

Case No. SCSL-2004-15-T
THE PROSECUTOR OF
THE SPECIAL COURT
V.
ISSA SESAY
MORRIS KALLON
AUGUSTINE GBAO

TUESDAY, 22 JANUARY, 2008
9.45 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Sandra Brown

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Peter Harrison
Mr Vincent Wagona

For the accused Issa Sesay:

Mr Wayne Jordash
Mr Mikael Ekman

For the accused Morris Kallon:

Mr Kennedy Ogeto
Mr Kenneth Ekim

For the accused Augustine Gbao:

Mr John Cammegh
Mr Scott Martin

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22 JANUARY 2008

CLOSED SESSION

1 [RUF22JAN08A - MD]

2 Tuesday, 22 January 2008

3 [Closed session]

4 [The accused present]

5 [Upon commencing at 9.45 a.m.]

6 [The witness entered Court]

7 [At this point in the proceedings, a portion of the

8 transcript, pages 2 to 65, was extracted and sealed under

9 separate cover, as the proceeding was heard in a closed

session]

09:50:39 10

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OPEN SESSION

1 [Open session]

2 MR GEORGE: We are in open session, now.

3 PRESIDING JUDGE: Thank you. We will now resume this

4 proceeding in a public session. This is the ruling of the

12:58:26 5 Chamber, in respect of the closed session application made by
6 learned counsel for the first accused, Mr Jordash.

7 Consistent with the general requirement that criminal

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8 proceedings are to be conducted in public, as enjoined by Rule

taking

9 of the Rules of Procedure and Evidence of this Court, and

12:58:49 10 into consideration Article 17(2) of the Statute of the Court
but

Rules

11 exceptionally as authorised by Rule 79(A)(ii) of the said

12 and the need to protect witnesses, as provided for in Rule 75,

Jordash,

13 this Chamber, on the application of learned counsel, Mr

14 for a certain portion that was to last 30 minutes of the

12:59:23 15 testimony of DIS-174, to be held in closed session did, by way
of
16 an exceptional procedure, grant the said application for
reasons
17 advanced in support thereof.
18 The Chamber notes here that the examination-in-chief
went
19 beyond the 30 minutes that it was supposed to last and, in
fact,
12:59:53 20 covered the entirety of the examination-in-chief of this
witness
21 by learned counsel for the Defence.
22 In cross-examination, learned counsel for the first
23 accused, for the second accused, did say that cross-
examination
24 could be conducted in an open session. So did learned counsel
13:00:24 25 for the third accused. But the Prosecution did indicate that
26 there might be a necessity, in its cross-examination, and this
is
27 what Mr Harrison said "for some of his cross-examination to be
28 conducted in a closed session." Out of the abundance of
caution,
29 and to ensure that the identity of this witness is not at any

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1 time revealed, which was the basis on which the ruling was

2 predicated, the Chamber did decide that the entire
3 cross-examination be conducted in a closed session.

4 Having come to the end of the testimony in
13:01:15 5 cross-examination, we would now release this witness and,
6 [REDACTED] --

7 THE WITNESS: Yes.

8 PRESIDING JUDGE: You may now leave the Court premises
and
9 we wish you a safe journey to your destination. Yes,

13:01:34 10 Mr Harrison, did you --

11 THE WITNESS: Thank you very much.

12 MR HARRISON: I am not sure, I think a name may have
been
13 uttered in open session there and the Prosecution would
14 suggest --

13:01:44 15 PRESIDING JUDGE: I am sorry, it should be redacted. I
am
16 sorry. I just wanted to be courteous to him. I have been
17 calling him by his name anyway. I am sorry about this. Let
his
18 name be redacted, please. Thank you.

19 So, Mr Witness, without a name, now, you may leave the
13:02:06 20 Courtroom, for your destination.

21 [The witness withdrew]

22 PRESIDING JUDGE: You will be assisted out of the Court.

23 THE WITNESS: Good. Does it concern the witness? No?
Can
24 you just wait for him to be taken out, please.

13:03:25 25 Yes, Mr Harrison.

26 MR HARRISON: If I could just indicate that the next
27 witness is to be TF1-164.

28 JUDGE BOUTET: Not TF1 --

29 MR HARRISON: Sorry, DIS-164. The first words I want to

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OPEN SESSION

1 utter is the Prosecution has no problem with the witness being
2 called next, but the second thing I have to -- that the
3 Prosecution wants to say is that this person was on the backup
4 list, up until 16 January, and the order that was given by the
13:04:00 5 Court, on 28 March, was that notice has to be given to the
6 Prosecution and the other Defence teams of the order of the
next
7 15 witnesses and that has to happen at least 14 days prior to
the
8 testimony.

9 Had we been in the situation of having the
13:04:21 10 cross-examination today I think Mr Fynn probably would have
asked
11 that it be adjourned. As it's not likely to happen until
12 Thursday, we see no problem, but we are raising it now so that
13 the Court is aware that this may be a problem for the
Prosecution
14 would address in the future.

13:04:38 15 PRESIDING JUDGE: We are asking, we have taken note of
what
16 you've said and I think we are asking the -- we are asking

17 learned counsel, not only for the first accused but for the
18 Defence teams, to ensure that there is conformity with this
19 protocol in the calling of witnesses because, I don't need to

go

13:05:05 20 back to emphasising the necessity for enough notice to be
21 provided as to the order in which these witnesses should be
22 called for the purposes of a proper preparation for
23 cross-examination by all parties who are involved.

24 So, there we are. Is there any other matter that would

be

13:05:29 25 raised for now?

26 Well, learned counsel, we will rise for lunch and resume
27 the session at 2.30.

28 The Chamber rises, please.

29 [Luncheon recess taken at 1.00 p.m.]

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OPEN SESSION

1 [RUF22JAN08A - MD]

2 [Upon resuming at 2.40 p.m.]

3 PRESIDING JUDGE: Good afternoon, learned counsel. We

will

4 resume the session. Yes. This is, Mr Jordash, this is DIS --

14:56:52 5 MR JORDASH: 164.

6 PRESIDING JUDGE: It's the 24th witness.

7 MR JORDASH: 24th.

8 PRESIDING JUDGE: 24th.

9 MR JORDASH: 24th.

14:56:58 10 PRESIDING JUDGE: We are getting there, to that number.

11 MR JORDASH: It feels -- I'm getting a little excited,

12 actually.

13 PRESIDING JUDGE: You should get to the number.

14 JUDGE BOUTET: Because we are at 164, is what you mean?

14:57:18 15 MR JORDASH: It feels as though we may be going over the

16 hill. Or maybe it's just me being --

17 PRESIDING JUDGE: I wouldn't allow Mr Jordash to take us

to

18 164.

19 MR JORDASH: Neither would I, neither would my team

either.

14:57:32 20 JUDGE BOUTET: I thought we'd jumped over a few, a few

21 hundred numbers.

22 MR JORDASH: We have and we will, if I have my way, and

I

23 will have my way. The witness will be testifying in Mende.

24 PRESIDING JUDGE: In Mende.

14:58:06 25 THE INTERPRETER: My Honours, the interpreters will like

to

26 say something before the witness could testify.

27 MR JORDASH: I think I know what they are going to say.

28 The witness will testify in Krio, actually.

29 THE INTERPRETER: Okay. That's all right.

1 MR JORDASH: My fault, sorry.

2 WITNESS: DIS-164 [Sworn]

3 [The witness answered through interpreter]

4 MR JORDASH: I am afraid to say I have to apply for the
14:58:57 5 whole of the evidence to be in a closed session.

6 PRESIDING JUDGE: Yes. Mr George, can you move us to
7 closed session, please, for Mr Jordash to make his
application.

8 [At this point in the proceedings, a portion of the
9 transcript, pages 71 to 112, was extracted and sealed under
10 separate cover, as the proceeding was heard in a closed
session]

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OPEN SESSION

p.m.,
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[Whereupon the hearing adjourned at 4.50
to be reconvened on Thursday, the 24th day
January 2008 at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: DIS-174

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CROSS-EXAMINED BY MR OGETO

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CROSS-EXAMINED BY MR OGETO

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CROSS-EXAMINED BY MR CAMMEGH

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CROSS-EXAMINED BY MR HARRISON

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WITNESS: DIS-164

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EXAMINED BY MR JORDASH

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