

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

WEDNESDAY, 1 DECEMBER 2004
9.45 a.m.
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sharelle Aitchison
Ms Roza Salibekova

For the Registry:

Mr Geoff Walker

For the Prosecution:

Mr Kevin Tavener
Mr Mohamed Stevens
Ms Sharan Parmar

For the Principal Defender:

Mr Kingsley Belle

For the Accused Sam Hinga Norman:

Dr Bu-Buakei Jabbi.
Ms Claire da Silva

For the Accused Moinina Fofana:

Mr Arrow Bockarie
Mr Victor Koppe
Mr Andrew Ianuzzi

For the Accused Allieu Kondewa:

Mr Charles Margai
Mr Yada Williams

1 Wednesday, 1 December 2004
2 [Open session]
3 [The accused not present]
4 [Upon commencing at 9.45 a.m.]
5 MS PARMAR: Good morning, Your Honours. Sharan Parmar for
6 the Prosecution.
7 JUDGE BOUTET: Good morning. Just a few moments, please.
8 PRESIDING JUDGE: I have two earphones as if I have four ears.
9 JUDGE THOMPSON: I suppose it's the privilege of being the
10 Presiding Judge.
11 PRESIDING JUDGE: How I wish it could be something more than
12 that.
13 JUDGE BOUTET: Maybe somebody was trying to send a message.
14 PRESIDING JUDGE: Possibly.
15 Well, good morning, learned counsel. We're resuming
16 the session.
17 JUDGE BOUTET: Yes. Madam Prosecutor.
18 WITNESS: WITNESS TF2-067 [Resumed]
19 [Witness answered through interpretation]
20 EXAMINED BY MS PARMAR: [Continued]
21 Q. Good morning, Witness.
22 A. Good morning, ma'am.
23 Q. Witness, today we're going to carry on with you telling
24 your story. Where we left off yesterday was I had asked
25 you --
26 A. Well, yesterday, we stopped at --
27 Q. That's right. We stopped because you were describing
28 what you had seen when you were on the veranda in your
29 house in Bo.

1 A. Yes.

2 PRESIDING JUDGE: Ms Parmar, I'm interested in knowing from
3 the description, apparently this is a storeyed building.
4 This building appears to be a storeyed building.

5 MS PARMAR: That is correct, Your Honour. Yesterday when --

6 PRESIDING JUDGE: Yes, it would be nice to locate us as
7 to -- because I imagine there is a veranda upstairs and
8 downstairs as well. It would be nice to locate us on
9 which veranda he's talking about, please.

10 MR BOCKARIE: Yes, Your Honours, sorry. I stand to be
11 corrected, but I had the impression that there is an
12 under cellar in this building. It depends on the
13 topography. It may not necessarily be a storeyed
14 building.

15 PRESIDING JUDGE: Which is why I said I had the impression.
16 It's good for us to clarify this issue because it's
17 important when the witness says he could see this or
18 that.

19 MR BOCKARIE: Yes, Your Honour.

20 PRESIDING JUDGE: Yes, it's just for the purposes of
21 clarification. Let the Prosecution verify some of these
22 issues. I'm not very properly situated in my mind as to
23 the veranda and the location of the witness.

24 Yes, Ms Parmar.

25 MS PARMAR:

26 Q. Witness, how many floors are in your house in Bo?

27 A. Well, my house has xxxx. Each xxxx has
28 a veranda. The veranda I'm talking about is downstairs.

29 PRESIDING JUDGE: [Microphone not activated] floors. He's

1 talking of apartments.

2 THE WITNESS: It's an under cellar.

3 MS PARMAR:

4 Q. Where is the under cellar? Is it on the ground?

5 A. The under cellar is not on the ground. But the way it is
6 built, it is not that it is a storey building. There are
7 some areas that are low and the others high. That's the
8 reason why we call it an under cellar.

9 Q. How many xxxx are on your house?

10 A. There are xxxx.

11 Q. Is there a xxxx?

12 A. Each apartment has a xxxx.

13 JUDGE BOUTET: I understand two xxxx, and
14 one xxxx the other level. Is it how it is
15 constructed, Mr Witness?

16 THE WITNESS: The xxxx is divided into two. The one below
17 is not.

18 JUDGE BOUTET: So you have two xxxx?

19 THE WITNESS: Yes, sir. Yes, sir.

20 JUDGE BOUTET: And the one where you were standing, is it the
21 xxxx?

22 THE WITNESS: At the time I was standing there, the time the
23 pastor was beaten, I was xxxx. But actually we
24 stayed in the xxxx, in the up xxxx.

25 JUDGE BOUTET: So what you were describing yesterday, you were
26 on the veranda on the first floor -- the ground floor.

27 THE WITNESS: Well, let me clear the doubt.

28 JUDGE BOUTET: Please.

29 THE WITNESS: While I was upstairs whilst the Kamajors that

1 came the second time, when they came directly, when they
2 came, they had seen valuable things in the place when
3 they entered downstairs. So during that time, the noise.
4 When I was a small boy I didn't pay much attention there.
5 So I came down. I followed the noise. I was a little
6 bit far away from them downstairs when they were doing
7 that havoc, when they were looting the properties.

8 MS PARMAR:

9 Q. Witness, when you were on the veranda on the ground
10 floor, what could you see? Where were you facing?

11 A. Because our house is facing the street, I saw the time
12 they were looting the properties. Then after the ECOMOGs
13 came, the beating of the pastor, all of that, I was there
14 present at that time.

15 Q. What is across the street from your house in Bo?

16 PRESIDING JUDGE: When he says he was present at all times, it
17 means he was present on the veranda on the ground?

18 MS PARMAR: That's correct, Your Honour.

19 Q. Witness, what is across the street from your house in Bo?

20 A. Well, across the street, we have -- we have a park. You
21 stay at the house and see the park. It is a very small
22 distance. After you go across the street, you see the
23 park. You see the park clearly.

24 Q. When you were sitting on the veranda, what did you see in
25 the park?

26 A. Well, in the veranda, there was a small shop, and the
27 veranda was inhabited by a Temne man. So some of the
28 Kamajors, when some of the boys in the town had joined
29 the Kamajors, they had realised that the man was a Temne

1 and the man could not speak Mende. It was only Temne and
2 Krio. They arrested the man in the park. I was sitting
3 watching them. The distance was a little bit away. They
4 were not seeing me.

5 They arrested the man, and the man was trying to
6 deny that he was not a Temne in Krio. He answered some
7 difficult questions in Krio. When they were talking,
8 they were talking aloud.

9 Q. What happened to this man?

10 A. Well, during that time when the man was trying to deny
11 that he was not a Temne, he tried to answer the question
12 that he does not know. So the man -- they called their
13 colleague to kill the man. As the other was trying to
14 reach them, then the other holding the gun fired the man,
15 and then the man dropped down.

16 Q. What happened to the man after he dropped down?

17 A. After he fell down on the ground, because the road was
18 large, so they were to use another route to go there
19 with. But they started stepping on the man as they
20 passed by.

21 Q. Witness, can you repeat your answer, please. What was
22 large?

23 A. Like what? Because I don't understand.

24 JUDGE BOUTET: Mr Witness, can you repeat what happened after
25 the man went down on the ground. You said they killed
26 him with a gun, and he went to the ground. What happened
27 after that?

28 THE WITNESS: Well, when he fell down, the route was lined.
29 They were supposed to use another route, but they used

1 the same route, stepping on the man because it was -- it
2 was a street used by vehicles. So they stepped on him,
3 and then passed by.

4 MS PARMAR:

5 Q. Witness, after they stepped on the man, what happened to
6 him?

7 A. The man was lying there because -- because during that
8 time, it was not the same Kamajors that came to our house
9 did the act because the Kamajors had all gone to the
10 town. The man was lying there. There was nobody to go
11 and take him there. If there was anybody to go there to
12 take the body to bury, if you were caught, it was a
13 problem for you.

14 PRESIDING JUDGE: So is he saying that it is not the Kamajors
15 who came to their house who allegedly killed that man?
16 Is that what he is saying?

17 MS PARMAR: Your Honour, that's my understanding of the
18 witness's last response.

19 JUDGE BOUTET: Ask him again.

20 THE WITNESS: The Kamajors, they were all over in the town.
21 The Kamajors that were at our house, they had not left
22 the house. You stay at the house and see across the
23 street. You see the veranda clearly. You see the street
24 clearly. Our house was facing the street.

25 MS PARMAR:

26 Q. Witness, was this a different group of Kamajors who you
27 saw shoot the man?

28 A. Yes. It was a different group of Kamajors.

29 Q. Witness, what else did you see happening in the park?

1 A. Well, the park -- opposite the park, there was a dust bin
2 where people go to throw your trash. With that park,
3 there are some areas that are flat and clear. During the
4 evening hours, because -- on that day in the evening
5 hours, we left the place. The Kamajors -- I don't know
6 what actually they are doing that present moment, but I
7 saw something burning, that they were going around it.
8 Even if it was something burning, those of us who were
9 close at the place would get the smell of it. What they
10 were burning that I knew was a human being because when
11 they are burning a human being, you get the smell. The
12 smell most times is bad.

13 Q. Witness, what happened to your father during this time?

14 A. Well, during that time, after they had beaten the pastor,
15 at that time I was trying to go upstairs. As I was
16 approaching our own apartment, the Kamajors went. They
17 went upstairs to us. They came -- they met my father.
18 They started saying "It is this man, it is this man" in
19 Mende. They arrested my father. I was there with my
20 father and my younger brother. They arrested my brother.
21 Then they didn't release me again. My younger brother,
22 it was the people on the other side that took my brother.
23 Then they went with us.

24 PRESIDING JUDGE: "Went with us." Let him be precise, please.

25 "Went with us."

26 MS PARMAR:

27 Q. Witness, who went with you?

28 A. The Kamajors.

29 PRESIDING JUDGE: [Microphone not activated].

1 THE WITNESS: That's me and my father. They met us in the
2 house.

3 JUDGE BOUTET: You have said something about your younger
4 brother. Where is he?

5 THE WITNESS: He was a small boy. But then when my mother
6 left us, we went to our grandmother. He was unable to do
7 something for himself, so he didn't go with him. He left
8 him. So the other people in the other apartment, the
9 Maringo people took him.

10 MS PARMAR:

11 Q. Witness, you said that they "went with us." Where did
12 you go?

13 A. We went -- we went to where they were based. There were
14 many at that time.

15 Q. Where who was based?

16 A. Where they were based.

17 Q. Who was based?

18 A. The Kamajors based.

19 JUDGE BOUTET: And you were saying that there were many at
20 that time. Many what? Many Kamajors? Or many
21 civilians? Or many what?

22 THE WITNESS: The Kamajors.

23 MS PARMAR:

24 Q. Witness, before you reached the base, who was with you
25 while you travelled to the base?

26 A. Well, as we were going along, I saw my uncle that I've
27 got used to. He gave me money. So I saw him. I shouted
28 his name, "Uncle, uncle." He's a huge man. I shouted
29 his name, "Uncle, uncle." Then he was called. When he

1 was caught --

2 PRESIDING JUDGE: Who called him?

3 THE WITNESS: The Kamajors.

4 MS PARMAR:

5 Q. What happened when your uncle was called by the Kamajors?

6 A. When he was called, they don't know whether he was a
7 Temne. They wanted to know if he's a Temne so when he
8 was called there, he was placed down at gunpoint with my
9 father. Then one of the Kamajors held my hand when we
10 were going.

11 Q. What happened when you reached the Kamajor base?

12 A. When we arrive at the base of the Kamajors --

13 PRESIDING JUDGE: [Microphone not activated]. The uncle comes
14 after he has said, "Uncle, uncle." The Kamajors call the
15 uncle. He comes. Meets him and the father. They place
16 them under gunpoint. Now we are finding what happened
17 when --

18 THE WITNESS: Yes, sir.

19 PRESIDING JUDGE: -- when they got to the base? Let's go
20 progressively and see after they were held at gunpoint
21 what happened. That is, the father and the uncle.

22 THE WITNESS: Yes, sir.

23 MS PARMAR:

24 Q. Witness, after your uncle was taken under gunpoint, what
25 happened to you, your uncle, and your father?

26 A. We reached where they were, where they were based with
27 their companions, the Kamajors.

28 PRESIDING JUDGE: That is, they took them to where they were
29 based. From there, isn't it?

1 THE WITNESS: Yes, sir.

2 MS PARMAR:

3 Q. What happened when you reached the base?

4 A. Well, when we reached the base, they took my dad and my
5 uncle and they placed them under the sun -- at another
6 place, and there were some other people who were there.
7 I saw where I was placed -- from where I was placed, I
8 saw some boys, like I am now at present, some of them
9 were in the place where they placed me. And there were
10 others with whom I was of the same age. With the small
11 boys, they placed us there.

12 Q. Witness, describe where you were placed with the other
13 boys.

14 A. The place -- they placed the elder ones in a separate
15 place, my uncle and my dad. They were in a separate
16 place. With the small boys, I saw some who were older
17 than I am. And others with whom I had the same height,
18 they were there, too. We were not in the same place. We
19 were in different places.

20 Q. Why were these boys being held?

21 A. Well, why they were captured, what I understood, because
22 the way I saw them from their faces - I didn't talk to no
23 one - I saw -- because they've cut their family members
24 --

25 JUDGE BOUTET: [Microphone not activated].

26 THE WITNESS: Yes, sir, I didn't talk to them when I went
27 there. I didn't talk to them because at that time,
28 everybody was praying for his survival.

29 MS PARMAR:

1 Q. What happened after you were placed at the base?

2 A. After they placed us at the base, I was there when I
3 heard the Kamajors. They were saying that they've got an
4 information that the soldiers were about to enter the
5 next day.

6 Q. What happened after you heard this information?

7 A. Well, my dad, who had stayed for long in the town, in Bo,
8 he could understand some Mende, so he started talking to
9 them in Mende, in bits. So the others ones who were
10 leading the small boys of the Kamajors said they should
11 release him.

12 MR BOCKARIE: Yes, Your Honour, I --

13 JUDGE BOUTET: You've changed your mind? That's okay.

14 MR BOCKARIE: Yes, thank you.

15 JUDGE BOUTET: We just have to take it slowly. I know what
16 you were about to say. So as we say, step by step,
17 please.

18 MS PARMAR:

19 Q. Witness, what happened after your father spoke with the
20 Kamajors?

21 A. After he had spoken to the Kamajors in Mende, the older
22 one among the Kamajors said they should release my dad.

23 Q. And what happened to your father?

24 A. So my dad left and requested for me, and I was brought
25 out.

26 Q. When you were brought out, where was your uncle?

27 A. Well, my uncle who was not talking -- was not talking any
28 Mende. My dad was unable to defend him because he, too,
29 was rescued by God because God had shown him some Mende.

- 1 So we left him there actually.
- 2 Q. Have you seen your uncle since?
- 3 A. I never saw him. I've never heard of him. I don't know
4 his whereabouts.
- 5 Q. Witness, while these things were happening, why did your
6 family stay in Bo?
- 7 A. Well, my family, we stayed -- well, we were in Bo because
8 there was no way for us to leave because they were all
9 over the town at that time.
- 10 Q. Who was all over town?
- 11 A. It was the Kamajors.
12 My ears go sore. My ears go sore. My ears go sore.
- 13 JUDGE BOUTET: He seems to have --
- 14 PRESIDING JUDGE: Can you try to adjust his --
- 15 MS PARMAR: I think he says that the headphones are making his
16 ears sore.
- 17 PRESIDING JUDGE: Let them try and adjust the way he's wearing
18 them.
- 19 THE WITNESS: No problem now.
- 20 JUDGE BOUTET: Are you okay now?
- 21 THE WITNESS: Yes.
- 22 JUDGE BOUTET: Yes, Madam Prosecutor, please carry on.
- 23 MS PARMAR:
- 24 Q. Witness, was there a time when you tried to leave Bo?
- 25 A. Yes. There was a time when we were in that place, when
26 the Kamajors were saying that they had information that
27 the soldiers would enter the town the next day. So the
28 next day, one woman who had a house near at our own
29 house, she was Mende. She was afraid of her brothers,

1 the Kamajors. So when they left us and we came back, my
2 dad went and took the child, my younger brother, to the
3 other people. So that woman came to my dad.

4 I want to use the toilet.

5 PRESIDING JUDGE: He wants to use the toilet.

6 MS PARMAR: Perhaps we should take a break for five minutes.

7 THE WITNESS: Yes, sir.

8 PRESIDING JUDGE: We'll rise for five minutes to allow him to
9 use the restroom, please. The Court will rise.

10 [Break taken at 10.28 a.m.]

11 [HN011204B]

12 [Upon resuming at 10.40 a.m.]

13 PRESIDING JUDGE: This session resumes, please. Ms Parmar you
14 may continue.

15 MS PARMAR: Thank you, Your Honour.

16 Q. Witness, before the break we were talking about when you
17 left Bo. Describe who you were with when you left Bo?

18 PRESIDING JUDGE: Are they leaving or are they preparing to
19 leave Bo?

20 THE WITNESS: Well, to that time, when I was leaving Bo --

21 [Interpretation interrupted]

22 PRESIDING JUDGE: I asked a question. Are they leaving or
23 they are preparing to leave -- or they have already left?

24 THE WITNESS: Well, I want to clear the doubt. I want to
25 clear the doubt so that there will be no mistake.

26 JUDGE BOUTET: Yes, please.

27 THE WITNESS: After they had released us that evening, when I
28 was talking about the woman who was closer to our house,
29 she came to our dad because she was feeling sorry for us.

1 She came to our dad and said that she too was scared of
2 these brothers, the Kamajors -- or her brothers the
3 Kamajors. So what she did this time. Then she said
4 tomorrow, the next day, she'll take us to her home town
5 so that we'll stay there for some time. After things
6 have cooled down, we'll come back. Myself, my dad and my
7 younger brother in the house.

8 MS PARMAR:

9 Q. Witness, were there any others who were planning to leave
10 with you?

11 A. Well, until that time in the morning the woman had come
12 for us to go, some other people joined us, but we were
13 not many -- we were not very many.

14 Q. What happened that morning?

15 A. So that was the time for the soldiers to enter, so in the
16 morning we left the town.

17 Q. What happened when you left the town?

18 A. As we were going towards the village, where the woman was
19 taking us, we met a checkpoint which was manned by
20 Kamajors.

21 Q. What happened at this checkpoint?

22 A. At this first checkpoint we met a man who they had
23 captured. We are standing close to them, they stopped us
24 and they didn't allow us to pass by. So the Kamajors and
25 some of the boys who had lived in Bo Town, who had become
26 Kamajors, they had known that man, that he was a former
27 soldier but that he had left the military for long. He
28 was caught -- he was arrested.

29 JUDGE BOUTET: Yes, Mr Margai?

1 MR MARGAI: Yes, My Lord. I wonder in conformity with the
2 suggestion made yesterday by my learned friend on the
3 other side, if the headphone could be removed from the
4 witness. I wish to --

5 JUDGE BOUTET: Okay. Yes, until we hear the argument, thank
6 you.

7 MR MARGAI: From the evidence, My Lord, it seems to me that we
8 are not very clear as to whether the witness is
9 testifying as to his own knowledge or conjecturing,
10 because we are being told now about what goes on in the
11 minds of others who were met at the checkpoint regarding
12 this individual who was captured. I just wish to be
13 clear on that.

14 JUDGE BOUTET: Madam Prosecutor, can you respond to that,
15 please.

16 MS PARMAR: Your Honour, the Prosecution appreciates the
17 objection by my learned friend and will endeavour to ask
18 the witness what he himself saw or heard at each
19 checkpoint throughout his story.

20 JUDGE THOMPSON: I can add something by way of a judicial
21 safeguard. As professionally trained judges, we would be
22 able to separate conjecture, speculation,
23 interpretations, imaginings from the actual facts which
24 we're getting from witnesses in this category. Of
25 course, the law has always allowed judges, whether in the
26 national systems or international system, to treat
27 evidence of this nature with considerable measure of
28 judicial vigilance. And what we are having here is
29 clearly a conglomeration of alleged facts intermingled

1 with interpretations, beliefs and that kind of thing. I
2 think that's the only safeguard, speaking for myself,
3 that we can apply, because it may well be that the
4 Prosecution may not be entirely able to control this
5 trend. This would be my own judicial response and,
6 having stated it, I say nothing more.

7 MR MARGAI: I appreciate that, My Lord. My only concern here
8 is that -- I have no doubt in my mind that at the end of
9 the day you would sieve the evidence and compartmentalise
10 them into factual, hearsay, et cetera. But then I am a
11 bit worried that the Prosecution is not able to address
12 these issues at this crucial moment. You see, as you
13 yourselves have said, this is a very important trial; the
14 charges are grave. And human nature being what it is, I
15 believe that on this side, out of an abundance of
16 caution, we should also assist the Bench in determining
17 what is actually perceived by a witness from what is
18 conjectured, as indeed the evidence clearly shows. I
19 mean, I'm only appealing to the Prosecution to at least
20 assist the Bench and ourselves in trying to decipher
21 these things. That's all.

22 JUDGE BOUTET: I'll also ask the Prosecution to do whatever
23 they can in this respect, but I would also add that we
24 need to make the necessary accommodation for these types
25 of witnesses. It is a special category of witnesses.
26 They have the right to be heard and we have to take it as
27 they are, and we have to be careful to do the proper
28 analysis in due course as to how we are to pursue that
29 evidence, but we need to allow this evidence to testify

1 to the best of his ability. I understand what you're
2 saying because we have the same difficulties -- at times
3 to say is it what he has observed or is he reporting
4 something else? So whatever the Prosecution can do to
5 assist us in this respect will be greatly appreciated.

6 MS PARMAR: Certainly, Your Honour, and the Prosecution will
7 most definitely follow up on the responses by the
8 witnesses as to what he specifically heard or saw
9 himself.

10 JUDGE BOUTET: I think it is important for everybody's
11 understanding of this evidence that it be done inasmuch
12 as possible. Thank you, Mr Margai, for raising this
13 issue.

14 MR MARGAI: Thank you, My Lords.

15 JUDGE BOUTET: Can we proceed. Mr Witness, are you okay now?
16 Can you hear what is going on?

17 THE WITNESS: Yes, sir.

18 MS PARMAR:

19 Q. Witness, please tell the Court what you saw with your own
20 eyes when you were at the first checkpoint?

21 A. What I saw with my own eyes is what I'm going to say.
22 I'm not saying what somebody -- what I heard. Is what I
23 saw that I'm going to say. When I reached the
24 checkpoint, the man was with them and we are close to
25 them together with the woman. They stopped us from
26 passing by. At that moment they stopped us from passing
27 by, they were dealing with that man. What I heard some
28 of the Kamajors, they were saying that they knew this
29 man, that he was a former soldier; that's why I'm telling

1 you this. The man was refuting this, that he was not a
2 soldier, but they found out that even when he was
3 denying, the Kamajors who knew him were directing him to
4 the place that they had seen him. The man had no way --
5 nothing to do. He didn't answer, but he had nothing to
6 do.

7 Q. Witness, was this man travelling with you?

8 A. No, sir.

9 PRESIDING JUDGE: He said he met the man there -- they met the
10 man there at the checkpoint.

11 MS PARMAR:

12 Q. After you heard this exchange, what did you see happen?

13 A. Whilst the man was arguing with them -- whilst he was
14 arguing with them, one of them said, "Now that you're
15 arguing with us, we're going to kill you." I was there
16 when the man cocked his gun and everybody went apart --
17 the other Kamajors who were closer to him. So the other
18 Kamajors shot the man and the sound of the weapon was
19 heavy. So the other people, they didn't know we were
20 going together with the woman. Everybody turned and
21 looked when the man had fallen to the ground.

22 Q. How far away were you from the man when this happened?

23 A. Okay, well, there was a small hut nearer the checkpoint.
24 It's like look at the hut and look at the checkpoint. We
25 were at the checkpoint while they were at the hut. A
26 very small -- a small distance. We are from them by a
27 small distance.

28 Q. What happened after this man was shot?

29 A. The Kamajors -- the leader of the Kamajors at that

1 checkpoint, he came in front of us; he wanted to question
2 us. And the woman was talking to him that we were his
3 people -- that we weren't bad people. She spoke to them
4 in Mende.

5 Q. What happened after she spoke with them?

6 A. They listened to her and they let us go, so we passed.

7 Q. Where did you go next?

8 A. Well, we are going towards the village when we met
9 another checkpoint, and the Kamajors whom I saw at that
10 checkpoint were those whom they called Black December.

11 Q. What is Black December?

12 A. That was another group of Kamajors. They were wearing --

13 JUDGE BOUTET: Let's carry on. Please proceed.

14 MS PARMAR:

15 Q. What were the Black December wearing?

16 A. They wore black -- black trousers and black shirts, and
17 they had some medicines which they hung on their
18 clothes -- some traditional medicines made with thread
19 hung on the clothes and on the trousers.

20 Q. What did you see happen at this checkpoint?

21 A. Well, these Black December, when we reached them at the
22 checkpoint and the woman started talking to them, and
23 they asked how why she was defending us and we were not
24 defending ourselves. The woman told them that we were
25 her people and we were going to the village, and they
26 said they were not happy about her statement. Then they
27 said they wanted to question us one after the other to
28 find out the truth.

29 Q. What did you see happen after this woman spoke to the

1 Black December Kamajors?

2 A. Well, the Black December Kamajors, they wanted to do what
3 they had said, but the woman talked to their boss -- she
4 talked to their boss man in Mende in a secret -- in
5 secret. She called the boss man and talked to her in
6 secret, and the boss man was in control and whatever he
7 says to them they would do. At that moment they allowed
8 us to go through; they didn't question us any longer.

9 Q. Where did you go next?

10 A. We went a further distance away and we met another
11 checkpoint which was also manned by Kamajors, but not
12 Black December; a group of Kamajors. Three -- three
13 checkpoints.

14 Q. What did you see happen at this checkpoint?

15 A. Well, at this checkpoint the Kamajors whom we met there,
16 they didn't give us a lot of tough time. They didn't
17 give us a lot of tough time, because the woman knew some
18 of them who were there. We didn't stay long there, in
19 fact, and we passed through.

20 Q. Where did you finally stop your journey?

21 A. So as we went -- after the checkpoint, we went a little
22 distance, we saw the village, we saw people from a small
23 -- from a very short distance. So we reached the woman's
24 village and is in a village.

25 Q. Witness, did you stay at the village?

26 A. We stayed there for some time, because through God's
27 grace the woman has saved us. God and the woman have
28 helped us to survive, so we stayed for some time in the
29 village. Although we didn't have good food, good place

1 to sleep, and there weren't enough clothing, but we had
2 to bear it up because we survived. So we stayed there
3 for some time.

4 Q. Where did you go after the village?

5 A. We were in the village when we heard that ECOMOG had
6 entered Bo and they have based in Bo.

7 Q. Witness, while you were travelling at the different
8 checkpoints, were you ever told who the boss man was by
9 any of the Kamajors?

10 A. Well, the boss of the Kamajors, who was in charge of all
11 of the Kamajors when they were being initiated, I
12 couldn't remember all of them, because I didn't see them
13 facially; I only heard their names. Like, one of them
14 whom I could remember, who was Kondewa. He was --
15 [Interpretation interrupted]

16 PRESIDING JUDGE: [Overlapping speakers] want to get that
17 question again. What did you ask him? What did you ask
18 the witness?

19 MS PARMAR: Your Honour, I had asked while he was travelling
20 at the various checkpoints, whether he had been told of
21 any names of boss man by any of the Kamajors.

22 PRESIDING JUDGE: While he was travelling through those
23 checkpoints?

24 MS PARMAR: Yes.

25 PRESIDING JUDGE: How relevant is that question really in
26 these circumstances? Can you address me on that. Being
27 told of boss man. They've gone through a checkpoint or
28 some checkpoints, he's talked of it --

29 MR JABBI: My Lord, I'm sorry to intervene. Is it not an

1 occasion when the witness may remove the --

2 PRESIDING JUDGE: I'm sorry. Thank you, Dr Jabbi. Talked of
3 a boss man who was a boss of the Kamajors and so on and
4 so forth. They were being checked. I've heard the name
5 of Kondewa and things like. How have we gotten there at
6 this material time, going through a checkpoint when they
7 were very preoccupied with their own life and crossing
8 checkpoints.

9 MS PARMAR: Your Honour, the purpose of ascertaining whether
10 the witness knew of any boss man at the checkpoints
11 simply goes to a question of control of the Kamajors at
12 any of these checkpoints, and whether there is --

13 PRESIDING JUDGE: I think I will overrule that question; you
14 can proceed. I will overrule that question. This is a
15 child witness; look at his age at the time. You may
16 proceed, please.

17 MS PARMAR:

18 Q. Witness, how old were you while these things were
19 happening in Bo?

20 A. At that time I didn't know my age; let me not tell lies.
21 I didn't know my age.

22 Q. Were you attending school?

23 A. Yes, sir.

24 Q. What class were you in?

25 A. Well, at that time I was in Class 3. I was in Class 3 to
26 go to Class 4 when this happened. Class 3 to go to Class
27 4. We had sat our exams and we were waiting for the
28 results.

29 MS PARMAR: May I have a moment, Your Honours? Thank you,

1 witness.

2 THE WITNESS: Thank you, ma'am.

3 MS PARMAR: Your Honour, the Prosecution has no further
4 questions for this witness.

5 PRESIDING JUDGE: Thank you.

6 THE WITNESS: I want to use the loo.

7 PRESIDING JUDGE: The young man wants to put himself at ease.
8 Let's bear with him, please.

9 JUDGE BOUTET: Yes, first accused will be ready to proceed,
10 when we come back, with your cross-examine.

11 PRESIDING JUDGE: We shall rise for five minutes, please.
12 [Break taken at 11.13 a.m.]
13 [Upon resuming at 11:18 a.m.]

14 PRESIDING JUDGE: We are resuming the session. The young man
15 afforded us an opportunity to break, and we drifted into
16 other issues, which of course are not unrelated with the
17 functioning of the tribunal. It always happens when the
18 discussion is sparked off it hardly ends, so at a certain
19 stage we tell ourselves well let's stop, let's stop and
20 go. So there we are.

21 JUDGE BOUTET: Dr Jabbi, you're ready to proceed with the
22 cross-examination of this for witness for the first
23 accused?

24 CROSS-EXAMINED BY MR JABBI:

25 MR JABBI: Yes, My Lord.

26 Q. Now, Mr Witness, you said at the beginning of your
27 testimony that your parents showed you your age during
28 the NPSA exam; you remember that, do you?

29 A. Yes, sir.

1 Q. Do you know the year you took the NPSA exam -- the year?

2 A. Well, I could not remember the year, because --

3 JUDGE BOUTET: Yes, go ahead.

4 MR JABBI: I heard "because" at the end of translation.

5 JUDGE BOUTET: I didn't hear anything after "because".

6 MR JABBI: I was waiting for --

7 JUDGE BOUTET: Because of what, Mr Witness?

8 THE WITNESS: I said because it had taken a long time I've sat
9 to the NPSA; it has taken a year or two, because I sat
10 the NPSA twice before I gain entrance into the secondary
11 school.

12 MR JABBI:

13 Q. At which of the NPSA exams were you shown your age - the
14 first or the second?

15 A. The first one I was shown my age -- I knew my age that
16 moment and the second one I was reminded again about my
17 age.

18 Q. Do you know the year you entered secondary school?

19 A. Well, I entered the secondary school in 2002. Let me say
20 in 2003.

21 Q. Which of those years do you finally settle on?

22 A. 2003, sir.

23 Q. What class are you now?

24 A. Now I'm not in a class. I'm in a form.

25 Q. What form are you?

26 A. JSS 3, sir.

27 PRESIDING JUDGE: Dr Jabbi, don't demote that man. He's not
28 in a class; do you mind. He says he's in form what?

29 MR JABBI: JSS 3.

- 1 PRESIDING JUDGE: That's junior secondary school 3.
- 2 MR JABBI: Yes, My Lord.
- 3 PRESIDING JUDGE: We don't have these appellations where I
4 come from.
- 5 MR JABBI: What was formally Form 3.
- 6 PRESIDING JUDGE: Yes, okay. It's Form 3 now; that's the one
7 I'm used to.
- 8 MR JABBI:
- 9 Q. Mr Witness, if you are now in JSS 3, you cannot have
10 entered secondary school in 2003, if you think of it?
- 11 A. Well, 2003, I'm sure it was the time I entered Form 1.
12 Okay, I'm sorry for that.
- 13 Q. So what do you say finally when you entered Form 1?
- 14 A. Because by the doubt I have, we were approaching now
15 2004, but actually let me say 2002 so that I can clear
16 the doubt.
- 17 Q. Can you also tell the Court what form you were in when
18 those incidents happened at your house -- that you spoke
19 about -- what form were you?
- 20 A. The time this accident?
- 21 Q. Not accident.
- 22 A. Okay, okay; I'm sorry, sir. Well, that time I was not in
23 a form, I was in a class.
- 24 PRESIDING JUDGE: He was still in the primary school.
- 25 JUDGE BOUTET: Dr Jabbi, I don't know much, but I thought you
26 would know that.
- 27 MR JABBI: My Lord, I was being cautious not to demote him.
- 28 Q. So what class were you then when those incidents happened
29 at your house in Bo?

- 1 A. When those things happened, during that time I was in
2 Class 3 to go to Class 4. By then we had taken all the
3 exams. Within that week, when the results were to be
4 given to us, it was the time those incidents happened.
- 5 Q. Do you by any chance know the year when those incidents
6 happened at your house -- the year?
- 7 A. No, no, no, I cannot tell, because at that time, even for
8 me, I could not remember my year. The only thing you
9 could remember is your life.
- 10 Q. What class were you when you took the NPSA exam for the
11 first time -- what class?
- 12 A. I was in Class 6, sir.
- 13 Q. And you had to take it the following year before you
14 entered secondary school; is that correct -- you had to
15 take it again the following year?
- 16 A. Yes, sir.
- 17 Q. Now, when the incident happened at your house, you said
18 the Kamajors who came said they were looking for
19 ammunition and Temnes and soldiers; is that correct?
- 20 A. No, no, no, it is not that -- I didn't say that. I said
21 they came to search for ammunition; also they were
22 looking for Temnes. I didn't mention soldiers.
- 23 Q. The Kamajors did not mention soldiers when they were
24 searching; is that what you are saying?
- 25 A. That present moment I'm talking about, the Kamajors did
26 not mention soldiers. They were looking for Temnes and
27 they're searching for ammunition.
- 28 Q. How do you know they were searching for Temnes?
- 29 A. How I came to know they were searching for Temnes,

- 1 because the information was coming out. Like, for
2 instance, they were going around searching for Temnes;
3 they were not searching for Mendes. They were searching
4 for Temnes because they said they were bad people to
5 them. That's the reason why they were searching for
6 Temnes.
- 7 Q. The question was how do you know they were searching for
8 Temnes?
- 9 A. How I came to know that they were looking for Temnes?
- 10 Q. Yes.
- 11 A. When they arrive at our place, they didn't ask for any
12 nation; they were searching for Temnes. They said in
13 Mende, "Temne blaa sia" -- that is Temne people then --
14 "Temne people, this is where they are." When I heard
15 that, that's when I knew. When they said they were
16 Kamajors, it was the time I realised they are looking for
17 Temnes.
- 18 Q. Do you yourself speak Mende?
- 19 A. I speak Mende a bit.
- 20 Q. Were you able to speak Mende at that time?
- 21 A. No, sir. I had little bit of Mende at that time.
- 22 Q. So, for instance, did you by that time know the phrase
23 "Temne blaa sia", which you just said?
- 24 A. Yes, sir.
- 25 PRESIDING JUDGE: What was that phrase again?
- 26 MR JABBI: He had said earlier on they were saying "Temne blaa
27 sia". If I may venture an orthographic representation.
- 28 PRESIDING JUDGE: I am sure you will ably do that.
- 29 MR JABBI: It will be something like T-I-M-I-I B-L-A-A-S-I-A,

1 Temne blaa sia.

2 THE WITNESS: Well, the Mende really, when they say "Temne
3 blaa sia", they are saying "Temne people". To say "this
4 is where they are", that is what I can't say in Mende.
5 To say "this is where they stay", that's the Mende that I
6 can't speak. I'm only saying the Mende that I can
7 understand.

8 MR JABBI:

9 Q. But are you saying that they did say in Mende this is
10 where they stayed?

11 A. Yes, sir.

12 Q. How would you know that if you didn't know the phrase?

13 A. Okay, for instance, there is some tribes that you
14 understand what they say, but for you to say exactly the
15 way they say it, it can be difficult to you. You
16 understand what they say, but you find it difficult to
17 say it. That was what happened to me. I was unable to
18 say the Mende, but to say it -- but I do understand some
19 Mende they say. That's what I'm saying.

20 Q. Okay. You spoke about the Kamajors entering directly
21 into your uncle's room when they arrived there the second
22 time. What part of the building was that uncle's room?

23 A. Yes, sir. The room was down floor, sir.

24 Q. That is the ground floor?

25 A. Yes, sir.

26 Q. Is that also where the veranda was where you were looking
27 at them?

28 A. Yes, sir.

29 Q. Were you sitting or standing in that veranda during that

1 incident?

2 A. I was sitting, sir. I was a small boy at that time.

3 Small boy, when you see him standing somewhere, the next
4 thing would be to sit on the floor.

5 Q. So were you sitting on the floor?

6 A. Yes, sir. I was sitting on the floor at that time.

7 Q. Were the Kamajors hostile when they came?

8 A. The time they came for the second time, they were angry
9 because when they came, they came to loot directly. They
10 were angry.

11 PRESIDING JUDGE: Dr Jabbi, why don't you take him to the
12 first coming. He's talking of the second now; we have
13 not finished with the first coming.

14 MR JABBI: Well, My Lord, he had said they were searching for
15 arms and ammunition that first coming.

16 PRESIDING JUDGE: So we limit ourselves to the second coming?
17 Okay, that's all right.

18 MR JABBI: I will ask briefly about that.

19 Q. Where were you -- which part of the building were you
20 when the Kamajors came the first time?

21 A. The first time I was in my own apartment, then it was in
22 our own apartment. I was there, the other Kamajors
23 entered our apartment. So one of them reach at our own
24 door, forcing himself to enter, but the door was a little
25 bit stiff. No sooner the door opened, the tape and the
26 fan -- he entered in and just took the tape and the fan.
27 He fell on the tape and the fan. After they left our
28 apartment, after they've destroyed those things, I came
29 down again.

1 Q. Now, when you say he fell down on the tape and the fan,
2 do you mean he destroyed those items?

3 A. Yes, sir. Yes, he spoilt the head of the fan and the
4 tape. Yes, the tape was divided into two; it's like when
5 you open the tape for repairs. So he just fell on the
6 tape and the things and they got destroyed, because the
7 things were --

8 Q. Are you saying that he fell down on those items?

9 A. Yes, whilst he was forcing the door, the door opened
10 automatically and the speed with which the door opened,
11 he just fell on top of the things and he damaged them.

12 Q. Were you in that room where those things were?

13 A. I was standing at the door while the other Kamajor was
14 forcing his way through. The sooner I opened the door, I
15 saw it with my own eyes when he fell on top of those
16 things. He didn't even say sorry.

17 Q. Did you see the Kamajors before they entered that room?

18 A. Before they entered the room, if I saw the Kamajors?
19 Well, the Kamajors, when they came, I saw -- I saw them
20 when they came to the house before they entered the room.

21 Q. How did you see them?

22 A. I was in the veranda at that time. When I was there in
23 the veranda, they came. That's when I saw them.

24 [HN011204C 12.02 p.m.]

25 Q. Were you, at any stage, hiding anywhere in the house?

26 A. No. No, sir.

27 Q. At no stage were you hiding anywhere?

28 A. I was not hiding at the time. I was a small boy. I was
29 not hiding.

- 1 Q. Did you hide at any time throughout those incidents?
- 2 A. Until when there was nobody -- sometimes when there is
3 nobody outside -- when there is nobody outside, I will go
4 inside. By that, my dad would put me inside at that
5 time.
- 6 Q. But you would not be hiding, as such?
- 7 A. At all.
- 8 Q. Now, do you remember talking to Prosecutors sometime last
9 month, November this year?
- 10 A. Last month.
- 11 Q. November.
- 12 A. You mean in town here? In town here?
- 13 Q. Yes. Yes.
- 14 A. Well, the first day I entered town here, the night
15 I entered, the next day we talked. I can't remember
16 the -- well, the first time I came here we entered in the
17 night and the morning we spoke.
- 18 Q. Do you remember the date when you spoke?
- 19 A. No, sir. No, sir.
- 20 Q. How many times have you spoken to them since you came to
21 Freetown this last time?
- 22 A. Well, I have not been counting. Whenever they needed me,
23 they called me. I have not been counting the number of
24 times.
- 25 Q. Have you spoken to them more than once?
- 26 A. Yes, sir. In Freetown here. In Freetown.
- 27 Q. And what language did you speak with them?
- 28 A. I was speaking Krio and somebody was translating to them
29 in English.

- 1 Q. Do you know how many of them were present when they were
2 speaking to you?
- 3 A. Well, the first instance that I spoke to one, there were
4 two of them and I was the third person.
- 5 Q. Can you say of those two whether they were both men or
6 both women or they were mixed on that first occasion?
- 7 A. One woman and one man.
- 8 Q. And did they read your statement to you after you had
9 finished talking with them?
- 10 A. In town here? In Freetown, yes, sir.
- 11 Q. Yes, yes. Did they read back your statement to you?
- 12 A. Yes, they read it. Wherever there is doubt, they would
13 ask me and I would clear that doubt. If there is any
14 mistake, I would clear the doubt. Yes, they read it to
15 me, because after we had finished, they read it back to
16 me what they had written. They asked me this is true and
17 I'll say yes. Was this so and I'll say yes.
- 18 Q. Did you sign the statement?
- 19 A. In town?
- 20 Q. Yes.
- 21 A. Well -- well, in town here, after they read it to me -- I
22 didn't sign actually, I didn't sign.
- 23 Q. You didn't sign?
- 24 A. Yes, sir.
- 25 Q. But you made sure that it was the statement that you had
26 made to them; not so?
- 27 A. Yes, clearly, clearly.
- 28 MR JABBI: My Lords, I want this statement shown to the
29 witness. It is a statement of interviews held on 12th

1 November 2004, 16th November 2004, 18th November 2004,
2 19th November 2004, all in one.

3 PRESIDING JUDGE: Please take the dates again.

4 JUDGE BOUTET: You say it is all in one?

5 MR JABBI: Yes, My Lord, that is how is it presented.

6 JUDGE BOUTET: How many pages do you have?

7 MR JABBI: Four pages, I believe -- five pages.

8 JUDGE BOUTET: And the date of those statements are all listed
9 at the top.

10 MR JABBI: Listed at the top. Dates of interview 12th
11 November, 2004, 16 November 2004, 18th November 2004,
12 19th November 2004. I don't know --

13 JUDGE THOMPSON: A consolidated statement?

14 MR JABBI: I believe so, My Lord, because the actual
15 paragraphs are not segregated by dates.

16 JUDGE THOMPSON: Yes, but these are different dates on each
17 statement.

18 MR JABBI: No, My Lord, it is just a continuous statement on
19 paragraphs and subparagraphs and those paragraphs are not
20 marked as to the dates.

21 JUDGE THOMPSON: And these dates of complex legal
22 characterisation I'm just wondering what we call that
23 kind of document, whether it is integrated statement or
24 consolidated.

25 PRESIDING JUDGE: Or consolidated.

26 JUDGE THOMPSON: Or a new statement or a new consolidated
27 statement.

28 [Overlapping speakers]

29 MR JABBI: I was going to say consolidated, My Lord. But it

1 is at least presented as a composite statement.

2 JUDGE THOMPSON: That is a fair terminology which I would
3 adopt myself, composite statement. I think I would like
4 to adopt that and want to thank Dr Jabbi for his
5 creativity.

6 PRESIDING JUDGE: I prefer consolidated.

7 JUDGE BOUTET: May I ask you, Dr Jabbi, what you want to do
8 with this document?

9 MR JABBI: Let me read a paragraph to him.

10 JUDGE BOUTET: Yes.

11 MR JABBI: I'm doing so, My Lord, in order to demonstrate a
12 previous inconsistent statement.

13 JUDGE BOUTET: Yes, ask him if he has made that particular
14 statement first, yes, that's fine.

15 MR JABBI:

16 Q. Now, Mr Witness --

17 A. Yes, sir.

18 Q. In your statement of the several days in November when
19 you spoke with the Prosecution, there is --

20 JUDGE BOUTET: Sorry, we were just --

21 MR JABBI:

22 Q. There is this paragraph which is subparagraph 2 on page 1
23 of the statement, which reads: "At this time I heard
24 guns firing, but I did not see anything outside, because
25 we were locked in the house. Later I could see outside
26 through an opening in a room near the kitchen where we
27 were hiding. I saw the Kamajors breaking into people's
28 shops, because I could see them walking down the street
29 with things from shops." Do you remember making that

1 statement to the Prosecutors?

2 A. Well -- well, at that time it was in the evening hour --

3 Q. Excuse me, please, the question is: Do you remember
4 making this statement to the Prosecution in one of those
5 November statements? What I read to you just now, mainly
6 to the effect --

7 A. Yes, go on again.

8 PRESIDING JUDGE: Yes, you should read it back to him slowly
9 so that he can follow you.

10 JUDGE BOUTET: Mr Witness, just pay attention to what will be
11 read to you now. This is a document that the lawyer has
12 that contains statements that you would have made in
13 November 2004 to the Prosecution, so he will read a
14 portion of it to you.

15 JUDGE THOMPSON: Perhaps, Dr Jabbi, you should add that the
16 purpose is to find out whether that was what he told the
17 investigators. That may help to clarify, otherwise he
18 may think, possibly, that you are asking him about the
19 content and whether that happened or not.

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

21 Q. Now, I will read this paragraph to you again in order to
22 ask you whether that statement in that paragraph was made
23 by you to the Prosecution. That is the reason why I'm
24 reading the paragraph to you again, okay?

25 A. Yes, sir.

26 Q. Now, the paragraph reads: "At this time I heard guns
27 firing, but I did not see anything outside, because we
28 were locked in the house. Later I could see outside
29 through an opening in a room near the kitchen where we

1 were hiding. I saw the Kamajors breaking into people's
2 shops, because I could see them walking down the street
3 with things from shops."

4 So did you make that statement to the Prosecutors
5 during your November 2004 interviews?

6 A. Yes, I told them.

7 MR JABBI: My Lords, I would want to tender this document and
8 highlight page 1 thereof, lines 12 to 15.

9 JUDGE BOUTET: And you want this document to be marked as an
10 exhibit for the purpose of showing inconsistencies
11 between [overlapping speakers] I'm just saying that for
12 the record to make sure we understand the purpose of your
13 asking this document to be marked. I think we are at
14 Exhibit 36, Mr --

15 MR WALKER: Correct, Your Honour.

16 MR TAVENER: Your Honour, I take it before the exhibit is
17 tendered, it is going to be put to the witness, the
18 inconsistency. I can't see where an inconsistency has
19 been established as yet. It's agreed he said something,
20 that's it. It is his oral testimony, that is true, but
21 you need to go that one step further and identify whether
22 or not there is in fact an inconsistency. There might be
23 an explanation. At least it should be put to the witness
24 there is an inconsistency.

25 JUDGE BOUTET: Dr Jabbi.

26 MR JABBI: My Lord, I asked a few questions before I raised
27 the question of the statement about whether he was hiding
28 at any time when the Kamajors came. I asked repeatedly
29 and he said he was not hiding at any time. And this

1 paragraph shows very clearly that, in fact, far from
2 being on the veranda all the time, he had being hiding at
3 some stage.

4 JUDGE BOUTET: Maybe we should have asked the witness to
5 remove his headphones, but anyway it is too late now.
6 Mr Witness, could you remove your headphones for the time
7 being, please. We'll come back to you. Thank you.

8 JUDGE THOMPSON: Learned counsel, if you're -- I seem to think
9 that there is one more step, as the Prosecution is
10 suggesting. You have read the statement to him. He
11 agrees that that portion -- he made that statement. He
12 stated that to the investigators, and you're seeking to
13 establish, allegedly, some inconsistency between some
14 aspects of his oral testimony here and also that portion
15 of the statement.

16 MR JABBI: Yes, My Lord.

17 JUDGE THOMPSON: In short, what I understand is that you're
18 saying if the two stand together one must be true, the
19 other must be false. Am I getting that?

20 MR JABBI: Yes, indeed, My Lord.

21 JUDGE THOMPSON: Ought it not to be the proper procedure to
22 put it to the witness that what you're suggesting, or
23 what you read out there asking whether that is true and
24 then relate to what your alleged inconsistency is. I'm
25 minded to think that the Prosecution -- that's what the
26 Prosecution is saying, that there must be some evidence
27 on the record that there is a perceived or alleged
28 inconsistency unless the law is otherwise, but I would
29 think that that should be the proper way to proceed.

1 What is your -- what is your own idea of this?

2 JUDGE BOUTET: I would add, as well, that I subscribe entirely
3 with the comments of my colleague and brother here on
4 this issue, otherwise we're left to speculate as to what
5 it is, and in fairness to the witness, you have to put it
6 to him clearly that there is and what is the
7 inconsistency that you're suggesting may exist at this
8 time.

9 MR JABBI: Yes. My Lord, I'm prepared to put that question to
10 the witness. I may have been proceeding a little
11 cautiously because of the type of witness he is.

12 JUDGE THOMPSON: Counsel, I think the allegation is a very
13 important one, because it is that important we even need
14 to be much more scrupulous in our approach, because you
15 may be inviting the Court to examine evidence with
16 circumspection, and therefore, I think you need to
17 proceed cautiously and fully and amply.

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

19 JUDGE BOUTET: So can we ask that the witness be given his
20 headphones again.

21 MS EDMONDS: Sorry, My Lord, but the witness has just had to
22 go to the toilet.

23 PRESIDING JUDGE: He's very close to the restrooms over there,
24 so he's doing his thing and, of course, he removed his
25 earphones so you did need them again. The young man is
26 taking it easy.

27 MS EDMONDS: Ready, now, sir.

28 JUDGE BOUTET: Is the witness ready?

29 MS EDMONDS: Yes, sir, we are ready.

1 JUDGE BOUTET: Thank you.

2 MR JABBI:

3 Q. Now, Mr Witness, I just read one paragraph of your
4 statement to the Prosecution to you, and you have
5 confirmed that you made that statement to the
6 Prosecution. You will recollect, however, that before
7 I did that I asked you a series of questions about
8 whether you were hiding at any time or anywhere in your
9 house when those incidents were taking place when the
10 Kamajors came there. And you emphatically said a number
11 of times that you were not hiding at any stage. The
12 statement I read to you is contrary to the answers you
13 gave earlier on in this oral evidence you are giving,
14 where in one case you did not hide at all at any time,
15 but in the statement you said that for some time you were
16 hiding and seeing things.

17 Would you agree that those two sets of statements
18 contradict each other?

19 A. Of those two statements, the one, because for me I was
20 not hiding, but when the war was raging, because they
21 were shooting in town, my dad placed me, at one time, in
22 the room together with himself, so that's hiding. But
23 for me, I was not hiding. For me I was not hiding,
24 because at that time I didn't know what it means to hide.
25 For me my dad put me on the lock, because it was for his
26 own sake, you see? For me it was not hiding. What I
27 know is that it is not hiding.

28 MR JABBI: So, My Lords, I would want to put this statement in
29 evidence highlighting that particular portion.

1 JUDGE BOUTET: Mr Prosecution.

2 MR TAVENER: In light of that explanation, the Prosecution has
3 no objection to make.

4 JUDGE BOUTET: We will assess it in due course. So I was
5 saying before that is to be marked as Exhibit 36 for the
6 purpose stated. And this, Dr Jabbi, that was
7 subparagraph 2 of page 1, if I understand your
8 application.

9 MR JABBI: Yes, My Lord, I believe they are lines 12 to 15
10 from the top, My Lord.

11 JUDGE BOUTET: Thank you.

12 [Exhibit No. 36 was admitted]

13 MR JABBI:

14 Q. Now, Mr Witness, you were in the veranda, according to
15 you, downstairs throughout the incident of the looting,
16 as you called it; is that correct?

17 A. Well, at that time that they were looting -- I mean, when
18 they were looting, does not mean they were looting only
19 once. The Kamajors were all over the town. They were
20 looting at many times. They were looting at many time
21 during that time.

22 Q. During --

23 A. At the time that I was downstairs when they were looting
24 my uncle's property, then after that they had beaten the
25 pastor, at that moment when I was downstairs I was seeing
26 them looting property as they are passing by, carrying
27 property that does not belong to them. That they had
28 looted from the shops and they were taking it to their
29 own place.

1 Q. Now, during that time when, according to you, you were in
2 the veranda, can you give the Court an idea of how long
3 you were at the veranda?

4 A. At the time that this thing happened?

5 Q. Yes.

6 A. Well, how long -- I didn't know the hour. I didn't know
7 the hour.

8 Q. Would you say it took about one hour, your stay in the
9 veranda, I mean?

10 A. I can't tell. I can't tell. I wouldn't know. I was a
11 small boy. How would I know about time at that time,
12 that they could have taken one hour? I wouldn't know. I
13 didn't know time at that time. I wouldn't tell, because
14 nobody was talking about time at that moment, that it has
15 taken so-and-so hour, that these people have come and it
16 has taken so-and-so hour, no. In, fact, I have no
17 knowledge about time. I didn't know the hour that they
18 spent there. I just saw the action and what they did.

19 Q. Where were the other occupants of the house whilst you
20 were at the veranda?

21 A. [No interpretation]

22 PRESIDING JUDGE: Has he heard the question?

23 THE WITNESS: No, no, no.

24 PRESIDING JUDGE: Dr Jabbi.

25 MR JABBI: Maybe he didn't hear the question from the answer
26 he has given.

27 Q. The question was: Where were the other occupants of the
28 house during the time that you were in the veranda?

29 A. Where they were, because the other people, the Madingo

1 people, some of them had come down. They were on the
2 other side of the house upstairs.

3 Q. Were there any other occupants downstairs at that time
4 you were on the veranda?

5 A. Yes, at that time my uncle I said was there together with
6 the pastor. He too was there the time they were looting
7 the property.

8 Q. Can you tell the Court how your uncle's room was located
9 in relation to that veranda?

10 A. Okay, my uncle's room you go from the veranda, you enter
11 the parlour, and when you enter the parlour you go a
12 little bit and you meet the door. His room is a very
13 large room. He had a very large bed, a double bed.

14 Q. So I take it that the Kamajors who were looting entered
15 through the veranda into the parlour and then into your
16 uncle's room; is that correct?

17 A. Yes, sir.

18 Q. Which part? Which part of the veranda were you during
19 all this toing and froing into your uncle's room?

20 A. You mean downstairs? Downstairs where my uncle is.

21 Q. Yes.

22 A. Because the parlour, the door to the parlour is large. I
23 was on the left side -- I was on the left side. I was
24 standing by the door. They entered the parlour, because
25 they had come the first time searching for ammunition
26 they had seen the very good things and when they came
27 they just knew where they should go. I was on the
28 left-hand side.

29 Q. How far away from the door in the veranda were you? How

- 1 far away from that door leading into the parlour or
2 sitting room? How far away from it were you?
- 3 A. From the veranda to the room?
- 4 Q. No, from where you were standing in the veranda to the
5 door leading from the veranda into the sitting room, how
6 far was that, if you can give any rough idea?
- 7 A. I was nearer the door. The door itself that I am talking
8 about, I was nearer the door. I can't know the distance
9 now, but I was nearer the door. Now -- because when they
10 came, they used the right-hand side to come, so when they
11 were removing the things, they used the same route to go.
12 So when I came, I sat by the left-hand side nearer the
13 door. I didn't sit at the door. I sat nearer the door.
- 14 Q. Now, it is also from this same veranda that you say you
15 observed something being burnt across the road in the
16 park; is that correct?
- 17 A. Yes, you will be on the veranda and see the park. Yes
18 we're seeing it.
- 19 Q. On the --
- 20 PRESIDING JUDGE: Dr Jabbi, please.
- 21 MR JABBI: Sorry, My Lord.
- 22 JUDGE THOMPSON: Dr Jabbi, just for the records, I don't
23 recall that this witness said he saw something being
24 burnt. I think he said he smelt.
- 25 PRESIDING JUDGE: He said he saw.
- 26 JUDGE THOMPSON: He saw something being burnt?
- 27 MR JABBI: Yes, he said both, My Lord, so that is what I'm
28 probing.
- 29 JUDGE THOMPSON: Because I thought --

1 MR JABBI: Both the seeing and the smelling. I want to probe
2 that briefly.

3 JUDGE THOMPSON: Oh, I must have missed that, thanks.

4 MR JABBI: Sorry, My Lord.

5 Q. So, according to you, you saw something being burnt by
6 the Kamajors in the opposite park across the road; is
7 that correct?

8 A. Yeah, the Kamajors were burning something, but I didn't
9 know actually what you were burning, but I could smell
10 the odour.

11 Q. Thank you. And from the smell of that burning thing, you
12 also said you knew what it was that they were burning;
13 not so?

14 A. Yes, sir. From that smell, like for instance, if you're
15 burning the paper, from the smell you would know that
16 somebody is burning the paper. If they're burning any
17 other objects, you would know that they are burning that
18 particular object once you know that object. And during
19 that time the smell was the smell of a human and when a
20 human is being burnt, the stench is bad. Even if it is
21 you, if you are burning a human now, the odour -- even if
22 you didn't see the person burning, you would know that
23 that person is burning a human, a human being.

24 Q. And the smell of human being burning is distinctive and
25 peculiar, is it?

26 A. Yes, you would know, because the things that you have in
27 the stomach and other things, human beings have all these
28 advantages and disadvantages in the body, what is good
29 and what is not good. If somebody is burning, you would

1 know the odour.

2 PRESIDING JUDGE: Dr Jabbi, how about that?

3 MR JABBI:

4 Q. You had all this great wisdom, even at that age when that
5 incident took place; not so?

6 PRESIDING JUDGE: Oh, my God. I think he --

7 JUDGE BOUTET: Well, you asked the question and you got the
8 answer.

9 PRESIDING JUDGE: It is good to have witnesses like this, you
10 know, to break the monotony of the proceedings and --
11 Dr Jabbi, please, let me have a minute. Let me see if I
12 can make something of human beings having advantages and
13 disadvantages. Oh, dear.

14 THE WITNESS: It is a problem. It is a problem.

15 MR JABBI:

16 Q. Are you okay now, Mr Witness?

17 A. Yes, sir.

18 PRESIDING JUDGE: Yes.

19 MR JABBI:

20 Q. Now, I just asked -- you gave us a very wise statement
21 just now about the human being burning. My question was:
22 You had all that wisdom at that age, that young age of
23 yours when the incident is alleged to have taken place,
24 did you?

25 A. Well, as humans grow that is how they develop. At that
26 time -- I will tell you that at that time that they were
27 burning I was getting the smell. And as I'm growing, I
28 was developing and then I will say more about that.

29 Q. Now, Mr Witness, I put it to you that you have been

1 telling this Court a lot of untruths about what you saw
2 and observed from the veranda?

3 A. It is not true? Something that happened to me, something
4 that I saw myself that happened to me? Something that
5 they did to me? Like for instance, for my uncle whom
6 they captured. Since when they captured him, I have not
7 seen him. Even that pain wouldn't make me feel good. I
8 have lost my uncle and I could say that I have lost my
9 uncle's life and now I'm saying it and you are telling me
10 that it's a lie. Everything that I am saying, the things
11 that I saw I heard. I'm not saying hearsay. That's what
12 I swore. Now you're telling me that I'm telling lies. I
13 don't believe that even the judges would tell me that I
14 am telling lies, because from my statement they would
15 know that, yes, whatever I'm saying is a fact. I'm
16 saying what I saw with my own naked eyes and what
17 I heard.

18 Q. I'm also putting it to you that you were never at the
19 veranda of the downstairs house during the incidents that
20 you have narrated.

21 A. When those things were happening, you said I was not
22 there. How would those things have happened then I'm
23 telling you that you say I was not there? How would I
24 tell you the fact as I'm speaking now and you're telling
25 me now that I was not there. At that time maybe you too,
26 you were there. Maybe you were there, you know, because
27 you are denying me that I was not there. Maybe at that
28 time you were there.

29 Q. Okay. Let us go to another place where you were and I

- 1 was in, for sure. You spoke about being taken to the
2 base of the Kamajors.
- 3 A. Yes, sir.
- 4 Q. Where in Bo Town was that base of the Kamajors?
- 5 A. I can't tell now, because at that time -- because at that
6 time -- it is a long time now. It is a long time now
7 that I am not hearing about that place, so I can't tell
8 now, because now you're telling me that I'm telling lies
9 and I'm not saying the truth.
- 10 Q. Maybe you can tell us the truth about the base, at least.
11 Where was it?
- 12 A. Well, they took us to the place. We didn't stay long
13 there, like, for instance, that we slept there. We
14 didn't sleep there. As my dad had finished speaking to
15 them, the Mende that he knew and after had he heard the
16 information that the Kamajors are saying that Kamajors
17 would enter the next day in Bo, so after they released my
18 dad, my dad requested for me and they brought me out too.
19 So I didn't set eyes on that place. Then as I am
20 speaking now, you are going to tell me now again that I
21 was not there and telling lies, something that I saw with
22 my own eyes. I was a small boy at that age. I was with
23 my dad.
- 24 Q. In short, what you are saying is you do not know where
25 the base was; is that so?
- 26 A. Yes, sir. Yes, sir
- 27 Q. Now, you spoke of a woman who asked to take you and your
28 family to her village. What tribe was that woman?
- 29 A. The woman is Mende. They didn't take even five members.

- 1 When you say my family members you're mixing up my
2 mother, my father. They took me, my dad and my younger
3 brother, the three of us. She didn't take the family.
4 The woman is Mende.
- 5 Q. She did not take the whole family; not so?
- 6 A. Yes, sir.
- 7 Q. Fine.
- 8 A. No, she just took part of the family.
- 9 Q. Did your father request her to take your people out to
10 her village, or did she do it on her own suggestion?
- 11 A. Because she felt sorry for us, for the punishment, after
12 they released us and my dad has taken my younger brother
13 and brought him to the good people who had taken my
14 younger brother and brought him, the woman came back and
15 she said that she is scared of her own brothers, the
16 Mendes, the Kamajors, so she said she could help us to
17 take us to her home in her village. She came, because we
18 had nowhere to go. Where we would go we wouldn't be able
19 to defend ourselves.
- 20 Q. So the suggestion was her own then, was it?
- 21 A. Yes, she herself came, because she felt sorry. She was a
22 good person to us.
- 23 Q. Now, you spoke about various checkpoints on your way from
24 Bo to her village, that woman's village. Do you remember
25 how many checkpoints you crossed in all?
- 26 A. Yes, sir.
- 27 Q. How many were there?
- 28 A. Three checkpoints, sir.
- 29 Q. You crossed only three checkpoints?

- 1 A. Yes, sir.
- 2 Q. Were you with your father and brother through all those
3 checkpoints?
- 4 A. Yes, I was with my dad, myself and my younger brother,
5 and some --
- 6 Q. Then you finally arrived in the lady's village. Do you
7 remember --
- 8 A. Yes, the woman's village. She is not a young girl; she
9 is a mammy.
- 10 Q. Thank you for the distinction. Do you remember how many
11 days you spent in that village?
- 12 A. [No interpretation]
- 13 Q. I will ask the question again.
- 14 A. Because he didn't interpret it to me, that is why I
15 didn't answer.
- 16 Q. Okay. Do you remember how many days you spent in that
17 village before you left it?
- 18 A. No, I can't remember.
- 19 Q. Your memory has been quite good, try a little bit.
- 20 A. Well, except if you want me to tell lies and I don't want
21 to tell lies.
- 22 Q. Thank you. Did you stay in that village with your father
23 all that time?
- 24 A. Yes, sir. Yes, with the old woman herself.
- 25 Q. When was it last that you saw your father? The last time
26 that you have seen your father, when was it? The most
27 recent time?
- 28 A. From the minute that I'm sitting down here? When I last
29 saw my dad? When I came to Freetown here? I want the

1 question one more time.

2 Q. Now, as of the present moment, when was the last time,
3 the most recent time that you saw your own father?

4 A. Well, the day is -- because me and my dad on Wednesday --
5 we saw each other on Wednesday. Thursday morning we saw
6 each other before I came.

7 Q. Last Wednesday and Thursday?

8 A. I came before pray day, the Thursday before pray day. We
9 saw each other in the morning. That is the last time
10 I saw him. That is when I came here. Thursday in the
11 afternoon around -- after 12.00 we left to come.

12 PRESIDING JUDGE: He is saying that he saw the father on
13 Thursday before Ramadan, before pray day.

14 MR JABBI: Yes, My Lord.

15 Q. So was that in Freetown or outside Freetown?

16 A. Inside Bo. It was inside Bo.

17 Q. Since you came to Freetown, you have not seen him yet,
18 have you?

19 A. Yes, sir.

20 Q. Do you, in fact, know where he is now?

21 A. What? Well, for me I left him in Bo. That is where
22 I feel he is.

23 MR JABBI: My Lord, that is all for the witness.

24 JUDGE BOUTET: Thank you, Dr Jabbi. Mr Bockarie or Mr Koppe
25 it is 1.00 and we normally break at 1.00 unless you tell
26 me that you have no questions.

27 MR. KOPPE: I understand, but my line of questioning is such
28 that I think it is necessary that the witness be heard in
29 closed session, because I have a lot of questions in

1 respect to his identity. Maybe that is something you
2 could decide upon now, whether that is a possibility.

3 JUDGE BOUTET: As you know the -- you may not know, but the
4 procedure that we have determined for these kind of
5 issues is we hear the application and then make a
6 determination. Obviously, if you're making an
7 application, normally the application itself is in closed
8 session, because we need to hear some details, then we'll
9 make the decision, whatever it is, public.

10 MR. KOPPE: I wanted to indicate that that is a submission.

11 JUDGE BOUTET: But as we're not sitting on Wednesday
12 afternoons, is your application to be of a short duration
13 or do you need to go into some details?

14 MR. KOPPE: No, it is quite short.

15 [Trial Chamber confers]

16 PRESIDING JUDGE: We'll take the application tomorrow morning.
17 We will rise for a break please. Not a break. We have
18 risen for today. We will resume sitting tomorrow at
19 9.30.

20 [Whereupon the hearing adjourned at 1.00 p.m., to be
21 reconvened on Thursday, the 2nd day of December 2004, at
22 9.30 a.m.]

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EXHIBITS:

Exhibit No. 36 40

WITNESSES FOR THE PROSECUTION:

WITNESS: WITNESS TF2-067 1

EXAMINED BY MS PARMAR 1

CROSS-EXAMINED BY MR JABBI 23

C E R T I F I C A T E

We Joanne Mankow, 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.

Joanne Mankow

Ella K Drury

Roni Kerekes