

THE SPECIAL COURT FOR SIERRA LEONE

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

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

16 JULY 2004
14.38
DECISION

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For the Registry:

Mr. Geoff Walker

For the Prosecution:

Mr. James C. Johnson
Mr. Mohammed Bangura

For the Principal Defender:

Mr. Rupert Skilbeck
Mr. James Cockayne

For the Accused Sam Hinga Norman:
(Absent)

For the Accused Moinina Fofana:

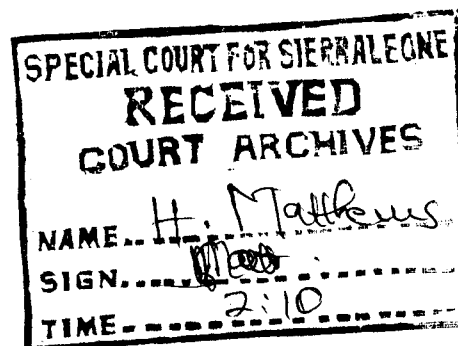
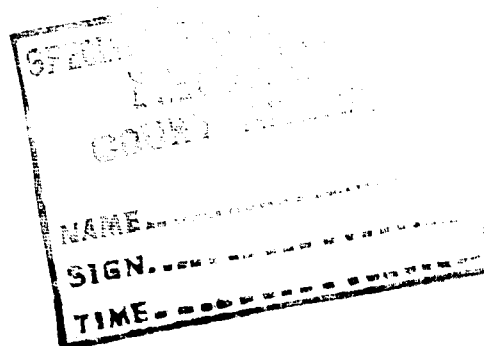
Mr. Arrow Bockarie
Ms. Phoebe Knowles

For the Accused Allieu Kondewa:

Mr. Charles Margai
Mr. Yada Hashim Williams

Court Reporter:

Ms. Susan G. Humphries



- 1 [Open session]
2 [The Accused entered court]
3 [Upon commencing at 14.38]
4 MR. WALKER:
5 This is Friday, the 16th of July 2004. This is case no. SCSL-2004-14-T, The Prosecutor against Sam
6 Hinga Norman, Moinina Fofana and Allieu Kondewa.
7 MR. PRESIDENT:
8 The session is open and appearances, please.
9 MR. BANGURA:
10 Your Honour, Mohammed Bangura, and with me Jim Johnson.
11 MR. PRESIDENT:
12 Mohammed?
13 MR. BANGURA:
14 Bangura.
15 MR. PRESIDENT:
16 And Mr. Jim Johnson.
17 MR. BANGURA:
18 Jim Johnson
19 MR. PRESIDENT:
20 All right, okay.
21 MR. SKILBECK:
22 May it please the Court, Robert Skilbeck together with my learned friend, James Cocayne as stand-by
23 counsel for Sam Hinga Norman.
24 MR. BOCKARIE:
25 Arrow Bockarie for Moinina Fofana. Sorry, and with me is Phoebe Knowles.
26 MR. MARGAI:
27 May it please My Lords, C.F. Margai and Y.H. Williams for the third Accused. Thank you.
28 [Decision]
29 MR. PRESIDENT:
30 The Trial Chamber of the Special Court for Sierra Leone, composed of Honourable Judge
31 Benjamin Mutanga Itoe, Presiding Judge, Honourable Judge Bankole Thompson, and Honourable
32 Judge Pierre Boutet, seized of an objection taken by the defence counsel for Mr. Kondewa and Mr.
33 Norman, and their supporting grounds and submissions during the trial proceedings on the 17th, 18th
34 and 21st of June 2004 as to the admissibility of the portion of the oral testimony of Prosecution
35 Witness TF2-198 and the Prosecution submission in response;
36
37 Noting the submissions of the Prosecution and Defence made in closed session during the status

1 conference held on the 1st of June 2004, relating to the form of witness statements disclosed to the
2 Defence, pursuant to Rule 66 of the Rules of Procedure and Evidence of the Special Court;
3 Noting the Prosecution submission of case law in support of its position filed on the 21st of June 2004,
4 considering Rule 66 of the Rules and Article 17 of the Statute of the Special Court for Sierra Leone,
5 hereby issues the following ruling:

6
7 The submissions of the parties; the Defence admissions:

8
9 The facts that gave rise to this oral motion by the Defence are that in the course of his examination-in-
10 chief the first Prosecution witness, TF2-198, testified on facts that were not contained in his statement
11 that was disclosed to the Defence prior to this oral testimony. This witness, in effect, orally testified to
12 the fact that his back was burnt by a lit plastic bag that was placed by *Kamajors* on his back around
13 his shoulders. He alleged that he had been tied and beaten in the process. However, the fact of the
14 burns which he testified to does not appear in his disclosed witness statement.

15
16 Counsel for the Defence submits that this evidence be expunged from the records on the grounds of a
17 violation of Rule 66(A)(i) of the Rules in that the Prosecution did not disclose this evidence to the
18 Defence prior to the witness's oral testimony in court. It is these initial facts that sparked off a chain of
19 objections by the Defence which in addition to the above include the following:

20
21 1. That the Prosecution are in possession of a signed witness statement for Witness TF2-176 that
22 has not been disclosed to them and that the Prosecution have statements of all three witnesses that
23 testified during the trial sessions on the 15th, 16th, 17th and 18th of June 2004 that had not been
24 disclosed to the Defence;

25
26 2. That no witness statements have been disclosed to them for the witness who testified -- for the
27 witnesses who testified on the 15th, 16th, 17th and 18th of June 2004, as they only received interview
28 notes prepared by the Prosecution with respect to each witness and that interview notes do not
29 constitute witness statements within the meaning of Rule 66(A)(i);

30
31 3. That by failing to disclose the statements of these witnesses whose oral testimony is already on
32 record, or doing so later than prescribed under Rule 66, the Defence submits that the Prosecution is
33 carrying out a trial by ambush because the Defence has not been given enough time to prepare for
34 their defence as provided for in Article 17(4)(b) of the Statute;

35
36 4. That the Defence be allowed to cross-examine witnesses on inconsistencies between their oral
37 testimony and prior witness statements and to tender such statements as court exhibits.

1 The Prosecution submissions:

2
3 In reply to these arguments put forward by the Defence in support of this oral motion, the Prosecution
4 advanced the following submissions.

5
6 1. That witness statements that are disclosed by the Prosecution to the Defence in accordance with
7 Rules 66(A)(i) of the Rules will not cover all areas that may be testified to by a witness at trial, nor is it
8 to be expected that they should cover all those areas;

9
10 2. That the contents and nature of witness statements disclosed by the Prosecution have been
11 discussed previously between the parties and before the Trial Chamber at the status conference on
12 the 1st of June 2004, when the Prosecution explained that witness statements are prepared in various
13 forms.

14
15 They assert that the Prosecution are fully in compliance with their disclosure obligations under Rule
16 66 of the Rules. The Prosecution further point out that there is no requirement in the Rules that a
17 witness statement must be signed;

18
19 3. That having disclosed all witness statements in their possession relating to the witnesses who
20 have testified, they have fully fulfilled their disclosure obligations under Rule 66 of the Rules and that
21 arguments by the Defence of non-disclosure are unsubstantiated and baseless;

22
23 4. That a witness may be cross-examined on a matter of inconsistency between a prior witness
24 statement and their testimony in court, but asserts that it is unnecessary to tender the witness
25 statement in court as an exhibit.

26
27 The applicable law; Disclosure obligations.

28
29 The law governing the disclosure of materials by the Prosecution and the Defence as embodied in
30 Rules 66, 67 and 68 of the Rules of Procedure and Evidence of the Special Court. Rule 66 provides
31 as follows, Rule 66: "Disclosure of materials by the Prosecutor (A) Subject to the provisions of Rules
32 50, 53, 69 and 75, the Prosecutor shall: (i) Within 30 days of the initial appearance of an accused,
33 disclose to the Defence copies of the statements of all witnesses whom the Prosecutor intends to call
34 to testify and all evidence to be presented pursuant to Rule 92 *bis* at trial.

35
36 "(ii) Continuously disclose to the Defence copies of the statements of additional prosecution
37 witnesses whom the Prosecutor intends to call to testify, but not later than 60 days before the date for

1 trial, or as otherwise ordered by a Judge of the Trial Chamber either before or after the
2 commencement of the trial, upon good cause being shown by the Prosecution.

3
4 "Upon good cause being shown by the Defence, a Judge of the Trial Chamber may order that copies
5 of the statements of additional prosecution witnesses that the Prosecutor does not intend to call be
6 made available to the defence within a prescribed time.

7
8 "(iii) At the request of the defence, subject to Rule (B), permit the defence to inspect any books,
9 documents, photographs and tangible objects in his custody or control, which are material to the
10 preparation of the defence, upon a showing by the defence of categories of, or specific, books,
11 documents, photographs and tangible objects which the defence considers to be material to the
12 preparation of a defence, or to inspect any books, documents, photographs and tangible objects in his
13 custody or control which are intended for use by the Prosecutor as evidence at the trial or were
14 obtained from or belong to the accused.

15
16 "(B) Where information or materials are in the possession of the Prosecutor, the disclosure of which
17 may prejudice further ongoing investigations, or for any other reasons may be contrary to the public
18 interest or affect the security interests of any State, the Prosecutor may apply to a Judge designated
19 by the President sitting *ex parte* and *in camera*, but with notice to the Defence, to be relieved from the
20 obligation to disclose pursuant to Sub-Rule (A). When making such an application the Prosecutor
21 shall provide, only to such Judge, the information or material that are sought to be kept confidential."

22
23 As a matter of statutory interpretation, it is the Chamber's opinion that Rule 66 requires *inter alia* that
24 the Prosecution disclose to the Defence copies of statements of all witnesses which it intends to call
25 and to testify, and all evidence to be presented, pursuant to Rule 92 *bis*, within 30 days of the initial
26 appearance of the Accused.

27
28 In addition, the Prosecution is required to continuously disclose to the Defence the statements of all
29 additional prosecution witnesses it intends to call, not later than 60 days before the date of trial, or
30 otherwise ordered by the Trial Chamber, upon good cause being shown by the Prosecution.

31
32 Rule 67 also requires reciprocal disclosure of evidence from the Prosecution and the Defence. The
33 Chamber opines that the Prosecution is required to disclose the names of the witnesses that it intends
34 to call as early as reasonably practicable prior to the commencement of the trial. The Defence is
35 required to notify the Prosecutor of its intent to enter the defence of alibi or any special defence.

36
37 Rule 66 also requires a Prosecutor to disclose exculpatory evidence within 30 days of an initial

1 appearance of the accused and thereafter to be under a continuing obligation to disclose exculpatory
2 material.

3
4 The Chamber finds that these provisions clearly require more disclosure from the Prosecutor than
5 from the Defence, which is more in line with a civil law system than the common law tradition.
6 The Prosecutor is obliged to continuously disclose evidence under Rule 66 which is limited to new
7 developments in the investigation and under Rule 68 to further exculpatory material.

8
9 Rule 67(D) enunciates continuous disclosure obligations and provides as follows: "If either party
10 discovers additional evidence or information or materials which should have been produced earlier
11 pursuant to the Rules, that party shall promptly notify the other party and the Trial Chamber of the
12 existence of the additional evidence or information or materials."

13
14 It is evident that the premise on the lines of the disclosure obligations is that the parties should act
15 *bona fides* at all times.

16
17 There is authority from the evolving jurisprudence of the international criminal tribunals that any
18 allegation by the Defence as to a violation of the disclosure rules by the Prosecution should be
19 substantiated with *prima facie* proof of such a violation. This Chamber, in recent decisions, has
20 indeed ruled that the Defence must make a *prima facie* showing of materiality and that the evidence
21 requested is in the custody or within the control of the Prosecution.

22
23 It is, of course, the role of the Trial Chamber to enforce disclosure obligations in the interests of a fair
24 trial and to ensure that the rights of the Accused, as provided in Article 17(4)(e) of the Statute to
25 examine or have examined the witnesses against him or her are respected and where evidence has
26 not been disclosed, or is disclosed so late as to prejudice the fairness of the trial, the Trial Chamber
27 will apply appropriate remedies which may include the exclusion of such evidence.

28
29 The meaning of a witness statement:

30
31 We note that the Defence raised the issue of what constitutes witness statements within the meaning
32 of Rule 66. The Defence has strenuously argued that in a statement made or recorded in the third
33 person rather than in the first person -- that a statement made or recorded in the third person rather
34 than in the first person, cannot properly be classified as a witness statement. And further, that
35 interview notes do not amount to statements within the meaning of Rule 66 of the Rules.

36
37 In this regard, the Chamber would like to refer to the definition of a statement in Blacks Law Dictionary

1 which defines a statement as: "1. *Evidence*. A verbal assertion or non-verbal conduct intended as an
2 assertion. 2. A formal and exact presentation of facts. 3. *Criminal procedure*. An account of a
3 person's (usually a suspect's) knowledge of a crime, taken by the police pursuant to their investigation
4 of the offence."

5
6 Indeed, the Chamber observes that nowhere in the Rules is a witness statement defined. It is worth
7 noting that the Appeals Chamber of the International Criminal Tribunal of Yugoslavia has conceded
8 that the usual meaning to be ascribed to witness statements is an account of a person's knowledge of
9 a crime which is recorded through due procedure in the course of an investigation into the crime.
10 Emphasis added.

11
12 The tribunals have also considered that transcribed testimony, radio interviews, unsigned witness
13 declarations, and records of questions put to witnesses and answers given, constitute witness
14 statements.

15
16 The Trial Chambers of the International Criminal Tribunal of Yugoslavia have interpreted Rule 66 of
17 the Rules to require disclosure of all witness statements in the possession of the Prosecution
18 regardless of their form or source. For instance, the Trial Chamber of the ICTY in the *Blaskic* case
19 stated that, "The same interpretation of Sub-Rule 66(A) leads the Trial Chamber to draw no distinction
20 between the form or forms which these statements may have. Moreover, nothing in the text permits
21 the introduction of the distinction suggested by the Prosecution between the official statements taken
22 under oath or signed and recognised by the accused and the others."

23
24 In addition, the Trial Chamber decided that all documents in the Prosecution's file should be
25 disclosed, regardless of their source, and making an analogy between the criteria for prior statements
26 of the accused person and those of witnesses, the Trial Chamber observed as follows: "The principles
27 in support of the interpretation of Sub-Rule 66(A) lead the Trial Chamber to the decision that all the
28 previous statements of the Accused which appear in the Prosecutor's file, whether collected by the
29 Prosecution or originating from any source, must be disclosed to the Defence immediately.
30 Furthermore, the Trial Chamber considers that the same criteria are those identified in respect of the
31 accused's previous statements must apply *mutatis mutandis* to the previous statements of the witness
32 also indicated in Sub-Rule 66(A)."

33
34 The Trial Chamber of the International Criminal Tribunal for Yugoslavia in the *Kordic* case,
35 considering a motion to compel the compliance of the Prosecution with Rules 66(A) and 68, ruled that,
36 "Any undisclosed prior statements of co-accused in the possession of the Prosecution made in any
37 type of judicial proceedings, and whether collected by the Prosecution or originating from any other

1 source, save for any other material covered by Rule 70(A) of the Rules which have not been
2 disclosed.”

3
4 In its recent judgment, the Appeals Chamber of the International Criminal Tribunal of Rwanda in the
5 *Niyitegeka* case, observed that the Prosecution is required to make available to the Defence the
6 witness statements in the form in which it has been recorded. Setting out the standard for recording
7 interviews with witnesses, the Appeals Chamber, however, stated that the mere fact that a particular
8 witness statement does not correspond to this standard does not relieve a party from its obligation to
9 disclose it pursuant to Rule 66(A)(i) of the Rules.

10
11 The said Chamber stated furthermore, that a statement not fulfilling the ideal standard is not
12 inadmissible as such and that any inconsistency of a witness statement with that standard would be
13 taken into consideration when assessing the probative value of the statement, if necessary.

14
15 The Trial Chamber of the International Criminal Tribunal for Rwanda in the *Akayesu* case, determined
16 that statements by witnesses that were not made under solemn declaration and not taken by judicial
17 officers were still admissible. However, the probative value attached to them was considerably less
18 than direct sworn testimony before the Chamber. The Chamber approached the issue of
19 inconsistencies and contradictions between the statements and the testimony at the trial with caution.

20
21 Cross-examination on prior inconsistent statements. Blacks Law Dictionary defines a prior
22 inconsistent statement as, "A witness's earlier statement that conflicts with the witness's testimony at
23 trial. In federal practice, extrinsic evidence of an unsworn prior inconsistent statement is admissible --
24 if the witness is given an opportunity to explain or deny the statement -- for impeachment purposes
25 only."

26
27 The adversarial system requires certain safeguards to be met before a witness can be cross-
28 examined on a prior inconsistent statement or have that statement admitted in evidence. This is a
29 feature of the common law tradition and the practice of the international tribunals.

30
31 A cursory review of the applicable legislation in the United Kingdom, Canada, Australia and
32 Sierra Leone, reveals that in all forms of these systems a certain standard and procedure is followed
33 when dealing with prior inconsistent statements.

34
35 Generally, a witness may be asked whether he or she made a statement and may be cross-examined
36 upon the general nature of the statement's contents without being shown the statement. However, if
37 the prior statement is made in writing, the witness will be shown the statements before he can be

1 asked about any alleged inconsistency, and if the statement is proved the statement is admitted into
2 the records as evidence.

3
4 This requirement is consistent with the ruling in the *Queens* case that a witness is not compelled to
5 answer any questions on a statement until the statement is shown to him or her and is tendered.
6 Such documents must, therefore, be capable of being admitted into evidence.

7
8 In the opinion of the Chamber, prior inconsistent statements are generally admissible in international
9 criminal trials as a means to impeach the credibility of a witness. In the *Akayesu* case, the Trial
10 Chamber was confronted with a similar problem of alleged inconsistencies between the oral
11 testimonies of witnesses and pre-trial statements that were composed of interview notes not made in
12 English and had to be translated from the indigenous language spoken by the witness. The Chamber
13 decided that the issue was one of probative value and not of admissibility.

14
15 As far as admissibility of evidence is concerned, due to its *sui generis* mixture of common and civil law
16 procedural and evidentiary rules, this Court does not necessarily conform to any specific legal system
17 or tradition. Indeed, as enshrined in Rule 89(B) of the Rules it will be guided by the will to favour a fair
18 determination of the matter before it.

19
20 The International Criminal Tribunal for Rwanda in the *Ruzindana* case, ruled that whenever counsel
21 for the Prosecution or the Defence perceives that there is a contradiction between the written and oral
22 statements of a witness they should raise this issue formally by: "Putting to the witness the exact
23 portion in issue to enable the witness to explain the discrepancy, inconsistency or contradictions, if
24 any, before the Tribunal. Counsel should then mark the relevant portion of such a statement and
25 formally exhibit it so as to form part of the record of the Tribunal."

26
27 During the *Kunarac* trial in the International Criminal Tribunal for Yugoslavia, the Trial Chamber ruled
28 that prior statements may be tendered in evidence as an exhibit after an inconsistency with a trial
29 testimony has been established.

30
31 Considering this analysis and the applicable jurisprudence, this Trial Chamber, as a matter of law, is
32 of the opinion and rules accordingly that,

33
34 1. A witness may be cross-examined as to previous statements made by him or her in writing or
35 reduced into writing or recorded on audio tape or video tape or otherwise, relative to the subject
36 matter of the case in circumstances where an inconsistency has emerged during the course of *viva*
37 *voce* testimony between a prior statement and this testimony.

1 2. In conducting cross-examination and inconsistencies between *viva voce* testimony and a previous
2 statement, the witness should first be asked whether or not he or she has made the statement being
3 referred to. The circumstances of making the statement, sufficient to designate the situation, must be
4 put to the witness when asking this question.

5
6 3. Should the witness disclaim making the statement, evidence may be provided in support of the
7 allegation that he or she did in fact make it.

8
9 4. That a witness may be cross-examined as to previous statements made by him or her relative to
10 the subject matter of the case without the statement being shown to him or her. However, where it is
11 intended to contradict such witness with a statement, his or her attention must, before the
12 contradictory proof can be given, be directed to those parts of the statement alleged to be
13 contradictory.

14
15 5. That the Trial Chamber may direct that the portion of the witness statement that is the subject of
16 cross-examination and alleged contradiction with a *viva voce* testimony be admitted into the court
17 record and marked as an exhibit.

18
19 The merits of the application; Disclosure of witness statements:

20
21 In the light of the foregoing analysis, the Trial Chamber finds no merit in the Defence contention that
22 the Prosecution interview notes prepared from oral statements of witnesses do not in law constitute
23 witness statements. The fact that a witness statement is not grammatically or, from the point of view
24 of syntax, is not in the first person but in the third person goes more to form than to substance and
25 does not deprive the materials in question of the core quality of a statement.

26
27 The Chamber agrees with the assertion given by the Prosecution at the 1st of June status conference
28 in this regard. A statement can be anything that comes from the mouth of a witness, regardless of the
29 format. By a parity of reasoning the fact that a statement does not contain a signature or is not
30 witnessed does not detract from its substantive validity.

31
32 In addition, we are of the opinion, and we so hold, that any statement or declaration made by a
33 witness in relation to an event witnessed and recorded in any form by an official in the course of an
34 investigation falls within the meaning of a witness statement under Rule 66(A)(i) of the Rules.

35
36 When confronted with matters of legal characterisation the Chamber must also take cognisance of the
37 socio-cultural dynamics at work in the context of the legal culture in which it functions. For example,

1 the limited language abilities and capabilities of potential prosecution witnesses and their level of
2 educational literacy.

3
4 In addition, and in the particular circumstances of this case, the witness who we have on record as an
5 illiterate certainly depended largely on the investigator to record all the information that he disclosed to
6 him during his interrogation.

7
8 We find that the facts contained in the interview notes which, in the final analysis, are far from being
9 statements of the investigator, who is only the recorder, in fact constitute and are indeed statements
10 made by the witness in the course of an investigation and consequently come within the purview,
11 context and meaning of witness statements under the provisions of Rule 66(1) of the Rules.

12
13 The contention that TF2-198 testified about matters not included in his witness statement does not
14 find support from the evolving jurisprudence as invalidating his oral testimony. The Defence argument
15 is that the witness testified about a burning plastic being placed on his back and to suffering serious
16 burns; evidence which was not part of his statement disclosed prior to trial.

17
18 The fact that burns to the witness's shoulder were not in the brief interview notes does not amount to
19 a breach by the Prosecution of its Rule 66 disclosure obligations. The Trial Chamber considers that it
20 may not be possible to include every matter that the witness will testify about at the trial in his witness
21 statement. The Special Court adheres to the principle of orality whereby witnesses shall in principle
22 be heard directly in court. While there is a duty for the Prosecution to diligently disclose statements
23 that identify matters that witnesses will testify about at trial, thereby providing the Defence with
24 essential information for the preparation of its case, it is foreseeable that witnesses, by the very nature
25 of oral testimony, will expand on matters mentioned in the witness statements and respond more
26 comprehensively to questions asked at the trial.

27
28 The Trial Chamber notes that where a witness has testified to matters not expressly contained in his
29 or her witness statements, the cross-examining party may wish to highlight this discrepancy and
30 further examine on this point.

31
32 Accordingly, the Trial Chamber finds that there is no evidence that the Prosecution has breached
33 Rule 66 as regards the disclosure of witness statements. In effect, there is no *prima facie* issue
34 materiality by the Defence that the allegedly objectionable evidence sought to be suppressed as
35 inadmissible was in the possession or control of the Prosecution and that it withheld disclosure of the
36 same.

1 The Trial Chamber recalls that on the 26th of April 2004, the Prosecution disclosed to the Defence
2 copies of all statements for witnesses it intended to call at the trial that had not already been
3 disclosed. The Prosecution, in keeping with its continuing obligation to disclose additional materials,
4 have continued to disclose such material prior to and during the trial. In some instances up to the day
5 before the witness is due to testify.

6
7 The Chamber does not have any evidence before it at this time that the continued disclosure of
8 witness statements by the Prosecution has violated the disclosure Rules. Rule 67(D) provides that if
9 either party discovers additional evidence that should have been produced earlier pursuant to the
10 Rules, that party should notify the other party and the Trial Chamber of the existence of such material.

11
12 In circumstances where the Prosecution obtains additional evidence from a witness that is subject to
13 disclosure, then the Prosecution is required, pursuant to this Rule, to continuously disclose this
14 material. Should there be evidence, however, that the Prosecution has failed in its duty to prepare
15 and disclose witness statements in accordance with these Rules, the Defence should provide
16 concrete evidence of this violation.

17
18 As previously stated, there is no material before the Trial Chamber from which it may be concluded
19 that the Prosecution is in breach of its disclosure obligations.

20
21 Cross-examination on prior inconsistent statements:

22
23 The Chamber reiterates that cross-examination on prior inconsistent statements is permissible in
24 accordance with the requirements outlined in paragraph 21 of this decision.

25
26 For all the above stated reasons, the Chamber allows, in part, the request of the Defence to cross-
27 examine witnesses on prior inconsistent statements in accordance with the requirements outlined in
28 paragraph 21 of this decision, and dismisses the other objections, applications and submissions made
29 in support of the other aspects of this oral motion.

30
31 Done in Freetown, Sierra Leone, this 16th day of July 2004.

32
33 Learned counsel, the Court will rise.

34
35 [Whereupon the Decision hearing adjourned at 15.18]

36 [Pages 1 to 11 by Susan G. Humphries]


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CERTIFICATE

I, Susan G. Humphries, Official Court Reporter 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 my ability and understanding.

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



Susan G. Humphries