

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

THURSDAY, 30 MARCH 2006
9.52 A.M.
TRIAL

TRIAL CHAMBER I

Before the Judges:	Pierre Boutet, Presiding Bankole Thompson Benjamin Mutanga Itoe
For Chambers:	Ms Candice Welsch Mr Matteo Crippa
For the Registry:	Mr Geoff Walker
For the Prosecution:	Mr Peter Harrison Mr Mohamed Bangura Ms Martine Durocher Mr Mark Wallbridge (Case Manager)
For the Principal Defender:	NO APPEARANCE
For the accused Issa Sesay:	Mr Wayne Jordash
For the accused Morris Kallon:	Mr Shekou Touray Mr Charles Taku Mr Melron Nicol-Wilson Ms Ayesa Touré
For the accused Augustine Gbao:	Mr Andreas O'Shea Mr John Cammegh

1 [RUF30MAR06A - SGH]
2 Thursday, 30 March 2006
3 [Open session]
4 [The accused present]
09:47:28 5 [Upon commencing at 9.52 a.m.]
6 WITNESS: LEONARD NGONDI [Continued]
7 PRESIDING JUDGE: Mr Prosecutor, you are ready to resume
8 examination-in-chief of this witness?
9 MR BANGURA: Yes, Your Honour.
09:53:27 10 PRESIDING JUDGE: Please proceed now.
11 MR BANGURA: Thank you, Your Honour.
12 EXAMINED BY MR BANGURA: [Continued]
13 Q. Good morning, Mr Witness.
14 A. Good morning, Your Honour.
09:53:35 15 Q. We shall continue with your evidence this morning. You
16 will recall that yesterday just before we broke off you were
17 describing the casualties that had been suffered by your men at
18 the DDR camp at Makump; is that correct?
19 A. Yes, Your Honour.
09:54:12 20 Q. And amongst the casualties you mentioned two persons who
21 were killed; is that correct?
22 A. Yes, Your Honour.
23 Q. Were there any other casualties from this incident?
24 A. Yes, Your Honour, there were other casualties, injured
09:54:30 25 casualties from that incident of DDR camp at Makump.
26 Q. Do you remember how many of your men were injured?
27 A. I think about seven men were injured in that incident,
28 Your Honour.
29 Q. You had also mentioned an incident at Magburaka, at which

1 RUF fighters fired at your men and that attack was repulsed. Did
2 you take any casualties from that incident?

3 A. Yes, Your Honour, we suffered three casualties, injured
4 casualties at Magburaka at that particular time, Your Honour.

09:55:51 5 Q. Did you do anything about your casualties at any point in
6 time?

7 A. Yes, Your Honour, I requested the force headquarters to
8 evacuate them for specialised medical treatment, Your Honour.

9 Q. What form of evacuation did you request from headquarters?

09:56:28 10 A. Your Honour, at that particular time ordinary air
11 evacuation could materialise, because RUF were in control of
12 their territory and they were in the middle of their territory,
13 Your Honour.

14 Q. Did you get a response to this request?

09:57:09 15 A. Not immediately, Your Honour, until 7th, when the
16 evacuation was done, Your Honour.

17 Q. Mean 7th of May?

18 A. 7th May, Your Honour.

19 Q. Thank you.

09:57:39 20 PRESIDING JUDGE: And these incident are on 4th May, is it?

21 MR BANGURA: Incidents of the 2nd --

22 PRESIDING JUDGE: Injuries. The 2nd?

23 THE WITNESS: Yes, Your Honour.

24 PRESIDING JUDGE: So those who were injured on the 2nd
09:57:52 25 could only be evacuated on the 7th?

26 THE WITNESS: Yes, Your Honour, they were evacuated on
27 7th May.

28 MR BANGURA:

29 Q. Can you describe how this evacuation exercise go on?

1 A. Yes, Your Honour. Two helicopters were sent. One destined
2 for Magburaka and another one destined for Makeni, A Company
3 location. Because that is where the two -- the casualties were.
4 The helicopter destined for Magburaka landed safely without any
09:58:57 5 resistance from the RUF and picked up the casualties. The
6 helicopter that came to Makeni for A Company location landed with
7 resistance from the RUF. However --

8 PRESIDING JUDGE: Meaning what in your --

9 THE WITNESS: Meaning that RUF were attacking and trying to
09:59:27 10 prevent the helicopter from landing in A Company location.

11 MR BANGURA:

12 Q. And this attack took the form of?

13 A. Firing, using their weapon, firing and resisting or
14 preventing the helicopter from landing. However, the troops
10:00:09 15 cleared a landing area for the helicopter by repulsing RUF
16 combatants, signalling the helicopter to land and on landing they
17 loaded the casualties, plus all the MILOBS who were in Makeni and
18 who had taken refuge in the camp, they were loaded in that
19 aircraft. Less only one who could not manage to get into the
10:01:16 20 aircraft because he was afraid of the fire-fights which was going
21 on. And the aircraft took off. On taking off, Your Honour, that
22 aircraft was shot at, but the pilot managed to land out of the
23 vicinity in the bush and they also had contacted the pilots of
24 the other aircrafts which had gone to Magburaka. Therefore, the
10:02:23 25 pilots of the aircraft that had gone to Magburaka had managed to
26 get it to the place where the casualty helicopter had landed and
27 picked the pilots and all other passengers.

28 Q. Thank you, Mr Witness.

29 PRESIDING JUDGE: How do you know this, Mr Witness?

1 THE WITNESS: I came to know it later of what had happened,
2 Your Honour.

3 MR BANGURA:

4 Q. How did you know?

10:03:28 5 A. By being informed by force headquarters.

6 Q. Was there any reason why you had to move the MILOBS
7 officers from Makeni?

8 A. Yes, Your Honour. When the hostilities broke on the
9 second, they had no alternative but to come towards a more safer
10:03:59 10 area in the camp.

11 Q. Did you continue to stay in Makeni after this break-out of
12 hostilities?

13 A. Yes, I continued to stay at Makeni until the 9th May, year
14 2000.

10:04:52 15 Q. Now, just before we talk about what happened on the 9th
16 May, you had mentioned before that the Quick Reaction Company
17 that comprised the Indians had come to Magburaka. I believe it
18 was on the 3rd May. What was the position, what was the
19 situation there at Magburaka as far as this company was
10:05:18 20 concerned?

21 A. When the company arrived at Magburaka, the situation calmed
22 down. There were no hostilities. It kind of stabilised.

23 Q. How long was this company in Magburaka?

24 A. It was there up to 9th May.

10:05:49 25 Q. And what happened on 9th May?

26 A. On 9th May the company had been called early, had been
27 ordered earlier to move back to Mile 91 and that order had been
28 given on the 8th.

29 Q. Did they leave?

1 A. Yes, they left on 9th for Mile 91.

2 Q. Did they leave alone?

3 A. No, they didn't leave alone. My company at Magburaka,
4 specifically B company, left with them.

10:07:20 5 Q. Now, you earlier mentioned that you had two companies in
6 Magburaka and now you say one company, which is B company, left
7 with the Quick Reaction Company. What about the other company?

8 A. The other company, C Company which was at the Waterworks,
9 could not leave with them. It was left.

10:07:58 10 Q. I asked you short while ago whether you continued to stay
11 in Makeni and you said you did but until the 9th May. Did
12 anything happen on the 9th May?

13 A. Yes. Something happened, Your Honour.

14 Q. So what happened, please?

10:08:24 15 A. After the QRC and B Company at Islamic Centre left,
16 situation in the area changed very drastically.

17 Q. How did it change?

18 A. One Colonel Alfred who was in charge of Magburaka area told
19 the officer commanding C Company that since the Indian company
10:09:20 20 has decided to go away from where they were, he is going after
21 them to kill them all and by the time he comes back he would like
22 to meet the company having collected all the ammunition and arms
23 and loaded them in our own vehicles and the UNAMSIL soldiers
24 having surrendered.

10:11:01 25 Q. How did you learn this?

26 A. This I learned from radio communication between me and the
27 officer commanding C Company.

28 Q. Did you come to any decision after receiving this report?

29 A. Yes, I did, Your Honour.

1 Q. What was that decision?

2 A. My decision was also for the entire battalion to break out
3 from RUF-controlled territory.

4 Q. When did you plan to do this, to break out?

10:12:27 5 A. That particular time it was instantly. However, I would
6 like to mention to this Court that on the 8th, when the first
7 time the QRC was called to go back to Mile 91, I did request the
8 force headquarters that if we are to break out, all of us, in the
9 movement of QRC being delayed up to 10th in the morning, so that

10:13:52 10 I would have organised the entire battalion from all the
11 locations there were located and as one force concentrated at
12 Magburaka and we moved together. The force headquarters agreed
13 to the plan and I embarked on working the details the operational
14 details and instructions that would enable an execution of that
10:15:03 15 operation.

16 Q. Did matters go according to plan?

17 A. No, it didn't go according to the plan, Your Honour,
18 because on the 9th itself somehow the QRC was called and they
19 told to report to move to Mile 91 whether the KENBATT battalion
10:15:49 20 will go or will not go.

21 Q. As a result of the QRC leaving a day earlier than planned,
22 did you then come to a decision of your own?

23 A. Yes, as I said, Your Honour, the situation in the area,
24 more so at Magburaka, changed drastically after they left. And
10:16:45 25 going by what Colonel Alfred at Magburaka had told us, the
26 commander C Company, the RUF followed the UNAMSIL troops and
27 immediately a contact was established. He did. All C Company
28 saw and reported to me seeing lorries full of RUF combatants
29 driving to pursue our troops.

1 PRESIDING JUDGE: So I understand, Mr Witness, you had told
2 the OC C Company to move out of Magburaka at that time? What was
3 it you directed the OC C Company to do? You said they were
4 followed and contact was established.

10:18:13 5 THE WITNESS: Yes, they were following B Company and QRC.

6 PRESIDING JUDGE: Okay, I'm sorry. C Company stayed there.

7 THE WITNESS: Yes, stayed there.

8 PRESIDING JUDGE: But when B Company was moving away with
9 QRC --

10:18:27 10 THE WITNESS: Correct.

11 PRESIDING JUDGE: -- the RUF followed behind them?

12 THE WITNESS: Correct, Your Honour.

13 PRESIDING JUDGE: Okay, thank you. I have confused the
14 C Company with B Company. So you were describing the movement of
10:18:38 15 B Company with QRC.

16 THE WITNESS: Correct, Your Honour.

17 PRESIDING JUDGE: Thank you. So you were describing that
18 the RUF followed and a contact was established. Can you take it
19 from there?

10:18:56 20 THE WITNESS: Yes, Your Honour. The RUF followed QRC and
21 B Company and contact was established between the two. The
22 fighting broke out between the two. This was being reported to
23 me by OC C Company. Now, this is the time I decided now we
24 should make a quick break-out also to remove the battalion, the
10:19:41 25 entire battalion from the seize or from the siege of the RUF.

26 MR BANGURA:

27 Q. How did you go about this plan?

28 A. The plan, Your Honour, was simple. All the troops that
29 were at Makeni were to group together and move northwards to

1 Kabala. The other company, C Company, was to break and move
2 northwards to Bumbuna.

3 MR BANGURA: Bumbuna, Your Honours.

4 PRESIDING JUDGE: That's fine.

10:20:47 5 THE WITNESS: The reason for those two locations, they were
6 not under control of RUF. And the troops broke out just a few
7 minutes before last light.

8 THE INTERPRETER: Your Honours, can the witness go over the
9 last word?

10:21:19 10 MR BANGURA:

11 Q. Roughly, last light, this would be around what time of the
12 day?

13 A. Around 1845 hours in the evening. But we broke out in --
14 before last light. That is round 1700 hours also.

10:22:05 15 Q. Did your operation go according to plan?

16 A. Yes, the operation went according to the plan, and of
17 course at a cost, Your Lord.

18 Q. You say "at a cost"; what cost?

19 A. Cost in terms of casualties, cost in terms of loss of
10:22:15 20 equipment and the stores, Your Honour.

21 Q. Can you be specific as to, first of all, casualties that
22 you suffered?

23 A. Your Honour, the team that moved to Kabala, which included
24 A Company, headquarter company and my battalion headquarters and

10:23:15 25 D Company, went through several ambushes and road-blocks of RUF
26 before reaching Kabala. In those checkpoints, road-blocks and
27 ambushes there was only fighting to get through them because RUF
28 could not let it go. Even breaking from our camps, where RUF had
29 put some obstacles, and even in other areas, dug some trenches to

1 trap the KENBATT battalion.

2 Q. So what casualties did you suffer?

3 A. I suffered casualties in terms of injury for men,
4 particularly those who went into Kabala.

10:24:37 5 Q. Yourself, Mr Witness, which group were you with?

6 A. I was with the one which went to Kabala because I was at
7 Makeni, Your Honour.

8 Q. Do you remember how many of your men suffered casualties?

9 A. Yes, Your Honour. On reaching Kabala I could count eight
10:24:59 10 casualties in terms of injury.

11 Q. What about C Company that had left Magburaka?

12 A. C Company also suffered casualties, particularly out of an
13 accident that happened; one of the APC plunged into the river.

14 Q. When you say "APC," can you tell us exactly what it is?

10:25:41 15 A. Your Honour, it is an armoured personnel carrier which had
16 ten soldiers in it.

17 Q. What happened when it plunged into the river?

18 A. What happened, Your Honour, some people broke their limbs.
19 Even as at today we have one of our soldiers who is still

10:26:09 20 paralysed and is bedridden. So several of them suffered out of
21 the fall of that APC.

22 Q. Were there any fatality?

23 A. Yes, there were two who died among those who were in the
24 APC.

10:26:53 25 Q. Mr Witness, having broken out of your area of operation and
26 relocated to Kabala and Bumbuna, did you leave these locations at
27 any point?

28 A. Yes, Your Honour. After that break-out, the force
29 headquarters organised for airlifting back to Lungi of all the

1 troops and equipment that were in the two areas.

2 Q. When did you, yourself, arrive back at Lungi?

3 A. I arrived back at Lungi as the last person of the entire
4 team at round June. Sometime in June. The first or second week
10:27:58 5 of June, Your Honour.

6 Q. Mr Witness, did you later learn about what had happened to
7 the men who were abducted in Makeni and Magburaka?

8 A. Yes, Your Honour. They were all released by RUF through
9 Liberia.

10:28:28 10 Q. And your battalion, did you continue to stay in
11 Sierra Leone?

12 A. Yes, I continued to stay in Sierra Leone with my battalion
13 until December, when the battalion was changed by another
14 battalion after one year tour, Your Honour.

10:28:50 15 Q. When you say December, are you referring to December of
16 that same year?

17 A. Yes, Your Honour, December 2000.

18 Q. Thank you. Mr Witness, earlier in your testimony you had
19 mentioned that you were deployed to Sierra Leone, your battalion
10:29:18 20 was deployed to Sierra Leone and were working as part of the
21 United Nations mission in Sierra Leone, UNAMSIL; is that correct?

22 A. Yes, Your Honour.

23 Q. And about your mandate, you did say that it was a mandate
24 as stated in the United Nations Security Council Resolution; is
10:29:49 25 that correct?

26 A. Yes, Your Honour.

27 PRESIDING JUDGE: Why do we need to revisit that now?

28

29 MR BANGURA: Your Honours at this point I to need intimate

1 to the court that I intend to have the witness tender that
2 resolution which spells out the mandate of that force.

3 PRESIDING JUDGE: It is not already an exhibit?

4 MR BANGURA: Your Honour, it was part of a bundle of
10:30:23 5 documents for which admission was sought in a 92bis application
6 earlier on in these proceedings.

7 PRESIDING JUDGE: This document was not accepted?

8 MR BANGURA: It was admitted as to its existence for
9 authenticity. It is attached to annexe two and the document,
10:30:41 10 table 4, resolution 1270, dated 22 October 1999.

11 Can the witness be shown this document, please? It was
12 also filed, Your Honours, as part of the documents intended to be
13 used by the Prosecution with the exhibit list.

14 PRESIDING JUDGE: In your list of exhibits. Yes, but it
10:31:33 15 had not been tendered as an exhibit. It was filed as intended
16 exhibits to be introduced at the beginning of the trial.

17 MR BANGURA: That's right.

18 PRESIDING JUDGE: My question was I thought it had been
19 admitted. It has, but not for the totality of it and for the
10:31:49 20 purpose that -- so you are making reference to our decision of 24
21 May, 2005.

22 MR BANGURA: That's correct, Your Honour. I need to point
23 out that in the original order which was made in that
24 application, it was admitted as to its existence, authenticity
10:32:24 25 and content.

26 THE INTERPRETER: Your Honour, can counsel go over the last
27 because we need to interpret it.

28 PRESIDING JUDGE: Go over your last statement, because the
29 interpreters couldn't get you. If you could just repeat.

1 MR BANGURA: I am saying it was admitted in the 92bis
2 application as to its existence, authenticity and content.

3 JUDGE THOMPSON: That was a Trial Chamber decision.

4 MR BANGURA: That's right, Your Honour.

10:33:02 5 JUDGE THOMPSON: What happened on appeal?

6 PRESIDING JUDGE: It was filed for judicial notice. That's
7 what it was at the outset, then you refiled it as a 92bis because
8 of the decision of the Appeals Chamber on judicial notice. This
9 is what happens. 24 May 2005 was the decision on judicial
10:33:30 10 notice. That decision was appealed and, subsequently, you filed
11 a 92bis and we accepted 92bis only for the limited purpose that
12 you have stated.

13 MR BANGURA: That's correct, Your Honour.

14 PRESIDING JUDGE: That's where we are at this moment. You
10:33:42 15 are asking now for this document to be tendered and for what
16 purpose now?

17 MR BANGURA: Your Honours, for the purpose of showing the
18 mandate of UNAMSIL within which the KENBATT 5 battalion operated.

19 PRESIDING JUDGE: Just a moment, Mr Prosecutor.
10:35:32 20 Mr Prosecutor, there appears to be some confusion in what you are
21 submitting to the Court because it would seem Rule 92bis has been
22 filed and it has been filed and it has been filed and this has
23 been rendered in the RUF. What we have done is dealt with
24 a 92bis in the CDF where what we have been discussing was dealt
10:35:55 25 with in the RUF. What we did is, because you were not at the
26 stage of filing a 92bis which in the CDF was done when you were
27 at the end of your case for the Prosecution, we dealt with that
28 issue but we issued a consequential order in the RUF and,
29 therefore, as far as RUF is concerned, there is no 92bis. Our

1 decision was that consequential to the Appeals Chamber decision
2 on judicial notice, we reviewed the decision about judicial
3 notice concerning the RUF and ruled that those documents that
4 you'd filed for judicial notice as to existence, content and
10:36:36 5 authenticity are now being reviewed and they were admitted for a
6 more limited purpose, given the Appeals Chamber's decision. So
7 there is no 92bis in RUF, so to avoid confusion.

8 MR BANGURA: My error, Your Honour. I believe it has to do
9 with my being in [overlapping speakers].

10:36:46 10 PRESIDING JUDGE: Yes. But you were in the two.

11 MR BANGURA: But that's before. My error. I am sorry
12 about this.

13 PRESIDING JUDGE: The decision I was making reference to,
14 which is the decision of 24 May 2005, is indeed a decision. It
10:37:06 15 read, "Consequential order regarding decision on Prosecution's
16 motion for judicial notice and admission of evidence". This is
17 that order that settled the matter about these documents.

18 MR BANGURA: Correct, Your Honour.

19 PRESIDING JUDGE: That's where we were and that's where we
10:37:17 20 are now.

21 MR BANGURA: Correct, Your Honour.

22 JUDGE THOMPSON: [Microphone not activated].

23 MR BANGURA: Your Honours, mic, I believe --

24 THE INTERPRETER: Your Honour's mic is not on, Your Honour.

10:37:31 25 JUDGE THOMPSON: Thank you. That order was based on a
26 reading of the Appeals Chamber's decision. That was why the
27 consequential order was issued and, in fact, in that decision the
28 findings made in the CDF decision were overturned on appeal by
29 the Appeals Chamber.

1 MR BANGURA: Correct, Your Honour. I believe it has got to
2 do with my having been in the CDF matter as well. I am sorry,
3 Your Honour.

4 PRESIDING JUDGE: So we've been in both, but now you are
10:38:00 5 really confusing us on this 92bis.

6 MR BANGURA: Sorry about this.

7 PRESIDING JUDGE: In that decision of 24 May, in annexe two
8 part 1, is a document described there as: "Admitted as to their
9 existence and authenticity, tab 4, resolution 1270", which is the
10:38:21 10 one you are talking about, presumably,

11 MR BANGURA: Correct, Your Honour.

12 JUDGE THOMPSON: What it means is that we, in the Trial
13 Chamber decision, we took judicial notice of the authenticity,
14 the existence and the content.

10:38:30 15 MR BANGURA: That's correct.

16 PRESIDING JUDGE: In original judicial notice.

17 JUDGE THOMPSON: Whereas the Appeals Chamber said we ought
18 not to have done that,

19 MR BANGURA: Correct.

10:38:47 20 JUDGE THOMPSON: That would seem to be the reason for the
21 issuance of the consequential order,

22 MR BANGURA: That's correct, Your Honour.

23 JUDGE THOMPSON: I just wanted to be clear on the law
24 because I remember we read that.

10:39:00 25 MR BANGURA: That is my understanding, Your Honour.

26 JUDGE THOMPSON: Yes, that we should not have taken
27 judicial notice of the contents of the entirety of UN Security
28 Council resolutions listed in annexe two. The Security Council
29 declarations do qualify for judicial notice once the facts

1 contained therein are extrapolated from each of the resolutions,
2 as recognises incapable of reasonable dispute.

3 MR BANGURA: Correct, Your Honour.

4 JUDGE ITOE: So what do you want to do now? Do you want to
10:39:32 5 tender this one?

6 MR BANGURA: Yes, Your Honour.

7 JUDGE ITOE: And have it shown to the witness.

8 MR BANGURA: I have asked that it be shown to the witness.

9 PRESIDING JUDGE: Mr Witness, you have a copy?

10:39:50 10 THE WITNESS: Yes.

11 PRESIDING JUDGE: So the document you have in your hands,
12 Mr Witness, is a copy of the resolution 1270 of 1999; a United
13 Nations Security Council resolution, is it?

14 THE WITNESS: Yes, My Lord.

10:39:59 15 MR BANGURA:

16 Q. Mr Witness, are you familiar with that resolution?

17 A. Yes, Your Honour.

18 Q. Does this resolution deal with what you had to do here in
19 Sierra Leone, your battalion within UNAMSIL?

10:40:45 20 A. Yes, Your Honour. It establishes the UNAMSIL and gives a
21 UNAMSIL mandate.

22 Q. May I direct your attention, Mr Witness, to paragraph 8 of
23 the document.

24 A. Yes, Your Honour.

10:41:19 25 MR BANGURA: Your Honours, that would be on page 3526.

26 PRESIDING JUDGE: Yes.

27 MR BANGURA: Your Honour, may I get the witness to just
28 read what it says in paragraph eight.

29 Q. Mr Witness, what does paragraph eight say?

1 A. I read paragraph eight.
2 "Decides to establish the United Nations mission in Sierra
3 Leone (UNAMSIL) with immediate effect for an initial period
4 of six months and with the following mandate: (a) to
10:42:31 5 co-operate with the government of Sierra Leone and other
6 parties to the peace agreement in the implementation of the
7 agreement".
8 Q. Continue, please?
9 A. "(b) to assist the government of Sierra Leone in the
10:42:55 10 implementation of the disarmament, demobilisation
11 reintegration plan; (c) to that end, to establish a
12 presence at key locations throughout the territory of
13 Sierra Leone, including at disarmament/reception centres
14 and demobilisation centres; (d) to ensure the security and
10:43:26 15 freedom of movement of United Nations personnel; (e) to
16 monitor adherence to the ceasefire in accordance with the
17 ceasefire agreement of 18th May 1999 (S/1999/585),
18 (annexed) through the structures provided therein; (f) to
19 encourage the parties to create confidence-building
10:44:06 20 mechanisms and support their functioning; (g) to facilitate
21 the delivery of humanitarian assistance; (h) to support the
22 operations of United Nations civilian officials, including
23 the special representative of the Secretary-General and his
24 staff, human rights officers and civil affairs officers;
10:44:38 25 (i) to provide support, as requested, to the elections
26 which are to be held in accordance with the present
27 constitution of Sierra Leone."
28 Q. Thank you, Mr Witness. Did your functions within UNAMSIL
29 fall within the various tasks that you have just read out as

1 ascribed to UNAMSIL when this resolution was set up?

2 A. Correct, Your Honour.

3 Q. And paragraph 9, Mr Witness, could you just read that?

4 Read paragraph 9, please.

10:45:43 5 A. "Decides also that the military component of UNAMSIL shall
6 comprise a maximum of 6,000 military personnel, including
7 260 military observers, subject to periodical review in the
8 light of conditions on the ground and the progress made in
9 the peace process, in particular, in the disarmament,
10:46:08 10 demobilisation and reintegration programme and it takes
11 note of paragraph 43 of the report of the Secretary-General
12 of 23rd September 1999."

13 Q. Thank you, Mr Witness. Would you say that paragraph 9 of
14 this document also referred to your mission in Sierra Leone?

10:46:41 15 A. Correct, Your Honour, because it establishes the military
16 component of the UNAMSIL.

17 Q. Thank you.

18 MR BANGURA: Your Honours, I respectfully apply that this
19 document be admitted in evidence as an exhibit. Particularly
10:47:04 20 relying on paragraphs 8 and 9 thereof.

21 PRESIDING JUDGE: Mr Jordash.

22 MR JORDASH: No objections.

23 PRESIDING JUDGE: Second accused.

24 MR TAKU: Your Honours, we will not object if this were a
10:47:24 25 complete document. Paragraphs 8(E) states --

26 PRESIDING JUDGE: E?

27 MR TAKU: E, yes, Your Honour. Talks about, I mean to say,
28 "to monitor adherence to the cease-fire in accordance with the
29 cease-fire agreement of 18th May 1999, S/1999/585/annexe, so the

1 structures provided for therein." So, Your Honours, if that
2 particular document which is annexe, which forms part of this
3 document were provided, then we would not be objecting. But as
4 for now, in the absence of that document referred to in
10:48:09 5 paragraph 8 and 9, this document is incomplete.

6 PRESIDING JUDGE: Well, we have already admitted this
7 document. This document as is, as to its existence and
8 authenticity. So what we have not admitted, given the decision
9 of the Appeals Chamber, was the content of that document and the
10:48:28 10 document we are talking about is the document has now been
11 tendered by the Prosecution without the annexe. So what we have
12 admitted to now, as I say, is the document as it is.

13 MR TAKU: Without the annexe, Your Honour.

14 PRESIDING JUDGE: Without the annexe because this is what
10:48:46 15 was filed with the Court for judicial notice and, as I said, we
16 took judicial notice at the time of the existence and
17 authenticity. In fact we have done more than that, but because
18 of the Appeals Chamber's decision on judicial notice we
19 restricted judicial notice to existence and authenticity of the
10:49:06 20 document as is tabled now.

21 MR TAKU: Your Honours, in that case we do not object, but
22 we make the observation now.

23 PRESIDING JUDGE: And obviously, you will never be
24 precluded to file this annexe if you feel it appropriate for your
10:49:21 25 own requirements.

26 MR TAKU: Yes, Your Honour. If we don't do that we will
27 just put that observation on record.

28 PRESIDING JUDGE: Very well. Mr Prosecutor.

29 JUDGE ITOE: If you think that that document -- if you

1 think the annexure, you know, is material to your case and you
2 want to put it in, why not? You could look for it and put it in.
3 If you think it is material to your case at the appropriate time.

4 MR BANGURA: Your Honours, I want to respectfully say that
10:49:56 5 there is no basis for that objection because the document in
6 question itself has been in fact admitted as to contents by this
7 honourable Court.

8 PRESIDING JUDGE: When and where?

9 MR BANGURA: Your Honours, by the decision, consequential
10:49:59 10 orders --

11 PRESIDING JUDGE: Secretary-General's report in the
12 situation?

13 MR BANGURA: Yes, Your Honour. It falls under annexe 2,
14 part 2. "Documents which are admitted as to the existence,
10:50:28 15 authenticity and content." And that document is table 58.
16 Cease-fire agreement between government and Revolutionary United
17 Front, 18th May 1999.

18 PRESIDING JUDGE: So it is already in evidence?

19 MR BANGURA: Yes, Your Honour.

10:50:46 20 MR TAKU: Thank you for that clarification.

21 PRESIDING JUDGE: So you have no more objection about this
22 document?

23 MR TAKU: No more objection.

24 PRESIDING JUDGE: Thank you. Mr Cammegh.

10:50:53 25 MR CAMMEGH: No difficulty with this document. Thank you.

26 PRESIDING JUDGE: Very well. Mr Court officer, where are
27 we in the exhibits numbering system?

28 MR WALKER: Exhibit 100, Your Honour.

29 PRESIDING JUDGE: 100. So the document referred to by this

1 witness as resolution Security Council -- United Nations Security
2 Council Resolution 1270 of 1999 adopted by the Security Council
3 at its 4004th meeting on 22nd October 1999, and consisting of
4 five pages, in the Court management numbering system it is
10:51:58 5 page 3525 to 3529 inclusive, is marked as Exhibit 99 and not 100
6 as stated. If the record is correct it should not read 100, but
7 Exhibit 99.

8 [Exhibit No. 99 was admitted]

9 MR BANGURA: Thank you, Your Honour. Your Honour, may the
10:52:23 10 witness be shown Exhibit 8 of the exhibits already in this Court?

11 PRESIDING JUDGE: Which is the document we have just
12 referred to.

13 MR BANGURA: No, Your Honour, this is a map, a Shell map.
14 Your Honour may I say that the purpose of this exercise is to
10:52:44 15 just get the witness to identify on the map the location of
16 Makump.

17 PRESIDING JUDGE: To clarify the possible confusion between
18 two similar names?

19 MR BANGURA: Two similar names. Exactly, Your Honour.

10:53:01 20 PRESIDING JUDGE: Very well. Has the --

21 MR BANGURA: Court management already informed.

22 JUDGE ITOE: You say it is Exhibit 8?

23 MR BANGURA: Yes, Your Honour.

24 Q. Mr Witness, do you see the document before you?

10:53:38 25 A. Yes, I do, Your Honour.

26 Q. Are you able to identify your areas of deployment at the
27 period in time in question that you have been referring to in
28 your evidence before this court?

29 A. Yes, Your Honour.

1 Q. In your testimony you have mentioned that there was a DDR
2 camp at Makump, which is a location along the road between Makeni
3 and Magburaka; is that correct?

4 A. Yes, Your Honour.

10:54:40 5 Q. Are you able to identify that location on the map before
6 you?

7 A. Yes, I can, Your Honour.

8 Q. Mr Witness, if you have located the position of Makump, so
9 that we are in tandem, can you give us a spelling of Makump as
10:55:03 10 shown on map?

11 PRESIDING JUDGE: Which one? I can see three spelled
12 exactly the same way, three different locations.

13 MR BANGURA: I will go over -- the witness has already said
14 that he recognises Makump between -- on the road between Makeni
10:55:26 15 and Magburaka and that is where we are, Your Honour.

16 JUDGE THOMPSON: All right.

17 PRESIDING JUDGE: So we are looking at the map.

18 JUDGE THOMPSON: That is near Rosint?

19 THE WITNESS: Yes.

10:55:36 20 MR BANGURA: Yes, Your Honour.

21 JUDGE THOMPSON: Rosint. That is the one spelled?

22 MR BANGURA:

23 Q. Mr Witness, just so that we are in tandem, so that we are
24 sure that it is the same place we are talking about, can you
10:55:50 25 spell the Makump that you have there?

26 A. This one is M-A-K-U-M-P.

27 PRESIDING JUDGE: And on that map it would be between
28 Rosint and is it Mabohe.

29 THE WITNESS: Yes, that is the Makump.

1 MR BANGURA: TF1-165.
2 Q. Thank you, Mr Witness. Mr Witness, could you again write
3 TF1-165. That's TF1-165.
4 A. TF1.
10:58:36 5 Q. TF1-165.
6 A. 165.
7 Q. Thank you, Mr Witness.
8 MR BANGURA: Your Honours, may the records reflect that the
9 witness has identified Makump on Exhibit 8 as the location
10:59:32 10 between Makeni and Magburaka.
11 PRESIDING JUDGE: And has circled this Makump on Exhibit 8
12 by putting his name, initials, date and pseudonym.
13 MR BANGURA: That's correct, Your Honour.
14 PRESIDING JUDGE: Very well.
11:00:08 15 MR BANGURA: Your Honours, that will be all for this
16 witness.
17 PRESIDING JUDGE: Thank you.
18 MR BANGURA: Thank you, Mr Witness.
19 PRESIDING JUDGE: Mr Jordash, are you ready to proceed with
11:00:26 20 the cross-examination of this witness?
21 MR JORDASH: Your Honour, yes, thank you.
22 CROSS-EXAMINED BY MR JORDASH:
23 Q. Good morning, Mr Witness.
24 A. Good morning to you, Your Honour.
11:01:36 25 Q. You would accept, would you not, that the actions of the
26 various peacekeepers in relation to the events of 2 nd until 9th
27 were those you were told about, rather than what you saw; it's
28 largely a hearsay account.
29 A. Your Honour, these are not hearsay accounts. They are some

1 of what I could see. They are some of the reports I could get
2 from a well-established chain of command within the military
3 system.

4 Q. Well, would you accept that, in the main, your evidence on
11:02:58 5 these events came from the reports, rather than what you yourself
6 saw?

7 A. Yes, Your Honour, a combination of what I see, hear and the
8 reports.

9 Q. Well, what you saw in relation to 2nd May, beginning of
11:03:29 10 what you would say was abductions, until 8th was limited, was it
11 not, to you seeing Makeni in chaos and retreating back to your
12 headquarters? Is that not correct?

13 A. Your Honour, there is what I saw and there is what I could
14 report.

11:04:02 15 Q. Is that correct? You saw the chaos in Makeni, you were on
16 the way to see if you could intervene, you retreated back to your
17 headquarters?

18 JUDGE THOMPSON: Just take it bit by bit. There's a chain
19 of submissions there. I mean, it can be difficult to put it all
11:04:21 20 in one package and give one answer. You saw chaos? Couldn't we
21 have an answer to that and then move on to the next leg of it.
22 Then you moved on to a third leg.

23 MR JORDASH: Well, yes, but it's not a complicated
24 proposition.

11:04:42 25 JUDGE THOMPSON: It can be complicated for the purposes of
26 factual determinations. I mean, we're trying to write the
27 evidence.

28 MR JORDASH: This is the evidence the witness has already
29 given and I was trying to simply summarise it quickly to arrive

1 at the proposition which I have now put to the witness twice,
2 hoping that he might agree and we could move on rapidly.

3 JUDGE THOMPSON: I'm just a little worried about various
4 limbs of a particular proposition being put in aggregation and
11:05:21 5 then we are not quite sure, when the answer comes, whether we're
6 having an answer to perhaps limb one or limb two or the entirety.
7 I would leave it. I would restrain myself. But you can see my
8 difficulty here. Sometimes it is difficult to -- -

9 MR JORDASH: Yes, I can see sometimes it can be difficult.

11:05:42 10 JUDGE THOMPSON: Yes, complicated when it may well be even
11 simplified a little. But I will restrain myself.

12 MR JORDASH: I will break it down.

13 Q. At the time the 10 combatants disarmed or demobilised at
14 the reception centre you were not there?

11:06:04 15 A. I was not there, Your Honour.

16 Q. You were in your headquarters?

17 A. I was in my headquarter, Your Honour, and that was on 1st
18 May.

19 Q. Yes, and you remained in your headquarters until deciding,
11:06:18 20 did you not, to go to Makeni; correct?

21 A. I beg your pardon?

22 Q. Did you decided to go to Makeni because of events on 2nd?

23 A. Yes, I did. On 1st.

24 Q. Sorry, 1st. Then you went back to your headquarters having
11:06:37 25 seen the chaos in Makeni?

26 A. Yes.

27 Q. Thereafter you stayed at the headquarters where you
28 received various reports which now form the basis of your
29 evidence?

1 A. Yes, I returned to my headquarter.

2 Q. Thank you. Now, after the events had unfolded and those
3 who you say were abducted had been retrieved, did you speak to
4 those people directly about what had happened to them?

11:07:12 5 A. The hostages?

6 Q. Well, for example, Major Ganase. Did you see him after he
7 had been recovered from his hostage situation?

8 A. No, I never saw Major Ganase again.

9 Q. Major Maroa, what about him?

11:07:38 10 A. Yes, Major Maroa was one of my officers.

11 Q. So you spoke to him later on about his experience?

12 A. Yes, much later, after June when I joined them at Lungi.

13 Q. So you would -- sorry.

14 A. Yes, he had a problem with one of his limb. He needed
11:08:01 15 medical attention.

16 Q. So you were not able to get any account from him until,
17 what, about a month later?

18 A. Yes, as far as hostage taking is concerned. When he left,
19 when he was taken on 2nd, I could not talk to him. From on 1st I
11:08:24 20 could not talk to him.

21 Q. Until June?

22 A. Until June.

23 Q. Beginning, middle or end of June?

24 A. When I reported to Lungi they were already there.

11:08:35 25 Q. When was that?

26 A. I reported to Lungi from Kabala around at the end of first
27 week of June or beginning of the second week.

28 Q. Thank you. Major Rono, did you speak to him again?

29 A. On 2nd after he left his camp I did not speak to him again

1 until I recovered from Kabala to Lungi in June, again.

2 Q. And did you have the occasion to sit down with him and talk
3 him through his experience?

4 A. No.

11:09:21 5 Q. So you didn't ever speak to him about the events following
6 his abduction?

7 A. No, just in passing. It was difficult for him or for us to
8 sit and narrate the experiences one had.

9 Q. Why?

11:09:38 10 A. Obviously because of the experiences that they had,
11 particularly when I learned that they were stripped or such kind
12 of inhuman behaviour.

13 Q. Well, did you speak to Rono about his experience or not?

14 A. In person? I would say in person, but not in details.

11:10:04 15 Q. So he didn't give you the details as to what had happened?

16 A. Not much.

17 Q. Does that follow from the other officers, such as Ndeche?
18 Did you speak to him again?

19 A. Ndeche, we talked with him, particularly when they reported
11:10:35 20 at the Kenyan Battalion after they broke out.

21 Q. When was that? When did you speak to him?

22 A. That was on 3rd when they reported at Mile 91 at the Guinea
23 Battalion location.

24 Q. 3rd of?

11:10:54 25 A. Of May.

26 Q. Osimbi [sic], when did you see him?

27 A. Who?

28 Q. My pronunciation is bad, I think.

29 A. Osimbo.

1 Q. Osimbo.

2 A. When I did see him?

3 Q. Yes.

4 A. I saw him after I got back to Lungi from Kabala in June,

11:11:12 5 Your Honour. Even later, by the way, Your Honour, I spoke to him

6 over the radio when he was at Kenya battalion, but seeing him

7 physically, it was after I recovered from Kabala in early June.

8 Q. Thank you. What would be the disciplinary consequences for

9 a soldier under your command who breached the peace-keeping

11:11:47 10 mandate by going on the offensive?

11 A. Disciplinary action?

12 Q. Yes. You were under a mandate, as I understand it, to only

13 use force to defend yourselves or others or civilians. What

14 would be the disciplinary consequences for a soldier under your

11:12:19 15 command who breached that mandate?

16 A. Definitely, I believe would appear in such a court to

17 answer for violation of the mandate.

18 Q. What could happen to them if they admitted to such conduct?

19 A. The disciplinary action?

11:12:40 20 Q. Yes.

21 A. Would be taken by the UN.

22 Q. What, in your experience, would be that consequence? What

23 could happen to such --

24 A. We have never experienced that, but I believe the law will

11:12:57 25 take its course.

26 Q. You've never experienced a soldier ever admitting to

27 breaching a peace-keeping mandate?

28 A. Your Honour, not even at the meeting, but even breaking a

29 peace-keeping mandate.

1 PRESIDING JUDGE: I'm not sure that a soldier -- I mean the
2 way you've framed your question is a very, very complex scenario
3 you're trying to put. A soldier breaking the peace agreement or
4 the United Nations resolution, he may commit a crime, he may
11:13:34 5 violate something, but to violate the resolution is --

6 MR JORDASH: To violate the mandate.

7 PRESIDING JUDGE: The mandate is this, but what is the
8 violation of a mandate as such? Is the fact that you crossed the
9 ceasefire line a violation of the mandate? Violation of mandate
11:13:55 10 is -- the question the way you posed it -- I know why you are
11 asking the question, Mr Jordash, but the way you put it to the
12 witness is almost impossible. That's why he gave this answer:
13 there has never been a violation by a soldier of the mandate.

14 MR JORDASH: But the mandate was not to use force except
11:14:17 15 under self --

16 PRESIDING JUDGE: The mandate isn't a resolution that is
17 tabled.

18 MR JORDASH: The mandate, as I understood the practical
19 ramifications of it, was not to use offensive force. I don't
11:14:30 20 think that is a difficult proposition.

21 PRESIDING JUDGE: Ask him. He was the commanding officer
22 in that deployment, as such. He has talked about his own mandate
23 what he was supposed to do. But I don't think -- this witness,
24 I'm not talking about a witness, I'm talking of this witness --
11:14:47 25 has not testified, as such, as to use of force or no use of force
26 at all. So if you are asking him about violation --

27 MR JORDASH: But it is in the resolution which the
28 Prosecution rely upon.

29 PRESIDING JUDGE: I know it is in the resolution. The

1 witness has read some parts of the resolution, but not that one.

2 Yes, it is in the resolution. It is under paragraph 14.

3 MR JORDASH: I'm sorry. I don't want to be difficult, but
4 I don't understand what Your Honour's concern is.

11:15:14 5 PRESIDING JUDGE: I can speak to you in the absence of
6 witness. If you look at 14, this is not what may appear to be
7 that easy. I can say to you chapter 7, "mission", is different
8 than chapter 6 and the use of force. It's quite different.

9 MR JORDASH: Yes, which is why I added the word "civilians"
11:15:41 10 because of Article 14.

11 PRESIDING JUDGE: No, it is more than just that,
12 Mr Jordash. That's why I'm asking you, because you are asking
13 this witness about disciplinary action for people that may. You
14 have heard the answer. He said no soldier has ever violated the
11:15:58 15 mandate, as such. But the mandate is to use force to enforce the
16 mandate that they have. That is part of mandate. Your question,
17 presumably, has to do with abusing their force.

18 MR JORDASH: I had hoped, and if it wasn't, I apologise,
19 but I'd hoped that it was clear from the question what I was
11:16:16 20 directing my mind to was --

21 PRESIDING JUDGE: Mr Witness, we will discuss that in your
22 absence. We need to clarify some issues before the question is
23 put to you. If you wouldn't mind being escorted out of the Court
24 and we will call you back shortly. We need to clarify this
11:17:03 25 issue.

26 THE WITNESS: Thank you.

27 MR JORDASH: I can break it down if it will save time to
28 make it quite straightforward in terms of the question I'm
29 putting.

1 PRESIDING JUDGE: Fine.

2 MR JORDASH: I had presumed that the Prosecution relied
3 upon this to indicate when and where force could be used. That's
4 the case the Prosecution was putting through this, which is why I
11:17:23 5 dealt with --

6 PRESIDING JUDGE: It may be, Mr Jordash. To that portion I
7 cannot answer that because they have not put that to this witness
8 at all. That question was put to other witnesses. It may have
9 been about the same factual situation, but not to this witness
11:17:37 10 about that.

11 MR JORDASH: I will break it down.

12 PRESIDING JUDGE: Thank you.

13 MR JORDASH:

14 Q. Am I right, Mr Witness, that your operational remit, as
11:17:52 15 concerns force, was that and your command could only use force as
16 self-defence?

17 A. Yes, Your Honour. The profession of arms operates in an
18 area which is volatile and certain ambiguous.

19 Q. What does? The profession of arms?

11:18:34 20 A. Yes, the military.

21 Q. So the military operates in conflict zones?

22 A. Yes.

23 Q. I understand that.

24 A. And they are guided by rules and regulations that are put.

11:18:46 25 Q. I understand that, yes. Were you acting under self-defence
26 operational rules?

27 A. No, the mandate is very clear, Your Honour.

28 JUDGE ITOE: Yes, indeed. You should ask him to state the
29 mandate under which he was acting because the mandate was defined

1 somewhere maybe in Exhibit 99 or by some other rules. So you
2 know, let him tell us. What is the position? When are you,
3 within your mandate, expected to use force? I'm sure that is
4 what counsel is wanting to know from you.

11:19:36 5 THE WITNESS: Have you read, Your Honour, paragraph 14?

6 MR JORDASH:

7 Q. I have read it, thank you very much. What I'm interested
8 in is just breaking that down. When you or your command were in
9 Makeni and the outlying areas, you were expected to only use

11:20:00 10 force when threatened and you were acting, therefore, under
11 self-defence; is that correct?

12 A. Yes, that is one way, one occasion I can use force.

13 Q. When else could you use force?

14 A. As regulated in paragraph 14 of this mandate.

11:20:21 15 Q. "Ensure the security and freedom of movement of your
16 personnel"; yes?

17 A. Yes, I could. I was mandated to use force then.

18 Q. And to afford civilians under imminent threat of physical
19 violence; correct?

11:20:42 20 A. Yes, and that chapter, that paragraph gives me the reason
21 to use force. That is the mandate itself.

22 Q. Thank you. If you or a soldier under your command were to
23 breach those rules, there would be serious disciplinary
24 consequences?

11:21:08 25 A. Yes, there would be, after investigation.

26 Q. After investigation. Have you ever, in your experience as
27 a soldier, had experience of a soldier confessing such a breach?

28 A. Not in Kenya Army, My Lord.

29 Q. But can we presume - perhaps we can't - there are Kenyan

1 soldiers who have been found guilty of breaches of operational
2 mandates?

3 A. Not that I know.

4 MR BANGURA: Your Honours, the line of cross-examination, I
11:21:44 5 don't think it is proper for counsel to be speculative and
6 premising his questions on a presumption which is not factual.
7 The question just posed to the witness was "Can we presume", even
8 though he tries to retract or withdraw the word "presume" he goes
9 on to pose a question that would be speculating, Your Honour.

11:22:07 10 PRESIDING JUDGE: Mr Jordash, do you wish to respond to
11 this.

12 MR JORDASH: I'm not sure I know how. Does this witness
13 have experience of --

14 PRESIDING JUDGE: The objection is not to the fact whether
11:22:26 15 he has experience or whether he has knowledge. It is only the
16 word you have used, presumption, the word "presume".

17 MR JORDASH: Can I suggest -- I'll put it that way.

18 PRESIDING JUDGE: Rephrase your question and that will
19 simplify the matter, please.

11:22:47 20 MR JORDASH:

21 Q. Do you suggest that nobody, in your 28 years of experience
22 in the Kenyan Army, has ever been found guilty of a breach of an
23 operational mandate?

24 A. In my command?

11:23:09 25 Q. No, not in your command, in the Kenyan Army?

26 A. Your Honours, the Kenyan Army is a big force.

27 Q. It is a big force, but you are an experienced officer in
28 that force. Have you experienced, seen, observed, heard, had
29 experience of a soldier in the Kenyan Army being found guilty of

1 breaching a mandate?

2 A. No, I'm sorry, Your Honour, I've never experienced that.

3 Q. Never in 28 years?

4 A. Yes, I have never heard of a Kenyan soldier breaching the
11:23:49 5 United Nation mandate.

6 PRESIDING JUDGE: If I may suggest to you, Mr Jordash, the
7 reality is soldiers don't apply with a mandate in their pocket.
8 They are given rules of engagement that are normally in
9 compliance with the mandate as to what they may or may not do.
11:24:07 10 If they are to be disciplined, normally it would be for breach of
11 their rules of engagement, which, as I say, is normally in
12 conformity with the mandate. If you ask about the mandate to a
13 soldier, they will normally tell you, "I don't know what you
14 mean." But if you ask them about their rules of engagement, they
11:24:25 15 know, or they should know. It maybe in the way the question is
16 asked.

17 MR JORDASH: But Your Honour understands it.

18 PRESIDING JUDGE: I do, but for other reasons. I am not
19 the witness, so that is why I say to you maybe if you ask the
11:24:44 20 witness the question differently, he might be able to answer that
21 question - maybe. I'm not sure. His evidence is that he has
22 never heard of soldiers having breached this mandate.

23 MR JORDASH:

24 Q. Have you ever, in your 28 years, experienced a Kenyan
11:25:02 25 soldier breaching their rules of engagement?

26 A. No.

27 Q. Never?

28 A. I haven't heard.

29 Q. Have you ever known any being prosecuted for breaching

1 their rules of engagement?

2 A. No, Your Honour.

3 Q. No, okay. Have you ever known any soldier in your
4 peace-keeping operations whether with the Kenyan Army or with

11:25:33 5 other troops be known to breach their rules of engagement?

6 A. No.

7 Q. Never?

8 A. Not in Kenyan Army.

9 Q. No. What about when you've worked alongside other armies?

11:25:51 10 Have you ever experienced soldiers breaching their rules of
11 engagement?

12 A. No. I have worked in two missions, Your Honour, only two
13 years and the fact that I have served for 28 years doesn't mean
14 that 28 years I have been operating within the UN or --

11:26:12 15 Q. No one has suggested that you were.

16 A. Yes. So the two years I have worked I have been a
17 commander of troops, of Kenyan Army troops, and I have never,
18 never had soldiers that have broken the rules of engagement in
19 the mission area.

11:26:37 20 Q. What you mean by that, you've never seen it?

21 A. Even hearing it.

22 Q. And you've never had anyone report it to you?

23 A. Yes, that is what I mean.

24 Q. Thank you. Did you write a report on this incident or
11:26:54 25 these incidents?

26 A. Yes. In the normal military operations you would give a
27 report on what is happening.

28 Q. No, you -- after your retreat to Kabala, did you, after
29 that, sit down at some stage and write a report about the events

1 of early May?

2 A. Yes, I have done that. And even the forces headquarters I
3 remember sending people to interview me and make a report.

4 Q. Right. So who did the report get made for? What I'm
11:27:41 5 getting at is where would we find it?

6 A. Forces headquarters.

7 Q. Where are the forces headquarters?

8 A. Forces headquarter was at Freetown at that particular time.

9 Q. So that was the UN?

11:27:56 10 A. UNAMSIL forces headquarters.

11 Q. Right. So you gave your report to them around June time;
12 is that right? June of 2000?

13 A. When I was in the mission area, yes.

14 Q. Well, try and picture it. You've got a good memory for the
11:28:15 15 dates of meetings with the accused, so try and remember when you
16 sat down and wrote this report and who you gave it to
17 specifically?

18 A. Your Honour, as a battalion it fell under first the sector
19 headquarters and then the forces headquarter. That is the chain
11:28:43 20 of command and communication.

21 Q. Well, thank you for that, but when did you write the report
22 and who did you give it to?

23 A. Around June various officers sent by forces headquarters
24 came to my headquarters to compile a report on the incident.

11:29:10 25 Q. So there was an investigation which was initiated by forces
26 headquarters?

27 A. Yes, that kind of -- kind of.

28 Q. Who else did they speak to, do you know?

29 A. No, but they could speak to all of us, including me.

1 Q. What do you mean "all of us"?

2 A. All -- you know, an investigation --

3 Q. Yes, an investigation, but who was being investigated?

4 A. To put an account of the --

11:29:33 5 Q. No, I understand what the purpose was, but who were the

6 investigators speaking to?

7 A. I was one of them.

8 Q. Yes.

9 A. They could pick other people.

11:29:47 10 Q. I know they could. Who are they, is what I'm getting at?

11 A. I believe the officers in my headquarters also.

12 Q. Yes, who?

13 A. I can say maybe operations officers.

14 Q. Names, please. What's the difficult?

11:30:04 15 A. My operational officer was Major xxxxx by then.

16 Q. Sorry, could you repeat the name, please?

17 A. Major xxxxxx.

18 Q. How do you spell that, please?

19 Axxxxxxxxxx

11:30:21 20 Q. And his position was what?

21 A. Operations officer.

22 Q. For your battalion?

23 A. Correct.

24 Q. Who else did they speak to?

11:30:29 25 A. I don't know whether they moved it to companies, to speak

26 to officers commanding in companies. I am not sure.

27 Q. Well, you were the commanding officer for this battalion.

28 A serious issue had developed. Surely you can help us out more

29 as to the way in which the investigation into that issue went.

1 You must know, surely, who was spoken to. Were you not asked,
2 for example, who the investigators should speak to?

3 A. I don't know whether I'm going to put it right to you to
4 understand the operations.

11:31:19 5 Q. I'm trying, I'm listening.

6 A. Yes. Now if the forces headquarters send a team to
7 investigate an issue, it allows that team to come in and talk to
8 various officers --

9 Q. I've got that.

11:31:36 10 A. -- who will get -- you know, who will assist in whatever
11 they are investigating.

12 Q. I understand that too. Who?

13 A. If I am one, I will attend to them. If they wanted to pick
14 other officers, they will do that.

11:31:49 15 Q. But did you not learn who those other officers were? Were
16 you not interested?

17 A. I'm only speculating that they would have gone to companies
18 and they talked to various officers.

19 PRESIDING JUDGE: But you don't know that?

11:32:06 20 THE WITNESS: Say again.

21 PRESIDING JUDGE: You don't know that?

22 THE WITNESS: I'm not sure, Your Honour.

23 PRESIDING JUDGE: You don't know if this investigation team
24 did speak to officers other than your operation officer? You're
11:32:18 25 saying you're speculating because you are assuming that they may,
26 but you don't know that.

27 The question is: Do you know to whom they may have talked
28 when they did their investigation, in addition to you? They did
29 speak to you but, other than you, to whom did they speak to, to

1 your knowledge?

2 THE WITNESS: Yes, Your Honour, I'm only speculating and
3 you know why.

4 PRESIDING JUDGE: That's the question. We're not asking
11:32:42 5 you to speculate. We're asking you what do you know? Who did
6 they interview other than you? You have said that they
7 interviewed you and probably, I think, your operation officers.

8 THE WITNESS: Yes.

9 PRESIDING JUDGE: To your knowledge, have they interviewed
11:32:58 10 anybody else with respect to these incidents? Not speculation,
11 do you know?

12 THE WITNESS: I don't know whom they interviewed in
13 particular, Your Honour, but I know there was that investigation.

14 PRESIDING JUDGE: Okay.

11:33:17 15 MR JORDASH:

16 Q. Who would you recommend we speak to to get hold of that
17 report?

18 A. The chairman of the investigation.

19 Q. Who was that?

11:33:31 20 A. He was a lieutenant-colonel of Indian nationality.

21 Q. Lieutenant Kanu?

22 A. Colonel. A lieutenant-colonel by rank, of India.

23 PRESIDING JUDGE: A lieutenant-colonel?

24 THE WITNESS: Yes.

11:33:50 25 PRESIDING JUDGE: He was from an Indian --

26 THE WITNESS: Nationality.

27 PRESIDING JUDGE: Nationality. And he was sent by
28 headquarters?

29 THE WITNESS: Correct, Your Honour.

1 PRESIDING JUDGE: And he was the head investigator of this
2 incident?

3 THE WITNESS: Yes, Your Honour.

4 PRESIDING JUDGE: Was he assisted by other members of
11:34:07 5 headquarters to do the investigation? You were saying
6 "investigators," so there was a team of them?

7 THE WITNESS: Yes, Your Honour. An investigation team is
8 appointed with a chairman and other members.

9 MR JORDASH:

11:34:19 10 Q. But the report, in any event, you think went to the force
11 headquarters?

12 A. Yes, Your Honour.

13 Q. Thank you. Let's leave it at that.

14 PRESIDING JUDGE: Let's pause at this particular moment,
11:34:33 15 Mr Jordash, and we'll come back after the morning recess. Thank
16 you. The Court will recess.

17 [Break taken at 11.30 a.m.]

18 [Upon resuming at 12.07 p.m.]

19 PRESIDING JUDGE: Yes, Mr Jordash.

12:08:47 20 MR JORDASH: Thank you.

21 Q. I want to pick up, Mr Witness, on the issue of the Security
22 Council resolution. Were you aware that this 22nd of October
23 1999 resolution replaced a resolution which had been made on 20th
24 of August 1999?

12:09:18 25 A. No, I was not aware of that, Your Honour.

26 Q. Were you aware then, of this: that prior to this
27 resolution, the October resolution, the rules of engagement had
28 allowed for much less force by the UNAMSIL troops? Maybe I can
29 simplify that by saying that this October 1999 resolution had

1 Chapter 7 authority, as per paragraph 14, whereas prior to this,
2 UNAMSIL deployment didn't have that authority. Were you aware of
3 that?

4 A. Aware of what, Your Honour?

12:10:26 5 Q. Aware that prior to the 22nd October resolution, which
6 you're looking at, there had been no Chapter 7 authority, for the
7 UNAMSIL peace-keeping troops, or Article 14 was a significant
8 change in the deployment mandate?

9 A. Your Honour, I am not aware of what was there before
12:10:55 10 resolution 1270.

11 PRESIDING JUDGE: Yes, Mr Harrison.

12 MR HARRISON: It's an objection with respect to a bit of
13 clarification. The resolution 1260 actually refers to UNOMSIL,
14 being a different deployment, as opposed to the UNAMSIL
12:11:22 15 deployment, which is the subsequent one.

16 PRESIDING JUDGE: Yes, I know. The forces that were
17 deployed prior to this were not called UNAMSIL. UNAMSIL came, as
18 such, into existence by this resolution 1270. I thought you were
19 taking of the UN forces, whatever their name may have been prior
12:11:42 20 to.

21 MR JORDASH: Yes, I was. I am grateful for the
22 clarification. I'm dealing globally with the UN peace-keeping
23 troops. I'm suggesting --

24 PRESIDING JUDGE: I suggest you use the term UN forces.

12:11:57 25 MR JORDASH: UN forces, I will.

26 Q. Did you not become aware when you were deployed of the
27 progression, if you like, of the UN peace-keeping forces
28 deployment authority, that is from one authority to use force to
29 a greater possibility of using force as per the October 1999

1 resolution. Were you aware of that?

2 A. I beg you, Your Honour, to repeat that question. If you
3 could make it short and direct.

4 Q. That there had been over the preceding months before your
12:12:55 5 deployment an increased authority given to the UN troops to use
6 force under wider circumstances.

7 A. No. Your Honour, what I know is what is in this mandate.

8 Q. Okay. If you don't know the history to the UN forces
9 deployment and their mandate, I can move on.

12:13:23 10 A. Please, Your Honour.

11 Q. Let me ask you this: I want to ask you about your contact
12 with the Prosecution.

13 MR JORDASH: Your Honours, page 17727. If the witness
14 could be given a copy of all the statements and notes from 17727
12:13:48 15 to the proofing notes 6 and 7 February. Could I just inquire
16 from the learned legal officer the page number of the proofing
17 notes, please?

18 PRESIDING JUDGE: What is the pseudonym of this witness?

19 MR JORDASH: TF1-165.

12:14:36 20 Q. Mr Witness, if you would just wait a moment, please. Let
21 me just start asking you about the first time you saw the
22 Prosecution, which, by the looks of this statement here, was
23 February 28, 2003. Do you recall that?

24 A. Yes, I do recall this, Your Honour.

12:15:02 25 Q. Were you interviewed by Louise Taylor on the phone?

26 A. Yes, I was, Your Honour.

27 Q. The date of the interview looks like it was 27 February
28 2003?

29 A. Yes, Your Honour.

1 Q. Yes. Was that an interview which took place following
2 previous contact with the Prosecution where they were seeking
3 your assistance?

4 A. Yes, Your Honour. This was an interview by Louise Taylor.

12:15:53 5 Q. Let me be more clear. Were you contacted before
6 27 February 2003 by the Prosecution who asked you if you could be
7 a witness?

8 A. Yes.

9 Q. Right. You, presumably, said yes and the telephone
12:16:14 10 interview of the 27th was arranged?

11 A. Yes, it was arranged.

12 Q. Can you remember who you were first contacted by?

13 A. On the side of the Prosecution?

14 Q. Yes.

12:16:32 15 A. This Louise Taylor is the one who contacted me.

16 MR JORDASH: Your Honours, page 17727.

17 Q. Let me read the first paragraph to you.

18 "Colonel Ngondi, who was a lieutenant-colonel in May 2000,
19 was the Kenyan commander of KENBATT 5. Ngondi heard about
12:17:11 20 the hostage taking and attacks at DDR camps from his
21 officers: Lieutenant-Colonel FB Odhiambo, Major KG Maroa,
22 Major FK Rono and Major JK Gula. I have not stated who
23 told him what in this report as I will be speaking to the
24 key officers directly. In an email dated February 26, 2003
12:17:53 25 he stated that he had made contact with his officers and
26 that they are willing to cooperate with the SCSL. He is
27 now tracing their contact numbers for the SCSL."

28 Mr Witness, does that paragraph reflect what you told
29 Louise Taylor?

1 A. Yes.

2 Q. Did you then contact these key officers?

3 A. Yes, I contacted them in Kenya.

4 Q. At around the time of this phone interview -- before this
12:18:40 5 phone interview?

6 A. Yes, I think before the phone interview.

7 Q. Yes. They indicated to you that they were willing to give
8 assistance as regards evidence?

9 A. Yes.

12:19:05 10 Q. Did you trace their contact numbers for the Special Court?

11 A. Yes, I got their mobile numbers and emailed the same to
12 Taylor.

13 Q. Did you speak to them subsequently after this telephone
14 interview?

12:19:20 15 A. No. I told them to keep their phones open. Taylor would
16 contact them at their own -- wherever they were.

17 Q. Right. You had considered that these four officers were
18 the ones who could give the most direct evidence about the
19 events? Is that why you gave their names and contact numbers to
12:19:45 20 the investigator, Ms Taylor?

21 A. Yes, Your Honour, because they could even give further
22 guidance and assistance to the investigator.

23 Q. Thank you, very much. Were you then interviewed by the
24 phone by Ms Taylor in English?

12:20:01 25 A. Yes, Your Honour.

26 Q. Just moving through this pile of statements to the next
27 one, which is page 17733 on the top right-hand corner. I think
28 you might have --

29 PRESIDING JUDGE: Which statement are we talking about?

1 The date?

2 MR JORDASH: Sorry, my statements are out of order. There
3 is the handwritten copy which is 17730 and, with Your Honour's
4 leave, I will refer to the typed copy of that statement, which is
12:20:39 5 17733, and the date of that is Monday, 21 June 2004.

6 Q. Could you look at the handwritten copy. Is that your
7 handwriting or someone else's?

8 A. This is someone else's.

9 Q. Is that your signature at the top right-hand corner, 17730?

12:21:14 10 A. Yes, that is my signature. Even at the end.

11 Q. At the end of the first page, the end of the second page,
12 the end of the third page, your signature?

13 A. Correct.

14 Q. You were signing it as a true and accurate record of what
12:21:31 15 you told Malcolm Hutchinson --

16 A. Yes.

17 Q. -- in Nairobi on 21 June 2004?

18 A. Correct.

19 Q. If you move forward to 17733, that's the typed copy of the
12:21:50 20 same statement, then we can move to the proofing, which are the
21 last few sheets, 18116.

22 PRESIDING JUDGE: 18116, this is proofing of 6, 7 February
23 2006?

24 MR JORDASH: Yes. My ability to read lips is limited.

12:22:32 25 Q. Do you remember meeting the Prosecution, Mr Witness, on 6
26 and 7 February of this year, as indicated by the proofing notes?
27 If you look at the back of the file, not completely at the back,
28 but the last typed copy, which is page 18116. Do you see that?

29 A. Meeting the --

1 Q. It is called "Additional Information Provided By Witness
2 TF1-165". Do see that?
3 A. Yes, I see this.
4 Q. Right. You met the Prosecution, did you not, on 6 and 7
12:23:07 5 February 2006?
6 A. Met the witness? I mean met the --
7 Q. Prosecution.
8 PRESIDING JUDGE: Witness TF1-165, Mr Witness, refers to
9 you. This is the pseudonym given to you by the Prosecution. In
12:23:24 10 case you wonder what it is, TF1-165 is yourself.
11 MR JORDASH:
12 Q. Yes, and you were in fact - I've just been corrected -
13 interviewed on --
14 A. Yes.
12:23:37 15 Q. -- on 6 and 7 February. Do you remember speaking to the
16 Prosecution on 6 and 7 February of this year?
17 A. Yes, I remember speaking to the Prosecution.
18 Q. Did you at times, speaking on the phone, have a copy of
19 your previous statement?
12:23:56 20 A. No, I didn't have.
21 Q. Did the person on the phone have a copy of your statement
22 when speaking to you?
23 A. How could I tell that, Your Honour?
24 Q. Well, they might have referred to sections of it?
12:24:15 25 A. I believe they should have them because they --
26 Q. Well, you were discussing it.
27 A. We were discussing events that day.
28 Q. Were you discussing the statement you'd given previously in
29 the telephone conversation?

1 A. Okay.

2 Q. Sorry, it is a question. Were you discussing the statement
3 or were you in fact interviewed afresh? I don't know.

4 A. According to that interview -- they were interviewing me
12:24:40 5 afresh, but they had the knowledge of what had happened.

6 Q. All right. Thank you. Now, I want to move quickly, if we
7 can, to the time you arrived in Sierra Leone and the first
8 meeting you had with the RUF, as I understand it, was 26 February
9 2000?

12:25:26 10 A. Yes, Your Honour.

11 Q. You had, is this right, gone to Magburaka as a first step
12 in starting to operate in the region?

13 A. Yes, sir.

14 Q. Was this the first contact you made with the RUF, you
12:25:52 15 personally?

16 A. Yes, the RUF High Command, Your Honour.

17 Q. That was the first contact you had with them. Who told you
18 to go to them?

19 A. I decided to go to them.

12:26:04 20 Q. On what basis?

21 A. On the basis of the briefing I had gotten within my
22 headquarters and my predecessor to establish relations,
23 relationship with the authority in area of my operation.

24 Q. Which was to start in Magburaka. Was that the first area
12:26:27 25 of the operation? Magburaka was that the first then -- was that
26 to be your first area of operation, specifically Magburaka?

27 A. Magburaka was part of my area of operation.

28 Q. Who was your predecessor who gave you that briefing?

29 A. My predecessor is Colonel Musumbu who had been assigned at

1 the jaundice and he had to go to Kenya. I took over from him.

2 Q. You had been in the country five days, I think, at that
3 point?

4 A. Yes, Your Honour.

12:27:06 5 Q. Is it right that Mr Gbao and Mr Kallon complained about
6 mining activity going on in the south of the country without the
7 consent of Foday Sankoh?

8 A. Yes, they did, Your Honour.

9 Q. Did they explain to you --

12:27:27 10 JUDGE ITOE: Mr Jordash.

11 MR JORDASH: Sorry, Your Honour.

12 PRESIDING JUDGE: The question you put to the witness was
13 Gbao and Kallon complained about mining in?

14 MR JORDASH: The south of the country.

12:27:42 15 PRESIDING JUDGE: Without authorisation?

16 MR JORDASH: Without the consent of Foday Sankoh.

17 PRESIDING JUDGE: Thank you.

18 MR JORDASH:

19 Q. Did you understand from that meeting Foday Sankoh was in
12:27:59 20 charge of the mines in RUF territory - in Sierra Leone, I beg
21 your pardon?

22 A. Yes, Your Honour, I understood that.

23 Q. You must have known he was vice-president and also minister
24 of mineral resources; correct?

12:28:18 25 A. Correct. Excuse me, Your Honour, according to my memory,
26 Sankoh was -- in addition to being the vice-president in
27 accordance to the agreement he was also the head of that
28 commission which was in charge of the minerals in the country.

29 Q. Yes.

1 A. And, as such, that complaint which was being forwarded or
2 aired to me by RUF, Colonel Kallon and Gbao, was an indication of
3 how they see Lome Peace Accord was not being implemented.

4 Q. Also how they saw the authority of Foday Sankoh?

12:29:06 5 A. Say again.

6 Q. Also how they saw the authority of Foday Sankoh?

7 A. How they saw that their leader, the RUF political leader,
8 Foday Sankoh, was not being respected in that the mining was
9 going on in the south part of the country while he had not given
10 his authority.

11 Q. Was it your understanding at this time that Issa Sesay was
12 in Kono?

13 A. Yes, that was my understanding at that particular time.

14 Q. In that respect, then, outside the field of your
15 operations?

16 A. At that particular time, yes.

17 Q. Yes. That is why you didn't, at that particular time, go
18 to him; is that correct?

19 A. No, Your Honour.

12:30:17 20 Q. Well, why was it?

21 A. Going to Kono was next to impossibility during our time in
22 this territory.

23 Q. Why?

24 A. RUF did not agree to that, and they could not agree to
12:30:37 25 that.

26 Q. When you say RUF, what do you mean by that?

27 A. I mean Revolutionary --

28 Q. No, no, I know what you mean by the acronym, but if I said
29 to you the Kenyan Army didn't agree to something, you might want

1 to know who refused to agree. So I'm asking you who then, do you
2 say, refused to allow you to go to Kono?

3 A. The RUF authority.

4 [RUF30MAR06C - SV]

12:31:08 5 Q. Foday Sankoh, you mean?

6 A. No, Foday Sankoh could not talk to us directly, but the RUF
7 combatants were in their territory.

8 Q. What do you mean Foday Sankoh couldn't talk to you
9 directly? What do you mean by that?

12:31:27 10 A. Foday Sankoh was in Freetown. We were in Makeni and
11 Magburaka.

12 Q. Who's "we were in Makeni and Magburaka"?

13 A. UNAMSIL troops, us.

14 Q. Yes, and Foday Sankoh, you must know, had a satellite phone
12:31:46 15 and was speaking to Commander Jetley. You must know that?

16 A. No, I'm not aware of that. In fact, I believe the national
17 leadership both -- or the strategic level leadership, both for
18 UNAMSIL and other political parties, had ways of contacting, just
19 the way I was trying to establish contact with RUF within my
12:32:09 20 level of command.

21 Q. What do you mean by that?

22 A. What I mean by that is at national level there were those
23 who were in charge, and I count Foday Sankoh was at that
24 strategic level.

12:32:29 25 Q. Are you suggesting to this Court that you have not or did
26 not have experience of anyone from UNAMSIL operating in the field
27 who had any way of contacting Foday Sankoh? Is that what you're
28 suggesting?

29 A. Yes.

1 Q. So, according to you, if what you say is correct and true,
2 Foday Sankoh is completely out of the picture for UNAMSIL
3 operations in Sierra Leone at around the time you're working. Is
4 that what you're suggesting?

12:33:08 5 A. No, I'm not suggesting that.

6 Q. Okay. So what was his contact then?

7 A. I didn't know his contact.

8 Q. Come on, Mr Witness. You had a direct line, did you not,
9 to Jetley?

12:33:22 10 A. Yes, I could communicate with Jetley.

11 Q. By radio?

12 A. Yes, by radio.

13 Q. Yes. Did you have contact with the SOSG [sic], from
14 Francis Okelo?

12:33:38 15 A. No.

16 Q. No. What other senior commanders did you have contact with
17 at the time of your deployment, besides Jetley?

18 A. That is the force headquarters, only for force headquarters
19 initially, and when the sector, there was a change, you know,
12:33:56 20 reorganisation of UN troops, there was a sector headquarter which
21 came, an headquarter which was established between my headquarter
22 and the force headquarters. So that is the chain.

23 Q. You were speaking to Jetley, who was force commander for
24 the whole of UN peace-keeping troops; is that correct?

12:34:22 25 A. Yes, Jetley was the force commander.

26 Q. So you had a hot line, if you like, directly to the top?

27 A. Not a hot line, his headquarter.

28 Q. You had to the headquarters, but not him personally?

29 A. Not him personally.

1 Q. Who else? Who was the most senior person you had a contact
2 with?
3 A. He was the one. I mean, the force headquarters.
4 Q. I understand force headquarters but who, which person?
12:34:49 5 What was the highest ranking or highest officer you had direct
6 contact with when you were deployed?
7 A. Are you trying to ask whether we had telephone contact or
8 hot line?
9 Q. You're in the field. You've got a radio. I'm not a
12:35:07 10 soldier. Help me out.
11 A. Yes.
12 Q. You're speaking to, presumably, certain other soldiers.
13 We've heard from you you have contact through the headquarters
14 with Jetley. Who was the highest-ranking soldier of this whole
12:35:21 15 peace-keeping mission you spoke to, whether by phone or by radio?
16 A. Chief of staff.
17 Q. Who was that?
18 A. Chief of staff by then was Colonel Fundi in the force
19 headquarters.
12:35:37 20 Q. This is in Freetown?
21 A. In Freetown, yes.
22 Q. Did you have contact with other people in the force
23 headquarters that you could ring up or radio and ask for
24 directly?
12:35:56 25 A. If I wanted to, anyone, I could. I had facility. I could
26 call.
27 Q. So you a had a number - how many - of people you might
28 speak to on a daily basis or weekly basis you could contact
29 directly in Freetown?

1 A. Anybody in force headquarter. If I wanted to talk to him,
2 I could call them over the radio. But I could not be talking to
3 all also at the time because I had a mission to do.

4 Q. I understand that.

12:36:28 5 A. Yes.

6 Q. Those people in force headquarters, those soldiers, they
7 presumably were in contact with, what, the government of Sierra
8 Leone?

9 A. I don't know. You can presume so, Your Honour.

12:36:49 10 Q. I'm not asking you to presume. I'm asking you to -- did
11 you not have conversations with the likes of those people from
12 the force headquarters about what authority was or was not coming
13 from the government of Sierra Leone, from Foday Sankoh, that kind
14 of interaction? You're not working in a vacuum, are you?

12:37:13 15 A. Yes, Your Honour, but may I inform you, Your Honour, that
16 military strictly follows their code of conduct. They strictly
17 follow line of communication, line of command.

18 Q. I understand that. But if you had a problem in the field
19 and you had to contact force headquarters in order to try to
12:37:34 20 solve the problem, you would, presumably, speak to somebody like
21 one of Jetley's men and say, "This is the problem. Can you seek
22 authority from Jetley?" And you must, I suggest, have formed an
23 impression as to where that authority would be sought; ie where
24 Jetley would go to get that authority?

12:37:57 25 A. No. My commander would know what to do if I present an
26 issue to him, Your Honour.

27 Q. You see, let me put specifics to you. I suggest that Foday
28 Sankoh, and I suggest that you must know this, because I suggest
29 that anyone high up in the military would have known this at this

1 time -- that Foday Sankoh was in constant contact with Jetley.
2 Think about it. Have you ever heard that? Did you hear it at
3 the time?

4 A. No. Myself was not really concerned about that.

12:38:39 5 Q. Never heard it. So you never heard that?

6 A. No, I was not concerned even about that one, Your Honour.

7 Q. So you never heard that when Foday Sankoh moved he would go
8 to Jetley and ask him for a UNAMSIL security escort. You never
9 heard that?

12:38:55 10 A. No, I didn't hear that.

11 Q. You never heard of Sankoh moving anywhere in Freetown -- in
12 Sierra Leone with a UNAMSIL escort?

13 A. Not in my area of responsibility.

14 Q. Not in your area of responsibility in Sierra Leone?

12:39:09 15 A. No, I didn't hear about that.

16 Q. Never heard of Foday Sankoh going to Pendembu in December
17 1999 on a UN helicopter? Did you ever hear of that?

18 A. I'm sorry, I was not in the country and neither did I hear
19 about that one.

12:39:29 20 Q. Right. You never heard then that when he visited Kono in
21 January 2000 he went with a UNAMSIL escort --

22 A. No, I didn't hear that.

23 Q. -- provided by Jetley?

24 A. I didn't hear that.

12:39:44 25 PRESIDING JUDGE: Slowly, Mr Jordash. I'm going to be
26 missing shortly.

27 MR JORDASH: Yes, I beg your pardon.

28 Q. Did you ever hear of anyone from UNAMSIL contacting Foday
29 Sankoh directly?

1 A. Not my troops, neither --

2 Q. Not your troops, anyone?

3 A. No.

4 Q. Do you know then how it was you obtained authority to move

12:40:24 5 into Magburaka; how your troops obtained authority to move into

6 RUF territory Magburaka?

7 A. They moved to --

8 Q. 26th February, meeting with Gbao and Kallon?

9 A. Yes.

12:40:45 10 Q. Who gave you authority, the UNAMSIL, do you know, to move

11 into that area?

12 A. I don't really get your question. When the first time the

13 battalion deployed or what?

14 Q. Yes. Who gave the authority? Who was it, do you know,

12:41:07 15 that UNAMSIL would approach to get the authority to move into RUF

16 territory?

17 A. I think I said from the word go, Your Honour, that we were

18 in RUF-controlled territory and they were the authorities within

19 there.

12:41:24 20 Q. Yes. But in order to get in there, you would have had to

21 seek authority before getting in there, wouldn't you?

22 A. Yes. I believe then the RUF had consented the troops moved

23 there.

24 Q. Yes, and who, in the RUF, would UNAMSIL contact? You can

12:41:40 25 help us out with this because I suggest you know the answer.

26 A. I don't know what you are driving at, Your Honour.

27 Q. What I'm driving at -- let me make myself clear.

28 A. Yes.

29 Q. What I'm driving at is you know, as everyone, soldiers,

1 rebels, the like, knew in February of 2000 that in order to move
2 into RUF territory, you had to get Foday Sankoh's permission.
3 You knew that, didn't you?
4 A. Not necessarily Foday Sankoh's permission because even me,
12:42:22 5 working with the combatants there, they could allow us to do one
6 or two things. But --
7 Q. What was your understanding of how it was you were able to
8 wander into RUF territory to go and meet Gbao and Kallon?
9 A. My understanding is that Foday Sankoh was the political
12:42:44 10 leader of the RUF.
11 Q. Yes.
12 A. And he was based in Freetown.
13 Q. Yes.
14 A. In the field, the combatants were there.
12:42:58 15 Q. Yes.
16 A. And their high command is as I said yesterday.
17 Q. Are you suggesting that in order to move into RUF territory
18 someone like Gbao or Kallon or Sesay gave permission? Is that
19 what you're suggesting?
12:43:17 20 A. Yes, because we talked together, we could move around.
21 Q. Well, did you have a radio connection with Sesay?
22 A. No.
23 Q. No. Did you have a telephone connection with him?
24 A. No.
12:43:27 25 Q. Did you see him at any stage in order to get permission to
26 move into Magburaka?
27 A. No. Moving to Magburaka, no.
28 Q. But presumably you did have authority to go in there?
29 A. We were already deployed there.

1 Q. No. Did you have authority to deploy there when you
2 arrived in Sierra Leone and headed off to Magburaka?

3 A. Yes, we were already deployed there.

4 Q. Did you get authority to move troops into Magburaka? Not
12:44:03 5 whether you were already deployed there. Did you, on your
6 arrival in Sierra Leone, get authority to move into Magburaka?
7 A. No, not within Magburaka. From Makeni to Magburaka we were
8 already operating there.

9 MR BANGURA: May it please, Your Honours. I think in
12:44:19 10 fairness to the witness the evidence already states that the
11 troop was deployed before he arrived here. When he went to
12 Magburaka, the troops were there already and, repeatedly, my
13 learned friend is seeking to elicit from the witness an answer
14 which I don't think is there. The witness has said that the
12:44:38 15 troops were already deployed there. I believe the answer bring
16 finality to this point.

17 MR JORDASH: I'll make myself clearer then.

18 Q. When you moved into Magburaka, you personally, how many men
19 did you take in there?

12:44:54 20 A. I personally, I had about two cars and I was moving within
21 my area of responsibility.

22 Q. No, 21st February you arrive.

23 A. Yes.

24 Q. You arrive and you're presumably taking men with you into
12:45:11 25 the Magburaka area; correct?

26 A. No, no. I think you missed the entire picture, Your
27 Honour.

28 Q. The entire picture?

29 A. Yeah. I arrived in this country on 21st.

1 Q. Yes.

2 A. And during that time let me say I accompanied my army
3 commander from Kenya who was coming to visit troops that are
4 deployed in the mission.

12:45:42 5 Q. Let me try and cut this down. Maybe I have misunderstood.
6 You moved in to go and see Gbao and Kallon on 26th February with
7 two car fulls of men; yes?

8 A. From Makeni.

9 Q. Yes. You have to go through roadblocks, don't you?

12:46:00 10 A. Yes.

11 Q. Who gave you the permission to go through the roadblocks?

12 A. By then, we -- the RUF and --

13 Q. Who, who gave you the authority?

14 A. Those who were manning roadblock, they could just open for
12:46:16 15 us and go.

16 Q. And they let you through?

17 A. Yes.

18 Q. Okay. You didn't seek authority from Sesay, did you?

19 A. No, I didn't.

12:46:23 20 Q. Thank you. Let's move on. Did you have radio contact with
21 Gbao or Kallon?

22 A. No.

23 Q. Did you have telephone contact with Gbao or Kallon?

24 A. No.

12:46:37 25 Q. Why did you understand then, Mr Witness, that Mr Sesay was
26 the - what did you say? - the leader of all the combatants? Why
27 did you understand that?

28 A. One, from this meeting that we were in --

29 Q. Which meeting?

1 A. When we met -- I met Gbao and Kallon.
2 Q. What was said then?
3 A. Say again.
4 Q. What was said?
12:47:26 5 A. Yeah, that is the time it was confirmed to me Issa is the
6 overall commander of the combatants.
7 Q. That was the first time you learnt about it?
8 A. Not the first time.
9 Q. Well, who told you he was the leader of all the combatants?
12:47:44 10 A. Say again.
11 Q. Who told you before that?
12 A. I had a brief there -- I had gotten brief from my
13 headquarters when I arrived.
14 Q. What was the brief?
12:47:54 15 A. Pardon?
16 Q. What was the brief?
17 A. The brief was the situational brief on the area of
18 responsibility.
19 Q. Yes, what did it say?
12:48:03 20 A. And who are the characters.
21 PRESIDING JUDGE: Mr Jordash, please, let the witness
22 answer. Again we're going to run into difficulties, but I think
23 in fairness you have to let the witness answer your questions.
24 MR JORDASH: Yes.
12:48:19 25 PRESIDING JUDGE: Go ahead, Mr Witness.
26 THE WITNESS: And who were the actors, you know, the
27 personalities involved in this area. And it became to me that
28 the leader of all the combatants.
29 MR JORDASH:

1 Q. But you weren't taken to be introduced to him?
2 A. No, I wasn't taken to be introduced to him.
3 Q. Even though you were going to be operating in his specific
4 area?
12:48:55 5 A. Correct.
6 Q. Correct.
7 A. And that is why I was seeking to meet him, because in that
8 meeting every time I met those other levels of command, I
9 requested them to organise for me to meet with Issa.
12:49:07 10 Q. But you only met him, is this right, from what you've told
11 us --
12 A. Say again.
13 Q. I said you only met him, did you not -- was the first time
14 10th April?
12:49:18 15 A. No, not on 10th April.
16 Q. When was it then?
17 A. 12th.
18 Q. Sorry, 12th. So from 26th February to 12th April, despite
19 you being one of the main UNAMSIL men in the Magburaka/Makeni
12:49:36 20 area, you never met the top man; am I right?
21 A. Yes. Unfortunately, I never met the top man.
22 Q. Despite the fact that you would seek permission to do
23 certain things within Makeni or Magburaka you never spoke to him
24 during that period either, did you?
12:50:03 25 A. No, I couldn't speak to him, Your Honour.
26 Q. No. Despite the fact you must have been moving troops
27 around Makeni, Magburaka, the road towards Kono, changes
28 according to what was needed to best fulfill your mandate, you
29 never sought direct permission from him, Sesay?

1 A. No, I didn't.

2 Q. No. Could I suggest --

3 A. Until --

4 Q. Sorry?

12:50:45 5 A. Until we met first on 12th April. That is the time we met.

6 Q. Okay. We'll come to that in a minute. Were you not told
7 as part of your briefing, Mr Witness, that the Lome agreement was
8 signed by Foday Sankoh and it was that signature on that
9 agreement which gave UNAMSIL the authority to deploy? Were you

12:51:30 10 not told that in your briefing?

11 A. The Lome Peace Accord was signed by Sankoh. But Your
12 Honour, in as far as the deployment of UNAMSIL or establishing
13 the UNAMSIL is concerned, the Lome Peace Accord did not establish
14 UNAMSIL.

12:51:53 15 Q. Sorry, Lome did, through the signature of Sankoh, give
16 authority to peace-keeping troops to station in Sierra Leone,
17 didn't it?

18 A. Yes.

19 Q. It gave that general authority?

12:52:07 20 A. Yes.

21 Q. And you understood at the time you came to Sierra Leone
22 that Foday Sankoh was the signatory on behalf of the RUF troops?

23 A. Yes.

24 Q. Yes.

12:52:17 25 A. And that is why Your Honour is saying that I believe he was
26 the political leader of the RUF.

27 Q. What do you mean by that? Because there was no RUF except
28 for military troops and some ministers who had been brought into
29 the government. What was the RUF?

1 PRESIDING JUDGE: Well, is this a question or a statement?

2 I mean, ask him the question if he knows about it.

3 MR JORDASH: Point taken, Your Honour.

4 PRESIDING JUDGE: Otherwise this is very argumentative on
12:52:46 5 your part.

6 JUDGE ITOE: And I would like to know whether there is --
7 is there any dispute that Foday Sankoh was the political leader
8 of the RUF? Is there any dispute to this? Are you disputing
9 that?

12:52:57 10 MR JORDASH: That's not just what the witness is asserting.
11 The witness is asserting that he was only the political leader
12 and in fact what we have is Mr Sesay now runs the whole of the
13 RUF.

14 PRESIDING JUDGE: Military.

12:53:10 15 MR JORDASH: Military which --

16 PRESIDING JUDGE: This is the evidence of this witness.

17 JUDGE ITOE: We have to live with it.

18 MR JORDASH: I can move on fairly shortly.

19 PRESIDING JUDGE: It's only because you seem to be working
12:53:21 20 at cross-purposes. I mean, I don't know, but it appears to be
21 his knowledge and perception and if that is the case what can
22 I -- you have to --

23 MR JORDASH: Well, I was hoping --

24 PRESIDING JUDGE: You may try to assess the foundation of
12:53:34 25 that, Mr Jordash, but what I'm concerned about is the statement
26 you've just made and then you move on, so we don't know what to
27 do with that statement because you did not ask the witness if he
28 knew about it. You understand my concern about that?

29 MR JORDASH: I do. I do.

1 Q. What do you mean by that statement: Foday Sankoh was the
2 political leader? What do you mean by that? Are you suggesting
3 he had nothing to do with the troops?

4 JUDGE THOMPSON: Well, counsel, why not give him the chance
12:54:08 5 to tell us, you know, and that will help us. Because if you
6 suggest now then you are limiting his own scope. He might have
7 something more.

8 MR JORDASH: Certainly.

9 JUDGE THOMPSON: Because it is his own evidence --

12:54:22 10 MR JORDASH: Certainly.

11 JUDGE THOMPSON: -- that he was the political leader. What
12 do you mean by that? Amplify for us.

13 THE WITNESS: Do I go ahead?

14 MR JORDASH:

12:54:33 15 Q. Please do.

16 A. Sankoh -- Foday Sankoh was the signatory. He appended his
17 signature on the Lome Peace Accord. Secondly, I could get from
18 the combatants themselves, particularly those whom we interacted
19 with in Makeni, that their leader, their political leader, is
12:55:10 20 Foday Sankoh.

21 Q. But what do you intend to convey by that? That his whole
22 field of activity was limited to sitting in a few government
23 meetings? Is that what you're trying to convey or what?

24 A. No, what, Your Honour, I'm saying is RUF as a party had
12:55:45 25 political leadership as well as military wing. The head of the
26 political area was Foday Sankoh and the military wing, the
27 combatants, were commanded by General Issa.

28 Q. So you know -- are you suggesting there is no connection
29 between the two wings? Are you suggesting that Sankoh had no

1 command or control over the RUF combatants?

2 A. No, I'm not suggesting that.

3 Q. Right. So, you accept then, from your experience, what you
4 heard, what you saw, Foday Sankoh had control over some of the

12:56:29 5 RUF combatants?

6 A. Your Honour, political leadership or military supports
7 political objectives.

8 Q. Well --

9 A. And in my sense, and my understanding of this, the
12:56:49 10 combatants are there to support the political direction.

11 Q. Are you able to give any evidence about Sankoh's day-to-day
12 control of the RUF combatants? Are you able to give any evidence
13 on that?

14 A. No, I cannot give any evidence on that.

12:57:11 15 Q. Right. So you don't know what Sankoh's control over the
16 various RUF combatants was around the country at the time you
17 were deployed?

18 A. Your Honour, I don't get that question.

19 Q. I'm suggesting that you, instead of -- the impression which
12:57:36 20 might have been conveyed by you suggesting that Sankoh was
21 political and Sesay was the leader of the combatants, might have
22 been, I don't know, the impression might have been that Sankoh
23 had nothing to do with the combatants.

24 JUDGE THOMPSON: This is why this line of cross-inquiry is
12:57:53 25 really a little futile because really how is the Court assisted
26 by a thesis being put forward by the witness saying that from
27 what he was told and the impressions he formed that Foday Sankoh
28 was the political leader as against the first accused or vice
29 versa. What sort of analysis is that? Of what factual value is

1 that for the Court?

2 MR JORDASH: I completely agree.

3 JUDGE THOMPSON: When he comes here to testify about
4 problems, alleged problems, that his own men, who were acting on
12:58:37 5 their mandate, experienced, alleged problems. So why -- and this
6 is why you should -- I would say that perhaps you should stay
7 away from this because, quite frankly, I, as a judge, as an
8 adjudicator, don't know what to do with that thesis. It's a
9 thesis.

12:58:54 10 MR JORDASH: Well, Your Honour, I could not agree more and
11 I really hoped to deal with it more quickly, but when the
12 Prosecution put forward such evidence I don't know whether to
13 leave it on the transcript or to actually expose the fact it is
14 in fact in terms of command responsibility and in terms of a
12:59:12 15 joint criminal enterprise doesn't mean that much --

16 JUDGE THOMPSON: It may well be that perhaps your
17 questioning dragged the whole thing into this argumentative area,
18 but perhaps they were not suggesting that this dichotomy which is
19 emerging now. That's my own thinking about it.

12:59:30 20 MR JORDASH: My thinking entirely, that in fact on a
21 day-to-day basis it doesn't tell the Court much about de facto
22 control which is what the issue really boils down to.

23 JUDGE THOMPSON: Right.

24 MR JORDASH: But the Prosecution adduce it.

12:59:44 25 MR BANGURA: May it please Your Honours, I am not aware at
26 any point in time in the testimony of this witness where the
27 Prosecution did introduce any such dichotomy between the position
28 of the political --

29 PRESIDING JUDGE: But the witness did testify that Sankoh

1 was the political leader and high command was in charge of the
2 high command where he was was Sesay.

3 MR BANGURA: Not in evidence-in-chief, Your Honour.

4 PRESIDING JUDGE: Yes, in evidence-in-chief. When he
13:00:15 5 described who he was dealing with he said the high commander was
6 Sesay.

7 MR BANGURA: I stand corrected, but it's not within my
8 recollection.

9 MR JORDASH: I will move on to more concrete issues but it
13:00:25 10 is my recollection as well.

11 PRESIDING JUDGE: But it's 1 o'clock and unless you have
12 one question to close this issue.

13 MR JORDASH: No, but I would apologise for taking so long
14 with that. I had really not intended it to take that long.

13:00:39 15 PRESIDING JUDGE: Are we finished with this particular
16 aspect of it?

17 MR JORDASH: Yes. I'm going into concrete --

18 PRESIDING JUDGE: Fine, thank you. So we will wait for
19 that concrete aspect after the lunch recess. Court is adjourned
13:01:07 20 until 2.30. Thank you.

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

22 [RUF30MAR06D - CR]

23 [Upon resuming at 2.45 p.m.]

24 PRESIDING JUDGE: Yes, Mr Jordash.

14:46:27 25 MR JORDASH:

26 Q. Good afternoon, Mr Witness.

27 A. Good afternoon, Your Honour.

28 Q. Just jumping forward for a moment, did the violence against
29 the peace-keepers appear to escalate on 8 May 2000? The violence

1 you observed or heard about, did it appear to escalate on 8 May
2 2000?

3 A. Your Honour, I said on 8th -- on 9th May when the QRC
4 pulled out of Magburaka area, the situation drastically changed,
14:47:17 5 because it had a little bit calmed down.

6 Q. Was that drastic change an escalation in the violence?

7 A. Correct.

8 Q. Did it appear that there was more RUF combatants in the
9 region?

14:47:41 10 A. If there were RUF combatant in the region?

11 PRESIDING JUDGE: More.

12 MR JORDASH:

13 Q. Did it appear that there was more coming into the region
14 towards the peace-keepers?

14:47:52 15 A. No. They went after the peace-keepers.

16 Q. Did it appear that there was more RUF combatants coming in
17 to the area towards the peace-keepers?

18 A. Your Honour, I do not understand your question.

19 PRESIDING JUDGE: As of 8 May or 9 May --

14:48:20 20 THE WITNESS: Say again, Your Honour.

21 PRESIDING JUDGE: -- were there more RUF combatants joining
22 to fight against the peace-keepers? Did you notice an increase
23 of RUF combatants?

24 THE WITNESS: On the 8th?

14:48:34 25 PRESIDING JUDGE: And 9th May. You said it changed
26 drastically on 9th May because there was more violence and so on.

27 THE WITNESS: Yes.

28 PRESIDING JUDGE: Did that also mean an increase in the
29 number of RUF combatants against the peace-keepers?

1 THE WITNESS: Yes, in two main areas, Your Honour. One,
2 the RUF who boarded vehicles to go after QRC company and
3 B Company who were pulling out were many. Secondly, in the
4 Waterworks area where C Company was.

14:49:24 5 MR JORDASH:

6 Q. Thank you. You're not able to assist the Court as to who
7 those combatants were; am I correct?

8 A. They were RUF combatants.

9 Q. I appreciate that, but you are not able to assist in naming
14:49:43 10 them?

11 A. No, apart from the commander outfit.

12 Q. Right. You are not able to assist on command structure of
13 those RUF who were present at those two places?

14 A. I say that, Your Honour, at Magburaka, Colonel Alfred was
14:50:10 15 in charge and it was Colonel Alfred who told us his company that
16 they are going after the QRC and B Company.

17 Q. When was that that you were told that?

18 A. That was the day that the QRC was pulling out, on the
19 9th May.

14:50:33 20 Q. I thought you had been told by Alfred somewhat earlier,
21 which had led you to come up with a plan to leave.

22 A. No, I don't get you.

23 Q. When did you come up with the plan, which was to break out
24 of the HQ?

14:50:55 25 A. Your Honour, there were two occasions. One, on the 8th
26 itself, QRC Company was called upon to go back to Mile 91 to get
27 out of Magburaka. On this information I was to pull out and they
28 started requesting that forces headquarters, that the QRC,
29 instead of pulling out that day or the following day, to be

1 delayed up to 10th so that we can pull out together.

2 Q. When did you make the decision, first of all, to pull out?

3 A. First of all?

4 Q. Yes.

14:51:38 5 A. That is on 8th, to pull out together with the QRC.

6 Q. Right. The increased number of RUF into that area, are you
7 able to assist as to who they came in the area with, who was
8 commanding them?

9 A. All what I know, Your Honour, Magburaka area was in charge
14:52:12 10 of -- combatant was Colonel Alfred.

11 Q. But you don't know who the others who came into that area,
12 who they were commanded by? Do you know?

13 A. Who are the others you are referring to, Your Honour, if I
14 may ask?

14:52:29 15 Q. The ones you said came into the area, the increased number
16 coming in around that date?

17 A. No.

18 Q. The same, I suppose, goes for the Waterworks; you don't
19 know who they were and who were their commanders?

14:58:07 20 A. Colonel Alfred was the commander of those.

21 Q. How do you know?

22 A. I was told by the officer commanding C Company.

23 Q. What evidence did he have?

24 A. Say again?

14:58:08 25 Q. What evidence did he have?

26 A. They knew one another since the deployment of that.

27 Q. But I thought a number of RUF had come into the area on, I
28 think, the 2nd, not known to the UNAMSIL troops.

29 A. No, I think you missed the point, Your Honour. The RUF who

1 are changed from -- who are changed at DDR camp at Makump are the
2 ones who were completely new. They were unfamiliar faces to my
3 troops.

4 Q. You don't know who they were commanded by?

14:58:08 5 A. No, I don't know.

6 PRESIDING JUDGE: You're talking here, Mr Jordash, of those
7 at Makump. When you say you don't know who they were commanded
8 by, you're talking of that group there at Makump?

9 MR JORDASH: Yes.

14:58:08 10 JUDGE ITOE: That group had been replaced entirely.

11 MR JORDASH: According to the witness.

12 JUDGE ITOE: According to the witness, yes. They were very
13 unfamiliar faces to the troops that were there?

14 MR JORDASH: Indeed.

14:58:08 15 Q. And you don't know -- except for your suspicion, you don't
16 know why they had come into the area, these new people at Makump.

17 A. They relieved the ones who were already there.

18 Q. Did you hear about Foday Sankoh getting arrested on 8 May?

19 A. Yes, I heard, but I can't confirm whether it was that
14:58:10 20 8th May.

21 Q. But around that time?

22 A. Correct.

23 Q. Did that form any part of the decision to break out on the
24 9th, the expectation that there was likely to be an increased
14:58:10 25 level of violence in response to that arrest?

26 A. No, my decision, Your Honour, came as a result first of QRC
27 being called back and then later when the QRC moved out of the
28 area.

29 MR JORDASH: Can I just take very brief instructions,

1 please.

2 Q. Just moving backwards in time, you arrive, you have a
3 meeting on 26th February, and then you're operating - am I
4 right? - you personally on a day-to-day basis in Magburaka,

14:58:10 5 Makeni and Kabala; is that right?

6 A. You are wrong to say I was operating on a daily basis in
7 those areas. My headquarter was based at Makeni. I had troops
8 at Magburaka and Makeni.

9 Q. But what were you doing?

14:58:12 10 A. I personally?

11 Q. On a day-to-day basis?

12 A. Exercising command and control of my battalion.

13 Q. You were moving about Magburaka and Makeni?

14 A. Yes. Absolutely, yes.

14:58:12 15 Q. Your job would have involved being at the HQ and then,
16 presumably, supervising various parts of the deployment?

17 A. Yes, visiting my troops, not just supervising them.

18 A commanding officer, Your Honour, is a high-level commander.
19 He'll go to see his troops.

14:58:12 20 Q. Your subordinates were also doing the same thing, moving
21 around, doing their various jobs with the troops?

22 A. Correct. As need arises.

23 Q. You were communicating with NGOs on a daily basis?

24 A. Not necessarily on daily basis.

14:58:12 25 Q. Regularly.

26 A. As need arises.

27 Q. Local RUF commanders; yes?

28 A. Correct.

29 Q. Then your chain of command went up, back to the force HQ;

1 correct?

2 A. Absolutely. That is the change of command.

3 Q. You have told us that during your whole period from 26th

4 February until your leaving to go to Kabala and Bumbuna, you

14:58:16 5 spoke to Sesay - is it right - three times?

6 A. Yes, I met Issa Sesay at least three times.

7 Q. Well, you have given us three examples. They're the ones

8 you remember; correct?

9 A. Yes.

14:58:40 10 Q. Thank you. On Sunday, 19th March 2000 the under-secretary

11 of the UN department peace-keeping operations Bernard Miyet came

12 to Makeni.

13 A. Correct.

14 Q. Bernard Miyet, M-I-Y-E-T. He came with the UNAMSIL force

14:59:05 15 commander --

16 JUDGE ITOE: The under-secretary?

17 MR JORDASH: The under-secretary of the UN department for

18 peace-keeping operations. Your Honour, I'm looking at the

19 statement 18116. It's the proofing notes.

14:59:34 20 JUDGE ITOE: You say he came to Makeni on what date?

21 MR JORDASH: Sunday, 19th March 2000.

22 PRESIDING JUDGE: What's the page?

23 MR JORDASH: Your Honours, 18116, the proofing notes,

24 paragraph 4.

14:59:56 25 Q. Bernard Miyet came with UNAMSIL force commander

26 General Jetley who visited Makeni?

27 A. Yes, Your Honour.

28 Q. They were taken around Makeni?

29 A. Yes.

1 Q. They did not get taken to see Mr Sesay?
2 A. No, they were not taken to see Mr Sesay.
3 Q. They held discussions with the local commanders in Makeni?
4 A. Yes, in Makeni township, we met some of the local
15:00:36 5 commanders there.
6 Q. Just going back to your first meetings at Makeni, it was
7 agreed, was it not, that regular meetings would take place with
8 the local RUF commanders?
9 A. Yes.
15:00:57 10 Q. It was understood that those meetings would involve Mr Gbao
11 and other local commanders with UNAMSIL; yes?
12 A. Yes, the RUF High Commander within the region, we'd contact
13 and have regular meetings. The day which was agree was to be
14 Mondays.
15:01:29 15 Q. Yes. The times when you met Sesay was not at those regular
16 meetings, they were -- well, they were just not as organised as
17 that; am I right?
18 A. Yes, they were not part of those regular meetings.
19 Q. Thank you. On 26th February or thereabouts you met with a
15:02:10 20 Makeni commander, Colonel Kailondo, who was based in Makeni;
21 correct?
22 A. Correct, I met him. In the afternoon, to be precise.
23 Q. He was a local authority who you regarded as someone you
24 would deal with to obtain permission for activities of the
15:02:38 25 UNAMSIL?
26 A. Yes. Your Honour, if it pleases, I may say how I came to
27 meet Kailondo.
28 Q. I'm just interested in whether he was a local commander who
29 you would approach to negotiate your activities?

1 A. Yes, and because I was directed to him.

2 Q. Thank you. Did you meet him also on a weekly basis or on a
3 regular basis?

4 A. In fact, I met him again on Monday, that Monday that
15:03:15 5 followed on 28th.

6 Q. Did you meet him regularly over that period, February,
7 March, April, May?

8 A. Yes, several occasion I met him.

9 Q. You met Sesay, as we've heard, I think on 12th April and
15:04:12 10 you had discussions with him about the DDR; correct?

11 A. On 12th April, that was the first time I met Sesay.

12 Q. How long was the meeting?

13 A. It took time in my camp. He is the one who visited me in
14 the camp, and we took time in my office and I treated him with
15:04:29 15 his -- those who accompanied him.

16 Q. How long did the meeting take?

17 A. Roughly between one hour and two hours.

18 Q. Was there anything concrete which came out of that meeting?

19 A. Yes, the issue of co-operation.

15:04:52 20 Q. What do you mean by that?

21 A. That we worked together in the territory, because there is
22 not any other persons in charge of that territory. If there are
23 issues that I need to discuss with them, it's okay. I ask him
24 about the weapons that his combatants had taken earlier before I
15:05:18 25 came to the territory. He told me the investigation will
26 continue, not yet over -- had been continuing.

27 Q. So nothing then concrete came out which hadn't been
28 happening before?

29 A. Even I asking him to open us for Kono and he told me that

1 when time come, he'll personally meet me in Kono.

2 Q. So apart from the discussions about co-operation, return of
3 weapons, discussion about a meeting in Kono, nothing actually
4 came out of it as in a concrete way, did it?

15:06:07 5 A. I do not understand what you mean by "concrete way".

6 Q. Prior to this meeting there had been this co-operation with
7 the RUF in the area, you had been having weekly meetings;
8 correct?

9 A. Yes.

15:06:22 10 Q. There had been a slow increase of activity of UNAMSIL in
11 the area; yes? And the same goes for slow increase of NGOs and
12 humanitarian organisations; yes?

13 A. Uh-huh.

14 Q. You'd spoken to Kailondo about the -- no, let me ask
15 something different. What I'm suggesting is that there had been
16 this co-operation beforehand, the discussions you had with Sesay
17 were about continued co-operation, the meeting ended, Sesay went
18 back to Kono?

19 A. No, he did not go back to Kono that particular time. He
15:07:09 20 went back perhaps to Teko Barracks. Because immediately on 14th,
21 I met him.

22 Q. You don't know where he was on 13th, did you, because you
23 didn't meet him on 13th?

24 A. I didn't meet him on 13th.

15:07:25 25 Q. So you don't know?

26 A. I'm sure I don't know.

27 Q. So it was a meeting which involved discussions, but as far
28 as you're concerned -- what I'm getting at is that nothing
29 tangible in the sense of nothing happened that day or the next

1 day which indicated that Sesay had done something as a response
2 to that meeting. Do you get my drift?

3 A. Your Honour, when you meet high profile person, even the
4 meeting itself, that contact is something very tangible.

15:07:59 5 Q. Okay. That's your answer. Let's move on. You meet him
6 then on 14th and you met him, you say, on 20th; am I right?

7 A. Yes. On 14th and then later on 20th.

8 Q. Before we get to 14th, on 20th, is that the meeting where
9 you suggest a media day?

15:08:58 10 A. Yes, on 20th April, Your Honour.

11 Q. The media day, what I didn't follow from your evidence was
12 that on 20th, you said -- I'm looking at the draft transcript
13 now. I don't know if the final one is out. I should have
14 checked. But the draft transcript which Your Honour should have

15:09:24 15 a copy of. Let me just, before I turn to it, you said -- the
16 purpose of the media day was for what? The RUF -- the paramount
17 purpose was for the RUF to communicate with the nation or who?
18 What was the paramount principal purpose?

19 A. The principal purpose, what I thought for that media day is
15:10:01 20 to open the RUF-controlled territory to the rest of the country
21 and to the international community as a whole.

22 Q. To open the territory. What does that mean?

23 A. It means that even the RUF themselves -- the issues that
24 they have been bringing up or talking to me as to why they cannot
15:10:41 25 adhere to the DDR plan could be communicated to the entire world
26 by them.

27 JUDGE THOMPSON: If I recall correctly, it was to publicise
28 their alleged grievances.

29 THE WITNESS: Correct. Thank you, Your Honour, very much.

1 MR JORDASH:

2 Q. But to who? To the whole world?

3 JUDGE THOMPSON: Yes.

4 JUDGE ITOE: Yes. That's what he said. That is, they were
15:11:06 5 to communicate with the nationals and also the internationals and
6 tell them what their grievances were. So it was an operation
7 that was supposed to have the dual effect of sensitising the
8 nation on their grievances and also sensitising international
9 opinion on these same grievances. That's the way I understand
15:11:31 10 it.

11 THE WITNESS: Correct, Your Honour.

12 MR JORDASH:

13 Q. That was the sum total of what happened at that meeting?

14 A. Say again?

15:11:52 15 Q. That was the sum total of what happened on the 20th was a
16 discussion about the media day; is that right?

17 A. Yes, that is what we discussed, but at the same time
18 General Issa directed, on my hearing, his operator to communicate
19 in order to stop a disarmament at Sanguema.

15:12:22 20 Q. Is that Segbwema?

21 A. Yes, Sanguema or something to that similar effect.

22 Q. Could it be Segbwema?

23 A. Say again.

24 Q. Could it be Segbwema? I'll spell it for you if you want,
15:12:40 25 if it helps. I think it is S-E-G-U --

26 PRESIDING JUDGE: Speak into the microphone, please.

27 MR JORDASH: S-E-G-U-E-M-A, Seguema.

28 THE WITNESS: Yes, Seguema, such a one.

29 Q. Is that the one?

1 A. Yes, it sounds the same.

2 Q. Did you report this incident to anyone, because,

3 presumably, it was of concern to you as a peace-keeper that the

4 commander of the whole of the troops had ordered peace-keeping --

15:13:21 5 sorry, ordered disarmament to stop in Seguema?

6 A. Yes, I communicated. While also communicating the media

7 day and the start of the planning of media day.

8 Q. Who did you communicate that to?

9 A. To the forces headquarters.

15:13:38 10 Q. Who did you speak to?

11 A. I don't have to speak to anybody. I can do it through

12 message, Your Honour.

13 Q. What did you say on that message?

14 A. I asked, one, for the forces headquarters to arrange

15:13:58 15 immediately --

16 Q. No, no, about Seguema.

17 A. Oh, Sanguema?

18 Q. Yes. What did you say?

19 A. I communicated to the effect that General Issa has

15:14:11 20 stopped -- ordered the stopping of the disarmament at Sanguema.

21 Q. Do you know what came of that message?

22 A. No, I don't know what came off.

23 Q. Can I suggest, Mr Witness, that you did not meet Mr Sesay

24 on this day?

15:14:28 25 A. That is very wrong, Your Honour.

26 Q. Really. And he didn't order the disarmament of stopping

27 Segbwema in April of 2000 because Segbwema had already been

28 disarmed, and it was disarmed in March of 2000.

29 A. He did order that disarmament be stopped at Sanguema in my

1 own hearing.

2 Q. Okay. In fact, in March of 2000, Foday Sankoh, UNAMSIL
3 commander, had travelled from Freetown to Segbwema to start off
4 that disarmament.

15:15:16 5 A. That one I don't know.

6 MR BANGURA: May it please, My Lords, I have a little bit
7 of a difficulty here with the switching of names. The witness's
8 testimony at --

9 MR JORDASH: Could we have the witness outside the Court,
15:15:33 10 please, for this discussion if we're going to go into it.

11 MR BANGURA: It's not an argument. It's just that we need
12 to be sure where we are.

13 MR JORDASH: I know what will happen if my learned friend
14 raises this, what the witness may do in response to any
15:15:48 15 indication gathered by that objection.

16 PRESIDING JUDGE: Maybe prudence calls for the witness to
17 be excused, so we will do that. Mr Witness, would you please sit
18 outside the courtroom while we hear these arguments and we'll
19 call you back immediately.

15:16:10 20 THE WITNESS: Thank you, Your Honour.

21 PRESIDING JUDGE: Thank you very much.

22 [The witness stood down]

23 PRESIDING JUDGE: Mr Prosecutor, what was the essence of
24 your objection or comments?

15:16:37 25 MR BANGURA: It was just an observation I was going to
26 make. Your Honours, the witness's testimony had made reference
27 to an order for disarmament at Sanguema. That's the spelling
28 we're able to make out from the way the witness pronounces the
29 name. Counsel has, in cross-examination, suggested to the

1 witness that it might be something spelt slightly different from
2 that. I gather the spelling he gave was -- would be pronounced
3 Seguema. I know that there is also another place called
4 Segbwema, and I noted that counsel in the last question, I
15:17:27 5 believe, was pronouncing Segbwema, which is different from what
6 he had suggested to the witness. So we now probably have three
7 different dimensions of pronunciation for this occasion. I'm
8 just seeking clarification from counsel as to where particularly
9 he's referring.

15:17:52 10 JUDGE THOMPSON: Perhaps the clarification can initiate
11 from the Prosecution. What is the word? Are we talking about
12 Segbwema, S-E-G-B-W-E-M-A, or are we talking about Sanguema? The
13 Prosecution must have something on record, because I know that
14 those are two different places.

15:18:18 15 MR BANGURA: Certainly. What we got from the witness is
16 Sanguema.

17 JUDGE THOMPSON: Yes, not S-E-G-B-W-E-M-A?

18 MR BANGURA: Yes.

19 MR O'SHEA: Can I just intervene at this stage with Your
15:18:32 20 Honours' permission. My recollection of the witness's evidence
21 was Sanguema or something of that nature.

22 JUDGE THOMPSON: That's what we're trying to clear up,
23 Mr O'Shea. We're trying to clear up whether we're talking of
24 S-E-G-B-W-E-M-A which is pronounced Segbwema as distinct from
15:18:52 25 what the Prosecution is putting forward. If I recall correctly,
26 like you, I don't think the witness was talking about
27 S-E-G-B-W-E-M-A.

28 MR O'SHEA: It seems as though the witness was not sure as
29 to exactly how the word should be pronounced.

1 JUDGE THOMPSON: Quite right. I think it is a question

2 of --

3 MR O'SHEA: Who provided the spelling?

4 JUDGE THOMPSON: Yes, this is where I thought the

15:19:20 5 Prosecution should assist us.

6 MR BANGURA: It may be the case, Your Honour, the witness
7 not being Sierra Leonean and not being from here --

8 JUDGE THOMPSON: That's correct. I follow that. What I'm
9 saying is that you must know from the evidence you led whether
10 you were talking about this other place, which it doesn't appear
11 as if that was the witness's pronunciation. Segbwema, as I
12 understand that he tries to pronounce Magburaka, Magburaka, that
13 kind of thing. You should guide us, because you have your
14 records. I'm sure at some point in time you must have checked
15:20:00 15 whether we're talking about two different things.

16 MR O'SHEA: With respect, Your Honours, the witness has
17 made it quite clear that he's not sure. Defence counsel has put
18 the suggestion to him that it might have been Segbwema and the
19 witness has accepted it might have been Segbwema.

15:20:20 20 JUDGE THOMPSON: That's the difficulty here. Counsel,
21 we're not going to allow you to complicate this issue. I don't
22 want to bring my own knowledge - although I'm trying to assist
23 the Court - of the country. We don't need to let this confusion
24 bedevil our proceedings. We want to know what particular place
15:20:41 25 they, from their perspective, were leading evidence on. Even if,
26 unfortunately, the witness may have mispronounced it. We need to
27 be assisted. This is not a technicality over which the heavens
28 will fall.

29 MR BANGURA: Certainly so, Your Honour. At this point, the

1 Prosecution will leave the evidence as it is. If need be, we
2 will re-examination on the point, so as not to create any further
3 confusion.

4 PRESIDING JUDGE: We appreciate that. But at the same
15:21:16 5 time, we need to know where it's going. If there are three names
6 that sound the same and there were activities taking places at
7 all of these places at that particular juncture about
8 disarmament, we are no further ahead.

9 JUDGE ITOE: It is like Makump, this morning morning.

15:21:36 10 MR BANGURA: Your Honours, even being said, and I'm not
11 personally able to say that I know where this witness was
12 referring to when we -- when I dealt with him in chief and he
13 gave this name. Your Honours may be in a position to assist.
14 That's why I said, Your Honours, I would be content with leaving
15:21:55 15 the testimony [overlapping speakers].

16 JUDGE ITOE: There is one thing we can credit to this
17 witness, even though he might mispronounce, he will not misspell.
18 Maybe he could provide the spelling.

19 MR JORDASH: Perhaps I can assist, because I remember this
15:22:15 20 witness dealing with this evidence. I remember it clearly,
21 because I knew how I was going to cross-examine on it. What
22 happened was, and it is at page 21 -

23 PRESIDING JUDGE: We don't have the transcript, Mr Jordash.
24 This is a draft transcript of his evidence yesterday?

15:22:34 25 MR JORDASH: Yes, 29 March. I will take Your Honours to
26 page 21. What happened was the following: At line 4 the witness
27 said, and I recall this, he called an operator who was inside the
28 house and ordered him to stop disarmament at somewhere he called
29 Sanguema, or a word similar to that effect. Mr Bangura then,

1 without further -- then decided to spell it, because it was on
2 the witness statement.

3 PRESIDING JUDGE: That way.

4 MR JORDASH: That's the way it was spelt by the
15:23:24 5 Prosecution.

6 JUDGE THOMPSON: This is why I'm inviting the Prosecution
7 to be candid here to say whether when the witness pronounced
8 whatever he pronounced, whether he was referring to
9 S-E-G-B-W-E-M-A. I did not get that. I thought I heard
15:23:47 10 Sanguema. So what I want to know, what is the Prosecution's own
11 version of it, because they spelt it for us. So at the time when
12 Mr Bangura spelt it, he was not referring to S-E-G-B-W-E-M-A,
13 Segbwema, which is not Sanguema.

14 MR JORDASH: It is our case that there is not a place
15:24:15 15 called Sanguema, but there is a place called Segbwema where
16 disarmament was an issue.

17 PRESIDING JUDGE: But is there a place for my own govern --
18 is there a place in Sierra Leone called Sanguema?

19 MR JORDASH: No.

15:24:29 20 PRESIDING JUDGE: So that doesn't exist?

21 MR. JORDASH: We say no. Segbwema with a B and W, yes,
22 Sanguema, the way the Prosecution spelt it, we say, no, there
23 isn't a town called that in Sierra Leone. And certainly not a
24 town where disarmament was a focus. The only place which
15:24:48 25 proximates to the witness's pronunciation is Segbwema.

26 PRESIDING JUDGE: That's the name you spelt out to be
27 S-E-G?

28 MR JORDASH: I might have spelt it badly. That might be
29 one of the points which I do accept from the Prosecution. It

1 should have been spelt S-E-G-B-W-E-M-A.

2 MR BANGURA: That's my point, Your Honour. If counsel had
3 suggested Segbwema and the witness agreed, I would not have had
4 any doubts in my mind what he meant when he said Sanguema was
15:25:25 5 Segbwema, but when my colleague suggested to the witness a
6 spelling which is different from Segbwema and then subsequently
7 putting a question to the witness and pronouncing Segbwema, we
8 now have three variations of this pronunciation.

9 PRESIDING JUDGE: The time you are prepared to put the
15:25:46 10 witness, the name would be Segbwema, the way you have spelt it
11 out?

12 MR JORDASH: Yes.

13 PRESIDING JUDGE: You will have to spell it out to the
14 witness, at least to be consistent in your own version as to what
15:25:59 15 it is.

16 MR JORDASH: I do accept that.

17 PRESIDING JUDGE: In fairness to the witness, it is
18 confusing even for people from Sierra Leone. I can imagine for a
19 witness from outside it may sound the same, but as you say, it
15:26:15 20 may be two different locations. As Justice Itoe mentioned this
21 morning, Makump, there were three or four of the same, but two
22 different spellings.

23 MR JORDASH: Yes, I accept the point.

24 PRESIDING JUDGE: We can proceed to call the witness back,
15:26:34 25 Mr Jordash?

26 MR JORDASH: Yes.

27 [The witness entered Court]

28 MR JORDASH:

29 Q. Am I right, Mr Witness, the name Sesay spoke about sounded

1 like Segbwema?

2 A. Sanguema.

3 Q. Do you know how to spell it?

4 A. S-A-N-G-U-E-M-A. Sanguema.

15:28:16 5 Q. Now is that what you heard, or is that what you discovered

6 upon inquiry as to where this place was?

7 A. That is what I heard and, in fact, Your Honour, I never

8 bothered to look even in the map where it is.

9 Q. Right. So you don't know that the spelling is Sanguema,

15:28:40 10 it's just what you -- the best approximation you could come to?

11 A. Yes. Not reading it at -- on the Sierra Leonean

12 literature.

13 Q. Exactly. May I suggest that the only place of concern

14 which sounds like that in Sierra Leone was a place called

15:29:03 15 Segbwema, which is spelt S-E-G-B-W-E-M-A, and it is in the

16 Kailahun District. Could that be right?

17 A. I'm not sure.

18 Q. Okay.

19 JUDGE ITOE: S-E-G, Mr Jordash?

15:29:26 20 MR JORDASH: B-W-E-M-A.

21 THE WITNESS: Beg your pardon? S-G?

22 MR JORDASH:

23 Q. S-E-G. Why I suggest your memory is either faulty or

24 you're just wrong was that Segbwema was disarmed by Foday Sankoh

15:29:51 25 in March of 2000, and you couldn't have heard Mr Sesay say

26 something like that.

27 A. No, you are wrong if you say that, Your Honour. I am

28 reporting to this Court what I heard and what I saw.

29 Q. Okay. Let me ask you then what you meant by this -- Your

1 Honours, page 17733. I think it is in your file, Mr Witness.
2 17733, the statement of 21 June 2004. You see at the bottom, the
3 last sentence, "While I was in the meeting, he called his radio
4 operator and told him to pass his order to Sanguema to stop
15:30:58 5 disarmament as he now had a forum." What does that mean?
6 A. This is Sanguema.
7 Q. Yes. Let's move on from the name. What does it mean?
8 PRESIDING JUDGE: What's the page again?
9 MR JORDASH: 17733, going on to 17734.
15:31:20 10 PRESIDING JUDGE: "While I was in the meeting"?
11 MR JORDASH: Yes. "While I was in the meeting, he called
12 his radio operator and told him to pass his order to Sanguema to
13 stop disarmament as he now had a forum."
14 Q. What does that mean, "he now had a forum"? Did you say
15:31:57 15 that to the Prosecution?
16 A. Just a minute.
17 Q. I'm looking at your original statement. It seems to say
18 exactly the same thing -- Your Honours, page 17731 -- the
19 handwritten statement, two-thirds of the way down. What could
15:32:39 20 that mean?
21 A. Your Honour, it doesn't make sense.
22 Q. You're right.
23 A. As far as he had a forum.
24 Q. Yes. Could I suggest it doesn't make sense because you're
15:33:17 25 mistaken about this? If you agree, say yes, we can move on.
26 A. That particular part does not make sense.
27 Q. Let's just move on then.
28 JUDGE ITOE: I recall this is not his original statement.
29 It is in the handwriting of the witness?

1 MR JORDASH: No, somebody else wrote it, but it says
2 exactly the same, by the looks of it.

3 JUDGE ITOE: Yes.

4 MR JORDASH:

15:33:47 5 Q. Okay, Mr Witness, we'll leave the mystery. It may not be
6 hugely significant. I want to deal now quickly with 14 April and
7 the different accounts which appear to exist about this meeting.
8 So you understand my client's position, we say you didn't meet
9 Mr Sesay on this date.

15:34:11 10 A. On 14th?

11 Q. Exactly.

12 A. On 14th, I met Sesay.

13 Q. What you told us a couple of days ago, or yesterday, page
14 12 of the transcript, is that you claim Mr Sesay said something
15:34:37 15 about combatants in relation to the children. Do you recall what
16 you said then?

17 A. Yes, on the 14th.

18 Q. What is it you claim Mr Sesay said to you about the child
19 combatants?

15:34:53 20 JUDGE ITOE: Mr Jordash, what page of the transcript?

21 MR JORDASH: Page 12, line 22.

22 Q. I would like you to just answer the question.

23 PRESIDING JUDGE: Line 16.

24 MR JORDASH: It starts at line 16, but the response from
15:35:14 25 the general is at line 22.

26 Q. What was it you claim you said?

27 A. He said he was concerned about Caritas moving the RUF
28 children, whom the RUF combatant -- the child soldier who had
29 been demobilised.

1 Q. And his --

2 A. Out of RUF territory.

3 Q. And his concern was that what?

4 A. That it shouldn't be stopped and if they are to be moved,
15:35:43 5 they must be screened to ensure their combatants does not get out
6 of RUF territory.

7 Q. So he was, effectively, refusing to allow Caritas to remove
8 the children until they had been screened to ensure that nobody
9 who was a child soldier could leave?

15:36:08 10 A. Yes.

11 Q. So he then understood what Caritas were trying to do, which
12 was to remove all of the children out of the area, including the
13 child combatants?

14 A. Your Honour, do you call that understanding the operations
15:36:23 15 of Caritas? No.

16 Q. But he understood what the overall aim was, didn't he?

17 A. To me, Your Honour, he did not understand the operations of
18 Caritas.

19 Q. Let me put myself very clearly to you, Mr Witness. The
15:36:37 20 account you gave on 29 March was the first time you'd ever
21 suggested to the Prosecution, and I suggest to anyone, that Sesay
22 had made such direct comments about keeping child combatants in
23 the area.

24 A. You say on 29th I suggested --

15:37:05 25 Q. I do say that, and I say you said that --

26 PRESIDING JUDGE: This is on your evidence here, the 29th.

27 THE WITNESS: This 29th?

28 PRESIDING JUDGE: Yes. We're talking 29 March 2006, in
29 your evidence in this Court, when you said what counsel has just

1 referred you to. This is what you mean, Mr Jordash?

2 MR JORDASH: Yes, exactly.

3 PRESIDING JUDGE: The part of the evidence which he just
4 quoted to you, which is your evidence that you have given on

15:37:33 5 29 March here. You said that this is what Sesay would have said
6 about the activities of Caritas.

7 MR JORDASH: Yes.

8 THE WITNESS: Yes, that is what he said.

9 MR JORDASH:

15:37:46 10 Q. Let's look at what you told the Prosecution on 6 and
11 7 February 2006.

12 PRESIDING JUDGE: 2006?

13 MR JORDASH: Page 18117.

14 PRESIDING JUDGE: Did you say February 2006?

15:38:10 15 MR JORDASH: Your Honour, yes, February 2006, page 18117.

16 Q. Paragraph 7:

17 "On 14 April 2000, I again met with Sesay at Teko Barracks.

18 Caritas wanted to move children to Freetown for

19 identification by relatives. RUF's consent was needed for

15:38:42 20 safe passage to Freetown. I did not get the required

21 consent from this meeting. Sesay promised to respond

22 later. It appeared from the meeting the RUF did not

23 understand the purpose of the Caritas program and I asked

24 Caritas to conduct more sensitisation of their program with

15:39:09 25 the RUF, which seemed to help later on."

26 Did you say those things to the Prosecution in February of
27 this year?

28 A. Yes, I gave this message to the Prosecution.

29 Q. What you appear to be suggesting is that nothing really

1 came of that meeting and Sesay promised to respond later. No
2 damning remarks about wanting to keep child combatants for his
3 troops. Do you see my point?
4 A. Yes, I see your point.
15:39:58 5 Q. Why is that, though?
6 A. I can put you in the picture of this.
7 Q. Why don't you tell us if you told the Prosecution then
8 about these damning remarks made by Sesay about keeping child
9 soldiers?
15:40:13 10 A. Your Honour, my purpose of going to see Issa on 14th --
11 Q. No, no, did you tell the Prosecution about these damning
12 remarks made by Sesay about his desire to keep child soldiers?
13 A. Yes, I told them.
14 Q. You told them but it doesn't seem to have been reflected in
15:40:33 15 the notes taken. Let's go back to when you also speak about this
16 on 21 June 2004. 17733. The sixth line down:
17 "I also brought up the situation of RUF not allowing
18 Caritas to move child soldiers back home. Sesay told me to
19 talk with Augustine Gbao on this matter. When I spoke with
15:41:21 20 Gbao in the presence of Caritas representatives, he said
21 they did not understand the program but would consider it.
22 I believe they later allowed the Caritas vehicle's
23 movement."
24 That appears to have been your first description, am I
15:41:43 25 right, about any conversation you had with Sesay about child
26 soldiers and Caritas?
27 A. Yes. My conversation with Issa Sesay on child soldier was
28 on the 14th.
29 Q. The point is this: at best, what you described to the

1 Prosecution previous is a misunderstanding on the part of the RUF
2 as to the role of Caritas; a promise to reconsider and Sesay
3 promising to reconsider, or Sesay saying, "Speak to Mr Gbao".
4 You arrive in this Court and suddenly you're implicating Mr Sesay
15:42:32 5 in trying to keep child soldiers to fortify his troops. I'm
6 suggesting that none of it is true.

7 A. You're wrong, Your Honour.

8 Q. Fine. We can move on. Before we do move on, why didn't
9 you tell -- did you tell the Prosecution about these damning
15:42:57 10 remarks when you gave the interview on 21 June 2004?

11 A. 21st June?

12 Q. Yes, this interview. Did you tell them, "Sesay said, 'I
13 want to keep the child combatants.'"

14 A. No, he didn't say that.

15:43:13 15 Q. Well, words to that effect. I paraphrased.

16 A. The actions of the RUF on the 13th --

17 Q. No, I'm not interested. I'm interested in what Sesay said
18 and when you told the Prosecution about it. You said you told
19 them in February. Did you tell them in June as well and it
15:43:30 20 didn't find its way on to the piece of paper?

21 PRESIDING JUDGE: What's your answer to that question,
22 Mr Witness? Did you tell them -- what were the dates you put to
23 the witness?

24 MR JORDASH: The witness said he told them in February. I
15:44:17 25 was asking whether the witness told them also at the earlier time
26 of June 2004 when this statement was taken.

27 PRESIDING JUDGE: The statement was written down in
28 long-hand?

29 MR JORDASH: Yes.

1 THE WITNESS: I think it was there.

2 MR JORDASH:

3 Q. Well, it's not there. I've checked. But you think you've
4 told them then as well?

15:44:46 5 PRESIDING JUDGE: This is the portion you just mentioned at
6 17733, Mr Jordash, "I also brought up the situation," that's the
7 portion?

8 MR JORDASH: Yes.

9 Q. Do you see my point? I'm asking the single question
15:45:01 10 whether you think you told the Prosecution, Mr Witness, in June
11 2004 Sesay had refused to allow Caritas to take away the child
12 combatants?

13 A. I'm seeing here this is the statement of June.

14 Q. Yes.

15:45:20 15 A. You can read, "I also brought up the situation of RUF not
16 allowing Caritas to move child soldier back home."

17 Q. Yes.

18 A. Yes.

19 Q. Go on.

15:45:31 20 A. It says for me to talk with Gbao on the matter.

21 Q. Yes.

22 A. And this is the issue we're talking about.

23 Q. It is the issue, but it's not the specifics of Mr Sesay
24 saying to you, "I want to keep the child combatants."

15:45:47 25 A. No, he didn't say he wants to keep the child combatants.

26 Q. That's the effect of the evidence you've given, isn't it?
27 That's the impression you're conveying about what Sesay was
28 saying to you?

29 A. If you are saying that is the impression, yes, it is the

1 impression, because by the fact of refusing them to go --

2 Q. This paragraph in June 2004 is the true situation? Sesay
3 told you to speak to Gbao, Gbao then organised it and Caritas
4 vehicles allowed it.

15:46:26 5 A. I don't know whether they allowed it, but at the meeting
6 when we met the three parties, that is the Caritas
7 representative, the RUF representative, which Gbao and Kallon
8 were there --

9 [RUF30MAR06F - EKD]

15:46:25 10 Q. Let me just make myself clear. You didn't tell the
11 Prosecution at any stage that Sesay had expressed reluctance
12 because he wanted to keep the child combatants. You made that up
13 yesterday to implicate?

14 A. That was the truth.

15:47:00 15 Q. Okay, fine. Let's move on. I also suggest -- actually,
16 before I do suggest that: Have you met Edwin Kasoma, Kenyan --
17 sorry not Kenyan, Zambian.

18 A. Yes, he was the commanding officer of the Zambian
19 battalion.

15:47:23 20 Q. When did you see him last? Have you seen him this week?

21 A. Should be 2000. No, I haven't met him.

22 PRESIDING JUDGE: What was your question?

23 MR JORDASH: Whether this witness had seen Mr Kasoma, a
24 Zambian soldier, this week.

15:47:45 25 PRESIDING JUDGE: But you did ask him when he saw him, was
26 it?

27 MR JORDASH: Yes, he said 2000 and I then asked a more
28 specific question.

29 Q. Okay, I can move on from that then. This is then the final

1 few questions, Mr Witness, I want to ask you.

2 A. Ask, please.

3 Q. Let me ask you to turn to 17728, the very first statement
4 taken, a phone interview. This deals with the taking of

15:48:34 5 hostages. You talked yesterday about Major Rono being taken
6 hostage. You recall that?

7 A. Yes, I do.

8 Q. I just want to understand what it is you are saying. Rono
9 told you he'd seen Issa Sesay's car; correct?

15:48:57 10 A. Yes, he told me that.

11 Q. He told you that. What was it that you say was so unique
12 about Mr Sesay's car?

13 A. When we stayed there, during our time, there was no any
14 other car like that one.

15:49:16 15 Q. What, there was no dark-coloured Trooper?

16 A. Yes, we never saw such dark-coloured at that particular
17 time within the RUF territory.

18 Q. There was no car in Makeni or Magburaka which was dark
19 coloured and a Trooper, except for Mr Sesay's; is that what
15:49:39 20 you're saying?

21 A. Could be but I didn't -- we had not seen any. My troops
22 and I personally had not seen and the subordinate commander knew
23 Issa's car.

24 Q. Really. Well, can I suggest to you that Issa Sesay was
15:49:56 25 driving a green car at that point in time?

26 A. Well, I didn't see him myself.

27 Q. Well, I suggest if you'd met him more than twice you'd have
28 known that as well?

29 A. The only time I met his car, I know Issa -- the only time I

1 met -- I saw his car was when he came to the camp.

2 Q. What colour was it then?

3 A. It was a little bit darkish and -- a mix of dark and green.

4 Q. Dark green?

15:50:29 5 A. Yes. Darkish and green. A Trooper, left-handed drive.

6 Q. Well, let me ask you this. Let's not get hung up on the
7 car. Have a look at page 17728, last paragraph. It's the first
8 statement you made, 27th February 2003, last paragraph.

9 Whoever's car that was, your statement says this:

15:51:05 10 "The four Kenyans were taken hostage, as was Mendy, a
11 Gambian MILOB and another MILOB. Maroa told Ngondi that
12 they were stripped and kept in a room. Major Rono from B
13 Company in Magburaka was held hostage by Issa Sesay himself
14 or by his men."

15:51:28 15 You see that? Did you tell the Prosecution that?

16 A. Yes, I told him that.

17 Q. Yes, right. So the beginning and end of your evidence
18 against Sesay on the alleged abductions is that you were told
19 that Major Rono was held abduction by Issa Sesay or by his men?

15:52:06 20 A. No, what happened -- Major Rono had told me there was a
21 messenger -- messengers who were sent to him. And the message
22 was Issa would like to talk to him to deal with the issue. And
23 he himself could say and I can see Issa's car over there.

24 Q. But all you can say in the final analysis is it looked like
15:52:37 25 Issa Sesay's car, but you don't know who held Major Rono hostage?

26 A. I know it's only RUF, but not personally -- I wouldn't say,
27 he says Issa or, but --

28 Q. You don't know?

29 A. He could be the one.

1 Q. He could be, but you don't know. And when you spoke to
2 Rono afterwards, as you told us, you only spoke about it in
3 passing; correct?

4 A. Yes.

15:53:11 5 PRESIDING JUDGE: Mr Jordash, you speak too far away from
6 your microphone and I lose half of what you are saying. You are
7 talking to your notes.

8 MR JORDASH: You probably get the best bit.

9 PRESIDING JUDGE: Maybe, but I need to hear what you say if
15:53:28 10 possible.

11 MR JORDASH: Sorry, yes. The final point really was that
12 the witness spoke to Major Rono and only spoke about the events
13 in passing and the witness conceded he didn't - I think this is
14 right - know who had held Rono hostage except it was RUF.

15:53:42 15 Q. Correct?

16 A. Yes, the one who held -- Rono was held hostage in Magburaka
17 area.

18 Q. And you don't know who it was who did it?

19 PRESIDING JUDGE: You don't know who the specific
15:54:04 20 individuals were, but you know these were RUF people?

21 THE WITNESS: Correct, Your Honour.

22 MR JORDASH: I think I have finished. I will just take
23 some brief instructions.

24 PRESIDING JUDGE: Mr Jordash, yes.

15:55:35 25 MR JORDASH: Yes.

26 Q. Just finally, Mr Witness, was 20th April the last time you
27 saw Mr Sesay until after you'd retreated to Kabala?

28 A. Since April 20th I never saw Sesay again until in this
29 Court.

1 MR JORDASH: That's fine, thank you. I've got nothing
2 further, thank you.

3 PRESIDING JUDGE: Thank you. Counsel for second accused.

4 CROSS-EXAMINED BY MR TOURAY:

15:57:06 5 Q. Good afternoon, Mr Witness.

6 A. Good afternoon to you, Your Honour.

7 Q. Mr Witness, you are now a brigadier?

8 A. Yes, I am.

9 Q. In Sierra Leone you were --

15:57:36 10 JUDGE ITOE: A colonel.

11 MR TOURAY:

12 Q. -- a lieutenant-colonel or, with permission of His Honours,
13 a colonel?

14 JUDGE ITOE: Yes.

15:57:44 15 MR TOURAY:

16 Q. Or lieutenant-colonel?

17 A. Yes, I was a lieutenant-colonel.

18 JUDGE ITOE: I see, the statement up to the colonel, I'm
19 sorry.

15:57:49 20 THE WITNESS: Your Honour, most of the people who do not
21 understand -- are not conversant with the military ranks, they
22 prefer using -- removing the L, the lieutenant, because --

23 JUDGE ITOE: Like me.

24 MR TOURAY: It's lower.

15:58:00 25 THE WITNESS: It's lower and they use colonel which is a
26 little bit higher.

27 JUDGE ITOE: Like me.

28 PRESIDING JUDGE: Mr Touray is learning. He's learning.

29 MR TOURAY: I'm learning, yes.

1 JUDGE ITOE: I find myself in that group you're talking of
2 now.

3 THE WITNESS: I'm sorry.

4 MR TOURAY:

15:58:18 5 Q. Well, congratulations for your promotion.

6 A. Thank you very much, Your Honour.

7 Q. When you were -- at least in your area of responsibility at
8 Makeni and Magburaka, you were under orders from forces
9 headquarters?

15:58:42 10 A. Yes, Your Honour.

11 Q. You may have had some limited use of your own initiative,
12 but at the end of the day that was subject to approval by the
13 forces headquarter?

14 A. Yes, constraints are there, Your Honour.

15:59:16 15 Q. You were on the ground, you knew the RUF combatants very
16 well and their commanders at the time you were there?

17 A. Yes, I knew several of them whom we interacted with.

18 Q. You interacted with them. And you had at least some
19 substance of confidence in them as well?

16:00:04 20 A. Yes, Your Honour.

21 Q. In view of your specialised knowledge of the people - that
22 is the RUF combatants, their commanders, their way of thinking -
23 sometimes you come up with proposals which you have to refer to
24 the forces headquarters for approval?

16:00:45 25 A. Yes, Your Honour. That is how military operates.

26 Q. Yes. One proposal you came up with was this 28th April
27 media day?

28 A. Yes, Your Honour.

29 Q. And the reason for that was because you had been told by

1 the RUF the difficulties they had about disarming their forces?

2 A. Yes, Your Honour.

3 Q. And you knew about that. Issa Sesay told you, Kallon told
4 you and perhaps even Gbao told you?

16:01:40 5 A. Yes, they told me why they are not going to adhere to the
6 DDR program.

7 Q. Thank you. When you came up with this 28th day of April
8 media day, it was accepted initially by the forces headquarters
9 but rejected at the eleventh hour?

16:02:14 10 A. Yes, Your Honour.

11 Q. That was a disappointment to you?

12 A. Yes, I was.

13 Q. On the issue of disarmament, you hesitated for about three
14 or four days to allow these 10 combatants you spoke about to
16:02:53 15 disarm or to demobilise, using your word?

16 A. Yes, Your Honour.

17 Q. Then there came the order from the forces headquarter that
18 you should allow them to disarm?

19 A. Yes, Your Honour.

16:03:12 20 Q. You had your doubts about the process?

21 A. I had a doubt on the consequences.

22 Q. The consequences. Meaning it will not go well with the
23 RUF?

24 A. Absolutely, because --

16:03:42 25 Q. Because it was not with the consent of the RUF authorities?

26 A. Absolutely, Your Honour.

27 Q. Because, as you said -- I'm referring to the draft
28 transcripts of 29th March 2006, page 22, lines 20 to 22.

29 PRESIDING JUDGE: Page 22, you say, Mr Touray?

1 MR TOURAY: Yes, Your Honour.

2 PRESIDING JUDGE: And line 22?

3 MR TOURAY: Line 20 to 22.

4 Q. As you said yesterday in your evidence, just to refresh
16:04:59 5 you: "This put me in a dilemma, because as far as I knew the
6 demobilisation was to be done openly, with voluntary, with
7 implement of all parties concerned." That's correct; that was
8 your own view?

9 A. Correct.

16:05:38 10 Q. Notwithstanding your own view that disarmament and
11 demobilisation should go with the consent of the RUF, forces
12 headquarters was saying individual consent of the combatant was
13 enough, even without the consent of his organisation, the RUF?
14 In other words, they were saying if a combatant comes
16:06:07 15 voluntarily, even if it is without the consent of the RUF
16 leadership, he could be disarmed. That is what they were saying.

17 A. No, they told me to demobilise those who had surrendered
18 those weapons.

19 Q. Okay. But you knew that was without the consent of the
16:06:28 20 leadership?

21 A. Yes, Your Honour, I knew the procedure.

22 Q. And you obeyed the order?

23 A. Absolutely.

24 Q. Knowing the consequences?

16:06:45 25 A. As a loyal soldier, Your Honour.

26 Q. As a loyal soldier knowing the consequences. Knowing the
27 consequences?

28 A. Yes.

29 Q. Yes, of course. You also asked -- I'm dealing with your

1 relationship with forces headquarters now because that is the
2 source of your authority more or less. You asked for an air
3 surveillance to determine what had happened at Makump camp, DDR
4 camp?

16:07:35 5 A. Yes, I did.

6 Q. That was rejected?

7 A. It didn't turn up.

8 Q. Forces headquarters decided to bring more troops to your
9 area of control. In other words, the Indian contingent and the

16:08:06 10 Zambian contingent. I'm not talking about the sectors
11 headquarters now [indiscernible].

12 A. Yes, Your Honour.

13 Q. That was not based on your own request?

14 A. No, it was not based on my own request.

16:08:19 15 Q. Thank you. So they had their own plans for doing that
16 which you did not know?

17 A. I didn't know what they had, but according to them,
18 Your Honour, was to get more troops.

19 Q. But what I'm saying, it was not -- you were not consulted
16:08:39 20 to know whether you needed more troops and that sort of thing.
21 They just decided we're going to send these troops. You didn't
22 make the request. That's what I'm saying.

23 A. I didn't make the request.

24 Q. Thank you, that's all.

16:08:58 25 JUDGE ITOE: Mr Witness, you did not make the request? You
26 did not make the request for more troops; is that what you're
27 saying?

28 THE WITNESS: Your Honour, yes, I did not make the request
29 for troops to come to my area.

1 JUDGE ITOE: Thank you.

2 MR TOURAY: It was purely forces headquarters trying to
3 create and provoke a situation.

4 PRESIDING JUDGE: Well, put it to the witness.

16:09:21 5 MR TOURAY: I am just thinking aloud.

6 PRESIDING JUDGE: No, no, no, please.

7 MR TOURAY: I will put it to him now, Your Honour.

8 PRESIDING JUDGE: We have told you, Mr Touray, that it is
9 very nice for us to hear what you're thinking about, but put it
16:09:33 10 to the witness so we have no confusion.

11 MR TOURAY: Thank you, Your Honour, I try.

12 Q. It is likely, is it not, that this could have inflamed the
13 situation within your area of responsibility, the movement of
14 more troops coming from outside?

16:09:53 15 A. Yes, of course it would do that. But my --

16 Q. Thank you, that is all I want.

17 A. May I --

18 Q. Yes, please. Bit by bit, if you want to expand on that.

19 A. Yes, inform you that within that time apparently there was
16:10:10 20 change of -- a certain change of reorganisation of the UN forces
21 within the area, in that the sector headquarters was created and
22 was to come to Magburaka.

23 Q. We are not talking about sectors headquarters because we
24 know there was going to be this restructuring with sectors. But
16:10:33 25 I am talking about the Indian contingent and the Zambian
26 contingent coming.

27 A. Yes.

28 Q. That could have inflamed the situation?

29 A. Yes, yes, Your Honour.

1 Q. Also the forces headquarters agreed to your plans initially
2 to evacuate your troops on 9th when the QRC will be moving out on
3 8th?

4 A. No, let me correct you --

16:11:29 5 Q. Yes, please do.

6 A. -- Your Honour. On 8th is the time they wanted the QRC to
7 move out in the afternoon. But I did request that they can be
8 delayed and we move out together.

9 Q. Yes.

16:11:45 10 A. On 10th. That is the earliest we could move together.
11 When they agreed to that on 8th, but on 9th itself the QRC was
12 called to move out.

13 Q. They got orders to move out?

14 A. Correct.

16:11:59 15 Q. That was another disappointment again from forces
16 headquarters?

17 A. [Overlapping speakers] the challenges in our profession,
18 Your Honour.

19 Q. Would you have described your relationship with forces
16:12:31 20 headquarters as a cordial one?

21 A. Your Honour, in military profession everybody has his bit.

22 Q. But, to be true, you were not too pleased with them?

23 A. A bit disappointed.

24 Q. You are here now. You can talk freely.

16:12:55 25 A. A bit disappointed, but in our profession, Your Honour, let
26 it be understood that when one door shuts we believe another one
27 will open and deal with that situation.

28 Q. That's true. And the man who was there, Jetley, was
29 relieved of his position soon after this incident, the

1 Magburaka/Makeni incident?

2 A. A month or two later.

3 Q. A month or two later.

4 A. I saw change of command.

16:13:37 5 Q. You saw change of command. Before he left and during the
6 tenure of Jetley did you come at any time to hear a radio
7 broadcast over RFI that UNAMSIL field commander was bent on using
8 force to disarm the RUF combatants?

9 A. RFUI?

16:14:29 10 Q. RFI, Radio France International?

11 A. No, never -- I never came across such information,
12 Your Honour.

13 JUDGE ITOE: Who of UNAMSIL?

14 MR TOURAY: That the UNAMSIL field commander was bent on
16:14:49 15 using force to disarm the RUF.

16 PRESIDING JUDGE: Are you suggesting this is the force
17 commander talking on RFI or this is RFI saying --

18 MR TOURAY: RFI relaying.

19 PRESIDING JUDGE: Information to the effect that --

16:15:09 20 MR TOURAY: Yes.

21 PRESIDING JUDGE: So, in other words, it is not a live
22 broadcast with the UNAMSIL commander.

23 MR TOURAY: I wouldn't think so, but what we have in the
24 message logbooks, there is a message to that effect from the
16:15:21 25 leadership of the RUF to the RUF authorities in Makeni. If you
26 want me to refer you to that I could. It is already an exhibit
27 so I don't want to waste --

28 PRESIDING JUDGE: That's fine, thank you.

29 MR TOURAY:

1 Q. During your contacts with Kallon did he or did he not tell
2 you around 16th April 2000 that he was under orders from
3 Foday Sankoh, the leader, not to allow any disarmament to go on
4 in that area of your responsibility?

16:16:14 5 A. No.

6 Q. Did you see him then around 16th April 2000? Did you see
7 Kallon?

8 A. No, we didn't see one another.

9 Q. When did you see him after 16th April 2000?

16:16:30 10 A. I saw him on 18th.

11 Q. 18th?

12 A. 18th April.

13 Q. Of April?

14 A. Yeah.

16:16:44 15 Q. Because disarmament was supposed to be on 17th?

16 A. On 17th.

17 Q. And then you had this demonstration and so on and so on?

18 A. Correct, which was sorted out. Then on 18th I walked
19 around and met Kallon.

16:17:05 20 Q. What relationship or degree of control did you have over
21 the activities of the MILOBS?

22 A. I did not control the MILOBS, Your Honour.

23 Q. What did you do exactly in relation to their own
24 activities?

16:17:28 25 A. MILOBS, we could liaise the activities which were going on,
26 particularly when they want to go various areas in patrolling, we
27 could go together with the troops.

28 Q. So merely providing security?

29 A. Yes, Your Honour.

1 Q. And they had their own superior sources of authority in
2 Freetown here?
3 A. Correct, Your Honour.
4 Q. At that time?
16:17:49 5 A. Correct.
6 Q. And this part of the trouble at Makump DDR camp, that they
7 were the ones involved, Ganase, Salahudin. Those were the people
8 involved. They were all MILOBS?
9 A. Yes, Your Honour, the operations of UN, I may wish to
16:18:17 10 take --
11 Q. No, I'm just saying whether they were the ones involved,
12 that is these MILOBS. Ganase was a MILOB, Salahudin was a MILOB.
13 A. We were all involved in that DDR program.
14 Q. I agree, but they were involved insofar as the fracas --
16:18:33 15 alleged fracas with the RUF was concerned. It sparked off with
16 them, that is with Ganase, Salahudin, MILOBS?
17 A. Yeah, they were together with my troops.
18 Q. Yes, but it was sparked off with them initially?
19 A. Hey?
16:18:48 20 Q. The whole thing started with them?
21 PRESIDING JUDGE: "Them" meaning the MILOBS?
22 MR TOURAY:
23 Q. The MILOBS.
24 A. Meaning they started the fracas?
16:18:57 25 Q. No, the whole incident about this fracas was between the
26 RUF and the MILOBS?
27 A. The UNAMSIL, comprising the MILOBS and the troops.
28 Q. Okay, we know, but the component part of the UNAMSIL was
29 the MILOBS. That was the direct involvement initially?

1 A. When there is -- the hostilities sparked. I am not getting
2 you, Your Honour. Please come clearly.

3 Q. Okay, what I'm saying is initially the incident at Makump
4 started with the MILOBS, i.e. Ganase, Salahudin, although they
16:19:40 5 were all part of UNAMSIL?

6 A. Okay, then what are you saying?

7 Q. No, I am just putting that to you.

8 PRESIDING JUDGE: Do you agree with this or not?

9 THE WITNESS: As far as, Your Honour, that situation was
16:20:02 10 concerned, whether UNAMSIL is operating jointly with the MILOBS,
11 other officials of national --

12 MR TOURAY:

13 Q. I agree. I am just saying there are so many components of
14 UNAMSIL but it is the MILOB area comprising Ganase, Salahudin
16:20:18 15 that had this initial trouble with the RUF.

16 A. They were not in their area -- on their own. They were all
17 together --

18 Q. I agree.

19 A. -- with these troops.

16:20:28 20 Q. I agree, but none of your troops was involved initially.
21 It was Ganase that was more or less involved -- I don't want to
22 use the word now, but Ganase was involved, Salahudin was
23 involved --

24 JUDGE ITOE: Did you say that it was Ganase who provoked
16:20:44 25 the incident or it was Salahudin or -- is that what you're
26 suggesting?

27 MR TOURAY: I don't want to suggest that, Your Honour. I'm
28 not suggesting that.

29 JUDGE ITOE: Because I see you building a wall between his

1 own troops and these other ones whose names you've mentioned.

2 MR TOURAY: I'm not building a wall, I'm leaving it open,
3 Your Honour.

4 JUDGE ITOE: Some were the good guys, others were the bad
16:21:06 5 guys. That's what you are trying to suggest.

6 MR TOURAY: Well, I'm sure his troops were better than the
7 MILOBS. Anyway the start of this whole thing started with
8 them --

9 PRESIDING JUDGE: Again, Mr Touray, please, no comment.
16:21:19 10 Put the question to the witness. Whether his troops were better
11 or not, I don't think it is fair.

12 MR TOURAY: Your Honour, I was just replying to answering
13 Your Honour Itoe.

14 JUDGE ITOE: I gave you food for thought. Go ahead. Go
16:21:34 15 ahead.

16 MR TOURAY:

17 Q. Now, it was the MILOBS who first told you about this
18 disarmament of these 10 people, 10 RUF combatants?

19 A. Yes, Your Honour.

16:21:57 20 Q. Then the initial fracas at the DDR camp was between the
21 MILOBS and the RUF, although your troops were around?

22 A. It was between the RUF and the UNAMSIL, Your Honour.

23 Q. The component of the UNAMSIL made up of the MILOBS?

24 A. They were working jointly.

16:22:15 25 Q. You don't want to answer the questions.

26 A. Your Honour, that question --

27 Q. No, it's okay. You want to answer it now?

28 A. No, I still stand by that. That was UNAMSIL component at
29 that particular time, because --

1 Q. I agree. I agree.

2 A. If you are claiming they had grudges with certain
3 components of the UNAMSIL, fine. But at that particular time,
4 when operating together, security being provided by KENBATT

16:23:03 5 troops, MILOBS doing documentation and DDR paying people, that
6 is --

7 Q. All right. Let me just clear that. Ganase, whom you were
8 alleged you were told was bundled into a vehicle, was a MILOB?

9 A. Yes, correct, Your Honour.

16:23:30 10 Q. Salahudin, whom the RUF were demanding to be released over
11 to them, was a MILOB?

12 A. Yes, Your Honour.

13 Q. Thank you. Now would you agree with me, if you would, that
14 disarming of the RUF combatants, of any RUF combatants, even
16:24:25 15 though willing, but without the consent of the RUF leadership,
16 was some sort of forceful disarmament?

17 A. I will not agree with you, Your Honour.

18 Q. Thank you, but that is my own view. I disagree with you.
19 That is my own case. But you would agree that the ideal

16:25:09 20 situation would have been having the consent of the RUF
21 authorities to disarm, even if a combatant was unwilling to
22 disarm. What about that?

23 JUDGE ITOE: Even if a combatant was willing?

24 MR TOURAY: Unwilling.

16:25:30 25 PRESIDING JUDGE: Unwilling. You are putting the adverse
26 scenario -- the contrary scenario.

27 MR TOURAY: Yes, that's right.

28 JUDGE ITOE: Put the question again, please.

29 MR TOURAY:

1 Q. So you accept the other side of it that if the RUF
2 authorities, the ideal situation would have been the RUF
3 authorities giving their consent to disarm even if an individual
4 combatant is unwilling to do so?

16:26:06 5 A. Yes, Your Honour, because the RUF would take upon
6 themselves to encourage their combatants to disarm.

7 Q. Exactly so. Thank you. So the orders you had from forces
8 headquarters did not make for -- did not conduce to the ideal
9 situation?

16:26:34 10 A. According to me, yes.

11 Q. Yes, of course. Quite an honest man. Now on the command
12 structure, you knew there was a leader of the RUF, Foday Sankoh?

13 A. Yes, I knew.

14 Q. And you knew he had a battlefield commander?

16:27:29 15 A. Yes, I do.

16 Q. And you also knew he had a battle group commander, in that
17 order?

18 A. Battle group commanders and battle group commander.

19 Q. Commander?

16:27:46 20 PRESIDING JUDGE: Battlefield commander and a battle group
21 commander.

22 THE WITNESS: Those terms --

23 MR TOURAY:

24 Q. Are very strange to you?

16:27:56 25 A. I couldn't get that structure, you know, whom battle force
26 commander, battle group commander was.

27 Q. You did not get that?

28 A. I don't get the meaning of those terms. But I knew Sankoh
29 had competent commanders there.

1 Q. Well, when you talk about the RUF high command, I am
2 putting it to you that those were the three main personalities
3 involved; the leader, the battlefield commander and battle group
4 commander?

16:28:41 5 A. I only know the personality, Your Honour.

6 Q. I don't want to confuse you but I will tell you that you
7 don't even know who the battle group commander was. Superman,
8 did you know him?

9 A. Superman?

16:28:52 10 Q. Yes.

11 A. The person who was nicknamed Superman?

12 Q. Yes.

13 A. I didn't meet him.

14 Q. But you heard of him?

16:29:02 15 A. That one had gone.

16 Q. I don't know whether it's that one.

17 A. I don't know. That name, as I understood it, belonged to
18 somebody who was not in the scene at that particular time.

19 Q. He was there in April up to May.

16:29:16 20 PRESIDING JUDGE: 2000?

21 MR TOURAY: 2000, yes.

22 PRESIDING JUDGE: There, meaning where?

23 MR TOURAY: In Makeni area.

24 THE WITNESS: Superman, I never came to meet a Superman
16:29:26 25 there.

26 MR TOURAY:

27 Q. You never knew he was even the third in command at the
28 time?

29 A. That Superman, I didn't know about him, Your Honour.

1 Q. So there are things you don't know?

2 A. And there are little that I know, Your Honour.

3 Q. Thank you. You spoke of a Jalloh, Colonel Jalloh who was
4 MP commander for Makeni Town. Did you say you met him?

16:29:59 5 A. Yeah, I met Jalloh. Colonel Jalloh, the way I understood
6 it, he was the military police commander.

7 Q. You did not meet AS Kallon who was the overall military
8 police commander - AS Kallon - in Makeni?

9 A. No, the person I met is only Morris.

16:30:27 10 Q. Morris was not a military police?

11 A. Morris Kallon. That one other I did not meet.

12 Q. You did not meet.

13 JUDGE ITOE: That's AS Kallon.

14 MR TOURAY: AS Kallon who was, in fact, the overall MP
16:30:42 15 commander.

16 PRESIDING JUDGE: In Makeni?

17 MR TOURAY: In Makeni, yes.

18 Q. And you met Kailondo, who was the commander on the ground
19 at Makeni, ground commander at Makeni?

16:31:15 20 A. Yes, I met that one.

21 MR TOURAY: Shall we, at this point, Your Honours?

22 PRESIDING JUDGE: That's a good time for you as well?

23 MR TOURAY: It is indeed.

24 PRESIDING JUDGE: Thank you very much. So the Court will
16:31:25 25 recess, thank you.

26 [Break taken at 4.30 p.m.]

27 [Upon resuming at 5.04 p.m.]

28 JUDGE ITOE: Mr Cammegh, it wasn't your turn yet. I
29 thought you were up to conduct your cross-examination. I thought

1 you were on your feet.

2 MR CAMMEGH: Sorry, are you talking to me, Your Honour? I
3 couldn't hear you.

4 JUDGE ITOE: I thought you were on your feet to commence
17:04:31 5 your cross-examination. So I said it's not your turn yet and I
6 don't think Mr Touray has finished yet.

7 MR CAMMEGH: No, I think Mr Touray's got plenty more
8 semi-precision questions.

9 JUDGE ITOE: And some commentaries as well.

17:04:49 10 MR TOURAY: As Your Honour pleases.

11 Q. Just to carry on from where we left off before the break,
12 Mr Witness, did you meet a man called Bai Bureh, Short Bai Bureh,
13 Colonel Bai Bureh?

14 A. I don't know that man.

17:05:22 15 Q. Bai Bureh?

16 A. I can't recall Bai Bureh, Your Honour.

17 Q. You did not know that he was the overall brigade commander
18 at Makeni?

19 A. No, I didn't know that.

17:05:47 20 Q. Did you meet a man called Dugbe who was the task force
21 commander in Makeni?

22 A. Dugbe.

23 Q. Dugbe.

24 A. No, don't recall that.

17:06:11 25 Q. You knew about the setting up of the OSM. That is, the
26 Organisation for the Survival of Mankind, an NGO set up by the
27 RUF to work together with other humanitarian agencies in Makeni?

28 A. Yes, I knew and I came across such an organisation.

29 Q. And did you meet a man called Gaskin who was heading that

1 organisation in Makeni?

2 A. Well, I don't remember his name, but I met somebody.

3 Q. Somebody.

4 A. Somebody from OSM.

17:07:25 5 Q. And you knew in particular they were responsible for issues
6 relating to Caritas and some of these other humanitarian agencies
7 working in Makeni?

8 A. That is what I understood, that they were concerned on that
9 issue.

17:07:55 10 Q. For the time you were in Makeni, over that period, you had
11 come to establish a great amount of confidence with the RUF
12 leadership and the combatants?

13 A. Yes, Your Honour, we had a good relationship in the
14 beginning.

17:08:35 15 Q. And you interacted with them, the commanders and the
16 combatants?

17 A. Very well.

18 Q. Very well. After 18th April you did not see Morris Kallon
19 again?

17:09:05 20 A. No, Your Honour, I don't remember seeing him.

21 Q. Don't remember seeing him.

22 A. No, wrong.

23 Q. Please, please, carry on.

24 A. On 20th I saw him.

17:09:33 25 Q. 20th April?

26 A. Yeah, 20th April.

27 Q. But after that you did not see him again?

28 A. After that I don't remember seeing him again.

29 Q. You don't remember seeing him. But you had met him before

1 that on some few occasions. That is, before 20th April you met
2 him on some few occasions, Magburaka and Makeni?
3 A. Yes, Your Honour.
4 Q. And your relationship was good?
17:10:36 5 A. Yes, Your Honour, we could discuss issues and talk to one
6 another.
7 Q. Because of this confidence-building, which you yourself say
8 you had succeeded in establishing with the RUF authorities, when
9 you heard the -- or got the report of Major Maroa about the
17:11:19 10 Ganase incident, you must have been surprised?
11 A. Why, Your Honour?
12 Q. No, I am just asking because you had already built that
13 confidence with them, you knew them, you interacted with him
14 Kallon. So when you heard that report from Major Maroa you must
17:11:44 15 have been surprised that Morris Kallon could have behaved that
16 way. Did it take you by surprise?
17 A. I was expecting that to happen.
18 Q. You expected it to happen. Why?
19 A. Because, as I said, before and you alluded to that --
17:12:11 20 Q. Because of the consequences of the disarmament -- first
21 disarmament for demobilisation?
22 A. Yes, I knew RUF -- I knew the stand of the RUF as at that
23 particular time.
24 Q. Thank you. Now, your mandate involved DDR. That is,
17:12:56 25 disarmament, demobilisation and reintegration. According to your
26 evidence you had two organs, more or less, to implement it in a
27 particular area. You had a reception centre and then you had a
28 DDR camp.
29 A. Yes, Your Honour.

1 Q. Which aspect of the DDR was supposed to take place at the
2 reception centre? Is it the disarmament, that is, the taking of
3 weapons and registering of weapons?
4 A. Yes, at the reception centre is where the combatants to be
17:13:51 5 disarmed were reporting to.
6 Q. And what happens there, their weapons are taken off from
7 them at that point?
8 A. Correct.
9 Q. And registered?
17:14:05 10 A. They were separated from their weapons and their
11 ammunition.
12 Q. So that is the disarmament aspect of it?
13 A. That is the aspect of it.
14 Q. What role did the MILOBS play in that particular exercise?
17:14:40 15 A. The MILOBS at the reception centre, they assist other
16 officials of NCDDR in perhaps recording what is happening.
17 Q. So more or less you say they work with the NCDDR?
18 A. Yes, while our troops also assist in setting up and
19 facilitating generally of what was happening.
17:15:43 20 Q. At the DDR camp itself now they're more or less released of
21 their military duties. Paid their dues and released off their
22 military duties?
23 A. The combatants, Your Honour?
24 Q. Yes.
17:16:03 25 A. Yes, the DDR camp is where now would be their new home if
26 they wished to stay. If they wished to stay that is where they
27 would stay.
28 Q. Am I right to say the demobilisation aspect takes place
29 there?

1 A. Yes.

2 Q. What role did the MILOBS play at the DDR camp?

3 A. Again, just as before, the monitoring aspect and seeing

4 what is happening, making report about it.

17:16:59 5 Q. The monetary aspect, paying their dues.

6 A. Say again?

7 Q. You say the monetary, monetary aspect.

8 PRESIDING JUDGE: Monitoring.

9 THE WITNESS: Monitoring.

17:17:31 10 MR TOURAY: Okay, monitoring aspect.

11 Q. From the reports you got from Major Maroa, where was the

12 fight? As you say, where was the fight? On 1st May 2000 where

13 did the fight take place? Was it at the reception centre or the

14 DDR?

17:17:55 15 A. At the DDR camp.

16 Q. DDR camp. So the incident you narrated about Kallon,

17 Morris Kallon, happened at the DDR camp, not at the reception

18 centre, because there is a distance of some few kilometres

19 between the two insofar as Makeni area is concerned?

17:18:26 20 A. Yeah, the incident in as far as shooting in the air is

21 concerned --

22 Q. Not the shooting. I am talking about the incident you

23 narrated about Morris Kallon grabbing Ganase.

24 A. Yes, Your Honour, that happened at the DDR camp.

17:19:45 25 Q. Let me just refer you to your evidence-in-chief in court of

26 29th March 2006. You don't have a copy?

27 MR TOURAY: The draft transcript for 29th March 2006.

28 PRESIDING JUDGE: What page are we talking about,

29 Mr Touray?

1 MR TOURAY: Your Honour, it's page 27.

2 Q. You have it now, Mr Witness?

3 A. Yes, I have, Your Honour.

4 Q. I want to refer you to lines 3 to 7?

17:21:45 5 A. Three?

6 Q. To 7, yes. Yes, 3 to 7.

7 JUDGE ITOE: Page what?

8 MR TOURAY: At page 27.

9 Q. At line 3:

17:22:04 10 "Q. Did you get to know or learn about what the call was

11 about?"

12 Line 4 --

13 PRESIDING JUDGE: Maybe you should have a few lines before

14 because now we are talking about a call and he does not know what

17:22:22 15 call we are talking about.

16 MR TOURAY: Let us start from --

17 JUDGE ITOE: On page 26?

18 MR TOURAY: 26. I think the preceding area was after

19 Major Maroa had completed his assignment; he went to you at

17:22:40 20 headquarters and then you patted him on the back, said, "Fine,

21 well done." And then within a short time a radio operator

22 called - that is line 28, line 29. "A radio operator called

23 Major Maroa, telling him that platoon commander at the DDR camp

24 wanted to talk to him, so he left me to go and attend to that

17:23:06 25 call."

26 Line 3:

27 "Q. Did you get to know or learn about the call or what

28 the call was about?

29 "A. Yes, I learnt about the call. The call was about the

1 platoon commander" -- sorry. "The call was about the
2 platoon commander was reporting that Colonel Gbao and RUF
3 combatants are at the reception centre. They are very
4 serious and they wanted their ten combatants and ten
17:23:37 5 rifles."
6 That is what you said.
7 A. Yes, I said.
8 Q. Now, going further down, line 8:
9 "Q. Did you do anything when you got this report?"
17:23:51 10 Line 9:
11 "A. Yes, I did. I told Major Maroa, 'That is your area of
12 responsibility. Proceed to DDR camp with additional
13 platoon and go and talk with Gbao. If they're not
14 satisfied, tell them to come over -- ask them to come over
17:24:09 15 to me, the commanding officer, and I will tell them what is
16 going on and we will discuss the issue.'"
17 Now, there is that distinction there. The report was about
18 something, these people were at the reception centre, and then
19 you were giving orders to go and talk to Gbao and others at the
17:24:31 20 DDR camp. So two different locations. I mean, I'm just -- that
21 is what you said in your evidence.
22 A. Just a minute, Your Honour.
23 Q. No, I'm just saying that was your evidence in court.
24 A. That the --
17:24:51 25 Q. The DDR location and the reception centre are two different
26 locations within the Makeni area?
27 A. Yes.
28 Q. Yes, that is all I want to know. If I may also refer you
29 to your proofing notes of 6th and 7th February 2006.

1 MR BANGURA: My Lords, we just missed that page reference.
2 MR TOURAY: It's 18116.
3 MR BANGURA: Thank you.
4 MR TOURAY:
17:26:20 5 Q. At page 18117, paragraph 9 -- are you there, Mr Witness?
6 A. I am there, Your Honour.
7 Q. It reads:
8 "On 1st May 2000 eight RUF combatants came to the Makeni
9 reception centre to disarm. The men had handed their
17:26:56 10 weapons secretly to MILOBS personnel at various places
11 before this date. I spoke against that practice which
12 could make the disarmament program suspicious."
13 You did say that to the Prosecution?
14 A. Yes.
17:27:22 15 Q. Yes, you did say so. Your battalion headquarter was how
16 many kilometres from the reception centre?
17 A. Roughly about seven also.
18 Q. About seven. And how far was it from the DDR camp?
19 A. Over 20 kilometres.
17:28:17 20 Q. Over 20. So between the reception centre and the DDR camp
21 is about 13 kilometres?
22 A. Yes, 13; 10 to 15.
23 Q. Ten to 15?
24 A. Yes.
17:28:47 25 MR TOURAY: Your Honours, I was going to go into some other
26 areas but looking at the time now --
27 PRESIDING JUDGE: You are suggesting it is a good time to
28 adjourn the proceedings?
29 MR TOURAY: Yes, I won't finish anyway.

1 PRESIDING JUDGE: That's okay. So we will adjourn to
2 tomorrow morning at 9.30.

3 MR TOURAY: As Your Honour pleases.

4 PRESIDING JUDGE: Thank you very much. Court is adjourned
17:29:17 5 to 9.30.

6 [Whereupon the hearing adjourned at 5.30 p.m.,
7 to be reconvened on Friday, the 31st day of
8 March 2006, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 99	21
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WITNESSES FOR THE PROSECUTION:

WITNESS: LEONARD NGONDI	2
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EXAMINED BY MR BANGURA	2
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CROSS-EXAMINED BY MR JORDASH	24
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