

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

TUESDAY, 25 JANUARY 2005  
9.52 A.M.  
TRIAL

Before the Judges:

Benjamin Mutanga Itoe, Presiding  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Candice Welsch  
Mr Matteo Crippa

For the Registry:

Ms Maureen Edmonds  
Mr Geoff Walker

For the Prosecution:

Mr Peter Harrison  
Mr Alain Werner  
Ms Millicent Stronge  
Mr Christopher Dunn (intern)  
Mr Mark Wallbridge (Case Manager)

For the Principal Defender:

Ms Haddijatou Kah-Jallow  
Mr Mansaray

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 Ben Holden

1 Tuesday, 25 January 2005  
2 [Open session]  
3 [The three accused not present]  
4 [On commencing at 9.52 a.m.]  
09:26:00 5 [HS250105A - RK]  
6 PRESIDING JUDGE: Good morning, learned counsel. Good  
7 morning, Mr Witness.  
8 THE WITNESS: Morning sir.  
9 PRESIDING JUDGE: We're resuming our session and Mr Jordash, I  
09:50:05 10 think you may proceed, I can confidently say, to  
11 conclude.  
12 MR JORDASH: Thank you very much.  
13 PRESIDING JUDGE: Possibly this morning, we hope.  
14 MR JORDASH: I think almost certainly this morning.  
09:50:22 15 PRESIDING JUDGE: Right. You may proceed, please. I can see  
16 the witness smiling as if to say, "Well, I'll be done  
17 with him today".  
18 WITNESS: TF1-071  
19 CROSS-EXAMINED BY MR JORDASH: [Continued]  
09:50:34 20 MR JORDASH:  
21 Q. Good morning, Mr Witness.  
22 A. Yes, good morning, sir.  
23 Q. Just picking up from where we left off yesterday, the  
24 meetings in Tankoro. Could I ask at this stage that the  
09:50:49 25 witness be given a copy of the court transcript of his  
26 evidence dated the 21st of January? Actually I think  
27 that might have been my responsibility.  
28 MR HARRISON: I'm sorry, I don't have one but I could arrange  
29 for some photocopies to be made and brought down here.



1 MR JORDASH: I think we've got a spare one. I do apologise  
2 and I'm very grateful to your learned legal officer.  
3 Q. Mr Witness, this is a copy of a transcript which is a  
4 transcript of the evidence you gave on 21st of January,  
09:51:40 5 2005, okay?  
6 JUDGE THOMPSON: What is the date, counsel?  
7 MR JORDASH: 21st of January, Your Honour. This will be the  
8 only transcript I'm referring to.  
9 JUDGE BOUTET: What is the page of the transcript?  
09:52:10 10 MR JORDASH: I'm particularly interested, at this stage, at  
11 page 28.  
12 Q. Do you have that, Mr Witness?  
13 A. Yes, I have seen the place.  
14 Q. Now, I just want to try to follow what it is you're  
09:52:40 15 saying about the meetings from what you said previously  
16 in this Court. You're looking at line 8 -- sorry, let's  
17 go a bit higher, let's go to the top of the page. This  
18 time when the second meeting was the question there was  
19 an interjection by the learned Presiding Judge and an  
09:53:06 20 answer to that by Mr Harrison and then the question was:  
21 "Q. At this point in time of the second meeting what was  
22 taking place in Kono District?"  
23 And you answered:  
24 "A. Yes, so in the meeting some of the officers could  
09:53:20 25 not bear with the instructions given so they left for  
26 Koinadugu, and the rest of the RUF took off for Gandohun  
27 en route for Kailahun. But it was impossible for us --  
28 for the RUF to have gone through to Kailahun.  
29 PRESIDING JUDGE: Because of the ambushes --



1 THE WITNESS: Because of ambushes --  
2 PRESIDING JUDGE: -- by Kamajors  
3 THE WITNESS: -- by Kamajors.  
4 PRESIDING JUDGE: Yes.  
09:53:45 5 THE WITNESS: Then at that point in time Issa Sesay and  
6 JPK and some other bodyguards left for Kailahun through  
7 the instruction of the Sam Bockarie."  
8 Do you see that?  
9 A. Yes.  
09:54:02 10 Q. What you're saying there, is this right, is that there  
11 was a second meeting in which some officers who could not  
12 bear with the instructions from Superman to behave left  
13 and at that time, the -- or shortly thereafter the RUF  
14 took off for Gandorhun but couldn't get through?  
09:54:28 15 A. Yes.  
16 Q. But at that time, you appear to say at line 18, Sesay and  
17 JPK could get through because they left, you say at line  
18 18, for Kailahun?  
19 A. Yes, that was after the second meeting when we went to  
09:54:52 20 Gandorhun.  
21 Q. Just to be clear then, the bulk of the RUF couldn't get  
22 through to Kailahun at this stage, but JPK and Sesay  
23 could?  
24 A. Yes, upon the instruction of Sam Bockarie.  
09:55:04 25 Q. Thank you. Now, if we just continue reading, line 26:  
26 "A. What was taking place in Koidu Town?  
27 Q. Yes?  
28 A. Yes, you know, in the second meeting there were others --  
29 still information around saying that some civilians and



1 other houses were still continue burning in the town, so  
2 Superman called a meeting to give the last advice. That  
3 was what took place in the second meeting.

4 Q. What anything else happening in Koidu Town?

09:55:41 5 A. In Koidu Town?

6 Q. Yes?

7 A. Well, upon returning from Gandorhun, we had the other  
8 meeting and then it was through that we started receiving  
9 attacks from the ECOMOG forces."

09:55:52 10 Now, you move on, it seems, to describe a third  
11 meeting; is that right?

12 A. Yes.

13 Q. And obviously with JPK and Sesay having left, they didn't  
14 attend that meeting?

09:56:03 15 A. Yes, they had already left for Kailahun.

16 Q. If we read down a bit further to line 18:

17 "A. In the third meeting we are told that we are not to  
18 go to Kailahun again because Kailahun had been  
19 overcrowded, there was no food, no medicine, and so we  
09:56:26 20 are to remain in Kono and retain Kono as far as Tongo

21 Field."

22 Yes?

23 A. Yes.

24 Q. Now, just moving over the page to page 30 -- sorry, let's  
09:56:47 25 just go back to page 29, line 28, and I am coming to my  
26 point:

27 "Q. So that was the third meeting. What happened next.

28 A. After that there was an intensive fighting between  
29 ECOMOG, the RUF so we went into the bush. There we





1 established the Superman ground and other various camps."

2 Now, that then happened after Sesay and JPK had left for

3 Kailahun?

4 A. Yes.

09:57:12 5 PRESIDING JUDGE: Mr Jordash, the point you've made here is

6 that Superman's ground was established after JPK and

7 Sesay had left for Kailahun.

8 MR JORDASH: Indeed, Your Honour, yes.

9 JUDGE BOUTET: Mr Jordash, before you carry on with this I

09:57:50 10 have some doubts in my mind as to one of your questions

11 and particularly the answer given, because the answer

12 didn't fit with your question. The question had to do

13 with Sesay and JPK going to Kailahun and your question

14 was essentially that Sesay and JPK could get through to

09:58:17 15 Kailahun and no other as such, and the answer you got was

16 that it was under the instructions of Bockarie.

17 MR JORDASH: Your Honour, I see your point.

18 JUDGE BOUTET: We understand -- I don't think you are

19 disputing the fact that they did go to Kailahun on the

09:58:35 20 instruction of Bockarie, but your question had more to do

21 with how did they manage to get to Kailahun rather than

22 that on the instructions of Bockarie. Am I right?

23 MR JORDASH: Your Honour, yes, and I can clarify that.

24 JUDGE BOUTET: It is just that the answer didn't fit really

09:58:51 25 with the question you asked about that. So if you can

26 clarify that issue for me because maybe they went through

27 a different route, I don't know.

28 MR JORDASH: I can definitely clarify that, Your Honour.

29 Q. Did you follow that discussion?



- 1 A. Yes.
- 2 Q. Is it right that the Kamajors and the CDF were blocking  
3 the main road from Koidu to Kailahun?
- 4 A. The blockage was made between Gandorhun and Kailahun.
- 09:59:43 5 Q. The main bulk of the CDF Kamajors were based at Koindu  
6 Ngieya Junction; do you remember that?
- 7 A. Yes, I recall that very well.
- 8 Q. And that is why the large numbers of RUF couldn't move  
9 through; is that right?
- 10:00:04 10 A. To go where?
- 11 Q. To go to Kailahun?
- 12 A. Yes, already we have reached to Kono and we are in Kono  
13 already. The only place where we had obstacle was from  
14 Koindu Ngieya going to Kailahun route -- was the only  
10:00:19 15 obstacle by the Kamajors.
- 16 Q. But there was a bush road to Bahuma [phoen], and then on  
17 to Sandaru, and then to Kailahun. Are you aware of that  
18 bush road?
- 19 A. Yes, that was the footpath that Issa Sesay and JPK and  
10:00:35 20 bodyguard used for Kailahun.
- 21 Q. Thank you.
- 22 A. Yes.
- 23 PRESIDING JUDGE: Of course, there is also the other  
24 [inaudible] which was that they received instructions not  
10:00:55 25 to move but to make Kono their permanent place, for  
26 reasons which he gave. So the movement in the long run  
27 became -- the mass movement of these RUF fighters became  
28 unnecessary on the instructions of Bockarie.
- 29 MR JORDASH: Well, Your Honour, I want to pick up on that,



1 because it is a point I think is very interesting.

2 PRESIDING JUDGE: Okay.

3 MR JORDASH: Your Honour, thank you.

4 Q. There was an obviously the instruction from Superman at  
10:01:26 5 Makeni -- was to move with JPK to Kono and then to  
6 Kailahun; is that right?

7 A. I only heard the instruction when we arrive in Koindu  
8 Ngieya and back to Koidu when we were told that Issa  
9 should travel with JPK to Kailahun. I never knew of  
10:01:51 10 Superman to travel with JPK to Kailahun.

11 Q. Wasn't there an instruction in Makeni, when the junta was  
12 gathering there, for the RUF junta to move to Kailahun  
13 with JPK?

14 A. It is not only JPK was to go to Kailahun, but the entire  
10:02:12 15 RUF, the junta were asked by Sam Bockarie as instruction  
16 to go to Kailahun, but upon arriving at Gandorhun and  
17 with series of blockages with military confrontations by  
18 the Kamajors, that also gave the warrant for Sam Bockarie  
19 to stop the bulk of the RUF and other officers not to go  
10:02:41 20 to Kailahun, because Kailahun was already overcrowded; no  
21 food and medicines and so forth. But the main reason of  
22 stopping the RUF or stop -- to stop at Koidu was to make  
23 as our defensive and also for our economic purposes, for  
24 mining.

10:03:08 25 Q. Right. Do you know why following that -- let me just ask  
26 this first: At this place we're looking at in the  
27 transcript you're talking about an attack on Gandorhun?

28 A. Yes, indeed a series of attacks.

29 Q. That was designed to make a route through to Kailahun; is



- 1 that right?
- 2 A. Yes, possibly.
- 3 Q. Well, possibly or not, do you know?
- 4 A. Yes, I knew -- if further instruction was not to reach  
10:03:41 5 the RUF not to go to Kailahun, we could have made our way  
6 to Kailahun.
- 7 Q. Now, this, if what you say is right about the timing of  
8 these various meetings, was approximately a month or so  
9 after the arrival of JPK in Kono; is that correct?
- 10:03:59 10 A. Yes, it took to that length of time.
- 11 Q. Why did it take so long for the RUF -- well, for the  
12 junta to be attacking Gandorhun with the aim being to get  
13 JPK to Kailahun when that intention had been expressed as  
14 early as Makeni?
- 10:04:22 15 A. Yes, as I explained already that before arriving  
16 Gandorhun and later, Kailahun had already been  
17 overcrowded and Sam Bockarie sent a message that we could  
18 no longer go to Kailahun, and because of these reasons,  
19 one, that we were to defend Kono even as far as Tongo  
10:04:47 20 Field.
- 21 Q. But -- just so that you're clear, there is no dispute  
22 from me about the attacks on Gandorhun, okay. What I'm  
23 disputing is the timing of Sesay and JPK going to  
24 Kailahun. You understand where I'm coming from?
- 10:05:53 25 A. It's well understood.
- 26 Q. Now, we know from what you told us that JPK and Sesay  
27 went through the bush road. Why couldn't they have gone  
28 through the bush road in the month since JPK arrived in  
29 Kono; do you know?





- 1 A. Yes, but at that time the instruction had not come for  
2 entire group to stop.
- 3 Q. Wasn't it a dangerous place at that stage so close to  
4 ECOMOG in Koidu -- in Kono?
- 10:06:40 5 A. Yes, I saw the guerilla. We don't have various places in  
6 fighting zone.
- 7 Q. Just if we can go back to the transcript, please, page  
8 30. I just want to confirm some information here, page  
9 30, line 5.
- 10:07:32 10 A. Just a minute.
- 11 Q. Sorry, sorry, Mr Witness.
- 12 A. Yes, I've seen page 30.
- 13 Q. At the time of these meetings we can see from line 5  
14 Superman was the battle group commander; is that correct?
- 10:08:00 15 A. Yes, at the time of the battle, 1998.
- 16 Q. And looking further down, line 13, "Nearly every  
17 combatant of the RUF was present at Superman Ground", so  
18 is the situation -- or was the situation that, because of  
19 the blockage by the CDF and the Kamajors, the majority of  
10:08:27 20 the RUF, at that time, and I'm speaking about the  
21 majority of the RUF in the whole of Sierra Leone, were  
22 based at the Superman Ground under the battle command of  
23 Superman?
- 24 A. Exact.
- 10:08:41 25 Q. Thank you. And does it -- sorry. And does it follow  
26 then, that what was in Kailahun was a residual number of  
27 RUF with the headquarters of Sam Bockarie?
- 28 A. Please make this very clear to me.
- 29 Q. Sorry, yes, I will. Does it follow then, that there were



1 a limited number of people in Kailahun who were RUF at

2 that time?

3 A. Yes, there were commanders with Sam Bockarie at Buedu

4 headquarter.

10:09:58 5 PRESIDING JUDGE: [Microphone not activated]

6 MR JORDASH:

7 Q. Commanders rather than the troops then?

8 A. Yes.

9 Q. How many do you think - can you estimate - were in

10:10:09 10 Kailahun?

11 A. The commanders?

12 Q. Yes.

13 A. Yes, we had all the unit commanders over all the unit

14 commanders were present in Kailahun.

10:10:25 15 PRESIDING JUDGE: And troops you said?

16 THE WITNESS: Yes, of course. There were fighters in Kailahun

17 as well.

18 JUDGE THOMPSON: So was the number limited, because the

19 previous answer was that the bulk of the RUF was --

10:10:49 20 THE WITNESS: Yes, as for Kailahun it was the headquarter for

21 chief of defence staff, so I knew there were a good

22 number of fighters within the district.

23 JUDGE THOMPSON: But I think counsel is trying to be a bit

24 more precise here -- [microphone not activated]

10:11:04 25 THE WITNESS: It was not unlimited fighters that were in

26 Kailahun. We have good number of fighters in Kailahun

27 and their commanders.

28 MR JORDASH:

29 Q. Well, looking the your line 13, Mr Witness, "Nearly every



1 combatant of the RUF were present at Superman Ground at  
2 that time." Do you stand by that answer?  
3 A. Of course.  
4 Q. Now, you have told us that there were commanders in  
10:11:33 5 Kailahun. Were they largely as advisors to Sam Bockarie?  
6 A. Yes, they were answerable to Sam Bockarie.  
7 Q. Answerable to Sam Bockarie, but also advisors to Sam  
8 Bockarie?  
9 A. Yes, there were some advisors, military advisors and  
10:11:56 10 political advisors.  
11 Q. Thank you.  
12 PRESIDING JUDGE: Mr Witness, did I hear, at a certain stage,  
13 you say that Kailahun was bombarded?  
14 THE WITNESS: Sir?  
10:12:21 15 PRESIDING JUDGE: Did I hear you say at a certain stage that  
16 Kailahun was at some point in time bombarded?  
17 THE WITNESS: I was not in Kailahun, no. I don't know much  
18 about bombardment in Kailahun.  
19 PRESIDING JUDGE: I see.  
10:12:45 20 MR JORDASH:  
21 Q. Now, just picking up on -- back on to page 29, the third  
22 meeting and what happened after that. There's intensive  
23 fighting between ECOMOG and then the establishment of  
24 Superman ground, yes. Now, was this the time when the  
10:12:58 25 troops under the command of Superman were pushed out of  
26 Koidu Town?  
27 A. Yes.  
28 Q. And that's when Superman gave the order to burn Koidu  
29 Town as a defensive mechanism?



1 A. I can't remember if Superman gave order to burn Koidu  
2 Town as part of the mission. I can't remember that.  
3 Koidu have already burnt before we got into the bush.  
4 Q. Just trying to establish the timing of the burning of  
10:13:42 5 Koidu. Burnt partially by Superman during his advanced  
6 mission on Koidu; is that right?  
7 A. Yes, in the Koidu Township, I can never say that only one  
8 warring faction burnt Koidu. All the factions occupied  
9 in the fighting in Koidu were responsible for burning  
10:14:12 10 Koidu.  
11 JUDGE BOUTET: That includes Superman?  
12 THE WITNESS: Yes, even Superman himself was included, because  
13 he was part of the fighting faction.  
14 JUDGE BOUTET: The fighting faction, can you describe them?  
10:14:24 15 THE WITNESS: Yes, like, even the Kamajors, the SLA, the RUF,  
16 the ECOMOG. All were --  
17 JUDGE BOUTET: When you're talking factions, you're talking of  
18 all of them, not only the RUF and the AFRC?  
19 THE WITNESS: Yes.  
10:14:38 20 JUDGE BOUTET: The ECOMOG.  
21 THE WITNESS: Everyone.  
22 JUDGE BOUTET: CDF.  
23 THE WITNESS: Everyone, yes.  
24 MR JORDASH:  
10:15:15 25 Q. So was the final burning of Koidu, as far as this period  
26 is concerned, done when Superman and the RUF left and  
27 were pushed to Meiyor and Gandorhun, was there burning?  
28 A. Yes, it was done before that.  
29 JUDGE BOUTET: Your question: Was it done when you were





1 pushed out and the answer you have it was done before

2 that, so --

3 MR JORDASH:

4 Q. Do you mean before -- well, let's try to clarify. As the  
10:15:59 5 RUF, Superman were pushed out of Koidu, did they burn the  
6 rest of Koidu?

7 A. Yes.

8 Q. Thank you. Was that designed to effectively make Koidu  
9 Town a shell so that ECOMOG would not benefit from it?

10:16:24 10 A. Well, that could not be the plan of the mission, but  
11 Koidu was only burnt by Superman himself and all the  
12 other warring factions.

13 Q. Thank you.

14 A. Yes, sir.

10:16:45 15 Q. Now, I just want to deal a little with what you say about  
16 Mr Sesay's assignment. You said yesterday that Issa  
17 Sesay became the battle field commander sometime in 1998?

18 A. Exactly.

19 Q. Exactly?

10:17:15 20 A. Yes.

21 Q. And when was that in 1998? Approximately?

22 A. When we were pushed out of Koidu and went to Gandorhun  
23 and he made his way to Kailahun, while he was in  
24 Kailahun, that was when his appointment came out as the  
10:17:41 25 battle field commander by Sam Bockarie.

26 Q. So can you narrow it down to the month or the time of the  
27 year?

28 A. It was in 1998. I heard of that immediately when we went  
29 into the bush where was Superman's ground.



1 Q. So that would have been, if your timing is correct,  
2 around May of 1998?  
3 A. Yes, maybe so.  
4 Q. And you say you heard about it; yes?  
10:18:42 5 A. About?  
6 Q. About Mr Sesay becoming battle field commander?  
7 A. Yes.  
8 Q. Who did you hear that from?  
9 A. Well, you know, usually we had our general muster parade  
10:18:55 10 and there we used to be informed with all necessary  
11 information and we're told.  
12 Q. Superman was still present in Superman Camp at that  
13 point?  
14 A. If Superman was not present?  
10:19:12 15 Q. Superman was still present as the commander?  
16 A. Yes, he was still at Superman's ground, Meiyor.  
17 MR JORDASH: Your Honours, I would like to refer to the 1998  
18 chart, which, in effect, the Defence would say is a  
19 statement. And whilst I, of course, appreciate that Your  
10:19:47 20 Honours have said that it is not, for now, admissible in  
21 the hands of the Prosecution, my respectful submission  
22 would be that it's admissible in the hands of the Defence  
23 as prior inconsistent statements. I don't know if this  
24 discussion should again take place in the absence of the  
10:20:12 25 witness.  
26 PRESIDING JUDGE: I think that -- I think that we want to get  
27 into the subject, the witness can be excused, if you want  
28 to revisit this issue.  
29 MR JORDASH: Yes, please, Your Honour.



1 [Trial Chamber confers]

2 PRESIDING JUDGE: Can the witness be excused for just a couple  
3 of minutes, please.

4 [The witness stood down]

10:24:00 5 [Trial Chamber confers]

6 PRESIDING JUDGE: Yes, Mr Jordash, we are listening to you on  
7 the arguments on which you think that this document which  
8 was rejected from the evidence by objections from the  
9 Defence should now surface in this trial.

10:26:07 10 MR JORDASH: Well, in a nutshell, what I would like to do with  
11 it, is have it put to the witness or parts of it as an  
12 inconsistent statement, not to adduce the document as an  
13 exhibit in the way that the Prosecution were seeking to  
14 do. But to simply ask questions on a number aspects of  
10:26:29 15 it. It will be very short.

16 PRESIDING JUDGE: Has this Court ruled that it is a statement,  
17 in fact? Is this Court with you on the objection? You  
18 remember, we are due to publish a reasoned ruling on  
19 this. We did publish a ruling in order to allow us to  
10:26:49 20 proceed. That is why we said "for the time being".

21 There were a number of objections. One was that it  
22 amounted to leading questions. The second was -- the  
23 other one was that it was highly prejudicial to the case  
24 of the Defence and I think the other was that it amounted  
10:27:12 25 to a statement which ought to have been disclosed by the  
26 Prosecution to the Defence. There is so far no reasoned  
27 decision on these. It was based only on one and that was  
28 the issue of leading questions, but we may hear your  
29 arguments on this. I just felt that I should raise these



1 issues before you could say it.

2 MR JORDASH: Well, I do respectfully submit that it is a  
3 statement.

4 PRESIDING JUDGE: You submit that it is a statement?

10:27:53 5 MR JORDASH: Yes, a previous statement produced by the witness  
6 the Prosecution say --

7 JUDGE BOUTET: But on that issue, Mr Jordash, I don't have all  
8 my notes on this, but I'll find it. However, my  
9 recollection is that you, I think -- I may be wrong. It  
10:28:14 10 may not have been you. It may have been your colleague

11 Mr O'Shea, but my recollection is that the three of you  
12 on the Defence were arguing that -- I remember some of  
13 the words of Mr O'Shea, that this is something that was  
14 done in the high secrecy of the Prosecution office. We

10:28:32 15 don't know what went on. We don't know what questions  
16 they posed, what discussion they had, so all of that to  
17 say that you, the Defence, objected to the admissibility  
18 of that document by the Prosecution on many grounds, but  
19 one of which was: We don't know what the background is.

10:28:50 20 All of a sudden you're turning around and saying, "Well,  
21 we don't mind what the background is. We're saying to  
22 the Court that this is a statement of the witness." I  
23 have difficulty to follow the logic. On the one hand  
24 when you say, "We don't know what transpired, and what's

10:29:04 25 on that chart may be indeed a creation of the  
26 Prosecution, not the witness." So how can you now say  
27 this is a statement of the witness?

28 MR JORDASH: Well, I wasn't seeking to argue previously that  
29 it wasn't a statement which had come about through some





1 type of procedure involving the witness. What I was  
2 arguing at that stage was that it was putting the Defence  
3 under a handicap in having to try to establish, in fact,  
4 whether the statement was solely authored by the witness,  
10:29:38 5 or was a product of interaction between the Prosecution  
6 and the witness. What I say now is I would submit not  
7 inconsistent with that. What I would submit now is that  
8 in some way this is a statement. Whether he is the  
9 co-author or not, he would be able to tell us. So to  
10:29:58 10 that extent, my argument is founded on exactly the same  
11 basis and the same description of this document. The big  
12 difference, though, is the purpose in which I would like  
13 to use this document. The Prosecution wanted to tender  
14 it as representative as the evidence of this witness and  
10:30:26 15 for the truth of its contents. What I would seek to do  
16 in the same way as is done with statements in the written  
17 form, is simply put aspects to the witness, which we  
18 would submit is inconsistent, to seek his explanation for  
19 those inconsistencies. I would not be asking to exhibit  
10:30:49 20 this document for the truth of its contents, but simply  
21 aspects of the document as inconsistencies in line with  
22 Your Honours' rulings in the CDF case. My respectful  
23 submission is that my submissions today and previously  
24 are predicated upon the same premise that it's a  
10:31:06 25 statement which has arisen from the witness in one way or  
26 the another by co-authorship or by himself. There isn't  
27 the same limitation on leading questions for the Defence  
28 in relation to this document. We're not trying to adduce  
29 evidence which -- through a mechanism which is



1 restricted. We're simply seeking to adduce a statement  
2 which we say is inconsistent with his present testimony.

3 If the witness is to turn around and say: "Well,  
4 actually it wasn't me, it was the Prosecution." Then  
10:31:54 5 that is something that Your Honours can weigh into the  
6 balance when deciding what is the truth or otherwise of  
7 his evidence. Those are my submissions.

8 PRESIDING JUDGE: All right. Mr Harrison, do you have  
9 anything to say?

10:32:16 10 MR HARRISON: The difficulty I foresee is that it was the  
11 counsel for the third accused who was quite adamant and,  
12 in fact, made submissions and then made reply submissions  
13 about the prejudicial effect. I think it would be  
14 appropriate for counsel for the third accused to deal  
10:32:36 15 with that question of the prejudicial issue that he  
16 seemed to see as being so important before the  
17 Prosecution responded.

18 JUDGE THOMPSON: Perhaps it is important before counsel deals  
19 with the prejudicial -- alleged prejudicial aspect of  
10:32:57 20 this chart if we can get some indication from you,  
21 learned counsel. Perhaps the best thing to do is to wait  
22 until he has done that on the question of whether this  
23 chart can be properly legally characterised as a  
24 statement within the meaning of Rule 66, but perhaps you  
10:33:25 25 would have to reserve that position until we've heard it,  
26 because there were clearly three main grounds upon which  
27 the objection was predicated. One, the question that --  
28 the ground that it amounted to leading questions, which,  
29 of course, are prohibited on controversial issues in



1 examination-in-chief. The second, of course, was the  
2 disclosure issue that this was a statement, and then the  
3 third was the prejudicial effect. So perhaps you should  
4 reserve your position on that and we'll wait for you to  
10:34:05 5 address us on that. It is critical for us to determine  
6 whether what we have as a chart really is a statement  
7 within the meaning and purpose of Rule 66. Thank you.

8 MR CAMMEGH: Can I just set my position out in this way:

9 First of all, I agree with Mr Jordash that this document  
10:34:41 10 constitutes a statement and a very lengthy and intricate  
11 statement at that, prepared for a very simple purpose to  
12 establish in linear form the aspects of command  
13 responsibility and control within the RUF regime, 1998,  
14 1999, 2000, because, of course, there were three charts  
10:35:08 15 provided. Although I cannot speak, of course, entirely  
16 for Mr O'Shea, I think the point would have been this,  
17 the way in which the prejudicial value outweighed probity  
18 was very simply for this reason. The chart went to the  
19 very core of the case, that is to say, the very notion  
10:35:32 20 and the very basis of command responsibility. And in  
21 circumstances where that statement was prepared out of  
22 this room, co-authored, it would appear, by the witness  
23 with an unknown number of person or persons within the  
24 OTP, its probity would surely have to be tested, but the  
10:35:59 25 Defence would not have been able to test it, because the  
26 makers of that statement would not be known. It would  
27 have been impossible for the Defence, moreover, to have  
28 questioned the makers of that statement as to where they  
29 got that information from, how it came to light, et



1 cetera, et cetera. That, I think, is really the basis of  
2 the prejudicial effect.

3 Now, it may well be that I will be applying for that  
4 document to go in as well, for a very simple reason.

10:36:37 5 I would say it is a previously inconsistent statement.

6 I stand by my claim that it does constitute a statement  
7 within the rules and remind Your Honours that that being  
8 the case, as I think Mr Nicol-Wilson pointed out, it was  
9 in breach of the time limits. Its service was clearly

10:37:00 10 well in breach of the time limits. But I refer back to  
11 what the witness said, I think on Friday morning, when he  
12 was being taken through the higher echelons of the  
13 command structure of 1998. Your Honours may well  
14 remember, and I've got a note of it, probably not to  
10:37:23 15 hand, but it is certainly in my memory. In fact, I have  
16 got it here.

17 He said as follows: "In 1998 from April there was  
18 overall command structure in Kono. Chief of defence  
19 staff was Sam Bockarie. Overall boss of RUF was directly  
10:37:39 20 above the chief of securities." Now, he may have been  
21 placing the chief of securities in a different context  
22 from what he intended and I remember Your Honour Judge  
23 Boutet and I had a discussion about that. But the point  
24 is this, that the chief of securities, wherever he lay  
10:38:01 25 within the command structure, was named at that time as  
26 Augustine Gbao. Well, on the 1998 chart Gbao's name --  
27 indeed, I think the title chief of securities doesn't  
28 appear at all. It doesn't appear in the 1999 chart  
29 either. It only appears for the first time in 2000. The





1 reason I would want to go along with Mr Jordash and put  
2 this chart in for my own reasons, is because if this was  
3 provided as a believable linear chart, a demonstration in  
4 intricate form of how command responsibility lay in 1998  
10:38:35 5 and 1999, I would seek to adduce before Your Honours that  
6 when this witness prepared that chart in absentia, the  
7 name Gbao and his position didn't appear. Very important  
8 for me and for Mr Gbao, because its our case that Gbao  
9 doesn't really play a role within the RUF hierarchy until  
10:39:00 10 2000 when I think it was General Tarnue who revealed that  
11 Gbao was one of those who went on the peace talks in  
12 Monrovia in 2000. Gbao, we say -- I'm limited in my  
13 instructions, but one piece of instruction I managed to  
14 obtain before Mr Gbao took his position was that he was  
10:39:20 15 Foday Sankoh's new spokesman in 2000. So it is very  
16 important for me to adduce this chart on the basis, as  
17 Mr Jordash has propounded, a previous inconsistent  
18 statement. And I would respectfully suggest that I, even  
19 if Your Honours rule against Mr Jordash, for the reasons  
10:39:26 20 that I've expounded, have every right to do that, because  
21 his name doesn't appear on that chart and it runs  
22 contrary to what he has said in open court that Gbao was  
23 chief of the securities in 1998. So that's my position.  
24 It is allied to Mr Jordash, perhaps for a slightly  
10:39:52 25 different reason.

26 JUDGE THOMPSON: So would it be that for your client it will  
27 not be prejudicial? I would like to be kept out of that  
28 judicial conundrum for your client not to be prejudicial.

29 MR CAMMEGH: I have to say that is the case, yes.



1 JUDGE THOMPSON: You cannot have both sides of it, because  
2 from Mr Jordash, if this were to go in, it might have  
3 some kind of prejudicial effect.

4 MR CAMMEGH: It may have some prejudicial effect on his  
10:40:36 5 position, but I am not, with respect, his keeper, so far  
6 as I'm concerned, and --

7 JUDGE THOMPSON: Though he seeks to show prior inconsistent  
8 statement, but in your case it would seem to me that, in  
9 fact, it would have the opposite effect.

10:40:56 10 MR CAMMEGH: Well, that is my position. I'm in a rather  
11 delicate position.

12 JUDGE THOMPSON: You have to help us out of this judicial  
13 legal conundrum.

14 MR CAMMEGH: I think Mr O'Shea was arguing from a point of  
10:41:05 15 principle the other day, but intrinsically if one  
16 actually looks at our case, the admission of this  
17 document into evidence rather does Mr Gbao a favour.

18 JUDGE THOMPSON: Thank you. We can't have you approbate and  
19 reprobate.

10:41:29 20 MR CAMMEGH: Thank you.

21 JUDGE THOMPSON: Yes.

22 MR TOURAY: Your Honour, we have not shifted from our  
23 position. It remains the same. There is a ruling of  
24 this Court that this document cannot go in as an exhibit,  
10:41:47 25 and I believe that ruling binds both the Prosecution and  
26 the Defence. We cannot be seen to reprobating and  
27 approbating. For us our position remains the same. The  
28 document is very much prejudicial to us. It raises  
29 controversial issues and highly contentious issues, and



1 we strenuously object to its being admitted in evidence.

2 That is our position and we stand by it.

3 JUDGE THOMPSON: [Microphone not activated] -- suppose one  
4 would say in response to you that the ruling which the  
10:42:34 5 Court gave was predicated upon the fact that this was, in  
6 fact, an objection that we found meritorious on grounds  
7 that the chart purported to be, in a very subtle way, an  
8 instrument to introduce leading questions and elicit  
9 answers on highly controversial issues. And that was the  
10:43:07 10 ground upon which we based our ruling even, though we  
11 said the reasoned ruling would be published later on. I  
12 mean, just for the sake of argument and for my  
13 enlightenment, how would you respond to that? And that  
14 that makes it different from the position -- the Defence  
10:43:22 15 position. In other words, it is on all fours with the  
16 Prosecution position.

17 MR TOURAY: Indeed, sir. But then, Your Honour, our position  
18 was much more germane and it went beyond that. It was  
19 not just restricted to the issue of the leading question.  
10:43:40 20 It went more beyond that.

21 JUDGE THOMPSON: All right. Thank you.

22 PRESIDING JUDGE: [Microphone not activated] -- a novelty in  
23 this submission was that this amounted to a statement.  
24 That was the strength of your objection.

10:43:52 25 MR TOURAY: That was the thrust of our objection.

26 JUDGE BOUTET: Mr Touray, my -- I do hear what your position  
27 is, but it is my understanding that a request by counsel  
28 for the first accused is that this document be admitted  
29 as an exhibit, and correct me if I'm wrong if I'm



1 misstating your position, Mr Jordash, but for a very  
2 limited purposes. In other words, not for the truth of  
3 its content per se in the totality of what may be there,  
4 but only to show that at some given time this witness  
10:44:29 5 would have said something that is different than what he  
6 said today. So it is not to establish that whatever is  
7 in there to be the truth of it. And I'm not sure that  
8 this is inconsistent with your position, but I would like  
9 to hear you on this.

10:44:43 10 MR TOURAY: Your Honour, the point is this: It is not  
11 relevant from the point of view of the veracity and truth  
12 of the statements here. And if you want to seek to  
13 adduce inconsistencies, I believe that can be done in  
14 many other ways without admitting the document as an  
10:45:00 15 exhibit. You can easily take it to the witness and  
16 perhaps ask the witness some questions on that. Perhaps  
17 the witness may even say, "Yes, I agree with you that is  
18 done", and that is it, but admitting this document in  
19 evidence as an exhibit will be highly prejudicial to us,  
10:45:22 20 because if it is admitted now, it means perhaps we're  
21 bound by what is there, that Morris Kallon was, in fact,  
22 in that high position at that time. And if we come with  
23 the cross-examination, he might just stick with that and  
24 we are stuck by it. That is our position. We will be  
10:45:42 25 stuck by it. So if, it is only the issue of perhaps  
26 raising the previous inconsistent statement, it is my  
27 submission that that could be done in many other ways.  
28 Put the document before the witness and perhaps say, "Did  
29 you say this?" The witness might say yes or he might say





1 no.

2 JUDGE THOMPSON: But how does that dispel the previous ruling  
3 on the subject of how to deal with previous inconsistent  
4 statements in cross-examination? We're on record as  
10:46:17 5 saying there is a particular procedure and at the end of  
6 day it may be necessary to have the statement admitted in  
7 evidence.

8 MR TOURAY: Well, that --

9 JUDGE BOUTET: But for a limited purpose.

10:46:31 10 JUDGE THOMPSON: Yes, right.

11 MR TOURAY: Well, that is my position, Your Honour. I mean,  
12 evidence is only admitted for the purposes of  
13 establishing not the truth of the document --

14 JUDGE THOMPSON: In other words, you're inviting us, if at the  
10:46:46 15 end of day we decide to admit it, to carry out some kind  
16 of judicial surgery.

17 MR TOURAY: Indeed so. It might mean putting on your  
18 reflectors at one point and putting your blinkers on at  
19 the other points.

10:47:10 20 PRESIDING JUDGE: Mr Jordash, please, you see, my worry is  
21 that you are characterising this as a previous  
22 inconsistent statement. It was tendered, the chart was  
23 tendered, and there was an objection on the grounds that  
24 it cannot because it has not been disclosed and, of  
10:47:40 25 course, this was because it had to be subjected to the  
26 disclosure rules under 66, but that this had not been  
27 done. It was rejected in evidence. It was rejected by  
28 this Court. What is the status of that document which  
29 has been rejected as a statement? Are you -- do we



1 understand you to mean that you want to bring it in by  
2 some other means even after it has been rejected on legal  
3 grounds?

4 MR JORDASH: No, no.

10:48:21 5 PRESIDING JUDGE: Do you want this Court to approbate and  
6 reprobate at the same time? That is the question which I  
7 would like to be addressed upon.

8 MR JORDASH: If I was asking this Court to allow this to go  
9 into as an exhibit representing --

10:48:36 10 PRESIDING JUDGE: Or let me put it this way: Even referring  
11 to it, because as far as this Court is concerned, you  
12 know, that document, even it were characterised as a  
13 statement, has been excluded from evidence, would it be  
14 proper for you to rely on it even if meant relying on the  
10:48:55 15 facts for purposes of cross-examining this witness?

16 MR JORDASH: As I understand the ruling, it is a ruling which  
17 excludes the use of this chart in the hands of the  
18 Prosecution as evidence of the truth of its content.  
19 What I'm requesting this document to be used as is,  
10:49:20 20 I would respectfully submit, in line with Your Honours'  
21 previous ruling in the CDF case in the same way when an  
22 inconsistent statement is put to a witness there, the  
23 whole statement is tendered to this Court, but only the  
24 section where the inconsistency is alleged to lie is  
10:49:38 25 exhibited, and even then only exhibited in a limit way to  
26 show inconsistency, not as my learned friend Mr Touray  
27 perceives as an issue which -- well, as evidence in  
28 totality. If the Court would find favour in what  
29 Mr Touray had said, I would be quite happy simply to ask



1 questions based on the chart and then not ask for the  
2 chart to be exhibited, just rely on the answers on the  
3 transcript. But that would, in my respectful submission,  
4 imply that Your Honours couldn't, in due course, look at  
10:50:23 5 this chart, address your minds to the aspects of alleged  
6 inconsistency, and ignore the rest. If it was a jury  
7 being asked to do that, then perhaps there would be some  
8 fear. But in this case what I would be asking the  
9 witness to do is comment on some limited aspects, give  
10:50:44 10 his answers and then for those answers to be considered.  
11 The only purpose of putting in the table would be that  
12 when Your Honours come to deliberate, you can look at the  
13 answers given by the witness as compared to the  
14 statement, the limited statement contained within the  
10:51:00 15 chart. The chart isn't the thing. The inconsistent  
16 statement alleged by the Defence are the thing.

17 JUDGE THOMPSON: If that is the correct procedure, whatever we  
18 do, we would, in fact, if we receive it in evidence as an  
19 exhibit, which you say perhaps that is not what you want  
10:51:25 20 to do, still be investigating the truth of the matter  
21 stated therein in respect of a particular testimony that  
22 you're seeking to impeach.

23 MR JORDASH: Yes.

24 JUDGE THOMPSON: Because how would we say that two statements,  
10:51:45 25 one in the oral testimony and the other in the document,  
26 are mutually contradictory or inconsistent if we don't  
27 examine the truth of what is stated in the oral testimony  
28 and the truth of what is in the document? Perhaps I need  
29 some guidance on this, because it would sound like a



1 legal fiction if we don't do that. We're probably saying  
2 that oh, when we examined these two to establish or rebut  
3 the idea of inconsistency, what are we doing? I mean, is  
4 it some mystical or mythical exercise that we're on or  
10:52:39 5 are we saying what fact is stated there in the alleged  
6 facts in the witness stand as against what is the alleged  
7 fact stated in the document? Because I hear this all the  
8 time, that we're not really concerned with the truth of  
9 the matter stated therein.

10:52:59 10 MR JORDASH: The statement which is being examined for the  
11 truth of its content --

12 JUDGE THOMPSON: Precisely.

13 MR JORDASH: Is the oral statement just given.

14 JUDGE THOMPSON: Is the oral statement and measured against  
10:53:08 15 what?

16 MR JORDASH: Measured against his ability to tell a consistent  
17 story, not against the truth or otherwise of this  
18 statement.

19 JUDGE THOMPSON: How do you establish a consistency or  
10:53:18 20 inconsistency? Do you go on some mythical kind of  
21 judicial exploration?

22 MR JORDASH: My submissions and my questions are not  
23 predicated on what is in this chart being true or  
24 otherwise. My submission -- well, my questioning of this  
10:53:35 25 witness is predicated upon establishing whether what he  
26 says in court is true or otherwise.

27 JUDGE THOMPSON: Yes, but the difficulty is that you're  
28 virtually saying that he has now come before us with two  
29 mutually contradictory statements, both of which cannot





1 be true at the same time or false at the same time. One  
2 of which must be true, the other false. That is how  
3 I perceive the valuation process or am I missing  
4 something here?

10:54:03 5 MR JORDASH: That is, in broad terms, Your Honour, the  
6 valuation process, but the difference between this going  
7 in in the hands of the Prosecution is that it would have  
8 gone in as itself as a truthful document without  
9 necessity to recuse to comparison -- recourse to  
10:54:23 10 comparison. In this instance, it would be going in  
11 simply as a tool by which another statement could be  
12 assessed.

13 JUDGE THOMPSON: For comparative purposes.

14 MR JORDASH: For comparative purposes, but that doesn't  
10:54:39 15 require an assessment. I make no assertion about the  
16 truth or otherwise of this chart and the statements  
17 contained therein. That is not the question, I would  
18 respectfully submit. It the truth of his oral testimony.

19 JUDGE THOMPSON: All right, thank you.

10:54:58 20 MR CAMMEGH: Can I just summarise my position by making three  
21 very brief points?

22 PRESIDING JUDGE: [Microphone not activated] -- you said all  
23 you had to say. If you wanted to add, you're free to  
24 move. Please go ahead. Go ahead, Mr Cammegh, please, Mr  
10:55:19 25 Cammegh. Don't you worry.

26 MR CAMMEGH: I'm concerned that I might not have made my  
27 position abundantly clear. The first point I make is I  
28 am applying for the statement to be put to the witness  
29 for the purposes of my cross-examination. My second



1 point is I do not necessarily require it to be an  
2 exhibit. That is not necessary for my purposes. The  
3 third point is this, that I would not be raising this or  
4 making this application had the witness, after -- after  
10:55:39 5 Your Honours had ruled on the provenance of that chart  
6 last week had not stated in terms Gbao was chief of  
7 security in 1998. Therefore, in my submission, I must be  
8 wholly entitled to use it as a tool of cross-examination.  
9 I do not necessarily ask for it to be exhibited.

10:56:03 10 PRESIDING JUDGE: But you still admit that that chart is not  
11 prejudicial to your client at this stage?

12 MR CAMMEGH: The 1998 chart does my client no harm at all.

13 PRESIDING JUDGE: That is the one I'm referring to.

14 JUDGE THOMPSON: [Microphone not activated]

10:56:19 15 JUDGE BOUTET: That is a complete change of position,  
16 vis-a-vis, that document.

17 JUDGE THOMPSON: Yes.

18 MR CAMMEGH: As I said earlier on, and Your Honours are  
19 putting me in a difficult position, I think Mr O'Shea was  
10:56:30 20 arguing a matter of principle which, standing alone, was  
21 absolutely right. As I've said intrinsic in relation to  
22 Gbao, it just so happens that this one chart, and maybe  
23 the following one in '99 as well, actually serves me very  
24 well.

10:56:46 25 JUDGE THOMPSON: Well, I follow that train. In other words,  
26 when applied to your specific situation, the principle  
27 does not work.

28 MR CAMMEGH: Yes. But must add, I don't want to appear to be  
29 disingenuous. I would not be making this application had



1 the witness not gone on to say what he said, so the  
2 position has changed somewhat.

3 MR JORDASH: Could I just add -- I'm sorry to leap up to my  
4 feet. I don't want the Court to think that I'm being  
10:57:16 5 disingenuous in this application. It's --

6 PRESIDING JUDGE: We don't have that perception.

7 JUDGE THOMPSON: Certainly not.

8 PRESIDING JUDGE: We're hear to listen to arguments in order  
9 to arrive at a decision.

10:57:27 10 JUDGE THOMPSON: For me it is an educational exercise.

11 PRESIDING JUDGE: We don't have that perception at all. We're  
12 exercising a profession where we have to be open to all  
13 forms of argument. It is just normal that this occurs in  
14 the course of a judicial proceeding. Thank you.

15 [HS250105B 11.00 a.m. - SGH]

16 PRESIDING JUDGE: Thank you. Mr Harrison, may we please hear  
17 you?

18 MR HARRISON: I see Mr Touray has his microphone on, I am not  
19 sure if he wishes to address you first. I take it not.

20 If I can just indicate at the outset that generally  
21 speaking a piece of paper such as we have been referring  
22 to is most commonly referred to as demonstrative  
23 evidence. That is what it is called in all the texts on  
24 evidence.

25 PRESIDING JUDGE: Referred to as what?

26 MR HARRISON: Demonstrative evidence. I think all the texts  
27 will go on to say that there is usually a lower standard  
28 for the admissibility of demonstrative evidence. I think  
29 the other first principle, which I'm quite confident



1 Mr Justice Thompson is quite familiar with because he has  
2 reminded me of it on several occasions, is that there is  
3 a difference between admissibility and weight, which is  
4 always something the Court keeps in mind.

5 The other point that has already been raised by  
6 Mr Justice Thompson is the effect of the CDF ruling and  
7 if there is an attempt to show a prior inconsistent  
8 statement then the prior statement does become an exhibit  
9 in the proceeding. We say that continues to be the  
10 appropriate procedure which ought to be followed.

11 What we also say is that in fact the three charts  
12 have to be read together. They tell one story, they are  
13 interrelated inextricably and all three must be dealt  
14 with at the same time and they must be treated in the  
15 same way. Otherwise you have in fact chopped, in an  
16 wholly arbitrary manner, information from a general  
17 package of information which is necessarily required to  
18 be dealt with as a whole.

19 So the first principle is if it is to be used as a  
20 prior inconsistent statement then it has to be admitted.  
21 The second principle is that it's always a requirement  
22 that the entirety of a statement, should it be described  
23 as such, become part of the proceedings.

24 Now, I am not able to give you any guidance this  
25 morning on whether demonstrative evidence has ever been  
26 called a statement by any court. If you wish such  
27 guidance I am going to have to ask for the opportunity to  
28 find it for you, but I'm being frank with the Court in  
29 that concession. It has always been my experience in the





1 past that demonstrative evidence is demonstrative  
2 evidence and no one ever describes it as anything other  
3 than that. So I regret to say that I am not able to  
4 assist you on what I perceive as at least one member of  
5 the bench seeing as perhaps a threshold question that  
6 needs to be answered.

7 Those are the principles that I can assist you with  
8 this morning.

9 JUDGE THOMPSON: But given the elasticity of these principles,  
10 even if in the conventional orthodox sense demonstrative  
11 evidence has never included a statement would we say that  
12 the law itself responds to the state of the technology,  
13 the development of technology and what may not have been  
14 an example of demonstrative evidence in 1875 may well in  
15 2005, given the development in terms of what we use to  
16 assist the due administration of justice, be regarded as  
17 demonstrative evidence.

18 MR HARRISON: Yes, that is certainly a fair comment to make  
19 and it may be of some use for the Court to perhaps turn  
20 its mind to whether or not these charts are akin to a  
21 photograph.

22 JUDGE THOMPSON: Yes, because remember that in 1875, 1800  
23 there were no charts. They were not used by Prosecutors  
24 and Defence and all that. Oral testimony throughout and  
25 that kind of thing. But we have come a long way from  
26 that state of justice and we are using modern  
27 technological visual aids and all that kind of thing. I  
28 just wanted to make that point. Thank you.

29 JUDGE BOUTET: Mr Harrison, before you sit down I would like



1 to know are you objecting or not to the admissibility?  
2 [Inaudible] to be that if the Court is to admit this we  
3 should go with the three and not only one, but are you  
4 suggesting that the Court should admit the three or are  
5 you objecting, period?

6 MR HARRISON: No, I am not objecting. I'm simply saying that  
7 if it's the Court's -- I frankly have never understood  
8 the Court's judgment and so be it. Lawyers are  
9 frequently wrong, courts are never wrong and I have been  
10 frequently wrong in front of this Court and I accept  
11 that.

12 But I think if you are to take a principle position  
13 it is the one which I have suggested because you have to  
14 bear in mind the consistency with the prior decisions of  
15 this Court and I have tried to assist you, as best I can,  
16 to answer your questions squarely. I am not objecting to  
17 the use, as an exhibit before this witness, of the chart  
18 but I have given you the qualifications which I have  
19 attached to it.

20 JUDGE THOMPSON: By way of a submission --

21 MR HARRISON: Yes.

22 JUDGE THOMPSON: -- to the Court.

23 MR HARRISON: Right.

24 JUDGE THOMPSON: Right.

25 MR JORDASH: May I briefly respond in a one minute response?

26 PRESIDING JUDGE: Yes, please.

27 MR JORDASH: Thank you. Two things. My understanding was as  
28 to the Prosecution application a few days ago -- was that  
29 they intended simply to exhibit the one table. That may



1 have been said in open court. I don't say it was, but my  
2 recollection is that it was said. There was no intention  
3 on their part to use the other charts. So the idea that  
4 they are interlinked now is, in my respectful submission,  
5 not consistent with their prior position.

6 Secondly, I would simply, in relation to the issue  
7 of whether it is a statement -- just if I may quote from  
8 Your Honours' ruling in the CDF case, paragraph 22:  
9 "The Trial Chamber agrees with the assertion given by the  
10 Prosecution at the 1st of June 2004 Status Conference  
11 that a statement can be anything that comes from the  
12 mouth of the witness regardless of the format. By parity  
13 of reasoning, the fact that a statement does not contain  
14 a signature or is not witnessed does not detract from its  
15 substantive validity."

16 Those are my brief responses.

17 PRESIDING JUDGE: We will rise for some minutes and resume the  
18 session thereafter. The Court will rise please.

19 [Judges break to confer at 11.10 a.m.]

12:17:41 20 [HS250105C - EKD]

21 [Upon resuming at 12.44 p.m.]

22 PRESIDING JUDGE: Learned counsel, we are sorry we kept you  
23 waiting rather indefinitely. We did not expect we were  
24 going to be this long. I am afraid we are going to be a  
12:41:20 25 little bit longer. We are sorry we can't be ready to  
26 proceed now. We are saying that we would at this stage  
27 adjourn to enable the Court to complete its deliberation  
28 on the issues raised and for us to resume sitting at  
29 2.30. Again, we are sorry that we didn't anticipate it



1 was going to be this long, otherwise we would have taken  
2 this decision at the time we were -- I thought it would  
3 be just something that would last about 30 minutes, but  
4 it has lasted a bit longer. I think it is important that  
12:42:08 5 we address the issues concerned and come back at 2.30, so  
6 as to proceed with the cross-examination by the Defence  
7 team of the first accused, Mr Jordash. So, we will rise  
8 and resume the session at 2.30. The Court will rise,  
9 please.

12:42:43 10 [Luncheon recess taken at 12.46 p.m.]

11 [HS250105D 2.45 p.m. - SGH]

12 PRESIDING JUDGE: Good afternoon, learned counsel, we are  
13 resuming the session and we are going to indicate to you  
14 the way we shall proceed, and our brother, learned  
15 brother, Justice Bankole Thompson will give these  
16 indications on behalf of the Tribunal.

17 JUDGE THOMPSON: Mr Jordash, for the benefit of the Bench, let  
18 us get your position absolutely clear so as to enable us  
19 to resolve this issue at hand with some expedition. I  
20 will put just one question to you, it's a preliminary  
21 question. Which of these two legal options are you  
22 adopting? One, using the chart for the purpose of  
23 refreshing the memory of the witness on issues relating  
24 to its contents having regard to the relevant aspects of  
25 the witness's oral testimony. The emphasis there is,  
26 one, for the purposes of refreshing the memory of the  
27 witness. Two, using the chart for the purposes of  
28 establishing prior inconsistent statements, vis-a-vis  
29 relevant portions of the witness's testimony. The





1 emphasis there is for the purposes of establishing prior  
2 inconsistent statements.

3 MR JORDASH: It is the second.

4 JUDGE THOMPSON: The second. Well, with that resolution then  
5 it would seem to me that we should proceed as follows -  
6 and this is the Chamber's position - that we are of the  
7 opinion at this point in time that no proper legal  
8 foundation has been established in cross-examination thus  
9 far to show that the witness is or was, in fact, the  
10 maker of the chart. The emphasis is here established in  
11 cross-examination thus far. Perhaps those are lines  
12 along which we should now proceed.

13 So if you want to begin by indicating by  
14 establishing the proper legal foundation and then also in  
15 the process indicating which particular portions of the  
16 chart you intend to highlight as alleged inconsistencies.  
17 That would be again part of the process. And after that  
18 we will determine what should be our next step.

19 MR JORDASH: Your Honour, could I just seek one clarification?

20 JUDGE THOMPSON: Yes.

21 MR JORDASH: Could I -- do Your Honours consider that I should  
22 engage in that process, if that is the course I proceed  
23 with, through the witness, or are Your Honours requiring  
24 clarification?

25 JUDGE THOMPSON: The witness, because the proper legal  
26 foundation as to have the witness present.

27 MR JORDASH: I see.

28 JUDGE THOMPSON: Once you are able to do that then that will  
29 determine what should be our next step, procedural step.



- 1 MR JORDASH: I am grateful, I understand.
- 2 MR HARRISON: Should I attend to bring the witness in?
- 3 JUDGE THOMPSON: Yes, certainly. Thank you.
- 4 [Witness enters at 2.52 p.m.]
- 5 PRESIDING JUDGE: Learned counsel, your witness.
- 6 MR JORDASH: Thank you, Your Honour.
- 7 Q. Good afternoon, Mr Witness.
- 8 A. Yes, good afternoon.
- 9 Q. Do you recall meeting a member of the Prosecution in the  
10 last few weeks to discuss further your recollection of  
11 the command structure in Kono?
- 12 A. Yes.
- 13 Q. Was that in Freetown? Just a yes or no answer will  
14 suffice.
- 15 A. Yes, it was in Freetown.
- 16 Q. Thank you. Were you asked specific questions about your  
17 recollection as to the various assignment of various  
18 personnel within Kono in 1998?
- 19 A. Yes.
- 20 Q. Did you answer those questions?
- 21 A. Very well.
- 22 Q. Did the person asking the questions take notes?
- 23 A. Yes.
- 24 Q. Were the notes put into a chart in front of you; do you  
25 know?
- 26 A. Yes. The chart was placed in front of me and I viewed  
27 it. I said it is the correct command structure of 1998.
- 28 Q. Just so that we are clear about the process, were your  
29 answers put straight onto a chart or were your answers



- 1 written down into note form and then later on the chart  
2 was produced; do you recall?
- 3 A. Yes, the answers were written on a different paper and  
4 then the chart later followed.
- 5 Q. And then they came back to you with the chart and you  
6 checked the chart to see if it was an accurate reflection  
7 of what you had said?
- 8 A. Yes. Yes.
- 9 Q. Were you asked what Mr Bockarie's position was in 1998?
- 10 A. Sam Bockarie's position was -- he was the Chief of  
11 Defence staff.
- 12 JUDGE THOMPSON: Were you asked?
- 13 THE WITNESS: Yes, I was asked.
- 14 MR JORDASH:
- 15 Q. Did you give information about what your recollection was  
16 about Mr Bockarie's position in 1996?
- 17 A. 1996, no.
- 18 Q. Were you asked what Mr Sesay's position was in 1998 and  
19 1999?
- 20 A. Yes, 1998 and 1999.
- 21 Q. And you answered those questions?
- 22 A. Yes.
- 23 Q. Did you indicate --
- 24 PRESIDING JUDGE: Just a minute, please.
- 25 MR JORDASH: I beg your pardon. Sorry.
- 26 PRESIDING JUDGE: That is Mr Sesay's position in the  
27 command -- in the command structure.
- 28 MR JORDASH: Your Honour, yes.
- 29 PRESIDING JUDGE: In 1998 or 1999?



1 MR JORDASH: Yes.

2 Q. Did you indicate on that chart -- what your recollection  
3 was about when Sesay became a battlefield commander?

4 PRESIDING JUDGE: First of all in his statement before the  
5 chart.

6 MR JORDASH: I beg your pardon, sorry, yes.

7 Q. Were you asked during the process, prior to the chart  
8 being produced, when it was Mr Sesay became battlefield  
9 commander?

10 A. Yes, I was asked.

11 Q. Did you answer?

12 A. Yes.

13 Q. Was it accurately reflected in the chart you saw  
14 afterwards?

15 A. Yes.

16 Q. Did you also indicate the various positions of Sam  
17 Bockarie?

18 A. Yes.

19 Q. As you recalled them?

20 A. Yes.

21 Q. And was your answers accurately recorded on the chart?

22 A. Yes.

23 Q. Were you asked about Superman's position in Kono during  
24 1998?

25 A. Yes.

26 Q. Again were your answers recorded and reflected in the  
27 chart?

28 A. Yes.

29 Q. And finally just this, were you asked about Gibril





1 Massaquoi and did you indicate your recollection of what  
2 he was doing in 1998?

3 A. Yes.

4 Q. And did the chart reflect what you told the Prosecution  
5 about Gibril Massaquoi?

6 A. Yes.

7 Q. Did you have ample opportunity to look at the chart and  
8 check it? Were you comfortable with the time you were  
9 given?

10 A. For 1998?

11 Q. For checking -- when you looked at the 1998 chart, did  
12 you have enough time to check that it reflected what you  
13 told the Prosecution?

14 A. Yes, I looked at it.

15 Q. And were satisfied?

16 A. I was satisfied.

17 Q. Thank you.

18 MR JORDASH: Your Honours, the --

19 [Judges confer]

20 JUDGE THOMPSON: Learned counsel for the Prosecution, before  
21 we go further on this side, Mr Jordash did elicit from  
22 the witness that certain notes were used in other words  
23 preparatory material for the chart. Does the Prosecution  
24 have any indication of any statement -- Are those notes  
25 available?

26 MR HARRISON: I could double check, but I think they were  
27 notes on drafts of the chart.

28 JUDGE THOMPSON: I see.

29 MR HARRISON: I don't know how much Mr Jordash wants me to



1 say.

2 JUDGE THOMPSON: No, it is the Bench that really would just  
3 like to know whether these preparatory material.

4 MR HARRISON: Revision were made on charts.

5 JUDGE THOMPSON: Yes, of course. What would be the policy of  
6 the Prosecution as to that kind of preparatory material  
7 would it be available?

8 MR HARRISON: Generally speaking, the Prosecution takes a view  
9 that that is work product of the solicitors involved.

10 JUDGE THOMPSON: Yes, I see.

11 MR HARRISON: I can't tell you that they are still in  
12 existence even.

13 JUDGE THOMPSON: Quite. All right.

14 [Judges confer]

15 JUDGE BOUTET: Do I take from your comments, Mr Harrison, that  
16 even if they had existed you would not have disclosed  
17 that to the Defence because those are deemed and viewed  
18 as part of the case preparation by the Prosecution?

19 MR HARRISON: Yes. Unless it is some new piece of information  
20 of disclosure that the Prosecution is relying upon.

21 JUDGE BOUTET: Okay. I am just asking for clarification  
22 purposes. Thank you.

23 JUDGE THOMPSON: Well, the Bench is satisfied that proper  
24 legal foundation has been established for the admission  
25 of the document in question, but perhaps we need, before  
26 we proceed to admit it, we need to hear from learned  
27 counsel for the second accused, learned counsel for the  
28 third accused and the Prosecution.

29 MR TOURAY: Your Honour, from this side we are not satisfied



1           that the proper legal foundation has been laid.

2 JUDGE THOMPSON: No, what are -- we are not asking you to

3           argue with us our ruling.

4 MR TOURAY: Yes.

5 JUDGE THOMPSON: We want to indicate whether you have any

6           objection to the next step which we are about to embark

7           upon and that is to receive the document in evidence.

8 MR TOURAY: That is what we say, Your Honour, we don't know

9           what the consistencies --

10 JUDGE THOMPSON: In other words --

11 MR TOURAY: We don't know what inconsistencies at this stage.

12 JUDGE THOMPSON: All right. Thanks. So you are opposed to

13           the document being received.

14 MR TOURAY: At this stage, yes.

15 JUDGE THOMPSON: At this stage.

16 MR TOURAY: Yes.

17 JUDGE THOMPSON: Learned counsel for the third accused.

18 MR CAMMEGH: My position remains as before and I urge the

19           Bench to admit the document for purposes of

20           cross-examination.

21 JUDGE THOMPSON: Thank you. Learned counsel for the

22           Prosecution.

23 MR HARRISON: Yes, the Prosecution position is unchanged.

24           There was a exchange between Mr Justice Boutet and I

25           don't -- if I said more I think I would just confuse

26           matters.

27 JUDGE THOMPSON: Thank you. Thanks.

28 JUDGE BOUTET: My dear brother, may I just ask Mr Jordash, if

29           may, this issue? I know you have a copy of the decision



1 of this Court in the CDF and then the procedure at this  
2 Court is laid down more specifically paragraph 21 and I  
3 just want to draw your attention as to the procedures set  
4 out in that decision as to how this is to be used. Given  
5 the Court's ruling now, you have met some of the  
6 [inaudible] as to how to proceed [inaudible] in paragraph  
7 4 and 5 of that. That is paragraph 21.

8 MR JORDASH: Yes, I have it.

9 JUDGE BOUTET: So I am just drawing your attention to  
10 [inaudible] in paragraph 4 that this may be  
11 cross-examined [inaudible] it's only [inaudible]  
12 decision. I just ask you if you mind following what we  
13 have described as being the proper procedure we have  
14 prior inconsistent statements [inaudible].

15 MR JORDASH: Your Honour, yes. Thank you.

16 JUDGE BOUTET: Thank you.

17 JUDGE THOMPSON: Mr Jordash, at this stage we will receive the  
18 document in evidence.

19 MR JORDASH: I am grateful. Thank you.

20 JUDGE THOMPSON: And mark it Exhibit 20. If someone will  
21 check that for me. 20?

22 MS EDMONDS: Yes, it is 20.

23 [Exhibit 20 admitted]

24 JUDGE THOMPSON: Yes. Yes, and we have two injunctions for  
25 you, Mr Jordash. The first is that you will indicate  
26 which portions of the chart you wish to highlight as  
27 inconsistencies. That is injunction one. And the second  
28 injunction is that -- it's a very strong injunction from  
29 the Bench, that you restrict your cross-examination only





1 to those portions of alleged prior inconsistencies that  
2 you have identified and only in respect of your client.

3 MR JORDASH: Certainly.

4 JUDGE THOMPSON: Only in respect of your client.

5 MR JORDASH: Your Honour, yes.

6 JUDGE THOMPSON: Thank you.

7 MR JORDASH:

8 Q. May I ask that the copy of the chart be given to the  
9 witness, please.

10 PRESIDING JUDGE: Exhibit 20 you mean.

11 MR JORDASH: It is Exhibit 20, yes. Thank you.

12 [Document handed to witness]

13 JUDGE THOMPSON: Mr Jordash, before we proceed, let us again  
14 remind you from the Bench that the document that has now  
15 been marked Exhibit 20 is being received in evidence for  
16 a limited purpose alone and for that purpose. It is also  
17 important, from the perspective of the Bench, to issue a  
18 brief ruling in respect of the rights of the second  
19 accused on the issue of this document. It is this; that  
20 bearing in mind the objection of counsel for the second  
21 accused to the admissibility of Exhibit 20, and  
22 pre-eminently mindful of the need to afford each accused  
23 person judicial guarantees as if they were being tried  
24 separately. The Chamber rules that while upholding the  
25 principle that prior inconsistent statements are  
26 generally admissible to impeach the credibility of a  
27 witness, the highlighted portions of Exhibit 20 and the  
28 answers given by the witness to questions in respect  
29 thereof in relation to the second accused, do not



1 constitute evidence against him.

2 Also in respect of the third accused, a short ruling  
3 of the Chamber is that cross-examination of counsel for  
4 the third accused, consistent with the legal position  
5 taken by Mr Cammegh on this issue, will be limited to  
6 only those portions of the chart relevant for the  
7 purposes of establishing prior inconsistent statements  
8 vis-a-vis the oral testimony of the witness.

9 We will proceed.

10 MR JORDASH: Thank you.

11 Q. Mr Witness, could I just ask you I think about five  
12 questions on this chart? Do you recognise the chart,  
13 Mr Witness?

14 A. Yes.

15 Q. Now, I want to just direct your attention to very  
16 specific aspects of it, in particular the third box from  
17 the top. Do you see that?

18 A. I have seen it, yes.

19 Q. In that box it is written, "Battle group commanders,  
20 Bockarie 1996, Sesay 1998-1999." Now the first question  
21 I want to ask is, did you say to the Prosecution, as is  
22 recorded here, that Bockarie was the -- a battle group  
23 commander in 1996?

24 A. Yes, Sam Bockarie became once a battle group commander  
25 '96.

26 Q. Did you see say that --

27 A. Yes.

28 Q. Did you say that Mr Sesay was a battle group commander  
29 1998 to 1999?



1 A. Here was the problem that I have seen. In 1998 I only  
2 told the Prosecution that Issa Sesay became battlefield  
3 commander in 1998.

4 Q. Didn't you check this chart to see that it was accurate?  
5 PRESIDING JUDGE: Please. Please, just wait.

6 MR JORDASH: I beg your pardon.

7 PRESIDING JUDGE: So you did not tell the Prosecution that  
8 Issa Sesay was a --

9 THE WITNESS: Battle group commander.

10 PRESIDING JUDGE: Battle group commander in 1998.

11 THE WITNESS: He was battlefield commander, not battle group.

12 PRESIDING JUDGE: You told them -- you said it was a  
13 battlefield --

14 THE WITNESS: Yes.

15 PRESIDING JUDGE: Not a battle group?

16 THE WITNESS: Yes.

17 MR JORDASH: Q. Can I suggest to you, Mr Witness, that you  
18 did in fact tell the Prosecution Sesay was a battle group  
19 commander during those dates because he was a battle  
20 group commander during those dates? It's accurate, I'm  
21 suggesting.

22 A. I told the Prosecution that in 1998 was the time Issa  
23 Sesay became the battle group -- sorry, battlefield  
24 commander.

25 JUDGE BOUTET: Mr Witness, are you saying that you said to the  
26 Prosecution that Sesay became a battlefield commander in  
27 1998.

28 THE WITNESS: Yes. This is what I told the Prosecution.

29 JUDGE BOUTET: So what would be accurate, based on this



1 document, is that Sesay should not be described as a  
2 battle group commander for 1998.

3 THE WITNESS: No.

4 JUDGE BOUTET: But you say it was in '98 but if you look at  
5 the box below you just said that he became a battlefield  
6 commander in 1998.

7 THE WITNESS: Yes.

8 JUDGE BOUTET: On the same document, if you look at the same  
9 chart, if you look at the box below battle group  
10 commander, the box above battlefield commander.

11 THE WITNESS: Yes, I have seen below.

12 JUDGE BOUTET: Well, What's the date there and what are the  
13 names? The first name?

14 THE WITNESS: For battle --

15 JUDGE BOUTET: Battlefield commander on the chart.

16 THE WITNESS: 1998?

17 JUDGE BOUTET: Well, below battle group commander on the chart  
18 you have a battlefield commander's box.

19 THE WITNESS: Yes, I mentioned to the Prosecution the various  
20 battlefield commanders from 1998 to 2001 and wherein I  
21 indicated Issa Sesay and Morris Kallon, but these were at  
22 various times, not at the same time.

23 JUDGE BOUTET: Well, no, I know. But in that box you the  
24 indication is "Battlefield Commander Sesay (1996)."

25 THE WITNESS: Yes, but it was still 1996, as I said. It was  
26 1998 Issa Sesay became battlefield commander and 2000 to  
27 2001 Morris Kallon became also a battlefield commander.  
28 That is what I --

29 JUDGE BOUTET: But my question to you was along the lines of





1 what Mr Jordash was asking you. You are saying that the  
2 battle group commander's box where it says "Sesay '98" is  
3 not accurate.

4 THE WITNESS: No.

5 JUDGE BOUTET: And the box below when you have battlefield  
6 commander where it says Sesay in 1996 is also not  
7 accurate.

8 THE WITNESS: Not at all.

9 JUDGE BOUTET: Where it says "Battlefield Commander Sesay" it  
10 should read '98.

11 THE WITNESS: 98.

12 JUDGE BOUTET: And the top box where it says "Battle Group  
13 Commander" it should read '99 for Sesay.

14 THE WITNESS: No, Sesay never became battle group commander as  
15 I came to understand. In 1998 it was Superman that  
16 became the battle group commander. By rights Superman's  
17 name should have been in the box. 1998.

18 MR JORDASH: Q. But, Mr Witness, can you see in the box it  
19 says "Sesay Battlefield Commander 1996". Can you see  
20 that?

21 A. Yes, I have seen 1996.

22 Q. You had an opportunity to look at this chart to check  
23 that it reflected your statements to the Prosecution; no?

24 A. Well, I never mentioned of 1996 for Issa Sesay becoming  
25 battlefield commander, no.

26 Q. But didn't you tell us a few minutes ago that you had  
27 checked the chart and it accurately --

28 A. Yes, there were various charts made so --

29 Q. This chart.



1 A. I saw so many charts that were prepared.

2 JUDGE THOMPSON: Counsel, for my benefit, what is he saying?

3 Is he saying that the box there, the fourth box on the

4 top, saying that Sesay was battlefield commander in 1996

5 is inaccurate? Is that what he is saying?

6 MR JORDASH: Yes, yes.

7 JUDGE THOMPSON: So that is inaccurate.

8 THE WITNESS: Yes.

9 MR JORDASH: Q. Are you saying that is not what you told the

10 Prosecution?

11 A. Of Issa Sesay in '96, no.

12 Q. Is there any reason --

13 JUDGE THOMPSON: Just a minute.

14 MR JORDASH: Sorry.

15 JUDGE THOMPSON: You may proceed, Mr Jordash.

16 MR JORDASH: Thank you.

17 Q. Is there any reason why you didn't correct that entry in

18 the chart when you checked it?

19 A. I cannot say any other reasons of this because I

20 [inaudible] that what I said was what had been written.

21 Q. Okay. Just one further question?

22 A. Yes.

23 Q. Did you tell the Prosecution that Gibril Massaquoi was

24 the RUF spokesman in 1998?

25 A. Yes.

26 MR JORDASH: Your Honours, that's all I have on the chart.

27 JUDGE BOUTET: I do have one question, if I may, before you

28 sit down because you may have a follow-up question.

29 Mr Witness, in the chart in question, if I follow



1           your evidence, in the structure that you people in the  
2           RUF had at the time they are the CDS, the Chief of  
3           Defence Staff.  
4   THE WITNESS: Yes.  
5   JUDGE BOUTET: Bockarie. Under Bockarie you had the  
6           battlefield commander, I'm talking of structure.  
7   THE WITNESS: Yes.  
8   JUDGE BOUTET: Below battlefield commander you had battle  
9           group commanders.  
10   THE WITNESS: Exactly.  
11   JUDGE BOUTET: So that chart that you have in front of you  
12           shows battle group commander to be on top of battlefield  
13           commander, so that is wrong.  
14   THE WITNESS: Yes, but the idea is that --  
15   JUDGE BOUTET: I know but my question to you is --  
16   THE WITNESS: Battlefield commander should be at the top and  
17           then the battle group comes below.  
18   JUDGE BOUTET: So that chart is misleading in that battlefield  
19           commander should have been on top of battle group  
20           commander.  
21   THE WITNESS: Yeah, battlefield commander should have been on  
22           top, then battle group comes below the battlefield.  
23   JUDGE BOUTET: Okay. Thank you.  
24   MR JORDASH: Could I ask for the witness to be given his  
25           statement of 13th September which is this 9756 page.  
26           Page 9756, please. Thank you, Mr Harrison.  
27   [Document handed to the witness]  
28           Those are the aspects of the chart I wish to refer to,  
29           just limited to those questions.



- 1 MR HARRISON: 97?
- 2 MR JORDASH: 9756. Dated --
- 3 MR HARRISON: Is it the last one?
- 4 MR JORDASH: I beg your pardon, 9764, yes.
- 5 Q. I think we have referred to this before, Mr Witness, and  
6 I just want to take you, if I can, straight to page 9762.  
7 Can you see that; 9762?
- 8 A. Yes.
- 9 Q. And it is the big paragraph which is the first full  
10 paragraph beginning with "Junior Conteh" and if I can  
11 take you to five lines down. If you can just read that  
12 paragraph just to get some context, but you appear to be  
13 speaking about a coordinated attack on ECOMOG on 16th  
14 December 1998. Do you see that?
- 15 A. Mm-hm.
- 16 Q. And the statement says: "The attack was planned for 6.00  
17 a.m. on 16 December 1998. Morris Kallon was battlefield  
18 inspector and Issa Sesay was battle group commander."
- 19 A. Of 1998, no.
- 20 Q. Do you see that? Is that what you told the Prosecution;  
21 that Mr Sesay was battle group commander on 15th December  
22 1998?
- 23 A. All along in my statement I have been saying that Issa  
24 Sesay was a battlefield commander part of 1998. I knew  
25 as -- Superman, Denis Mingo, as a battle group 1998.
- 26 Q. Just so that you understand where I'm coming from, I am  
27 not disputing that Superman was a battle group commander  
28 during that period, I'm suggesting that what you have  
29 written there is accurate and Mr Sesay was battle group





- 1 commander?
- 2 A. Sesay was not a battle group commander.
- 3 Q. Okay. Could I just ask you then to have a look please at  
4 the proofing notes which begin 9765, please. Sorry, I  
5 don't think you have got the notes yet, Mr Witness. They  
6 are coming up. I am grateful to Mr Harrison?
- 7 [Documents handed to the witness]
- 8 Could I ask you to turn to paragraph 38 of these notes.  
9 I will just explain what the notes are, we have been  
10 through them before but just so that you know. Do you  
11 see there paragraph 38?
- 12 A. On what page?
- 13 Q. Page 9771?
- 14 A. 9771.
- 15 Q. If we go to 9771, paragraph 37.
- 16 A. Okay. Paragraph thirty what?
- 17 Q. 37. You are talking -- well, these are notes, Mr  
18 Witness, which have been written following, as you can  
19 see the date there, a session with you on 16th October  
20 2004 where your statements were gone through with you.  
21 Do you recall that?
- 22 A. Yes.
- 23 Q. And just looking at paragraph 38, these are the notes  
24 that were taken as a result of that process. "During the  
25 meeting it was decided that Rambo and Colonel Kailondo  
26 will lead the attack on Koidu. Other commanders for  
27 different areas were Colonel Junior, Tikolo [phoen],  
28 Kallon and Sesay. Superman was to attack from the  
29 Koinadugu axis. At the time of the meeting Sesay was the



- 1 battle group commander." Do you see that?
- 2 A. Yes, I have seen there.
- 3 Q. The same mistake appears to have been made. Did you tell  
4 the Prosecution he was the battlefield commander at the  
5 time of the meeting in Koidu in December '98?
- 6 A. Yes, Sesay already was the battlefield commander, not  
7 battle group.
- 8 Q. No, no, no, battle group commander?
- 9 A. Sesay was not a battle group in '98 when we were having  
10 the meeting.
- 11 Q. Do you know why the person writing the notes would write  
12 that down on 16th October 2004?
- 13 A. No.
- 14 Q. Okay. Could I ask you to turn again to the transcript of  
15 your evidence given to the Court on the 21st please? Do  
16 you have a copy of the transcript there? No, has it been  
17 taken away? Sorry to be making people jump up and down.
- 18 PRESIDING JUDGE: That is all right, Mr Jordash.
- 19 [Document handed to the witness]
- 20 MR JORDASH:
- 21 Q. Before looking at this, Mr Witness, it is your evidence  
22 that -- is it your evidence that at the same time Mr  
23 Sesay's rank or assignment was changed to battlefield  
24 commander so was Morris Kallon's rank changed as well?  
25 Was that your evidence or not?
- 26 A. Yes. In 2000 -- in 2000 when the -- part of 2000/1999  
27 when Issa became the battlefield commander Morris Kallon  
28 was next to him as the battle group; 1999 to 2000.
- 29 Q. Okay. Can you turn to page 24 then, please, of the



- 1 transcript just so that we --
- 2 JUDGE THOMPSON: Do you want to tread a little more  
3 cautiously, because our injunction clearly reflects that  
4 we are in fact trying to protect the [inaudible].
- 5 MR JORDASH: Thank you, Your Honour.
- 6 Q. I don't represent Mr Kallon so I am not interested in  
7 what you say about Mr Kallon except insofar as page 24.  
8 You are suggesting there that, line 17, "Morris Kallon  
9 became the battle group commander in 1999." Do you see  
10 that? I'm not suggesting that he --
- 11 A. Yes.
- 12 Q. -- did become the battle group commander --
- 13 A. Yes.
- 14 Q. -- but since you say that Mr Sesay became the battlefield  
15 commander at around the same time, doesn't that suggest,  
16 from what you have said at line 17, that Mr Sesay became  
17 the battlefield commander in 1999? Do you see my logic?  
18 Is this your evidence, Mr Witness?
- 19 A. Yes. In 1999, as I have seen there, Morris Kallon became  
20 by battle group commander.
- 21 Q. But didn't you say that that promotion occurred around  
22 the same time as Mr Sesay becoming battlefield commander,  
23 i.e. in 1999?
- 24 A. 1999, 98 -- from 1998 Issa Sesay became the battlefield  
25 commander then at the latter part of 1999 he became the  
26 battle group commander to Issa. Just what I said.
- 27 Q. Okay. Page 72, if you would then of the transcript, Mr  
28 Witness.
- 29 JUDGE BOUTET: Mr Jordash, I am totally confused. I am just



1 trying to follow this.

2 Mr Witness, are you saying that Sesay became  
3 battlefield commander in 1998 now?

4 THE WITNESS: Yes. He was the battlefield commander in 1998,  
5 part of 1998 to 2000 -- up to 1999.

6 JUDGE BOUTET: But when you were shown the chart I thought you  
7 had said he was not the battlefield commander in 1998,  
8 only in 1999.

9 THE WITNESS: No, I said part of 1999 -- 1998 to 1999 he was  
10 the battlefield commander.

11 JUDGE BOUTET: I stand corrected. Thank you.

12 THE WITNESS: So what page? Page what?

13 MR JORDASH:

14 Q. 72, please, of the transcript. Let's see if we can try  
15 to bring some clarification. 72, are you there?

16 A. Yes, I am at page 72.

17 Q. Okay. Line 20:

18 "JUDGE THOMPSON: So when you talk about a change in structure  
19 it came --

20 THE WITNESS: In 1999.

21 JUDGE THOMPSON: Who was what?

22 THE WITNESS: In 1999 when Sam Bockarie was defence staff --  
23 chief of the defence staff.

24 JUDGE THOMPSON: Slowly. When Sam Bockarie was chief of?

25 THE WITNESS: Chief of the defence staff. Then Issa Sesay was  
26 battlefield at that time.

27 JUDGE THOMPSON: Battlefield commander.

28 THE WITNESS: 1999.

29 PRESIDING JUDGE: So he became --





1 THE WITNESS: He became the battle group commander, Morris

2 Kallon.

3 PRESIDING JUDGE: You said Issa Sesay became --

4 THE WITNESS: He became battlefield commander, and then

5 followed by Morris Kallon as battle group commander,

6 1999."

7 A. Yes.

8 Q. Doesn't that read -- aren't you suggesting it all

9 happened in 1999 there?

10 A. Yes, in 1999 when Issa Sesay became the -- was

11 battlefield commander Morris Kallon was the battle group

12 to him. And up to 2000 when Sam Bockarie left the RUF

13 and went to Liberia, automatically Issa Sesay was the

14 interim chairman. Then Morris Kallon became the

15 battlefield commander of the disarmament. That was the

16 structure.

17 [HS250105E 3.40 p.m. - EKD]

18 Q. At the time of the December attack on Koidu what was

19 Rambo -- what was his rank?

15:37:19 20 A. Rambo?

21 Q. Yes.

22 A. Rambo was a colonel. Liberian Rambo?

23 Q. Yes.

24 A. He was a colonel.

15:37:26 25 Q. What was his assignment?

26 A. He was the battalion commander in 1998. He was the

27 battalion commander.

28 Q. At this stage - is it not right - Superman had left?

29 A. Superman already was now in the Krubola area, that is,



- 1 Koinadugu.
- 2 Q. Didn't Rambo get promoted as a consequence of Superman  
3 leaving? He was next in line, wasn't he, to battle group  
4 commander?
- 15:38:01 5 A. Who was, Rambo?
- 6 Q. Rambo.
- 7 A. Rambo never became battle group; I never knew of that.  
8 He was only the battalion commander.
- 9 Q. Do you know what his feeling was then about not being  
15:38:13 10 promoted to battle group?
- 11 A. Who, Rambo?
- 12 Q. Yes.
- 13 A. As a individual I cannot know his feeling.
- 14 Q. I'm suggesting he was promoted to battle group.
- 15:38:25 15 A. Rambo?
- 16 Q. Yes.
- 17 A. Well, I never knew.
- 18 Q. You never knew?
- 19 A. Not at all.
- 15:38:31 20 Q. So you just can't say one way or the other?
- 21 A. Well, I don't know.
- 22 Q. Okay. Can I ask you, do you honestly have a good  
23 recollection of these events, Mr Witness?
- 24 A. Yes.
- 15:38:47 25 Q. You sure?
- 26 A. Of course.
- 27 Q. I am not suggesting anything, but just inquiring as to  
28 are you sure you remember things well?
- 29 A. Yes.



1 Q. Could I ask you then to look at 9770, please, which is  
2 the notes -- sorry, it is not the transcript.  
3 A. 977 --  
4 Q. It is the supplemental notes.  
15:39:39 5 A. I don't have this here.  
6 PRESIDING JUDGE: 977 --  
7 MR JORDASH: 9770.  
8 THE WITNESS: Okay.  
9 MR JORDASH:  
15:40:02 10 Q. Paragraph 33. This is a paragraph the notes of which  
11 come from a proofing on the 15th of October 2004. Do you  
12 see "Superman was sent during the rainy season by  
13 Bockarie to Kurubonla to arrest SAJ Musa because SAJ Musa  
14 had broken off communication"?  
15:40:26 15 A. Yes.  
16 Q. Is that accurate?  
17 A. It is accurate.  
18 Q. Does that reflect Bockarie's anger about SAJ Musa failing  
19 to subordinate himself to him?  
15:40:40 20 A. That has been always the problem between SAJ Musa and Sam  
21 Bockarie.  
22 Q. When you say "always", what do you mean?  
23 A. There have always been the problem of SAJ Musa not  
24 subordinating to Sam Bockarie, cause that was the problem  
15:41:00 25 between he and Sam Bockarie.  
26 Q. Do you know why that was?  
27 A. Yeah, from the initial stage, before even getting the  
28 bush, SAJ Musa said he was not going to become, let me  
29 just say, a jungle fighter. So he created his own



1 division, that was he went by Koinadugu axis.

2 Q. We can also see in that paragraph "Later Major Rocky was  
3 sent to Kurubonla for the same purpose and he was  
4 unsuccessful as well"?

15:41:34 5 A. Very well.

6 Q. Sam Bockarie's attempt again to try to get SAJ Musa  
7 subordinated to him?

8 A. Yes.

9 Q. Unsuccessful?

15:41:43 10 A. Very, very unsuccessful.

11 Q. Is it right then that when Superman went off to do Sam  
12 Bockarie's bidding, to try to arrest SAJ Musa, Superman  
13 then himself fell out with Sam Bockarie?

14 A. Superman didn't fall out of Sam Bockarie's chain as a  
15 commander. He thought in his own command, not in all  
16 cases, some orders can be executed. You reserve your  
17 opinion some instructions at times. Because, to my own  
18 opinion, if Superman was to arrest SAJ Musa, there would  
19 have been a very big problem -- rather than the rebel  
15:42:07 20 war, would have been another problem.

21 Q. Is this right: Instead of arresting SAJ Musa, Superman  
22 effectively joined him?

23 A. Yes, as a commander he has his own feeling and opinion.

24 Q. So he effectively joined him?

15:42:51 25 A. He was only in the Koinadugu axis. I don't know whether  
26 he joined SAJ Musa or not. He was only in Koinadugu.

27 Q. Didn't Sam Bockarie fall out with Superman about  
28 Superman's Lebanese girlfriend?

29 A. Well, that was their personal issue. I don't know about





1 that.

2 Q. Well, you've heard about it?

3 A. Well, even though I may heard, it was not my concern.

4 Q. No, but you can tell us about it, can't you?

15:43:20 5 A. No, that was their private issue; I don't know.

6 Q. There was a time, wasn't there, that Sam Bockarie and

7 Superman -- around the time Superman went to SAJ Musa,

8 there was a time when relationships between the two men

9 was bad?

15:43:41 10 A. Please come back, repeat your question.

11 Q. Superman goes off on the mission directed by Sam

12 Bockarie?

13 A. Yes.

14 Q. He decides not to come back or fulfill his task; is that

15:44:01 15 right?

16 A. Yeah, but I told you as a commander he reserves his

17 opinion not coming back until he shall find the necessary

18 time to accomplish his mission.

19 Q. Sam Bockarie wasn't pleased that he didn't come back, was

15:44:16 20 he?

21 A. Well, yes, I don't know whether Sam Bockarie was not

22 feeling well of that, but I don't know.

23 Q. What, didn't he expect him to come back?

24 A. Not in all missions that are mission commander report

15:44:34 25 directly. Sometime you reserve your mission.

26 Q. What do you mean by "reserve your mission"?

27 A. Like in that case, as I have told you, it was a very

28 dangerous mission to even we ourself, and we heard that

29 it was very dangerous to us.



- 1 Q. So you are suggesting that he didn't follow the orders,  
2 he reserved the orders?
- 3 A. Yeah, he reserved the orders.
- 4 Q. Did he ever arrest SAJ Musa?
- 15:45:01 5 A. He never.
- 6 Q. So he reserved them perpetually -- for ever?
- 7 A. Well, I don't know whether it was for ever, but he didn't  
8 arrest SAJ Musa -- [Overlapping speakers]
- 9 Q. Okay, all right. What about Major Rocky, did he come  
15:45:26 10 back?
- 11 A. Yeah, Major Rocky came back.
- 12 Q. But not with SAJ Musa?
- 13 A. He never came with SAJ Musa.
- 14 Q. Okay. What did you know of Gibril Massaquoi in 1998 and  
15:45:43 15 his role as RUF spokesman? What was he doing then?
- 16 A. He was -- as one of the senior officers for the RUF and  
17 he was a spokesman.
- 18 Q. In what way? Was he speaking to the media in 1998, 1999?
- 19 A. Yeah, he was speaking over the media, BBC.
- 15:46:02 20 Q. How do you know?
- 21 A. I often hear his talking.
- 22 Q. Did you ever see him doing it?
- 23 A. I did not see him doing it, but I only hear him over the  
24 media.
- 15:46:13 25 PRESIDING JUDGE: Who's this?
- 26 MR JORDASH: Gibril Massaquoi.
- 27 Q. Did he ever say where he was?
- 28 A. Where he was?
- 29 Q. Yes.



- 1 A. Gibril, you know, as a spokesman, he always be at the  
2 chief of defence headquarter.
- 3 Q. Where's that?
- 4 A. It was in Kailahun, Buedu.
- 15:46:36 5 Q. Are you sure about that, Mr Witness?
- 6 A. Yeah, even though he was not permanently stationed in  
7 Kailahun, but as I knew a spokesman is always at the  
8 headquarter.
- 9 Q. Well, can I suggest to you that the only position he was  
15:46:55 10 stationed in in 1998 was Pademba Road prison?
- 11 A. Yeah, after -- for a while when he was released from the  
12 prison he was with the RUF.
- 13 Q. But that wasn't until January the 6th, 1999 when he was  
14 released by the AFRC, the SLAs?
- 15:47:15 15 A. I knew he was a spokesman. I don't know whether he was  
16 in gaol.
- 17 Q. Well, he wasn't a spokesman in 1998, was he?
- 18 A. He was that I know -- as I know.
- 19 Q. Okay, fine. Now, I want to just ask you very quickly  
15:47:35 20 about Operation No Living Thing. This was an order given  
21 by Sam Bockarie to Superman --
- 22 A. Yes.
- 23 Q. -- and from Superman to the troops under his control?
- 24 A. Yes, to the combatants, fighters.
- 15:48:05 25 Q. I want to be crystal clear about this, Mr Witness. The  
26 orders came directly from Mosquito to Superman?
- 27 A. Yes.
- 28 Q. Thank you. I want to move on now to the subject of  
29 mining and ask you, if I can, to turn to page 9768 in the



1 notes we've been looking at?

2 A. This?

3 Q. I think so, yes, please. 9768.

4 A. 9768, uh?

15:49:14 5 Q. Yes.

6 A. Right.

7 Q. Thank you. Can you see paragraph 23 there?

8 A. 9769, 97 --

9 Q. 9768, paragraph --

15:49:39 10 A. Paragraph?

11 Q. -- 23.

12 A. 23?

13 Q. Yeah. Just before we go through this, can I just explain

14 so you're clear and know where I'm coming from.

15:49:51 15 Mr Witness, Mr Witness?

16 A. Yes.

17 Q. Just before we look at this, what Mr Sesay's case is is

18 that the only time he received diamonds was in 2000.

19 That's what his case is. What do you say to that?

15:50:08 20 A. So far as I know, from 1998, when we established the

21 battalion in Kono, diamond mining started. Often the

22 diamonds were given to him, to Sam Bockarie. That was

23 what I know.

24 Q. Just so that you're clear, what I am suggesting is that

15:50:38 25 the only time you could have seen him in Kono receiving

26 diamonds was in 2000 and you say no?

27 A. Yes, in person.

28 Q. In person?

29 A. Yes, that was in 2000.





- 1 Q. And that is why - is this right, just so that we are  
2 clear, because it is quite important - paragraph 23 the  
3 notes say - the last line - "I first saw diamonds given  
4 to Sesay in 2000 to 2001"?
- 15:51:12 5 A. Paragraph 23?
- 6 Q. Yes, the last line.
- 7 A. "I first saw diamonds given to Sesay", yes, yes, yes.
- 8 Q. Think carefully. Is that correct?
- 9 A. Yes.
- 15:51:31 10 Q. Thank you. I want to ask you now to turn to page -- do  
11 you have the statement dated the 12th of February 2003,  
12 which is 9751? I'm not sure if you have the statement.
- 13 A. 9751?
- 14 Q. 9751. You may not have it actually, I'm not sure.
- 15:52:10 15 A. I don't think I have 9751 here.
- 16 Q. If you just wait, I think it's coming.
- 17 A. You can go ahead reading if you have.
- 18 Q. Well, I'll wait because it is a hot afternoon.
- 19 A. Okay.
- 15:52:33 20 Q. Okay. 9751, have we looked at this statement before? Do  
21 you recognise it?
- 22 A. Yes.
- 23 Q. I am just wondering about -- looking at page 9753. You  
24 see that?
- 15:53:05 25 A. 9753, okay.
- 26 Q. Mining there is discussed in the second paragraph.  
27 "Effective mining for the RUF was in the year 2000. We  
28 had a mining commander, Mr Kennedy. He was a combatant.  
29 Then later he was replaced by Salia Amara alias Peleto.



1 Strictures for mining were laid down according to mining  
2 areas. These instructions came from General Issa." Is  
3 that right?

4 A. Yeah, very correct.

15:53:36 5 Q. So that what you are discussing is instructions given by  
6 Issa Sesay in the year 2000?

7 A. Yes.

8 Q. Could I ask you to turn -- do you have -- I'm sorry to  
9 dash around the different statements but I am just  
15:54:12 10 interested in various bits. The bit I am interested in  
11 is on page 9747.

12 A. 9747.

13 Q. Yes. It is the first statement I think.

14 A. I don't have 9747.

15:55:02 15 MR JORDASH: It is the 14th of November statement, the first  
16 one, please, the 14th and 17th.

17 MR HARRISON: I'm sorry, does it start at 9738?

18 MR JORDASH: Yes.

19 MR HARRISON: If you could wait just one moment, I see it is a  
15:55:51 20 marked copy. Unfortunately, this copy also has two  
21 markings on page 9740 and 9743.

22 MR JORDASH: I am going to refer him to 9747.

23 MR HARRISON: Are you content that I show a copy that is  
24 marked to the witness at pages 9740 and 9743?

15:56:47 25 MR JORDASH: As long as it doesn't say anything damning.

26 MR HARRISON: Just about you, Mr Jordash.

27 MR JORDASH: Yes, I'm happy.

28 JUDGE BOUTET: We are getting close to your two hours now.

29 MR JORDASH: But I did say two to three hours, Your Honour.



1 PRESIDING JUDGE: Let me be Mr Jordash's advocate.

2 MR JORDASH: I need one.

3 PRESIDING JUDGE: We seriously derailed his calendar.

4 MR JORDASH: I think I will finish within the hour.

15:57:27 5 PRESIDING JUDGE: We'll hold ourselves responsible for his not  
6 keeping his word this time.

7 MR JORDASH: I'll take it on credit.

8 Q. 9747, Mr Witness.

9 A. 9747.

15:57:37 10 Q. It is the last page, I think, of that statement. The  
11 last paragraph: "There were mining accidents that  
12 happened" -- are you with me?

13 A. I'm with you, please.

14 Q. "For example, in Opera between 30 to 40 people died in  
15:58:04 15 2000. There were mining in the two pile system, which  
16 means one pile for RUF and one pile for self. One of the  
17 people that people at Opera were mining for was Issa  
18 Sesay." You see that?

19 A. Yes.

15:58:15 20 Q. So is it right, then, that mining in 2000 was done on a  
21 two pile system?

22 A. Yes.

23 Q. And was that mining generally in Kono being done on a two  
24 pile system in 2000?

15:58:32 25 A. Yes, 2000 up to 2001.

26 Q. Up to 2001. You have spoken about forced labour at the  
27 mines, but that was prior to 2000, wasn't it, because in  
28 2000 they're working on a two pile system?

29 MR HARRISON: Well, I think there is some confusion perhaps



1 being intentionally drawn here. The witness quite  
2 clearly in his evidence in direct talked about a two pile  
3 system of a type that existed, but it was mandatory that  
4 the selling be to the RUF. Then he distinguished between  
15:59:19 5 a true two pile system where there is an open market that  
6 existed for the sale of any produce created by the miner.

7 JUDGE THOMPSON: Yes, that's my recollection too.

8 PRESIDING JUDGE: That is the recollection of the Chamber.

9 MR JORDASH: Well, I would --

15:59:45 10 PRESIDING JUDGE: Mr Jordash, find a way of getting out of  
11 this.

12 MR JORDASH: Okay, I will.

13 JUDGE THOMPSON: It was a complicated -- [Overlapping  
14 speakers]

15:59:55 15 PRESIDING JUDGE: Very complicated.

16 MR JORDASH:

17 Q. Did you not say that the two pile mining, which you said  
18 was in 2000, involved having to sell the diamonds to the  
19 RUF?

16:00:15 20 A. Yes.

21 Q. Did you not also say that that process allowed the miners  
22 to negotiate their price?

23 A. Yes, with the same RUF.

24 Q. Did you not also say that that process allowed one pile  
16:00:30 25 of the proceeds to go to the worker, one pile to go to  
26 the RUF?

27 A. Yes.

28 Q. Or were people being forced to keep diamonds themselves  
29 or was it a procedure by which the miners could earn





1 money for themselves?

2 A. As I have told you, even up to 2000 -- from 1999 up to  
3 2000 there were checkpoints mounted from Koidu up to  
4 Makeni in search of diamonds that leaving Koidu, even  
16:01:11 5 though it might be sold or not sold to the RUF. It was  
6 not mentioned in my statement, but this has been the  
7 procedures, you know, during that time.

8 Q. In 2000 disarmament in Kono was starting to take effect,  
9 wasn't it?

16:01:29 10 A. It was 2001.

11 Q. Didn't Foday Sankoh come to Kono in 2000?

12 A. He came to Kono 2000.

13 Q. Let me refer you to page 121 of your evidence in the  
14 transcript you should have in front of you.

16:02:02 15 A. Transcript?

16 Q. Yes.

17 A. 121.

18 Q. 120, sorry, let's start at 120.

19 A. 120?

16:02:18 20 Q. Yes. Can you see 120? If we start off at paragraph 16  
21 we can follow through what it was you were saying about  
22 mining and two pile here?

23 A. 16.

24 Q. Page 120 paragraph say 22:

16:02:42 25 "Q. In 1998, how were the miners treated?

26 A. Actually, in 1998, the miners were only treated or  
27 working for food, work for food. They were not paid. In  
28 some cases, they should feed themselves, self-feeding,  
29 because food that was given to them was not enough.



1 Self-medication as well. When they got sick at site,  
2 they treat themselves.

3 Q. What were their living conditions?"

4 Over the page:

5 "A. What I experienced during that time of the mining,  
6 the miners used to complain, sick, seriously sick at sites.

7 Q. Where did they live at?

8 A. They lived at the very campsites of the mining  
9 sites.

10 Q. If miners did not agree to work, did anything  
11 happen?

12 A. Yes. Some were flogged.

13 Q. What about in 1999? Were conditions similar to what  
14 you've just described?

15 A. In 1999, it was almost the same condition of  
16 mining."

17 So, Mr Witness, what you are describing there is a  
18 particular type of mining; isn't it?

19 A. For two pile system?

16:03:39 20 Q. No, no, no, we'll come to that in a minute. The bits I  
21 have just read you are describing in 1998 and 1999 how  
22 the mining is coerced?

23 A. Yeah.

24 Q. How it was forced?

16:03:53 25 A. Yeah, it was forced mining.

26 Q. Line 10 question from Mr Harrison:

27 "Q. And in 2000?

28 A. 2000, 2001, there was like complete changes in  
29 mining principles.



1 PRESIDING JUDGE: Meaning what?

2 JUDGE THOMPSON: Did you want principles or conditions?

3 MR HARRISON: I was just going to ask him to amplify on  
4 that.

5 Q. Please, continue on.

6 A. In 2000, when the gravels have been constructed, it  
7 would go into two shares. One for the RUF government,  
8 and one for the labour."

9 Do you see that.

16:04:28 10 A. Yes, I have seen it.

11 Q. Let's turn over the page if we can?

12 A. Page what?

13 Q. Page 122. Line 1, "When in the two-pile system, when the  
14 proceed of the labour pile is being washed and the  
15 proceed comes out like a diamond, it can be collected and  
16 be sold to the same RUF. That was the system. Because  
17 it was the RUF that was supporting. Then after 2000,  
18 2001, through the summer months, it was the same two-pile  
19 system. At that time, it was not only RUF was mining in  
20 Koidu or in Kono District. So the system changed  
21 dramatically."

22 And then further down, line 13, "JUDGE BOUTET: Whatever  
23 they would collect" --

24 A. What number, please?

16:05:11 25 Q. Line 13 page 122.

26 A. Okay, go ahead.

27 Q. "JUDGE BOUTET: -- whatever they would collect, they had  
28 to sell it to the RUF?

29 THE WITNESS: RUF.



1 JUDGE BOUTET: And how was the price fixed? How would  
2 they say "this is what you pay"?  
3 THE WITNESS: The price?  
4 JUDGE BOUTET: How much money were they given?"  
5 Just further down the page to line 26,  
6 "Q. Was that subject to negotiation.  
7 A. Yes."  
8 Are you not describing here how in 2000 and 2001 the  
9 mining changed from mining which was forced and coerced  
16:05:45 10 to mining which gave the people mining some of the  
11 products of their labour?  
12 A. Of course, yes.  
13 Q. Mining changed from forced to non forced in 2000?  
14 A. Yes.  
16:05:55 15 Q. People could feed themselves with the mining in 2000?  
16 A. 2000 and 2001.  
17 Q. Thank you. And as we know from what you told us, the  
18 first time you see Mr Sesay in Kono receiving the  
19 diamonds was in 2000?  
16:06:08 20 A. Yes, it was in 2000.  
21 Q. Can I ask you, while we're on the subject, to go to 9754  
22 of the witness statement.  
23 A. 9754.  
24 Q. 9754, yes.  
16:07:03 25 A. Not this one.  
26 Q. 9754. Take your time, Mr Witness, don't be rushed by me.  
27 A. 9751.  
28 Q. 9754.  
29 A. Yes, I have seen 9754. Okay, you can go ahead.





1 Q. You see the top there: "When reports were made we had  
2 meetings." We're talking about diamonds, I believe. "I  
3 made a report to the brigadier commander, the matters  
4 were investigated and they told us to forget about the  
16:07:32 5 past. No further action was taken, but resolved the no  
6 more forced labour, no starving people and no tying  
7 people together. At this meeting we notified General  
8 Issa." You see that?  
9 A. Yes.

16:07:43 10 Q. Is this the bottom line, Mr Witness -- or is this the  
11 evidence, that in 2000 mining stopped being forced and  
12 that was under the authority of General Issa?  
13 A. Yes.

14 Q. Thank you. Let me ask you to turn to 9767 of the  
16:08:14 15 supplemental notes, please.  
16 A. 97 --  
17 Q. 9767. Sorry to keep dashing you around.  
18 PRESIDING JUDGE: Mr Jordash, have you referred to him as it  
19 was under the authority of General Issa?  
16:08:33 20 MR JORDASH: Yes.  
21 PRESIDING JUDGE: General Issa.  
22 MR JORDASH: Your Honour, yes.  
23 THE WITNESS: 97 what?  
24 MR JORDASH:  
16:08:40 25 Q. 9767. Could I just clarify with you before you find it?  
26 A. I'm coming please.  
27 Q. 9767.  
28 A. Okay.  
29 JUDGE THOMPSON: Did you want us to leave out the last name?



1 General Issa.

2 MR JORDASH: I'm just going to seek clarify on that.

3 Q. General Issa -- when I said General Issa I meant Issa

4 Sesay?

16:09:12 5 A. Yes.

6 Q. Were you referring to him there as General because

7 subsequently during the disarmament process he became

8 know as General?

9 A. Previous to that he was a general for the RUF when he was

16:09:24 10 the interim leader.

11 Q. When he became interim leader?

12 A. Interim leader he was General.

13 Q. Thank you. I just want to ask you about one sentence

14 here in paragraph 16.

16:09:35 15 A. 16?

16 Q. Yes. Well, I want to ask you about the paragraph I

17 think. What is said there is that "In 2001 Sesay ordered

18 a two pile mining system." Do you see that?

19 A. Very true.

16:09:55 20 Q. Isn't it right that the two pile mining system came into

21 place in 2000?

22 A. Yes.

23 Q. When it said there 2001 Sesay ordered a two pile mining

24 system, is the situation that it was in 2000 Sesay

16:10:11 25 ordered a two pile mining system?

26 A. Yes, from 2000 up to 2001.

27 Q. Just so that we deal with Mr Harrison's point, you do say

28 there, "It was not a true two pile mining system because

29 the miners had to sell their diamonds from their piles to



1 the RUF"; yeah?

2 A. Yes, with even more evidence to that, I told you already

3 there were mounted checkpoints from Koidu Township to

4 Makeni for escaping diamonds.

16:10:48 5 Q. Right. But that is the only difference between -- well,

6 that's the --

7 PRESIDING JUDGE: The checkpoints were mounted by who?

8 THE WITNESS: Yeah, by the RUF, by the order Issa Sesay.

9 PRESIDING JUDGE: What do you refer the diamonds to, the

16:11:39 10 escaping diamond of --

11 THE WITNESS: Yeah, when in the process of the two pile

12 system, in the self pile, whenever a proceed is being

13 received by the labour, when there is any chance of

14 escaping from Kono to any other part of Sierra Leone,

16:11:58 15 checkpoints were mounted from Koidu up to Makeni for

16 escaping diamonds from Kono.

17 JUDGE BOUTET: You mean by this that they had to sell the

18 diamonds to the RUF?

19 THE WITNESS: Yes, to RUF.

16:12:16 20 JUDGE BOUTET: They could not try to escape?

21 THE WITNESS: If you don't sell the diamonds to RUF, there

22 were so many checkpoints from Koidu Township directly

23 into Makeni searching out for diamonds leaving Koidu or

24 Kono.

16:12:52 25 PRESIDING JUDGE: What are you saying? Is it that you could

26 have your share of the pile?

27 THE WITNESS: Yes.

28 PRESIDING JUDGE: And you could be deprived of it by the

29 checkpoints or what?



1 THE WITNESS: Exactly, sir.

2 PRESIDING JUDGE: Because you refuse to sell to the RUF?

3 THE WITNESS: Yes.

4 MR JORDASH:

16:14:12 5 Q. So is this right, then, Mr Witness: In this system it  
6 wasn't that people were being forced to mine, it was that  
7 people were being forced to sell their diamonds to a  
8 particular body, the RUF?

9 A. Yes.

16:14:28 10 Q. And is it right that in 2000 Foday Sankoh was in effect  
11 the minister of the mines? Are you aware of that?

12 A. Yes, I heard it over media.

13 Q. Thank you.

14 PRESIDING JUDGE: Mr Jordash, let's get the date right. He  
16:15:05 15 said Foday Sankoh was minister of mining being what year?

16 MR JORDASH: Well, the Defence case is --

17 PRESIDING JUDGE: Was he really called minister of mines?

18 THE WITNESS: No, he was the chairman of the mineral resources  
19 at that time.

16:15:21 20 PRESIDING JUDGE: Yes, that's right.

21 MR JORDASH: That's the title I couldn't remember.

22 THE WITNESS: Not minister, but chairman.

23 MR JORDASH: Thank you.

24 Q. That was under the Lome agreement?

16:15:33 25 A. Yes.

26 Q. In --

27 A. '96.

28 Q. -- July '99.

29 PRESIDING JUDGE: Let's have that again. Chairman of the





1 mining -- chairman of --  
2 THE WITNESS: Of the mineral resources.  
3 JUDGE BOUTET: And what were the dates? That's what you're  
4 looking for, Mr Jordash?  
16:15:51 5 MR JORDASH: Yes.  
6 Q. Well, under the Lome Accord, is this right, Mr Witness,  
7 on 25th May 1999 Foday Sankoh was given the role of  
8 chairman of the mineral resources?  
9 A. Mineral resources, yes.  
16:16:07 10 Q. As well as being vice president?  
11 A. Well, yes.  
12 Q. Sorry, 7th of July 1999. The negotiations for Lome began  
13 on the 25th of May?  
14 PRESIDING JUDGE: And the accord was on?  
16:16:24 15 MR JORDASH: 7th of July 1999. If it assists Your Honours,  
16 the judicial notice material, I think, confirms that  
17 negotiations for Lome began on 25th of May, Lome Accord  
18 signed on 7th July 1999.  
19 Q. Is it also right, Mr Witness, that it was in early 2000  
16:17:10 20 when machines were brought to Kono to assist with the  
21 mining?  
22 A. Yes.  
23 Q. Can you confirm that Mr Sesay brought a Caterpillar and  
24 drag lines in 2000 to the mines? Are you able to confirm  
16:17:52 25 that?  
26 A. Yes, what only I knew of, because I was not very  
27 conversant to the mining sites, I saw some four white  
28 guys, they came from Kailahun. I saw them with washing  
29 plants and other equipments. They were based at



1 Kwakoyima with Akim Touray.  
2 PRESIDING JUDGE: With Touray?  
3 THE WITNESS: Yes, Akim Touray.  
4 MR JORDASH:  
16:18:39 5 Q. Did they also come with Cindor Reeves?  
6 A. Huh?  
7 Q. Did these two --  
8 A. Four. They were four white guys. I saw them.  
9 Q. Did they also come with Cindor Reeves as well, somebody  
16:18:53 10 called Cindor Reeves?  
11 A. I don't know what implement is that. What?  
12 Q. No. Cindor Reeves, I am suggesting, was a member of the  
13 RUF?  
14 A. No, no. I don't know whether they were member of RUF. I  
16:19:07 15 only saw them in Koidu.  
16 PRESIDING JUDGE: Let's again have the name of the equipment  
17 which they brought.  
18 THE WITNESS: I saw washing plants. W-A-S-H-I-N-G  
19 P-L-A-N-T-S.  
16:19:35 20 PRESIDING JUDGE: That was all?  
21 THE WITNESS: Yeah, they were many. They were all washing  
22 plants.  
23 JUDGE BOUTET: So do you know what a Caterpillar is?  
24 THE WITNESS: Caterpillar?  
16:19:54 25 JUDGE BOUTET: Yes.  
26 THE WITNESS: Yes, it's a yellow machine.  
27 JUDGE BOUTET: Did you see that at that time.  
28 THE WITNESS: Previously I have seen it, but I didn't see it  
29 at that time in Koidu. Maybe some scrap ones were there,



1 but I didn't see them in effect.

2 MR JORDASH:

3 Q. You've spoken about Colonel Med mining for Sesay at  
4 Tombodu. Do you recall that?

16:20:50 5 A. Very well.

6 Q. You have spoken about Mr Sesay mining in 2000. Are you  
7 talking about 2000 when you're talking about CO Med  
8 mining for Sesay?

9 A. Yes, at Tombodu.

16:21:02 10 Q. Thank you.

11 PRESIDING JUDGE: This was in 2000?

12 THE WITNESS: Yes, it was in 2000. 2000 up to 2001.

13 MR JORDASH:

14 Q. Up until Mr Sesay's appearance in 2000 mining had been  
16:21:40 15 purely by hand; is that right?

16 A. Yes, from 1998 up to 2000 mostly were hand mining.

17 Q. Now, you agreed that you only saw diamonds given directly  
18 to Sesay in 2000, 2001; agreed?

19 A. I agree with that.

16:22:15 20 Q. So when you speak about Kennedy giving diamonds to Issa  
21 in a white envelope you're talking about 2000, 2001?

22 A. Yes, 2000. Kennedy was changed from office.

23 Q. Is it right that Peleto was replaced -- sorry, replaced  
24 Kennedy in 2000 or late 1999, 2000?

16:23:04 25 A. Yes, 2000 to 2001.

26 Q. Can you confirm that Sesay --

27 PRESIDING JUDGE: [Microphone not activated]

28 MR JORDASH: Peleto.

29 THE WITNESS: Salia Amara, alias Peleto, was the next mining



- 1 commander for RUF after Kennedy.
- 2 MR JORDASH:
- 3 Q. Can you confirm that that replacement was under the  
4 authority of Issa Sesay in 2000?
- 16:23:54 5 A. 2000?
- 6 Q. Yes.
- 7 A. Yes, I can say so. It came directly from Sam Bockarie to  
8 Issa Sesay. Issa Sesay made a directive in Koidu.
- 9 Q. Issa Sesay?
- 16:24:14 10 A. He give the final instruction for Kennedy to be changed.
- 11 Q. Who, Sam Bockarie or Sesay?
- 12 A. The directive came from Sam Bockarie to Issa and Issa to  
13 Kennedy.
- 14 Q. Could I ask you how you know that?
- 16:24:45 15 A. How do I know that?
- 16 Q. Yes.
- 17 A. Sam Bockarie was in power at that time until when there  
18 was a clash between he and the leader, Sankoh, and he  
19 left for Liberia.
- 16:24:56 20 Q. So are you presuming then that because you presumed he  
21 was in power then he would have been the one who had the  
22 ultimate authority?
- 23 A. Not totally I'm presuming because he was in charge.
- 24 Q. In 2000?
- 16:25:10 25 A. Yeah, Sam Bockarie was in charge up to 2000. Only latter  
26 part of 2000 to 2001 he left for Liberia.
- 27 Q. Well, I suggest that Sam Bockarie left for Liberia in  
28 December of 1999?
- 29 A. Sam Bockarie?





1 Q. Yes.

2 A. Not at all. Maybe it was another '99.

3 MR JORDASH: Really. May I just have a moment, please.

4 Your Honours, I just need to find something which I  
16:26:27 5 didn't think I would need but it might assist in  
6 clarifying this witness's memory as to when Sam Bockarie  
7 did or did not leave. Perhaps I can continue and my  
8 learned colleague can find it.

9 PRESIDING JUDGE: Mr Jordash, whilst you're putting your bits  
16:27:03 10 and pieces together, we may well rise and recess for a  
11 few minutes. The Court will rise, please.

12 [Break taken at 4.30 p.m.]

13 [Upon resuming at 5.00 p.m.]

14 MR JORDASH: I'm grateful for the time. I found what I was  
16:56:03 15 looking for. It is a document which is in effect a radio  
16 message dated the 23rd of September 1999 to the 16th of  
17 April 2000 radio log book, and it is a message which I  
18 have taken from the log book. These are log books which  
19 have been served by the Prosecution. What I would like  
16:56:34 20 to do -- well, I will let Your Honours read it. I should  
21 say that I believe that the reference to Kallon is a  
22 reference to the message before the actual letter which I  
23 am interested in. It is very difficult to tell from the  
24 documents and the way that they have been photocopied,  
16:58:01 25 but that was my understanding. And given the difference  
26 of date and the closeness of the reference to Kallon to  
27 the above letter, I am perhaps speculating, but it would  
28 appear that relates to the above.

29 PRESIDING JUDGE: Don't you think that the reference to Kallon



1 is in respect of the letter that preceded this other one?  
2 MR JORDASH: That is exactly what I am concluding.  
3 PRESIDING JUDGE: [Microphone not activated] correspondence  
4 that flows from an earlier one.  
16:58:47 5 MR JORDASH: Yes, I think so. That is my understanding  
6 anyway.  
7 JUDGE BOUTET: What is strange, though, it seems to be the  
8 same handwriting but a different signature. The  
9 handwriting at the top appears to be, and when you look  
16:59:17 10 at the signature at the top, whatever the signature is,  
11 and the word sign in both cases is exactly written the  
12 same way.  
13 MR JORDASH: It may be. I don't think there is necessarily a  
14 suggestion that Bockarie wrote this. It may well have  
16:59:37 15 been a radio operator; I'm not sure.  
16 JUDGE BOUTET: That could very well be. Possibly because on  
17 top it says "acknowledge 1052" and so on, so it seems to  
18 be more in the language of [inaudible] communication than  
19 anything else. That's not [inaudible].  
16:59:55 20 MR JORDASH: Yes, Your Honour. It may be useful -- what we've  
21 had served is a bundle of radio messages, but there has  
22 been no formal indication of where they derived, who  
23 found these documents, where they came from and so on and  
24 so forth. Whilst I would wish to put this to the witness  
17:00:14 25 to ascertain whether he had heard this radio message or  
26 not, and I would wish to exhibit this document as an  
27 indication perhaps of the contents therein and the date  
28 which the event described occurred, I would seek from the  
29 Prosecution in due course for these documents to be



1 formally produced insofar as an indication of how, when  
2 and where they were discovered. But perhaps that is for  
3 another occasion.

4 PRESIDING JUDGE: I think if you ask the witness, you know,  
17:01:08 5 whether he has an idea.

6 MR JORDASH: Thank you, I'm grateful.

7 [Document handed to the witness]

8 Q. If you would just have a quick look at this, Mr Witness,  
9 please. Could I just direct your eyes to one-third of  
17:01:35 10 the way down the page where it says "To the RUF/SL".

11 A. [Inaudible] took place.

12 Q. You see that apparently a radio message?

13 A. Yes.

14 Q. What I am asking you about really is whether you may have  
17:03:10 15 heard that message over the radio?

16 A. Yes, we're only told in the muster parade.

17 Q. Which muster parade was that?

18 A. The military we have our meeting we call muster parade,  
19 military meeting.

17:03:27 20 Q. Can you recall where you were?

21 A. That was at Kwakoyima.

22 Q. Right. Do you recognise the contents of this letter as  
23 something you were told about on the muster parade?

24 A. Yes, we were told that Mosquito had left. And, you know,  
17:03:50 25 if I can recall you back, when I mention that it was made  
26 in 2000, letter was made almost in the ending of the year  
27 so we got the information in the 2000.

28 Q. But any suggestion that Bockarie was still the man -- the  
29 top authorising activities in Kono at that time would you



1 agree was probably unlikely?

2 MR HARRISON: If you could just clarify "at that time".

3 MR JORDASH:

4 Q. Well, at the time we were talking about before,

17:04:32 5 Mr Witness, early 2000?

6 A. Yeah, I spoke of 2000 because I knew Sam Bockarie was in

7 Sierra Leone. That's to my understanding was in 2000.

8 Q. Okay.

9 MR JORDASH: Could I ask for this to be exhibited, please.

17:04:50 10 MR HARRISON: Well, I object. If we're going to do exhibits

11 in a certain way, we at least have to have a witness who

12 can come up and say yes, I recognise that and off we go.

13 [HS250105F 5.10 p.m. - RK]

14 JUDGE THOMPSON: I'm troubled. Because this witness, I'm not

17:05:07 15 sure whether we have again have the proper legal

16 foundation. Is he familiar with the procedure of

17 reporting those messages. I mean, we don't know where

18 this has come from. No signatures on it. Nothing except

19 signed. For example, I would go to the extent it may

17:05:30 20 well be a forgery.

21 MR JORDASH: Your Honour, I withdraw the application.

22 JUDGE THOMPSON: Fine. This is a photocopy.

23 PRESIDING JUDGE: Maybe -- [microphone not activated]

24 JUDGE THOMPSON: [Microphone not activated]

17:05:47 25 PRESIDING JUDGE: The witness said we talked about it in the

26 muster parade. Did he at any time after talking about

27 this in the muster parade in Kwakoyima.

28 THE WITNESS: Yes, they told us that Sam Bockarie had left

29 finally from Kailahun and has gone to Liberia.





1 PRESIDING JUDGE: Did you at any time --

2 THE WITNESS: We were only told in the parade. It was not  
3 like document like this given, but just verbal.

4 MR JORDASH: What I was particularly -- I'm happy to withdraw  
17:06:24 5 the request. Because what I was just concerned about was  
6 just to establish in the witness' mind that what we're  
7 probably talking about in terms of Bockarie's  
8 participation was --

9 JUDGE THOMPSON: Is there another way? Is the evidence you're  
17:06:39 10 trying to elicit be elicited from this witness by oral  
11 testimony, because this document clearly, as I say, I'm  
12 not sure whether -- I'm not even sure about its  
13 authenticity, much more to where it is coming from and no  
14 strong legal foundation has been laid for its acceptance.

17:07:07 15 Of course I recognise that you can ask that it be  
16 admitted under Rule 89(C), but 89(C) does not say that  
17 we can just admit documents even though we have the  
18 liberty to do that, the flexibility. But [inaudible] in  
19 respect of authenticity or whatever we're not sure about.

17:07:31 20 That is my difficulty with this: Where is this coming  
21 from? And no signature, nothing, and his familiarity  
22 with it not being established or he may be familiar with  
23 subject matter and of course then at the end of the case,  
24 how does the tribunal evaluate this document if it is  
17:07:54 25 received in evidence?

26 MR JORDASH: Your Honour, yes.

27 JUDGE THOMPSON: Those are just my own random thoughts on  
28 this.

29 JUDGE BOUTET: My own thought too, and I would like to



1 indicate to the Prosecution that I do not agree with your  
2 position because we have admitted and we will admit  
3 documents without having a particular specific witness to  
4 introduce the document. Our rule in the process has  
17:08:16 5 been flexibility and providing it's relevant, we readily  
6 admit it, if it has some probative value. So this is the  
7 rules we have followed up to now I don't think we have  
8 changed our mind in this respect. The document here is  
9 dubious as to any probative value and that is why we have  
17:08:33 10 this kind of hesitation. But it does not serve your  
11 purpose and you're not tendering it so that disposes of  
12 it at this time.

13 MR JORDASH: Thank you.

14 PRESIDING JUDGE: Particularly in these circumstances when a  
17:08:48 15 witness confirms the information in the document. It  
16 increases the scope of its admissibility, but since  
17 you're no longer interested in it -- you can leave the  
18 matter to rest.

19 MR JORDASH: But could I raise only very straight, this: That  
17:09:06 20 the Prosecution have served a -- hundreds of pages of  
21 document, some of which are useful to the Defence. It  
22 might be that perhaps this issue could be shortcutted  
23 quite a lot if they were to produce statements saying  
24 where those documents came from, who found them. Perhaps  
17:09:26 25 then the parties could come to the Chamber and say this  
26 is a document, the authenticity of which is not disputed.

27 JUDGE THOMPSON: Quite right. In my case, I'm concerned with  
28 the proper foundation. I don't read Rule 89(C) as  
29 requiring the tribunal to dispense with the requirements



1 or criteria for laying the proper foundation in receiving  
2 evidence, documentary evidence. It increases the scope,  
3 for, you know, receiving evidence but it doesn't really  
4 place upon the tribunal the discretion to dispense with  
17:10:06 5 the basic criteria for laying the proper foundation for  
6 documents to be received in evidence.

7 MR JORDASH: Your Honour, yes.

8 Q. And could I just follow this up, Mr Witness by asking you  
9 this. Do you think that the muster parade in which you  
17:10:24 10 heard about Bockarie's resignation is likely to have been  
11 at the end of 1999 rather than the beginning of 2000?

12 A. Yes, we heard it in 2000. I heard it in 2000.

13 Q. Now, I just want to finish off, Mr Witness, with putting  
14 various things to you about what we say occurred during  
17:10:48 15 the periods of covered by your evidence, okay. Then I'll  
16 be finished.

17 PRESIDING JUDGE: Sorry. Can you give us a time frame. Is it  
18 possible you say the muster parade was sometime in 2000  
19 can you give us the time frame; is it possible?

17:11:09 20 THE WITNESS: It was early 2000 that I heard personally that  
21 Sam Bockarie had left for Liberia.

22 PRESIDING JUDGE: In the muster parade.

23 THE WITNESS: At Kwakoyima.

24 PRESIDING JUDGE: At Kwakoyima.

17:11:27 25 THE WITNESS: Yes.

26 PRESIDING JUDGE: You say it is early 2000?

27 THE WITNESS: Yes, sir.

28 PRESIDING JUDGE: Mr Jordash, I'm sorry, you may proceed.

29 MR JORDASH: Your Honour, thank you.



1 PRESIDING JUDGE: I hope you did not derail you.

2 MR JORDASH: No I'm derailing myself, I think. It may seem  
3 strange because I'm going backwards for a moment,  
4 Mr Witness, just to complete what I have to do.

17:11:59 5 THE WITNESS: Okay.

6 Q. It is clear, is it not, from your evidence, Mr Witness,  
7 that when Mr Sesay took JPK to Kailahun, he went with  
8 securities, but there were no civilians?

9 A. If there were no civilians?

17:12:20 10 Q. There were no civilians taken by him, the securities and  
11 JPK?

12 A. Yes, already at that time everybody was rushing back for  
13 Koidu.

14 Q. Thank you.

17:12:37 15 PRESIDING JUDGE: We don't have the answer.

16 MR JORDASH: Was that no, was the answer no?

17 THE WITNESS: I didn't take notice of that.

18 PRESIDING JUDGE: No civilians were taken by JPK and Sesay.

19 THE WITNESS: Yes, for Kailahun at that time.

17:13:18 20 MR JORDASH:

21 Q. Now we've heard about an attack on Koidu followed by a  
22 movement towards Makeni by RUF, okay, in December of  
23 1998; yes?

24 A. 1999, please. 1999, I heard of it. December 1998 from  
17:13:38 25 the 16th.

26 Q. Yes, so that you told us about a meeting on the 16th of  
27 December?

28 A. On the 15th.

29 Q. Sorry, 15th of December 1998?





1 A. Yes.

2 Q. Involving certainly one the movements, Mr Sesay?

3 A. Yes.

4 Q. Yes. And Mr Sesay arrived and was organising an attack  
17:14:08 5 on Koidu?

6 A. Yes.

7 Q. And subsequently there was an attack on Koidu in December  
8 of 1998?

9 A. Yes, on the 16th.

17:14:19 10 Q. On the 16th. And during that attack there were some  
11 prisoners of war taken, captured -- taken captive; is  
12 that right?

13 A. They were captured.

14 Q. And they were not killed, were they?

17:14:48 15 A. Yes, I saw living human beings.

16 Q. This attack under the command of Sesay, civilians were  
17 captured and some Nigerian peacekeepers were captured; is  
18 that right?

19 A. Yes.

17:15:05 20 Q. None of whom were killed?

21 A. The one that I saw there, they were not killed.

22 PRESIDING JUDGE: What does that answer mean.

23 THE WITNESS: No.

24 PRESIDING JUDGE: The ones that you saw were not killed.

17:15:28 25 THE WITNESS: The people that I saw them were not the one  
26 that.

27 MR JORDASH:

28 Q. In fact a number of Kamajors were also captured and  
29 remained with the RUF?



- 1 A. Exactly and the SLAs.
- 2 Q. And the SLAs?
- 3 A. Yes and I'm going to suggest that that attack led by  
4 Sesay was under Sesay's instruction not to kill civilians  
17:16:05 5 or captured people and that's why it didn't happen; can  
6 you confirm that?
- 7 A. Yes. Not only on Sesay's instruction, but normally when  
8 there are attacks, it is advised not to kill civilians  
9 and we were to capture civilians. In addition to that he  
17:16:20 10 also said that nobody should be killed as civilians or  
11 prisoners of war.
- 12 Q. So Sesay said before the attack when addressing the  
13 troop: Civilians, prisoners of war should not be killed?
- 14 A. Not at all.
- 17:16:35 15 Q. Not at all, they shouldn't be killed?
- 16 A. At all not.
- 17 Q. Thank you.
- 18 JUDGE BOUTET: Just for my understanding, you used the words  
19 "prisoners of war" and after that you talked about  
17:16:55 20 civilians and Kamajors and so on, so did you capture all  
21 of these as being prisoners of war or did you  
22 differentiate between the civilians and the other  
23 combatants.
- 24 MR JORDASH: I don't but I understand Your Honour's point and  
17:17:08 25 I'll break it down because it is important.
- 26 Q. The order was effectively not to kill those taken captive  
27 by the troops into Koidu and there after; is that right?
- 28 A. Yes, yes.
- 29 Q. To include if that group Kamajors, CDF fighters, as well



1 as civilians, nonfighters?

2 A. And the SLAs, please don't forget that.

3 Q. And the SLAs. I won't forget, thank you.

4 A. They also were captured.

17:17:44 5 Q. And they too were not killed on Sesay's instruction?

6 A. They too were not killed, besides crossfiring.

7 JUDGE BOUTET: But the killing here means once they were

8 captured, not during the war.

9 THE WITNESS: Once they were captured, they are not to be

17:18:11 10 killed. The crossfiring is the exception to that.

11 JUDGE BOUTET: That's a different issue.

12 JUDGE THOMPSON: This particular answer, does it relate to

13 this particular specific attack in terms of the

14 instructions?

17:18:22 15 THE WITNESS: It was for that particular attack, sir.

16 JUDGE THOMPSON: Particular. At this point in time.

17 THE WITNESS: Yes, sir.

18 JUDGE THOMPSON: Right.

19 MR JORDASH:

17:18:42 20 Q. So we're clear, I mean, Koidu Town at that point was

21 occupied by ECOMOG?

22 A. Before the attack?

23 Q. Yes?

24 A. Yes.

17:18:50 25 Q. There were no civilians as such in Koidu Town, it was

26 more ECOMOG fighters?

27 A. There were civilians and also together with the ECOMOG

28 and the SLAs and the Kamajors they were all in Koidu.

29 Q. Okay, so the question then is, that there was an order



1 before the battle not to mistreat civilians; do you  
2 recall that?  
3 A. Yes, those that were captured.  
4 Q. Should not be mistreated?  
17:19:29 5 A. Never.  
6 PRESIDING JUDGE: And the order came from Sesay?  
7 THE WITNESS: Yes, from Sesay, because he was the battle field  
8 commander at that time.  
9 [Defence counsel confer]  
17:20:28 10 MR JORDASH:  
11 Q. The attack led by Sesay involved instructions to move to  
12 Makeni and then wait for further instructions; is that  
13 right?  
14 A. Yes.  
17:21:14 15 Q. Are you able to confirm that the group did move to  
16 Masingbi?  
17 A. What?  
18 Q. Can you confirm that the group led by Sesay moved to  
19 Masingbi?  
17:21:25 20 A. Yes, they went towards Makeni, because Makeni was the  
21 next target.  
22 PRESIDING JUDGE: Mr Jordash, what is that name you said  
23 towards Makeni what is the name of village.  
24 THE WITNESS: Masingbi, M-A-S-S-I-N-G-B-I, Masingbi.  
17:22:02 25 PRESIDING JUDGE: M-A --  
26 THE WITNESS: S-S-I-N-G-B-I.  
27 MR JORDASH: I think it is M-A-S-I rather than double S.  
28 THE WITNESS: That's no problem.  
29 Q. Are you able to confirm whether 300 to 400 CDF





1 surrendered at Masingbi?

2 A. Well, I was not there. I do not know about that.

3 Q. Okay. Are you aware -- sorry, can you confirm that

4 Makeni was actually attacked before Sesay's group arrived

17:23:14 5 by Superman and General Bropleh, troops in their command?

6 A. I knew that Makeni was in his target.

7 Q. Are you aware of whether Superman and General Bropleh

8 attacked Makeni before the arrival of Sesay? Can you

9 give any evidence about that?

17:23:33 10 A. No, I was in Kono.

11 Q. Okay. Can you give any evidence about the -- about the

12 fact that Makeni soon after -- let me start that again.

13 I beg your pardon. Do you know anything about the troops

14 which were based in Makeni in January 1999? Do you know

17:24:07 15 anything about that?

16 A. Which were the troops?

17 Q. Well, I would suggest there were a number of troops in

18 Makeni in January 1999. Were you aware of that?

19 A. I knew Makeni fell in the hands of the RUF.

17:24:20 20 Q. Were you aware that Superman was based in Makeni in

21 January 1999?

22 A. I don't know where particularly Superman was at that

23 time.

24 Q. Perhaps I can try and shortcut this. Are you able to say

17:24:42 25 anything about Makeni January 1999? Who was there? Who

26 was based there?

27 A. No, I can't be very specific, but I knew RUF was already

28 in Makeni.

29 Q. Okay. Let me ask you this then, are you aware of a



1 dispute between Superman and Sesay in early 1999?

2 A. Makeni?

3 Q. Well, just a dispute. I'll come to the nature of it in a  
4 minute?

17:25:23 5 A. I was in Kono and I heard of that.

6 Q. Can you remember when you heard of it?

7 A. I heard it in 1999.

8 Q. Can you remember when? Early, middle or late?

9 A. In somewhere around the rainy season time, somewhere in  
17:25:45 10 June.

11 Q. Superman, is this right --

12 PRESIDING JUDGE: June 1999?

13 THE WITNESS: Yes, sir, that was the time I heard of it,  
14 I heard of the misunderstanding.

17:26:19 15 MR JORDASH:

16 Q. And were you aware that Superman had travelled from the  
17 region of Koinadugu with his troops to Makeni in around  
18 January 1999?

19 A. What only I know Superman was around Koinadugu axis and  
17:26:45 20 during that meeting of December 15th he was to join the  
21 troops that were to attack Makeni.

22 Q. Did you come with his troops from Koinadugu?

23 A. Well, what only I learned was Makeni has fallen to the  
24 RUF, so I knew Makeni -- Superman was there.

17:27:14 25 Q. When Superman went to try to capture SAJ Musa, did he go  
26 with some of his men?

27 A. I don't know.

28 PRESIDING JUDGE: Mr Jordash, can you imagine he would go  
29 alone on a mission like that?



1 MR JORDASH: Well, he is Superman.

2 PRESIDING JUDGE: To capture a combatant like SAJ Musa.

3 MR JORDASH:

4 Q. The dispute between Superman and Sesay involved, at some  
17:27:54 5 stage, securities of Gibril Massaquoi killing Rambo; is  
6 that right?

7 A. Of course heard of it.

8 Q. And an attempt to kill Sesay as well?

9 A. Yes, I heard the same story.

17:28:21 10 PRESIDING JUDGE: The securities of Gibril Massaquoi wanted to  
11 kill --

12 THE WITNESS: Yes, Rambo's securities -- Gibril Massaquoi's  
13 securities to kill Rambo with the attempt to kill Sesay,  
14 which was to be done by Superman himself, but Sesay ran  
17:28:38 15 away to safe haven in Koidu.

16 MR JORDASH:

17 Q. Can you confirm that getting to Koidu he then went to  
18 Kailahun to Budu?

19 A. That was Tombodu.

17:29:36 20 Q. No, to Budu in Kailahun.

21 A. I don't know.

22 Q. You don't know.

23 A. I don't know.

24 MR HARRISON: It might be a mispronunciation. It is Buedu.

17:29:50 25 THE WITNESS: Buedu, yes.

26 PRESIDING JUDGE: Not to Koidu he went to Buedu, that is  
27 Sesay.

28 THE WITNESS: Yes, after he narrowly escaped from Superman.

29 MR JORDASH: Thank you.



1 PRESIDING JUDGE: So he went from Koidu to Buedu?  
2 THE WITNESS: Yes, sir.  
3 PRESIDING JUDGE: Please spell Buedu for us. Is it B-O-I-D-U?  
4 THE WITNESS: It is B-E-U-D-U [sic].  
17:30:35 5 PRESIDING JUDGE: B-E-U-D-U.  
6 THE WITNESS: Yes, sir, B-U-E-D-U.  
7 MR JORDASH: Okay, I'm just coming to a close.  
8 PRESIDING JUDGE: Mr Sesay is amused; he doesn't believe you,  
9 I'm sure.  
17:31:17 10 MR JORDASH: I know. I don't believe me.  
11 Q. Is it right that around that time Superman was called by  
12 Bockarie to go to Kailahun, but refused to go?  
13 A. Yes.  
14 Q. And Superman and Gibril Massaquoi then based themselves  
17:32:01 15 in Lunsar?  
16 A. Yes.  
17 Q. And parts of Koinadugu?  
18 A. Yes.  
19 Q. Are you aware that at that stage -- can you confirm that  
17:32:13 20 Superman --  
21 PRESIDING JUDGE: Based themselves where?  
22 THE WITNESS: Makeni and Lunsar.  
23 JUDGE BOUTET: Lunsar.  
24 MR JORDASH:  
17:32:28 25 Q. Did you ever hear of Superman referring to himself at  
26 this stage as independent RUF?  
27 A. That is if he was a single RUF?  
28 Q. Well, as if he had his own group of RUF based in Lunsar?  
29 A. Well, what only I heard was that Superman and Issa had





1           made a confusion for reasons which derived from Gibril  
2           Massaquoi. I don't know whether he was an independent  
3           RUF.  
4    Q.    But he was certainly based in Lunsar not taking any  
17:33:11 5           orders from Bockarie or anybody else?  
6    A.    Yes.  
7    Q.    From June 1999 onwards?  
8    A.    Yes, sir.  
9    Q.    Meanwhile --  
17:33:30 10   PRESIDING JUDGE: Just a minute.  
11   MR JORDASH: Sorry, I beg your pardon.  
12   PRESIDING JUDGE: From June?  
13   THE WITNESS: Yes, June 1999.  
14   PRESIDING JUDGE: Onwards, from June 1999 to --  
17:33:50 15   THE WITNESS: Yes, only for few time.  
16   PRESIDING JUDGE: Superman was no longer getting orders from  
17           Sam Bockarie or anyone else from June --  
18   THE WITNESS: Yes, sir, until they were called by the leader  
19           to resolve the problem.  
17:34:04 20   PRESIDING JUDGE: You mentioned the timeframe from June.  
21   THE WITNESS: No, it was only June that I understand the  
22           misunderstanding and it was later resolved.  
23   MR JORDASH:  
24   Q.    Was it June that you heard about it, because what I would  
17:34:21 25           suggest is this dispute took place this March of 1999?  
26   A.    Actually between Superman and Issa and Gibril, I heard it  
27           in June.  
28   Q.    You heard it in June?  
29   A.    I heard it in June.



- 1 Q. And it was an event, obviously, which happened  
2 previously?
- 3 A. Yes, of course.
- 4 Q. Could it have happened several months before you heard  
17:34:45 5 about it?
- 6 A. Of course.
- 7 Q. And was it resolved, you say, when Sankoh got involved?
- 8 A. Yes, it was only when Corporal Sankoh got involved in the  
9 district. That was the time it got resolved.
- 17:35:03 10 Q. Do you know when that was?
- 11 A. It was in the same 1999.
- 12 Q. Now, in this period Sam Bockarie is still based in  
13 Kailahun, was he not?
- 14 A. Yeah, he was in Kailahun.
- 17:35:30 15 Q. Is he contacting the commanders in Kono, Sam Bockarie?
- 16 A. Yes, Sam Bockarie was in command at that time.
- 17 Q. And is he contacting the commanders based in Kono?
- 18 A. Yes.
- 19 Q. And is he keeping a watchful eye on the diamond areas?
- 17:35:51 20 A. Who, Sam Bockarie?
- 21 Q. Yes.
- 22 A. Yes.
- 23 Q. And is he ordering and directing the diamond mining from  
24 Kailahun?
- 17:36:00 25 A. Yes.
- 26 MR JORDASH: I've got no further questions. Thank you very  
27 much, Mr Witness.
- 28 THE WITNESS: Thank you very much. I'm happy, now.
- 29 PRESIDING JUDGE: Mr Jordash, we told you.



1 [Trial Chamber confers]

2 PRESIDING JUDGE: Well, learned counsel, I think if we started  
3 with the cross-examination now of the Defence team of the  
4 second accused, it would hardly take off before it is  
17:39:23 5 closing time at 6.00, but more importantly, I think, in  
6 order to allow Mr Kallon's Defence team to organise  
7 themselves for the cross-examination, we would prefer, at  
8 this stage, to rise and for them to -- for Mr Touray  
9 conduct his cross-examination tomorrow at 9.30 knowing  
17:40:00 10 fully well, of course, that we shall only be on until --  
11 well, as per now, there might be just cause later, you  
12 know, but I say that we're not, like our tradition  
13 demands, sitting beyond 1.00 tomorrow, Wednesday. So we  
14 would rise and resume tomorrow at 9.30. The Court will  
17:40:28 15 rise, please.

16 [Whereupon the hearing adjourned at 5.45 p.m. to be  
17 reconvened on Wednesday, the 26th day of January, 2005,  
18 at 9.30 a.m.]

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EXHIBITS:

Exhibit 20 44

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-071 1

CROSS-EXAMINED BY MR JORDASH