

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO.: SCSL-04-14-PT
TRIAL CHAMBER I

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

21 JUNE 2004
1007H
CONTINUED TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson,
Pierre Boutet

For the Registry:

Mr. Robin Vincent
Ms. Maureen Edmonds
Mr. Geoff Walker

For the Prosecution:

Mr. Charles Caruso
Mr. James C. Johnson
Ms. Adwoa Wiafe

For the Accused Sam Hinga Norman:

Dr. Bu-Buakei Jabbi
Mr. John Wesley Hall
Ms. Quincy Whitaker
Mr. Ibrahim Yillah

For the Accused Moinina Fofana:

Mr. Arrow Bockarie
Mr. Michel Uiterwaal

For the Accused Allieu Kondewa:

Mr. Charles Margai
Mr. Yada Williams

Court Reporters:

Ms. Susan Humphries
Mr. Momodou Jallow
Ms. Gifty C. Harding

I N D E X

WITNESSES

For the Prosecution:

WITNESS TF2-176

Cross-examination by Mr. Williams 3

WITNESS TF2-012

Examination-in-chief by Ms. Wiafe 21

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MR. PRESIDENT:

Well, we've -- the Court resumes, and I am sure we have all received the very sad news of the passing away of a dedicated minister of justice, in his own way, the very dedicated member of the Bar, who is the lead counsel in one of the cases that we have to hear. He was particularly representing Alex Tamba Brima. And he is none other than Mr. Michael Terence Terry. The news caused a lot of shock yesterday, and we think you would all agree with me it is a very sad and great loss for this Court and for the proceedings which we are carrying on. And I would like in these particularly sad circumstances to invite the Court, the entire Court, to rise and to honour and respect him in a minute of silence.

Thank you. This said, the Court will be coming out with -- will be issuing a communiqué statement on this death in due course, and we are charging the Registrar to take care of that aspect of it so that the communiqué comes out in due time -- in due course. Thank you.

MR. VINCENT:

Your Honour.

MR. PRESIDENT:

Thank you.

Where is the third witness who was -- whose cross-examination is not quite concluded, is he around the Court?

MR. WALKER:

He is, Your Honour.

MR. PRESIDENT:

He is?

MR. WALKER:

I can have him brought.

MR. PRESIDENT:

The Chamber wishes to announce that the objections raised by counsel for the Defence in relation to this particular matter have been rejected and that the reasoned decision will be issued in due course on the issues that have been so raised. We shall rise for a couple of minutes to allow the witness to come in so that Mr. Williams can wrap up his cross-examination of him and then we can take re-examination. The Court will rise, please.

(Court recessed from 1013 to 1020H)

MR. PRESIDENT:

Yes, Mr. Williams.

1 MR. WILLIAMS:

2 Yes, My Lord.

3 MR. PRESIDENT:

4 You may proceed with the rest of the cross-examination that you had to pursue with this witness. And
5 the witness is reminded that he is still on his oath.

6 MR. WILLIAMS:

7 My Lord, before the break on Friday I believe there were two issues before Your Lordships. One,
8 whether I could tender or could confront this witness with an inconsistent statement or interview note
9 that, I mean, he made to the Prosecution. And the other was in relation to the objection we took, My
10 Lord. The ruling, I believe, is connected to the application -- the objection we took pursuant to Section
11 66 and -- Rule 66 and 89. I just want your direction as to how we proceed about the inconsistent
12 statement because I had actually provided Your Lordships with the authority.

13 MR. PRESIDENT:

14 We have -- we have taken note of the authority. We have anticipated the strength of all the
15 parameters or the arguments raised and the law that we have come out with this decision to overrule
16 all the objections. You can go on with your cross-examination.

17 MR. WILLIAMS:

18 Can I tender --

19 MR. PRESIDENT:

20 You can go on with your cross-examination. We will listen to you, you know, and you can go on with
21 your cross-examination.

22 BY MR. WILLIAMS:

23 My Lord, I believe I am really not clear, My Lord. Even the Prosecution was not opposed to my
24 tendering that statement, so I really want to know if the ruling was in relation to that or to the other
25 objections.

26 JUDGE BOUTET:

27 I am not sure either what you mean by -- There is a particular process to be followed when you are
28 trying to cross-examine the witness as to a previous inconsistent statement. If this is what you are
29 intending to do, please proceed in accordance with the normal process.

30 MR. WILLIAMS:

31 As My Lord pleases.

32 JUDGE THOMPSON:

33 (*overlapping microphones*) of course, the Chamber is not saying that you are not entitled to impeach
34 the credibility of this witness on grounds of previous inconsistent statement. I remember the last time
35 when you sought leave to tender what you indicated was the statement that this witness had
36 previously made, I wanted to know whether sufficient legal foundation had been laid for you to
37 proceed along those lines. And I think it would help the Chamber if you were to go through the

1 various legal steps with a view to laying the kind of foundation that the law requires as a basis for your
2 projected cross-examination on the alleged inconsistency. And, of course, I am sure that when you
3 reach a point at which you intend to tender what is purported to be the written statement of this
4 witness, then the presiding -- the learned Presiding Judge will give the necessary directions. But my
5 understanding is that you are free now to proceed with your cross-examination in the process in which
6 you laid the foundation.

7 MR. WILLIAMS:

8 As My Lord pleases.

9 WITNESS TF2-176

10 CROSS-EXAMINATION (*continued*)

11 BY MR. WILLIAMS:

12 Q. Mr. Witness, you said when I cross-examined you on the last occasion that you made a statement to
13 the Prosecution on -- I mean, some time this year. You said you spoke and they took down what you
14 said, is that correct?

15 A. Yes.

16 Q. You also stated that during the course of this month you spoke with the Prosecution on two
17 occasions, is that correct?

18 A. I don't understand.

19 Q. That the Prosecution also spoke with you twice this month. During the course of this month they
20 spoke with you twice, is that correct? I'm sorry.

21 A. I don't understand what you are saying now.

22 Q. Did you talk with anybody from the Office of the Prosecutor?

23 MR. PRESIDENT:

24 Look at (*inaudible*) Counsel, he is asking you a question (*inaudible*) follow him -- follow him.

25 BY MR. WILLIAMS:

26 Q. Yes, excuse me, could you turn to this direction, please. Could you tell the Court whether you spoke
27 with the Prosecutor's office during the course of this month, this June. Did you talk with them?

28 A. (*No interpretation*)

29 JUDGE BOUTET:

30 What was that?

31 MR. PRESIDENT:

32 Mr. Williams, please ask the question again, please.

33 BY MR. WILLIAMS:

34 Q. Yes, I mean, did you speak with anybody from the Office of the Prosecution during the course of this
35 month?

36 A. I don't understand this question.

37

1 MR. PRESIDENT:

2 My – you know –

3 THE WITNESS:

4 *(No interpretation)*

5 MR. PRESIDENT:

6 Listen, listen, Office of the Prosecution, what translation are they giving him? He may not understand
7 the term “Office of the Prosecution”. Just try to break it down, have your patience. I don't know what
8 they are translating to him Office of the Prosecution, he mightn't understand that.

9 BY MR. WILLIAMS:

10 Q. I mean, did you talk --

11 JUDGE THOMPSON:

12 Perhaps, with respect -- perhaps you might want to try investigator or something like that.

13 MR. WILLIAMS:

14 Well, I will take the cue, My Lord.

15 JUDGE THOMPSON:

16 Yes, I mean, I am intrigued myself, but perhaps you might want to try --

17 BY MR. WILLIAMS:

18 Q. All right, let me ask you this, did you speak with any lawyer from the office of – no, the Prosecutor
19 during the course of this month?

20 THE WITNESS:

21 This question I don't understand, My Lord.

22 MR. WILLIAMS:

23 He is trying to be evasive, My Lord.

24 JUDGE THOMPSON:

25 I will take the – I will take the answer.

26 MR. WILLIAMS:

27 That he doesn't understand, My Lord?

28 JUDGE THOMPSON:

29 Well, I will record it.

30 MR. PRESIDENT:

31 Did you talk to any lawyer in the course of this month? This month, did you talk to any lawyer, or
32 police, whoever, did you?

33 THE WITNESS:

34 Not -- no, sir.

35 BY MR. WILLIAMS:

36 Q. Let me ask you this: did you -- during the course of this month, did you retract or change what you
37 had said to lawyers at the Office of the Prosecutor during your first interview with them? Did you

1 change or retract what you had said to them on a previous occasion about this particular case?

2 A. Yes.

3 MR. PRESIDENT:

4 Look, don't wait for me to ask you to answer questions. Face the Court. Face, face the Court. Don't
5 wait for any Judge here to ask you to answer a question. You should answer questions. I know you
6 may not understand some of them, but the question is: you had made a statement before, did you
7 change that statement?

8 THE WITNESS:

9 No, sir.

10 BY MR. WILLIAMS:

11 Q. So, you did not. Let me be specific now. On the 14th of June this year, did you speak with any
12 lawyer attached to the Prosecutor's office? On the 14th of June this year, did you speak with any
13 lawyer attached to the Office of the Prosecutor?

14 A. I don't understand the question.

15 MR. CARUSO:

16 Your Honour, excuse me --

17 MR. PRESIDENT:

18 Yes, Mr. Caruso.

19 MR. CARUSO:

20 Perhaps I can help. It seems that the process here, in deference to Mr. Williams, is being somewhat
21 reversed. Perhaps it would help if the particular question to which he wishes the answer to, which he
22 believes he has a prior inconsistent statement, could first be presented to the witness to make a
23 determination as to whether or not it is inconsistent, that is to say, the factual question that he wishes
24 to ask. If, indeed, there is no inconsistency, then this process need go no further; if there is then, in
25 fact, we can address the secondary issues.

26 JUDGE THOMPSON:

27 But with the greatest respect to learned counsel for the Prosecution, the legal foundation has to be
28 laid, and I think that is the process; it is not reversing it. The Bench has to, in fact, examine whether
29 sufficient legal foundation has been led before he seeks to establish whatever alleged inconsistency
30 he is claiming, and so, first of all, if we do not know whether this particular witness made a statement
31 to anyone, how does that work out? It is rather a legal conundrum for me.

32 MR. CARUSO:

33 Perhaps I can help, Your Honour, I --

34 MR. WILLIAMS:

35 My Lord, in a brief reply. My Lord, I have conduct of my case, My Lord. In as much as I would have a
36 lot of respect for what the Prosecution is saying, My Lord, I cannot change my style to suit, I mean, his
37 wishes, My Lord. I have conduct of my defence.

1 MR. PRESIDENT:

2 All right, you can go ahead, please.

3 MR. WILLIAMS:

4 As My Lord pleases.

5 BY MR. WILLIAMS:

6 Q. So on the 14th June this year, did you talk to any lawyer attached to the Office of the Prosecutor? It
7 is a very simple question, Mr. Witness.

8 MR. ANTHONY:

9 Your Honour, I wonder if I may approach the witness. I wonder if I may be permitted to approach the
10 witness on behalf of the Victim and Witness Support Section? He may be encountering some other
11 problem that we are not aware of. I may certainly be able to clarify some issues with him.

12 MR. PRESIDENT:

13 *(Overlapping microphones)* we should take this -- just hang on.

14

15 On the 14th of June -- is it this year?

16 MR. WILLIAMS:

17 Yes, My Lord.

18 MR. PRESIDENT:

19 Did anybody talk to you? Did anybody talk to you on the 14th of June this year? Did anybody talk to
20 you about this case on the 14th of June this year?

21 JUDGE BOUTET:

22 Did you hear the question?

23 THE ENGLISH INTERPRETER:

24 My Lord, the witness is complaining that he did not get the question because he is not getting
25 translation.

26 JUDGE BOUTET:

27 Can somebody check his earphone to see if it works?

28 MR. ANTHONY:

29 Can we have the *Krio* translation, please?

30 THE WITNESS:

31 Yes, yes.

32 MR. PRESIDENT:

33 Mr. Williams --

34 MR. WILLIAMS:

35 Yes, My Lord.

36 MR. PRESIDENT:

37 -- take care of your baby.

1 MR. WILLIAMS:

2 As My Lord pleases.

3

4 Do I take it that the answer to that question is yes, My Lord?

5 MR. PRESIDENT:

6 Yes, you know, ask the question again, you know.

7 BY MR. WILLIAMS:

8 Q. Mr. Witness, did you speak with any lawyer attached to the Office of the Prosecutor on the 14th of
9 June this year?

10 MR. PRESIDENT:

11 Mr. Williams, that is long -- ask him whether the question I asked him. Did you talk to anybody -- did
12 you talk to anybody on the 14th of June?

13 MR. WILLIAMS:

14 As My Lord pleases.

15 MR. PRESIDENT:

16 You can progress, you know, from there.

17 BY MR. WILLIAMS:

18 Q. Did you speak with anybody in relation to this case during the course of this month?

19 A. Yes.

20 Q. And how many times?

21 A. Two times.

22 Q. And on those two occasions did you retract or change anything you had said to the Prosecution on
23 the first occasion you spoke with them?

24 A. I did not change it.

25 Q. All right, let me come to specifics now. When you first spoke with the -- the Prosecution did you name
26 -- mention names to them of those that were present when the first Accused, Mr. Hinga Norman,
27 addressed the crowd at Koribundu?

28 A. You doubled the question for me, give it to me one --

29 Q. During the first interview you had with the Office of the Prosecution did you mention names of people
30 that were present when the first Accused addressed a gathering at Koribundu?

31 A. (*overlapping microphones*) anybody except the one who tied me.

32 Q. (*overlapping microphones*) the first Accused. I am not talking about what transpired at Sembehun, I'm
33 not talking about that. I am talking about the meeting at the court *barray* at Koribundu. Did you
34 mention names to them of people that were present?

35 A. No.

36 Q. You did not mention names to them? Thank you. And on the 14th of June when you spoke with -- let
37 me put this to you: I am suggesting to you that you actually mentioned some names of people that

1 were present at that meeting. Yes, I am putting it to you that you actually mentioned names of people
2 that you said were present at that meeting at the court *barray* at Koribundu.

3 A. Yes.

4 Q. Sorry?

5 A. I don't understand the question.

6 MR. PRESIDENT:

7 Let's not take things as simply as that. This is --

8 MR. WILLIAMS:

9 My Lord --

10 MR. PRESIDENT:

11 We have to be very patient and I don't want any comments from around the court, you know,
12 suggesting any -- this difficult -- this witness may well have -- he may well have difficulties. I say he
13 may well have difficulties in understanding.

14 MR. WILLIAMS:

15 Yes, My Lord, that's why --

16 MR. PRESIDENT:

17 That could be understandable, you know, having regard to his status. I think all we need is some
18 patience, you know.

19 MR. WILLIAMS:

20 (*overlapping microphones*) of that, My Lord. Yes, I will repeat the question.

21 MR. PRESIDENT:

22 Yes.

23 JUDGE BOUTET:

24 Well, may I suggest you ask more simple questions. I mean, your questions for a witness that seem
25 to have difficulties are difficult to answer.

26 MR. WILLIAMS:

27 Sorry, My Lord?

28 JUDGE BOUTET:

29 I said ask more simple questions.

30 MR. WILLIAMS:

31 My Lord --

32 JUDGE BOUTET:

33 He has admitted to you that he has made a statement, ask him questions about the statement and
34 quote from the statement if need be.

35 MR. WILLIAMS:

36 My Lord, that is exactly what I'm doing.

37

1 JUDGE BOUTET:

2 Well, it's not what you are doing because you walk around the statement, but you are not talking
3 about the statement.

4 BY MR. WILLIAMS:

5 Q. The question is this: when you spoke -- when you made the statement to the Prosecution, did you
6 mention names of people that were present?

7 JUDGE BOUTET:

8 Maybe he did not make a statement to the Prosecution, maybe he made a statement to the police.

9 MR. WILLIAMS:

10 My Lord, it is stated that he made -- he spoke to the Prosecutor -- people at the Prosecutor's office
11 took him down.

12 JUDGE BOUTET:

13 You keep repeating office of Prosecutor, maybe he does not understand what you mean by that. Ask
14 more simple -- did he talk to the police, did he talk to an investigator? Maybe this is what he will
15 understand.

16 BY MR. WILLIAMS:

17 Q. When you made your first statement to the police -- well, when you made your first statement, whom
18 did you speak with?

19 A. I spoke to my lawyer.

20 Q. *(overlapping microphones)* not so?

21 A. *(No translation)*

22 Q. Okay, thank you very much.

23 A. I don't know any office, all I know is my lawyer.

24 Q. Did you name or did you mention names to them of people who you said you saw at the meeting the
25 first Accused addressed at Koribundu?

26 A. Only the Pa who addressed the meeting, I called his name.

27 Q. *(overlapping microphones)* correct?

28 A. Yes, because he's the only one I know; the others, I don't know them.

29 Q. Yes, I am putting it to you that when you spoke with lawyers attached to the Office of the Prosecutor
30 on the 14th of June 2004, you actually -- what you did was to tell them that certain people were not
31 present at that meeting, certain people who you had mentioned were present. When you spoke with
32 them on the 14th you said these people were not as a matter of fact present at that meeting.

33 JUDGE THOMPSON:

34 Learned counsel --

35 MR. WILLIAMS:

36 Yes, My Lord.

37

1 JUDGE THOMPSON:

2 -- are you suggesting that he changed his story?

3 MR. WILLIAMS:

4 Yes, My Lord.

5 JUDGE THOMPSON:

6 Thank you.

7 BY MR. WILLIAMS:

8 Q. Could you answer the question, please?

9 A. Not if your question is a double barrel. I do not understand.

10 Q. The question is this, that when you spoke with lawyers attached to the Office of the Prosecution on
11 the 14th June this year, you told them that certain people who you had said were present at the
12 meeting the first Accused had or held at Koribundu were not as a matter of fact -- they were not as a
13 matter of fact present at that meeting. So you changed your story or some bits of your story.

14 A. I did not change my statement.

15 MR. WILLIAMS:

16 My Lord, I wish to tender the interview note/statement of the Accused (sic) made on the 14th of June
17 2004.

18 MR. CARUSO:

19 Your Honour, we would object to that, and, if I may, may I explain or record -- our objection for the
20 record?

21 MR. PRESIDENT:

22 Yes.

23 MR. CARUSO:

24 Your Honour, I have no objection to the attempted impeachment of a witness's statement while he is
25 on the stand by prior inconsistent statements, that process is well-known to this Bench and to lawyers
26 in all systems as a whole. The difficulty here is that at this point, at least as far as I understand this
27 record, there is no statement from this stand as to a fact that is relevant taken under oath in this case.
28 The first step in this process -- and it is not a question of Mr. Williams' style, it is a question of the law
29 -- the first thing that must exist is a statement, that statement must be confirmed. That is to say, if
30 there is a question relative to a person at the meeting this witness makes a statement on the stand
31 that such a person was there, then if, in fact, Mr. Williams is in possession of a prior statement which
32 is truly inconsistent with the statement made from the stand, he then lays the foundation for that and
33 credits that statement.

34

35 And finally, assuming that can be done, as His Honour has mentioned, then the witness is confronted
36 with it and allowed the opportunity to explain it. After which, in international law as I understand the
37 authorities, that statement can then be admitted although there are some cases that say it cannot.

1 But we have not gotten that far yet because we don't know what this witness would say right now
2 under oath before this Court as to who was at that meeting. If indeed that does not correspond with a
3 prior statement, then we finish the process. If it does, then there is nothing to impeach. But the first
4 question has to be asked first. That is our statement, Your Honour.

5 MR. WILLIAMS:

6 My Lord, I find it very strange for counsel to refer to authorities *in vacuum*, My Lord. He has not
7 produced any authorities, he has not made any reference, just to say that is international practice.
8 We are guided by rules and procedure and my learned friend did refer to the specific rule in
9 international criminal practice, My Lord, or case law, My Lord.

10

11 My Lord, I have referred Your Lordship to *Phipson on Evidence* and that is what I am going by.

12 MR. PRESIDENT:

13 The point is --

14 JUDGE THOMPSON:

15 But, indeed, the rules governing prior inconsistent statement originally have come from the national
16 systems, particularly the common law system, and *Phipson*, of course, is an authority in respect of
17 English law and also Commonwealth law. But you say that you've referred us to authorities, I need to
18 be satisfied as to what the practice of international criminal tribunals on the issue is because
19 international tribunals do not import lock, stock and barrel the national principles and concepts without
20 modification. And particularly because one of the major principles guiding international tribunals in
21 terms of their adjudicatory process is the principle of extensive admissibility of evidence. So, we
22 proceed on a different level and, of course, this system which we are operating tries to synthesize the
23 common law system and the civil law system. But it would be more useful to the Court if you tell us
24 what the practice is in the context of the evolving jurisprudence, for example, our sister tribunals; the
25 ICTY, the ICTR, and not expect this Court to be guided just by *Phipson*.

26 MR. WILLIAMS:

27 My Lord, I would refer Your Lordships to the case of the vs. *Clement Kayishema and Obed*
28 *Ruzindana*.

29 JUDGE THOMPSON:

30 *(Inaudible)*

31 MR. WILLIAMS:

32 My Lord, it is a decision dated 17th April 1997, titled, "Order on the probative value of alleged
33 contradiction between the oral and written statements of a witness during examination."

34 JUDGE THOMPSON:

35 Yes.

36 MR. WILLIAMS:

37 My Lord --

1 JUDGE THOMPSON:

2 So what principle in that case is instructive for our purposes here?

3 MR. WILLIAMS:

4 I will read a portion of the – I will just read a portion of the ruling to Your Lordships.

5 JUDGE THOMPSON:

6 Yes.

7 MR. WILLIAMS:

8 It says, “Whenever a counsel for the Prosecution or Defence perceives that there is a contradiction
9 between the written and oral statement of a witness, Counsels for the Parties should only raise such a
10 question formally by putting to the witness the exact portion in issue to enable the witness to explain
11 the discrepancy, inconsistency or contradictions, if any, before the Tribunal.”

12 JUDGE THOMPSON:

13 Just a minute. Isn't that what the learned Prosecution counsel is saying?

14 MR. WILLIAMS:

15 My Lord, that is exactly --

16 JUDGE THOMPSON:

17 What you have done?

18 MR. WILLIAMS:

19 -- what I have done.

20 JUDGE THOMPSON:

21 Okay.

22 MR. WILLIAMS:

23 To bring out inconsistency in his previous statement.

24 JUDGE THOMPSON:

25 Continue with the passage.

26 MR. WILLIAMS:

27 Yes. “Counsels should then mark the relevant portion of such a written statement and formally exhibit
28 it so as to form part of the record of the Tribunal.” My Lord, what I am trying to do now is to make
29 that, the statement of the 14th, part of Your Lordships' records. (*Inaudible*) inconsistency they have
30 denied that it did not make – yes. He denied certain things that he said in his written statement.

31 JUDGE THOMPSON:

32 Well --

33 JUDGE BOUTET:

34 Where does it say that?

35 MR. WILLIAMS:

36 I'm sorry, My Lord?

37

1 JUDGE BOUTET:

2 You say that, but he doesn't deny it.

3 MR. WILLIAMS:

4 He did not say that, My Lord.

5 JUDGE BOUTET:

6 No, you are suggesting that, but I haven't heard the witness to say that he denies what he said. You
7 are talking of a statement of the 14th of June. I don't know what you are talking about.

8 MR. WILLIAMS:

9 My Lord, his first written statement, My Lord –

10 JUDGE BOUTET:

11 How do you know it's a written statement, have you established that with the witness?

12 MR. WILLIAMS:

13 No, he didn't say that, My Lord.

14 JUDGE BOUTET:

15 No, no, he said a statement that's all, you are saying written.

16 MR. WILLIAMS:

17 He said, "I spoke and they took me down." Even last week, My Lord, he said, "After – after I've
18 spoken with them I signed or appended my signature." Yes, My Lord, that is on record, My Lord.

19 JUDGE THOMPSON:

20 Let us settle the legal principles, because I am very much interested in settling the law which we apply
21 to this particular situation. Let me say straight away that as a general principle, my own appreciation
22 of the law is that -- governing prior inconsistent statements in international criminal trials is that they
23 are generally admissible in order to impeach the credibility of witnesses. Would that be the position --
24 the Prosecution, would you agree with that statement of the law, that they are generally, generally
25 admissible in order to impeach the credibility of witnesses?

26 MR. CARUSO:

27 I would agree with the word generally, Your Honour.

28 JUDGE THOMPSON:

29 Thank you.

30 MR. CARUSO:

31 And may I add two cases to your list?

32 JUDGE THOMPSON:

33 Well, before you go on, let me just tell you how I understand the law, and the second aspect is in the
34 context of the evolving jurisprudence of ICTY and ICTR. There would seem to be two rival schools of
35 thought on the issue. One, that prior inconsistent statements can only be used in the proceedings to
36 challenge the credibility of witnesses where they cannot be admitted into evidence as exhibits. That is
37 one school of thought. The second school of thought is that they may be received in evidence and

1 used as exhibits, but that the tribunal must treat the matter as one of the probative value of such
2 inconsistent statements and not one of admissibility.

3 MR. WILLIAMS:

4 The latter is the true reflection.

5 JUDGE THOMPSON:

6 In other words, that is the predominant position?

7 MR. WILLIAMS:

8 Yes, yes, My Lord.

9 JUDGE THOMPSON:

10 In other words, that they can be in fact introduced into evidence as exhibits?

11 MR. WILLIAMS:

12 Yes, My Lord. And there is specifically what *Kayishema* says, My Lord.

13 JUDGE THOMPSON:

14 Yes. But isn't it also in this process the proper procedure to get the witness to admit the inconsistency
15 and which eventually becomes part of the record to be used probably subsequently in addressing the
16 Court. Could that be one aspect of it?

17 MR. WILLIAMS:

18 No, I didn't get what Your Lordship just said.

19 JUDGE THOMPSON:

20 In other words, you put the -- let me put it this way if I follow the procedure rightly. That you first of all
21 establish that the witness did, as alleged, make a statement.

22 MR. WILLIAMS:

23 Yes, My Lord.

24 JUDGE THOMPSON:

25 Right. Two, that the witness was in fact and in law the maker of the alleged statement. Would you
26 agree that is the procedure? You first of all have to establish that the witness did make a statement.

27 MR. WILLIAMS:

28 Yes, quite, My Lord.

29 JUDGE THOMPSON:

30 And then, secondly, that the witness was in fact and in law the author or maker of the statement or
31 adopted the statement as his?

32 MR. WILLIAMS:

33 My Lord, I believe the second ambit, My Lord --

34 MR. PRESIDENT:

35 You see, it all touches on laying the foundation -- laying the foundation, you know, before we come to
36 the issue -- to address the issue of admissibility. You see, because the statement -- we are not even
37 sure at what stage, you know, we are right now. It is alleged he made this statement. He has been

1 asked certain questions, you know, on the statement, but there is no -- there is no proof here, you
2 know, that that statement was really made by him. You have been saying that he said he signed the
3 statement. I mean, it is important that the statement which you are referring to and where you want to
4 point out certain inconsistencies was, in fact, the statement, you know, made by the witness because
5 you can't contradict him on a statement that is, in fact, you know, not his or that was retained without
6 necessarily -- without the normal input which he was supposed to have had in it as a witness. That is
7 where the problem, you know, is. You remember you came from a very long way talking of
8 investigator's notes and what have you. If you can, you know, go from there and see how you can lay
9 the foundation. I mean, you are not yet quite there, you know, to seek to tender, you know, that
10 statement. You are not quite just there, Mr. Williams.

11 MR. MARGAI:

12 May I come in here, My Lords, if it pleases you, since we are all ministers of justice and I do share a
13 relation between the Bench and the Bar so we can make progress?

14 MR. PRESIDENT:

15 Go ahead, Mr. Williams (*sic*), you are part of the same team, aren't you -- Mr. Margai, I am sorry.

16 MR. MARGAI:

17 As My Lords please. Thank you.

18 MR. PRESIDENT:

19 Mr. Margai.

20 MR. MARGAI:

21 My Lords, as I understand the issue, we are all of like minds, but maybe we are approaching it from
22 different directions. Now, what has been established here so far is that the witness, consistent with
23 the concerns of the Bench as to dates, has admitted making a statement before June. That is not in
24 controversy at all. He has also admitted making a statement in June, so we now have two
25 statements. And in the first statement my learned friend, Williams, put it to him that apart from Hinga
26 Norman's name that was mentioned, he did mention other names and his reply was that apart from
27 Hinga Norman's name, the only other name he mentioned was the individual who tied him. There is
28 no controversy about that.

29
30 Further, my learned friend, Williams, put to him that, in fact, in the latter statement, which was made in
31 June, he retracted what was allegedly said by him with reference to other names other than Hinga
32 Norman and the individual who tied him. He denied that. Now, at this juncture, it is in my humble
33 opinion the appropriate time for counsel to attempt to tender both statements, the previous and the
34 subsequent statements, to indicate the inconsistencies which, on the authorities cited, would only go
35 to weight. If the witness had admitted in his *viva voce* evidence the inconsistencies mentioned by my
36 learned friend, then the need to tender those statements would not, with respect, I submit, be
37 necessary to tender.

1 JUDGE BOUTET:

2 You say that the witness has admitted making a statement, therefore, this is not disputed. What and
3 which statement are we talking about?

4 MR. MARGAI:

5 We are talking of two statements --

6 JUDGE BOUTET:

7 Yes, I agree with you on that.

8 MR. MARGAI:

9 -- in which we are alleging contradictions.

10 JUDGE BOUTET:

11 Yes, but the witness has said, "Yes, I have made a statement, 14 of June is the last one." What
12 statement -- all he has said is, "I have made a statement of 14 June." You are talking of a statement
13 of the 14 of June, how do we know here at the Court that the statement you are talking about is the
14 same statement that the witness is talking about and the same for the previous statement? I don't
15 know, you are saying a statement, yes, he has admitted making statements. Which statement are we
16 talking about? Is it a statement of 25 pages, one page and a half, three questions? How -- I mean,
17 we need to know the foundation, that's what we mean.

18 MR. MARGAI:

19 Well, if that is Your Lordships' concern, which I appreciate, we could go a step further by seeking Your
20 Lordships' assistance for the Prosecutor, as they did with the statement of June, to produce the
21 previous statements which we will then show to the witness to identify.

22 JUDGE BOUTET:

23 But you see this is where we are getting into a problem. To my knowledge, at least based on the
24 evidence, the witness cannot read and I don't know if these -- Mr. Norman, please.

25 MR. MARGAI:

26 Sir, I apologise.

27 MR. PRESIDENT:

28 Mr. Norman -- Mr. Jabbi -- calling on Mr. Norman's defence team to advise Mr. Norman about court
29 decorum.

30 JUDGE BOUTET:

31 Mr. Norman, you had your occasion to cross-examine the witness yourself and then through your
32 counsel. Your turn is over now, this is now for counsel for the third Accused.

33 THE ACCUSED NORMAN:

34 I apologise, My Lords, but I did not mean to intervene, only that points have arisen --

35 MR. PRESIDENT:

36 No, Mr. Norman, Mr. Norman -- please, Mr. Norman, please, can you take your seat. Please take
37 your seat. As my learned colleague has mentioned, you know, we had all the time for your cross-

1 examination and it's not just that, it is your reaction, you know, to what is going on. You know, you
2 are not supposed to be an activist reaction, you know. We are in a court of law and even if you don't
3 feel too comfortable with what is said, I think my advice is that you should sit quietly and in all serenity
4 and follow the proceedings. This said, I think and I hope that you understand the position of this
5 Tribunal.

6 THE ACCUSED NORMAN:

7 My Lord, that is exactly the point that I don't understand the position of the Tribunal because I feel that
8 Mr. Norman has not been placed before an international tribunal, he is being placed before the
9 Special Court for Sierra Leone and not an international tribunal. This is what all the time has been
10 bugging me.

11 JUDGE BOUTET:

12 So, Mr. Margai, please.

13 MR. MARGAI:

14 Yes, My Lords.

15 JUDGE BOUTET:

16 You were prepared to proceed differently when we were *(overlapping microphones)*

17 MR. MARGAI:

18 Yes, I was addressing the concerns of Your Lordships, but let me say, My Lord, that courts have dealt
19 with people who appear to be more illiterate than the witness who is currently here. And in that
20 regard, we shall take the cue from the President to exercise maximum patience, and we would also
21 expect of the witness to reciprocate so that we can make progress.

22 JUDGE BOUTET:

23 Thank you.

24 MR. MARGAI:

25 My Lord, may I say on the question of the statement which I said should be presented to him for
26 identification, Your Lordship expressed reservation as to his ability, but then nothing attempted,
27 nothing gained.

28 JUDGE BOUTET:

29 Fine.

30 MR. MARGAI:

31 If we were to put -- show him the statement which bears his thumbprint, as indeed he has admitted
32 here, he will be at liberty to say, "Yes, this is my thumbprint, I do recognise it and, therefore, it is my
33 statement."

34 JUDGE BOUTET:

35 Fine.

36 MR. MARGAI:

37 If he goes on not to recognise his thumbprint, then, of course, we shall take another course to address

1 the issue so that progress will be made. But I want to assure Your Lordships --

2 JUDGE BOUTET:

3 I agree with you, I have no problem with witnesses --

4 MR. MARGAI:

5 As My Lord pleases. Thank you very much.

6 JUDGE BOUTET:

7 Thank you.

8 MR. MARGAI:

9 So we shall try the next stage.

10 JUDGE BOUTET:

11 Yes, please, yes.

12 JUDGE THOMPSON:

13 And, may I -- I certainly would like to hear the Prosecution on this because they may be on a different
14 position.

15 MR. CARUSO:

16 We are, Your Honour, and I appreciate the opportunity to make the record in as much as I suspect
17 this kind of thing is going to continue to happen. The fact of the matter is -- and I wish to make it
18 perfectly clear -- there is no question or answer before this witness now which is relevant to these
19 proceedings upon which he can be impeached. If we are concerned with the attendees at a meeting,
20 this witness, in my view, in order to meet the standards under international law and frankly under
21 national law as well for impeachment by prior inconsistent statements, must first make one. That is to
22 say, if he were to be asked who was at this meeting and he says A, B, C, and D, and if under those
23 circumstances the Defence were in possession of a statement that said, "At this meeting there was
24 only A," at that point, and only at that point, a proper foundation could be laid to impeach him relative
25 to that statement that says, "Only A was there." At that point, if they then can lay the foundation i.e.
26 that he did indeed make the statement that he did understanding that it is indeed his prior statement
27 and that it is inconsistent, he is then confronted with that statement and allowed to explain it.
28 Following which, this Court then makes a determination -- and as I said to you two of the three cases
29 that I am aware of agree with the proposition that it is then admitted for whatever weight it has relative
30 to the statement he has made on the stand, which is the only statement that is accepted by this Court.
31 At that point you make that decision. But to do this in another order is not my interference with
32 Mr. Williams' style, it is the fact that at this point there is nothing to impeach. That's my suggestion. I
33 do have cases to back that up and I'm happy to give you those cites at this moment or I will submit
34 them by memorandum, the choice is -- obviously I am at your disposal.

35 MR. MARGAI:

36 My Lords, having heard my learned friend, may I respectfully ask for a few minutes stand-down so
37 that the Defence -- the entire Defence team could hang heads before we take the next step? I am

1 sure Your Lordships know why that request is being made in the interests of justice. Not more than
2 five minutes -- ten.

3 MR. PRESIDENT:

4 The Court will rise for ten minutes.

5 *(Court recessed at 1116H)*

6 *(Pages 1 to 19 by Susan G. Humphries)*

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1 *(Court resumed at 1135H)*

2 MR. PRESIDENT:

3 The session resumes and -- yes, Mr. Williams. You are on your feet.

4 MR. WILLIAMS:

5 Yes, My Lord. My Lord, I will no longer seek to have the statement tendered, My Lord.

6 JUDGE BOUTET:

7 Have you completed your cross-examination?

8 MR. WILLIAMS:

9 One final question.

10 BY MR. WILLIAMS:

11 Q. Mr. Witness, I'm putting it to you that you are not a truthful person?

12 A. I am saying the truth.

13 JUDGE BOUTET:

14 Thank you. Re-examination.

15 MS. WIAFE:

16 No, sir -- No, Your Honours.

17 MR. PRESIDENT:

18 The Prosecution has no re-examination?

19 MS. WIAFE:

20 No, Your Honour.

21 MR. PRESIDENT:

22 Alright, Okay. And the witness is momentarily discharged and can you call in the fourth witness,
23 please? And to do this, of course, the Court will rise for another five minutes. The Court rises,
24 please.

25 *(Court recessed from 1140 to 1153H)*

26 MR. PRESIDENT:

27 The session resumes. Can you swear in the witness, please?

28 *(Declaration made by Witness TF2-012 in Mende)*

29 MR. PRESIDENT:

30 Yes, Prosecution?

31 MS. WIAFE:

32 The Prosecution calls TF2-012.

33 MR. PRESIDENT:

34 TF2-

35 MS. WIAFE:

36 012.

37

1 MR. PRESIDENT:

2 012. Yes, please. You can proceed.

3 WITNESS TF2-012

4 first having been duly sworn,

5 testified as follows:

6 EXAMINATION-IN-CHIEF

7 BY MS. WIAFE:

8 Q. Sir, can you tell us how old you are?

9 A. I am 40 -- 56 years old.

10 Q. Are you married?

11 A. I have wives.

12 Q. How many wives do you have?

13 A. I have three wives.

14 Q. Do you have children?

15 A. I have children.

16 Q. How many children do you have?

17 A. I have seven children.

18 Q. Where were you born, sir?

19 MR. PRESIDENT:

20 You will take it slowly, please. Slowly. Yes, go ahead.

21 THE WITNESS:

22 I was born at Gawlawunde (*phonetic*).

23 BY MS. WIAFE:

24 Q. Which Chiefdom is Gawlawunde?

25 A. Wunde Chiefdom.

26 Q. Which District is Wunde Chiefdom?

27 A. Bo District.

28 Q. Have you ever attended school?

29 A. No.

30 Q. What languages do you speak?

31 A. I speak *Mende*, but I speak *Krio* as well, a little bit.

32 Q. Where do you currently reside?

33 A. I stay at Gawlawunde.

34 Q. How long have you lived in Gawlawunde?

35 A. I left Gawlawunde for 13 years.

36 Q. And when did you leave Gawlawunde for these 13 years?

37 A. I was in Kono; I was in Tongo also.

- 1 Q. When was this?
- 2 A. It's a long time now.
- 3 Q. Do you remember the year?
- 4 A. From 1970 to 1999 -- from 1970 to 1980/81. Then I return -- I returned to my home in Gawlawunde.
- 5 Q. What is your occupation, sir?
- 6 A. I am a farmer.
- 7 Q. Apart from farming do you do anything else?
- 8 A. I am a Chief of that village.
- 9 Q. Which village are you talking about?
- 10 A. The XXXXXXXXXXXX.
- 11 Q. Do you recall the time when the soldiers took over power from President Kabbah in 1997?
- 12 MR. PRESIDENT:
- 13 I'm not very comfortable with that question. Can you reframe it and put it properly, please? Put it
- 14 properly, the way it should normally be put, or get along with it, you know, after some other questions,
- 15 please.
- 16 BY MS. WIAFE:
- 17 Q. Where were you when the soldiers took over power from President Kabbah in 1997?
- 18 A. On that day I was at Futapejeh (*phonetic*).
- 19 Q. Which District is Futapejeh?
- 20 A. In Pujehun District.
- 21 Q. What were you doing at Futapejeh?
- 22 A. One of our chiefs died there so we went there to celebrate the funeral.
- 23 Q. And did you stay in Futapejeh?
- 24 A. I went to Futapejeh but I did not sleep there.
- 25 Q. How long did you stay in Futapejeh?
- 26 A. As soon as we heard the news about the overthrow of President Kabbah, we all left the place.
- 27 Q. Where did you go?
- 28 A. I returned to my village.
- 29 Q. When you returned to your village did anything happen?
- 30 A. When I returned to my village I was there for four months.
- 31 Q. Did anything happen during these four months that you were in your village?
- 32 A. Within the four months going to the fifth months, soldiers went there together with rebels and they
- 33 started burning houses and some of us went to the villages.
- 34 Q. Where did the soldiers come from?
- 35 A. The soldiers were from Koribundu because that was the place they had been.
- 36 Q. Do you know how long the soldiers had been in Koribundu?
- 37 A. From 1991 when the war started the soldiers were at Koribundu.

- 1 Q. Now, after the four months where did you go?
- 2 A. After the four months they went to our village and burnt it down, so we left and went to the bush. We
3 were there in the bush.
- 4 Q. And how far was the bush from your village?
- 5 A. We left the village and went about three miles off and we prepared a place there in the bush and there
6 we settled down.
- 7 Q. Now, during the time that you were in the bush, did you ever leave the bush?
- 8 A. We were in the bush for five months. It was in the fifth month that we left the bush.
- 9 Q. And why did you leave the bush?
- 10 A. What made us to leave the bush? On a Friday about the hour of prayer, we heard gunshot, a very
11 loud gunshot. It was a very loud gunshot in the direction of Koribundu. The gunshot continued up to
12 the evening, right in the evening. That day we were not able to do the evening prayer. We were there
13 sitting down for the whole day. We sat down there.
- 14 The next day, on a Saturday, we were there in the town. We heard nothing. In the next day, on the
15 Sunday, just at sunrise, we saw a man called XXXXXXXX. He went and called us from the bush with
16 shouting. We were there in the bush until he reached us and he told us to come out of the bush; let
17 us go to the town; that the *Kamajors* have come and they have captured Koribundu from the rebels --
18 from the soldiers and that is the gunshot you -- the *Kamajors* have come to Koribundu, and now
19 Koribundu is in the hands of the *Kamajors*. So, we left the bush on the same day; we went straight to
20 Koribundu on that Sunday. We were many. We went through the bush paths -- we went through the
21 bush path up to Lago (*phonetic*). We passed Lago, and we reached Koribundu.
- 22 Q. How did you know that the gunshots were coming from Koribundu?
- 23 A. That place is my home. All around is my hometown. If even here were my home, if something is
24 happening here I will know. If it is happening in the other direction I will know, and in all that area
25 soldiers were stationed only in Koribundu. That is what made me to conclude that the gunshots --
- 26 Q. And how far was the bush from Koribundu?
- 27 A. From my home to Koribundu? From my home to Koribundu is about seven miles and up to the three
28 miles into the bush makes it a total of ten miles.
- 29 Q. You said that XXXXXXXXXXXX informed you that the *Kamajors* have taken over Koribundu on Sunday;
30 is that correct?
- 31 A. Yes.
- 32 Q. And that you decided to go to Koribundu that Sunday?
- 33 A. We went to Koribundu that same day.
- 34 Q. Why did you go to Koribundu?
- 35 A. I went there to see for myself. From the time they overthrew Tejan Kabbah up to that moment is
36 about nine years -- nine months I have not been to Koribundu
- 37 Q. Now when you got to Koribundu did anything happen?

- 1 A. Yes.
- 2 Q. What happened in Koribundu that day?
- 3 A. The day I got to Koribundu on Sunday, I went to the town but there was confusion in the town. I saw
4 houses on fire, those already burnt, smoke coming from the others. All property packed along the
5 roads. That is what I saw there.
- 6 Q. Do you know who set those houses on fire?
- 7 A. I did not see anybody putting houses on fire, but I met *Kamajors* in the town
- 8 Q. Did you speak to any *Kamajor* that day?
- 9 A. We used to greet them and then passed our way.
- 10 Q. Did you stay in Koribundu that Sunday?
- 11 A. I did not sleep in Koribundu, but I went right round the town and saw what happened and then I
12 returned.
- 13 Q. Apart from houses that were on fire, did you see anything else?
- 14 A. Except the things that I saw packed along the roads and the others that I saw with the *Kamajors*.
- 15 Q. So from Koribundu where did you go?
- 16 A. I went back to my town, my hometown.
- 17 Q. You have said you saw *Kamajors* in Koribundu that day. Can you tell us how the *Kamajors* look like?
- 18 A. Yes.
- 19 Q. How do the *kamajors* look like?
- 20 A. *Kamajors*, they have dresses with beads, with *jujus*, with horns on it. They had harsh with them --
21 harsh on their heads. That is what really makes you to know that these are *Kamajors*.
- 22 Q. Apart from that Sunday when you saw the *Kamajors*, had you ever seen the *Kamajors* before?
- 23 A. Many, many, many.
- 24 Q. When was the first time you saw *Kamajors*?
- 25 A. I first saw the *Kamajor* in 1996.
- 26 Q. Where did you see the *Kamajor*?
- 27 A. The first *Kamajors* -- I saw the first *Kamajors* at Koribundu.
- 28 Q. What were they doing in Koribundu at that time?
- 29 A. They were working together with the soldiers to push away the rebels.
- 30 Q. And did the *Kamajors* stay in Koribundu after the time you saw them?
- 31 A. From the time I saw them, I passed them on my way to my village.
- 32 Q. Now, did the *Kamajors* live Koribundu at any time?
- 33 A. *Kamajors* were all the time in Koribundu.
- 34 Q. Do you know how the *Kamajors* came to be in Koribundu?
- 35 A. How did they come to Koribundu when? At what time? How did they -- how they drove away the
36 soldiers?
- 37

1 THE MENDE INTERPRETER:

2 Can you go over the question, please? Can you go over the question?

3 JUDGE BOUTET:

4 Please, in the translation booth, you are to repeat what the Prosecutor -- if the witness is repeating,
5 you don't have to ask additional question.

6 BY MS. WIAFE:

7 Q. Why did the *Kamajors* have to go to Koribundu during the first time that you saw them?

8 A. The first time I saw them -- the time when the *Kamajors* were at Koribundu when I saw them there --
9 the time when Chief Norman was staying there, that was the time I saw *Kamajors* at Telu.

10 Q. What were the *Kamajors* doing at Telu at that time?

11 A. The time when Chief Norman was made as a regent chief in Telu, that was the time when he brought
12 the *Kamajors* there and they were together. That was the time I started seeing *Kamajors*.

13 Q. Now, when you say Chief Norman brought *Kamajors* there, what do you mean?

14 A. That -- the time when he was made as a regent chief, that was the time he brought *Kamajors* there.
15 In fact, even the white people have their own fighters and that was the time when he brought
16 *Kamajors* there.

17 Q. And who were the people who joined the *Kamajors* at that time?

18 A. They were many people. In fact, most of them were Jaiama-Bongor -- most of them were from
19 Jaiama-Bongor, and that time we were at Koribundu.

20 Q. Did you ever join the *Kamajors*?

21 A. Yes, I joined the *Kamajors* but by then the war had ended.

22 Q. Can you tell us when you joined the *Kamajors*?

23 A. Yes.

24 Q. When did you join the *Kamajors*?

25 A. I am a chief in the village I come from. The time when the war ended, after the soldiers were driven
26 away from there, so they say that every chief should join the *Kamajors*.

27 Q. Who said that every chief should join the *Kamajors*?

28 A. The Chief *Kamajors* that were there. If you don't join them, you will not work together as one.

29 Q. Now, you've -- you've mentioned that Hinga Norman brought the *Kamajors* and that he was a regent
30 chief of Jaiama-Bongor.

31 A. Yes.

32 Q. Apart from being a regent chief, do you know anything else about Hinga Norman?

33 A. Yes.

34 Q. Tell us what you know about Hinga Norman?

35 A. What I know about Chief Norman, the first time when the first election was done, the SLPP won and
36 took over power. So after all the arrangements, they took him over to us and announced to us that he
37 was a defence minister -- he was Deputy Minister of Defence. So they introduced him to us in Bo,

- 1 and we saw him do his work. That is what I know about him again.
- 2 Q. Have you ever seen Hinga Norman before?
- 3 A. Yes.
- 4 Q. Where did you see Hinga Norman?
- 5 A. I saw Chief Norman at Telu and Koribundu.
- 6 Q. And when you saw him in Koribundu what was he doing?
- 7 A. At that time he was still a chief and used to visit Koribundu.
- 8 Q. Did you ever see Hinga Norman when he was deputy minister?
- 9 A. Yes.
- 10 Q. Where did you see Hinga Norman?
- 11 A. I saw him at Koribundu again.
- 12 Q. Now, after the *Kamajors* had attacked *Koribundu*, did anything happen in Koribundu?
- 13 A. Yes.
- 14 Q. Tell us what happened in Koribundu?
- 15 A. When the *Kamajors* took over Koribundu, the man who was leading them was called Joe Tamidey.
- 16 We met him in Koribundu as leader of the *Kamajors*. One day after the attack and the takeover of
- 17 Koribundu, after three weeks -- after three weeks, we got a letter from our section chief, Chief Bana
- 18 Smith. He told us that Joe Tamidey wrote to them, that our minister was going to Koribundu, Chief
- 19 Norman. The letter was circulated amongst us. We got that letter on a Friday. On Tuesday we all
- 20 met in Koribundu; we all met there. We've reached -- we got there at 10 o' clock in the day. We were
- 21 there -- we were there, about five chiefdoms: XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX,. We were
- 22 the people that met there.
- 23 Q. Now you have said that the head of your section, XXXXX XXXXX, told you that Hinga Norman was
- 24 going to Koribundu, what section are you talking about?
- 25 A. I said our party chiefdom. The place is called Kowe (*phonetic*).
- 26 Q. Which section again?
- 27 A. Lower Kagoi.
- 28 A. Now, you also spoke about a letter being circulated. How did you get to know about the contents of
- 29 that letter?
- 30 A. The party chief called us, all the town chiefs, he called us together and he informed us.
- 31 Q. Now, when you got to Koribundu what happened?
- 32 A. When we got to Koribundu, all the chiefdoms met there. The *Kamajors* called us to a *barray*-- to the
- 33 court *barray*. We were there in the court *barray* Joe Tamidey told us that Pa Norman was coming and
- 34 that is the reason why we were meeting there.
- 35 Q. Now, after you were told by Joe Tamidey that Hinga Norman was coming, what happened?
- 36 A. We were there in the *barray* when the man himself came with so many people. It was a very big
- 37 crowd with him, surrounded by the *Kamajors*. They entered the *barray*. We all stood up. When we

- 1 stood
- 2 up --
- 3 Q. Now, what happened in the *barray* when Hinga Norman got there?
- 4 A. When the Pa entered, we were asked to stand up and we prayed. After that, Joe Tamidey introduced
- 5 the Pa to us, that the person we were expecting has come and that is -- this is the person. He stood
- 6 up and shook hands with us. We also returned greetings.
- 7 Q. Now, did anybody speak at this meeting after Joe Tamidey had spoken?
- 8 A. Yes, and that is the person, the very man who went there, Chief Norman.
- 9 Q. What did Hinga Norman say at that meeting?
- 10 A. When he stood up, he greeted us and thanked everybody. After that he told us that Koribundu, that,
- 11 "This Joe Tamidey that you are seeing, I sent him to take over Koribundu. Koribunduo, I told you that
- 12 the time we fought the rebels has ended so soldiers should return. Let them move away from
- 13 Koribundu. Let them go back to the barracks. You did not accept; they were with you here going
- 14 round burning houses -- villages together with the rebels, the time when they took over. So they were
- 15 with you and they went out to burn other homes. I told Joe Tamidey to come and remove this town. If
- 16 you see today the work that I gave Joe Tamidey to do in this town, you are lucky that he did not do it
- 17 because what I told him is that he should leave only three houses standing: The first is the mosque
- 18 with the *barray* and the storey building there by the junction. If you came back and saw many houses
- 19 in the town, well, Joe Tamidey helped you. You're going about talking about nonsense. Don't blame
- 20 any *Kamajor*, blame me. I sent them because what I told you to do you didn't carry it out. Don't
- 21 blame them but you blame yourselves." That is what he said that day, that he was going to Kenema.
- 22 That is what I heard him say, and people scattered. Some people went about their business and so
- 23 we all scattered.
- 24 Q. Did anybody else speak after Hinga Norman had spoken?
- 25 A. After that speech, no other person was able to talk to us because there was a lot of noise around.
- 26 Some people left the *barray*. *Kamajors* were dancing, because really, it hurt some people, so they left
- 27 the *barray*. That is what I saw that day.
- 28 Q. What did you do after Hinga Norman had spoken?
- 29 A. After his speech, we left the *barray*, we went back to our towns. I returned to our town that day.
- 30 Q. Now, did you report what had happened to anybody after this meeting?
- 31 A. Yes.
- 32 Q. And who did you report this to?
- 33 A. I reported it to the chief I told you, Chief XXXXXXXXX. So that day, he did not come, but I went back,
- 34 I explained to him what happened at the meeting
- 35 Q. Now, after this meeting in Koribundu did anything else happen?
- 36 A. Yes.
- 37 Q. Tell us what happened?

1 A. After that, after two weeks back (*sic*) another meeting was called. That day I was coming to Bo but
2 *Kamajors* were at the gate. When you go there, you need to take a pass before going. When we got
3 there, they told us to come and go to the *barray* because Chief Norman was there. We went to the
4 *barray*, they explained to us that five chiefdoms, the same chiefdoms that met there the other day:
5 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX Then he said, "All of you that your leader is Joe Tamidey.
6 This Joe Tamidey, you have to welcome and give him something." That thing was not really given to
7 us, but when we returned to our villages, we were there. They went to Chief Smith that every
8 chiefdom should give three bags of rice and Palmoil. We gave that once. We did not give any other.
9 That is what I know.

10 Q. Now, who spoke at this meeting?

11 A. Joe Tamidey -- at that meeting that they introduce Joe Tamidey, it was the minister that introduced
12 Joe Tamidey to us, Mr. Norman.

13 Q. And did Mr. Norman speak at this meeting?

14 A. I said he was the one that introduced Joe Tamidey to us and told us that we are -- Joe Tamidey is
15 now our head.

16 Q. Did Norman say anything else?

17 A. On that day I didn't even enter the *barray*. When he said that, I just departed for Bo.

18 Q. And how long after the first meeting did this second meeting take place?

19 A. I have just said two weeks.

20 Q. Now, if you saw Hinga Norman today would you be able to recognise him?

21 A. If I see him, I will know him.

22 Q. Is Hinga Norman in the courtroom today?

23 A. In this Court today? Yes, he is.

24 Q. Can you point at Hinga Norman to us?

25 A. Look at him there with the white hat on.

26 MR. PRESIDENT:

27 Mr. Norman, maybe you should stop wearing a white hat. It's fast becoming you trademark.

28 Yes, go ahead, please.

29 MS. WIAFE:

30 Your Honours, I would like the record to reflect that the witness has pointed to Hinga Norman.

31 JUDGE BOUTET:

32 It would be reflected on the record

33 MS. WIAFE:

34 Thank you very much.

35 THE WITNESS:

36 You have to raise your head, because when you are talking, I can't get you clearly.

37

1 MR. PRESIDENT:

2 Your voice, your voice.

3 THE ENGLISH INTERPRETER:

4 That is what he is saying; "You raise your voice because I can't get you clearly."

5 MS. WIAFE:

6 Okay. Your Honour, can I have a moment, please?

7 MR. PRESIDENT:

8 Go ahead. Please, put off your microphone.

9 BY MS. WIAFE:

10 Q. Now, do you remember the time when the *Kamajors* attacked Koribundu when the soldiers were
11 there?

12 A. Yes.

13 Q. What time was this?

14 A. Friday, on Friday. It was on Friday.

15 Q. Do you remember the year?

16 A. That was the year that the junta were -- the juntas were in the country.

17 Q. But do you remember the time?

18 A. Are you talking about the hour that they started shooting?

19 Q. The year?

20 A. No, well, I'm not learned so I didn't record it anywhere

21 MS. WIAFE:

22 Okay. I have no further question for this witness, Your Honours.

23 JUDGE BOUTET:

24 Thank you. So we will adjourn at this time and we will start with the cross-examination after we
25 reconvene at three o'clock. So we will start with the first Accused, second Accused and third
26 Accused, in that order, with Mr. Norman either starting or whoever, depending on his option if he
27 wants to start first or he would last. Whatsoever, but just to remind you that you have to cover
28 different areas, not to repeat the same. Thank you. We will reconvene at three o'clock.

29 MR. PRESIDENT:

30 And as you can understand, we still have some time to one o'clock which is lunch break time, but if
31 we started with Mr. Norman or with Dr. Jabbi, I'm afraid, they mightn't finish in 20 minutes. That is
32 why we are adjourning to three o'clock. And the Court stand adjourned to three o'clock.

33 *(Court recessed at 1240H)*

34 *(Pages 20 to 29 by Momodou Jallow)*

35

36

37

1 *(Court resumed at 1505H)*

2 MR. PRESIDENT:

3 Yes, cross-examination. The Court is in session. Are you starting? Is it Mr. Norman who is starting
4 or Mr. Hall?

5 MR. HALL:

6 Mr. Norman has requested that I go first.

7 MR. PRESIDENT:

8 Mr. Norman will go first?

9 MR. HALL:

10 He's requested that I go first.

11 MR. PRESIDENT:

12 Okay, right, okay.

13

14 Yes, may we have your full names, please.

15 MR. HALL:

16 First name John, J-O-H-N.

17 MR. PRESIDENT:

18 John.

19 MR. HALL:

20 Middle name, Wesley, W-E-S-L-E-Y; Hall, H-A-L-L.

21 MR. PRESIDENT:

22 H-A-L-L. Right. Yes, Mr. Hall, you can continue with your cross-examination.

23

WITNESS TF2-012

24

CROSS-EXAMINATION

25 BY MR. HALL:

26 Q. Sir, you are a chief in your own right?

27 THE ENGLISH INTERPRETER:

28 The interpreter says he is sorry he is not getting the mike -- he is not getting the speaker clearly.

29 MR. PRESIDENT:

30 Mr. Hall, you are advised to go -- to talk very, very slowly --

31 MR. HALL:

32 Okay.

33 MR. PRESIDENT:

34 So that you can communicate, you know, properly with him.

35 MR. HALL:

36 Sorry.

37

1 BY MR. HALL:

2 Q. Mr. Witness, were you a chief yourself?

3 A. If -- am I chief -- are you asking if I am a chief? I do not understand properly.

4 THE ENGLISH INTERPRETER:

5 Can you ask the witness to raise the volume of his set, please?

6 MR. HALL:

7 Sorry, Your Honour, mine was on the wrong channel. I have changed it.

8 JUDGE BOUTET:

9 I have the same problem.

10 MR. HALL:

11 *(Microphone not activated)*

12 THE WITNESS:

13 I'm not getting you properly. You are coming too far. I can hear you but not properly.

14 JUDGE BOUTET:

15 What is the problem?

16 THE ENGLISH INTERPRETER:

17 I think he is suggesting that you check his volume.

18 JUDGE BOUTET:

19 Is it high or too low?

20 THE ENGLISH INTERPRETER:

21 He says it's too low. He is not hearing it properly.

22 JUDGE BOUTET:

23 Check his mike to increase the volume on his --

24 THE WITNESS:

25 Yes, I can hear you now, yes.

26 JUDGE BOUTET:

27 Okay.

28 BY MR. HALL:

29 Q. Mr. Witness, were you a chief?

30 A. Yes, I was town chief. Yes, I am town chief.

31 Q. And were there chiefs above you?

32 A. Can you say it again?

33 Q. Were there chiefs above you in the hierarchy?

34 A. Many of them.

35 Q. Were you also a *Kamajor*?

36 A. Yes, I became a *Kamajor*.

37 Q. And when did you become a *Kamajor*?

- 1 A. When Joe Tamidey came to Koribundu.
- 2 Q. And that was after the army had come?
- 3 A. I didn't hear that one, can you say it again.
- 4 Q. Was that after the army had come to Koribundu, the soldiers?
- 5 A. Are you asking for the time that the soldiers were in Koribundu?
- 6 Q. How many different times were the soldiers in Koribundu?
- 7 A. Apart from that day that there was war in this country, the soldiers were in Koribundu until the
- 8 *Kamajors* drove them from Koribundu.
- 9 Q. And after the -- after Koribundu was taken by the *Kamajors*, did the soldiers come back?
- 10 A. No, no soldier returned there.
- 11 Q. So when Koribundu was taken back by the *Kamajors* it did not fall again?
- 12 A. I don't understand that.
- 13 Q. Did Koribundu fall back and forth in this fighting more than one time; the soldiers, then the *Kamajor*,
- 14 then the soldiers, then the *Kamajor*, then the soldiers, then the *Kamajors*?
- 15 A. No, I didn't see that one.
- 16 Q. But you didn't live in Koribundu.
- 17 A. No, I'm not -- I didn't settle in Koribundu but I used to go there.
- 18 Q. How often would you go to Koribundu?
- 19 A. Me?
- 20 Q. Yes.
- 21 A. Whenever we want to reach Bo we must pass through Koribundu, so it's like always when we want to
- 22 go to Bo -- Koribundu is our way to Bo.
- 23 Q. And how often would that be; once a month?
- 24 A. I beg your pardon.
- 25 Q. How often would that be; would you go once a month, once every two months?
- 26 A. Me? Yes, I'm an elderly person. Whenever I'm ready to go out I'll go. And when I want to do that I
- 27 go through Koribundu at all times.
- 28 Q. And how often would you go through Koribundu?
- 29 A. Are you asking how often do I go to Koribundu?
- 30 Q. I'm asking you how many times you would go there, say, in a year's time, 12, 20 times?
- 31 A. In a year, no, I can't count it. I'm not able to count it.
- 32 Q. When the soldiers were there would you go there?
- 33 A. Yes. Yes, I did go there.
- 34 Q. Were the soldiers using Koribundu as a base?
- 35 A. When the rebel war started in Sierra Leone the soldiers went to Koribundu and that's where they
- 36 settled since then.
- 37 Q. And they stayed how long?

- 1 A. No, I'm not learned so I can't estimate the period because I didn't record it.
- 2 Q. When you got there and you saw the buildings burning, the soldiers had left, correct?
- 3 A. When I went to Koribundu are you asking if I saw the houses on fire? Is that what you are asking me?
- 4 Q. Yes, the soldiers were gone and the houses were on fire.
- 5 A. Yes.
- 6 Q. And you don't know whether the soldiers set fire to the houses before they left?
- 7 A. No.
- 8 Q. Were you one of the *Kamajors* when Chief Norman came to Koribundu?
- 9 A. The first time when Chief Norman went to Koribundu when the houses were burnt, is that what you
10 are asking?
- 11 Q. When Chief Norman came for this meeting you talked about, were you by then a member of the
12 *Kamajors*?
- 13 A. By then I was not a *Kamajor*.
- 14 Q. How much after did you become one?
- 15 A. Mr. Interpreter, I'm not getting you clearly, speak louder, please.
16
- 17 Can you ask the question again, please.
- 18 Q. How long after Chief Norman came did you become a *Kamajor* yourself?
- 19 A. When they said elections were coming nearer, that we should vote, that's when we started joining the
20 *Kamajor* movement.
- 21 Q. And the *Kamajor* movement took back your town from the soldiers?
- 22 A. Our own town?
- 23 Q. Yes.
- 24 A. Soldiers didn't settle in our own village, they only went there, burnt houses and they returned. They
25 didn't settle there. My own town, they didn't settle there.
- 26 Q. Soldiers went to your own town and burnt houses?
- 27 A. Yes. Yes, that happened.
- 28 Q. What else did the soldiers do that you know of?
- 29 A. My own town?
- 30 Q. Yes, your own town, what you know directly?
- 31 A. They took our properties from us. They looted our properties.
- 32 Q. And that was all before Chief Norman got there?
- 33 A. I didn't understand that.
- 34 Q. The soldiers' burning and looting happened before Chief Norman came?
- 35 A. Yes. When that happened we didn't even know where Chief Norman was.
- 36 Q. Did it stop after Chief Norman came?
- 37 A. Are you asking if they did that before Chief Norman came?

1 Q. Did it stop when Chief Norman came and you joined the *Kamajors*?

2 A. I'm not -- I can't understand what you are saying. By the way you are saying it, that's why I can't
3 answer it. You're making it difficult for me.

4 Q. Okay, I will ask it another way then. Whatever the soldiers were doing stopped, and nobody else was
5 doing that after the *Kamajors* came and liberated Koribundu?

6 A. Are you asking if *Kamajors* did that to me? Are you asking if they did that to me?

7 Q. I'm asking, did it stop when the *Kamajors* came?

8 A. I can't understand. I do not understand.

9 THE ACCUSED NORMAN:

10 It's the interpretation that, you know, he is not getting. The witness can be cooperative, but the
11 interpretation is not correct, and I will say this, My Lord.

12 MR. PRESIDENT:

13 Thank you.

14 MR. HALL:

15 Thank you.

16 JUDGE THOMPSON:

17 *(Microphone not activated)*.

18 THE ENGLISH INTERPRETER:

19 Can we take the question again, please?

20 JUDGE THOMPSON:

21 And Mr. Hall, in bits, in bits, please.

22 MR. PRESIDENT:

23 *(Microphone not activated)*.

24 JUDGE THOMPSON:

25 No, when it is long it creates confusion. Mr. Hall, go in bits, please.

26 MR. HALL:

27 I can go in very short bits and sometimes get accused of that.

28 THE WITNESS:

29 Okay, I can hear what the Judges are saying but when you are speaking I can't get you clearly.

30 BY MR. HALL:

31 Q. The burning happened with the soldiers, correct?

32 A. Where?

33 Q. Koribundu.

34 A. No, I didn't tell you that.

35 JUDGE BOUTET:

36 Mr. Hall, he was talking of his own village.

37

1 MR. HALL:

2 Thank you.

3 BY MR. HALL:

4 Q. Your own village. Did the soldiers burn your own village?

5 A. Yes. Yes, that's what I said.

6 Q. And after the *Kamajors* came, none of that happened any more?

7 A. Are you saying when the *Kamajors* came no houses were burnt?

8 Q. Correct.

9 A. Is that what you are asking me?

10 Q. Yes, I am.

11 A. No.

12 Q. So houses were burnt after the *Kamajors* got there?

13 A. No *Kamajor* went to my village. When they took over Koribundu, they only stayed in Koribundu
14 because it's a big town. No, I can't speak about *Kamajors* relating to my home town.

15 Q. When you joined the *Kamajor*, you organised fighters yourself?

16 A. Say that again.

17 Q. When you became a *Kamajor*, did you also help organise fighters?

18 A. When I joined the *Kamajor* movement there was no fighting. It was election period.

19 Q. When you were in Koribundu on that Sunday and you saw the burning houses, you had no idea when
20 the burning started and ended?

21 A. When I went to Koribundu -- are you asking when I went to Koribundu on Sunday if I saw houses
22 being burnt?

23 Q. They were just burning at that time; you didn't see anybody set a fire?

24 A. I didn't see anybody touching fire to any of the houses. I didn't see anybody with fire touching fire to
25 the houses, but I saw burnt houses.

26 Q. And the *Kamajors* were there before Chief Norman arrived, correct?

27 THE ENGLISH INTERPRETER:

28 Can you say that again, please?

29 BY MR. HALL:

30 Q. The *Kamajors* were already there before Chief Norman came into town.

31 A. Are you asking if the *Kamajors* in town, in Koribundu town before Chief Norman came?

32 Q. Yes, I am.

33 A. Yes, many of them.

34 Q. And when Chief Norman left, the *Kamajors* stayed in control of Koribundu?

35 A. Say that again.

36 Q. When Chief Norman left Koribundu that day, did *Kamajors* stay in control of that area?

37 A. Are you asking if when Mr. Norman left Koribundu if the *Kamajors* were still in charge? If that is it,

1 then yes.

2 Q. And they stayed that way after that?

3 MR. PRESIDENT:

4 He says, yes. He said yes. Go ahead.

5 BY MR. HALL:

6 Q. How did the investigators find you to talk to you?

7 A. I am getting what the speaker is saying but I can't understand, I can't get the -- I can't understand the
8 interpreter clearly. So it's making it difficult for me. I can't get the interpreter clearly.

9 THE ACCUSED NORMAN:

10 My Lord, he is complaining that he is not hearing the dialect that is being spoken to him. He says he
11 can hear the English, only that he doesn't understand, but he does not hear the *Mende* clearly as he
12 hears the English on the microphone. So that there is some -- something wrong with the -- with the
13 connection to *Mende*.

14 JUDGE BOUTET:

15 We had this problem this morning too with the earphones. Mr. Translator -- Interpreter, is your
16 volume --

17 THE ENGLISH INTERPRETER:

18 Yes, our volumes are right high up. We want him to check the --

19 JUDGE BOUTET:

20 Let's try it again.

21 BY MR. HALL:

22 Q. Okay, Mr. Witness, how did the investigators come to find you?

23 THE ENGLISH INTERPRETER:

24 Yes, please, if you could hold on, we just want to check the microphones -- the headsets again.

25

26 We are asking the technician to use the headsets to see if he can hear properly. Can you put the --
27 put the headsets --

28 JUDGE BOUTET:

29 Mr. Technician, can you get the headset? Can you speak to see if he -- now it works? Modern
30 techniques.

31 BY MR. HALL:

32 Q. Okay, Mr. Witness, how did the investigators come to find you; because you are a chief?

33 A. TRC summoned us and they told our chief that we should come together. And they said whatever
34 anybody knows about the war, you should talk about, and if you were there you saw it all, you should
35 say so.

36 Q. When you were met, did somebody write down what you were saying in English?

37 A. Yes.

- 1 Q. And you do not read English or write English yourself?
- 2 A. No.
- 3 Q. And when they were done with the statement you put a thumbprint on the statement at their request?
- 4 A. Yes.
- 5 Q. Prior to that day when you put the thumbprint, did you talk to somebody else beside the investigations
- 6 about what happened?
- 7 A. Which person are you asking about? Except that I am here now, which person are you talking about?
- 8 Q. I'm trying to find out if there was anybody other than the investigators you talked to. For instance, the
- 9 Truth and Reconciliation Commission, did they talk to you?
- 10 A. I think I have said that before that they summoned us and whatever you said they would write on
- 11 paper and we'd sign.
- 12 Q. In a statement dated 19th of January 2003, it said you met at a hotel in Bo. Did you live in Bo that
- 13 day?
- 14 A. Yes.
- 15 Q. How long prior to that did you move to Bo?
- 16 A. No, I only came to Bo and returned.
- 17 Q. Who brought you to Bo?
- 18 A. I came by vehicle. A vehicle brought me to Bo.
- 19 Q. Who drove you?
- 20 A. It's a passenger vehicle. There are passenger vehicles on the way, I could board one and came to
- 21 Bo.
- 22 Q. Your personal vehicle or somebody else's?
- 23 A. It's owned by some people.
- 24 Q. Friends of yours or one you hired?
- 25 A. No, I didn't charter it -- I didn't hire it, I paid.
- 26 Q. If you gave the statement in Bo, you had to know to come to Bo. How did you know to come to Bo to
- 27 give the statement?
- 28 A. When they summoned us they told us. They told us.
- 29 Q. Who told you?
- 30 A. The ones that went.
- 31 Q. Who were they?
- 32 A. They are people.
- 33 Q. What people?
- 34 MS. WIAFE:
- 35 Objection, Your Honour. This may -- this answer --
- 36 MR. PRESIDENT:
- 37 Can you sit down, please?

1 MS. WIAFE:

2 The witness's answer may violate witness protection.

3 JUDGE BOUTET:

4 I must say it's not obvious to me. How would it violate it? You better give me some explanation.

5 JUDGE THOMPSON:

6 Yes, I was going to ask the same question my learned brother has asked. Why "may"? Why should
7 this Chamber, the Judges, be invited to speculate?

8 MS. WIAFE:

9 Well, Your Honour, if it is the case that whoever brought the witness is a protected witness, then that
10 would violate the witness protection order.

11 JUDGE THOMPSON:

12 Again, hypothetical.

13 JUDGE BOUTET:

14 I thought the question was, they told us -- the answer was, "They told us to go to Bo." The question
15 was, "Who is that?" "Who told you that?" So I have difficulty to follow what you are objecting to, and
16 "they". Was that your question essentially, Mr. Hall?

17 MR. HALL:

18 Yes, Your Honour. And also, I would add, he has identified himself as a chief in his town and how he
19 got to Bo. Who brought him goes to bias, potential ability to get together with others to make a story.

20 JUDGE BOUTET:

21 No, I do not -- I don't want to get into this at this particular moment, I'm just trying to see if this is a
22 permissible question given the protection of witnesses' identities. Yes, what you've stated that he has
23 testified that he was a chief and he was asked to go to Bo, that's in evidence. And, in fact, it's in
24 evidence
25 in chief.

26 JUDGE THOMPSON:

27 Yes, and --

28 MR. HALL:

29 Let me rephrase the question.

30 JUDGE THOMPSON:

31 Just a minute.

32

33 And, as far as I am concerned, it is permissible question under cross-examination and if they are
34 objecting on the grounds that it would violate the witness protection measures, then the burden is on
35 them and that's what we are trying to establish. So, perhaps you should let them make their case
36 before we ask you to continue.

37 MR. HALL:

1 Right.

2 MS. WIAFE:

3 Your Honour, we are concerned that names may be mentioned here that may lead to the names of
4 protected witness being revealed.

5 JUDGE THOMPSON:

6 So, if I get you rightly, you are not sure?

7 MS. WIAFE:

8 Well, we are taking the precaution.

9 JUDGE THOMPSON:

10 You are being pre-emptive.

11 MS. WIAFE:

12 Yeah.

13 JUDGE THOMPSON:

14 In a situation in which -- well, how does the Court perceive -- the Judges who are supposed to control
15 and to be very much sensitive to the wide -- the latitude usually given under cross-examination? And
16 if you are asking us to impose some limitation on the traditional latitude given to cross-examination,
17 then it would seem to me that you should make a convincing case. And the word "may", in my own
18 judgment, does not seem to suggest a convincing case.

19 MS. WIAFE:

20 Your Honour, in light of the fact that names may be mentioned, we would suggest, as we did
21 previously, that we go perhaps into closed session.

22 MR. PRESIDENT:

23 Right, we rise for a few minutes. And Mr. Wesley -- Mr. Hall, I'm sorry, we'll go into a closed session
24 very, very briefly.

25 MR. HALL:

26 I would have no objection to the Prosecutor talking to the witness, finding out the names and then
27 giving the witness a cross-reference.

28 MR. PRESIDENT:

29 Let us -- let us -- let us go to Chambers -- let us --

30 MR. HALL:

31 As Your Honour pleases.

32 MR. PRESIDENT:

33 Yes. All right, the Court will rise for a few minutes and we'll resume very shortly.

34 *(Court recessed at 1542H)*

35 *(At this point in the proceedings a portion of the transcript [pages 41 to 44] was extracted and sealed*
36 *under a separate cover as the session was heard in camera)*

37 *(Pages 30 to 39 by Gifty C. Harding)*

1

1 MR. PRESIDENT:

2 We are now in an open session. Please, can you open the screens.

3 JUDGE BOUTET:

4 Please, open the screen and make sure that the public speakers --

5 JUDGE BOUTET:

6 Can we be reassured that there is sound in the public gallery for now? We have opened the curtains.

7 Yes. They have sound? Okay.

8 MR. PRESIDENT:

9 Yes, I think we can go on.

10 BY MR. HALL:

11 Q. Mr. Witness, on the day you put your thumbprint on the paper, do you remember who was there for
12 the Prosecution?

13 A. No.

14 Q. Look around you, is there anybody in the room today that was there?

15 A. None of them is here. Amongst all of you here, I have not seen any of them.

16 Q. In the first statement we have, dated January 19th, 2003, the name of the investigators is Adwoa
17 Wiafe and Tamba Abeke. You don't recognise any of those people? And also, sir, you talked to
18 Adwoa Wiafe three separate times, according to my notes?

19 A. Well, I don't know them.

20 Q. You don't recognise them?

21 A. The ones that went? I don't know them.

22 JUDGE BOUTET:

23 There is no sound in the public gallery.

24 BY MR. HALL:

25 Q. You talked to Ms. Wiafe on May 28th and --

26 JUDGE BOUTET:

27 Mr. Hall, just a moment, we are trying to settle this problem. They can't hear in the public gallery. Do
28 we have a technician to look after this problem?

29

30 Yes, wait a few seconds, we'll see if they can solve this. Can you hear now in the public gallery?

31 Yes, thank you.

32 BY MR. HALL:

33 Q. You talked, according to my notes, to the same investigator January 19th, 2003; May 28th, 2004;
34 June 4th, 2004, just two weeks ago -- a little over two weeks ago. You don't remember those people?

35 A. These people who go to talk to us, we cannot remember all of them. I have told you I don't know
36 them.

37 Q. You used the word "us", who was us? How many were present when you were being talked to?

- 1 A. That's how I speak my own *Mende*. Well, I mean myself when they talked to me.
- 2 Q. You were alone with the investigators, then?
- 3 A. Yes.
- 4 Q. Were there other people waiting to talk to them -- don't give us names -- but other people to talk to
5 them as well?
- 6 A. No. When I was taken I was the only person there with them.
- 7 Q. Were there others waiting outside?
- 8 A. No, nobody was outside waiting for me.
- 9 Q. Was there anyone outside waiting for them?
- 10 A. Yes, there was one driver waiting in the car.
- 11 Q. And did that driver take you anywhere?
- 12 A. You mean after that, after that meeting? No.
- 13 Q. What about before the meeting?
- 14 A. No.
- 15 Q. So the driver was their driver, not for you?
- 16 A. No, I don't have a car.
- 17 Q. The statement that was written out, you couldn't read it if it was given to you because it's in English,
18 correct?
- 19 A. No.
- 20 Q. Did they read it back to you before you put your thumbprint on it?
- 21 A. Before I signed it, you mean?
- 22 Q. Yes.
- 23 A. Yes.
- 24 Q. And it was read to you in your native language, *Mende*?
- 25 A. Yes, in my native language, that's the only language I can understand.
- 26 Q. Do you understand *Krio*?
- 27 A. Yes, I can hear it but in bits. I cannot understand it properly.
- 28 Q. But you spoke in *Mende*?
- 29 A. Yes, I spoke in *Mende*.
- 30 Q. The statement dated January 19th, 2003 said it was taken in *Krio*. If that's what it says that's not true,
31 correct?
- 32 A. I started in *Krio* but because I couldn't speak it properly, they told me to talk *Mende*.
- 33 Q. Why did they start in *Krio*; is that what they spoke to you?
- 34 A. Yes, at first they started in *Krio*, but I couldn't understand it properly, that's when they told me to start
35 speaking in *Mende*.
- 36 Q. When they talked to you again, the second time we have notes of is November 29th, 2003. Was that
37 also in Bo?

- 1 A. Yes.
- 2 Q. Did you come to Bo by public transport that day?
- 3 A. Yes.
- 4 Q. How did you know that they wanted to talk to you to come to Bo?
- 5 A. Yes, I received the letter from the police. I received the letter from the police, from Koribundu police.
- 6 Q. Did the same thing happen in January 2003 on how you found out they needed to talk to you?
- 7 A. Yes.
- 8 Q. And when you talked to them on May 25th, 2004, which is just 28 days ago, approximately -- 27 days
9 ago, did you get a letter from them then?
- 10 A. When are you talking about? I didn't understand that question.
- 11 Q. May 25th, 2004, 27 days ago you talked to Mr. Caruso, the man to your left. Did you meet with him in
12 Bo or did you meet him here in Freetown?
- 13 A. Oh, no, they went for me from my house -- in my house.
- 14 Q. So they met you out from Bo?
- 15 A. They met me in my village and they said that the statement that I had given, "that's why we are here".
- 16 Q. They were preparing you for this trial; is that correct?
- 17 A. What kind of preparation are you talking about?
- 18 Q. Go over your statement to ask if you have anything to add, see if you remember anything else since
19 they first talked to you; any of those things?
- 20 A. That's a difficult question for me.
- 21 Q. What did you talk about on May 25th?
- 22 MR. PRESIDENT:
- 23 Is it 24th or 25th?
- 24 MR. HALL:
- 25 Twenty-fifth.
- 26 MR. PRESIDENT:
- 27 Twenty-fifth.
- 28 THE WITNESS:
- 29 When they went for me?
- 30 BY MR. HALL:
- 31 Q. They came to your hometown May 25th.
- 32 A. But what I had -- "What we had told you about, now is the time that's why we are here to take you
33 along."
- 34 Q. Take you along, could you clarify what you mean by that?
- 35 A. That "We've come for you to go to Freetown to go and testify, that the court has opened."
- 36 Q. At that time did you come to Freetown?
- 37 A. Yes.

1 Q. So you have been in Freetown since May 25th or 26th of 2004, waiting to testify?

2 A. May? Yes.

3 Q. And after the trial is over are you going home or are you going somewhere else?

4 MS. WIAFE:

5 Objection, Your Honour, I don't know the relevance of this.

6 MR. PRESIDENT:

7 Sustained, sustained.

8 BY MR. HALL:

9 Q. In exchange for your testimony, has the Prosecution offered you anything, like relocation, money to
10 live on, subsistence while you are here in Freetown; anything like that?

11 A. To speak the truth that's why I swore on the Qu'ran. I can't -- yes, because when I die I'm going to
12 face God for judgment, so nobody could give me money to say the truth. And besides, they didn't say
13 anything to me that if I testify they would compensate me. What I saw is what I'm going to talk about.

14 Q. So when the trial is over you are going home?

15 A. Yes.

16 Q. Is your family here with you while you are in Freetown for the last month?

17 MS. WIAFE:

18 Objection, Your Honour, I don't know the relevance of this question.

19 JUDGE BOUTET:

20 Your objection has to do with relevance only? If that is your objection, it is not maintained.

21 BY MR. HALL:

22 Q. Sir, is your family here with you?

23 A. Which family are you talking about?

24 Q. Any part of your family. Are you here alone or do you have family members with you?

25 A. No, I'm not here with my family. I am here alone.

26 Q. Have you been taken home during the last month to visit with family? Has your family come to visit
27 you in the last month?

28 A. All my family members know is I am alive and I'm not dead, so they are kind of comfortable with that,
29 so they are not bothered.

30 Q. Do you know what the Truth and Reconciliation Commission is and what it did?

31 A. What they did? I'm not learned, how do I know that?

32 Q. Did you talk to anybody who said they were from the Truth and Reconciliation Commission?

33 A. Yes.

34 Q. How long before you met with the Prosecutors did you meet with them?

35 A. It was a long time. Me, I'm not learned so I didn't record it. Those who are learned, you know, those
36 are the people who record things on paper, but I am not learned.

37 Q. Did they also take a statement from you in writing or did they just tape record you or videotape you,

1 do you know?

2 A. All that you are saying to me, I do not understand. I do not know whether they did it or not.

3 MR. PRESIDENT:

4 Look, did -- at the TRC, did they take a statement from you? Did they take a statement from you at
5 the TRC?

6 THE WITNESS:

7 Yes.

8 MR. PRESIDENT:

9 He says, yes, they took a statement from him.

10 BY MR. HALL:

11 Q. While you've been gone from your family for the last month, who's been supporting them?

12 A. I am a family man. My brothers are there, and I have other family members. They are all there and I
13 came here. My family I'm sure will take care --

14 Q. When you gave your first statement, you stated that Mr. Fofana was present at that meeting, the first
15 meeting with Mr. Norman.

16 MR. CARUSO:

17 Objection, Your Honour. This is the problem we were discussing this morning.

18 JUDGE BOUTET:

19 Can you elaborate on your objection?

20 MR. CARUSO:

21 Certainly, Your Honour. The fact of the matter is any statements this man made out of court is not
22 relevant unless and until it is conflicting with something he makes -- statement he makes here under
23 oath before this Court. Therefore, the question being asked now has no value before this Court at this
24 time. No appropriate value.

25 JUDGE BOUTET:

26 Mr. Defence Counsel.

27 MR. HALL:

28 Your Honour, on May 25th he gave a statement -- a subsequent statement where he said, "I did not
29 remember Mr. Fofana being there," but he affirmed to them in January 2003 that he was there. That
30 shows an inconsistent memory between these two interviews of the Prosecution. These are
31 statements that they gave us. That is the basis of the question that the witness had a memory
32 change. I want to explore how that memory change came about.

33 JUDGE BOUTET:

34 If this is what you want to show, very well, we'll allow that, but if it is to contradict because the
35 objection is that the witness has not been asked that question and he has not testified as to that and,
36 therefore, you have not established grounds to contradict him. If that's what you intend to do, what
37 you are saying is you want to ask him questions about the differences between his statement in

1 particular on this subject. Go ahead, ask him. For that matter, yes.

2 MR. HALL:

3 And part of our problem is because he cannot read what was written for him, I can't show him his
4 statement and say, "Did you write this?"

5 JUDGE BOUTET:

6 I understand. That's what we were saying this morning.

7 JUDGE THOMPSON:

8 Yeah, and also the point my brother is making, I'd like to add to the fact that what is important is the
9 testimony that he gives in court here for the purpose of the Tribunal. And if there is an attempt to
10 impeach his credibility, he ought to be told where the contradiction is between and what he has said
11 here in court and what is in that statement. I don't know whether that is -- I mean, that would seem to
12 me the proper way to proceed. And cross-examination is perfectly permissible on -- if he has made a
13 statement here, under oath, which contradicts what he has said in his statement, then, of course, this
14 could be put to him.

15 MR. HALL:

16 But, Your Honour, I was in the process of putting statement one to him when the objection came
17 before I could get to him about statement two.

18 JUDGE THOMPSON:

19 Yes, well, I certainly would wait.

20 JUDGE BOUTET:

21 Please proceed, we'll see.

22 *(Pages 45 to 49 by Gifty C. Harding)*

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1 1630H

2 WITNESS TF2-012

3 CROSS-EXAMINATION

4 BY MR. HALL:

5 Q. I re-phrase the question to you, sir. Was Mr. Fofana there or not at that meeting with Chief Norman?

6 A. What I wanted to tell him, first thing, that Fofana you are talking about, I do not know. I do not know
7 anybody called Fofana, Moinina Fofana.

8 Q. On June 4th you also met with the Prosecutors? Today is the 21st, so that would have been 17 days
9 ago.

10 A. Yes.

11 Q. Did you meet with them since then prior to appearing today?

12 A. Yes, I've answered that.

13 Q. And how many times did you meet with them since June 4th?

14 A. Oh, I can't -- I'm not able to answer that question.

15 Q. More than two times?

16 A. I have told you, I am not able to answer that question. Ask me questions concerning what I have said
17 today.

18 MR. PRESIDENT:

19 Don't tell counsel what he should do. Answer the question. It is not for you to tell him what question
20 he should ask you. Listen to him and answer only his questions. If you cannot answer, you say well,
21 you cannot answer, okay? Have you understood?

22 BY MR. HALL:

23 Q. Sir, did you meet with them one time, two times, or more than two times?

24 A. I've told you that I'm not able to answer that question.

25 Q. Is it because it was so many times you can't remember?

26 A. Repeat the question.

27 Q. Is the reason why you can't remember how many times is you have met with them so much you just
28 can't tell the number?

29 A. No, we've not been meeting, so now I can't answer that question that we met at this particular time.

30 Q. So, the original answer would have been no, you didn't meet with them since June 4th, 17 days ago?

31 A. Concerning what we have just spoken about, no, we have not seen each other.

32 Q. But you did you meet with them for other reasons?

33 A. No, we have no reason to meet each other.

34 Q. Back in your hometown, did you talk to other people about what you were going to be testifying to?
35 Do not give us names? Did you talk with other people?

36 A. Which people are you talking about?

37 Q. Anybody in your hometown did you talk to them about what you are going to testify to?

1 A. No.

2 Q. To your knowledge is anybody else from your hometown a witness? And do not give us names.

3 Have you talked to other people who you know to be a witness?

4 A. Apart from me, I don't know about any witness, I only know about myself.

5 Q. Did everybody in your hometown know about what happened?

6 A. The people, those in my village, yes, they know.

7 Q. At this meeting, this first meeting with Chief Norman, how many people were there?

8 A. At the meeting? At the meeting, are you asking how many people were there?

9 Q. Yes, how many were there, 50, 100, 200?

10 A. Five chiefdoms were there, so I can't name any particular people – any particular number. There
11 were five chiefdoms present there. There were many.

12 MR. PRESIDENT:

13 When you say you are many, many, how many? About how many? About how many? There were
14 about how many? Do you know?

15 THE WITNESS:

16 It is more than 100, even more than 400. I have told you that's about five chiefdoms.

17 MR. PRESIDENT:

18 It is not (*microphone not activated*)

19 THE WITNESS:

20 Yes.

21 BY MR. HALL:

22 Q. What language was spoken at this meeting?

23 A. We were speaking *Mende*, but it was being interpreted into *Krio*.

24 Q. Who was doing the interpreting?

25 A. His name is XXXXXXX, he was doing the interpretation.

26 Q. Is he from your town or did he come with the chief?

27 A. No, he didn't come with them, he stays at Koribundu.

28 Q. When the chief ended the meeting the people of Koribundu expressed their thanks to him for driving
29 the soldiers out, isn't that correct?

30 A. I didn't hear that one.

31 Q. You did not hear that happen?

32 A. No, I didn't see that happen.

33 Q. Page 4 of your statement was read back to you, you said that. Do you recall that?

34 A. I've told you I didn't say that.

35 MR. HALL:

36 Can I read, with the leave of the Court, a sentence to him?
37

1 JUDGE BOUTET:

2 Please, please do so.

3 MR. HALL:

4 This is written in English, so, if it is translated wrong I can't -- I can't tell.

5 BY MR. HALL:

6 Q. "Since the *Kamajors* were very powerful and Hinga Norman was regent chief the people of Koribundu
7 said nothing but expressed their thanks." Did you say that to the Prosecutors when they wrote your
8 statement in your presence?

9 A. I didn't say that. I told you that it is the chief that thanked the people, I have told you that. He greeted
10 them and he thanked them, I didn't tell you that the people thanked him.

11 Q. So, it is possible the statement we have has translation difficulties then if his statement is incorrect? It
12 must have been read back to you in *Mende*.

13 A. No, well, at the beginning when you read it that the people -- at the end, when he said people thanked
14 him, if that is what is there then it was not well written.

15 Q. How many houses were the chief -- excuse me, Chief Norman said were to be saved only?

16 A. He spoke about three houses that should be spared.

17 Q. Twice in your statement at page -- the middle of page 2 and in the middle of -- sorry, toward the
18 bottom of page 4 -- excuse me, 3, you say four houses. What is the word for three in *Mende*?

19 A. You mean three in *Mende*? 1, 2, 3, that's what they call three.

20 Q. Do you use sign language to say three?

21 A. I said so, I said so orally. I didn't count it, I said so orally.

22 Q. Your statement says four and it was read back to you as four and you agreed to it in January 2003
23 and today it's three.

24 A. I didn't say that. I said three houses. I said three houses and I identified the houses.

25 Q. You pointed them out to them or described them?

26 A. Yes, I identified them. I described them and identified them to them.

27 Q. Did you take them and show them?

28 A. No. When I was giving the statement, that's the way I described the houses.

29 MR. HALL:

30 Pass the witness, Your Honour, thank you.

31 JUDGE BOUTET:

32 Thank you.

33 MR. PRESIDENT:

34 Thank you.

35 JUDGE BOUTET:

36 Mr. Norman, do you wish to ask any question?

37

1 THE ACCUSED NORMAN:

2 Could I – I'm sorry, My Lord, I would prefer Dr. Jabbi to go ahead and at the end if there is anything
3 else --

4 JUDGE BOUTET:

5 No, no, what we had agreed is that one of your counsel may ask questions, you may yourself ask
6 questions too.

7 THE ACCUSED NORMAN:

8 Okay then (*microphone not activated*)

9 JUDGE BOUTET:

10 Put on your microphone, please.

11 MR. PRESIDENT:

12 Your microphone, please.

13 WITNESS TF2-012

14 CROSS-EXAMINATION

15 BY THE ACCUSED NORMAN:

16 Q. Mr. Witness.

17 A. Yes

18 Q. There are four -- there are three papers here before me in which you are said to have said something.
19 How many times did you really say something for them to write them down?

20 A. I can't tell you the number, just what you've seen in front of you. I can't even answer that question,
21 I'm not able to answer the question.

22 Q. In that case are you saying many times?

23 A. You have seen the papers and you have said it, but I can't -- I've told you I'm not able to answer that
24 question.

25 Q. And why is it you cannot answer the question?

26 MR. JABBI:

27 My Lords, with your leave, if I may just make an observation. A question is being put to the witness
28 and he is saying flat that he cannot answer the question. He is refusing to answer the question, you
29 know.

30 MR. PRESIDENT:

31 What is your understanding, Dr. Jabbi, when he says, "I can't answer that question"? Do you think
32 there is only one interpretation to that?

33 MR. JABBI:

34 Well, he says he cannot and will not.

35 MR. PRESIDENT:

36 Are you saying that he is deliberately refusing to answer the question?
37

1 MR. JABBI:

2 Yes, indeed, My Lord.

3

4 MR. PRESIDENT:

5 Yes, yes.

6 MS. WIAFE:

7 Your Honour, I don't think that the witness is saying that he will not answer the question. Perhaps he
8 doesn't understand that question, so I disagree with that conclusion by the Defence.

9 MR. PRESIDENT:

10 Yes. Mr. Norman, please continue.

11 THE ACCUSED NORMAN:

12 Thank you, Your Lordships.

13 THE ACCUSED NORMAN:

14 I will not press the witness, I will go ahead with other questions.

15 BY THE ACCUSED NORMAN:

16 Mr. Witness, at the time when I held that meeting you are already aware that Koribundu was divided --
17 the people of Koribundu were divided between soldiers and *Kamajors*.

18 A. Do you mean that the town was divided between the soldiers and the *Kamajors*?

19 Q. No.

20 A. The day of that meeting there were no soldiers.

21 Q. (*microphone not activated*) supporting soldiers?

22 A. That's not my hometown, so I can't tell the minds of the people. Those people who were there could
23 tell the man -- could say that.

24 Q. When you came from the place -- when you came from your own village, you said here your village
25 was burnt by soldiers, did you not?

26 A. Yes.

27 Q. So, when you came, were you happy for the soldiers or were you happy for the *Kamajors*?

28 A. No, the burning of a town can never make me happy.

29 Q. So, you cannot say whether you were happy or unhappy with any one of the two groups?

30 A. As long as it concerns the burning of the town I wouldn't be able to say I was happy or not. I will
31 never be happy for anybody who burns the town.

32 Q. In what month was the meeting that you are referring to that Chief Norman attended and thanked
33 Tamidey?

34 A. I can't remember the month, I didn't go to school. I can't remember the month.

35 Q. But you can remember --

36 A. It was during the dry season.

37 Q. You can remember that you have made reference in statements that you made naming months?

- 1 A. It was the dry season, it was dry season. If they wrote that then maybe that's it.
- 2 Q. So, you are saying that the statements that were written down and were said for you were not actually
3 what you said?
- 4 A. I said so.
- 5 Q. Because you are saying that whoever may have written these statements took advantage of your
6 being -- of your not being educated and wrote something different?
- 7 MS. WIAFE:
8 Objection, Your Honour, I --
- 9 JUDGE THOMPSON:
10 I think that line of --
- 11 MR. PRESIDENT:
12 Objection is sustained.
- 13 JUDGE THOMPSON:
14 -- is argumentative.
- 15 MR. PRESIDENT:
16 Yes, please.
- 17 THE ACCUSED NORMAN:
18 Thank you.
- 19 BY THE ACCUSED NORMAN:
20 Q. Did you tell I --
- 21 MR. PRESIDENT:
22 Mr. Norman, you can reframe your questions. Even if you are overruled in one way, you can come
23 back in some other form.
- 24 THE ACCUSED NORMAN:
25 Thank you.
- 26 MR. PRESIDENT:
27 Yes.
- 28 BY THE ACCUSED NORMAN:
29 Q. Did you say to anybody who took you down that you were a section commander of the *Kamajors*?
30 A. No, I only said I was sent by a section chief, that's what I said by a section chief, that's what I said.
31 Q. So if anybody wrote section commander of *Kamajors* that would be wrong?
32 A. No, I didn't say that
33 Q. Do you know that your chiefdom had a *Kamajor* company that belonged to XXXXXX Chiefdom?
34 A. Yes, *Kamajors* were there; I knew that.
35 Q. Do you know whether there was a chiefdom commander -- chiefdom commander of the *Kamajors* of
36 XXXXXXXX Chiefdom?
37 A. When are you talking about, when?

- 1 Q. Do you know that section chiefs of XXXXXX Chiefdom decided and appointed that *Kamajor* chiefdom
2 -- *Kamajor* commander?
- 3 A. No, you can only ask them that question. That's the question for the section chief, not me.
- 4 Q. (*microphone not activated*) commander, chiefdom commander of the *Kamajors*?
- 5 A. No, I didn't understand that question. Ask it again.
- 6 Q. Was there a *Kamajor* company that was known as Wunde *Kamajor* group?
- 7 A. There was a *Kamajor* group, but there was no Wunde *Kamajor* group. There were other *Kamajors*
8 there.
- 9 Q. Are you aware that that *Kamajor* group had a commander?
- 10 A. Yes.
- 11 Q. Good, I know you know that. Then you knew -- you knew that those *Kamajors* constantly received
12 supplies of rice and money from the government every month.
- 13 A. Where Wunde? No, I didn't see that one.
- 14 Q. Did you or did you not know that?
- 15 A. If it's -- if you are talking about Wunde, then I didn't see that.
- 16 Q. In the other chiefdoms apart from Wunde?
- 17 A. Yes, Koribundu, whereas the *Kamajors* were in Koribundu.
- 18 MR. MARGAI:
19 I'm sorry, My Lord, could I please ask for your intervention so that witness could give his testimony
20 audibly because he seems to be murmuring the answers and those are very fundamental.
- 21 MR. PRESIDENT:
22 It's you complaining, others who are listening to him are not.
- 23 MR. MARGAI:
24 Sorry?
- 25 MR. PRESIDENT:
26 It's you complaining, I don't know if others who are supposed to hear are complaining. Speak up.
- 27 BY THE ACCUSED NORMAN:
28 Q. We want your answer whether you know other chiefdom got that supply, but your own chiefdom did
29 not get the supply.
- 30 A. Whatever they were getting the battalion commander at Koribundu used to get, and that's all I know.
- 31 Q. So you know more about Koribundu than Wunde?
- 32 MR. PRESIDENT:
33 (*microphone not activated*)
- 34 THE WITNESS:
35 I know about Wunde so much, but what did happen at Wunde I wouldn't say it happened there. But
36 because we are all in Koribundu whatever happened in Koribundu I would say it happened there,
37 whatever happened in Wunde I would say it happened there.

1 BY THE ACCUSED NORMAN:

2 Q. (*microphone not activated*) section chief, you as a town chief?

3 A. Oh, no.

4 Q. You and the section chief know more about this.

5 A. Section chief.

6 Q. (*microphone not activated*) for the section chief will know more than you. Well, you joined the
7 *Kamajor* society, did you?

8 A. Yes.

9 Q. Where?

10 A. Koribundu.

11 Q. Repeat the answer, please.

12 A. Koribundu.

13 Q. Thank you. And who was your initiator?

14 A. (*microphone not activated*)

15 Q. Who was your initiator?

16 A. The person who initiated us -- the one who initiated us, XXXXX, is that the person you want to know?

17 Q. You don't ask me, I am asking you. Who was your initiator?

18 A. The person who initiated us is called XXXXXX

19 Q. Is XXXXXX the only name you know?

20 A. XXXX XXXX, that's the only name I know.

21 Q. His full name, do you know?

22 A. That is the only name I know. It's XXXXX XXXXX, that is the only name. XXXX is the only name we
23 know.

24 Q. Where is that initiator, do you know now?

25 A. No, they brought him there.

26 Q. Why did you join the *Kamajors'* society, to burn houses?

27 A. No.

28 Q. Fine, thank you.

29 Q. Do you know any name that is called Charles Moiwo?

30 A. Yes.

31 Q. Fine. Do you know whether that Charles Moiyo is any authority of the *Kamajors'*

32 A. He was introduced -- introduced to us at one time in Koribundu. It was Chief Norman who introduced
33 him to us.

34 Q. (*microphone not activated*)

35 A. He is one of the elders in the *Kamajor* the day we met there.

36 Q. So, you say he was at the meeting in Koribundu?

37 A. Yes.

1 Q. And that he also would be in a proper position to say what he heard, like yourself?

2 A. He was introduced to us, but I cannot tell whether he would be able to say it.

3 Q. As a *Kamajor*, did you fight for your country or did you fight against your country?

4 A. I didn't fight.

5 Q. I said *Kamajor*, why as the witness -- I don't want to call your name -- why did you join the *Kamajor*,
6 to do bad or to do good?

7 A. I didn't join them to do bad.

8 Q. At the time when you went to the bush who were you afraid of, *Kamajor* or soldier?

9 A. I was afraid of the soldiers and the rebels.

10 Q. When you joined the *Kamajor* and you were initiated as a *Kamajor* did you know the first thing that
11 you should do or not do? Were you told?

12 JUDGE THOMPSON:

13 (*microphone not activated*) would you put it in bits, it's an injunctive --

14 THE ACCUSED NORMAN:

15 My Lord, My Lord, I will reframe it.

16 BY THE ACCUSED NORMAN:

17 Q. (*Microphone not activated*)

18 A. We joined as elders and just -- not just as ordinary people.

19 Q. Were you given anything like rules or laws?

20 A. Yes.

21 Q. Would you look at me and say what this means? Would you say what that means? You are not
22 exposing anything concerning your life now, this is *Kamajor* to *Kamajor* now.

23 A. I cannot answer that, I don't know.

24 Q. What this sign means? Look at me.

25 A. I entered there as an elder, I can't tell all those.

26 Q. How can you be a member of a society that you may not know what the rules and regulations are?

27 A. Well, have we come here to expose societies?

28 Q. Mr. Witness, look at me. And what do you mean by this? Look at me. What do you mean by that?
29 Say it aloud, I want His Lordships to hear this. Thank you.

30 A. I cannot tell that -- I cannot explain that, I cannot explain that.

31 (*Pages 50 to 58 by Susan G. Humphries*)

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1 1705H

2 BY THE ACCUSED:

3 Q. Did you receive any rice or money on behalf of your own section of the *Kamajor* group that you led?

4 A. Did I say that I was leading any *Kamajor* group?

5 Q. You said it in your statement.

6 A. No, I did not say it -- that there was a section chief and he sent me to the meeting. That is what I said.
7 I did not say that I was leading the *Kamajor* group and I did not receive any rice.

8 Q. When you were initiated, were you told to kill --

9 A. No.

10 Q. -- innocent civilians?

11 A. No.

12 Q. Or were you told to protect innocent civilians?

13 A. Yes.

14 MR. NORMAN:

15 My Lords, the witness in some category has denied some salient parts of the statement that was
16 alleged to have been made by him, and Chief Hinga Norman was arrested upon, I believe, the
17 presentation of some of these statements by the judge before whom some of these statements
18 appeared before this testimony here today. This is why Chief Norman would like the Bench to take
19 note that if some of these statements are now being denied, then Chief Hinga Norman is indicating
20 here that he may never have been arrested if the truth that is now being testified upon oath was a
21 content of those statements.

22

23 This being said, I will not wish to further cross-examine this witness, My Lord.

24 MR. PRESIDENT:

25 Thank you.

26 MR. HALL:

27 Your Honour, I would like the records to reflect (*inaudible*)--

28 MR. PRESIDENT:

29 I thought you had closed your cross-examination. Let's respect the rules of the game, please. Let's
30 respect the rules of the game.

31 MR. HALL:

32 It's just to clarify the record, that's all.

33 JUDGE BOUTET:

34 I will for the record -- but you can ask for the leave of the Court, but I will for the record state that
35 Mr. Norman, on one occasion raised his left hand with his closed fist, and the second time he raised
36 both hands and both hands were crossed on top of his head. This is what you intended to say?

37

1 MR. HALL:

2 Yes, Your Honour. There were four, I believe. The first one I couldn't tell but I thought he raised his
3 hands behind his back.

4 JUDGE BOUTET:

5 I didn't see it, so –

6 MR. HALL:

7 Standing there from my angle, I couldn't see it and the first one was a right-hand raise, the second
8 was right-hand in left, the third one was left-hand and the fourth one was hands crossed over his
9 head. That's all I want to –

10 JUDGE BOUTET:

11 So the record will show it.

12 MR. PRESIDENT:

13 Mr. Bockarie, will you be very long?

14 MR. BOCKARIE:

15 No, My Lord.

16 MR. PRESIDENT:

17 Right, okay.

18 WITNESS TF2-012

19 CROSS-EXAMINATION

20 BY MR. BOCKARIE:

21 Q. Mr. Witness, Wunde Chiefdom shares a common boundary with Jaiama-Bongor Chiefdom; will you
22 agree with me?

23 A. One boundary? There is a line between us.

24 MR. PRESIDENT:

25 Wunde and which chiefdom?

26 MR. BOCKARIE:

27 Jaiama-Bongor Chiefdom.

28 BY MR BOCKARIE:

29 Q. You share a common boundary?

30 A. There is no other chiefdom between us.

31 Q. So in short, you are saying they are neighbouring chiefdoms, aren't they?

32 A. Yes.

33 Q. Now, Wunde Chiefdom, was it ever occupied by the RUF?

34 A. Yes, they took over there at one time.

35 Q. Can you tell us when? Do you remember when?

36 A. No, the time that we were driven there, we left there but they took over there.

37 Q. You cannot remember the time?

- 1 A. I can't remember.
- 2 Q. Can I be of assistance? I may be correct to say was it before 1996?
- 3 A. Even before we did the first election of Tejan Kabbah, yes.
- 4 Q. The rebels, were they ever flushed out from that chiefdom?
- 5 A. Yes.
- 6 Q. By who
- 7 A. The soldiers and *Kamajors* sent them out.
- 8 Q. So it was soldiers and *Kamajors*?
- 9 A. Yes.
- 10 Q. Will you agree with me that by 1995 it was a common practice amongst chiefdom authorities in Bo to
11 organise their subjects into *Kamajor* groups for the liberation of their chiefdoms; isn't it?
- 12 A. If I can agree to that? If I can agree to that?
- 13 Q. What is the answer?
- 14 A. Are you asking if I can agree to that?
- 15 Q. Do you want -- now, will you agree with me that in 1995 it was a common practice for chiefdom
16 authorities within Bo District to organise their subjects into a *Kamajors* group?
- 17 A. Yes.
- 18 Q. Thank you. Now, at this time around 1995, who was the regent chief of Wunde Chiefdom?
- 19 A. That time -- by that time our chief was still alive. Our Chief was called Chief Darbo.
- 20 Q. Now, did Chief Darbo organise the residents of Wunde into an organised *Kamajor* group?
- 21 A. That time they did that, yes.
- 22 Q. Now, at that time most residents of Wunde Chiefdom, were they in camps?
- 23 A. Can you go over that, please?
- 24 THE MENDE INTERPRETER:
25 Can you go over that please, that question?
- 26 MR. PRESIDENT:
27 Mr. Bockarie, please go over that question. The interpreters are asking you to go over that question
28 again.
- 29 MR. BOCKARIE:
30 Thank you.
- 31 BY MR. BOCKARIE:
32 Q. At that time when Chief Darboe decided to organise his subjects into a *Kamajor* group, most
33 residents from Wunde Chiefdom, were they in camps, displaced camps, to be precise?
- 34 A. Yes.
- 35 Q. Where were you at the time?
- 36 A. I was at Koribundu.
- 37 Q. So you were in Koribundu?

- 1 A. Yes.
- 2 Q. You will agree with me that the chiefdom organised these *Kamajors* to go and liberate Wunde from
3 the RUF; isn't it?
- 4 A. Yes.
- 5 Q. Now tell me, were you happy when Wunde was eventually -- Wunde, was it eventually liberated?
- 6 A. Yes.
- 7 Q. Did you go back to Wunde after its liberation?
- 8 A. Yes, we went back there.
- 9 Q. So the Kamajors drove the rebels?
- 10 A. Drove the rebels, yes.
- 11 Q. At this time it was very fashionable to be a *Kamajor*, wasn't it?
- 12 A. Yes, it was really nice to be a *Kamajor*.
- 13 Q. Now -- but, when -- were you ever -- you said you were initiated into the *Kamajor* society; can you
14 recall when?
- 15 A. I said that time when the war finished, when they said elections were coming, that was the time when
16 I joined the *Kamajor*.
- 17 Q. By 2002?
- 18 A. Yes.
- 19 Q. Now, you said you were initiated by XXXX XXXXX?
- 20 A. Yes.
- 21 Q. Now, tell this Court, is it not a common practice for initiates of the Kamo -- of the *Kamajor* society to
22 take an oath to, one, not to kill innocent civilians?
- 23 A. Yes.
- 24 Q. Two, not to loot civilians' property?
- 25 A. The time when I joined the *Kamajor*, yes, they told us that.
- 26 Q. And three, not to rape?
- 27 A. Yes, they said that.
- 28 Q. And the most important to respect the dignity of civilians?
- 29 A. Yes.
- 30 Q. I'm sure. And also do you agree with me that *Kamajors* have mystical powers?
- 31 MR. PRESIDENT:
- 32 What do you mean by that question, Mr. Bockarie?
- 33 MR. BOCKARIE:
- 34 I'm sorry, sir.
- 35 MR. PRESIDENT:
- 36 What do you mean by that, Mr. Bockarie?
- 37

1 JUDGE THOMPSON:

2 This Court needs to understand the facts.

3 MR. BOCKARIE:

4 Something which is extraordinary, Your Honour.

5 JUDGE THOMPSON:

6 But how does -- this Court needs to ascertain facts and if you take us into the realm of metaphysics or
7 mysticism --

8 MR. BOCKARIE:

9 I will reframe.

10 BY MR. BOCKARIE:

11 Q. Now, after the initiation, were you shot at? Did they shoot you to ascertain whether you are bullet
12 proof or not?

13 A. Me, myself, no.

14 Q. But did you see it practised on other people? Did you see it practised on other people after initiation
15 to be shot to ascertain whether they are bullet proof or not?

16 A. Yes, I heard of it.

17 Q. You saw it?

18 A. Yes, I saw it -- I heard of it.

19 Q. I heard of it. Now, you took this oath, were you told of the consequences if one violates those
20 regulations -- those rules and regulations you've just highlighted? Were you told of the consequences
21 if one violates them?

22 A. Is that my question, is that my question?

23 Q. Yes.

24 A. When *Kamajors* spoil that oath, we saw them beaten.

25 Q. Now, you said you entered Koribundu on a Sunday after its liberation from the soldiers; am I correct?

26 A. Yes.

27 Q. Now, when you entered Koribundu, did you see *Kamajors* from neighbouring chiefdoms like Tikonko,
28 Lugbu, Bagbo?

29 A. The *Kamajors* I met there were so many. I didn't know them, so I can't say really where they came
30 from. By that time all the *Kamajors* from Wunde were in the bush.

31 Q. Now -- so you are now telling this Court that you are not a section commander of the CDF?

32 A. No, I said I was a chief and I assured that I'm a chief.

33 Q. You hold a very responsible position in your chiefdom as one of the chiefs; am I correct?

34 A. I'm a town chief.

35 Q. Do you have relatives or friends who are *Kamajors*?

36 A. Yes.

37 Q. Do they behave well according to you?

1 A. I can't say because I did not move around with them so I can't tell.

2 MR. BOCKARIE:

3 That is all for him, Your Honour.

4 JUDGE BOUTET:

5 You have completed your cross-examination?

6 MR. BOCKARIE:

7 Yes.

8 JUDGE BOUTET:

9 Thank you.

10 MR. PRESIDENT:

11 I was just telling my colleagues that if we took on Mr. Margai, the ride may be long and so, I think we
12 can conveniently adjourn at this point.

13 MR. MARGAI:

14 I agree, My Lord, because it definitely will be long because I anticipate legal arguments as I am going
15 to endeavour to tender all of those five so-called statements.

16 JUDGE THOMPSON:

17 Thank you for the notice --

18 MR. PRESIDENT:

19 That's a good notice --

20 MR. MARGAI:

21 My Lord, I'm just putting them on their notice.

22 MR. PRESIDENT:

23 -- a good notice to the other side. So we are -- the Court will rise. We are adjourning to tomorrow
24 at --

25 MS. WHITAKER:

26 My Lord --

27 MR. PRESIDENT:

28 Yes.

29 MS. WHITAKER:

30 Sorry, could I raise one matter, please, My Lord. It would assist us greatly if the Court could indicate
31 that the Court requires Mr. Norman's previous lawyers to return all materials immediately. And we
32 would be grateful if you could make that observation in Court for us.

33 MR. PRESIDENT:

34 Well, we know that there is -- we were informed -- the Court was informed that there is a procedure for
35 handing over material, you know, the various briefs to the new team, and that this is supposed to be
36 accomplished within a time limit of 15 days. And as a matter of fact, they were supposed to have
37 started immediately upon your arrival. They were even to start with Mr. Wesley, who was expected in

1 on Monday.

2 I am surprised that nothing has happened so far.

3 MS WHITAKER:

4 Yes, My Lord. If we could state for the record we are still not in possession of any of the materials
5 and we would be most grateful if the Court could indicate that they will be required to undertake that
6 process today when we would not be here at the expiration of 15 days time and it is essential that we
7 see that material before we leave the country. And we would be grateful if the Court could assist this
8 process by ordering that that happens today.

9 MR. PRESIDENT:

10 Alright. We've taken note of your application. We will deliberate on it and we will come back to you
11 tomorrow.

12 MS. WHITAKER:

13 Well, My Lord, we need to put in (*inaudible*) in the procedure so as to obtain it and we will --

14 MR. PRESIDENT:

15 We have to know what the what the Registrar has to say on this and we would adjourn. We would
16 take on this application tomorrow morning, after the Registrar must have advised the Chamber as to
17 what arrangements because it's the Registrar who controls the legal teams and supervises, you know,
18 the various processes. So we would like to talk -- unfortunately, he isn't here. So we would like to talk
19 to him and bring up this matter tomorrow morning.

20 MS. WHITAKER:

21 My Lord, the other matter that we would raise that is seriously hampering the preparation of the
22 Defence cases is that we have no access to any working photocopier and we would be grateful if you
23 could raise this with the Registrar and perhaps arrangements could be made for the Prosecution to
24 share their two photocopiers with the Defence team. We have no access to any photocopier at all.

25 MR. PRESIDENT:

26 You have the Principal Defender's Office. You could put -- and the Principal Defender's Office is
27 directly under the Registrar. So can you -- these are minor matters and the jurisdiction should not be
28 dragged into this.

29 MS. WHITAKER:

30 My Lord, we require the Court to ensure the fairness of the trial procedure and this is a serious
31 impediment to the trial procedure. And by requesting one, I think the Principle Defender has met with
32 little success in that --

33 MR. PRESIDENT:

34 Well, again we would address this issue.

35 MS. WHITAKER:

36 Most grateful.

37

1 MR. PRESIDENT:

2 And we know you know, of course, that we have Mr. Hinga Norman's application on our desk and we
3 are examining that and it will be addressed.

4 MS. WHITAKER:

5 Indeed, I'm grateful. Thank you, My Lord.

6 MR. PRESIDENT:

7 Right.

8 MR. JABBI:

9 My Lord, if I may make a personal request, My Lord. My Lord --

10 MR. PRESIDENT:

11 A personal request that has nothing to do with your capacity as stand-by counsel?

12 MR. JABBI:

13 It is indeed in connection with that capacity but, My Lord, tomorrow morning I will be unlikely to be
14 present in the Chambers in the morning because I have a prior engagement for which I had given an
15 undertaking to the Supreme Court before I was drafted into the Defence team. It will only be in the
16 morning, My Lords, and I will be available in the afternoon. I was not able to change it after I came in
17 on Monday.

18 MR. PRESIDENT:

19 We've taken note of that. We hope that if anything should arise that would necessitate the defence
20 of the interest of your client the other members of the team should be able to handle it.

21 MR. JABBI:

22 Indeed, My Lord. Thank you very much, My Lord.

23

24 Is there any other personal request?

25 MR. MARGAI:

26 Except the time, My Lord.

27 MR. PRESIDENT:

28 Ten o'clock subject, of course, you know, because we may have some bureaucratic commitments
29 which may eat up, you know, into our time. But ten o'clock in principle, please.

30

31 The Court will rise

32 *(Court adjourned at 1735H)*

33 *(Pages 59 to 66 by Momodou Jallow)*

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CERTIFICATE

We, Susan G. Humphries, Gifty C. Harding and Momodou Jallow, Official Court Reporters for the Special Court for Sierra Leone, do hereby certify that the foregoing proceedings in the above-entitled cause were taken at the time and place as stated; that it was taken in shorthand (*machine writer*) and thereafter transcribed by computer; that the foregoing pages contain a true and correct transcription of said proceedings to the best of our ability and understanding.

We further certify that we are not of counsel nor related to any of the parties to this cause and that we are in nowise interested in the result of said cause.

Susan G. Humphries

Momodou Jallow

Gifty C Harding