



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 [Wednesday, 27 June 2012]

2 [Open Session]

3 [Accused enter court]

4 [The witness enters court]

08:58:48 5 [Upon commencing at 8.58 a.m.]

6 JUSTICE DOHERTY: Good morning. I will first check if we
7 are in touch with Kigali clearly.

8 Kigali, Mr Herbst, can you hear me?

9 MR HERBST: Yes, Your Honour. Good morning. We can hear
08:59:34 10 you clearly.

11 JUSTICE DOHERTY: Thank you.

12 MR HERBST: [Overlapping speakers] from Kigali.

13 JUSTICE DOHERTY: Thank you. I will therefore take
14 appearances.

08:59:46 15 Mr Herbst.

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

18 JUSTICE DOHERTY: Thank you.

19 MR NICOL-WILSON: Your Honour, Melron Nicol-Wilson for
08:59:58 20 Hassan Papa Bangura.

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

22 MR METZGER: Kevin Metzger for Santiגיע Borbor Kanu.

23 JUSTICE DOHERTY: Thank you.

24 MR SERRY-KAMAL: AF Serry-Kamal for Ibrahim Bazy Kamara.

09:00:20 25 JUSTICE DOHERTY: I note Mr Serry-Kamal. Yes, thank you.

26 Mr Witness, I again remind you that you are under oath and
27 you should answer questions truthfully. You understand?

28 THE WITNESS: Yes, My Lord.

29 JUSTICE DOHERTY: I notice Mr Nicol-Wilson on his feet.

1 MR NICOL-WILSON: Your Honour, yes. Just one preliminary
2 matter before Mr Metzger starts his cross-examination.

3 During the examination-in-chief of this witness, the
4 Independent Counsel put questions to him on certain discussions
09:00:53 5 held between the 8th and 9th of this month at Sweissy.

6 JUSTICE DOHERTY: Yes.

7 MR NICOL-WILSON: At Sweissy. Your Honour, with respect,
8 that falls outside the temporary jurisdiction of the Order in
9 Lieu of the Indictment which is between the 27th of November and
09:01:18 10 the 16th of December, and I just want to draw that to your
11 attention. That evidence should not be part of the totality of
12 the evidence that should be considered by the Trial Chamber.

13 JUSTICE DOHERTY: I will make a decision on that, whether
14 it falls within, I think it's Rule 93 --

09:01:34 15 MR NICOL-WILSON: Yes.

16 JUSTICE DOHERTY: I haven't got the rules before me. I
17 will consider whether it falls within that Rule when it comes to
18 final submissions.

19 MR NICOL-WILSON: Yes. Thank you.

09:01:45 20 JUSTICE DOHERTY: Thank you. Mr Metzger, please proceed.

21 MR METZGER: Thank you, Your Honour.

22 Cross-examination by Mr Metzger:

23 Q. Good morning, Mr Sesay.

24 A. Good morning, Mr Metzger.

09:02:09 25 Q. Thank you. Mr Sesay, you have told us that you are known
26 as Yapo, Bobby, or B; is that correct? Yes?

27 A. Well, yes. That's a family name. Yapo is a family name.

28 Q. So your family members call you Yapo rather than your
29 friends?

1 A. Friends call me Yapo, especially most of those who were in
2 the army. Most of them call me Yapo.

3 Q. Right. Thank you for that clarification.

4 MR METZGER: I would like, please, Your Honour, for this
09:03:01 5 witness to have before him the two documents which I think I are
6 Exhibit P2 and P3 - oh, I beg your pardon, P3 and MFI-1. Yes.

7 Q. Before we go any further Mr Sesay, it's correct, is it,
8 that you do not know me personally?

9 A. Yes, My Lord.

09:03:42 10 Q. And is it right that before today you and I have never had
11 any conversations?

12 A. It's only in this Court that I saw you. I've never had -
13 we've never had any conversation.

14 Q. Thank you. And that nobody has approached you on behalf of
09:04:07 15 myself as the representative of Santigie Borbor Kanu?

16 A. No, My Lord.

17 Q. Right. Thank you. Now you've been asked a number of
18 questions about your return after the Charles Taylor case, and
19 with Her Honour's leave, I simply want to ask a few questions in
09:04:38 20 that area for clarification purposes.

21 JUSTICE DOHERTY: Yes, please do so.

22 MR METZGER: I am very much obliged, Your Honour.

23 Q. First of all, I think you told us that initially after
24 returning from giving evidence, you were under the care of the
09:05:03 25 Special Court; is that correct?

26 A. Yes, My Lord.

27 Q. And that in due course that care was, as it were, removed
28 and you were simply told, in the event of any difficulties,
29 please call us?

1 A. Yes, My Lord.

2 Q. Now, can you tell us, just so that we can get the record,
3 as it were, accurately done, how long had you been back from
4 giving evidence? Was it when you were told that the situation
09:05:46 5 was now changing?

6 A. I want you to repeat the question. I did not get it
7 clearly.

8 Q. Certainly. I will put it, perhaps, in a different way.
9 When you came back from the Charles Taylor case, how much time
09:06:10 10 passed before the Special Court said to you: If there is any
11 problem, call us?

12 A. Well, after the Taylor trial, I was still - I can't
13 remember the time, but I was under their care until later I was
14 by myself.

09:06:33 15 Q. Yes. You see, it's that "later" I want to work out in
16 relation to the time that we are looking at. Was it in 2008,
17 2009, 2010? When were you taking care of yourself? When do you
18 start taking care of yourself again?

19 A. Well, it was just after the trial. About some time after
09:06:55 20 the trial, the Charles Taylor trial.

21 JUSTICE DOHERTY: Mr Witness, do you mean after the end of
22 the Charles Taylor trial or after the end of your evidence in the
23 Charles Taylor trial?

24 THE WITNESS: After my evidence.

09:07:11 25 MR METZGER: Thank you very much.

26 Q. Now again for clarification purposes, how long, roughly, -
27 I am not going to hold you to specific dates - had you been a
28 protected witness under the care of the Special Court?

29 A. Well, after the Taylor trial, that is when the protection -

1 after I had done my trial, after I had given my testimony and I
2 returned, I spent some time with the Court. I do not actually
3 recall the month or the date, but I took some time with them
4 before I was on my own.

09:08:00 5 Q. All right. Thank you. Would it be fair then to say that
6 you were a protected witness under the Special Court from about
7 2005 until at least 2008?

8 A. I had been a protected witness. I was a protected witness
9 during the AFRC trial. That's one. Afterwards, I stayed on my
09:08:28 10 own. Later, they called me for the RUF trial. I was also under
11 the Court and stayed on my own after that. From that one, they
12 called me also for the Taylor trial, and I was under their
13 protection. After my testimony, I was on my own later. So it's
14 not from 2005 to 2008 that I was continuously under the
09:08:59 15 protection of the Court. No, it did not happen that way. It was
16 happening within some time-periods. When they call on me, I
17 would be under their protection, and afterwards I would be
18 staying with my family. When they needed me, they would call me
19 and I would be under their protection, and afterwards I would be
09:09:17 20 on my own. It was only on security matters that they advised me
21 that in case of any security matters that would bring about any
22 threat or cause me any discomfort I should report.

23 Q. Thank you, Mr Sesay, for that very clear explanation. Now
24 again for clarification purposes, when you were a protected
09:09:47 25 witness under the care of the Special Court, it is correct to say
26 that you received, shall we say, financial support, isn't it?

27 A. Well, the only financial support was my weekly allowance.
28 That was what the WVS used to give me.

29 Q. Can you tell us, please, what the amount was, the weekly

1 amount that you were being paid?

2 A. Well, it was 16,000 per day, and they were giving it to me
3 every Friday. You can sum it up. 16,000.

4 Q. Yes. Forgive me if I don't do that at this present point
09:10:36 5 in time. So, Mr Sesay, and that was the position when you were
6 at the -

7 MR HERBST: [Overlapping speakers]

8 MR METZGER: I'm sorry.

9 MR HERBST: Excuse me, Your Honour.

09:10:50 10 JUSTICE DOHERTY: Mr Herbst, yes.

11 MR HERBST: I'm sorry, I didn't hear the answer clearly,
12 was it 60 thousand or one six thousand?

13 JUSTICE DOHERTY: One six thousand per day paid every
14 Friday. I've done a quick calculation. That comes to 112,000
09:11:03 15 per week by my arithmetic.

16 Please continue, Mr Metzger.

17 MR HERBST: I thank the Court.

18 JUSTICE DOHERTY: You're welcome.

19 MR METZGER: I'm very much obliged.

09:11:24 20 Q. Now Mr Sesay, so when you went to give evidence in the
21 Charles Taylor trial, is it correct that you applied for the
22 Court to take away the protective measures so that you could give
23 evidence openly?

24 A. Yes. They asked me and I said because of what I had
09:11:49 25 realised during the AFRC and RUF trials, I said there was no need
26 for them to cover me. I should go out in the open because I had
27 experienced a lot of calls after that trial. People became aware
28 after that trial that I had testified, and so there was no need
29 for them to cover me. They make it open. That is what happened.

1 Q. Thank you, Mr Sesay. And is it correct that by the time
2 you gave evidence at the Charles Taylor trial, this plate, or I
3 think CD or DVD, that you were talking about when you were giving
4 your direct evidence, was freely available in Freetown?

09:12:39 5 A. Well, it only came to my knowledge at one time when I came
6 to town and I was searching for a plate to buy when I saw this
7 plate that had the Special Court. When I looked at the back of
8 the plate, I saw my name, Alimamy Bobson Sesay. I tried to look
9 at it when I went home and I says saw myself in it and I decide
09:13:15 10 to bring it to the attention of the Court because I did not know
11 whether it was the Court which prepared it for sale. So that
12 caused me to bring that plate to the attention of the OTP.

13 Later they said that the President of the Special Court had
14 put a statement out to the public denying knowledge by the Court.
09:13:41 15 I heard that over the radio and the OTP also told me.

16 Q. Thank you, Mr Sesay. The question that I really was trying
17 to get you to answer was at what stage did you realise that this
18 material was publicly available in Freetown? Was it before or
19 after you testified at the Charles Taylor trial?

09:14:12 20 A. Well, it was after I had given my testimony. It took some
21 time. I was in Freetown. It took some time. After my
22 testimony, when I went to buy a plate and saw this plate.

23 Q. And in relation to the information you provided to the
24 Office of the Prosecutor in the present proceedings, how long
09:14:38 25 before that had you been aware of this plate, as you call it?

26 A. Can you repeat this question? I did not get it clearly.

27 Q. No problem at all. How long before you got in touch with
28 the OTP about Sammy Ragga getting in touch with you did you
29 become aware of this plate?

1 A. I had known about this plate before Sammy got in touch with
2 me. I had brought that matter about the plate that was going
3 around to the OTP.

09:15:38 4 Q. Yes, I'm saying how long before. Was it a month before, a
5 week before, years before?

6 A. I can't really recall the specific time, but it took some
7 time before Sammy got in touch with me.

8 Q. Thank you. I shan't proceed any further with the matter.
9 This is not a test of your memory, Mr Sesay. Now, let me ask you
09:16:00 10 now just a little bit about Sammy Ragga or Mr Kargbo. I think
11 you told us that you got in touch - or, rather, you were in touch
12 with each other again once he was released from Pademba Road; is
13 that right?

14 A. Yes, My Lord. We were seeing each other. We used to have
09:16:33 15 discussions.

16 Q. And it was your understanding when you first went to the
17 OTP, was it not, that Mr Kargbo had been released sometime in
18 2010; is that not correct?

19 A. I think it's in 2009, something like that. That is when he
09:17:01 20 was released, 2009, when they pardoned them - when the President
21 pardoned them from prison. That is when they discharged them in
22 Court.

23 Q. Now, I think you yourself told us that you had been
24 arrested in the year 2000, I believe it was, and spent some time
09:17:32 25 yourself in Pademba Road; is that correct?

26 A. Yes. It was in June 2000 that I was arrested together with
27 Bomb Blast, who was our leader at that time. Johnny Paul
28 arrested us and brought us to Pademba Road Prison. I was not the
29 only person who was arrested. I was arrested together with

1 Bomb Blast.

2 Q. And what about Mr Kargbo; was he arrested at that time as
3 well?

4 A. No. Mr Kargbo, it was after we had spent some time in
09:18:08 5 prison. That is when they brought him. He came together with
6 Kallay and others.

7 Q. You told us that you were part of the West Side; is that
8 correct? You were a member of the West Side.

9 A. Yes, My Lord, I was a member.

09:18:33 10 Q. Thank you.

11 MR METZGER: Should Your Honour need a reference, the
12 transcript page is 435, lines 24 to 29 - I'm sorry, yes. Lines
13 24 to 29; page 436, lines 3 to 4 and 28 to 29.

14 JUSTICE DOHERTY: Thank you, Mr Metzger. Just for the
09:19:09 15 record, can we have a spelling of the name Kallay that the
16 witness referred to?

17 MR METZGER: Indeed.

18 Q. Mr Sesay, could you spell the name "Kallay" for the record?

19 A. In my own way it is K-A-L-L-Y - K-A-L-L-A-Y.

09:19:36 20 JUSTICE DOHERTY: Thank you, procedure.

21 MR METZGER:

22 Q. Is that Kallay or Cally [phon]?

23 A. It is Kallay. We pronounce it Kallay. You know, everybody
24 has his or her own way of pronouncing names. But we call him
09:19:54 25 Kallay.

26 Q. I think he calls himself Kallay as well; is that right?

27 Now, as far as you were aware, Mr Kargbo was arrested for being a
28 member of the West Side Boys; is that correct?

29 A. Well, yes, because we were in prison and they said they had

1 arrested Kallay and others in relation to the West Side. That is
2 what we knew.

3 Q. And you were a member of the West Side. You knew people
4 who were members of the West Side; is that correct?

09:20:37 5 A. Yes, My Lord.

6 Q. And you knew of your own knowledge that Mr Kargbo was a
7 member of the West Side; is that not the case?

8 A. My Lord, this has a long story that I think I can explain a
9 little about. When I was at West Side, Samuel Kargbo was not
09:20:59 10 there. It was at that time that - at the time that Blast was the
11 commander, he was not there. It was at the time that they
12 arrested us and we were in prison that they arrested Kallay
13 later, and I saw Sammy among them, and they said they arrested
14 them at West Side. When I was there, Sammy was not a member of
09:21:22 15 the West Side. But when they were arrested together with Kallay,
16 they arrested them as West Side because they were arrested in
17 there.

18 Q. And what were the charges that were leveled against you,
19 Mr Sesay?

09:21:38 20 A. Well, My Lord, we were - we were arrested. They said we
21 were to be in safe custody. We were in safe custody. We were
22 not charged. We were not charged. Our squad was not charged.
23 Bomb Blast and others, there was no charge against us.

24 Q. And you, I think, told us that you were released in 2004;
09:22:06 25 is that correct?

26 A. Yes, I was released. I was not alone. I was quiet. About
27 11 or 12 of us were released from prison. We were taken to the
28 CID, and the government said - they gave us certain laws that we
29 were to obey. And our families signed on our behalf at the CID,

1 and we were constantly reporting at the police station.

2 Q. When did the reporting stop? When were you entirely free
3 and didn't have to worry about reporting?

4 A. Well, it got to a period over six to seven months when they
09:23:02 5 were observing us. And the director of CID at that time, that is
6 AIG Dabo, said that it was not necessary for us to be reporting
7 at the various police stations where we were to report. He said
8 since we were released he had not had any problem from any of us,
9 and so we should go about living our normal lives with our
09:23:28 10 families.

11 Q. Thank you, Mr Sesay.

12 JUSTICE DOHERTY: Could I again have the name of the
13 director for record, please?

14 MR METZGER: AIG, which I understand to be Acting Inspector
09:23:43 15 General Dabo. And I shall hand over to the witness, please.

16 Q. Can you spell "Dabbo" for the record?

17 A. Well, the spelling, it could be spelled differently. Some
18 people spell it as D-A-R-B-O-R. Some people spell it as D-A-B-O.

19 JUSTICE DOHERTY: Thank you, that's clear enough.

09:24:09 20 MR METZGER: And some people spell it as D-A-B-O-H.

21 THE WITNESS: Correct.

22 MR METZGER:

23 Q. So you were, let us say, by 2005 free to go about your
24 business and not under threat of being arrested or anything like
09:24:41 25 that; is that correct?

26 A. Yes, My Lord. I was free because the government - I mean,
27 the director of CID had said we had the right to move freely
28 around the county.

29 Q. And when you say "the government", as you have on a couple

1 of occasions, the government at the time was Sierra Leone
2 People's Party, was it?

3 A. Yes, headed by President Ahmed Tejan Kabbah.

4 MR METZGER: I don't think there's any need for spelling on
09:25:20 5 that one.

6 JUSTICE DOHERTY: I think it is on record.

7 MR METZGER: Thank you.

8 Q. Would you say, Mr Sesay, that you have any affiliations
9 with any particular political parties in this country?

09:25:39 10 MR HERBST: Your Honour, I object to that question.

11 JUSTICE DOHERTY: Why? Why, Mr Herbst?

12 MR HERBST: Again, Your Honour, for the same reason I don't
13 think one's church affiliations should be an appropriate subject
14 of inquiry. I think one's political affiliations are in the same
09:26:02 15 category.

16 JUSTICE DOHERTY: Whilst normally I would concur with you
17 on that, in this particular case there is, I think, some
18 suggestion of, let me put it, other reasons for this, and they
19 may well include some political reasoning, and for that reason I
09:26:24 20 allow it as foundation for future questions.

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

22 Q. Mr Sesay, you may now answer the question, please.

23 A. Can you repeat the question?

24 Q. With pleasure. Do you have any affiliations with any
09:26:44 25 political parties in Sierra Leone?

26 A. After my release from prison, I did not decide to. I was
27 just living as an independent person, but I had a party as a
28 citizen of Sierra Leone that I belonged to, and that at that time
29 there was reason, and the reason was - there was a reason. The

1 reason was that after our release at that time, the candidate at
2 that time, who was Solomon Berewa, called on us and told us he
3 would like us to support him in his campaign. At that moment we
4 had just been released from prison, and I said, Well, there is no
09:27:40 5 way. They were the government of the day. I supported the SLPP
6 at that time.

7 Q. Thank you very much again for that clear explanation,
8 Mr Sesay. Your evidence is that you supported the Sierra Leone
9 People's Party and campaigned on behalf of the then aspiring
09:28:12 10 president - I think he was at the time the Vice-President -
11 Mr Solomon Berewa; that's correct, yes?

12 A. Yes, I was a member of the SLPP. I not only campaigned,
13 but I became a member. Just an ordinary; not an executive
14 member. An ordinary member of the party like any Sierra Leonean
09:28:35 15 would do.

16 Q. Indeed. And did you refer to Mr Berewa as "Brah Solo"?

17 A. Well, I knew him as Vice-President. I do not have name to
18 call him Brah Solo. I knew him as the Vice-President Solomon
19 Berewa.

09:29:03 20 Q. Is it correct that you were among a group of people who, as
21 it were, remained with him, especially coming up to election
22 time?

23 A. Well, as far as I can recall, it was at one time when he
24 spoke to me and said he was going to Kono. I was among the squad
09:29:29 25 that went with him to Kono. I was among the squad.

26 Q. I am going to move on from this, but just one last
27 question. Would it be right, therefore, to suggest that you
28 distrust the current Government, the All People's Congress Party;
29 would it be right to suggest that?

1 A. I want you to repeat this question clearly.

2 Q. Of course. I'll ask it in another way. Are you suspicious
3 of the APC Party?

4 A. This is a broad question, and I - you say "suspicious."

09:30:25 5 Can you simplify it for me? Suspicious? You said suspicious of
6 the APC Party.

7 Q. It's a simple question, Mr Sesay. Do you have suspicions
8 about their motives?

9 JUSTICE DOHERTY: I would like some clarification too,
09:30:40 10 Mr Metzger. The world at large criticizes their politicians. Do
11 you mean in a personal - is it that he in some personal
12 capacity --

13 MR METZGER: It's only personal, Your Honour, yes.

14 JUSTICE DOHERTY: Or is it that general --

09:30:56 15 MR METZGER: No, it's personal, and Your Honour, I think,
16 may I have already seen where I'm leading. But, yes, I'm simply
17 asking the question on a personal basis: Does he have suspicions
18 or mistrust the APC for his personal safety?

19 JUSTICE DOHERTY: Well, that is clear. Put it that way,
09:31:14 20 please.

21 MR METZGER: Thank you.

22 Q. As far as your personal safety, your - I think you call
23 them your "security area" is concerned, do you trust the APC
24 government?

09:31:30 25 A. During what period? Tell me the period when you said if I
26 trust the APC government, because at that time it was the SLPP
27 government that was in power. The question that you brought to
28 me was with regards to the SLPP campaign.

29 Q. I'm so sorry. Your quite right. I mean now. Between now

1 and let us say late November 2010.

2 A. If I did not have trust in the APC government? Because
3 you've brought it to 2010 and the question that you put to me is
4 if I had trust during the time that we were campaigning with Solo
09:32:20 5 Mombwara, if I had trust with the APC. Now you brought it to
6 2010. You confused me. I do not understand what you are trying
7 to say. Trust in the government? I can see now that you are
8 trying to endanger me. If you are asking me if I have trust in
9 the current government, then you are endangering my life.

09:32:40 10 Q. Mr Sesay, you're an intelligent man. You'd agree with me,
11 aren't you?

12 A. I agree. But the question in place --

13 Q. I may not have made it absolutely clear to you, but I have
14 now put the period of time, and I am asking you, a man who is
09:33:10 15 brave enough, you say, to ask for the restrictions to be lifted
16 while you give evidence, to tell me whether between November 2010
17 and now you mistrust or have concerns about the APC government
18 regarding your personal security area as you call it?

19 JUSTICE DOHERTY: Just before you proceed.

09:33:34 20 Mr Witness, if you have some reasons for being concerned on
21 your security about answering that question, I will put the Court
22 in closed session and allow you to answer it in private. Do you
23 understand?

24 THE WITNESS: Yes, My Lord.

09:33:52 25 JUSTICE DOHERTY: Shall I put the Court in closed session
26 and let you answer -- [Overlapping speakers]

27 THE WITNESS: Yes, My Lord.

28 JUSTICE DOHERTY: Very well. In accordance with Rule 75,
29 for reasons of personal security of a witness, I am now directing

1 that the Court go briefly into closed session. Members of the
2 public can see but will not hear the answer. It will only be
3 heard by those in the well of the Court.

4 Mr Court Attendant, please put Court in closed session.

09:34:28

5 THE COURT OFFICER: Very well, Your Honour.

6 [Closed session]

7 [Redacted]

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1 [Open Session]

2 JUSTICE DOHERTY: Mr Witness, we are now in open session.

3 If there is another security concern, please inform me.

4 THE WITNESS: Yes, My Lord.

09:49:53 5 JUSTICE DOHERTY: Proceed, Mr Metzger.

6 MR METZGER: I shall move on, please, to the next question.

7 Q. Mr Samuel Kargbo, when he was released, as you've told us,
8 you say in 2009, how often were you in contact with him after his
9 release?

09:50:14 10 A. Well, I and Mr Kargbo used to see each other for most of
11 the time when I came to town. It was a continuous process.
12 Because when he was released, we used to see each other. We
13 would meet in town. Sometimes if I am coming, sometimes I would
14 meet him on the way and I would give him a ride. We used to see
09:50:36 15 each other.

16 Q. I think you also told us that there came a point in time
17 where you had to take pity on him because he had been thrown out
18 of his accommodation by his wife or partner and you took him in
19 under your wing; is that correct?

09:50:56 20 A. Yes, because - I gave him some time to stay there because
21 he told me that he and his wife are having some serious problems,
22 and he had just come from prison and he didn't want anything that
23 would lead him again to prison. And when he said that, I
24 sympathised with him and said, Come to my house just for some
09:51:20 25 time, and later on he returned.

26 Q. Can you remember what time that was - what time period that
27 was, please?

28 A. Well, the only thing that I can remember is that it was
29 before this incident happened, before these charges were made.

1 At that time, this problem had not happened.

2 Q. Would you agree with me that it was in 2010?

3 A. Well, before this matter came up, that's what I am trying
4 to say. Before this contempt matter came up, that is when this
09:51:56 5 happened. Not after the contempt had happened. It was before
6 the contempt that that happened.

7 Q. I understand, Mr Sesay. And I'm not putting it to you in
8 any other way. But when you say "before," how long before?

9 There are 11 months before you get to November of 2010.

09:52:20 10 A. Well, I can't put a particular time to it. But what I am
11 saying is that this contempt incident had never happened when
12 Sammy got this problem with his wife that he said he was staying
13 with. He said because the way the woman was treating him, he
14 wouldn't want that problem. And he met me and he explained to
09:52:41 15 me, and I said, Come to me so that you see how you solve it. So
16 he went to me and he stayed there for some time, and he later
17 returned.

18 Q. Can you give us just a rough idea of when he first came to
19 live with you?

09:52:58 20 A. My Lord, as I have said, he stayed with me within that
21 period. Before this problem happened, that is when he came to
22 me. And he didn't even stay long with me. I just rendered him
23 some assistance. He did not stay long with me.

24 Q. I'll ask you about - all right. Well, let's say, how long
09:53:20 25 did he stay when he stayed? Let's start with that.

26 A. Sammy did not even last for more than one month. Because
27 he just said he wanted to come to solve his problem with his
28 woman, so he did not stay long with me because I, too, have my
29 family in the house. I just managed him in one place.

1 Afterwards, he will be able to leave because he is a big man,
2 too.

3 Q. Thank you. Now, are you avoiding the question of when it
4 was that Mr Kargbo lived with you before this complaint of
09:53:55 5 contempt?

6 A. I am not avoiding it. I am trying to tell the Court the
7 truth. The man stayed with me before this thing happened. If
8 this thing had happened, I would have said, yes. They've asked
9 me questions here and I said yes, it happened. But I can't tell
09:54:16 10 lies now that Sammy was with me at the time that this thing
11 happened. In my own sense, I can't do such a thing. At the time
12 that Sammy with to me, this thing had not yet happened.

13 Q. I hadn't suggested to you, Mr Sesay --

14 JUSTICE DOHERTY: I think, Mr Metzger, you are flogging a
09:54:35 15 dead horse.

16 MR METZGER: Yes, he's highly unlikely to be resuscitated
17 by my questions. Your Honour is right; I shall move on.

18 Q. Next question: Do you know what business, if any,
19 Mr Kargbo was engaged in when he left prison?

09:55:00 20 A. My Lord, I knew that that man was - what I knew about him -
21 I don't know how to interpret that Jew man thing, but he likes to
22 buy and sell. He would buy a gold chain and sell it and buy
23 this. He has his way. He has one of his men called Kabilia whom
24 he said used to assist him. That's what I know.

09:55:21 25 Q. So as far as you know, he used to buy and sell jewelry such
26 as gold chains or necklaces; is that correct?

27 A. I don't know every detail of his business, but I knew that
28 about him. Because at one time I needed one chain that I was
29 using. I told him, and he bought it for me. That is the chain I

1 was using. Because he was mostly around Sweissy, so I considered
2 him a Jew - Jew man. That is what they call them in
3 Sierra Leone. Buying and selling, that is what I saw him doing.

09:56:00 4 JUSTICE DOHERTY: For purposes of record, let's be sure
5 that when we say a "Jew", this is the religious group rather than
6 the jewelry group; is that right?

7 THE WITNESS: It's not a religious group. In Freetown they
8 have that common word, someone who buys and sells. They call
9 them Jew man. He will come and meet you and say, I have a
09:56:29 10 television, and you will give him - he will sell it, and he would
11 carve his interest and will give you your money.

12 JUSTICE DOHERTY: Thank you, I think I am clear. It is --

13 MR METZGER: Your Honour is far more, as it were,
14 omniscient than I. Well, I'm not omniscient at all. I'm - I
09:56:45 15 think I'm going to leave this entirely. It is not a debate I
16 want to enter. I think I have got the answer that I am going to
17 get. Perhaps one more thing on this point.

18 Q. Mr Sesay, so as far as you could tell, Mr Kargbo was
19 conducting the business - I hesitate to say the Jew man
09:57:14 20 business - but he was conducting that business in and around the
21 Sweissy business area?

22 A. Well, everybody has his own secret. I only knew that he
23 was buying and selling. I did not know further details about the
24 other business that he was doing, but I knew that that was the
09:57:34 25 kind of business.

26 Q. You may have noticed, Mr Sesay, that I said "to your
27 knowledge". I am only asking you about what you knew. I don't
28 expect you to know what others do. So to your knowledge, as far
29 as you could tell, Mr Kargbo was buying and selling and operating

1 in the Sweissy area; is that correct?

2 A. Yes, My Lord, that's what I was aware of.

3 Q. Now, I would like, please, to come to the evidence you give
4 in this case. First of all, how many witness statements have you
09:58:21 5 made and signed?

6 A. My Lord, if you bring this type of question, it was how the
7 man was getting in touch with me. I cannot specify - but I
8 cannot specifically say I made ten statements or that much
9 statement. But it was how the incident was happening that I'll
09:58:51 10 call them, and they would say come, and they would take at a
11 statement from me.

12 Q. Thank you, Mr Sesay. Which is why I asked you the question
13 in the form that I did. How many witness statements have you
14 made that you have signed? The last time I said "and signed".
09:59:05 15 My mistake. How many witness statements have you made in this
16 case which you have signed?

17 A. Well, My Lord, this question is confusing, because at that
18 time they would call me and take my statement, and afterwards it
19 was the one that would be in front of me that I would sign,
09:59:29 20 whichever I make when they compiled it until they got the full
21 report, I would sign. So I can't say that it was three or four.
22 I can't say that. When they compiled it they would put it in
23 front of me, and I would sign what they have brought before me.

24 Q. Okay. Let me make the question perhaps clearer. Did you
09:59:49 25 sign more than one statement?

26 A. My Lord, I can't recall how many. But when I was given the
27 statement, they would take it from me, then they would present it
28 to me. To say that I recall it was more than one statement - I
29 know that I signed the statement.

1 Q. Can you look, please, at the document before you, which
2 should be marked "P3". It is a witness statement in your name
3 dated the 9th of December, 2010. Do you see that statement?

4 A. Yes.

10:00:34 5 Q. And it is a statement that has been signed by you on all
6 three pages; is that correct?

7 A. Yes. Yes, My Lord.

8 Q. So let's see if this helps. Other than this statement
9 here, did you sign any other statement in relation to this case?

10:00:55 10 A. Well, I've not even seen the last paper. When we had the
11 last discussion, the last statement that I gave concerning the
12 meeting that we had when we went to that lawyer, it's not among
13 these three. I've not seen it with these three; I can remember
14 that.

10:01:18 15 Q. You're very observant, Mr Sesay. Are you therefore telling
16 us that you made another statement concerning the visit to the
17 lawyer which you signed?

18 A. Yes, My Lord. I made that statement. That's true. I made
19 it. Because at this time when the OTP called me and asked me
10:01:43 20 that they wanted to make charges, and I told them to wait because
21 the men have contacted me that we are going to meet so-and-so
22 person, and they said okay. Afterwards I waited until I got that
23 source then they took down that statement, because there was some
24 time lapse.

10:02:04 25 Q. I'm very grateful. Can we just pause there for a moment?

26 MR METZGER: Your Honour, at this point in time the Defence
27 requests disclosure of said statement.

28 JUSTICE DOHERTY: Mr Herbst, the witness has referred to a
29 statement which it would appear was not disclosed. Are you

1 aware - was there actually a recorded - let me clarify. Is it my
2 understanding, Mr Witness, you signed this statement you are
3 talking about?

10:02:49 4 THE WITNESS: Well, as far as I can recall, yes, ma'am. I
5 signed it.

6 JUSTICE DOHERTY: Mr Herbst, can you help me? I see your
7 light is on. Mr Herbst, please.

8 MR HERBST: Your Honour. Yes, Your Honour. I only know of
9 one signed statement. It is the one presently before the
10:03:08 10 witness. I have received, I am advised, all other forms of
11 statements; that is, documents such as I've disclosed to the
12 Defence and that I provided copies to the Court Officer that
13 reflect statements that the witness gave OTP investigators.
14 Everything I have has been disclosed and it has been my
10:03:52 15 understanding that none of those other "statements" or memoranda
16 of statements made by the witness were ever signed by him.

17 So I'm not sure. I heard the witness's last answer and I
18 did not actually hear in the last answer a definitive statement
19 from the witness that he signed another statement. [Overlapping
10:04:33 20 speakers]

21 JUSTICE DOHERTY: Well that, Mr Herbst, is why I asked him
22 the question, if he had signed it.

23 MR HERBST: Yes. I have not ever been provided one. And
24 during the course of my investigation he signed no statement from
10:04:49 25 me. I just used the statements that I was provided that he had
26 earlier submitted, only one of which was signed and that's the
27 one on 9th December.

28 JUSTICE DOHERTY: In the circumstances, I think the proper
29 course of action --

1 MR METZGER: There will be submissions.

2 JUSTICE DOHERTY: -- that I should take is to ask the
3 investigators to make a search of their records, and if another
4 signed document is in existence that it be disclosed to all

10:05:31 5 counsel, including Mr Herbst, because I accept Mr Herbst' word on
6 this matter.

7 So I'm going to direct the --

8 MR HERBST: Your Honour --

9 JUSTICE DOHERTY: Sorry, Mr Herbst.

10:05:50 10 MR HERBST: I'm sorry, Your Honour. Is Mr Akinbobola is
11 Court?

12 JUSTICE DOHERTY: No, he is not. Or at least I cannot see
13 him.

14 MR HERBST: Okay. At the break I will deliver that inquiry
10:06:01 15 myself to the investigators at OTP. But rest assured, I did make
16 such inquiry.

17 JUSTICE DOHERTY: I accept what you say, Mr Herbst, and it
18 is appropriate that you actually make the instruction - the
19 direction, and we will either stand-down this line of questioning
10:06:28 20 until the full document is before us or, as Mr Metzger wishes.

21 Mr Nicol-Wilson, you are on your feet.

22 MR NICOL-WILSON: Yes, Your Honour. That was also my
23 observation yesterday, that some of the information we were
24 confronted with amounted to trial by ambush because this witness
10:06:49 25 made a statement on the 9th of December and never mentioned
26 anything about a drive with Sammy Ragga and Bomb Blast from
27 Sweissy to Robert Street. That was never disclosed to us. And
28 also the rest of what he said after that event was also not
29 disclosed to us.

1 If you look at the second-to-last paragraph of his
2 statement, he only mentioned on the 3rd of December and that was
3 all. So we were confronted with information yesterday for the
4 first time, Your Honour. And even if, I suspect --

10:07:23 5 JUSTICE DOHERTY: Well, actually, in fairness, it's not for
6 the first time because Ragga gave evidence about that.

7 MR NICOL-WILSON: Yes. Yes, Your Honour.

8 JUSTICE DOHERTY: But in any event, I don't think we need
9 to belabour the point at this matter.

10:07:39 10 Independent Counsel has undertaken to have a search
11 conducted and following up from my own direction.

12 MR NICOL-WILSON: Yes, Your Honour.

13 JUSTICE DOHERTY: If one is brought to light, it will be
14 disclosed. If it is not brought to light, it could be that this
10:07:56 15 memorandum that I have refused to admit may have something in it.
16 And if the answer to all of those is in the negative, then
17 submissions will be appropriate.

18 MR NICOL-WILSON: As Your Honour please.

19 JUSTICE DOHERTY: Mr Metzger.

10:08:18 20 MR HERBST: Your Honour, I --

21 JUSTICE DOHERTY: Yes Mr Herbst. Yes Mr Herbst, please.

22 MR HERBST: I'm afraid I did not hear completely
23 Mr Nicol-Wilson's statement, but I thought he had said that there
24 was no reference in the witness statement signed by the witness
10:08:34 25 that's before the witness to events of December 1 and December
26 3rd. If that is what he said, if one looks at the statement there
27 is indeed reference to events on both those days. But I fear
28 not --

29 MR METZGER: Your Honour, I am a little concerned about

1 this line of explanation. If my learned friend wants to refer
2 Your Honour to those particular parts of the statement, I would
3 ask that the witness be excused because it will affect
4 forensically the task which I have embarked upon this morning.

10:09:13 5 JUSTICE DOHERTY: I am not putting any more on record about
6 this. I have given a direction relating to disclosure. I have
7 observed. There will be, obviously, submissions concerning the
8 content of the document that is now marked P3 and there will be
9 possibly more questions.

10:09:40 10 All I'm going to ask is do you wish to defer this line of
11 questioning until after the break or are you continuing on this
12 line of questioning? And may I say in parentheses, I don't like
13 terminology like "trial by ambush". These emotive terms are not
14 appropriate.

10:09:56 15 MR METZGER: Your Honour, I haven't used it since Saturday
16 a week ago.

17 JUSTICE DOHERTY: No, I am not talking about you,
18 Mr Metzger.

19 MR METZGER: When I did use it twice and owned up to using
10:10:04 20 it.

21 JUSTICE DOHERTY: Yes, yes, I - no, it wasn't used by you
22 today. It was your colleague, Mr Nicol-Wilson.

23 Mr Metzger, I have invited you to adopt a course of action
24 that you consider appropriate.

10:10:21 25 MR METZGER: I am much obliged. Your Honour may well
26 understand that I have a number of questions. I am quite happy
27 to deal with this one when we have further information. I just
28 wanted to note, if it is possible, from the record that there was
29 a positive answer followed by, and I can't recall the answer from

1 Your Honour. It was a positive answer which led me to the
2 juncture that we were at.

3 JUSTICE DOHERTY: Yes. The witness according to my note
4 said: Yes, it's true I made a statement. They contacted me. I
10:10:59 5 waited. And certain other matters in his answer.

6 MR METZGER: Thank you, Your Honour.

7 Q. Well, Mr Sesay, you have in front of you now this statement
8 that you signed which for the purposes of these proceedings is
9 Prosecution Exhibit 3, P3, yes? That is a statement that you
10:11:29 10 have had the opportunity of reading and you agree is correct. Is
11 that the position?

12 A. Yes. Yes, My Lord.

13 Q. When you made the statement, you were doing your best to
14 put in it everything that you remembered; is that correct?

10:11:52 15 A. Well, yes. Because I was making it. They would ask me,
16 and I will explain exactly how the incidents were happening.

17 Q. And you have already indicated, you are an intelligent man
18 who, if anything in the statement was wrong, you would have
19 corrected. Is that not the position?

10:12:17 20 A. Well, since he typed it was not continuously with me. To
21 say that this statement was with me so that I can read it or be
22 studying it, no. It was not with me. It was only when I came to
23 Court that he would present these documentations to me.

24 Q. No, no. You see, you misunderstand me, Mr Sesay. What I
10:12:42 25 am suggesting is that before you signed this statement on the 9th
26 of December, you were given the opportunity to read it or it was
27 read to you to satisfy yourself that it contained the information
28 you had provided. Isn't that the case?

29 A. Yes. They read it out in my presence and I read it over,

1 but it was not a continuous process. You can take a statement
2 from someone, you read it, and you return it. But they did not
3 give it to me for me to keep it so that I would be reading it.

10:13:19 4 Q. Yes. I am not suggesting that they gave it to you to use
5 as bedtime reading or any such thing, Mr Sesay. I am simply
6 saying that at the time, on the 9th of December you signed these
7 three pages; is that correct?

8 A. Yes, My Lord.

9 Q. On the 9th of December you were given the opportunity to
10:13:33 10 read each page before you signed it; is that correct?

11 A. I did that. Yes.

12 Q. On the 9th of December you were given the opportunity to
13 point out any mistakes that there might be in this statement
14 before you signed it; is that not correct?

10:13:51 15 A. I read it and I continued to read it and I saw it before I
16 signed it.

17 Q. I asked you a specific question. You were given the
18 opportunity to correct any mistakes in the statement before you
19 signed it; is that not correct?

10:14:10 20 A. If you say they gave me an opportunity to correct any
21 mistake, they only gave it to me to read it. I am a human being.
22 I can continue reading. Now we're in Court. You can ask me a
23 question. Maybe it was not here but it will come to my memory
24 and I can mention it. I have the right.

10:14:27 25 JUSTICE DOHERTY: Just a minute.

26 Mr Witness, let's be clear on what's happening here. You
27 signed the document you are looking at now.

28 THE WITNESS: Yes, My Lord.

29 JUSTICE DOHERTY: Did you read it in English?

1 THE WITNESS: Well, I read it to my own level of
2 understanding. I read it.

3 JUSTICE DOHERTY: Was it read to you?

4 THE WITNESS: Yes, ma'am.

10:14:58 5 JUSTICE DOHERTY: What language was it read to you in?

6 THE WITNESS: In English.

7 JUSTICE DOHERTY: And if there was something wrong in it,
8 did you have a chance to say, that's wrong?

9 THE WITNESS: Yes, I had the chance. But when they were
10:15:17 10 reading it out - when they were reading it out in English, I had
11 the chance.

12 JUSTICE DOHERTY: I think that's your line of questioning.

13 MR METZGER: I am most grateful. That is, indeed, Your
14 Honour.

10:15:27 15 Q. And is it correct that you did not point to any part of
16 this statement and say: Actually, this is wrong, I would like
17 you to change it?

18 A. No, I did not point anywhere. I did not.

19 Q. That you were happy that this statement conformed with the
10:15:49 20 declaration that you signed at the end of the statement; is that
21 not correct?

22 A. You said "happy"? They gave me the statement and I signed
23 it. When you say I was happy, that was I was happy, I signed the
24 statement. They read it out to me.

10:16:11 25 Q. Forgive me, I should have said that you were satisfied that
26 in signing the statement you were complying with the affirmation
27 that you signed at the end of the statement.

28 JUSTICE DOHERTY: Mr Witness, do you understand what
29 counsel means when he said "affirmation" at end?

1 THE WITNESS: My Lord, I am speaking Krio here. Except if
2 he breaks it down for me in Krio.

3 JUSTICE DOHERTY: I think it's a big word, Mr Metzger.

4 MR METZGER: It's a word used on the document. But let's
10:16:54 5 go to page 3.

6 JUSTICE DOHERTY: I do know that. I do know that. But
7 it's not his first language, and definitely legal English is not
8 his second language either.

9 MR METZGER: I understand, Your Honour.

10:17:07 10 Q. Can I take you, please, Mr Sesay, to page 3 of that
11 document.

12 A. You're welcome.

13 Q. If you open page 3 yourself so you can see it, you see
14 there is a word there before a body of writing and your signature
10:17:37 15 that says "affirmation"; do you see that?

16 A. Yes, I've seen it.

17 Q. Some people call it a declaration. It is where you are
18 taking an oath or confirming that what you have said in this
19 statement is true to the best of your knowledge and
10:17:58 20 understanding; is that right?

21 A. Yes.

22 Q. Now let's just read that affirmation out, because you
23 signed it. It says:

24 "I, Alimamy Bobson Sesay, affirm" - and if you have
10:18:15 25 difficulty with the word "affirm," perhaps Her Honour will accept
26 or take judicial notice that we can insert "confirm" - "that I
27 have read or had this statement read to me in the English
28 language or have had this statement read to me in a language that
29 I understand."

1 That's the first sentence. Do you see that?

2 A. Yes, My Lord.

3 Q. And do you agree that you were confirming that the
4 statement had been read to you in English?

10:18:51 5 A. I agreed, yes.

6 Q. And I think you also suggested that it was read to you in a
7 different language. Is that the position? Was it translated
8 into Krio for you?

9 A. No. They read it out in English.

10:19:11 10 Q. And in fairness to you, you have sufficient knowledge of
11 the English language so that when it was read out to you, you
12 understood what was being read; is that the position?

13 A. My Lord, if you want to bring that, even as the interpreter
14 is interpreting, there are - he's speaking a certain Krio. He
15 would interpret it, but I had to cope. Now I'm speaking in Krio.
16 For someone to be writing it, there are certain things that I
17 would say this is this. They would be writing it differently.

18 It happens. I was speaking Krio. Whatever I was saying was in
19 Krio and they were writing it in English, I agreed, and they read
10:19:54 20 it out in English to me. But they did not interpret it in Krio
21 or say they gave me a statement in Krio for me to confirm, no.

22 Q. Forgive me, Mr Sesay. Are you saying that when it was read
23 out to you in English, you did not understand some of what was
24 being read to you?

10:20:18 25 A. I wouldn't say that I did not understand. I am just trying
26 to explain to you exactly. When I was giving my statement in
27 Krio, they were writing it in English and they read it out to me
28 in English. But to say that they interpreted it in Krio to me to
29 reflect exactly what I said, I cannot completely agree to that.

1 Q. All right. So you're saying it wasn't translated into Krio
2 for you? That's the short answer, isn't it? It was read to you
3 in English, but not translated.

4 MR HERBST: Your Honour --

10:20:49 5 JUSTICE DOHERTY: Just a minute, Mr Herbst.

6 MR HERBST: Your Honour, I would like to interpose an
7 objection that he's asking questions that have already been
8 answered in great detail.

9 JUSTICE DOHERTY: Mr Metzger, you have heard the objection.

10:21:06 10 MR METZGER: I don't know if Your Honour wants me to
11 comment or respond.

12 JUSTICE DOHERTY: Mr Herbst, this is a not uncommon problem
13 that we encounter in these courts, and it is important that it is
14 ascertained that the witness knew exactly what he was signing.

10:21:23 15 And when he signs a document in a language that is not his own,
16 we want to be very sure that he knew exactly what he was signing.

17 So that is the point of this line of questioning. I,
18 myself, want to be satisfied on this. They may sound the same,
19 but there are subtle differences. So I am allowing the last
10:21:52 20 question, which I consider a question of clarification rather
21 than a repetition.

22 MR METZGER: I am obliged, Your Honour. Can Your Honour
23 remained me of the question?

24 JUSTICE DOHERTY: You asked a direct question: Was it read
10:22:14 25 out in Krio?

26 MR METZGER:

27 Q. I think, Mr Sesay, from what you're trying to tell us, the
28 statement was not translated into Krio for you. Can we take that
29 as a given, as read?

1 A. Well, yes. They read it in English, and I understood it,
2 and I said it was okay, and I signed. But there was no
3 translation into Krio. But it was clear to me, the statement
4 that I made, and I signed it.

10:22:52 5 JUSTICE DOHERTY: I think that we have exhausted that line
6 of clarification.

7 MR METZGER: No, I am happy, because in due course when I
8 ask him things about the statement, then, you know, I would not
9 have placed my learned friend in a position where he has no other
10:23:06 10 option but to object on the basis that I didn't ask the
11 foundational questions.

12 May I move on, please?

13 JUSTICE DOHERTY: Please do.

14 MR METZGER: Yes. The next - and for present purposes, I
10:23:21 15 want to ask him about everything in that affirmation. Thank you.

16 JUSTICE DOHERTY: Only the affirmation? Do you mean the
17 statement?

18 MR METZGER: Oh, I will ask him about things in the
19 statement, but the affirmation includes other, as it were,
10:23:35 20 instructions to the person making the statement. The first
21 sentence merely deals with the question of his understanding.

22 JUSTICE DOHERTY: Yes. But please keep it to the point,
23 Mr Metzger.

24 MR METZGER: Indeed, Your Honour, yes.

10:23:50 25 Q. The next thing, please, Mr Sesay, is that in this
26 declaration or affirmation that you signed, the next sentence
27 says:

28 "I understand that willfully and knowingly making false
29 statements in this statement could result in proceedings before

1 the Special Court for giving false testimony."

2 Do you understand that sentence?

3 A. Yes, My Lord.

4 Q. The next line is:

10:24:22 5 "I have not willfully or knowingly made any false
6 statements in this statement."

7 Do you understand that?

8 A. Yes, My Lord.

9 Q. And do you - are you telling this Court that that is the
10:24:35 10 position: You did not make any false statements in this
11 statement of yours willfully or knowingly?

12 A. I did not make any false statement. It was what happened
13 that I explained. I did not make any false statement to anybody.

14 MR METZGER: Your Honour, that's all I think I need to deal
10:25:01 15 with in the affirmation.

16 JUSTICE DOHERTY: Thank you.

17 MR METZGER: For present purposes, his knowledge of what
18 the penalty is if he's found is neither here nor there.

19 JUSTICE DOHERTY: [Microphone not activated].

10:25:14 20 MR METZGER: I am very much obliged.

21 Q. Now, you were given what we call MFI-1 yesterday, Mr Sesay,
22 and you confirmed that that was a note, with the exception of, I
23 think, the first paragraph and the last two paragraphs, of the
24 discussions you had when you visited the OTP to tell them about
10:25:45 25 what had happened between you and Ragga and others; is that
26 correct?

27 A. Yes, My Lord.

28 Q. Now, the first thing I want to ask you about, please, if
29 you look at the first paragraph of P3, your witness statement,

1 which you signed, you say - and I'm looking at the fourth line.

2 Talking about Sammy Ragga, you say:

3 "He was pardoned and released from Pademba Road Prison by
4 the President sometime in 2009."

10:26:37 5 Is that correct?

6 A. Is this MFI-1?

7 Q. No, no, in P3. We'll go to MFI-1. You will have noticed
8 the difference.

9 A. This statement?

10:27:03 10 Q. Yes, please. It's the first paragraph of the statement P3.

11 A. Okay.

12 Q. The fourth or fifth - well, it actually starts on about the
13 third line. You discussed Sammy Ragga. But on the following
14 line you say, "He was pardoned and released from Pademba Road

10:27:24 15 Prison by the President sometime in 2009"; is that correct?

16 A. Yes, I've seen it. Yes.

17 Q. Now, if you look, please, at the MFI-1 document and you
18 look at the second paragraph dealing with the same point, it
19 says:

10:27:48 20 "Sammy Ragga was released from Pademba Road Prison sometime
21 early this year," that is, 2010. Is that correct?

22 A. MFI-1?

23 Q. Yes, please.

24 A. What paragraph?

10:28:07 25 Q. Paragraph 2, please.

26 A. Yes, I've seen it.

27 Q. You were asked about this document yesterday, and you said
28 that it reflected accurately the discussions you had had with the
29 people you met at the OTP when you went to explain; isn't that

1 the case?

2 A. Yes, My Lord.

10:28:59

3 Q. So in terms you agree that you told the people at the OTP
4 that on that occasion that Mr Kargbo had been released sometime
5 early in 2010; isn't that correct?

10:29:25

6 A. This might be a mistake, My Lord. I, I know clearly that
7 they were released in 2009. I can't say 2010. Early this year.
8 I told them exactly the time that Sammy and others were released
9 from prison. I cannot tell lies about that. It's not a point
10 that I can lie about, about Sammy's release.

11 Q. Please, Mr Sesay, don't lose your temper. Let's take it
12 one step at a time.

10:29:45

13 A. I am not losing my temper. I am not angry. I just want
14 you - this might be a mistake from my side. But I know what I
15 said and I cannot forget about that.

16 JUSTICE DOHERTY: We are clear on that, Mr Witness. Let's
17 move on.

18 MR METZGER:

10:29:55

19 Q. And indeed, this is why I am raising it to your attention,
20 Mr Sesay. If it was a mistake, you are suggesting it was not a
21 mistake from your part; is that correct?

10:30:12

22 A. I won't do it. I explain, and they write. I did not make
23 this mistake. There are times - sometimes you are talking.
24 Sometimes you say "early last year", and they write "early
25 December". That could be a mistake on both sides.

26 Q. And so if we look at your statement P3, by the time you
27 sign a statement on the 9th of December, 2010, clearly you had
28 noticed that and corrected it, because your statement says
29 "sometime in 2009". It had been corrected; isn't that the case?

1 A. Well, it's clear. I stated it. At the time they gave this
2 to me, this statement, I read this. But this other paper, it was
3 a brief that they had taken. I read this statement, and that is
4 - what I said is what is in this statement.

10:30:56 5 Q. Mr Sesay --

6 A. Yes.

7 Q. -- if you answer my questions, it will take us less time.

8 The question is: You had corrected it by the time you signed
9 your statement. You noticed it was a mistake and corrected it;

10:31:14 10 is that your evidence?

11 A. My Lord, look at my evidence here.

12 JUSTICE DOHERTY: Mr Witness, the question is who corrected
13 the year? Did you correct the - did you tell them that it wasn't
14 2010, or did somebody else notice it and correct it?

10:31:38 15 THE WITNESS: This, My Lord, what I am saying is it's over
16 a long time-period when this thing was written. When they took
17 this statement --

18 JUSTICE DOHERTY: All right.

19 THE WITNESS: -- When they give this to me, I corrected

10:31:49 20 that. I told them that no. This is not it.

21 JUSTICE DOHERTY: "I corrected it." Yes, we are clear now.

22 Thank you.

23 MR METZGER: I am grateful, Your Honour.

24 Q. Now the next thing that I wanted to ask you about

10:32:02 25 differences in the two statements, please, is this: If you look
26 please, which is the document you have uppermost? Your statement
27 in the second paragraph on the third and seventh line the word
28 "recant" is used, yes?

29 A. Yes, My Lord.

1 Q. If you go back to MF 1, on the fourth and ninth lines, the
2 word -

3 A. What paragraph.

4 Q. Paragraph 3. Third paragraph of line 1, the word
10:32:55 5 "recount", r-e-c-o-u-n-t is used. Do you see that?

6 A. Yes, My Lord. I have seen it.

7 Q. Now we know that MF-1 was a first document created - was
8 first created before you signed your witness statement. So the
9 word "recount", was that your word when you spoke to people at
10:33:21 10 the OTP?

11 A. My Lord, I had stated this clearly. I was speaking Krio.
12 I told them that the men met me for me to change my statement.
13 When they were writing it in English, it was up to them. I am
14 not an academic to define a word that this is this. What I said
10:33:43 15 in Krio was what they wrote in English. I think the
16 investigators would have the best answer for this.

17 Q. So your evidence, and it's fairly simple, Mr Sesay, is that
18 the word "recount" and the word "recant" in the two documents
19 were not introduced by yourself?

10:34:07 20 A. My Lord, I have told you clearly again today that I spoke
21 Krio --

22 Q. [Overlapping speakers]

23 JUSTICE DOHERTY: Yes, we understand, Mr Witness, so that
24 in Krio the words "recount" and "recant" were not the words that
10:34:25 25 you used. Those words did not come out of your mouth in Krio.

26 THE WITNESS: Yes. I said they said I should change my
27 testimony.

28 MR METZGER:

29 Q. Sorry, who said that you should change your testimony?

1 A. It was at the time that we had that discussion with Samuel.
2 It was at the time that I said that those men told me that they
3 wanted me to go and tell lies to go and say that what I said was
4 not what happened.

10:34:52 5 Q. Sorry. Thank you. So the change of the word "recount" to
6 "recant" it's best for me to ask the investigators about. It's
7 got nothing to do with you, yes?

8 A. [No interpretation]

9 JUSTICE DOHERTY: It's all right, Mr Witness. It's a
10:35:13 10 statement, not a question.

11 MR METZGER: It's probably better as a statement. A
12 question would not have evinced a short answer.

13 JUSTICE DOHERTY: It's a more of a rhetorical question.

14 MR METZGER: Let's treat it as such. Can I say for Your
10:35:29 15 Honour's record, there is a third incident of the word "recant"
16 and "recount" operations.

17 JUSTICE DOHERTY: Mr Metzger, whilst I shouldn't give
18 evidence from the Bench --

19 MR METZGER: I am not going to give evidence about it.

10:35:43 20 JUSTICE DOHERTY: No, no. I'm just going to comment that
21 when I dictate that's the way it comes out too.

22 MR METZGER: I am sure it wasn't Your Honour who was
23 dictating it to the investigators --

24 JUSTICE DOHERTY: I am referring to a quite different
10:35:57 25 situation.

26 MR METZGER: Your Honour, the third incident, just for Your
27 Honour's record, page 2, line 3, of P3, and line 3 of paragraph 5
28 on the first page of MF 1.

29 JUSTICE DOHERTY: Maybe read the words out so I'm sure also

1 what you're referring to.

2 MR METZGER: Indeed. On page 2 of the witness statement,
3 reading the second sentence of the first paragraph:

4 "I insisted that I was not willing to recant my story which
10:36:51 5 I had already offered to the Court."

6 And in the note at MF 1, at paragraph 5:

7 "TF1-334 insisted that he was not willing to recount his
8 story which he had already offered to the Court."

9 Q. Finally on these two documents, as it were together,

10:37:28 10 please, Mr Sesay, can you look at paragraph 3 - sorry, paragraph
11 2 of P3 where the second "recant" is. And I should read it out.

12 "Sammy Ragga did not tell me as to where I will recant my
13 testimony or to whom. I understand that Ragga wanted me to lie
14 by recanting my in-court testimony."

10:38:09 15 Do you see those lines on P3?

16 A. Yes, My Lord.

17 MR METZGER: Now if you go to paragraph 3 of MF 1 - line 8,
18 Your Honour.

19 Q. "Sammy Ragga did not TF1-334 as to where he will recant his
10:38:43 20 testimony or to who."

21 There is no statement or no further explanation in this
22 first document which says, "I understood that Ragga wanted me to
23 lie by recanting my in-court testimony." Do you first of all
24 agree that that is correct?

10:39:11 25 A. Agree in what? I have not understood the question. Agree
26 in what?

27 JUSTICE DOHERTY: I don't entirely understand the question.
28 Which paragraph are you referring to and is it an MFI-1 or a P3.

29 MR METZGER: MF 1, paragraph 1, 2, 3 -- paragraph 3:

1 "Sammy Ragga did not tell TF1-334 as to where he will
2 recant his testimony or to whom."

3 Does Your Honour see that?

4 Q. Does the witness see that?

10:39:42 5 A. I've seen it yes.

6 Q. It then continues, for completeness sake:

7 "As soon as Ragga told him this TF1-334 said to him that he
8 does not want to have any business with the convicts in Rwanda
9 and Ragga tried to convince TF1-334 to do what the convicts have
10:39:55 10 requested him to do." That's the whole of that part of the
11 paragraph.

12 Now shall we pick up the witness statement Your Honour.
13 Paragraph 2 of the witness statement, line 7, where it starts,
14 Sammy Ragga.

10:40:22 15 "Sammy Ragga did not tell me as to where I will recant my
16 testimony or to whom."

17 That is now written in the first person whereas in the note
18 it was written in the third person but is effectively the same as
19 in the note. The next sentence:

10:40:38 20 "I understood that Ragga wanted me to lie by recanting my
21 in-court testimony" is absent from the note.

22 I can't find any other way of putting it to assist the
23 witness. I am simply pointing out and asking him to agree that
24 that sentence does not appear in the note of the meeting.

10:41:01 25 Q. Do you agree with that, please, Mr Sesay?

26 A. Well, My Lord, like I have said, when the investigator
27 asked me --

28 Q. [Overlapping speakers]

29 A. -- he said --

1 Q. Sorry, Mr Witness, it's a short answer. Is it there or is
2 it not there? What the investigator asked you or didn't ask you
3 is not relevant for the present question. Would you agree that
4 --

10:41:24 5 MR HERBST: [Overlapping speakers]

6 THE WITNESS: Don't I have a right to explain?

7 JUSTICE DOHERTY: Just a moment. If you are not given the
8 right to explain, I'll give it to you, but the question for the
9 moment is, is it there or is it not there.

10:41:38 10 THE WITNESS: It's not on this side. It has not been
11 explained here clearly.

12 JUSTICE DOHERTY: Very well. Now the next question --

13 MR METZGER: Your Honour, I would like it for the record
14 that it does not exist in MF 1. It is not a question of
10:41:58 15 explanation. It does not exist. The line is absent.

16 JUSTICE DOHERTY: Yes, it's a matter of record.

17 MR METZGER: Thank you.

18 JUSTICE DOHERTY: MF 1 was not admitted on your objection.

19 So --

10:42:05 20 MR METZGER: No, it was. Sorry - it wasn't admitted but it
21 was shown to the witness.

22 JUSTICE DOHERTY: Yes, it was. But not in the detail that
23 we are getting now. But in any event the record speaks for
24 itself.

10:42:16 25 MR METZGER: I am very much obliged.

26 Q. Now please, Mr Sesay, I would be happy for you to explain
27 what it was you were explaining.

28 A. When the investigator was asking me, he said what Sammy -
29 what did Sammy mean. I said, maybe he wanted me to lie in my

1 testimony. That what I have said I should go and say that is not
2 what happened. We are all serving a living God. I know that I
3 have not come here to lie on anybody. What Sammy told me is what
4 I told people. Time will prove me right.

10:42:48 5 Q. And when do you say the investigator asked you this
6 question?

7 A. When we were making this statement because he said, when
8 you say Sammy wants you to change your statement, what do you
9 mean? I said that the man wants me to lie, that what I have said
10:43:08 10 was not what happened. And that was the whole issue. That is
11 what they met me about. They told me - they told me to help them
12 about this. What you have said in this statement in the AFRC and
13 the RUF or the Charles Taylor trial, deny that. You should say
14 that they gave you money to go and say this or say that. They
10:43:26 15 gave you money to go and do that. That was the whole point.

16 Q. We will investigate the detail of that after the next
17 adjournment, please, Mr Sesay. But for present purposes, can you
18 confirm that neither Ragga nor the person you spoke to who you
19 said was Five Five specifically asked you to lie?

10:43:53 20 A. My Lord, I am clearly stating it to the public and to the
21 world and to this nation, Sierra Leone, that they told me that we
22 want you to help us by changing you your statement. I said, How
23 do you want me to help you? And he said, Bobby, please, the only
24 way that you can help us is to change your statement. That what
10:44:18 25 I have said about you is a lie. The OTP gave me money. That is
26 why I said this. That is clear. I have no fear about that and I
27 will continue saying it.

28 Q. So are you or are you not saying that you were specifically
29 asked to lie as opposed to, to change your story?

1 A. I am speaking simple Krio. I asked them, what do you want
2 me to do? They said, Bobby, we want you to help us. We want you
3 to change your testimony. And that's simple. When someone says
4 change what you had said. That means you are to lie. If I said
10:44:53 5 this is black and now you want me to say this is red, that means
6 you want me to lie. What was black and you want me now to say
7 it's red. That is what the people wanted me to do. That is what
8 they met me and convinced me to do.

9 Q. So let's see if we can clarify this please, Mr Sesay. What
10:45:10 10 you're saying is, it was your understanding that they were asking
11 you to lie but at no point during your conversations did these
12 people say we want you to lie; is that correct?

13 A. It's not my understanding. They said they wanted me to
14 change my statement. I am speaking Krio. The Krio interpreter,
10:45:31 15 let him interpret that. They said they wanted me to change my
16 statement. That means they wanted me to lie. What I have said,
17 somebody had given a testimony, three testimonies, and now they
18 want you to change those. That means you wanted me to lie. If I
19 had said John is a boy, and now you want me to say no, John is a
10:45:51 20 girl, then that means you want me to tell lies.

21 JUSTICE DOHERTY: I think we have explored this,
22 Mr Metzger.

23 MR METZGER: Your Honour, I have two more questions on this
24 point and I'm quite happy to let Your Honour know what those
10:46:03 25 questions are.

26 JUSTICE DOHERTY: Proceed on. And if I think they are
27 repetitious I will intervene.

28 MR METZGER: Thank you.

29 Q. The first question, please - I'm sorry, I had formulated

1 this in my mind. The first question, Mr Sesay, is this: You had
2 been asked to change your story; that is, to tell a different
3 story from the other story - from the story that you had told.
4 Is it your evidence that you were asked in relation to all three
10:46:42 5 of the trials in which you had given your evidence?

6 A. Obviously if I change any statement in one of those, then
7 obviously what I had said to Charles Taylor, his Defence would
8 use it by saying, This man has used this and that's a lie. So it
9 was clear to me. We had that discussion. You know, we're in
10:47:08 10 Court, My Lord. If the truth, it could come like it's coming.
11 Like, you know, God would just bring the truth. You would just
12 see the argument between myself and them. I said it would even
13 affect that. This testimony that you want me to change, it would
14 even affect my testimony that I made in the Charles Taylor trial.
10:47:28 15 Then the Defence would use this to say, Oh, look at TF1-334, look
16 at the testimony that he gave against these people. We were
17 saying - we were talking about collaborative issues, joint
18 criminal enterprise. Then if I deny that, then obviously it
19 would affect my testimony in the Taylor trial.

10:47:47 20 Q. Mr Sesay, who did you have that conversation with?

21 A. My Lord, as I am telling you. You know - you know, God
22 cannot reverse that day. If God was able to reverse that day --

23 JUSTICE DOHERTY: Mr Witness, the question was simple: Who
24 did you have the conversation you have just recounted with?

10:48:14 25 THE WITNESS: I had it with Sammy. I even had it with
26 Blast sitting there. We had that discussion. God is my witness.

27 MR METZGER:

28 Q. You didn't have that conversation with the man you say was
29 Mr Kanu that you say you spoke to?

1 A. Mr Kanu, it was on that day that he called me at PWD, that
2 call that I received at PWD. Mr Kanu told me that, he said, Eh,
3 Bobby, you are - you are our brother. We want you to help us.
4 He told me, he said, Please help us as a brother. We are relying
10:48:46 5 on you.

6 Q. I take it that you are agreeing with me that you didn't
7 have that sort of conversation with Mr Kanu. Is that the
8 position?

9 A. Mr Kanu told me, if Sammy - he asked me if Sammy had
10:49:12 10 explained everything to me, and he said, Please, Bobby, help us.
11 You are our brother, help us.

12 Q. So the answer - I'm sorry to be pressing you on this,
13 sometimes a "yes" or "no" can do as well, yeah? You are actually
14 agreeing with me that you didn't have this conversation with
10:49:29 15 Mr Kanu?

16 JUSTICE DOHERTY: Mr Witness, the conversation that counsel
17 is referring to is a conversation about --

18 MR METZGER: [Microphone not activated]

19 JUSTICE DOHERTY: -- the CD Defence - the Charles Taylor
10:49:46 20 Defence would use it to. We had that discussion. This is the
21 type of thing, counsel - this is the precise thing that counsel
22 is referring to. Did you say these things? Was this discussed
23 with Kanu? That is the question.

24 THE WITNESS: I did not have that discussion with Mr Kanu
10:50:07 25 that it would affect Charles Taylor's trial. No. That was
26 between myself, Blast, and Sammy.

27 MR METZGER:

28 Q. And finally this on that point, Mr Sesay. If you had been
29 lying when you gave evidence in the AFRC trial and somebody asked

1 you to change your story, would you agree they would be asking
2 you to tell the truth?

3 MR HERBST: [Microphone not activated]

4 THE WITNESS: I want you to repeat this question.

10:50:43 5 MR HERBST: Your Honour.

6 JUSTICE DOHERTY: Just a minute.

7 Yes, Mr Herbst. Yes, Mr Herbst.

8 MR HERBST: Your Honour, I object to the question. It is a
9 hypothetical. It's not in accordance with the evidence or
10:50:57 10 anything this witness has said.

11 JUSTICE DOHERTY: Yes, I was going to say it's
12 hypothetical. I'm not --

13 MR METZGER: May I seek to defend the question.

14 JUSTICE DOHERTY: You can defend it and let me hear the
10:51:07 15 defence.

16 MR METZGER: Yes. The question is asked on the basis that
17 this witness has indicated, as I understand it through the
18 evidence, that at all stages he was asked to change his evidence.
19 He concluded that because he was asked to change his evidence, he
10:51:20 20 was being asked to lie. I am therefore putting to him the
21 proposition that if he had lied in the first place, changing his
22 evidence would be asking him to tell the truth. It is the
23 converse of the situation, but I am sure that Mr Herbst would
24 object if I made such submission before Your Honour without
10:51:40 25 having given the witness the opportunity to answer the question.
26 And that's why I ask him, so as not to be unfair to either the
27 witness or to incur the wrath of Mr Herbst when I make that
28 submission to Your Honour in due course.

29 JUSTICE DOHERTY: Mr Metzger, I do think this is a

1 hypothetical question. If in due course you are going to make a
2 submission that he was not entirely truthful in the AFRC, then I
3 think you must be more direct.

4 MR METZGER: So be it, Your Honour. I will content myself
10:52:27 5 with saying that he's not been exactly truthful in this case. It
6 would lengthen the parameters of this case to such an extent that
7 I don't think my learned Mr Herbst, let alone myself, could bear
8 it if I were to make that suggestion in relation to the evidence
9 that he gave.

10:52:47 10 I note, Your Honour, that we are approaching that magical
11 moment when a decision has to be taken about the care and
12 security of those in Kigali.

13 JUSTICE DOHERTY: Yes. We are just a few minutes before
14 the usual break time. Is this the end of this line of
10:53:12 15 questioning that would be a convenient point to break?

16 MR METZGER: Well, it is, Your Honour. The next thing I
17 was going to do was to ask him specifically about matters in his
18 witness statement that the Defence for Kanu take - well, would
19 like to test.

10:53:31 20 JUSTICE DOHERTY: Very well. I have tried to keep a note
21 of the questions that were put by Mr Nicol-Wilson. Would --

22 MR METZGER: If Your Honour likes, I could provide you with
23 a matrix of my likely cross-examination.

24 JUSTICE DOHERTY: No, no. It's not one of those things
10:53:51 25 that I like to hold counsel to. No, no. I am just ensuring that
26 the basic procedure when you have multiple counsel, that the same
27 question can be put by more than one counsel is observed. That's
28 all I am noting for myself.

29 MR METZGER: I can assure Your Honour that my questions

1 will be at least - at the very least, slightly different to the
2 questions Mr Nicol-Wilson put.

3 JUSTICE DOHERTY: Very well.

4 MR METZGER: And I anticipate that there will be some
10:54:25 5 interesting questions just after the next break.

6 JUSTICE DOHERTY: Mr Witness, we are going to take the
7 break now which for us is mid-morning break and for Kigali is
8 lunch-time break, so it is a three-quarters' of an hour break.
9 We are going to reconvene Court at 11.45. You understand?

10:54:47 10 THE WITNESS: Yes, My Lord.

11 JUSTICE DOHERTY: Please adjourn Court to 11.45.

12 [Break taken at 10.55 a.m.]

13 [Upon resuming at 11.45 a.m.]

14 JUSTICE DOHERTY: Kigali, can you hear us? Mr Herbst, the
11:45:10 15 line is terribly, terribly faint. I can't hear what you're
16 saying.

17 MR HERBST: [Inaudible]

18 JUSTICE DOHERTY: It's still not distinct at all. Mr Court
19 Attendant, can you please check if the volume from Kigali can be
11:45:32 20 raised, please.

21 MR HERBST: Is this any better, Your Honour?

22 JUSTICE DOHERTY: It's excellent. That's good. You were
23 saying something, Mr Herbst, before we had that problem.

24 MR HERBST: Yes, Your Honour, I have made inquiry again
11:45:57 25 with OTP, who advises me that to their knowledge, there has only
26 been the one signed statement of December 9.

27 JUSTICE DOHERTY: Thank you, Mr Herbst. Counsel, you've
28 heard Mr Herbst's information concerning other statements and
29 disclosure.

1 MR SERRY-KAMAL: Your Honour, I want to bring to your
2 knowledge that tomorrow morning I need to see my doctor, if my
3 knees should survive the trip to Kigali and back.

4 JUSTICE DOHERTY: Did you say your knees?

11:46:52 5 MR SERRY-KAMAL: Yes.

6 JUSTICE DOHERTY: Oh indeed - just for a moment I thought
7 you said your niece.

8 MR SERRY-KAMAL: My knees. Most of yesterday I had to drag
9 myself around. If I had to sit five or six hours in one place,
11:47:06 10 better do something about it tomorrow.

11 JUSTICE DOHERTY: I see. Well, we are sitting tomorrow and
12 the chances are you'll be cross-examining. Unless Mr Metzger
13 finishes before lunchtime. Mr Metzger, when will you finish? I
14 mean, when are you likely to finish - you know what I mean.

11:47:27 15 MR METZGER: I'm still on the first page of two and a half
16 pages of my matrix. I do not anticipate finishing before the
17 next break.

18 JUSTICE DOHERTY: Would you finish let's say, an hour after
19 that or half an hour or so?

11:47:42 20 MR METZGER: It is possible. I wouldn't want to as it were
21 - as Your Honour knows, with cross-examination sometimes one can
22 get through things more quickly and at other times, the
23 circumstances prevent one from proceeding sort of with the
24 regular speed.

11:48:00 25 JUSTICE DOHERTY: I remember it well. Mr Serry-Kamal, you
26 have a right also to cross-examine and nobody will interfere with
27 that. If at the crucial time you're not here, I will direct
28 interposing the next witness and reserve your cross-examination.

29 MR SERRY-KAMAL: As Your Honour pleases.

1 JUSTICE DOHERTY: Mr Metzger, please proceed. Mr Herbst,
2 did you --

3 MR HERBST: Your Honour, in that regard I wanted to ask -
4 because my next two witnesses would include the Principal
11:48:46 5 Defender, assuming we receive the amicus brief and heard
6 argument, I guess, on it. I was just wondering in terms of
7 scheduling whether that was a possibility today, or is that just
8 going to happen next week?

9 JUSTICE DOHERTY: I sincerely hope it happens before we
11:49:07 10 I leave, because the whole purpose of going to Rwanda was to hear
11 Defence evidence of the accused. I mean, to be more direct, I
12 have not received the amicus brief. The indications given to me
13 last week were they would be with me by now, and I cannot offer
14 any explanation. However, I will check in the course of the next
11:49:31 15 break. You said your next witnesses. So there was a Principal
16 Defender if called. And other than that? You did indicate you
17 were calling Saffa and you did indicate --

18 MR HERBST: Yes. Yes, it would be Mr Saffa, depending on
19 what happens on the re-direct examination here, Your Honour.

11:50:05 20 JUSTICE DOHERTY: I see. Well, there's little we can do
21 until we get the end of that re-examination. So Mr Metzger,
22 please proceed with your cross-examination.

23 Mr Herbst's light is still on. Mr Herbst, proceed.

24 MR HERBST: I just wanted to ask one additional clarifying
11:50:28 25 question, Your Honour.

26 JUSTICE DOHERTY: Yes, please speak. I'm afraid your line
27 has gone faint again but we'll do our best.

28 MR HERBST: I'm sorry about that, Your Honour.

29 JUSTICE DOHERTY: You continue, Mr Herbst. I can hear.

1 MR HERBST: All right. I wanted to know whether in terms
2 of the Defence case, whether Mr Bangura's counsel was coming to
3 Rwanda or he was staying in Freetown and how Your Honour
4 anticipated the Defence case will go forward once we finished and
11:51:11 5 hopefully we would finish before not too long, of course.

6 JUSTICE DOHERTY: The indications given to me were that
7 Mr Nicol-Wilson would remain with his client. His client is here
8 in Freetown, and he would be remaining in order to take
9 instructions, et cetera. And whether the accused gives evidence
11:51:39 10 is a matter for consultation between him and his counsel at the
11 end of the Prosecution case. But there was a preliminary
12 indication, but counsel is not held to it.

13 Mr Nicol-Wilson, I know you're able to speak for yourself
14 but am I correct in what I've said?

11:52:02 15 MR NICOL-WILSON: Yes, Your Honour, you're correct.

16 JUSTICE DOHERTY: Thank you.

17 MR METZGER: I'm very much obliged, Your Honour. Can I
18 start with a point that has just been raised by my learned
19 friend, and it's really just a point of information, Your Honour.
11:52:20 20 In relation to the existence of a statement, of course we done
21 have today's transcript but might I remind the Court and my
22 learned friend of lines 25 and 26 of page 507 of the transcripts.
23 For clarification for the witness:

24 Q. Mr Sesay, yesterday when you were being asked questions,
11:53:01 25 you responded that there was another statement taken from you,
26 but it is not with these documents that has been given to me.
27 That was your evidence yesterday; is that correct?

28 A. Yes, my Lord.

29 Q. Thank you. I shall move on, your Honour. Now, Mr Sesay,

1 you still have in front of you, I trust, the two documents that
2 were passed to you before the short adjournment; is that correct?

3 A. Yes.

4 Q. Now, you told the investigators, when you were making your
11:53:50 5 statement, that the first time you received a call from Samuel
6 Kargbo was on 26 November 2010; that's correct, isn't it?

7 A. Yes, my Lord.

8 Q. Now, this is in your statement, the very first line of your
9 statement of 9 December. When you made your statement, were you
11:54:21 10 sure about that date?

11 A. Well, yes, my Lord, because it's in my statement.

12 Q. Yes. And of course, in --

13 JUSTICE DOHERTY: Mr Witness, it's when - at the time you
14 made the statement, were you sure of it? Not what's in the
11:54:36 15 statement.

16 THE WITNESS: Let me get the question clearly, please.

17 JUSTICE DOHERTY: The time when you made this statement to
18 the investigators, were you sure of the date?

19 THE WITNESS: Yes, my Lord.

11:54:54 20 JUSTICE DOHERTY: Good. Continue.

21 MR METZGER:

22 Q. Thank you, Mr Sesay. And it's right, isn't it, that you
23 not only say it was 26 November 2010, but you say it was Friday,
24 26 November 2010?

11:55:12 25 A. Yes, as much as I can recall.

26 Q. And I'm sure the Court can take judicial notice that in
27 fact on 26 November 2010 it was a Friday.

28 JUSTICE DOHERTY: Thank you. I wasn't aware of that. This
29 is helpful.

1 MR METZGER:

2 Q. Now, I'm not going to ask you an awful lot about that.
3 You've already been asked questions about that day. But perhaps
4 the most important thing in relation to that was that, I believe,
11:55:57 5 that you gave evidence that when you received that call, is it
6 correct that you were at home?

7 A. Yes, my Lord.

8 Q. When you say at home, that is at the address that you
9 provided to the Court yesterday in Wellington?

11:56:18 10 A. Yes, my Lord.

11 Q. Can you remember what time of the day that was?

12 A. It was in the morning hours that Sammy called me.

13 Q. And you agreed to see him the following day?

14 A. Yes, because when he called me and told me that he had
11:56:51 15 something very important to discuss with me, and I said okay,
16 since I am engaged we'll make it possible to see the following
17 day.

18 Q. And the following day you agree was Saturday, 27 November?

19 A. Yes, my Lord.

11:57:10 20 Q. In fairness to you, that is a date that you have - that is
21 included in your statement, if you want to look at the last line
22 of the first paragraph of your statement; can you confirm that?

23 A. Yes, my Lord.

24 Q. Now, that Friday and Saturday, were you working?

11:57:37 25 A. Well, I was normally with my taxi, which belonged to me. I
26 only work when I feel like working. So on that particular day, I
27 had the message to take something to my family in Newton. But on
28 the Friday I was very busy doing something extra. But on
29 Saturday, I was preparing myself to go to Newton when Sammy

1 called me and I told him that I was on my way to go to Newton.

2 Then Sammy came and met me.

3 Q. Would it be fair, therefore, to say that your financial
4 situation was reasonably good so that you only needed - you only
11:58:31 5 worked when you felt like it?

6 A. My Lord, yes, because I wouldn't lie about that. I have my
7 taxi and most times on Sundays generally I do not work. But if I
8 have other programmes, because I have to go to church. If I had
9 something that wants to interfere with my taxi programme I do not
11:58:56 10 work at such times, but I have my times that I will go to work
11 and return.

12 Q. And, Mr Sesay, you also set aside time to spend at the
13 Sweissy business area?

14 A. Yes, Sweissy. Sometimes when I would have worked for some
11:59:19 15 time, and if I found out - because the taxi business in town -
16 you've been in Freetown. Sometimes there won't be much
17 passengers so I'll go around, wash my vehicle around the city
18 council area, then I'll come around. Then afterward I'll move
19 away to continue my business.

11:59:40 20 Q. Of course. Whilst you are, as it were, fraternising with
21 other people in the Sweissy area, you would not be running your
22 taxi. That's true, isn't it?

23 JUSTICE DOHERTY: Mr Metzger, what's the reason for this
24 line of very general - what is the relevance of this very general
12:00:05 25 questioning? Because he has answered the question about the two
26 days that are particularised.

27 MR METZGER: Your Honour will know that there is another
28 day that is of particular interest to me, and I am working on the
29 basis of trying to identify with this witness that he has

1 reasonably recalled the dates in question and if possible, why.

2 JUSTICE DOHERTY: I think I'm satisfied on that; that he
3 has identified them.

4 MR METZGER: So be it. I shan't continue then with the
12:00:42 5 general questions. But just so that Your Honour knows why I was
6 doing that. Thank you.

7 Q. Mr Sesay, let's move on, please. We are now at Saturday,
8 27 November. Is it not correct that you received a call that day
9 from Mr Kargbo?

12:01:04 10 A. Yes, Mr Kargbo called me and I told him that I was on my
11 way to Newton, and he said I should wait. Then he later met me.

12 Q. When he called you, where were you? Were you at home, or
13 not?

14 A. I had driven up - if you go to my drive, St John Drive,
12:01:30 15 when I came out I drove up to the junction. I was at the
16 junction when he met me.

17 Q. And between the time he called you and the time he met you,
18 how much time past?

19 A. I did not understand your question clearly. From the time
12:01:51 20 he called me and the time he met me?

21 Q. I'll ask it in a different way. After he called you and
22 you agreed he was going to meet you, how long was it before he
23 actually met you? How much time had gone by? Hours? Minutes?

24 A. No. Well, when he called me, it took some time because I
12:02:16 25 told him that I was going to Newton. But it took some time. He
26 said please, wait for me. It took some time before he joined me.

27 Q. So this is the question that I asked you at the start of
28 this line of questioning. When he called you, were you at home,
29 or not?

1 A. I was at home. Then I told him that I was preparing to go
2 to Newton. I drove from there. I moved the car from my house up
3 to the junction. Then he told me, he said please Yapo wait for
4 me. I am coming to meet you. I waited up at the junction and
12:02:57 5 that was where he met me.

6 Q. At what junction did you wait for him?

7 A. Hadja Fatmatta Junction, if you know that area.

8 Q. You mean Hadja Fatmatta Smith?

9 A. Well, they do not call it Hadja Fatmatta Smith. They call
12:03:24 10 it Hadja Fatmatta junction. It is popularly called Hadja
11 Fatmatta by people.

12 Q. So did you tell him that was where you would wait for him?

13 A. I told him that I was waiting. Yes, I told him that I was
14 waiting at the junction and he should meet me there. I told him
12:03:41 15 that.

16 Q. You told him you were waiting for him at that junction,
17 Hadja Fatmatta junction, yes?

18 A. Yes, at the junction. Because my drive to the junction
19 when you leave my place down, you'll drive - you'll drive
12:03:55 20 straight up to the junction. If you come from down to me - no,
21 from my house. If you come up straight you would arrive at Hadja
22 Fatmatta.

23 Q. Did you leave immediately after the telephone call? Did
24 you leave your house immediately after the telephone call?

12:04:17 25 A. When Sammy called me I had prepared myself. I told you I
26 was preparing to go to Newton. Sammy called me. After he had
27 called me I drove off to the junction. I told him I was at the
28 junction. Then he came and met me at the junction later and we
29 drove off.

1 Q. And how long did you wait at that junction?

2 A. I told you a while ago. I said I waited for some time. I
3 can't be specific but I waited for him for some time.

4 Q. I see. And that was the first day on your drive to Newton
12:04:58 5 that Mr Kargbo mentioned what was going on; is that correct?

6 A. Yes, my Lord.

7 Q. And at this time he was with you in person?

8 A. Yes, my Lord.

9 Q. On that occasion, he did not pass the phone to you to speak
12:05:20 10 to anyone in Rwanda; is that correct?

11 A. Yes, my Lord.

12 Q. All right. I shan't ask you about the other people that -
13 or any other person you spoke to.

14 MR METZGER: I think he's already been asked about that,
12:05:37 15 Your Honour. It doesn't concern Mr Kanu.

16 Q. Now, after that, the next time that Mr Kargbo called you in
17 relation to this matter was on Monday, 29 November 2010, is that
18 not correct?

19 A. Yes, my Lord.

12:05:58 20 Q. Again in fairness to you, and for the avoidance of doubt,
21 would you please turn over the page of P3 to page 2 and look at
22 the second paragraph there. You say that it was on Monday, 29
23 November 2010 that Sammy Ragga again called you and wanted to see
24 you urgently; is that right?

12:06:27 25 A. Yes, my Lord.

26 Q. On that occasion he met you along the Sarolla Hospital
27 area?

28 A. Yes.

29 Q. Sorry. And you both drove to PWD junction?

1 A. Yes, my Lord.

2 Q. Again you are sure that the day that this occurred was
3 Monday, 29 November 2010, aren't you?

4 A. Yes, my Lord. As much as I can recall at the time that
12:07:02 5 they took the statement, because I was thinking about the dates,
6 yes.

7 Q. Yes. You were not only thinking about the dates, but you
8 were thinking about the day in question. So you put the day and
9 the date together accurately as Monday the 29th?

12:07:17 10 A. I did not say I was thinking. Because I said at that time
11 that this thing happened, at the particular time that they were
12 taking my statement, when I mentioned the time and the date, and
13 the day it happened.

14 Q. Yes. You had no reason to give a wrong day, did you?

12:07:35 15 A. Well, the day that I remember - the date that I recall was
16 the date that I gave to the prosecutors - the investigators,
17 sorry.

18 Q. And there would have been no reason for you to give another
19 day - to give a wrong day, would there?

12:08:00 20 A. I've not understood this question clearly - to give a wrong
21 day. I don't understand what you're saying.

22 Q. You would have had no reason to give them - to give the
23 investigators - the wrong day of this meeting with Sammy Kargbo,
24 would you?

12:08:22 25 A. I hadn't any reason to give the wrong day. But it's the
26 time that I thought that it happened, was what I gave.

27 Q. And as you give your evidence today, you are still telling
28 this Court that the day on which this occurred was Monday, the
29 29th of November 2010; is that not correct?

1 A. Yes, My Lord.

2 Q. Thank you, Mr Sesay. Now, according to your evidence, I
3 just want to clarify and make sure that we are fully
4 understanding what you're saying, there were two telephone calls
12:09:10 5 to Mr Samuel Kargbo's phone on that day; is that right - from
6 Rwanda?

7 A. Yes, that is what I - that is exactly what happened.

8 Q. And on that day, the call came - the first call came after
9 you had arrived at PWD and got out of the car?

12:09:40 10 A. Yes, exactly. When I parked at PWD, we alighted from the
11 car - alighted from the car and said he had had a call.

12 Q. And I think you refused to speak to whoever was on the line
13 on the first occasion?

14 A. Yes, because when he mentioned - when he said, Eh, it's
12:10:07 15 your man who's called, come and talk to him, I said I'm not
16 talking to anybody. I refused. That's true.

17 Q. But on your evidence, you spoke the second time the phone
18 was passed to you. Is that also correct?

19 A. Yes, My Lord. Because after he had spoken, he came back to
12:10:30 20 me and said he's spoken to so-and-so person. He said within 15
21 minutes he would call again. He went and we stood there still
22 discussing. When the call came, in he was still fussing me. He
23 would said, Yapo, talk to your man so that they will know that I
24 am with you because I have told them. Let them know. He gave me
12:10:52 25 the phone.

26 Q. Thank you, Mr Sesay. Now, by this time on your evidence
27 you were aware that they wanted to speak to you about changing
28 your evidence, as you put it; yes?

29 A. Yes. From what Sammy had explained to me in confirmation,

1 I already knew that they had something to talk to me about. I
2 can't judge them at that time, but I knew that there was
3 something Sammy had told me and I also knew that these people
4 wanted to talk to me.

12:11:32 5 Q. Right. Sorry, I do want to get this clear. It's your
6 evidence that you knew by this stage that they wanted you to
7 change your testimony, according to what Sammy had told you. We
8 need to get that clear. Is that the position?

9 A. Yes, Sammy had told me this issue, that those men have
12:12:02 10 called him, and he has explained to me exactly what they wanted.
11 So because they wanted to call me - as soon as he said they
12 wanted to call me, I was hoping to listen to what they wanted to
13 say. I couldn't directly - I can't directly say that is what
14 they wanted to tell me. I was listening for it to come from the
12:12:24 15 horse's mouth.

16 Q. Indeed. Now, can you clarify this for us: When Sammy
17 first told you - that is on your trip to Newton - that these men
18 wanted you to change your testimony, did you at that point say to
19 him, Sammy, I can't do that. It will amount to a contempt of
12:12:50 20 Court?

21 A. I did not have any idea about that issue. Like I told you,
22 I did not have that judicial advice. I did not have that idea
23 that this would lead to this. To be plain, I did not have that
24 idea. But because they were my men and they were discussing that
12:13:10 25 with me, I was listening to try to learn what exactly they wanted
26 me to do. But I did not have any idea about it leading to this
27 or that.

28 Q. Thank you, Mr Sesay. Would you therefore say that the
29 first time you had an idea that this was potentially a contempt

1 of the Court was after you had spoken to Ms Alagendra?

2 A. Yes, My Lord. When I explained to Shayamala that this was
3 what has happened and that this is what was going on, she said,
4 No, that is contempt. That is perjury. And she started
12:13:58 5 explaining terms that I was not familiar with, legal terms.

6 Q. Don't worry, Mr Sesay. I'll ask you about that a little
7 later. I just wanted to establish that it's your evidence, as I
8 understand it - I just wanted to establish that it is your
9 evidence --

12:14:26 10 MR HERBST: Excuse me, Your Honour.

11 JUSTICE DOHERTY: Pause, Mr Metzger. Something in Kigali.

12 Yes, Mr Herbst. What did you wish to say? I can't hear
13 you very well.

14 MR HERBST: For last five minutes or so we have not had any
12:14:41 15 audio or video link. It is there - and when we lose the link,
16 does Freetown know about it?

17 JUSTICE DOHERTY: No, we do not know. I do not know. I
18 only know when you stop moving in any way. That's my first
19 indication, when the picture becomes frozen. So we need to be
12:15:05 20 alerted. Can you hear me?

21 MR HERBST: Well, Your Honour, we were caught - yes, I can
22 hear you. I guess we were caught without anybody in the
23 courtroom to notify you. But we had understood that when the
24 link goes down, that the technical people in Freetown know about
12:15:33 25 it. But maybe that's not true.

26 JUSTICE DOHERTY: Actually, I am occasionally told by
27 Mr Court Attendant that we've lost you, so maybe it's because you
28 didn't have a counterpart to alert us in Kigali. I'm talking
29 about my personal reaction. I'm depending on Mr Court Attendant

1 relaying the message which comes from the technicians. It didn't
2 happen this time.

3 MR HERBST: Could I ask, then, that what we missed be read
4 back to us? Because no one here heard or saw it.

12:16:12 5 JUSTICE DOHERTY: I'll do my best. This time I haven't had
6 an absolutely accurate note, but the witness had been saying that
7 Kargbo was fussing, saying Yapo, speak to your man. So I took
8 the phone. Did you hear that bit?

9 MR HERBST: No, Your Honour. The last thing we heard was:
12:16:48 10 I called back within 15 minutes and I took the phone back, and I
11 knew they wanted to speak to me.

12 JUSTICE DOHERTY: That's the bit I am referring to. Then
13 after the 15 minutes he went still fussing. He said Yapo, speak
14 to your man. So I took the phone. And the - counsel asked, you
12:17:10 15 knew that they wanted to talk to you about changing your
16 testimony. And he said, Yes, Sammy Kargbo told me about that.
17 He then asked another question. He said he could not judge then
18 what the time was, but he - when he knew, but he knew. He was
19 asked: So you knew by then that they wanted you to change your
12:17:36 20 evidence? Yes. And there was another question and he answered,
21 I was hoping to listen. I cannot say. I was waiting for it to
22 come from the horse's mouth. I missed a bit of that. I cannot
23 say. And maybe counsel will help me.

24 MR METZGER: As Your Honour knows I was on my feet. I was
12:17:59 25 waiting for the horse's mouth to make its appearance and
26 Your Honour got that.

27 JUSTICE DOHERTY: Yes. So he was waiting for it to come
28 from the horse's mouth. The next question was: When Sammy Ragga
29 first told you that the man wanted you to change, did you not

1 tell him? Did you tell him? I cannot do that. It would be -
2 amount to contempt? And the witness said: I did not have any
3 idea. I listened. I was not - I had no idea that it would lead
4 to this or to that. Then counsel asked when he had the idea,
12:18:35 5 that it was contempt, and he said when I explained to Shayamala,
6 she said, No, that is contempt. It is perjury. She started to
7 explain the legal terms. And at that point counsel said, We will
8 come to that, and that is the point we are up to now.

9 MR HERBST: Thank you, Your Honour.

12:19:05 10 JUSTICE DOHERTY: Mr Metzger, please continue. I started
11 writing - you remarked "we will come to at that" and you were
12 about to ask a question.

13 MR METZGER: Indeed, Your Honour, and I'm most grateful.

14 Q. Mr Sesay, I'm still asking you questions about Monday, the
12:19:28 15 29th of November 2010 outside PWD - outside of the car at PWD in
16 Kissy, and the second telephone call. All right?

17 A. Yes, My Lord.

18 Q. First of all, before we go to the second call, can you
19 recall how long the person on the phone spoke to Samuel Kargbo
12:20:01 20 for roughly?

21 A. My Lord, I can't recall. Because when I alighted, Sammy
22 said the man has called him. He actually took - went some
23 distance away from him - from me and was still talking. But
24 later he came up to me and told me your man. But I said no, I'm
12:20:23 25 not talking to anybody. And from there he said your man says he
26 will call back in 15 minutes. Then I said okay. But I can't
27 tell - but it took some few minutes. It took some time.

28 Q. All right. Let me ask you about the second call. When the
29 telephone was passed to you, who do you say was on the line?

1 A. It was Five Five, Santi gie Borbor Kanu. He was on the
2 line.

3 Q. Can I suggest to you that it was not Mr Kanu who was on the
4 line?

12:21:01 5 A. Well, you are suggesting to me, but at that particular
6 moment it was that man that spoke to me. I know his voice. He
7 stammers. He spoke to me like a brother.

8 Q. And when was the last time you had spoken to
9 Mr Santi gie Borbor Kanu before this occasion?

12:21:23 10 A. Mr Santi gie Borbor Kanu, it's taken a long time. If I can
11 recall, it was at the time that they went to prison, when they
12 were taken to Pademba Road. After that, we did not - to say that
13 we spoke. I only saw him at the trial. To say that we spoke
14 together, no.

12:21:48 15 Q. So over five years?

16 A. Well, yes. Because just imagine from 2002 or 2003 when
17 they took them before they charged them on the Special Court
18 issue. To say that we spoke together, no.

19 Q. So more like ten years since you last spoke to him?

12:22:21 20 A. Well, at least - it's dragged for some time. I cannot say
21 exactly but within that time. From that time to the time that
22 they took them to Rwanda.

23 Q. I'm going to suggest to you, Mr Sesay, that you have never
24 spoken to Mr Kanu since he has been in Rwanda?

12:22:47 25 A. Well, I am putting it to you my learned lawyer, that on
26 that day that that man gave me the phone, it was Santi gie Borbor
27 Kanu that was talking to me. He explained himself to me. He
28 really spoke to me as a brother. I listen to what someone says
29 to me. It was he who was talking to me. On that day he was

1 talking to me.

2 Q. And this was Monday, 29 November 2010?

3 A. Yes, on that day at the PWD junction.

4 Q. And you say that when he spoke to you, he simply said
12:23:40 5 you're all brothers, counting on you to assist them, and asked
6 you whether Sammy Ragga had spoken to you about the request they
7 were making and that they were putting modalities, you say, in
8 place to compensate you if you so render the assistance. That's
9 what you say in your statement; isn't that right?

12:24:07 10 A. Yes, my Lord, that is what happened. That was what he told
11 me.

12 Q. What you said in evidence - and I just want to repeat that
13 to you - yesterday, Mr Sesay, was this.

14 MR METZGER: Your Honour, the reference is transcript page
12:25:14 15 449. I'm going to start from line 11 through to line 22. It
16 deals specifically with this issue.

17 Q. Mr Sesay, yesterday in answer to questions from the
18 Independent Prosecutor - Independent Counsel, you said this about
19 this time when the phone was passed to you, "As I took the phone
12:25:48 20 whom did I hear talking? It was Five Five. He said oh, Bobby.
21 I said yes, sir. How are you, sir? And he said, you are our
22 brother." Pause there for a moment. Do you remember saying
23 that?

24 A. Yes, my Lord.

12:26:13 25 Q. Do you agree that you are giving more information yesterday
26 than is in your statement?

27 A. My Lord, yes, that's true. Because like I said, as I am
28 here in the witness chair, whatever had happened I will say it
29 and I'll explain it to the understanding of the public, not only

1 to the investigator, but to the public and the nation. That is
2 what I said.

12:27:00 3 Q. Thank you, Mr Sesay. So the position is you agree that it
4 is more information than is in your statement but your evidence
5 is, as you sit in the chair and you're asked about it and you
6 recall the conversation, you can vividly recall these words being
7 spoken. Is that the case?

8 A. Exactly what happened is what I'm saying to the Court.
9 Because: (1) if you look - sorry. If you look at the statement,
12:27:21 10 the public didn't know about this statement. Now the public is
11 here listening. The family members are here listening. People
12 want to know the truth. They want to know. So as I'm explaining
13 I just have to say it so that some of them can understand how
14 this thing actually happened.

12:27:40 15 Q. Indeed, Mr Sesay. And I was just wondering if the truth
16 that you are trying to tell the public and the nation today is
17 different from the truth that you were trying to tell the
18 investigators at the office of the Prosecution. Is that what you
19 are saying?

12:27:57 20 A. It's not different. You must have some inconsistencies.
21 It's not different. Even you talking there. If they say what
22 you - to say what you have said - you would forget and maybe you
23 would repeat it. I must say what exactly happened.

24 Q. Some people may not agree with you on that last statement,
12:28:19 25 Mr Witness. Let's move on. You said yesterday, "he", that is
26 Mr Kanu, said - line 13, Your Honour, on the same reference,
27 "please because we've gotten advice from some of our lawyers that
28 the only way is if we can talk to some of you people who can at
29 least cause us to be released or reduce our prison term." Do you

1 remember saying that?

2 A. Yes, that is true. It happened. They told me.

3 Q. In order to save time I shan't ask you to find it in your
4 statement. I shall simply suggest to you, Mr Sesay, that your

12:29:08 5 statement makes no mention of Mr Kanu or the person you say is
6 Mr Kanu telling you that they had talked to their lawyers; would
7 you agree?

8 A. This statement that you are referring me to now?

9 Q. I think it's the only statement that you've signed in this
12:29:33 10 case, Mr --

11 A. They said that to me and I told you that Sammy referred
12 that to me. He said that to me. I mentioned that in one of my
13 statements concerning that issue that they have gotten advice
14 from their lawyers and he too repeated it to me.

12:29:54 15 Q. Yes, Mr Sesay. The point is in your statement made on 9
16 December 2010, when you were trying to tell the truth to the
17 members of the OTP, but not this nation, you did not mention that
18 Mr Kanu said anything to you about advice from their lawyers
19 about reduction of prison terms?

12:30:22 20 A. I did not mention that during the investigation at the time
21 that they were taking this statement but I have mentioned it in
22 Court here.

23 Q. Yes, Mr Sesay. We're in agreement. The very first time
24 ever in the course of this investigation and trial that you
12:30:35 25 mentioned that was yesterday in answer to Mr Herbst, correct?

26 A. Yes, my Lord.

27 Q. Thank you.

28 A. I mentioned it when Sammy mentioned that to me. It was in
29 confirmation. I mentioned it.

1 Q. Mr Sesay. You and I have no argument about your having
2 mentioned that Sammy said that to you. The simple point I'm
3 putting before you is that you have not said this about Mr Kanu
4 ever until yesterday?

12:31:08 5 A. I said it not just on this one but I mentioned that. This
6 one that you are saying that is in this statement, the one that I
7 said yesterday. That's what I'm trying to tell you. I'm not
8 trying to retract or do anything to the statement. It is what
9 happened that I'm explaining. An investigator can sit here and
12:31:29 10 ask you something but when you go to the seat you'll be able to
11 explain further to the Court.

12 Q. I am suggesting to you, Mr Sesay, that you have never told
13 any investigator in this case that Mr Kanu mentioned lawyers to
14 you in that conversation; isn't that the case?

12:31:56 15 A. It's not in this statement. But what I am saying to you,
16 it's there.

17 Q. Now can you answer my question, please?

18 A. I have answered My Lord that it is not in this statement
19 but when my lawyer was cross-examining me, I mentioned that.

12:32:19 20 Q. Yes, we agreed on that, Mr Sesay. What I'm saying is
21 you've never said it to an investigator in this case. Not just
22 this statement, because your suggestion just now was that you may
23 have said it at another time. I'm suggesting that you have not
24 at any point in time from the time you made this statement, from
12:32:39 25 before the time you made this statement, until after the time you
26 made the statement, until you came to Court yesterday, mentioned
27 to any investigator that during the time you spoke with Mr Kanu,
28 he said that to you.

29 A. I have clearly stated it to you that in this my statement,

1 it's not there. But when I was being cross-examined by the
2 learned lawyer, I mentioned that.

12:33:22 3 Q. And my suggestion to you, Mr Sesay, is that you are simply
4 trying to make as much of a case against Mr Kanu as you can. You
5 are not telling the truth?

6 A. My learned lawyer, I am telling you that you really came
7 here to defend that man but I'm not making a case against him.
8 I'm not lying against him. It was what they met and told me. I
9 did not go meet anybody at his house. People called me and
10 explained to me. I am not here to tell lies. I am here so that
11 people will not destroy my reputation and my family reputation.

12 MR METZGER: Your Honour, I think the horse has died again.
13 I shall withdraw the instrument that I have been seeking to
14 apply.

12:34:06 15 Q. Let us move on, please, Mr Sesay. You go on to say - this
16 is line 16 of the same reference, page 449, Your Honour, "he
17 said, so please", this is Mr Kanu "I don't want you to feel any
18 way. We sent Sammy for us to be able to talk to you. He said
19 but all the same, we are still trying to work out our modalities.
12:34:31 20 We are trying to work out how best we can put things in place.
21 He said, so please, we want you to cooperate with us. Please
22 help us. Then I said, well, I've heard. I'll see what I can do
23 concerning that." And then you gave the phone back to Sammy.
24 That's what you told us yesterday?

12:34:56 25 A. Yes, my Lord.

26 Q. So here we are on 25 June 2012. Your recollection of an
27 incident which occurred on 29 November 2010, just got better as
28 Mr Herbst was asking you questions; is that your evidence?

29 A. Yes, my Lord.

1 Q. Thank you?

2 MR HERBST: Objection, Your Honour.

3 JUSTICE DOHERTY: Yes, Mr Herbst.

4 MR HERBST: That's argumentative.

12:35:32 5 JUSTICE DOHERTY: Well, it's on the record now, Mr Herbst,
6 so if you wish to make objections, they will have to come in a
7 little quicker.

8 MR METZGER: Can I ask for clarification of "argumentative"
9 so I don't transgress again? No? Thank you, Your Honour.

12:36:02 10 Q. Now --

11 JUSTICE DOHERTY: Mr Metzger, I've been alert there's only
12 five more minutes on the tape but please keep going and I will
13 ask Mr Court Attendant to put his hand up when the tape runs out
14 and we'll pause.

12:36:29 15 MR METZGER: If somebody notifies me, I can stop
16 mid-sentence if required.

17 JUSTICE DOHERTY: Good.

18 MR METZGER:

19 Q. Let us move on, please, Mr Sesay. You also said yesterday
12:36:49 20 in relation to this, that not only were you told this was a call
21 from Rwanda, but that Mr Samuel Kargbo had shown you an
22 international number; is that correct?

23 A. Yes, because he showed it to me. Said Bobby, look. He
24 showed the phone to me. He showed the phone to me. He said look
12:37:11 25 at the number. But he did not give it to me. He himself sitting
26 there can testify to that. He showed it to me but he did not
27 give it to me. He just said look at it. Have you seen
28 international number? They have called me on this. This is
29 Rwanda number. He showed it to me.

1 MR METZGER: Your Honour's reference is the transcript page
2 452, lines 1 to 3.

3 JUSTICE DOHERTY: Continue, Mr Metzger.

4 MR METZGER:

12:37:48 5 Q. The point I wanted to put to you, Mr Sesay, is that again
6 you have added something to your evidence by suggesting the
7 showing of an international number which was not in your original
8 statement; isn't that the case?

9 A. Yes, My Lord. But what I want to say is when someone is
12:38:19 10 questioning you, an investigator, sometimes they don't ask those
11 questions. But when you are coming to a place where you want to
12 talk to the public for them to know the truth, you have to bring
13 those things out. I have not come here to lie about anybody. I
14 am here so that the truth will be known.

12:38:40 15 JUSTICE DOHERTY: Mr Witness, we've got the answer to your
16 question. Thank you.

17 MR METZGER: Thank you, Your Honour.

18 JUSTICE DOHERTY: Please pause, Mr Metzger.

19 MR NICOL-WILSON: Your Honour, Mr Bangura wants to be
12:39:08 20 excused.

21 JUSTICE DOHERTY: [Microphone not activated] Please
22 proceed, Mr Metzger. I'm told the tape is in place.

23 MR METZGER: Thank you.

24 Q. Now, Mr Sesay, I want to ask you about your contact with
12:39:45 25 the OTP in this case. First of all, I think there was some
26 indication that the OTP had been in contact with you by way of a
27 follow-up after you had given evidence in the Charles Taylor
28 case; is that correct?

29 A. Yes, My Lord.

1 Q. And had there been regular follow-ups from the Office of
2 the Prosecutor?

3 A. Well, as far as I can recall, it was when this matter -
4 after they had asked me - after they had briefed me on
12:40:32 5 Charles Taylor's issue and I mentioned to Mustapha that I had
6 something of concern that I would like them to know about. It
7 was since then they started doing other follow-ups to contact me.

8 Q. Can you recall there being contact on Monday, the 15th of
9 November 2010?

12:40:56 10 A. Well, My Lord, I can't dispute the fact. I can't just
11 recall but I can remember that we used to have constant
12 communication on issues.

13 Q. On that occasion, did you say to the Prosecution that you
14 wanted to speak to them about something but you couldn't discuss
12:41:25 15 it on the phone?

16 A. Yes. Especially on that day that Mustapha called me and
17 briefed me on Taylor's trial. I told him that I had something of
18 concern but that I can't say it on the phone, but I'll see how
19 best they could meet with me for me to discuss it with them.

12:41:48 20 Q. And when you were saying that to Mustapha, was that as a
21 result of Mr Samuel Kargbo having already contacted you?

22 A. Yes, My Lord. It's as a result of that.

23 Q. So you will agree that that was before you had spoken to
24 Ms Alagendra?

12:42:15 25 A. Well, when they called me, like I said, this man had met
26 me. I did not have anything - they had just started briefing me
27 on this issue. But when it continued, that was what - that was
28 why when Mustapha called me I told him that I had something to
29 tell them, but when I observed that it was persisting, that was

1 why I texted and called Shayamala and told her what was going on.

2 JUSTICE DOHERTY: Mr Witness, you said they had just
3 started briefing me on that matter. Who is the "they" you are
4 referring to.

12:42:53 5 THE WITNESS: After I had got this contact with - gotten
6 this contact with Sammy Ragga and Bomb Blast and I was doing this
7 follow-up, so when Mustapha called me, I told him that something
8 is at hand that I want to discuss with you. But since you've
9 called me on the phone, I can't say it over the phone. But I'll
10 try --

12:43:18 11 JUSTICE DOHERTY: I'm clear on that part, Mr Witness. Just
12 to clarify who "they" is.

13 Continue, Mr Metzger.

14 MR METZGER: Thank you, Your Honour.

12:43:25 15 Q. For the avoidance of doubt and taking it briefly, is it
16 your evidence that when you spoke to Mustapha and mentioned there
17 was something you wanted to talk about which you couldn't speak
18 on the phone, he had called you on a routine call by the OTP?

19 A. That was the first call that they made to me to brief me
12:43:53 20 how the Taylor trial was progressing. That was the first call
21 that they called to me to meet, how I was doing, how was my
22 health. We just wanted to brief you about the trial. That was
23 the briefing. That was the briefing I referred - then I told him
24 that I had something to say but that I can't say it over the
12:44:13 25 phone.

26 Q. Thank you, Mr Sesay. So can you tell us by that time where
27 you had reached in your conversation with Mr Kargbo and others?

28 A. My Lord, as far as I can recall, the thing had gone beyond.
29 We had - the communication had continued. This man had been

1 meeting me within that time. But I was so confused. I wouldn't
2 tell lies. I was so confused I did not know what to do. So even
3 when I told Mustapha, I was still confused, because this man -
4 this man would come and meet me. This man would come and meet
12:44:58 5 saying this is calling him, that is calling him, so I didn't know
6 what to do. I was looking for someone to advise me. Who is the
7 person who will be able to explain this to me or give me some
8 advice? So the only way out when Mustapha told me was that I
9 said I decided to text Shayamala or to explain to her that this
12:45:16 10 was what was happening.

11 Q. In relation to when you texted Shayamala, how long after
12 you had spoken to Mustapha did you text her?

13 A. Well, actually, I won't tell lies. It took some time.
14 Because when I spoke to Mustapha, I did not have - I did not have
12:45:45 15 facts that would establish that they wanted to do something.
16 Because, My Lord, I won't tell lies. I took it as a set-up. I
17 said I just thought that these people have set me up. That is
18 why I sought legal advice from Shayamala. Then she told me that
19 this is a problem. This would happen. You could go to jail.
12:46:05 20 Then I said, Oh, these guys want to give me problems? I just
21 thought that it's something that we could have fun out of. Then
22 I decided to call Mustapha. Then Shayamala said she would text -
23 she would e-mail Mustapha so that they would call me.

24 Q. So when you say it took some time, are you saying it took a
12:46:38 25 few days or weeks from the time you first spoke to Mr - to
26 Mustapha until the time that you --

27 A. My Lord --

28 Q. -- spoke to Ms Alagendra?

29 A. As I am saying, the time-frame was there. What I mean is

1 that when these people had been talking to me, I did not see
2 myself in any position to contact anybody, but this contact
3 started before Mustapha called me. So after Mustapha had called
4 me, I told him that I had something to say but I can't do so - I
12:47:20 5 can't do so over the phone. This communication continued between
6 myself and my men, Sammy and Blast, but when this thing persisted
7 and Mustapha had not called me, that is why I called Shayamala
8 and explained to her seeking her advice. Everybody has somebody,
9 even as you are there today. At the end of the trial, I could
12:47:41 10 call you and say, Mr Metzger, how are you, sir? Please help me
11 with some advice and you can say this or that. That was what
12 happened. I sought advice. That is when I knew the truth, that
13 Oh, this is a problem.

14 Q. You know it will cost you.

12:48:00 15 A. My Lord, I'm just citing an example.

16 JUSTICE DOHERTY: We understand that.

17 MR METZGER: Indeed, Your Honour. I just wanted to make it
18 clear in case, you know.

19 Q. Now, Mr Sesay. Thank you for that very detailed answer.
12:48:19 20 Unfortunately I'm going to ask you - hopefully in a different
21 way, because you may have answered a different question to the
22 one I thought I was asking you - how much time passed between
23 you're speaking - it's a simple question. You spoke to Mustapha
24 because he called you on a routine call. We agree with that,
12:48:42 25 yes? You'd already been contacted by those men. We agree with
26 that, don't we?

27 A. Yes, My Lord.

28 Q. Thank you. And you were waiting for Mustapha to call you
29 back. He didn't. We agree with that, don't we?

1 A. Yes. Mustapha did not call me back, so I realised the
2 thing was continuing. That was why I called Shayamala to seek
3 advice.

4 Q. Thank you. So when you decided to call Shayamala how much
12:49:16 5 time had you given for Mustapha to call you back? Was it a
6 matter of days? I was asking you --

7 A. There was a lapse of time. There was some time.

8 Q. I'm just trying to identify so that we can assist the Court
9 what you mean by "some time." Some time could be months. Some
12:49:37 10 time could be weeks. Some time could be days.

11 A. Well, from the time that Mustapha called me to the time -
12 actually, it was within two weeks or so. It was - it didn't take
13 too long, but it was within that time. I can't just recall
14 everything, but I could remember that it took some weeks before I
12:49:56 15 called Shayamala because the thing continued.

16 Q. Thank you, Mr Sesay. It's not a memory test. Within two
17 weeks is fine. Now by the time you first spoke to Mustapha, had
18 you already had that telephone call at PWD?

19 A. Yes, I remember. Yes, I had had this call. This thing had
12:50:27 20 happened. It had happened.

21 Q. Now, in those circumstances, you know, you're clear on
22 that. Your evidence is it had happened and out of the blue, so
23 to speak, Mr - Mustapha, as you know him, called you up on a
24 routine call and you mentioned it for first time. That's your
12:50:51 25 evidence, isn't it?

26 A. I want you to repeat that question, because I'm hearing
27 from the blues. I don't know if it's the blues, the thing that
28 they watch. I don't know.

29 Q. All right. Sorry. It's my fault for using that phrase.

1 I'm just trying to clarify now so that the Court has a clean
2 record of it. You'd been contacted by Sammy Kargbo. You'd had
3 the call when you were at PWD. You had spoken to someone you say
4 was Five Five, yes? Then there was a routine call from Mustapha
12:51:38 5 to you.

6 A. Yes, My Lord.

7 Q. During that call, you felt you had to say something to him
8 so you mentioned that there's something you wanted to talk to him
9 about but you didn't want to do it over the phone; that's right,
12:51:58 10 yes?

11 A. Yes, My Lord.

12 Q. Now, in one of your previous answers this session, you
13 suggested that you had been thinking about this approach to you
14 and were a little bit worried that there might be some kind of a
12:52:14 15 set-up; is that the case?

16 A. Well, that was what I was thinking. Just like somebody
17 will sit down and say, How could these people bring up this issue
18 to me, that I have gone through this thing? Is it that they want
19 to set me up or what? That's my human thinking.

12:52:35 20 Q. Indeed, Mr Sesay. And so when out of the - sorry, I shan't
21 use that phrase again. When this call came from Mustapha as -
22 that is to say, the OTP doing the routine thing, updating you on
23 the Charles Taylor case and so on, did you - did that make you
24 even more concerned that it might be a set-up?

12:53:00 25 A. No, because Mustapha, I know that he is a member of OTP and
26 an investigator. He called me and he said it's a routine
27 briefing that they do. He spoke to me well. He said it was
28 something that they do to witnesses who had testified in the
29 Charles Taylor trial. So I did not have that - I just told him

1 that there was something I wanted to inform them about.

2 Q. Okay, that's fine. I shall move on from there. Now, I
3 think you told us that you had sent an SMS or text message to
4 Ms Alagenda and called her; yes?

12:53:54 5 A. Yes, my Lord.

6 Q. Now, I'm not taking issue with this, but you can confirm
7 that that part is not in your statement?

8 A. Well, I do not see it mentioned, but I gave him the
9 information, but it's not in the statement.

12:54:14 10 Q. Indeed. We don't take any issue with that. Now, bear with
11 me. So when you - after you spoke to - texted and spoke to
12 Ms Alagenda, were you called by the OTP shortly after that?

13 A. Yes, as far as I can recall it happened. The OTP called.

14 Q. And I think you were telling us yesterday that they called
12:54:50 15 you the following day after you had spoken to Ms Alagenda and
16 you came in that same day to start giving them the information?

17 A. Yes, I came there as I can recall after Shayamala. It was
18 not long that Mustapha called me and I came to the OTP.

19 Q. Now, at the time when you came to the OTP, that is to say,
12:55:22 20 the following day after you had spoken to Shayamala, did you
21 still have on your telephone the text that you sent to her?

22 A. No, actually that was over a long period. I did not have
23 that text. I don't know whether I can search my phone but I
24 don't remember I have the text. I just told her to call me, that
12:55:46 25 I had something to say. It as something like that that I texted
26 her. Please call me hastily.

27 Q. So you texted her and she called you?

28 A. I texted her at first. I texted her to call me
29 immediately. And she did not call. Then I called.

1 Q. Thank you. What I'm saying, just so we get this absolutely
2 clear, when you come to the OTP to talk about what had happened,
3 it's the day after you had texted Shayamala, isn't it?

4 A. Well, I can't recall. But the only thing that I can recall
12:56:26 5 after I had texted her I don't remember if it was on that day,
6 but they called me after that period after I had texted Shayamala
7 on the issue where she told me that she would e-mail the OTP.
8 They called me, between God and man I can't recall, it took two
9 or three days but they call me afterwards. He texted me and she
12:56:45 10 said she would e-mail the OTP.

11 Q. Yes, I understand, Mr Sesay. The question I'm trying to
12 ask about that is that when you did go to see the OTP to give
13 them the information, was the text that you had sent to Shayamala
14 still in your phone at that time? Were you able to show it to
12:57:08 15 the investigators?

16 A. No, no, I did not show them the text. When I texted - I
17 texted her to call me. But because of the delay, I called. I
18 did not show him the text. No, no, no.

19 Q. That's fair enough. I shan't take that matter further.
12:57:35 20 Can I then ask you about when you actually spoke to Ms Alagendra.
21 Can you remember what time of the day it was?

22 A. I can't recall. The only thing I can recall was that when
23 this person issue came I called her. I can't recall but I know
24 that it was within the day. I can't tell the exact time, maybe
12:58:02 25 2 p.m. or what but within that day I called her.

26 Q. Within which day did you call her?

27 A. The day that I texted her. When I saw that there was a
28 delay, I called her.

29 Q. Thank you. And in fairness to you, and in view of the

1 answers you've given before, you did not call her on the very
2 same day that you were at the PWD compound; that's correct, isn't
3 it?

4 A. On the day that I was at the PWD compound? No, at that
12:58:40 5 moment - no, I did not do that. I did not make any call to her.

6 Q. I meant that same day?

7 A. Well, after that incident it was on that day that I called
8 her but I do not know the time period. But it was on that day
9 after Sammy had spoken to me as I recall. I called her and
12:59:02 10 explained to her that so and so communication had happened. It
11 was on that day.

12 Q. I'm trying to be fair to you. In your earlier evidence you
13 suggested that you texted and called Ms Alagenda, something you
14 didn't want to be certain, but in the region of two weeks or so
12:59:20 15 after you first mentioned to Mustapha that this situation - that
16 you wanted to talk to them. That's right, isn't it?

17 JUSTICE DOHERTY: Just a moment. Mr Herbst.

18 MR HERBST: Your Honour, I object. The witness clearly
19 said on direct examination that he called - texted and called
12:59:46 20 Shayamala the same day he had the conversation at the junction
21 with Mr Kanu. He just said the same thing on cross-examination,
22 so I object to the way this has been put to the witness to
23 suggest that in his earlier evidence he did not say that.

24 JUSTICE DOHERTY: Mr Herbst, I have --

13:00:12 25 MR HERBST: He did say that in his earlier evidence.

26 JUSTICE DOHERTY: Did say what? What did he say in his
27 earlier evidence?

28 MR HERBST: He said - he did say that he texted and called
29 Shayamala Alagenda on the same day that he had gone to PWD

1 junction and had the two - they were the two calls - and he had
2 the conversation with Mr Kanu that he described.

3 JUSTICE DOHERTY: I've got on record him saying just now --

4 MR HERBST: [Indiscernible]

13:00:52 5 JUSTICE DOHERTY: -- sorry Mr Herbst did I interrupt you?
6 Because your light's still on? I have got the following line.
7 When did you speak to Shayamala? I don't recall the day. It was
8 within that day that I text her when - I saw her. So question:
9 So you did not call the same day as PWD? No, not - did not call
13:01:22 10 her. Question: It was after that incident? It was after that
11 day when so and so called. Question: You suggested in your
12 examination-in-chief that you texted her about two weeks after so
13 there is a dispute on this.

14 MR METZGER: Your Honour, sorry, it wasn't in
13:01:44 15 examination-in-chief. It was something like about seven and a
16 half minutes ago whilst I was asking him questions about his
17 discussion with Mustapha.

18 JUSTICE DOHERTY: Just let me go through that.

19 MR METZGER: And it may be my learned friend didn't hear
13:02:00 20 that in Kigali when he was answering those questions.

21 JUSTICE DOHERTY: He said it was not long after that
22 Shayamala called me that I came to OTP. Sorry, Mr Herbst, you're
23 speaking. Please speak again because I'm not hearing you.

24 MR HERBST: I'm sorry, Your Honour. Can Your Honour hear
13:02:25 25 me now?

26 JUSTICE DOHERTY: Yes, I can hear you clearly now.

27 MR HERBST: [Indiscernible] the call with respect to
28 Mustapha the records reflect occurred, and I think the witness
29 testified on cross-examination, about two weeks before the

1 incident at PWD junction and the conversation with Mr Kanu. That
2 is not the point. That's not my point. The witness said on
3 direct examination --

13:03:03 4 MR METZGER: I'm a little concerned if we're going to go
5 into an objection that deals with what the witness has said
6 whilst I'm in the process of cross-examining --

7 JUSTICE DOHERTY: Yes, I am also. Mr Herbst, I don't want
8 you coaching the witness. I'm dealing here with
9 cross-examination where the witness has said certain things about
13:03:23 10 the call to Shayamala and the text to Shayamala, and I've read
11 out what he just said. There is actually a question: How long
12 was it between the Mustapha and the Shayamala? And he said there
13 was a lapse of time. It was some time. It was within two weeks.
14 Some weeks before I called Shayamala. That's some weeks between
13:03:56 15 the Mustapha call and the Shayamala call.

16 MR HERBST: Your Honour, I understand that. But what I was
17 saying is, I was objecting to what I think is the misleading -
18 and I say that with respect. I do not mean any disrespect to
19 counsel. But the way that he phrased the question. Because he
13:04:27 20 was suggesting to the witness --

21 MR METZGER: Your Honour, if this is continuing I would ask
22 for witness to please leave Court.

23 JUSTICE DOHERTY: Mr Herbst, I have already read out what
24 the witness has just said. If you are going to - and I consider
13:04:48 25 that in the light of those answers, there is an entitlement to
26 ask follow-up questions. But if you are saying there was
27 something different in chief, then counsel for the Defence is
28 entitled to put questions in cross-examination that go against
29 what was said in chief. What was just being put - you suggested

1 the text was about two weeks after - reflects, to my mind, an
2 answer that I just read: "It was within two weeks. It was some
3 weeks before I called Shayamala." So to me, whilst he may have
4 said something in chief, he said that in cross-examination and I
13:05:36 5 consider that counsel is entitled to follow up that line of
6 cross-examination.

7 If there is another matter, then you have a right also to
8 clarify on re-examination. I'm allowing the question. I want to
9 make sure I get this question right in the light of the objection
13:05:56 10 to ensure that the question is clearly put to the witness.

11 MR METZGER: I'm very much obliged, Your Honour. In
12 fairness, what I was doing was putting the difference to the
13 witness, what he had said in chief with the answer that he had
14 given recently.

13:06:22 15 Q. Mr Sesay, you said in answer to Mr Herbst that it was the
16 same day of the PWD incident that you texted and called
17 Shayamala; is that correct?

18 A. Yes, my Lord.

19 Q. But you also told this Court some minutes ago now in answer
13:06:45 20 to me that by the time you spoke with Mustapha when he called you
21 on the routine call, that the PWD incident had already taken
22 place; is that not correct?

23 A. You are bringing two points to me that are conflicting and
24 confusing. I want you to really try and break it down for me
13:07:10 25 because you are putting confusing things to me. The incident
26 with Shayamala and that with Mustapha I want to get it one after
27 the other.

28 MR METZGER: Your Honour, in the circumstances I would ask
29 to be able to refer to the transcript. I can deal with it,

1 because I have a clear recollection of the answers that were
2 given. It may be that my learned friend Mr Herbst, with hearing
3 difficulties and everything, didn't actually hear it and it may
4 help him.

13:07:50 5 JUSTICE DOHERTY: He has more or less quoted what you've
6 just said as being said in chief. That is what he said also.

7 MR METZGER: Yes. I take it he can hear what I'm saying.
8 Does Your Honour want me to try and deal with it the best way
9 that I can? I know the transcript will prove me right on this
13:08:11 10 particular point. I only went over it because I wanted to make
11 sure that the point was fully before the Court before I moved on
12 or sat down.

13 JUSTICE DOHERTY: The witness has said he's confused.

14 MR METZGER: Yes.

13:08:28 15 JUSTICE DOHERTY: And for myself, I'd like to have this
16 resolved because there's various issues, both of fact - what you
17 have already raised on behalf of your client and obviously
18 credibility.

19 MR METZGER: Yes.

13:08:41 20 JUSTICE DOHERTY: So I would like to be clear in my mind
21 what was the sequence of events.

22 MR METZGER: Let me try again, Your Honour.

23 Q. Mr Sesay, I asked you some time ago now about the routine
24 contact you had with Mustapha from the OTP when he called you; do
13:09:01 25 you remember that?

26 A. Yes, I can recall the time that he called me and briefed me
27 on the Taylor issue. When I told him that there was something
28 that I wanted to say to him but not on the phone, to the OTP.

29 Q. Thank you. Now, please listen very carefully and please

1 apply your mind to what I'm asking you. I suggested to you that
2 at the time that routine call was made by Mustapha, the PWD
3 incident had already happened, and you said yes; is that correct?

4 A. Yes, that had happened as I can recall. It had happened.
13:09:50 5 That incident had happened before Mustapha called me.

6 Q. Thank you. And then I went on to say between that call
7 from Mustapha and your texting and calling Shayamala, how much
8 time elapsed? Hold on. You said it took some time, in the first
9 place; is that correct?

13:10:17 10 A. Yes, I said it took some time. Yes.

11 Q. And then I pressed you a little harder to do your best -
12 the best you could do to help us with a timeframe, and you said
13 that it was within two weeks?

14 A. I said it was within that range.

13:10:41 15 Q. Within the range of two weeks, thank you. Then I went on
16 to ask you that when you called Shayamala, it wasn't on the same
17 day that the PWD incident happened, was it?

18 A. It was on that same day after I had left that area. After
19 I had left - after I had left PWD and Sammy and I had gone our
13:11:14 20 separate ways, it was on that day that I called Shayamala and
21 informed her about this incident, about the latest development
22 that has happened, and what would be her advice.

23 MR METZGER: Your Honour, I think any further questions
24 that I ask on this point will probably attract the finger of
13:11:36 25 Mr Herbst, because I can only say that it's likely to then be
26 seen as comment on the answers already given whilst trying to
27 clear up what is, in my respectful submission, a morass of
28 confusion.

29 JUSTICE DOHERTY: I'm going to ask the witness one

1 question.

2 MR METZGER: Thank you.

3 JUSTICE DOHERTY: Mr Witness --

4 THE WITNESS: Yes, My Lord?

13:12:04 5 JUSTICE DOHERTY: -- how many times did you text Shayamala.

6 THE WITNESS: Once.

7 JUSTICE DOHERTY: How many times did you call Shayamala.

8 THE WITNESS: I called her once.

9 JUSTICE DOHERTY: Thank you. Those were my clarifications.

13:12:28 10 MR METZGER: I thank Your Honour. Let us move on slightly.

11 I'm sorry, the witness --

12 JUSTICE DOHERTY: Yes, Mr Witness.

13 THE WITNESS: I would like to use the --

14 JUSTICE DOHERTY: Yes, please assist the witness.

13:13:07 15 MR METZGER: -- might be excused.

16 [Witness leaves courtroom]

17 [Witness returns to courtroom]

18 JUSTICE DOHERTY: Continue, Mr Metzger.

19 MR METZGER: Very much obliged, Your Honour.

13:15:38 20 Q. Mr Sesay, were you prepared by the OTP or the Prosecutor in
21 this case to come and give evidence? Did you speak to them in
22 preparation for coming to give evidence?

23 A. They didn't do any preparation because as far as I can
24 recall, at the time that they called me and said Bob wanted to
13:16:13 25 see me, it was at that time that I lost my wife, so there was no
26 way except that day that that incident happened when I came to
27 Court. But to say that anybody prepared me, no. On the day that
28 they called me, when the WVS called me that I should come to the
29 office, when Mr Aki called me, it was on that day that I lost my

1 wi fe.

2 Q. I'm sorry to hear that, Mr Sesay.

3 A. Thank you.

4 Q. In fact, I wanted to ask you more about before this trial,
13:16:54 5 not really a long time ago. Did anybody from the Prosecution sit
6 down with you and go through your statement?

7 A. When you say the Prosecution, who is the - who in the
8 Prosecuti on?

9 Q. Well, either the Independent Prosecutor or any of the OTP
13:17:16 10 staff?

11 A. If before this Court started? Please repeat the question.

12 Q. Yes. Before you were asked to come and give evidence
13 before this actual proceeding started where you had to give
14 evidence, did either the Independent Prosecutor or somebody from
13:17:39 15 the OTP go through your evidence with you to check or to help you
16 prepare for this case?

17 A. No. Well, it did not happen. Like I said, at the time
18 that they called me that Bob wanted to talk to me, through a
19 link, it was at the time that my wife passed away. The only time
13:18:00 20 that we met was at this later stage when Bob said you had to
21 prepare yourself because you will soon testi fy. That is what
22 happened.

23 Q. Yes, this is the later stage that I'm asking about.
24 Obvi ously, what happened in relation to your wife - and again, as
13:18:17 25 I say, I'm very sorry - I think is some time ago now, yeah? Some
26 months back at least. I'm talking about just before this case
27 started when Mr Herbst would have said to you, You have to
28 prepare to come and give evidence in this case.

29 A. I did not have any briefing from anybody as far as I can

1 recall.

2 Q. Right. Now, you see, I wanted to ask you if anybody
3 instructed you to say - I have just heard a distinctive sound,
4 Your Honour, that tends to suggest the link has gone.

13:19:05 5 JUSTICE DOHERTY: Mr Court Attendant - we've lost the link.
6 Mr Metzger, have a seat and seat and we'll see what happens.
7 [Microphone not activated] Mr Metzger, was your question did
8 anyone instruct you what to say?

9 MR METZGER: Yes. "Did anyone instruct you," the link was
13:19:35 10 lost, and I was going to go on to name. And then I stopped, as
11 it were, in mid-sentence. We may have them back.

12 MR HERBST: Excuse me, Your Honour.

13 JUSTICE DOHERTY: Yes, Mr Herbst, I hear you.

14 MR HERBST: But we've lost - we did lose the link, both
13:19:48 15 audio and visual.

16 JUSTICE DOHERTY: I was alerted to that.

17 MR HERBST: For a minute or two. The last thing I heard
18 was "no one prepared me" as an answer from the witness.

19 JUSTICE DOHERTY: And the question was: I did not have any
13:20:10 20 briefing as far as I recall. And then counsel was about to ask a
21 question, Did anyone instruct you? And he did not - he was not
22 able to finish that question because the link went. So I will
23 ask him now to finish that question and put it to the witness.

24 MR METZGER: Thank you, Your Honour.

13:20:37 25 I wonder if Mr Herbst could switch off his microphone.

26 JUSTICE DOHERTY: Yes, Mr Herbst, please switch off your
27 microphone.

28 MR METZGER:

29 Q. Did anyone instruct you, Mr Sesay, to come to this Court

1 and say that it was Bazy and Five Five who wanted you to recant
2 your statement?

3 A. Nobody instructed me. It was the brothers whom met me, and
4 when I got the advice that it's a problem, I said I would inform
13:21:13 5 the OTP. Nobody instructed me to come and say that is what
6 Five Five said or that is what that man said. Nobody.

7 MR METZGER: Your Honour, I want to refer the witness to -
8 and I will for your record give the reference. It's page 444 of
9 the transcripts, lines 13 to 15. I will also be referring to
13:21:43 10 page 445, lines 3 to 6; and page 448, lines 2 to 3 for benefit of
11 interested parties.

12 MR HERBST: I'm sorry, Your Honour. Could you ask counsel
13 to repeat the transcript citations.

14 JUSTICE DOHERTY: I may maybe can do it more loudly: Page
13:22:12 15 444, lines 13 to 15; 445, 3 to 6; 448, lines 2 to 3. Correct?

16 MR METZGER: Absolutely, Your Honour.

17 JUSTICE DOHERTY: Thank you. Please proceed, Mr Metzger.

18 MR METZGER:

19 Q. Mr Sesay, when you were being asked questions yesterday,
13:22:41 20 you said - you were asked, "... was either Mr Kargbo, or
21 Mr Bangura, or both, more specific" - sorry, hang on. I'll start
22 with the whole question. Mr Herbst asked you this, "Mr Witness,
23 in the course of your answer to the previous questions, you
24 referred to the men in Rwanda when you were describing both what
13:23:09 25 Mr Ragga said to you, what Mr Kargbo said to you, and what
26 Mr Bangura said to you. Was either Mr Kargbo, or Mr Bangura, or
27 both, more specific about which men in Rwanda they were referring
28 to?"

29 MR METZGER: Your Honour, that starts at line 7 because

1 it's the question.

2 Q. Your answer is this: "Well, Sammy told me that Bazzy and
3 Five Five wanted to talk to me. He said they wanted to talk to
4 me. He said they had called him because the two of us were
13:23:51 5 close." Do you recall that?

6 A. Yes, my Lord.

7 Q. Now, in your statement in relation to what Sammy told you,
8 at page 1, second paragraph, you do not say that he told you it
9 was Bazzy and Five Five; that's correct, isn't it?

13:24:27 10 A. You have come to the point. Look at the thing. I said
11 Sammy said Bazzy wants to talk to me, after which Sammy called
12 me. He said, Five Five is on the line. He wants to talk to you.
13 So it's clearly stated there.

14 Q. Sorry, it's my mistake. I'm referring to your first
13:25:00 15 meeting with him on 27 November when you were driving to Newton.
16 Do you agree that in your statement it doesn't say "Bazzy and
17 Five Five"?

18 A. He said the men in Rwanda. He mentioned them. He said the
19 men in Rwanda, and he specifically mentioned Bazzy and Five Five.
13:25:38 20 He said, They want to talk to you.

21 Q. Yes, I'm just suggesting that you didn't specifically
22 mention Five Five when you made your statement?

23 A. My Lord, I have told the Court that there are questions
24 that they put to you and they will write, but in courtroom you
13:26:02 25 have to explain it broadly except the Court disallows it. But I
26 am trying to explain exactly what transpired between I and those
27 people - between I, Blast, and Sammy Ragga.

28 Q. The next reference at page 445, this is clarification from
29 her Honour, the Judge, where she had started asking you, "' Sammy

1 told me Bazy and Five Five wanted to talk to me.' Continue your
2 answer from there, please." And you say, "Sammy said Bazy and
3 Five Five wanted to talk to me. He said that was why they called
4 him, because they were made to understand that the two of us have
13:27:07 5 a close relationship, and he was the only person who was able to
6 talk to me." I am reminding you, Mr Sesay, that this all relates
7 to the first occasion when you spoke to Mr Kargbo, as it were, on
8 your way to Newton. And in your witness statement, you do not
9 say it was specifically Bazy and Five Five referred to by
13:27:40 10 Mr Kargbo?

11 A. My Lord, I have even spelled it out clearly. In taking
12 statements and when you come to Court, sometimes when they ask
13 you, you have to be broad. You have to explain the details for
14 people to know, for the Court to know. That was what I
13:28:05 15 explained, what actually transpired and what Sammy told me. This
16 investigator can write. I can't say that he would write
17 everything that I say. It's impossible.

18 MR METZGER: Your Honour, I refer the same page at lines 9
19 to 10 as well as an identifying feature of the time he was
13:28:28 20 speaking about.

21 I note the time. I was going to - sorry. Oh, I'm sorry.
22 The reference should be page 448, not just lines 2 to 3, but 9 to
23 10 as identifying features in relation to the time he was talking
24 about. I don't propose to take that matter further. We've come
13:28:57 25 to, as it were, another dead horse situation.

26 I am now proposing to ask the witness some questions about
27 his contact with members of the OTP along the lines of the
28 material that we have been served. But I note the time, and it
29 may be more prudent for me to collect my thoughts and try and

1 reduce the amount of time I spend on asking those specific
2 questions, which I hope will be amongst the last questions I ask.

13:29:40 3 JUSTICE DOHERTY: I see. I think that would be
4 appropriate, because we do have to think of people here, who also
5 have an entitlement to a break and something to eat.

6 I will adjourn. It's now 1.30, and I will adjourn to 2.45.
7 That gives us our 45 minutes. So please adjourn Court to - am I
8 right? No, I'm not right.

9 MR METZGER: In fairness, your Honour was being rather
13:30:07 10 overgenerous with us if we were to come back at 2.45. I
11 personally have no objection to that, but it would be an hour and
12 some 13 minutes.

13 JUSTICE DOHERTY: Oh dear. Well, we've got 45 minutes.
14 That will bring us to 1.15 - 2.15.

13:30:26 15 MR METZGER: Your Honour, I would say it would now be
16 something in the region of 2.18 to 2.20.

17 JUSTICE DOHERTY: 2.20.

18 MR METZGER: Thank you.

19 JUSTICE DOHERTY: Let us all agree on 2.20. We'll adjourn
13:30:37 20 Court until 2.20, please.

21 [Luncheon adjournment taken at 1.30 p.m.]

22 [Upon resuming at 2.19 p.m.]

23 MR HERBST: Your Honour.

24 JUSTICE DOHERTY: Mr Metzger, please proceed.

14:20:27 25 I will just check, Kigali can you hear us?

26 MR HERBST: [Inaudible] one preliminary matter.

27 JUSTICE DOHERTY: Yes, I can hear you but very, very
28 faintly. You said you have a preliminary matter, Mr Herbst.

29 THE INTERPRETER: The interpreters can't hear him at all.

1 JUSTICE DOHERTY: Oh, I see. Mr Court Attendant, please
2 ask AV if they can increase the volume.

3 MR HERBST: Your Honour, can you hear me now or can they
4 hear me?

14:21:03 5 JUSTICE DOHERTY: I can hear you but what about the
6 interpreters.

7 THE INTERPRETER: Yes, we can. We can hear him now in
8 booth.

9 JUSTICE DOHERTY: Very good, Mr Interpreter.

14:21:12 10 Please proceed.

11 MR HERBST: Your Honour, I received over the break from OTP
12 an e-mail forwarding the Alagenda e-mail from Jim Johnson to
13 Joseph Saffa on 1 December at 7.22 a.m. I have had it forwarded
14 to the courtroom and I would ask that it be disclosed to all
15 counsel before the end of the day.

14:22:07 16 JUSTICE DOHERTY: When you say to the courtroom, just let
17 me check. I understand Mr Court Attendant has it. I will ask
18 him to print it out and make extra copies for counsel. Is that
19 what you require, Mr Herbst?

14:22:33 20 MR HERBST: Yes, I do, Your Honour. And I thank the Court.

21 JUSTICE DOHERTY: Mr Metzger, your cross-examination and,
22 when you get that e-mail, obviously we'll allow you time to look
23 at it. You may require to cross-examine on it.

24 MR METZGER: It may be. I'm a little concerned that it's a
14:22:56 25 point I've dealt with, and moved on.

26 JUSTICE DOHERTY: The best I can do is to allow you to go
27 back to that point. It's the best I can do.

28 MR METZGER: I am very much obliged. I should say, noting
29 Mr Serry-Kamal's absence, that he was in Court but he has had to

1 leave and I am, as it were, watching his brief in the interim
2 insofar as Ms Serry-Kamal can't do that.

3 JUSTICE DOHERTY: Well, I was looking to Ms Serry-Kamal as
4 a very competent watching brief.

14:23:33 5 MR METZGER: Oh, that she is.

6 JUSTICE DOHERTY: And if there is any question about his
7 interests or his client's interests not being respected, I can be
8 alerted and I will intervene.

9 MR METZGER: I am very much obliged.

14:23:48 10 JUSTICE DOHERTY: Thank you, please proceed.

11 MR METZGER:

12 Q. Good afternoon, Mr Sesay. I now want to ask you about the
13 contact you had with staff members of the Office of the
14 Prosecutor after you made this report. You have already told us
15 about your contact with Mr Mustapha, I think it's Mustapha
16 Koroma. Do you know an investigator called Aiah Komeh?

17 MR METZGER: Does Your Honour require the spelling.

18 JUSTICE DOHERTY: I think that would be a very good idea.

19 MR METZGER: Right. A-I-A-H K-O-M-E-H.

14:24:49 20 JUSTICE DOHERTY: Thank you. Did you hear the question,
21 Mr Witness?

22 THE WITNESS: Yes, My Lord.

23 MR METZGER:

24 Q. So is that a "yes" to did you hear the question or "yes" to
14:25:01 25 do you know the investigator?

26 A. I heard the question. That's what I answered. Like I
27 said, I was not familiar with this Aiah Komeh, but the late
28 Mustapha, and Saffa, Magnus Lamin, they are the ones I know at
29 the investigation in the OTP.

1 JUSTICE DOHERTY: Proceed.

2 MR METZGER: Thank you, Your Honour.

3 Q. Do you remember speaking to this Aiah Komeh at the Office
4 of the Prosecutor on or around the 30th of November of 2010?

14:25:50 5 A. I can recall that I spoke to them. Like I said, they were
6 calling me. They were calling me at periodic times. I remember
7 talking to the investigator.

8 Q. Do you remember there being a discussion about further
9 contact with Samuel Kargbo?

14:26:22 10 A. I can recall that they asked me if there was any further
11 contact with Samuel Kargbo, yes.

12 Q. It's difficult to say. This could be possibly the 7th of
13 December, but do you recall informing the Office of the
14 Prosecutor, whoever you spoke to, that the long silence of Sammy,
14:26:50 15 that's to say Mr Kargbo and the others involved, that you
16 believed you knew why that you hadn't heard from him in a while?

17 THE INTERPRETER: Can I learned counsel kindly repeat his
18 question.

19 MR HERBST: Your Honour.

14:27:07 20 MR METZGER: Yes.

21 Q. Do you recall --

22 MR HERBST: Your Honour, I'm sorry to interject
23 [overlapping speakers] --

24 JUSTICE DOHERTY: Mr Herbst, yes, I'm hearing you but
14:27:14 25 faintly.

26 Please repeat, Mr Herbst.

27 MR HERBST: Your Honour, yes. The document that counsel is
28 reading from, I need to advise my learned friend that I have been
29 advised that each entry begins with the word "contact detail" so

1 that the entry that counsel is questioning the witness on, so
2 I've been advised, relates not to November 30th but to December
3 7th. I hope that clarifies for him.

4 JUSTICE DOHERTY: Mr Metzger --

14:28:11 5 MR HERBST: [Overlapping speakers]

6 JUSTICE DOHERTY: -- I do not have the document in question,
7 you do. And you've heard Mr Herbst who has sought to clarify
8 that document.

9 MR METZGER: I am grateful to my learned friend, Your
14:28:24 10 Honour. The document may very well be in the disclosures and so
11 Your Honour may have it but may not have looked at it.

12 In so far as the detail is concerned, I, perhaps, need to
13 now leave that with somebody who is going to be producing those
14 documents which I understood was the Prosecution's case. It's
14:28:49 15 not the clearest in the world, and in those circumstances I can
16 only ask about the detail that is contained therein.

17 JUSTICE DOHERTY: Well, I see your point. If there is a
18 detail and it relates to the witness, it can be put, but there
19 seems to be a problem with the date.

14:29:15 20 MR METZGER: Thank you, Your Honour.

21 Q. On a date, possibly in December 2010, did you suggest to
22 someone from the Office of the Prosecutor that you believed that
23 the long silence of Sammy Ragga and others involved is that they
24 may be preparing? Because from the discussion you'd had with
14:29:55 25 Sammy Ragga last, you believed a package would be put together
26 and delivered to you in order for you to co-operate. Do you
27 remember saying that?

28 A. Yes, I recall that.

29 Q. And is this package what you referred to as the evidence

1 you were waiting for when you were speaking to - sorry, my
2 learned friend Mr Nicol-Wilson?

3 A. Exactly. To complete what I am trying to say, this is what
4 the people had planned. So I was waiting. If they had come with
14:30:46 5 the money, I would have presented it, that here is the package
6 that they brought. That is true.

7 Q. Yes. You see, I'm suggesting - I am going to put all of
8 these to you and suggest that you never mentioned the figure of
9 10,000 pounds being suggested to you and --

14:31:03 10 JUSTICE DOHERTY: Dollars.

11 MR METZGER:

12 Q. 10,000 dollars being suggested to you and you saying that
13 it was too small.

14 A. No, well, it was a discussion that we were having on our
14:31:17 15 way, on our way to Robert Street. So I said, Yes, it's small,
16 because if you talk about 10,000 dollars how would we distribute
17 it? The three of us, how are we going to distribute it? That's
18 what I said.

19 Q. The questions have already been put on that basis?

14:31:38 20 MR HERBST: Your Honour, I have a problem with the line of
21 this - I have an objection.

22 JUSTICE DOHERTY: Yes, Mr Herbst. Please state it.

23 MR HERBST: Your Honour, the discussion about the 10,000
24 dollars, as I understood the witness's testimony --

14:31:58 25 MR METZGER: Your Honour, if my learned friend is going to
26 be discussing the witness's testimony, may I ask that the witness
27 leaves Court.

28 MR HERBST: [Overlapping speakers]

29 JUSTICE DOHERTY: Mr Herbst just pause a moment. Just

1 pause. I want to avoid interpretation or paraphrasing of what
2 has been said. If the record is exact, and counsel for the
3 Defence is putting something to the witness that has been said
4 already, and then it should be put exactly.

14:32:41 5 If you are objecting to the way he's putting it because you
6 think he's paraphrasing it incorrectly, then I would like you to
7 say what was said. Paraphrasing by yourself could be seen as
8 coaching or leading your witness, and we want to avoid that.
9 That must be avoided.

14:33:05 10 So if you have an exact record and you say Mr Metzger is
11 incorrect and therefore misleading, let me have the correct
12 record.

13 MR HERBST: Your Honour, it wasn't so much as to the exact
14 words that were my problem that I was trying to articulate. And
14:33:32 15 again, I'm hearing the same feedback, so it is quite difficult to
16 have to listen to myself while I am talking. If something could
17 possibly be done about that, I would be most grateful. But let
18 me go on.

19 The counsel is questioning the witness from a document
14:33:53 20 which was written on or before December 7th - or was written on
21 December 7th which related to the conversation that occurred
22 either on or before December 7th. He's asking the witness why
23 the testimony about the 10,000 dollars was not contained in that
24 entry --

14:34:21 25 JUSTICE DOHERTY: He hasn't actually asked that yet.

26 MR HERBST: [Overlapping speakers]

27 JUSTICE DOHERTY: And if he asks that and you have an
28 objection to it, I will let you make the objection.

29 MR HERBST: Well, I believe he did, Your Honour, ask that.

1 I could be wrong. But the point was that what the conversation
2 was relating to that amount of money, the witness said occurred
3 later than December 7th. So I think it's misleading and not fair
4 to the witness to be questioning on it asking him why he did not
14:34:59 5 say on or before December 7th would occur on December 16th.

6 JUSTICE DOHERTY: Unfortunately, I was somewhat misled by
7 your reference to December the 7th myself. Let me see what
8 exactly Mr Metzger is putting so that I can clearly rule on this.

9 Mr Metzger, there was talk about the 7th of December.

14:35:34 10 MR METZGER: Your Honour, yes.

11 JUSTICE DOHERTY: It appears that if you are putting it
12 that it was on the 7th of December - the conversation relating to
13 this once issue, then it's not the 7th of December it's another
14 date. It appears not to be the content but the date.

14:35:53 15 Mr Herbst, am I correct, that it's not the content but the
16 date?

17 MR HERBST: Yes, Your Honour. That the conversation
18 occurred on December 16th and he's asking the witness about why
19 it was not included on his statement to OTP on December 7th.

14:36:09 20 [Overlapping speakers]

21 JUSTICE DOHERTY: And the date the 16th of December, was
22 that adduced in-chief?

23 MR HERBST: Yes. It was --

24 THE INTERPRETER: Your Honour, the interpreters are having
14:36:24 25 a lot of trouble hearing Mr Herbst.

26 JUSTICE DOHERTY: Now we've got two technical problems.

27 MR HERBST: [Overlapping speakers]

28 JUSTICE DOHERTY: Mr Herbst, just pause a moment, please.

29 People cannot hear Mr Herbst and Mr Herbst is having a lot

1 of feedback so he's having a problem.

2 Mr Court Attendant, can you ask the audio visual if there
3 is anything they can do about that.

4 [Chamber and Court Officer confer]

14:37:18 5 JUSTICE DOHERTY: Mr Herbst, our technical people think
6 it's in your end of the connection, so our technical staff have
7 asked their counter-parts in Kigali to look at this.

8 MR HERBST: Your Honour, our technician has just reentered
9 the courtroom.

14:37:41 10 JUSTICE DOHERTY: Mr Herbst you're very clear now.

11 MR HERBST: [Overlapping speakers]

12 JUSTICE DOHERTY: Mr Interpreter, can you hear him?

13 THE INTERPRETER: Indeed, he is very clear now.

14 JUSTICE DOHERTY: Good.

14:37:51 15 Mr Herbst, I was asking you is this an objection to a date
16 rather than to content?

17 MR HERBST: Well, the objection is based on the date.

18 JUSTICE DOHERTY: I see.

19 MR HERBST: The conversation that Mr Metzger is asking the
14:38:10 20 witness about occurred on December 16th. It was on the day they
21 went to the lawyer Mansaray.

22 JUSTICE DOHERTY: Thank you.

23 MR HERBST: [Overlapping speakers]

24 JUSTICE DOHERTY: Mr Metzger --

14:38:25 25 MR HERBST: [Overlapping speakers] document that is dated
26 December 7th and he's asking the witness why that conversation
27 was not included in the conversation that is reflected in the
28 document on December 7th.

29 JUSTICE DOHERTY: I see.

1 Mr Metzger --

2 MR HERBST: [Overlapping speakers]

3 JUSTICE DOHERTY: Mr Herbst, please let me make a ruling on
4 this.

14:38:51 5 MR METZGER: Your Honour's first observation was right. I
6 predicated the point, but I didn't actually ask the witness. I
7 indicated that I was going to show by a reference to all these
8 documents that it was never stated to the OTP that, that was --

9 JUSTICE DOHERTY: Regardless of date.

14:39:09 10 MR METZGER: Regardless of date.

11 JUSTICE DOHERTY: Well, put it in those terms and then
12 we'll have no barraging.

13 MR METZGER: Your Honour, just in case, it may be that
14 Mr Herbst knows something that I don't know.

14:39:22 15 JUSTICE DOHERTY: Have you got a document in relation to a
16 contact on the 16th, Mr Herbst? Because then I won't ask the
17 question, obviously.

18 MR HERBST: If I may respond, Your Honour -- [Overlapping
19 speakers]

14:39:40 20 JUSTICE DOHERTY: Please do so.

21 MR HERBST: There is a memorandum written by Joseph Saffa
22 of the investigative staff of OTP. Give me just one minute, Your
23 Honour.

24 MR METZGER: Whilst my learned friend is looking, if it is
14:40:43 25 a document that's already been served on us, I would ask him not
26 to trouble himself, I have read them all.

27 JUSTICE DOHERTY: Mr Herbst, if it's already disclosed
28 counsel for the Defence has it. So please let us move on. We
29 are wasting a lot of time on one moot point. The point is

1 whether this was stated, it appears to me. So Mr Metzger, put
2 the question.

3 MR METZGER: Thank you, Your Honour. And I will undertake
4 to check the transcript in relation to the point my learned
14:41:23 5 friend raises because my note doesn't give a date.

6 Q. Mr Sesay, the suggestion I am making to you is that during
7 all the time you were in contact with the OTP, at no time did you
8 mention that anyone had suggested the figure of 10,000 dollars
9 which you had said was too small; is that correct?

14:41:52 10 A. Yes, My Lord. I did not mention it to the OTP. But, like
11 I said, when the matter expands, I will explain in detail what
12 has gone on to the Court and the public.

13 Q. Thank you.

14 MR METZGER: Might I encourage Mr Herbst to either take his
14:42:16 15 finger off --

16 JUSTICE DOHERTY: Mr Herbst, could you please switch off
17 your microphone. It's causing us a problem.

18 MR METZGER: Thank you.

19 JUSTICE DOHERTY: Continue.

14:42:24 20 MR HERBST: Yes, Your Honour.

21 MR METZGER:

22 Q. Now, Mr Sesay, let me just put specific things that you did
23 tell the OTP to you. I have already put the first one.

24 Secondly, you told the Prosecutor or the Prosecution that you had
14:42:45 25 no problem with them instituting a contempt investigation; is
26 that right?

27 A. Yes.

28 Q. You also said that you supported such an action; is that
29 correct?

1 A. Yes.

2 Q. And you then said to the Prosecution that you considered
3 this a threat on your life and therefore you did not feel
4 comfortable living in Sierra Leone?

14:43:17 5 A. I said yes because I said when they would have instituted
6 this charge of contempt, the men who are involved, I wouldn't
7 feel comfortable in my area of security. I told the OTP that.

8 Q. Yes. But did you say you wouldn't be comfortable to
9 continue living in Sierra Leone?

14:43:37 10 A. Yes, indeed. I said I won't be comfortable to remain in
11 this country.

12 Q. In fairness to you, did you go further and say that you
13 were fearing for your life because Sammy Ragga and the others -
14 and others will definitely know it was you who had given the
14:43:59 15 information to the OTP, whether or not they mentioned your name?

16 A. Yes. I said they will know because we had the discussion.
17 So if there is a charge of contempt, they would know that it is
18 Bobby that made this report.

19 Q. And you feared that you would not have the free movement in
14:44:23 20 the country as you will always be in fear of going places?

21 A. My Lord, yes. Indeed. I must have that fear because I
22 know the type of men this issue has arisen for. I had that fear.

23 Q. Thank you, Mr Sesay. And did you then advise them that you
24 had foreseen these threats now, immediately after your testimony
14:44:56 25 in The Hague and that you had had no intention of coming back to
26 Africa but you wanted to relocate to France?

27 A. I had discussed this issue yesterday and I can still talk
28 about it. That was at the time that I went to The Hague for the
29 Charles Taylor trial. I - because my sister was in France and

1 had come for the trial, I tried - I spoke with the WVS about the
2 possibility that if it is possible I don't need to come to
3 Freetown when my sisters are ready to take up my responsibility,
4 to take care of me in France. To take me from Holland to France.
14:45:42 5 I said that. So if they took me from The Hague to bring me here,
6 that could be a threat because this single Bobby has been on this
7 trial - out on this trial as said, that could be a threat to my
8 life. I said that.

9 Q. Yes, Mr Sesay. I think - thank you for the background
14:46:05 10 information. I'm actually asking you after you had reported this
11 case, do you recall telling someone at the Office of the
12 Prosecution - this is what I was telling you about. That's why I
13 didn't want to come back. I foresaw these threats. Do you
14 recall something along these lines?

14:46:28 15 A. I said it to the OTP investigators. I said this was
16 something I had foreseen. That is why my sister was trying to
17 get his brother as a citizen in France, to take my brother.
18 Because if the Court had given the go-ahead for me to go, by now
19 nobody would be coming up to me to say, Bobby, I want you to do
14:46:56 20 this or that. I said that wouldn't have happened. I said that.

21 Q. Forgive me, Mr Sesay. What was it that you were afraid of?
22 What were you saying? What were the threats that you were
23 concerned about here?

24 A. I had narrated that. But if you want it again we can go
14:47:21 25 into closed session and I will say it again. I will say that to
26 the Court.

27 MR HERBST: [Overlapping speakers]

28 MR METZGER: Your Honour, I have no desire to go into
29 closed session if that is what he is saying he's afraid of.

1 JUSTICE DOHERTY: There was a lot of evidence.

2 MR METZGER: Yes. On the closed session. Yes. I had
3 anticipated and just to explain why I put the question in the way
4 I did, that he was saying that he was afraid that he was going to
14:47:49 5 be asked to do this sort of thing. That's what I anticipated.
6 Clearly it's something else. I shall move on. Yes.

7 Q. In fact you reminded the people at the Office of the
8 Prosecutor about what you just told us with your sisters in
9 France and their suggestion of, as it were, getting you to settle
14:48:30 10 in France; is that right?

11 A. The suggestion that you are still asking me about, for me
12 to be taken to France, I told you that that was after Charles
13 Taylor's trial when I came, and I told you that my sister who was
14 there to witness the trial was trying to see how best they could
14:48:52 15 speak to the WVS for them to allow them to take me from Holland
16 to France on their account. So I don't want you to say that I
17 was suggesting that I wanted to be in France. It was an advice
18 from concerned for my security. That is why I brought it up with
19 the WVS. But when he said the Court had its own way of doing
14:49:18 20 things, that is why I didn't say anything about it.

21 JUSTICE DOHERTY: Mr Witness, you did explain that to us
22 and what you are talking about is the Charles Taylor trial
23 because you had said it was after that.

24 We had moved on from there, Mr Metzger, please.

14:49:33 25 MR METZGER: Yes. Thank you, Your Honour.

26 Q. I'm sorry, Mr Sesay, that you appear to misunderstand the
27 questions that I ask you on this point. Let me see this. Would
28 it be fair to say that you were upset that WVS did not allow you
29 to stay in France or to go to France instead of coming back to

1 Sierra Leone?

2 A. That's an opinion you are bringing to me --

3 JUSTICE DOHERTY: Mr Witness.

4 THE WITNESS: Yes, ma'am.

14:50:16 5 JUSTICE DOHERTY: Yes or no, were you upset?

6 THE WITNESS: No, ma'am.

7 MR METZGER: Thank you.

8 Q. You were quite happy to come back to Sierra Leone, yes or
9 no?

14:50:28 10 A. I was happy because I had done what I went there to do.

11 Q. Now I am going to ask you about another time when you met
12 both Joseph Saffa and Mr Vahidy, Saleem Vahidy, do you recall -
13 it would appear this was in January 2011, do you recall speaking
14 to Joseph and Saleem about security concerns?

14:51:10 15 A. I spoke with Mr Joseph Saffa who said that he would relay
16 that to Mr Saleem so that I could have discussions with Mr Saleem
17 about my security concerns. I can recall that.

18 Q. At that stage, can you help us again, what were your
19 security concerns in January of 2011?

14:51:34 20 A. My security concerns was related to the contempt charges
21 and the people who were involved. That was my security concern.

22 Q. And what did you want to be done in order to help to ease
23 your security concerns?

24 A. My Lord, as I briefly told them, as long as they are going
14:52:07 25 to charge this issue, I know the men I am involved with. I said
26 that could be a threat to my life in the sense that, as I had
27 said in closed session, I know the men. That is why I was
28 raising that security concern.

29 Q. And did you later on, possibly on or around the 24th of

1 January 2011, again speak to someone at the Office of the
2 Prosecutor, and did you say to them that you saw Sammy Ragga,
3 Mr Kargbo, frequently since the last contact and even after the
4 filing of the contempt motion? Do you remember saying that?

14:53:03 5 A. Yes, I recall.

6 Q. But that he had not brought up the issue of the accused
7 persons in Rwanda to you.

8 JUSTICE DOHERTY: This is post-24 January, Mr Metzger?

9 MR METZGER: On or around the 24th of January that from the
14:53:25 10 time he'd made the report, Mr Kargbo had not raised that issue
11 with him, and he'd even seen him after the contempt - the filing
12 of the contempt motion.

13 JUSTICE DOHERTY: [Microphone not activated]

14 To record what I have said, I was looking at the
14:53:44 15 time-frame.

16 MR METZGER: Your Honour, yes.

17 Q. Now, were you seeing Mr Kargbo in the Sweissy, I think you
18 call it, business area?

19 A. Sweissy.

14:54:00 20 Q. Did you see him on any other basis? Did you see him
21 anywhere else during that time period?

22 A. Which of the time periods are you referring to?

23 Q. After you had informed the Office of the Prosecutor. After
24 you say there had been contact in relation to the 16th of
14:54:23 25 December, between that time and the 24th of January?

26 A. Yes, I was seeing him. I was seeing Sammy.

27 Q. Right.

28 JUSTICE DOHERTY: Now when you say "I was seeing" do you
29 mean you only saw him with your eyes, or do you mean that you

1 were communicating with each other?

2 THE WITNESS: I was seeing him with my eyes. I was seeing
3 him.

4 MR METZGER:

14:54:57 5 Q. Is it not correct that you also saw him with your mouth;
6 that is to say, you spoke together?

7 A. Well, before the contempt issue, we used to see each other,
8 and when they charged the matter we would see each other.

9 Sometimes he would greet me and I will greet him. I will not
14:55:20 10 tell lies about that. It is not like there was malice between
11 us.

12 Q. Indeed. Because what you said to the Office of the
13 Prosecutor was that he hadn't brought up the issue of the accused
14 persons, which means you had spoken to each other.

14:55:35 15 A. Yes.

16 Q. You agree. Thank you.

17 A. Yes. We were talking to each other. We used to greet each
18 other but he did not bring up that issue to me. That's true.

19 Q. But yet you said to the OTP that you felt insecure because
14:55:53 20 nobody had said anything to you about this issue because you
21 didn't know what they had up their sleeves or were planning to
22 do; is that right?

23 A. Yes, that's true.

24 JUSTICE DOHERTY: [Microphone not activated]

14:56:17 25 MR METZGER: Thank you, Your Honour.

26 Q. And you said once again on that occasion, the occasion that
27 I am talking about here, that this was making you not feel free
28 in moving about in your daily business; is that right?

29 A. Yes, that's true. I said as long as those men are going to

1 know about this, I won't feel free. I won't feel free. That's
2 true.

3 Q. And this is at a time when you believe they already knew
4 about it; is that right?

14:56:50 5 A. That is what I why I stated that I did not know whether
6 they've known about it. I said I don't know whether they've been
7 informed that they've done so and so. I said I don't know about
8 that. I said but I won't feel free. I stated that.

9 Q. And you said again that having testified in the three
14:57:02 10 trials you stood a greater risk of insecurity than any other
11 witnesses; is that right?

12 A. Yes. I said it's a risk, that's true, because with these
13 three trials I was just going around, but it was a risk. I won't
14 tell lies about that, sir. You know the threat in the country.
14:57:24 15 You see that - you can see that elections are approaching. You
16 can see the violence. Somebody can use that as a way of seeing
17 me and causing damage to me. I mean, I must say. I must talk
18 about my security concern.

19 Q. Mr Sesay, the bottom line - sorry.

14:57:48 20 MR METZGER: I withdraw that question, Your Honour.

21 Q. The truth of the matter here is, you were simply trying to
22 put pressure on the OTP to make arrangements so that you could go
23 to France; is that not right?

24 A. No, My Lord. I want to put it to you, I think you were not
14:58:12 25 here when this war happened in this country. I know the people
26 --

27 Q. Please don't make assumptions. [Overlapping speakers]

28 A. [Overlapping speakers] you are not a fighter. You are
29 defending. You are not a fighter. You are defending. You are

1 not a fighter in this country.

2 JUSTICE DOHERTY: Mr Witness, please do not engage in
3 arguments with counsel. Questions and answers are for me.

4 THE WITNESS: Thank you.

14:58:37 5 JUSTICE DOHERTY: The issue was put to you that you are
6 putting pressure for arrangements so that you can go to France
7 and your answer was no.

8 THE WITNESS: No, ma'am.

9 JUSTICE DOHERTY: And don't argue with counsel.

14:58:50 10 Continue.

11 MR METZGER: Thank you.

12 Q. Now there is another document which I am going to ask you
13 about. This is not something you've seen.

14 MR HERBST: I'm sorry, Your Honour, to interrupt. We did
14:59:12 15 lose the link.

16 JUSTICE DOHERTY: Can you hear me now, Mr Herbst?

17 MR HERBST: I can hear you now, Your Honour. It just was -
18 the audio is restored and now the video has just been restored.

19 JUSTICE DOHERTY: Did you hear the answer to the question
14:59:29 20 that the witness was asked: Did you say you testified in three
21 trials and you were at a greater risk than any other witness.
22 Did you hear that?

23 MR HERBST: Yes. And I heard his answer, no, to the
24 question of whether he was trying to pressure OTP to send him to
14:59:47 25 France. [Overlapping speakers]

26 JUSTICE DOHERTY: Yes. The next question is about to
27 start. There has been no answer recorded since that.

28 MR HERBST: Thank you, Your Honour.

29 MR METZGER: Thank you, Your Honour. Thank you.

1 Q. The next thing I want to ask you about, please -

2 MR METZGER: I'm sorry, Your Honour, that I am going back
3 to the 3rd of December, 2010, but that's a different document.

4 JUSTICE DOHERTY: [Microphone not activated]

15:00:19 5 MR METZGER:

6 Q. On the 3rd of December, Mr Sesay, somebody from the OTP
7 called you. That was the time when they were informing you this
8 matter was going to be reported to the Registrar for action and
9 asked how you felt about the intended action, especially in
10 relation to your security. Do you remember that call?

15:00:44

11 A. Yes, My Lord.

12 Q. Thank you. At that time you said you had no objection but
13 you were concerned about your security, and you said that the
14 convicts had their agents here in Sierra Leone. You would not
15 feel protected in their hands should they eventually get to know
16 that you are the one who relayed this message to the Office of
17 the Prosecutor?

15:01:13

18 A. Yes, I remember that.

19 Q. Thank you, Mr Sesay. You also went on to say that you had
20 been often referred to by your AFRC counterparts as a betrayer.
21 So if this issue came to light again, it would just go to confirm
22 what has already been alleged against you. Do you recall saying
23 that?

15:01:25

24 A. Yes, My Lord.

25 Q. You said you were quite tormented. But you did not make
26 any suggestions at that stage about what should be done in
27 relation to your security issues, but were happy with whatever
28 measures the OTP take to protect you; is that correct?

15:01:48

29 A. Yes, My Lord.

1 Q. And that was when you said that Sammy Ragga had gone to
2 your house that morning to talk about another call; is that
3 right?

4 A. Yes, My Lord.

15:02:29 5 Q. And it was on that occasion that you said Sammy Ragga told
6 you about Bazzy's brother, the Chairman for the APC party in
7 America, and about His Excellency Mr Sam-Sumana, the
8 Vice-President of this country; is that right?

9 A. Yes, My Lord.

15:03:00 10 Q. Now I think, Mr Sesay, that this is something, just for the
11 purpose of being thorough, that is included in your statement of
12 the 9th of December. If you turn to page 3 where you say you
13 received a call from the convicts. Do you see that?

14 A. Yes, My Lord.

15:03:46 15 Q. Thank you. Now again I am suggesting to you that both in
16 this statement and in what you said to the OTP, you simply said
17 "the convicts" and not Bazzy and Five Five as you have said in
18 your evidence. Do you agree with me?

19 A. Yes, I agree. But I was referring, like I said, the

15:04:18 20 investigators were writing. I was referring to the convicts, the
21 people who had gotten in contact with me. And I had been
22 referring it. It depends on what he wrote. I'd named the
23 convicts who contacted me. I can't say what they wrote here. I
24 cannot agree with it. I agree with it.

15:04:40 25 Q. And that is why, Mr Sesay, I referred you to your statement
26 because that is covered in your statement where again it says
27 "the convicts told him", that is to say, Mr Kargbo. So you
28 didn't name Five Five in your statement; is that right?

29 A. My Lord, if you look from the beginning of my statements,

1 when I talked about the convicts, I did not name anybody that did
2 not contact me there. The people who said their name to me and
3 the people who contacted me are the people I named in this thing.
4 So if I say the convicts, I am referring to those people who
15:05:22 5 called me, the people who spoke to me.

6 Q. And yet when you gave your evidence you said it was Bazzy
7 and Five Five?

8 A. Yes.

9 Q. I see.

15:05:41 10 MR METZGER: Your Honour, I don't repeat the suggestion I
11 made earlier. I take it as read. It saves time. Thank you.
12 Bear with me for just one moment.

13 Q. Do you personally know this brother of Bazzy's that they
14 are talking about?

15:06:08 15 A. I stated it clearly that I do not Bazzy's brother. It was
16 Sammy who told me that Bazzy said he's contacted his brother who
17 has contacted the Vice-President. I never said I know him. It
18 was what Samuel Kargbo told me.

19 Q. Right. So you told the Prosecutor at that very early stage
15:06:51 20 that it was your understanding, from what you had been told by
21 Mr Kargbo, that the Vice-President of this country had been
22 contacted by the brother of one of these convicts, yes?

23 A. Yes, My Lord. That is what Sammy told me.

24 Q. And you told the Prosecution that response of the
15:07:23 25 Vice-President of the Republic of Sierra Leone was that he would
26 give any assistance within his reach to get the convicts out of
27 jail in Sierra Leone?

28 A. Yes. That is what Sammy explained to me. That is what he
29 told me that his brother told him.

1 Q. And did you believe that?

2 A. My Lord, I believed because the man told me. I believed.

3 He is a man who - I didn't doubt what he said.

4 JUSTICE DOHERTY: [Microphone not activated]

15:08:20 5 MR METZGER: Right. Your Honour, I'm moving, Your Honour,

6 to - I have two, possibly three more documents; the first of

7 which is a December 7, 2010, interoffice memorandum from one

8 member of the OTP to another, copying a third.

9 MR HERBST: Your Honour --

15:09:00 10 MR METZGER:

11 Q. It large --

12 JUSTICE DOHERTY: Mr Herbst.

13 MR HERBST: Your Honour, unless I am mistaken --

14 JUSTICE DOHERTY: Yes, please speak louder. What you are

15:09:11 15 saying?

16 MR HERBST: I am speaking, Your Honour, as loud as I

17 possibly can without --

18 JUSTICE DOHERTY: Yes, I understand. Continue.

19 MR HERBST: I believe that the document counsel is

15:09:24 20 referring to, he's already essentially questioned the witness on

21 because it was incorporated into the contact summary that - on

22 the date December 7th that counsel earlier referred to.

23 JUSTICE DOHERTY: If it's a separate document, I'm going to

24 allow him to question on it.

15:09:49 25 Proceed.

26 MR METZGER: I am very grateful to Your Honour. My learned

27 friend will be pleased to learn that I only want to ask about the

28 last four asterisks, so to speak, on that particular page - on

29 the first page.

1 Q. Mr Witness --

2 MR HERBST: Well, Your Honour, if counsel is going to only
3 ask about the first of those four --

4 THE INTERPRETER: Your Honour, we can't hear Mr Herbst.

15:10:24 5 We've finding it very difficult to hear Mr Herbst.

6 JUSTICE DOHERTY: I understand, Mr Interpreter.

7 Mr Herbst, can some technician on your side do something
8 about the volume, please?

9 MR HERBST: Your Honour, there are no technicians inside
15:10:35 10 the courtroom. I think one may be outside the courtroom. He is
11 now coming in.

12 Can you Your Honour hear me now?

13 JUSTICE DOHERTY: I can hear you, but I am not sure about
14 the interpreter. But let me hear what you've got to say and I
15:11:14 15 will - Mr Interpreter, can you hear?

16 THE INTERPRETER: We are still having difficulties hearing
17 him.

18 JUSTICE DOHERTY: Well, I will record what he says, and
19 then I will read it out loud so that you can hear,
15:11:24 20 Mr Interpreter.

21 Mr Herbst, please let me have your objection or
22 observation.

23 MR HERBST: Your Honour, if the witness is going to be
24 questioned about the first of the asterisks that he just
15:11:39 25 mentioned, I would ask that we go into closed session.

26 JUSTICE DOHERTY: Mr Interpreter, Mr Herbst said if the
27 witness is going to be asked about the first asterisk, he would
28 ask to go into closed session.

29 Mr Metzger, you have heard - it's not so much an objection

1 but an observati on.

2 MR METZGER: With the greatest of respect to my learned
3 friend, I don't think that's necessary at all. I am going to ask
4 him, as I said, about the last four asterisks on that page. It's
15:12:16 5 all about going to France.

6 JUSTICE DOHERTY: Well, I haven't got the document. So if
7 there is a series of asterisks, and you are talking about the
8 last four, not the first, please proceed.

9 MR METZGER: Thank you, Your Honour.

15:12:32 10 Q. Mr Sesay, I had already asked you some questions about what
11 you said to the OTP on the 7th of December. Here are a few
12 further questions.

13 Did you tell someone at the OTP that your sisters were
14 still willing to assist you to relocate to France?

15:12:58 15 A. Yes. I said I had had discussions with my sisters, and
16 they still said that if you are still find - if you can still
17 find a way to go and stay with us, for your own security you can.

18 Q. And that your sisters can initiate, can start this, by
19 filing an invitation for you through the French embassy that will
15:13:23 20 enable you to secure a valid visa for France. Did you say that?

21 A. Yes. I discussed that with the - I told them. I said my
22 sisters were willing to send the invitation so that I can secure
23 a visa from the French embassy to go to them.

24 MR HERBST: Your Honour --

15:13:42 25 JUSTICE DOHERTY: Yes.

26 MR HERBST: [Overl appi ng speakers].

27 JUSTICE DOHERTY: Now what's happened? Yes, Mr Herbst.
28 Have you lost the connecti on?

29 MR HERBST: We have lost the link again.

1 JUSTICE DOHERTY: Mr Court Attendant, can you please see
2 about that.

3 MR HERBST: [Overlapping speakers] restored. Can I have
4 what was said in our absence repeated?

15:14:05 5 JUSTICE DOHERTY: Certainly.

6 The witness was asked, did he tell someone that your
7 sisters are still willing to help you relocate, and you were
8 told - your sisters told him, for your security? He answered
9 yes. And your sisters said they could initiate an application
10 with the French embassy for a valid visa. And the witness was
11 saying, Yes, I discussed with them, but I have not heard the last
12 of that answer.

13 Mr Witness, could you complete the answer, please. You
14 said, I discussed with them.

15:14:43 15 THE WITNESS: Yes, I discussed that with my sisters and
16 they said, yes, they would be willing at any time to write an
17 invitation letter to see that I go to France for my security.
18 That was the discussion between myself and my sisters.

19 MR METZGER: Just for Your Honour's record, the "for my
15:15:13 20 security" was part of the witness's answer and not what I put to
21 him.

22 JUSTICE DOHERTY: If I misquoted, I was clear that it was
23 his answer. Of that I am clear.

24 MR METZGER: Yes. I am not saying it was a misquote, I am
15:15:25 25 just for clarification purposes knowing the difficulties that
26 Mr Herbst has. I think he's on the button.

27 JUSTICE DOHERTY: Mr Herbst, yes.

28 MR HERBST: Yes, Your Honour. Was there an earlier
29 question and answer before the one Your Honour read?

1 JUSTICE DOHERTY: It went back to the fourth asterisk:
2 "Did you tell someone at OTP that your sisters were still willing
3 to help you to relocate?" And the witness had said that he had
4 told his sisters - sorry, the answer was yes, that he had told
15:16:02 5 his sisters and it was for his security. There was a bit that I
6 did not note. And then next one was: Your sisters - you told
7 OTP your sisters can initiate an application with the French
8 embassy for a valid visa. I think you heard me give that answer.
9 Did you hear that, Mr Herbst?

15:16:22 10 MR HERBST: Yes, thank you, Your Honour. Yes, thank you,
11 Your Honour.

12 JUSTICE DOHERTY: Very good.

13 Please continue.

14 MR METZGER: Thank you, Your Honour.

15:16:30 15 Q. The third thing: You said that your accommodation and
16 welfare will be, I think it should be "borne" as opposed to
17 "bored" - but it's written as "bored" - by your sisters in
18 France. They would look after your accommodation and welfare
19 while you are in France; yes?

15:16:52 20 A. Yes. That is what my sisters told me. They will be able
21 to facilitate everything, and they will be able to take care of
22 my accommodation in France.

23 Q. And fourth and finally in respect of the 7th of December --

24 JUSTICE DOHERTY: Mr Metzger, I understand the tape has to
15:17:13 25 be changed, so if you could pause, please.

26 THE COURT OFFICER: We are ready, Your Honour.

27 JUSTICE DOHERTY: Mr Metzger, please proceed. The tape is
28 changed.

29 MR METZGER: Thank you, Your Honour.

1 Q. Mr Sesay, fourthly and finally as far as the 7th of
2 December is concerned, did you tell the OTP that you will only
3 need the Court - firstly, to assist you securing the visa - if
4 the French embassy refuses to grant it to you?

15:18:21 5 A. Yes, I said that. I said because if they want to make it
6 difficult - because maybe they would take it that I had done it
7 and they will reject it. If the Court can assist in that, they
8 shouldn't be bothered about my lodging or my transportation. My
9 sisters would take care of that.

15:18:39 10 Q. And you were saying that because - in case they refused to
11 grant you because you had exposed yourself after testifying in
12 open Court; is that right?

13 A. Yes, I said that.

14 Q. Secondly, did you say for the Special Court to provide you
15 with an air ticket to Paris, France?

15:19:06 16 A. I said that would be my only problem. If my sisters said
17 they would help, if they can help - if they can facilitate my
18 getting a ticket, that would not be a problem because my sisters
19 had offered - all other sisters. If we talk about ticketing,
15:19:28 20 then I said, No problem. I said if the Court can provide me a
21 ticket, I said, No problem, I'll go. They shouldn't be worried.

22 Q. So, Mr Sesay, in summary, you wanted the Court to assist
23 you with getting a valid visa to go to France and the air ticket?

24 A. Well, at the particular time a discussion was going on
15:19:56 25 between myself and the investigator when I was explaining to him.
26 It was during the discussion I told him that. I said because if
27 they want to say the jurisdiction of the Court does not give them
28 the right to send me, I said my sisters were willing to do that
29 just so that I do not put them on under strains. If the Court

1 can give me ticket money, I can go and live my life with my
2 family. I said that.

3 Q. Was it your plan to go off before the contempt trials came
4 up?

15:20:29 5 A. This is a long time plan that my sisters had tried to
6 organise and it was in my mind too that I should travel. I had
7 been planning it for me to travel. I said should go because I do
8 not consider myself as being secured. I said that.

9 JUSTICE DOHERTY: Mr Witness, yes or no answer to the
15:21:00 10 questi on.

11 THE WITNESS: Can you repeat the questi on?

12 MR METZGER: I am happy for Your Honour to repeat it for
13 me.

14 JUSTICE DOHERTY: Did you intend to go before these - the
15:21:07 15 contempt proceedings?

16 THE WITNESS: My Lord, I had planned that. Yes.

17 MR METZGER:

18 Q. Thank you, Mr Sesay. Can I move on, please, then to the
19 14th of December.

15:21:30 20 MR METZGER: Again, I'm relying, Your Honour, on another
21 interoffice memorandum.

22 Q. Was this an occasion, Mr Sesay, when you told a member of
23 the OTP, prior to the - okay. I'll put it differently. When you
24 told a member of the OTP that you had met with Mr Kargbo face to
15:22:02 25 face, that he told you that he had been contacted himself from
26 Rwanda; do you remember that?

27 A. I'd like you to state the time, because I have not gotten
28 this clearly.

29 Q. I can only help you in this way, Mr Sesay: That you told

1 someone from the OTP that a short while before calling, you met
2 Sammy Ragga, and he told you that someone from Rwanda had called
3 him the day before that and even that same day. Do you remember
4 saying that to someone from the OTP?

15:22:57 5 A. I am still in doubt, because there was a period of time
6 that we spoke. That's what I am trying to say. Whether it was
7 on the 26th of January - I mean, November the 26th, I just want
8 you to state the time for me, please.

9 Q. December 14. I can't tell you the time of day, but it
15:23:19 10 seems that on December 14 this call came through. This was the
11 day in which you were telling the OTP not to proceed with the
12 proposed filing of the contempt motion the following day.

13 A. I can recall that I told the OTP that Sammy had got in
14 contact with the men in Rwanda and that he was waiting for their
15:23:42 15 reply. I said, Well, they should wait until the man comes with a
16 reply. I said that.

17 Q. So you thought you would lead the investigation for the
18 Prosecution, did you?

19 A. I was not leading the investigation.

15:23:57 20 MR HERBST: Objection, Your Honour.

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

22 MR HERBST: I object to that question.

23 JUSTICE DOHERTY: Yes, it was a facetious question.

24 MR HERBST: Asking the witness if he thought he was
15:24:14 25 leading --

26 JUSTICE DOHERTY: Well, perhaps it should be reworded in a
27 different way. It's a forceful question, but perhaps rewording
28 would be appropriate, because there is a point that can be made
29 on this.

1 MR METZGER: I thank you, Your Honour. I shall try to be
2 not as forceful this time, and I am sure - hopefully take
3 Mr Herbst' feelings into account.

4 Q. Mr Sesay, were you in effect suggesting to the Prosecution
15:24:55 5 that they should not file the contempt motion at the time they
6 had planned to file it?

7 A. I did not suggest. I said there was a point at hand
8 whereby the person that I have reported about has told me that
9 they were going to contact him. I said wait so that I will
15:25:19 10 complete exactly what I wanted to tell to the investigation
11 department, because if you make any charges now, you will not
12 have a complete source. It will be fruitless. I said that.

13 MR HERBST: [Overlapping speakers]

14 MR METZGER: It may have been a better answer to the first
15:25:35 15 question.

16 JUSTICE DOHERTY: Yes, Mr Herbst.

17 MR HERBST: Excuse me, Your Honour. Can Your Honour hear
18 me?

19 JUSTICE DOHERTY: I can, Mr Herbst. Are you reminding me
15:25:45 20 of --

21 MR HERBST: You asked me to advise --

22 JUSTICE DOHERTY: -- your appointment?

23 MR HERBST: I am, Your Honour.

24 JUSTICE DOHERTY: You have to leave shortly, Mr Herbst; is
15:25:56 25 that right?

26 MR HERBST: That is correct, Your Honour.

27 JUSTICE DOHERTY: Just let me ask one question.

28 Do you have many more questions, Mr Metzger?

29 MR METZGER: Your Honour, I don't have many more questions.

1 I was hoping that I would finish within the next five minutes.
2 Don't hold me to it, but I'm aiming for that.

3 JUSTICE DOHERTY: Mr Herbst, it would be very neat if we
4 could finish the cross-examination of Mr Metzger in the next five
15:26:22 5 minutes. Are you prepared to allow us five minutes?

6 MR HERBST: Yes, Your Honour.

7 JUSTICE DOHERTY: Thank you.

8 MR METZGER: Thank you, Mr Herbst and Your Honour.

9 Q. Mr Sesay, you've answered the last question. Effectively,
15:26:44 10 you advised the OTP to put a hold on the filing of the contempt
11 motion until Thursday - that is to say, for one whole day - to
12 see whether the people contacted you so that they could get
13 stronger evidence; is that right?

14 A. I did not hold them. I advised them. I said someone who
15:27:11 15 is part of this issue had called me saying they were going to
16 contact me. You cannot establish a case or so - you are almost
17 an investigator. You are a lawyer. You cannot establish a case
18 without having the truth of all of it. So if someone would say
19 that I lied, that I said, Wait, that man said he's going to call
15:27:34 20 me. I advised that you wait until that man calls me, then I will
21 report to you exactly what that man told me and what their plan
22 was. That is what happened, My Lord.

23 JUSTICE DOHERTY: Yes, continue.

24 MR METZGER: Thank you.

15:27:47 25 Q. In any event, you, I think, have already agreed that you
26 didn't receive any contact and there was no package or no
27 modalities seemed to have been put in place that were coming your
28 way; is that right?

29 A. Yes, that's true.

1 MR METZGER: And I just want to check my matrix to make
2 sure that I have covered all the points. I think that was the
3 last-but-one question. I want to just check that very quickly
4 and still stay within the time-frame. Yes.

15:28:58 5 Q. Mr Sesay, finally this --

6 MR METZGER: In effect, Your Honour, I have put this before
7 and I just want to put it as a closing basis.

8 Q. For whatever reasons, possibly to support your relocation
9 to France, you have decided to involve Mr Kanu in this case?

15:29:28 10 A. No, My Lord. It is clear. I never planned an issue.
11 People met me and they told me this and that. I never planned or
12 I did not sit with anybody to plan anything. They met me and I
13 made a report to the appropriate authorities. So it's not any of
14 those plans. I know God would make a way for me to travel.

15:29:53 15 JUSTICE DOHERTY: Mr Nicol-Wilson, are you laughing?

16 MR NICOL-WILSON: No, Your Honour. I did not.

17 JUSTICE DOHERTY: Well, I heard laughter and I thought it
18 was emanating from the shape of your --

19 THE INTERPRETER: Your Honour's microphone is not on.

15:30:09 20 JUSTICE DOHERTY: I heard laughter and it appeared that you
21 were turned and I saw some movement.

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

23 JUSTICE DOHERTY: Well, who was laughing? I beg your
24 pardon?

15:30:25 25 [Microphone not activated] Smiling? No, it was more than
26 smiling.

27 THE INTERPRETER: Microphones.

28 JUSTICE DOHERTY: Smiles don't make noise. Laughter does.
29 I will not tolerate this type of behaviour in this Court.

1 Mr Metzger, I made a note that the witness has said he made
2 a report to the authorities.

3 Ms Serry-Kamal.

4 MS SERRY-KAMAL: Yes, Your Honour?

15:30:57 5 JUSTICE DOHERTY: Serious face, please.

6 MS SERRY-KAMAL: Okay.

7 JUSTICE DOHERTY: Yes, Mr Metzger.

8 MR METZGER: I hesitate to ask Your Honour to amend your
9 note lest I --

15:31:10 10 JUSTICE DOHERTY: I want to be clear because I
11 interrupted --

12 MR METZGER: Yes. But, of course, if Your Honour were to
13 amend your note, I mean, subject to what the transcript says, I
14 think the witness said, "God will provide a way for him to
15 travel."

15:31:21 15
16 JUSTICE DOHERTY: He did indeed say that.

17 Your five minutes are up, Mr Metzger.

18 MR METZGER: Unfortunately, some of those five minutes were
19 taken up. I am quite happy to stop here. I did want to put one
20 more question.

15:31:39 20
21 JUSTICE DOHERTY: One question. And if it is the last one,
22 this would be neat to complete.

23 MR METZGER: That's entirely what I hope to do.

24 Q. I am suggesting to you, Mr Sesay, that Mr Kanu never spoke
15:31:53 25 to you about anything, let alone this plan that you have come to
26 tell this Court about.

27 A. My Lord, I am putting it directly to you that Mr Kanu, who
28 is Five Five, spoke to me and tried for me to assist him on this
29 issue. He spoke to me. I am putting it to you and the Court.

1 MR METZGER: Your Honour, that - we've lost the link, I
2 think. I was going to say that's my last question.

3 I hope Your Honour reads it that when I put it in that - in
4 its entirety, I also say that in any event any conversation did
15:32:43 5 not involve asking him to lie by changing his testimony.

6 JUSTICE DOHERTY: Did you want to put that as a question?

7 THE COURT OFFICER: Your Honour, it seems we've lost the
8 link.

9 MR METZGER: [Overlapping speakers] for the record but
15:32:58 10 we've lost the link, and I am sure Mr Herbst will be a little
11 anxious. I don't want to take up anymore of the valuable time.
12 I am sure he did indicate it was very important.

13 JUSTICE DOHERTY: Yes. I hope --

14 MR METZGER: If anything, can Your Honour just allow that
15:33:14 15 part of the question to be put on the next occasion we sit
16 tomorrow?

17 JUSTICE DOHERTY: Well, I will allow it to be put in and
18 I'll read it into the - Mr Herbst, can you hear?

19 MR HERBST: [Overlapping speakers] Your Honour, but we had
15:33:28 20 lost the link.

21 JUSTICE DOHERTY: Yes. The last question was about to be
22 put and we lost the link.

23 Mr Metzger, put the question and then that will complete
24 it.

15:33:36 25 MR METZGER: Thank you, Your Honour.

26 Q. Mr Sesay, in any event I suggest to you that at no stage
27 has Mr Kanu ever asked you to lie by changing your story - or,
28 sorry, to change your story by lying?

29 A. My Lord, I am also putting it to you that Mr Kanu and

1 others, Sammy Ragga, they told me that I should change my story.
2 That was the - that is why they were trying to convince me to
3 please help them, that that is the only thing that would save
4 them, to change my story. I am putting it to you that I should
15:34:22 5 lie.

6 JUSTICE DOHERTY: Thank you, Mr Witness.

7 Mr Melron Nicol, that's the end of the cross-examination.

8 MR NICOL-WILSON: Yes, Your Honour. Before the Independent
9 Counsel leaves, I want to give an indication that I will be
15:34:37 10 applying for bail. Yesterday we forgot but --

11 JUSTICE DOHERTY: No, yesterday you told me that you were
12 not applying until the end of 334's evidence and it's not
13 completed yet.

14 MR NICOL-WILSON: Yes.

15 JUSTICE DOHERTY: So that's why I presumed you weren't
16 pursuing it.

17 Mr Witness, that is the end of your testimony for today.
18 Please assist the witness out, and I'll remind you that you are
19 still under oath and you are not to discuss your evidence with
15:34:58 20 any person.

21 Mr Serry-Kamal, you are to proceed next tomorrow morning.
22 You said you have an appointment. I wish you had told me that
23 earlier. I would have interposed you before Mr Metzger, but so
24 be it.

15:35:09 25 And if that is still the situation, Mr Herbst, you may have
26 to interpose Mr Saffa tomorrow morning if counsel for Kamara is
27 not here.

28 But how long will you be, Mr Serry-Kamal?

29 MR SERRY-KAMAL: It won't be long. I usually have

1 preference.

2 JUSTICE DOHERTY: You lucky man. Very good. I will --

3 MR METZGER: But might I simply remind Your Honour that
4 tomorrow is Thursday and whatever we do tomorrow, there are
15:35:41 5 certain travel plans that we have to take into account.

6 JUSTICE DOHERTY: I've already indicated the Court will
7 rise at 12.30, and I would obviously like to - clearly, for
8 everybody's sake, it would be good to have this witness's
9 evidence finished.

15:36:01 10 Mr Herbst --

11 MR HERBST: Your Honour, I did not hear what Mr Serry-Kamal
12 had to say.

13 JUSTICE DOHERTY: Mr Serry-Kamal said that he would not be
14 long, that he got preference, and he wasn't able to - he did not
15:36:13 15 give us a precise time. But I would put you on notice, that if
16 there is a delay I want Mr Saffa interposed. And then as soon as
17 Mr Serry-Kamal becomes available, I will recall 334.

18 Did you hear me, Mr Herbst?

19 MR HERBST: Yes, Your Honour. Do we know what time the
15:36:40 20 appointment is that Mr Serry-Kamal has?

21 JUSTICE DOHERTY: No, he didn't give me any information and
22 I did not ask, but he has undertaken to be here as quickly as he
23 can and he has stressed that he has preference.

24 MR HERBST: Thank you, Your Honour.

15:36:59 25 JUSTICE DOHERTY: But I am putting you on notice now,
26 Mr Herbst, of that directive.

27 If there are no other matters, I am going to adjourn Court
28 to 9.00 tomorrow to allow Mr Herbst to honour his appointment,
29 and the status quo in relation to both co-accused who are present

1 in this Court will be maintained.

2 Please adjourn Court until 9.00 tomorrow morning. And
3 counsel has correctly reminded, spoken about travel, and we have
4 to bear that in mind as well.

15:37:35 5 Please adjourn Court until 9.00.

6 [Whereupon the hearing adjourned at 3.38
7 p.m., to be reconvened on Thursday, the
8 27th day of June, at 9.00 a.m.]

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