

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

TUESDAY, 12 FEBRUARY 2008  
9.54 A.M.  
TRIAL

TRIAL CHAMBER I

Presiding

Before the Judges:

Benjamin Mutanga Itoe,  
Bankole Thompson  
Pierre Boutet

For Chambers:

Ms Sandra Brown  
Mr Felix Nkongho  
Mr Colin Smith

For the Registry:

Mr Thomas George

For the Prosecution:

Mr Charles Hardaway  
Mr Reginald Fynn

For the accused Issa Sesay:

Mr Wayne Jordash  
Ms Sareta Ashraph  
Mr Mikael Eckman

For the accused Morris Kallon:

Mr Kennedy Ogeto  
Ms Tanoo Mylvaganam

For the accused Augustine Gbao:

Mr John Cammegh

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1 [RUF1FEB08A-DG]  
2 Tuesday, 12 February 2008  
3 [Open session]  
4 [The accused present]  
5 [Upon commencing at 9.54 a.m.]  
6 [The witness entered Court]

7 PRESIDING JUDGE: Good morning learned counsel. I hope  
8 that after the week's break, that was necessitated by judicial  
9 necessities we are now poised to continuing the proceedings  
09:55:04 10 smoothly to their logical conclusion up to the end of this  
11 session which is envisaged for the 13 March 2008, and we count  
on  
12 the parties to ensure that we do not have any interruptions to  
13 these proceedings any more, which would delay the  
expeditiousness  
14 of the process. So this said, I see the witness on the stand.  
09:55:58 15 Mr Hardaway, you have something to say.

16 MR HARDAWAY: Yes, Your Honour. As it relates to this  
17 particular witness in the stand, who I believe is DIS-127, the  
18 Prosecution would be making a motion. It could be argued now  
or  
19 at the time of the Prosecution's cross for an adjournment of  
the  
09:56:31 20 Prosecution's cross-examination of this witness for one week.  
21 Now, I can argue the points now if the Court wishes, or, at a  
22 time that would be deemed appropriate for the Chamber. I rise  
23 reluctantly, in terms of this motion especially giving the --

24 PRESIDING JUDGE: You say it's DIS what?

09:57:03 25 MR HARDAWAY: 127.

26 PRESIDING JUDGE: Mr Jordash, do you confirm that?

27 MR JORDASH: Yes, I do. Could I also come into this  
28 discussion at this stage that I would be -- well I -- we would  
29 find it useful to hear Mr Hardaway at least, at least an  
outline.

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he 1 Because clearly his objections must be based on the evidence  
2 anticipates to hear. If he outlines what that evidence is and  
3 his concerns, it may well be, I can deal with that in chief by  
4 not dealing with that evidence. Because we've called this  
09:57:49 5 witness for a particular purpose, and it may be that we do not  
6 need to deal with the section of evidence which concerns my  
7 learned friend. So, it would be useful to us to hear what his  
8 objections are going to be.

not 9 JUDGE BOUTET: I hope this is not a game -- and this is

09:58:10 10 necessarily [indiscernible] of the Prosecution that we are  
going

11 to embark upon, an episode of late disclosure that would cause  
12 all sorts of motions of that nature as well. I hear what you  
are

a 13 saying Mr Jordash, and if what this witness is called for even  
to 14 very limited purpose, which I appreciate which is welcome news  
09:58:25 15 me at least, we'll all be focusing with witnesses, but the  
this 16 Prosecution is ignorant of what you are intending to do with  
17 witness, they have to assume that everything that you have  
18 disclosed is open for examination-in-chief and [indiscernible]  
19 that may explain. But I don't know. I cannot speak on their  
09:58:47 20 behalf. I know as much as you, do, because that's what we  
heard.  
time 21 But I would wish and hope that -- I know you've been granted  
result 22 last week to prepare for witnesses but it may be that as a  
23 of that, based on past experience that you have disclosed more  
the 24 information, and then I hope that's what I mean, this is now  
09:59:12 25 trigger mechanism for more obligation for -- and I hope that  
is 26 not the case, because we'll never see the end of the day with  
27 this. If by granting an adjournment causes more difficulty on  
we 28 the other side and they are asking for an adjournment, I mean,  
29 are no further ahead in this trial.

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1 MR JORDASH: But I don't know precisely what  
Prosecutions  
2 objections are going to be.

3 PRESIDING JUDGE: Well, I don't know. I was just asking  
4 evidence myself the question. Mr Hardaway, what if we took the

09:59:39 5 of this witness, you know, if we took it and we went through  
the  
6 cross-examination at that time you would have known -- you  
would

7 have been ceased of the evidence that the witness has given  
8 before this Tribunal and you would then be able to determine  
9 whether this application is necessary or not for you to ask  
for

10:00:10 10 an adjournment for one week, in order to cross-examine the  
11 witness.

12 Because, Mr Jordash says that you may well not be as  
13 trained to this alternative, you know, of asking for an  
14 adjournment.

10:00:29 15 MR HARDAWAY: Well, Your Honour, I am not asking for the  
16 adjournment of the testimony period. It's just for the  
17 Prosecution's cross-examination, and even as such, that would  
no  
18 way prevent the presentation of other witnesses.

19 PRESIDING JUDGE: Because you said you wanted to make  
the  
10:00:48 20 application now.

21 MR HARDAWAY: Yes I can make, I can make the points now.

22 JUDGE THOMPSON: But aren't you being pre-emptive? What  
23 material do you have in your possession which seems to

to 24 precipitate the movement towards the direction that you want  
10:01:04 25 take the Court, which the Court may not be privy to? And  
isn't 26 it, as the other Judges have said, more prudent, and as Mr  
27 Jordash is requesting, that you wait until the  
intend 28 examination-in-chief, and see whether this step that you  
- I 29 to take may well be necessary? Because it would sound as if -

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1 mean, of course one doesn't expect you to disclose all your  
2 forensic cards at this stage, but it would sound as if the  
3 application that you intend to make may well be essentially  
4 pre-empted.  
10:01:59 5 MR HARDAWAY: Your Honours, this is relation to  
6 information -  
7 PRESIDING JUDGE: And you may well, I mean you're asking  
8 for one week, you know. There again it depends on how the  
9 Chamber will look at that application.  
10:02:06 10 MR HARDAWAY: Of course --  
11 PRESIDING JUDGE: It's -- there is, there's several  
12 possibilities. I mean, it will well be you may not need, you

13 know, you eventually not need the application, or rather the  
14 adjournment, at all for the cross-examination. Or it may well  
be  
10:02:22 15 that even if there were a necessity to grant you the  
adjournment  
16 it wouldn't be for one week, because every application should  
be  
17 examined on its own merits.  
18 MR HARDAWAY: I do understand the Court's point as it --  
19 JUDGE THOMPSON: Yes.  
10:02:41 20 MR HARDAWAY: Your Honour, please.  
21 JUDGE THOMPSON: My feeling is that are we here in an  
area  
22 you may well have been taking ex improviso. I'm not asking  
for  
23 particulars.  
24 MR HARDAWAY: Well Your Honour, I could actually give  
10:02:52 25 particulars. That was going to be the basis of the  
Prosecution  
26 request if, with the Court's pleasure, if I may proceed?  
27 PRESIDING JUDGE: But allowing you go there, is  
listening  
28 to the application. I mean, why don't we go on with the  
29 evidence?

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1 MR HARDAWAY: Because, Your Honour, with all due respect  
2 the --

3 JUDGE THOMPSON: [Inaudible] taking the Court into your  
4 confidence, and treating us with candour, are we in a kind of  
10:03:22 5 situation where, in your considered opinion, and you've been  
6 taking ex improviso?

7 MR HARDAWAY: I would say yes, Your Honour, on a  
particular  
8 point. Based upon the additional filings by the Defence for  
this  
9 witness, which was filed I believe yesterday, and which I  
believe  
10:03:43 10 your court officer has copies of.

11 JUDGE THOMPSON: And it's critical to the Prosecution's  
12 case?

13 MR HARDAWAY: Yes, Your Honour.

14 JUDGE THOMPSON: Not a collateral issue.

10:03:52 15 MR HARDAWAY: Your Honour, one of the points is --

16 JUDGE THOMPSON: No, no, I don't want you to give me  
17 particulars. I'm speaking in generalities, and I just want --

18 MR HARDAWAY: I believe it does because --

19 JUDGE THOMPSON: Not a collateral issue.

10:04:00 20 MR HARDAWAY: I believe it does, Your Honour. It goes  
to,  
21 I don't know how to state it without stating it per se.

22 JUDGE THOMPSON: Well, I'm not saying that collateral,  
and  
23 issues that are in controversy between the parties.  
Collateral  
24 would be peripheral.

10:04:17 25 MR HARDAWAY: No. I don't believe this would be



26 peripheral, Your Honour --  
27 JUDGE THOMPSON: Tangential --  
28 MR HARDAWAY: -- at least on one of the major points.  
29 JUDGE THOMPSON: I see, thank you.

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1 PRESIDING JUDGE: Well, I, I think that we, you, you do  
2 not, you are not -- you do not object to the evidence of this  
3 witness, you know, being taken at this point in time. All  
you're  
4 saying is that if the evidence is taken, at the end of it you  
may  
10:04:50 5 ask for a week's adjournment. You will be, you will be asking  
6 for a week's adjournment in order to prepare your  
7 cross-examination.

8 MR HARDAWAY: If the evidence flows as --

9 PRESIDING JUDGE: May I finish?

10:05:01 10 MR HARDAWAY: I apologise, Your Honour.

11 PRESIDING JUDGE: If, if, I mean, if there's certain  
things  
12 which you have to investigate, as you say. I mean whilst the  
13 case is, while the evidence has been recorded and you are  
ready,  
14 your notice as to what you anticipate might handicap your

10:05:24 15 cross-examination. You may ask that it be investigated, you  
16 know, at your level while the evidence is going on. I mean,  
this  
17 is how we should gain time. Is it, is it impossible, is it  
18 impossible you know, for your office, for the office of the  
OTP  
19 to carry out these investigations and to make the facts, you  
10:05:48 20 know, available to you at the time this witness is concluding  
his  
21 evidence?

22 MR HARDAWAY: Your Honour, based upon the information --

23 PRESIDING JUDGE: It doesn't necessarily require your  
24 personal intervention, your personal presence, you know, in  
10:05:56 25 investigating those material facts which you could easily  
26 communicate to other collaborators in your office.

27 MR HARDAWAY: It would not require my, it would not  
require  
28 my physical presence, Your Honour, but the results of any said  
29 investigation by the OTP I would submit, would be critical to  
the

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1 Prosecution's ability to fully test the evidence of this  
witness,  
2 if this witness testifies as to the points not only in the

3 original summary, but upon the additional information that we  
4 received yesterday.

10:06:25  
that

5 PRESIDING JUDGE: But that has always been -- well, if  
6 is it, I mean, is it -- well, certainly if information you  
7 received yesterday is one of the ex improviso's, you know--

8 MR HARDAWAY: Yes.

9 PRESIDING JUDGE: -- that my colleague is referring to,  
10:06:42 10 then we could take the evidence and then, you know, you can be  
11 looking at it whilst we're going on here.

wanted

12 MR HARDAWAY: I put myself in the Court's hands. I  
13 to raise this with the Court now, as opposed to when it came  
14 for the Prosecution --

time

10:06:54  
colleague

15 JUDGE THOMPSON: But to buttress what my learned  
16 is saying. You have the resources to pursue these matters  
17 while we're proceeding, isn't it? You seem to be --

even

18 MR HARDAWAY: We are in the process of it.

19 JUDGE THOMPSON: [Inaudible] -- more resources.

10:07:10  
for

20 MR HARDAWAY: I don't want to use the dreaded "R" word  
21 my colleague, Mr Jordash, but we are, once we had this  
22 information we started our investigation, and it's been  
23 unsuccessful at this point, but we --

10:07:25  
So

24 JUDGE THOMPSON: Well we have no doubt about your  
25 capabilities given the resources that you are endowed with.  
26 why don't you let us just focus on that and see how things

well

27 evolve, rather than give us notice of something that might  
28 be -- become unnecessary if your, your investigations and your  
29 resources prove equal to the task.

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again

1 MR HARDAWAY: I understand the Court's point. I just  
2 wanted to put the Court on notice as to the potential --

3 PRESIDING JUDGE: No. We are, we are put on notice. We  
4 have taken note of your concerns.

10:08:00

5 MR HARDAWAY: Very well, Your Honour, thank you.

address

6 PRESIDING JUDGE: And when it comes to time we will  
7 those concerns, Mr Hardaway.

8 MR HARDAWAY: Very well Your Honour, thank you.

that

10:08:13

9 PRESIDING JUDGE: Right. Mr Jordash, did you, I hope  
10 the matter can rest there because we are going on with this  
11 witness.

12 MR JORDASH: Well, I was simply hoping that if the  
13 Prosecution could state their objective --

14 PRESIDING JUDGE: No.

10:08:19

15 MR JORDASH: I might be able to --

now. 16 PRESIDING JUDGE: We don't want to state the objection  
know, 17 We want to go on with this witness and then we'll see, you  
It 18 at that time, whether we'll grant him the adjournment at all.  
to 19 might, like you yourself have said, become unnecessary for us  
10:08:37 20 consider the applications for the adjournment. So our  
21 preoccupation is to go on with this witness today that we have  
22 him, rather than be diverted into objections and collateral  
23 issues that delay the proceedings, you know, for the Court.  
24 JUDGE THOMPSON: And Mr Jordash, learned counsel has  
10:08:55 25 considered that they have the resources.  
26 MR JORDASH: Yes. I'll leave it there.  
27 PRESIDING JUDGE: Yes, Mr Ogeto.  
28 MR OGETO: Good morning, my Lords.  
29 PRESIDING JUDGE: Good morning.

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1 MR OGETO: With your permission, my Lords, if I could  
2 introduce a new member of the Kallon Defence. Her name is Ms  
3 Tanoo Mylvaganam. Tanoo is T-A-N-O-O. Mylvaganam is --  
4 PRESIDING JUDGE: Is it Kanoo or Tanoo?

10:09:28 5 MR OGETO: Tanoo.

6 PRESIDING JUDGE: T-A-N --

7 MR OGETO: O-O.

8 PRESIDING JUDGE: Yes.

9 MR OGETO: And then the other name is M-Y-L-V-A-G-A-N-A-  
M.

10:09:54 10 PRESIDING JUDGE: Tanoo Mylvaganam.

11 MR OGETO: Yes, My Lords. Ms Mylvaganam is from the  
12 English Bar. She is joining the Kallon Defence as co-counsel.

13 JUDGE BOUTET: Did you say as co-counsel?

14 MR OGETO: Yes, My Lords, as co-counsel.

10:10:17 15 JUDGE BOUTET: How many legal co-counsel may I ask, just  
16 for my own information, do you have in the Kallon Defence  
team,  
17 two?

18 MR OGETO: Two co-counsel.

19 JUDGE BOUTET: So you have a lead counsel and two  
10:10:28 20 co-counsel?

21 MR OGETO: We have lead counsel --

22 JUDGE BOUTET: I'm not challenging you, I'm just asking  
for  
23 information, that's all. Yes, sorry.

24 MR OGETO: We have lead counsel one, and then we have  
lead  
10:10:40 25 counsel two, and then we have two co-counsel.

26 JUDGE BOUTET: Okay. It seemed to me a new descriptive  
of  
27 teams as they are organised. That's why I'm asking, for my  
own  
28 information.

29 MR OGETO: It's an internal organisation of the team --

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1 JUDGE BOUTET: Thank you very much.

2 MR OGETO: -- to facilitate the proceedings.

3 JUDGE BOUTET: I'm not challenging this, I'm just asking  
4 for my own information as to how you are organised.

10:11:04 5 MR OGETO: That is how we are organised, My Lord.

6 JUDGE BOUTET: Thank you.

7 PRESIDING JUDGE: And what is Mr Dumbuya?

8 MR OGETO: Mr Dumbuya is co-counsel.

9 PRESIDING JUDGE: Co-counsel.

10:12:01 10 MR OGETO: Yes.

11 PRESIDING JUDGE: Okay, thank you. Yes?

12 WITNESS: DIS-127 [Sworn]

13 [The witness answered through interpreter]

14 PRESIDING JUDGE: Witness DIS-127?

10:12:03 15 MR JORDASH: DIS-127, Your Honour. Language is Krio.  
If I

16 may apply to go into a closed session, please. I'd like to  
deal

17 with the first --

18 PRESIDING JUDGE: Just a minute please. Yes, Mr  
Jordash,

19 you say you are applying for a closed session?

10:13:26 20 MR JORDASH: I think it would be possible to take the  
21 witness largely in an open session, but only if the first 30  
22 minutes are, which deal with his biography, can be dealt with  
in  
23 a closed session. After that, what I'd like to do, is refer  
to a  
24 particular commander as Commander C, which will enable us to  
get  
10:13:53 25 around identifying the witness in an open session. I haven't  
put  
26 that very clearly, but first 30 minutes into a closed session,  
27 that's what I would request. The rest of the testimony in an  
28 open session providing we could refer to a particular  
commander  
29 as Commander C.

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a 1 PRESIDING JUDGE: Yes, Court management can we move into  
2 closed session please, for Mr Jordash to make his application?  
3 Incidentally Mr Ogeto I'm sorry about this but before we  
4 move into a closed session the Chamber would like to  
acknowledge  
10:16:41 5 the presence of Ms Tanoo, to the proceedings and welcome her  
6 heartily, you know, within your team to wish her all the best  
and



7 to assure her that we would collaborate with her to move the  
8 process you know forward and that she would contribute largely  
to  
9 this process and particularly to it's expeditiousness because  
we  
10 want to bring it to a close, you know, sooner than later.  
11 welcome. Thank you.

10:17:09  
You're

12 [At this point in the proceedings, a portion of the  
13 transcript, pages 13 to 28, was extracted and sealed under  
14 separate cover, as the proceeding was heard in a closed  
session]

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1 [Open session]

2 MR GEORGE: Court is in open session now.

3 PRESIDING JUDGE: We will now resume the trial in a public

4 session. This is an ruling of the Chamber in respect of the

10:59:21 5 closed session application made by learned counsel for the first

6 accused, Mr Jordash. Consistent with the general requirements

7 that criminal proceedings are to be conducted in public as

8 enjoined by Rule 78 of the Rules of Procedure and Evidence of

9 this Court and taking into consideration Article 17(2) of the

10:59:36 10 Statute of the Court but exceptionally as authorised by Rule

11 79(A)(ii) of the said Rules and the need to protect witnesses as

12 provided for in Rule 75, this Chamber on the application of

13 learned counsel Mr Jordash for the first accused for a certain

14 portion of the testimony of witness number DIS-127, to be heard

11:00:09 15 in a closed session for the first 30 minutes did by way of an

16 exceptional procedure grant the said application for reasons

17 advanced in support there of. We will now proceed with the

18 examination-in-chief of this witness for the rest of his

19 testimony. Mr Jordash, you may proceed please.

11:00:36 20 MR JORDASH: Thank you.

21 Q. Mr Witness, I want to deal with one general subject and

time 22 then move straight to the junta period. Do you recall the  
23 of the Abidjan peace talks?  
24 A. Yes, sir.  
11:01:05 25 Q. During the talks do you know if the war stopped or not?  
26 A. When they made the negotiations initially there was --  
the  
27 war stopped a while. We had not been going on offensive  
again.  
28 Q. And "we" I take to mean the RUF or am I being  
presumptuous?  
29 A. It's the RUF that we are talking about.

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1 Q. So the RUF were not going on offensive and did something  
2 happen?  
3 A. Yes.  
4 Q. What happened?  
11:02:02 5 A. So we are at Zogoda when the Kamajors starting attacking  
6 all our areas. They attack us up to the zoo bush.  
7 Q. Were you personally in Zogoda at the time they attacked?  
8 A. Yes, sir.  
9 Q. Did you become aware then or later whether the Kamajors  
had  
11:02:34 10 attacked other places besides Zogoda at the same time?

11 A. Well, we were at Zogoda that was where the pressure was  
12 mainly.

13 Q. And what happened to the RUF in Zogoda after the  
Kamajors  
14 had attacked?

11:03:04 15 A. We were attacked and we were disbursed initially, later  
we  
16 came together, we divided the group to go to Kailahun and  
later  
17 to Pujehun.

18 Q. Did the RUF who was scattered from Zogoda fight the  
19 Kamajors at this time?

11:03:26 20 A. At that time we did not have any ammunitions so we were  
not  
21 able to fight them.

22 Q. So where did the RUF travel to?

23 A. One group which was led by xxxxx xxxxx went by Pujehun  
way  
24 to go Pujehun. The other group decided to go to Kailahun.

11:03:55 25 THE INTERPRETER: Your Honours would the witness be  
26 instructed to repeat the last segment of his testimony.

27 MR JORDASH: Can you just repeat the last sentence Mr  
28 Witness.

29 A. We divided the group into two in Zogoda, one group was

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led 1 headed by xxxx xxxxx on the Pujehun way, the other group was  
2 by xxxxx xxxxxx to go to Kailahun.

3 Q. And did any of the RUF have any ammunition at this stage  
4 within the two groups do you know?

11:04:47 5 A. No.

6 Q. Did the RUF go on any offensives when they were fleeing  
7 from Kamajors at Zogoda?

and 8 A. We that had been coming would meet them and would fight  
9 would pass.

11:05:01 10 Q. Fight with what?

11 A. Because we -- in our group a lot of people had a lot of  
12 zeal, so we would enter so that was how we had been moving.

13 Q. Did the RUF attack any towns or villages during this  
14 attempt to escape from the Kamajors?

11:05:35 15 A. When we came, one village that was called Bassala, there  
we 16 were attacked by Kamajors and they scattered the whole group.

17 Q. Listen to the question. Did the RUF attack any towns or  
18 villages when they were trying to escape from the Kamajors?

19 A. Yes when we came, we wanted to attack that village so  
that 20 we could go through, but we were not able to do so, so that  
was 21 why we were disbursed.

22 Q. Did the RUF take any property at this stage during this  
23 fleeing from the Kamajors?

24 A. No because everybody was running to go. Everybody was

11:06:26 25 afraid.

26 Q. Did this happen in 1996?

27 A. 1996, November.

28 Q. So after fleeing in November 1996 and everyone being  
29 scattered and acting defensively, where did everyone end up  
from

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1 the RUF?

2 A. So a lot of people were killed, a lot of people were  
3 captured but, for us, God bless, we were able to arrive at  
Giema.

4 Q. And in early 1997 were the RUF stationed then in Giema?

11:07:33 5 A. Yes.

6 Q. And where were the RUF in Giema at that time getting  
their  
7 food from?

8 A. Well, at that time when we had arrived we used to see  
they

9 had an area where they would go to do business and they would  
11:07:56 10 have some rice and other condiments.

11 Q. Were civilians mine -- were civilians farming at that  
time?

12 A. Yes.

on 13 Q. Thank you. Were there any further attacks, do you know,  
14 the RUF from early 1997 until the junta period in Kailahun?  
11:08:33 15 A. Yes. We were attacked at Giema in fact --  
16 PRESIDING JUDGE: Allow him to drink some water please  
17 before he continues.  
18 MR JORDASH: Could the translator just repeat that  
please  
19 because I missed it.  
11:08:56 20 THE INTERPRETER: Would the learned counsel ask that  
21 question again.  
22 MR JORDASH:  
23 Q. Could you just repeat your last answer Mr Witness,  
please.  
24 A. We were attacked by Kamajors but we fought, the very day  
11:09:16 25 that was the time that they told us that we were overthrown in  
26 Freetown.  
27 Q. Thank you. And just to complete this subject do you  
know  
28 at this time, from November 1996 until the junta, where the  
RUF  
29 where getting ammunition from?

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to

1 A. We heard that Mosquito was the one that had been going  
2 Liberia to the ULIMO, it was from there that he used to get  
3 ammunition.

11:10:08

4 Q. And who in Liberia was Sam Bockarie getting ammunition  
5 from?

6 A. Well, we knew that it was ULIMO that was in that whole  
7 area, there he used to go and get the ammunition.

8 Q. Do you know if Sam Bockarie also was getting arms from  
9 anywhere at that point?

11:10:27

10 A. No.

11 Q. Do you know if he was getting arms from anywhere?

arms

12 A. It was from that ULIMO in Liberia there he used to get  
13 and some other ammunition.

that

11:10:51

14 PRESIDING JUDGE: Did he get arms from anywhere else,  
15 is what counsel wants to know. Besides ULIMO did he get arms  
16 from anywhere else.

17 THE WITNESS: Well, I don't know. I did not see that.

18 MR JORDASH:

19 Q. Thank you. Let me -- let us move to the junta period.

11:11:34

20 Which area of Freetown were you based in when you came, Mr  
21 Witness?

22 A. Well, we were at Villa 101.

23 Q. Villa -- is that an area?

24 A. Villa 101. xxxxxxxx.

11:11:59

25 Q. Be careful not to give too specific information about  
26 exactly where you were staying. Okay?



the

27           PRESIDING JUDGE: We already have it on record during  
28 closed session. During the closed session.  
29           MR JORDASH: Yes exactly.

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11:12:36  
taking

1           PRESIDING JUDGE: Yes.  
2           MR JORDASH:  
3 Q.       Were you aware of men from the Western Jungle being  
4 stationed in Freetown?  
5 A.       Yes, they were in Freetown here.  
6 Q.       Do you know who the men from the Western Jungle were  
7 orders from?  
8 A.       Yes, sir.  
9 Q.       Who were they taking orders from?  
10 A.       It was Superman. Superman Denis Mingo. It was from him  
11 that they had been taking orders.  
12 Q.       Did you become aware of Issa Sesay in Freetown?  
13 A.       Yes. I saw him.  
14 Q.       Did you observe him organising anything in Freetown?  
15 A.       The only thing he used to make sure that all the various  
16 areas had supplies, that is food and this was given to the

17 various soldiers.

18 Q. The soldiers from which group?

19 A. Kailahun and other -- and the other areas, the north and

11:14:04 20 the western, he used to try.

Tongo;  
21 Q. Now, you've told us that at some stage you went to

22 is that right?

23 A. Yes.

24 Q. When you went to Tongo, were you residing anywhere near  
the

11:14:39 25 mining pits?

26 A. Well, when I went to Tongo I was at xxxxx xxxxx in the  
27 town.

28 Q. How far is xxxxxxx xxxxx from the mining pits?

29 A. Well, I can't tell but it was -- the town itself where

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1 xxxxx Street was. It was in town itself.

2 Q. Did you go to Tongo for a particular reason Mr Witness?

3 A. Yes. It was xxxx xxxxxxx who sent me with some materials  
to

4 go and mine for diamonds for him?

11:15:47 5 Q. Did you go with anyone else?

6 A. Yes xxxx, xxxx, all of us went together.

7 Q. And when you arrived in Tongo, did you yourself go to  
the  
8 mining pit?

9 A. Yes, I went and saw where the mining was going on.

11:16:08 10 Q. And did you go once or did you go more than once?

11 A. I went there more than once, because I was there for a  
12 week.

13 Q. And did you, yourself, mine?

14 A. No, I did not start to mine. That was the time that the  
11:16:31 15 intervention started so everybody was afraid, so I left  
16 everything with OG and I moved and I came.

17 Q. Before moving, because of the intervention, who was  
mining  
18 in Tongo, from what you observed?

19 PRESIDING JUDGE: That's a question. I don't know  
11:16:51 20 whether -- did he mine?

21 MR JORDASH: No.

22 PRESIDING JUDGE: He said he didn't mine.

23 MR JORDASH: Let me clarify, Your Honour.

24 PRESIDING JUDGE: Please.

11:16:56 25 MR JORDASH:

26 Q. Did you mine, you personally, mine, Mr Witness?

27 A. No.

28 Q. Did you observe if OG was mining, personally?

29 A. OG mined before I went there.

1 Q. Did you observe who was mining when you were present in  
2 Tongo?

3 A. I saw a lot of people mining but during that time there  
4 were soldiers, there were RUFs, so.

11:17:43 5 Q. Was it just soldiers in RUF mining?

6 A. Because, because during that time those were the ones  
that  
7 I only saw.

8 Q. And did you observe who the soldiers were mining for?

9 A. No.

11:18:10 10 Q. Did you observe anyone being forced to mine?

11 A. No.

12 Q. Did you observe any children with guns?

13 A. No.

14 Q. Now, moving forward to the intervention, is it right  
that  
11:18:49 15 you went from Tongo to Daru?

16 PRESIDING JUDGE: When he says --

17 THE WITNESS: Yes, sir.

18 PRESIDING JUDGE: When he says he did not observe  
children  
19 with guns, where did he not observe children with guns? It is

11:19:07 20 in -- himself said he never mined, but where did he not  
observe  
21 children with guns?

22 MR JORDASH:

23 Q. You went to the mining pits, is that right, or some of  
24 them?

11:19:19 25 A. Yes. Yes.

26 Q. You told us that you went on several occasions?

27 A. Yes, I went there more than once.

28 Q. And you also went within Tongo Town; is that right?

29 A. Yes.

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1 Q. And the street you were staying at is in Tongo Town; is  
2 that right?

3 A. Yes.

4 Q. Were there soldiers patrolling in Tongo Town?

11:19:51 5 A. Yes.

6 Q. Were there soldiers patrolling at the Tongo pits that  
7 you went to?

8 A. Yes.

9 Q. Within the town and at the pits, did you observe any  
11:20:16 10 children with guns in either place?

11 A. I did not see any children with guns.

12 Q. Within Tongo Town, did you observe civilians?

13 A. Yes.

14 Q. What were they doing?

11:20:37 15 A. Most of them were doing the same mining.

16 Q. So, did you observe them moving around the town or not,

17 civilians?

18 A. Yes, sir.

19 Q. How do you know they were doing mining?

11:20:59 20 A. They, themselves, were in the pit. So when the  
soldiers,

21 all of them joined together, and they had been working in the

22 pit, I saw them.

23 Q. And you saw them working in the pits?

24 A. Yes, with the soldiers.

11:21:20 25 Q. When you say working with the soldiers, could you  
describe

26 what you saw?

27 A. What I saw, I would see with the soldiers with their  
guns,

28 with the civilians, they had been digging and where they took  
the

29 gravel, it would be divided. The civilians would have, have

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1 theirs, and the soldiers would have theirs.

2 Q. When you just described soldiers with guns, you made a  
3 particular gesture with your arms; what were you trying to  
4 indicate?

11:22:00  
soldiers, I

5 PRESIDING JUDGE: Their guns were hung on their  
6 suppose.

7 MR JORDASH: Yes, exactly, I was trying to get it on the  
8 record, Your Honour.

9 PRESIDING JUDGE: Yes.

11:22:11 10

MR JORDASH:

11 Q. So where were the guns when the soldiers were --

12 A. They used to put them on their backs.

between

13 Q. So was there any cooperation from what you observed

mining

14 the soldiers and the civilians or were they doing separate

11:22:36 15

enterprises?

timeframe,

16 PRESIDING JUDGE: Mr Jordash, I don't know this

go

17 I would imagine, because he says they were in Freetown with  
18 [REDACTED] and them. Is [REDACTED] who sent him to Tongo to

19 and mine. That's his evidence. Now, when he's talking of

11:22:53 20

soldiers, and this must be during the junta period, when he's

21 talking of soldiers, what, can he tell us, you know, what

what

22 soldiers these were? Were they soldiers of the SLE? I mean

23 of -- I mean, let him --

24 MR JORDASH: Certainly.

11:23:14 25

PRESIDING JUDGE: Yes. What was the composition? This

26 generic term of "soldiers," what did they comprise of?

questions,

27 MR JORDASH: Do you follow the learned Judge's  
28 Mr Witness? Just before you answer the question, be careful  
29 about saying what position --

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1 A. Uh-huh.  
2 Q. -- what position you occupied with whom, without using  
the  
3 term "Commander C", okay?

4 PRESIDING JUDGE: I'm sorry I used the real name of  
11:23:48 5 Commander C. And let it be redacted from the records, please.  
6 It should be redacted, you know, from the records of the  
public  
7 session. It's Commander C I was referring to, Mr Witness.

8 THE WITNESS: Okay. So, when you went and went to the  
9 mining pit, there were fighters there you've told us, with  
their  
11:24:13 10 guns holstered on their backs; am I right?

11 A. Yes.  
12 Q. From which group did the soldiers you observed come  
from?

13 A. SLA and RUF, but you had more SLA soldiers.  
14 Q. So SLAs and RUF. Do you know if there was a command  
11:24:55 15 structure at the mining pit?



16 A. No, I did not see any command structure there.

17 Q. Do you know if the mining was organised or were people  
18 doing private mining?

19 A. Well, I did not know whether it was organised, but I saw  
11:25:17 20 them digging.

21 Q. Within a particular mining pit, were the SLAs working  
22 alongside the RUF, or were there separate pits for RUF and  
SLAs?

23 What was the arrangement you saw?

24 A. Well, what I saw, everybody was working for himself.

11:25:51 25 Q. Right. Were any civilians working for soldiers, or were  
26 civilians working for themselves?

27 A. Civilians had been working with soldiers, together.

28 Q. Do you mean physically at the side of them, or were they  
29 joining forces to help each other?

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1 MR HARDAWAY: Objection, Your Honour, leading.

2 THE WITNESS: Yes. Soldiers would have shovels and  
3 civilians would have shovels, and all of them would be working  
4 together.

11:26:40 5 MR JORDASH:

6 Q. Could you describe what you mean by working --

7 JUDGE BOUTET: Maybe, Mr Jordash, when there is an  
8 objection you could ask the witness to not answer the  
question.

9 I mean, there's been an objection to your question, so.

11:26:49 10 MR JORDASH: Yes.

11 JUDGE BOUTET: I think it is only fair that we hear the  
12 objection and if it is founded that I am now, I mean now we're  
--  
13 there was an objection but it's a useless objection, the  
answer  
14 has been given, so.

11:27:03 15 MR JORDASH: Well, it was only because Mr Hardaway sat  
down  
16 immediately, which is not his usual approach to objections,  
that  
17 I thought perhaps he was not pursuing it with any vigour. But  
--

18 JUDGE BOUTET: Well, I take it that he sat down simply  
19 because the answer was coming out at that particular moment.

11:27:23 20 MR JORDASH: Certainly I take Your Honour's point, and I  
21 apologise.

22 PRESIDING JUDGE: Well, we would like objections which  
have  
23 been taken to questions to be made very, very promptly, and  
24 before the answer comes, because that's a problem we have in  
the

11:27:33 25 proceedings. When the objections are made belatedly it  
becomes  
26 difficult, or when the answer to the question has been  
proffered  
27 already, then it becomes difficult to rule on the objection.  
But

28 it's definitely not Mr Hardaway's practice to be slow at

29 objecting, that's for sure.

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1 MR HARDAWAY: Part of the problem is, Your Honour, I  
2 don't --

3 PRESIDING JUDGE: Maybe it is, it is, I think, you are  
4 smarter in getting your answers in, you know, quite fast  
before

11:28:01 5 the objection comes in so.

6 MR HARDAWAY: It's an issue of timing, Your Honour. I  
7 don't want to cut off my learned friend when he's in the  
middle  
8 of the question, because maybe at the end of it, it may not be  
9 objectionable. So I try to time it at the end.

11:28:14 10 PRESIDING JUDGE: As soon as he finishes it, as soon as  
he  
11 pronounces the last word of his question, then you spring on  
your  
12 feet and you make your objection, that's what we are saying.

13 MR HARDAWAY: Yes, Your Honour.

14 PRESIDING JUDGE: Yes. Yes, Mr Jordash, you may  
proceed.

11:28:34 15 MR JORDASH:

16 Q. Mr Witness, I'm sorry to press you on this, but I want  
you

or

17 to help the Court a bit more on this point. You used the word  
18 the words "that they were working together, soldiers and  
19 civilians." Try and describe what you mean by that?

11:28:58  
20  
21  
22  
would

A. What I meant by that, no, they were not being forced to  
work. They were working for themselves. When they cut the  
gravel, I would see them dividing the gravel. The soldiers  
have their own gravel and the civilians would have theirs.

-

11:29:16  
25  
26  
saying?

PRESIDING JUDGE: Soldiers were working for themselves -  
or rather, the civilians were working for themselves, and that  
they were not being forced to work; is that what you are

27 THE WITNESS: Yes.

28 PRESIDING JUDGE: And that when they work, they would  
29 divide it, they would bring it out and divide it; is that what

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1 you are saying?

2 THE WITNESS: What I wanted to say, is when they went  
3 together, and they got the gravel they would divide it. The  
4 civilians would have theirs --

11:29:43

5 PRESIDING JUDGE: Let's do things chronologically.

6 Civilians were not forced to work, were not forced to do the  
7 mining. That is what you are saying?

8 THE WITNESS: Yes, sir.

9 PRESIDING JUDGE: Yes, you may move from there then.

11:30:09 10 MR JORDASH:

11 Q. They were not forced, and then you saw them separating  
the

12 gravel, into two piles: One pile went to where, and -- where  
did

13 the two piles go?

14 A. The one pile would go to the soldiers, and the other  
pile

11:30:25 15 would go to the civilians who were working.

16 Q. Thank you. Now, let's move on to the intervention. You  
17 left from Tongo to Daru as you've told us?

18 A. Yes.

19 Q. Did you leave alone?

11:30:55 20 A. Yes.

21 Q. Was anyone else leaving Tongo?

22 A. Yes, I left everybody. It was I alone that decided to  
go.

23 So everybody was there. I left them there.

24 Q. When you arrived in Daru, did you remain in Daru for a  
11:31:30 25 period?

26 A. Yes, I was there for two, three days.

27 PRESIDING JUDGE: And when you left, you left OG there?

28 THE WITNESS: Yes, sir.

29 MR JORDASH:

1 Q. During the time, that you were in Daru, did you observe  
2 anyone coming from the Tongo, and Kenema end?

3 A. At that time initially I would see -- I saw people  
coming  
4 from Kenema, Daru, Segbwema.

11:32:06 5 Q. Which people were coming?

6 A. Civilians would come, I saw soldiers.

7 Q. Why were they coming?

8 A. Some came from Tongo, Segbwema, Kenema.

9 Q. Why?

11:32:28 10 A. When they heard that there was intervention in Freetown  
11 here that was the time that they started becoming jittery. At  
12 that time they had not entered Kenema.

13 Q. Did you know why the civilians were jittering?

14 A. Yes. If ECOMOG left them -- if ECOMOG left them in the  
RUF  
11:33:02 15 zones they would be killed, and that's why they were afraid.

16 Q. And where did you go to during this intervention, Mr  
17 Witness, ECOMOG?

18 THE INTERPRETER: Your Honours I did not get the  
beginning  
19 of the witness's testimony.

11:33:25 20 MR JORDASH: I think there might be something wrong with  
21 either the system or my headphones. I don't know if anyone

else

heard 22 is having problems. I think they must be because no ones

23 the question.

24 JUDGE BOUTET: It depends what your problem is.

11:33:42 25 MR JORDASH: It just very echoing. No one else just me.

26 Let's try that again.

27 JUDGE BOUTET: Okay.

28 MR JORDASH:

29 Q. Where did you go Mr Witness?

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1 A. Well, from Daru I went to Kailahun.

2 Q. When you arrived in Kailahun, was anyone else arriving  
3 around that time?

had 4 A. Everybody was running to go. Everybody. Some people

11:34:17 5 been running to go to Liberian border and we went to Kailahun.

6 Q. Who ran to the Liberian border?

7 A. Civilians run to go to the Liberian border, even the  
8 soldiers, the SLA.

9 Q. A few people went to the Liberian border or many people,  
11:34:44 10 are you able to give an idea?

11 A. I cannot tell the number, but they were many.

how  
moved

12 Q. Now, let me jump you forward now to Buedu. Do you know  
13 long you were in Buedu for after the intervention when you  
14 from Kailahun?

11:35:31 15 A. Well, I cannot recall but I did not stay there long.

Commander 16 Q. When you were there in Buedu, were you based with  
17 C?  
18 A. Yes, sir.  
19 Q. Were you living with Commander C?

11:36:01 20 A. Yes, sir.

21 Q. Were you conducting any functions at that time with  
22 Commander C?  
23 A. Well, no I had not been doing any other job. I was just  
24 with him.

11:36:19 25 Q. Were you moving around the area or did you remain in  
Buedu  
26 at this time?  
27 A. During that time it was -- we were in Buedu.  
28 Q. Did you see Issa Sesay in Buedu.  
29 A. Yes I saw him.

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1 Q. Was he well?

2 A. No.

3 Q. Did you observe what was wrong with him?

4 A. Yes, I knew that he was not well. He was shot at.

11:36:59 5 Q. Do you recall where you saw him in Buedu?

6 A. Yes, I saw him where he was in his house.

7 Q. Was that the house opposite Sam Bockarie's house?

8 A. Yes.

9 Q. Did you go to that house and see him there?

11:37:33 10 A. Yes.

11 Q. Did you see him carrying out any functions when he was

12 there at his house wounded?

13 A. No, he was not well. He was a wounded individual.

14 Q. Did you see him moving around at all?

11:38:01 15 A. No.

16 Q. I noticed the time, Your Honour.

17 PRESIDING JUDGE: Any few short questions we can take?

Is

18 it -- or did you -- are you looking at time because you want

to

19 move to a new episode or so.

11:38:45 20 MR JORDASH: Yes, a new area I was going to deal with --

21 well I could ask a couple more questions if Your Honour wants.

22 PRESIDING JUDGE: Please do.

23 MR JORDASH:

24 Q. Did you see Issa Sesay security when you went and saw

him

11:39:02 25 at his house?

26 A. I saw -- during the time that I went, I saw one security

27 there, the time I went there.

28 Q. And how old approximately was that security? Was the  
29 security a child or an adult?

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1 A. It was a full-grown individual.

2 PRESIDING JUDGE: When you say he was full-grown, I mean  
3 what do you mean? What do you mean.

4 THE WITNESS: It was not a child, it was a man.

11:39:56 5 PRESIDING JUDGE: Of about how old.

6 THE WITNESS: Well, above 21, upwards.

7 MR JORDASH:

8 Q. Did you ever hear of a man called Foday Kallon?

9 A. Yes. Yes.

11:40:41 10 Q. Did you ever hear if anything happened to him?

11 A. Yes, I heard that he had died.

12 Q. Did you hear how he died?

13 A. No really, I did not know how he died, but I heard that  
14 information.

11:41:21 15 Q. Did you hear where he died?

16 A. I heard that it was at Buedu.

17 Q. Do you know or did you hear?

18 A. I only heard about that.

19 Q. Can you remember what you heard, anymore details?

11:41:56 20 PRESIDING JUDGE: He said he heard and that he doesn't  
21 remember how he died. He's answered the question. That  
question  
22 is answered.

23 MR JORDASH: I was just checking to see if he could  
recall  
24 anything else.

11:42:08 25 PRESIDING JUDGE: He said that he heard that he died but  
he  
26 did not hear how he died. He only heard, you know that he was  
27 dead, and he received this information.

28 MR JORDASH: Well, he might have heard something else.  
29 It's a long time ago. But if Your Honour prefers I'll leave  
it,

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1 I'll leave it.

2 PRESIDING JUDGE: Yes, I prefer, you know, because there  
is  
3 an answer to that question. Maybe, you want to break or so  
now.  
4 We may break off.

11:42:37 5 MR JORDASH: I'm happy to continue if Your Honours want.

6 PRESIDING JUDGE: We'll break here and we'll resume when  
we  
7 return. The Chamber will recess please, for a few minutes.  
We  
8 will rise.  
9 [Break taken at 11.43 a.m.]  
10 [Upon resuming at 12.04 p.m.]  
11 PRESIDING JUDGE: We resume the session. Mr Jordash,  
12 presume the proceedings.  
13 MR JORDASH: Thank you.  
14 Q. Now, you told us when we were in a closed session that  
you  
12:18:29 15 went to -- actually before I ask you that, did you hear --  
ever  
16 hear or do you have any knowledge of the death of xxxxxxxx?  
17 A. I heard about it. I do not know how he died.  
18 Q. I'll leave it at that then. Let me take you briefly to  
19 Jokibu, where you were reporting to Saddam; is that correct?  
12:19:15 20 A. Yes.  
21 Q. Were you reporting to anyone else?  
22 A. I was not reporting to any other person.  
23 Q. When you were in Koindu, when you were reporting to CPO  
24 Saffa, were you reporting to anyone else?  
12:19:39 25 A. No.  
Do  
26 Q. Thank you. Now let me take you -- let me ask you this:  
27 you know who Saddam reported to from Jokibu?  
28 A. Yes.  
29 Q. Who did he report to?

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was 1 A. He used to report to Mosquito during the time when he  
2 at Buedu.

3 Q. How do you know that?

4 A. I was in the place and I would see him. We go to make  
12:20:30 5 reports. And they would compile reports and send them to  
6 Mosquito.

what 7 Q. Did you ever hear that, or, when you say you saw him,  
8 do you mean precisely?

9 A. What I meant was that I was seated, when they made a  
12:20:45 10 report, he went with it to the signal and sent it straight to  
11 Mosquito.

12 Q. Thank you. Does that mean you were -- let me break this  
13 down a bit. How would the report be sent?

make 14 A. Anything that happened at the front line, they would  
15 the report, it would be written and it would be signed to the  
16 senior man and it was the senior man that would direct it to  
17 Mosquito.

18 Q. And did you observe the report writing or the radio  
19 communication which sent the report?

12:21:33 20 A. It was sent through the radio communication.

21 Q. Which bit did you observe in this process?

22 A. It was at Jokibu, where we were.

23 Q. Yeah, but you talked about the report being compiled.  
Did

24 you ever observe it being compiled or were you told about  
this?

12:22:07 25 JUDGE BOUTET: Well, he just testified the reports, if I  
26 understood what he said, reports were made to the front lines  
and

27 then sent back wherever. And so, unless he was at the front  
line

28 I don't see how he could say that he saw them being written  
up.

29 This is what he just said. He said the reports are prepared  
at

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1 the front lines.

2 MR JORDASH: But he hasn't said he wasn't at the front  
3 lines. So I was thinking --

4 JUDGE BOUTET: Well, he said that he was sitting  
somewhere

12:22:29 5 and saw the report going to the signal people so anyhow.

6 MR JORDASH: Well, he might have been sitting at the  
front

7 line that's what I was trying to work out.

how  
at  
12:22:48

8 JUDGE BOUTET: Well, if he's sitting at the front line,  
9 can he be also sitting by the signal people sending the report  
10 the rear. But anyhow clarify that because it is certainly not  
11 clear to me.

12 MR JORDASH:

13 Q. Which bit did you -- in this communication chain, which  
14 bit, if any, did you observe? Do you understand my question?

12:23:12 15 A. Repeat the question.

compiled,  
16 Q. You've mentioned several things. Reports being  
17 reports being sent on by the radio via the signal unit and I'm  
18 just trying to find out for the Court which bit you observed  
19 which allowed you to draw the conclusion that the reports were  
12:23:42 20 going to Sam B -- Mosquito?

between  
back,  
21 A. Well, I was at one time, when there was an ambush  
22 Bunumbu and Kigbai, when after that ambush, when they came  
23 that was the time that they made that report. They informed  
24 Mosquito about all that happened in the ambush. All that was  
12:24:08 25 captured was sent to Mosquito.

26 Q. Where were you when you --

27 A. I was at the front line.

28 Q. What did you -- who did you see compiling the report?

29 A. The Commander, he himself, who was Saddam.

1 Q. Were you present?

2 A. Yes, sir.

3 Q. Was your assignment at the front line at Jokibu or  
4 somewhere else?

12:24:40 5 A. I was at the front line.

6 Q. What were you doing at the front line?

7 A. We were there in case of any attack, we were there to  
repel

8 any attack and if we were there, if there was any other  
problem

9 we'll be able to foil it.

12:25:10 10 Q. Now, moving to Koindu.

11 JUDGE BOUTET: At the front line were you a bodyguard or  
12 just a fighting soldier.

13 THE WITNESS: When I went to the front line, I was a  
14 fighter.

12:25:41 15 MR JORDASH:

16 Q. And when you were in Koindu, what were you?

17 A. I was a fighter also in Koindu.

18 Q. Did you observe any communications from Saffa to any  
19 commander, any reports.

12:26:05 20 A. Yes.

21 Q. What did you observe?

22 A. The day when the Guineans came close to Koindu when we  
23 repelled them, when we burnt the war tank from there we came  
back



sent 24 to the town, the commander sat down and wrote a report and  
12:26:26 25 it to Mosquito. That was done before me.  
26 Q. Were you present?  
27 A. Yes, sir.  
28 Q. Were you present when he wrote the report or when it was  
29 sent?

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it. 1 A. I was there when he wrote the report and when he sent  
2 Q. And how did he send it?  
3 A. It was the signal man that he sent it to. He went with  
the 4 report to the signal man and the signal man sent it.  
12:27:02 5 Q. Let me move you forward, Mr Witness, to when you are --  
let 6 me rephrase that, from Koindu you went to Buedu; is this  
right? 7 A. Yes.  
1998? 8 Q. This was just before the attack on Kono in December  
9 A. Yes, sir.  
12:27:33 10 Q. Did somebody call you to go from Buedu to Kono?  
11 A. Yes.

12 Q. Or from Koindu to Buedu?

13 A. Yes, sir.

14 Q. Let me try to be a bit clearer. Did someone call you  
from  
12:27:55 15 Koindu to Buedu?

16 A. Yes, sir.

17 Q. Who called you from Koindu to Buedu?

18 A. xxxx xxxxxx.

19 Q. And did he indicate why he was calling you from Koindu  
to  
12:28:12 20 Buedu?

21 A. When I came back he told me.

22 Q. What did he tell you?

23 A. He said that I was to go with Issa to Kono.

24 Q. Did he tell you why you were to go with Issa to Kono?

12:28:33 25 A. Yes, sir.

26 Q. What did he say?

27 A. So that we could attack Kono.

28 Q. Were you the only combatant that was called from Koindu  
to  
29 Buedu at that time or were there others?

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1 A. There were others, but all of us came together.

2 Q. At around this time, were any commanders in Buedu?

3 A. Yes, at that time I saw some commanders.

4 Q. Can you recall who you saw in Buedu at this time?

12:29:41 5 A. I can recall Issa, I can recall Kallon, TF1 371 was also  
6 there.

7 Q. Do you know if Issa Sesay had been in Buedu previous to  
8 this or had he been elsewhere?

9 A. He was in Pendembu.

12:30:04 10 PRESIDING JUDGE: Issa, Kallon, TF1 371, were they the  
11 only ones who were there, the only commanders who were there.

12 THE WITNESS: No. Mosquito was there.

13 MR JORDASH: Were there any others.

14 A. There were others but I cannot recall their names now.

12:30:28 15 Q. Fair enough. Long time ago. Do you know whether they'd  
16 been called to Buedu at this time?

17 A. Yes, they were called.

18 Q. Do you know if others, other fighters were instructed as  
19 you were to go to Kono?

12:31:13 20 A. Yes, they called upon other fighters. It was not I  
alone.

21 Q. And were you told specifically what was going to happen,  
22 what the plan was?

23 A. Yes. Xxxx xxxxxx had to tell me that we were to attack  
24 Kono.

12:31:48 25 Q. At this time, when you were told by TF1 -371 that you  
were  
26 going to attack Kono, was any other plan mentioned?

27 A. Well, I did not know about any other plan. They only  
told

28 us about Kono.

29 Q. How long were you in Buedu before setting off to Kono?

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1 A. About two, three days.

2 Q. During that two or three days, what did you do?

3 A. Well, nothing I just been --

4 Q. You had just been?

12:32:49 5 A. I was just in Buedu.

6 Q. Did you -- on the day you left Buedu what happened? How  
7 was it you came to leave Buedu?

8 A. We left with some other commanders, we all travelled.

9 Q. Which other commanders did you leave with, can you  
12:33:27 10 remember?

11 A. We that went, I can recall some at that time.

12 Q. Who do you recall?

13 A. I can recall xxxxx TF1-371. I could recall Issa again,  
14 Kallon. These are the ones that I could recall now and the  
12:34:02 15 others, I've forgotten their names.

16 Q. And are you able to give an idea how many fighters left  
17 with the commanders?

18 A. In Buedu or to go?

19 Q. Who went from Buedu and travelled towards Kono?  
12:34:38 20 A. We were in large numbers. I cannot tell the exact  
number.  
21 Q. Do you know if there was more than a hundred, or less?  
22 A. We that went were not up to hundred.  
23 Q. And how did you travel, on foot or by vehicle?  
24 A. Well, we travelled by vehicles from Buedu to the  
waterside.  
12:35:19 25 Q. Were you in a vehicle, and if so who with?  
26 A. Yes, sir.  
27 Q. Did you travel anywhere near Commander C?  
28 A. Yes, we were in his vehicle when we were going.  
29 Q. Did you observe if any arms or ammunition was taken?

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1 A. Yes.  
2 Q. Were there any arms taken?  
3 A. Except the arms that we had, and we had one weapon,  
which  
4 we had, and that I saw.  
12:36:05 5 Q. What was the weapon?  
6 A. The weapon was for a jet.  
7 Q. The weapon was to do what in relation to the jet?  
8 A. To put it down.

9 Q. And you just held up your right hand up to your  
shoulder,  
12:36:31 10 is that how the gun would be held?  
11 A. Yes. This was the place where they used to put it. It  
was  
12 called a chaser.  
13 Q. Chaser. And had you seen that weapon before?  
14 A. No, that was the only time that I saw it.  
12:36:56 15 Q. And the remaining arms, what were they, that you saw?  
16 A. AK-47.  
17 Q. Did you observe if any of the AK-47s were new arms or  
what?  
18 A. They were old arms. The ones that we had been using  
when  
19 we were on duty.  
12:37:31 20 Q. And the ammunition, was this ammunition -- do you know  
21 where the ammunition came from?  
22 A. Well, we understood that they were from Liberia.  
23 Q. But how was the ammunition and the chaser carried to the  
24 Moa River?  
12:37:57 25 MR HARDAWAY: Objection, Your Honour. No evidence has  
been  
26 led as the witness going to the Moa River.  
27 PRESIDING JUDGE: Sustained.  
28 MR JORDASH: He has to go to the Moa River to get to  
Kono.  
29 PRESIDING JUDGE: No. It is sustained. He didn't  
mention

1 anything about Moa River.

2 MR JORDASH:

3 Q. Were there any rivers on the way to Kono?

4 PRESIDING JUDGE: He has said. Go on, he has said.

12:38:30 5 MR JORDASH:

6 Q. There was a river on the way to Kono?

7 A. River Moa.

8 Q. Thank you. Did you go to the Moa?

9 A. Yes, sir.

12:38:41 10 Q. How were the -- well I better not ask that either. Was  
the

11 ammunition taken as far as Moa, or not?

12 A. They were taken to Moa.

13 Q. How was the ammunition taken to the Moa?

14 A. They were put in vehicles.

12:39:15 15 Q. Were there any civilians on the journey to the Moa?

16 A. We did not go there with any civilians.

17 Q. Were there any children on the journey to the Moa?

18 A. No, sir.

19 Q. Did any of the -- you may have answered this and I  
12:39:44 20 apologise if it's repetitive. Did anyone walk to the Moa?

21 A. It's not all of us went into the vehicle. Some of the  
men

22 walked.

23 Q. When you arrived at the Moa, what happened there, Mr  
24 Witness?

12:40:09 25 A. We crossed the Moa.

26 Q. How did you cross the Moa?

27 A. We used canoes, these small canoes. These were the ones  
we  
28 used to cross.

29 Q. How did the ammunition -- well, did the ammunition and  
the

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1 arms cross the Moa?

2 A. Yes.

3 Q. How did that cross the Moa?

4 A. They were put in a canoe and they crossed with them.

12:41:00 5 Q. Did Issa Sesay cross the Moa?

6 A. Yes, himself crossed.

7 Q. And did Commander C cross the Moa?

8 A. No.

9 Q. Did you cross the Moa?

12:41:00 10 A. Yes, sir.

11 Q. Now, did any others remain with Commander C?

12 A. Yes, yes, sir.



at 13 Q. Do you know approximately how many men were left behind  
14 the Kailahun end of the Moa?  
12:41:28 15 A. Not really. I cannot tell the exact number as a matter  
of 16 fact.  
17 Q. Did the majority, or the minority, of the men cross the  
18 Moa?  
19 A. We that were on the waterside that crossed were more  
than 20 those that were left.  
12:41:51 21 Q. When you arrived at the other side of the Moa, was  
anyone 22 there to meet you?  
23 A. Yes, sir.  
24 Q. Who was there to meet you?  
12:42:04 25 A. Soldiers came from Kono jungle, from the Guinea Highway,  
26 and they went and received us.  
27 Q. Were there more people who met you than your number or  
28 less?  
29 PRESIDING JUDGE: Get soldiers from where? Get soldiers

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1 from where, Guinea Highway?

2 THE WITNESS: Yes.

3 MR JORDASH:

4 Q. Are you able to say whether there was --

12:42:42 5 PRESIDING JUDGE: The soldiers who you met at the Moa,  
were

6 they only from Guinea Highway?

7 THE WITNESS: Yes, sir.

8 PRESIDING JUDGE: And you said there were about how many  
of

9 them?

12:42:56 10 THE WITNESS: Well, there were about, there were around  
50.

11 MR JORDASH:

12 Q. Did you know any of these men, Mr Witness, or recognise  
any

13 of them?

14 A. I knew them.

12:43:20 15 Q. Can you remember any of their names at this time?

16 A. No, I cannot recall because I'd taken a long time.

17 Q. What did these men do when they arrived at the Moa and  
you

18 all met?

19 A. Well, they went to help us to bring the ammunition.

12:43:54 20 Q. Were there any civilians amongst them?

21 A. No.

22 Q. How do you know?

23 A. I saw the men, they were soldiers because recruits had

24 given ammunition to soldiers, because if there was anything  
they

12:44:15 25 would just drop them. So they were soldiers.

26 Q. We got a strange translation there or a strange  
sentence.

27 Let's try and work out which it is.

28 PRESIDING JUDGE: Indeed it is strange.

29 MR JORDASH:

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why 1 Q. You said that they were soldiers and you gave a reason  
2 it was soldiers. Could you give the reason again, why it was  
3 soldiers who came to the Moa?

soldiers. 4 A. Yes. I said that ammunition, they were taken by

12:44:46 5 If they gave them to soldiers, if anything happened, they  
would 6 just drop them and run away. That is why they were being  
carried 7 by soldiers.

8 PRESIDING JUDGE: You mean?

9 THE WITNESS: They will not give arms to civilians.

12:45:06 10 PRESIDING JUDGE: Nothing is wrong with the translation.

11 MR JORDASH: Yes.

12 Q. Why would they not give arms to civilians?

13 A. Civilians must know about arms. If you gave arms to a  
14 civilian, he will just take them and drop them and go away.

12:45:21 15  
Kamajors

Q. And from the Moa to Guinea highway, were there any  
there in these areas?

the

A. They are not seated in any town, but they were around  
bushes.

that

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

12:45:49 20  
know,

the 50 soldiers you met on the other side who met you, you

that

21 and who came from the Guinea Highway were not civilians, and

and

22 it is these soldiers who carried the arms that you brought,

23 that you crossed with, you know, to the other side of the Moa?

24 THE WITNESS: Yes, sir.

12:46:26 25

MR JORDASH:

any

26 Q. When the arms were carried by the soldiers, was there  
27 security for them?

28 A. Yes.

29 Q. How were the men arranged in order to guard against

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1 Kamajors attacks, can you remember?

one

2 A. Yes, there was one group that was ahead and the other

3 was at the middle and the other one was at the rear.

4 Q. Where were you?

12:46:58 5 A. I was at the middle.

6 Q. Where was the ammunition?

7 A. At the middle.

8 Q. Where was Sesay?

9 A. He was at the middle.

12:47:07 10 Q. Were there any children amongst the fighters who came to  
11 help carry the ammunition?

12 A. No.

13 Q. Were there any attacks by Kamajors on the way?

14 A. No.

12:47:37 15 Q. Are you able to remember, and it's not problem if you  
16 cannot, are you able to remember what the ammunition was?

17 PRESIDING JUDGE: Can he start with the arms first.

18 MR JORDASH: He said the arms.

19 PRESIDING JUDGE: He referred to the AKs and the

12:48:03 20 anti-aircraft or chaser or so. I don't know whether that's  
21 another name. Can that be referred to as a chaser. Okay. I

was

22 equating it to an AA.

23 MR JORDASH: Might be.

24 PRESIDING JUDGE: A missile. Okay.

12:48:32 25 MR JORDASH:

26 Q. Have you ever heard of a Sam seven?

about,

27 JUDGE BOUTET: Why -- isn't it what he was talking

28 the chaser.

29 MR JORDASH: That's [indiscernible].

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1 Q. Sam seven, is that familiar to you?

2 A. Yes, it is.

3 Q. In your mind is that the same or different to a chaser?

used

4 A. Well, I don't really understand about what I saw they

12:48:55  
how

5 to call it a chaser. I do not know the real name. That is

6 it is called.

7 Q. What about ammunition? Are you able to say what the

8 ammunition was?

9 A. AK rounds, G3 and GMG and RPG rockets.

12:49:32

10 Q. And do you recall how many men it took to carry the

11 ammunition?

12 A. I cannot recall the amount now.

13 Q. Fair enough. I don't know if you answered the question

--

14 yes, you did. Now, did you arrive at the Guinea Highway?

12:50:00

15 A. Yes, sir.

arrived

16 Q. And from the time you left the Moa to the time you

17 at the Guinea Highway, was there any fighting whatsoever?

18 A. No.

19 Q. When you arrived at the Guinea Highway, what did you  
12:50:22 20 observe, were there other soldiers there?

21 A. Yes, sir.

22 Q. Were there other -- sorry, were there civilians there?

23 A. Yes, sir.

24 Q. What were the civilians doing there, did you observe?

12:50:38 25 A. Mm-hmm. The two days that I spent there, I saw them at  
the

26 zoo bush, I did not see them doing any of their work.

27 Q. Did you observe how they were being treated at that  
time?

28 A. When I went there, I observed that I did not see them  
being

29 badly treated. Because I saw them move them, I saw some other

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1 people dressed in raga [sic].

2 Q. Dressed in raga, what's that?

3 A. They were dressed well, that was what I meant. They  
were

4 dressed well. Without any problems.

12:51:27 5 Q. Were there any children in the zoo bush?

6 A. Yes.

7 Q. What were they doing there?

8 A. Most of them had been living with their families, their  
9 mothers and their fathers.

12:51:47 10 Q. When you arrived at the Guinea Highway in the two days  
you  
11 were there, were there any gatherings of people?

12 PRESIDING JUDGE: You said they were living with their  
13 families and their fathers or what? What did you say? Sorry  
I  
14 didn't get that. That the children they were living with  
their

12:52:06 15 families and --

16 MR JORDASH: You said -- who were they living with? You  
17 said their fathers, their --

18 A. They were with their mothers.

19 Q. Did you observe any harassment?

12:52:35 20 A. No, I did not observe that.

21 Q. When you were there for two days, were there any  
gatherings  
22 of fighters?

23 A. Yes, when we were going to mission, we had a muster  
parade.

24 Q. Who led the muster parade?

12:53:01 25 A. It was Issa.

26 Q. Were you present during the master parade?

27 A. Yes, sir.

28 Q. Can you recall the kind of things that Mr Sesay said  
during  
29 the muster parade?



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1 A. Yes, I could recall some.

2 Q. What did he say?

3 A. He said that the attack that we were going to in Kono  
4 nobody should kill innocent civilians, nobody should burn

12:53:36 5 people's houses, and then no looting.

6 Q. And were there any military plans made or spoken about?

7 A. Yes, I heard when they arranged the group, another  
group,

8 they said the other group should go this way to attack the  
town.

9 Q. Which town?

12:54:17 10 A. Kono.

11 Q. How many groups were made?

12 A. The one that I could recall, like Akim had a group for

13 Kimberlite and Rambo had another group for Lebanon, then  
xxxxxx 14 had another group for Gbesse market area. Then Morris  
Kallon --

12:54:36 15 went to the highway in an ambush. Then we that stayed were in  
16 the ambush to enter.

17 Q. Who's we?

18 A. Guinea Highway, the other people that remain. We were  
the

19 ones that were there.

12:54:59 20 Q. Who led that group?

21 A. The commander was there but --

22 INTERPRETER: Sorry. Take those groups again.

23 PRESIDING JUDGE: Take those groups again. Akim, Rambo

24 Lebanon and --

12:55:19 25 THE WITNESS: Yes. xxxxxx and other commanders in  
Gbesse

26 market area.

27 PRESIDING JUDGE: Then you were for the ambush? Yes?

28 THE WITNESS: No. We were in the Guinea Highway. The  
main

29 road to enter into Koidu, there we were.

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1 MR JORDASH: Morris Kallon for the ambush; is that  
right.

2 A. Yes, on the highway.

3 Q. Was any other attack mentioned at this formation? Any  
4 other plan besides the attack on Kono?

12:56:09 5 A. Well, I did not really know but I knew more about Kono.

6 Q. The group that you were in, I think you said but I'll  
ask

7 you again because it may not have come out very clear. Who  
was

8 the group led by, the group that you were in?

9 A. Issa he himself was there in that group.

12:56:47 10 PRESIDING JUDGE: In which group.  
11 THE WITNESS: The group from the Guinea Highway.  
12 MR JORDASH:  
13 Q. What route -- well, did these groups attack Koidu Town?  
14 PRESIDING JUDGE: Who led the group from Guinea Highway.  
12:57:13 15 THE WITNESS: Well, it was Issa that was there.  
16 PRESIDING JUDGE: I said who led it. You said he was  
17 there. Who led it. The question is very simple.  
18 THE WITNESS: Issa.  
19 MR JORDASH:  
12:57:42 20 Q. After the formation, was this plan executed?  
21 A. Yes, the plan was carried out.  
22 Q. And what did your group do?  
23 A. Well, our own group, we were not able to enter.  
24 Q. So what happened?  
12:58:08 25 A. When I left the place, and other groups started  
capturing  
26 other areas but we were in that group; we were not able to  
enter.  
27 Q. Did you and your group fight to try to enter?  
28 A. Yes.  
29 Q. Did Issa Sesay fight?

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1 A. Yes. Yes.

2 Q. And did the other groups have success in capturing Koidu  
3 Town?

4 A. Yes.

12:58:46 5 Q. What did your group do after Koidu Town had been  
captured?

6 A. When they captured the main areas, they came back where  
we  
7 were. They came and met us and all of us went together.

8 Q. When these attacks by these different groups occurred,  
9 where were the women and children?

12:59:13 10 A. They were in the bush, in the zoo bush.

Highway 11 Q. Is that a different zoo bush to the one at Guinea  
12 or the same one?

13 A. It was in the Guinea Highway but it was in the zoo bush  
14 that we made a zoo bush, in the zoo bush to the forest.

12:59:39 15 Q. Did Issa Sesay have a communication set?

16 A. Yes, we had a communication set, on the rear.

17 Q. Did you observe him communicate with anyone?

18 A. Yes, when xxxx had captured and sent the information to  
19 him.

13:00:29 20 Q. Captured where?

21 A. Kimberlite.

22 Q. Did you hear any other communications at that time?

23 A. Yes, the --

24 INTERPRETER: Your Honours, will the witness be asked to  
13:00:29 25 repeat the last segment of his testimony.

26 MR JORDASH:

27 Q. Just repeat that last answer for the translator. Just  
28 repeat the last answer you gave?

29 A. Rambo that was at Lebanon, he himself when he succeeded,  
he

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1 informed Issa.

2 Q. When you entered -- well, let me be clear. Did anyone  
else  
3 communicate from what you heard?

4 A. Well, I cannot recall now.

13:01:17 5 Q. Fair enough. When you entered Koidu Town -- did you  
enter  
6 Koidu Town, Mr Witness?

7 A. Yes. We entered later at night.

8 Q. Did you enter with Issa Sesay or not?

9 A. I entered with him. All of us entered.

13:01:42 10 Q. Did you see any civilians in Koidu Town when you  
entered?

11 A. At that time I did not see any civilians. It was during  
12 the night.

13 Q. Did you see any ECOMOG?

14 A. Yes. They had been capturing ECOMOG and they had been  
13:02:05 15 coming with them.

16 Q. Where were they?  
17 A. It was, they were at Issa's house where they were coming  
18 with them.  
19 Q. Where was that?  
13:02:37 20 A. At Lebanon.  
21 Q. How were they treated?  
22 A. I did not see that they were badly treated because it  
was  
23 Issa that was talking to them and encouraging them. They had  
24 been eating, they would sit down and relax. I did not see  
that  
13:02:39 25 they were badly treated.  
26 Q. Do you know if from what you observed the instructions  
Issa  
27 Sesay had given about treatment of civilians were obeyed or  
not?  
28 A. Well, some men obeyed, some men were in the corners, who  
29 were not able to see. Some used to accept what he used to  
say.

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Koidu  
1 Q. After Koidu Town had been captured, did you remain in  
2 Town? Did the RUF remain in Koidu Town?  
3 A. Yes, I was there.

4 Q. Did others travel on?

13:03:43 5 A. Yes.

6 Q. Where did they travel to?

7 A. They came to Bumpeh.

8 Q. Did you become aware of any other plan after they  
captured

9 Koidu Town?

13:04:07 10 A. Well, I was in Kono, I was there. Still, fighting had  
been

11 going on at Bumpeh and the other areas.

12 Q. Did you become aware of any other plan or any other  
mission

13 that happened?

14 A. Well, they had been advancing. They had been advancing.

13:04:39 15 PRESIDING JUDGE: Advancing to where, to Bumpeh?

16 THE WITNESS: Towards where they had based at Bumpeh,  
they

17 had been trying to go ahead.

18 MR JORDASH:

19 Q. Towards where?

13:04:53 20 A. Towards Masingbi.

21 Q. Did you hear if any further instructions were given by  
22 anyone about advancing to Masingbi?

23 A. Well, I wouldn't know.

24 Q. You mentioned there about some men acting in corners.  
Do

13:05:29 25 you recall anyone called xxxxx?

26 A. Yes, sir.

27 Q. Who was he?

28 A. He was an SLA.

29 Q. What was he doing?

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1 A. Well, when we captured Kono, initially was just at one  
2 particular place and he had been looting civilian property.

3 Q. What happened?

4 A. Civilians came and complained to Issa.

13:06:14 5 Q. Where had he been looting?

6 A. It was at Koakoyima. I don't know the exact place but  
it  
7 was based at Koakoyima.

8 Q. And was this at the time, or after, or before the  
capture  
9 of Koidu Town?

13:06:42 10 A. When we were captured Kono, by then.

11 Q. What happened to Sarki, if anything?

12 A. Yes. Issa, when the complaint was lodged to him, he  
went  
13 to him --

14 THE INTERPRETER: Your Honours, would the witness be  
13:07:04 15 instructed to go slow?

16 MR JORDASH:

17 Q. Just take your time, there's no hurry. Just repeat what  
18 you just said?



that 19 A. When the civilian went and lodged a complaint to him  
13:07:24 20 xxxxx had been looting the civilians, Issa came there. And  
when 21 he came, we saw the things as he had looted. We saw some in  
the 22 room. Issa became angry because he has said that nobody  
should 23 loot, but he had been looting in the corner so he wanted to do  
again 24 something bad to him. But the civilians, they called Issa  
13:07:51 25 and pleaded with him. They said he should not do anything  
that 26 was bad to him, and that he should take him from that  
particular 27 area and send him to the frontline.  
28 Q. What happened to the properties?  
29 PRESIDING JUDGE: When they said he was going to do a  
bad

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1 thing to him, what was the bad thing?  
2 THE WITNESS: Well, if they told you not to do something  
3 that was bad and they did it, then you could be shot at.  
4 MR JORDASH:  
13:08:30 5 Q. What happened to the looted properties?

6 A. Well, those that claimed them, they told them that these  
7 properties were given to them.

8 Q. Given to who?

9 A. The civilians who came and said that those were their  
13:08:54 10 properties, they were given to them.

11 MR JORDASH: Your Honour, I notice the time. And if I  
may  
12 just briefly address Your Honours in the absence of the  
witness.

13 I have probably about 20 minutes or so, maybe 30 minutes at  
the  
14 absolute maximum, but I'd like to address you about something  
13:09:26 15 before the lunch-break if I may. It will only take 30 seconds  
16 just to inform you of something.

17 PRESIDING JUDGE: Yes. Okay. So the witness can be  
taken  
18 out.

19 [The witness stood down]

13:10:55 20 PRESIDING JUDGE: Yes?

21 MR JORDASH: I just thought I should, I don't know  
22 obviously, what application my learned friend is going to  
make,  
23 and I don't raise this issue for that purpose. But I wanted  
to  
24 inform Your Honours that this witness's mother died last week,  
13:11:12 25 and he has to be away by the end of the day, whatever happens  
in  
26 terms of cross-examination, because it's the seven-day period  
27 tomorrow, and the witness kindly agreed to remain in Freetown  
to  
28 give evidence today, but really needs to be away by the end of

at

29 the day. And if necessary I'll make the requisite application

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to

1 the time, but he remained under some sufferance to try to keep

2 the Court schedule, but absolutely has to be at home tomorrow.

what's

3 JUDGE BOUTET: But I'm curious to understand a bit

is

4 going on. If that is the case, he knew that yesterday. Why

13:12:04

5 it this witness is the first one you called, when whatever the

--

6 Prosecution may say you'll serve additional information on him

we

7 about him, yesterday. And yet this is your first witness that

situation

8 have, and you know that this witness is in this family

13:12:24  
more

9 difficulty. Why is it this is your first witness? I'm just

10 curious and surprised by this because you had more, you have

11 than one witness to call, so.

more

12 MR JORDASH: Well, technically we actually don't have

13 than one witness to call. We have one possible witness we can

which

14 call this afternoon, if he's being treated for a leg injury

13:12:45 15 he's been waiting to have treated for a few days. But without  
16 this witness we would not have been able to fill the day,  
because  
17 we've had investigators out in the field trying to get  
witnesses  
18 into Freetown with some success, but we are -- and we expect  
to  
19 be able to continue without delay, but not if this witness  
wasn't  
13:13:09 20 called. This witness allows us to catch up a little bit  
further,  
21 which will enable us to continue without delay but if this  
22 witness hadn't been called I would have been asking Your  
Honours  
23 for another adjournment.  
24 PRESIDING JUDGE: Why? Why ask us for another  
adjournment,  
13:13:27 25 after one week?  
26 MR JORDASH: Because we're dependent upon witnesses  
coming  
27 into town. And with the best will in the world we can't  
28 frog-march into the Court.  
29 PRESIDING JUDGE: Are you suggesting, Mr Jordash, that  
the

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1 Court will move at your pace, at the pace at which you are

2 getting your witnesses?

3 MR JORDASH: Well, I can't --

4 PRESIDING JUDGE: Have you -- have you taken -- have you  
13:13:44 5 addressed your mind to the length of time. You remember when  
you  
6 were asking for an adjournment, Mr Hardaway, you know, posing  
7 your adjournment which we granted notwithstanding his  
opposition,  
8 said that, you know, we are getting to near two years, or is  
it  
9 18 months he said, since they closed their case.

13:14:09 10 MR JORDASH: Yeah.

11 PRESIDING JUDGE: And I think I would advise you to  
consult  
12 your diary and to see, because we have the time frames, you  
know,  
13 within which we thought that your case should have been ready  
and  
14 that we should be moving without any interruptions, in any  
13:14:29 15 circumstances that you may imagine. I know you are expecting,  
16 you know, you would raise an issue of resources and so on and  
so  
17 forth but I'm afraid, Mr Jordash, we will not continue with  
this  
18 case this way, you know, to say that after granting you a  
week's  
19 adjournment we would again be faced with another application  
for  
13:14:49 20 you to adjourn this case. We will not continue adjourning the  
21 case this way.

22 I'm afraid this is my reaction to this because it is not  
23 fair to the Court, that after a week's adjournment when we  
expect

be 24 that you would have lined up a number of witnesses, you will  
13:15:10 25 coming up again with an application for an adjournment. And  
like 26 my colleague has mentioned, if this witness has an occasion as  
27 important as this in his family, why should he be the one that  
28 should be called? What has been happening within the past one  
29 week? Why should it be this witness and not some other  
witness,

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adjournment 1 or why should it be that even if we have to grant the  
2 to the Prosecution for them to cross-examine, that we will not  
3 have another witness in this room to testify? I am afraid  
it's a 4 very difficult scenario, you know, we are very, very conscious  
of 5 the rights of the accused person under Rule 17 but those  
13:15:52 6 have their limitations as well. They have their limitations.  
rights 7 They are not absolute rights.  
8 MR JORDASH: Your Honour with greatest respect I'm not  
sure 9 what I'm being criticised for since I've made no application  
for 10 an adjournment. What I've done is --  
13:16:11

11           PRESIDING JUDGE: You mentioned an adjournment.

12           MR JORDASH: I didn't mention --

13           PRESIDING JUDGE: We came close to that and that's why  
I'm

14 worried here. Mr Jordash, if you say, you know, without this

13:16:23 15 witness we are going on this afternoon, fine. If you say that  
we

16 will not be asking -- you will not be asking for an  
adjournment

17 and that we'll be proceeding, fine. If I'm making these  
comments

18 it is because you did say, you know, that you might be asking  
for

19 an adjournment.

13:16:39 20           JUDGE BOUTET: That was my understanding too, I must  
say.

21 If that was not the case, both the Presiding Judge and myself

22 misunderstood your statement because I understood you to say

23 we're fortunate to have -- I was fortunate to have this  
witness

24 here today. Otherwise, I would have asked for an adjournment,  
13:16:56 25 that's what you said. And if the Prosecution is asking for an

26 adjournment now, whatever it is, as such, do I understand that

27 you have no witnesses to call if that were to be the case?

28           MR JORDASH: I need to -- we do have a witness. I need  
to

29 check whether he's well enough to give evidence --

1 JUDGE BOUTET: But if he's not, Mr Jordash, I recall  
last  
2 week when you were granted the adjournment you said that  
3 witnesses were coming in now in Zulu by -- I don't know how  
many  
4 that day, and you asked if the Court would give you this time  
13:17:40 5 away from leading the case in Court because you had to be  
there  
6 to interview these witnesses and this -- I presume this is  
what  
7 you have been doing for the last week, and now you're talking  
of  
8 maybe a witness and we're not sure if he is injured as such.  
I  
9 mean, where are we going?

13:17:42 10 MR JORDASH: Well, that's what I was trying to explain  
11 before I was criticised for doing something I haven't done  
yet.

12 PRESIDING JUDGE: It was a reaction -- it was a reaction  
to  
13 your posturing that you mentioned an adjournment and that is  
why  
14 I came in because I don't see myself being faced with another  
13:18:02 15 application for an adjournment, after this Chamber has  
generously  
16 given an adjournment for one week, you know, to enable you to  
17 fulfill your obligations, and for the case to continue  
normally.  
18 That is why I came with those comments.

19 MR JORDASH: With the greatest respect, being granted an



13:18:19 20 adjournment because we were not able to go on through no fault  
of

21 our own whilst it was appreciated --

22 PRESIDING JUDGE: Through no fault of your own?

23 MR JORDASH: Through no fault of our own, yes. I'll  
repeat

24 that. Through no fault of our own, and if we're forced to  
apply

13:18:35 25 for an adjournment again because we cannot get witnesses here  
in

26 time or because witnesses fall ill, again, it's through no  
fault

27 of our own.

28 PRESIDING JUDGE: There's there a difference between a

29 witness falling ill and not being able to get witnesses into  
Zulu

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witnesses 1 or investigators being in the countryside and hunting

2 at this point in time. At this point in time.

3 JUDGE BOUTET: You've been on the case since June 2003,  
Mr

4 Jordash. I mean, you are not new to this case. And to be  
told

13:19:04 5 at this late stage, as such, that you still have investigators

6 running up the country to seek witnesses to get witnesses down  
to  
7 Freetown is astonishing, I must say. I mean, we are almost at  
8 the end of your case and you filed yesterday another list of  
9 witnesses, I don't know how many but more than two. Where are  
13:19:19 10 these witnesses that you are to call? Why aren't they here?  
Why  
11 is it they are not available for you to call now?  
12 MR JORDASH: Well, it's not astonishing that  
investigators  
13 are in the field getting witnesses because we can't just phone  
14 them up and ask them to come down.  
13:19:36 15 PRESIDING JUDGE: Mr Jordash, for how long?  
16 MR JORDASH: If I could explain.  
17 PRESIDING JUDGE: For how long? Look at when the  
18 Prosecution finished their case. Look at when we did say,  
even  
19 after taking Mr Sesay's evidence, we said no, we are  
suspending  
13:19:48 20 everything. You go to the field and you're organising your  
21 defence because we have to finish with the CDF case.  
22 MR JORDASH: Your Honours --  
23 PRESIDING JUDGE: And you had all this time.  
24 MR JORDASH: Your Honours appear to be ignoring one  
fact.  
13:20:00 25 PRESIDING JUDGE: Which is?  
26 MR JORDASH: Which is that witnesses have lives. One  
27 cannot just bring them to Freetown three months before they  
are  
28 going to testify. They have jobs. They have personal lives,  
and  
29 can only be brought at a particular time before their  
testimony.

1 Why are investigators in the field? Because we have to send  
2 investigators to the field to get witnesses. It's not  
3 astonishing because I don't know any other way to get  
witnesses  
4 but to send people to fetch them. With the best investigators  
in  
13:20:30 5 the world two investigators can only fetch so many witnesses,  
and  
6 when they get to the field if the witnesses say: You know  
what,  
7 I've got to sort out my family arrangements; I've got to sort  
out  
8 my job, what are the investigators to do? We can call in the  
9 Sierra Leonean Police and arrest them, but I don't think that  
13:20:49 10 will be very productive.  
11 JUDGE THOMPSON: Let me say, what I find intriguing is  
the  
12 number of witnesses who are actually repeating issues that are  
13 clearly being covered by quite a substantial number of  
witnesses.  
14 And of course, it goes to the question for me, and speaking  
from  
13:21:07 15 a judicial perspective, whether the rule of corroboration is  
16 being ignored because clearly, as far as I understand the law,

17 it's always been the law that you do not need more than one or  
18 two witnesses to corroborate a witness who testifies as to a  
19 particular episode. I have been following the proceedings,  
and I  
13:21:34 20 find that we've been having quite a number of witnesses  
21 testifying on almost the same episode over and over again.  
And  
22 so clearly, it appears to me therefore that we may be  
multiplying  
23 witnesses and sometimes multiplying issues and that would be  
my  
24 own concern which I really find extremely intriguing. Because  
if  
13:22:01 25 you have ten witnesses testifying to a particular episode, how  
26 does the Tribunal find it's way towards evaluating the  
evidence?  
27 MR JORDASH: Well, I'm not sure if Your Honour is making  
28 that comment in relation to this witness or not.  
29 JUDGE THOMPSON: No. No. No, not at all. I'm just  
saying

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1 that some of the witnesses who have testified here, for  
example,  
2 a witness comes and talks about mining in a particular area,  
and  
3 then you have three or four other witnesses virtually

4 corroborating that, I'm saying that isn't it intriguing that  
13:22:36 5 having had two witnesses corroborate the mining position in  
terms  
6 of the defence you are putting forward, do you want five or  
more  
7 witnesses to come and corroborate that.

8 MR JORDASH: Well, yes.

9 JUDGE THOMPSON: That is intriguing for me.

13:22:51 10 MR JORDASH: When the Prosecution have had that number  
11 then, yes. This is --

12 JUDGE THOMPSON: In other words, the Prosecution has  
13 virtually compounded the rule because the rule is that one  
14 witness can corroborate a witness on a particular issue, as  
long  
13:23:06 15 as that witness is believable.

16 PRESIDING JUDGE: But that is a general, that is a  
17 principal on which international criminal justice lies and it  
is  
18 a principal that has been adopted by other international  
criminal  
19 tribunals.

13:23:10 20 JUDGE THOMPSON: That is my own concerns.

21 MR JORDASH: But it wasn't --

22 PRESIDING JUDGE: That is, I mean, there is no rule  
which  
23 says that you need more than one witness to prove an issue.  
24 We're not ruling out corroboration. We are not. We are not  
13:23:28 25 saying you must call only one witness, this is not what we're  
do  
26 saying, but the rule is there and we are stuck with it. You  
27 not need more than one witness to establish a fact that is  
28 relevant to the issues that are raised in the indictment.

29 MR JORDASH: Well, I would simply say this: Why weren't

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their 1 these points not raised when the Prosecution were calling  
2 85 witnesses?

for 3 PRESIDING JUDGE: The Prosecution called 85 witnesses  
4 three accused persons, and they listed -- there were some  
cases,

13:23:55 5 you know, where they listed about 200 witnesses or a hundred  
and  
6 something and they had to bring them down. Those witnesses  
were  
7 brought down and they called 85 witnesses for three accused  
8 persons.

9 MR JORDASH: They had at least ten --

13:24:06 10 PRESIDING JUDGE: You have -- Mr Jordash, you have  
served a  
11 notice here that you intend to call -- I mean, I don't know  
12 what -- 89 witnesses, a revised ordering of 89 witnesses. I  
13 don't know what we are doing with 89 witnesses for the case of  
14 your accused person. Let me be very, very frank on this.  
13:24:28 15 89 witnesses, I will say that it's an exaggerated number. The

want 16 Prosecution cannot call 85 and for your defendant alone you

17 to call 89 --

18 MR JORDASH: No.

19 PRESIDING JUDGE: -- and maybe more than a hundred. How  
13:24:40 20 many will Kallon call? How many will Gbao call? How many  
21 witnesses shall we end up with in this trial?

22 MR JORDASH: Well, Your Honours are ignoring, with  
respect,

23 what we made very clear last week which was we made an

24 application to say we don't have enough time to interview

13:24:57 25 witnesses, and then Your Honours made an order which  
effectively

26 said, in seven days please give us the exact witnesses you are

27 going to call. An impossibility, of course.

28 PRESIDING JUDGE: No. We didn't give you, we didn't  
give

29 you the one week for you to give us an exact number of  
witnesses.

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1 It was one week for you to continue with the proceedings.

2 MR JORDASH: No, it was --

3 PRESIDING JUDGE: And to interview your witnesses and to

grant 4 continue with these proceedings. We were very reluctant to  
13:25:25 5 you the one week, but we did because we wanted to give you  
some 6 respite, you know, to be able to at least go and interview  
some 7 of your witnesses and make them available, you know, for us to  
8 take them in the course of these proceedings.

9 MR JORDASH: But Your Honours passed an order which  
said:

13:25:42 10 Please file your list of witnesses -- your reduced list of  
11 witnesses.

12 PRESIDING JUDGE: Yes.

13 MR JORDASH: So we had a week to interview the 89  
witnesses  
14 and give you our final list. How --

13:25:52 15 PRESIDING JUDGE: Well, that was only one of the orders.

16 MR JORDASH: Yes.

17 PRESIDING JUDGE: That was only one of the orders and  
the  
18 case was to continue anyway from the twelfth.

19 MR JORDASH: But the point is Your Honours now criticise  
us  
13:26:03 20 for giving you a list of 89. What were we suppose to do?

21 PRESIDING JUDGE: 89 but you have -- you have given 89  
but  
22 you have not complied with the other order. Where is the  
summary  
23 of the evidence?

24 MR JORDASH: It's there.

13:26:13 25 PRESIDING JUDGE: Which is supposed to be there. Where  
is  
26 the summary? I've seen it here but I have not seen the  
summary



27 of the evidence.

for 28 MR JORDASH: May I just stick with the point of the 89

29 a moment.

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1 PRESIDING JUDGE: Because where we wanted the summary of  
2 the evidence is to see, is to tackle the issue of  
repetitiveness  
3 and we will insist on the summary of the evidence of witnesses  
4 who you intend to call. It is important otherwise we will not  
13:26:35 5 see the end of the tunnel.

6 MR JORDASH: The summary was to be filed by today and it  
7 will be filed by today. It's been done --

8 PRESIDING JUDGE: Well, we are waiting for it because we  
9 are interested in knowing what summary, you know, and the  
summary

13:26:48 10 must be detailed and should not be a summary that will be  
11 accompanied later on with supplementals which will take us to  
12 another scenario, like what Mr Hardaway is complaining about  
13 today.

14 MR JORDASH: There is no way we can do it. We cannot  
13:27:05 15 interview 89 people in seven days to give you detailed  
summaries.

doing 16 PRESIDING JUDGE: 89 witnesses. What have you been  
been 17 since the case of the Prosecution was closed? What have you  
Mr 18 doing since the case of the Prosecution was closed? And since  
is 19 Sesay ended his case, I mean his testimony. This is -- this  
13:27:24 20 the question.

our 21 MR JORDASH: Well, what we've been doing is waiting for  
22 motion to be ruled upon so that you can decide and engage with  
not; 23 our argument as to whether we have legitimate resources or  
24 that's what we've been doing.

13:27:37 25 JUDGE BOUTET: Well, if that's all you are doing then  
you 26 are warned. You had to proceed with what you had if that's  
all 27 you had.

28 PRESIDING JUDGE: You were totally wrong.

as 29 MR JORDASH: It was wrong for our motion to be ignored

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1 well, and to be standing here to be criticised constantly when

2 our arguments are there on paper and not engaged with.

3 JUDGE BOUTET: Mr Jordash you were given time and  
suppose

4 to be ready to start in January 2007 with your case. You were  
13:28:01 5 arguing with this Court that you would be prepared to proceed  
at

6 that particular moment. When we got there you were the first  
one

7 to stand up and say I'm not ready to proceed, I ask the case  
to

8 be adjourned again, and we have agreed and we have conceded  
and

9 all of your requests for adjournment because -- and because  
you

13:28:16 10 needed more time but at the same time you kept pressuring the  
11 Court to move ahead because your client has the right to be  
tried

12 expeditiously. And we've been with you. But you're the one  
now

13 that is asking time and time and time again for adjournment  
14 because you are not ready to proceed. As I say you've been on

13:28:33 15 this case since June 2003. Not as just yesterday.

16 MR JORDASH: How long I've been on this case is not the  
17 point. The point is this --

18 PRESIDING JUDGE: It is a very crucial point. A very  
very

19 crucial point.

13:28:44 20 MR JORDASH: It would be a crucial point if the  
Prosecution

21 hadn't adduced hundreds of factual allegations throughout  
their

22 case. We could barely investigate the case in June 2003  
because

23 most of it wasn't known.

proceeding 24

JUDGE BOUTET: Mr Jordash at that time we were

13:28:59 25  
the

with six-weeks CDF, six-weeks RUF, and during the recess of

26 RUF you had the time to do some work in between. You were not

27 Court on a daily basis. We were, you were not.

28  
would 29

MR JORDASH: If Your Honours had observed and if Your  
Honours had actually looked at our application Your Honours

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at

1 know that throughout that time we have -- had people working.

2 JUDGE BOUTET: I'm not suggesting or saying you were not  
3 working, this is not what I was saying. What we're concerned  
4 about -- and that's why I use the word I am astonished to see

13:29:32 5

this late time of the process you still have to interview  
6 witnesses and we are in this dilemma today. That's why I was  
7 saying astonishing.

we 8  
those 9

MR JORDASH: With the greatest respect, it's astonishing  
can lay out our argument in absolute meticulous detail and

13:29:45 10  
and

arguments not to be taken notice of but I have to stand here

11 be criticised constantly for not going ahead. In my  
submission  
12 it's completely contradictory. I cannot put forward an  
argument,  
13 it be ignored and then be criticised for not being ready. How  
14 can that be? I'm sorry, I can make an argument, if it's  
ignored  
13:30:09 15 what can I do? Nothing. But to be standing here -- Your  
Honours  
16 can criticise as much as you want but my arguments were on  
paper,  
17 they have been on paper since 2005. They have been ignored  
since  
18 2005. Your Honours can criticise me as long as Your Honours  
19 want, that is the state of affairs.  
13:30:33 20 PRESIDING JUDGE: Learned counsel, we would recess for  
21 lunch and resume with the proceedings at 2.30.  
22 The Court will rise please.  
23 [Luncheon recess taken at 1.30 p.m.]  
24 [Upon resuming at 2.57 p.m.]  
15:06:30 25 [The witness entered Court]  
26 PRESIDING JUDGE: Good afternoon learned counsel. The  
27 Chamber will like to observe that we were supposed to start at  
28 2.30. And it's becoming a habit, you know, that we do arrive  
29 Chambers quite on time and Court Management summons us in  
rather

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in 1 lately because he says that counsel are usually not available  
we 2 Court. I would like to see a change in this and look at when  
since 3 are starting. It's virtually 3 o'clock. We've been there  
continue. 4 2.30, even before. We were there because we wanted to

15:07:43 5 So, we have to be told, you know, that the Court is ready. I  
the 6 don't know whether you learned counsel want us to bump into  
that 7 Court and start the case without them. We don't want to do  
you 8 and we count on the understanding and the cooperation of  
9 everybody in this regard because we cannot function without

15:08:08 10 in these cases anyway. And I don't think that the accused  
which I 11 persons can function without you. So, this is the remark  
starting 12 thought I should make and we will proceed whilst we were  
13 at 3.00 p.m. instead of at 2.30. Yes, Mr --

14 MR CAMMEGH: Your Honour, I really don't want to sound  
15:08:33 15 facetious but I'm starting to wondering how many courtrooms  
are 16 operating in the building because I've been in here since  
before 17 2.30 and I know for a fact that my learned friends were all in  
18 here at 2.30. I'm quite shocked.

19 PRESIDING JUDGE: Well, we have just been ushered in  
mister

15:08:47 20 and this is not the first -- we are making this comment  
because

is 21 out of the abundance of the heart, the mouth speaketh. This  
22 not the first time counsel are not there and we've been there  
23 too, if you've been here since 2.30, we've been here 2.32 to  
24 start, even before so anyway, let's --let -- -

15:09:09 25 JUDGE BOUTET: I will say if that were the case there's  
you 26 been a obvious miscommunication somewhere. I am not saying  
27 are wrong. I don't know, we didn't come.

I 28 MR CAMMEGH: I don't want to stir up a hornets nest but  
29 think it's only right that I correct certain information that

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that 1 Your Honours might have received. Because we're all aware  
2 we seldom start until about quarter to ten in the morning and  
with 3 about quarter to three in the afternoon. But Your Honour,  
4 my hand on my heart I can say I'm not aware of --

15:09:43 5 PRESIDING JUDGE: Mr Cammegh, I want to tell you that we  
6 are here long before the quarter to ten or quarter to three  
7 you're talking about. We are there. We are in Chamber.

8 MR CAMMEGH: But Your Honour, so are we and I'm  
astonished,

9 and I look at my learned friends and I look at their faces, I  
15:09:58 10 look at Mr Hardaway and I think we're all astonished to hear  
what

11 Your Honour just said. And I'm not saying that to be  
impertinent

12 or disrespectful, but I've got to state the facts.

13 PRESIDING JUDGE: No, you are right. I mean, you are  
14 perfectly entitled to stating the facts it's just a comment  
which

15:10:13 15 I am making and I think we may --

16 MR CAMMEGH: Honestly, Your Honour, I have to emphasise,  
17 I'm not aware of any counsel in this room coming to Court late  
on  
18 any occasion and if they are they always have a junior sitting  
in  
19 for them.

15:10:29 20 PRESIDING JUDGE: Well, I remember on one occasion at  
least  
21 we walked in here and there were some counsel who were not  
here.

22 Let's let the matter rest there. We know what we should do in  
23 these circumstances. So, Mr Jordash may we proceed with this  
24 witness please.

15:10:50 25 MR JORDASH: Yes, Your Honour.

26 Q. Good afternoon Mr Witness. Are you getting me?

27 A. Yes, good afternoon.

28 Q. Let's pick up with you in Koidu Town. When you entered  
29 Koidu Town, did you observe if there were any houses which  
were



1 recently burned or damaged?

2 A. When we entered Kono, I saw some house being burned but  
3 they had been burned sometime, it was not the time we entered.

4 Q. Did you observe any civilian orders?

15:12:00 5 A. The night that we entered I did not see civilians, but  
the 6 other day I saw civilians coming around.

7 Q. Did you see any dead civilians within Koidu Town?

8 A. No, I did not see any civilian corpse.

9 PRESIDING JUDGE: But did you see any other corpses?

15:12:36 10 THE WITNESS: Yes. I saw ECOMOG corpses.

11 MR JORDASH:

12 Q. Did there come a time when you left Koidu Town?

13 A. Yes.

14 Q. How long after the town had been captured was it before  
you 15 left?  
15:13:12 15

16 A. Well, when we captured Kono, I only moved during the  
time 17 when Makeni Town was captured. That was the next day that we  
18 moved to go to Makeni, I.

19 Q. Did you travel with anyone?

15:13:37 20 A. Yes, sir.

21 Q. Who did you travel with?

22 A. Ah -- I travelled with Issa.

23 Q. Did you travel on foot or in a vehicle?  
24 A. It was in a vehicle.  
15:14:01 25 Q. Did you stop on the way anywhere?  
26 A. Yes, sir.  
27 Q. Did you stop in Masingbi?  
28 A. Yes, sir.  
29 MR HARDAWAY: Objection, Your Honour, leading.

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1 PRESIDING JUDGE: The objection should be upheld really.  
2 You should have asked this witness: Where did you stop. Not  
to  
3 suggest an answer to him. We all know these rules. Let's not  
4 run into stormy waters, you know, before we respect the rules.  
15:14:40 5 If you stop, where did you stop? Then the witness will  
provide  
He  
6 the answer for where he stopped. Now the response is there.  
7 stopped in -- did you stop in Masingbi? Yes, I stopped in  
8 Masingbi.  
9 MR JORDASH:  
15:14:54 10 Q. Do you remember where you first stopped, Mr Witness?

11 A. It was at Masingbi that I could recall.

12 Q. Did anything happen in Masingbi?

13 A. Yes. We saw some civilians around with some soldiers  
that

14 we met.

15:15:28 15 Q. Did Issa Sesay do anything?

16 A. Yes. I listened to him when he was talking to the  
do

17 civilians, saying that they were free and that nobody had to  
they

18 anything to them, that nobody had to harass them, and that  
19 should live in peace.

15:15:59 20 Q. Did he speak to any of the fighters?

21 A. Yes. He talked to the soldiers that were there, that  
22 nobody should harass any civilian, and that no property should  
be

23 looted. Nobody should be killed or to burn, burn house s.

24 Q. Did you observe if any houses had been burned to any  
recent

15:16:32 25 stage?

26 A. No. At the time I entered Masingbi, there were no  
houses

27 being burned at that time.

28 Q. After stopping at Masingbi, did you continue?

29 A. Yes, we went to Makali.

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1 Q. Did anything happen at Makali?

2 A. No, I did not see anything happen there. We only saw  
the  
3 civilians and other fighters, just like what we saw at  
Masingbi.

4 Q. Did you stop at Makali?

15:17:07 5 A. Yes, sir.

6 Q. Did anything happen when you stopped?

7 A. No, I did not see any other thing that happened.

8 Q. Why did you stop?

9 A. We stopped because the bra had been talking to the  
10 soldiers. He had been trying to encourage the civilians not  
15:17:34 to  
11 be afraid in the town.

12 Q. And just so that we're clear, who's bra?

13 A. Issa, Issa.

14 Q. And from Makali, did you go anywhere?

15:17:56 15 A. Yes, sir we went to Matotoka.

16 Q. Did Issa Sesay do anything there?

17 A. It was the same piece of advice that had been advising  
the  
18 civilians and the soldiers.

19 Q. Did you hear that?

15:18:13 20 A. Yes, sir.

21 Q. Did you see any CDF on the way from Kono to Makeni?

22 A. Yes, sir, we saw some of them who came. They came to  
Issa.  
23 I saw some of them coming to Issa.

24 Q. Did Issa Sesay speak to them?

15:18:42 25 A. Yes. When they came they said that they did not want to  
26 fight and that they wanted to be with Issa, and they would not  
go  
27 to the bush anymore. So they had to be with the RUF.  
28 Q. And how did --  
29 JUDGE BOUTET: I`m sorry, who's saying this, you said  
CDF?

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1 THE WITNESS: Yes, sir the CDF, the Kamajors whom we met  
2 there.  
3 JUDGE BOUTET: When you say "we met them there," what's  
the  
4 "there"?  
15:19:20 5 THE WITNESS: Masingbi.  
6 MR JORDASH:  
7 Q. And how did Issa Sesay respond?  
8 A. He was really happy. The commander that was there, he  
came  
9 and he talked to him, he encouraged him. In fact, he gave the  
15:19:44 10 instructions to go and bring all of his colleagues who were in  
11 the bush so that they could come to town.  
12 Q. Now, after you'd gone through Matotoka, where did you go  
13 from there?

14 A. We went to Magburaka.

15:20:08 15 Q. Did anything happen in Magburaka?

16 A. Well, no. They had just been going, talking to the

17 civilians and soldiers. He had been telling them to be in the

18 town so that -- telling them that there would be no problem.

19 Q. Did you hear this?

15:20:32 20 A. Yes, sir.

21 Q. After Magburaka where did you go?

22 A. We entered Makeni.

23 Q. When you travelled from Kono to Makeni, did Issa Sesay  
have

24 a radio set?

15:21:01 25 A. Well, yes he had a set.

26 Q. Were you able to listen to any communication on the way?

27 A. Well, I did not listen to the communication.

28 Q. When you entered Makeni a day after it had been  
captured,

29 what did you observe?

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1 A. Well, when we entered Makeni I saw that there was no

2 problem, nobody burnt any house there. Civilians were there.

So

barracks. 3 I don't see any other problem there. ECOMOG was in the

4 Q. Sorry, who was in the barracks?

15:21:58 5 A. ECOMOG.

6 Q. What happened to ECOMOG in the barracks?

7 A. Well, when we were staying in the town, later in the  
night

8 there was a mission to go and attack at the barracks.

9 Q. And who did the mission involve?

15:22:31 10 A. Well Rambo was there, Superman. They were the ones that  
I

11 could recall now.

12 Q. Did you observe if Issa Sesay did anything in Makeni  
when

13 you arrived?

14 PRESIDING JUDGE: You say Superman and who? Who's the  
15:22:57 15 third one in the barracks? And Rambo? Superman and Rambo?

16 THE WITNESS: Rambo, yes.

17 JUDGE BOUTET: Before you -- Mr Witness, you say you  
18 captured Makeni the day before?

19 THE WITNESS: Makeni was captured. The next day we  
entered

15:23:19 20 Makeni.

21 JUDGE BOUTET: At that time, what do you mean by  
"captured

22 Makeni"? Where is, where are ECOMOG? Because you say "We

23 captured Makeni, but ECOMOG was in the barrack." And now you

24 about to attack ECOMOG. ECOMOG in the barrack in Makeni? I'm

15:23:40 25 just trying to understand what you mean by this.

26 THE WITNESS: First, it was in the town that they  
captured,

27 and the next day it was the time that they attacked the  
barracks.

located 28 JUDGE BOUTET: But the barracks where ECOMOGs are  
29 are within the town of Makeni.

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is a 1 THE WITNESS: Yes. But it was almost in the town that  
2 little bit far. It was joined.

3 JUDGE BOUTET: Okay, thank you.

4 MR JORDASH:

15:24:21 5 Q. Do you know if there had been any fighting within the  
town  
6 itself before you arrived?

7 A. No. I did not know that.

without 8 Q. Is it possible to get from Magburaka to Makeni Town  
9 going through the barracks, or do you have to go through the  
15:24:59 10 barracks?

Makeni 11 A. No, sir. From Magburaka you have to go directly to  
12 Town.

13 Q. Did you remain in Makeni Town, Mr Witness?

14 A. Yes. We were there initially during that time.

15:25:38 15 Q. Did you see Issa Sesay doing any function or carrying  
out



16 any activities in Makeni Town when you were there?

17 A. Yes, because when we went he had been trying to put the  
18 soldiers under control so that nobody would loot or kill any  
19 other person, or any other thing that was bad. He was trying

to

15:26:08 20 prevent such things from happening.

21 Q. Did you see him doing this?

22 A. Yes, I saw him with my own two eyes.

23 Q. Did you see or hear of him taking any actions?

24 A. Yes, I heard about it. I heard about it that he took

15:26:40 25 action.

26 Q. Against what kind of things?

27 A. Raping.

28 Q. What did you hear about actions against raping?

29 A. Well, I was not there but according to the information

that

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took 1 I had, they arrested two men who raped in Makeni. So they

shot 2 them to the MP. When I come they told me that they had been

3 at because nobody should rape.

4 Q. Do you know if there was an order to shoot them?

15:27:22 5 A. Yes, because that was the law, that nobody should rape.

6 Q. Do you know who gave the order?

7 A. That order, it was RUF standing order.

8 PRESIDING JUDGE: He said "who gave the order." It was  
an  
9 RUF standing order. Is it a standing order, that shot? Who  
gave  
15:27:48 10 the order?

11 THE WITNESS: To shoot at the man? Yes well, I did not  
12 know who gave the order because I was not there when they were  
13 shot, being shot at.

14 MR JORDASH:

15:28:14 15 Q. Did you know what Issa Sesay's attitude was to that  
16 standing order?

17 A. Yes, because he had really been trying to maintain to  
make  
18 sure that bad things, them bad things that people had been  
trying  
19 to do would stop. And he tried to stop them.

15:28:37 20 Q. Did you see him trying to stop? What did he do?

21 A. I saw him when he was trying to stop the bad things that  
22 had been happening.

23 Q. Do you know what his attitude was to looting in Makeni?

24 A. He was angry when he heard about these bad things that  
had  
15:29:13 25 been happening, so he had been trying to take action so that  
they  
26 could stop.

27 Q. Did you see this?

28 A. Yes.

vehicles

29 Q. When you were in Makeni, did you see any trucks or

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1 with people in them going anywhere?

2 A. Yes.

3 Q. What did you see?

4 A. Vehicles had been coming from Kono, from Kono to Makeni.

15:29:39 5 Q. What about in the other direction, did you see any?

6 A. Which other direction?

7 Q. Makeni to Kono.

8 A. This is what I meant. The vehicles had been flying from

9 Makeni to Makono [sic] -- to Kono -- from Kono to Makeni.

15:30:07 10 Q. And do you know why vehicles were going from Makeni to  
Kono

11 at this time?

12 A. Yes, people had been travelling. Some people had been  
13 coming from Makeni to Kono to go and do some trading.

14 Q. Did you say trading?

15:30:41 15 A. They went for trading and some go to the base to do, to  
16 train.

17 Q. Did you see people going to the base?

18 A. Yes. I saw the CDF who came to us. Later on they said

19 they were going to Kono to trade.

15:30:47 20 Q. Did you see any trucks going with CDF?

whenever 21 A. It was not that the trucks had been parking, but  
22 they saw a truck they would go inside and leave. If you ask  
23 them, some of them would tell you that they were going to  
trade.

24 Q. The people you saw going to trade or the people who you  
15:31:17 25 heard that went to trade, do you know whether they did so  
26 willingly or not?

27 A. They were going willingly. Nobody forced them to go  
28 anywhere. They were going there willingly, the ones that I  
saw.

29 Q. Did you see any children going anywhere?

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1 A. I did not see any child during that time.

2 MR JORDASH: Can I just take instructions please?

3 PRESIDING JUDGE: Yes please.

4 MR JORDASH:

15:33:04 5 Q. From Makeni, did you go with Issa Sesay anywhere, around  
6 this time?

7 A. Yes. During that time when Lunsar was captured, we went  
8 there and came back.

9 Q. Do you know if anyone was in Waterloo around this time?

15:33:43 10 A. During the time we went to Makeni initially, no I can't  
11 tell.

12 PRESIDING JUDGE: You said you went to Lunsar and came  
13 back. You went with who?

14 THE WITNESS: I went with Issa.

15:33:58 15 JUDGE BOUTET: At that time you seemed to be moving with  
16 Issa. What was your role vis-a-vis Issa? Were you a  
bodyguard  
17 at that moment, or were you just a fighting, or what is your  
18 function, if any?

19 PRESIDING JUDGE: And where is Commander C at this time?

15:34:17 20 THE WITNESS: Commander C was the one that assigned me  
to  
21 Issa --

22 JUDGE BOUTET: No, no, at the --

23 THE WITNESS: Please repeat.

24 JUDGE BOUTET: My question: What was your role with  
Issa  
15:34:30 25 at the time? You said they had been moving from Kono to all  
of  
26 these places with Issa, and now you're going to Lunsar. Are  
you  
27 a fighter going with, or are you a bodyguard? What do you do?

28 THE WITNESS: It was Commander C that assigned me to  
Issa  
29 so that I will be with him. At times I would go to the  
frontline

1 and come back.

2 PRESIDING JUDGE: My understanding was that Commander C  
3 assigned you to go with him to -- for the specific task of  
4 attacking and capturing Kono.

15:35:15 5 THE WITNESS: Yes, sir.

6 PRESIDING JUDGE: Anyway get along, get along.

7 MR JORDASH:

8 Q. At any stage around this point in time, did you go to  
9 Waterloo?

15:35:43 10 A. At that time we captured Makeni. At that time we did  
not  
11 go to Waterloo initially.

12 Q. Did you go after this initial period; do you recall or  
not?

13 A. No, I cannot recall.

14 Q. Let me jump you forward to the year 2000. Do you recall  
15 something happening to -- between the UN and the RUF in 2000?

16 A. Yes.

17 Q. Where were you?

18 A. I was in Kono.

19 Q. Do you know where Issa Sesay was?

15:37:11 20 A. At that time I saw him in Kono, he, himself.

21 Q. And after you'd seen him in Kono, did he stay in Kono?

22 A. Well, when the thing happened he came to Makeni, when  
the

23 fighting had been going on.  
24 MR JORDASH: Thank you. I've got no further questions  
for  
15:37:42 25 this witness. Thank you.  
26 THE WITNESS: Thank you, too.  
27 PRESIDING JUDGE: Yes, Mr Ogeto you want to?  
28 MR OGETO: We have no questions for this witness.  
29 PRESIDING JUDGE: You have no questions for this  
witness.

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1 MR OGETO: No questions.  
2 PRESIDING JUDGE: Mr Ogeto, your name is spelt with two  
3 T's? Is it two T's, double T's, or just one?  
4 MR OGETO: It's supposed to be one T, but a lot of times  
15:38:49 5 people put two T's.  
6 PRESIDING JUDGE: Like me here.  
7 MR OGETO: It's a mistake. It's supposed to be one T.  
8 PRESIDING JUDGE: Like this Judge here?  
9 MR OGETO: So it's one T.  
15:38:57 10 PRESIDING JUDGE: Maybe for the syntax I put it as two  
T's.  
11 So it's one T?  
12 MR OGETO: Yes, My Lord.

13                   PRESIDING JUDGE: All right, thank you.

14                   MR OGETO: Yes, My Lord.

15:39:03 15                 PRESIDING JUDGE: Thank you. That's why I asked the

16                 question.

17                   Yes, Mr Cammegh.

18                   MR CAMMEGH: I have no questions.

19                   PRESIDING JUDGE: No questions. Okay.

15:41:21 20                 Yes, Mr Hardaway, as you can imagine we are now -- it is

21                 now your turn, and we want to know where you stand in relation

to

22                 the application that you were seeking to make this morning,

and

23                 we also want to add, you know, that Mr Jordash gave a very

24                 tenable reason for this witness to go home today because he

has

15:42:04 25                 some family -- very important family engagements.

26                   MR HARDAWAY: I do understand that, Your Honour.

27                   PRESIDING JUDGE: So where do we stand now?

28                   MR HARDAWAY: Your Honour, respectfully the

Prosecution's

29                 stand has not changed. The Prosecution would be asking of an

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1 adjournment of it's cross-examination of this witness for the



2 following reasons.

Mr

3 PRESIDING JUDGE: Just a minute. Just a minute. Yes,

4 Hardaway.

15:42:52  
morning,

5 MR HARDAWAY: Yes, Your Honour. As I stated this

of

6 the Prosecution is asking for an adjournment of its

7 cross-examination of this witness until Monday, and in support

8 that the Prosecution would state that we received additional

9 information provided by this witness yesterday. Now, over the

15:43:12  
be

10 course of the case of the first accused, we would constantly

witnesses

11 receiving additional information immediately prior to

12 taking the stand, and the Prosecution has endeavoured to work

and

13 through this additional information coming at the last minute

14 as such has proceeded. However, based upon the information in

15:43:35  
being

15 the additional summary and in the additional statements,

16 specifically point number two which relates to the witness

not

17 affiliated with Commander C, the Prosecution feels it could

18 fairly and fully test the evidence of this witness without

19 conducting an investigation. The summaries -- our

15:43:58  
we

20 investigations, Your Honour, are based on the information that

known

21 received from the Defence and it focuses on that. Had we

22 in advance that this key important information was available,

23 then obviously we would have tailored our investigation.

his

24 PRESIDING JUDGE: What is so key and so important about

15:44:19 25 association with Commander C as to warrant adjournment? What  
is  
26 so key and so important in his testimony that you think  
warrants,  
27 you know, an adjournment for you to investigate?  
28 MR HARDAWAY: Well, Your Honours, it would be brought  
29 forward obviously to challenge the credibility of Commander C  
and

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of 1 also TF1-045 that Mr Jordash specifically alluded to in some  
2 the evidence.

3 PRESIDING JUDGE: Can you, Mr Hardaway, can you refer to  
4 where this witness has challenged the credibility of Commander  
C?

15:44:58 5 MR HARDAWAY: In terms of his positions in Freetown,  
Your  
6 Honour, I believe.

7 PRESIDING JUDGE: Yes I think that the witness should  
8 please be led out of this courtroom. Can the witness be led  
out  
9 of the courtroom please.

15:45:13 10 [The witness stood down]

11 Yes, Mr Hardaway.

that 12 MR HARDAWAY: Your Honour, I would also just emphasise  
13 this would not in any way hinder the proceedings going forward  
14 because this is just a request for adjourning of our  
15:46:27 15 cross-examination. We could still proceed should there be  
other  
16 witnesses.

17 PRESIDING JUDGE: But not until Monday. We are not here  
to  
18 adjourn this case until Monday because the Prosecution has to  
19 investigate and for purpose of conducting its cross-  
examination.

15:46:34 20 MR HARDAWAY: With all do respect --

21 PRESIDING JUDGE: We do of course agree, you know, there  
22 might be some material which was served on you only yesterday,  
it  
23 was only filed yesterday, we've seen in it on the records.

24 MR HARDAWAY: Yes.

15:46:54 25 PRESIDING JUDGE: And you only took [indiscernible]  
26 yesterday and that you might need to exploit some material,  
you  
27 know, for purposes of cross-examination, but not up to Monday  
28 anyway.

29 MR HARDAWAY: Well, Your Honours, I wouldn't be asking  
for

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1 the entire proceedings to be brought to a halt. If it were  
2 brought to a halt, it would be because of a lack of witnesses  
3 brought by the Defence.

4 PRESIDING JUDGE: No, we don't want you to peg your  
15:47:18 5 adjournment onto that.

6 MR HARDAWAY: I'm not.

7 PRESIDING JUDGE: That's a completely different issue.

8 MR HARDAWAY: I understand that, Your Honour.

9 PRESIDING JUDGE: Because we want first of all to  
15:47:20 10 understand why you think that -- how you think, you know, you  
11 mentioned Commander C. Because we have to know why you think  
12 that you deserve this adjournment. I mean, in what portion of  
13 the evidence of this witness has the credibility of Commander  
C  
14 been put to question?

15:47:42 15 MR HARDAWAY: I would submit, Your Honour, that based  
upon  
16 his relationship with him during the junta period but also  
more  
17 specifically --

18 PRESIDING JUDGE: The relationship which we know.

19 MR HARDAWAY: Right, but then I would also point to the  
15:47:57 20 fact that --

21 PRESIDING JUDGE: His functional relationship with him?

22 MR HARDAWAY: Yes, Your Honour.

23 PRESIDING JUDGE: Yes. Yes. Yes.

24 MR HARDAWAY: But if the Court does not accept that  
15:48:04 25 argument, the Prosecution will then move onto the argument  
it's a

26 direct challenge to the evidence of TF1-045.

27 PRESIDING JUDGE: That.

28 MR HARDAWAY: That in terms of where the bodyguards were  
29 stationed when they were going in and out of meetings.

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1 PRESIDING JUDGE: But how -- why should we revisit that?

2 You have proffered your own thesis of where the bodyguards  
were.

3 We know what the evidence is. So you are providing this  
evidence

4 because it was part of your case that bodyguards were present  
at

15:48:34 5 those meetings.

6 MR HARDAWAY: Yes, Your Honour.

7 PRESIDING JUDGE: You have visited that in terms of your  
8 evidence. The Defence now comes up and provides its own  
thesis

9 of what was really happening. Must you revisit it to keep  
15:48:48 10 rebutting at all times, I don't think so.

11 MR HARDAWAY: As it relates specifically to the point  
that

12 it brought forward, Your Honour, given the fact that we need  
to

Monday, 13 investigate. If the Court does not wish to give us until  
-- 14 then the Prosecution obviously is going to fight for that but  
15:49:04 15 PRESIDING JUDGE: Mr Hardaway, you know, let's -- let's  
16 look at things the way they are. You have closed your case.  
17 MR HARDAWAY: Yes, Your Honour.  
18 PRESIDING JUDGE: The Defence is not -- and you visited  
19 this evidence which the Defence is now visiting with its own  
15:49:20 20 thesis, with its own version of what happen during those  
meetings  
21 of the Supreme Council.  
22 MR HARDAWAY: Yes.  
23 PRESIDING JUDGE: Either in JPK's home or in the Wilbur  
--  
24 in the barracks. It is consistent, you know, from your  
thesis,  
15:49:37 25 yes, those bodyguards, you know, had access into those  
meetings.  
26 As far as they are concerned, they didn't have any access to  
27 those meetings. They were blocked at somewhere in the gate,  
and  
28 they only waited for their bosses, you know, there. So it's a  
29 question of looking at the evidence and arriving at a

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1 determination as to who we believe. Instead of allowing you  
to  
2 bring more evidence to contradict their story. Otherwise, we  
3 will know no end to this, this is a problem.

4 MR HARDAWAY: Understood, Your Honour. But in terms of,  
15:50:10 5 and you brought up a very good point, of testing the thesis  
which  
6 the Prosecution has the right to do fully and fairly.

7 PRESIDING JUDGE: But not by revisiting its case, it is  
not  
8 by reopening the Prosecution's case.

9 MR HARDAWAY: Understood, Your Honour. But in terms of  
an  
15:50:21 10 investigation -- our investigation may turn up nothing. We  
don't

11 know. However, given the fact that this evidence --  
Prosecution  
12 would submit that having this information dropped on us the  
day  
13 before hinders us from fully and fairly -- fully testing the  
14 evidence of this witness. The Prosecution asks for some time  
to

15:50:43 15 investigate in order to fulfill its function. And also, Your  
16 Honour, my understanding is that there was no meeting at  
17 Wilberforce attended by Commander C.

18 PRESIDING JUDGE: Mr Hardaway, investigation to do what?  
19 To establish what?

15:51:01 20 MR HARDAWAY: To establish -- we need to find out. We  
21 don't even know -- I mean, we take the witness at his word  
that  
22 he was a bodyguard for Commander C. We don't know that. We  
need  
23 to find out exactly what his role was. Our investigation was

filing. 24 based on the information that was provided at the initial  
15:51:21 25 Now, when we have something this critical where it is  
mentioning  
back 26 a major Commonwealth -- Commonwealth, excuse me. I feel I'm  
result 27 in Pennsylvania. A major Prosecution witness and in the  
28 of his chief also mentions another Prosecution witness, the  
29 Prosecution feels that we cannot just test that evidence  
through

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point. 1 cross-examination without further investigation as to this  
2 I would submit that it goes beyond -- I strike that.  
3 But also, Your Honour, another point which was mentioned  
4 which we had no indication of was the mentioning of the UN  
15:52:00 5 incident. I would submit it goes beyond the principal of  
orality  
was 6 because it is not an exposition upon a previous question. It  
not 7 a question directly put to the witness through counsel, and  
we 8 being on notice of that, that's another area that we may feel  
9 have to challenge on.



15:52:18 10 PRESIDING JUDGE: I mean -- yes.

challenge 11 JUDGE THOMPSON: Does it mean that you've got to

Defence 12 the Defence evidence on every considerable aspect of the

poke 13 case? Whenever the Defence -- the object of Defence is to

14 holes into the Prosecution's case.

15:52:37 15 MR HARDAWAY: Yes.

16 JUDGE THOMPSON: That's the object of the Defence.

17 MR HARDAWAY: Yes.

18 JUDGE THOMPSON: And in the process of poking holes into

19 the Prosecution's case, it would seem to me that the judicial

15:52:51 20 process would require that if they come, if it appears in

in 21 prosecutorial judgment that they've successfully poked holes

22 your case, then you might have a duty to rebut, but do you

23 have -- is there a rule that requires you to investigate

almost 24 every issue that is raised by the Defence whether tangential,

15:53:25 25 peripheral or collateral or isn't the issue -- the issue which

is 26 really in controversy between the parties? Otherwise, there

will 27 be no end of the process. The Prosecution will have almost an

28 interminable right of rebutting everything.

29 PRESIDING JUDGE: Everything.

works. 1 JUDGE THOMPSON: I'm sure that's not how the process

2 PRESIDING JUDGE: Uh-uh.

3 MR HARDAWAY: Your Honours, that's why I'm only focusing  
on

4 these specific issues. There were 15 points brought up in the  
15:53:59 5 confidential annex which was filed with the Chamber yesterday  
and

6 which was served upon us.

7 JUDGE THOMPSON: Fifteen key points, core points,  
relating

8 to the matters in controversy between the parties, really in  
9 controversy between the parties having regard to the charges  
in

15:54:18 10 the indictment and the evidence of the Prosecution has already  
11 led?

12 MR HARDAWAY: Your Honours, I would submit that we're  
not

13 asking for all 15 points. The purpose and the focus and the  
14 scope is very narrow. Specifically upon point two which deals  
15:54:38 15 with this witness's relationship with Commander C, which we  
would

16 like to explore through our investigation.

17 JUDGE THOMPSON: For what purpose? For what purpose?

18 MR HARDAWAY: To challenge his credibility, Your Honour,  
to

19 test his version of the evidence.

15:54:58 20 JUDGE THOMPSON: Remember that at the end of the day the

the

21 Prosecution stands or falls on the basis of the totality of  
22 evidence which they've led, and the totality does not mean the  
23 totality in respect of what each particular witness, whether  
24 Prosecution or Defence, says. It's the cumulating effect.

Isn't

15:55:26

25 that our understanding of the law?

presented

26 MR HARDAWAY: It is the total evidence which is  
27 before this Chamber.

28 JUDGE THOMPSON: Precisely.

29 MR HARDAWAY: And I would submit, Your Honour, that in

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15:55:53

1 order to fully test that so that this Chamber has all of the  
2 evidence that we be allowed to adjourn the cross, not moving  
3 forward -- we could still forward with the proceedings, but to  
4 adjourn the cross so that we can investigate this one limited  
5 aspect. Again, I'm not bringing up any other points which had  
6 been raised in the additional statement, but just this one  
7 particular aspect which the Prosecution feels is important  
8 to warrant this application.

enough

9 JUDGE THOMPSON: Let me say that to you and ask what

15:56:08 10 prejudice have you suffered?

11 MR HARDAWAY: Your Honour, the prejudice --

12 JUDGE THOMPSON: Which requires this insistence that you

13 must be given this opportunity to --

14 JUDGE BOUTET: Well, I think in fairness they don't have

to

15:56:24 15 show any prejudice. I think they are fairly entitled to

proper

16 cross-examination, and disclosure has been given yesterday,

they

17 say, it does not allow them to challenge this evidence. I

think

18 it is a question of ability to carry proper cross-examination.

19 So I --

15:56:40 20 JUDGE THOMPSON: Shall I have a response from you before

I

21 respond to my learned brother? Shall I have a response?

22 MR HARDAWAY: Your Honour, I believe that --

23 JUDGE THOMPSON: He may have a different perception of

the

24 law. I have a different. What prejudice, I think I'm

entitled

15:56:56 25 to ask that.

26 MR HARDAWAY: The prejudice that we suffer, Your Honour,

is

27 the fact that without this investigation we would not be in a

28 position to fully challenge the evidence of this witness. We

29 only go upon what is provided to us by the Defence. We do not

1 have their statements. I'm not asking for the statement of  
this  
2 witness, but based upon the information provided, we have to  
3 proceed based on that. And when new information has been  
4 provided which we feel is of a critical nature. Again, I  
15:57:31 5 re-emphasise the point that there have been many additional  
6 pieces of information brought forward on many Defence  
witnesses  
7 immediately before they testify. We've had no issue with  
that.  
8 We've worked through that.

9 PRESIDING JUDGE: The Prosecution did the same with some  
of  
15:57:45 10 their witnesses in these proceedings.

11 JUDGE THOMPSON: I'm satisfied on that. I just wanted  
to  
12 be very clear about what your -- in fact, I think I'm entitled  
to  
13 ask prejudice. I've never seen a situation where the law  
becomes  
14 so easy as if the grey areas are the -- there's so little grey  
15:58:03 15 areas. In fact, 90 per cent of the law is grey area, and I  
think  
16 it's important to know if you want to pursue this particular  
17 line.

18 MR HARDAWAY: Yes, Your Honour.

19 JUDGE THOMPSON: Which really impacts upon the question  
of  
15:58:14 20 the expeditiousness of the trial that I'm entitled to know

you. 21 whether the Prosecution has suffered any prejudice. Thank

22 MR HARDAWAY: Yes, Your Honour.

23 PRESIDING JUDGE: My problem --

24 MR HARDAWAY: Yes, Your Honour.

15:58:29 25 PRESIDING JUDGE: Or your problem is the adjournment you  
26 are seeking until Monday, I think that's too long. And if I  
may

27 turn to Mr Jordash. Mr Hardaway, you may sit down a while.  
We

28 would like to make a decision on this matter. We want to move

29 along, you know, with this case.

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1 MR JORDASH: May I?

2 PRESIDING JUDGE: If the witness goes today, his  
ceremony

3 is on when?

4 MR JORDASH: Tomorrow.

15:59:02 5 PRESIDING JUDGE: Tomorrow.

6 MR JORDASH: But may I address you on the merits,  
please?

7 PRESIDING JUDGE: No, not on the merits, please. We

8 don't --

9 MR JORDASH: But I haven't been heard --

15:59:07 10           PRESIDING JUDGE: Not on the merits, as yet. You know,  
we  
11           just want some preliminary information.  
12           MR JORDASH: As I understand it, the seven-day ceremony  
is  
13           tomorrow.  
14           PRESIDING JUDGE: Tomorrow, yes.  
15:59:16 15           MR JORDASH: I haven't discussed with him when he could  
16           come back, but I'm presuming he can come back at some point.  
17           PRESIDING JUDGE: Tomorrow is Wednesday; he can come  
back  
18           on Thursday, can't he?  
19           MR JORDASH: I think that might be a bit tricky. I'm  
just  
15:59:34 20           trying to remember where he's from. I know he said to me that  
21           he's had to -- he would have to travel all night so I'm  
presuming  
22           he's from -- that's right. Yeah, Kailahun. Kailahun.  
23           PRESIDING JUDGE: The extreme east.  
24           MR JORDASH: Yes, but may I offer some --  
16:00:06 25           PRESIDING JUDGE: Yes, you may if you --  
26           MR JORDASH: The Prosecution's application is based on a  
27           false premise and that false premise is this: That the  
28           Prosecution were given the name of this witness over seven  
weeks  
29           ago. So in order to locate his function and role within the  
RUF

1 requires that they simply ask --

2 PRESIDING JUDGE: Were they given the information that  
he  
3 was working with Commander C?

4 MR JORDASH: No, the point I'm making is this: That  
once  
16:00:37 5 they have a name, then they can simply ask their insiders, as  
6 we --

7 PRESIDING JUDGE: They have so many names. The  
Prosecution  
8 deals with so many names. I thought we might -- they are  
9 entitled to being -- to a disclosure, you know, that he was  
16:00:51 10 working with Commander C, so that they know -- that's the  
whole  
11 basis of disclosure procedures.

12 MR JORDASH: The whole basis of disclosure proceedings  
with  
13 the 42-day rule is this: That the names are disclosed at the  
14 42-day stage in order to allow in --

16:01:15 15 PRESIDING JUDGE: And the summary of the evidence, which  
16 should at least use some indications.

17 MR JORDASH: Yes, my submission is that when they are  
given  
18 the name and the summary that they were given, there was  
19 sufficient information to work out who he is. There's not  
that

16:01:35 20 many of RUF members with that name and the Prosecution know  
that



21 during the course of their evidence the first name of this  
22 witness was given by 371 as his security, and I can refer Your  
23 Honours to the transcripts, if Your Honours want that. It  
24 doesn't say his last name but it says on 20 July 2006, 31  
16:01:55 25 July 2006 and 1 August 2006, 371 said.

26 PRESIDING JUDGE: Is 371 Commander C? 371 is the --

27 MR JORDASH: Yes.

28 PRESIDING JUDGE: Is the witness who -- yes, yes, yes.

29 MR JORDASH: Who said his bodyguard was called the first

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Your 1 name of this witness. And I've got the transcripts here if  
2 Honours require them. But the point is this: That the  
3 Prosecution had his full name, they had 371 referring to his  
4 first name and with all due respect that's over six weeks to  
16:02:33 5 simply ask one of their insider witnesses: Do you know this  
man.  
6 What did he do. That's my first point. My second point is  
this:  
7 That I intentionally led this witness, so his evidence did not  
8 turn on his exact function with Commander C. The only piece  
of  
9 evidence which turned on that was the evidence he gave about

16:03:05 10 bodyguards remaining outside of meetings. That has been dealt  
11 with through other witnesses by the Defence. The Prosecution  
12 have known that's in contention. What is it they would do to  
13 investigate that? Well, they couldn't really investigate  
that.  
14 They put their theory forward that bodyguards could enter and  
16:03:26 15 perhaps they will go back to their witnesses and ask if  
our  
16 bodyguards could enter and their witnesses will say the same,  
17 witnesses say something different. So, where would their  
18 investigation go? It would go back to that first thing: Was  
19 this witness who he says he was, bodyguard to Commander C.  
Which  
16:03:43 20 again goes back to did the Prosecution have his name. Could  
they  
21 have asked an insider? They could have done that this  
morning.  
22 371 testified in the Taylor case. He's in the Prosecution  
23 custody. A phone call to The Hague would confirm or not  
whether  
24 this man is who he says he is. That, the Prosecution have had  
16:04:06 25 all morning to do. What will they do if given extra time?  
Well,  
26 there is no further investigation but to confirm or otherwise  
27 that fact which relates to whether he's in a position to say  
28 whether bodyguards did or did not go into meetings. In  
relation  
29 to the remainder of the evidence in Kailahun, it pretty much  
had

1 nothing to do with him being the bodyguard to Commander C. It  
2 was about him being a combatant and that evidence is contained  
in  
3 the first summary which has been provided in April of 2006.  
And  
4 in respect to my learned friend's arguments that there is  
16:04:51 5 additional information, which apparently has been served late  
on  
6 many occasions, I reiterate the same point I've made on many  
7 occasions. This disclosure is equal to the Prosecution  
8 disclosure. It need not be because of Your Honours' order  
which  
9 says: We have to disclose the substance of a witnesses  
16:05:07 10 testimony. Not the details. And, we serve this detail which  
is  
11 equal to the detail given through the Prosecution's  
supplementary  
12 notes, as a courtesy to the Prosecution to ensure that we can  
13 prevent adjournments and inconveniences to witnesses. But, we  
do  
14 not have to serve this additional information, as far as we  
are  
16:05:30 15 concerned because we don't have the same disclosure  
obligations  
16 as the Prosecution. If Your Honours look at this additional  
17 information Your Honours will see it is as detailed as the  
18 Prosecution disclosure through their supplementary statements.  
19 We don't have to do it.

16:05:42 20  
summary

JUDGE BOUTET: Well, you were ordered to disclose

21 of the evidence of your witnesses.

22 MR JORDASH: Yes.

23 JUDGE BOUTET: So that is the order. And we refrain  
from

24 bothering you to disclose statements of any witness you are

16:05:56 25 intending to call whilst the Prosecution had to disclose all

26 statements and obviously any additional statement they could

27 obtain whether -- in whatever form or format.

28 MR JORDASH: Yes.

29 JUDGE BOUTET: That was a major difference. You have no

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you

1 obligation to disclose statements per se. What we've asked

2 to do is to disclose the summary of the evidence with enough

evidence

3 information, so they would know what the essence of the

4 would be, but not the statement per se.

16:06:22 5 MR JORDASH: Well, that's the point I'm making, Your

6 Honour.

on

7 JUDGE BOUTET: But at the same time, let me just finish

8 this, I looked at the information you provided yesterday

9 afternoon and I note that it was served by 2.30 in the  
afternoon

16:06:36 10 yesterday, and I looked at it very quickly and I noticed that  
the

11 issue that the Prosecution is raising is that it would appear  
to

12 be -- I don't get [indiscernible] details of everything else -  
-

13 but it would appear that this is the only, I would call it  
"novel

14 information," if I can put it this way. Because everything  
else

16:06:54 15 appeared to be, would confirm essentially everything that is  
16 contained in this additional appears to be linked to what was  
17 there before, at least as I say. But I didn't look at every  
bit

18 of it but an aspect of it. But that one in paragraph two is  
what

19 I would say the novel aspect and that has not been covered in  
20 that at all. And they were rightfully -- they had the right  
16:07:14 20 to

21 assume that this is evidence that you will not lead, whatever  
his

22 function might have been. Maybe it was not part of your case.  
23 Why would they investigate this and all of a sudden you come  
back

24 with this yesterday. That's what I'm saying on this. So  
16:07:32 25 everything else and it's there, they had the information.  
This

26 one is -- was not there.

27 MR JORDASH: And I accept that and I accept it -- we  
were

28 late in serving that function. I accept that but what I'm now  
29 submitting is, in line with what Your Honours just said, the

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1 substance of the remainder of the evidence was there, they had  
2 it. So the investigation which they have missed out on, if  
3 missed out on is the right word, is confirmation that he is  
who  
4 he says he is. And what I'm submitting is that they've had  
all  
16:08:07 5 this morning, they've had half of yesterday simply to phone up  
an  
6 insider. They've got many of the same insiders in --  
7 PRESIDING JUDGE: It's not so easy to get in touch with  
8 those insiders. Do you know the way they are -- nobody knows  
9 where he is even now.  
16:08:20 10 MR JORDASH: Well they are sitting in there.  
11 PRESIDING JUDGE: Do we know where he is? Is he in the  
12 Hague or somewhere else.  
13 MR JORDASH: He's in The Hague, as is --  
14 PRESIDING JUDGE: Are you very sure Mr Jordash that he  
is  
16:08:26 15 in The Hague.  
16 MR JORDASH: I know that.  
17 PRESIDING JUDGE: I couldn't be very sure.  
18 MR JORDASH: Well, I know TF1-360 is in The Hague. He  
is

19 just testifying. And he, is an --

16:08:41 20 PRESIDING JUDGE: We are talking of 371.

21 MR JORDASH: But he is another major insider who would  
22 confirm and know that this man is who he says he is.

23 JUDGE BOUTET: But how they do their work, Mr Jordash,  
all  
24 they are asking is time to do their work. To check this,  
whether

16:08:57 25 they want to speak to one of them, or two of them, or three of  
26 them, I don't know. If they are asking time to check this  
part  
27 of your aspect.

28 MR JORDASH: They've had six weeks --

29 JUDGE BOUTET: Mr Jordash, when you are doing

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1 cross-examination and information came to you at the last  
moment,  
2 you did ask for and you were granted some adjournment in some  
3 cases when it was information that was late in disclosure.  
You  
4 were granted that.

16:09:21 5 MR JORDASH: Your Honours, I asked for an adjournment on  
6 two occasions. And despite the fact the Prosecutions served

a 7 supplementary statements two weeks before often and sometimes  
8 week before testimony, I didn't apply for adjournments. One,  
9 because it's actually rare that that kind of evidence can be  
16:09:38 10 investigated -- well, let me not make that concession. I  
didn't  
11 apply for an adjournment because often it wasn't strictly  
12 necessary. I can deal with the investigation later on. I can  
13 confirm through an insider whether that person is who he says  
he  
14 is. But, be that as it may, my learned friend -- let me put  
it  
16:10:02 15 like this: If the Court does not want to rely upon the  
16 information that this witness could give about bodyguards  
staying  
17 outside of meetings, I'm happy to, for Your Honours not to  
place  
18 any reliance --  
19 PRESIDING JUDGE: Why should you go that far, Mr  
Jordash.  
16:10:16 20 MR JORDASH: Because it's --  
21 PRESIDING JUDGE: I said here that you have provided a  
22 contrary thesis to the thesis of the case on which the  
23 Prosecution -- on the facts on which the Prosecution has based  
24 it's case, and that it is for us, you know. And that's one of  
16:10:29 25 the things I told him: Why do you need this. Why do you need  
to  
26 visit every -- I mean, why do you need to investigate every  
fact  
27 that has been rebutted, you know, by some evidence on the  
28 Prosecution and I remember Justice Thompson, my brother, did  
say,  
29 you know, that if it comes to rebutting everything then we  
will



1 see no end. Because I mean the purpose at this stage of  
2 cross-examination by the Prosecution which has closed it's  
case  
3 is not to rebut all allegations that are being made by the  
4 Defence as a rebuttal to the allegations of the case, you  
know,  
16:11:07 5 that has been presented by the Prosecution. Otherwise we  
6 wouldn't see the end of the road at all.

7 JUDGE THOMPSON: The Prosecution would have to reopen  
their  
8 case several times over.

9 MR JORDASH: Well, I agree with that assessment, there's  
no  
16:11:29 10 investigation that can -- their witness says that bodyguards  
went  
11 into the meeting; our witness says no. There's no further  
12 investigation that can be conducted on that. The only  
13 investigation, and I repeat, is that whether this guy is who  
he  
14 says he is --

16:11:32 15 PRESIDING JUDGE: But you conceded a couple of minutes  
ago  
16 that it's easy to do that by just a telephone call --

17 MR JORDASH: It is.

18 PRESIDING JUDGE: -- in The Hague. Which means that you  
19 accept that they at least have a right somewhere, you know, to  
16:11:47 20 carry out some investigations in order to know how to come  
with  
21 the cross-examination. Let me put it this way: They may well  
22 want to tell him that he was not the bodyguard to Commander C.  
23 They may well want to say so.

24 MR JORDASH: They can phone up Commander C right now.

16:12:11 25 PRESIDING JUDGE: That's why I think they need some  
26 adjournment. Not right now. We can't sit here to ask them to  
be  
27 phoning.

28 MR JORDASH: They had this at 2 o'clock yesterday.  
They've  
29 got Commander C in their custody on the phone in protective

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1 custody.  
2 PRESIDING JUDGE: No. Up to 2 o'clock yesterday, Mr  
3 Jordash, we -- you filed these, your motion, you know,  
yesterday  
4 and it was served on them at 2.30. So, I think we have to --  
16:12:31 5 it's a fairness of the process, you know, that interests us  
now.

6 And that is why, you know, I'll come back to where I started  
7 from: When can we have your witness back. We admit that he  
has  
8 a very, very very important family engagement which you have  
put  
9 across to us. And let me tell you I mean we -- we were not  
10 prepared to grant the Prosecution one week. No. I mean, we  
16:12:59 are  
11 not -- not even to Monday we are not prepared to go to Monday  
12 with the Prosecution for them to do what they have to do.

13 MR JORDASH: The difficulty is that if this witness goes  
to  
14 Kailahun, it's probably important that he deals with the  
family  
15 issues and they may take a few days.  
16:13:21

16 PRESIDING JUDGE: Because it's quite a distance from  
here.

17 MR JORDASH: It's quite a distance and it's an important  
18 family issue so I --

19 PRESIDING JUDGE: Well, we are in your hands as far as  
we  
16:13:34 20 want to release this witness to meet up with his family  
21 obligation, and we are also committed to Mr Hardaway for the  
22 Prosecution to assemble the information it can before  
proceeding  
23 with it's cross-examination.

24 MR HARDAWAY: A logistical point, Your Honour. Not to  
16:13:56 25 rehash the point, but in terms of trying to find out the  
26 witnesses availability since this witness is now sworn, it  
would  
27 probably only be incumbent upon WVS to make the proper  
enquiries  
28 to get the information as the witness is now sworn. That's  
the

29 only logistical [indiscernible].

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1 MR JORDASH: I could actually be trusted to speak to the  
2 witness on just that subject. But I'm happy for WVS if it  
allays  
3 the Prosecution's suspicions.

4 MR HARDAWAY: No suspicions, Your Honour, just stating  
what  
16:14:28 5 the facts are.

6 JUDGE THOMPSON: It ensures the integrity of the  
process.

7 PRESIDING JUDGE: Well, the Chamber will stand down this  
8 matter and recess for a few minutes we will resume very  
shortly.  
9 We will rise please.

16:22:31 10 [Break taken at 4.18 p.m.]

11 [Upon resuming at 4.40 p.m.]

12 PRESIDING JUDGE: Yes. May the witness be brought in  
13 please.

14 [The witness enters Court]

16:43:01 15 PRESIDING JUDGE: We are resuming the session and we  
have

16 been deliberating on the issue of the adjournment that comes  
from

obliquely 17 first the Prosecution and also in a sense, in a sense,  
18 from the Defence of this witness's testimony for today and it  
is 19 the decision of the Chamber that in order to give this witness  
16:43:39 20 time to meet up with this very important family obligation,  
which 21 the Chamber recognises, and in order to also give Mr Hardaway  
testimony 22 time to investigate issues that feature in the witness  
23 of this witness -- the summary that was served on him only  
this 24 yesterday, 11 February, that this matter, or the hearing of  
16:44:28 25 witness, the continuation of his evidence, is adjourned to  
the 26 Monday. We consider that this gives him enough time even if  
27 ceremony spills over from tomorrow to Thursday and Friday. He  
his 28 should be able to be here over the weekend to continue with  
for 29 testimony in terms of the cross-examination from Mr Hardaway

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1 the Prosecution. So Mr Witness, you are still the property of  
family 2 the Court and you are not yet released but because of this

engagement

3 engagement you may go home today and meet up with this

this

4 tomorrow, Thursday and so on. You have our sympathies. Is

16:45:29

5 the mother who is dead or so? Yes.

6 THE WITNESS: It's my mother.

of

7 PRESIDING JUDGE: You have our sympathies for the death

time,

8 your mother. It's a very precious person to lose at this

go

9 at your age, but it has happened. So, you will take heart and

16:45:50

10 and do the celebrations and come back to us here before this

11 Court on Monday, 18 February at 9.30. Do you understand me.

12 THE WITNESS: Yes, sir.

because

13 PRESIDING JUDGE: Right. I think he can now leave

going

14 he has to travel. He may now leave and find the means of

16:46:33

15 to his place which is not next door.

16 [The witness stood down]

taking

17 PRESIDING JUDGE: Yes, we still have time to start

18 the testimony of another witness.

19 MR JORDASH: Well, as I indicated earlier we don't have

16:48:47

20 another witness ready. We anticipated this witness would take

21 all day. The witness after this hasn't arrived in Freetown.

22 He's expected tonight. DIS-15 who is the subject of a 92ter

23 application awaits Your Honours' decision. Prosecution have

24 indicated that they agreed to that process. So we await Your

16:49:36

25 Honours' decision on that.

26 JUDGE BOUTET: When was that one filed, Mr Jordash?

27 MR JORDASH: 8th of February 2008. He's in the witness

28 house and ready to go.

had 29 JUDGE BOUTET: How many 92ter did you file? I know you

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1 filed some, but.

2 MR JORDASH: Just the one witness.

3 JUDGE BOUTET: Just that one?

4 MR JORDASH: Yes.

16:49:55 5 JUDGE BOUTET: You have indicated you have more to file,  
6 that's where we're misguided.

7 MR JORDASH: We're filing them as we have them ready.

8 JUDGE BOUTET: Yes, that's where it is, in one of your  
9 document you said, I don't know 15 or 20. I seem to recall a  
16:50:10 10 number like 20, 22bis or ter, whatever it is.

more 11 MR JORDASH: We should be able to file three or four  
12 92bis tomorrow.

ter, 13 JUDGE BOUTET: So if we accept this bis -- pardon me,  
14 for 015, this one is after this, obviously.

16:50:34 15 MR JORDASH: Well, the ter, the Prosecution have  
indicated

16 they want to cross-examination this witness.

17 JUDGE BOUTET: Okay.

18 MR JORDASH: Actually, he would have been ready to go  
today

19 but the last time we saw him he had taken some medicine for a  
16:50:45 20 damaged leg so it was a bit less than clear, but subject to  
Your

21 Honours' ruling he will be ready to go tomorrow or Thursday.

22 JUDGE BOUTET: On Thursday, yes.

23 MR JORDASH: And we anticipate, if I can offer any  
24 reassurance, that we have sufficient witnesses for Thursday  
and

16:51:13 25 Friday and witnesses are coming into the witness house and we  
26 anticipate that we'll be able to go for some time without any  
27 delay. So it's an application, I suppose --

28 PRESIDING JUDGE: Your seeking adjournment to Thursday  
29 then.

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1 MR JORDASH: I'd be happy to go tomorrow but I know that  
2 tomorrow is the usual judicial day off. But we're ready to  
go.

3 PRESIDING JUDGE: Are you sure you really would be happy  
to  
4 go on tomorrow.



16:51:57 5

MR JORDASH: I'm desperate to get this over with.

6  
so

PRESIDING JUDGE: Well, we want to give you some respite

7  
and

that you do more to enable us to move further after Thursday

8 Friday. So for that reason we would adjourn at this point in

9 time and resume the session on Thursday at 9.30.

16:52:39 10

The Chamber will rise please.

11  
p.m.,

[Whereupon the hearing adjourned at 4.52

12  
of

to be reconvened on Thursday, the 14th day

13 February 2008, at 9.30 a.m.]

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WITNESSES FOR THE DEFENCE:

WITNESS: DIS-127

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EXAMINED BY MR JORDASH

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