. He is in
28 possession, by the way, of a number of documents which we think
29 might be very important for this case, which he has not been

1 willing to disclose to us yet, but we hope to be able to inspect
2 before he testifies. That might take some time as well. So
3 there are several issues involved and it does not make it easy to
4 plan anything for us.

13:06:55 5 Another issue. Of course we have approached an expert
6 witness, and he is preparing a report and he is also preparing
7 the report under the assumption that he has to finish by the
8 beginning of September. That is the schedule he has in mind.

9 And we have, of course, a strategy with our witnesses and
13:07:19 10 we would like to hear them in a particular order. So it would be
11 very unfortunate for us if we are forced - I am not suggesting
12 that is what Your Honours asking us to do - but if we are forced
13 to call some witnesses before the end of this trial session.
14 That would be very unfortunate because we don't know whether they
13:07:36 15 are available. That would also, without any doubt, mess up the
16 special sequence we had in mind when calling our witnesses.

17 We, of course, have logistical problems. We are, sad to
18 say, understaffed towards the end of this trial session, which if
19 you decide to ask us to call witnesses, that would bring serious
13:07:59 20 problems for our defence, because then we would need to prepare
21 those witnesses here. We have always worked under the assumption
22 that we would be able to talk to the witnesses here in Freetown
23 before they come and testify. The lack of manpower in Freetown
24 in the next two weeks is a serious problem which would make it
13:08:19 25 difficult for us to start with our defence case, although we
26 would like to continue with this case as soon as possible. We
27 would not like to cause any unnecessary delays, but that I assume
28 goes without saying.

29 PRESIDING JUDGE: Thank you for this information. We will

1 let you know certainly this afternoon how we intend to proceed
2 with this. I do have a few more questions for you, but before I
3 do, Mr Pestman, I just want to remind you, as well as Dr Jabbi,
4 that the provisions of Rule 92bis are to the effect that the
13:08:57 5 party wishing to submit information as evidence shall give ten
6 days notice to the opposing party. You are not there yet, but I
7 mention that to you, Dr Jabbi, because you have indicated that
8 you will have, probably, 92bis documents to file. 92bis provides
9 ten days notice to the opposing parties and objections, if any,
13:09:23 10 must be submitted within five days of that ten days.

11 MR JABBI: We are aware of the provisions of 92bis,
12 My Lord.

13 PRESIDING JUDGE: Thank you. Mr Pestman, if I may just a
14 few questions on your witness list as well. Is the witness list
13:09:41 15 that you have filed as a result of the order of the Court the
16 list that you are going to be following? The same order you have
17 in that listing, is that what you intend to do or you are going
18 to be producing a different witness list, it will be the same
19 witnesses but not necessarily in that order? I see your legal
13:09:58 20 assistant --

21 MR PESTMAN: He's not allowed to say anything in court, so
22 I might have to be informed.

23 No, the list filed is not a definite list. We were
24 intending to produce a list before we start with the trial
13:10:16 25 session.

26 PRESIDING JUDGE: That list you have now does include 92bis
27 witnesses? In other words, in that listing you have witnesses
28 that are there, who will not appear but you will file --

29 MR PESTMAN: That was our intention, yes. We haven't taken

1 a final decision on that issue but we know there is a serious
2 time issue and that would save everyone a lot of time by doing
3 that. So that is what our intention is. Especially referring to
4 the character witnesses on the list.

13:10:43 5 PRESIDING JUDGE: I would like, also, to remind you,
6 regardless of the way we go, as to when you are going to be
7 calling your witnesses, that we need to have curriculum vitae of
8 expert witness before so we can assess whether these witnesses
9 you intend to call as experts do qualify. So we need this
13:11:05 10 information, as I say, at the latest when you file their report,
11 but preferably before.

12 I would like to remind you, as well, that if you intend to
13 tender exhibits, you must file a list of exhibits. That should
14 be done as soon as possible, again the soon the better, to avoid
13:11:29 15 unnecessary delay in the proceedings. You have seen that, we
16 have been through this with accused number 1.

17 MR PESTMAN: We understand and we will try to comply, of
18 course. Thank you.

19 PRESIDING JUDGE: Thank you. Mr Margai, I know you come
13:11:47 20 after the second accused in this process, but the way we are
21 moving now, as you know, it is quite clear that you will not be
22 called to call your witnesses at this particular session, but it
23 is quite likely that it will be - if things move as we hope it
24 will be moving - at the latest by the end of September. So I
13:12:14 25 would hope that you will be ready to proceed with your witnesses.
26 You were to reassess your witness list as well at the last status
27 conference, and, given the way the evidence is now shaping up, I
28 would like to ask you to review your witness list and certainly
29 make sure that they are notified that they may be called as early

1 as end of September.

2 MR MARGAI: My Lords, I think our situation is that we are
3 sitting tight, waiting to see what happens with the first two
4 accused persons. Ours is a contingency situation. We will be
13:12:51 5 ready to move as and when the second accused takes off.

6 PRESIDING JUDGE: That's all we are asking of you at this
7 moment, Mr Margai.

8 MR MARGAI: We will keep pace.

9 PRESIDING JUDGE: Thank you very much. So this is past our
13:13:05 10 usual time for adjourning for the lunch break. Mr Pestman, I
11 know you're leaving this afternoon, but are you coming back in
12 the courtroom this afternoon or you were not intending to?

13 MR PESTMAN: I was not intending to but I could come back
14 for 20 minutes.

13:13:49 15 PRESIDING JUDGE: I don't want you to miss your flight.

16 MR PESTMAN: I would certainly not miss my flight.

17 PRESIDING JUDGE: Thank you. Court is adjourned until
18 2.45 p.m. Thank you.

19 [Luncheon recess taken at 1.14 p.m.]

15:00:06 20 [CDF25MAY06C - SV]

21 [The witness entered court]

22 [Upon resuming at 3.00 p.m.]

23 PRESIDING JUDGE: Good afternoon all. Welcome, Mr Witness.
24 Before we proceed with this witness --

15:01:08 25 THE WITNESS: Good afternoon, everyone.

26 PRESIDING JUDGE: Thank you. We would like to inform you,
27 Mr Pestman, of our decision after our consultation on your
28 request that you be allowed to call your case, the case for the
29 second accused, later. In the actual circumstances, we agree

1 that you should not be put to your case in this session, given
2 the way it has evolved and given that there existed some
3 uncertainty. We agree with your plea that you should be allowed
4 to call your case come the session in September.

15:01:58 5 But I just wish to remind you about my comments this
6 morning about compliance with court orders, filing of exhibits,
7 92bis and so on and any attention you can pay to even reduce your
8 list of witnesses, given what has transpired in this session and
9 what is left to be heard, will be appreciated. In those
15:02:20 10 circumstances you will not be called to put your case in this
11 session. So even though we may be finished a bit earlier. We
12 have enough work to keep us busy in spite of that, so we're not
13 concerned about being unemployed.

14 MR PESTMAN: Thank you, Your Honour.

15:02:38 15 PRESIDING JUDGE: In those circumstances we wish you a safe
16 trip back to your home place. I am reminded that this is done as
17 well as sort of a comprehensive approach, given what you have
18 explained to the Court this morning, that you expect that you're
19 going to be through with the presentation with your case in what
15:03:14 20 you describe as 20 days, as such, and we appreciate that and we
21 hope that this is an accurate account of your assessment and that
22 this will transpire to be the reality, because we would like to
23 indeed finish the CDF case the sooner in the fall as we can. I
24 know that will be to the advantage of all concerned, not us, the
15:03:37 25 Bench, but you and certainly your respective clients that it be
26 dealt with the soonest. So we thank you very much.

27 MR PESTMAN: Thank you very much, Your Honours. I will see
28 you in September. Thank you.

29 PRESIDING JUDGE: Thank you. Dr Jabbi, this is your next

1 witness, but before you call this witness and proceed with him, I
2 wish to remind you of my comments of this morning and reiterate
3 to you that we fully expect you to finish your case for your
4 client, leaving aside the decision for the time being for witness
15:04:09 5 number 1 on your list, but save and except that particular
6 witness, for now, we hope and expect that you're going to be
7 closing your case in this session. But this will suffice for
8 now. You are to assess your situation, your position, you told
9 us during the weekend and you will report on some further
15:04:31 10 development early next week, Monday or Tuesday, so we'll wait
11 until that moment to comment any further if required. Are you
12 ready to proceed with your next witness?

13 MR KAMARA: Sorry, my learned friend. My Lords, we do note
14 the absence of the first accused again this afternoon. My Lords,
15:04:54 15 in relation to that, the Prosecution has a few points to make
16 relating to the issues this morning. We seek clarification as to
17 matters raised this morning.

18 MR JABBI: My Lord, I am sorry to interrupt my learned
19 friend. I wonder whether the points my learned friend is raising
15:05:15 20 refer to the matters we discussed in closed session, My Lord.

21 PRESIDING JUDGE: I was just going to alert your friend for
22 the Prosecution if this is what he's about to talk --

23 MR KAMARA: Yes, My Lord.

24 PRESIDING JUDGE: -- caution should be exercised as to what
15:05:33 25 he says and how he says it.

26 MR KAMARA: Yes, My Lord, and I thank my learned friend for
27 that. They are issues relating to matters raised in closed
28 session. My Lord, I crave the indulgence of the Bench if they
29 could allow me to raise these points that I have that are of

1 concern to the Prosecution. I believe it's also going to be of
2 assistance to the Bench and my learned friend on the other side.

3 PRESIDING JUDGE: You want to raise it now?

4 MR KAMARA: Yes, My Lord, I would very much love to do so
15:06:02 5 or I want to do so before a decision is given as to the
6 application this morning.

7 JUDGE THOMPSON: Your questions are not designed to more or
8 less appear as a kind of post mortem on our decision to grant a
9 closed session hearing on the matter which was raised in closed
15:06:30 10 session.

11 MR KAMARA: Yes, My Lord, it wouldn't be a post mortem
12 hearing.

13 PRESIDING JUDGE: In other words, you're not going to want
14 to re-open that issue, because if you want to do that, I would
15:06:41 15 dismiss it straightaway as an abuse of process.

16 MR KAMARA: It's not re-arguing the issue.

17 JUDGE THOMPSON: Right, okay.

18 MR JABBI: My Lord, I am still a bit concerned as to
19 whether the issues my learned friend wants to raise --

15:07:01 20 JUDGE ITOE: I am also concerned about those issues which
21 Mr Kamara wants to raise. I'm concerned.

22 MR JABBI: I don't know whether we need closed session for
23 it.

24 PRESIDING JUDGE: I don't know.

15:07:10 25 MR KAMARA: My Lord, it's only to be of the safe side
26 because it does affect the issues we were discussing this
27 morning, in the abundance of caution.

28 JUDGE ITOE: But we were discussing the issues in a closed
29 session. You want to raise issues in an open session. That's my

1 concern.

2 MR KAMARA: No, My Lord. I'm appealing to the Bench to
3 allow me to raise these issues again in a closed session.

4 PRESIDING JUDGE: So this is your application, that we move
15:07:36 5 into a closed session to hear your application which is related
6 to the matters that we discussed this morning?

7 MR KAMARA: Yes, My Lord.

8 JUDGE THOMPSON: And, of course, I need to be satisfied
9 that it is not an application which is intended to relitigate the
15:07:54 10 issue which has already been decided upon in closed session.

11 MR KAMARA: Yes, My Lord.

12 PRESIDING JUDGE: So in those circumstances, we have no
13 option but to go in a closed session to hear what you have to say
14 as to whether we should be in a closed session and then we'll
15:08:22 15 hear -- you are suggesting we should do that now before we
16 proceed with this witness?

17 MR KAMARA: Yes, My Lord, preferably.

18 PRESIDING JUDGE: Very well. Can the witness be assisted
19 out of the Courtroom and can we proceed in a closed session at
15:08:35 20 this particular moment. Thank you.

21 [The witness stood down]

22 [At this point in the proceedings, a portion of the
23 transcript, pages 71 to 91, was extracted and sealed under
24 separate cover, as the session was heard in camera.]

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1 [Open session]

2 MR WALKER: Court is again in open session, Your Honour.

3 PRESIDING JUDGE: Thank you.

4 I would like to deliver this short decision as to the
15:57:56 5 reasons for closed session granted this morning, being now back
6 in a public session.

7 Noting the oral application for a closed session pursuant
8 to Rule 79(A)(iii) of the Rules of Procedure and Evidence of the
9 Special Court which states that though the Chamber may order that
15:58:13 10 the press and the public be excluded from all or part of the
11 proceedings for reasons of protecting the interests of justice,
12 the application made by Court-appointed counsel for the first
13 accused during closed session proceedings this morning on 25th
14 May 2006.

15:58:31 15 Noting the Prosecution oral response to the motion made
16 during these proceedings in closed session whereby they opposed
17 the application.

18 Noting the reply made by the Court-appointed counsel for
19 the first accused during that session.

15:58:46 20 Mindful of Article 17(2) of the Statute which provides
21 that: "The accused shall be entitled to a fair and public
22 hearing, subject to measures ordered by the Special Court for the
23 protection of victims and witnesses."

24 Considering that the Chamber in granting closed session
15:59:05 25 hearings is mindful of the accused's right to a fair and public
26 hearing and, as such, has granted closed session only in very
27 limited circumstances.

28 Considering the information provided by Court-appointed
29 counsel for the first accused in support of this application, and

1 that discussing the issues raised by counsel would likely affect
2 the proceedings in this case.

3 Considering that the granting of a closed session is, in
4 those circumstances, in the interests of justice, and they would
15:59:34 5 not in this case prejudice the interests of the accused to a
6 public trial or the conduct of the trial as a whole, accordingly
7 the trial grants the motion for a closed session. So this is the
8 reason of the Court for the decision this morning.

9 MR JABBI: Thank you very much, My Lord.

15:59:58 10 PRESIDING JUDGE: Obviously the same reason applied to your
11 application this afternoon as it was based on the same premise
12 and the same application that was granted this morning. So, in
13 the interests of justice, Mr Prosecutor, your application was
14 granted on the same grounds and the same reasoning applied.

16:00:17 15 MR KAMARA: Thank you, My Lord.

16 PRESIDING JUDGE: Dr Jabbi, we can proceed now with your
17 witness.

18 MR JABBI: Yes, My Lord, just before that, I wish to give
19 the following information as to the witnesses -- the next few
16:00:37 20 witnesses we intend to take. Number 19, the current witness,
21 My Lord, and we intend now to skip number 20 and to defer number
22 21 and after number 19, we intend to take number 22.

23 PRESIDING JUDGE: What about 20? Are you going to do 20
24 later?

16:01:21 25 MR JABBI: No, My Lord, we want to skip that now.

26 PRESIDING JUDGE: So you're going to do 19 and then 22?

27 MR JABBI: To 22, My Lord. Then after 22 -- since 23 is
28 for the moment out of the country, after 22 we intend to take 24.

29 PRESIDING JUDGE: Have you been able to locate 24?

1 MR JABBI: My Lord, we want to make another effort through
2 WVS this weekend for both number 22 and 24, My Lord.

3 PRESIDING JUDGE: Okay.

4 MR KAMARA: My Lord, number 20, my learned friend did
16:05:06 5 mention that he would skip number 20.

6 JUDGE THOMPSON: He said defer it.

7 MR KAMARA: I think 21 is deferred. Is that he's not
8 coming -- he's not calling him again, or just keeping him for the
9 time being?

16:05:23 10 JUDGE THOMPSON: Yes, perhaps he needs to explain what's
11 skipping and deferring. Is there a distinction there, Dr Jabbi?
12 You skip one, you defer the other.

13 MR JABBI: There is a distinction, My Lord.

14 JUDGE THOMPSON: Perhaps you should enlighten us.

16:05:40 15 MR JABBI: In view of our desire to avoid repetitiveness in
16 the evidence, we wish to forego number 20.

17 JUDGE THOMPSON: So it's forego now, not skip it? That's
18 fine. Skipping is a little more sporty language.

19 MR JABBI: As Your Lordship pleases.

16:06:06 20 PRESIDING JUDGE: So you're not calling witness number 20?

21 MR JABBI: We wish not to call him.

22 JUDGE ITOE: You are not calling him, Dr Jabbi? It's not
23 we wish not to call him. Are you calling him or you are not
24 calling him? You have said "skipped". I understood you to mean
16:06:30 25 that you were giving him up.

26 MR JABBI: We are not going to call him, My Lord.

27 JUDGE THOMPSON: Dr Jabbi, I never thought that you
28 belonged to the school of the sophists.

29 MR JABBI: My Lord, I don't know who they are.

1 JUDGE THOMPSON: All right. We'll turn up the Greek and
2 Roman culture encyclopedia.

3 PRESIDING JUDGE: Let us proceed, please. Would you
4 proceed to take the oath of this witness. So this is witness
16:06:57 5 number 19 on your witness list, Dr Jabbi?

6 MR JABBI: Number 19, My Lord. He's 19 on the list but 25
7 in the order of giving evidence.

8 PRESIDING JUDGE: Very well. He's giving evidence in
9 Mende?

16:07:24 10 MR JABBI: Yes, My Lord.

11 PRESIDING JUDGE: Thank you.

12 WITNESS: MOHAMED KINEH SWARAY [Sworn]

13 [The witness answered through interpreter]

14 EXAMINED BY MR JABBI:

16:08:23 15 Q. Good afternoon, Mr Witness.

16 A. Yes.

17 Q. Let me begin by advising that when you are talking, you
18 talk as slowly as possible because what you are saying is going
19 to be written down.

16:08:53 20 A. Okay.

21 Q. It will also be interpreted. So you give a little bit of
22 time for that to be done before you make your next statement.

23 Thank you.

24 A. Okay.

16:09:18 25 Q. Now, Mr Witness, can you tell the Court your full names?

26 A. My name is Mohamed Kineh Swaray.

27 Q. How old are you?

28 A. I am 47.

29 Q. Where do you live?

1 A. I am in Boabu Nongowa.

2 Q. What work do you do?

3 A. I am a farmer.

4 Q. Do you know of the Kamajors?

16:10:56 5 A. Very, very, very well.

6 Q. Do you belong to the Kamajors? Are you a Kamajor?

7 A. Very, very well.

8 Q. When did you become a Kamajor?

9 A. I became a Kamajor in 1991.

16:11:55 10 Q. Can you briefly explain the circumstances?

11 A. The reason why I became a Kamajor?

12 JUDGE ITOE: He became a Kamajor. Where was he when he

13 became a Kamajor?

14 MR JABBI:

16:12:13 15 Q. Where were you when you became a Kamajor. Let's begin with

16 that. You said you became a Kamajor --

17 A. I was in Boabu Nongowa.

18 Q. Now, can you explain the circumstances in which you become

19 one?

16:12:35 20 A. We were living at the time when the war came into this

21 country. Then the NPRC overthrow the country. Then NPRC told

22 our chiefs to provide bush Kamajors. The chiefdom elders

23 provided us and handed us over to the soldiers. When we were

24 handed over to the soldiers we were working together with them.

16:13:20 25 Q. Allow some time, please, Mr Witness.

26 A. Accepted.

27 Q. Now, for what purpose were you assigned to the soldiers?

28 A. They said we know the terrain and the bushes, so we should

29 be going together with the soldiers so that we would be showing

1 them the bush paths.

2 Q. Was that just an arrangement in your village or was it of
3 wider application?

4 A. In all of that district that was the arrangement.

16:14:57 5 Q. Did the district have any organisation taking care of that
6 arrangement?

7 A. Yes.

8 Q. Can you tell the Court, please?

9 A. The person who organised that we called the defence
16:15:25 10 committee.

11 Q. And who was in charge of that defence committee?

12 A. Dr Lavalie.

13 Q. Can you tell the Court what sorts of places you went with
14 the soldiers under that arrangement?

16:16:04 15 A. When I was going along together with the soldiers, we were
16 sent to Tongo. We left Tongo and we were taken to Daru. We left
17 Daru, together with them we captured Pendembu.

18 Q. Together with the soldiers?

19 A. Yes.

16:16:57 20 JUDGE ITOE: Dr Jabbi, this was at about what time?

21 MR JABBI:

22 Q. Now can you tell the Court what time frame you are talking
23 about?

24 A. We started going in 1991, '92, '93, '94 up to '95.

16:17:38 25 Q. For that period was there any ceremony about becoming a
26 Kamajor?

27 A. At that time, when we were doing that work, it was an
28 ordinary Kamajor together with the soldiers.

29 Q. Did that status of being an ordinary Kamajor working the

1 soldiers change at any time later on?

2 A. Yes.

3 Q. Can you explain to the Court, please?

4 A. When that ordinary Kamajor business stopped, we heard that
16:18:52 5 initiation has started from the south.

6 Q. Around what time did that start?

7 A. The time that that thing started, when we voted, the
8 initial voting.

9 Q. The initial voting for?

16:19:33 10 A. This government that is in power now.

11 Q. When you say the initial voting for this government that is
12 in power now, do you mean the first time that the SLPP government
13 was elected? Is that what you are talking about?

14 A. Yes.

16:20:13 15 Q. And that would be 1996?

16 A. Yes.

17 Q. So when the initiation started were you initiated, you
18 personally?

19 A. Yes, I was initiated very well.

16:20:48 20 Q. When was that?

21 A. It happened in '96. That was when Kamoh Brima Bangura
22 initiated us.

23 Q. You mentioned the leader of the district Kamajor
24 arrangement earlier on. Was he still the leader of the Kamajor
16:21:34 25 arrangement, Dr Lavalie, whom you mentioned earlier?

26 A. No, at that time he had been killed.

27 Q. Do you know when he had been killed?

28 A. No, I can't tell.

29 Q. And do you know who killed him?

1 A. They said he was killed by the rebels.

2 Q. Now, before initiation started in Kenema District what was
3 the state of your relationship with soldiers?

4 A. We and the soldiers were working as one. They were giving
16:23:10 5 us bullets. Whatever relates to the war, we were for them.

6 Q. And did that mode of relationship continue that way?

7 A. It went -- it continued up to a point.

8 Q. What happened after that point?

9 A. When the initiation was done, our chiefdom people summoned
16:24:16 10 us and presented us to Kamoh Brima who initiated us.

11 PRESIDING JUDGE: I thought your question had to do with
12 the relationship with the soldiers.

13 MR JABBI: Yes, indeed, My Lord.

14 Q. Mr Witness, my question was you said you were having a good
16:24:46 15 working relationship with the soldiers up to a point.

16 A. Yes.

17 Q. Then I said what happened to that relationship after that
18 point?

19 A. The relationship became sour. The reason why the
16:25:26 20 relationship got sour, we were staying together as one, working
21 as one, we were for them. There came a time --

22 PRESIDING JUDGE: Please, proceed. Yes, what happened?

23 MR JABBI:

24 Q. What happened then?

16:26:01 25 A. As we were going together, there came a time when some
26 soldiers overthrew this government.

27 Q. Yes?

28 A. After the government has been overthrown, these people whom
29 we have been fighting along with, these rebels, and they invited

1 them and they came to town. Then they told us that we the
2 Kamajors, everybody, his uniform, his guns, should be taken to
3 the police station. He should report himself to the police
4 station.

16:27:02 5 Q. Who said that?

6 A. The soldiers.

7 Q. And did you do as commanded?

8 A. No.

9 Q. What did the Kamajors do?

16:27:27 10 A. We went into the bush.

11 Q. Why?

12 A. Well, we were working with these people, then there came a
13 time and they called these other people from the bush and they
14 started attacking us. So we left them.

16:27:57 15 Q. Mr Witness, where were you when the overthrow of the
16 government took place?

17 MR JABBI: The system is gone.

18 PRESIDING JUDGE: It does seem that the whole system is
19 off. So we're going to break for a short recess and we'll see if
16:28:42 20 we can fix it.

21 Apparently it is back now, but, anyhow, it's the time for a
22 short recess. We will recess.

23 [Break taken at 4.29 p.m.]

24 [CDF25MAY06D - CR.]

16:51:37 25 [Upon resuming at 4.54 p.m.]

26 PRESIDING JUDGE: Dr Jabbi, we're back to you with the
27 resumption of your examination-in-chief.

28 MR JABBI: Yes, My Lord.

29 PRESIDING JUDGE: The system seems to be working now.

1 MR JABBI: I hope it continues working.

2 Q. Mr Witness, I think my last question to you just before we
3 broke off was why you went into the bush after the overthrow of
4 the government by the soldiers.

16:55:29 5 A. Yes.

6 Q. Can you answer that?

7 A. When they overthrow, the soldiers with whom we were
8 working, they invited the rebels out of the bush and brought them
9 to town.

16:56:18 10 MR JABBI: I'm not getting it.

11 PRESIDING JUDGE: They've changed the channel, Dr Jabbi.

12 THE WITNESS: Are you getting me now?

13 PRESIDING JUDGE: We do, yes.

14 MR JABBI:

15 Q. Can you begin your answer, please?

16 A. When the overthrow was done, the soldiers who had
17 overthrown the government invited the rebels out of the bush and
18 brought them to town.

19 Q. Yes?

16:56:53 20 A. Then they said we, the Kamajors, our uniforms and our guns,
21 we should go and report ourselves to the police station.

22 PRESIDING JUDGE: We have that, Dr Jabbi; please proceed.

23 MR JABBI:

24 Q. Yes, Mr Witness?

16:57:19 25 A. After this had happened, after they had said we should hand
26 over, they started attacking our brothers, beating us up. The
27 soldiers and the rebels did that.

28 Q. Yes?

29 A. That was what happened that made us leave the town and went

1 into the bush. We refused to surrender to them.

2 Q. How long were you in the bush?

3 A. We were in the bush for up to nine months.

4 Q. What did you do there?

16:58:04 5 A. When we went into the bush, we were looking out for our
6 brothers wherever they were, so that we could regroup.

7 Q. In what area were you in the bush? You in particular, what
8 area?

9 A. I was at Kotumahun [phon] and -- in between Kotumahun and
16:58:42 10 Kenema, in the bush. But my brothers, my colleagues, were in
11 Tunkia, Tigbema and we were talking to each other, organising
12 ourselves.

13 Q. So by the end of the nine months, what did you do?

14 A. Well, we went to Kamoh Brima --

16:59:30 15 THE INTERPRETER: Your Honours, can the witness go over his
16 last answer.

17 MR JABBI:

18 Q. Can you begin this last answer you just started giving.
19 Can you begin it and go over. My question was: What did you do
16:59:45 20 towards the end of the nine months, by the end of the nine
21 months?

22 A. We, the Kamajors, came together. Those of us who were in
23 that bush, we came together.

24 Q. To do what?

17:00:09 25 A. Then we went to the Kamoh for him to reactivate the
26 medicine.

27 Q. Which Kamoh?

28 A. Kamoh Brima Bangura.

29 Q. Where was that?

1 A. He was at Tigbema.

2 Q. What happened after the reactivation?

3 A. After the medicine had been reactivated, he gave us all the
4 laws and we returned. We heard our boss.

17:01:10 5 Q. You said after the reactivation you returned?

6 A. We returned.

7 Q. To where?

8 A. We returned where we had been. Then we went and captured
9 SS Camp.

17:01:28 10 Q. Do you know when you went to recapture SS Camp?

11 A. I did not date it, but I can remember.

12 Q. Can you remember the month and year?

13 A. No.

14 Q. But according to you, it was roughly nine months after the
17:02:01 15 overthrow; is that correct?

16 A. Yes, when we were in the bush.

17 Q. Now, who was your group leader during the attack on
18 SS Camp?

19 A. MB Koroma. We call him Bhonie. Bhonie.

17:02:38 20 Q. Was he the overall leader --

21 JUDGE ITOE: Bhonie Koroma? What name again?

22 MR JABBI:

23 Q. This Koroma you're talking about, do you know his full
24 name?

17:02:57 25 A. Mohamed Bhonie Koroma.

26 Q. Was he the overall commander of that campaign?

27 A. Yes.

28 Q. Can you explain how the attack itself went, the attack on
29 SS Camp?

1 A. Yes.

2 Q. Carry on, please.

3 A. When we left Tigbema, it was Mohamed Bhonie who led us.

4 Then we came to Gofor. When we came, we met the rebels and the

17:04:17 5 soldiers there and they started shooting at us.

6 Q. Yes?

7 A. At that time we hadn't guns, but the medicines we had in

8 our bodies were the ones we trusted.

9 Q. Yes, what happened at Gofor?

17:05:07 10 A. We fought at Gofor and then they ran away, then we chased

11 them.

12 Q. Were you able to take Gofor?

13 A. Yes.

14 Q. What happened next?

17:05:40 15 A. Then we left and went to SS Camp.

16 Q. What happened at SS Camp?

17 A. When we approached the river, we entered the bridge to

18 cross the river, they started shooting at us, but we went ahead.

19 Q. In spite of the shooting?

17:06:20 20 A. Yes, even when they were shooting.

21 Q. Yes?

22 A. We went and entered SS Camp.

23 Q. What happened?

24 A. When we entered SS Camp, the juntas who were there and the

17:06:43 25 soldiers, they all ran away.

26 Q. Yes?

27 A. Then we based there.

28 Q. How long did you stay there in SS Camp?

29 A. We were there for up to seven days.

- 1 Q. When the soldiers and the rebels ran away at SS Camp and
2 you stayed there, did you realise any benefits?
3 A. Yes.
4 Q. Yes?
17:07:40 5 A. We met food there. We met a lot of rice there.
6 Q. Yes?
7 A. And bullets.
8 Q. Yes?
9 A. And guns.
17:08:04 10 Q. Can you give the Court an idea of the quantities?
11 A. No.
12 Q. What did you then do?
13 A. Then we stayed there, and we took the food and ate them up.
14 Q. Whilst you were at SS Camp, did anything happen?
17:08:34 15 A. Very, very well.
16 Q. Tell the Court, please?
17 A. When the soldiers and the rebels went -- ran away to
18 Kenema, they returned and attacked us.
19 Q. After how long?
17:09:01 20 A. When they returned to Kenema, it was not -- it did not take
21 a long time. In fact, I hadn't a watch. I did not put any
22 watch. But they did that for up to five times on that day.
23 Q. And what did you do to them?
24 A. We repelled them.
17:09:32 25 Q. Did you yourself, the Kamajors, venture out of SS Camp at
26 any time?
27 A. When we captured SS Camp, it was there that we left and
28 came and captured Kenema.
29 Q. How many times did you attack Kenema before capturing it?

1 A. We attacked Kenema once. On the second time, we entered
2 there.
3 Q. Do you know when you actually entered Kenema?
4 A. We entered Kenema on a Sunday.
17:10:57 5 Q. Do you know the date?
6 A. No.
7 Q. Can you tell the year?
8 A. I can't tell the date, the year, because I'm not literate.
9 And, besides, I was not recording it on paper.
17:11:22 10 Q. Can you tell the Court what happened on that first day, the
11 Sunday, when you entered Kenema?
12 A. Yes.
13 Q. Very briefly, please, can you tell the Court?
14 A. On Sunday, we entered Kenema, we did not fight, we danced
17:11:50 15 together with the civilians, a very big dance on that day.
16 Q. What about the soldiers and rebels?
17 A. They run away.
18 Q. The next day?
19 A. On Monday we were attacked.
17:12:20 20 Q. When on Monday?
21 A. In the morning.
22 Q. Were you yourself present?
23 A. I was in that attack.
24 Q. Please explain to the Court your experience of that
17:12:45 25 encounter.
26 A. When we captured Kenema on the Sunday, on the Monday they
27 attacked us, they came from Hangha Road and Kombema Road at
28 Lumbebu and Gbayama, and they entered the town.
29 Q. At what point in Kenema was the flashpoint of that

1 encounter?

2 A. It was Hangha Road. The police barracks and Capitol, it
3 was in that area that was the flashpoint.

4 Q. Yes, what happened at that point?

17:13:46 5 A. When we were fighting that fight together, in that police
6 barracks, all the shooting was coming from the police barracks at
7 us. It was coming from that end. All the bullets were coming
8 from that end towards us.

9 Q. What did you then do, the Kamajors?

17:14:16 10 A. We entered there.

11 Q. Did you find them there?

12 A. Pardon me? As soon as they saw us coming, they ran away
13 and we chased them.

14 Q. Through the police barracks?

17:14:48 15 A. Yes.

16 Q. Did any fighting face to face take place in the police
17 barracks?

18 A. Yes, yes, it was a very tough encounter with them.

19 Q. Did that involve any exchange of firing?

17:15:28 20 A. With them. They were shooting at us.

21 Q. What was the outcome?

22 A. After we had chased them -- after we had chased them, they
23 returned towards Hangha Road.

24 Q. Yes, what happened then?

17:16:07 25 A. We continued chasing them until we reached the airfield.

26 Q. Where is the airfield in Kenema?

27 A. Near Tiso [phon]. That's where we stopped and they went,
28 then we returned.

29 Q. Did anything else happen that Monday?

1 A. On that Monday when we fought?

2 Q. Yes.

3 A. Like what?

4 Q. If anything happened at all.

17:16:55 5 A. Yes, they killed two of my Kamajors.

6 Q. Were any of them killed, the soldiers and the rebels?

7 A. I did not see the corpse of a soldier, nor the corpse of a
8 civilian.

9 JUDGE ITOE: We're talking of rebels, not civilians yet.

17:17:35 10 Rebels.

11 THE WITNESS: Okay. Okay, thank you, sir.

12 PRESIDING JUDGE: When you say that you saw no soldier's
13 corpse, that's on the Monday? So in the fighting on the Monday
14 on Hangha Road at the police barracks, you did not see any
17:18:01 15 soldier's corpse, nor any rebel's corpse in that fighting?

16 THE WITNESS: No.

17 MR JABBI:

18 Q. What about the next day? Did anything happen after the
19 Monday?

17:18:19 20 A. They came and attacked us again.

21 Q. At what point on that day?

22 A. On Kombema Road.

23 Q. What happened on that occasion?

24 A. That fighting did not last long, then they returned.

17:19:17 25 Q. That's day number three since you entered Kenema; is that
26 so, the Tuesday?

27 A. Yes.

28 Q. Between Sunday and Tuesday, whilst you were in Kenema, did
29 you observe anything about the civilians inside Kenema?

1 A. The civilians, yes.

2 Q. Can you explain, please, to the Court?

3 A. The civilians started burning down houses.

4 Q. When?

17:20:21 5 A. When we fought -- on the morning that we fought that fight,
6 the evening and on the Tuesday.

7 Q. Which houses were the civilians burning?

8 A. The houses which were being burnt were those where the
9 juntas stayed when they went and burnt other people's houses. It
17:20:51 10 was those civilians whose houses were being burnt.

11 Q. Can you go over that, please, more clearly?

12 A. The rebels, where they stayed and left and went and burnt
13 the relatives of Kamajors' houses. It was those civilians'
14 houses which were being burnt.

17:21:39 15 Q. Now, am I correct to say that this is what you are saying:
16 that the soldiers and the rebels, before your entry, had been
17 burning the houses of civilians who were said to be relatives of
18 Kamajors, and those civilians whose houses had been burnt were
19 now burning the houses of those civilians who had harboured the
17:22:10 20 rebels and soldiers; is that what you are saying?

21 A. Yes.

22 MR BANGURA: Your Honours, if I understand correctly, there
23 seems to be a misstatement of the evidence. Counsel's question
24 before the last one that he just posed was: what happened in
17:22:29 25 Kenema between Monday, the day they attacked, and the Tuesday, I
26 think. The answer which the witness gave was specific to that
27 time frame. Now his interpretation of that answer goes beyond
28 that. He now says, "Do I understand you saying before you
29 entered Kenema you attacked Kenema".

1 PRESIDING JUDGE: This is what the witness has said. That
2 is the answer the witness has given.

3 MR BANGURA: Your Honours, it would be --

4 PRESIDING JUDGE: That's my understanding of his answer. I
17:23:11 5 don't think the issue is with what Dr Jabbi has said, because
6 that is what I heard.

7 MR BANGURA: I stand corrected.

8 MR JABBI:

9 Q. Now, what did you do when you observed the civilians
17:23:34 10 burning other houses?

11 A. We called all of them and stopped them from burning houses.

12 Q. What did you tell them?

13 A. We told them that we do not come to destroy this land.
14 Kenema is our place, nobody should burn a house there.

17:24:14 15 Q. Subsequently, that is after Tuesday -- you have been there
16 Sunday, Monday, Tuesday -- did anything happen?

17 A. Like what?

18 Q. Did you observe anything after Tuesday? If you did not, no
19 problem.

17:24:44 20 PRESIDING JUDGE: Maybe you should ask him where he is on
21 the next day.

22 MR JABBI:

23 Q. After Tuesday, where were you?

24 A. I was still in Kenema.

17:24:59 25 Q. Did anything happen in Kenema whilst you were there after
26 Tuesday?

27 A. Nothing bad happened, except the arrival of ECOMOG.

28 Q. When did ECOMOG arrive in Kenema?

29 A. I did not record it because I am not literate.

1 Q. How many days after your entry into Kenema did ECOMOG come
2 to Kenema? How many days after that?
3 A. I believe it could be up to three days.
4 Q. Now, when ECOMOG arrived, what relationship did they have
17:26:27 5 with the Kamajors who were already in Kenema?
6 A. Just when ECOMOG entered Kenema, we handed over everything
7 to them. They called us up and we all were working together.
8 Q. Anything more?
9 A. Apart from the fact that we were working with ECOMOG,
17:27:12 10 there's nothing more I know.
11 Q. Now, you said they called you up; ECOMOG called you up.
12 What happened at that point of you being called?
13 A. They called us up and said security matters is their
14 business. Now that they have come, we should be for them. So we
17:27:43 15 accepted and we were working together.
16 Q. Did you yourself continue to stay in Kenema after the
17 arrival of ECOMOG?
18 A. Yes.
19 Q. Did anything else happen in Kenema whilst ECOMOG was now in
17:28:29 20 control?
21 A. The men would come and attack us and return, that's what I
22 know.
23 Q. To your knowledge, did ECOMOG's presence extend beyond
24 Kenema Town after their arrival?
17:29:09 25 A. Yes.
26 Q. Up to where?
27 A. ECOMOG were at Mano Junction; they were at SS Camp; they
28 were at Kombema; and in Kenema Town.
29 Q. You mentioned Mano Junction. In what direction from Kenema

1 is Mano Junction?

2 A. Mano Junction is on Hangha Road when you are going to
3 Tongo, when you are going to Kailahun. Mano Junction is at the
4 junction.

17:30:04 5 Q. How far is Mano Junction from Kenema itself?

6 A. I cannot tell the mileage, but it's quite a distance.

7 Q. Before or after Hangha, would you say?

8 A. Beyond Hangha, you travel quite a distance.

9 Q. You also mentioned Kombema. Is that in the same direction?

17:30:43 10 A. No.

11 Q. How far is Kombema from Kenema, do you know?

12 A. This time, Kenema hasn't been joined to Kombema. You go
13 through the Government Hospital - it's all Kenema.

14 Q. SS Camp that you mentioned, in what direction is that?

17:31:16 15 A. SS Camp is on the Dama Road.

16 Q. How far from Kenema Town is SS Camp?

17 JUDGE ITOE: Wasn't it five miles? It has been said. It
18 was five miles.

19 MR JABBI: I was trying to elicit this witness's perception
17:31:44 20 of that distance.

21 JUDGE ITOE: These are issues which are not in contention.
22 These are geographical realities which are not contested.

23 MR JABBI:

24 Q. Now, Mr Witness, how long did you stay in Kenema after the
17:32:06 25 arrival of ECOMOG; how long yourself in Kenema?

26 A. I myself, I was in Kenema up to disarmament. Up to today,
27 I am still there. I have not gone anywhere.

28 MR JABBI: Thank you very much. My Lord, that is all for
29 the witness.

1 PRESIDING JUDGE: That will conclude for the day. Tomorrow
2 morning, Mr Bockarie, will you have any cross-examination of this
3 witness?

4 MR BOCKARIE: Yes, Your Honour.

17:32:43 5 PRESIDING JUDGE: Keep that thought for the morning.

6 MR BOCKARIE: Thank you, Your Honour.

7 [Whereupon the hearing adjourned at 5.33 p.m.,
8 to be reconvened on Friday, 26th day of May
9 2006, at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: LAHAI KOROMA	2
CROSS-EXAMINED BY MR MARGAI	3
CROSS-EXAMINED BY MR BANGURA	8
RE-EXAMINED BY MR JABBI	29
WITNESS: MOHAMED KINEH SWARAY	95
EXAMINED BY MR JABBI	95