



Case No. SCSL 2011-02-T  
THE INDEPENDENT COUNSEL

-V-

HASSAN PAPA BANGURA, SAMUEL KARGBO, SANTIGIE BORBOR KANU AND  
BRIMA BAZZY KAMARA

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Before the Judge:	Justice Teresa Doherty
For Chambers:	Elizabeth Budnitz
For the Registry:	Elaine-Bola Clarkson Thomas Alpha
For WVS:	Tamba D. Sammie
For the Prosecution:	Robert L. Herbst
For the accused Hassan Papa Bangura:	Melron Nicol-Wilson
For the accused Samuel Kargbo:	Charles Taku
For the accused Santigie Borbor Kanu:	Kevin Metzger
For the accused Brima Bazy Kamara:	Abdul Serry-Kamal Wara Serry-Kamal
For the Principal Defender:	Claire Carlton-Hanciles

1 [Thursday, 11 October 2012]

2 [Open session]

3 [The accused present]

4 [The Court resumed At 1.30 P.m.]

5 JUSTICE DOHERTY: Good afternoon. I will first check if we  
6 are being heard in Kigali, and I will then check if we're being  
7 heard by Independent Counsel in New York.

8 Kigali, can you hear us?

9 THE COURT OFFICER: [In Kigali] We can hear you from  
10 Kigali, your Honour. Good afternoon.

11 JUSTICE DOHERTY: Thank you. And New York, is Mr Herbst  
12 hearing us?

13 MR HERBST: Your Honour, [indiscernible] I can barely hear  
14 you.

15 JUSTICE DOHERTY: Very well, I'll speak loudly; both for  
16 you, and also for our own interpreters.

17 I will now take appearances. Mr Herbst, I hear your voice.  
18 I take it you're appearing.

19 MR HERBST: Robert Herbst, Independent Counsel for the  
20 Prosecution. Good morning - or good afternoon there.

21 JUSTICE DOHERTY: Thank you. Good afternoon.

22 And for the Defence here in Freetown.

23 CHIEF TAKU: May it please your Honour, Chief Charles Taku  
24 for Mr Samuel Kargbo.

25 JUSTICE DOHERTY: Thank you.

26 MR NICOL-WILSON: Good afternoon, your Honour. Melron  
27 Nicol-Wilson for Hassan Papa Bangura, and with me are Mr Alpha  
28 Bah and Mr Joseph Sesay.

29 I'm also instructed by the Principal Defender to inform you

1 she's being represented in today's proceedings by Mr Hassan  
2 Sherry.

3 JUSTICE DOHERTY: Thank you, Mr Nicol-Wilson, and also  
4 junior counsel - or co-counsel.

5 In Kigali? Appearances in Kigali?

6 MR METZGER: Your Honour, Kevin Metzger for Santi gie Borbor  
7 Kanu.

8 I don't know if your Honour can hear me.

9 JUSTICE DOHERTY: Very clearly, Mr Metzger. Very clearly  
10 indeed.

11 MR SERRY-KAMAL: Abdul F Serry-Kamal for Ibrahim Bazy  
12 Kamara.

13 JUSTICE DOHERTY: Thank you.

14 This is the matter of Independent Counsel v. Hassan Papa  
15 Bangura, Samuel Kargbo, Santi gie Borbor Kanu, Brima Bazy Kamara,  
16 for sentence.

17 Counsel and defendants, I have written a judgment. I will  
18 not read every single bit of it in full. I will paraphrase some  
19 parts. It will be published; hopefully, as soon as I get back to  
20 The Hague on Monday.

21 I commence the judgment by outlining the proceedings, which  
22 were that Bangura, Kargbo and Kanu were convicted of knowingly  
23 and willfully offering a bribe to a witness. Kargbo was  
24 convicted on 15 July 2011; Bangura and Kanu were convicted on 25  
25 September 2012 following a trial.

26 Each of those three defendants was also convicted of  
27 knowingly and willfully or otherwise interfering with a witness.

28 Kamara was convicted after a trial of knowingly and  
29 willfully disclosing information relating to proceedings in known

1 violation of an order of a Chamber and of interfering with a  
2 witness. He too was convicted on 25 September 2012 following a  
3 trial.

4 I then set out the subsequent pleadings, which were that on  
5 27 September, Independent Counsel filed his Prosecutor's  
6 sentencing submissions. Counsel for Bangura, Kargbo and Kanu  
7 filed sentencing submissions on the 4th, 3rd, and the 4th of  
8 October respectively. A sentencing hearing was set, and it was  
9 held in Freetown with a video link to Kigali and to Independent  
10 Counsel in New York on 8 October 2012.

11 All defendants elected to speak on their own behalf, and  
12 all counsel elected to make further oral submissions.

13 In that hearing, in the course of submissions some counsel  
14 referred to the amicus brief filed in a previous hearing on 25  
15 June 2012.

16 Counsel, I then set out the applicable law and then I turn  
17 to the submissions, which I've dealt with at some length and may  
18 paraphrase as I proceed.

19 Independent Counsel submits that in his view, sentencing  
20 should be the province of judges and not Prosecutors, much less  
21 an Independent Counsel, and defers to the Court. He declines to  
22 offer specific sentencing recommendations, but limits himself to  
23 relevant observations and "suggestions of appropriate sentencing  
24 ranges".

25 He refers to the amicus brief filed by the Office of the  
26 Prosecutor in the previous case which sets forth applicable rules  
27 and sentencing ranges; relevant objectives in sentence, including  
28 specific and general deterrence; he surveys the previous  
29 sentences in contempt cases before both the Special Court and the

1 international criminal tribunals.

2 He had emphasised, in a previous submission filed prior to  
3 the judgment, "One cannot deny that this was a joint criminal  
4 plan, and each accused joined and participated in it. He became  
5 as guilty as his co-schemers and criminally responsible for their  
6 acts as well as his." He refers to that again in the course of  
7 submission.

8 He addresses the sentence to be imposed upon the three  
9 defendants who pleaded not guilty and were convicted on a trial -  
10 that's Bangura, Kanu and Kamara - and notes that an appropriate  
11 sentence is one severe enough to accomplish the legitimate  
12 purpose, objectives, and goals of sentencing, and repeats  
13 deterrence, rehabilitation, and retribution, but no more severe  
14 than necessary to accomplish them.

15 He submits that a sentence of imprisonment sufficient to  
16 punish the defendants and deter them from future conduct is  
17 called for.

18 He notes that Kamara and Kanu are incarcerated and serving  
19 lengthy sentences, and he says that if a sentence is imposed on  
20 them, it should be consecutive and it should be at the high end  
21 of the sentencing range in order to accomplish deterrence.

22 He submits that the crimes that Kanu and Kamara were  
23 convicted of are intolerable and strike at the heart of the  
24 integrity of the Court's process for administering justice. He  
25 notes if 334 had not reported the crimes it would not have been  
26 stopped, and that that should not weigh as a mitigating factor.

27 He concedes that Bangura was not a beneficiary of the  
28 scheme, but he willingly joined the scheme, offered a bribe, and  
29 was the defendant who most clearly used threats and intimidation

1 toward 334 and then continued to contact 334 after he was  
2 indicted.

3 He considers that the gravity of these crimes should weigh  
4 more heavily in sentencing, and a substantial prison term would  
5 be necessary to punish and deter Bangura. He also submits that  
6 any fine imposed on Bangura would be in addition to, rather than  
7 as an alternative, a sentence of incarceration.

8 Independent Counsel notes that all three defendants as  
9 witnesses testified falsely and that this should also be an  
10 aggravating factor.

11 He then turns to Kargbo, who pleaded guilty, and notes that  
12 he, like Bangura, agreed to participate in this scheme; persisted  
13 in attempting to persuade 334 to recant; and offered money to do  
14 so; but he again notes that it was Bangura who threatened 334.

15 He refers to Kargbo's plea agreement and the requirement  
16 that he, that is, Independent Counsel, inform the Court of the  
17 particulars of Kargbo's cooperation, his remorse, and to  
18 recommend leniency. He contends that from the beginning of his  
19 investigation, Kargbo "swore off counsel, indicated he was  
20 remorseful, was willing to plead guilty and to tell the truth".  
21 He notes that Kargbo cooperated with Independent Counsel; that  
22 his testimony was credible.

23 He suggests that encouraging such cooperation is an  
24 appropriate goal in sentencing and that it takes courage to do  
25 so. Counsel therefore submits that Kargbo should be sentenced to  
26 a noncustodial term of probation, or, alternatively, a sentence  
27 that is significantly shorter than the other defendants'.

28 Submissions for Hassan Papa Bangura.

29 Counsel for Hassan Papa Bangura submits that Independent

1 Counsel argued that a substantial term of imprisonment for  
2 Bangura was necessary, but he did not define what amounted to a  
3 substantial term. He contends Independent Counsel's reliance on  
4 the OTP amicus brief suggests that he is asking for a five- to  
5 seven-year imprisonment term, which Mr Nicol-Wilson says is  
6 "disproportional and unjustifiable, given the offences." He  
7 submits that an appropriate sentence should not be determined by  
8 the number of years imposed, but is one in which the surrounding  
9 circumstances are juxtaposed with the contemnor's culpability as  
10 construed by the Court.

11 He says the suggestion by Independent Counsel that Bangura  
12 used threats and intimidation to persuade 334 is rewriting the  
13 Court's judgment. The assertion that Bangura falsely testified  
14 is speculation and runs contrary to the finding that "Given  
15 Bangura's intellectual and business acumen, he should have been  
16 in a better position to know the position of contempt scheme".

17 Counsel also says that Independent Counsel is portraying  
18 Bangura as the architect of this scheme, despite the Court's  
19 finding that 334 was not truthful in all aspects of his  
20 testimony, and that Kargbo was the primary contact.

21 The suggestion that Bangura's culpability should weigh more  
22 heavily as an aggravating factor despite his secondary role is  
23 not to be considered, because the motive, according to the Court  
24 finding, was that there was to be money from the deal; therefore,  
25 in the circumstances prior to and after the acts of contempt, a  
26 fine, or, if it's to be a custodial term, time served, or six  
27 months or less, would be appropriate.

28 Counsel for Bangura also outlines the law applicable to  
29 sentencing. He contends that the main objectives in

1 international criminal tribunals are deterrence, retribution and  
2 rehabilitation. He stresses that public confidence in the  
3 integrity of --

4 THE COURT OFFICER: [In Freetown] Madam, we've lost  
5 Kigali.

6 [Technical difficulties]

7 JUSTICE DOHERTY: I'm going to pick up where I understand  
8 we broke off, which was in the course of reference to  
9 Mr Nicol-Wilson's submissions where he said that having regard to  
10 the circumstances prior to and after the acts of contempt, a  
11 fine, or, if a custodial term, then time served, or six months,  
12 or less, would be appropriate.

13 He outlined the law applicable to sentencing. He contends  
14 that the main objectives of sentencing in the international  
15 tribunals are deterrence, retribution, and rehabilitation. He  
16 stresses that the public confidence in the integrity of the  
17 tribunal's administration of justice requires that sentences for  
18 similar offences carry equal sentences, notwithstanding that a  
19 Chamber is not bound by its own decision.

20 He then distinguish Bangura's case from that of Independent  
21 Counsel v. Senessie.

22 He submits that the Court should be wary of giving  
23 prominence to individual or general deterrence in determining  
24 sentence, because the collateral act of recanting cannot be  
25 committed in the future. He says that at common law a Court  
26 cannot listen to issues of review after 12 months of conviction.  
27 Three of the Special Court trials are completed, so the issues  
28 cannot be raised.

29 Secondly, deterrence and the effect were satisfied by the



1 fact that the defendants were indicted and a full-scale trial was  
2 conducted.

3 He submits that retribution has already been accomplished  
4 by the public condemnation of Bangura and the acknowledgment of  
5 the emotional pain inflicted on 334. Counsel submits that  
6 retribution is not vengeance, but an act of restraint.

7 He then refers to the particular circumstances of the case;  
8 the degree of participation as a mitigating factor in Bangura's  
9 favour; and the findings of the Court diminish his culpability  
10 and overall participation. He argues that Bangura's conduct,  
11 whilst not diminishing the gravity of the offence, do diminish  
12 his culpability and that Independent Counsel is seeking to  
13 circumvent the Court's finding.

14 He then goes into details, rebutting various submissions of  
15 Independent Counsel, and submits the following mitigating factors  
16 should be taken into account on behalf of Bangura: His efforts  
17 to consolidate peace; his cooperation with Independent Counsel;  
18 his good behaviour in detention; his remorse; his family  
19 responsibility; his lack of prior conviction; and being a Born  
20 Again Christian.

21 Counsel refers to the provisions of Rule 100(B)(iii) and  
22 says that Bangura voluntarily surrendered to the Court and  
23 cooperated. He refers to letters of commendation and character  
24 references that were filed with the brief.

25 He asks the Court to consider the period between 2000 and  
26 2004, when Bangura was detained without trial in Pademba Road  
27 Prison as a general consideration for reduction of sentence.

28 I now turn to submissions of counsel for Kargbo.

29 In a written submission, counsel for Kargbo stresses that

1 he entered a voluntary and unequivocal plea of not guilty.

2 He urges the Court to give Kargbo a noncustodial sentence,  
3 preferably a caution, or a discharge, or a fine. He  
4 acknowledge's the Court's discretion and that a trial Judge is  
5 best placed to hear evidence, observe, and assess demeanour of  
6 participants in weighing aggravating and mitigating factors.

7 Counsel also submits the objectives on sentence are  
8 deterrence, protection of society, reprobation, retribution,  
9 rehabilitation, and reconciliation.

10 He cites the opinion in the case of *The Prosecutor v.*  
11 *Deronjic* in the ICTY, where, in a separate opinion, the Judge  
12 stated, "International justice is not about unfair retribution.  
13 And if it were, humanity should forget reconciliation and peace."  
14 And further on, "Vengeance may be manifested in a harsh sentence  
15 for an accused person who has pleaded guilty, and rehabilitation  
16 after turmoil reduces political instability and conflict."

17 Counsel for Kargbo submits that the people of Sierra Leone  
18 have demonstrated extraordinarily lessons in forgiveness and  
19 compassion, and by giving Kargbo a pardon, caution, discharge, or  
20 fine, would place a higher premium on this type of forgiveness.

21 He submits that granting bail to Kargbo offered him an  
22 opportunity to demonstrate that he could live as a respected  
23 member of society. He refers to the certificate of good conduct  
24 provided by WVS to the Court and says that the trial had been  
25 thorough, pedagogic and compassionate and allowed Kargbo to  
26 become a better Sierra Leonean and person.

27 He submits there are no aggravating factors that would  
28 warrant custodial punishment and he refers to the several  
29 mitigating factors: Remorse; cooperation with the Prosecutor

1 before and after conviction; the guilty plea; his conduct at  
2 trial, and his previous character.

3 He submits that Kargbo's remorse is demonstrated by him,  
4 that is, Kargbo, not further contacting 334; not exposing 334's  
5 identity; not threatening him; and by confessing his crime and  
6 cooperating in the discovery of the truth and by not contacting  
7 any other protected witnesses.

8 He says that Kargbo does not constitute a danger or threat  
9 to any witness and that Kargbo is devastated by the discomfort  
10 this situation has brought upon his family and sincerely  
11 apologises to the Court.

12 Counsel reminds me that in his sentencing submissions, that  
13 Independent Counsel agreed that Kargbo cooperated by confessing;  
14 that he offered to cooperate and waived his right to counsel. He  
15 provided material evidence and prevented similar crimes by the  
16 principal perpetrators.

17 Counsel contends that Kargbo was courteous, answered  
18 questions in a calm and respectful manner and was not evasive  
19 when giving evidence, despite the fact that he and Independent  
20 Counsel, because of circumstances, could not prepare him to  
21 testify.

22 Counsel reminds me that Kargbo's guilty plea is a way of  
23 making amends by avoiding a prolonged trial and saving time and  
24 resources, and that Kargbo's guilty plea was a personal risk to  
25 himself and his family. He again states that he demonstrated  
26 good conduct at trial, complied with his bail conditions, which  
27 confined him to an area of Freetown away from his family, and  
28 asked the Court to consider Kargbo's contribution to his  
29 community, his church, his status as an artist, and to

1 demonstrate that he was not preoccupied with criminality.

2 There are several confidential annexes, character  
3 references, for Kargbo which counsel refers to and which I have  
4 read and considered.

5 He then asks the Court for a noncustodial sentence for  
6 Kargbo, given that Kargbo was a dedicated soldier who did not, at  
7 the risk of death, betray his country which other, more senior,  
8 officers did. He was abducted into the West Side Boys, and this  
9 led to an unjust incarceration at Pademba Road Prison.

10 Finally, he urges the Court to consider Kargbo's efforts  
11 towards peace and the fact that Kargbo has been a victim, and  
12 this should be closure to people like him who were wrongly  
13 assimilated into the rebel cause.

14 On behalf of Kanu, counsel, in his written submission,  
15 submits that on cross-examination, Kargbo agreed that he had not  
16 testified that Kanu asked him to get 334 or any other person to  
17 change their testimony, but then later said that Kanu had spoken  
18 to him about 334. In counsel's view, this is a change of  
19 testimony. He asks the Court to consider the equivocal nature of  
20 this testimony when I consider a sentence for Kanu.

21 Counsel argues that considering the testimony supporting  
22 Kanu's convictions, his words were more in the form of a plea  
23 than anything else. He never threatened any party. He did not  
24 do anything more than ask them to "help him and his brothers".

25 Although the testimony may support a finding of guilt, his  
26 actual words were not as serious as those contemplated by  
27 Rule 77(A).

28 He submits that due to Kanu's incarceration, rehabilitation  
29 may not be a primary factor in his sentencing, but that I should

1 consider his comportment during his incarceration, which he  
2 submits has been excellent.

3 Counsel notes that in the contempt cases before the Special  
4 Court concerning the wives and the friends of the three AFRC  
5 accused, a sentence of a one-year probationary period reflected  
6 the fact that this was an isolated incident with a lack of  
7 forethought, and remorse was shown by their guilty pleas.

8 Counsel notes that in sentencing Senessie in the case of  
9 *The Prosecutor v. Senessie*, the Court imposed of concurrent  
10 sentences of two years' imprisonment on each of eight counts of  
11 contempt. Taking into account the multiplicity of offences, the  
12 persistence of the defendant in the criminal acts, he argues that  
13 Kanu's case can be distinguished from Senessie's.

14 Kanu's involvement was limited to one witness, TF1-334, and  
15 his interaction with Kargbo, at its most damaging, simply  
16 amounted to encouraging Kargbo to convince 334 to recant;  
17 therefore, Kanu's culpability should be less than Senessie.

18 Counsel also notes that in *Senessie*, the trial arose before  
19 appellate proceedings had not yet finished, whilst in the AFRC  
20 accused's case, they had already exhausted their appellate  
21 procedures, so the only recourse was through Rule 120.

22 Counsel submits that any benefit of a plan to get 334 to  
23 recant would not have automatically resulted in overturning the  
24 AFRC convictions, and it was unlikely to have the effect of  
25 successfully interfering with the administration of justice as a  
26 result.

27 He notes that, as outlined in the amicus brief, sentencing  
28 in other cases have imposed terms of imprisonment ranging from  
29 two months to three years. He refers to the *Sesilj* case. A

1 sentence of two years' imprisonment was imposed for "persistent  
2 contemptuous behaviour, and in the light of two prior convictions  
3 for the same offence." He distinguishes this against his client,  
4 Kanu's, situation.

5 In mitigation, counsel submits that because Kanu is  
6 currently serving the sentence for his prior convictions, he  
7 would find it difficult, if not impossible, to pay a financial  
8 penalty.

9 He notes that any custodial sentence imposed on Kanu would  
10 affect the likelihood of his early release or eligibility for  
11 parole and would be out of proportion to the demands of justice.  
12 He also contends that because he was a convicted person, he was  
13 more likely to have "grasped at any and all straws available to  
14 have his sentence reduced".

15 His role in the plan was limited to speaking to 334 and to  
16 Kargbo regarding 334 recanting testimony.

17 Finally, counsel submits that Kanu was simply part of the  
18 plan rather than its architect or developer.

19 He closes his submission by quoting Shakespeare's Merchant  
20 of Venice, asking for leniency and mercy, and not to impose a  
21 further custodial sentence, or, the least possible sentence in  
22 the circumstances.

23 As noted, each of the defendants elected to make a  
24 statement in allocutus. Bangura told the Court that he is a  
25 family man, one of a family of ten. His wife is unemployed and  
26 dependant upon him. His only child, a daughter of 12, is  
27 entering secondary school, and if he continues to be  
28 incarcerated, she will have to drop out.

29 He said he has learned by his mistake. He asks for mercy

1 and forgiveness.

2 Kargbo thanked the Court for the opportunity to speak and  
3 also asked for forgiveness and said he was sorry. He stated that  
4 from the first day he did say that he was sorry and continued to  
5 do so. He apologised to the Special Court, the Almighty, his  
6 family, and the government and people of Sierra Leone.

7 He explained that he's married in a traditional way with  
8 two children and is to marry in the church on 27 October. He  
9 cares for his mother, grandmother and others. He stressed that  
10 he never committed any other crimes.

11 Kanu adopted the words of Mr Nicol-Wilson, that is, counsel  
12 for Bangura, that the Court is a Minister Of Justice and knows  
13 all the evidence. He said he is showing remorse to show  
14 mitigation; that he complied with the Judge, the staff of the  
15 Court, with Defence, and "even Mr Herbst". He stated he is a  
16 family person with a mother, three children, one of whom is eight  
17 months old, and reminded the Court that I have seen his daughter.  
18 He asked the Court to look at all of the evidence against him and  
19 thanked Defence counsel and the staff of the Court. He closed by  
20 stressing matters of mitigation: His remorse and his  
21 comportment.

22 Kamara opened his allocutus by thanking the Presiding Judge  
23 for taking time to go through the contempt proceedings, and he  
24 apologised and explained his absence in Court during the morning  
25 session, explaining that it was a logistical reason. He was  
26 ready, dressed, and waiting to come to Court, but because they do  
27 not have phones on a Monday, he could not speak to anyone. He  
28 stated he respected the judgment, and he thanked the Court and  
29 its staff for their time and patience. He thanked the

1 Prosecutor, and particularly his Defence lawyer and Defence  
2 counsel.

3 He noted he is already sentenced to 45 years' imprisonment  
4 and asked for mercy, given the length of this sentence and his  
5 family commitments, his elderly mother and children. He asked  
6 for forgiveness and for the Court to bear in mind his comparative  
7 age and the length of his sentence. He spoke of the effect this  
8 case has had on his mother.

9 All Defence counsel made further submissions on behalf of  
10 their respective clients. Counsel for Bangura referred to the  
11 letter of commendation from the head of detention at the Special  
12 Court stating that Bangura was well behaved. He emphasised  
13 Bangura's work for peace in Sierra Leone, which is supported in a  
14 reference from the director of AGPAD, where Mr Bangura served as  
15 deputy chairman.

16 Counsel commented on the detrimental effect Bangura's  
17 incarceration has had on his family: their inability to pay rent  
18 and school fees, which would result in his wife and child being  
19 without a home.

20 He noted that the offer of a bribe may "have been an empty  
21 promise", and the finding of the Court was that he had not paid a  
22 bribe.

23 Counsel sought a noncustodial sentence and asked the Court  
24 to consider the period of four years which Bangura had spend in  
25 Pademba Road Prison in unlawful detention without conviction or  
26 charge. Counsel acknowledged that the four years in Pademba Road  
27 Prison were not related to the present offence, but he submitted  
28 that it showed how Bangura had already suffered.

29 Chief Charles Taku, counsel for Kargbo, stressed the



1 contribution of this Court to justice and to the peace of Sierra  
2 Leone. He drew a parallel to his client's situation and that of  
3 Mr Gabriele, the butler to the Pope, who had been pardoned.

4 He stressed Kargbo's cooperation from the outset:  
5 notwithstanding his right to counsel, he admitted his role and  
6 spoke truthfully during the investigation. He continued to show  
7 this truthfulness, humility, and remorse, by pleading guilty and  
8 giving evidence. He stressed that Kargbo's ability to say "I'm  
9 sorry" denotes that people make mistakes, but can acknowledge  
10 them. He reiterated his client's statement that he is married  
11 traditionally with two children and intends to marry in church.  
12 He urged the Court to give his client a further opportunity in  
13 the light of the mitigating factors in favour of Kargbo.

14 Mr Metzger, on behalf of Kanu, referred to his client's  
15 emotional plea and stated that Kanu has been deeply moved by this  
16 experience. He also referred to the dearth of precedent on  
17 contempt proceedings in the international tribunals and sought to  
18 distinguish the instant case from that of Eric Senessie.

19 Senessie's case had a multiplicity of offences, and  
20 Senessie was persistent. Counsel submitted that Kanu is  
21 different. He is already serving a lengthy sentence and would do  
22 anything that was possible to change his situation.

23 Counsel conceded that contempt strikes at the heart of  
24 justice, but that his client, having been convicted and having  
25 had his appeal rejected, looked to Rule 120, not realising that  
26 Rule 120 is not an automatic and Sesay is not giving new  
27 evidence.

28 He referred to the amicus brief, and in particular the case  
29 of Haraqija, who had been a government minister and who had

1 betrayed his position. He also noted that the Haraqija case  
2 showed intimidation, and, in mitigation for Kanu, there was no  
3 intimidation in this case, and Kanu was not in a position of  
4 power to exert any influence on others.

5 Given the lengthy sentence being served by Kanu, and the  
6 fact that he will not be considered for parole for at least 16  
7 years, counsel submitted that a consecutive custodial sentence  
8 will have a deleterious effect. He referred to Kanu's exemplary  
9 conduct in Rwanda.

10 If a custodial sentence is to be imposed, it should be  
11 concurrent, since both counts arose from the same situation. He  
12 again asked for mercy and behalf of his client.

13 Mr Serry-Kamal, on behalf of Kamara, noted the difficulties  
14 of conducting the trial and acknowledged the work of his  
15 colleagues, Independent Counsel, and the Court. He submitted  
16 that it is painful to give someone a sentence and send them to  
17 prison, particularly in this case, where Kamara has stressed how  
18 his elderly mother became seriously ill after hearing the  
19 evidence.

20 He asked the Court to consider the lengthy sentence already  
21 imposed on Kamara, who is in his forties, and counsel submitted  
22 that the fact is that people in Africa do not have a long life  
23 span. This conviction will have "a serious blot on Kamara's  
24 parole assessment", and this, in turn, will drive home that the  
25 law is the law. But even one more day of a custodial sentence  
26 will condemn Kamara to life imprisonment.

27 Counsel stressed the difficulty of serving a sentence in a  
28 foreign land, where the customs, language, and the political and  
29 social environment, are very different from his home. His family

1 visits are restricted to once a year.

2 Counsel drew a parallel to contempt in the Sierra Leone  
3 national jurisdiction, where it is only required to write a  
4 letter of apology to purge a contempt. He noted the lack of  
5 authorities on contempt cases in the national jurisdiction. He  
6 stressed that this is not a military tribunal where Draconian  
7 sentences are passed, nor is this offence a crime against  
8 humanity or a war crime. Counsel acknowledged that a civilian  
9 can apologise and be given a small fine, but Kamara is  
10 impecunious.

11 He urged the Court to give a warning and to reflect on the  
12 impact that having gone through this process will have had on  
13 Kamara.

14 Independent Counsel responded to these submissions and  
15 thanked the other counsel and the Court for the courtesies  
16 extended to him. He reiterated that it is not his practice to  
17 make specific recommendation on sentences, but he suggested that  
18 in the case of Bangura, Kanu and Kamara, a sentence should be on  
19 the high end of the range.

20 He submitted that whilst contempt is not a war crime, it  
21 strikes at the heart of justice, and that the goal of a sentence  
22 should be deterrence to those serving a sentence and to the rest  
23 of the community.

24 In relation to rehabilitation, counsel submits that  
25 rehabilitation involves an acceptance of guilt, and this has not  
26 been shown by the three defendants, Bangura, Kanu and Kamara, as  
27 all three testified falsely, and this is a significant  
28 aggravating factor.

29 In distinguishing the case of Senessie, counsel submitted

1 that Senessie had admitted what he did wrong in allocutus and  
2 that this is a significant difference in the instant case, where  
3 only Kargbo conceded any wrongdoing.

4 Those are the submissions of counsel, and I now turn to my  
5 own deliberations.

6 It is agreed by all counsel that the provisions of Rule  
7 77(G) apply in the instant case, and, as these proceedings were  
8 brought pursuant to Rule 77(C)(iii), the maximum penalty is a  
9 term of imprisonment of seven years or a fine not exceeding 2  
10 million leones, or both.

11 I note that the current provisions of Rule 77(G) provide  
12 inter alia a fine not exceeding 20 million leones, as amended in  
13 May 2012.

14 That amendment was not retrospective, and I agree with the  
15 submissions by counsel for Kanu that as the facts in this case  
16 arise out of an order in lieu of indictment issued prior to the  
17 amendment, the earlier provision of a maximum fine of not  
18 exceeding 2 million leones is applicable.

19 All counsel, including Independent Counsel, have referred  
20 to the aims of punishment to be imposed on convicted persons.  
21 They are: deterrence, rehabilitation, and retribution. I add, as  
22 counsel for Kargbo did, that safety of the public or welfare of  
23 the public is also an aim of sentencing.

24 Counsel for Bangura submits at length on the sentencing  
25 objectives, both of the international tribunals, and in the  
26 Sierra Leonean domestic Courts. He relies on the AFRC sentencing  
27 judgment that held retribution, deterrence and rehabilitation  
28 have been considered as the main sentencing purposes in  
29 international criminal justice; however, he does not go further

1 to quote paragraph 17 of the same judgment, where the Chamber  
2 noted that international criminal tribunals have held that,  
3 unlike the domestic Courts, rehabilitation cannot be considered  
4 as the predominant consideration in determining sentence.

5 I accept that the Trial Chambers of the Special Court have  
6 stated that retribution and deterrence are the factors most in  
7 mind when sentencing for war crimes and crimes against humanity.  
8 This has been confirmed by the Appeals Chamber. However, as I  
9 noted in the case of Senessie, none of these defendants in this  
10 case is convicted of war crimes, crimes against humanity; but of  
11 the crime of contempt. I consider that rehabilitation is also a  
12 matter that I am entitled to consider, and I do consider it when  
13 sentencing now.

14 Counsel for Bangura also submits that, "It is necessary to  
15 show that TF1-334 was actually influenced" and relies on the case  
16 of R v. B, an infant.

17 I do not agree with counsel's interpretation of that  
18 precedent. The Court in that case, when considering an argument  
19 on behalf of a convicted contemnor, which was that his threat did  
20 not take effect and no harm had been done, stated that it did not  
21 accept this view and said, "The mere fact that no harm has been  
22 done in this particular case is neither here nor there. It would  
23 be unfortunate if the idea got abroad that if a person threatens  
24 witnesses in this way, the worst that is likely to happen to them  
25 will be that they would have to pay some costs and make an  
26 apology."

27 I apply this principle also to the oral submission by  
28 counsel for Kamara, stating that in Sierra Leone domestic  
29 jurisprudence, it suffices to write a letter of apology in order

1 to purge a contempt. I note that counsel did concede that he had  
2 no precedent to put before the Court in support of that  
3 submission.

4 The comprehensive review of the applicable law and  
5 sentencing practices in contempt proceedings in the Special Court  
6 and the international tribunals, as set out in the amicus brief,  
7 have been referred to by several counsel. It notes that every  
8 case has "a multiple of variables" and that in matters of  
9 contempt, chambers have considered the gravity of the crime the  
10 most determinative in choosing what penalty to impose.

11 The amicus brief shows the wide spectrum of reasons for  
12 disobeying Court orders that have, in turn, led to contempt  
13 proceedings, but notes that the sentencing practice of cases  
14 involving Rule 77(A)(iv) - that's the interfering and bribery  
15 cases - has consistently been to impose terms of imprisonment,  
16 with two notable exceptions.

17 In the present case, each of the accused has been convicted  
18 of one or more counts pursuant to Rule 77(A)(iv), and, in the  
19 case of Kamara, one count pursuant to Rule 74(A)(ii).

20 In considering the variables in this case, of particular  
21 note is that three of the defendants strenuously denied any  
22 involvement, and this led to a protracted trial.

23 Any accused person, including these defendants, are  
24 entitled to put a Prosecutor to proof of a charge or charges  
25 against him or her. This is clearly stated in Article 17 of the  
26 Statute and in such international treaties as the International  
27 Convention on Civil And Political Rights. However, in this case  
28 the defendants, particularly Bangura and Kanu, went far beyond  
29 challenging the evidence against them and seeking to rebut it.

1 In the case of Kanu, he made outrageous allegations that a prison  
2 officer and Independent Counsel tampered with evidence in order  
3 to incriminate him and that they colluded together. He persisted  
4 in these allegations, but he produced no evidence to support  
5 these extremely serious criminal allegations. He also alleged  
6 that the complainant 334, Sesay, had grossly insulted his,  
7 Kanu's, mother without giving 334 an opportunity to comment.

8 In the case of Bangura, he alleged that Independent Counsel  
9 had brought these proceedings against him for improper motives,  
10 and even when being shown and agreeing that Independent Counsel  
11 was not in Sierra Leone at the time, Bangura continued to allege,  
12 and persisted in alleging, that there was an ulterior motive of  
13 revenge on the part of the Office of the Prosecutor.

14 A Court, when considering sentence and weighing up  
15 mitigating and aggravating circumstances, considers whether an  
16 accused person pleaded guilty or not guilty when deciding a  
17 sentence. In the instant case, Kargbo was the only one who  
18 pleaded guilty and admitted his guilt at the earliest  
19 opportunity; while the other three accused, Bangura, Kanu, and  
20 Kamara, pleaded not guilty.

21 In the case of Bangura and Kanu, I consider that the  
22 allegations which I have outlined are exacerbating aspects of  
23 their trial.

24 I now turn to the defendants individually.

25 Bangura. As I found in the judgment in this case, it is  
26 clear on the evidence that there was a hierarchy, or a perceived  
27 hierarchy, and friendships among the defendants and between the  
28 defendants in Rwanda, who had been colleagues of Bangura, and  
29 those for whom Bangura was both a boss and a brother, as he has

1 said of his relationship with 334. Bangura was superior to 334  
2 and had influence over him. It was this superior position that  
3 enabled him to influence Sesay and which he misused to commit  
4 these offences.

5 I note in the evidence that initially 334 was only prepared  
6 to speak to Bangura, though he subsequently spoke to Kanu. I  
7 have found it was Bangura's urging of Sesay and the pressure that  
8 he put on him that left Sesay confused and tormented. I note  
9 that counsel for Bangura submits that, "There was no evidence  
10 that Mr Bangura threatened or intimidated 334", and 334 and  
11 Kargbo had received calls from Rwanda. He submits further that  
12 the threat and the intimidation cannot be aggravating factors,  
13 because they were adjudged to have constituted the same offence,  
14 and at the time the purported threat came, the offence had  
15 already been completed.

16 I do not agree with his reasoning. It is clear on the  
17 evidence that Bangura's calls and words to 334 were the ones that  
18 "tormented him", and, in the case of Bangura, that offence was  
19 not already committed. I accept that Bangura's offer of a bribe  
20 was not the worst example of such an offence, but in the overall  
21 scheme, it was part of the intended persuasion.

22 In closed session, 334 detailed his fears for his personal  
23 safety and his concern of the role of ex-combatants in the  
24 political arena. The Court has also heard repeated evidence of  
25 former combatants meeting regularly at Sweissy and that they made  
26 regular contact with each other and with the convicted persons in  
27 Rwanda.

28 This evidence conveys a strong picture of unity and rapport  
29 amongst some former combatants and rebels and the superior role



1 that Bangura had among the group. Bangura has misused his  
2 position in this case, and I consider that it is imperative that  
3 this Court delivers a clear message to him, and to other  
4 ex-combatants, that this type of misuse of position and  
5 comradeship cannot be misused to interfere with the  
6 administration of justice.

7 I agree with Independent Counsel that there was a plan to  
8 have witnesses recant their testimony in an effort to have a  
9 review of the conviction and/or the sentence of Kamara and Kanu.  
10 I have outlined how that plan came about following the visit of  
11 the Registrar and a telephone call to the lawyer Andrew Daniels.

12 The fact that the plan could not succeed is not relevant.  
13 What is relevant is that steps were taken to implement it and  
14 that those steps constituted contempt of Court. However, I am  
15 also satisfied that there is no evidence before me to show that  
16 Bangura was part of the initial planning and the initial  
17 identification of which witnesses would be approached. My  
18 findings are that he was used because of his position, and for  
19 that reason I consider him less culpable than Kamara and Kanu;  
20 but, given his misuse of his superior position, not a lot less.

21 I consider that a clear message must be sent that witnesses  
22 cannot be interfered with, and, therefore, a deterrent sentence  
23 is warranted.

24 On the side of Bangura, he has clearly behaved himself  
25 while in custody, and he shows a great and commendable concern  
26 for the welfare of his family, who, as is often the case, are  
27 those who may suffer the most. He stresses his work for peace,  
28 and this is supported by character statements. He stresses his  
29 Christian beliefs, and I have no reason to doubt his statement or

1 that of Mr Williams.

2 I have given considerable thought to Mr Nicol-Wilson's  
3 submission in relation to the period that Bangura was in custody  
4 without warrant and without trial. There is no doubt that he and  
5 others were held for a period of four years, in grave abuse of  
6 their constitutional and human rights. This is a serious  
7 indictment on those responsible for the administration of the  
8 Pademba Road Prison, that they would allow 14 people to be held  
9 without warrant or charge indefinitely; and equally an indictment  
10 on a judicial system, which is charged with a duty under the  
11 Prisons Act to check such matters.

12 I consider this a serious abuse of human rights, and I  
13 still remain of that opinion; however, its application to this  
14 case is difficult to assess. The offences did not arise out of  
15 something in this Court. This Court was in no way responsible  
16 for the breach. In fact, the Court was not in existence for part  
17 of the time, and it cannot be said to have a bearing on this  
18 case.

19 I turn to Samuel Kargbo.

20 I have already noted that Kargbo pleaded guilty and  
21 cooperated with the Independent Counsel in his investigations and  
22 in the subsequent trial. As I have found, he was a friend of  
23 334, Sesay, and he allowed his friendship to be abused in order  
24 to persuade 334 to change his testimony and to offer him an  
25 unspecified amount of money in order to do so.

26 There is no doubt that Kargbo was also under pressure. I  
27 have referred in the evidence and the findings to his plea to  
28 Sesay that these men were "harassing him" and he wanted "peace  
29 from that harassment". He went along with the attempt to

1 persuade and pressurise 334 for personal financial gain.

2 I am satisfied that, like Bangura, there is no evidence  
3 that Kargbo was part of the initial planning, and for this reason  
4 he is less culpable. I accept his counsel's submission that he  
5 has conformed to his bail conditions, and I note he appeared at  
6 trial. I accept that of all the accused in this case, he made no  
7 effort to excuse or extricate himself from his own conduct. It  
8 is clear that he accepted that he acted wrongly from the start  
9 and cooperated throughout the proceedings, both at the  
10 investigative, and at the trial stage. He pleaded guilty,  
11 thereby avoiding a trial in his case. I accept his feelings of  
12 remorse are genuine and that he has resiled from his previous  
13 behaviour.

14 Whilst I also consider a deterrent sentence is called for  
15 to send a clear message that the administration of justice cannot  
16 be abused by interfering with witnesses, I accept that the  
17 mitigating factors in his case weigh heavily in his favour. I  
18 also take note of his personal circumstances, as shown by the  
19 character reference filed on his behalf in his allocutus and in  
20 his counsel's submissions.

21 Kanu. As I've already noted, this scheme to have a witness  
22 or witnesses recant their testimony was devised in Rwanda between  
23 the Rwandan detainees. The evidence before me indicates it  
24 involved the AFRC detainees Kamara and Kanu.

25 There is also a reference to Alex Tamba Brima, but as he is  
26 not on trial in these proceedings, I make no findings in relation  
27 to his activities.

28 Kamara and Kanu used their contacts and those people they  
29 knew in Sierra Leone to influence a witness who, in the evidence

1 of Daniels' and Kamara's statement, was important; that is, 334.  
2 Kamara also testified that 033 was, in his view, an important  
3 witness. I consider that Kamara and Kanu induced Bangura's and  
4 Kargbo's contemptuous conduct.

5 Counsel for Kanu has referred to the case of Haraqija to  
6 submit on terms of imprisonment imposed therein and to show that  
7 the ICTY considered abuse of a position of trust as an  
8 aggravating factor.

9 I would add that the case also showed, in the view of the  
10 sentencing Court, that the fact that he induced others'  
11 contemptuous conduct warranted a heavier sentence than that of  
12 his co-accused.

13 I concur with the view that inducing another person in a  
14 crime is a serious conduct and one which I take account of in  
15 this trial.

16 I have already commented on Kanu's persistent allegation of  
17 criminal conduct on the part of other people, which were an  
18 unnecessary and aggravating factor in this trial.

19 I agree with counsel, that Kanu was convicted on the  
20 evidence of facts arising out of his telephone conversation with  
21 334 or Sesay; however, the evidence also shows that he took part  
22 in other telephone conversations along with Kamara, and that they  
23 were in furtherance of their scheme. He did not, however, take  
24 part in the conversation with Daniels.

25 Despite the conflicting evidence between him and Kamara, I  
26 consider he was as much an instigator of this scheme as his  
27 co-accused, and for this reason he is as culpable as Kamara and  
28 more culpable than Bangura and Kargbo.

29 In comparing the evidence against Kanu with that found in

1 the case of the Prosecutor v. Sesay, counsel submits that the  
2 most damaging thing that can be said about Kanu's interaction  
3 with Sesay and Kargbo is that it amounted to "encouraging the  
4 latter to try and convince the former"; however, it was enough  
5 for Kargbo to speak of being harassed and Sesay to subsequently  
6 consider himself tormented. The impact was more than  
7 encouraging.

8 Counsel also submits that when considering the gravity of  
9 the offence, I should also consider that "this plan could be seen  
10 to be as a preparatory plan", which in itself is unlikely to have  
11 had effect successfully of interfering with the Special Court's  
12 administration of justice.

13 I do not consider that the likelihood of success or  
14 otherwise is a relevant matter in a Court contempt proceedings.  
15 As I have quoted in the case from R v. B, An Infant, that is near  
16 here nor there. It is the act of interfering with the witness,  
17 and not the success of the interference.

18 On behalf of Kanu, counsel points to his family commitment,  
19 and I also recall counsel for Kamara's submission that the  
20 detainees are only able to see family once a year. Counsel  
21 submits that Kanu's comportment in prison has been excellent. I  
22 have no direct evidence of this, but I do note the evidence of  
23 improper and misleading communications with journalists, which I  
24 did not consider in assessing guilt or innocence, but they are  
25 indicative of the behaviour of Kanu and others while in  
26 detention.

27 It appears to me that from Kanu's behaviour and from his  
28 planning and implementation of this offence, that he has not  
29 reconciled to his conviction or sentence, a matter which I bear

1 in mind when considering rehabilitation; however, as I have  
2 stated in relation to Bangura, this is a matter, to my mind, that  
3 requires a deterrent sentence.

4 I do know that in his allocutus, Kanu stated he was showing  
5 remorse to show mitigation. His acceptance that he has done  
6 wrong is an essential element of remorse. In allocutus too he  
7 stressed his family commitments, including his eight-month-old  
8 baby and his daughter, and I agree with him that the Court has  
9 seen his daughter and that he should be proud of her.

10 Kamara has been convicted of two offences of knowingly and  
11 willfully interfering with the Special Court's administration of  
12 justice by: (1), otherwise interfering with a witness who had  
13 given testimony before a Chamber; and (2), disclosing information  
14 relating to proceedings in known violation of an order of a  
15 Chamber.

16 On the evidence, Kamara was found not guilty of offering a  
17 bribe, but, as I have already noted, it is apparent that he took  
18 part in the plan and was as active, if not more active, than his  
19 co-accused. He contacted the lawyer Daniels.

20 There is a reference to his contact with a relative who is  
21 in a political position with the intention of seeking help. In  
22 my judgment, I could not determine if it was financial help or  
23 moral help. It is clear he was instrumental in using telephone  
24 contact to reach Bangura and Kargbo and to persuade them to  
25 contact 334, Sesay. His evidence, and that of Kanu, contradicts  
26 each other on the role Kanu played.

27 I have already quoted the effect his and Kanu's persistence  
28 has had on Kargbo and Sesay.

29 As noted above and in the judgment, Kamara acknowledged his

1 view that 033 was an important witness, and I have no doubt that  
2 his inquiries about the whereabouts of TF1-033 were linked to the  
3 plan to have his conviction and/or sentence overturned.

4 I have already commented, in relation to Kanu, that it is  
5 irrelevant whether the plan came to fruition.

6 In allocutus, Kamara spoke of his regret of his role, his  
7 acceptance of the decision of the Court, and asked for  
8 forgiveness and mercy. His counsel stresses his age, distance  
9 from family, and having to endure a long sentence in an alien  
10 environment.

11 I accept that these are extremely difficult to bear, but it  
12 is not an excuse for committing further crimes. As I've noted  
13 above, this is indicative of nonacceptance of responsibility for  
14 his previous offences, to my mind.

15 Counsel for both Kanu and Kamara stress the detrimental  
16 effect a further custodial sentence would have on their clients,  
17 given the long sentences they are presently serving; the effect  
18 of these convictions and a sentence on any parole consideration at  
19 their age.

20 As requested, I weigh these factors against the deterrent  
21 aspect of the punishment, which, for the foregoing reasons, I  
22 have considered appropriate in this trial.

23 I have considered, but find not appropriate, to levy a  
24 fine. I can see that in the present case, the people who will  
25 have to pay a fine if it is levied are family, who are going to  
26 suffer enough from this situation. Also, this is so serious an  
27 offence, that a deterrent sentence is called for.

28 For each of the individual and collective reasons that I  
29 have stated above, I sentence as follows: for each of the two

1 counts for which he is convicted, I am sentencing Hassan Papa  
2 Bangura to 18 months' imprisonment.

3 As the counts arise from the same sequence of related  
4 events, I consider that the two sentences should be concurrent.

5 From this I deduct the period that he has already served on  
6 remand.

7 Notwithstanding the dearth of legislation or jurisprudence,  
8 I am of the view that when a Court considers sentence and looks  
9 to a convicted person's past behaviour, they are entitled to look  
10 at both the good and the bad. A Court should be entitled to give  
11 some credit for suffering caused through a breach of a convicted  
12 person's human rights.

13 On that basis, I add to the period served in remand a  
14 notional period for the abuse of his human rights whilst he was  
15 incarcerated without trial, and I order that he serve an  
16 effective sentence of 12 months' imprisonment.

17 In relation to Kargbo, I note that the two offences of  
18 which he is convicted also arise from related facts. For the  
19 same reasons, I consider they should be served concurrently.

20 I sentence him likewise to a period of 18 months'  
21 imprisonment on each count, and for the same reasons I consider  
22 they should be served concurrently.

23 However, in the light of his plea, his cooperation with the  
24 Court, his acceptance of his wrongdoing, and his honest admission  
25 of that wrongdoing, I suspend the entire sentence, provided he is  
26 of good behaviour for a period of two years from today's date.

27 I also release him from the terms and conditions of his  
28 bail.

29 Kanu was convicted of two counts, which arose out of his



1 actions during one incident. In the circumstances, I agree with  
2 his counsel that it is appropriate that any sentence is served  
3 concurrently. I consider that his role as an instigator in this  
4 plan; its implementation by using others; his refusal to accept  
5 his own culpability by putting forward allegations in Defence  
6 over and above that required to challenge the evidence of the  
7 Prosecution, are aggravating factors in this case.

8 I consider a term of two years' imprisonment on each count  
9 to be served concurrently is therefore appropriate.

10 I do not consider that it is appropriate to be served  
11 concurrent to his existing sentence, as these convictions are not  
12 related offences and are separated by a considerable period of  
13 time.

14 I therefore order that the sentence of two years be served  
15 consecutively on his existing sentence.

16 Despite my finding that Kamara was not guilty of one of the  
17 three offences for which he was indicted, I consider that he was  
18 a planner and instigator in this scheme and used others in his  
19 attempt to implement it; therefore, for this and for the other  
20 reasons I have given, he is more culpable than Bangura and  
21 Kargbo. His action in disclosing the identity of a protected  
22 witness was part of the plan, and if it were implemented in the  
23 same series of events that gave rise to his conviction for  
24 interfering with a witness who had given evidence.

25 For that reason I consider it too would be appropriate to  
26 be served concurrently, and I sentence him to two years'  
27 imprisonment on each count for which he is convicted, to be  
28 served concurrently.

29 As in the case of Kanu, I consider that these crimes are

1 separate and apart from the sentence for which he is presently  
2 serving. I therefore order that it be served consecutively to  
3 his present sentence.

4 Mr Bangura, Mr Kargbo, did you hear what I said?

5 CONVICTED PERSON BANGURA: Yes, my Lord.

6 JUSTICE DOHERTY: Kanu and Kamara, did you hear also what I  
7 said? Counsel in Rwanda, did the defendants hear what was said?

8 CONVICTED PERSON KANU: I did not understand what she meant  
9 by "consecutively".

10 JUSTICE DOHERTY: Very well. It means it's on top of the  
11 sentence you are already serving. So it's two years.

12 MR METZGER: It would seem he doesn't understand the  
13 terminology, your Honour. I'm sure that I can explain it to him  
14 in due course.

15 JUSTICE DOHERTY: I just put it in simple terms. But I  
16 think it would be more appropriate, counsel, that you do that,  
17 and I would request that you do so.

18 Mr Bangura, stand up, please.

19 Mr Bangura, I have already explained to you why I found you  
20 guilty of these two offences. I did that a couple of weeks ago.

21 I've thought about what you said, particularly about your  
22 family, which worries me very greatly, and I've also thought of  
23 the many submissions made on your behalf by Mr Nicol-Wilson. He  
24 was a very strong advocate on your behalf, and I can tell you  
25 that if it wasn't for some of the points he made, you'd be  
26 getting a lot longer than you are now.

27 I'm sentencing you to a total of 18 months' imprisonment  
28 for each count for which you are convicted.

29 For the reasons I have given, I order that they be served

1 concurrently. That means they will count as if they were one  
2 period of 18 months.

3 From that I deduct the period that you have already been  
4 waiting in Court in detention for this trial and another amount  
5 for what has happened to you in the past when your human rights  
6 were abused.

7 As a result, you will serve a total of 12 months'  
8 imprisonment; do you understand?

9 CONVICTED PERSON BANGURA: Yes, my Lord. Thank you, My  
10 Lord. God bless you, Ma'am.

11 JUSTICE DOHERTY: Thank you. Like Mr Serry-Kamal said,  
12 it's not very nice sending people to prison.

13 Please sit down, Mr Bangura.

14 Mr Kargbo, please stand up.

15 Mr Kargbo, did you hear and understand what I said?

16 CONVICTED PERSON KARGBO: Yes, my Lord.

17 JUSTICE DOHERTY: I'm sentencing you to a period of 18  
18 months' imprisonment for each of the two counts for which you  
19 have been convicted.

20 They are to be served concurrently. That means they will  
21 count as one period of 18 months.

22 However, because of your conduct at trial, prior to trial,  
23 your guilty plea, and your cooperation with the Court, I am  
24 suspending the entire period of your sentence.

25 You should be grateful that you were given appropriate and  
26 sensible advice.

27 That means for that period of two years, you have to not  
28 get into trouble and not be convicted of any other offence. When  
29 I say "any other offence", I mean any other offence, no matter

1 how minor or how serious it is. If that happens you will be  
2 brought back to this Court, and the period of 18 months may be  
3 imposed on you in total, or it may be reviewed.

4 Do you understand what I said?

5 CONVICTED PERSON KARGBO: Yes, my Lord.

6 JUSTICE DOHERTY: Please sit down.

7 Mr Kanu, please stand up.

8 MR METZGER: Your Honour, before you come to deal with  
9 Mr Kanu --

10 JUSTICE DOHERTY: Yes, Mr Metzger.

11 MR METZGER: In order, perhaps, that one can look at the  
12 consistency in the way that your Honour deals with the convicted  
13 persons, in real terms Mr Kanu obviously is serving a sentence.  
14 But he has had to come to Court, and that has involved a  
15 different prison regime from the time this matter has had to come  
16 to Court, and I just wondered whether your Honour wanted to give  
17 any consideration to that or not.

18 Obviously, I'm not asking you to make any ruling on it.  
19 It's just that with all the things that you've had to consider,  
20 it may not have been something that you either considered, or you  
21 may have considered it and thought it wasn't necessary to deal  
22 with. I just thought I should raise it at this stage.

23 JUSTICE DOHERTY: Frankly, Mr Metzger, it was not a matter  
24 I considered at all. I think I said at the beginning of this  
25 trial that I've been in many prisons over the years, and a prison  
26 is a prison, and you don't have grades of prison.

27 But I do agree that some prisons are worse than others, and  
28 many of them - I cannot compare the two places of detention where  
29 Kanu was, because I haven't visited them and I have no report

1 about them.

2 But perhaps, in the light of your submissions - and I will  
3 have to treat both Kamara and Kanu equally, because they both  
4 equally travelled and were in a different detention regime.

5 I think given that, and given the length of this trial -  
6 some of which Mr Kanu and Mr Kamara visited upon themselves with  
7 the stories they told me - but I will, in the light of what you  
8 say, deduct a period of two weeks, which I think is about the  
9 time they were elsewhere, from their sentence. I'm going to have  
10 to write that out.

11 MR METZGER: Obligated, your Honour.

12 JUSTICE DOHERTY: I'll give you marks for trying,  
13 Mr Metzger.

14 Mr Kanu, please stand up.

15 Mr Kanu, this is something you have brought upon yourself.  
16 I frankly tell you that you are lucky that I didn't give a  
17 heavier sentence for the things that you said in your evidence.  
18 That was partly because of the pleas made on your behalf;  
19 however, this is a serious offence for which you are convicted.

20 You have been convicted of two offences. But since they  
21 arise out of the same set of facts, I am ruling that they be  
22 served concurrently.

23 I sentence you to a term of two years for interfering with  
24 a witness and two years for offering a bribe to a witness,  
25 contrary to the provisions of Rule 77(A)(iv) of the Rules of the  
26 Special Court.

27 The sentences are to be served concurrently, and from them  
28 I deduct a period of two weeks for the fact that you were  
29 detained separately.

1           That means you will serve one year and 50 weeks extra. It  
2 is consecutive to the sentence you are presently serving.

3           Did you hear me, Mr Kanu?

4           CONVICTED PERSON KANU: Yes, your Honour, I heard you loud  
5 and clearly, and, your Honour, I thank you.

6           JUSTICE DOHERTY: Thank you, Mr Kanu, for that. Thank you.

7           Mr Kamara, please stand up.

8           Mr Kamara, you too heard the judgment and you heard my  
9 reasons. You heard what I said about you and Kanu planning. You  
10 too have been found guilty of two offences: one was the same as  
11 your co-accused, of interfering with a witness under Rule  
12 77(A)(iv), but the other was separate. It was a conviction under  
13 Rule 77(A)(ii).

14           For the reasons I have stated, I consider that a term of  
15 imprisonment of two years on each count is appropriate.

16           But because of the fact that these two convictions arose  
17 out of similar and related incidents, I order that they be served  
18 concurrently.

19           From it, I deduct a period of two weeks for the change in  
20 detention.

21           I order that it be served consecutively on your present  
22 prison term.

23           You are sentenced to one year and 50 weeks' imprisonment  
24 consecutively.

25           Mr Kamara, did you hear me?

26           CONVICTED PERSON KAMARA: Yes, your Honour.

27           JUSTICE DOHERTY: Thank you. Counsel --

28           MR SERRY-KAMAL: Your Honour, may I say something?

29           JUSTICE DOHERTY: Yes, Mr Kamara - is it Mr Kamara or

1 Mr Serry-Kamal who wishes to speak?

2 Yes, Mr Serry-Kamal, please speak.

3 MR SERRY-KAMAL: Your Honour, I really do not want to  
4 interfere too much now that you've passed your sentence, but the  
5 period of the trial is actually five weeks - months. Five  
6 months. And they have been coming over this [i ndi scerni ble] and  
7 [i ndi scerni ble] Central Prison here. I wonder if Your Lordship  
8 would consider that, since you are not yet functus officio.

9 JUSTICE DOHERTY: I certainly did consider it. I had in  
10 mind how many times we sat in that courtroom and I sat in this  
11 courtroom and I travelled back and forth.

12 But as I said, I think it was on the very first day of this  
13 trial, a prison term in a prison is a prison. We do not have  
14 grades of prison like we have grades of hotels. They were  
15 serving sentence whilst --

16 MR SERRY-KAMAL: [Overlapping speakers].

17 JUSTICE DOHERTY: Yes, yes, Mr Serry-Kamal, let me finish.  
18 They were serving sentence whilst they were also in Court. The  
19 period they were in Court will automatically come off their  
20 present sentence. It's counted as serving sentence. They are  
21 lucky they are getting the two weeks, and if I hear any more  
22 arguments, I might change my mind.

23 MR SERRY-KAMAL: I don't want you to change your mind.

24 JUSTICE DOHERTY: I must say, in my experience - and I've  
25 been on this job for a while - I've never heard of a Court giving  
26 benefit to a prisoner who's already convicted for coming to  
27 Court.

28 If there are to other matters - oh, Chief Taku, you wish --

29 CHIEF TAKU: Yes, your Honour, I rise once more to thank

1 the Court for your wisdom and considering the special  
2 circumstances of Mr Kargbo.

3 There's an issue that I would not want to delay the Court  
4 at this point in time. Because he testified as a Prosecution  
5 witness, he has surely been harassed. We've brought that to the  
6 attention of the witness protection. But now that the matter is  
7 over, we will try to bring it up appropriately in a manner that  
8 will be addressed comprehensively.

9 Secondly, I didn't want to raise it before sentencing,  
10 because I didn't want it to weight on the mind of the Court to  
11 compromise the interests of any other person. But we surely  
12 raise the matter appropriately so that that issue can be seen  
13 after talking to the Independent Prosecutor, for whom he  
14 testified. Thank you, your Honour.

15 JUSTICE DOHERTY: Well, all I can say is that the message  
16 that should go out from this Court today is that you cannot  
17 interfere with witnesses. Fiddling around with witnesses who  
18 have given evidence is only going to get you into gaol. It is  
19 serious.

20 A Court and a justice system depends on respect: respect  
21 for the process; and respect for the people who have the strength  
22 to come and give evidence. Intimidating them will lead us into  
23 more trouble and into more turmoil.

24 Let us not forget that this Special Court came as a result  
25 of a civil war, and the Truth and Reconciliation Commission  
26 identified one of the many causes for that civil war was the  
27 inadequacy of the justice system. If the justice system is not  
28 respected by allowing witnesses to walk freely in the street,  
29 there will be more trials like this.



1           However, Chief Taku, the matter will have to be referred to  
2   the appropriate authorities, but I will take a very dim view if I  
3   find there's any interference.

4           CHIEF TAKU: Thank you, your Honour.

5           JUSTICE DOHERTY: If there are no other matters, I will  
6   thank counsel for their very in-depth and comprehensive  
7   submissions and for the time they have taken in this Court, and I  
8   will now close the Court.

9                                 [The Court adjourned at 3.15 p.m.]

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