



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 [Tuesday, 26 June 2012]

2 [Open session]

3 [Accused entered court]

4 [Upon resuming at 9.02 a.m.]

08:50:23 5 JUSTICE DOHERTY: Good morning. My apologies, I had some
6 administrative matters to deal with, so we're a few minutes late.
7 First of all, can Kigali hear me? Mr Herbst, I can see you
8 and I can also see Mr Kamara and Mr Kanu. Has Mr Kamara got his
9 hand up? No, he's putting on his earphones.

09:03:27 10 MR HERBST: Yes, good morning, Your Honour. I can hear
11 you, and I have one preliminary request to ask the Court at the
12 appropriate time.

13 JUSTICE DOHERTY: I'll take appearances first and then I'll
14 deal with that.

09:03:41 15 Appearances, please, Mr Herbst.

16 MR HERBST: Yes, good morning, Your Honour. Robert Herbst,
17 Independent Counsel for the Prosecution.

18 JUSTICE DOHERTY: Thank you. For the Defence.

19 MR NICOL-WILSON: Your Honour, Melron Nicol-Wilson for
09:03:58 20 Hassan Papa Bangura.

21 JUSTICE DOHERTY: Thank you.

22 MR METZGER: Your Honour, Kevin Metzger for Santi gie Bobo
23 Kanu. I have a medical note with me. I just want to raise that
24 at an appropriate point.

09:04:13 25 JUSTICE DOHERTY: Thank you, Mr Metzger.

26 MR SERRY-KAMAL: AF Serry-Kamal for Bazy Bri ma.

27 JUSTICE DOHERTY: Thank you, Mr Serry-Kamal. Now, there's
28 two preliminary points. I think I'll deal with Mr Herbst' first
29 since he mentioned it first. Mr Herbst, please proceed.

1 MR HERBST: Thank you, Your Honour. In reliance on the
2 usual working schedule of the Court I made an important personal
3 appointment for tomorrow at 4 o'clock your time and 6 o'clock our
4 time, thinking that we would rise at 3.30 or so. I'm happy to
09:05:11 5 work late to whatever time Your Honour wishes today, Thursday,
6 Friday, but I would ask that we stop at around 3.30 tomorrow so
7 that I can make that appointment.

8 JUSTICE DOHERTY: I see. The appointment is for tomorrow
9 afternoon. I personally do not foresee any problem with that.
09:05:37 10 Tomorrow is Wednesday, and at some point in the course of today
11 I'm going to raise the travel for Thursday. So I will bear that
12 in mind and I would ask you to remind me if it appears we're
13 running over time.

14 Now I will turn to Mr Metzger's matter. Mr Metzger,
09:06:01 15 please.

16 MR METZGER: Your Honour, this morning I received a
17 document from King Faisal Hospital that indicates that Mr Kanu
18 has a medical appointment. I just wanted to raise it because it
19 would appear that the appointment is for tomorrow between 9.00
09:06:23 20 and 9.15. I assume that is Kigali time, the consultation time,
21 but it may mean - and I will have inquiries made during the
22 course of today - it may mean that Mr Kanu might be a little late
23 tomorrow. Depending on the stage where we are, I would normally
24 not apply to the Court to necessarily take that into account, but
09:06:53 25 this is clearly an important witness in his case, and I would
26 like him to be able to hear the evidence so that he can give me
27 any instructions that are required. So I just wanted to put
28 that, as it were, on the record.

29 Also, I was going to invite Your Honour to consider the

1 question of travel. We've been provided with e-tickets, those of
2 us travelling to Rwanda, which gives us an indication that travel
3 should take place on Thursday.

09:07:27 4 JUSTICE DOHERTY: First of all, with Mr Kanu's matter,
5 certainly his medical appointment must be taken care of, and if
6 he's not back by our starting time I will certainly entertain any
7 application you wish to make for him in the light of the
8 circumstances prevailing then.

9 MR METZGER: I'm very much obliged.

09:07:47 10 JUSTICE DOHERTY: Incidentally, Mr Metzger, I hope your
11 mother is recovering.

12 MR METZGER: In all the circumstances, she's holding up
13 well.

09:08:04 14 JUSTICE DOHERTY: It's good to know. On Thursday, I'm
15 advised by our administrative staff that in order to get to the
16 ferry, the airport, et cetera, we should be leaving the Court
17 premises around 12.30. I'm going to be coming in with my bags
18 packed and I'm going straight from here to the ferry, so I will
19 expect that we're not going to be able to sit much after - well,
09:08:37 20 maybe even 12.15 in order to depart. I don't know if counsel
21 have looked at their timetables or not.

22 MR METZGER: I certainly have, Your Honour, and I think
23 that may be the way of looking at it, that if we sat until 12.00.
24 The difficulty has been, from my point of view, I've had severe
09:09:11 25 internet difficulties which require me to go into town. There's
26 been no time - absolutely not one free moment - apart from the
27 beginning of this trial when we didn't know what was happening
28 when I could have absented myself from these premises during
29 working hours to do so. That has exacerbated - or rather, not

1 ameliorated the problems that I have, and I understand that those
2 problems will be better somewhat once we have travelled, but I
3 would be faced with the same difficulties when I get back.

4 Far be it from me to suggest that we don't sit in the
09:09:53 5 morning because I anticipate we will lose a significant amount of
6 time in the travel itself. It seems to me that with a five-hour
7 layover in Nairobi, as I understand the itinerary, we will be
8 arriving Kigali time in Kigali just after 1.00 p.m. on the
9 Friday, and that of course doesn't take into account going
09:10:22 10 through immigration and getting ones' bags. I was more concerned
11 about what the Court's view was about sitting in Kigali on Friday
12 afternoon. I suppose it will depend on where we are in the
13 evidence.

14 JUSTICE DOHERTY: I had understood - in informal
09:10:47 15 discussions, I had indicated that I considered it appropriate
16 that counsel take instructions from their client on Friday
17 afternoon, because this will be the first opportunity since the
18 trial opened to have a face-to-face consultation and that we sit
19 on Saturday. I thought that had been resolved. If it's not
09:11:11 20 resolved, I put it on the table now.

21 MR METZGER: Thank you, Your Honour. That will be three
22 Saturdays in a row but --

23 JUSTICE DOHERTY: I appreciate - well, for me it will be
24 four. It's the staff that I really have a lot of sympathy for.
09:11:27 25 They are working under much longer hours than we are and - but
26 they have been - I've heard - if there were complaints, they
27 haven't come to me. I'll put it as politely as that.

28 MR METZGER: Understandably.

29 JUSTICE DOHERTY: And they have been exceptionally helpful,

1 diligent and cooperative in working. And if we want to get this
2 done, unfortunately, Mr Metzger, we have little choice.

3 MR METZGER: I understand and I certainly will use my best
4 endeavours to be as dutiful as possible in all the circumstances.

09:12:08 5 JUSTICE DOHERTY: I'm very grateful. Normally I would not
6 ask counsel or our staff to do this, but given the unusual
7 circumstances of this case, I find I'm going to have to do so.

8 If there's no other matters, I will ask first of all that
9 the witness be brought in and we will then proceed.

09:13:06 10 [Witness enters Court]

11 JUSTICE DOHERTY: Good morning, Mr witness. I hope you're
12 feeling well.

13 THE WITNESS: Yes, My Lord.

14 JUSTICE DOHERTY: Mr Witness, I wish to remind you that
09:13:43 15 you've taken the oath to tell the truth. The oath is binding and
16 you must answer questions truthfully; you understand?

17 THE WITNESS: Yes, My Lord.

18 JUSTICE DOHERTY: Thank you.

19 Mr Herbst, please proceed. We were dealing with a
09:13:58 20 document.

21 WITNESS: ALIMAMY BOBSON SESAY [Continued]

22 Examination-in-chief by Mr Herbst: [Resumed]

23 MR HERBST: Yes, Your Honour. I believe we've identified
24 the document properly and I would ask the document be placed
09:14:11 25 before the witness.

26 JUSTICE DOHERTY: There was an objection. I don't hear any
27 further objection at the moment and therefore I'll proceed --

28 MR SERRY-KAMAL: Your Honour, interest is - sorry. I'm
29 sorry, there is the same objection which you have not ruled on,

1 which said that this document is not made by the witness and the
2 person who made it has not been identified here. He has not
3 signed it. It is not dated. The first paragraph gives the whole
4 thing away. It says on Wednesday, 1st December, Thomas and I met
09:15:08 5 with 334. That supposes that it was drawn by somebody else who
6 is not mentioned in this document.

7 MR HERBST: Your Honour --

8 JUSTICE DOHERTY: Just let me hear Mr Metzger's objection.
9 He's on his feet.

09:15:29 10 MR METZGER: Your Honour, I of course support the
11 objection. I perhaps understand the point Mr Herbst is seeking
12 to rely on because this document, it would appear, in its
13 entirety becomes that which purports to be the witness statement
14 of Mr Sesay with a place for signing. Although my document isn't
09:15:57 15 signed, I was told or I thought I heard from the
16 Independent Counsel that the witness statement was signed on or
17 around the 19th, I think, of December.

18 It seems to me that if there is a signed witness statement,
19 we cannot object in significant terms so long as the Prosecution
09:16:21 20 observes the Rules in putting the document to the witness rather
21 than putting it to him as a memory-refreshing document written by
22 someone else, and that is really the strength of the objection.
23 This is just a typed, shall we say, note of what later goes into
24 a statement, and it would seem to me that if there is a signed
09:16:50 25 statement, that is the proper document that this witness can or
26 should comment on.

27 JUSTICE DOHERTY: Mr Herbst, your response, please.

28 MR HERBST: Your Honour, yesterday at page 488 of the
29 transcript I believe Your Honour resolved the objection and

1 stated that in the circumstances you would allow the document to
2 be put before the witness. And Your Honour further stated that
3 the witness has said that he went to OTP. They said they
4 received the e-mail. They wanted to take a statement, and he
09:17:41 5 explained the context. I think it is appropriate to put the
6 document before the witness and ask him if in fact this is the
7 substance of the statement and information he gave on the
8 following day from the conversation and the meeting he had
9 described.

09:22:40 10 JUSTICE DOHERTY: I consider that these are minutes of a
11 meeting which the witness has described in evidence as having
12 taken place and at which he was present. His testimony is that
13 at that meeting he, I quote, "... explained the contacts he had
14 with Sammy Ragga, Bomb Blast, and Five Five." Since he was
09:23:00 15 present, I consider he is competent to look at this document and
16 say whether it records what took place at the meeting, and
17 accordingly I'll allow the document to be put before him. Please
18 put the document --

19 MR METZGER: In the circumstances of your ruling,
09:23:18 20 Your Honour, there's further objection, and that is to laying the
21 groundwork. If these are minutes of a meeting, can we establish,
22 please, who it was who took the minutes.

23 JUSTICE DOHERTY: He has given evidence - just a moment,
24 Mr Herbst. He has given as to who was present. If the only
09:23:48 25 question is who recorded it, I will ask him.

26 MR METZGER: I'm very much obliged to Your Honour, because
27 it may be that that person is a potential witness in this case.

28 JUSTICE DOHERTY: Indeed. Accuracy of course will be an
29 issue.

1 MR METZGER: Thank you.

2 JUSTICE DOHERTY: Mr witness, when you went to the meeting,
3 you have described the four people that were there. How - first
4 of all, do you know what you said recorded?

09:24:27 5 THE WITNESS: Well, My Lord, as I was talking and they were
6 writing, they read what I had said out to me.

7 JUSTICE DOHERTY: And do you recall who was doing that
8 writing?

9 THE WITNESS: Well, as far as I can recall, Magnus was one
09:24:53 10 of the persons who was writing. Magnus Lamin also.

11 JUSTICE DOHERTY: Very well. Now I'm passing the document
12 down to Mr Court Attendant to put before the witness.

13 MR HERBST: Your Honour, I would like to ask the witness to
14 review the document himself, to read it to himself without
09:25:57 15 reading it aloud.

16 JUSTICE DOHERTY: Mr Witness, did you hear counsel
17 speaking? You're to look at that document, please. Do you feel
18 satisfied that you can read the English, or do you require
19 assistance to read the English?

09:26:22 20 THE WITNESS: I am satisfied I can read it in English.

21 JUSTICE DOHERTY: Please do so.

22 MR METZGER: Can I ask the purpose of asking the witness to
23 read the document to himself? I thought it was to simply to
24 identify - the Prosecutor was seeking to identify whether he had
09:26:41 25 seen that document before. Respectfully, this witness is giving
26 evidence and should be asked questions about what it was he saw
27 and did, rather than being given opportunity in flagrante to look
28 at evidence or look at materials that form the basis of his
29 evidence.

1 JUSTICE DOHERTY: Well, how can he know if it's an accurate
2 record if he doesn't look at it? [Overlapping speakers]

3 MR METZGER: The first question, in my respectful
4 submission, Your Honour, is: Have you seen that document before?
09:27:18 5 The second question, if the answer is yes: When had you seen it?
6 If the answer is no, the matter ends there. When have you seen
7 it, who showed it to you? There are a series of questions, with
8 the greatest of respect to my learned friend, that he must ask to
9 set the groundwork. Simply giving a document which effectively
09:27:39 10 contains the subject matter of what is in question before the
11 Court and saying, "Can you read that to yourself?" without any
12 further instruction cannot be, in my respectful submission, of
13 assistance to justice in this case.

14 JUSTICE DOHERTY: Mr Herbst, your response.

09:28:07 15 MR HERBST: I respectfully disagree with Mr Metzger. The
16 fundamental purpose of showing the witness the document is
17 precisely what Your Honour had stated in her ruling, which is to
18 give the witness a chance to determine whether what is written in
19 the document is in substance what the witness told the members of
09:28:39 20 the investigative staff on the date it bears, Wednesday, 1
21 December, 2010. The only way he can do that, I respectfully
22 submit, is if he is given an opportunity to read the document.
23 It is irrelevant, in my view, as to whether he was shown it
24 before.

09:29:13 25 I also, Your Honour, based on my investigations - I believe
26 I can represent to the Court who the preparer of the document
27 was, which of the individuals [overlapping speakers] --

28 JUSTICE DOHERTY: Mr Herbst, that would be evidence from
29 the bar, which I won't accept. That will have to come out in due

1 course. So is there any other point of law or procedure? I
2 think we've lost --

3 MR HERBST: I don't think you can hear us, but we just lost
4 the link.

09:30:10 5 JUSTICE DOHERTY: I can hear you now, Mr Herbst, you were
6 momentarily lost indeed. But I can hear you clearly now.

7 MR HERBST: I would just like to be advised, Your Honour,
8 as to when the witness is finished reviewing the document.

9 JUSTICE DOHERTY: I have to deal with the objection first.

09:30:37 10 MR METZGER: There is one point of correction, Your Honour.

11 MR HERBST: I'm sorry, Your Honour.

12 MR METZGER: That is Mr Herbst just said that whether he
13 was shown the document or not is irrelevant. Now I don't have
14 the benefit of the transcript, but I do have some power of
09:30:54 15 recall, and I recall that yesterday when he was making
16 submissions to Your Honour about this matter, it was suggested
17 that the witness had been shown the document and it was part of
18 his argument.

19 Now it's either irrelevant or it's relevant, and if that is
09:31:09 20 what the Prosecution's case is, that he was shown the document,
21 then surely before he goes on to ask him whether the substance of
22 what it is in there, which eventually is a statement that was
23 served to us, and I take no issue about that, he must first of
24 all then having suggested to Your Honour and this Court that the
09:31:28 25 document was shown to this witness, he ought properly to put it
26 to the witness so it becomes evidence in the case. That was the
27 only point of correction, Your Honour. I don't believe that my
28 recollection is incorrect on this matter.

29 MR HERBST: Your Honour?

1 JUSTICE DOHERTY: Yes, Mr Herbst, I'm busy writing a ruling
2 here. Was there something else? Because I'm not taking anymore
3 submissions on this matter.

09:34:10 4 MR HERBST: [Overlapping speakers] say that I - I'm just
5 going to respond to Mr Metzger's recollection, which differs from
6 mine.

7 JUSTICE DOHERTY: Actually, it differs from mine as well,
8 but tell me - I'm going to have to go into the transcript. And
9 I'm not going to make a ruling based on that because it differs
09:34:25 10 from my recollection as well. I accept that it was late in the
11 day and there was a lot going on, so my recollection may not be
12 entirely accurate either.

13 This is a ruling on an objection. When a witness is to be
14 examined on whether he has made a prior inconsistent statement,
09:36:32 15 the procedure in this Tribunal is that the witness be asked to
16 identify that statement and questioned on circumstances in which
17 it was made before he is actually challenged on it.

18 I do not see this document is put to the witness for the
19 purpose of such a challenge. It is put to show that a meeting
09:36:58 20 took place, and on that basis I have allowed it to be put before
21 the witness. It cannot be used to refresh the witness's memory,
22 nor to enable him to tailor evidence. So the witness should look
23 at this document and tell us what it is, and then evidence will
24 proceed from there.

09:37:27 25 Mr Herbst, please proceed.

26 MR HERBST: Thank you, Your Honour.

27 Q. Now, Mr witness, with respect to the first page of the
28 document and everything except the last two paragraphs of the
29 document - of the second page of the document, would you tell us

1 whether this document contains - those paragraphs that I
2 mentioned of this document contain the substance of what you
3 reported to investigator Saffa, Lamin, Thomas and Mustapha on -
4 when you first went in and met with those gentlemen?

09:38:42 5 A. Well, My Lord, I've looked at the first paragraph on the
6 first page and the last two paragraphs on the second page. These
7 are some of the statements that I last made. There was an
8 additional statement that they obtained from me, but it's not
9 with these documents that have been given to me.

09:39:20 10 JUSTICE DOHERTY: Proceed, Mr Herbst.

11 MR HERBST: In all of the translation that was --

12 JUSTICE DOHERTY: Mr Herbst, we missed part of your
13 question. Please start from the beginning again.

14 MR HERBST: Your Honour, I was saying that I was not able
09:39:38 15 to understand all of the answer that I heard from the
16 interpreter. I would ask that the answer be repeated or
17 summarised for me.

18 JUSTICE DOHERTY: He said he looked at the first paragraph
19 and the last two paragraphs of this document. These were the
09:40:04 20 last statement he made. I didn't hear that so clearly. But he
21 then went on to say he made an additional statement they took
22 from me is not here. Mr Metzger has it better than me.

23 MR METZGER: I wouldn't say that I've got it better than
24 you, Your Honour, but my notes are: These are some of the
09:40:27 25 statements that I made. There was another statement taken from
26 me, but it's not with these documents that has been given to me.

27 JUSTICE DOHERTY: Thank you very much.

28 Mr Herbst, are you clear on that now?

29 MR HERBST: Yes. Yes, I am, Your Honour.

1 Q. Actually, Mr Sesay, my question was I wanted you to read
2 all of the paragraphs of the first page of the document before
3 you and everything on the second page except the last two
4 paragraphs. My question is whether this document, except for the
09:41:29 5 last two paragraphs, records in substance what you told the
6 investigators when you met with them on Wednesday, December 1,
7 2010?

8 A. Yes, My Lord, as I have read, that is all that I said to
9 them that is in this document, apart from the additional
09:42:15 10 statement that I made.

11 Q. Okay, we'll come to that.

12 MR HERBST: Your Honour, at this time I would move to
13 introduce into evidence all but the last two paragraphs of the
14 document that the witness has reviewed, the purpose being to show
09:43:02 15 what was said by the witness to the investigators on Wednesday, 1
16 December 2010.

17 JUSTICE DOHERTY: I consider it premature at this point to
18 tender this document. I will mark it for identification, and I
19 will revisit this application after cross-examination. Please
09:43:28 20 pass up the document, Mr Court Attendant.

21 MR HERBST: Thank you, Your Honour. If I may, I will
22 proceed then to the rest of the direct examination.

23 JUSTICE DOHERTY: Please do so.

24 MR HERBST:

09:44:03 25 Q. Mr Sesay, after the meeting with the investigators, after
26 you left the Court premises did you have occasion later that day
27 to be contacted by anybody in this case?

28 A. I got a call from Sammy afterwards, Samuel Kargbo. He said
29 he was at Sweissy and that I should meet him at Sweissy. I went

1 to Sweissy, so I met with Sammy. Then Sammy told me that they
2 called those men, Bazzy and Five Five, and they have spoken. He
3 said the men told him that they were under preparations and that
4 I should be patient because what they had promised, they were
09:45:53 5 putting things together so that they would honour their request.
6 I mean, they would honour what they said they would do.

7 He said they told him that they contacted a lawyer in
8 Ghana, and that lawyer would come very soon to see me and to see
9 how best he would work things out, but he did not tell me the
09:46:38 10 lawyer's name or where we were to meet. He did not tell me
11 those. After that, I told him that whatever it is. I am hoping
12 to get more information from him. So that was what happened on
13 that day after I had left the investigators when I met with
14 Sammy.

09:47:30 15 Q. I would like to ask you an additional question about your
16 conversation with Sammy Kargbo on that day. Did he ask you
17 anything about another witness who had testified in the AFRC
18 trial?

19 A. Well, during our discussion, Sammy also told, Bobby,
09:48:17 20 please, I want you to tell me the whereabouts of [redacted].

21 THE INTERPRETER: Your Honour, can I call this name?

22 JUSTICE DOHERTY: Mr witness, this --

23 MR HERBST: Excuse me, Your Honour.

24 JUSTICE DOHERTY: Yes, Mr Herbst. Yes, Mr Herbst.

09:48:40 25 MR HERBST: Yes, Your Honour. I had anticipated the
26 witness would use a pseudonym, but in light of the - this is my
27 fault, and I apologise to the Court. I would ask that just the
28 following material be taken in closed session.

29 JUSTICE DOHERTY: Counsel for the Defence?

1 MR METZGER: I'm sorry, Your Honour?

2 JUSTICE DOHERTY: There's an application to have this part
3 of the evidence in closed session.

4 MR METZGER: Effectively, this part of the evidence doesn't
09:49:14 5 relate to Mr Kanu at all, as I understand it, so I'm happy for
6 whatever decision the Court wishes to make.

7 JUSTICE DOHERTY: And that is the view of other counsel?

8 MR SERRY-KAMAL: That is my view.

9 JUSTICE DOHERTY: I will allow this to go into closed
09:49:35 10 session, because it relates to a different protected witness.

11 And for those members of the public who are here in Court
12 and listening, because it relates to a protected witness, we are
13 now going to go into closed session which means that you will be
14 able to see what's happening, but you'll not be able to hear.
09:50:03 15 I'm not sure how long it will take.

16 Mr Court Attendant, please ask our technicians to go into
17 closed session and also a redaction for the name that was
18 mentioned.

19 Mr witness, please pause a moment.

09:53:42 20 MR SERRY-KAMAL: May I be excused, please.

21 JUSTICE DOHERTY: [Microphone not activated] I understand
22 we're now in closed session.

23 [Closed session]

24 [Redacted]

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1 [Open session]

2 JUSTICE DOHERTY: We're now back in open session.

3 Please proceed, Mr Herbst.

4 MR HERBST: Thank you, Your Honour.

10:00:12 5 Q. Mr witness, after your telephone conversation with
6 Mr Kargbo that you just described --

7 MR METZGER: Respectfully, Your Honour, I object. The
8 witness was not describing.

9 MR HERBST:

10:00:29 10 Q. [Overlapping speakers]

11 JUSTICE DOHERTY: Just a moment, Mr Herbst.

12 MR METZGER: Just to correct learned counsel for the
13 Prosecution, the witness was not describing a telephone call. I
14 mean, he may have been as surprised as us, but I think he was
10:00:43 15 actually describing a meeting at a specific location after which
16 the last bit of his evidence was: Then I left him and returned
17 to my house. And my learned friend may just want to reflect on
18 that.

19 MR HERBST: [Overlapping speakers]

10:00:55 20 JUSTICE DOHERTY: Mr Herbst, I was actually going to point
21 out that the witness said he got a call and then met at Sweissy.

22 MR HERBST: Yes, I will withdraw the question and put
23 another question to the witness.

24 JUSTICE DOHERTY: Very well.

10:01:21 25 MR HERBST:

26 Q. After you and Mr Kargbo parted company that day, did you or
27 did you not contact anyone at OTP that day - later that day?

28 MR METZGER: Your Honour, with respect again that's a
29 leading question to a large extent. Perhaps he could have asked

1 him a different question. It's too late for me now, but I would
2 ask him to refrain in the future from --

3 JUSTICE DOHERTY: Yes. Giving an alternative doesn't
4 eradicate the leading nature of that question, Mr Herbst. Please
10:02:05 5 be more careful. The question is now on the table.

6 MR HERBST: I'll put another question.

7 JUSTICE DOHERTY: No, it's been asked. Let's hear the
8 answer.

9 Mr witness, what is your answer?

10:02:22 10 THE WITNESS: After this communication - after this meeting
11 that I had with Sammy, I informed - I called Magnus and informed
12 the OTP. I told them that so and so development has taken place
13 again. I informed them.

14 MR HERBST: Now, Your Honour, I would like to have the same
10:02:45 15 document placed before the witness so that I can ask him to read
16 the last two paragraphs of the document.

17 Your Honour, while that's being done, can I report to the
18 Court --

19 JUSTICE DOHERTY: Just a moment. I'm going to read this
10:03:09 20 before I put it before him.

21 MR METZGER: Thank you. There is an objection.

22 JUSTICE DOHERTY: Mr Herbst, I've read very, very quickly
23 the last two paragraphs. I allowed this document to be put
24 before the witness on the basis it was minutes of a meeting that
10:03:30 25 he attended and was present at and his statement was clearly
26 recorded - or what was said by him was clearly recorded. The
27 last two paragraphs you're referring to are not of that nature,
28 and therefore I do not consider they come within the ambit of the
29 ruling I have made. On that basis, I'm not prepared to put them

1 before the witness.

2 MR HERBST: All right, Your Honour. I'll go on.

3 Could I report to the Court technical staff that I'm
4 hearing my own voice on a feedback loop, and it is rather
10:04:16 5 disconcerting.

6 JUSTICE DOHERTY: Yes. Having experienced the same, I
7 fully accept what you say, Mr Herbst. We will pause while our
8 technicians see if they can deal with that.

9 Mr Court Attendant, please see if our technicians can help.

10:05:15 10 MR HERBST: Your Honour, I can try to persevere if that's
11 going on if you wish.

12 JUSTICE DOHERTY: Obviously it will be very helpful if you
13 can. And when you can't, tell us again.

14 MR HERBST: Thank you, Your Honour.

10:05:39 15 Q. Mr witness, what's the next contact you had with anybody in
16 this case in connection with this matter?

17 A. Well, Sammy met me again at my residence. Then he told me
18 that the men said he should tell me - that is Bazy and Five Five
19 - they said I should exercise patience with them because they
10:06:29 20 were going all out to put things in place as they had earlier
21 promised. He said in their discussion, Bazy assured him that
22 even his brother, who is in America, who is the chairman of the
23 All People's Congress wing at the place where he is. He said
24 that his brother had spoken with the Vice-President in the
10:07:09 25 current government, that is Sahr Sam-Sumana, concerning those
26 men's detention in Rwanda. And he said Bazy's brother assured
27 them that the Vice-President would do all that he can to ensure
28 their release.

29 JUSTICE DOHERTY: Can I have the spelling of the name that

1 was given, please?

2 THE INTERPRETER: Sam is S-A-M and Sumana is S-u-M-A-N-A.

3 JUSTICE DOHERTY: Thank you very much, Mr interpreter.

4 Please proceed, Mr Herbst.

10:08:14 5 MR HERBST: Thank you, Your Honour. Now, on the day - what
6 happened after that meeting with Sammy Kargbo on that day?

7 A. After Sammy had had this discussion with me and assured me
8 that there was no need for me to harbour any fear, because this
9 thing had great influence and that those men were ready to do
10 something for their release, but they only hoped for cooperation
10:08:48 10 from me. So after this discussion, I informed the OTP. I called
11 Magnus and told him about the development that had taken place
12 and they also called me and obtained statement from me about
13 these issues that I've explained.
14

10:09:23 15 MR HERBST: Your Honour, at this point I would ask that the
16 document Headed "Follow-up Contact With 334" be placed before the
17 witness.

18 MR METZGER: The objection remains the same for these
19 documents, Your Honour.

10:09:53 20 MR HERBST: And my response would be the same, Your Honour.

21 MR METZGER: We still would require disclosure of the maker
22 of the documents, still not available to us.

23 JUSTICE DOHERTY: I see. First of all, I haven't seen the
24 document so I'll have a quick look at it in the light of the
10:10:13 25 objections and the response, and Mr Herbst, there's an allegation
26 or submission that we haven't got disclosure - you have not made
27 disclosure of who prepared this document or its author.

28 MR HERBST: Well, Your Honour, I don't think it's relevant
29 or pertinent as to which of the individuals made the document for

1 the purposes that it's being offered.

2 JUSTICE DOHERTY: What if --

3 MR HERBST: But my understanding --

4 JUSTICE DOHERTY: Mr Herbst, what if counsel for the
10:11:09 5 Defence want to subpoena the author of the document and examine
6 him? How are they going to do that?

7 MR HERBST: Your Honour, I'm planning to have Mr Joseph
8 Saffa testify, one of the individuals named by the witness, and
9 he will be available for cross-examination on that and any other
10:11:40 10 subject that counsel wishes to put to him, and he is in the best
11 position, I believe, to answer that question. I have disclosed
12 previously that Mr Saffa would testify.

13 JUSTICE DOHERTY: Yes, I saw Mr Saffa was on the list, but
14 it doesn't really answer my question. If Mr Saffa was the author
10:12:08 15 of this document, then it answers my question: Was he the
16 author? But that's not what you're saying. You're saying you're
17 going to call him and he was one of the people. I don't know who
18 authored the document.

19 MR HERBST: Your Honour, I have been advised that Mr Saffa
10:12:29 20 did author the document, that he authored both documents that
21 Your Honour has seen.

22 JUSTICE DOHERTY: I haven't seen the second one yet. I'm
23 still waiting for it. Just let me see it. Gentlemen, the
24 document given to me by the Court Attendant is headed "follow-up
10:13:43 25 contact with TF1-334." That's the document in question. It's a
26 one-page document.

27 MR METZGER: Yes, Your Honour.

28 JUSTICE DOHERTY: I don't think it's appropriate for this
29 to be put before this witness. This witness is not the author.

1 He was not present to - when the meeting that's referred - the
2 stuff that's referred to was drawn up, and I consider it more
3 appropriate that this document be presented to the Court through
4 its author.

10:14:41 5 MR HERBST: Very well, Your Honour. Then I would ask at
6 this point that the witness's signed statement consisting of
7 three pages be placed before the Court in accordance, actually,
8 with Mr Metzger's suggestion. The statement date is 9 December
9 2010.

10:15:23 10 JUSTICE DOHERTY: I have that document before me. Before I
11 ask Mr Court Attendant to show this document to Defence counsel
12 and to the witness, I think there is a very important piece of
13 evidence that we do not have in this Court. Since nobody else
14 has raised it, I'm going to raise it.

10:15:45 15 Mr witness, please give me your full name.

16 THE WITNESS: Alimamy Bobson Sesay.

17 JUSTICE DOHERTY: Mr Sesay, where do you live?

18 THE WITNESS: Number 3, St John Drive, Wellington.

19 JUSTICE DOHERTY: Please show the document to counsel and
10:16:21 20 put the document before the witness.

21 MR METZGER: Your Honour, with the greatest respect to my
22 learned friend, I would like - I normally just peruse these very
23 briefly. I have not seen this signed statement before today's
24 date. I would like the opportunity to look at it and compare it
10:17:19 25 with the unsigned statement that was served on the Defence. I
26 understand my other learned friends have seen it. It may have
27 been something that just escaped from the documents that came to
28 me. But can I have just probably five or seven minutes to look
29 at it before any questions are asked? I want to compare it.

1 Thank you.

2 JUSTICE DOHERTY: Just a moment. I'll ask Mr Herbst.

3 Mr Herbst, I will allow Mr Metzger time to many compare. But if

4 there are other questions that would be appropriate to ask at

10:18:00 5 this time, you can ask him and I'll give him longer time over the

6 break. Otherwise, we'll just pause to allow him to look at it.

7 MR HERBST: Your Honour, I was going to ask him after

8 reviewing it whether this is the signed statement that he made

9 [overlapping speakers] --

10:18:16 10 JUSTICE DOHERTY: Well, in that case we will pause and

11 allow Mr Metzger to compare and contrast.

12 MR METZGER: I'm grateful, Your Honour.

13 JUSTICE DOHERTY: Please proceed, Mr Herbst.

14 MR HERBST: Thank you, Your Honour.

10:19:45 15 Q. Mr Sesay, do you have the statement before you?

16 A. Yes, My Lord.

17 Q. Would you take your time and review the statement and let

18 us know what this document is?

19 A. Yes, My Lord.

10:21:39 20 JUSTICE DOHERTY: The question, Mr witness, was: What is

21 the document?

22 THE WITNESS: This is a statement that I gave to the OTP as

23 I was getting in touch with Sammy and others. This is the

24 statement that I was making to them.

10:22:07 25 MR HERBST:

26 Q. Now, did you read and sign this statement on the date it

27 bears: 9 December 2010?

28 A. Yes, My Lord. They gave it to me afterwards. They gave it

29 to me and I looked through it before signing it.

1 Q. And did you affirm that it was true?

2 A. Yes, My Lord. I confirmed that all that I said was true.

3 MR HERBST: Your Honour, at this time I move the document
4 into evidence.

10:23:07 5 JUSTICE DOHERTY: Any objection to the tender of this
6 document?

7 MR METZGER: I don't object to the tendering of the
8 document. I shall certainly - if my learned friend hadn't done
9 it, I would have put it in, and I'll be asking him questions
10 about it. I thank the Prosecutor.

11 JUSTICE DOHERTY: Do you speak on behalf of all counsel for
12 the Defence?

13 MR METZGER: No.

14 MR SERRY-KAMAL: I have no objection.

10:23:38 15 MR NICOL-WILSON: No objection, Your Honour.

16 JUSTICE DOHERTY: Thank you. The document is admitted as
17 Prosecution Exhibit P2. Excuse me, P3.

18 ADMITTED AND MARKED EXHIBIT P3

19 JUSTICE DOHERTY: Proceed, Mr Herbst.

10:24:05 20 MR HERBST: Thank you.

21 Q. Mr Sesay, would you tell us what's the next thing that
22 happened in relation to this matter?

23 A. Well, I got a call from the OTP whereby they questioned me
24 that with these statements that they've had, they would like to
10:24:41 25 make a charge of contempt and what I had to say about that. So I
26 told them that, well, I don't have any problem for them to charge
27 this matter for contempt. I raised some security concerns, and I
28 told them that since Sammy had said he would get in touch with
29 me, I don't want them - if they charge now, I wouldn't get any

1 further information because Sammy had promised to get in touch
2 with me. So I told them to hold on until I get what Sammy had to
3 tell me, and from there they can proceed with the charge.

4 JUSTICE DOHERTY: Proceed, Mr Herbst.

10:25:53 5 MR HERBST:

6 Q. Now, after that, did any of the - did anyone in this case
7 contact you?

8 A. After what I had said to the OTP, it took some time. I was
9 driving to town when Sammy called me. He said Bobby, where are
10:26:26 10 you? I said, I'm on my way coming. Then he said, Meet us at
11 Howe Street. We are waiting for you. I drove to Howe Street,
12 and I met Sammy and Bomb Blast, Hassan Papa Bangura. Both of
13 them were in the car. Then Bomb Blast said, Drive us to
14 Robert Street. I moved the vehicle.

10:27:09 15 As we were on our way, Bomb Blast started discussing with
16 me. He said, Bobby, you are my man. How much do you want out of
17 this deal? I said, B - because that's how I normally called
18 him - I said, B, this is a big deal. I was expecting you to tell
19 me that this is what you've got, I said, because you want some of
10:27:51 20 the money. Sammy wants some of this money. I said, So you tell
21 me exactly how much you want to offer. Then Blast said, My man,
22 tell us how much you want. I said, No, you tell me how much
23 you've got or how much you've put together for this thing.

24 Then he said, Like, How much would you want? Would you
10:28:15 25 wanted \$10,000? And I said that was small. Whilst we continued
26 to drive, he said, My man, I want you to know that the Special
27 Court did not do anything for you. They have not done anything
28 for you. So if those men want to find a way of money coming in,
29 accept it so that you would have something and we too would have

1 something. I was still listening.

2 As we were going, he got a call. Then he told me that
3 Bobby, you would have to speed up because I've got a call from a
4 lawyer. That's one of the lawyers is calling me, lawyer
10:29:06 5 Mansaray. He named him to me that it was lawyer Mansaray
6 calling. Okay, we were still driving. The lawyer called again.
7 Then Blast told him that we were close.

8 I drove them and dropped them off at number
9 16 Robert Street, because I saw the place. Blast and Sammy
10:29:34 10 disembarked. Then they said Bobby, you go. We'll meet you later
11 at Sweissy. Then I said okay. Then I drove off. That day I did
12 not work. I waited at Sweissy. Afterwards, Sammy and Bomb Blast
13 met me. Then they told me that - that was at Sweissy. They
14 said, Bobby, we have spoken with those men. I have spoken with
10:30:10 15 Bazy and Five Five, with their lawyer, lawyer Mansaray, who is
16 coordinating this mission that is going on. He said, And the men
17 have faithfully promised that they were putting everything in
18 place, that I should be patient, that they've worked all the
19 modalities and they will honour what I want.

10:30:42 20 Then Blast told me, he said, Bobby, I don't want you to
21 have any fear. If there is anybody to be afraid of in this
22 country, it is I and Sammy. Those are the two people you should
23 be afraid of. Do not have any fear. This is a clean mission.
24 Then I said, Well, okay. I'm listening to you. If that is what
10:31:08 25 has happened, then there is no problem. So I contacted the OTP
26 again, that this was a development that has taken place. So they
27 immediately called me and obtained another statement from me
28 concerning what I have explained today. So this was what
29 happened.

1 Q. Mr witness, I want to now direct your attention to the last
2 few weeks - the last two weeks or so. Did you have occasion to
3 be contacted by anybody in this case?

4 A. Well, as far as I can recall, like I said, these last two
10:32:24 5 weeks I and Bomb Blast met when we drove to Robert Street. And
6 the OTP also contacted me when I advised them to wait, because
7 Sammy had said they had another programme to talk to me.

8 JUSTICE DOHERTY: Not very clear the last answer. You
9 called OTP, and who was it said they had another programme?

10:33:05 10 THE WITNESS: Well, because I told the OTP that Sammy had
11 said those men were going to call him and I should wait. They
12 said I should wait because those men are going to call him. So I
13 told the OTP when they called me and said they were going to make
14 a charge, I said they should wait for me to get this last
10:33:30 15 information from this man, what their last option is.

16 JUSTICE DOHERTY: Mr Herbst, continue, please.

17 MR HERBST: Yes, Your Honour. I'm not sure that I made my
18 previous question clear, so I'm going to try again.

19 Q. I was asking about events very, very recently within the
10:33:55 20 last two weeks from today [overlapping speakers] --

21 A. Well --

22 Q. -- you received any further contact from anybody in this
23 case in the last two weeks?

24 A. My Lord, what happened, there was a time, that was around
10:34:33 25 the 8th or the 9th of this month. When I went to Sweissy, I and
26 Blast met. In fact he told me, he said, My man, and I said, Yes,
27 sir. Do you know that that case has been announced on the radio?
28 And I said I don't know anything about this thing. I said nobody
29 has informed me. Nobody has told me. Then he said, It looks

1 I like this matter is coming up. And he said, But please, I have
2 seen your statement. I have gone through your statement, he
3 said, and there are areas that you involved me. You are my man.
4 You are my brother. Please, how best can you help me? And I
10:35:22 5 asked him in what way?

6 And he said like the communication that we had in Newton
7 and when we went to that lawyer, he said those are the areas that
8 I - that you have involved me. But I want you, please, to help
9 me as a brother. Then I said, Well, nobody has called me. They
10:35:43 10 have not called me yet and I don't know anything about a case
11 coming up or not. That passed.

12 Afterward, the WVS called me. That was on the 15th or so.
13 The WVS called me and they said they wanted to see me in the
14 office. I came to the office, and I sat close to Mr Aki. When I
10:36:21 15 came in I told Mr Aki, I said, I saw Bomb Blast's jeep around.
16 Then he said, he doesn't know anything. Then I said okay. But
17 within that time that I and Mr Aki were discussing, I received a
18 call on my phone. And when I received this call, I showed it to
19 Mr Aki and I said this is Blast calling me, and I said I have
10:36:47 20 seen this man's car and now he's calling me. Is this not a trap?

21 I showed it to Mr Aki and I told him that this is Blast
22 calling me. Then Aki said, What do you want me to do? Then I
23 said, Okay, I'm going to answer the call. Then I answered the
24 call. Then Blast asked me, My man, where are you? And I said I
10:37:08 25 was at home. He said what's happening? And I said my stomach
26 was disturbing me. He said, My man, please, I want us to meet
27 today. Do everything for us to meet today. I said, Well, if my
28 stomach gets better, then we'll meet. Mr Aki was sitting there.
29 He said, Please, try and let us meet.

1 Then I even told him that, My man, my stomach is disturbing
2 me, but if it is possible, we can meet. You even have one of
3 your boys called Wyrish, wherever he sees me he is always angry.
4 So I'm beginning to be afraid. Then Blast said, That's your boy.
10:38:01 5 Leave him alone. I said the way that man is making out he's
6 close to you, I wouldn't like to be where he is. After which the
7 discussion ended. Then I see - I saw Bob coming in. And as soon
8 as he came in, and I said Bob, this is what has happened. I said
9 look at the call. That man just called me and look at Mr Aki
10:38:33 10 sitting down. I just had to tell you what is going on. So I
11 reported that to Bob and Mr Aki. That was what happened.

12 JUSTICE DOHERTY: Mr Herbst, before you ask your next
13 question, I did not hear the name. You said you even have one of
14 your boys. What was the name you gave?

10:38:56 15 THE WITNESS: He's called Wyrish.

16 JUSTICE DOHERTY: Mr witness, down how to spell Wyrish?

17 THE WITNESS: W-Y-R-I-S-H, Wyrish. That's my own way that
18 I spell it.

19 JUSTICE DOHERTY: Thank you. That's fine. Mr Herbst,
10:39:26 20 please continue.

21 MR HERBST:

22 Q. Mr witness what was the number registered in your phone in
23 the telephone conversations that you just described with
24 Mr Bangura also known as Bomb Blast?

10:39:45 25 A. Well he called me on his Zain line. I can only remember
26 the 07 number but it's in my phone. The received call is in my
27 phone. I showed it to you that day and I showed it to Mr Aki at
28 the same time the call happened. It's in my phone.

29 JUSTICE DOHERTY: For purposes of clarification and record,

1 Mr witness, who is Bob?

2 THE WITNESS: The independent who was in the office. The
3 Independent Counsel.

4 JUSTICE DOHERTY: Thank you.

10:40:28 5 Mr Herbst, please continue.

6 MR HERBST: Would Your Honour bear with me one minute? I'm
7 just about done.

8 Q. Mr witness, I think I asked you to describe your
9 relationship or knowledge of Mr Kargbo, Mr Bangura, and Mr Kanu.

10:41:51 10 Tell us with respect to Mr Kamara how you knew him and what was
11 his position in the army and during the war?

12 A. Repeat the question because you said Mr Kamara. I want to
13 get the question clearly.

14 Q. Would you tell us how long you've known Mr Bazzy Kamara and
10:42:27 15 how you knew him back in the army [overlapping speakers] --

16 JUSTICE DOHERTY: We'll take one question at a time,
17 Mr Herbst, please.

18 MR HERBST: Okay.

19 THE WITNESS: Mr Bazzy Kamara, I had known him during the
10:42:47 20 days of NPRC. I came to know him more during the AFRC. He was
21 the PL03, principal liaison officer 3 in the AFRC. Then when we
22 also went to the jungle, he was the second in command when we
23 invaded Freetown. And when we went to the West Side, he was the
24 West Side commander, after which he came to town and Bomb Blast
10:43:25 25 took over.

26 MR HERBST:

27 Q. And would you tell us - give us the same information with
28 respect to Mr Brima?

29 MR METZGER: Your Honour, respectfully, relevance? I don't

1 notice Mr Brima's name on the indictment.

2 JUSTICE DOHERTY: Mr Brima is not this Kamara.

3 MR HERBST: [Indiscernible]

4 JUSTICE DOHERTY: Sorry, Mr Herbst. I didn't hear your
10:43:58 5 reply. I'm sorry, Mr Herbst, I didn't hear your reply.

6 MR HERBST: [Overlapping speakers] Mr Brima is not on the
7 indictment. However, I think it is appropriate to describe his
8 role, and I think this witness is competent to describe his role
9 in light of the other evidence in the case that Your Honour has
10:44:19 10 heard.

11 JUSTICE DOHERTY: Yes, I allow the question.

12 MR HERBST:

13 Q. Mr Witness, you may answer. Tell us about Mr Brima's role?

14 A. Ibrahim or Brima? Brima, Kamara, which one are you
10:44:53 15 referring to?

16 JUSTICE DOHERTY: Mr Herbst, did you hear the request for
17 clarification?

18 MR HERBST: Yes.

19 Q. Mr Alex Tamba Brima?

10:45:22 20 A. Mr Alex Tamba Brima was the PLO2 during the AFRC, and when
21 we went to the jungle later, in Rosos and Colonel Eddie Town, he
22 was the commander --

23 MR METZGER: I do object. With the greatest of respect, if
24 the Prosecution is trying to prove his knowledge of this witness
10:45:53 25 and so on, then it can be dealt with in a different way. The
26 people of this country have heard enough about the war and the
27 conflict. This took two or three years before this Court. Why
28 is it that we have to listen to what Mr Alex Tamba Brima did or
29 is alleged to have done during the conflict in this country?

1 We are here trying a contempt of Court that occurred
2 somewhere around the end of November 2010 and whatever happened
3 afterwards. I'm at a loss to see the relevance of this in-depth
4 foray into Mr Alex Tamba Brima's being activities.

10:46:35 5 JUSTICE DOHERTY: As you pointed out, Mr Metzger, he's not
6 been indicted, he's not been represented here in this Court, but
7 he has been referred to in evidence and I'm allowing the
8 questi on.

9 MR METZGER: Much obliged.

10:46:52 10 JUSTICE DOHERTY: Mr witness, please continue with your
11 answer. You said when we went to the Jungle and then you
12 referred to Colonel Eddie Town.

13 THE WITNESS: At Colonel Eddie Town he was the commander.
14 I mean, he was the commander who led us from Kono up to
10:47:09 15 Colonel Eddie town when SAJ Musa came. He became the second in
16 command. When we moved to Freetown, SAJ Musa died on the way in
17 Benguema and Tamba Brima became the commander that led the troops
18 to invade Freetown on January 6.

19 JUSTICE DOHERTY: Mr Herbst, please continue.

10:47:46 20 MR HERBST: Your Honour, I want to report that we lost the
21 link, audio and visual - audio and that I gather when the link
22 came on, Mr Sesay was completing his answer so I gather
23 Your Honour had allowed the questi on.

24 JUSTICE DOHERTY: Yes, I allowed the questi on.

10:48:06 25 MR HERBST: But Your Honour should know that we did not
26 hear all of the answer here in Kigali.

27 JUSTICE DOHERTY: The witness said at Colonel Eddie Town he
28 was commander who led us from - and I didn't get the name of the
29 place clearly, I'll have to look at the transcript - until

1 SAJ Musa was a commander. He became the second in command when
2 we moved to Freetown and SAJ Musa was - died at Benguema. He led
3 the troops to Freetown on January the 6th.

4 MR HERBST: I thank Your Honour and I have no further
10:48:54 5 questions of the witness, and I tender him for cross-examination.

6 JUSTICE DOHERTY: Thank you, Mr Herbst.

7 Now Mr Nicol-Wilson, I think your client is first on the
8 indictment.

9 Cross-examination by Mr Nicol-Wilson:

10:49:11 10 MR NICOL-WILSON:

11 Q. Good morning, Mr witness.

12 A. Good morning, my Lord.

13 Q. I'm going to ask you some few questions, and then please
14 answer me as precisely as you can. I didn't get your answer?

10:49:48 15 A. Yes, my Lord.

16 Q. Were you a protected witness before these contempt
17 proceedings were instituted?

18 A. I want you to break down that question for me to get it
19 clearly.

10:50:14 20 Q. Were you enjoying any form of protection from the Special
21 Court prior to the commencement of these proceedings?

22 A. The word you've used "enjoy" puts me in doubt. Whether I
23 was "enjoying", I do not understand that.

24 Q. Mr witness --

10:51:09 25 A. Yes, my Lord.

26 Q. -- have you ever understood the concept of protection?

27 MR HERBST: Your Honour, I object to that question as
28 inappropriate.

29 JUSTICE DOHERTY: Actually, I don't really understand it

1 either, Mr --

2 MR NICOL-WILSON: I'll put it differently.

3 JUSTICE DOHERTY: If he had protective measures and you're
4 aware of them, I see no reason why you can't put that to him. I
10:51:46 5 would add, in parenthesis, as I'm still waiting to get the
6 relevance of the question but that will become apparent I'm sure
7 as we proceed.

8 MR NICOL-WILSON: Your Honour this witness is fully
9 knowledgeable about the concept.

10:52:09 10 JUSTICE DOHERTY: There's various forms of protection.

11 MR NICOL-WILSON: I'll phrase it differently.

12 JUSTICE DOHERTY: Please do.

13 MR NICOL-WILSON:

14 Q. Mr witness, do you understand what being a protected
10:52:19 15 witness means?

16 A. No, I think you should explain to me, my Lord.

17 Q. I'll suggest prior to the commencement of these proceedings
18 you were not a protected witness?

19 A. Well, you said you are suggesting. I did not come here on
10:52:56 20 suggestion. You said you are suggesting?

21 Q. I'm also putting it to you --

22 MR HERBST: I'm sorry, Your Honour, I didn't quite
23 understand the answer, excuse me.

24 JUSTICE DOHERTY: Mr Herbst, that will be for you to --

10:53:17 25 MR HERBST: [Overlapping speakers]

26 JUSTICE DOHERTY: Mr Herbst, please speak again. I spoke
27 over you.

28 MR HERBST: I'm sorry, Your Honour, I could not understand
29 - hear and understand the witness's answer completely and may I

1 have it heard?

2 JUSTICE DOHERTY: Mr witness, repeat your answer.

3 THE WITNESS: My Lord, I think the lawyer should repeat his
4 question too.

10:53:44 5 JUSTICE DOHERTY: I have noted the answer was, you say
6 suggesti on - suggesti ng. I did not come here for suggesti ons,
7 whi ch i s very i nconcl usi ve.

8 MR HERBST: I thank the Court.

9 MR NICOL-WILSON: Your Honour, just a point of observation.
10:54:04 10 If Mr - the learned Independent Counsel continues to object and
11 i nterj ect as I proceed wi th thi s cross-exami nati on, we're going
12 to spend a very long time here.

13 JUSTICE DOHERTY: Mr Nicol -Wilson, we've already spent a
14 very long time here and part of the i nterj ecti on i s because he
10:54:22 15 can't hear. He's entitled to hear. I'm doing my best to try and
16 bal ance.

17 MR NICOL-WILSON: Your Honour, when the witness was in
18 exami nati on-i n-chi ef he heard every bi t of word he was sayi ng.
19 As soon as I start cross-exami ni ng the wi tness he cannot hear any
10:54:38 20 more.

21 JUSTICE DOHERTY: Mr Nicol -Wilson are you argui ng wi th me?

22 MR NICOL-WILSON: No, Your Honour, I'm not.

23 JUSTICE DOHERTY: Good. I'm pleased to hear that.

24 Mr witness, the questi on that was put to you, and I want to
10:54:49 25 hear a clear answer, i s: Di d you have protecti ve measures from
26 the Court before these proceedi ngs? [Mi crophone not acti vated]
27 Di d you hear the questi on?

28 THE WITNESS: Yes, my Lord.

29 JUSTICE DOHERTY: What's the answer?

1 THE WITNESS: Yes.

2 JUSTICE DOHERTY: Proceed.

3 MR NICOL-WILSON:

4 Q. Can you tell the Court what protective measures you had
10:55:20 5 from this Court prior to the commencement of these proceedings?

6 A. Well, that was after the Charles Taylor trial that I got
7 the protection. But before these proceedings started, I was by
8 myself.

9 Q. Thank you very much, Mr witness. So am I correct to say
10:55:44 10 you were not a protected witness prior to the commencement of
11 these proceedings?

12 A. As I said, I was under the Court's protection just after
13 Charles Taylor's trial but before this thing started, I was by
14 myself. Before this trial started, I was by myself.

10:56:05 15 Q. So you were not a protected witness before this trial
16 started?

17 JUSTICE DOHERTY: First of all, Mr Nicol-Wilson, I've made
18 a ruling on this in accordance with Rule 75 I think it's (J) and
19 secondly, you have asked the question twice and he has answered.
10:56:24 20 If you don't understand his last part of his answer, it would be
21 helpful for all of us to have that part of his answer clarified.

22 MR NICOL-WILSON: That's the clarification I'm seeking to
23 get from the witness.

24 JUSTICE DOHERTY: Put it directly then, please.

10:56:41 25 MR NICOL-WILSON:

26 Q. After you testified at the Charles Taylor trial, your
27 protection ended; am I correct?

28 A. Well, I was still under the protection of the Court after
29 the trial ended, but before this thing started I - before this

1 trial started, I was by myself.

2 Q. Thank you. And because you were by yourself, you
3 frequently visit the Sweissy area?

4 A. I did not frequently visit Sweissy. One, I was a taxi
10:57:36 5 driver at that time. I was with my taxi. I bought it and I was
6 moving up and down doing my business. I go to Sweissy once
7 because Sweissy is a business area. You meet prominent people
8 there. You meet ex-fighters there. You meet different people
9 there. It's a business area. So I used to go there.

10:57:56 10 Q. Thank you. For how long were you by yourself as you said
11 earlier on before these proceedings commenced you were by
12 yourself. For how long were you by yourself?

13 A. Before these proceedings started, I was almost - I've been
14 by myself for a year now.

10:58:28 15 Q. And also you testified in Court yesterday that there is a
16 video clip about you testifying at the Charles Taylor trial?

17 A. Yes, I have the video clip. It's with me. I even made a
18 report to the Court concerning that video clip. I said because
19 they never told us that they were selling those clips. I've seen
10:58:58 20 them being sold and I have got it. They said the Court would
21 address that issue.

22 Q. So it's public knowledge that you testified at the Charles
23 Taylor trial?

24 A. Yes, because I testified openly. The only thing that I
10:59:22 25 objected to was the sale of the plates that they were making as a
26 commercial thing.

27 Q. And you did not get from the proceeds of the sale?

28 A. No, that did not concern me. My concern was the security
29 area, because I am not concerned - I did not make any objection

1 about what they sold. I just based it on the security area that
2 they never told me that they were going to sell those things and
3 I've seen them being sold so I brought that to the notice of the
4 Court.

11:00:03 5 JUSTICE DOHERTY: Mr Nicol-Wilson, I'm watching the time.
6 We're just on our two hours and if it's convenient or if you've
7 relevant questions.

8 MR NICOL-WILSON: It's convenient, Your Honour. We can
9 take the break.

11:00:17 10 JUSTICE DOHERTY: Thank you, Mr witness and for those in
11 Court, this is a time - this is two hours. We take a break now
12 of 45 minutes and we will resume Court at 11.50.

13 I would remind you, Mr witness, that you're under oath and
14 you should not discuss your evidence. Please adjourn Court to
11:00:56 15 11.50.

16 [Recess taken at 11.01 a.m.]

17 [Upon resuming at 11.50 a.m.]

18 JUSTICE DOHERTY: Mr Herbst and other persons in Kigali,
19 can you hear me clearly?

11:50:57 20 MR HERBST: Your Honour, good afternoon. We do hear you
21 clearly, and I have two brief preliminary matters to raise.

22 JUSTICE DOHERTY: Very well. I'll deal with those before I
23 invite Mr Nicol-Wilson to continue with his cross-examination.
24 Please let me have them.

11:51:16 25 MR HERBST: Your Honour, over the weekend, as I said I
26 would, I sent an e-mail to all counsel, the information that I
27 had obtained so far from Mr Hillary Sengabo, and I asked
28 Mr Metzger to advise me whether or not --

29 JUSTICE DOHERTY: Just a moment, Mr Herbst. Mr Metzger

1 doesn't have his earphones on yet. So I'll just wait until he
2 gets his earphones on since his name has been mentioned.

3 MR HERBST: Of course, Your Honour.

4 JUSTICE DOHERTY: Mr Metzger, can you hear now?

11:52:14 5 MR METZGER: Your Honour, I can. I've lost a bit of
6 equipment. I can hear.

7 JUSTICE DOHERTY: Is it in your?

8 Please continue, Mr Herbst. You opened there by saying
9 that you had asked Mr Metzger. Please pick up from that point.

11:52:35 10 MR HERBST: Yes, Your Honour.

11 I had asked Mr Metzger to advise me of - in accordance with
12 Your Honour's direction, whether he wished me to put Mr Sengabo
13 on or whether he wished me to put Sengabo on in his Defence case.

14 I am happy to put Mr Sengabo on in our case as I had indicated to
11:53:11 15 the Court. I have not yet received a response. And of course in

16 light of Mr Metzger's mother's accident, I expected none up to
17 now. And we're all in Kigali very happy to hear, by the way,
18 that his mother is well. But because I placed myself voluntarily
19 under restraint and have not talked further to Mr Sengabo, and in
11:53:50 20 fact did not go to the prison because it was not clear whether on
21 the weekend there would be anybody else present to discuss the
22 matters with me, I would like to have some resolution to that
23 issue. It is important evidence that I seek to put before the
24 Court.

11:54:18 25 The second related matter, Your Honour, has to do with the
26 telephone records of the cell phone that was used during the
27 relevant period by the prisoners in Rwanda. I was provided those
28 records at the commencement of my investigation by one of the
29 Court staff members. I believe it was the Principal Defender who

1 had anticipated that the records might be relevant and wished to
2 have them both for myself and then ultimately for Defence
3 counsel. And I left those records in the custody of the
4 Principal Defender in order to make sure that all Defence counsel
11:55:25 5 would have access to them which they have obtained, my
6 understanding is again through the offices of the
7 Principal Defender.

8 It is therefore my understanding that there is no objection
9 to the authenticity of the telephone records while, of course,
11:55:50 10 counsel may reserve any relevancy objections that they might
11 have. But I just wanted to make that a matter of record and make
12 sure my understanding is correct. Because I don't want to lose
13 any time in admitting the pertinent portions of the telephone
14 records when everybody comes here to Rwanda.

11:56:26 15 Those were the two issues, Your Honour, that I wanted to
16 raise, and I thank the Court.

17 JUSTICE DOHERTY: Thank you, Mr Herbst. I was indeed
18 thinking of raising this issue of Mr Sengabo myself if it hadn't
19 been resolved. So now that it is before me again, Mr Metzger,
11:56:49 20 you will recall the Court's attitude to this witness and that he
21 is a witness of fact of record and procedure, and I invited both
22 counsel to liaise, and if they didn't I'd intervene.

23 MR METZGER: That's quite correct, Your Honour. First of
24 all, can I apologise for my tardy appearance this afternoon. I
11:57:12 25 took the opportunity of spending some of the time during the
26 break trying to speak with Mr Kanu.

27 As far as Mr Sengabo is concerned, the Prosecution has,
28 without notice of Defence, gone and spoken to a witness. That
29 witness is tainted from the Defence point of view as far as I am

1 concerned. I do not know, for example, whether a witness
2 statement, a copy of which I left with Mr Sengabo, has been
3 provided to the Prosecutor. If it has, I cannot prevent it, but
4 I will comment on it appropriately at the appropriate time.

11:57:51 5 It seems to me that that is the position. I cannot now
6 call Mr Sengabo. If the Prosecution wishes to call him, he
7 wishes to call him for an entirely different reason than that
8 which is set out in the Prosecution Rule 66 disclosures of
9 pre-trial brief. It is, of course, open for the Prosecutor to
11:58:14 10 change the way in which his case runs at any time, but it was my
11 understanding, in relation to the telephone records, that the
12 reason the Prosecution were not relying on said records was
13 because they weren't sure or couldn't say that they were
14 accurate. And in those circumstances, far be it for me now to
11:58:36 15 agree as to the accuracy of those records.

16 I have worked with those records, I accept, and I have
17 taken those records at face value as being records provided by
18 MTN. But, of course, the Court will be aware, as will be my
19 learned friend for the Prosecutor, that if he wishes to adduce
11:58:57 20 evidence, he must do so in a manner that is acceptable by the
21 Court and it will not be with my explicit agreement on behalf of
22 my lay client.

23 That lack of agreement, respectfully, can be easily
24 side-stepped by him getting an official - taking a statement from
11:59:22 25 an official from MTN to authenticate the record. But I am afraid
26 that in so far as the Defence for Kanu is concerned, he will be
27 required to do that.

28 JUSTICE DOHERTY: I think that latter part of your response
29 relates to the second leg of the matters raised by Mr Herbst,

1 does it?

2 MR METZGER: Indeed, Your Honour. I took the opportunity
3 as I was on my feet on the basis of economy to deal with it all
4 at the same time.

11:59:50 5 JUSTICE DOHERTY: That's fine. As long as I am clear for
6 the record.

7 MR METZGER: Yes. First part not calling Mr Sengabo, I
8 consider, as I have indicated, that witness for the Defence point
9 of view has been tainted by an approach from the Prosecution
10 without prior notification to the Defence, despite my explicit
11 request to the Prosecution that if there were going to be
12 investigations carried out in Rwanda that I be notified
13 beforehand.

14 JUSTICE DOHERTY: I won't traverse that again because it's
12:00:23 15 been well and truly traversed here in the Court and your views
16 are very clearly on record.

17 MR METZGER: I am very much obliged.

18 JUSTICE DOHERTY: Just one matter of clarification: MTN,
19 was that the --

12:00:39 20 MR METZGER: MTN, Mike, Tango, November, the initials, I
21 believe, of the service provider concerned.

22 JUSTICE DOHERTY: Thank you.

23 MR METZGER: I believe they are records relating to MTN,
24 but from the document I have seen, I cannot certify that or
12:01:03 25 conceive of the way in which the document has been obtained
26 except that it does appear that somehow some authorities have
27 been involved and made a request.

28 JUSTICE DOHERTY: Thank you. Mr Herbst, I've heard
29 Mr Metzger and yourself. My understanding is Mr Metzger - just

1 pause.

2 Any other Defence counsel wish to say anything on this
3 point? No.

4 Counsel for the Defence are not going to call Mr Sengabo.

12:01:45 5 I have indicated that I consider this a witness whose knowledge
6 of procedure and records are important and now I ask if you're
7 going to call him, and if you're not I've already indicated I
8 will do so using the powers vested in the Court under the various
9 Rules. That's my first point. You do not have to answer that
12:02:15 10 immediately if you wish to consider it.

11 And my understanding on your second point is that Defence
12 counsel are not going to concede or are not going to take a
13 neutral "no objection" position on the authenticity of the
14 records and are putting you on proof.

12:02:39 15 So those answer your two questions, and I will ask you now:
16 Are you going to call this gentleman?

17 MR HERBST: Your Honour, it is indeed my plan now to call
18 Mr Sengabo. Having heard Mr Metzger's statement, I will no
19 longer consider myself under voluntary restraint, and I will call
12:03:11 20 him.

21 I would with respect to the telephone records report to the
22 Court that it is my understanding that the Special Court in
23 Sierra Leone made an application through channels, between the
24 two countries I guess, for a copy from MTN of the telephone
12:03:51 25 records.

26 I do not recall whether when the original records were
27 presented to me in a large blue binder, I cannot recall for sure
28 whether or not there was a certification provided, although I do
29 seem to recall that there was one but I cannot be sure. And I

1 have not - was not able to look at the - at that binder before I
2 I left Sierra Leone because it was not in the possession of the
3 Principal Defender but of one of her assistants who was not
4 present in the Court.

12:04:42 5 So I would make a request, since I am not in Sierra Leone,
6 that the Principal Defender or some other appropriate official of
7 the Special Court check the binder to see whether there is a
8 certificate. Now if there is a certificate, the record should be
9 admissible. It is my further submission that even if there is
12:05:22 10 not a certificate the record should be admissible because (1)
11 hearsay is admissible in the Court; and (2) when one looks at the
12 phone records, they virtually self-authentic. Each call is
13 listed. The phone number of the prison cell phone is listed on
14 each and every call. The records have the look of regularity
12:06:12 15 because the date and time of each call follows the previous one
16 in sequence.

17 Accordingly, I would ask the Court to admit the records
18 without the necessity of my now trying to find an MTN official --
19 JUSTICE DOHERTY: Mr Herbst.

12:06:39 20 MR HERBST: [Overlapping speakers]

21 JUSTICE DOHERTY: Yes. I hear and understand your
22 application. There are two steps, it seems to me - at least two
23 steps before we get to this admissibility issue. First is
24 finding this binder. Obviously, I am not able to direct the
12:07:01 25 Principal Defender and they have not been filed with the Court,
26 so they are not a record of the Court. I can hope that a member
27 of the Registrar's staff has heard what you said and heard your
28 request and the Registrar, I'm sure, will possibly give
29 directions in accordance with I think it's Rule 33.

1 But until those documents are actually formally put before
2 the Court under either Rule 92 or through a witness, I think it
3 is inappropriate for me to rule in a vacuum on admissibility and
4 other such issues. So I have noted your arguments. I will
12:08:02 5 reconsider them when I actually come to move the admission of
6 these documents under whichever Rule or through whichever witness
7 you choose to do it, but it's not appropriate to put them in in a
8 vacuum at this point.

9 MR HERBST: I understand, Your Honour, and I thank you.

12:08:32 10 JUSTICE DOHERTY: I will now --

11 MR METZGER: I just wanted to take the opportunity, as soon
12 as possible, to thank my learned friend for his very kind
13 thoughts and for those from the Kigali people.

14 JUSTICE DOHERTY: I am grateful. I'm sure they are
12:08:49 15 grateful, too, because it is the kind of thing that worries all
16 of us when it happens to us, Mr Metzger.

17 Now, Mr Nicol-Wilson, when your with your
18 cross-examination. Please proceed.

19 MR NICOL-WILSON: Thank you, Your Honour.

12:09:06 20 JUSTICE DOHERTY: I'll just remind myself of your last
21 series of questions. Ah, yes. The witness was speaking about a
22 video-clip and a plate arising out of your questions on
23 protective issues.

24 Please proceed.

12:09:27 25 MR NICOL-WILSON:

26 Q. Mr Witness, just before the break, you said for over one
27 year before the commencement of these proceedings you were on
28 your own; is that correct?

29 A. Yes, My Lord.

1 Q. Can you tell the Court what you mean by the phrase "you
2 were on your own"?

3 A. I was taking care of myself. It was not the Court that was
4 taking care of me. I was taking care of myself.

12:10:01 5 Q. Am I right to say you were paying your own rent?

6 A. In fact, I am not paying rent. I have my own place. I am
7 not under any rentage. I have my own house where I am staying.

8 Q. And am I correct to say that's your family house?

9 A. I have a house where I am staying. That's where I am. I
12:10:34 10 am the head and I am in control of it.

11 Q. Are you the owner of that house?

12 A. My Lord, my mother built that house, but my mother has
13 died, my father has died, and I am in control.

14 Q. Would I also be correct to say that you were taking care of
12:11:02 15 your daily living expenses when you said you were on your own?

16 A. I have clearly stated that I have been taking care of
17 myself, my children - my child, and my wife.

18 Q. For further clarity, can you tell the Court the difference
19 between when you were on your own and when you were a protected
12:11:43 20 witness?

21 JUSTICE DOHERTY: Mr Nicol-Wilson, I'm beginning to ask
22 myself the relevance of this very protracted line of questioning.
23 What is it to do with the issue before us?

24 MR NICOL-WILSON: Your Honour, these are foundational
12:12:01 25 questions. I want to exercise some restraint in telling the
26 Court the exact purpose of this line of cross-examine, but if you
27 bear me --

28 JUSTICE DOHERTY: I did allow you quite a bit of leeway,
29 and I think it's way at the beginning you started this and there

1 was an objection and I gave a ruling, and I'm now saying to you I
2 think you've laid quite a lot of foundation and I would ask that
3 you get to the point of this line of questioning.

4 MR NICOL-WILSON: As Your Honour pleases.

12:12:37 5 Q. Mr Witness, you said you testified in the Charles Taylor
6 trial.

7 A. Yes, My Lord.

8 Q. And you actually travelled to The Hague.

9 A. The trial was in The Hague, so I was there.

12:12:59 10 Q. And upon completion of this trial, you wanted to stay in
11 Europe?

12 A. Well, the Court did not permit that because if you want to
13 know, I'll tell you today. When I was in The Hague, I had an
14 opportunity for my sister to visit and witness the trial. My
12:13:38 15 sister requested that if it was possible, for my own safety, for
16 me not to return to Freetown. My elder sister said she would
17 take the responsibility because she had come from France just to
18 pick me up from the Hague for me to stay in France. That is what
19 happened. But WVS said no, it won't happen. I had to return to
12:14:05 20 Freetown.

21 Q. Mr Witness, you must have been very unhappy about this
22 [Overlapping speakers] --

23 JUSTICE DOHERTY: Again, again, again. Again: Relevance?
24 Your --

12:14:29 25 MR NICOL-WILSON: Your Honour, I would --

26 JUSTICE DOHERTY: Just a minute. Let me please finish.

27 MR NICOL-WILSON: As Your Honour pleases.

28 JUSTICE DOHERTY: Please turn off your microphone, it
29 causes static.

1 This witness is not charged or giving evidence on anything
2 relating to the Taylor trial. He's giving evidence on issues
3 that have arisen in late 2010 - or allegedly arisen in late 2010.
4 Whether he stayed in Europe, France, or on the moon doesn't
12:14:58 5 appear relevant to me, and I don't know why you're putting this
6 to him.

7 MR NICOL-WILSON: Your Honour, it goes to motive.

8 JUSTICE DOHERTY: Well, then asked him what the motive -
9 get to the motive, please.

12:15:15 10 MR NICOL-WILSON: Your Honour, with respect, I can't do so
11 in direct words, Your Honour, otherwise the - Your Honour, can
12 the witness be asked out for a minute so that I explain the
13 purpose of this line of cross-examination? I don't feel
14 comfortable doing it, I mean, with the witness in Court and
12:15:41 15 listening to my arguments.

16 JUSTICE DOHERTY: Mr Witness, you have heard all that was
17 said. I will allow counsel to address on this point in your
18 absence.

19 Please assist the witness to leave the Court temporarily,
12:15:51 20 but not too far away, as this is a procedural issue which will
21 not take long.

22 THE WITNESS: Yes, ma'am.

23 JUSTICE DOHERTY: Thank you, Mr Witness.

24 [Witness leaves the court]

12:16:28 25 MR NICOL-WILSON: Your Honour, what I am seeking to
26 establish by this line of cross-examination is the motive behind
27 this complaint by the witness to OTP and to Shyamala. With
28 respect, Your Honour, my own - my own case theory is that the
29 witness is seeking relocation and that the accounts that he has

1 given are completely untrue and not correct.

2 So I am trying to establish a background as to how the
3 witness came back to Sierra Leone and why he eventually contacted
4 OTP with an allegation that people are trying to interfere with
12:17:05 5 him. I won't be long around this line of cross-examination.

6 JUSTICE DOHERTY: Very well. I'll allow the questions, but
7 I will keep an eye on this because I want to take - particularly
8 if we're going into relationships, speaking of people who are not
9 represented here in this Court. We'll have the witness back in,
12:17:43 10 please.

11 Oh, Mr Metzger.

12 MR METZGER: Just very briefly. For clarification
13 purposes, if Mr Nicol-Wilson wasn't dealing with this area, I
14 would. And the reason is because I think what Mr Herbst said
12:17:59 15 yesterday or so was that apparently in his openness to disclose
16 material to us, he disclosed an interoffice memorandum which
17 maybe he would have more heavily redacted.

18 That interoffice memorandum certainly does indicate that
19 after this complaint, this witness was seeking to talk about
12:18:24 20 issues of relocation. And it is in those circumstances, as I
21 say, I would be seeking leave for Your Honour to ask him
22 questions about that or supplementary questions, if the need
23 arises.

24 JUSTICE DOHERTY: Very well. In the circumstances I will
12:18:44 25 allow the questioning. And please bring the witness back in.
26 Thank you.

27 [The witness enters court].

28 MR NICOL-WILSON: Your Honour, shall I proceed?

29 JUSTICE DOHERTY: Please proceed, Mr Nicol-Wilson.

1 MR NICOL-WILSON:

2 Q. Mr Witness, my question is that you were not happy about
3 the decision of WVS to bring you back to Sierra Leone instead of
4 allowing you to relocate to France?

12:19:56 5 A. This is an organised court, so the decision that they
6 took - because I was a witness, if they allow me to go - if I go
7 there and allow my family to take me, it is out of the Court's
8 order. So I just had to follow what the Court said, but my
9 sister was in - my sister was insisting on my security area.

12:20:26 10 THE COURT OFFICER: Your Honour, it would appear we have
11 lost the link to Kigali. And I think the AV people are working
12 on trying to re-establish that.

13 JUSTICE DOHERTY: Well, we will just pause while it's
14 reconnected.

12:22:45 15 [Technical difficulties]

16 MR HERBST: Your Honour, can you hear me?

17 JUSTICE DOHERTY: Yes, Mr Herbst. I can hear you quite
18 clearly now. The line was lost and I will now --

19 MR HERBST: Okay. We lost - I'm sorry, Your Honour, we
12:23:03 20 lost the video and audio link from the time that Your Honour
21 invited the witness back into the courtroom.

22 JUSTICE DOHERTY: We realised that --

23 MR HERBST: Let me also report that the feedback loop which
24 requires me to listen to myself saying what I've said a second
12:23:33 25 ago is still - has remained, and I would ask the technical staff
26 if they could try to do something about that. I'd be most
27 grateful.

28 JUSTICE DOHERTY: I can well understand it. First of all,
29 I will inform you that there was a question from counsel for

1 Bangura.

2 You are not happy about the decision about WVS?

3 And to which the witness said:

4 This is an organised Court. If I went to another - and I
12:24:14 5 didn't hear all of that. Then he went on to say that my sister
6 was insisting on my security.

7 And at that point the video-link was lost.

8 Mr Nicol-Wilson, please continue, and I will also speak
9 to - ask Mr Court Attendant to please liaise with WVS on this
12:24:32 10 problem.

11 MR NICOL-WILSON:

12 Q. Mr Witness, can you repeat your answer to my last question?
13 You were explaining something, but it appears as if most of what
14 you said the learned Judge did not hear.

12:24:48 15 A. I said this is an organised court. When I went to
16 The Hague, my sister came to witness the Court. She said if
17 possible, if the WVS can allow them, they would have taken me so
18 that I wouldn't come to Freetown because of the security threats.
19 They saw that I had been part of this barbaric AFRC. They heard
12:25:21 20 all the victims of what had happened in this country, so they
21 were saying that for me to testify in The Hague and return, and
22 they are Europeans out there, they wanted to use that opportunity
23 to say our brother should not risk himself out there. We will
24 take him without the assistance of the WVS or the Court. We will
12:25:44 25 take this man's body and as long as they can release him to us.
26 But when WVS said no --

27 JUSTICE DOHERTY: Slowly. Slowly. Slowly. Go on.

28 THE WITNESS: When WVS said that wouldn't be possible, my
29 sister's accepted, and after the trial I came back to Freetown.

1 So that had nothing to do with my happiness or lack of it. It
2 was okay with me.

3 JUSTICE DOHERTY: Continue, Mr Witness.

4 Mr Nicol-Wilson, if you could remember to switch off
12:26:22 5 your --

6 MR NICOL-WILSON: [Microphone not activated].

7 Q. And when you came back to Freetown, you were still under
8 some form of protection from the Special Court?

9 A. Yes, My Lord, I was under protection.

12:26:44 10 JUSTICE DOHERTY: Continue.

11 MR NICOL-WILSON:

12 Q. And later that protection was cancelled.

13 A. Well, the only thing that the WVS said was that - they
14 said, Bobby, you'll be by yourself. But in case of any security
12:27:02 15 threat or anything pertaining to your security, you can call and
16 inform the Court.

17 MR HERBST: I'm sorry, Your Honour, but I did not
18 understand the answer. Could I have that reheard?

19 JUSTICE DOHERTY: Shall I ask the witness to repeat it?

12:27:31 20 MR HERBST: Your Honour, I think the problem was with the
21 translator. I couldn't make out what the translator was saying,
22 and perhaps if he could speak a little more slowly.

23 JUSTICE DOHERTY: He is endeavouring to keep up with the
24 witness. But I will ask the witness to repeat his answer.

12:27:50 25 Please repeat your answer to the question: And later your
26 protection was cancelled.

27 THE WITNESS: I said - because the lawyer asked me if my
28 protection was cancelled. I said, well, the Court only said I
29 should go back safely to my house, and whatever becomes a

1 security concern or any threat that I should receive from
2 anybody, I should the Court. That was the whole thing.

3 MR NICOL-WILSON:

4 Q. And the Court stopped giving you allowances?

12:28:35 5 A. That was the normal procedure when I was under the Court.
6 That was known. They used to give me allowance, but afterwards I
7 was not receiving any allowance. But my sisters were able to
8 find a way for me to buy a taxi that I was using for my
9 livelihood. Even the house, they pay rent on the house, and even
12:29:03 10 my sister was building a house at Allen Town. I was the
11 contractor who was in charge of all of that.

12 Q. Mr Witness, did the Special Court make promises to you in
13 order for you to testify at the Charles Taylor trial and did not
14 keep up to its promise?

12:29:40 15 A. My Lord, the Special Court made no promise to me. That was
16 a question that was put to me at the Charles Taylor trial. There
17 was no promise to me. I did it so that the public would know
18 that indeed the acts that happened, that I was there, but it was
19 because of an order that caused those acts that had to happen, so
12:30:02 20 that that my conscience will be clear with my family and with the
21 nation. That is why I did that.

22 Q. Let's make progress.

23 MR HERBST: Yes, let's.

24 MR NICOL-WILSON:

12:30:24 25 Q. Mr Witness, some time in 2010 you had an altercation with
26 the Special Court staff along Siaka Steven Street. Do you
27 remember?

28 A. Well, that's not to my knowledge, that I and the Special
29 Court staff had an altercation. Maybe you'd mind me but it's not

1 me.

2 Q. Okay. Did you have an argument with a Special Court staff
3 along Siaka Steven Street some time in 2010 in which you
4 complained about the cancellation of your protection?

12:31:04 5 A. No, no, no.

6 Q. Are you saying you did not or you cannot remember?

7 JUSTICE DOHERTY: He said: "No, no, no." How much clearer
8 can it be?

9 Continue.

12:31:53 10 MR NICOL-WILSON:

11 Q. In your testimony you said that Sammy Ragga first contacted
12 you about this issue on the 27th of November, correct?

13 A. Well, yes. At the time, yes.

14 Q. And also the document that was put to you which started
12:32:25 15 with on Wednesday the 1st of December. Do you remember that
16 document?

17 A. Yes, My Lord.

18 Q. You contacted staff members of the Special Court on the 1st
19 of December.

12:32:44 20 A. I had clearly stated that the Court called me at one time,
21 that is Mustapha, and briefed me about the Charles Taylor trial,
22 and they asked me if I had any other thing to discuss with them.
23 I told them yes, but it was not through a phone. That happened.

24 Q. Mr Witness, you explained the advances made to you by Sammy
12:33:17 25 Ragga to the Special Court on the 1st of December?

26 A. Yes, as I can recall.

27 Q. What were you advised to do by the Special Court with
28 regards to conversations with Sammy Ragga?

29 A. Well, the conversation was not limited to Sammy Ragga.

1 Because when Sammy met me, he connected me with Bomb Blast and we
2 spoke on the phone. So I want you to know that clearly. And
3 secondly, when the Court called me and I told them that I had the
4 matter --

12:34:00 5 Q. Mr Witness, Mr Witness. My question is very, very simple.
6 We will come to the conversation that you claim to have had with
7 Bomb Blast. Just wait. My question now is --

8 MR HERBST: Excuse me.

9 JUSTICE DOHERTY: Just a minute, all of you.

12:34:18 10 Mr Herbst.

11 MR HERBST: Your Honour, I would ask that the witness who
12 was interrupted in the middle of his answer be permitted to
13 complete his answer.

14 JUSTICE DOHERTY: I thought he had, more or less, completed
12:34:30 15 it. He said I want you to be very clear that Bomb Blast was
16 there. And it doesn't answer the question asked. The question
17 asks was what advice he received from WVS. So that question
18 should be put then.

19 MR NICOL-WILSON:

12:34:53 20 Q. What were you advised to do after you made a complaint to
21 WVS and the OTP investigators on the 1st of December? What were
22 you advised to do with regards to communications with Sammy Ragga
23 and others?

24 A. In fact, the OTP, the investigation side, said that
12:35:22 25 whenever I have any call or any contact I should inform them.

26 Q. So am I right to say you were not advised to stay away from
27 Sammy Ragga and others?

28 A. Well, the only thing I was within myself. They just said,
29 in case the man contacts you and you are in Freetown here, in

1 case he contacts you call us because I had already made a report.
2 So they were doing a follow-up to see how best it would be true
3 or false. So that's why they said in case there is any contacts
4 that I get, I should call them. They would do a follow-up.

12:36:11 5 Q. Mr Witness, you also stated that after leaving the
6 Special Court on that day, 1st December, you received another
7 phone call from Sammy Ragga for you to meet him as Sweissy; is
8 that correct?

9 A. Yes, My Lord.

12:36:29 10 Q. And please do not mention any name. After the meeting with
11 Sammy Ragga at Sweissy, you again contacted OTP; is that correct?

12 A. Yes. Whatever information or whatever facts I was getting,
13 I would contact the OTP and the OTP would invite me to the office
14 and they would take whatever statement they were to take from me.

12:37:03 15 Q. And again you were not advised by OTP to stay away from
16 Sammy Ragga?

17 A. Well, a matter had come that I was reporting about.
18 Somebody convincing me to change my statement. And OTP has
19 picked up this matter. They were following up to see whether
12:37:27 20 what I was saying was true or a lie. And the men, they were
21 still calling me, so I was trying to build up to see so that they
22 would know the truth.

23 Q. And Mr Witness, you yourself did not consider it prudent to
24 stay away from Sammy Ragga and the others?

12:37:47 25 A. At that moment it was not necessary because I had already
26 made a report to the OTP. And the OTP had said if that man calls
27 you or whatever, let us know so that we'll see what the contact -
28 we would see what the man wants from you.

29 Q. Did you tell Sammy Ragga you have made a report against him

1 to the Special Court?

2 A. I never disclosed that to him for security reasons. I
3 never disclosed that.

4 Q. You also stated in Court that on another occasion

12:38:38 5 Sammy Ragga called you again and said he was at Sweissy with Bomb
6 Blast and you should come and meet him there?

7 A. Yes, My Lord.

8 Q. And then according to your testimony you drove them to
9 Robert Street.

12:38:57 10 A. Yes. That's the truth.

11 Q. And you again informed OTP about this transaction?

12 A. Yes, My Lord.

13 Q. And again you were not advised by OTP to stay away from
14 Sammy Ragga and the others?

12:39:22 15 A. Well, OTP did not advise me on that because they were doing
16 a follow-up issue, and I was giving them the information to
17 establish the fact that these people contacted me on this issue,
18 for me to recant my story.

19 Q. And also, Mr Witness, in your testimony you said that the
12:40:04 20 OTP investigators told you they want to initiate a case of
21 contempt, and you told them to wait.

22 A. Yes, My Lord. Just before the last meeting because Sammy
23 had already told me that they were to get in touch with me to
24 disclose something with me. That is why I told them to wait
12:40:26 25 until I got that information that these people wanted to bring.

26 Q. Am I right to say you were expecting Sammy to bring some
27 money, which according to your testimony has been promised?

28 A. My Lord, this was a matter that I had reported to the OTP,
29 so I was trying to establish the facts, what the man had told me

1 that would happen. That is what I wanted and they knew about it.

2 Q. So you were waiting for the evidence?

3 A. I was waiting for what he had promised that would come.

4 That's true.

12:41:09 5 JUSTICE DOHERTY: Mr Witness, in the answer before I ast,
6 you said:

7 "I had reported so I was trying to establish the fact so
8 they were waiting ..."

9 Who is the "they" you are referring to?

12:41:33 10 THE WITNESS: I did not get that clearly, ma'am.

11 JUSTICE DOHERTY: You were asked a question about whether
12 you expected Sammy Ragga to bring money, and you said something
13 about "they were waiting" and I don't know if "they" is the
14 investigators from the Court or "they" is Sammy Ragga and someone
12:41:56 15 else. So who did you mean?

16 THE WITNESS: I was trying to - I said Sammy Ragga and
17 Blast, who had said whatever would come, I was waiting for them
18 to bring whatever they said would meet me so I would be able to
19 establish the fact and call on the OTP that this is what had
12:42:21 20 happened. Here is the exhibit. Look at this and that.

21 MR NICOL-WILSON:

22 Q. And up until today you have not received the exhibit?

23 A. My Lord, you don't need to laugh at me. I did not come
24 here to laugh. We are trying to establish a serious thing to the
12:42:38 25 Court here. Please.

26 JUSTICE DOHERTY: I did not laugh, and if anybody else
27 laughed I will tell them now, this is a very serious issue and
28 criminal issue in this Court and it's not one for amusement.

29 MR NICOL-WILSON:

1 Q. Mr Witness, you said you were waiting for the exhibit.
2 Have you received the exhibit?

3 A. My Lord, I have not received any exhibit, but I had
4 reported the matter. Since I reported the matter, after which
12:43:14 5 they have said that they would charge it as contempt, there was
6 no need for me to say, Okay, let the money come.

7 MR HERBST: Your Honour, I'm sorry to interrupt.

8 JUSTICE DOHERTY: Yes. Proceed, Mr Herbst.

9 MR HERBST: But I want to report - I want to report that
12:43:38 10 for a time we lost the video-link and then more recently lost the
11 audio link. So if I could have the last couple of questions and
12 answers read back, I would be grateful.

13 JUSTICE DOHERTY: The witness had been asked if he was
14 expecting Sammy Ragga to bring him money. And he said he had
12:44:19 15 reported this and he was trying to establish the facts while they
16 were waiting. I intervened to ask who the "they" he was
17 referring to was, and there was something of an exchange
18 concerning that. He then said it was Sammy Ragga and Blast who
19 said they were bringing something, and he intended to call - so
12:44:41 20 he could call on the OTP and say, Here is the exhibit. Then
21 counsel asked him, So you have not received the exhibit up until
22 now? There was an exchange between witness and counsel, and as a
23 result of which the question was put again: You have not
24 received the exhibit? And the witness said: I have not received
12:45:07 25 any exhibit after the report - after they said they would charge
26 contempt. I did not say I need the exhibit.

27 But, the last bit I am not too clear on. Oh, Mr Metzger
28 has got a better record.

29 MR METZGER: Sorry, my record - and it's obviously subject

1 to the transcript - were the words following after "they said
2 they would charge", "There was no need for me to say, 'Let the
3 money come.' "

4 JUSTICE DOHERTY: Oh, yes. Thank you, Mr Metzger

12:45:39 5 MR METZGER: I noted it because it was quite peculiar.

6 JUSTICE DOHERTY: You're quite right. Yes. Thank you,
7 Mr Metzger. That's much - my note is better now.

8 MR NICOL-WILSON:

9 Q. And there Mr Witness, Bomb Blast did not give any money to
12:46:00 10 you?

11 A. I never stated that Bomb Blast gave me money. He did not
12 give me any money.

13 JUSTICE DOHERTY: Please pause.

14 Mr Herbst, were you able to hear what I said and what
12:46:22 15 Mr Metzger helped - assisted us with?

16 MR HERBST: Yes, Your Honour, and I am grateful to both of
17 you. I was just not clear as to where the clarification "Let the
18 money come" came in the answer.

19 JUSTICE DOHERTY: Well, it was - I had not got the note
12:46:41 20 down properly. It was:

21 "There was no need. I did not need to say, 'Let the money
22 come.' "

23 This follows on from the word "exhibit."

24 MR HERBST: I thank the Court.

12:46:55 25 JUSTICE DOHERTY: Mr Nicol-Wilson, please proceed.

26 MR NICOL-WILSON:

27 Q. Mr Witness --

28 JUSTICE DOHERTY: Just pause. I understand that the tape
29 has to be changed, so please have a seat while that's done.

1 I am informed that the tape is now in place, so please
2 continue, Mr Nicol-Wilson.

3 MR NICOL-WILSON:

4 Q. Mr Witness, when you were a protected witness, you never
12:48:14 5 went around town telling people you are a protected witness?

6 A. Never. Except if you want to bring that evidence before
7 the Court.

8 Q. Even your close friends you never told you were a protected
9 witness at that time?

12:48:37 10 A. Well, you can name the close friends.

11 MR HERBST: Objection, now, on relevance grounds.

12 JUSTICE DOHERTY: First of all, there is a relevance
13 grounds; that is correct. And secondly, I think the question has
14 been answered. He said he'd never.

12:48:58 15 MR NICOL-WILSON: As Your Honour pleases.

16 JUSTICE DOHERTY: Continue.

17 MR NICOL-WILSON:

18 Q. Did your family members know you were a protected witness
19 at the time you were one?

12:49:29 20 MR HERBST: Same objection, Your Honour.

21 JUSTICE DOHERTY: What's the relevance, Mr Nicol-Wilson?

22 And it's an awfully wide question. Extended family, my goodness,
23 what a lot of people.

24 MR NICOL-WILSON: I will narrow down the question.

12:49:51 25 JUSTICE DOHERTY: But there is also a relevance question.

26 What's this got to do with his family?

27 MR NICOL-WILSON: Your Honour, I'll withdraw that question.

28 JUSTICE DOHERTY: Very well.

29 MR NICOL-WILSON:

1 Q. You did not tell Sammy Ragga you were a protected witness
2 at the time you were one?

3 A. I and Sammy did not have any discussion on protection or
4 whether I am a protected witness. I and Sammy did not have that
12:50:25 5 discussion.

6 Q. And similarly, you never had that discussion with
7 Bomb Blast?

8 A. I did not have that discussion with Bomb Blast.

9 Q. Thank you.

12:50:48 10 JUSTICE DOHERTY: Continue, please.

11 MR NICOL-WILSON:

12 Q. Now, in your testimony-in-chief you said you normally have
13 at least one phone call a week from Bomb Blast before the
14 commencement of these proceedings.

12:51:23 15 A. I want you to bring this question again.

16 Q. Okay. This is what you said yesterday:

17 "Within a week, if Bomb Blast does not see me, he will call
18 me."

19 Correct?

12:51:43 20 A. That was before these charges occurred. That is true. He
21 will call me. We will talk where --

22 Q. My mistake, Mr Witness. Before we started these
23 proceedings, he would call you at least once a week?

24 A. Yes, that's true. He calls me most times.

12:51:58 25 Q. In fact, in your own words, you had communication flow
26 between yourself and Bomb Blast?

27 A. Yes.

28 Q. He had your number, and you had his own number too?

29 A. True.

1 Q. And he was your friend?

2 A. Bomb Blast was a friend, a brother, he was everything to
3 me. It's not for this case. He was a friend and a brother to
4 me. I regarded him as an elder brother. He was my boss, my
12:52:37 5 friend, and my family brother.

6 Q. Thank you. And if Bomb Blast wants - let me withdraw this
7 question. Let me ask you another question. You belong to an
8 organisation, yourself and Bomb Blast, called AGPAD?

9 A. AGPAD, Action Group For Peace and Development. I belong to
12:53:11 10 that organisation because when they called me and said this group
11 was advocating for peace - because currently when you think of
12 the violence that had occurred in Bo and other areas, they called
13 and they said, Bobby, we need you to be talking to people to
14 advocate with people for nonviolence in elections, because since
12:53:39 15 you were people who fought. I said, okay, that's good, and I
16 became a part of AGPAD, Action Group For Peace and Development.
17 And I am a member.

18 Q. And Bomb Blast is also an active member of that
19 organisation advocating for peace?

12:53:55 20 A. No, no, no. Bomb Blast is not a member Of Action Group for
21 Peace and Development. He is not a member. He belongs to the
22 security section of the President. That's why he was still
23 moving with the President. When they are moving up-country, I
24 will see him going and coming. AGPAD, to say that when we are in
12:54:19 25 a meeting Bomb Blast will be in that meeting, no. Bomb Blast has
26 never been there. Not to my knowledge.

27 Q. Mr Witness, you have not attended all the meetings
28 organised by AGPAD?

29 A. Well, My Lord, that's true, but AGPAD is nonpolitical. And

1 in this nonpolitical, we were looking for people who did not
2 belong to any political party to join AGPAD. If you were a
3 member of AGPAD, then you should not participate in any political
4 issues. Bomb Blast had been moving up and down with the
12:54:59 5 President, so AGPAD rejected his membership.

6 Q. And also whenever Bomb Blast has an issue so discuss with
7 you, he will call you on your phone if he does not see you?

8 A. Well, that was before--

9 Q. Yes.

12:55:28 10 A. -- this issue arose, that's true.

11 Q. My mistake, sorry. Before the commencement of these
12 proceedings, whenever Bomb Blast has an issue to discuss with
13 you, he will call you directly on your phone?

14 A. He would call me. He knows my house and I know his house.

12:55:42 15 He would call me. That's not - that was not a problem, actually.

16 Q. He will not call you on somebody else's phone?

17 A. That is true. Except that incident when I was going to
18 Newton, when he used Sammy's phone. But to say he would call?

19 No.

12:56:21 20 Q. Also that incident you have explained, Bomb Blast did not
21 call Sammy's phone to talk to you?

22 A. I am putting it to you, My Lord, that I received that call
23 on Sammy's phone. Sammy was by my side and he said, Look at your
24 man calling. Then I picked it up. It was on Sammy's phone.

12:56:51 25 Q. One more time: Bomb Blast did not call Sammy's phone the
26 talk to you; is that correct?

27 A. One more time I am repeating it to you, My Lord, it was
28 Sammy's phone. It was Sammy who passed his phone onto me when I
29 spoke to Blast.

1 Q. Okay. Did you make a statement on the 9th of December to
2 investigators at the OTP?

3 A. I made a statement, yes, My Lord.

4 MR NICOL-WILSON: Now can a copy of that statement be shown
12:57:31 5 to the witness.

6 JUSTICE DOHERTY: [Microphone not activated] This is
7 Exhibit P3, isn't it? Yes. Please show it to the witness.

8 MR NICOL-WILSON:

9 Q. Now can you have a look at the third paragraph of that
12:58:31 10 statement. Have you seen the third paragraph beginning with the
11 word "Why"?

12 A. Yes.

13 Q. Can you please read out that sentence.

14 A. So while we are still in the car, Sammy made a call on his
12:58:54 15 phone and when the person on the other side took the call, Ragga
16 gave the phone to me and told me it was Hassan Papa Bangura aka
17 Bomb Blast on the phone.

18 Q. Thank you. So am I correct to say Bomb Blast did not call
19 Sammy's phone?

12:59:09 20 A. But it was on Sammy's phone that I received the call.

21 Q. Now let us look at the notes which were handed over to you?

22 MR NICOL-WILSON: Your Honour, I don't know how you marked
23 the notes for identification - the minutes of the meeting.

24 JUSTICE DOHERTY: I marked them MFI 1.

12:59:38 25 MR NICOL-WILSON: Can you show MFI 1 to the witness,
26 please.

27 Q. Now in answer to questions put to you by your lawyer, you
28 said that this document --

29 JUSTICE DOHERTY: Independent Counsel is not his lawyer.

1 MR NICOL-WILSON: Oh, sorry, Your Honour.

2 Q. In answer to questions put to you by the
3 Independent Counsel, Mr Bob, you said that these notes are a
4 correct reflection of what you said to OTP investigators on the
13:00:12 5 1st of December.

6 A. Yes, My Lord.

7 Q. Now can you look at paragraph 4 of this --

8 JUSTICE DOHERTY: Mr Nicol-Wilson, just pause. Is Kigali
9 hearing, as it looked frozen to me? Kigali, can you hear what's
13:00:33 10 happeni ng?

11 MR HERBST: Yes, Your Honour. We can hear.

12 JUSTICE DOHERTY: Thank you.

13 Please proceed.

14 MR HERBST: And right now we can see.

13:00:46 15 MR NICOL-WILSON:

16 Q. Can you look at paragraph 4 of the minutes, the two-page
17 document you have before you. Now can you read out the first
18 sentence which starts with "while"?

19 A. "While they were still in the car, Ragga made a call on his
13:01:11 20 phone. And when the person on the other side took the call,
21 Ragga gave the phone to TF1-334..."

22 Q. Continue, please.

23 A. "... and told him that it was Hassan Papa Bangura aka
24 Bomb Blast on the phone and he wanted TF1-334 to talk to him."

13:01:31 25 Q. Okay. Again you will agree with me that Bomb Blast did not
26 call Sammy's phone in order to talk to you?

27 A. My Lord, I have said it very clearly that it was Sammy who
28 gave me the phone that it was Blast. So it's clear to the Court.
29 It was on Sammy's phone that I received the call.

1 Q. Mr Witness it is clear, but you will make it clearer. You
2 told OTP investigators that it was Sammy who called Bomb Blast's
3 phone.

13:02:19 4 A. Well, that's why I am telling you. I was driving, Sammy
5 gave me the phone. He said, Blast, I was talking on Sammy's
6 phone. Whether the interpretation - but it was on Sammy's phone,
7 it was Sammy who gave me the phone that Blast wanted to talk to
8 me.

9 MR HERBST: Your Honour, I don't think Your Honour heard my
13:02:41 10 objecti on.

11 JUSTICE DOHERTY: I didn't hear the objecti on. Please
12 repeat it. Please repeat your objecti on.

13 MR HERBST: Your Honour, I just think this issue has been
14 fully explored. The questi on has been put to the witness several
13:02:55 15 times and the witness has answered several times.

16 MR NICOL-WILSON: Your Honour --

17 JUSTICE DOHERTY: In actual fact, Mr Herbst, it has but in
18 relation to two di fferent documents and his testimony in Court.
19 But I think we've explored it fairly well.

13:03:09 20 MR NICOL-WILSON: Your Honour, I think we've not explored
21 it to my satisfacti on. The witness is evading answering the
22 questi on and he's rather putting up some di fferent kind of
23 explanati ons. The questi on I will put again to the witness, Your
24 Honour.

13:03:27 25 Q. You told OTP investigators on the 1st of December that it
26 was Sammy Ragga who called Bomb Blast whi lst you were driving in
27 your car?

28 A. I clearly stated --

29 JUSTICE DOHERTY: [Overl appi ng speakers]

1 THE WITNESS: -- it was Sammy who gave me his phone.

2 MR NICOL-WILSON: [Overlapping speakers]

3 JUSTICE DOHERTY: No, you put to the witness exactly the
4 same answer that the witness gave you. I'm sorry, you're
13:03:51 5 confusing me as well as confusing him.

6 MR NICOL-WILSON: Your Honour, the witness has not answered
7 the question. The question, Your Honour, is: He told OTP
8 investigators that it was Sammy who called Bomb Blast's phone.
9 And in answer to the question, he's saying that it was on Sammy's
13:04:10 10 phone that he spoke to Bomb Blast. Now, that is not the
11 question. That is not the question, Your Honour, with respect.

12 JUSTICE DOHERTY: Now --

13 MR HERBST: Your Honour, I beg to differ.

14 JUSTICE DOHERTY: Just let me deal with this, Mr Herbst. I
13:04:30 15 understood your original cross-examination to be that he told OTP
16 that Ragga made the call, but in examination-in-chief he said
17 that Bomb Blast called. That's what I understood you to be
18 putting.

19 MR NICOL-WILSON: Yes.

13:04:59 20 JUSTICE DOHERTY: Now you seem to be putting something
21 else.

22 MR NICOL-WILSON: No.

23 JUSTICE DOHERTY: Well, you're coming across differently to
24 me and you're coming across differently to him. Please put that
13:05:07 25 clearly.

26 MR NICOL-WILSON: Your Honour, I started with a
27 foundational question.

28 JUSTICE DOHERTY: You did, indeed, and you turned a corner
29 and came another way round which has differed.

1 MR NICOL-WILSON: Okay. Your Honour I will --

2 JUSTICE DOHERTY: So let us be very clear.

3 MR NICOL-WILSON: Okay, Your Honour.

4 Q. Now, Mr Witness, when you testified yesterday you told this
13:05:32 5 Court that while you were in your car Bomb Blast called Sammy
6 Ragga; is that correct?

7 A. Yes, My Lord.

8 Q. Now, in your statement to OTP you said it was Sammy Ragga
9 who called Bomb Blast.

13:06:02 10 A. Well, it could be a mistake, but I, sitting here talking, I
11 am telling you the reality of what happened. What I can
12 remember. I am telling you what happened.

13 Q. And you cannot remember everything that happened at that
14 time?

13:06:29 15 A. My dear brother, I am not a computer, but as I am sitting
16 here now, I am recalling faster than even when you put a piece of
17 paper in front of me.

18 Q. And because you are not a computer, you cannot remember
19 everything?

13:06:52 20 A. A computer, from what I know, that's why they keep records.
21 I am a human being. I could skip something, but in reality, as I
22 am sitting in a Court, between God and man, to say the truth to
23 this nation, for the nation to know the truth, I think I am going
24 to say what I know and what happened.

13:07:15 25 Q. And also, Mr Witness, you have told this Court that
26 whenever Bomb Blast wants to talk to you, he will call you
27 directly on your own phone?

28 A. Correct.

29 Q. Okay. Let's proceed. Now, do you still have a copy of the

1 statement before you, your statement to OTP? The 9th of
2 December.

3 A. Yes.

13:08:13 4 MR HERBST: Your Honour, we've lost the video-link. I
5 don't know if Your Honour can hear us.

6 JUSTICE DOHERTY: I can hear you clearly, Mr Herbst, and
7 I'll pause while our technicians work on it.

8 The counsel was about to refer the witness to his statement
9 of the 9th of December, Exhibit P3.

13:08:29 10 Just pause, Mr Nicol-Wilson, until we see the link resumed.
11 Did you hear me, Mr Herbst?

12 MR HERBST: I did and I thank Your Honour.

13 JUSTICE DOHERTY: We're on track again? We've just lost
14 Kigali, so we're waiting to get a reconnection.

13:10:15 15 MR HERBST: Your Honour, I can see you now. And if Your
16 Honour can hear me - I can certainly hear myself on the feedback
17 loop. If Your Honour can hear me, then the audio has probably
18 been restored.

19 JUSTICE DOHERTY: I can hear you very clearly, Mr Herbst,
13:10:32 20 and I honestly cannot give you any advice about this echo. But I
21 know your technicians are aware of it.

22 Can we proceed?

23 MR NICOL-WILSON: Yes, Your Honour.

24 MR HERBST: Yes, Your Honour. Thank you.

13:10:51 25 JUSTICE DOHERTY: Exhibit P3, the witness statement, is now
26 before Mr Sesay.

27 MR NICOL-WILSON:

28 Q. Now in that statement which you made to investigators at
29 the OTP, you never indicated that anyone told you to tell a lie

1 by recanting your testimony?

2 A. Even the e-mail, even --

3 Q. The statement before you. The statement before you,
4 Mr Witness.

13:11:35 5 A. Saying what?

6 Q. That you told OTP --

7 MR HERBST: [Overlapping speakers]

8 MR NICOL-WILSON:

9 Q. -- that you were going to tell a lie?

13:11:48 10 JUSTICE DOHERTY: Pause, Mr Herbst wants to say something.

11 Mr Herbst speak, please. I didn't hear what you said.

12 MR HERBST: I object to the question, Your Honour, because
13 in the second paragraph in the first page there is a direct
14 reference to the witness understanding that Mr Ragga wanted him
13:12:07 15 to lie by recanting his in-Court testimony. So I don't think
16 it's fair.

17 MR METZGER: Your Honour, I do object --

18 MR HERBST: [Overlapping speakers]

19 MR METZGER: -- responding in this way.

13:12:22 20 JUSTICE DOHERTY: Just a moment, Mr Metzger, I am trying to
21 read this paragraph before I make a ruling.

22 MR METZGER: But it shouldn't be read before the witness.

23 If Mr Herbst wants to refer to the witness statement to support
24 argument it should not be with the witness present. This is

13:12:34 25 basic practice and I am surprised that Mr Herbst would go to
26 those lengths. It affects all parties in this case which is why
27 I am objecting.

28 JUSTICE DOHERTY: You know, I didn't even get to hear the
29 objection. Who is running this Court?

1 I heard an objection. I didn't hear it properly because
2 there was interruptions. Can I have the objection without a
3 quotation from any exhibit or other document?

4 MR HERBST: Your Honour, the objection is that
13:13:27 5 Mr Nicol-Wilson suggested to the witness that there was nothing
6 in the statement about someone saying to him - or his
7 understanding, I forget which - that he was being asked to lie.
8 My objection is that I think it's a misleading and inappropriate
9 question because --

13:13:50 10 JUSTICE DOHERTY: Well --

11 MR HERBST: -- the second paragraph says otherwise
12 [Overlapping speakers] --

13 JUSTICE DOHERTY: Just pause there, Mr Herbst. I don't
14 want any hints given to anybody.

13:14:01 15 First of all, I note that there are actually two parts to
16 this question. There is two aspects to it, and that should be
17 put one part at a time. If you're putting a prior inconsistent
18 statement, put them part by part. So start off with the first
19 part was in the statement indicated - you never indicated that
13:14:38 20 anyone told you to lie. That's the first part. The second part
21 comes later. Put that.

22 MR NICOL-WILSON: Okay, Your Honour. Without the
23 statement, I will ask a question.

24 Q. When you spoke to OTP investigators, you never told them
13:14:59 25 that Sammy Ragga told you to recant by telling a lie?

26 A. If any of the OTP investigators come here, they would tell
27 you that that was the first thing that I mentioned to them, that
28 they want me to change my testimony. That is what I had said
29 against those men, that this is what they did. I should change

1 it. I said, No, it's OTP that does --

2 THE INTERPRETER: Your Honour, can the witness repeat this
3 answer. It's not clear.

4 JUSTICE DOHERTY: Mr Witness, you're speaking a bit fast.

13:15:41 5 The interpreter is doing a good job of keeping up with you, but
6 there is a bit that's not clear. You said that if anything - the
7 first thing that you mentioned, I should, and then continue.

8 THE WITNESS: I told the OTP people that when Sammy met me,
9 he told me that those men have met him and they want me to help
13:16:13 10 them so that - and I asked him, How can I do this? And he said,
11 WELL, the men want you to change your testimony. What you have
12 said said against them in Court, you should say how they are
13 taking you out of prison; that is, the OTP had paid you to come
14 and speak against them.

13:16:42 15 I told them clearly, I said, The man said I should change
16 my story. So in Krio we have so many ways how to interpret Krio.
17 When somebody says he wants you to change your name or to change
18 your story, so I told them. I explained that to the OTP as I was
19 giving my statement. And even at the time that I called
13:17:16 20 Shyamala, I even told her that Sammy was convincing me to change
21 my statement. That was the only way that I could help those men.

22 MR NICOL-WILSON:

23 Q. Now look at your statement - the second paragraph of the
24 statement you made to OTP on the 9th of December, and about seven
13:17:52 25 lines downwards, the second paragraph, line 7. Have you seen
26 line 7 --

27 A. Yes.

28 Q. -- starting with the words "Sammy Ragga", can you please
29 read out that sentence?

1 A. "Sammy Ragga did not tell me as to where I would recant my
2 testimony or to whom. I understood that Ragga wanted me to lie
3 by recanting my Court testimony."

13:18:36 4 Q. Okay. So you told OTP that you only interpreted your
5 conversation with Sammy Ragga as an attempt to get you to tell a
6 lie?

7 A. My Lord, it's clear. If it comes up to lying - if you come
8 up to line 4 here down to 5 - 1, 2, 3, 4 - yes, let's say from
9 line 3, the second paragraph, "... call from the AFRC convicts in
13:19:12 10 Rwanda and that the convicts wanted Ragga to talk to me to recant
11 my testimony so that will help them to get their sentencing
12 period reduced," have you seen that area? Because don't jump me.
13 Don't skip and go down, okay?

14 Q. So as far as you know, the wording "recant" means to tell a
13:19:37 15 lie?

16 JUSTICE DOHERTY: I don't remember him saying that. Where
17 does that come from?

18 MR NICOL-WILSON: Your Honour, the witness just said that
19 he was told to recant his testimony.

13:19:52 20 JUSTICE DOHERTY: Yes.

21 MR NICOL-WILSON: And as far as he understands that to
22 mean, it means for him to tell a lie.

23 JUSTICE DOHERTY: Very well. I allow the question. I
24 withdraw my observation.

13:20:05 25 MR NICOL-WILSON:

26 Q. So as far as you know, when somebody says you must recant
27 your testimony, it means you must go and tell a lie?

28 A. If you look at the statement --

29 Q. [Overlapping speakers] --

1 A. -- I have something here called "change." I said the man
2 said --

3 JUSTICE DOHERTY: Who is arguing over who?

4 MR NICOL-WILSON: Your Honour, it's the interpreters.

13:20:31 5 THE INTERPRETER: Your Honour, it's because they are
6 exchanging and we have to fully interpret everything they are
7 saying.

8 JUSTICE DOHERTY: Yes. I fully understand, Mr Interpreter.

9 Now, Mr Witness, please answer the question.

13:20:42 10 And please do not interrupt the witness.

11 MR NICOL-WILSON: Yes, Your Honour.

12 JUSTICE DOHERTY: Answer please, Mr Witness.

13 THE WITNESS: My Lord, that's why I came here to speak

14 Krio. I am not - I am not here to show that I am an academic or

13:21:05 15 - I told the people that Sammy met me and told me that I should
16 change my story. If they are at whatever area, I can say I would
17 explain what "recant" means in Krio. I told them that Sammy met
18 me to change my story, my testimony.

19 MR NICOL-WILSON:

13:21:38 20 Q. And so when you approached investigators at OTP, you told
21 them Sammy had approached you to recant?

22 A. He said I should change my story. If you look at all the
23 statements, you would see "change," you would see different
24 words.

13:22:00 25 Q. So as of the 9th of December, your complaint was against
26 Sammy?

27 A. Well, it was a complete statement. How it was growing,
28 that was how - how I was getting the information. That was how I
29 was giving it to them.

1 Q. And even when you sent the text message to Shyamala, you
2 made a complaint against Sammy?

3 A. I said Sammy and others, because it was after I had gotten
4 the follow-ups that I told Shyamala Sammy and others. I said
13:22:55 5 even Bomb Blast has knowledge about the issue, because we spoke
6 on the phone that day, because it all started on my way going to
7 Newton.

8 Q. In fact you are correct. You told Shyamala Bomb Blast is
9 your witness, he is aware?

13:23:14 10 A. I did not say Bomb Blast is my witness. I said he is a
11 part of the people who are talking to him. I did not tell her
12 that Bomb Blast was a witness. I said he was aware of the
13 incident that was going on.

14 Q. Okay. Let's proceed. This conversation you said you had
13:23:46 15 with Bomb Blast on Ragga's phone was for a very short time?

16 A. It was not actually long, because I was driving when Blast
17 spoke to me and said, Please cooperate. He said, B cooperate
18 with your men.

19 Q. I am not asking that question, please. The question was
13:23:59 20 the conversation was brief.

21 A. It was brief.

22 Q. Yes. And the car - the windows of the car you were driving
23 were down?

24 A. Sorry, My Lord. Sammy was sitting close to me and I was
13:24:20 25 driving. He was this way. He passed on the phone to me. I
26 heard it like this. I was driving. Because the road was rugged,
27 so he gave me the phone. And the front glass, I always put them
28 at a level. It not that down, but it was at a level. Nobody
29 else was in the car. It was I and Sammy.

1 Q. Okay. The window was halfway down?

2 A. Yes.

3 Q. On the driver's side?

4 A. The driver's side, it's always like this. I put both - the
13:24:57 5 back glasses were up and the front sides were halfway.

6 JUSTICE DOHERTY: Continue, please.

7 MR NICOL-WILSON:

8 Q. And also you were driving on the highway?

9 A. We were driving - I was driving on highway going. I was
13:25:18 10 driving on the highway.

11 Q. And it was Sammy who told you that the person on the other
12 side of the line was Bomb Blast?

13 A. Yes. Sammy said Blast, he said B, your man wants to talk
14 to you. Then I took the phone.

13:25:44 15 Q. And this is so because Bomb Blast did not call you on your
16 phone like he used to do?

17 A. That is true. He did not call me on my phone. But Sammy
18 was with me. He called on Sammy's phone.

19 Q. And because you were driving on the highway and your window
13:26:07 20 was halfway down, the call was not very clear.

21 A. My Lord, I wish I had a video-clip of that issue. I was
22 driving very slowly. When Sammy said B wanted to talk to me. I
23 slowed down and I took the call.

24 Q. But you did not stop the car?

13:26:32 25 A. I slowed down. I said I slowed down. I did not stop the
26 car. I slowed down.

27 Q. And this is not an automatic vehicle. It's a manual
28 vehicle?

29 A. Well, if you want to bring that to my own professionalism

1 in driving, I slowed down. When someone is slowing down, it
2 doesn't mean that because it's a manual that when I slow down I
3 go out of control. I slowed down completely for me to get the
4 call.

13:27:08 5 Q. Is the vehicle in question a manual vehicle?

6 JUSTICE DOHERTY: What's all this leading up to? This is
7 not a car accident case, is it? I mean, what's the point of
8 whether it's manual and the windows are up.

9 MR NICOL-WILSON: Your Honour, I will come to the point in
13:27:24 10 just a few more questions.

11 JUSTICE DOHERTY: Well, you get to the point right now
12 because I want to adjourn. We are already over time and I cannot
13 see the point of all this.

14 MR NICOL-WILSON: Your Honour, we can take an adjournment
13:27:36 15 and I will continue --

16 JUSTICE DOHERTY: No, you put your question, the pertinent
17 question, before we adjourn.

18 MR NICOL-WILSON:

19 Q. Now I am putting it to you that the caller on the other
13:27:48 20 side of the line was not Bomb Blast?

21 A. I am putting it to you, Mr Lawyer, because they are paying
22 you, but it was Bomb Blast who called me and I proved it when we
23 met again. On that day at Sweissy, I proved it well because of
24 the discussion that we had. I am putting it to you.

13:28:09 25 JUSTICE DOHERTY: All right. We are over time in actual
26 fact for the lunch-time adjournment for the Freetown side of this
27 Court.

28 MR NICOL-WILSON: Your Honour, I just wanted to complete
29 this area with two more questions and then [Overlapping

1 speakers].

2 JUSTICE DOHERTY: Very well. Put them, please.

3 MR NICOL-WILSON:

4 Q. I am also putting it to you that the only reason you said
13:28:31 5 it was Bomb Blast was because Sammy Ragga told you that
6 Bomb Blast wants to speak to you?

7 A. I am putting it to you that for the past times that I had
8 lived with Bomb Blast, that call that I received, it was Blast
9 that called me. I am putting it to you and you prove it later.

13:28:49 10 Q. And according to your testimony, the person you claim is
11 Bomb Blast only said to you, you must co-operate with the
12 convicts in Rwanda?

13 A. My Lord, I am putting it to you, too, that that was exactly
14 what he told me, because he called me - sometimes he calls me
13:29:17 15 Operation and sometimes B.

16 Q. [Overlapping speakers] So those were his exact words, for
17 you to cooperate with the convicts in Rwanda?

18 A. I swear to God like I am telling you, My Lord, he told me.
19 He said B, he said, Operations, please, I want you to cooperate
13:29:35 20 with your men. Please, I told Ragga to talk to you.

21 Q. Okay. Okay. So that's fine.

22 MR NICOL-WILSON: We can have adjournment at this stage.

23 THE WITNESS: [No interpretation]

24 JUSTICE DOHERTY: Mr Witness, take a deep breath and we
13:29:59 25 will have a break and allow all of us to calm down.

26 Mr Court Attendant, please adjourn Court until 2.20.

27 [Break taken at 1.30 p.m.]

28 [Upon resuming at 2.30 p.m.]

29 JUSTICE DOHERTY: Good afternoon, Kigali. Can you hear us?

1 MR HERBST: Yes, we can indeed, Your Honour, thank you.

2 JUSTICE DOHERTY: Very good. Mr Nicol-Wilson, your
3 cross-examination, please.

4 MR NICOL-WILSON:

14:30:15 5 Q. Mr witness, you do not always speak the truth?

6 A. My Lord, you are accusing me of not speaking the truth?
7 You've been paid to defend a matter that I am - that I have
8 brought to the Court concerning someone --

9 JUSTICE DOHERTY: Mr witness.

14:30:43 10 THE WITNESS: Yes, my Lord.

11 JUSTICE DOHERTY: Just answer yes or no.

12 THE WITNESS: Let him put the question.

13 JUSTICE DOHERTY:

14 MR NICOL-WILSON:

14:31:20 15 Q. You do tell lies sometimes?

16 A. My Lord, I don't tell lies.

17 Q. In fact, you told this Court today that when you were at
18 OTP and you received a call from Bomb Blast, you told him you
19 were home. So you told a lie to Bomb Blast?

14:31:41 20 A. My God, do you expect me at that moment when I was there to
21 tell him that I was in Court? No, I wouldn't do that. I
22 wouldn't give out my security area. I wouldn't do that. Eh?

23 Q. Also during the AFRC trial you told the Trial Chamber that
24 one of the accused had contacted you and the Trial Chamber proved
14:32:09 25 it to be a lie?

26 JUSTICE DOHERTY: You're going to have to produce a
27 transcript for me.

28 MR HERBST: Objection, Your Honour.

29 JUSTICE DOHERTY: Yes. Yes, Mr Herbst. What's your

1 objection?

2 MR HERBST: My objection, Your Honour, is to the question
3 about the AFRC trial and whatever allegations were made there.
4 They are separate and apart from this case.

14:32:48 5 JUSTICE DOHERTY: Mr Nicol-Wilson, the AFRC trial was six
6 or seven years ago.

7 MR NICOL-WILSON: As Your Honour pleases. Your Honour, but
8 we still had a document submitted by the Independent Counsel
9 asking us to take judicial notice of the testimony of this
14:33:06 10 witness during the AFRC trial.

11 JUSTICE DOHERTY: Refer me to it. I mean, the ruling that
12 you're talking about.

13 MR NICOL-WILSON: Your Honour, the document which was
14 submitted for judicial notice to be taken of the judgment of the
14:33:24 15 AFRC trial in which this witness was relied upon. I don't have a
16 copy of the document here in Court, but that's the first thing we
17 started with and the Independent Counsel knows about that. And
18 the Independent Counsel has also led this witness into talking
19 about when Gullit was at Camp Rosos which was some ten years ago.
14:33:47 20 So I don't see anything wrong in doing a cross-examination on the
21 issue of credibility of this witness during the AFRC trial. The
22 document is entitled "reliance on" --

23 JUSTICE DOHERTY: I have ruled against the question.

24 MR NICOL-WILSON: I didn't hear you, Your Honour, sorry.
14:34:22 25 Q. So Mr witness, like you said, you never wanted to give up
26 your security, so you told a lie to Bomb Blast?

27 JUSTICE DOHERTY: Sorry, I don't get the logic of that
28 question. You didn't want to give up your security, what does
29 that mean, give up your security?

1 MR NICOL-WILSON: Those were his words, Your Honour, so I
2 don't know what he meant by those word.

3 JUSTICE DOHERTY: All right, put the question.

4 THE WITNESS: The present place where I was when the man
14:34:57 5 called me, I did not want to locate that place, that that was
6 where I was. That was why when he called me I told him my
7 stomach was aching me and I was home.

8 MR NICOL-WILSON:

9 Q. Also, Mr witness, even though as far back as the 1st of
14:35:25 10 December, you had made a formal complaint to OTP, you still
11 engaged in discussions on recanting of your testimony with Sammy
12 and you never told him you are not interested?

13 A. I never engaged Sammy in any formal discussion about
14 testimony. I had made my report to the OTP. Whatever way Sammy
14:35:52 15 came to discuss with me in relation to my testimony, I told the
16 OTP.

17 Q. And not on one occasion did you tell Sammy to stop
18 discussing the issue of recanting of your testimony with you?

19 A. I and Sammy never had that discussion for me to tell him to
14:36:20 20 stop like you said. I did not get that clearly, but I never had
21 that kind of discussion with Sammy.

22 Q. So Sammy never discussed the issue of you recanting your
23 testimony?

24 A. That was previously when I and Sammy spoke. It's in my
14:36:43 25 statement and I have said it to the Court here. It's when you
26 are saying that if I and him were not discussing. That was the
27 question you put to me.

28 Q. You also said during examination-in-chief that you had free
29 flow of communication with Bomb Blast?

1 A. Yes, in the olden days before they charged this matter.

2 Q. And even after they charged this matter, you had free flow
3 of discussion with him?

4 A. No.

14:37:40 5 Q. In fact, when you lost your wife, you called him to attend
6 your funeral?

7 A. (Witness laughs) I am happy. Good. It's good that you
8 brought this to light. In the first place, before I lost --

9 Q. Before I lost --

14:37:57 10 A. It's the question that I'm answering.

11 JUSTICE DOHERTY: Let the witness answer. Let him answer.
12 Answer the question.

13 THE WITNESS: You brought the question to me that I called
14 Blast when I lost my wife, and I want to bring this to light
14:38:13 15 today. Blast - when I lost my child - it's my child that first
16 died. Sorry that I'm going to do this briefly. I was moving on
17 Sapwood Street. Then I saw someone calling me. Someone beckoned
18 to me and I turned. I watched a vehicle, a white Nissan patrol
19 vehicle but I was with my phone and this person was calling me:

14:38:41 20 Bobby, Bobby. I looked and whom did I see? It was Blast. There
21 was a traffic holdup and he said you look worried. What's going
22 on? And I said they have just called me saying my child is in
23 serious trouble. I said I am rushing there. On that day he even
24 told me let's drop you on the way because we are on our way to
14:39:08 25 Kailahun. I said no, I'm not going to board this vehicle. I'm
26 going to board a motorbike now and I boarded the motorbike and
27 went. As I was getting to my house, the child died. When my
28 wife died, because to be hearing of the public, Bomb Blast - my
29 wife's sister --

1 INTERPRETER: Your Honour, can he take this part clearly?
2 It's not clear.

3 JUSTICE DOHERTY: Mr witness, the interpreter is not clear
4 on what you're saying. So a little slower and continue. You
14:39:43 5 said when your wife died.

6 THE WITNESS: Bomb Blast and my wife's eldest sister have a
7 good relationship that I saw. So when I lost my wife, he called
8 me. I do not know whether it's the woman that told him. He
9 said, Yapo they said you have lost your wife and I said yes my
14:40:09 10 wife has died at the hospital. So that was what happened. I did
11 not call Bomb Blast. It was Bomb Blast that called me to extend
12 his sympathy at the loss of my wife. And even that day that I
13 lost my child it was Bomb Blast who saw me and called me over.
14 So that's the whole thing, my Lord.

14:40:37 15 MR NICOL-WILSON:

16 Q. And Bomb Blast also attended the funeral?

17 A. I did not invite anybody - it's a funeral. So many people
18 went to that funeral, so many people.

19 Q. And is it correct that at the funeral you asked him for
14:40:54 20 some money and he gave you some money?

21 A. Blast went there with his wife and other people. That's a
22 big lie that I asked him for money. That is a big lie. Let him
23 bring that witness who'll come and lie before God and man that I
24 asked Blast for money. I did not ask him for any money. The
14:41:23 25 funeral was went well and my sister sent money. Even my younger
26 brother could attest to that.

27 Q. So my point is prior to the commencement of these
28 proceedings, you had a very good relationship with Bomb Blast?

29 A. I have stated that clearly. That is true. We had a very

1 good relationship before this problem. Before these charges were
2 made our relationship was good.

3 Q. In fact when you obtained a new passport recently you
4 showed it to him?

14:42:22 5 A. It was raining at Sweissy. He saw me standing and he asked
6 me Bobby, what has happened? I said my passport has expired.
7 I'm going to change it. I said but the man has told me they have
8 taken my passport somewhere. That is what is worrying me.

9 That's where I'm rushing to. That was the only thing that we
14:42:43 10 said - that I was rushing to immigration. So if he told you I
11 showed him any passport he saw me and he asked me. He saw that I
12 was worried and he asked me and I said somebody has taken my
13 passport away. It has expired. I want to change it but somebody

14 has taken it away. I'm going to the place to the person that I
14:43:02 15 gave the passport to, so that he will tell me who has taken my
16 passport. That was the only discussion that I had with Blast.
17 He saw me and became concerned that I was worried and it was
18 raining at the time.

19 Q. So have you renewed your passport?

14:43:20 20 JUSTICE DOHERTY: I don't see the relevance of all of this
21 line of questioning. The witness has clearly agreed with you
22 that he had a very good relationship prior to this problem.

23 MR NICOL-WILSON: Your Honour, I think the relevance of the
24 renewal of the passport is for me to be able to know why that
14:43:41 25 passport has been renewed recently.

26 THE WITNESS: It has expired.

27 MR NICOL-WILSON:

28 Q. The question is did you renew it after it expired?

29 JUSTICE DOHERTY: He's not going to renew it before it

1 expired. Please, Mr witness.

2 MR HERBST: Your Honour --

3 JUSTICE DOHERTY: Mr Nicol-Wilson he told you it expired
4 and he tried to get it renewed.

14:44:11 5 MR NICOL-WILSON: No, Your Honour, I do not get that
6 because your passport can be expired and then you decide not to
7 renew it and you can only renew it if you are expecting to
8 travel.

9 JUSTICE DOHERTY: What?

14:44:26 10 MR NICOL-WILSON: Your Honour, I said it's very possible
11 that you can have an expired passport and you don't renew it. So
12 I want the witness to tell me whether or not he has renewed his
13 expired passport.

14 JUSTICE DOHERTY: Ask him then.

14:44:41 15 MR HERBST: Your Honour, I object to this line.

16 JUSTICE DOHERTY: Mr Nicol-Wilson, I repeat what I said. I
17 don't see the point of this line of questioning. If you have a
18 point to make, please put it to the witness.

19 MR NICOL-WILSON:

14:45:11 20 Q. I'll put it to you that you have just renewed your
21 passport?

22 A. My Lord, indeed I have renewed my passport and it belongs
23 to me as a citizen of Sierra Leone. If my passport is about to
24 expire, I have the right to renew it.

14:45:34 25 JUSTICE DOHERTY: Continue.

26 MR NICOL-WILSON:

27 Q. I'm also putting it to you that you renewed the passport
28 because you are making plans to travel out of the country?

29 A. Well, I think you are suggesting --

1 MR HERBST: Object to any further questioning along this
2 line.

3 JUSTICE DOHERTY: Mr Nicol-Wilson, I do not see the point
4 of this line of questioning.

14:45:58 5 MR NICOL-WILSON: As Your Honour pleases.

6 JUSTICE DOHERTY: I let you a long lead on another line of
7 questioning which you told me you were going to put certain
8 issues that were not put. Maybe they will be put. But if there
9 is an issue that is clearly going to the crux of the evidence in
14:46:17 10 this case relating to his passport, please put it. Otherwise, I
11 do not find any relevance in this.

12 MR NICOL-WILSON: No further question along this line of
13 cross-examination, Your Honour.

14 JUSTICE DOHERTY: Yes. Then proceed to your next point.

14:46:40 15 MR NICOL-WILSON:

16 Q. Now, Mr witness, you also mentioned that you picked up Bomb
17 Blast and Sammy Ragga around the Sweissy area and drove them to
18 Robert Street?

19 A. Yes, my Lord.

14:46:53 20 Q. And it was Sammy Ragga who called you on your phone and
21 told you to meet them at Sweissy?

22 A. Yes, my Lord.

23 Q. It was not Bomb Blast who called you?

24 A. Yes.

14:47:20 25 JUSTICE DOHERTY: Yes, continue.

26 MR NICOL-WILSON:

27 Q. From your discussions with Sammy Ragga, you got an
28 impression that he also wants some money from this transaction?

29 A. That is true. Sammy told me that there were financial

1 benefits in this thing, that he would get, Blast would get, and I
2 would get too. That was what he said. He said it clearly,
3 that's true.

14:47:54 4 Q. So as far as your understanding is, the money was not going
5 to come from the pocket of Sammy Ragga and Blast?

6 A. That is clear. They did not tell me that the money was
7 coming from their pockets. They said someone was coming with the
8 money.

14:48:15 9 Q. Thank you very much. I think we're making rapid progress
10 now.

11 JUSTICE DOHERTY: I've warned counsel on facetious remarks.
12 Please continue with your questions.

13 MR NICOL-WILSON: As Your Honour pleases.

14 JUSTICE DOHERTY: And avoid remarking.

14:48:25 15 MR NICOL-WILSON: As Your Honour pleases.

16 Q. Between Sweissy and Robert Street you were the one driving
17 the vehicle?

18 A. Yes, my Lord, I was driving.

19 Q. And Bomb Blast was seated at the back of the vehicle?

14:48:58 20 A. No, he was in the front and Sammy was at the back and we
21 were discussing.

22 Q. And beside what you have stated in Court that was
23 discussed, you discussed some other personal issues on the way
24 going?

14:49:19 25 A. Not the personal - the personal discussion is about the
26 issue that we were going on. That was what we discussed. That
27 was what we were discussing as we went along.

28 Q. And during this trip, Sammy Ragga did not say anything to
29 you according to your testimony?

1 A. Yes, that's true. He was at the back as Blast was talking
2 with me until we got to where we were going. All the calls that
3 he got he said, Bobby, speed up. It's one lawyer Mansaray
4 calling us to meet him. He said speed up.

14:50:22 5 Q. Who said "Bobby, speed up"?

6 A. It's Blast that told me to hurry. He said we should try to
7 get to the place.

8 Q. And Blast also - okay. Let me put it this way: During
9 that trip, Bomb Blast did not offer any money to you?

14:51:09 10 A. No, he did not give me any money. He did not give me any
11 money. That he gave me money? No. He just said take us there,
12 and I was just taking them there.

13 Q. Let me be more clear. During this trip from Sweissy to
14 Robert Street, Bomb Blast did not offer any money to you in
15 return for you to recant your testimony?

14:51:36 16 A. My Lord, he did not give me any money. To say that he gave
17 me money to recant my story, he just said they were going to this
18 lawyer. He was the one who was going to put things in place.
19 They were going to meet him at Robert Street, that I should drive
14:51:58 20 them there.

21 JUSTICE DOHERTY: Mr Witness, the question was not did he
22 give. The question was did he offer. Do you appreciate the
23 difference between "offeri ng" and "gi vi ng"?

24 THE WITNESS: Well, My Lord, I think you would have to
14:52:17 25 break it down for me to the level that I can understand it in
26 Kri o.

27 JUSTICE DOHERTY: Very well. Let me first clari fy wi th
28 counsel what he meant.

29 It may be that I'm mi si nterpreting the word. I understood

1 offer to mean a suggestion of a payment.

2 MR NICOL-WILSON: Yes.

3 JUSTICE DOHERTY: Whereas offer to actually be a tender of
4 a payment.

14:52:41 5 MR NICOL-WILSON: Which was not received.

6 JUSTICE DOHERTY: Yes. So maybe make that clear, because I
7 don't think the witness is quite getting that point.

8 MR NICOL-WILSON: But that's what I said. I think it's a
9 problem of interpretation.

14:52:52 10 JUSTICE DOHERTY: Indeed. You're basically saying a future
11 promise.

12 MR NICOL-WILSON: Yes. I will put it in more clear words.

13 JUSTICE DOHERTY: Thank you.

14 MR NICOL-WILSON:

14:53:03 15 Q. Mr Witness, during this trip from Sweissy to Robert Street,
16 Bomb Blast did not personally promise you any money in return for
17 you to recant your testimony?

18 A. Bomb Blast did not personally promise me, but he told me
19 that the men were working out modalities. He didn't discuss with

14:53:27 20 me. He asked me that, Bobby, how much would you want out of this

21 mission? Then I said, No, you tell me how much you want to give

22 me because you brought this thing. You tell me how much you're

23 willing to be given or how much these people have actually given

24 to you. You tell me. He said, No, you tell me. I said, No, you

14:53:41 25 tell me exactly what the amount is. They said, Well, if we give

26 you about \$10,000. And I said, No, that's too small. That was

27 the discussion we had as we were going before the lawyer called

28 him.

29 Q. And as far as you know, this money was not going to come

1 from Bomb Blast personally?

2 A. Well, I can't say. They met me and they brought something
3 up to me that we were on this - we were on this. He told me that
4 they were on the programme and they were going to meet a lawyer
14:54:15 5 and from there they will meet me. I can't say personally that it
6 was going to come - the money was going to come from him.

7 Q. You have also told this Court that Sammy Ragga and
8 Bomb Blast were expecting to benefit from this money; not so?

9 A. My Lord, it is - that's clear. That is what happened.

14:54:38 10 It's clear.

11 Q. Yeah, but then answer yes or no. You told this Court that
12 Sammy Ragga and Bomb Blast were also expecting to get some
13 benefits from this money?

14 A. I said yes.

14:54:52 15 Q. So my question now is: Your understanding is that this
16 money was not going to come from Bomb Blast?

17 A. Because Bomb Blast has said clearly those men there said
18 they were going to send the money. I can't tell you directly
19 where the money was going to come from because - but they were -
14:55:13 20 they were leading the process. He and Sammy.

21 Q. So one area is clear. You have said he did not make any
22 promise to you. Now, did he give you any money during that trip
23 in return for you to recant your testimony?

24 A. He did not give me any money when they met me. He did not
14:55:36 25 give me any money. He just explained it to me what they
26 discussed.

27 MR NICOL-WILSON: Your Honour, I think it's now very, very
28 clear. I think it's now clear, the issue of offer and the issue
29 of actual --

1 JUSTICE DOHERTY: Yes.

2 MR NICOL-WILSON:

3 Q. You have spoken about this area you've said is called
4 Sweissy where you said you met Sammy Ragga and Bomb Blast and
14:56:08 5 gave them a ride; not so?

6 A. Yes. I explained that Sammy called me and I drove by
7 Howe Street, picked them up, and we moved to the site.

8 Q. Now, can you describe this area generally, this area called
9 Sweissy?

14:56:31 10 A. Well, Sweissy is a business centre as far as I can
11 remember. It's like in the middle of a junction. There is a
12 jackpot area right down off Howe Street.

13 Q. So is it only Howe Street, the Sweissy area?

14 A. I can't recall all the streets, but there are different
14:57:02 15 streets that lead up to Sweissy. You go right down, you would
16 get to city council. If you come from up, you can go right down
17 and get to city council. If you want you can use the other
18 street to go. There are different streets that meet at that
19 point.

14:57:16 20 Q. Fair enough. So it's not like one building?

21 A. Well, when they say Sweissy, we have an area. If you want
22 to you can go to the jackpot end where you can see most men. If
23 you want to see Blast - Bomb Blast, you can to the jackpot area.
24 You can find him there.

14:57:45 25 Q. Now, you said on the day you dropped Bomb Blast and Sammy
26 at the lawyer's office, you went to Sweissy?

27 A. Yes, I returned - I returned because they said Bobby, go
28 and wait for us. So I went and waited at Sweissy.

29 Q. And you found it necessary to go and wait for them?

1 A. Yes, because they told me that they were going to meet a
2 lawyer and whatever they discussed, they would come and meet me.
3 So I decided to wait. I waited.

14:58:28 4 Q. So now where exactly at Sweissy did you wait? This area
5 you have described, where exactly did you wait?

6 A. My Lord, if you can bring the map of Sierra Leone, I think
7 I'll show you Freetown. I'll show you the area. No, it's true.
8 I can't say now that I can call - usually where I park my car
9 it's by - it's opposite Union Trust Bank. That is the position
10 where I parked my car. I sat at the jackpot end to wait.

11 Q. So you waited by the street, not in the building?

12 A. My God. I parked my --

13 JUSTICE DOHERTY: Mr Nicol-Wilson, he said he was in his
14 car.

14:59:10 15 MR NICOL-WILSON: No, Your Honour. He said he parked his
16 car and then he came outside.

17 JUSTICE DOHERTY: He did not say that.

18 MR NICOL-WILSON: Then I will establish that, Your Honour.

19 Q. You waited in your car or outside of your car?

14:59:20 20 A. My Lord, when I came, I parked and I sat and waited because
21 they said they were coming to the jackpot. I was in my car.
22 When they came, I got out of my car and I met them, and we stood
23 in a corner.

24 Q. How many people were in that corner where you stood that
15:00:02 25 they met you?

26 JUSTICE DOHERTY: What is the relevance of this? Please
27 get to the point.

28 MR NICOL-WILSON: Your Honour --

29 JUSTICE DOHERTY: Please get to the point.

1 MR NICOL-WILSON: Your Honour, there is an allegation that
2 when they returned from the lawyer's office, they met him at
3 Sweissy and a discussion took place. So I'm trying to lay some
4 foundational questions before --

15:00:23 5 JUSTICE DOHERTY: It doesn't matter if half the country was
6 there. Get to the point.

7 MR NICOL-WILSON: As your Honour pleases.

8 Q. Now, Mr witness, was it Sammy Ragga and Bomb Blast who met
9 you at Sweissy after the - after you dropped them at the lawyer's
15:00:57 10 office?

11 A. Yes, My Lord. Both of them met me, because they had said
12 that I should wait for them for further discussions. The two of
13 them met me there.

14 Q. Now would it surprise you to know that Sammy Ragga said he
15:01:15 15 cannot remember what Bomb Blast said to you on that occasion?
16 Would you be surprised to know that?

17 MR HERBST: Objection. Objection, Your Honour.

18 JUSTICE DOHERTY: Yes, Mr Herbst.

19 MR HERBST: Your Honour.

15:01:31 20 JUSTICE DOHERTY: Yes, I'm listening.

21 MR HERBST: Again in my legal culture, that question would
22 be objectionable because it's asking the witness to consider
23 another witness's testimony on the same subject or a similar
24 subject and that would be considered out of bounds. I don't know
15:02:00 25 if the Rules here would similarly consider that out of bounds,
26 but I raise it as an objection with "do you know the."

27 JUSTICE DOHERTY: Mr Nicol-Wilson, if Mr Herbst hadn't got
28 in first, I would have got in.

29 MR NICOL-WILSON: Yes. Fair enough, Your Honour.

1 Q. Now I'll put it to you that when Bomb Blast returned to
2 Sweissy, he went directly into the Jackpot house?

3 A. Well, My Lord, you've brought that and you say you are
4 putting it to me, but when Bomb Blast came, I alighted my vehicle
15:02:53 5 and we met - I, Sammy and him - and we discussed.

6 Q. I'm also putting it to you that Bomb Blast did not say
7 anything to you upon return to Sweissy on that day?

8 A. My Lord, I am telling you today that when Blast came, there
9 were he and Sammy discussed with me exactly what they had gotten
15:03:31 10 from that side.

11 Q. I'm also putting it to you that Bomb Blast did not say to
12 you you should not be afraid of anyone, and the only person who
13 you should be afraid of is Ragga and himself?

14 A. My Lord, I am telling you he clearly told me: That man is
15:04:13 15 my man. He said, Bobby, you don't need to be afraid. If you are
16 even afraid, we are the people you should be afraid of. He told
17 me that.

18 Q. Would I be correct to say you cannot remember exactly what
19 Bomb Blast said to you on that occasion. To be fair to you, you
15:04:39 20 cannot remember exactly what he said?

21 A. My Lord, that particular one that Bomb Blast told me and
22 what they brought from Bazy, I can remember that. I always.

23 Q. And the reason why you cannot remember exactly is because
24 that area is very, very noisy and was very noisy on that day?

15:05:08 25 A. My Lord, I'm telling you, if you go to Sweissy and you want
26 to say what you want to say, whether it is noisy, nobody will
27 stop you. If you go to Sweissy and you want to say what you want
28 to say, you can go to the corner and stand there. Nobody will
29 obstruct what you are saying.

1 Q. You will agree with me that on that day that Sweissy area
2 was very noisy?

3 A. My Lord, that place is a business area, but we were able to
4 hold our discussion.

15:05:52 5 Q. You have still not answered my question and I'll repeat it
6 again: On that day, that area was very noisy?

7 MR HERBST: Your Honour --

8 JUSTICE DOHERTY: I'm going to allow the question,
9 Mr Herbst.

15:06:11 10 THE WITNESS: I clearly stated it that it's a business
11 centre. People were going about their business. But we had our
12 discussion and no noise disturbed us.

13 MR NICOL-WILSON:

14 Q. Was the area noisy on that day, the Sweissy area, was it
15:06:35 15 noisy?

16 A. The area where we used to go - the place where I met them
17 at Jackpot, it's not too noisy. People do their business. It's
18 not like a marketplace where everybody is shouting. When you
19 want to say something you can go. But I can't recall whether it
15:06:50 20 was noisy or not. What I want for is for us to talk. I waited
21 for them. They came and we talked and I returned.

22 Q. So you cannot remember whether it was noisy or not?

23 JUSTICE DOHERTY: He has already answered the question.

24 MR NICOL-WILSON: As Your Honour please.

15:07:09 25 Q. So I am now putting it to you that because it was noisy on
26 that day, you cannot remember exactly what Bomb Blast said to
27 you?

28 A. My Lord, I'm also putting it to you that on that day the
29 discussion that I went for, we discussed it well and I left.

1 Q. And I will also suggest to you that you did not go there
2 for Bomb Blast to tell you that you should not be afraid of
3 anyone except him and Ragga?

4 A. My Lord, fair enough. When Blast and - when they came I
15:08:01 5 waited for them, and when they came, he told me what he had to
6 tell me, and I left. So that's fair.

7 Q. Since you returned to Freetown after your testimony in The
8 Hague, you never had any reason to contact OTP on issues
9 bordering on your security?

15:08:44 10 A. I did not contact them. I did not contact them. I was
11 living quietly, going about my business. They called me. It was
12 OTP that called me and they briefed me on issues.

13 Q. So even though it became public knowledge that you had
14 testified at the Charles Taylor trial, you were not in any way
15:09:08 15 threatened by anyone?

16 A. I was living quietly. I won't tell lies. Nobody
17 threatened my life. Because I knew where I used to go. But
18 nobody threatened my life.

19 Q. And you had a meeting with OTP investigators after you made
15:09:41 20 your statement on the 9th of December?

21 A. Yes, my Lord.

22 Q. In fact, you had several meetings with them; maybe two or
23 three?

24 A. I can recall that we used to have meetings that I recall I
15:10:09 25 was called to.

26 Q. And at one of those meetings you told them you never wanted
27 to come back to Sierra Leone because of these security threats
28 you had envisaged while you were in The Hague?

29 A. I told Magnus that, that all this that I'm facing today, it

1 was very simple. My sister had gone there to take me. If they
2 had allowed me to go I wouldn't have faced this. For someone to
3 come and meet me and come and change this or do that. I said
4 that.

15:10:47 5 Q. Let me ask you a question: Are you back under some form of
6 protection by the Court?

7 A. Well, as for now, I am under the Court. I am under the
8 Court for now.

9 Q. So what do you mean by you are "under the Court"?

15:11:18 10 A. When this trial started, it's the Court that is taking care
11 of me. It's the Court that is taking care of me.

12 Q. So when you returned from The Hague, the Court stopped
13 taking care of you; is that correct?

14 A. Yes, after when I finished my testimony, where I was, they
15:11:48 15 told me that I should return. The Court stopped. They only told
16 me that in case of any security threat, I should call them.

17 Q. And now that you've made a complaint to the Court, they
18 have started taking care of you again?

19 A. Not the complaint. It's when this trial started. Because
15:12:12 20 where I am the WVS, they went and they said they would provide a
21 place for me to stay when the trial starts.

22 Q. So when the trial started, did you start receiving any
23 allowances from the Court?

24 A. The only allowance that I was given was last week. They
15:12:36 25 gave me an allowance, yes. This past Saturday they gave me an
26 allowance.

27 Q. How much was that?

28 A. It was 210,000.

29 Q. And what was the allowance given to you for?

1 A. It's for my feeding and to buy myself little things that I
2 use where I am.

3 Q. So in your meetings with OTP investigators, after you made
4 your statement did you express your desire to relocate out of
15:13:38 5 Sierra Leone?

6 A. Well, I told them. I said because if they are saying that
7 they were going to charge this matter I have to show some concern
8 for my security. If possible I would need to be relocated
9 because - I said because the people who are involved in this
15:13:59 10 issue are very close to the current government. I said I have to
11 fear for my life. I won't be afraid to say this. I am not
12 laughing about this. You are joking with my life, sir. I'm not
13 laughing. They are close to the government - the current
14 government. They are very close to them. I have to say it.

15:14:25 15 Q. And therefore, it will be in the interests of your own
16 safety for you to be relocated out of Sierra Leone?

17 A. As long as it's for my own security, because sometimes
18 other people could be offended. Like I said, because when you
19 look at it currently all that I've mentioned, you would really
15:14:53 20 know that I am supposed to talk about my security. Because the
21 man against whom I brought the complaint is close to the current
22 administration. They have been going up and down. I've been
23 seeing him with different men who are ex-fighters.

24 Q. And who is this man that you've brought a complaint
15:15:14 25 against? I thought you brought a complaint against several
26 people. Now you are saying "this man". Who is this man?

27 A. Well, I'm talking about the current one with whom I am
28 involved who is Bomb Blast, Sammy. When I brought the report, I
29 told him I said if you have to raise anything, I have to be

1 concerned about my security. I said because in future I wouldn't
2 know. You'll see a human being, you do not know what is in his
3 heart. You look at his face but you wouldn't know what is in his
4 heart. So I raised concerns about my security.

15:15:48 5 Q. And as far as you know, Bomb Blast and Sammy has never hurt
6 you in any way in the past?

7 A. I won't tell lies about them. No, Bomb Blast and Sammy, he
8 never hurt me in the past. We never had any confrontation. I
9 have clearly stated it that Bomb Blast was my boss. He never did
10 anything bad to me. Sammy is a family friend and has never done
11 anything bad to me.

15:16:14 12 Q. Now, you mentioned during your examination-in-chief that
13 around the 8th and 9th of this month you met Bomb Blast again at
14 Sweissy?

15:16:44 15 A. Yes, my Lord.

16 Q. Now, did the investigators at OTP advise you to stay away
17 from Sweissy?

18 A. My Lord, nobody told me to stay away from Sweissy. I am a
19 citizen of this country. I have a right to go anywhere. Nobody
20 told me to stay away. I can go now. Sometimes when I go there
21 that's when I buy my jeans and sometimes when I go there I keep
22 company with two or three of the brothers there, then I return.

15:17:21 23 Q. So am I correct to say you told a lie to the investigators
24 when you said you feel threatened?

15:17:47 25 A. That's not very recently. It was at the time the OTP
26 called me [microphone not activated] security.

27 MR HERBST: Excuse me, Your Honour, I could not make out
28 the question. I did not understand the question. Can I hear it
29 again?

1 JUSTICE DOHERTY: The question was so you told a lie to OTP
2 when you said you were concerned about your security. Did you
3 hear the answer?

4 MR HERBST: No, Your Honour, I did not because I was trying
15:18:20 5 to ask what the question was.

6 JUSTICE DOHERTY: Mr witness, could you repeat your answer
7 to the last question, which was: So you told a lie to OTP when
8 you told them you were concerned about your security.

9 THE WITNESS: I told them because he's asking me toward the
15:18:40 10 time that I - when I said Bomb Blast communicated with me I lied
11 to the OTP that my security is threatened. I said that it
12 happened before they did these charges. They called and asked me
13 how I would feel if they brought up these charges. And I
14 explained about my security, and I just had to be concerned about
15:19:04 15 it because all of us are ex-fighters. All of us have fought a
16 barbaric war in this country. I know and I'm alone. I have to
17 be security about my security.

18 MR NICOL-WILSON:

19 Q. Now I'm putting it to you that if you were concerned about
15:19:21 20 your security, you would not have been to Sweissy around the 8th
21 and the 9th of this month?

22 A. As I have clearly stated, nobody noticed me on issues. I
23 had a funeral. The man went there. If I go to Sweissy I did not
24 go purposely to go and see him. It was - we met where we were
15:19:45 25 able to meet. I did not go there because he called me. No, I
26 went there. We met and we discussed. I can't stop anybody not
27 to discuss with me in this country.

28 Q. This conversation you said you had with Bomb Blast between
29 the 8th and 9th of this month, did you report that conversation

1 to the OTP?

2 A. I did not report it because they had charged the matter. I
3 did not report. And at the time that I was called, my wife had
4 died, so they never called me and I was not calling. They were
15:20:24 5 calling me.

6 Q. I am suggesting to you the reason you never contacted OTP
7 was because that conversation never took place?

8 A. My Lord, I am putting it to you: This conversation has a
9 lot of things involved. You yourself standing there by now you
15:20:52 10 shouldn't be standing there, maybe by now you shouldn't be
11 standing in the Court because the thing would have been exposed
12 from what he told me. He wanted us - the two of us to talk even.
13 But it happened that it did not happen. But the man discussed it
14 with me because he said I want you to discuss with my lawyer. I
15:21:07 15 have seen the statement. He said, Yapo how do you go. He did
16 not say it violently, he said it to me like a brother. He said
17 it to me like a brother. To say that he said he said, Yapo how
18 will you help me out of this. But because the thing did not
19 establish maybe by now you would have seen this as well. You are
15:21:27 20 aware of that. Yes, my Lord.

21 JUSTICE DOHERTY: Yes, Mr --

22 THE WITNESS: Please, ma'am, I want you to warn this gentle
23 lady on this side. I am saying something but she is mocking me a
24 little. Even before we went out when you stopped me to breathe
15:21:50 25 in she was mocking me and I don't like that. This is a live
26 issue. I am not here to tell lies about anybody. I'm saying
27 something that is troubling me and she's just laughing. She's
28 mocking me and provocation is next to madness.

29 JUSTICE DOHERTY: Ms Serry-Kamal, now I did notice you

1 smiling several times. Whether did you it inadvertently or what,
2 I don't know. But I know you're an officer of the Court and you
3 know how to behave properly and with decorum and I'm not
4 suggesting you're doing it deliberately but unfortunately the
15:22:28 5 witness seems to be interpreting it that way. So I would ask
6 that maybe you sit a little bit further if you don't mind. If
7 it's convenient with your machine perhaps that would avoid it.

8 MR NICOL-WILSON: Your Honour, the witness do smile
9 sometimes.

15:22:46 10 JUSTICE DOHERTY: He certainly does and so do all of you.

11 MR NICOL-WILSON: Exactly it's a natural phenomenon.

12 JUSTICE DOHERTY: Ms Serry-Kamal, I did notice it.

13 MS SERRY-KAMAL: I did notice, Your Honour. I'm not
14 disputing that I smiled and I'm not disputing that I was.

15:23:02 15 THE INTERPRETER: Your Honour, her microphone is not on.

16 JUSTICE DOHERTY: We need to have your microphone on.

17 MS SERRY-KAMAL: But I take issue with him acting as if I'm
18 sitting here trying to in any way disrupt his testimony. I'm an
19 officer of this Court, I'm an officer of the Courts in general
15:23:18 20 and I'm a lawyer. I'm not sitting here and I will not allow this
21 witness to impute any disrespect and impropriety on my name and
22 try to stain who I am. I do take issue with his so-called
23 statement to the Court I didn't do anything improper. And I take
24 issue with that.

15:23:36 25 JUSTICE DOHERTY: Ms Serry-Kamal, I have tried to convey to
26 you politely that I am not impugning your propriety in any way.
27 I acknowledge you're an officer of the Court. And it's not your
28 actions. It's sometimes how other people see them. So I'm just
29 saying let us proceed calmly.

1 Mr Witness, this lady is here in her capacity as a
2 professional person. If I think she's misbehaving I will tell
3 her. But she has a right to sit in Court too, and she will
4 ensure that she has a straight face while you're here. I've
15:24:23 5 noticed other people smiling, so please do not think anyone is in
6 any way trying to put you down or to [overlapping speakers].

7 THE WITNESS: Yes, my Lord. It happened before we went for
8 the break. She really provoked me. I tried when you told me to
9 take a deep breath, it happened. I was trying to bring up the
15:24:50 10 talk and he repeated it. I respect her as a professional lawyer.
11 I have suffered through these trials. When cases happened in
12 town, I went with someone there. When the lawyer who was at the
13 Special Court here saw me he said oh, this one went and
14 prosecuted the others. I suffered that. I know a lot of things.
15:25:10 15 That's why I'm very careful with the lawyers.

16 JUSTICE DOHERTY: I appreciate that, Mr witness. I've
17 explained to Ms Serry-Kamal that I noticed her smiling. She is a
18 cheerful lady. She doesn't even maybe realise she's doing it and
19 I don't think she's doing it deliberately to annoy you. If it
15:25:30 20 would help, I will politely ask her to sit a little further from
21 you.

22 MR NICOL-WILSON:

23 Q. Mr witness during your testimony in this Court you told the
24 Court you are very hot tempered?

15:25:55 25 A. In my examination-in-chief I said I have hot temper? I
26 want you to break that one down for me that I am hot tempered.

27 JUSTICE DOHERTY: Thank you very much, Ms Serry-Kamal.
28 It's most helpful.

29 MR NICOL-WILSON:

1 Q. It means you easily lose your temper?

2 A. It's not possible for me to get angry easily. Up to now
3 I've not had any criminal record that I've been arrested by
4 police because I lost my temper.

15:26:36 5 Q. You were supposed to testify in Court sometime last week
6 but you were absent?

7 A. Yes, my Lord.

8 Q. Why were you absent?

9 A. My Lord, on that day I had been fully dressed. I had worn
15:26:56 10 my coat. I was moving from my room and I just felt bad. My head
11 was aching. My waist, my knee. Then I called Mr Aki. I said
12 trouble. I said right now the way I'm feeling, if you don't
13 come, something would happen. I called Mr Aki. They rushed up
14 to the scene. They picked me up and took me to the hospital. On
15:27:25 15 that day I was crying continuously. I couldn't raise my feet and
16 my arms. It was very dangerous for me. They took me to the
17 hospital and I was put on drips. I was there but the situation
18 was worsening. So the doctor checked and he decided he would see
19 what to do. They referred me to another hospital and I was
15:27:46 20 checked out. Up to yesterday that I came, I just came because I
21 didn't want people to think I was afraid. But I was really sick.
22 I am really sick.

23 Q. Actually, you did not come, because you were afraid.

24 JUSTICE DOHERTY: I am not allowing that question because
25 the Court has seen a medical report, and I am not prepared to
26 allow that question.

27 MR NICOL-WILSON: Your Honour, I have not seen a copy of
28 that medical report, so I'm not in a position to make an informed
29 decision on that, and I ask that a copy of the medical report be

1 provided to.

2 Q. Now, Mr witness, I will suggest to you that all what you
3 have said in this Court is a pack of lies?

4 A. My Lord, you are serving a living God. I am telling you
15:29:36 5 too that all that I've said to this Court today and in my
6 statement is true. You are representing someone where your
7 turning the truth to lies, but God knows what I'm saying today is
8 the truth. You are representing someone who gave a statement
9 that this is what I said. I came directly to say that this is
10 what they did to me. You are turning the truth into lies but I
11 came here to say the truth between God and man.

12 Q. And the only reason why you contacted OTP and Shayamala is
13 because you still want to be located out of Sierra Leone?

14 A. My Lord, I can't - as someone who has testified and if
15:30:25 15 someone comes to you as a professional lawyer, someone comes to
16 you and says: Friend we want you to do this, and they continue
17 to persuade you. Then you say let me seek advice from people who
18 are legally minded. I had to make that report. I won't tell
19 lies. I had to make that report. That was why I made the
15:30:45 20 report. I did not do it for relocation but it is because of my
21 safety. Did I not want to get involved into anything and people
22 say this man has done this testimony has been to Charles Taylor
23 and that he's told lies. They had to pay him. Mr lawyer, that
24 would affect me; it would affect my family and it would even
15:31:08 25 affect my children yet unborn.

26 Q. I'm also putting it to you that you created a whole
27 contempt proceedings in order to be relocated out of Sierra
28 Leone?

29 A. By the special Grace of God the truth would be known. I

1 did not create anything for them to bring contempt. It was what
2 - it is what happened. It's just that the video clip is not
3 here. If I had it maybe you wouldn't be saying that.

4 Q. Your Honour, just a moment to see if I have any more area
15:31:50 5 to cover.

6 The witness wants to be excused, Your Honour, I think.

7 JUSTICE DOHERTY: [Microphone not activated]

8 THE INTERPRETER: Your Honour's microphone is not on.

9 JUSTICE DOHERTY: I wasn't sure if you have further

15:32:17 10 questions. Because if you have not then I'll adjourn Court.

11 It's usually the time we adjourn and allow both the witness and
12 everyone else to leave the Court.

13 MR NICOL-WILSON: Your Honour, we can adjourn Court. But
14 I'm not sure whether I'm entirely -

15:32:32 15 JUSTICE DOHERTY: Very well. Whilst you're checking I will
16 ask WVS to assist the witness to leave briefly and then you can
17 inform me if you've further questions. Please assist the witness
18 to leave briefly.

19 [Witness leaves courtroom]

15:34:40 20 [Witness returns to courtroom]

21 MR NICOL-WILSON: Just a few more questions, Your Honour.

22 JUSTICE DOHERTY: I'm watching the time. It would be good
23 to try and finish this.

24 MR NICOL-WILSON: Just two more questions.

15:35:02 25 JUSTICE DOHERTY: Very well.

26 MR NICOL-WILSON:

27 Q. Now, Mr witness, when Sammy Ragga was released from prison
28 he went and stayed with you; is that correct?

29 A. When Sammy was released from prison he was not actually

1 staying with me. One day I came to Sweissy. I was with my car
2 and Sammy was crying and he said Yapo, I said what's the problem?
3 He said the woman that I am staying with has treated me badly.
4 He said please I want you to help me. He said if you have a
15:35:36 5 place for me to stay please allow me to stay there. And I said
6 okay, but this matter had not yet come up. But because he's a
7 brother and he had cried to me, I said, Come a stay with me. But
8 it was a room where he had a foam. That's where he was staying.
9 But before this matter, Sammy had left. He was with me, but not
15:35:56 10 before this matter. It happened before this matter. Because out
11 of sympathy - because he was crying, saying his wife has driven
12 him out - that happened.

13 MR NICOL-WLSON: That's all, your Honour, for this witness.

14 JUSTICE DOHERTY: Thank you, Mr Nicol-Wilson. Given that
15:36:14 15 we try and juggle the two times, Kigali and here, I think it's
16 appropriate to adjourn at this point; therefore, I'm going to
17 stand the case over until tomorrow.

18 Mr witness, I again remind you that you are under oath and
19 you should not discuss your evidence with any other person.

15:36:36 20 Mr Court Attendant, please adjourn Court until 9 o'clock
21 tomorrow.

22 [Whereupon the Court adjourned at 3.37 p.m., to
23 be resumed at 9.00 a.m., Wednesday, the
24 27th day of June, 2012]

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