



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

-V-

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

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 [Saturday, 25 August 2012]

2 [Open session]

3 [Accused present]

4 [Upon resuming at 9.13 a.m.]

5 JUSTICE DOHERTY: Good morning. Thank you all for coming
6 on Saturday. I hope at least you got yesterday as a free day.
7 We're a little bit late starting this morning because we didn't
8 have connection with Kigali, so I will start by taking
9 appearances. In order of seniority first, appearance should be
10 from the independent counsel, and then I'll move back to
11 Freetown. Appearances, please.

12 MR HERBST: Yes. Good morning, your Honour. Robert
13 Herbst, independent counsel for the Prosecution, and I have two
14 brief preliminary matters before we start.

15 JUSTICE DOHERTY: Very well. I'll come back to those when
16 I've taken other appearances. For Bangura.

17 MR NICOL-WILSON: Good morning, your Honour. Welcome back
18 to Freetown. Melron Nicol-Wilson for Hassan Papa Bangura.

19 JUSTICE DOHERTY: Thank you, Mr Nicol-Wilson. And it's
20 very nice to be back in Freetown, I must say.

21 CHIEF TAKU: Good morning, your Honour. Chief Charles Taku
22 for Mr Samuel Kargbo.

23 JUSTICE DOHERTY: Thank you, Chief Taku.

24 And in Kigali.

25 MR SERRY-KAMAL: Good morning, your Honour. Abdul F
26 Serry-Kamal for the fourth accused Brima Bazzy Kamara.

27 MR METZGER: Good morning, your Honour. Kevin Metzger for
28 the third accused Santi Gie Borbor Kanu here in Kigali.

29 JUSTICE DOHERTY: Thank you, Mr Metzger. Your voice sounds

1 a little hoarse. I hope you're all right.

2 MR METZGER: I'm very well, your Honour. It may just be
3 that your Honour is on the other end of the connection this time.

4 JUSTICE DOHERTY: I understand. The two gentlemen also in
5 Court?

6 MR NICOL-WILSON: Your Honour, they are legal assistants
7 for Hassan Papa Bangura.

8 JUSTICE DOHERTY: Thank you. Mr Herbst, you indicated a
9 preliminary matter. So I will deal with that first.

10 MR HERBST: Thank you, your Honour. Before we adjourned on
11 Thursday, I guess, in the submissions to your Honour with respect
12 to the issue of the use of Mr Bangura's statement, I had alluded
13 to a portion of the treatise, Jones and Powles, Mr Metzger was
14 kind enough to share with me. I have since obtained a copy of
15 the relevant paragraph of that. It's short, it's only seven
16 lines. So I would like to read to the Court the section
17 8.5.5A(v) and page 717 of the treatise on international criminal
18 proceedings.

19 It says, "ICTY Rule 84*bis* now permits the accused to 'make
20 a statement under the control of the Trial Chamber' without being
21 compelled to make a solemn declaration and without being examined
22 about the content of the statement. Under paragraph B of Rule
23 84*bis*, 'The Trial Chamber shall decide on the probative value, if
24 any, of the statement.' This is intended to approximate to the
25 civil law approach to statements by the accused. It is,
26 therefore, often cited as an example of the hybrid, i.e. mixed
27 common law civil law nature of the tribunal's proceedings."

28 That completes the paragraph, and I would just state that
29 even though we do not have that exact rule, my understanding is

1 that we are also a hybrid tribunal and the same rule applies
2 here.

3 That was the first preliminary matter, your Honour. The
4 second one is that Mr Serry-Kamal indicated that he might call
5 three witnesses in Freetown. And he named them and we have the
6 names. I have attempted - there are at least two of them who
7 testified as Defence witnesses in the AFRC trial. So in terms of
8 preparing to cross-examine them if they do testify, I made
9 inquiry to see whether I could obtain the transcripts of those -
10 of that - of those witnesses' testimony, and I was informed that
11 because there may be protective measures with respect to their
12 pseudonyms, that I should ask the Court to direct Court
13 Management to give me the transcripts of the witnesses - of those
14 two or three witnesses, and so I'm making that very brief
15 application to you, and I thank you.

16 JUSTICE DOHERTY: Thank you, Mr Herbst. I had actually
17 reached a decision on this matter of the statement. Regrettably,
18 I haven't been able to write it out properly because of - I was
19 travelling and didn't get back until late last night - late
20 yesterday afternoon. I intended just to say what it was and then
21 give a fuller ruling - a proper ruling, because as has been
22 pointed out to me by Chief Taku, we don't have an exact precedent
23 for such a rule.

24 In the light of the fact that you have now made further
25 legal submissions, I think it's fair that there could be further
26 response on that particular aspect, and I will do that first.

27 On the matter of the AFRC transcripts, first of all, I
28 don't know which witnesses it relates to; and secondly, I don't
29 remember which Defence witnesses were protected and which

1 weren't. I know some were. However, I'm just looking at the
2 rules, Rule 75 of the Rules of Procedure and Evidence. Just bear
3 with me while I go quickly through it to check under which
4 provision I'm permitted to act.

5 MR HERBST: Think it's section E, your Honour.

6 JUSTICE DOHERTY: Yes, I'm just reading section E and
7 thinking to myself.

8 This application now relates to protective measures that
9 may have been given in the AFRC trial. If in fact the witnesses
10 to be called are witnesses who had protective measures and whose
11 evidence may or may not have been given - may have been given in
12 closed session, because the evidence would have been only
13 confidential if it was given in closed session, the witnesses may
14 have been referred to by a pseudonym and the transcript is on the
15 public record. There's a difference. But in the event that it
16 is closed-session evidence, I am permitted to consider this trial
17 as a second proceeding in this Court. If I vary a protective
18 measure, I'm obliged to consider Rules 75 G and H. Since I was a
19 Judge in the first proceedings, I'm able to consult myself, and I
20 consider it's in the interest of justice to permit the reading of
21 any closed session --

22 THE COURT OFFICER: I'm sorry to interrupt, your Honour,
23 but the Krio translation - the channel of the Krio seems to have
24 a problem. I have been alerted that the Krio is not being heard,
25 and I checked it myself. I can't hear anything.

26 JUSTICE DOHERTY: Now, that that obviously affects the
27 rights of the accused Kamara.

28 Mr Kamara - Mr Serry-Kamal, has your client heard what I've
29 said?

1 [Speaking Krio]

2 But you need to hear it in Krio as well and understand it.

3 MR SERRY-KAMAL: He hasn't heard it in Krio.

4 JUSTICE DOHERTY: Very well. I will wait - check if the
5 Krio is being heard, and then very briefly repeat what I said.

6 [Technical difficulties]

7 JUSTICE DOHERTY: It appears that we're now linked up
8 properly, and I will give a brief synopsis of what I said. This
9 is in relation to an application to have AFRC evidence that may
10 relate to protected [microphone not activated].

11 [Technical difficulties]

12 JUSTICE DOHERTY: I would like to repeat an outline of my
13 decision. Can people hear me?

14 MR METZGER: Yes, your Honour.

15 JUSTICE DOHERTY: Thank you. This relates to an
16 application for what may be evidence of a protected witness in
17 the AFRC trial. The only matters that would be relevant would be
18 evidence given in closed session, as the rest of the transcript
19 would be on the public record.

20 Under the provisions of Rule 75, the proceedings or
21 protective measures rendered in one proceeding may be varied in a
22 second proceeding. And if there is an application to vary in the
23 second proceedings, then the Judge may consult with the first
24 proceedings Chamber.

25 I consider that this is a second proceeding. It's
26 different from the AFRC trial. As I was a Judge in both this
27 proceeding and the first, I can consult myself and consider that
28 it is in the interests of justice and the fair determination to
29 vary any protective measure that has led to evidence being

1 adduced in closed session and direct the Court Management
2 services to make any closed session evidence available to all
3 counsel and parties in these proceedings.

4 So I make that ruling on the second application by
5 independent counsel.

6 In relation to his first additional submission in relating
7 to Mr Bangura's statement, I will ask if any other counsel wishes
8 to respond to that second submission.

9 CHIEF TAKU: Yes, your Honour. Quite briefly, upon hearing
10 the submissions of independent counsel, I wish just to refer the
11 Court to the Rules of Procedure and Evidence, Rule 89 of the
12 Special Court, and the International Criminal Tribunal for Rwanda
13 to the extent - with your permission let me read it out, your
14 Honour.

15 "The Rules already set forth in this section shall govern
16 the proceedings before the Chamber. The Chamber shall not be
17 bound by national rules of evidence ... (b), In cases not
18 otherwise provided for in this section, the Chamber shall apply
19 rules of evidence, which will best favour a fair determination of
20 the matter before it and are consonant with the spirit of the
21 Statute and the general principles of law; (c), The Chamber will
22 admit any relevant evidence."

23 Your Honour, I listened to the objections initially raised,
24 and I was expecting that my colleague, in addition to the
25 objection, will address you on prejudice. There was no
26 submission on the prejudice that would be caused, either to the
27 accused, or any other party in the proceedings, if that evidence
28 were admitted.

29 Where a submission is made about prejudice, it must

1 additionally be proved or shown that that prejudice outweighs the
2 justice of the situation. I didn't hear that submission.
3 Raising the objections, per se, without issuing the prejudice is
4 not enough.

5 There is an abundance of jurisprudence on that I would put
6 before the Court. In the AFRC trial itself, your Honour had the
7 possibility of dealing with the submission of prejudice, and
8 therefore the Court itself has established about the
9 jurisprudence on that.

10 So I think that one of the duties of a fact finder is to
11 admit evidence that has probative value and is relevant.

12 With regard to the question of admissibility, the
13 jurisprudence in international criminal tribunals gives you the
14 discretion to defer that to when you are considering the totality
15 of the evidence that's before you. It places probative value on
16 relevance, both admissibility in this case, and that's why Rule
17 89C says that a Chamber may admit any relevant evidence. That's
18 what I have at this point in time.

19 JUSTICE DOHERTY: Thank you, Chief Taku.

20 Mr Nicol-Wilson, did you wish to add anything to what you
21 have said in view of Mr - independent counsel's submission this
22 morning?

23 MR NICOL-WILSON: No, your Honour.

24 JUSTICE DOHERTY: Thank you, Mr Nicol-Wilson.

25 Mr Serry-Kamal.

26 MR SERRY-KAMAL: [Indiscernible] in response to my learned
27 friend's reply, I would firstly refer my learned friend - the
28 Court to Rule 72 in the Rules of practice and - of this Court,
29 which gives the provisions of the applicant in law and one should

1 not lose sight of the provisions of 72(iii).

2 JUSTICE DOHERTY: Are you sure it's Rule 72 you're talking
3 about, Mr Serry-Kamal? Because Rule 72 is preliminary jurist
4 dictional matters.

5 MR SERRY-KAMAL: Sorry, *72bis*.

6 JUSTICE DOHERTY: Thank you. That is before me. Yes.

7 MR SERRY-KAMAL: *72bis(iii)*. And also the statement we
8 were referring to, I submitted that that statement is not
9 evidence. It is not evidence. It was a statement attached to
10 the pre-trial brief. It is not evidence these proceedings. A
11 document becomes evidence if it is tendered in evidence. The
12 witness goes - the person tendering goes to the witness box, he's
13 sworn, and he gives evidence on oath, and there is an opportunity
14 to cross-examine and re-examine him. That document does not fit
15 that description. So what my learned friend is talking about is
16 way off tangent. We are talking about evidence received in
17 Court.

18 JUSTICE DOHERTY: Mr Serry-Kamal, this is what you said --

19 MR SERRY-KAMAL: [Overlapping speakers].

20 JUSTICE DOHERTY: Mr Serry-Kamal, this is what you said
21 yesterday. I'm asking is there anything on the very specific
22 submission made this morning which was additional. That's what
23 I'm asking.

24 MR SERRY-KAMAL: Your Honour, I referred you to Rule *72bis*
25 (iii) in response to what my learned friend says that you should
26 ignore rules - national rules. Insofar as the discretion to
27 admit evidence is concerned, I am saying this Court has a
28 discretion to weigh evidence - when there is actual evidence,
29 weigh its probative value against the prejudice caused to the

1 accused, not the other way around.

2 JUSTICE DOHERTY: Mr Metzger.

3 MR METZGER: Indeed, your Honour. First of all, may I say
4 *ex abundanti cautella* that the decision in relation to protective
5 measures, just in passing, it appears to me that whosoever is a
6 beneficiary of protective measures needs to be represented or
7 consulted about any order that is made in respect of those
8 measures, but I simply say that in passing in case it is
9 something that had slipped our minds while dealing with that
10 matter.

11 May I now address the matter raised by my learned friend
12 Mr --

13 JUSTICE DOHERTY: Only that new matter.

14 MR METZGER: Indeed. He has referred you to the section in
15 Jones and Powles which refers to Rule 86*bis* in the ICTY Rules of
16 Procedure and Evidence. Your Honour will note that that
17 particular Rule is not replicated in the Rules of Procedure and
18 Evidence for the Special Court for Sierra Leone. And presumably
19 it is not so replicated because in plenary session, the judges
20 looking at the Rules decided that it was not to be applicable in
21 the Sierra Leone situation or in the Special Court for Sierra
22 Leone situation.

23 Now, moving on from there, in my respectful submission, and
24 addressing the point of prejudice, as far as Mr Kanu is concerned
25 the prejudice point is clear. If this matter is admitted as
26 evidence, the Prosecution is entitled to rely on it. If the
27 Prosecution relies on it as evidence, and of course we don't know
28 what probative or what value your Honour will put on - weight on
29 the evidence - but if the Prosecution can rely on that evidence,

1 the Prosecution is entitled to use that as against Mr Kanu in
2 saying that it supports the plan for - the contemptuous plan as
3 the Prosecution puts it, and therefore can be used as against
4 Mr Kanu if he and another - if another accused and other parties
5 are involved in the discussion that supports the so-called
6 contemptuous plan. That is prejudicial because Mr Kanu does not
7 have the opportunity to cross-examine the maker of said statement
8 or document because said person will not be giving evidence.

9 To that regard, I invite your Honour to look again at the
10 Rules of evidence under section 3, in particular Rule 89, which
11 effectively sets out the provisions that govern the area of
12 evidence. In particular, Chief Taku has already referred this
13 Court to Rule 89A, B and C, saying that is, in fact, from the
14 ICTY Rules. In fact, they are replicated in the Rules for the
15 Special Court.

16 Therefore, the Court in this case, your Honour, has to look
17 at whether, in fact, the material you are invited to consider is
18 evidence in this case. In my respectful submission, it isn't.
19 Because when one then goes to look at the following provisions,
20 looking through in particular - clearly Rule 90 doesn't apply,
21 because there is no evidence before your Honour. Rule 91 doesn't
22 apply. Rule 92 effectively doesn't apply because strictly
23 speaking it isn't a confession. Rule 92*bis* perhaps does apply
24 because it gives the Court - in this case, your Honour - power to
25 consider material in lieu of oral testimony. If your Honour
26 looks at Rule 92*bis*, in particular - well, A, gives the power; B,
27 says that it may be received in evidence, information, it is
28 called, if in the view of Trial Chamber it is relevant for the
29 purpose for which it is submitted, and if its reliability is

1 susceptible of confirmation. Respectfully, in this case, it
2 cannot be because the maker of the statement or the provider of
3 the information will not be giving evidence to the Court.

4 Then if one were to look at the two other areas, Rule 92*ter*
5 and Rule 92*queta* gives other provisions relating to what may be
6 evidence in this case. Perhaps Rule 92*ter* is the most applicable
7 in the circumstances of this. However - and I don't spend a long
8 time because I recall that I submitted this to your Honour two
9 days ago - there is no agreement of the parties but --

10 JUSTICE DOHERTY: Mr Metzger, with respect, I asked you if
11 you had - you're reciting what you had already told me. I'm
12 asking is there anything new in relation to this one discrete
13 submission. Please do not repeat all you have said.

14 MR METZGER: I am merely submitting, your Honour, to - in
15 relation to the submission under what is 84*bis* of the ICTR, which
16 doesn't apply.

17 JUSTICE DOHERTY: You're saying 84*bis* does not apply.

18 MR METZGER: Your Honour, yes. And I'm simply referring
19 your Honour to 92*bis*, 92*ter* and 92*queta* reasons why it does not
20 apply in this case quite apart from the fact that the judges in
21 plenary session didn't see fit to introduce 84*bis* in the Special
22 Court for Sierra Leone.

23 JUSTICE DOHERTY: Thank you.

24 MR METZGER: And I that I was hoping - I was trying to, as
25 it were, explain the reasoning by looking at the relevant
26 sections, but perhaps, your Honour, that is a bridge too far.

27 JUSTICE DOHERTY: It is my intention to make a fuller
28 ruling on this objection and the issues that arise from it.

29 The issue that is before me is whether a statement of

1 Hassan Papa Bangura can be used in cross-examination. It is
2 essential that another issue, that is, the status of the
3 statement and, if it has a status, its weight, be treated as a
4 separate legal issue. Historically, this statement was filed on
5 30 May 2012, and therefore this Court is seized of it. It forms
6 part of the Court record as a document in the Court.

7 Mr Nicol-Wilson stated on behalf of his client, and I quote
8 from the record of 21 August 2012, At this stage his client would
9 rely on the statement annexed to the Defence pre-trial brief and
10 asked for more time. Therefore, even at that point there is a
11 question mark over the status of this document.

12 There were a series of questions put in cross-examination
13 before the objection I'm now dealing with. The statement that
14 was part of the Court record even before 21 August and before Mr
15 Kamara's evidence commenced. I consider, therefore, that as a
16 Court document its contents can be put in cross-examination. Its
17 status, its weight, and its - whether it's going to be admitted
18 as evidence under Rule 89 or the other Rules is not the issue
19 before me this morning. That issue has to be determined when
20 Mr Hassan Bangura decides whether he would be giving - he's given
21 time to know whether he will be calling other evidence, and I do
22 not either admit it or reject it at this stage.

23 Mr Herbst, you've already asked questions on the document.
24 By my very rough calculation, there were twelve questions asked.
25 Continue your cross-examination.

26 BRIMA BAZZY KAMARA

27 CONTINUING CROSS-EXAMINATION:

28 JUSTICE DOHERTY: Mr Herbst, just before you commence, Mr
29 Kamara, I want to remind you of your oath, that you have taken

1 the oath to tell the truth, and it is still binding on you. You
2 must answers questions truthfully. Did you hear and understand
3 what I said.

4 THE WITNESS: Thank you.

5 JUSTICE DOHERTY: Thank you, Mr Kamara.

6 Mr Herbst, please proceed.

7 MR HERBST: Thank you, your Honour.

8 Q. Mr Kamara, do you still have Mr Bangura's statement before
9 you?

10 A. Let me check. Yes.

11 Q. Okay. Before we broke for the day on Thursday, we were
12 looking at the bottom of page 2 of the statement. Would you take
13 a look at the bottom of page 2?

14 A. Yes.

15 Q. If you look at the last paragraph of that statement on page
16 2, Mr Bangura states that Mr Kargbo explained to the lawyer
17 Mr Mansaray when they went up to his office that 334 has
18 consented to recant his testimony, so Bazzy said he must seek his
19 legal advice on how to proceed. Do you see that there?

20 A. Yes.

21 Q. Now, first of all, did you tell Mr - did you tell
22 Mr Bangura and Mr Kargbo that 334 has consented to recant his
23 testimony?

24 A. Say again.

25 Q. Did you tell Mr Bangura and Mr Kargbo that 334 had
26 consented to recant his testimony?

27 JUSTICE DOHERTY: Mr Herbst, could you pause a moment,
28 please. There's some question about the transcriber. I'm just
29 trying to hear what it is. Could you please pause. Mr Court

1 Officer, is there a problem?

2 THE COURT OFFICER: We're are not hearing the interpreter
3 in English.

4 JUSTICE DOHERTY: I see. This is in relation to
5 Mr Kamara's reply.

6 Mr Interpreter and the persons in the interpreters' booth,
7 can we be advised if you are, in fact, able to interpret Mr
8 Kamara's reply.

9 [Technical difficulties]

10 THE COURT OFFICER: Your Honour, the technicians are
11 suggesting that you possibly rise so they can have some time to
12 work on this problem.

13 JUSTICE DOHERTY: Let us just - we've been in Court now an
14 hour and a quarter and we haven't even got one question done. I
15 know that's not entirely the fault of any particular technician
16 and I don't imply it is, but I'm going to wait a little bit and
17 try, rather than spread us all out.

18 THE COURT OFFICER: They are advised, your Honour,
19 thank you.

20 JUSTICE DOHERTY: Counsel, if the light of all of these
21 breakdowns [microphone not activated] I'm considering asking
22 Kigali if they can take their three-quarters-of-an-hour lunch
23 break a bit early. Mr Court Officer, can you call your
24 counterpart in Kigali and say in light of the fact that nobody is
25 hearing anything, they should take their lunch break early. We
26 will adjourn for their three-quarters-of-an-hour lunch break now
27 and resume at 11.15 our time and 1.15 their time.

28 In the light of these protracted breakdowns in recording
29 and trans-submission and particularly transmission of

1 interpretations, we will take the three-quarters-of-an-hour
2 Kigali lunchtime break early. We will resume at 11.20 Freetown
3 time and 1320 Kigali time to allow the technicians to --

4 Chief Taku, you wished to say something?

5 CHIEF TAKU: Your Honour, I wish to take the opportunity to
6 say that we're prepared to remain here as long as you want, but
7 we just wanted to know if there's an indication so we can inform
8 transport.

9 JUSTICE DOHERTY: I see. Can counsel come and see me in
10 chambers and we'll try and get some communication with Kigali
11 counsel as well. Kigali counsel, can you have some sort of
12 discussion how we can communicate with you in camera and I will
13 then set a time to have this in chambers.

14 CHIEF TAKU: Thank you, your Honour.

15 JUSTICE DOHERTY: If Kigali can inform me when we return.

16 MR NICOL-WILSON: Your Honour, just one brief matter before
17 we adjourn. This morning I did not mention the names of the
18 legal assistants. They are Joseph Sesay and Alpha Bah.

19 JUSTICE DOHERTY: Mr Sesay and Mr Bah are welcome to the
20 Court. I think this is their first appearance, so they are
21 welcome to the Court. We've now crept up to 22 minutes past the
22 hour, Mr Metzger. Get your full 45 minutes. Please adjourn
23 Court until 22 minutes past the hour.

24 [The Court adjourned at 10.38 a.m.]

25 [Upon resuming at 11.43 a.m.]

26 JUSTICE DOHERTY: Can I first of all note that we've had a
27 continued delay because of the - sorry. Chief Taku.

28 CHIEF TAKU: I'm just so sorry, your Honour.

29 JUSTICE DOHERTY: That's quite all right. None of us knew

1 where we were.

2 Just to put on record that we were delayed in restarting
3 because of the continued technical difficulties in both the
4 interpretation being transmitted and the evidence coming in from
5 Kigali. I understand it's now been rectified, and we will try
6 and make up some time.

7 Can Kigali hear me? Mr Herbst, I see you and counsel. Can
8 you hear me?

9 MR HERBST: Yes, your Honour.

10 JUSTICE DOHERTY: Sorry, did you speak? I saw you speaking
11 but I didn't hear.

12 MR HERBST: Yes, your Honour, I did speak. I did hear you.
13 If you can't hear me, then we have a continuing problem.

14 JUSTICE DOHERTY: I can actually hear but it's faint. We
15 will now start again.

16 And Mr Herbst, you were about to put a question to the
17 witness.

18 Mr Kamara, please listen to the question and answer it.

19 MR HERBST: I'm sorry, your Honour, but my recollection is
20 that when we last had a serviceable link it was unclear whether
21 the prior questions and answer had actually been transcribed and
22 translated. So that's where I think we left off. I'm unsure
23 whether any of the questions were actually heard and
24 translated --

25 JUSTICE DOHERTY: Mr Herbst, none of the questions were
26 actually recorded by me, and I would guess therefore not by other
27 counsel, and you were about to put a question. We broke because
28 we discovered Mr Kamara did not hear the ruling in Krio and as a
29 result, I have no recorded question from you, and obviously none

1 from - no answer. So I would suggest you start with the
2 questions you have put.

3 MR HERBST: I thank the Court.

4 Q. Mr Kamara, when we broke on Thursday, we were discussing
5 the second page - material on the second page of Mr Bangura's
6 statement; do you remember that?

7 A. Yes.

8 Q. And you have the - that second page of the statement in
9 front of you now; is that right?

10 A. Yes.

11 Q. At the bottom of page 2 of the statement, Mr Bangura states
12 that Mr Kargbo explained to the lawyer Mr Mansaray that 334 has
13 consented to recant his testimony. So Bazzy, you, said he must
14 seek his legal advice on how to proceed. Do you see that in the
15 statement?

16 A. Yes.

17 Q. Did you tell Mr Bangura that 334 has consented to recant
18 his testimony?

19 A. No.

20 Q. Did you tell Mr Kargbo that 334 has consented to recant his
21 testimony?

22 A. No.

23 Q. Did Mr Bangura tell you that 334 had consented to recant
24 his testimony?

25 A. No.

26 Q. Did Mr Kargbo tell you that 334 had consented to recant his
27 testimony?

28 A. No.

29 Q. I put it to you, Mr Kamara, that you must have discussed

1 with Mr Kargbo and/or Mr Bangura the subject of 334 recanting his
2 testimony; isn't that true?

3 A. I am putting it to you too I spoke to him once, and I never
4 spoke to him again. We never spoke about 334 recanting his
5 testimony. That's a big lie.

6 JUSTICE DOHERTY: Mr Kamara, two people were referred to in
7 that question: Bangura and Kargbo. When you say, "I never spoke
8 to him again," who are you talking about?

9 THE WITNESS: Kargbo, the one he is asking me about.

10 JUSTICE DOHERTY: Continue, Mr Herbst.

11 MR HERBST: I can't speak any louder.

12 JUSTICE DOHERTY: I can hear you very clearly, Mr Herbst.

13 Thank you, your Honour. I was just asked to speak louder,
14 your Honour, and I have to confess that I really can't speak any
15 louder than I am now without straining my voice. And I apologise
16 to all concerned in Freetown. But I'm really, really speaking --

17 JUSTICE DOHERTY: I can hear you very clearly, and if
18 there's a problem with the interpreters, I'm sure they will tell
19 me. Please keep going.

20 MR HERBST: I thank the Court. To make sure we're clear,
21 Mr Kamara, let me put the question to you with respect to
22 Mr Bangura.

23 Q. Did you ever discuss the subject of 334 recanting his
24 testimony with Mr Bangura?

25 A. No.

26 Q. Did you ever tell Mr Bangura to go to Mr Mansaray to seek
27 his legal advice as to how to proceed with respect to 334
28 recanting his testimony?

29 A. I think you've asked me that question, but I can still

1 answer you: No.

2 Q. And the same question with Mr Kargbo: Did you ask him or
3 tell him to go to the lawyer Mr Mansaray to seek his legal advice
4 on how to proceed on that subject, that is, the subject of 334
5 recanting his testimony?

6 A. The man is asking me one question twice.

7 MR SERRY-KAMAL: The witness is complaining he's been asked
8 the same question several times over.

9 JUSTICE DOHERTY: The question is on the record. It's been
10 answered. I sought clarification. It's been answered.

11 MR HERBST:

12 Q. Mr Kamara, can you explain how Mr Kargbo and Mr Bangura
13 ended up in Mr Mansaray's office seeking legal advice on the
14 subject of 334 recanting his testimony, if you didn't tell them
15 to go there?

16 A. I have told you that --

17 THE INTERPRETER: Your Honour, the line is breaking in
18 seriously. I can't hear a thing he's saying.

19 JUSTICE DOHERTY: Mr Kamara, please get closer to the
20 microphone and repeat your answer. If our technical assistants
21 in Kigali can also check that the line is clear from Mr Kamara's
22 microphone.

23 THE WITNESS: I am very close to the microphone.

24 JUSTICE DOHERTY: Thank you, Mr Kamara. That's good.
25 We'll now find if there's some technical assistance we can have.

26 MR HERBST: Your Honour, perhaps if Mr Kamara would repeat
27 his answer and we'll see if it's heard.

28 JUSTICE DOHERTY: Yes, we'll try that.

29 Mr Kamara, please repeat your answer. You started off

1 saying, "I told you that," and Mr Interpreter will listen and
2 tell us if he can hear.

3 THE WITNESS: I have told you that Mr Mansaray has never
4 been my lawyer, and I don't have any right to send any person to
5 Mr Mansaray about a Court proceeding. For any Court case, I
6 have, Mr Fofana - Momoh Fofana, who was representing me. He's my
7 lawyer that I had at that time.

8 MR HERBST:

9 Q. I think you testified earlier, either on direct examination
10 or cross-examination, that it was your understanding that
11 Mr Mansaray had at one time been Mr Tamba Brima's lawyer; is that
12 correct?

13 A. Yes, I said that.

14 Q. Did you discuss with Mr Tamba Brima sending either
15 Mr Bangura or Mr Kargbo or both to Mr Mansaray to seek legal
16 advice?

17 A. Mr Brima and I never spoke about that.

18 And is it your testimony that neither Mr Kargbo nor
19 Mr Bangura ever communicated to you the fact that they had gone
20 up and talked to Mr --

21 JUSTICE DOHERTY: Mr Herbst, please - you've got two
22 questions in one. Please take them one at a time.

23 MR HERBST:

24 Q. Is it your testimony that Mr Kargbo never told you that he
25 had gone up to see Mr Mansaray?

26 A. I spoke with Mr Kargbo once. No, we never spoke about
27 that. We only spoke once.

28 Q. And is it your testimony that Mr Bangura never told you
29 that he had gone to see Mr Mansaray?

1 A. No. Mr Bangura and I never spoke about that.

2 Q. I would like to direct your attention to a paragraph
3 further up on page 2 of the statement right under the heading
4 "Witness TF1-334"; do you see that?

5 A. Yes.

6 Q. And Mr Bangura states in there that he met 334 during the
7 AFRC days in 1997 and has been his friend since then; do you see
8 that?

9 A. Say that again.

10 Q. In the first sentence of - in the first sentence of the
11 first paragraph under the heading "Witness TF1-334", Mr Bangura
12 says that he first met 334 during the AFRC days in 1997 and has
13 been his friend since then, that is, he and 334 have been friends
14 since then. Do you see that?

15 A. Yes, I've seen it in the document.

16 Q. In November 2010, did you know that to be true?

17 A. Say that again.

18 Q. In November 2010, did you know that Mr Bangura and 334 had
19 known each other since 1997 and had been friends since 1997?

20 A. No, I don't know that.

21 Q. In the next sentence, Mr Bangura says that 334 was his
22 driver in Freetown in 1998 and was a member of the army; do you
23 see that?

24 A. Yes, I've seen it in the statement.

25 Q. In November 2010, did you know that 334 was Mr Bangura's
26 driver in Freetown in 1998 and was a member of the Sierra Leone
27 Army?

28 A. No, I didn't know that.

29 Q. Mr Bangura goes on to state that upon their retreat from

1 Freetown, 334 accompanied him into the jungle; do you see that?

2 A. Yes, I've seen it in the statement.

3 Q. In November 2010, did you know that 334 accompanied
4 Mr Bangura into the jungle upon their retreat from Freetown?

5 A. I saw him in the jungle, but I did not know if he went with
6 Mr Bangura.

7 Q. Did you see both of them in the jungle, both Mr Bangura and
8 334?

9 A. I saw them in the jungle, yes.

10 Q. And are you telling this Court that you did not know that
11 Mr Bangura was 334's boss at that time?

12 A. Say that again.

13 Q. Is it your testimony in this case that you did not know
14 when you were in the jungle that - and you saw both of them in
15 the jungle, that Mr Bangura was 334's boss?

16 A. I knew that he was working under him in the jungle.

17 Q. I'm sorry. I didn't hear. You did know that or you did
18 not know that?

19 A. I have answered you. I said I saw him working under him in
20 the jungle.

21 Q. "Working over him in the jungle", did you say?

22 JUSTICE DOHERTY: "Working under him."

23 MR HERBST: Thank you.

24 MR METZGER: [Indiscernible] because she says it comes in
25 on the record below?

26 MR HERBST:

27 Q. Now, Mr Bangura, goes on --

28 JUSTICE DOHERTY: Can other co-counsel, please endeavour
29 not to be making comments on the side. It comes in on the

1 record.

2 Continue, Mr Herbst.

3 MR HERBST: Thank you very much, your Honour.

4 Q. Now, in the third paragraph under the heading "Witness
5 TF1-334", Mr Bangura says that 334 and he were released together
6 from prison in 2005; do you see that?

7 A. I've seen it in the documents.

8 Q. And did you know that they were released together in 2005?

9 A. I've seen it in a document. I did not know that they were
10 released together. I've only seen it now in the document.

11 Q. Now, Mr Bangura goes on to say that 334 and Mr Kargbo are
12 very good friends; do you see that in the third line of that
13 paragraph?

14 A. Yes, I've seen it in the documents.

15 Q. And did you know at least by November of 2010 that
16 Mr Kargbo and Mr Bangura - and 334 were very good friends?

17 A. I wouldn't know that. Those men and I are not in the same
18 class. I wouldn't know about that.

19 Q. Did you know that they had a friendship? Whether good or
20 not, whether close or not, did you know they were friends?

21 A. That's 2010. I was in Mpanga Prison.

22 Q. My question, Mr Kamara, is by 2010. By November 2010, did
23 you know? Had you learned at any time between 2005 and 2010 that
24 334 and Mr Kargbo were friends?

25 A. I don't know that, because I have told you that I don't
26 know about those men.

27 Q. Mr Bangura goes on to say in the last sentence of that
28 paragraph that the three of them, that is, Mr Bangura, Mr Kargbo,
29 and 334 used to hang out together at Sweissy; do you see that?

1 A. I've seen it in the document.

2 Q. You knew that too, did you not, Mr Kamara, by November
3 2010?

4 A. No, I don't know. Just that you are saying it now.

5 MR HERBST: May I just have one minute, your Honour?

6 JUSTICE DOHERTY: Yes, Mr Herbst.

7 MR HERBST:

8 Q. Mr Kargbo --

9 MR SERRY-KAMAL: Mr Kamara.

10 MR HERBST: Mr Kamara.

11 Q. And I apologise, Mr Kamara. Mr Kamara, I'm going to ask
12 you a series of questions about Exhibit P-14, the MTN records.
13 Do you have P-14 in front of you?

14 A. Yes.

15 Q. I want to direct your attention to page 25 of 39?

16 A. Yes, I have it in front of me.

17 Q. And about seven or eight numbers up from the bottom there
18 are two calls to your brother-in-law Keh-For-Keh at number
19 23276337395; do you see that?

20 A. Yes.

21 Q. [Microphone not activated] 19th, one on November 19 at 4.01
22 for 273 seconds and then--

23 A. The same date.

24 Q. Then the same date at 4.10. Then the second call on the
25 same date about 9 minutes later or 9 and a half minutes later for
26 654 seconds or about 11 minutes. Do you see that?

27 A. Yes.

28 Q. Now, I notice from the phone records that this appears for
29 the first time - at least as far as the phone records are

1 concerned - that you called your brother-in-law from November 1
2 to November 19.

3 So first let me ask you: You don't have any recollection
4 of call your brother-in-law from the prison in November 2010
5 before November 19, do you?

6 A. Say that again.

7 Q. Do you have any recollection of speaking to your
8 brother-in-law Keh-For-Keh at any time from November 1 to
9 November 18?

10 A. I only recall when I'm seeing these records. I talk to
11 that man at any time and at any hour.

12 Q. Well, are you telling us that during this period of time
13 you would speak to him every day? Every couple of days? How
14 often would you speak to him?

15 A. No, I did not say every day. When I have something
16 important to discuss with him, or if he calls me and says he
17 wants to talk to me. I do not call him every day because I won't
18 be able to talk to my family.

19 Q. I'm trying to find out from you, Mr Kamara, with what
20 frequency you called him in November 2010.

21 A. I have told you that even before November, I used to call
22 him frequently.

23 Q. And I'm trying to get an understanding from you, Mr Kamara,
24 what do you mean by "frequently"?

25 A. By "frequently" I mean, for instance, if I want to send him
26 somewhere or if he has a message for me, like, in a month maybe I
27 will talk to him twice or three times. That's what I mean by
28 "frequently". Sometimes it would happen - it will be after one
29 or two months without talking to him.

1 Q. Okay. So now that we understand that, I'm directing your
2 attention to this page of the phone records with these two calls.
3 Do you have a recollection of why you spoke to your
4 brother-in-law on November 19 for a total of about 15 minutes in
5 two calls made back to back? Do you have any recollection of why
6 you were speaking to him at that time?

7 A. Yes. I talked to him about problems that he's having with
8 my sister. That's one. I talked to him - because at times he
9 was at my house. He used to have problems with my mother, and I
10 used to talk to him. So I had different things that I was
11 discussing with that man.

12 Q. Can you relate to us in substance what you said to
13 Keh-For-Keh during these two calls and what he said to you?

14 A. Well, this call was at the time that he was having problems
15 with my family.

16 Q. Okay. And to the best of your recollection, what in
17 substance did you say to him during these two calls about the
18 problems that he was having, and what did he say to you?

19 A. If you go to my house now, you would see a small building,
20 an unfinished building, where my sister was trying to build a
21 shop. Keh-For-Keh said he was assisting her. So when there was
22 a problem between herself and Keh-For-Keh, Keh-For-Keh will come
23 to the house and want to quarrel. They will call me directly for
24 me to talk to Keh-For-Keh. Sometimes I would call him, but his
25 phone would be switched off and I wouldn't get him, and we
26 wouldn't be able to solve the problem.

27 Q. So it's your testimony that these calls related only to his
28 problems with your sister and not at all to your legal problems -
29 your petition for review or any other legal problems that you

1 had; is that correct?

2 A. Say that again?

3 Q. Is it your testimony here before this Court that these two
4 conversations that lasted about 15 minutes were solely about
5 Keh-For-Keh's problems with your sister and had nothing to do
6 with your own legal problems, petition for review, or otherwise?

7 A. First of all, I have told you that it's only when I saw
8 this record that I recalled these two calls that I made. I've
9 been used to calling Keh-For-Keh. We would talk for more than 15
10 minutes sometimes. This is just an example that I've given to
11 you that causes us to talk. But to talk about review,
12 Keh-For-Keh and I had nothing to talk about a review.

13 Q. Is it your testimony that you did not talk about a review
14 with any other member of your family?

15 A. I have a big family, so I'm wondering which one of them you
16 are talking about. I am a chief.

17 Q. Well, in November 2010 and around this time - around
18 November 19 or later, did you talk about your petition for review
19 with your sister?

20 A. No, my sisters are very young. We don't have time to talk
21 about my case now.

22 Q. I'm talking of the sister who is married to Keh-For-Keh.
23 Are we talking about the same sister?

24 A. Yes, she is my younger sister. That's what I mean. She's
25 small. Never mind that she's married to Keh-For-Keh. She's my
26 younger one. And she's not even married to Keh-For-Keh. They
27 are boyfriend and girlfriend. She just give birth to a child for
28 him.

29 Q. Thank you for that clarification. At around this time,

1 November 19th or earlier in November or later in November, did
2 you talk about your petition for review with your mother?

3 A. No, my mother is an old woman now.

4 Q. Well, with what family members did you discuss your review
5 in November 2010?

6 A. What review are you talking about? I don't have any plans
7 for review. No plan. I have not discussed anything about review
8 with anybody or any family member.

9 Q. Let me direct your attention to page 28 of 39, Mr
10 Kamara.

11 A. Yes.

12 Q. Do you have that before you?

13 A. Yes, I have it now.

14 Q. I'm directing your attention to the last four lines of that
15 page. You'll see two calls to Keh-For-Keh's cell phone. Do you
16 see them? One at 11.22, that's November 22 at 10.22 a.m., and
17 one at 10.57 about 35 minutes later on that same day, and that's
18 the second call. That's the call at the very bottom of the page.
19 Do you see those calls?

20 A. Yes, I've seen them.

21 Q. The first one is on 11 - the first call - withdrawn.

22 A. 10.22.

23 Q. [Overlapping speakers] of those two calls was for 436
24 seconds, which is about 7 minutes or so, and the second call was
25 a minute. Now, my first question is: Do you remember making
26 those two calls?

27 A. I have told you that Keh-For-Keh's number is one that I
28 call.

29 JUSTICE DOHERTY: Mr Kamara, that is not the answer to the

1 question. The question was precise: "Do you recall those
2 calls?"

3 THE WITNESS: Say that again, your Honour.

4 JUSTICE DOHERTY: You were asked about those two particular
5 calls. You said, "I told you I called him often." That's not
6 directed to the two particular calls.

7 THE WITNESS: Well, I'm answering the question,
8 your Honour. I am telling --

9 THE INTERPRETER: Your Honour, can he take the answer again
10 slowly.

11 JUSTICE DOHERTY: Thank you, Mr Interpreter.

12 Mr Herbst, put the question again, please, and let's see
13 how it's answered.

14 MR HERBST: Thank you, your Honour.

15 Q. Mr Kamara, do you remember making these two calls?

16 A. Yes, I can recall because the Keh-For-Keh's number.

17 Q. What, in substance, did you say to Keh-For-Keh in the first
18 of those two calls at 10.22 a.m. and what, in substance, did he
19 say to you?

20 A. I used to call Keh-For-Keh, like I told you. Sometimes
21 I'll send him somewhere. I have different things that I send
22 Keh-For-Keh on, but this is 2010. This is 2010, and now we're in
23 2012. I can't recall everything that I spoke with Keh-For-Keh
24 about.

25 Q. Well, I'm not asking you to recall everything you spoke to
26 him about. I'm asking you whether you recall anything
27 particularly that you said to him in this conversation?

28 A. That's what I said. I can't recall.

29 Q. What about the second call; do you remember that one, or

1 why you made a second call to him a half hour later?

2 MR METZGER: I'm sorry. May I ask for Mr Kargbo to be
3 released for convenience purposes?

4 JUSTICE DOHERTY: Yes, certainly, Mr Metzger, he may be
5 escorted out.

6 MR METZGER: Thank you, your Honour.

7 THE WITNESS: I'm telling you, Mr Herbst or whatever, I
8 can't recall since 2010 to now. I can't recall. If you go
9 through the transcripts - all the transcripts that you've given
10 to me, you will see that - you will find Keh-For-Keh's number
11 appearing many times. Since I came here in 2009, I can't get
12 those transcripts, but you will see Keh-For-Keh's number there.

13 MR HERBST:

14 Q. Mr Kamara, the reason I'm asking about these calls is
15 because I didn't see any calls up until November 19. But
16 beginning November 19 I see a significant number of calls with
17 greater frequency, and I'm asking you whether you have any
18 recollection of the calls or why you made the calls. That's what
19 I'm asking.

20 MR SERRY-KAMAL: Your Honour, the witness has answered that
21 he cannot recall and that should be the end of that matter.

22 JUSTICE DOHERTY: It's a different question,
23 Mr Serry-Kamal. He was asking about specific calls. We're now
24 into a different arena. He's now asking - drawing a distinction
25 between the period prior to November 2010 and after.

26 I allow the question.

27 MR SERRY-KAMAL: Your Honour, the witness did say that he
28 cannot recall what he discussed on this occasion.

29 JUSTICE DOHERTY: Mr Serry-Kamal, I have said that this -

1 why were there no calls before November 2010 and why were there
2 calls after. That is not - the answer you are putting forward, I
3 don't recall about that subject matter, is not directed.

4 I allow the question.

5 MR SERRY-KAMAL: Your Honour, I'll just make this point.
6 The witness has said that for the records 2009 you will see I
7 made a lot of calls to Keh-For-Keh. That is what he said here.
8 He said I do not recall what I said on this occasion, but I made
9 so many calls to him. If you look at the records, you will see
10 it.

11 MR METZGER: And our records start November 1.

12 MR HERBST: Can I put the question I was intending to put
13 to the witness?

14 JUSTICE DOHERTY: Put the question again.

15 MR HERBST:

16 Q. Mr Kamara, can you explain why these records for November
17 2010 contain no calls from you to Keh-For-Keh until November
18 19th, and thereafter they reflect calls with a much greater
19 frequency than the two or three calls per month that you earlier
20 testified to. Can you explain that?

21 MR SERRY-KAMAL: Your Honour, there's two questions.

22 MR HERBST: I don't believe there were two questions.

23 JUSTICE DOHERTY: What are the two questions,

24 Mr Serry-Kamal?

25 MR SERRY-KAMAL: Perhaps my learned friend can rephrase his
26 question.

27 JUSTICE DOHERTY: I asked you which are the two questions?
28 You raised the objection. I don't see the two questions.

29 MR SERRY-KAMAL: I withdraw my objection.

1 JUSTICE DOHERTY: Thank you, Mr Serry-Kamal.

2 Put the question again. Mr Herbst, please put the question
3 again.

4 MR HERBST: Yes, I will try to do that, your Honour.

5 Q. Mr Kamara, can you explain why the telephone records for
6 November 2010 do not contain any calls from you to Keh-For-Keh
7 from November 1 to November 19th, but thereafter it reflects
8 calls with greater frequency than the two or three calls a month
9 that you earlier testified to on average?

10 A. Thank you very much. If you check, since we came here,
11 2009, records that MTN has you will see Keh-For-Keh's number. So
12 if it's more than one month or two months without me talking to
13 Keh-For-Keh, then I'd talk to him after two months, maybe I have
14 something important to discuss with him. That's why I call him.

15 Q. Now, if you would look at P - I think it's 15, the blue
16 book. If the Court Officer to assist us in directing you to the
17 fifth page, which begins 22/11 at 1831 hours. Oh, I'm sorry.
18 I'm going to ask you to go back one page, the fourth page.

19 [Clari fication about pages]

20 JUSTICE DOHERTY: I hear several voices talking about
21 pages. Which one are we talking about, Mr Herbst?

22 MR HERBST: Your Honour, it's the fourth page in your book.
23 It's the page that begins with the call at 21/11/20 10 and the
24 name Alex Bri ma.

25 JUSTICE DOHERTY: Thank you, I have it before me.

26 MR HERBST:

27 Q. Mr Kamara, do you have that before you?

28 A. Yes.

29 Q. Now, I notice at the time of these calls, that is, 11/22

1 between 10.22 and 11 a.m. you're not listed as having made calls
2 during that time. You have a - you're listed as having made a
3 call at 9.10 a.m. Mr Brima is listed as having made a call at
4 9.35, and then Mr Kanu is listed as making a call or calls at
5 11.37 or 57. And the number for Keh-For-Keh is also not listed
6 there. Can you explain how you made those two calls and didn't
7 make a record of the calls in your book - in this logbook?

8 A. Yes, I can explain to you. When you look at the page, you
9 will see that they booked Fofana 08 hours a.m. Because we have
10 one mobile phone. When Mr Fofana finished calling, then I
11 called. Then you will see the number that was registered
12 belonged to my wife. So I'm taking attention back. We don't do
13 the records. We only sign. I think this question is meant for
14 the officers.

15 Q. Okay. Would you look at page 30 of 39, two pages further
16 in P-14, the MTN record.

17 A. 30 of 39.

18 Q. Perhaps the Court Officer might assist. Page 30 of 39.

19 A. Yes.

20 Q. Around the middle of page there's a call to Keh-For-Keh's
21 phone on - this is 11/23 -this is the next day now, one day after
22 the calls we were last discussing - at 12.28 p.m. Do you see
23 that?

24 A. Yes.

25 Q. Do you have any recollection of why you made that call?

26 A. No, I can tell you that I made the call. But I can't tell
27 you what we discussed at that time because it's taken a long time
28 since 2010.

29 Q. And if you look at the next page, that is the fifth page in

1 the blue book - in the logbook - prison logbook, P-15 - perhaps
2 the Court Officer could help us out - you'll see that's the page
3 for the date and time of this call.

4 A. Uh-huh.

5 Q. And again this call is not recorded in the log; am I
6 correct?

7 A. Which call are you talking about? This 23 - this 2003?

8 Q. No, it's the call that we just talked about on page 30 of
9 39 to Mr Keh-For-Keh at 12.28 p.m. on 11/23.

10 A. Yes. I don't make - I do not write in this book. I do not
11 write in this book. I only sign in this book.

12 Q. Okay. By the way, if you look at the third line of this
13 book, where it says your name Bazzy Kamara and it has calling
14 your mother, 11.02; do you see that?

15 A. Yes.

16 Q. And then it has a number on that - on that line that is
17 775552389; do you see that?

18 A. Yes.

19 Q. Then it has a signature --

20 A. Yes.

21 Q. -- on that line. It looks like the first letter is S; do
22 you see that?

23 A. Sorry? Say that again.

24 Q. The signature on that line just above your signature, do
25 you see it?

26 A. Yes.

27 Q. Whose signature is that?

28 A. No, I cannot tell you. But after my name - but before my
29 name there is Morris Kallon and after my name you have Alex

1 Brima. You will see that the officers who do the entry - the
2 entry of the calls made that mistake. The call --

3 THE INTERPRETER: Your Honour, can he take this part of the
4 answer very slowly? The line is breaking up.

5 JUSTICE DOHERTY: Mr Kamara, the interpreter is having a
6 problem hearing you clearly. Repeat the last part of your answer
7 slowly. You have said that - referred to Kallon and Brima's
8 signature and you said the officer has to - continue from there.

9 THE WITNESS: Yes. Thank you, your Honour. Yes. What I'm
10 trying to explain to this man, you would see Morris Kallon on the
11 first line, okay? After Morris Kallon, there is my name. My
12 mother that I called, her name is - her name was registered down.
13 My mother's number right down, and that is where I have my
14 signature, just close to my mother's number. I do not know who
15 signed there.

16 Q. Let me see if I can help you, Mr Kamara.

17 A. Yes, sir.

18 Q. The first signature at the top of the page, whose signature
19 is that?

20 A. I don't know.

21 Q. Now, you mentioned - all right. Now, the second one you
22 said there was a Morris Kallon walked in. The second signature
23 is Mr Kallon's, isn't it?

24 A. I don't know, Mr Herbst.

25 Q. Okay. Now, there's a signature between that second one and
26 the fourth one which is yours. That third signature belongs to
27 Mr Kanu; isn't that right?

28 MR METZGER: Objection, your Honour. He is asking the
29 witness to [overlapping speakers] --

1 JUSTICE DOHERTY: Just a moment, Mr Metzger. Mr Metzger,
2 please pause.

3 MR METZGER: [Overlapping speakers] -- don't have a
4 handwriting expert --

5 JUSTICE DOHERTY: Mr Metzger, please pause. We have to
6 change the tape. Would all parties and witness please wait until
7 the tape is changed.

8 Thank you. We can now proceed. The tape is in place.

9 Mr Metzger, I just do not understand why you are
10 interfering in the cross-examination of a witness who you do not
11 represent. Please desist from this.

12 Mr Herbst, you asked a question.

13 MR METZGER: Will your Honour hear me? I am making an
14 objection based on my representation of Mr Kanu. Mr Kanu has
15 applied to this Court, to your Honour, for permission to get a
16 handwriting expert. That has been turned down on objection by
17 the Prosecution.

18 When Mr Kanu goes into the witness box, the prosecutor is
19 entitled to ask him about any signature he likes relating to him.
20 But he is not entitled, in my respectful submission, to ask other
21 witnesses about handwriting evidence about opinions on --

22 JUSTICE DOHERTY: He has not put your client's name in any
23 question relating to any handwriting.

24 MR METZGER: He did, your Honour.

25 JUSTICE DOHERTY: He did not. The witness said - he asked
26 if the second is Kallon. The witness said he did not know, and I
27 have not heard another question can since that time.

28 Mr Herbst, what is your question? If it relates to Kanu I
29 will entertain the objection. If it does not relate to Kanu, I

1 will not entertain it.

2 MR HERBST: Your Honour, it does. The question that I
3 would like to ask the witness is with respect to the third
4 signature, the one between Mr Kallon's and his, which he
5 testified is the fourth one. There's a signature, and I did ask
6 him whether he recognised that as Mr Kanu's signature and that's
7 what caused the objection.

8 JUSTICE DOHERTY: I'm not allowing the question because it
9 relates to another accused. Proceed.

10 MR SERRY-KAMAL: May I object that he's being asked to give
11 expert evidence.

12 JUSTICE DOHERTY: I beg your pardon, Mr Serry-Kamal? Say
13 that again, please. I didn't quite understand it.

14 MR SERRY-KAMAL: [Microphone not activated] expert evidence
15 about signatures - Mr Kanu's signature and my witness is not an
16 expert.

17 JUSTICE DOHERTY: I've already ruled on the question.

18 MR SERRY-KAMAL: Thank you very much, your Honour.

19 MR HERBST: Your Honour doesn't want to hear my submission
20 as to why I think it's --

21 JUSTICE DOHERTY: Sorry, Mr Herbst. I should have
22 permitted you to respond. I apologise. What is your response?

23 MR HERBST: Your Honour, the witness has obviously had -
24 it's a matter of record, both in the documents and in the
25 witness's explanation for when and how signatures are applied.
26 It is apparent that over several years now the witness has been
27 present when he and Mr Kanu have been on the line and have been
28 together making calls, and he has obviously seen Mr Kanu sign the
29 book. I think it's appropriate to ask a lay witness whether he

1 knows Mr Kanu's signature and whether that is it. He can answer
2 yes, no, or I don't know, but I think it's an appropriate
3 question to ask, and that's my submission. But of course --

4 JUSTICE DOHERTY: Mr Herbst, if you had laid that
5 foundation indicating that the witness knew the signature and he
6 was not giving an answer with such a foundation, I would have
7 reconsidered this objection. But there was no such foundation
8 laid. If you wish to lay foundation in a different way and
9 approach it in a different manner as you have indicated, then I
10 will allow that line of questioning and when it comes to the next
11 question, I will be able to decide if there is sufficient
12 foundation. But there was none when you put it.

13 MR HERBST: I thank the Court.

14 Q. Mr Kamara, you've been making calls at Mpanga Prison ever
15 since 2009, have you not?

16 A. Yes. Sure.

17 Q. And you've been putting your signature in the logbook since
18 2009, perhaps not every time you made a call but very often when
19 you've made calls; isn't that right?

20 A. Whenever I make calls, I sign.

21 Q. There have been frequent occasions in which you and Mr Kanu
22 have been together in the area where you've been making calls,
23 and you both have signed the book; isn't that correct?

24 A. Say that again.

25 Q. Isn't it true that there have been frequent occasions when
26 you and Mr Kanu have been in the same place at the same time
27 making calls where both of you have signed the book?

28 A. Talking to the same people, to the same person?

29 Q. No, not necessarily. My question does not depend on that.

1 My question is: Isn't it true that you have been in the presence
2 of Mr Kanu when Mr Kanu has made calls and Mr Kanu has been in
3 your presence when you have made calls; isn't that right?

4 A. No, everybody has his privacy. When Mr Kanu talks, he will
5 leave. Except if he wants me to talk to the person there, he
6 will say, "Bazzy, come and say hello to this person," that's all.
7 Everyone has his privacy.

8 Q. Is it your testimony that you've never seen Mr Kanu sign
9 his name in the book?

10 A. I didn't say that.

11 Q. Have you seen Mr Kanu sign his name in the book?

12 A. Yes, I've been present many times to see Mr Kanu sign.
13 Sometimes I'll be standing there when he's signing. He will seen
14 and leave.

15 Q. So you know - that is, you're familiar with Mr Kanu's
16 signature, isn't that right?

17 A. Yes, if I see Mr Kanu's signature, I'll be able to identify
18 it, that this is Mr Kanu who signed. I can tell you that.

19 MR HERBST: I'm sorry, your Honour. I couldn't tell from
20 the translation whether the witness just said with respect to
21 this signature that I asked him about, if that is Mr Kanu --

22 JUSTICE DOHERTY: [Overlapping speakers] no, he was
23 speaking generally. My understanding of the answer is he was
24 speaking generally, but possibly for purposes of clarity and
25 record, I will ask -

26 Mr Interpreter, do you recall the latter part of that
27 answer?

28 THE INTERPRETER: No, he has to repeat the answer.

29 JUSTICE DOHERTY: We will have the answer repeated. The

1 question, Mr Herbst, was whether the witness is familiar with
2 Mr Kanu's signature. Please put it again.

3 MR HERBST: Your Honour --

4 JUSTICE DOHERTY: I will put the question. I want to be
5 careful here.

6 Mr Kamara, you were asked a question if you are familiar
7 with Mr Kanu's signature. Can you please repeat your answer.

8 THE WITNESS: Let him ask me the question again.

9 JUSTICE DOHERTY: I just asked you the question, Mr Kamara.

10 Okay. Mr Herbst, go ahead.

11 MR HERBST:

12 Q. Mr Kamara, are you familiar with Mr Kanu's signature?

13 A. Yes, if Mr Kanu signs, I can tell you that this is
14 Mr Kanu's signature.

15 Q. Now, when you say - because I see you looking at this page
16 of the book, right, that I had asked you about before; is that
17 right?

18 A. You gave me the book to look into it.

19 Q. Just so the record is clear, when you said that is his
20 signature, were you referring to the --

21 MR METZGER: I object, your Honour. I have further
22 objection despite the groundwork that Mr Herbst has put. There
23 is the issue of fairness as between the Prosecution and the
24 Defence. I must object, because I assume that if allowed,
25 Mr Herbst will go through the book to whatever area he likes to
26 seek opinion evidence of Mr Kanu's handwriting. That cannot be
27 right where there is no handwriting expert called by the
28 Prosecution and where the Defence is not allowed to seek
29 assistance from a forensic expert in this regard. It is unfair,

1 and it continues to be unfair in all the circumstances, and the
2 Prosecution should not be allowed to seek opinion evidence on the
3 signature of Mr Kanu.

4 MR HERBST: Your Honour, that is not a new objection, and
5 it is meritless because it does not take - if someone has
6 testified, as this witness has, that he is familiar with the
7 signature of a person that he has been with for three years, it
8 is absolutely appropriate to ask a lay witness if that is or is
9 not the signature that he is familiar with. That is my
10 submission to the Court in response to the objection.

11 MR NICOL-WILSON: Your Honour, Mr Bangura wants to be
12 excused for a few minutes.

13 JUSTICE DOHERTY: Counsel for Kanu objects to a question
14 put to this witness in which he was invited to look at an entry
15 and say whose signature it was in it. Counsel says that the
16 issue is one of fairness, as the Prosecution is seeking opinion
17 evidence and the Defence was refused an application to appoint a
18 handwriting expert.

19 The motion in question, document 42, filed on 3rd of August
20 2012, is an application to, I quote, "instruct and call a
21 forensic document and handwriting expert in order to rebut the
22 evidence of Mr Sengabo." I quote from page 1, paragraph 4.

23 This witness is not Sengabo. This witness has said, I
24 quote, he could tell if the signature he was referred to - which
25 was a signature of 23 November - was Kanu's because he was
26 present when Kanu signed, I quote, "many times" and can see and
27 tell of Kanu's - if it is Kanu's signature.

28 An expert offering an opinion can come from their expertise
29 and training. It can come from experience. The witness does not

1 purport to be an expert, certainly he has not been asked if he is
2 one, but he has experience. In this I refer to the decision in
3 the AFRC trial concerning the evidence of Zainab Bangura where
4 certain classes of knowledge and experienced were recognised
5 before opinions could be given. In the circumstances of the
6 answers given by this witness, I permit this question.

7 MR METZGER: Make note - it is noted on the record, I
8 trust, that the application that was made in relation to
9 rebutting the evidence of Mr Sengabo has nothing to do with the
10 situation that is currently before the Court. It's all about the
11 Prosecution seeking unfairly whilst the Defence is shackled and
12 manacled to get evidence - to bring evidence in that is --

13 JUSTICE DOHERTY: Mr Metzger, are you trying yet again to
14 go behind a ruling?

15 MR METZGER: I have nothing further to say. The
16 Prosecution seems to succeed in doing so.

17 JUSTICE DOHERTY: I object strongly to that observation
18 which implies bias.

19 MR HERBST: I join in that objection. I think that is
20 wholly uncalled for and it's completely without bases. When the
21 record is examined, that is a low blow and a foul charge, and I
22 would urge my learned friend to take it back. It is not
23 [i ndi scerni bl e].

24 MR METZGER: The record will show, your Honour, that in the
25 last 20 minutes are so, having made a successful application to
26 your Honour, the Prosecution asked your Honour to revisit the
27 matter and brought it from a different angle. Effectively, that
28 asked your Honour to go behind a ruling and your Honour did. And
29 in --

1 JUSTICE DOHERTY: Mr Metzger, I regrettably did not permit
2 Mr Herbst to make his response. He was entitled to complain
3 about partiality. I allowed him to respond in the same way as
4 I've allowed you to respond. We will move on and - but all of
5 your complaint is obviously on record.

6 Put the question.

7 MR METZGER: I don't mean to offend anyone. In the
8 circumstances, I limit that to which I have complained of to the
9 situation which I have enunciated now rather than any other
10 situation.

11 JUSTICE DOHERTY: Well, I'm glad you do because it
12 certainly didn't come across that way to me. And I well recall
13 making rulings against the Prosecution.

14 Put your question.

15 MR HERBST:

16 Q. Mr Kamara, please look at that page. At the third
17 signature from the top, the one that's immediately above yours
18 between - you have the - do you know the one I'm speaking of?

19 A. Yes.

20 MR SERRY-KAMAL: That question has been put to the witness.

21 MR HERBST: I think he answered it in the affirmative, but
22 I want to make sure because the record is not clear.

23 MR METZGER: He did.

24 MR HERBST:

25 Q. Mr Kamara, is that Mr Kanu's signature?

26 A. I've answered this question twice.

27 JUSTICE DOHERTY: I'm sorry, Mr Kamara, but I didn't hear
28 your answer. I would therefore ask you to answer again. I did
29 not --

1 THE WITNESS: He has asked me this question twice and I've
2 answered it twice.

3 JUSTICE DOHERTY: Well, I'm ordering you now to answer it a
4 third time because I didn't hear the last two answers.
5 Otherwise, I would not direct you to answer it again.

6 THE WITNESS: So there is no record in this Court for us to
7 check the record? Ask the question again.

8 MR HERBST:

9 Q. The third signature on that page, the one right above
10 yours, which is the fourth signature on that page, is that not -
11 that is Mr Kanu's signature, is it not?

12 A. No.

13 Q. That's not Mr Kanu's signature? Go down to the line - the
14 eighth line on that page which reads from the left 23/11/2010,
15 and it has the name Santi gie Kanu. Do you see that?

16 A. Yes.

17 Q. Now, there's - in the right-hand corner there's a
18 signature. Do you see that signature?

19 A. Yes, I've seen it.

20 Q. Is that Mr Kanu's signature?

21 A. I doubt this one. I'm not sure. Mr Kanu signs with a big
22 S and he has his KH.

23 Q. Now, there's another signature between those two that I
24 asked about. And if you look under the first one I asked you
25 about, then comes yours, then the next one is Mr Brima's,
26 correct?

27 A. Yes.

28 Q. And then there's another one right below Mr Brima. That's
29 Mr Kanu's signature, is it not?

1 A. No, I don't think so.

2 THE INTERPRETER: Your Honour, can he repeat the answer
3 again? The line was breaking up.

4 THE WITNESS: You only sign when you make calls.

5 MR HERBST:

6 Q. Part of your last answer you pointed out that Mr Kanu's
7 name does not appear in the vicinity of that signature; is that
8 correct? It wasn't translated--

9 A. That is why I said I'm not sure if it is Mr Kanu's, because
10 I did not see a name. I just saw a signature.

11 Q. With respect to the third signature that I asked you about
12 first, also Mr Kanu's name is not listed, correct?

13 A. That is why I said I'm not sure that this signature is not
14 Mr Kanu's because I'm not seeing a name.

15 Q. But you one - the one I asked you about on the eighth line,
16 Mr Kanu's name is there - is written down there as the one who
17 made the call, correct?

18 A. Yes.

19 Q. But are you telling this Court that you're still not sure
20 that it's his signature, even though his name is there?

21 A. I will tell you - I can tell you that this is not Mr Kanu's
22 signature because I know Mr Kanu's signature.

23 Q. Going back to the MTN record, I now want to direct you to
24 page 32 of 39. On the fourth line of that page, there appears to
25 be another call to Keh-For-Keh.

26 MR SERRY-KAMAL: What page, sorry?

27 MR HERBST: Page 32 of 39.

28 THE WITNESS: 32 of 39.

29 MR HERBST: I'm sorry. Your Honour, I didn't get the

1 translation. I heard it but I didn't understand it.

2 THE WITNESS: I said, I have it in front of me now.

3 MR HERBST:

4 Q. I thank you. Do you see that fourth call to
5 Mr Keh-For-Keh's number?

6 A. The fourth call. The fourth call is Mr Keh-For-Keh's
7 number, the fourth call, one, two, three, four.

8 Q. Right. And that call was made on November 24th, 2010, one
9 day after the last Keh-For-Keh call that I mentioned - that I
10 asked you about at 3.39 p.m. for 131 seconds. That's a little
11 over 2 minutes; do you see that?

12 A. Yes.

13 Q. You made that call; is that correct?

14 A. Yes.

15 Q. Do you remember what you said to Mr Keh-For-Keh on that
16 call in substance and what he said to you?

17 A. No, I can't tell you now. I can't remember what we talked
18 about.

19 Q. And the next page on page 33 of 39, if you look at the
20 seventh line from the bottom of that page - let me know when you
21 have that in front of you.

22 A. Seven lines.

23 Q. Seven lines from the bottom, not from the top. There's a
24 call on 11/26/2010.

25 A. Yes.

26 Q. After the previous call that I [i ndi scerni ble] about?

27 A. Yes.

28 Q. At 1.34 p.m. for 320 seconds, or a little more than five
29 minutes; correct?

1 A. Yes.

2 Q. Can you tell us what you recall - first of all, did you
3 make that call?

4 A. Yes.

5 Q. Can you tell us what in substance you said to Keh-For-Keh,
6 and what he said to you during that call?

7 A. I can't be specific, right? But I can tell you that I made
8 this call. You can see that before that call, you will see my
9 mother's number, and after that you'll see Keh-For-Keh's number.
10 Okay? And I've told you --

11 THE INTERPRETER: Your Honour, can the witness kindly
12 repeat his answer slowly? The line is breaking up.

13 JUSTICE DOHERTY: Mr Kamara, the interpreter cannot hear
14 because of interference and other things. We would like you to
15 repeat your answer slowly, stopping at the end of each sentence.
16 You had said that before you see my mother's number. Please
17 continue from there.

18 THE WITNESS: Yes. I said, you will see my mother's number
19 before Keh-For-Keh's number down. I'm not quite certain about
20 the date, because it's taken a long time now. But I told you
21 that my mother and Keh-For-Keh and my sister, they were having
22 some petty problems, so I had to be on the line to talk to the
23 two parties, my Mummy and Keh-For-Keh. Those were the times.
24 But I can't tell you that this is the real date.

25 MR HERBST:

26 Q. Well, Mr Kamara, you never discussed the problems between
27 your sister and Keh-For-Keh with Mr Bangura, did you?

28 A. That's my family issue. I don't talk about it to another
29 friend, no.

1 Q. Okay. Now, let me point out to you that just before these
2 two calls - and by the way, there were - I'm sorry. I'm sorry,
3 Judge - your Honour. We were on page 33 of 39, correct? That's
4 what I was asking about, that call at 1.34.36, right? Okay.
5 Now, if you go - if you go to the next page, page 34 of 39?

6 A. Yes.

7 Q. You'll see on the second line there was the call to
8 Mr Bangura on the 26th at 3.05. That's just about an hour and a
9 half after the call to Keh-For-Keh on the previous page, right?

10 A. Yes.

11 Q. And then on the fourth and fifth lines there are two more
12 calls to Keh-For-Keh?

13 A. Yes.

14 Q. [Microphone not activated] 8 p.m. and one at 3.49 p.m.,
15 right?

16 A. Yes.

17 Q. And the 3.49 call lasted just a little more than ten
18 minutes, correct?

19 A. Yes.

20 Q. The call with Mr Bangura that lasted almost five minutes,
21 291 seconds, you weren't talking with Mr Bangura about your
22 sister's problems with Keh-For-Keh, were you?

23 A. What type of assistance?

24 Q. If I said assistance, I misspoke. You were not discussing
25 the problems between your sister and Keh-For-Keh with Mr Bangura
26 that day. You've already indicated that, right.

27 A. I have told you it is not that man who solves that problem.
28 I solve it. That man does not interfere with my family. My
29 family is my family problem.

1 Q. Okay. What were you talking to Keh-For-Keh about for ten
2 minutes on 26 November at - between 3.49 and 4 o'clock in the
3 afternoon? What were you talking about?

4 A. I have told you that Keh-For-Keh and my sister were having
5 problems. If you look for Keh-For-Keh's number, you will see it
6 right down and my Mammy's number. So I used to talk to the three
7 of them at the same time. Keh-For-Keh would take - hand his
8 phone to my sister and I would talk to her, and I would talk to
9 my Mammy on the same line. Sometimes it lasts for more than this
10 time, in fact.

11 Q. I put it to you, Mr Kamara, that you were discussing with
12 both Mr Bangura and your other family members your petition for
13 review and efforts to persuade insider witnesses like 334 to
14 recant their testimony?

15 A. You're talking about review. One of these days you are
16 talking about recant, so I don't really understand. I don't know
17 whom I'll talk to to come and talk about review or the other
18 language that you're using to come and change testimony. That's
19 a lie.

20 Q. Now, if you look at the seventh page of P15, which is, with
21 the Court Officer's kind assistance, at 12.19?

22 JUSTICE DOHERTY: Has the witness got the document in front
23 of him?

24 MR HERBST: I believe he does, your Honour.

25 Q. Mr Kamara, do you have that page before you that relates to
26 - it starts with calls on the 25th but then lists the calls on
27 the 26th all the way down to 5.53 p.m.; do you see that?

28 A. Yes.

29 Q. Okay. And you're listed as having made a call to

1 Keh-For-Keh at 1339 p.m., which corresponds to the call on page
2 33 of 39, and after that Mr Sesay and Mr Gbao and Mr Kanu are
3 recorded in the book as having made calls, and then you're
4 recorded again, but not until 4.50 p.m. as having made another
5 series of calls; do you see that? Looking at - Mr Kamara,
6 looking at the book [overlapping speakers]?

7 A. Yes.

8 Q. At that page of the book you see that you're listed as
9 having made one call to Keh-For-Keh at [indiscernible] p.m. Do
10 you see that call?

11 A. Yes.

12 Q. Then you're not listed again as having made any calls until
13 4.50 p.m. three lines down. Do you see that? You have to
14 answer?

15 A. Yes, I've seen it.

16 Q. And between your two calls - or series of calls, Mr Kanu is
17 listed as having made a call or having made one or two calls,
18 correct?

19 A. Yes, I've seen Mr Kanu's number.

20 Q. By the way, there's a signature next to Mr Kanu's numbers.
21 Are you able to recognise that signature and tell us whether
22 that's Mr Kanu's?

23 A. The signature next to Mr Kanu? The signature next to
24 Mr Kanu, the name that I see there is Mr Gbao.

25 Q. Well, do you see a sign that says 26/11/10 just above your
26 second entry on that page, about in the middle of the page?

27 A. Above mine [overlapping speakers].

28 Q. Do you see that?

29 A. Yes, I've seen it.

1 Q. All the way to the right there are two numbers written
2 there that appear to relate to Mr Kanu; is that right?

3 A. Yes, this is similar to Mr Kanu's signature.

4 Q. Okay. And then below his signature is yours, right?

5 A. Yes.

6 Q. [Overlapping speakers] to the call to your mother?

7 A. Yes.

8 Q. [Overlapping speakers]p 4.50 p.m., right?

9 A. Yes.

10 Q. But you two calls at 3.48 and 3.49 p.m. to Keh-For-Keh are
11 not listed?

12 A. This is not my problem, my friend. I do not do the entry.
13 I do not write the names. I only sign. You should ask
14 Mr Sengabo. I only sign. I signed against my mother - my
15 mother's number, Keh-For-Keh's number.

16 Q. You signed for the Keh-For-Keh number, the call at 1.39
17 p.m. but you didn't record the two Keh-For-Keh calls at 3.48 and
18 3.49 p.m., did you?

19 MR SERRY-KAMAL: Please, your Honour, the witness has said
20 that he does not record entries. To continue to put to him that
21 he records the entries is completely erroneous.

22 MR HERBST: I'll withdraw that question and move on. I'll
23 withdraw the question.

24 JUSTICE DOHERTY: Thank you. Proceed.

25 MR HERBST: [Overlapping speakers].

26 Q. Now, just before your second signature that I asked you
27 about before, Mr Kamara, take a look at the page, if you would?

28 A. Uh-huh.

29 Q. There is another signature below yours?

- 1 A. Say that again.
- 2 Q. You see your - your signature on - next to your mother's
3 number at 1650 p.m. Do you see your signature there?
- 4 A. Yes.
- 5 Q. Below your signature is another signature, do you see it?
6 Immediately below yours. The one that is immediately below
7 yours. Do you see that?
- 8 A. Yes.
- 9 Q. Whose signature ask that?
- 10 A. I don't know.
- 11 Q. [Overlapping speakers]?
- 12 A. No, I don't know. I can't see any name.
- 13 Q. I'm not asking you whether Mr Kanu's name is in the book.
14 I understand his name is not there [overlapping speakers]?
- 15 A. That's why I said I don't know. I can't tell.
- 16 Q. Now, the next call for Keh-For-Keh that's reflected in the
17 MTN records is on page 36 of 39?
- 18 A. 36 of 39. Yes.
- 19 Q. [Overlapping speakers] p.m., correct? Second line on the
20 page?
- 21 A. Yes. 1.30 p.m.
- 22 Q. Okay. And I take it you don't recall what the subject
23 matter of that call was or why you called Keh-For-Keh at that
24 time, correct?
- 25 A. That should prove to you that I called Keh-For-Keh most of
26 the time. I cannot remember all that Keh-For-Keh and I talked
27 about, no.
- 28 Q. All right. Now, take a look at 38 of 39, the bottom call -
29 the last call on the page?

1 A. Yes.

2 Q. That's to Keh-For-Keh made at 1.02 p.m. on 30 November,
3 right?

4 A. Yes.

5 Q. And then immediately following that call on the next page,
6 on 39 of 39, there are three calls to Mr Kargbo, right?

7 A. Sorry?

8 Q. There are - they top of 39 of 3 there are three calls to
9 Mr Kargbo, correct?

10 A. Yes.

11 Q. And then another call immediately after the last call to
12 Mr Kargbo to Keh-For-Keh at 1.54 p.m. on the 30th; do you see
13 that?

14 A. Yes.

15 Q. [Overlapping speakers] 30 second, correct?

16 A. Correct.

17 Q. All right. Now, the first call to Mr Keh-For-Keh and one
18 or two calls to Mr Kargbo, you do remember, correct? You
19 testified about them on direct examination, correct?

20 A. Sure.

21 Q. In great detail, correct?

22 A. What do you mean "in great detail"?

23 Q. You testified, if my recollection is correct, that
24 Keh-For-Keh called you - remember that testimony?

25 A. Yes, I can repeat that one for you.

26 Q. I'll take you back by step. And then you asked he asked
27 you to call him back, and you called him back. Right?

28 A. Sure.

29 Q. And then he told you - actually, he told you - it wasn't

1 clear to me whether or not that was on his call or your call,
2 that there were friends who wanted to talk to you and he told you
3 he was at Sweissy, remember? Am I right?

4 A. Yes.

5 Q. When he told you that some friends wanted to talk to you,
6 was that during the call that he made to you or during the call
7 that you made to him that's reflected on the bottom of page 38 of
8 39?

9 A. He called me and asked me to call him.

10 Q. Okay. So the call from him to you was very brief. He
11 basically just asked you to call him back; is that right? You
12 have to answer verbally.

13 A. I'm waiting for the translator.

14 Q. I'm sorry.

15 A. Uh-huh. Yes.

16 Q. And then - and then you called him back?

17 A. Yes, I called him back, but [overlapping speakers].

18 Q. [Microphone not activated] that he said I wanted to ask you
19 about your condition in Rwanda, correct?

20 A. No. Keh-For-Keh knew my condition. I had spoken with him
21 many times. It is not Keh-For-Keh who wanted to know my
22 condition. It's the friends who were with Keh-For-Keh. When I
23 talked to them, they asked me about my condition.

24 Q. All right. So when you called Keh-For-Keh back?

25 A. Uh-huh.

26 Q. What did you say to him or what did he say to you?

27 A. He said "Papay" - because that's what he usually calls me -
28 he said, "Some of your boys are here. They want to talk to you."

29 Q. I think the first one you asked who was there, right?

1 A. Sorry.

2 Q. You asked who was there, who he was with, right?

3 A. I asked him who.

4 Q. And you testified on direct that he said there were boys
5 there, and the first one he mentioned was Eddie, right?

6 A. Eddie, yes, Williams.

7 Q. You said, "Put him on the phone", right?

8 A. I said, "Give Eddie the phone." But at that time the line
9 was breaking up. The phone was breaking.

10 Q. So what did you do when you realised the phone was
11 breaking?

12 A. Then after Eddie who wanted to talk to me because I was not
13 getting him clearly, he passed phone to Sammy Ragga - to Sammy
14 Ragga, who said, "Call me on this number. Pa, we are not getting
15 you clearly. Call me on this number." I did not even know that
16 that was Sammy's number.

17 Q. Mr Kamara --

18 A. Yes, sir.

19 Q. -- when you testified on direct, you told us that the line
20 didn't start breaking up until you were speaking to Sammy Ragga.
21 Now you told us that the phone started to break up when you were
22 talking to Eddie. So which is it?

23 A. Well, maybe you did not understand what I said. Since I
24 was talking to Eddie, the phone was breaking up. Then they
25 passed the phone on to Sammy Ragga. The phone was still breaking
26 up, and they asked me to call them on this number. They called
27 out the number to me. Then I asked them to switch off their
28 phone and I'll call them back. Then I called them. It was Sammy
29 who received the call.

1 Q. Mr Kamara?

2 A. Yes, sir.

3 Q. When you testified on direct you told us Eddie was the
4 first one you spoke to.

5 A. Yes.

6 Q. And that he asked you your condition in prison?

7 A. Yes.

8 Q. And he said that they were praying for us and one day --

9 A. Yes.

10 Q. [Overlapping speakers] you would join them again?

11 A. Yes. Sure.

12 Q. Then you said that he passed the phone to somebody else,
13 not Sammy Ragga. Do you remember that testimony on direct?

14 A. Yes, I can explain. Ask me for me to explain to you, my
15 friend.

16 Q. Let me ask you this: After you spoke to Eddie - by the
17 way, did you say anything to Eddie?

18 A. Sorry?

19 Q. Did you say anything to Eddie when he asked about your
20 condition in prison and said that they - that he was going to
21 pray for you, did you say anything to him?

22 A. Yes. During that time, like I told you, the line was
23 breaking up. I talked to him.

24 Q. What did you say to him? Did you ask him anything? Did
25 you tell him anything? What did you say?

26 A. Yes, sure. Because that was the first time that I talked
27 to him after Pademba Road, because he was at Pademba Road.

28 Q. So if it was the first time that you had spoken to him
29 since Pademba Road, did you ask him how he was?

1 A. He asked me. He asked me first about my condition here,
2 and that they were praying for us. Then I asked him, "So you've
3 been freed. When did they set you free?"

4 Q. Did he tell you?

5 A. Yes, he told me. He said they released them together with
6 Bomb Blast.

7 Q. So he mentioned Mr Bangura's name?

8 A. Sure.

9 Q. What else did he say?

10 A. I cannot remember everything. I spoke to many of them, my
11 friend.

12 Q. Let's stick with Eddie first. I just want to make sure we
13 get on the record what you do remember saying to him and what he
14 said to you. Is there anything more than what you have just told
15 us that you actually remember?

16 A. I think I've given you one or two examples about what we
17 spoke about.

18 JUSTICE DOHERTY: Mr Herbst -- sorry, Mr Herbst, to break
19 up your cross-examination. I'm a little concerned about the
20 time, because we haven't had a break here after your break. I
21 know your break was a bit prolonged for reasons outside all our
22 control, nothing to do with anyone in Kigali or here. But I
23 think it's fair to give the people here a break now. Have you
24 many more questions in this line, or would this be a convenient
25 point?

26 MR HERBST: Well, your Honour, I guess - there are a fair
27 number of questions about the call which we've just started. I
28 realise that we've gone quite some time, and actually I was - I
29 didn't even want to mention a break because we've had such a good

1 technical experience.

2 JUSTICE DOHERTY: That's exactly why I didn't mention it
3 either.

4 MR HERBST: Right. But I will be guided by whatever
5 your Honour wishes to do. Do you think since it's about
6 [overlapping speakers].

7 JUSTICE DOHERTY: Please speak.

8 MR METZGER: [Indiscernible] anyway.

9 MR HERBST: How long a break was your Honour --

10 JUSTICE DOHERTY: Normally it's 45 minutes, but we were
11 very, very late resuming so I have in mind to at least 20 past 2
12 and that would give us an hour afterward. I have to be fair to
13 other detainees and other counsel. They are entitled to a break
14 as well, much as it's to be regretted in the light of the fact
15 that we've got a good connection.

16 MR HERBST: Right. Mr Metzger reminded me that there are
17 no - there are no eating facilities here today, so whatever
18 your Honour wants to do is fine. I would like to use the time
19 even if we can't get any food here, so if your Honour wants to
20 take a half hour, that's fine by me.

21 JUSTICE DOHERTY: Quite frankly, Mr Herbst, I'd like to sit
22 on, but I have one detainee and one person on remand and they
23 have as much a right as the people in Kigali to get their food
24 and I have to bear their entitlements in mind as well, as well as
25 counsel, counsel are also entitled to a break. We're going to
26 break until 20 past 2 with regret in view of the excellent
27 connection we've got. Please adjourn Court until 2.20.

28 [The Court adjourned at 1.50 p.m.]

29 [Upon resuming at 2.32 p.m.]

1 JUSTICE DOHERTY: Court is resumed. Mr Herbst? Can
2 someone explain to me who is in Kigali and who is not in Kigali?
3 Because I can't see anybody.

4 Mr Court Attendant, have you any information you can give
5 to us? We were ready 15 minutes later than we originally said
6 because we had been asked to defer to Kigali.

7 THE COURT OFFICER: Your Honour, I was only informed by the
8 Court Manager in Kigali that the lawyers needed 15 minutes more.
9 That was from the time that we were originally scheduled to come
10 into Court, which was 2.20. So she spoke to me a short while ago
11 and said up until that time the food that they had ordered had
12 still not arrived.

13 JUSTICE DOHERTY: Apparently, they are taking two breaks,
14 are they? I don't know. I'll ask them when they come in. I see
15 someone sitting. Is that Mr Kamara sitting in Kigali? No, it's
16 not.

17 THE COURT OFFICER: Is Mr Kamara the one seated there?
18 Mr Interpreter, can you find out if that's Mr Kamara and if he
19 can hear us.

20 JUSTICE DOHERTY: Mr Herbst, why is there no one in Kigali
21 when Court was adjourned until 20 past the hour? Can you explain
22 this to me, please? Mr Herbst, can you hear me?

23 Is there any connection with Kigali? Please check the
24 connection with Kigali.

25 Mr Herbst, I think I see you speaking. I see your light on
26 but I don't hear anything. Are you speaking? Do you hear me?
27 Do we know what's happening?

28 THE COURT OFFICER: I don't know, your Honour. We had such
29 a beautiful connection before. Can Kigali hear me? Our

1 technicians here think that it's possible that the others on that
2 side are not in their seats, and so they may have put the system
3 on mute, so that's why we can't hear any feedback. So we might
4 just have to wait until they all take their positions back.

5 JUSTICE DOHERTY: What was - Mr Court Attendant, you told
6 me that they wanted - at 20 past 2 they wanted another 15
7 minutes. Now that's 20 minutes ago.

8 THE COURT OFFICER: Yes, your Honour. That's exactly what
9 the Court Manager there told me. She, herself, just called me a
10 few minutes ago that she was rushing to the courtroom, and once
11 she gets in there, she would explain exactly what transpired.

12 JUSTICE DOHERTY: If you have a mobile number for her,
13 please call her again.

14 MR HERBST: Your Honour, can you hear me now?

15 JUSTICE DOHERTY: I can hear you now. I've been trying to
16 contact Kigali for the last ten minutes. I see you're in the
17 Court. Are you alone?

18 MR HERBST: Your Honour, I'm here with one of the
19 technicians and what has happened - I have to report now that I'm
20 having difficulty hearing through my headset. But if your Honour
21 can still hear me, what happened was that after we broke and we
22 confirmed that there was no food facilities here at the Court,
23 because it's Saturday and apparently no one came, we were advised
24 that there was a restaurant three minutes away that we could get
25 a very quick bite. So we went over there, and the people there
26 did confirm that they could serve us very quickly. So we went
27 down and ordered, and unfortunately the food did not come. It
28 took them about 15, 20 minutes to get the food. So we did call
29 up and ask for additional time, and then we spoke to the Court

1 Officer and asked for an additional ten minutes past 4.30, but
2 apparently from what I heard from your Honour, that request may
3 never have reached your Honour.

4 JUSTICE DOHERTY: Oh, he gave me the request, and I gave
5 them extra time, and it is now well over that time.

6 MR HERBST: Mr Serry-Kamal and Mr Metzger are just coming
7 into the courtroom, and I believe they will confirm that because
8 of the - of the fact that there was a much longer delay in
9 delivering the food, when it came we basically gulped it down as
10 fast as we could, and I was the fastest gulper. So I came back
11 to try to advise the Court what was going on, and I apparently
12 could not communicate with the other, although I could hear the
13 Court. So I apologise on behalf of all. We did try to get an
14 additional ten minutes past 4.30, but we're all apologetic for
15 the additional delay that has caused everybody. But we were all
16 working in good faith to try to get here as quickly as possible.

17 JUSTICE DOHERTY: What is not clear from any of this is why
18 in the break that was given for the Kigali lunchtime of three
19 quarters of an hour, which became extended to about an hour and
20 ten or 20 minutes, it wasn't done then. Why was the official
21 break for Kigali not used?

22 MR METZGER: My apologies. We have a cleaning Saturday in
23 Kigali, which means that nowhere was open during the whole of the
24 extended earlier break we had. There's no food on the premises,
25 no food on the street anywhere. And we did send people out to
26 reconnoitre the area and up and down the side streets from here
27 there was absolutely no food available we were told, and that is
28 why we couldn't have had lunch at that time. My apologies.

29 MR HERBST: And your Honour, just to amplify that, when

1 Mr Metzger speaks of the cleaning, what he means is that the
2 entire population of the city of Kigali were in their homes or
3 places of business. When we arrived and came through the
4 streets, there was literally hardly a sole, either in a car or on
5 foot --

6 JUSTICE DOHERTY: Mr Herbst, I was there on a cleaning
7 Saturday. I remember it. So I know what happens. Is Mr Kamara
8 in the witness box?

9 MR HERBST: Yes, he is, your Honour. I have to say I'm
10 having some difficulty hearing through my headset. I'm not sure
11 what's happened. If I could ask for some help. I think that
12 will be better now. Could someone say something?

13 JUSTICE DOHERTY: Proceed.

14 MR HERBST: Thank you, your Honour.

15 Q. Mr Kamara, when we broke the last time, I think you had
16 finished telling us what you said to the person you characterised
17 as Pastor Eddie and what he said to you. Now, when you testified
18 in direct examination, you told us that after speaking to pastor
19 Eddie, you told him that you didn't have much air time, and could
20 he please give the phone to another person who was with him. Do
21 you remember that testimony?

22 A. Yes.

23 Q. And who was next person you spoke to?

24 A. But let me correct you. But at that time --

25 THE INTERPRETER: Your Honour, the line is breaking up. I
26 did not get the beginning of his answer.

27 JUSTICE DOHERTY: Mr Kamara, please repeat your answer.

28 THE WITNESS: At the time that I was talking to Eddie, the
29 phone was scrambling. They gave me a number that I never knew as

1 Sammy's number. Then I told them to hold on for me to call that
2 number. Then I called and Sammy picked up the phone and gave the
3 phone back to Eddie.

4 MR HERBST:

5 Q. Now, Mr Kamara, when you testified in direct examination,
6 that was not your testimony, if my recollection is correct - and
7 this is a question to you - but let me to assist you [overlapping
8 speakers]?

9 A. [Indiscernible].

10 Q. When you testified on direct examination, didn't you tell
11 us that you told Eddie that because you don't have much air time,
12 to please give the phone to the person closest to him and he gave
13 to V-Boy. Not to Mr Ragga, but V-Boy. Do you remember that
14 testimony?

15 A. Yes, that is what I'm telling you now. I said when the
16 phone rang, the phone was scrambling. At that time Eddie was
17 talking to me. Then they asked me to call the police line. It
18 was Sammy Ragga who gave them the number. He gave the number for
19 me to call them on. Then I called on the line, and it was Sammy
20 Ragga who picked up the phone. Then I told him to give the phone
21 back to Eddie. Eddie and I continued to talk. At that time
22 there was not much air time in the phone, so give the next man
23 the phone, which was V-Boy. Then I spoke to V-Boy and V-boy gave
24 Manga. And after Manga, I talk to Sammy, I think. I did not
25 talk for long with Sammy. Then he gave Alpha Joe, and Alpha Joe
26 gave it to Nat Conteh. Nat Conteh was the last person I spoke to
27 when Five Five came. Yes.

28 Q. Isn't it true that during - in your answers on direct
29 examination when you related this conversation, you described -

1 or you said you talked to Eddie, V-Boy, Manga, and Nat Conteh or
2 Gi no before you spoke to Sammy Ragga and before any additional
3 call was made?

4 A. I think that's what I explained to you.

5 Q. Well, I thought that just a minute ago you said that you
6 spoke to Sammy Ragga and called him back on his phone before you
7 spoke to V-Boy and Manga?

8 A. Say that again. Say that again.

9 Q. I thought I heard you say, just a minute ago, that you
10 spoke to Eddie and then to Sammy and called him back on his line
11 and then spoke to V-Boy, Manga, a person that you're mentioning
12 for the first time starting - his name is F, which I'll ask you
13 about in a minute - and then Nat Conteh or Gi no. Is that right?

14 A. I said when the phone was breaking, they gave me a number
15 which I did not know was Sammy Ragga's number. But when I called
16 the number, it was Sammy Ragga who picked up the call, and I told
17 him to give the phone to Eddie. Then I continued talking to
18 Eddie.

19 Q. Didn't you tell us, Mr Kamara?

20 A. Uh-huh.

21 Q. On direct examination that Gi no, Nat Conteh, Gi no?

22 A. Uh-huh.

23 Q. Said to you there was another person who was there who
24 hadn't spoken to me in a long time, and he put Sammy Ragga on the
25 phone. You said okay, you couldn't hear clearly because the line
26 was breaking up, and you said to Sammy Ragga, "Give me the
27 number," and then you called him back. Isn't that what you said
28 on direct examination?

29 A. That is what I am telling you, my friend. I didn't even

1 know it was Sammy Ragga's phone. It was Sammy Ragga who gave the
2 number. Then I said - when I called the number, Sammy Ragga
3 answered the phone. Then I said, "Give the phone to Eddie."
4 Then I continued talking to Eddie. After Eddie, I talked to
5 V-Boy. And after V-Boy, I talked to Manga.

6 Q. What did you say to V-Boy, and what did he say to you?

7 A. V-Boy was just telling me they were praying for me and one
8 day you will come. That was all they were telling me. And they
9 asked to talk to the brothers.

10 Q. When is the last time before this November 30th
11 conversation that you are telling us about that you spoke to
12 V-Boy?

13 A. Say that again.

14 Q. Prior to this November 30 conversation that you're
15 describing, when was the last time you spoke to V-Boy?

16 A. Before we came to Freetown, I was talking to V-Boy - sorry,
17 before we came to Rwanda, I talked to V-Boy. V-Boy gave evidence
18 for me.

19 Q. So that was sometime in 2009, correct?

20 A. No, no. Before our case.

21 Q. So the last time you spoke to him was before the AFRC
22 trial?

23 A. Yes, after the case. When the case finished.

24 Q. So on November 30 when you say you had this conversation
25 with V-Boy, you hadn't seen him or talked to him for a couple of
26 years, correct?

27 A. I had left Sierra Leone when I talked to him, so it took
28 some time from that time that he testified for me. When he
29 testified, at one time I spoke to him and after that, when we

1 were taken to Mpanga, that was the first time I spoke to him.

2 Q. This conversation you are describing, that was the first
3 time in Mpanga that you spoke to him? Or was there a time before
4 you spoke to him?

5 A. When I was in Mpanga, that was the first time he heard my
6 voice when we spoke.

7 Q. On November 30, 2010?

8 A. Yes.

9 Q. So you didn't ask him in this conversation how he was
10 doing, what was happening with him?

11 A. No, that does not concern me.

12 Q. And he didn't ask you how you were doing, how you were
13 feeling, how - what life was like in Mpanga Prison?

14 A. I think I had answered that question. I said they called
15 to inquire about our condition there.

16 THE INTERPRETER: Your Honour, the line is breaking up
17 again.

18 JUSTICE DOHERTY: Can Kigali hear?

19 Can you hear clearly, Mr Kamara?

20 THE WITNESS: Yes, your Honour.

21 JUSTICE DOHERTY: It must be something here then. I'll
22 have it checked. I'll ask Mr Court Officer to check it and in
23 the meantime, we'll keep the questions and answers going as long
24 as we can.

25 Please proceed, Mr Herbst. Yes, Mr Herbst.

26 MR HERBST: Could I ask the interpreter to tell us how much
27 of the answer he got so I know what's on the record [overlapping
28 speakers].

29 JUSTICE DOHERTY: Yes, indeed.

1 Mr Interpreter, can you assist us.

2 THE INTERPRETER: Yes, your Honour. I interpreted what I
3 heard and I can't remember what I interpreted. That one that I
4 didn't hear, I didn't interpret.

5 JUSTICE DOHERTY: He said he had answered before --

6 MR HERBST: [Overlapping microphones] I'm sorry,
7 your Honour. I didn't mean to interrupt you.

8 JUSTICE DOHERTY: No, it was that he said he had already
9 answered the question before. But do proceed with your questions
10 now.

11 MR HERBST: Thank you, your Honour.

12 Q. Mr Kamara, what I'm asking you is in this conversation with
13 V-Boy, did he ask you - firstly, did you ask him how he was
14 doing, what was going on in his life, any sort of questions like
15 that?

16 A. He asked us how we were feeling there, what our condition
17 was, that we should bear it up and that they were praying for us
18 and that we would join them again.

19 Q. What did you tell V-Boy when he asked you how it was with
20 you there, what the conditions were like, what life was like;
21 what did you tell him?

22 A. I told him about prison, how the condition was bad.

23 Q. What did you say specifically about the conditions at the
24 prison to V-Boy in that conversation?

25 A. All that I told V-Boy was what I told all of them, that the
26 condition was bad, I'm not used to the weather, and I'm not used
27 to the country. Those were the things. And the gaol time that
28 we're hearing about is one for one, and they had a lot of
29 prisoners in the prison, such things.

1 Q. Is there anything else you remember about the conversation
2 between you and V-Boy other than what you've just told us?

3 A. You know it's a long time now since 2010. Those are the
4 things I can remember.

5 Q. After speaking with V-Boy, then do I understand correctly
6 that the next person you spoke to was Manga?

7 A. Yes, Lansana Bangura.

8 Q. And what did Manga say to you, and what did you say to him?

9 A. It's the same thing. The same condition that they asked me
10 about. All of them were feeling for me. They are my small ones.

11 Q. When was the last time you had spoken to Manga before this?

12 A. Like Manga, I can't remember. Because it was a long time
13 since I last talked to Manga until I spoke to him at that time.

14 Q. Well, did you ask Manga how he was doing?

15 A. Oh, yes, I asked him. Because we were used to that. When
16 you greet somebody, the person inquires about your health and you
17 too inquire about his health.

18 Q. Well, what did he tell you about what he was doing and how
19 he was doing?

20 A. He's saying it was fine.

21 Q. That's all? Just "fine"?

22 A. You've asked me twice again. Yes.

23 Q. I know. The reason I ask you twice is because I hadn't
24 heard the translation, the interpretation, so I had to wait for
25 that. Well, did you know what Manga's business was?

26 A. No.

27 Q. Did you ask? In this conversation, did you ask him?

28 A. No.

29 Q. After Manga, in your direct examination you said you talked

- 1 to Nat Conteh or Gino, but in a recent answer to the question, I
2 think you said you talked to someone else before Nat Conteh or
3 Gino. I missed the name. Who was that?
- 4 A. Alpha Joh. Alpha Joh.
- 5 Q. And how is that spelled, Alpha Joh?
- 6 A. My own way of spelling it is A-L-P-H-A J-O-H.
- 7 Q. Okay. Alpha Joh, yes?
- 8 A. Alpha Joh. He's Fullah.
- 9 Q. What is his given name?
- 10 A. That's his name, Alpha Joh.
- 11 Q. And how did you know Alpha Joh?
- 12 A. He's a soldier. He was a soldier. He used to work with
13 me.
- 14 Q. How did you know Nat Conteh, Gino?
- 15 A. Nat Conteh, it's my relative's son.
- 16 Q. What did you say to Alpha Joh, and what did he say to you?
- 17 A. Just the same thing: My condition. They were all
18 concerned. Everybody is concerned about my condition.
- 19 Q. What did you say to him or ask him?
- 20 A. I too asked him about his health and how he was doing and
21 that they should continue praying for us.
- 22 Q. How did he answer as to his health?
- 23 A. Say that again.
- 24 Q. What did he say about his health?
- 25 A. Alpha Joh is always sick. He's always sick, so I didn't
26 bother to ask him about his health.
- 27 Q. Let me ask you, Mr Kamara, how long were you on the phone
28 with Pastor Eddie during this conversation?
- 29 A. Pastor Eddie, I can't estimate the time because I didn't

1 have time. When he speaks, he'll pass the phone on to the other.
2 And he's not the only person who spoke to them. The other
3 brothers came and they spoke to him. It's just a few minutes
4 that we spoke to them. It's just for a few minutes that we spoke
5 to them.

6 Q. When you say just a few minutes you spoke to them, are you
7 saying on average a minute each; 2 minutes each; 3 minutes each;
8 5 minutes each?

9 A. I cannot determine the minutes. I cannot.

10 Q. Can you estimate at all for us?

11 A. No.

12 Q. Now, Mr Kamara, this wasn't the first time that someone had
13 called you from Sweissy, was it?

14 A. Someone called me from Sweissy?

15 Q. I'm asking you: Was this the first time November 30th that
16 someone called you from Sweissy or had you frequently received
17 calls from someone at Sweissy?

18 A. No, I did not ask where you were, but I received calls
19 maybe at Sweissy or maybe at some other place.

20 Q. And when someone called you from Sierra Leone, Freetown,
21 either at Sweissy or some other place, they would, on occasion,
22 put other people on the line to speak to you, right?

23 A. Say that again.

24 Q. When people called you from Sweissy or elsewhere in
25 Freetown, there were other occasions where they would put someone
26 else on the line who wanted to speak to you; isn't that right?

27 A. Yes.

28 Q. And how frequently did that happen between the time you got
29 to Mpanga in 2009 and November 2010?

1 A. Especially in 2009 - especially in 2009 people were
2 concerned. They wanted to know. My family, family friends,
3 extended family, people were concerned.

4 Q. And this wasn't the first time that there was a line
5 breaking up, was there?

6 A. Well, for some people lines did not break up. They will
7 call and say, "Papay, call me on my line." Then I will change
8 and call the person immediately.

9 Q. Now, you've earlier told us that Sam Kargbo was beneath
10 you; do you remember that testimony?

11 A. Yes.

12 Q. And you said that he was not your friend; do you remember
13 that testimony?

14 A. Yes.

15 Q. And that you hardly knew him; do you remember [overlapping
16 speakers]?

17 A. I did not tell you I hardly knew him. I told you I used to
18 see him.

19 Q. Well, you used to see him, but you didn't speak to him very
20 often?

21 A. Yes.

22 Q. You didn't have much contact with him?

23 A. Yes.

24 Q. Can you tell us then why he would ask to speak to you --

25 A. Yes.

26 Q. -- after you spoke to five or six people who you were much
27 closer to?

28 A. Well, maybe he was eager to talk to me because I don't have
29 time for him. I don't know about him. You see all those that

1 I've mentioned, those are people who were close to me. All of
2 them had been close to me, so they were all concerned. So I was
3 surprised that he wanted to talk to me on that day and gave his
4 own number.

5 Q. Mr Kamara, when the line was breaking up, why didn't you
6 just call Keh-For-Keh's phone back?

7 A. You see, later - check your transcript. I called
8 Keh-For-Keh's phone later. If you're asking me this question
9 check your transcript. That was the only time I spoke to Sammy
10 Ragga. I never spoke to him again, okay? If he was my friend,
11 like the fact that he gave me his number, we would have been
12 talking to each other like the allegation that he made to you
13 that he was at Sierra Leone and I called him. Check your
14 transcript. I don't know him.

15 Q. All right. So you called Sammy Ragga back, right, on his
16 line for the first time, right?

17 A. On that day I did not know that that was his number. That
18 was why I called.

19 Q. Okay. But the line was breaking up on your call from the
20 prison phone to Keh-For-Keh whilst Sammy Ragga was speaking on
21 Keh-For-Keh's phone. That's your testimony, right?

22 A. Say that again.

23 Q. Your testimony was - your testimony was that while you were
24 speaking to Sammy Ragga on Keh-For-Keh's phone, the line was
25 breaking up. That was your testimony, right?

26 A. That's not what I told you. That is not what I told you.
27 I said, when I was talking to Pastor Eddie, the phone was
28 breaking.

29 Q. When you were - you're saying when you were talking to

1 Pastor Eddie on the call that you had made back to Keh-For-Keh's
2 phone; is that your testimony?

3 A. Say that again.

4 Q. When you were talking to Pastor Eddie, you were talking to
5 him on Keh-For-Keh's phone, right?

6 A. Yes. At the initial stage, when I just called him.

7 Q. And is it your testimony that Eddie is the one that put
8 Sammy Ragga on Keh-For-Keh's phone to talk to you?

9 A. Yes, it was Sammy Ragga who gave the number. He gave the
10 number.

11 Q. [Overlapping speakers] gave you - when Sammy Ragga gave you
12 the number, he was on Keh-For-Keh's phone, right?

13 A. Yes. He was on Keh-For-Keh's phone.

14 Q. And then you called Sammy Ragga back on Sammy Ragga's
15 phone; is that your testimony?

16 A. Then I called the number straight that they gave me. I did
17 not know it was Sammy Ragga's phone.

18 Q. I thought you said in direct examination you asked Sammy
19 Ragga for his phone number so you could call him back?

20 A. I said I asked Sammy?

21 Q. That's my recollection.

22 A. No, check your record.

23 Q. Okay. So in any event, you are - you called back Sammy
24 Ragga on what turns out to be his phone; is that your testimony?

25 A. They gave me the number. When they gave me the number,
26 later they told me it was Sammy Ragga's number.

27 Q. Who is "they"? Sammy Ragga, or someone else?

28 A. Sammy Ragga himself. I'm talking Krio, not English.

29 Q. I understand. Now, you said on direct examination as you

1 were talking to Sammy Kargbo on his phone, Maf and V-Boy and the
2 others asked to speak to Kanu and Brima; do you remember that
3 testimony?

4 A. Yes. When I started talking to Eddie, they started asking
5 about my brothers.

6 Q. So you're saying after you talked to Sammy Ragga, he gave
7 the phone back to Eddie, and then Eddie told you that Maf and
8 V-Boy and the others wanted to talk to Kanu and Brima?

9 A. I did not talk to Sammy Ragga. He just received the call.
10 Okay? Then I told him to give the phone to Eddie.

11 Q. Are you saying that after you called back on Sammy Ragga's
12 phone, you asked Sammy Ragga to talk to Eddie?

13 A. I told him to give the phone, because Sammy Ragga - sorry.

14 THE INTERPRETER: Your Honour, the line is breaking up
15 again. I did not get his entire answer.

16 JUSTICE DOHERTY: Mr Kamara, can you repeat your answer.

17 THE WITNESS: [Overlapping speakers].

18 JUSTICE DOHERTY: Mr Kamara, the interpreter can't hear you
19 clearly.

20 THE WITNESS: Yes, your Honour.

21 JUSTICE DOHERTY: You said you did not talk to Ragga. You
22 just asked to pass the phone back to Eddie. Can you pick up your
23 answer from there, please, and repeat it.

24 THE WITNESS: Yes. When he received the phone - yes. He
25 said, "Yes, Papay, I am the one talking. Then I asked him to
26 give the phone to Eddie. Then Eddie and I continued talking.

27 MR HERBST:

28 Q. Did you talk to Sammy Ragga?

29 A. It was at the tail point that I spoke to Sammy Ragga when

1 these men came for me to hand over the phone.

2 Q. I'm asking you, Mr Kamara?

3 A. Yes, sir.

4 Q. The understanding is when you called back on Sammy Ragga's
5 phone, you spoke to Sammy Ragga; is that true?

6 A. Yes. When he said, "Hello," yes, he spoke. Yes, yes, we
7 spoke. When somebody says "hello" this is my phone. I said,
8 "Okay, give the phone to Maf."

9 Q. And that's all you said to Sammy Ragga, "Hello" and "Give
10 the phone to Maf"?

11 A. No, I talked to him later - that was not all - after I
12 spoke to the other men.

13 Q. What did you say to Sammy Ragga when he got on the line
14 with you? What did you say to him, and what did he say to you?

15 A. He just explained to me about his position at Pademba Road,
16 how he was there and how they were released, and it was the
17 government that released him - it was this government that
18 released them. Those were the kind of things. And he asked
19 about my condition. That man and I are not acquaintances. We
20 did not talk much.

21 Q. Okay. And then when Maf said that they wanted to speak to
22 Kanu and Bri ma, you said on direct examination then you put the
23 phone off, meaning you hung up, and you went to get Kanu and
24 Bri ma?

25 A. No, I did not say that. I spoke to Eddie, and he requested
26 to talk to those brothers. When I spoke to V-Boy, he requested
27 to talk to those brothers. When I talked to Manga, he requested
28 to talk to those brothers. The last person I think I talked to
29 before hanging up to call those men --

1 THE INTERPRETER: Your Honour, can he repeat the name of
2 the last man?

3 JUSTICE DOHERTY: Mr Kamara, please repeat the name of the
4 last man that you spoke about.

5 THE WITNESS: I said the last person that I think I spoke
6 to before calling those men from inside was Nat Conteh, Junior.
7 I told him I was switching the phone off to go and call those
8 men, so that they can say hello to them.

9 MR HERBST:

10 Q. Did you then hang up?

11 A. Yes.

12 Q. Where were you when you were having this conversation?

13 A. Sorry.

14 Q. Where were you on the prison grounds? Where were you?

15 A. We have our block where we are, and we have the visiting
16 hall where we make telephone calls.

17 Q. And where did you have to go to get Kanu and Brima?

18 A. I just climbed about two steps, then I shouted their names.
19 They were not staying far off. I shouted their names. If you
20 call their names, they will hear.

21 Q. Did they come right over?

22 A. They came.

23 Q. And what did you say to them?

24 A. I said, "Kanu, your boys want to talk to you." Especially
25 Kanu. He was the first.

26 Q. Okay. And so - but was Brima - did Brima and Kanu come
27 over together?

28 A. Yes. Kanu was in front and Brima was behind.

29 Q. So the three of you were there together?

1 A. Yes. When Kanu came - when Kanu came, I just came out and
2 gave Kanu the phone and Kanu continued talking, and it was Eddie
3 whom Kanu requested to talk to first.

4 Q. As I understand your direct testimony, you were the one who
5 called back on Sammy Kargbo's phone; is that right?

6 A. That's what I'm telling you. When the men came, I dialled
7 the phone and gave it to this man. But when the man took the
8 phone, he said he wanted to talk to Eddie.

9 Q. [Overlapping speakers] Kanu dialled the number, right?

10 A. No, it was the officer who dialled. I'll tell the officer
11 to dial.

12 Q. And you told the officer the number?

13 A. The number was already in the phone.

14 Q. You didn't write the phone down - you didn't write the
15 phone number down on a piece of paper or anything, did you?

16 A. I never did.

17 Q. So the officer dialled the phone, and did he give the phone
18 back to you to speak first to Eddie, or did he give it to
19 Mr Kanu?

20 A. I gave it to Mr Kanu.

21 Q. So Mr Kanu was the first one to speak on the phone?

22 A. Yes.

23 Q. When the number was called back, yes?

24 A. Yes.

25 Q. How long did Mr Kanu speak?

26 A. No, no, I can't tell you that. I was at a distance when
27 they were talking.

28 Q. Who talked after Mr Kanu?

29 A. After Mr Kanu, Mr Brima was the last one to talk.

1 Q. And then he hung up the phone?

2 A. Mr Brima? The air time finished, so the phone had to go
3 off. The air time finished, then the phone went off.

4 JUSTICE DOHERTY: Mr Herbst, I'm afraid our air time is
5 finished as well. Because the accused in Rwanda have to be taken
6 back, and we're just up to that time limit now.

7 MR HERBST: Can I ask one more question?

8 JUSTICE DOHERTY: Very well. If that completes it, it will
9 have to be just one.

10 MR HERBST: Yes.

11 Q. After the phone went off, did you, Mr Kanu, and Mr Brima
12 leave the area together?

13 A. I was the first to go up. Okay? When I went up and Kanu
14 came up, but the officer came, called me to come and sign against
15 my name and I came and signed. It's a short distance. Ask
16 Mr Sengabo. He will tell you. It's a short distance from where
17 we make the calls to where we are. It's short.

18 JUSTICE DOHERTY: Mr Kamara, we have to finish for today
19 because you have to go back, you and Mr Kanu. I again remind
20 you, as I've done other days, that you are not to discuss your
21 evidence with anyone else until it is finished. Do you
22 understand?

23 THE WITNESS: Yes, your Honour.

24 JUSTICE DOHERTY: Thank you. I'll let the two accused Kanu
25 and Kamara leave the Court premises.

26 Before I adjourn, I'll ask if there's any matters to be
27 dealt with, and I also have to arrange a time to speak to
28 counsel.

29 So Mr Kamara, you can go with the officers. I would ask

1 Mr Herbst first of all and then counsel for the Defence if
2 there's any matters to be dealt with - that can be dealt with in
3 the absence - procedural matters in the absence of the accused.

4 MR HERBST: Your Honour, I can't think of any outstanding
5 matters that fall into that category unless the open issue as to
6 the proffer versus the statement of --

7 JUSTICE DOHERTY: We'll have to hear an argument on that at
8 the time. I'm thinking only of sort of - Chief Taku has asked to
9 speak concerning the timing of the present proceedings. It's
10 appropriate to do that in chambers. I have asked our Court
11 Officer here if you can - and Defence counsel can be contacted so
12 that you can also be on the phone. I'm conscious of the fact
13 that the proprieties of speaking to any counsel with other
14 counsel absent, unless the three of you wish to authorise your
15 two colleagues to speak to me alone. That's what I'm thinking
16 of.

17 MR HERBST: Your Honour, I think we made arrangements to
18 use my office where there is a landline with a speaker phone is
19 my understanding, so we could go right upstairs. Either that or
20 - the Court Officer is not here. I don't know whether there's a
21 speaker phone on this phone in the courtroom.

22 JUSTICE DOHERTY: It wouldn't be appropriate to have it
23 from the courtroom.

24 MR HERBST: [Overlapping speakers].

25 JUSTICE DOHERTY: We'll adjourn now.

26 MR HERBST: [Overlapping speakers].

27 JUSTICE DOHERTY: I will go back to my chambers. I will
28 invite you, Defence counsel, to come there. And in the meantime,
29 the number - the Court Officer here will get the numbers to

1 counsel in Kigali to allow them to call me.

2 We'll adjourn until - to chambers. Please adjourn Court
3 until Monday morning.

4 MR SERRY-KAMAL: Your Honour, there's one --

5 JUSTICE DOHERTY: Sorry, somebody is speaking. Who is
6 speaking, please?

7 MR SERRY-KAMAL: Mr Serry-Kamal.

8 JUSTICE DOHERTY: [Overlapping speakers] Mr Serry-Kamal.
9 What did you want to say? I can't hear you very well. Please
10 get closer to the microphone.

11 MR SERRY-KAMAL: I just want to bring on record that the
12 statement which was filed by Mr Melron Nicol-Wilson was filed
13 [Indiscernible] and Mr Herbst has been asking questions on it.

14 JUSTICE DOHERTY: This has been traversed at least twice,
15 and we have not dealt with the weight or anything else of that
16 document. We've only dealt with one thing, and I'm trying to
17 formulate the formal ruling that I gave orally.

18 We'll adjourn until Monday morning - first of all, counsel
19 to chambers, please, and then to Monday morning at 9 o'clock
20 Freetown time, 11 o'clock Kigali time. Please adjourn Court.

21 MR METZGER: Your Honour, you did say you were going to ask
22 counsel if there was anything they wanted to say --

23 JUSTICE DOHERTY: I asked if there was any procedural
24 matters. I'm not talking about - I'm not talking about
25 evidentiary matters. I'm not talking about evidence and --

26 MR METZGER: No, not procedural. I have been asked by the
27 Defence office to put it on record that counsel for the Defence
28 have to remain in Rwanda or certainly I've had to remain in
29 Rwanda. My client hasn't gone into the witness box yet. There

1 are potential difficulties with the next proposed date for me,
2 which is meant to be on Monday night for Tuesday.

3 JUSTICE DOHERTY: That is what I want to discuss in
4 chambers, Mr Metzger. I want that to be discussed in chambers
5 now. That's what we're doing.

6 MR METZGER: I've just been asked to make an application in
7 open Court by the Defence office and that's why I've mentioned it
8 at this stage.

9 JUSTICE DOHERTY: Who in the Defence office?

10 MR METZGER: I was asked by Mr McEwen. Because as I
11 understand it, as your Honour will note, the travel arrangements
12 have to be made and changed and possibly rechanged. And in terms
13 of the financial considerations, I think the Defence office
14 require it on the record that, in fact, we have your permission
15 to remain here so that all the formalities can be complied with.
16 That's at least the understanding I've been given.

17 JUSTICE DOHERTY: I will deal with this in chambers.

18 [The Court adjourned at 3.35 p.m. until Monday, 27
19 August 2012 at 9 a.m.]

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