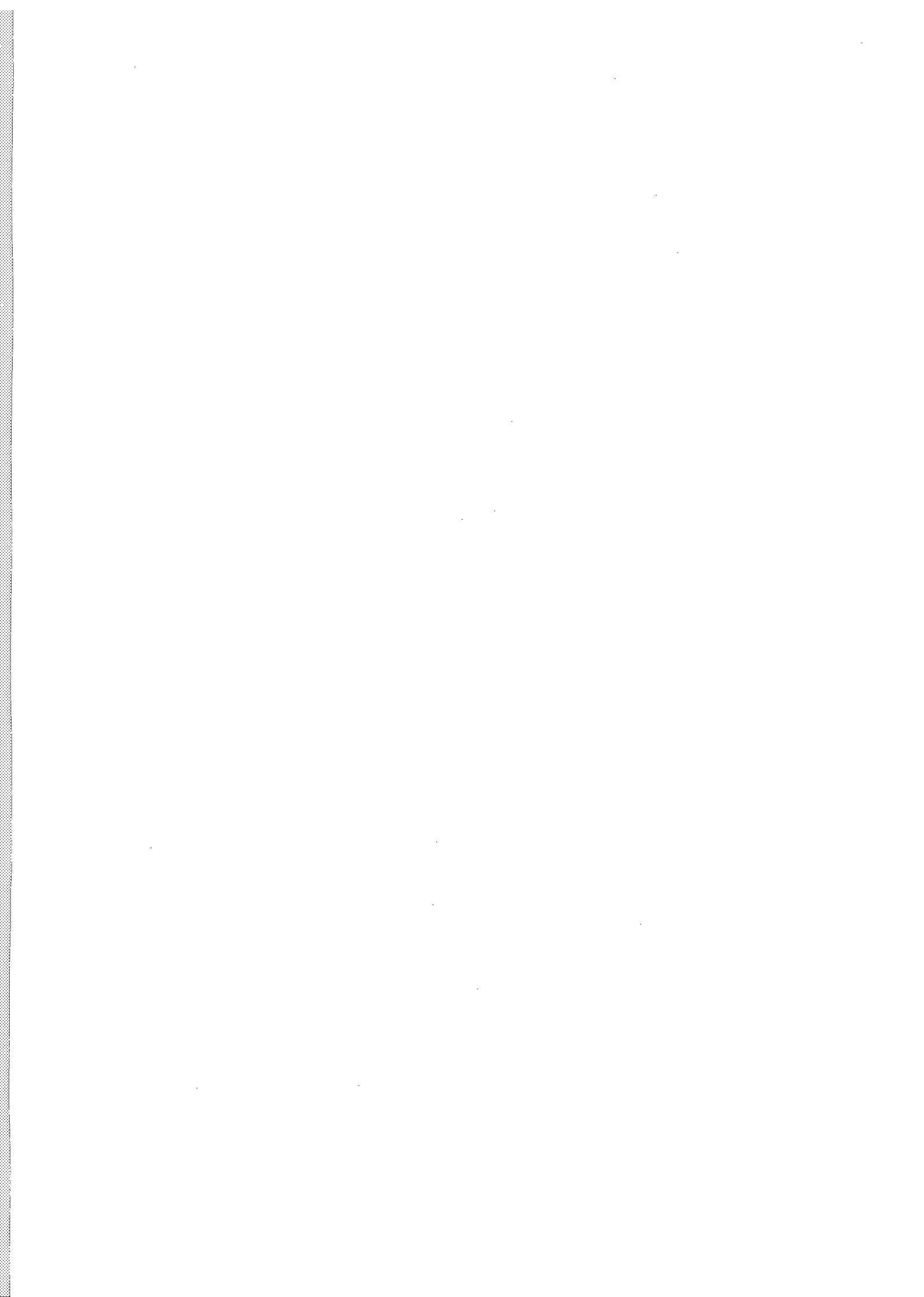




Case No. SCSL 2011-01-I
THE INDEPENDENT PROSECUTOR
-V-
ERIC KOI SENESSIE

Before the Judge:	Justice Teresa Doherty
For Chambers:	Erica Bussey
For the Registry:	Elaine-Bola Clarkson Adama Daff
For WVS:	Saleem Vahidy
For the Prosecution:	Mohammed Saidu Bangura Laura Kathleen Campbell
For the accused Eric Koi Senessie:	Steven Powles
For the Principal Defender:	Claire Carlton-Hanciles Joseph Buckle



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15 July 2011

Independent Prosecutor -v- Eric Senessie

THE COURT OFFICER: This is case number SCSL 2011-01-I, Independent Counsel against Eric Senessie, with Justice Teresa Doherty presides. All persons having anything to do in this case, draw near and give your attendance.

JUSTICE DOHERTY: Thank you. I will take appearances. I notice Mr Bangura is not here, and I have to say I did say 1 o'clock and it is one minute to go and so maybe that's why.

Sorry, Counsel, you're?

MR POWLES: Good afternoon, your Honour. Would you like to hear appearances from our side, in the absence of Mr Bangura?

JUSTICE DOHERTY: Please. Yes.

MR POWLES: Good afternoon, your Honour. My name is Steven Powles and I represent Mr Eric Senessie.

JUSTICE DOHERTY: Thank you, Mr Powles.

MR POWLES: Thank you.

JUSTICE DOHERTY: And for the Prosecution appearances?

MR BANGURA: My apologies, my lady, for coming in a little bit late.

JUSTICE DOHERTY: I just remarked that I had said 1 o'clock, but I see the clock is 12.59 and so we will excuse you. It is a good explanation in the circumstances.

MR BANGURA: As it pleases, your Honour. For the Prosecution, your Honour, William Gardner and Mohammed Syed Bangura. Unavoidably, Mr Gardner is not within the jurisdiction and so we must apologise for that.

JUSTICE DOHERTY: Mr Bangura, the Registrar has appointed you in accordance with the Rules and I have no -- I will not quibble on the point.

MR BANGURA: As it pleases your Honour.

JUSTICE DOHERTY: And with you is?

MS CAMPBELL: Your Honour, I am Kate Campbell, with the Prosecution.

1 JUSTICE DOHERTY: Thank you, Ms Campbell. And the accused, Mr Senessie, is
2 within the precincts of the Court?

3 MR POWLES: Your Honour, yes.

4 JUSTICE DOHERTY: This matter has been set for a plea today. I apologise that we
5 ran over the estimated time in the previous hearing. Are you ready to proceed with
6 taking the plea, or do you need a little -- given that it is 1 o'clock, are you happy to
7 proceed, Mr Powles?

8 MR POWLES: Absolutely, your Honour. We are entirely in your Honour's hands.

9 JUSTICE DOHERTY: Thank you. If there is no other preliminary matter, I will ask
10 that the accused, Mr Senessie, be arraigned.

11 THE COURT OFFICER: Independent Counsel versus Eric Senessie, order in lieu of
12 an indictment.

13 JUSTICE DOHERTY: Just pause, Madam Court Officer. I noticed him making a
14 signal. Can he hear? Can you hear, Mr Senessie? You're Mr Senessie, are you?

15 ERIC SENESSIE: Yes, I am, my Lord.

16 JUSTICE DOHERTY: Can you hear clearly?

17 ERIC SENESSIE: Yes, I am understanding.

18 JUSTICE DOHERTY: You are ...?

19 ERIC SENESSIE: I am hearing clear.

20 JUSTICE DOHERTY: Very good. Please proceed.

21 THE COURT OFFICER: The Trial Chamber of Special Court for Sierra Leone,
22 pursuant to Rule 77 of the Rules of Procedure and Evidence, charges:
23 Count 1: Knowingly and willfully interfering with the Special Court's administration
24 of justice by offering a bribe to a witness who has given evidence in proceedings
25 before a Chamber, in violation of Rule 77(A)(iv).

26 Particulars: On or about 26 and 29 January 2011, in Kailahun Town, Kailahun
27 District, Eric Senessie offered a bribe to Mohamed Kabba, a witness who has given
28 testimony before Trial Chamber II in the proceedings of Prosecutor v. Taylor, in

1 return for recanting his previous testimony in that trial.

2 Count 2: Knowingly and willfully interfering with the Special Court's administration
3 of justice by otherwise interfering with a witness who has given evidence in
4 proceedings before a Chamber, in violation of Rule 77(A)(iv).

5 Particulars: On or about 26 and 29 January 2011 and 3 February 2011, in Kailahun
6 Town, Kailahun District, Eric Senessie attempted to influence Mohamed Kabba, a
7 witness who has given testimony before Trial Chamber II in the proceedings of
8 Prosecutor v. Taylor, to recant his previous testimony in that trial.

9 Count 3: Knowingly and willfully interfering with the Special Court's administration
10 of justice by offering a bribe to a witness who has given evidence in proceedings
11 before a Chamber, in violation of Rule 77(A)(iv).

12 Particulars: On or about 3 February 2011, in Kailahun Town, Kailahun District, Eric
13 Senessie offered a bribe and relocation to Dauda Aruna Fornie, a witness who has
14 given testimony before Trial Chamber II in the proceedings of Prosecutor v. Taylor, in
15 return for recanting his previous testimony in that trial.

16 Count 4: Knowingly and willfully interfering with the Special Court's administration
17 of justice by otherwise interfering with a witness who has given evidence in
18 proceedings before a Chamber, in violation of Rule 77(A)(iv).

19 Particulars: On or about 3 February 2011, in Kailahun Town, Kailahun District, Eric
20 Senessie attempted to influence Dauda Aruna Fornie, a witness who has given
21 testimony before Trial Chamber II in the proceedings of Prosecutor v. Taylor, to
22 recant his previous testimony in that trial.

23 Count 5: Knowingly and willfully interfering with the Special Court's administration
24 of justice by otherwise interfering with a witness who has given evidence in
25 proceedings before a Chamber, in violation of Rule 77(A).

26 Particulars: In about late February 2011, in Kailahun Town, Kailahun District, Eric
27 Senessie attempted to influence Dauda Aruna Fornie, a witness who has given
28 testimony before Trial Chamber II in the proceedings of Prosecutor v. Taylor, to

1 recant the statement he gave to the Prosecution on 17 February 2011.

2 Count 6: Knowingly and willfully interfering with the Special Court's administration
3 of justice by offering a bribe to a witness who has given evidence in proceedings
4 before a Chamber, in violation of Rule 77(A)(iv).

5 Particulars: On or about 1 February 2011, in Kailahun Town, Kailahun District, Eric
6 Senessie offered a bribe to protected witness TF1-516 who gave testimony before Trial
7 Chamber II in the proceedings of Prosecutor v. Taylor, in return for recanting his
8 previous testimony in that trial.

9 Count 7: Knowingly and willfully interfering with the Special Court's administration
10 of justice by offering a bribe to a witness who has given evidence in proceedings
11 before a Chamber, in violation of Rule 77(A)(iv).

12 Particulars: On or about 27 January 2011, in Kailahun Town, Kailahun District, Eric
13 Senessie offered a bribe to protected witness TF1-585 who gave testimony before the
14 Trial Chamber in the proceedings of Prosecutor v. Taylor, in return for recanting her
15 previous testimony in that trial.

16 Count 8: Knowingly and willfully interfering with the Special Court's administration
17 of justice by otherwise interfering with a witness who has given evidence in
18 proceedings before a Chamber, in violation of Rule 77(A)(iv).

19 Particulars: On or about 27 January 2011, in Kailahun Town, Kailahun District, Eric
20 Senessie attempted to influence protected witness TF1-585, a witness who gave
21 testimony before Trial Chamber II in the proceedings of Prosecutor v. Taylor, to
22 recant her previous testimony.

23 Count 9: Knowingly and willfully interfering with the Special Court's administration
24 of justice by otherwise interfering with a witness who has given evidence in
25 proceedings before a Chamber, in violation of Rule 77(A)(iv).

26 Particulars: On or about 29, 30 and 31 January 2011, in Kailahun Town, Kailahun
27 District, Eric Senessie attempted to influence Aruna Gbonda, a witness who has given
28 testimony before Trial Chamber II in the proceedings off Prosecutor v. Taylor, to

1 recant his previous conviction in that trial.

2 JUSTICE DOHERTY: Thank you.

3 Mr Senessie, did you hear each of the counts read out to you?

4 ERIC SENESE: Yes, my Lord.

5 JUSTICE DOHERTY: And did you understand each of the counts that were read out
6 to you?

7 ERIC SENESE: I quite understood, my Lord.

8 JUSTICE DOHERTY: Now, in the course of those counts there was a reference to a
9 witness TFI-585 and a reference to a witness TFI-516. You are entitled to know full
10 details of the charges against you but, because those are protected witnesses, we will
11 go into a closed session in order for the names of those witnesses to be made known
12 to you. We will do this in order to protect the witnesses concerned.

13 The Court is now going to go into a brief closed session, in accordance with Rule 75 of
14 the Rules, in order to inform the accused fully of the details of the persons he is
15 alleged to have interfered with. The public is entitled to remain and they will be able
16 to see, but they will not be able to hear the proceedings.

17 Madam Court Officer, please put the Court now into closed session.

18 THE COURT OFFICER: The Court will now go into closed session.

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REDACTED

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2 THE COURT OFFICER: The Court is now in open session.
3 JUSTICE DOHERTY: Mr Senessie, please stand up. Mr Senessie, I am going to ask
4 you how you plead to each of these counts. I will refer to each one. If you don't
5 remember who or what has been said, I will have it read out to you again.
6 To Count 1, that is knowingly and willfully interfering with a witness named
7 Mohamed Kabba, how do you plead; guilty, or not guilty?
8 ERIC SENESSIE: My Lord, I am not guilty.
9 JUSTICE DOHERTY: To Count 2, that is knowingly and willfully interfering with a
10 witness, Mohamed Kabba, how do you plead; guilty, or not guilty?
11 ERIC SENESSIE: My Lord, I am not guilty.
12 JUSTICE DOHERTY: Count 3, knowingly and willfully interfering with a witness,
13 Dauda Aruna Fornie, how do you plead; guilty, or not guilty?
14 ERIC SENESSIE: My Lord, I am not guilty.
15 JUSTICE DOHERTY: To Count 4, knowingly and willfully interfering with a witness,
16 Dauda Aruna Fornie, how do you plead; guilty, or not guilty?
17 ERIC SENESSIE: My Lord, I am not guilty.
18 JUSTICE DOHERTY: To Count 5, of knowingly and willfully interfering with a
19 witness, Dauda Aruna Fornie, how do you plead; guilty, or not guilty?
20 ERIC SENESSIE: My Lord, I am not guilty.
21 JUSTICE DOHERTY: To Count 6, of knowingly and willfully interfering with a
22 witness, TFI-516, how do you plead; guilty, or not guilty?
23 ERIC SENESSIE: My Lord, I am not guilty.
24 JUSTICE DOHERTY: To Count 7, of knowingly and willfully interfering with a
25 witness, TFI-585, how do you plead; guilty, or not guilty?
26 ERIC SENESSIE: My Lord, I am not guilty.
27 JUSTICE DOHERTY: To Count 8, of knowingly and willfully interfering with a
28 witness, TFI-585, how do you plead; guilty, or not guilty?

1 ERIC SENESE: My Lord, I am not guilty.

2 JUSTICE DOHERTY: And to Count 9, of knowingly and willfully interfering with a
3 witness, Aruna Gbonda, how do you plead; guilty, or not guilty?

4 ERIC SENESE: My Lord, I am not guilty.

5 JUSTICE DOHERTY: Thank you, Mr Senesse. Please sit down.

6 ERIC SENESE: Thank you.

7 JUSTICE DOHERTY: Mr Powles, you have heard your client's plea. May I take it
8 that there's no application in relation to them and we can proceed now to set the
9 matter?

10 MR POWLES: Your Honour, yes. Thank you.

11 JUSTICE DOHERTY: Thank you. Obviously as you are aware in the Rules,
12 Mr Powles and Mr Bangura, the Registrar will set a date for hearing. I would ask
13 to -- if you could indicate to me the number of witnesses and so on, not in any way to
14 bind you, but to try and formulate a time that would -- to allow for a hearing. So if
15 you have some indication, I would appreciate it if you can inform me how
16 long -- how many witnesses do you anticipate calling and I will ask Mr Bangura the
17 same question.

18 MR POWLES: [Microphone not activated] Forgive me. Your Honour, yes, of
19 course there are the five Prosecution witnesses who it is anticipated will be
20 cross-examined on behalf of Mr Senesse. In addition to that, there are of course the
21 potential of Defence witnesses being called. In my preliminary discussions with
22 Mr Senesse, so far as it has been possible to identify seven individuals who certainly
23 it will be necessary to take statements from. Whether they will be called as witnesses
24 or not is another matter, but there are certainly lines of enquiry that need to be
25 followed up and a decision can then be taken as to who and how many witnesses will
26 be called.

27 In terms of length of trial, it is an absolute estimate. I would have thought that five
28 days would be possible, but then of course one never knows, but as an estimate I

1 would have thought five days should be sufficient.

2 JUSTICE DOHERTY: That's for both Prosecution and Defence case? You have
3 it -- is that what you have in mind?

4 MR POWLES: Your Honour, that's what I would hope certainly. It could be
5 slightly longer, but I would have thought that five days, perhaps slightly longer,
6 would be my best estimate at this stage.

7 JUSTICE DOHERTY: Well, it is always helpful and you never know what's going to
8 happen of course. That goes without saying.

9 MR POWLES: Absolutely. Thank you.

10 JUSTICE DOHERTY: Mr Bangura, I will ask you the same question. Again, it does
11 not bind you. It's only to have in mind administration.

12 MR BANGURA: Yes, for the Prosecution we intend to call five witnesses and an
13 estimated time for trial is between five to eight days.

14 JUSTICE DOHERTY: So you are fairly close to Mr Powles, then, in your estimations.

15 MR BANGURA: As it pleases, your Honour.

16 JUSTICE DOHERTY: Well, the next question I have to bear in mind is, as I said
17 already, the Registrar will set down a date for the trial in accordance with the Rules,
18 Rule 61, and I now have to turn my mind as to what's going to happen to Mr Senessie
19 in the intervening period.

20 Mr Powles, have you anything to say on this matter?

21 MR POWLES: In relation to what would happen to Mr Senessie? Well, your
22 Honour, I would --

23 JUSTICE DOHERTY: He is now within the jurisdiction of the Court, as you know.

24 MR POWLES: Your Honour, yes. I would respectfully urge the Court, on behalf of
25 Mr Senessie, to release him on bail in the interim between now and any trial.

26 In support of that I would make seven brief points, if I may? Firstly, as your
27 Honour's heard, Mr Senessie has entered not guilty pleas to the nine counts on the
28 indictment. There are of course two sides to every story, there's the Prosecution's

1 and of course there is Mr Senessie's, and he opposes -- intends to oppose the
2 allegations at any subsequent trial.

3 Secondly, Mr Senessie is a man of good character, he is a man who has hitherto been
4 in no trouble with the authorities in Sierra Leone, or the Special Court, and has no
5 previous convictions.

6 Thirdly, Mr Senessie is a family man. He has a dependent family of eight children.
7 Some of them are of the age of maturity, but a number of them are quite young; the
8 youngest being four years old, a boy named Obama, and the second youngest being
9 seven years old, a boy named Phik (phon). He is the carer for his family and
10 provides for all of his family. He is a carver and farmer. Hitherto no arrangements
11 have been made for the care of his family in the absence of Mr Senessie, and in those
12 circumstances we would urge your Honour to allow Mr Senessie liberty so that he
13 may cater for and look after his dependent and young family.

14 Fourthly, Mr Senessie is a man with strong community ties in his home town. He is
15 a priest and has been a priest since the time of 1987. He is a priest with a new
16 Apostolic church in Kailahun and has a congregation of some 3 or 400 who attend his
17 church on a regular basis. Secondly, he is the interim regional chairman of the
18 political party, the RUF, and has various responsibilities in relation to that, and
19 thirdly he is the chairman of the community teacher association for the national
20 secondary school in Kailahun. So those are three significant community ties that we
21 submit that he has in his home town.

22 Fifthly, and importantly, of course Mr Senessie was summonsed to come voluntarily
23 to this Court, and he absolutely complied with that summons of the Court and
24 attended without any complaint or problem to attend these proceedings today. He
25 knew of the risk and possibility that your Honour may take a view as to bail and
26 liberty. Notwithstanding that he placed himself within your Honour's jurisdiction,
27 and that we would submit speaks volumes as to how he approaches these
28 proceedings and how he approaches your Honour's -- and any ruling that your

1 Honour may make; an indication of how he will abide by any orders and rulings that
2 your Honour makes in due course.

3 In addition also of course to complying with the summons and voluntarily
4 surrendering to the jurisdiction of this Court, of course it is right and fair to say that
5 Mr Senessie met voluntarily with the Independent Prosecutor, Mr Gardner, earlier
6 in the year and attended Freetown to have a meeting with Mr Gardner without any
7 problem or issue. So, again, certainly on two occasions he has attended in Freetown
8 at the request of the Prosecutor - and indeed at the request of the Court - without any
9 complaint, or problem, and we would submit that that speaks volumes as to how he
10 will approach future proceedings.

11 Sixthly, and of course related to point number 5, Mr Senessie has asked me to convey
12 his huge and tremendous respect for the Special Court of Sierra Leone as an
13 institution. He has a huge respect for the contribution that the Special Court has
14 made to the efforts of peace and reconciliation here in Sierra Leone. He has asked
15 me to convey that he will not do anything to deliberately undermine the authority of
16 the Court and its proceedings going forward. That is the sixth point, your Honour,
17 that Mr Senessie has specifically asked me to convey to the Court on his behalf.

18 Finally, in relation to any conditions that can be imposed that should we respectfully
19 submit allay any concerns - residual concerns - that the Court may have in relation to
20 Mr Senessie's position in the interim between now and any subsequent trial, I have
21 been in contact with Mr Gardner, the Independent Prosecutor, and he has been kind
22 enough to email me and indicate to me his position in relation to conditions.

23 He writes that he has instructed Mr Mohammed Bangura to -- with respect to
24 conditions of release for Mr Senessie, he asked me to be aware of the instructions that
25 he has given to Mr Bangura. In essence, there is no objection on behalf of the
26 Independent Prosecutor -- no objection to Mr Senessie not being incarcerated pending
27 trial, so long as the Court imposes the condition that Mr Senessie is not to have
28 contact or communication, either direct or indirect, with any of the five witnesses as

1 to whom he is charged. And of course being aware of that I of course discussed that
2 with Mr Senessie, and he is of course more than willing to abide by such a condition
3 and would abide to such a condition going forward.

4 So those would be the seven points that we would make, and of course if the Court is
5 minded to impose any additional conditions in relation to Mr Senessie's position in
6 the interim between now and trial, of course he will abide by any additional
7 conditions that the Court is minded to impose.

8 JUSTICE DOHERTY: Thank you, Mr Powles. Where is Mr Senessie resident?

9 MR POWLES: He is resident in Kolahun. I can give your Honour the exact address
10 perhaps not in open court, but certainly --

11 JUSTICE DOHERTY: No, it is not a very big place. Is it Kolahun, or Kailahun?
12 There are two different --

13 MR POWLES: Kailahun. Kailahun.

14 JUSTICE DOHERTY: Kailahun, because the other place you name is in another
15 country.

16 MR POWLES: Oh, forgive me, your Honour.

17 JUSTICE DOHERTY: No, no, it is quite all right. So he is in Kailahun?

18 MR POWLES: Yes, your Honour.

19 JUSTICE DOHERTY: And his family, the children and presumably the children's
20 mother are resident there also?

21 MR POWLES: Your Honour, yes.

22 JUSTICE DOHERTY: And that's where he has his church?

23 MR POWLES: Your Honour, yes.

24 JUSTICE DOHERTY: Yes, thank you, Mr Powles.

25 I will ask Mr Bangura to reply and, if there are questions, I will ask you.

26 MR POWLES: Of course, your Honour. Thank you.

27 MR BANGURA: Starting from the generic, your Honour, we are not objecting to the
28 application, and that position is driven by the overriding fact that Mr Senessie freely

1 came to Court this morning out of respect for the proceedings and I can also confirm
2 that there hasn't been to our knowledge any previous conviction.

3 Again we can confirm that there are dependents and, provided the conditions which
4 my learned friend did state to the Court are met, in particular for Mr Senessie to -- not
5 to have contact directly or indirectly with any of our five witnesses, again we do
6 appreciate the fact that the charges are very, very serious and his cooperation thus far
7 we are gratified that he will be here to listen to the allegation during trial.

8 Again, we can confirm that he is a community man. The only reservation we had
9 was that he is staying in Kailahun and, if conditions can be made to the effect that he
10 makes himself available quickly and promptly whenever he's needed by this Court,
11 then I think that can allay our fear regarding his residence at the moment within
12 Sierra Leone.

13 We are also bound by any further condition, or conditions, which your Honour will
14 place to ensure that he is brought before justice.

15 That is all I wish to say at the moment, except you wish me to address you on any
16 other point?

17 JUSTICE DOHERTY: I am going to actually ask Mr Vahidy, as I asked in the
18 previous case, about the witnesses, but before I do that Mr Senessie is resident in
19 Kailahun, which is quite a remote part of the country, and I have in mind that if there
20 was to be a reporting condition where could he report? One must be realistic.

21 Kailahun is a long way from Freetown. So I will ask you first and then I will ask
22 Mr Powles the same question. If there was a reporting condition imposed, where
23 could he report?

24 MR BANGURA: He can possibly do that to the Independent Prosecutor and/or the
25 Witness Protection Unit within the Court.

26 JUSTICE DOHERTY: I don't think the Independent Counsel is living in Kailahun.

27 MR BANGURA: No. Oh, in Kailahun. Yes, I do understand that position.

28 JUSTICE DOHERTY: You see, custody remand is one thing but, if you are imposing

1 bail conditions, bail conditions must render some justice to an accused person and
2 must not be excessively onerous. So if he was to be reporting, then it would be
3 excessively onerous to have him travel to Freetown say every week or something.
4 It's a long way and it's expensive. So where could -- if I was to consider it, and I am
5 not predetermining it, where could he report?

6 MR BANGURA: We can possibly suggest the police authorities in Kailahun. I
7 believe there is an officer in charge of the main police department there. That can
8 possibly, I mean, be fair enough on our side.

9 JUSTICE DOHERTY: Thank you, Mr Bangura. I will ask Mr Powles the same
10 question?

11 MR POWLES: Your Honour, yes, of course that is something that I canvassed with
12 Mr Senessie. There is a police station in Kailahun. If your Honour were so minded,
13 he would of course report there at any -- pursuant to any periods that your Honour
14 thought appropriate and necessary. All that I would urge upon you is that it is some
15 distance from his house. He will of course go there --

16 JUSTICE DOHERTY: The police station is?

17 MR POWLES: Yes.

18 JUSTICE DOHERTY: Oh, Kailahun is not very big and the police station is not that
19 far from the church, but anyway I accept what you say.

20 MR POWLES: Well, of course -- as I said at the outset, of course Mr Senessie will
21 abide by any conditions to report at the police station that your Honour were minded
22 to impose.

23 JUSTICE DOHERTY: Thank you. I'm going to ask Mr Vahidy, as I did in the prior
24 hearing, as to whether there's been anything known concerning the five witnesses
25 named in the indictment, or previous witnesses I should say, in order to be aware,
26 and I will also ask him about this reporting thing.

27 MR POWLES: Thank you, your Honour.

28 JUSTICE DOHERTY: Mr Vahidy, can you assist me if there has been any mention,

1 reports, or other information relating to Mr Senessie and the five persons named in
2 the indictment since the complaint was first lodged that led in turn to the Prosecutor's
3 motion?

4 MR VAHIDY: Your Honour, yes, I can. I cannot categorically state as I did in the
5 previous matter, because in that case I was in regular contact, but in our last contact
6 with the witnesses they were informed that, in case there is any such incident where
7 any unnecessary contact is made to them, they should immediately report it to us.
8 So we did not receive any such report from any of the five witnesses, which I believe
9 that they would have told us in case such an incident had taken place.

10 As far as the reporting part is concerned, we have enough contacts there
11 and -- because myself and my team keep on visiting Kailahun, so we can ensure a
12 methodology whereby on whatever period you might recommend, or order, that we
13 make sure that he reports to the police station, or to the officer in charge there, on a
14 regular basis. Thank you.

15 JUSTICE DOHERTY: Thank you, Mr Vahidy. As you may have heard me say in
16 the previous matter, what happens to an accused person between entering his plea
17 and the actual trial is always a very onerous thought, particularly in those situations
18 where an accused is living in the same district as a purported or alleged victim, so I
19 want to give some thought to this. Kailahun, of course, is also fairly close to the
20 border and that's a pretty porous border.

21 Does -- you didn't mention passports, or travel, or anything. You did say he is
22 resident there. Not many people have passports here, but if he has one could you
23 check, please?

24 MR POWLES: I can of course take instructions on it and, if there is a passport, then
25 of course it can be surrendered.

26 JUSTICE DOHERTY: Thank you.

27 (Pause in the proceedings)

28 MR POWLES: Yes, your Honour. Mr Senessie does not have a passport and has not

1 been out of Sierra Leone for a considerable period of time and of course he has got
2 strong community ties in Kailahun, and in those circumstances we would submit that
3 he's not a flight risk and someone who is likely to leave the jurisdiction of Sierra
4 Leone.

5 JUSTICE DOHERTY: Thank you, Mr Powles. I would, as I have done previously,
6 like to give some serious thought to this. I am aware that I must try and reach a
7 decision preferably today, given the fact that Counsel are here just for today. I
8 understand you may not be here. I don't know, I have not asked you, but I
9 understand you were maybe travelling; is that correct?

10 MR POWLES: Your Honour, yes. I am due to leave Sierra Leone this evening for an
11 engagement tomorrow morning.

12 JUSTICE DOHERTY: Goodness me, a court sitting on a Saturday.

13 MR POWLES: Oh, no, no, no. Sorry, sorry, not a court engagement.

14 JUSTICE DOHERTY: Oh, well that sounds much better.

15 MR POWLES: A wedding.

16 JUSTICE DOHERTY: Oh, that's definitely very important.

17 MR POWLES: Although I hasten to add not my own.

18 JUSTICE DOHERTY: I do like to give these things a lot of thought, because I am
19 conscious as I said both of the accused, he's not been found guilty of any offence and
20 therefore he has a special status, and witnesses also have protection and we must
21 ensure that a trial comes to fruition.

22 I will therefore stand it over, I will give it some thought and I will try -- I will render a
23 decision this afternoon. As with the other case I will try and give you as much notice
24 as I can to allow you to come back to court but, given that it's around lunchtime,
25 I think you could be safe to say it's not going to be before 2.30. In fact, I am not sure
26 that it's going to be before 3 o'clock.

27 So I will stand the Court over to a time to be set in the course of the afternoon. Please
28 adjourn Court temporarily.

1 THE COURT OFFICER: The Court is adjourned. All rise.
2 (Short adjournment)
3 JUSTICE DOHERTY: Please be seated.
4 THE COURT OFFICER: This is case number SCSL 2011-01-I, Independent Counsel
5 against Eric Senessie, with Justice Teresa Doherty presiding. All persons having
6 anything to do in this case, draw near and give your attendance.
7 JUSTICE DOHERTY: This is a matter of the Independent Counsel and Senessie on
8 decision for an application for bail pending hearing of the case.
9 I consider the issue of bail or remand following a plea to be a very onerous and
10 important one. The Court has a duty to satisfy itself that there will be no
11 interference -- are we having a clear interpretation there? Mr Senessie, you heard
12 me?
13 ERIC SENESSIE: Yes, very clearly.
14 JUSTICE DOHERTY: Very good. There will be no interference with witnesses, no
15 interference with the evidence or any procedures, between the entering of the plea
16 and the hearing.
17 On behalf of Mr Senessie, Mr Powles has quite properly noted the change of status of
18 an accused who has come within the jurisdiction of the Court and the status he had
19 beforehand.
20 I do not put a great deal of weight on his actual appearance, non-appearance would
21 have resulted in a warrant of arrest, but it does go some way to confirm the
22 submission stating Mr Senessie's respect of the Court, as made through his Counsel.
23 The defendant is a mature person of standing within his own community, both in the
24 political, religious and educational parts of his community. I accept that he has no
25 prior convictions, that he has onerous family commitments, both within his own
26 immediate large family for which he is the sole provider and the broader community,
27 and I accept that he has cooperated in the investigation and met with the special
28 investigator.

1 Of more relevance, to my mind, is the fact that the Independent Counsel has not put
2 forward objections on fact or on evidence that indicate to the Court that Mr Senessie
3 will be a risk of flight, of non-appearance, or above all - and I stress - interfering with
4 witnesses.

5 For these reasons, I will allow bail on his own recognisance subject to the following
6 conditions:

7 That he will appear for hearing when notified by the Registrar.

8 That he report once per week to the officer in charge of the police station at Kailahun
9 on a day or time to be fixed by the OIC police, and if no such date is fixed then I will
10 state that it should be every Thursday morning at 10 o'clock. If the police officer
11 fixes a different time, I will -- that will be substituted for what I have said.

12 That he report to an officer or any officer of this Court who may be in Kailahun when
13 he is called upon to so report. For example, if the WVS, the Witness and Victims
14 Support Section, are in the area and tell him to meet, then the defendant must do so.

15 That he has no contact of any sort, directly or indirectly, with any of the persons
16 named in the indictment. Those are Mohamed Kabba, Dauda Fornie, TFI-516,
17 TFI-585 and Aruna Gbonda. I stress when I say "direct or indirect," I mean this in the
18 widest sense of the word. Messages through a child to one of those persons' child, a
19 member of your congregation saying something to you about you that you might
20 think is quite an innocent and inoffensive remark, can be seen very differently by the
21 Court and by the person who is receiving that message. I stress this, because you
22 may think it's an innocent remark. The recipient doesn't always see it that way. So I
23 stress the obligation is no direct or indirect communications.

24 You are to be of good behaviour. Again, I say this in the widest sense. A conviction
25 for another offence not connected with this trial will call into question the good
26 grounds that have been put forward on your behalf and which -- on which I have
27 made this decision. It could - I am not saying it will, but it could - result in some
28 form of application by the Prosecutor.

- 1 Mr Senessie, did you hear what I said? Could you please stand up. Mr Senessie,
2 did you hear what I said?
- 3 ERIC SENESSIE: I have understood everything quite clear.
- 4 JUSTICE DOHERTY: And if you have any questions, they can be put to me through
5 Mr Powles on your behalf and Mr Powles I am sure will also explain to you what I
6 have said.
- 7 MR POWLES: Of course, your Honour.
- 8 JUSTICE DOHERTY: Thank you, Mr Powles. Now, Mr Senessie, you are free to
9 leave the Court and -- but you will first liaise with your Counsel and arrange the
10 future hearing.
- 11 If there is no other application in relation to Mr Senessie, I will adjourn and in due
12 course deal with the other matters before me.
- 13 MR POWLES: Thank you very much, your Honour.
- 14 ERIC SENESSIE: Thank you, my Lord.
- 15 JUSTICE DOHERTY: Thank you. Please adjourn the Court temporarily.
- 16 THE COURT OFFICER: This case is adjourned.
- 17 (The hearing was adjourned)