

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

TUESDAY, 04 APRIL 2006
9.45 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 Ms Sidney Thompson
For the Registry:	Ms Maureen Edmonds
For the Prosecution:	Mr Peter Harrison Mr Alain Werner Ms Shyamala Alagendra Mr Mark Wallbridge (Case Manager) Ms Amira Hudroge (intern)
For the Principal Defender:	NO APPEARANCE
For the accused Issa Sesay:	Mr Wayne Jordash
For the accused Morris Kallon:	Mr Charles Taku Mr Melron Nicol-Wilson
For the accused Augustine Gbao:	Mr Andreas O'Shea Mr John Cammegh

1 [RUF04APR06A-RK]
2 Tuesday, 04 April 2006
3 [Closed session]
4 [The accused present]
09:45:20 5 [Upon commencing at 9.45 a.m.]
6 WITNESS: TF1-168 [Continued]
7 PRESIDING JUDGE: Good morning, Mr Witness, and good
8 morning, Mr Cammegh.
9 MR CAMMEGH: Good morning, Your Honour.
09:47:19 10 THE WITNESS: Good morning.
11 PRESIDING JUDGE: Mr Cammegh, you're ready to resume the
12 cross-examination of this witness?
13 MR CAMMEGH: Yes, Your Honour.
14 PRESIDING JUDGE: You may proceed.
09:47:26 15 CROSS-EXAMINED BY MR CAMMEGH: [Continued]
16 Q. Mr Witness, it was in March of 1997, 17th March, I think,
17 that XXXXX announced -- on 17th March 1997 was it XXXXX who announced
18 on the BBC that Foday Sankoh had been removed from the leadership
19 of the RUF?
09:48:06 20 A. No.
21 Q. Do you know who did make that announcement?
22 A. I don't know.
23 Q. But was he effectively removed on 17th March nevertheless?
24 JUDGE ITOE: 17th March of what year, Mr Cammegh?
09:48:42 25 MR CAMMEGH: '97.
26 JUDGE ITOE: Thank you.
27 MR CAMMEGH:
28 Q. Was he removed?
29 A. Well, the way you are asking the question is difficult for

1 me to answer.

2 Q. Why is that?

3 A. On 17th March, after Corporal Sankoh was arrested in
4 Nigeria, the Ivorian government, through their Foreign Ministry
09:49:16 5 and the international community, summoned we, the members of the
6 external delegation, to a meeting.

7 Q. Forgive me, the question is quite simple. Was he removed?

8 A. Well, this is what I'm explaining and then you can decide
9 whether he was removed or not.

09:49:38 10 Q. Well, I wasn't there. That's why I'm asking you.

11 A. That's why I'm explaining, because I cannot tell whether he
12 was removed or not. But if you can patiently listen to my
13 explanation then maybe you can pick up something from there.

14 JUDGE ITOE: Mr Cammegh, let's be patient. Let's listen to
09:50:02 15 him.

16 PRESIDING JUDGE: Because you could be satisfied with his
17 answer. Unless he gives an explanation he cannot say yes or no.

18 MR CAMMEGH: That's a possibility, I suppose.

19 PRESIDING JUDGE: Go ahead, Mr Witness.

09:50:07 20 MR CAMMEGH:

21 Q. Please go ahead, Mr Witness.

22 A. Okay. So to the international community and the Ivorian
23 government it was an embarrassment for Corporal Sankoh to have
24 left Abidjan without even the knowledge of the Ivorian government
09:50:41 25 and being arrested in Nigeria. So they told us to prepare a
26 position paper wherein we have to sign and then this publication
27 will be circulated. Only after then our leader will be removed
28 and the conditions were in the document; we have to make sure
29 that the Abidjan Peace Accord is back on track. So the paper was

1 prepared and then it was XXXXX who signed the document for
2 authenticity. So to say XXXXX spoke to BBC, no, XXXXX didn't speak to
3 BBC. XXXXX signed the document for authenticity.

4 Q. By signing that document, were XXXXX claiming to be the new
09:52:04 5 interim leader of the RUF? Is that what XXXXX were doing?

6 A. No.

7 Q. So it wasn't implicit in XXXXX actions of signing the
8 document and providing that document for public attention -- it
9 wasn't implicit that XXXXX were claiming some sort of role of
09:52:28 10 authority?

11 A. XXXXX signed it because somebody from the external delegation
12 had to sign and XXXXX was appointed to sign for authenticity. After
13 that we spoke with our brothers in Kailahun District.

14 Q. I want to come on to that. But, first of all, wasn't this
09:52:46 15 press release that XXXXX signed simply a pronouncement --

16 JUDGE ITOE: Mr Cammegh, I'm a bit intrigued. What is this
17 that XXXXX signed? What is it that XXXXX really signed, the content of
18 that document which XXXXX signed for purposes of authenticity and as
19 a representative of the five members of the external delegation?

09:53:21 20 MR CAMMEGH:

21 Q. Can you answer that question, please, Mr Witness. What was
22 the document that XXXXX signed?

23 A. Just as I said, we were asked by the IC and the Ivorian
24 government to prepare an position paper.

09:53:38 25 Q. Yes, was that issued as a press release or not?

26 A. It was issued.

27 Q. As a press release or not?

28 A. Yes, we prepared a document and XXXXX signed and --

29 Q. Was it prepared as a press release or not?

1 A. It was prepared for the attention of the international
2 community.

3 Q. And was it issued for the attention of the international
4 community?

09:54:13 5 A. Yes.

6 Q. So is your answer: Yes, it was a press release? Is that
7 your answer? Let's move on. Let's move on.

8 A. If that is so, well, yes.

9 Q. Did this pronouncement that you signed in effect terminate
09:54:33 10 the leadership -- well, no. Did the pronouncement purport to
11 terminate the leadership of Foday Sankoh for the time being?

12 A. Yes.

13 Q. Right. In order that you could get a new leader to push
14 the peace forward?

09:54:49 15 A. You are right.

16 Q. Okay. Do you remember if another member of the committee,
17 Fayia Musa, made an announcement over the BBC?

18 A. I know Fayia.

19 Q. Yes, I am sure you do from the days on the committee, but
09:55:13 20 do you know --

21 PRESIDING JUDGE: What committee are we talking about?

22 THE WITNESS: The external delegation.

23 PRESIDING JUDGE: So what is the name? I don't recall that
24 name. Maybe...

09:55:24 25 MR CAMMEGH: Well, can we use the words, "external
26 delegation." We seem to have been interchanging names. Sorry, I
27 will try to stick to the words "external delegation."

28 Q. Fayia Musa was on the external delegation, wasn't he?

29 A. Yes.

1 Q. And you must have known him from there; is that correct?
2 A. I worked with him.
3 Q. And did he make an announcement over the BBC complaining
4 about Kamajor violation of the Abidjan Peace Accord?
09:55:57 5 A. Yes.
6 Q. Right.
7 JUDGE ITOE: Mr Cammegh, please, please.
8 MR CAMMEGH: Yes.
9 Q. You may or may not be able to help me with this, but I'm
09:56:19 10 suggesting that Mr Fayia Musa's pronouncement over the BBC was in
11 December of 1996?
12 A. Yes.
13 Q. Thank you. And can I suggest that that was shortly
14 followed by a further announcement by Gibril Massaquoi over the
09:56:46 15 BBC in January of '97? Do you remember that?
16 A. Yes.
17 Q. Do you recall that in that announcement Gibril Massaquoi
18 was complaining of attacks on RUF and civilians by Kamajor forces
19 in Giehun, Kailahun and other RUF-controlled areas?
09:57:28 20 A. Yes.
21 Q. Thank you. When you say that the pronouncement or the
22 press release that XXXXX authenticated --
23 JUDGE ITOE: In Giehun?
24 MR CAMMEGH: Giehun, Kailahun.
09:57:52 25 PRESIDING JUDGE: And other RUF areas.
26 MR CAMMEGH:
27 Q. Just so we can be precise about this, please, when you said
28 that the document that XXXXX authenticated with your signature was
29 issued for the attention of the international community, who do

1 you refer to in particular as a member of the -- or members of
2 the international community?

3 A. Well, at the time of the peace negotiations up to the time
4 of the signing of the accord we had moral guarantors for the
09:58:34 5 peace process, for the peace accord.

6 Q. Okay. Can you tell us who they were, if you remember?

7 A. The Ivorian government.

8 Q. Right.

9 A. The OAU.

09:58:46 10 Q. Yes.

11 A. The Commonwealth and the UN.

12 Q. Now, I think it's fair to say, isn't it, that the
13 combatants who Sam Bockarie was heading in eastern Sierra Leone,
14 the part of Sierra Leone controlled by the RUF, were particularly
09:59:13 15 unhappy about XXXXX pronouncement?

16 A. Yes.

17 Q. Do you agree?

18 A. Yes.

19 Q. I think their complaint with you was that you hadn't
09:59:25 20 consulted with them before issuing this document and that it was
21 a unilateral declaration by the external delegation; would you
22 agree?

23 A. Yes, I called them on the field radio. I talked with Sam
24 and then I explained our position. That, in fact, we were all
09:59:50 25 embarrassed. In the first place Corporal Sankoh left for Nigeria
26 without our knowledge and now he has been arrested and now we are
27 being called by the international community and Ivorian
28 government and they explained to us about the embarrassment they
29 too -- we are in and that what we should do now is to get a

1 leader, an interim leader that will move the peace process
2 forward. Only thereafter Corporal Sankoh will be removed from
3 detention in Nigeria to join the RUF. So it was in that light
4 that we prepared the coalition document which I signed. Then I
10:00:45 5 decided to call and talk with them so that we would meet at any
6 location and then for them to appoint or elect a new leader.

7 Q. Wasn't it Sam Bockarie who told you and your colleagues in
8 the external delegation -- having expressed his displeasure at
9 what had happened, did he tell you that everybody should meet and
10:01:22 10 decide on the leadership?

11 A. No, I asked -- we asked him to consult with the combatants
12 who the new leader should be, because it would be naive on
13 anybody's part for the external delegation to claim itself to be
14 a leader of a group of combatants of which he is not with them,
10:01:50 15 or he is not in control of them. So we, the external delegates,
16 we are not interested in leadership but we wanted a name so that
17 we submit it to the Ivorian government and members of the
18 international community. So it was at that point that he said --
19 in fact, he told me to give them two days. After two days we
10:02:14 20 talk again, then he said it was difficult for them to decide. We
21 should all meet and decide.

22 Q. Yes, thank you, XXXXX. To cut a long story short, the
23 meeting point was designated to be Nongoa in Guinea; is that
24 right?

10:02:35 25 A. Yes.

26 Q. It was at Nongoa that you were arrested; is that right?

27 A. No.

28 Q. Where were you arrested?

29 A. Across Nongoa, on the other side, on the Sierra Leone side.

1 Q. Across the river from Nongoa?

2 A. Yes.

3 Q. And you were incarcerated for 30 months, I think?

4 A. Yes.

10:02:48 5 Q. You were finally released in October of 1999?

6 A. Yes.

7 Q. After the signing of the Lome Peace Accord?

8 A. Yes.

9 Q. Would you agree it was Sankoh, or it was upon Sankoh's

10:03:04 10 orders that were kept alive during that period?

11 A. Say it again.

12 Q. It was on Sankoh's orders that you were kept alive during

13 that period, wasn't it?

14 A. I want to think so.

10:03:19 15 Q. Yes. It was Sankoh -- because you met him face to face,

16 didn't you, on your release in October 1999?

17 A. Yes.

18 Q. Sankoh forgave you. He made quite an issue of forgiveness,

19 didn't he?

10:03:39 20 A. Yes, in Buedu.

21 Q. What was the reason that you were given for your

22 incarceration, XXXXX?

23 A. Well, what we were told was that we had betrayed the

24 movement and also we had sold Corporal Sankoh to the

10:04:17 25 international community and Nigeria.

26 Q. Is that in fact actually very far from the truth?

27 A. It's not correct at all.

28 Q. You weren't after Sankoh's job, were you?

29 A. Who? I?

1 Q. Yes.

2 A. Not at all.

3 Q. Are you sure about that?

4 A. Otherwise I wouldn't have gone to Nongoa and beyond in
10:04:42 5 search of a new leader.

6 Q. But you had to do that, didn't you, because you knew that
7 you'd aroused the anger of the RUF combatants in Kailahun and
8 that at some point you would have to try to placate them, if only
9 to ensure your safety, so you would have to go to Nongoa.

10:05:02 10 A. Safety from whom?

11 Q. From people like Sam Bockarie, who you'd made very angry.

12 A. We were not together. Sam Bockarie had no influence over
13 me. I was in Abidjan. We went there in the interests of the RUF
14 so that they could tell us who the new leader was, then we would
10:05:23 15 come back to Abidjan to declare the new leader to the
16 international community. I was not under charge from
17 Sam Bockarie from Ivory Coast.

18 Q. Did you have a grudge against Foday Sankoh by the time you
19 were released in October of 1999?

10:05:41 20 A. No.

21 Q. You didn't?

22 A. No.

23 Q. Did you have a grudge against Foday Sankoh by the second
24 half of 2000 when disarmament was well under way?

10:05:53 25 A. The second half of 2000? You mean the year 2000?

26 Q. Yes.

27 A. The year 2000 I was not even in Sierra Leone. I was still
28 in Ivory Coast.

29 Q. That may well be so, but did you have a grudge against

1 Foday Sankoh about that time?

2 A. Not at all.

3 Q. Did you have a grudge against Foday Sankoh when you wrote

4 that book, an excerpt of which I read out yesterday?

10:06:20 5 A. Why should I have a grudge against Foday Sankoh?

6 Q. Well, a neutral who'd heard that invective, that series of

7 words you used to describe Foday Sankoh that I read out yesterday

8 that you wrote this 2001, might have thought that he was not

9 someone you approved of very much.

10:06:42 10 A. It is not a matter of approval, but it was a matter of

11 reality.

12 Q. Are you actually, XXXXX, something of an opportunist?

13 Are you a man who likes to take advantage of the situation of the

14 day?

10:07:09 15 A. Not at all.

16 Q. Why was it that you wrote that pamphlet in 2001? Were you

17 trying to impress anybody?

18 A. No.

19 Q. Were you trying to impress the elected government of Sierra

10:07:32 20 Leone?

21 A. No.

22 Q. Do you work for the Minister of Work at the moment? Are

23 you employed by the Minister of Work?

24 A. No.

10:07:42 25 Q. Who is your employer?

26 A. XXXXX XXXXX XXXXX XXXXX.

27 Q. So it's a XXXXX XXXXX?

28 A. It is a parastatal.

29 Q. Have you worked for the Sierra Leone Road Authority or

1 companies owned by the Sierra Leonean government since 2001,
2 since the end of the war?

3 A. Yes, since 2001.

4 Q. So it suits your purpose, doesn't it, to distance yourself
10:08:12 5 in anything to do with RUF operations during the war, doesn't it?

6 A. No.

7 Q. No?

8 A. No. Immediately after our release in 1999, we declared
9 ourselves no longer member of the RUF. So from 1999 we never
10:08:47 10 participate d in RUF activities.

11 Q. That may be so, but you made that proclamation after the
12 Lome Peace Accord, didn't you?

13 A. Yes, after my release.

14 Q. Yes, effectively after the war was officially over, as far
10:09:08 15 as everyone was concerned at that time; would you agree?

16 A. After the Lome Peace Accord.

17 Q. Alright, I just want to change the subject and I'll come to
18 your motives later on. Can I ask you about Augustine Gbao now?
19 You had the impression, didn't you, in 1997 going into 1998 that
10:09:30 20 he had fallen out with Issa Sesay and Sam Bockarie?

21 A. That he fell out with Issa and Sam Bockarie?

22 Q. Yes.

23 A. I didn't know. By that time I was in detention. I didn't
24 hear about it and even when I met him in Kailahun in December,
10:09:53 25 January and February -- December 1997, January 1998 and February
26 1998, he never told me anything like that.

27 Q. All right. I wonder if you could be provided, please, with
28 your book of statements. It is the 11 April 2003 statement and I
29 hope attached - it's the interview, to be precise - to that I

1 hope there will be the additional notes of 4 February of this
2 year, and something headed document, which I believe is undated.
3 It is the appendix. In short, I'm asking for you to be given
4 pages 17508 through to 17691. XXXXX, have you been shown
10:11:09 5 this document while you've been giving evidence in the Court so
6 far?

7 PRESIDING JUDGE: You mean in court?

8 MR CAMMEGH: Yes.

9 THE WITNESS: Say it again.

10:11:15 10 MR CAMMEGH:

11 Q. You haven't been given this document while you've been in
12 this courtroom, have you? Is this the first time you've been
13 shown this document?

14 A. No, you showed me yesterday.

10:11:26 15 Q. No, this is a different one. Don't worry, we'll --

16 PRESIDING JUDGE: It is because you used the word "book".

17 MR CAMMEGH:

18 Q. All right. Can I just --

19 A. Which page were you referring?

10:11:38 20 Q. If you would go to the first page.

21 A. It is first page?

22 Q. Yes, please?

23 A. 1750?

24 PRESIDING JUDGE: 17508.

10:11:50 25 MR CAMMEGH:

26 Q. Now, XXXXX, is it right, or can you confirm, please,
27 that on Friday, 11 April 2003 you were interviewed by a lady
28 called Corinne Dufka, who was an investigator with the Special
29 Court?

1 PRESIDING JUDGE: That he has testified to that.

2 MR CAMMEGH: Yes, with a lady called Nancy. Yes.

3 PRESIDING JUDGE: Mr Jordash went over that.

4 MR CAMMEGH: I remember that.

10:12:16 5 PRESIDING JUDGE: He was not shown the statement but we

6 went through this procedure. I'm not sure about the details

7 about that.

8 MR CAMMEGH: Hopefully just one question will do it.

9 Q. XXXXX, do you accept that this is a transcript of that

10:12:34 10 interview? It is 175 pages long.

11 A. I cannot go through all of it now, but I want to think so.

12 Q. Okay. Would you kindly turn to page 17683? It is almost

13 at the back, 17683.

14 PRESIDING JUDGE: Mr Cammegh, 17683 is additional to. It

10:13:06 15 is not the interview, per se.

16 MR CAMMEGH: This is the briefing.

17 PRESIDING JUDGE: Yes, but we haven't been through that.

18 MR CAMMEGH: We haven't. Right, I will go through that

19 properly.

10:13:16 20 Q. Top right-hand corner, 17683. Do you have that?

21 A. Yes.

22 Q. Thank you. Can you confirm that on 14 and 21 January, and

23 then again on 4 February of this year you met an officer of the

24 Prosecution again and further details were taken from you. If

10:13:52 25 you run through the next three pages, you will see a

26 nine-paragraph document which comprises additional information

27 that you've given. Do you agree with that? I would ask you not

28 to read it all. If you can just confirm that that event took

29 place?

1 A. Which one you mean?

2 Q. Well, as I've just asked you, did you speak to the
3 Prosecution on 14th and 21st January and then again on 4th
4 February of this year and give them additional information?

10:14:47 5 A. Yes.

6 Q. Can you now turn to page 17629. You can stop reading that,
7 please, Mr Witness. Can you turn to page 17629? No need to read
8 it, I'm just going to ask you some questions first and I might
9 ask you to look at that document. No, Mr Witness, can you go to

10:15:28 10 17629, please, and close the book?

11 A. Because I may be tempted to look there, that's why.

12 Q. Yes. If you would just leave it open at that page that
13 would be fine.

14 PRESIDING JUDGE: I would like to know what you are
10:15:37 15 attempting to do now. You are giving the statement, you say
16 don't look at it.

17 MR CAMMEGH: I might need to refer to it, Your Honour.
18 It's just for ease of reference. Your Honour, the witness gave
19 me the district impression just then that a previous inconsistent
10:15:56 20 statement might be --

21 PRESIDING JUDGE: Okay. That's why I'm asking. So if that
22 is what you are leading to, that's fine.

23 MR CAMMEGH: It may be, yes.

24 PRESIDING JUDGE: Because otherwise he would be entitled to
10:16:03 25 read it and only after that you can ask for clarification if need
26 be. The problem is you're trying to move in between the two.

27 MR CAMMEGH: I'm just trying to set us up because I can
28 assure Your Honour there will be plenty of those items appearing
29 in the next hour.

1 PRESIDING JUDGE: That's okay. I'm just trying to
2 understand where you are going with this, that's all.

3 MR CAMMEGH:

4 Q. Now, XXXXX, when you were in your cell in Kailahun, so
10:16:32 5 we're going to February of 1998 now; okay? Were you made aware
6 of any difficulties that Augustine Gbao was having with the RUF
7 leadership?

8 A. The only thing I noticed was that after the June -- the May
9 25 coup 1997, the RUF was invited by the AFRC to join them in
10:17:13 10 government and, from what I observed, most of the Vanguard's went
11 to Freetown and the other big cities. Augustine Gbao was one of
12 the few Vanguard's that remained behind.

13 Q. Were you told why he left -- he remained behind?

14 A. I never asked him and he didn't tell me why.

10:17:40 15 Q. Did anybody inform you as to why Augustine Gbao had
16 apparently remained behind?

17 A. I can't remember. All I know, he didn't go to Freetown.
18 In fact, he didn't even go to Kenema.

19 Q. Can I say I accept that answer.

10:18:08 20 A. That was a personal observation I made.

21 Q. Okay. Was it because Augustine Gbao resented the idea that
22 this so-called marriage between the AFRC and the RUF resulted in
23 a lot of RUF travelling to Freetown for purely selfish reasons to
24 make a personal fortune? Did you hear anything like that?

10:18:56 25 A. No, I didn't hear that, but what I know about Augustine
26 Gbao, he's a man of modest character and he is not somebody that
27 was going in for riches. You see, I know him from that. From
28 the inception of the war I didn't observe him accumulating
29 property or wealth or money.

1 Q. All right. Well, just to clarify this, can you open up
2 page 17629, please, and I just want to remind you of what you
3 said.

4 A. Page?

10:19:34 5 Q. 17629. Have you got that? Let's first of all go to line
6 3. You are asked there about an internal problem with the RUF.
7 You're being asked about Gbao here. Your answer at line 4, "The
8 only thing I knew was at that time he was being marginalised by
9 the RUF."

10:20:10 10 PRESIDING JUDGE: Again, Mr Cammegh, if this is what you
11 are going to do now, I think you should allow him to -- I haven't
12 read the pages before either, but I can see that there there is a
13 direct reference to Gbao, as such, but if I look at the page
14 before, it is just because -- if you are focusing too much on a
10:20:33 15 few lines in there, it may be out of context, but it may not.

16 MR CAMMEGH: I was just trying to speed things up a bit.
17 If the Court would just take my word for it that Gbao --

18 PRESIDING JUDGE: I know, if I look at the previous page he
19 talks of Gbao.

10:20:52 20 MR CAMMEGH: I'm in Your Honour's hands.

21 PRESIDING JUDGE: It is not for the Court. It is simply
22 because the witness may be confused, but we'll see. Let's see
23 how the witness reacts to that.

24 MR CAMMEGH: I will do my best to avoid any confusion.

10:21:06 25 Q. XXXXX, can you just look down the page, please. You
26 are asked at line 23 -- this is just to refresh your memory, all
27 right, I'm not criticising you here.

28 You were asked, "Why had he fallen out with Issa and
29 Mosquito?"

1 Your answer was, "Well, he say people regarded that
2 marriage between AFRC and RUF as something that when you go
3 there, you're going to make your own fortune." And then over the
4 page, "That was the notion all of them had."

10:21:53 5 At line 8, do you see this answer:
6 "So you would be entitled to vehicles or you would be
7 entitled to all the incentives, but if you stay in the bush
8 you are just there. They dump you there, forget about. So
9 Augustine and Prince Taylor, they were the only two that
10:22:16 10 remained in Kailahun, you see. So more or less they
11 regarded themselves as being marginalised by the entire
12 leadership."

13 "So they felt resentful?" was the question.

14 At line 15 your answer is, "Yes."

10:22:25 15 Is that a fair summary of Augustine Gbao's attitude to the
16 movement towards Freetown in May of 1997?

17 A. Yes, that is just what I said.

18 Q. Right. Can we finally move on to the events of February
19 19?

10:22:57 20 A. Should I close the book?

21 Q. Yes, but I'm going to need to refer to other pages,
22 XXXXX. I just want to move on now to the events of February
23 19, 1998, which was the day on which you said the massacre of
24 the, I think you said, 64 people took place in Kailahun Town.

10:23:30 25 Can I start with the command structure. Perhaps you can confirm
26 one or two names and positions for me. I think it is correct,
27 isn't it, that the local commander for Kailahun Town was Joe
28 Fatoma; is that right?

29 A. Which other commander you mean?

1 Q. Was Joe Fatoma, the local MP commander for Kailahun Town?
2 A. He was the MP Commander for Kailahun Town.
3 Q. Was his immediate superior a man called John Duawo? You've
4 referred to him already. D-U-A-W-O. Was John Duawo the district
10:24:41 5 commander; that is to say, the commander of the MP in Kailahun
6 District?
7 A. Yes.
8 Q. And returning to yesterday, the question I started with,
9 I'm suggesting to you that the overall MP commander by February
10:25:04 10 of 1998 was a man called Kaisuku; would you now agree with that?
11 A. I didn't know that.
12 Q. Who do you say in February of 1998 was the overall MP
13 commander?
14 A. To the best of my knowledge, I thought it was
10:25:36 15 Augustine Gbao.
16 Q. Okay. Now when you say the words "To the best of my
17 knowledge I thought it was Augustine Gbao" is that because, in
18 all honesty, XXXXX, you really can't be sure?
19 A. Well, it is because up to this morning, I had -- I thought
10:26:06 20 it was Gbao, but you are telling me somebody else. So that's why
21 I said from what I felt.
22 Q. It was from what you felt?
23 A. Yes.
24 Q. What was it that made you feel that?
10:26:24 25 A. During our detention we were moved from one place to
26 another under the MP leadership. So while we were moved from
27 Buedu to Kailahun, we were sent directly under the leadership of
28 Augustine Gbao.
29 Q. Yes. That may or may not be right, but that doesn't in

1 itself provide the presumption that he must have been the overall
2 MP commander, does it?
3 A. Well, being that Joe Fatoma was the Kailahun Town MP
4 commander and the John Duawo the district MP commander, and for
10:27:35 5 the fact that Augustine was a Vanguard and he's senior to all of
6 them, so that was why I came to that conclusion that he might
7 have been the overall MP commander.

8 Q. Right. So you came to a conclusion that he might have been
9 overall MP commander?

10:28:01 10 A. Yes.

11 Q. It wasn't something that anybody told you?

12 A. No, no, no.

13 Q. It was based on your own presumptions?

14 A. Yes.

10:28:10 15 Q. All right. Well, if that's your position, then I can leave
16 it there. As I've said, I suggest -- I think his real name as
17 Kaisamba, but he had a nickname Kaisuku -- was overall boss. Can
18 I, for completion, make one other suggestion and see if this jogs
19 your memory. Was Tom Sandy transferred from a training base and
10:28:38 20 made the MP commander for Buedu replacing a man called -- is it
21 Myers [phon] around 1997, 1998?

22 A. At the time of our detention while we were at Buedu,
23 Kaisamba, commonly known as Kaisuku, was a commander there and
24 then later Tom Sandy was brought in as his deputy. That was what
10:29:12 25 I knew.

26 PRESIDING JUDGE: In Buedu?

27 THE WITNESS: In Buedu, yes.

28 PRESIDING JUDGE: While you are detained in Buedu, that is
29 what you recall?

1 THE WITNESS: Yes.

2 PRESIDING JUDGE: Kaisuku was the MP commander at Buedu?

3 THE WITNESS: Yes.

4 PRESIDING JUDGE: And Sandy was his deputy?

10:29:29 5 THE WITNESS: His deputy.

6 MR CAMMEGH:

7 Q. What I'm going to suggest is not a million miles away from

8 that, but what I am going to suggest is this: I know that

9 yesterday and today you told us that you thought Kaisuku was MP

10:29:41 10 boss in Buedu. What I'm suggesting is this: Kaisuku was overall

11 boss. He was based in Buedu at all times, because he always

12 moved with Sam Bockarie, but it was Tom Sandy who was the local

13 boss on the ground for Buedu. Now, could that be right, do you

14 think?

10:30:05 15 A. One thing I want you to understand, during our detention we

16 only moved from one place to another and then we see commanders

17 taking care of us. So in Buedu, Kaisuku was the commander that I

18 knew and Tom Sandy was his deputy. At that time RUF activities

19 were no longer revealed to us to say we have made so-so

10:30:43 20 promotion, we have done this, we have done this, no. We were

21 already condemned to death, so nobody considered us anybody again

22 within the RUF.

23 Q. Okay. Well, referring to your answer concerning Mr Gbao, I

24 will accept what you say and I will move on to the next subject.

10:31:08 25 MR CAMMEGH: Your Honours, I'm sorry I should have alerted

26 you before this hearing. Can I please refer Your Honours to the

27 transcript and I can tell you exactly which pages I'm going to

28 refer to. This comes from the transcript of -- I'm quite sure it

29 is the 31st of March. And again I'm working from the draft so I

1 have to add one to the figures. The pages I'm referring to, Your
2 Honours, are pages 64, 67, 71 and 73.

3 PRESIDING JUDGE: What is the first page?

4 MR CAMMEGH: 64, 67, 71 and 73.

10:32:15 5 PRESIDING JUDGE: You have page 64?

6 MR CAMMEGH: Yes. The first line I have is: "Taking them
7 in either fours or fives."

8 PRESIDING JUDGE: So this is the transcript of 31 March.

9 MR CAMMEGH: Yes.

10:32:41 10 Q. You were interviewed by Ms Dufka on 11 April 2003, almost
11 exactly three years ago. Did you have a pretty good recollection
12 of what had happened when you spoke to Ms Dufka?

13 A. What has happened where?

14 Q. I'm sorry in Kailahun.

10:33:20 15 A. Well, these were not things that I had books to record,
16 because I was in detention. What I could remember at a
17 particular time and she didn't get me prepared for any interview.
18 At that time I was, in fact, in Bo. I was invited to come here,
19 which I did and we were just sitting and talking not knowing that
10:33:55 20 they were taking or recording.

21 Q. Well, you did know that they were recording, didn't you?

22 A. Yes, I knew they were recording.

23 Q. Yes, so let's not stray from the truth on that. There were
24 several breaks during that 175 page interview, weren't there,
10:34:13 25 when the machine was switched off. There was one occasion I
26 remember when you went off to have something to eat. Do you
27 remember that?

28 A. Yes.

29 Q. Right. So let's try and be precise about what happened and

1 what didn't happen. Now, were you aware when that interview took
2 place? And think hard about this, please, were you aware whether
3 Augustine Gbao had been arrested by then?

4 A. By the Special Court?

10:34:39 5 Q. Yeah, by 11 April, the day you were interviewed by Corinne
6 Dufka, did you know whether or not Augustine Gbao had been
7 arrested?

8 A. That was 2003.

9 Q. Your interview was 2003, 10 April.

10:35:07 10 A. I read in the paper that Issa, Morris and Augustine were
11 arrested.

12 Q. But the important thing is -- I'm going to ask you to think
13 hard and if you don't honestly know the answer to this question,
14 then just say so. It is quite all right. But my question is

10:35:24 15 this: When you were interviewed on that day, did you know
16 whether or not -- well, in your mind had Augustine Gbao been
17 arrested or not?

18 A. I think they were arrested before that time.

19 PRESIDING JUDGE: And you knew about it.

10:35:49 20 THE WITNESS: Yes, I knew about it.

21 Q. Can you be sure that you knew Augustine Gbao had been
22 arrested before that interview? Did Corinne Dufka tell you
23 whether he had been arrested or not?

24 A. No. Well, we had been reading through the newspaper, the
10:36:13 25 news media that three RUF people were arrested.

26 Q. Well, I'm not sure if Sankoh was still alive then or not,
27 but he had been arrested, hadn't he?

28 A. Yes, I heard of Sankoh, then there were plans to get
29 Mosquito, but unfortunately I learned that he died in Liberia,

1 something like that.

2 Q. Well, look, I'm not trying to be unfair on you and I just
3 want you to do the best you can. I'm going to move on from this
4 in a moment.

10:36:57 5 A. I cannot really remember. The ones that were in prominence
6 were Sankoh, Sam Bockarie and then Issa.

7 Q. Augustine Gbao was the last one to be arrested and he was
8 arrested sometime after?

9 A. Yeah, this is what I'm saying. I said the ones that were
10:37:17 10 in prominence that I knew of were these three that I called.

11 PRESIDING JUDGE: Sankoh, Bockarie and Sesay?

12 THE WITNESS: Yes, Pa Sankoh, Sam Bockarie and Issa Sesay.
13 I cannot recall at that time whether Augustine Gbao was arrested
14 or not.

10:37:38 15 MR CAMMEGH:

16 Q. Again, I'm not going to be unfair on you, if you do not
17 know the answer, say so. Is it possible that when you spoke to
18 Corinne Dufka on 11 April 2003 you had no idea that Gbao was
19 under arrest? Is that possible?

10:37:52 20 A. I didn't know. I didn't really know.

21 Q. You didn't really know?

22 PRESIDING JUDGE: He just told you. He could not recall.

23 MR CAMMEGH:

24 Q. Thank you. Now, you were asked about Gbao's involvement --
10:38:08 25 well, to be precise you were asked about how the shooting in
26 Kailahun took place.

27 PRESIDING JUDGE: What are you making reference to now?
28 The transcript?

29 MR CAMMEGH: I'm now on to the transcript at page 63 and I

1 don't know whether it would be proper for the witness to be a
2 given a copy of this.

3 PRESIDING JUDGE: If that is what you want to do. It is up
4 to you.

10:38:36 5 MR CAMMEGH: I think to be fair to XXXXX it would be
6 best if he was given pages 64, 67, 71 and 73.

7 PRESIDING JUDGE: It would appear that the Prosecutor has
8 copies of it.

9 MR HARRISON: For the convenience of the Prosecution, can I
10:38:57 10 simply hand 40 to 97?

11 MR CAMMEGH: Yes, of course. Is that the final copy or the
12 draft?

13 MR HARRISON: Final.

14 MR CAMMEGH: Thank you.

10:39:10 15 Q. Now, XXXXX what I would like you to do, please, the top
16 right hand corner you see the page number. Can you turn to page
17 64.

18 A. Yeah.

19 Q. Now, can you go to line 18. Immediately prior to that
10:39:33 20 there is some discussion over Colonel Augustine Gbao's position,
21 but we do not need to go into that in view of your recent
22 answers? Let's go to line 18.

23 PRESIDING JUDGE: For your information, Mr Witness, so you
24 understand, this is a transcript of what you have said in court
10:39:49 25 on Friday. This is what you are reading now.

26 THE WITNESS: Yes.

27 MR CAMMEGH:

28 Q. In fact, at 17 you were asked "What is that you saw or
29 heard happen?" They're talking about the Kailahun massacre.

1 Your answer was this:

2 "Well, at the time that John Duawo came, he said CO has
3 some and he has told CO Mosquito, who is General Sam
4 Bockarie who has come from Buedu with his senior officers
10:40:26 5 and has told CO Augustine for us to get ten men to him at
6 the roundabout.

7 "Q. You have just said CO Augustine. Who are you talking
8 about?

9 "A. Augustine Gbao.

10:40:42 10 "Q. Please continue.

11 "A. So that was the first instance I was seeing Gbao. I
12 did not see him on the site, but John Duawo I saw him and
13 he came with a message that it was Augustine Gbao that
14 passed a message through" -- I think that should say "CDS,"
10:41:08 15 chief of defence staff -- "that is General Sam Bockarie, so
16 after that the other detainees that they were taking out,
17 they didn't take them to -- the MP boys didn't take them
18 again to the roundabout. Instead I saw them shooting at
19 them right just by the MP."

10:41:31 20 Now, it appears that what you are saying here, XXXXX,
21 is that it was Gbao who issued the order to John Duawo to get ten
22 people to shoot the civilians. Is that what you meant?

23 A. Yes, if we look at line 20, it says, "CO Mosquito came from
24 Buedu with his senior officers and he has told CO Augustine" -
10:42:23 25 that is Augustine Gbao - "for us to get 10 men to him at the
26 roundabout." So the command definitely came from the CDS.

27 PRESIDING JUDGE: Which is Bockarie.

28 THE WITNESS: Bockarie, yes, but during the line of command
29 it was passed.

1 MR CAMMEGH:

2 Q. So Gbao was part of that immediate command chain. Gbao
3 told Duawo to get ten men to kill the suspected Kamajors; is that
4 right?

10:43:03 5 A. No.

6 Q. Then what exactly are you --

7 A. Gbao told Duawo, get ten men to come to the roundabout, CO
8 Mosquito or Sam Bockarie wants to see them.

9 Q. Okay. Would you know please -- I want to establish what
10:43:20 10 exactly it is that you say Gbao did. Can we now turn to page 71.
11 Can we start at line 7 and do you see this, this is you speaking
12 and I think the is context is plain.

13 "To be fair enough, because I asked whether General Issa
14 was in Buedu at that time, I was told he was at Kono. So
10:44:16 15 he wasn't there. Also Colonel Morris Kallon too was not
16 there. They were in Kono at that point in time. Only
17 Colonel Gbao was in Kailahun and the information was passed
18 from General Mosquito through Colonel Gbao to his
19 subordinates along the MP line for these executions to be
10:44:41 20 carried out."

21 So there it appears to be quite plain that it was Gbao not
22 only being part of a command chain but having knowledge that
23 executions were going to be carried out; is that correct?

24 A. Yeah. In the sense initially General Sam Bockarie asked
10:45:07 25 for ten men and when these ten men arrived, they were executed.
26 Then later he said the order is to shoot them to be executed but
27 don't bring them to the roundabout, so the command was passed
28 through the chain, the line -- the chain of command.

29 Q. Can I just be certain of what you meant in that answer on

1 page 71. Did you mean that when Augustine Gbao issued his
2 orders, he did so in full knowledge that the intention was to
3 kill those civilians?

4 A. Well, initially I cannot deduce his intention because even
10:45:59 5 when John Duawo came to the police station all he said was, "I
6 want ten men to go with me to the roundabout, General Mosquito
7 wants to see them." I had earlier said that that day news
8 filtered into the prison cells that those people, that General
9 Mosquito and his senior officers were having a meeting in Buedu
10:46:32 10 and that they were coming to free them that day. So, in fact,
11 when they were selecting ten, the prisoners felt that only that
12 ten were going to be freed, so a lot of them volunteered and John
13 even returned one, and included Charles Kaiyoko.

14 Q. I will come to the volunteers later on. Can we just focus,
10:46:58 15 please, on the transcript?

16 A. I cannot say he had prior knowledge of the execution, not
17 until when we heard the gunshots, then we were told by the MPs
18 that those ten people had been executed.

19 Q. What exactly do you mean then? If you go back to line 11
10:47:17 20 on page 71, because it appears here that you were indicating last
21 Friday that Colonel Gbao did know what was going to happen to
22 them when you said at line 11:

23 "Only Colonel Gbao was in Kailahun and the information was
24 passed from General Mosquito through Colonel Gbao to his
10:47:37 25 subordinates along the MP line for these executions to be
26 carried out."

27 I mean, it is obvious there, isn't it, that what you were
28 saying last Friday was that Gbao passed orders down the line for
29 these executions to be carried out?

1 A. He received orders and then passed them.

2 Q. Orders for what?

3 A. For the executions, because apart from the first ten the
4 remaining were not called to the roundabout but that they were to
10:48:16 5 be executed by the police station or in the police station
6 compound.

7 Q. If go to page 73, you appear to make comments to the same
8 effect. Can you go to line 10. You say this in answer to the
9 question, "who detained them?" You are talking about the
10:48:48 10 returnees, the 64 or 67 civilians here. You say:

11 "They were detained at the MP. It was the MPs. But at the
12 MP we had a district MP commander who was second in
13 command, that is John Duawo, and the overall MP commander,
14 Colonel Augustine Gbao" - we've discussed that issue
10:49:12 15 already - "who was the number one man in Kailahun."

16 Was he the number one man in Kailahun on the day those men
17 were killed?

18 A. No. Sam Bockarie has already come there. Sam Bockarie was
19 number one.

10:49:30 20 Q. Then you say this. "So one can reasonably conclude that
21 the command came from the top." Then His Honour Justice Itoe
22 asks the question rhetorically: "How can you conclude? How do
23 you want to conclude? One can reasonably conclude what?" I
24 won't read the rest of that. Isn't this the case that you are
10:49:58 25 jumping to conclusions when you say that Augustine Gbao passed
26 the order down the line knowing the executions were intended on
27 page 67?

28 PRESIDING JUDGE: The witness is making the difference
29 between two scenarios. Witness is clearly in support of what you

1 are proposing for the first group of ten. He agrees with your
2 proposal.

3 MR CAMMEGH: I'm asking the question in a general way and I
4 didn't make that clear.

10:50:31 5 PRESIDING JUDGE: Yes, that is why we're going to get into
6 this circle.

7 MR CAMMEGH: I will be more careful with my language, Your
8 Honour. I'm sorry.

9 Q. XXXXX, when you were giving evidence about what
10:50:42 10 happened in Kailahun last week, do you think you might have been
11 making presumptions about Augustine Gbao's involvement, that you
12 could not be sure about?

13 A. No, I don't think so.

14 Q. Okay. Now, to be fair to you I'm going to ask you, please,
10:51:12 15 to go to your additional proofing notes. I want you to turn to
16 page 17683?

17 A. 17 --

18 Q. 17683?

19 PRESIDING JUDGE: On these proofing notes, if I may invite
10:51:29 20 you, Mr Cammegh, to maybe establish a bit more foundation. We
21 knew there might have been, but how, when, who, I mean, there is
22 little information on the transcript as to what it is.

23 MR CAMMEGH: I will.

24 Q. Well, just over a month ago were you approached by someone
10:51:53 25 from the office of the Prosecution and was a request made to you
26 to speak a little bit more about the events that you discussed in
27 2003?

28 A. I didn't get you. Say it again.

29 Q. About a month ago, just over a month ago, did someone from

1 the Office of the Prosecution invite you to discuss the account
2 that you'd given in 2003 in a little bit more detail?

3 A. Yes.

4 Q. Can you remember who it was who interviewed you?

10:52:37 5 A. Yes, it was Peter Harrison.

6 Q. Can you remember where that took place?

7 A. Within the premises of the Special Court.

8 Q. Okay. I hope that suffices. Thank you.

9 Now, I want to remind you or invite you to refresh your
10:53:01 10 memory. I invite you to look at paragraph 5 because I want to be
11 fair to you, XXXXX, before we go into detail into what you
12 said in 2003.

13 PRESIDING JUDGE: Bear in mind that the note at the top,
14 the witness, it would appear, has not read the proofing notes or
10:53:20 15 it has not been read back to him until now.

16 MR CAMMEGH: I'm aware of that and I'm hopefully going to
17 deal with that at the same time.

18 PRESIDING JUDGE: Which paragraph?

19 MR CAMMEGH: Paragraph 5.

10:53:38 20 Q. Now, you told Mr Harrison this: "We were told" -- well, I
21 will put that question differently for a start. I'm going to
22 read this to you, XXXXX, and perhaps you could confirm
23 whether or not you said actually these words or you gave this
24 information to Mr Harrison before I ask you about it. Did you
10:54:06 25 say:

26 "We were told that the RUF High Command had a meeting in
27 Buedu about the 65 civilians detained with us at Kailahun
28 who were said to be Kamajors. We were told that Gbao was
29 at the meeting and that it was decided to kill them. We

1 were told that Bockarie had come to Kailahun Town and
2 passed the command to Augustine Gbao to kill these people."
3 Do you remember telling the Mr Harrison all of that?
4 A. Yes.
10:54:40 5 Q. Right.
6 "Gbao was the senior commander in Kailahun Town and he was
7 involved in the investigation of the alleged Kamajors."
8 Did you tell him that?
9 A. Yes.
10:54:49 10 Q. "When John Duawo came to the cells to get the ten men who
11 were shot at the roundabout, he said that Charles, the SLA
12 boy, started this."
13 Do you recall telling Mr Harrison that?
14 A. Yes.
10:55:02 15 Q. Okay. "Finally we heard Duawo say that CO Augustine," who
16 is Gbao, "told Duawo to carry them out of the cells."
17 Did you tell Mr Harrison that?
18 A. Yes.
19 Q. Okay. Is any of that actually true?
10:55:18 20 A. Yes.
21 Q. Will you accept from me that that was the very first time
22 you gave any indication that Augustine Gbao had been directly
23 involved in that shooting?
24 A. Well, I don't know the legal implications, but from what I
10:55:45 25 know all what I said and is documented, the orders came from
26 General Sam Bockarie through to him and then down the line.
27 Q. Yes, but what you told Mr Harrison in February - or was it
28 January or February of this year? - in no uncertain terms
29 indicate that is Augustine Gbao was instrumental - my word, not

1 yours, I accept that - but to paraphrase what paragraph 5
2 contains, what you told Mr Harrison was that Augustine Gbao was
3 instrumental in their deaths. That is right, isn't it?
4 A. Where?
10:56:28 5 Q. Within paragraph 5?
6 A. Where?
7 Q. Well, I don't want to read it all out again, but you say,
8 for example, "Bockarie had come to Kailahun and passed the
9 command to Augustine Gbao to kill these people. Gbao was the
10:56:44 10 senior commander in Kailahun Town. We heard that Duawo say that
11 CO Augustine, who is Gbao, told Duawo to carry them out of the
12 cells." You are indicating there, aren't you, that Augustine
13 Gbao was instrumental, facilitated the murder of those people?
14 A. In any case, it was a chain of command.
10:57:10 15 Q. Can you just try and answer the question. I don't want to
16 be -- [overlapping speakers]
17 A. I don't know -- that. That word "instrumental" is very --
18 Q. I'm sorry, if you don't --
19 JUDGE ITOE: What of the word "involved"?
10:57:28 20 MR CAMMEGH:
21 Q. He was directly involved in their killing, that is what
22 you're saying to Mr Harrison, isn't it?
23 A. Well, if you can deduce from what I have said,
24 General Mosquito passed order to him, he in turn passed it to
10:57:44 25 John Duawo to get these men executed. Then if it means he was
26 instrumental, then okay.
27 PRESIDING JUDGE: Well, instrumental in the sense took part
28 in some ways.
29 THE WITNESS: Yes, the order came to him and he passed it

1 down the line.

2 Q. On 31 March, as I've just read to you, you made it quite
3 plain to this Court that it was Augustine Gbao who ordered
4 John Duawo to get the ten men to shoot the civilians. Your
10:58:19 5 evidence is or has been, hasn't it, to this Court that Gbao was
6 directly involved?

7 A. Down the line, yes.

8 Q. But let's leave out down the line?

9 A. But in military you have chain of command.

10:58:30 10 Q. I understand that, but your evidence has been that Gbao,
11 within the line, ordered Duawo to get ten men to shoot those
12 civilians?

13 PRESIDING JUDGE: That is not his evidence, Mr Cammegh. At
14 that stage he has said to you for the first ten men, that is why
10:58:51 15 I asked you to make those differences. He is saying Gbao ordered
16 them to be taken out of the cell to be brought to the roundabout.
17 After that, the other ones, this is a different scenario. This
18 is his evidence today and -- the transcript that you referred to
19 does not make clearly those distinctions. But when you asked the
10:59:14 20 witness this morning, he told you.

21 MR CAMMEGH: I think Your Honour is probably right, yes,
22 about that.

23 PRESIDING JUDGE: That is why I said to you, if you lump
24 them all together, you have this kind of confusion.

10:59:22 25 MR CAMMEGH: Your Honour, yes, I misquoted -- [overlapping
26 speakers]

27 JUDGE THOMPSON: Let me make this point: Ought we not in
28 this particular exercise to be making a distinction between what
29 he observed and what he told the Prosecution and what possible

1 inferences of fact in law can be drawn from, that is my own
2 perception of this. That if we push too far, we may be inviting
3 this witness to draw inferences which properly ought to be drawn
4 by the Tribunal.

11:00:01 5 MR CAMMEGH: Yes. What I am actually about to do is to go
6 chapter and verse through what XXXXX told Ms Dufka in April
7 2003 just to meet the proposition Your Honour has just raised, to
8 perform just that exercise. What I'm attempting to do at the
9 moment, and it is almost finished -- or what I've been attempting
11:00:18 10 to do is to isolate areas where the witness may have acted on
11 inference himself and Your Honour Justice Boutet is right. I
12 have confused two issues. Can I just finish this point by
13 reading what I should have read out.

14 Q. At page 71, Mr Witness, what you said was, at line 11, just
11:00:45 15 so we are sure.

16 "Only Colonel Gbao was in Kailahun and the information was
17 passed from General Mosquito through Colonel Gbao to his
18 subordinates along the line for the executions to be
19 carried out."

11:01:00 20 Now, can we just for the last time, because I don't want to
21 press this too much, can we just establish what it is that you
22 mean? What I suggest you meant by that, was that Augustine Gbao
23 was instrumental, directly involved in the killing of those men?

24 [RUF04APR06B - SV]

11:01:05 25 A. Well, it is left with you to ascertain that or to conclude.

26 Q. Okay. XXXXX, before we go into any more depth as to
27 what you've said on the record previously in these inquiries
28 leading up to this trial, I'm going to invite you to reconsider
29 what you told the Court last Friday and, indeed, to reconsider

1 what you told Mr Harrison in January. Because what you told them
2 to the effect that Gbao knew and that Gbao passed orders for the
3 executions to be facilitated, it's not true, is it?

4 A. I don't want you to drag me into that because I have said
11:02:27 5 it clearly that the command came from the top and it was passed
6 down the line. So you can draw inferences from that.

7 Q. XXXXX, you had no knowledge, did you, when this
8 happened, of any direct involvement by Augustine Gbao. It's
9 something that you've presumed years after the event, isn't it?

11:02:52 10 A. I didn't presume. I was told.

11 Q. When were you told?

12 A. Just after the shooting.

13 Q. When you were still in your cell at Kailahun?

14 A. Yes.

11:03:05 15 Q. Who by?

16 A. By the MP boys.

17 Q. The MP boys?

18 A. That were guarding us.

19 Q. Right. They told you that Augustine Gbao had passed orders
11:03:17 20 down the line and that the executions were to take place?

21 A. The command came from the top and passed through him down
22 the line.

23 Q. Do you remember which MP boys told you where the orders
24 came from?

11:03:28 25 A. No.

26 Q. Would you please turn to page 17609. Mr Witness, have you
27 given a consistent account since April 2003 of what you witnessed
28 in Kailahun in February of 1998? Have you always maintained the
29 same story? Mr Witness, I'd thank you not to read that document

1 and answer the question. Have you always maintained the same
2 account since 11 April 2003 as to what happened in Kailahun?
3 A. Well, in actual fact, as I told you, in the first place I
4 was in Bo in 2003 when I was invited to the Special Court. So
11:04:52 5 when I came I had this interview with Corinne and then three
6 years later I was invited again to meet with Peter. I was told
7 that Peter wanted to see me, some people wanted to see me. So I
8 came. I didn't even know him and that was my first time knowing
9 him. So right there they started talking to me on this interview
11:05:31 10 I had with Corinne. So I even told him, I said -- after some
11 time I said, "Were you calling me to conduct an interview or
12 not?" As I said it, "It is unfair to me because I never made any
13 preparation to come here for interview. I thought you just
14 wanted to see me to discuss certain issues." Then he said, "No,
11:06:03 15 never mind. Let's go on." So we went on. What I'm trying to
16 say, these are not historical records that are kept; people read
17 from time to time to remember. In fact, I'm not -- time and
18 again people tend to forget. So what I could remember at that
19 time was what I told them.
11:06:37 20 Q. Mr Witness, with the greatest of respect, talking and
21 talking isn't going to make the question go away. The question
22 was very simple. Have you maintained the same account since 11
23 April until today or not?
24 JUDGE ITOE: He has said that he made the statement and
11:07:00 25 three years later Peter Harrison called him and that he admits
26 that his account may vary because memory lapses, and what have
27 you. I don't know whether that helps the situation or the
28 question which you are putting to him.
29 MR CAMMEGH: Your Honours, as I put the following

1 inconsistencies I think my position will become very plain.

2 JUDGE ITOE: It doesn't preclude you from carrying on with
3 the inconsistencies you want to put to him.

4 MR CAMMEGH: No.

11:07:40 5 Q. I'll suggest this right from the outset, Mr Witness. The
6 story that you gave in great detail in, I would suspect, fairly
7 comfortable circumstances to Corinne Dufka on 11 April 2003 is
8 very different when it concerns Augustine Gbao to the story
9 you've given to this Court and to Mr Harrison about a month ago,
11:08:09 10 and you know that, don't you?

11 A. No, I don't think so.

12 Q. All right. Let's go to 17609. Just to put it into
13 context, let's start at line 1. I hope the Court can accept from
14 me that this is a discussion concerning, as the witness put in
11:08:39 15 this document, the 64 civilians. You said this: "They are born
16 of Kailahun District, those villages. Some from Giema, some from
17 Giehun, some from Lower Baoma. That's a village called Baoma."

18 PRESIDING JUDGE: What page is it?

19 MR CAMMEGH: 17609.

11:09:08 20 Q. Sorry, XXXXX.

21 A. Which?

22 Q. Top of the page.

23 A. Okay.

24 Q. So you're discussing here the 64 civilians. You were
11:09:16 25 saying where they come from. At line 5 you say:

26 "So they were arrested because they say they were suspected
27 Kamajors.

28 "Q. And who ordered their arrest?

29 "A. Mosquito.

1 "Q. How do you know?

2 "A. The MP commanders told us.

3 "Q. Which MP commanders?

4 "A. John Duawo."

11:09:43 5 If you'll take it from me, further down the page and on
6 following pages, no mention from you then that Augustine Gbao
7 told you that Mosquito had ordered their arrest?

8 A. No.

9 Q. Right. Now, before we move on, can I ask you this, and I
11:09:58 10 know it was a long time ago, but did you get the impression
11 during this interview that Corinne Dufka was very keen for you to
12 talk about Augustine Gbao?

13 A. Well, I answered questions that she asked me.

14 Q. I know that. But did you get the impression - and I can't
11:10:34 15 think of anything other than this colloquialism, so if the Court
16 will forgive me - did you get the impression she wanted you to
17 dish some dirt on Augustine Gbao?

18 A. Probably, but I may have realised it after the interview.

19 Q. Can we turn over the page then. At 610 we have a
11:11:11 20 conversation and, again, if the Court will please take it from me
21 the subject of the conversation at line 1 was John Duawo. If one
22 goes over the page, 609, John Duawo was being discussed. At line
23 1 you say:

24 "A. He was the MP commander.

11:11:27 25 "Q. For?

26 "A. Kailahun Town," was your reply. Sorry, XXXXX, do
27 you have this?

28 A. Yes.

29 Q. "Q. And his deputy?

1 "A. Joe Fatoma.
2 "Q. And who was the overall RUF commander for Kailahun
3 Town at the time?
4 You say, "No, there was no commander. The MP was taking
11:11:51 5 care of the town."
6 And then she asks you, "What about the IDU?"
7 And you say, "IDU? Yeah. IDU is the one -- was the
8 refined name for G2?"
9 "For intelligence?"
11:12:13 10 And you go, "Mmm-hmm. IDU."
11 And you say at line 14, "They call it Internal Defence
12 Unit."
13 And you were asked at line 15, "So did they have a separate
14 person who was -- or who was in charge of the IDU for Kailahun at
11:12:30 15 that time?" Y.
16 Our answer: "I cannot remember much. I cannot remember.
17 Because they" - I assume that's the IDU - "were not that
18 important. The MP was the most important unit."
19 Now while you're being asked about the MP there, XXXXX,
11:12:57 20 you make no mention of Augustine Gbao, do you?
21 A. No.
22 Q. Okay. How much did you know about the IDU in Kailahun Town
23 while you were being held there?
24 A. Nothing.
11:13:12 25 Q. You see, my case on behalf of Augustine Gbao is this: he
26 was an RUF commander, never the overall MP commander. He was
27 since the end of 1996 the overall commander of the Internal
28 Defence Unit, but he did live in Kailahun Town. Do you think
29 that could be right? Does that refresh your memory?

1 A. I didn't know.

2 Q. All right. But, anyway, no mention of Augustine Gbao here.

3 Let's go to the bottom of the page. At line 24 you start to talk

4 about the event. You say, "February 19 this massacre took place.

11:14:03 5 On the 20th, 21st they relocated us."

6 Now, at this point, XXXXX, can you please go back to

7 the transcript and can you please go to page 67? Now this is

8 what you said last Friday.

9 MR CAMMEGH: Do Your Honours have that page?

11:14:57 10 Q. Okay. Do you have page 67, XXXXX?

11 A. Yes.

12 Q. At line 7 you were asked a question by Mr Harrison.

13 "Q. You have already then mentioned the name of

14 Augustine Gbao. Did you ever see him?

11:15:13 15 "A. Where?

16 "Q. In Kailahun Town..

17 "A. Yeah, he was residing in Kailahun Town and we were

18 directly under his care."

19 Then I think -- forgive me for a moment. When you said,

11:15:56 20 "We were directly under his care," what did you mean by that last

21 Friday?

22 A. We left Buedu as prisoners. They brought us to Kailahun.

23 Q. Yes. Well, actually can I ask my question in a different

24 way. When you say you were directly under his care, do you mean

11:16:33 25 that you saw him regularly?

26 A. No. He was to take care of us.

27 Q. How often, if at all, did you see him?

28 A. Not too often but he used to visit us at the prison cell.

29 Q. So you didn't see him very often at all; is that right?

1 A. No, not too often.

2 Q. Not too often. Okay. I want you now please to go to page
3 17684. I want to --

4 A. 176?

11:17:29 5 Q. 84. See if this refreshes your memory. This is what you
6 told Mr Harrison in January or February of this year. Now,
7 before we go to the actual paragraph, I'm bearing in mind your
8 answer that you didn't see Gbao too often; okay?

9 A. Yeah.

11:17:54 10 Q. Right. Paragraph 8:
11 "When I was held in Kailahun Town we saw Gbao almost daily,
12 we could see him through the cell window going by, but I
13 only talked to him once or twice."
14 Now, what's the reality? You didn't see him too often or
11:18:18 15 you saw him almost daily?

16 A. No, when we -- we being in the cell and then he passing on
17 the street, I see him. It's not meeting -- seeing him. But he
18 used to visit us at the cell at certain times, but not every day
19 he will come to the prison cell. But he was residing in an area
11:18:43 20 behind our prison cell. So most of the time when he is coming to
21 town he will pass by that end without reaching to us. But we
22 could see him. That's what I mean.

23 Q. Well, let's go back to 17611. You see, I suggest Ms Dufka
24 was trying very hard to get you to mention Augustine Gbao. Did
11:19:27 25 you get that impression? That's actually not a fair question,
26 I'll retract that question. You can't know what was on her mind.
27 Let's focus on line 3: "Okay. Now during that time did you ever
28 see Augustine Gbao in Kailahun?"

29 Now this is you speaking in April 2003, three years before

1 you spoke to Mr Harrison and you said this:
2 "The time they retreated from Kenema and came back with
3 Mosquito, I saw a lot of them. But then when they carried
4 us to -- they move us from near the court barri to the
11:20:01 5 police headquarter, they never used to come around. So
6 they could be in the town but they never used to come
7 around."
8 Now, XXXXX, did you really see Augustine Gbao in
9 Kailahun while you were incarcerated prior to the shooting of the
11:20:24 10 Kamajors?
11 A. Yes.
12 Q. Did you really used to see him almost every day going by?
13 A. I want you to get this clearly. In Kailahun we were
14 detained in two separate locations.
11:20:46 15 Q. Yes, I'm aware of that.
16 A. First in an area, centre of the town. Then later we were
17 moved to the police station. Augustine Gbao's residence was just
18 along the first place. So at that time I used to see him. But
19 when we moved to the police station, I -- in fact, no
11:21:19 20 commander -- we hardly see any of the commanders, not only
21 Augustine Gbao. But when we were in town, most of them would
22 come around, they could pass, we could see them. Whether they
23 talk to us or not, but we could see them.
24 Q. But the fact is this, isn't it: that you've been asked by
11:21:37 25 Ms Dufka about the MP -- you were asked, "Who told you about
26 Mosquito's order to arrest the 64 men?" And your answer on page
27 609 was Duawo. On 610 you were asked about the MP, who was
28 Duawo's deputy, and you said Fatoma. You said, "There was no RUF
29 overall commander for Kailahun Town." You said you knew nothing

1 about -- or you said you couldn't remember much about the IDU
2 because "They were not that important." When asked directly
3 about seeing Augustine Gbao, your answer at line 7, "They never
4 used to come around. They could be in the town but they never
11:22:36 5 used to come around."
6 A. Yeah, that was at the police station.
7 Q. Yes.
8 A. And the police station is an isolated area.
9 Q. Yes. But the point's this, isn't it: Despite Ms Dufka's
11:22:50 10 repeated questions as to the powers that be in Kailahun Town, you
11 said absolutely nothing about Augustine Gbao to this point in the
12 interview, did you?
13 A. Yes, only when she asked if I used to see him.
14 Q. Okay. Well, let's move on. Let's come on to the time
11:23:23 15 leading up to the murder of these men. Let's go to page 17613.
16 I'm bearing in mind, of course, your claim last Friday that
17 Augustine Gbao, within the command chain, passed the order down
18 for these men to be executed. So let's go to line 7 just to set
19 the background. "So when they came" -- and this is Bockarie's
11:23:59 20 boys retreating from Kenema as seen in line 5. But let's go to
21 line 7:
22 "So when they came, that was the time actually they had a
23 meeting in Buedu. So we heard that afternoon that they
24 were coming to Kailahun. So we were cooking. We didn't
11:24:18 25 even finish cooking. Then they came. They said everybody
26 go inside, the CDS is around.
27 "Q. And who told you that?
28 "A. The MPs. So we went back in our rooms."
29 Then you say this:

1 "So then the MP commander, this John Duawo, he came. The
2 MPs that were on guard, they say he want 10 people. So
3 they gave him 10 people."
4 And then you discuss 10 people being sent back. Nothing
11:25:02 5 there - is there? - about either you having direct knowledge of
6 Augustine Gbao ordering 10 people or any hearsay knowledge of
7 Augustine Gbao ordering 10 people? Nothing about Gbao at all?
8 A. No.
9 Q. No. Why?
11:25:35 10 A. Why?
11 Q. Yes, why? Why is Gbao's name not here as being part of
12 that command chain, or even as the MP commander? Why is Gbao's
13 name not mentioned?
14 A. No, the MPs said John Duawo asked them for 10 people. They
11:25:52 15 locked all the cell on us and then they said they were asking for
16 10 people. So they took 10 men and they took them away to the
17 roundabout.
18 Q. Your answer at page 64 of the transcript from last
19 Friday -- if that's your evidence, if what you've just said is
11:26:16 20 your evidence, let me remind you of your answer at line 18, page
21 64 of Friday.
22 "Well, at the time that John Duawo came he said CO has some
23 and he has told CO Mosquito, who is General Sam Bockarie,
24 has come from Buedu with his senior officers and he has
11:26:41 25 told CO Augustine for us to get 10 men to him at the
26 roundabout."
27 A. Yes.
28 Q. No mention on 11 April 2003, just five years after the
29 event, as opposed to eight years, which is where we are now, of

1 Augustine Gbao being party to that chain of command at all. Why
2 not?

3 A. No, I said John Duawo -- read that last one you read just
4 now.

11:27:12 5 Q. Mr Witness, I'm not going to read that again. You've heard
6 it now three times. I've read it to you three times. What you
7 indicate is clear. That Duawo told you that Gbao has said he's
8 been ordered to provide 10 men?

9 A. He didn't tell me. I heard him talking to his MPs.

11:27:33 10 Q. XXXXX, why didn't you tell Corinne Dufka of Gbao's
11 involvement in the chain of that command on 11 April 2003, five
12 years after the event as opposed to eight?

13 A. I told you the interview took me by surprise. It was not
14 everything that I could remember at that time.

11:28:04 15 Q. XXXXX, this is page 106 of a 175-page interview that, I
16 suggest, would have been booked days, if not weeks, in advance in
17 April 2003.

18 A. What?

19 Q. Please don't say this interview took you by surprise.

11:28:18 20 A. It took me by surprise.

21 Q. Do you remember when I asked you yesterday about newspapers
22 and I suggested to you that it would be easier to remember
23 yesterday's headline than it would be to remember last Monday's
24 headline, seven days ago, and you agreed, yes, it would be easier
11:28:36 25 to remember yesterday's?

26 A. Yes.

27 Q. Do you not think that if you're talking in detail, 175
28 pages of detail, about events that took place just five years
29 ago, you would have a better memory than discussing them when

1 they had been taking place eight years ago?

2 A. It depends on the circumstances.

3 Q. I see.

4 MR CAMMEGH: Your Honours, is that a convenient moment if
11:29:05 5 we're going to take our morning break?

6 PRESIDING JUDGE: Indeed. The Court will recess for the
7 morning pause. Thank you.

8 [Break taken at 11.29 a.m.]

9 [Upon resuming at 12.06 p.m.]

12:06:51 10 PRESIDING JUDGE: Mr Cammegh.

11 MR CAMMEGH: Thank you, Your Honour.

12 PRESIDING JUDGE: Before you do, I've been informed that
13 the witness has expressed some concerns about the fact that his
14 name is being used rather than a pseudonym. Unless you have a
12:07:04 15 specific requirement to use the name of the witness rather than
16 the pseudonym, I know we are in a closed session but it's --

17 MR CAMMEGH: I have no difficulty with that, Your Honour.
18 If it makes XXXXX feel more comfortable, I'm happy to comply.

19 PRESIDING JUDGE: XXXXX, so you know, we are in a
12:07:26 20 closed session and if there are a few persons in the public
21 gallery these persons have been specifically authorised and they
22 have to comply with specific requirements so, therefore, the
23 public at large is not in the public gallery and whatever is
24 taking place in this courtroom now is not of a public nature. So
12:07:43 25 whether it's your name or a pseudonym that is used, it is only
26 for this Court here, no other purposes. So be reassured whether
27 it's your pseudonym or name, it will not reveal your identity in
28 that respect. But, having said that, it's your witness in
29 cross-examination, Mr Cammegh, so, as I said, if you have a

1 special reason --

2 MR CAMMEGH: No, I'll --

3 PRESIDING JUDGE: Maybe we'll avoid that by using
4 pseudonyms.

12:08:15 5 MR CAMMEGH: Thank you, I will do that.

6 Q. Mr Witness, as you know, I have here a document which is
7 175 pages long. It's the transcript of your interview with
8 Corinne Dufka on 11th April 2003. Nowhere in those 175 pages
9 transcribed three years ago do you state that Augustine Gbao was
12:08:50 10 the overall MP commander for the RUF.

11 JUDGE ITOE: How many pages, you say? 175?

12 MR CAMMEGH: 175.

13 Q. At no stage during that entire interview did you ever say
14 that Augustine Gbao was overall MP commander?

12:09:13 15 PRESIDING JUDGE: Yes, Mr Harrison?

16 MR HARRISON: I can say that that is stated at page 17629.

17 MR CAMMEGH: It is. Well, I will retract that. Thank you,
18 Mr Harrison, for saving me further embarrassment.

19 Q. But at no stage in -- I'll just make sure I don't make a
12:09:42 20 similar mistake. I'll be corrected if I'm wrong but I don't
21 think you ever told Ms Dufka during that interview that
22 Augustine Gbao was the most senior RUF commander in Kailahun, did
23 you?

24 A. I cannot remember if it is in the documents. If is there,
12:10:21 25 okay. If is not there, then I didn't say it.

26 Q. I will make that as an assertion. If I'm wrong about that,
27 then Mr Harrison will correct me and I'll be pleased for him to
28 do so. Can you please --

29 PRESIDING JUDGE: Can I suggest to you that this is not the

1 proper way to do it. It's either there or it's not there. You
2 should know. If you are putting a question to the witness in
3 this respect, I would suggest to you, Mr Cammegh, it is only
4 fair -- I mean, presumably you have read the transcript and you
12:10:48 5 have made your own assessment of that and he has or he has not.
6 So I don't think you can say, if I'm wrong, they will tell me if
7 I'm wrong.

8 MR CAMMEGH: Well, I'm asserting that nowhere in the
9 transcript of 11th April does the witness say that Gbao was the
12:11:05 10 most senior man in Kailahun.

11 Q. Mr Witness, will you please turn to page 17615. I'm sorry,
12 616. At page 616 you begin by saying at line 1: "It wasn't
13 long, we heard firing from the direction of the junction." Then
14 you describe what you heard. You said at line 6, "It was
12:11:55 15 automatic firing." And after the firing at line 12 you indicate,
16 "Let's say about two [minutes]."

17 You say at line 14, "So John came now with the other MPs?"

18 "You saw him."

19 At line 16 you say, "yes." "And then told his boys that he
12:12:17 20 had got instruction from the CD" - that should be CDS, the chief
21 of defence staff - "to come and finish away with the remaining
22 people in the cell?"

23 Now, isn't what -- weren't you saying here very, very
24 simply that John Duawo was getting his instruction directly from
12:12:51 25 Sam Bockarie, the CDS?

26 A. I have said often and again that the instruction or the
27 orders came from the CDS.

28 Q. Yeah, but let me just -- let's just look at line 16 because
29 I want to be as precise as we can be on this. You say "[John

1 Duawo] then told his boys that he [John Duawo] had got
2 instruction from the CDS [sic] to come and finish the remaining
3 people in the cell." Now, when you gave that answer to Corinne
4 Dufka did you intend to say those words?

12:13:49 5 A. I said it.

6 Q. Yes, because what they appear to indicate, and you can
7 correct me if I'm wrong, because I mustn't make assumptions, but
8 what they appear to indicate is that Duawo had got his
9 instructions from the CDS directly. Isn't that what really
10 happened?

11 A. Well, from what is on the paper here, line 16, is implied.

12 Q. It's implied that the instruction was direct from the CDS
13 to Duawo?

14 A. Uh-huh.

12:14:47 15 Q. But can we try and following this through to its
16 conclusion. XXXXX, is that --

17 PRESIDING JUDGE: Witness.

18 MR CAMMEGH: I'm sorry.

19 Q. I'm sorry, Mr Witness, although we are still in closed
12:15:06 20 session. If I slip up again, you must forgive me, but I will
21 try.

22 Mr Witness, isn't the reality this: When you gave your
23 interview to Corinne Dufka, your memory of what happened in
24 February '98 must have been fresher than what it was in February
12:15:40 25 2006?

26 A. Excuse me, I have been saying if you are inviting me to an
27 interview and you give me the terms of reference, my memory will
28 be reflected within that terms of reference. But if you just
29 call me and then you start asking me questions, I may say

1 something, then after that I may have a deeper thought. Probably
2 I might have left some things behind, you know.

3 Q. Okay. Well, let's just remind ourselves what exactly we're
4 dealing with here because it wasn't a trivial incident, was it?

12:16:24 5 It was the brutal and cold-blooded killing, systematic killing,
6 of, in fact, 67 probably innocent people and as you describe on
7 this very page, it was automatic firing and you describe it
8 "pa-pa-pa-pa." It must have been something you will never forget
9 for as long as you live. Would that be right?

12:17:05 10 A. It will recall to me from time to time.

11 Q. Yes, and that's understandable and particularly in your
12 case because, as you described in this interview, you thought
13 that you were going to die as well, didn't you?

14 A. Yes.

12:17:18 15 Q. In fact, when it came to the last five to be taken out and
16 shot, you believed that you and your four colleagues from the
17 external delegation were going to be the last five to die, didn't
18 you?

19 A. Yes.

12:17:37 20 Q. Until at the very last moment I think one of the MPs said
21 "No, you are going to be okay." The final five were actually
22 kept in a separate building, weren't they?

23 A. Yes.

24 JUDGE ITOE: One of them fainted as a result.

12:17:53 25 MR CAMMEGH:

26 Q. And one of your colleagues fainted as a result. I think it
27 was the older gentleman. I can't remember his name. Now, what
28 I'm suggesting, it's only human, it's only natural, your memory
29 of these events will never leave you, will it?

1 A. Yeah, I still have that trauma in me.

2 Q. Yes, and that is absolutely understandable. But for that
3 very same reason wouldn't it have been natural also when you were
4 sitting with Corinne Dufka, giving a long interview, but in
12:18:33 5 comfortable surroundings, three years ago -- wouldn't it have
6 been natural for you to have remembered the events surrounding
7 that shooting better than you can remember them now?

8 A. I told you no. I have said the interview -- I was never
9 prepared for an interview, so it took me by surprise. It's not
12:19:01 10 only this one incident. Remember the interview was a very long
11 one, for over six to eight hours interview. So I see you
12 stressing on this one incident, but the interview was broad
13 based, you see.

14 Q. Well, I am stressing this incident because you stressed
12:19:26 15 this incident in your interview. You talk about this incident.

16 A. Yeah, because she asked me.

17 Q. That's fair enough, but you talk about this incident from
18 page 17609 all the way to page 17628?

19 PRESIDING JUDGE: May I suggest to you that it is even
12:19:45 20 before 609, because in 609 it refers to what appears to be
21 comments the witness would have made before 609.

22 MR CAMMEGH: Your Honour, is absolutely right. I was
23 giving a minimum --

24 PRESIDING JUDGE: [Overlapping speakers] all of a sudden
12:20:01 25 the number, whatever it is, 65, comes out and it would appear
26 that that has been uttered before by the witness.

27 MR CAMMEGH: I'm grateful to Your Honour for that
28 observation. It wasn't dwelt on.

29 PRESIDING JUDGE: Specifically.

1 MR CAMMEGH: I'm being fair to the witness by just
2 restricting it to the --

3 PRESIDING JUDGE: Yes, but the 609 is the incident in a
4 much more detailed fashion.

12:20:22 5 MR CAMMEGH: If I may say so, Your Honour is absolutely
6 right.

7 Q. So what it comes to is this, Mr Witness, that a large
8 proportion of your interview was concentrated on what happened at
9 Kailahun Town on 19th February. There was no concentration on
12:20:41 10 what happened at the Moyamba river crossing or at Zogoda or
11 Peyama or the Kangari Hills or the Western Jungle, the atrocities
12 that we talked about yesterday. It was about Kailahun.

13 A. Well, that was an interview, not a report I wrote.

14 Q. I know it was.

12:21:01 15 A. So I answered questions that were asked me.

16 Q. So when we focus back on to your answer at line 16 of page
17 616, "Duawo then told his boys that he got instruction from the
18 CDS to come and finish away with the remaining people in the
19 cell," you simply, what? You simply forgot to give the full
12:21:33 20 information there? Is that what you're saying? You simply
21 accidentally forgot to mention Gbao's name?

22 A. It was not a matter of mentioning Gbao's name, but what I
23 could recall at the time of interview was what I said.

24 Q. All right. I have to concentrate on this for a little
12:21:57 25 while. You see, you were asked many questions about what went on
26 prior to the shooting and you simply don't mention Augustine
27 Gbao's name at all, do you, or did you, in relation to the
28 command or indeed the execution? I just wonder why that is. Can
29 you tell us?

1 A. I don't think it was only Augustine Gbao's name that I
2 forgot to mention. There were certain aspects of the incident,
3 in fact, that I only -- it only came to my memory after deep
4 reflection.

12:22:42 5 Q. Well, you're absolutely right about that because if you
6 turn to page 17618 we'll see an example where you do appear to
7 forget people's names.

8 So if you turn to page 618, line 4, then you'll see the
9 question: "Who was doing the killing? Who was actually doing
12:23:18 10 the shooting?

11 You say the MP people.

12 At line 9 you were asked the question: "Do you remember
13 any of their names?"

14 And you say, "No." "You have a lot of MPs in Kailahun."

12:23:34 15 At line 15 -- well, no, at line 10 you say: "You have a
16 lot of MPs in Kailahun so John" - I assume that's Duawo - "was
17 told to mobilise his MPs."

18 "Q. How do you know?

19 "A. That was what we were told.

12:23:54 20 "Q. By?

21 "A. By people, you know. What I want you to know, we had
22 our own relatives among these people. Even within the
23 commandos we had our own friends, we had our sympathisers."

24 Now, did you have any relatives among the 10 that were
12:24:17 25 shooting the Kamajors?

26 A. No.

27 Q. No? Because I'm just wondering, Mr Witness, why it is that
28 you were unable to give the Prosecution any names of any of those
29 RUF committing the killing. You weren't protecting anybody, were

1 you?

2 A. No, I cannot protect anybody.

3 Q. Okay, but let's just get this straight: Augustine Gbao was
4 never a relative of yours, was he?

12:24:43 5 A. No, he's just a friend.

6 Q. Well, he was a friend with you -- a friend of yours back in
7 Camp Naama but I don't think you'd seen much of him for quite
8 some time before '98, had you?

9 A. Say it again?

12:24:57 10 Q. I'm sorry. You hadn't seen him much in the two years prior
11 to '98.

12 A. No.

13 Q. No.

14 A. No, we were together in '93.

12:25:16 15 Q. Yes, yes. So you weren't close friends, were you? You
16 were colleagues about five years previously to this event?

17 A. Yes.

18 Q. That would sum it fairly, all right?

19 A. Yes.

12:25:28 20 Q. So, you see, my point is this: You may have had friends or
21 relatives within the commandos as you appear to indicate at lines
22 15 to 17 but Augustine Gbao was not a close friend and he wasn't
23 a relative, was he, in February of '98, would you agree?

24 A. He is a friend and a brother.

12:25:51 25 Q. And he was -- the one thing we can agree on is he was a man
26 you knew; yes? Well, that's a stupid question. I'll retract
27 that. In February of 1998, Mr Witness, how many people did you
28 recognise in Kailahun Town? Apart from the four that you were
29 incarcerated with, how many people did you recognise?

1 PRESIDING JUDGE: In town?
2 MR CAMMEGH: Yes, in Kailahun Town.
3 THE WITNESS: A lot.
4 MR CAMMEGH:
12:26:29 5 Q. But Augustine Gbao would have been one of the most
6 prominent ones, wouldn't he?
7 A. Yes.
8 Q. Yes. Can you please turn to 17620. I think you've stated
9 this more or less in evidence so far but at line 5 you were asked
12:27:10 10 the question:
11 "Q. So which commanders do you remember seeing present
12 when the rest of those, I guess it would have been about
13 55, were killed? Who were actually sitting there observing
14 and listening?
12:27:20 15 "A. No Vanguard was there.
16 "Q. No Vanguard?
17 "A. Yeah, they were with the CDS at the intersection, at
18 the junction?"
19 How did you know that?
12:27:39 20 A. How did I know what?
21 Q. How did you know that the Vanguards -- well, how did you
22 know that there were Vanguards at the intersection?
23 A. We were told.
24 Q. Who by?
12:27:54 25 A. The MPs.
26 Q. Right. Did they give you any names? Which Vanguards were
27 at the intersection?
28 A. Normally when the CDS, that is General Sam Bockarie, is
29 moving, around he must have some Vanguards along with him.

1 Q. Yes, but which ones were at the intersection? I don't want
2 you to speculate. If you don't know the answer, just say so,
3 it's all right. But if you do know who was at the intersection
4 please tell us?

12:28:30 5 A. I know for sure that Augustine was there because the MPs
6 told me. Then there must have been other -- they told me the
7 Vanguards came along with the CDS from Buedu. But at the police
8 station, I didn't see any Vanguard there while the remaining
9 people were being killed.

12:29:02 10 Q. Okay. Right. Two questions. First of all, did you with
11 your own eyes see any Vanguard in Kailahun Town during that day?

12 A. No, I was confined to the police station. I didn't walk in
13 town.

14 Q. Okay. Second question: If Augustine Gbao was at the
12:29:24 15 intersection when this killing took place, why didn't you tell
16 Corinne Dufka that during your interview?

17 A. We are coming back to the same thing. I say it's not
18 everything that I could remember at the time of Corinne's
19 interview.

12:29:43 20 PRESIDING JUDGE: Mr Cammegh, I mean, you've been in and
21 around this issue for the last hour so I would like that we
22 progress a bit. I mean, it's the same question through a
23 different angle as such. I mean, I don't know how many times
24 you're going to get the same answer.

12:30:03 25 MR CAMMEGH: What I'm trying to do, Your Honour, is and I
26 know it's repetitive and boring but what I'm trying to
27 indicate --

28 PRESIDING JUDGE: The problem is not the boredom. The
29 problem is we're not achieving anything, we're just moving in

1 circles.

2 MR CAMMEGH: With respect, Your Honour, I beg to differ.

3 What I'm trying to do is indicate single individual events or

4 points in his testimony where one might have expected he could

12:30:36 5 have mentioned Augustine Gbao's name, but at no single juncture,

6 intersection, the other points I've mentioned, is Gbao's name

7 mentioned and it's really for the benefit of the transcript and

8 for your evaluation in many months' time and I feel it's

9 incumbent on me to make that clear.

12:31:03 10 PRESIDING JUDGE: I think you've made it clear.

11 MR CAMMEGH: If I've made it clear --

12 PRESIDING JUDGE: If clear is at five rather than seven. I

13 mean, the witness is telling you on this issue that he has not

14 and he was not asked and he did not say so. So whichever

12:31:17 15 incident you're going to put to the witness for that day about

16 Gbao, he will answer the same thing. He has answered the same

17 thing, so that's why I say we're quite prepared to hear this even

18 though at times it may be difficult but --

19 MR CAMMEGH: Your Honour, if I've made the point to a point

12:31:38 20 beyond repetition, then I'll -- in fact, I think that's probably

21 the last aspect that I have to put anyway. So I think I can

22 leave it there.

23 Q. Mr Witness, we are coming towards the end and what I'm

24 suggesting to you is very plain and very simple. Augustine Gbao

12:32:01 25 was not party to the order to shoot those people on that day, was

26 he?

27 A. If that is what you are saying, fair enough.

28 Q. Do you agree with me?

29 A. It's not a matter of agreeing with you or not. You can

1 assess the situation and come to your conclusion.

2 PRESIDING JUDGE: No, Mr Witness, you have to answer that
3 question because this is important that we understand what it is
4 you, not what the counsel is saying. Because he's putting to you

12:32:38 5 that --

6 THE WITNESS: I don't agree with you.

7 PRESIDING JUDGE: Okay. Fine.

8 MR CAMMEGH:

9 Q. You see, what I suggest is that the account that you gave
12:32:46 10 to Corinne Dufka in the face of her repeated attempts to get you
11 to mention Augustine Gbao's name is pretty much accurate. Do you
12 think that that account you gave three years ago was accurate?

13 A. Whatever I said three years ago was what I could remember
14 at that time. But I know I didn't lie on anybody in my
12:33:30 15 interview.

16 Q. All right. You see, what I suggest that you've done is
17 from January or February of this year, so nearly eight years
18 after the event, three years after you spoke to Corinne Dufka,
19 but ironically only a month before you were due to give evidence
12:33:51 20 in this room, you significantly modified your story for the
21 benefit of the Prosecution. That's right, isn't it?

22 A. No.

23 Q. You added to your account in the statement that I -- or the
24 parts of the statement taken in January or February that I've
12:34:16 25 read to you because, I suggest, it's what you thought the
26 Prosecution might want to hear?

27 A. No.

28 Q. The point being this: When you gave this story, this long
29 account, to Corinne Dufka in April 2003 you didn't even know that

1 Augustine Gbao was arrested, did you?

2 A. No.

3 Q. But when you met, and I'm not - let me make this clear -
4 apportioning any discredit on the Prosecution at all, in case it
12:34:54 5 sounds like I am, but when you met Mr Harrison in January or
6 February of this year you knew not only that Augustine Gbao had
7 been arrested and charged and was on trial, but that you were due
8 to give evidence against him in just a few weeks' time, didn't
9 you?

12:35:12 10 A. I was not told particularly that I was going to give
11 evidence against anybody.

12 Q. Come on, Mr Witness. You know you knew that you were going
13 to be giving evidence in the RUF trial and you knew who was on
14 trial?

12:35:29 15 A. No, but to single somebody out, Mr Harrison never told me
16 that.

17 Q. I'm not suggesting for a moment that he did, but what I am
18 suggesting is that within this entire 175 page document you don't
19 give any information that amounts to disclosure of a criminal
12:35:53 20 offence committed at any stage by Augustine Gbao. You didn't,
21 did you?

22 A. Well, you can look through and substantiate.

23 Q. Well, I'll be corrected if I'm wrong but I'm putting that
24 to you as a clear assertion. The first time you said anything
12:36:15 25 criminal about Gbao was in January or February this year?

26 PRESIDING JUDGE: Because now you're asking -- I mean, if
27 you're using the word criminal now, I mean --

28 MR CAMMEGH: Shall I substitute the word bad, Your Honour?
29 I'm happy do that.

1 PRESIDING JUDGE: Maybe because what is criminal and what
2 is not is --

3 JUDGE THOMPSON: It's a matter of law.

4 MR CAMMEGH: It's a matter of law. Your Honour is right.

12:36:43 5 JUDGE ITOE: Are you suggesting that your client has had a
6 clean slate all along when you take into consideration the
7 statements that have been recorded from this witness? His slate
8 has been clean until January this year?

9 MR CAMMEGH: If Your Honour makes that observation, then I
12:36:59 10 have to revert to my word criminal. There is nothing criminal in
11 this document.

12 JUDGE ITOE: You can revert to whatever, Mr Cammegh. It's
13 your case. I just asked a question. You can revert to whatever.
14 It's your case. I have made my observation. Are you saying that
12:37:18 15 your client has had a clean slate in his statement and it is only
16 in January of this year that anything adverse was mentioned about
17 your client?

18 MR CAMMEGH: I think I am saying that in relation to the
19 interview with Corinne Dufka, yes.

12:37:33 20 PRESIDING JUDGE: Well, to Dufka but there's been another
21 statement in February as well.

22 MR CAMMEGH: No, Your Honour, the point I'm making is that
23 despite hours of exhaustive questioning --

24 PRESIDING JUDGE: Agreed. In that statement the reference,
12:37:50 25 as I understand it, is that Gbao was the MP commander at the
26 time. As far as your client is concerned that that -- I haven't
27 read the statement. I'm just relying on those portions that have
28 been highlighted in court. So I take it that these are the only
29 parts and parcels of that statement that refer to your client.

1 As I say, I have not read it, so I don't know what it is.

2 MR CAMMEGH: I will rely on Mr Harrison to correct me if
3 I've been wrong, but I hope, having trawled through it all over
4 the weekend, that what I'm saying is right. But, Your Honour, if
12:38:28 5 it offends, I'll approach it from a different way and I'll --

6 PRESIDING JUDGE: It's the qualification of the word
7 criminal in that context, as such.

8 MR CAMMEGH: Yes.

9 JUDGE THOMPSON: Let me add to that, it's clearly a
12:38:42 10 question of a judgment call and I think it's proper for the Court
11 to say that whether an act is criminal or not or whether a set of
12 circumstances presented in the indictment along with other series
13 of alleged episodes or incidents amounts to conduct that is
14 criminal is what the tribunal is authorised and mandated to
12:39:10 15 determine.

16 MR CAMMEGH: Your Honour is absolutely --

17 JUDGE THOMPSON: So if the question of -- if that language
18 is put to the witness, then the witness is being invited to come
19 to a conclusion which amounts to a characterisation of law. But
12:39:29 20 I leave it at that. That's my own perception of it.

21 PRESIDING JUDGE: That's my concern too on the use of that
22 word. So if you take it by a different approach.

23 MR CAMMEGH: Yes, I'll try the word bad.

24 JUDGE ITOE: My question followed from that observation on
12:39:44 25 the use of the word criminal. That's why I said are you
26 suggesting he had a clean slate all along?

27 MR CAMMEGH: As far as this document is concerned -- I
28 won't discuss it, but I'm going to deal with it differently.

29 PRESIDING JUDGE: [Overlapping speakers] we, at this

1 particular moment, follow your line of questioning. At this
2 moment you are focusing on the statement given by this witness to
3 one Dufka in 2003. So this is what the focus of your question is
4 now.

12:40:14 5 MR CAMMEGH: Yes.

6 Q. What I'll do, Mr Witness, is put this to you. Let's just
7 stick to Kailahun. Nowhere -- I could go further but I'm not
8 going to. Let's stick to Kailahun. Nowhere in this interview
9 did you indicate that Augustine Gbao had done anything wrong

12:40:35 10 leading up to the killing of those 67 people, did you?

11 A. I don't think I can answer that question.

12 Q. Nowhere in this interview did you ever indicate that
13 Augustine Gbao had even known about what was going to happen, did
14 you?

12:41:09 15 A. The only thing I have to say, I entertain interview from
16 Corinne. The documents are there. You have read through,
17 digested it extensively which I did not. So I don't want to say
18 yes or to be coerced to say yes or no.

19 Q. Mr Witness, I am not coercing you to do anything.

12:41:37 20 A. So but if in the interview of which the documents are
21 there --

22 Q. Of which you are the author?

23 A. Of which I am the author, if what you are saying is true
24 then the Court can prove you right and prove me wrong. But don't

12:41:52 25 coerce me to say yes or no on something which I have not gone
26 through.

27 Q. Mr Witness, I am not, I'm afraid, satisfied with that
28 answer. You had every control over what you said in that
29 interview and I am asking you the question or am putting the

1 suggestion to you --

2 A. I cannot remember every line of that interview unless I
3 have time to review it again.

4 PRESIDING JUDGE: It's a fair answer, Mr Cammegh. Unless
12:42:24 5 you give him the statement to read it from one page to the other,
6 as such, how can he answer that now?

7 MR CAMMEGH: Well, Your Honour, he's the author of the
8 interview and --

9 PRESIDING JUDGE: I know, but I'll use your analogy of a
12:42:37 10 statement you make yesterday and three weeks ago. So this is you
11 say one hundred and some pages.

12 MR CAMMEGH: Your Honour, he is responsible for this
13 document --

14 PRESIDING JUDGE: I know but --

12:42:46 15 MR CAMMEGH: Just as he's responsible for his comments in
16 January and February and his comments in the witness box.

17 PRESIDING JUDGE: And he's not denying that, Mr Cammegh.
18 You're asking the question to commit himself to something that at
19 this time he has -- it's difficult for him to answer yes or no to
12:43:08 20 that. As I say, if you give him the statement and you ask him to
21 look at it, then he will probably be able to respond to your
22 question.

23 MR CAMMEGH: It's a matter that, no doubt, I'll return to
24 in argument subsequently.

12:43:18 25 PRESIDING JUDGE: Absolutely. This does not preclude you
26 from doing that.

27 MR CAMMEGH:

28 Q. You see, what I'm suggesting and I want to go back to the
29 suggestion that I made earlier on when I was talking about your

1 meeting with Mr Harrison and the fact that your evidence on
2 Kailahun was modified then, what I'm suggesting is, Mr Witness,
3 that you have not been honest about Augustine Gbao's alleged
4 involvement in what happened in Kailahun.

12:43:57 5 A. Is it a question or a statement?

6 PRESIDING JUDGE: A question to you. Do you agree with
7 that or not?

8 THE WITNESS: No, I disagree.

9 MR CAMMEGH:

12:44:07 10 Q. Right. Well, if you disagree with that, then perhaps you
11 can explain why it is that in January and February of this year
12 you suddenly indicate that Augustine Gbao was directly involved
13 in the execution of those people for the first time?

14 A. After 2003 interview it was only in January and February
12:44:28 15 that I entertain or I was asked to have interview with the
16 Prosecution.

17 Q. And it all came back to you? Your memory suddenly
18 improved, is that what you're saying?

19 A. Before then -- after the 2003 interview I went back and had
12:44:56 20 some reflection why in fact this interview, what are they
21 dragging me into? So I had some reflections and I realised that
22 there were certain things which I forgot to talk on.

23 Q. Can I make a suggestion --

24 A. So in January when I was interviewed by the Prosecution,
12:45:29 25 those ones that I left behind, I had to include them. It was not
26 really a modification but just an addition of whatever I said.

27 Q. Mr Witness, I'm going to suggest, pure and simple, this:
28 That matter concerning Gbao's involvement was so fundamental and
29 so clear it could not possibly, to use your word, have been

1 something you forgot in 2003. Rather, it is something you put in
2 cynically at the last minute in an attempt to impress the
3 Prosecution and this Chamber, isn't it?

4 A. No, let me say something. I don't think Gbao's issue --

12:46:17 5 Q. You try and talk your way out of it, Mr Witness, why don't
6 you?

7 PRESIDING JUDGE: Mr Cammegh, you've asked questions. Give
8 him the opportunity to answer your question.

9 THE WITNESS: I don't think Gbao's issue was of any
12:46:30 10 importance to me. What I know, the command for the execution of
11 those people came from the CDS. And in military we deal with the
12 last order, the command from the top. So whoever did the
13 execution or what is it, I did not attach too much importance to
14 it rather than where the command came from.

12:47:00 15 MR CAMMEGH:

16 Q. I'm going to remind you of paragraph 8 of your additional
17 information and it's at page 17684. I've read it already. You
18 told Mr Harrison in January or February of this year:

19 "When I was held in Kailahun Town we saw Gbao almost daily.
12:47:27 20 We could see him through the cell window going by, but I
21 only talked to him once or twice."

22 Was that the truth?

23 A. You see, you are mixing matters up. I have told you we
24 were detained in two separate locations. The first location was
12:47:44 25 near where Gbao was staying.

26 PRESIDING JUDGE: Mr Cammegh, we've been through that.

27 THE WITNESS: From that end, any time Gbao is passing we
28 could see him. But when they carry us to the police station,
29 that was an isolated area. At that time, not only Gbao, but we

1 didn't see these senior commanders again. How long do you want
2 me to say the same thing?

3 MR CAMMEGH:

4 Q. I'm going to make it clear, XXXXX, that in paragraph 8
12:48:15 5 you say, "When I was held in Kailahun Town." You don't
6 differentiate between a police station and another location. You
7 use it generally. "When I was held in Kailahun Town we saw Gbao
8 almost daily." Now I'd like you to turn to page 17628 and
9 perhaps you can explain this discrepancy. 17628, because I
12:48:36 10 suggest that was another example of you cynically lying to the
11 Prosecution to implicate my client. 628.

12 A. The fact is --

13 Q. 628, please?

14 PRESIDING JUDGE: Mr Cammegh, please.

12:48:47 15 JUDGE ITOE: It's not a duel, Mr Cammegh. It's not a duel.

16 PRESIDING JUDGE: This is not a competition with the
17 witness here. I mean, please.

18 MR CAMMEGH: Your Honour, I would just like a
19 straightforward answer to a question, rather than these
12:48:59 20 long-winded explanations.

21 Q. But can we please go to page 628.

22 A. This is what I'm saying. You cannot coerce me to agree to
23 what you are saying.

24 Q. Go to page 628, please.

12:49:08 25 A. I have explained the circumstances that at the first
26 location I used to see him every day passing. Sometimes he even
27 come to us. But at the police station, which was an isolated
28 place, we never only used to see Gbao but any other commander
29 apart from these MPs that were taking care of us.

1 Q. Can you go to page 628, please. Forgive me, 627. Because
2 I suggest what you've told Mr Harrison and what you've told this
3 Court today and last Friday about the frequency you saw Mr Gbao
4 is an absolute lie. 627, line 17. You're being asked a question
12:50:05 5 and Corinne Dufka says:

6 "Q. Okay. So for that, again, just going over that two
7 months you were in Kailahun, just to clarify, did you ever
8 see Augustine Gbao to your recollection? Did you ever see
9 him in Kailahun Town during that time. That is, from
12:50:30 10 December '97" --

11 A. Which line, please?

12 Q. I've told you, line 17.
13 "Q. Okay. So for that, again, just going over that two
14 months you were in Kailahun, just to clarify, did you ever
12:50:47 15 see Augustine Gbao to your recollection? Did you ever see
16 him in Kailahun Town during that time. That is, from
17 December '97 until February '98?"
18 So she's making it quite plain, after the massacre of those
19 64 people.

12:51:00 20 "A. Yes.

21 "Q. When?

22 "A. Hmm?

23 "Q. When.

24 "A. After they have retreated. They all came to Kailahun.
12:51:10 25 Pendembu, Kailahun. One time they came to visit the prison
26 cell.

27 "Q. Who is they?

28 "A. Augustine Gbao and some other Vanguard. I was
29 outside at that time. I went to ease myself. So at that

1 time he saw me. He spoke to me and I answered him.
2 "Q. What did he say?
3 "A. He just spoke, 'Hello, XXXXXX .' I say, 'Augustine,
4 how are you?' Just like that."
12:51:46 5 Now look at line 14:
6 "Q. And do you remember how soon before the 64 were killed
7 that you saw Augustine Gbao?
8 "A. A week before."
9 Now, there's no mention here of any other occasion than
12:52:00 10 that just one -- well, what you seem to indicate here is that you
11 saw him once - is that right? - before they were killed.
12 XXXXX, will you answer the question?
13 A. Give me time to answer.
14 Q. XXXXX, you don't need time to answer that question.
12:52:20 15 You've just read the transcript. What's the answer to the
16 question?
17 A. What is the question again?
18 Q. Yes, you were reading the rest because you knew there was a
19 punchline coming, didn't you?
12:52:31 20 A. Oh, God.
21 Q. What you say here, or what you appear to say, is that
22 before the 64 were killed you only saw him once. Would you
23 agree?
24 A. No.
12:52:42 25 Q. Well, let's carry on. Line 14:
26 "Q. And do you remember how soon before the 64 were killed
27 that you saw Augustine Gbao?
28 "A. A week before.
29 "Q. A week before?

1 "A. Mmm-hmm.

2 "Q. And did you see him after the 64 were killed?

3 "A. No."

4 A. No.

12:53:06 5 Q. "At that time after the killing of the 64 we were moved
6 immediately to Buedu. We were no longer in Kailahun."
7 Then you were asked this question at line 22 which I
8 submit, Mr Witness, shows that your subsequent comments are lies.

9 "Q. So during those approximately two months that you were
12:53:28 10 in Kailahun how many times did you actually see," not talk
11 to or visit -- "how many times did you actually see
12 Augustine Gbao?

13 "A. One time."

14 Now, how do you square that with what you told Mr Harrison
12:53:52 15 in January and February and what you told this Court today about
16 seeing him almost every day?

17 A. Seeing him through my cell window, I could see him passing.
18 But that one time I'm talking about, we met and he spoke to me
19 and I answered him.

12:54:15 20 Q. XXXXX, can you try and answer just one question. Why
21 is it when you're asked the question at line 22 on page 628 --
22 here's the question:

23 "Q. So during those approximately two months," so it's
24 quite clear -- "two months that you were in Kailahun how
12:54:39 25 many times did you actually see Augustine Gbao?

26 "A. One time."

27 PRESIDING JUDGE: Well, you referred to that earlier this
28 morning and, in fairness to the witness, if you look at page
29 17611 when this was mentioned and the witness -- you had that

1 line too. I mean, yes. But if you give the full picture, this
2 is what the witness has answered to you. You've put it to the
3 witness before. We've been through it.

4 MR CAMMEGH: I'm sorry, which line are you referring to,
12:55:11 5 Your Honour?

6 PRESIDING JUDGE: Line 3: "Now during that time did you
7 ever see Augustine Gbao in Kailahun?" "At that time they
8 retreated from Kenema and they were" -- the court barri. I mean,
9 this is the same thing that he's repeating again.

12:55:25 10 MR CAMMEGH: Your Honour, no.

11 PRESIDING JUDGE: At page 17611.

12 MR CAMMEGH: I've got that, but he doesn't indicate there
13 he saw Augustine Gbao at all. The point is, Your Honour, that
14 the contrast I'm drawing --

12:55:35 15 PRESIDING JUDGE: "Did you ever see Augustine Gbao in
16 Kailahun?" That's the question at line 3.

17 MR CAMMEGH: Yes, and his answer doesn't state that he ever
18 did. He said, "When they carried us to -- they move us from near
19 the court barri to the police headquarter, they never used to
12:55:56 20 come around. So they could be in the town but they never used to
21 come around."

22 PRESIDING JUDGE: Yes, but this is his answer. He was
23 saying that the first part of his detention in Kailahun was at
24 the court barri and then they moved them to the police station.
12:56:08 25 At that time he --

26 MR CAMMEGH: No, your Honour, the point, with respect, is
27 this: At 628 he's asked, "In the two months that you were there
28 how many times did you see Gbao?"

29 PRESIDING JUDGE: "There," meaning to you, the police

1 station.

2 MR CAMMEGH: No, Your Honour, in Kailahun. "So during
3 those approximately two months that you were in Kailahun how many
4 times did you actually see Augustine Gbao?" What I'm doing is
12:56:32 5 drawing the contrast between what he says there and what he says
6 on page 17684 in the additional information and I'll quote it
7 again. "When I was held in Kailahun Town we saw Gbao almost
8 daily."

9 PRESIDING JUDGE: But, as I say, he has explained that
12:56:47 10 three times up to now, Mr Cammegh.

11 MR CAMMEGH: But, Your Honour, he doesn't explain that
12 contradiction, with respect.

13 PRESIDING JUDGE: But this is an argument. This is quite
14 different. He has an explanation, he's telling you what it is
12:57:01 15 now. I'm not saying you have to agree with this. That's not
16 what I'm saying. But the witness has been consistent in his
17 answer to say, "I used to see him through the window of where I
18 was detained. He would pass by. He was living behind and he
19 would walk in front and we would see him."

12:57:18 20 MR CAMMEGH: I know that's what he's saying now, but in
21 2003 when --

22 PRESIDING JUDGE: I'm not saying you cannot use that in
23 argument. I'm just saying you've asked that question at least
24 three times to the witness and you always get the same answer.

12:57:29 25 MR CAMMEGH: Well, I hadn't put page 628 to the witness
26 until just now and, in my submission, that is an important line.

27 PRESIDING JUDGE: Fine.

28 MR CAMMEGH:

29 Q. Mr Witness, you were talking about being subjective

1 yesterday. Your evidence against Augustine Gbao is entirely
2 subjective and it's unfair, isn't it?

3 I'll scrap that question and put it in this way: Your
4 evidence against Augustine Gbao is nothing more than speculation,
12:58:03 5 isn't it?

6 A. No.

7 Q. To such a degree that I suggest you have blatantly told
8 lies about his alleged involvement in those murders?

9 A. No.

12:58:21 10 Q. And what you've told this Court is in flat contradiction to
11 what you told Ms Dufka in relation to his involvement, isn't it?

12 A. No.

13 MR CAMMEGH: That's all I have. Thank you, Your Honours.
14 It's an appropriate time to finish. I have prepared some
12:58:51 15 contradictions. I haven't had a chance to show them yet to
16 Mr Harrison. I don't know if Your Honour would want me to submit
17 them now or after the break. They are ready.

18 JUDGE THOMPSON: Perhaps, as you prepare those samples I
19 probably would like to observe that, following you carefully,
12:59:11 20 what you went through, what we have here would seem in my view to
21 be a collection of assorted samples of perceived
22 inconsistencies. So, for example, you directed us to page 17629.

23 MR CAMMEGH: I've got a list of them actually. I can give
24 you those.

12:59:36 25 JUDGE THOMPSON: Yes, because 17629 would seem to me
26 clearly not to be at variance with his testimony as to his
27 perception of the character of the third accused.

28 MR CAMMEGH: I'm not submitting that.

29 JUDGE THOMPSON: Yes, quite, as a person of some modesty

1 and one who did not enrich himself. Because it seemed as if you
2 referred us to that one. Because I think that's at a different
3 level from the other samples at the other pages that you gave us.
4 But I would just -- like 17683, 17684 et cetera.

13:00:15 5 So what I was going to suggest was that you apply some
6 discriminating judgment in selecting those samples so that we
7 ensure some kind of procedural tidiness.

8 MR CAMMEGH: Your Honour, during the break I took advantage
9 of the time to do, I hope, just that. Can I just give the page
13:00:34 10 numbers? There aren't very many.

11 JUDGE ITOE: But you had better take your time during the
12 break and assemble all the pages because you might miss out on
13 some. Why don't you give them to us --

14 MR CAMMEGH: I'm happy to do that. I'm satisfied that
13:00:52 15 they're ready, but I see it's 1.00 so if Your Honours are happy
16 do it after the break --

17 PRESIDING JUDGE: That's okay. We will allow you to file
18 this when we come back, but not to re-open your cross-examination
19 or on any other subject matter, just to file these documents and
13:01:15 20 give any precision, if need be, of what it is.

21 MR CAMMEGH: Yes. If Your Honours want the page numbers I
22 can give them to you now.

23 JUDGE THOMPSON: That's okay. When we come back.

24 PRESIDING JUDGE: But again, as I say, we're concerned here
13:01:15 25 of what you are stating are alleged contradictions between the
26 evidence that this witness has given in court and what he may
27 have said on some other occasion. So this is what we're talking
28 about. Because many of the questions that you referred to in his
29 interview of April 2003, he has agreed with you or has expanded

1 from it. So are we talking or not -- we're talking of alleged
2 contradiction or inconsistencies?

3 MR CAMMEGH: Your Honour, there are, at the last count,
4 only four examples.

13:01:51 5 JUDGE THOMPSON: Okay.

6 MR CAMMEGH: So it's quite small.

7 PRESIDING JUDGE: That's why I'm pointing that out to you,
8 because it didn't appear to be -- most of what you were taking
9 the witness through, as such, he would agree with you and expand
13:02:05 10 on it.

11 So we'll adjourn now for the lunch recess and when we
12 reconvene, Mr Cammegh, you may show that to the Prosecution in
13 the meantime so we will have no discussion on that when we come
14 back and we'll just deal with your documents, your four
13:02:22 15 documents, as marked. Thank you.

16 MR CAMMEGH: Thank you.

17 [Luncheon recess taken at 1.02 p.m.]

18 [RUF04APR06C - RK]

19 [Upon resuming at 2.55 p.m.]

14:55:53 20 PRESIDING JUDGE: Mr Cammegh, we're back with you and you
21 are to tender four pages, if I'm not mistaken.

22 MR CAMMEGH: I think it's four.

23 PRESIDING JUDGE: It was four before the lunch break.

24 MR CAMMEGH: I think it is four, yes.

14:56:21 25 PRESIDING JUDGE: So for the record can you just --

26 JUDGE ITOE: Even if it went beyond four, I want to inform
27 Mr Cammegh that I'm very open, provided Mr Harrison has been put
28 in the picture.

29 MR CAMMEGH: He has been put in the picture. I'm not sure

1 if he agrees with me, but these are the four I propose. It's the
2 interview of Corinne Dufka of April 2003 at page 17616 at lines
3 21 and 22. The question: "Did John (John Duawo) say who he got
4 instructions from?" His answer was, "The CDS." I recall putting
14:57:20 5 that to the witness in respect or in contrast to what is said at
6 page 64 of the transcript of 31st March, in particular lines 18
7 to 21 where the witness said:

8 "At the time that John Duawo came he said CO has some and
9 he has told CO Mosquito, who is General Sam Bockarie, has
14:57:46 10 come from Buedu with his senior officers and has told CO
11 Augustine for us to get 10 men to him at the roundabout."

12 JUDGE ITOE: The first one is the interview with Dufka.

13 MR CAMMEGH: Ms Dufka.

14 JUDGE ITOE: Yes, and it's page?

14:58:05 15 MR CAMMEGH: Page 17616.

16 PRESIDING JUDGE: And this is line 21 and 22.

17 MR CAMMEGH: 21 and 22 and my point is simply that therein
18 it appears the witness is saying that he got instructions
19 directly -- well, from the CDS, I will leave out the word
14:58:21 20 "directly", whereas on page 64 of the transcript Augustine Gbao
21 appears as an intermediary between the two.

22 Can we move now to page 17627. This is where I left off
23 just before 1.00. It is line 18 of 627 until line 24 of 628 and
24 this was the tract of the interview where Augustine Gbao
14:58:53 25 described meeting -- I'm sorry, where the witness described
26 seeing Gbao once before the killings and not again, and his final
27 answer in response to the question: "So during those
28 approximately two months that you were in Kailahun, how many
29 times did you actually see Augustine Gbao?" His answer, "One

1 time." I suggest that is in contradiction to the evidence he has
2 given to the Court today and also in his additional information,
3 dated January and February 2006, the page 17684, paragraph 8,
4 first two lines, "When I was held in Kailahun Town we saw Gbao
15:00:03 5 almost daily, we could see him" --

6 JUDGE ITOE: Page what again?

7 MR CAMMEGH: 17684. It is paragraph 8, first two lines.
8 "When I was held in Kailahun Town we saw Gbao almost daily, we
9 could see him through the cell window going by, but I only talked
15:00:27 10 to him once or twice."

11 PRESIDING JUDGE: Isn't this consistent with his evidence
12 in Court, that part?

13 MR CAMMEGH: Well --

14 PRESIDING JUDGE: Isn't that what he testified about?

15:00:39 15 MR CAMMEGH: It is not inconsistent with what he said in
16 Court. All I'm seeking to show is there is an inconsistency as
17 between the two statements. This is an issue we've discussed
18 before, and on a previous occasion Your Honours indicated it was
19 advisable for me to flag up such contradictions within the
15:00:58 20 written testimony, if I can use those words.

21 PRESIDING JUDGE: Given --

22 JUDGE THOMPSON: Given a flexibility of approach in terms
23 what really, strictly speaking, constitutes the rubric of prior
24 inconsistent statement, in the traditional sense,

15:01:12 25 MR CAMMEGH: Yes, but I --

26 JUDGE THOMPSON: We have moved away from the traditional
27 national law style where it is just between the out-of-court
28 statement and the in-court testimony.

29 MR CAMMEGH: That was my understanding. I will be advised

1 by Your Honours.

2 PRESIDING JUDGE: That's okay.

3 JUDGE THOMPSON: We've taken the flexible approach.

4 PRESIDING JUDGE: We have done it in the past and therefore
15:01:35 5 we are not going to change our mind now. But I want that to be
6 clear for the record as well: you're tendering this now to show
7 differences, if I can put it this way, between a statement of one
8 in court and the one of 11 April 2003, and what the witness may
9 have said in January/February 2006.

15:01:53 10 MR CAMMEGH: That's right.

11 PRESIDING JUDGE: Because, as I said, my recollection is
12 what the witness testified about today on this issue is fairly
13 consistent with what he said in February.

14 MR CAMMEGH: Yes, and I accept that. I should make that
15:02:08 15 plain. As I said, it is inconsistencies between the two
16 documents as opposed to between documents in oral testimony.

17 In a similar vein, can I refer Your Honours, again on page
18 17684, and to paragraph 5 and it's lines 3 to 5. It reads as
19 follows: "We were told that Bockarie had come to Kailahun Town
15:02:34 20 and passed the command to Augustine Gbao to kill these people."
21 I submit that that is in contradiction to the exchange I just
22 raised at page 17616.

23 PRESIDING JUDGE: Which is 11 April 2003, the same lines
24 21, 22.

15:03:04 25 MR CAMMEGH: That's right. I leave it for Your Honours
26 again, whether you wish to --

27 PRESIDING JUDGE: Again, this is differences between a
28 statement that the witness has said he made in April 2003 and the
29 one of January/February 2006.

1 MR CAMMEGH: Indeed.

2 PRESIDING JUDGE: Which is not, however, because his
3 evidence in Court is consistent with what he appears to have said
4 in the statement of January/February.

15:03:27 5 MR CAMMEGH: It is. I'm invoking the flexible approach
6 again, if I may.

7 PRESIDING JUDGE: Fine. So there is no confusion whenever
8 you are going to be arguing this in the future.

9 MR CAMMEGH: Yes. I don't know if Mr Harrison has any
15:03:41 10 comments on those.

11 PRESIDING JUDGE: Yes, Mr Harrison, you're tendering
12 these -- please, Mr Harrison.

13 MR HARRISON: The only comment is, and I wish to make it
14 clear that I'm not raising it as an objection, just so it can be
15:03:53 15 on the record. In my notes, and I say it's only in my notes and
16 they could clearly be wrong, with the respect to the entries on
17 17616, I don't have a note of lines 21 and 22 being put to the
18 witness. I do have notes of lines 1 and 2, 14, 15, 16 and 17
19 being put to the witness. If I can just leave it on the record,
15:04:16 20 the Prosecution is content with that. If it should become an
21 issue in the future, we can of course review the transcript to
22 have it clear one way or the other.

23 PRESIDING JUDGE: That's right.

24 MR HARRISON: Otherwise there is no objection to any of the
15:04:28 25 other documents being an exhibit.

26 PRESIDING JUDGE: Fine. Again, these documents are
27 admitted for a very limited purpose, which is to try to establish
28 alleged inconsistencies, and it is not tendered as evidence of
29 anything other than that.

1 MR CAMMEGH: I'm obliged. I thank Mr Harrison, and may
2 this be Exhibit 101?

3 [Exhibit No. 101 was admitted]

4 PRESIDING JUDGE: Yes, it is. We have copies of these
15:04:57 5 pages, Mr Cammegh?

6 MR CAMMEGH: These are for Your Honours, yes.

7 PRESIDING JUDGE: So that concluding the cross-examination
8 by counsel for the accused persons, do you have any
9 re-examination, Mr Harrison?

15:05:24 10 MR HARRISON: The Prosecution asks the Court if it would be
11 permitted to re-examine with respect to page 17629 and, in
12 particular, this has to do with an earlier assertion made by
13 counsel for the third accused. The Prosecution pointed out that
14 there was, in fact, some information provided by the accused,
15:05:57 15 which made clear the role of the third accused and the

16 Prosecution says that the assertion that was put to the witness
17 was that the witness had never said that Gbao was the most senior
18 person in Kailahun and because this was not put to the witness,
19 the Prosecution says it is entitled to do so, and then simply
15:06:21 20 refer the Court back to page 103, lines 6 to 8, which in fact
21 were put to the witness. So I am not asking to put page 103,
22 simply page 122, lines 6 to 22, and that's the witness --

23 PRESIDING JUDGE: I must say, you have lost me completely
24 with your numbers. Please take it back. On page 17629, lines 7
15:06:50 25 to 10, that's basically what you're talking about?

26 MR HARRISON: Yes, that's right.

27 PRESIDING JUDGE: Yes, but the following numbers?

28 MR HARRISON: The reason why there has to be a bit of
29 context was because the assertion put to the witness was that the

1 witness had never said that Gbao was the most senior person in
2 Kailahun.

3 PRESIDING JUDGE: That was what was suggested by the
4 Defence at the moment, yes.

15:07:16 5 MR HARRISON: And by reading this, which has not been put
6 to the witness, and by referring the Court to page 103 of the
7 transcript of the same document, not the Court transcript, the
8 same interview, the interview transcript, which would be 17610,
9 which in fact was read to the witness, but that context, the
15:07:43 10 Prosecution says, gives the Court an understanding of what the
11 witness's evidence was during that --

12 PRESIDING JUDGE: 17610?

13 MR HARRISON: Yes, that's right, and with respect to that
14 page, it is lines 6 to 8, which were put to the witness already.

15:08:06 15 PRESIDING JUDGE: Yes, indeed these were put to the
16 witness. Certainly lines 9 to 12 were put to the witness.
17 Whether 6 was put to the witness, I'm not sure. Yes, Mr Cammegh.

18 MR CAMMEGH: Your Honour, I did put line 6, "Who was the
19 overall commander for Kailahun Town at the time?" Answer:
15:08:31 20 "There was no commander." But while I'm on my feet, I'm
21 wondering whether in actual fact, using the flexible rule, that
22 this opens up another contradiction within the written --

23 PRESIDING JUDGE: Well, you're done, Mr Cammegh. We're
24 flexible, but not to that extent.

15:08:49 25 MR CAMMEGH: Can I just make this one indication. I'm not
26 necessarily objecting to Mr Harrison's approach, but I would
27 remind the Court I did retract my claim, which was wrong, and
28 Mr Harrison rightly pointed it out, that the witness had never
29 said Augustine Gbao was MP commander in that April interview, and

1 I did retract that, rather embarrassed as I was at the time
2 because it was quite a mistake on my part. I wonder if it is
3 necessary for this to be re-examined on at all. I leave that for
4 Your Honours to decide. It is a simple observation that I make.

15:09:28 5 PRESIDING JUDGE: Thank you, Mr Cammegh.

6 MR HARRISON: I accept what Mr Cammegh said. What I think
7 Mr Cammegh then did, after making one retraction, he then put the
8 assertion that the witness had never said that Gbao was the most
9 senior person in Kailahun and that's why the Prosecution is
15:09:45 10 saying that by looking at 17629, and those words as transcribed,
11 then looking at the context provided by 17610, there may be
12 information.

13 JUDGE THOMPSON: The Court may have a different
14 interpretation from that placed by Mr Cammegh on that.

15:10:10 15 MR HARRISON: That is the Prosecution's suggestion.

16 JUDGE THOMPSON: That is the Prosecution's suggestion.

17 PRESIDING JUDGE: Okay. Yes, I see your point,
18 Mr Harrison, yes. I would allow that.

19 MR HARRISON: I'm asking for leave simply to put to the
15:11:08 20 witness, lines -- the Prosecution would prefer to start from line
21 3 and go to line 20, so the full context, and simply to ask the
22 witness if he recalls --

23 PRESIDING JUDGE: Of 17610?

24 MR HARRISON: No, 17629.

15:11:24 25 PRESIDING JUDGE: Okay.

26 RE-EXAMINED BY MR HARRISON:

27 Q. Witness, I'm just going to ask you to listen to what
28 purport to be words that were said during an interview with
29 Corinne Dufka and yourself.

1 "Q. Mm-hmm. An internal problem within the RUF.
2 "A. The only thing I knew was: at that time, he was being
3 marginalised by the leadership.
4 "Q. Why?
15:12:06 5 "A. Well, because Issa, Mosquito, once you are not in
6 their good books, everybody else will marginalise you.
7 Augustine -- now I remember. Augustine was the overall MP
8 commander.
9 "Q. For?
15:12:21 10 "A. RUF.
11 "Q. For the entire RUF?
12 "A. Yes.
13 "Q. Was that from when to when?"
14 "A. When these people went to Freetown to take up -- to
15:12:34 15 join with the AFRC, he remained as the overall MP commander
16 in the Kailahun District.
17 "Q. He was the overall commander just for the Kailahun
18 District?
19 "A. Yes. John Duawo, he was the MP commander for Kailahun
15:12:53 20 Town.
21 "Q. And where was Augustine Gbao based?"
22 "A. Kailahun."
23 Witness, do you remember uttering those words during that
24 interview with Ms Dufka?
15:13:10 25 A. Yes.
26 MR HARRISON: Those are all the questions. The Prosecution
27 will not refer to page 17610 because that has been read into the
28 record already.
29 PRESIDING JUDGE: Very well. So, Mr Witness, that

1 concludes your evidence in this courtroom. We thank you very
2 much for having come here to give your evidence and you are, as I
3 say, completes your presence in the courtroom. We thank you very
4 much and wish you good luck in the future. Thank you.

15:13:52 5 THE WITNESS: Thank you too.

6 PRESIDING JUDGE: They will close the curtains to allow you
7 to walk out of this court. As we said to you, your evidence was
8 given in closed session, therefore, your evidence, including your
9 identity should be protected, as has been ordered by the Court.

15:14:09 10 JUDGE ITOE: If anybody violates this protection could be
11 cited for contempt in this Court. All that goes to assure that
12 you enjoy protection as far as revealing your identity is
13 concerned. So I don't think you should have any -- even though
14 Mr Cammegh referred to you by your name, you don't need to have
15:14:30 15 any fear about that.

16 THE WITNESS: Okay.

17 [The witness withdrew]

18 PRESIDING JUDGE: Mr Harrison, we still have to come back
19 into open session before we do anything else.

15:15:07 20 Madam Court Officer, yes.

21 MS EDMONDS: Court is now in open session, Your Honour.

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1 [Open session]

2 PRESIDING JUDGE: Thank you. Before we proceed to have
3 some adjustments of the voice, we will ask Honourable Justice
4 Thompson to give the decision for the closed session. We had
15:18:13 5 only informed the parties that we were getting closed session
6 without giving any reason at the time, so Justice Thompson,
7 please.

8 [Ruling]

9 JUDGE THOMPSON: This is the Chamber's ruling in respect of
15:18:26 10 the Prosecution's application for a closed session hearing of the
11 entire testimony of Witness TF1-168, consistent with the general
12 requirement that criminal proceedings are to be held in public as
13 mandated by Rule 78 of the Rules of Procedure and Evidence of
14 this Court and taking cognizance of Article 17(2) of the Statute
15:18:59 15 of the court, but exceptionally as authorised by Rule 79(A)(ii)
16 of the said Rules and the need to protect witnesses as provided
17 for in Rule 75, this Chamber on the Prosecution's application for
18 the entire testimony of the witness to be heard in closed
19 session, did by way of an exceptional procedure grant the said
15:19:28 20 application on the grounds advanced by the Prosecution. It was
21 further ordered that the transcript be reviewed with a
22 possibility of disclosing portions of the testimony that maybe
23 deemed appropriate for public disclosure.

24 PRESIDING JUDGE: Thank you. Mr Harrison, where are we now
15:19:58 25 with the witness and who is your next witness?

26 MR HARRISON: Witness TF1-179 is available. That is one of
27 the Rule 92bis witnesses where the decision was granted on the
28 3rd of April of this year.

29 PRESIDING JUDGE: Yes. So TF1-179, yes.

1 MR HARRISON: Yes. We have just been informed that Defence
2 counsel -- none of the Defence counsel have questions for this
3 witness. We had thought that one of the Defence counsel did wish
4 to question the witness, but at the lunch break we now know that
15:20:33 5 not to be the case any more.

6 PRESIDING JUDGE: So there is no need to have this witness.

7 MR HARRISON: That's exactly it.

8 PRESIDING JUDGE: I will just confirm with counsel.

9 Mr Jordash.

15:20:43 10 MR JORDASH: That's correct.

11 PRESIDING JUDGE: Mr --

12 MR NICOL-WILSON: That's correct, Your Honour. I appear
13 for the second accused.

14 PRESIDING JUDGE: Thank you.

15:20:52 15 MR O'SHEA: Yes, we have no questions either.

16 PRESIDING JUDGE: Thank you very much.

17 MR HARRISON: Before that is proceeded with, perhaps the
18 Court will allow me to explain the reason why we are caught short
19 now. There are four witnesses available. One of them, 041 would
15:21:11 20 be a lengthy witness and we're estimating the Prosecution's
21 direct examination probably a half a day.

22 JUDGE THOMPSON: What is the pseudonym?

23 MR HARRISON: TF1-041, and I think the cross-examination
24 may take considerably longer than half a day. The Prosecution is
15:21:41 25 suggesting to the Court that that witness not be called in this
26 session. The Prosecution also has available another one of the
27 Rule 92bis witnesses from the 3 April decision, and that is
28 TF1-156. Now, that witness cannot come in today because it is a
29 Madingo speaker and the interpretation unit has advised me that

1 the Madingo interpreter will be available tomorrow, but they
2 cannot be available today.

3 TF1-159 is a normal witness that the Prosecution would lead
4 evidence on. That is a person who is an elderly gentlemen who
15:22:38 5 just travelled and arrived in Freetown this afternoon because he
6 had to go for a family funeral ceremony. So he was allowed to
7 return to the province and has just come back now. He is
8 indicating that he is too tired right now to come into court to
9 testify, but he is available tomorrow morning. The remaining
15:23:06 10 witness is TF1-081, which is the witness that has been referred
11 to before, that person being a medical professional.

12 PRESIDING JUDGE: That is 92bis, isn't it?

13 MR HARRISON: That is a 92bis witness as well. There has
14 been a great deal of inconvenience caused by the Prosecution to
15:23:28 15 that witness and it has been made pretty clear that he is able to
16 come in Thursday, but that is it. So we are not in a position to
17 give much in the way of direction to that witness. Because we
18 are caught short this afternoon, we thought there would be some
19 questions put to 179, we are suggesting to the Court that once
15:23:50 20 the transcript for 179 has been tendered as an exhibit, that
21 would be the end of the proceedings for that witness. We are
22 asking the Court to allow the Prosecution to request for an
23 adjourn for the rest of the day and convene tomorrow with the
24 view of the Madingo witness and TF1-159 who is a Temne speaker to
15:24:14 25 be called tomorrow and on Thursday TF1-081, the remaining 92bis
26 witness.

27 PRESIDING JUDGE: So tomorrow morning bearing in mind that
28 Wednesday we only have half a day, so you're quite convinced that
29 if we hear TF1-159 in the morning, and we're quite prepared to

1 accommodate you in this respect, that given what you have stated
2 that this person had asked not to be heard today but tomorrow
3 morning, but will that witness -- then you would ask that we
4 proceed with TF1-156 which is a 92bis Madingo speaker. You are
15:24:55 5 satisfied that both of them can be heard in the morning tomorrow
6 until the usual session in the morning?

7 MR HARRISON: Yes. If the Prosecution could just ask,
8 because it is a Madingo speaker, if again the Defence counsel
9 feel they would have any questions for the Madingo speaker, that
15:25:16 10 would be a considerable convenience to the interpretation unit if
11 they are able to say that now and if they are not --

12 PRESIDING JUDGE: We can certainly ask them and we will see
13 from there.

14 MR HARRISON: The direct examination for TF1-159 is
15:25:25 15 estimated to be between 30 to 45 minutes.

16 PRESIDING JUDGE: Very well, thank you, Mr Harrison.
17 Mr Jordash, can I ask you if you have any comments with respect
18 to TF1-156, the 92bis requiring Madingo interpretation? Are you
19 intending to cross-examine that witness, is the question?

15:25:56 20 MR JORDASH: To be honest, I don't know. I need to have
21 another review of the statement, but we did indicate in our
22 response to the 92bis motion and I have forgotten what indication
23 we gave at that stage.

24 PRESIDING JUDGE: That you might have, if I'm not mistaken.

15:26:19 25 MR JORDASH: In that case, I remember this now, we have
26 limited cross-examination. I think maybe amounting to ten
27 minutes or so.

28 PRESIDING JUDGE: Mr Nicol-Wilson.

29 MR NICOL-WILSON: Your Honour, at the moment I am not in a

1 position to say whether I will be cross-examining that witness or
2 not, but I will be in a position to say so first thing tomorrow
3 morning.

4 PRESIDING JUDGE: Very well. Mr Cammegh.

15:26:43 5 MR CAMMEGH: I'm afraid the best I can say is that it is
6 unlikely, but I cannot confirm that, but it is unlikely.

7 PRESIDING JUDGE: That is fine. Thank you very much. So,
8 Mr Harrison, you know the exact picture now. I don't know which
9 order you want to proceed tomorrow morning, if you want to go
15:27:04 10 with the 92bis first or not, first. It is your call.

11 MR HARRISON: I was going to suggest to the Court and
12 Defence counsel that we proceed with TF1-159.

13 PRESIDING JUDGE: The elderly person?

14 MR HARRISON: Yes. And assuming that takes a relatively
15:27:21 15 short period of time, there should be ample time remaining in the
16 morning to complete the 92bis witness.

17 PRESIDING JUDGE: I'm just shown your response, Mr Jordash.
18 Contrary to my recollection, which was inaccurate in this
19 respect, you said: "In the event that the relevant transcripts
15:27:46 20 are admitted, the Defence wishes to indicate that he will not be
21 conducting cross-examination of TF1-156."

22 MR JORDASH: I will stand by that. It was reasoned at the
23 time, so I am confident it remains.

24 PRESIDING JUDGE: I'm just looking at your own document.

15:28:05 25 MR JORDASH: That was when I read it properly. If I put it
26 then, then it stands.

27 PRESIDING JUDGE: Very well.

28 JUDGE ITOE: But even if you had to, it is just for ten
29 minutes, I don't think it would cause any harm at all. Just in

1 case, you better reflect on that.

2 MR JORDASH: I will let the Prosecution know in 30 minutes.

3 JUDGE THOMPSON: Is this subject to the rule that perhaps
4 unless you take an ex improviso?

15:28:35 5 MR JORDASH: I will say yes.

6 PRESIDING JUDGE: In those circumstances the Court will
7 adjourn to -- yes.

8 MS ALAGENDRA: Your Honour, we would like to proceed in
9 relation to 179.

15:28:54 10 PRESIDING JUDGE: Yes.

11 MS ALAGENDRA: Your Honour, pursuant to the decision of the
12 Court of 3 April, the Prosecution seeks to formally admit into
13 evidence the transcript of the testimony of 179 in the AFRC trial
14 and for the said transcript to be marked as an exhibit in this
15:29:18 15 trial.

16 PRESIDING JUDGE: Yes. I think we are at 102 as exhibit
17 number.

18 MS EDMONDS: Yes, Your Honour.

19 MS ALAGENDRA: Thank you, Your Honour.

15:29:32 20 PRESIDING JUDGE: How many pages for that document?

21 MS ALAGENDRA: It is from pages 17773 to 17817, Your
22 Honour.

23 PRESIDING JUDGE: Could you repeat the first one.

24 MS ALAGENDRA: 17773.

15:29:49 25 PRESIDING JUDGE: To 17817.

26 MS ALAGENDRA: That's right, Your Honour.

27 PRESIDING JUDGE: So the transcript of the evidence of
28 Witness TF1-179 given in the AFRC trial consisting of pages from
29 17773 to 17817 is marked as Exhibit 102 in this trial.

1 [Exhibit No. 102 was admitted]

2 PRESIDING JUDGE: That concludes your evidence for this
3 witness?

4 MS ALAGENDRA: Yes, Your Honour.

15:30:34 5 PRESIDING JUDGE: Thank you very much. The Court is
6 adjourned to 9.30 tomorrow.

7 [Whereupon the hearing adjourned at 3.30 p.m.
8 to be reconvened on Wednesday, the 5th day of
9 April, 2006, at 9.30 a.m.]

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EXHIBITS:

Exhibit No. 101	80
Exhibit No. 102	91

WITNESSES FOR THE PROSECUTION:

WITNESS: TF1-168	2
CROSS-EXAMINED BY MR CAMMEGH	2
RE-EXAMINED BY MR HARRISON	82