

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-14-T
TRIAL CHAMBER I

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

FRIDAY, 24 SEPTEMBER 2004
10.45 A.M.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison
Mr Clemens Daburon (intern)

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Raimund Sauter
Mr Kevin Tavener
Ms Bianca Suciu (Case manager)
Mr Alex El Jundi (intern)

For the Principal Defender:

Ms Haddijatou Kah-Jallow
Mr Ibrahim Yillah

For the Accused Sam Hinga Norman:

Dr Bu-Bubakei Jabbi
Mr John Wesley Hall

For the Accused Moinina Fofana:

Mr Arrow Bockarie.
Ms Phoebe Knowles

For the Accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams
Mr Ansu Lansana

1 Friday, 24 September 2004
2 [The accused Kondewa entered court]
3 [The accused Norman and Fofana not present]
4 [Open session]
10:40:18 5 [Upon commencing at 10.45 a.m.]
6 JUDGE BOUTET: Good morning. We thought we might be able to
7 deliver some decisions at this time this morning, but
8 we're still working on the -- some of these decisions
9 and, hopefully, it will be ready by today, but not at
10:41:57 10 this time. And we have no indication, at this moment,
11 that there is any motion to be dealt with other than
12 those outstanding motions that we have under deliberation
13 at this moment so, in those circumstances, we will
14 proceed to hear a witness.
10:42:16 15 So, Prosecution informed us last night -- or not
16 last night, at the end of the day, that he had another
17 witness ready.
18 MR MARGAI: Sorry, My Lords. May it please, Your Lords, I
19 honestly was not --
10:42:36 20 PRESIDING JUDGE: Mr Margai, how are you feeling this morning?
21 The voice re-assures us that --
22 MR MARGAI: Yes, I think I'm on the way to recovery. I thank
23 Your Lordships and --
24 JUDGE BOUTET: Welcome back.
10:42:50 25 PRESIDING JUDGE: We're having the effect of an in-built
26 amplifier.
27 MR MARGAI: My Lords, as I was saying I honestly was not of
28 the understanding that advanced notice of motions should
29 be given before Friday. I'm sorry for not having done

1 that. That, perhaps, was due to the fact that I was not
2 quite of that view and, secondly, my absence. Now,
3 before I left here, there was an issue which had been
4 partially addressed by my colleague Whitaker on the
10:43:33 5 re-visiting or, rather, variation of the protective order
6 that was made by this Court on the 8th of June 2004.

7 I believe my learned friend Whitaker extensively
8 dealt with the issue and, much as I have not got the
9 transcript proper, but a draft of the transcript, Your
10:44:12 10 Lordship's comments have also been noted. Subject to the
11 convenience of this Court, I would ask that I be given
12 leave to -- to move the motion orally, as has been told
13 to us by the Bench that we could make oral
14 applications -- because of the seriousness of the matter,
10:44:37 15 having regard to the varying experiences we have had in
16 the last couple of days from witnesses saying under oath
17 that they would not mind testifying outside of the
18 screen.

19 PRESIDING JUDGE: Yes, Mr Margai, you know, you should take a
10:44:56 20 cue from your own expression, you know. Wouldn't you
21 think, you know, that because of the seriousness of the
22 matter, as you yourself, you know, have said, that it
23 would be better for us to be seized of this motion in
24 writing?

10:45:16 25 MR MARGAI: Well, if that's the view of the Bench -- in fact,
26 I had anticipated that that would be the reaction. I was
27 forewarned by Phoebe that, in fact, the judges would
28 prefer that and we have already begun preparing one. It
29 is in a skeletal form; we hope to beef it. But I was

1 just taking a chance, but I'm prepared to concede and I
2 do concede. We shall file it, God willing, on Monday so
3 that the other side will have an ample opportunity of
4 knowing what the arguments are and they can also
10:45:57 5 counter-force to be able to sway the Bench one way or the
6 other in not only reviewing, but perhaps varying it in
7 the interest of justice. Much obliged.

8 PRESIDING JUDGE: You're welcome.

9 MR MARGAI: Thank you. My Lord, sorry, because of the
10:46:15 10 urgency, might I, at this stage, ask for an abridgement
11 of time for responses?

12 JUDGE BOUTET: File your motion and we'll act accordingly.

13 MR MARGAI: As My Lords please. Thank you.

14 JUDGE BOUTET: Yes, Mr Prosecutor.

10:46:35 15 MR TAVENER: At this time I would like to provide the Court
16 notice or make an application in respect to Witness
17 TF2-223. That witness was going to be called later in
18 the session; however, the way in which the matters are
19 proceeding and upon a review of the witnesses, the
10:46:57 20 Prosecution now proposes to call this witness earlier
21 than anticipated, that is Witness TF2-223. He will be
22 called slightly out of order. Application is made that
23 TF2-223 testify in closed session. Now, obviously, there
24 has been no notice given to Defence. They may well want
10:47:20 25 some time to consider the position, but I can make the
26 general application that that witness be allowed to
27 testify in closed session, primarily because --

28 PRESIDING JUDGE: What is the witness number again?

29 MR TAVENER: 223.

1 PRESIDING JUDGE: TF?

2 MR TAVENER: TF2-223. I won't canvass the particular sections
3 and the law, that has been provided by this Court, at
4 this time until it is required, but the general
10:47:49 5 submission is because this witness is an insider and the
6 details that he will be required to give will explain why
7 he is in possession of the evidence he is able to testify
8 about and will inevitably lead to the disclosure of his
9 identity. To provide details we would require a closed
10:48:11 10 session in itself as to the nature of his evidence.

11 Consideration was given by the Prosecution as to
12 whether or not part of this witness's testimony could be
13 given in closed session. However, the nature of his
14 evidence is such that it is so intertwined that that
10:48:28 15 appears to be very difficult. We have not completely
16 given away that prospect and we will be considering over
17 the weekend whether a partial estimate could be given in
18 closed session and the remainder in open session. At
19 this stage, the application is that it will be a closed
10:48:46 20 session simply because as to what this witness knows, he
21 could only know what he knows because of the -- his
22 connection to the various accused.

23 PRESIDING JUDGE: The problem is, I mean, when you start
24 segmenting the evidence for you to determine which can be
10:49:07 25 given in open session and which can be given in closed
26 session, it is a matter for concern, you know, and given
27 the fact that the rule is that the hearing should be
28 public. This is the concern of the Chamber and we had --
29 I think it was on the suggestion of the Defence,

1 establish a tradition that if we have to go into the
2 merits of the application for a matter to be heard in
3 closed session, the application should also be heard in
4 closed session, you know, for us to determine whether we
10:49:52 5 should again move into a closed session.

6 I don't know, these are my reservations, you know,
7 on the testimony -- if some of the testimony has to be
8 given in public, I mean, up to what stage and should we
9 be moving in public -- in closed session or public
10:50:11 10 session? You know, depending on what you decide, you
11 know, as the Prosecution, you know, to present in public
12 and what you decide to present in open session.

13 MR TAVENER: That's correct. And that's why I've raised the
14 matter now. We've considered only leading evidence of
10:50:33 15 identity in the closed session; however, the nature of
16 his evidence is such that the intertwining of identity
17 and his knowledge precludes us from, I'll submit, having
18 a partial -- a closed session and partial open session.
19 I've raised this matter now to give people an opportunity
10:50:52 20 to consider and still give the Bench an opportunity to
21 consider how best to proceed, bearing in mind the
22 comments of Your Honour just now and before.

23 JUDGE BOUTET: Just for my own understanding, is this the
24 witness you intend to call now?

10:51:08 25 MR TAVENER: No, it isn't.

26 JUDGE BOUTET: This is for a witness that you're likely to
27 call in the coming week?

28 MR TAVENER: That's correct, Your Honour, and that's why I
29 have raised the matter now.

1 JUDGE BOUTET: Just for timing, this is not the witness we're
2 about to hear; is it the next one?

3 MR TAVENER: No. The other witness will be called on Monday.
4 It is anticipated this witness will probably commence
10:51:33 5 testifying on Tuesday, perhaps Wednesday, depending on
6 timing.

7 JUDGE BOUTET: Thank you.

8 JUDGE THOMPSON: I would like to ask the question: How would
9 you respond to an observation that the closed session
10:51:52 10 requirement, if it becomes so frequent, has a very high
11 potential of undermining the efficacy of judicial
12 guarantees that accused persons are entitled to, in the
13 context of a fair and public trial and also the interests
14 of the international community, that those who are facing
10:52:21 15 trials or being tried by international tribunals should,
16 indeed, be able to have their trial in a setting which
17 clearly does not reflect or is reminiscent of secret or
18 in camera proceedings of past years. Having said that,
19 I'll await your response.

10:52:58 20 MR TAVENER: Could I first say, Your Honour it is not a secret
21 hearing in that the accused are present. They are aware
22 of the identity of the person. The only issue, really,
23 in dispute, which may impact on a fair trial, is whether
24 or not the public are informed as to the nature of the
10:53:15 25 evidence. That is the only issue.

26 JUDGE THOMPSON: Let me interject there that, there is a very
27 strong inter-connection or inter-relationship between the
28 right of an accused person to a fair trial, of course,
29 which guarantees the fairness or the processes which we

1 put in place to determine his guilt or innocence of
2 heinous crimes, as alleged and, also, the perception that
3 justice is being done, the concept of transparency and
4 open trials which are, in fact, essential ingredients of
10:54:04 5 the right of an accused to a trial. I don't think we can
6 rigidly segment them. The interests, clearly, are
7 intertwined and it is that inter-relationship when
8 scrupulously observed and given full efficacy that
9 results in the end product which we succinctly call
10:54:34 10 justice.

11 MR TAVENER: I accept what Your Honour is saying, however one
12 of the unique features of the Special Court is the
13 hearing takes place in the country where the events
14 occurred and that's been noted a number of times; that
10:54:47 15 then raises the issue of security of the particular
16 witnesses.

17 One of the issues which certainly will be a concern
18 to the witnesses, both before and after this Court is
19 completed, is their safety. So, when there is a balance
10:54:59 20 between the need for the public to know and a person's
21 safety, not only now in the immediate time frame, but in
22 the future, the Prosecution would submit that the balance
23 must always go to the safety of the witnesses.

24 Secondly, as this Tribunal, the Special Court, is,
10:55:19 25 in effect, providing a role model or template for future
26 courts. One matter that must have a very high
27 significance is the confidence of witnesses to testify,
28 the ability for the Court to create a situation in which
29 witnesses can testify without concern about their future

1 and, indeed, the public can be satisfied that the
2 witnesses are being adequately protected.

3 JUDGE THOMPSON: Equally important, too, is the public
4 perception of the transparency and openness of our
10:55:57 5 proceedings. The difficulty, of course - and I recognise
6 that it is not an easy matter to resolve - is at what
7 point in time do we reconcile these various conflicting
8 interests? I don't know whether this request is going to
9 come over and over again, and that again, is one concern
10:56:22 10 which I have.

11 MR TAVENER: As Your Honour will appreciate, there are degrees
12 of protection asked for or requested in respect of
13 witnesses. There are witnesses who are concerned about
14 their safety generally and certain measures are put in
10:56:37 15 place. As a matter of logic, a witness who is testifying
16 from within the organisation must be at greater risk. As
17 a matter of human nature the person with whom you are
18 going to have the most animosity towards is someone who
19 you've worked with, someone you know, someone who you
10:56:54 20 trusted at one stage. Clearly, that is the position the
21 insiders are placed in, because they are giving evidence
22 against their fellow colleagues, hence the need to
23 protect them must rise. That is why, when you anticipate
24 a person testifying from within the organisation, needs a
10:57:13 25 greater degree of protection. It simply is --

26 JUDGE THOMPSON: The protection is already given in terms of
27 their identity, but the question of the testimony to the
28 public, the right of the public to know. Well, I'll say
29 no more at this point, but those are my concerns.

1 MR TAVENER: If I could just comment on that, Your Honour. If
2 the testimony can be separated from the testimony that
3 identifies a person, then that is why the Prosecution
4 intends to, as much as possible, confine that evidence.
10:57:44 5 The difficulty with this particular evidence is the
6 position that the witness held and, therefore, without a
7 great deal of analytical thought, one could work out who
8 the witness is.

9 JUDGE BOUTET: We are just trying to determine how best to
10:58:04 10 deal with your application.

11 [Trial Chamber confer]

12 MR MARGAI: My Lord, I'm not sure whether you're going to hear
13 from our side before you give a ruling.

14 PRESIDING JUDGE: On the merits?

11:00:59 15 MR MARGAI: I think so.

16 PRESIDING JUDGE: We cannot swallow who plan and think, you
17 know, without hearing from you.

18 MR MARGAI: It is a very serious application and I think we'll
19 try not to talk for more than two minutes.

11:01:16 20 PRESIDING JUDGE: You will certainly be heard, but just be
21 patient, Mr Margai.

22 JUDGE BOUTET: We are deliberating to see whether we would
23 take this application now or later, because there is --
24 and the obligation, obviously, is that if it is to be
11:01:37 25 heard, it should be heard in closed session to know
26 exactly what is happening. So, we'll hear the
27 application later in the day, because we will proceed now
28 with the witness who is waiting. There are members of
29 the public that are attending at this particular moment,

1 and to save our moving into a closed session at this
2 juncture, as such, I don't think would be appropriate.
3 We'll do it later. But, Mr Margai, we will proceed to
4 hear the witness who is waiting to be heard now. This is
11:02:12 5 not a witness whose testimony is in closed session.

6 MR TAVENER: No, Your Honour. Thank you.

7 JUDGE BOUTET: Thank you. And, obviously, at the time when we
8 get to that stage in the afternoon - I think it will be
9 in the afternoon given the time of day we're at now -
11:02:25 10 we'll hear, certainly, from the Defence. You'll be given
11 full opportunity to argue.

12 MR MARGAI: I'm grateful. Thank you very much.

13 JUDGE BOUTET: So are you ready to proceed with your witness,
14 please?

11:02:38 15 MR TAVENER: Yes, thank you. The next witness is TF2-041.

16 [The witness entered court]

17 THE INTERPRETER: My Lord, which language is the witness going
18 to use?

19 JUDGE BOUTET: Mr Prosecutor, can you inform the Court as to
11:05:21 20 the language the witness will be speaking for the
21 interpreters?

22 MR SAUTER: He is giving his testimony in Mende.

23 JUDGE BOUTET: In Mende, thank you.

24 PRESIDING JUDGE: Mr Sauter, you think you will be on your
11:07:25 25 examination for about how long?

26 MR SAUTER: At most, one hour, Your Honour.

27 PRESIDING JUDGE: At most, one hour. Yes, thank you.

28 JUDGE THOMPSON: And confirm, this is your 15th witness?

29 MR SAUTER: According to my note, it is the 15th witness, yes.

1 JUDGE BOUTET: Go ahead, please. Please proceed, Mr Prosecutor.
2 WITNESS: TF2-041 sworn
3 [The witness answered through interpretation]
4 EXAMINED BY MR SAUTER:
11:09:10 5 MR SAUTER: Thank you.
6 Q. Mr Witness, some general remarks before you start with
7 your testimony. Please speak slowly. The judges take
8 notes of everything that you're saying. Your testimony
9 has to be recorded and it has to be translated into the
11:09:30 10 English language, so please speak slowly. Listen to
11 thoroughly to the questions and answer only what you're
12 asked. And we --
13 PRESIDING JUDGE: And, Mr Witness, if you do not know the
14 answer to a question, you say you do not know. If you
11:09:59 15 know, give the answer as you know it. Do you understand?
16 THE WITNESS: Yes.
17 PRESIDING JUDGE: If you do not understand the question, you
18 can ask for it to be repeated so that you can understand
19 it, okay?
11:10:19 20 THE WITNESS: Yes.
21 MR SAUTER:
22 Q. Please be careful what you're saying not to identify
23 yourself by your answers. Do you understand this?
24 A. Yes, yes.
11:10:32 25 Q. Mr Witness, as you can see, there are protective measures
26 in place in order to protect you and to keep your
27 identity secret. Did you ask for these protective
28 measures?
29 A. Yes, yes.

1 Q. Mr Witness, let me ask you some questions to your
2 personal data. You're xxxx; is this correct?
3 A. Yes.
4 Q. You were born in xxxx?
11:11:18 5 A. Yes.
6 Q. You are married; that's correct?
7 A. Yes.
8 Q. You have xxxx children?
9 A. Yes.
11:11:28 10 Q. You are able to read and write?
11 A. Yes.
12 Q. What is your profession, please?
13 PRESIDING JUDGE: He is able to read and write what?
14 MR SAUTER:
11:11:50 15 Q. Which languages are you speaking and which languages can
16 you read and write?
17 A. English. I can read and write English.
18 Q. Any other languages?
19 A. Yes, Mende.
11:12:16 20 Q. Thank you. Once again the question: What is your
21 profession?
22 A. I'm a xxxx.
23 Q. And when did you start to work as a xxxx?
24 A. 1990.
11:12:42 25 Q. Thank you, Mr Witness. Now, we come to the year 1998.
26 Can you recall where you have been in the year 1998?
27 A. Yes.
28 Q. Please tell us.
29 A. In 1998 I was in Blama.

- 1 Q. And what did you do in Blama?
- 2 A. I was still doing my xxxx job in Blama.
- 3 Q. Could you please tell the Court how the situation in
4 Blama was in the year of 1998?
- 11:13:32 5 A. In 1998 there was no problem except in February 14th --
6 15th, February 15th, on that day, on the 15th - that was
7 on Sunday - when we had come from church, went to the
8 barracks. When we went there, it was not long, then we
9 heard the sound of gunshot in the whole town. It was not
11:14:28 10 long again when we saw Kamajors coming into the barracks.
11 They were shooting in the air.
- 12 Q. Sorry to interrupt you, let's go a step back. You said
13 the "Kamajors came". Does that mean that the Kamajors
14 on -- before this February 14th or 15th 1998 had not been
11:14:55 15 in Blama?
- 16 A. No, they weren't there.
- 17 Q. Who controlled Blama at this time?
- 18 A. Nobody -- at that time nobody was there, because the
19 juntas had gone.
- 11:15:17 20 Q. When you say juntas, who do you mean?
- 21 A. The soldiers and RUF.
- 22 Q. And when did they leave Blama?
- 23 A. They left Blama February -- February 11th, that's when
24 they left Blama.
- 11:15:51 25 Q. Can you recall the workday, the day of the week when the
26 juntas left Blama?
- 27 A. I said it was on the 11th.
- 28 Q. I mean the workday, was it a Monday, Tuesday, Wednesday
29 and so on?

1 A. Wednesday, the 11th, Wednesday the 11th.

2 Q. Before they left Blama, did they control Blama?

3 A. Yes.

4 Q. Can you remember when they came to Blama and took over
11:16:54 5 control?

6 A. Yes. It was in 1997.

7 Q. Did anything special happen in 1997 which, to your
8 knowledge, made the soldiers or the juntas come to Blama?

9 A. Yes. That was when Kabbah was overthrown. That was the
11:17:42 10 time.

11 Q. And you said junta is soldiers and I think you said RUF.
12 Do you remember when junta -- when soldiers and RUF
13 joined?

14 A. At the time when the juntas overthrew Kabbah, that's when
11:18:17 15 they invite the RUF to come and join them.

16 Q. How was the relationship between the juntas and the
17 citizens of Blama?

18 A. The soldiers and the rebels they were very cordial.
19 There was no problem between them.

11:18:53 20 Q. Between who, the soldiers and rebels, or the juntas and
21 the citizens of Blama? So, once again, how was the
22 relationship between the juntas, which means soldiers and
23 rebels, and the citizens of Blama?

24 PRESIDING JUDGE: Soldiers first, soldiers, first, please -
11:19:18 25 whatever you're calling them, junta or whatever - before
26 you come to the citizens or the civilians?

27 MR SAUTER: Well, the question --

28 JUDGE THOMPSON: Is it conjunctive, soldiers and rebels being
29 characterised as junta? Is that what you are doing?

1 That is what I got as my answer.

2 MR SAUTER: You said before -- [overlapping microphones] --
3 characterised and soldiers and rebels.

4 JUDGE THOMPSON: Yeah, and you're putting it to him that -- or
11:19:47 5 you're asking him what?

6 MR SAUTER: My question was: How the relationship between
7 juntas and the citizens were?

8 JUDGE THOMPSON: Of course, juntas meaning rebels and
9 soldiers, right. All right.

11:20:02 10 MR SAUTER:

11 Q. Did you understand the question? Once again the
12 relationship between juntas and the citizens of Blama?

13 A. What I saw with my eyes, there was no problem. They were
14 living peacefully with one another.

11:20:32 15 Q. Did the soldiers and rebels have barracks in Blama?

16 A. No, there was no barracks. They were living in people's
17 houses.

18 Q. So, now, how was the relationship between police and
19 juntas in Blama at this time, starting 1997 after the
11:21:04 20 government Kabbah has been overthrown? Do you understand
21 my question? The relationship between police and juntas?

22 A. When they came, they were wielding power and xxxx they
23 were forcing the policemen to do their work xxxx.
24

11:21:42 25 PRESIDING JUDGE: [microphone not activated] -- the
26 relationship, does that answer your question?

27 MR SAUTER:

28 Q. Let me rephrase my question, please. Could the
29 police officers, during this time, perform their police

1 duties properly?

2 A. Yes, we were working together. We were working together
3 cordially.

4 Q. That was not really my question, but I take it that you
11:22:19 5 worked together cordially. Could you, as police
6 officers, do whatever was necessary to perform police
7 duties?

8 A. No, we had no chance to do that. They didn't give us any
9 chance. They would ask us out of our offices at times,
11:22:44 10 so there was no way we could perform our duties properly.
11 At some other times they forced us to do it.

12 Q. Did you, as a police force, have to obey the orders of
13 the juntas?

14 A. Yes, we obeyed them, because if we didn't obey them, they
11:23:17 15 will kill you.

16 Q. So coming to the point in time when the juntas left
17 Blama, you said it was on a Wednesday, 11th of February
18 and you said, furthermore, the Kamajors came on the 15th
19 of February 1998. Can you remember the weekday when the
11:23:52 20 Kamajors came, 15th of February?

21 A. Yes, it was on Sunday.

22 Q. So, am I right that the juntas left Blama four days
23 before the Kamajors came?

24 A. Yes.

11:24:27 25 Q. Do you know anything about an operation "Operation Pay
26 Yourself"?

27 A. Yes.

28 Q. What does that mean "Operation Pay Yourself"?

29 A. When the juntas were leaving Freetown, they were -- they

1 were looting people's property and taking them away.

2 Q. Excuse me, you mean Freetown?

3 A. They said it was their own things. When they were going

4 from Blama, they were looting people's property. When

11:25:09 5 they were going finally, as -- that was their pay.

6 That's what I know about.

7 Q. When they were leaving, did they only loot property or

8 did other bad things?

9 A. Yes, they looted people's property.

11:25:35 10 Q. And did no other bad things; is that right?

11 A. No, what I -- not

12 JUDGE BOUTET: It is difficult, but I just want to remind you

13 this is your witness and you are in examination-in-chief

14 and although, these matters may not be very contentious,

11:25:57 15 I submit to you this is the domain where the witness

16 should provide the answer, not you.

17 MR SAUTER:

18 Q. Mr Witness, you said the Kamajors were coming on Sunday

19 the 15th. How did you learn that the Kamajors were

11:26:14 20 coming?

21 JUDGE THOMPSON: Did he say they were "coming", or did he say

22 they "came"? Let us get that grammatical sequence right.

23 I thought -- my record says, "The Kamajors came on

24 15/2/98. The juntas left Blama before the Kamajors

11:26:37 25 came." So is it that they were coming, because there is

26 a distinction there, or that they came?

27 MR SAUTER: To be honest, this might be a language problem.

28 JUDGE THOMPSON: It's critical. It's a legal problem.

29 MR SAUTER: You said that they came.

1 JUDGE THOMPSON: They came; that's what I heard. You were
2 using, "They were coming," which there is clearly a
3 difference.
4 MR SAUTER: Thank you.
11:27:06 5 Q. You said the Kamajors came on the 15th of February. How
6 did you learn that the Kamajors came?
7 A. Like I just said, when they came, they were shooting in
8 the air and they entered into the barracks and I saw
9 them. They were dressed; they had had guns in their
11:27:28 10 hands. They were fearful. It was not even up to five
11 minutes when they started firing, when they reached --
12 entered the backs.
13 [HN240904B 11.35 a.m.]
14 Q. How did you know that the people who entered the barracks
11:35:39 15 were Kamajors?
16 MR MARGAI: My Lords, that question has been amply answered.
17 Mr Witness, please. The witness has answered the
18 question.
19 PRESIDING JUDGE: Not "amply"; I wouldn't say "amply" --
11:35:58 20 I wouldn't say "amply".
21 MR MARGAI: As My Lords, please. Well, let's say he has
22 answered the question.
23 PRESIDING JUDGE: Mr Sauter, continue. They were dressed and
24 so on, you know. I wouldn't think that that is --
11:36:12 25 I don't know. It depends on --
26 JUDGE THOMPSON: How he said they were dressed -- is it
27 "dressed" or "dressed fearfully"? I heard the
28 word "fearfully".
29 MR SAUTER:

- 1 Q. So could you describe, please, how the persons who
2 entered the barracks were dressed?
- 3 A. Those that came into the barracks, some of them had
4 cotton clothes around them with glasses on them. They
11:36:46 5 had a ronko on and some of them had black suits on --
6 some had different sort of uniforms. They had guns,
7 machetes -- that is how I knew that they were Kamajors.
8 They were -- there were some things -- Arabic was written
9 on some of the things that they wore.
- 11:37:11 10 Q. What did you do when you observed the Kamajors enter the
11 barracks?
- 12 A. When they entered, they started asking for the policemen,
13 "Where are the policemen? Where are the policemen?" So
14 when I heard that, I told my wife to enter the bush --
11:37:35 15 enter into the bush, myself and her, enter into the bush
16 near the barracks.
- 17 Q. Do you know any reason why the persons who entered the
18 barracks were asking for the policemen?
- 19 A. No. At that time I didn't know why they were asking for
11:38:00 20 police, but later I knew.
- 21 Q. Were you afraid of the Kamajors?
- 22 A. Very, very much. I was afraid of them very much.
- 23 PRESIDING JUDGE: That's why he ran into the bush with the
24 wife and hid.
- 11:38:24 25 MR SAUTER:
- 26 Q. What did you observe when hiding in the bush?
- 27 A. When we were in the bush, myself -- my wife and the
28 others, my colleagues, they were firing in the bush where
29 we were -- firing in the air. When they had shot for

1 some time, we were still lying on the ground till up to
2 7.00 or 8.00 at night. Then I told my wife -- I said,
3 "Go back to the town," [inaudible] for her here, and she
4 went.

11:39:18 5 Q. Mr Witness, you said "they were firing"; who was firing?

6 A. The Kamajors that came to the barracks were those firing
7 towards us in the bush. I was lying on the ground.

8 Q. You said you sent back, or you asked your wife to go back
9 to the barracks. What did you do?

11:39:49 10 A. I went deep into the bush, because I was afraid that the
11 bullets will reach me, so I went right into the bush. By
12 then the moon was shining, and they followed us into the
13 bush. While they were coming they were firing and then
14 they pointed a torch at me -- they saw me, but I didn't

11:40:16 15 want to shake lest they fire me, so I came out. When
16 they caught me, they took -- they took me to the street
17 Koribundu Road. There was so much crowd there. When
18 they took me to the road, then the CO asked me -- I don't
19 know his name -- he said who am I. I said, "I'm a
11:40:47 20 policeman." He said, "Why are you here?"

21 Q. Mr Witness, once again, sorry for interrupting you. Have
22 you been the only one -- the only policeman who was
23 brought before the CO, as you said? If not so -- if
24 others, please don't mention names at this point, not to
11:41:11 25 identify yourself by the names of others. Did you
26 understand my question? Have you been the only one who
27 was brought before the CO?

28 A. I was not the only one. I have to reach there. When
29 I was caught -- when they were coming, I was not alone,

1 but where I was caught, I was the only one that was

2 caught.

3 JUDGE THOMPSON: Can he slow down a bit?

4 MR SAUTER:

11:41:42 5 Q. Please, speak slowly. So answer the question once again,

6 please, but slow down -- okay? So you said you were

7 arrested in the bush, brought to the road to Blama, and

8 subsequently brought before the CO; that's correct?

9 A. They caught me. They brought me before the CO. There is

11:42:22 10 a particular CO at Blama, the ground commander, that is

11 not the one I'm talking. When they caught me -- before

12 that, they had caught another policeman, but before

13 then -- but where I was, I was the only one that was

14 caught. They asked me who am I. I said, "I'm a

11:42:38 15 policeman." He said, "Why are you not working?"

16 Q. When you say you were brought before the CO, which CO do

17 you mean?

18 A. They had their own CO -- the CO that took the group to us

19 when they met us in the barracks.

11:43:04 20 Q. They had their own CO. Whose CO was it?

21 A. I don't know his name.

22 Q. Not his name. To which group did this CO belong, or

23 which group was this CO commanding?

24 A. Those that had a cotton cloth and with glasses pasted on

11:43:28 25 them, he was leading that group.

26 Q. Am I correct that you are calling this group Kamajors?

27 A. Yes.

28 Q. So am I correct that you were brought before the Kamajor

29 commander?

1 A. Yes.

2 Q. Okay. So did anything happen when you were brought
3 before the Kamajor commander?

4 A. Okay. When they came -- when they asked me who I was and
11:44:10 5 I said, "I'm a policeman." He said, "Why are you here
6 instead of work?"

7 Q. Okay. "Why are you here?" Did he ask anything else?

8 A. He said why weren't we working. I said, "We are
9 policemen. We're there to make peace and protect life
11:44:40 10 and property." I said, "That's why we're here." Just
11 after that, then he became angry. The stick he had, he
12 hit me and one of my teeth broke.

13 Q. Mr Witness, you said "we" -- we had this question
14 before -- "We were brought before the CO," and "he said
11:45:09 15 to us". So who was with you -- don't tell the name; just
16 how many persons were you, and in which capacity these
17 persons were there. Do you understand my question?

18 A. The first, as I said, was the Kamajor. When they were
19 beating me, they said, "We're taking you to the ground
11:45:48 20 commander in Blama Town." He said -- Hinga Norman said,
21 "When you come, that we should kill the police, their
22 wives and their children, so we're taking you straight to
23 the ground commander in Blama" and I said, "If God
24 willing." Then I was put in front -- while we were
11:46:08 25 going, they were pushing me.

26 Q. They were pushing you?

27 A. And beating me with sticks and the butts of guns. They
28 said we should walk faster. While we were reaching
29 Blama, they brought another colleague of mine,

1 a sergeant. They said, "He is also a policeman. Let's
2 take the two of them."
3 Q. Would you please repeat the last part of your sentence?
4 What did he say, the commander?
11:46:50 5 A. While we were going, when they were pushing me and
6 beating me -- when we were reaching -- they brought one
7 of my other colleagues, a policeman. They said, "We have
8 also brought another police, so there are now two in
9 number. Let's take them away."
11:47:18 10 Q. Do you know what he meant with, "Let them take away" --
11 I did not understand properly.
12 A. He said they should take us to the ground commander --
13 they were taking us to the ground commander -- to kill
14 us. So both of us went. While we were going, they
11:47:57 15 reached the ground commander first, the group that was
16 leading us in front and they took bullets -- from the
17 bullets. They said that was for us to be killed, because
18 we were policemen. So when we reached the ground
19 commander's place at Blama centre, he didn't say
11:48:17 20 anything. He just waved his hand, that we should go away
21 from -- that we should just leave his side.
22 Q. So let's go further. Did anything happen to you after
23 this -- after the commander had made his, you said,
24 motion?
11:48:48 25 A. Yes, they took us to the back of the house. Then they
26 said they should fire -- they should shoot us and
27 everyone said, "If you fire them, others will be afraid
28 -- if you shoot a gun." They said, "We should kill them
29 with a knife." Then I was afraid. I said when they took

1 us to the back of the house by Lumley [phonetic] Street
2 going to Koribundu. Then one of them said they should
3 kill us with a gun. Then they CO said, "Don't fire a
4 gun. If you fire a gun, people will be afraid." They
11:49:33 5 said they should use a knife to kill us. Then, when
6 I heard that, I attempted to run, but they caught me.
7 Q. When you say, Mr Witness, "We were brought to the back of
8 the house," who do you mean "we"? It was you and who
9 else?
11:49:55 10 A. Myself and my colleague police who was also caught.
11 Q. So two persons, including you?
12 A. No, just one person -- just one person. One person and
13 me, making two.
14 Q. Okay, thank you. So what -- did anything happen after
11:50:17 15 you were brought to the back of the house?
16 A. Yes. I left my colleague and [overlapping
17 microphones] and I was crying.
18 PRESIDING JUDGE: [Microphone not activated] getting confused.
19 This man said they were to kill him by shooting. Then
11:50:39 20 the commander said, "No, let them use a knife," because
21 if they shot, people would be afraid and so on. When he
22 heard they should kill them with a knife, I thought
23 I heard him say, he started -- he wanted to escape.
24 MR MARGAI: [Microphone not activated]
11:50:56 25 PRESIDING JUDGE: Yes, he tried to escape.
26 MR SAUTER: I'm sorry, I didn't hear anything like that.
27 PRESIDING JUDGE: But that's your witness.
28 MR SAUTER: I know.
29 PRESIDING JUDGE: It is your witness.

1 MR SAUTER: Yes.

2 PRESIDING JUDGE: You have to follow his evidence.

3 MR SAUTER: Unfortunately, this witness seems to be very
4 nervous, and that makes it a little bit --

11:51:14 5 PRESIDING JUDGE: No, he isn't. He is giving evidence, you
6 know. If he's guided, you know, he would --

7 MR SAUTER: This makes it a little bit difficult.

8 PRESIDING JUDGE: Proceed, please.

9 MR SAUTER:

11:51:30 10 Q. So, Mr Witness, you need not be nervous. Think
11 thoroughly what you are saying upon my questions, speak
12 slow, and be as clear as you can be. Let's start at the
13 point when you and your colleague were brought to the
14 back of the house, okay?

11:52:03 15 A. Okay.

16 PRESIDING JUDGE:

17 Q. Mr Witness, when you wanted to escape -- when you heard
18 they were going to kill you with a knife and you wanted
19 to escape, what happened thereafter? You were caught,
11:52:19 20 were you?

21 A. I couldn't even run -- they were so much, that they
22 caught me.

23 Q. And what happened after that?

24 A. I was standing crying and another one came and said they
11:52:36 25 were wasting time with me. They said -- they said they
26 had killed another person so they should not waste time
27 on me; they should just kill me.

28 MR SAUTER:

29 Q. And what did they do to you?

1 A. Just after that they -- they dropped me on the ground,
2 facewards.

3 JUDGE THOMPSON: Let me complain, too. "They" -- there's a
4 ring of ambiguity. I mean, I don't -- the records seem a
11:53:24 5 little ambiguous.

6 THE WITNESS: The Kamajors -- I'm talking about the Kamajors.
7 The Kamajors, they dropped me on the ground, like
8 I dropped facewards.

9 MR SAUTER:

11:53:34 10 Q. Did anything happen to you when lying on the ground?

11 A. Yes, while I was there, they took a knife and put it on
12 my neck. Then the CO asked for my name and they called
13 my name. Then I raised my head and they put -- he said,
14 "Put a torch in my face."

11:54:02 15 THE INTERPRETER: My Lord, the witness is speaking so fast.

16 MR SAUTER:

17 Q. Mr Witness, this is the -- is this the same CO you
18 were -- you spoke about previously, the one you have
19 brought before?

11:54:30 20 A. No, these other COs were all together in Blama. It's
21 another CO.

22 Q. And did you know this CO?

23 A. Yes, I knew him -- I even knew his name.

24 Q. So when you were lying on the ground, you could see his
11:54:55 25 face and you recognised him?

26 A. Yes, while I was on the ground, he called me. He said
27 I should look up at him. I looked up and he pointed a
28 torch at my face and he said if I knew him, let me call
29 his name. Then he said he should kill me.

1 Q. And did you know him?
2 A. Yes.
3 Q. Did you know him by name? Don't mention the name,
4 please.
11:55:30 5 A. Yes.
6 Q. From -- well, why did you know him, or when did you meet
7 him before?
8 A. I first met him when they said he had stolen a
9 cassette -- when he was taken to me, when he was brought
11:56:05 10 to me.
11 Q. Don't give too many details, otherwise I would have to
12 apply to go to closed session. If this is in the
13 interests of the Defence, I can do that.
14 PRESIDING JUDGE: Leave closed session alone. Go ahead with
11:56:29 15 this witness, please.
16 THE WITNESS: Just after that --
17 MR SAUTER:
18 Q. So, witness, the question was: when did you meet this CO
19 previously? Did you have to do anything with him before
11:56:52 20 this incident when you were brought behind the house by
21 the Kamajors in order to be killed? Do you understand my
22 question?
23 A. This CO that pointed a torch at my face, we hadn't
24 anything.
11:57:23 25 Q. Did you meet this CO before in your capacity as a police
26 officer in Blama?
27 A. Yes.
28 Q. Did you ever conduct investigations against this
29 person --

1 MR JABBI: Objection, My Lord. My Lord, the prosecuting
2 counsel is asking very leading questions, which suggest
3 the answer to the witness.
4 JUDGE THOMPSON: But are those controversial issues?
11:58:02 5 MR JABBI: My Lord --
6 JUDGE THOMPSON: The scope of examination-in-chief, the law
7 allows leading questions sometimes, as long as they are
8 not contested. Of course, if they're contested, the rule
9 of impermissibility prevails.
11:58:21 10 MR JABBI: He's virtually giving evidence on behalf of the
11 witness.
12 JUDGE THOMPSON: I don't get that impression. A leading
13 question is clearly impermissible, particularly if it's
14 on a controversial issue, but leading questions on
11:58:35 15 non-controversial issues are permissible, within the
16 discretion of the Tribunal.
17 MR JABBI: My Lord, the fact --
18 JUDGE THOMPSON: I'll let you go on and make your point.
19 MR JABBI: The fact that he's trying to elicit is obviously a
11:58:49 20 fact that we, in the Defence, will contest, My Lord, and
21 if he is volunteering that information on behalf of the
22 witness, then he is, of course, giving evidence --
23 JUDGE THOMPSON: If he can give me that assurance. I'm not
24 interested in the aspect of whether he's giving evidence
11:59:09 25 or not -- I don't think learned counsel is giving
26 evidence. But if you assure me that the issue -- the
27 answer may likely come out on an issue that is
28 contestable, then it would be impermissible.
29 MR JABBI: Exactly, My Lord. All the allegations he is making

1 are obviously issues that the Defence will contest.
2 JUDGE THOMPSON: My position would be simply that learned
3 counsel for the Prosecution should tread extremely
4 cautiously, avoid leading questions that are likely to be
11:59:44 5 controversial, and to be matters that are in contest.
6 MR JABBI: Thank you very much, My Lord.
7 MR SAUTER: Thank you. Very well.
8 Q. So, Mr Witness, you said, if I understood you correctly,
9 that you know this commander from before in your capacity
12:00:10 10 as a policeman; am I correct?
11 A. Yes.
12 Q. Thank you. Did this commander give any orders with
13 regard to you?
14 A. Yes.
12:00:38 15 Q. What did he order?
16 A. He ordered that I should be killed. He said they were
17 looking for me.
18 PRESIDING JUDGE: Let me get this reply again. You say he was
19 brought to him in his capacity as --
12:00:58 20 MR SAUTER: No, he met him, this commander -- he met this
21 commander before this incident in his capacity as a
22 police officer.
23 PRESIDING JUDGE: As a police officer?
24 MR SAUTER: Yes.
12:01:08 25 PRESIDING JUDGE: In what connection? I'm not asking you to
26 re-tell the question. In what connection?
27 MR SAUTER: This, I tried to clarify, but I was stopped.
28 PRESIDING JUDGE: No, you sought to clarify it in a manner
29 that was not procedurally right. Can you now, you know,

1 ask him in what connection?

2 MR SAUTER: I would prefer not to put this question -- not to
3 expose this witness --

4 PRESIDING JUDGE: It is your case. You can proceed.

12:01:47 5 MR SAUTER: -- to the risk of being identified.

6 PRESIDING JUDGE: You can proceed.

7 MR SAUTER: Thank you.

8 Q. So after the commander has given the order to kill you,
9 did anything happen to you?

12:02:02 10 A. Yes. They put a knife at the back of my neck again. My
11 head was downwards. I didn't know where I was, and they
12 cut it. I didn't know where I was.

13 Q. Could you observe what happened after you have been cut
14 in the back of your neck?

12:02:41 15 A. Yes, they wounded me all over again with the knife and
16 they left me there in the hands of God. I was only in
17 the hands of God now.

18 Q. Did the persons who hurt you or cut you stay with you?

19 A. No, I didn't see them. They left me and I woke up --
12:03:24 20 I got up.

21 Q. What did you do after you, as you say, woke up?

22 A. After I got up, I took my neck again, placed it in a
23 [inaudible] position and took my shirt and tied it and
24 I went to the place where they had caught me.

12:03:56 25 Q. Did you know what kind of injury or injuries you had?

26 A. Yes, they cut at the back of my neck and they wounded me
27 all about it with knives.

28 Q. After you had gone to the place where you were caught,
29 what did you do?

1 A. They were still chasing me. Then the moon was shining.
2 They said if they caught me, they would kill me, and they
3 would eat me. They chased me, but I was in the bush --
4 they didn't see me.

12:04:49 5 Q. You said they did not see you?
6 A. Yes.
7 Q. Which means that they did not catch you?
8 A. No.
9 Q. How long did you stay in the bush?

12:05:14 10 A. It took about a week, because I was travelling at
11 night -- I travelled about 12 miles until I reached the
12 hospital.
13 Q. Pardon?
14 A. Until I reached the hospital.

12:05:38 15 Q. Did you go by yourself to a hospital?
16 A. No. When I went to the village, that I met Kamajors in
17 that village, they said they were to kill me. Others
18 said, "We know this man. He is from Blama." They wrote
19 a letter to the town chief at Blama.

12:06:05 20 Q. Mr Witness, you are always speaking of "they" and "us"
21 and so on. Could you explain to us who sent the letter
22 to the town chief?
23 THE INTERPRETER: Please go by the question again.
24 MR SAUTER:

12:06:29 25 Q. Mr Witness, you said they wrote a letter to the town
26 chief. Who wrote a letter to the town chief?
27 A. The town chiefs that were in the village that I went.
28 Because I said that I came from Blama, so they wrote a
29 letter to the town chief in Blama that I was there

1 [overlapping microphones]
2 Q. [Microphone not activated] and the chief in the village
3 you were caught wrote a letter to the town chief of
4 Blama; is that correct?
12:07:24 5 A. Yes.
6 Q. And by whom were you were caught in this village -- by
7 which group?
8 A. It was the Kamajors who caught me in that village. They
9 were dressed in their usual dressing.
12:07:50 10 PRESIDING JUDGE: May we have the privilege of knowing the
11 name of --
12 THE WITNESS: -- they said they were going to kill me.
13 PRESIDING JUDGE: That is also a privileged question.
14 MR SAUTER: I would not like to ask this question, Your
12:08:03 15 Lordship.
16 PRESIDING JUDGE: Okay, thank you.
17 MR SAUTER: Not to identify --
18 PRESIDING JUDGE: Right, you may proceed, please.
19 MR SAUTER:
12:08:09 20 Q. Do you know whether the town chief of Blama has responded
21 to the other letter?
22 A. Yes. On that very day he wrote a letter to the other
23 chief that I should be brought to Blama for me to be
24 treated -- that I shouldn't sleep there that very night.
12:08:43 25 Q. And did they bring you to Blama?
26 A. Yes, the Kamajors brought me.
27 Q. And what happened after you reached Blama?
28 A. I went to the town chief who wrote the letter, and they
29 took me to the hospital for me to be treated.

- 1 Q. Could you tell us, please, for how long time you have
2 been admitted to a hospital?
- 3 A. Yes. I was there until July -- that's when I was
4 discharged.
- 12:09:29 5 Q. Can you remember whether you have been admitted to the
6 hospital in February, or was it already March?
- 7 A. It was in February after one week, that's when I was
8 admitted.
- 9 Q. That means you had to stay in hospital from the end of
12:10:00 10 February until July 1998; am I correct?
- 11 A. It was not the end of February. I went there on the
12 15th, I spent one week there, and I came back, and I was
13 there till July. I spent only one week. They brought me
14 on the 21st -- February -- the 22nd -- February -- to the
12:10:46 15 hospital. That's the time they brought me.
- 16 Q. 22nd of February?
- 17 A. Yes.
- 18 Q. Mr Witness, do you happen to know what happened to your
19 colleague who, together with you, were brought before the
12:11:06 20 commander in Blama?
- 21 A. Yes.
- 22 Q. Please tell us?
- 23 A. I said just now that, when they brought us, he was the
24 first person that they killed. In my absence, they
12:11:32 25 caught another one. He, too, was a police. He, too, was
26 killed, but I was not there -- it was my wife that told
27 me.
- 28 Q. Obviously, you are speaking about --
- 29 A. When I was admitted in the hospital.

1 Q. -- a different incident. Let's stay with the colleague
2 who were brought together with you to the commander in
3 Blama -- that colleague, who together with you was caught
4 when hiding in the bushes; do you know whom I mean?

12:12:10 5 A. That's what I'm saying. He was killed -- he was the
6 first person who was killed that very night by Kamajors.

7 Q. Did you personally see how he was killed?

8 A. No, I didn't see that. It was a very large crowd.
9 I didn't even turn to see that.

12:12:35 10 Q. How did you learn that this person was killed?

11 MR MARGAI: Again, My Lords, this question has been answered.
12 If my memory serves me correctly, this witness said that,
13 after he had been tripped to the ground, face downwards,
14 one Kamajor approached the scene and said they were
12:12:55 15 wasting time, they should kill him, because they had
16 killed the other officer. That's his testimony. He has
17 answered this.

18 JUDGE THOMPSON: Speaking for myself, it sounds like
19 cross-examination of his witness.

12:13:16 20 MR SAUTER: Well, sometimes the Prosecutor is committed to the
21 truth.

22 MR WILLIAMS: Sometimes.

23 MR SAUTER: And I'm sorry, I did not hear your ruling about
24 this objection.

12:13:34 25 JUDGE THOMPSON: Quite frankly, it is also a rule of
26 examination-in-chief that one must not be unduly
27 repetitive or repetitious.

28 MR SAUTER: Okay.

29 Q. So, Mr Witness, you said you heard about the killing of

1 another police officer. Could you tell us what you mean?
2 A. Yes. That day that they were going to kill me, he too
3 came -- that policeman, he came. He was caught, and they
4 placed him on the ground and they gave him a musical
12:14:45 5 instrument called kelen and he was asked to beat that and
6 sing for the whole day. That's what my wife told me.
7 MR SAUTER: One second, please.
8 Q. You said you were cut in the back of your neck. Do you
9 have any scars left from this cut?
12:15:26 10 A. Yes, yes, it's right there -- right round, up to my
11 ears -- it's there.
12 Q. Could you please show to the judges where the scar is,
13 but don't stand up, please -- don't stand up. Just turn
14 around. Could you remove your jacket, please, and show
12:15:52 15 with your fingers where the scar is? Could your put your
16 fingers -- [Witness indicates].
17 Okay, thank you very much.
18 MR SAUTER: No more questions, thank you. Thank you,
19 Mr Witness.
12:16:21 20 JUDGE BOUTET: Thank you. Can we proceed with the
21 cross-examination by the first accused and can you tell
22 us how long you expect -- we're trying to determine what
23 time we should be breaking for lunch.
24 PRESIDING JUDGE: I'm sure Mr Jabbi will be done in
12:17:09 25 10 minutes. Well, go ahead, and let's see how --
26 MR JABBI: My Lord, I was actually going to ask whether
27 perhaps at this stage in the proceedings we might not
28 rise for the cross-examination to be started after lunch,
29 even if we have to come earlier from lunch.

1 PRESIDING JUDGE: It's too early now for us. It's 12.15,
2 Dr Jabbi. It's too early for us to rise now. We better
3 take your cross-examination, and we will rise when the
4 time comes.

12:17:49 5 MR JABBI: As Your Lordships please.

6 CROSS-EXAMINED BY MR JABBI:

7 Q. Now, Mr Witness, can you tell the Court how long you
8 **xxxx** before 15th February 1998?

9 A. **xxxx** and more.

12:19:06 10 PRESIDING JUDGE: Dr Jabbi, can we get that answer from him
11 again, please? **xxxx**.

12 MR JABBI: He said he had been there **xxxx** before
13 15th February.

14 PRESIDING JUDGE: In Blama?

12:19:18 15 MR JABBI: Yes, in Blama.

16 Q. And where did you live in Blama?

17 A. **xxxx**.

18 Q. Now, for -- do you remember when the AFRC and the RUF
19 first went to Blama -- soldiers of the AFRC and RUF, when
12:20:31 20 they first went to Blama?

21 A. Yes, it was in 1997.

22 Q. Can you remember the month?

23 A. Yes, I can.

24 THE INTERPRETER: November, November -- sorry.

12:21:15 25 MR JABBI:

26 Q. And so from November 1997 to February 1998 you worked
27 with the AFRC in Blama; is that so?

28 A. Yes, we didn't work, because they didn't even know that

29 I was a policeman, because they didn't know that I was --

1 I was not using a uniform at the time, but I saw them
2 working with others.

3 Q. Let's get that clear. Since November 1997 till
4 February 1998 are you telling this Court that you did not
12:22:27 5 work together with the AFRC soldiers and the RUF in
6 Blama?

7 A. The point where they were, we weren't working together.
8 They didn't even know that I was a policeman. Those that
9 were putting on uniform, they forced them to work.

12:23:05 10 Q. Now, again, are you saying that, for all that period, you
11 were not in uniform -- from November 1997 to
12 February 1998?

13 A. No, I never put on uniform -- I'm not a uniform police.

14 Q. What sort of police are you?

12:24:01 15 A. I'm a CID.

16 Q. Notwithstanding that -- notwithstanding that you were not
17 in uniform during that period, were you, nevertheless,
18 working with the AFRC soldiers and RUF in Blama during
19 that period?

12:24:45 20 A. No. No, I was not going to that checkpoint, but I would
21 go to the police station to my friends -- my colleagues
22 at the police station.

23 Q. Did the RUF and AFRC also work in the police station
24 during that time?

12:25:35 25 A. No, they were only at the checkpoints.

26 Q. During the period that the AFRC and the RUF were in
27 control of Blama, what was the relationship between them
28 and the people of Blama, so far as you knew?

29 A. I said there was no be problem, they were moving

1 together -- they were moving together, they did nothing
2 to them.

3 Q. However, in your evidence, you did say that there was an
4 operation Pay Yourself in Blama, which you explained in
12:27:09 5 full. When did that occur in Blama?

6 A. That's when they were -- when they were going,
7 February 11, they were looting people's property and
8 carting them away.

9 Q. And do you want this Court to believe that the AFRC
12:27:49 10 forces in Blama did looting only at the time they were
11 leaving, and never before?

12 A. No, that's what I know.

13 Q. What about the relationship between the junta forces and
14 the police in Blama during that period?

12:28:54 15 A. We were afraid of them. They would always come around
16 and force us and we had no option but to obey them, so
17 there was no problem.

18 Q. You did say in your evidence-in-chief that they had to
19 beat the junta forces, because if you didn't, they would
12:29:15 20 kill you. How do you know they would kill you if you
21 didn't obey them?

22 A. For those who were wearing a uniform -- for those who
23 were wearing uniforms, if they ask you to do something
24 and you refuse, they will either beat you up or tie you.

12:29:58 25 Yes, I did see that, but I was nowhere in uniform. I had
26 nothing to do with them.

27 Q. Now, even though you were not wearing a uniform, did the
28 AFRC forces know that you were a policeman, nonetheless?

29 A. Yes, because when they went to the police station, they

1 would always meet me there.

2 Q. Did they ever ask you to do any particular duties in your
3 line of duty?

4 A. No, they didn't ask me. Only that if there's a case --
12:31:19 5 if there's a case involving civilians, I'll attend to it,
6 but they never asked me to.

7 Q. Did they ever give you instructions in respect of cases
8 involving civilians which you were attending to?

9 A. No, the cases that they brought, they would pass on to
12:31:47 10 those people who were wearing uniforms, not me.

11 Q. My question was about the things that you were doing in
12 respect of civilians. Did they ever give you
13 instructions in respect of what you were doing?

14 A. No, no.

12:32:27 15 Q. And you have said that, for the policemen uniform, if
16 they did not carry out such instructions, they would be
17 beaten up or tied up. Do you have any specific examples
18 of that that you can tell the Court?

19 A. Yes, yes. They did it in Kenema and Bandama -- one
12:33:11 20 policewoman. Mosquito did it in Kenema and in Bandama.
21 He instructed the woman to work and the woman said she
22 was not going to work, so he passed orders that she
23 should be tied.

24 Q. Any other example?

12:33:52 25 A. No, that was happening in Kenema and Bandama.

26 Q. Did anything like that happen in Blama itself?

27 A. No, they didn't do it in Blama, but they were harassing
28 us, you know, asking us to work.

29 Q. How were they harassing you?

- 1 A. They were controlling people, so when they are at a
2 checkpoint they would always ask people to do something
3 by force.
- 4 Q. Now, according to you, when the Kamajors came on the 15th
12:34:38 5 of February 1998 and were shooting in the air, according
6 to you, you escaped into the bush. Why did you escape
7 into the bush?
- 8 A. When they came and when they were shooting in the air,
9 they were looking out for policemen, so I was scared,
12:35:17 10 even by the way they were dressed. So I went away with
11 my wife into the bush.
- 12 Q. Now, I put it to you that you escaped into the bush
13 because of your past conduct and you felt you might get
14 into trouble for that?
- 12:36:30 15 A. It was not for that -- there was nothing between us,
16 myself and the Kamajors, but when they came, they were
17 asking for policemen and they were shooting in the air.
18 That's why I went away.
- 19 Q. I'm talking about your close collaboration with the AFRC
12:36:48 20 and the RUF troops in Blama before the Kamajors came.
21 That's the reason why you escaped immediately into the
22 bush when the Kamajors came.
- 23 A. It was not for that. I told you that I was only going to
24 the police station to visit my colleagues. We did
12:37:30 25 nothing together. I was even afraid of them.
- 26 Q. At the time you escaped into the bush, was it in
27 daylight, or at night?
- 28 A. When they came -- when they entered the barracks at 11.00
29 after church, I ran away into the bush.

- 1 Q. When were you caught in the bush by the Kamajors
2 according to you, in your hiding place -- when? Was it
3 at night or in the day time?
4 A. At night between 7.00 and 8.00 and the moon was shining
12:38:24 5 at the time. That's when they caught me.
6 Q. Did they do anything to you there?
7 A. Yes.
8 Q. What did they do?
9 A. The CO slapped me with a stick that he had in his hand.
12:38:48 10 Q. That is when you were brought before the CO according to
11 your evidence. I'm talking about the moment when you
12 were caught in the bush; did they do anything to you?
13 A. They caught me by the roadside -- by Koribundu -- by the
14 roadside. When they caught me, they dragged me in front
12:39:18 15 of him. Then he slapped me in my mouth. It was then
16 that he said we should go to town, they were going to
17 kill me.
18 Q. Now, do you know that CO?
19 A. No, I couldn't know him. It was at night and there were
12:39:39 20 many -- his own dress was separate -- he was dressed in a
21 different way except for the cowrie shells that he had on
22 his wrist.
23 Q. How did you know he was the CO?
24 A. When they brought me before him, that's how they called
12:40:06 25 him. When they dropped me down, that's how they
26 addressed him, "The CO cut this man. He's a policeman."
27 Q. You also say you were taken to a ground commander in
28 Blama. Was that at night, or in the day time?
29 A. That same night when they caught me and hit me and blood

1 was oozing from my mouth. That's when they took me to
2 that ground commander.

3 Q. It was the same night that he said -- or, according to
4 you, waved his hand that you should be taken out of his
12:40:54 5 sight. Was this also at night?

6 A. Yes, as soon as we reached there, he said, "This is a
7 policeman." That's when he waved his hand, that I should
8 be taken away out of his sight.

9 Q. And it was also at night when you were taken behind the
12:41:37 10 house, according to you, along Koribundu Road, and
11 someone said they should kill you with a knife. Was that
12 also at night?

13 A. That same night when the ground commander passed that
14 order -- it was that same night that they were going to
12:42:16 15 kill us.

16 Q. Now, you spoke about the CO who put -- pointed a torch at
17 you when you were on the ground. Do you remember that?

18 A. I didn't say so. I said, when I was lying down -- when
19 I was lying down, he came with the torch and pointed at
12:43:03 20 his own face and asked me if I know him, and I said,
21 "Yes." I thought he had come to save me, but that was
22 not it.

23 Q. Who was that CO, can you tell the Court?

24 MR SAUTER: Objection. The answer to this question would
12:43:26 25 expose the witness to the risk to be identified.

26 MR JABBI: My Lord, I mean, this seems to be really a
27 difficult situation. It is only the Prosecution that
28 seems to know that particular identities of other people
29 mentioned in their evidence-in-chief will expose the

1 identity of this witness. And one fails to see how --
2 JUDGE BOUTET: No, Dr Jabbi, it is not of this witness -- it
3 is of witnesses, so it may not be this witness, but other
4 witnesses that have already given evidence, or may give
12:44:16 5 evidence, whose identity is protected and, therefore, by
6 this witness testifying as to some names that could lead
7 to that. That's the issue.
8 MR JABBI: My Lord --
9 JUDGE BOUTET: We had that yesterday afternoon, as you may
12:44:29 10 recall.
11 MR JABBI: Yes, we did, My Lord.
12 JUDGE BOUTET: That's the same type of scenario -- at least
13 that's my understanding. Isn't that the purpose of this
14 particular witness who is sitting here in Court?
12:44:37 15 MR JABBI: In this particular case, My Lord, I think what the
16 Prosecution has just said is that the mention of this
17 name will reveal the identity of this witness. He did
18 not relate it to the possibility of some coming or
19 previous witness who might well be that person, and so
12:44:58 20 that identity may be revealed. It was clearly -- both
21 when they have been speaking before and now -- just
22 now -- he has merely said the name of that person may
23 reveal the identity of this witness as distinct from the
24 identity of -- I mean, that name being a pointer to the
12:45:20 25 identity of some witness -- some other witness, My Lord.
26 JUDGE BOUTET: You may be right, I may be wrong in my
27 assumption, but even if I'm wrong, the issue here is
28 whether or not evidence that this witness is about to
29 give -- if he does answer your question -- will reveal

1 the identity of anyone who had protective measures
2 applied to him or her, including this witness, but
3 I don't know the background. I mean --

4 JUDGE THOMPSON: My difficulty really is how long are we going
12:45:57 5 to move along the path where certain questions, which are
6 put in cross-examination, are going to be objected to on
7 grounds of, at this point in time, a speculative
8 exercise; in other words, the judges are being invited to
9 accept the Prosecution's submission that the answer to
12:46:30 10 the question may -- and I'm a little uncomfortable with
11 this speculative exercise. Of course, I recognise the
12 importance of our decision for protective measures, but
13 at the same time, when those measures were agreed upon,
14 the principle was that we were going to balance the
12:46:56 15 interests of the victims and witnesses with the rights of
16 the accused. And certain factual matters were presented
17 to the Chamber and, upon the basis of those factual
18 matters, we structured a carefully crafted decision. But
19 at this juncture now there's a slight shift. It
12:47:23 20 is "may", and I'm not sure whether judicially I'm very
21 comfortable with the invitation to speculate. The
22 Prosecution know their case. They should be very
23 assertive and they should again treat the Chamber with
24 some degree of candour.

12:47:45 25 JUDGE BOUTET: Can we hear from you, Mr Prosecutor?

26 MR SAUTER: If you allow me to give an additional explanation.
27 The witness was involved in his capacity as a policeman
28 with this person in a very specific incident. Telling
29 anything about this incident would reveal the identity of

1 this witness, because this incident became widely known
2 in this time -- widely known in Blama. Thank you.

3 MR JABBI: My Lord, just to say that, even in the explanation
4 the prosecuting counsel has just given, his concern is
12:48:31 5 the identity of this witness being revealed --

6 JUDGE BOUTET: You're right, you're right; I stand corrected
7 on that one.

8 MR JABBI: Thank you very much, My Lord. My Lord, this
9 question --

12:48:43 10 JUDGE BOUTET: But we're still concerned about the identity of
11 this witness. If you are pursuing this question -- I'm
12 not sure what you are attempting to do now. Are you
13 pursuing the same question?

14 MR JABBI: Yes, My Lord.

12:48:55 15 JUDGE BOUTET: The objection is still there, that it will
16 reveal the identity of this witness.

17 MR JABBI: However, My Lord, it is necessary for the Defence
18 to elicit --

19 JUDGE BOUTET: [Overlapping microphones] means to do it, we'll
12:49:09 20 go into a closed session. I mean, we are not here to
21 preclude the Defence from exploring as far as they want
22 and as deep as they want by cross-examining witnesses
23 what they think they need to properly defend their
24 client. I have no problem with that. There is a
12:49:25 25 procedure for that, and the procedure is not to allow the
26 question. The procedure is, if you feel you want to
27 pursue that, we'll go into closed session and we'll do
28 it.

29 MR JABBI: My Lord, I am informed that there is a motion

1 coming before Your Lordships on this question of going
2 into closed session.

3 JUDGE BOUTET: But the motion is not on that; it's about a
4 closed session for a particular witness that the
12:49:54 5 Prosecution intends to call some time next week.

6 PRESIDING JUDGE: That is what we are taking this afternoon.
7 That's the motion we are taking this afternoon.

8 MR JABBI: I believe that wider issues in relation to closed
9 session are likely to be raised, and even possibly a
12:50:17 10 motion on that particular aspect. My Lord, since the
11 afternoon session is --

12 PRESIDING JUDGE: It is not for you to determine, Dr Jabbi.
13 We have our finger on the clock. Are you -- I mean, how
14 are you proceeding?

12:50:38 15 MR JABBI: Well, I intend to continue cross-examination in
16 respect of this particular incident and this
17 particular CO.

18 PRESIDING JUDGE: Dr Jabbi and learned counsel, the Chamber
19 will adjourn and resume, first of all, in closed session,
12:51:58 20 because we would like to save our dear members of the
21 gallery and of the public the pain of coming and being
22 sent back. We will resume in the afternoon in a closed
23 session. So the session is adjourned to 2.30 after
24 lunch. The Court will rise, please.

12:52:38 25 [Luncheon recess taken at 12.50 p.m.]
26 [At this point in the proceedings, a portion of the
27 transcript, pages 47 to 115, was extracted and sealed under
28 separate cover, as the session was heard in camera]
29

C E R T I F I C A T E

We Roni Kerekes and Maureen P Dunn, 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.

Roni Kerekes

Maureen P Dunn

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