

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

THURSDAY, 4 NOVEMBER 2004
9.43 a.m.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Roza Salibekova
Ms Sharelle Aitchison

For the Registry:

Ms Maureen Edmonds
Mr Geoff Walker

For the Prosecution:

Mr Joseph Kamara
Mr Kevin Tavener
Ms Sharan Parmar
Ms Adwoa Wiafe
Ms Leslie Murray (intern)
Mr Alex El Jundi (intern)

For the Principal Defender:

Mr Ibrahim Yillah

For the Accused Sam Hinga Norman:

Ms Quincy Whitaker
Ms Claire da Silva

For the Accused Moinina Fofana:

Mr Arrow Bockarie
Mr Michiel Pestman
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai

1 Thursday, 4 November 2004
2 [Open session]
3 [The witness entered Court]
4 [The three accused not present]
09:40:40 5 [Upon commencing at 9.43 a.m.]
6 PRESIDING JUDGE: Good morning, learned counsel. We will
7 continue with the cross-examination of what we all refer
8 to as the young man. Mr Pestman, if I may ask, what
9 news? Do you have some good news from home?
09:44:17 10 MR PESTMAN: No, I have not; thank you.
11 PRESIDING JUDGE: Is your wife still in the hospital?
12 MR PESTMAN: No, she's not -- she was operated on, but she's
13 fine.
14 PRESIDING JUDGE: Is she all right?
09:44:33 15 MR PESTMAN: Yes -- some time ago; thank you.
16 PRESIDING JUDGE: Good. It is you doing the
17 cross-examination?
18 MR PESTMAN: Yes, it will be me, but before I start, if you
19 allow me to introduce our new legal assistant, Andrew
09:44:51 20 Ianuzzi.
21 JUDGE BOUTET: Spell that out, if you can.
22 MR PESTMAN: It is I-A-N-U-Z-Z-I. It is an Italian name, but
23 he is from New York.
24 PRESIDING JUDGE: Welcome to the team, Mr Ianuzzi.
09:46:05 25 MR PESTMAN: Before I start, can I ask one question? It is
26 not completely clear to me who is going to be the next
27 Prosecution witness. There was information about
28 malaria. For us, it would be quite useful to know now
29 who will be called next.

1 PRESIDING JUDGE: Can the Prosecution supply the information,
2 please? We have said in other trials that the Defence
3 should be updated on the sequence of the witnesses. True
4 enough, the list is communicated in advance, but because
09:46:44 5 of illness and other unforeseen contingencies, it is good
6 to let them know in advance.

7 MR TAVENER: That's true. As I mentioned the other day,
8 witness TF2-201 had malaria, and we were going to bring
9 up witness 3, TF2-096, a female witness. As I understand
09:47:09 10 it, witness 2 is here today. We're just confirming that
11 he is fit to start evidence. If that is the case, there
12 will be an application prior to him giving evidence
13 concerning a closed session. Hopefully, we will be back
14 to the list as provided. I will know shortly. We are in
09:47:23 15 communication with the witness support people. As soon
16 as I know definitely, I will confirm it, but we are
17 hopeful that the list will remain unchanged at this
18 stage, once he's over his malaria.

19 MR PESTMAN: In that case, I don't know whether there is
09:47:44 20 anyone from the Victims and Witness Unit present, but we
21 have not yet received the right statement of expenses
22 paid to this particular witness. We got the one for
23 TF2-096, as far as I know, but not the one for the
24 witness with malaria, which is TF2-201. Perhaps if that
09:48:08 25 could be provided.

26 PRESIDING JUDGE: Is there anybody in Court from the Witness
27 Protection Unit?

28 WITNESS PROTECTION OFFICER: Yes.

29 PRESIDING JUDGE: You've heard what learned counsel has said?

1 Please make these documents available on a daily basis
2 and, for that to be done, they should know the witness
3 who is to testify as well. It is good to let them know
4 in advance so that they bring these documents to Court,
09:48:36 5 or even make them available to learned counsel the day
6 before the witness testifies.

7 JUDGE BOUTET: I thought, Mr Presiding Judge, that the
8 directions and orders had been much more clear than that.
9 It was not to have been done on a daily basis; it was to
09:48:56 10 be done at least on a weekly basis, and it had to be done
11 in advance. I am still at a loss to understand why the
12 Defence has to seek this information on a daily basis.
13 It should have been provided, and it should be done at
14 least weekly. I ask again for the cooperation from the
09:49:14 15 Witness Protection Unit to provide this information as
16 has been ordered by the Court.

17 PRESIDING JUDGE: I hope the unit has noted that. You've
18 noted it - on a weekly basis?

19 WITNESS PROTECTION OFFICER: Noted, My Lord.

09:49:30 20 PRESIDING JUDGE: I was even more generous to you.

21 MR TAVENER: I have just been informed that witness 201 will
22 be the next witness, which was the order initially
23 provided.

24 JUDGE BOUTET: Mr Pestman, has the information that has just
09:49:46 25 been provided to you in relation to 201?

26 MR PESTMAN: No.

27 JUDGE BOUTET: So you don't have that information yet?

28 MR PESTMAN: No, not yet.

29 JUDGE BOUTET: Witness Protection Unit, you shall endeavour to

1 produce that as soon as possible, and preferably this
2 morning.

3 MR PESTMAN: I can imagine it will take time to add up all the
4 amounts given to this particular witness.

09:50:05 5 JUDGE BOUTET: Yes, but we expect that Prosecution in
6 examination-in-chief will take more than a few minutes,
7 so by break time.

8 MR PESTMAN: That's why I mentioned it now so that we don't
9 have to interrupt again.

09:50:23 10 JUDGE BOUTET: Are you ready to proceed with the
11 cross-examination now?

12 MR PESTMAN: Yes. Normally I think I would need approximately
13 one hour to cross-examine, but I've learned that time is
14 a flexible phenomenon in this Court. I'm trying to stick
09:50:45 15 to my time limit.

16 JUDGE BOUTET: We have learned to appreciate the time
17 estimates of lawyers.

18 MR PESTMAN: You know they are worthless.

19 PRESIDING JUDGE: It would have been my pleasure to mention
09:50:59 20 some of your names, but I will not.

21 WITNESS: TF2-021 [Continued]
22 [Witness answered through interpretation]
23 CROSS-EXAMINED BY MR PESTMAN:

24 Q. I have one question for you, Mr Witness, about your time
09:51:20 25 with the RUF. I understand that you were also in **xxxxx**
26 when you were with the rebels; is that correct?

27 A. No.

28 Q. Sorry, I did not get the answer. Sorry, could you repeat
29 the answer; I did not hear.

1 A. No.

2 Q. So you were never in xxxx when a rebel?

3 A. I was not with the rebels in xxxx.

4 Q. You have not seen John Paul Koroma in xxxx when you were
09:52:03 5 a rebel?

6 A. I didn't go to xxxx.

7 Q. You gave two long statements in 2003 to the Prosecution.
8 We discussed them at length yesterday. The second one
9 was given on 4 February. Do you remember giving that
09:52:26 10 statement?

11 A. Well, I could remember the year -- I don't know the date.

12 Q. Okay. But it's your second statement, not the first one
13 you gave. I would like to quote part of that statement
14 and then know whether that is correct or not. It's the
09:52:49 15 second statement, page 9401, 4 February 2003. The quote
16 starts at line number 12, if I'm correct:

17 "In the time I was in xxxx I saw Johnny Paul Koroma
18 draped in a white gown. He was the commander inside
19 xxxx."

09:53:27 20 Do you remember giving that statement?

21 A. I've said I was not in xxxx.

22 Q. I continue:

23 "He gave an order to Savage to kill 45 people in a
24 village. I do not know the name of that village anymore.
09:53:46 25 I saw the dead bodies."

26 Do you remember telling that to the Prosecution, or to
27 the investigators?

28 A. Well, that's not my statement, sir.

29 MR PESTMAN: Your Honours, I would like to submit this

1 particular part of the statement as evidence.
2 I understand it has already been tendered yesterday.
3 JUDGE BOUTET: That statement of 4 February is indeed in as
4 Exhibit 19A.
09:54:19 5 MR PESTMAN: I'm not sure whether this particular page was
6 also exhibited -- 9402.
7 JUDGE BOUTET: Page 9402 is indeed.
8 JUDGE THOMPSON: Why not highlight your own portions for your
9 own purposes. That would be the proper procedure.
09:54:38 10 JUDGE BOUTET: Line 12 to what?
11 MR PESTMAN: Lines 12 to 19. I've highlighted them in my
12 copy. I can give my copy if that is preferable.
13 JUDGE THOMPSON: What's the page reference then?
14 JUDGE BOUTET: 9401.
09:55:04 15 MR PESTMAN: 9402.
16 JUDGE THOMPSON: And we're talking about exhibit?
17 JUDGE BOUTET: Exhibit 19A.
18 MR PESTMAN: I suppose I do not have to explain the reasons
19 why I would like to have this document added to the
09:55:27 20 exhibits.
21 JUDGE BOUTET: You don't have to explain, but just for greater
22 clarity and neatness of the record, you are tendering
23 these lines of that exhibit as evidence that the witness
24 would have said things at a different time different than
09:56:07 25 what he's saying in Court today.
26 MR PESTMAN: Yes.
27 MR TAVENER: In the same way, Your Honour, the Prosecution
28 doesn't oppose the tendering of the evidence, but we note
29 that the witness hasn't adopted the statement.

1 JUDGE THOMPSON: Yes, but I think what counsel is saying that
2 we should juxtapose that particular portion along with
3 his testimony on the subject.

4 MR PESTMAN: Yes, please.

09:56:31 5 JUDGE THOMPSON: And we will determine how to treat that.

6 PRESIDING JUDGE: His consistent refusal of the contents of
7 statements which are alleged to have been made by him is
8 degenerating into a pattern, because yesterday, when
9 Mr Williams was cross-examining, it was the same thing.

09:57:04 10 We, of course, have it on record that he is an
11 illiterate, but it is getting into what we would like to
12 feel is a pattern.

13 MR TAVENER: It appears only in respect of that part of his
14 statement that deals with the RUF that he does not accept

09:57:25 15 that he said --

16 PRESIDING JUDGE: Let's proceed. It was just a remark.

17 JUDGE THOMPSON: I would rather caution that we don't want to
18 go into that at this point in time.

19 MR PESTMAN: It is not true that the disputed part of the text

09:57:42 20 only refers to the RUF, by the way. Yesterday some
21 fragments were quoted which were related to his time with
22 the CDF. Maybe on Friday we will file a motion to hear
23 the investigators who have taken this statement so that
24 we can, once and for all, solve this problem.

09:58:06 25 PRESIDING JUDGE: Mr Pestman, most of the investigators have
26 gone -- they are no longer here. Most of them are gone
27 and you will be lucky to -- you might file a motion and
28 find that the Court cannot give any particular effect to
29 that. I just wanted to let you know, because there was

1 an attempt in earlier proceedings to get in a certain
2 witness and I think we were told in Court here --
3 JUDGE BOUTET: The witness will be coming -- the witness was
4 not available, but we were told that that witness would
09:58:41 5 be coming, but not necessarily by Friday, for example.
6 PRESIDING JUDGE: This Friday?
7 JUDGE BOUTET: No, no, no. Mr Pestman has just indicated that
8 he might make a motion on Friday.
9 MR PESTMAN: Either the investigators made up a statement, or
09:58:55 10 the witness is lying, so it's quite interesting.
11 JUDGE BOUTET: We will hear this argument in due course if you
12 want to make this argument.
13 JUDGE THOMPSON: Quite frankly, I think it is premature to go
14 into these matters.
09:59:07 15 MR PESTMAN: I agree.
16 JUDGE THOMPSON: I don't want to be part of a process of any
17 preliminary evaluation. This witness has responded the
18 way he thinks he should respond. The judges will, at the
19 end of the day, in the light of testimony that may be
09:59:21 20 forthcoming, determine what probative value to attach
21 to --
22 MR PESTMAN: I'm sorry, I will not continue in that vein. If
23 necessary, my colleagues will do it on Friday.
24 Q. You told us earlier that you were captured in Ngeihun, or
09:59:43 25 freed by the CDF; is that correct?
26 A. Well, that was the way I feel, that they freed me.
27 Q. But it was in xxxxxx?
28 A. It was in xxxxxx Town, yes.
29 Q. Is that in the xxxxxx district?

1 A. Yes.

2 Q. Do you know where the Kamajors came from -- the Kamajors
3 that captured or freed you in xxxxxx?

4 A. Well, I don't know where they came from when they came
10:00:34 5 and attacked.

6 Q. Do you know where they were based before they attacked
7 xxxxxx?

8 A. No.

9 Q. Was xxxxxx occupied by the Kamajors after they took it,
10:00:50 10 or did they all leave with you?

11 A. Sorry, sir, I didn't understand the question.

12 Q. You told us that you left xxxxxx with other Kamajors.
13 Did some of the Kamajors stay behind?

14 A. In the village there?

10:01:22 15 Q. Yes.

16 A. No, we went together.

17 Q. Afterwards you were taken to xxxxxx; is that correct?

18 A. It was not only me -- I was together with my colleagues.

19 Q. It was xxxxxx, wasn't it?

10:01:47 20 A. Yeah, there they brought me first.

21 Q. And you're sure it was xxxxxx and not some other place?

22 A. It was my very first time to reach that place. The man
23 told me it was xxxxxxxx.

24 Q. Do you remember when this event took place -- can you
10:02:09 25 date it?

26 A. Well, the time they captured me, it was almost the end of
27 1997 to 1998.

28 Q. During your examination-in-chief you said that that was
29 during the AFRC period; is that correct?

- 1 A. Yes, AFRC was in power by then.
- 2 Q. And you were saying that at that particular moment the
3 Kamajors were at **xxxxx**, and not the AFRC.
- 4 A. Well, Kamajors and soldiers were there.
- 10:03:06 5 Q. Were Kamajors and soldiers from the AFRC there at the
6 same time?
- 7 A. Well, the time I went there, I knew it was the Kamajors
8 and the soldiers that were there.
- 9 Q. If you say "soldiers", who do you mean?
- 10:03:35 10 A. Well, it was the ones that were trained that used to wear
11 combats that were the soldiers.
- 12 Q. Were those soldiers loyal to the AFRC government in
13 Freetown?
- 14 A. Well, I never knew whether they were loyal to the AFRC or
10:04:02 15 not.
- 16 Q. What if I tell you that during the AFRC government in
17 Freetown the Kamajors were never in **xxxxx**?
- 18 A. Well, before the overthrow, the Kamajors were in **xxxxxx**.
19 There was the kamoh called Kamoh Brima -- there he was,
10:04:32 20 that I know.
- 21 Q. Did you know that **xxxxxx** was only liberated in February
22 1998?
- 23 A. Well, Kamajors and soldiers were there before -- before
24 the Kamajors took over there.
- 10:04:53 25 Q. You said that after arriving in **xxxxxx**, during the AFRC
26 reign, you were taken to **xxxxx xxxx** by car; is that
27 correct?
- 28 A. Yes.
- 29 Q. Could you tell me what the last town is before entering

1 xxxxx by road?

2 A. Sorry, sir, I didn't understand the question.

3 Q. What is the last town before xxxxxx when you get there by

4 road?

10:06:04 5 A. Anyway the path we took was through xxxx xxxx, that was

6 the last town.

7 Q. Does the name xxxx ring a bell?

8 A. Yes, I think.

9 Q. Can you tell me where exactly your initiation took

10:06:34 10 place -- I'm talking about the first initiation; where

11 exactly did that take place?

12 A. Yes, xxxx xxxx.

13 PRESIDING JUDGE: Which place?

14 MR PESTMAN: xxxx xxxxxx.

10:07:02 15 Q. Which is also known as xxxx xxxx; am I correct?

16 A. Yes, yes.

17 Q. So it took place in the town of xxxx xxxx?

18 A. Yes.

19 Q. What if I tell you that there was never ever an

10:07:19 20 initiation in xxxxxx, what's your reaction?

21 A. Well, I would tell you that it took place there, sir.

22 Q. What if I tell you that all initiations took place in

23 xxxxxx and not in xxxx xxxx?

24 A. Well, where I was initiated is the place, sir.

10:07:50 25 Q. Have you ever heard of xxxxxx?

26 A. Well, I don't know that xxxxxx, sir.

27 Q. Would the Court like me to spell that name?

28 JUDGE BOUTET: Please.

29 MR PESTMAN: x-x-x-x-x-x.

1 Q. When you were initiated for the first time, were you
2 issued with an identity card -- a Kamajor identity card?
3 A. Well, the card they gave to me was an ID card.
4 Q. And where is this card?
10:08:54 5 A. It is there.
6 Q. Where's "there"?
7 A. I don't have it here.
8 Q. Where is it then?
9 A. Well, it is where I am.
10:09:10 10 Q. You mean where you are in ~~xxxxxx~~?
11 A. Yes.
12 Q. I don't want you to specify the place. So you haven't
13 lost that other card?
14 A. I have it; I have it.
10:09:31 15 Q. May I again read part of the statement that you gave?
16 This time it is the first statement given on 13 January
17 2003. It's line 13 to line 17 on page 9413. I would
18 like you to listen carefully and tell me if what I'm
19 saying is correct. According to the investigator, you
10:10:34 20 said:
21 "The initiation was in 1996. I could remember this
22 date because I was older. Certifications were also
23 issued after the initiation. My certificate has been
24 destroyed."
10:10:53 25 Do you remember giving that evidence -- that statement?
26 A. Well, that's not my statement, sir.
27 JUDGE BOUTET: So, for the record, the statement you're making
28 reference to is Exhibit 19B.
29 MR PESTMAN: I don't know whether it's useful to give my copy

1 with the lines.

2 JUDGE BOUTET: We have the lines which you described, which
3 are the lines 13 to 17 of page 9413.

4 MR PESTMAN: That's correct.

10:11:59 5 Q. Were people ever forced to join the Kamajors?

6 A. Well, the one that captured me, that's what they did to
7 me. Then the same boys again, when they captured them,
8 that's the same thing they do to them.

9 Q. So you're saying that to your knowledge people --
10:12:35 10 children -- were forced to join the Kamajors?

11 JUDGE THOMPSON: No, he's not saying that. He said he was
12 forced and those who were captured with him were forced.

13 MR PESTMAN: I just want to be sure.

14 JUDGE THOMPSON: Well, that's what he said. That's what
10:12:48 15 I got. He didn't say "children". He said he was forced
16 and those who he was captured with were forced.

17 MR PESTMAN:

18 Q. Page 9418 of the first statement given on 13 January
19 2003.

10:13:09 20 JUDGE BOUTET: Which, again, is Exhibit 19B.

21 MR PESTMAN:

22 Q. Lines 1 to 3, again I would like you to listen carefully
23 and tell me whether the investigators took down your
24 statement correctly. You said, according to the
10:13:30 25 investigator:

26 "To my knowledge no-one was forced to join."
27 And you were talking about the initiation. Did you say
28 that?

29 A. Well, that is not correct.

1 MR PESTMAN: I would also like this particular bit of evidence
2 to be tendered.

3 JUDGE THOMPSON: And the witness's answer is that that is not
4 his statement.

10:14:06 5 MR PESTMAN: That's what I understood.

6 Q. You also told this Court earlier this week that, when you
7 were initiated, a person wrote down your names; is that
8 correct?

9 A. Yes, when they were initiating me, yes.

10:14:42 10 Q. Was that Dr xxxxx?

11 A. Dr xxxxxx, yes.

12 Q. Would you like to have the spelling of that name? This
13 person might appear later in this trial. It is Dr and
14 then x-x-x-x-x . I hope I pronounced it correctly. It
10:15:26 15 is like one of the other accused in this trial.

16 JUDGE BOUTET: I thought we had this --

17 MR PESTMAN: He mentioned his name before, but it was not
18 spelled. I just wanted to be sure that --

19 JUDGE BOUTET: Is it xxxxx or xxxxx?

10:15:45 20 JUDGE THOMPSON: It is x-x-x-x-x. That's the context in
21 which it was mentioned here - I think it was spelt - to
22 distinguish it from x-x-x-x.

23 MR PESTMAN:

24 Q. Was this person also an initiator?

10:16:11 25 A. Well, he was chief imam at xxxxxxxx - that I know.

26 Q. What exactly did he write down, to your knowledge?

27 A. Well, they were sitting at the table with his companions.
28 When you come to write your name, then you pass through
29 them. That's what I saw them doing.

1 Q. So if I'm understanding it correctly, you gave your name
2 and Dr xxxxxx wrote that name down on paper?
3 A. Yes, they were writing the names. He was not the only
4 person writing the names.
10:17:06 5 Q. But you saw Dr xxxxxxxx writing down names on paper?
6 A. He was sitting at the table with some papers, yes.
7 Q. Do you know what language he wrote the names down?
8 A. Well, I can't tell you that.
9 Q. What if I tell you that Dr xxxxxx cannot write.
10:17:32 10 A. Well, I don't know.
11 Q. But you saw him writing.
12 A. I told you that he was sitting at the table with the
13 other men who were writing.
14 Q. When did you last see xxxxxx?
10:18:03 15 A. Well, that was when they were brought back here. We were
16 at xxx xxxx then.
17 Q. I know how to spell that name. Would you like me to
18 spell that for you, or has it already been spelled out.
19 It is the same person who has been called German. I know
10:18:25 20 there was some confusion about the spelling. It is
21 x-x-x-x-x -- xxxxx?
22 PRESIDING JUDGE: x-x-x-x-x-x. I was spelling it x-x-x-x --
23 that's it.
24 MR PESTMAN: This is the correct spelling, as far as I know.
10:18:58 25 Q. You told this Trial Chamber that, after you arrived at
26 xxxx xxxxx and after you were initiated, you attacked
27 xxxxxxx; that's correct, isn't it?
28 A. Yes.
29 Q. How did you get to xxxxxxx?

- 1 A. Well, we had a route from xxx xxx to xxxx to xxxxxx.
- 2 Q. And then?
- 3 A. It was in xxxxxxx that we mobilised to go to xxxxxxx.
- 4 Q. But after xxxxx, were there any other places you can
10:20:20 5 remember to get to xxxxxx?
- 6 A. Well, there were villages, but I can't name them.
- 7 Q. So you were walking. Were you taking the main roads, or
8 were you taking bush paths?
- 9 A. Well, first we started at the main road. When we reached
10:20:47 10 the town, we mobilised and went into the bush to attack
11 the town. That's how we entered.
- 12 Q. How long did it take you to get from xxxx xxxx to
13 xxxxxx?
- 14 A. Well, it was a mission. We were walking, so sometimes we
10:21:11 15 spent two days; sometimes we slept on our way.
- 16 Q. Yesterday you told the Court that on the way back you had
17 to circumvent xxxxxx; is that correct?
- 18 A. Yes, we bypassed xxxxxxx Town.
- 19 Q. And you also said that it took you a day and a half
10:21:41 20 approximately to go from xxxxxx to xxxx xxxx; is that
21 correct?
- 22 A. Yes, yes.
- 23 Q. And that you were not on your own, but that you also took
24 some women back to xxxx xxxx.
- 10:22:00 25 A. Yes.
- 26 Q. And am I correct to say that again you were forced to
27 take bush paths?
- 28 A. Yes, we used the bush path.
- 29 Q. Can you tell me approximately how far it is from xxxxxxx

1 to xxxx xxxx?

2 A. No. Anyway, it's a far distance; it's a long distance.

3 I cannot tell you the mileage, but it is a far distance.

4 Q. Do you know how many miles you can walk per hour?

10:22:42 5 A. No.

6 Q. What if I tell you that, over the road, the fastest way

7 to get to xxxxxxx, it's 163 miles from xxxx xxxxx; can you

8 walk that in one and a half days?

9 A. Sorry, sir, repeat the question again.

10:23:12 10 Q. Can you walk 163 miles in one and a half days?

11 A. Yes.

12 Q. I brought one of the maps that were submitted by the

13 Prosecution. I am not sure what the status of these maps

14 is at the moment.

10:24:04 15 JUDGE BOUTET: Mr Pestman, what is it you intend to do and

16 what is it you have?

17 MR PESTMAN: I know it's a novel thing, but we were issued

18 with these maps by the Prosecution. They are part of the

19 Court documents --

10:24:20 20 JUDGE BOUTET: When?

21 MR PESTMAN: A couple of days ago. It was following an order

22 by the Court to provide maps with names of places

23 mentioned in the indictment. Has the Court taken

24 judicial notice of these maps?

10:24:33 25 JUDGE BOUTET: It is difficult to know on that particular one.

26 We have taken judicial notice of maps. Whether or not

27 this is the one, I can't say at this moment. Maybe we

28 can be informed of that, but I think the one we've taken

29 judicial notice of is one similar to that, but on a

1 smaller scale. However, I stand to be corrected on that.

2 MR PESTMAN: On this map I have indicated ~~xxxxx xxxxx~~ and
3 ~~xxxxxxx~~. I can spell it for you, if you like, because
4 I know that that particular name has not been spelled
10:25:05 5 yet. It is ~~x-x-x~~ --

6 PRESIDING JUDGE: You are spelling ~~xxxxxxx~~.

7 MR PESTMAN: It is ~~x-x-x-x-x-x~~. I understand that it is
8 called after Siaka Stevens and it used to be called
9 ~~xxxx xx~~, if I'm correct, because it is ~~xx xxxxx~~ from
10:25:33 10 Freetown.

11 JUDGE THOMPSON: I take judicial notice of that.

12 MR PESTMAN: Would you like to have the map indicate the
13 distances between the places? I think they also give the
14 names the witness mentioned -- the names of the towns the
10:25:53 15 witness mentioned he passed on his way to --

16 JUDGE BOUTET: How would you give the distance?

17 MR PESTMAN: There is a scale on the map.

18 JUDGE BOUTET: I know.

19 MR PESTMAN: If you measure the distance as the crow flies, it
10:26:06 20 is 115 and a half miles. If you follow the roads, it is
21 approximately 163 miles.

22 PRESIDING JUDGE: If you went through the bush paths, that's a
23 question to be answered.

24 MR PESTMAN: I don't think you can take a straighter line than
10:26:28 25 as the crow flies. Bush paths are never straight, as
26 one --

27 PRESIDING JUDGE: They could be straight. They could be the
28 shortest distances between two points.

29 MR PESTMAN: It can never be less than 115 and a half miles,

1 that's for sure, certainly if you have to circumvent
2 **xxxxxxx**, which apparently is on the road and would be the
3 more logical place to pass. It is part of the court
4 records. I understand you have taken judicial notice, so
10:27:04 5 I do not have to tender it as evidence.

6 JUDGE BOUTET: We have taken judicial notice of maps, yes.
7 I have been given some additional information about these
8 maps. The status of these maps is still not clear yet --
9 that particular one you have in your hands. Indeed,
10:27:42 10 these maps have been provided by the Prosecution as a
11 result of our order to produce maps with an indication as
12 to which towns are related to areas in the individual
13 counts. However, the Defence has not yet responded to
14 this as to whether the Defence accepts these as exhibits
10:28:06 15 in Court. What the Court has taken judicial note of is
16 what appears to be a similar map but on a smaller scale.
17 That is exhibit number 19. We have taken judicial notice
18 of map on 2 June 2004.

19 MR PESTMAN: I don't know whether **xxxxxxx** is on that
10:28:32 20 particular map. Maybe the easiest thing is to tender
21 this particular map as evidence if you can fold it up --

22 JUDGE BOUTET: I would imagine, if you tender it as an
23 exhibit, the Prosecution would have no objection. They
24 are trying to tender that as an exhibit pursuant to an
10:28:51 25 order that we have issued.

26 MR TAVENER: You are correct, Your Honour. I appreciate this
27 witness cannot read or write, but he might be given an
28 opportunity at some stage to look at that map. He might
29 be able to identify a map without reading to indicate the

1 places you are talking about. I do not know, but I think
2 he should be extended that opportunity.

3 JUDGE BOUTET: Exhibit 20.

4 [Exhibit No. 20 was admitted]

10:29:33 5 JUDGE BOUTET: I would like an indication of what the map is.
6 There should be a date on it and some further indication
7 as to where and when and how it was produced. A map is
8 not of much help, just to have a map. Mr Pestman, please
9 describe the map for the record in more detail.

10:29:50 10 MR PESTMAN: I trust the map is accurate. I don't expect the
11 Prosecution would give us inaccurate maps.

12 JUDGE BOUTET: No, but you are the one tendering this map.
13 I presume it is a map of Sierra Leone.

14 MR PESTMAN: It is a map of Sierra Leone. The scale is
10:30:16 15 1:350,000 issued by UNAMSIL on 3 July 2003. On top it
16 says "Map 2, paragraphs 23 to 24" and it has a column
17 "charges", which was edited, I understand, by the
18 Prosecution and refers to the paragraphs in the
19 indictment.

10:30:46 20 JUDGE BOUTET: That is a map of July 2003, UNAMSIL.

21 MR PESTMAN: Yes, 2003.

22 JUDGE BOUTET: This map is marked as exhibit 20, as I said.

23 MR PESTMAN:

24 Q. So if I may summarise, Mr Witness, you are either an
10:31:27 25 exceptionally fast walker, or you are lying. The women
26 you took back, did they also walk this distance in one
27 and a half days?

28 A. Yes, we walked.

29 Q. Could you date that particular attack on xxxxxx?

1 A. No, no, no -- no.

2 Q. But I'm correct to say that it happened after your
3 initiation?

4 A. Yes.

10:32:10 5 Q. And before the attacks on the other towns that you
6 mentioned in your examination-in-chief, **xxxxx** being the
7 most prominent example?

8 A. Repeat the question. I didn't understand the question.

9 Q. Let me rephrase the question. Did you attack **xxxxxxx**
10:32:40 10 when the AFRC was still in power?

11 A. At that time I didn't know whether they were in power.
12 I was fighting against rebels.

13 Q. It was before the attack on **xxxxx**?

14 A. No.

10:33:04 15 JUDGE BOUTET: Mr Pestman, are you talking here of the attack
16 on **xxxxxx**?

17 MR PESTMAN: Yes.

18 JUDGE BOUTET: That being before the attack on --

19 MR PESTMAN: I'm trying to date it in relation to the others.

10:33:14 20 Q. Was it before you went to **xxxxxx** that you took **xxxxxxx**?

21 A. No, I didn't understand properly. Repeat the question.

22 Q. You arrived in **xxxx xxxx**. Then you went to **xxxxxx** and
23 then you went back to **xxxx xxxx** and then you went to
24 **xxxxxx**; is that correct?

10:33:40 25 A. Well, I didn't say we went directly to **xxxxxx**. We went
26 first to **xxxxxx** before we reached **xxxxxx**.

27 Q. What if I tell you that **xxxxxxx** was never attacked by the
28 CDF until the beginning of 1999, what would your reaction
29 be?

1 A. Well, no, sir.

2 Q. What if I tell you that in 1997/1998 ECOMOG was in
3 ~~xxxxxxx~~, and not the rebels?

4 A. No.

10:34:30 5 Q. Just out of curiosity, Mr Witness, why are you not
6 telling the truth?

7 MR TAVENER: I object to that question.

8 JUDGE BOUTET: What's your objection?

9 MR TAVENER: It can't be put to a witness whether or not they
10:34:49 10 are telling the truth. You may say you disagree with
11 them, that they're wrong. The presumption is that he's
12 not telling the truth -- that's the manner in which the
13 question is put. That is an inappropriate way to put
14 such a question. It is simply counsel's opinion, which
10:35:06 15 is irrelevant.

16 JUDGE BOUTET: Objection sustained.

17 MR PESTMAN: Maybe I'll rephrase the question.

18 Q. Mr Witness, why are you lying?

19 PRESIDING JUDGE: Even that is the same question. Put it to
10:35:19 20 him.

21 JUDGE BOUTET: You can put it to him, "I suggest you're lying"
22 rather than, "Why are you lying?"

23 MR PESTMAN: I will continue with my cross-examination.

24 PRESIDING JUDGE: You may put it to him, Mr Pestman. That's
10:35:29 25 perfectly legitimate.

26 MR PESTMAN: I'll continue with the next question. I think
27 I made my point.

28 PRESIDING JUDGE: Are you satisfied that he's not lying?

29 MR TAVENER: I'd prefer if the counsel didn't answer that,

1 Your Honour.

2 PRESIDING JUDGE: It is on the record, anyway.

3 MR PESTMAN: I can stretch my imagination only up to a certain
4 point.

10:35:48 5 PRESIDING JUDGE: You may proceed. Let's see where we go.

6 Q. You testified earlier that you met Kosseh Hindowa at xxxx
7 xxxx; am I correct?

8 A. I saw them there -- he was not alone -- together with the
9 others and Kosseh Hindowa.

10:36:18 10 PRESIDING JUDGE: He saw who, Mr Pestman?

11 MR PESTMAN: Kosseh Hindowa. It is K-O-S-S-E-H
12 H-I-N-D-O-W-A -- it is a very important name, which will
13 come back in this trial and some wonder whether he should
14 not have been indicted.

10:36:50 15 JUDGE BOUTET: Mr Pestman, please, you are in
16 cross-examination. Please do your cross-examination and
17 please dispense with arguments.

18 MR PESTMAN:

19 Q. Mr Witness, can you describe Kosseh Hindowa?

10:37:01 20 PRESIDING JUDGE: Mr Pestman, you are not suggesting that
21 everybody who was involved in this is indicted, are you?
22 Let's proceed, please. That's a very controversial topic
23 you are taking us to. You may proceed, please.

24 MR PESTMAN:

10:37:15 25 Q. My question was: could you describe Kosseh Hindowa for
26 us, please?

27 A. Yes. Kosseh Hindowa was fat -- he's not very tall, but
28 he's fat.

29 Q. And do you know how old he is, approximately?

1 A. No, sir; no, sir.

2 Q. Have you ever noticed anything about the way he walks?

3 A. Sorry, sir, what do you mean, the way he walks.

4 Q. Did you ever notice anything in particular about the way
10:38:18 5 he walks?

6 A. No, no. How would I notice something like that?

7 Q. You said during your cross-examination that you met other
8 big man at xxxx xxxx. Did you ever meet or see
9 Chief Quee at xxxx xxxx?

10:38:54 10 A. Well, no.

11 [HN041104B 10.40 a.m.]

12 MR PESTMAN: Would Your Honours like me to spell that name as
13 well.

14 JUDGE BOUTET: Please do.

10:35:48 15 MR PESTMAN: It's Q-U-E-E.

16 JUDGE BOUTET: Thank you.

17 MR PESTMAN:

18 Q. Did you ever meet Chief Charles Tucker at xxxx xxxx?

19 A. Well, I can't know these people, the names that you are
10:36:14 20 calling, because they are not my commanders. And most of
21 the commanders that we were fighting together with.

22 Q. Tucker is spelt T-U-C-K-E-R. Chief Vandi Soka, did you
23 ever see him at xxxx xxxx?

24 A. I have told you that all of these men -- I can't know
10:37:00 25 them, because they are not frontline commanders. I only
26 knew frontline commanders.

27 Q. Alhaji Daramy Rogers?

28 A. Yes, I heard that he was there.

29 Q. Did you see him there?

1 A. I knew that he was there, but I didn't -- we didn't see
2 each other face to face.

3 MR PESTMAN: The spelling of Soka, I forgot, is S-O-K-A, and
4 Alhaji Daramy Rogers is A-L-H-A-J-I, and Daramy is
10:37:54 5 D-A-R-A-M-Y, and Rogers is spelt Rogers.

6 Q. Did you ever see IMF Kanneh at xxxx xxxx?
7 A. Sorry, sir?
8 Q. IMF Kanneh.
9 A. Well, I don't know -- I don't know that man, sir.

10:38:24 10 Q. Did you know that these people were all members of the
11 War Council?
12 A. Well, I didn't have time with the War Council, so I'm not
13 able to know all of those guys.

14 MR PESTMAN: Kanneh is spelt K-A-N-N-E-H and IMF are three
10:38:50 15 letters.

16 Q. Did you ever see a Maxwell Khobe at xxxx xxxx?
17 A. No, sir.

18 MR PESTMAN: Khobe, would you like me to spell it or is that
19 spelling known? It's K-H-O-B-E. General Maxwell Khobe,
10:39:24 20 a commander.

21 Q. You told us earlier this week that you went to Kenema to
22 try to free Massaquoi. That's correct, isn't it?
23 A. Yes.

24 Q. And that you entered Kenema and that you were repelled by
10:39:51 25 AFRC or rebel forces -- or was it the police?
26 A. It was -- at first it was the policemen that shot at us.

27 Q. So it was the police that repelled you from Kenema?
28 MR TAVENER: That's not what the witness said.
29 MR PESTMAN:

- 1 Q. Was it the police that repelled you?
- 2 A. When we entered Kenema, they were the first people who
3 started shooting against us. That's the time the rebels
4 came from the brigade and repelled us.
- 10:40:39 5 Q. Do you know when that attack took place - your first
6 attack on Kenema?
- 7 A. I know that it was in 1998.
- 8 Q. And that attack was meant -- the intention was to free
9 Massaquoi?
- 10:41:01 10 A. That particular attack, yes.
- 11 Q. And was Massaquoi still alive at that point?
- 12 A. Well, when we went there at that time, we are told that
13 he was in the police station, he was with the policemen.
14 That's what we heard.
- 10:41:21 15 Q. And when do you think Massaquoi was killed?
- 16 A. Well, when we came to set him free, and we returned,
17 that's when we heard that Mosquito had killed him.
- 18 Q. So he was killed - if I'm understanding you correctly -
19 after you tried to free him?
- 10:41:46 20 MR TAVENER: Again, that's not what the witness said. If my
21 friend could listen more carefully to what the witness is
22 saying.
- 23 MR PESTMAN:
- 24 Q. Was Massaquoi killed after you tried to free him?
- 10:42:03 25 A. When we heard that he was at the police station, we had
26 the intention to go and set him free, but the policemen
27 they allow us and they started shooting at us. We
28 couldn't free him; we went back where we had come from.
29 That's when we heard that Mosquito had killed him.

- 1 Q. Do you know when Mosquito killed Massaquoi?
- 2 A. Well, I can't know the date because I was not there.
- 3 Q. What if I tell you that he had been killed in November
- 4 1997?
- 10:42:44 5 A. Well, I don't know, but I know that at that particular
- 6 time we went there to set BS free.
- 7 Q. You also told us that you were deployed to clear the
- 8 highway to xxxxxx -- the highway between xxxxxx and
- 9 xxxxxx. That's correct, isn't it?
- 10:43:30 10 A. I said we left xxxxxx and we reached SS camp. That's
- 11 where we met enemies and we started shooting at them.
- 12 That's what I said.
- 13 Q. And you didn't clear the highway subsequently?
- 14 A. Yes, they went away. Yes, they had to go away.
- 10:43:59 15 Q. I'm not talking about SS camp, I'm talking about the
- 16 highway to xxxxxx -- the road. You told us and the Court
- 17 that you were deployed -- you fought to clear all the
- 18 rebels from the way to xxxxxx. Is that correct?
- 19 A. We met a target before us at SS camp. SS camp was the
- 10:44:27 20 target. After SS camp, till we reach xxxxxx, we didn't
- 21 shoot at anybody. That's what I said. I said SS camp.
- 22 Q. Did you ever fight along -- or with ECOMOG forces?
- 23 A. Well, I could remember -- I don't know if it was twice
- 24 that I fought with ECOMOG.
- 10:45:04 25 Q. When was that? Which attack -- [Microphone not
- 26 activated]
- 27 A. The Daru attack and the 6 January attack in this town.
- 28 That's when I fought with ECOMOG.
- 29 MR MARGAI: My Lord, I'm sorry. May I just seek

1 clarification, because I'm a bit confused here with some
2 of the answers. "I fought with ECOMOG" is a bit
3 ambiguous. Either he fought alongside -- [Overlapping
4 speakers]

10:45:47 5 JUDGE THOMPSON: [Overlapping speakers] -- yeah, alongside.
6 The problem was between "with" and "alongside". Whether
7 we, in fact, are treating "with" and "alongside" as
8 synonyms, or whether, in fact, "fought against" would be
9 the proper representation of the ideas, because I'm
10:46:08 10 confused myself. Fought with, fought alongside, and
11 thank you for raising that.

12 MR PESTMAN: Thank you. Maybe the witness can answer that
13 question.

14 JUDGE THOMPSON: Well, you can put to him to seek the
10:46:23 15 clarification.

16 MR PESTMAN: Yes.

17 Q. I asked you whether you fought with ECOMOG forces. Do
18 you mean that you fought alongside ECOMOG forces?

19 JUDGE BOUTET: Your question was whether you fought along
10:46:37 20 ECOMOG forces, not with or against. Your question -- I
21 wrote it down. If you fought along ECOMOG forces? The
22 answer was, "I could not remember if it was twice." But
23 clarify that. Obviously there seems to be a lot of
24 ambiguity, so ask him to give more details if he can.

10:46:59 25 MR PESTMAN:

26 Q. So is it correct to say that you fought alongside ECOMOG
27 forces?

28 A. Yes, it was not at all times.

29 Q. You said that you fought alongside ECOMOG forces twice.

- 1 You mentioned xxxx and Freetown; is that correct?
- 2 A. Yes, we went together to xxxx.
- 3 Q. Do you know who was in overall command when you were
4 fighting with or alongside ECOMOG forces?
- 10:47:38 5 A. Well, by then, by the way we were fighting alongside
6 ECOMOG, I was only talking with the commander that was
7 leading us. The ECOMOG were behind us, whilst we were in
8 front of them. So I wouldn't know their own commander's
9 name, because I was not taking command from them.
- 10:48:15 10 Q. Did ECOMOG ever provide you or your companions with arms?
- 11 A. Well, when we went to fight, they would give our bosses
12 -- as our bosses were telling us, that this particular
13 weapon that we've seen was given to us by ECOMOG for this
14 particular fight. That was what our bosses told us.
- 10:49:05 15 Q. And did ECOMOG ever provide you with ammunition?
- 16 A. I said my bosses. They were giving it to our bosses and
17 our bosses give us ours.
- 18 Q. Did they ever provide you with transport?
- 19 A. Sir, I did not understand this question.
- 10:49:54 20 Q. Did ECOMOG ever give you cars or trucks to move from one
21 place to the other?
- 22 A. Well, yes, yes, they did give some trucks to our bosses.
- 23 Q. Did ECOMOG also provide cars to transport looted
24 property?
- 10:50:29 25 A. Well, the property that we looted, they didn't give us
26 vehicles to take them, but they would give us vehicles to
27 go and fight. But they wouldn't give us a vehicle -- and
28 I heard something, "Do not place it in that vehicle."
- 29 Q. So you never put looted property in an ECOMOG vehicle?

1 A. Yes, I put it there. Yes, we put it there.
2 Q. You put looted property in an ECOMOG vehicle?
3 A. Yes.
4 Q. During your examination-in-chief you testified to
10:51:18 5 committing various crimes, sometimes serious; would you
6 agree with me?
7 A. Well, could you name them for me, sir?
8 Q. Killing of a police officer in xxxxx, killing of a
9 woman, looting of property. You're not telling me that
10:51:55 10 you didn't do that -- do you?
11 A. You mean me?
12 Q. Yes.
13 A. Yes, I did that. Those are things I did. Yes, I did
14 that. Together with my companions, I was not alone.
10:52:11 15 Q. You even gave us a recipe how to cook human flesh?
16 JUDGE BOUTET: Well, I'm not sure [Overlapping speaker]. On
17 the one hand, there has been strong objection to that.
18 If you want to pursue that, that's fine, we'll go that
19 road. But there was strong objections by certainly
10:52:30 20 counsel for the third accused and we sustained objection
21 in this respect. And, furthermore, I don't think the
22 evidence was that this witness was doing that himself.
23 He --
24 MR PESTMAN: No, I said he gave us a recipe of how to.
10:52:43 25 JUDGE THOMPSON: Yes. Well, I think -- my perspective is that
26 since this Court has ruled that evidence as inadmissible
27 on grounds of relevance, I don't think it would be proper
28 for you to reintroduce -- [Overlapping speakers]
29 MR PESTMAN: Okay, I'll withdraw that question; I'm sorry.

1 Q. Have you ever been afraid of being prosecuted for those
2 crimes?
3 A. No.
4 Q. Why are you not afraid?
10:53:15 5 A. Because I didn't -- because I knew that what I was doing
6 I was ordered to do them. It was not my wish to do them,
7 so I have no reason to be afraid.
8 Q. You told this Court that you were --
9 JUDGE THOMPSON: Let me just write it down. What's the
10:53:36 10 answer? "I've never been afraid of being prosecuted for
11 these crimes," because what? "Because I was ordered to
12 do them"?
13 THE WITNESS: Yes.
14 MR PESTMAN:
10:54:03 15 Q. You told this Court that you were never punished for the
16 crimes you committed?
17 A. Yes, for those particular crimes I've never been punished
18 for them -- those particular crimes.
19 Q. You described one particular crime and that was the
10:54:31 20 killing of the police officer with a tyre and a mattress.
21 Did you ever report to your superiors that you did that?
22 A. Well, nothing that I did, I didn't do it alone. The
23 commanders were there. There were some other big men.
24 I -- [Overlapping speakers]
10:54:55 25 JUDGE THOMPSON: Question: Did you report --
26 MR PESTMAN: Maybe yes or no would be enough.
27 JUDGE THOMPSON: Yes, quite.
28 MR PESTMAN:
29 Q. If you just answer that question with a yes or a no. Did

1 you ever report the killing --

2 JUDGE THOMPSON: Yes, I think it's important that he answer.

3 MR PESTMAN:

4 Q. -- of that policeman to your superiors?

10:55:11 5 PRESIDING JUDGE: You want him to repeat what he said

6 yesterday -- his evidence under cross-examination?

7 MR PESTMAN: He did not, as far as I know -- [Overlapping

8 speakers]

9 JUDGE THOMPSON: Yeah, I don't remember myself.

10:55:22 10 PRESIDING JUDGE: Well, he appeared to have said somewhere

11 that he reported it to his boss, who told him not to

12 go -- [Overlapping speakers]

13 MR PESTMAN: No, that was in relation to one particular

14 incident -- [Overlapping speakers]

10:55:29 15 PRESIDING JUDGE: I see.

16 JUDGE THOMPSON: Not that one.

17 MR PESTMAN: I'm talking about another incident and that's the

18 killing of a police officer.

19 PRESIDING JUDGE: Yes, or the police officers.

10:55:38 20 JUDGE THOMPSON: With a tyre and mattress.

21 PRESIDING JUDGE: Okay, all right.

22 MR PESTMAN:

23 Q. Did you report that incident to your superiors? And

24 please answer that question only with a yes or a no.

10:55:48 25 A. I'm not able to tell my boss -- I'm not able to report to

26 them.

27 MR PESTMAN: Thank you, no further questions.

28 PRESIDING JUDGE: So he didn't report the killing of --

29 [Overlapping speakers]

1 JUDGE THOMPSON: That particular crime, yes.

2 JUDGE BOUTET: So that would conclude the cross-examination.

3 Any re-examination?

4 MS PARMAR: Yes, Your Honours.

10:56:36 5 RE-EXAMINED BY MS PARMAR:

6 Q. Witness, yesterday you said that you stayed with the

7 rebels for some time. What would have happened if you

8 tried to leave the rebels?

9 MR MARGAI: Objection, My Lords, that is speculative. It is

10:57:02 10 speculative. "What would happen if" -- the way the

11 question is framed, it's very speculative.

12 JUDGE BOUTET: I'll sustain the objection. Rephrase your

13 question, please.

14 MS PARMAR:

10:57:19 15 Q. Witness, was there any punishment if you tried to leave

16 the rebels?

17 MR MARGAI: It's the same.

18 JUDGE BOUTET: Ask him if he knows.

19 MS PARMAR:

10:57:38 20 Q. Witness, do you know of punishment when people tried to

21 leave the rebels?

22 MR MARGAI: Again I object. There is no evidence here that

23 somebody tried to leave the rebels, because the question

24 will presuppose an attempt by someone trying to leave the

10:58:02 25 rebels.

26 JUDGE BOUTET: We'll see what the witness has to say. Your

27 objection is denied.

28 THE WITNESS: Can I go on with the question?

29 MS PARMAR: Yes.

1 THE WITNESS: Well, they had a special punishment that they
2 administered. If you intend to hide -- to escape -- if
3 you intend to escape, if you are caught, you will be
4 beaten and placed in a place called dojo. That's what --
10:58:52 5 [Overlapping speakers]

6 PRESIDING JUDGE: Placed in a place called what?

7 THE WITNESS: Dojo, dojo. A hole that was about 20 feet, that
8 was dungeon.

9 MS PARMAR:

10:59:30 10 Q. How did you know about the dojo?

11 MR BOCKARIE: Objection, Your Honour. I think, Your Honour,
12 we are now moving outside the realm of re-examination.
13 That one has to be reiterated, and now the way the train
14 is moving, we are outside the realm of re-examination.
10:59:48 15 My Honour, it was never an issue in examination-in-chief
16 or in cross-examination, the consequences of one trying
17 to leave rebel-held territory. We are outside the realm
18 of re-examination, Your Honour.

19 JUDGE THOMPSON: My difficulty here is not following what the
11:00:09 20 Prosecution is trying to do here, considering that the
21 nature of re-examination is -- or the scope is much more
22 restricted than examination-in-chief, and I don't know
23 what the ambiguities are, the inconsistencies, or, if
24 they're not ambiguities or inconsistencies, whether
11:00:36 25 they're new material brought in under cross-examination
26 that has taken the Prosecution by surprise. I'm not sure
27 whether I believe the line of re-examination covers any
28 of those particular aspects of the mechanism of
29 re-examination.

1 MS PARMAR: Your Honour, the Prosecution was simply trying to
2 establish the basis of knowledge for the information
3 given by the witness and nothing further than that.
4 JUDGE THOMPSON: Was that left ambiguous by the
11:01:17 5 cross-examination?
6 MS PARMAR: Your Honour --
7 JUDGE THOMPSON: Or was there any inconsistent about that?
8 MS PARMAR: Simply that the cross-examination for counsel for
9 the first accused had raised the issue of why -- or of
11:01:32 10 simply that the witness had, indeed, stayed with the
11 rebels for some time, and so the Prosecution was simply
12 seeking to clarify why.
13 JUDGE THOMPSON: But did the cross-examination put in doubt
14 the basis of knowledge?
11:01:46 15 MS PARMAR: No, no, Your Honour.
16 JUDGE THOMPSON: It would seem, then, you're probably trying
17 to have a second bite of the cherry.
18 MS PARMAR: Your Honour, we were simply seeking to clarify the
19 basis of knowledge that had just been given by the
11:02:04 20 witness. If Your Honours are satisfied with his initial
21 response, the Prosecution is happy to proceed to the next
22 question.
23 JUDGE THOMPSON: Quite frankly, I don't see anything that
24 needs to be clarified here.
11:02:22 25 MS PARMAR:
26 Q. Witness, you said yesterday that you were given drugs.
27 Who gave you these drugs?
28 MR BOCKARIE: Your Honour, we are objecting to that question
29 also.

1 PRESIDING JUDGE: What question?

2 MR BOCKARIE: The question of being given drugs and who gave
3 the drugs, Your Honour.

4 PRESIDING JUDGE: Yes.

11:02:41 5 MR BOCKARIE: The answers given to that question were very
6 clear and very unequivocal, Your Honour. That is devoid
7 of any clarification.

8 PRESIDING JUDGE: The witness said that he used to take what
9 he called brown-brown --

11:03:00 10 MR BOCKARIE: [Inaudible] marijuana

11 PRESIDING JUDGE: Marijuana, first of all; then brown-brown,
12 and he said brown-brown was cocaine. I think it's
13 perfectly legitimate that he indicate, you know, how he
14 came by the drugs.

11:03:12 15 MR BOCKARIE: Your Honour, he said he wasn't given.

16 PRESIDING JUDGE: Well, let him indicate to us how he came by
17 the drugs.

18 MR BOCKARIE: He said he took drugs. He didn't say in his
19 evidence-in-chief he was given.

11:03:26 20 JUDGE BOUTET: Then you're proving the point that it needs
21 clarification.

22 MR BOCKARIE: No, Your Honour. What I'm saying is that the
23 answer given to that question was very clear.

24 JUDGE BOUTET: Well, we allow the question.

11:03:38 25 MR BOCKARIE: As Your Honour pleases.

26 MS PARMAR:

27 Q. Witness, can you answer the question, please?

28 A. Well, the ones who gave us drugs, Papa Konde's boys gave
29 us drugs at xxxx xxxx.

1 MS PARMAR: Did Your Honours get that response?
2 JUDGE BOUTET: I did not. Could you repeat your answer,
3 please?
4 THE WITNESS: Papa Norman -- Papa Konde's boys gave us -- gave
11:04:19 5 me drugs.
6 MS PARMAR:
7 Q. Witness, if I showed you a map of Sierra Leone --
8 MR MARGAI: My Lord, I'm sorry, I am particularly worried
9 about the prejudicial effect of this line of
11:04:46 10 re-examination with particular reference to this question
11 as to who gave you drugs, because the Defence is clearly
12 disadvantaged because we would not have any opportunity
13 of putting questions in relation to the questions now put
14 in re-examination. And I might also submit here that the
11:05:12 15 Prosecution is in control of her case, and I'm sure,
16 notwithstanding the question of equality of arms, the
17 opportunity open to the Prosecution by way of
18 investigation, et cetera, et cetera, should have at least
19 addressed this issue before leading evidence-in-chief.
11:05:35 20 That's my only worry.
21 JUDGE BOUTET: But, Mr Margai, you were not here yesterday.
22 This is an issue that was raised in cross-examination.
23 The first time was -- [Overlapping speakers]
24 PRESIDING JUDGE: But by Mr Williams.
11:05:45 25 MR MARGAI: I'm not disputing that. I'm fully seized of what
26 was said here, because I read the notes.
27 JUDGE BOUTET: So this is a new matter that was raised in
28 cross-examination, and all the Prosecution is seeking
29 now -- [Overlapping speakers]

1 MR MARGAI: As My Lords please, because I'm sure at the end of
2 the day Your Lordships will properly evaluate the
3 evidence and determine what weight if any.
4 JUDGE BOUTET: Indeed. Thank you, Mr Margai.
11:06:09 5 MS PARMAR: May I proceed, Your Honours?
6 JUDGE BOUTET: Yes.
7 MS PARMAR:
8 Q. Witness --
9 PRESIDING JUDGE: Proceed on relevant matters which arose
11:06:19 10 during cross-examination.
11 MS PARMAR: Certainly, Your Honour.
12 PRESIDING JUDGE: Yes, go ahead.
13 MS PARMAR:
14 Q. Witness, if I were to show you a map of Sierra Leone,
11:06:29 15 would you be able to understand this map?
16 A. No.
17 MS PARMAR: Your Honours, there are no further questions for
18 re-examination of this witness.
19 JUDGE BOUTET: Thank you.
11:07:59 20 PRESIDING JUDGE: Yes, Mr Witness, or young man, we've
21 finished with you. Thank you very much for coming.
22 THE WITNESS: Thank you, sir. Thank you, sir.
23 PRESIDING JUDGE: What are you doing now?
24 THE WITNESS: Well, I'm learning a trade.
11:08:27 25 PRESIDING JUDGE: You're learning a trade, okay. All the
26 best.
27 THE WITNESS: Yes, sir.
28 PRESIDING JUDGE: We've finished with you now. If we should
29 need you in future we'll let you know.

1 THE WITNESS: Yes, sir.

2 PRESIDING JUDGE: Through the usual channel by which the
3 Witness Protection Unit, you know, gets in touch with
4 you.

11:08:53 5 THE WITNESS: Yes, sir.

6 PRESIDING JUDGE: So is the next witness ready?

7 MR KAMARA: Yes, Your Honour.

8 PRESIDING JUDGE: Right. So the Court will rise for about 10
9 minutes to allow this witness to retire and for the next
11:09:09 10 witness to be brought in.

11 MR KAMARA: And also, Your Honour, the Prosecution did give
12 notice on Monday that the next witness we will apply for
13 closed session. So I wonder whether we could do the
14 closed session.

11:09:23 15 PRESIDING JUDGE: How many witnesses do you have out there?

16 MR KAMARA: We have two witnesses, Your Honour.

17 PRESIDING JUDGE: One is for an open session and the other one
18 for a closed session?

19 MR KAMARA: Yes, Your Honour.

11:09:36 20 PRESIDING JUDGE: I don't know if the Defence is prepared to
21 take on the witness for the open session.

22 MR PESTMAN: We actually prepared ourselves for the second
23 witness and not for the third, so we would prefer to
24 start with the witness in closed session. But I don't
11:10:01 25 want to be premature, because we haven't decided yet
26 whether it's going to be closed session or not, because
27 we think it should not be closed session.

28 MR MARGAI: If my memory serves me correctly, I think this
29 question of closed session, according to the Bench, is to

1 be addressed before the commencement of the witness's
2 testimony.

3 PRESIDING JUDGE: Absolutely, absolutely. That's why I'm
4 asking the question as to whether you on the Defence
11:10:42 5 bench would be prepared to take the witness for the open
6 session, so that we proceed and look at the closed
7 session application later in the day.

8 MR MARGAI: The only disadvantage here is that, as my learned
9 friend Pestman has said, we had prepared and focused our
11:11:03 10 minds to the witness as per the format that was presented
11 to us in that sequence. I mean, perhaps if they could
12 briefly address the Bench as to the necessity for a
13 closed session, we shall also in brevity respond, and
14 Your Lordships will determine that when we come in. I
11:11:27 15 mean, we have addressed these issues before, so I don't
16 think there would be the need for us to be repetitious.
17 We shall just deal with the key issues and perhaps we
18 will agree for one of our colleagues here to speak on our
19 behalf.

11:12:38 20 PRESIDING JUDGE: Well, we'll break for about 10 minutes and
21 then we'll come back to hear the application for the
22 hearing of the testimony of this witness in closed
23 session. So when we come back in 10 minutes --

24 MR MARGAI: Without being presumptuous, if we could perhaps
11:12:59 25 utilise the period between now and half past. As I said,
26 on our side we have agreed for Ms Whitaker to respond,
27 and she'll be very brief. So if we could utilise that
28 period, that will give you time to deliberate whilst you
29 are in there, subject to your convenience of course.

1 PRESIDING JUDGE: But the gallery has to leave -- has to be
2 cleared. That's why I wanted us to --
3 MR MARGAI: As My Lord please.
4 PRESIDING JUDGE: -- take the witness for the open session, so
11:13:31 5 that the gallery can participate and then we look at
6 these things later. We'll rise for 10 minutes and then
7 the gallery would retire, because we are resuming in a
8 closed session.
9 [Break taken at 11.17 a.m.]
11:34:45 10 [The witness withdrew]
11 [Upon resuming at 11:37 a.m.]
12 [At this point in the proceedings, a portion of the transcript,
13 pages 42 to 66, was extracted and sealed under separate cover,
14 as the session was heard in camera]
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1 [Open session]

2 PRESIDING JUDGE: Are we in open session? All right.

3 MS EDMONDS: One minute.

4 PRESIDING JUDGE: Okay, all right.

15:02:17 5 MS EDMONDS: Court is in open session now.

6 PRESIDING JUDGE: I just wanted before the reading of this,
7 you know, I wanted to know from the Prosecution, you
8 know, how many insider witnesses do you have? That is
9 the first question, and how many of them, you know, do
15:02:54 10 you intend to take to make applications like this, you
11 know, for closed session testimonies? Are you able to
12 answer that question now?

13 MR KAMARA: Your Honour, off the cuff I want to believe we may
14 have about --

15:03:26 15 PRESIDING JUDGE: Okay, look, I will not insist on an answer
16 now, but maybe in the course of the proceedings I will
17 re-visit that question. So you will have all the time to
18 check and to let us know what the situation will be, you
19 know, because we want to see -- look ahead and see how
15:03:49 20 the trial will proceed. I mean, first question, how many
21 of them do you have and how many have volunteered to, you
22 know, testify openly like we've heard in other cases and
23 how many, even though they are insiders, you know, do you
24 think, you know, can testify openly?

15:04:13 25 MR KAMARA: Yes, sir.

26 PRESIDING JUDGE: Yes. Judge Boutet will present the ruling
27 the Court, please.

28 [Ruling]

29

1 JUDGE BOUTET: Thank you, Mr Presiding Judge.
2 After listening to the parties and giving due
3 consideration to the arguments presented by counsel on
4 both sides, we are satisfied, given the provisions of
15:04:41 5 Article 17(2) of the Statute of the Special Court for
6 Sierra Leone and Rule 79 of the Rules of Procedure and
7 Evidence, that the implication presented by the
8 Prosecution for the evidence of Witness TF2-201 to be
9 heard in closed session is granted and consequently,
15:05:05 10 therefore, Witness TF2-201 shall testify in closed
11 session.
12 Thank you.
13 MS WHITAKER: Could we ask for reasons for your ruling, Your
14 Honour, as I believe is required.
15:05:18 15 JUDGE BOUTET: We've just given the reason.
16 MS WHITAKER: That is the extent of reasons, then. All right.
17 MR KAMARA: Thank you, Your Honours. Your Honours the
18 Prosecution seeks to call witness TF2-201 who will
19 testify in Krio.
15:05:45 20 PRESIDING JUDGE: That will be your twentieth?
21 MR KAMARA: Twentieth witness. And, Your Honour, before that
22 can we resume to closed session?
23 [At this point in the proceedings, a portion of the transcript,
24 pages 69 to 118, was extracted and sealed under separate cover, as
25 the session was heard in camera]
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C E R T I F I C A T E

We Maureen P Dunn, Ella K Drury, and Roni Kerekes
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.

Maureen P Dunn

Ella K Drury

Roni Kerekes

EXHIBITS:

Exhibit No. 20	20
Ruling	67

WITNESSES FOR THE PROSECUTION:

WITNESS: TF2-021 [continued]	4
CROSS-EXAMINED Mr PESTMAN	4
RE-EXAMINED BY MS PARMAR	33
WITNESS: TF2-201	69
EXAMINED BY MR KAMARA	69