

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

MONDAY, 28 JANUARY 2008
9.50 A.M.
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,
Bankole Thompson
Pierre Boutet

For Chambers:

Ms Peace Malleni
Ms Sandra Brown
Mr Felix Nkongho

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Peter Harrison
Mr Vincent Wagona
Mr Reginald Fynn

For the accused Issa Sesay:

Mr Wayne Jordash
Ms Sally Longworth
Mr Mikael Eckman

For the accused Morris Kallon:

Mr Kennedy Ogeto

For the accused Augustine Gbao:

Mr John Cammegh
Mr Scott Martin

1 [RUF_28JAN08_A]
 2 Monday, 28 January, 2008
 3 [Open session]
 4 [The accused present]
 5 [Upon commencing at 9.50 a.m.]
 6 [The witness entered Court]
 7 WITNESS: DIS-157 [Continued]
 8 [The witness answered through an interpreter]
 9 PRESIDING JUDGE: Yes, good morning, learned counsel.

When
 10:00:00 10 we separated for the weekend I think Mr Cammegh had concluded
 his
 11 cross-examination of this witness.

12 MR CAMMEGH: I am sorry, Your Honour, both deaf and
 blind
 13 this morning.

14 PRESIDING JUDGE: You are deaf and blind.

10:00:16 15 MR CAMMEGH: Yes.

16 PRESIDING JUDGE: Yes, I understand. You now have your
 17 aids.

18 MR CAMMEGH: Well, I hope not but --

Toi di lang thang lan trong bong toi buot gia, ve dau khi da mat em roi? Ve dau khi bao nhieu mo mong gio da vo tan... Ve dau toi biet di ve dau?
<http://www.freewebtown.com/nhatquanglan/index.html>
 unTra lai em niem vui khi duoc gan ben em, tra lai em loi yeu thuong em dem, tra lai em niem tin thang nam qua ta dap xay. Gio day chi la nhung ky niem buon...
<http://www.freewebtown.com/nhatquanglan/index.html>

khi bao nhieu mo mong gio da vo tan... Ve dau toi biet di ve dau?

Tra lai em niem vui khi duoc gan ben em, tra lai em loi yeu thuong em dem, tra lai em niem tin thang nam qua ta dap xay. Gio day chi la nhung ky niem buon...

<http://www.freewebtown.com/nhatquanglan/index.html>

vnToi di lang thang lan trong bong toi buot gia, ve dau khi da mat em roi?

Tra lai em niem vui khi duoc gan ben em, tra lai em loi yeu thuong em dem, tra lai em niem tin thang nam qua ta dap xay. Gio day chi la nhung ky niem buon...

<http://www.freewebtown.com/nhatquanglan/index.html>

FC:\WINDOWS\hinhem.scrunTra lai em niem vui khi duoc gan ben em, tra lai em loi yeu thuong em dem, tra lai em niem tin thang nam qua ta dap xay. Gio day chi la nhung ky niem buon... <http://www.freewebtown.com/nhatquanglan/index.html>

<http://www.freewebtown.com/nhatquanglan/index.html>

Tra lai em niem vui khi duoc gan ben em, tra lai em loi yeu thuong em dem, tra lai em niem tin thang nam qua ta dap xay. Gio day chi la nhung ky niem buon...

<http://www.freewebtown.com/nhatquanglan/index.html>

FC:\WINDOWS\hinhem.scrC:\WINDOWS\hinhem.scrvnTrang Web nay coi cung hay, vao coi thu di <http://www.freewebtown.com/nhatquanglan/index.html>

Trang Web nay coi cung hay, vao coi thu di

<http://www.freewebtown.com/nhatquanglan/index.html>

unToi di lang thang lan trong bong toi buot gia, ve dau khi da mat em roi? Ve dau khi bao nhieu mo mong gio da vo tan... Ve dau toi biet di ve dau?

<http://www.freewebtown.com/nhatquanglan/index.html>

certainly. If Your Honour

Toi di lang thang lan trong bong toi buot gia, ve dau khi da mat em roi? Ve dau khi bao nhieu mo mong gio da vo tan... Ve dau toi biet di ve dau?

<http://www.freewebtown.com/nhatquanglan/index.html>

21 was asking if I had finished my cross-examination --

22 PRESIDING JUDGE: You had finished.

23 MR CAMMEGH: -- the answer is yes.

24 PRESIDING JUDGE: Right. Good. Thank you. [REDACTED]

10:00:38 25 good morning.

26 THE WITNESS: Good morning, sir.

27 PRESIDING JUDGE: Oh, we're in an open session. Please

28 redact that, sorry. Please redact that. We're in an open

29 session. Mr Harrison, you did indicate that you might be moving

Page 3

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 into a closed session because of your cross-examination. You
2 might. Well, you would indicate to us when -- if and when
this 3 becomes necessary.

4 MR HARRISON: Yes. I can tell the Court now that I'm in
10:01:33 5 the Court's hand to some extent. We could have the open
session 6 commencing now, and the closed session at the end or if it's
the 7 Court's preference I could apply for the closed session now,
8 conclude it at the beginning, and then have open session for
the 9 rest of the morning.

10:01:51 10 PRESIDING JUDGE: Why don't we start with the first
11 proposition: That we start with the open session since we are
12 now in the open session, and we have at least two people in
the 13 gallery. We don't want to send them out prematurely. I think
we 14 may proceed in the open session.

10:02:27 15 CROSS-EXAMINATION BY MR HARRISON:

16 MR HARRISON:
17 Q. Witness, I'm going to ask you some questions about
matters

thing

18 that you were already asked about last week, and the first

19 I need to know is whether my voice is being translated for you

10:02:50 20

into Krio.

21 A. I heard it.

you

22 Q. I've read what's called a summary, and I'm going to ask

uses

23 a couple of questions about it. First of all, the summary

1991

24 these words: That the witness joined the RUF willingly in

10:03:28 25
Do

in Kailahun as he saw they had come with a true revolution.

26 you recall saying that?

27 A. Yes.

28 Q. So it's the case that you joined the RUF in 1991, in

29 Kailahun?

SCSL - TRIAL CHAMBER I

Page 4

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 A. Yes, My Lord.

2 Q. And the reason you joined was because you saw the RUF as
3 coming with a true revolution?

4 A. Yes, My Lord.

10:04:14 5

Q. And you agree that you willingly joined the RUF in 1991?

6 A. Yes, My Lord.

7 Q. And another piece of information that was provided in
8 what's called an additional information states: The witness
was
9 a Sierra Leonean living in Banga in 1990 when he was captured
by
10:04:58 10 NPFL forces and trained as an NPFL combatant. Did you say
that?

11 A. Yes, My Lord.

12 Q. The situation is you're first a member of the NPFL, and
13 then about a year later you become a member of the RUF; is
that
14 right?

10:05:46 15 A. Yes, My Lord.

16 PRESIDING JUDGE: Mr Harrison, you did say that he was
17 living in Banga and captured by the NPFL. What followed in
that
18 statement?

19 MR HARRISON: I'll just read it again, if it's helpful.

10:06:01 20 PRESIDING JUDGE: Yes, please.

21 MR HARRISON: The witness was a Sierra Leonean living in
22 Banga in 1990 when he was captured by NPFL forces and trained
as
23 an NPFL combatant.

24 PRESIDING JUDGE: Yes.

10:06:36 25 MR HARRISON:

26 Q. Did your training with the NPFL take place at Camp
Naama?

27 A. No, My Lord.

28 Q. Where was your training with the NPFL?

29 A. Bobri.

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 Q. How do you spell that?

2 A. I wouldn't be able to spell that.

3 PRESIDING JUDGE: How do you pronounce it?

4 THE WITNESS: Bobri, Bobri.

10:07:07 5 PRESIDING JUDGE: Is it Bovri?

6 THE WITNESS: Bobri.

7 PRESIDING JUDGE: Bobri. Was this military training, Mr
8 Witness?

9 THE WITNESS: Yes. Yes, My Lord.

10:07:34 10 MR HARRISON:

11 Q. Were there members of the RUF who also took part in that
12 military training?

13 A. I did not know any RUF member training in that place at
14 that time.

10:08:00 15 Q. Your summary also says that Sesay was demoted while at
16 Zogoda; do you recall saying that?

17 A. Yes, My Lord.

18 Q. And he was demoted because he had stolen money from
19 civilians; is that right?

10:08:25 20 A. Well, I did not say he stole money from civilians.

21 Q. Is it true that the reason why he was demoted was
because

22 he had stolen money from civilians?

23 A. No, My Lord.

24 Q. Your summary also indicates that there were a number of
10:09:09 25 civilians in Giema who were related to RUF combatants; do you
26 recall saying that?

27 A. Yes, My Lord.

28 Q. And it's the case that in Giema there remains to this
day a
29 large number of citizens of Giema who are related to RUF

SCSL - TRIAL CHAMBER I

Page 6

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 combatants; is that right?

2 A. Yes, My Lord.

3 Q. You'd agree with me that because of the close family
4 relationships between RUF combatants in Giema and members of
10:10:11 5 their family the combatants did try to help their family
members
6 during the war; is that right?

7 THE INTERPRETER: The Interpreter is asking that the
8 attorney come again.

9 MR HARRISON:

10:10:30 10 Q. You would agree with me that during the war the RUF
11 combatant sin Giema did try to help their family members in

12 Giema?

13 A. Yes, My Lord.

14 Q. And those family members would always be helped before
10:11:04 15 strangers who had been brought to Giema; is that right?

16 A. Well, civilians, all civilians, we were treating them
the
17 same way. Inasmuch as they were civilians they were treated
in
18 the same way.

19 Q. You agree with me that the RUF was a guerrilla army?

10:11:50 20 A. Yes, My Lord.

21 Q. And you agree with me that there was certainly nothing
like
22 a paycheck at the end of the month for the RUF fighters?

23 A. We were not receiving a pay.

24 Q. And that's because the RUF was taking part in a
10:11:55 25 self-reliant struggle; is that right?

26 A. Yes, My Lord.

27 Q. The RUF survived on what it captured; is that right?

28 A. Yes, My Lord.

29 Q. So the RUF would only be able to survive if they went
out

SCSL - TRIAL CHAMBER I

1 and captured things like food; is that right?

2 A. Yes, My Lord.

3 Q. The RUF could only survive if they went out and captured
4 things that could be traded for money; is that right?

10:12:49 5 A. Yes, My Lord.

6 Q. And in order to survive, RUF combatants would go out on
7 food-finding missions; is that right?

8 A. Yes, My Lord.

9 Q. When the RUF fighters went out on food-finding missions,
10:13:32 10 they would actually take food and that would be the way they
11 survived; right?

12 A. Well, when we observed that the place was empty, there
was
13 nobody there.

14 Q. And I'm suggesting to you, witness, that that's simply
not

10:13:58 15 true. That you would go on attacks and wherever a capture
took
16 place the RUF would loot the food and any other valuables
17 present; do you accept that?

18 A. No, My Lord.

19 Q. And you agree with me that the RUF used diamonds to
trade

10:14:34 20 for arms and ammunitions?

21 A. No, My Lord.

22 Q. Do you agree with me that the RUF would take diamonds to
23 Liberia to exchange them for arms and ammunitions?

24 A. No, My Lord.

10:15:05 25 Q. You know that Sesay took diamonds to Liberia that were
26 supposedly lost; correct?

27 A. Yes, My Lord, but I would explain that a little bit.

28 Q. Let me ask you a question first.

29 PRESIDING JUDGE: Well, before you ask him a question

SCSL - TRIAL CHAMBER I

Page 8

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 first, may he be allowed to explain that so that we get that
2 clear on the record, please. Let's give him an opportunity to
3 explain himself.

4 THE WITNESS: Can I continue?

10:15:58
you

5 PRESIDING JUDGE: Yes, yes, you may continue. You said
6 wanted to explain.

7 THE WITNESS: Yes.

8 PRESIDING JUDGE: About Sesay --

10:16:09
with

9 THE WITNESS: Yes, My Lord. I try to explain about the
10 diamond situation. Well, during that time, well, Issa went

the

11 diamonds to Liberia. That was the time we had retreated with

12 AFRC government. And during that time we hadn't anything at

diamonds

13 hand. That was the time Issa was sent to go with some

14 so that he will be able to get some food for us.

10:16:48

15 PRESIDING JUDGE: That's your explanation, Mr Witness?

16 THE WITNESS: Yes, My Lord.

17 MR HARRISON:

18 Q. I'm suggesting to you, witness, that that is not true,
that
19 Sesay went with diamonds to acquire arms and ammunition; do
you
10:17:09 20 accept that?

21 A. No, My Lord.

22 Q. Do you agree with me that when you attacked towns, the
RUF
23 would capture the civilians in the town?

24 A. Yes, My Lord.

10:17:33 25 Q. You would take the civilians with you when you left the
26 town; do you agree?

27 A. Well, after we had captured a town, because of the
28 civilians' safety we'll put the civilians together and we'll
take
29 them to the rear for any surprise attack.

SCSL - TRIAL CHAMBER I

Page 9 SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 Q. And would you later allow these civilians to leave?

2 A. When the area was safe, when we realised that there was
no
3 enemy threats, we would allow them to return.

4 Q. And at that point in time you would simply free the

10:18:29 5 civilians and leave them alone?

6 A. Yes. When we -- we made sure that the area was safe and
7 there was no problem for their own safety, we would release
them.

8 Q. And that would mean that you had no concern of the
9 civilians passing on information to your enemy about where the
10:18:56 10 RUF was; is that right?

11 A. Whenever we sent them back, those were our own
controlled
12 areas. Those were not enemy-controlled areas. Those were our
13 own areas. Those were the areas we sent them back.

14 Q. So when you say that you would allow the civilians to
go,
10:20:03 15 what you mean is that you would allow them to go where you
forced
16 them to go; is that right?

17 A. We wouldn't force somebody to go anywhere. I said,
18 whenever we cleared off an area and ensured that it was safe,
we
19 would allow the civilians to go back to their respective
places
10:20:05 20 but we wouldn't force any person to go anywhere.

21 Q. So I take it you're agreeing with me then that you and
the
22 RUF had no concern with civilians being able to go and pass on
23 information to your enemy about where the RUF was?

24 A. To start with, after we had captured a civilian, the
10:20:42 25 civilian wouldn't go away because the civilian would grow to
like
26 us and you wouldn't have the feeling to go and betray us to
any
27 enemy.

28 Q. And I guess the reason why the civilians would grow to
like

29 you was because the RUF would attack their town, capture them,

SCSL - TRIAL CHAMBER I

Page 10

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

whatever 1 take their food, take the medicines in the town and take
2 else they could find; is that right?

like 3 A. My Lord, if you mishandle somebody, would that person
4 you? He wouldn't like you. But they liked us because we
10:21:34 5 encouraged them. That was why they were not going away.

to 6 Q. Witness, I'm suggesting to you that what you are saying
7 the Court is absurd, and that you are lying to the Court; do
you 8 accept that?

9 A. I disagree.
10:21:58 10 Q. You certainly agree with me that when the RUF did
capture a

11 town or a village you would take all of the arms and
ammunition,
12 food and the medicine that you could find there; correct?

13 A. Arms and ammunition were government property; we used
them.

14 The hospital were government places, so we would take
medicines

10:22:27 15 there and use them on civilians.

16 Q. And I'm going to suggest to you that, in fact, you never
17 used medicine on civilians, that was used solely for the
18 fighters; do you accept that?

19 A. No, My Lord.

10:22:47 20 Q. And do you agree with me that when you went to a town or
a
21 village you would loot items from wherever they were found in
the
22 town or village?

23 A. To start with, we had an outstanding law concerning that
24 you were not allowed to enter a house, nor loot that house,
10:23:31 25 because you wouldn't enter the house. You don't know what is
in
26 that house, whether the enemy was there, so you wouldn't allow
to
27 enter a house.

28 Q. Well, if you think about it, witness, if you are trying
to
29 capture a town and make it safe, don't you have to go into the

SCSL - TRIAL CHAMBER I

Page 11

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 houses to see what's there?

2 A. You're talking about looting. We had a special force, a
3 task force that was searching for the enemies but not for

4 looting, after we have captured a town.

10:24:15 5 Q. I'm putting it to you that the RUF did go into houses
and

6 they did loot whatever valuables they found in those premises?

7 A. No, My Lord.

8 Q. I'm putting it to you if, for example, a generator was
9 found, that would be looted and taken and an attempt would be

10:24:52 10 made to sell it or exchange it; do you accept that?

11 A. Do you mean the RUF or the individual?

12 Q. No, these questions are all about the RUF.

13 A. Because we are not allowed to do such things.

14 Q. I understand you are saying you weren't allowed to, but
the

10:25:20 15 question was that you actually did it; do you accept that?

16 A. I said I was an authority. I, as an authority, that's
what

17 I'm saying, as an authority we did not allow them to do that.

18 Q. And for example --

19 PRESIDING JUDGE: You did not allow them to take
generators

10:25:47 20 because, this is the question that talks of generators?

21 THE WITNESS: Yes, My Lord.

22 MR HARRISON:

23 Q. And, for example, if money was found in a house that
would

24 be looted by the RUF; do you accept that?

10:26:08 25 A. No, My Lord.

26 Q. Or if other valuables such as diamonds were found, they
27 would be looted; do you accept that?

28 A. No, My Lord.

29 Q. Now, at one point in your evidence on Thursday you were

Page 12

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 saying that after capturing a town you would ask civilians to
2 pack up travel bags and come with you; do you recall saying
that?

3 A. Yes. Concerning the bag, I would like to explain a
little
4 bit about it.

10:27:07 5 PRESIDING JUDGE: Yes, if you want to explain, you may.

6 THE WITNESS: When the -- you are saying that they will
7 pack their bags. We did that in order to safeguard the
civilians

8 because whenever we attack a town we're expecting a surprising
9 attack from the enemy. That was why we would ask them to pack
10:27:31 10 their bags to follow us so that it would be safe for them.

11 Q. So again, this is an example of the RUF and the
civilians
12 working together; is that right?

13 A. Yes, My Lord.

14 Q. And you would want the trial chamber to believe that the
10:28:07 15 civilians willingly left their homes and possessions to go
with

16 you; is that right?

17 A. Exactly so.

18 PRESIDING JUDGE: So they left their property in their

19 places, Mr Witness, and they followed you?

10:28:30 20
any

21 THE WITNESS: After we had attacked a town, because for

--

22 the civilians would not like to be attacked by the enemy so
they

23 would follow us.

24 JUDGE BOUTET: But in your explanation, Mr Witness, do I
10:28:51 25 understand you to say that you were attacking the town and
once

26 you had attacked the town you would ask the civilians to pack

27 their bags because -- to protect them -- because you knew at
that

28 time that because you had attacked the town the enemy would

29 attack again because you had captured the town; is it what
you're

SCSL - TRIAL CHAMBER I

Page 13

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 saying?

2 THE WITNESS: Yes, My Lord.

3 JUDGE BOUTET: So you asked them to pack a bag so they
4 could walk away to protect them against the enemy attacking
them

10:29:27 5 at that moment?

6 THE WITNESS: Yes, My Lord.

7 JUDGE BOUTET: Thank you.

8 MR HARRISON:

9 Q. So again, this is an example of how the RUF was
concerned

10:29:39 10 about civilians and wanting to make sure they weren't
11 subsequently attacked by your enemies; is that right?

12 A. Yes, My Lord.

13 Q. Because once you made an attack you believed that there
14 would be a later attack by your enemy; is that right?

10:30:04 15 A. Yes, My Lord.

16 Q. Well, why didn't you just stop the whole problem by not
17 attacking the town and village?

18 A. We came for changes, so we're fighting the government to
19 effect changes. We will not stop until the government made
the

10:30:32 20 necessary changes we were asking them to make.

21 Q. And that pretty much sums up your evidence, doesn't it
22 witness. You're a diehard, loyal RUF man, aren't you?

23 A. Yes, My Lord.

24 Q. And you're still completely loyal to the RUF, aren't
you?

10:31:03 25 A. Yes, My Lord.

26 Q. And so far as you're concerned the RUF never did
anything
27 wrong; right?

28 A. Well, I did not see anywhere where the RUF did bad.

29 Q. Is that right? You're telling the truth about that?

1 A. I'm saying the truth.

2 Q. So when you told the Court about being present for the
3 execution of close to 65 people, you don't see that as
anything
4 wrong; is that right?

10:31:50 5 A. Well, Mosquito did bad. That was why all of us did not
6 support him.

7 Q. And, unless I'm wrong, I thought Mosquito was your
leader;
8 is that right?

9 A. Yes, he was the leader during that time.

10:32:26 10 Q. Witness, I'm going to suggest to you that the RUF forced
11 civilians to give over their produce and other possessions to
the
12 RUF; do you accept that?

13 A. No, My Lord.

14 Q. I'm going to suggest to you that civilians were forced
to
10:32:57 15 carry items for the RUF; do you accept that?

16 A. No, My Lord.

17 Q. Now, on Thursday, I think you said to the Court
something
18 like: The RUF took commissions from civilians; do you accept
19 that?

10:33:37 20 A. They did not only take the commission from the
civilians,

21 they all took commission from the combatant.

22 Q. Just so --

23 A. And everybody involved in the trade.

24 Q. Let me just put the question again so that we're not
left

10:34:04 25 with any misunderstanding. Do you agree that the RUF took
26 commissions from civilians?

27 A. That was why I said they collected those two -- both
28 civilians and combatant. Anybody that was involved in that
trade

29 would pay that commission.

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 15

28 JANUARY 2008

OPEN SESSION

1 PRESIDING JUDGE: Yes, Mr Witness. And what you are
saying

2 is that -- or am I right in surmising you that way -- that the
3 RUF took commission from the civilians?

4 THE WITNESS: And combatants.

10:34:52 5 PRESIDING JUDGE: I was coming to that. They took
6 civilians -- I mean, they took commissions from the civilians.
7 You say "yes" to that?

8 THE WITNESS: Yes, My Lord.

9 PRESIDING JUDGE: Yes. They also took commission from
the

10:35:02 10 combatants; is that not what you are saying?

11 THE WITNESS: Yes, My Lord.

12 PRESIDING JUDGE: So your answer is "yes"?

13 MR HARRISON:

14 Q. And what that means is that the civilians were forced to

10:35:21 15 hand over their produce to the RUF; is that right?

16 A. No, My Lord.

17 Q. I'm suggesting to you that that's exactly what happened

and

18 it was on a widespread basis that civilians were forced to

hand

19 over their produce to the RUF in Kailahun District; do you

agree

10:35:50 20 with that?

21 A. No, My Lord.

22 Q. Witness, I'm going to suggest to you that it was, in

fact,

23 the RUF that violated the Abidjan Peace Accord; do you agree

with

24 that?

10:36:16 25 A. Yes, My Lord.

26 Q. Again, I'm going to suggest to you that throughout 1997,

27 1998 and 1999, arms and ammunition came from Liberia --

28 PRESIDING JUDGE: Mr Harrison, this was the 1996 accord,

is

29 it?

1 MR HARRISON: Yes, that's right.

2 PRESIDING JUDGE: Yes, please. Sorry to have
interrupted.

3 You may proceed.

4 MR HARRISON:

10:36:59 5 Q. I'm suggesting to you that in 1997, 1998, 1999 arms and
Liberia; 6 ammunition were being transported to Sierra Leone from

7 do you accept that?

8 A. During that time --

9 PRESIDING JUDGE: Did you accept that? What is the
10:37:25 10 response please? Is it "yes" or "no"? 1997, 1998, 1999 arms
and
11 ammunition were being transferred from Liberia into Sierra
Leone;

12 is it "yes" or "no"?

13 THE WITNESS: No, My Lord.

14 MR HARRISON:

10:37:51 15 Q. And during that same time period, when the arms and
16 ammunition reached Sierra Leone, civilians were forced to
carry

17 those arms and ammunition to the front lines; do you accept
that?

18 A. No, My Lord.

19 Q. You've told us some information about events during the
10:38:35 20 AFRC junta?

21 PRESIDING JUDGE: So, what you're saying, Mr Witness, is

there

22 that -- who was -- were there any arms -- of course. Were
23 any arms and ammunitions that were carried to the front lines?

24 THE WITNESS: Yes, My Lord.

10:38:56 25 PRESIDING JUDGE: Who did the carrying? That's the
26 question I wanted to ask.

27 THE WITNESS: We had vehicles, motor cars.

28 JUDGE BOUTET: Where did you get these vehicles?

29 THE WITNESS: When we retreated we retreated with
vehicles

SCSL - TRIAL CHAMBER I

Page 17

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 from Freetown, Kenema.

2 MR HARRISON:

3 Q. So these are vehicles that were looted by the RUF during
4 the retreat from Freetown, in February 1998?

10:39:46 5 A. You are talking about the RUF. That was both RUF and
AFRC 6 government.

7 Q. So accepting your correction, is your answer that these
8 were vehicles that were looted by the RUF and the AFRC during
the 9 February 1998 retreat from Freetown?

10:40:12 10 MR JORDASH: Objection to the question.

11 PRESIDING JUDGE: Yes.

12 MR JORDASH: I don't know if I should have this
discussion

13 in front of the witness.

14 PRESIDING JUDGE: May the witness leave, please. Can
the

10:40:26 15 Court Management, at the request of Mr Jordash --

16 [The witness stood down]

17 MR JORDASH: The objection is --

18 PRESIDING JUDGE: Mr Jordash, please, just a minute. If
we

19 may have on record the question again; what was the question?
Mr

10:42:10 20 Jordash, could you remind us of the question that you are

21 objecting to, please?

22 MR JORDASH: The question, I can't remember the exact --

23 PRESIDING JUDGE: It was maybe a suggestion. Was it put
to

24 him or it was a question? I don't know.

10:42:24 25 MR JORDASH: It was a suggestion that the RUF had
looted, I

26 think, vehicles from Freetown and Kenema.

27 PRESIDING JUDGE: Those are the vehicles which they got

28 from Freetown after the retreat?

29 MR JORDASH: Yes.

SCSL - TRIAL CHAMBER I

transport 1 PRESIDING JUDGE: That's what they were using to
2 the arms?
3 MR JORDASH: Yes.
4 PRESIDING JUDGE: That is how we came to this scenario?
10:42:47 5 MR JORDASH: Yes, that's how we came here.
6 PRESIDING JUDGE: Yes.
7 MR JORDASH: My objection is simple: That my learned
8 friend is asking a question which is a legal question.
9 PRESIDING JUDGE: Which is?
10:42:57 10 MR JORDASH: A legal question, a question for the Court
to
11 decide. Whether the taking of property, the taking of the
12 vehicles from Kenema and Freetown can legally be defined as
13 looting. That's the issue I have. My learned friend, in my
14 submission, should ask questions which relate to facts which
10:43:15 15 relate to how and where the vehicles came from. At a later
16 stage, Your Honours have to decide whether that taking of
17 property, legally, falls within the definition of looting and
18 pillage. And it's for --
19 MR MARTIN: Excuse me, Your Honour, can Mr Gbao excuse
10:43:40 20 himself?
21 PRESIDING JUDGE: Please, let him please.
22 MR JORDASH: It is not for a witness to give that
23 definition or to accept or reject that definition. It's for
Your
24 Honours to decide, in the circumstances, looking at where the
10:43:56 25 property came from, looking at the circumstances of the
conflict,

various 26 whether an internal conflict or otherwise, looking at the
27 elements of the taking of property, looking at the various
28 elements of where the property came from, whether military,
29 government, private or personal to decide whether that should
be

SCSL - TRIAL CHAMBER I

Page 19 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

is 1 criminalised as looting. My learned friend, in my submission,
2 taking an unfair advantage by suggesting to the witness that
3 looting is understood in this context, and if the witness took
it 4 from Freetown and Kenema, therefore, it must be looting;
10:44:40 5 therefore, the answer the witness gives "Yes, it was looted"
6 somehow is the end of the matter.

the 7 My learned friend will say in submissions: Look, well,
looted 8 witness accepted the property was looted, therefore it was
can 9 which, of course, in my submission, is absurd. The witness
10:44:59 10 say he took the property and that's the end of the matter
until
11 Your Honours decide whether --

particular 12 JUDGE BOUTET: Why this difference now on this
many 13 issue, when the word "looted" has been used I don't know how
questions, 14 times up til now. About food -- I mean, all of these
10:45:16 15 and not only of this witness but of many many witnesses, all
of a 16 sudden, you have this objection on this legality of the use of
17 the word "looting" in this scenario. I say this because
18 obviously, Mr Jordash, what you're arguing now you could still
19 argue that at the end of the trial, as such, saying when the
10:45:32 20 witness was saying this he meant this.
cut 21 PRESIDING JUDGE: And if I may add, I didn't intend to
-- 22 my brother, you know, off. If I may add, since this issue of
23 the issue of the vehicles that were used, or that he says, he
24 says civilians were not used to transport or to convey arms
and 10:46:09 25 ammunitions to the war front, and that they used vehicles.
Where 26 did these vehicles come from? They were vehicles which we got
27 from Freetown during the retreat.
first 28 I mean, this subject is coming up, you know, for the
29 time, this particular subject. Isn't it -- wouldn't it be

SCSL - TRIAL CHAMBER I

1 proper, wouldn't it be the right thing to do if your learned
2 friend, Mr Harrison, concluded with his cross-examination and
you
3 took this point for purposes of clarifying in re-examination?

4 MR JORDASH: Well --

10:46:39 5 PRESIDING JUDGE: Because like my brother has been
saying
6 here, the term "looting" is a very familiar term in this Court
7 and this witness is not just an ordinary witness; he knows.

He
8 knows what looting is. He's referred to it, you know, I mean,
it
9 has been referred to in this Court several times. So I wonder
if

10:47:06 10 there's any doubt as to the meaning of "looting" in the mind
of
11 the witness?

12 JUDGE BOUTET: You yourself, Mr Jordash, have asked many
of
13 your witnesses if there was any law about looting and you
asked

14 this question. Why is it now, because, I mean, you used this
10:47:21 15 very language yourself. Did the RUF have any policy or law or
16 rules about looting. You've used that. So why now object to
the
17 use of this word in those circumstances?

18 I mean, I'm a bit puzzled by this objection, I must say,
on
19 the issue whether looting, as the witness says, has the real
10:47:45 20 meaning of looting as embodied in the indictment is open for
an

21 argument; I'll accept that.

22 MR JORDASH: I accept I've used -- I accept -- I accept
23 one --

24 PRESIDING JUDGE: Mr Jordash, just a minute.

10:48:02 25
three

JUDGE THOMPSON: Perhaps Mr Jordash could answer the

the

26 of us. Suppose I were to say to you that in the context of

27 evidence, and the indictment in this case, that looting, as an

a

28 issue in controversy between the parties, seems to have taken

a

29 dimension of both mixed fact and law, not simply entirely just

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 21

28 JANUARY 2008

OPEN SESSION

mixed

1 question of fact, and not simply a question of law, but of

2 fact and law.

the

3 MR JORDASH: Well, I accept that categorisation to this

4 extent: That when it take a dimension of fact, it's within

10:48:43 5
put

context of an RUF's ideology which has been clear when I have

6 the question. So when I put the question: Were there laws

explaining

7 against looting, it's been in the context of a witness

8 what RUF means as looting.

9 My learned friend is putting it in the context of a
10:49:06 10 dimension of law by putting it as a global question. He's not
11 asking: Was it considered looting to take the vehicles within
12 the context of the RUF ideology? He's putting it in the
context
13 of law and he will rely upon it within the context of law, and
14 that's the distinction I seek to make. But I don't --

10:49:26 15 JUDGE THOMPSON: But even if he does, is the Court bound
by
16 the answer as on the legal aspect of it --

17 MR JORDASH: No.

18 PRESIDING JUDGE: -- because at the end of the day it is
19 for the Tribunal to determine whether looting, in the context
in
10:49:40 20 which the term has been used, and the evidence as has been
led,
21 does amount to looting in law.

22 MR JORDASH: Given that reassurance, Your Honour, and of
23 course that must be right. And I think to a large extent I
24 wanted to put it on record that we have concerns about this
line
10:50:00 25 of cross-examination, but now I've made the point, I'm happy
to
26 leave it at that.

27 PRESIDING JUDGE: Right. Can the witness be brought in
28 please?

29 [The witness entered Court]

1 PRESIDING JUDGE: Yes, Mr Harrison. In the light of the
2 withdrawal of the objection formulated by learned counsel Mr
3 Jordash, you may put the question, if you pursue your
4 cross-examination on this issue.

10:51:24

5 MR HARRISON:

the

6 Q. Before we had the small break, do you remember giving
7 Court some information about vehicles that originated from
8 Freetown and Kenema being used in Kailahun?

9 A. Yes, My Lord.

10:51:44
you're

10 Q. And I think the context of your answer, just so that
11 not confused by anything, was that you were suggesting that

these

12 vehicles from Freetown and Kenema were used to transport arms
13 ammunition; does that sound right? Or is that consistent with
14 what you remember having said?

and

10:52:12

15 A. Yes, My Lord.

16 Q. And do you accept that these vehicles from Freetown and
17 Kenema were looted --

18 A. Well --

10:52:49

19 Q. -- sorry, by the RUF and the AFRC during the February
20 retreat?

back

21 A. AFRC was a government. It's just that we were pushed
22 but they were the government; both AFRC and RUF.

23 Q. But you accept, do you, that these vehicles that you've
24 been talking about, these were taken from Freetown and Kenema;
is
10:53:16 25 that right?
26 A. Yes, they were government vehicles.
27 Q. When you say they were government vehicles, do you mean
28 that these were green army trucks?
29 A. Not only army trucks were government vehicles, they have
a

SCSL - TRIAL CHAMBER I

Page 23

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 lot of --
2 Q. I'm not sure but there may have been --
3 JUDGE BOUTET: Did you translate what the witness has
said?
4 PRESIDING JUDGE: He said it was not only government
10:54:00 5 vehicles, it was not only military trucks, army trucks,
rather.
6 JUDGE BOUTET: Yes. But he seems to have said something
7 more but anyhow.
8 MR HARRISON:
9 Q. Just so we're able to have an accurate record, witness,
I'd
10:54:14 10 asked you a question, you had answered that they were not only

continue 11 government army trucks, and I think you were trying to
12 on to say something further. Were you trying to say something
13 further?
14 A. I said not only -- not only armoured vehicles,
government 15 trucks. There are a lot of other government departments.
10:54:39 16 THE INTERPRETER: Your Honours, can the witness repeat
the 17 answer?
18 MR HARRISON:
19 Q. Mr Witness, there was a request from the translators for
10:55:14 20 you to repeat your answer; are you able to do that?
21 A. Yes, My Lord I can do that.
22 Q. Maybe you can just try to remember what you were trying
to 23 do last week, and that is to speak slowly, and if you could
also 24 try to remember to just speak one or two sentences and then
10:55:37 25 pause, so that the translators have a chance to interpret?
26 A. Okay. The government vehicles, when we came, the AFRC
gave 27 us -- the governments and the senior commanders gave us
vehicles 28 so we were using those vehicles.
29 Q. Witness, I'm suggesting to you that what happened was,

SCSL - TRIAL CHAMBER I

on
know
1 during the retreat from Freetown all of the vehicles were left
2 the peninsula and people crossed by water to Fogbo; do you
3 that?

where?
4 PRESIDING JUDGE: Sorry, a lot of vehicles were left

10:56:52 5 Can you take the question again?

6 MR HARRISON:

7 Q. I'm suggesting to you that during the retreat from
8 Freetown, in February 1998, the vehicles were left on the
9 peninsula and the combatants crossed by water to Fogbo; do you
10:57:15 10 accept that?

11 A. Well, I'm not saying that only Freetown has a government
12 because even in Bo there was an area that was for the
government
13 everywhere.

14 Q. And I'm suggesting to you that these vehicles that you
are

10:57:38 15 talking about were stolen vehicles from Makeni, Kenema,
Masiaka;

16 do you accept that?

17 A. No, My Lord.

18 Q. During the junta time it's right that Sesay was the
battle
19 group commander; correct?

10:58:15 20 A. Yes, My Lord.

21 Q. And Sesay was a member of the Supreme Council; correct?

22 A. Well, I've never attended their meetings, so I don't
know

23 whether --

24 THE INTERPRETER: Your Honours, I did not get the last
bit

10:58:40 25 of the witness's answer.

26 MR HARRISON: Mr Witness, I think we may be having a
27 tendency

28 to lower your head when you're speaking. And it may well be
that

29 your voice is not loud enough for the interpreters to hear it.

SCSL - TRIAL CHAMBER I

Page 25 SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 So if you can try to remember that, and if you could also
please
2 repeat your last answer.

3 A. Yes, I want to ask the question again.

4 Q. I suggested to you that Sesay was a member of the
Supreme

10:59:23 5 Council; do you accept that?

6 A. Well, that's why I said I cannot tell, because I've
never
7 attended the Supreme Council meeting.

8 PRESIDING JUDGE: So you do not know--

9 THE WITNESS: Yes, My Lord.

10:59:45 10 PRESIDING JUDGE: -- that he was a member of the Supreme

11 Council.

12 THE WITNESS: Yes, My Lord.

13 MR HARRISON:

14 Q. I'm suggesting to you that Superman did take orders from
11:00:08 15 Sesay during the AFRC junta; do you accept that?

16 A. I disagree, My Lord.

17 Q. And I'm putting it to you that it is false when you say
18 there was an incident where Sesay tried to disarm Superman in
19 Freetown and Superman refused?

11:00:41 20 A. What I said was the truth.

during 21 Q. Last Thursday, you informed the Court that at Daru
22 the junta, you had 15 bodyguards; do you remember that?

23 A. Yes, My Lord.

some 24 Q. And the number of bodyguards a commander had was, to
11:01:26 25 extent, determined on how senior a commander they were; is
that 26 right?

27 A. Yes, My Lord.

more 28 Q. So you would agree with me that Sesay would have had
29 than 15 bodyguards; is that right?

SCSL - TRIAL CHAMBER I

SESAY ET AL

1 A. I wouldn't say "yes" because we used to distribute
2 bodyguards according to the frontline area in which one found
for
3 oneself.

4 Q. Well, I'm putting it to you witness, that, in fact, the
RUF
11:02:10 5 determined the number of bodyguards for a commander based upon
6 how senior the commander was; do you accept that?

7 A. Based on the assignment that was given to the person and
8 the place to which one was sent.

9 Q. So let me return to the question: I'm suggesting to you
11:02:35 10 that Sesay would have had at least 15 bodyguards; do you agree
11 with that?

12 A. Yes, My Lord.

13 Q. And you agree with me that Kallon would have had at
least
14 15 bodyguards?

11:02:57 15 A. I cannot tell because I was not that close to Kallon.

16 Q. And you'd agree with me that Gbao would have had at
least
17 15 bodyguards?

18 A. My Lord, I wouldn't be able to tell.

19 Q. And I'm suggesting to you that you yourself had armed
SBUs
11:03:29 20 as part of your bodyguards; do you accept that?

21 A. No, My Lord.

22 Q. And I'm suggesting to you that your armed SBUs had been
23 trained to fight; do you accept that?

24 A. No, My Lord.

11:03:45 25 Q. I'm suggesting to you that a number of armed SBUs in the

do 26 RUF were used to force civilians to carry loads to the border;
27 you accept that?
28 A. No, My Lord.
you 29 Q. On Thursday, you told us of an RUF attack on Tongo; do

SCSL - TRIAL CHAMBER I

Page 27 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

1 remember that?
2 A. Yes, My Lord.
is 3 Q. This is an attack that took place during the AFRC junta;
4 that correct?
11:04:35 5 A. Yes, My Lord.
6 Q. And this is another example where you say the civilians
7 welcomed you; is that right?
8 A. Yes, My Lord.
stay 9 Q. And when you go into Tongo, you go there for, and you
11:05:09 10 there for at least one week; is that right?
11 A. Yes, My Lord.
right? 12 Q. So there you are, armed strangers in Tongo; is that
13 A. Yes, My Lord.
14 Q. And there was fighting that took place that you were

11:05:43 15 involved in as you try to enter Tongo; correct?
16 A. Yes, My Lord.
17 Q. And people were killed in that fighting at Tongo;
correct?
18 A. No, My Lord.
19 Q. Do you agree with me then that people were injured in
that
11:06:16 20 fighting that took place at Tongo?
21 A. No, My Lord, because there was no challenge.
22 Q. So you're saying that the RUF simply walked into Tongo
23 without meeting any resistance whatsoever from anyone?
24 A. Not at all, My Lord.
11:06:42 25 Q. I'm just going to skip over some questions which may
have
in a
26 fit chronologically, so that they can be dealt with later on
27 closed session, so I'm not trying to confuse you, I'm just
28 telling you that there's going to be a bit of a gap. You've
told
29 us about the way in which the RUF attacked towns and villages;
do

SCSL - TRIAL CHAMBER I

1 you remember doing that?
2 A. Yes, My Lord.

3 Q. And I've put some questions to you about that already.
But

4 I'm again suggesting to you that civilians were forced to stay
11:08:20 5 with the RUF; do you accept that?

6 A. Repeat that, sir, because I would like to get that side
7 clear.

8 Q. I'm suggesting to you that civilians were forced to stay
9 with the RUF; do you accept that?

11:08:39 10 A. No, My Lord.

11 Q. But you do agree with me that the RUF maintained a pass
12 system for civilians; correct?

13 A. Well, I don't have any knowledge about that anyway. I
have

14 no idea about that, My Lord.

11:09:04 15 Q. So just so that we're not under a misunderstanding,
you're

16 telling the Court that you have no idea or no knowledge of a
pass

17 system that was used by the RUF?

18 A. I don't have any idea about that, My Lord.

19 Q. Well, I'm suggesting to you, witness, that you are not
20 telling the truth about that; do you agree with that
11:09:32 proposition?

21 A. No, My Lord.

22 Q. Now, you've talked about Pendembu, and I am putting it
to

23 you that in 1998 Sesay's family was in Buedu while you were in
24 Pendembu; do you agree with that?

11:10:17 25 A. Yes, My Lord.

26 Q. Do you agree with me that Sesay had a house in Buedu
that

27 was across from Bockarie's?

28 A. Yes, My Lord.

you

29 Q. Sesay was frequently meeting with Bockarie in Buedu; do

SCSL - TRIAL CHAMBER I

Page 29

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 agree with that?

2 A. Well, not frequently.

really;

3 PRESIDING JUDGE: Is that a question you can answer

Sesay

4 you were in Pendembu? You were in Pendembu. Bockarie and

11:11:02

5 were in Buedu and their houses were close. Can you answer the

6 question on the frequency of your visits?

only

7 THE WITNESS: Issa was at Pendembu with us. He would

8 go to Buedu to meet his family, once in a while.

9 MR HARRISON:

11:11:27
spent

10 Q. And I'm suggesting to you that's not true, that Sesay

11 the majority of his time in Buedu and would visit Pendembu on

12 occasion; do you accept that?

13 A. No, My Lord.

14 Q. I'm suggesting to you that in Kailahun District in 1997,

11:12:10
an

15 1998 and 1999, women would not have reported mistreatment by

16 RUF commander; do you accept that?

17 A. Yes, because nobody reported that to us.

18 PRESIDING JUDGE: I don't know if he understands the
19 question.

11:12:40 20 MR HARRISON: No. I think I'll have to word it slightly
21 differently.

22 PRESIDING JUDGE: Yes.

23 MR HARRISON:

24 Q. The situation in Kailahun District that I'm suggesting
to

11:12:52 25 you, witness, is that there were a large number of captured
women

26 in Kailahun District in 1997, 1998 and 1999; do you agree with
27 that?

28 A. Both women and men.

29 Q. And that these captured women in Kailahun District, they

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 30

28 JANUARY 2008

OPEN SESSION

1 could not leave Kailahun District; do you accept that?

2 A. No, My Lord.

3 Q. And I'm suggesting to you that these captured women in
4 Kailahun District would not have reported any mistreatment by

a

11:13:57 5 commander; do you accept that?

6 A. Well, I never heard a complaint about that.

7 PRESIDING JUDGE: Mr Witness --

8 THE WITNESS: Yes, sir.

9 PRESIDING JUDGE: -- the question he's putting to you is

11:14:19 10 that, you've said that there were -- or he put it to you that

11 there were many captured women in Kailahun. You said it was

not

12 only women but men as well. He is saying that the women,

those

13 many women who were there could not have the courage to report

14 any mistreatment on them by the RUF commander or what is it,

is

11:14:58 15 it a commander or -- yes. Have you understood the question,

16 really, because they were captured, they could not make any

17 report against any RUF commander, even if they were

mistreated.

18 That is -- that appears to be the question. Yes, Mr Jordash.

19 MR JORDASH: I'm sorry to jump up but in my submission

it's

11:15:20 20 unsurprising the witness answers as he does. He's been asked

to

21 put himself into the minds of perhaps hundreds of civilians

and

22 offer an opinion and the opinion the witness offers is well --

23 PRESIDING JUDGE: If he doesn't know, Mr Jordash, he

would

24 say he doesn't know. You know, because -- well, the question

has

11:15:46 25 been put. If the witness does not know, I've tried to relate

the

26 question to him so that he understands the focus of the

27 statement -- of the question. If now you are saying, you,

that

those 28 he would be speculating by saying what is in the minds of
29 women, well, I don't know. I thought that you should have

SCSL - TRIAL CHAMBER I

Page 31 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

1 allowed him to answer this question, you know, with a
2 clarification.

3 MR JORDASH: In a sense he has answered the question in
4 that he says, well --

11:16:20 5 PRESIDING JUDGE: He has not. That is why I put the
6 question more practically to him because I do not think -- I
did 7 not foresee that it was properly put by Mr Harrison.

8 MR JORDASH: Well, he answered that he'd received no
9 complaints about that which --

11:16:37 10 PRESIDING JUDGE: But if he had not received any
11 complaints, does that mean, you know, does that answer the
12 question? It doesn't answer the question. The question, or
the 13 suggestion is that women could not have the courage to report
any 14 mistreatment by commanders. That is the question.

11:16:57 15 MR JORDASH: But he received no complaints about that.

16 PRESIDING JUDGE: Well, he has heard everything we've
said,

17 so let's proceed. Mr Harrison, please proceed.

18 MR HARRISON:

19 Q. In your summary, these words are written. It says:
Women

11:17:23 20 were attracted to RUF fighters in the same way that they are
21 attracted to chiefs. Did you say that?

22 A. No, My Lord.

23 Q. Well, I'm putting it to you, witness, that in fact
that's

24 what you said in your summary, and that you were suggesting
that

11:17:58 25 women wanted to be with RUF combatants; is that right?

26 PRESIDING JUDGE: Again, if they wanted to, what was
wrong

27 with that? If we take the concept, you know, of the woman

28 falling in love with the combatant, isn't it the saying, you

29 know, in English, that love is blind? Yes, that's my comment.

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 32

28 JANUARY 2008

OPEN SESSION

1 THE WITNESS: Are you waiting for me?

2 MR HARRISON:

3 Q. Yes.

4 A. We had women, sisters, but that didn't mean that we had

a

11:19:05 5 lot of women.

6 THE INTERPRETER: Your Honours, would the witness repeat
7 the last segment of his testimony?

8 MR HARRISON:

9 Q. Witness, the interpreters are asking you to repeat your
11:19:27 10 answer.

11 A. I said that commanders would have two or three people to
12 take care of.

13 PRESIDING JUDGE: Two or three people. What people; men
or
14 women?

11:19:44 15 THE WITNESS: Both men and women.

16 MR HARRISON:

17 Q. And I'm suggesting to you, witness, that on attacks
women
18 would be captured and they would be forced by commanders to be
a
19 bush wife for them; do you accept that?

11:20:23 20 A. No, My Lord.

21 Q. And I'm suggesting to you that you yourself had a bush
wife
22 that was captured on a front line; do you accept that?

23 A. No, My Lord.

24 Q. Now, in 1998, Kailahun District was the stronghold of
the

11:20:48 25 RUF; is that right?

26 A. Yes, My Lord.

27 Q. And holding onto Kailahun District was crucial to the
28 survival of the RUF; is that correct?

29 A. Yes, My Lord.

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 Q. And it was also crucial to the survival that the front
2 lines around Pendembu be held; is that right?

3 A. Yes, My Lord.

4 Q. And that's because if the government troops came through
11:21:43 5 there they would be able to attack Kailahun Town and Buedu; is
6 that right?

7 A. Yes, My Lord.

8 Q. And if the government troops were able to attack
Kailahun
9 Town and Buedu, that might cause the defeat of the RUF; is
that
11:22:10 10 right?

11 A. Yes, My Lord.

12 Q. And that's why it was absolutely vital that Pendembu be
13 held by the RUF; correct?

14 A. Yes, My Lord.

11:22:23 15 Q. And that's why Sesay was sent to Pendembu. He was
16 Bockarie's most trusted man and the most important person who
17 could be used to hold Kailahun District; is that right?

18 A. No, My Lord.

19 Q. And I'm putting it to you that Sesay was never demoted;
do
11:22:57 20 you accept that?

21 A. No, My Lord.

22 Q. But you do agree with me that by December 1998 Sesay was
23 given the important task of leading the attack on Kono
District;
24 do you accept that?

11:23:30 25 A. That's not to my knowledge, My Lord.

26 Q. Just so that we're clear about this, witness, you're
saying
27 that in your senior commander position you had no knowledge of
28 Sesay's role in the December 1998 attack on Kono District?
29 A. I did not know that Issa Sesay carried a mission during

SCSL - TRIAL CHAMBER I

Page 34

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 that time.

2 PRESIDING JUDGE: Where were you in 1998, Mr Witness?

3 THE WITNESS: I was at Segbwema, My Lord.

4 MR HARRISON:

11:24:30 5 Q. I thought you had told us last week that you were based
at
6 Pendembu in 1998?

7 A. My Lord, we were talking about December.

8 Q. That's correct. So is what you're saying that in the
month
9 of December you were in Segbwema?

11:24:58 10 A. Yes, My Lord.

11 Q. In the months of October and November, were you in
12 Pendembu?

13 A. Yes, My Lord.

14 Q. Now, witness, I'm going to suggest to you that there was
11:25:14 15 widespread forced farming in Kailahun District in 1997, 1998,
16 1999 and 2000; do you accept that?

17 A. No, My Lord.

18 PRESIDING JUDGE: In what areas did you say again?

19 MR HARRISON: In Kailahun District.

11:25:49 20 PRESIDING JUDGE: And through what years?

21 MR HARRISON: Yes. Maybe if I could restate it for the
22 Court because I made an error.

23 Q. Witness, let me change that to say that from 1996
through
24 to 2000 there was widespread forced farming of civilians in
11:26:05 25 Kailahun, or rather, by civilians, in Kailahun?

26 A. No, My Lord.

27 Q. I'm going to suggest to you that --

28 PRESIDING JUDGE: Forced farming by who?

29 MR HARRISON: By civilians.

SCSL - TRIAL CHAMBER I

to
1 Q. Witness, let me put it to you this way: I'm suggesting
2 you that the RUF forced civilians to farm in Kailahun District
3 from 1996 to 2000; do you accept that?
4 A. No, My Lord.

11:26:51 RUF
5 Q. And I'm suggesting to you that for those same years the
6 forced civilians to farm -- sorry, to fish in Kailahun
District?
7 A. No, My Lord.

8 Q. And I'm suggesting to you that there was also forced
mining
9 at Giema and Mafindor in 1998 and 1999; do you accept that?
11:27:31 10 A. No, My Lord.

11 PRESIDING JUDGE: Forced mining where?
12 MR HARRISON: In Giema and Mafindor.
13 PRESIDING JUDGE: What year, please?
14 MR HARRISON: 1998 and 1999.

11:28:04 place
15 Q. But you do agree with me that there was mining taking
16 at Giema and Mafindor?
17 A. Yes, My Lord, we were trying to mine there.

18 Q. And you agree with me that it was civilians who were
doing
19 the mining; correct?
11:28:28 20 A. Yes, My Lord.

21 Q. And I'm suggesting to you that those civilians who were
22 doing that mining were forced to do so by the RUF; do you
accept
23 that?
24 A. No, My Lord.

11:28:52 25 Q. Witness, I'm suggesting to you that Augustine Gbao was
the
26 overall security commander of the RUF; do you accept that?
27 A. Yes, My Lord.
28 Q. And as such the IDU reported to him?
29 A. Yes, My Lord.

SCSL - TRIAL CHAMBER I

Page 36

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

to
1 Q. And, as the overall security commander, the G5 reported
2 him?
3 A. All the units have their overall commanders, My Lord.
4 Q. And I'm suggesting to you that as the overall security
11:29:58 5 commander the IDU, the G5, MPs, IO, all reported to Augustine
6 Gbao; do you accept that?
7 A. No, My Lord.
8 Q. And I'm suggesting to you that the Joint Security Board
9 reported to Augustine Gbao; do you accept that?
11:30:28 10 A. No, My Lord.
discipline 11 Q. And I'm also suggesting to you that Gbao could
12 whoever he wanted; do you agree with that?
13 A. No, My Lord.

do 14 Q. On Friday, you gave some evidence about Fonti Kanu, and

11:31:05 15 you recall saying that you drove the vehicle to go and get
Kanu?

16 A. Yes, My Lord.

17 Q. And do you recall saying that you drove that vehicle
about

18 20 miles into Liberia to get him?

19 A. Yes, My Lord.

11:31:31 20 Q. This was your vehicle; correct?

21 MR JORDASH: I'm sorry to object. I think that I'd ask
22 that these questions are in a closed session. Clearly, such a
23 distinctive --

24 PRESIDING JUDGE: Yes, it is sustained. We will visit
that

11:31:49 25 during the closed session, please.

26 MR JORDASH: Thank you.

27 MR HARRISON: Yes, I'm obviously not as attuned to what
28 should be in closed session and what should not be. So I
think

29 out of caution --

SCSL - TRIAL CHAMBER I

Page 37

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 PRESIDING JUDGE: You better keep asking.

2 MR HARRISON: -- no, no, I think out of caution I should

3 apply now for the closed session.

4 PRESIDING JUDGE: I see. All right.

11:32:17 5 MR HARRISON: And I would be making the application on
the
6 similar basis for which it was originally --

7 PRESIDING JUDGE: It was originally granted. I don't
think
8 there is any objection from any of the parties. It is granted
9 and we will move into the closed session now.

11:32:34 10 MR HARRISON: Thank you. If I can advise the Court,
11 because there's people here, I would estimate 15 to 20 minutes
12 and that would be the conclusion of the closed session, and
the
13 conclusion of the cross-examination.

14 PRESIDING JUDGE: All right. It means that they can go.
11:32:50 15 They can go away now and maybe come back in 15 minutes or so.
16 Yes. Yes, Mr Cammegh.

17 MR CAMMEGH: Your Honours, before we do move into closed
18 session I wonder if I can raise an issue? It's not an
objection
19 because this wasn't my witness, but it's an observation which

I
11:33:12 20 think is a fair and proper one under the circumstances. It
21 relates to a question put just now by Mr Harrison, or an
22 assertion -- a suggestion when he suggested to the witness
23 that -- a suggestion that Augustine Gbao could discipline
anyone
24 in the RUF who he wanted to.

11:33:40 25 My concern is this is not an assertion that ever, to my
26 recollection, lay within the purview of the Prosecution's
case.

the
power
27 I don't think it's ever been suggested to this Court, in all
28 years that this trial has run, that Augustine Gbao had the
29 to discipline anyone he wanted to in the RUF.

SCSL - TRIAL CHAMBER I

Page 38
SESAY ET AL
28 JANUARY 2008
OPEN SESSION

wrong?
these
1 PRESIDING JUDGE: And if he raises it now, what is
2 He's in cross-examination. If he raises it now, this is --
3 are very senior -- this witness is a very senior person in the
4 movement, [indiscernible] said so and --

11:34:21 5 MR CAMMEGH: Well, the traditional rules of evidence or
6 practice dictate surely that one can only make assertions to
7 witnesses if they are based on some evidential foundation that
8 the Prosecution has raised. Otherwise we reach a situation --

are
think
11:34:35 10 PRESIDING JUDGE: Well, the foundations are that he was
11 responsible, as an IDU commander, responsible for security
12 information and so on; issues of discipline and what have you,
13 which concern various people, you know, in the movement. So I
14 don't see frankly -- it's good you started by saying that you
not objecting. So that observation, we've noted it, but we

11:34:59 15 that Mr Harrison is within the purview of -- he's within his
16 rights, as a cross-examiner, to put his case not only against
the
17 first accused but against the second and third.

18 MR CAMMEGH: With respect, it's never been the case
before,
19 and we can't continue surely to allow the Prosecution to keep
11:35:23 20 evolving their case as we go along, cutting their cloth to
their
21 convenience.

22 PRESIDING JUDGE: No, no, they are not cutting their
cloth
23 to their convenience. We don't share that view. We don't
share
24 that view. If you are raising an objection you better do so
that
11:35:34 25 we --

26 MR CAMMEGH: All right. I'll dress it up as an
objection
27 and to meet --

28 PRESIDING JUDGE: I wonder whether you can raise the
29 objection because he is not -- the witness is off your hands
now.

SCSL - TRIAL CHAMBER I

Page 39 SESAY ET AL

28 JANUARY 2008

CLOSED SESSION

1 MR CAMMEGH: Your Honour, we've had witness after
witness

2 in this trial saying that discipline was within the purview of
3 the G5 and that the G5, as this witness --

4 PRESIDING JUDGE: Mr Cammegh, Mr Cammegh, your
observations

11:35:53 5 don't have their place and you cannot at this point in time
raise

6 them. The witness is no longer within your control. So
that's

7 the decision of the Chamber.

8 Yes. Can we move to the closed session please, and
whilst

9 I'm saying this, I have my eyes on the clock and it's 11:30.
I

11:36:24 10 presume that we should be resuming in a closed session, so the
11 chamber will rise, please, for the recess.

12 [Break taken at 11.36 a.m.]

13 [At this point in the proceedings, a portion of the
14 transcript, pages 40 to 51, was extracted and sealed under
15 separate cover, as the proceeding was heard in a closed
session]

16

17

18

19

20

21

22

23

24

25

26

27
28
29

SCSL - TRIAL CHAMBER I

Page 52

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 [Open session]

2 PRESIDING JUDGE: We are in open session. Thank you.

3 Yes, Mr Jordash, you may proceed, please.

4 MR JORDASH:

12:44:01
when

5 Q. Mr witness, let me just begin that again. On the 24th

hostilities

6 I was asking you questions, you told the Court that

7 had ceased because of a ceasefire when Sankoh had gone for the

8 Abidjan Peace Accord talks. At the time of the Abidjan peace

9 agreement, the hostilities had ceased and then you noted that,

12:44:32

10 "Well, it was after the peace accord the Pa was arrested, then

you

11 they started to attack us again so we, we fought back." Do

12 remember saying that?

13 A. Yes, My Lord.

friend

14 Q. Then today in relation to questions from my learned

12:44:55

15 for the Prosecution, the question was put whether the RUF

of
Peace
16 violated the Abidjan Peace Accord, and it was put in the form
17 an assertion that it was the RUF who violated the Abidjan
18 Accord, and I think it was being suggested that it was the RUF
19 who first violated the Abidjan Peace Accord.

12:45:24 20 MR HARRISON: The Prosecution --

21 THE WITNESS: No, My Lord.

22 MR HARRISON: The basis of the objection is that the
23 question was fully canvassed in direct examination. You are
24 allowed to cross-examine and there's nothing that opens the
door

12:45:39 25 again to be asked the same question in re-examination.

26 PRESIDING JUDGE: Well, you introduced -- Mr Harrison,
27 introduced a notion, you know, of -- that is true, it's in the
28 records, you know, that it was -- and the witness did admit
that
29 it was the RUF, you know, who violated the peace accord, the

SCSL - TRIAL CHAMBER I

Page 53 SESAY ET AL

28 JANUARY 2008

OPEN SESSION

this
1 Abidjan Peace Accord. I think that featured in his evidence
2 morning. Do you -- do you think that it is not a matter that
3 could be visited?

4 MR HARRISON: I think the reason why it cannot be is
12:46:38 5 because it was already dealt with in the direct examination
so,
6 that, for example, if in direct examination a witness says X,
on
7 a cross-examination he says Y, if the Court takes a view that
8 whenever there's a different answer in cross-examination there
9 can be re-examination, then for every inconsistency that
exists,
12:47:03 10 there would always be an entitlement to re-examine. This
matter
11 was dealt with in the direct examination.

12 PRESIDING JUDGE: Thank you.

13 JUDGE BOUTET: Mr Jordash, what is the -- why are you
14 suggesting this is a proper matter for re-examination?

12:47:23 15 MR JORDASH: Because the witness suggested, in relation
to
16 direct examination, that the RUF responded to attacks or
17 violations by the government forces and my learned friend put
--
18 I'm pausing because I know the witness can hear and I don't
want
19 there to be any suggestion that I've fed him information.

12:47:55 20 JUDGE BOUTET: And he's listening to you very
attentively.

21 MR JORDASH: That's why I've stopped. But there's a
lack
22 of clarity that can be cured.

23 JUDGE BOUTET: There's a difference in answers as such
but
24 not a lack of clarity, I can tell you.

12:48:13 25 MR JORDASH: Well, there is a lack of clarity.

26 JUDGE BOUTET: Not in my book.

27 MR JORDASH: May I ask your Honour what Your Honour's

28 understanding is because mine --

as 29 JUDGE BOUTET: I don't have to give you an explanation

SCSL - TRIAL CHAMBER I

Page 54

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

no 1 to what my understanding is. I'm just saying to you there is
2 lack of clarity.

3 MR JORDASH: No, of course not. I'm not suggesting Your
4 Honour does but I'm asking Your Honour to allow the Defence to
12:48:38 5 rectify any lack of clarity.

6 JUDGE BOUTET: Well, those were matters that were quite
7 clear to me. When you asked the question the witness answered
8 with no hesitation as to your question. In cross-examination
he 9 was asked a question that was very clear with no ambiguity in
it
12:49:00 10 and he answered the way he did. The Court will appreciate
what
11 it means.

12 MR JORDASH: I'm not sure the Court will appreciate what
it
13 means because there are two different meanings which one --
could
14 I ask that the witness be taken out please, because I cannot

12:49:14 15 argue the point with the witness here without a suggestion
that I

16 am feeding him information.

17 PRESIDING JUDGE: Can the witness be taken out please.

18 There is nobody behind there. Oh, come on. There's nobody
out

19 there. We're in a closed session anyway. Oh no, we are back

12:49:53 20 into the open session. Okay.

21 [The witness stood down]

22 PRESIDING JUDGE: Yes, Mr Jordash.

23 MR JORDASH: I put my application to re-examine this

24 witness on this point in two ways: The first is a lack of

12:50:24 25 clarity and the lack of clarity is this; that when I
questioned

26 the witness he suggested that it was the government forces who

27 violated the peace accord and they responded defensively, and

28 when my learned friend asked him today the answer leaves this

29 lack of clarity: Was the witness saying today that it was the

SCSL - TRIAL CHAMBER I

Page 55

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 RUF who first violated the peace accord ceasefire or was he

2 saying that the RUF violated it but not first, it was violated

3 first by the government consistent with his answers last week.

the 4 There is that lack of clarity. Those two answers which, on
12:51:10 5 face of it, could be mutually exclusive in that both could not
6 have violated it first, but there is a possibility that both
7 could have violated the ceasefire at one stage or another.
8 That's the lack of clarity.

9 JUDGE BOUTET: The question that was asked was: Do you
12:51:31 10 agree, or words to that effect that the RUF is the one that
first
11 broke the ceasefire. It's not whether it's one or the other.
I
12 mean in cross-examination, not examination-in-chief.

13 MR JORDASH: My learned friend asked was it the RUF who
14 violated the Abidjan Peace Accord. He didn't say was it the
RUF
12:51:54 15 who first violated the RUF Peace Accord. That's why there is
a
16 lack of clarify. Even if I'm wrong about that, and my learned
17 friend said was it the RUF who first violated the Abidjan
Peace
18 Accord, there is a clear contradiction between his answers on
19 last week and his answers today. Both cannot be the case.

12:52:12 20 That's the lack of clarity. I have a second point which is
this:
21 That --

22 JUDGE BOUTET: I agree with you that both may not be the
23 same -- it may not be true. But this is a question for the
Court
24 to appreciate, as to why.

12:52:38 25 MR JORDASH: Apparently, Mr Sesay has picked up a
26 translation difficulty at that time as well.

27 PRESIDING JUDGE: Mr who?

put 28 MR JORDASH: Mr Sesay. Whereby it seems to have been
said 29 that it was the Gios who violated the accord and the witness

SCSL - TRIAL CHAMBER I

Page 56 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

1 yes.
Gios. 2 PRESIDING JUDGE: I didn't hear Gios. I didn't hear
talk 3 No Gios were mentioned here. Did the interpretation booth
4 of Gios?

12:53:04 5 MR JORDASH: Sorry, I'm misreading my note. Sorry.
violated 6 Apparently the question put was: It was not the RUF who
7 the accord and the witness said yes. So, in other words, the
in 8 witness may have been answering a question which -- answering
9 a way which was --

12:53:23 10 PRESIDING JUDGE: The question was put straight to this
--
11 to the witness.

12 MR JORDASH: But in Krio.

13 PRESIDING JUDGE: That it was the RUF, you know, who
14 violated the -- did the translation booth mistranslate?

12:53:38 15 MR JORDASH: My learned friend is saying yes -- Mr Sesay
is

16 saying yes, that it was mistranslated in Krio.

17 JUDGE BOUTET: Who's saying yes? You're saying the
18 Prosecution is saying yes?

19 PRESIDING JUDGE: Mr Sesay is saying so.

12:53:49 20 MR JORDASH: Mr Sesay is saying so, and my learned
friend

21 is shaking his head but he wasn't listening to the Krio
22 translation. Mr Sesay was listening to the Krio translation.

23 PRESIDING JUDGE: I mean -- yes, he can listen, but I
mean

24 how does he come in in this -- we've had -- it was a

12:54:06 25 mistranslation, you know, in the booth?

26 MR JORDASH: That's what Mr Sesay is saying.

27 PRESIDING JUDGE: I'm not asking Sesay; I'm asking the
28 translation booth.

29 MR JORDASH: Oh, sorry.

SCSL - TRIAL CHAMBER I

Page 57

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 PRESIDING JUDGE: Yes.

2 INTERPRETER: Your Honours, we will try to check the FTR
3 and see whether it was a mistranslation, because it's a little
4 difficult for us to recall.

12:54:27 5 PRESIDING JUDGE: This is a very very important and
serious
6 matter and if there was a mistranslation there was no
ambiguity
7 in the question that was put by Mr Harrison. If it was
8 mistranslated then it is a very serious matter because that is
9 where it stands now. That is where we stand. Well, Mr
Jordash,
12:55:01 10 as I've said, this is quite a serious matter and I think we
11 should take a break here. We want the translation booth, you
12 know, to verify this.
13 MR JORDASH: Could I also -- there is another limb to my
14 argument, and that's this: That matters which are cross-
examined
12:55:26 15 upon which have not been cross-examined upon by the Defence
16 should be allowed to be picked up in the re-examination, and
my
17 learned friend put a very direct question to the witness about
18 the RUF violating first. I hadn't put that question in direct
19 and therefore, as such, it can be argued that it's a fresh
topic
12:55:53 20 and a fresh topic can be re-examined upon.
21 My principal application is that there is a lack of
clarity
22 but there is also this point and I rely upon that in previous
23 decisions your Honours have allowed re-examination on issues
24 which have brought up in cross-examination.
12:56:11 25 JUDGE BOUTET: I will say for my part I will not buy
this
26 because you raised the issue about the peace accord first in
your
27 examination-in-chief. Whether or not -- I can't argue with
you

first

28 that you did not put to your witness that it was -- who was
29 or not. I remember the question was that along the lines that

SCSL - TRIAL CHAMBER I

Page 58

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

said,

12:56:46

it

question

is

it

think

that

I

1 you mentioned. Now, it's a subject matter that was raised in
2 examination-in-chief, it was covered in cross-examination. I
3 mean, and they are perfectly entitled to do that. Now if the
4 different issue which is as the learned Presiding Judge has
5 is if what has been asked of the witness was translated
6 differently as such, well, this is quite a different issue and
7 may be that this is what led the witness to answer the
8 the way he did. If that is the case it's a totally different
9 issue.

12:57:00

10 PRESIDING JUDGE: What I want to say here as a follow-up
11 that yes, you never asked in your examination-in-chief whether
12 was the RUF who first violated the peace accord. I do not
13 that Mr Harrison, in his cross, suggested either, you know,
14 the RUF first violated the peace accord. His question was --

12:57:23 15 mean, he suggested to the witness, you know, that it was the
RUF,
16 you know, who violated, you know, the peace accord. The issue
of
17 who first violated, it never came out clearly in his -- in his
18 question that was put to the witness.

19 MR JORDASH: If that's the case your Honour --

12:57:42 20 PRESIDING JUDGE: We can cross-check the records. I
21 mean -- yes.

22 MR JORDASH: Sorry, Your Honour, I didn't mean to
23 interrupt.

24 PRESIDING JUDGE: No, no, no. Yes.

12:57:51 25 MR JORDASH: If that's the case, and my learned friend
I'll 26 meant "did at some point the RUF violate the peace accord,"
27 let the matter rest. But if my learned friend meant by his
28 question "did they first" then my -- I would seek to re-
examine.
29 So I suppose it's in my learned friend's hands to -- if he
agrees

SCSL - TRIAL CHAMBER I

Page 59

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 with your Honour, he will say; if he doesn't he won't.

2 JUDGE BOUTET: I do not have in my notes that he used
the

Peace 3 word "first". I have that he said RUF violated the Abidjan
but 4 Accord. It may be that Justice Itoe has something different
12:58:29 5 that's all I have.
6 PRESIDING JUDGE: That's what I'm saying, you know, he
7 didn't say "first". Mr Jordash did not say "first" either so
we 8 have --
9 JUDGE THOMPSON: And my recollection too is that the
term 10 "first" was not used.
11 PRESIDING JUDGE: This is it.
12 MR JORDASH: In that case --
13 JUDGE THOMPSON: It was a broad allegation.
14 MR JORDASH: Well --
12:58:46 15 PRESIDING JUDGE: You never violated, anyway, it was --
the 16 responsibility was placed on the other side. They say, you
know, 17 it's like --
18 MR JORDASH: If the records then reflect the answer he
gave 19 to me, which was that it was the government forces who first
12:59:04 20 breached the Abidjan Peace Accord, and then the answer today
that 21 the RUF violated the Abidjan Peace Accord at some time, I can
22 live with that.
23 JUDGE THOMPSON: Yes.
24 PRESIDING JUDGE: No, but I still -- I still will want
to 12:59:19 25 probe the issue of the mistranslation which Mr Sesay is
alleging.

26 It is important that we get that properly on record.

27 JUDGE THOMPSON: I can emphasise -- I can emphasise that

I

28 do not remember that it was an issue of comparative

29 blameworthiness. It wasn't that.

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 60

28 JANUARY 2008

OPEN SESSION

1 MR JORDASH: It's our case that the government forces

RUF

2 violated the peace accord first, the RUF responded, and the

Peace

3 by that response could be said to have breached the Abidjan

clarity,

4 Accord terms. That's our case. So there is no lack of

13:00:00

5 it would appear.

inquiry,

6 PRESIDING JUDGE: I think pending this very brief

7 and in order to enable you also to be in possession of the

8 transcripts to know to what extent you might be able to

resume

9 re-examine, we can break off, you know, for lunch here and

13:00:26

10 the session at 2.30, in the hope that the transcript will have

would

11 been made available to you and that the translation booth

you

12 have checked their records to let us know the truth behind,

question 13 know, Mr Sesay's allegation on the mistranslation of the
14 that was put by Mr Harrison.
13:01:15 15 The chamber will recess for lunch, please. Let's rise.
16 [Luncheon recess taken at 12.51 p.m.]
17 [RUF28JAN08C - DG]
18 [Upon resuming at 2.47 p.m.]
19 PRESIDING JUDGE: We are in -- we are in an open
session,
14:57:08 20 aren't we.
21 MR GEORGE: Yes, Your Honour.
22 PRESIDING JUDGE: Yes, Mr Jordash, but if I may, I don't
23 know if the translation booth has anything to report back to
the
24 Tribunal?
14:57:26 25 THE INTERPRETER: Yes, My Lord, we do have.
26 PRESIDING JUDGE: May I ask what it is you have?
27 THE INTERPRETER: Yes, Your Honour, we have to confess
that
28 there has been a case of misinterpretation, and when we
checked
29 the transcript, that is page 18 of the transcript line 5, line
2

SCSL - TRIAL CHAMBER I

1 to 5, time 10:35:56. The learned attorney for the Prosecution
2 posed the following question to the witness:

3 "Q. Witness, I am going to suggest that it was, in
fact,
4 the RUF that violated the Abidjan Peace Accord; do you
14:58:09 5 agree with that?"
6 They interpreted into Krio. The Krio interpreter said:
7 "Witnes, a de kam sojes to yu se noto bin di RUF we bin
8 pwel di Abidjan Peace Accord, noto so."
9 In this case, Your Honours, if this were to be
translated
14:58:27 10 into English, that is the response of the interpreter, it will
11 read, as opposed to the question of the learned attorney for
the
12 Prosecution:
13 "Witness, I am coming to suggest to you that it was not
the
14 RUF that violated the Abidjan Peace Accord; do you
agree?"
14:58:48 15 Hence the witness's response. "Yes, My Lord."
16 In this regard, Your Honour, we want to say that we
17 profoundly and profusely --
18 PRESIDING JUDGE: You can't profoundly and profusely.
This
19 is a very, very serious allegation. And it has been proven
that
14:59:09 20 there is evidence of negligence from you in the translation
booth
21 because this sort of deforms the record and it can lead to all
22 sorts of errors in the verdict that this Court is going to
take
23 and that is very, very serious. And I hope that that has not
24 been the trend.

14:59:34 25 THE INTERPRETER: No, Your Honours.
26 PRESIDING JUDGE: It's not a question of "no." I mean,
it
27 is very, very serious. I would like this to go on record and
to
28 be brought to the attention of the Registrar. It is very very
29 serious, and I view it very very seriously, just as my
colleagues

SCSL - TRIAL CHAMBER I

Page 62

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 do. And I will tell you that when the -- when Mr Harrison put
2 the question -- put the question, the suggestion to the
witness,
3 and the witness agreed that it was the RUF who breached the
4 accord, I mean, I almost stepped in, but I said: Well, he has
15:00:13 5 provided the answer. But I now know the circumstances under
6 which that answer was provided by this witness.

7 Yes, Mr Harrison you've heard what has come from the
8 translation booth. I don't know what your response to that is
9 because your question was totally mistranslated to the
witness.

15:02:28 10 In terms of what you have as a reply there it is inaccurate,
in
11 terms of even what we have in the records as a reply provided
by

the

12 the witness to this question. I mean, it's -- it falsifies
13 records. So I don't know what your position is before we take
14 our stand on this.

15:02:55 15 MR HARRISON: The Prosecution did not intend to state a
16 misleading question.

the

17 PRESIDING JUDGE: Not at all; not at all. It was not --
18 it's not your fault, Mr Harrison, absolutely not your fault.
19 None of us followed the translation from English to Krio to
20 witness. So it's not your fault at all.

15:03:11

Prosecution

21 MR HARRISON: We simply accept what has been corrected.
22 We take that to be a corrected transcript now and the
23 is not going to ask the Court to reopen the cross-examination.
24 If I misunderstood you as to what it is you're seeking the
15:03:36 25 Prosecution to say --

the

We

26 PRESIDING JUDGE: I just wanted to, because it affects
27 records as far as you are concerned and we couldn't close it.
28 know where we are coming from, but we didn't think we should
29 arrive at that decision before knowing from you what your

SCSL - TRIAL CHAMBER I

1 reaction is to this.

2 JUDGE THOMPSON: Happily, in fact, the position that has
3 now been reported from the booth does not in any way bring
about
4 any complication of the issue which was the one for
15:04:07 5 re-examination. So that is not a problem. The question is,
erroneous
6 clearly, whether you can concur that there has been an
proposed
7 interpretation of your question and whether what is now
the
8 is a faithful reproduction of what transacted between you and
9 witness.

15:04:32 10 MR HARRISON: Yes, I think in all cases the Prosecution
11 accepts the corrections that are offered by the translators
and
12 in so in this case.

13 JUDGE THOMPSON: I'm happy that the issue is not
14 complicated in the context in which we were discussing it this
15:04:49 15 morning.

16 PRESIDING JUDGE: Well, in the light of the statement
we've
17 had from the translation booth, admitting that there was a
18 mistranslation of Mr Harrison's question to the witness, from
19 English to Krio, we do order that the record of proceedings be
--

15:05:34 20 the transcript be rectified to reflect the correction as has
been
21 stated by the translation booth, and that the witness indeed
did
22 not admit that it was the RUF that broke the peace accord, in
23 answer to the question put to him by Mr Harrison . I think
that

24 is a reflection of the record.

15:06:17 25
examination

26 on this issue may be laid to rest, I suppose?

27 MR JORDASH: Certainly. There's no lack of clarity.

28 PRESIDING JUDGE: Right.

29
transcript

MR JORDASH: The issue I wanted to check on the

SCSL - TRIAL CHAMBER I

Page 64

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

question

1 I've checked, and I don't wish to ask questions in relation to
2 that. I would like to ask a question, if I may, about another
3 aspect of the cross-examination, and it relates to the

4 put about Francis Musa.

15:07:01

5 Q. Good afternoon, Mr Witness.

6 A. Good afternoon.

7 Q. You gave evidence about Francis Musa conducting an
8 investigation into the first group of detainees who were
9 subsequently released; do you recall that?

15:07:26

10 A. Yes, My Lord.

11 Q. It was then put to you by my learned friend for the

Spur

12 Prosecution that Francis Musa had himself been arrested at

13 Loop; do you recall that?

14 A. Yes, My Lord.

15:07:51 15 Q. The question I would like to ask is if you know what
16 happened to Francis Musa after he had been arrested at Spur
Loop
17 and whether he went through any sort of proceedings and
whether
18 there was a resolution to those proceedings?

19 A. Yes, I'll explain a little. When we were all arrested
15:08:17 20 during that time, May 8th, we were all taken to Pademba Road.
We
21 were there up to six years then we were released all together.

22 Q. Do you know if Musa was tried and whether there was a
23 result of the trial?

24 A. Yes; we won the case.

15:08:43 25 Q. Thank you. The final issue is this: My learned friend
for
26 the Prosecution made various suggestions about your loyalty to
27 the RUF, and I think the suggestion was, but it wasn't put in
28 this way, the suggestion was that that loyalty has led you to
29 come here today --

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 65

28 JANUARY 2008

OPEN SESSION

1 PRESIDING JUDGE: But how does that arise? How does
that

aspect 2 come in for purposes of re-examination? That particular

3 of it, how does it come in?

4 MR JORDASH: Well, it comes through this witness being
15:09:33 5 challenged, and the --

6 PRESIDING JUDGE: I wouldn't think that this is a proper
7 subject for re-examination. I wouldn't think so.

8 MR JORDASH: Well, if I may be allowed to advance an
9 argument?

15:09:48 10 PRESIDING JUDGE: Can the witness leave the Courtroom
11 please, before you advance your argument, because I need to be
12 convinced on this.

13 [The witness stood down]

14 MR JORDASH: My application is to re-examine on this
point

15:10:56 15 for two reasons: One, that it has been left -- the records
have

16 been left with a degree of a lack of clarity. And two --

17 PRESIDING JUDGE: A lack of clarity that your client did
18 not -- rather the witness did not mean to say that he is
19 committed to the RUF?

15:11:21 20 MR JORDASH: No. A lack of clarity concerning what that
21 means. My learned friend cross-examined the witness to

22 that he was loyal to the RUF, and the overall suggestion which
23 was not put but which was floated, and will be put in a
closing

24 submission, is that the witness was loyal to the RUF and that
has

15:11:47 25 led him to this Courtroom to lie. The lack of clarity exists
26 because --

it

27 PRESIDING JUDGE: What is wrong with that suggestion, if
28 is put to him?

29 MR JORDASH: Nothing, if it's put to him. But it hasn't

SCSL - TRIAL CHAMBER I

Page 66

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

loyalty.

1 been put to him. What's been floated is the witness's
2 But then my learned friend hasn't put to the witness the
3 suggestion in a full frontal manner to give the witness an
4 opportunity to deal with it. It's just been: You're loyal to
15:12:17 5 this, you're loyal to that, you're loyal to Mr Sesay, you're
6 loyal to the RUF, and so on, but not once did my learned
friend
7 say: And that led you here to come and lie. So the witness
has
8 not had an opportunity to deal with that suggestion.

friend

has

it

9 PRESIDING JUDGE: But this witness was told on several
15:12:33 10 times that he is lying; in the course of the cross-examination
11 was put to him that he was lying.

the

12 MR JORDASH: He hasn't had an opportunity to deal with
13 suggestion that he's lying because of this loyalty to the RUF
14 movement or to Sesay or --

15:12:52 15 JUDGE BOUTET: When there was a need, and the witness
felt
16 that there was a need for amplification, additional
explanation,
17 he's never been afraid to say: Well, can I speak or would say
I
18 would need to say more. So, I mean, it was quite open to him
if
19 he felt, the witness, that he had to add something to that,
and
15:13:14 20 he could do it at that time, if needed, as such.
21 MR JORDASH: Perhaps the witness isn't unclear but I'm
22 suggesting the records are unclear.
23 PRESIDING JUDGE: We are listening to the witness, not
to
24 you, counsel. It's the witness testifying; it isn't you
15:13:30 25 testifying in his place.
26 MR JORDASH: I agree. But what I'm suggesting is that
the
27 witness may not perceive there to be a lack of clarity. I'm
28 suggesting that my learned friend's approach to the issue has,
in
29 fact, led to a degree of a lack of clarity because the witness

SCSL - TRIAL CHAMBER I

Page 67

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

1 has not had the allegation made in a full and proper way to

2 enable him to grasp it and deal with it and respond to it.

3 PRESIDING JUDGE: I think in fairness to Mr Harrison, he
4 has been very forthright in this. He's been as clear as
anybody
15:14:08 5 could on the record in making his suggestions to this witness;
6 that much I could say.

7 MR JORDASH: Well, in fact --

8 JUDGE THOMPSON: You take the -- in what sense has the
9 examination-in-chief been adversely affected by that
particular

15:14:31 10 issue? Because I don't remember it coming up in
11 examination-in-chief. But in what sense is your client
12 prejudiced where the witness, testifying on his behalf, says
that
13 he was loyal to the RUF and, by reason of that loyal to your
14 client as commander of the RUF, one of the commanders of the
RUF,

15:14:57 15 what is the prejudice that you are trying to redress here, so
to
16 speak?

17 MR JORDASH: I'm not trying to address prejudice at the
18 moment, I'm trying to address the lack of clarity.

19 JUDGE THOMPSON: Good. All right. Let me concede that
for

15:15:14 20 the sake of argument. What benefit, in terms of evaluating
that

21 kind of evidence, or that piece of evidence, does the Tribunal
22 derive? In other words, what are you seeking to enlighten me
as

23 a member of the Tribunal about? What will I be missing if you
24 are not allowed to clarify what you purport needs to be

15:15:38 25 clarified?

allegation

26 MR JORDASH: Well, the witness's response to the
27 that he's lying because of loyalty to the RUF. He may say
28 something which persuades you absolutely that despite that
29 loyalty he would nevertheless not breach the oath in Court.

SCSL - TRIAL CHAMBER I

Page 68

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

were

15:16:14
upon a

take

15:16:34
and

submit.

1 It seems to me a that it is a bit artificial for us to
2 leave the Courtroom, the Prosecution put in their closing
3 speeches, as inevitably they will, all the Defence insiders
4 lying because of loyalty to the RUF, and the Defence to simply
5 respond and say: No, they're not, but not be able to rely
6 witness's answer and say: Look, this establishes. You can
7 this witness answer as good evidence that despite that loyalty
8 they wouldn't -- he didn't come to this Court --

9 JUDGE THOMPSON: So you're saying that the Prosecution
10 sought to establish a nexus between the allegiance to the RUF
11 also the -- his theory that the witness is lying? In other
12 words, there is a correlation here.

13 MR JORDASH: Yes, but didn't put it fairly, I would

complete 14 JUDGE BOUTET: But it may be that my notes are not
15:16:53 15 on this but I don't have in my notes that the question was
asked
16 about loyalty to the RUF. The question that was asked was
17 loyalty to Sankoh, that he was his driver, and therefore
18 obviously he had a great deal of loyalty to Sankoh. And from
19 there he moved to -- the Prosecution moved to some other area.
15:17:13 20 So the loyalty to the RUF, as a question, according to my
notes,
21 was not asked of this particular witness.
Loyalty 22 MR JORDASH: It was. It was asked. It was asked:
23 to the RUF, loyalty to Sankoh and --
24 PRESIDING JUDGE: Being friendly to Sesay as well.
15:17:28 25 JUDGE BOUTET: That's fine.
26 PRESIDING JUDGE: To the extent of -- he suggested to
him
27 that he was even a brother --
28 JUDGE BOUTET: Yeah, yeah. All of these questions were
29 asked.

SCSL - TRIAL CHAMBER I

Page 69

SESAY ET AL

28 JANUARY 2008

OPEN SESSION

has 1 PRESIDING JUDGE: -- to Sesay in a sense because Sesay

2 a child with his sister.

3 JUDGE BOUTET: Yes, yes.

4 MR JORDASH: So my learned friend wants to take -- wants
to
15:17:52 5 be able to rely upon that loyalty, but doesn't then want to
6 elicit an answer from the witness which might put a different
7 interpretation on the meaning of that loyalty. So he wants
the
8 loyalty but without the witness being given a proper
opportunity
9 to explain what that means in the context of the oath he's
made
15:18:23 10 to this Court.

11 JUDGE THOMPSON: But the witness has expressly said he's
12 not lying here. So, doesn't that take care of the question of
13 whether he's lying out of loyalty or allegedly lying out of
14 loyalty or as a result of friendship or as a result of some
15:18:42 15 relationship of affinity?

16 MR JORDASH: Well, Your Honours, I'm not going to push
the
17 point because it's not a crucial one but I do --

18 JUDGE THOMPSON: Yes. You say he's denied that he's not
19 come here to lie.

15:18:55 20 MR JORDASH: Yes, but I do think it perhaps would be
better
21 for witnesses to be given the opportunity to put in their own
22 words, perhaps, why they have come to --

23 PRESIDING JUDGE: This is what we have done all along.
24 Each time.

15:19:12 25 MR HARRISON: Wanted to press this witness with another
26 question, and the witness said: "I had something to say, I
had

27 an explanation to offer." I stopped and asked the witness to
28 explain himself, and he kept explaining himself on issues
where
29 he expressed the view, you know, where he expressed the desire
to

SCSL - TRIAL CHAMBER I

Page 70 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

1 explain himself.
2 MR JORDASH: Indeed. But there's no lack of clarity to
the
3 question and it seems the witness understood the question:
Are
4 you loyal to the RUF, in the context of that question. I
don't
15:19:44 5 understand it in that way. I understand it in a way that my
6 learned friend is going to rely upon it in submissions as the
7 basis upon which you can be invited to disbelieve the witness.
8 The witness may not have understood it in that way. That's
why
9 it is unfair. That's why my learned friend, when this has
15:20:04 10 happened on this side of the room, has relied upon Browne v
Dunn
11 constantly. Unless the party put the case to the witness, and
12 allows the witness to deal with it, then there's something
amiss
13 and that's what I suggest my learned friend should have done,
in

14 accordance with Browne v Dunn, which I have never read but I
note
15:20:25 15 pretty well now because of the Prosecution case and the stance
16 they have taken in relation to that case, that's what the
17 Prosecution should do. Not float a veiled suggestion, have
the
18 witness agree to the statement as it appears on the face of
it,
19 and then run away to their rooms and write a closing
suggesting
15:20:42 20 that you can infer more from it than the witness has been
allowed
21 to answer to.
22 PRESIDING JUDGE: You see, your witness, your witness
has
23 been -- I mean, again, we will come back to what we have said.
24 It was suggested to your witness by.
15:21:01 25 MR HARRISON: Not once, not twice, that he is lying;
that
26 he is lying. He rejected that suggestion several times. At
all
27 times it was put to him that he was lying, he said he was not
28 lying. So, I think we understand him to mean that even if he
29 admitted somewhere that he was loyal to the RUF, he is not
lying

SCSL - TRIAL CHAMBER I

SESAY ET AL

on 1 in his evidence, which is what we are largely going to depend

2 anyway. It is what he has said on the record that we are
3 going -- it's not -- I mean, the primary in determining the
4 credibility of this witness, we would have to look at the
record

15:21:43 5 and what he has said and what other witnesses have said.
Other

6 issues are subsidiary and secondary. The issue of whether he
is
7 lying or not will come into play when we start analysing the
8 evidence in its entirety, so --

9 MR JORDASH: I've made my submissions. I think if my
15:22:05 10 learned friend seeks to rely upon that kind of connection
between
11 loyalty and truth then --

12 JUDGE THOMPSON: You can argue legally on this issue
that
13 perhaps there's legally no nexus, in fact, between -- it is
14 possible to take that position.

15:22:23 15 MR JORDASH: But it is fair that the witness be given a
16 chance to comment on.

17 PRESIDING JUDGE: We are very very certain that this
18 witness has categorically denied and rejected any suggestion
of
19 his lying before this Tribunal and we are taking him for what
he
15:22:38 20 has said.

21 MR JORDASH: The only point I make, and I'm not going to
22 press it any further, the only point I make is, like Your
Honours
23 have said, this is about what the witnesses say. Perhaps the

lying 24 witness had something to say about the suggestion that he's
15:22:48 25 because of loyalty to the RUF. Unless it's put to him
26 squarely --
27 PRESIDING JUDGE: But is it? Incidentally, you that
this 28 is not the only witness to whom it has been put, that he has
been 29 loyal to --

SCSL - TRIAL CHAMBER I

Page 72 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

1 MR JORDASH: Yes.
2 PRESIDING JUDGE: -- but this application has not been
made 3 by you.
4 MR JORDASH: It hasn't and that's remiss of me.
15:23:01 5 PRESIDING JUDGE: Well, that is it.
6 MR JORDASH: And I had decided after --
7 PRESIDING JUDGE: And it was right that you did not make
it 8 at that time.
9 MR JORDASH: Well, I think, Your Honours decide what is
15:23:12 10 right. I can but disagree with it.
11 JUDGE THOMPSON: Well, I can say that as a matter of --
as

12 a propositional issue I cannot say that there is anything that
13 persuades me that there is some kind of fundamental nexus
between
14 loyalty and speaking the truth or lying. I mean, as a
15:23:33 15 proposition, just as a proposition, you know, so one would
need
16 to be persuaded on the basis of the evidence because there
could
17 be cases where people in fact speak the truth without any
regard
18 to loyalty issues.

19 MR JORDASH: Yes.

15:23:51 20 JUDGE THOMPSON: And there could be cases where people
lie
21 without any regard to loyalty issues. So, it's a completely
22 complex issue which I don't think just rests with the
evidential
23 response.

24 MR JORDASH: No, perhaps he's assisted by it sometimes.

15:24:09 25 JUDGE THOMPSON: Well, perhaps I --

26 MR JORDASH: That's my only point, but I've made my
point.
27 Your Honours are against me --

28 PRESIDING JUDGE: But, in any event, I think that --
yeah,
29 let the witness come in please.

SCSL - TRIAL CHAMBER I

SESAY ET AL

1 MR JORDASH: I have got no further questions.

2 PRESIDING JUDGE: Right. Okay. Maybe it's just to
3 formally say on the record that the Tribunal -- the Tribunal
4 denies your bid to re-examine on this issue of the suggestion
15:24:43 5 having been made to the witness, you know, that because of his
6 commitment and loyalty to the RUF he is lying. The Tribunal
is
7 very clear on this. We are denying any opening to re-examine
on
8 that issue.

9 [The witness entered Court]

15:25:00 10 MR JORDASH: Therefore, I should probably say in the
11 presence of the witness I don't have any more questions.

12 PRESIDING JUDGE: That's right. Okay.

13 JUDGE BOUTET: Maybe you should leave the curtains where
14 they are.

15:25:50 15 PRESIDING JUDGE: We did resume this session from a
closed
16 to an open session and, in the course of the examination-in-
chief
17 and cross-examination of the witness, we moved in and out of
18 closed session testimonies, and I did say, the Tribunal did
say
19 that we are going to issue a global ruling on this at the end
of
15:26:27 20 his testimony and in an open session.

21 This is the ruling of the Chamber in respect of the
closed
22 session application made by various parties, I'm referring to
Mr
23 Jordash for the first accused, Mr Ogeto for the second accused

24 and.

15:26:47 25 MR HARRISON: For the Prosecution. Consistent with the
conducted 26 general requirement that criminal proceedings are to be
and 27 in public, as enjoined by Rule 78 of the Rules of Procedure
28 Evidence of this Court, and taking into consideration the
29 provisions of Article 17(2) of the Statute of the Court, but

SCSL - TRIAL CHAMBER I

Page 74 SESAY ET AL
28 JANUARY 2008 OPEN SESSION

Rules, 1 exceptionally as authorised by Rule 79(A)(i) of the said
2 and the need to protect witnesses as provided for in Rule 75,
3 this Chamber, on the application of the counsel, learned
counsel 4 who I have mentioned, for a certain portion of the testimony
of 5 DIS-174 to be heard in closed session did, by way of an
15:27:43 6 exceptional procedure, grant the said application for the
reasons 7 advanced in support thereof by the respective parties who, at
8 various stages, made this application.

9 Having come to the end of the testimony of this witness
in
15:28:14 10 an open session the Tribunal now thinks that it can now
release

your
11 him and, Mr Witness, you are released and you may retire to
12 place of abode. We thank you for coming to make your evidence
13 available to this Court, to this Tribunal. It has been quite
14 extensive, which shows that you had a lot of knowledge about
what
15:28:46 15 was happening in the RUF because you experience in the RUF
runs
16 as far back as the 1990s, early 19902. So we are happy that
you
17 were able to come and provide us with your testimony, and we
18 thank you very much. We wish you all the best in the pursuit
of
19 your career. Thank you, Mr Witness.

15:29:04 20 THE WITNESS: Thank you, My Lord.

21 [The witness withdrew]

22 PRESIDING JUDGE: I'm sorry, I think for the record the
23 witness is DIS-157.

24 MR JORDASH: The one that's just gone is 157.

15:30:09 25 PRESIDING JUDGE: Yes, 157, yes. Yes, that's the
witness,
26 that's the one I was referring to. There was another, I
referred
27 to DIS-174, please, this ruling related to the testimony in
28 closed session of DIS-157. Now, I think we may now proceed
with
29 the evidence of DIS-164.

1 MR JORDASH: Yes. Apparently the Prosecution have no
2 objection to putting the photograph at this stage.

3 PRESIDING JUDGE: But we need the witness on the stand,
4 don't we?

15:30:47 5 MR JORDASH: Yes. I think we're in closed session also,
6 when we parted company with 164, we were in a closed session.

7 PRESIDING JUDGE: Yes, were in a closed session. We
have
8 to go back to a closed session then; is that your wish?

9 MR JORDASH: Yes, please. I made the application for
the
15:31:06 10 whole of the testimony to be --

11 PRESIDING JUDGE: For the entire testimony.

12 MR JORDASH: Yes.

13 JUDGE BOUTET: Of 164; right?

14 MR JORDASH: Of 164.

15:31:19 15 JUDGE BOUTET: Yes, okay.

16 PRESIDING JUDGE: Yes. You applied for the entire
17 testimony to be given in a closed session. This was the 24th
18 of -- on the 22nd of January?

19 MR JORDASH: Yes, Your Honour.

15:32:07 20 PRESIDING JUDGE: Yes. Court management, if you can
take
21 us back to the closed session, please.

22 COURT MANAGEMENT: Yes, sir.

23 PRESIDING JUDGE: Right. Mr Jordash, this is your 24th

24 witness; this is the 24th Defence witness, I suppose?

15:32:45 25 MR JORDASH: Yes, I think that's right, yes.

26 PRESIDING JUDGE: It's the 24th?

27 MR JORDASH: Yes.

28 PRESIDING JUDGE: He's DIS-164?

29 MR JORDASH: Yes.

SCSL - TRIAL CHAMBER I

SESAY ET AL

Page 76

28 JANUARY 2008

OPEN SESSION

1 PRESIDING JUDGE: DIS-164, he is the 24th witness?

2 MR JORDASH: Yes.

3 [At this point in the proceedings, a portion of the
4 transcript, pages 77 to 110, was extracted and sealed under
5 separate cover, as the proceeding was heard in a closed

session]

6 [Whereupon the hearing adjourned at 5.30

p.m.

7 to be reconvened on Tuesday, the 29th day of
8 January 2008 at 9.30 a.m.]

9

10

11

12

13

14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

SCSL - TRIAL CHAMBER I

EXHIBITS:

Exhibit No. 281A

79

Exhibit No. 281B

79

WITNESSES FOR THE DEFENCE:

WITNESS: DIS-157 2

CROSS-EXAMINATION BY MR HARRISON 3

RE-EXAMINED BY MR JORDASH

50

WITNESS: DIS-164

77

EXAMINED BY MR JORDASH

77