

THE SPECIAL COURT FOR SIERRA LEONE

CASE NO. SCSL-2004-15-T  
TRIAL CHAMBER I

THE PROSECUTOR  
OF THE SPECIAL COURT  
V.  
ISSA SESAY  
MORRIS KALLON  
AUGUSTINE GBAO

MONDAY, 17 JANUARY 2005  
11.50 A.M.  
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Candice Welsh  
Mr Matteo Crippa

For the Registry:

Ms Maureen Edmonds  
Mr Geoff Walker

For the Prosecution:

Mr Peter Harrison  
Ms Sharan Parmar  
Mr Robert Braun  
Mr Mark Wallbridge (Case Manager)

For the accused Issa Sesay:

Mr Wayne Jordash  
Ms Sareta Ashraph  
Ms Chloe Smythe

For the accused Morris Kallon:

Mr Shekou Touray  
Mr Melron Nicol-Wilson

For the accused Augustine Gbao:

Mr Andreas O'Shea  
Mr John Cammegh

1 Monday, 17 January 2005  
2 [The accused not present]  
3 [Upon reconvening at 11.50 a.m.]  
4 [Open session]  
11:46:04 5 [The witness entered court]  
6 PRESIDING JUDGE: Good morning, learned counsel, we are  
7 resuming the session. We should really have resuming  
8 earlier, but we got our timing wrong. We could have  
9 resumed as early as 10.30 or 11.00, but I think we got  
11:48:09 10 our -- we went wrong somewhere in our precision of the  
11 timing for the ceremony. So we are there now, starting  
12 before 12.00. It's not too bad. We've gained some  
13 minutes. We will proceed with cross-examination by  
14 Mr Touray for the second accused.  
11:48:26 15 WITNESS: TF1-304 [Continued]  
16 CROSS-EXAMINED BY MR TOURAY: [Continued]  
17 MR TOURAY: Much obliged, Your Honour.  
18 Q. Good morning, Mr Witness.  
19 A. Good morning.  
11:48:44 20 Q. I want to take you back to Yaryah. When you got to  
21 Yaryah, you told the Court that you met a XXXX;  
22 is that correct?  
23 A. It was XXXXX that took us out of the bush. He  
24 gathered us out from the bush.  
11:49:22 25 PRESIDING JUDGE: Can we have the translation again, please?  
26 THE INTERPRETER: XXXXX bought us from the bush. He  
27 gathered us from the bush. He found us there.  
28 THE WITNESS: It was him who told us to come from the bush and  
29 come to town.



1 MR TOURAY:  
2 Q. And you voluntarily came to town, you yourself, to  
3 Yaryah, leaving the bush?  
4 A. I was not alone. There were many other civilians, so we  
11:50:28 5 had to come because we were all under them. There was no  
6 other place to go, so we came to town.  
7 PRESIDING JUDGE: No, the counsel said "voluntarily".  
8 Voluntarily.  
9 THE WITNESS: At all, we came voluntarily. They didn't do us  
11:50:50 10 anything.  
11 MR TOURAY:  
12 Q. How many of you civilians came to Yaryah from the bush at  
13 that time?  
14 A. There were many of us. We were not from one family.  
11:51:44 15 There were over 100 of us.  
16 Q. When you came, according to your evidence, XXXX  
17 told you - you people - that they had taken over the  
18 whole country?  
19 A. Yes.  
11:52:50 20 Q. And you believed him?  
21 A. I could believe him, because they were all over the place  
22 and the people who were going to for security were now  
23 removed.  
24 Q. And at that point you were willing to cooperate with  
11:53:54 25 them?  
26 A. During the war, when things really got bad and someone  
27 comes and tells you come out of the bush and come to  
28 town, we wouldn't refuse. In fact, we were going towards  
29 people for security and those people were removed, so we



1 had no choice but to stay with them. We did not come and  
2 tell them, "Hey, we want to sit and be part of you."  
3 Q. My question, Mr Witness, is: You were willing to  
4 cooperate with them at that point, not the explanation  
11:54:53 5 you have given.  
6 A. We initially run away from them and they went into the  
7 bush and told us to come out and come to town. We did  
8 not voluntarily come and start settling together with  
9 them. So when they called us that was why we came to  
11:55:27 10 town.  
11 Q. I was not asking for any explanation. Were you willing  
12 to cooperate with them at that point? That is the  
13 question. You are me giving oral explanations, I didn't  
14 request any explanations. Answer my questions directly.  
11:55:42 15 Were you willing to cooperate with them at that point?  
16 That is the question.  
17 MR HARRISON: With respect, I say that the witness is  
18 entitled -- [Overlapping speakers]  
19 JUDGE THOMPSON: Just a minute.  
11:55:54 20 MR HARRISON: The witness is entitled to answer and give an  
21 explanation to the answer, which he's done.  
22 JUDGE THOMPSON: The difficulty, of course, is that the  
23 question was a direct question and, of course, we are  
24 familiar with this witness putting forward his own  
11:56:17 25 theories in terms of what happens in war times and to  
26 give context to the answers that he has given. I don't  
27 see any difficulty here if, as long as we are not taken  
28 on kind of a long journey of explanations, I think,  
29 counsel, we'll take the answer because I think he said



1 that in war time -- or during war time when things got  
2 bad -- he was virtually putting your question in context.  
3 You wanted to know whether they came out voluntarily. So  
4 perhaps we should let him try again and in a brief  
11:57:05 5 explanation give you an answer to your question.

6 MR TOURAY: As Your Honour pleases.

7 PRESIDING JUDGE: You see, let the witness -- Mr Harrison, he  
8 has given some explanations, you know, but, even if he  
9 has to explain, let him answer the question. Let him  
11:57:26 10 answer the question. Were they willing to cooperate with  
11 them and then, you know, in what context. That is what I  
12 think the witness should do.

13 JUDGE THOMPSON: Go ahead counsel.

14 MR TOURAY:

11:57:43 15 Q. Mr Witness, could you answer the question. Were you  
16 willing to cooperate with them at the time?

17 A. I was not willing.

18 Q. Did they tell you to return to your villages and they  
19 asked you to go to each village and brush around the  
11:58:28 20 villages? Did you object to that?

21 A. No, we didn't refuse, we didn't object; we couldn't.  
22 When they say, "Return to your village and brush around  
23 it," who would not?

24 Q. They XXX and XXXXXX enable you to go  
11:59:23 25 to XXX. Did you refuse XXXX?

26 A. I didn't refuse it.

27 Q. And you did go to XXXX, did you not?

28 A. I went.

29 Q. And when you arrived XXXX your presence was





1           XXXXXXXX that xxx, is that correct,  
2           as a son of the soil?  
3    A.    Yes.  
4    Q.    You found them holding a meeting in the church and they  
12:01:16 5           called you in. Did you refuse?  
6    A.    I did not refuse.  
7    Q.    And I believe you said in your evidence you found  
8           Colonel Junior, Sylvester Kieh, Colonel Biabia, Major Saw  
9           in the church; not so?  
12:02:01 10   A.    Yes.  
11   Q.    You had a discussion with them voluntarily, didn't you?  
12   A.    Yes. They asked me to come back to my village. When I  
13           come, whatever they say to me I'll listen to them.  
14   Q.    In what language did you converse with them at that time?  
12:02:47 15   A.    It was Krio we used. Used Krio language, yes.  
16   Q.    Is it not a fact that Colonel Junior is in fact born of  
17           Tombodu, Junior?  
18   A.    He is not born of Tombodu. He belongs to another ethnic  
19           group.  
12:03:22 20   Q.    But is Kono by tribe?  
21   A.    He is Temne.  
22   Q.    What about Sylvester Kieh?  
23   A.    Kieh speaks Mende and some Liberian languages.  
24   Q.    What about Colonel Biabia?  
12:03:47 25   A.    Biabia is Temne.  
26   Q.    So you know all those details?  
27   A.    Yes, they told me the languages they speak and the ethnic  
28           groups they belong to.  
29   PRESIDING JUDGE: He said Biabia is Temne?



1 MR TOURAY: That's what he said.

2 THE WITNESS: Yes.

3 MR TOURAY:

4 Q. When these people asked you to go back and bring your  
12:04:37 5 family, you agreed?

6 A. Yes.

7 Q. From the time you met these rebels from xxx up to the  
8 time you arrived at xxxx, did they have guns? Did  
9 they have their guns with them?

12:05:20 10 A. Yes.

11 Q. But you were not frightened by the guns?

12 A. We were afraid of the gun in the first instance, and if  
13 the gun went into the bush again and brought us to town  
14 so our fears were a little bit allayed, because at that  
12:06:17 15 time they were not doing -- they said they were not  
16 killing any more people. So we had to come and stay with  
17 them.

18 Q. So you were not frightened by the guns?

19 A. No, I was not frightened by the guns at that time.  
12:06:34 20 Whether I was afraid or not, I was under them.

21 Q. So I'm correct to say you voluntarily returned with your  
22 family to xxxx?

23 A. At all. I was not forced to return with my family. At  
24 that time there was no force for returning with your  
12:07:39 25 family. And whenever you're running away from the war,  
26 I'm not sure -- one is not as intelligent as you normally  
27 would be.

28 Q. According to you, you got the pass on the 19th of  
29 February to go to xxxxxx. That is, from xxxx to



1           xxxxxxx?

2    A.    Yes, that --

3    Q.    How long did it take you to get to xxx from xxxx?

4    A.    Just one day. It wasn't a very long distance. If you

12:08:50 5           leave in the morning, by 2.00 o'clock you would have

6           arrived in xxxxx.

7    Q.    And how long did it take you from xxxxx to go back to

8           collect your family?

9    A.    It was not a long distance. I mean, I came that very

12:09:44 10          day. I left very early in the morning, I arrived maybe

11          by midday, and after their meeting I went back to xxxxx.

12          I went through, I crossed the river, I went to xxxx

13          [phoen] then I went to xxxxx. So it wasn't long. And

14          even if you arrived at night, nobody asked you any

12:10:03 15          questions as long as you had the pass on you.

16    Q.    So is it correct to say it took you just three days to do

17          that trip - xxxx to xxxxx to xxxx and

18          xxxx to xxxx - or less than three days?

19    A.    It's a short distance. That's how it happened. In fact

12:10:36 20          if you want you can move from xxxx to xxxx and

21          return in one day.

22    Q.    So what I'm saying is -- I'm suggesting it took you less

23          than three days to do that trip; xxxx to xxx,

24          xx to xxx and xxx back to xxxxx.

12:10:55 25    A.    No, it wasn't less than three days. In fact, when I

26          returned to xxxx to bring my family I stayed there for

27          almost a week before I returned to xxxxx.

28    Q.    Now, when you came to xxxx at the request of the

29          rebels, according to your evidence, you started doing the



1 brushing and the cleaning of the village?

2 A. Yes.

3 Q. That was also a sign of cooperation; wouldn't you agree?

4 A. What I want to say is xxxxxxx. Even if gun is

12:12:49 5 pointed behind my back or close to my ears, I'll still

6 continue brushing because that is xxxxx. Even if they

7 are going to kill me, I'll just clean my town.

8 Q. I agree, but what I'm saying is in this particular

9 instance that was a sign of cooperation as well?

12:13:07 10 A. Well, I can't deny that. xxxxx and when I'm

11 brushing it -- whether I like it or not I would have to

12 xxxxxx. But that does not mean that I was part of

13 them. I was only cleaning xxxxx. But I can't deny

14 you, yes.

12:13:49 15 Q. So it was a sign of cooperation; you agree?

16 A. When someone asks you to clean your town, whether there

17 is cooperation or no cooperation, you will only have to

18 bear up and do the work.

19 Q. My question, Mr Witness, you can't avoid it. It was a

12:14:15 20 sign of cooperation with the rebels by agreeing to clean

21 the town --

22 A. Yes, yes, yes.

23 Q. Now, when xxxxxxxx or xxxxx by

24 your -- by the civilians, you did not xxxxx

12:15:10 25 xxxxx?

26 JUDGE THOMPSON: Yes counsel.

27 MR HARRISON: There is some concern the Prosecution has about

28 repetition of cross-examination. This is an area that

29 was canvassed, to my recollection, quite extensively even





1 during the closed session. But I acknowledge that or I'd  
2 like to point out in addition to that that counsel for  
3 the first accused did carry out a very extensive  
4 cross-examination on this point.

12:15:42 5 The Prosecution would like to ask the Court to  
6 consider if it should be the case that where the subject  
7 matter does not cause particular -- or is not a  
8 particular concern to one of the accused if the  
9 cross-examination by one of the other accused can suffice  
12:16:04 10 on that subject matter. That would eliminate, in the  
11 Prosecution's submission, a fair amount of repetitious  
12 examination that may in the end not be as beneficial to  
13 the Court as some other information.

14 JUDGE THOMPSON: Thank you. Naturally this Court is on record  
12:16:30 15 as having cautioned counsel on both sides to avoid  
16 repetitive cross-examination, lengthy cross-examination.  
17 And perhaps even better for the records too that where an  
18 answer has been clearly given, unless counsel intends to  
19 pursue some kind of alternative position to that answer,  
12:16:57 20 it may be in the interests of the Court and all of us  
21 that we should not try to cover that ground.

22 Of course, it's difficult to lay down any kind of  
23 general injunction like the one proposed by counsel for  
24 the Prosecution that once a particular area has been  
12:17:21 25 covered by one counsel that area should not be covered by  
26 another counsel. I think the Court would not want to  
27 make that injunction, but to remind counsel for the  
28 Defence that repetitive and lengthy cross-examination on  
29 issues already covered would serve no useful purpose



1 unless there are specific instructions to contradict what  
2 has been stated.

3 MR TOURAY: As Your Honour stated. I only want to remind the  
4 Bench that the charge involves JC, joint criminal  
12:18:03 5 enterprises. So we're --

6 JUDGE THOMPSON: That was the assumption that underlined my  
7 own response to learned counsel for the Prosecution. The  
8 issue is not that cut and dried. But I would urge you to  
9 cooperate.

12:18:22 10 My difficulty, of course, is that sometimes when you  
11 repeat what you thought had been said there may be a  
12 tendency to misrepresent what was really said. That's my  
13 own difficulty.

14 MR TOURAY: Not really here, Your Honour, because I'm reading  
12:18:42 15 exactly from the transcripts, not even from my notes.

16 JUDGE THOMPSON: All right.

17 JUDGE BOUTET: Counsel, we are familiar with the fact that  
18 your client as well as other clients are facing here  
19 charges of joint criminal enterprise, but that in itself  
12:18:56 20 would not justify repetitive questions that have been  
21 fully canvassed by other counsel. So we don't see any  
22 useful purpose to repeat the same question 25 times.

23 I mean, joint criminal enterprise or not, it does  
24 not advance the cause of your client, I would suggest to  
12:19:13 25 you, so all we are asking is that, yes, you should  
26 explore whatever you need explore for the benefit of your  
27 client but we urge you not to embark upon repetitive  
28 questions on issues that have been fully canvassed by  
29 counsel for the other accused. But we accept, and this



1 is a fact of these cases, that you are acting for an  
2 accused who is charged with a joint criminal enterprise  
3 but there is still this question to be decided in your  
4 role as counsel for the accused that repetitive  
12:19:45 5 questions, I would suggest, does not serve real purposes.  
6 Thank you.

7 PRESIDING JUDGE: I would like to add to what my learned  
8 brothers have said by making a general reference to all  
9 sides and the provisions of Rule 90(F) which empowers the  
12:20:12 10 Chamber to exercise control over the mode and order of  
11 interrogating witnesses and which prohibits any tendency  
12 that wastes time in the course of such examinations. We  
13 would like counsel on both sides, particularly counsel  
14 for the Defence who have a tendency to exercise a  
12:20:41 15 latitude to cross-examine extensively, to know that we  
16 want to allow the latitude to cross-examine, but we do  
17 not want this right to be overexercised to the extent of  
18 it amounting to wasting the time of the Court on matters  
19 which are repetitive and which have been covered, as my  
12:21:05 20 colleagues have said, by other Defence counsel. So we  
21 should proceed on this basis and ensure that we do things  
22 more expeditiously.

23 This said, Mr Touray, you may proceed please.

24 MR TOURAY: As Your Honour pleases.

12:21:27 25 Q. The question is just very shortly that you never refused  
26 the xxxxxxxxxx

27 A. No, I didn't xxxxx.

28 Q. And you were quite aware of xxxxxx in that  
29 regard?



1 A. Yes, I was happy because xxxxxxxx cleaning it  
2 was good.  
3 PRESIDING JUDGE: Not happy, aware.  
4 MR TOURAY:  
12:22:26 5 Q. Aware of your responsibilities in that regard vis-a-vis  
6 the rebels?  
7 A. They xxxxxx that position to help clean xxx. They  
8 did not put xxxxx the rebels.  
9 JUDGE THOMPSON: Counsel, what are you trying to elicit  
12:22:56 10 because your first question seemed to have ended "xxxx  
11 quite aware xxx responsibilities," but then when you  
12 repeated your question you added rebels there and I  
13 thought you complicated it for him.  
14 MR TOURAY: Let me put it again.  
12:23:11 15 Q. xxxxu were quite aware of xxxxxxx, were xxxx  
16 not, in view of the xxxxxx?  
17 A. xxxx.  
18 Q. Let me ask you, Mr Witness, you must have heard about the  
19 Lome conference?  
12:24:03 20 A. I want to tell this gentleman that I don't know anything  
21 about that conference. I was in my home. I have never  
22 heard anything about that conference. I didn't go there  
23 and I don't know about it.  
24 PRESIDING JUDGE: Counsel wants to know whether you heard, not  
12:24:30 25 whether you went there.  
26 MR TOURAY: Aware.  
27 JUDGE THOMPSON: I think counsel was little tricky here. But  
28 counsel said "You must have heard." I thought he was  
29 going to ask, "Did you hear about Lome conference?" But





1 he put it in a very categorical way. Why not just say,  
2 "Did you hear", you elicit the information.  
3 MR TOURAY: Yes.  
4 Q. You may have heard about the peace talks in Lome?  
12:25:04 5 JUDGE THOMPSON: Counsel, let's get things clear. Did you  
6 want to put to him that he did hear or did not hear about  
7 the Lome peace conference?  
8 MR TOURAY: I'm asking him whether he heard about it.  
9 JUDGE THOMPSON: Well, why not --  
12:25:17 10 PRESIDING JUDGE: Ask him directly.  
11 JUDGE THOMPSON: Yes, directly, not may have.  
12 MR TOURAY:  
13 Q. Did you hear about the peace talks in Lome in 1999?  
14 A. That I didn't know. I mean, the time I heard about this  
12:25:40 15 Lome was a long time -- long time.  
16 JUDGE THOMPSON: You need to repeat your question in a very  
17 simple way. If you put it in a very complicated way you  
18 get complicated responses.  
19 MR TOURAY: As Your Honour pleases.  
12:26:07 20 Q. Did you know that as a result of that conference, the  
21 peace talks, the leader of the RUF was a member of the  
22 Sierra Leone Government at the time, Foday Sankoh?  
23 A. I don't know anything about that.  
24 PRESIDING JUDGE: But he has not answered the first question,  
12:26:41 25 has he heard of the Lome conference?  
26 MR TOURAY: Okay, I put it the other way.  
27 Q. Did you know that some time in 1999 onwards, Foday  
28 Sankoh, the leader of the RUF, was a member of the  
29 Sierra Leone Government?



1 MR HARRISON: Well, that question has been asked and answered  
2 quite clearly. I'm not quite sure what we're trying to  
3 elicit here.

4 MR TOURAY: Has he answered it?

12:27:16 5 JUDGE THOMPSON: Well, I'm not clear here because what we have  
6 is a multiplicity of questions which remain unanswered  
7 and if counsel is pursuing a particular episode or theme,  
8 the Lome conference, why not have the questions answered  
9 in a direct and straightforward and uncomplicated manner.

12:27:34 10 I don't know whether he did answer whether he has heard  
11 about the Lome conference or whether he heard about it  
12 later on.

13 MR TOURAY: I think he said he heard about it much later on.

14 JUDGE THOMPSON: Well, let us have that cleared up.

12:27:49 15 JUDGE BOUTET: Counsel I remember his answer to your question  
16 was he didn't know then, he has heard about it since  
17 then. But your question is very ambiguous. So do you  
18 ask him if he knew in 1999 about it or if he has learned  
19 subsequently to it? The same about Foday Sankoh, do you  
12:28:06 20 mean that did he know then in 1999 or has he learnt  
21 since? That is what I mean by you're being very  
22 ambiguous.

23 MR TOURAY: I take it, Your Honour, so I will put the question  
24 now.

12:28:16 25 Q. Did you know or did you hear about the Lome peace talks  
26 in 1999?

27 A. No, I don't understand this question.

28 PRESIDING JUDGE: Mr Witness, in 1999 did you hear anything  
29 about the Lome conference?



1 THE WITNESS: No, I hadn't heard anything about it. We were  
2 running from the war.  
3 MR TOURAY:  
4 Q. Did you come to hear about it later on?  
12:29:41 5 A. I didn't hear.  
6 Q. According to your evidence you were with xxxxx for  
7 xxxx up to xxxxxx; is that correct?  
8 A. Yes.  
9 Q. You have never heard about the Lome peace talks?  
12:30:51 10 A. At that time I had not heard anything about the Lome  
11 peace talks. Even if I heard about it, at that  
12 particular time I had not heard about it.  
13 Q. Did you ever hear about it, that is the question?  
14 A. I want to tell you, sir, I hadn't heard about it at that  
12:31:43 15 time. If you asked me whether I heard it about  
16 subsequently, well, maybe that's different, but I haven't  
17 heard about it.  
18 Q. Did you hear about it subsequently?  
19 A. Yes.  
12:32:04 20 JUDGE BOUTET: It may be a problem of interpretation, I don't  
21 know. I know you have asked that question at least  
22 twice.  
23 MR TOURAY: Twice, yes.  
24 Q. When did you hear about it?  
12:32:25 25 A. That was during the disarmament period when they were  
26 taking guns from the fighters. We heard this over the  
27 radio. There were now radios around and we could hear  
28 information.  
29 Q. Could you assist us, exactly what year was that?



1 A. Please, let this lawyer not confuse me. I mean, this is  
2 a whole national issue. I was not the only person who  
3 heard about it. I said at the time of disarmament we  
4 heard about it and everybody else heard about it. That's  
12:33:31 5 all I can say.

6 Q. All I'm asking, Mr Witness, is to say what year did you  
7 hear about it?

8 A. I don't remember the year.

9 Q. From what you say, is it correct to say that you were  
12:34:11 10 only able to listen to the radio around the time of  
11 disarmament?

12 JUDGE THOMPSON: Isn't it argumentative?

13 MR TOURAY: No, what he said it's just what I'm --

14 JUDGE THOMPSON: You're asking him whether that inference is  
12:34:32 15 possible from --

16 MR TOURAY: Whether he only listened to the radio around the  
17 time of disarmament.

18 JUDGE THOMPSON: But he didn't say that. Why not put that to  
19 him.

12:34:43 20 MR TOURAY: I will drop that question.

21 JUDGE THOMPSON: Because I don't think it necessarily follows.

22 MR TOURAY: If Your Honour pleases I will skip that question.

23 JUDGE THOMPSON: Put that to him then.

24 MR TOURAY: I will skip it, Your Honour.

12:34:54 25 Q. Now, Mr Witness, did you ever hear that the leader of the  
26 RUF, Foday Sankoh, was a member of the government of  
27 Sierra Leone?

28 A. I don't know about that.

29 Q. The question is not knowing about. Did you ever hear





1 about it or you never heard?

2 A. Well, I don't know if I can answer that question, because  
3 this is a national issue. People said this, others said  
4 that, and that is hearsay. I don't want to answer any  
12:36:12 5 questions that I heard -- [interpretation interrupted]

6 PRESIDING JUDGE: But, Mr Witness, you were following events.  
7 Save our time, please. It was a national issue, all  
8 right. But did you ever hear that Foday Sankoh, the  
9 leader of the RUF, became a member of the Sierra Leonean  
12:36:31 10 government? Did you hear anything about that?

11 THE WITNESS: I didn't hear it and I didn't see.

12 PRESIDING JUDGE: Of course you could not see. Couldn't have  
13 seen it if you didn't hear.

14 THE WITNESS: At all.

12:37:28 15 MR TOURAY:

16 Q. In your evidence you did say that you remembered Sankoh  
17 visiting Kono?

18 A. I didn't say that. I don't think it's in my statement.  
19 If it's in there they'll give it to me and I'll read.

12:37:47 20 Q. In answer to questions put in cross-examination by  
21 learned counsel for the first accused, in January 2000?

22 A. Is this in my statement?

23 Q. Mr Witness, a question was put to you by learned counsel  
24 for the first accused and your reply was you remember  
12:38:24 25 Sankoh visiting Kono in January 2000?

26 A. Even if he went to Kono and I heard about it, I didn't  
27 put that into my statement because I didn't go there.

28 PRESIDING JUDGE: Answer the question. Answer the question.  
29 Whether you put it in your statement or not, did he come



1 to Kono?

2 THE WITNESS: I heard that he came to Kono. I heard that he  
3 came to Kono.

4 MR TOURAY:

12:39:22 5 Q. Did you know that at that time he was in fact chairman of  
6 strategic mineral resources for the Government of  
7 Sierra Leone?

8 A. No, I didn't know.

9 PRESIDING JUDGE: Chairman of the strategic?

12:40:18 10 MR TOURAY: Mineral resources for the Government of  
11 Sierra Leone.

12 Q. Did you know that about that time he was in charge of all  
13 mining activities in the country?

14 A. I didn't know.

12:41:17 15 Q. Did you know that in fact he was in the position of Vice  
16 President at that time?

17 A. I didn't know.

18 Q. Now, let us deal a little bit about the mines. Initially  
19 you said the relationship between the civilians and the  
12:42:14 20 rebels in **xxxxx** was good; not so?

21 A. Yes, at the initial stages when they didn't do us  
22 anything bad, those people who were settled in **xxxxxx**.

23 JUDGE THOMPSON: Yes, Mr Touray.

24 MR TOURAY:

12:43:14 25 Q. And when you started mining it was merely citizens from  
26 **xxxxx**, that is inhabitants of **xxxxxxx**, that started  
27 this mining; is that correct?

28 A. It's not true, it was not only the people from **xxxxxx**.

29 PRESIDING JUDGE: That started, that's the question. At the



1 beginning. At the beginning.

2 THE WITNESS: At the beginning xxxx

3 xxxx and other people who were not even xxxxx

4 xxxxxx that were settled there were forced to mine.

12:44:20 5 MR TOURAY:

6 Q. And you were part of that group?

7 A. Yeah, I couldn't remove myself from that group, we were

8 all there.

9 Q. Did you ever stop mining for the rebels?

12:45:06 10 A. Yes, we stopped mining. When the time came for them to

11 stop the mining and there was no more mining, yes we

12 stopped mining for them.

13 Q. And when was that?

14 A. Mines went on up to 2000, 2001 and during the time of

12:45:42 15 disarmament, that was when we stopped mining, there was

16 no more mining going on.

17 Q. xxxx, you were mining for the rebels

18 throughout, about to the period when mining stopped; is

19 that your evidence?

12:46:04 20 A. You asked me whether mining stopped at any point. You

21 didn't ask me whether I as an individual ceased mining.

22 I wasn't mining alone. Many people were mining.

23 Q. My question is you in particular, Mr Witness, did you at

24 any point --

12:46:51 25 A. I didn't mine for too long when I stopped.

26 Q. How long did you mine for?

27 A. This question I'm inclined not to answer, because I've

28 answered it before. I told you when they started

29 bringing the manpower from outside those of us who



1 started the mining ceased.

2 PRESIDING JUDGE: Yes, but for how long did you mine?

3 THE WITNESS: Me as an individual.

4 PRESIDING JUDGE: You, yourself, yes.

12:47:57 5 THE WITNESS: When we started mining, it took xxxxxx  
6 xxxx and they started bringing in new xxxxxx  
7 xxxx who were manpower. That's when they started  
8 forgetting about us.

9 MR TOURAY:

12:48:30 10 Q. And even before the xxx to xx xxxx you're talking  
11 about, there were others who escaped; not so -- other  
12 miners who escaped from your group?

13 A. Yes, some of them ran away because of the way they were  
14 treated and the kinds of treatment they received during  
12:48:58 15 the mining. That's why they also hid themselves.

16 Q. And nothing happened to anybody because of their escape?

17 A. Well, what will they do with a person who was hidden,  
18 when they didn't see them so they didn't do them nothing.

19 Q. And you who remained, nothing happened to you?

12:49:40 20 A. And I thank God, because I'm still alive. Whatever they  
21 did to us, as long as I'm alive I'm happy. xxxxx  
22 are there, xxxxx, we're all alive.

23 Q. My question, Mr Witness, is because of those who escaped  
24 nothing happened to those who remained?

12:50:22 25 A. They did things to us. I mean, when those who were  
26 walking and they ran away -- so those of us who stayed  
27 they were now forced and they were very vigilant and they  
28 beat some people up and they said, "Hey, you are now the  
29 leader -- you are the leader of the young men and some of





1           them have run away so you have to work now."

2   JUDGE THOMPSON: Continue counsel.

3   MR TOURAY: Yes, Your Honour, I'm just asking for a moment.

4   Q. Let me ask you, Mr Witness, did you take any part in  
12:52:14 5           providing labour - that is, people - for the rebels in  
6           respect of this mining that was going on?

7   A. I didn't provide people to do mining for the rebels. We  
8           were forced to mine, all of us. I had no guns, I had no  
9           authority, no power. So they said, "You should mine for  
12:52:52 10          us," all of us had to mine.

11  Q. Now, entry or access to the mining area was very  
12          restrictive, was it not, at that time?

13  A. The mining was not in one area. It was over an expanse  
14          land surface and it was on the main road so it was not  
12:54:32 15          restricted. Only that that those who were taken to go to  
16          the forced mining had to do it under threat because guns  
17          were over their head all the time.

18  Q. My question was, Mr Witness: Was anybody allowed--

19  JUDGE THOMPSON: Let us just have that -- yes, quite. Said it  
12:54:52 20          wasn't restricted.

21  MR TOURAY: This is what he's saying.

22  JUDGE THOMPSON: Access to the mining area was not restricted.

23  MR HARRISON: I think he said it was over a very wide area and  
24          the answer may have completed and explained something why  
12:55:05 25          restricted may have --

26  JUDGE THOMPSON: Quite. Well, let's hear him amplify that.  
27          Continue, Witness. You said access to the mining area  
28          was not restricted, but --

29  THE WITNESS: Only women were exempt from mining. All the men



1 that were arrested were forced to mine. I mean, nobody  
2 else went there except those who were forced to mine.  
3 Who else would want to go to that place with guns in the  
4 rebels' hands.

12:55:55 5 MR TOURAY:  
6 Q. But it is not everybody that was allowed to go to the  
7 mining area, this is my question; you agree?  
8 PRESIDING JUDGE: He said it was only women.  
9 MR TOURAY:

12:56:09 10 Q. No that is if you have no business there you are not  
11 allowed to enter there in the mining area where the  
12 mining was going on. If you are not a worker or any  
13 officer or mining officer you have no access to go there;  
14 is that correct?

12:56:27 15 JUDGE THOMPSON: That should be more specific now.  
16 MR TOURAY: Yes.

17 Q. So if you are not a worker, you are not a mining officer  
18 you have no access to the mining area?  
19 A. Those of you who were doing the forced mining would be  
12:56:52 20 there and they'll take you there and those in charge of  
21 the mining would come there.  
22 Q. No one else was allowed there?  
23 A. The only people who didn't go there were women but all  
24 the men who were there in the town were forced to work  
12:57:18 25 and they were working under gunpoint.  
26 Q. I'm asking you about the group. Those allowed to go  
27 there are the workers and the officers, no one else; is  
28 that correct?  
29 JUDGE THOMPSON: Yes, he said those who were doing forced



1 mining would be there and did he also talk about the  
2 mining management or the officers there?  
3 MR TOURAY: The mining officers.  
4 PRESIDING JUDGE: That they would be there under gunpoint.  
12:57:47 5 MR TOURAY:  
6 Q. Are they the only people allowed at the mining site?  
7 JUDGE THOMPSON: You're not interested in that answer, the  
8 gunpoint?  
9 MR TOURAY: No, the guns are not symbols of anything. They  
12:57:58 10 are soldiers.  
11 PRESIDING JUDGE: It's on the record anyway.  
12 MR TOURAY: It is just like an electrician with a screwdriver.  
13 JUDGE THOMPSON: I was being very humorous.  
14 PRESIDING JUDGE: He knows what screw to screw and to what  
12:58:12 15 extent. Okay, get along, please.  
16 MR TOURAY:  
17 Q. Yes. So those are the only people who are allowed there.  
18 That is, the workers and then the mining officers?  
19 A. The mines was not hidden. It was by the main road. So  
12:58:51 20 even if you were a passerby, you know, you could see what  
21 was going on. And those of us who had worked for some  
22 time and were replaced by the manpower could come and  
23 stand on the main road and see whatever was going on in  
24 the mining. It wasn't hidden at all.  
12:59:10 25 Q. So you had access to the mining area even when you  
26 stopped mining?  
27 A. The mines is on a main road and that main road is also  
28 the route I use to go to my garden. It's not in a  
29 corner. I passed there each time I went to my garden.



1 Q. Did you go to the mining site apart from just passing?  
2 A. The mines is on the highway and I passed through there  
3 every time I went to xxxx.  
4 JUDGE THOMPSON: Actually, counsel, your question seems to be  
12:59:56 5 did he have access --  
6 MR TOURAY: Access, yes.  
7 JUDGE THOMPSON: -- to the mining area when he was not mining.  
8 MR TOURAY: When he stopped, yes.  
9 JUDGE THOMPSON: I think it probably should be explained to  
13:00:03 10 him. In other words, whether he had access to the mining  
11 area when he was not mining.  
12 MR TOURAY:  
13 Q. Mr Witness, my question is this: When you stopped mining  
14 were you allowed into the mining site?  
13:00:19 15 A. That's why I said it wasn't hidden, it was on a main  
16 road. Yes, we passed by and I could stand there and  
17 watch and see people mining.  
18 JUDGE THOMPSON: What are you settling for? Is the answer, "I  
19 did have access to the mining area when I was not  
13:00:53 20 mining"? Is that the answer?  
21 MR TOURAY: It appears to me but he seems to be saying that he  
22 was just --  
23 PRESIDING JUDGE: A passerby.  
24 MR TOURAY: That's what he seems to be saying.  
13:01:05 25 JUDGE THOMPSON: Yes but that's not your question. Your  
26 question was that when he was no longer mining did he  
27 have access, could he go into the area.  
28 MR TOURAY: Yes. Go into, move out freely, come in and go  
29 out --





1 JUDGE THOMPSON: Yes, not as a passerby or an onlooker.  
2 PRESIDING JUDGE: Mr Harrison?  
3 MR HARRISON: Just for the benefit of what may be a  
4 translation problem, and perhaps it is just a question of  
13:01:27 5 a particular word that is used, but Mr Touray has tried  
6 to use the word "area" and that may be a source of  
7 confusion in the translation. The witness is saying, "I  
8 passed by on the highway", presumably in the translation  
9 the word "area" would include some contiguous roadway.  
13:01:49 10 PRESIDING JUDGE: [Overlapping speakers] also used that  
11 roadway, yes.  
12 JUDGE BOUTET: And the last question was: "Did you go to the  
13 mining site?" Not area, site. That's not ambiguous to  
14 me.  
13:02:01 15 JUDGE THOMPSON: No, quite.  
16 THE WITNESS: On the mining site itself, I never really went  
17 there. I had no time there anymore. But I could pass by  
18 and I see what was going on.  
19 MR TOURAY: Thank you very much, Mr Witness.  
13:02:20 20 JUDGE THOMPSON: In other words, he didn't have access to the  
21 mining site --  
22 MR TOURAY: To the mining site when he stopped mining.  
23 PRESIDING JUDGE: He said he never went.  
24 MR TOURAY: No, he didn't have access.  
13:02:34 25 PRESIDING JUDGE: He did not have access or he never went?  
26 JUDGE BOUTET: He never went.  
27 MR TOURAY: He never went there.  
28 PRESIDING JUDGE: He never went to the mining site.  
29 MR TOURAY: When he stopped mining.



1 THE WITNESS: There was no restriction for me not to go down  
2 there but I didn't go there at all, I never did. I just  
3 passed by and I saw what was going on.

4 MR TOURAY: He had no restriction. He went there but he did  
13:02:59 5 not -- [Overlapping speakers]

6 JUDGE THOMPSON: In other words he has answered the first  
7 question. He did have access but he never exercised it.

8 MR TOURAY: Yes.

9 PRESIDING JUDGE: Mr Touray, how much more time?

13:03:41 10 MR TOURAY: Nearly 15 minutes but I'll do that after the  
11 break.

12 PRESIDING JUDGE: You want to do that after the break?

13 MR TOURAY: Yes, after the break.

14 PRESIDING JUDGE: That will be 15 times two.

13:03:56 15 MR TOURAY: I'll round up just when we come back for the  
16 afternoon.

17 PRESIDING JUDGE: You'll inspire yourself with the Jordash  
18 school of thought. I think we could conveniently rise  
19 for lunch and resume with your cross-examination of this  
13:04:18 20 witness at 2.30.

21 MR TOURAY: As Your Honour pleases.

22 PRESIDING JUDGE: We will rise and resume at 2.30. The Court  
23 rises, please.

24 [Luncheon recess taken at 1.08 p.m.]

25 [HS170105B]

26 [On resuming at 2.43 p.m.]

27 PRESIDING JUDGE: Yes, learned counsel, we are resuming the  
28 session, and Mr Touray, we may continue with your  
29 cross-examination of this witness.



1 MR TOURAY: Your Honour, my -- court was adjourned to --  
2 PRESIDING JUDGE: You indicated 15 minutes. I just wanted to  
3 remind you before we broke off this morning or early this  
4 afternoon.  
5 MR TOURAY:  
6 Q. Mr Witness, good afternoon.  
7 A. Good afternoon.  
8 Q. It will assist me greatly if you just answer my questions  
9 directly. Now we left off --  
10 A. I will try my best.  
11 Q. We left off at the point where you say you were allowed  
12 at the mining site, but you did not go there. Now may  
13 the witness be shown his witness statement for 16th  
14 November 2003, numbered 9691?  
15 JUDGE BOUTET: Mr Touray, you said 9691?  
16 MR TOURAY: Yes.  
17 Q. May I refer you, Mr Witness, to 9692, the third paragraph  
18 there. The second page. That paragraph where it starts,  
19 "The rebels then engaged in serious mining." Have you  
20 seen it?  
21 A. Yes.  
22 Q. Now I want you --  
23 PRESIDING JUDGE: 9692?  
24 MR TOURAY: 9692, yes.  
25 PRESIDING JUDGE: What paragraph? The second paragraph or the  
26 third, I'm sorry. Was that the second or the third?  
27 MR TOURAY: The first one is continuation, so I believe it is  
28 really the second paragraph on that page. "The rebels  
29 then engaged in serious mining."



1 Q. I want to refer you to the third sentence. "If they  
2 asked you and you did not first of all..."

3 PRESIDING JUDGE: Mr Touray, that would be the statement of  
4 16th November?

5 MR TOURAY: Indeed, Your Honour.

6 Q. The second sentence and the third one, "They continued to  
7 bring civilians from neighbouring villages. They forced  
8 us to give them more people to mine for them. If they  
9 asked you and you did not, people, then you went to mine  
10 by force." Did you say that?

11 A. Yes.

12 Q. They would ask you to provide people and only when you  
13 don't provide then you went to mine by force. That's  
14 correct; not so?

15 A. xxxx, because when xxx xxxxxxxx, whatever  
16 comes at you asks you first, refusing or you cannot  
17 refuse leader, you have to go to do the work.

18 Q. So in fact it is true, is it not, that you were providing  
19 people, recruiting men for the rebels?

20 A. I want -- I want you to get this clear. xxx,  
21 whenever they want the manpower or somebody to work, they  
22 will xxxx come to xxxxxx. And, as a matter of  
23 fact, xxxxxx, xxxx. I was  
24 one of them who worked within the mining. I was not  
25 willing to xxxxxxxx.

26 THE INTERPRETER: Your Lordship, let the witness make  
27 statements shorter for interpretation.

28 JUDGE THOMPSON: We will try to persuade him to do that.

29 Mr Witness, the translators would like you to shorten





1 your answers wherever possible and wherever convenient.

2 THE WITNESS: Yes, I do understand. The rebels did ask us to  
3 give us -- to give them people for mining and we all went  
4 to do this mining.

5 MR TOURAY: That's his answer, Your Honour.

6 Q. They were asked and they all went to do the mining. The  
7 rebels asked us to give them people for the mining and we  
8 all went to do the mining.

9 JUDGE THOMPSON: What is the distinction you are seeking to  
10 establish between his testimony here from the witness  
11 stand and the sentence in the statement which you have  
12 directed our attention to? For the purpose of your  
13 cross-examination? I am trying to think -- Well, perhaps  
14 we should turn his mike off.

15 MR TOURAY: He is very literate in English so --

16 JUDGE THOMPSON: Well, I am asking you as a lawyer of the  
17 Defence -- -

18 MR TOURAY: Well, our case.

19 JUDGE THOMPSON: We can turn his mic off if you think --

20 PRESIDING JUDGE: [Inaudible]

21 JUDGE THOMPSON: Yes, if he has already followed it.

22 JUDGE BOUTET: [Inaudible]

23 PRESIDING JUDGE: [Inaudible]

24 MR TOURAY: Your Honour, it is just my focus on this  
25 particular sentence that the first place they were asked  
26 to he was asked to provide -- -

27 JUDGE THOMPSON: Yes.

28 MR TOURAY: And it's only when he doesn't, then you are forced  
29 to mine.



1 JUDGE THOMPSON: I see. Okay. Thank you.

2 MR TOURAY: Yes.

3 Q. His answer is that they asked them and they went to work.

4 So, in fact --

5 A. No, I would want them to understand me. What I'm saying

6 is that they were not doing it respectfully. They will

7 force you to bring people for them to work. But if you

8 don't have anybody to present and you are there, then

9 they take you to go and work.

10 JUDGE THOMPSON: Yes, that's the theory he is saying. Once

11 you can't supply the labour, you take on the task.

12 PRESIDING JUDGE: [Inaudible] there is a nuance with what he

13 has now said.

14 JUDGE THOMPSON: Quite right, Yes. They forced you to do

15 that. Quite right.

16 PRESIDING JUDGE: That is it. They didn't do it respectfully.

17 JUDGE THOMPSON: Yes.

18 PRESIDING JUDGE: Yes, that is a nuance.

19 MR TOURAY:

20 Q. All right, I put it to you that my suggestion -- my

21 suggestion is this, even when you stopped working in the

22 mines you were allowed access.

23 A. That's xxxxxx, the mining was in a hiding place, it

24 was open and very close to the place where I pass. So,

25 if they like it or they don't like it, that's the route I

26 take to go. I must pass there.

27 Q. Did you pass there? The mining site?

28 PRESIDING JUDGE: He did. May we proceed? Yes, answer that

29 question.



1 MR TOURAY: Pardon?

2 PRESIDING JUDGE: He did, he said he passed thorough there,  
3 yes.

4 MR TOURAY: I remember there was an answer, just before the  
5 break, that he was allowed access, but he did not go  
6 there.

7 PRESIDING JUDGE: Finally, he said if he wanted to go there he  
8 could go there and they wouldn't refuse him access into  
9 the mine. But he passed through there, you know,  
10 whenever he went to his garden.

11 MR TOURAY: [Inaudible]

12 JUDGE THOMPSON: Yes, but then he made a distinction that as  
13 far as the mining site was concerned he never went there.

14 PRESIDING JUDGE: They did not refuse him access either if he  
15 wanted to go there.

16 JUDGE THOMPSON: Precisely. He naturally [inaudible] that.  
17 He had access to it, but he never went to the mining site  
18 after he stopped mining.

19 MR TOURAY:

20 Q. I just [inaudible] by putting my case to you that you  
21 were providing recruiting people for the rebels to do the  
22 mining. That was your job?

23 A. Tell him that I didn't go and work mining for rebels to  
24 work. That wasn't my work.

25 JUDGE THOMPSON: [Inaudible]

26 MR TOURAY:

27 Q. Yes. Now, you did say you were a member of the youth  
28 organisation in your village.

29 JUDGE BOUTET: Mr Witness, when you answer these questions be



1 careful not to say which position, if any, you had as  
2 part of that organisation. Do you understand what I am  
3 saying?

4 THE WITNESS: Yes.

5 JUDGE BOUTET: I'm sorry, Mr Touray, I was not intending to  
6 cut you off.

7 MR TOURAY: Yes.

8 Q. And then you did say, even before the war, in every town  
9 or village the young men and boys who are youth, if it  
10 was time to have the roads brushed it was the youth or  
11 young men who went to do the brushing.

12 A. Yes.

13 Q. Now I will ask you, at times of enemy attacks, did the  
14 youths play any part? [Inaudible] attacks, enemy  
15 attacks?

16 A. There was no planning for anything. When the war came,  
17 what we did, we ran away. We didn't organise anything.

18 Q. Now, there were Donso or hunters in Kono.

19 A. Yes, but ours is civilian.

20 Q. And these hunters were a sort of fighting force.

21 A. Yes.

22 Q. I suggest to you that the youths in the villages acted as  
23 vigilantes, sort of auxiliary to the Donsos in Kono.

24 A. Yes, when they say Donsos these are people who organised  
25 themselves to defend their land. But I did not belong to  
26 any of that. So I ran away.

27 Q. You were not a vigilante?

28 A. No, I wasn't a vigilante, I had so many people on me, how  
29 can I have them on me then go and join the fighting force





1 again? So I ran away.

2 Q. Is it correct to say that you only attempted to run away  
3 when the rebels xxxxxx 1998.

4 A. Yes.

5 Q. Let me just take you brief to xxxx is very  
6 near Kaiama; is that correct?

7 A. Yes. Yes.

8 Q. Approximately what's the mileage? The mileage.

9 A. I told you that I went to xxx and not xxxx. I can't  
10 tell you how many miles from there to xxxxx. I don't  
11 know.

12 Q. It's around -- near Kaiama? Yaryah is near Kaiama.

13 A. They are within the same chiefdom. There is Kaiama.  
14 That is there, but I didn't go to Kaiama.

15 Q. Now, in February 1999 you were at Yaryah; is that  
16 correct?

17 A. Yes.

18 Q. In September 1998 you were at Yorkodu, around September  
19 or August. August 1998.

20 A. If you go through my statement I have made sure that I  
21 was in -- from August I was in Yaryah and then Yorkodu.

22 Q. September 1998?

23 A. Yes.

24 Q. Now, the trips you made from Yaryah to xxx and back  
25 that it is correct to say there was no fighting in the  
26 area at the time.

27 A. I don't think he really did do -- understand what my  
28 statement is. I told you that I left Yaryah while I was  
29 going to face ECOMOG. But now that we understood that



1 ECOMOG had been overrun I have the reason to go back.

2 That is all the reason that led me to go back.

3 Q. Yes, what I am saying is that at the time you went back  
4 there was no fighting around the area.

5 A. Yes, there was no fighting even though that overran  
6 ECOMOG, we are not -- nowhere to be seen, they were all  
7 in hiding, it was later on that they surfaced.

8 MR TOURAY: Thank you very much. No further questions. There  
9 was no fighting, even those that attacked ECOMOG, they  
10 were hiding in the bush and did not surface until after  
11 some time. That will be all for this witness.

12 JUDGE THOMPSON: Proceed, counsel.

13 CROSS-EXAMINED BY MR O'SHEA:

14 MR O'SHEA: Thank you, Your Honours.

15 Q. Good afternoon, Witness.

16 A. Good afternoon.

17 Q. Could you please tell the Court when was the first time  
18 that you ever spoke to anyone from the Special Court?

19 A. If I could tell the Court of the person who came from  
20 here that first met me?

21 Q. No. I will repeat the question. When was the first time  
22 you spoke to anybody from the Special Court?

23 A. Yes.

24 PRESIDING JUDGE: Mr Witness, the Special Court people talked  
25 to you. When was the first time they spoke to you, the  
26 Special Court people? When was the first time, do you  
27 remember the first time they spoke to you?

28 A. What I can remember is that the first time I should talk  
29 here was on Wednesday.



1 JUDGE THOMPSON: Mr Witness, counsel wants to know when first  
2 did you ever speak to anybody from the Special Court in  
3 connection with what you have come to this Court to talk  
4 about? When was the first time you ever made a statement  
5 to anyone from the Special Court in connection with what  
6 you were, in fact, talking about in this Court? I don't  
7 know whether that helps, Mr O'Shea.

8 MR O'SHEA: We will see.

9 THE WITNESS: I cannot remember the date, but somebody spoke  
10 to me.

11 MR O'SHEA:

12 Q. If you can't remember the date, can you remember the fact  
13 that it happened and remember that occasion?

14 A. I cannot just come here if nobody went to talk to me from  
15 here.

16 Q. Witness, try to listen to my questions carefully and  
17 answer the questions which I ask so that we can take this  
18 smoothly and quickly. Did you at any time ask anybody  
19 from the Special Court whether you would receive any  
20 money?

21 A. No.

22 Q. Were you at any time informed that you would receive any  
23 money?

24 A. I was not told of that.

25 Q. But I think that you accept that you did receive money  
26 from the Special Court.

27 A. Nobody told me that they were going to pay me for  
28 testimony, but if I could leave my people --

29 JUDGE THOMPSON: Just a minute. Counsel, what was that



1 question? It seemed to have been phrased in the form of  
2 an opinion. Were you eliciting a fact, trying to elicit  
3 a fact?

4 MR O'SHEA: No. What I said to the witness was that I think  
5 you will accept that you have at some point received  
6 money from the Special Court.

7 JUDGE THOMPSON: Yes, I thought I heard that and didn't it  
8 probably give him the leeway for kind of argumentative  
9 response? I thought you wanted to know whether he did  
10 receive money.

11 MR O'SHEA: Well, we already know that, Your Honour.

12 JUDGE THOMPSON: All right. Okay.

13 MR O'SHEA: It's just because of the previous answer.

14 JUDGE THOMPSON: Right. I take the point.

15 PRESIDING JUDGE: And he went further to say that -- I mean,  
16 further than your question and the scope of your question  
17 to say that he did not receive money from anybody, you  
18 know, to give testimony in this Court.

19 MR O'SHEA:

20 Q. I am not making that suggestion, Witness. I mean, you  
21 have already told this Court that you have received  
22 money, so this is not a contentious issue, I don't think.  
23 Were you -- so your answer is to the question you were  
24 never told that you would receive any money, your answer  
25 is "No, I wasn't." That's the answer you gave a moment  
26 ago. Do you stand by that?

27 A. I was not told by anybody that they would give me so much  
28 sum of money if I come to testify here. The only thing  
29 if they give me transport, that I will take and if they





1 give me anything to leave with my people back at home, I  
2 will take that also.

3 Q. You have explained to this Court that you are a farmer  
4 and that you have a coffee plantation, cassava and  
5 banana; is that a fair recollection of your farming  
6 activities?

7 A. Yes.

8 Q. Were you growing bananas before 2002?

9 A. Before I could run away I have plenty of banana farm.  
10 Coffee farm also. I have told you this.

11 Q. Please try to listen to the question. I am not referring  
12 to before you ran away. Were you growing bananas in  
13 2001?

14 A. The only responsibility I had by then was to just brush  
15 within it, but it was there before that time.

16 Q. I am sorry, Witness, I did not understand your answer.  
17 My question was: Were you growing bananas in 2001?  
18 Could you repeat your answer because I did not understand  
19 it.

20 A. I didn't want to answer to this question again, because I  
21 have told you that I have planted banana for long and  
22 banana is a plant that when you plant it so it grows  
23 [inaudible] on its own. So I have a lot -- a big land --  
24 a big farm of banana plantation.

25 Q. Thank you. Were you planting coffee in 2001?

26 A. I have a big coffee plantation. My only point was to  
27 harvest the coffee and not to plant again. There was no  
28 time to plant again. I have the farm already. So I was  
29 picking and selling my coffee, not planting again in



1 2001.

2 Q. Thank you, Witness. Were you planting and/or selling  
3 cassava in 2001?

4 A. There was no chance for that during that time.

5 Q. Why was that?

6 A. At that time my attention didn't go to planting again. I  
7 had no opportunity of doing that.

8 Q. Was that a money problem or was there some other reason  
9 for it?

10 A. Just coming for more, I was distressed even to settle was  
11 the problem. How can I go into cassava farming?

12 Q. Would you accept if I told you that on 6th January of  
13 this year, that is not too long ago, you received a sum  
14 of 50,000 Leones?

15 A. From whom?

16 MR O'SHEA: Good question. From the Special Court.

17 A. When I come here whatever money these people give me I  
18 would take it. I am not going to ask them, but if they  
19 give me any amount, I will take it.

20 JUDGE THOMPSON: Witness, the question is: Did you on 6th  
21 January this year receive 50,000 Leones from the -- you  
22 say Special Court, I thought counsel was on his feet.  
23 Yes.

24 MR HARRISON: If it helps, there is a document which I think  
25 makes it clear and perhaps could be put before the  
26 witness.

27 JUDGE THOMPSON: Learned counsel, just sit down. Yes, quite.

28 MR HARRISON: There is a document, which perhaps Mr O'Shea is  
29 referring to, which I think makes clear in fairness to



1 the witness --

2 JUDGE THOMPSON: You think that would help him?

3 MR HARRISON: Yes, it could.

4 JUDGE THOMPSON: Mr O'Shea.

5 MR O'SHEA: I am sorry, Your Honour, I didn't get

6 Mr Harrison's comments.

7 JUDGE THOMPSON: He is saying here that there is a document

8 that would assist you, and do you accept the invitation

9 to look at that? I thought the question was quite

10 straightforward: 6th January this year --

11 MR O'SHEA: I am looking at it. I fear that if I start

12 putting documents in front of him --

13 JUDGE THOMPSON: Yes, well. I think the question clearly is

14 quite clear; the witness either did receive or did not

15 receive or does not remember. So, I think we need to put

16 the question again.

17 MR O'SHEA:

18 Q. Witness, it is quite a simple question.

19 JUDGE THOMPSON: Yes, I think it is.

20 MR O'SHEA:

21 Q. We would like to move forward. Did you or did you not

22 receive a sum of 50,000 Leones earlier this month from

23 the Special Court?

24 A. I didn't remember. I cannot remember receiving 50,000

25 Leones.

26 Q. It is quite a large sum of money to you, Witness. That

27 is your evidence, is it, you can't remember receiving

28 50,000 Leones earlier this month?

29 PRESIDING JUDGE: That is on 6th January.



1 THE WITNESS: I cannot say so.

2 PRESIDING JUDGE: That was on 6th January.

3 MR O'SHEA: Your Honour, yes.

4 Q. Very well, if that is your answer, that is your answer.

5 A. I want to ease myself.

6 PRESIDING JUDGE: Well, if the witness wants to put himself at  
7 ease, we will rise and as soon as the Court is ready, we  
8 will resume the session. Court will rise, please.

9 [Break taken at 3.27 p.m.]

10 [HS170105C]

11 [On resuming at 3.35 p.m.]

12 JUDGE THOMPSON: Professor O'Shea, your witness.

13 MR O'SHEA: Thank you, Your Honour. Your Honour, in light of  
14 the witness's last answer, I'm going to have to follow  
15 Mr Harrison's suggestion because I would like to have  
16 this document exhibited. I wasn't expecting to have to  
17 do this. Perhaps I can just ask Mr Harrison if he has  
18 copies for the Judges. I don't know.

19 MR HARRISON: Sorry. There's just one copy here. There was  
20 no expectation that Mr O'Shea would be covering this  
21 ground after Mr Jordash had.

22 JUDGE BOUTET: We had the same expectations, too, but ...

23 MR O'SHEA: Well, I've asked different questions.

24 If Mr Harrison has one copy, perhaps it can be  
25 placed in front of the witness, and then passed around  
26 the Judges subsequently, and then we can exhibit it.

27 JUDGE BOUTET: Mr O'Shea, for the future, I know you had not  
28 in mind to introduce this document, but if this is  
29 potentially a possibility, I am told there is now a





1 photocopy machine available to you, Defence counsel. It  
2 has been highly requested and has been acceded to, so I  
3 would suggest that in the future, documents should be  
4 copied for everybody: Defence, Prosecution, court, and  
15:38:07 5 judges.  
6 MR O'SHEA: No excuses on that front.  
7 PRESIDING JUDGE: [Microphone not activated]  
8 MR O'SHEA: I wouldn't have used that as an excuse even if it  
9 wasn't there.  
15:38:24 10 Q. Yes, Mr Witness, the document you have in front of you is  
11 not a document that you've produced, and possibly a  
12 document that you've never seen before. So I don't  
13 expect you to say anything about the document as such.  
14 But you will see that in three consecutive places on this  
15:38:50 15 document, there is the word "date." Just wait for the  
16 translation.  
17 A. I've seen it.  
18 Q. Now, where it says "number 3," it says "date, Thursday,  
19 January the 6th, 2005." You will see to the right that  
15:39:40 20 there is a receipt number. And under "amount," you will  
21 see the figure "50.000." Do you see that?  
22 A. Yes, I've seen it.  
23 Q. Do you have any comment on that?  
24 A. There is no denial. I said they gave me money from here.  
15:40:09 25 Q. So when I asked you about the 50.000 and you said "I  
26 can't say so" --  
27 PRESIDING JUDGE: He said I can't remember. I have him on  
28 record.  
29 MR O'SHEA: That was the first answer, Your Honour.



1 PRESIDING JUDGE: Okay, all right.

2 MR O'SHEA: And then His Honour Judge Thompson intervened, and  
3 then we had a second answer.

4 THE WITNESS: That was my first visit because when you come,  
15:40:56 5 they give you money, transport, petty cash. You cannot  
6 even imagine how much it's going, so that's what the  
7 reason said I don't know the dates.

8 MR O'SHEA:

9 Q. So you now accept, do you, that you have received on the  
15:41:09 10 6th of January the sum of 50.000 Leones?

11 A. Yes. I can't tell lies.

12 Q. And that was for transport from xxxx to Freetown using  
13 public transport?

14 A. Yes. That was the only amount.

15:41:54 15 Q. Just confine yourself, if you would, to the questions I'm  
16 going to ask you.

17 With regard to that sum of money, what form of  
18 transport did you, in fact, use to get to Freetown?

19 A. I did use those minibuses. For example, it is Abbess  
15:42:30 20 [phoen] I usually travel with.

21 Q. Is it your evidence --

22 PRESIDING JUDGE: Abbess is which one? Which is Abbess?

23 THE WITNESS: It is a transport that travel between xxx and  
24 Freetown.

15:42:59 25 JUDGE BOUTET: [Microphone not activated]  
26 I've seen it.

27 MR O'SHEA:

28 Q. Is it -- I hope the translation -- the translators will  
29 understand my expressions. Is it a bus or a combi?



1 JUDGE BOUTET: I've seen one of those. I would answer your  
2 question by saying it's a combination of both.

3 MR O'SHEA: All right.

4 Q. Is it your evidence, Witness, that using this Abbess bus  
15:43:41 5 to come from xxx to Freetown cost 50.000 Leones?

6 MR O'SHEA: I didn't get a translation.

7 A. The 50.000 Leones they gave me, I do eat food on the way.  
8 Whatever problem I encounter along the routes, I must  
9 communicate outside. That was all the reason.

10 Q. Where does the figure 50.000 come from? Is it a figure  
11 that you gave to the Special Court or did the Special  
12 Court just give you that sum?

13 A. I didn't ask them to give me 50.000 Leones. They decided  
14 to give me 50.000 Leones as a transport for me to come  
15:45:14 15 and testify to this court.

16 Q. Did you receive that money when you arrived in Freetown?

17 A. They gave me the money in xxxxx, from xxxxx to here.

18 Q. So there was no discussion about how much money you would  
19 actually need for the journey?

15:46:34 20 A. The only discussion we had was the transport fare and  
21 what I should use as feeding along route while coming.

22 Q. All right, thank you.

23 MR O'SHEA: Your Honours, this document which I can describe  
24 as a statement of expenses, re: Prosecution Witness  
15:47:05 25 TF1-304, may it be marked Exhibit -- are we at 14 or 15?

26 PRESIDING JUDGE: 14.

27 MR O'SHEA: 14.

28 JUDGE BOUTET: And this document is a document produced by  
29 whom?



1 MR O'SHEA: This document is produced into evidence by --  
2 JUDGE BOUTET: It has been produced or prepared by whom,  
3 rather than produced?  
4 MR O'SHEA: The document has been prepared, and please correct  
15:47:39 5 me if I'm wrong, by the Prosecution.  
6 MR HARRISON: Mr O'Shea is correct.  
7 JUDGE THOMPSON: And being produced by the Defence.  
8 JUDGE BOUTET: Can we have --  
9 JUDGE THOMPSON: Do we -- does the Prosecution have any  
15:48:01 10 objection?  
11 JUDGE BOUTET: Court management.  
12 MR HARRISON: No.  
13 JUDGE THOMPSON: Not at all.  
14 JUDGE BOUTET: I think it's only the first page.  
15:48:21 15 MR O'SHEA: I think it would -- I think I'd like to exhibit  
16 the entire document if there's no objection from anybody.  
17 MR HARRISON: There is a caveat. I'm only familiar with the  
18 first page. I probably have seen what all the  
19 attachments are, but I simply don't recall, and it's the  
15:48:37 20 first page that I currently --  
21 JUDGE BOUTET: The one that has been --  
22 MR O'SHEA: Well, we can stick to the first page.  
23 JUDGE BOUTET: Because the other one relates to other  
24 witnesses.  
15:48:50 25 JUDGE THOMPSON: Yes, right, right.  
26 JUDGE BOUTET: So we'll just remove the first page and give it  
27 back.  
28 JUDGE THOMPSON: Mr Jordash and Mr Touray, it's a safe  
29 assumption that the Defence has no problem receiving this





1 document in evidence?

2 MR JORDASH: None at all. I was just discussing with my  
3 learned friend Mr O'Shea whether the payments made by the  
4 Victims and Witness Unit ought, for the sake of  
15:49:31 5 completeness, to be exhibited as well. That was the  
6 payments that I dealt with. But --

7 JUDGE THOMPSON: My immediate reaction would be that would be  
8 something that you'd need to advise yourselves on. Why  
9 not do that?

15:49:46 10 MR JORDASH: The witness answered yes to my questions about  
11 them and it's on the court record.

12 JUDGE THOMPSON: As far as I'm concerned, that's for you to  
13 decide if you want that exhibited.

14 MR JORDASH: My answer is no, Your Honour. Thank you.

15:50:01 15 JUDGE THOMPSON: Mr Touray, you don't have any objection?

16 MR TOURAY: No objection.

17 JUDGE THOMPSON: The document will be received in evidence and  
18 marked Exhibit 14.

19 [Exhibit No. 14 was admitted]

15:51:19 20 MR O'SHEA:

21 Q. Witness, you will remember last week I had the  
22 opportunity to ask you some questions, and I touched upon  
23 a subject but did not complete it. I asked you about the  
24 expression G5. Do you remember that?

15:51:19 25 A. Yes.

26 Q. And do you also remember indicating to this Court that in  
27 -- well, I won't put a date on it at this stage because  
28 I'm not sure if we covered that. But do you remember  
29 telling this Court that you knew a G5 called Sylvester



1 Kieh?

2 A. Yes.

3 Q. Do you also remember telling the Court that

4 Sylvester Kieh was sympathetic towards the civilians?

15:52:02 5 A. Yes.

6 Q. Could we just put a time frame on it. Could you tell the

7 Court at what time you remember knowing Sylvester Kieh?

8 A. When we returned, they were the people we met there.

9 That's the time I knew him.

15:52:30 10 Q. Yes, thank you. And are you able to say how long you

11 knew him for?

12 A. The time we returned until the time he was there, that

13 was the time I first knew him.

14 Q. Again, listen to the question: Are you able to say how

15:53:09 15 long you knew Sylvester Kieh?

16 A. The time we returned to xxx, he was there. And since

17 that time until the time the mining ended, he was there.

18 That's the time I knew him.

19 Q. So could you elaborate on how Sylvester Kieh was

15:54:10 20 sympathetic towards the civilians?

21 A. Whatever be the case, somebody had to sympathise with

22 another person. We are all human beings, but our ways

23 are not the same.

24 Q. I promise you this is not a trick question. Could

15:54:46 25 you --

26 JUDGE THOMPSON: Probably you want to ask him to give some

27 specific examples. Otherwise, he will philosophise

28 before he gets on to -- because that's a philosophical

29 answer.



1 PRESIDING JUDGE: If you have some, you can put them to him,  
2 so that we move faster, Mr O`Shea.

3 MR O`SHEA: Your Honour, if I was in a position to know --

4 JUDGE THOMPSON: Of course --

15:55:11 5 MR O`SHEA: -- I would indeed.

6 JUDGE THOMPSON: [Microphone not activated]

7 MR O`SHEA:

8 Q. Witness, could you give us examples of sympathetic  
9 attitude from the G5 towards the civilians?

15:55:37 10 A. He's leading me to a lot of explanation. I will be able  
11 to explain --

12 JUDGE THOMPSON: Witness, could you hold on. Counsel wants to  
13 speak.

14 MR HARRISON: My colleague has just drawn to my attention that  
15:55:48 15 on the 14th of January, Mr O`Shea put this question to  
16 the witness, and he did receive an answer. So I'm  
17 suggesting to the Court that we're once again, in my  
18 submission, visiting repetitious examination that perhaps  
19 --

15:56:04 20 JUDGE THOMPSON: Mr O`Shea did that?

21 MR HARRISON: Yes, on the -- that's correct.

22 PRESIDING JUDGE: What was the reply from the records you have  
23 there?

24 MR HARRISON: It shows: "Question, how would he manifest  
15:56:18 25 that?" Answer: "Well, when we arrived, he was  
26 introduced to us as a G5 commander. And any time we had  
27 difficulty with the rebels, we told him. He was able to  
28 resolve them amicably."

29 JUDGE THOMPSON: Well --



1 PRESIDING JUDGE: Thank you, Mr Harrison. Thanks for the  
2 notes which were taken, but we would allow this question.  
3 It partially -- it confirms that Mr O'Shea had visited  
4 that question. Thank you for that record.

15:56:56 5 Mr O'Shea, please take note of that but we don't  
6 rule out the question because he may go to some  
7 specifics.

8 JUDGE THOMPSON: Yes.

9 MR O'SHEA: Yes, I mean the record is absolutely accurate,  
15:57:08 10 it's just that I didn't feel I'd got enough.

11 PRESIDING JUDGE: You didn't feel like you got enough. You  
12 want to have more. There's a lot of that. Get ahead and  
13 get as much as you can, please.

14 JUDGE THOMPSON: We'll be vigilant.

15:57:24 15 MR O'SHEA: Perhaps I can just be reminded what the last  
16 answer was. Because it's slipped my mind now.

17 JUDGE THOMPSON: [Microphone not activated] then I said no, we  
18 need to get to the specifics. So get to the specifics.

19 MR O'SHEA: Yes.

15:57:41 20 Q. Witness, try if you can to remember any specific examples  
21 of this sympathetic attitude that you have spoken about.

22 A. Well, when we returned, he was introduced to us as the  
23 G5. And any time we had problem with the rebels, we went  
24 to him. He called them and advised them that we were  
15:58:31 25 people that they should have sympathy for. They should  
26 not treat us as if we were animals. And he did amicably  
27 resolve most of the conflicts we had with them. That was  
28 good on his side.

29 Q. Did the rebels listen to him?





1 A. Most of them couldn't take his advice.

2 Q. Were you ever present when Sylvester Kieh gave an  
3 instruction to a rebel?

4 A. Yes.

15:59:34 5 PRESIDING JUDGE: Sorry. Did he say that most of them did not  
6 take to Kieh's advice?

7 MR O'SHEA: Yes, that's what he said, Your Honour.

8 THE WITNESS: Most of them didn't take his advice.

9 MR O'SHEA:

15:59:48 10 Q. Now, my last question to you was that you were present on  
11 at least one occasion when Sylvester Kieh gave an  
12 instruction to a rebel.

13 A. Yes.

14 Q. How would the rebel react in front of Sylvester Kieh?

16:00:26 15 A. xx advised them on the spot, sooner they leave, they go  
16 and do other things that would be worse than what they  
17 have done before.

18 Q. That may have been my fault. You're present. Sylvester  
19 Kieh gives an instruction to a rebel not to treat the  
16:00:49 20 civilians like animals. Does the rebel respond verbally  
21 to Sylvester Kieh?

22 A. Before him, they would say, okay, they would refrain.  
23 But as soon as he left, they did all of the worst things  
24 not expected of them.

16:01:32 25 Q. So are you suggesting that the rebels were doing these  
26 things behind Sylvester Kieh's back?

27 A. Yes. The town was a big town. Most of their deeds were  
28 done behind Sylvester Kieh. He was not there. He could  
29 not be there.



1 Q. Thank you.  
2 Another subject.  
3 A. I'm listening.  
4 Q. You ran away around March 1998, and you were informed  
16:02:37 5 that three of your children were with your mother-in-law  
6 in xxx. Correct?  
7 A. Yes. You are just taking me back. I have explained all  
8 this.  
9 Q. I appreciate that you have been asked a lot of questions  
16:03:11 10 about your journey. But you see, Witness, I represent a  
11 different accused, so I have a duty to put questions to  
12 you. Is it your evidence that --  
13 A. Not a bad thing. I'm listening to you.  
14 Q. Is it your evidence that you have no idea how it came  
16:03:47 15 about that your three children and mother-in-law ended up  
16 in xxxxxx?  
17 A. Yes. I went along asking. That is the reason how I came  
18 to know that they were at xxxxxxxx.  
19 Q. You told us earlier that you didn't know at that time why  
16:04:27 20 they were at xxxxxx. Is that correct?  
21 A. That's the reason I've said that I asked people. That  
22 was how I get to know that they were there.  
23 Q. Yes. But my question is this: You told this Court on an  
24 earlier occasion that you did not know the reason why  
16:04:59 25 your mother-in-law decided on xxxxxx when you were  
26 getting questions from Mr Jordash. Do you remember  
27 giving that answer?  
28 A. You are just sending me behind again. The only reason  
29 that made them go to xxxxx was the reason of the war.



1           There was no other reason beyond that. That was the only  
2           reason that took them there.

3   Q.   Well, xxx is quite a distance from xxxwhere  
4           you were, as you've told us. And the border between  
16:06:04 5           Sierra Leone and xxx, that border is not too far from  
6           xxx, whereas xxxx is very high up the border.  
7           So the question is this: Why xxx as opposed to any  
8           other town or place in xx which was closer to where  
9           you were?

16:06:42 10   PRESIDING JUDGE: Was he responsible for this itinerary that  
11           the mother-in-law took the children?

12   MR O'SHEA: Well, Your Honour, maybe not.

13   PRESIDING JUDGE: This is it.

14   MR O'SHEA: But it's for the witness to answer that. Not for  
16:06:57 15           me to speculate.

16   PRESIDING JUDGE: We can't allow questions to go like that. I  
17           think there is a limit to which we can allow certain  
18           questions. This is a man who was caught up in a -- in  
19           some quagmires, I would say. He took his direction. And  
16:07:18 20           then the others went to there and there was no evidence  
21           that he knew that they were going that way. He only left  
22           later on, and he was searching and searching and later on  
23           discovered them. So why do we have to ask questions like  
24           this, even if he has to answer them? Let him answer,  
16:07:36 25           though.

26   JUDGE THOMPSON: Before he does, let me pose one question, and  
27           see if you can help me out of my own judicial quagmire.

28   MR O'SHEA: Is this a matter that needs the microphone turned  
29           off?



1 JUDGE THOMPSON: Yes, it probably should be turned off.

2 PRESIDING JUDGE: The witness is very much with us here. The  
3 witness is very much with us, Mr O`Shea.

4 JUDGE THOMPSON: Yes, from an abundance of caution we need to  
16:07:56 5 do that.

6 PRESIDING JUDGE: He`s very much with us, isn`t he? I`m sure  
7 we all know he's very much with us, whether the mic is  
8 turned off or not.

9 JUDGE THOMPSON: Let me proceed because I`m in a judicial  
16:08:08 10 quandary. The record here according to the evidence, and  
11 I stand corrected, is that he was asked some questions  
12 along this line where he persistently said that he never  
13 made any inquiry - in other words, virtually the answer  
14 from the record is he didn't find out why they went that  
16:08:35 15 far. I mean, he didn't bother to inquire because that at  
16 the time was not the priority. So the question would be  
17 if you are probing that, who is the best person to answer  
18 that in light of the state of the evidence that he never  
19 went on inquiry. I remember he said that four or five  
16:08:53 20 times to Mr Jordash, you know. And if we want the real  
21 evidence, I mean, if we're ascertaining the truth, if he  
22 has said that, unless he's prepared to go back on his  
23 word, who would be the best person to -- is he the best  
24 person? He virtually said that he never inquired. That  
16:09:16 25 was not the priority at the time for him.

26 MR O`SHEA: That's a point that I entirely accept,  
27 Your Honour. I started off this line of questioning by  
28 pointing out that he had earlier told the Court that.  
29 Now, it's difficult for me in the presence of the witness





1 to elaborate on this too much.

2 JUDGE THOMPSON: Yes. I appreciate your position.

3 PRESIDING JUDGE: [Microphone not activated]

4 JUDGE THOMPSON: I do appreciate your position.

16:09:39 5 PRESIDING JUDGE: [Microphone not activated]

6 MR O'SHEA: No, I will try to avoid that. Let me put it this

7 way: There is an issue of credibility here. And I do

8 not intend to retread the ground of Mr Jordash.

9 JUDGE THOMPSON: Yes.

16:09:57 10 MR O'SHEA: I intend to take it one step further.

11 JUDGE THOMPSON: Okay.

12 MR O'SHEA: I'm sorry if Your Honour feels that I'm going in a

13 blind direction, but I have direction.

14 JUDGE THOMPSON: Quite frankly, I just wanted some

16:10:08 15 enlightenment for my own side here. I do understand. I

16 just wanted to remind you of the evidence and the

17 persistence of this witness that he never went on

18 inquiry. This was not a priority for him at the time.

19 He was just happy to see them, and all that. But --

16:10:28 20 MR O'SHEA: I would have gone straight to the next stage if it

21 were not for the fact that I was not getting the sort of

22 basic building blocks from the witness if I can put it

23 that way. But let me try to go straight to the next

24 stage anyway.

16:10:42 25 Q. Witness, when -- have you been -- have you seen your

26 mother-in-law since the war?

27 A. Yes.

28 Q. Have you ever discussed --

29 PRESIDING JUDGE: Since when? Since?



1 MR O'SHEA: Since the war.

2 PRESIDING JUDGE: Since the war.

3 MR O'SHEA:

4 Q. Have you ever discussed with your mother-in-law how or  
16:11:31 5 why they ended up in xxx?

6 A. My worries were to see them, and having seen them, the  
7 other interests that came up was to get back. When I  
8 discovered them, we should go back. That was all.

9 Q. So since the war ended, these matters have never been  
16:12:09 10 discussed?

11 A. She stayed with me. No discussion on that issue again.

12 Q. Very well. When you got to the Guinean border, do you  
13 recall the name of the first town you got to which was  
14 inside the borders of Guinea?

16:13:06 15 A. Yes.

16 Q. What was it called?

17 A. Gbesendor.

18 Q. Correct me if I'm wrong, but didn't you say that  
19 Gbesendor was in Forokonia?

16:13:35 20 A. If I didn't tell you that, then I am a liar. But I told  
21 you that Gbesendor is in Forokonia.

22 Q. Is it? Are you sure about that?

23 A. Last time, I did explain here. But if you are now  
24 doubting me, you now tell me which town do you go from to  
16:14:17 25 Forokonia?

26 PRESIDING JUDGE: Mr O'Shea, do you want to go for a voyage of  
27 discovery? May we take a trip. Ask for an adjournment  
28 and take a trip so we can answer his question.

29 MR O'SHEA: With respect, Your Honour, I am addressing a



1 serious matter.

2 PRESIDING JUDGE: Yeah, I know. But I remember -- but I  
3 remember that this witness talked of a town, you know,  
4 that neighbours Forokonia. It's close to Forokonia, and  
16:14:59 5 that, you know, you could shout between the two towns  
6 which are right at the border with Guinea. And I think  
7 he said one of them, Forokonia is inside Guinea or  
8 Gbesendor. One of these towns is in Guinea, inside  
9 Guinea itself.

16:15:26 10 JUDGE THOMPSON: Yes, I think I remember that part.

11 PRESIDING JUDGE: It's somewhere in my notes.

12 JUDGE THOMPSON: He left us in a little doubt as to whether  
13 there were twin areas because he put them in that context  
14 as if you are in one, you are in the other. Something  
16:15:38 15 like that, I remember.

16 MR O'SHEA:

17 Q. Were you conscious of having crossed the Guinean border?  
18 Do you know at which point you crossed the Guinean  
19 border? Were you conscious of having done that?

16:16:10 20 A. What I'm telling you is that I don't know Guinea very  
21 well. But I am telling you that I went to Guinea, and I  
22 was at Forokonia. Forokonia is a suburb -- Gbesendor is  
23 a suburb of Forokonia.

24 Q. So was Forokonia the very first place you arrived at in  
16:16:31 25 Guinea?

26 A. Forokonia was not the first town I entered in Guinea. It  
27 was Gbesendor, and Gbesendor is a small village to  
28 Forokonia. But the distance is not far off. You can  
29 even move within them. That's what I said.



1 Q. You did say earlier in your evidence that Forokonia was a  
2 big place. Do you remember saying that?

3 A. Yes, that's the big town from Gbesendor.

4 Q. From the moment you arrived from Gbesendor, how long did  
16:17:32 5 it take you to find your three children?

6 A. I don't want you to confuse me. I have told you this  
7 over and over, that I met my three children at Forokonia.  
8 When I'm saying Forokonia, it's within Gbesendor and  
9 Forokonia, it's within the same area I'm talking of.

16:18:01 10 Q. I understand that, Witness. My question is --

11 PRESIDING JUDGE: Witness, the lawyer's not confusing you. He  
12 just wants some clear answers to these questions. Don't  
13 have the perception that he's wanting to confuse you.  
14 Listen to him carefully, and give precise answers, you  
16:18:19 15 know, to the questions he's putting to you. Is that all  
16 right?

17 MR O'SHEA: Thank you, Your Honour.

18 Q. From the moment you realised that you were in Guinea, how  
19 long did it take you before you found your three  
16:18:42 20 children?

21 A. I didn't get there in one day. I went from town to town,  
22 and it took me months, for me to reach to the point.  
23 That was how I got there before I could see my children.

24 Q. Listen to the question, Witness. Listen to the question.  
16:19:15 25 From the moment you arrive in Guinea, don't worry about  
26 the rest of the journey. From the moment you arrive in  
27 Guinea, how long did it take before you found your three  
28 children?

29 JUDGE THOMPSON: Learned counsel, do sit down and let your





1 colleague --

2 MR HARRISON: The objection is this: Whatever the answer is,  
3 it's irrelevant. In addition, this matter was thoroughly  
4 canvassed as pages 72 through 74 of the testimony on the  
16:19:46 5 13th of January. We're revisiting and have been  
6 revisiting for the last 15 minutes all of the areas that  
7 were covered thoroughly, in my submission, by Mr Jordash.  
8 Whatever the answer is to this question is simply  
9 irrelevant.

16:20:02 10 JUDGE THOMPSON: Well, I don't think I agree with you. I  
11 remember when we did make the joinder decision, and I  
12 probably go back and just anchor myself on the law. We  
13 did say that even though these accused persons were  
14 charged jointly, yet they will receive the judicial  
16:20:22 15 guarantees which more or less entitle them to separate  
16 trials. And for that reason, unless I am satisfied that  
17 this really is an irrelevant line of cross-inquiry, I'm  
18 not inclined to agree, and prima facie it doesn't appear  
19 to me to be that kind. This time, I think we'll let the  
16:20:42 20 Defence probe as much as they can and ask you to be  
21 patient.

22 PRESIDING JUDGE: But without being repetitive of what we  
23 already know in other sectors of cross-examination.

24 MR O'SHEA: Your Honour, I can assure you I have gone through  
16:21:02 25 the transcript quite carefully of Mr Jordash's  
26 cross-examination, quite carefully.

27 JUDGE BOUTET: But again, I also agree that this is -- I'm not  
28 questioning the relevancy of what you're asking. It's a  
29 question of again covering the same ground. It may not



1 be the very specific questions that Mr Jordash has asked;  
2 I would be prepared to concede that to you. It is only  
3 that this is an area of cross-examination by Mr Jordash  
4 that has been fairly extensively canvassed. But maybe  
16:21:34 5 there are some corners that were not canvassed, and  
6 that's what you're trying to show. But we would like to  
7 see an end to the cross-examination on these matters as  
8 such, and even though it may be relevant at some given  
9 time, we would like to reach some conclusion. Thank you.

16:21:50 10 MR O'SHEA: I understand that, Your Honour. But as His Honour  
11 Judge Thompson --

12 PRESIDING JUDGE: This said, Mr Witness, Mr Witness --

13 JUDGE THOMPSON: I've not fortified your position as well.

14 PRESIDING JUDGE: Mr Witness, Mr Witness.

16:22:09 15 THE WITNESS: I'm listening.

16 PRESIDING JUDGE: When you got to Forokonia or to Gbesendor,  
17 whichever, Forokonia -- you passed through Gbesendor, how  
18 long did it take you to see, to find your children? How  
19 long did it take you to find your children? Is that --

16:22:33 20 Mr O'Shea, is that the question you put to him?

21 MR O'SHEA: Exactly the way I put it.

22 PRESIDING JUDGE: How long did it take you? Look, you have  
23 said it took you months. You had to be searching. It  
24 took you months. But counsel limited you to when you  
16:22:59 25 arrived, when you arrived Forokonia or Gbesendor,  
26 whichever. How long when you arrived there, soon after  
27 you arrived there, did it take you to see -- to locate  
28 your children?

29 THE WITNESS: Just about one week before I could see them.



1 MR O'SHEA:  
2 Q. Do you speak French?  
3 A. I'm not a French person.  
4 Q. Did the locals speak English?  
16:23:48 5 PRESIDING JUDGE: And let me get it. One week? Yes.  
6 So you were in Forokonia for one week before you located  
7 your children? You kept asking, yes, yes.  
8 THE WITNESS: Yes.  
9 PRESIDING JUDGE: So it took you one week in Forokonia?  
16:24:22 10 THE WITNESS: Yes, one week before I could see them.  
11 MR O'SHEA:  
12 Q. Did the locals speak English?  
13 A. Yes, we met people there. Those who ran away who went  
14 there, they could talk English, they could talk my lingo.  
16:24:48 15 Many languages they spoke there.  
16 Q. Now, you say that --  
17 PRESIDING JUDGE: Mr O'Shea, I just wanted to remind you that  
18 in most of these countries where borders are shared, the  
19 languages are the same, you know, on one side or the  
16:25:05 20 other of the country. They have common languages and so  
21 on and so forth.  
22 MR O'SHEA: Well, I'm very --  
23 PRESIDING JUDGE: Including English, of course, and some of  
24 the local dialects.  
16:25:18 25 MR O'SHEA: Yes, thank you, Your Honour.  
26 Q. So you left in March 1998. It took you -- you told  
27 Mr Jordash it took you five months to reach Forokonia.  
28 Correct?  
29 A. Yes.



1 Q. And you were in Forokonia for one month?  
2 A. Yes.  
3 Q. So you would have left Forokonia around the end of  
4 September. Would that be right?  
16:26:27 5 A. I didn't count the months, but it was during the rainy  
6 season that we left Forokonia.  
7 Q. At what point did you hear that ECOMOG had entered Kono?  
8 When was it that you heard that?  
9 A. We were there. We heard it over the radio, then the  
16:27:01 10 civilians gathered themselves to return back home.  
11 Q. When did you hear it over the radio?  
12 A. When we were there, within August or September. We heard  
13 it over the radio.  
14 Q. And what you heard was that ECOMOG has entered Kono? Or  
16:27:27 15 did you hear something else?  
16 A. We heard it over the radio that ECOMOG have entered Kono,  
17 and that a lot of civilians have returned, and the place  
18 a packed jam. That was the reason we decided to return.  
19 PRESIDING JUDGE: August or September of what year,  
16:27:56 20 Mr Witness? Let me have the year. August or September  
21 --  
22 THE WITNESS: 1998.  
23 PRESIDING JUDGE: 1998.  
24 MR O'SHEA:  
16:28:06 25 Q. So at that point, you were reassured. So you make your  
26 journey back. You reach a village called Bakio, and you  
27 meet some hunters. Is that correct?  
28 A. You didn't get me clear. I told you we were at xxxx.  
29 Civilians were assembling at xx. It was from





1           xxx they took us to xxx. From there we were to  
2           enter to where ECOMOG was.

3   Q.   Right. When were you when the hunters told you not to go  
4           any further?

16:29:16 5   A.   I've answered a lot of questions, but this, I cannot  
6           understand it.

7   PRESIDING JUDGE: Maybe you should drink some water first.  
8           You'll understand later. Mr Witness, drink some water  
9           first. You'll understand later.

16:29:36 10  THE WITNESS: No problem.  
11                    Let's proceed.

12  MR O'SHEA: Brain refreshed.

13  Q.   Where was it that the hunters said you were not to go any  
14           further?

16:30:12 15  A.   It was xx, because they went ahead and found out that  
16           ECOMOG and the rebels interacted with one another. And  
17           the that the rebels have overrun ECOMOG. So they came  
18           back and told us we should not go forward. We should go  
19           back.

16:30:31 20  Q.   Right. Eventually, cutting through other aspects of the  
21           story, you get to the road near xxx, the main road,  
22           and you see a pit. That was your evidence before. Yes?

23  A.   I could not understand.

24  Q.   You said to this Court last week that when you were  
16:31:10 25           approaching Tombodu by the main road, there was a large  
26           pit.

27  A.   Yes.

28  Q.   And your comment on the pit was that -- the first thing  
29           you said was that you saw a huge number of heads. Do you



1 remember saying that?

2 A. Not only the heads, but I saw -- I mean, skeletons of  
3 people, a lot of skeletons and skulls. Not only heads.

4 Q. Yes. So you saw skeletons, you saw skulls, and you saw  
16:32:12 5 heads?

6 A. Yes, they were all in that pit.

7 Q. So when you saw the heads, did that indicate to you that  
8 these people had been very recently killed?

9 A. No, they were not recently killed. They had been there  
16:32:45 10 for long.

11 Q. You yourself have said "heads and skulls." Do you see a  
12 distinction between the two?

13 A. When somebody dies, he gets to rotting, the bones and the  
14 head have been separated from one another.

16:33:34 15 Q. Is there a distinction in your mind between a head and a  
16 skull?

17 A. In my own dialect, when I say head, I mean head. No  
18 matter what you call it head, we mean head. When  
19 somebody dies, the head and the skeleton cannot move  
16:34:24 20 again. They were all there. I said head.

21 Q. So having seen this, you decided that it would be a bad  
22 thing if you did not continue your journey. That's the  
23 essence of what I remember you saying in your  
24 examination-in-chief. Did you not think at that moment  
16:35:03 25 that you might be killed?

26 A. That was not my thinking because those skeletons and the  
27 skulls have been there for some time now, and they've  
28 told me they were not going to kill anybody again. So  
29 from the point they told me and when I came back, I was



- 1 not afraid again because I knew they were not coming to  
2 harm me.
- 3 Q. So did you trust that statement? If the rebels told you  
4 "we're not going to kill any more people," did you trust  
16:35:59 5 that?
- 6 A. My trust was in God, not in the rebels. During war,  
7 nobody is wise. Whatever you do, you are doing it as a  
8 risk. There's chances you do take.
- 9 Q. But when the rebels said that they were not going to kill  
16:36:45 10 any more people, you believed it?
- 11 A. I did believe that because I had nowhere to go again.  
12 That's the reason I was saying that I believe God.
- 13 Q. You get to xxx. You say things were fine in the  
14 beginning, but then they got worse. And then you  
16:37:20 15 describe an incident where you are asked to retrieve  
16 vehicles from the bush. Do you remember that?
- 17 A. Yes.
- 18 Q. Now, when you went to the vehicles, were you accompanied  
19 by rebels?
- 16:38:07 20 A. Yes.
- 21 Q. And then when you were pushing a vehicle, you said that  
22 you pushed a vehicle. Correct?
- 23 A. Yes.
- 24 Q. And that the vehicles were in bad condition with flat  
16:38:33 25 tyres, not able to move by themselves. Is that correct?
- 26 A. It only had deflated tyres, but the driver went into it.  
27 He was controlling it while we were pushing.
- 28 Q. How long did it take you, from point where you found the  
29 vehicle to the point when you arrive at Koidu, to push



1 the vehicle? How long did it take you to push the  
2 vehicle that distance?  
3 A. It was a whole day walk, from morning to evening.  
4 Q. At a certain point in time, you are forced to get  
16:39:43 5 involved in mining. And I understand your evidence to be  
6 that you personally were also forced to mine. Correct?  
7 A. Yes.  
8 Q. And you told Mr Jordash on Friday that you were mining in  
9 April and May of 2000.  
16:40:26 10 A. That's the reason I said yes. They brought mining and  
11 they forced us to do the mining. We didn't do it with  
12 our own will.  
13 Q. And the miners, who included yourself, were confined to  
14 shelters in the evening. Correct?  
16:41:25 15 A. We who came from xxx itself had a right to go back to  
16 our houses. The xxxxx, they were the  
17 people they housed in those sheds. It was not us, but  
18 those that they brought there for the mining.  
19 MR O'SHEA: Can I have one moment, Your Honour.  
16:41:46 20 [Defence counsel confer]  
21 PRESIDING JUDGE: You can have two.  
22 [Defence counsel confer]  
23 MR O'SHEA: Yes, thank you, Your Honour.  
24 PRESIDING JUDGE: Mr O'Shea.  
16:42:53 25 MR O'SHEA:  
26 Q. Would it be correct to say that you were allowed to  
27 listen to the radio --  
28 PRESIDING JUDGE: I thought Mr O'Shea was going to say that  
29 was all for this witness. I didn't receive my surprise.





1 That's okay. You can proceed.

2 MR O'SHEA: I'm sorry to disappoint you.

3 PRESIDING JUDGE: That's all right.

4 MR O'SHEA:

16:43:10 5 Q. Would it be correct to say that while you were in forced  
6 mining, you were allowed to listen to the radio?

7 A. Radio is a public use. Whatever happens, it's a public  
8 use.

9 PRESIDING JUDGE: No, were you allowed to use the radio when  
16:43:37 10 you were mining?

11 THE WITNESS: Yes, we did listen to the radio.

12 MR O'SHEA:

13 Q. Where would you do that?

14 A. In our houses. At times when you come from farm or from  
16:44:08 15 your garden, while you stay in the home, you open your  
16 radio and you listen to it.

17 PRESIDING JUDGE: I don't think that was counsel's question.  
18 When you are mining, in the mining area, mining, did you  
19 --

16:44:26 20 THE WITNESS: No, no. There was no time for that, for you to  
21 listen to the radio. I was thinking of the house. They  
22 don't allow you to do that.

23 MR O'SHEA:

24 Q. When you arrived in xxxx, you said that only  
16:44:53 25 xxxx were left standing. Do you remember saying  
26 that?

27 A. Yes.

28 Q. And you also said that most of the houses were occupied  
29 by rebels.



- 1 A. Yes. Those who were there, most of them were in those  
2 houses.
- 3 PRESIDING JUDGE: The rebels and their wives.
- 4 MR O'SHEA:
- 16:45:50 5 Q. So where -- did you own your own radio?
- 6 A. I had no radio per se, but they themselves had radios,  
7 and some other civilians also had smaller radios, those  
8 that they brought with them or took from the bush.
- 9 Q. When these Zambian peacekeepers arrived, you say they  
16:46:56 10 were counted by the rebels. Is that right? Or did you  
11 count them yourself?
- 12 A. Yes.
- 13 Q. Which one?
- 14 A. It was the commander who brought them, ~~xxxx~~. He  
16:47:36 15 two-lined them and counted them, head counting.
- 16 Q. And did that happen when they had just arrived?
- 17 A. They transported them. Having brought there the last  
18 batch, they put them all together, and they began  
19 counting them out to know the number of men they brought  
16:48:08 20 to ~~xxxxx~~.
- 21 Q. Was that during the day?
- 22 A. The day they came was not the day they counted them. It  
23 was the other day. While everybody was around, they  
24 counted them.
- 16:48:41 25 Q. Okay. It's not the answer I wanted, but I'd like to get  
26 clarity on what you mean there. You're saying that the  
27 peacekeepers arrived on one day, and then they were  
28 counted on another day. Is that what you're saying?
- 29 A. So I say because the condition under which they were



1 brought, they didn't give them any strength to be  
2 counted. It was the other day that they counted them.  
3 Q. So they wanted to count them in more normal conditions.  
4 Was that during the day?  
16:49:37 5 A. In the morning.  
6 Q. What time?  
7 A. During the early morning, while the sun was rising up.  
8 Q. And where were you exactly?  
9 A. I was there.  
16:50:06 10 Q. How far away from Gassimo were you? You can use this  
11 courtroom if it's a short distance; or if it's a longer  
12 distance, you can say so.  
13 A. There was no distance to say. It was a big town, like in  
14 Freetown, you have Cape Town, you have Murray Town. That  
16:50:49 15 is how xxxx also is.  
16 Q. All right. You've explained that Colonel Gassimo counted  
17 the rebels early in the morning -- sorry, counted the  
18 peacekeepers early in the morning. And you've told the  
19 Court that you were there. So my question is this: How  
16:51:16 20 close were you to Colonel Gassimo?  
21 A. I was not the only person that went there. All of the  
22 civilians went there to see the type of people they  
23 brought. It was there we saw them counting these people  
24 by head.  
16:51:48 25 Q. Witness, please listen to the question. All right? What  
26 was the distance between you and Colonel Gassimo when the  
27 counting took place?  
28 A. If I should estimate, it was like from His Lordships and  
29 where I am seated. The distance was too short. We were



1 very close to them. I couldn't go closer to him to count  
2 because I had nothing to do with him by then.  
3 MR O'SHEA: So let the record indicate the distance as being  
4 indicated of 25 feet?  
16:53:07 5 PRESIDING JUDGE: That's too far. It's too far. I mean, he  
6 said it was very close.  
7 MR O'SHEA: Well, he said it's from himself to Your Honours,  
8 so I'm just trying to estimate at the moment.  
9 Your Honours are obviously in an awkward position to  
16:53:22 10 estimate being at the end of the distance.  
11 PRESIDING JUDGE: If you want it at 25 feet, fine.  
12 MR O'SHEA: No, no, it has to be accurate, Your Honour. And I  
13 may be very bad at this sort of thing, which I know I am.  
14 JUDGE THOMPSON: It certainly looks more than 5 feet.  
16:53:51 15 PRESIDING JUDGE: I don't think I'm any better than you are in  
16 those matters.  
17 MR O'SHEA: 5 feet.  
18 JUDGE THOMPSON: He said it looks more than that. 25 feet.  
19 MR HARRISON: At any rate, the Prosecution wouldn't disagree  
16:54:06 20 with 25 feet, if that would abbreviate matters.  
21 JUDGE THOMPSON: Would 20 be a compromise?  
22 MR HARRISON: Anything would be a compromise to move on.  
23 JUDGE THOMPSON: Let's make it 18.  
24 PRESIDING JUDGE: Someday I'll tell you a story about 18.  
16:54:18 25 JUDGE THOMPSON: Is that acceptable? 18, from an abundance of  
26 caution?  
27 MR O'SHEA: Mr Cammegh is a keen footballer.  
28 JUDGE THOMPSON: Good. Why not have the benefit of his  
29 experience.





1 MR O'SHEA: And he says it's 12 yards.

2 JUDGE THOMPSON: Mr Cammegh, do you want to give us the  
3 benefit of your --

4 PRESIDING JUDGE: Maybe the 18, the 18 on a football pitch,  
5 you know.

6 JUDGE THOMPSON: -- your experience?

7 MR CAMMEGH: If the penalty spot is where the witness is  
8 sitting and the goal is where Your Honours are sitting,  
9 that's about 12 yards.

16:54:59 10 PRESIDING JUDGE: Is that where the penalty is?

11 MR CAMMEGH: Yeah.

12 JUDGE THOMPSON: Well, we yield to your guidance.

13 JUDGE BOUTET: 25 feet is okay.

14 PRESIDING JUDGE: 25 is okay.

16:55:10 15 MR O'SHEA:

16 Q. How did you come to know the number? I mean, you've told  
17 us that the rebels counted the peacekeepers. How did  
18 you --

19 PRESIDING JUDGE: He said that he was present when they were  
16:55:21 20 doing the counting. He has said so. We had this reply.

21 MR O'SHEA: 25 feet away.

22 PRESIDING JUDGE: He said he was near. But when he gave the  
23 figures of those who were brought, he said he was there  
24 when they were counting, and he followed the count.

16:55:33 25 MR O'SHEA: Does Your Honour know how he knows the figure, the  
26 final figure?

27 JUDGE THOMPSON: You mean --

28 PRESIDING JUDGE: He's not illiterate. He was there when they  
29 were counting.



1 JUDGE THOMPSON: You mean the number of peacekeepers?  
2 MR O'SHEA: We don't know at the moment how it came about that  
3 he knew that information.  
4 JUDGE THOMPSON: In other words, you want to investigate the  
16:55:52 5 methodology. Perhaps he should tell us.  
6 PRESIDING JUDGE: You see, we want to be very indulgent, but  
7 please, let's not push matters too far because I think we  
8 are wasting time. We're beginning to waste time. And I  
9 think there is a stage, you know, when the Tribunal will  
16:56:07 10 have to say "enough is enough."  
11 MR O'SHEA: Your Honour can tell me to sit down.  
12 PRESIDING JUDGE: No, no, I'm not saying that. You know, but  
13 this man is not illiterate. He had said in his earlier  
14 evidence - we have it on record - that he was present  
16:56:22 15 when they were doing the count, and he gave the number of  
16 the peacekeepers before this Tribunal. If we're going  
17 back to that, I mean, I don't see what else could amount  
18 to questions which call for repetitive answers.  
19 MR O'SHEA: Well, I don't know the answer. But I'm happy to  
16:56:41 20 leave it.  
21 Q. You say that these peacekeepers were put in a mosque.  
22 A. In the mosque, yeah.  
23 Q. And you say that they did not have freedom of movement.  
24 A. When they were first brought, they were not allowed to  
16:57:16 25 move about on their own.  
26 Q. How do you know that?  
27 A. They didn't come on their own. They were brought, and  
28 they were brought under conditions -- they were not  
29 allowed -- they were not allowed to move on their own.



1 [HS170105D 5.00 p.m.]

2 Q. My question is how do you know that?

3 A. That is what I've explained.

4 Q. How do you know it?

16:57:48 5 A. I was not to tell them to move about it, but they were  
6 not moving about. They were under some control.

7 Q. Did you see this, that they did not have freedom of  
8 movement when they were in the mosque?

9 A. Yes, I did see it. In the first place when they were  
16:58:45 10 brought, even when they started looking out for food they  
11 were asked to go back, they were driven back by the  
12 rebels.

13 Q. And you saw this during the day, did you?

14 A. That xxxxxxxx. I did see it with my own eyes.

16:59:02 15 Q. During the day?

16 A. I was not xxxx with them in the mosque, but it was in  
17 xxxxxxxxxxxx  
18 what was happening there. That is the big road we passed  
19 to go to xxxxxx.

16:59:27 20 Q. Did you see what was happening during the day?

21 A. I was not there. I was not staying with them, but I did  
22 see, I knew that they were under strict control, they  
23 were not allowed to move about like we the civilians  
24 were.

16:59:51 25 Q. But that is from your personal observation; correct? So  
26 my question is, did you have that personal observation  
27 during daylight hours? It's a very simple question.

28 A. Yes, I did see during the the day.

29 MR O'SHEA: I heard a very, very odd interjection from the



1 interpreters. I don't know if anyone else heard it? It  
2 was quite a troubling one.

3 JUDGE THOMPSON: What was that? Because I had something in a  
4 soft voice.

17:00:49 5 MR O'SHEA: Something about "if you don't tell truth, blah,  
6 blah, blah," and it concerns me a little.

7 JUDGE THOMPSON: Can we have consultation from the  
8 interpreters? What was that interjection about?

9 THE INTERPRETER: My Lord, sorry, it was a discussion between  
17:01:19 10 the interpreters but the mic was left open.

11 JUDGE THOMPSON: Did it have anything to do with the testimony  
12 here?

13 THE INTERPRETER: Sorry, sorry, it has nothing to do with the  
14 testimony, My Lord.

17:01:38 15 JUDGE THOMPSON: Can we take you on your word? Well, I'm  
16 assured it had nothing to do with the testimony, it was  
17 some kind of aside, learned counsel. I think we need to  
18 take them on their word unless we have evidence to the  
19 contrary.

17:01:55 20 MR O'SHEA: Yes, I am happy.

21 JUDGE THOMPSON: Let's proceed.

22 MR O'SHEA:

23 Q. Witness, you observed how these peacekeepers were being  
24 treated during daylight hours. That's your evidence?

17:02:19 25 A. Yes.

26 Q. And it is also your evidence that peacekeepers came in  
27 May 2000?

28 A. It was during that -- it was during that month that they  
29 brought them. I said 2000. It was in 2000.





1 MR O'SHEA: Bear with me one moment, please, Your Honours.  
2 JUDGE THOMPSON: Certainly, you have our leave.  
3 MR O'SHEA: I apologise, Your Honours.  
4 JUDGE THOMPSON: That is okay. Could we have the last answer  
17:04:29 5 which I put the question so -- sorry, thank you. Could  
6 we just have the last answer when I put the question so  
7 the peacekeepers came in May 2000?  
8 JUDGE THOMPSON: Well, you said that was his evidence. You  
9 said they were brought.  
17:04:48 10 MR O'SHEA: Right, yes. Okay. Well, in fact I was slightly  
11 inaccurate I remember him saying April, May, during the  
12 mango season.  
13 Q. So the peacekeepers came in April, May, during the mango  
14 season. That was your evidence last week.  
17:05:21 15 A. Yes.  
16 Q. And you were being forced to mine between March and  
17 April?  
18 A. Yes.  
19 Q. And it was your evidence to this Court that you were not  
17:07:18 20 able to personally feed these peacekeepers, because you  
21 were involved in the forced mining and your wife did; is  
22 that right?  
23 A. Not only my wife, but other women also within the  
24 township did it, it is true.  
17:07:52 25 Q. But not you, because you were -- you were involved in  
26 forced mining at the time.  
27 PRESIDING JUDGE: This witness said earlier on -- I want to  
28 put things in context. He said earlier on that if his  
29 wife did feed -- during cross-examination it was his wife



1 that provided the food. That was -- that was what he  
2 said during -- I think it was during Mr Jordash's  
3 cross-examination.

4 MR HARRISON: I think the fair approach to this witness would  
17:08:37 5 be that in fact he did give an answer to Mr Jordash which  
6 he said, "sometimes I took the food myself," so the  
7 phrasing of the question was somewhat misleading.

8 MR JORDASH: I'm sorry to leap up and delay matters, but  
9 that's not my understanding of his evidence. I put to  
17:08:57 10 him that I could -- I was on my feet

11 MR HARRISON: I could give you the page if it shortens  
12 matters.

13 PRESIDING JUDGE: No, Mr Harrison, please.

14 MR JORDASH: When I put to him as a direct question how it was  
17:09:11 15 he managed to feed the Zambians when he was subjected to  
16 forced mining, he answered by that by saying this wasn't  
17 me, it was my wife. So to suggest the that he has given  
18 himself a way out of the contradiction, I would suggest  
19 itself is misleading. Testimony.

17:09:43 20 JUDGE THOMPSON: I don't recollect that part of the  
21 Prosecution, he definitely said this was his wife,  
22 because the transcript can be invoked to correct us.  
23 I do remember that the Presiding Judge remembers, that he  
24 again asked a rhetorical question, if my wife -- if I am  
17:09:58 25 the one who provides the money and my wife does the  
26 feeding, am I not the one who is providing it? That is  
27 part of his -- I mean, this is the frame of his evidence.  
28 He always gives us some philosophical statement and then  
29 comes to the specific. But I don't remember him saying



1 that sometimes he personally did it. It may be that the  
2 transcript will have to provide the correction.

3 PRESIDING JUDGE: He said it earlier on. It was when he was  
4 being cross-examined that he came back and said.

17:10:31 5 JUDGE BOUTET: I have in my note that at times I took it to  
6 them.

7 JUDGE THOMPSON: So there you are. We have the two  
8 versions -- two renditions here.

9 MR O'SHEA: Can I clear it up.

17:10:47 10 JUDGE THOMPSON: Yes, perhaps.

11 JUDGE BOUTET: You may have the transcrip with you. I mean  
12 the transcript is available, in fact.

13 PRESIDING JUDGE: Mr Harrison, yes.

14 MR HARRISON: I do. It's page 117 of the transcript. And it  
17:10:59 15 records exactly what His Honour Judge Boutet has related.

16 JUDGE BOUTET: What you were quoting from was not your note  
17 but from the transcript.

18 MR HARRISON: I have been reading from the transcript when  
19 I've been referring to things today. We have it on the  
17:11:15 20 computer.

21 MR O'SHEA: I think it might be helpful if I just clear that  
22 up with the witness directly.

23 PRESIDING JUDGE: Please do.

24 MR O'SHEA:

17:11:27 25 Q. Witness, did you feed the Zambian peacekeepers personally  
26 yourself?

27 A. Whatever arrangements was made towards the feeding of  
28 those men xxxx. xxx xxxxx  
29 xxxxxx. If it was mango, they pick the



1 mango, they carry it. It was me sending it in to them.

2 Q. All right. I understand that answer. You were involved  
3 in the arrangements. Did you ever take food to them  
4 personally?

17:12:35 5 A. If you -- xxxxxxxx  
6 xx  
7 xxxn?

8 Q. Let me go from a different direction, when you were being  
9 questioned on this topic by Mr Jordash on Friday,  
17:13:05 10 Mr Jordash put it to you, "How could you feed the  
11 peacekeepers when you were involved in forced mining? "  
12 Do you remember that?

13 A. Yes.

14 Q. I may not have your answer exactly correct but the  
17:13:26 15 essence of your answer was that xxxxxx  
16 food to the peacekeepers. Would you accept that?

17 A. Well, to me, this question, the way you are framing it,  
18 so it happened, xxxxxxxxxxxx  
19 xxxxxxxx and it was xxx who sent it to them.

17:14:01 20 Q. But you were involved in forced labour, forced mining at  
21 at time, were you not?

22 A. I said this over and again, over and again. I can't say  
23 anything beyond that. I don't have anything to say  
24 towards that.

17:14:35 25 PRESIDING JUDGE: You must have something to say. Because we  
26 have to put certain issues to rest. Don't say you have  
27 nothing to say. Please answer counsel's question.

28 THE WITNESS: No problem, no problem. So it happened.

29 MR O'SHEA:





- 1 Q. Right. You were involved in forced mining at the time  
2 that the peacekeepers were in the mosque; correct?
- 3 A. Yes.
- 4 Q. So you were not able to, **xxx**, observe  
17:15:15 5 them during daylight hours or how they were being treated  
6 during the daylight hours.
- 7 A. I had enough chance. I had enough chance after the  
8 mining, we do go to them.
- 9 Q. Well, what time did the mining stop?
- 17:15:56 10 A. The distance between the mining and the **xxxxx** a  
11 **xxxxxxx**.
- 12 Q. No, no, stop. What time did the mining stop in any  
13 normal day?
- 14 A. The mining was done this way, some came in the morning,  
17:16:24 15 during the day another group of people come, another  
16 group of people come in the evening; they would go  
17 through the night. **xxxxxxx** had enough  
18 time. We come in **xxxxxx**, maybe go during the day  
19 and stay there until the next.
- 17:16:43 20 Q. So are you now saying there were times that you could go  
21 home during the day?
- 22 A. Yes. After my shift, when I got tired they allowed me to  
23 go.
- 24 Q. So why did you tell the Court earlier that you were only  
17:17:06 25 allowed to go home at night?
- 26 A. I didn't tell you that. I told you that people were  
27 there who worked from morning to noon then from there to  
28 the evening then from evening to the next morning. That  
29 was what I told you. I want to ease myself.



1 PRESIDING JUDGE: Well, we shall rise and when we're ready,  
2 please let us know. The Court will rise, please.  
3 [Break taken at 5.20 p.m.]  
4 [On resuming at 5.28 p.m.]  
17:25:45 5 PRESIDING JUDGE: We're resuming the session. Yes, please,  
6 Mr O'Shea.  
7 MR O'SHEA: Thank you, Your Honour. You'll be happy to know  
8 that I've more or less reached the point where I wanted  
9 to reach and therefore will not be much longer.  
17:26:04 10 PRESIDING JUDGE: Pardon me? Sorry, I didn't have my  
11 earphones on.  
12 MR O'SHEA: You will be happy to know that I've more or less  
13 reached the point where you wanted to reach and therefore  
14 will not be much longer.  
17:26:18 15 PRESIDING JUDGE: Right, we're happy to hear that. We welcome  
16 that.  
17 MR O'SHEA:  
18 Q. Witness, do you remember saying to Mr Jordash last week -  
19 this is on the 14th of January - that when you were  
17:26:41 20 mining, you would start in the morning and leave in the  
21 evening. Do you remember saying that in court?  
22 A. Yes.  
23 Q. So you are saying that sometimes you would be going home  
24 during the day?  
17:27:36 25 A. Yes, we were working with groups, people were many.  
26 Q. So there was a shift system, was there? There was a  
27 rota?  
28 A. Diamond mining is a shift work.  
29 Q. Do you remember saying last week that when the workers



1 got tired, they would go to shelters within the mining  
2 site or the mining area and stay there?  
3 A. Yes, those they brought from xxxxx, xxxxxx  
4 xxxxx. Those that they brought for the mining,  
17:28:52 5 they were sleeping or having rest in the make-shifts.  
6 Q. How frequently were you allowed to return home during  
7 daylight hours?  
8 A. I was xxxxxx, xxxxx I would just  
9 ask to xxxxx. Every day that's what happened.  
17:29:29 10 Then xxxxx they go and pick you up for you to go  
11 back to the mining pit.  
12 Q. Was it always in the morning they would pick you up to go  
13 to the mining pit?  
14 A. Yes, it was in the morning, very early in the morning you  
17:30:15 15 are picked up.  
16 Q. What time?  
17 A. Just from bed you are marched to the mining with guns  
18 behind you.  
19 Q. And from bed would be at what time in the morning?  
17:30:48 20 A. Rising up from the bed, having washed your face, maybe  
21 taking something to eat, you are being asked to go down.  
22 PRESIDING JUDGE: He said from what time. I can imagine  
23 getting up from the bed about what time?  
24 THE WITNESS: About 7.00 time, when the place is now a little  
17:31:17 25 bit brighter.  
26 MR O'SHEA:  
27 Q. What time did the sun rise during that period?  
28 A. From 7.00 to 8.00. You will be there now while the sun  
29 is coming up.



1 Q. Did you go mining every day at 7.00 when the sun was  
2 going up?

3 A. What I'm telling you is that every 7.00, as long as you  
4 are awake, you would be marched to the mining pit. There  
17:32:31 5 you will be until the sun comes up.

6 PRESIDING JUDGE: Counsel was saying is it every day? Is it  
7 every day?

8 THE WITNESS: When the mining began, every day, every 7.00,  
9 every morning you are there.

17:33:06 10 MR O'SHEA:

11 Q. Was mining going on at the time that the peacekeepers  
12 arrived?

13 A. The time they brought the peacekeeper, the mining had not  
14 fully been established, but they were just beginning it.  
17:33:42 15 That was the time they brought the peacekeepers.

16 Q. And were you involved in the mining at that time?

17 A. That was the time that they came to us that we should do  
18 the mining. By the time they brought the implement for  
19 the mining the peacekeepers were now there.

17:34:15 20 Q. Sorry, I got some distortion. I didn't hear the last  
21 answer.

22 A. By the time they brought the implement for mining, the  
23 peacekeepers were now there.

24 JUDGE THOMPSON: Your question was, was he involved at that  
17:34:27 25 time?

26 MR O'SHEA: Was he involved in mining at that time.

27 JUDGE THOMPSON: Well, let us put it to him again, because I  
28 don't think the answer seems to relate to the question.  
29 Put it to him again.





1 THE WITNESS: We were not yet forcefully asked to do the  
2 mining, but they were planning it, they were bringing  
3 implements for the mining.

4 MR O'SHEA:

17:35:10 5 Q. And then when you did start mining, you would be brought  
6 to the mining site in the morning at 7.00, but in your  
7 case, you came back during the day sometimes? Is that  
8 right?

9 A. That's what I'm telling you that mining is a difficult  
17:36:00 10 thing. You do not understand it, but it is run with  
11 shifts. If you work and you are tired, then you then go  
12 home. That is what I used to do. When I'm tired, I go  
13 home.

14 Q. Would you decide when you were tired?

17:36:19 15 A. We were placed in groups. That's why in the group if you  
16 get tired, a group mate will come and take over from you  
17 while you go home.

18 Q. So you were in the morning shift, were you?

19 A. Well, **xxxxx**. I go home, then  
17:37:06 20 **xxxxxxx** be working **xxxxxxx**  
21 **xxxxxxxx xxxxxxxx**.

22 JUDGE THOMPSON: So, it was, in fact -- it was not as fixed as  
23 probably your questioning seems to be leading to. This  
24 was a flexible system, and so unless you want him to  
17:37:32 25 produce a catalogue of exactly the days when he -- what  
26 particular -- whether he went on say day 1, day 2, day 3  
27 and that kind of thing. It would be difficult, I think,  
28 if that's what you're trying to elicit. I'm sure that is  
29 going to extremely problematic. It seems to me that what



1 he is suggesting is the system was flexible. Is wasn't  
2 every time that he worked just morning shift, you know,  
3 there were probably times when he did some night shifts.  
4 MR O'SHEA: Well --  
17:38:17 5 PRESIDING JUDGE: You see, this is somebody who had a status  
6 at -- appears to have a status in that society that  
7 appears to be respected by those who were in charge of  
8 the operations, because he is talking of himself, you  
9 know, xxxxxxxxxxxxxxxx. He is not on  
17:38:46 10 generalities. I do not know whether others have that.  
11 Maybe you can clarify that point. I do not know whether  
12 others had that xxx  
13 wanted to or when they got tired.  
14 MR O'SHEA: I will, Your Honour. I would just like to ask  
17:39:13 15 another question before I do that.  
16 PRESIDING JUDGE: Yes, please.  
17 MR O'SHEA:  
18 Q. When Mr Jordash was asking you questions about this last  
19 Friday, why didn't you tell him that you were allowed to  
17:39:34 20 go home during the day? Why did you say, "We came in the  
21 morning and left in the evening"?  
22 A. I told him that I -- I told him several times, two,  
23 three, four times, I told him.  
24 Q. Were all the miners allowed to go home during the day or  
17:40:21 25 was it only you?  
26 A. No single person can do mining. We were many. They  
27 brought more people added to us xxxxxxxx. We  
28 were all doing this job, not me alone.  
29 Q. Yes, but my question was -- listen to the question



1 carefully. You appear to have been able to go home  
2 during the day, according to your testimony today. Was  
3 that the case with the other miners?  
4 A. The mining wasn't xxxxxxxx it was a  
17:41:29 5 large area covered for mining. You in your own group, if  
6 you work and get tired, you can go, other people take  
7 over from you.  
8 Q. So this system applied to all those who were involved in  
9 the mining? That is your evidence?  
17:42:00 10 A. That was not the reason I said it was a shift work.  
11 These people come, they work, they get tired, they go.  
12 Others come, they work, they get tired, they go, others  
13 come, so it continued throughout the day.  
14 Q. Were they escorted home by rebels?  
17:42:18 15 A. Everywhere we were there were rebels. You cannot run  
16 away -- except you want to run away, but wherever you  
17 want to go you will meet them, so we were in the town.  
18 Q. When you took a break from the mining and xxxxxxxx  
19 in daylight hours, were you escorted home by rebels?  
17:42:54 20 A. I cannot tell you that lie. The only thing is that they  
21 were found everywhere. From your mining going xxx,  
22 nobody escorts you, because they were all over, so you  
23 have nowhere to go, so they never followed me while I was  
24 going xxxx  
17:43:35 25 MR O'SHEA: Right. That will be all.  
26 JUDGE THOMPSON: Thank you, Mr Jordash -- I apologise. Thank  
27 you, Mr O'Shea. Does the Prosecution intend to  
28 re-examine this witness?  
29 MR HARRISON: No, it does not.



1 JUDGE THOMPSON: Thank you, then.  
2 PRESIDING JUDGE: Mr Witness.  
3 THE WITNESS: Yes.  
4 PRESIDING JUDGE: Yes, for testimony and for now, we have  
17:45:07 5 finished with you. You understand?  
6 THE WITNESS: Yes.  
7 PRESIDING JUDGE: So you can go home. We thank you for coming  
8 to assist the tribunal with your testimony.  
9 THE WITNESS: Okay.  
17:45:29 10 PRESIDING JUDGE: We are releasing you now so you can go home.  
11 I mean, to where you live. Yes, go back, but the  
12 necessity may arise for us to call you back here. And if  
13 we do, if necessity arises, we will let you know. No  
14 problem, we hope that you will be available as we wish  
17:45:58 15 you should this necessity arise. So again, thank you  
16 very much, we wish you a safe journey back.  
17 MR O'SHEA: Your Honour, can I indicate there is a matter  
18 which I would like to raise with the Court, which I  
19 wanted to raise on Friday.  
17:46:18 20 PRESIDING JUDGE: Does it concern this witness?  
21 MR O'SHEA: It does not. I'm just reminding Your Honours.  
22 PRESIDING JUDGE: Okay. Why don't you raise it before we get  
23 into --  
24 [Trial Chamber confers]  
17:47:07 25 PRESIDING JUDGE: We don't want to waste time by letting him  
26 out, so you can raise the issue.  
27 MR O'SHEA: I don't think it really matters that the witness  
28 is here.  
29 Your Honour, during the morning break on Friday





1 several of us noticed that one gentlemen working for  
2 witness protection went and spoke to the witness. Let me  
3 say right away that I personally - I don't know about my  
4 learned friends - but I have no difficulty with --

17:47:55 5 PRESIDING JUDGE: One gentlemen went and spoke to which  
6 witness, this witness?

7 MR O'SHEA: This witness, yes. I personally have no  
8 difficulty with certain individuals from witness  
9 protection speaking to the witness, even though it is  
17:48:16 10 during testimony, for certain obvious and essential  
11 reasons. For example, I have no difficulty with the  
12 psychologist or a counsellor speaking to the witness,  
13 because we have to -- we have to offer a little bit of  
14 trust to individuals of that nature. That is my own  
17:48:42 15 view. Your Honours may have a different view, I don't  
16 know. But with regard to that type of individual I have  
17 no difficulty. What concerns me is that the gentlemen in  
18 question, according to my information and I can be  
19 corrected on this, was working on the issue of the  
17:49:04 20 security of witnesses, as opposed to counselling or  
21 psychological help, and for my part, I can see no reason  
22 why a person in that capacity should be speaking to the  
23 witness while the witness is sitting in the witness box  
24 and during short breaks. In other words, there is a  
17:49:28 25 basic principle, in my submission, for appearances sake,  
26 apart from anything else, that the witness should not be  
27 spoken to about the case, but also should not be spoken  
28 to by anybody except those individuals who have to speak  
29 to the witness. The Prosecution is under a strict edict



1 not to go and speak to the witness while he is sitting  
2 there during the break and therefore, there is no reason  
3 why individuals who have nothing to do with counselling  
4 should not fall within that edict.

17:50:12 5 In this particular scenario the situation is, I'm  
6 afraid, aggravated to some extent in that I, as counsel,  
7 have personal knowledge of the fact of the individual in  
8 question, and I'm deliberately not naming him so as not  
9 to cause any unnecessary embarrassment, but I have  
17:50:35 10 personal knowledge of particular tensions between that  
11 individual and these three accused.

12 There was, in particular, one incident that I was a  
13 witness to that I do not need to go into the details of,  
14 but suffice it to say that there was severe tension  
17:50:54 15 between this individual and the accused and that at that  
16 time the individual was not working for witness  
17 protection, but was working in some security capacity and  
18 in some security command capacity, I might add, within  
19 the detention centre at Bonthe. So that is my concern.

17:51:20 20 I haven't been present in court during all of the  
21 sessions. I'm sure Your Honours have made it clear what  
22 the principles are with regard to speaking to witnesses,  
23 but it might be a good idea for a reminder and I say this  
24 in open court, because I want to avoid these situations  
17:51:41 25 arising again. I have an objection to that gentlemen,  
26 having regard to the history and where he was working  
27 before, seeing the witness and as a matter of caution,  
28 I would suggest that there should be a principle that  
29 nobody should be speaking to the witness while he is



1 sitting in the witness box, except if there is some  
2 special reason for it, such as counselling.

3 JUDGE BOUTET: I will not respond to your issue for now, but  
4 I would like you to tell me how you would deal with a  
17:52:18 5 situation like this particular witness who has been in  
6 the witness box for over a week and needs to be escorted  
7 and offered security to go home or wherever he may be,  
8 and to use your scenario, the witness is still a witness  
9 in the box at that particular time, so are you suggesting  
17:52:38 10 that nobody on the security side should be attached or  
11 dealing with the witness because he's a witness in the  
12 witness box at that particular time? I make this  
13 difference between what you -- I'm not saying this is  
14 what you have described, but if I follow your logic to  
17:52:55 15 its conclusion, what you're suggestion suggesting is  
16 there should be absolutely no contact between these  
17 people and the witness for as long as the witness is  
18 giving evidence.

19 MR O'SHEA: What I'm trying to suggest, Your Honours, is that  
17:53:11 20 a line must be drawn. I entirely accept that at the end  
21 of the day or the beginning of the day when the witness  
22 is being brought into court, when the witness is being  
23 brought out of court, the security section of witness  
24 protection may have an important role or function to  
17:53:35 25 perform. So what I'm saying is that if a person has good  
26 reason to speak to a witness at the time that they are  
27 speaking to them, then in principle that is fine. But  
28 this was a scenario where we were in the middle of a  
29 morning break and there was some discussion going on



1 between the witness and the security personnel during  
2 that morning break and there was no suggestion that the  
3 witness was about to leave court. So all I'm suggesting  
4 is that there is a line to be drawn. That's what I'm  
17:54:16 5 suggesting as a matter of principle. But I suppose that  
6 I wouldn't have raised this issue at all if there had not  
7 be the added problem that I referred to. I suppose in my  
8 own mind that is of more concern to me, the fact that the  
9 specific individual in question has an unhappy history  
17:54:37 10 with the accused.

11 JUDGE THOMPSON: Yes, and that is why, perhaps, a situation  
12 like that should be isolated from the general proposition  
13 that you are, in fact, recommending that -- because to me  
14 the idea of providing protective measures for these  
17:55:03 15 witnesses and those who administer and implement the  
16 protective measures seem in fact to imply that the  
17 security section of the Victims and Witnesses Unit have  
18 clear jurisdiction. I mean, it may be that there is a  
19 security problem they wanted to discuss with this  
17:55:22 20 particular witness, but the added dimension of the  
21 alleged history of tension between this particular  
22 witness and the accused person seems to complicate the  
23 situation and probably call for some kind of guidance in  
24 respect of situations like that, because I'm not sure  
17:55:48 25 what we can do, because the principle is there that we  
26 know that witnesses should not have contact with persons  
27 once they have started testifying, particularly in  
28 relation to their testimonies. But in this particular  
29 case, I don't know how you -- what guidance you want to





1 give to us, because you seem not to be able to disclose  
2 much more than you've disclosed. If you're not counsel  
3 and an officer of the court, I would have said that any  
4 such allegation should probably come in the form of an  
17:56:31 5 affidavit, because if you know something that you cannot  
6 tell us now -- because I'm completely at a loss to know  
7 what to do. You merely allege a history of tension, and  
8 clearly, that doesn't seem to say more than just a  
9 general problem. I don't know what the specifics are to  
17:56:57 10 be able to apply my mind as to what kind of solution  
11 would bring to situations of this nature. These are my  
12 own random thoughts at this stage.

13 MR O'SHEA: I was unsure myself how to approach it. It is  
14 really a concern which led me to believe that perhaps  
17:57:24 15 I should bring it to the attention of the Bench so that  
16 if the guidelines weren't clear enough, perhaps they  
17 could be considered or restated. It is not really my  
18 purpose to launch any kind of investigation against this  
19 individual. I'm quite sure that he does not feel that he  
17:57:56 20 has done anything wrong. I mean, it is not a situation  
21 where I'm making an allegation against someone with a  
22 view to having them in any way disciplined, no. I just  
23 feel from the point of view of the fairness of the trial  
24 and from the point of view of perceptions, more than  
17:58:18 25 anything else, really, because I'm not in any way  
26 suggesting that he has an evil intent either, that if a  
27 person has previously had contact with the accused in the  
28 context of actually being part of the detention  
29 security --



1 JUDGE THOMPSON: In an official capacity.

2 MR O'SHEA: In an official capacity and can himself  
3 recognise -- it is not necessary to prove it to him, he  
4 can himself recognise that there has been some degree of  
17:58:53 5 tension between him and the accused, that it would be  
6 appropriate for that person to work out the best solution  
7 himself in terms of perhaps withdrawing from that  
8 particular role or limiting the extent to which he is  
9 involved in that role.

17:59:12 10 JUDGE THOMPSON: If that is your analysis, could therefore  
11 then this probably be that there may be some kind of  
12 loophole in the employment arrangement as to how persons  
13 who may have worked in detentions centres are recruited  
14 for positions in the Victims and Witnesses Unit. Your  
17:59:39 15 situation is particularly difficult, but I understand it  
16 is just I'm trying to relate to what you're saying.

17 PRESIDING JUDGE: Does Mr Harrison have any -- Mr Harrison, do  
18 you have any comment to this, please?

19 MR HARRISON: I think it is only fair to say that, as I  
17:59:55 20 understand it, there is an allegation that there may well  
21 be a completely innocent explanation from the other side  
22 as to the background if the circumstances are of a  
23 particular concern. As far as the general guidelines, my  
24 understanding is that witness and victim protection  
18:00:10 25 services are very well aware of the guidelines the Court  
26 has imposed and so far as I know, there has been no  
27 difficulty with that.

28 PRESIDING JUDGE: But there is this added dimension of tension  
29 between accused persons and this particular official.



1 MR HARRISON: But I think it has to be fairly stated on behalf  
2 of that person. There may be a completely other  
3 explanation.

4 PRESIDING JUDGE: Well, anyway I think we would put this  
18:00:33 5 matter on advisement and see what -- what we'll do about  
6 it.

7 MR O'SHEA: Your Honour, just in response to Mr Harrison, I  
8 think that in a way we can put this question of tension  
9 aside for the purpose of this question. Surely if a  
18:00:53 10 security personnel has been in charge of detaining the  
11 accused, there is a conflict of interest prima facia with  
12 the witnesses role and perhaps that is the way we should  
13 be looking at it.

14 JUDGE THOMPSON: That is why I said perhaps this is an  
18:01:12 15 employment issue also that needs to be addressed from  
16 that perspective.

17 PRESIDING JUDGE: Like I said, I think we would -- we'll put  
18 this matter on advisement and, Mr O'Shea, we will let you  
19 know what our approach or what our position is on the  
18:02:35 20 observations and the submissions you've made on this  
21 particular issue.

22 MR O'SHEA: I'm very grateful.

23 PRESIDING JUDGE: The court will rise and we'll resume  
24 tomorrow at 9.30. Court rises, please.

18:02:47 25 [Whereupon the hearing adjourned at 6.05 p.m., to be  
26 reconvened on Tuesday, the 18th day of January, 2005, at  
27 9.30 a.m.]  
28  
29



EXHIBITS:

Exhibit No. 14 was admitted 45

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-304 1

CROSS-EXAMINED BY MR TOURAY 1

CROSS-EXAMINED BY MR O'SHEA 34